

*Issues Related to the Access to Justice in
Georgia in Accordance with the
Provisions of Article 9 of the Aarhus
Convention*

*19th meeting of the Task Force on Access to Justice, Aarhus
Convention*

*15 - 16 February, 2021
Geneva Switzerland*



Protection of the rights under the Aarhus Convention in Georgia

- ▶ **Constitution of Georgia (Article 29, Article 31)**
- ▶ **The Law of Georgia on Environmental Protection (Article 6)**
- ▶ **The General Administrative Code of Georgia**
- ▶ **Environmental Assessment Code of Georgia**
- ▶ **Administrative Procedure Code of Georgia**
- ▶ **Civil Procedure Code of Georgia**



Practice in a court and in an administrative body

- ▶ There are few complaints and case law regarding the violation of the right to access environmental information, because there are very few cases when the administrative body does not provide public information, therefore there is less appeal to the court;
- ▶ Nowadays are mainly appealed decisions related to such a strategic document and public or private activities, the implementation of which may have a significant impact on the environment, human life and/or health (The Ministry currently has about 40 cases).

„No answer“ situation can be addressed to:

- ▶ An appeal against a decision made by an administrative body is provided for and regulated by the General Administrative Code of Georgia (Chapter XIII).

The refusal of the administrative body is the decision to be appealed:



In a higher administrative body/senior official



In a court

The time frame for initiating and considering a case

- The interested person is given 1 month to appeal to the court. (Administrative Procedure Code of Georgia, Article 22).
- The court will hear the case in 2 to 5 months (Civil Procedure Code of Georgia, article 59).

Scope of review by the court and types of court decisions

- ▶ **The scope of the court decision depends on the scope of the request of the parties.**
Under its judgment, a court may not award a party what that party has not claimed or award more than the party has claimed (Article 248 of the Code of Civil Procedure).
- ▶ Proceedings in court are based on the principle of **adversarial proceedings**, but the court may offer parties the opportunity to provide additional evidence, or may itself request the evidence irrespective of who may hold the evidence.
- ▶ **The court can make the following decisions:**
 - Satisfies the claim;
 - Partially satisfies,
 - Refuses to satisfy the claim.

Findings and Priorities for further work in this area:

- **In 2019**, the Center for Research and Analysis of the Analytical Division of the Supreme Court of Georgia prepared a study - "*Issues of access to environmental information in court practice.*" The brochure is a supporting material for the common courts of Georgia.

Based on this research, in order to improve litigation, it is recommended:

- To plan and implement training activities for judges and assistants, as well as for the staff of the analytical service working in the courts, on international standards in the field of environment;
- It is advisable for the courts to actively invoke the relevant provisions of the Aarhus Convention when dealing with environmental information cases, as well as the relevant case law of the European Court of Human Rights. In addition, to adapt and analyze the cited material in the specific case of the specific case.
- Currently, the Human Rights Secretariat of the Government of Georgia is working on the development of a new *Human Rights National Strategy for 2021-2030*, which states that ensuring public access to environmental information, continuous improvement of both environmental decision-making process and stakeholder participation mechanisms are as mandatory and priority directions.



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