

# THE ADMINISTRATIVE PROCEDURES CODE OF GEORGIA

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## **THE ADMINISTRATIVE PROCEDURES CODE OF GEORGIA**

### **Chapter 1 General Provisions**

#### **Article 1. The scope of the code**

1. This code establishes procedures for hearing and resolving administrative cases by common courts of Georgia.
2. Unless otherwise prescribed by this code, provisions under the Civil Procedures Code of Georgia shall be applicable to administrative proceedings.

#### **Article 2. Administrative cases falling within the jurisdiction of the court**

1. A common court shall hear disputes arising from legal relations that are regulated by administrative legislation, as prescribed by this code.
2. The subject of an administrative dispute resolved by the court may include the following:
  - (a) Conformity of an administrative decree with Georgian legislation,
  - (b) Conclusion or implementation of an administrative contract, and
  - (c) The obligation of an administrative agency to repair damage, issue an administrative decree, or take any other action.
  - (d) Legitimacy of the property of a public official, his family member, close relative or related person.

#### **Article 3. Disposition principle**

1. Parties to an administrative proceeding shall be bound by and enjoy the rights under Chapter 3 of the Civil Procedures Code of Georgia.
2. An administrative agency involved in an administrative proceeding shall have the right to reach an agreement on the case, or abandon or admit the claim, unless such decision violates Georgian legislation.

#### **Article 4. Adversary proceeding and examination of case-related circumstances by the court**

During the hearing of an administrative case the parties shall be bound by and enjoy the rights under Chapter 4 of the Civil Procedures Code of Georgia. The court may render the decision to seek additional information or evidence.

## **Chapter 2 Jurisdiction**

### **Article 5. Administrative cases falling within the jurisdiction of raion (city) courts**

Administrative cases falling within the jurisdiction of a court shall be heard by a raion (city) court, except for those specified in Article 6 of this code.

### **Article 6. Administrative cases falling within the jurisdiction of district courts**

1. A district court, serving as a superior court, shall hear lawsuits relating to:
  - (a) Legitimacy of an administrative decree issued by the President of Georgia,
  - (b) Legitimacy of an administrative decree issued by a government agency, government institution under the President, chief of any other high government agency, or the President's special representative to any region of Georgia,
  - (c) Legitimacy of a normative administrative act adopted (issued) by the Sakrebulo [elected local council] or Mayor's Office (Mayor) of Tbilisi, Kutaisi, Rustavi, Sukhumi, Batumi, or Poti.
  - (d) Conclusion or implementation of an administrative contract, or compensation of damages by an administrative agency if the cost of the lawsuit exceeds 500000 lari.
  - (e) Decision of an independent regulatory body.
  - (f) Seizure and transfer to the state ownership of the illegitimate and unjustified property of public officials, their family members, close relatives or related persons.
2. High courts of the autonomous republics of Abkhazia and Adjara, serving as superior courts, shall hear lawsuits relating to the legitimacy of administrative decrees issued by the high representative bodies and the Executive of those republics.

## **Chapter 3 Impartiality and Challenge**

### **Article 7. Prohibition of a judge from repeated participation in the hearing of a case**

A judge shall not participate in the hearing of a case if he previously participated in an administrative proceeding in connection with the given case.

## **Chapter 4 Proceeding costs**

### **Article 9. State Duty**

1. The State Duty shall not be charged for lawsuits relating to the State Social Security.
2. Value of the object of a claim, except for that specified in Paragraph 1 of Article 40 of the Civil Procedures Code of Georgia, shall be determined by the court.

3. In case of termination of the proceeding, the applicable party shall be charged only half amount of the State Duty.
4. Failure of a natural person to pay the State Duty shall not delay hearing and decision-making on the case.

#### **Article 10. Payment of proceeding costs**

1. A natural person shall pay the State Duty in a superior court only if he failed to use the opportunity to submit an administrative complaint, or if he was aware of the circumstances clearly indicating that his claim was unjustified.
2. If an administrative act had been issued without proper examination of case-related circumstances, the administrative agency shall pay proceeding costs even if the court ruled in its favor.
3. If the party that shall pay proceeding costs consists of several natural and artificial persons, they shall pay equal portions of the amount of the proceeding costs.

#### **Article 11. Apportionment of proceeding costs upon settlement between parties**

1. If the parties reached a settlement, but they could not agree upon apportionment of proceeding costs, and if none of them is exempted from the payment of the costs, they shall pay equal portions of the amount of the costs.
2. Each party shall pay extrajudicial costs independently.

### **Chapter 5 Term of proceeding. Court notice**

#### **Article 12. Lapse of the term of appeal**

1. Lapse of the term of appeal shall commence a party has been served the court notice explaining his right to appeal, title and address of the agency where the appeal shall be filed, and the term and procedures of appeal.
2. If the party was not informed of his right to appeal, or was informed in violation of any requirement prescribed by Paragraph 1 of this Article, he may file an appeal within one year after issuance of the notice.

#### **Article 13. Furnishing of summons and documents**

1. Each summons, document, or letter sent by the court to a party or another person involved in the proceeding shall be marked with postage date.
2. A copy of each decision, judgement, or ruling issued by the court shall be furnished to a party.
3. A person who is not registered in Georgia, or is registered without place of residence, shall upon demand of the court appoint a person who will be authorized to receive required documents.
4. If a person participates in a hearing through an attorney, all documents shall be sent to the attorney, except when the documents shall be sent to the party as well, as prescribed by the law.

5. If the document to be sent by the court is of large volume, the court shall send to a party only the title of the document, and inform him that he can access full text of the document at the chancellery of the court.
6. The party shall have the right to receive a copy of the document at his expense or take notes from the document at the chancellery of the court.

## **Chapter 6**

### **Parties to an administrative proceeding**

#### **Article 14. Participants of an administrative proceeding**

1. In addition to persons specified in Article 79 of the Civil Code of Georgia, participants of an administrative proceeding also includes the administrative agency which issued an administrative decree or performed an action of legal nature.
2. Responsibility for the action or decision of a state administrative agency or a person acting on behalf of the State shall rest with the State.

#### **Article 15. Participation in an administrative proceeding through an attorney**

1. If a party to an administrative proceeding is a state or local self-government (government) agency, it shall be represented in a court by its chief or the official who has the right to representation.
2. Attorney appointed by a state or local self-government (government) agency may include an official or public servant that works at that administrative agency.
3. In special cases a state or local self-government (government) agency may appoint its attorney a lawyer or a person with high legal education.

#### **Article 16. Involvement of a third person in an administrative proceeding**

1. Before completion of the main hearing the court may inform the person, whose interests could be affected by the court decision, about the commencement of the administrative proceeding, and involve him in the proceeding as a third person.
2. The third person shall be involved in the proceeding if he had been involved in the legal relation, in respect to which the court may render only a common decision. If number of persons involved in the legal relation is over 10, the court shall involve in the proceeding only those who express their desire.
3. The decision of the court to involve a third person in the proceeding shall be sent to the parties to the case and other third persons.
4. The decision of the court to involve a third person in the proceeding shall not be subject to appeal. The decision specified in Paragraph 2 of this Article may be appealed only by the person who was involved in the proceeding as a third person.
5. The third person specified in Paragraph 2 of this Article shall enjoy all rights and be bound with all obligations of a plaintiff (defendant).

## **Chapter 7 Proof**

### **Article 17. Burden of proof**

1. Plaintiff shall justify his claim and present relevant proofs. Defendant shall make his responsive pleading and present relevant proofs.
2. Unless otherwise prescribed by the law, if a person appeals for the invalidation or declaration of an individual administrative act null and void, the burden of proof shall be imposed on the administrative agency that issued the given act.

### **Article 18. Witness and expert**

1. The court shall, not later than three days before the witness testifies in the court, inform the parties of the witness' name, and date, place, and subject of testimony.
2. The decision to appoint an expert shall be informed to the parties. Unless the court designates any other term, a party may provide his opinion on the subject and scope of expert examination within three days after receiving a respective notice.
3. The expert evidence shall be sent to the parties, who shall have the right to provide their opinion.

### **Article 19. Collection of proofs by the court**

1. In addition to the authority prescribed by Article 103 of the Civil Procedures Code of Georgia, the court may collect information on factual circumstances and proofs at its initiative.
2. A party to the case may provide his opinion of factual circumstance and proofs prior to their examination.

### **Article 20. Obligation of an administrative agency to present information to the court**

Upon the request of the court, an administrative agency shall present all documents and other information that are necessary for hearing and deciding a case.

### **Article 20<sup>1</sup>. Procedures for the review of classified information by the court**

1. For the purpose of examining legitimacy of classification of public information, the court (judge) shall review the information at a closed session, with no party present.
2. The information specified in Paragraph 1 of this article shall not be provided to the parties.
3. No court decision made on the case indicated in this article shall specify the data that may divulge classified information.

### **Article 21. The right to access to court decisions**

1. Unless otherwise prescribed by this code, persons involved in the case may access court decisions relating to the case and materials submitted to the court at the chancellery of the court.
2. A party shall have the right to receive copies of the court decisions and other case-related materials through the chancellery of the court. Copying costs shall be paid by the party. The court shall not charge any other fees for copying.
3. Parties may not access draft decisions of the court or any other preparatory materials.

## **Chapter 7<sup>1</sup>**

### **Administrative proceeding with respect to the inspection of an entrepreneur's activities**

#### **Article 21<sup>1</sup>. Judge's order to inspect an entrepreneur's activities**

The order to inspect an entrepreneur's activities shall be issued by the judge of the raion (city) court that is located in the area of activity of the entrepreneur. The order shall be issued at the request of the controlling agency.

#### **Article 21<sup>2</sup>. Request of the controlling agency**

- a) The request of the controlling agency shall be submitted to the judge prior to the commencement of the inspection.
- b) In case when there may be an immediate and direct threat to state security, human life or health, or proofs, the controlling agency may suspend those activities of the enterprise that fall within the scope of the inspection, and immediately submit the inspection request to the judge. If the activities of the enterprise may not be suspended, or if such suspension will cause significant damage to the enterprise, or if inspection is requested by the entrepreneur, the controlling agency may commence the inspection and submit the inspection request to the judge within 24 hours. Upon submission of the request the controlling agency shall substantiate the urgent necessity of the inspection.
- c) The inspection request shall provide sufficient grounds for the issuance of an inspection order. The request shall include full information about the entrepreneur to be inspected, and duration, nature, and scope of the inspection. A copy of the state registration certificate of the controlling agency shall also be attached to the request.

#### **Article 21<sup>3</sup>. Matters concerning inspection of an entrepreneur's activities**

1. The judge shall render a decision on the inspection request within 24 hours after its submission.
2. The judge shall unilaterally review the inspection request at an open session, except for the cases falling under Paragraph 4 of Article 5 of the Law of Georgia on the Supervision of Entrepreneurial Activities. The session shall be attended by the representative of the controlling agency and the entrepreneur, whom the agency seeks to inspect, or his representative. The cases falling under Paragraph 4 of Article 5 of the Law of Georgia on the Supervision of Entrepreneurial Activities shall be reviewed pursuant to Article 20<sup>1</sup> of this Code.



3. The judge may summon and interrogate the person, whose testimony substantiates the request. The judge may also invite the controlling agency and the entrepreneur to present documents or material proofs that are necessary to examine substantiality of the request.
4. After opening a court session the judge shall announce the request to be reviewed and parties to the hearing, and ask whether any party requests recusal. Representative of the controlling agency that submitted the request shall substantiate the latter and respond to the questions of the judge and the entrepreneur or his legal representative. Failure of any party to appear at the hearing shall not result in its postponement.
5. If the hearing is attended by the entrepreneur or his legal representative, he may provide explanations and opposite views.
6. The court reporter shall produce minutes of the hearing. After examining substantiality of the request, the judge shall order inspection of the entrepreneur's activities. If there are no formal or factual grounds for the inspection, the judge may render a founded decision to deny the inspection. If the inspection has already been commenced, the decision shall order its termination and reparation of damages to the entrepreneur, provided that the damages were caused by the illegal action of the controlling agency.
7. The judge's order to inspect an entrepreneur's activities shall include:
  - a) the date and place of issuance of the order;
  - b) the name of the judge;
  - c) the name of the controlling agency that submitted the request;
  - d) the text of the order, type of the inspection, and the name of the entrepreneur to be inspected;
  - e) Term of validity of the order and term of the inspection, which shall not exceed 15 days;
  - f) the official or agency authorized to implement the order;
  - g) the signature of the judge and the court seal.
8. The judge's decision to deny the inspection shall include:
  - a) the date and place of issuance of the decision;
  - b) the name of the judge;
  - c) the name of the controlling agency that submitted the request;
  - d) the text of the decision with respective grounding and the name of the entrepreneur whose inspection was denied;
  - e) the official or agency that is authorized to implement the order;
  - f) the signature of the judge and the court seal.
9. The judge's decision or order shall be made in three copies. One of them shall be sent to the controlling agency that submitted the request, another to the entrepreneur or his legal representative, and the third copy shall be retained by the court.
10. The entrepreneur or his legal representative may on the grounds of a new circumstance submit a motion to the court, seeking to overturn the inspection order issued by the judge. The motion shall be submitted to the court where the judge's office is based within three days from the discovery of such circumstance. The motion shall be reviewed pursuant to this article. If the motion is granted, it automatically overturns the inspection order.
11. If the judge denies the inspection, the controlling agency may submit a motion to the court requesting the inspection, only if there is a new circumstance that was not known to the judge at the time of rendering his decision, which requires inspection of the entrepreneur's activities. If the motion is granted, the judge shall issue an inspection order.
12. The request of the controlling agency to extend the term of an inspection shall be reviewed pursuant to this article.
13. The party submitting a motion may withdraw the latter at the time its review, but before judge retires for deliberation. No motion shall be submitted repeatedly on the same grounds.

14. The order of the judge shall take effect immediately after expiration of the deadline for filing a complaint against the order. If a complaint is filed, the order shall be suspended. The order may be appealed pursuant to this article within 24 hours.
15. A complaint seeking to overturn the order (or decree) of the judge shall be filed with the court that issued such order (or decree). The complaint shall be filed within 24 hours after the party was provided with a copy of the order (or decree). The judge shall immediately send the complaint together with the case materials to the court [or chamber] of appeal. Copies of the complaint and case materials shall also be provided to another party.
16. The court [or chamber] of appeal shall review the complaint substantially, in a collegiate manner, within three days after it was filed. The complaint shall be reviewed pursuant to this article.
17. The court [or chamber] of appeal shall overturn an order by issuing its own order and a decree by its own decree.
18. The order (or decree) of the court [or chamber] of appeal shall be final and not subject to appeal.

## **Chapter 7<sup>2</sup>**

### **Administrative proceeding with respect to the seizure and transfer to the state ownership of the illegitimate and unjustified property of public officials**

#### **Article 21<sup>4</sup>. Action for the seizure and transfer to the state ownership of the illegitimate and unjustified property of public officials**

1. Action for the transfer of the illegitimate and unjustified property of public officials to the state ownership may be brought against public officials, their family members, close relatives and related persons.
2. The action may be brought by the Prosecutor under Article 37<sup>1</sup> of the Criminal Procedures Code of Georgia.

#### **Article 21<sup>5</sup>. Definition of terms**

The terms used in this chapter shall be defined as follows:

- a) Public official shall mean any official, as defined by Article 2 of the Law on the Conflict of Interests and Corruption in Public Service, and any person authorized to manage/represent a state enterprise (in which the state owns 50% or more shares), even if such person was removed from his position.
- b) Family members shall include public official's spouse and minor children/stepchildren, as well as any person permanently residing with the public official.
- c) Close relatives shall include the family members, direct ascending or descending relatives, stepchildren, siblings, stepchildren of parents and children, and siblings and parents of the spouse of a public official.
- d) Related person shall mean a person who owns certain property based on legal documentation, but there's reasonable suspicion that the property was acquired as a result of an illegal operation of a public official and that the property is used or managed (or was managed) by the public official.

- e) Illegitimate property shall mean any property or proceeds or shares from/in the property, which was acquired by a public official, his family member, close relative or related person in violation of law.
- f) Unjustified property shall mean any property or proceeds or shares from/in the property, which cannot be documented as legally acquired by a public official, his family member, close relative or related person, or which was acquired with the funds derived from the transfer of illegitimate property.

#### **Article 21<sup>6</sup>. Recognition of property as illegitimate or unjustified**

1. A judge may recognize the property of public official, his family member or close relative as illegitimate, if in the course of the proceeding, based on the evaluation of respective evidence, the court infers that the property or the means for its acquisition were obtained in violation of law.
2. The plaintiff shall present to the court the evidence that the defender's property is illegitimate and unjustified. The judge shall, based on evaluation of the evidence presented by the plaintiff, declare the property of a public official, his family member, close relative or related person unjustified, if in the course of the proceeding the defender failed to present to the court the documents proving legitimate acquisition of the property or of financial resources required for the acquisition of the property, or payment of statutory taxes for the property.

#### **Article 21<sup>7</sup>. Arrest of property**

1. If there's an evidence or report that the property possessed by a public official, his family member, close relative or related person will be concealed, expended or otherwise disposed, the Prosecutor shall request the court for the arrest of the property, including bank accounts.
2. In the events prescribed by Paragraph 1 of this article, the provisions of Chapter 7<sup>2</sup> shall apply.

#### **Article 21<sup>8</sup>. Legal consequences of recognition of property as illegitimate or unjustified**

1. If the court, under Article 21<sup>6</sup> of this chapter, rules that the property of a public official, his family member, close relative or related person is illegitimate or unjustified, the defender's property, after satisfying lawful interests of third parties, shall be transferred to its legitimate owner. If the latter cannot be determined, the property shall be transferred to the state.
2. If the source of acquisition of the defender's property or legitimacy or justifiability of such property is partially proved, the part of the property, which cannot be documented by the defender as legitimate or justified through the court, shall be transferred to the state.
3. If the illegitimate and unjustified property of defender cannot be transferred to the state in its original form, the defender shall be obliged to pay the cost of the property.
4. The court's decision to transfer of the defender's illegitimate or unjustified property to its legitimate owner or to the state shall be enforced according to the Law on the Enforcement Proceeding.

#### **Article 21<sup>9</sup>. Criminal liability of a public official**

1. If the court proves that a public official, his family member, close relative or related person possess illegitimate and unjustified property and during the proceeding discovers signs of criminal offense in the action committed by a public official, the Prosecutor shall bring criminal action against the public official.

2. In the event prescribed by Paragraph 1 of this article, the proceeding shall be conducted according to the Criminal Procedures Code.

#### **Article 21<sup>10</sup>. Failure of the lawsuit**

If a lawsuit regarding illegitimate and unjustified property was unsuccessful, no repeated lawsuit shall be filed with regard to the same property, except when new circumstances were discovered in accordance with the law.

#### **Article 21<sup>11</sup>. Judgment in absentia**

1. If a public official, his family member, close relative or related person is wanted as a result of the hearing of a case regarding transfer of the illegitimate and unjustified property of the public official to the state, Subparagraph (c) of Paragraph 2 of Article 233 of the Civil Procedures Code of Georgia shall not apply.
2. The party who fails to appear in the court shall be provided with a copy of the judgment passed in absentia within 5 days after its passage.
3. In the events prescribed by Paragraph 1 of this article, subpoena shall be served in accordance with Chapter 8 of the Civil Procedures Code.

### **Chapter 8**

#### **Administrative proceeding in a superior court**

#### **Article 22. Action for the invalidation or declaration of an administrative decree null and void**

1. A person may bring an action for invalidation or declaration of an administrative decree null and void.
2. Unless otherwise prescribed by the law, the action shall be processed for hearing if the administrative decree or any of its part directly (individually) injures legitimate right or interest of the plaintiff, or unlawfully restricts his right.
3. The action shall be brought within six months after the party has accessed applicable administrative decree or the decision rendered on applicable administrative complaint. Action for invalidation or declaration of a normative act null and void shall be brought within three months after the act caused direct injury.
4. The limitation of action prescribed by Paragraph 3 of this article shall not affect the administrative decrees relating to the illegitimate and unjustified property of a public official, his family member, close relative or related person, and adopted (promulgated) in violation of legal requirements.

#### **Article 23. Action for the issuance of an administrative act**

1. A person may bring an action for the issuance of an administrative act.
2. Unless otherwise prescribed by the law, the action shall be processed for hearing if the denial of an administrative agency to issue the administrative act directly (individually) injures legitimate right or interest of the plaintiff, or unlawfully restricts his right.

#### **Article 24. Action for the performance of a certain action**

1. A person may bring an action for the performance or non-performance of a certain action that does not involve the issuance of an administrative act.
2. The action shall be processed for hearing if the performance or non-performance of a certain action by an administrative agency directly (individually) injures legitimate right or interest of the plaintiff, or unlawfully restricts his right.

#### **Article 25. Action for recognition**

1. A person may bring an action for recognition to determine whether a particular right or legal relation exists, provided there is a legitimate interest on the part of the plaintiff.
2. An action for recognition shall not be brought if the plaintiff may bring the action based on Articles 22-24 of this code.

#### **Article 26. Bringing of an action in appropriate court**

1. An action shall be brought in the court that is authorized to hear an administrative case and render a decision thereon.
2. If an action was brought in inappropriate court, it shall refer the action to the appropriate court and inform the plaintiff thereof.
3. Dispute between courts regarding jurisdiction shall be resolved by higher court through a substantiated judgement.

#### **Article 26(1). Prohibition from rendering a decision in case of failure of a party to appear in the court**

1. Provisions set forth in Chapter 26 of the Civil Procedures Code shall not apply to administrative proceeding.
2. In case of repeated failure of a party to appear in the court without a reasonable excuse the court (judge) may render a decision without his presence based on the circumstances of the case and pursuant to Articles 4 and 19 of this code.

#### **Article 27. Plain proceeding**

Upon the written request of parties the court may hear an administrative case and render a decision thereon without presence of the parties.

#### **Article 28. Speedy administrative proceeding**

1. Upon the request of a party the court (judge) may decide to conduct a speedy proceeding.
2. During the speedy proceeding the court shall have the right:
  - (a) To reduce the term of making a responsive pleading or bringing a counter action by the defendant;
  - (b) Not to designate the term of submission of an opinion by a third person in regard to the action;
  - (c) Not to designate the term of submission of an opinion by parties in regard to the appointment of an expert;
  - (d) To reduce the term of submission of an opinion by parties in regard to expert evidence.

#### **Article 29. Suspension of the administrative act against which an action was brought**

1. Bringing of an action in the court shall result in the suspension of the concerned administrative act.
2. The administrative act shall not be suspended if:
  - (a) It regulates payment of state or local taxes or any other duties;
  - (b) It constitutes an administrative act, which was issued by police agency for the purpose of protection of public order;
  - (c) It was issued during the state of emergency or martial law, which was declared pursuant to applicable legislation;
  - (d) The administrative agency has rendered a written justified decision on the immediate implementation of the act, provided such measure is necessary;
  - (e) It is directly prescribed by the law.
3. In the event prescribed by Paragraph 2 of this Article the party may request the court to suspend the administrative act. The court shall render a decision thereon within three days.

### **Article 30. Court ruling on the suspension of an administrative act**

1. Upon the request of a party the court may suspend an administrative act or its part in the event prescribed by Paragraph 2 of Article 29 of this code, if there is a reasonable doubt of the legitimacy of the act, or if its immediate implementation causes substantial harm to a party, or will make it impossible to protect his legitimate rights or interests.
2. A party may submit a motion for the suspension of an administrative act before the action is brought.
3. The court shall render a decision on the motion within three days.
4. A copy of the decision shall be sent to the parties within one day.
5. The court may designate the term of suspension of an administrative act or its part.
6. If such term was not designated, the court ruling shall be declared null and void upon:
  - (a) Entry into force of the court decision on this matter;
  - (b) Abandonment of the action or administrative complain by the plaintiff;
  - (c) Lapse of term of appeal of the administrative act that was issued based on the administrative complaint.
7. If the suspended administrative act has been enforced, the court may repeal the decision rendered in connection with the enforcement of the act.
8. In case of newly established circumstances the court may amend or repeal the ruling on the suspension of the administrative act upon submission of applicable motion by a party.

### **Article 31. Temporary ruling on the issuance of an administrative act or performance of a certain action**

1. In respect to the actions specified in Articles 22-25 of this code the court may issue a ruling mandating issuance of a temporary administrative act or performance or non-performance of a certain action by an administrative agency based on the request of a party.
2. The party may submit an applicable motion before the action is brought. In such case the court shall designate the term of submission of the motion. In case of failure of the party to submit the motion within the designated term the temporary ruling shall be considered repealed.
3. The motion shall be reviewed by the court that is authorized to hear a lawsuit thereon.

### **Article 32. Court decision on the action for invalidation or declaration of an administrative decree null and void**

1. If an administrative act is unlawful, the court shall render the decision on its invalidation based on the action specified in Article 22 of this code.
2. If the administrative act had been enforced before the court rendered its decision, the court shall specify in the decision the procedure for nullifying the enforcement, based on the motion submitted by a party.
3. If the administrative act had been declared null and void before the court decision was rendered, the court may invalidate the act upon the request of the party who has a legitimate interest thereon.
4. If the court rules that the administrative act was issued without examination and assessment of related substantial circumstances, it may invalidate the act without first solving the matter under the dispute, and order the appropriate administrative agency to issue a new administrative act after examination and assessment of those circumstances. The court shall render such decision if invalidation of the act is necessitated by urgent legitimate interest of a party.
5. The court decision on the invalidation of a normative administrative act shall be mandatory. If the invalidation may substantially undermine state or public security or cause considerable increase in expenditures of the State or local self-government (government), the court may instead of invalidating the normative administrative decree declare it null and void.
6. The concluding part of the court decision shall be promulgated in the same manner as the normative act itself.

#### **Article 33. Court decision on the action for the issuance of an administrative act**

1. If the denial to issue an administrative decree is unlawful or the term of issuance of the decree was not observed, the court shall render a decision on the action specified in Article 23 of this code that mandates the applicable administrative agency to issue the administrative decree. The court shall designate the term of issuance of the decree upon request of a party.
2. The court may issue an administrative act itself unless it requires addition examination of case-related circumstances or it falls within discretionary authority of the agency.

### **Chapter 9 Appeal and cassation**

#### **Article 34. Applicability of appeal and cassation**

Appeal and cassation shall be applicable to administrative proceeding irrespective of the value of action. In such case the requirements prescribed by Article 365 and Paragraph 2 of Article 391 of the Civil Procedures Code of Georgia shall not apply.

### **Chapter 10 Concluding provisions**

#### **Article 35. Effective date**

This code shall be effective from 1 January 2000.

Eduard Shevardnadze  
The President of Georgia

23 July 1999 | No. 2352-RS