
Business Monitoring of Implementation of the General Administrative Code

TABLE OF CONTENTS

INTRODUCTION 2

 What do entrepreneurs know about the General Administrative Code? 3

 How do entrepreneurs obtain information they need from administrative bodies..... 5

 Why are the entrepreneurs unable to obtain information from administrative bodies 6

 Participation in the decision-making 6

 Information on new administrative acts and participation by entrepreneurs in the
 enactment of administrative acts 6

 Entrepreneurs and their associations 9

 Interesting facts 9

 Problems relating to release of information 10

 The mechanism for release of information by administrative bodies and problems
 relating to it 10

 Participation by interested persons in the decision-making process 12

 Business Coalition as a public support to the monitoring of enforcement of the
 Administrative Code 13

 Trends and Conclusions 13

INTRODUCTION

On July 23, 1999, the Parliament of Georgia adopted the General Administrative Code, the aim of which is "to ensure respect by administrative bodies for human rights and freedoms, public interests, and rule of law"¹. By defining procedures for the "enactment and enforcement of administrative-legal acts, consideration of administrative complaints and applications, preparation, conclusion and enforcement of administrative agreements/transactions"², the Code guarantees access to public information and participation by interested persons in the process of decision-making by administrative bodies. Indisputably, the adoption of this act was a very important step in finding a proper balance in the relations between the state and the society, including the business community. The act accomplishes this by strictly determined terms for release of public information; legal responsibility for failure to meet the time frame for release of information; and most importantly, increasing the ability of the members of the society to participate in the decision-making process. These elements of the act are strong guarantees that allow interested persons in general and business community in particular to make their actions predictable and projectable; in other words to conduct business activity at a reduced risk. Such guarantees serve as the basis for increasing effectiveness and reducing costs in the course of commercial activity. On the other hand, enforcement of the Code promotes transparency and increases accountability in the work of the government, and reduces corruption. Simultaneously, the code speeds up the privatization process and makes it lawful, enhancing the business environment and helping develop the medium, small and micro businesses. Ultimately, the Administrative Code is critical to strengthening democracy and freedom from an institutional point of view.

The importance of the Administrative Code is especially evident to those involved in commerce. The Code,; enables business organizations to work more effectively by reducing administrative barriers hindering transformation of informal into the formal sector, ultimately enhancing and promoting the business environment in its entirety. As a result, those undertaking business activity have an additional motivation to implement and enforce the Code.

Partnership for Social Initiatives (PSI), a non-partisan think tank located in Tbilisi, Georgia, through its Nikoladze Center for Study of Free Market, Competition, and Private Enterprise, in association with the Center for International Private Enterprise (CIPE) of the US Chamber of Commerce in Washington, DC, USA, with financial support from National Endowment for Democracy (NED), has been carrying out a project entitled "Business Monitoring of the General Administrative Code of Georgia," which has focused on the relations between the business organizations and the government, namely administrative bodies and the additional opportunities for the business community created by enforcement of the Code.

¹ General Administrative Code of Georgia (hereinafter "GAC"), Chapter I, Article 1(2).

² GAC, Chapter I, Article 1(1)

The project has the following objectives:

- ü To promote the implementation of the Code by monitoring the process of its enforcement;
- ü To build a coalition of enterprises, business and professional associations, and other non-governmental organizations to provide the enforcement process with adequate public support.

While achieving these objectives, it became necessary to:

- ü Analyze the Code, the level of its implementation, and the steps necessary to bring about fuller compliance with the act by government bodies and agencies;
- ü Support the business community in understanding how the full implementation of the Code would help create and develop free and fair business environment;
- ü Facilitate access to public information by entrepreneurs;
- ü Facilitate and increase the level of participation by entrepreneurs in the process of decision-making by administrative bodies;
- ü Forward the results of the Project's analytical research and recommendations to interested persons including administrative and lawmaking bodies;

PSI put together a Project Working Group which, together with expert lawyers³ and sociologists, conducted research and analysis of each chapter of the Code to reveal any contradictions, imperfections, or existence of vague articles. The experts also analyzed the need for any additional explanatory provisions. The Group conducted a number of polls among private entrepreneurs and officials of administrative bodies to determine when and what problems emerge in the course of the Code's enforcement and gain an understanding of how they can be solved.

Analysis of the Code shows that it is a high quality juridical document which, if fully enforced, could ensure transparency of the administrative bodies and enable the society to participate in governmental and regulatory decision-making. However, the analysis also made clear that some provisions of the Code need further clarification. In addition, a number of the Code's provisions are never applied or are not used in ways the law stipulates. This is partly due to the meager financing of the administrative bodies, improper internal management, and the perception of the functionaries that under present conditions, they will never be held responsible for ignoring the legislation. The society's inactive attitude toward the law and a low level of juridical culture further aggravate the situation.

What do entrepreneurs know about the General Administrative Code?

³ Georgian Young Lawyers' Association

An overwhelming majority of entrepreneurs (76 percent) in Tbilisi are aware of the existence of the General Administrative Code. However, because 24 percent of the businessmen interviewed know nothing about the Code, a every forth entrapranuars does not know about the rights that are secured for by the Code and accordingly, is unable to exercise them by requesting the administrative bodies to fulfill their obligations under law. [need to cite all poll data and in the footnote give evidnce of how many people survayed, how, etc.] While the project did not encompass a survey of regional entrapranuers, according to the United Nations' Association of Georgia, the sitaution outside the capital is far worse, because a greater number of commercially active citiizens is not aware of the provisions of the Code. Research also indicates that 58 percent of entrepreneurs have requested public information from administrative bodies in the course of their business activities pursuant to the procedures outlined in the Code.

Large, small, and micro businesses differ on the point of the Administrative Code effectiveness toward the from the. Indeed, the frequency of a business using the Code to apply for information depends on whether the business organization is small, medium, or large. Research shows that 75.6 percent of large businesses apply to administrative bodies with a request for public information. The demand for public information is relatively lower for medium businesses at 56 percent and is the lowest for small and micro businesses at 42 percent. These differences can be explained by the fact that large and medium businesses often interact with administrative bodies and have a significantly higher demand for public information than small and micro businesses. As a result, large and medium businesses use the provision of Administrative Code often in their relations with the government. Meanwhile, small businesses seldom address administrative bodies and almost never use the Administrative Code.

Persons involved in business activities most frequently require information from ministries and state departments. Sixty-nine percent of those interviewed have requested information from the exectuve branches of the national government, among of those interviewed 6.6% have had the need to receive information from law enforcement bodies. By contrast, only 20.9 percent have had the need to obtain information from the national Parliament, while 15.4 percent have requested information from various departments of the Tbilisi City Hall. Only 8.8 percent of respondents have requested information from District Governors' Offices .

Recommendation: As PSI's research suggests, the society at large needs to become more involved in the decision-making process of the government. It is evident that particularly those that are involved in small businesses face serious barriers in being actively engaged with the governmental process. In order to overcome these barriers, it is necessary to provide the population with clear information regarding the purpose and the contents of the Administrative Code; their rights that are incorporated in the Code; and the obligations of the administrative bodies as prescribed by the Code. The society at large will become better engaged in the process of decision-making only by becoming educated in the governmetnal instrument that is supposed to secure its rights—i.e the

Administrative Code. However, the non-engagement of the society is not the only barrier that Georgia faces. Not only is the society inactive, but the public officials themselves often ignore the provisions of the Code. Accordingly, the majority of the businessmen are unfamiliar with the code, while the public officials are unwilling to enforce it properly. This results in general disrespect and distrust of the public toward the rule of law.

How entrepreneurs obtain information they need from administrative bodies

Some entrepreneurs that were interviewed stated that they are, to some extent, familiar with the General Administrative Code and have also had the need to obtain certain information from the administrative bodies.

77.6% of the respondents that were familiar with the administrative code have exercised their rights under the Code and applied to administrative bodies for release of public information. While 88% of them succeeded in obtaining the information they requested, the other 12% did not because the requests were rejected administrative bodies.

Although 88% of the requests succeeded in procuring information, only 53% of respondents have succeeded in obtaining public information by applying the specific procedures prescribed by the Code; 42% asked their acquaintances for assistance; and 5% had to pay a bribe.

The different avenues used to obtain information—the procedures of the Code, acquaintances, and bribes—correlate to the size of the business that the applicant represents. Accordingly, large businesses, unlike the medium and small ones, manage to obtain public information relatively easily. 75% of large business organizations have stated that they obtained information by applying procedures defined in the law, while only 47% and 42% of the medium and small businesses respectively were successful at obtaining the pertinent public information through the legal procedures of the Code. This can be explained by the fact that large companies which have big scope of business interest employ legal services that can be helpful when interacting with administrative bodies. Since the large business employ legal services, they are more aware of their rights under the General Administrative Code, and are more active in defending these rights. Furthermore, large companies have the financial backing of substantial capital, which makes their interaction with administrative bodies more fruitful. Smaller business however, which do not employ legal services and do not have large capital backing, find it difficult to achieve the same results.

Conclusion: Small and medium sized business, which act independently without the assistance of qualified lawyers, face artificial administrative barriers which hinder them from obtaining public information that is necessary for the pursuit of their goals.

Why the entrepreneurs cannot obtain information from administrative bodies

The 12 percent of the entrepreneurs that could not obtain information from administrative bodies, were rejected on the grounds that the information they requested was confidential rather than public and was not subject to release. The administrative bodies informed 13 percent of the rejectees that the information that they requested was not available on record at all. 12.5 percent of the rejectees were asked for a bribe. However, up to 62 percent of the rejectees reported that they were unable to obtain the information because public officials' negligence and carelessness.

The persons representing small business particularly faced a serious barrier as a result of the administrative's the violation of the Code: the individuals affiliated with small business that requested information were either completely ignored (75 percent) by the administratives or were told to pay a bribe (25 percent).

Conclusion: In order to overcome this barrier, the violations of the provisions of the Code should entail a stricter responsibility for public officials. The President of Georgia must issue a decree obliging the heads of state departments and agencies to revamp their methods by which they monitor the application and enforce the provisions of the Code; it is necessary for the President to restore the genuine legal binding quality of the Code by issuing a request for the reevaluation of the system by which it is enforced. This will not only restore the legality of the Code, but will also present an opportunity for the Georgian people to become better acquainted it and, hopefully, in the future apply it actively to secure their rights. Furthermore, the President should obligate the administrative bodies to augment the disciplinary measures that result out of the violation of the Code. The administrative bodies would find it in their self-interest to begin to follow the Code, if its violation resulted in the same or similar reprimands as the one prescribe in Article 79(1) of the Law on Public Service: demotion or dismissal.

Participation in the decision-making

Information on new administrative acts and participation by entrepreneurs in the enactment of administrative acts

Because of their isolation from the administrative bodies, Georgian entrepreneurs are inactive and uninvolved in the decision-making process that ultimately results in the legal and administrative acts that affect the entrepreneurs themselves. A very small percentage of the entrepreneurs participates in the decision-making process with the administrative bodies. The entrepreneurs are so far removed from being engaged in the law-making process, that only 39 percent of them actively contact administrative bodies and request to participate in the preparation of administrative acts. This means that the majority of businesses, 60.3 percent, is not involved in the legal decision-making that affects them. Furthermore, of the persons who requested administrative bodies to

involve them in the preparation of administrative acts, a majority (84.6 percent) constituted the representatives of large businesses, which means that medium and small business are nearly left out from the process. Only 32.1 percent of medium business and 17.6 percent of small business active pursue participation in the decision-making process.

78.3 percent of entrepreneurs who requested to participate in the preparation of administrative acts were successfully involved by the administrative bodies while the rest were rejected. In most cases, administrative bodies refused small businesses' request to get involved in the administrative process. The administrative bodies rejected up to 33 percent of applications submitted by small businesses .

Our research shows that 38.8 percent of recommendations regarding draft acts that the entrepreneurs put forward have been fully accepted by relevant administrative bodies, while 44.4 percent were partly shared and 16.7 percent were rejected.

More than a half (56.9 percent) of Georgian the entrepreneurs regularly learn about scheduled preparation of administrative acts from mass media. According to our research, 27.6 percent of entrepreneurs obtain information about future legislation of administrative acts directly from administrative bodies; approximately the same percentage of entrepreneurs receive information regarding legislation of administrative acts from colleagues. Only 1.7 percent of entrepreneurs obtain information from alternate sources.

The channels that entrepreneurs use to obtain information from administrative bodies regarding the legislation of new administrative acts vary according to the size of the business that these entrepreneurs represent. Accordingly, the majority of large businesses (61.5 percent) receives information directly from the administrative bodies that are in charge of preparation administrative acts; 38.5 percent get such information through mass media and 15.4 percent are informed by their colleagues.

Medium businesses, however, are rarely informed by administrative bodies about the preparation of new administrative acts.. In most cases, medium business, unlike the large business that maintain a direct channel of communication with administrative bodies, obtain information from media (46.4 percent) and via colleagues (33 percent).

Unlike the large and medium businesses, the small businesses are not informed by administrative bodies at all about the legislation administrative acts. Therefore, the small businesses have to completely resort to obtaining information from media (88.2 percent) and via their colleagues (29.4 percent).

Small businesses are not the only group that is ignored by administrative bodies, and inactive due its lack of channells of communication. Our research also shows that the general population and non-governmental sectors are very inactive the legislation and decision-making that takes place in the public institutions. In fact, these sectors do not

even attempt to become involved in the decision-making process. These groups do not become involved due to many reasons, but most importantly because:

- they are unfamiliar of their own rights rights;
- they are hopeless and distrustfull of government; and
- most memebtrs of these sectors are contantly absorbed in their everyday work.

The functionaries and the adminisitrative bodies themselves, on their part, do not feel obliged to involve interested persons in the decision-making and legislating process. According to them, the Code does not make them responsible for involving interested parties. Not only that, they actually claim that it is inappropriate to allow the non-governmental and business organizations to participate in the legislating process because this makes the decision-making difficult and time-consuming as well as endangers state interests.

Generally, the administrative bodies invite only that are formally registered in specific governmental institutions to participate in the legislation. When cases are heard in courts, parties are also invited to participate. Alternatively, non-governmental and business organizations are only invited if:

- These organizations insist or bring an action before the court (for instance, the case of Urbanists' Association);
- The organization is backed up by a strong donor or a political force (for instance, the Association for the Protection of Landowners Rights);
- The organization employs experts who are more qualified than those employed by public institutions and these public institutions are in need of qualified expertise (for instance, the Freight Forwarders' Association).

Georgian business find themselves in a difficult environment where they face many institutional barriers that make it difficult for them to obtain information. In this environment, the possibility of obtaining adequate information and attaining involvement in the legislative process almost wholly depends on the knowledge of and active pursuit of the enforcement of the rights second and the third sector entrepreneurs. However, the language and the content of the administrative code must be improved and made more legible, and subsequently promulgated throughout the population, specifically to medium and small businesses, in order to allow these sectors to become more involved in the legislative process.

Conclusion: In order to ensure that that interested persons in the business community are duly informed, the administrative bodies should establish and keep a special register of interested persons where various profile-oriented associations of groups (including business associations) will be registered. The administrative process, in cooperation with representative of the business community, should engage in extensive reworking and

redistribution of the Administrative Code. This process must not only improve the code and make it more accessible to interested persons, but must also establish methods that safeguards its implementation by the administrative bodies in the future. These checks and safeguards include new regulations issued by the government that entail punishments—such as demotion or dismissal—upon those administrative persons who are negligent in the enforcement of the code or who refuse to cooperate with business that are attempting to either obtain public information or become more involved in the legislative process. This process will help jointly lobby corporate interests and develop the culture of defending public and corporate rights and interests, ultimately making the procedure of participation by the society in the decision-making and legislation more simple and accessible.

Entrepreneurs and their associations

More than a half of entrepreneurs (52.6 percent) are members of some business associations; the rest do not have membership in any such union. Notwithstanding the significant amount of entrepreneurs that are members of associations, these associations are not comprehensive because 66.7 percent of the membership in these unions is constituted by large business organizations.

57.1 percent of medium businesses are also members of some associations.

Small businesses, however, are to the least extent involved in combining efforts to meet common ends. The majority of small business organizations—comprising 64.7 percent of the total—do not have membership in any association or union.

Interesting facts

Representatives of public institutions claim that they receive 20 to 30 applications on average (each week) that request the release of public information. However, these same institutions also claim that there are many more people who would like to obtain information, but are incapable to do so because they are not familiar with the appropriate channels that need to be pursued when approaching administrative bodies.

This was confirmed at the discussions held within the framework of the Project with small businesses. The representative of the small business attributed their frequent inability to obtain information to their lack of common understanding of appropriate channels of information. Additionally, the discussions revealed two other reasons why small business abstain from requesting information from administrative bodies by applying procedures prescribed by law.

Primarily, small and medium businesses are distrustful of the Georgian government, and hopeless that they can work within its legal framework to attain their goals. Small and medium business believe that legal channels do not actually allow them to obtain information from the administrative bodies. According to them, if one pursues the legal

channels, the chances of obtaining the necessary information are very slim; instead, it takes extensive amount of time, connections and acquaintances, and, most importantly money in the form of bribes in order to achieve these results.

The second reason is lack of time: small and medium businesses are short of human resources and managers are necessarily absorbed in everyday routine work, and therefore they have neither time nor energy to "pursue" public officials and make them fulfil their obligations under law. At the same time, because of the lack of financial resources, small businesses cannot afford employing legal services and do not even know the rights provided for them in the Code. Furthermore, small businesses distrust each other and find it impossible to gather into associations in order to defend their rights with combined efforts

Problems relating to release of information

The mechanism of release of information by administrative bodies and problems relating to it

According to the Administrative Code, there shall be a functionary in each public institution that will be responsible for accepting and keeping a record of filed applications and for providing information.

However, this presents a problem: according to the functionaries that PSI interviewed, a single functionary is not sufficient to properly fulfill these tasks. They claim that the job requires independent institutional unit composed of two or three persons whose sole purpose will be to respond to the filed applications. But such an independent institution is beyond the financial abilities of most of the public institutions. In fact, today the public institutions are so strained financially that functionaries responsible for the release of information simultaneously occupy other positions as well; for instance, functionaries who are responsible for the release of information at the same time also hold positions of Head of Unit or Head of Registry. Because these positions are also timeconsuming, the ultimate result is an environment where the proper search for and release of information becomes neglected by the functionaries.

The representatives of public institutions claim that applicants for public information personally file the applications and personally go to find out replies thereto.

Applications are registered in a special record and this is the basis for starting the search for the requested information. If the information is at hand, an appropriate functionary immediately makes a Xerox copy and hands it to the applicant.

This, however, present another problem: functionaries do not know at what price they should provide copy-making service and how to the revenues they gather from providing this service. In other words, the law does not determine what expenses should be borne

by applicants for the copy-making service (market price, prime cost or just for free) and how the paid money should be used (should it be transferred to the state budget or should it be employed for the purposes of the relevant public institution or for the payment of salaries and allowances of the institution's personnel).

If the requested information is located in another institution, then the recipient institution sends a formal request (via mail or courier service) for the information to that institution. Where this is the case, as our respondents state, the term established by law (10 days) is not generally sufficient for receiving a response.

Additional problems are presented in the enforcement of the Administrative Code because the law does not determine procedures for the release of information. Therefore, specific procedures for the release of information are at the discretion of public institutions subject and often depend on their own internal regulations. Therefore, since different public institutions have different internal regulations, the procedures and time-frames that various institutions employ for the release of information are inconsistent and unpredictable. Due to this inconsistency and lack of uniformity in the procedures employed by the public institutions, it is nearly impossible to foresee what time period is necessary for the search and release of the requested information.

In fact, in most public institutions bureaucratic system does not allow the release of information without an approval by a relevant minister or a deputy minister; these bureaucratic requirements make the process convoluted and even more time-consuming.

In addition to all the institutional barriers that Georgian businesses face in obtaining public information, there is another obstacle that sometimes makes it impossible to find the relevant information: since many documents and records were lost during the civil disturbances and never restored, often certain information and documentation just do not exist at all.

To sum up what was said above, in releasing information functionaries basically face the following problems:

- Lack of financial resources, which makes it impossible:
 - to establish special departments within the public institutions or, at least, assign a functionary solely responsible for dealing with applications for public information;
 - to send replies via an express mail that would ensure prompt and guaranteed receipt;
- Absence of a single and organized system of release of requested information;
- Sometimes the necessity to request information from other public institutions, which is often time-consuming;
- Bureaucratic obstacles in some public institutions.

Furthermore, it is also difficult to obtain public information in Georgia because the law does not provide an unequivocal definition of commercial and professional information.⁴

This problem especially affects those institutions that are responsible for coordination of activities of commercial entities (for instance, the National Bank, State Insurance Supervision Service) or those that have their own business (such as higher state institutions that provide both free and chargeable services). Because these institutions are unsure as to what information is commercial and professional (i.e. public), in most cases such they either refuse to release information or provide an inadequate and very general reply.

Accordingly, to avoid problems and to safeguard against releasing information that is not public, functionaries of public institutions are unwilling to release information at all. Instead, in order to avoid problems, they prefer to attempt to satisfy request for the release of information by providing rather general and non-specific information. Most responsible functionaries require the applicants to specify why and for what purpose they need the information they are seeking to obtain. Because of inadequate legislation (absence of appropriate regulations) that specifies what kind of information should always be released by public institutions and also because of the inactivity of applicants and their lack of familiarity with the rights secured in the Code, ultimately the decision on whether or not specific information is released depends on the choice and whim of the functionary.

Due to all of these problems, if an applicant is seeking for a legible, adequate, and timely response, it is necessary to pursue a very time-consuming process that will ensure that the functionaries act in accordance with their obligation under law or to take other measures (such as to ask work through acquaintances for assistance, to bribe the functionaries, etc).

Participation by interested persons in the decision-making process

Our research shows that the business organizations are not very active in pursuing participation in the decision-making by administrative bodies. On the other hand, neither do the relevant public officials feel responsible to involve interested persons in the decision-making process as required under the Code. According to public officials, there is no such obligation in the Code. In fact, they think it is inappropriate to involve non-governmental and business organizations in decision-making, since that would make

⁴ According to the law, public institutions are not entitled to release information that includes private organizations' commercial or professional secrecy unless so prescribed by a court decision. It is up to the private organization itself to make a list of what it considers its commercial or professional secrecy. If a public institution approves such list, the information included in it is thereafter considered confidential. Criteria for granting approval by public institutions are not defined and this makes it possible, in principle, to mark everything "confidential".

the process difficult and time-consuming. At the same time, they claim that participation by interested persons may endanger interests of the state. Therefore, the access to public information and society's involvement in the decision-making process will increase only if the business community itself becomes more active; furthermore, mechanisms that allow identification of the interested persons need to be introduced in the system of administrative bodies. Additionally, the administrative bodies must realize that the Georgian people and businesses have the right and interest to be involved in the decision-making process, and that it is beneficial, and not at all detrimental, for the Georgian state to involve interested parties in the legislative and the decision-making process.

Business Coalition as a public support to the monitoring of enforcement of the Administrative Code

In September 2001, on the base of the Alliance for Business Environment Development – an organization created under strategic leadership of the Partnership for Social Initiatives, a Business Coalition was set up to advocate participation in the decision-making and provide public support to the advocacy activities. Based on the results of interviews, business organizations that have expressed particular interest in the Administrative Code and were judged to be in a position to contribute to its advocacy were selected and invited to join the Coalition. Members of the Coalition represent up to 70 non-governmental business associations and companies. Within the Project, 11 meetings and seminars with the project tasks:

- To review results of the analysis of the Code;
- To select cases important for the monitoring of the Code and to take them to the court;
- To discuss issues relating to participation in the decision-making;
- To discuss issues relating to transparency of state purchases;
- To consider the matter of accreditation of business associations to administrative bodies;
- To consider participation by the Coalition in the process of debates surrounding the Poverty Reduction and Economic Growth Program (discussion material) and Business Community Program;
- To discuss the ways of advocating the Code.

Trends and Conclusions

The research we conducted among business community has shown the following:

1. 24 percent of entrepreneurs that were interviewed know nothing about existence of the Code.
2. Large businesses encounter relatively less barriers for accessing the information in administrative bodies.
3. Large businesses are more active in taking part in preparation of administrative acts they are interested in and usually are informed directly by administrative bodies about any scheduled discussion surrounding preparation of such acts.
4. Administrative bodies accept 50% of remarks and recommendations put forward by representatives of large businesses to them in the process of preparation of administrative acts.
5. Large businesses are, as a rule, members of voluntary associations and unions but only a small part of them address such organizations for assistance to lobby their own interests.
6. Small businesses find it very difficult and at times impossible to obtaining information in a way prescribed by law. Mostly, small businesses have to rely on attaining information through their acquaintances or through bribes.
7. Small businesses obtain information about future legislation and the preparation of administrative acts only through media and their colleagues. Unlike large businesses, they are never informed directly by administrative bodies about current or future legislation.
8. Small businesses do not make much effort to participate in of the preparation of administrative acts. However, when they do participate, up to 50% of their remarks and recommendations are taken into account by administrative bodies (the same percentage as in the case of large businesses).
9. A majority of small businesses are not part of any association or union and, therefore, are unable to have their interests lobbied in a corporate way.
10. Small businesses that hold membership of certain associations often apply to them for assistance and are successful in obtaining assistance in 75 percent of cases.

In order to ensure unimpeded exercise of rights prescribed by the Code, the following steps should be taken:

1. A public education campaign that will focus on the Administrative Code should be conducted; this campaign should raise the awareness of the population and the business community regarding the contents of the Code, and the rights that it is intended to secure. This campaign should bring together the media, non-governmental organizations and coalitions in order to maximize the amount of people that it will reach. This campaign should also engage voluntary associations and interested persons.
2. In order to overcome the negligence of the public officials, the Georgian government must impose a stricter punishment on these officials for the failure to fulfill their obligations under the Code. 62 percent of the persons that PSI interviewed indicated that negligence functionaries who did not adequately enforce the provisions of the Code made it difficult or impossible for them to obtain the information that they were seeking. This number is too high, and it must decrease: Georgian public officials must

realize that it is their responsibility to follow and enforce all of the provision of the Administrative Code.

3. Entrepreneurs' associations and unions must be established to allow small business to come together in coalition and work in coordination for similar goals. Small business face serious barriers because they do not have the resources that the large businesses do to employ legal services; unions and associations would go a long way in solving this problem. By binding into associations, the small business could acquire legal assistance financed on a shared basis.
4. Employing qualified legal services is of great importance for business because that will make it possible for them to pursue those public official that neglect or do not follow the procedures prescribed by the Administrative Code. Qualified legal assistance will allow business to make these public officials face adequate immediate responses and consequences from the law. Violation of some norms of the Code can be effectively reduced or eliminated by composing and filing a written administrative complaint. PSI's research provides a good example: after a number of administrative bodies refused to release public information upon our request, we filed administrative complaints to them threatening to take them to the court. Surprisingly after we had filed the complaint, 87 percent of these administrative bodies readily satisfied our request.
5. To establish a system of accreditation that will ensure participation by society members in the process of preparation and adoption of administrative acts. At the same time, to keep a register of interested persons to help various associations (such as corporative unions, community associations, etc) be involved in the decision-making process. Thereby, a democratic form of building relations between the authorities and the public, government institutions and the civil society will be developed.
6. The definitions of commercial and professional secrecies as provided for in the Code are vague and insufficient. This matter cannot be comprehensively addressed by the Code; rather, it would be more appropriate to adopt new laws that would articulate all related issues scrupulously in order to define what kind of information is confidential, and what kind is particularly public and available to be release.
7. The legislation in force (including the Code) should prescribe the possibility of considering administrative contentious cases by a court of arbitration that would make resolution of contractual disputes between governmental bodies and private institutions more effective. In our opinion, it is quite clear that consideration of administrative complaints by common courts takes a great deal of time and resources. A court of arbitration must be established that will deal with these administrative complaints in a timely fashion.

In conclusion, we can say that it is necessary that the society, administrative bodies, mass media and non-governmental organizations proceed with their active efforts to advocate further perfection and monitoring of enforcement of the General Administrative Code, since its full implementation will be the basis for substantial improvement of the regime of rule in the country.

