

**Georgian National Energy and
Water Supply Regulatory
Commission**

***Particularities of
Administrative Proceedings in
Adoption of Individual
Administrative Standard Acts***

Legal Department

Maka Salkhinashvili

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Legal Acts issued by the Commission

- Commission within its competence is issuing standard administrative legal acts – decrees. Decree of the commission may be issued only in cases and within limits set by the law of Georgia *Concerning Power Engineering and Gas*
- In particular cases within its competence Commission issues Resolutions
- In order to regulate Commission and Commission Chancellery intra-organizational issues, Chairman of the Commission issues Orders
- Structural units of the Commission are not authorized to issue standard acts

Legal Acts issued by the Commission

- Decrees and Resolutions are to be elaborated collectively, by non less than three members of the Commission
- Orders are issued by the Chairman in person

Obligatoriness of the Commission's Legal Actgs

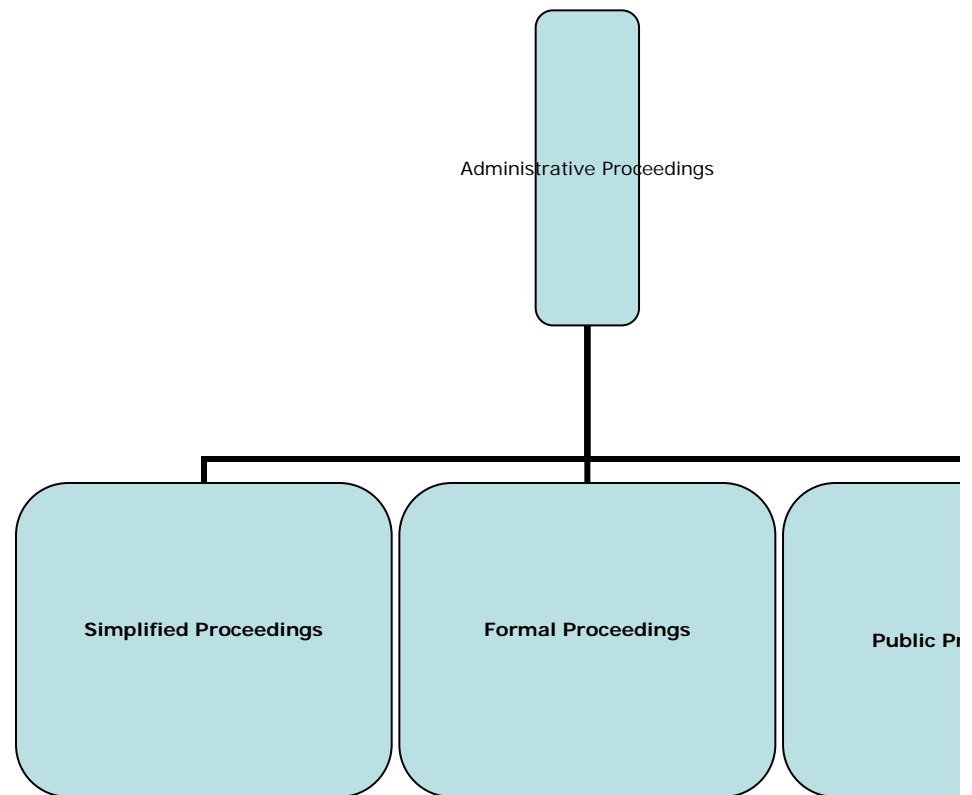
Decrees and Resolutions of the Commission are obligatory to licensees, providers, importers, exporters' consumers and commercial operators of the system

Issues requiring Regulation through Individual and Administrative Legal Acts

- **Individual Acts are being issued:** upon issuing a license, cancellation of a license, when disputes are to be resolved and so forth
- **Standard Acts are:** Decree of the Commission, Rules and Procedures of Operation, Procedural Rules of the Disputes' Review, Procedures of Regulation Cost Calculation; Licensing Procedures; Rules of Delivery and Consumption; Tariff Methodology, Tariffs, Value of and Calculation Method of the Standard Losses.

General Procedure of Standard and Individual Administrative Acts Adoption

Standard and Individual Administrative Legal Acts are adopted by the Commission according to Public Administrative Proceedings Procedure (Georgian legislation recognizes Simplified, Formal and Public Administrative Proceedings Procedures of adoption of administrative legal acts)



**Standard Acts by virtue of which
Standard and Individual Administrative
Legal Acts are to be Adopted or
Appealed against**

- General Administrative Code of Georgia (GAC hereinafter) 1999
- Administrative Code of Practice of Georgia, 1999
- Law of Georgia *Concerning Standard Acts*, 1996

Legal Modes of Operation of the Commission as Administrative Authority

Adoption of Individual and Standard Legal Acts

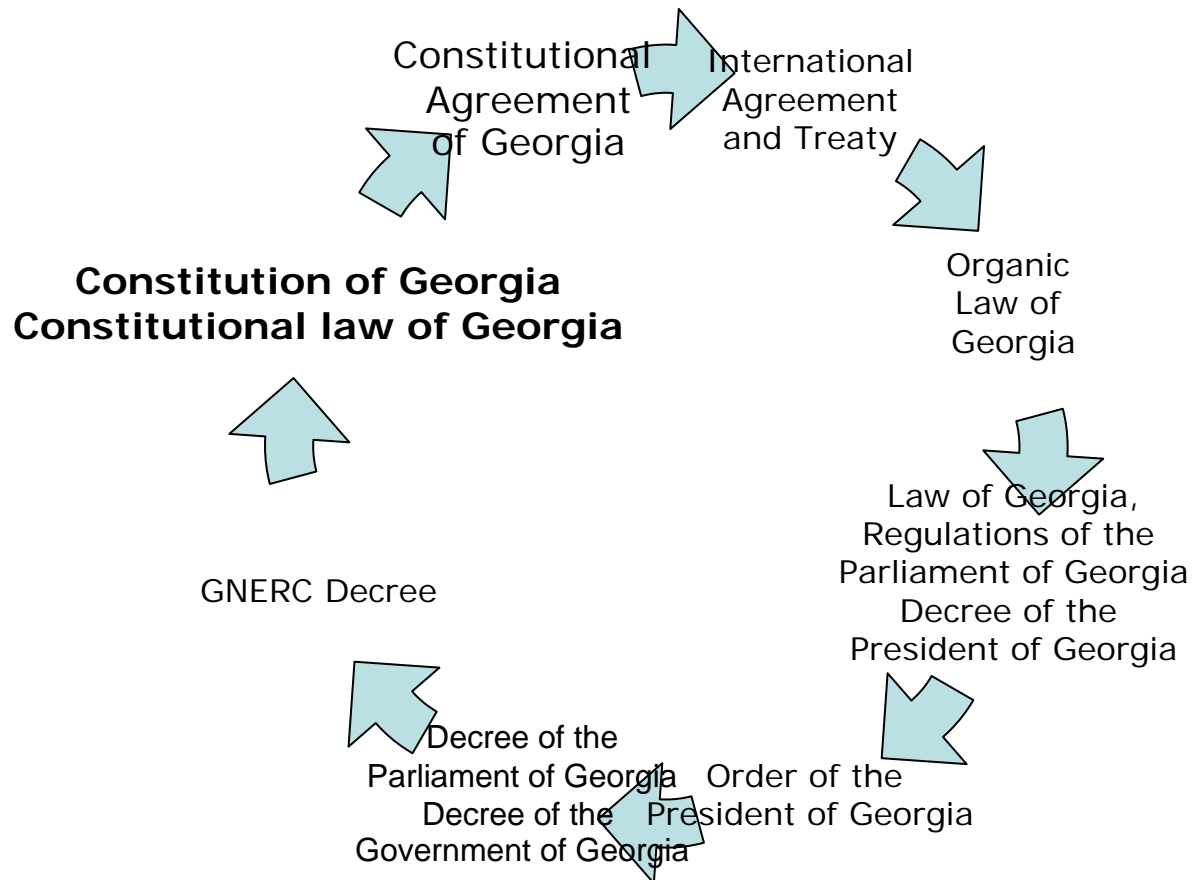
- Adoption of Standard Administrative Legal Act implies certain procedures and is way more difficult than issuing Individual Administrative Legal Act.**
- Individual and Standard Administrative Legal Acts are being adopted by the Commission only in writing.**

Standard Acts Subordination

By their legal force, for standard acts effective in Georgia the following subordination has been established:

- Constitution of Georgia, Constitutional Law of Georgia
- Constitutional Agreement of Georgia
- International Agreement and Treaty Georgia is a party to
- Organic Law of Georgia
- Law of Georgia, Regulations of the Parliament of Georgia, Decree of the President of Georgia
- Order of the President of Georgia
- Decree of the Parliament of Georgia, Decree of the Parliament of Georgia
- Decree of the Georgian National Energy and Water Supply Regulatory Commission

Standard Acts Subordination



Adoption of Individual Administrative Legal Acts

- Individual Administrative Legal Act is to be adopted upon application of interested party or by initiative of the Commission
- Individual Administrative Legal Act should be legally relevant and should reference to bylaw or its provision it has been founded on.
- Individual Administrative Legal Act doesn't require legal relevance in case it has been issued in order to address emergency, though it should be harmonized with current legislation within a week

- Individual Administrative Legal Act enters into force as soon as the parties have learned about it or on the day of its publication
- Individual Administrative Legal Act sent by mail enters into force no later than 7th day after the sending
- Individual Administrative Legal Act that concerns more than 50 persons should be officially published or declared in public

Adoption of Individual Administrative Legal Acts

- Administrative proceedings are initiated following GNERC resolution
- GNERC resolution is provided in writing and constitutes individual administrative legal act
- Administrative proceedings for issuance of Standard Administrative Legal Act may be initiated on the basis of application of natural person, legal entity or administrative authority only in cases provided for by the law
- Draft Standard Administrative Legal Act is being elaborated by the authorized administrative body (GNERC).

- Draft Standard Administrative Legal Act should be published, it is also obligatory to publish statement relating information concerning standard act.
- Every person has the right to present their opinion with regards to draft Standard Administrative Legal Act, though response to this opinion is not mandatory
- Commission meeting shall review draft standard act, it is mandatgory to provide the draft with explanatory note relating reasons for the adoption of the standard act and its particularities, as well as calculation of potential financial and economic outcome that may follow its adoption, and identities of the draft's author and submittor.
- Standard act should contain requisites (obligation established by General Administrative Code of Georgia and Law of Georgia *Concerning Standard Acts*)

- Draft standard act approved by the Commission meeting is to be submitted, along with explanatory note, to the Ministry of Justice of Georgia for legal expertise. In 10 days time, ministry of Justice is obliged to either approve of the draft or provide its commentary with regards to draft standard act. Following this draft along with the response from the Ministry of Justice is once again reviewed by the Commission meeting.
- The Commission is obliged to pass standard act for registration by the Ministry of Justice no later than 5 days since its signing by the authorized person.
- Ministry of Justice is to register Standard Administrative Legal Act under registration number and pass it to official publishers for publication.

Procedure of Appeal on Standard and Individual Administrative Legal Acts

- Complaints against Standard and Individual Administrative Legal Acts adopted by the Commission should be filed with Kutaisi City Court.
- Complaints against Individual Administrative Legal Acts should be filed within 1 month
- Complaints against Standard Acts should be filed within 3 months from the date immediate damage has been inflicted upon

Statistics

2008

36 Standard Administrative Legal Acts – Decrees and 42 Individual Administrative Legal Acts – Resolutions have been issued. Out of this number, complaints have been filed against 3 Individual Administrative Legal Acts and 1 Standard Administrative Legal Act, all case have been won by the Commission

2009 (January-May)

8 Standard Administrative Legal Acts – Decrees and 20 Individual Administrative Legal Acts – Resolutions have been issued. Complaints have been filed against 1 Standard Administrative Legal Act (proceedings underway) and against 6 Individual Administrative Legal Acts (in 3 cases proceedings are underway and 3 cases have been won by the Commission)

**Thank you for your
attention**