

# **LAW OF GEORGIA ON COPYRIGHT AND NEIGHBORING RIGHTS**

## **CHAPTER I. GENERAL PROVISIONS**

### **ARTICLE 1. PURPOSE OF THE LAW**

The purpose of this Law is to protect copyright property and personal non-property rights arising at creation and use of scientific, literary and artistic works (copyright), and some of their neighboring rights related to performers, producers of phonograms, visual records, databases and broadcasting organizations (neighboring rights).

### **ARTICLE 2. INTERNATIONAL AGREEMENTS**

If by the international agreements, to which Georgia is a party, are defined the rules different from this Law, then the provisions of the international agreement shall be applied.

### **ARTICLE 3. SUBJECT MATTER OF THE LAW**

This Law shall apply to:

- a) scientific, literary and artistic works, performance, phonogram and visual records, the holder of copyright and/or neighboring right of which is citizen of Georgia, a natural person having permanent residence within the territory of Georgia or a legal entity registered in respect to the rule prescribed by the legislation of Georgia;
- b) scientific, literary and artistic works, phonogram and visual record first published in the territory of Georgia. The work, phonogram or visual record shall be deemed as first published in Georgia, if after first publication abroad within 30 days they are published within the territory of Georgia;
- c) performance, first performed within the territory of Georgia; performance fixed on a phonogram or visual record, which is protected in respect to the subparagraph "b" of this Article; performance, which is fixed on phonogram or visual record, but is included in the program of a broadcasting organization protected in respect to the subparagraph "d" of this Article;

d) programs of those broadcasting organizations, which are legal entities established in respect to the rule prescribed by the legislation of Georgia broadcast by means of transmitters disposed on the territory of Georgia;

e) architectural works located within the territory of Georgia, artistic works incorporated in an architectural work on the territory of Georgia, in spite of citizenship and permanent residence of their authors;

f) other works of science, literature and art, performance, phonogram, visual record and programs of broadcasting organizations, protected in respect to the international agreements to which Georgia is a party.

#### **ARTICLE 4. EXPLANATION OF TERMS USED IN THE LAW**

The terms used in the Law have the following meaning:

- a) "author" - a natural person, in result of intellectual-creative efforts of which a work was created;
- b) "audiovisual work" - a work consisting of series of images with accompanying sounds, if any, imparting the impression of movement and can be seen and/or heard. Audiovisual work includes cinematographic and other works expressed by means similar to cinematography (tele-, video-, diafilms, etc.);
- c) "producer of audiovisual work" - a natural person or legal entity, who has taken initiative and responsibility for production of such work; if the contrary is not proved, as a producer of audiovisual work shall be deemed the natural person or legal entity, the name or title of which is mentioned in the work according to the respective rule;
- d) "disclosure" - an action conducted with the consent of the copyright and neighboring rights holder, in result of which a work, performance, phonogram, visual record and broadcasting organization's program is first available for public by publication, public display, public performance, public transmission and in any other way;
- e) "publication" - including into course of trade or leasing, by consent of an author or other holder of neighboring rights, copies of work, phonogram and visual record, or by transfer in an other way of property or ownership on work, phonogram and visual record in the quantity, which satisfies reasonable requirements. The work, phonogram and visual record shall be considered published, if they are available by means of information electronic systems;
- f) "rent" - availability of original or copy of the work or object of neighboring rights to be used in a certain period of time with

the purpose of gaining profit;

g) "visual record" - record of a series of related images in any objective form, accompanied with sounds, if any;

h) "producer of visual record" - a natural person or legal entity, who has taken initiative and responsible to fix the first record of

a series of images accompanied by sound, if any; if the contrary is not proved, as a producer of visual record shall be deemed

the natural person or legal entity, the name and/or title is indicated on visual record and/or its case according to respective rule;

i) "cable transmission" - transmission of work or neighboring rights object by cable, fiber-optic cable or other similar equipment

("Secondary transmission by cable" is a simultaneous, unchanged and unabridged secondary transmission by means of

microwave system made to public to receive the primary transmission of tele- and radioprograms by wire or aerial, including

satellite communication);

j) "computer program" - a set of instructions expressed in words, codes, charts or in any other machine-readable form, which

activates a computer in order to achieve a certain result. The term includes preparatory material for computer program design;

k) "broadcasting" - transmission of a work or object of neighboring rights by wireless communication, including satellite

("satellite" means every satellite working in the range of frequencies intended for broadcast signals for public. "Transmission via

satellite" means receiving of program carrier signals under control and responsibility of broadcasting organization. The programs

intended for public are received as a continuous chain of communication - up in the direction of satellite and down to the earth.

If program carrier signals are coded, the satellite communication is conducted, if the broadcasting organization agrees to

provide the public with decoding means);

l) "broadcasting organization program" - a program made by aerial or cable broadcasting organization, or by its order and

finances - by other organization. The program, which was transmitted only secondarily by cable organization is not a property

of this cable organization;

m) "database" - a collection of works, independent information, data and set of other materials placed in respect to systematic

or methodical rule available by electronic or other media. This term does not include a computer program, applied at creation

and operation of database available by electronic means;

n) "reproduction" - making one or more copies of a work or neighboring rights object by any means and in any form, among

them in the form of sound- and videorecord. As a reproduction shall be considered recording for temporary or permanent

storage, in electronic (including digital), optical or other machine-readable form, other than publication;

o) "reprographic reproduction (copying)" - facsimile duplication in enlarged or reduced size of an original or a copy of a written

or graphic work by photocopying or other technical means. As a reprographic reproduction shall not be deemed recording in

an electronic form (including digital), optical or other machine-readable form;

p) "public transmission (transmission for general information)" - transmission in ether of image or sound of a work, performance,

phonogram, visual record, program of broadcasting organization by cable or by other means, where such images and/or sounds

can be received by persons outside of a normal circle of a family and its social acquaintances in a place (places), whose

distance from transmission place is such, that without this transmission the images or sounds could not be received in said place

(places);

q) "public performance" - presentation of a work, performance, phonogram, visual record, broadcasting organization program

by means of declaiming, playing, singing, dancing or in any other manner, directly (a live performance) or by any equipment at

place (places), where public performance can be perceived without public transmission and where are present or can be

present persons outside of a normal circle of a family and its social acquaintances. As a public performance of an audiovisual

work shall be deemed the presentation of the work images in series;

r) "public display" - any demonstration of a work, performance, visual record, broadcasting organization program directly or on

a screen by means of a tape, slide, sequence or otherwise, at place (places), where public display can be perceived without

public transmission and where are present or can be present persons outside of a normal circle of a family and its social

acquaintances. As a public display shall be deemed showing of images without series;

s) "technical means" - an equipment or its component, intended to prevent any infringement of copyright and neighboring rights;

t) "information administering right" - an information, in which there is indicated the author, work, performer, performance,

phonogram producer, visual record, visual record producer, broadcasting organization, broadcasting organization program,

database, author of database and holder of any rights provided for by this Law, or an information on work or neighboring rights

object, exploitation terms and conditions, digits and codes representing the information, when the work, fixed performance,

phonogram, visual record or broadcasting organization program is completed by the information components or is displayed at

public demonstration of work, fixed performance, phonogram, visual record or broadcasting organization program;

u) "phonogram" - only sound record of performance or other sounds. The term does not include the sounds, recorded together

with images, such as a musical background of audiovisual work;

v) "phonogram producer" - a natural person or legal entity, who has taken initiative and responsibility for fixing performance or

for first record of other sounds; if the contrary is not proved, as a producer of a phonogram shall be deemed a natural person

or legal entity, the name and/or title of which is indicated on the phonogram and/or its case according to respective rule;

w) "record" - fixing of image and/or sound by technical means in any objective form, which enables their multiple perception,

reproduction and transmission;

x) "performer" - an actor (in the theater, cinema, etc.), singer, musician, dancer or other person, who acts, recites, sings,

declaims, plays a musical instrument or performs otherwise literary or art work, including variety, circus, puppet or folklore

show.

## **CHAPTER II. COPYRIGHT**

### **ARTICLE 5. SUBJECT MATTER OF COPYRIGHT**

1. Copyright applies to scientific, literary and artistic works, which are the result of intellectual-creative activities, irrespective of

appointment, value, genre, size, forms and means for its expression

2. Copyright applies to published, as well as unpublished work existing in any objective form.

3. Copyright does not apply to ideas, methods, processes, systems, means, concepts, principles, discoveries and facts, even if

they are expressed, described, explained, illustrated or embodied in a work

### **ARTICLE 6. SCIENTIFIC, LITERARY AND ART WORKS**

1. As a work of science, literature and art shall be deemed the following:

- a) literary works (books, brochures, articles, computer program, etc.);
  - b) dramatic and dramatic-musical works, choreographic or pantomime works and other theatrical works;
  - c) musical works with or without text;
  - d) audiovisual work (cine-, tele-, videofilm, etc.);
  - e) sculptural, painting, graphic, lithographic, fine arts and similar works;
  - f) decorative-applied or monumental art works;
  - g) theatrical-decorative art works;
  - h) architectural, urban planning or landscaping architectural works;
  - i) photographic work or work created through means analogous to photography. Separate images of audiovisual work shall not be deemed as photographic works,
  - j) map, plan sketches, illustration and other similar works, which does not belong to geography, cartography or other spheres;
  - k) derivative works, in particular, translation, interlines of fiction, adaptation, making a screen version, review, staging, compilation, musical arrangement and other kind of derivation of literary and art works;
  - l) compilation works, in particular, collections (encyclopedias, anthology, database) and other works, provided that the selection and arrangement of the contents is the result of intellectual-creative efforts;
  - m) other works.
2. Copyright on derivative and composite works are protected, without prejudice to these works being copyright forms, on which are they based or which they include.
  3. The protection of derivative and composite works is equal to the original works.
  4. The protection of computer programs applies to any kind of computer program (including operational systems), expressed in any language and from, including initial text and objective code.

## **ARTICLE 7. INDEPENDENCE OF COPYRIGHT FROM PROPERTY RIGHTS**

1. Copyright does not depend on property right of that material object, in which the work is expressed.
2. The transfer of property on material object or ownership does not result in transfer of copyright on the work expressed in the object, except the case provided for by the Article 18 of this Law.

## **ARTICLE 8. WORKS TO WHICH COPYRIGHT DOES NOT APPLY**

1. Copyright does not apply to the following works:

- a) official documents (laws, decisions of courts, other texts of administrative and normative character), as well as their official translations;
- b) official symbols of state (flag, emblem, anthem, award, monetary symbols, other official signs and symbols of state);
- c) information of events and facts.

2. When using the works mentioned in subparagraph "b" of this Article under the other persons name, it is possible to protect the right of author's name.

## **ARTICLE 9. ARISING OF COPYRIGHT**

1. Copyright on scientific, literary and art works arises from the moment of their creation. A work shall be regarded created, when it is expressed in any objective form enabling its perception and reproduction.

2. For arising and exercising of copyright registration of the work or compliance with any other formalities is not required.

3. The copyright holder can register his work in the Register of Copyright and Neighboring Rights State Agency. After

registration the registrant is granted a certificate, which itself does not create the presumption of authorship.

4. A holder of exclusive copyright in order declare his rights can use the copyright protection mark, which shall be affixed to

every copy of the works and consists of three elements:

- a) Latin letter C in a circle ©;
- b) the name (title) of the exclusive copyright holder;
- c) the year of the first publication of the work.

## **ARTICLE 10. PRESUMPTION OF AUTHORSHIP**

1. The author being properly indicated as the author on the original or copy of the work, shall be deemed as the author, unless

the contrary is proved. This provision shall also apply at publication of the work under a pseudonym, provided that the

pseudonym is commonly known.

2. When the work is published under pseudonym (with the exception of the cases when the author is well-known under the pseudonym) or anonymously, the publisher, whose name or title is indicated on the work according to the respective rule, is considered as a representative of the author, unless the contrary is proved. He as the representative is entitled to protect authors rights and ensure their exercise. This provision shall apply until the author of such work reveals himself.

#### **ARTICLE 11. CO-AUTHORSHIP**

1. Copyright on the work created in result of joint efforts of two or more persons (co-authors) belongs jointly to the co-authors, irrespective of the work is one indivisible whole, or consists of the parts each having independent meaning. The relations among co-authors shall be defined by an agreement concluded among them.
2. None of the co-authors have the right to prohibit the use of the work without substantial grounds.
3. The co-authors can publish the work under a joint common pseudonym.
4. Each co-author is entitled to use the part of the work created by him and which has an independent meaning, if not provided for otherwise by the agreement concluded among them.
5. The part of the work created under co-authorship shall be considered as having independent meaning, if it can be used without other parts of the work.

#### **ARTICLE 12. RIGHTS OF THE AUTHOR (COMPILER) OF COMPILED WORK**

1. Copyright belongs to the author of compiled work on selection and disposition of material, which represents the result of his intellectual-creative work.
2. The compiler shall protect the copyright of the authors of the works included in compiled work.
3. The authors of the works included in the compiled work are entitled to use their works independently from the compiled work, if not provided for otherwise by copyright contract.
4. The copyright of compiler does not prevent other parties from selection and disposition of the same material for creation of their compiled works.



### **ARTICLE 13. RIGHTS OF THE AUTHOR OF DERIVATIVE WORK**

1. Copyright belongs to the derivative work author on derivation done by him.
2. The author of the derivative work shall protect the copyright of the author of this work.
3. The copyright of the derivative work's author does not prevent other parties from deriving the same work.

### **ARTICLE 14. EXCLUSIVE RIGHT OF PUBLISHER**

1. The exclusive right to the use of encyclopedias, encyclopedic dictionaries, scientific works, periodic publications and collections continuing one another, newspapers, journals, and other periodical editions, works included in these editions belongs to the publisher. The publisher is entitled, at the use of such work in any form, to have his name indicated or request claim indication.
2. The authors of the works included in the editions mentioned in the first paragraph of this Article preserve the exclusive right to the use of their works, if there is not provided for otherwise by copyright contract.

### **ARTICLE 15. COPYRIGHT ON AUDIOVISUAL WORK**

1. The authors (co-authors) of audiovisual work are: a producer, director, author of script, dialogues, musical work with or without text specially created for this audiovisual work.
2. Conclusion of a contract on creation of audiovisual work results in transfer of the exclusive right to the use of this work from the authors (co-authors) to producer under the condition of receiving royalty for the use of the work in any form, if there is not provided for otherwise by the contract. The author of the musical work created specially for the audiovisual work preserves his right to receive royalty for the use of such musical work at every public performance and public display of audiovisual work.  
The exercise of the right is possible through the organization administering the authors economic rights on collective basis.
3. The producer of audiovisual work is entitled to have his name indicated or to claim such indication at the use of such work in any form.
4. The author of the work created earlier, which has been derived or included as a component in the audiovisual work, as well

as the author of the work created during the process of audiovisual work creation, preserve their copyright on their work having independent meaning. They enjoy the right to make use of his work independently, if there is not stipulated for otherwise, provided, that such use shall not prevent the normal use of audiovisual work.

## **ARTICLE 16. COPYRIGHT ON WORK CREATED FOR HIRE**

1. Copyright on the work created in the course of fulfillment of the employer's order (work created for hire), belongs to the author of the work created for hire.
2. The exclusive right to the use of the work created for hire, conditioned by contents and purpose of the task belongs to the person with whom the author has labor relations (employer), if there is not provided for otherwise by the contract concluded between them.
3. In regard to the computer program the employer enjoys the exclusive property right to the use of created program, if there is not provided for otherwise by the contract.
4. Within 5 years term from the handing over the work to the employer by the author, the exclusive right to its use is transferred to the author.
5. If the employer within 3 years from receiving of the work does not use the work, the exclusive right to its use is transferred to the author. This provision is applied where the use of the work has been terminated over 2 years under due reason. The mentioned term can be changed upon agreement of the parties.
6. The employer is entitled to indicate his name (title) or claim such indication at the use of the work created in the course of employment.
7. At the use of the work created for hire the amount of royalty and rule of payment can be defined by the contract between the author and employer.
8. This Article does not apply to derived work created for hire.

## **ARTICLE 17. PERSONAL MORAL RIGHTS OF THE AUTHOR OF WORK**

1. The personal moral rights of the work's author are the following:

- a) be recognized as an author of the work and claim such recognition on every copy and/or at the use of the work in any form according to the respective rule, including the right to have the author's name mentioned (right on authorship);
- b) mention pseudonym instead of the name and claim such mention on each copy and/or at use in any form according to the respective rule, also refuse the mention of the name (right on the name);
- c) publish the work first;
- d) permit other persons enter changes in the work, in its name (title), as well as in author's name, also prevent entering the changes in the work without his consent (right on inviolability of work);
- e) protect the work from any distortion or mutilation, that may damage his honor, dignity or business reputation (right on respecting the reputation);
- f) permit other parties complete the work with the works (illustration, preface, summary, comments, explanations, etc.) of other authors;
- g) claim the termination of the use of the work ( right on recall of the work). In this case the author is obliged to declare recall publicly. The right on recall of the work does not apply to the work created for hire.
2. The exercise of the right provided for by the subparagraph "g" of this Article shall be carried at the author's expense. The author shall compensate the user of the work the damages caused, including the unrealized profit. The author shall also withdraw from the course of trade the copies of the work made earlier with the purpose of distribution.
3. The personal moral rights belong to the author independently from his economic rights and shall be preserved in case of alienation of these rights.
4. The alienation of personal moral rights in the author's life is inadmissible.

## **ARTICLE 18. ECONOMIC RIGHTS OF THE AUTHOR OF WORK**

1. The author or other holder of copyright have the exclusive right to the use of the work in any form.
2. The exclusive right to the use of the work means the right to exercise, permit or prohibit the following:
- a) reproduction of work (right on reproduction);
- b) distribution of the original or copies of the work among public by sale or lease or transfer of property or ownership on other way (right on distribution);

c) importation of copies of the work with the purpose of distribution, including those copies made with the consent of the author

or other holder of the right (right on importation);

d) public display of the work (right on public display). This right does not apply, where the public display is the result of lawful

purchase of the work included in the course of trade;

e) public performance of the work (right on public performance);

f) public transmission of the work in ether or by cable including primary and/or secondary transmission (right on public

transmission);

g) transmission of the work (right on translation);

h) remake of the work (right on remake).

3. The author or other holder of the copyright is entitled to receive the royalty for the use of the work in any form (right on

royalty),

4. If the copies of the work published lawfully are sold, then their further distribution without author's consent and payment of

royalty is permitted.

5. The author or other holder of copyright on musical work expressed in notes, audiovisual work, computer program,

database, work fixed on phonogram, or visual record have the exclusive right on distribution of said work originals or copies by

leasing, without prejudice on the property right on said original or copies.

6. The exclusive right to the use of architectural, urban planning and landscape architecture projects include the right on

realization of the project.

7. The amount of the royalty, rule of its calculation at any use of the copy is defined by copyright, as well as by the contract

concluded between the users and the organization administering economic rights of authors on collective basis.

8. The person, who after expiration of copyright term, publishes first the work, which was not published earlier, shall have the

property right on the work provided for by the paragraph 2 of this Article.

9. The limitations of economic rights stipulated by paragraph 2 of this Article are defined by the Articles 21-28 of this law,

provided that, such limitations do not prevent the normal use of the work and damage unreasonably the legal interests of the

author or other holder of copyright.

## **ARTICLE 19. ECONOMIC RIGHTS ON COMPUTER PROGRAM AND DATABASE**

1. An author of computer program along with the rights defined by Article 18 of this Law enjoys the exclusive right to exercise,

permit or prohibit the following:

a) reproduction of computer program by any means and in any form, completely or partially. The authors consent is necessary,

if such a reproduction is required for loading, display, operation, transmission or saving of the computer program;

b) translation, adaptation, systematization or other changes of computer program and further reproduction of obtained results

by preserving the rights of the person changing the computer program;

c) spreading of the original or copies of computer program in the public in any form, including leasing. With the first realization

of program copies in Georgia by the author or with his consent the right of control on spreading such copies within the territory

of Georgia is exhausted, with the exception of the right - to control further leasing of program original or copies.

2. An author of database along with the right defined by the Article 18 of this Law enjoys the exclusive right to exercise, permit

or prohibit the following:

a) temporary or permanent reproduction of database by any means and in any form, completely or partially;

b) translation, adaptation, systematization or other changes of database and reproduction, public transmission, display or

performance of database;

c) spreading of the original or copies of database in the public in any form. In Georgia with the first realization of database

copies by the author or with his consent, the right of control on sale of such copies is exhausted within the territory of Georgia;

d) any transmission, display or performance before public, including direct transmission in dialogue regime.

## **ARTICLE 20. RIGHTS OF THE AUTHOR OF FINE ARTS WORK**

1. An author of fine arts work has the right to request the owner of the work to give him the permission on reproduction of his

work (right on permission). With this the owner shall not be requested to deliver the work to the author.

2. After first alienation of fine arts work original in every separate cases of selling in public (through auction, art saloon, exhibition of fine arts, shop or by other means) the author or his legatees have the right to receive the royalty from the authors in the amount of 5 per cent of the sale price. This right can be exercised through the organization administering the authors economic rights on collective basis. The sellers are obliged to furnish said organization with the information about selling.

3. The alienation of the right provided for by paragraph 2 of this Article in the author's life is inadmissible. It shall be transferred to his legatees in respect to the Law or by testament following the validity term of the copyright.

### **CHAPTER III. LIMITATION OF ECONOMIC RIGHTS**

#### **ARTICLE 21. REPRODUCTION OF THE WORK BY THE NATURAL PERSON FOR THE PERSONAL PURPOSES**

1. It is permitted to reproduce the lawfully published work by the natural persons only for personal purposes without consent or payment of the royalty to the author or other holder of copyright, with the exception of cases provided for in the paragraph 2 and 3 of this Article.

2. The first paragraph of this Article shall not be applied:

- a) at reproduction of architectural works in the form of buildings;
- b) at reproduction of databases;
- c) at reproduction of computer programs, with the exception of the cases provided for by the Articles 28 and 29 of this Law;
- d) reprographic reproduction of books (completely), music notations and works of fine arts;
- e) at reproduction of audiovisual work or the work fixed as phonogram.

3. At reproduction of the audiovisual work or the work fixed on a phonogram by the natural person for personal purposes, the author or other holder of copyright in difference from the rule provided for in the first paragraph of this Article, has the right to receive respective royalty.

4. The royalty shall be paid at reproduction for personal purposes by producers and importers of equipment (audio- and videorecorders and other equipment) and material carriers (phono and video tapes, cassettes, laser disks, compact disks and other material carriers).

5. Collection and distribution is executed by one of those organization, which govern the economic rights of the authors,

performers and phonogram producers on collective basis, in respect to the contract concluded between these organizations. If

there is not provided for otherwise by the contract the royalty is distributed in the following way: 40 per cent - to the authors,

30 per cent - to performers, 30 per cent - to phonogram producers. Said organizations are entitled to claim information on

production and importation of equipment and material carriers referred to in the paragraph 4 of this Article from natural persons

and legal entities, as well as from state organizations and institutions.

6. The amount of the royalty and payment order are defined, on the one hand, between said producers and importers and, on

the other hand, by the contract with one of those organizations, which govern the economic rights of authors, performers and

phonogram producers on collective basis. If the parties fail to reach the agreement, the amount of the royalty is determined by

the State Agency of Copyright and Neighboring Rights.

7. The royalty is distributed among those authors and other holders of copyright and neighboring rights of the work mentioned

in paragraphs 3 and 5 of this Article and which, possibly were reproducing it for personal purposes.

8. The royalty shall not be paid for the equipment and material carriers provided for by paragraph 4 of this Article which are:

a) the subject of export;

b) professional equipment, which is not intended for domestic use.

9. The royalty shall not be paid at importation of said equipment and material carriers by natural persons for personal purposes.

## **ARTICLE 22. REPROGRAPHIC REPRODUCTION OF WORK BY LIBRARIES, ARCHIVES AND EDUCATIONAL INSTITUTIONS**

The reprographic reproduction without direct or indirect gaining of profit is permitted, without consent of the author or other

holder of copyright and without paying him the royalty but with mandatory indication of the work author's name and of the

borrowed source, and in separate cases - in the volume defined by the set aim. Such reprographic reproduction is admissible:

a) in a single copy for substitution of destroyed, lost or indecent copies of lawfully published work by libraries and archives; for

substitution of lost, destroyed or indecent copies from the funds of other libraries with the purpose of supplying the copies to

these libraries, if receiving of such copies in ordinary conditions through other means is impossible;

b) in a single copy of lawfully published works and other small volume works, or excerpts from written works (with the exception of computer programs), by libraries and archives at the request of natural persons for educational, scientific or personal purposes;

c) of the lawfully published separate articles and other small volume works, or small excerpts from written works (with the exception of computer programs), by the educational institutions for teaching purposes.

### **ARTICLE 23. EXPLOITATION OF THE WORK WITHOUT CONSENT OF THE AUTHOR AND WITHOUT PAYING HIM THE ROYALTY**

It is permitted, without consent of the author or other holder of the copyright, and without payment of the royalty but with

obligatory indication of the author's name of the used work and of the borrowed source, to do the following:

a) to cite from the lawfully published works original or translation, for scientific, research, polemic, critical and information

purposes in the volume justified for the purposes of citing, including reproduction of excerpts from newspapers and journals in

the form of printed survey;

b) to use excerpts from the lawfully published works in the form of illustrations, printed matter, radio- and teleprograms,

phono- and videorecording of educational character in the volume defined by the set aim;

c) reproduction by means of newspaper or public transmission of lawfully published articles on current economic, political,

social and religious issues in periodic publications or similar works transmitted by aerial, only in the cases where such

reproduction or public transmission is not specially prohibited by the author or other holder of copyright. Whereas the author

shall preserve the right on publication of such work in collection;

d) reproduction or communication to the public of the work seen or heard in the process of reviewing current events, by means

of taking photos, broadcast or cable transmission in the volume justified for information purposes;

e) reproduction or communication to the public of delivered publicly political speeches, reports, lectures, addresses, sermons or



other similar works, including speeches made at court sessions, through newspapers, journals and other periodical editions in

the volume justified for information purposes. Whereas, the author shall preserve the exclusive right on publication of such a

work either in the form of separate collections, or a book.

f) reproduction of the lawfully published work with relief-dotted print, or of other special means for the blind persons, with the

exception of the works specially created for such methods of use.

#### **ARTICLE 24. USE OF WORKS PERMANENTLY DISPOSED IN PLACES FOR FREE ATTENDANCE**

It is permitted, without consent of the author or other holder of copyright and without paying the royalty to him, to make

reproduction or communication to the public of architectural, photographic and fine arts work permanently disposed in places

open to free attendance, with the exception of cases, when the image of the work represents the main object of such

reproduction or public communication or is used for gaining profit.

#### **ARTICLE 25. PUBLIC PERFORMANCE OF MUSICAL WORK AT CEREMONY**

Without consent of the author or other holder of copyright and paying him the royalty, it is permitted to perform publicly the

lawfully published musical works at official, funeral and religious ceremonies only in a volume justified by the character of such

ceremony.

#### **ARTICLE 26. REPRODUCTION OF THE WORK FOR COURT PROCEEDINGS**

Without consent of the author or other holder of copyright and paying him the royalty, it is permitted to reproduce the work for

court proceedings, only in the volume defined by set purpose.

#### **ARTICLE 27. SHORT TERM RECORDING OF WORK BY BROADCASTING ORGANIZATION**

The broadcasting organization is authorized, without consent of the author or other holder of copyright and without payment of

additional royalty to him, to record for short term use of the work for which this organization has secured the right on

broadcasting with the observation of the following conditions:

a) making of record by means of own equipment for own program;

b) destruction of the record within six months from the date of making, if a longer period has not been agreed upon with the

author of the recorded work. Only the recordation of documentary character can be kept in the official archive without the

author's consent.

## **ARTICLE 28. LIMITATIONS OF THE COMPUTER PROGRAM AND DATABASE OWNERS RIGHTS**

1. A person, who owns lawfully a copy of a computer program or database, is authorized without consent of an author or other

holder of copyright and without paying him a royalty to do the following:

a) to enter changes in the computer program or database, necessary for functioning of users of technical facilities, also carry out

any action related to functioning of the computer program or database, including recording and saving in computer memory (for

one computer or one user of network), correction of apparent mistakes, if there is not provided for otherwise by the copyright

contract;

b) make a reserve copy of computer program or database provided that this copy is intended only for archive and for

substitution of the lost, destroyed or indecent copy of lawful owner.

2. The reserve copy of computer program database shall not be used for the purposes other than the rules defined by

paragraph 1 of this Article and shall be destroyed at termination of computer program or database owner's rights.

## **ARTICLE 29. FREE USE OF COMPUTER PROGRAM (DECOMPILATION)**

The person, who lawfully owns the copy of computer program is entitled without consent of the author or other holder of

copyright and without paying him the copyright royalty, to conduct decompilation (reproduce and transform the objective

coded in initial text) of computer program, also order decompilation the other persons in the case, when it is necessary to

achieve interoperability among the computer program created by him and other programs, provided that the following

conditions are met:

a) these actions are performed by the person having permission to use the program copy, or on his behalf another person

having the respective permission;

b) the information necessary to achieve interoperability has not been available for him by the other sources;

c) these actions relate only to the parts of decompiled program necessary for achievement of interoperability;

d) the information received in result of decompilation shall be applied only for achieving interoperability among the computer

program created independently and other computer programs. This information shall not be disclosed to other persons or used

for creation of a new computer program, which is substantially similar to the decompiled program, or for any other action,

which infringes copyright.

### **ARTICLE 30. FREE USE OF DATABASE**

The lawful user of database original or copy can without consent of the database author or other holder of copyright, conduct

actions defined by the Article 19 of this Law, when it is necessary to access the database and for its normal use, if the lawful

user has the right to use the part of database, said rights apply only to this part.

## **CHAPTER IV. VALIDITY TERM OF COPYRIGHT**

### **ARTICLE 31. ARISING OF COPYRIGHT AND DURATION**

1. The copyright arises at the moment of creation of the work and is valid during the author's life and during 70 years from his

death, with the exception of cases provided for by the Article 32 of this Law.

2. Calculation of the terms defined by this Article and Article 32 of this Law starts from January 1 of the year following the year

in which the legal fact, being basis for beginning calculation of said terms, has taken place.

## **ARTICLE 32. VALIDITY TERM OF COPYRIGHT**

1. The copyright on the work, which was published under pseudonym or anonymous, is valid for 70 years from the date of its lawful publication. If the author within this period reveals his personality, or his personality is doubtless paragraph 1 Article 31 of this Law shall be applied.
2. The copyright on the work created with a co-author is valid during the life of each co-author and during 70 years from the death of the last author.
3. If the work is published in volumes, parts, editions or episodes, and copyright validity term is calculated from the date of lawful publication, this term shall be calculated for each such work.
4. The copyright on the work mentioned in Articles 12 and 13 is valid during 70 years from the date of their lawful publication, and if the work has not been published - from the date of its creation.
5. The copyright on audiovisual work is valid during 70 years from the death of the last author (co-authors) mentioned in the paragraph 1 Article 15 of this Law.
6. The economic copyright of the person, who published lawfully the work not published earlier (paragraph 8 Article 18 of this Law), shall be valid during 25 years from the date of its lawful publication.

## **ARTICLE 33. LIMITLESS COPYRIGHT**

1. The right on authorship, right on name, right on the work inviolability and right on respect of reputation in relation to the particular work are protected without any time limit.
2. After expiration of the copyright term, the other author is not allowed to use the name of the work for the work of the same genre, if such use can result in confusion of authors, that shall mislead the public.
3. The publication of the work under such pseudonym, which may cause the identification with the author of the work published earlier, that shall mislead the public.

## **ARTICLE 34. USE OF EXPIRED COPYRIGHT**

1. The work on which the copyright validity term has expired, can be used by any person without paying the copyright royalty.

At the same time, the rights on ownership, name, inviolability of the work and respect of reputation shall be preserved. This rule

applies to the works, which were not protected within the territory of Georgia.

2. By Georgian legislation the special fees may be established for the use of the work within the territory of Georgia, on which

the copyright validity term has expired. The income collected from such fees shall be transferred to the authors professional

funds and organizations, which govern the economic rights of the authors on collective basis. The amount of fees shall not be

more than 3 per cent of the profit gained from the use of the work.

## **CHAPTER V. COPYRIGHT TRANSFER**

### **ARTICLE 35. GROUNDS FOR TRANSFER OF COPYRIGHT**

1. The copyright shall be transferred under the Law or testament in respect to the inheritance rule.

2. According to the Law the exclusive rights to the use of the work defined in the Article 18 of this law within the copyright

validity terms is transferred to his legatees, if there is not provided for otherwise by the testament.

3. Right on authorship, on name and on inviolability of the work shall not be transferred by the right on succession. The legatees

have the right to exercise the protection of said personal rights. This competence is not limited by terms.

4. Unless the contrary was provided for by the author during his life, from his personal rights the right to permit other parties

complete the work with the works of other authors (illustration, introduction, epilogue, comments, explanation, etc.) is

transferred through inheritance. Said right is transferred onto the legatees following the validity term of the copyright.

5. The author has the right to indicate the person, who he appoints for the protection of the rights defined in the paragraph 3 of

this Article. This person carries out his obligations until the authors death.

6. When the legatees do not exist or exercise unlawfully the rights provided for in the paragraph 3 of this Article, these rights

are protected by the State Agency of Copyright and Neighboring Rights.

### **ARTICLE 36. TRANSFER OF AUTHOR'S ECONOMIC RIGHTS**

1. The author or other holder of copyright may transfer his economic rights to his legatee. All the exclusive rights to the use of the work defined by the Article 18 of this law are transferred to the legatee.
2. The permission on use of the work in a special way is granted on basis of copyright contract on granting of exclusive or simple license.

#### **ARTICLE 37. EXCLUSIVE LICENSE**

1. In respect to the copyright contract on transfer of exclusive rights (exclusive license), the author or other holder of copyright transfers the exclusive right to the use of the work in a definite form and scopes defined by the contract only to the licensee and entitles him to prohibit such use of the work by other parties (including author).
2. The author may enjoy the right to prohibit other parties from the use of the work, if the licensee does not exercise protection of this right.

#### **ARTICLE 38. SIMPLE LICENSE**

1. In respect to the copyright contract on transfer of rights (simple license), the author or other holder of copyright permits the licensee to use the work on equal basis with the parties enjoying the right to the use of the work in the similar way.
2. The right transferred by the copyright contract shall be deemed as simple, if there is not provided for other wise by the contract.

#### **ARTICLE 39. USE OF WORK AFTER GRANTING OF EXCLUSIVE LICENSE**

Even in the case of granting of the exclusive license rights to the use of the work (exclusive license), the author of literary work and musical work shall preserve the right on publication of such a work only in the full collection of his works, if 5 years have expired after publication of the work as a result of transfer of the exclusive right. Hereto, the author is not authorized to use this work separately from the collection.

## **ARTICLE 40. COPYRIGHT CONTRACT**

1. The copyright contract shall provide for: the exact description of the work to be used (volume, genre, title), the concrete form of the use of work, the term and territory of the rights transfer, the rule of determining the royalty amount or the amount of royalty for each form of the work, the rule and term of its payment, as well as other conditions which shall be considered essential by the parties.
2. The right to the use of the work in all those form, which are not defined directly by the copyright contract, belongs to the author.
3. Where the copyright contract does not provide for the concrete form of the work use (concrete rights transferred by copyright), the contract shall be considered to be concluded on such use of the work, which can be deemed as necessary for fulfillment of the purpose, which they had at concluding of the contract.
4. Where the copyright contract does not provide for the term of right transfer, the contract may be canceled by the author after expiration of 3 years from the date of its conclusion. The user shall be notified about this in a written form 6 months before the annulment of the contract.
5. Where the copyright contract does not provide for the territory of right transfer, the right transferred is valid only within the territory of Georgia.
6. The amount of royalty and the rule of its payment in the copyright contract shall be defined under the agreement of parties.
7. If, in the copyright contract at publication or other reproduction of the work the royalty is determined in the fixed amount, the contract shall define the maximum edition of the work copies.
8. The rights transferred under the copyright contract may be fully or partially transferred to other parties, if there is directly provided for by the contract.

## **ARTICLE 41. ANNULMENT OF COPYRIGHT CONTRACT**

1. The conditions of the copyright contract limiting the rights of the author to create a work in future on a certain theme or in the certain field, is considered invalid.

2. The subject of the copyright contract shall not be the transfer of the right on the work, which may be created by the author in future.

#### **ARTICLE 42. FORM OF COPYRIGHT CONTRACT**

The copyright contract shall be concluded in a written form. The contract on publication of the work in the periodical publication may be concluded verbally. The contract on a single transmission of a verbal work by television or radio may also be concluded verbally.

#### **ARTICLE 43. CONTRACT ON CREATION OF WORK**

1. According to the contract on creation of the work, the author takes responsibility to create the work in respect to the conditions of the contract and hands it over to the client, and the client is obliged to receive the work and pay the author the royalty.
2. The author is responsible to create the work personally, if there is not provided for otherwise by the contract. Attracting the other person (persons) in creation of the work is permitted only at client's consent.
3. The client is responsible within the term defined by the contract consider the work and notify the author of his favorable opinion in the written form or on basis of contract conditions of his unfavorable opinion or of necessity of entering changes.
4. If the author within the terms defined by the contract is not notified in the written form, the work is considered as approved.
5. The rule of paying advance to the author, the terms and amount are defined by the contract.

#### **ARTICLE 44. OBLIGATION ON COMPENSATION OF DAMAGES**

The party, which did not fulfill or fulfilled insufficiently the obligations taken under the copyright contract shall compensate the other party the damages, including the neglected profit.

### **CHAPTER VI. NEIGHBORING RIGHTS OF COPYRIGHT**

#### **ARTICLE 45. NEIGHBORING RIGHTS**



1. Protection of neighboring rights of copyright provided for in this Chapter does not prevent the copyright protection.
2. The neighboring rights are exercised with respect to copyright. None of the provisions of this Chapter is explained as infringing of copyright protection.

#### **ARTICLE 46. SUBJECTS OF NEIGHBORING RIGHTS**

1. The subjects of the neighboring rights are: performers, producers of phonograms or visual records and broadcasting organizations.
2. The producers of phonograms and visual records and broadcasting organizations exercise their rights provided for by this Chapter within the scope of authorization entitled under the contract concluded with the author and performer of the work fixed in the phonogram or visual record, or broadcasted or transmitted by the cable.
3. The performer exercises the rights provided for by this Chapter under the condition of protection rights of the performed works author.
4. It is not obligatory to observe any formalities for arising and execution of the neighboring rights. The producer of a phonogram or performer for declaration of the their rights may apply the sign protecting the neighboring rights, which shall be affixed to each copy of the phonogram and/or its case and consists of three elements:
  - a) the Latin letter P in a circle: P ;
  - b) the name (title) of the holder of exclusive rights;
  - c) the year of phonograms first publication.

#### **ARTICLE 47. RIGHTS OF PERFORMER**

1. A performer on his performance has the following personal and economic rights:
  - a) the right on the name;
  - b) the right to protect his performance from any distribution, or other infringing, which may damage the honor, dignity or business reputation (right on respect of reputation);
  - c) the right to use the performance in any form, including the right to receive royalty for the use of the performance in any form;
2. The exclusive right to the use of the performance means to permit or prohibit the following:

- a) recording of the performance, which was not recorded before;
- b) reproduction of the performance record, with the exception of the cases, when the performance was recorded with the consent of the performer and the reproduction is carried for the same purpose, for which it was recorded;
- c) transmission of the performance by broadcast or cable, or other communication to the public of the performance, with the exception of cases, when there is transmitted the earlier recorded or transmitted performance with the consent of the performer;
- d) transmission of the recorded performance by broadcast or cable, if this performance was not recorded initially for the purpose of gaining profit;
- e) leasing to the publisher the phonogram or visual record, on which the performance is fixed with the participation of the performer.

3. The permission provided for by the paragraph 2 of this Article is granted by the performer, and permission on the performance or performers' collective - by the head of such a collective, on the basis of the written contract concluded with the user.

4. Conclusion of the contract between the performer and the broadcasting organization on transmission of the performance by broadcast or cable, results in transfer of the right on recording of the performance, on its further transmission and reproduction of the record in the case, if it is directly provided for by the contract. In the case of such use the amount of the royalty payable for the performance is determined by said contract.

5. Conclusion of the contract on creation of audiovisual work between the performer and the audiovisual work producer results in transfer of the rights provided for by the paragraph 2 of this Article, if there is not provided for otherwise by the contract. Transfer of such rights by the performer is limited to the use of the audiovisual work and unless there is not provided for otherwise by the contract, it does not include the right to separate the use of sound and the image fixed in the audiovisual work.

6. Conclusion of the contract on recording of the performance on the phonogram or video gram between the performer and producer of phonogram or visual record results in transfer of the right by the performer on leasing of the phonogram or visual record. Whereas, the performer preserves the right to receive the royalty for leasing the copies of such phonogram or visual record.

7. For the performance created at fulfillment of official duties or by the order of the employer, the performer enjoys the right on the name. The exclusive right to the use of such performance belongs to the person with whom the performer has labor relations, unless provided for otherwise by the contract concluded between them.
8. The exclusive right defined by the paragraph 2 of this Article may be transferred to the other party.

#### **ARTICLE 48. EXCLUSIVE RIGHTS OF PHONOGRAM PRODUCER**

1. The producer of the phonogram enjoys the exclusive right to use the phonogram in any form, including the right to receive the royalty for using the phonogram in each form.
2. The exclusive right to the use of phonograms means the right to conduct, permit or prohibit:
- a) reproduction of the phonogram;
  - b) first distribution of the phonogram copies;
  - c) leasing of phonogram copies;
  - d) distribution of the phonogram copies in the public through leasing, or transfer of the property or ownership in any way;
  - e) importation of phonogram copies with the purpose of distribution, including those copies produced with the consent of phonogram producer.
3. The exclusive right of phonogram producer provided for by the paragraph 2 of this Article can be transferred to the other party under the contract.

#### **ARTICLE 49. EXCLUSIVE RIGHTS OF VISUAL RECORD PRODUCER**

1. The producer of the visual record enjoys the exclusive right to use the visual record in any form, including the right to receive the royalty for using the visual record in each form.
2. The exclusive right to the use of visual record means the right to permit or prohibit:
- a) reproduction of the visual record;
  - b) first distribution of the visual record copies;
  - c) leasing of visual record copies;
  - d) distribution of the visual record copies in the public through leasing, or transfer of the property or ownership in any way;
  - e) importation of visual record copies with the purpose of distribution, including those copies produced with the consent of

visual record producer.

3. The exclusive right of visual record producer provided for by the paragraph 2 of this Article can be transferred to the other party under the contract.

## **ARTICLE 50. EXCLUSIVE RIGHTS OF BROADCASTING ORGANIZATION**

1. The broadcasting organization enjoys the exclusive right to use its program in any form, including the right to receive the royalty for using the program in each form.

2. The exclusive right to the use of program means the right to permit or prohibit the following:

a) recording of the program;

b) reproduction of program record, with the exception of the cases, when the program is recorded with the consent of

broadcasting organization and the reproduction is conducted with the same purpose, for which it was fixed;

c) simultaneous transmission by broadcasting and by cable, respectively by aerial and cable broadcasting organization;

d) transmission of the program by aerial or cable;

e) public transmission of the program, where the entry is paid;

f) distribution of the program record in the public by sale or leasing, or transfer of property or ownership through other ways.

## **ARTICLE 51. FREE USE OF NEIGHBORING RIGHTS OBJECT**

1. The limitations of neighboring rights provided for by this Law does not prevent the normal use of the performance,

phonogram, visual record, program of broadcasting organization and does not damage unreasonably the lawful interests of the

performer, phonogram or visual record producer and broadcasting organization.

2. The use of performance, phonogram, visual record, broadcasting organization programs and their records without consent of

the performer, phonogram or visual record producer and broadcasting organization and without payment of the royalty to them,

is permitted in the following cases:

a) at citing in the form of excerpts from the performance, phonogram, visual record, the program of broadcasting organizations,

provided that such citation is carried out for scientific, research, polemic, critical and information purposes - only in such

volume, which is justified by the set purpose;

b) at teaching or scientific research in the form of excerpts and illustrations - only in the volume justified by the set purpose;

c) at reviewing of current events inserting of short excerpts from the performance, phonogram, visual record, the program of broadcasting organization.

3. The use of performance, program of broadcasting organization and their records by the natural persons, as well as the

reproduction of phonogram or visual record for personal purposes without the consent of the performer, broadcasting

organization, phonogram or visual record producer is permitted. Such reproduction is conducted under the condition of paying

the royalty by the rule defined by the Article 21 of this Law.

## **ARTICLE 52. USE OF PHONOGRAMS PRODUCE FOR COMMERCIAL PURPOSES**

1. It is permitted, without consent of the producer of phonogram produced for the purpose of gaining profit and the performer

of the work fixed in the phonogram, but by paying the royalty to do the following:

a) conduct public performance of phonogram;

b) transmit the phonogram by aerial or cable.

2. Collection and distribution of the royalty provided for by the paragraph 1 of this Article is executed by one of those

organizations, which govern the rights of the performers and phonogram producers on collective basis.

3. The amount of the royalty and rule of its payment is defined, on the one hand, between the phonogram users, and, on the

other hand, one of the organizations administering the economic rights of phonogram producers and performers on collective

basis. If the parties fail to reach the agreement the amount of the royalty shall be determined by the State Agency of Copyright

and Neighboring Rights. The amount of the royalty shall be determined for each form of phonogram use.

4. Users of the phonogram shall submit to the organizations mentioned in the paragraph 2 of this Article the programs (plans)

including the precise information on the amount of phonogram use, as well as other certificates and documents needed for

collection and distribution of the royalty

## **ARTICLE 53. RECORDING OF PERFORMANCE OF PROGRAM BY THE BROADCASTING ORGANIZATION FOR SHORT-TERM USE**

The wireless broadcasting organization is authorized, without consent of the performer, phonogram or visual record producer and broadcasting organization, to conduct recording of performance or program for short-term use and reproduction of such

record provided that the following conditions are met:

- a) receiving of the preliminary consent on transmission of the performance or program;
- b) making of short-term recording and its reproduction by means of the own equipment for the own program;
- c) destruction of the short-term record under the conditions provided for the short-term records of scientific, literary and art works.

## **CHAPTER VII. SPECIAL PROVISIONS ON DATABASE PRODUCER'S RIGHTS**

### **ARTICLE 54. DATABASE PRODUCER**

1. The database producer able to prove, that he has carried substantial investments from the qualitative and quantitative point of view for purchase of database contents, verifying or representation, enjoys the exclusive right to prevent the withdrawal of its whole contents or significant part evaluated qualitatively or quantitatively and/or repeated use.
2. For the purposes of this Chapter withdrawal means transfer of the whole contents of database or its significant part permanently or temporarily on the other material carriers by any media or form, and repeated use means communication to the public of the whole contents of database or its significant part by leasing of copies, in dialogue or direct or other form of transmission. After selling of database copies, their further sale without consent of database producer is permitted.
3. Repeated or systematic withdrawal and/or repeated use of database contents insignificant part is inadmissible, if such action prevents its normal use and damages the lawful interests of database producer unreasonably.

4. The rights of database producer provided for by the first paragraph of this Article can be transferred to the other party under the contract.

5. The rights defined in the first paragraph of this Article are valid where the database is protected by copyright or not and its contents is acceptable or not. The protection of database in respect to the rights provisioned in the paragraph 1 of this Article shall not damage the related copyrights.

#### **ARTICLE 55. RIGHTS AND OBLIGATIONS OF DATABASE LAWFUL USER**

1. The producer of the disclosed database has nor right to prevent the database lawful user to take the insignificant part of database contents evaluated qualitatively and/or quantitatively and/or repeated use with any purpose. If the lawful user has the right to withdraw the part of database and/or the right on repeated use, this applies only to this part.

2. The action of the lawful user of disclosed database shall not violate the lawful interests of database producer.

3. The lawful user of disclosed database shall not violate the rights of the holder of copyright or neighboring rights in regard to the work or neighboring rights object existing in database.

#### **ARTICLE 56. LIMITATION OF DATABASE PRODUCER'S RIGHTS**

The lawful user of database is entitled to do the following without the consent of its producer:

a) withdraw for personal purposes the significant part of non-electronic database contents;

b) withdraw for illustration of study and scientific research material the significant part of database contents, by indicating of the source and in the volume defined by set non-commercial purpose;

c) withdraw and use repeatedly the significant part of database contents for the purposes of public security and administrative or court proceedings.

### **CHAPTER VIII. VALIDITY TERM OF NEIGHBORING RIGHTS**

#### **ARTICLE 57. VALIDITY TERMS OF NEIGHBORING RIGHTS**

1. The performer's right defined by Article 47 of this law is valid within 50 years from the first performance. If within this term the record of the performance was lawfully disclosed or displayed publicly, this term continues for 50 years from the first disclosure or display.
2. The right of the performer on the name and on repeat of his reputation is protected without any time-limit. These rights are not transferred by inheritance. The protection of performer's personal rights, after his death is carried out in respect to the rule protecting the personal moral rights of scientific, literary and art works authors.
3. The right of phonogram or visual record producer provided for by the Articles 48-49 of this Law is valid during 50 years from the first disclosure of the phonogram or visual record. If within this term the phonogram or visual record was lawfully disclosed or displayed publicly, this term is continued from the first disclosure or public display during 50 years.
4. The right of broadcasting (cable) organization is valid during 50 years after first transmission of such organization program by broadcasting (cable).
5. The right of database producer defined by the Article 54 of this Law is valid during 15 years from making the database. If within this term the database is disclosed, the 15 years shall be calculated from the disclosure.
6. The change of the database evaluated qualitatively and/or quantitatively defined by the Article 54 of this Law, in particular, any significant change proceeding from annulment or correction enabling to determine from qualitative or quantitative point of view, that a substantial investment was conducted, creates possibility to give its own term to the database changed in result of such investment.
7. Calculation of the term defined by this Article starts from January 1st of the year which follows the year in which the legal act has taken place being the basis for calculation of said term.
8. The right provided for by this Chapter within the remaining time-period of the terms defined by paragraphs 3, 4, 5 and 6 of this Article shall be transferred to the legatees of the performer, phonogram or visual record producer and broadcasting organization, but in the case of legal entity - to his successor.

## **CHAPTER IX. PROTECTION OF COPYRIGHT AND NEIGHBORING RIGHTS**



## **ARTICLE 58. INFRINGEMENT OF COPYRIGHT AND NEIGHBORING RIGHTS**

1. Infringement of copyright and neighboring rights defined by this Law shall result in the civil, criminal and administrative

responsibilities. The legal entity for infringement of copyright and neighboring rights shall be liable under the civil law.

2. The natural person or legal entity, who does not meet the requirements of this Law, shall be considered to be the infringer of

copyright and neighboring rights.

3. The following shall be deemed to be the infringement of copyright and neighboring rights:

a) deleting of the electronic information managing the right without the consent of the holder of the right;

b) publication of the work or neighboring rights object by any means, when the person was aware or had the basis to know,

that the electronic information managing the rights was deleted or altered without the consent of the holder of the right.

## **ARTICLE 59. PROTECTION OF COPYRIGHT AND NEIGHBORING RIGHTS**

1. The holders of the exclusive and neighboring right can demand the infringer:

a) recognition of the right;

b) restoration of the state existing before the infringement and preventing of the actions infringing the right or creating the danger

of its infringement;

c) reimbursement of the losses, including the neglected profit;

d) instead of the reimbursement of losses demand the confiscation of the income, obtained by the infringer by infringing of

copyright and neighboring rights;

e) instead of reimbursement of losses and confiscation of income paying the compensation, the amount of which is determined

by the court;

f) taking other measures related to protection of their rights, provided by the legislation of Georgia.

2. The measures defined by subparagraphs "c", "d" and "e" of this Article are applied by choice of the copyright and

neighboring rights holder.

3. At determining of the reimbursement of losses the court shall consider the essence of infringement, the moral and economic damage caused to the holder of copyright and neighboring rights, as well as the expected income, which could be received by the author or other holder of copyright and neighboring rights at lawful use of the work or neighboring rights object. At compensation of damages the court expenses, including the representative and lawyer fees, shall be taken into account.

#### **ARTICLE 60. COUNTERFEIT COPIES**

1. The copies of the work, phonogram or visual record the manufacturing or distribution of which causes the infringement of copyright and neighboring rights, are deemed to be the counterfeit copies.
2. The copies of those works, phonograms and visual records protected in Georgia in respect to this Law and without the consent of copyright and neighboring rights holder were imported to Georgia from the state, where they never have been protected or where their protection was terminated, are considered as counterfeit.
3. The court may take the decision or confiscation of the counterfeit copies of the work, phonogram or visual record, as well as materials and equipment for their reproduction. The counterfeit copies of the work, phonogram or visual record can be handed over to the holders of copyright and neighboring rights at their request.
4. The counterfeit copies of the works, phonogram or visual record which have not been recalled by the holders of copyright and neighboring rights, as well as the materials and equipment needed for their reproduction are subject to destruction on basis of court decision.
5. The counterfeit copies of the work, phonogram or visual record purchased lawfully by the third party shall not be confiscated.

#### **ARTICLE 61. PROCEDURES FOR ENFORCEMENT OF APPEAL ON PROTECTION OF COPYRIGHT AND NEIGHBORING RIGHTS**

1. Before disposing of a legal proceeding the court or the judge can individually take the decision prohibiting the defendant, or the person suspected of copyright and neighboring rights infringement, conducting of certain actions such as production,

reproduction, sale, leasing, importation and other use of the work defined by this Law, as well as transportation of the work or

neighboring rights object, storing and possession with the purpose of distribution suspected reasonably to be counterfeit.

2. Before disposing of a legal proceeding the court or judge individually can take the order on retaining and redemption of all

the copies of the work and neighboring rights object suspected reasonably to be counterfeit, as well as on materials and

equipment for their production and reproduction.

3. At existing of the sufficient data on infringement of copyright and neighboring rights object liable to the criminal responsibility,

the investigating body, investigator or court are obliged to take measures for enforcement of civil appeal submitted or to be

submitted in future by searching and retaining the following items:

a) copies of the work or neighboring rights object suspected reasonably to be counterfeit;

b) materials and equipment intended for production or reproduction of counterfeit copies;

c) documents, reports and items, which can be used as evidences at court proceedings.

## **ARTICLE 62. STATE POLICY IN THE FIELD OF COPYRIGHT AND NEIGHBORING RIGHTS**

1. The State Copyright and Neighboring Rights Agency ensures the conducting of the state policy in the field of copyright and

neighboring rights and exercise other functions entitled by the Law. Its status and competence is defined by this Law and on

basis of respective provision.

2. The State Copyright and Neighboring Rights Agency is authorized:

a) ensure the conducting of state policy in the field of copyright and neighboring rights legislation and submit to the President of

Georgia the proposals for its development;

b) represent Georgia at international organizations of copyright and neighboring rights protection;

c) register the works in respect to the rule defined.

## **CHAPTER X. ADMINISTRATION OF ECONOMIC RIGHTS ON COLLECTIVE BASIS**

### **ARTICLE 63. ESTABLISHMENT OF THE ORGANIZATION ADMINISTERING ECONOMIC RIGHTS ON COLLECTIVE BASIS**

1. The authors of scientific, literary and art works, performers, producers of phonograms and visual records and other holders of copyright and neighboring rights are authorized for the purposes of exercise of their economic rights establish organizations administering economic rights on collective basis.
2. The organization administering economic rights on collective basis is established voluntarily by the holders of copyright and neighboring rights, in the form of non-production legal entity - association. After registration by the prescribed rule the Registrar shall notify of the fact the Ministry of Justice, which shall register it in the Register of organization administering copyright. The organization is not permitted to conduct production activities and use the work or the neighboring rights object, which was transferred to it for administration on collective basis. Said organization acts within the scope of authorization defined by the holders of copyright and neighboring rights on basis of by-laws.
3. The by-laws of the organization administering economic rights on collective basis shall contain the provisions complying with the requirements of this Law. The activity of the organization is administered by the holders of copyright and neighboring rights, the economic rights of which is administered by the organization. The decisions on the royalty amount and conditions of granting licenses to the users, or distribution of collected royalty and the rule of payment, as well as on other important issues are taken by the holders of copyright and neighboring rights jointly at the meeting.
4. It is permitted to establish separate organization in respect to the different categories of right or right holders, or organizations, which administer different right of the holders of one specific category rights.
5. The limitations provided for by antimonopoly legislation shall not be applied to these organizations organization administering economic rights on collective basis.

#### **ARTICLE 64. ACTIVITY OF THE ORGANIZATION ADMINISTERING ECONOMIC RIGHTS ON COLLECTIVE BASIS**

1. The authorization to administer economic rights on collective basis to organization is granted voluntarily by the holders of copyright and neighboring rights on basis of written contract relating to their membership of this organization, as well as on basis

of contract on mutual representation conducted with the similar foreign organizations. Said contract is not a copyright contract

and the Article 40 of this law does not apply.

2. Any author, holder of neighboring rights, their legatees, other holders of copyright and neighboring rights have the right to

transfer their economic rights for administration to this organization, and the organization is obliged to administer these rights on

collective basis, if administration of the given category of rights falls with the activity of the organization defined by the by-laws.

3. In respect to the rights obtained in compliance with this Article, the organization administering economic rights on collective

basis grants the licenses to the users for using the work or neighboring rights object in respective form. The conditions of the

licenses must be similar for all the users of the specific category. The organization is not entitled to refuse the user on granting

the license without reasonable grounds.

4. The organization administering economic rights on collective basis is authorized to demand from the user of the work or

neighboring rights object all those documents containing precise certificates on the use of the work or neighboring rights object,

necessary for collecting and distribution of royalty.

## **ARTICLE 65. RIGHTS OF THE ORGANIZATION ADMINISTERING ECONOMIC RIGHTS ON COLLECTIVE BASIS**

The organization administering economic rights on collective basis in the name of the holders of copyright and neighboring rights

and on basis of their authorization has the right:

a) to agree upon the amount of royalty and other conditions of license with the user;

b) to grant the license on the use of those rights being administered;

c) to agree upon the amount of royalty with the user, when the royalty is collected without granting the license in the cases

defined by the paragraphs 2 and 3 Article 51 and paragraph 4 Article 1 of this Law;

d) to collect the royalty defined by the license and/or the royalty defined by the subparagraph "c" of this Article;

e) to distribute and pay the respective royalty to the holders of copyright and neighboring rights;

f) to conduct legal acts necessary for protection of the rights transferred to it for administration;

g) to conduct other activities within the scope of competence granted by the holders of copyright and neighboring rights.

## **ARTICLE 66. RESPONSIBILITIES OF THE ORGANIZATION ADMINISTERING ECONOMIC RIGHTS ON COLLECTIVE BASIS**

1. The activity of the organization administering economic rights on collective basis shall be conducted in respect to the interest

of the holders of copyright and neighboring rights, represented by this organization. For this purpose the organization is obliged:

a) to use the collected royalty only for distribution and payment to the holders of copyright and neighboring rights. Hereto, the

organization has the right to stop the sums from the royalty spent for collection, distribution and payment and from the sums

transferred to the special fund established under the decision of the holders of the rights;

b) after stopping the sums mentioned in the subparagraph "a" of this Article distribute and pay the royalty proportionally to the

real use of the work or the object of neighboring rights;

c) to present reports to the holders of copyright and neighboring rights containing the information on the use of their rights at

payment of the royalty.

2. The holders of copyright and neighboring rights, which have not transferred to the organization the rights related to collection

of the royalty, may request the organization payment of the royalty according to the conducted distribution or exclusion of their

work or neighboring rights object from the license granted by this organization to the users.

## **CHAPTER XI. TRANSITIONAL PROVISIONS**

### **ARTICLE 67. SPREADING OF THE NORMS OF THIS LAW ON RELATIONS ESTABLISHED EARLIER**

1. This Law covers the relations arisen after enactment of this Law related to creation and use of copyright and neighboring rights objects.

2. To the work for which 70 years validity term of copyright has not expired, are applied the validity terms defined by the

Articles 31-32 of this Law.

3. To the performance, on which the 50 years copyright validity term has not expired from its first performance, applies the

validity term of performers rights defined by the paragraph 1 Article 57 of this Law.

4. To the phonogram and visual record, on which 50 years from their first lawful display or creation have not expired before enactment of this Law, in the case, where they were not displayed within the mentioned term, applies the neighboring rights validity term defined by the paragraph 3 Article 57 of this Law.
5. To the programs of broadcasting organizations, on which 50 years from their lawful disclosure of creation have not expired, in the case, where they were not displayed within the mentioned term, applies the neighboring rights validity term defined by the paragraph 3 Article 57 of this Law.

## **CHAPTER XII. FINAL PROVISIONS**

### **ARTICLE 68. INVALIDATED NORMATIVE ACTS**

At entering into force of this Law all the normative acts contradicting with this Law shall be considered invalid.

### **ARTICLE 69. ENTRY INTO FORCE**

This law shall enter into force at publication.

(22.06.99)

