

Marrakesh Treaty Questionnaire – Georgia

1. Please indicate the relevant provisions in your national legislation providing for or regulating the limitations and exceptions to facilitate access to published works for persons who are blind, visually impaired, or otherwise print disabled.

Response: The provisions establishing the limitations and exceptions to facilitate access to published works for persons who are blind, visually impaired, or otherwise print disabled are given in Articles 23¹ and 23² of the Law of Georgia “On Copyright and Related Rights”:

“Article 23¹. Authorized Use of a Printed Work Protected by Copyright and Related Rights for the Benefit of a Person with Print Disabilities

1. The rule specified in this Article shall apply to a printed work available to the public through legitimate publication or making available to the public, which is lawfully accessible to the beneficiary person and the authorized entity. For the purposes of this Article, a printed work is a work protected by copyright and related rights, a symbol and related illustrations available in the form of a text (in digital form and on paper) or in audio format.
2. The rule specified in this Article shall not apply to the accessible format of a printed work, which is commercially included in the local civil circulation. This restriction shall not apply to any other accessible format of the mentioned printed work. In case of dispute, the author or other holder of copyright shall be obliged to prove the fact of commercial inclusion of the accessible format of the printed work in the local civil circulation. The authorized use of the printed work provided for in this Article shall be carried out observing the legal interests and rights of the subject having the commercial interest.
3. A beneficiary person is entitled, without the prior consent of the author or other holder of copyright and without payment of royalties, to obtain (receive) an accessible format copy of the printed work from the local authorized entity and an authorized entity recognized in a relevant contracting party to the international treaty of Georgia. In addition, the beneficiary person and/or his or her legal representative, personal assistant, caretaker, caregiver is entitled to reproduce an accessible format copy of the printed work for personal use of this work by the beneficiary person. In the process of reproduction defined by this Paragraph, it is allowed to render assistance to the beneficiary person by his/her legal representative, caregiver, personal assistant.
4. The authorized entity is entitled without the prior consent of the author or other holder of copyright and without payment of royalties, but with the necessary indication of the author of the used work and the source of the borrowing, to reproduce this work in an accessible format, to obtain (receive) a copy of this format from other local authorized entity and an authorized entity recognized a relevant contracting party to the international treaty of Georgia, to ensure availability of the printed works protected in their system and reproduced in the accessible format by any means (transfer, exchange, distribution) for the local beneficiary persons and

beneficiary persons located in a contracting party to the international treaty of Georgia, as well as for other local authorized entity and the authorized entity recognized as a contracting party to the international treaty of Georgia. All actions specified in this Paragraph shall be carried out for non-commercial purposes and exclusively for the use of beneficiary persons.

5. The authorized entity is entitled to receive compensation from other local authorized entity in exchange for rendering services to cover the costs necessary for the implementation of the activities specified in this Article, if this does not contradict the legislation of Georgia. The income received by the authorized entity in accordance with this Paragraph shall be used for carrying out of the activities specified in this Article.
6. A holder of copyright or related right has the right to demand compensation for damages, if he/she has incurred damages by violating the rules established by this Article. Minor damage shall not be taken into account.
7. An authorized entity shall take appropriate measures to ensure:
 - a) access to the printed work kept in its system, reproduced in an accessible format, only by the beneficiary person and authorized entity;
 - b) prevention of unlawful reproduction of a printed work, unlawful access to (transfer, exchange, distribution) and obtaining (reception) of a printed work reproduced in an accessible format;
 - c) public availability of the number of beneficiary persons, the contact information of partner authorized entities (authorized entities who exchange printed works reproduced in an accessible format), as well as the information on the works kept in its system, reproduced in an accessible format.
8. An authorized entity shall provide the information referred to Paragraph 7(c) of this Article, with the protection of the personal data of the beneficiary persons, to “Sakpatenti”, which shall collect the information provided to it and publish it on its official website. In case of updating the information, the authorized entity shall provide the updated information to “Sakpatenti” within 5 working days from the occurrence of the new circumstance. The authorized entity shall be responsible for the authenticity of the information provided to Sakpatenti. The rule for providing information to “Sakpatenti” by an authorized entity shall be determined by an order of the Chairperson of “Sakpatenti”.
9. “Sakpatenti” shall be obliged to ensure public availability of the list of local authorized entities and their contact information, as well as the list of authorized entities recognized in the contracting parties of the international treaties of Georgia and their contact information, in an accessible and consolidated form, on its official website.
10. An authorized entity shall be obliged, upon the request of a beneficiary person, other authorized entity or the holder of copyright or related rights, to provide information:
 - a) about printed works kept in its system, reproduced in an accessible format;
 - b) about the titles and contact information of partner authorized entities.

11. Reproduction of a printed work in an accessible format shall be carried out observing the right of integrity of this work. In addition, it is permitted to make such changes that are necessary to create a printed work reproduced in an accessible format.
12. Contractual provisions contrary to the rules specified in Paragraphs 3 and 4 of this Article are invalid.
13. During enforcement of the provisions of this Article, the personal data of the beneficiary persons shall be processed in accordance with the Law of Georgia “On Protection of Personal Data”. For the purposes of this Article and Article 23² of this Law, an authorized entity is allowed to process the personal data of a person interested in obtaining the status of a beneficiary person, including the relevant expert conclusion, health certificate and disability certificate (including the basis for issuing the certificate/granting the disability status).

Article 23². The Rule of Granting the Status of a Beneficiary Person and the Status of an Authorized Entity

1. A person interested in obtaining the status of a beneficiary person shall apply to an authorized entity and submit a request for granting the status of a beneficiary person. The authorized entity shall make a decision on granting to the person the status of a beneficiary person within 2 weeks after receiving the above-mentioned request.
2. A person interested in obtaining the status of a beneficiary person (his/her legal representative, caretaker) shall submit to the authorized entity the following documents:
 - a) the application of the interested person for granting the status of a beneficiary person;
 - b) the document confirming the identity of the interested person, and in case of submission of the request for granting the status of a beneficiary person by his/her legal representative or caretaker - also the document confirming the legal representation or a notarized power of attorney;
 - c) the relevant expert conclusion, health certificate and/or disability certificate and the attached documents, confirming the existence of the circumstances specified in Article 4(y) of this Law.
3. The authorized entity shall be obliged to grant the status of a beneficiary person to the person interested in obtaining the status of a beneficiary person, if the existence of the circumstances specified in Article 4(y) of this Law is confirmed.
4. The status of a beneficiary person shall be valid until submission of a request by the beneficiary person for termination of this status, until his/her death or elimination of the circumstance, which, according to Article 4(y) of this Law is the basis for granting a person the status of a beneficiary person. The beneficiary person shall notify the authorized entity about elimination of the basis for granting status of a beneficiary person, and the beneficiary person’s successor shall notify the authorized entity about the death of the beneficiary person within a reasonable time period.
5. A decision on granting the status of an authorized entity to an institution and a decision on canceling this status shall be made by “Sakpatenti”. The rule for granting the status of an authorized entity to an institution and canceling this status shall be

determined by an Order of the Chairman of “Sakpatenti”. This Order shall meet the requirements defined by this Article.

6. An institution interested in obtaining the status of an authorized entity shall apply to “Sakpatenti” and submit a application for granting the status of an authorized entity, the proof of integration into the library network of municipalities (in case of a mass (public) library integrated into the library network of municipalities), the charter of a non-entrepreneurial (non-commercial) legal entity (in case of a non-entrepreneurial (non-commercial) legal entity) and/or information confirming the compliance of the activities of the institution interested in obtaining the status of an authorized entity with the requirements of Article 4(z) of this Law. “Sakpatenti” is entitled, if necessary, to request additional documentation/information from the institution interested in obtaining the status of an authorized entity in order to consider fully the request for granting the status of an authorized entity.
7. The grounds for canceling the status of an authorized entity shall be:
 - a) the request of an authorized entity to cancel this status;
 - b) cancellation of the registration of the organization;
 - c) change of the type of activity of the institution;
 - d) failure to fulfill the requirements defined by this Law by the authorized entity.
8. Failure to fulfill the requirements defined by this Law by the authorized entity shall not automatically lead to the cancellation of the status of the authorized entity. Cancellation of the status of an authorized entity on this basis is permissible if the authorized entity has committed a serious violation and the cancellation of the mentioned status is the only means of protecting the legal interests of the owners of copyright or related rights or beneficiary persons.
9. The decision of “Sakpatenti” to refuse granting the status of an authorized entity to an institution or to cancel this status shall be an individual administrative-legal act. It may be appealed according to the rule established by the Administrative Procedure Code of Georgia.
10. After canceling the status of an authorized entity, an authorized entity shall be obliged to hand over the printed works kept in its system, reproduced in an accessible format, to other authorized entity selected by it.”.

2. Does your national legislation permit the cross-border exchange (i.e. exportation) of “accessible format copies”, as defined in Article 2 b) MVT? If yes, under which conditions?

Response: The given provision is set out in Articles 23¹ (3) and (4) of the Law of Georgia “On Copyright and Related Rights”:

“3. A beneficiary person is entitled, without the prior consent of the author or other holder of copyright and without payment of royalties, to obtain (receive) an accessible format copy of the printed work from the local authorized entity and an authorized entity recognized in a relevant contracting party to the international treaty of Georgia. In addition, the beneficiary person and/or his or her legal representative, personal assistant, caretaker, caregiver is entitled to reproduce an accessible format copy of the printed work for personal use of this work by the beneficiary person. In the process of reproduction defined by this Paragraph, the legal

representative, caregiver, personal assistant of the beneficiary person is allowed to assist the beneficiary person.

4. The authorized entity is entitled without the prior consent of the author or other holder of copyright and without payment of royalties, but with the necessary indication of the author of the used work and the source of the borrowing, to reproduce this work in an accessible format, to obtain (receive) a copy of this format from other local authorized entity and an authorized entity recognized a relevant contracting party to the international treaty of Georgia, to ensure availability of the printed works protected in their system and reproduced in the accessible format by any means (transfer, exchange, distribution) for local beneficiary persons and beneficiary persons located in a contracting party to the international treaty of Georgia, as well as for other local authorized entity and an authorized entity recognized a contracting party to the international treaty of Georgia. All actions specified in this Paragraph shall be carried out for non-commercial purposes and exclusively for the use of beneficiary persons.”.

3. Does your national legislation allow the importation of “accessible format copies”, as defined in Article 2 b)² MVT? If yes, under which conditions?

Response: This provision is given in Articles 23¹ (3) and (4) of the Law of Georgia “On Copyright and Related Rights”:

“3. A beneficiary person is entitled, without the prior consent of the author or other holder of copyright and without payment of royalties, to obtain (receive) an accessible format copy of the printed work from the local authorized entity and an authorized entity recognized in a relevant contracting party to the international treaty of Georgia. In addition, the beneficiary person and/or his or her legal representative, personal assistant, caretaker, caregiver is entitled to reproduce an accessible format copy of the printed work for personal use of this work by the beneficiary person. In the process of reproduction defined by this Paragraph, the legal representative, caregiver, personal assistant of the beneficiary person is allowed to assist the beneficiary person. .

4. The authorized entity is entitled without the prior consent of the author or other holder of copyright and without payment of royalties, but with the necessary indication of the author of the used work and the source of the borrowing, to reproduce this work in an accessible format, to obtain (receive) a copy of this format from other local authorized entity and an authorized entity recognized a relevant contracting party to the international treaty of Georgia, to ensure availability of the printed works protected in their system and reproduced in the accessible format by any means (transfer, exchange, distribution) for local beneficiary persons and beneficiary persons located in a contracting party to the international treaty of Georgia, as well as for other local authorized entity and an authorized entity recognized a contracting party to the international treaty of Georgia. All actions specified in this Paragraph shall be carried out for non-commercial purposes and exclusively for the use of beneficiary persons.”

4. Does your national legislation provide a definition of “authorized entity”, as defined in Article 2 c)³ MVT? If yes, please provide the reference.

Response: This definition is given in Article 4(z) of the Law of Georgia “On Copyright and Related Rights”:

“4(z) Authorized entity - Ilia Chavchavadze National Library of Georgia recognized as an authorized entity by “Sakpatenti”, a mass (public) library integrated into the library network of municipalities, an educational institution, a non-entrepreneurial (non-commercial) legal entity, one of the main activities of which is the provision of educational services to beneficiaries on a non-profit basis.”

5. Please provide a list with contact details of entities that can operate as authorized entities in your territory, and any further information that you can provide, such as number of accessible titles in the catalogue of the authorized entity and the languages covered.

The list with contact details is available on Sakpatenti website (<https://www.sakpatenti.gov.ge/ka/page/266/>).

Information of local authorized entities

1. LEPL – Ivane Javakhishvili Tbilisi State University – Address: Ilia Chavchavadze Avenue №1, (0179), Tbilisi. Tel.: +995 32 2 25 04 84; 032 222 51 07;
It has 7 beneficiaries and protects accessible format copies of 7 works in its system.
2. LEPL – Tbilisi Public School №202 – Address: Gutani str. №6, Tbilisi. Tel: 032 277 14 83;
Tbilisi Public School №202 has 40 beneficiaries and protects accessible format copies of 62 works in its system.
3. N(N)LE - the Abkhazian Blind and Deaf-and-Dumb Union “Hera” – Address: Gurjaani str. №22, Tbilisi. Tel.: +995 32 2 77 40 67.

The number according to various projects reaches 12 260 beneficiaries. Within 6 projects it is possible to access legal literature and legal norms, works of Georgian intangible cultural heritage – Abkhazian folk tales. Also, the play “King Lear” by William Shakespeare, translated by Iv. Machaveli and I. Chavchavadze, was recorded and published as an inclusive audio play. Literary works of Georgian and foreign classics were recorded in the form of audio files and stored on flash memory cards. Equal access of beneficiary persons to Kazakh poetry is offered.

¹ Article 2 b) “accessible format copy” means a copy of a work in an alternative manner or form which gives a beneficiary person access to the work, including to permit the person to have access as feasibly and comfortably as a person without visual impairment or other print disability. The accessible format copy is used exclusively by beneficiary persons and it must respect the integrity of the original work, taking due consideration of the changes needed to make the work accessible in the alternative format and of the accessibility needs of the beneficiary persons.

² See above.

³ Article 2 c) “authorized entity” means an entity that is authorized or recognized by the government to provide education,

instructional training, adaptive reading or information access to beneficiary persons on a non-profit basis. It also includes a government institution or non-profit organization that provides the same services to beneficiary persons as one of its primary activities or institutional obligations.