Unofficial translation

LAW OF GEORGIA ON COPYRIGHT AND RELATED RIGHTS

CHAPTER I
GENERAL PROVISIONS

ARTICLE 1: PURPOSE OF THE LAW *(03.06.2005 N1585)*

This Law shall regulate:

a) relations associated with the economic and moral rights of authors that arise upon the creation and use of scientific, literary and artistic works (copyright);

b) relations associated with the copyright related rights of performers, producers of phonograms, videograms and broadcasting organizations (hereinafter - related rights);

c) relations associated with makers of databases.

ARTICLE 2: INTERNATIONAL AGREEMENTS

If international agreements to which Georgia is a party define the rules other than those of this Law, the rules of the international agreements shall apply.

ARTICLE 3: SCOPE OF REGULATION

This Law shall apply to:

a) scientific, literary and artistic works, performances, phonograms, videograms and databases, on which the owner of copyright is a national of Georgia, a natural person having habitual residence on the territory of Georgia and a legal entity with a seat on the territory of Georgia; *(03.06.2005 N 1585)*

b) scientific, literary and artistic works, phonograms, videograms and databes, first published on the territory of Georgia. A work, phonogram and videogram shall also be deemed to be first published in Georgia, if within 30 days after the first publication abroad they are published on the territory of Georgia; *(03.06.2005 N1585)*

c) performances, first performed on the territory of Georgia; performances recorded on a phonogram or videogram, which is protected in accordance with Subparagraph (b) of this Article; performances, not recorded on a phonogram or videogram, but included in a broadcast of a broadcasting organization, which is protected in accordance with Subparagraph (d) of this Article;

d) broadcasts of the Public Broadcaster, Achara Broadcaster of the public Broadcaster and radio, as well as broadcasts of another broadcaster, which according to the rule prescribed by the legislation of Georgia has obtained a broadcasting license and transmits a broadcast via transmitters located in Georgia, by the air, by cable, or by other analogous means; *(12.06.2015 N3694 shall enter into force from June 17, 2015)*

e) architectural works located on the territory of Georgia, artistic works incorporated in an architectural work located on the territory of Georgia, notwithstanding the nationality and habitual residence of their authors;

f) other scientific, literary and artistic works, performances, phonograms, videograms and broadcasts of broadcasting organizations, which are protected by the international agreements to which Georgia is a party.

ARTICLE 4: DEFINITION OF TERMS USED IN THE LAW

The terms used in the Law shall have the following meaning:

a) author – a natural person as a result of whose intellectual and creative efforts a work has been created;

b) audiovisual work – a work consisting of a series of images whether or not accompanied by sound that imparts the impression of motion and can be seen and/or heard. Audiovisual work includes cinematographic and other works expressed by means analogous to cinematography (tele, video films, film strips, etc.);

c) producer of an audiovisual work – a natural person or legal entity who has taken the initiative and has assumed the responsibility for production of such a work; in the absence of proof to the contrary, the natural person or legal entity whose name is appropriately indicated on the work shall be regarded as the producer of an audiovisual work;

d) making available to the public – any act (other than publication), as a result of which, either directly or through a technical device, a work, performance, phonogram, videogram, broadcast of broadcasting organization or database became available to the public; (*03.06.2005 № 1585*)

e) publication – means making available to the public of copies of a work, phonogram, videogram or database with the consent of the author, other owner of copyright or related rights or database maker through sale or rental, or other transfer of ownership of a work, phonogram, videogram or database in quantities sufficient to satisfy the reasonable public demand; *(03.06.2005 №1585)*

f) rental – making available the original or a copy of a work or the subject- matter of related rights for a limited period of time for use to receive profit;

g) videogram – a recording of a series of related images in any material form, whether or not accompanied by sound;

h) videogram producer – a natural person or legal entity who takes the initiative and has the responsibility for the first fixation of a series of images with or without sound; in the absence of proof to the contrary, the a natural person or legal entity whose name and/or title is appropriately indicated on the videogram and/or its case shall be considered the videogram producer;

i) transmission by cable – transmission of sounds or/and images for public reception through a wire, optical fiber cable or other analogous means; (*03.06.2005 №1585*)

i[1]) retransmission by cable – simultaneous, unaltered and unabridged retransmission by cable or microwave system of television or radio programs of an initial transmission by wire or by air, including that by satellite intended for reception by the public; (*03.06.2005 №1585*)

j) computer program – a unity of instructions expressed in words, codes, schemes or in any other machine-readable form, which activates a computer in order to bring forth a particular result. The term also includes preparatory material for computer program design;

k) broadcasting – transmission of a sound or/and image by wireless communication, including by satellite (satellite- any satellite operating on frequency bands which, under telecommunications rules, are reserved for the broadcast of signals intended for reception by the public; communication to

the public by satellite – the act of receiving under the control and responsibility of the broadcasting organization the program-carrying signals; programs intended for reception by the public are received as an uninterrupted chain of communication - leading up towards the satellite and down towards the earth); transmission of encrypted signals is broadcasting where the means for decrypting are provided to the public by the broadcasting organization or with its consent; (*03.06.2005 №1585*)

l) broadcast of a broadcasting organization – a unity of sounds or/and images designated for reception by the public that is transmitted by air or by cable; (*03.06.2005 №1585*)

m) database – a collection of works and/or other data and material arranged in a systematic or methodical way, which is individually accessible by electronic or other means. The term does not imply a computer program which is used during making and application of a database accessible by electronic means; (*03.06.2005 №1585*)

n) reproduction – making of one or more copies of a work, a subject matter of related rights or a database, directly or indirectly, in whole or in part, by any means and in any form, including in the form of a sound and video recording. Recording for temporary or permanent storage, in an electronic (including digital), optical or other machine-readable form shall also be deemed as reproduction; (*03.06.2005 №1585*)

n^1) temporary copy – incidental or necessary transient copy of a work, recording of a performance, phonogram, videogram, database or broadcast of broadcasting organization, which is an integral and essential part of a technical process; the sole purpose of a temporary copy is to enable the

transmission of a work and/or subject-matters of related rights in a network between third parties during an intermediary or lawful use of a work and which has no independent economic significance. (*03.06.2005 №1585*)

o) reprographic reproduction (copying) – making of facsimile reproduction of the original or a copy of a work, data or other material expressed by the written or graphic means in any size by any means of photocopying or other technical means. Recording in an electronic form (including digital), optical or other machine-readable form shall not be deemed as reprographic reproduction; (*03.06.2005 №1585*)

p) communication to the public – broadcasting of images and/or sounds of a work, performance, phonogram, videogram, database, broadcast of a broadcasting organization by cable or by other means (other than diffusion of copies of a work or phonogram) in such a way that persons not belonging to the circle of the family or friends of the family may access them from a place (places), so distanced from the place of broadcasting that without such broadcasting the image and/or sound may not be perceived at the receiving place (places), including in a way that the subject-matter of copyright or related rights and databases may be accessed by any person at an individually chosen time and place. (*03.06.2005 №1585*)

q) public performance – presentation of a work, performance, phonogram, videogram, broadcast of a broadcasting organization by reciting, acting, singing, dancing or other form, directly (live performance) or by means of any device in a place (places), where the public performance may be accessed without necessary communication to the public and where there may be present the people not belonging to the circle of the family or friends

of the family. Presentation of images of an audiovisual work as a sequence shall be assimilated to the public performance of the work; (*03.06.2005 № 1585*)

r) public display – demonstration of the original or a copy of a work directly or on a screen by means of a tape, slide, picture frame or other technical means, at a place (places) where the public display can be accessed without necessary communication to the public and where there may be present the people not belonging to the circle of the family or friends of the family. Showing of individual picture frames of an audiovisual work non-sequentially shall be assimilated to the public display of the work; (*03.06.2005 №1585*)

s) technological measure – any technology, device or its component during the normal functioning of which acts are prevented or restricted that are not authorized by the holder of copyright or other rights; technological measures shall be deemed effective where the use of a protected work or other subject-matter is controlled by the rightholder through processes (encryption, restriction of copying, etc.) which serve the purpose of protection; (*03.06.2005 №1585*)

s^1) circumvention of technological measures – use of a device or its component or/and other means for neutralizing technological measures; (*03.06.2005 №1585*)

t) rights management information – any information by means of which the author or other rightholder of a work or other subject-matter protected by this Law, or information on the terms and conditions of use of the work or other subject-matter protected by this Law, as well as any

numbers and codes in which such information is given, if any of element of this information is indicated on a copy of a work or other subject-matter protected by this Law or appears during their communication to the public; (*03.06.2005 №1585*)

u) phonogram – a fixation of the sounds of a performance, other sounds or a signal expressing sounds. The term shall not imply a fixation of the sounds incorporated in an audiovisual work; (*03.06.2005 №1585*)

v) producer of a phonogram – a natural person or legal entity who has taken the initiative and has assumed the responsibility for the first fixation of the sounds of a performance or other sounds; in the absence of proof to the contrary, the natural person or legal entity whose name and/or title is appropriately indicated on the phonogram and/or its case shall be deemed as the producer of the phonogram; (*03.06.2005 №1585*)

w) fixation – embodiment of images and/or sounds in any material form, which allows their perception, reproduction or communication through a technical device; (*03.06.2005 №1585*)

x) performer – an actor (of theatre, cinema, etc.), singer, musician, dancer or other person who acts, delivers, sings, declaims, plays a musical instrument or otherwise performs a literary or artistic work, a variety, circus, puppet or folklore show. (*03.06.2005 №1585*)

CHAPTER II
COPYRIGHT

ARTICLE 5: SUBJECT- MATTERS OF COPYRIGHT

1. Copyright shall apply to scientific, literary and artistic works which are the result of the intellectual and creative activity, irrespective of their

purpose, value, genre, size, form or means of expression.

2. Copyright shall apply to a work which exists in the objective form, irrespective of whether it has been published or made available to the public. (*03.06.2005 №1585*)

3. Copyright shall 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 ARTISTIC WORKS

1. Scientific, literary and artistic works are:

a) literary works (books, brochures, articles, computer programs, etc.);

b) dramatic and dramatico-musical works, choreographic works or entertainments in dumb show, and other works for stage performance;

c) musical works, with or without words;

d) audiovisual works; (*03.06.2005 №1585*)

e) works of sculpture, painting, engraving, lithography, fine arts and other similar works;

e) works of decorative-applied or monumental art;

f) works of dramatic-decorative art;

g) works of architecture, town planning or landscape art;

h) photographic works to which are assimilated works expressed by a process analogous to photography. Individual images of an audiovisual work shall not be assimilated to photographic works;

i) maps, plans, sketches, illustrations and other similar works related

to geography, cartography or other spheres; (*10.10.2002 №1693*)

k) derivative works, in particular, translations, word for word translations of works of art, adaptations, screen and stage versions, reviews, compilations, musical arrangements and other alterations of literary and artistic works;

l) composite works, in particular, collections, encyclopedias, anthologies, databases and other works which, by reason of the selection and arrangement of their contents, constitute intellectual creations; (*03.06.2005 №1585*)

m) other works.

2. Copyright in derivative and composite works shall subsist whether or not the works on which they are based or which are included in them are subject-matters of copyright.

3. Derivative and composite works shall be protected as original works.

4. Protection of computer programs shall extend to all types of computer programs (including operational systems), which may be expressed in any language and form, including the initial text and objective code.

ARTICLE 7: SEVERABILITY OF COPYRIGHT

1. Copyright shall not depend on the right of ownership of th4e material object in which the work is expressed.

2. The transfer of property or ownership of a material object shall not entail the transfer of copyright on the work expressed in that object, except for the cases provided for by Article 18 of this Law.

ARTICLE 8: WORKS NOT PROTECTED BY COPYRIGHT

1. The following shall not be protected by copyright:

a) official documents (legislative acts, court decisions, other texts of administrative and regulatory nature), as well as their official translations;

b) official state symbols (flags, coats-of-arms, anthems, rewards, banknotes, other state symbols and insignia);

c) information about facts and events.

2. In case the works mentioned in subparagraph "b" Paragraph 1of this Article are used under an assumed name, it is possible to protect the right of authorship.

ARTICLE 9: COMMENCEMENT OF A COPYRIGHT

1. Copyright in scientific, literary and artistic works shall commence upon their creation. A work shall be deemed created, when it is expressed in any objective form enabling its perception and reproduction.

2. Commencement and exercising of copyright shall not be subject to registration, special documentation for the work or compliance with other formalities.

3. Repealed. (*03.06.2005 №1585*)

4. In order to assert his right, the owner of exclusive rights on a work may use a copyright notice, which shall be affixed to every copy of the work and shall consist of the following three elements:

a) the Latin letter "C" in a circle ©;

b) the name of the owner of exclusive rights;

c) the year of first publication of the work.

ARTICLE 9[1]: DEPOSIT OF A WORK (*03.06.2005 №1585*)

1. The author or other owner of copyright shall be entitled to deposit the original or a copy of a work with "Sakpatenti". In the absence of proof to the contrary, the person indicated in a deposition certificate shall be deemed as the author of the work/owner of copyright. (*04.05.2010 №3032*)

2. Upon deposit of the original or a copy of a work with "Sakpatenti", the depositor shall not infringe the copyright or other rights of other persons related to the work.

3. The depositor shall be responsible for the accuracy and reliability of the documents deposited with "Sakpatenti".

4. If a work is submitted to "Sakpatenti" by the author's heir, successor in title, or other person holding the copyright, the application shall be attached with a document certifying the applicant's succession or ownership of the copyright.

5. Upon deposit of a work with "Sakpatenti" through a representative of the author, the application shall be attached with a power of attorney.

6. The information related to a work deposited with "Sakpatenti" in accordance with this Article may be made available to the public at the request of the author or other owner of copyright.

7. Deposition of a work shall be subject to a fee, which shall be determined by the decree of the Government of Georgia. (*04.05.2010 № 3032*)

ARTICLE 10: PRESUMPTION OF AUTHORSHIP

1. The person who is appropriately indicated as the author on the original or a copy of a work shall be deemed to be the author of the work, in the absence of proof to the contrary. This provision shall also apply upon the

publication of a work under a pseudonym, provided that the author is generally recognized under this pseudonym.

2. When a work is published under a pseudonym (except for the cases when the author is generally recognized under the pseudonym) or anonymously, the publisher, whose name or designation is appropriately indicated on the work, shall be considered as a representative of the author, in the absence of proof to the contrary. He/she as the authorized representative is entitled to protect the author's rights and ensure their enforcement. This provision shall apply until the author of such a work reveals his/her identity.

ARTICLE 11: JOINT AUTHORSHIP (CO-AUTHORSHIP)

1. Copyright in a work created as a result of joint intellectual and creative activity of two or more persons (co-authorship) shall belong to the co-authors jointly, irrespective of whether such a work constitutes a single unitary whole, or consists of parts, each of which has an autonomous meaning. Mutual relations of the co-authors shall be determined by an agreement concluded between them. *(03.06.2005 №1585)*

2. None of the co-authors shall have the right to prohibit the use of the joint work without a valid reason.

3. According to the agreement of the co-authors, the work may be published or made available to the public under a joint pseudonym. *(03.06.2005 №1585)*

4. Each co-author shall be entitled to use the part of the joint work created by him/her and having an autonomous meaning, unless the agreement concluded between them provides otherwise.

5. A part of the work created under co-authorship shall be considered as having an autonomous meaning, provided that it can be used without other parts of the work as well.

ARTICLE 12: RIGHTS OF AN AUTHOR (COMPILER) OF A COMPOSITE WORK

1. The author of a composite work (compiler) shall enjoy copyright in the selection and arrangement of the material, which represents the result of his/her intellectual and creative activity.

2. The compiler shall not infringe the copyright of the authors of the works included in the compilation.

3. The authors of works included in a composite work are entitled to use their works independently from the compilation, unless the copyright agreement provides otherwise.

4. The copyright of a compiler shall not prevent other parties to make the selection and arrangement of the same material for creating their compilations.

ARTICLE 13: RIGHTS OF THE AUTHOR OF A DERIVATIVE WORK

1. The author of a derivative work shall enjoy copyright in the adaptation made by him/her.

2. The author of a derivative work shall not infringe copyright of the author of the original work.

3. The copyright of the author of a derivative work shall not prevent other parties from adapting the same work.

ARTICLE 14: EXCLUSIVE RIGHTS OF A PUBLISHER

1. Publishers of encyclopedias, encyclopedic dictionaries, scientific works, periodic and serial collections, newspapers, magazines, and other periodicals shall enjoy the exclusive right of using the works included in these editions. The publisher shall be authorized, upon use of such works in any form, to indicate his/her name or claim its indication. A work included in a newspaper, magazine or other periodical shall not be used by another person without the consent of the publisher of this newspaper, magazine or periodical or the author of such a work, except for the cases prescribed by this Law. In the case of use of an exclusive material published in the press or other mass media by other information media, a reference shall be made to the information medium where the material was published first. (*09.09.1999 №2388 Sakartevlos matsne №43(59)*)

2. Authors of the works included in the editions mentioned in Paragraph 1 of this Article shall retain the exclusive right of using their works, unless the copyright agreement provides otherwise.

ARTICLE 15: COPYRIGHT IN AN AUDIOVISUAL WORK

1. Authors (co-authors) of an audiovisual work are: the director, author of the screenplay, author of the dialogues, author of the musical work with or without lyrics, specially created for this audiovisual work.

2. Conclusion of an agreement for the creation of an audiovisual work shall invoke transfer of the exclusive right to use the work from the authors (co-authors) to the producer of the audiovisual work, unless the agreement provides otherwise. The authors (co-authors) of the work shall retain the right to receive remuneration (royalty) from the user (a broadcasting organization, movie theater, etc.) for using the work in any form. Any other

agreement between the producer of the audiovisual work and authors shall be null and void. The right shall be exercised only through a collective management organization, except for the case when the user has paid the remuneration directly to the author (co-authors), whereas the submission of the documents in evidence of the above to the collective management organization shall be the obligation of the user. *(03.06.2005 №1585)*

3. The producer of an audiovisual work shall be entitled to indicate his/her name or to claim such an indication in case of using the work in any form.

4. The author of the pre-existing work, which has been adapted or included as a component in the audiovisual work, as well as the author of the work created in the process of making the audiovisual work, shall retain copyright in their works having an autonomous meaning. They shall enjoy the right to use the works independently, unless the agreement provides otherwise, on condition that such use shall not interfere with the normal exploitation of the audiovisual work.

ARTICLE 16: COPYRIGHT IN A WORK CREATED IN THE COURSE OF EMPLOYMENT

1. Copyright in a work created in the course of fulfillment of an employer's order (work created in the course of employment) shall belong to the employer unless the agreement provides otherwise. (*04.05.2010 №3032*)

2. Repealed. *(03.06.2005 №1585)*

3. Repealed. *(04.05.2010 №3032)*

4. Repealed. *(04.05.2010 №3032)*

5. Repealed. *(04.05.2010 №3032)*

6. The employer is entitled when using in any form a work created in the course of employment indicate his/her name or to claim such an indication. *(04.05.2010 №3032)*

7. Upon use of a work created in the course of employment in any form, the amount of remuneration (royalty) and the rule of its payment may be determined by an agreement between the author and employer. *(04.05.2010 №3032)*

8. Repeaed. *(03.06.2005 №1585)*

ARTICLE 17: MORAL RIGHTS OF AN AUTHOR OF A WORK

1. The author of a work shall have the following moral rights:

a) the right to be recognized as the author of the work and claim such recognition on every copy and/or upon use of the work in any form, as prescribed, including the right to have the author's name mentioned (the right of authorship);

b) the right to indicate a pseudonym instead of the name and claim such indication on each copy and/or upon use in any form, as prescribed, also to refuse the mention of the name (the right to be named);

c) the right to decide when, where and in which form to reveal the fact of creation of the work; *(03.06.2005 №1585)*

d) the right to authorize other persons to make modifications to the work, as well as to its title or the author's name, also to object to making of unauthorized modifications to the work (the right of integrity);

e) the right to safeguard the work from any distortion or other

encroachment which would be prejudicial to the author's honour, dignity or reputation (the right to good name and reputation);

f) the right to authorize other persons to add to the work the works (illustration, foreword, afterword, commentary, explanation, etc.) of other authors;

g) the right to claim termination of the use of the work (the right of recall a work). In this case, the author shall announce the recall publicly. The right of recall of a work shall not apply to the work created in the course of employment.

2. The right provided by Subparagraph (g) of Paragraph 1 of this Article shall be exercised at the author's expense. The author shall compensate the user of the work for the damages incurred, including lost profits. The author also may, at his/her own expense, withdraw from circulation the copies of the work made earlier for the purpose of sale or rental or other transfer of ownership. *(03.06.2005 №1585)*

3. The author shall enjoy moral rights independently from his economic rights and shall retain them even if the economic rights have been ceded.

4. The transfer of moral rights during the lifetime of the author shall be inadmissible. Their enforcement after the author's death shall be carried out as prescribed by this Law.

ARTICLE 18: ECONOMIC RIGHTS OF AN AUTHOR OF A WORK

1. The author or other owner of copyright shall have the exclusive right to use a work in any form.

2. The exclusive right to use a work shall mean the right to exercise, authorize or prohibit the following:

a) reproduction of the work (the right of reproduction);

b) distribution of the original or copies of work by sale or other transfer of ownership (the right of distribution); *(03.06.2005 №1585)*

c) importation of copies of the work for the purpose of sale or rental or other transfer of ownership, including the copies made with the consent of the author or other owner of copyright (the right of importation); *(03.06.2005 №1585)*

d) public display of the work (the right of public display). This right shall not apply where the public display is the result of a lawful purchase of the work put in civil circulation;

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

f) communication to the public of the work, including the first transmission and/or retransmission by wire or wireless means so that it may be accessed by any person at a time and place chosen by him/her (the right of communication to the public); *(03.06.2005 №1585)*

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

h) adaptation of the work (the right of adaptation);

i) renting of the original or copies of the work and/or transfer of ownership in other form; *(03.06.2005 №1585)*

j) usage of the work otherwise. *(03.06.2005 №1585)*

3. The author or other owner of exclusive copyright shall be entitled to receive remuneration for the use of the work in any form (the right of

remuneration).

4. The first sale of a copy of a work in Georgia by the author or with his/her consent shall exhaust the author's right to further distribution of that copy within Georgia. *(03.06.2005 №1585)*

5. Authors or other owners of copyright of musical works expressed in graphic form, audiovisual works, computer programs, databases, and works fixed in a phonogram or videogram shall enjoy the exclusive right of authorizing the rental or other transfer of ownership of the originals or copies of these works, notwithstanding the copyright in this original or copies. *(03.06.2005 №1585)*

6. The exclusive right to use architectural, town-planning and landscape architecture projects shall include the right of implementation of such projects.

7. The amount of the remuneration, the rule of its calculation and payment for any use of the work shall be determined under an agreement concluded between the author, other owner of copyright or a collective management organization of economic rights, on the one hand, and, the user, on the other one. In the case of retransmission of the work by cable, the amount of the remuneration, the rule of its calculation and payment shall be determined by an agreement concluded between the organization and the user only. If the above-mentioned organization and the user fail to agree, the amount of the remuneration, the rule of its calculation and payment shall be determined shall, subject to the request by any party or the parties, be determined by "Sakpatenti". The decision of "Sakpatenti" may be appealed against in court within 2 months from taking the decision. *(03.06.2005 №*

1585)

8. The person who after expiry of the copyright term for the first time makes available to the public by publication or communication to the public the work not published or communicated to the public earlier shall enjoy economic rights in this work provided for by Paragraph 2 of this Article. *(03.06.2005 №1585)*

9. The limitations on economic rights stipulated by Paragraph 2 of this Article shall be determined by Articles 21-28 of this Law, provided that such limitations shall not conflict with normal exploitation of the work or unreasonably prejudice the legitimate interests of the author or other copyright owner.

ARTICLE 19: ECONOMIC RIGHTS IN COMPUTER PROGRAMS AND DATABASES

1. The author of a computer program shall, along with the rights defined by Article 18 of this Law, enjoy the exclusive to exercise, authorize or prohibit the following:

a) reproduction of a computer program by any means and in any form, in whole or in part. If such reproduction is necessary for loading, displaying, running, transmitting or storing of the computer program, it shall be subject to authorization by the author;

b) translation of a form, adaptation, arrangement and any other alteration of a computer program and reproduction of the obtained results without prejudice to the rights of the person who alters the computer program; *(03.06.2005 №1585)*

c) Repealed. *(03.06.2005 №1585).*

2. The author of a database shall, along with the rights defined by Article 18 of this Law, enjoy the exclusive right to exercise, authorize or prohibit the following:

a) temporary or permanent reproduction of the database by any means and in any form, in whole or in part;

b) translation, adaptation, arrangement and any other alteration of the database and reproduction, distribution, communication to the public, public display or public performance of the obtained results; *(03.06.2005 №1585)*

c) Repealed; *(03.06.2005 №1585)*

d) any communication, display or performance to the public, including interactive, live broadcast.

ARTICLE 20: RIGHTS OF AUTHORS OF FINE ART WORKS

1. The author of a fine art work is entitled to request from the owner of the work to give him an opportunity to exercise his right of reproduction of the work (right of permission). At that, the owner shall not be obliged to deliver the work to the author.

2. After the first disposal, in each case of resale of the originals of works of fine art and photography, including through professional intermediaries (art salon, fine art gallery, etc.) the author or his/her legatees are entitled to receive remuneration, in the following amounts: *(03.06.2005 №1585)*

a) if the sale price is GEL 500 to 100,000 – 4 percent;

b) if the sales price is GEL 100,000.01 to 400,000 – GEL 4,000 + 3 percent of the sum over GEL 100,000.01;

c) if the sales price is GEL 400,000.01 to GEL 700,000 – GEL 13,000

+ 1 percent of the sum over 400,000.01;

d) if the sales price is GEL 700,000.01 to GEL 1,000,000 – GEL 16,000 + 0.5 percent of the sum over 700,000.01;

e) if the sales price is over GEL 1,000,000 – GEL 17,500 + 0.25 percent of the sum over 1,000,000.

3. The remuneration provided for by Paragraph 2 of this Article shall be collected by a collective management organization of economic rights, at whose request the seller of fine art or photographic works shall furnish the above-mentioned organization with the sales-related information. The remuneration prescribed by Paragraph 2 of this Article (without taxes) shall not exceed GEL 25,000. *(03.06.2005 №1585)*

4. For the purposes of this Article, copies of the original of the fine art and photographic work specified in Paragraph 2 manufactured in limited quantities by the author or with his/her authorization shall be equated with the original work. *(03.06.2005 №1585)*

5. It is prohibited to assign the right provided for by Paragraph 2 of this Article in the lifetime of the author to other persons and may only be succeeded to the heirs at law or by the will of the author for the term of copyright protection. *(03.06.2005 №1585)*

CHAPTER III - LIMITATIONS ON ECONOMIC RIGHTS

ARTICLE 21: REPRODUCTION OF A WORK BY NATURAL PERSONS FOR PERSONAL USE

1. A natural person may reproduce a work made available to the public by means of lawful publication or making available to the public only for personal use without consent of the author or other owner of copyright

and without payment of remuneration to him/her, except for the cases stipulated by Paragraphs 2 and 3 of this Article. *(03.06.2005 №1585)*

2. Paragraph one of this Article shall not apply in case of:

a) reproduction of architectural works in the form of buildings;

b) reproduction of electronic databases, except for the cases provided for by Articles 28 and 30 of this Law; *(03.06.2005 №1585)*

c) reproduction of computer programs, except for the cases provided for by Articles 28 and 29 of this Law;

d) reprographic copying of books (wholly), music notations (musical work in a graphic form) and works of fine arts;

e) reproduction of an audiovisual work or a work fixed in a phonogram or videogram. *(03.06.2005 №1585)*

3. In the case of reproduction of an audiovisual work or a work fixed in a phonogram by a natural person for personal use, the author or other copyright owner shall, in contrast to the rule provided for in Paragraph 1 of this Article, be entitled to the receipt of respective remuneration.

4. The remuneration for the reproduction for personal use shall be paid by producers and importers of equipment (audio and video recorders and other equipment) and material carriers (audio and video tapes, cassettes, laser disks, compact disks, and other material carriers).

5. The remuneration shall be collected and distributed by one of the collective management organizations of economic rights of authors, performers and phonogram producers, under an agreement concluded between these organizations. Unless the agreement provides otherwise, the remuneration shall be distributed as follows: 40 percent - to the authors, 30

percent - to the performers, and 30 percent - to the phonogram producers. The above-mentioned organizations are entitled to request from natural and legal persons, including governmental organizations and institutions, the information concerning production and importation of the equipment and material carriers referred to in Paragraph 4 of this Article.

6. The amount and the rule for payment of the remuneration shall be determined by an agreement between the above-mentioned producers and importers, on the one hand, and one of the collective management organizations of economic rights of authors, performers and phonogram producers, on the other one. If the parties fail to agree, the amount of the remuneration, the rule for its calculation and payment, on the basis of a request of one of the parties or the parties, shall be determined by "Sakpatenti". The decision of "Sakpatenti" may be appealed against in court within 2 months of taking the decision. *(03.06.2005 №1585)*

7. The remuneration shall be distributed among the authors of the works and other owners of copyright and related rights, referred to in Paragraphs 3 and 5 of this Article. *(03.06.2005 №1585)*

8. The remuneration shall not be paid in respect to the equipment and material carriers provided for by Paragraph 4 of this Article, which represent:

a) the subject of export;

b) the professional equipment not intended for domestic use.

9. The remuneration shall not be also paid in the case of importation of the se equipment and material carriers by natural persons for personal purposes.

10. The right of reproduction of the copyrighted works provided for by this Law shall not apply to a temporary copy. *(03.06.2005 №1585)*

ARTICLE 22: REPROGRAPHIC COPYING OF A WORK BY LIBRARIES, ARCHIVES AND EDUCATIONAL INSTITUTIONS

Reprographic copying, without receiving direct or indirect profit, shall be permitted without the consent of the author or other copyright owner and without paying remuneration to him/her, as long as the author's name and the source is indicated, and in separate cases – to the extent justified by the set purpose. Such reprographic copying shall be permitted:

a) in a single copy, to replace by libraries and archives copies of lawfully published works that have been lost, damaged or become unusable; to replace copies from collections of other libraries that have been lost, damaged or become unusable in order to transfer them to these libraries, if it is impossible to obtain such copies in another manner under ordinary conditions; *(03.06.2005 №1585)*

b) in a single copy of lawfully published individual articles and other small-volume works, or excerpts from written works (other than computer programs), by libraries and archives, at the request of natural persons, for educational, scientific or personal purposes; *(03.06.2005 №1585)*

c) of short extracts from the lawfully published individual articles and other small-volume works, or written works (other than computer programs), by educational institutions for teaching purposes. *(03.06.2005 №1585)*

ARTICLE 23: USE OF A WORK WITHOUT CONSENT OF THE AUTHOR AND WITHOUT PAYING REMUNERATION

Without the consent of the author and without paying remuneration to

him/her, but subject to mandatory indication of the author and the source used, the following shall be permitted:

a) quotation from works made available to the public by means of lawful publication or making available to the public, for scientific, research polemic, criticism and information purposes, to the extent justified by the purpose of quotation, including reproduction of short extracts from newspapers and journals for a printed survey; *(03.06.2005 №1585)*

b) use of short extracts from works made available to the public by means of lawful publication, for the purpose of illustrations, in printed matter, radio and television programs, sound and visual recordings of educational character, to the extent justified by the set purpose; *(03.06.2005 №1585)*

c) reproduction in newspapers or communication to the public of articles on current economic, political or religious topics, lawfully published by periodicals or made available to the public and works of same characters communicated to the public, in case where such reproduction is not expressly prohibited by the author or other owner of copyright. Besides, the author shall reserve the right of publication of such works in a collection; *(03.06.2005 №1585)*

d) reproduction or communication to the public of the works or heard in the process of reviewing current events, by means of taking photos, broadcast or cable transmission, to the extent justified by the informatory purpose;

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

works, including speeches made at court sessions through newspapers, journals and other periodicals, to the extent justified by the informatory purpose. At that, the author shall reserve the exclusive right of publication of such works either as a separate collection, or as a book;

f) reproduction of a lawfully published work, made for the blind using the Braille printing or other specific means, without any commercial advantage, except for the works specially created for such uses.

ARTICLE 24: USE OF A WORK PERMANENTLY DISPLAYED IN PUBLIC PLACES

It shall be permitted to reproduce or communicate to the public without the consent of the author or other copyright owner and without payment of remuneration to him/her images of works of architecture, photography, and fine arts permanently displaced in public places, except for the cases when the image of a work is the main object for such reproduction or communication to the public, or is used for commercial purposes.

ARTICLE 25: PUBLIC PERFORMANCE OF A MUSICAL WORK AT CEREMONIES *(03.06.2005 №1585)*

Public performance of a musical work lawfully published or made available to the public by means of lawful publication or communication may be performed in public without the consent of the author or other owner of copyright and without payment of remuneration to him/her during official, religious and funeral ceremonies, to the extent justified by the character of such a ceremony.

ARTICLE 26: REPRODUCTION OF A WORK FOR COURT PROCEEDINGS

A work may be reproduced for court proceedings without the consent of the author or other owner of copyright and without payment of

remuneration to him/her, to the extent justified by the set purpose.

ARTICLE 27: EPHEMERAL RECORDING OF A WORK BY A BROADCASTING ORGANIZATION

A broadcasting organization is authorized, without the consent of the author or other owner of copyright and without payment of additional remuneration him/her, make ephemeral (short-term) recordings of the works, with respect to which the organization has the right to use it in broadcasting, provided that:

a) it makes such recordings by means of its own facilities, for its own broadcasts;

b) it shall destroy such recordings within 6 months after their making, unless a longer period has been agreed with the author of the recorded work. These recordings may be preserved in official archives without the author's consent only on the grounds of their exceptional documentary character.

ARTICLE 28: LIMITATIONS TO THE RIGTHS OF AN OWNER OF A COMPUTER PROGRAM AND A DATABASE

1. A person who lawfully owns a copy of a computer program or a database shall have the right without authorization of the author or other owner of copyright and without payment of remuneration to him/her:

a) to make alterations to the computer program or database where they are necessary for the functioning of technical facilities of the user, as well as to carry out any act related to the functioning of the computer program or database, including loading and storing in the computer memory (for one computer or one network user), as well as correction of apparent errors, unless the copyright agreement provides otherwise;

b) to make a back-up copy of the computer program or database,

provided that this copy is designated for archival purposes only and for replacement of the lawful owner's copy that has been lost, destroyed or become unusable.

2. The back-up copy of the computer program or database may not be used for a purpose other than those prescribed by Paragraph1of this Article and shall be destroyed as soon as the right of ownership of the computer program or database owner is terminated.

ARTICLE 29: FREE USE OF A COMPUTER PROGRAM (DECOMPILATION)

A person who lawfully owns a copy of the computer program is authorized, without the consent of the author or other owner of copyright and without payment of remuneration to him/her, to carry out decompilation of the computer program (to reproduce and transform the objective code into the initial text), also entrust decompilation to other persons in the case when it is necessary to achieve interoperability of a computer program independently created by him/her with other programs, provided that the following conditions are met:

a) these acts are performed by the person having a right to use a copy of the program, or on his/her behalf by a person authorized to do so;

b) the information necessary to achieve interoperability has not previously been available to the person from other sources;

c) these acts are related to the parts of the decompiled program which are necessary to achieve interoperability;

d) the information obtained through decompilation shall be used only to achieve interoperability of the independently created computer program with other programs. This information shall not be given to other persons or

to be used for the development of a new computer program, substantially similar to the decompiled program, or for any other act which infringe copyright.

ARTICLE 30: FREE USE OF DATABASE

The lawful user of the original or a copy of a database is entitled to perform the acts provided for by Article 19 of this Law without the authorization of the author of the database or other owner of copyright when they are necessary for the purposes of access to the database and its normal use. If the lawful user is authorized to use only part of the database, this provision shall apply only to that part.

CHAPTER IV
TERM OF VALIDITY OF COPYRIGHT

ARTICLE 31: COMMENCEMENT AND DURATION OF COPYRIGHT

1. Copyright shall commence upon creation of a work and shall run for the life of the author and for 70 years after his/her death, except for the cases provided for by Article 32 of this Law.

2. Calculation of the terms prescribed by this Article and Article 32 of this Law shall commence from January 1 of the year following the year in which the legal event, serving as a basis for commencing the running of the above-mentioned terms, has occurred.

ARTICLE 32: TERMS OF PROTECTION OF COPYRIGHT

1. Copyright in a work, published or made available to the public as an anonymous or pseudonymous work, shall run for 70 years after the lawful occurrence of this fact. However, if within this term the author discloses his/her identity or if his/her identity is beyond any doubt, Article 31 of this

Law shall apply. *(03.06.2005 №1585)*

2. Copyright in a work of joint authorship shall run for the life of each co-author and for 70 years from the death of the last surviving author.

3. If a work is published in volumes, parts, issues or episodes and the term of protection runs from the time of the lawful occurrence of this fact, the term of protection shall run for each such item separately. *(03.06.2005 №1585)*

4. Copyright in the works, referred to in Articles 12 and 13 of this Law, shall run for 70 years from the time when the works were lawfully published or made available to the public, and if a work has not been published or made available to the public - from the date of its creation. *(03.06.2005 №1585)*

5. Copyright in an audiovisual work shall run for 70 years after the death of the last of the surviving authors (co-authors) indicated in Paragraph 1 Article 15 of this Law.

5[1]. Copyright in a musical work with words, created under co-authorship, shall run for 70 years after the death of the last surviving author (co-author), whether or not the author of the words and the author of the musical work, as a result of whose joint intellectual and creative activity such a musical work was created, are designated as co-authors (23.12.2017. N1917)

6. The economic right of a person who lawfully published or made available to the public a work which was not published or made available to the public previously (Article 18(8) of this Law), shall run 25 years from the time of the lawful occurrence of such a fact. *(03.06.2005 №1585)*

ARTICLE 33: COPYRIGHT OF UNLIMITED DURATION

1. The right to claim authorship, the right to be named, the right of integrity, and the right to respect of reputation in relation to a particular work shall be of unlimited duration.

2. After the expiry of the copyright term, the title of a work shall not be used by other authors for a work of the same genre, if such use might result in confusion of the authors, which may mislead the public.

3. It is prohibited to publish or to make available to the public a work under such a pseudonym which is likely to result in the identification with the author of a work, published or made available to the public earlier, which may mislead the public. *(03.06.2005 №1585)*

ARTICLE 34: USE OF EXPIRED COPYRIGHT

1. The work in which the term of copyright protection has expired may be used by any person without paying any remuneration, as long as the rights of authorship, integrity and respect of reputation are not prejudiced. This provision shall also apply to the works that were not protected on the territory of Georgia.

2. The legislation of Georgia may introduce special fees for using on the territory of Georgia of a work with expired term of copyright protection. The income gained in such a way shall be directed to professional funds of authors and collective management organizations of economic rights of authors. The amount of fees shall not exceed 3 percent of the income gained from the use of the work. *(03.06.2005 №1585)*

CHAPTER V
TRANSFER OF COPYRIGHT

ARTICLE 35: GROUNDS FOR TRANSFER OF COPYRIGHT

1. Copyright shall be transferred by hereditary or testamentary succession or by an agreement. *(03.06.2005 №1585)*

2. Legal successors shall, within the term of copyright, have the exclusive rights to use the work referred to in Article 18 of this Law, unless the testament provides otherwise.

3. The rights of authorship, the right to be named and the right of integrity of a work shall not be transferred by succession. The successors shall have the right to safeguard these moral rights. This authority shall be of unlimited duration.

4. Unless otherwise determined by the author during his/her life, of his/her moral rights, the right to authorize other persons to add to the work the works of other authors (illustration, foreword, afterword, commentary, explanation, etc.) of other authors shall be transferred by succession. This moral right shall be transferred to successors for the term of copyright.

5. The author shall have the right to indicate the person to be appointed by him/her as an advocate of the rights referred to in Paragraph 3 of this Article. This person shall carry out his/her obligations until the author's death.

6. If successors are absent or improperly exercise the rights stipulated by Paragraph 3 of this Article, these rights shall be protected by the National Intellectual Property Center "Sakpatenti". (*05.12.2000*)

ARTICLE 36: TRANSFER OF ECONOMIC RIGHTS OF AN AUTHOR *(03.06.2005 №1585)*

The author or other owner of copyright is entitled to transfer all or

part of the economic rights to his/her successor in title.

ARTICLE 37: EXCLUSIVE LICENSE

1. Under an exclusive license agreement, the author or other owner of copyright shall grant the exclusive right to use a work in a definite form and within the scope defined by the agreement solely to the licensee and shall entitle the licensee to prohibit such use of the work by other persons (including the author). *(03.06.2005 №1585)*

2. The author is entitled to exercise the right to prohibit other parties from using the work, if the licensee fails to exercise the protection of that right.

ARTICLE 38: NON-EXCLUSIVE LICENSE

1. Under a non-exclusive license agreement, the author or other owner of copyright shall permit the licensee to use the work on an equal basis with the persons who have received the right to use the work in a similar way. (*03.06.2005 №1585*)

2. The right transferred by a copyright agreement shall be considered as a non-exclusive right, unless the agreement provides otherwise

ARTICLE 39: USE OF A WORK AFTER GRANTING OF AN EXCLUSIVE LICENSE *(03.06.2005 №1585)*

Even in the case of granting of an exclusive license, the author shall retain the right to use a work only upon publication of a complete collection of his/her works, provided that 5 years have passed from the date when, as a result of the grant of the exclusive license, the work became available to the public by means of publication or making public. At the same time, the author shall not be authorized to use this work independently from the

complete collection.

ARTICLE 40: LICENSE AGREEMENT *(03.06.2005 №1585)*

1. A license agreement shall provide for: the exact description of the work to be used (title, volume, genre), the specific form of the use of the work, duration of the agreement and territory where it is effective, the rule for determining the amount of remuneration or the amount of remuneration for each form of the use of the work, its payment rule and term, as well as other conditions which the parties deem to be essential.

2. The right to use the work in all those forms that are not directly defined by the license agreement shall belong to the author or other owner of copyright.

3. If the license agreement does not provide for a specific form of the use of a work, the agreement shall be considered to have been concluded for the use of the work which the parties may deem to be necessary for fulfilling the intention they had at the time when the agreement was concluded.

4. If the license agreement fails to indicate the term of the agreement, the author or other copyright owner may annul the agreement 3 years after the date of its conclusion. The licensee shall be notified of the above in writing 6 months prior to annulment of the agreement.

5. If the license agreement does not state the territory on which it has effect, it shall have effect on the territory of Georgia.

6. The rights granted under a license agreement may be fully or partially transferred to other persons, if the agreement directly provides for it.

7. If in a license agreement the remuneration concerning the

reproduction of a work is determined as a fixed sum, the license agreement shall specify the maximum circulation of the work.

ARTICLE 41. Repealed*(03.06.2005 №1585)*

ARTICLE 42: FORM OF AN AGREEMENT *(03.06.2005 № 1585)*

An agreement for the transfer of copyright, copyright agreement for a commissioned work and copyright licensing agreement shall be concluded in writing. A license agreement regarding publication of a work in a periodical may be concluded orally as well.

ARTICLE 43: COPYRIGHT AGREEMENT FOR COMISSIONED WORK

1. Pursuant to a copyright agreement for a commissioned work, the author shall undertake to create a work corresponding to the requirements of the agreement and to transfer it to the person commissioning the work, whereas the person commissioning the work shall undertake to receive the work and pay remuneration to the author.

2. The author shall create the work personally, unless the agreement provides otherwise. Inclusion of other person(s) in the creation of the work is admissible only by the permission of the person who commissioned the work.

3. The person who commissioned the work by the time stipulated in the agreement shall review the work and notify the author in writing on the approval of the work or of its rejection based on the contractual conditions or of the necessity of making alterations to it.

4. If within the period stipulated in the agreement the author is not notified in writing, the work shall be considered approved.

5. The procedure for payment an advance to the author, its terms and amount shall be determined by an agreement.

6. Any contractual provision which restricts the author's right to create in the future a work on a definite topic or in a definite field shall be null and void. *(03.06.2005 №1585)*

7. The subject of an agreement shall not be transfer of the right in a work which the author might create in the future. *(03.06.2005 №1585)*

8. Copyright in a commissioned work shall belong to the employer, unless the agreement provides otherwise. *(04.05.2010 №3032)*

ARTICLE 44: OBLIGATION TO COMPENSATE FOR DAMAGES *(03.06.2005 №1585)*

The party, which has failed to perform or improperly performed obligations on the transfer of economic rights of the author, creation of a work or those assumed by a license agreement, shall compensate the other party for the damages incurred, including the lost profits.

CHAPTER VI
RELATED RIGHTS *(03.06.2005 №1585)*

ARTICLE 45: RELATED RIGHTS

1. Protection of the copyright-related rights under this Chapter shall in no way affect the protection of copyright.

2. Related rights shall be exercised without prejudice to copyright. None of the provisions of this Chapter shall be interpreted as infringing copyright.

ARTICLE 46: HOLDERS OF RELATED RIGHTS

1. Holders of related rights shall be: performers, producers of phonograms or videograms and broadcasting organizations.

2. Producers of phonogram or videogram and broadcasting organizations shall exercise their rights under this Chapter within the scope of authority granted by an agreement concluded between the author and performer of a work fixed in a phonogram or videogram, or broadcast on the air or by cable.

3. A performer shall exercise the rights specified in this Chapter, provided that he/she observes the right of the author of the work performed.

4. The commencement and exercise of related rights shall not be subject to any formality. To claim his rights, a phonogram producer or performer may use on every copy of phonogram or its packaging a sign denoting protection of related rights, consisting of the following three elements:

a) the Latin letter P in a circle;

b) the name (designation) of the holder of exclusive related right;

c) the year of first publication of the phonogram.

ARTICLE 47: RIGHTS OF PERFORMERS

1. A performer shall in respect of his/her performance have the following moral and economic rights:

a) the right to be named;

b) the right to protect his/her performance from any distortion, or other modification that would prejudice the performer's honor, dignity or business reputation (right to respect of reputation);

c) the right to use his/her performance in any form, including the right to receive remuneration for the use of the performance in any form.

2. Exclusive rights with respect to a performance shall denote the right to

authorize or prohibit:

a) fixation of earlier unfixed performances;

b) the direct or indirect reproduction of the performance fixed in phonograms; *(03.06.2005 №1585)*

c) transmission on the air or by cable of the performance, except for the cases when the earlier recorded or broadcast performance is being transmitted with the performer's consent; *(03.06.2005 №1585)*

d) retransmission on the air or by cable of the fixation of a performance, provided that this performance was not initially fixed for commercial purposes;

e) distribution of the original and copies of the performance fixed in phonograms through rental or other transfer of ownership. *(03.06.2005 № 1585)*

f) distribution of the original and copies of the performance fixed in phonograms through sale or other transfer of ownership; *(03.06.2005 № 1585)*

g) transmission of the performance fixed in the phonogram, by wire or wireless means, in such a way that a person may access it at an individually chosen place and time. *(03.06.2005 №1585)*

3. The authorization provided for by Paragraph 2 of this Article shall be made by the performer, whereas the authorization of the performance by a group of performers - by the leader of the group, on the basis of a written agreement concluded with the user.

4. The conclusion of an agreement between the performer and the broadcasting organization on the transmission on the air or by cable of a

performance shall entail the transfer by the performer of his/her right to authorize the fixation of his performance, its further distribution and reproduction of the fixation only if it is directly provided for by the agreement. In the case of such use, the amount of the remuneration payable for the performance shall be specified by the above-mentioned agreement.

5. Conclusion of an agreement on the creation of an audiovisual work between the performer and the audiovisual work producer shall entail transfer of the rights provided for in Paragraph 2 of this Article, unless the agreement provides otherwise. The transfer of such rights by the performer shall be confined to the use of the audiovisual work and, unless the agreement provides otherwise, it shall not include the right to the separate use of the sound and the image fixed in the audiovisual work.

6. The right of a performer to further distribution of a phonogram within Georgia shall be exhausted by the first sale of copies of the phonogram by him/her or with his/her consent. *(03.06.2005 №1585)*

7. With respect to a performances created by a performer in the course of employment, the performer shall enjoy the right to be named. The exclusive right to the use of such a performance shall belong to the person with whom the performer is in labor relations, unless the agreement concluded between them provides otherwise. (*04.05.2010 №3032*)

8. The exclusive rights of performers provided for in Paragraph 2 of this Article may be assigned to other party on the basis of an agreement.

ARTICLE 48: EXCLUSIVE RIGHTS OF A PHONOGRAM PRODUCER

1. The producer of the phonogram shall enjoy the exclusive right to

use a phonogram in any form, including the right to receive remuneration for using the phonogram in every form.

2. The exclusive right to use a phonogram shall mean the right to exercise, authorize or prohibit:

a) direct or indirect reproduction of the phonogram; *(03.06.2005 №1585)*

b) Repealed; *(03.06.2005 №1585)*

c) rental of the original or copies of the phonogram or other transfer of ownership; *(03.06.2005 №1585)*

d) distribution of the original or copies of the phonogram in the public through sale or other transfer of ownership; *(03.06.2005 №1585)*

e) importation of copies of the phonogram for the purpose of sale or rental, or other transfer of ownership, including the copies produced with the consent of the phonogram producer; *(03.06.2005 №1585)*

f) transmission of the original or copies of the phonogram by wire or wireless communication, in such a way that may be accessed by any person at an individually chosen time and place. *(03.06.2005 №1585)*

3. The exclusive rights of a phonogram producer provided for in Paragraph 2 of this Article may be assigned to other party under an agreement.

4. The right of a producer of a phonogram to control further distribution of a phonogram within Georgia shall be exhausted by the first sale of copies of the phonogram by him/her or with his/her consent. *(03.06.2005 №1585)*

ARTICLE 49: EXCLUSIVE RIGHTS OF A VIDEOGRAM PRODUCER

1. A videogram producer shall enjoy the exclusive right to the use of a videogram in any form, including the right to receive remuneration for using the videogram in every form.

2. The exclusive right to the use of a videogram shall mean the right to authorize or prohibit:

a) direct or indirect reproduction of the videogram; *(03.06.2005 №1585)*

b) Repealed; *(03.06.2005 №1585)*

c) rental or other transfer of ownership of the original or copies of the videogram; *(03.06.2005 №1585)*

d) distribution of copies of the videogram in the public by sale or other transfer of ownership; *(03.06.2005 №1585)*

e) importation of copies of the videogram for the purpose of distribution, including the copies produced with the consent of the videogram producer; *(03.06.2005 №1585)*

f) transmission of the videogram by wire or wireless communication, in such a way that that a person may access it at an individually chosen place and time. *(03.06.2005 №1585)*

3. The exclusive rights of a videogram producer provided for in paragraph 2 of this Article may be assigned to other party by an agreement.

4. The right of a producer of a videogram to control further distribution of the videogram within the territory of Georgia shall be

exhausted by the first sale of copies of the videogram by him/her or with his/her consent. *(03.06.2005 №1585)*

ARTICLE 50: EXCLUSIVE RIGHTS OF A BROADCASTING ORGANIZATION

1. A broadcasting organization shall enjoy the exclusive right to the use of its broadcast in any form, including the right to receive remuneration for using the broadcast in every form.

2. The exclusive right to the use of a broadcast shall mean the right to authorize or prohibit:

a) recording of the broadcast;

b) reproduction of the broadcast recording, except for the cases when the broadcast is recorded with the consent of the broadcasting organization and the reproduction is made for the same purpose for which it was recorded;

c) simultaneous retransmission of the broadcast on the air and by cable, by an aerial and cable broadcasting organization respectively; *(03.06.2005 №1585)*

d) transmission of the broadcast on the air or by cable;

e) communication to the public of the at places accessible to the public against payment of an entrance fee;

f) distribution of the broadcast recording in the public by sale or other transfer of ownership; *(03.06.2005 №1585)*

g) rental of the broadcast recording or other transfer of ownership; *(03.06.2005 №1585)*

h) transmission of the broadcast recording by wire or wireless

communication, in such a way that a person may access it at an individually chosen place and time.. *(03.06.2005 №1585)*

ARTICLE 51: FREE USE OF SUBJECT-MATTERS OF RELATED RIGHTS

1. The limitations of related rights provided for in this Law shall not conflict with normal exploitation of a performance, phonogram, videogram, broadcast of a broadcasting organization, and shall not unreasonably prejudice the lawful interests of performers, producers of phonograms or videograms and broadcasting organizations.

2. The use of a performance, phonogram, videogram and broadcast of a broadcasting organization and their recordings without the consent of the performers, phonogram or videogram producers and broadcasting organizations and without paying remuneration, shall be permitted in the following cases:

a) in the case of quotation from a performance, phonogram, videogram, broadcast of a broadcasting organization for scientific, research, polemic, criticism and information purposes, only to the extent justified by the purpose of quotation;

b) in the case of use for the purpose of illustration of extracts from a performance, phonogram, videogram, broadcast of a broadcasting organization for teaching and scientific research, only to the extent justified by the set purpose;

c) in the case of inclusion of short excerpts from a performance, phonogram, videogram, broadcast of a broadcasting organization in reporting current events.

3. The use of a performance, broadcast of a broadcasting organization

and their recordings by natural persons, as well as the reproduction of a phonogram or videogram for personal use, without the consent of the performer, broadcasting organization, phonogram or videogram producer shall be permitted, reproduction shall be carried out as prescribed by Article 21 of this Law, subject to payment of remuneration.

4. The right of reproduction of a subject-matter protected by related rights prescribed by this Law shall not extend to a temporary copy. *(03.06.2005 №1585)*

ARTICLE 52: USE OF PHONOGRAMS PUBLISHED FOR COMMERCIAL PURPOSES *(03.06.2005 №1585)*

1. The following shall be permitted without the consent of the producer of a phonogram published for commercial purposes and that of the performer of the work fixed in a phonogram but subject to payment of equitable remuneration:

a) public performance of a phonogram;

b) communication to the public of a phonogram. (23.12.2017. N1917)

2. The collection and distribution of the remuneration provided for in Paragraph 1 of this Article shall be carried out by one of the collective management organizations of economic rights of performers and phonogram producers, under an agreement between them.

3. The amount of remuneration and the rule of its payment shall be specified by an agreement concluded between the users of the phonogram, on the one hand, and a collective management organization of economic rights of phonogram producers and performers, on the other one. Where the parties fail to agree, the amount of remuneration, the rule of its calculation and payment shall, subject to the request by any party or the parties, be

determined by “Sakpatenti”.

4. Users of the phonogram shall submit to the organizations referred to in Paragraph 2 of this Article programs (plans), including the precise information about the volume of the phonogram use, as well as other certificates and documents, necessary for collection and distribution of the remuneration.

5. For purposes of this Article, the phonogram that has become available to any person by wire and wireless means at an individually chosen place and time shall be considered as a phonogram published for commercial purposes.

ARTICLE 53: EPHEMERAL (SHORT-TERM) FIXATION OF A BROADCAST BY A BROADCASTING ORGANIZATION

A broadcasting organization may, without the authorization by the performer, phonogram or videogram producer and broadcasting organization, carry out an ephemeral (short-term) fixation of a performance or broadcast and reproduce it in compliance with the following conditions:

a) obtaining of a prior consent for the transmission of a performance or broadcast;

b) making ephemeral fixation and its reproduction by means of their own facilities and for their own broadcasts;

c) destruction of the ephemeral fixation under the condition specified for ephemeral recordings of scientific, literary and artistic works.

CHAPTER VII
RIGHTS OF MAKERS OF DATABASES *(03.06.2005 №1585)*

ARTICLE 54: MAKER OF A DATABASE

1. The maker of a database (which does not represent a work), who

proves that he/she has made a substantial investment from the qualitative or quantitative viewpoint in purchasing, obtaining, verifying or presenting of the contents of a database, shall enjoy the exclusive right to prevent extraction and/or re-utilization of the whole or substantial part of the contents of the database, evaluated qualitatively or quantitatively. *(03.06.2005 №1585)*

2. For purposes of this Chapter, "extraction" shall mean the permanent or temporary transfer of the whole or a substantial part of the contents of a database to other material carrier by any means or form, and "re-utilization" shall mean distribution among the public, renting, or transfer of ownership by another form with respect to the above-mentioned carrier or its copies or making available to the public the whole or a substantial part of the contents of a database. The right of a maker of a database to control further distribution of the database within the territory of Georgia shall be exhausted by the first sale of copies of the database by him/her or with his/her consent. *(03.06.2005 №1585)*

3. The repeated and systematic extraction and/or re-utilization of insignificant parts of the contents of the database, if such acts conflict with a normal exploitation of the database and unreasonably prejudice the legitimate interests of the maker of the database shall be prohibited.

4. The rights of the maker of a database referred to in Paragraph 1 of this Article may be transferred to another party by an agreement.

5. The rights provided for in Paragraph 1 of this Article shall be in force regardless of the fact whether the works, subject-matters of related rights and other data included in the database are protected, irrespective of

their content. Protection of a database in accordance with the right provided for in Paragraph 1 of this Article shall not prejudice copyright and other rights related to its component parts. *(03.06.2005 №1585)*

ARTICLE 54[1]: DEPOSIT OF A DATABASE *(03.06.2005 №1585)*

1. The maker of a database may deposit the original or a copy of a database with "Sakpatenti". A certificate issued by "Sakpatenti" as a result of the deposit shall only certify the fact of the deposit of the database.

2. Upon the deposit of the original or a copy of a database with "Sakpatenti", the depositor shall protect the copyright or other rights related to the database.

3. The depositor shall be responsible for the accuracy and reliability of the documents deposited with "Sakpatenti".

4. If an application for depositing a database is submitted to "Sakpatenti" by the author's heir, successor in title or other rightholder, the application shall be attached with a document certifying the applicant's succession or ownership of the copyright.

5. Upon the deposit of a database with "Sakpatenti" through a representative, the application shall also be attached with a document certifying the representative's authority.

6. Information related to a database deposited with "Sakpatenti" in accordance with this Article may be made available to the public upon the request of the database maker.

7. Deposition of a database shall be subject to a fee, which shall be determined by the decree of the Government of Georgia. *(04.05.2010 № 3032)*

ARTICLE 55: RIGHTS AND OBLIGATIONS OF A LAWFUL USER OF A DATABASE

1. If a database is published or made available to the public, the database maker is not entitled to prevent a lawful user of the database from extracting and/or re-utilizing insignificant parts of its contents, evaluated qualitatively and/or quantitatively, for any purpose. Where the lawful user is authorized to extract and/or re-utilize only a part of the database, this paragraph shall apply only to that part.

2. The action of a lawful user of a database which is published or made available to the public shall not prejudice the legitimate interests of the maker of the database. *(03.06.2005 №1585)*

3. A lawful user of a database which is published or made available to the public shall not infringe the copyright and related rights of owners with respect to the work or subject-matter contained in the database. *(03.06.2005 №1585)*

ARTICLE 56: LIMITATION ON THE RIGHTS OF A MAKER OF A DATABASE

A lawful user of a database is entitled, without the authorization of its maker:

a) to extract for private purposes a substantial part of the contents of a non-electronic database;

b) to extract for the purposes of illustration for teaching or scientific research a substantial part of the contents of a database contents, as long as the source is indicated and to the extent justified by the non-commercial purpose to be achieved;

c) to extract and re-utilize a substantial part of the contents of a

database for the purposes of public security or an administrative or court procedure.

CHAPTER VIII
TERM OF PROTECTION OF RELATED RIGHTS AND RIGHTS OF MAKER OF DATABASE *(03.06.2005 №1585)*

ARTICLE 57: TERMS OF PROTECTION OF RELATED RIGHTS

1. The rights of performers provided for in Article 47 of this Law shall run for 50 years after the date of the first performance. If within this period a fixation of the performance (except that fixed in the form of a phonogram), was lawfully published or made available to the public, this term shall run for 50 years from the date of the first of such events, and if within this period a fixation of the performance in a phonogram was lawfully published or made available to the public, this term shall run for 70 years from the date of the first of such events. (23.12.2017. N1917)

2. The term of protection of rights of performers to be named and to respect of reputation shall be unlimited. These rights shall not be handed down heredity. Protection of a performer's moral rights after his/her death shall be carried out as prescribed by the protection of moral rights of authors of scientific, literary and artistic works.

3**.** The right of producers of phonograms or videograms provided for in Articles 48 and 49 of this Law shall run for 50 years after the date of the first fixation of the phonogram or videogram. If within this period the phonogram or videogram was lawfully published or made available to the public, this term shall run for 70 years from the date of the first of such

events. (23.12.2017. N1917)

3^1. If 50 years after the date the phonogram is lawfully published or made available to the public, the phonogram producer does not offer copies of the phonogram for sale in sufficient quantity, or does not make them available to the public, the performer is entitled to terminate the contract by which he/she has transferred the rights on the fixation of his/her performance to the phonogram producer. (23.12.2017. N1917)

4. The rights of a broadcasting organization provided for in Article 50 of this Law shall run for 50 years after the first transmission of the broadcast by such an organization**,** transmitted by wire or wireless means (including by cable or through satellite). (23.12.2017. N1917)

5. The right of a database maker provided for in Article 54 of this Law shall run for 15 years after the date of making of the database. If within this period the database is lawfully published or made available to the public, 15 years shall be calculated from the date of one of such events, whichever occurs first. *(03.06.2005 №1585)*

6. Any change, evaluated qualitatively and/or quantitatively, of the contents of a database as provided for in Article 54 of this Law, including any substantial change resulting from deletions or alterations, which allows considering that a substantial new investment was implemented, evaluated qualitatively and/or quantitatively, shall qualify the database resulting from that investment for its own term of protection.

7. Calculation of the term provided for in this Article shall start from the first of January of the year following the year in which the legal act took

place giving rise to the calculation of this term.

8. The rights specified in this Chapter, upon effect of the terms indicated in Paragraphs 1- 5 of this Article, shall be handed down to successors of the performer, phonogram or videogram producer, broadcasting organization and the maker of a database, and in the case of a legal person - to their successors in title. *(03.06.2005 №1585)*

CHAPTER IX
PROTECTION OF COPYRIGHT, RELATED RIGHTS AND RIGHTS OF MAKERS OF DATABASES *(03.06.2005 №1585)*

ARTICLE 58: INFRINGEMENT OF COPYRIGHT, RELATED RIGHTS AND MAKERS OF DATABASES *(03.06.2005 №1585)*

1. Infringement of copyright, related rights and rights of makers of databases provided for in this Law shall entail civil, criminal and administrative responsibility.

2. A natural or legal person not complying with the requirements of this Law shall be deemed to be an infringer of copyright, related rights and rights of makers of databases.

3. The following shall also be deemed to be an infringement of copyright, related rights and rights of makers of databases:

a) unlawful use of a work, phonogram, videogram, broadcast of a broadcasting organization and of a database;

b) alteration or removal of electronic rights management information without the authorization of the rightholder;

c) if a work, subject-matter of a related right or a database became available to the public (by making available to the public, distribution, rental or other transfer of ownership of copies their recordings), when the person

carrying out the above-mentioned knew or had reasonable grounds to know that the rights management information was altered or deleted without the authorization of the rightholder;

d) circumvention of technological measures;

e) manufacture, import, distribution, sale, rental, or advertisement of any technology, device or its component, which:

e.a) is put in circulation for the purpose of circumvention of technological measures;

e.b) has only a limited commercially significant purpose and, apart from of circumvention of technological measures, can be used for another purpose;

e.c) is from the outset designed, intended, produced or modified for the purpose of enabling or facilitating circumvention of technological measures;

f) offering and rendering services aimed at neutralizing technological measures by using a technology, device or its component.

ARTICLE 59: PROTECTION OF RIGHTS OF HOLDERS OF COPYRIGHT, RELATED RIGHTS AND RIGHTS OF MAKERS OF DATABASES

1. A holder of copyright, related rights and rights of makers of databases shall be entitled to request from the infringer:

a) recognition of the rights;

b) renewal of the status prior to the infringement and termination of the acts infringing the right or creating a risk of its infringement;

c) seizure of the copies of a work, phonogram, videogram or database,

regarded as counterfeit copies in accordance with Article 60 of this Law, as well as of the material, device or its component, necessary for their reproduction or circumvention of technological measures. The counterfeit copies of the work, phonogram, videogram or database may be handed over to the rightholder at his/her request;

d) compensation for damages (including lost profits), if the infringer was aware or should have been aware of the infringement of the rights of holders of copyright, related rights and rights of makers of databases;

e) instead of the compensation for damages, confiscation of profits gained by the infringer as a result of infringing rights of the holders of copyright, related rights and rights makers of database, in favour of the plaintiff;

f) instead of compensation for damages and confiscation of profits, tpayment of a lump sum compensation. At the same time, the compensation shall not be less than the tenfold amount of the pecuniary compensation receivable by the holder of rights in the case of lawful use of the infringed right;

g) taking of other measures related to the protection of his/her rights prescribed by the legislation of Georgia.

2. The measures provided for in Subparagraphs “d”-“f” of Paragraph 1of this Article shall be applied at the discretion of the rightholder.

3. The counterfeit copies of a work, phonogram, videogram or database, referred to in Subparagraph “c” of Paragraph 1 of this Article, which were not claimed by the rightholder, as well as the material, device or its component, necessary for their reproduction or circumvention of

technological measures, shall be subject to destruction in accordance with the court decision.

4. In the case provided for in Subparagraph “c” of Paragraph 1 of this Article, counterfeit copies of a work, phonogram, videogram or database, which were purchased by a third party in good faith, shall not be subject to seizure, except the cases when the counterfeit copies were purchased to be used for a commercial use.

5. If according to the court decision it is identified that the copies of a work, phonogram, videogram or database are counterfeit, the actions provided for by Subparagraph “b” of Paragraph 1 of this Article may apply also with respect to a person who was aware or should have been aware that his/her service is or was used in activities infringing exclusive rights on a commercial scale.

6. When determining the amount of damages, the essence of the infringement, profits gained through infringement of exclusive rights, the economic and moral damage caused to the holder of rights, as well as the expected income that would have been gained by the holder of exclusive rights as a result of the lawful use of the work, object of the related right or database shall be taken into consideration.

7. When determining the amount of a lump sum compensation, the seriousness of the infringement, the quantity of the counterfeit copies, the infringer’s intention the quantity of the goods made without the permission in of the holder of exclusive rights on the design incorporating the design or used thereof, the intention of the infringer and/or any other circumstance which may be taken into account in determining the amount of the

compensation, shall be taken into consideration.

ARTICLE 60: COUNTERFEIT COPIES *(03.06.2005 №1585)*

1. Copies of a work, phonogram, videogram or database, the manufacture, distribution, rental or other use of which results in an infringement of copyright, related rights or rights of makers of databases, shall be deemed to be counterfeit copies.

2. As counterfeit copies shall also be deemed copies of a work, phonogram, videogram or database which are protected in Georgia under this Law and which are imported without the authorization of the rightholders to Georgia from the state where they have never been protected or where their protection has been terminated.

3. **Repealed** (23.12.2017. N1917)

4. **Repealed** (23.12.2017. N1917)

5. **Repealed** (23.12.2017. N1917)

Article 61. Repealed (23.12.2017. N1917)

ARTICLE 62: STATE POLICY IN THE FIELD OF COPYRIGHT AND RELATED RIGHTS

1. The National Intellectual Property Center "Sakpatenti" shall ensure carrying out of the state policy in the field of copyright and related rights and implementation of other functions accorded by the law. Its status and competence shall be determined on the basis of the legislation of Georgia and respective statute.

2. The National Intellectual Property Center "Sakpatenti" shall be authorized:

a) to ensure carrying out of state policy in the field of the legislation

on copyright and related rights and to submit to the President of Georgia proposals for its development;

a) to ensure carrying out of state policy in the field of the legislation on copyright and related rights and to submit to the Prime Minister of Georgia proposals for its development; *(25.09.2013. N 1328 shall enter into force after taking the oath by the President of Georgia, elected as a result of the Presidential Elections of October 2013.)*

b) to represent Georgia at international organizations of intellectual property protection;

c) to carry out deposit of works and databases as prescribed by this Law; *(03.06.2005 №1585)*

d) to request information related to management of economic rights from collective management organizations of economic rights; *(03.06.2005 №1585)*

e) to participate, through its representative and without the voting right, in general meetings of the organization and sessions of its supervisory council, and in case the organization violates with the requirements of the legislation of Georgia and the regulations, fails to ensure the effective management and enforcement of economic rights of local and foreign rightholders, as well as in the course of the exercise of these rights violates the legitimate interests of users, to raise the respective matters at general meetings of the members of the organization. *(03.06.2005 №1585)*

CHAPTER X
COLLECTIVE MANAGEMENT OF ECONOMIC RIGHTS

ARTICLE 63: ESTABLISHMENT OF AN ORGANIZATION THAT ADMINISTERS ECONOMIC RIGHTS ON A COLLECTIVE

BASIS

1. Collective management of economic rights of the authors of scientific, literary and artistic works, performers, producers of phonograms and videograms and other owners of copyright and related rights in Georgia shall be carried out by collective management organizations of economic rights which have entered into agreements on mutual representation with similar organizations of most countries.

2. Collective management organizations of economic rights shall be formed on a voluntary basis, directly by owners of copyright and related rights. It shall not have the status of a creative union (association) and the requirements of the Law of Georgia "On Creative Workers and Creative Unions" shall not apply thereto. The organization shall be established with the organizational and legal status of a non-entrepreneurial (non-commercial) legal entity. If the regulations of the organization comply with the requirements of this Law and other requirements of the legislation of Georgia, the respective registering agency shall take a decision on its registration and issue an excerpt from the Register. The organization shall be authorized to manage economic rights only after it has been entered in the Register by the competent registering agency. *(03.11.2009 №1975 shall enter into force from January 1, 2010)*

3. The procedure for keeping the Register of a collective management organization of economic rights, the Register form as well as the form of an excerpt from the Register shall be approved by the order of the Minister of Justice of Georgia. *(03.11.2009 №1975 shall enter into force from January 1, 2010)*

4. A collective management organization of economic rights shall not engage in entrepreneurial activity and use a work or subject-matter of a related right use for that purpose, the rights to which have been assigned to it for administration on a collective basis. The organization shall act within the scope of authority which is established by the legislation of Georgia and which, under the regulations, has been conferred to it the owner of copyright and related rights.

5. The regulations of a collective management organization of economic rights shall contain the provisions complying with the requirements of this Law. Management of the activities of the organization shall be exercised by the holders of copyright and related rights whose economic rights are being administered by the organization. Decisions concerning the remuneration amount and the conditions for granting licenses to users, the rule for distribution and payment of the collected fees, as well as other important matters shall be taken by the holders of copyright and related rights jointly, at a general meeting.

6. It shall be permissible to form individual organizations according to different categories of rights or rightholders, or organizations managing different rights of onecategory rightholders.

7. A collective management organization shall not be subject to restrictions set by antimonopoly legislation.

ARTICLE 63[1]: PUBLICITY OF ACTIVITY OF A COLLECTIVE MANAGEMENT ORGANIZATION OF ECONOMIC RIGHTS *(03.06.2005 №1585)*

1. A collective management organization of economic rights shall carry out its activity in compliance with the principle of publicity and

transparency. The organization shall be obliged to make public an annual report of its activities which shall include:

a) annual income;

b) the amount of remunerations collected and distributed for local and foreign rightholders;

c) other important information.

2. A collective management organization of economic rights shall be obliged:

a) to present to "Sakpatenti": the regulations and information concerning making of amendments thereto; the information concerning the persons who are members of management bodies of the organization and changes that took place in the these bodies; agreements on mutual representation concluded with similar organizations of other countries; tariffs fixed for the use of copyright and related rights and information concerning amendments to tariffs; minutes of meetings of the administration and management bodies; annual report; court decisions on the case to which it was a party;

b) to convene a general meeting of the members of the organization within 3 months after the receipt from "Sakpatenti" of a substantiated written request for convening a general meeting of the organization members.

3. Pursuant to Paragraph 2 of this Article, the information presented by a collective management organization to "Sakpatenti" shall be public.

ARTICLE 64: ACTIVITIES OF A COLLECTIVE MANAGEMENT ORGANIZATION OF COLLECTIVE RIGHTS

1. The authority to manage economic rights on a collective basis shall

be conferred on the organization voluntarily, by the owners of copyright and related rights on the basis of a written agreement concerning their membership of that organization, as well as on the basis of an agreement on mutual representation entered into with similar foreign organizations. This agreement shall not be a copyright agreement and shall not be subject to the provisions of Article 40 of this Law.

2. Any author, owner of related rights, their heirs, successors in title, other owners of copyright and related rights may entrust management of their economic rights to a collective management organization, and the organization shall be obliged to undertake the management of those rights on a collective basis, if management of such a category of rights, taking into consideration the specific forms of their use, falls within the scope of activity of this organization. *(03.06.2005 №1585)*

3. In accordance with the rights obtained under this Law, a collective management organization shall grant licenses to users for the use of a work or subject-matter of related rights in a respective form. The conditions of the licenses shall be similar for all the users of a specific category. The organization shall not refuse users the granting of a license without reasonable grounds therefore. *(03.06.2005 №1585)*

4. The user of a subject-matter of copyright or related right shall, upon request of the collective management organization, provide it with all the documents containing precise data on the use of the work or subject-matter of a related right, which is necessary for collecting and distribution of the remuneration. *(03.06.2005 №1585)*

5. The user of a subject-matter of copyright or related rights shall

maintain the respective documents indicating the information concerning the use of the subject-matter of copyright or related rights, except the case when it is not required, under the agreement with the collective management organization, for calculation and distribution of the remuneration. *(03.06.2005 №1585)*

6. In case of public performance of a work or subject-matter of a related right, responsibility for the lawful use of the work or subject-matter of the related right shall be determined by a written agreement concluded between the user and the public performance organizer and the person holding with the right of ownership or use the place or premises (square, scene, hall, etc.) where the performance takes place. In the absence of the written agreement, responsibility for the lawful use of the work or subject-matter of the related right shall be jointly imposed on the user, the public performance organizer and the person holding with the right of ownership or use the place or premises (square, scene, hall, etc.) where the performance takes place. *(03.06.2005 №1585)*

ARTICLE 65: RIGHTS OF A COLLECTIVE MANAGEMENT ORGANIZATION OF ECONOMIC RIGHTS *(03.06.2005 №1585)*

1. A collective management organization shall be authorized:

a) to agree with the user the amount of remuneration and other licensing conditions;

b) to issue a license for the use of the right which is managed by it;

c) to agree with the user the amount of remuneration, when the remuneration is collected without granting a license, in the cases provided for in Paragraph 4 of Article 21 and Paragraph 3 of Article 51 of this Law;

d) to collect the remuneration specified by the license and/or the

remuneration provided for in Subparagraph (c) of Paragraph 1 of this Article;

e) to distribute and pay out the respective remuneration to the owners of copyright and related rights;

f) to conduct acts necessary for protection or enforcement of the rights assigned to it for management purposes, including to represent of the rightholder in the court and to make use of all the rights provided by the procedural legislation of Georgia;

g) to carry out other activities within the scope of authority conferred to it by owners of copyright and related rights.

2. A collective management organization shall be also authorized to represent all owners of copyright and related rights unknown to it or whose identity cannot be established and to include their works and other subject-matters of protection in licenses issued to the users. The provisions of this paragraph shall not apply to cinematographic works or other works being expressed by means analogous to cinematography.

3. In the absence of proof to the contrary, all works or subject-matters of related rights, being publicly performed, transmitted on the air or by cable, or otherwise made available to the public, as well as included in broadcasts, phonograms and videograms shall be assumed as included in the repertoire of a collective management organization of economic rights. In such a case the burden of proof shall be with the user. The provisions of this paragraph shall not apply to cinematographic works or other works being expressed by means analogous to cinematography.

4. With regard to an economic claim that may arise in connection with

the use by the user of the subject-matter of copyright and related rights under an agreement concluded with the collective management organization shall, on behalf of the rightholder, be responsible the organization that has licensed the user with the right.

5. Where 3 years have passed from the use of the subject-matter of copyright or related rights by unidentified authors and they do not reclaim remuneration due to them in accordance with Article 66(2)(a) of this Law, the collective management organization may distribute the collected sum among other authors in proportion to their shares or transfer the sum to the created funds of owners of copyright and related rights.

ARTICLE 66: DUTIES OF A COLLECTIVE MANAGEMENT ORGANIZATION

1. Activities of a collective management organization shall be carried out in line with the interests of the owners of copyright and related rights being represented by this organization. For this purpose the organization shall be obliged:

a) to use the collected remuneration only for distribution and payment to the owners of copyright and related rights. At that, the organization shall be authorized to deduce from the remuneration the sums spent for its collection, distribution and payment and the sums transferred to the special funds created by the decision of those rightholders;

b) to distribute and pay out the remuneration after deduction of the sums mentioned in Subparagraph (a) of this Article in proportion to the actual use of the work or the subject-matter of related rights;

c) to provide the owner of copyright and related rights, at the time of payment of the remuneration, with accounts to contain the information on

the use of their rights.

2. Owners of copyright and related rights who have not transferred to the collective management organization rights related to collection of the remuneration shall have the right: *(03.06.2005 №1585)*

a) to request from the organization to pay the remuneration due to them in accordance with the distribution of the remuneration that has been made;

b) to request the exclusion of their works or subject-matters of related rights from the licenses which such organization issues to the users for the term of 3 years from the date of the use of their work or subject-matter of related rights by the user.

CHAPTER XI
TRANSITIONAL PROVISIONS

ARTICLE 67: APPLICATION OF PROVISIONS OF THIS LAW TO RELATIONS ORIGINATED EARLIER

1. This Law shall apply to the relations associated with the creation of the subject-matters of copyright and related rights that originated after the entry in the force of this Law.

2. With respect of the work, for which the 70-year term of protection has not expired by the entry into force of this Law, the terms of protection of copyright specified in Articles 31 and 32 of this Law shall apply.

3. With respect of the performance, for which the 50-year term of protection has mot expired from its first performance by the entry into force of this Law, the term of protection of the rights of performers specified in Article 57(1) of this Law shall apply.

4. With respect of the phonogram and videogram, for which the 70-year term of protection has not expired from their production, publication or

making available to the public by the entry of this Law into force, the term of protection of related rights specified in Article 57(3) of this Law shall apply, unless they have been made available to the public within this period by means of publication or making available to the public. (*03.06.2005 №1585)*

5. With respect of the broadcasts of a broadcasting organizations, for which the 70-year term of protection has not expired from their first publication or making available to the public by the entry of this Law into force, the term of protection of related rights provided for by Article 57(4) of this Law shall apply, unless within this period they have been made available to the public by means of publication or making available to the public. *(03.06.2005 №1585)*

ARTICLE 67[1]: DELETED (*26.10.2007 №5423)*

CHAPTER XII
FINAL PROVISIONS

ARTICLE 68: INVALIDATED SUBORDINATE LEGISLATION

Upon the entry into force of this Law, all the subordinate normative acts conflicting with this Law shall be deemed to be null and void.

ARTICLE 69: ENTRY INTO FORCE

This Law shall enter into force upon its publication.

President of Georgia *Eduard Shevardnadze*

Tbilisi

June 22, 1999

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