

# **Country Report On the Current Situation in Georgia Regarding Limitations and Exceptions from Copyright for the Visually Impaired and Protection of Audiovisual Work**

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## **1) The current situation in Georgia regarding copyright limitations and exceptions for the visually impaired**

Georgian Law on “Copyright and Related Rights” of 22 July 1999 provides for various limitations and exceptions for copyright. Chapter III of the law stipulates limitations on economic rights in following cases:

- REPRODUCTION OF A WORK BY NATURAL PERSONS FOR PERSONAL USE;
- REPROGRAPHIC COPYING OF A WORK BY LIBRARIES, ARCHIVES AND EDUCATIONAL INSTITUTIONS;
- USE OF A WORK WITHOUT CONSENT OF THE AUTHOR AND WITHOUT PAYING REMUNERATION;
- USE OF A WORK PERMANENTLY DISPLAYED IN PUBLIC PLACES;
- USE OF A WORK PERMANENTLY DISPLAYED IN PUBLIC PLACES;
- REPRODUCTION OF A WORK FOR COURT PROCEEDINGS;
- EPHEMERAL RECORDING OF A WORK BY A BROADCASTING ORGANIZATION;
- LIMITATIONS TO THE RIGHTS OF AN OWNER OF A COMPUTER PROGRAM AND DATABASE;
- FREE USE OF A COMPUTER PROGRAM (DECOMPILATION);
- FREE USE OF DATABASE.

Article 23, paragraph “f” of the Georgian “Law Copyright and Related Rights” stipulates the single copyright limitation about the blind and visually impaired or otherwise print disabled people within the limitation of USE OF A WORK WITHOUT CONSENT OF THE AUTHOR AND WITHOUT PAYING REMUNERATION:

***Without the consent of the author and without paying remuneration thereto, but subject to mandatory indication of the author and the source used, the following shall be permitted:***

***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.***

## **2) The current situation in Georgia regarding protection of audio-visual works and performances:**

Georgian law on "Copyrights and Related Rights" defines "audio-visual work" as 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. To the audiovisual work belong cinematographic and other works that are expressed by means analogous to cinematography (tele-, video films, film strips, etc.); "Producer of an audio-visual work" is defined as a natural or legal person who takes the initiative and has the responsibility for production of such a work; in the absence of proof to the contrary, the natural or legal person whose name is appropriately indicated on the work shall be regarded as the producer of audiovisual work; (Article 4. "b" and "c")

Article 15 of the Georgian law on "Copyrights and Related Rights" specifies, the COPYRIGHT IN AN AUDIO-VISUAL WORK. Authors (or co-authors) of audio-visual works are: a director, script writer, dialogue writer, author of musical work accompanied with or without a text, that is especially created for underlying audiovisual work.

Conclusion of a agreement for the creation of an audio-visual work shall invoke transfer of the exclusive right to use the work from the authors (co-authors) to the producer of the audio-visual 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 audio-visual work producer 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 remuneration directly to the author (co-authors), in which case the submission to the collective management organization of the documents in evidence of the above shall be the obligation of the user.

The producer of an audio-visual work shall be entitled to indicate his name or to claim such indication in case of using the work in any form.

The author of the preexisting work, which has been adapted or included as a component in the audio-visual work, as well as the author of the work created in the process of the audio-visual work's making, shall secure a copyright in their work having the autonomous meaning. They

shall enjoy the right to use the work independently, unless the agreement provides otherwise, on condition that such use shall not interfere with the normal exploitation of the audio-visual work.

There are various national regulations concerning audiovisual works:

- Copyright on an audio-visual work shall expire 70 years after the death of the last of the surviving authors (co-authors).
- The showing of individual picture frames of an audio-visual work non-sequentially shall be assimilated to the public display of the work.
- "Phonogram" is the fixation of the sounds of a performance, other sounds or of a representation of sounds. The term does not imply a fixation of the sounds incorporated in an audio-visual work.
- Individual images of an audio-visual work shall not be assimilated to photographic works in the category of scientific, literary and artistic works.
- Authors or other owners of copyright of musical works expressed in audio-visual works, 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 the said original or copies.

Article 21, paragraph 3 and 4 of Georgian law on "Copyrights and Related Rights" provides exceptions to the limitations of economic rights with regard to REPRODUCTION OF A WORK BY NATURAL PERSONS FOR PERSONAL USE:

- 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 thereto which doesn't apply to reproduction of an audio-visual work or a work fixed in a phonogram or videogram.
- In the case of reproduction of an audio-visual work or a work fixed in a phonogram by a natural person for personal use, the author or other copyright owner thereof shall, be entitled to the receipt of respective remuneration.
- The remuneration for the reproduction for personal use, shall be paid by producers and importers of the equipment (audio- and video recorders and other equipment) and of material carriers (audio and video tapes, cassettes, laser disks, compact disks, and other material carriers).

According to the Article 47 of Georgian law on "Copyrights and Related Rights" rights of performers are:

- a. the right to be named;

- b. the right to protect his 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 performance in any form, including the right to receive remuneration for the use of the performance in any form;

With respect to their performance, performers shall have the following exclusive rights to authorize or prohibit:

- a. the fixation of earlier unfixed performances;
- b. the direct or indirect reproduction of their performances fixed in phonograms;
- c. the 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;
- d. the 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. the distribution of the original and copies of their performances fixed in phonograms through rental or other transfer of ownership.
- f. the distribution of the original and copies of the performance fixed in phonograms through sale or other transfer of ownership;
- g. Transmission of the performance fixed in phonograms, by wire or wireless means, in such a way that a person may access it from a place and at a time individually chosen by her/him.

Conclusion of an agreement on the creation of an audio-visual work between the performer and the audio-visual work producer will result in transfer of their above-mentioned rights, unless the agreement provides otherwise. The transfer of such rights by the performer is confined to the use of the audio-visual 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.