

LAW OF GEORGIA ON COPYRIGHT AND RELATED RIGHTS

CHAPTER I

GENERAL PROVISIONS

ARTICLE 1: PURPOSE OF THE LAW

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) i¹) 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) n¹) 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)

o¹) accessible format - the result of reproducing of a printed scientific, literary, artistic work by an alternative means or form, which gives a beneficiary person to the mentioned work to the equivalent degree as a person without a visual impairment referred to in Subparagraph “y” of this Article. The accessible format does not exclude the use of an auxiliary means by the beneficiary person or an authorized entity and/or other assistance, if necessary;

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) s¹) 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)

y) Beneficiary person - regardless of any other disabilities, a person who has a visual impairment, physical disability, a perceptual or reading disability due to which is unable to read printed works to the equivalent degree as a person without an impairment or disability. A person who can read a printed work with the use of a simple aid designed to improve vision shall not be considered as a beneficiary person. A decision to grant the status of a beneficiary person to a person shall be made in case of submission of a relevant expert conclusion, health certificate and/or disability certificate (taking into account the basis for issuing the certificate /granting the disability status);

z) Authorized entity – a public legal entity recognized as an authorized entity by Sakpatenti – the National Parliamentary Library of Georgia named after Ilia Chavchavadze, a mass (public) library integrated into the municipal library network, or an educational institution, a non-entrepreneurial (non-commercial) legal entity, one of whose principal activities is the provision of educational services to beneficiaries on a non-commercial basis.

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 the 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 1 of 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 9¹: 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. This right shall be exercised only through a collective management organization of economic rights.”.

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. Repealed. *(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 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 this organization and the user only. If the collective management organization of economic rights and the user fail to agree, the amount of the remuneration, the rule of its calculation and payment, on the basis of the request of one of the parties or the parties,

shall be determined by the Commission created by the order of the Chairman of “Sakpatenti”, the composition and rule of activity of which shall be determined according to the rule established by Articles 65(5), (6) and (8-10) of this Law. All users shall be obliged to pay royalties to the collective management organization of economic rights in accordance with the tariff set by the above-mentioned Commission. The decision of the Commission may be appealed against in court within 2 months from making it. Appealing against a decision of the Commission on setting of a relevant tariff in court shall not suspend the action of this decision.

7¹. In case of appealing against the tariff set by the Commission specified in Paragraph 7 of this article, before entry into legal force of the court decision, all users shall be obliged to pay royalties to the collective management organization of economic rights in accordance with the tariff set by the Commission, and after the entry into legal force of the court decision - in accordance with the tariff determined by this decision.

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.
2. Paragraph 1 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;
 - 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 and works of fine arts;
 - e) reproduction of an audiovisual work, a work fixed in a phonogram or videogram.
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, is entitled to the receipt of relevant remuneration (royalty).
4. The remuneration provided for by Paragraph 3 of this Article shall be paid by producers and importers of equipment and material carriers to be used during reproduction for personal use. This remuneration shall be collected and distributed only by the collective management organization of economic rights which has been granted accreditation for collective management of the rights specified in the same Article.

5. The types of equipment and material carriers to be used during reproduction for personal use referred to in Paragraph 3 of this Article, the amount of the relevant royalty and the rule of payment shall be determined by an agreement between producers and/or importers, on the one hand, and the collective management organization of economic rights authorized according to the rule established by this Law, on the other one. If the parties fail to agree, the amount of the relevant royalty, the rule of its calculation and payment, on the basis of a request of one of the parties or the parties, shall be determined by the Commission established by the order of the Chairman of “Sakpatenti” according to the rule established by Article 18(7) of this Law, and the relevant royalty shall be paid according to the rule established by Paragraphs 7 and 7¹ of the same Article.
6. The remuneration referred to in Paragraph 3 of this Article shall be distributed among the members/authors of the collective management organization of economic rights in proportion to the remuneration paid to them by this organization during the year. When calculating the proportion, the fee payable on the basis of Paragraph 3 of the same Article shall not be taken into account.
7. If “Sakpatenti” has granted accreditation to more than one collective management organization of economic rights for a different right, category of rights or groups of right categories, the collective management organization of economic rights, which has been granted accreditation for the collective management of the rights provided for in this Article, shall be obliged to distribute the remuneration defined in Paragraph 3 to the collective management organization of relevant

economic rights, taking into account the rule established by Paragraph 6 of the same Article.

8. The collective management organization of economic rights, collecting remuneration defined in Paragraph 3 of this Article, is entitled to request from producers, importers and relevant state organizations and institutions, observing confidentiality, the information on production and import of equipment and material carriers provided for in Paragraph 4 of this Article, which It is necessary to determine the amount of the remuneration to be paid. This information shall contain:
 - a) information only about the producer, the type, quantity and cost price of the produced equipment and material carriers - in case of production of equipment and material carriers;
 - b) information only about the producer, the type, quantity and customs value of equipment and material carriers - in case of imported equipment and material carriers
9. The producers and importers of relevant equipment and material carriers, as well as relevant state organizations and institutions shall be obliged to provide to the collective management organization of economic rights, collecting remuneration defined in this Article, observing confidentiality, the information stipulated in Paragraph 8 of this Article.
10. The Government of Georgia shall establish the rule for storing and processing the information provided for in Paragraph 9 of this Article and shall determine the relevant state organizations and institutions referred to in the same Paragraph.
11. In case of violation by the collective management organization of economic rights defined by Paragraph 3 of this Article of the rule defined

in Paragraph 10 of the same Article, this organization shall be responsible to the relevant subjects for the damage incurred.

12. 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.

13. The remuneration shall not be paid either in case of importation of equipment and material carriers provided for in Paragraph 4 of this Article by a natural person for personal purposes.

14. The right of reproduction of the copyrighted works provided for by this Law shall not apply to a temporary copy.

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.

g)

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

1. The rule specified in this Article shall apply to a printed work available to the public through legitimate publication or making available to the public, which is lawfully accessible to the beneficiary person and the authorized entity. For the purposes of this Article, a printed work shall be is a work protected by copyright and related rights, a symbol and related illustrations available in the form of a text (in digital form and on paper) or in audio format.

2. The rule specified in this Article shall not apply to the accessible format of a printed work, which is commercially included in the local civil circulation. This restriction shall not apply to any other accessible format of the mentioned printed work. In case of dispute, the author or other holder of copyright shall be obliged to prove the fact of commercial inclusion of the accessible format of the printed work in the local civil circulation. The authorized use of the printed work provided for in this Article shall be carried

out observing the legal interests and rights of the subject having the commercial interest.

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

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

5. An authorized entity is entitled to receive compensation from other local authorized entity in exchange for rendering services to cover the costs necessary for the implementation of the activities specified in this Article, if this does not contradict the legislation of Georgia. The income received by the authorized entity in accordance with this Paragraph shall be used for carrying out of the activities specified in this Article.

6. A holder of copyright or related right has the right to demand compensation for damages, if he/she has incurred damages by violating the rules established by this Article. Minor damage shall not be taken into account.

7. An authorized entity shall take appropriate measures to ensure:

a) access of the printed work kept in its system, reproduced in an accessible format, only to a beneficiary person and an authorized entity;

b) prevention of unlawful reproduction of a printed work, unlawful access (transfer, exchange, distribution) and obtaining (reception) of a printed work reproduced in an accessible format;

c) public availability of the number of beneficiary persons, the contact information of partner authorized entities (authorized entities who exchange printed works reproduced in an accessible format), as well as the information on a work kept in its system, reproduced in an accessible format.

8. An authorized entity shall provide the information referred to Paragraph 7(c) of this Article, with the protection of the personal data of the beneficiary persons, to “Sakpatenti”, which shall collect the information provided to it and publish it on its official website. In case of updating the information, the authorized entity shall provide the updated information to “Sakpatenti” within 5 working days from the occurrence of the new circumstance. The authorized entity shall be responsible for the authenticity of

the information provided to Sakpatenti. The rule for providing information to “Sakpatenti” by an authorized entity shall be determined by an order of the Chairman of “Sakpatenti”.

9. “Sakpatenti” shall be obliged to ensure public availability of the list of local authorized entities and their contact information, as well as the list of authorized entities recognized in the contracting parties of the international treaties of Georgia and their contact information, in an accessible and consolidated form, on its official website.

10. An authorized entity shall be obliged, upon the request of a beneficiary person, other authorized entity or the holder of copyright or related rights, to provide information:

a) about printed works kept in its system, reproduced in an accessible format;

b) about the titles and contact information of partner authorized entities.

11. Reproduction of a printed work in an accessible format shall be carried out observing the right of integrity of this work. In addition, it is permitted to make such changes that are necessary to create a printed work reproduced in an accessible format.

12. Contractual reservations contrary to the rules specified in Paragraphs 3 and 4 of this Article are invalid.

13. During enforcement of the provisions of this Article, the personal data of the beneficiary persons shall be processed in accordance with the Law of Georgia “On Protection of Personal Data”. An authorized entity is authorized for the purposes of this Article and Article 23² of this Law to process the personal data of a person interested in obtaining the status of a

beneficiary person, including the relevant expert conclusion, health certificate and disability certificate (including the basis for issuing the certificate /granting the disability status);

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

1. A person interested in obtaining the status of a beneficiary person shall apply to an authorized entity and submit a request for granting the status of a beneficiary person. The authorized entity shall make a decision on granting to the person the status of a beneficiary person within 2 weeks after submitting the above-mentioned request.

2. A person interested in obtaining the status of a beneficiary person (his/her legal representative, caretaker) shall submit to the authorized entity the following documents:

a) the request of the interested person for granting the status of a beneficiary person;

b) the document confirming the identity of the interested person, and in case of submission of the request for granting the status of a beneficiary person by his/her legal representative or caretaker - also the document confirming the legal representation or a notarized power of attorney;

c) the relevant expert conclusion, health certificate and/or disability certificate and the attached documents, confirming the existence of the circumstances specified in Article 4(y) of this Law.

3. The authorized entity shall be obliged to grant the status of a beneficiary person to the person interested in obtaining the status of a

beneficiary person, if the existence of the circumstances specified in Article 4(y) of this Law is confirmed.

4. The status of a beneficiary person shall be valid until submission of a request by the beneficiary person for termination of this status, until his/her death or elimination of the circumstance, which, according to Article 4(y) of this Law is the basis for granting a person the status of a beneficiary person. The beneficiary person shall notify the authorized entity about elimination of the basis for granting status of a beneficiary person, and the beneficiary person's successor - about the death of the beneficiary person within a reasonable period.

5. A decision on granting the status of an authorized entity to an institution and a decision on canceling this status shall be made by "Sakpatenti". The rule for granting the status of an authorized entity to an institution and canceling this status shall be determined by an order of the Chairman of "Sakpatenti". This order shall meet the requirements defined by this Article.

6. An institution interested in obtaining the status of an authorized entity shall apply to "Sakpatenti" and submit a request for granting the status of an authorized entity, the proof of integration into the library network of municipalities (in case of a mass (public) library integrated into the library network of municipalities), the charter of a non-entrepreneurial (non-commercial) legal entity (in case of a non-entrepreneurial (non-commercial) legal entity) and/or information confirming the compliance of the activities of the institution interested in obtaining the status of an authorized entity with the requirements of Article 4(z) of this Law. "Sakpatenti" is entitled, if necessary, to request from the institution interested in obtaining the status of

an authorized entity submission of additional documentation/information in order to consider fully the request for granting the status of an authorized entity.

7. The grounds for canceling the status of an authorized entity shall be:

- a) the request of an authorized entity to cancel this status;
- b) cancellation of the registration of the organization;
- c) change of the type of activity of the institution;
- d) failure to fulfill the requirements defined by this Law by the authorized entity.

8. Failure to fulfill the requirements defined by this Law by the authorized entity shall not automatically lead to the cancellation of the status of the authorized entity. Cancellation of the status of an authorized entity on this basis is permissible if the authorized entity has committed a serious violation and the cancellation of the mentioned status is the only means of protecting the legal interests of the owners of copyright or related rights or beneficiary persons.

9. The decision of “Sakpatenti” to refuse granting the status of an authorized entity to an institution or to cancel this status shall be an individual administrative-legal act. It may be appealed according to the rule established by the Administrative Procedure Code of Georgia.

10. An authorized entity after canceling the status of an authorized entity shall be obliged to hand over the printed works kept in its system, reproduced in an accessible format, to other authorized entity selected by it.”

**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 RIGHTS 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 Paragraph 1 of 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.

5¹. Copyright in a musical work with lyrics, created under co-authorship, shall run for the life of each co-author and 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 efforts 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 from such fees shall be directed only to collective management organizations of economic rights. The amount of fees shall not exceed 3 percent of the income gained from the use of the work.

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
COMMISSIONED 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 determined by an agreement between the users of the phonogram, on the one hand, and only the organization which collectively manages the rights of phonogram producers and performers, on the other one. If the parties fail to agree, the amount of remuneration, the rule of its calculation and payment, on the basis of a request of one of the parties or the parties, shall be determined

by the Commission established by the order of the Chairman of “Sakpatenti” according to the rule established by Article 18(7) of this Law, and the relevant remuneration shall be paid according to the rule established by Paragraphs 7 and 7¹ of the same Article.

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 54¹: 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 communicated 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 communicated 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 communicated to the public, this term shall run for 70 years from the date of the first of such events. (23.12.2017. N1917)

3¹. If 50 years after the date the phonogram is lawfully published or communicated 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 program 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 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.

g) failure to fulfill the obligations specified in Article 60¹ of this Law by the intermediary service (hosting) provider (hereinafter – the intermediary service provider) referred to in Article 2(g.c) of the Law of Georgia “On Electronic Commerce.

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

1. A holder of copyright, related rights and rights of maker of databases is entitled to request from the infringer:

- a) recognition of the right;
- b) reinstatement of the status prior to the infringement and ~~to~~ termination of the actions 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 conveyed to the rightholder at his/her request;

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

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

f) instead of compensation for damages and confiscation of profit, payment of a lump sum. 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 1 of 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 lawfully purchased, 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, profit gained through infringement of exclusive rights, the pecuniary and non-pecuniary loss caused to the holder of exclusive rights, as well as the expected profit 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, the severity of the infringement, the quantity of the counterfeit copies, 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.

8. Before initiating a dispute, the right holder shall apply to the infringer with a request of payment of a lump sum monetary compensation, and the infringer has the right, within 2 weeks after the request of payment of a lump sum monetary compensation by the right holder to pay him/her a lump sum monetary compensation in the amount more than 10 percent of the monetary remuneration to be received by the right holder in case of lawful use of the infringed right. If the infringer fails to pay the right holder a lump sum monetary compensation in the mentioned amount within 2 weeks after the request, the right holder is entitled to initiate a dispute in accordance with the rule established by the legislation of Georgia and demand payment of a lump sum monetary compensation, which shall not be less than tenfold amount of the monetary remuneration to be received by the right holder in case of lawful use of the infringed right.

9. A holder of copyright, holder of related right and maker of a database is entitled to request from the intermediary service provider, by a written notification, immediate deletion of the counterfeit copies or restriction of access to the counterfeit copies that infringe his/her copyright and/or related right or the right to the database.

10. The written notification of each right holder referred to in Paragraph 9 of this Article shall include:

- a) description of the subject-matter of infringement, as well as an indication of the fact which is the grounded basis for the fact that the copyright, related right or the right of the right holder of a database has been infringed;
- b) the data on the basis of which it will be possible to identify the counterfeit copies;
- c) the name (title) of the right holder, identification or personal number, actual and legal addresses, telephone number and e-mail address.

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)

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

**Article 60¹. Obligations of an Intermediary Service Provider and
Grounds for his/her Exemption from Liability**

1. Liability shall not be imposed on an intermediary service provider for infringement of copyright, related rights or the right of a maker of a database, if

upon receipt from the right holder of the written notification, drawn up in accordance with the rule established by Article 59(10) of this Law, or no later than 24 hours after its receipt, deletes the allegedly infringing copies or restricts access to them, which shall be immediately notified to the alleged infringer of this right.

2. The intermediary service provider within 24 hours after receipt of the written notification provided for in Paragraph 1 of this Article shall notify the right holder in writing of the implemented measures and the taken decision.

3. If the alleged infringer of the right considers that the action provided for in Paragraph 1 of this Article was taken against him/her unlawfully, he/she is entitled to request from the intermediary service provider to restore the access to the disputed material which existed before implementation of the mentioned action.

4. In the case provided for in Paragraph 3 of this Article, the request of the alleged infringer of the right shall include:

a) reference to the material which has been deleted or to which the access has been restricted;

b) the address of the website on which the material which has been deleted or to which the access has been restricted was published;

c) argumentation on the basis of which the alleged infringer of the right considers that the material that has been deleted or the access to which has been restricted, does not infringe the right of the right holder indicated in the written notification;

d) the name (title) of the alleged infringer of the right, identification or personal number, actual and legal addresses, telephone number and e-mail address.

5. The intermediary service provider shall send the request referred to in Paragraph 3 of this Article to the right holder within 24 hours of the receipt. The right holder within 14 days from the delivery of the mentioned request shall submit a court decision on securing the claim for deletion of the disputed material or restriction of access to it, satisfied by the court.

6. If the right holder fails to submit the court decision provided for in Paragraph 5 of this Article, the intermediary service provider shall restore the deleted material or its restricted access. In this case liability shall not be imposed on the intermediary service provider for infringement of copyright, related right or the right of a maker of a database.

7. The persons referred to in this Article shall be liable for the damage caused by their unlawful actions. The amount of the damage shall be determined in accordance with the rule established by Article 59 (6) and (7) of this Law.

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)*

c¹) to determine the rule of deposit of a work and a database;

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 A COLLECTIVE MANAGEMENT ORGANIZATION OF ECONOMIC RIGHTS

1. Authors of scientific, literary and artistic works, performers, producers of phonograms and videograms as well as other owners of copyright and related rights (hereinafter – right holder) can establish a collective management organization of economic rights for collective management of their economic rights.

2. A collective management organization of economic rights is a non-entrepreneurial (non-commercial) legal entity defined by the Civil Code of Georgia, which shall be accredited by “Sakpatenti” for collective management of economic rights of authors, other owners of copyright and subjects of related rights in accordance with the rule established by this Law.

3. Management of economic rights for one right or category of rights shall be carried out by only one collective management organization of economic rights.

4. A collective management organization of economic rights shall carry out its activity in accordance with this Law and other legislative and subordinate normative acts of Georgia, on the basis of its own charter and within the scope of the authority granted to it by the right holder (except the cases provided for by this Law).

5. A right holder, who, on the basis of an agreement, transfers his/her economic rights for collective management to a collective management organization of economic rights, transfers to the same organization the rights to all the works that he/she has already created and/or will create during the term of this agreement, unless stipulated otherwise by the agreement.

6. It shall not be allowed to use the words: “collective management organization of economic rights” or any other word combination using these words in the brand name of a legal entity, except a collective management organization of economic rights accredited in accordance with this Law.

7. The rule of keeping the Register of collective management organizations of economic rights shall be approved by the order of the Chairman of “Sakpatenti”.

**ARTICLE 63¹: 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: ACCREDITATION

1. In order to be granted accreditation for collective management of economic rights, an organization shall file an application for granting accreditation with “Sakpatenti”, confirming that:

a) the organization represents the right holders, and at the same time any right holder can join it in accordance with the charter of the organization. To confirm this, the organization shall submit written agreements concluded with right holders along with the list of right holders, which shall include the repertoire of subject-matters protected by copyright and related rights in electronic or material form;

b) the organization can manage collectively economic rights, including, it has appropriate staff, owns the material and technical base necessary for collection of royalties and has effective mechanisms for collection, distribution and payment of royalties (including appropriate software);

c) the charter of the organization, internal regulations and rules and principles of distribution of tariffs provides the guarantee of equal and non-discriminatory treatment for both right holders and users;

d) the organization has paid the fee for consideration of the application for accreditation;

e) the organization is not registered in the Debtor Registry and it is not under seizure;

f) the charter and other regulations of the organization are in compliance with this Law and other legislative and subordinate normative acts of Georgia.

2. The application for accreditation submitted in accordance with Paragraph 1 of this Article shall be accompanied by agreements of mutual representation concluded with the majority of similar organizations of foreign countries the repertoire of which essentially covers the considerable part of works used in Georgia and/or other subject-matters protected by this Law, as well as agreements of mutual representation concluded with the majority of similar organizations of foreign countries the repertoire of which essentially covers the considerable part of Georgian works used in foreign countries and/or other subject-matters protected by this Law. These agreements of mutual representation shall include the repertoire of works protected by copyright and related rights in electronic or material form.

3. In the case when at the time of filing the application provided for in Paragraph 1 of this Article it is not possible to submit the agreements of mutual representation provided for by in Paragraph 2 of the same Article, upon a substantiated request of the applicant, the Commission for Accreditation of a Collective Management Organization of Economic Rights (hereinafter – the Commission for Accreditation) established by the order of the Chairman of “Sakpatenti” on the basis of Article 65 of this Law is authorized to make a decision on the extension of the term for submission of the mentioned agreements of mutual representation agreements.

4. In the case provided for in Paragraph 3 of this Article, the Commission for Accreditation shall grant accreditation and the collective management organization of economic rights shall be given a 1-year term to submit fully the agreements of mutual representation determined in Paragraph 2 of the same Article, which can be extended for the same period by a substantiated decision of the Commission for Accreditation. In case of

failure to meet the above-mentioned requirement, the decision on granting accreditation shall be declared invalid and “Sakpatenti” shall make a decision to announce a new competition.

5. In case of filing an application with “Sakpatenti” for granting accreditation for one and the same right, category of rights or groups of right categories by more than one organization, the decision shall be made in favour of the applicant who complies with the accreditation requirements most of all. In case of participation in the competition of such an organization which worked in the relevant field in the past, in the process of assessing the organization the Commission shall take into consideration its past activities and experience.

6. The rule of procedure of establishment and activity of the Commission for Accreditation, the rule for conducting of an accreditation competition, the setting of the fee for reviewing an accreditation application, as well as the rule of the activity of the Commission provided for by Article 18(7) of this Law shall be determined by the Resolution of the Government of Georgia.

7. In the accreditation application provided for in the Paragraph 1 of this Article the applicant shall indicate the list of the right, category of rights or groups of right categories collective management of which he/she wishes. If after reviewing the documents, the Commission for Accreditation concludes that the applicant meets the accreditation requirements with respect of the right, category of rights or part of groups of right categories indicated in the accreditation application, the Commission for Accreditation may, with the consent of the applicant, make a decision to grant accreditation

to the organization for the relevant right, category of rights or groups of right categories.

8. The authority to collect and distribute remuneration (royalty) provided for in Article 21(3) and Article 51(3) of this Law may be requested at “Sakpatenti” only upon submitting an application for granting accreditation for a right, category of rights or groups of right categories. If more than one applicant requested the authority to collect and distribute the royalty provided for in this Paragraph, the decision shall be made in favour of the applicant who meets the accreditation requirements most of all, his/her past activities and experience shall also be taken into account.

9. The decision on granting accreditation shall be published in the Official Bulletin of “Sakpatenti”.

10. An applicant shall be refused accreditation if he/she fails to meet the requirements defined by this Law. The decision on accreditation can be appealed against in court, according to the rule established by the legislation of Georgia, within 1 month after the official notification. Appealing against the decision on accreditation shall not suspend its effect.

11. The organization with respect of which the decision on granting accreditation is issued, shall be obliged within 14 days from the official notification of this decision in accordance with the rule established by the legislation of Georgia to apply to the legal entity of public law National Agency of Public Registry of the Ministry of Justice of Georgia (hereinafter – the National Agency of Public Registry) and ensure compliance of its own brand name with the requirement established by Article 63(6) of this Law.

12. In case if the organization fails to fulfil the obligation provided for in Paragraph 11 of this Article, “Sakpatenti” is entitled to apply on its own initiative to the National Agency of Public Registry with a request to change the brand name of the organization.

13. “Sakpatenti” is authorized to request from the collective management organization of economic rights a report on fulfillment of the obligations determined by this Law at any time.

14. In case of termination of accreditation of the collective management organization of economic rights, “Sakpatenti” shall announce a competition for granting new accreditation for the same right, category of rights or groups of right categories no later than 1 month after the termination of accreditation.

ARTICLE 65: COMMISSION FOR ACCREDITATION

1. In case of filing an application with “Sakpatenti” for granting accreditation with respect to a relevant right, category of rights or groups of right categories, “Sakpatenti” shall conduct a competition. The winner of the competition shall satisfy at least the compulsory criteria established by the legislation of Georgia for a collective management organization of economic rights.

2. Accreditation to a collective management organization of economic rights shall be granted by the Commission for Accreditation in accordance with the rule established by this Law with respect to a relevant right, category of rights or groups of right categories.

3. With respect to the right, category of rights or groups of right categories for collective management of which accreditation is not granted,

on the basis of the written application of the authors and/or other owners of rights, “Sakpatenti” shall be obliged to announce an accreditation competition within 2 months after the filing of this application.

4. The Commission for Accreditation shall be established by the order of the Chairman of “Sakpatenti” no later than 15 days after the filing of the first application from the announcement of an accreditation competition.

5. The composition of the Commission for Accreditation shall include the Chairman of “Sakpatenti” (the Chairman of the Commission for Accreditation), 2 members of the Parliament of Georgia selected according to the rule established by the Regulations of the Parliament of Georgia, a representative of the Ministry of Economy and Sustainable Development of Georgia, a representative of the Ministry of Education, Science and Youth of Georgia, a representative of the Ministry of Culture of Georgia and the Head of the Government Administration of Georgia.

6. The Commission for Accreditation shall be authorized, on its own initiative or on the basis of substantiated petitions of the parties, to invite at any stage of reviewing an independent expert to decide the case, with or without the right to vote.

7. Within 1 month after receiving an application, the Commission for Accreditation shall check the compliance of the candidate with the accreditation requirements set by Article 64 of this Law. The Commission for Accreditation shall be authorized, based on a substantiated decision, to request additionally submission of a document or information which is necessary to assess how much the candidate complies with the accreditation requirements set by this Law.

8. After the expiration of the term determined in Paragraph 7 of this Article, the Commission for Accreditation shall make a decision on granting accreditation or refusal to grant accreditation by a majority of votes.

9. The Commission for Accreditation shall have a Secretariat, the composition of which shall be determined by the Chairman of “Sakpatenti” from the staff of “Sakpatenti”.

10. Organizational and technical support of the activity of the Commission for Accreditation shall be implemented by the Secretariat of the Commission for Accreditation.

**ARTICLE 66. FUNCTIONS, RIGHTS AND OBLIGATIONS
OF A COLLECTIVE MANAGEMENT ORGANIZATION OF
ECONOMIC RIGHTS**

1. A collective management organization of economic rights on behalf of the owners of rights and on the basis of the authority conferred to it by them or on the basis of this Law:

a) shall conduct negotiations with the users about the amount of the royalty and the terms of use of the work and/or other subject-matter protected by this Law;

b) shall issue licenses to users for the use of the work and/or other subject-matter protected by this Law within the scope of its mandate of rights management;

c) shall collect royalties on the basis of the licenses issued in accordance with Subparagraph (b) of this Paragraph or the use of rights managed by it;

d) shall distribute and pay in due time the collected royalty to the right holders, taking into account the principle of equality, as well as in proportion

to the actual use of the relevant work and/or other subject-matter protected by this Law;

e) shall represent the interests of the right holders whose rights it manages in courts and administrative bodies, as well as perform all the legal actions necessary for protection and enforcement of the rights of the right holders;

f) in accordance with the authority conferred to it by the right holders, shall carry out any other activity permitted by the charter of the collective management organization of economic rights and the legislation of Georgia;

g) shall represent non-member right holders of the collective management organization of economic rights and collect the royalty due to them (including in case of reproduction, public performance and/or public transmission of a musical work with or without text) in accordance with the rule established by this Law.

2. The collective management organization of economic rights is entitled to request from the users, and the users shall be obliged to submit to it the program, information, document or source which provides accurate information about the use of the work and/or other subject-matter protected by this Law and is necessary for calculation, collection and distribution of royalty. This organization, in its turn, shall be obliged to observe the confidentiality of the information submitted to it.

3. The collective management organization of economic rights is entitled to offer the user free of charge the relevant software necessary for calculation, collection and distribution of royalty. In this case, the user shall use this software, and the collective management organization of economic

rights shall create free of charge the necessary conditions for proper functioning of the software.

4. The collective management organization of economic rights shall carry out its activity in accordance with the interests of right holders it represents.

5. All works and/or other subject-matters protected by this law, being publicly performed, broadcast, transmitted by cable or otherwise made available to the public, as well as included in a broadcast, phonogram and videogram, are included in the repertoire of the relevant collective management organization of the economic rights. In this case, the burden of proof shall rest with the user. The provisions of this Paragraph shall not apply to cinematographic works and other works expressed by the means analogous to cinematography.

6. To ensure legal protection of the works presented by the collective management organization of economic rights and other subject-matters protected by this Law, as well as of the right holders, which is related to the use without permission or non-payment of royalty, it shall be sufficient to identify a small part of the work and it shall not be necessary to use the detailed list.

7. If the work and/or other subject-matter protected by this Law is performed publicly, the responsibility for the lawful use of the work and/or other subject-matter protected by this Law shall be determined by a written agreement concluded between the user, the organizer of the public performance and the person holding the right of ownership of or the right to use the place or premises (a square, a stage, a hall, etc.) where the public performance takes place. In case of absence of such a written agreement, the

responsibility shall be imposed jointly on the persons specified in this Paragraph.

8. A collective management organization of economic rights, within the scope of authority conferred to it by the right holders (except the cases specified in Chapter III of this Law), has the right to grant a non-exclusive license for reproduction, distribution, public performance and communication to the public, as well as making available to the public of a work belonging to its repertoire, intended for non-commercial use, and/or other subject-matter protected by this Law for non-commercial use to institutions managing cultural heritage (libraries, educational institutions, museums, archives and/or publicly accessible institutions in the field of cinematographic and audio heritage, as well as similar institutions of public interest), if:

a) the collective management organization of economic rights, on the basis of the authority conferred to it, properly represents the right holders with respect to the relevant work and/or other subject-matter protected by this Law and other subject-matters provided for by the license;

b) there will be an equal treatment of rights holders, which is related to the terms of the license.

9. All right holders have the right at any time to exclude their own work and/or other subject-matter protected by this Law from the licensing mechanism provided for in Paragraph 8 of this Article and/or from the application for exceptions and restrictions, which is related to the work existing in the repertoire of a collective management organization of economic rights, intended for non-commercial use, and/or non-commercial use of other subject-matter protected by this Law by cultural heritage

institutions. This right shall apply to full exclusion from the licensing mechanism and/or application of exceptions and restrictions, as well as to each individual case, including after signing the license or starting the use of the work and/or other subject-matter protected by this Law.

10. A collective management organization of economic rights shall take care of promoting the development of the field of copyright and related rights and raising public awareness on issues belonging to its field of activity.

11. A collective management organization of economic rights shall be obliged to ensure the submission to “Sakpatenti” of agreements of mutual representation determined by Article 64(2) of this Law.

ARTICLE 66¹. TARGETED DEDUCTIONS

1. The maximum amount of the rights management fee shall not exceed 20 percent of the royalty collected by the collective management organization of economic rights. A collective management organization of economic rights shall distribute any amount beyond the justified and confirmed expenses incurred for management of the rights, except the amount determined by Paragraph 2 of this Article, to the right holders even if the expenses incurred for management of the rights are less than 20 percent of the collected royalty.

2. Part of the royalty collected by a collective management organization of economic rights can also be used for the activity of the funds of this organization, the purpose of which is to provide support for creative and social needs of the owners of copyright and related rights, in whose

interests this organization operates. Targeted deductions specified in this Article shall apply according to the rule established by the charter of the collective management organization of economic rights.

3. A collective management organization of economic rights shall provide to a right holder the information about the rights management fee and other targeted deductions from the royalty collected before obtaining the rights management permission from him/her.

4. The rights management fee and other targeted deductions shall correspond to the services rendered by a collective management organization of economic rights to right holders, including, when possible, the services specified in Paragraph 5 of this Article, based on objective criteria.

5. Targeted deduction for social, cultural or educational activity by the collective management organization of economic rights shall be used according to the rule provided for by the charter of the relevant organization.

ARTICLE 66². RULES OF COLLECTION AND DISTRIBUTION OF ROYALTY

1. The collective management organization of economic rights shall regularly, diligently and with maximum accuracy distribute the total income received from its activity to the right holders whose rights it manages.

2. The collective management organization of economic rights shall have separate accounts:

- a) for the royalty related to management of right;
- b) for income arising from management of own property or other activity permitted by the law;

c) for royalty that could not have been distributed to rights holders due to impossibility of their identification and/or tracing.

3. The basic principles and rules of distribution of royalty shall be determined by the charter of a collective management organization of economic rights so that to ensure a proportional, non-discriminatory, appropriate and fair distribution of the royalty, as well as to prevent the possibility of exercising this right contrary to the established rule.

4. A collective management organization of economic rights shall pay the collected royalty to the right holders no later than 9 months after the end of the financial year in which the royalties were collected, except cases when there is an objective reason specifically related to the reporting of users, identification of rights, right holders, the collective management organization of economic rights shall clarify with the right holders the information about the work and/or other subject-matter protected by this Law, or there is another objective circumstance, due to which it is not possible to meet the established time limit.

5. If due to the impossibility of identification of right holders or the impossibility of their tracing, it is not possible to pay the royalty to the right holders within the time limit established by Paragraph 4 of this Article, no exception from this time limit shall apply and the collected funds shall be kept on a separate account of the collective management organization of economic rights.

6. A collective management organization of economic rights shall take all necessary measures to identify and trace the right holders. In particular, no later than 3 months after the expiration of the time limit established by Paragraph 4 of this Article, this organization shall make

available through its website information about the work and/or other subject-matter protected by this Law, one or more right holders of which are not identified.

7. If possible, the information specified in Paragraph 6 of this Article shall contain the following information:

a) the name (title) of the work and/or other subject-matter protected by this Law;

b) the name or title of the right holder;

c) the name of the relevant publisher or manufacturer;

d) the category of users, in particular, in which category this work and/or other subject-matter protected by the Law was used;

e) any other information that may facilitate identification or tracing of the right holder.

8. Along with implementation of the actions determined by Paragraph 6 of this Article, a collective management organization of economic rights shall also check other available records provided for by Article 66(2) of this Law.

9. The royalty which was not distributed within 3 years after the end of the financial year in which they were collected shall be assigned the status of undistributed royalty.

10. A collective management organization of economic rights shall fully distribute the income received from the rights management to the right holders, except the exceptional cases established by this Law.

11. The Head of a collective management organization of economic rights shall be obliged to inform the members about the undistributed royalty, including its amount and origin, at the general meeting

of the members of the collective management organization of economic rights. The general meeting of the members of the collective management organization of economic rights, in accordance with Article 66¹³(4)(b) of this Law, shall make a decision on the use of undistributed royalty, without prejudice to the right of the right holders to claim compensation for these amounts. The collective management organization of economic rights is authorized to make a decision on the use of undistributed royalty in each specific case, based on the needs of this organization, along with this, by the decision of the general meeting of members of the same organization it is possible to establish a general rule for disposing of undistributed royalty.

12. A collective management organization of economic rights is authorized, on the basis of the decision made by the majority of the members present at the general meeting of the members of this organization, to transfer the sums from undistributed royalty to the funds created by the same organization for a specific purpose. Information about the sums transferred to these funds shall be transparent and shall be published annually on the website of the collective management organization of economic rights.

13. A collective management organization of economic rights shall distribute and pay the royalty after deducting the sums determined by Paragraph 10 of this Article, in proportion to the actual use of the work and/or other subject-matter protected by this Law.

14. A collective management organization of economic rights shall, along with payment of fees, shall submit to the right holders the reports which shall contain information on the use of their rights.

15. A collective management organization of economic rights is authorized to dispose of the royalty which was not distributed/claimed within 3 years. This term shall be counted from the end of the financial year in which the royalty was collected. The mentioned royalty may be added to the amount of the royalty to be distributed to the right holders or may be used for the benefit of the right holders, including being transferred to the funds defined by Paragraph 12 of this Article. The decision on the selection of an appropriate form of disposal of royalty shall be made by the general meeting of the members of the collective management organization of economic rights by the majority of the members present.

ARTICLE 66³. PAYMENTS BASED ON AGREEMENTS OF MUTUAL REPRESENTATION

A collective management organization of economic rights shall distribute and pay royalty to similar foreign organizations no later than 9 months after the end of the financial year in which the royalty was collected, except cases when there is an objective reason related to the reporting of users, identification of rights, right holders, the collective management organization of economic rights shall clarify with the right holders the information about the work and/or other subject-matter protected by this Law, or there is another objective circumstance, due to which it is not possible to meet the established time limit.

ARTICLE 66⁴. GUARANTEES OF A RIGHT HOLDER WITH RESPECT TO A COLELECTIVE MANAGEMENT ORGANIZATION OF ECONOMIC RIGHTS

1. A right holder is entitled to transfer to a collective management organization of economic rights his/her right, a specific category of rights. The mentioned organization, in its turn, shall manage the right, a specific category of rights transferred to it or a type of work and/or other subject-matter protected by this Law, if it/they are consistent with the scope of its activity, unless except the case when this organization based on an objectively substantiated reason refuses to manage the right. The grounds for refusal to manage the right by a collective management organization of economic rights in accordance with this Article shall be determined by the charter of the same organization.

2. A collective management organization of economic rights is authorized to issue a license for non-commercial use of any right, specific category of rights, type of a desired work and/or other subject-matter protected by this Law, in case of prior consent of the owner of the relevant right.

3. A right holder is entitled to terminate the agreement concluded in connection with the transfer of rights for management in accordance with the Paragraph 1 of this Article fully or within the limits desired by him/her, in addition, a right holder (including the right holder who is not a member of the collective management organization of economic rights) is entitled to withdraw from the collective management organization of economic rights any right, a specific category of rights or groups of right categories, related to the type of a desired work and/or other subject-matter protected by this Law (except the rights provided for by Article 15(2), Article 18(7) (in case of retransmission of the work by cable), Article 20(3), Article 21(3), Article 34(2), Article 51(3) and Article 52(2) of the same Law, within at least 6

months after sending a written notification regarding the above-mentioned to the collective management organization of economic rights. The collective management organization of economic rights is authorized to establish that the termination of the agreement or leaving the agreement or withdrawal of any right, specific category of rights or groups of right categories provided for in this Paragraph shall enter into force after the end of the current calendar year. The request for termination of management of the authority transferred by the right holder in accordance with Paragraph 1 of this Article shall be submitted to the mentioned organization 6 months before the beginning of the next calendar year.

4. The right holder shall retain the right to claim the royalty collected on his/her behalf by the collective management organization of economic rights before the termination of the issued permission or license or before submitting such a request.

5. In case of exercising the authority provided for in Paragraphs 3 and 4 of this Article by the right holder, the collective management organization of economic rights is not entitled to restrict the right holder's right to transfer his/her economic rights for management to a similar organization of a foreign country.

6. The collective management organization of economic rights, before obtaining permission from the right holder to manage economic rights, shall provide to the right holder the information about his/her rights, including the rights provided for in Paragraphs 1-5 of this Article.

7. A collective management organization of economic rights shall not refuse to manage economic rights, except the cases stipulated by this Law.

ARTICLE 66⁵. RIGHT AND OBLIGATIONS OF A USER, LICENSING

1. A collective management organization of economic rights and a user during the process of issuing a license for economic rights shall conduct negotiations in good faith. They shall provide each other all the information necessary to conclude the license agreement.

2. Licensing conditions shall be based on the objective and non-discriminatory. In the process of licensing, a collective management organization of economic rights shall not be required to submit as a precedent the terms of a license for economic rights agreed with another user.

3. A collective management organization of economic rights shall be obliged to consider a user's application for obtaining a license for economic rights within a reasonable time limit and to request for this purpose all information necessary for licensing. After receiving this information, the user shall be sent a written notification of consent or refusal to grant a license for economic rights. A notification of refusal to grant a license for economic rights shall contain a substantiated explanation indicating the relevant ground.

4. A collective management organization of economic rights shall provide the a user an opportunity to communicate by electronic means, including when submitting the licensing report.

5. A user shall keep documentation, reflecting information about the use of a work and/or other subject-matter protected by this Law, except when, in accordance with the agreement with the collective management

organization of economic rights this is not necessary for calculation and distribution of royalty.

6. A user shall be obliged to provide to the collective management organization of economic rights, within the time limit and by the format which was agreed or preliminarily determined, the information on the use of the rights under the management of this organization, which is necessary for collection and distribution of royalty. The collective management organization of economic rights, in its turn, shall not to disclose the confidential information provided to it. When deciding on the format of providing such information the collective management organization of economic rights and the user shall take into account the standards applicable in the relevant field.

7. There shall be equal licensing terms for users of one category. A collective management organization of economic rights shall not refuse to issue a license for economic rights without sufficient ground.

ARTICLE 66⁶. SETTING OF TARIFFS

1. When using the rights defined by this Law, a `right holder shall receive the royalty corresponding to the use of his/her work and/or other subject-matter protected by this Law.

2. A collective management organization of economic rights shall collect royalty in the amount agreed with the persons specified in Article 21(4) of this Law without issuing a license in the cases provided for in the same Article and Article 51(3).

3. A collective management organization of economic rights shall provide to a user the complete information about the criteria of setting

tariffs. The tariff shall correspond to the economic value of the rights in civil circulation. 4

4. A collective management organization of economic rights shall publish the tariff plans on its website and ask “Sakpatenti” to publish them on its website. In case of publication of tariff plans on the website of the collective management organization of economic rights, “Sakpatenti” shall publish on its website a notification on electronic availability of tariffs.

5. If the collective management organization of economic rights and the user fail to agree, the amount of the royalty, the rule of its calculation and payment, on the basis of a request of one of the parties or the parties, shall be determined by the Commission established by the order of the Chairman of “Sakpatenti” according to the rule established by Article 18(7) of this Law, and the relevant royalty shall be paid according to the rule established by Paragraphs 7 and 7¹ of the same Article. The tariff established by this Commission shall correspond to the economic value of the rights in civil circulation.

6. A collective management organization of economic rights shall submit the tariffs established in accordance with this Article immediately after approval to “Sakpatenti” for publication in the Official Bulletin.

ARTICLE 66⁷. INFORMATION PROVIDED TO RIGHT HOLDERS ABOUT MANAGEMENT OF THEIR RIGHTS

A collective management organization of economic rights shall at least once a year make the following information available to each right holder to whom it paid income from the management of rights or to whom it has made payments during the period to which the information relates:

- a) any contact information to which it received the right of access and which can be used to identify and locate the right holder;
- b) on the amount of royalties due to the right holders;
- c) on the amount of money paid by it to the right holders according to the category of rights and type of use;
- d) on the period during which the work and/or other subject-matter protected by this Law was used, for which the collective management organization of economic rights collected sums and paid to the right holders, except the case when failure to fulfill the obligations related to the reports by the users prevents it to provide this information to the holders;
- e) on the deductions made as the rights management fee;
- f) on the deductions made for any purpose, in accordance with the legislation of Georgia, subject to the provision of social, cultural or educational services, except the rights management fee;
- g) on any income received from the management of the rights which belong to the right holder and, notwithstanding the period of collection, is unpaid.

**ARTICLE 66⁸. INFORMATION PROVIDED TO OTHER
COLLECTIVE MANAGEMENT ORGANIZATION OF ECONOMIC
RIGHTS ON MANAGEMENT OF RIGHTS STIPULATED BY
AGREEMENTS OF MUTUAL REPRESENTATION**

A collective management organization of economic rights shall, at least once a year, through electronic means, make available to the organizations being under its management by an agreement of mutual

representation, collectively managing separate rights and categories of rights, the following related to the relevant period:

a) accurate information on the royalties paid by the collective management organization of economic rights, as well as on the royalties paid according to the type of rights and use of rights and information on any undistributed income according to the period of collection;

b) information on deductions made in the form of rights management fee;

c) information on issued licenses, as well as information on users who were refused to issue a license;

d) information on the resolutions related to management of the right stipulated by the agreements of mutual representation by the general meeting of the members of the collective management organization of economic rights.

**ARTICLE 66⁹. PROVISION OF INFORMATION
ACCORDING TO A REQUEST OF A PARTY TO AN
AGREEMENT OF MUTUAL REPRESENTATION, RIGHT
HOLDER OR USER**

On the basis of a duly substantiated request of a party to an agreement of mutual representation, right holder or user, a collective management organization of economic rights shall, through electronic communications means, immediately provide to him/her at least:

a) information on the work and/or other subject-matter protected by this Law, transferred for management directly or through an agreement of mutual representation, as well as on the rights within the area of coverage;

b) proceeding from the field of activity of collective management organization of economic rights, in case of impossibility to identify such a work and/or other subject-matter protected by this Law, information on the right managed by it, within the area of coverage.

ARTICLE 66¹⁰. PUBLIC AVAILABILITY OF INFORMATION

1. A collective management organization of economic rights shall make publicly available on its website at least the following information:

- a) the charter of the organization;
- b) the rules regulating membership of the organization and termination of the permission granted to manage a right, if this is not provided for by the charter of the organization;
- c) license agreement standards and current tariffs (including benefits);
- d) the list of the management team of the collective management organization of economic rights established by this Law;
- e) the general rules of distribution of royalties to right holders;
- f) on rights management fee;
- g) the policy on making other deductions, except management fee, including from collected royalties, as well as deductions for the purpose of social, cultural and educational services;
- h) the information on the agreements of mutual representation concluded by it and the name of the titles of the organizations with which the agreements are concluded, and information on them;
- i) the general policy for use of undistributed royalty;

j) the procedures for consideration of appeals and dispute resolution referred to in Article 66¹⁴ of this Law.

2. A collective management organization of economic rights after publishing on its website the information defined in Paragraph 1 of this Article shall ensure constant updating of this information. In case of changes in this information, it shall immediately ensure the public availability of updated information.

ARTICLE 66¹¹. ANNUAL TRANSPARENCY REPORT

1. A collective management organization of economic rights after the end of each financial year, but no later than within 8 months after the end of the financial year, shall prepare and make publicly available on its website an annual transparency report. This report shall be available to any interested person within 5 years of its publication.

2. An annual transparency report shall contain at least the following information:

a) financial reports, which include a balance sheet or a report of assets and liabilities, an annual report of incomes and expenses during the financial year, and a report of monetary resources flow;

b) on active licenses (including new licenses issued during the reporting calendar year, divided according to a right or categories of rights) and on refusal to issue a license;

c) a description of the legal structure and governance structure of the collective management organization of economic rights;

d) on any legal entity which is directly or indirectly owned or controlled, fully or partially, by the collective management organization of economic rights;

e) on the total amount of remuneration paid to the chairman of the organization, members and management of the board, the council of authors and performers and other commissions and councils and other benefits granted to them;

f) the financial information on the collected royalties, according to the category of rights under management and the type of use (for example, broadcasting, online performance, public performance), including information on the incomes received as a result of investment of royalties and on the purpose of use of such incomes (regardless of whether it was distributed among the right holders, was transferred to other collective management organization of economic rights or was used for other purpose);

g) the financial information on rights management fee and other services delivered to right holders by the collective management organization of economic rights. In this information at least the following shall be described in detail:

g.a) all expenses incurred for management and financial expenses, which shall be given according to the rights and categories of rights under management. Any indirect expenses which do not fall under one or more rights categories shall include a description of the method of distribution of these expenses;

g.b) any financial expenses, including expenses incurred on social, cultural and educational services;

h) the information on collected royalties (with indication of their detailed description), which shall include at least the following issues:

h.a) the sum total of the amount collected for the right holders, according to the category of right and the type of use;

h.b) the sum total of the royalty paid to the right holders, according to the category of right and the type of use;

h.c) the frequency of making payments, according to the category of right and the type of use;

h.d) the information on the total amount collected, not yet distributed to the right holders, according to the category of right and the type of use, and with indication of the financial year in which these amounts were collected;

h.e) the information on the total amount collected, not yet distributed to the identified right holders according to the category of rights and type of use, and with indication of the financial year in which these amounts were collected;

h.f) in case of failure of the collective management organization of economic rights to distribute and make payments during the last 2 years – the reasons for its delay;

h.g) the information on the total undistributed amounts and in case of use of these amounts – an explanation of the purpose for which these amounts were used;

h.h) in case of delay in the payment of amounts by the collective management organization of economic rights – the information on the benefits accrued on the amounts existing on special accounts and the distribution of these benefits;

i) the information on relations with other similar organizations, which shall include at least the following information:

i.a) the amounts received from and paid to other similar organizations, according to the category of right, the type of use and the organization;

i.b) on the right management fee from the royalties collected for other similar organizations, according to the rights and category of rights, the type of use and the organization;

i.c) on the right management fee from the royalties collected and transferred by other collective management organization of economic rights, according to the rights and category of rights, the type of use and the organization (if any);

j) the detailed information on the use of amounts deducted for the purposes of social, cultural and educational services, which shall include the information on the amount of sums deducted for the purposes of social, cultural and educational services during the financial year and the type of purpose of each.

3. The information included in the annual transparency report shall be checked once in 2 years by one of the audit firms which is granted the authority to audit a public interest entity. The audit report, including any assessment, shall be fully reflected in the annual transparency report.

4. The transparency criteria provided for in this Article shall apply to the funds created by the collective management organization of economic rights for a specific purpose.

**ARTICLE 66¹². RULES OF MEMBERSHIP OF A
COLELECTIVE MANAGEMENT ORGANIZATION OF
ECONOMIC RIGHTS**

1. A collective management organization of economic rights shall admit as a member a right holder (including a legal entity), if he/she meets the membership requirements defined by the charter of this organization. In case of refusal to admit the right holder as a member of the mentioned organization, this organization shall be obliged to justify the reason for the refusal in writing.

2. A collective management organization of economic rights shall consider the application of a right holder for admission as a member of this organization within 1 month from its receipt.

3. The rules of membership rules of a collective management organization of economic rights shall be based on objective, transparent and non-discriminatory criteria. The criteria of membership of this organization may be regulated by the charter of the same organization, as well as it is possible to establish special rules for admission as a member of the organization, which, in turn, shall be publicly available to the public.

4. The charter of a collective management organization of economic rights shall provide for effective and efficient mechanisms to ensure equal participation of the members of this organization in the process of making decisions related to the activity of the organization. The involvement of

representatives of members of different categories of rights in the process of making decisions related to the activity of the mentioned organization shall be fair and balanced.

5. A collective management organization of economic rights shall give the members of the organization the right and opportunity to communicate with it electronically, among these, submission of the application for membership both in material and electronic form, as well as exercising of other powers of the member shall be ensured.

6. A collective management organization of economic rights shall be obliged to keep and update regularly the register of its members.

7. In case if a member leaves a collective management organization of economic rights, the collective management organization of economic rights shall make a final settlement with the member who left the organization no later than 3 months after leaving the organization. The mentioned organization is authorized to establish that leaving of the agreement shall enter into force after the end of the calendar year.

**ARTICLE 66¹³. GENERAL MEETING OF MEMBERS OF A
COLLECTIVE MANAGEMENT ORGANIZATION OF
ECONOMIC RIGHTS**

1. The general meeting of members of a collective management organization of economic rights (hereinafter - the general meeting) shall be convened at least once a year.

2. The general meeting shall make a decision on making amendments and additions to the charter of the collective management organization of economic rights (including those related to the main principles and rules of

distribution of royalty), as well as on the rules related to membership of the collective management organization of economic rights.

3. The general meeting shall make a decision on appointment and dismissal of the members of the board and the supervisory council of the collective management organization of economic rights, shall review the report on their activity, shall approve the rule related to their remuneration and bonus, such as issuing of monetary and non-monetary benefits and pension bonuses, as well as other rules related to remuneration.

4. The general meeting shall make decisions on the following issues:

- a) general rules and policy for distribution of collected royalties;
- b) the general rules and policy for disposal of undistributed royalties;
- c) the use of undistributed royalties;
- d) making targeted deductions from the collected royalties;
- e) the risk management policy;
- f) purchasing, alienation or encumbrance of real estate;
- g) the issues related to reorganization and liquidation, establishment of a legal entity and acquisition of stocks and/or shares of other legal entity;
- h) borrowing, lending, guarantee or use of measures of loan security.

5. The general meeting shall control the activity of a collective management organization of economic rights, at least by appointing and dismissing an auditor, as well as shall approve the annual transparency report of this organization.

6. At least 10 percent of the total number of the members of a collective management organization of economic rights can invite a specialist of the field to prepare a qualified report on any issue related to the management of the organization.

7. All members of a collective management organization of economic rights are entitled to participate in the general meeting and enjoy the right to vote. The mentioned organization shall ensure that a member of the organization can participate in the general meeting remotely, which shall be determined by the charter of this organization.

8. A member of a collective management organization of economic rights can exercise the right to participate and vote in the general meeting both personally and through a representative. This representative can be any natural person or legal entity, provided that such representation does not cause a conflict of interest. There is also a conflict of interest if in the mentioned organization a right holder and a representative have the status of holder of different categories of rights.

9. The authority of representation shall be issued only for the purpose of participation in a specific general meeting. A representative participating in the general meeting shall enjoy the same rights and obligations as the right holder.

**ARTICLE 66¹⁴. SUPERVISORY COUNCIL OF A
COLELCTIVE MANAGEMENT ORGANIZATION OF
ECONOMIC RIGHTS**

1. In order to control proper implementation by a collective management organization of economic rights of the authority provided by this Law and the charter of this organization, a Supervisory Council shall be established.

2. The members of the organization holding different categories of rights shall be represented fairly in the Supervisory Council.

3. Members of the Supervisory Council shall be elected by the general meeting for a term of 5 years. In the composition of the Supervisory Council may be elected persons whose professional experience enables them to perform effective supervisory functions, regardless of whether they are members of the collective management organization of economic rights.

4. The Supervisory Council shall be accountable before the general meeting. The Supervisory Council shall submit a report on its activity to the general meeting at least once a year. Members of the Supervisory Council shall be obliged to present to the general meeting information on existing or probable conflicts of interest, which may in future hinder exercising of the authority by the members of the Supervisory Council.

5. Members of a collective management organization of economic rights, as well as a collective management organization of economic rights the rights of which are managed by the mentioned organization on the basis of an agreement of mutual representation, have the right to apply to the Supervisory Council for the purpose of involvement, assistance and/or dispute resolution in relation to such issues related to the accreditation of the collective management organization of economic rights, termination of an agreement or revocation of rights, terms of membership, as well as collection, distribution and/or targeted deduction of royalties.

6. Non-member persons of a collective management organization of economic rights, whose rights or categories of rights are managed by the mentioned organization, can enjoy the right provided for in Paragraph 5 of this Article, when the issue under consideration is related to collection, distribution and/or targeted deduction of royalties.

7. A collective management organization of economic rights shall be obliged to respond in writing to all appeals or requests submitted on the basis of Paragraphs 5 and 6 of this Article. The refusal of this organization to uphold a request shall be substantiated.

8. The Supervisory Council shall consider an appeal submitted on the basis of Paragraph 5 of this Article immediately.

9. The Supervisory Council shall resolve a dispute provided for in Paragraph 5 of this Article, taking into account the best interests of the parties and to act fairly and impartially. Each party participating in the dispute resolution process shall be obliged to act in good faith.

10. In the process of dispute resolution, the Supervisory Council has the right to request explanations from the members of the Board and any staff member. The Supervisory Council shall study the annual report and accounting documents before making a decision.

11. A dispute arising in accordance with Paragraph 5 of this Article shall be terminated if:

a) the parties signed a settlement agreement;

b) any party sends a notification to the Supervisory Council at any time, after it receives a notification from the Supervisory Council in accordance with Paragraph 7 of this Article that a party no longer wishes to continue the dispute;

c) according to the assessment of the Supervisory Council, the issue cannot be resolved within the scope of a dispute arising on the basis of Paragraph 5 of this Article, about which the parties shall be sent a substantiated written notice;

d) the initial and additional deadlines determined for the proceedings expired, about which the parties shall be notified in writing.

12. Consideration of a dispute in accordance with Paragraph 5 of this Article shall not deprive a party of the right to apply to court.

ARTICLE 66¹⁵. DUTIES OF MANAGEMENT TEAM OF A COLELECTIVE MANAGEMENT ORGANIZATION OF ECONOMIC RIGHTS

1. The management team of a collective management organization of economic rights shall lead the organization fairly and conscientiously, in a proper manner, shall act in the true interests of the organization, using transparent administrative, financial procedures and internal control mechanisms.

2. A collective management organization of economic rights shall have appropriate mechanisms to exclude the existing or potential conflicts of interest of the management team of the collective management organization of economic rights. In case of arising a conflict of interest, the collective management organization of economic rights shall be obliged to ensure its identification, management, control and elimination by such a means to prevent its negative influence on the interests of the members of this organization.

3. The management team of a collective management organization of economic rights at least once a year shall submit to the general meeting individual reports, shall contain the following information:

a) on any existing interest in the collective management organization of economic rights;

b) on any remuneration received from the collective management organization of economic rights during the previous financial year, including pension bonus, as well as any benefits received directly or indirectly;

c) on the royalty received by them as right holders from the collective management organization of economic rights during the previous financial year;

d) on any existing or possible conflict of interest between the interests of a member of the management team of the collective management organization of economic rights and the interests of the collective management organization of economic rights, or between obligations assumed before the collective management organization of economic rights and obligations assumed before any other natural person or legal entity.

4. The chairman of a collective management organization of economic rights shall be elected by the general meeting for a term of 5 years. One and the same person may be elected as the chairman of a collective management organization of economic rights consecutively only twice.

5. The charter of a collective management organization of economic rights shall contain information on the person acting as the chairman in case of the absence of the chairman of the collective management organization of economic rights or failure to fulfill his/her rights and duties in any other way.

**ARTICLE 66¹⁶. CONTROL OF THE ACTIVITY OF A
COLLECTIVE MANAGEMENT ORGANIZATION OF
ECONOMIC RIGHTS**

1. Control of the activity carried out by a collective management organization of economic rights in the field of collective management of the economic rights of right holders, as well as fulfillment of the requirements and obligations in the field of copyright and related rights, established by the Georgian legislation, including this Law, and the decisions made by “Sakpatenti” shall be carried out by “Sakpatenti”.

2. In order to check the compliance of the activity of a collective management organization of economic rights with the requirements established by this Law, “Sakpatenti” is authorized to request from the mentioned organization at any time a report on its activity which may contain any information related to the management of economic rights, including the amount of royalty distributed by this organization and the principle of distribution, the amount of money deducted for rights management and the general financial situation of the organization.

3. “Sakpatenti” is entitled to conduct an investigation both on its own initiative and upon a request of an interested party in order to check the compliance of the activity of the collective management organization of economic rights with this Law.

4. As a result of the investigation provided for in Paragraph 3 of this Article, a report shall be drawn up. In case if “Sakpatenti” discovers non-compliance of the activity of a collective management organization of economic rights with the requirements established by this Law, depending on its seriousness, “Sakpatenti” is entitled to prepare a recommendation and determine a reasonable period for remedying the non-compliance, but not more than 3 months. The decision of “Sakpatenti” shall be sent within 7 days to the collective management organization of economic rights and shall be

published on the website of this organization and on the website of “Sakpatenti”.

5. In case of discovery of signs of crime during the carrying out of investigation by “Sakpatenti”, the relevant materials shall be immediately sent to the law enforcement authorities.

6. “Sakpatenti” is authorized to invite the management team of the collective management organization of economic rights to an oral discussion based on the results of the investigation.

7. If during the investigation carried out by “Sakpatenti” the fact of violation of the duties defined by Article 66¹⁵ of this Law by the management team of the collective management organization of economic rights is revealed, “Sakpatenti” is entitled to request from the collective management organization of economic rights to convene a general meeting within 1 month, at which the issue of responsibility of the management team of this organization shall be discussed.

8. “Sakpatenti” is authorized to make a decision on suspension or termination of authority of the management team of a collective management organization of economic rights in case of revealing facts of violation of the duties defined by Article 66¹⁵ of this Law.

**ARTICLE 66¹⁷. CARRYING OUT AN INVESTIGATION BY
AN INDEPENDENT AUDITOR, RESULTS OF REVIEW OF AN
INVESTIGATION REPORT**

1. “Sakpatenti” is entitled on the basis of a substantiated decision to entrust carrying out of the investigation provided for in Article 66¹⁶(2) of this Law to one of the audit firms, which is granted the authority of auditing a public interest entity. In case of revealing a violation, a collective

management organization of economic rights shall bear the total cost of the audit, which shall be paid from its costs incurred for management.

2. A collective management organization of economic rights shall cooperate with the auditor during the investigation, to provide to it without delay, immediately any information that the auditor considers necessary. In case of refusal of the organization to cooperate or creation of an obstacle, the auditor shall immediately inform “Sakpatenti” about it, which may become the basis for termination of accreditation for the collective management organization of economic rights, in accordance with the rule established by this Law.

3. The report of investigation carried out by the auditor shall be sent to “Sakpatenti”.

4. On the basis of the auditor’s investigation report, “Sakpatenti” shall apply the measures defined by Article 66¹⁶ of this Law.

ARTICLE 66¹⁸. TERMINATION OF ACCREDIATION

1. Despite applying the measures provided for in Article 66¹⁷ of this Law, if a collective management organization of economic rights does not ensure proper fulfillment of the imposed duties, “Sakpatenti” shall make a decision to terminate accreditation.

2. “Sakpatenti” shall substantiate the necessity of making this decision in the decision on termination of accreditation.

3. Termination of accreditation means the annulment of the decision to grant accreditation in accordance with the General Administrative Code of Georgia.

4. If in the case defined by Paragraph 1 of this Article, “Sakpatenti” considers that the termination of accreditation can cause more damage to the

right holders than continuation of accreditation, it shall make a substantiated decision on granting to the collective management organization of economic rights the right to continue the activity with the conditions established by it. In such a case, the mentioned organization shall continue fulfilling the duties imposed on it by this Law until granting new accreditation by “Sakpatenti”.

5. Accreditation of a collective management organization of economic rights shall also be terminated prematurely in case of failure to submit agreements of mutual representation or incomplete submission of these agreements within the period specified by Article 64(4) of this Law.

6. In case of existence of the ground defined by this Law, “Sakpatenti” is entitled to terminate accreditation for a collective management organization of economic rights with respect to a specific right, category of rights or groups of right categories.

7. The decision on termination of accreditation of a collective management organization of economic rights shall be published in the Official Bulletin of “Sakpatenti”.

8. The decision on termination of accreditation of a collective management organization of economic rights shall enter into force after 1 month from its publication in the Official Bulletin of “Sakpatenti”.

9. A collective management organization of economic rights, authority of which is terminated in accordance with this Article, shall continue to exercise its authority in accordance with Paragraph 4 of the same Article until the entry into force of a decision on granting new accreditation in the same category of rights.

10. After termination of accreditation of a collective management organization of economic rights it shall not be allowed to carry out any actions defined by this Law on behalf of the mentioned organization.

11. An organization the accreditation of which was terminated in accordance with the rule established by this Law shall apply to the National Agency of the Public Registry within 14 days of the official notification of the decision on termination of accreditation and to ensure compliance of the brand name of the organization with the requirements established by Article 63(6) of this Law.

12. In case if the organization fails to fulfil the obligation provided for in Paragraph 11 of this Article, “Sakpatenti” is entitled to apply on its own initiative to the National Agency of the Public Registry with a request to change the brand name of the organization.”.

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 not 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 67¹: 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
Shevardnadze

Eduard

Tbilisi

June 22, 1999 N2112

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