

draft

Law of Georgia
On Copyright and Neighboring Rights
Chapter 1
General Provisions

Section 1. Subject of Regulation

This law regulates relationships with respect of creation and utilization of scientific, literary and artistic work (copyright) and neighboring rights with respect to performers, producers of phonograms and videograms, and broadcasting organizations.

Section 2. International Agreements

If the International Agreement, to which Georgia is a party, sets provisions, different from those of this law, then provision of international agreement shall prevail.

Section 3. Sphere of Regulation

Provisions of this law shall apply to:

- a) Scientific, literary and artistic works, performance, a phonogram and a videogram, on which the owner of copyright and neighboring right is a natural person, deemed as Georgian citizen which has permanent domicile on the territory of Georgia, or a legal entity, which is being registered under the legislation of Georgia.
- b) scientific, literary and artistic works, phonograms and videograms first published on the territory of Georgia; works, phonograms and videograms shall also be considered first published in Georgia, if, within 30 days from the first publication abroad, it was published on the territory of Georgia;
- c) performance, which has taken place on the territory of Georgia or which is fixed on a phonogram or videogram protected in accordance with the provisions of subsection "b" of this Section or performance which is not fixed on a phonogram or videogram, but is included in the program of broadcasting organizations protected in accordance with the provisions subsection "d" of this Section;
- d) programs of broadcasting organizations if they are legal entity according to the legislation of Georgia, and make programs through transmitters located on the territory of Georgia;
- e) works of architecture erected in Georgia and other artistic works incorporated in a building or other structure located in Georgia;
- f) other works of science, literature and art performances, phonograms and videograms, programs of broadcasting organizations, which are protected in accordance with those International agreements to which Georgia is a party.

Section 4. Definitions

For the purposes of this law, the following terms have the following meaning:

"author" is a physical person who has created the work;

"broadcasting" is the communication of a work or an object of neighbouring rights to the public by wireless transmission, including such transmission by a satellite;

"communication to the public" is the transmission by wire or without wire of the images or sounds, or both, of a work or an object of neighbouring rights in a way that the said images or sounds can be perceived by persons outside the normal circle of a family and family's closest social acquaintances at a place or places whose distance from the place where the transmission is started is such that, without the transmission, the images or sounds would not be perceivable at the said place or places, and irrespective of whether the said persons can perceive the images or sounds at the same place and at the same time or at different places and/or at different times;

"computer" -electronic or analogous device, which has the ability to process the information;

"computer program" collection of instructions in the form of words, codes, schemes or other, which, after it is expressed in machine readable form, is capable of bringing computer into action for achieving specific results and goals. Preparation materials, received in the process of its workout and audiovisual images, received from it, are also regarded as computer programs;

a "phonogram" is any exclusively aural fixation of the sounds of a performance or of the sounds or of a representation of sounds, regardless of the method by which the sounds are fixed or the medium in which the sounds are embodied; It does not include fixation of sounds fixed together with images, such as the soundtracks of audiovisual works;

"public display" is the showing of the original or a copy of the work directly (exposition) or by means of a slide, television image or similar means on a screen, and, in the case of an audiovisual work, the showing of individual still images nonsequentially, at a place or at places where persons outside the normal circle of a family and that family's closest social acquaintances are or may be present, irrespective of whether they are or may be present at the same place and at the same time, or at different places and/or at different times, and where the work displayed can be perceived without the need for communication thereof to the public within the meaning of item c), above;

h) "public performance,"

in the case of work other than an audiovisual work, is the recitation, playing, dancing, acting or otherwise performing the work, either directly or by means of any device or process,

in the case of an audio-visual work or any other audio-visual fixation, the showing of its images in sequence and the making of the sounds accompanying it audible and,

in the case of phonogram, making the recorded sounds audible, at a place or at places where persons outside the normal circle of a family and that family's closest social acquaintances are or may be present, irrespective of whether they are or may be present at the same place and at the same time, or at different places and/or at different times, and where the performance can be perceived without the need for communication to the public within the meaning of item c);

"published" refers to a work or an object of neighbouring rights, copies of which have been made available to the public in a reasonable quantity for sale, rental, lending or for other transfer of the ownership or the possession of the copies;

"rental" is the making available for use , for a limited period of time and for

direct or indirect economic or commercial advantage, the original or a copy of the work or object of neighbouring rights;

k) "reproduction" is the making of one or more copies of a work or a phonogram or a videogram in any material form, including any permanent or temporary storage of the work or sound recording in electronic (including digital), optical or other machine readable form;

"reprographic reproduction" -facsimile reproduction of the original or the specimen of the work (written or graphical work) in any size (bigger or smaller), by photocopying, or using other technical means. Recordation in an electronic (including digital), optical or machine readable form will not be considered as reproduction.

"rights management information" is any information which identifies the author, the work, the performer, the performance of the performer, the producer of the phonogram, the phonogram, the broadcaster, the broadcast, the owner of any right under this Law, or information about the terms and conditions of use of the work, the performance, the phonogram or the broadcast, and any numbers or codes that represent such information, when any of these items of information is attached to a copy of a work, a fixed performance, a phonogram or a fixed broadcast, or appears in connection with the broadcasting, communication to the public or making available to the public of a work, a fixed performance, a phonogram or a broadcast;

n) "technical measure" means any device, product or component incorporated into a process, device or product designed to prevent or inhibit the infringement of any copyright or any related rights provided for in this law.

r) "transmission by cable" - transmission by cable for public availability of a work, phonogram, videogram, performance, program of broadcasting organization, by means of cable, optical cable or other analogous devices;

Chapter 2

Copyright

Section 5. Objects of Copyright

1. Copyright applies to scientific, literary and artistic works, which represent the result of intellectual and artistic activity, irrespective of function, value, genre, size and forms and means of its expression.

2. Copyright applies to published, as well as to unpublished works, which exist

in some objective form.

3. Copyright does not apply to ideas, methods, processes, systems, means, concepts, principles, discoveries or mere data, even if they are expressed, described, explained or illustrated in a work.

4. Copyright to a work does not depend on the ownership of the material object in which the work is expressed.

5. Transfer of the ownership or of the right to possess does not itself result in transfer of rights to the work which is expressed in this work.

Section 6. Objects of Copyright

1. Objects of copyright are:

- a) literary works (books, brochures, articles, computer programs, etc);
- b) drama or musical-dramatic works, choreographic, mime, and other theatrical works;
- c) musical works, with, or without texts;
- d) audio-visual works (movies, tele and video films, and other cinematographic and tele works);
- e) sculptural, painting, architectural, graphic, lithographic and other work of visual art;
- f) pieces of decorative-applied and monumental art;
- g) pieces of theatrical-decorative art;
- h) photographic works, and works which are created through means analogous to photography;
- I) maps, plans, sketches, illustrations and other three-dimensional works belonging to geography, photography or other sciences;
- j) derivative works (translations, interlines of fictions, adaptations, reviews, dramatization, compilation, musical arrangement, and other kinds of derivation of pieces of art;
- k) collection of works or data, such as encyclopedia, anthology, data bases, and other composite works, which, according to selection and disposition of materials, represent results of intellectual creative activity, and other works;

2. Copyright protection extends on derivative and composite works, irrespective of the works, on which they are based, or which they include, being or not the objects of the copyright.

3. Protection of computer programs apply to all kinds of computer programs (including operational systems), which can be expressed in any language and in any form, including source and object code.

Section 7. Not copyrightable works

1. copyright does not apply to the following works:

- a) official documents (laws, statutes, court orders, other texts of administrative and legislative (normative) nature, as well as their official translations;

b) official symbols of state and organizations (flag, armorial bearing, anthem, bonuses, banknotes, other official signs and symbols of state and organizations);

c) mere information about events and facts ;

Section 8. Arising of Copyright. Presumption of Authorship. Registration of the

Works.

1. copyright to scientific literary and artistic works arises from the moment of its creation. A work shall be regarded created, when it is expressed in the objective form, which gives possibility of its perception and reproduction.

2. A copyright holder, for the purposes of making his rights transparent, can use the copyright protection sign, which is affixed on every single copy of the work and consists of three elements:

a) Latin letter C in a circle - (c);

b) the name (title) of the exclusive right holder;

c) the year of the first publication of the work.

3. Copyright owner may register his work in the register of the state Copyright Agency. After the registration registrant is given a certificate, which itself does not create presumption of authorship.

4. In case of doubts about the author's personality, unless the contrary is proved, the author of a work shall be considered a person, who is properly indicated as the author, on the original of the work or on its copy. This provision shall apply also to the work published under the pseudonym, if the author is well known under this pseudonym.

5. When a work is published under a pseudonym, or anonymously (except when author is well known under this pseudonym), publisher, whose name or title is indicated on the work, until the contrary is proved, shall be considered the author's representative, and as author's representative, has the right to defend authors right and to ensure their enforcement. This provision shall apply until the author of such a work shall not reveal himself.

Section 9. Coauthorship

1. The copyright to the work, which is a result of joint creative activity of the two or more persons (coauthorship), jointly belongs to co-authors, irrespective of the work representing one indivisible whole, or consisting of parts where each of them has independent meaning. Relations between the authors are defined by the authorship agreement concluded between them.

2. None of the co-authors is authorized to prevent from exploitation of such a work without having substantial grounds for that.

3. Co-authors shall be authorized to publish a work under a joint common pseudonym.

4. Each co-author shall be authorized to use the part of the work, which is created by him and which has an independent meaning unless the contrary is provided by the authorship agreement concluded between them.

5. A part of the work, created under co-authorship, shall be regarded as having the independent meaning, if it can be used without other parts of the work.

Section 10. Copyright to compiled works

1. The author (compiler) of a collection or compiled work has the copyright to the selection and disposition of material which represents the result of his intellectual-creative work.

2. Compiler can exercise the copyright provided that the right of all the authors of the works, included in the compiled work, are protected.

3. The authors of the works, included in a compiled work, have rights to use their works separately from the compiled works, unless the contrary is provided by the copyright agreement .

4. The copyright of a compiler does not prevent the third parties from carrying out selection and disposition of the same material independently, for creation of their compiled works.

Section 11. Copyright to Derivative Works

1. Translator and authors of other derivative works have the copyright to the translations done by themselves to the alteration, adaptation, arrangement and other derivations conducted by them.

2. Translators and authors of other derivative works enjoy the copyright without prejudice to copyright of the author of the translated, altered, arranged or recasted work.

3. Author of derivative work must show the author of the work translated, altered, arranged and recast in any other manner, the (name) of the work and the source, where it was published.

4. The copyright to derivative work does not prevent third parties from translating and deriving the same work.

Section 12. Copyright to Collective work

1. Collective work is created at the initiative and under the direction of a physical person or legal entity and consists of separate works of different authors, provided, that work will be published by such physical person or legal entity under his name

2. Physical person or legal entity under whose initiative and direction collective work is created, has the exclusive right to publish this work, such physical person or legal entity has the right to indicate his name or to request such indication during any kind of use of collective work.

3. Authors of works included in collective work, have exclusive rights to use their works, unless the contrary is not provided in the copyright contract. Authors of such works will not be regarded coauthors.

Section 13. Copyright on Audiovisual Work

1. An audio-visual work shall be considered any work which consists of series of interlinked images (with, or without any sound), creates an impression of movement, and can be perceived visually (or by ear). To audio-visual works belong cinematographic and other works, which are expressed by analogous means of cinematography (television and video films, etc), irrespective of their initial and further means of fixation.

2. The authors (co-authors) of the audio-visual films are considered the principal, the author of the screenplay, the author of the dialogue and the composer of music, specifically created for use in the audiovisual works, director.

3. The producer of an audio-visual work is considered a natural or a legal entity, who has taken initiative and responsibility for production of such a work; In the case of doubts about personality of the producer of an audio-visual work, provided that contrary is not proved, the natural or legal entity, whose title or name is properly indicated on the work, shall be recognized a producer of the audio-visual work.

4. The conclusion of the agreement about an audio-visual work results in transfer of the exclusive right to the use of the audio-visual work by the co-authors to the producer of an audio-visual work, if the contrary is not provided by the contract.

The author of a musical work specially created for this audio-visual work, shall retain his right to receive remuneration for the use of this musical work at each public performance and public demonstration of the audio-visual work.

Section 14. Copyright to a work for hire

1. The copyright to a work created in the course of execution of official obligations, or tasks ordered by the employer (work for hire), belongs to the author of the work for hire.

2. The exclusive right to the exploitation of the work for hire, stipulated by content and objective of the task, belongs to a person with whom the author has working relations (employer), unless the contrary is provided by the contract concluded between him and the author.

3. Amount of copyright remuneration for any type of use of the work for hire and manner of payment shall be determined by contract between the author and employer.

4. Employer has the right to indicate his name or to request such indication during any type of use of the work for hire.

5. Provisions of this section do not apply to collective works created in the course of employment (Section 12 of this law).

Chapter 3

Author's Rights

Section 15. Moral Rights

1. Author of the work has the following moral rights:

a) right to be recognized as author, or right to claim such recognition on each copy of his work and during each use in the proper manner, including the indication of authors name, if this is practically possible (right of authorship);

b) right to indicate pseudonym instead of real name of the author, or to request such indication on each copy of the work or during each use, or to refuse indication of name (anonymous) (right to name);

c) right to first making available to the public;

d) right to object to any mutilation or such modification of his work of work of other authors (illustrations, preface, summary, comments, explanation etc);

e) right to request that utilization of his work be stopped. If the work is published already, author must make public announcement about his request. This provisions do not apply to the works for hire.

2. The author shall bear the costs of exercising rights, contemplated in point "e" of this article. Author shall reimburse to the users of the work damage and unrealized profit, caused by his decision. Author also has the right to stop distribution of copies, which were made prior to his decision.

3. Moral rights belong to author independently from his economic right and even in the case of alienation economic rights.

4. In case of author's death moral right are enforced according to rules set by section 31 of this law.

Section 16. Economic Rights

1. The author, or another owner of the copyrights, has the exclusive right to conduct, permit and prohibit the following:

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

b) distribution of the originals or copies of he work by any means: sale, rental, etc (right to distribution);

c) importation of copies of the work for the purposes of distribution, including the copies, which are made with the consent of the author, or by other owner of the copyright (right to import);

d) public display of the of the work (right to public display). This right does not apply, when public display has resulted from the lawful purchase of the work, which was placed in commerce;

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

f) broadcasting of the work (to air transmissions);

g) other communication to the public;

h) translation of the work (right to translation);

i) adaptation, arrangement, or other transformation of the work (right to transformation).

2. If copies of a work lawfully published in Georgia are in commerce for the purpose of selling, then it is permitted to carry out their further distribution without the author's consent and without payment of the author's remuneration.

3. Right to distribute original or copy by rental belongs to the following authors or other owners of copyright independently from the ownership (property rights) on copies:

- a) of audiovisual work;
- b) of computer program;
- c) of data base;
- d) of the work fixed on phonogram;
- e) musical work in the form of text notes.

4. The exclusive right to the use of architectural, town planning and landscape design also includes the right of practical realization of such designs.

5. The amount and the method of calculation of the author's remuneration, for each type of the work's exploitation, shall be determined in the author's contract, as well as in the contracts concluded by the organizations managing property rights of authors on collective basis, with the users.

6. Restrictions to the economic rights, listed in subsection 2 of this section are set forth in the section 18-26 of this law, provided, that such restrictions do not conflict with a normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the author.

Section 17. Right to access a work of fine art and "Droit de suite" in Works of Art

1. The author of fine arts has the right to request the owner of the work to permit him reproduction of his work (right to access); herewith the owner shall not be requested to deliver the work to the author.

2. After the first alienation of a piece of fine arts, in every single case of public resale of such work (through auctions, arts salon, exhibition of fine arts, shops or other means), the author or his heirs are authorized to get remuneration from the sellers in the amount of 5 per cent of the resale price.

3. It is not allowed to alienate the indicated right in the author's life. Under the law and the will, it shall be transferred only to his heirs, for a period of the validity term of the copyright.

Chapter 4

Restrictions to the Economic Rights

Section 18. Reproduction of the work for the Personal Purposes

1. Natural persons are allowed without consent of the author or other owners of the copyright, and without payment of remuneration, to reproduce the single copies of a lawfully published work exclusively for personal purposes with the exception of cases under subsection 2 of this section.

2. The provisions, contemplated in subsection 1 of this section do not apply with respect to:

- a) reproduction of architectural works, in the form of buildings and analogues means;
- b) reproduction of data basis;
- c) reproduction of computer programs, with the exception of the cases, under section 24 of this Law;

d) reprographic reproduction of books (completely), musical notations, and pieces of fine art.

e) reproduction of the audiovisual work or the work fixed as a phonogram.

3. In the case of reproduction of the audio-visual work, or the work fixed on a phonogram by natural persons, for the personal purposes, the author or another ..owner of the copyright, performers, producers of phonograms is authorized to receive the equitable remuneration as an exception from subsection 1 of this section.

4. The remuneration is paid by the manufacturers and importers of those equipments (audio and video recorders, and other equipment) and material carriers (sound and (or) video tapes and cassettes, laser disks, compact disks and other material carriers), which are used during reproduction for the personal purposes.

5. Collection and distribution of the remuneration is executed by one of those organizations, which govern the economic rights of authors, performers and producers of phonograms on the collective basis, in accordance with the agreement concluded between the those organizations. Unless the contrary is not provided by the above mentioned agreement, such remuneration shall be distributed in the following way: forty percent - to the authors, thirty percent - to the performers, thirty percent - to the producers of phonograms. Such organizations are authorized to request information from physical and legal persons regarding amount and time on sale of products.

6. The amount of remuneration and conditions for its payment are determined on the basis of agreements between the indicated producers and importers, on the one hand, and on the other hand those organizations which govern the economic rights of authors, performers, and producers of phonograms on the collective basis; and if the parties fail to reach such an agreement, it is executed by a specially authorized body. The remuneration is subject to distribution between the authors and other owners of the copyright and/or neighbouring rights, indicated in subsections 2 and 3 of this Section, with respect to whom, in ordinary conditions, one can assume that reproduction was done for the personal purposes.

7. The remuneration will not be paid in relation to equipment and material carriers listed in subsection 2 of this section, which represent:

a) subject to export;

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

The remuneration will not be paid in the case of import for the personal purposes of the indicated equipment and materials by natural persons.

SECTION 19. REPROGRAPHIC REPRODUCTION OF WORKS BY LIBRARIES, ARCHIVES AND EDUCATIONAL INSTITUTIONS

It is permitted, without the consent of the author or other owner of the copyrights, and without payment of the author's remuneration to him, but with mandatory indication of the author's name whose work is used and of the borrowed source, in following cases and in such a volume, which is determined by the set objective, to make reproduction without receiving of direct or indirect profit

in following cases:

a) in a single copy of lawfully published work by libraries and archives, for substitution of destroyed, lost, unusable copies and unique, for the purpose of granting copies to other libraries for substitution in their funds of lost, destroyed or unusable works, if acquisition of such copies in normal conditions, through other means, is impossible;

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

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

SECTION 20. USE OF THE WORK WITHOUT CONSENT OF THE AUTHOR

It is permitted, without consent of the author or other owner of the copyrights, and without payment of the author's remuneration, but with obligatory indication of the author's name whose work is used and of the borrowed source, to do the following:

a) to quote from the lawfully published works in original or translation, for scientific, research, polemic, critical and information purposes, to the extent, which is justified for the purposes of quotation, including reproduction of excerpts from newspapers and magazines in the form of printed survey;

b) to use excerpts from the lawfully published works in the form of illustrations, printed matter, radio and television programs, and sound and video tape-recordings having educational nature, in such volume which is determined by the set objective.

c) reproduction of lawfully published articles about current economic, political, social and religious issues in newspapers, magazines and other periodical publications, or of the analogous works transmitted by air, in cases when such reproduction or public transmission has not been specially prohibited by the author, or by another owner of the copyright.

d) reproduction or communication to the public of the work seen or heard in the process of reviewing current events, by means of photographic, broadcast or cable transmissions, in such volume which is justified for information purposes. At the same time, the author shall retain the right to publication of such a work in the collection.

e) reproduction or communication to the public of publicly delivered political speeches, reports, lectures, addresses, sermons, and other analogous works, including speeches made at court sessions, through newspaper, magazine, and other periodical editions, in such volume which is constituted for the information purposes. At the same time, the author shall retain the exclusive right to publication of such a work either in the form of separate collections, or a book.

f) reproduction of the legally published work with the relief-dotted print, or of other special means for blind people, for not for profit purposes, with the

exception of the works, which are specially created for such methods of use.

SECTION 21. USE OF WORKS PERMANENTLY LOCATED IN PLACES WHICH ARE OPEN FOR FREE ADMISSION

It is permitted, without consent of the author, or other owner of the copyright, and without payment of the remuneration to him, to make reproduction or communication to the public of architectural, photographic and art works (paintings) which are permanently located in places open to free attendance, with the exception of the cases, when the image of the work represents the principal subject of such reproduction or communication to the public, or when the image of the work is used for the profit gaining purposes.

SECTION 22. PUBLIC PERFORMANCE OF THE WORK AT OFFICIAL AND OTHER CEREMONIES

It is permitted, without consent of the author, or other owner of the copyright, and without payment of the remuneration to him, to make public performance of the legally issued musical works at official, funeral, and religious ceremonies, in such a volume which is justified by the nature of such ceremony.

SECTION 23. REPRODUCTION OF THE WORK FOR THE COURT PURPOSES.

It is permitted, without consent of the author, or other owner of the copyrights, and without payment of the remuneration to him, to make reproduction of works for court procedures, in such volume which is set for such purposes.

SECTION 24. RECORDING OF THE WORK FOR SHORT TERM USE BY THE BROADCASTING ORGANIZATIONS.

Broadcasting organizations are authorized, without consent of the author, or other owner of the copyrights and without payment of the additional remuneration to him, to record for short-term use of the works, for which this organization has received the right to broadcasting, with the observation of the following conditions:

- a) making of record by the broadcasting organization by means of its own equipment and for its own programs.
- b) destruction of such record within six months from the date of its making, if a longer period has not been agreed with the author of the recorded work. Such work, without a permission of the author, may be preserved in the official archive, if the record bears exclusively documentary nature.

SECTION 25. FREE USE AND DECOMPILATION OF COMPUTER PROGRAMS

1. A person who legally owns the computer program, or a copy, is authorized, without consent of the author, or other owner of the copyrights, and without payment of author's remuneration to him, to do the following:

- a) to introduce the changes in the computer program which are necessary for its functioning of the above named on technical means of the user; and to carry out

any actions related to functioning of the computer programs in accordance with its purpose, including recording and saving in computer memory (of one computer or of one user of the network), as well as correction of the apparent errors, if the contrary is not provided by the copyright agreement.

b) to make a reserve copy of the computer program provided that this copy is intended only for the archive purposes, and for substitution of lost, destroyed, or unusable copies of the legal owner.

2. A reserve copy of the computer program shall not be used for the purposes different from the rules contemplated in subsection 1 of this Section, and shall be destroyed immediately after the termination of the ownership rights on the computer program.

3. The authorization of the rightholder shall not be required where reproduction of the code and translation of its form are indispensable to obtain the information necessary to achieve the interoperability of an independently created computer program with other programs, provided that the following conditions are met:

these acts are performed by the licensee or by another person having a right to use a copy of a program, or on their behalf by a person authorized to do so; the information necessary to achieve interoperability has not previously been readily available to the persons referred to in subparagraph (a); and these acts are confined to the parts of the original program which are necessary to achieve interoperability.

4. The provisions of paragraph 3 shall not permit the information obtained through its application:

to be used for goals other than to achieve the interoperability of the independently created computer program;

to be given to others, except when necessary for the interoperability of the independently created computer program; or

to be used for the development, production or marketing of a computer program substantially similar in its expression, or for any other act which infringes copyright.

SECTION 26. TAKING A WORK ABROAD FOR THE PERSONAL PURPOSES

Physical person is allowed to take a copy of a work abroad without the author's or the authorized person's agreement and granting emoluments only for the personal purpose.

CHAPTER 5.

DURATION OF COPYRIGHT.

SECTION 27. DURATION OF COPYRIGHT

1. The copyright arises at the moment of creation of the work and it is valid during the entire life of the author and during 50 years from his death, with the exception of the cases, which are envisaged in the Section 28 of this Law.

Calculation of the terms envisaged in Sections 27 and 28 of this Law, starts from January 1-st of the year which follows the year in which the legal fact,

being used as the basis for calculation of the indicated term has taken place.

SECTION 28. SPECIAL TERMS OF COPYRIGHT

1. In the case of anonymous or pseudonymous works the term of protection, is valid during 50 years from the date of legal publication of such a work. If, within the indicated period, the author of the work, published anonymously or under the pseudonym, reveals his personality, or his personality does not cause doubts, then the provision contemplated in Section 27 subsection 1 part 1 shall apply.

2. The copyright to the work created with a co-author is valid during the entire life of the author and during 50 years from the death of the last survived author.

3. After the death of the author, on the work, which first was published shall be valid during 50 years from the date of its publication.

4. Copyright on collective work (Section 11) is valid during 50 years after the publication, and when it was not published - from its creation.

SECTION 29. PROTECTION WITHOUT TIME LIMIT OF THE RIGHT OF AUTHORSHIP, RIGHT TO NAME, RIGHT TO INVIOABILITY OF THE WORK, HONOUR AND REPUTATION OF THE AUTHOR, AND OF THE TITLE OF A WORK.

1. The right to authorship, right to name, right to the work inviolability, in relation to the particular work, honour and reputation are protected without any time-limit.

2. After expiration of the term of the copyright, other author is not allowed to use the name (title) of the work on the one of the similar genre, if such use shall cause confusion of authors, misleading the society.

3. Also it is not permitted to publish a work under a pseudonym, which may cause the identification with the previously published work, misleading the society.

SECTION 30. USE OF THOSE WORKS, ON WHICH COPYRIGHT HAS EXPIRED

1. The work, on the expiration of the validity term, may be used FREELY by any person, without payment of author's remuneration; At the same time, the right to authorship, right to name and right to inviolability of the work shall be protected.

This Section also applies to the work which has not been protected on the territory of Georgia.

By the Georgian legislation may be established the special payment for the use of those works, on the territory of Georgia, on which the validity term for the use of the copyright has been expired. The revenues collected from such payments, shall be given to professional author's funds and organizations, which govern the property rights of the authors on collective basis; the amount of payment shall not be more than three per cent of the profit gained from the use of such works.

CHAPTER 6.

TRANSFER OF THE COPYRIGHT .

SECTION 31. TRANSFER OF THE COPYRIGHT UNDER THE LAW OR UNDER THE INHERITANCE BY WILL

1. The copyright shall be transferred under Law, or under the inheritance by the will.
2. According to the Law, the legal successor, within the validity period of the copyright, receives the exclusive rights to the use of the works considered under Section 16, unless the contrary is provided by the will.
3. Right to authorship, right to name and right to inviolability of the work shall not be transferred by right of succession. Legatees of the author have right to take necessary measures for protection of the indicated personal rights. There is no time-limit on this right of theirs.
4. Unless the contrary is provided by the author during his life, the following shall be transferred from his personal rights to the legatees :
 - a) right to permit additions of the works of other authors to the work (illustrations, prefaces, epilogues, commentaries, explanations, etc). (Section 15 Subsection 1 point "e"). The indicated right is transferred to legatees under the validity term of the copyright.

b) right to first making available to the public.

There is no time-limit on the indicated right of legatees.

5. Author has right to indicate the person, whom he appoints for the protection of moral rights, listed in subsection 3 of this Section. Such person carries out his responsibilities until his death.
6. When such indication does not exist, protection of moral rights, listed in subsection 3 of this Section after the death is carried out by the legatees or by the specially authorized organ, which carries out such protection when heirs do not exist or if their copyright expired, and also when heirs improperly protect said moral rights.

SECTION 32. TRANSFER OF THE COPYRIGHT UNDER THE COPYRIGHT AGREEMENT

1. Economic rights envisaged in Section 16 of this Law, may be transferred by author or another owner of copyright under the Agreement.
2. The right to the use of the work under the certain methods is granted on the basis of the agreement about granting the exclusive right (exclusive license),

or on the basis of the agreement about granting the non-exclusive right (non-exclusive license).

3. According to the agreement about transfer of the exclusive rights (exclusive license), the author, or another owner of the copyrights, lets the exclusive right to exploitation of the work, under certain methods and within the limits established by the agreement, only to the person (licensee) to whom these rights are let, and authorizes that person to permit, or prevent from such use of the work by other parties (including the authors).

4. The author may enjoy the right to prohibit other parties from using of the work, if the licensee does not exercise protection of this right.

5. According to the copyright agreement about transfer of the non-exclusive rights (non-exclusive agreement), the author or another owner of the copyrights, permits the licensee to use the work on the equal basis with other parties enjoying the right to the use of this work under the same methods.

6. The rights, transferred under the copyright agreement, are regarded as non-exclusive, unless the contrary is not provided by the agreement.

7. Even In the case of transfer of the exclusive rights to the use of the work (exclusive license), the author of literary and musical works shall retain the right to publication of such a work only in the full collection of his works, if five years have passed after publication of the work as a result of transfer of the exclusive right. Hereat, the author is not authorized to use this work separately from the collection.

SECTION 33. TERMS AND CONDITIONS OF COPYRIGHT AGREEMENT

1. The copyright agreement shall provide: the exact description of the work to be used (volume, genre, title), the specific ways of the use of the work, the period and territory, within the limits of which the right is transferred; amount of the remuneration and/or the rule for defining the remuneration for each ways of use of the work, the rule and the period of its payment, as well as other conditions which shall be considered essential by the parties.

2. All specific rights to the use of the work, which are not directly considered by the agreement, belong to the author.

3. When the copyright agreement does not provide for conditions about the different ways of the use of the work (specific rights transferred under the copyright agreement), the agreement shall be considered concluded regarding such means of the use of the work, which may be considered necessary for reaching the intentions of the parties existing at the moment of conclusion of the agreement.

4. When the copyright agreement does not provide for conditions about the period for transfer of the rights, the agreement may be cancelled by the author after expiration of 3 years from the date of its conclusion. The user shall be notified about this in a written form, 6 months prior to the abolishment of the agreement.

5. When the copyright agreement does not provide for conditions about the territory of transfer of the rights, the validity of the right, transferred by the agreement, is limited by the territory of Georgia.

6. The amount of remuneration and the rule of its payment is constituted in the copyright, in agreement with the parties.

7. If, in the copyright agreement about publication or other reproduction of the work the remuneration is constituted as the fixed amount, then, the agreement shall establish the maximum edition of the work copies.

8. The rights, transferred under the copyright agreement, may be fully or partially transferred to other parties, if it is directly considered by the agreement.

9. Condition of the copyright agreement, limiting the right of the author to create a work in future on certain subject, or within certain field, is considered invalid.

10. The subject of the copyright agreement may not be regarded as transfer of the rights to all those works, which may be created by the author in future.

SECTION 34. FORM OF COPYRIGHT AGREEMENT

The copyright agreement shall be concluded in a written form. An agreement about publication of the work in the periodical publication may be concluded verbally. Verbally may also be concluded the agreement about single (one-time) transmission of verbal works on television and radio.

SECTION 35. COPYRIGHT AGREEMENT ON THE CREATION OF THE WORK

According to the agreement on creation of a work, the author undertakes to create a work in accordance to the terms and conditions set forth in the agreement and to transfer it to the client; the client bears the responsibility to receive the work and to pay advance to the author from the sum of the remuneration. Terms and conditions of advance payment shall be determined in the agreement according to the consent of the parties.

SECTION 36. RESPONSIBILITY UNDER THE COPYRIGHT AGREEMENT

A party, which has not, or improperly fulfilled obligations set forth by the copyright agreement, shall reimburse the loss (damage) to another party, including the neglected profit.

CHAPTER 7.

NEIGHBOURING RIGHTS

SECTION 37. SUBJECTS OF NEIGHBOURING RIGHTS

1. Subjects of the neighbouring rights are performers, producers of phonograms and video grams, and broadcasting organizations.

2. Producers of phonograms and video grams, and broadcasting organizations exercise their rights, envisaged in this Chapter, within the scope of the authorization obtained under the agreement concluded with the author and performer of the work recorded on the phonogram and videogram, or broadcasted or transmitted by the cable.

3. The performer exercises the rights, envisaged in this Chapter, under the condition that the author's rights to the performed work shall be protected.

4. It is not obligatory to observe any formalities for creation and execution of the neighbouring rights. The producer of a phonograms and a videogram, and the performer, for the declaration of their rights, are authorized to use a special sign designated for protection of the neighbouring rights, which shall be affixed on each copy of the phonogram and videogram and/or on each of its case (box), and consists of three elements:

-the Latin letter P with a circle;

-the name (title) of the owner of the exclusive rights;

-the year of the first publication of the phonogram.

SECTION 38. RIGHTS OF PERFORMER .

1. Performer is an actor (of theatre, cinema, etc.). singer, musician, dancer or other person, who plays a role, sings, reads, makes recitation, plays on the musical instrument or performs literary or artistic work in another manner, including stage, circus performance or puppet show, folklore. Conductor and band-master are also regarded as performers.

2. A performer has the following moral and economic rights to his performance:

a) the right to the name;

b) the right to the protection of his performance from any distortion, or other inviolability, which may damage the honour and reputation of the performer (right to the respect of honour);

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

3. The exclusive right to the exploitation of the performance means to permit or prohibit the following:

a) recording of the performance, which had not been recorded before;

b) reproduction of the recorded performance;

c) transmission of the performance by cable or broadcast, or other communication to the public of the performance, with the exception of the cases, when, there is transmission of the record of the performance made before with the consent of the performer, or of the performance which has been broadcasted before;

d) transmission of the recorded performance by cable or broadcast, if initially this record has been made not for the purposes of gaining profit;

e) the distribution of the fixation of his performance and/or copies of it to the public by sale, rental or by any other form of transferring property or possession inter vivos;

the right of distribution, except for the rental of the fixation or its copies, shall cease to exist in respect of any fixation of a performance or a copy of it which has been sold by or with the authorization of the performer or his successor-in-title, or with the authorization of the performer or his successor-in-title, on the territory of Georgia. The exclusive right of the performer to authorize the rental of the fixation or a copy of it continues to exist also after the sale of the fixation or the copy of it.

f) the making available to the public of his performance, by wire or wireless means, in such a way that members of the public may access them from a place or at a time individually chosen by them.

4. Permissions considered under subsection 2 of this Section are granted by the performer, and in the case of the performers' collective - by the head of such collective, on the basis of the written contract concluded with the user.

5. Conclusion of the contract between the performer and the broadcasting organization on transmission of the performance through broadcast or cable, results in transfer of the right to recording of the performance by the performer, or its repeated (further) transmission and reproduction, only in the case, if it is directly considered under the contract concluded between the performer and broadcasting organization. In the case of such use, the amount of remuneration, payable for the performance, shall be set forth by the indicated contract.

6. Conclusion of the contract, about creation of an audio-visual work, between the performer and maker of the audio-visual work, results in transfer by the performer of the rights considered by Subsection 3 of this Section.

Giving such rights to the performer are limited to exploitation of the audio-visual work, and, unless the contrary is not provided by the contract, it does not include the right to separate use of the sound and the image fixed on the audio-visual work.

7. The contract about recording of the performance on the phonogram or videogram, concluded between the performer and the producer of the phonogram and videogram, results in transfer by the performer of the right to rent the phonogram and videogram.

8. In the case of performance created by the performer during fulfilment of the official, or the employer's assignment, the performer may enjoy the right to the name and respect of reputation. The exclusive right to exploitation of such performance belongs to the person with whom the performer has working relations, unless the contrary is not provided by the agreement concluded between them.

9. The exclusive rights envisaged under Subsection 3 of this Section may be transferred to the other persons.

SECTION 39. RIGHTS OF PRODUCERS OF PHONOGRAMS

1. Producer of a phonogram is a natural or juridical person, who has initiated and is responsible for the first sound record of the performance or other sound; When contrary is not proved, a producer of a phonogram is considered a natural or juridical person, who is properly indicated on this phonogram, or on its case.

2. A producer of a phonogram may enjoy the following exclusive right:

reproduction of the phonogram in any manner or form;

b) alteration of the phonogram or its treatment through other means;

c) first distribution of the copies of the phonogram.

d) rental of the copies of the phonogram;

e) import of the copies of the phonogram for the purposes of distribution, including the copies, which are made with the consent of the producer of the phonogram.

f) the making available to the public of the phonogram by wire or wireless means, in such a way that members of the public may access it from a place or at a time individually chosen by them.

SECTION 40. RIGHTS OF PRODUCERS OF VIDEOGRAMS

1. A producer of a videogram is a natural or juridical person, who initiated and is responsible for making of the first record of consecutive images accompanied by sound, or without it; When contrary is not proved, a producer of the videogram is considered a natural or juridical person who is properly indicated on the videogram or on its case.

2. A producer of the a videogram may enjoy the following exclusive rights:

a) reproduction of a videogram;

b) alteration of a videogram or its treatment through any other means;

c) first distribution of copies of videogram;

d) rental of the copies of videogram;

e) import of copies of videogram, made under the consent of the producer of the videogram, for the purposes of distribution.

SECTION 41. DISTRIBUTION OF PHONOGRAM AND VIDEOGRAM

1. If copies of the lawfully published work are put in the commerce by sale, it is allowed to distribute them farther without consent of the producer and phonogram or videogram and without paying them honorarium.

2. Right to distribute copies phonogram and videogram by rental belongs to producers of phonogram or videogram irrespective of proprietary rights on the said copies.

3. Exclusive rights of producers of phonograms or videograms, envisaged in sections 40 and 41.3 can be transferred to other persons by contract.

SECTION 42. RIGHTS OF BROADCASTING ORGANIZATIONS

1. A program of broadcasting organizations is one which has been created by the broadcasting or cable organization itself, or by another organization, under the order and with the resources of the above-named organizations.

2. The broadcasting organization has the following exclusive rights:

a) recording of the program;

b) reproduction of the recording of the program, with the exception of the cases, when the program is recorded with the consent of the broadcasting organization and the reproduction is conducted for the same purposes as for which its recording has taken place;

c) simultaneous transmission of its program through broadcast (cable) by other broadcasting (cable) organizations;

d) transmission of the program through broadcast (cable);

e) public broadcasting of the program in spots where the entry is paid.

SECTION 43. LIMITATION OF RIGHTS OF PERFORMERS OR THE PRODUCERS OF PHONOGRAMS OR VIDEO GRAMS, OR THE BROADCASTING ORGANIZATIONS

1. Limitation of rights envisaged in Sections 39-43 of this Law are set forth in Sections 44-46 of this law, provided, that such restrictions are not directed to hamper performance, phonograms, videogram, program of broadcasting organization, and will not hamper normal use of scientific, literary and artistic works, included therewith, and will not unreasonably hinder lawful rights of performer, producer of phonogram or videogram, broadcasting organization and authors of indicated works.

2. It is allowed, without consent of the performer or the producer of a phonogram or videogram, or the broadcasting organization, and without payment of remuneration to them, to use performance, phonograms, video grams, programs of broadcasting organizations and their recordings, in the following cases:

a) while quoting, in the form of excerpts, from the performance, phonogram, videogram, the program of broadcasting organizations, provided that such quotation is carried out for scientific, research, polemic, critical and information purposes, in such volume which is determined under the set objective;

b) while teaching or scientific research, in the form of excerpts and illustrations, in such volume which is considered under the set objective;

c) while insertion of excerpts from the performance, phonogram, videogram, the

programs of related broadcasting organizations in the reviews of current events;

3. Exploitation of the performance, programs of broadcasting organizations, and their records by natural persons, as well as the reproduction of single phonograms for personal purposes, is permitted without consent of the performer, the producer of the phonogram and videogram, and the broadcasting organization.

SECTION 44. USE OF PHONOGRAMS AND VIDEOGRAMS ISSUED FOR COMMERCIAL PURPOSES

1. It is allowed, without consent of the producer of the phonogram issued for the purposes of gaining profit, and the performer, recorded on this phonogram, but with payment of remuneration, to do the following:

- a) public performance of a phonogram;
- b) broadcasting of a phonogram ;
- c) transmission of a phonogram through cable.

2. Collection, distribution and payment of the remuneration, considered under subsection 1 of this Section, is executed by one of those organizations, which govern the rights of the producer of phonogram and performer on collective basis, in accordance with the agreement with those organizations. (Unless the contrary is provided by the contract, the indicated amount shall be equally divided between the producer of phonogram and the performer).

3. The amount of remuneration, and rule for its payment is constituted on the basis of the agreement concluded between the user, or users of the phonogram, on the one hand, and one of the organizations governing the property rights of producers of phonograms and the performers on collective basis, but in case the parties fail to reach such agreement, by the specially authorized body.

The amount of remuneration is established for each form of a phonogram exploitation.

4. Users of phonograms shall present to the organizations, indicated in point 2 of the given Article, the programs (plans), which include exact information about the number of the phonogram exploitation, as well as information and documents needed for collection and distribution of the remuneration.

SECTION 45. RECORDATION OF PERFORMANCE OR PROGRAM BY THE BROADCASTING ORGANIZATIONS FOR SHORT TERM USE

The broadcasting organization is authorized, without consent of the producer of phonogram and videogram, and the broadcasting organization, to conduct recording of performance and the program for short-term exploitation and reproduction of such a record in the case of the following conditions:

- a) receipt, by the broadcasting organization, of preliminary consent on transmission of the performance or the program, in relation to which such recording for short-term exploitation, or such reproduction is carried out;
- b) making of short-term recording, or its reproduction, by the broadcasting organizations, by means of their own equipment and for their own programs;

c) destruction of such records under the conditions considered with respect to short-term recordings of scientific, literary and art works.

SECTION 46 THE TERM OF THE VALIDITY OF NEIGHBOURING RIGHTS

1. A performer's right, considered under section 39, is valid within 50 years from the first performance.

2. Right to performer's name and to respect of performer's reputation is protected without any time-limit. Protection of personal rights of the performer, after his death, is carried out under subsections 3 and 5 of Section 31 with respect to protection of moral rights of the authors of scientific, literary and art works.

3. The right of the producer of a phonogram and videogram, envisaged under Sections 40 and 41, is valid during 50 years from the first issuance of the phonogram and videogram, or within 50 years from its first recording, if within this period the phonogram and videogram have not been issued.

4. The right of the broadcasting (cable) organizations, considered under Section 43, is valid during 50 years, after the first broadcasting (cable) of the program by such an organization.

5. Calculation of the term considered by Subsections 1, 2, 3 and 4 of this Section, starts from January 1-St.. of the year which follows the year in which the legal fact has taken place, which is the basis for calculation of the indicated period.

6. The rights, considered under the given chapter, shall be transferred to the legatees, or, with respect to juridical persons, to legal successors of the performer, the producer of phonograms and video grams, and the broadcasting organizations, within the remaining portion of the period indicated in Subsections 1, 2, 3 and 4 of this Section.

7. Right to protection of the performer's name and the performer's reputation, shall not be transferred by right of succession. Their protection, after the performer's death is carried out under the provision considered for the protection of personal rights of the author - subsections 3 and 5 of Section 31 of this Law.

CHAPTER 8.

ENFORCEMENT OF THE COPYRIGHT AND NEIGHBOURING RIGHTS.

SECTION 47. VIOLATION OF COPYRIGHT AND NEIGHBOURING RIGHTS. COUNTERFEITED COPIES OF PHONOGRAM AND VIDEOGRAM OF THE WORK

1. Violation of copyright and neighbouring rights envisaged by this law shall result in the civil, criminal and administrative responsibility under the Georgian legislation. Legal person shall be liable under the civil law for the violation of copyright and neighbouring rights.

2. A natural or juridical person, who does not meet the requirements of this Chapter, shall be considered the violator of the copyright and the related rights.

3. The copies of works and phonograms, videograms, programs of broadcasting organization making or distribution of which cause violation of the copyright and related rights, shall be regarded as counterfeit copies. Counterfeit shall also be considered copies of those works and phonograms, videograms, programs of broadcasting organization which are preserved in accordance with the Law of Georgia, and which, without consent of the owner of the copyright and the related rights, are imported in Georgia from the country where these works and phonograms have never been protected, or their protection has been terminated.

4. For the protection of their rights owners of exclusive copyrights and neighbouring rights are authorized to apply to the court having relevant jurisdiction according to legislation.

5. The following acts shall be considered unlawful and, shall be assimilated to infringements of the rights protected under this Law.

any activities, including manufacture, import for distribution or distribution (sale, rental or public lending) of devices or the performance of services, which are carried out knowing or with reasonable ground to know that they will enable or facilitate the circumvention, without authority of any technical measure designed to protect copyright or any related rights provided for in this law, and which have no or only limited commercially significant purpose or use other than to circumvent such measures;

the removal or alteration of any electronic rights management information without authority;

the distribution, import for distribution, broadcasting, communication to the public or making available to the public, without authority, of works, performances, sound recordings or broadcasts, knowing or having reason to know that electronic rights management information has been removed or altered without authority.

6. Any illicit device and any copy from which rights management information has been removed, or in which such information has been altered, shall be assimilated to infringing copies of works, and any illicit act referred to in subsection (5) of this Section shall be treated as an infringement of copyright or neighbouring rights to which the civil remedies and criminal sanctions provided for this Law are applicable.

SECTION 48. PROTECTION OF COPYRIGHT AND NEIGHBOURING RIGHTS

1. The owner of the exclusive copyright or the neighbouring rights is authorized to demand the following from the violator:

- a) recognition of the right;
- b) rehabilitation of the situation existing before violation of the right, and prohibition of actions, which infringe the right, or create danger for its violation;
- c) reimbursement of losses, including the neglected profit;
- d) instead of reimbursement of losses, recovery of those revenues which have been obtained by the violator as a result of violation of the copyright and the related rights.
- e) payment of compensation, constituted under the court's judgement instead of compensation of losses and confiscation of revenues
- f) taking of other measures related to protection of their rights, which is considered by the legislation of Georgia.

The measures, considered by points "c" and "e", are used by choice of the owner of the copyright and the related rights.

SECTION 49. CONFISCATION OF COUNTERFEITED ARTICLES

1. A court is authorized to take a decision about confiscation of the copies of counterfeit works and phonograms, as well as of the materials and equipment needed for their reproduction. The counterfeit copies of works and phonograms, at the request of the holder of the copyright and neighbouring rights, may be given to the latter.
2. The counterfeit copies of works and phonograms, which have not been recalled by the holder of the copyright and the related rights, as well as the materials and equipment needed for their reproduction, are subject to destruction on the basis of the court decision.
3. The counterfeit copies of works and phonograms, obtained by the third parties in good faith, are not subject to confiscation.
4. Court is authorized to impose on the violator of copyright and neighbouring rights the obligation to submit information on identity of those persons, who were involved in production and distribution of counterfeited goods or services, and to show their distribution channels.
5. Court is authorized to conduct immediate and effective measures for prevention of entrance of counterfeited goods in trade in order to exclude violation of copyright and neighbouring rights,

SECTION 50. FUNCTIONS OF STATE ORGANS IN THE SPHERE OF PROTECTION OF COPYRIGHT AND NEIGHBOURING RIGHTS

The State Agency of Copyright and Neighbouring Rights has the following rights:

- a) to conduct state policy in the field of legislation on copyright and neighbouring rights and to submit proposals about its development to the President of Georgia;
- b) to provide legal assistance to the holders of copyright and neighbouring rights;
- c) to represent Georgia in international organizations for the protection of copyright and neighbouring rights.
- d) to register works according to the rule, set by this law;
- e) to control organizations, which manage economic rights on the collective basis.

CHAPTER 9.

COLLECTIVE MANAGEMENT OF THE ECONOMIC RIGHTS.

SECTION 51. CREATION OF ORGANIZATIONS MANAGING ECONOMIC RIGHTS ON THE COLLECTIVE BASIS

1. Authors of scientific, literary and artistic works, performers, producers of phonograms and videograms and other holders of the copyright and neighbouring rights are authorized, for the purposes of practical execution of their rights to create organizations, which manage their economic rights on the collective basis.

2. Organization, which manages economic rights on the collective basis, is not authorized to conduct commercial activities and to use such works and objects of neighbouring rights, which it has received for management on the collective basis.

3. With regard to those organizations, which manage economic rights on the collective basis, restrictions set forth by antimonopoly legislation shall not apply.

4. It is permitted to create separate organizations according to different categories of rights or right holders or to create organizations for managing different rights according to the interests of right holders of one specific category, or organizations to manage one type of rights according to the interests of different categories of right holders.

5. Organizations, which manage economic rights, shall be created directly by holders of copyright or neighbouring rights in the form of public (non-commercial) organizations, acquiring the rights of legal persons after their registration according to the general rule, set by the legislation for the registration of public (non-commercial) organizations. Such organizations conduct their activities within the scope of their rights, granted to them by the holders of copyright and neighbouring rights on the basis of statutes, which is adopted according to the established rule.

6. Statutes of those organizations, which manage economic rights on the collective basis, must consist of provisions, which are in compliance with the law.

7. Decisions regarding the amount of remuneration and conditions of granting licenses to users, division of collected remuneration and means of payment, and decisions regarding issues, which are important for such organizations, shall be made by the board of holders of copyright and neighbouring rights.

SECTION 52. ACTIVITIES OF ORGANIZATIONS WHICH MANAGE ECONOMIC RIGHTS ON THE COLLECTIVE BASIS

1. Authority to manage economic rights on the collective basis shall be transferred to organizations which manage economic rights on the collective basis, directly by holders of copyright and neighbouring rights wilfully, on the basis of their membership in such organizations, or on the basis of written contract, also on the basis of agency contracts with foreign organizations, managing analogous rights. Said agreements are not copyright (authorship) agreements and Sections 33-34 of this Law shall not apply to them.

2. Any author, his successor and other holder of copyright, performers, producers of phonograms which is protected according to the Chapter 3 of this law, has the right to transfer execution of his economic rights to such organization. Organization must assume execution of this rights on the collective basis, if managing rights of given category falls within the statutory activities of such organization.

3. According to the rights, received according to this section, organization, which manages economic rights on the collective basis, grants licenses to use by relevant means works and objects of neighbouring rights. Conditions of such licenses must be the same for all users of one specific category. Said organizations are not authorized to refuse granting of licenses without having sufficient reasons for that.

4. Organization, which manages economic rights on the collective basis is authorized to request holders of copyright and neighbouring rights submittance of documents, which shall consist of exact data about the use of the works and objects of neighbouring rights, which is essential for collection and distribution of remuneration.

SECTION 53. FUNCTIONS OF ORGANIZATIONS WHICH MANAGE ECONOMIC RIGHTS ON THE COLLECTIVE BASIS

Organization, which manages economic rights on the collective basis, under the name of holders of copyright and neighbouring rights and on the basis of rights, granted to it by them, is authorized to do the following:

- a) to agree upon with the users amount of remuneration and other conditions of license;
- b) to grant licenses on the use of those rights, which are managed by such organization;

c) to agree upon with user amount of remuneration in such cases, when this organization collects such remuneration without granting a license (subsection 4 of section 18 and subsections 2 and 3 of section 45 of this law);

d) to collect remuneration and (or) remuneration, envisaged in licenses under subsection "c" of this section;

e) to distribute and to pay collected remuneration due to holders of copyright and neighbouring rights;

f) to conduct any legal action, which is necessary for protection (enforcement) of rights, managed by such organization;

g) to conduct other activities in accordance of rights, granted to him by the holders of copyright and neighbouring rights.

SECTION 54. RESPONSIBILITIES OF ORGANIZATIONS WHICH MANAGE ECONOMIC RIGHTS ON THE COLLECTIVE BASIS

1. Activities of organizations, which manage economic rights on the collective basis are executed in accordance to the interests of those holders of copyright and neighbouring rights, which are represented by this organization. In order to realize this goals organization must:

a) use collected remuneration exclusively for distribution and payment to the holders of copyright and neighbouring rights. At the same time, organization is authorized to deduct from the collected remuneration sums, for reimbursement of actual expenditures on collection, distribution and payment of such remuneration, and sums transferred to special funds, created by such organization exclusively under the decision of those holders of copyright and neighbouring rights, which are represented by such organization;

b) distribute and regularly pay sums of collected remuneration after the deduction of sums mentioned in subsection 'A' of this section, proportionally to the use of works and objects of neighbouring rights;

c) at the time of remuneration payment submit to holders of copyright and neighbouring rights accounts, consisting of data regarding the use of their rights;

2. Holders of copyright and neighbouring rights, who did not grant to organization rights with regard to collection of remuneration (section 52 subsection 7 of this law), are authorized to request organization to pay remuneration due to them according to distribution carried out and to exclude their works and objects of neighbouring rights from those licenses, which are granted to users by such organizations.

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