

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:

- a) An "author" is a physical person who has created the work;
- b) "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;
"satellite" means any satellite operated on frequency bands, which, under telecommunications law, are reserved for the broadcast signals for reception by the public or which are reserved for closed, point-to-point communication. In the latter case, however, the circumstances in which individual reception of the signals takes place must be comparable to those which apply in the first case. "Communication to the public by a satellite" means the act of introducing, under the control and responsibility of the broadcasting organization, the program-carrying signals intended for reception

by the public into an uninterrupted chain of communication leading to the satellite and down towards the earth. If the program-carrying signals are encrypted, then there is communication to the public by satellite on condition that the means for decrypting the broadcast are provided to the public by the broadcasting organization with its consent.

- c) A “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;
- d) A “computer” - electronic or analogous device, which has the ability to process the information;
- e) A “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. **The term “computer program” includes its preparatory design material.**
- f) **A “film” is a cinematographic or other audio-visual work or moving images, whether or not accompanied by sound.**
- g) **“Lending” means making available for use, for a limited period of time and not for direct or indirect economic or commercial advantage, when it is made through establishments which are accessible to the public.**
- h) 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 a fixation of sounds or of representations of sounds which is incorporated in a cinematographic or other audiovisual work and which is a part thereof, such as the soundtrack of an audio-visual work, unless the soundtrack is exploited independently thereof;**
- i) A “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;
- j) A “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);
- k) “Published” refers to a work or an object or 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;
- l) A “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;

- m) A “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;
- n) A “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. **Recording in an electronic (including digital), optical or machine readable form will not be considered as reprographic reproduction.**
- o) A “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 producer of the film, the film, the broadcaster, the broadcast, the database maker, the database, the posthumous editor/communicator, and the posthumous edition/communication as well as the owner of any right under this Law, or information about the terms and conditions of use of the work, the performance, the phonogram, the film, the broadcast, the database, or the posthumous edition/communication, 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, a film, a fixed broadcast, a database or a posthumous edition/communication, 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, a film, a broadcast, a database, or a posthumous edition/communication.
- p) A “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) A “transmission by cable” is the transmission by cable for public availability by means of cable, optical cable, or other analogous device; “retransmission by cable” is the simultaneous, unaltered, and unabridged retransmission by a cable or microwave system for reception by the public of an initial transmission by wire or over the air, including by satellite, of television or radio programs intended for reception by the public.

CHAPTER 2

Copyright

Section 5. Subjects of Copyright

1. Copyright applies to scientific, literary and artistic works, which are original in the sense that they are the author's own intellectual creation. No other criteria should be applied to determine the eligibility for protection of the work. Copyright applies 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, means, concepts, principles, discoveries or mere data, even if they appear in a work. In the case of a computer program, phrase 1 applies also to those which underlie its interfaces.

Provisions (4), (5) are replaced to Section 8 and Section 32

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) Translations and any kind of adaptations including dramatization, musical arrangement, and others;**
- k) Collections of works, data or other materials, such as encyclopaedia, anthologies, or databases which, by reason of the selection or arrangement of their contents, constitute the authors' own intellectual creation. "Databases" in the meaning of phrase 1 are collections of independent works, data or other materials arranged in a systematic or methodical way and individually accessible by electronic or other means. They do not include computer programs used in the making or operation of databases accessible by electronic means.**

2. Copyright protection extends to translations, adaptations, and collections, irrespective of the works on which they are based or which they include, being or not the object of 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 items

1. Copyright does not apply to the following items:

- 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. Authorship. 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 the possibility of its perception.
2. **Copyright arises in the person of the author, who is the physical person who has created the work.**
3. **Copyright in a work does not depend on the ownership of the material object in which the work is expressed.**
4. 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 - ©;
 - b) the name (title) of the exclusive right holder;

- c) the year of the first publication of the work.
5. 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.
 6. 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.
 7. 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 in collections

1. **The author of a collection is the natural person or group of natural persons who created the collection.**
2. **In respect of a collection created by a group of natural persons jointly, the exclusive right shall be owned jointly.**
3. **The copyright of the author of a collection shall be without prejudice to any right subsisting in a work or subject matter of neighbouring rights which are included in the collection. The authors of the works, and the right owners of the subject matter of neighbouring rights, included in a collection, have the rights to use their works or subject matter of neighbouring rights separately from the collection, unless the contrary is provided by contract.**
4. **The copyright of the author of a collection does not prevent third parties from creating their own collection on the basis of independent selection and arrangement of the same material.**

Section 11. Copyright in translations and adaptations

1. **Translators enjoy the copyright in their translations and authors of any adaptations, enjoy the copyright in their adaptations.**
2. **Translators and authors of any adaptations enjoy the copyright without prejudice to the copyright of the author of the translated or adapted work.**

3. **The author of the translation or of the adaptation must indicate the author of the translated work or of the work adapted in any manner, as well as the title of the work and the source of its publication.**
4. **The copyright in a translation or in an adaptation does not prevent third parties from translating or adapting the same work.**

Section 12 - deleted

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).**
2. **The authors of the audio-visual works are considered the principal director, the author of the screen play, the author of the dialogue, and the author of music specifically created for use in the audio-visual works.**
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. **When an agreement concerning film production is concluded, individually or collectively, by authors with a film producer, the author (except the author of the musical composition) covered by this agreement shall be presumed to have transferred the exclusive rights in the use of the audio-visual work, unless the contrary is provided by the contract and subject to sentence (2)**
The transfer, by agreement and under sentence (1), of right of (public performance) broadcasting, transmission and retransmission by cable and rental of audiovisual work is subject to an unwaivable right to equitable remuneration by the users.
This right to remuneration can be exercised only through the authors' collecting societies.

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. **In respect of the computer program, the employer exclusively shall be entitled to exercise all economic rights in the computer program so created, unless otherwise provided by contract.**
3. **The right to equitable remuneration mentioned in Para. 2 may be exercised through collecting societies.**
4. **The Employer has the right to indicate his name in his capacity as the employer, or to request such indication during any type of use of the work for hire, provided that the author's right of autorship (Section 15 (1) a, b)) is respected.**

Provision 5 is deleted as a consequence of deleting Section 12.

CHAPTER 3

Author's Rights

Section 15. Moral Rights

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

a) **the right to be recognized as author, including the right to claim such recognition on each copy of his work and during each use, in particular by way of indication of the author's name;**

b) the 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) the right to first making available to the public;

d) the right to object to any mutilation or other modification of his work;

e) The 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 (except for computer programs and databases)

1. The author of a work other than a computer program or a collection 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 the 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 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. The first sale in Georgia of a copy of a work (**other than a computer program or a collection**) by the author or with his consent shall exhaust the distribution right within Georgia of that copy, with the exception of the right to control further rental of the work or the copy thereof.

3. The right to distribute the original or a copy by rental exists in any kind of work except for works of applied art and works of architecture in three-dimensional form. Where an author has transferred or assigned his rental right concerning a phonogram to a phonogram producer, that author shall retain the right to obtain an equitable remuneration for the rental. This right to obtain an equitable remuneration for the rental can not be waived by the author. This right to obtain an equitable remuneration can only be exercised through collecting societies representing authors.

Section 17. Economic rights in computer programs and databases.

1. The author of a computer program has the exclusive right to conduct, permit, and prohibit the following:

- a) the reproduction of a computer program by any means and in any form, in part or in whole. Insofar as loading, displaying, running, transmission, or storage of the computer program necessitate such reproduction, such acts shall be subject to authorization by the author;
 - b) the translation, adaptation, arrangement, and any other alteration of a computer program and the reproduction of the results thereof, without prejudice to the rights of the person who alters the computer program;
 - c) any form of distribution to the public, including the rental, of the original computer program or of copies thereof. The first sale in Georgia of a copy of a program by the author or with his consent shall exhaust the distribution right within Georgia of that copy, with the exception of the right to control further rental of the program or a copy thereof.
2. The author of a database has the exclusive right to conduct, permit, and prohibit the following:
- a) the temporary or permanent reproduction by any means and in any form, in whole or in part;
 - b) the translation, adaptation, arrangement, and any other alteration;
 - c) any form of distribution to the public of the database or of copies thereof. The first sale in Georgia of a copy of the database by the rights holder or with his consent shall exhaust the right to control re-sale of that copy within Georgia.
 - d) any communication, display, or performance to the public, including on-line transmission;
 - e) any reproduction, distribution, communication, display, or performance to the public of the results of the acts referred to under b).

Section 18. 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. **This right to remuneration can be exercised only through collecting societies; The collecting societies have a right to claim information on the relevant resales by the sellers.**
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

SUB-CHAPTER 1

Restrictions regarding the rights in works other than computer programs and databases

Section 19. 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 Sub-Sections 2 and 3 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) reprographic reproduction of books (completely), musical notations, and pieces of fine art.
 - c) reproduction of the audiovisual work or the work fixed as a phonogram.

3. In the case of a reproduction of a work fixed in an audio-visual fixation or on a phonogram for personal purposes, the author of the work has the right to receive an equitable remuneration for such reproduction.

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 authors, thirty percent to performers, and thirty percent to 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 sub-section 4 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 20. 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 21. 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 22. 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 23. 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 24. 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 25. 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.

SUB-CHAPTER 2

Restrictions to rights in computer programs and databases

Section 26. Exceptions to rights in, 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 reproduce, translate, adapt, arrange, and otherwise alter the computer programs and to reproduce the results of such translation, adaptation, arrangement, or other alteration, where these acts are necessary for the use of a computer program by this person in accordance with its intended purpose, including error correction, if specific contractual provisions are absent.**
- b) **the making of a back-up copy by a person having a right to use the computer program may not be prevented by contract insofar as it is necessary for that use.**

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:

- a) 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;
- b) the information necessary to achieve interoperability has not previously been readily available to the persons referred to in subparagraph (a); and
- c) 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:

- a) to be used for goals other than to achieve the interoperability of the independently created computer program;
- b) to be given to others, except when necessary for the interoperability of the independently created computer program; or
- c) 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 27. Exceptions to rights in databases

1. The performance by the lawful user of a database or a copy thereof of any of the acts listed in Section 17 which is necessary for the purposes of access to the contents of the databases and normal use of the contents by the lawful user shall not require the authorization of the author of the database, this provision shall apply only to that part.

2. The following acts do not require the authorization of the author of the database:

- 1) reproduction for private purposes of a non-electronic (catalogues, guides) database;**
- 2) use for the sole purpose of illustration for teaching or scientific research, as long as the source is indicated and to the extent justified by the non-commercial purpose to be achieved;**
- 3) use for the purposes of public security and for the purposes of administrative or judicial procedure.**

Section 27a. Restrictions to the economic rights, listed in the Section 16 (1) 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.

CHAPTER 5.

Duration of copyright

Section 28. 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 70 years from his death, with the exception of the cases, which are envisaged in the Section 29 of this Law.

Calculation of the terms envisaged in Sections 28 and 29 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 29. Special terms of copyright

1. In the case of anonymous or pseudonymous works the term of protection, is valid during 70 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 a pseudonym, reveals his identity, or if within that period the pseudonym adopted by the author leaves no doubt as to his identity, then the provision of Section 28, Sub-Section 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 70 years from the death of the last surviving author.

3. Where a work is published in volumes, parts, instalments, issues, or episodes and the term of protection runs from the time when the work was lawfully made available to the public, the term of protection shall run for each such item separately.

4. In a case of works for which the term of protection is not calculated from the death of the author or authors and which have not been lawfully made available to the public within 70 years from their creation, the protection shall terminate.

5. The term of protection of cinematographic or audio-visual works shall expire 70 years after the death of the last of the following persons to survive, whether or not these persons are designated as co-authors: the principal director, the author of the screen play, the author of the dialogue, and the composer of music specifically created for use in these cinematographic or audio-visual works.

Section 30. Protection without time limit of the right of authorship, right to name, right to inviolability 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 31. 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 32. 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 economic 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 33. Transfer of ownership

Transfer of ownership or of the right to possess a material object does not in itself result in the transfer of rights in the work which is incorporated in this material object.

Section 34. 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).

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

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 35. 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 36. 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 37. 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 38. 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 39. Relation to authors' rights

The protection granted under this Chapter shall leave intact and shall in no way affect the protection of authors' rights in literary and artistic works. Consequently, no provision of this Chapter may be interpreted as prejudicing such protection.

Section 40. Subjects of neighbouring rights

1. Subjects of the neighbouring rights are performers, producers of phonograms, producers of films, broadcasting organizations, database makers and editors/communicators of posthumous works.

2. Producers of phonograms and **films**, 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 phonograms and films, 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 **film** 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 41. 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 where a performer has transferred or assigned his rental right concerning a phonogram to a phonogram producer, that performer shall retain the right to obtain an equitable remuneration for the rental.

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. When a contract concerning film production is concluded, individually or collectively, by performers with a film producer, the performer covered by this contract shall be presumed, subject to contractual

clauses to the contrary, to have transferred his exclusive rights under subsection 3 of this section, subject to an unwaivable right to equitable remuneration for each kind of exploitation, which can be exercised only through the relevant performers' collecting society. Unless provided otherwise by contract, this presumption of transfer does not include the right to separate use of the sound and the image fixed in an audiovisual fixation.

7, 8 are deleted

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

Section 42. 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:

- a) reproduction of the phonogram in any manner or form;
- b) **the distribution of phonograms to the public by sale, rental, or by any other form of transferring property or possession *inter vivos*; the right of distribution shall be exhausted within Georgia in respect of a phonogram or a copy thereof only where the first sale in Georgia of that phonogram or a copy thereof is made by the rightholder or with his consent. the exclusive right of the phonogram producer to authorize the rental of the phonogram or a copy thereof continues to exist also after the sale of the phonogram or the copy of it.**
- c) 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.
- d) 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 43. Rights of producers of first fixations of films

1. A producer of the first fixation of a film is a natural or legal person, who initiated and is responsible for the making of the first fixation of a cinematographic or audiovisual work or moving images, whether or not accompanied by sound. Unless the contrary is proved, a producer of the first fixation of a film is considered a natural or legal person who is properly indicated on the film or on its case.

2. A producer of the first fixation of a film may enjoy the following exclusive rights:

- a) reproduction of the original or copies of his film;
- distribution of the original or copies of his film to the public by sale, rental, or any other form of transferring property or possession *inter vivos*; the distribution right shall not be existed within Georgia in respect of the original or copies of his film, except where the first sale in Georgia of that original or copy is made by the rightholder or with his consent. The exclusive right of the producer to authorize the rental of the original or copy of the film continues to exist after the sale of the original or copy thereof.

Section 44. Transfer of rights of producers of phonograms and films

The exclusive rights of producers of phonograms and of the first fixations of films as set out in sections 42 (2) and 43 (2) can be transferred to other persons by contract.

Section 45. 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. **A program, which has been merely re-transmitted by cable through a cable organization is not a program of such a cable organization.**

2. The broadcasting organization has the following exclusive rights:

- a) recording of the program;
- b) reproduction of the **fixation/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) **communication to the public of the program made in places accessible to the public against payment of an entrance fee.**
- f) **the distribution of the fixation/recording of the phonogram to the public by sale, rental or by any other form of transferring property or possession *inter vivos*; the right of distribution shall not be exhausted within Georgia in respect of the fixation/recording of a program except where the first sale in Georgia of that fixation of a program is made by the rightholder or with his consent.**

Section 46. limitation of rights of performers, of producers of phonograms, of producers of the the first fixations of films, and of broadcasting organizations

1. The limitation of rights set out in Sections 42-45 of the Law are laid down in for Sections 46 (2) to 48 of this law, provided, that such limitations are confined to certain special cases which do not conflict with a normal exploitation of the performance, phonogram, first fixation of a film or program of a broadcasting organization, and which do not unreasonably prejudice the legitimate interests of the performer, the producer of the phonogram, the producer of the first fixation of a film, or the broadcasting organization.

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

- a) while quoting, in the form of excerpts, from the performance, phonogram, the first fixation of a film, 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, the first fixation of a film, the programs of related broadcasting organizations in the reviews of current events;

3. The reproduction of a performance, a phonogram, a first fixation of a film, a program of a broadcasting organization, or of copies thereof for personal purposes is permitted without the consent of the performer, the producer of the phonogram, the producer of the first fixation of the film, and the broadcasting organization. However, the performer, the producer of the phonogram, and the producer of the first fixation of the film has the right to receive an equitable remuneration for such reproduction for personal purposes. Section 18 (4) - (7) apply *mutatis mutandis*.

Section 47. Use of phonograms 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 48. 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 49. Protection of previously unpublished works

Any person who, after the expiring of copyright protection, for the first time lawfully publishes or lawfully communicates to the public a previously unpublished work shall benefit from a protection equivalent to the economic rights of the author (Section 16 - 17). Also Chapter 4 on the restrictions to the economic rights and Chapter 6 apply *mutatis mutandis*.

Section 50. Right "Sui Generis"

1. **The maker of a database which shows that there has been qualitatively and/or quantitatively a substantial investment in either the obtaining, verification, or presentation of the contents enjoys an exclusive right to prevent extraction and/or re-utilisation of the whole or of a substantial part, evaluated qualitatively and/or quantitatively, of the contents of that database.**
2. **A "database" means a collection of independent works, data, or other material arranged in a systematic or methodical way and individually accessible by electronic or other means. It does not**

include any computer programs used in the making or operation of databases accessible by electronic means.

3. The maker of a database is the person who takes the initiative and risk of investing in the database.
4. a) "extraction" means the permanent or temporary transfer of all or a substantial part of the contents of a database to another medium by any means or in any form;
- b) "re-utilisation" means any form of making available to the public all or a substantial part of the contents of a database by the distribution of copies, by renting, by on-line or other forms of transmission. The first sale of a copy of a database in Georgia by the right holder or with his consent shall exhaust the right to control resale of that copy within Georgia;
- c) public lending is not an act of extraction or re-utilisation.
5. The repeated and systematic extraction and/or re-utilisation of insubstantial parts of the contents of the database implying acts which conflict with a normal exploitation of that database or which unreasonably prejudice the legitimate interests of the maker of the database are not permitted.
6. The rights referred to in Para. 1 may be transferred by contract.
7. The rights provided for in Para. 1 shall apply irrespective of the eligibility of that database for protection by copyright or by other rights. Moreover, it shall apply irrespective of the eligibility of the contents of that database for protection by copyright or by other rights. Protection of databases under the right provided for in Para. 1 shall be without prejudice to rights existing in respect of their contents.

Section 51. Rights and obligations of lawful users

1. The maker of a database which is made available to the public in whatever manner may not prevent a lawful user of the database from extracting and/or re-utilising insubstantial parts of its contents, evaluated qualitatively and/or quantitatively, for any purposes whatsoever. Where the lawful user is authorized to extract and/or re-utilise only part of the database, this paragraph shall apply only to that part.
2. The lawful user of a database which is made available to the public in whatever manner may not perform acts which conflict with the normal exploitation of a database or unreasonably prejudice the legitimate interests of the maker of the database.
3. The lawful user of a database which is made available to the public in any manner may not cause prejudice to the holder of a copyright or a related right in respect of the works or subject matter contained in the database.

Section 52. Exceptions to the right of the database maker

The lawful user of a database which is made available to the public in whatever manner may, without the authorization of its maker, use a substantial part of the contents in the following way:

- 1) extract a substantial part of the contents of a non-electronic database for private purposes;
- 2) extract a substantial part of the contents of a database for the purposes of illustration for teaching or scientific research as long as the source is indicated and to the extent justified by the non-commercial purpose to be achieved;
- 3) extract and re-utilise a substantial part of the contents of a database for the purposes of public security and an administrative or judicial procedure.

Section 53. The term of the validity of neighbouring rights

1. The rights of performers as set out in Section 41 expire 50 years after the day of the performance. However, if a fixation of the performance is lawfully published or lawfully communicated to the public within this period, his rights shall expire 50 years from the date of the first such publication or the first such communication to the public, whichever is the earlier.
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.
8. The rights of the producer of a phonogram and the rights of the producer of the first fixation of a film, as set out in Sections 42 and 43, respectively, shall expire 50 years after the fixation is made. However, if the phonogram or the film is lawfully published or lawfully communicated to the public

during this period, the rights shall expire 50 years from the date of the first such publication or the first such communication to the public, whichever is the earlier.

9. 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.
10. **The rights of a person who lawfully publishes or communicates to the public a previously unpublished work, as set out under Section 52, shall expire 25 years after the time when the work was first lawfully published or lawfully communicated to the public.**
11. **1. The rights provided for in Sections 50 to 52 shall run from the date of the completion of the making of the database. It shall expire fifteen years from the first of January of the year following the date of completion.**
2. In the case of a database which is made available to the public in whatever manner before expiry of the period provided for in Para.1, the term of protection of that right shall expire fifteen years from the first of January of the year following the date when the database was first made available to the public.
3. Any substantial change, evaluated qualitatively or quantitatively, to the contents of a database, including any substantial change resulting from the accumulation of successive editions, deletions, or alterations, which would result in the database being considered to be a substantial new investment, evaluated qualitatively or quantitatively, shall qualify the database resulting from that investment for its own term of protection.
12. Calculation of the term considered by the Subsections 1,2,3 and 4 of this section, starts from January 1st of the year which follows the year in which the legal fact has taken place, which is the basis for calculations of the indicated period.
13. The right, 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 phonogram and the producer of the first fixation of film, 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 32 of this Law.

CHAPTER 8.

Enforcement of the copyright and neighbouring rights

Section 54. 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 protected subject matter of neighbouring rights, the 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 protected subject matters of neighbouring rights 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 protected subject matter of neighbouring rights 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.

- a) 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;
- b) the removal or alteration of any electronic rights management information without authority;
- c) **the distribution, import for distribution, broadcasting, communication to the public or making available to the public, without authority, of works and protected subject matter of neighbouring rights, 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 55. 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 56. Confiscation of counterfeited articles

- 1. **On request of any author of a protected work, any neighbouring right owner or their successors in title, the police inspector, or, at places where there is no police inspector, the judge are obliged to confiscate the copies of counterfeit works and subject matter of neighbouring rights under Chapter 7. If the confiscation would delay or suspend the public performances which have already begun or announced, a special organization by the president of the court, rendered by order on request, must be obtained.**

2. **A court is authorized to take a decision about confiscation of the copies of counterfeit works and protected subject matter of neighbouring rights, as well as of the materials and equipment needed for their reproduction. The counterfeit copies of works and protected subject matter of neighbouring rights at the request of the holder of the copyright and neighbouring rights may be given to the latter.**
3. **The counterfeit copies of works and protected subject matter of neighbouring rights, 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.**
4. **The counterfeit copies of works and protected subject matter of neighbouring rights, obtained by the third parties in good faith, are not subject to confiscation.**
5. 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.
6. 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 57. 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 58. 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. **For such activity, such organization must obtain from the State Agency of Copyright and Neighbouring Rights a permit. The application for such a permit must include the statutes of the organization, the indication of names, addresses, and nationality of the persons habilitated to represent the organization, an explanation on the number of persons who have mandated the organization with the exercise of their rights, and on the number and the economic importance of the rights entrusted to the organization for the purpose of management of such rights.**
The request for a permit may be rejected only on the reasons that
 - the statutes of the organization do not comply with the provisions of the Law,
 - certain facts raise doubts about the reliability of persons habilitated to represent the organization when exercising its activities, or
 - the economic basis of the organization, one may not expect an efficient management of the rights entrusted therein.

The rejection must be justified.

The permit may be withdrawn whenever one of the reasons for rejection of the permit is given or was not known by the State Agency when the permit was given, and if the organization does not fulfil its legal obligations and continues to do so even after having been warned by the State Agency of Copyright and Neighbouring

Rights.

3. 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.
4. With regard to those organizations, which manage economic rights on the collective basis, restrictions set forth by antimonopoly legislation shall not apply.
5. 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. **However, the State Agency of Copyright and Neighbouring Rights may grant only one permit per category, thereby excluding any overlap between several categories.**
6. 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.
7. Statutes of those organizations, which manage economic rights on the collective basis, must consist of provisions, which are in compliance with the law.
8. 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 59. 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 and owner of a neighbouring right as protected under Chapter 7, or their successors in title, have the right to transfer these economic rights to such organization for the purpose of collective management. 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. An organization which manages economic rights on a collective basis is authorized to request from users of works and protected subject matter of 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 60. 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 61. 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.