

LAW OF GEORGIA ON COPYRIGHT AND NEIGHBORING RIGHTS

(Last amended as of May 4, 2010)

CHAPTER I - GENERAL PROVISIONS

ARTICLE 1: THE OBJECT OF THE LAW *(03.06.2005 #1585)*

This Law shall govern:

- a. the relations associated with the economic and moral rights of authors that arise upon creation and use of scientific, literary and artistic works (copyright);
- b. the relations associated with the copyright related rights of performers, producers of phonograms, videograms and broadcasting organization (hereinafter - the related rights);
- c. the relations associated with makers of databases.

ARTICLE 2: INTERNATIONAL AGREEMENTS

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

ARTICLE 3: THE SCOPE OF THE LAW

This Law shall apply to:

- a. scientific, literary and artistic works, performances, phonograms, videograms and databases, on which owner of copyright is national of Georgia, a natural person having habitual residence on the territory of Georgia and a legal entity with a seat on the territory of Georgia; *(03.06.2005 #1585)*
- b. scientific, literary and artistic works, phonograms, videograms and databases first published in the territory of Georgia. The work, phonogram and videogram shall also be deemed to be first published in Georgia, if within 30 days after the first publication abroad they are published on the territory of Georgia; *(03.06.2005 #1585)*
- c. performance first performed on the territory of Georgia; performance fixed on a phonogram or videogram, which is protected in accordance with subparagraph (b) of this Article; performance not being fixed on a phonogram or videogram but is carried by a broadcast of a broadcasting organization, which is protected in accordance with subparagraph (d) of this Article;
- d. broadcasts of the broadcasting organization, which have obtained a broadcasting license as prescribed by the Georgian legislation and transmits a broadcast via transmitters located in Georgia, by the air, by cable, or by other analogous means; *(03.06.2005 #1585)*
- e. architectural works located on the territory of Georgia, artistic works incorporated in an architectural work located on the territory of Georgia, notwithstanding the nationality and habitual residence of their authors;
- f. other works of science, literature and art, performance, phonogram, videogram and broadcast of broadcasting organizations, which are protected by the international agreements to which Georgia is a party.

ARTICLE 4: DEFINITION OF TERMS USED IN THE LAW

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

a. "author" - a natural person as a result of whose intellectual and creative efforts a work has been created;

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

c. "producer of an audiovisual work" - a natural or legal person who takes the initiative and has the responsibility for production of such a work; in the absence of proof to the contrary, the natural or legal person whose name is appropriately indicated on the work shall be regarded as the producer of audiovisual work; (03.06.2005 #1585)

e. "publication" means making available to the public of copies of a work, phonogram, videogram or database with the consent of the author, other owner of copyright or related rights, and database maker through sale or rental, or other transfer of ownership of a work, phonogram, videogram or database in quantities sufficient to satisfy the reasonable public demand; (03.06.2005 #1585)

f. "rental" - making available for use, the original or a copy of the work or the subject-matter of related rights for a limited period of time and for direct or indirect economic or commercial advantage;

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

i. "transmission by cable" - transmission of sounds or/and images for public reception through a wire, optical fiber cable or other analogous means; (03.06.2005 #1585)

i1) "retransmission by cable" – the simultaneous, unaltered and unabridged retransmission by a cable or microwave system of television or radio programs of an initial transmission by wire or by air, including that by satellite intended for reception by the public; (03.06.2005 #1585)

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

k. "broadcasting" - transmission of a sound or/and image by wireless communication, including by satellite ('satellite'- any satellite operating on frequency bands which, under telecommunications law, are reserved for the broadcast of signals intended for reception by the public; 'communication to the public by satellite' – 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); transmission of encrypted signals is 'broadcasting' where the means for decrypting are provided to the public by the broadcasting organization or with its consent; (03.06.2005 #1585)

l. "broadcast of broadcasting organization" – a unity of sounds or/and images designated for reception by the public that is transmitted by air or by a cable; (03.06.2005 #1585)

m. "database" - a collection of works, data or other material arranged in a systematic or methodical way and individually accessible by electronic or other means. The term does not imply a computer program which is used for making and application of a database accessible by electronic means; (03.06.2005 #1585)

n. "reproduction" – the making of one or more copies, directly or indirectly, in whole or in part, by any means and in any form, of a work, a subject matter of related rights or a database, including in the form of a sound and visual recording. The recording for temporary or permanent storage, in the electronic (including digital), optical or other machine-readable form shall also be deemed as reproduction; *(03.06.2005 #1585)*

n1 "temporary copy" – incidental or necessary transient copy of a work, recording of a performance, phonogram, videogram, database or broadcast of broadcasting organization which are an integral and essential part of a technical process; the sole purpose of temporary copy is to enable a transmission of a work and/or objects of related rights in a network between third parties by an intermediary, or a lawful use of a work and which have no independent economic significance.

o. "reprographic reproduction (copying)" – the making of a copy of the original of a work, data or other material expressed by written or graphic means or of facsimiles of copies thereof in any size by any means of photocopying or other technical means. The recording in an electronic form (including digital), optical or other machine-readable form shall not be deemed to reprographic reproduction; *(03.06.2005 #1585)*

p. "communication to the public" – the broadcasting of images and/or sounds of a work, performance, phonogram, videogram, database, broadcasting organization's broadcast by cable or by other means (other than the diffusion of copies of a work or phonogram) in such a way that persons not belonging to the circle of family or friends of the family may access them from a place (places), which is so distanced from the place of broadcasting that without such broadcasting the image and/or sound may not be accessed from said place (places), including in a way that the subject matter of copyright and related rights and databases may be accessed by any person from a place and at a time individually chosen by them. *(03.06.2005 #1585)*

q. "public performance" – the presentation of a work, performance, phonogram, videogram, broadcasting organization's broadcast by reciting, acting, singing, dancing or otherwise, either directly (live performance) or by means of any device in a place (places), where public performance may be accessed without necessary communication to the public and where the people present do not belong to the family circle friends of the family. The presentation of images of an audiovisual work sequentially shall be assimilated to the public performance of the work; *(03.06.2005 #1585)*

r. "public display" - any demonstration of a work, its original or a copy directly (exposition) or on a screen by means of a tape, slide, picture frame or otherwise, at a place (places) where the public display can be accessed without necessary communication to the public and where the people present do not belong to the family circle or friends of the family. The showing of individual picture frames of an audiovisual work non-sequentially shall be assimilated to the public display of the work; *(03.06.2005 #1585)*

s. "technological measure" - any technology, device or component that, in the normal course of its operation, is designed to prevent or restrict acts, in respect of works or other subject-matter, which are not authorized by the rightholder of any copyright or any right related to copyright; technological measures shall be deemed effective where the use of a protected work or other subject-matter is controlled by the rightholder through application of an access control or protection process (encryption, copy control mechanism, etc.) which achieves the protection objective;

s1. "circumvention of technological measures" – the application of a device or its component or/and other means for neutralizing technological measures; *(03.06.2005 #1585)*

t. "rights-management information" - any information which identifies the author or any other rightholder of a work or other subject-matter protected by this Law, or information about the terms and conditions of use of the work or other subject-matter protected by this Law, and any numbers or codes that represent such information, when any of these items of information is associated with a copy of, or appears in connection with the communication to the public; *(03.06.2005 #1585)*

- u. "phonogram" – the fixation of the sounds of a performance, other sounds or of a representation of sounds. The term does not imply a fixation of the sounds incorporated in an audiovisual work; *(03.06.2005 #1585)*
- v. "producer of a phonogram" - the natural or legal person who takes the initiative and has the responsibility for the first fixation of the sounds of a performance or other sounds; in the absence of proof to the contrary, the natural or legal person whose name and/or title is appropriately indicated on the phonogram and/or its case shall be deemed as the phonogram producer; *(03.06.2005 #1585)*
- w. "fixation" – the embodiment of images and/or sounds in any material form, from which they can be perceived, reproduced or communicated through a relevant device; *(03.06.2005 #1585)*
- x. "performer" - an actor (of drama, cinema, etc.), singer, musician, dancer, and other person who acts, delivers, sings, declaims, plays a musical instrument, or otherwise performs literary or artistic works, including a variety, circus, puppet or folklore show. *(03.06.2005 #1585)*

CHAPTER II - COPYRIGHT

ARTICLE 5: SUBJECT MATTER OF COPYRIGHT

1. Copyright shall apply to scientific, literary and artistic works which are the result of the intellectual and creative activity, whatever may be their purpose, value, genre, size, mode or form of expression.
2. Copyright shall apply to a work which exists in the objective form, irrespective of whether it has been published or made available to the public. *(03.06.2005 #1585)*
3. Copyright shall not apply to ideas, methods, processes, systems, means, concepts, principles, discoveries and facts, even if they are expressed, described, explained, illustrated or embodied in a work

ARTICLE 6: SCIENTIFIC, LITERARY AND ARTISTIC WORKS

1. Scientific, literary and artistic works are:
 - a. literary works (books, brochures, articles, computer programs, etc.);
 - b. dramatic and dramatico-musical works, choreographic works and pantomimes, and other works for stage performance;
 - c. musical works, with or without words;
 - d. audiovisual works; *(03.06.2005 #1585)*
 - e. works of sculpture, painting, engraving and lithography, fine arts, and similar works;
 - f. decorative-applied art or monumental art works;
 - g. dramatic-decorative art works;
 - h. architectural, town-planning or landscape architecture works;
 - i. photographic works to which are assimilated works expressed by a process analogous to photography. Individual images of an audiovisual work shall not be assimilated to photographic works,
 - j. maps, plans, sketches, illustration, and other works related to geography, cartography or other spheres; *(10.10.2002 #1693)*
 - k. derivative works, in particular, translations, word for word translations of works of art, adaptations, screen and stage versions, reviews, compilation, musical arrangement, and other alterations of literary and art works;
 - l. composite works, in particular, collections (encyclopedias, anthologies, databases) and other compiled works which, by reason of the selection and arrangement of their contents, constitute intellectual creations;
 - m. other works. *(03.06.2005 #1585)*

2. Copyright in derivative and composite works shall subsist whether or not material included in them are subject-matter of copyright.

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

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

ARTICLE 7: SEVERABILITY OF COPYRIGHT

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

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

ARTICLE 8: WORKS NOT PROTECTED BY COPYRIGHT

1. The following shall not be protected by copyright:

- a. official documents (legislative acts, court decisions, other texts of administrative and regulatory nature), as well as official translations thereof;
- b. official state symbols (flags, coats-of-arms, anthems, reward, banknotes, other state symbols and insignia);
- c. information about facts and events.

2. In case the works mentioned in subparagraph "b" of this Article are used under an assumed name, protection of the right of authorship may be claimed.

ARTICLE 9: COMMENCEMENT OF A COPYRIGHT

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

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

3. Deleted. (03.06.2005 #1585)

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

- a. the Latin letter "C" in a circle ©;
- b. the name of the owner of exclusive rights;
- c. the year of first publication of the work.

ARTICLE 91: DEPOSIT OF WORK (03.06.2005 #1585)

1. The author or other copyright owner may deposit the original or a copy of a work with "Sakpatenti". Person indicated in a deposition certificate shall be deemed to be the author of the work, unless otherwise proved. (04.05.2010 #3032 -Is)

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

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

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

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

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

7. Deposition of a work shall be subject to a fee, which shall be determined by the decree of the Government of Georgia. *(04.05.2010 #3032 -Is)*

ARTICLE 10: PRESUMPTION OF AUTHORSHIP

1. The person who is appropriately indicated as author on the original or a copy of the work shall be deemed to be the author of the work, unless otherwise proved. This provision shall also apply upon publication of the work under a pseudonym, provided that the pseudonym is generally recognized.

2. When a work is published under a pseudonym (except for the cases when the author is generally recognized under the pseudonym) or anonymously, the publisher, whose name or designation is appropriately indicated on the work, shall be considered as a representative of the author, unless otherwise proved. It may, as the authorized representative, protect the author's rights and ensure their enforcement. This provision shall apply until the author of such work reveals his identity.

ARTICLE 11: JOINT AUTHORSHIP (CO-AUTHORSHIP)

1. Copyright in a work created as a result of joint intellectual and creative activity of two or more persons (co-authors) shall belong to the co-authors jointly, irrespective of whether such a work constitutes a single unitary whole, or consists of parts, each of which has an autonomous meaning. Mutual relations of the co-authors shall be determined by an agreement concluded between them. *(03.06.2005 #1585)*

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

3. According to the agreement of the co-authors, the work may be published or made available to the public under the joint pseudonym. *(03.06.2005 #1585)*

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

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

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

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

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

3. The authors of works included in the composite work may independently use their works separately from the compilation, unless the copyright agreement provides otherwise.

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

ARTICLE 13: RIGHTS OF THE AUTHOR OF A DERIVATIVE WORK

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

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

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

ARTICLE 14: EXCLUSIVE RIGHTS OF A PUBLISHER

1. Publishers of encyclopedias, encyclopedic dictionaries, scientific works, periodic and serial collections, newspapers, magazines, and other periodicals shall enjoy the exclusive right of using the works included in these editions. The publisher shall be authorized, upon use of such works in any form, to indicate his/her name or claim its indication. A work included in a newspaper, magazine or other periodical shall not be used by another person without the consent of the publisher of such a newspaper, magazine or periodical, or of the author of such a work, except for the cases prescribed by this Law. In the case of use of an exclusive material published in the press or other mass media, a reference shall be made to the information medium where the material was published first. (09.09.1999 #2388)

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

ARTICLE 15: COPYRIGHT IN AN AUDIOVISUAL WORK

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

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

collective management organization, except for the case when the user has paid remuneration directly to the author (co-authors), in which case the submission to the collective management organization of the documents in evidence of the above shall be the obligation of the user. *(03.06.2005 #1585)*

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

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

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

1. Copyright in a work created in the course of fulfillment of the employer's order (work created in the course of employment) shall belong to the employer unless the agreement provides otherwise. *(04.05.2010 #3032 -Is)*

2. Deleted. *(03.06.2005 #1585)*

3. Deleted. *(04.05.2010 #3032 -Is)*

4. Deleted. *(04.05.2010 #3032 -Is)*

5. Deleted. *(04.05.2010 #3032 -Is)*

6. The employer may, when using a work created in the course of employment in any form indicate his name or to claim such indication.

7. Upon use of a work created in the course of employment, the amount of remuneration (royalty) and a procedure for its payment may be determined by an agreement between the author and employer.

8. Deleted. *(03.06.2005 #1585)*

ARTICLE 17: MORAL RIGHTS OF AUTHORS

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

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

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

c. the right to decide whether and when the work will be disclosed; *(03.06.2005 #1585)*

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

e. the right to safeguard the work from any distortion or other encroachment which would be prejudicial to his honor, dignity or reputation (the right to good name and reputation);

f. the right to authorize other persons to add to the work the works (illustration, foreword, afterword, summary, commentaries, etc.) of other authors;
g. the right to claim termination of the use of the work (the right of recall of a work). In this case, the author shall announce the recall publicly. The right of recall of a work shall not apply to the work created in the course of employment.

2. The right provided by subparagraph (g) of paragraph one of this Article shall be exercised at the author's expense. The author shall compensate the user of the work for the damages incurred, including lost profits. The author also may, at own expense, withdraw from circulation the copies of the work made earlier for the purpose of sale or rental, or other transfer of ownership. *(03.06.2005 #1585)*

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

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

ARTICLE 18: ECONOMIC RIGHTS OF AUTHORS

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

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

- a. reproduction of the work (the right of reproduction);
- b. distribution of the original or copies of work by sale or other transfer of ownership (the right of distribution); *(03.06.2005 #1585)*
- c. importation of copies of the work for the purpose of sale or rental or other transfer of ownership, including the copies made with the consent of the author or other owner of copyright (the right of importation); *(03.06.2005 #1585)*
- d. public display of the work (the right of public display). This right shall not apply where the public display is the result of a lawful purchase of the work put in civil circulation;
- e. public performance of the work (the right of public performance);
- f. communication to the public of the work, including the first transmission and/or retransmission by wire or wireless means so that it may be accessed by any person at a time and place chosen by him/her (the right of communication to the public); *(03.06.2005 #1585)*
- g. translation of the work (the right of translation);
- h. adaptation of the work (the right of adaptation);
- i. renting of the original or copies of the work, or/and to transfer ownership otherwise; *(03.06.2005 #1585)*
- j. usage of the work otherwise. *(03.06.2005 #1585)*

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

4. The first sale of a copy of a work in Georgia by the author or with his consent shall exhaust the author's right to further distribution of that copy within Georgia. *(03.06.2005 #1585)*

5. Authors or other owners of copyright of musical works expressed in graphic form, audiovisual works, computer programs, databases, and works fixed in a

phonogram or videogram shall enjoy the exclusive right of authorizing the rental or other transfer of ownership of the originals or copies of these works, notwithstanding the copyright in the said original or copies. (03.06.2005 #1585)

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

7. The amount of the remuneration, its calculation and payment procedure for any use of the work shall be determined under an agreement concluded between the author, other owner of copyright or the organizations that administers economic rights on a collective basis on the one hand and the user on the other hand. In the case of retransmission of the work by a cable, the remuneration its calculation and payment procedure shall be determined under a agreement concluded between the organization and the user only. If the said organization and the user fail to agree, the amount of remuneration and its calculation and payment procedure shall, subject to the request by any party or the parties, be determined by "Sakpatenti". The decision by "Sakpatenti" may be appealed against in court within 2 months of its making. (03.06.2005 #1585)

8. The person who after expiry of the copyright term, will make available to the public by publication or communication to the public the work not published or communicated to the public earlier for the first time, shall enjoy economic rights in this work provided for by paragraph 2 of this Article. (03.06.2005 #1585)

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

ARTICLE 19: ECONOMIC RIGHTS IN COMPUTER PROGRAMS AND DATABASES

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

- a. Reproduction of a computer program by any means and in any form, in whole or in part. Such reproduction shall be subject to authorization by the author if this is necessary for loading, displaying, running, transmitting or storing of the computer program;
- b. translation of a form, 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; (03.06.2005 #1585)
- c. deleted. (03.06.2005 #1585).

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

- a. temporary or permanent reproduction of the database by any means and in any form, in whole or in part;
- b. translation, adaptation, arrangement and any other alteration of the database and the reproduction, distribution, communication to the public, public display or public performance of the results thereof; (03.06.2005 #1585)
- c. deleted; (03.06.2005 #1585)
- d. any communication, display or performance to the public, including interactive, live broadcast.

ARTICLE 20: COPYRIGHT IN FINE ART WORKS

1. The author of a fine-art work has right to request the owner of the work to give him the opportunity to exercise his right of reproduction of the work (right of permission). At that, the owner shall not be obliged to deliver the work to the author's place.

2. the author or his/her legatees are entitled to remuneration for the resale of originals of works of fine art and photography, including through a professional intermediary (at art auctions, art selling exhibitions, shops, etc.) in the following amounts: *(03.06.2005 #1585)*

- a. where the sale price is GEL 500 to 100,000 – 4 percent;
- b. where the sales price is GEL 100,000.01 to 400,000 – GEL 4,000 + 3 percent of the sum over GEL 100,000.01;
- c. where the sales price is GEL 400,000.01 to GEL 700,000 – GEL 13,000 + 1 percent of the sum over 400,000.01;
- d. where the sales price is GEL 700,000.01 to GEL 1,000,000 – GEL 16,000 + 0.5 percent of the sum over 700,000.01;
- e. where the sales price is over GEL 1,000,000 – GEL 17,500 + 0.25 percent of the sum over 1,000,000.

3. The remuneration provided for by paragraph 2 of this Article may be collected by an organization that administers economic rights of authors on a collective basis (collective management organization), at whose request the seller of fine-art or photographic works shall furnish the said organization with the sales-related information. The remuneration prescribed by paragraph 2 of this Article (without taxes) shall not exceed GEL 25,000. *(03.06.2005 #1585)*

4. For the purposes of this Article, copies of the original of the fine-art and photographic work specified in paragraph 2 manufactured in limited quantities by the author or with his authorization shall be equated with the original work. *(03.06.2005 #1585)*

5. It is prohibited to assign the right provided for by paragraph 2 of this Article in the lifetime of the author to other persons and may only be succeeded to the heirs at law or by will of the author for the term of copyright protection. *(03.06.2005 #1585)*

CHAPTER III - LIMITATIONS ON ECONOMIC RIGHTS

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

1. A natural person may reproduce a work made available to the public by means of lawful publication or making available to the public only for personal use without consent of the author or other owner of copyright and without payment of remuneration thereto, except for the cases stipulated by paragraphs 2 and 3 of this Article. *(03.06.2005 #1585)*

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

- a. reproduction of architectural works in the form of buildings;
- b. reproduction of electronic databases, except for the cases provided for by Articles 28 and 30 of this Law; *(03.06.2005 #1585)*
- c. reproduction of computer programs, except for the cases provided for by Articles 28 and 29 of this Law;

- d. reprographic copying of books (wholly), music notations (musical work in a graphic form) and works of fine arts;
- e. reproduction of an audiovisual work or a work fixed in a phonogram or videogram. (03.06.2005 #1585)

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

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

5. The remuneration shall be collected and distributed by one of the organizations that administer the economic rights of authors, performers and phonogram producers on a collective basis, under a agreement concluded between these organizations. Unless the agreement provides otherwise, the remuneration shall be distributed as follows: 40 percent - to the authors, 30 percent - to the performers, and 30 percent - to the phonogram producers. The said organizations may request information concerning production and importation of the equipment and material carriers referred to in paragraph 4 of this Article from natural and legal persons as well as from governmental organizations and institutions.

6. The amount and the payment procedure of the remuneration shall be determined by an agreement between the said producers and importers on the one hand and with one of the organizations that administer the economic rights of authors, performers and phonogram producers on a collective basis on the other hand. If the parties fail to agree, the amount of the remuneration, its calculation and payment procedure shall, subject to the request by any party or the parties, be determined by "Sakpatenti". The decision by "Sakpatenti" may be appealed against in court within 2 months of its making.

7. The remuneration shall be distributed among the authors of the works and other owners of copyright and related rights, referred to in paragraphs 3 and 5 of this Article. (03.06.2005 #1585)

8. The remuneration shall not be distributed in respect to the equipment and material carriers provided for by paragraph

4 of this Article, which represent:

- a. the subject of export;
- b. the professional equipment not intended for domestic use.

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

10. The right of reproduction of the copyrighted works provided for by this Law shall not apply to a temporary copy. (03.06.2005 #1585)

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

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

- a. in a single copy, to replace for libraries and archives copies of lawfully published works that have been lost, damaged or become unusable; to replace copies of collections for other libraries that have been lost, damaged or become unusable and it is impossible to obtain such copies in some other acceptable manner; *(03.06.2005 #1585)*
- b. in a single copy of lawfully published individual articles and other small-volume works, or excerpts from written works (other than computer programs), by libraries and archives, at the request of natural persons, for educational, scientific or personal purposes; *(03.06.2005 #1585)*
- c. of short extracts from the lawfully published individual articles and other small-volume works, or written works (other than computer programs), by educational institutions for teaching purposes. *(03.06.2005 #1585)*

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

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

- a. quotations for purposes such as research, criticism or review, provided that they relate to original works made available to the public by means of lawful publication or making available to the public, to the extent justified for the purpose of quotation, including reproduction of short extracts from newspapers and journals for a printed survey; *(03.06.2005 #1585)*
- b. use for the purpose of illustrations of short extracts from the works made available to the public by means of lawful publication, in printed matter, radio and television programs, sound and visual recordings of educational character, to the extent justified by the purpose to be achieved; *(03.06.2005 #1585)*
- c. reproduction in newspapers or communication to the public of articles on current economic, political or religious topics lawfully published by periodicals or made available to the public and works of same characters communicated to the public, in case where such reproduction is not expressly prohibited by the author or other owner of copyright. Besides, the author shall reserve the right of publication of such works in a collection; *(03.06.2005 #1585)*
- d. reproduction or communication to the public of the work seen or heard in the process of reviewing current events, by means of taking photos, broadcast or cable transmission, to the extent justified by the inforamatory purpose;
- e. reproduction or communication to the public of publicly delivered political speeches, reports, lectures, addresses, sermons, or other similar works, including speeches made at court sessions through newspapers, journals and other periodicals, to the extent justified by the inforamatory purpose. At that, the author shall reserve the exclusive right of publication of such works either as a separate collection, or as a book;
- f. reproduction of a lawfully published work, made for the blind using the Braille printing, or other specific means, without any commercial advantage, except for the works specially created for such uses.

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

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

**ARTICLE 25: PUBLIC PERFORMANCE OF A MUSICAL WORK AT CEREMONIES
(03.06.2005 #1585)**

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

ARTICLE 26: REPRODUCTION OF A WORK FOR COURT PROCEEDINGS

A work may be reproduced for court proceedings without the consent of the author or other owner of copyright and without payment of remuneration thereto, to the extent justified by the purpose to be achieved.

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

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

- a. it makes such recordings by means of own facilities and for own broadcasts;
- b. it shall destroy such recordings within 6 months after their making, unless a longer period has been agreed with the author of the recorded work. The preservation of these recordings in official archives without the author's consent may be permitted only on the grounds of their exceptional documentary character.

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

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

- a. to make alterations to the computer program or database where they are necessary for the functioning of technical facilities of the user, as well as to carry out any act related to the functioning of the computer program or database, including loading and storing in the computer memory (for one computer or one network user), as well as correction of apparent errors, unless the copyright agreement provides otherwise;
- b. to make a back-up copy of the computer program or database, provided that this copy is designated for archival purposes only and for replacement of the lawful owner's copy that has been lost, destroyed or become unusable.

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

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

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

- a. these acts are performed by the person having a right to use a copy of the program, or on his/her behalf by a person authorized to do so;
- b. the information necessary to achieve interoperability has not previously been available to the person from other sources;
- c. these acts are confined to the parts of the decompiled program which are necessary to achieve interoperability;
- d. the information obtained through decompilation may not be used for reasons other than to achieve interoperability of the independently created computer program with other programs. This information may not be given to other persons or to be used for the development of a new computer program substantially similar in its expression or for any other act which infringe copyright.

ARTICLE 30: FREE USE OF DATABASE

The lawful user of a database or a copy thereof is entitled to perform any of the acts provided for by Article 19 of this Law which is necessary for the purposes of access to the contents of the database and normal use of the contents without the authorization by the author of the database or other owner of copyright. Where the lawful user is authorized to use only part of the database, this provision shall apply only to that part.

CHAPTER IV – TERMS OF PROTECTION OF COPYRIGHT

ARTICLE 31: COMMENCEMENT AND DURATION OF A COPYRIGHT

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

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

ARTICLE 32: TERMS OF PROTECTION OF COPYRIGHT

1. Copyright on a work, which was published or made available to the public as an anonymous or pseudonymous work, shall run for 70 years after the work is lawfully disclosed. However, when the pseudonym adopted by the author leaves no doubt as to his identity, or if the author discloses his identity during the said period, the term of protection shall be that laid down in paragraph one of Article 32 of this Law. (03.06.2005 #1585)

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

3. Where a work is published in volumes, parts, issues or episodes and the term of protection runs from the time when the work was lawfully published, the term of protection shall run for each such item separately. (03.06.2005 #1585)

4. Copyright on a work mentioned in Articles 12 and 13 of this Law, shall run for 70 years from the time when the works were lawfully published or made available to the public for the first time, and where a work has not been published or made available to the public - from the date of its creation.

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

6. Economic right of the person who lawfully published or made available to the public a work which was not published or made available to the public previously (Article 18(8) of

this Law), shall run 25 years from the time when the work was first lawfully published or lawfully made available to the public. (03.06.2005 #1585)

ARTICLE 33: COPYRIGHT OF UNLIMITED DURATION

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

2. After expiry of the copyright term, other authors may not use the title of the work for a work of the same genre, if such use might result in confusion of authors and misleading of the public.

3. Economic rights of a person It is prohibited to publish or to make available to the public a work under such pseudonym, which might, by means of such publication or making available to the public, result in the identification with the author of the work published earlier and misleading the public. (03.06.2005 #1585)

ARTICLE 34: USE OF EXPIRED COPYRIGHT

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

2. Georgian legislation may introduce special fees for using on the territory of Georgia of a work with expired copyright protection. The income gained in such way shall be directed to professional authors' funds and organizations which administer economic rights of the authors on a collective basis. The amount of fees shall not exceed 3 percent of the income gained from the use of the work. (03.06.2005 #1585)

CHAPTER V - TRANSFER OF COPYRIGHT

ARTICLE 35: GROUNDS FOR TRANSFER OF COPYRIGHT

1. A copyright shall be transferred by hereditary or testamentary succession or by an agreement. (03.06.2005 #1585)

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

3. The rights of authorship and the right to be named and the right of integrity of a work shall not be transferred by succession. The successors shall have the right to safeguard the said moral rights, the term of protection of which is of unlimited duration.

4. Unless otherwise determined by the author during his life, he may not prohibit other persons to complete his work with the works of other authors (illustration, foreword, afterword, comment, etc.). Said moral right is transferable by succession. The said right shall be transferred to successors for the term of copyright.

5. The author shall have the right to indicate the person to be appointed thereby as an advocate of the rights mentioned in paragraph 3 of this Article. This person shall carry out his obligations until the author's death.

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

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ARTICLE 36: TRANSFER OF ECONOMIC RIGHTS OF AN AUTHOR (03.06.2005 #1585)

The author or other owner of copyright is entitled to transfer all or part of his/her economic rights to his/her successor in title.

ARTICLE 37: EXCLUSIVE LICENSE

1. Under an exclusive license agreement, the author or other owner of copyright shall grant the exclusive right to use a work in a definite form and within the scope defined by the agreement solely to the licensee and shall entitle the licensee to prohibit such use of the work by other persons (including the author). (03.06.2005 #1585)

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

ARTICLE 38: NON-EXCLUSIVE LICENSE

1. Under a non-exclusive license agreement, the author or other owner of copyright shall permit the licensee to use the work on an equal basis with the persons who have received the right to use the work in a similar way. (03.06.2005 #1585)

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

ARTICLE 39: USE OF A WORK AFTER GRANTING OF AN EXCLUSIVE LICENSE (03.06.2005 #1585)

Even in the case of granting of the exclusive license, the author shall retain the right to use a work only upon publication of a complete collection of his works,

provided that 5 years have passed from the date when, as a result of the grant of the exclusive license, the work became available to the public by means of publication or making public. At the same time, the author shall not be authorized to use this work independently from the complete collection.

ARTICLE 40: LICENSE AGREEMENT (03.06.2005 #1585)

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

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

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

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

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

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

7. If remuneration in a license agreement concerning the reproduction of a work is determined as a fixed sum, the license agreement shall specify the maximum circulation of the work.

ARTICLE 41: DELETED (03.06.2005 #1585)

ARTICLE 42: FORM OF AN AGREEMENT (03.06.2005 #1585)

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

ARTICLE 43: COPYRIGHT AGREEMENT FOR COMMISSIONED WORK

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

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

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

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

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

6. Any contractual provision which restricts the author's right to create in the future a work on a definite topic or in a definite field shall be null and void. *(03.06.2005 #1585)*

7. Transfer of the right to the work which the author might create in the future may not be the subject of a agreement. *(03.06.2005 #1585)*

8. Copyright in a commissioned work shall belong to the employer unless the agreement provides otherwise. *(04.05.2010 #3032 -Is)*

ARTICLE 44: OBLIGATION TO COMPENSATE FOR DAMAGES *(03.06.2005 #1585)*

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

CHAPTER VI - RELATED RIGHTS

(03.06.2005 #1585)

ARTICLE 45: RELATED RIGHTS

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

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

ARTICLE 46: HOLDERS OF RELATED RIGHTS

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

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

3. A performer shall exercise the rights specified in this Chapter, provided that they observe the right of the author of the work performed.

4. The commencement and exercise of related rights shall not be subject to any formality. To claim his rights, a phonogram producer or performer may utilize, on

each and every copy of phonogram or its packaging, a sign consisting of the following three elements:

- a. the Latin letter P in a circle, © ;
- b. the name (designation) of the holder of exclusive related right;
- c. the year of first publication of the phonogram.

ARTICLE 47: RIGHTS OF PERFORMERS

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

- a. the right to be named;
- b. the right to protect his performance from any distortion, or other modification that would prejudice the performer's honor, dignity or business reputation (right to respect of reputation);
- c. the right to use his performance in any form, including the right to receive remuneration for the use of the performance in any form;

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

- a. the fixation of earlier unfixed performances;
- b. the direct or indirect reproduction of their performances fixed in phonograms; *(03.06.2005 #1585)*
- c. the transmission on the air or by cable of the performance, except for the cases when the earlier recorded or broadcast performance is being transmitted with the performer's consent; *(03.06.2005 #1585)*
- d. the retransmission on the air or by cable of the fixation of a performance, provided that this performance was not initially fixed for commercial purposes;
- e. the distribution of the original and copies of their performances fixed in phonograms through rental or other transfer of ownership. *(03.06.2005 #1585)*
- f. the distribution of the original and copies of the performance fixed in phonograms through sale or other transfer of ownership; *(03.06.2005 #1585)*
- g. Transmission of the performance fixed in phonograms, by wire or wireless means, in such a way that a person may access it from a place and at a time individually chosen by him. *(03.06.2005 #1585)*

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

4. The making of an agreement between the performer and the broadcasting organization on the transmission on the air or by cable of a performance shall result in the transfer by the performer of his right to authorize the fixation of his performance, its further distribution and reproduction of the fixation only if it is directly provided for by the agreement. In the case of such use, the amount of the remuneration payable for the performance shall be specified by the said agreement.

5. Conclusion of an agreement on the creation of an audiovisual work between the performer and the audiovisual work producer will result in transfer of the rights provided for in paragraph 2 of this Article, unless the agreement provides otherwise. The transfer of such rights by the performer is confined to the use of the audiovisual

work and, unless the agreement provides otherwise, it shall not include the right to the separate use of the sound and the image fixed in the audiovisual work.

6. The right of a performer to control further distribution of a phonogram within Georgia shall be exhausted by the first sale of copies thereof. *(03.06.2005 #1585)*

7. A performer shall enjoy the right to be named in the performances created thereby in the course of employment. The exclusive right to the use of such performances shall belong to the person with whom the performer is in labor relations, unless the agreement concluded between them provides otherwise.

8. The exclusive rights provided for in paragraph 2 of this Article may be assigned to the other party on a agreemental basis.

ARTICLE 48: EXCLUSIVE RIGHTS OF A PHONOGRAM PRODUCER

1. The producer of the phonogram shall enjoy the exclusive right to use a phonogram in any form, including the right to receive remuneration for using the phonogram in such form.

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

- a. the direct or indirect reproduction of the phonogram; *(03.06.2005 #1585)*
- b. deleted; *(03.06.2005 #1585)*
- c. the rental of the original or copies of the phonogram or other transfer of ownership; *(03.06.2005 #1585)*
- d. the distribution of the original or copies of the phonogram in the public through sale or other transfer of ownership; *(03.06.2005 #1585)*
- e. the importation of copies of the phonogram for the purpose of sale or rental, or other transfer of ownership, including the copies produced with the consent of the phonogram producer; *(03.06.2005 #1585)*
- f. the transmission of the original or copies of the phonogram by wire or wireless communication, in such a way that any person may access them from a place and at a time individually chosen by him. *(03.06.2005 #1585)*

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

4. The right of a producer of a phonogram to control further distribution of the phonogram within the territory of Georgia shall be exhausted by the first sale of copies thereof by the phonogram producer or with his consent. *(03.06.2005 #1585)*

ARTICLE 49: EXCLUSIVE RIGHTS OF A VIDEOGRAM PRODUCER

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

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

- a. the direct or indirect reproduction of the videogram; *(03.06.2005 #1585)*
- b. deleted; *(03.06.2005 #1585)*
- c. the rental or other transfer of ownership of the original or copies of the videogram; *(03.06.2005 #1585)*
- d. the distribution of copies of the videogram in the public by sale or other transfer of ownership; *(03.06.2005 #1585)*
- e. the importation of copies of the videogram for the purpose of distribution, including the copies produced with the consent of the videogram producer; *(03.06.2005 #1585)*,
- f. the transmission of the videogram by wire or wireless communication, in such a way that any person may access them from a place and at a time individually chosen by him. *(03.06.2005 #1585)*

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

4. The right of a producer of a videogram to control further distribution of the videogram within the territory of Georgia shall be exhausted by the first sale of copies thereof by the videogram producer or with his consent. *(03.06.2005 #1585)*

ARTICLE 50: EXCLUSIVE RIGHTS OF A BROADCASTING ORGANIZATION

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

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

- a. the recording of the broadcast;
- b. the reproduction of the broadcast recording, except for the cases when the broadcast is recorded with the consent of the broadcasting organization and the reproduction is made for the same purpose for which it was recorded;
- c. the simultaneous retransmission of the broadcast on the air and by cable, by an aerial and cable broadcasting organization respectively; *(03.06.2005 #1585)*
- d. the transmission of the broadcast on the air or by cable;
- e. the communication to the public of its broadcasts if such communication is made in places accessible to the public against payment of an entrance fee;
- f. the distribution of the broadcast recording in the public by sale or other transfer of ownership; *(03.06.2005 #1585)*
- g. the rental of the broadcast recording or other transfer of ownership; *(03.06.2005 #1585)*
- h. the transmission of the broadcast recording by wire or wireless communication, in such a way that any person may access it from a place and at a time individually chosen by him. *(03.06.2005 #1585)*

ARTICLE 51: FREE USE OF SUBJECT MATTER OF RELATED RIGHTS

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

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

- a. in the case of quotations from a performance, phonogram, videogram, broadcast of a broadcasting organization for purposes such as research, criticism or review, and informatory purposes, only to the extent justified for the purpose of quotation;
- b. in the case of use for the sole purpose of illustration of extracts from a performance, phonogram, videogram, broadcast of a broadcasting organization excerpts and illustrations for teaching and scientific research, only to the extent justified by the purpose to be achieved;
- c. in the case of short excerpts from a performance, phonogram, videogram, broadcast of a broadcasting organization excerpts and illustrations in reporting current events.

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

4. The right of reproduction of a subject matter protected by related rights prescribed by this Law shall not extend to a temporary copy. (03.06.2005 #1585)

ARTICLE 52: USE OF PHONOGRAMS PUBLISHED FOR COMMERCIAL PURPOSES (03.06.2005 #1585)

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

- a. the public performance of a phonogram;
- b. the transmission of a phonogram on the air or retransmission by cable.

2. The collection and distribution of the remuneration provided for in paragraph one of this Article shall be carried out by one of the organizations that administer economic rights of performers and phonogram producers on a collective basis, under an agreement made between them.

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

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

5. For purposes of this Article, the phonogram that was communicated by wire and wireless means and may be accessed by any person from a place and at a time

individually chosen by him/her shall be considered as a phonogram published for commercial purposes.

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

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

- a. obtaining of a prior consent to the transmission of a performance or broadcast;
- b. ephemeral fixation and its reproduction by means of own facilities and for own broadcasts;
- c. destruction of the ephemeral fixation under the condition specified for ephemeral recordings of scientific, literary and artistic works.

CHAPTER VII - RIGHTS OF MAKERS OF DATABASES

ARTICLE 54: MAKER OF A DATABASE

1. The maker of a database (which does not represent a work), which proves that there has been qualitatively and/or quantitatively substantial investment in either the obtaining, verifying or presenting of the contents of the database, shall enjoy the exclusive right to prevent extraction and/or re-utilization of the whole or substantial part, evaluated qualitatively or quantitatively, of the contents of that database. *(03.06.2005 #1585)*

2. For purposes of this Chapter, 'extraction' shall mean the permanent or temporary transfer of all or a substantial part of the contents of a database to other material carrier by any means or form, and 're-utilization' shall mean any form of making available to the public all or a substantial part of the contents of a database part by the distribution of copies, by renting, by online or other forms of transmission. The first sale of a copy of a database in Georgia by the rightholder or with his consent shall exhaust the right to control resale of that copy within the territory of Georgia. *(03.06.2005 #1585)*

3. The repeated and systematic extraction and/or re-utilization of substantial 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 shall not be permitted.

4. The rights of the maker of a database referred to in paragraph one of this Article may be transferred, assigned or granted under agreemental license.

5. The rights provided for paragraph one of this Article shall apply to works, objects of related rights and other data included in a database are protected irrespective of their content. Protection of databases under the right provided for in paragraph one of this Article shall be without prejudice to rights existing in respect of their contents. *(03.06.2005 #1585)*

ARTICLE 541: DEPOSIT OF A DATABASE *(03.06.2005 #1585)*

1. The maker of a database may deposit the original or a copy of a database with "Sakpatenti". A certificate issued by "Sakpatenti" as a result of the deposit certifies the fact of deposit of the database only and does not commence copyright rights.

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

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

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

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

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

7. Deposition of a database shall be subject to a fee, which shall be determined by the decree of the Government of Georgia. *(04.05.2010 #3032 -Is)*

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

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

2. A lawful user of a database which is published or made available to the public in whatever manner may not perform acts which prejudice the legitimate interests of the maker of the database. *(03.06.2005 #1585)*

3. A lawful user of a database which is made available to the public may not infringe rights of owner of copyright and related rights contained in the database. *(03.06.2005 #1585)*

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

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

- a. extract for private purposes a substantial part of the contents of a non-electronic database;
- b. extract for the purposes of illustration for teaching or scientific research a substantial part of the contents of a database contents, as long as the source is indicated and to the extent justified by the non-commercial purpose to be achieved;
- c. extract and/or re-utilize a substantial part of the contents of a database for the purposes of public security or an administrative or court procedure.

**CHAPTER VIII - TERMS OF PROTECTION OF RELATED RIGHTS AND OF THE
RIGHTS OF MAKER OF DATABASE**

(03.06.2005 #1585)

ARTICLE 57: TERMS OF PROTECTION OF RELATED RIGHTS

1. The rights of performers specified by Article 47 of this Law shall expire 50 after the date of the first performance. However, if a fixation of the performance is lawfully published or made available to the public within this period, this term shall run for 50 years from the date of the first such events, whichever occurs first. *(03.06.2005 #1585)*

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

3. The right of producers of phonograms or videograms provided for in Articles 48 and 49 of this Law shall expire 50 after the first fixation is made. However, if the phonogram or videogram is lawfully published or made available to the public during this period, the said term shall run for 50 years from the first occurrence of one of the said events, whichever occurs first. *(03.06.2005 #1585)*

4. The rights of a broadcasting (cable) organization as provided in Article 50 of this Law shall expire 50 years after the first transmission on the air or by cable of a broadcast of such an organization.

5. The right of a database maker provided for in Article 54 of this Law shall expire 15 years after the date of making of the database. If the database is lawfully published or made available to the public during this period, 15 years shall be calculated from the first occurrence of one of the said events, whichever occurs first. *(03.06.2005 #1585)*

6. Any change, evaluated qualitatively and/or quantitatively, to the contents of a database as provided for in Article 54 of this Law, including any substantial change resulting from the accumulation of successive additions, deletions or alterations, which would result in the database being considered to be a substantial new investment, evaluated qualitatively and/or quantitatively, shall qualify the database resulting from that investment for its own term protection.

7. Calculation of the term provided for in this Article shall start from the first of January of the year following the year in which the legal act took place giving rise to the calculation of the said term.

8. The rights specified in this Chapter, shall, upon effect of the terms indicated in paragraphs one through 5 of this Article, be handed down to successors of the performer, phonogram or videogram producer, broadcasting organization and the maker of a database, and in the case of a legal person - to their successors in title. *(03.06.2005 #1585)*

CHAPTER IX - PROTECTION OF COPYRIGHT, RELATED RIGHTS AND MAKER OF DATABASES

(03.06.2005 #1585)

ARTICLE 58: INFRINGEMENT OF COPYRIGHT, RELATED RIGHTS AND MAKERS OF DATABASES (03.06.2005 #1585)

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

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

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

- a. the unauthorized use of a work, phonogram, videogram, broadcast of a broadcasting organization and of a database;
- b. the alteration or removal of any electronic right-management information without the authorization of the rightholder;
- c. if a work, subject-matter of a related right or a database became available to the public (by making available to the public, distribution, rental or other transfer of ownership of copies thereof), by a person knowing, or having reasonable grounds to know, that the right-management information was altered or deleted without the authorization of the rightholder;
- d. the circumvention of technological measures;
- e. the manufacture, import, distribution, sale, rental, or advertisement for sale or rental of any technology, device or its components which:

e.a) are put into circulation for the purpose of circumvention of technological measures;

e.b) have only a limited commercially significant purpose or use other than to circumvent; or

e.c) are primarily designed, produced or performed for the purpose of enabling or facilitating the circumvention of any effective technological measures;

f. the offering and rendering of services aimed at neutralizing technological measures by using a technology, device or its components.

ARTICLE 59: PROTECTION OF COPYRIGHT, RELATED RIGHTS AND THE RIGHTS OF MAKERS OF DATABASES (03.06.2005 #1585)

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

- a. the recognition of their rights;
- b. the renewal of the status prior to the infringement and termination of the acts infringing their rights or creating a risk of their infringement;
- c. the compensations for the damages, including lost profits;

- d. the confiscation of income gained by the infringer as a result of infringing their rights, instead of the compensation for damages;
- e. the payment of the compensation at the discretion of the court instead of the reimbursement for damages or confiscation of income. At the same time, the compensation shall not be less than the tenfold amount of the monetary compensation receivable by the rightholder in the case of lawful use of the infringed right;
- f. the taking of other measures related to the protection of their rights prescribed by the legislation of Georgia.

2. The measures provided for in subparagraphs (c) through (e) of paragraph one of this Article shall be applied at discretion of the rightholder.

3. While determining the amount of damages, the nature of the infringement, the material and moral damage caused to the rightholder, as well as the expected income that might be gained by the rightholders as a result of the lawful use of the work, subject-matter of related rights or of the database shall be taken into account.

ARTICLE 60: COUNTERFEIT COPIES (03.06.2005 #1585)

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

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

3. The court may make decisions the seizure of the infringing copies of the work, phonogram, videogram or database, as well as of the material, device or components thereof necessary for their reproduction or circumvention of technological measures. The infringing copies of the work, phonogram, videogram or database may be handed over to the rightholder at his request.

4. The infringing copies of the work, phonogram, videogram or database, which have not been claimed by the rightholder, as well as the material, device or components thereof necessary for their reproduction or circumvention of technological measures shall be subject to destruction in accordance with the court order.

5. The infringing copies of the work, phonogram, videogram or database lawfully acquired by a third person shall not be subject to seizure, except the cases when the infringing copies have been acquired for commercial purposes.

ARTICLE 61: MEASURES AND REMEDIES FOR PROTECTION OF COPYRIGHT, RELATED RIGHTS AND RIGHTS OF MAKERS OF DATABASES

1. Before the commencement of proceedings on the merits of the case, the competent judicial authorities (the court or the judge) may solely issue against the defendant or the person against whom there is a reasonable suspicion that he has infringed the copyright, related rights or the rights of makers of databases an injunction intended to forbid the implementation of acts as the manufacture, reproduction, distribution, rental, import, public performance, communication to the public, public display or other use of the subject-matter of copyright and related

rights, of a database or copies thereof, as well as the transportation, storage and holding thereof for the purpose of implementing such acts.

2. Prior to the hearing of a case on merits, the court or the judge may independently order the seizure or delivery up of all the copies of the works, subject-matter of related rights or databases reasonably suspected of being counterfeit copies, as well as of the material, device or its components which are designed for their manufacture, reproduction and circumvention of technological measures.

3. In case of existence of reasonable evidence with regard to the infringement of the copyright, related rights and the rights of makers of databases for which criminal responsibility is provided for, the investigator or the court shall take measures to enforce a civil action that was or may be invoked, through investigating and seizure of the following goods:

- a. the copies of the work, subject matter of related rights or database which are reasonably suspected of being counterfeit copies;
- b. the material, device or its component and other technical facilities that are designed for manufacture and reproduction of infringing copies as well as for circumventing technological measures;
- c. the documents, reports and other things that may be used as evidence in the course of court proceedings. *(03.06.2005 #1585)*

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

1. The National Intellectual Property Center "Sakpatenti" shall ensure the conduct of the state policy and the exercise of other functions entitled by law in the field of copyright

and related rights. Its status and competence shall be determined by the Georgian legislation and on the basis of respective regulations.

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

- a. to ensure the conduct of state policy in scope of the law on copyright and related rights and submit to the President of Georgia proposals for its development;
- b. to represent Georgia at international organizations of intellectual property protection
- c. to carry out deposit of works and databases as prescribed by this Law; *(03.06.2005 #1585)*
- d. to request information related to management of economic rights from the organizations that administers economic rights on the collective basis; *(03.06.2005 #1585)*
- e. to participate, through its representative and without the voting right, in general meetings of a collective management organization and its supervisory council's sessions, and in case the organization fails to comply with the requirements of the national law and of its articles of association, fails to ensure the effective management of economic rights of local and foreign rightholders, as well as violates in the course of the exercise of the said rights the legitimate interests of users, to

raise up the respective matters at general meetings of the members of the organization. *(03.06.2005 #1585)*

CHAPTER X - ADMINISTRATION OF ECONOMIC RIGHTS ON A COLLECTIVE BASIS

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

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

2. An organization that administers economic rights on a collective basis shall be formed on a voluntary basis, directly by the owner of copyright and related rights. It shall not have the status of a creative union (association) and the requirements of the Law of Georgia "On Creative Workers and Creative Unions" shall not apply thereto. The organization shall be established with the organizational and legal status of a non-entrepreneurial (non-commercial) legal entity. If the organization's articles of association comply with the provisions of this Law and the Georgian legislation, the respective tax agency shall decide on its registration and issuance of an excerpt from the Register. The organization shall be authorized to administer economic rights only after it has been entered in the Register by the competent tax agency. *(26.10.2007 #5423)*

3. The procedure for keeping the Register of an organization that administers economic rights on a collective basis, the Register form as well as the form of an excerpt from the Register shall be approved by the order of the Georgian Finance Minister. *(26.10.2007 #5423)*

4. An organization that administers economic rights on a collective basis may not engage in entrepreneurial activity and use a work or subject matter of a related right use for that purpose, the rights to which have been assigned thereto for administration on a collective basis. The said organization shall act within the scope of authority which is established by the Georgian legislation and which, under the articles of association, has been conferred thereon by the holder of copyright and related rights.

5. The articles of association of an organization that administers economic rights on a collective basis shall contain the provisions complying with the requirements of this Law. Management of the organization's activities shall be exercised by the holders of copyright and related rights whose economic rights are being administered by that organization. Decisions concerning the remuneration amount and the procedure for the apportion and

payment of the collected fees, as well as other important matters shall be taken by the holders of copyright and related rights jointly, at a general meeting.

6. It is permissible to form individual organizations according to different categories of the rights or rightholders, or organizations which administer different rights of the one-category rightholders.

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

ARTICLE 631: PUBLICITY OF ACTIVITY OF AN ORGANIZATION THAT ADMINISTERS ECONOMIC RIGHTS ON A COLLECTIVE BASIS (03.06.2005 #1585)

1. An organization that administers economic rights on a collective basis shall carry out its activity in compliance with the principle of publicity and transparency. The organization shall be obliged to make public its annual activity report, which shall indicate:

- a. annual income;
- b. the amount of remunerations collected and distributed for local and foreign rightholders;
- c. other important information.

2. An organization that administers economic rights on a collective basis is obliged:

- a. to present to "Sakpatenti": the articles of association and information concerning the making of amendments thereto; the information concerning the persons participating in the management bodies of the organization and the changes that took place in the said bodies; agreements on mutual representation concluded with similar organizations of other countries; the tariffs fixed for the use of copyright and related rights and the information concerning amendments thereto; the minutes of meetings of the administration and management bodies; the annual report; the court decisions on the case to which it was a party;
- b. to call a general meeting of the members of the organization within 3 months after receipt from "Sakpatenti" of a reasoned written request for calling a general meeting of the members of the organization.

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

ARTICLE 64: ACTIVITISE OF A COLLECTIVE MANAGEMENT ORGANIZATION

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

2. Any author, holder of related rights, their successors in title, other owner of copyright and related rights may entrust administration of their economic rights to a collective management organization, and the organization is obliged to undertake the administration of those rights on a collective basis, as long as the administration of such a category of rights, given the specific forms of their use, falls within the scope of activity of the organization. (03.06.2005 #1585)

3. The rights obtained in accordance under this law, a collective management organization grants licenses to users to use a work or subject-matter of related rights in a respective form. The conditions of the licenses must be similar for all the users of the specific category. The organization may not refuse a user the granting of a license without reasonable grounds therefore. (03.06.2005 #1585)

4. The user of a subject-matter of copyright or related rights shall, upon request of the collective management organization, provide it with all the documents

containing precise data on the use of a work or subject-matter of related rights, which is necessary for collecting and distribution of the remuneration. (03.06.2005 #1585)

5. The user of a subject-matter of copyright or related rights shall maintain the respective documents indicating the information concerning the use if the subject-matter of copyright or related rights, except the case when it is not required, under agreement with the collective management organization, for collection of the remuneration and distribution. (03.06.2005 #1585)

6. In case of public performance of a work or subject-matter of a related right, responsibility for the lawful use of the work or subject-matter of the related right shall be determined by a written agreement concluded between the user and the public performance organizer and the person holding with the right of ownership or use the place or premises (square, scene, hall, etc.) where the performance takes place. In the absence of the said written agreement, responsibility for the lawful use of the work or subject-matter of the related right shall be jointly imposed on the user, the public performance organizer and the person holding with the right of ownership or use the place or premises (square, scene, hall, etc.) where the performance takes place. (03.06.2005 #1585)

ARTICLE 65: RIGHTS OF A COLLECTIVE MANAGEMENT ORGANIZATION (03.06.2005 #1585)

1. A collective management organization shall be authorized:

- a. to agree with the user the amount of remuneration and other licensing conditions;
- b. to issue licenses authorizing uses of the rights being administered thereby;
- c. to agree with the user the amount of remuneration, when the remuneration is collected without granting a license, in the cases provided for in paragraphs 4 of Article 21 and paragraph 3 of Article 51 of this Law;
- d. to collect the remuneration specified by license- and/or the remuneration provided for in subparagraph (c) of paragraph one of this Article;
- e. to distribute and pay out the respective remuneration to the holders of copyright and related rights;
- f. to conduct acts necessary for protection or enforcement of the rights assigned thereto for administration purposes, including to represent of the rightholder in a court and to make use of all the rights provided by the Georgian procedural legislation;
- g. to carry out other activities within the scope of authority conferred thereon by the holders of copyright and related rights.

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

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

4. With regard to an economic claim that may arise in connection with the use by the user of the subject-matter of copyright and related rights under a agreement signed with the collective management organization shall, on behalf of the rightholder, be responsible the organizations that has licensed the said user with the right.

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

ARTICLE 66: DUTIES OF A COLLECTIVE MANAGEMENT ORGANIZATION

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

- a. use the collected remuneration only for apportionment and payment to the holders of copyright and related rights. At that, the organization shall be authorized to deduce from the remuneration the sums spent for its collection, apportionment and payment and the sums transferred to the special funds formed under the decision of those rightholders;
- b. distribution and paying out the remuneration after deduction of the sums mentioned in subparagraph (a) of this Article in proportion to the actual use of the work or the subject-matter of related rights;
- c. provide the owner of copyright and related rights, upon payment of the remuneration, with accounts to contain the information on the use of their rights.

2. The holders of copyright and related rights who have not authorized the collective management organization to collect the remuneration shall have the right: *(03.06.2005 #1585)*

- a. to require the organization to pay the remuneration due to them in accordance with the apportionment of the remuneration that has been made;
- b. to require the exclusion of their works or subject-matters of related rights from the licenses which such organization issues to the users for the term of 3 years from the date of the use of their works of subject-matters of related rights by the user.

CHAPTER XI - TRANSITIONAL PROVISIONS

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

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

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

3. In respect of the performer, the 50-year protection term of which from its first performance by the entry into force of this Law has not expired, the term of protection for the rights of performers as prescribed by Article 57(1) shall apply.

4. In respect of the phonogram and videogram, the 70-year term of protection of which from their production, publication or public disclosure has not expired by the entry of this Law into force, the term of protection of related rights provided for by Article 57(3) of this Law shall apply, unless they are made available to the public within the said period. *(03.06.2005 #1585)*

5. In respect to the broadcasts of a broadcasting organizations, the 70-year protection term of which from their first publication or public disclosure has not expired by the entry of this Law into force, the term of protection of related rights provided for by Article 57(3) of this Law shall apply, unless within the said period they were made available to the public by means of publication or public disclosure. *(03.06.2005 #1585)*

ARTICLE 671: DELETED

CHAPTER XII - FINAL PROVISIONS

ARTICLE 68: INVALIDATED SUBORDINATE LEGISLATION

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

ARTICLE 69: ENTRY INTO FORCE

This Law shall enter into force upon promulgation.