

draft

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

Section 1. Subject of Regulation

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

Section 2. International Agreements

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

Section 3. Sphere of Regulation

Provisions of this law shall apply to:

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

Section 4. Definitions

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

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

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

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

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

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

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

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

h) "public performance,"

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

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

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

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

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

in some objective form.

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

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

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

Section 6. Objects of Copyright

1. Objects of copyright are:

- a) literary works (books, brochures, articles, computer programs, etc);
- b) drama or musical-dramatic works, choreographic, mime, and other theatrical works;

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

c) mere information about events and facts ;

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

Works.

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

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

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

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

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

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

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

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

Section 9. Coauthorship

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

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

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

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

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

Section 10. Copyright to compiled works

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

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

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

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

Section 11. Copyright to Derivative Works

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

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

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

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

Section 12. Copyright to Collective work

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

2. Physical person or

Section 13. Copyright on Audiovisual Work

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

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

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

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

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

3. Right to distribute original or copy by rental belongs to the following

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

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

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

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

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

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

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

a) subject to export;

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

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

in following cases:

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

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

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

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

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

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

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

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

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

SECTION 26. TAKING A WORK ABROAD FOR THE PERSONAL PURPOSES

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

CHAPTER 5.

DURATION OF COPYRIGHT.

SECTION 27. DURATION OF COPYRIGHT

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

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

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

SECTION 28. SPECIAL TERMS OF COPYRIGHT

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

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

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

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

CHAPTER 6.

TRANSFER OF THE COPYRIGHT .

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

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

b) right to first making available to the public.

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

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

SECTION 32. TRANSFER OF THE COPYRIGHT UNDER THE COPYRIGHT AGREEMENT

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

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

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

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

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

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

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

SECTION 33. TERMS AND CONDITIONS OF COPYRIGHT AGREEMENT

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

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

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

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

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

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

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

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

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

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

SECTION 34. FORM OF COPYRIGHT AGREEMENT

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

SECTION 35. COPYRIGHT AGREEMENT ON THE CREATION OF THE WORK

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

SECTION 36. RESPONSIBILITY UNDER THE COPYRIGHT AGREEMENT

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

CHAPTER 7.

NEIGHBOURING RIGHTS

SECTION 37. SUBJECTS OF NEIGHBOURING RIGHTS

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

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

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

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

-the Latin letter P with a circle;

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

-the year of the first publication of the phonogram.

SECTION 38. RIGHTS OF PERFORMER .

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

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

a) the right to the name;

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

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

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

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

b) reproduction of the recorded performance;

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

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

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

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

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

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

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

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

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

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

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

reproduction of the phonogram in any manner or form;

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

c) first distribution of the copies of the phonogram.

d) rental of the copies of the phonogram;

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

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

SECTION 40. RIGHTS OF PRODUCERS OF VIDEOGRAMS

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

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

a) reproduction of a videogram;

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

c) first distribution of copies of videogram;

d) rental of the copies of videogram;

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

SECTION 41. DISTRIBUTION OF PHONOGRAM AND VIDEOGRAM

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 46 THE TERM OF THE VALIDITY OF NEIGHBOURING RIGHTS

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

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

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

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

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

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

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

CHAPTER 8.

ENFORCEMENT OF THE COPYRIGHT AND NEIGHBOURING RIGHTS.

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

1. Violation of copyright and neighbouring rights envisaged by this law shall

a) recognition of the right;

b) rehabilitation of the situation existing before violation of the right, and

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

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

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

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

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

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

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

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

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

