

# 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 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 being registered in Georgia, and make programs through transmitters located on the territory of Georgia;
- e) works of architecture erected in Georgia and artistic works in structure located in Georgia;
- f) other works of science, literature and art performances, phonograms and videograms, which are protected in accordance with those International Agreements to which Georgia is a party.

### Section 4. Definitions

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

- a) An "author" is a physical person who has created the work;
- b) "Broadcasting" is the communication of a work or an object of neighboring rights by wireless transmission, including such transmission by a satellite; "satellite" means any satellite operated on frequency bands, which, unless otherwise provided, are reserved for the broadcast signals for reception by the public or via point-to-point communication. In the latter case, however, the circumstances of reception of the signals takes place must be comparable to those of broadcast communication. "Communication to the public by a satellite" means the act of introducing the program-carrying signal to the public, the responsibility of the broadcasting organization, the program-carrying signal.

by the public into an uninterrupted chain of communicati

- m) A “reproduction” is the making of one or more copies of a work or a phonogram or a videogram in any material form, including any permanent or temporary storage of the work or sound recording in electronic (including digital), optical or other machine readable form;
- n) A “reprographic reproduction” - facsimile reproduction of the original or the specimen of the work (written or graphical work) in any size (bigger or smaller), by photocopying, or using other technical means. Recording in an electronic (including digital), optical or machine readable form will not be considered as reprographic reproduction
- o) A “rights management information” is any information which identifies the author, the work, the performer, the performance of the performer, the producer of the phonogram, the phonogram, the producer of the film, the film, the broadcaster, the broadcast, the database maker, the database, the posthumous editor/communicator, and the posthumous edition/communication as well as the owner of any right under this Law, or information about the terms and conditions of use of the work, the performance, the phonogram, the film, the broadcast, the database, or the posthumous edition/communication, and any numbers or codes that represent such information, when any of these items of information is attached to a copy of a work, a fixed performance, a phonogram, a film, a fixed broadcast, a database or a posthumous edition/communication, or appears in connection with the broadcasting, communication to the public or making available to the public of a work, a fixed performance, a phonogram, a film, a broadcast, a database, or a posthumous edition/communication.
- p) A “technical measure” means any device, product or component incorporated into a process, device or product designed to prevent or inhibit the infringement of any copyright or any related rights provided for in this law.
- r) A “transmission by cable” is the transmission by cable for public availability by means of cable, optical cable, or other analogous device; “retransmission by cable” is the simultaneous, unaltered, and unabridged retransmission by a cable or microwave system for reception by the public of an initial transmission by wire or over the air, including by satellite, of television or radio programs intended for reception by the public

## CHAPTER 2

### Copyright

#### Section 5. Subjects of Copyright

1. Copyright applies to scientific, literary and artistic works, which are original in the sense that they are the author's own intellectual creation. No other criteria should be applied to determine the eligibility for protection of the work. Copyright applies irrespective of function, value, genre, size and forms, and means of its expression.
2. Copyright applies to published, as well as to unpublished works, which exist in objective form.
3. Copyright does not apply to ideas, methods, processes, means, concepts, principles, discoveries or mere data, even if they appear in a work. In the case of a computer program, phrase 1 applies also to those which underlie its interfaces.

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

#### Section 6. Objects of Copyright

1. Objects of copyright are:

- a) Literary works (books, brochures, articles, computer programs, etc);
- b) Drama or musical-dramatic works, cinematographic, mime, and other theatrical works;
- c) Musical works, with, or without texts;
- d) Audio-visual works (movies, tele and video films, and other cinematographic and tele works);
- e) Sculptural, painting, architectural, graphic lithographic and other work of visual art;
- f) Pieces of decorative-applied and monumental art;
- g) Pieces of theatrical-decorative art;
- h) Photographic works, and works which are created through means analogous to photography;
- i)

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

5. Copyright owner may register his work in the register of the state Copyright Agency. After the registration registrant is given a certificate, which itself does not create presumption of authorship.
6. In case of doubts about the author's personality, unless the contrary is proved, the author of a work shall be considered a person, who is properly indicated as the author, on the original work or on its copy. This provision shall apply also to the work published under the pseudonym, if the author is well known under this pseudonym.
7. When a work is published under a pseudonym, or anonymously (except when author is well known under this pseudonym), publisher, whose name or title is stated on the work, until the contrary is proved, shall be considered the author's representative and as author's representative, has the right to defend authors right and to ensure their enforcement. This provision shall apply until the author of such a work shall not reveal himself.

#### Section 9. Coauthorship

1. The copyright to the work, which is a result of joint creative activity of the two or more persons (coauthorship), jointly belongs to co-authors, irrespective of the work representing one indivisible whole, or consisting of parts where each of them has independent meaning. Relations between the authors are defined by the authorship agreement concluded between them.
2. None of the co-authors is authorized to prevent from exploitation of such a work without having substantial grounds for that.
3. Co-authors shall be authorized to publish a work under a joint common pseudonym.
4. Each co-author shall be authorized to use the part of the work, which is created by him and which has an independent meaning unless the contrary is provided by the authorship agreement concluded between them.
5. A part of the work, created under co-authorship, shall be regarded as having the independent meaning, if it can be used without other parts of the work.

#### *Section 10. Copyright in collections*

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

#### *Section 11. Copyright in translations and adaptations*

1. Translators enjoy the copyright in their translations and authors of an 8 -1.1-ns ais tTr5dsn9(a)0 -1.9 aund

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

Section 12 - deleted

#### Section 13. Copyright on Audiovisual Work

1. An audio-visual work shall be considered any work which consists of series of interlinked images (with, or without any sound), creates an impression of movement and can be perceived visually (or by ear).
2. The authors of the audio-visual works are considered the principal director, the author of the screen play, the author of the dialogue, and the author of music specifically created for use in the audio-visual works.
3. The producer of an audio-visual work is considered a natural or a legal entity, who has taken initiative and

- a) the right to be recognized as ~~author~~ author, including the right to claim such recognition on each copy of his work and during each use, in particular by way of indication of the author's name;
  - b) the right to indicate pseudonym instead of real name of the author, or to request such indication on each copy of the work or during each use, or to refuse indication of name (anonymous) (right to name);
  - c) the right to first making available to the public;
  - d) the right to object to any mutilation or other modification of his work;
  - e) The right to request that utilization of his work ~~stopped~~ stopped. If the work is published already, author must make public announcement about his request. This provisions do not apply to the works for hire.
2. The author shall bear the cost~~se~~ exercising rights, contemplated in point "e" of this article. Author shall reimburse to the users of the work damage and unrealized profit, caused by his decision. Author also has the right to stop distribution of copies, which ~~were~~ were made prior to his decision.
  3. Moral rights belong to author independently from his economic right and even in the case of alienation economic rights.
  4. In case of author's death ~~right~~ rights are enforced accord~~ing~~ to rules set by section 31 of this law.

***Section 16. Economic Rights (except for computer programs and databases)***

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

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

#### Section 18. Right to access work of fine art and "Droit de suite" in Works of Art

1. The author of fine arts has the right to request the owner of the work to permit him reproduction of his work (right to access); herewith the owner shall not be obliged to deliver the work to the author.
2. After the first alienation of a piece of fine arts, in every single case of public resale of such work (through auctions, arts salon, exhibition of fine arts, shops or other means), the author or his heirs are authorized to get remuneration from the sellers in the amount of 5 per cent of the resale price. This right to remuneration can be exercised only through collecting societies; The collecting societies have a right to claim information on the relevant resales by the sellers.
3. It is not allowed to alienate the indicated right during the author's life. Under the law and the will, it shall be transferred only to his heirs, for a period of the validity term of the copyright.

## CHAPTER 4

### Restrictions to the Economic Rights

#### SUB-CHAPTER 1

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

#### Section 19. Reproduction of the work for the Personal Purposes

1. Natural persons are allowed without consent of the author or other owners of the copyright, and without payment of remuneration, to reproduce the single copies of a lawfully published work exclusively for personal purposes with the exception of cases under Sections 2 and 3 of this section.
2. The provisions, contemplated in subsection of this section do not apply with respect to:
  - a) reproduction of architectural works, in the form of buildings and analogues means;
  - b) reprographic reproduction of books (completely), musical notations, and pieces of fine art.
  - c) reproduction of the audiovisual work or the work fixed as a phonogram.



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

a) to quote from the lawfully published works in original or translation, for scientific, research, polemic, critical and information purposes, to the extent, which is justified for the purposes of quotation, including

b) destruction of such record within six months from the date of its making, if a longer period has not been agreed with the author of the record. Such work, without a permission of the author, may be preserved in the official archive, if the record bears exclusively documentary nature.

## SUB-CHAPTER 2

Restrictions to rights in computer programs and databases

Section 26. Exceptions to rights in, and decompilation of, computer programs

1. A person who legally owns the computer program, or a copy, is authorized, without consent of the author, or

Section 27a. Restrictions to the ec

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

This Section also applies to the work which ~~has~~ been protected on ~~the~~ territory of Georgia.

By the Georgian legislation may be established the special payment for the use of those works, on the territory of Georgia, on which the validity term for the use of the copyright has been expired. The revenues collected

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 licensee) to whom these rights are let, and authorizes that person to permit, or prevent from such use of the work by other parties (including the authors). The exclusive right to the use of architectural, town planning and landscape design also includes the right

9. Condition of the copyright agreement, limiting the right of the author to create a work in future on certain

-the year of the first publication of the phonogram.

#### Section 41. Rights of performer.

1. Performer is an actor (of theatre, cinema, etc.), 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.



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

7, 8 are deleted

7 .The exclusive rights envisaged under Subsection 3 of this Section may be transferred to the other persons.  
Section 42. Rights of producers of phonograms

1. A program of broadcasting organizations is one which has been created by the broadcasting or cable organization itself, or by another organization, under the order and with the resources of the above-named organizations. A program, which has been merely re-transmitted by cable through a cable organization is not a program of such a cable organization.

2. The broadcasting organization has the following exclusive rights:

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

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 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 a specially authorized body.

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

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

#### Section 48. Recordation of performance or program by the broadcasting organizations for short term use

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

- a) receipt, by the broadcasting organization, of preliminary consent or transmission of the performance or the program, in relation to which such recording for short-term exploitation, or such reproduction is carried out;
- b) making of short-term recording, or its reproduction, by the broadcasting organizations, by means of their own equipment and for their own programs;
- c) destruction of such records under the conditions considered with respect to short-term recordings of scientific, literary and art works.

#### Section 49. Protection of previously unpublished works

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

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

#### ***Section 51. Rights and obligations of lawful users***

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

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

9. The right of the broadcasting (cable) organizations, considered under Section 43, is valid during 50 years, after the first broadcasting (cable) of the program by such an organization.
10. The rights of a person who lawfully publishes or communicates to the public a previously unpublished work, as set out under Section 52, shall expire 25 years after the time when the work was first lawfully published or lawfully communicated to the public.
11.
  1. The rights provided for in Sections 50 to 52 shall run from the date of the completion of the making of the database. It shall expire fifteen years from the first of January of the year following the date of completion.
  2. In the case of a database which is made available to the public in whatever manner before expiry of the period provided for in Para.1, the term of protection of that right shall expire fifteen years from the first of January of the year following the date when the database was first made available to the public.
  3. Any substantial change, evaluated qualitatively or quantitatively, to the contents of a database, including any substantial change resulting from the accumulation of successive editions, deletions, or alterations, which would result in the database being considered to be a substantial new investment, evaluated qualitatively or quantitatively, shall qualify the database resulting from that investment for its own term of protection.
12. Calculation of the term considered by the Subsections 1,2,3 and 4 of this section, starts from January 1 the year which follows the year in wh



2. A court is authorized to take a decision about confiscation of the copies of counterfeit works and protected subject matter of neighbouring rights, as well as of the materials and equipment needed for their reproduction. The counterfeit

### Rights.

3. Organization, which manages economic rights on the collective basis, is not authorized to conduct commercial activities and to use such works and objects of neighbouring rights, which it has received for management on the collective basis.
4. With regard to those organizations, which manage economic rights on the collective basis, restrictions set forth by antimonopoly legislation shall not apply.
5. It is permitted to create separate organizations according to different categories of rights or right holders or to create organizations for managing different rights according to the interests of right holders of one specific category, or organizations to manage one type of rights according to the interests of different categories of right holders. However, the State Agency of Copyright and Neighbouring Rights may grant only one permit per category, thereby excluding any overlap between several categories.
6. Organizations, which manage economic rights, shall be created directly by holders of copyright or neighbouring rights in the form of public (non-commercial) organizations, acquiring the rights of legal persons after their registration according to the general rule, set by the legislation for the registration of



