COU24-0131

Mr Soso Giorgadze
Chairman
National Intellectual Property Center of Georgia – SAKPATENTI
4 N. Ramishvili str.
0179, Tbilisi
Georgia

Neuilly sur Seine, Brussels, London, 12/02/2024

By email: info@sakpatenti.gov.ge

Dear Mr Giorgadze,

International umbrella organisations' grave concern with the accreditation process for collective management organisations in Georgia

We are writing to you on behalf of CISAC (the International Confederation of Societies of Authors and Composers), IFRRO (the International Federation of Reproduction Rights Organisations), SCAPR (the Societies' Council for the Collective Management of Performers' Rights), IMPF (the Independent Music Publishers International Forum), and IFPI (the International Federation of the Phonographic Industry), as the leading international umbrellas for the protection of authors' and related rights worldwide.

We express our grave concern regarding the 29 December 2023 decision of SAKPATENTI to exclude the Georgian Copyright Association (GCA) from the accreditation procedure to operate as a collective management organisation (CMO) in Georgia on a technicality.[1]

SAKPATENTI's decision not only raises serious questions about the fairness of the process, its integrity, and its adherence to the fundamental principles of transparency and equal treatment, but it has very important practical implications for the future of collective rights management in Georgia.

First and foremost, the exclusion of GCA from the process prevented a real competition between the different applicants, as the Georgian legislator had intended. This ultimately penalized the right holders themselves, who will have their rights managed by a CMO that may not be the best qualified.

Second, the exclusion of GCA had a similar adverse effect on the accreditation process with regard to neighbouring rights, as the application of Georgian Neighbouring Rights Association (GNRA) relied on the contractual relations between the two CMOs.

Third, the decision has a critical impact for the management of rights of international right holders. The recently adopted collective rights management framework establishes a legal succession between newly accredited CMOs and pre-existing ones in all contractual relationships, including reciprocal representation contracts with foreign CMOs. As a consequence, all bilateral representation agreements signed by GCA and GNRA with sister CMOs across the world are transferred to the newly accredited CMO.

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[1] *It would seem from SAKPATENTI's announcement that this decision was taken on the grounds that the changes that GCA had introduced to its bylaws to comply with the recently adopted framework had not been filed with the Register of Entrepreneurs and Non-entrepreneur (Non-commercial) Legal Entities and could therefore not be taken into consideration. In fact, GCA made numerous attempts to file said changes, but registration was denied every time.*

This approach (without international precedent) was strongly opposed by our organisations during the consultation process preceding the law's approval under the auspices of the Commerce Law Development Program (CLDP) project in Georgia. It departs from international norms and practices[2], and raises serious concerns within the international community as it interferes with private contractual arrangements between CMOs. Such a statutory transfer goes against the provisions of the reciprocal agreements themselves, which, in most cases expressly prohibit their assignment to third parties without consent. Georgian law thus claims highly questionable extraterritorial authority over sovereign foreign legal entities.

For all the above reasons, we strongly request the Georgian government to address the above situation. The accreditation process shall be restarted without delay and provide equal access to all eligible entities in the country. Further, we urge the government to take all necessary measures to ensure that the contractual autonomy of foreign CMOs is preserved in any event. This will allow Georgia to align with international and European best practices, while ensuring the credibility of the local copyright management system and safeguarding the rights and interests of the local and international creative community.

We thank you in advance to consider these concerns as a matter of priority for the international organisations represented by CISAC, IFRRO, SCAPR, IMPF and IFPI.

Yours sincerely,

Gadi Oron	Anita Huss-Ekerhult	Rémy Desrosiers	Annette Barrett	Lauri Rechardt
Director General	Secretary General and CEO	Managing Director	President	Chief Legal Officer
CISAC	IFRRO	SCAPR	IMPF	IFPI

CISAC - *the International Confederation of Societies of Authors and Composers – is the world's leading network of authors' societies. With over 225 member societies in more than 116 countries, CISAC represents more than 5 million creators from all geographic areas and all artistic repertoires; music, audiovisual, drama, literature and visual arts.* www.cisac.org

IFRRO – *the global industry body for collective management organisations in the text/image sector. We facilitate, on an international basis, the collective management of reproduction and other rights in text and image works through the co-operation of our 150+ member organisations drawn from more than 85 countries around the world. Our members represent many millions of authors, visual artists, and publishers of books, journals, newspapers, magazines and printed music.* www.ifrro.org

SCAPR – *SCAPR is the international federation representing Performers' Collective Management Organisations (CMOs). SCAPR's main mission is to support, promote, and maintain a worldwide, cross-border system of collecting and distributing performer royalties that is fair, efficient, accurate, transparent, and continually improving. As of today, SCAPR represents 58 CMOs from 42 countries, that collect on behalf of more than 1 million performers.* www.scapr.org

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[2] *In this context, we emphasize that the contractual relationship between CMOs is typically governed in sovereign autonomy by a representation agreement, as referred to also by the authoritative WIPO Good Practice Toolkit for CMOs available here: https://www.wipo.int/edocs/pubdocs/en/wipo_pub_cr_cmotoolkit_2021.pdf.*

IFPI - *IFPI is the voice of the recording industry worldwide, representing 8,000 record company members across the globe. We work to promote the value of recorded music, campaign for the rights of record producers and expand the commercial uses of recorded music around the world. IFPI also has extensive experience in setting up and supporting Collective Management Organisations ("CMOs") (referred to by the recording industry as Music Licensing Companies ("MLCs") around the world. In collaboration with right holders and MLCs – IFPI works closely with some 80 MLCs around the world – IFPI has developed internationally agreed good practices in the area of collective management of rights of sound recording producers. www.ifpi.org*

IMPF *- The Independent Music Publishers International Forum is the global trade and advocacy body for independent music publishers worldwide. IMPF helps to stimulate a more favourable business environment in different territories and jurisdictions for artistic, cultural, and commercial diversity for its music publisher members and the songwriters and composers they represent. www.impforum.org*

cc: Mr Irakli Kobakhidze, Prime Minister, Government of Georgia
Mr Shalva Papuashvili, Speaker, Parliament of Georgia
Mr Giga Kobaladze, Chair of the Board, Georgian Copyright Association (GCA)
Ms Gvantsa Baidoshvili, Chair of the Board, Georgian Related Rights Association (GNRA)