

Copyright

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INTERNATIONAL UNION

BULGARIA

Change of Class with regard to the Contribution towards the Expenses of the Bureau of the International Union for the Protection of Literary and Artistic Works

Notification of the Swiss Government to the Governments of Union Countries

In a note dated October 20, 1969, the Embassy of the People's Republic of Bulgaria informed the Federal Political Department, in conformity with Article 23, paragraph (4), of the Berne Convention for the Protection of Literary and Artistic Works of September 9, 1886, revised at Berlin on

November 13, 1908, and at Rome on June 2, 1928, that Bulgaria intends to be placed in the Sixth Class instead of the Fifth with regard to its contribution to the expenses of the International Bureau of the Berne Union for the protection of Literary and Artistic Works.

Berne, November 21, 1969.

PAKISTAN

I

Declaration concerning the Protocol Regarding Developing Countries (Stockholm Act of the Berne Convention)

Notification of the Director of BIRPI to the Governments of Union Countries

The Director of the United International Bureaux for the Protection of Intellectual Property (BIRPI) presents his compliments to the Minister for Foreign Affairs of and, in accordance with the provisions of the Stockholm Act of the above Convention, has the honor to notify him that the Government of Pakistan deposited on November 26, 1969, a declaration dated July 21, 1969, according to which, with reference to Article 5(1)(a) of the Protocol Regarding Developing Countries, it intends to apply for a period of ten years in the first instance the reservations provided in Ar-

ticle 1 of the said Protocol, with the exception of the reservation provided in paragraph (a) of that Article.

Pursuant to Article 5(2) of the Protocol Regarding Developing Countries, this declaration became effective from the date it was deposited, that is, on November 26, 1969.

With reference to his previous notifications, the Director of BIRPI calls attention to the declarations deposited, in virtue of Article 5(1) of the said Protocol, by the Republic of Senegal on November 14, 1967, the People's Republic of Bulgaria on January 11, 1968, and the Kingdom of Sweden on August 12, 1969.

Geneva, November 28, 1969.

Berne Notification No. 12

II

Accession to the Stockholm Act of the Berne Convention

Notification of the Director of BIRPI to the Governments of Union Countries

The Director of the United International Bureaux for the Protection of Intellectual Property (BIRPI) presents his compliments to the Minister for Foreign Affairs of and, in accordance with the provisions of the Stockholm Act of the above Convention, has the honor to notify him that the Government of Pakistan deposited on November 26, 1969, its instrument of accession dated July 30, 1969, to the Berne Convention for the Protection of Literary and Artistic Works

of September 9, 1886, as revised at Stockholm on July 14, 1967, availing itself, for a period of ten years in the first instance, of the reservations provided in Article 1 of the Protocol Regarding Developing Countries, with the exception of the reservation provided in paragraph (a) of that Article.

A separate notification will be made of the entry into force of the Stockholm Act of the said Convention, when the required number of ratifications or accessions is reached.

Geneva, November 28, 1969.

Berne Notification No. 13

RUMANIA

Ratification of the Stockholm Act of the Berne Convention*Notification of the Director of BIRPI to the Governments of Union Countries*

The Director of the United International Bureaux for the Protection of Intellectual Property (BIRPI) presents his compliments to the Minister for Foreign Affairs of and, in accordance with the provisions of the Stockholm Act of the above Convention, has the honor to notify him that the Government of the Socialist Republic of Rumania deposited on October 29, 1969, its instrument of ratification dated August 3, 1969, of the Berne Convention for the Protection of Literary and Artistic Works of September 9, 1886, as revised at Stockholm on July 14, 1967, with the following reservation:

"The Socialist Republic of Rumania declares, in conformity with the provisions of Article 33, paragraph (2), of the Convention, that it does not consider itself bound by the provisions of paragraph (1) of that Article.

The opinion of the Socialist Republic of Rumania is that disputes concerning the interpretation or application of the Convention can be brought before the International Court of Justice only with the consent of the parties concerned, in each particular case." *(Translation)*

Furthermore, the said instrument of ratification was accompanied by the following declarations:

"(a) The Council of State of the Socialist Republic of Rumania declares, in conformity with Article 7, paragraph (7), of the Convention, that it intends to maintain the provisions of the national legislation of the Socialist Republic of Rumania in force at the time of signature of the Convention and relating to the term of protection.

(b) The Council of State of the Socialist Republic of Rumania considers that the maintenance of the state of dependence of certain territories to which reference is made in Article 31 of the Convention is not in accordance with the Declaration on the grant of independence to colonial countries and peoples, adopted by the General Assembly of the United Nations on December 14, 1960, by Resolution 1514(XV), in which is stressed the need to bring an end rapidly and unconditionally to colonialism in all its forms and manifestations."

(Translation)

A separate notification will be made of the entry into force of the Stockholm Act of the said Convention, when the required number of ratifications or accessions is reached.

Geneva, November 28, 1969.

Berne Notification No. 11

UPPER VOLTA

Denunciation of the Berne Convention for the Protection of Literary and Artistic Works*Notification of the Swiss Government to the Governments of Union Countries*

In a note dated September 12, 1969, which was received on September 20, 1969, the Ministry of Foreign Affairs of the Republic of Upper Volta notified the Federal Political Department the denunciation by that State of the Berne Convention for the Protection of Literary and Artistic Works of

September 9, 1886, revised at Brussels on June 26, 1948, to which Upper Volta acceded in 1963.

This denunciation is communicated to the Governments of the Member States of the Berne Union for the Protection of Literary and Artistic Works pursuant to Article 29 of the said Convention and shall take effect on September 20, 1970.

Berne, November 21, 1969.

STOCKHOLM ACT

Entry into Force of Articles 22 to 38 of the Stockholm Act of the Berne Convention

Notification of the Director of BIRPI to the Governments of Union Countries

The Director of the United International Bureaux for the Protection of Intellectual Property (BIRPI) presents his compliments to the Minister for Foreign Affairs of and has the honor to remind him that instruments of ratification or accession, relating to Articles 22 to 38 of the Berne Convention for the Protection of Literary and Artistic Works of September 9, 1886, as revised at Stockholm on July 14, 1967, were deposited:

- on June 20, 1968, by the German Democratic Republic,
- on September 19, 1968, by the Republic of Senegal,
- on February 26, 1969, by the United Kingdom of Great Britain and Northern Ireland,
- on June 6, 1969, by Spain,
- on July 30, 1969, by the State of Israel,
- on August 12, 1969, by the Kingdom of Sweden,
- on October 29, 1969, by the Socialist Republic of Rumania,
- on November 26, 1969, by the Islamic Republic of Pakistan.

The Director of BIRPI has the honor to remind him further that the notification of the deposit of the first of these instruments has given rise to communications from some Governments disputing its validity, and which have been transmitted to the States party to the Berne Convention.

In accordance with Article 37(5) of the Stockholm Act of the above Convention, the Director of BIRPI has the honor to notify him that, pursuant to the provisions of Article 28(2)(b) and Article 28(3) of the said Act, Articles 22 to 38 will enter into force three months after the deposit of the seventh instrument of ratification or accession, that is:

- either on January 29, 1970 (three months after the date of deposit by the Socialist Republic of Rumania),
 - or on February 26, 1970 (three months after the date of deposit by the Islamic Republic of Pakistan)
- depending on whether the validity of the first of the above-mentioned instruments is accepted or not.

Geneva, November 28, 1969.

Berne Notification No. 14

NATIONAL LEGISLATION

HUNGARY

Copyright Act

(No. III, of 1969) *

PART ONE

General Provisions

CHAPTER I

Introductory Provisions

Extent of the Act

Article 1. — (1) This Act shall protect literary, scientific and artistic creations. The Hungarian People's Republic supports those institutions whose task it is to encourage creative work and to promote the social exploitation of authors' creations.

(2) This Act shall provide protection also for the activities of performers as well as for other activities related to the creative work of authors (Article 51).

(3) Legislative texts, public decisions, official notices, official files, standards and other compulsory regulations shall not be covered by the protection provided for in this Act.

Article 2. — Any work first made available to the public abroad shall be covered by the protection provided for in this Act only if the author is a Hungarian citizen, or if the author is entitled to protection under an international convention or on the basis of reciprocity.

Article 3. — The provisions of the Civil Code shall apply to questions not dealt with in this Act. The provisions of the Labour Code shall apply to questions relating to employment (Article 14).

* Published in *Magyar Közlöny*, of April 26, 1969; to come into force on January 1, 1970. English translation provided by the Hungarian Bureau for the Protection of Copyright (ARTISJUS) and revised by BIRPI.

Copyright

Article 4. — (1) Copyright shall be vested in the person who has created the work (the author).

(2) Copyright protection shall be afforded — without infringing the rights vested in the author of the original work — to the alteration, adaptation or translation of the work of another author, provided that the new work has an individual, original character.

Article 5. — (1) Concerning a work of joint authorship, provided that it cannot be separated into self-contained parts, copyright shall be vested jointly in the joint co-authors, and, in case of doubt, in equal proportions; however, any of the co-authors shall be entitled to take independent action for infringement of copyright.

(2) If the joint work can be separated into parts without prejudice to the work, the co-authors shall be entitled to independent copyright in such parts.

(3) Concerning a collection of works, as an entity, copyright shall be vested in the editor; this, however, shall not affect the independent copyrights of the authors of the works included in the collection.

Article 6. — (1) If any work is made available to the public anonymously, or under a pseudonym, copyright shall be exercised, until the author reveals his identity, by the person who first made the work available to the public.

(2) The rights of an unknown author of an unpublished work may be enforced by the organizations entitled to represent the interests of authors, provided that there is a well-founded presumption that the unknown author is a Hungarian citizen.

Article 7. — Concerning his work, the author shall be entitled to moral rights and to economic rights.

CHAPTER II

Moral Rights

Article 8. — (1) It shall be the right of the author to decide whether his work may be made available to the public.

(2) Before any work is made available to the public, information concerning its essential contents may only be given to the public with the consent of the author.

Article 9. — (1) The author shall be entitled to the right of being indicated on his work as the author; if parts of his work are reproduced, cited or reported on, the author shall be named. The author shall be entitled to publish his work without indicating his name, or under a pseudonym.

(2) The author shall have the right to demand that his authorship shall not be questioned.

Article 10. — The moral rights of the author shall be infringed by any unauthorized alteration or use of his work.

Article 11. — Where there are well-founded reasons, the author shall have the right to withdraw permission he has given allowing his work to be made available to the public and to prohibit further use of such work; he shall, however,

compensate for the damage suffered up to the date of his declaration. These provisions shall not affect the employer's right to make use of the work.

Article 12. — (1) Moral rights shall be unlimited in time. The author shall not be entitled to assign these rights to others and shall not be entitled to waive such rights.

(2) Following the death of the author, the moral rights provided for in this Act may be exercised, during the term of protection (Article 15), by the person whom the author has appointed as his trustee to administer his literary, scientific or artistic estate; if no such person has been appointed, or if such person fails to take action, the author's moral rights may be exercised by the person who has acquired the copyright by virtue of succession.

(3) After the expiration of the term of protection, the organizations entitled to represent the interests of authors, or other organs appointed by the Minister of Culture, shall be qualified to take action for the protection of the moral rights of the author, whenever the use of the work distorts it or is injurious to the reputation of the author.

CHAPTER III

Economic Rights

Article 13. — (1) Unless otherwise provided in this Act, the consent of the author shall be required for any use of his work. The consent of the author shall be required also for the use of the particular title of his work.

(2) Following the death of the author, and during the term of protection, the right to give such consent shall belong to the successor in title of the author.

(3) Unless otherwise provided in this Act, the author or his successor in title shall be entitled to remuneration for the use of the work. The person entitled to such remuneration may not renounce it except by express declaration.

Article 14. — (1) If the creation of the work was the author's duty arising from his employment and the employer is authorized to make use of such work by virtue of the terms of employment, the handing over of the work shall qualify as consent to make it available to the public, and the right of use shall devolve upon the employer by the act of handing over. The employer shall acquire this right within the sphere defined by the terms of employment and shall exercise it only within the sphere of his activities. The author shall only be entitled to use his work, even outside that sphere, with the consent of his employer, but the employer shall not have the right to withhold his consent except for well-founded reasons.

(2) If a maximum term for exercising the right of use is determined compulsorily by legislation, the right of use shall belong to the author after the expiration of such term. This right shall belong to the author also if it is not exercised by the employer within the term prescribed by legislation.

Article 15. — (1) The economic rights shall be protected during the life of the author, and for fifty years following the author's death.

(2) The fifty-year term of protection shall be counted from the first day of the year following the author's death and, in the case of co-authors (Article 5(1)), from the first day of the year following the death of the co-author who died last.

(3) If the identity of the author cannot be established, the term of protection shall be fifty years following the first publication of the work. If, however, the identity of the author is revealed during that period, the term of protection shall be counted as prescribed in paragraph (2).

(4) The term of protection for films shall be fifty years, to be counted from the first day of the year following the first showing.

CHAPTER IV

The Limits of Copyright

Free Use

Article 16. — Within the sphere of free use (Articles 17 to 21), the use of the work shall be free of charge, and the author's consent to such use shall not be required.

Article 17. — (1) Everybody shall be authorized to quote parts of a published work by naming the source and the author as indicated, provided that the extent of the quotation is justified by the character and the purpose of the work in which the quotation is made, and that the quotation is true to the original.

(2) It shall be permissible to reproduce parts of a published work, or a self-contained work of a smaller size, for educational purposes in schools — including educational radio and television broadcasts — as well as for the dissemination of scientific information, provided that the source and the author as indicated are named.

(3) It shall be permissible to use another person's work for the creation of a new, independent work; this right, however, shall not include the right to adapt another person's work to stage, film, radio or television, or to adapt it in the same artistic or literary form.

Article 18. — (1) Everybody shall be authorized to make copies of any published work provided that such copies are not intended for purposes of putting the work into circulation or producing receipts, and otherwise do not infringe upon the rightful interests of the author. This provision shall not apply to works of architecture or to technical works.

(2) The sphere of free use shall include the lending of copies of the work.

Article 19. — (1) It shall be permissible to reproduce communications containing facts and news if the source is indicated. It shall be permissible to make use of the contents of public conferences and speeches, but the author's consent shall be required for publishing a collection of speeches.

(2) Newspapers, periodicals, radio and television shall be authorized to reproduce economic and political articles of news value by naming the source and the author as indicated, provided that such reproduction was not excluded in the original publication of such articles.

(3) Television shall be authorized to make free use of works of fine arts, architecture and applied art, as well as of photographs, either on particular occasions or as settings. In cases of such use, an indication of the author's name shall not be obligatory.

Article 20. — (1) In newsreels, as well as in radio and television news programmes, works in connection with current events, to the extent justified by the occasion, may be communicated. In such cases, an indication of the author's name shall not be obligatory.

(2) Publicly displayed works of fine arts, architecture, applied art and photography may be reproduced by newspapers and periodicals, as well as by newsreels and other television news programmes.

Article 21. — (1) It shall be permissible to perform any work, once it has been made available to the public, at school celebrations or for other school purposes.

(2) It shall be permissible to perform any work, once it has been made available to the public, at occasional private gatherings, or on the occasion of mass meetings (festive processions, etc.), provided that such performance does not serve, even indirectly, the purpose of producing or increasing receipts, and the performers do not receive any remuneration.

(3) It shall be permissible to perform any work for private uses, provided that this does not serve, even indirectly, the purpose of producing or increasing receipts.

Uses without the Author's Consent, subject to Payment of Remuneration

Article 22. — The radio and television organization shall be authorized, without the author's consent, but subject to payment of appropriate remuneration,

- (a) to broadcast in an unaltered form any work once it has been made available to the public;
- (b) to transmit public performances and to give broadcasts from public places; the time of broadcasting shall be fixed in agreement with the theatre or the organizer. This right shall not belong to the radio and television organization in so far as the broadcasting has been excluded or restricted by the contract of use.

(2) If the author makes any change in a work of his already made available to the public and notifies the radio and television organization of that change by simultaneously sending it the new version, the radio and television organization shall only be authorized to use, without the author's consent, the new version, subject to payment of remuneration.

Article 23. — (1) The radio and television organization shall be authorized to make sound and picture recordings of any work in which the broadcasting right belongs to it pursuant to paragraph (1) of Article 22; it shall be authorized to add captions to such recordings and to use them in its own broadcasts. The radio and television organization shall be authorized to use such recordings repeatedly, subject to payment of remuneration.

(2) The consent of the radio and television organization shall be required for the full or partial use of its programme by other radio and television stations, and for the recording of its programme for purposes of putting the recording into circulation or of public performance.

Authorization of Use out of Public Interest

Article 24. — (1) If the successor in title of the author refuses, without good reason, to give his consent to the further use of a work already made available to the public, such consent may be replaced out of public interest, unless this would be contrary to an international convention, by a court decision.

(2) Such use shall be subject to payment of remuneration.

CHAPTER V

Contracts for Use

General Rules Applying to Contracts for Use

Article 25. — In the cases defined by legislation, the author or his successor in title shall be entitled to conclude a contract for the use of a work only with a competent organization, or through such an organization.

Article 26. — (1) The terms of contracts for use shall be fixed by the parties, within the limits defined by the law.

(2) No departure to the prejudice of the author shall be permitted from any provision of the law which serves to protect the author's interests; likewise, no departure shall be permitted from any legislative text that has been issued pursuant to a law and that prohibits such departure. Contractual stipulations contrary to such provisions shall be null and void, and shall be superseded by the pertinent legislation.

Article 27. — Unless otherwise prescribed by legislation, a contract for use shall be made in writing.

Article 28. — (1) Unless otherwise prescribed by legislation, the user shall acquire the exclusive right of use only if this has been expressly stipulated in the contract.

(2) Unless otherwise prescribed by legislation, the user shall be entitled to assign his rights only with the consent of the author.

(3) Transfer of ownership of a copy of the work shall not entail transfer of copyright; on the other hand, the copy handed over pursuant to the contract for use shall remain the property of the author unless otherwise stipulated in the contract.

Article 29. — (1) Concerning acceptance of a work handed over pursuant to a contract which had been made for work to be created in the future, the user shall be under the obligation to make a declaration of acceptance within the time fixed by legislation.

(2) Where a contract has been made for work to be created in the future, the user shall be entitled in justified cases to return, even repeatedly, the completed work to the

author for the purpose of correction, by fixing an appropriate date therefor.

(3) If the author refuses to make corrections without good reason, or fails to complete the correction by the date fixed, the user shall be entitled to terminate the contract and shall not be obliged to pay any remuneration.

(4) If the work is not suitable for use even after correction, the author shall only be entitled to reduced remuneration.

Article 30. — If the author has consented to the use of his work, he shall be under obligation to effect changes which are indispensable or obviously necessary for making use of the work, but which do not affect its essence; if the author fails to meet this obligation, or is unable to meet it, the user shall be entitled to effect such changes without the consent of the author.

Contracts for Publication

Article 31. — (1) Under a contract for publication, the author shall be under obligation to make the work available to the publisher, and the publisher shall be entitled to publish the work and put it into circulation, and shall be under obligation to pay remuneration to the author.

(2) In case of doubt, the right of publication shall pertain to the Hungarian edition of the work. Except for a collection of works, as well as for newspapers and periodicals, the right of publication to be exercised under a contract shall be exclusive.

Article 32. — Contracts for publication may only be concluded for a fixed period of time, or for a given number of copies to be published. Legislation may permit contracts to be made for indefinite periods of time and may determine the maximum duration of contracts.

Article 33. — If the publisher fails to publish the work, handed over pursuant to a contract, within the period of time determined by legislation or in the contract, or, in the absence of such provision, within a reasonable period of time, the author shall be entitled to terminate the contract and to demand payment of his remuneration.

Contracts for Broadcasting

Article 34. — (1) Under a contract for broadcasting, the author shall be under obligation to make the work available to the radio and television organization; the radio and television organization shall acquire the right of broadcasting the work for the period of time stipulated in the contract, shall acquire the right of making sound or visual recordings of the work, and shall be under obligation to pay remuneration to the author in return for the use thereof.

(2) If the work created for the purpose of broadcasting is not used within the period of time stipulated in the contract, or, in the absence of such stipulation, within a reasonable period of time, the author shall be entitled to terminate the contract and to demand payment of his remuneration.

PART TWO

Provisions Relating to Particular Forms of Works

CHAPTER VI

Literary Works

Article 35. — (1) Concerning collected works edited by scientific institutes and State organs, copyright shall be exercised by the institute or organ concerned; this shall be without prejudice to the independent rights of the authors whose works are included in the collection.

(2) The term of copyright protection of such works shall be fifty calendar years following the year of first publication.

Article 36. — Concerning the public performance of an already published literary work, the author's consent shall be considered given if the remuneration, fixed by the organization competent to protect copyright and approved by the Minister of Culture, has been paid; this provision shall not apply to the performance of literary works written for the stage.

Article 37. — The author's consent shall be required in order that illustrations may be used in a publication of a literary work.

CHAPTER VII

Dramatic Works

Article 38. — Unless contrary to international conventions, amateur theatrical companies shall be entitled to perform, on the basis of a published text or lawfully used manuscript, dramatic works without the author's consent, subject to the payment of remuneration; if such performance does not serve, even indirectly, the purpose of producing or increasing receipts, and the performers are paid no remuneration either, performance shall be permissible without the payment of remuneration to the author.

Contracts for Stage Performance

Article 39. — (1) Under a contract made for the public performance of a dramatic work, the author shall be under obligation to make the work available to the theatre; and the theatre shall acquire the right to perform the work in public, subject to the conditions stipulated in the contract, and shall be under obligation to pay remuneration to the author.

(2) If the theatre fails to perform the work within the period of time stipulated in the contract, or, in the absence of such stipulation, within a reasonable period of time, the author shall be entitled to terminate the contract and to demand payment of his remuneration as fixed by legislation.

CHAPTER VIII

Musical Works

Article 40. — (1) Concerning the public performance of musical works already made available to the public, the author's consent shall be considered given if the fee, fixed by the organization competent to protect copyright and approved by the Minister of Culture, has been paid.

(2) In the case of a public performance of a musical work, the lyricist shall be entitled to remuneration only if the musical work enjoys protection.

(3) The provisions of paragraphs (1) and (2) shall not apply to stage performances of a musical work, or to complete performances of a musical work created for the stage.

CHAPTER IX

Films

Article 41. — (1) The authors of literary and musical works created for a film, the director, and all those who contribute in a similarly creative manner to shaping the film as a whole, shall be considered the authors of the film. This provision shall be without prejudice to the rights, guaranteed by this Act, of authors of the other works which have been used in the film.

(2) The names of the authors specified in paragraph (1) shall be indicated in the film. On the basis of his moral rights, any author of a film shall be entitled to demand that his name not be indicated.

(3) The author's economic rights in respect of a film shall be acquired by the film studio as the successor in title, on the strength of the contracts made with the authors, and shall be exercised in relation to third parties exclusively by the film studio. The film studio shall also be authorized to take action for the protection of the moral rights of the authors.

Contracts for Cinematographic Adaptation

Article 42. — (1) Under a contract for cinematographic adaptation, the author shall be under obligation to make the work available to the film studio; the film studio shall acquire the right of making one cinematographic adaptation of the work; it shall further acquire the right of distribution and public showing of the film without territorial restriction; it shall acquire the right to provide the film with captions or synchronized sound in other languages; and the film studio shall be under obligation to pay remuneration to the author in return for the use of his work.

(2) If the film studio fails to commence shooting the film within four years counted from the acceptance of the work, or commences the work of cinematographic adaptation but does not complete it within a reasonable period of time, the author shall be entitled to terminate the contract and to demand the payment of remuneration as determined by legislation for such work specially written for the making of a film.

(3) For a period of ten years counted from the completion of the film, the author shall not be entitled to make a further contract for cinematographic adaptation of the same work without the consent of the film studio.

Article 43. — The provisions of this Chapter shall apply to any organization that is engaged in the making of films on the basis of contracts for cinematographic adaptation.

CHAPTER X

Works of Fine Arts, Architecture, Applied Art, Technical Works and Artistic Photographs

Article 44. — (1) Copyright in respect of architectural works and in respect of other technical works shall be vested in the author of the design.

(2) The right to have his name indicated on the building (construction) shall be vested in the author of the design.

(3) The user of such works shall be under obligation to tolerate that they be presented to the public and photographed, provided that this is without prejudice to the user's legitimate interests.

Article 45. — (1) It shall be permissible, without the author's consent and without the payment of any remuneration, to take, and to use, the panoramic photographs of a work of fine art, architecture or applied art that has been placed permanently in the open in a public place.

(2) It shall be permissible, without the author's consent and without the payment of any remuneration, to use a picture of a work of fine art, architecture or applied art and to use artistic photographs for the purpose of a scientific lecture, or a lecture for the dissemination of knowledge, or for educational purposes.

Article 46. — (1) The owner of a work of fine art or applied art shall be under obligation to make it available temporarily to the author for the exercise of copyright, provided that this is without prejudice to the owner's legitimate interests.

(2) The author's consent shall be required for exhibiting works of fine arts, architecture and applied art, as well as artistic photographs — except for works that are kept in a public collection or are in social possession — but the author shall not be entitled to any remuneration for such exhibition.

Article 47. — Concerning works of a designing artist serving the purposes of industrial production:

- (a) the right to have the name indicated may be regulated, by legislation or by contract, differently from the provisions of the law;
- (b) the right to exclusive use and to make alterations shall belong to the user within the sphere stipulated in the contract; however, the designing artist shall be consulted before any such alteration is made;
- (c) the contract shall stipulate whether the user's right to use the work is or is not subject to a time limitation.

Article 48. — In the case of a commissioned portrait, the consent of the portrayed person shall be required for the exercise of copyright.

PART THREE

CHAPTER XI

Protection of Performers

Article 49. — (1) The consent of the performer — of the conductor and the principal participants (soloists) in case of ensembles — shall be required for

- (a) recording the performance for purposes of putting the recording into circulation or of public performance, or
- (b) transmitting the performance, without recording it, to an audience not present.

(2) No consent shall be required in cases where the law does not require the author's consent for the use of works enjoying copyright protection.

(3) If the performers are professional performing artists, a remuneration shall be due in return for a recording made for purposes of putting it into circulation or of public performance and in return for transmission, unless otherwise agreed, and except in cases of free use.

Article 50. — The moral right to have the name indicated and to protection against distortion shall be vested in the performer (the leader and the principal participants of the ensemble) in the case of recording for purposes of putting the recording into circulation, or of public performance, and in the case of transmission.

CHAPTER XII

Protection of Photographs, Illustrations and Other Visual Aids

Article 51. — (1) Photographs, illustrations, technical drawings, geographical maps, demonstrative pictures or visual aids, and films, which are not covered by copyright protection as scientific or artistic works, shall enjoy protection if the name of the maker and the year of publication or of their being made available to the public are indicated on them.

(2) The duration of their protection shall be fifteen years following the year of publication or of their being made available to the public.

(3) Photographs, illustrations, technical drawings, geographical maps, demonstrative pictures or visual aids, and films shall be used only with the consent of the maker and with the indication of his name. Consent and indication of the name shall not be required in cases where this is not required by the law for the use of works enjoying copyright protection.

PART FOUR

CHAPTER XIII

Consequences of Infringement of Copyright

Article 52. — (1) Depending on the circumstances of the case, the author shall be entitled to raise the following civil claims in case of infringement of his copyright:

- (a) he may demand establishment by a court of the fact of infringement;
- (b) he may demand discontinuance of the infringement and an injunction against the infringer so as to prevent further infringement;
- (c) he may demand that the infringer make redress by means of a statement or in some other appropriate manner and that, if necessary, publicity as befits such redress be ensured by the infringer and at his expense;
- (d) he may demand cessation of the injurious situation, reinstatement of the situation preceding infringement by the infringer or at his expense; he may further demand that the object produced through infringement be destroyed or be deprived of its injurious quality.

(2) If the infringement of copyright has caused pecuniary loss, compensation shall be due to the author pursuant to the rules of civil liability.

Article 53. — (1) In cases of unauthorized use of a work, the author shall be entitled to the remuneration payable in return for lawful use.

(2) If infringement is attributable to the user, a fine in the amount of the author's remuneration shall be adjudged in addition to the remuneration due to the author and in addition to damages. This amount may not be reduced by the court except on the basis of circumstances deserving of consideration.

Article 54. — The provisions of Articles 52 and 53 shall apply, accordingly, to violation of the rules in Chapters XI and XII.

CHAPTER XIV

Final Provisions

Committee of Copyright Experts

Article 55. — (1) Where there are technical questions arising from legal disputes over copyright, courts and other authorities may request expert advice from a Committee of Experts instituted under the supervision of the Minister of Culture.

(2) The organization and procedure of this Committee shall be regulated by the Minister of Culture in agreement with the Minister of Justice.

Coming into Effect, Enforcement

Article 56. — (1) This Act shall come into effect on January 1, 1970. The provisions of this Act shall apply also to works enjoying, at the date of the coming into effect of this Act, copyright protection under former legislation. The law shall not affect contracts of use made before the coming into effect of this Act.

(2) Act No. LIV of 1921 on Copyright, Decree No. 98/1951 (IV. 21.) M. T. on the publication of literary works, paragraph (1) of Article 5 of Decree Law No. 13/1955, concerning entertainments, as well as Articles 515-520, 524, 528-531 and 533 of the Code of Commerce (Act No. XXXVII of 1875), shall cease to have effect.

(3) The Government shall attend through the Minister of Culture to the enforcement of this Act, for which purpose the Minister of Culture shall be authorized to regulate by decree the conditions of contracts for use not provided for in this Act, and to regulate the amount of author's fees and other remunerations payable pursuant to this Act.

GENERAL STUDIES

The New Hungarian Copyright Act

I

The first Copyright Act in Hungary was not enacted until 1884; this was superseded by Act LIV of 1921, which is still in force. In April of this year the Hungarian National Assembly adopted a new Copyright Act which then became part of the Hungarian legal system as Act III of 1969. This new Act will come into force on January 1, 1970; the Government has authorized the Minister of Culture to prepare and issue decrees for the implementation of the Act.

The Hungarian Copyright Act of 1921 became obsolete long ago. Not even at the time of its enactment did it belong to the modern copyright acts of those days, because, *inter alia*, it contained virtually no provisions for the protection of the authors' moral rights. When radio, television and sound films became widespread, the courts tried to fill the gaps in the legislation. Following the radical changes in the social and economic structure after 1945, further provisions were added to the old Act, and these amplified authors' rights substantially. The possibility, for instance, that publishers could acquire copyright in writers' works was abolished; this was fairly common practice in Hungary before 1945 with the

result that some great Hungarian writers were reduced to misery while their publishers made a fortune out of their successful works. A new legislation provided that publishers' rights in literary works could be acquired by contract for no more than four years and that any subsequent publication of the work was only possible through a new contract and against payment of appropriate royalties.

Notwithstanding the usefulness of the amendments made to the former Copyright Act and of court practice, a new codification of copyright law was long overdue. For quite some time, such codification was delayed by the framing of the Hungarian Civil Code, since it was not considered reasonable to adopt a new Copyright Act until the Civil Code came into force. Once it did enter into force, codification work on the copyright law was taken up; the ensuing debates were so heated, however, that public attention was focused on them for quite some time and it was deemed advisable to postpone further the introduction of the Bill. The sharpest debates were centred on the term of protection. The first draft provided for reducing the term of protection from 50 to 25 years *post mortem auctoris*, as was already the case in some other

countries. Various bodies representing the interests of the authors, the Hungarian Bureau for the Protection of Copyright, the associations active in the various fields of the arts, as well as a number of distinguished composers and writers, naturally protested against a reduction of the term of protection. But, while these debates were still going on, preparations for the Diplomatic Conference of Stockholm began, and it consequently seemed reasonable to postpone the framing of the new Bill until after the Stockholm Conference. Once the Stockholm text had been adopted, the framers of the Bill recommended, not only on that basis but for other reasons as well, that the term of protection of 50 years *post mortem auctoris* should be maintained, and the National Assembly adopted the proposal without debate.

Preparatory work on the Bill was directed by the Ministry of Culture and the Ministry of Justice. On a number of occasions these Ministries asked for the views of the bodies representing the authors' interests and these views were accepted in the great majority of cases. We are therefore of the opinion that Hungary has finally succeeded in enacting a law that takes into consideration, in the field of copyright, the extremely rapid technical progress of the last decades. The new Act further makes it possible for the Hungarian People's Republic to accede to the Stockholm Act of the Berne Convention without the necessity of any further amendments to the country's legislation. Finally, this Act takes into account the radical social and economic changes that have been effected in the country over the past twenty-five years.

Before commenting on the most important provisions of the new Act, which differ from those of the previous Act, I should like to point out that, in accordance with the general principles applying to Hungarian legislation, the new Act only contains the basic rules and the most general provisions. Accordingly, the decrees to be issued for the implementation of the new Act, as well as the regulations on royalties and other remuneration to be issued by the Minister of Culture for the various fields of the arts, will be of special importance. Of course, royalty rates will be established on the basis of the utmost differentiation so as to avoid any schematization or standardization. This implementary legislation must be promulgated before the new Act comes into force, that is, not later than December 1969; at the time of writing of this article, it was being examined. When it was in course of preparation, the rightful interests of the authors had to be coordinated with those of the State organs using authors' rights as well as with those of society in general — as was done when the new Copyright Act was drafted. The main provisions of the new Act and the practice followed in drafting it guarantee that the legislation for its implementation will also give due consideration to the authors' interests.

I should like to add that, before the Bill was presented to the plenum of the National Assembly, the Legal and Cultural Committee of that Assembly discussed it in detail. As a result of these discussions, the Committee made several suggestions for additions and amendments to the Bill, and most of these suggestions were adopted by the plenum. The Bill and, after enactment, the Act proper were widely discussed in the press and on the radio and television, as a result

of which the attention of the general public was focused on the new Copyright Act and on its effects on the national and the international levels.

II

The new features of the Act are essentially the following:

1. The Act makes a distinction between the author's moral rights and his economic rights connected with the use of his works. This is of great importance in this country because the law now in force makes no distinction whatsoever between moral rights and economic rights. It was case law that laid down the rule that, even where the copyright was transferred, the author retained the right to be mentioned as such, and, further, that he had the right to protest against any alteration of his work that would be injurious to him. The idea behind the socialist legal doctrine is that legal relations concerning intellectual creations are not basically of an economic nature although these particular economic elements are, of course, directly tied in with the non-economic aspects. This view is reflected in the recent legislation of the socialist countries, which — almost without exception — affords express, separate protection to moral rights both during the life and after the death of the author. Chapter II of the Act codifies, with precision and in detail, the author's moral rights: the author is to decide whether or not his work may be made available to the public; the author is entitled to the right of being indicated in his work as the author; if his work is cited or reported on the author must be named; any unauthorized use or alteration of the work infringes the author's moral rights *ipso facto*, etc.

Among the pertinent provisions of the Act, we should like to point out that "where there are well-founded reasons, the author shall have the right to withdraw permission he has given allowing his work to be made available to the public, and to prohibit further use of such work; he shall, however, compensate for the damage suffered up to the date of his declaration" (Article 11). There might be cases, for example, where the author — whether because of a change in his artistic approach, or a modification of his former views, or any other well-founded reason — does not wish to permit further use of his work. In such cases, the author has the right to prohibit further use which otherwise would have been lawful.

The chapter on moral rights contains the important provision that the author is not entitled to assign those rights to others or to waive them. As follows from the very nature of his creative activity, it is the author who is entitled to exercise these rights during his lifetime. The position of the legislator is that moral rights must be unlimited in time, so that they deserve protection not only during the term of protection following the author's death, but also beyond that term. The Act has adopted the solution whereby during the term of protection of the economic rights, that is, during the 50 years following the author's death, these moral rights may be exercised by the person who was appointed by the author to administer his literary, scientific or artistic estate; if there is no such person, or if such person fails to take action, these rights may be exercised by those who have acquired the economic part of the copyright by virtue of succession. After

the 50 years have expired, the organizations entitled to represent the interests of authors may take action for the protection of moral rights deemed important from the social point of view, if the use of the work would distort it or would be injurious to the author's reputation (Article 12).

2. The new Act places the protection of authors and their works on a firmer footing as concerns their economic rights as well. The underlying principle here is that any use of the work requires the author's consent and, as a rule, may take place only subject to payment of remuneration. The former law listed the categories of use which required the prior consent of the author and which gave rise to a claim for remuneration. The new Act gives a general definition of the conditions of use and determines the limits of copyright by enumerating them. This general definition has the advantage that the provisions of the Act will also apply in cases where technical progress produces new types of use.

The new Act also makes use of the particular title of the work conditional on the author's consent. The law now in force only provides protection for the title if there is intent to mislead the public.

In Chapter III, on economic rights, the new Act regulates the copyright of intellectual works made under an employment contract. As a result of technical progress and the increased demands for, and possibilities of, mass communication and entertainment, the fact that creative activity (formerly regarded as typically individual) can be a joint effort is becoming increasingly evident; it happens more and more frequently that works enjoying the protection of copyright are made within the scope of an employment contract (film, radio, television, scientific institutes, architects' offices, journalism, industrial artistic creations, etc.). The Act takes these circumstances into account, changed as they are as a result of social progress, by regulating questions concerning works created under an employment contract (Article 14). The Act adopts the principle that creative activity, even under changed conditions and within the framework of a collective, shows individual creative character and deserves protection. On the other hand, it must be borne in mind that such work is made possible and promoted by various organizations for the purpose of making the results thereof available to society. To satisfy both of these requirements at once, proper coordination of the interests of authors and employers becomes necessary; this is served by the detailed provisions of Article 14 of the Act.

The Act also regulates the term of protection in Chapter III dealing with economic rights. In connection with these provisions, I should like to point out that Chapter X, on works of fine arts, architecture, applied art and artistic photographs, makes no exception to the general rule concerning the term of protection in regard to works of applied art and artistic photographs; thus the term of protection for these works is equally 50 years *post mortem auctoris*, and the term of protection for films is 50 years counted from the first day of the year following the first showing. It should be noted that, with the coming into force of the new Act, this provision will supersede Article 88 of Act LIV of 1921. After World War I, the latter Article had extended the term of

protection by eight years in respect of works still protected at December 31, 1921, provided that the author had died before the Act of 1921 came into force. On the basis of this statutory provision and in accordance with the principle of reciprocity, the term of protection for certain Hungarian works was in some countries longer than 50 years *post mortem auctoris*. Such protection will now come to an end.

3. While stating the fundamental principle that any use of a work requires the author's consent, and that such use can usually be authorized only subject to the payment of remuneration, the Act takes into account the general interest of society and defines the exceptions to the general rule in Chapter IV on the limits of copyright. This Chapter, with its three subdivisions, defines the cases of free use, use without the author's consent but subject to the payment of remuneration, and finally, in certain exceptional cases provided for in the Act, use after the author's death even in the absence of the heir's consent, in the interest of society. Naturally, in all cases the limitations on copyright apply only to works that have already been made available to the public.

In this Chapter of the Act, Article 22 is of the greatest importance. Up to now, radio and television have not enjoyed the benefit of legal licence in Hungary. Apart from the term of protection, it was this problem that gave rise to the most heated debate when the Bill was being drafted. The new Act finally granted radio and television the right to broadcast, without the author's express consent, works already made available to the public, provided that such works remain unaltered and appropriate remuneration is paid. Under the new Act, radio and television are also authorized to transmit public performances without the author's consent, subject to payment of appropriate remuneration, and to broadcast from public places; however, the time of such broadcasting must be agreed upon with the theatre or with the organizers of the performance. The Act excludes from the sphere of legal licence those cases where the contract for use prohibits broadcasting. This provision is of importance because it enables the author, in the contract he concludes with the theatre, to prohibit, or to make conditional on express authorization, radio or television transmission of his play. The legislator was concerned with the interests of authors when it limited legal licence in respect of broadcasts from theatres to a narrower sphere than that provided for by the Berne Convention.

There have been a few, quite exceptional cases when a Hungarian citizen, successor in title to a Hungarian author, has refused without good reason to give his consent to the further use of a work already made available to the public. For such exceptional cases, the Act (Article 24) provides that, in the interest of society, a court decision, authorizing use subject to payment of remuneration, may replace the consent that is lacking.

4. The author's interests are directly affected by the system of relations deriving from a contract, since it is the legal regulation of that relationship that assures to the author the reward for his work. Despite this obvious fact, the Copyright Act in force contains no provisions whatsoever on contracts of use, and such contracts are left to the unrestricted discretion of the parties. The very few provisions relating to

contracts involving copyright are contained in the Code of Commercial Law. Needless to say, this solution was no longer adequate to meet the requirements of modern copyright law, and this is why the new Act contains detailed provisions, in Chapter V, on contracts for use. One characteristic feature of the new Act which differs from the present one is that provisions have been included to ensure that the author's rightful interests will also be safeguarded in contracts for use.

The principle governing such contracts is that of contractual freedom, also adopted by the Hungarian Civil Code. Optional provisions offer guidance to the parties; they may be substituted for wishes of the contracting parties in cases where the parties have not specified their wishes, but in general they allow the parties concerned to lay down stipulations in the contract that differ from the guide-lines in the law. This general principle of civil law applies to copyright, with the restriction that the law permits no departure, prejudicial to the author, from rules which serve the author's interests (for example, the inalienability of moral rights, the fixing of a maximum duration for contracts, legal consequences of contracts relating to future works, and so forth). The decrees to be issued on the basis of the Act and expressly prohibiting such departures will also be compulsory. One of these will pertain to the fixing of the scale of authors' fees in certain fields of art; contracts will have to stay within the limits fixed by these provisions.

The Act contains a provision aimed at upholding the general rules of the law in relation to contracts of use. It provides that, if such rules are infringed, the contract will not become null and void as a whole; it will remain valid but those stipulations contrary to law will be superseded by the relevant legal provisions.

The author's interests are served by the provision of the Act according to which contracts for use must be made in writing in accordance with general practice; exceptions to this rule can be permitted only under a legislative provision, for example, for cases occurring frequently or cases of minor importance.

On the basis of experience acquired in concluding contracts for use, as well as in case law, the Act lays down a few explanatory rules that will help to determine the wishes of the contracting parties. These rules — although express stipulations of the contract may depart from them — settle any controversy in favour of the author. The right of use, for instance, can be exclusive only where there is a specific stipulation to that effect; the user may not further assign his acquired rights; the assignment of property rights in the manuscript, the statue, etc., embodying the creation does not *ipso facto* transfer the rights of use to the buyer; the copy handed over for use remains the property of the author (Article 28).

Two types of contract for use are specially regulated by the Act owing to their frequent occurrence, and because they comprise several forms of artistic creation. These are the contracts for publication and contracts for broadcasting.

5. In Part Two of the Act, five short chapters lay down special rules relating to authors' rights concerning the use of literary and dramatic works, films, as well as works of fine

arts, of architecture, of applied art, technical works and artistic photographs. Special attention should be called to the following provisions contained in those chapters.

Although the present law provides no protection for the public performance of literary works, except for dramatic works, Article 36 of the new Act introduces the system of *petits droits* in literary works. The author's consent to the public performance of an already published literary work not intended for the stage must be regarded as given if the remuneration fixed by the organization competent to protect copyright (Hungarian Bureau for the Protection of Copyright) and approved by the Minister of Culture has been paid. Thus the Bureau collects such royalties by statutory authorization. Article 40(1) of the Act contains an identical provision concerning musical works already made available to the public.

Films always make use of the works of many authors and are the result of collective activities, but they are nevertheless presented to the public as a unified work. The Act takes into account this particular feature of films. On the one hand, it recognizes the rights of the authors contributing to the creation of a film; on the other hand, it authorizes the film studio — on the basis of the contracts made with the authors — to acquire, as a successor in title, the economic rights of the authors in respect of the film and to exercise them in relation to third parties on an exclusive basis. By having chosen this solution, the Act did not adopt the presumption recognized in certain copyright laws according to which the maker of the film must be regarded as its "author"; but the rights of the film studio relating to the film are nevertheless adequately ensured (Article 41).

In addition to the authors of the literary and musical works created for the film and to the director, the Act regards as authors of the film all those who contribute in a creative manner to shaping the film as a whole. This provision was included in the Act as a result of lengthy debates; in the course of its application, it will in all likelihood have to be interpreted by the courts.

Artistic photographs which, in the course of the last 20 to 30 years, have acquired outstanding importance in international artistic circles, are recognized by the Act as being artistic works. They are protected under the same rules that apply to works of fine art and applied art. Photographs not having an artistic character are protected by the provisions of Article 51. Non-artistic photographs, illustrations, and visual aids, not enjoying the protection of copyright as scientific or artistic works, are included in the sphere of protection as activities akin to the creative work of an author, but their protection is of course not identical with that afforded to an author's work and it is limited to the rights specifically ensured by the Act. The term of protection is only 15 years.

The Act contains one quite new provision for it provides the protection of copyright in industrial artistic creations. This category has been developed as a result of the aesthetic requirements that industrial products are expected to meet. Industry has had to recognize these requirements as a social need, and satisfy it by employing designing artists. The regulation of copyright in works of designing artists which serve the purpose of industrial production has made it necessary

to harmonize the interests of authors and industrialists. This is why the right of having one's name indicated is limited; it is also the reason for the exceptional provisions granting the user exclusive and unlimited use and the right to make alterations to the product.

6. In Part Three of the Act, one chapter deals with problems relating to the protection of performers, another with those of non-artistic photographs, illustrations and visual aids. The performance of the performing artist is also included in the sphere of legal protection of the new Act. Accordingly, the consent of the performing artist is required for the recording of his artistic performance, or for the broadcasting thereof by radio or television or by other media. The rules regarding remuneration apply, and performers further enjoy the right to have their names indicated and protection against distortion.

The legal protection granted to performers is, however, restricted to reasonable limits. Accordingly, in case of artistic ensembles, the right to have his name indicated and to protection against distortion is only granted to the conductor and to the principal participants in the ensemble, and the restrictions that apply to an author of a work enjoying copyright protection also apply to them. Thus, for example, the radio and television organization is exempt from the obligation to obtain the performers' consent if it intends to broadcast a public performance and if such broadcast does not require, by virtue of legal licence, the author's consent (Articles 49 and 50).

7. Finally, Part Four of the new Act devotes one of its two chapters to the consequences of infringement of copyright; the other chapter contains the final provisions.

The penal sanction for the most serious case of infringement of copyright, plagiarism, is laid down in Act V of 1961, the Hungarian Criminal Code, which defines this violation of criminal law. Under Article 306 of that Code, "whoever presents the intellectual work, invention, innovation or industrial design of another as his own and thereby causes prejudice to the person entitled to it" commits a violation of criminal law and shall be punished by loss of liberty for a period not exceeding three years (this punishment can be reduced to a fine in certain cases). The subject of the violation may be any intellectual work which can rightfully claim the protection of copyright. In practice, however, criminal proceedings are instituted only very rarely, and the sanctions of civil law are usually resorted to in cases of infringement. Consequently, the legislator had to devise civil law sanctions capable of preventing infractions of the law, and to remedy effectively the prejudice suffered.

The Act is based on the principle that the moral rights are separate from the economic rights and this separation can also be seen in the definition of the sanctions. Thus, for cases where moral rights are infringed, the Act defines special

legal sanctions, that are in conformity with the provisions of the Civil Code (establishment of the fact of infringement, injunction against further infringement, order to make redress — possibly in public, restitution of the situation preceding infringement, etc.).

The sanction prescribed by the Act for infringements of economic rights is usually the payment of damages (Article 52). The amount of the damages payable is, in most cases, the same as the remuneration due to the author in case of rightful use, because this is the amount the author loses through unlawful use. Yet this sanction in itself has no deterring force: the unlawful user only runs the risk of having to pay a sum which he ought to have paid anyway for lawful use under a contract. Therefore, the Act provides, for every case where the user can be held liable for unlawful use, that the court should impose — in addition to the remuneration due to the author and possible damages — a fine on the user in the same amount as the author's remuneration. Such a fine can be reduced by the court only if there are circumstances deserving of consideration.

This fine imposed in the course of civil proceedings is a special measure; its introduction is essentially based on the consideration that it would be improper if additional damages having the character of a fine to be paid by one party should be adjudged by the court to the advantage of the other party. This would have the result that, in cases of copyright infringement, the author whose rights have been infringed would receive a double reward for no justified reason. It will be for the decree implementing the Act to specify the public interest for which the fines thus collected should be used.

By way of conclusion, I should like to emphasize once more that the Government of the Hungarian People's Republic attaches great international importance to this new Act. This was indicated also by Mr. Pál Ilku, Minister of Culture, in his speech before the National Assembly at the time of the debate on the Bill, when he made a detailed appraisal of the importance of the Hungarian People's Republic's membership in the Berne Union for the Protection of Literary and Artistic Works. The Minister said, *inter alia*: "... Copyright laws are of special importance in every country, because they not only regulate the legal relations of their national authors, but the provisions of such laws may apply also to the authors of countries with which the country maintains relations under international conventions. We have therefore devoted special care, when drafting the Bill, to ensuring that all of its provisions are in conformity with the obligations we have undertaken as a member of the Berne Union."

Dr. István TIMÁR

Director-General, Hungarian Bureau
for the Protection of Copyright

OBITUARY

Jacobus Van Nus

With the death, on November 15, 1969, of Jacobus Van Nus, former Director-General of the societies of authors of the Netherlands, copyright has lost a well-known and well-liked personality. A familiar figure, with his white hair, candid eyes and attractive smile, he will be sadly missed by those who have been accustomed to play a part in all the many events that stand out as landmarks in the history of international copyright.

Van Nus, as he was known familiarly to his friends, had specialized in copyright and was well versed in all its technical, legal and economic aspects. Born in Rotterdam, on July 9, 1901, he was a brilliant student of law, beginning his career as a lawyer in the Netherlands and later moving to the Netherlands West Indies where, during the second world war, he endured much suffering. On returning to the Netherlands in 1946, he had his first taste of copyright, entering the service of the societies of BUMA, STEMRA and SEBA, and since then copyright became the major preoccupation of his professional life. From 1955 to 1966, as Director-General of those societies of authors, he gave the full measure of his intelligence, his ability, and his sense of duty.

An adequate and satisfactory protection of copyright being inconceivable on the national level alone, Van Nus was soon called upon to play a part on the international level as well. This he did in the capacity of Vice-President of the International Literary and Artistic Association (ALAI), whose Netherlands Group he was President of for many years, and as member of the Legislative Committee of the International

Confederation of Societies of Authors and Composers (CISAC). He was present at practically all of the meetings of both organizations and was often one of their most distinguished delegates. He took an active part in the discussions, his interventions were pertinent, his views respected, and his quiet authority much appreciated.

Van Nus was a member of the Authors' Consultative Committee, set up within the context of the preparations for the revision of the Berne Convention, and he represented ALAI at the Diplomatic Conference of Stockholm in 1967. More recently, during the Symposium on Practical Aspects of Copyright, organized by BIRPI, with the cooperation of CISAC, in Geneva towards the end of 1968, he furnished an excellent contribution in the form of a lecture on the collection and distribution of theatre royalties. He was also a prolific writer and his articles appeared in several specialized reviews.

In recognition of his merit, Her Majesty the Queen of the Netherlands conferred on him the insignia of Officer of the Order of Orange-Nassau in 1964.

Personally, I had a very high opinion of Van Nus, who did me the honor of regarding me as his friend, and I believe that there are many who shared this opinion. It is therefore with a sense of desolation and profound sadness that his friends remember him today. He leaves behind the memory of a true and faithful servant of copyright, and a man of honor and of great affability.

Claude MASOUYÉ
Senior Counsellor

BOOK REVIEWS

Die Stockholmer Konferenz für geistiges Eigentum 1967 [The Intellectual Property Conference of Stockholm, 1967], publication prepared under the direction of *Eugen Ulmer* and *Friedrich-Karl Beier*. One volume of VI + 189 pages, 21 × 30 cm. Verlag Chemie GmbH, Weinheim, 1969.

This is a separate reprint of texts that, for the most part, were published in a special issue of *GRUR* (*Gewerblicher Rechtsschutz und Urheberrecht*), *Internationaler Teil*, December 1967¹. In addition to articles commenting on the Stockholm Acts — and the Berne Convention in particular — the publication contains the parallel English and French versions of those Acts, together with the official German translation and, for purposes of comparison, a German translation of the Brussels Act of the Berne Convention and the Lisbon Act of the Paris Convention.

This new publication is intended to meet the needs of teaching and documentation in the field of intellectual property.

¹ See the review published in *Copyright*, 1968, p. 149.

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Der Schutz von Computerprogrammen im Urheber- und Wettbewerbsrecht [Protection of computer programs under the law of copyright and the law against unfair competition], by *Peter Sidler*. One volume of XII + 80 pages, 23 × 15 cm. Verlag für Recht und Gesellschaft AG, Basle.

This book deals with various aspects of the problem of protecting computer programs. Regarding the possibility of copyright protection, the author analyzes not only the question what may constitute a "work" but also the idea of using the operating instructions (*Verhaltensregeln*) as a conceivable basis of protection. Similarly, in connection with the law against unfair competition, the author first considers the possibility of protection against direct use and then the problems that would be raised by pure and simple protection of the piece of work accomplished (*reiner Leistungsschutz*).

In the part devoted to the "work" concept, the author stresses the difference between "aesthetic works" on the one hand and "works of reason" (*Verstandeswerk*) or "scientific works" on the other. What the latter category of works lacks, in his opinion, is originality. They can therefore only be protected under copyright law in so far as a "scientific work" is also an "aesthetic work". The concept of an "original work of reason" would thus include an inherent contradiction.

On the basis of purely theoretical considerations — since there is virtually no relevant case law — the author acknowledges that a computer program, like the traditional literary work, is a work of the mind (*Geisteswerk*). However, he classifies it as a "work of reason" whose "mathematical sobriety" prevents it, in his view, from having the characteristics of a work in which author's rights may be deemed to exist. He feels that this is particularly true in that a computer program is not composed of words and consequently lacks the essential element on which copyright protection of a scientific work composed of words (*wissenschaftliches Sprachwerk*) can be based.

After having examined the other possibilities in turn, the author comes to the conclusion that some protection can be granted to computer programs under the legislation on unfair competition. What is involved is a *de facto* exclusive right (*faktische Exklusivität*), also called an incomplete exclusive right.

M. S.

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Manuale del diritto d'autore [Copyright Manual], by *Giorgio Jarach*. One volume of 461 pages, 20 × 13 cm. U. Mursia & C., Milan.

This popular treatise is intended primarily for the use of all those whose professional activities require them to have some knowledge of copyright (authors, journalists, publishers, literary and musical agents, record manufacturers). Yet, it is quite as useful for lawyers and, in general, for jurists not specialized in this area of law.

The author sets forth the basic notions of copyright (protected works, protection of moral and economic rights, term of protection, formalities, and so forth). A considerable part of his book is devoted to the various categories of works (cinematographic, radio, television, and other works), as well as to publishing contracts and performance contracts.

There are two chapters that deal with international protection. In the first of these, the reader will find a concise description of the landmarks in the evolution of international copyright protection, including the Stockholm Act. The second chapter concerns the protection afforded on the international level to the right of translation. In addition to the well-known phases in the evolution of this protection within the Berne Union, the author summarizes the bilateral conventions concluded for that purpose between Italy and Germany, and between Italy and France.

In an appendix, the book includes the texts of the Italian Copyright Law, the Berne Convention (Brussels and Stockholm Acts) and the Universal Copyright Convention, as well as a comparative table showing the terms of protection applying in 42 countries and a list of the extensions of such terms due to war.

M. S.

December 10 to 12, 1969 (Paris) — Intergovernmental Committee Rome Convention (Neighboring Rights) (2nd Session)

December 11 and 12, 1969 (Geneva) — BIRPI Headquarters Building Subcommittee (a Subcommittee of the Interunion Coordination Committee)

December 12, 1969 (Geneva) — ICIREPAT — Technical Coordination Committee (3rd Session)

December 15 to 19, 1969 (Paris) — Permanent Committee of the Berne Union (14th Ordinary Session)

January 19 to 23, 1970 (Geneva) — Committee of Directors of National Industrial Property Offices of the Madrid Union (Marks)

January 19 to 23, 1970 (The Hague) — Joint ad hoc Committee on the International Classification of Patents — Temporary Working Group VI
(1st Session)

February 17 to 20, 1970 (Geneva) — Joint ad hoc Committee on the International Classification of Patents — Bureau (1st Session)

March 9 to 20, 1970 (Geneva) — Preparatory Study Group on PCT Regulations

April 6 to 10, 1970 (Paris) — Joint ad hoc Committee on the International Classification of Patents (3rd Session)

April 13 to 17, 1970 (Geneva) — Committee of Experts for the Revision of the Madrid Agreement (Marks)

May 25 to June 19, 1970 — Diplomatic Conference for the adoption of the Patent Cooperation Treaty (PCT)

June 23 to 25, 1970 (London) — Joint ad hoc Committee on the International Classification of Patents — Working Group V (1st Session)

December 8 to 10, 1969 (The Hague) — International Association for the Protection of Industrial Property (IAPIP) — Council of Presidents

January 23, 1970 (Paris) — International Literary and Artistic Association (ALAI) — Executive Committee and General Assembly

March 23 to 25, 1970 (Munich) — International Association for the Protection of Industrial Property (IAPIP) — Council of Presidents

June 22 to 27, 1970 (Las Palmas) — International Confederation of Societies of Authors and Composers (CISAC) — 27th Congress

VACANCIES FOR POSTS IN BIRPI

Applications are invited for the following posts:

Competition No. 101

Legal Assistant

(International Registrations Division)

Category and grade: P. 2

Principal duties:

The incumbent will, in general, assist the Head of the Division:

- (1) in work relating to the implementation, within the competence of BIRPI, of the Madrid Agreement Concerning the International Registration of Marks, the Hague Agreement Concerning the International Deposit of Industrial Designs, the Lishon Agreement for the Protection of Appellations of Origin and their International Registration, the Nice Agreement Concerning the International Classification of Goods and Services, the Locarno Agreement Establishing an International Classification for Industrial Designs, Article 6^{ter} of the Paris Convention for the Protection of Industrial Property;
- (2) in preparatory work concerning revisions of the Agreements mentioned above or the elaboration of new draft agreements on such matters.

The particular duties will include:

- (a) legal studies on problems related to the interpretation or application of the aforesaid Agreements;
- (b) preparation, or assistance in the preparation, of working documents and reports relating to international meetings of the bodies of the Special Unions established under the aforesaid Agreements, as well as to the revision of those Agreements or the elaboration of new agreements on such matters.

Qualifications:

- (a) University degree in law or qualification equivalent to such degree.
- (b) Good knowledge of industrial property matters.
- (c) Excellent knowledge of French; good knowledge of English; knowledge of German would be an advantage.

Competition No. 102

Counsellor

(Director's Office)

Category and grade: P. 4

Principal duties:

The incumbent will — under the general supervision of the First Deputy Director — assist the Director and the Deputy Directors by performing in particular the following tasks:

- (a) Participation in the general planning of BIRPI activities.

- (b) Contacts with the various services of BIRPI, particularly as regards the control of progress on various assignments and liaison among such services on questions requiring coordinated activity.
- (c) Carrying out special studies in the intellectual property and international relations fields.
- (d) Collaboration in the preparation of BIRPI meetings on administrative and legal matters.
- (e) Representing BIRPI in international meetings; contacts with representatives of member States and other visitors.

Qualifications:

- (a) University degree in law or equivalent legal qualifications.
- (b) Wide experience in the field of intellectual property (including its international aspects).
- (c) Proven ability in implementing professional contacts at an international level.
- (d) Excellent knowledge of one of the official languages of BIRPI (English and French) and at least a good knowledge of the other.

Competition No. 103

Legal Assistant

(Industrial Property Division / Periodicals and Legislation Section)

Category and grade: P.1/P.2, according to the qualifications and experience of the incumbent.

Principal duties:

Within the framework of BIRPI's industrial property program, the incumbent will in particular perform various duties relevant to the activities of the "Periodicals and Legislation Section." In this connection, his basic tasks will be the following:

- (a) Collaborating in the preparation and editing of the monthly periodicals *Industrial Property* and *La Propriété industrielle*.
- (b) Participating in the general work of documentation relating to a collection of industrial property laws and regulations covering all countries of the world.
- (c) Assisting the Head of Section in studying questions concerning industrial property legislation, both as regards its national aspects (especially reform measures) and international harmonization.
- (d) Drafting of preparatory documents related to industrial property seminars and other meetings.

The duties mentioned above are subject to supervision by the Head of Section.

Qualifications:

- (a) University degree in law or qualifications equivalent to such degree.
- (b) A certain professional experience in the field of industrial property is required for an appointment at the level of P. 2.
- (c) Proven ability in editorial work would be an advantage.
- (d) Excellent knowledge of one of the two official languages of BIRPI (English and French) and at least a good working knowledge of the other. Knowledge of other major languages (especially Russian or Spanish) would be an advantage.

*Competition No. 106**External Relations Officer*

(External and Public Relations Division)

Category and grade: P. 3

Principal duties:

The incumbent will assist the Head of Division and collaborate in the preparation and implementation of BIRPI programs concerning in particular relations with Spanish-speaking countries.

In this connection, his duties will include in particular:

- (a) the study and drafting of working documents of special concern to Spanish-speaking countries;
- (b) correspondence and contacts with representatives of member countries and non-member countries;
- (c) participation in meetings held in member countries and non-member countries;
- (d) translation and editing of documents in Spanish concerning intellectual property.

Qualifications:

- (a) University degree in law or other university qualification in a relevant field (in particular, political science or public administration).
- (b) Experience in industrial property and/or copyright matters, preferably including their international aspects.
- (c) Some experience in the editing of documents would be an advantage.
- (d) A very good knowledge of one of the official languages of BIRPI (English, French) and at least some knowledge of the other; excellent knowledge of Spanish.

*Competition No. 107**External Relations Officer*

(External and Public Relations Division)

Category and grade: P. 3

Principal duties:

The incumbent will, in general, assist the Head of the Division in the matter of BIRPI's relations with intergovernmental organizations, as well as in the accomplishment of other tasks devolving upon the Division.

In this connection, his duties will include in particular:

- (a) Correspondence and contacts with intergovernmental organizations, especially those of the United Nations system and its dependent bodies.
- (b) Participation in meetings of such organizations.
- (c) Drawing up of reports and other working documents dealing with
 - the activities of those organizations, to the extent that such activities are of interest to BIRPI;
 - certain conferences and other meetings held by BIRPI, both as regards their organizational and secretarial aspects;
 - various contacts with Governments, concerning matters within the competence of the Division.
- (d) Drafting of documents and correspondence regarding acceptance of treaties administered by BIRPI.

Qualifications:

- (a) University degree in law or other university qualification in a relevant field (in particular, political science or public administration).

- (b) Familiarity with the activities and procedures of the United Nations, its bodies and specialized agencies. Some knowledge of intellectual property, especially its international aspects, would be an advantage.
- (c) Excellent knowledge of one of the official languages of BIRPI (English, French) and at least a good knowledge of the other.

*Competition No. 108**Assistant to the Head of the External and Public Relations Division*

Category and grade: P. 2

Principal duties:

The incumbent will, in general, assist the Head and the members of the Division in the matter of BIRPI's relations with Governments, intergovernmental organizations and public information media, as well as in the accomplishment of other tasks devolving upon the Division.

In this connection, his duties will include in particular:

- (a) assistance as regards contacts with Governments and intergovernmental organizations;
- (b) assistance in the preparation and organization of meetings convened by BIRPI, in consultation with the responsible Heads of Division;
- (c) assistance in the implementation of the program of technical assistance to developing countries;
- (d) correspondence and other contacts with public information media (press, radio, television);
- (e) correspondence and contacts with the press dealing specifically with intellectual property.

Qualifications:

- (a) University degree in a relevant field or equivalent qualifications.
- (b) Experience in public relations would be an advantage.
- (c) Some general knowledge of intellectual property matters.
- (d) Excellent knowledge of one of the official languages of BIRPI (English, French) and at least a good knowledge of the other.

*Competition No. 109**Counsellor*

(Administrative Division)

Category and grade: P. 4

Principal duties:

The incumbent will assist the Head of the Division by discharging various duties in the fields of finance, personnel and general administration. In particular, these duties will include:

- (a) Supervision of budgetary and finance matters, in particular, as regards budget management and control.
- (b) Application of the Financial Rules and Regulations and proposals for amendment as necessary.
- (c) Collaboration in the preparation of the annual management report, budgets and other financial documents.
- (d) Examination of questions concerning general management, in particular, drawing up reports and other working documents on the personnel requirements and costs of prospective activities as well as on specific staffing or organizational problems.
- (e) Assistance as necessary in matters concerning the management of the BIRPI headquarters building.

Qualifications:

- (a) University degree in a relevant field or qualifications equivalent to such degree.

- (b) Wide experience, at a responsible level, in finance and general administration matters or in personnel administration in an international organization, national administration or other large administrative unit.
- (c) Familiarity with the practices in the "common system" of the United Nations and its specialized agencies would be an important advantage.
- (d) Excellent knowledge of one of the two official languages of BIRPI (English and French) and at least a very good working knowledge of the other.

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As regards the seven posts mentioned above:

Nationality:

Candidates must be nationals of one of the member States of the Paris or Berne Unions. Qualifications being equal, preference will be given to candidates who are nationals of States of which no national is on the staff of BIRPI.

Age limit:

Candidates must be less than 50 years of age at date of appointment.

Date of entry on duty:

As mutually agreed.

(Competition No. 108: September 1, 1970.)

Applications:

Application forms and full information regarding the *conditions of employment* may be obtained from the Head of Personnel, BIRPI, 32, chemin des Colombettes, 1211 Geneva, Switzerland. Please refer to the number of the competition.

Closing date: January 31, 1970.

(Competition No. 108: March 31, 1970.)
