

Copyright

Review of the
WORLD INTELLECTUAL PROPERTY
ORGANIZATION (WIPO)

and the United International Bureaux for the
Protection of Intellectual Property (BIRPI)

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International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations

Non-Governmental Study Group to Consider the Draft Model Law Relating to the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations

(Geneva, September 17 to 21, 1973)

Note*

The Non-Governmental Study Group to Consider the Draft Model Law Relating to the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention) met in Geneva, from September 17 to 21, 1973, at the Headquarters of the World Intellectual Property Organization.

This meeting was convened by the three Organizations forming the Secretariat of the Convention, namely, the International Labour Organisation, the United Nations Educational, Scientific and Cultural Organization and the World Intellectual Property Organization, in accordance with decisions taken by the Intergovernmental Committee established under Article 32 of the Rome Convention, at its Extraordinary Session held in Geneva on September 21 and 22, 1972. On that occasion, the Committee decided to request the Secretariat to consult the parties protected by the Convention, together with authors' organizations and representatives of other interests affected by the Convention, with a view to ascertaining how progress could be made towards obtaining further ratifications of the Convention. The Intergovernmental Committee also requested the Secretariat to continue the preparation of a draft model law to facilitate ratification and implementation of the Rome Convention and to consult the representatives of organizations of authors, performers, producers of phonograms and broadcasting organizations, and other interested parties, on a preliminary draft text.

Following the decisions taken by the Intergovernmental Committee, the meeting expressed its views on the above-mentioned questions and made a number of suggestions concerning the draft model law submitted to it by the Secretariat.

The list of persons participating in the meeting is given below. The meeting was presided over in turn by representatives of the three Organizations forming the Secretariat.

The text of the draft model law, as revised by the Secretariat in the light of the discussions at the meeting, will be

submitted to the Fourth Ordinary Session of the Intergovernmental Committee which is to be held in Paris on December 3, 4 and 11, 1973.

List of Participants

I. International Non-Governmental Organizations

European Broadcasting Union (EBU): A. Scharf; R. de Kalhermatten; K. Remes; G. Straschnov. International Confederation of Professional and Intellectual Workers (CIT): G. Poulle. International Confederation of Societies of Authors and Composers (CISAC): D. de Freitas. International Copyright Society (INTERGU): G. Halla. International Federation of Actors (FIA): P. Boucher. International Federation of Film Producers' Associations (FIAPF): A. Brisson. International Federation of Musicians (FIM): J. Morton; H. Ratcliffe; R. Leuzinger. International Federation of the Phonographic Industry (IFPI): S.M. Stewart; G. Davies (Miss); S.A. Diamond. International Federation of Variety Artists (IFVA): P. Boucher. International Literary and Artistic Association (ALAI): A. Françon. International Music Council (IMC): R. Leuzinger. International Publishers Association (IPA): J.A. Koutchoumow. International Union of Cinematographic Exhibitors (UIEC): J. Handl. International Writers Guild (IWG): R.H. Fernay.

II. Secretariat

International Labour Office (ILO):

E. Thompson (*Chief, Non-Manual Workers' Section, Conditions of Work and Life Department*); B. Knapp (*Head of Disputed Claims Section, Office of the Legal Adviser*); M. Canova (Mrs.) (*Non-Manual Workers' Section, Conditions of Work and Life Department*).

United Nations Educational, Scientific and Cultural Organization (Unesco): B. Ringer (Ms.) (*Director, Copyright Division*).

World Intellectual Property Organization (WIPO):

A. Bogseh (*First Deputy Director General*); T.S. Krishnamurti (*Counsellor, Head, Copyright Division*); M. Stojanović (*Counsellor, Copyright Division*).

III. Officers

Co-Chairmen: E. Thompson (ILO); B. Ringer (Ms.) (Unesco); T.S. Krishnamurti (WIPO).

* This Note has been prepared by the International Bureau of WIPO on the basis of the report of the meeting.

NATIONAL LEGISLATION

ALGERIA

Copyright Ordinance

(No. 73-14, of April 3, 1973) *

CHAPTER I

Protected Works

Article 1. — The creation of any intellectual work, whatever may be its type, the mode of form of its expression, its merit or its purpose, confers on its author a right called "copyright" which is defined and protected in accordance with the provisions of this Ordinance.

Article 2. — The works to which copyright protection extends are:

- (i) books, pamphlets and other literary, scientific or artistic writings;
- (ii) lectures, addresses, sermons and other works of the same nature;
- (iii) dramatic or dramatico-musical works;
- (iv) choreographic works and entertainments in dumb show, the production of which is fixed in writing or otherwise;
- (v) musical compositions with or without words;
- (vi) cinematographic works or works produced by a process analogous to cinematography;
- (vii) works of drawing, painting, architecture, sculpture, engraving and lithography;
- (viii) works of applied art;
- (ix) photographic works to which are assimilated works expressed by a process analogous to photography;
- (x) illustrations, maps, plans, sketches and three-dimensional works relating to geography, architecture or science;
- (xi) works of folklore and, in general, works being part of the traditional cultural heritage of Algeria.

Article 3. — Translations, adaptations and other alterations of a literary, artistic or scientific work, as well as arrangements of music, shall be protected as original works without prejudice to the copyright in the original work.

Article 4. — Anthologies or collections of various works which, by reason of the selection or arrangement of their contents, constitute intellectual works shall also be protected by copyright.

* This Ordinance was published in the *Journal Officiel* of the Democratic and Popular Republic of Algeria on April 10, 1973. WIPO translation.

Article 5. — The title of an intellectual work, in so far as it is original in character shall enjoy the same protection as the work itself.

Even if the work is no longer protected under this Ordinance, no person may use a title to distinguish a work of the same kind under conditions (circumstances) capable of misleading the public.

CHAPTER II

The Author

Article 6. — Subject to the provisions of this Ordinance, the copyright in an intellectual work shall vest in the author thereof.

Article 7. — The person whose name or pseudonym, in so far as it leaves no doubt as to his identity, is indicated on the work in the customary manner shall, in the absence of proof to the contrary, be deemed to be the author thereof.

However, where the work is created by agents of a legal entity as part of their duties, or under a contract to make a work or an employment contract, copyright shall be considered assigned, unless otherwise provided in the contract, to the said legal entity, to the employer or to the person commissioning the work.

Article 8. — The author of a pseudonymous or anonymous work shall enjoy in respect of such work the rights recognized by this Ordinance. However, in so far as the author has not revealed his identity, the publisher whose name is indicated on the work shall, in the absence of other proof, be deemed to represent the author, and shall be entitled in that capacity to safeguard and exercise the author's rights.

Article 9. — The copyright in a work of joint authorship shall belong jointly to the co-authors.

By "work of joint authorship" is meant a work on the production of which two or more co-authors have collaborated in such a way that their contributions are inseparable.

Article 10. — A collective work shall, in the absence of proof to the contrary, be the property of the natural person who or legal entity which took the initiative in creating it and under whose name it is disclosed. Copyright shall vest in such person or entity.

By "collective work" is meant a work created on the initiative of a natural person who or legal entity which compiles

it, publishes it and discloses it under his or its own direction and name, in which the personal contributions of the various authors are merged in the whole work in such a way that it is impossible to attribute to each author a distinct right in the whole work thus created.

Article 11. — The copyright in a composite work shall belong to the person who creates it, without prejudice to the rights of the author of the pre-existing work.

By "composite work" is meant a work in which a pre-existing work or fragments of pre-existing works have been incorporated without the participation of their authors.

Article 12. — The copyright in a translated or adapted work shall belong to the author of the translation or adaptation, without prejudice to the rights of the author of the original work.

Article 13. — The copyright in anthologies and collections shall belong to the person who made the choice of the works or fragments of works contained therein, without prejudice to the rights of the authors of the original works.

Article 14. — Folklore is a part of the national cultural heritage.

The direct or indirect fixation of folklore with a view to its exploitation for profit-making purposes shall require the prior authorization of the Ministry of Information and Culture, which may demand the payment of a fee for such fixation under conditions which shall be determined by decree.

The total or partial assignment of the copyright in a work inspired by folklore, or an exclusive license relating to such a work, shall not be valid unless it has been approved by the Ministry of Information and Culture.

For the purposes of this Ordinance, "folklore" shall be understood to mean works of which the authors are unknown but in respect of which there is every ground to presume that such author is or was a national of the Democratic and Popular Republic of Algeria, and "work inspired by folklore" shall be understood to mean any work composed with the aid of elements borrowed from the traditional cultural heritage of Algeria.

Article 15. — Authorship of a cinematographic work shall be deemed to belong to the physical person or persons who bring about the intellectual creation thereof.

In the absence of proof to the contrary, the following shall be deemed to be co-authors of a cinematographic work:

- (i) the author of the script,
- (ii) the author of the adaptation,
- (iii) the author of the dialogue,
- (iv) the author of the musical compositions, with or without words, specially composed for the work,
- (v) the director,
- (vi) the chief cartoonist, in the case of an animated cartoon.

Where the cinematographic work is adapted from a pre-existing work which is still protected, the author of the original work shall be assimilated to the authors of the new work.

Article 16. — The relationship between the co-authors and the maker of the cinematographic work shall be determined by written contract.

The maker of a cinematographic work is the natural person who or legal entity which takes the initiative of and the responsibility for the making of the work.

The contracts between authors and makers, with the exception of those entered into with the authors of the musical compositions, with or without words, shall, unless otherwise provided in the contract, imply assignment to the maker of the exclusive right of exploitation of the cinematographic work by any means and processes, including subtitling and the dubbing of texts, and of the right to make such alterations as are considered indispensable for that exploitation, on condition that such alterations do not prejudice the moral rights of the author as provided for in this Ordinance.

Article 17. — Unless otherwise agreed, each co-author may dispose freely of his personal contribution, with a view to its exploitation in a different medium.

Article 18. — If the maker refuses to complete the cinematographic work or is prevented from doing so by *force majeure*, the author or authors of the work may apply to the court for termination of the contract binding them to the maker, without prejudice to the remuneration due to them.

Article 19. — If one of the co-authors of the cinematographic work refuses to complete his contribution to the work or is prevented from doing so by *force majeure*, he shall not be entitled to oppose the use of the part of his contribution already made for the purposes of completing the cinematographic work. He shall retain authorship of that contribution and shall enjoy the rights deriving therefrom. He shall in any event retain the right to have his name removed from the credit titles.

Article 20. — The cinematographic work shall be declared by the maker to have been completed when the master copy has been established.

Article 21. — Any work expressed by a process producing visual effects analogous to cinematography shall be assimilated to cinematographic works.

CHAPTER III

The Content of Copyright

Article 22. — The author shall enjoy the right to respect for his name, his authorship and his work. These rights, called "moral rights", shall attach to his person. They shall be perpetual, inalienable and imprescriptible. They may be transmitted *mortis causa* to the heirs of the author or conferred on a third party in accordance with the laws applicable.

Article 23. — The author shall enjoy the exclusive right to exploit his work in any form whatever and to derive economic benefit therefrom.

This right, called the "economic right", shall be exercised subject to respect for the monopolies established by the State and shall include:

- (i) reproduction of the work in any material form, including cinematograph films and phonograms;
- (ii) communication of the work to the public by performance, recitation or broadcasting;
- (iii) communication of the broadcast work to the public by wire or loudspeaker or by any other instrument for the transmission of signs, sounds and images;
- (iv) translation, adaptation or any other alteration or arrangement of the work.

For the purposes of this Article, the work shall mean the work either in its original form or in a form recognizably derived from the original.

CHAPTER IV

Limitations on Copyright

Article 24. — The following shall be lawful without either the authorization of the author or remuneration:

- (i) private performances which are in the nature of family gatherings and are free of charge;
- (ii) performances and communications of a broadcast work, made for school or university purposes or in vocational training;
- (iii) reproductions, translations and adaptations intended strictly for personal and private use;
- (iv) borrowings and quotations, in so far as they are justified by their scientific, critical, educational or informative character.

Such borrowings and quotations may be used in the original version or in translation. In this case, however, the source and the name of the author shall be indicated.

Article 25. — Articles on current topics published in newspapers or periodicals may be reproduced by the press or broadcast if the authors or publishers have not expressly stated in the newspaper or periodical in which they have caused them to appear that they prohibit reproduction or broadcasting thereof.

In any event, the source shall be clearly indicated. For periodicals, it shall be sufficient to indicate the prohibition in a general manner in the heading of each issue.

News of the day and miscellaneous facts having the character of mere items of press information may be used freely.

Article 26. — Speeches, sermons and statements made at public events may be reproduced by the press or broadcast for informative purposes without either authorization or remuneration.

However, only the author has the right to make reprints of, or to make a collection of, the works mentioned above.

Article 27. — Works of graphic and plastic art, architecture, photography and the applied arts which are permanently located in a public place, with the exception of exhibitions, museums and classified sites, may be reproduced and made accessible to the public by cinematography or television. The same shall apply, without exception, where the inclusion of such a work in the cinematographic or televisual work is accessory or incidental in relation to the main theme.

Article 28. — The Minister for Information and Culture may, under conditions determined by order, authorize public libraries, non-commercial documentation centers, scientific institutions and educational establishments to reproduce literary, scientific or artistic works in the amount required for the purposes of their activities, by a photographic or analogous process.

Article 29. — The limitations on copyright provided for in this Chapter permit use of the works both in the original language and in translation.

CHAPTER V

Exceptions to Copyright

Article 30. — If, after the expiration of a period of three years from the date of the first publication of a writing, the translation of such writing has not been published in Algeria by the owner of the right of translation or with his authorization, any national of the Democratic and Popular Republic of Algeria may obtain a non-exclusive license from the Ministry of Information and Culture to translate and publish the work. Such a license may only be granted if the applicant establishes either that he has requested, and has been denied, authorization by the owner of the right of translation to make and publish the translation, or that he was unable to find the owner of the right. A license may also be granted on the same conditions if all previous editions of a translation are out of print.

The owner of the right of translation shall receive a compensation which is just and equitable and conforms to international standards.

Any license under this Article shall be granted only for the purpose of teaching, scholarship or research.

Article 31. — The Algerian Radio and Television Organization may obtain a translation license for the purposes of broadcasting any work protected under this Ordinance, provided that the translation is for use only in broadcasts intended exclusively for teaching or for the dissemination of the results of scientific research to experts in a particular profession.

The translation license may be granted for a work published in printed or analogous forms of reproduction, or for any text incorporated in an audio-visual fixation prepared and published for the purpose of being used in connection with systematic instructional activities.

Use of the translation must be without any commercial purpose. The translation may not be exchanged with foreign broadcasting organizations.

Article 32. — If, after the expiration of the period specified in Article 33 below, a literary, scientific or artistic work published in printed form, or in the form of an audio-visual reproduction, or in any analogous forms of reproduction, has not been distributed in Algeria in connection with systematic instructional activities and research, any national of the Democratic and Popular Republic of Algeria may obtain from the Ministry of Information and Culture a non-exclusive license to reproduce and publish such work.

The owner of the right of reproduction shall receive a compensation which is just and equitable and conforms to international standards.

Article 33. — The period of exclusive rights to which Article 32 refers is five years, provided that, for works of the natural and physical sciences and of technology, it shall be three years, and, for works of fiction, poetry, drama and music, and for art books, it shall be seven years.

Article 34. — The conditions for the grant of the translation license and the license for translation for the purposes of broadcasting and reproduction shall be prescribed by decree.

CHAPTER VI

Assignment

Part I

General

Article 35. — Copyright as defined in Article 23 of this Ordinance shall be accessible and transferable, free of charge or for a consideration, in whole or in part, in accordance with applicable legislation.

Article 36. — Assignment of copyright must be evidenced by a written contract.

Article 37. — Assignment of copyright for one or more specific forms of exploitation shall not imply assignment of other types of exploitation.

Article 38. — The contract of assignment must specify, in particular:

- (i) the field and type of exploitation of the work;
- (ii) the period of use of the rights assigned;
- (iii) the number of performances or broadcasts, or the number of copies in the case of publication or reproduction;
- (iv) the amount and mode of remuneration of the author; remuneration may be either proportionate to the proceeds of sale or exploitation, and in such case embody a guaranteed minimum, or fixed as a lump sum;
- (v) clauses providing for possible amendment of its contents, or its termination.

Article 39. — Remuneration shall be fixed as a lump sum:

- (i) in all cases where the conditions of exploitation of the work do not permit accurate calculation of proportionate remuneration;
- (ii) where the work concerned is only an accessory element of a larger intellectual creation;
- (iii) where the work created by the author under a contract to make a work or an employment contract for an information enterprise is intended for publication in a newspaper or periodical of any kind.

Article 40. — Total assignment of future works shall be null and void, except where it is effected by the author in favor of the organization responsible for the administration of copyright and the defense of authors' interests referred to in Article 71 of this Ordinance. However, the conclusion of a contract commissioning specific works shall be lawful.

Article 41. — Transfer of ownership of a copy of the work shall not imply, as of right, assignment of the copyright.

Article 42. — The author shall have the right to institute termination proceedings for breach of contract or to demand adjustment of the financial provisions of the assignment where the profit derived from exploitation of the work is manifestly disproportionate to the terms initially agreed upon.

Any provision with a view to disposing of this right shall be considered null and void. On the death of the author his successors in title may invoke the provisions of this Article.

Article 43. — The benefit of an assignment of the copyright defined in Article 23 of this Ordinance may not be transferred to a third party without the express written consent of the author or of his representatives. Such consent may be given to the assignee either in the original contract or at a later stage.

Part II

The Publishing Contract

Article 44. — The publishing contract is the contract by which, to the exclusion of the contract for publication at the author's expense (*contrat à compte d'auteur*) and the "shares" contract (*contrat dit de "compte à demi"*), the author of the work transfers to the publisher, under specified conditions, the right to manufacture copies of the work, or have such copies manufactured, on condition that the latter undertakes their publication and distribution.

Such contract must be established in writing, failing which it shall be null and void.

Article 45. — The publisher shall be required to manufacture the copies of the work or have them manufactured under the conditions and in the form specified in the contract.

Article 46. — The publisher shall not make any modification of the work without the consent of the author.

Unless otherwise provided in the contract, he shall indicate the name or pseudonym of the author on every copy.

In the absence of a special provision, the publisher shall complete publication within the period customary in the profession.

Article 47. — The author shall guarantee to the publisher the peaceful and, unless otherwise provided, exclusive exercise of the right transferred.

Article 48. — The author shall make it possible for the publisher to manufacture copies of the work and make them available to the public.

He shall deliver to the publisher, within the period specified in the contract, the material to be published in a form which permits manufacture under normal conditions.

Unless otherwise provided in the contract, or unless compliance with this provision is impossible for technical reasons, the material for publication supplied by the author shall remain the property of the latter. The publisher shall be responsible for it during a period of one year following the completion of manufacture.

Article 49. — The publishing contract shall specify the number of copies constituting the first printing. Unless otherwise provided in the contract, no further editions may be made without the renewed consent of the author.

Article 50. — The remuneration of the author shall, except in the case of lump-sum remuneration as provided for in Article 39, consist of a percentage of the retail selling price of each copy of the work sold. This percentage, independently of other forms of remuneration such as a first-edition bonus, if payable, shall not be less than 10 %.

The publishing contract may provide also for the payment of an advance of royalties to the author, either at the time of commissioning, in the case of a commissioned work, or on the date of acceptance of the manuscript.

Article 51. — The publisher is obliged to provide the author with all the documentary evidence necessary for establishing the accuracy of his accounts. The author may require that the publisher produce, at least once a year, unless otherwise provided, a statement indicating:

- (i) the number of copies manufactured during the period in question, with details of the dates of printing and the amount of copies printed;
- (ii) the number of copies in stock;
- (iii) the number of copies sold;
- (iv) the number of copies rendered unusable or destroyed by accident or *force majeure*;
- (v) the amount of remuneration due to the author and the amount, if any, already paid to him.

Article 52. — The publisher may not, except where he transfers his business, transfer the benefit of the publishing contract to third parties, either free of charge or for consideration, without having first obtained the agreement of the author.

Article 53. — The publishing contract may be terminated by the author, independently of the cases provided for in ordinary law, where the publisher has not made copies of the work available to the public, or has not reprinted the edition if it is out of print, after formal notice allowing him a reasonable period within which to do so.

An edition shall be considered to be out of print when two requests for the delivery of copies, addressed to the publisher, are not met within three months.

Article 54. — The publishing contract may be terminated by the publisher where the author has not made it possible for the publisher to undertake publication of the work, after formal notice allowing him a reasonable period within which to do so.

Part III

Authorizations for Public Communication

Article 55. — Any public communication of intellectual works, by any means whatever, with the exception of the cases provided for in Chapters IV and V of this Ordinance, shall be subject to the issue of an authorization by the authors or their representatives.

Such authorization may take the form of a general agreement by which the organization for the protection of authors' rights referred to in Article 71 confers on a natural person or legal entity the right to communicate, during the period of validity of the agreement, present or future works constituting the repertoire of that organization.

The authorization may only be issued where the users make a formal, written and if possible prior undertaking, in particular:

- (i) to pay the royalties provided for;
- (ii) to submit a detailed list of the works performed;
- (iii) to submit a substantiated and detailed list of their receipts.

Article 56. — In the absence of express agreement on exclusive rights, the authorization for public communication shall not confer an exploitation monopoly.

The benefit of the authorization may not be transferred independently of the transfer of the business without the prior consent of the author.

Part IV

Broadcasting of the Work

Article 57. — Unless otherwise agreed, authorization to broadcast the work shall cover all communications made by the Algerian Radio and Television Organization, the beneficiary of the authorization.

Article 58. — Unless otherwise agreed, authorization to broadcast the work shall not imply authorization to record the work broadcast by means of instruments recording sounds or images.

Where an authorization has been issued to the Algerian Radio and Television Organization to make recordings by means of its own facilities and for its own broadcasts, the recordings must be used for broadcasting within twelve months following the performance or recitation which was recorded, and they shall be destroyed or rendered unsuitable for use thereafter.

Recordings referred to in the preceding paragraph may, however, be preserved in the archives of the Algerian Radio and Television Organization if they have exceptional documentary character.

Article 59. — Broadcasting shall be lawful when it relates to a work which has already been legally made accessible to the public, if the author is not represented by the organization of authors referred to in Article 71.

In such case, and failing private agreement, the court shall fix the equitable remuneration payable to the author by a ruling made according to emergency procedure.

The broadcast effected under the conditions specified in the preceding paragraph shall not in any circumstances be prejudicial to the moral rights of the author, but it may take place before the amount of remuneration has been determined.

CHAPTER VII

Term of Protection

Article 60. — Economic rights shall be protected in favor of the author during his lifetime, and in favor of his successors in title during 25 years from the beginning of the calendar year which follows his death. On expiration of this period the work shall fall into the public domain.

Article 61. — For works of joint authorship, the term of protection provided for in the preceding Article shall expire at the end of the calendar year during which the last surviving author died. Where one of the co-authors has no heirs, his share in the joint work shall accrue to the organization referred to in Article 71 below.

Article 62. — For pseudonymous works, the term of protection shall expire 25 years after publication of the work. The term shall be calculated from the beginning of the calendar year which follows publication.

If the author discloses his identity before expiration of this period, the term of protection shall be calculated as provided in Article 60.

Article 63. — For collective works, the term of protection shall be limited to 25 years from the beginning of the calendar year which follows publication of the work.

Article 64. — For photographic works and works of the applied arts, the term of protection shall be 10 years from the beginning of the calendar year which follows publication of the work.

Article 65. — The economic right in cinematographic works shall expire 25 years after the work has been lawfully made accessible to the public.

Article 66. — For posthumous works, the term of protection shall be limited to 25 years from the beginning of the calendar year which follows the communication of the work to the public.

Article 67. — The court may, if justified by the public interest in gaining access to a work not published during the lifetime of the author, order any appropriate measure where the heirs of the deceased author or the holders of the work refuse, without a valid reason, to disclose it. The court may also make a ruling authorizing the disclosure of a work in the case of disagreement between two or more of the author's successors in title. The same shall apply where the author has died without known successors in title.

CHAPTER VIII

Special Provisions

Article 68. — Works within the public domain are placed under the protection of the State.

Article 69. — In accordance with the provisions of Article 41, the authors of intellectual works belonging to the category of the graphic and plastic arts retain an inalienable right to a share in the proceeds of any sale or resale of the original; this right is fixed at 5 % of the amount of the transaction.

Article 70. — After the death of the author, this *droit de suite* shall subsist in favor of his heirs alone during the periods provided for in Chapter VII of this Ordinance.

CHAPTER IX

Exercise of Copyright

Article 71. — The administration of copyright and the defense of the moral and economic interests of authors and composers shall be entrusted by law to an organization of authors and composers which shall only be allowed to operate on the territory of the Democratic and Popular Republic of Algeria. This organization shall in particular have authority to carry on legal proceedings and to act, to the exclusion of any other natural person or legal entity, as intermediary for the issue of authorizations and the collection of royalties relating thereto in dealings between the author or his heirs and users or associations of users.

This organization shall be substituted as of right for any other professional body of authors in the execution of contracts entered into with users or associations of users on the territory of the Democratic and Popular Republic of Algeria.

It will also, in dealings with the users of works, represent its members or foreign societies of authors or their members, either as their agent or on the basis of a reciprocal agreement.

Any activity on the part of other intermediaries on Algerian territory shall be treated as an infringement of this Ordinance and shall be subject, on a complaint by the Public Prosecutor, to the penalties provided for in Article 75 of this Ordinance.

Article 72. — This organization shall be responsible to the Ministry of Information and Culture.

Article 73. — A commission shall be set up with the task of ruling on such disputes as may arise between the said organization and natural persons or legal entities wishing to obtain the necessary authorizations for the use of works in the organization's repertoire.

An order of the Minister for Information and Culture shall determine the organization and functions of this commission, within which authors or their successors in title shall be duly represented.

CHAPTER X

Sanctions and Procedure

Article 74. — Disputes relating to the application of the provisions of this Ordinance shall be subject to the jurisdiction of the civil courts.

Article 75. — Any malicious or fraudulent infringement of copyright as defined in this Ordinance shall be punished in accordance with Articles 390 *et seq.* of the Penal Code.

Article 76. — At the request of an author or his successors in title, the court shall have the power to order, by a ruling issued on request:

- (i) the seizure of copies constituting an unlawful reproduction of his works;
- (ii) the suspension of any manufacture in progress which involves the unlawful production of his works;

(iii) the seizure, even outside legal working hours, of receipts from any unlawful reproduction, performance or dissemination of his works.

Article 77. — Proof of the fact of any reproduction, performance or dissemination, and of any infringements of the provisions of Article 23, may arise from the findings of a sworn agent of the organization entrusted with the administration of copyright.

Article 78. — The royalties due to authors for the last two years of exploitation or use of their works shall be privileged claims on the same terms as salaries. The same shall apply to the amount of fines and compensation due to authors in the case of unlawful exploitation or use of their works.

CHAPTER XI

Miscellaneous Provisions

Article 79. — This Ordinance shall apply to all intellectual works of which the copyright owner is a national of the Demo-

cratic and Popular Republic of Algeria or a legal entity subject to Algerian jurisdiction.

Works of foreign authors which have not been published previously and are published for the first time in Algeria shall enjoy the same protection under this Ordinance as the works of Algerian nationals.

Works of foreign authors which have not been published for the first time in Algeria shall enjoy protection under this Ordinance within the limits of the obligations which the Democratic and Popular Republic of Algeria has assumed in terms of international conventions or on the basis of *de facto* reciprocity.

Article 80. — The procedure for the application of this Ordinance shall be determined where necessary by decree.

Article 81. — All prior provisions contrary to those of this Ordinance are repealed.

Article 82. — This Ordinance shall be published in the *Journal Officiel* of the Democratic and Popular Republic of Algeria.

GERMANY (Federal Republic of)

Regulation on the Arbitration Commission issued under the Act dealing with the Administration of Copyright and Related Rights

(As amended on June 26, 1970) *

By virtue of Article 14(7) of the Act dealing with the Administration of Copyright and Related Rights, of September 9, 1965¹ (*Bundesgesetzblatt*, Part I, p. 1294), it is hereby enacted:

Independence of members of the Arbitration Commission

Article 1. — (1) The members of the Arbitration Commission shall not be bound by any instructions.

(2) Articles 41 to 43 and 44(2) to (4) of the Code of Civil Procedure shall apply as appropriate to the exclusion and refusal of members of the Arbitration Commission. The petition for refusal shall be filed with the Arbitration Commission. The petition shall be ruled upon by the *Oberlandesgericht* having jurisdiction over the place in which the headquarters of the Arbitration Commission is located.

* The basic Regulation (*Verordnung über die Schiedsstelle nach dem Gesetz über die Wahrnehmung von Urheberrechten und verwandten Schutzrechten*) is dated December 18, 1965, and was published in *Bundesgesetzblatt*, Part I, p. 2106, No. 72, of December 24, 1965. The amending Regulation was published in *Bundesgesetzblatt*, Part I, No. 59, of June 26, 1970. — WIPO translation.

Note: Articles followed by two asterisks are those amended by the Regulation of June 26, 1970.

¹ See *Copyright*, 1965, p. 270.

Institution of proceedings

Article 2. — (1) In the application under Article 14(3) of the Act, the applicant shall nominate an associate judge and shall state and justify the contractual terms sought. A copy shall be filed with the application.

(2) The supervising authority (Article 18(1) of the Act) shall transmit the copy of the application to the defendant with the request that he also nominate an associate judge and reply to the application in writing within a period of one month. The defendant must be informed that failure to comply with the said request does not prevent the proceedings from being carried on. The reply shall also be accompanied by a copy, which the supervising authority shall transmit to the applicant.

(3) Where the applicant is a collecting society, the defendant may state that he is not prepared to conclude or amend the contract. He shall be informed of this possibility. If he makes such a statement, the proceedings shall be suspended.

Preparation of proceedings by the Chairman

Article 3. — (1) On receipt of the reply of the defendant or on expiration of the period allowed therefor without such reply having been received, the supervising authority shall

transmit the file to the Chairman of the Arbitration Commission.

(2) On receipt of the file, the Chairman shall take the necessary measures towards the preparation of the oral proceedings (Article 5).

(3) The Chairman may, before the commencement of the oral proceedings, call the parties together in an attempt to reach a settlement without summoning the associate judges. He shall be obliged to proceed thus when both parties so request.

Withdrawal of application

Article 4. — (1) The application may be withdrawn at any time prior to the commencement of the oral proceedings without the consent of the defendant, and thereafter only with such consent.

(2) Where the application is withdrawn, the applicant shall pay the costs of the proceedings.

Oral proceedings

Article 5. — (1) The Arbitration Commission shall take its decisions on the basis of oral proceedings. With the agreement of both parties, the oral proceedings may be dispensed with.

(2) Proceedings before the Arbitration Commission shall not be open to the public. Members of the supervising authority may attend the proceedings.

(3) The parties shall be summoned to the proceedings. The period of summons shall be not less than a week. The only persons who may not be admitted as authorized agents or counsel shall be those who, under Article 157(1) and (3) of the Code of Civil Procedure, are excluded from oral proceedings before a court. Article 157(2) of the Code of Civil Procedure shall apply accordingly.

(4) A record of the proceedings shall be taken which shall be signed by the Chairman and the secretary. The secretary shall be appointed by the supervising authority.

Ex officio inquiries

Article 6. — (1) The Arbitration Commission shall not be bound by evidence adduced by the parties. It shall initiate the necessary inquiries *ex officio* and accept whatever evidence it considers appropriate. The parties shall be given the opportunity to comment on the results of the inquiries and the evidence brought forward.

(2) Subject to paragraph (3), the Arbitration Commission may hear parties and witnesses and have a report made by an expert.

(3) The hearing of a witness who does not appear voluntarily before the Arbitration Commission or refuses to give evidence, the obtaining of a report from an expert who does not appear before the Arbitration Commission voluntarily or otherwise refuses to make a report, and the swearing-in of a witness, expert or party, where this is considered necessary by the Arbitration Commission, shall be carried out by the competent court (*Amtsgericht*) at the request of the Arbitration Commission. The provisions of the Law on the Orga-

nization of Courts and of the Code of Civil Procedure shall be applied accordingly.

Absence from the oral proceedings

Article 7. — (1) If the applicant fails to appear at the oral proceedings without having given an excuse, the application shall be considered withdrawn, unless the applicant requests the resumption of the proceedings within a period of two weeks.

(2) If the defendant fails to appear at the oral proceedings without having given an excuse, the Arbitration Commission may take its decision in the light of the documents before it.

(3) The party having failed to appear shall pay the costs occasioned by his absence.

(4) The parties shall be informed of the consequences of their absence in the summons to the oral proceedings.

Compensation of members of the Arbitration Commission

Article 8. — (1) Membership of the Arbitration Commission is an honorary function.

(2)** The members of the Arbitration Commission shall, at their request, receive from the supervising authority compensation as provided for in Articles 2 to 5 and 9 to 11 of the Law on the Compensation of Honorary Judges in terms of the public announcement of October 1, 1969 (*Bundesgesetzblatt*, Part I, p. 1753).

(3)** The Chairman of the Arbitration Commission shall receive additional compensation for expenses in respect of every proceeding which does not end before the file is transmitted to him. Such compensation shall be five hundred German marks and, if the proceeding ends before the meeting of the Arbitration Commission, three hundred German marks if the end is the result of a settlement reached through mediation by the Chairman, and seventy-five German marks if the end is brought about in another way.

(4) Compensation under paragraphs (2) and (3) above shall be fixed by the supervising authority after the Chairman has been heard. The compensation thus fixed shall be notified to the respective member of the Arbitration Commission.

(5) The member of the Arbitration Commission may, within a period of two weeks, apply to have the compensation fixed by a court. Such application shall be decided upon by the *Oberlandesgericht* having jurisdiction over the place in which the headquarters of the Arbitration Commission is located. The application shall be filed with the supervising authority. The supervising authority may accede to the application. The *Oberlandesgericht* may, *ex officio*, amend the compensation fixed by it.

(6) Such fixing shall not have effect at the expense of the party liable for costs.

Compensation of witnesses and experts

Article 9. — (1)** Witnesses and experts shall receive compensation as provided for in Article 2 to 6, 8 to 12 and 14 of the Law on the Compensation of Witnesses and Experts,

in terms of the public announcement of October 1, 1969 (*Bundesgesetzblatt*, Part I, p. 1756). Articles 7 and 15 of the said Law shall apply accordingly.

(2) The provisions of Article 8(4) to (6) shall be applicable accordingly.

Costs of proceedings

*Article 10**.* — (1) Costs (fees and outlays) for proceedings carried on before the Arbitration Commission shall be charged by the supervising authority.

(2) The fee shall be two hundred German marks. It shall be reduced to fifty German marks if the proceeding ends before the file is transmitted to the Chairman (Article 3(1)), and to one hundred German marks if the proceeding ends after that time but before the Arbitration Commission meets.

(3) The outlays shall include the compensation to be paid under Articles 8 and 9 as well as other outlays by appropriate application of Article 2 of the Regulation on Administrative Costs charged by the German Patent Office, of June 26, 1970 (*Bundesgesetzblatt*, Part I, p. 835).

Decisions regarding costs

*Article 11**.* — (1) Unless otherwise provided, the Arbitration Commission shall decide on the apportionment of costs on the basis of a fair assessment. The Arbitration Commission may order one party to reimburse, fully or in part, the necessary outlays incurred by the other party, if this is consistent with the fair assessment.

(2) The decision regarding costs may be contested by filing an application for a judicial decision, even if the substance of the settlement as determined by the Arbitration Commission is not contested.

Calculation of costs

*Article 12**.* — (1) The costs of the proceedings (Article 10) and the necessary outlays to be reimbursed to one of the parties (Article 11(1), second sentence) shall be fixed by the supervising authority after the Chairman of the Arbitration Commission has been heard. The amount fixed shall be

communicated to the party liable for costs and, when, under Article 11(1), second sentence, reimbursable necessary expenses have been fixed, also to the party entitled to such reimbursement.

(2) Either of the parties concerned may, within a period of two weeks after notification, apply for the fixing of the costs by a court. The application shall be ruled upon by the *Oberlandesgericht* having jurisdiction over the place in which the headquarters of the Arbitration Commission is located. The application shall be filed with the supervising authority. The supervising authority may accede to the application.

(3) In all other respects, the charging of costs shall be governed by appropriate application of the Regulation on Administrative Costs charged by the German Patent Office, of June 26, 1970.

Application in Land Berlin

*Article 13**.* — In accordance with Article 14 of the Third Transitional Act, of January 4, 1952 (*Bundesgesetzblatt*, Part I, p. 1), in conjunction with Article 27 of the Act dealing with the Administration of Copyright and Related Rights and Article 33 of the Law revising the Powers to charge Costs, this Regulation shall apply also to *Land Berlin*.

Entry into force

Article 14. — This Regulation shall enter into force on January 1, 1966.²

² The amended provisions (Articles 8(2) and (3), 9(1), 10, 11, 12 and 13) entered into force on July 1, 1970.

CORRIGENDUM

In the *Regulation amending the Regulation on the Register of Authors*, of June 26, 1970 (*Copyright*, 1973, p. 90), Article 1(3), second sentence, should read as follows:

“The petition shall be filed with the Patent Office; the latter may accede to the petition.”

JAPAN

Cabinet Order for the Enforcement of the Copyright Law

(No. 335, promulgated on December 10, 1970)

Libraries, etc., permitted to reproduce library materials

Article 1. — (1) Libraries and other establishments designated by Cabinet Order, as mentioned in Article 31 of the Copyright Law¹ (hereinafter referred to as “the Law”) (including the case where its application *mutatis mutandis* is provided for under the provisions of Article 86, paragraph (1)

and Article 102, paragraph (1) of the Law), shall include the National Diet Library and the following establishments which provide librarians as defined in Article 4, paragraph (1) of the Library Law (Law No. 118, of 1950) or staff members designated by the Ministry of Education Ordinance as equivalent to librarians:

- (i) libraries as defined in Article 2, paragraph (1) of the Library Law;

¹ See *Copyright*, 1971, pp. 71 *et seq.*

- (ii) libraries attached to such universities or higher professional schools as mentioned in Article 1 of the School Education Law (Law No. 26, of 1947) (in the next item referred to as "universities, etc.") and other similar establishments;
- (iii) libraries attached to educational facilities, as mentioned in the provisions of laws other than the School Education Law, which give education similar to that given in universities, etc.;
- (iv) establishments set up by Law or Regulation, which have the main activities of collecting, filing and preserving books, documents as well as originals and copies of works and of offering them for the use of the general public;
- (v) research institutes, laboratories and other establishments, set up by Law or Regulation for the purpose of scientific research, which have the activities of offering books, documents and other materials held in their collection for the use of the general public;
- (vi) other establishments similar to those mentioned in the preceding two items (not falling within those mentioned in any of the preceding items), which are set up by the State, local public entities, or legal persons defined in Article 34 of the Civil Law (Law No. 89, of 1896) or other non-profit-making legal persons (in the next Article and Article 3, paragraph (1), item (ii) referred to as "legal persons for public interests") and which are so designated by the Commissioner of the Agency for Cultural Affairs.

(2) The Commissioner of the Agency for Cultural Affairs shall, when having designated establishments as mentioned in item (vi) of the preceding paragraph, give public notice thereof in the Official Gazette.

Braille libraries, etc., permitted to make sound recordings of works

Article 2. — Braille libraries and other establishments designated by Cabinet Order, as mentioned in Article 37, paragraph (2) (including the case where its application *mutatis mutandis* is provided for under the provision of Article 102, paragraph (1) of the Law), shall include the following:

- (i) facilities for feeble-minded children as well as those for blind, deaf and dumb children, as mentioned in Article 7 of the Child Welfare Law (Law No. 164, of 1947), which are set up by the State, local public entities, or legal persons for public interests and which admit only blind children;
- (ii) rehabilitation facilities for the blind, Braille libraries and Braille book publishing facilities, as mentioned in Article 5, paragraph (1) of the Disabled Persons Welfare Law (Law No. 283, of 1949), which are set up by the State, local public entities, or legal persons for public interests;

- (iii) school libraries, as defined in Article 2 of the School Library Law (Law No. 185, of 1953), which are attached to such schools for the blind as mentioned in Article 1 of the School Education Law;
- (iv) welfare facilities for the aged, as defined in Article 14, paragraph (1) of the Aged Men Welfare Law (Law No. 133, of 1963), which admit only the blind.

Official archives

Article 3. — (1) Official archives which are permitted, under the proviso to Article 44, paragraph (2) of the Law, to preserve ephemeral sound or visual recordings made in accordance with the provision of Article 44, paragraph (1) of the Law (including the case where its application *mutatis mutandis* is provided for under the provision of Article 102, paragraph (1) of the Law) shall include the following:

- (i) the Film Center attached to the Tokyo National Modern Arts Museum;
- (ii) establishments having the purpose of collecting and preserving, as documentary records, sound or visual recordings already used for broadcasting, which are set up by legal persons for public interests and which are so designated, with their consent, by the Commissioner of the Agency for Cultural Affairs.

(2) The Commissioner of the Agency for Cultural Affairs shall, when having designated establishments as mentioned in item (ii) of the preceding paragraph, give public notice thereof in the Official Gazette.

Articles 4 to 64. — [omitted]

Supplementary Provisions

Date of enforcement

Article 1. — This Cabinet Order shall come into force as from the date of enforcement of the Law, that is, as from January 1, 1971.

Article 2. — [omitted]

Enterprises to which the transitory provision on public performances by the use of sound recordings is not applied

Article 3. — Enterprises defined by Cabinet Order, as mentioned in Article 14 of the Supplementary Provisions of the Law, shall include the following:

- (i) coffee shops and restaurants which publicize by any means that they offer music to customers, or which are provided with special equipments for offering music to customers;
- (ii) cabarets, nightclubs, dance halls and other similar establishments with dance floors for customers;
- (iii) enterprises giving public entertainments accompanied with music, such as theatrical performances, variety shows and stage dances.

Articles 4 to 9. — [omitted]

CONVENTIONS NOT ADMINISTERED BY WIPO

Universal Copyright Convention**Ratification of the Convention as revised at Paris on July 24, 1971****SWEDEN**

The International Bureau of WIPO has been informed by the United Nations Educational, Scientific and Cultural Organization (Unesco) that the instrument of ratification by Sweden of the Convention as revised at Paris on July 24, 1971, and of Protocols 1 and 2 annexed thereto was deposited with that Organization on June 27, 1973.

Sweden is thus the seventh State to deposit an instrument of ratification or acceptance of, or accession to, the Convention.

In accordance with the provisions of its Article IX(1), the Convention shall enter into force three months after the deposit of twelve instruments of ratification, acceptance or accession.

With regard to the Protocols, they shall, in conformity with their paragraphs 2(b), enter into force in respect of each State on the date of deposit of the instrument of ratification, acceptance or accession of the State concerned or on the date of entry into force of the 1971 Convention with respect to such State, whichever is the later.

YUGOSLAVIA

The International Bureau of WIPO has been informed by the United Nations Educational, Scientific and Cultural Organization (Unesco) that the instrument of ratification by Yugoslavia of the Convention as revised at Paris on July 24, 1971, was deposited with that Organization on July 3, 1973.

Yugoslavia is thus the eighth State to deposit an instrument of ratification or acceptance of, or accession to, the Convention.

In accordance with provisions of its Article IX(1), the Convention shall enter into force three months after the deposit of twelve instruments of ratification, acceptance or accession.

UPOV Meetings

November 6 and 7, 1973 (Geneva) — Technical Steering Committee

Meetings of Other International Organizations concerned with Intellectual Property

November 5 to 9, 1973 (Abidjan) — African and Malagasy Industrial Property Office — Governing Body

November 12 to 14, 1973 (Mexico) — Inter-American Association of Industrial Property — Administrative Council

November 12 to 14, 1973 (Vienna) — International Confederation of Societies of Authors and Composers — Legal and Legislative Commission

December 10 to 14, 1973 (Brussels) — European Economic Community — "Community Patent" Working Party

February 24 to March 2, 1974 (Melbourne) — International Association for the Protection of Industrial Property — Executive Committee

May 6 to 30, 1974 (Luxembourg) — Conference of the Member States of the European Communities concerning the Convention on the European Patent for the Common Market

May 3 to 10, 1975 (San Francisco) — International Association for the Protection of Industrial Property — Congress
