

Copyright

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Contents

	Pages
NATIONAL LEGISLATION	
— Denmark. Ordinance Amending the Decree on the Application of the Law on Copyright in Literary and Artistic Works and the Law on Rights in Photographic Pictures with Respect to Foreign Countries (of November 18, 1963)	78
INTERNATIONAL CONVENTIONS	
— European Agreement for the Prevention of Broadcasts Transmitted from Stations outside National Territories	80
GENERAL STUDIES	
— Should the Berne Convention include a Definition of the Right of Reproduction? (Pierre Recht)	82
CORRESPONDENCE	
— Letter from Great Britain (Paul Abel), <i>Second and Last Part</i>	90
INTERNATIONAL ACTIVITIES	
— International Confederation of Societies of Authors and Composers (CISAC). Meeting of the Legislative Committee (Paris, March 4 to 6, 1965)	98
NEWS ITEMS	
— Ireland. Signature of the European Agreement concerning Programme Exchanges by Means of Television Films	99
CALENDAR	
— Meetings of BIRPI	100
— Meetings of Other International Organizations concerned with Intellectual Property	100

DENMARK

Ordinance Amending the Decree on the Application of the Law on Copyright in Literary and Artistic Works and the Law on Rights in Photographic Pictures with Respect to Foreign Countries¹⁾

(Of November 18, 1963)²⁾

We, Frederik The Ninth, by the Grace of God King of Denmark, the Wends and the Goths, Duke of Slesvig, Holstein, Storman, Ditmarsken, Lauenborg and Oldenborg, do hereby decree:

Since Denmark has acceded to the Berne Convention for the Protection of Literary and Artistic Works as revised in Brussels on June 26, 1948, to the Universal Copyright Convention of September 6, 1952, and to the European Agreement of June 22, 1960, on the protection of television broadcasts, the following is prescribed pursuant to Section 60 of Act No. 158 of May 31, 1961, on Copyright in Literary and Artistic Works, and Section 20 of Act No. 157 of May 31, 1961, on Rights in Photographic Pictures, as regards the application of the provisions in the aforesaid Acts in relation to countries which have acceded to the above-mentioned international agreements:

Berne Convention

Section 1. — The provisions in the Act on Copyright in Literary and Artistic Works, with the exception of Chapter V, shall be applicable, with the modifications enumerated in Sections 2 to 4, in respect of

1. works by foreign authors who are nationals of countries that are parties to the International Union for the Protection of Literary and Artistic Works (the Berne Union), in the case of published works, conditional to the works either being published for the first time in a foreign country of the Union, or published in a country of the Union simultaneously with or within 30 days after their first publication in a country outside the Union;
2. works by foreign authors who are not nationals of countries that are parties to the Union, if the works are published for the first time in a foreign country of the Union or are published in a country of the Union simultaneously with or within 30 days after their first publication in a country outside the Union;
3. works of architecture by foreign authors, if the works are erected in a foreign country of the Union;
4. works of graphic or plastic art by foreign authors, if the works form part of a building located in a foreign country of the Union.

Section 2. — (1) When the term of protection for a work has expired according to the legislation in force in the country of origin of the work, the work shall not enjoy protection under the provisions of the Copyright Act with the exception of Sections 51 to 53.

(2) The country of origin for published works shall be considered to be the country in which the work is published for the first time, or in the case of the work being published simultaneously or within 30 days in two or more countries of the Union with different terms of protection, the one which has the shortest term of protection. For works published in a country of the Union simultaneously with or within 30 days after their first publication in a country outside the Union, the country of the Union alone shall be regarded as the country of origin.

(3) The country of origin for unpublished works shall be considered to be the country to which the author belongs. For works of architecture or works of graphic or plastic art, forming part of buildings, the country of origin shall be considered to be the country of the Union where these works have been erected or incorporated in buildings.

Section 3. — For such works of applied art and industrial designs and models which in the country of origin are solely protected as designs and models, protection shall only be given under the Danish laws on designs.

Section 4. — For works created by nationals of Thailand the provisions in Section 2, paragraph (1), and Section 3 are not applicable.

Section 5. — With regard to the application of the provisions in the Act on Rights in Photographic Pictures in relation to countries that are parties to the Berne Union, the rules prescribed in Sections 1 to 4 shall be similarly applicable.

Universal Copyright Convention

Section 6. — The provisions in the Act on Copyright in Literary and Artistic Works, with the exception of Chapter V, shall be applicable, with the modifications enumerated in Sections 7 and 8, in respect of

1. works by foreign nationals of countries that are parties to the Universal Copyright Convention of 1952;
2. works by foreign authors when the works have been published for the first time in a foreign Contracting State;

¹⁾ See *Le Droit d'Auteur (Copyright)*, 1963, p. 69.

²⁾ Official translation kindly communicated by the Ministry for Cultural Affairs of Denmark.

3. works by foreign authors who are domiciled in a foreign Contracting State, provided that this State in its legislation accords such persons equal treatment with its own nationals in respect to the application of the Universal Copyright Convention;
4. works by stateless persons and refugees who have their habitual residence in countries that have acceded to Protocol No. 1 of the Universal Copyright Convention.

Section 7. — (1) When the term of protection for a work has expired according to the legislation in force in the country of origin of the work, the work shall not enjoy protection under the provisions of the Copyright Act with the exception of Sections 51 to 53.

(2) When a work is published for the first time in a Contracting State, this State is to be considered as the country of origin of the work. In the case of a work being published simultaneously or within 30 days in two or more Contracting States with different terms of protection, the country of origin of the work shall be considered to be the one which has the shortest term of protection.

(3) When a work is published for the first time in a non-Contracting State, the country of origin of the work shall be considered to be the State of which the author is a national.

(4) For an unpublished work, the country of origin shall be considered to be the country of which the author of the work is a national.

Section 8. — For works whose country of origin according to the rules in Section 2 is a party to the Berne Union, or a country which after January 1, 1951, has seceded from the Berne Union, the provisions contained in Sections 6 and 7 are not applicable.

Section 9. — The provisions in the Act on Copyright in Literary and Artistic Works, with the exception of Chapter V, shall apply to works which are first published by the United Nations (UN), by the Specialized Agencies attached to the UN, or by the Organization of American States, and to unpublished works which the above organizations are entitled to publish.

Section 10. — With regard to the application of the provisions in the Act on Rights in Photographic Pictures in rela-

tion to countries of the Universal Copyright Convention, the rules prescribed in Sections 6 to 9 shall be similarly applicable.

Agreement on the protection of television broadcasts

Section 11. — (1) The provisions in Section 48 in the Act on Copyright in Literary and Artistic Works and other provisions in the Act relating thereto shall also be applicable, with the modifications enumerated in paragraphs (2) and (3), to television broadcasts taking place in foreign countries that are parties to the European Agreement of June 22, 1960, on the protection of television broadcasts.

(2) When the term of protection for a broadcast has expired in the country in which it took place, the broadcast shall not enjoy protection under the provisions of the Copyright Act.

(3) With regard to broadcasts from countries which have entered reservations pursuant to Article 3, paragraph (1) (d) of the Agreement, in respect of the protection of still photographs of broadcasts and reproductions of such photographs, the rules given in Section 48 on protection against unlawful fixation or still photographs of a television broadcast on tape, film or other devices by means of which it can be reproduced, and against unlawful re-recording of the broadcast from such devices to other devices which are able to reproduce it, shall not be applicable to still photographs and reproductions of such photographs.

Section 12. — This Ordinance shall supersede Ordinance No. 164 of June 26, 1912, and Ordinance No. 40 of February 22, 1913, whereby the provisions in the Act of May 13, 1911, on the sole right to photographic works are made applicable to photographs from, respectively, the countries that have acceded to the Berne Convention as revised in Berlin in 1908, and the United States of America; Ordinance No. 275 of September 12, 1933, on the application of the provisions in the Act of April 26, 1933, on Authors' and Artists' Rights in works from countries of the Berne Union; Ordinance No. 274 of September 12, 1933; Ordinance No. 27 of February 10, 1938; and Ordinance No. 191 of June 13, 1955, on the application of the provisions contained in the same Act to works produced by nationals of, respectively, the United States of America, Argentina and Mexico.

INTERNATIONAL CONVENTIONS

European Agreement for the Prevention of Broadcasts Transmitted from Stations outside National Territories

The member States of the Council of Europe signatory hereto,

Considering that the aim of the Council of Europe is to achieve a greater unity between its Members;

Considering that the Radio Regulations annexed to the International Telecommunication Convention prohibit the establishment and use of broadcasting stations on board ships, aircraft or any other floating or airborne objects outside national territories;

Considering also the desirability of providing for the possibility of preventing the establishment and use of broadcasting stations on objects affixed to or supported by the bed of the sea outside national territories;

Considering the desirability of European collaboration in this matter,

Have agreed as follows:

Article 1

This Agreement is concerned with broadcasting stations which are installed or maintained on board ships, aircraft, or any other floating or airborne objects and which, outside national territories, transmit broadcasts intended for reception or capable of being received, wholly or in part, within the territory of any Contracting Party, or which cause harmful interference to any radio-communication service operating under the authority of a Contracting Party in accordance with the Radio Regulations.

Article 2

1. Each Contracting Party undertakes to take appropriate steps to make punishable as offences, in accordance with its domestic law, the establishment or operation of broadcasting stations referred to in Article 1, as well as acts of collaboration knowingly performed.

2. The following shall, in relation to broadcasting stations referred to in Article 1, be acts of collaboration:

- (a) the provision, maintenance or repairing of equipment;
- (b) the provision of supplies;
- (c) the provision of transport for, or the transporting of, persons, equipment or supplies;
- (d) the ordering or production of material of any kind, including advertisements, to be broadcast;
- (e) the provision of services concerning advertising for the benefit of the stations.

Article 3

Each Contracting Party shall, in accordance with its domestic law, apply the provisions of this Agreement in regard to:

- (a) its nationals who have committed any act referred to in Article 2 on its territory, ships, or aircraft, or outside national territories on any ships, aircraft or any other floating or airborne object;
- (b) non-nationals who, on its territory, ships or aircraft, or on board any floating or airborne object under its jurisdiction have committed any act referred to in Article 2.

Article 4

Nothing in this Agreement shall be deemed to prevent a Contracting Party:

- (a) from also treating as punishable offences acts other than those referred to in Article 2 and also applying the provisions concerned to persons other than those referred to in Article 3;
- (b) from also applying the provisions of this Agreement to broadcasting stations installed or maintained on objects affixed to or supported by the bed of the sea.

Article 5

The Contracting Parties may elect not to apply the provisions of this Agreement in respect of the services of performers which have been provided elsewhere than on the stations referred to in Article 1.

Article 6

The provisions of Article 2 shall not apply to any acts performed for the purpose of giving assistance to a ship or aircraft or any other floating or airborne object in distress or of protecting human life.

Article 7

No reservation may be made to the provisions of this Agreement.

Article 8

1. This Agreement shall be open to signature by the member States of the Council of Europe, which may become Parties to it either by:

- (a) signature without reservation in respect of ratification or acceptance, or
- (b) signature with reservation in respect of ratification or acceptance followed by ratification or acceptance.

2. Instruments of ratification or acceptance shall be deposited with the Secretary-General of the Council of Europe.

Article 9

1. This Agreement shall enter into force one month after the date on which three member States of the Council shall, in accordance with the provisions of Article 8, have

signed the Agreement without reservation in respect of ratification or acceptance, or shall have deposited their instrument of ratification or acceptance.

2. As regards any member State which shall subsequently sign the Agreement without reservation in respect of ratification or acceptance or which shall ratify or accept it, the Agreement shall enter into force one month after the date of such signature or the date of deposit of the instrument of ratification or acceptance.

Article 10

1. After this Agreement has entered into force, any Member or Associate Member of the International Telecommunication Union which is not a Member of the Council of Europe may accede to it subject to the prior agreement of the Committee of Ministers.

2. Such accession shall be effected by depositing with the Secretary-General of the Council of Europe an instrument of accession which shall take effect one month after the date of its deposit.

Article 11

1. Any Contracting Party may, at the time of signature or when depositing its instrument of ratification, acceptance or accession, specify the territory or territories to which this Agreement shall apply.

2. Any Contracting Party may, when depositing its instrument of ratification, acceptance or accession or at any later date, by declaration addressed to the Secretary-General of the Council of Europe, extend this Agreement to any other territory or territories specified in the declaration and for whose international relations it is responsible or on whose behalf it is authorised to give undertakings.

3. Any declaration made in pursuance of the preceding paragraph may, in respect of any territory mentioned in such declaration, be withdrawn according to the procedure laid down in Article 12 of this Agreement.

Article 12

1. This Agreement shall remain in force indefinitely.

2. Any Contracting Party may, in so far as it is concerned, denounce this Agreement by means of a notification addressed to the Secretary-General of the Council of Europe.

3. Such denunciation shall take effect six months after the date of receipt by the Secretary-General of such notification.

Article 13

The Secretary-General of the Council of Europe shall notify the member States of the Council and the Government of any State which has acceded to this Agreement, of:

- (a) any signature without reservation in respect of ratification or acceptance;
- (b) any signature with reservation in respect of ratification or acceptance;
- (c) any deposit of an instrument of ratification, acceptance or accession;
- (d) any date of entry into force of this Agreement in accordance with Articles 9 and 10 thereof;
- (e) any declaration received in pursuance of paragraphs 2 and 3 of Article 11;
- (f) any notification received in pursuance of the provisions of Article 12 and the date on which denunciation takes effect.

In witness whereof the undersigned, being duly authorised thereto, have signed this Agreement.

Done at Strasbourg, this 22nd day of January 1965 in English and French, both texts being equally authoritative, in a single copy which shall remain deposited in the archives of the Council of Europe. The Secretary-General of the Council of Europe shall transmit certified copies to each of the signatory and acceding States.

NOTE. — This European Agreement for the Prevention of Broadcasts Transmitted from Stations outside National Territories was signed at Strasbourg on January 22, 1965, by the Delegates of the Governments of the following countries: Belgium, Denmark, France, Greece, Luxembourg, Sweden, United Kingdom. It was then signed by Italy on February 17, 1965, by Norway on March 3, 1965, and by Ireland on March 9, 1965.

In accordance with its Article 9, this Agreement will enter into force one month after the date on which three member States of the Council of Europe shall have deposited their instrument of ratification or acceptance, or shall have signed *without* reservation in respect of ratification or acceptance.

The Governments of the ten countries mentioned above having signed *with* reservation in respect of ratification or acceptance, this Agreement has not yet entered into force.



GENERAL STUDIES



Should the Berne Convention include a Definition of the Right of Reproduction ?

(A study of Articles 9 and 10) *

Pierre RECHT
President of the Belgian National
Copyright Commission
Member of the Legislative Committee
of CISAC



CORRESPONDENCE



Letter from Great Britain

*(Second and Last Part) **

Dr. Paul ABEL
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and Comparative Law
London

International Confederation of Societies of Authors and Composers (CISAC) Meeting of the Legislative Committee

(Paris, March 4 to 6, 1965)

The CISAC Legislative Committee met in Paris from March 4 to 6, 1965, holding some of its sessions jointly with the Confederal Council. Mr. Valerio de Sanctis was unanimously re-elected Chairman of the Committee. Members of both of these CISAC bodies were present, namely, jurists, experts and technicians of the authors' societies of the following countries: Austria, Belgium, Czechoslovakia, France, Germany (Federal Republic), Greece, Hungary, Italy, Netherlands, Poland, Spain, Sweden, Switzerland, United Kingdom, United States, Yugoslavia. Invited in the capacity of observers, BIRPI was represented by Mr. C. Masouyé, Counsellor, Head of the Copyright Division, and Unesco by Miss M.-C. Dock, of the Copyright Section. ALAI had delegated its President, Maître M. Boutet, and its Perpetual Secretary, Mr. J. Vilbois; and BIEM its Director-General, Mr. A. Tournier.

The agenda included the following items:

- a report on the proceedings of the Authors' Consultative Committee (Rapporteur: Mr. Streuli);
- the right of reproduction and the Stockholm Conference (Rapporteur: Mr. Recht);
- the proposed World Intellectual Property Organization (Rapporteur: Mr. de Sanctis);
- the problems of the Common Market in the field of copyright (Rapporteur: Mr. Hepp);
- the possible accession of Argentina to the Berne Convention (Rapporteur: Mr. Mouchet);
- the revision of domestic copyright legislation in South Africa (Rapporteur: Mr. Roos), Czechoslovakia (Rapporteur: Mr. Novotny), the Netherlands (Rapporteur: Mr. van Nus), and Switzerland (Rapporteur: Mr. Uchtenhagen);
- the reform of the confederal organization (Rapporteur: Mr. J. L. Tournier).

At the close of the deliberations, some questions led to the adoption of resolutions which were ratified by the Confederal Council of CISAC, under the chairmanship of Sir Arthur Bliss, President of CISAC. The text of these resolutions is reproduced below.

1. Proposed Revision of the Berne Convention

The Confederal Council of CISAC, meeting in Paris on March 6, 1965, at the proposal of its Legislative Committee,

Having noted the final report of the Authors' Consultative Committee as well as the individual reports submitted to it on this subject,

Expresses its entire approval of the contents of this document and congratulates the members of the Authors' Consultative Committee on the remarkable work performed in this connection;

Draws the special attention of the affiliated Societies, with a view to the representations to be made to their respective Governments within

the framework of the preparations for the Stockholm Revision Conference, to the following points in the proposals of the Swedish/BIRPI Study Group:

- (1) the assimilation of television works to cinematographic works (Article 2 [2]), which would be particularly dangerous in view of the special systems for the protection of cinematographic works already in existence or planned for the future;
- (2) the faculty allowed to States to limit as widely as possible not only the exercise but even the recognition of the right of reproduction (Article 9 [2]), which would open the door to all possible exceptions and thus render illusory the formal recognition of the right of reproduction contained in paragraph (1) of the said Article;
- (3) the absence of any real justification, in the light of experience, for maintaining the power to restrict the author's exclusive right in respect of broadcasting (Article 11^{bis} [2]) and ephemeral recordings (Article 11^{bis} [3]);
- (4) the fact that any presumption of assignment (Article 14) in favour of the film-makers would constitute not only an obvious lowering of the level of the protection of the authors but at the same time a serious limitation of contractual freedom, which would certainly be quite out of place in an international convention;
- (5) the grave danger of re-introducing into the Berne Convention the system of reservations (Article 25^{bis}), abolished since 1928, and the risks of deterioration which such a measure is liable to involve for the Convention.

2. Proposal for a World Intellectual Property Organization

The Confederal Council of CISAC, meeting in Paris on March 6, 1965, at the proposal of its Legislative Committee,

Having noted the introductory report and the Draft Convention of the World Intellectual Property Organization,

Recalls the resolution voted by the Legislative Committee of CISAC at Madrid in November 1962;

Notes that the tendency towards grouping the most widely varying disciplines under the designation of Intellectual Property, which it drew attention to on that occasion, has merely continued to strengthen;

Considers that the integration of the Berne Union into a much wider international organization, whose declared aims do not coincide with, and may indeed be in contradiction to, those of the Berne Union, and, further, whose members may include countries not knowing any international system of copyright protection, cannot fail to ruin the economy of the Union and even compromise its very existence;

Recognizes, however, that it may be necessary to make changes in the present administrative organization of the Unions but feels that any such reorganization can and must only be carried out within the framework of the structural and functional autonomy of the Unions concerned.

3. Private Recordings

The Confederal Council of CISAC, meeting in Paris on March 6, 1965, at the proposal of its Legislative Committee,

Having noted the report presented to it by STIM (Sweden) on private recordings,

Recalling the contents of the decision which it adopted at Rome in June 1962, as well as all the resolutions which it made in 1949, 1950, 1952, 1954, 1955 and March 1962, concerning the general question of

recordings, for private or personal use, by means of tape-recorders or other similar machines, of protected literary or artistic works,

Reaffirms in particular the principle according to which Article 13 of the Berne Convention excludes all possibility of denying the right granted to authors of musical works in respect of the recording of their works by instruments for reproducing them mechanically, whatever the conditions in which such recording is effected;

Emphasizes that the concept of private use does not in any way restrict the principle defined above, except for the system of the right of public presentation and performance which excludes private use from protection.

4. Refusal to Grant Rights of Public Presentation

The Confederal Council of CISAC, meeting in Paris on March 6, 1965, at the proposal of its Legislative Committee,

Having noted the report of SAFCA (South Africa) concerning the refusal of certain authors to grant rights of public presentation,

Considers that, apart from the general agreements made by the authors' societies for their repertoire as a whole, the right of the author personally to grant or refuse authorization to present his work is an indisputable aspect of his moral right, and that the exercise of this prerogative can on no account be considered as an argument in favour of the introduction of a statutory licence in national legislation.

NEWS ITEMS

IRELAND

Signature of the European Agreement concerning Programme Exchanges by Means of Television Films

In a letter dated March 12, 1965, the Secretary-General of the Council of Europe informed BIRPI that on March 5, 1965, the Permanent Delegate of Ireland to the Council of Europe, vested with full powers by his Government, had signed, without reservation in respect of ratification or acceptance, the *European Agreement concerning Programme Exchanges*

by means of Television Films, open to signature by the Members of the Council of Europe since December 15, 1958¹⁾.

This Agreement, which is already in force between Belgium, Denmark, France, Greece, Luxembourg, Norway, Sweden, Turkey and the United Kingdom²⁾, will take effect as regards Ireland on April 4, 1965, in pursuance of the provisions of Article 7 (2).

This notification was made in accordance with Article 10 of the said Agreement.

¹⁾ For the text, see *Le Droit d'Auteur*, 1959, pp. 37 *et seq.*

²⁾ See *Copyright*, 1965, p. 27.

CALENDAR

Meetings of BIRPI

Date and Place	Title	Object	Invitations to Participate	Observers Invited
May 4 to 7, 1965 Geneva	Committee of Experts for the Classification of Goods and Services	To bring up to date the international classification	All Member States of the Nice Union	
May 18, 1965 Geneva (Headquarters of ILO)	Constitution of the Intergovernmental Committee (Neighbouring Rights). Meeting convened jointly with ILO and Unesco	Application of Article 32 (1), (2) and (3) of the Rome Convention	Czechoslovakia, Congo (Brazzaville), Ecuador, Mexico, Niger, Sweden, United Kingdom of Great Britain and Northern Ireland	
July 5 to 14, 1965 Geneva	Committee of Governmental Experts preparatory to the Revision Conference of Stockholm (Copyright)	Examination of the amendments proposed by the Swedish/BIRPI Study Group for the revision of the Berne Convention	All Member States of the Berne Union	Certain Non-Member States of the Berne Union; Interested international intergovernmental and non-governmental organizations
September 28 to October 1, 1965 Geneva	Interunion Coordination Committee (3 rd Session)	Program and budget of BIRPI	Belgium, Brazil, Ceylon, Czechoslovakia, Denmark, France, Germany (Fed. Rep.), Hungary, India, Italy, Japan, Morocco, Netherlands, Nigeria, Portugal, Rumania, Spain, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America, Yugoslavia	All other Member States of the Paris Union or of the Berne Union; United Nations
September 29 to October 1, 1965 Geneva	Executive Committee of the Conference of Representatives of the Paris Union (1 st Session)	Program and activities of the International Bureau of the Paris Union	Ceylon, Czechoslovakia, France, Germany (Fed. Rep.), Hungary, Italy, Japan, Morocco, Netherlands, Nigeria, Portugal, Spain, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America, Yugoslavia	All other Member States of the Paris Union; United Nations

Meetings of Other International Organizations concerned with Intellectual Property

Place	Date	Organization	Title
Strasbourg	April 5 to 9, 1965	Council of Europe	Committee of Experts on Patents
Caracas	May 4 to 6, 1965	Inter-American Association of Industrial Property (ASIPI)	Administrative Council
Paris	May 7, 1965	International Literary and Artistic Association (ALAI)	International Commission and Executive Committee
Namur	May 23 to 27, 1965	International League Against Unfair Competition	Congress
Stockholm	August 23 to 28, 1965	International Literary and Artistic Association (ALAI)	Congress
London	August 31 to September 10, 1965	Committee for International Cooperation in Information Retrieval among Examining Patent Offices (ICIREPAT)	Fifth Annual Meeting
Tokyo	April 11 to 16, 1966	International Association for the Protection of Industrial Property (IAPIP)	Congress