

Copyright

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

1st year - No. 9

September 1965

Contents

	Pages
INTERNATIONAL UNION	
— Committee of Governmental Experts preparatory to the Stockholm Conference for the Revision of the Berne Convention (Geneva, July 5 to 14, 1965)	194
NATIONAL LEGISLATION	
— Morocco. I. Dahir (Act) of 28 Jumada II 1382 (November 26, 1962) approving texts in the Penal Code concerning violation of literary and artistic copyright	197
II. Decree No. 2-64-406 of 5 Kaada 1384 (March 8, 1965) establishing the Moroccan Copyright Bureau	198
III. Order of the Under-Secretary of State for Information, Tourism, the Arts and Handicrafts, No. 721-65, dated March 8, 1965, extending to the area of the former Spanish Protectorate and the Province of Tangiers legislation concerning legal filing and protection of literary and artistic works.	198
GENERAL STUDIES	
— Summary of the 1965 Bill for the General Revision of the U. S. Copyright Law (U. S. Copyright Office)	199
— The Legal Character of "Moral Right" (Ž. Radojković)	203
CORRESPONDENCE	
— Letter from France (A. Fraçon)	208
NEWS ITEMS	
— Brazil and Denmark. Ratification of the Rome Convention for the International Protection of Performers, Producers of Phonograms and Broadcasting Organisations	214
CALENDAR	
— Meetings of BIRPI	215
— Meetings of Other International Organizations concerned with Intellectual Property	215
Invitation for Applications for a Post in BIRPI	216

INTERNATIONAL UNION

Committee of Governmental Experts preparatory to the Stockholm Conference for the Revision of the Berne Convention

(Geneva, July 5 to 14, 1965)

At its Eleventh Session in New Delhi in 1963, the Permanent Committee of the International Union for the Protection of Literary and Artistic Works (Berne Union) noted the position regarding the preparatory work for the next revision of the Berne Convention scheduled to take place in Stockholm in 1967. The Committee hoped that the thorough preparation for this revision would be continued and, to that end, suggested that a Committee of Governmental Experts, open to all Member States of the Berne Union who wished to take part, should be convened, at a convenient time¹).

In pursuance of this Resolution, the Director of BIRPI invited the Member States of the Berne Union to participate in a Committee of Governmental Experts in order to express the views of their respective Governments on the proposals for the revision of the Berne Convention drafted by the Swedish/BIRPI Study Group. This Committee of Experts met at Geneva from July 5 to 14, 1965.

Of the 54 Member States of the Berne Union, 35 were represented: Austria, Belgium, Brazil, People's Republic of Bulgaria, Democratic Republic of Congo (Leopoldville), Czechoslovak Socialist Republic, Denmark, Finland, France, Federal Republic of Germany, Greece, Hungarian People's Republic, India, Ireland, Israel, Italy, Japan, Lebanon, Luxembourg, Monaco, Morocco, Netherlands, Norway, Polish People's Republic, Portugal, Senegal, Republic of South Africa, Spain, Sweden, Switzerland, Thailand, Tunisia, Turkey, United Kingdom, Socialist Federal People's Republic of Yugoslavia.

The non-Unionist States which had taken part in the meeting of the Study Group for the international protection of cinematographic works, held in 1961, were invited to attend as observers, together with the international intergovernmental or non-governmental organisations concerned.

The list of participants is reproduced hereinafter. In all, 120 persons attended the meetings of the Committee.

After the address of welcome delivered by the Director of BIRPI, Professor G. H. C. Bodenhausen, the Committee proceeded to elect its Officers. On the proposal of France, seconded by India, Mr. Hans Morf, Head of the delegation of Switzerland, was unanimously elected Chairman of the Committee. On the proposal of the United Kingdom, seconded by Japan, the following were elected Vice-Chairmen: Mr. Puget (France), Mr. Lokur (India), Mr. Mascarenhas da Silva (Brazil), Mr. Strnad (Czechoslovakia) and Mr. Fersi (Tunisia).

The Committee had before it the documentation prepared by BIRPI and communicated earlier to the participants. This documentation comprised, on the one hand, the General Report of the Swedish/BIRPI Study Group, accompanied by the

texts and new version of the Berne Convention proposed by the Study Group, and, on the other hand, a number of informative documents stating the views of some of the parties concerned on these proposals. The latter were used by the Committee as the basis of its deliberations.

It was understood that the fact that the governmental experts had been appointed by their respective Governments did not imply that the Governments were definitely committed by the decisions which the Committee might reach.

The Committee examined the Berne Convention Article by Article. Prior to the examination of each Article or paragraph, the Head of the delegation of Sweden presented and commented on the proposals of the Swedish/BIRPI Study Group. Throughout this examination, the Committee also discussed other questions which had not given rise to proposals on the part of the Study Group; in particular, questions concerning which proposals or amendments were presented by certain delegations.

The Committee adopted a working plan subdividing the questions to be studied into four categories: miscellaneous questions; right of reproduction; provisions for the benefit of developing countries; copyright in cinematographic works.

The details of the discussion and the views expressed by the Committee were reproduced in the report of the debates (document DA/22/33), which was sent to the Member States of the Berne Union and to all participants of the Committee, at the end of July, 1965.

The Government of Sweden, inviting power of the Diplomatic Conference, is going to establish, with the assistance of BIRPI, the official proposals for the revision of the Berne Convention. These proposals will be communicated to the Member States in 1966.

List of Participants

I. Member States of the Berne Union

Austria

Dr. Robert Dittrich, Deputy Director, Department of Justice, Vienna.

Belgium

Mr. Gérard de San, Director-General, Legal Adviser to the Ministry of National Education and Culture, Brussels.
Professor Pierre Recht, Chairman of the National Copyright Commission, Brussels.

Mr. J. Bocqué, Deputy Counsellor, Ministry of Foreign Affairs and External Commerce, Brussels.

Mr. Albert Namurois, Legal Adviser, Radiodiffusion-Télévision belge, Brussels.

¹ See *Le Droit d'Auteur (Copyright)*, 1964, p. 41 (Resolution No. 2).

Mr. Frans van Isacker, Lawyer, Professor of the Faculty of Law, Ghent.

Brazil

Mr. Ildefonso Mascarenhas da Silva, Professor at the University of Brazil, Rio de Janeiro.

Mr. Auguste Cesar de Vasconcellos Gonçalves, Third Secretary of Embassy, Ministry of Foreign Affairs of Brazil.

People's Republic of Bulgaria

Mr. Emil Tomov, First Secretary of the Embassy of the People's Republic of Bulgaria, Berne.

Democratic Republic of Congo (Leopoldville)

Mr. Norbert Kabala, Private Secretary to the Minister of National Education, Leopoldville.

Mr. Origène Nyanguile, International Organisations, Ministry of Foreign Affairs, Leopoldville.

Mr. Ivan Rezabek, Legal Adviser, Ministry of National Education and Cultural Affairs, Leopoldville.

Czechoslovak Socialist Republic

Dr. Vojtěch Strnad, Ministry of Education and Culture, Prague.

Dr. Radko Fajfr, First Secretary, Ministry of Foreign Affairs, Prague.

Dr. Jiří Kordač, Ministry of Education and Culture, Prague.

Denmark

Mr. W. Weineke, Head of Section, Ministry for Cultural Affairs, Copenhagen.

Professor Torben Lund, University of Aarhus.

Mr. Edvard Jeppesen, Assistant Head of Section, Ministry for Cultural Affairs, Copenhagen.

Finland

Mr. Ragnar Meinander, Government Counsellor, Ministry for Education, Helsinki.

Mr. Berndt Godenhjelm, Professor of the Faculty of Law, Helsinki.

France

Mr. Henry Puget, Honorary Counsellor of State, President of the Intellectual Property Commission, Paris.

Mr. Paul Nollet, Inspector-General, Ministry of Industry, Paris.

Mr. Charles Rohmer, Head, Copyright Service, Ministry of Cultural Affairs, Paris.

Mr. Claude Robin, Inspector of Administration, Technical Adviser in the Cabinet of the Minister for Cultural Affairs, Paris.

Mr. Robert Touzery, Maître des Requêtes at the Council of State, Director, Ministry of Information, Paris.

Mr. Gérard Valter, Head, General Research Service of the National Centre for Cinematography, Ministry of Cultural Affairs, Paris.

Mr. Marcel Cazé, Head, Department of Legal Affairs, Office de Radiodiffusion-Télévision française, Paris.

Germany (Fed. Rep.)

Professor Dr. Eugen Ulmer, University of Munich.

Mr. Gerhard Schneider, Regierungsdirektor, Federal Ministry of Justice, Bonn.

Mr. Kurt Schiefeler, Oberregierungsrat, Federal Ministry of Justice, Bonn.

Mr. Peter Schönfeld, Consul, Permanent Delegation of the Federal Republic of Germany, Geneva.

Greece

Mr. Tassos Ioannou, Barrister-at-Law, Athens.

Hungarian People's Republic

Dr. Istvan Timár, Director-General, Hungarian Copyright Office, Budapest.

Dr. József Bényi, Deputy Permanent Representative, Permanent Mission of the Hungarian People's Republic, Geneva.

India

Mr. B. N. Lokur, Secretary to the Government of India, Ministry of Law, New Delhi.

Mr. T. S. Krishnamurti, Registrar of Copyrights, Deputy Secretary to the Government of India, Ministry of Education, New Delhi.

Ireland

Dr. J. J. Lennon, Controller of Industrial and Commercial Property, Dublin.

Israel

Mr. Ze'ev Sher, Registrar of Patents, Designs and Trademarks, Jerusalem.

Italy

H. E. Mr. Giuseppe Talamo Atenolfi, Ambassador of Italy, Ministry of Foreign Affairs, Rome.

Mr. Valerio de Sanctis, Lawyer, Rome.

Mr. Gino Galtieri, Head, Literary Property Bureau to the Presidency of the Council of Ministers, Rome.

Mr. Salvatore Loi, Lawyer, Milan.

Mr. Carlo Zini Lamberti, Lawyer, Rome.

Mr. Giuseppe Trotta, Legal Adviser, Ministry of Foreign Affairs, Rome.

Japan

Mr. Yoshio Nomura, Member of the Government Copyright Council, Ministry of Education, Tokyo.

Mr. Shichiro Kamide, Assistant Chief, Copyright Section, Social Education Bureau, Ministry of Education, Tokyo.

Lebanon

Mr. Michel Farah, Chargé d'Affaires, Embassy of Lebanon, Berne.

Luxembourg

Mr. Eugène Emringer, Government Counsellor, Luxembourg.

Mr. Gust Graas, Secretary-General, Radio-Télé-Luxembourg.

Monaco

Mr. Georges Straschnov, Director of Legal Affairs, European Broadcasting Union, Geneva.

Morocco

Mr. Abderrahman Bouchaara, Embassy of Morocco, Bern.

Netherlands

Mr. W. G. Belinfante, Head, Section of Private Law Legislation, Ministry of Justice, The Hague.

Mr. J. Verhoeve, Director-General, Ministry of Culture, Recreation and Social Welfare, The Hague.

Mr. Huibert J. G. Pieters, Counsellor, Legislative and Legal Affairs, Ministry of Economic Affairs, The Hague.

Norway

Mr. Dagfinn Værn, Chief of Division, Ministry of Ecclesiastical Affairs, Oslo.

Polish People's Republic

Mr. Edward Drabienko, Lawyer, Counsellor to the Minister of Arts and Culture, Warsaw.

Portugal

Mr. António Carlos Leónidas, Director of the Teatro Nacional, Lisbon.

Mr. Mario Moreira da Silva, Barrister-at-Law, Legal Adviser of the National Broadcasting Organisation, Lisbon.

Senegal

Mr. Ousmané Goundiam, Legal Adviser at the Supreme Court and at the Ministry of Foreign Affairs, Dakar.

Republic of South Africa

Mr. A. A. F. Keeton, Registrar of Copyright, Pretoria.

Professor L. I. Coertze, Pretoria.

Mr. G. A. de Bruyn, Head, Administration, South African Broadcasting Corporation, Johannesburg.

Spain

Mr. Miguel Bordonau Mas, Director of the National Library, Madrid.

Sweden

Mr. Torwald Hesser, Justice of the Supreme Court, Stockholm.

Professor Svante Bergström, University of Uppsala.

Switzerland

Mr. Hans Morf, Former Director of the Federal Office of Intellectual Property, Berne.

Mr. Joseph Voyame, Director, Federal Office of Intellectual Property, Berne.

Mr. Jean-Louis Marro, Head of Section, Federal Office of Intellectual Property, Berne.

Thailand

Mr. Pradeep, Sochiratna, Third Secretary, Royal Thai Embassy, Berne.

Tunisia

Mr. Mustapha Fersi, President, Director-General of SATPEC, Tunis.

Mr. Hassen Akrouf, Head, External Relations Service, Radiodiffusion-Télévision tunisienne, Tunis.

Turkey

Mr. Metin Sirman, Permanent Deputy Delegate, Permanent Delegation of Turkey, Geneva.

United Kingdom

Mr. William Wallace, C. M. G., Assistant Comptroller, Industrial Property Department, Board of Trade, London.

Mr. Ronald Bowen, Principal Examiner, Industrial Property Department, Board of Trade, London.

Mr. E. C. Robbins, C. B. E., Legal Adviser, British Broadcasting Corporation, London.

Socialist Federal People's Republic of Yugoslavia

Dr. Vojislav Spaić, Professor at the University of Sarajevo.

II. Observers

1. Non-Unionist State

United States of America

Mr. Abraham L. Kaminstein, Register of Copyrights, Copyright Office, Library of Congress, Washington.

Mr. Harvey J. Winter, Assistant Chief, Business Practices Division, Department of State, Washington.

Mr. Herbert Fuchs, Counsel, U. S. House of Representatives, Committee on the Judiciary, Washington.

Mr. Hermau Finkelstein, General Counsel, American Society of Composers, Authors and Publishers (ASCAP), New York.

2. Intergovernmental Organisations

International Labour Office (ILO)

Mr. K. St. Grunberg, Head, Non-Manual Workers' Unit.

United Nations Educational, Scientific and Cultural Organization (UNESCO)

Miss Marie-Claude Dock, Head ad interim of the Copyright Section, Department of Cultural Activities.

3. International Non-Governmental Organisations

European Broadcasting Union (EBU)

Mrs. Madeleine Larrue, Assistant to the Director of Legal Affairs.

International Alliance for Distribution by Wire (AID)

Mr. W. H. Metz, Chairman.

Mr. Halden Evans, Adviser, Relay Services Association of Great Britain.

International Bureau for Mechanical Reproduction (BIEM)

Mr. Alphonse Tournier, Director-General.

International Confederation of Societies of Authors and Composers (CISAC)

Mr. Léon Malaplate, Secretary-General.

Mr. Jean-Alexis Ziegler, Assistant to the Secretary-General.

Mr. Carlo Rim, Film Director.

International Federation of Actors (FIA)

Mr. Pierre Chesnais, Secretary-General.

Mr. Roger P. Harben, British Actors Equity Association.

International Federation of Film Distributors' Associations (FIAD)

Mr. Gontrand Schwaller, Secretary-General.

International Federation of Film Producers' Associations (IFFPA)

Mr. O. Ellwyn, Lawyer.

Mr. Roger Fournier, Chambre syndicale des producteurs de films français.

Professor Massimo Ferrara Santamaria, Legal Adviser.

International Federation of Journalists (IFJ)

Mr. Max Nef, Honorary President.

International Federation of Musicians (FIM)

Mr. Rudolf Leuzinger, Secretary-General.

Mr. Denis Vaughan, Orchestral Conductor.

International Federation of the Phonographic Industry (IFPI)

Mr. S. M. Stewart, Director-General.

Mr. Maurice Lenoble, General Delegate, French National Trade Union.

International Federation of Variety Artistes (IFVA)

Mr. Robert Zagar, Secretary-General.

Internationale Gesellschaft für Urheberrecht (INTERGU)

Dr. Ulrich Uchtenhagen, Director-General of SUISA.

Mr. Wolfgang Schiedung, GEMA.

International Literary and Artistic Association (ALAI)

Mr. Jean Vilbois, Perpetual Secretary.

Mr. Jacobus van Nus, Vice-Chairman.

International Publishers Association (IPA)

Mr. C. J. Hjalmar Pehrsson, Secretary-General.

Mr. Bengt Lassen, Publisher.

International Radio and Television Organisation (OIRT)

Mr. Jiří Würtherle, Legal Adviser.

International Writers Guild (IWG)

Mr. Roger Fernay, Permanent Member of the Executive Council.

Mr. Howard Clewes, International Vice-President.

Union of National Radio and Television Organisations of Africa (URTNA)

Mr. Hassen Akront, Chairman of the Legal Committee.

III. BIRPI

Professor G. H. C. Bodenhausen, Director.

Mr. Charles-L. Magnin, Deputy Director.

Mr. Claude Masony , Counsellor, Head of Copyright Division.

NATIONAL LEGISLATION

MOROCCO

I

Dahir (Act) approving the following texts in the Penal Code concerning violation of literary and artistic property

(Of 28 Jumada II 1382 [November 26, 1962])¹

PART VII

Certain violations of literary and artistic property

(Sections 575 to 579)

Section 575. — Any person publishing within the territory of Morocco any writing, musical composition, drawing, painting or other production either wholly or partly printed or engraved in a manner contrary to copyright laws and regulations is guilty of counterfeiting and shall be punishable by a fine of 120 to 10,000 dirhams, whether such works were published in Morocco or elsewhere.

The sale, distribution, exportation and importation of the works thus counterfeited shall be punishable in the same manner.

Section 576. — Any person in any way reproducing, performing or disseminating the creations of the human mind in a manner violating copyright provisions as defined and regulated by the law shall be declared guilty of counterfeiting and shall be liable to the penalties laid down in the preceding section.

Section 577. — Any person habitually violating the two preceding sections shall be liable to imprisonment for a period of between three months and two years and to a fine of between 500 and 20,000 dirhams.

In the event of any further offence following sentence in respect of habitual violation, the period of imprisonment and the fine may be doubled and the temporary or permanent closure of the establishments used by the counterfeiter or his accomplices may be ordered.

Section 578. — In all instances covered by sections 575 to 577 persons found guilty of the offences concerned shall be sentenced to confiscation of sums equivalent to the total earned through unlawful reproduction, performance or dissemination and to confiscation of any equipment specially installed with a view to unlawful reproduction and of all copies and objects produced by counterfeiting.

Upon request by the plaintiff, the court may also, in accordance with the provisions of section 48, require publication, either in whole or in part, of the sentence in the newspapers it may prescribe, as well as posting of the sentence in the places it may prescribe, in particular the door of the guilty party's domicile, and of any establishments or theatres or similar places belonging to the guilty party all such expenditure to be borne by the guilty party, provided that the cost of such publication shall not exceed the maximum fine incurred.

¹ This Dahir (Act) supplements Moroccan copyright legislation, as contained in the basic Dahir of 21 Chaaban 1334 (June 23, 1916) concerning protection of literary and artistic works (see *Le Droit d'Auteur*, 1917, pp. 2 *et seq.*).

Section 579. — In the instances covered by sections 575 to 579, any equipment or counterfeit copies as well as any earnings in connection with the articles confiscated shall be made over to the author or his representatives as compensation for the loss caused; damages shall be payable, at the

request of the plaintiff and subject to the normal conditions, in respect of the balance of compensation which the author or his representatives may claim or of total compensation if no equipment, counterfeit articles or earnings have been confiscated.

II

Decree establishing the Moroccan Copyright Bureau

(No. 2-64-406, of 5 Kaada 1384 [March 8, 1965])

The Prime Minister,

Having examined the Dahir of 26 Hija 1362 (December 24, 1943) concerning the African Copyright Bureau and the African Authors' and Lecturers' Bureau;

In accordance with the findings of February 27, 1965, of the Constitutional Chamber of the Supreme Court,

decrees as follows:

Section 1. — The African Copyright Bureau and the African Authors' and Lecturers' Bureau established under the above-mentioned Dahir of 26 Hija 1362 (December 24, 1963) shall be designated as "The Moroccan Copyright Bureau", with registered offices at Rahat.

Section 2. — The Moroccan Copyright Bureau shall be placed under the authority of the Minister of Information.

Section 3. — The Moroccan Copyright Bureau shall perform the functions hitherto entrusted to the African Copyright Bureau. It shall have the exclusive power to receive

and distribute copyright fees in any present or future form whatsoever. Throughout the territory of the Kingdom of Morocco it shall administer the interests of the various foreign copyright associations within the framework of any agreements concluded with them.

Section 4. — The Moroccan Copyright Bureau shall be placed under the authority of a director to be appointed by the Minister of Information.

Section 5. — The Minister of Information shall issue orders fixing the methods of application of this Decree, as and when necessary.

Section 6. — Any provisions contrary to this Decree are hereby repealed.

Section 7. — The Minister of Information, Tourism, the Arts and Handicrafts shall be responsible for implementation of this Decree, which shall be published in the *Bulletin officiel*.

III

Order of the Under-Secretary of State for Information, Tourism, the Arts and Handicrafts extending to the area of the former Spanish Protectorate and the Province of Tangiers legislation concerning legal filing and protection of literary and artistic works

(No. 721-65, dated March 8, 1965)

The Under-Secretary of State for Information, Tourism, the Arts and Handicrafts,

Having examined Dahir No. 1-58-100 of 12 Kaada 1377 (May 31, 1958) concerning unification of legislation throughout the territory of Morocco;

Having examined Decree No. 2-58-473 of 14 Kaada 1377 (June 2, 1958) empowering the Minister and Under-Secretary of State to sign orders to extend legislation,

orders as follows:

Section 1. — The following provisions, as amended or supplemented, shall be applicable to the former Spanish Protectorate and the Province of Tangiers:

the Dahir of 21 Chaahan 1334 (June 23, 1916) concerning protection of literary and artistic works in the French zone of the Shereefian Empire;

the Dahir of 6 Jumada II 1351 (October 7, 1932) regulating legal filing, as amended;

the Dahir of 26 Hija 1362 (December 24, 1943) concerning the African Copyright Bureau and the African Authors' and Lecturers' Bureau;

the Dahir of 13 Ramadan 1370 (June 18, 1951) applying to the French zone of the Shereefian Empire the Berne Convention for the Protection of Literary and Artistic Works.

Section 2. — All provisions relating to this subject at present in force in the former Spanish Protectorate and the Province of Tangiers, and in particular the Act of 4 Jumada II 1345 (November 9, 1926) concerning protection of literary and artistic works in the former zone of Tangiers, are hereby repealed.



GENERAL STUDIES



Summary of the 1965 Bill for the General Revision of the U.S. Copyright Law*)

The Legal Character of "Moral Right"

Zivan RADOJKOVIĆ
Doctor of Law



CORRESPONDENCE



Letter from France

INVITATION FOR APPLICATIONS FOR A POST IN BIRPI

BIRPI announces a vacancy for the following post:

Legal Assistant in the Copyright Division

Qualifications required:

University degree in law or equivalent professional qualification; excellent knowledge of one of the official languages (English and French) and at least good knowledge of the other.

Principal duties:

Assist in the preparation of working documents, memoranda, studies in comparative law, minutes or reports of meetings on copyright matters; research work on given questions on copyright.

Nationality:

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

Conditions of employment:

Appointment will be in grade P. 2 or P. 3, according to qualifications and experience. Probationary period of two years; permanent

appointment after satisfactory completion of the probationary period.

Starting salaries per annum: 26,482 (P. 2) or 32,227 (P. 3) Swiss francs, subject to deduction of approximately 8,5% in respect of pension fund contributions.

Annual post adjustment: 4,770 Swiss francs (with dependants) or 3,180 Swiss francs (without dependants) for grade P. 2 and, respectively, 5,806 or 3,670 Swiss francs for grade P. 3.

Family allowance annual: 1,728 Swiss francs for spouse and 1,296 Swiss francs per child.

Conditions also include annual salary increases, home leave, full benefits of pension fund if under 35 and medical benefit scheme. Salary, post adjustment and family allowances are tax free.

An upper age limit of 50 will apply.

Compulsory medical examination.

Applications:

Candidates should apply to Head of personnel, BIRPI, 32, chemin des Colombettes, Geneva, Switzerland, for application forms. These forms duly completed must reach BIRPI before November 1, 1965.