

# Copyright

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

4<sup>th</sup> year - No. 6

June 1968

## Contents

	Pages
NATIONAL LEGISLATION	
— Sierra Leone. The Copyright Act, 1965 (No. 28, of May 5, 1965), <i>First Part</i>	127
CORRESPONDENCE	
— Letter from Italy (Valerio De Sanctis)	138
INTERNATIONAL ACTIVITIES	
— International Literary and Artistic Association (ALAI). General Assembly (Paris, April 23, 1968)	146
NEWS ITEMS	
— Belgium. Reservations and Declaration concerning the Ratification of the European Agreement on the Protection of Television Broadcasts and of the Protocol to the said Agreement	147
BOOK REVIEWS	
— La Conferenza diplomatica di Stoccolma della proprietà intellettuale (Valerio De Sanctis)	148
— La Conférence diplomatique de Stockholm (RIDA)	148
— Die Stockholmer Konferenz für geistiges Eigentum 1967 (GRUR)	149
— Intellectual Property Conference of Stockholm 1967 (Erich Schulze)	150
CALENDAR	
— BIRPI Meetings	151
— Meetings of Other International Organizations concerned with Intellectual Property	152

© BIRPI 1968

Any reproduction of articles and translations of laws, published in this periodical, is authorized only with the prior consent of BIRPI



# NATIONAL LEGISLATION

## SIERRA LEONE

### The Copyright Act, 1965

(No. 28, of May 5, 1965) <sup>1)</sup>

An Act to make new provisions in respect of copyright and related matters in substitution for the provisions of the Copyright Act 1911 and other provisions relating thereto

(First Part)

#### ARRANGEMENT OF SECTIONS

##### *Part I. Preliminary*

#### Section

1. Short title, commencement and extent.
2. Interpretation.

##### *Part II. Copyright in original works*

3. Nature of copyright under this Act.
4. Copyright in literary, dramatic and musical works.
5. Copyright in artistic works.
6. Ownership of copyright in literary, dramatic, musical and artistic works.
7. Infringements by importation, sale and other dealings.
8. General exceptions from protection of literary, dramatic and musical works.
9. Special exceptions as respects libraries and archives.
10. Special exception in respect of records of musical works.
11. General exceptions from protection of artistic works.
12. Special exception in respect of industrial designs.
13. Provisions as to anonymous and pseudonymous works, and works of joint authorship.

##### *Part III. Copyright in sound recordings, cinematograph films, broadcasts, etc.*

14. Copyright in sound recordings.
15. Copyright in cinematograph films.
16. Copyright in television broadcasts and sound broadcasts.
17. Copyright in published editions of works.
18. Supplementary provisions for purposes of Part III.

##### *Part IV. Remedies for infringements of copyright*

19. Action by owner of copyright for infringement.
20. Rights of owner of copyright in respect of infringing copies, etc.
21. Proceedings in case of copyright subject to exclusive licence.
22. Proof of facts in copyright actions.
23. Penalties and summary proceedings in respect of dealings which infringe copyright.
24. Provision for restricting importation of printed copies.

##### *Part V. Extension or restriction of operation of act*

25. Application of Act to countries outside Sierra Leone.
26. Provisions as to international organisations.
27. Extended application of provisions relating to broadcasts.
28. Denial of copyright to citizens of countries not giving adequate protection to Sierra Leone works.

##### *Part VI. Miscellaneous and supplementary provisions*

29. Assignments and licences in respect of copyright.
30. Prospective ownership of copyright.
31. Copyright to pass under will with unpublished work.

32. Provisions as to the Government and Government Departments.
33. Broadcasts of sound recordings and cinematograph films and diffusion of broadcast programmes.
34. Use of copyright material for education.
35. Special provisions as to public records.
36. False attribution of authorship.
37. General provisions as to Orders and Regulations.
38. Transitional provisions, repeals and savings.

#### *Schedules*

First Schedule. False registration of industrial designs.

Second Schedule. Duration of copyright in anonymous and pseudonymous works.

Third Schedule. Works of joint authorship.

Fourth Schedule. Transitional provisions.

Fifth Schedule. Provisions of Copyright Act, 1911, and Rules referred to in Fourth Schedule.

Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Representatives in this present Parliament assembled, and by the authority of the same, as follows:—

#### PART I

##### *Preliminary*

##### *Short title, commencement and extent*

1. — This Act may be cited as the Copyright Act, 1965, and shall come into operation on such day as the Minister of Trade and Industry may by Order appoint; and different days may be appointed for the purposes of different provisions of this Act and, for the purposes of any provision of this Act whereby enactments are repealed, different days may be appointed for the operation of the repeal in relation to different enactments, including different enactments contained in the same Act.

##### *Interpretation*

2. — (1) In this Act, except in so far as the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say—

“adaptation”, in relation to a literary, dramatic or musical work, has the meaning assigned to it by section 4;  
 “artistic work” has the meaning assigned to it by section 5;  
 “building” includes any structure;  
 “cinematograph film” has the meaning assigned to it by section 15;

<sup>1)</sup> Published in *Supplement to the Sierra Leone Gazette*, Vol. XCVI, No 62, dated August 12, 1965. The Act took effect on May 28, 1966 (retrospectively) by Public Notice No 27 of 1966, published in the *Gazette* dated June 9, 1966.

“construction” includes erection, and references to reconstruction shall be construed accordingly;

“country” includes any territory;

“dramatic work” includes a choreographic work or entertainment in dumb show if reduced to writing in the form in which the work or entertainment is to be presented, but does not include a cinematograph film, as distinct from a scenario or script for a cinematograph film;

“drawing” includes any diagram, map, chart or plan;

“engraving” includes any etching, lithograph, woodcut, or similar work, not being a photograph;

“future copyright” and “prospective owner” have the meanings assigned to them by section 30;

“judicial proceeding” means a proceeding before any court, tribunal or person having by law power to hear, receive and examine evidence on oath;

“literary work” includes any written table or compilation;

“manuscript” in relation to a work, means the original document embodying the work, whether written by hand or not;

“performance” includes delivery, in relation to lectures, addresses, speeches and sermons, and in general, subject to the provisions of subsection (5), includes any mode of visual or acoustic presentation, including any such presentation by the operation of wireless telegraphy apparatus, or by the exhibition of a cinematograph film, or by the use of a record, or by any other means, and references to performing a work or an adaptation of a work shall be construed accordingly;

“photograph” means any product of photography or of any process akin to photography, other than a part of a cinematograph film, and “author”, in relation to a photograph, means the person who, at the time when the photograph is taken, is the owner of the material on which it is taken;

“qualified person” has the meaning assigned to it by section 3;

“record” means any disc, tape, perforated roll or other device in which sounds are embodied so as to be capable (with or without the aid of some other instrument) of being automatically reproduced therefrom, and references to a record of a work or other subject-matter are references to a record (as herein defined) by means of which it can be performed;

“reproduction”, in the case of a literary, dramatic or musical work, includes a reproduction in the form of a record or a cinematograph film, and, in the case of an artistic work, includes a version produced by converting the work into a three-dimensional form, or, if it is in three dimensions, by converting it into a two dimensional form, and references to reproducing a work shall be construed accordingly;

“sculpture” includes any cast or model made for purposes of sculpture;

“sound recording” has the meaning assigned to it by section 14;

“sufficient acknowledgment” has the meaning assigned to it by section 8;

“television broadcast” and “sound broadcast” have the meanings assigned to them by section 16;

“wireless telegraphy” means the remitting or receiving, over paths which are not provided by any material substance constructed or arranged for that purpose, of electromagnetic energy of a frequency not exceeding three million megacycles per second, being energy which either—

(a) serves for the conveying of messages, sound or visual images (whether the messages, sound or images are actually received by any person or not), or for the actuation or control of machinery or apparatus; or

(b) is used in connection with the determination of the position, bearing or distance, or for the gaining of information as to the presence, absence, position or motion of any objects of any class;

“wireless telegraphy apparatus” means any apparatus used for wireless telegraphy and includes any apparatus electrically coupled with such apparatus for the purpose of enabling any person to receive any messages, sound or visual images transmitted by wireless telegraphy;

“work of joint authorship” has the meaning assigned to it by section 13;

“writing” includes any form of notation, whether by hand or by printing, typewriting or any similar process.

(2) References in this Act to broadcasting are references to broadcasting by wireless telegraphy whether by way of sound broadcasting or of television.

(3) References in this Act to the transmission of a work or other subject-matter to subscribers to a diffusion service are references to the transmission thereof in the course of a service of distributing broadcast programmes, or other programmes (whether provided by the person operating the service or other persons), over wires, or other paths provided by a material substance, to the premises of subscribers to the service, and for the purposes of this Act, where a work or other subject-matter is so transmitted,—

(a) the person operating the service (that is to say the person who, in the agreements with subscribers to the service, undertakes to provide them with the service, whether he is the person who transmits the programmes or not) shall be taken to be the person causing the work or other subject-matter to be so transmitted, and

(b) no person, other than the person operating the service shall be taken to be causing it to be so transmitted, notwithstanding that he provides any facilities for the transmission of the programmes:

Provided that, for the purposes of this subsection, and of references to which this subsection applies, no account shall be taken of a service of distributing broadcast or other programmes, where the service is only incidental to a business of keeping or letting premises where persons reside or sleep, and is operated as part of the amenities provided exclusively or mainly for residents or inmates therein.

(4) References in this Act to the doings of any act by the reception of a television or sound broadcast made by the Sierra Leone Broadcasting Service (in this Act referred to as the Service) or the Sierra Leone Television Authority (in this Act referred to as the Authority) are references to the doing of that act by means of receiving the broadcast either—

- (a) from the transmission whereby the broadcast is made by the Service or the Authority, as the case may be, or
- (b) from a transmission made by the Service or the Authority, as the case may be, otherwise than by way of broadcasting, but simultaneously with the transmission mentioned in paragraph (a),

whether (in either case) the reception of the broadcast is directly from the transmission in question or from a re-transmission thereof made by any person from any place, whether in Sierra Leone or elsewhere; and in this subsection “re-transmission” means any re-transmission, whether over paths provided by a material substance or not, including any re-transmission made by making use of any record, print, negative, tape or other article on which the broadcast in question has been recorded.

(5) For the purposes of this Act, broadcasting, or the causing of a work or other subject-matter to be transmitted to subscribers to a diffusion service shall not be taken to constitute performance, or to constitute causing visual images or sounds to be seen or heard, and where visual images or sounds are displayed or emitted by any receiving apparatus, to which they are conveyed by the transmission of electromagnetic signals (whether over paths provided by a material substance or not),—

- (a) the operation of any apparatus whereby the signals are transmitted directly or indirectly, to the receiving apparatus shall not be taken to constitute performance or to constitute causing the visual images or sounds to be seen or heard; but
- (b) in so far as the display or emission of the images or sounds constitutes a performance, or causes them to be seen or heard, the performance, or the causing of the images or sounds to be seen or heard, as the case may be, shall be taken to be effected by the operation of the receiving apparatus.

(6) Without prejudice to subsection (5), where a work or an adaptation of a work is performed, or visual images or sounds are caused to be seen or heard, by the operation of any apparatus to which this subsection applies, being apparatus provided by or with the consent of the occupier of the premises where the apparatus is situated, the occupier of those premises shall, for the purposes of this Act, be taken to be the person giving the performance, or causing the images or sounds to be seen or heard, whether he is the person operating the apparatus or not.

This subsection applies to any such receiving apparatus as is mentioned in subsection (5), and to any apparatus for reproducing sounds by the use of a record.

(7) Except in so far as the context otherwise requires, any reference in this Act to an enactment shall be construed

as a reference to an enactment as amended or extended by or under any other enactment.

(8) Except in so far as the context otherwise requires, any reference to this Act to the doing of an act in relation to a work or other subject-matter shall be taken to include a reference to the doing of that act in relation to a substantial part thereof, and any reference to a reproduction, adaptation or copy of a work, or a record embodying a sound recording, shall be taken to include a reference to a reproduction, adaptation or copy of a substantial part of the work, or a record embodying a substantial part of the sound recording, as the case may be:

Provided that, for the purposes of the following provisions of this Act, namely subsections (1) and (2) of section 4, subsections (2) and (3) of section 5, subsections (2) and (3) of section 26, section 31, and subsections (2) to (4) of section 32, this subsection shall not affect the construction of any reference to the publication, or absence of publication, of a work.

(9) With regard to publication, the provisions of this subsection shall have effect for the purposes of this Act, that is to say,—

- (a) the performance, or the issue of records of a literary, dramatic or musical work, the exhibition of an artistic work, the construction of a work of architecture, and the issue of photographs or engravings of a work of architecture or of a sculpture, do not constitute publication of a work;
- (b) except in so far as it may constitute an infringement of copyright, or a contravention of any restriction imposed by section 36, a publication which is merely colourable, and not intended to satisfy the reasonable requirements of the public, shall be disregarded;
- (c) subject to the paragraphs (a) and (b), a literary, dramatic or musical work, or an edition of such a work, or an artistic work, shall be taken to have been published if, but only if, reproductions of the work or edition have been issued to the public;
- (d) a publication in Sierra Leone, or in any other country, shall not be treated as being other than the first publication by reason only of an earlier publication elsewhere if the two publications took place within a period of not more than thirty days;

and in determining, for the purposes of paragraph (c) whether reproductions of a work or edition have been issued to the public subsection (8) shall not apply.

(10) In determining for the purposes of any provision of this Act—

- (a) whether a work or other subject-matter has been published, or
  - (b) whether a publication of a work or other subject-matter was the first publication thereof, or
  - (c) whether a work or other subject-matter was published or otherwise dealt with in the lifetime of a person
- no account shall be taken of any unauthorised publication or of the doing of any other unauthorised act; and (subject to

subsection (7) of section 9) a publication or other act shall for the purposes of this subsection be taken to have been unauthorised —

- (i) if copyright subsisted in the work or other subject-matter and the act in question was done otherwise than by, or with licence of, the owner of the copyright, or
- (ii) if copyright did not subsist in the work or other subject-matter, and the act in question was done otherwise than by, or with the licence of the author (or in the case of a sound recording or a cinematograph film, or an edition of a literary, dramatic or musical work, the maker or publisher, as the case may be) or persons lawfully claiming under him:

Provided that nothing in this subsection shall affect any provisions of this Act as to the acts restricted by any copyright or as to the acts constituting infringements of copyrights, or any provisions of section 36.

(11) References in this Act to the time at which, or the period during which a literary, dramatic or musical work was made are references to the time or period at or during which it was first reduced to writing or some other material form.

(12) In the case of any copyright to which (whether in consequence of a partial assignment or otherwise) different persons are entitled in respect of the application of the copyright —

- (a) to the doing of different acts or classes of acts, or
- (b) to the doing of one or more acts or classes of acts in different countries or at different times,

the owner of the copyright, for any purpose of this Act, shall be taken to be the person who is entitled to the copyright in respect of its application to the doing of the particular act or class of acts, or, as the case may be, to the doing thereof in the particular country or at the particular time, which is relevant to the purpose in question; and in relation to any future copyright to which different persons are prospectively entitled, references in this Act to the prospective owner of the copyright shall be construed accordingly.

(13) Without prejudice to the generality of subsection (12) where under any provision of this Act a question arises whether an article of any description has been imported or sold, or otherwise dealt with, without the licence of the owner of any copyright, the owner of the copyright, for the purpose of determining that question, shall be taken to be the person entitled to the copyright in respect of its application to the making of articles of that description in the country into which the article was imported, or, as the case may be, in which it was sold or otherwise dealt with.

(14) Where the doing of anything is authorised by the grantee of a licence, or a person deriving title from the grantee, and it is within the terms (including any implied terms) of the licence for him to authorise it, it shall for the purpose of this Act be taken to be done with the licence of the grantor and of every other person (if any) upon whom the licence is binding.

(15) References in this Act to deriving title are references to deriving title either directly or indirectly.

- (16) Where, in the case of copyright of any description, —
- (a) provisions contained in this Act specify certain acts as being restricted by the copyright, or as constituting infringements thereof, and
- (b) other provisions of this Act specify certain acts as not constituting infringements of the copyright,

the omission or exclusion of any matter from the latter provisions shall not be taken to extend the operation of the former provisions.

## PART II

### Copyright in original work

#### *Nature of copyright under this Act*

3. — (1) In this Act “copyright” in relation to a work (except where the context otherwise requires) means the exclusive right, by virtue of and subject to the provisions of this Act, to do, and to authorise other persons to do, certain acts in relation to that work in Sierra Leone.

The said acts, in relation to a work of any description, are those acts which, in the relevant provision of this Act, are designated as the acts restricted by the copyright in a work of that description.

(2) In accordance with subsection (1), but subject to the following provisions of this Act, the copyright in a work is infringed by any person who, not being the owner of the copyright, and without the licence of the owner thereof, does, or authorises another person to do, any of the said acts in relation to a work in Sierra Leone.

(3) In the preceding subsections references to the relevant provision of this Act, in relation to a work of any description are references to the provision of this Act whereby it is provided that (subject to compliance with the conditions specified therein) copyright shall subsist in works of the description.

(4) The preceding provisions of this section shall apply, in relation to any subject-matter (other than a work) of a description to which any provision of Part III relates, as they apply in relation to a work.

(5) For the purposes of any provision of this Act which specifies the conditions under which copyright may subsist in any description of work or other subject-matter, “qualified person” —

- (a) in the case of an individual, means a person who is a Sierra Leone citizen or (not being a Sierra Leone citizen) is domiciled or resident in Sierra Leone, and
- (b) in the case of a body corporate, means a body incorporated under the laws of Sierra Leone.

#### *Copyright in literary, dramatic and musical works*

4. — (1) Copyright shall subsist, subject to the provisions of this Act, in every original literary, dramatic or musical work which is unpublished and of which the author was a qualified person at the time when the work was made, or, if the making of the work extended over a period, was a qualified person for a substantial part of that period.

(2) Where an original literary, dramatic or musical work has been published, then, subject to the provisions of this Act,

copyright shall subsist in the work (or, if copyright in the work subsisted immediately before its first publication, shall continue to subsist) if, but only if, —

- (a) the first publication of the work took place in Sierra Leone, or
- (b) the author of the work was a qualified person at the time when the work was first published, or
- (c) the author had died before that time, but was a qualified person immediately before his death.

(3) Subject to subsection (2), copyright subsisting in a work by virtue of this section shall continue to subsist until the end of the period of fifty years from the end of the calendar year in which the author died, and shall then expire:

Provided that if before the death of the author none of the following acts had been done, that is to say —

- (a) the publication of the work,
- (b) the performance of the work in public,
- (c) the offer for sale to the public of records of the work, and
- (d) the broadcasting of the work,

the copyright shall continue to subsist until the end of the period of fifty years from the end of the calendar year which includes the earliest occasion on which one of those acts is done.

(4) In subsection (3) references to the doing of any act in relation to a work include reference to the doing of that act in relation to an adaptation of the work.

(5) The acts restricted by the copyright in a literary, dramatic or musical work are —

- (a) reproducing the work in any material form;
- (b) publishing the work;
- (c) performing the work in public;
- (d) broadcasting the work;
- (e) causing the work to be transmitted to subscribers to a diffusion service;
- (f) making any adaptation of the work;
- (g) doing, in relation to an adaptation of the work, any of the acts specified in relation to the work in paragraphs (a) to (e).

(6) In this Act “adaptation” —

- (a) in relation to a literary or dramatic work means any of the following, that is to say —
  - (i) in the case of a non-dramatic work, a version of the work (whether in its original language or a different language) in which it is converted into a dramatic work;
  - (ii) in the case of a dramatic work, a version of the work (whether in its original language or a different language) in which it is converted into a non-dramatic work;
  - (iii) a translation of the work;
  - (iv) a version of the work in which the story or action is conveyed wholly or mainly by means of pictures in a form suitable for reproduction in a book, or in a newspaper, magazine or similar periodical; and
- (b) in relation to a musical work, means an arrangement or transcription of the work

so however that the mention of any matter in this definition shall not affect the generality of paragraph (a) of subsection (5).

#### *Copyright in artistic work*

5. — (1) In this Act “artistic work” means a work of any of the following descriptions, that is to say —

- (a) the following irrespective of artistic quality, namely paintings, sculptures, drawings, engravings and photographs;
- (b) works of architecture, being either buildings or models for buildings;
- (c) works of artistic craftsmanship, not falling within either of the preceding paragraphs.

(2) Copyright shall subsist, subject to the provisions of this Act, in every original artistic work which is unpublished, and of which the author was a qualified person at the time when the work was made, or, if the making of the work extended over a period, was a qualified person for a substantial part of that period.

(3) Where an original artistic work has been published, then, subject to the provisions of this Act, copyright shall subsist in the work (or, if copyright in the work subsisted immediately before its first publication, shall continue to subsist) if, but only if, —

- (a) the first publication of the work took place in Sierra Leone, or
- (b) the author of the work was a qualified person at the time when the work was first published, or
- (c) the author had died before that time, but was a qualified person immediately before his death.

(4) Subject to subsection (3), copyright subsisting in a work by virtue of this section shall continue to subsist until the end of the period of fifty years from the end of the calendar year in which the author died, and shall then expire:

Provided that —

- (a) in the case of an engraving, if before the death of the author the engraving had not been published, the copyright shall continue to subsist until the end of the period of fifty years from the end of the calendar year in which it is first published;
- (b) the copyright in a photograph shall continue to subsist until the end of the period of fifty years from the end of the calendar year in which the photograph is first published, and shall then expire.

(5) The acts restricted by the copyright in an artistic work are —

- (a) reproducing the work in any material form;
- (b) publishing the work;
- (c) including the work in a television broadcast;
- (d) causing a television programme which includes the work to be transmitted to subscribers to a diffusion service.

#### *Ownership of copyright in literary, dramatic, musical and artistic works*

6. — (1) Subject to the provisions of this section, the author of a work shall be entitled to any copyright subsisting in the work by virtue of this Part.

(2) Where a literary, dramatic or artistic work is made by the author in the course of his employment by the proprietor of a newspaper, magazine or similar periodical under a contract of service or apprenticeship, and is made for the purpose of publication in a newspaper, magazine or similar periodical, the said proprietor shall be entitled to the copyright in the work in so far as the copyright relates to publication of the work in a newspaper, magazine or similar periodical, or to reproduction of the work for the purpose of its being published but in all other respects the author shall be entitled to any copyright subsisting in the work by virtue of this Part.

(3) Subject to subsection (2), where a person commissions the taking of a photograph, or the painting or drawing of a portrait, or the making of an engraving, and pays or agrees to pay for it in money or money's worth, and the work is made in pursuance of that commission, the person who so commissioned the work shall be entitled to any copyright subsisting therein by virtue of this Part.

(4) Where in a case not falling within either subsection (2), or subsection (3), a work is made in the course of the author's employment by another person under a contract of service or apprenticeship, that other person shall be entitled to any copyright subsisting in the work by virtue of this Part.

(5) Each of the three last preceding subsections shall have effect subject, in any particular case, to any agreement excluding the operation thereof in that case.

(6) The preceding provisions of this section shall all have effect subject to the provisions of Part VI.

#### *Infringements by importation, sale and other dealings*

7. — (1) Without prejudice to the general provisions of section 3 as to infringements of copyright, the provisions of this section shall have effect in relation to copyright subsisting by virtue of this Part.

(2) The copyright in a literary, dramatic, musical or artistic work is infringed by any person who, without the licence of the owner of the copyright, imports an article (otherwise than for his private and domestic use) into Sierra Leone if to his knowledge the making of that article constituted an infringement of that copyright, or would have constituted such an infringement if the article had been made in Sierra Leone.

(3) The copyright in a literary, dramatic, musical or artistic work is infringed by any person who in Sierra Leone and without the licence of the owner of the copyright,—

- (a) sells, lets for hire, or by way of trade offers or exposes for sale or hire any article, or
- (b) by way of trade exhibits any article in public if to his knowledge the making of the article constituted an infringement of that copyright, or (in the case of an imported article) would have constituted an infringement of that copyright if the article had been made in the place into which it was imported.

(4) Subsection (3) shall apply in relation to the distribution of any articles either—

- (a) for purposes of trade, or

(b) for other purposes, but to such an extent as to affect prejudicially the owner of the copyright in question, as it applies in relation to the sale of an article.

(5) The copyright in a literary, dramatic or musical work is also infringed by any person who permits a place of public entertainment to be used for a performance in public of the work where the performance constitutes an infringement of the copyright in the work:

Provided that this subsection shall not apply in case where the person permitting the place to be so used—

- (a) was not aware, and had not reasonable grounds for suspecting, that the performance would be an infringement of the copyright, or
- (b) gave the permission gratuitously, or for a consideration which was only nominal or (if more than nominal) did not exceed a reasonable estimate of the expenses to be incurred by him in consequence of the use of the place for the performance.

(6) In this section "place of public entertainment" includes any premises which are occupied mainly for other purposes, but are from time to time made available for hire to such persons as may desire to hire them for purposes of public entertainment.

#### *General exceptions from protection of literary, dramatic and musical works*

8. — (1) No fair dealing with a literary, dramatic or musical work for purposes of research or private study shall constitute an infringement of the copyright in the work.

(2) No fair dealing with a literary, dramatic or musical work shall constitute an infringement of the copyright in the work if it is for purposes of criticism or review, whether of that work or of another work and is accompanied by a sufficient acknowledgement.

(3) No fair dealing with a literary, dramatic or musical work shall constitute an infringement of the copyright in the work if it is for the purpose of reporting current events—

- (a) in a newspaper, magazine or similar periodical or
- (b) by means of broadcasting, or in a cinematograph film, and, in a case falling within paragraph (a) is accompanied by a sufficient acknowledgement.

(4) The copyright in a literary, dramatic or musical work is not infringed by reproducing it for the purposes of a judicial proceeding, or for the purposes of a report of a judicial proceeding.

(5) The reading or recitation in public by one person of any reasonable extract from a published literary or dramatic work if accompanied by a sufficient acknowledgement shall not constitute an infringement of the copyright in the work:

Provided that this subsection shall not apply to anything done for the purposes of broadcasting.

(6) The copyright in a published literary or dramatic work is not infringed by the inclusion of a short passage therefrom in a collection intended for the use of schools, if—

- (a) the collection is described in its title, and in advertisements thereof issued by or on behalf of the publisher, as being so intended, and,



- (b) the work in question was not published for the use of schools, and
- (c) the collection consists mainly of material in which no copyright subsists, and,
- (d) the inclusion of the passage is accompanied by a sufficient acknowledgement:

Provided that this subsection shall not apply in relation to the copyright in a work if, in addition to the passage in question, two or more other excerpts from works by the author thereof (being works in which copyright subsists at the time when the collection is published) are contained in that collection taken together with every similar collection (if any) published by the same publisher within the period of five years immediately preceding the publication of that collection.

(7) Where by virtue of an assignment or licence a person is authorised to broadcast a literary, dramatic or musical work from a place in Sierra Leone, but (apart from this subsection) would not be entitled to make reproductions of it in the form of a record or a cinematograph film, the copyright in the work is not infringed by his making such a reproduction of the work solely for the purpose of broadcasting the work:

Provided that this subsection shall not apply if—

- (a) the reproduction is used for making any further reproduction therefrom, or for any other purpose except that of broadcasting in accordance with the assignment or licence, or
- (b) the reproduction is not destroyed before the end of the period of twenty-eight days beginning with the day on which it is first used for broadcasting the work in pursuance of the assignment or licence, or such extended period (if any) as may be agreed between the person who made the reproduction and the person who (in relation to the making of reproductions of the description in question) is the owner of the copyright.

(8) The preceding provisions of this section shall apply to the doing of any act in relation to an adaptation of a work as they apply in relation to the doing of that act in relation to the work itself.

(9) The provisions of this section shall apply where a work or adaptation of a work, is caused to be transmitted to subscribers to a diffusion service as they apply where a work or adaptation is broadcast.

(10) In this Act, "sufficient acknowledgement" means an acknowledgement identifying the work in question by its title or other description and, unless the work is anonymous or the author had previously agreed or required that no acknowledgement of his name should be made, also identifying the author.

#### *Special exceptions as respects libraries and archives*

9. — (1) The copyright in an article contained in a periodical publication is not infringed by the making or supplying of a copy of the article, if the copy is made or supplied by or on behalf of the librarian of a library of a class prescribed by Regulations made under this subsection by the Minister of Education, and the conditions prescribed by those Regulations are complied with.

(2) In making any Regulations for the purposes of subsection (1) the Minister of Education shall make such provisions as he may consider appropriate for securing—

- (a) that the libraries to which the Regulations apply are not established or conducted for profit;
- (b) that the copies in question are supplied only to person satisfying the librarian, or a person acting on his behalf, that they require them for purposes of research or private study and will not use them for any other purpose;
- (c) that no person is furnished under the Regulations with two or more copies of the same article;
- (d) that no copy extends to more than one article contained in any one publication; and
- (e) that persons to whom copies are supplied under the Regulations are required to pay for them a sum not less than the cost (including a contribution to the general expenses of the library) attributable to their production, and may impose such other requirements (if any) as may appear to the Minister to be expedient.

(3) (a) The copyright in a published literary, dramatic or musical work, other than an article contained in a periodical publication, is not infringed by the making or supplying of a copy of part of the work, if the copy is made or supplied by or on behalf of the librarian of a library of a class prescribed by Regulations made under this subsection by the Minister of Education and the conditions prescribed by those Regulations are complied with:

Provided that this subsection shall not apply if, at the time when the copy is made, the librarian knows the name and address of a person entitled to authorise the making of the copy or could by reasonable inquiry ascertain the name and address of such a person.

[4] (b) The provisions of subsection (2) shall apply for the purposes of this subsection:

Provided that paragraph (d) of subsection (2) shall not apply for those purposes, but any Regulations made under this subsection shall include such provision as the Minister of Education may consider appropriate for securing that no copy to which the Regulations apply extends to more than a reasonable proportion of the work in question.

(5) The copyright in a published literary, dramatic, or musical work is not infringed by the making or supplying of a copy of the work, or of part of it, by or on behalf of the librarian of a library of a class prescribed by Regulations made under this subsection by the Minister of Education, if—

- (a) the copy is supplied to the librarian of any library of a class so prescribed;
- (b) at the time when the copy is made, the librarian by or on whose behalf it is supplied does not know the name and address of any person entitled to authorise the making of the copy, and could not by reasonable inquiry ascertain the name and address of such a person; and
- (c) any other conditions prescribed by the Regulations are complied with:

Provided that the condition specified in paragraph (b) of this subsection shall not apply in the case of an article contained in a periodical publication.

(6) Where, at a time more than fifty years from the end of the calendar year in which the author of a literary, dramatic or musical work died, and more than one hundred years after the time, or the end of the period, at or during which the work was made —

- (a) copyright subsists in the work, but
- (b) the work has not been published, and
- (c) the manuscript or a copy of the work is kept in a library, museum or other institution where (subject to any provisions regulating the institution in question) it is open to public inspection,

the copyright in the work is not infringed by a person who reproduces the work for purposes of research or private study, or with a view to publication.

(7) Where a published literary, dramatic or musical work (in this subsection referred to as “the new work”) incorporates the whole or part of a work (in this subsection referred to as “the old work”) in the case of which the circumstances specified in subsection (6) existed immediately before the new work was published, and —

- (a) before the new work was published, such notice of the intended publication as may be prescribed by Regulations made under this subsection by the Minister of Education had been given, and
- (b) immediately before the new work was published, the identity of the owner of the copyright in the old work was not known to the publisher of the new work, then for the purposes of this Act —
  - (i) that publication of the new work, and
  - (ii) any subsequent publication of the new work, either in the same or in an altered form,

shall, in so far as it constitutes a publication of the old work, not to be treated as an infringement of the copyright in the old work or as an unauthorised publication of the old work:

Provided that this subsection shall not apply to a subsequent publication incorporating a part of the old work which was not included in the new work as originally published, unless (apart from this subsection) the circumstances specified in subsection (6), and in paragraphs (a) and (b) of this subsection, existed immediately before that subsequent publication.

(8) In so far as the publication of a work, or of part of a work, is, by virtue of subsection (7), not to be treated as an infringement of the copyright in the work, a person who subsequently broadcasts the work, or that part thereof, as the case may be, or causes it to be transmitted to subscribers to a diffusion service, or performs it in public, or makes a record of it, does not thereby infringe the copyright in the work.

(9) In relation to an article or other work which is accompanied by one or more artistic works provided for explaining or illustrating it (in this subsection referred to as “illustrations”) the preceding provisions of this section shall apply as if —

- (a) wherever they provide that the copyright in the article or work is not infringed, the reference to that copy-

right included a reference to any copyright in any of the illustrations;

- (b) in subsections (1) and (2), references to a copy of the article included references to a copy of the article together with a copy of the illustrations or any of them;
- (c) in subsections (3) to (5), references to the copy of the work included references to a copy of a work together with a copy of the illustrations or any of them, and references to a copy of part of the work included references to a copy of that part of the work together with a copy of any of the illustrations which were provided for explaining or illustrating that part; and
- (d) in subsections (6) and (7), references to the doing of any act in relation to the work included references to the doing of that act in relation to the work together with any of illustrations.

(10) In this section “article” includes an item of any description.

#### *Special exception in respect of records of musical works*

10. — (1) The copyright in a musical work is not infringed by a person (in this section referred to as “the manufacturer”) who makes a record of the work or of an adaptation thereof in Sierra Leone, if —

- (a) records of the work, or, as the case may be, of a similar adaptation of the work, have previously been made in, or imported into, Sierra Leone for the purposes of retail sale, and were so made or imported by, or with the licence of, the owner of the copyright in the work;
- (b) before making the record, the manufacturer gave to the owner of the copyright the prescribed notice of his intention to make it;
- (c) the manufacturer intends to sell the record by retail, or to supply it for the purpose of its being sold by retail by another person, or intends to use it for making other records which are to be sold or supplied; and
- (d) in the case of a record which is sold by retail, the manufacturer pays to the owner of the copyright, in the prescribed manner and at the prescribed time, a royalty of an amount ascertained in accordance with the following provisions of this section.

(2) Subject to the following provisions of this section, the royalty mentioned in paragraph (d) of subsection (1) shall be of an amount equal to six and one-quarter per cent of the ordinary retail selling price of the record, calculated in the prescribed manner:

Provided that, if the amount so calculated includes a fraction amounting to less than half a cent, that fraction shall be reckoned as a half-cent.

(3) If, at any time after the end of the period of one year beginning with the coming into operation of this section, it appears to the Minister of Trade and Industry that the ordinary rate of royalty, or the minimum amount thereof, in accordance with the provisions of subsection (2), or in accordance with those provisions as last varied by an Order under this subsection has ceased to be equitable either generally or in relation to any class of records, the Minister may

hold a public inquiry in the prescribed manner; and if, in consequence of such an inquiry, the Minister is satisfied of the need to do so, he may make an Order prescribing such different rate or amount, either generally or in relation to any one or more classes of records, as he may consider just:

Provided that —

- (a) no Order shall be made under this subsection unless a draft of the Order has been laid before Parliament and approved by a resolution of the House of Representatives; and
- (b) where an Order comprising a class of records (that is to say, either a general Order or an Order relating specifically to that class, or to that class together with one or more other classes of records) has been made under this subsection, no further Order comprising that class of records shall be made thereunder less than five years after the date on which the previous Order comprising that class (or if more than one, the last previous Order comprising that class) was made thereunder.

(4) In the case of a record which comprises (with or without other material, and either in their original form or in the form of adaptations) two or more musical works in which copyright subsists —

- (a) the minimum royalty shall be a half-cent in respect of each of those works, or, if a higher or lower amount is prescribed by an Order under subsection (3) as the minimum royalty, shall be that amount in respect of each of those works; and
- (b) if the owners of the copyright in the works are different persons, the royalty shall be apportioned among them in such manner as they may agree or as, in default of agreement, may be determined by arbitration.

(5) Where a record comprises (with or without other material) a performance of a musical work, or of an adaptation of a musical work, in which words are sung, or are spoken incidentally to or in association with the music, and either no copyright subsists in that work, or, if such copyright subsists, the conditions specified in subsection (1) are fulfilled in relation to that copyright, then if —

- (a) the words consist or form part of a literary or dramatic work in which copyright subsists, and
- (b) such previous records as are referred to in paragraph (a) of subsection (1) were made or imported by, or with the licence of, the owner of the copyright in that literary or dramatic work, and
- (c) the conditions specified in paragraphs (b) and (d) of subsection (1) are fulfilled in relation to the owner of that copyright,

the making of the record shall not constitute an infringement of the copyright in the literary or dramatic work:

Provided that this subsection shall not be construed as requiring more than one royalty to be paid in respect of a record, and if copyright subsists both in the musical work and in the literary or dramatic work, and their owners are different persons, the royalty shall be apportioned among them (or among them and any other person entitled to a share thereof in accordance with subsection (4)) as they may

agree or as, in default of agreement, may be determined by arbitration.

(6) For the purposes of this section an adaptation of a work shall be taken to be similar to an adaptation thereof contained in previous records if the two adaptations do not substantially differ in their treatment of the work either in respect of style or (apart from any difference in numbers) in respect of the performers required for performing them.

(7) Where, for the purposes of paragraph (a) of subsection (1), the manufacturer requires to know whether such previous records as are mentioned in that paragraph were made or imported as therein mentioned the manufacturer may make the prescribed inquiries; and if the owner of the copyright fails to reply to those inquiries within the prescribed period, the previous records shall be taken to have been made or imported, as the case may be, with the licence of the owner of the copyright.

(8) The preceding provisions of this section shall apply in relation to records of a part of a work or adaptation as they apply in relation to records of the whole of it:

Provided that subsection (1) —

- (a) shall not apply to a record of the whole of a work or adaptation unless the previous records referred to in paragraph (a) of that subsection were records of the whole of the work or of a similar adaptation, and
- (b) shall not apply to a record of part of a work or adaptation unless those previous records were records of, or comprising, that part of the work or of a similar adaptation.

(9) In relation to musical works published before the first day of July, 1912, the preceding provisions of this section shall apply as if paragraph (a) of subsection (1), paragraph (b) of subsection (5), subsections (6) and (7), and the proviso to subsection (8), were omitted:

Provided that this subsection shall not extend the operation of subsection (5) to a record in respect of which the condition specified in paragraph (b) of that subsection is not fulfilled, unless the words comprised in the record (as well as the musical work) were published before the first day of July, 1912, and were so published as words being sung to, or spoken incidentally to or in association with, the music.

(10) Nothing in this section shall be construed as authorising the importation of records which could not lawfully be imported apart from this section; and accordingly, for the purposes of any provision of this Act relating to imported articles, where the question arises whether the making of a record made outside Sierra Leone would have constituted an infringement of copyright if the record had been made in Sierra Leone, that question shall be determined as if subsection (1) of this section had not been enacted.

(11) In this section “prescribed” means prescribed by Regulations made under this section by the Minister of Trade and Industry; and any such Regulations made for the purposes of paragraph (d) of subsection (1) may provide that the taking of such steps as may be specified in the Regulations (being such steps as the Minister considers most convenient

for ensuring the receipt of the royalties by the owner of the copyright) shall be treated as constituting payment of the royalties in accordance with that paragraph.

*General exceptions from protection of artistic works*

11. — (1) No fair dealing with an artistic work for purposes of research or private study shall constitute an infringement of the copyright in the work.

(2) No fair dealing with an artistic work shall constitute an infringement of the copyright in the work if it is for purposes of criticism or review, whether of that work or of another work, and is accompanied by a sufficient acknowledgement.

(3) The copyright in a work to which this subsection applies which is permanently situated in a public place, or in premises open to the public, is not infringed by the making of a painting, drawing, engraving or photograph of the work, or the inclusion of the work in a cinematograph film or in a television broadcast.

This subsection applies to sculptures, and to such works of artistic craftsmanship as are mentioned in paragraph (c) of subsection (1) of section 5.

(4) The copyright in a work of architecture is not infringed by the making of a painting, drawing, engraving or photograph of the work, or the inclusion of the work in a cinematograph film or in a television broadcast.

(5) Without prejudice to subsections (3) and (4), the copyright in an artistic work is not infringed by the inclusion of the work in a cinematograph film or in a television broadcast, if its inclusion therein is only by way of background or is otherwise only incidental to the principal matters represented in the film or broadcast.

(6) The copyright in an artistic work is not infringed by the publication of a painting, drawing, engraving, photograph or cinematograph film, if by virtue of subsections (3) (4) or (5) the making of that painting, drawing, engraving, photograph or film did not constitute an infringement of the copyright.

(7) The copyright in an artistic work is not infringed by reproducing it for the purposes of a judicial proceeding or for the purposes of a report of a judicial proceeding.

(8) The making of an object of any description which is in three dimensions shall not be taken to infringe the copyright in an artistic work in two dimensions, if the object would not appear, to persons who are not experts in relation to objects of that description, to be a reproduction of the artistic work.

(9) The copyright in an artistic work is not infringed by the making of a subsequent artistic work by the same author, notwithstanding that part of the earlier work —

- (a) is reproduced in the subsequent work, and
- (b) is so reproduced by the use of a mould, cast, sketch, plan, model or study made for the purposes of the earlier work,

if in making the subsequent work the author does not repeat or imitate the main design of the earlier work.

(10) Where copyright subsists in a building as a work of architecture, the copyright is not infringed by a reconstruction of that building; and where a building has been constructed in accordance with architectural drawings or plans in which copyright subsists, and has been so constructed by, or with the licence of, the owner of that copyright, any subsequent reconstruction of the building by reference to those drawings or plans shall not constitute an infringement of that copyright.

(11) The provisions of this section shall apply in relation to a television programme which is caused to be transmitted to subscribers to a diffusion service as they apply in relation to a television broadcast.

*Special exception in respect of industrial designs*

12. — (1) Where copyright subsists in an artistic work, and a corresponding design is registered under the United Kingdom Registered Designs Act, 1949 (in this section referred to as “the Act of 1949”), it shall not be an infringement of the copyright in the work —

- (a) to do anything, during the subsistence of the copyright in the registered design under the Act of 1949, which is within the scope of the copyright in the design, or
- (b) to do anything, after the copyright in the registered design has come to an end, which, if it had been done while the copyright in the design subsisted, would have been within the scope of that copyright as extended to all associated designs and articles:

Provided that this subsection shall have effect subject to the provisions of the First Schedule in cases falling within that Schedule.

(2) Where copyright subsists in an artistic work, and —

- (a) a corresponding design is applied industrially by or with the licence of the owner of the copyright in the work, and
- (b) articles to which the design has been so applied are sold, let for hire, or offered for sale or hire, and
- (c) at the time when those articles are sold, let for hire, or offered for sale or hire, they are not articles in respect of which the design has been registered under the Act of 1949,

the following provisions of this section shall apply.

(3) Subject to subsection (4), —

- (a) during the relevant period of fifteen years, it shall not be an infringement of the copyright in the work to do anything which at the time when it is done, would have been within the scope of the copyright in the design if the design had immediately before that time, been registered in respect of all relevant articles; and,
- (b) after the end of the relevant period of fifteen years, it shall not be an infringement of the copyright in the design as extended to all associated designs and articles.

In this subsection “the relevant period of fifteen years” means the period of fifteen years beginning with the date on which articles, such as are mentioned in paragraph (b) of subsection (2), were first sold, let for hire, or offered for

sale or hire in the circumstances mentioned in paragraph (c) of that subsection; and "all relevant articles", in relation to any time within that period, means all articles falling within the said paragraph (b) which had before that time been sold, let for hire, or offered for sale or hire in those circumstances.

(4) For the purposes of subsections (2) and (3), no account shall be taken of any articles in respect of which, at the time when they were sold, let for hire, or offered for sale or hire, the design in question was excluded from registration under the Act of 1949 by Rules made under subsection (4) of section 1 of that Act (which relates to the exclusion of designs for articles which are primarily literary or artistic in character); and for the purposes of any proceedings under this Act a design shall be conclusively presumed to have been so excluded if—

- (a) before the commencement of those proceedings, an application for the registration of the design under the Act of 1949 in respect of those articles had been refused;
- (b) the reason or one of the reasons stated for the refusal was that the design was excluded from such registration by Rules made under the said subsection (4); and
- (c) no appeal against that refusal had been allowed before the date of the commencement of the proceedings or was pending on that date.

(5) The question whether a design is to be taken to be applied industrially shall be determined in accordance with the relevant Rules made by the United Kingdom Board of Trade under section 36 of the Act of 1949 with respect to section 10 of the United Kingdom Copyright Act, 1956.

(6) In this section, references to the scope of the copyright in a registered design are references to the aggregate of the things, which by virtue of section 7 of the Act of 1949,

the registered proprietor of the design has the exclusive right to do, and references to the scope of the copyright in a registered design as extended to all associated designs and articles are references to the aggregate of the things which, by virtue of that section, the registered proprietor would have had the exclusive right to do if—

- (a) when that design was registered, there had at the same time been registered every possible design consisting of that design with modifications or variations not sufficient to alter the character or substantially to affect the identity thereof, and the said proprietor had been registered as the proprietor of every such design, and
- (b) the design in question, and every other design as is mentioned in paragraph (a), had been registered in respect of all the articles to which it was capable of being applied.

(7) In this section "corresponding design", in relation to an artistic work, means a design which, when applied to an article, results in a reproduction of that work.

*Provisions as to anonymous and pseudonymous works,  
and works of joint authorship*

13. — (1) The preceding provisions of this Part shall have effect subject to the modifications specified in the Second Schedule in the case of works published anonymously or pseudonymously.

(2) The provisions of the Third Schedule shall have effect with respect to works of joint authorship.

(3) In this Act "work of joint authorship" means a work produced by the collaboration of two or more authors in which the contribution of each author is not separate from the contribution of the other author or authors.

*(To be continued)*

*CORRESPONDENCE*

**Letter from Italy**















---

Valerio De SANCTIS  
Barrister

# INTERNATIONAL ACTIVITIES

## International Literary and Artistic Association (ALAI)

(General Assembly, Paris, April 23, 1968)

The International Literary and Artistic Association (ALAI) held its annual General Assembly, at Paris, on April 23, 1968, under the chairmanship of Maître Marcel Boutet, barrister at the Court of Paris and President of the Association. The General Assembly was preceded by a meeting of the Executive Committee.

Representatives of ALAI national Groups from the following countries participated in the debates: Belgium, France, Germany (Fed. Rep.), Italy, Netherlands and Switzerland, as well as observers of certain international non-governmental organizations concerned. BIRPI was represented by Mr. Claude Masouyé, Counsellor, Head of the Copyright Division, and Unesco was represented by Miss Marie-Claude Dock, Copyright Division.

Apart from administrative and internal questions, the main item of the Assembly's agenda was a survey of the results of the Stockholm Conference concerning the revision of the Berne Convention. Interesting reports were submitted on behalf of various study subcommittees. These included reports by Mr. Desjeux on the eligibility criteria, the country of origin and the exceptions to the exclusive right of the author, by Mrs. Gaudel-Gruyer on the new régime of cinematographic works, by Mr. Géranton on the Protocol Regarding Developing Countries, and by Mr. Joubert on the administrative and final clauses of the Stockholm Act of the Berne Convention.

The Assembly took note of the considerations and conclusions set out in the reports. In addition, however, it deemed it advisable to state clearly its opinion with respect to the Protocol Regarding Developing Countries in a resolution the text of which is reproduced below.

### Resolution

The General Assembly of ALAI, after having heard, on April 23, 1968, the report submitted concerning the Protocol Regarding Developing Countries which forms an integral part of the Stockholm Act of July 14, 1967:

(1) Reaffirms the opinion expressed by the Stockholm Congress in August 1965, by the Executive Committee at Brussels in November 1966, and by the Basle Congress in April 1967: the Protocol constitutes a sacrifice of the rights of authors in developed countries and jeopardizes the best interests of authors of intellectual works in developing countries;

(a) It is essential that the closest possible attention be paid by developed countries to the needs of developing countries; however, it is unfair to impose only upon the authors in developed countries the burden of concessions claimed by developing countries: the sacrifices should be borne by entire communities within the framework of assistance which their Governments might consider advisable;

(b) The facility granted for reproduction, translation or any other mode of diffusion of works originating from developed countries is likely to paralyze the progress of intellectual creation in developing countries: on the contrary, it is the defense of authors' rights, whatever may be the country of origin of the work, that contributes most efficiently to the full development of arts and literature throughout the world;

(2) Feels the deepest concern in view of the terms of the Protocol which, influenced by considerations foreign to the spirit of the Berne Convention, has gone beyond the limits considered as impassable concerning either the form, the term of application, the beneficiaries, or the conditions in the reservations;

(3) Under these conditions, expresses the wish that the Governments of developed countries suspend their decision concerning either a declaration of application of the Protocol, its ratification, or an accession to it, at least until the inquiry begun by BIRPI reveals the intentions of the developing countries.

---



---

# NEWS ITEMS

---



---

## BELGIUM

### *Reservations and Declaration concerning the Ratification of the European Agreement on the Protection of Television Broadcasts and of the Protocol to the said Agreement*

In a letter dated May 15, 1968, the Secretary-General of the Council of Europe informed BIRPI that the Ministry of Foreign Affairs of Belgium has transmitted some reservations and a declaration to be joined to the instruments of ratification of the European Agreement on the Protection of Television Broadcasts and of the Protocol to the said Agreement<sup>1)</sup>.

The text of these reservations and declaration is reproduced below.

#### *Reservation to Article 1, paragraph 1 (b)*

The Belgian Government withhold the protection against the diffusion of television broadcasts to the public by wire, provided for in Article 1, paragraph 1 (b), of the Agreement, in respect of broadcasting organisations constituted in or transmitting from Belgian territory.

The exercise of the above-mentioned protection is restricted, in respect of broadcasts of any broadcasting organisations constituted or transmitting outside Belgian territory, to 50% of the average weekly duration of the transmissions of such organisations.

#### *Reservation to Article 1, paragraph 1 (c)*

The protection against the communication of television broadcasts to the public by means of any instrument for the transmission of signs, sounds or images, provided for in Article 1, paragraph 1 (c), of the Agreement, is restricted to cases where such communication is in places accessible to the public on payment of an entry charge.

#### *Reservation to Article 1, paragraph 1 (d)*

The Belgian Government withhold the protection against any fixation of television broadcasts or still photographs thereof and any reproduction of such fixation, provided for in Article 1, paragraph 1 (d), of the Agreement, where the fixation or reproduction of the fixation is made for private use, or solely for educational purposes.

#### *Declaration relating to Article 3, paragraph 2*

The Belgian Government, in respect of Belgian territory, intend to make an exception to the protection of television broadcasts for the purpose of reporting current events, in respect of the re-broadcasting, fixation or reproduction of the fixation, wire diffusion or public performance of short extracts from a broadcast which itself constitutes the whole or part of the event in question.

---

<sup>1)</sup> See *Copyright*, 1968, p. 78.

## BOOK REVIEWS

La Conferenza diplomatica di Stoccolma della proprietà intellettuale [The Diplomatic Conference of Stockholm on Intellectual Property], by Valerio De Sanctis. Printed from "Il Diritto di Autore", No. 3, July-September 1967, pp. 303-416.

The author's personality and his activities both prior to and throughout the Stockholm Conference make his report on this important event especially interesting, for, in addition to being the Rapporteur of Main Committee No. IV of the Conference, Mr. De Sanctis also took a very active part, as one of the eminent members of the Italian delegation, in nearly all of the discussions on essential items of the Program.

After explaining briefly how the work of the Conference was organized, the author first reviews the substantive questions concerning the Berne and Paris Conventions. A large portion of this chapter is devoted to the problem of the developing countries and the Protocol adopted for their benefit.

In the opinion of Mr. De Sanctis, the Protocol Regarding Developing Countries has greatly altered the objectives of the Berne Convention. He believes that the formula adopted in Article 21(2) of the Stockholm Act was the result, on the one hand, of the firmness with which the delegations of the developing countries insisted on the idea of a protocol which would form an integral part of the Convention and, on the other, of the almost unanimous desire shown by the other countries that the Conference should not fail. That these standards should be in the form of a protocol was justified by the fact that they were to be in existence for a transitional period of time only and were not to be included permanently in the Convention's system of protection. The author nevertheless points out that this transitional character represents the expression of a desire rather than an actual reality. He feels that a developing country has the possibility of prolonging the benefits granted to it under the Protocol indefinitely by not ratifying the Act adopted at the next revision conference. As to the developed countries, the author stresses the fact that the countries of the Union which adopt the anticipated application of the Protocol will find themselves in a favored position, compared with other countries, as regards the dissemination of their culture in developing countries.

In the chapter dealing with the revision of the administrative and final clauses, Mr. De Sanctis brings up the problem of the legal relations between countries which accede to the Stockholm Act alone and countries of the Union which do not accede to that Act. This problem is an important one in view of the fact that the level of protection provided by the Stockholm Act is, in certain respects, lower than that provided by the Brussels Act.

A special chapter is devoted to the establishment of the new World Intellectual Property Organization. The author makes a general survey of the objectives and structure of the Organization and looks into certain questions which arise from the very fact of its creation. He emphasizes in particular that, contrary to what he wrote before the Conference, he no longer has any doubt about the international legal status of the new Organization.

In concluding this brief review, we must add that it is regrettable that this excellent study by Mr. De Sanctis has only been published in Italian and consequently can be read only by those who know that language, as there is every likelihood that many jurists in the circles concerned would be glad to learn of such pertinent comments on the results of the Stockholm Conference.

\* \* \*

Revue internationale du droit d'auteur, special double issue LIV-LV, October 1967/January 1968, 931 pages.

This special issue of R. I. D. A., published in four languages (French, English, German and Spanish), is entirely devoted to the Stockholm Diplomatic Conference. It contains 17 articles on various aspects of the Conference, grouped under the following headings: *Presentations, Historical Account, Modifications Adopted, and Outcome and Prospects.*

\*

In the first article entitled "Stockholm: a landmark", M. Claude Masouyé, Counsellor, Head of the Copyright Division of BIRPI and Assistant Secretary General of the Conference, develops a few general considerations which serve as an introduction. He emphasizes that, from the two alternative courses of action before it, the Stockholm Conference made a deliberate choice to promote the maintenance and the extension of the Berne Union from the geographical point of view. The choice thus made entailed certain encroachments upon the legal cohesion of the system. This trend towards universality did not however prevent improvements being made to the Union system in many respects.

Professor Eugen Ulmer, Chairman of Main Committee I of the Conference, has written a short article entitled "Retrospect" (*Rückblick*). He concludes, without going into details, that the revision of the Berne Convention, taken as a whole, embodies at one and the same time changes dictated by the Union system itself and amendments which were indispensable in order to keep the conventional rules abreast of technological change. The author discusses the general question of the world-wide scope of the Berne Convention, and therein considers especially the relations between the Union, on one side, and the United States and the Soviet Union, on the other, as well as the legal possibilities of the accession of the two countries in the relatively near future.

In a poetically inspired text, Mr. Marcel Boutet, President of the International Literary and Artistic Association, finds that, like all that man does, the Stockholm Convention brings both satisfaction and disappointment in its wake. The trend today is towards universalism, and the Program of the Stockholm Conference could hardly fail to fall in with what is probably an irreversible development.

Mr. Valerio De Sanctis, President of the Legal Committee of the International Confederation of Societies of Authors and Composers, considers, in his article entitled "Some reflexions", certain aspects of the Conference. These include the trend towards universal protection of copyright within the framework of the Berne Convention, the question whether or not the revision made at Stockholm should be considered as admissible in the light of Article 24 (1) of the Convention, the relations between the Berne Convention and the Universal Copyright Convention, and the advisability of using the term "intellectual property" as a common denominator for copyright and industrial property.

Emphasizing the exceptional importance of the Stockholm Conference, Mr. Bernard de Menthon, Ambassador, Head of the French Delegation at the Conference, considers that the essential rights of authors were safeguarded and that the outcome of the Conference may be considered as positive. With regard to the new World Intellectual Property Organization, he thinks that its creation will not entail any risk of encroachment upon the independence of the Unions, but will even be able to help them to increase their influence throughout the world and to attract further accessions.

In the opinion of Mr. Vojtěch Strnad, Rapporteur of Main Committee II of the Conference, the answer to the question whether or not the solutions devised in Stockholm really turn out to be a fair and lasting compromise between the conflicting interests involved will depend



on the date of entry into force of the Stockholm text ("D Day"), the way its provisions are implemented in practice and on considerations alien to copyright.

\*

This concludes the series of articles grouped under the common heading *Presentations*. The following heading, *Historical Account*, contains one article only, by Mr. J. van Nus, Barrister at the Court of Appeal of Amsterdam, entitled "The preparatory work". After an introduction in which he mentions briefly the meetings and works which preceded the Conference, the author gives, article by article, a chronological summary of various proposals made by the Swedish/BIRPI Study Group concerning the substantive provisions of the Berne Convention. The last part of the article is devoted to the preparatory work relating to the establishing of the World Intellectual Property Organization.

\*

Another important group of articles is that headed *Modifications Adopted*. It includes nine articles on various questions forming the subject of the texts adopted by the Stockholm Conference.

The first of these articles, by Mr. Jean Matthyssens, Delegate General of the Société des Auteurs et Compositeurs Dramatiques, deals with the works protected, the field of application of the Berne Convention and the term of protection (Articles 2, 3, 5 and 7), as well as with the retaliatory measures (Article 6).

The moral right forms the subject of a special article contributed by Mr. Frans van Isacker, Professor of Law at the Faculty of Ghent. The author first sets out in detail the content and origins of the moral right, after which he passes to the attributes of the moral right and their recognition in the Berne Convention. In his opinion, the Stockholm text, as compared with that of Brussels, entails a further depreciation of the conventional protection of the moral right in terms of its duration.

Mr. Nicolas Rouart, Head of the Legal Service of the Société des Auteurs et Compositeurs Dramatiques, is the author of an article entitled "The right of reproduction" (Article 9), which also deals with quotations (Article 10) and the system governing newspaper articles and news of the day (Articles 2 and 10<sup>bis</sup>). Noting a positive will to rejuvenate the Convention, he regrets that the Conference did not deem it appropriate to accompany the right of reproduction with the concept of circulation.

In an article on cinematographic and televisual works, Mr. Roger Fernay, Vice-President Delegate General of the Syndicat National des Auteurs et des Compositeurs, first considers Document S/1, then the different stages of discussion at Stockholm, and finally the provisions introduced in the Convention. Emphasizing that these works were the "centrepiece" of the Program of the Conference, and had been subjected to close scrutiny by several authorities, he comes to the conclusion that the solutions adopted deviate considerably from the original intentions.

Although Article 14<sup>bis</sup> of the Convention was not amended (except as regards its numbering), the "droit de suite" forms the subject of an article by Mr. Jean-Louis Duchemin, member of the Commission de la Propriété Intellectuelle, who gives a historical account of what he calls "the poor relation of copyright".

The anonymous author of an article on the Protocol Regarding Developing Countries considers that, justified although it may be, cultural assistance should be sought within the framework of economic aid and not in a Convention designed to protect authors.

Mr. Claude Joubert, Delegate, Affaires Générales, Société des Auteurs, Compositeurs et Editeurs de Musique, is the author of a critical analysis of the administrative and final provisions of the Stockholm Act in general, and of Article 32 (applicability of the various Acts of the Union) in particular. Expressing the view that the implementation of the Berne Convention is not and, furthermore, "cannot, and indeed must not, fall within the purview of the Convention itself", he comes to the conclusion that the essential virtue of the latter lies "in the fact of its very existence", for it is, according to his opinion, a "convention of aims" and not, as are other international Unions, a "convention of means".

The assimilation, in the field of industrial property, of an inventor's certificate to a patent forms the subject of an article by Mr. Paul Mathély,

Barrister at the Court of Appeal in Paris, who considers that the reform thus made to the Paris Convention is in accordance with the interests of the Union as well as those of the protection of industrial property.

The last article published under the common heading *Modifications Adopted* is a detailed study by Mr. Henri Desbois, Professor at the Faculté de Droit et des Sciences Economiques at Paris, on the new World Intellectual Property Organization. Describing the adoption of the Convention establishing this Organization as an "event that is bound to have considerable influence on the future of copyright", he emphasizes at the same time the extent to which the Conference took into account the criticisms levelled at the draft submitted to Governments. In the opinion of Professor Desbois, initiative and audacity prevailed over moderation and apprehension. As for the objectives and functions of the Organization, he considers that the assistance to developing countries has as its aim to lead the latter to the conviction that the best means of achieving their future development in the intellectual field is to stimulate the creation of national works by giving authors of all countries the benefit of dynamic and effective rights.

\*

The section *Outcome and Prospects* includes one single article entitled "Rykssdag 67 or the end of a myth?" by Mr. Jean-Loup Tournier, Director-General of the Société des Auteurs, Compositeurs et Editeurs de Musique. After having made a historical account of the preparatory work of the Conference and of the rôle played in it by authors' societies, the author comes to the conclusion that, despite the particularly unfavourable circumstances, the results of the work of Main Committee I "turned out to be less negative than might have been expected". As for the developing countries, he expresses the hope that they will show the greatest caution in availing themselves of the reservations at their disposal, and will use them only insofar as they have a real need to do so; at the same time, he considers that producer countries accepting the application of the reservations under the Protocol to the works of their own nationals should be required to take all appropriate steps to compensate their literary authors and publishers.

\*

The texts of the Conventions, decisions and recommendations in four languages, as well as the list of participants and of the officers of the Conference, are reproduced at the end of the volume. M. S.

\* \* \*

Die Stockholmer Konferenz für geistiges Eigentum 1967 [Intellectual Property Conference of Stockholm, 1967]. Gewerblicher Rechtsschutz und Urheberrecht, Internationaler Teil, December 1967, pp. 425-538.

This special issue is entirely devoted to the Stockholm Conference and its results. All of the contributing authors participated in the Conference as members of the delegation of the Federal Republic of Germany. The publication, however, does not have an official character; it is rather an evidentiary account made by experts voicing their personal impressions and opinions.

After a brief introduction by Mr. Kurt Haertel, President of the German Patent Office, the first part of the publication is devoted to copyright. Professor Eugen Ulmer and Mr. Dietrich Reimer consider in turn the amendments made to the substantive provisions of the Berne Convention. The first deals with Article 8 (right of translation), Article 9 (right of reproduction), Articles 14 and 14<sup>bis</sup> (cinematographic works) and Article 17 (public law questions). The second deals with all the other amendments — including more particularly the works protected (Article 2), the eligibility criteria and the country of origin (Articles 3 to 6), moral rights (Article 6<sup>bis</sup>), the term of protection (Articles 7 and 7<sup>bis</sup>), etc. The first part ends with a detailed analysis of the Protocol Regarding Developing Countries made by Mr. Kurt Schiefler.

In the second part, Mr. Heribert Mast gives account of the introduction of inventors' certificates in the Paris Convention for the Protection of Industrial Property.

In the third and last part, devoted to the administrative and structural questions, Mr. *Albrecht Krieger* deals with the antecedents and the outcome of the Conference, the new conception in general and the World Intellectual Property Organization. Mr. *Dirk Rogge* considers the administrative provisions and final clauses of the Paris Convention and the Berne Convention.

The above-mentioned studies are followed by the texts (in English and French) of the Stockholm Acts of the Berne and Paris Conventions and of the Convention Establishing the World Intellectual Property Organization (WIPO), as well as the texts of recommendations adopted in the field of copyright.

The limited space of this review does not permit a detailed analysis of the studies forming part of this evidently useful publication. Generally speaking, however, emphasis should be placed on the impartial character and well-balanced presentation of all the contributions.

M. S.

Intellectual Property Conference of Stockholm 1967, by Dr. jur. h. c. *Erich Schulze*. A volume of 301 pages, 23 × 15 cm. Internationale Gesellschaft für Urheberrecht Schriftenreihe, Band 39. Verlag Franz Vahlen, Berlin — Frankfurt-am-Main, 1967.

This book is comprised of three identical parts: German, French and English. The introduction to each gives to readers a condensed but exhaustive survey of the results achieved by the Stockholm Conference in the field of copyright. It is followed by the texts of the Berne Convention, with the Protocol Regarding Developing Countries, and the Convention Establishing the World Intellectual Property Organization (WIPO), as well as a list of States members of the Berne Union and States parties to the Universal Copyright Convention.

The usefulness of a book of this kind is obvious, and its value and interest are increased by the pertinent comments made by Dr. Erich Schulze, an expert on the subject.

M. S.

# CALENDAR

## BIRPI Meetings

Date and Place	Title	Object	Invitations to Participate	Observers Invited
<b>1968</b>				
July 1 to 5 Paris (Unesco Headquarters)	Committee of Experts on the Photographic Reproduction of Works Protected by Copyright, convened jointly with Unesco	To examine the copyright problems raised by the reproduction of protected works by photographic or analogous processes and to formulate appropriate recommendations with a view to possible solutions	Argentina, Bulgaria, Congo (Kinshasa), Czechoslovakia, France, India, Iran, Japan, Lebanon, Mexico, Nigeria, Netherlands, Spain, Sweden, United States of America. Consultants from Germany (Fed. Rep.) and the United Kingdom	<i>Intergovernmental Organizations:</i> United Nations and Specialized Agencies <i>Non-Governmental Organizations:</i> International Confederation of Societies of Authors and Composers (CISAC); International Congress on Reprography; International Council on Archives; International Federation for Documentation; International Federation of Library Associations; Internationale Gesellschaft für Urheberrecht; International Law Association; International Literary and Artistic Association; International Publishers Association
September 24 to 27 Geneva	Interunion Coordination Committee (6 <sup>th</sup> Session)	Program and Budget of BIRPI for 1969	Argentina, Australia, Austria, Belgium, Brazil, Cameroon, Denmark, France, Germany (Fed. Rep.), Hungary, India, Iran, Italy, Japan, Kenya, Morocco, Mexico, Netherlands, Poland, Portugal, Rumania, Soviet Union, Spain, Sweden, Switzerland, United Kingdom, United States of America	—
September 24 to 27 Geneva	Executive Committee of the Conference of Representatives of the Paris Union (4 <sup>th</sup> Session)	Program and Budget (Paris Union) for 1969	Argentina, Australia, Austria, Cameroon, France, Germany (Fed. Rep.), Hungary, Iran, Japan, Kenya, Morocco, Mexico, Netherlands, Poland, Soviet Union, Spain, Sweden, Switzerland, United Kingdom, United States of America	All the other Member States of the Paris Union; United Nations; International Patent Institute; Council of Europe
September 26 and 27, 1968 Geneva	Council of the Lisbon Union for the Protection of Appellations of Origin and their International Registration (3 <sup>rd</sup> Session)	Annual Meeting	All Member States of the Lisbon Union	All other Member States of the Paris Union
October 2 to 8 Locarno	Diplomatic Conference	Adoption of a Special Agreement Concerning the International Classification of Industrial Designs	All Member States of the Paris Union	States not members of the Paris Union <i>Intergovernmental Organizations:</i> United Nations; Unesco; Council of Europe <i>Non-Governmental Organizations:</i> Committee of National Institutes of Patent Agents; Inter-American Association of Industrial Property; International Association for the Protection of Industrial Property; International Chamber of Commerce; International Federation of Patent Agents; International League Against Unfair Competition; International Literary and Artistic Association; Union of European Patent Agents
October 14 to 16 Geneva	Working Group on Copyright Problems of Satellite Communications	Exchange of views on the copyright and neighbouring rights problems which might arise from broadcast transmissions by communications satellites	Experts invited individually and the international and national Organizations concerned	—

Date and Place	Title	Object	Invitations to Participate	Observers Invited
October 21 to November 1 Tokyo	Committee for International Cooperation in Information Retrieval among Examining Patent Offices (ICIREPAT) - Technical Meetings	Questions of technical cooperation in information retrieval	All Member States of ICIREPAT	International Patent Institute; Council of Europe; European Atomic Energy Community; Fédération internationale de documentation
November 25 to 29 Geneva	BIRPI Symposium on Practical Aspects of Copyright [held with the cooperation of the International Confederation of Societies of Authors and Composers (CISAC)]	To offer to participants information on practical aspects of copyright protection (collection and distribution of royalties, organization and working of authors' societies or other bodies, etc.)	Personalities from developing countries. Members and officers of authors' societies. Individual participants against payment of a registration fee	International Labour Office; Unesco; Council of Europe
December 2 to 10*) Geneva	Committee of Experts — Patent Cooperation Treaty (PCT)	New Draft Treaty	All Member States of the Paris Union	<p><i>Intergovernmental Organizations:</i> United Nations; United Nations Industrial Development Organization; United Nations Conference on Trade and Development; International Patent Institute; Organization of American States; Permanent Secretariat of the General Treaty for Central American Economic Integration; Latin-American Free Trade Association; Council of Europe; European Atomic Energy Community; European Economic Community; European Free Trade Association; African and Malagasy Industrial Property Office</p> <p><i>Non-Governmental Organizations:</i> Committee of National Institutes of Patent Agents; Council of European Industrial Federations; European Industrial Research Management Association; Inter-American Association of Industrial Property; International Association for the Protection of Industrial Property; International Chamber of Commerce; International Federation of Patent Agents; Japan Patent Association; National Association of Manufacturers (U. S. A.); Union of European Patent Agents; Union des industries de la Communauté européenne</p>

\*) This meeting replaces the meetings previously announced for July 1 to 9, and November 4 to 12, 1968.

## Meetings of Other International Organizations Concerned with Intellectual Property

Place	Date	Organization	Title
<b>1968</b>			
The Hague	July 8 and 9	International Patent Institute (IIB)	97th Session of the Administrative Council
Paris	October 31	International Chamber of Commerce	Committee for International Protection of Industrial Property
Lima	December 2 to 6	Inter-American Association of Industrial Property (ASIPI)	Congress