Copyright

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NATIONAL LEGISLATION

YUGOSLAVIA

Copyright Law

(Of July 20, 1968) *)

CHAPTER I

Introductory provisions

Article 1. — Authors of literary, scientific and artistic works shall have special prerogatives (copyright) in respect of their intellectual creations (intellectual works).

Article 2. — The intellectual works of Yugoslav nationals, either published in Yugoslavia or abroad or unpublished, shall enjoy protection pursuant to this Law.

The unpublished works of foreign nationals first published in Yugoslavia shall enjoy, pursuant to this Law, the same protection as the works of Yugoslav nationals.

The works of foreign nationals not first published in Yugoslavia shall enjoy, pursuant to this Law, protection within the framework of the obligations which the Socialist Federal Republic of Yugoslavia has assumed by international treaties or also on the basis of *de facto* reciprocity.

CHAPTER II

The intellectual work and the author

1. The intellectual work

Article 3. — Unless otherwise provided in this Law, an intellectual creation in the literary, scientific or artistic field or in any other field of intellectual creation, whatever may be the kind, method or form of expression thereof, shall be considered an intellectual work.

The following, in particular, shall be considered intellectual works:

- written works (books, pamphlets, articles and other writings);
- oral works (lectures, addresses, speeches and other works of the same nature);
- dramatic and dramatico-musical works;
- choreographic works and entertainments in dumb show, the acting form of which is fixed in writing or otherwise;
- musical works with or without words;
- cinematographic works and works created by a process analogous to cinematography;
- works of painting, sculpture, architecture and graphic art, whatever may be the material utilized, as well as other works of figurative art;
- works of all branches of applied art and industrial designing;
- photographic works and works produced by a process analogous to photography;
- cartographic works (geographical maps, topographical maps, and the like);
- plans, sketches and plastic works relative to geography, topography, architecture or any other scientific or artistic field.

Article 4. — Intellectual works also include collections of intellectual works, such as encyclopaedias, miscellany, anthologies, musical and photographic collections, and the like, which, by reason of selection or arrangement of matter, constitute independent intellectual creations.

Intellectual works also include collections of creations of folk literature and art, of documents, of court decisions or of other similar matters which do not, of themselves, constitute protected intellectual works, if such collections, by reason of selection, arrangement and method of presentation of matter, constitute independent intellectual creations.

The provisions of the first and second paragraphs of this Article shall be without prejudice to the rights of the authors of the individual works making up the said collections.

Article 5. — Translations, adaptations, musical arrangements and other transformations of intellectual works shall be protected as original works.

The same protection shall be granted to translations of official texts of a legislative, administrative or judicial nature, where these translations are not made for the purpose of official publication and are not published as such.

The provision of the first paragraph of this Article shall be without prejudice to the rights of the author of the original work.

Article 6. — The use of creations of folk literature and art for the purpose of a literary, artistic or scientific arrangement shall be free.

Article 7. — The title of a work shall enjoy the same protection pursuant to this Law as the work itself.

It shall be unlawful to give a work a title which has already been used for an intellectual work of the same kind, if such title is likely to cause confusion regarding the authorship of the work.

2. The author

Article 8. — The author is the person who created the work.

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In the absence of proof to the contrary, the person whose own name or pseudonym appears on the work shall be regarded as the author.

Article 9. — The author of a collection of intellectual works is the person who made the collection.

The author of a translation, as well as the author of an intellectual work which has been adapted, musically arranged, or transformed in another way, is the person who translated, adapted or musically arranged such work or who transformed it in another way.

The person who has created a literary, artistic or scientific work by using creations of folk literature or art is the author of the work so created.

Article 10. — Where a work created jointly by two or more persons constitutes an indivisible entity, copyright in such work shall belong indivisibly to all co-authors.

If the mutual relationships between co-authors are not otherwise settled by contract, the share of each co-author shall be fixed in proportion to the actual contribution of each of tbem towards the creation of the work.

Where a work created jointly by two or more persons does not constitute an indivisible entity, each co-author shall be vested with copyright in his contribution.

Article 11. — Copyright in anonymous works as well as in works published under a pseudonym and the author of whicb is unknown sball be exercised by the publisher.

Copyright in unpublished works the author of which is unknown shall be exercised by the respective organization of authors.

The provisions of the first and second paragraphs of this Article shall cease to apply as from the time when the identity of the author is revealed.

Article 12. — In addition to the author, the owner of copyright may also be the person to whom belong, by operation of law, will or contract, any or all legal prerogatives of authors which may be transferred under this Law.

The legal prerogatives granted to the author by this Law shall belong to a copyright owner other than the author of the work within such limits as they are vested in him by law, and/or to the extent that they have been transferred to him by will or contract.

The author may not, to the extent that rights belong to the copyright owner, appear together with the copyright owner in regard to third parties.

The copyright owner shall be responsible for any prejudice caused to third parties by the non-authorized transfer of an author's economic prerogatives.

Unless otherwise provided, the provisions of this Law shall also apply to copyright owners other than the author of the work.

Article 13. — The Federation **) may restrict or withdraw, upon payment of a just compensation, the right of an author of Yugoslav nationality to use his scientific work if such work is of special interest to national defense.

The Federation may, in consideration of compensation, even use without the permission of the author the scientific work referred to in the first paragraph of this Article.

The State Secretariat for National Defense shall issue an order pertaining to the finding of special interest and to the restriction or withdrawal of the right referred to in the first paragraph of this Article, as well as to the use of a scientific work for the needs of national defense.

If the author and the State Secretariat for National Defense do not come to an agreement on the amount of the compensation provided for in the first and second paragraphs of this Article, the amount thereof shall be fixed by the competent communal court in non-adversarial proceedings.

The expenses of court proceedings instituted in order to fix the amount of the compensation provided for in the first and second paragraphs of this Article shall be determined by tbe court proportionately to the degree of success achieved by the parties to the proceedings.

3. Special provisions concerning the intellectual work and the author

The cinematographic work

Article 14. — The author of the scenario and the director, as well as the principal cartoonist in the case of an animated cartoon film, shall be considered the authors of the completed cinematographic work.

If music is the essential element of a cinematographic work, the composer of the music shall also be considered an author of such cinematographic work.

A composer of film music who is not considered an author of the cinematographic work within the meaning of the second paragraph of this Article, the director of photography, the designer of the sets, the costume designer and the make-up artist shall enjoy authors' rights in their contributions and may transfer them to the maker of the cinematographic work by contract only.

Article 15. — The authors of the cinematographic work shall have the exclusive right to film their intellectual creations (right of filming), as well as the rights of reproduction, distribution, performance, broadcasting, translation (dubbing) and transformation in respect of the said cinematographic work.

Article 16. — The relationship between the maker of the cinematographic work and the authors of the cinematographic work, as well as the relationship between authors of the cinematographic work themselves, shall be governed by written contract.

The rights transferred to the maker and the remuneration due to the authors shall be among the matters fixed by contract.

The rights not transferred to the maker by written contract shall be reserved to the authors of the cinematographic work.

The maker of the cinematographic work shall, within the meaning of this Law, be considered the person who or legal entity or group of citizens which produces any cinemato-

**) In the Constitution of the Socialist Federal Republic of Yugoslavia, as in its laws, the term "Federation" signifies the Federal Government. (Editor's note.)

graphic work whatever on the basis of a contract or on his or its own initiative.

Article 17. — Unless otherwise agreed, the author of the scenario and the composer may publish or utilize separately in another way the contributions they have made to the cinematographic work, provided that this is without prejudice to the rights transferred to the maker of the cinematographic work.

Article 18. — The cinematographic work shall be regarded as completed when the first master print of the film has been produced by common accord between the authors and the maker of the cinematographic work.

Article 19. — If the maker does not complete the cinematographic work within three years of the conclusion of the contract pertaining to the making of such work, or if he does not distribute the work so completed within one year of the completion thereof, the authors of the cinematographic work, while reserving their right to remuneration, may request rescission of the contract unless another time limit is agreed upon.

If any author should refuse to complete his contribution to the cinematographic work or if, due to circumstances beyond his control, he is unable to do so, he may not object to the use, for the purpose of completing the cinematographic work, of the contribution he has already made. Such an author shall have the corresponding authors' rights in the contribution already made to the creation of the cinematographic work.

Intellectual work created pursuant to an employment contract or commission

Article 20. — Legal copyright relationships between working or other organizations or State organs and workers of such organizations or organs who have the capacity of authors of a work created pursuant to an employment contract shall be governed by general acts of the organization or organ.

Legal copyright relationships between persons independently exercising lawful activities and workers employed by such persons as authors of a work created under an employment contract shall be governed by the contract concluded between them.

Article 21. — The working or other organization, the State organ or the person independently exercising a lawful activity shall have the exclusive right, within the framework of its or his normal activity, to use an intellectual work created, in fulfilment of an employment obligation (work created under an employment contract), by the worker of such organization or organ, or by the worker employed by a person independently exercising a lawful activity, without requesting the authorization of the worker-author of the said work and without paying a remuneration for the use thereof.

The worker-author of a work created under an employment contract shall retain all other authors' rights in the work.

Such rights may not be restricted either by general acts of the organization or organ or by contract (Article 20).

Article 22. — The right of publication of an intellectual work created under an employment contract shall include the right to publish one bibliographic edition, that is, the right to a single multiplication.

When publishing such a work, the organization, the organ or the person independently exercising a lawful activity shall be required to indicate the author's own name or his pseudonym.

If the organization, the organ or the person independently exercising a lawful activity does not publish a work created under an employment contract before the expiry of the time limit provided for in the general act of the organization or organ or in the contract, the right to publish the work shall revert to the author.

The organization, the organ or the person independently exercising a lawful activity may allow the author to publish a work created under an employment contract before the expiry of the time limit referred to in the third paragraph of this Article.

When publishing his complete works, the author may also publish a work created under an employment contract without the permission of the organization, the organ or the person independently exercising a lawful activity, and without regard to the fact that the said work has already been published.

Five years after the date of completion of an intellectual work created under an employment contract, the right to publish the work shall revert to the author.

The right of publication of an intellectual work created under an employment contract shall revert to the author even before the end of the period prescribed in the sixth paragraph of this Article, if the timeliness of such work is limited to a shorter period.

Article 23. — If a worker bound by an employment contract with a working or other organization or with a State organ, or employed by a person independently exercising a lawful activity, has created an intellectual work which exceeds the framework of the normal activity of that organization or organ or of the person independently exercising a lawful activity, or if he has created a work representing an intellectual creation of exceptional importance and value, he shall retain, as author, all of his prerogatives in respect of the work so created.

In the case referred to in the first paragraph of this Article, the working organization or State organ may exploit such work without special authorization from the author, but shall pay a remuneration for the exploitation of the said work; it may, if the general act of such organization or such organ so provides, deduct the value of the benefits which the author had in making use, when he created the work, of the means and other facilities of such organization or organ.

Article 24. — If a worker bound by an employment contract with a working or other organization or with a State organ, or employed by a person independently exercising a lawful activity, draws up — in the performance of his service — an account of technical matters, a report, an official rec-

ord or any other similar work, he shall not acquire any prerogatives of an author in respect of such work.

Article 25. — Unless otherwise agreed in the contract, all authors' prerogatives in respect of a work created pursuant to a work-by-contract agreement shall be vested in the author who has created the work.

Article 26. — Where one or more persons have organized a work for the purpose of creating an intellectual work in which a number of co-authors participate who are not bound by an employment contract, the owner of copyright in the work as a whole shall, unless otherwise agreed, be the person or persons who have commissioned the work.

Each person who has contribued to the creation of the work referred to in the first paragraph of this Article shall retain his copyright in his own contribution.

The person who has commissioned the work referred to in this Article shall not republish it or use it for any other purpose without the authorization of all co-authors.

CHAPTER III

Content and exploitation of copyright

1. Content

Article 27. — Copyright shall include legal prerogatives of both an economic nature (authors' economic rights) and a personal nature (authors' moral rights).

Article 28. — The economic rights of the author shall consist in the rights of the author to the exploitation of his work.

The exploitation of a work is effected, in particular, through the publication, transformation, reproduction, multiplication, arrangement, performance, transmission and translation thereof.

Unless otherwise provided in this Law, exploitation of the work by another person may take place only with the authorization of the author.

Unless otherwise provided or agreed, the author shall have the right to remuneration for each and every exploitation of his work by another person.

Article 29. — The moral rights of the author shall consist of: the right of the author to be recognized and indicated as the author of the work, the right to object to any distortion, mutilation or other modification of the work, as well as the right to object to any use which would be prejudicial to his honor or reputation.

Article 30. — Any person who publishes, transforms, arranges, performs, translates or records and any other person who exploits the work of an author in public shall be required to indicate the name of the author of the work for each and every exploitation.

2. Exploitation

Article 31. — The author shall have the exclusive right to publish, reproduce, multiply, transform, arrange and perform his work and to exploit it in any form.

Article 32. — Authors of dramatic, dramatico-musical and musical works shall have the exclusive right to authorize:

1. the public performance of such works;
2. the communication to the puhlic of the performance of such works by any means.

The rights referred to in the first paragraph of this Article shall also be granted to the authors of dramatic and dramatico-musical works with respect to translations of such works.

Article 33. — The author shall have the exclusive right to authorize:

1. the broadcasting of his work or the communication thereof to the public by any other means of wireless diffusion of signs, sounds or images;
2. any communication to the public, whether by wire or not, of the broadcast of his work, where this communication is made by an organization other than the one which originally broadcast it;
3. the communication to the public by loudspeaker or any other similar instrument transmitting, by signs, sounds or images, the broadcast of his work.

Article 34. — Authors of literary, scientific and musical works shall have the exclusive right to authorize:

1. the recording of such works by instruments for mechanical reproduction;
2. the public performance of such works recorded by instruments for mechanical reproduction.

Article 35. — Authorization granted in respect of public performance, public transmission of a performance, broadcasting to the public or any other communication to the public shall not imply permission to record the work by means of instruments recording sounds or images.

Unless otherwise agreed, the broadcasting organization may, by means of its own facilities and solely for its own needs, record the protected work which it has received authorization to broadcast, and it may rebroadcast such recordings upon payment of a remuneration and without seeking further authorization from the author.

Such recordings may be placed in public archives as documentation material.

Article 36. — Broadcasting organizations may also broadcast, without the authorization of the authors, works recorded by instruments for mechanical reproduction, such as phonograms, tape, video-tape and similar recordings, but such organizations shall be required to respect all other rights of authors.

Article 37. — The author of a literary work shall have the exclusive right to authorize the public recitation and reading of his work.

Article 38. — The author shall have the exclusive right to authorize adaptations, arrangements or other transformations of his work.

Article 39. — Authors of literary, musical, scientific or artistic works shall have the exclusive right to authorize:

1. the cinematographic adaptation or reproduction or these works and the distribution of the works thus adapted or reproduced;
2. the public performance of the works thus adapted or reproduced.

Without prejudice to the rights of the author of the work adapted or reproduced, a cinematographic work created by the adaptation or reproduction of literary, musical, scientific or artistic works shall be protected as an original work.

The adaptation, into any other artistic form, of cinematographic productions derived from literary, musical, scientific or artistic works shall not be effected without the authorization of the author of the original work or without the authorization of the authors of such cinematographic productions, unless this right has been granted to the maker by means of a contract.

The provisions of this Article shall also apply to reproduction or production effected by any other process analogous to cinematography.

Article 40. — The author may at any time, upon compensating the user or owner thereof, withdraw his work from circulation or buy all copies of his published work, as well as forbid the latter from being further exploited in any form whatever, if the use of the said work might prejudice the scientific or artistic reputation of the author.

Should the work again be put into circulation, the former user or owner of the work shall have priority as regards the right to use the work, that is, a right of preemption within thirty days from the date on which he was informed about it, but not later than one year counting from the date on which the work was put back into circulation.

The prerogatives provided for in the first paragraph of this Article shall not be vested in other copyright owners.

Article 41. — The owner of a work of figurative art, as well as the owner of a literary, scientific or musical manuscript, shall be required to inform the author, at his request, of any transfer of property right or right of use in respect of such work, as well as of the identity of any new owner or user.

Article 42. — Authors of works of figurative art, photographic works and similar works may forbid the exhibition of certain of their works if they have a moral interest therein.

The author may not forbid the exhibition of works belonging to museums, galleries and similar institutions.

Article 43. — The author shall have the exclusive right to authorize the translation of his work.

Article 44. — Where the author of a work published in a foreign language and protected under the provisions of the Berne Convention for the Protection of Literary and Artistic Works does not translate this work into one of the languages of the Yugoslav peoples or nationalities within a period of ten years from the publication of the work, or does not authorize others to translate it within the same period of time, the work may be translated into the languages of the Yugoslav peoples or nationalities without the authorization of the author.

The author of a work translated pursuant to the provision of the first paragraph of this Article shall retain the right to remuneration as well as all other authors' rights in the translated work.

Article 45. — A work published in a foreign language and protected under the provisions of the Universal Copyright Convention, but not under those of the Berne Convention for the Protection of Literary and Artistic Works, may be translated, without the authorization of the author, into the languages of the Yugoslav peoples or nationalities in the conditions prescribed in Articles 46 and 48 of this Law.

Article 46. — The work referred to in Article 45 of this Law may be translated, without the authorization of the author, into one of the languages of the Yugoslav peoples or nationalities:

1. if, after the expiration of a period of seven years from the date of the first publication of the work, such work has not been translated, that is, the translation thereof has not been published in such language or the editions already published are out of print, and
2. if the interested Yugoslav national obtains, from the competent organ of the Republic in charge of cultural affairs, a license to translate the said work and publish it in one of the languages of the Yugoslav peoples or nationalities.

Article 47. — The competent organ of the Republic in charge of cultural affairs shall only grant the license referred to in Article 46 of this Law if the applicant establishes that he has requested authorization from the author to translate the work and publish the translation but has been unable to find him or to obtain his authorization.

If the applicant for a license has been unable to find the author of the work, he shall send copies of his application to the publisher whose name appears on the work and, if the nationality of the author is known, to the diplomatic or consular representative of the State of which the author of the work is a national or to the organization which may have been designated by the Government of that State.

The competent organ of the Republic in charge of cultural affairs shall not grant the requested translation license before the expiration of a period of two months from the date of the dispatch of the copies of the application to the publisher and to the organization referred to in the second paragraph of this Article.

Article 48. — A translation license may be granted to more than one person.

The license granted may not be transferred to a third party.

The applicant for the license shall be required to pay remuneration to the author for the use of his work and to respect all other rights of the author of the translated work.

The competent organ of the Republic in charge of cultural affairs shall not grant the license if the author has withdrawn from circulation or bought all copies of the work in respect of which the translation license was requested.

Article 49. — The following shall be permissible in the territory of Yugoslavia without the authorization of the author:

1. the publication and reproduction of excerpts from a literary, scientific or artistic work for teaching purposes;
2. the reprinting in periodical publications of articles dealing with current matters of general public interest, provided that the reproduction of such articles has not been expressly forbidden by the author;
3. the reproduction in newspapers and periodical publications of single photographs of current events, illustrations, technical sketches, and the like, published in other newspapers and periodical publications;
4. the reproduction of artistic works exhibited in streets and squares, unless the reproduction of a work of sculpture has been obtained by means of a mould;
5. the reproduction, by means of photography, of works of sculpture and painting and works of architecture in newspapers and reviews, unless the author has expressly forbidden it.

The provisions of the first paragraph of this Article shall, by analogy, apply also to publication and reproduction in the daily and periodical press, in films, in newsreels and by means of broadcasting.

In all of the cases referred to in the first paragraph of this Article, the author's name, the original work and the origin of the borrowing must be clearly indicated.

Moreover, in the above-mentioned cases, the author shall have the right to remuneration and shall enjoy all other rights vested in him by this Law.

Article 50. — The following shall be permissible in the territory of Yugoslavia without the authorization of the author and without payment of remuneration for exploitation:

1. the performance of a literary or artistic work for the purposes of or in the form of teaching, provided that such performance involves no entrance fee or other form of payment or is given on the occasion of school celebrations where attendance is free of charge;
2. the publication of reviews of published literary, artistic or scientific works, wherein the content of such works is reproduced in an original and abridged manner;
3. the public exhibition of artistic works except those the exhibition of which is forbidden by the author, provided that he has not renounced this right by contract;
4. the reproduction of works already published, effected for purposes of improving one's personal knowledge, provided that such reproduction is neither intended for nor accessible to the public;
5. the reproduction of works of painting by means of sculpture and *vice versa*, as well as the reproduction of works of architecture by means of painting or sculpture;
6. the mere quotation of excerpts from published literary, artistic or scientific works, provided that the sum of the quotations does not exceed one quarter of the work in which the quotation is made.

In the cases provided for in this Article, the author shall likewise retain all other rights vested in him by this Law.

Article 51. — Speeches intended for the public and made before representative bodies, before courts and other State organs, in scientific, artistic and other organizations, as well as at public political meetings and official celebrations, may, without the authorization of the author and without payment of remuneration for their use, be made public by the press and broadcasting for purposes of reporting current events.

Other speeches, lectures, addresses and other works of the same nature may, without the authorization of the author and without payment of remuneration, only be reported briefly in the daily and periodical press and by broadcasting.

A collection of the works mentioned in this Article may not be compiled without the authorization of the author.

In the cases provided for in this Article, the author shall likewise retain all other rights vested in him by this Law.

Article 52. — Remuneration must be paid for the exploitation of creations of folk literature and art by means of performance.

The remuneration provided for in the first paragraph of this Article shall be the receipts of the Republic in whose territory the creations of folk literature and art have been performed.

The manner of fixing the remuneration and the use thereof shall be governed by the legal regulations of the Republics.

The exploitation of creations of folk literature and art in any other form shall be free.

Persons who exploit creations of folk literature and art must indicate the origin of the work and abstain from any mutilation or any unworthy use thereof.

The relevant organizations of authors and the academy of arts and sciences shall be entrusted with the safeguarding of the rights referred to in the fifth paragraph of this Article.

CHAPTER IV

Transfer of authors' rights

1. Transfer by contract

Scope of the transfer

Article 53. — The right of the author to the exploitation of his work may be transferred wholly or in part, in consideration of payment or gratuitously, to individual persons or to legal entities for the entire term of copyright or for a specific period of time.

The person to whom the right of exploitation of a work has been transferred may not, unless otherwise agreed, transfer this right to a third party without the consent of the owner of the right.

Article 54. — When using the work, the person to whom the right of exploitation of an intellectual work has been transferred shall not be authorized to make any modifications whatever, unless otherwise agreed.

Article 55. — The author has the exclusive right to transfer the right of exploitation of his work to another person, thereby allowing the user to modify the work or to transform it in certain respects and within certain limits.

Provisions common to all authors' contracts

Article 56. — The author may transfer the right of exploitation of his work to another person through authors' contracts, such as a publishing contract, a performance contract, a contract for a cinematographic work, a contract for radio and television broadcasting, a contract for the recording of his work by means of instruments recording sounds and images, a contract for the transformation (adaptation) of his work, a contract for the transfer of the right of translation of his work, and the like.

Article 57. — Authors' contracts shall be concluded in writing.

An author's contract not concluded in writing shall have no legal effect, unless otherwise provided in this Law (Article 69).

Article 58. — An author's contract shall contain in particular: the names of the contracting parties, the title of the intellectual work concerned in the contract, the type of use of the intellectual work, the amount, terms and time limits for payment of remuneration, where the work is used in consideration of remuneration.

The amount of remuneration payable for the use of an intellectual work shall be fixed by an agreement between the copyright owner and the user of the work or by an agreement between their organizations.

The remuneration for use of the intellectual work must, in so far as this is possible, be fixed by taking into account the quality of the work, the sales possibilities thereof, the economic benefits which the other contracting party derives from using the work, as well as other conditions permitting an evaluation of the results achieved by the intellectual work as regards meeting social needs.

Concerning the public performance and the communication to the public of non-scenic musical and literary works, with the exception of the transmitting and broadcasting thereof by broadcasting organizations, the amount of remuneration for each particular type of performance or communication shall be fixed by the organizations of the authors of such works through their general acts.

Article 59. — An author's contract may likewise concern a work not yet created.

Any contract in which an author transfers the right of exploitation in respect of all of his future works shall be null and void.

Article 60. — The author shall be required, during the period of validity of the contract, to abstain from acts which might disturb the user in the exercise of the transferred copyright.

Article 61. — The general rules governing contracts shall apply to copyright contracts, unless otherwise provided in this Law.

Publishing contract

Article 62. — By a publishing contract, the author transfers to the publisher the right of publication of an intellectual work by means of printing or multiplication.

The publisher shall be required to publish the work, to have the author's name appear visibly on each copy, to ensure effective distribution of copies of the intellectual work, and to supply the author periodically, at his request, with information concerning the distribution of the copies.

By a publishing contract, the author may likewise transfer to the publisher the right of translation of his work for the purpose of the publication thereof in other languages, both in Yugoslavia and abroad.

Article 63. — The publishing contract shall specify in particular the scope and duration of the use of the right transferred to the publisher by the author, as well as the number of copies to be printed.

Where the remuneration fixed in the contract consists in a percentage of the retail price of the sold copies of the work, the contract shall likewise specify the minimum amount of remuneration payable by the publisher regardless of the number of copies sold, as well as the time limit for paying this amount.

Article 64. — During the period of validity of the publishing contract, the author may not, unless otherwise agreed in the contract, assign to a third party the right of publication or of multiplication of the work in the same language.

The right of publication of newspaper articles may, unless otherwise agreed, be assigned by the author simultaneously to two or more users.

Article 65. — Unless otherwise agreed, it shall be considered that the author has only transferred to the publisher, by the publishing contract, the right of publication for a single bibliographic edition, that is, the right to a single multiplication.

Article 66. — The manuscript or any other original of the work concerned in the publishing contract shall, unless otherwise agreed, remain the property of the author.

Article 67. — Unless otherwise agreed, the publisher shall be required, if new editions of the work are printed, to allow the author to make improvements to and modifications in his work, provided that these do not involve undue expense for the publisher and do not alter the character of the work.

Article 68. — The following shall cause the publishing contract to terminate: the death of the author before the completion of the work, the destruction of the manuscript or any other form of the work, the fact that all editions provided for in the contract are out of print, the expiry of the contract.

Unless otherwise agreed, the author may request rescission of the publishing contract if, when one edition is out of print, the publisher does not, within one year from the date on which the author requests him to do so, commence the printing of a further edition provided for in the contract.

If, within the time limits provided for in the contract, the author does not deliver the work to the publisher or the publisher does not publish the work, the other contracting party may demand rescission of the contract and claim damages for breach of contract; in addition, the author shall have

the right to keep the remuneration received, and/or to request payment of the remuneration provided for in the contract.

Article 69. — A contract for the publication of articles, drawings and notes in newspapers, reviews and other periodicals need not be concluded in writing.

Performance contract

Article 70. — By a performance contract, the author of a work assigns to the user the right of public performance of the work, and the user undertakes to perform the said work within the period of time, in the manner and in the conditions set forth in the contract.

Article 71. — The author may simultaneously assign the right of performance of the same work to two or more users, unless he has renounced this right by contract.

Article 72. — In addition to the elements mentioned in Article 58 of this Law, the performance contract shall specify in particular the type of performance and the territory in which the work may be used.

Article 73. — If, within the time limits provided for in the contract, the author does not deliver the work (manuscript, score, and the like) to the user or the user does not perform the work, the other contracting party may demand rescission of the contract and claim damages for breach of contract.

Where the rescission of the contract is due to a fault on the part of the user, the author shall also have the right to keep the remuneration received and/or to request payment of the remuneration provided for in the contract.

The work delivered (manuscript, score, and the like) which is concerned in the contract shall, unless otherwise agreed, remain the property of the author.

Article 74. — The user of the performance contract shall be required to allow the author to oversee the performance of the work, to ensure that it is performed in technical conditions guaranteeing that the moral rights of the author will be respected, as well as to supply the author or his representative with the program and to inform him periodically of the receipts derived from the performance of the work.

Relationships between the author and broadcasting organizations in the capacity of users of his work within the meaning of the first paragraph of this Article shall be governed by contract.

Contract for a cinematographic work

Article 75. — Contracts for a cinematographic work include both the contracts concluded by the authors of the cinematographic work (contracts concerning the scenario, the direction of the film, and the film music, as well as a contract concluded with the principal cartoonist) and the contracts concerning individual contributions to the cinematographic work made by other authors.

The authors of the cinematographic work transfer to the maker, by contract, the right to film, reproduce, distribute and publicly perform the cinematographic work.

The maker shall be required to distribute the cinematographic work and to provide the authors thereof, at their request, with information concerning such distribution.

The remuneration provided for in the contract for filming the cinematographic work shall not include the remuneration for reproduction and public performance of the cinematographic work.

Article 76. — During the period of validity of the contract for the cinematographic work, the authors of that work may not, unless otherwise agreed in the contract, assign to third parties the right of filming, reproduction, distribution or public performance.

Where the maker to whom the authors have transferred the right to film their work does not do so within a period of three years from the conclusion of the contract, the authors may demand rescission of the contract and claim damages for breach of contract, as well as keep the remuneration received and/or request payment of the remuneration provided for in the contract.

2. *Transfer by inheritance*

Article 77. — The provisions of the Law on inheritance shall likewise apply to the inheritance of authors' rights, unless otherwise provided in this Law.

Article 78. — Where, in accordance with the provisions on inheritance, the copyright becomes the property of society, the owner of the copyright shall be the Republic of which the author was a national at the time of his death.

Article 79. — After the death of the author, his moral rights, unless he decided otherwise, may also be exercised by the organization of authors to which the deceased author belonged or would have belonged according to the nature of his works.

After the expiry of the author's economic rights, his moral rights shall be safeguarded by the organizations of authors and the academy of arts and sciences.

CHAPTER V

Term of copyright

Article 80. — The term of the author's economic rights shall be the life of the author and fifty years after his death, unless otherwise provided in this Law for special categories of authors' economic rights.

Where the owner of the author's economic rights is a legal entity within the meaning of Article 20 of this Law, the copyright shall expire fifty years after publication of the work.

Article 81. — Authors' economic rights in a cinematographic work shall expire fifty years after the death of the last surviving author.

Authors' economic rights in a cinematographic work having the character of a photographic work shall expire twenty-five years after completion of the work.

Article 82. — Authors' economic rights in photographic works, in works produced by an analogous process and in

works of applied art shall expire twenty-five years after publication of the work.

Article 83. — Authors' economic rights in anonymous works and works published under a pseudonym shall expire fifty years or, in the case of the works referred to in Article 82 of this Law, twenty-five years after publication of such works.

Where the pseudonym leaves no doubt as to the identity of the author, or if the author reveals his identity, the term of his economic rights shall be the same as if the work had been published under the author's own name.

Article 84. — The term of authors' economic rights belonging in common to co-authors of an intellectual work shall be calculated from the death of the last surviving co-author.

Article 85. — Authors' moral rights shall subsist after the expiry of their economic rights.

Article 86. — The terms indicated in the articles of this Chapter shall begin on the first of January of the year immediately following the death of the author or, where applicable, the publication of the work.

CHAPTER VI

Use of intellectual works after the expiry of economic rights

Article 87. — The Republics may provide that, after the termination of authors' economic rights, an intellectual work may be used in consideration of payment of a special contribution.

The amount of the contribution provided for in the first paragraph of this Article, as well as the method of collection and of use thereof, shall be governed by the legal regulations of the Republics.

CHAPTER VII

Administration of copyright

Article 88. — The author may administer his author's rights himself or through a representative.

Article 89. — Organizations of authors (unions, associations and similar groupings) may, in the territory of Yugoslavia, likewise administer authors' rights by virtue of a mandate received from the authors. This also applies to all bodies and organizations registered for the purpose of protecting authors' rights, whether such protection is their main activity or a secondary activity.

Organizations of authors as well as organizations and bodies registered for the purpose of protecting authors' rights may likewise administer abroad authors' rights of Yugoslav nationals.

Organizations of authors may administer the authors' rights resulting from the public peformance of non-scenic literary and musical works (small rights) even without a mandate from the authors.

Article 90. — Organizations of authors may likewise administer authors' rights through a special body set up by them for that purpose.

Relationships between the bodies provided for in the first paragraph of this Article and the organization of authors shall be governed by a contract which shall specify, in particular, the scope and the terms and conditions of the representation or, where applicable, the intermediary mandate, as well as the amount of the remuneration payable for the services rendered by the body.

The statutes of the body provided for in the first paragraph of this Article shall, before they are finally adopted, be submitted to the organizations of authors having set them up, for their opinion.

Article 91. — To act as representatives in court and other proceedings, the organization of authors or the body provided for in Article 90 of this Law must possess a special mandate from the author whose copyright is concerned in the litigation.

Article 92. — To act as representatives in court and other proceedings with a view to administering authors' rights resulting from the public performance of non-scenic literary and musical works (small rights), the organization of authors or the body provided for in Article 90 of this Law shall not require a special mandate from the author.

The organization of authors or the body provided for in Article 90 of this Law may initiate and conduct in its own name the court actions referred to in the first paragraph of this Article; however, it shall be required to report to the author the rights thus administered.

Article 93. — The impresarios of cultural and artistic entertainments and other users of intellectual works shall be required to supply the organizations of authors or the body provided for in Article 90 of this Law with the programs of the works performed and to pay them royalties for the exploitation of such works in accordance with the regulations in force.

At the request of the author, the organization of authors or the body provided for in Article 90 of this Law, the competent organ of communal administration shall prohibit the entertainment or the use of the intellectual work, depending on the case, if the entertainment impresario or the user of the work does not have a performance authorization from the author, the organization of authors or the body provided for in Article 90 of this Law.

CHAPTER VIII

Special rights in diaries, private letters and portraits

Article 94. — Diaries, notes and other similar writings of a personal character may only be published with the consent of the writer thereof, unless otherwise provided by law.

A private letter not intended for the public may only be published with the consent of the writer thereof and, where such publication is likely to damage the interests of the person to whom this letter is addressed, the consent of that per-

son shall likewise be necessary, unless otherwise provided by law.

After the death of the persons referred to in the first and second paragraphs of this Article, writings of a personal character may only he published with the consent of the spouse and of the children or, if there is no spouse or children, with the consent of the parents, unless otherwise provided in the will.

The provisions of the first, second and third paragraphs of this Article shall not apply to writings of a personal character which are kept in archives, museums, libraries, and similar institutions.

Article 95. — Portraits and photographs of a person may be disseminated, publicly exhibited or displayed only with the consent of that person.

Within the twenty-five years following the death of such person, dissemination or public exhibition or display shall require the consent of the spouse and the children or, if there is no spouse or children, the consent of the parents, unless otherwise provided in the will.

It shall be considered that consent has been given if remuneration has been received for posing.

Article 96. — It shall be permissible, without the consent of the persons referred to in Article 95 of this Law, to disseminate or publicly exhibit or display:

1. photographs of landscapes or of events which also include individual persons;
2. photographs of meetings, parades and similar events;
3. photographs of personalities in contemporary life which are of interest to the public;
4. photographs of persons, where this is in the interests of justice.

CHAPTER IX

Protection of copyright

1. Civil protection

Article 97. — Any person whose author's rights, whether economic or moral, have been infringed may demand the protection of such rights and claim damages for the harm suffered by such infringement.

Article 98. — At the request of the person whose copyright has been infringed, the court may order in its decision:

1. that the decision be published at the expense of the defendant;
2. that the infringer be forbidden to continue his infringement of copyright;
3. that objects by means of which the infringement of copyright was committed be destroyed or modified.

Article 99. — At the request of any person who furnishes evidence that his copyright has probably been infringed, the court may, even before taking a decision on the merits of the case, order the provisional seizure and withdrawal from circulation of objects capable of infringing copyright, or order the cessation of any works commenced by which infringement of copyright could be caused.

Article 100. — Where a person who publicly exploits an intellectual work does not indicate the author's name in connection with such exploitation, the author may claim appropriate damages from such person for the economic prejudice thereby caused, the subsequent publication of the author's name in a suitable form, as well as an interdiction for that person to repeat such infringements.

Article 101. — A copyright cannot be the object of a writ of execution.

A writ of execution may be exercised on the economic benefit derived from an intellectual work.

Unfinished works and unpublished manuscripts cannot be the object of a writ of execution.

2. Penal protection

Article 102. — Any person who, under his own name or that of another person, has published, performed or transmitted the work of another, or who has permitted such acts, shall be punished by imprisonment.

Any person who has unlawfully inserted excerpts from the work of another into his own intellectual work shall be punished by a fine or by imprisonment of up to one year.

Any person who has distorted, mutilated or otherwise modified the work of another shall be punished by a fine or by imprisonment of up to six months.

Article 103. — Any person who, in cases where the authorization of the author or of another owner of copyright is required according to the provisions of this Law, has published, transformed, arranged, reproduced, performed, transmitted, translated or otherwise used a work protected under this Law without such authorization shall be punished by a fine.

Any person who, for purposes of material gain, has knowingly disseminated copies of an intellectual work which have been reproduced or multiplied without authorization, or who has publicly displayed such copies or transmitted them by broadcasting or otherwise, shall be punished by a fine.

Article 104. — Any person who, without the consent of the owner of the right, in cases where such consent is required, has published a diary, a private letter or any other similar writing of a personal character, shall be punished by a fine.

Article 105. — Proceedings in respect of the offenses referred to in Articles 102, 103 and 104 of this Law shall be instituted at the request of the interested party.

Article 106. — In the event that the acts referred to in Articles 102, 103 and 104 of this Law have been committed by a working organization or other legal entity, the latter shall be punished by a fine of up to 50,000 dinars for an economic offense.

For the offense referred to in the preceding paragraph, the person responsible within a working organization or other legal entity shall also be punished by a fine of up to 2,000 dinars.

Article 107. — If, as a user of intellectual works, the working organization or other legal entity does not, imme-

diately or within a maximum of fifteen days from the date of the performance, supply the organization of authors or the body competent for the protection of authors' rights with the program of the works performed, giving all necessary details, or if that entity includes in such program inaccurate information regarding the work performed, it shall be punished by a fine of up to 1,000 dinars for a minor offense.

For the acts referred to in the first paragraph of this Article, the person responsible within a working organization or other legal entity shall also be punished by a fine of up to 300 dinars for a minor offense.

Article 108. — For the minor offense referred to in Article 107, first paragraph, of this Law, individuals shall be punished by a fine of up to 500 dinars.

CHAPTER X

Transitional and final provisions

Article 109. — The provisions of this Law shall likewise apply to all intellectual works published before its entry into force.

Contracts concluded before the entry into force of this Law shall remain valid.

Article 110. — Pending penal proceedings concerning the offenses referred to in Article 65 of the Copyright Law heretofore in force shall be brought to a conclusion before the departmental court before which they were instituted.

Article 111. — As from the entry into force of this Law, the following shall be repealed: the Copyright Law (Official Gazette of the FPRY No. 36/57 and Official Gazette of the SFRY No. 11/65), the Decree concerning authors' fees payable for the publication of literary, scientific, technical and musical works (Official Gazette of the FPRY No. 13/61), the General Directives concerning authors' fees payable for the performance of literary and artistic works (Official Gazette of the FPRY No. 23/52), and the Decision concerning the collection and distribution of remuneration for the exploitation of creations of folk literature and art by means of performance (Official Gazette of the FPRY No. 28/60).

Article 112. — This Law shall enter into force ninety days after the date of the publication thereof in the Official Gazette of the SFRY.

CORRESPONDENCE

Letter from Yugoslavia

The New Yugoslav Copyright Law

The new Yugoslav Copyright Law has now replaced the former Law of the same name enacted in 1957 [1]). In order to form a correct idea of the scope of this new Law and to have a better understanding of the alterations it has made in the Yugoslav system for the protection of literary and artistic works, it is necessary to make a general comparison of the two laws and, at the same time. to bring out the essential differences between them and the principal reasons which prompted the Yugoslav legislature to make these alterations.

* * *

Before we delve into the subject matter itself, however, some information and comment of a historical nature are useful so as to give a clearer picture of the general climate in which the reform was worked out.

First of all, it should be observed that the former Law of 1957 had already complied with all of the compulsory and most of the optional provisions of the Brussels text of the Berne Convention, since Yugoslavia had ratified that Convention on June 23, 1951. We would further add that the Law of 1957 was drafted in full harmony with the principles of the Charter of the authors' right, proclaimed by CISAC in 1956.

It should be noted, too, that during more than a decade of application the Law of 1957 revealed no major defects calling for a revision of its substantive provisions or solutions.

However, since 1957, a series of new factors and changes, appearing on both the national and international scene, had affected the very essence of copyright, demanding a reaction on the part of the Yugoslav legislature. For example, during this ten-year period, the artistic activities and general cultural life of the country grew in intensity and variation, and — parallel to this development — legal relationships affecting authors expanded and became increasingly more intricate, exceeding the scope of the previous legal provisions. Secondly, in the area of copyright theory, and in much of the foreign legislation as well, certain new concepts were developed that indicated progress and stimulated the Yugoslav legislature to modernize the national legal system. Thirdly, Yugoslavia ratified the Universal Copyright Convention during that period [2]) and was therefore obliged to incorporate into its internal legal system certain specific provisions contained in that Convention. Then, the courts, in applying the Law of 1957, had shown some doubt — and even a tendency to go slightly astray in a few matters of secondary importance — making it necessary to formulate the provisions concerning the relevant areas with greater precision. Experience, too, showed that a certain number of the provisions in the Law then in force required partial reform, improvement from the standpoint of drafting, or systematization in some other way.

Finally, specific factors which had a great deal of influence on the preparation of the new Yugoslav Law were the work done in preparation for the Diplomatic Conference of Stockholm and the discussions preceding that Conference, to say nothing of the Stockholm Act itself in view of the fact that Yugoslavia was an active participant at the Conference and a signatory of the adopted texts.

In concluding these comments of a historical nature, it should be mentioned that the preparatory work which preceded the enactment of the new Law lasted four years, as the first meeting of the Revision Committee was held on March 6, 1964.

* * *

All of these factors played a decisive role in prompting the Yugoslav legislature to take up the task of making a general revision of the Law then in force.

As can easily be seen from the text of the new Law, this revision covered in particular, in the order in which they appear, the following six principal areas: the cinematographic work, the intellectual work created pursuant to an employment contract (or commission), the right of translation, authors' contracts, the *domaine public payant*, and the system of copyright administration.

And, in addition to the main reform, the new Law also includes a series of special innovations, editorial changes and minor adjustments, the most significant of which will be given special attention below.

* * *

The cinematographic work, a relatively new legal category of works that is still in the developing stage and fraught with controversy and conflict of interests, is faced today with two overriding issues of major importance: firstly, who should be recognized as the author of a cinematographic work; and, secondly, how should the legal relationships between the intellectual creators of the film and the maker of the film be regulated.

The Law of 1957 had resolved these two complex problems in a summary and rigid manner which constituted a compromise. Article 12 of that Law, the only one dealing with the matter, provided that the author of the scenario, the com-

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1) A French translation of the Law of 1957 was published, *inter alia*, in *Le Droit d'Auteur* (October-November 1958) and in the review *Interauteurs* (4th quarter, 1957, No. 129).

2) The ratification of the Universal Copyright Convention took place on October 21, 1964, the instruments of ratification were deposited with the Director-General of Unesco on February 11, 1966, and the Convention entered into force for Yugoslavia on May 11, 1966.

poser, the screen director and the director of photography were to be considered the authors and that the relationships between the maker and the authors would, in principle, be regulated by contract but that, in regard to third parties, the exercise of copyright in the cinematographic work as a whole was to be reserved to the maker alone.

The new Law develops and modernizes this rudimentary system. It introduces nuances and sanctions certain new solutions thus being more in line with the modern trends of theory and international conventions in the matter. This can be seen in the mere fact that the new Law replaces a single article on the cinematographic work by an entire section comprised of six articles (Articles 14 to 19 of the Law).

The new Law thus recognizes only the author of the scenario and the screen director, and — in the case of animated cartoon films — the principal cartoonist, as being authors of the cinematographic work. The director of photography is no longer considered an author in view of the fact that his contribution to the creation of the cinematographic work is more of a technical than an intellectual nature. This solution does not, however, deprive him of his capacity as author of the photography, considered as a specific element of the film. As regards the composer, he is recognized as an author of the film only in the event that music constitutes the essential element of the cinematographic work.

As to the legal relationships between the maker of the cinematographic work and the authors as intellectual creators of the work, these are governed exclusively by written contract, this system being completed by a rule of interpretation whereby rights not transferred to the maker in the contract are supposed to remain reserved to the authors of the cinematographic work. Thus, the legal assignment provided for in Article 12, third paragraph, of the former Law, established earlier in favor of the maker of the film, has been completely abolished.

In addition to these major changes, the new Law also includes a number of minor innovations, among which should be mentioned the following: the right of filming and dubbing (Article 15); the definition of the maker of the film (Article 16, fourth paragraph); separate uses by the authors of their contributions to the cinematographic work (Article 17); a definition of what is meant by a complete cinematographic work (Article 18); situations in which the maker or author refuse to complete the cinematographic work.

Lastly, we would point out that the new film régime, as set forth above, is further supplemented by the new Law's provisions on contracts for cinematographics works (Articles 75 to 76), as well as by Article 39 concerning the cinematographic work that has been derived from another work and Article 81 regulating the term of the economic rights in the film.

* * *

It is also only relatively recently that the intellectual work created as a result of an employment contract or a commission — a category of special interest to countries having a socialist economy — has become a subject of codification in copyright law. In Yugoslav positive law, this institution was codified for the first time in the Law of 1957 which devoted a separate section to it, comprising Articles 16 to 23.

Since the system inaugurated by the Law of 1957 turned out to be satisfactory in practice and fair in substance, there was no need to introduce any important changes. The revision of that system was therefore concerned in most cases with secondary matters.

The new Law regulates this type of intellectual work in seven articles grouped together in a separate subsection (Articles 20 to 26). The mutual rights and duties of the author-worker and the working organization (economic enterprises, institutes and other social organizations) or State organ are in substance regulated by a legal system set forth in Articles 20 to 24 of the Law. These provisions guarantee to the author-worker the essential prerogatives granted to authors in general but also lay down certain restrictions on the traditional prerogatives of authors, which are justified by the specificity of the relationship between the author-worker and his employer. Nevertheless, it is important to stress that the author-worker always retains his essential capacity of author, that is, he is the one who, in any eventuality, remains the sole author of the work.

On the other hand, where the employer is an individual (" a person independently exercising a lawful activity "), the legal relationship between the employer and his employee-author are freely regulated by the contract concluded between them (Article 20, second paragraph). If the intellectual work is created pursuant to a work-by-contract agreement, however, all rights in that work, unless otherwise agreed, belong to the person who created the work (Article 25).

Concerning more particularly the legal system set forth in Articles 20 to 24, it should be emphasized that the new Law considerably improves the legal situation of the author-worker, as compared with his situation under the previous system. The forms of this improvement are as follows: authors' rights belonging to the author-worker, that is, all such rights except for the exclusive right of the employer to use the work without paying a remuneration, can no longer be restricted either by the general acts of the employer or by contract (Article 21, third paragraph); under the fifth paragraph of Article 22, the author-worker also acquires the right, when publishing his complete works, to publish the work without asking the employer for permission; the former term of ten years after which the right to publish the work reverts to the author-worker has been reduced to five years, a solution which has furthermore become a provision of public policy; lastly, in the case described in Article 23, first paragraph (which corresponds to Article 18, first paragraph, of the Law of 1957), the employer is required, in principle, to pay a remuneration to the author-worker for the use of his work.

In brief, it can be said that the innovations affecting the intellectual work born of a labor relationship demonstrate that obvious progress has been made in the development of this infant institution of copyright, an institution that is continuing on the bases laid down by the Law of 1957, while showing a tendency to improve the legal situation of the author-worker.

* * *

The Law of 1957 devoted only two articles to the right of translation: Article 29 regulated the right of translation in general, as instituted by the Berne Convention, while Article 52 codified the reservation, in respect of this right, that is provided for in Article 5 of the Convention as revised in Paris in 1896 and that Yugoslavia had made at the time it became party to the Convention.

However, as a result of Yugoslavia's ratification of the Universal Copyright Convention, a new factor, which was to complicate legislation considerably, had to be taken into account in the regulation of the right of translation in Yugoslavia. This factor was Article V of the Universal Copyright Convention which provides a legal license, optional it is true, in favor of the translator and signifying an important restriction on the original author's exclusive right to make or authorize the translation of his work.

Hence, the new Law codifies three different right-of-translation systems: a general system granting the author the exclusive right to make or authorize the translation of his work; a special system, in accordance with the reservation in the Paris text of the Berne Convention, allowing a translation to be made without the authorization of the author in the event that his work has not been translated within the period of ten years from the time of the first publication (a system applicable exclusively with regard to countries members of the Berne Union); and finally the system of the legal license, based on Article V of the Universal Copyright Convention, according to which a work that has not been translated within the period of seven years from the time of the first publication of the work may be translated — provided that certain conditions and guarantees are respected — without the authorization of the author (a system applicable only to works the authors of which are nationals of one of the countries party to the Universal Copyright Convention but not also party to the Berne Convention).

This is why the new Law had to devote six full articles to translation, all appearing together (Articles 43 to 48). The general provision governing translation thus appears in new Article 43, corresponding basically to former Article 29, while new Article 44 codifies the Paris reservation, in a slightly amended form as compared with the text of former Article 52. Finally, the principle established in the Universal Copyright Convention is laid down in new Articles 45 to 48, which introduce into Yugoslav positive law the legal translation license including all material and procedural guarantees that are required for a correct application of Article V of the Universal Copyright Convention.

* * *

It is in the area of authors' contracts that the Law of 1968 has brought in the most numerous new provisions. The former Law of 1957 included, in fact, only one article on the transfer of authors' economic rights by contract (Article 44), whereas the new Law devotes an entire section composed of 24 articles (Articles 53 to 76) to transfer by contract.

It is true that the void left by the former Law was partially filled by subsidiary regulations (rules, directives). Nevertheless, the incomplete and ephemeral nature of this regulation — to say nothing of the growth of the artistic and cultural life of the country — induced the legislature, when revising the system, to deal also with the matter of authors' contracts. Before they could take up this task, however, the drafters of the new Law had to take a position on two preliminary questions of principle.

The first one was whether the principles of the Anglo-Saxon countries should be followed, that is, the policy of leaving relationships between authors and beneficiaries of works open to free negotiation between the parties within the framework of the general rules on contract law, or whether the opposite system used in most countries of the East should be adopted whereby the principal categories of intellectual works are regulated by compulsory model contracts. In facing this problem, the Yugoslav legislature chose a middle-of-the-road solution which is common to the majority of European copyright laws. In other words, it merely laid down a number of general principles within the limits of which authors' contracts as a specific contractual category are to be drawn up, leaving the details to be determined by agreement between the parties subject, however, to the general rules governing contract law as subsidiary standards (Articles 53 to 61).

Secondly, there was the question which specific authors' contracts should be regulated in the new Law.

In actual fact, apart from the already traditional publishing contract, one of the most important roles in this field is played nowadays, primarily as a result of new techniques used in exploiting intellectual works, by certain new categories of authors' agreements, such as performance contracts, film contracts, contracts for radio and television broadcasts, contracts for recording works by means of instruments reproducing sounds and images, contracts for adaptation, and the like.

Nevertheless, most legislative texts, even in the countries that have the most developed copyright laws (such as France, Italy, Germany), have refrained from making express separate provisions for these new categories of authors' agreements. The reason for this is surely the fact that such contracts are not yet considered sufficiently mature to become the subject of special provisions concerning each one. At present, their development is still in the formative stage and the mutual interests of the parties concerned have not yet been fully evaluated. Later on, once the test of practical experience in everyday affairs has been passed, the results of this development will probably serve as legislative material for the legislature of tomorrow.

This is why, here too, the Yugoslav legislature has adopted a compromise attitude quite similar to that of most countries having long traditions and great experience in copyright matters. More specifically, the new Law makes use of what might be termed a double approach to the regulation of authors' contracts. On the one hand, it embodies a few general rules on the scope of the transfer of authors' prerogatives (Articles 53 to 55), as well as certain provisions common to all authors' contracts (Articles 56 to 61), whereas, on the other hand, it expressly codifies only three types of authors' contracts: the publishing contract (Articles 62 to 69), the performance contract (Articles 70 to 74), and the contract for cinematographic work (Articles 75 and 76). As for the

other authors' contracts not expressly mentioned this time, the legislature believes that, by laying down general rules on transfer by contract (Articles 53 to 61), it has provided the parties concerned with wide enough practical basis and a sufficient number of concrete elements to enable them to draw up those contracts not specifically regulated.

Finally, as regards the substance of the new section, the 24 articles contained therein confirm, in general, the solutions now predominating both in copyright theory and in the most advanced foreign copyright laws. In concluding this chapter, we might at least say that the solutions adopted in the new Law express, as a whole, a concept of authors' contracts which has been common to most European countries members of the Berne Union.

* * *

The institution of the *domaine public payant* was not unknown to the Yugoslav legislature which had already recognized it in the first post-war Copyright Law enacted in 1946. Eleven years later, however, the Law of 1957 abolished this institution, chiefly as a result of a change in policy regarding the ways and means of financing cultural life and organizations of authors.

When the draft of the new Law was being worked out, there was quite a lively discussion on the question whether the *domaine public payant* should be reincorporated into the new legislation. Those in favor of doing so argued that there had recently been a revival of this institution in a great many countries, although in a variety of forms, and further that there was a need to ensure the most favorable conditions for the creative work of authors and for their social security, as well as to promote publishing and cultural activities in general. Still, notwithstanding the long, heated debates, this basic question was not decisively settled. Moreover, opinion was almost as divided over the problem of how the institution of the *domaine public payant* should be organized.

The solution finally adopted in Article 87 is one that features two elements: first of all, the institution of the *domaine public payant* as set up in the new Yugoslav Law is one that is merely optional, since the federal legislature grants the federated Republics the power on a discretionary basis to introduce it or not in their own legislative systems; secondly, the method of collection and the use of the sums collected by virtue of this institution are also left to the internal regulations of each Republic. In this way, the federal legislature has completely dissociated itself from the question of the *domaine public payant* and has left it entirely up to the federated Republics.

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In the former Law of 1957, copyright administration was regulated in Chapter VI ("Exercise of Copyright" — Articles 68 to 75); the new Law deals with this matter in Chapter VII (Articles 88 to 93).

With more particular reference to the administrating societies, the regulations laid down in the former Law were primarily characterized by the following three points: (1) the right to administer copyright was reserved solely to the unions of authors and to the bodies set up by them for that purpose; (2) due to the fact that the unions of authors are organized on a federal basis, the administration of copyright was automatically centralized; (3) as a result of this arrangement, it was the authors who were exerting the greatest — if not the only — influence on copyright administration in Yugoslavia. It might therefore be said that, in brief, the basic principles of the former Law in the matter of societies administering copyright were monopoly, centralization, and the preponderance of authors.

The new Law brings about a radical change in this concept. First of all, it abolishes the monopoly held by the unions of authors by also giving authors' associations (the authors' organizations of the individual Republics), as well as all bodies registered for the purpose of protecting copyright, the right to administer copyright. At the same time, it does away with the centralization established by the former Law, since the authors' associations are organized on the level of the Republics and the above-mentioned bodies are competent both on the federal level and on that of a Republic (Article 89, first paragraph). Lastly, the influence on the part of authors on the functioning of the administrating bodies has become naturally impossible where bodies other than those of authors are concerned; in other cases, it is restricted and only indirect, being limited to the prerogatives mentioned in the second and third paragraphs of Article 90 of the new Law.

The main reasons for this about-face of the new Law are the following: in view of the desire to make the operations of the administrating bodies more profitable, as well as the desire to make the propagation and selling of intellectual works more efficient, it was found that it would be more in keeping with the public interest to give up the old principle of allowing the unions of authors to hold a monopoly in favor of the economic principle of competition among all interested parties (publishers, theaters, makers of films or of gramophone records, television and radio organizations, and the like). Moreover, the new structure of the Yugoslav State, characterized by the transfer of a growing portion of federal functions to the organs of the Republics, prompted the legislature in the field of copyright to act in conformity with this tendency and also to give organizations whose activities are limited to a Republic — or even to a smaller territorial unit — the greatest possible opportunity to set up at their discretion bodies for copyright administration. Lastly, it was the principle of self-management, which had been proclaimed the guiding principle for the organization, whether political or social, of the Yugoslav State and community, that determined the transfer of all rights and responsabilities for the management of social organizations — and consequently of bodies administering copyright — to the workers of such organizations as members of the working collectives.

* * *

Lastly, of the other changes introduced by the new Law and pertaining to matters of a less general nature, we shall merely mention the following:

The distinction made by the former Law between artistic or documentary photographs and other photographs has been

abolished, which amounts to a return to tradition and to the correct formula of the Berne Convention (Article 3). Article 40 introduces, similar to some foreign laws (Article 32 of the French Law, Article 42 of the German Law, etc.), the right to " repentance " or withdrawal " if the use of the said work might prejudice the scientific or artistic reputation of the author." The safeguarding of authors' moral rights after the expiry of their economic rights has been entrusted to the organizations of authors and to the Academy of Arts and Sciences (Article 79, second paragraph). The term of copyright in cinematographic works having the character of photographic works and in photographic works, as well as in works of applied art, has been extended — in conformity with current trends and with Article 7 of the Berne Convention as revised at Stockholm — from five and ten years respectively to twenty-five years (Article 50 of the former Law and Articles 81 and 82 of the new Law).

* * *

In light of the foregoing, it can be said that the new Law represents a general recast of copyright legislation which adds a number of new institutions to the Yugoslav system of positive law and brings the system up to date through a considerable number of more varied, more subtle and more modern solutions. Without expressing any opinion as to the value of any of the individual changes included in the reform, we can safely say that the new Law, the main features of which we have attempted to outline here, will, as a whole, unquestionably represent notable progress in the general development of the Yugoslav system for the protection of intellectual works.

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INTERNATIONAL ACTIVITIES

International Literary and Artistic Association (ALAI)

(Executive Committee, Paris, November 8, 1968)

The Executive Committee of the International Literary and Artistic Association met in Paris, at the *Cercle de la Librairie*, on November 8, 1968, under the chairmanship of Maître Marcel Boutet. The meeting was attended by almost all the members of the Executive Committee. BIRPI was represented by Professor G. H. C. Bodenhausen, Director, and Mr. Claude Masouyé, Counsellor, Head of the Copyright Division.

The principal item on the Committee's agenda was the examination of the results and consequences of the Diplomatic Conference of Stockholm concerning the revision of the Berne Convention. Several reports were submitted by members of the Executive Committee and by Professor Henri Desbois, Permanent Secretary of ALAI. After the discussions, the Committee adopted the following resolutions:

1. It deems it advisable to establish the World Intellectual Property Organization and to ratify the administrative clauses of the Stockholm Act of the Berne Convention.

2. It declares itself opposed to the ratification of the substantive clauses of the Stockholm Act of the Berne Convention because the Protocol Regarding Developing Countries forms an integral part of it.

3. In view of the proposal for revision of the Universal Copyright Convention, submitted by ten countries, it understands the necessity of giving some flexibility, in favor of developing countries, to the provisions of Article XVII of that Convention.

4. It also declares that, in view of the threat hanging over the future of the international protection of copyright, it is prepared to associate ALAI with any study having as its purpose the establishment of a general program for the strengthening of such protection.

BOOK REVIEWS

Droit d'auteur et aide au développement: le Protocole à l'Acte de Stockholm pour la protection des œuvres littéraires et artistiques [Copyright and aid for development: Protocol to the Stockholm Act for the protection of literary and artistic works], by *Daniel Vignes*. Extr. Annuaire français de droit international, 1967, No. XIII, pp. 717-741.

This monograph sets forth in a very thorough manner the conditions in which the Protocol Regarding Developing Countries, annexed to the Stockholm Act of the Berne Convention, was prepared and adopted, as well as the content and the various aspects of application of the Protocol's provisions. The author considers it to be a compromise between two tendencies: the first, to make more flexible the system of protection established by the Berne Convention, and the second, to refuse to abandon the world-wide mission of the Berne Union. After having emphasized that the Protocol could not satisfy anyone, the author concludes that it nevertheless permits " the pressing needs of developing countries to be partially satisfied, and the classical Western copyright system to be maintained ".

The first part of the work explains in detail the reservations permitted by the Protocol. The second part is devoted to the framework within which the Protocol is to be applied, that is, to the two specific questions: first, who are its potential beneficiaries and, second, how it is integrated in the Convention itself. As regards the beneficiaries, the author remarks that the criterion adopted at Stockholm remains somewhat vague, and that it will rest with the Director of BIRPI, in connection with the competent organs of the United Nations, to establish a kind of " case law " as the instruments of ratification or accession are deposited with him.

This monograph, to our knowledge the first on the subject, is remarkably written and supplies specialized lawyers with valuable information on the origin and the content of this new international instrument established in favor of developing countries. The author concludes that, at the level of States, " that is, the representatives of general interests, it is legitimate to consider that the Conference was right when, at the cost of sacrifices made to the detriment of a well-tried system, it maintained the system's unity ". C. M.

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Estndios sohre derecho de autor [Studies on copyright], by *Francisco Hung Vaillant*. A volume of 78 pages, 23 × 16 cm. Universidad Central de Venezuela, Facultad de Derecho, Caracas, 1968.

Within the framework of the " Studies on Copyright ", published by the Faculty of Law of the Central University of Venezuela, Mr. Francisco Hung Vaillant has examined three questions which form the different parts of this work.

The first deals with the publishing contract: it discusses the concept of the contract, the classification of various contracts in this field, their characteristics, the obligations of the parties, the termination of the contract and the competent court in case of a dispute.

The second part is devoted to the examination of two categories of rights which the author distinguishes. The first is that of related rights *(derechos afines)* concerning editions of works in the public domain, distribution of posthumous non-copyrighted works, and rights of photographers in their photographic works. The other category is that of neighbouring rights *(derechos conexos)*, i. e. the rights of performers, producers of phonograms and broadcasting organizations.

The third part concerns the system of registration of intellectual property which now exists in Venezuela, but which does not result in the establishment of any rights.

Written in Spanish, this work brings out certain aspects of copyright now regulated in Venezuela. It follows a long comment on the Copyright Law of Venezuela published by Mr. Francisco Hung Vaillant in 1965, in the same collection of the University of Caracas, under the title " *Algunos aspectos de la protección del derecho de autor en Venezuela* ". C. M.

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Violaçoes dos direitos autorais [Violations of authors' rights], by *Hermano Duval*. A volume of 567 pages, 23 × 16 cm. Published by Borsoi, Rio de Janeiro, 1968.

The Brazilian lawyer Mr. Hermano Duval, author of the " Letters from Brazil " known to the readers of this Review, has now published an interesting study on violations of authors' rights. Obviously, the fact that tbe book has been written in Portuguese limits its circulation; it is nevertheless useful for those who know that language, since it constitutes a thorough study of the problem.

The author deals with different possibilities of violation of authors' rights, either pecuniary or moral. The chapter dealing with plagiarism is particularly worth reading. In addition, the author devotes a part of the book to the international protection of copyright, including the recent Stockholm revision of the Berne Convention.

There is no doubt that this work will be much appreciated not only in Brazil but also in all the circles interested in the development of copyright throughout the world. C. M.

CALENDAR

BIRPI Meetings

February 3 to 7, 1969 (Paris) — Permanent Committee of the Berne Union (Extraordinary Session)

Object: Consideration of various questions concerning copyright — *Invitations:* Belgium, Brazil, Denmark, France, Germany (Fed. Rep.), India, Italy, Portugal, Rumania, Spain, Switzerland, United Kingdom — *Observers:* All other memher States of the Berne Union; interested international intergovernmental and non-governmental organizations

September 22 to 26, 1969 (Geneva) — Interunion Coordination Committee (7th Session)

Object: To he announced later — *Invitations:* To he announced later

Septemher 22 to 26, 1969 (Geneva) — Executive Committee of the Conference of Representatives of the Paris Union (5th Session)

Object: To be announced later — *Invitations:* To be announced later

September 12 to 26, 1969 (Geneva) — Council of the Lishon Union for the Protection of Appellations of Origin and their International Registration (4th Session)

Object: Annual Meeting — *Invitations:* All member States of the Lishon Union — *Observers:* All other member States of the Paris Union

Meetings of Other International Organizations Concerned with Intellectual Property

January 16 to 18, 1969 (London) — International Writers Guild (IWG) — Executive Committee

January 28 and 29, 1969 (The Hague) — International Patent Institute (IIB) — 99th Session of the Administrative Council

June 9 to 14, 1969 (Venice) — International Association for the Protection of Industrial Property (IAPIP) — XXVII International Congress