

Published monthly
Annual subscription:
Sw.fr. 105.—
Each monthly issue:
Sw.fr. 10.—

Copyright

October 1980
16th year - No. 10

Monthly Review of the
World Intellectual Property Organization (WIPO)

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World Intellectual Property Organization

Accessions to the WIPO Convention

GAMBIA

The Government of the Republic of the Gambia deposited, on September 10, 1980, its instrument of accession to the Convention Establishing the World Intellectual Property Organization (WIPO).

The Convention Establishing the World Intellectual Property Organization will enter into force, with

respect to the Republic of the Gambia, three months after the date of deposit of its instrument of accession, that is, on December 10, 1980.

WIPO Notification No. 115, of September 15, 1980.

GUINEA

The Government of the Revolutionary People's Republic of Guinea deposited, on August 13, 1980, its instrument of accession to the Convention Establishing the World Intellectual Property Organization (WIPO).

The Convention Establishing the World Intellectual Property Organization will enter into force,

with respect to the Revolutionary People's Republic of Guinea, three months after the date of deposit of its instrument of accession, that is, on November 13, 1980.

WIPO Notification No. 114, of August 20, 1980.

Berne Union

GUINEA

Accession to the Paris Act (1971) of the Berne Convention

The Government of the Revolutionary People's Republic of Guinea deposited, on August 13, 1980, its instrument of accession to the Berne Convention for the Protection of Literary and Artistic Works of September 9, 1886, as revised at Paris on July 24, 1971, with a declaration made in accordance with Article I of the Appendix to the said Convention and in accordance with its national legislation on copyright and neighboring rights that its country will avail itself of the faculties provided for in Articles II and III of the Appendix thereof concerning the limitation on the right of translation and on the right of reproduction.

The declaration of the Revolutionary People's Republic of Guinea availing itself of the facilities provided for in Articles II and III of the Appendix is effective until the expiration of a period of ten years from the entry into force on October 10, 1974, of Articles 1 to 21 and the Appendix, that is, until October 10, 1984.

The Paris Act of the Convention will enter into force, with respect to the Revolutionary People's Republic of Guinea, three months after the date of this notification, that is, on November 20, 1980.

Berne Notification No. 100, of August 20, 1980.

National Legislation

ECUADOR

Law on the Occupational Protection of Performers*

CHAPTER I

General Principles

Article 1. The provisions of this Law shall govern the working relations of performers rendering remunerated services for natural persons or legal entities in radio and television stations, enterprises manufacturing and/or producing phonograms and establishments providing shows, music, entertainment and varieties, either in the form of direct performances given before an audience and/or transmitted or reproduced by any means of dissemination that may be or become known.

Article 2. This Law shall protect the working relations of Ecuadorian performers and those of foreigners resident in Ecuador.

Article 3. The rights of the performers referred to in this Law may not be renounced.

Article 4. The following persons shall be considered performers for the purposes of this Law:

- (a) actors, singers, musicians, dancers, imitators (*fonomímicos*), compères, declaimers and, in general, anyone who recites, interprets or performs a literary or artistic work;
- (b) circus performers, variety artistes and performers who appear in other types of entertainment or show;
- (c) theater producers, conductors of symphony orchestras, choreographers and directors of musical comedy (*zarzuela*), ballet and folklore troupes.

CHAPTER II

Contracts in General

Article 5. To be valid, performers' work contracts shall be concluded in writing and shall contain:

- (a) the real name and stage name, if any, of the performer, his nationality and place of residence;
- (b) the type of performance to be given;
- (c) the number of performances and/or appearances and a schedule of the places or establishments in which the work is to be performed;
- (d) the amount of remuneration to be received;
- (e) the duration of the contract.

Article 6. Work contracts with manufacturers and/or producers of phonograms shall further contain the number of copies to be made, together with the corresponding series and numbering.

Article 7. Any person who contracts for the services of performers or is the assignee of their rights may not enforce the obligations entered into by the performers unless the contracts have been concluded in writing, but the performers may claim their rights deriving from such acts. In general, any grounds for the invalidation of a contract may be adduced only by the performers.

Article 8. Where the performer is required to provide his services in places other than his usual place of residence, the employer shall be required to satisfy the following requirements:

- (a) he shall pay an advance equivalent to 25 percent of the agreed remuneration;
- (b) he shall reimburse the journey both ways against production of the corresponding vouchers;

* Published in the *Registro Oficial* No. 798, of March 23, 1979. — WIPO translation.

- (c) he shall pay the cost of food, lodging and transport for the performers and their auxiliaries;
- (d) he shall also bear the migration costs should the performer provide his services abroad.

Article 9. Where the impresario or employer cancels the show or the performer's performance without due justification, he shall pay the latter the value of the contract under the same conditions as if it had been executed.

Article 10. Any fine or other sanction to which the performer is liable for any breach of contract shall be specified in the said contract.

The provisions of the Labor Code shall apply to everything that is not laid down in this Law.

Article 11. Persons who organize or finance artistic activities or who enter into contracts with performers through third parties shall be jointly liable with such third parties for the payment of the remuneration and royalties provided for in this Law.

Article 12. Unless otherwise agreed, the remuneration collected by two or more performers for their performances or appearances shall be shared equally. Where no specific provision is made, the leader of the group shall be entitled to 25 percent of the total agreed amount, and the other members shall share the remaining 75 percent equally.

CHAPTER III

Contracts with Foreign Performers

Article 13. Foreign impresari, natural persons or legal entities, who enter into contract with foreign performers, musical ensembles or orchestras shall be under the obligation to include in the same show one or more national performers in a proportion of 80 percent of the whole program of performances, and the remuneration of the latter shall be not less than 60 percent of the remuneration paid to all the performers.

Article 14. The contracts engaging the foreign performers, musical ensembles or orchestras and the national performers who are to alternate with them shall be subject to the approval of the Ministry of Social Welfare and Labor or, in its absence, that of the Consulates of Ecuador accredited to foreign countries. Should reasonable doubt exist as to the value of the performances contracted for, experts shall be appointed to determine a fair price therefor.

Article 15. For contracts with foreign performers, musical ensembles and orchestras to be valid and for the appropriate authorization to be granted, the following provisions shall be observed:

- (a) the artistic activity shall be confined strictly to what has been specified in the contract;
- (b) a formal undertaking shall be made that all performances shall alternate with those of a national performer, musical ensemble or orchestra.

The rules laid down for contracts in general shall be observed.

Article 16. In contracts with foreign performers, musical ensembles and orchestras, it shall be a prerequisite of their performance that they, either directly or through their representatives or impresari, pay the corresponding royalties to the Federation of Professional Performers of Ecuador, for which purpose the appropriate regulations shall be issued.

Article 17. Foreign performers and musicians may exercise their activity permanently in Ecuador, subject to authorization, under the following circumstances:

- (a) when there is no specialized instrumentalist in Ecuador;
- (b) when, if there is such a specialist in Ecuador, the musical performer is an irreplaceable, integral part of a musical group in the judgment of the leader of the group.

Article 18. Any employer or impresario who avails himself of the foregoing provision shall be obliged to undertake to contract national performing musicians in equal proportion, that is, one national musician for every foreign musician.

Article 19. Foreign musicians with more than three years of legal residence in Ecuador and foreign musicians married to Ecuadorian nationals shall not be obliged to seek authorization to exercise their activity in Ecuador.

CHAPTER IV

Protection of Performers

Article 20. Ecuadorian Social Security shall apply to performers affiliated to the Federation of Professional Performers of Ecuador, in accordance with this Law and that on the Compulsory Social Security scheme.

Article 21. Performers affiliated to the Federation of Professional Performers of Ecuador who, being unemployed, are not covered by Ecuadorian

Social Security, may become affiliated to the latter; the Ecuadorian Institute of Social Security shall be obliged to accept such affiliation.

Article 22. Performers affiliated to the Ecuadorian Institute of Social Security shall be entitled, under the social insurance provided for in the relevant Law, to the benefits deriving from sickness, maternity, old age, death and work accidents, and such others as are established by the Law on Compulsory Social Insurance and the Statutes and Regulations of the Ecuadorian Institute of Social Security.

The contributions and the period of protection shall be the same as under the General Social Insurance scheme, except for the calculation of unemployment benefits under the general insurance scheme.

Article 23. For the purposes of this Special Social Insurance for performers affiliated to the Federation of Professional Performers of Ecuador, the contribution base shall be the income declared to that end by the said performer to the Ecuadorian Institute of Social Security, which income may neither be less than two thousand sucres monthly nor more than the maximum amount established by the said Institute for the purposes of the General Social Insurance scheme.

When a performer covered by the General Social Insurance scheme initiates or renews his special affiliation on termination of his employment, the contribution base shall be calculated as provided in the foregoing paragraph. The minimum taxable amount shall in any case be two thousand sucres monthly.

CHAPTER V

The Federation of Professional Performers of Ecuador

Article 24. The Federation of Professional Performers of Ecuador (FAPE) is hereby established as a legal entity under private law, with such objectives and structure as shall be specified in its statutes; it shall be composed of the Associations of Professional Performers of the provinces of Ecuador.

Article 25. An Association of Professional Performers shall be constituted in every province in which more than 25 performers are exercising their profession; it shall represent its members within the Federation of Professional Performers of Ecuador.

In provinces where there are fewer professional performers than is specified by the foregoing paragraph, those few may become affiliated to the nearest provincial association or trade union.

Article 26. In every province there shall exist a single Association of Professional Performers with such objectives, organization and functions as shall be specified in its statutes.

Article 27. In order to exercise their activity legally, both national and foreign performers shall obtain a license to work from the Federation of Professional Performers of Ecuador, either directly or through the provincial Associations of Performers. Where such a license has not been obtained, the police authorities shall prevent the holding of the show concerned.

CHAPTER VI

Special Provisions

Article 28. Cinemas and places intended for the holding of shows shall be bound to submit monthly programs of live artistic performances involving the participation of national performers, for which purpose the appropriate regulations shall be drawn up.

Article 29. Radio and television stations shall, in their music programs, promote Ecuadorian popular music and national performers in a proportion of 30 percent of their regular programming, 10 percent of which shall be devoted to live performances.

Article 30. Manufacturers and/or producers of phonograms operating in Ecuador shall, for every disc featuring foreign performers produced for the domestic market, produce and/or record two discs featuring national performers.

Article 31. Manufacturers and/or producers of phonograms operating in Ecuador shall, on entering into exclusive contracts with performers, record at least two long-playing discs of their work every year; the duration of the contracts may not exceed two years. If the condition laid down in this Article is not complied with, the performer shall be at liberty to consider the exclusive contract terminated.

Article 32. Any artistic program that involves the participation of national performers only shall be exempt from the payment of taxes.

The impresario or employer shall be obliged to pay to the Federation of Professional Performers of Ecuador a sum corresponding to 10 percent of the total amount of the admission fees collected.

Article 33. No less than 75 percent of advertisements and promotional material for cinema, radio and television shall be produced within the country using Ecuadorian professional performers.

Article 34. Any Ecuadorian participation in musical and performing festivals and/or contests that are held outside the country shall be the result of a process of selection through the Federation of Professional Performers of Ecuador by means of open competitions held by the said Federation.

Transitional Provisions

I. The Minister for Social Welfare and Labor shall issue Regulations under this Law within 90 days following its entry into force.

II. Within 45 days following the entry into force of this Law, the Performers' Associations or Trade Unions of Professional Performers that have a legal existence shall convene extraordinary assemblies of their members to revise their statutes, in a single session, in conformity with the provisions of this Law.

The revised statutes shall be submitted to the Ministry of Social Welfare and Labor for approval, together with the records of the assembly that approved the revision, which shall be signed by all the participating members.

If the action specified in the foregoing paragraph has not been taken on expiry of the period mentioned, the Association that has failed to comply with this provision shall forfeit its legal status.

Within the same period of 45 days, in provinces where no provincial Associations of Professional Performers have been established, such Associations shall be established in due compliance with the provisions of this Law.

III. Within 90 days following the entry into force of this Law, once the provincial Associations of Professional Performers have been established, a National Assembly of Performers shall be convened for the purpose of establishing according to this Law, and bringing into operation, the Federation of Professional Performers of Ecuador, which is created by this Law and the statutes of which have to be submitted to the Ministry of Social Welfare and Labor within the same period as that specified above.

Final Provisions

I. In the event of doubt as to the scope of the provisions of this Law, the courts shall apply them in the manner most favorable to performers.

II. This Law, which shall enter into force on its promulgation in the *Registro Oficial*, shall take precedence over the provisions of all other laws and regulations.

General Studies

Copyright Aspects of Publishing in Developing Countries

Dina N. MALHOTRA *

Correspondence

Letter from the United States of America

Alan LATMAN *

Calendar

WIPO Meetings

(Not all WIPO meetings are listed. Dates are subject to possible changes.)

1980

November 17 to 21 (Geneva) — Berne Union and Universal Copyright Convention — Working Group on the formulation of guiding principles covering the problems posed by the practical implementation of the licensing procedures for translation and reproduction under copyright conventions (convened jointly with Unesco)

November 24 to 28 (Vienna) — Permanent Committee on Patent Information (PCPI) — Working Group on Search Information — Subgroup on IPC Class B 60

November 24 to December 5 (Geneva) — Nice Union — Committee of Experts

December 1 to 3 (Lomé) — Development Cooperation — African Regional Seminar on Copyright (convened jointly with Unesco)

December 4 and 5 (Lomé) — Development Cooperation — African Regional Seminar on Neighboring Rights (convened jointly with ILO and Unesco)

December 1 to 5 (Paris) — Permanent Committee on Patent Information (PCPI) — Working Group on Search Information — Subgroup on IPC Class G 01, etc.

December 8 to 12 (Geneva) — International Patent Classification (IPC) — Committee of Experts

December 15 to 19 (Paris) — Berne Union — Committee of Governmental Experts on Problems Arising from the Use of Computers (convened jointly with Unesco)

UPOV Meetings

1980

November 10 to 12 (Geneva) — Technical Committee

November 13 and 14 (Geneva) — Administrative and Legal Committee

Other Meetings in the Field of Copyright and/or Neighboring Rights

Non-Governmental Organizations

1980

International Confederation of Societies of Authors and Composers (CISAC)
Congress — November 3 to 7 (Dakar)

1981

International Federation of Musicians (FIM)
Executive Committee — January 12 to 15 (Zurich)

International Confederation of Societies of Authors and Composers (CISAC)
Legal and Legislation Committee — April 27 to 29 (Sidney)

International Federation of Translators (FIT)
Congress — May 6 to 13 (Warsaw)

Internationale Gesellschaft für Urheberrecht (INTERGU)
Congress — September 21 to 25 (Ottawa)