

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

Copyright

November 1980
16th year - No. 11

Monthly Review of the
World Intellectual Property Organization (WIPO)

Contents

BERNE UNION	
— Thailand. Accession to the Paris Act (1971) of the Berne Convention	330
NATIONAL LEGISLATION	
— Italy. Decree of the President of the Republic implementing the Berne Convention for the Protection of Literary and Artistic Works as revised by the Paris Act of July 24, 1971 (No. 19, of January 8, 1979)	331
— Poland. I. Order of the Council of Ministers concerning the remuneration of composers (No. 136, of July 10, 1975)	332
II. Order of the Council of Ministers concerning the Authors' Fund (No. 78, of May 29, 1979)	333
GENERAL STUDIES	
— The Public Lending Right — A Comparison of National Approaches (Gavin McFarlane)	335
— The Intellectual Property Aspects of Folklore Protection (Marie Niedzielska)	339
INTERNATIONAL ACTIVITIES	
— International Federation of Library Associations and Institutions (IFLA). 46 th General Conference (Manila, August 18 to 23, 1980)	347
CALENDAR OF MEETINGS	348

© WIPO 1980

Any reproduction of official notes or reports, articles and translations of laws or agreements, published in this review, is authorized only with the prior consent of WIPO.

Berne Union

THAILAND

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

The Government of the Kingdom of Thailand deposited, on September 29, 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, subject to the following limitations, reservations and declarations:

“1. Pursuant to Article 28(1)(b) of that Act, this accession shall not apply to Articles 1 to 21 and the Appendix of the said Act.

2. The reservations made by the Kingdom of Thailand on its accession to the Berne Convention for the Protection of Literary and Artistic Works as revised at Berlin on November 13, 1908, and to the Additional Protocol of March 20, 1914, shall remain in full force.

3. With regard to its contribution towards the budget of the Union, in accordance with Article 25(4)(b) of the said Act, the Kingdom of Thailand chooses to belong to Class VII.

4. Pursuant to Article 33(2) of the said Act, the Kingdom of Thailand does not consider itself bound by the provisions of paragraph (1) of Article 33 of the said Act.”

Articles 22 to 38 of the Paris Act (1971) of the said Convention will enter into force, with respect to the Kingdom of Thailand, three months after the date of this notification, that is, on December 29, 1980.

Berne Notification No. 101, of September 29, 1980.

National Legislation

ITALY

Decree of the President of the Republic
implementing the Berne Convention for the Protection
of Literary and Artistic Works as revised by the Paris Act of July 24, 1971

(No. 19, of January 8, 1979) *

Article 1. The following item (7) shall be added to Article 2 of Law No. 633 of April 22, 1941:

“(7) photographic works and works expressed by a process analogous to photography, provided they are not simple photographs protected under the provisions of Chapter V of Part II.”

Article 2. The first paragraph of Article 20 of Law No. 633 of April 22, 1941, shall be replaced by the following paragraph:

“Independently of the exclusive rights of economic utilization of the work referred to in the provisions of the preceding Section, and even after the transfer of such rights, the author shall retain the right to claim authorship of the work and to object to any distortion, mutilation or any other modification of, and other derogatory action in relation to, the said work, which would be prejudicial to his honor or reputation.”

Article 3. Article 32 of Law No. 633 of April 22, 1941, shall be amended as follows:

“The rights of economic utilization of a cinematographic work shall continue for fifty years from the first public showing, provided this takes place not later than five years from the end of the calendar year in which the work was produced. If this period of five years is exceeded, protection

shall continue for fifty years from the year following that in which the work was produced.”

Article 4. The following Article 32^{bis} shall be inserted after Article 32 of Law No. 633 of April 22, 1941:

“The rights of economic utilization of a photographic work shall continue for fifty years from the year in which the work was produced.”

Article 5. The second, third and fourth paragraphs of Article 92 of Law No. 633 of April 22, 1941, shall be deleted.

Article 6. The first paragraph of Article 144 of Law No. 633 of April 22, 1941, shall be amended as follows:

“The authors of works of art in the form of paintings, sculptures, drawings and prints and the authors of original manuscripts shall be entitled to a percentage of the amount by which the price of the first public sale of original copies of such works and manuscripts exceeds the price of first alienation, and such excess shall be presumed.”

Article 7. This Decree shall enter into force on the day following that of its publication in the *Gazzetta Ufficiale* of the Italian Republic.

This Decree, bearing the Seal of State, shall be inserted in the Official Collection of Laws and Decrees of the Italian Republic. All persons are required to comply and to ensure compliance with this Decree.

* Published in the *Gazzetta Ufficiale*, No. 29, of January 30, 1979. Entry into force on January 31, 1979. — WIPO translation.

POLAND

I

**Order of the Council of Ministers
concerning the remuneration of composers**

(No. 136, of July 10, 1975) *

Pursuant to Article 33(1) of the Law of July 10, 1952, on Copyright (*Dziennik Ustaw*, 1952, No. 34, text No. 234), the Council of Ministers orders as follows:

Article 1. There shall be established:

- (i) a schedule of composers' remuneration for the composition and first public performance of musical works — Annex No. 1 to this Order **;
- (ii) a schedule of composers' remuneration for the publication and disclosure of musical works — Annex No. 2 to this Order **;
- (iii) a schedule of remuneration for work on publication — Annex No. 3 to this Order **;
- (iv) the number of basic printings of music publications — Annex No. 4 to this Order **;
- (v) rules for the calculation of remuneration — Annex No. 5 to this Order.

Article 2. When determining composers' remuneration, due account should be taken of the value of the work and of the creative effort necessary for its creation.

Article 3. The Minister for Culture and the Arts is authorized:

- (i) to make, in agreement with the Minister for Labor, Salaries and Social Affairs, additions to the schedules of composers' remuneration and to the schedules for work on publication;
- (ii) to grant, in particularly deserving individual cases, authorizations for the application:
 - (a) of increased rates of composers' remuneration, provided that they do not exceed 50 % of the maximum rates laid down in the schedule of composers' remuneration;
 - (b) of increased rates of composers' remuneration for works of exceptional value to national culture, provided that the amount of the increase does not exceed

200 % of the maximum rates laid down in the schedule of composers' remuneration;

- (iii) to set, in agreement with the Minister for Labor, Salaries and Social Affairs, the amount and the principles of payment of the composers' remuneration for the public performance of musical works;
- (iv) to lay down, in agreement with the Minister for Finance, rules for the conclusion of contracts, and model contracts, for the composition, first public performance, publication and disclosure of musical works.

Article 4. The provisions of this Order shall be applied to contracts concluded after the date of its entry into force.

Article 5. The following are repealed:

- (i) Order No. 496 of the Council of Ministers of July 17, 1954, concerning the amount of remuneration of composers and the rules for the conclusion of contracts relating to the commissioning of musical works (*Monitor Polski*, No. A-73, text No. 891);
- (ii) Ordinance No. 57 of the President of the Council of Ministers of February 28, 1956, concerning the amendment of the rates of remuneration for the creations of composers (*Monitor Polski*, No. 17, text No. 246).

Article 6. The Order shall enter into force on the date of its publication.

Annex No. 5

Rules for the calculation of remuneration

1. The remuneration for a given work shall be calculated by adding the fee for the duration of the work and the fee for the number of measures.

2. The remuneration for the duration of the work shall be calculated by multiplying the number of minutes by the rate for one minute; the rate for one minute shall be payable for every minute begun.

* This Order was published in *Monitor Polski*, No. 26, of August 27, 1975, text No. 159. — WIPO translation.

** Annexes Nos. 1, 2, 3 and 4 are not reproduced here.

3. The remuneration for the number of measures shall be calculated by multiplying the number of measures in a given work by the rate for one measure.

4. The remuneration for musical illustration created in the form of improvisation shall be calculated exclusively according to duration, by multiplying the rate for one minute appearing under the appropriate heading by the number of minutes.

5. The remuneration for music without measures shall be calculated by multiplying the fee for the duration of the work by two.

6. For the creative elaboration, 50 % to 75 % of the remuneration provided for the creation of an

original work of the same kind shall be payable; the percentage shall be determined according to the character of the elaboration and its artistic value.

7. For instrumentation, 25 % to 50 % of the remuneration provided for the composition of an original work with the same instrumentation shall be payable; the percentage shall be determined according to the character of the instrumentation and its artistic value.

8. For the writing of the piano score, 10 % to 20 % of the remuneration provided for the creation of a work in its original instrumentation shall be payable; the percentage shall be determined according to the degree of difficulty of the writing of the score.

II

Order of the Council of Ministers

concerning the Authors' Fund

(No. 78, of May 29, 1979) *

Pursuant to Article 13(1) of the Law of November 25, 1970 — Budgetary Law (*Dziennik Ustaw*, 1970, No. 29, text No. 244), the Council of Ministers orders as follows:

Article 1. An Authors' Fund, hereinafter referred to as "the Fund," is hereby created.

Article 2. (1) The Fund shall be financed by:

- (i) payments of 3 % to 5 % of the retail price of books containing:
 - (a) works of belles lettres whose authors are Polish nationals, if the authors' economic rights in those works do not enjoy legal protection,
 - (b) works of belles lettres whose authors are not Polish nationals, if the authors' economic rights in the originals of those works do not enjoy legal protection in the Polish People's Republic, published by State and cooperative publishing enterprises, hereinafter referred to as "publishing enterprises";
- (ii) voluntary payments, from social organizations and natural persons.

(2) The Minister for Culture and the Arts, in agreement with the Minister for Finance, shall fix the percentage of the payment referred to in paragraph (1)(i) for every calendar year.

(3) Paragraph (1)(i) shall not apply if the book has been published on the instructions of the Central Board of Foreign Trade for the purposes of export.

Article 3. (1) The amount of the payment specified in Article 2(1)(i) shall be fixed as a percentage of the retail price of a book in paperback form. Where a book is published in a hardback binding, the amount of the payment shall be calculated on the basis of the retail price less 25 %.

(2) If a book also contains works in respect of which the author's economic rights enjoy legal protection in the Polish People's Republic, the payment shall be fixed in proportion to the volume of the works referred to in Article 2(1)(i). The volume of the books which constitutes the basis of the calculation of the payment shall also include introductions, notes, illustrations, etc.

Article 4. Publishing enterprises shall make their payments to the Fund within 30 days following the date on which the complete edition of the book whose publication creates the payment obligation is handed over for sale.

** This Order was published in *Monitor Polski*, No. 15, of June 22, 1979, text No. 85. — WIPO translation.

Article 5. The Fund shall be used:

- (i) for prizes awarded for literary creation and at literary competitions;
- (ii) for the remuneration of authors who are Polish nationals for the disclosure in developing countries of their works, previously published in the Polish People's Republic, if the author expresses his agreement to the disclosure of those works without payment of remuneration by the publishers in the developing country;
- (iii) for remuneration for the translation of works of world repute in the field of belles lettres, which do not require the conclusion of a publishing or other contract for the disclosure of work;
- (iv) for literary scholarships;
- (v) for the propagation of works of Polish literature abroad;
- (vi) for the payment of an equivalent in Polish zlotys of the foreign currency intended for the encouragement of literary creation, deposited in the currency accounts of the Ministry of Culture and the Arts;
- (vii) for major repairs to the houses of the creative work of men of letters.

Article 6. (1) The Minister for Culture and the Arts shall be responsible for ordering payments from the Fund.

(2) The Minister for Culture and the Arts may appoint persons of lower rank to order the disposal of certain parts of the Fund.

Article 7. (1) The amount of each prize awarded is fixed at a maximum of 40 000 zlotys.

(2) The remuneration referred to in Article 5(ii) shall be fixed according to the provisions on the remuneration of authors.

(3) The literary scholarship referred to in Article 5(iv) may be granted to the author and may amount to 6000 zlotys per month, for a period not exceeding 12 months.

(4) The Minister for Culture and the Arts may, in particularly justified exceptional cases, grant the author a literary scholarship in an amount exceeding that specified in paragraph (3), but not exceeding 10 000 zlotys per month.

Article 8. The Minister for Culture and the Arts shall, in agreement with the Minister for Finance, lay down detailed rules and fix the manner of payment of amounts drawn from the Fund.

Article 9. Authors' remuneration may be paid from the Fund up to the amount allocated annually in the fund for remuneration other than staff salaries and in the fund for fees incorporated in the national, social and economic plan drawn up for the Ministry of Culture and the Arts.

Article 10. The unused balance in the Authors' Fund created pursuant to Order No. 154 of the Council of Ministers of June 2, 1964, concerning the creation of the Authors' Fund (*Monitor Polski*, No. 40, text No. 186), shall be incorporated in the Fund referred to in Article 1.

Article 11. In cases that are not provided for in this Order, the provisions concerning funds for special purposes enacted under budgetary law shall be applied.

Article 12. Order No. 154 of the Council of Ministers of June 2, 1964, concerning the creation of the Authors' Fund (*Monitor Polski*, No. 40, text No. 186), is repealed.

Article 13. This Order shall enter into force on July 1, 1979.

General Studies

The Public Lending Right — A Comparison of National Approaches

Gavin McFARLANE *

The Intellectual Property Aspects of Folklore Protection ¹

Marie NIEDZIELSKA *

International Activities

International Federation of Library Associations and Institutions (IFLA)

46th General Conference

(Manila, August 18 to 23, 1980)

The International Federation of Library Associations and Institutions (IFLA) held its 46th General Conference in Manila from August 18 to 23, 1980, at the invitation of the Philippines National Library, the Philippine Library Associations and the Unesco National Commission of the Philippines.

Over 1200 delegates from 52 countries participated in the Conference. WIPO was invited as an observer and was represented by Miss Mireille Zarb, Chief of Library at the International Bureau.

The opening session took place in the presence of President Ferdinand E. Marcos and Mrs. Imelda Romualdez-Marcos, First Lady, Minister of Human Settlement and Governor, Metro Manila.

The delegates from the associations and groups of librarians present in Manila variously attended some 165 meetings covering all areas of librarianship. Among the problems dealt with were those of copyright, which are becoming ever more acute for the librarian.

IFLA is to devote funds to two studies, one concerning the copyright problems deriving from bibliographic descriptions and the other to identify the copyright problems arising in libraries for the blind.

The Conference also heard a report drawn up for the public libraries with the title: "Copyright and

Library — a Scandinavian Approach" by Mr. P. Kirkegaard, Director of the Copenhagen Royal School of Librarianship and Honorary President of IFLA, and a "Study on a Model Law for Legal Deposit," carried out on behalf of the National Libraries by Mr. J. Lunn, which contained certain related aspects of copyright.

At the various meetings at Manila, the librarians were given information on the activities pursued by WIPO in relation to copyright, and a document drawn up by the International Bureau was distributed to them. They also raised during the discussions other items such as copyright and computers, publication of long extracts of a work amounting to practically the whole of the work itself, fair use, the effect of photocopies on the sale of periodicals, the new legislation of the United States of America, particularly section 108 of the Copyright Act, infringements of copyright in audiovisual material, reproduction of foreign books for teaching purposes in the developing countries, the implications of copyright on the "universal availability of publications."

Following on these discussions, numerous motions and resolutions were transmitted to the Executive Council of IFLA for action.

The 47th General Conference of IFLA will be held in Leipzig from August 17 to 23, 1981.

Calendar

WIPO Meetings

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

1980

- 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)

1981

- January 12 to 20 (Geneva) — Budapest Union (Microorganisms) — Assembly (Extraordinary Session)**
- January 19 to 30 (Geneva) — Permanent Committee for Patent Information (PCPI) — Working Group on Search Information**
- February 9 to 13 (Paris) — Working Group on Intellectual Property Aspects of Folklore Protection** (convened jointly with Unesco)

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

Non-Governmental Organizations

1981

- International Federation of Musicians (FIM)**
Executive Committee — January 12 to 15 (Zurich)
- International Literary and Artistic Association (ALAI)**
Executive Committee — January 23 (Paris)
- Interamerican Copyright Institute (IIDA)**
Second Continental Conference on Copyright — April 6 to 10 (Buenos Aires)
- 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)