

Convention for the Protection of Producers of Phonograms against Unauthorized Duplication of their Phonograms

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Ratification by the Holy See

The instrument of ratification by the Holy See of the Convention for the Protection of Producers of Phonograms against Unauthorized Duplication of their Phonograms, adopted at Geneva on 29 October 1971, was deposited with the Secretary-General of the United Nations on 4 April 1977.

In accordance with Article 11(2), the Convention entered into force for the Holy See on 18 July 1977, that is, three months after the date on which the Director General of the World Intellectual Property Organization informed the States, in accordance with Article 13(4), of the deposit of its instrument.

The Holy See is the twenty-fifth State to deposit an instrument of ratification or acceptance of, or accession to, the above-mentioned Convention.

Study of comparative copyright law: persons protected

This study [1]¹ attempts to show who are the owners of copyright [1]:

1. In general, when the work emanates from:
 - 1.1 a natural person;
 - 1.2 several persons;
 - 1.3 a juridical person.
2. In certain special cases:
 - 2.1 anonymous and pseudonymous works;
 - 2.2 posthumous works;
 - 2.3 anthologies and periodicals;
 - 2.4 works of an employee;
 - 2.5 commissioned works;
 - 2.6 photographs;
 - 2.7 films.

We shall also consider the related question of the role of third persons in two specific cases, namely:

3. The role:
 - 3.1 of the model for a portrait, whether by an artist or a photographer;
 - 3.2 of the recipient of a personal letter.

We shall not deal here with the owners of copyright in ancient manuscripts or with the role that the owner of the *corpus mechanicum*, the physical object which incorporates the work, plays in relation to the author. The successors in interest as copyright owners will be treated in a subsequent report on Transfers.

1 IN GENERAL

1.1. *Works emanating from a natural person*

The simplest and most frequent case is that in which the author of a work is a natural person, an individual, who discloses his true name, for in such a case, there is no problem of complications with other people, nor any difficulties of proof. Because this case is so simple, many laws do not deal with it. However, some countries

1. Figures in brackets refer to the notes on p. 23.

have expressly incorporated in their laws the generally admitted presumption that the author is he whose name appears on the work. This presumption, based on the indication of the author's name or recognized pseudonym or symbol on the protected work, is found in the following countries: *Algeria* (name or pseudonym indicated on the work in the usual way); *Australia* (name under which the work was published); *Austria*; *Burma* (name or recognized pseudonym indicated on the work) [3]; *Brazil* (the person who has in the usual way indicated or stated that he is the author when the work is used); *Canada* (name indicated on the work); *Chad* [4]; *Chile* (the person whose name or recognized pseudonym appears on the registered copies of the work); *Colombia* (name or recognized pseudonym indicated on the work); *Cyprus* [3]; *Denmark* (name, well-known pseudonym or symbol indicated on copies of the work); *Ecuador* (name or well-known pseudonym appearing on the work); *Arab Republic of Egypt* (person whose name is mentioned on the published work); *El Salvador* (name or recognized pseudonym appearing on the work); *Ethiopia* (the person under whose name the work has been published); *Fiji* (name or recognized pseudonym indicated on the work); *Finland* (recognized name, pseudonym or symbol indicated on each copy of the work); *France* (person or persons under whose name the work is published); *German Democratic Republic* (name indicated on the work); *Federal Republic of Germany* (the person designated as the author in the usual way); *Guatemala* (name or recognized pseudonym); *Holy See* [5]; *Iceland* (recognized name, pseudonym or symbols indicated on the work in the usual way); *Iraq* (the person to whom the work is attributed and under whose name or by any other means it is published, or under whose pseudonym it is published provided that there is no doubt as to the author's identity); *Ireland* (name appearing on the work); *Israel* [3]; *Italy* (name indicated); *Japan* (person whose name, appellation or generally recognized pseudonym is indicated in the usual way as the author on the original); *Republic of Korea* (any person whose name has appeared as that of the author on a work already published); *Libya* (person under whose name the work is registered); *Liechtenstein* (natural person whose true name is given on copies of the work); *Luxembourg* (person whose name is indicated on the work as the author in the usual way); *Madagascar* [6]; *Malaysia*; *Malta* (name appearing on the work); *Mexico* (name or recognized or registered pseudonym shown as being that of the author); *Morocco* (name under which the work is published); *Netherlands* (name shown on the work); *New Zealand* (person whose name is shown); *Nigeria* (name appearing on the work); *Norway* (name, recognized pseudonym or mark); *Paraguay* (name or recognized pseudonym); *Peru* (name, recognized pseudonym, initials, symbol or any other usual sign); *Poland* (any person whose name appears on the work); *Portugal* (person whose name appears on the work in the usual way); *Senegal* (person under whose name the work is published); *Sierra Leone* (name appearing on the work); *Singapore* [3]; *Spain* (name appearing on the work); *Sri Lanka* [3]; *Sweden* (name, pseudonym or well-known symbol); *Switzerland* (true name shown on copies of the work); *Thailand* (name shown on the work); *Tunisia* (person under whose name the work has been published); *Turkey* (person whose name or recognized pseudonym appears on copies of the work); *United Kingdom* (name or recognized pseudonym indicated on the work); *Venezuela* (person whose name is shown on the work); *Yugoslavia* (person whose name or pseudonym appears on the work).

Where no name appears on the work, some countries attribute the authorship to the editor or *publicateur*.

Panama recognizes authorship by assimilation to anyone who publishes for the first time an unpublished work without owner, using a manuscript of which he is the owner.

A particular case is that of the *Byelorussian Soviet Socialist Republic*, where the State can buy the rights to a work from the author or his successors (Article 496).

1.2. Works emanating from several persons

This description fits works which may sometimes be very different in kind, the only common feature being that two or more persons participated in their preparation. These contributions may become merged within the finished work to such an extent that it is no longer possible to identify them with precision or, on the contrary, they may continue to be distinguishable after the completion of the work. They may be of the same or of different kinds (e.g. when a work is partly literary, partly musical). Lastly, the work may have been composed under the guidance of a natural person or a juridical person.

Among these works, some legislations establish a distinction between works of collaboration and/or collective works and/or composite works. In a broad sense, a work of collaboration is one in which several natural persons have collaborated and of which the component parts are linked together by a community of purpose and inspiration; a collective work is one created on the initiative of a natural or juridical person and in which the various individual contributions blend together so that it is impossible to distinguish them subsequently. The term composite work is sometimes applied to a new work into which a previously existing work is incorporated without the collaboration of its author.

Between one legislation and another, these distinctions may not always cover the same works. It may be stated, however, that in the case of works of collaboration, the exercise of copyright is attributed to the co-authors jointly, with certain exceptions, particularly in lawsuits concerning the joint work. In the case of collective works, the copyright generally belongs either to the natural or juridical person on whose initiative the work was created, co-ordinated or published, or to the publisher. In the great majority of cases, however, these distinctions do not appear clearly in the legislation, but there is a fairly general tendency to establish different rules according to whether the various personal contributions can or cannot be distinguished.

Particular provisions are made regarding works emanating from several persons in the following countries: *Algeria* (copyright in a work of collaboration belongs jointly to the co-authors; a collective work is — failing proof to the contrary — the property of the natural or juridical person on whose initiative it was created and under whose name it was published; copyright in a composite work belongs to the person who created it subject to the rights of the author of the pre-existing work); *Argentina* (the publisher is the owner of the copyright in a collective work; collaborators have equal rights, but when several authors have collaborated in a dramatic or lyrical work, the authorization of which some of the authors are qualified persons and others unqualified persons, the qualified persons are regarded as the sole authors of the work); *Austria* (copyright belongs jointly to all co-authors, decisions require unanimous consent); *Belgium* (copyright belongs to all co-authors; exercise of copyright is regulated by agreements, but in the absence of an agreement, none of the co-owners can exercise it independently); *Brazil* (the quality of author of a work of collaboration is attributed to the collaborator(s) whose name(s), recognized pseudonym(s) or sign(s) has or have been used; when a work has been composed by various persons but its composition has been organized by an individual or collective undertaking and it has been used in the latter's name, the latter is vested with the quality of author; unless otherwise agreed, the co-authors of the work exercise their

rights jointly; when the contributions of different co-authors belong to different *genres*, each may exploit his individual contribution provided that this is not prejudicial to the exploitation of the joint work; when a work of collaboration is indivisible none of the collaborators may, without the consent of the others, publish it or authorize its publication except in the collection of his complete works; in the event of disagreement, the decision is taken by the majority and, failing that, by the National Copyright Board; each collaborator can register the work separately and can take legal proceedings separately); *Bulgaria* (copyright belongs jointly to all co-authors; the exercise of copyright in a work as a whole is determined by the common consent of all; each co-author retains his rights in his individual contribution if it is distinguishable); *Byelorussian S.S.R.* (copyright belongs jointly to all co-authors, whether the work is an indivisible whole or is composed of independent parts, but each co-author retains his right in the part which he has created if it is in the nature of an independent creation); *Chad* [4]; *Chile* (the economic rights in a work of collaboration belong to all the co-authors of the work; any collaborator may demand publication of the work; those who are opposed to its publication may simply require that their names shall not be published, while retaining their economic rights; copyright in encyclopedias, dictionaries and similar compilations which have been commissioned belongs to the person who organized their preparation, as regards both the actual compilation and the individual contributions); *Colombia* (in the case of a dramatic or musical work of collaboration, the authorization of a single collaborator is sufficient for public performance); *Costa Rica* (co-authors of a musical drama may publish and sell their personal contributions separately; royalties are divided equally); *Czechoslovakia* (when a single work results from the creative activities of several authors, they are all jointly and severally entitled to copyright); *Denmark* (if contributions to a work do not constitute independent works, all the collaborators have common rights but may take legal action separately); *Ecuador* (when a work has several authors, rights are arranged by agreement, failing which all have equal rights); *El Salvador* (co-authors of a work have equal rights; for the exercise of these rights, the consent of the majority is required; the holders of the copyright in identifiable contributions to a complex work may publish these contributions separately, but not until three months at least after the publication of the general work; the natural or juridical person under whose name a work is published is considered as the copyright holder); *Arab Republic of Egypt* (in a work of collaboration, where individual contributions cannot be distinguished, all the collaborators are the owners and exercise their rights by unanimous consent; in the event of disagreement, a judge decides; each of the collaborators can take legal proceedings; if the contribution of each author is distinguishable, each may exploit his own separately, without detriment to the work as a whole; a person who co-ordinates, directs and publishes under his own name a work in which the various individual contributions cannot be distinguished is regarded as the author of the work); *Ethiopia* (collaborators co-own the copyright; they exercise it by common agreement; they may use their contributions separately so long as this does not prejudice the joint work); *Fiji* (in the case of a work of collaboration of which some of the co-authors are qualified persons and others are unqualified, the qualified persons are considered as being the sole authors of the work); *Finland* (collaborators enjoy copyright in a work jointly; each can, however, initiate proceedings in the event of an infringement of copyright); *France* (a work of collaboration is the common property of the co-authors; in the event of disagreement a ruling is given by the civil courts; a collective work is the property of the natural or juridical person under whose name the work is published); *German Democratic Republic* (copyright in a work of collaboration belongs jointly to all the collaborators as co-authors even

if the individual contributions are distinguishable); *Federal Republic of Germany* (the right of publication and exploitation belongs jointly to the co-authors; modifications can be introduced only with the consent of all, each co-author may take action against any infringement of the joint copyright, but demanding compensation for all the co-authors); *Guatemala* (collaborators exercise their rights jointly and indivisibly; if a work is composed under the guidance of a natural or juridical person, copyright in the whole work belongs to that person without prejudice to copyright of the author in his contribution); *Holy See* [5]; *Hungary* (in the case of a work created jointly, when the work cannot be separated into independent parts, copyright belongs jointly to the co-authors of the work and, where there is doubt, royalties are divided equally; however, each of the co-authors is entitled to take legal proceedings independently for infringement of copyright; when the parts of the joint work can be separated, the co-authors hold independent copyright in their respective parts; in the case of series published under the direction of scientific institutes and State bodies, copyright is exercised by those institutes or bodies but the independent rights of the authors of the works incorporated in the series are not affected); *Iceland* (the person who is responsible for the composite work holds the copyright in that work without prejudice to the copyright in each of the works incorporated in the composite work; when a work has been created by several authors whose contributions cannot be separated, the authors hold joint copyright in that work); *India* (in the case of a work of collaboration, the conditions of attribution of the copyright apply to all the authors); *Iraq* (when each co-author's contribution is inseparable from that of the others, they are considered as equal owners of the work unless otherwise agreed; the authors' rights cannot be exercised by one of them separately without the consent of the other co-authors; in the event of disagreement the court decides; each of the co-authors is entitled to take legal proceedings in the case of infringement of copyright; if each co-author's contribution is separable from that of the others, each is entitled to exploit the part corresponding to his contribution unless otherwise agreed; the natural or juridical person who took the initiative in the composition of a collective work is regarded as the author; in the case of several authors participating in the composition of musical works to be sung, the author of the musical score alone is entitled to authorize public performance of the joint work, or its publication or reproduction, provided that the rights of the author of the text are not prejudiced, the latter being entitled to publish the said text but not to make use of it as the basis for another musical work; in the case of several authors participating in the composition of pantomimes or parades accompanied by music, and in all similar cases, the author of the non-musical part is alone entitled to authorize public performance of the entire work or its reproduction, the author of the musical part being entitled to use this separately provided that he does not use it as the basis for another similar work); *Ireland* (in the case of a work of collaboration of which some of the co-authors are qualified persons and others are unqualified, the qualified persons are considered as being the only authors); *Italy* (copyright in a work of collaboration belongs jointly to all the co-authors whose contributions cannot be distinguished; the consent of all is required before this right can be exercised; each co-author can, however, defend his moral right; a person who organizes and directs the creation of a collective work — collection of independent works — has the copyright in that work; the publisher has the right to economic utilization and the contributors can use their contributions separately); *Japan* (rights in a work of collaboration belong jointly to all the co-authors); *Jordan* (copyright belongs to collaborators equally, but damages may be sought separately); *Republic of Korea* (copyright belongs collectively to the co-authors of a work; but each co-author may seek compensation for derogatory

actions in relation to the joint work); *Lebanon* (contributors have equal rights in the joint work; they exercise copyright in common; in the case of a lyrical work, the composer and the author of the libretto have equal rights; each may exploit the complete work separately, but neither may take a new collaborator for the joint work); *Libya* (copyright in a work of collaboration belongs jointly to the co-authors when the contribution of each is inseparable from those of the others; when the contribution of each is separable from the joint work, each author is entitled to exploit his individual contribution separately without, however, prejudicing the exploitation of the joint work; copyright in a collective work belongs to the natural or juridical person who undertakes and directs the work; in the case of musical works to be sung, the author of the musical score is alone entitled to authorize public performance of the entire work or to publish it, without prejudice to the right of the author of the literary part, but the author of the literary part is entitled to publish his contribution separately provided that he does not use it as the basis for another work; in the case of pantomimes or parades accompanied by music and in all other similar cases the author of the non-musical part is alone entitled to authorize performance of the entire work and to reproduce copies, but the author of the musical score is entitled to make use of his contribution separately provided that he does not use it as the basis for another joint work); *Liechtenstein* (co-authors have a common right when their respective contributions cannot be separated; they exercise this right in common; each may, however, take legal action against derogatory actions in relation to the common work); *Luxembourg* (copyright in a work of collaboration belongs jointly to the co-authors when the contributions are inseparable and, unless otherwise agreed, none of the co-authors can exercise it separately; in the event of disagreement and in the absence of such an agreement, a ruling shall be given by the courts; each collaborator can take legal proceedings in his own name and be paid his share of damages; where works are composed of words and music, the composer and the author cannot make their respective work available to another collaborator, but they are entitled to exploit it separately provided that this does not adversely affect the exploitation of the joint work); *Madagascar* [6]; *Mexico* (if a work is created by several authors, they equal rights, unless it can be demonstrated what the individual contribution of each one is; these rights are exercised in accordance with the consent of the majority; each author can exploit his own contribution; in the case of musical works with words, each can exploit his part of the complete work); *Monaco* (a work of collaboration is the common property of the authors, but when the work does not form an indivisible whole, each co-author may exploit separately his individual contribution so long as this does not adversely affect the exploitation of the work as a whole; in all cases, each of the co-authors is considered to be the authorized agent of all in relation to third persons); *Netherlands* (if the copyright belongs jointly to several persons, each of them can, unless otherwise stipulated, take legal proceedings in defence of such right; in the case of a work composed of contributions by two or more persons, the person who directed and supervised the composition will hold the copyright, without prejudice to copyright in the different contributions); *New Zealand* (in the case of a work of collaboration of which some of the co-authors are qualified persons and others are unqualified, the qualified persons are considered as being the only authors); *Nicaragua* (a work composed by several persons whose individual contributions cannot be distinguished is the common property of all the authors; if the authors of certain elements can be identified, each one is entitled to rights in his contributions; if the work is due to the initiative of a single natural or juridical person, that person will be entitled to ownership of the work, except if each of the collaborators wishes to republish his individual contribution; in the case of a dramatic

work composed by different persons, each has the right to authorize performances; for works comprising words and music, the author of the music is regarded as the author of the libretto); *Norway* (when it is not possible to distinguish the individual contributions of co-authors, they hold the copyright in common; the consent of all is necessary for first publication, the consent of one of them alone is sufficient for a similar republication; each may take action separately in the event of infringement of copyright); *Pakistan* (in the case of a work of collaboration of which some of the co-authors are qualified persons and others are unqualified, the qualified persons are considered as being the only authors); *Panama* (works written in collaboration constitute an indivisible whole; each author can, however, do as he likes with his individual contribution to the collective work provided there has been an agreement to this effect); *Paraguay* (collaborators have equal rights, but compositions comprising words and music are regarded as two distinct works, each author having an exclusive right in his composition; anonymous collaborators have no right in their commissioned contributions and are represented by the publisher); *Peru* (in cases where individual contributions are distinguishable, each author holds the copyright in his own share; when contributions cannot be so distinguished, the authors hold the copyright in common; the person who arranges or co-ordinates a collective work or publishes it under his own name holds the copyright, without prejudice to the right of the authors in their contributions); *Philippines* (if a work is created by two or more persons, the copyright belongs to them jointly, but no one of them can grant licences without the consent of the others); *Poland* (the publisher holds the copyright in a collective work as a whole, the author holding the copyright in the various elements of the work which have independent value of their own; co-authors hold copyright in common; the authors of a combined work comprising words and music hold the copyright in the whole work, each reserving copyright in his own contribution); *Portugal* (in the case of a work of collaboration, copyright is attributed jointly to all the co-authors; in the event of disagreement, decision is by majority or, failing this, by the court; each co-author may exercise individually the rights in his personal contribution to the joint work in so far as this does not prejudice exploitation of the work as such; copyright in a collective work is attributed to the undertaking which organized and directed its composition and under whose name it was published; however, if the personal contribution of one of the collaborators can be distinguished, he may exercise rights in that contribution individually, the author of the composite work alone holding the rights in the latter, without prejudice to the rights of the author of the incorporated work); *Romania* (co-authors hold copyright in common and share profits equally; if their contributions can be distinguished, each of them may exercise non-economic personal rights in his own share); *Senegal* (a work of collaboration belongs jointly to the co-authors, who exercise their rights in common agreement, failing which the court decides; when the contributions of each of the co-authors are of different *genres*, each may, unless otherwise agreed, exploit his personal contribution separately, without however prejudicing exploitation of the joint work; a composite work belongs to the author who is responsible for it, without prejudice to the rights of the author of the pre-existing work; a collective work belongs to the natural or juridical person who is at the origin of its composition and who published it); *Sierra Leone* (in the case of a work of collaboration of which some of the co-authors are qualified persons and others are unqualified, the qualified persons are considered as being the only authors); *Sweden* (the co-authors of a work hold the copyright in that work in common, but each may take legal proceedings separately; copyright in a composite work belongs to the compiler, without prejudice to copyright in each of the individual works in the

compilation); *Switzerland* (collaborators hold the copyright in a work in common when their contributions cannot be separated, but each may take action against derogatory actions in relation to the joint work and do as he wishes with his share); *Syria* contributors have equal rights in the joint work; they exercise copyright in common; in the case of a lyrical work, the composer and the author of the libretto have equal rights; each may exploit the complete work separately, but neither may take a new collaborator for the joint work); *Turkey* (if a work of collaboration can be divided into distinct elements, each of the collaborators is regarded as the author of his personal contribution; in the event of disagreement on the work as a whole, a ruling is given by the courts; if the work forms an indivisible whole, the authors hold the copyright in common; in the event of disagreement, the courts decide; each author can, however, act independently if the common interest of all are infringed upon); *Uganda* (persons with interests in the various copyrights relating to a composite production, i.e. a production composed of two or more works of collaboration, are regarded as having equal entitlement); *Union of Soviet Socialist Republics* (copyright in a work created by the combined efforts of two or more persons belongs to the co-authors in common, whether the work is an indivisible whole or is composed of parts, each having an independent status; each author retains his copyright in his own contribution of it is independent in character); *United Kingdom* (in the case of a work of which some of the authors are qualified persons and others are unqualified, the qualified persons are considered as being the only authors); *United States of America* (the holder of the copyright in a collective work is the owner of the work); *Uruguay* (co-authors of a work have equal rights; persons who collaborate in a collective compilation are not regarded as the authors of their contributions, the publisher being regarded as the author); *Venezuela* (co-authors of a work hold copyright in common and exercise it by common consent, a judge deciding in the case of disagreement; when the contributions of different co-authors belong to different *genres*, each may exploit his contribution without detriment to exploitation of the work as a whole; copyright in a composite work belongs to the author responsible for it); *Yugoslavia* (if a work in which several authors have participated constitutes an indivisible entity, copyright belongs indivisibly to all the collaborators; if not, each collaborator retains his right in his own contribution; the person who organizes the work with a view to the creation of a work in which several collaborators participate holds the copyright in that work, but the collaborators retain their rights in their contributions).

1.3. Works emanating from a juridical person

Legislation in certain countries recognizes that copyright can juridically attach to a corporate body although such a juridical person can neither write, nor paint, nor sculpt, nor compose a melody.

Numerous provisions exist to cover copyright in works by juridical persons in general or, more frequently, by certain categories of juridical persons; the State, governmental services, municipalities, academies, universities, institutes and other learned bodies, enterprises, and so on. This is the case in the following countries: *Algeria; Argentina; Australia; Belgium* (if the author has made over his copyright to them); *Bolivia; Brazil* (if the work was commissioned and not simply subsidized); *Burma* [3]; *Byelorussian S.S.R.; Chile; Cyprus* [3]; *Ecuador; El Salvador; Fiji; German Democratic Republic; Ghana; Holy See* [5]; *Hungary; India; Iraq; Ireland; Israel* [3]; *Italy; Japan; Jordan; Kenya; Republic of Korea; Libya; Luxembourg; Malawi; Malaysia; Malta; Mexico* (but, failing legal provisions to the contrary, juridical persons

can only hold copyright as the executors of natural persons); *Nepal; Netherlands; New Zealand; Nicaragua; Nigeria; Pakistan; Panama; Peru; Portugal; Senegal; Sierra Leone; Singapore* [3]; *Spain; Sri Lanka* [3]; *Tanzania; Thailand; Tunisia; Uganda; Union of Soviet Socialist Republics; United Kingdom; Uruguay; Zambia*.

While legislation in certain countries does not lay down the principle that copyright may be vested in juridical persons, this principle can nevertheless be deduced from certain provisions governing, for example, the duration of the protection accorded to the works of these juridical persons. Provisions of this type exist in the following countries: *Bulgaria; Canada; Chile; Dominican Republic; Arab Republic of Egypt; Guatemala; Iran; Japan; Lebanon; Morocco; Nicaragua; Norway; Philippines* (protection does not apply to government works); *Poland; Romania; Syria; Turkey; United States of America* (protection does not apply to government works); *Venezuela*.

Several countries make special provision for the protection of works composed by certain international organizations designated by the national authorities: *Ghana; India; Ireland; Kenya; Malawi; Mexico; New Zealand; Pakistan; Sierra Leone; Tanzania; Uganda; United Kingdom; Zambia*.

Mention must also be made of certain unusual particular provisions. In the *Lebanon*, it is the publisher who retains the exercise of copyright in a work appearing under the name of a juridical person; in *Paraguay*, neither the government nor municipal authorities have the copyright in works of general interest, but these cannot be reproduced without their authorization; in the *Netherlands*, the Admiralty and through it the State hold the copyright in maps and hydrographic works published by the former.

2 SPECIAL CASES

2.1. Anonymous and pseudonymous works

In most countries, it is the publisher or the printer who exercises copyright in these works. He is not the real copyright holder, but this procedural presumption enables him to act to safeguard the copyrights — only, as a rule, until the real author has revealed his identity. This procedure is adopted in *Algeria; Argentina; Austria; Belgium; Bolivia; Brazil; Canada; Chad* [4]; *Colombia; Costa Rica; Czechoslovakia; Denmark; Ecuador; Arab Republic of Egypt; El Salvador; Ethiopia; Fiji; Finland; France; German Democratic Republic; Federal Republic of Germany; Greece; Holy See* [5]; *Hungary; Iceland; Iran; Iraq; Italy; Japan; Jordan; Republic of Korea; Lebanon; Libya; Liechtenstein; Luxembourg; Madagascar* [6]; *Malaysia; Malta; Mexico; Monaco; Morocco; Nepal; Netherlands; New Zealand; Nicaragua; Nigeria; Norway; Panama; Paraguay; Peru; Philippines; Poland; Portugal; Senegal; Sierra Leone; Spain; Sweden; Switzerland; Syria; Thailand; Turkey; United Kingdom; Uruguay; Venezuela; Yugoslavia*.

In *Chile*, the person who has registered the pseudonym under which the work has been publicly distributed is, failing proof to the contrary, presumed to be the author.

2.2. Posthumous works

Provisions specifically concerning posthumous works usually designate as owners of the copyright either the heirs or legatees of the deceased, or the proprietor (holder, owner) of the *corpus mechanicum* (the 'work' itself, the manuscript). In the latter case, the proprietor, as such, may enjoy the copyright or there may only be a presumption

in his favour. In some cases, indeed, the law specifies that a person may become the proprietor of a work in virtue of a bequest or other deed.

There are also some laws which designate the publisher of the posthumous work as holder of the copyright.

Provisions of these various kinds are as follows: *Algeria* (heirs or holders); *Argentina* (in the absence of heirs, the State); *Belgium* (owner of the work); *Burma* (owner of a manuscript acquired under the provisions of a will) [3]; *Chad* [4]; *Colombia* (owner of the work acquired by succession or in any other way); *Cyprus* [3]; *Dominican Republic* (assigns); *Ecuador* (owner of the work); *France* (the assigns or the author or, if the work is published after the expiry of the protection period, the owner of the work who causes it to be published); *Federal Republic of Germany* (whoever causes a work to be published after the expiry of the protection period); *Greece* (owner); *Haiti* (owner of the work); *Holy See* [5]; *India* (legatee); *Iraq* (heirs); *Israel* [3]; *Italy* (heirs); *Libya* (heirs); *Luxembourg* (owner of the work acquired by succession or in any other way); *Madagascar* [6]; *Morocco* (owner of the work); *Nicaragua* (in the absence of heirs or assigns, the publisher); *Panama* (owner of the work acquired by succession or in any other way); *Peru* (assigns); *Philippines* (heirs); *Portugal* (heirs or representatives); *Senegal* (executors of the will, descendants, spouse, heirs, residuary legatees); *Singapore* [3]; *Sri Lanka* [3]; *United States of America* (owner of the work); *Uruguay* (heirs and legatees).

In *Bolivia*, the publisher is regarded as holding the copyright in a posthumous work (the publisher of posthumous works by a known author enjoys copyright, the right of the heirs being reserved); in *Costa Rica*, the publisher enjoys the same rights as the author; in *Nicaragua*, the publisher enjoys copyright in the absence of heirs or assigns; in *Paraguay*, the publisher and the assign have indivisible rights, the publisher alone enjoying them in the absence of beneficiaries.

2.3. Anthologies and periodicals

When a work is put together from the separate works of several authors by someone who plans, arranges and co-ordinates the collection, it is generally recognized that, without prejudice to the copyrights on the individual works so assembled, there is a separate copyright on the ensemble. Many laws deal with this point, designating the editor or director (he who organizes the collection) as owner of the copyright on the collected work as a whole.

Legislation in some countries deals explicitly with anthologies and periodicals; in others, it deals with them implicitly under works of collaboration (cf. above under 1.2). Legislation deals with this matter explicitly in the following countries: *Afghanistan* (the author of a compilation); *Algeria* (the person who made the selection); *Argentina* (the periodical in the case of unsigned articles, without prejudice to the right of the author to publish them in collected form; the author in the case of signed articles); *Australia* (the owner of the newspaper, journal or periodical in so far as copyright relates to publication in a newspaper, journal or periodical, to broadcasting of the work or reproduction of the work with a view to such publication or broadcasting); *Austria* (the author retains the right to reproduce and circulate his contribution elsewhere); *Brazil* (the publisher enjoys copyright); *Bulgaria* (the compiler, if a personal compilation); *Burma* (the periodical, without prejudice to the right of the author to prohibit publication other than in a similar periodical) [3]; *Byelorussian S.S.R.* (copyright is vested in the institutions which publish them); *Canada* (the periodical, without prejudice to the right of the author to prohibit publication other than in a similar periodical); *Chad* [4]; *Chile* (the person who organized the preparation of the

work, the press organization); *Colombia* (the author or director of the anthology); *Cyprus* [3]; *Czechoslovakia* (the compiler, the publisher for exercise of rights); *Ecuador* (the publisher of a periodical, the author of an anthology of unpublished legislative texts if he has been authorized by a public institution or by the person who holds the copyright); *Arab Republic of Egypt* (anthologies are not protected, but anyone co-ordinating an anthology enjoys protection if he shows originality); *Ethiopia* (the author); *France* (cf. above under 1.2); *German Democratic Republic* (the publisher); *Federal Republic of Germany* (the publisher, or in doubtful cases the *publicateur*, has exclusive copyright); *Holy See* [5]; *Hungary* (the compiler of the anthology, independently of the right of each contributor in his contribution); *India* (the publisher of the periodical in all matters concerning publication in a similar periodical); *Ireland* (the publisher of the periodical in all matters concerning publication in a similar periodical, the staff author in all other cases); *Israel* [3]; *Italy* (the publisher or director of the periodical); *Japan* (the author of the compilation); *Lebanon* (only the author of speeches, including speeches made in court, has the right to compile them); *Luxembourg* (the author); *Madagascar* [6]; *Morocco* (the compiler); *Nicaragua* (copyright of all works is owned by the authors); *Norway* (the director); *Panama* (the author or director of a compilation); *Paraguay* (the periodical or agency in the case of unsigned articles, the authors in that of signed contributions); *Peru* (the publishing firm has all rights in unsigned articles, but publication rights only for signed articles); *Philippines* (the compiler); *Poland* (the compiler and, in the case of periodicals, the publisher); *Portugal* (the authors of novels and short stories own the copyright of their respective works, other articles are the property of the publishing firm); *Romania* (the creator of the anthology); *Senegal* (the compiler); *Singapore* [3]; *Spain* (the proprietor of the publication, without prejudice of the right of the author to publish his articles in collected form); *Sri Lanka* [3]; *Switzerland* (protection without prejudice to the copyright of each of the authors); *Thailand* (anthologies and periodicals are protected); *United States of America* (the owner of the work); *Yugoslavia* (author of the anthology).

2.4. Works of an employee

The question of who is the copyright owner in the case of work for hire, that is, where the creator of the work is employed by another for that purpose, is usually a matter for the civil law or law of master-servant of each country.

There are, nevertheless, certain countries which deal with this question in their copyright law. They consider or presume the employer to be the copyright owner.

In the legislation of some countries, copyright is vested in the organization in the employ of which the work was prepared, while under certain legal provisions, copyright is closely connected with the author and thus with the creator of the work, the latter alone enjoying the right of intellectual property in his work regardless of the conditions in which it is created.

These various solutions are to be found in the following countries: *Algeria* (copyright is regarded as assigned to the employer); *Australia* (the employer); *Brazil* (the copyrights belong to the author and the employer); *Bulgaria* (copyright rests with the author, but the organization has the right to use the work without payment for purposes connected with its activities or to publish it on payment of remuneration to the author); *Burma* (the employer has the first claim to copyright) [3]; *Byelorussian S.S.R.* (the author enjoys copyright in works which he has created as an employee); *Canada* (the employer has the first claim to copyright); *Chad* [4]; *Chile* (the publishing firm is entitled to publish the work in the newspaper, but the author retains the

other rights; the State, the municipalities, etc., and other public juridical persons hold the copyright in works produced by their employees); *Cyprus* [3]; *Czechoslovakia* (the socialist organization may without the employee's consent use for the purposes of its own work a work created by the employee under a working contract); *Ecuador* (the employer enjoys copyright); *El Salvador* (the State or other public bodies hold the copyright in works composed by public servants in the exercise of their employment); *Ethiopia* (the author holds the copyright in works composed under the terms of a work-by-contract agreement or service contract); *Fiji* (the employer is the holder of copyright); *France* (the author retains copyright); *German Democratic Republic* (the author holds the copyright, but the employer is entitled to use the work); *Federal Republic of Germany* (the employee holds the copyright but may assign the right of usage by contract); *Ghana* (the employer); *Greece* (anyone who receives remuneration for publishing a work in a periodical cannot republish it within the following two years); *Guatemala* (the employer, without prejudice to the copyright of his employees in respect of their separate contributions); *Holy See* [5]; *Hungary* (the author is the holder of the copyright, but the employer is entitled to use the work); *India* (the employer has the first claim to copyright); *Ireland* (the owner in whose employment the work was created); *Israel* [3]; *Italy* (copyright in a photograph taken by an employee belongs to the employer); *Japan* (copyright belongs to the employer); *Jordan* (the employer enjoys copyright); *Kenya* (the employer); *Madagascar* [6]; *Malawi*; *Malaysia*; *Malta* (copyright is regarded as assigned to the employer); *Morocco* (copyright belongs in the first place to the author); *Nepal* (the employer); *Netherlands* (the employer); *New Zealand* (the owner is entitled to full copyright); *Nigeria* (copyright is regarded as assigned to the employer); *Pakistan* (the employer holds the copyright); *Peru* (the employer holds copyright in photographs taken by an employee under contract); *Philippines* (the employer); *Poland* (copyright belongs to the institution under whose direction the work has been prepared); *Portugal* (the author); *Romania* (the socialist organization in which an artistic work has been created may use it without the consent of the author, but only on payment of remuneration); *Senegal* (the author); *Sierra Leone* (the employer); *Singapore* [3]; *Sri Lanka* [3]; *Tanzania* (copyright belongs to the author); *Thailand* (the employer holds the copyright); *Tunisia* (copyright belongs to the employee who produces the work); *Turkey* (the employer is regarded as the author of the work); *Uganda* (the employer, in the case of all works except radio broadcasts); *Union of Soviet Socialist Republics* (the employee); *United Kingdom* (the employer holds the copyright); *United States of America* (the employer is regarded as the author); *Yugoslavia* (the employer in whose employ the work was created holds the copyright, but the author retains his prerogatives if under his contract he has created a work which goes beyond the normal activities of his employer); *Zambia* (copyright belongs to the employer).

The problem of the work of an employee is obviously closely connected with that of commissioned works, for which, see the following section.

2.5. *Commissioned works*

This, too, is a subject in part of copyright law and in part of the more general law.

In many instances, the law states that, in the absence of stipulation to the contrary, the commissioner (i.e. the person commissioning the work) is the owner of the copyright in the case of an engraving, a photograph, or a portrait commissioned against payment, of a bust, or even of any work in general: *Algeria* (the copyright is regarded as

assigned to the commissioner); *Australia* (the person who commissions the engraving or photograph); *Austria* (the authorization of the theatrical enterprise is required for the registering of services rendered by a performing artist to that enterprise); *Brazil* (the copyrights belong to the author and the commissioner); *Burma* (the person who commissions the engraving or photograph) [3]; *Byelorussian S.S.R.* (copyright in a commissioned work belongs to the author, but the person who commissions it has the right to show it to the public; plans may be used by the enterprise which commissioned them); *Canada* (the person who commissions the photograph, portrait or engraving); *Chad* [4]; *Chile* (the copyright belongs to the person who organized the compilation commissioned; the copyright in productions commissioned by a broadcasting organization belongs to the author, but the organization has the exclusive right to publish them during a certain period of time); *Cyprus* [3]; *Denmark* (the person who commissioned the photograph); *Dominican Republic* (the person who commissioned the photograph); *Ecuador* (the person who commissioned the work); *El Salvador* (corporate bodies are the holders of copyright in works made at their express request); *Ethiopia* (the author retains copyright, even if he carried out the work under a work-by-contract agreement or a service contract); *Fiji* (the commissioner); *Finland* (the person who commissioned the photograph); *France* (copyright remains with the author); *Federal Republic of Germany* (the person who commissioned the portrait or his assign); *Ghana* (the person who commissioned a work other than a radio broadcast); *Guatemala* (the person who gave the commission); *Holy See* [5]; *Hungary* (the exercise of copyright in a portrait or bust executed to order is subject to the authorization of the commissioner); *India* (the person who commissioned the photograph, painting, portrait, engraving or cinematographic film); *Iran* (the commissioner, for a period of thirty years); *Ireland* (the person who commissioned the photograph, engraving, film or phonogram); *Israel* [3]; *Italy* (the commissioner has the copyright, but fair compensation is due to the photographer for commercial use of his photograph); *Kenya* (the person who commissioned the work); *Republic of Korea* (the person who commissioned the photograph or portrait); *Madagascar* [6]; *Malawi*; *Malaysia*; *Malta* (the copyright is regarded as assigned to the person who commissioned the work); *Mexico* (the person who produces a work with the special, paid participation of another person has the copyright but must mention the name of that other collaborator); *Monaco* (the right of reproduction of a commissioned portrait or bust is presumed to be transferred with the work itself); *Morocco* (the author); *Nepal* (the person who commissioned the work); *Netherlands* (the person who commissioned the work); *New Zealand* (the person who commissioned the photograph, painting, drawing, engraving, sculpture, recording or film); *Nigeria* (the copyright is regarded as transferred to the person who commissioned the work); *Norway* (the person who commissioned a portrait has the right to give or withhold permission for the author to make good his right to make the portrait accessible to the public); *Panama* (the person who commissioned the work); *Philippines* (the commissioner); *Poland* (an institution has the right of first publication of a scientific work carried out to its commission); *Portugal* (the author); *Senegal* (the author); *Sierra Leone* (the person who commissioned the engraving, photograph, portrait or recording); *Singapore* [3]; *Sri Lanka* [3]; *Sweden* (when a portrait has been commissioned, the copyright can only be exercised with the assent of the commissioner); *United Republic of Tanzania* (the person who commissioned the work); *Thailand* (the person who commissioned the engraving, photograph or painting); *Turkey* (the person who commissioned the artistic work); *Uganda* (the person who commissions a work other than a radio broadcast); *United Kingdom* (the person who commissioned the photograph, painting, drawing, portrait, recording); *Yugoslavia* (the commissioner in

the case of a work composed by several collaborators); *Zambia* (the person who commissioned a work other than a radio broadcast).

2.6. Photographs

Copyright in photographs belongs generally to the photographer or the owner of the support used. As we have seen, however (cf. above under 1.3, 2.4, and 2.5) the copyright may belong to other persons, or certain of its prerogatives may be withheld from the photographer and given to others.

Provisions adopted in the various countries : *Australia* (the person who commissioned the photograph, the person who took it being regarded as the author); *Austria* (the person taking the photograph; in the case of photographs taken for commercial purposes, the proprietor of the enterprise is regarded as having taken the photograph); *Brazil* (the author of the photograph); *Bulgaria* (the author of the photograph); *Burma* (the owner of the negative at the time of development) [3]; *Canada* (the owner of the negative at the time of development); *Chile* (the photographer, without prejudice to the right of the commissioner in the case of commissioned photographs; transfer of the negative or support implies transfer of the right); *Cyprus* [3]; *Denmark* (the photographer); *Ethiopia* (the author of the photograph if it bears his name and address); *Fiji* (the owner of the support at the time when the photograph is taken); *Finland* (the maker or photographer); *German Democratic Republic* (the photographer); *Federal Republic of Germany* (the person who took the photograph); *Greece* (the photographer or the publisher if their names are mentioned); *Holy See* [5]; *Hungary* (the photographer); *Iceland* (the photographer); *India* (the photographer); *Iraq* (the photographer); *Ireland* (the owner of the support at the time when the photograph is taken); *Israel* [3]; *Italy* (the photographer); *Japan* (the author of the photograph); *Republic of Korea* (copyright in a photograph appearing in a work and taken specially for it belongs to the author of the work); *Libya* (the photographer); *Liechtenstein* (the person whose name is indicated on the photograph); *Luxembourg* (the author); *Morocco* (the author); *Nepal* (the person who took the photograph); *New Zealand* (the person who owns the material support at the time the photograph is taken); *Nicaragua* (the photographer); *Norway* (the photographer); *Pakistan* (the photographer); *Peru* (the photographer); *Portugal* (the photographer); *Sierra Leone* (the owner of the support at the time the photograph is taken); *Singapore* [3]; *Sri Lanka* [3]; *Sweden* (the photographer); *United Kingdom* (the owner of the support at the time the photograph is taken); *Uruguay* (the person represented); *Venezuela* (the photographer); *Yugoslavia* (the author).

2.7. Films

Since film-making usually requires the co-operation of several people, they usually draw up an agreement to cover the question of the ownership of the copyright in the work. The law is therefore usually invoked only in default of a contractual settlement.

In some countries, the producer of the film is regarded, with or without reservations, as holding the copyright in the film. In others, the law recognizes several authors; there may either be a joint copyright for all the co-authors or a separate copyright for each of the co-authors in his own creative contribution. The main provisions are as follows : *Algeria* (the author of the scenario, the author of the adaptation, the script-writer, the composer of the music, the director, the graphic artist, the author of the original work); *Argentina* (the collaborators — author of the

scenario, producer, composer — all have equal rights; the producer, however, has the right to project the film even without the consent of the others); *Australia* (the producer, the commissioner); *Austria* (the producer has the exploitation rights); *Brazil* (the author of the scenario or literary, musical or dramatico-musical subject, the director and the producer; the director exercises solely the moral rights; the economic rights belong to the producer); *Bulgaria* (the enterprise which produced the film; the author of the scenario, the composer of the music, etc., retain the copyright in their works independently); *Byelorussian S.S.R.* (copyright belongs to the company making the film; copyright in an amateur film belongs to the author or co-authors); *Chad* [4]; *Chile* (the copyright belongs to the producer; the natural person or persons responsible for the intellectual creation of the work, namely, the author of the synopsis, the scenario writer, the author of the adaptation, the script-writer, the composer of the music and the director, are regarded as authors in law); *Colombia* (the author of the scenario, the producer and the author of the music have the same rights; the producer may, however, project the film without the authorization of the author); *Czechoslovakia* (the authors of the various contributions hold the copyright but transfer by contract the right to exercise copyright in the work as a whole to the producer); *Arab Republic of Egypt* (the author of the scenario, author of the adaptation, script-writer, composer of the music and director are presumed to be the co-authors; the producer is regarded as the publisher of the cinematographic work and exercises all publishing rights over the film); *El Salvador* (the producer has publishing rights for the work, the co-authors have the moral rights, the director is the author of the cinematographic work considered as a whole); *Fiji* (the director); *France* (the persons responsible for the intellectual creation of the work — the author of the scenario, the author of the adaptation, the script-writer, the author of the musical compositions, the director); *German Democratic Republic* (the co-authors, but the rights are administered by the enterprise); *Federal Republic of Germany* (the producer obtains the necessary rights of exploitation of the work by assignment); *Ghana* (the person who arranged the making of the film); *Greece* (the authors of all the artistic, musical, photographic and literary elements : actors, author of the scenario, composer, etc.); *Guatemala* (the producer, without prejudice to the right of contributors in their respective contributions); *Holy See* [5]; *Hungary* (the authors of literary and musical works composed for the film, the director and all those who also contributed in a creative capacity to the making of the film; economic rights are held by the film studio); *India* (the owner at the time when the film is completed); *Iraq* (the scenario writer, the author of the adaptation, the script-writer, the composer and the director, who are represented by the producer); *Ireland* (the producer); *Italy* (the co-authors : author of the original story, scenario writer, composer of the music and artistic director; but the producer has the economic exploitation rights); *Japan* (the persons who contributed to the making of the work—production, sets, shooting, artistic direction, etc.; the producer holds the copyright); *Kenya* (the person who arranged the making of the film); *Libya* (the scenario writer, the author of the adaptation, the script-writer, the composer and the director, who are represented by the producer); *Luxembourg* (the producer); *Madagascar* [6]; *Malawi*; *Malaysia*; *Malta* (the person who arranged the making of the film); *Mexico* (the producer may obtain a reserved exclusive right to the purely graphic elements of the work); *Morocco* (the scenario writer, the author of the adaptation, the script-writer, the composer and the director, who automatically assign the right to exploit the film to the producer); *Nepal* (the person who owns the work at the time of its completion); *New Zealand* (the person who makes the film); *Nigeria* (the person who arranged for the making of the film); *Norway* (the assignee of the right to make a film has the right to make it accessible

to the public); *Pakistan* (the person who is the owner of the work at the time when it is completed); *Paraguay* (the author of the scenario, the director of the film and the composer have equal rights; but the producer has the right to show the film without their authorization); *Peru* (the producer, as owner of the film exercises the pecuniary rights of utilization, without prejudice to the rights which the law allows to the authors of the works used and to the other contributors); *Philippines* (the producer, the scenario writer, the composer, the director, the director of photography and the author of the original work, but the producer exercises the right of exploitation); *Poland* (the enterprise which produced the film); *Portugal* (the author of the original story, the composer and the director; the producer exercises the exploitation rights); *Romania* (a film studio holds copyright in its productions, but the author of the scenario, composer, director and all other creative artists retain copyright in their own work); *Senegal* (the producer to whom the exploitation rights have been assigned); *Sierra Leone* (the director); *Spain* (the co-authors, but the producer has the economic-exploitation rights); *Sweden* (the assignee of the right to film a literary or artistic work has the right to make that work accessible to the public by means of the film); *United Republic of Tanzania* (the person who arranged the making of the film); *Tunisia* (the producer, but he may make contractual arrangements with all those whose work is being used involving assignment to him of the exclusive right of exploitation but leaving the various contributors the right to dispose of their contributions without detriment to the film as a whole); *Uganda* (the person who arranged the making of the film); *United Kingdom* (the director); *Uruguay* (the author of the scenario and the composer are regarded as co-authors; the producer has the sole right to authorize projection of the film in public); *Venezuela* (the natural person or persons responsible for the intellectual creation: the author of the scenario, author of the adaptation, script-writer, composer of the music and director; the producer has the exclusive right of exploitation and can exercise moral rights in the work in his own name); *Yugoslavia* (the author of the scenario, composer, producer, director, and director of photography are regarded as the authors; exploitation rights are exercised in relation to third parties by the producer); *Zambia* (the person who arranged the making of the film).

3 THIRD PERSONS

3.1. Models

If a living person is the subject of a work of art, the interests of the author in his work have to be reconciled with the interests of the model in the representation.

Involving the rights of the individual, this is usually dealt with under civil law, but special provisions are devoted to it in certain copyright laws.

In most, interests are reconciled by making the consent of the subject — the person represented — necessary to any exercise of the right to publish, and/or reproduce, and/or exhibit, and/or present.

Some expressly reserve reproduction or publication if the portrait involves cultural, educational or topical interests or the intervention of justice or the police. The model may also be allowed certain rights of reproduction or publication, especially when the work was commissioned as, likewise, the person who commissioned it (cf. above under 2.5).

These cases are found as follows: *Argentina* (a portrait can be placed on the market only with the consent of the person photographed); *Austria* (a portrait may not be

exhibited or published if exhibition or publication might harm the legitimate interests of the person portrayed; the latter is entitled to make copies or have copies made); *Belgium* (the agreement of the person represented is required before the author or owner of the portrait can reproduce or exhibit it); *Brazil* (the model can refuse to agree to reproduction or exhibition); *Bulgaria* (the author cannot reproduce or publish the portrait without the authorization from the person represented); *Byelorussian S.S.R.* (authorization of the person represented is necessary unless utilization is in the interests of the State or the model was remunerated for posing); *Colombia* (authorization of the person represented is necessary unless the publication is for scientific, educational or cultural purposes); *Dominican Republic* (authorization of the person represented is necessary for reproduction); *Arab Republic of Egypt* (the model holds the right to authorize the author to publish, exhibit and distribute the portrait and can authorize its reproduction in the newspapers even if the author objects); *El Salvador* (consent of the person represented is necessary for any commercial use, but not if the portrait is used for scientific, educational, cultural or topical purposes); *German Democratic Republic* (a portrait cannot be distributed or exhibited in public without the authorization of the person portrayed, unless it is distributed or exhibited for the purpose of informing the public on topical events, for scientific or artistic purposes or in the interests of justice or State security); *Federal Republic of Germany* (the subject of a commissioned portrait has the right to reproduce it or have it reproduced); *Holy See* [5]; *Hungary* (the exercise of copyright necessitates the consent of the person who commissioned the portrait); *Iraq* (a photograph cannot be exhibited, published or distributed without the authorization of the person represented; it can be published, however, if it was taken at some public event or if the subject is an official personality or someone of great renown or if authorization has been obtained from the authorities; the person represented in the photograph can authorize its publication in the press); *Italy* (the consent of the person represented is necessary unless the reproduction of the picture is warranted by the needs of justice or the police or by scientific, educational or cultural purposes); *Libya* (a photograph cannot be exhibited, published or distributed without the authorization of the person represented; it can be published, however, if it was taken at some public event or if the subject is an official personality or someone of great renown or if authorization has been obtained from the authorities; the person represented in the photograph can authorize its publication in the press); *Liechtenstein* (the model must give his consent to the distribution of his picture; he has the right to reproduce it or to authorize its reproduction in newspapers without the authorization of the owner of the copyright, but he cannot authorize its separate reproduction); *Luxembourg* (the consent of the person represented is required for the reproduction or exhibition of the portrait); *Mexico* (the consent of the person portrayed is required for publication or commercial use of the portrait); *Morocco* (the author of the portrait is not entitled to exploit the work without the express authorization of the person who commissioned it); *Netherlands* (the consent of the person or persons represented is required if the owner of the copyright wishes to publish the picture; a portrait commissioned by or for the person represented can be reproduced by or for that person); *Norway* (the model has the right of consent to the use by the author of a commissioned portrait to make it accessible to the public; even if the copyright is owned by a third person, the subject of a photograph has the right to authorize the reproduction, exhibition and making available to the public of his photograph); *Panama* (the model can refuse to allow the bust or portrait to be exhibited or put on sale); *Paraguay* (the authorization of the model is required before placing photographs, portraits and caricatures on the market, except for cultural purposes or in connection with public

events); *Poland* (if the model has not been remunerated for posing, his authorization is required before the portrait can be disposed of, but not if the person represented is only a detail in a picture); *Portugal* (the person photographed can publish or reproduce a commissioned photograph without the consent of the photographer); *Switzerland* (the person represented has the right to have his commissioned portrait reproduced, to authorize its reproduction in newspapers and periodicals and, even without the consent of the owner of the copyright, to authorize its circulation or publication, but he cannot refuse his authorization when it is in the interests of justice); *Turkey* (the person represented has the right to authorize the exhibition of his portrait or its presentation to the public; he can have photographic reproductions made of a commissioned portrait); *Yugoslavia* (the authorization of the model is required for the circulation or exhibition of his portrait; his consent is presumed if he was remunerated for posing).

Several copyright laws include penalties to reinforce protection of the model.

The rights recognized to the model are sometimes expressly accorded to certain of his heirs — but usually with the idea of limiting these rights as far as possible to the deceased's closest relatives. Such provisions exist in *Argentina, Belgium, Brazil, Colombia, Dominican Republic, Federal Republic of Germany, Luxembourg, Mexico.*

3.2. Personal letters

The legislator's concern is to protect the private interests of both writer and recipient, and to reconcile these two competing interests.

Copyright generally remains with the person who writes the letter, but the recipient also has certain rights, especially if his interests or reputation might be seriously affected. The needs of justice are often expressly reserved also, as private letters may be necessary to establish proof.

Special provisions regarding personal letters are to be found in: *Argentina* (the right to publish belongs to the writer and, after his death, to his spouse, his children or their descendants); *Austria* (the letter may not be divulged if to do so would prejudice the legitimate interests of the author, his close relatives or the recipient); *Brazil* (permission of the writer or his representatives required, but a letter can always be included in a lawsuit file); *Bulgaria* (the permissions of writer and recipient are necessary for publication); *Colombia* (letters are the property of the recipient; the right to publish belongs exclusively to the writer, but publication can be authorized by the competent authority to establish proof for administrative or judicial purposes); *Costa Rica* (authorization of the writer necessary); *Ecuador* (the writer has the exclusive right to publish, except that, in certain special cases, the judge may be entitled to publish, or its recipient, if his honour is involved); *El Salvador* (the right to publish belongs to the writer, but the consent of the recipient is required unless his interests or reputation are not affected); *German Democratic Republic* (letters cannot be published, reproduced, circulated or used in any other way without the consent of both the writer and the recipient); *Holy See* [5]; *Iraq* (letters cannot be published except by the writer with the authorization of the recipient when publication might be prejudicial to the latter); *Italy* (consent of writer and recipient required); *Jordan* (authorization from the writer and, after his death, from his family); *Libya* (letters cannot be published except by the writer with the authorization of the recipient when publication might be prejudicial to the latter); *Nicaragua* (agreement of writer and recipient required, unless the interests of justice are involved); *Panama* (letters are the property of the recipient; the right to publish belongs to the writer; the competent court can authorize publication for the purposes of legal proof);

Paraguay (the right to publish correspondence belongs to the writer and his heirs); *Philippines* (copyright in letters belongs to the writer); *Poland* (authorization of the recipient required for publication); *Portugal* (the writer's authorization is necessary; the recipient and the competent authorities can include the correspondence in a lawsuit file; correspondence of an important historical or literary figure may be published after his death); *Yugoslavia* (consent of the writer necessary, and that of the recipient if his interests are involved).

In most countries, the protection of personal letters is covered by the usual provisions concerning illicit acts in their civil law and/or their penal law in general.

1. This study brings up to date the studies on the same subject which were published in the *Unesco Copyright Bulletin*, Vol. II, No. 2-3, 1949, p. 44-57, and Vol. I, No. 2, 1967, p. 11-36. It does not take into account the rights which may be owned by the categories of persons covered by the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention).
2. A number of countries are not mentioned in this study, either because they have no copyright legislation or because full and accurate recent information is not available or is unobtainable.
3. In a number of other countries, national legislation also reproduces the provisions of the British Copyright Act of 1911 as concerns persons protected. These are: Burma (with the adaptation made by the Order of 1948 on the Burma Union—adaptation of legislation); Cyprus; Israel; Singapore (by a letter of 20 April 1966, the Singapore Minister of Finance informed the Director-General of Unesco that the British Act of 1911 applied in this country); Sri Lanka.
4. According to a letter dated 24 March 1967 from the Minister of Foreign Affairs of the Malagasy Republic to the Director-General of Unesco, the French law of 11 March 1957 on literary and artistic property is applied in Madagascar.
5. By the law of 12 January 1960, the Holy See applies Italian legislation on copyright.
6. According to a letter of 17 February 1961 sent by the Chad Minister of National Education to the Director-General of Unesco, the French law of 11 March 1957 on literary and artistic property applies in this country.

Note on the use of the table

The following table can be used to find the reference to the articles of laws dealing with the subject in question.

If the number or numbers found in the columns are not accompanied by a footnote, they refer to an article of the basic copyright law of that country; e.g. 10, in regard to the Federal Republic of Germany, means Article 10 of the Copyright Law of 9 September 1965.

When in addition to the basic copyright law, reference is made to another law dealing with a more specific subject, a footnote indicates the law to which it refers.

A list of the basic laws and any symbols used is printed immediately after the table.

State	Quality of author, presumption	Works emanating from several persons	Juridical persons	Anonymous and pseudonymous works	Posthumous works	Anthologies and periodicals	Work of an employee	Commissioned works	Photographs	Films	Models	Personal letters
Algeria	7	9, 10, 11, 13	10, 79	8	67	13	7	7	1, 2(g)	2(6), 15, 17		
Argentina		16	8	3	5	28, 29				20, 21	31	32
Australia	20, 127(1), 130, 131	10, 78 to 82, 127(2)	10, 176, 177, 178, 186, 187, 188			35(4)	35(6)	35(5)	10, 35(5)	90, 98, 131, 185(4)		
Austria	12	11		13		36	66(3)	75	74, 75	38	75, 78	77
Belgium		5, 6	11	7	4						20	
Bolivia			3	7	6							
Brazil	13	14, 15, 23, 24, 31	5, 46	41		92	36	36	6, 82	16, 26, 37		
Bulgaria		11	19			14	15		12	16	12	13
Burma		16	33		17	5(1.b)	5(1.b)	5(1.a)	21			
Byelorussian S.S.R.		479	480, 482			482, 484	481	508, 510		483	509	
Canada	20(3.b.i)		9	20(3.b.ii)		12(3)	12(3)	12(2)	9			
Chad (See France)												
Chile	8	23, 24(b)	26, 88	5(e), 8		24(a), (c)	24(c), 88	24(b), (c)	34	25, 27, 28, 29, 31		
Colombia	3	28, 36		5	8	4, 28				30	25, 26	23
Costa Rica		32, 34, 35		21, 22	21	17						8
Cyprus (See Burma)												
Czechoslovakia		5, 7		8		4	17			6		

State	Quality of author, presumption	Works emanating from several persons	Juridical persons	Anonymous and pseudonymous works	Posthumous works	Anthologies and periodicals	Work of an employee	Commissioned works	Photographs	Films	Models	Personal letters
Denmark	7, 3 ^{1/}	6		7				12 ^{1/}	1 ^{1/} , 3 ^{1/}			
Dominican Republic			31(3)		31(2)			28			33(c)	
Ecuador	3	10	3	15	16	4, 8	20	9				19
Egypt (Arab Republic of)	1	25, 26, 27, 29, 30	20	28		4	3		34	31	36	
El Salvador	10	11, 12, 29, 30, 32	13, 14	10(1)			13	14		33	27	
Ethiopia	1666	1668		1667		1659	1647(3)	1647(3)	1662			
Fiji	20(2), (3)	4(1), 11, 3 rd annex, 4	33, 39	20(4)			4(2), 4(4)	4(3), 12(4)	48	13(4)		
Finland	7, 3 ^{2/}	6		7				27, 15 ^{2/}	1 ^{2/}		27	
France	8	10, 13		11	23		1	1		14		
German Democratic Republic	6(4)	7, 8	9(2), 79	11		9	20(1), (2), (3)		77	10	86(1), 87	89(1)
Germany (Federal Republic of)	10	8		10(2)	71	38	43	60	2(1), 7	89, 90, 94	60	
Ghana		10(6.a, b)	4, 2(1.b), 9(2)				9(1)	9(1)		15(1)		
Greece				4	6		11		14			
Guatemala	2	3, 5	3, 13				3	3		3		
Holy See (See Italy)												
Hungary		5, 35(1)	35	6		5(3)	11, 14		46(2), 51(1), (3)	41(1)(3), 42(1)	48	
Iceland	8	6, 7		8		6			1, 49	1	25	
India		2(z), 13	17(d), 17(e)		20	17(a)	17(a, c)	17(b)	2(d, iv), 17(b)	2(d, v), 17(b)		
Iran		6	16(2)			2(1)		13	2(8)			

State	Quality of author, presumption	Works emanating from several persons	Juridical persons	Anonymous and pseudonymous works	Posthumous works	Anthologies and periodicals	Work of an employee	Commissioned works	Photographs	Films	Models	Personal letters
Iraq	1(2)	25, 26, 27, 29, 30	20, 27	21, 28	18, 23	6(1)			4, 2(7), 1(1), 36	31, 32, 34, 1(1), 2(7)	36	37
Ireland	26(2)	16(5.e)	44, 51	15(1, 3)		10(2)	10(4)	10(3), 17(3), 18(3)	2(1), 10(3)	18(3)		
Israel (See Burma)												
Italy	8, 45	7, 10, 38	11	9	24, 33		88	88	88	44, 45	96	93
Japan	14	64, 117		75(1) (3), 118		12	15			10(1)(viii), 18(2)(ii), 25, 45(1)	10(1)(vii), 16, 18(2) (iii), 26, 29	
Jordan		16, 36	15	41			27	27				
Kenya			11(2)				11(1)	11(1)		2		
Korea (Republic of)	6	12, 67	33	6(3), 8				13	35, 36			
Lebanon		144, 150, 151	155, 167	155		142						
Liberia		2, 7(2)	2, 7(3), 2, 7(4)	2, 7(3), 2, 7(4)		2, 4	2, 1(b)	2, 1(b)				
Libya	1	25, 26, 27, 29, 30	1, 20	21, 28	18, 23	4(1)			1, 2, 36	1, 2, 31, 32, 34	36	37
Liechtenstein	8	7	23			3, 25(1)					29, 35	
Luxembourg	5	6, 7, 17	12, 27	8		1			1	1, 27	19	
Madagascar (See France)												
Malawi			11(2)				11(1)	11(1)	2(1), 4(2), 2(1), 4(1)	2		
Malaysia	12(3) (a)	5(1), 13(5)	5(1), 7, 12(2)	12(3) (b), 12(4)			12(1)	12(1)	2(1), 4(1)	2(1), 4(1)		

State	Quality of author, presumption	Works emanating from several persons	Juridical persons	Anonymous and pseudonymous works	Posthumous works	Anthologies and periodicals	Work of an employee	Commissioned works	Photographs	Films	Models	Personal letters
Malta	11(3) (a)	4(1), 12(4)	4(1) (b), 6(1), 11(2)	11(3) (b)			11(1)(b)	11(1)(a)	2(1), 3	2(1), 3		
Mexico	17	12, 13, 15	23(5), 31, 59	17		11, 26		59		26	16	
Monaco		7	13	13				10				
Morocco	5(1)	4, 5(1)	4, 5(1)	14		9	5(2)	5(3)(4)	1, 6	1, 6, 30, 33, 34, 35	5(4)	
Nepal			25	3(2.e)			3(2.d)	3(2.c)	2(c.3 ^o)	2(c.2 ^o)		
Netherlands	4	5, 26, 37	8 ^{3/}	9			7	7	10		19, 20, 21, 22	
New Zealand	27(2, 3, 7)	2, 12(4)	50, 52	27(4)			9(2), 9(4)	9(3), 13(4), 14(4)	2	14(4)		
Nicaragua		745, 747, 748, 781, 792	744, 855	760, 780	739, 740, 745, 780				789			734
Nigeria	9(3) (a)	2(1), 10(5)	2(1), 4(1), 9(2)	9(3) (b)			9(1)(b)	9(1)(a)	1(1)(c), 19(1)	1(1)(d), 19(1)		
Norway	7	6	13 ^{4/}	7			2, 10 ^{1/}		1 ^{1/} , 10 ^{1/}	1, 39	2, 15 ^{1/}	
Pakistan		2(z.g), 11	13 (d, e)			13(a)	3(a), 13(c)	13(b)	2(d, iv)	2(d, v)		
Panama	1913	1937	1893	1933	1935	1924, 1931, 1936, 1938		1905			1946	1919
Paraguay	18, 23	23, 24, 25	17		20	13, 14, 15				26	29	30
Peru	9	10, 11	15	12	13	44(c)	44(c) 57	44(c)	56	45, 48		
Philippines		6, 18	9	7, 22	23	2(b)(g), 37	6	6	2(l)	2(m), 6		6

State	Quality of author, presumption	Works emanating from several persons	Anonymous and pseudonymous works	Posthumous works	Anthologies and periodicals	Work of an employee	Commissioned works	Photographs	Films	Models	Personal letters
Poland	7(2)	10, 11(1, 2)	26	8	9, 10	14	14		13	24	25
Portugal	20, 21	11(1)(2), 12, 13, 14	8(2), 9, 13, 20	24	33, 64(2), 65(1)	3(1)(b)(c), 13(3), 148(2)	8(3)(5), 148(2)	2(h), 8(1), 147, 148, 149	2(f), 17, 122, 125, 132	154	188
Romania		4	7		7, 12	16		7	11		
Senegal	4	6	23	7	15	8	4(2)	4(2)	1(11)	1, 23, 24, 26	
Sierra Leone	22(2, 3, 4.a, b, 7.a)	6(1), 13, 3 rd annex, 4	26, 32	22(4)		6(2), 6(4)	6(3), 14(4)	2	15(4)		
Singapore (See Burma)											
Spain	3 ^{5/}	22	4	26, 7 ^{5/}	28, 29, 30, 32				16 [/] , 46 [/]		
Sri Lanka (See Burma)											
Sweden	7, 3 ^{7/}	5, 6		7			27, 14 ^{7/}	1 ^{7/}	39		
Switzerland	8	7		7	3, 25(1)					29, 35	
Syria		144, 150, 151	155, 167	155	88	142					
Thailand	22(a)		12(c)	22(b)	7	12(b)	12(a)				
Tunisia	3	4, 37	37(b)		5	3			21, 22, 24		
Turkey	11	9, 10	8	12		8	87		8	86, 87	
Uganda		10(10.b)	2(b), 4, 9(3)			9(2)	9(2)	15(b)	15		
Union of Soviet Socialist Republics		99	100			100					
United Kingdom	20(2, 3), 7.a)	4(1), 11, 3 rd annex, 4	33, 39	20(4)		4(2), 4(4)	4(3), 12(4)	48	13(4)		

State	Quality of author, presumption	Works emanating from several persons	Anonymous and pseudonymous works	Posthumous works	Anthologies and periodicals	Work of an employee	Commissioned works	Photographs	Films	Models	Personal letters
United Republic of Tanzania		12(5)	11			11	11		2		
United States of America		24	8, 24		24	24	24, 26				
Uruguay	7(a)	7(b), 26, 27, 29	3, 7(f), 17, 40	30	14				29		
Venezuela	7	10, 11	15, 115	8		86		38	12, 13, 15, 16		
Yugoslavia	8	10, 26	21	11	4, 9	21, 22, 23	26	1, 3, 42	1, 3, 14, 17, 39, 75	95, 96	94
Zambia		12(6)	11(2)			11(1)	11(1)		2		

- Articles of the Law of 31 May 1961 on Rights in Photographic Pictures.
- Articles of the Law of 8 July 1961 on Rights in Photographic Pictures.
- Article of the Decree of 7 March 1946 concerning the Preservation of Copyright in Hydrographic Maps and Books Published by or on behalf of the Minister of Marine.
- Articles of the Law of 17 June 1960 on Rights in Photographs.
- Articles of the Regulations for the Application of the Law of 10 January 1879 concerning Intellectual Property.
- Articles of the Law of 31 May 1966 on Intellectual Property Rights in Cinematographic Works.
- Articles of the Law of 30 December 1960 on Rights in Photographic Pictures.

List of countries and their basic copyright law

Algeria	Ordinance of 3 April 1973
Argentina	Law of 28 September 1933, as amended by Legislative Decree of 2 October 1957
Australia	Act of 27 June 1968
Austria	Act of 9 April 1936, amended on 14 July 1949, 8 July 1953 and 16 December 1972
Belgium	Law of 22 March 1886, amended on 5 March 1921, 25 June 1921 and 11 March 1958
Bolivia	Law of 13 November 1909, amended by Law of 15 January 1945
Brazil	Law of 14 December 1973
Bulgaria	Law of 16 November 1951, amended by Decrees of 4 July 1956 and 28 April 1972
Burma	Indian Copyright Act of 1914, modified by Order of 4 January 1948 on the Union of Burma
Byelorussian S.S.R.	Civil Code of the Byelorussian S.S.R., 4th Section, 11 June 1964
Canada	Revised Statutes of Canada, 1952, Chapter 55, as amended up to 23 December 1971
Chad	(See France)
Chile	Law of 28 August 1970
Colombia	Law of 26 December 1946
Costa Rica	Decree-Law of 27 June 1896, amended on 25 May 1948
Cyprus	United Kingdom Copyright Act of 16 December 1911
Czechoslovakia	Law of 25 March 1965
Denmark	Law of 31 May 1961
Dominican Republic	Law of 17 March 1947
Ecuador	Law of 24 October 1957 and 22 January 1958
Egypt, Arab Republic of	Law of 24 June 1954
El Salvador	Law of 6 September 1963
Ethiopia	Civil Code of 1960, Title XI
Fiji	Order of 17 January 1961
Finland	Law of 8 July 1961
France	Law of 11 March 1957
German Democratic Republic	Law of 13 September 1965
Germany, Federal Republic of	Law of 9 September 1965, amended on 25 June 1969, 23 June 1970 and 10 November 1972
Ghana	Act of 8 November 1961
Greece	Law of 29 June 1920, amended on 6 August 1929, 11 October-3 November 1941, 7 October 1943 and 23 November-7 December 1944
Guatemala	Law of 8 and 11 February 1954

Holy See	Law of 12 January 1960
Hungary	Law of 1969
Iceland	Law of 29 May 1972
India	Act of 4 June 1957
Iran	Law of 12 January 1970
Iraq	Law of 12 January 1971
Ireland	Act of 8 April 1963
Israel	United Kingdom Copyright Act of 16 December 1911 as extended to Palestine by Ordinance of 21 March 1924 and modified by Ordinances of 15 June 1924, 15 May 1948 and 2 February 1953
Italy	Law of 22 April 1941, amended by Decree-law of 23 August 1946
Japan	Law of 6 May 1970
Jordan	Turkish Law of 8 May 1912
Kenya	Act of 24 February 1966, amended on 5 April 1975
Korea, Republic of	Law of 28 January 1957
Lebanon	Decree of 17 January 1924, amended on 30 January 1926, 21 September 1926, 27 January 1936, 6 December 1937, 8 December 1938, 23 March 1942 and 31 January 1946
Liberia	Act of 24 May 1972
Libya	Law of 16 March 1968
Liechtenstein	Law of 26 October 1928, amended on 8 August 1959
Luxembourg	Law of 29 March 1972
Madagascar	(See France)
Malawi	Act of 13 April 1965
Malaysia	Act of 1969
Malta	Act of 1967
Mexico	Decree of 4 November 1963
Monaco	Law of 24 November 1948, amended on 17 November 1949
Morocco	Dahir of 29 July 1970
Nepal	Law of 13 April 1966
Netherlands	Law of 23 September 1912, amended on 16 October 1914, 29 October 1915, 15 December 1917, 9 July 1931, 11 February 1932, 14 June 1956, 22 May 1958 and 27 October 1972
New Zealand	Act of 5 December 1962, amended on 23 November 1969 and 8 December 1971
Nicaragua	Civil Code of 1 January 1904, Part IV
Nigeria	Law of 24 December 1970
Norway	Law of 12 May 1961
Pakistan	Ordinance of 2 June 1962 (came into force on 27 February 1967), amended on 1 December 1972
Panama	Administrative Code of 22 August 1916, Part V
Paraguay	Law of 5 and 10 July 1951
Peru	Law of 1 September 1961
Philippines	Decree of 14 November 1972

Poland	Law of 10 July 1952
Portugal	Law of 27 April 1966
Romania	Decree of 18 June 1956, amended on 24 July 1957
Senegal	Law of 4 December 1973
Sierra Leone	Act of 5 May 1965
Singapore	United Kingdom Copyright Act of 16 December 1911
Spain	Law of 10 January 1879
Sri Lanka	United Kingdom Copyright Act of 16 December 1911
Sweden	Law of 30 December 1960, as amended up to 25 May 1973
Switzerland	Law of 7 December 1922, amended on 24 June 1955
Syria	Decree of 17 January 1924, amended on 22 September 1926
Thailand	Act of 16 June 1931
Tunisia	Law of 14 February 1966, modified by Law of 4 January 1967
Turkey	Law of 10 December 1951
Uganda	Act of 22 June 1964
Union of Soviet Socialist Republics	Fundamentals of Copyright Law of the Soviet Union: Decree of the Presidium of the Supreme Soviet of the U.S.S.R. of 8 December 1961, amended by Decree of 21 February 1973
United Kingdom	Copyright Act of 5 November 1956, amended on 25 October 1968 and 17 February 1971
United Republic of Tanzania	Act of 29 December 1966
United States of America	Code of the Laws of the United States, Title 17, Copyrights
Uruguay	Law of 15 and 17 December 1937, amended on 15 and 25 February 1938
Venezuela	Law of 29 November and 12 December 1962
Yugoslavia	Law of 20 July 1968
Zambia	Act of 4 February 1965

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- Diritto di Autore e Problemi dell'Informazione e della Cultura di Fronte alle nuove Tecniche di Riproduzione e Diffusione delle Creazioni Intellettuali — Atti del Convegno — Roma, 27/28 ottobre 1975*. Presidenza del Consiglio dei Ministri. Quaderno N°. 17. Supplemento alla Rivista *Vita Italiana — Documentie e Informazioni*, N. 3 (marzo 1976). 234 p.
- KEYES, A.A.; BRUNET, C. *Le Droit d'Auteur au Canada: Propositions pour la Révision de la Loi*. Consommation et Corporations/Consumer and Corporate Affairs, Canada, April 1977. 269 p.
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- . *Umowy o Przeniesienie Prawa w Zakresie Wynalazczości Zawierane Między Jednostkami Gospodarki Uspołecznionej*. p. 85-124.