

No. 13640

FRANCE
and
FEDERAL REPUBLIC OF GERMANY

**Exchange of notes constituting an agreement concerning
the term of protection of French works in Germany
and German works in France. Paris, 27 February
and 24 April 1974**

Authentic texts: German and French.

Registered by France on 12 November 1974.

FRANCE
et
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE

**Échange de notes constituant un accord concernant la
durée de protection des œuvres françaises en Alle-
magne et des œuvres allemandes en France. Paris, 27 fé-
vrier et 24 avril 1974**

Textes authentiques : allemand et français.

Enregistré par la France le 12 novembre 1974.

[TRANSLATION — TRADUCTION]

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN FRANCE AND THE FEDERAL REPUBLIC OF GERMANY CONCERNING THE TERM OF PROTECTION OF FRENCH WORKS IN GERMANY AND GERMAN WORKS IN FRANCE

I

EMBASSY OF THE FEDERAL REPUBLIC OF GERMANY

RK 522.90/74

The Embassy of the Federal Republic of Germany has the honour to communicate the following to the Ministry of Foreign Affairs of the French Republic:

Article 7, paragraphs 1 and 2, of the Brussels text of the Berne Convention for the Protection of Literary and Artistic Works,² of which France and the Federal Republic of Germany are signatories, contains the following regulations concerning the term of protection obtaining in countries members of the Union:

1. The term of protection granted by the said Convention shall be the life of the author and 50 years after his death.

2. However, where one or more countries of the Union grant a term of protection in excess of that provided by paragraph 1, the term shall be governed by the law of the country where protection is claimed, but shall not exceed the term fixed in the country of origin of the work.

In France, as in the Federal Republic of Germany, there are laws which provide for a longer term of protection than that laid down in article 7, paragraph 1, of the Berne Convention.

In the Federal Republic of Germany, article 64 of the law on the rights of authors and similar protection rights (law on the rights of authors) of 9 September 1965 (*Bundesgesetzblatt* I, p. 1273) provides that from 17 September 1965, for all works still subject to protection on that date, the term of protection, previously 50 years, shall be extended to 70 years after the end of the calendar year in the course of which the author died.

In France, according to the provisions of article 21 of law No. 57-298 of 11 March 1957 concerning literary and artistic property (*Journal officiel* of 14 March 1957), if an author has just died, the right to utilize his work shall extend over a period comprising the calendar year in the course of which the author died and the following 50 years. However, in view of the fact that the two world wars prevented the utilization of legally protected works, the term of protection was extended by the law of 3 February 1919 concerning the extension of

¹ Came into force on 24 April 1974 by the exchange of the said notes.

² United Nations, *Treaty Series*, vol. 331, p. 217.

the duration of literary and industrial property because of war (*Journal officiel* of 5 February 1919), by law No. 51-1119 of 21 September 1951 concerning the extension of the duration of literary and artistic property because of war, and by the repeal of the law of 22 July 1941 concerning literary property (*Journal officiel* of 25 September 1951) for works which satisfy certain conditions laid down by that law. The law of 3 February 1919 provides for an extension equal to the period between 2 August 1914 and the end of the year following the date of signature of the Peace Treaty;¹ article 1 of law No. 51-1119 of 21 September 1951 provides for another extension for a period equal to that between 3 September 1939 and 1 January 1948.

The Government of the Federal Republic of Germany considers that article 7, paragraph 2, of the Berne Convention, taken together with the above-mentioned French and German legal provisions concerning the term of protection of works for which the general term of protection provided for in article 7, paragraph 1, of the Berne Convention of 17 September 1965 had not yet expired, has the following direct legal consequence:

In the Federal Republic of Germany, works of which the country of origin is France shall, as long as they are protected under French law, benefit from the extension of protection provided for by the above-mentioned German law beyond the general term of protection provided for in article 7, paragraph 1, of the Berne Convention.

In France, works of which the country of origin is the Federal Republic of Germany shall benefit from the extension of protection provided for by the above-mentioned French laws.

The Embassy of the Federal Republic of Germany would be grateful if the Ministry of Foreign Affairs of the French Republic would confirm that the French Government agrees with this legal opinion.

The Embassy of the Federal Republic of Germany takes this opportunity, etc.

Paris, 27 February 1974.

Ministry of Foreign Affairs of the French Republic
Paris

II

FRENCH REPUBLIC MINISTRY OF FOREIGN AFFAIRS

Office of Legal Affairs

Paris, 24 April 1974

No. 456 DJ/DA/NM

The Ministry of Foreign Affairs presents its compliments to the Embassy of the Federal Republic of Germany, and, with reference to its note of 27 February 1974, has the honour to communicate the following:

¹ *British and Foreign State Papers*, vol. 112, p. 1.

Article 7, paragraphs 1 and 2, of the Berne Convention for the Protection of Literary and Artistic Works, to which the Federal Republic of Germany and France are Parties, provides for the following rules with respect to the term of protection obtaining in countries members of the Union:

1. The term of protection granted shall be the life of the author and 50 years after his death.

2. However, where one or more countries of the Union grant a term of protection in excess of a period of 50 years after the author's death, the term shall be governed by the law of the country where protection is claimed, but shall not exceed the term fixed in the country of origin of the work.

In France, article 21 of the law of 11 March 1957 provides that, on the death of an author, the right to utilize his work shall extend over a period comprising the calendar year in the course of which the author died and the following 50 years. Moreover, French law grants extensions of the term of protection after wars. The law of 3 February 1919 provides for an extension equal to the period between 2 August 1914 and the end of the year following the signature of the peace treaty. The law of 21 September 1951, repealing the law of 22 July 1941, provides for an extension equal to the period between 3 September 1939 and 1 January 1948.

In accordance with the Berne Convention, works of which the country of origin is the Federal Republic of Germany shall, in France, enjoy the protection provided for by the above-mentioned French laws, but the term of that protection shall not exceed the term fixed by the laws of the Federal Republic of Germany.

The Ministry of Foreign Affairs takes this opportunity, etc.

[Signed]

GUY DE LACHARRIÈRE

Embassy of the Federal Republic of Germany
Paris
