

N° 3190.

ESPAGNE ET PARAGUAY

Convention concernant la propriété
littéraire, artistique et scientifique.
Signée à Assomption, le 8 juillet
1925.

SPAIN AND PARAGUAY

Convention concerning Literary,
Artistic and Scientific Property.
Signed at Asuncion, July 8, 1925.

TEXTE ESPAGNOL. — SPANISH TEXT.

Nº 3190. — CONVENIO¹ ENTRE ESPAÑA Y PARAGUAY RELATIVO A LA PROPIEDAD LITERARIA, ARTISTICA Y CIENTIFICA. FIRMADO EN ASUNCION EL 8 DE JULIO DE 1925.

Texte officiel espagnol communiqué par le délégué du Paraguay auprès de la Société des Nations. L'enregistrement de cette convention a eu lieu le 24 mai 1933.

Spanish official text communicated by the Delegate of Paraguay accredited to the League of Nations. The registration of this Convention took place May 24, 1933.

EL PRESIDENTE DE LA REPÚBLICA DEL PARAGUAY y SU MAJESTAD EL REY DE ESPAÑA en el deseo de garantizar la propiedad literaria, artística y científica de los autores en sus respectivos países, han resuelto firmar el presente Convenio y al efecto han nombrado sus Plenipotenciarios a saber :

EL PRESIDENTE DE LA REPÚBLICA DEL PARAGUAY :

Al doctor don Enrique BORDENAVE, Ministro de Relaciones Exteriores ;

SU MAJESTAD EL REY DE ESPAÑA :

A don Felipe GARCIA ONTIVEROS y LAPLANA, Comendador con Placa de la Real Orden de Isabel la Católica, Caballero de la Real y Distinguida de Carlos III, Cruz de Tercera Clase del Mérito Naval con distintivo blanco, Comendador con placa del Busto de Bolívar de Venezuela, Comendador de la Orden Pontificia de San Gregorio el Magno, y de la Corona de Italia, Caballero del Cristo de Portugal, Encardado de Negocios de España en el Paraguay.

Quienes, después de haberse comunicado sus plenos poderes y hallados en buena y debida forma, han convenido en las capitulaciones siguientes :

Artículo I.

A. Los autores de obras literarias, científicas o artísticas de cualquiera de las dos naciones, que aseguren con los requisitos legales su derecho de propiedad en uno de los dos países contratantes, lo tendrán asegurado en el otro, sin nuevas formalidades, y gozarán en cada uno de los dos países, recíprocamente, de las ventajas que se estipulan en el presente convenio, así como todas las que

¹ L'échange des ratifications a eu lieu à Asomption, le 15 septembre 1926.

¹ The exchange of ratifications took place at Asuncion, September 15, 1926.

¹ TRANSLATION.

No. 3190. — CONVENTION BETWEEN SPAIN AND PARAGUAY
CONCERNING LITERARY, ARTISTIC AND SCIENTIFIC PROPERTY.
SIGNED AT ASUNCION, JULY 8, 1925.

THE PRESIDENT OF THE REPUBLIC OF PARAGUAY and HIS MAJESTY THE KING OF SPAIN, being desirous of safeguarding the literary, artistic, and scientific property of authors in their respective countries, have resolved to sign the present Convention, and for this purpose have appointed as their Plenipotentiaries :

THE PRESIDENT OF THE REPUBLIC OF PARAGUAY :

Dr. Enrique BORDENAVE, Minister for Foreign Affairs ;

HIS MAJESTY THE KING OF SPAIN :

Don Felipe GARCÍA ONTIVEROS y LAPLANA, Commander of the Royal Order of Isabel the Catholic, Knight of the Order of Carlos III, etc., etc., etc., Spanish Chargé d'Affaires in Paraguay ;

Who, having exchanged their full powers, found in good and due form, have agreed upon the following provisions :

Article I.

A. The authors of literary, scientific, or artistic works of either of the two countries, who, by complying with the requisite legal formalities, secure the right of ownership thereof in either of the contracting countries, shall have it secured in the other without further formalities, and shall reciprocally enjoy, in each of the two countries, the advantages stipulated in the present Convention, as also those that are or may hereafter be granted by the laws of either State for the protection of literary, scientific, or artistic works.

B. As regards the safeguarding of these advantages, the obtaining of damages, and the prosecution of forgers, they shall have the same protection and the same legal remedies as are or may hereafter be granted to native authors in either country by their respective laws.

C. For the purposes of this Treaty, Spanish authors are deemed to be those of Spanish or Paraguayan nationality who reside in the dominions of the Spanish Monarchy or write or execute their works or have them performed in the theatres therein ; and Paraguayan authors are deemed to be those of Paraguayan or Spanish nationality who reside in the Republic of Paraguay or write, execute, or publish their works or have them performed in the theatres therein.

Article II.

By literary, scientific, and artistic works are meant any production in the literary, scientific, and artistic domain, whatever may be the mode or form of its reproduction, such as books,

¹ Translated by the Secretariat of the League of Nations, for information.

pamphlets, or any other writings ; dramatic or dramatico-musical works, with or without libretti ; musical compositions or arrangements, with or without words, songs or interludes ; entertainments in dumb show, the acting form of which is fixed in writing or otherwise, cinematographic or similar works ; works of drawing, painting, sculpture, architecture ; engravings, photographs, photogravures, lithographs, and chromo-lithographs or illustrations, and other works obtained by similar means ; geographical maps and globes, plans, sketches, and plastic works relative to geography, topography, architecture, physiology, or other sciences, and, in general, any production in the literary, scientific, and artistic domain which may be published by any method of printing or reproduction or executed by any means already known or hereafter invented.

Article III.

The copyright of a literary, artistic, or scientific work shall include for its author or his heirs or assigns or representatives the exclusive right to dispose of it, publish it, alienate it, translate it or authorise its translation, and reproduce it in any form.

Article IV.

In the absence of proof to the contrary, the author of a protected work shall be deemed to be the person whose name or pseudonym appears on it.

Article V.

The High Contracting Parties undertake to furnish each other, through their legations or some other authorised channel, with the official periodical containing the list of works of which during each quarter, the authors and publishers have secured the copyright in their respective countries by complying with the formalities required by law. Should there be no official periodical in which that list can be published, it shall be sufficient for the director of the appropriate office to send the list by post to the Ministry of Foreign Affairs, which shall be responsible for its transmission to the proper quarter.

Article VI.

A. The printing, reproduction, publication, translation, adaptation, representation, performance, instrumentation and re-instrumentation (of musical works), musical arrangement of any kind, sale, exhibition or adaptation to the cinematograph or other mechanical instruments, of literary, scientific, and artistic works, without the consent of the Spanish or Paraguayan author who has secured the copyright thereof, whether the unauthorised reproductions come from either of the two contracting countries or from any other country, shall be prohibited in both countries.

B. The publication in each of the two countries of extracts or entire fragments, accompanied by explanatory notes, from the works of an author of the other country, shall be reciprocally allowed, provided that their origin is indicated and that they are intended for purposes of instruction or study or the formation of anthologies consisting of fragments of the works of various authors.

C. Writings in newspapers or similar publications may not be reproduced if it is expressly stated at the foot thereof that their reproduction is prohibited. Writings and illustrations in weekly publications or scientific, political, literary, artistic, or other reviews, may not be reproduced if a statement to the effect that reproduction is prohibited appears at the top. In the absence of such statement, the writings may be reproduced, together with the illustrations, if any, by any

other publication of the same kind, provided that mention is made of the original from which they have been taken.

D. The reproduction of musical pieces shall in no case be allowed without the permission of the composer.

E. The publication of the plots of plays in the form of pamphlets or loose sheets without the author's permission shall also be forbidden.

Article VII.

The nationals of either country who are the authors of original works may refuse, during the whole of the period for which the literary, scientific, or artistic copyright of such works has been granted to them, to allow the translation thereof without their permission.

Article VIII.

Translations shall enjoy the protection provided in the present Convention for original works. The present Article must be understood to protect the translator's version of the original work, but not to confer the exclusive right of translation on the first translator of any work written in a dead or living language, when such work has become common property. In the case of the authorised translations of works with international rights, the protection of the original work is confirmed by registration.

Article IX.

The literary, scientific, and artistic copyright recognised by the present Convention shall be secured to authors, translators, composers, and artists, or their heirs and assigns, in each of the two countries, for the whole period for which that right is accorded to them by the laws of the country of origin. The publishers of works issued in either of the contracting countries whose authors are nationals of States not parties to the Convention shall also be secured the copyright of such works.

Article X.

The country of origin of a work shall be that of either of the Contracting Parties in which it is first published, and if it is published simultaneously in both, the country of origin shall be that which grants the shorter period of protection.

Article XI.

Whenever, in either of the two countries, evidence has to be produced in court that the author, translator, or publisher has secured his rights by complying with the formalities laid down by the law of his country, the certificate issued by the Chief of the General Property Register or, failing this, the communication from the Director of the competent office referred to in Article V, shall suffice in the case of Spain. Nevertheless, should an authorised person lodge a complaint or bring an action in respect of the fraudulent nature of a publication, the fact that the work is listed in the official periodical referred to in Article V shall be sufficient to enable its circulation to be suspended until the facts have been elucidated, and the production of the above-mentioned certificate shall not be required.

Article XII.

The provisions of the present Convention shall in no wise impair the right of both States to supervise or prohibit, by legislation or internal regulations, the circulation, performance or exhibition of any work or production in respect of which the competent authorities may exercise that right for moral reasons or in the interests of public order.

Article XIII.

The authors of dramatic or dramatico-musical works shall fix the fee payable for the performance thereof ; should they omit to do so when granting permission to perform the work, the following fees shall be chargeable : for works in one act, 3% ; for works in two acts, 7% ; for works in three or more acts, 10%. For the first three performances of a new work in the country, twice these rates, shall be charged. This percentage shall be levied on the total proceeds of each performance, including subscriptions and booking-fees or other additional charges, irrespective of any special arrangement or agreement which the management may make to sell tickets at prices lower than those announced ; the rebate granted to subscribers shall, however, be deducted. In the case of dramatico-musical works, these fees shall be divided equally between the composer and the librettist. In the case of purely musical works, these fees shall be halved.

Article XIV.

A. The legal assignees or representatives of authors, composers, or artists, shall reciprocally enjoy in every respect the same rights as are granted by the present Convention to the authors, translators, composers, and artists themselves.

B. The consular agents in both contracting countries shall also be authorised and empowered *ex officio* to ensure by administrative and judicial means, in the country to which they are accredited, the application of the internal laws for the protection of literary, scientific, and artistic property, in accordance with the principles laid down in the present Convention or those which may hereafter be established by the laws of either State.

Article XV.

A. The prohibition to reprint, publish, import, represent, exhibit, sell, or perform, in either of the two countries, works which have not been published by or with the permission of their authors, does not oblige the two States to take steps of their own accord to prevent the occurrence of such acts ; it is the duty of the interested parties, or their duly-authorised representatives, and the right of the respective consuls, to report to the authorities any infringements which may be about to occur or may have occurred, with a view to the prevention or punishment of the offence through the legal channel and by legal procedure.

B. The publication or reproduction of a literary, scientific, or artistic work in breach of the provisions of the present Convention shall be regarded as forgery. The alteration of the title of a work or its text for the purpose of publication shall be regarded as a circumstance aggravating the fraud.

Article XVI.

This Convention does not apply to works which may have become common property at the time of their entry into force. Such works shall be those so regarded by whichever country's laws are more favourable to the authors' interests.

Article XVII.

Each State shall grant the other most-favoured-nation treatment ; i. e., if, in any agreement for the protection of intellectual property, greater advantages are granted by either of them to a third Power, the other shall also enjoy the like advantages under the same conditions.

Article XVIII.

A. The present Convention shall come into force on the day of the exchange of ratifications. It shall be concluded for a period of five years from that date, but shall remain in force thereafter until it is denounced by either of the Contracting Parties, the denunciation to take effect one year later.

B. Nevertheless, both Parties reserve the right to introduce therein, by common consent, such amendments or improvements as experience may show to be expedient.

Article XIX.

The instruments of ratification of the present Convention shall be exchanged at Asunción as soon as possible.

In faith whereof the undersigned Plenipotentiaries have signed the present Convention in duplicate and have thereto affixed their seals.

Done in duplicate at Asunción on the eighth day of July, one thousand nine hundred and twenty-five.

(Signed) Enrique BORDENAVE.

(Signed) Felipe G. ONTIVEROS.