

N° 3836.

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**ESPAGNE ET NICARAGUA**

Convention relative à la propriété  
littéraire, artistique et scientifique.  
Signée à Managua, le 20 no-  
vembre 1934.

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**SPAIN AND NICARAGUA**

Convention regarding Literary, Ar-  
tistic and Scientific Property.  
Signed at Managua, November  
20th, 1934.

TEXTE ESPAGNOL. — SPANISH TEXT.

N  3836. — CONVENIO <sup>1</sup> DE PROPIEDAD LITERARIA, ART STICA Y CIENT FICA, ENTRE ESPA A Y NICARAGUA. FIRMADO EN MANAGUA, EL 20 DE NOVIEMBRE DE 1934.

*Texte officiel espagnol communiqu  par le charg  d'Affaires d'Espagne   Berne. L'enregistrement de cette convention a eu lieu le 17 f vrier 1936.*

*Spanish official text communicated by the Spanish Charg  d'Affaires at Berne. The registration of this Convention took place February 17th, 1936.*

SU EXCELENCIA EL PRESIDENTE DE LA REP BLICA ESPA OLA Y SU EXCELENCIA EL PRESIDENTE DE LA REP BLICA DE NICARAGUA deseosos de celebrar un Convenio sobre Propiedad Literaria, Art stica y Cient fica entre Espa a y Nicaragua, han nombrado por sus Plenipotenciarios, a saber :

SU EXCELENCIA EL PRESIDENTE DE LA REP BLICA ESPA OLA :

Al Excmo. Sr. D. Fernando GONZALEZ ARNAO Y NORZAGARAY, Enviado Extraordinario y Ministro Plenipotenciario de Espa a en Nicaragua ; y

SU EXCELENCIA EL PRESIDENTE DE LA REP BLICA DE NICARAGUA :

Al Excmo. Se or Doctor Leonardo ARG ELLO, su Ministro de Relaciones Exteriores.

Quienes, despues de haberse comunicado sus respectivos Plenos Poderes que hallaron en buena y debida forma, han convenido en los art culos siguientes :

*Art culo 1 .*

A) Los autores de obras literarias, cient ficas o art sticas de cualquiera de las dos naciones que aseguren con los requisitos legales su derecho de propiedad en uno de los dos paises contratantes, lo tendr n asegurado en el otro sin m s formalidades que las que se fijan en el presente Convenio.

B) Para las garant as de esas ventajas, la obtenci n de da os y perjuicios y la persecuci n de los falsificadores, tendr n la misma protecci n y los mismos recursos legales que est n concedidos o se concedieren a los autores nacionales de cada uno de los paises contratantes por las legislaciones respectivas.

C) Los derechohabientes de los autores, compositores o artistas gozar n, respectivamente, y en todas sus partes de los mismos derechos que el presente Convenio concede a los propietarios autores, traductores, compositores o artistas, siempre que aquellos acrediten su derecho con arreglo a las leyes del pais donde se verific  el acto jur dico que les concedi  el caracter de derechohabientes.

D) A los efectos de  ste Convenio son autores espa oles o nicaraguenses los que sean considerados, respectivamente, como nacionales por las leyes de uno u otro Estado.

<sup>1</sup> L' change des ratifications a eu lieu   Managua, le 6 novembre 1935.

<sup>1</sup> The exchange of ratifications took place at Managua, November 6th, 1935.

<sup>1</sup> TRANSLATION.

No. 3836. — CONVENTION BETWEEN SPAIN AND NICARAGUA REGARDING LITERARY, ARTISTIC AND SCIENTIFIC PROPERTY. SIGNED AT MANAGUA, NOVEMBER 20TH, 1934.

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HIS EXCELLENCY THE PRESIDENT OF THE SPANISH REPUBLIC and HIS EXCELLENCY THE PRESIDENT OF THE REPUBLIC OF NICARAGUA, desirous of concluding a Convention between Spain and Nicaragua concerning literary, artistic, and scientific property, have appointed as their Plenipotentiaries :

HIS EXCELLENCY THE PRESIDENT OF THE SPANISH REPUBLIC :

His Excellency Monsieur Fernando GONZALEZ ARNAO Y NORZAGARAY, Envoy Extraordinary and Minister Plenipotentiary of Spain in Nicaragua ;

HIS EXCELLENCY THE PRESIDENT OF THE REPUBLIC OF NICARAGUA :

His Excellency Dr. Leonardo ARGÜELLO, his Minister for Foreign Affairs ;

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

*Article 1.*

A. The authors of literary, scientific, or artistic works in either of the two countries who by complying with the requisite legal formalities secure copyright thereof in either contracting country shall have it secured in the other without further formalities there than those laid down in the present Convention.

B. As regards the safeguarding of these advantages, the obtaining of damages and compensation, 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 contracting country by their respective laws.

C. The heirs and assigns of authors, composers, or artists shall in each case and in every respect be entitled to the same rights as the present Convention accords to the original authors, translators, composers, or artists, on condition that they establish their rights under the laws of the country in which the legal act giving them the status of heirs or assigns took place.

D. For the purposes of this Convention, Spanish or Nicaraguan authors shall be held to mean those who are deemed in each case to be nationals under the laws of one or the other State.

*Article 2.*

The question whether any work should be regarded as literary, scientific, or artistic, and therefore come under the provisions of this Convention, shall be decided by the law of the Contracting Party whose legislation is the more favourable to the rights of authors, translators, or publishers.

This definition shall be held to include any production in the literary, scientific, or artistic domain, whatever be the form of its reproduction, such as books, pamphlets, or any other writings ;

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<sup>1</sup> Translated by the Secretariat of the League of Nations, for information.

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

*Article 3.*

The High Contracting Parties undertake to furnish each other, through their legations or some other authorised channel, with a quarterly list of works of which the authors or publishers have secured the copyright in their respective countries by complying with the formalities required by law.

*Article 4.*

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, or artistic works, without the consent of the Spanish or Nicaraguan 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. This prohibition shall extend to any reproduction made by processes similar to those already known or hereafter invented.

B. The publication in each of the two countries of 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. Articles in periodical publications, the copyright of which has not been expressly reserved, may be reproduced, with their illustrations, by any other publication of the same class, on condition that the original from which they have been taken is indicated.

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 5.*

The nationals of either of the High Contracting Parties who have rights of literary property may refuse to permit an unauthorised translation of their works during the whole of the period during which they hold such rights ; nevertheless, if the work has been published in a country other than that of origin, they may only refuse to permit unauthorised translations for a period of ten years.

*Article 6.*

Should the author not have expressly reserved his exclusive rights as to translations of his works, or should he have granted the right of translation to another person, the translator shall

be entitled to the copyright of his translation, but may not ask for an injunction against other translations, unless the author has empowered him to do so.

Authors of works in languages or dialects of either country other than Castilian shall hold in the other country the exclusive translation right of their works under the same conditions that the present Convention provides for original works written in Castilian, even though they have not made the express reservation provided for in the previous paragraph.

*Article 7.*

The artistic, literary, and scientific copyright recognised by the present Convention shall be secured to authors, translators, composers, and artists during their lifetime, and to their heirs and assigns for ever. Dramatists and composers shall be entitled to the property rights recognised by the present Convention for their lifetime, and their heirs and assigns shall be entitled to the said rights for a further period of thirty years which shall begin to run, in the case of heirs *mortis causa*, from the date on which they have been declared heirs, and in the case of assigns, as soon as the deed of transfer of ownership has been communicated in due form to the authorities.

*Article 8.*

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 Ministry of Education and Fine Arts of Spain or by the Ministry of Education and Physical Training of Nicaragua shall be held to be sufficient proof that such rights have been duly secured under the legislation of the country.

*Article 9.*

The provisions of the present Convention shall in no wise prejudice the right of both States to supervise or prohibit by legislation the representation 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 law or public order.

*Article 10.*

Authors of dramatic works or musical dramas of the two countries shall have the right to require from Spanish or Nicaraguan companies the conclusion of a previous contract with themselves or with their legal representatives ; otherwise the said companies may not authorise the performance of works of Spanish authors in Nicaragua or of Nicaraguan authors in Spain.

*Article 11.*

This Convention does not apply to works which have become common property at the time of its coming into force. In each country works shall be held to have become common property if they are deemed to be such by the legislation of the said country.

*Article 12.*

The indirect and unauthorised appropriation of literary, scientific or artistic works such as adaptations, musical arrangements, etc., which merely reproduce the original work with inessential modifications, shall be prohibited in the two contracting countries. The unauthorised exhibition of a literary, scientific, or artistic work by any process at present known, such as the gramophone, wireless telephony, etc., or by processes which may be invented hereafter, shall likewise be forbidden.

*Article 13.*

In no case shall either High Contracting Parties be obliged to grant to authors of the other Party more extensive rights than to its own nationals.

*Article 14.*

The present Convention shall come into force on the day of exchange of ratifications. It shall remain in force for five years from that date, and shall thereafter continue in force until denounced by one of the Contracting Parties, the denunciation to take effect one year later.

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

*Article 15.*

The ratifications of the present Convention shall be exchanged at Managua as soon as possible.

In faith whereof the respective Plenipotentiaries have signed the present Convention in duplicate in Managua, D. N., and have thereto affixed their seals, on this twentieth day of November, one thousand nine hundred and thirty-four.

*(Signed)* (L. S.) Leonardo ARGÜELLO.

*(Signed)* (L. S.) Fernando GONZALEZ ARNAO.