

II

Treaties and international agreements

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from 27 March 1981 to 31 March 1981

No. 875

Traités et accords internationaux

classés et inscrits au répertoire

du 27 mars 1981 au 31 mars 1981

N° 875

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**SPAIN
and
HOLY SEE**

**Agreement relating to the mode of exercise of the privilege
of presentation. Signed at Madrid on 7 June 1941**

Authentic text: Spanish.

Filed and recorded at the request of Spain on 27 March 1981.

**ESPAGNE
et
SAINT-SIÈGE**

**Accord relatif aux modalités d'exercice du privilège de pré-
sentation. Signé à Madrid le 7 juin 1941**

Texte authentique : espagnol.

Classé et inscrit au répertoire à la demande de l'Espagne le 27 mars 1981.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ BETWEEN THE HOLY SEE AND THE SPANISH GOVERNMENT RELATING TO THE MODE OF EXERCISE OF THE PRIVILEGE OF PRESENTATION

The Holy See and the Spanish Government have agreed on the following points:

1. As soon as an archiepiscopal or episcopal see (or an apostolic administration having a permanent character, that is to say, that of Barbastro or that of Ciudad Rodrigo) has become vacant, or when the Holy See deems it necessary to nominate a coadjutor with right of succession, the apostolic nuncio shall confidentially enter into contact with the Spanish Government and, once an initial agreement has been reached, shall send to the Holy See a list of names of suitable persons, at least six in number.

2. The Holy Father shall select three from among those names and communicate them, through the apostolic nunciature, to the Spanish Government, whereupon the Head of the State shall officially present one of the three within a period of 30 days.

3. If the Holy Father, in his exalted judgment, does not deem acceptable any or all of the names included in the list and is thus unable to select three or any of them, he shall on his own initiative complete or formulate a *terna* of candidates and communicate it through the apostolic nunciature to the Spanish Government.

If the Spanish Government has any objections of a general political nature to any or all of the new names, it shall make those objections known to the Holy See.

In the event that 30 days elapse from the date of the aforementioned communication without any reply from the Government, such silence shall be interpreted to mean that the Government has no objections of that nature with respect to the new names, it being understood that the Head of the State will then, without further formalities, present to His Holiness one of the candidates included in the said *terna*.

If, on the contrary, the Government does formulate such objections, negotiations shall continue even after the 30 days have elapsed.

4. In any event, even where the Holy Father accepts three of the names sent, he may still, in addition, suggest new names, which he shall add to the *terna*, in which case the Head of the State may present either a name included in the *terna* or one of those additionally suggested by the Holy Father.

5. All these previous negotiations shall be absolutely secret, secrecy being maintained in particular with respect to persons until the time of their appointment.

6. The Spanish Government, for its part, formally pledges itself to conclude with the Holy See, as soon as possible, a new Concordat inspired by its desire to restore the Catholic sense of the glorious national tradition.

¹ Came into force on 7 June 1941 by signature.

This Convention shall remain in force until its provisions are incorporated into the new Concordat.

7. As relates to appointment to non-consistorial benefices, at the very time of signing this Convention appropriate negotiations shall commence for the conclusion of another convention establishing the rules of provision to such benefices.

The Church, to which appointment, including appointment to those non-consistorial benefices in respect of which the King of Spain enjoyed special privileges, belongs by native and inherent right, is willing, nonetheless, also to make some concessions on this point to the Spanish Government.

8. Until the question is definitively settled in the future Concordat, the prelates shall have the right freely to appoint incumbents to parishes, within the rules of canon law, with no further formality than that of notifying the Government of appointments before the taking of possession, in case the Government might exceptionally have any objection to formulate against the appointment for reasons of a general political nature.

9. Pending the conclusion of a new Concordat, the Spanish Government agrees to observe the provisions contained in the first four articles of the Concordat of the year 1851.¹

10. During the same period, the Government agrees not to legislate, without prior agreement with the Holy See, on joint matters or matters that might in any way concern the Church.

DONE in duplicate, in Madrid, on 7 June 1941.

For the Holy See:

[Signed]

CAYETANO CICOGNANI
Archbishop of Ankara
Apostolic Nuncio

For the Spanish Government:

[Signed]

RAMÓN SERRANO SUÑER
Minister for Foreign Affairs

¹ United Nations, *Treaty Series*, vol. 1221, No. II-874.