

# Copyright

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# BILATERAL AGREEMENTS

## NORWAY—SPAIN

### Exchange of Notes

#### between the Government of Spain and the Government of the Kingdom of Norway concerning the extension of the term of copyright protection

(Of June 4 and July 11, 1968)

On June 4 and July 11, 1968, Notes were exchanged in Madrid between the Spanish Government and the Norwegian Government concerning the extension of the term of copyright protection\*.

EMBASSY OF THE KINGDOM OF NORWAY

Sir,

I have the honor to refer to the Embassy's Note of December 22, 1964, and to the Verbal Note No. 38 of June 3, 1965, of the Ministry of Foreign Affairs concerning the reciprocal extension of the term of copyright protection.

Considering the fact that Norway, by its Act of June 3, 1966, modified Section 1, third paragraph, of the Act of December 2, 1955, relating to the provisional extension of the term of copyright as follows:

With regard to works, the term of protection of which would, according to the provisions of this Act, otherwise expire in 1962, 1963, 1964, 1965, 1966 and 1967, the term of protection of copyright shall nevertheless last until December 31, 1968, unless the King decides otherwise.

This Act shall come into force immediately.

I have the honor to propose to Your Excellency the conclusion of an agreement between Norway and Spain by virtue of which:

(a) The provisions of the Norwegian Act of June 3, 1966, modifying the Act of December 2, 1955, relating to the provisional extension of the term of copyright protection would apply in Norway to works of Spanish nationals and to those published works which are considered as having Spain as their country of origin, in the case where they have not yet fallen into the public domain in Norway.

(b) The term of protection in Spain for works of Norwegian nationals and for published works which are considered as having Norway as their country of origin would

be extended until December 31, 1968, on the understanding that they are covered by the Norwegian Act of June 3, 1966, quoted above and that they have not yet fallen into the public domain in Spain.

It is understood that each contracting party reserves the right to ask, by this exchange of Notes, for modifications which might be required owing to changes that might occur in their national legislation.

If the above-mentioned provisions could be accepted by the Spanish Government, I have the honor to propose to Your Excellency that this Note and the positive reply of Your Excellency take the place of an agreement between the two countries.

I take this opportunity to express to Your Excellency the assurance of my highest consideration.

Madrid, June 4, 1968.

\* \* \*

MINISTRY OF FOREIGN AFFAIRS

Sir,

I have the honor to acknowledge receipt of your Note of June 4, 1968, the text of which is as follows:

"Sir,

I have the honor to refer to the Embassy's Note of December 22, 1964, and to the Verbal Note No. 38 of June 3, 1965, of the Ministry of Foreign Affairs . . ."

I have the honor to inform Your Excellency that the Spanish Government agrees to everything that has been stated above and, accordingly, the Note of Your Excellency and this answer constitute an agreement between our Governments on this subject.

Please accept the assurance of my highest consideration.

Madrid, July 11, 1968.

\* Original in Spanish. BIRPI translation.

# NATIONAL LEGISLATION

## LIBYA

### Law on the protection of copyright

(No. 9, of 1968) \*

#### TITLE I

##### Works the authors of which are protected

*Article 1.* — Authors of original literary, artistic and scientific works shall enjoy the protection provided under this Law, regardless of the kind of work, the form of its expression, its importance, or the purpose for which it was created.

Any person or body corporate who has registered a work in his name shall be considered the author of the work, unless there is proof to the contrary. Should there be more than one registration of a single work, only the first one shall be considered legal, unless there is proof to the contrary.

Works shall be registered in accordance with the regulations prescribed by the Minister for Information and Culture.

*Article 2.* — Protection shall extend, in particular, to authors of:

- written works;
- works of drawing, painting, engraving, sculpture, architecture;
- oral works such as lectures, addresses, sermons and other works of the same nature;
- dramatic or dramatico-musical works;
- musical compositions with or without words;
- photographic or cinematographic works;
- geographical maps and sketches;
- three-dimensional works relative to geography, topography or science;
- choreographic works intended for performance;
- works of applied art;
- works created specially for radio or television broadcasting.

Protection shall, in general, extend to the author of works of which the mode of expression is writing, the voice, drawing, painting or movement.

Where the title of a work is of an original nature, it shall be regarded as a trademark and shall consequently be protected under the trademark law.

*Article 3.* — Authors of translations, transformations, arrangements, summaries, illustrations and commentaries pertaining to literary, artistic or scientific works shall enjoy the protection provided under this Law, without prejudice to the copyright in the original work.

However, the rights of authors of photographic works shall not be prejudicial to the rights of third parties who

also photograph the same view, even if the new pictures are taken from the same place and, in particular, in the same circumstances as the first picture.

*Article 4.* — Protection shall not extend to:

1. collections of various works, such as anthologies of poetry, prose, music and other similar collections, without prejudice to the copyright in the individual works;
2. collections of works in the public domain;
3. collections of official documents such as the texts of laws, decrees, regulations, international agreements, judicial decisions and other official texts.

However, collections which, by reason of their originality and the arrangement of their contents, or other personal efforts, constitute intellectual creations shall be protected as such.

#### TITLE II

##### Rights of authors

##### Chapter I

##### General provisions

*Article 5.* — The author shall have the exclusive right to publish his work and to select the mode of its publication.

He shall also have the exclusive right to the economic exploitation of his work in any lawful way whatever. No third party may exercise this right without the written consent of the author or his successors in title.

*Article 6.* — The author's right of exploitation shall include:

1. direct communication of the work to the public in any way and, in particular, by: public recitation, musical performance, dramatic performance, radio or television broadcasting, presentation with a projection lantern, cinema, loudspeaker, radio or television;
2. indirect communication of the work to the public by means of copies reproduced by printing, drawing, engraving, photography, moulds or any other process of plastic arts, or by means of photographic, cinematographic or other reproduction.

*Article 7.* — The author shall have the exclusive right to make additions to his work or to alter it.

He shall also have the exclusive right to translate it into any other language, subject to the following provisions. No one shall have the right to translate the work or to transform it within the meaning of the provisions of Article 3 without the written consent of the author or his successors in title.

\* This Law was promulgated by the Royal Decree of March 16, 1968. It entered into force on March 30, 1968, the date of its publication in the *Official Gazette* of the Kingdom of Libya (No. 10). — BIRPI translation.

*Article 8.* — Both the author and the translator shall forfeit their right of translation of the work into the Arabic language if the author or the translator does not exercise this right, himself or through others, within three years of the date of the first publication of the work or of the translation thereof.

*Article 9.* — The author shall have the exclusive right to claim authorship of his work and to oppose any infringement of his rights. He shall have the right to forbid any omission made in his work or any alteration thereof. However, the author may not object to the translator's making such omissions or alterations if they are indicated. Nevertheless, no omission or alteration may be made if the place is not indicated or if such omission or alteration is prejudicial to the honor or reputation of the author.

*Article 10.* — No seizure of copyright may be effected, but the copies of a published work may be confiscated. No confiscation may be made if the author of the work dies before publication thereof, unless it is definitely proved that before his death he intended to publish the work.

*Article 11.* — When a work has been published, its author cannot object to the performance or recitation thereof before a family gathering or within a society, club or school, provided that no entrance fee or payment is charged. Military bands and other companies of musicians associated with the State or other public bodies, with the exception of radio and television broadcasting organizations, shall have the right to perform musical works without payment in respect of copyright, provided that no entrance fee or payment is charged for admission to such performances.

*Article 12.* — The author cannot object to a third party's making, for his own personal use, a copy of a work made available to the public.

*Article 13.* — The author cannot object to the making of analytical reviews or the taking of short quotations from a published work if this is done for purposes of criticism, debate, cultural development or information, and provided that the title of the work and the name of the author, if known, are clearly indicated.

*Article 14.* — Without the consent of the author, no reproduction may be made, in newspapers and periodicals, of scientific, literary or technical articles, serials or short stories which have been published in other newspapers and periodicals. However, quotations, summaries or short excerpts from works, books, plays or novels may be reproduced in newspapers or periodicals without the consent of the author and this may be done prior to the expiration of the period provided for in Article 8 of this Law.

The reproduction, in newspapers and periodicals, of articles on current political, economic, scientific or religious topics which are of interest to the public at a certain period of time shall be authorized, unless such reproduction has been expressly forbidden.

The protection provided under this Law shall not extend to news of the day or to miscellaneous facts having the char-

acter of mere items of information; however, in the case of reproduction, quotation or any other act analogous to those mentioned in the preceding paragraphs, the source and the name of the author, if they are known, must be clearly indicated.

*Article 15.* — It shall be permissible, even without the consent of the author, for the press to reproduce or the radio and television organizations to broadcast, for informatory purposes, speeches, addresses or lectures delivered in public sessions of legislative or administrative bodies or in scientific, literary, technical, political, social or religious gatherings, provided that such speeches, addresses or lectures are intended for the public.

The publication of legal debates which took place in public and within the limits of the law shall also be permissible without authorization.

*Article 16.* — The author shall have the exclusive right, in the cases mentioned in the two preceding Articles, to publish collections of his articles or speeches.

*Article 17.* — It shall be permissible, in textbooks and in literary, historic, scientific and artistic works:

- (a) to make short quotations from published works;
- (b) to reproduce published works in the field of graphic or plastic art or photography, provided that such publications or reproductions are confined to what is necessary to illustrate the article.

In such cases, the source and the name of the author must always be clearly indicated.

*Article 18.* — The heirs of the author shall have the exclusive right to publish works not published during his lifetime, unless the author has stipulated otherwise. Where the author has set a certain time limit for the publication of such works, this time limit shall be respected.

*Article 19.* — The heirs of the author shall have the exclusive right to exploit economically the rights provided under this Law.

Where the work is a work of joint authorship and one of the co-authors dies without leaving an heir-at-law and has designated no other heir, the share of the deceased author shall, unless otherwise agreed, be transferred to the other co-authors or to their heirs.

*Article 20.* — Subject to the provisions of Article 8, the economic exploitation of the rights provided under this Law shall terminate twenty-five years after the death of the author; however, the total period of protection shall not be less than fifty years from the date of the first publication of the work.

In the case of photographic or cinematographic works which merely involve photographing or filming by technical means, the period of protection shall be five years from the date on which they are first made available to the public.

In the case of works of joint authorship, the period of twenty-five years shall begin as from the death of the last surviving co-author. If one of the co-authors is a body corporate, whether public or private, the period provided for

the economic exploitation of the rights shall be thirty years from the date of the first publication of the work.

*Article 21.* — In the case of anonymous or pseudonymous works, the period provided for the economic exploitation of the rights shall be twenty-five years from the date of publication, unless the author reveals his identity during that period.

In such cases, the term of protection shall be that provided in the first paragraph of the preceding article.

*Article 22.* — Subject to the provisions of Article 20, second paragraph, of this Law, the period of protection in respect of works first published after the death of the author shall be fifty years as from the death of the author.

*Article 23.* — Where the heirs or successors in title do not exercise the rights provided for in Articles 18 and 19 of this Law and the Minister for Information and Culture considers that it is in the public interest that the work should be published, he may, by registered letter, require the heirs or successors in title to publish the work.

If, within a period of sixty days from the date of such letter, they fail to indicate their intentions, or if they refuse to exercise their rights, the Minister may exercise these rights after having obtained an order to that effect from the judge of the court of first instance having jurisdiction in the territory in which the Ministry for Information and Culture has its headquarters.

The Minister may also exercise these rights if they agree to his request within the period prescribed above but fail to comply with it within a suitable period of time.

The above measures must be carried out without causing prejudice to the rights of the heirs and successors in title, who shall receive fair compensation.

*Article 24.* — In cases where, under the provisions of this Law, the period of protection begins on the date of publication of the work, the said period shall run as from the date of the first publication, and dates of republications or later editions shall not be taken into consideration unless the author has made such substantial changes in his work that the new editions can be considered new works.

In cases where the work is composed of a number of parts or volumes published separately at different dates, each part or volume shall be considered an independent work for the purpose of calculating the term of protection.

## Chapter 2

### *Provisions regarding certain works*

*Article 25.* — Where a number of authors have participated in the creation of a work and the contribution of one author cannot be distinguished from that of the other authors, they shall be deemed equal owners of the work, unless otherwise agreed.

In such cases, the rights of the authors cannot be exercised separately by one of them without the consent of the other co-authors. In the event of disagreement, the dispute shall be settled by the court of first instance, without prejudice to the provisions of Articles 27, 29, 30, 32, 33 and 34 of this Law.

Each of the co-authors shall have the right to file complaints any time that the rights of the authors are infringed.

*Article 26.* — Where a number of authors have participated in the creation of a work and the contribution of each author is distinct from the joint work, each author shall have the right, unless otherwise agreed, to exploit separately his personal contribution, without, however, causing prejudice to the exploitation of the joint work.

*Article 27.* — A collective work is a work published under the direction of a person or body corporate and produced by a group of co-authors, working together to achieve the purpose sought by the person or body corporate, in such a way that the contribution of each one cannot be distinguished from that of the others.

The person or body corporate who undertakes such a work and directs it shall be considered the sole author of that work and author's rights shall be vested in him alone.

*Article 28.* — In the case of pseudonymous or anonymous works, the publisher shall be deemed to have been authorized by the author to exercise the rights provided by law, unless the author nominates another person to exercise these rights or reveals his name and proves his identity.

*Article 29.* — In cases where a number of authors participate in the creation of musical songs, the author of the musical part shall alone have the right to authorize public performance of the whole work or to publish it or put copies of it into circulation, without prejudice to the copyright of the author of the literary part.

Unless otherwise agreed, the author of the literary part shall have the right to publish his contribution separately, provided that he does not use it as the basis of another musical work.

*Article 30.* — In the case of entertainments in dumb show or other shows accompanied by music, and in all other similar cases, the author of the non-musical part shall alone have the right to authorize public performance of the whole work and to have copies made of it.

Unless otherwise agreed, the author of the musical part shall have the right to dispose of his contribution separately, provided that he does not use it as the basis of another joint work.

*Article 31.* — In the case of works intended for cinema, radio or television, the following shall be regarded as co-authors:

1. the author of the scenario or of the story;
2. the author of the adaptation;
3. the author of the dialogue;
4. the author of the musical composition created specially for the work;
5. the director if he directs production and accomplishes a creative activity in the making of the work.

Where a work intended for cinema, radio or television is summarized or derived from an existing work, the author of original work shall also be regarded as co-author of the new work.

*Article 32.* — The author of the scenario, the author of the adaptation, the author of the dialogue and the director shall jointly have the right to authorize presentation of the cinematographic work or the work produced for radio or television, notwithstanding objections on the part of the author of the original literary or musical work, provided that this is in no way prejudicial to rights deriving from his collaboration.

Unless otherwise agreed, the authors of the literary and musical parts of the work shall have the right to authorize presentation of their work by any means other than cinema, radio or television.

*Article 33.* — Where one of the authors of a collective work intended for cinema, radio or television refuses to complete his contribution to the work, the other authors may use the part already complete, provided that this is not prejudicial to rights deriving from that contribution.

*Article 34.* — The person who takes upon himself to make a work intended for cinema, radio or television, and assumes the responsibility for it, and who provides the authors with the necessary material and financial means for the making and production thereof, shall be considered the maker of that work.

The maker of a cinematographic work shall be regarded as its publisher. He shall enjoy all rights in the original and in the copies thereof.

Unless otherwise agreed, the maker shall, throughout the period of exploitation of the work, represent the authors of the cinematographic work or their heirs in matters concerning contracts concluded for the presentation and exploitation of the work, without prejudice to their copyright in the literary and musical parts.

*Article 35.* — The official broadcasting and television organizations shall have the right to transmit works presented in a theater or any other public place. The managers of such places shall facilitate the setting up of the technical means required for transmission.

Such organizations shall be obliged to broadcast the name of the author and the title of the work and to grant the author or his heirs, and where necessary the manager of the place of transmission, fair compensation.

*Article 36.* — No one who takes a photograph shall have the right, unless otherwise agreed, to publish it or put the original or copies thereof into circulation without the consent of the persons concerned.

The above provision shall not be valid, however, in the case of photographs published in connection with the reporting of current events where the photographs show official or internationally famous personages or where the consent of the authorities has been obtained because the photographs present a subject of interest to the public. However, notwithstanding these provisions, the presentation, publication and distribution of such photographs shall not be authorized if they are in any way prejudicial to the honor or reputation of the persons concerned.

Nevertheless, the persons shown in the photographs may, unless otherwise agreed, authorize publication thereof in newspapers, magazines or other periodicals without the consent of the photographer. The provisions of this Article shall apply to all types of pictures, whether drawn, engraved or in any other form.

*Article 37.* — The author shall have the exclusive right to publish his letters. However, he may not exercise this right without the consent of the addressee if such publication might be prejudicial to the latter.

### Chapter 3

#### *Transfer of copyright*

*Article 38.* — The author shall have the right to transfer to third parties his rights of exploitation provided in Article 5, paragraph 2, Article 6, and Article 7, paragraph 2, of this Law.

Transfer of one right shall not imply transfer of other rights. The transfer must be in the form of a written authorization and must explain clearly and in detail the limits of the right or rights transferred and the purpose, place and term of exploitation of the right or rights.

The author may not object to the exercise of transferred rights.

*Article 39.* — Any transfer of the rights provided in Article 5, paragraph 1, Article 7, paragraph 1, and in Article 9 of this Law shall be deemed void and unlawful.

*Article 40.* — The author may transfer all or part of his rights in the work on the basis of an apportionment of the proceeds derived from exploitation. This apportionment may be calculated on an agreed percentage basis or take the form of an agreed lump sum.

However, if it is subsequently found that the rights of the author are impaired as a result of the contract or if this happens as a result of circumstances that arose after the conclusion of the contract, the judge may, depending on the circumstances of the case and the balance between the interests of the two parties, order that the author is to receive additional payment derived from the net profit on the exploitation of the work.

*Article 41.* — Transfer by the author of all his future works shall be deemed void and unlawful.

*Article 42.* — Transfer of the original of a work, whatever the nature of the work may be, shall not imply transfer of the copyright. However, the third party to whom ownership of the original has been transferred cannot, unless otherwise agreed, be obliged to authorize the author to have copies made of it or to reproduce it or present it.

*Article 43.* — Notwithstanding the transfer of his right of economic exploitation in a work, the author alone may, for serious moral reasons, call upon the court of first instance so as to obtain withdrawal of his work or to make the necessary changes in it.

In such cases, the author shall be obliged to pay fair compensation to the third party to whom the right of economic exploitation was transferred. The amount of compensation shall be fixed by the court which may either require the author to furnish an amount of security acceptable to the court or order him to make the payment in advance within a fixed period, at the end of which period the court order shall become null.

### TITLE III

#### Procedure and sanctions

##### Chapter 1

##### *Procedure*

*Article 44.* — At the request of the persons concerned, the presiding judge of the court of first instance may order that a detailed description of a work unlawfully published or republished be submitted, or he may order that the original work or the copies thereof be seized, or that the materials used for that purpose be seized, provided that such materials cannot be used for other purposes.

In the case of public performance or recitation, the presiding judge of the court may order that the receipts derived therefrom be seized.

These measures may be taken in conformity with an order drawn up on official paper. Such an order may provide that the bailiff entrusted with its execution is to be assisted by one or more experts. This order may also oblige the plaintiff to furnish adequate security.

These measures shall not be regulated by the articles of the Code on Civil Procedure relating to office hours and holidays.

The plaintiff shall submit his petition to the competent court within a period of fifteen days from the date on which the order was issued; at the expiration of that period, the order shall become null and void.

*Article 45.* — The party against whom the court order was issued may contest it before the presiding judge of the court. In such cases, the judge may, after having heard both parties, confirm the order or cancel it wholly or in part, or appoint a trustee authorized to publish, present, produce or reproduce copies of the litigious work; the trustee shall be obliged to deposit the receipts with the court until such time as a judgment has been delivered by the competent court.

*Article 46.* — The court before which the litigation is brought may, in reply to the request of the author or his representative, order that the copies of the work unlawfully published be destroyed, together with the materials used for the publication, provided that such materials are of no use for other purposes.

The court may also order, at the expense of the losing party, that these copies or materials be altered or rendered unusable.

Likewise, the court may order, in lieu of destruction or alteration, preventive seizure in respect of the copies and materials with a view to paying compensation to the author in cases where the author's copyright terminates less than two years after the date of the decision of the court, subject to

the condition that no prejudice be caused to the rights of the author provided in Article 5, paragraph 1, Article 7, paragraph 1, and Article 9.

In cases where the litigation concerns a translation into the Arabic language which does not comply with the provisions of Article 8, the decision of the court may be restricted to upholding the preventive seizure of the work translated into the Arabic language. The court shall fix the amount of compensation in each case.

In regard to the debt resulting from his right to compensation, the author shall in all circumstances have a right of priority in the net price of the objects sold and in the sums of money seized, after deduction of the costs of the legal proceedings, the maintenance and conservation of these objects and the collection of the sums of money.

*Article 47.* — In conformity with Article 10 of this Law, buildings may in no case be subject to seizure. Neither can they be demolished or confiscated for the purpose of protecting the rights of the architect whose drawings and plans were used unlawfully.

##### Chapter 2

##### *Sanctions*

*Article 48.* — Any person who commits one of the following offenses shall be liable to a fine of not less than 20 pounds and not more than 500 pounds:

1. infringes the authors' rights provided in Articles 5, 6, 7 and 9 of this Law;
2. knowingly sells or offers for sale or presents to the public, in any way whatever, or imports or exports an infringing work;
3. infringes, locally, works published abroad and protected under the provisions of this Law, or sells, imports or exports infringing works.

The court may order the confiscation of any equipment used for unlawful publications not complying with the provisions of Articles 6, 7, 8 and 10 of this Law, provided that they cannot be used for other purposes. It may also order that all copies found in the place where the offense occurred be confiscated and that the judgment be published in one or more newspapers at the expense of the infringer.

If an offense is repeated, all infractions referred to in this Article shall be regarded as being equally serious.

### TITLE IV

#### Final and transitional provisions

*Article 49.* — Publishers of works to be published in a number of copies shall be obliged to file five copies of the work with the Ministry of Information and Culture within the month following the date of publication. At the expiration of this term, the publisher may be liable to a fine not exceeding 25 pounds and shall remain under obligation to file the required copies.

Failure to file the required copies shall not in any respect affect the author's rights provided under this Law. These provisions shall not apply to works published in newspapers or periodicals unless they are published separately.

*Article 50.* — The provisions of this Law shall apply to works of Libyan and foreign authors which are published or performed for the first time in the Kingdom of Libya, as well as to works of Libyan authors published or performed for the first time in a foreign country. However, the provisions of this Law shall not apply to works of foreign authors which are published or performed for the first time in a foreign country, unless such works are protected in such foreign country and the works of Libyan nationals are protected there in the same manner as their works published or performed for the first time in Libya.

*Article 51.* — Without prejudice to the provisions of the preceding Article, the provisions of this Law shall apply to

any work already existing at the time of its entry into force. Nevertheless, as regards the term of protection, the time period between the publication of the work and the entry into force of this Law shall be included in the period of protection.

The provisions of this Law shall apply in all cases and to all agreements subsequent to the date of its entry into force, even if such cases and such agreements are relative to works first published or performed prior to the entry into force of the Law. Agreements concluded prior to the entry into force of this Law shall not be subject to the provisions of this Law but to the legal provisions in force at the time when the agreement was signed, to the extent that it complies with Article 40.

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## RUMANIA

### Decree amending Article 40 of Decree No. 321/1956 relating to copyright

(No. 1172, of December 28, 1968) \*

*Article 40.* — Any false attribution of authorship concerning a scientific, literary or musical work, a three-dimensional work, a work in the field of architecture and town-planning, or other intellectual works, shall be punishable by one to twelve months imprisonment or by a fine.

The criminal action shall be instituted on the complaint of the author, of the respective authors' union or association, or of the competent State organ.

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\* Published in the *Buletinul Oficial* of the Socialist Republic of Rumania of December 30, 1968 (No. 174). BIRPI translation.

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*CORRESPONDENCE*

**Letter from Denmark**







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**Torben LUND**  
Professor at the University of Aarhus  
Chairman of the Copyright Council  
of the Ministry of Cultural Affairs



