

No. 7247

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**ARGENTINA, AUSTRIA, BELGIUM,  
BRAZIL, CAMBODIA, etc.**

**International Convention for the Protection of Performers,  
Producers of Phonograms and Broadcasting Organi-  
sations. Done at Rome, on 26 October 1961**

*Official texts: English, French and Spanish.*

*Registered ex officio on 18 May 1964.*

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**ARGENTINE, AUTRICHE, BELGIQUE,  
BRÉSIL, CAMBODGE, etc.**

**Convention internationale sur la protection des artistes  
interprètes ou exécutants, des producteurs de phono-  
grammes et des organismes de radiodiffusion. Faite  
à Rome, le 26 octobre 1961**

*Textes officiels anglais, français et espagnol.*

*Enregistrée d'office le 18 mai 1964.*

No. 7247. INTERNATIONAL CONVENTION<sup>1</sup> FOR THE PROTECTION OF PERFORMERS, PRODUCERS OF PHONOGRAMS AND BROADCASTING ORGANISATIONS. DONE AT ROME, ON 26 OCTOBER 1961

The Contracting States, moved by the desire to protect the rights of performers, producers of phonograms, and broadcasting organisations,

Have agreed as follows :

*Article 1*

Protection granted under this Convention shall leave intact and shall in no way affect the protection of copyright in literary and artistic works. Consequently, no provision of this Convention may be interpreted as prejudicing such protection.

*Article 2*

1. For the purposes of this Convention, national treatment shall mean the treatment accorded by the domestic law of the Contracting State in which protection is claimed :

(a) to performers who are its nationals, as regards performances taking place, broadcast, or first fixed, on its territory ;

(b) to producers of phonograms who are its nationals, as regards phonograms first fixed or first published on its territory ;

(c) to broadcasting organisations which have their headquarters on its territory, as regards broadcasts transmitted from transmitters situated on its territory.

<sup>1</sup> In accordance with paragraph 1 of article 25, the Convention came into force on 18 May 1964, three months after the date of deposit of the sixth instrument of ratification or accession. The instruments of ratification or accession (a) were deposited on the dates indicated :

Congo (Brazzaville) (with reservations)* . . . . .	29 June	1962 (a)
Sweden (with declarations)* . . . . .	13 July	1962
Niger (with reservations)* . . . . .	5 April	1963 (a)
United Kingdom of Great Britain and Northern Ireland (with declarations)* . . . . .	30 October	1963
Ecuador . . . . .	19 December	1963
Mexico . . . . .	17 February	1964
Czechoslovakia (with reservations)* . . . . .	13 May	1964 (a)
(To take effect on 14 August 1964.)		

\* For the text of these declarations or reservations, see p. 94 of this volume.

2. National treatment shall be subject to the protection specifically guaranteed, and the limitations specifically provided for, in this Convention.

### *Article 3*

For the purposes of this Convention :

(a) “performers” means actors, singers, musicians, dancers, and other persons who act, sing, deliver, declaim, play in, or otherwise perform literary or artistic works ;

(b) “phonogram” means any exclusively aural fixation of sounds of a performance or of other sounds ;

(c) “producer of phonograms” means the person who, or the legal entity which, first fixes the sounds of a performance or other sounds ;

(d) “publication” means the offering of copies of a phonogram to the public in reasonable quantity ;

(e) “reproduction” means the making of a copy or copies of a fixation ;

(f) “broadcasting” means the transmission by wireless means for public reception of sounds or of images and sounds ;

(g) “rebroadcasting” means the simultaneous broadcasting by one broadcasting organisation of the broadcast of another broadcasting organisation.

### *Article 4*

Each Contracting State shall grant national treatment to performers if any of the following conditions is met :

(a) the performance takes place in another Contracting State ;

(b) the performance is incorporated in a phonogram which is protected under Article 5 of this Convention ;

(c) the performance, not being fixed on a phonogram, is carried by a broadcast which is protected by Article 6 of this Convention.

### *Article 5*

1. Each Contracting State shall grant national treatment to producers of phonograms if any of the following conditions is met :

(a) the producer of the phonogram is a national of another Contracting State (criterion of nationality) ;

(b) the first fixation of the sound was made in another Contracting State (criterion of fixation) ;

(c) the phonogram was first published in another Contracting State (criterion of publication).

2. If a phonogram was first published in a non-contracting State but if it was also published, within thirty days of its first publication, in a Contracting State (simultaneous publication), it shall be considered as first published in the Contracting State.

3. By means of a notification deposited with the Secretary-General of the United Nations, any Contracting State may declare that it will not apply the criterion of publication or, alternatively, the criterion of fixation. Such notification may be deposited at the time of ratification, acceptance or accession, or at any time thereafter; in the last case, it shall become effective six months after it has been deposited.

#### *Article 6*

1. Each Contracting State shall grant national treatment to broadcasting organisations if either of the following conditions is met :

(a) the headquarters of the broadcasting organisation is situated in another Contracting State ;

(b) the broadcast was transmitted from a transmitter situated in another Contracting State.

2. By means of a notification deposited with the Secretary-General of the United Nations, any Contracting State may declare that it will protect broadcasts only if the headquarters of the broadcasting organisation is situated in another Contracting State and the broadcast was transmitted from a transmitter situated in the same Contracting State. Such notification may be deposited at the time of ratification, acceptance or accession, or at any time thereafter; in the last case, it shall become effective six months after it has been deposited.

#### *Article 7*

1. The protection provided for performers by this Convention shall include the possibility of preventing :

(a) the broadcasting and the communication to the public, without their consent, of their performance, except where the performance used in the broadcasting or the public communication is itself already a broadcast performance or is made from a fixation ;

(b) the fixation, without their consent, of their unfixed performance ;

(c) the reproduction, without their consent, of a fixation of their performance :

(i) if the original fixation itself was made without their consent ;

- (ii) if the reproduction is made for purposes different from those for which the performers gave their consent ;
- (iii) if the original fixation was made in accordance with the provisions of Article 15, and the reproduction is made for purposes different from those referred to in those provisions.

2. (1) If broadcasting was consented to by the performers, it shall be a matter for the domestic law of the Contracting State where protection is claimed to regulate the protection against rebroadcasting, fixation for broadcasting purposes, and the reproduction of such fixation for broadcasting purposes.

(2) The terms and conditions governing the use by broadcasting organisations of fixations made for broadcasting purposes shall be determined in accordance with the domestic law of the Contracting State where protection is claimed.

(3) However, the domestic law referred to in sub-paragraphs (1) and (2) of this paragraph shall not operate to deprive performers of the ability to control, by contract, their relations with broadcasting organisations.

#### *Article 8*

Any Contracting State may, by its domestic laws and regulations, specify the manner in which performers will be represented in connexion with the exercise of their rights if several of them participate in the same performance.

#### *Article 9*

Any Contracting State may, by its domestic laws and regulations, extend the protection provided for in this Convention to artists who do not perform literary or artistic works.

#### *Article 10*

Producers of phonograms shall enjoy the right to authorise or prohibit the direct or indirect reproduction of their phonograms.

#### *Article 11*

If, as a condition of protecting the rights of producers of phonograms, or of performers, or both, in relation to phonograms, a Contracting State, under its domestic law, requires compliance with formalities, these shall be considered as fulfilled if all the copies in commerce of the published phonogram or their containers bear a notice consisting of the symbol ©, accompanied by the year date of the first publication, placed in such a manner as to give reasonable notice of claim of protection ; and if