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EUROPEAN CONVENTION FOR THE PROTECTION OF THE AUDIOVISUAL HERITAGE

Strasbourg, 8. XI. 2001

PREAMBLE

The member States of the Council of Europe, the other States Parties to the European Cultural Convention and the European Community, signatory hereto,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members for the purpose, in particular, of safeguarding and fostering the ideals and principles which are their common heritage;

Considering that Europe's heritage reflects the cultural identity and diversity of its peoples;

Considering that moving image material is an integral part of European cultural heritage, and that States shall ensure that it is safeguarded and protected for posterity;

Considering that moving image material is a form of cultural expression reflecting contemporary society and that it is an excellent means of recording everyday events, the basis of our history and a reflection of our civilisation;

Aware of the fragility of moving image material and the dangers which threaten its existence and its handing down to future generations;

Emphasising the importance of the Parties' responsibility to safeguard, restore and keep available this heritage;

Resolved to co-operate and undertake joint action in order to safeguard and ensure the continuation of audiovisual cultural heritage;

Taking account of the international treaties in force for the protection of copyright and neighbouring rights;

Taking account of the work carried out by other international fora in the field of the protection of the audiovisual heritage,

Have agreed as follows:

CHAPTER I INTRODUCTION

Article 1

Aim of the Convention

The aim of this Convention is to ensure the protection of the European audiovisual heritage and its

appreciation both as an art form and as a record of our past by means of its collection, its preservation and the availability of moving image material for cultural, scientific and research purposes, in the public interest.

Article 2

Definitions

For the purpose of this Convention:

- a. "moving image material" means any set of moving images recorded by whatever means and on whatever medium, whether or not accompanied by sound, capable of conveying an impression of movement;
- b. "cinematographic work" means moving image material of any length, in particular cinematographic works of fiction, cartoons and documentaries, which is intended to be shown in cinemas;
- c. "archive body" refers to any institution designated by a Party to carry out the functions of legal deposit;
- d. "voluntary deposit body" refers to any institution designated by a Party for that purpose.

Article 3

Scope of application

1. The Parties to this Convention shall apply the provisions of the Convention to all cinematographic works as from its entry into force.
2. By protocols drawn up in accordance with Article 18 of this Convention, the application of this Convention shall be extended to moving image material other than cinematographic works, such as television productions.

Article 4

Copyright and neighbouring rights

The obligations of this Convention shall in no way affect the provisions in international treaties on the protection of copyright and neighbouring rights. No provision of this Convention may be interpreted as prejudicing such protection.

CHAPTER II LEGAL DEPOSIT

Article 5

General obligation of legal deposit

1. Each Party shall introduce, by legislative or other appropriate means, the obligation to deposit moving image material forming part of its audiovisual heritage and having been produced or co-produced in the territory of the Party concerned.
2. Each Party shall be free to provide for an exemption from legal deposit if the moving image material is legally deposited in one of the other Parties concerned.

Article 6

Designation and tasks of archive bodies

1. Each Party shall designate one or more archive bodies, whose tasks shall be to ensure the preservation, documentation, restoration and availability for consultation of deposited moving image material.
2. The designated bodies shall be either public or private, but shall not be controlled directly or indirectly by any natural or legal person principally engaged in profit-making activities in the media sector.
3. The Parties undertake to oversee the execution of the tasks assigned to the archive bodies.

Article 7

Technical and financial means

Each Party shall ensure that archive bodies have the necessary means for carrying out their tasks as defined in Article 6, paragraph 1, of this Convention.

Article 8

Conditions of legal deposit

1. Each Party shall designate the natural or legal persons submitted to the obligation of deposit. It shall provide for the conditions of this deposit. It shall particularly ensure that the archive bodies receive the original or a material from which the original quality can be reconstituted.
2. The material shall be deposited within a maximum of twelve months after the final version has been shown for the first time to the public or any other reasonable period specified by a Party. If it has not been shown to the public, the time-limit shall begin at the end of the production.

Article 9

Restoration of deposited material

1. Each Party shall encourage and promote the restoration of legally deposited moving image

material forming part of its audiovisual heritage whose physical quality has deteriorated.

2. Each Party may permit in its legislation the reproduction of legally deposited moving image material for the purpose of restoration.

Article 10

Emergency measures

Each Party shall make appropriate arrangements to ensure the protection of moving image material forming part of its audiovisual heritage which is exposed to an imminent danger which threatens its material existence, if it is not otherwise protected under the terms of legal deposit.

CHAPTER III

VOLUNTARY DEPOSIT

Article 11

Promotion of voluntary deposit

Each Party shall encourage and promote the voluntary deposit of moving image material forming part of its audiovisual heritage, including ancillary material, which does not qualify under Article 5 of this Convention.

Article 12

Availability to the public

Each Party shall encourage voluntary deposit bodies to specify by contract with the rights holders the conditions under which the deposited moving image material may be made available to the public.

CHAPTER IV

GENERAL PROVISIONS COMMON TO ARCHIVE AND VOLUNTARY DEPOSIT BODIES

Article 13

Joint archives

1. In order to fulfil the aims of the present Convention more effectively, the Parties may decide to establish joint archive bodies and voluntary deposit bodies.
2. The archive body and the voluntary deposit body may be one and the same institution, on condition that the provisions specific to each function are applied.

Article 14

Co-operation between archive and voluntary deposit bodies

Each Party shall encourage its archive or voluntary deposit bodies to co-operate with one another and with the bodies of other Parties with a view to facilitating:

- a. exchange of information on moving image material;

- b. the compilation of a European audiovisual filmography;
- c. the development of a standard procedure for storing, pooling and updating moving image material and related information;
- d. the development of a common standard for electronic information exchange;
- e. the preservation of equipment for showing moving image material.

Article 15

Contractual terms of deposit

Each Party shall encourage archive and voluntary deposit bodies to conclude contracts with the depositors specifying the rights and obligations as to the deposited moving image material. Unless regulated by law, such contracts may specify the conditions on the liability for any damage of the deposited material, its temporary or permanent withdrawal from the deposit by the rights holders, and the compensation to be paid by the rights holders for its restoration or other services of the archive or voluntary deposit bodies.

CHAPTER V

FOLLOW-UP OF THE CONVENTION

Article 16

Standing Committee

1. For the purposes of this Convention, a standing committee shall be set up.
2. Each Party may be represented on the standing committee by one or more delegates. Each Party has a right to vote. Each State which is a Party to this Convention shall have one vote. Concerning questions within its competence, the European Community shall exercise its right to vote and cast a number of votes equal to the number of its member States that are Parties to this Convention. The European Community shall not exercise its right to vote when a question does not fall within its competence.
3. The European Community or any State referred to in Article 19, which is not a Party to this Convention, may be represented on the standing committee by an observer.
4. The standing committee shall be convened by the Secretary General of the Council of Europe. Its first meeting shall be held within six months of the date of entry into force of the Convention. It shall subsequently meet whenever one-third of the Parties or the Committee of Ministers of the Council of Europe so requests, or on the initiative of the Secretary General of the Council of Europe in accordance with the provisions of Article 18, paragraph 2, or at the request of one or more Parties in accordance with the provisions of Articles 17, paragraph 1.c.
5. A majority of Parties shall constitute the quorum required for the adoption of decisions. Subject to the

provisions of Article 16, paragraph 6, and Article 18, paragraph 3, the decisions of the Standing Committee shall be taken by a majority of two-thirds of the Parties present.

6. The Standing Committee may seek the advice of experts in order to discharge its function under this Convention. It may, on its own initiative or at the request of the body concerned, invite any international or national, governmental or non-governmental body technically qualified in the fields covered by this Convention to be represented by an observer at all or part of its meetings. The decision to invite such experts or bodies shall be taken by a majority of two-thirds of the Parties.
7. Subject to the provisions of this Convention, the Standing Committee shall draw up its own rules of procedure.

Article 17

Functions and reports of the Standing Committee

1. The Standing Committee shall be responsible for examining the operation and implementation of this Convention. It may:
 - a. make recommendations to the Parties concerning the application of the Convention;
 - b. suggest any necessary modifications to the Convention and examine those proposed in accordance with the provisions of Article 18;
 - c. examine, at the request of one or more Parties, any question concerning the interpretation of the Convention;
 - d. make recommendations to the Committee of Ministers concerning States, other than those referred to in Article 19, to be invited to accede to this Convention.
2. After each meeting, the Standing Committee shall forward to the Parties and the Committee of Ministers of the Council of Europe a report on its discussions and any decisions taken.

CHAPTER VI

PROTOCOLS AND AMENDMENTS

Article 18

Protocols and amendments

1. Protocols dealing with moving image material other than cinematographic works shall be concluded with a view to developing, in specific fields, the principles contained in this Convention.
2. Any proposal for a protocol referred to in paragraph 1 or any proposal for an amendment to such a protocol, or for any amendment to this Convention, presented by a Party, the Standing Committee or the Committee of Ministers shall be communicated to the Secretary General of the Council of Europe and forwarded by him to the member States of the Council of Europe, to the other States which may become Parties to this Convention

and to the European Community. The Secretary General of the Council of Europe shall convene a meeting of the Standing Committee at the earliest two months following the communication of the proposal.

3. The Standing Committee shall examine the proposal not earlier than two months after it has been forwarded by the Secretary General in accordance with paragraph 2. The Standing Committee shall submit the text approved by a majority of three-quarters of the Parties to the Committee of Ministers for adoption.
4. Any amendment to the Convention adopted in accordance with the preceding paragraph shall come into force on the thirtieth day after all the Parties have informed the Secretary General of their acceptance thereof. If an amendment has been adopted by the Committee of Ministers, but has not yet entered into force, a State or the European Community may not express their consent to be bound by the Convention without accepting this amendment at the same time.
5. The Committee of Ministers shall determine the conditions for the entry into force of protocols to this Convention and amendments to such protocols based on the text submitted by the Standing Committee in accordance with paragraph 3.

CHAPTER VII FINAL PROVISIONS

Article 19

Signature, ratification, acceptance, approval

This Convention shall be open for signature by the member States of the Council of Europe, by the other States Parties to the European Cultural Convention and by the European Community. It is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

Article 20

Entry into force

1. This Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date on which five States, including at least four member States of the Council of Europe, have expressed their consent to be bound by the Convention, in accordance with the provisions of Article 19.
2. In respect of any signatory which subsequently expresses its consent to be bound by it, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of its instrument of ratification, acceptance or approval.

Article 21

Relations between the Convention and Community law

In their mutual relations, Parties which are members of the European Community shall apply Community rules and shall not therefore apply the rules arising from this Convention except in so far as there is no Community rule governing the particular subject concerned.

Article 22

Accession by other States

1. After the entry into force of this Convention, the Committee of Ministers of the Council of Europe, after having consulted the Parties, may invite any State which is not referred to in Article 19 to accede to the Convention, by a decision taken by the majority provided for in Article 20.d of the Statute of the Council of Europe, and by the unanimous vote of the representatives of the Contracting States entitled to sit on the Committee of Ministers.
2. In respect of any acceding State, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of deposit of the instrument of accession with the Secretary General of the Council of Europe.

Article 23

Territorial application

1. Any State or the European Community may, at the time of signature or when depositing the instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Convention shall apply.
2. Any Party may, at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Convention to any other territory specified in the declaration. In respect of such territory, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Secretary General.
3. Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General. The withdrawal shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Secretary General.

Article 24

Reservations

No reservation may be made in respect of the provisions of this Convention.

Article 25

Denunciation

1. Any Party may at any time denounce this Convention by means of a notification addressed to the Secretary General of the Council of Europe.
2. Such denunciation shall become effective on the first day of the month following the expiration of a period of six months after the date of receipt of the notification by the Secretary General.

Article 26

Notifications

The Secretary General of the Council of Europe shall notify the member States of the Council of Europe, the other States which may become Parties to this Convention and the European Community:

- a. any signature;
- b. the deposit of any instrument of ratification, acceptance, approval or accession;

- c. any date of entry into force of this Convention, in accordance with Articles 20, 22 and 23;
- d. any amendment or protocol adopted in accordance with Article 18, and the date on which such an amendment or protocol enters into force;
- e. any other act, notification or communication relating to this Convention.

In witness whereof the undersigned, being duly authorised thereto, have signed this Convention.

Done at Strasbourg, this 8th day of November 2001, in English and in French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe, to the other States Parties to the European Cultural Convention, to the European Community and to any other State invited to accede to this Convention.

