



## **Protocol to the European Convention for the Protection of the Audiovisual Heritage, on the Protection of Television Productions<sup>\*</sup>**

Strasbourg, 8.XI.2001

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### **Preamble**

The Parties to this Protocol to the European Convention for the Protection of the Audiovisual Heritage, opened for signature in Strasbourg, on 8 November 2001 (hereinafter referred to "the Convention"),

Considering the importance of television productions as part of the European audiovisual heritage as expressed in the Convention;

Recognising the specificity of television productions, in particular with regard to their virtually universal availability, their quantity and their role as a mirror of all sectors and aspects of society;

Resolved to ensure an adequate preservation of television productions for cultural, scientific and research purposes in the public interest;

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

Referring to Article 3 and Article 18 of the Convention,

Have agreed as follows:

### **Article 1 – Definitions**

For the purposes of this Protocol:

- a "television productions" means any moving image material other than cinematographic works, which has been produced for transmission via terrestrial transmitter, cable, satellite or other means, for reception by the public, with the exception of moving image material transmitted on individual demand and interactive moving image material;
- b "depository body" means any institution, including archive bodies, designated by a Party to carry out the functions related to legal or voluntary deposit;

(\*) The Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community entered into force on 1 December 2009. As a consequence, as from that date, any reference to the European Economic Community shall be read as the European Union.

- c "broadcaster" means any natural or legal person who has editorial responsibility for the composition of television productions and who transmits them, by whatever means, or has them transmitted by a third party for reception by the public.

#### **Article 2 – Scope of application**

- 1 The Parties to this Protocol agree to apply the provisions of the Convention to television productions subject to the following exceptions:
  - Article 3 of this Protocol shall be applied instead of Article 5 of the Convention;
  - Article 4 of this Protocol shall be applied instead of Article 11 of the Convention;
  - Article 5 of this Protocol shall be applied instead of Article 6 of the Convention; and
  - Article 7 of this Protocol shall be applied instead of Article 8 of the Convention.
- 2 The provisions of Article 1 of this Protocol shall be regarded as an addition to Article 2 of the Convention.

#### **Article 3 – Legal deposit**

- 1 Each Party shall implement, by legislative or other appropriate means and subject to paragraphs 2 and 3 of this article, the obligation to deposit television productions forming part of its audiovisual heritage, which have been transmitted by broadcasters under its jurisdiction for the first time to the public after the entry into force of this Protocol.
- 2 Each Party may provide for a system of appraising, selecting or sampling of television productions which are under the obligation of being deposited, in order to define and preserve the television elements of its audiovisual heritage adequately.
- 3 Each Party shall be free to provide for an exemption from the legal deposit if a television production is legally deposited in one of the other Parties.
- 4 Each Party shall determine who is under the obligation of legal deposit in accordance with this Protocol.

#### **Article 4 – Voluntary deposit**

Each Party may encourage and promote the voluntary deposit of television productions which do not qualify under Article 3.2. Voluntary deposit may be extended to ancillary material.

#### **Article 5 – Designation of depository bodies**

With regard to the deposit of television productions, each Party may:

- a designate one or more broadcasters, upon their agreement and in accordance with the agreed terms, as depository body for the television productions transmitted by them or, if both sides agree, by other broadcasters,

or

- b designate by agreement and/or establish one or more other depository bodies.

### **Article 6 – Financial and technical means of depository bodies**

Each Party shall ensure that depository bodies under Article 5 of this Protocol have the necessary means for carrying out the functions of legal deposit as defined in Article 3, and shall examine the appropriate financial arrangements to this effect.

### **Article 7 – Conditions of deposit**

Each Party shall determine the conditions necessary for the deposit of television productions with depository bodies in accordance with this Protocol.

### **Article 8 – Final provisions**

- 1 This Protocol shall be open for signature by Signatories to the Convention. It is subject to ratification, acceptance or approval. A Signatory may not ratify, accept or approve this Protocol unless it has previously or simultaneously ratified, accepted or approved the Convention. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.
- 2 This Protocol 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 Protocol in accordance with the provisions of paragraph 1 of this article.
- 3 From the date of its entry into force, this Protocol shall form an integral part of the Convention.
- 4 In respect of any Signatory which subsequently expresses its consent to be bound by it, the Protocol 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 the instrument of ratification, acceptance or approval.
- 5 After the entry into force of this Protocol, any State which has acceded to the Convention may also accede to this Protocol.
- 6 Accession shall be effected by the deposit with the Secretary General of the Council of Europe of an instrument of accession which shall take effect on the first day of the month following the expiration of a period of three months after the date of deposit.
- 7 No reservation may be made in respect of the provisions of this Protocol.
- 8 Any Party may at any time denounce this Protocol by means of a notification addressed to the Secretary General of the Council of Europe.
- 9 Such denunciation 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.
- 10 The Secretary General of the Council of Europe shall notify the member States of the Council of Europe, the European Community, any Signatory, any Party and any other State which has been invited to accede to the Convention of:
  - a any signature;
  - b the deposit of any instrument of ratification, acceptance or accession;

- c any date of entry into force of this Protocol in accordance with paragraphs 2, 4 and 6 of this article;
- d any other act, notification or communication relating to this Protocol.

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

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 Party to the European Cultural Convention, to the European Community and to any other State invited to accede to the Convention.