



## **European Agreement concerning Programme Exchanges by means of Television Films**

Paris, 15.XII.1958

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### **Preamble**

The governments signatory hereto, being members of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members;

Considering that it is important in the interests of European cultural and economic unity that programmes may be exchanged by means of television films between the member countries of the Council of Europe as freely as possible;

Considering that national legislations allow different conclusions as regards the legal nature of television films and as regards the rights which they grant in respect of such films;

Considering that it is necessary to resolve the difficulties arising from this situation;

Having regard to Article 20 of the Berne Convention for the Protection of Literary and Artistic Works, by the terms of which the governments of the countries of the Union reserve to themselves the right to enter into special arrangements which do not embody stipulations contrary to that Convention,

Have agreed as follows:

### **Article 1**

In the absence of any contrary or special stipulation within the meaning of Article 4 of the present Agreement, a broadcasting organisation under the jurisdiction of a country which is a Party to this Agreement has the right to authorise in the other countries which are Parties thereto the exploitation for television of television films of which it is the maker.

### **Article 2**

- 1 All visual or sound and visual recordings intended for television shall be deemed to be television films within the meaning of the present Agreement.
- 2 A broadcasting organisation shall be deemed to be the maker if it has taken the initiative in, and responsibility for, the making of a television film.

### **Article 3**

- 1 If the television film has been made by a maker other than the one defined in Article 2, paragraph 2, the latter is entitled, in the absence of contrary or special stipulations within the meaning of Article 4, to transfer to a broadcasting organisation the right provided in Article 1.
- 2 The provision contained in the preceding paragraph applies only if the maker and the broadcasting organisation are under the jurisdiction of countries which are Parties to the present Agreement.

### **Article 4**

By "contrary or special stipulation" is meant any restrictive condition agreed between the maker and persons who contribute to the making of the television film.

### **Article 5**

This Agreement shall not affect the following rights, which shall be entirely reserved:

- a any moral right recognised in relation to films;
- b the copyright in literary, dramatic or artistic works from which the television film is derived;
- c the copyright in a musical work, with or without words, accompanying a television film;
- d the copyright in films other than television films;
- e the copyright in the exploitation of television films otherwise than on television.

### **Article 6**

- 1 This Agreement shall be open to signature by the members of the Council of Europe, who may accede to it either by:
  - a signature without reservation in respect of ratification; or
  - b signature with reservation in respect of ratification, followed by the deposit of an instrument of ratification.
- 2 Instruments of ratification shall be deposited with the Secretary General of the Council of Europe.

### **Article 7**

- 1 This Agreement shall enter into force thirty days after the date on which three members of the Council shall, in accordance with Article 6 thereof, have signed it without reservation in respect of ratification or shall have ratified it.
- 2 In the case of any member of the Council who shall subsequently sign the Agreement without reservation in respect of ratification or who shall ratify it, the Agreement shall enter into force thirty days after the date of such signature or deposit of the instrument of ratification.

**Article 8**

- 1 After this Agreement has come into force, any country which is not a member of the Council of Europe may accede to it, subject to the prior approval of the Committee of Ministers of the Council of Europe.
- 2 Such accession shall be effected by the deposit of an instrument of accession with the Secretary General of the Council of Europe, and shall take effect thirty days after the date of deposit.

**Article 9**

Signature without reservation in respect of ratification, ratification or accession shall imply full acceptance of all the provisions of this Agreement.

**Article 10**

The Secretary General of the Council of Europe shall notify members of the Council, the governments of any countries which may have acceded to this Agreement and the Director of the Bureau of the International Union for the Protection of Literary and Artistic Works:

- a of the date of entry into force of this Agreement and the names of any members of the Council which have become Parties thereto;
- b of the deposit of any instruments of accession in accordance with Article 8 of the present Agreement;
- c of any declaration or notification received in accordance with Articles 11 and 12 thereof.

**Article 11**

- 1 This Agreement shall apply to the metropolitan territories of the Contracting Parties.
- 2 Any Contracting Party may, at the time of signature, ratification or accession, or at any later date, declare by notice addressed to the Secretary General of the Council of Europe that this Agreement shall apply to any territory or territories mentioned in the said declaration and for whose international relations it is responsible.
- 3 Any declaration made in accordance with the preceding paragraph may, in respect of any territory mentioned in such a declaration, be withdrawn under the conditions laid down in Article 12 of this Agreement.

**Article 12**

- 1 This Agreement shall remain in force for an unlimited period.
- 2 Any Contracting Party may denounce this Agreement at one year's notice by notification to this effect to the Secretary General of the Council of Europe.

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

Done at Paris, this 15th day of December 1958, in English and French, both texts being equally authoritative, in a single copy, which shall remain in the archives of the Council of Europe and of which the Secretary General shall send certified copies to each of the signatory and acceding governments and to the Director of the International Bureau for the Protection of Literary and Artistic Works.