



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 12 October 2010 (15.10)  
(OR. fr)**

**14711/10**

**AUDIO 31**

**NOTE**

---

from:	General Secretariat of the Council
to:	Permanent Representatives Committee (Part 1)/Council
No. prev.doc.	14133/10 AUDIO 28
Subject:	Draft Council conclusions on European film heritage, including the challenges of the digital era <i>- Adoption</i>

---

The Audiovisual Working Party has drawn up a set of draft conclusions on the above, which is annexed hereto. All the delegations are able to agree to the draft.

The Permanent Representatives Committee is requested to confirm the agreement reached in the Audiovisual Working Party and to submit the text to the Council for adoption and subsequent publication in the Official Journal.

COUNCIL CONCLUSIONS ON EUROPEAN FILM HERITAGE, INCLUDING  
THE CHALLENGES OF THE DIGITAL ERA

THE COUNCIL OF THE EUROPEAN UNION,

1. WHEREAS:

- the Recommendation of the European Parliament and of the Council of 16 November 2005 on film heritage and the competitiveness of related industrial activities<sup>1</sup> (Film Heritage Recommendation) underlines the fact that cinematographic works are an essential manifestation of the richness and diversity of European cultures and they constitute a cultural heritage that has to be safeguarded for future generations;

2. RECALLING

- the political background to this issue as set out in the Annex to these conclusions;

---

<sup>1</sup> OJ L 323, 9.12.2005, p. 57.

3. TAKES NOTE OF:

- the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions "A Digital Agenda for Europe"<sup>2</sup> and ACKNOWLEDGES in particular the fact that wider deployment and more effective use of digital technologies can provide Europeans with a better quality of life through new media opportunities and easier access to cultural content;

4. RECOGNISES THAT:

- film heritage institutions face both the continuing challenges of the analogue era and the new challenges of the digital era;
- continually evolving technologies and changing ways of distributing and using cultural content may have an impact on the traditional concepts of film, cinema and heritage;
- the digital environment makes it possible to render film heritage more accessible to creators, cinema professionals, researchers, schools and citizens in general, without territorial boundaries. Thus it helps to develop creativity, to increase cultural exchanges and to broaden access to the diversity of cultures and languages in the European Union;
- the digital era also raises new questions about the collection, exhibition and long-term preservation of digitised copies of analogue material and of "born-digital" material;

---

<sup>2</sup> COM(2010) 245 final.

- digitising analogue material is a complex, costly and time-consuming operation, and it thus requires priorities to be set, particularly taking into account the value of the material and the risk of deterioration;
- the legal framework for intellectual property rights and its implementation at contractual level must provide sufficient legal certainty to allow film heritage institutions to carry out their public interest missions, notably the preservation and restoration of the works deposited and, where appropriate, providing access to those works for cultural and educational purposes;
- policymakers, stakeholders and citizens in general need to be made more aware of the crucial need to collect, restore and preserve film archive material, including digital material;
- media literacy and professional training needs to be improved in relation to the growing use of new technologies in film heritage institutions;
- notwithstanding the process of digitisation of film heritage, preservation of the original media remains fundamental. In this context, the Council also recognises the importance of laboratories able to carry out restoration and duplication of analogue material;
- film-related material is a valuable component of film heritage;

5. UNDERLINES:

- its commitment to actively support European film heritage institutions in all their tasks, in particular in the context of the move to a digital environment;
- that private-public partnerships can play a complementary role in achieving these institutions' tasks, particularly in promoting wide public access to works deposited, for cultural and educational purposes, with due regard for intellectual property rights;

6. WELCOMES WITH INTEREST:

- the first<sup>3</sup> and second<sup>4</sup> Commission reports on the implementation of the Film Heritage Recommendation;
- the framework agreement concluded between the International Federation of Film Producers' Associations (FIAPF) and the Association of European Film Libraries/Cinémathèques (ACE) on the voluntary deposit of films in preservation archives<sup>5</sup>;
- the intention of the Commission to propose a directive on orphan works by 2010, as announced in its communication "A Digital Agenda for Europe";

---

<sup>3</sup> SEC(2008) 2373.

<sup>4</sup> SEC(2010) 853.

<sup>5</sup> <http://acefilm.de/98.html>

7. INVITES MEMBER STATES TO:

- adapt the existing instruments establishing mandatory legal or contractual deposit of cinematographic works forming part of their audiovisual heritage, taking into account the transition to digital production and distribution, and ensure appropriate enforcement of these instruments;
- promote the voluntary deposit of films and the use of the FIAPF/ACE agreement on the voluntary deposit of films in preservation archives;
- consider film heritage when designing their cultural policies;
- make sure that film heritage preservation is fully part of their national or regional film policy, in particular to:
  - (a) establish a long-term strategy for their national film heritage, for both analogue and digital media;
  - (b) consider cinemas in film heritage institutions and other cinemas dedicated to heritage films when implementing policies to promote the transition to digital cinema;
  - (c) ensure that films that have been supported by national or regional funds are deposited with a film heritage institution and encourage, where feasible, the deposit of all related material;

- (d) ensure, in compliance with intellectual property rights, without prejudice to fair remuneration for the right holders and without interfering with the normal use of the film, that film heritage institutions can enjoy appropriate rights in relation to the preservation and cultural and non-commercial use of films supported by national and regional funds as well as of related material, allowing them for instance to:
- hold public screenings on their premises and/or;
  - reproduce the film on any media for preservation purposes and/or;
  - restore the material and/or;
  - use the material in exhibitions and/or;
  - organise consultation of the material by researchers through a secure internet connection and/or;
  - use digitised extracts from the material for educational purposes and/or;
  - grant access to extracts, or even to the entire material, through public platforms giving access to online cultural content such as Europeana<sup>6</sup> and its partner projects, or the websites of national cultural institutions;
- with due regard for intellectual property rights, facilitate the circulation and promotion of film heritage through, amongst other things:
- (a) exchanges of material between film heritage institutions;
  - (b) subtitling of films in as many European languages as possible;

---

<sup>6</sup> [www.europeana.eu](http://www.europeana.eu)

- intensify efforts to digitise film heritage and increase its accessibility, in particular through Europeana, in keeping with the principles of the Digital Agenda for Europe;
- endeavour to develop education and vocational training in the area of film archives, for example by including specific courses in education and training systems, and by stepping up the temporary exchange of professionals between European film heritage institutions for the purposes of continuing vocational training;
- establish policies for long-term preservation of digitised copies of analogue material and "born-digital" material in line with the Commission Recommendation of 24 August 2006 on the digitisation and online accessibility of cultural material and digital preservation<sup>7</sup> and the related Council Conclusions of 13 November 2006<sup>8</sup>;
- continue cooperation and the exchange of good practice in this area;

8. INVITES THE COMMISSION TO:

- continue examining how to guarantee sufficient legal certainty in respect of intellectual property rights for film heritage institutions, in order to help them accomplish their public interest missions;

---

<sup>7</sup> OJ L 236, 31.8.2006, p. 28.

<sup>8</sup> OJ C 297, 7.12.2006, p. 1.



- continue the exchange of experience and good practice in the cinema experts group established by the Commission<sup>9</sup>, and report to the Council on the progress achieved;
- continue to support research into the long-term preservation of digital material and the accessibility of that digital material in a multilingual context, particularly in relation to the permanence of digital media and data formats;
- study audiovisual issues in the context of its discussions on orphan works;

9. INVITES THE MEMBER STATES AND THE COMMISSION, WITHIN THEIR RESPECTIVE SPHERES OF COMPETENCE, TO:

- promote the application of European standards on the interoperability of film databases<sup>10</sup> and, if necessary, establish common standards for the deposit of digital files with film heritage institutions;
- study in detail the challenges and the opportunities arising from the digital era for film heritage institutions;
- support actions by film heritage institutions to respond to these challenges and opportunities, in particular by making their collections more accessible through new technologies.

o

o o

---

<sup>9</sup> [http://ec.europa.eu/avpolicy/reg/cinema/experts/index\\_en.htm](http://ec.europa.eu/avpolicy/reg/cinema/experts/index_en.htm)

<sup>10</sup> European Standard EN 15744:2009 "Film Identification – Minimum metadata set for cinematographic works" and European Standard EN 15907 "Film Identification – Enhancing interoperability of metadata – Element sets and structures".

Political background

- Council Resolution of 26 June 2000 on the conservation and enhancement of European cinema heritage<sup>11</sup>
- Commission Communication of 26 September 2001 on certain legal aspects relating to cinematographic and other audiovisual works<sup>12</sup>
- Council of Europe Convention of 8 November 2001 for the protection of the Audiovisual Heritage<sup>13</sup>
- European Parliament Resolution of 2 July 2002 on the Commission communication on certain legal aspects relating to cinematographic and other audiovisual works<sup>14</sup>
- Council Resolution of 24 November 2003 on the deposit of cinematographic works in the European Union<sup>15</sup>
- Commission Recommendation of 24 August 2006 on the digitisation and online accessibility of cultural material and digital preservation<sup>16</sup>
- Council conclusions of 13 November 2006 on the Digitisation and Online Accessibility of Cultural Material, and Digital Preservation<sup>17</sup>
- Recommendation of the Committee of Ministers of the Council of Europe to Member States on national film policies and the diversity of cultural expressions, adopted on 23 September 2009<sup>18</sup>
- Council Conclusions of 10 May 2010 on Europeana: next steps<sup>19</sup>

---

<sup>11</sup> OJ C 193, 11.7.2000, p. 1.

<sup>12</sup> COM(2001) 534 final.

<sup>13</sup> <http://conventions.coe.int/Treaty/en/Treaties/html/183.htm>

<sup>14</sup> OJ C 271E, 15.11.2003, p. 176.

<sup>15</sup> OJ C 295, 5.12.2003, p. 5.

<sup>16</sup> OJ L 236, 31.8.2006, p. 28.

<sup>17</sup> OJ C 297, 7.12.2006, p. 1.

<sup>18</sup> CM/Rec(2009)73.

<sup>19</sup> OJ C 137, 27.5.2010, p. 19.