Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Opinion 230 (2001)[1]

Draft European Convention for the Protection of the Audiovisual Heritage and draft Protocol on the Protection of Television Productions to the draft European Convention for the Protection of the Audiovisual Heritage

Parliamentary Assembly

1. The Assembly welcomes and generally supports the draft convention for the protection of the audiovisual heritage and the draft protocol to the draft European convention for the protection of the audiovisual heritage on the protection of television productions. It recalls in this respect its various recommendations on cinema and the audiovisual sector, in particular Recommendation 862 (1979) on cinema and the state, Recommendation 1067 (1987) on the cultural dimension of broadcasting in Europe and Resolution 887 (1987) on European Cinema and Television Year.

2. The Assembly fully shares the view that cinematographic work and other moving image material, as defined by the draft convention, and as may be elaborated in subsequent protocols, are part of the European cultural heritage and a record of our past, and that states should be asked to ensure that they are safeguarded and protected for posterity and made available for scientific, cultural and research purposes, in the public interest.

3. The timing of the draft convention is welcomed, as new technologies, especially digitalisation, now make it possible to collect new cinematographic and television works as well as to preserve more effectively older works which are on perishable supports.

4. The obligation of legal deposit applies exclusively to moving image material which will be produced after the convention and protocol enter into force, whilst existing works (and foreign productions) are only subject to voluntary deposit. It is therefore important that, in the future implementation of the draft convention, states should be urged to safeguard masterpieces of the past.

5. There is some confusion in the draft convention as to what material should be preserved: "all cinematographic works" produced after its entry into force, as stipulated in Article 3, paragraph 1, or what each contracting party considers as material "forming part of its audiovisual heritage". The explanatory report to the draft convention is just as ambiguous, but leans in favour of the "parties' wish to decide for themselves what does or does not belong to this heritage". Such a subjective definition could result in arbitrary or discriminatory decisions.

6. The draft protocol on television productions is clearer, since it only states that the obligation for legal deposit concerns "television productions forming part of its audiovisual heritage". Such an approach may be more easily defendable given the huge amount of television productions. The concern about arbitrary decisions, nevertheless, is still the same.

1. Assembly debate on 28 June 2001 (23rd Sitting) (see Doc. 9110, report of the Committee on Culture, Science and Education, rapporteur: Mr Urbańczyk; and Doc. 9119, opinion of the Committee on Legal Affairs and Human Rights, rapporteur: Mrs Gülek). Text adopted by the Assembly on 28 June 2001 (23rd Sitting).

7. The Assembly regrets that the legal deposit only concerns what individual countries consider as part of their own national heritage. Standardisation of procedures throughout Europe cannot be a satisfactory explanation, since it does not take into account the existence of a common European heritage.

8. It is important not only that the bodies responsible for legal deposit should be independent from natural or legal persons involved in profit-making activities, but that they should also be free of any direct political interference. Although censorship, especially of television productions, occurs less and less frequently in Europe these days, it is not yet entirely a thing of the past.

9. It is important that deposited material be made easily available and accessible for cultural, scientific and research purposes.

10. In conclusion, the Assembly hopes that the member states will sign and ratify the convention and its protocol as soon as possible in order to speed up their entry into force. Every effort should be made to invite non-European states also to sign the convention and its protocol, as the European public does not limit its viewing to European material.