Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Opinion 292 (2016)[1]

Draft Council of Europe convention on cinematographic co-production (revised)

Parliamentary Assembly

1. The Parliamentary Assembly welcomes the initiative of the Committee of Ministers of the Council of Europe to revise the Council of Europe Convention on Cinematographic Co-production (ETS No. 147) and it commends the principles inspiring the new text, which is intended to modernise the convention, keeping pace with changes in the landscape of film production, and to ensure its continued relevance.

2. In particular, the Assembly appreciates the fact that the draft revised convention[2] updates the common legal framework, building on economic realities and common practice in the sector, better reflects the ambition to open the convention to non-European countries and highlights the rationale of recognising the multifaceted nature of Europe and of encouraging cultural diversity and intercultural dialogue. For the Assembly, the revised convention will enhance Convention No. 147 and uphold cinematographic co-productions in both their economic and cultural dimensions.

3. The Assembly notes, however, that the draft revised convention does not foresee the establishment of a monitoring body. It considers that, as a consequence, the system would be deprived of the possibility of remaining dynamic. The simplified procedure for the revision of the revised convention provided for in Article 22 – which entrusts the Board of Management of Eurimages with the responsibility of formulating proposals for amendments – is not entirely satisfactory.

4. Indeed, not all the States potentially parties to the revised convention are represented on the Eurimages Board of Management; this Board, although highly competent, acts within the scope of a partial agreement and does not work with the whole film industry in all its dimensions and complexity. Moreover, a proper monitoring body should be entrusted with other important functions, in order to achieve better co-ordination and harmonisation of the implementation of the revised convention across countries, notably by providing for the sharing of best practice, and the collection and analysis of data sets enabling the assessment of the level of co-production activity under the revised convention.

5. The Assembly believes that a few amendments would contribute to clarifying and enhancing the text; in this connection, it refers to the comments and explanations set out in the explanatory memorandum to the draft opinion by the Committee on Culture, Science, Education and Media (Doc. 13987).

6. The Assembly therefore recommends that the Committee of Ministers make the following amendments to the draft revised convention:

6.1. in the preamble:

6.1.1. at the end of the fourth paragraph, add the following text: "and that the Council of Europe Framework Convention on the Value of Cultural Heritage for Society (Faro, 27 October 2005 – CETS No. 199) recognises the role of cultural heritage in the promotion of cultural diversity";

1. *Text adopted by the Standing Committee*, acting on behalf of the Assembly, on 4 March 2016 (see Doc. 13987, report of the Committee on Culture, Science, Education and Media, rapporteur: Mr Mogens Jensen).
2. Doc. 13915.

6.1.2. redraft the seventh paragraph as follows: “Aware that film is an important means of cultural and artistic expression with an essential role in upholding freedom of expression, diversity and creativity, as well as openness between cultures, understanding between people within countries and across borders, dialogue and democratic citizenship”;

6.1.3. at the beginning of the 11th paragraph, delete the words “achieve these objectives thanks to a common effort to”; the paragraph would then read as follows: “Resolved to foster co-operation and define rules which adapt themselves to cinematographic co-production as a whole”;

6.2. redraft Article 5.3 as follows: “Projects of a blatantly pornographic nature or those that advocate discrimination, hate or violence or openly offend human dignity cannot be accorded co-production status”;

6.3. redraft Article 9.*c* as follows: “help to promote cultural diversity and intercultural dialogue, and to uphold shared fundamental values”;

6.4. replace Article 22 with the following text (Article 22.7 corresponding to the task with which the Board of Management of Eurimages would be entrusted according to the current text):

“Article 22 – Follow-up mechanism

1. The implementation of the Convention shall be monitored by a Committee of Experts composed of one member per Party, nominated by the Party concerned.

2. The Committee of Experts shall be convened by the Secretary General of the Council of Europe. Its first meeting shall be held within a period of one year following the entry into force of this Convention. It shall subsequently meet annually.

3. The Committee of Experts shall draw up and adopt by consensus its own rules of procedure.

4. The Committee of Experts shall be assisted by the Secretariat of the Council of Europe in carrying out its functions.

5. The Committee of Experts shall collect and analyse information on the implementation of this Convention and assess its impact seeking to promote its effective use and, in particular, to:

a. facilitate the exchange between States of experience and good practice, as well as the exchange of information on significant legal, policy or technological developments;

b. identify any problems that may arise and the effects of any declaration or reservation made under this Convention;

c. give advice and to make specific recommendations to Parties concerning the application of this Convention.

6. In order to discharge its functions, the Committee of Experts may, on its own initiative, consult relevant stakeholders and professional experts.

7. The Committee of Experts may, in the interests of ensuring their continued relevance to common practices in the cinematographic industry, propose amendments to the provisions of Appendices I and II of this Convention.

a. Amendments thus proposed shall be communicated by the Secretary General of the Council of Europe to the Parties.

b. After having consulted the Parties the Committee of Ministers may adopt an amendment proposed in accordance with this paragraph by the majority provided for in Article 20.d, of the Statute of the Council of Europe. The amendment shall enter into force following the expiry of a period of one year after the date on which it has been forwarded to the Parties. During this period, any Party may notify the Secretary General of any objection to the entry into force of the amendment in respect of it.

c. If one third of the Parties notifies the Secretary General of the Council of Europe of an objection to the entry into force of the amendment, the amendment shall not enter into force.

d. If less than one third of the Parties notifies an objection, the amendment shall enter into force for those Parties which have not notified an objection.

e. Once an amendment has entered into force in accordance with sub-paragraphs a to d of this paragraph and a Party has notified an objection to it, this amendment shall come into force in respect of the Party concerned on the first day of the month following the date on which the Party has notified the Secretary General of the Council of Europe of its acceptance of the amendment. A Party which has made an objection may withdraw it at any time by notifying the Secretary General of the Council of Europe.

f. If the Committee of Ministers adopts an amendment, a State or the European Union may not express its consent to be bound by the Convention without accepting at the same time the amendment.";

6.5. if applicable, make the necessary amendments to the explanatory report to the draft revised convention so as to reflect the amendments to the draft text.

7. Lastly, the Assembly encourages all member States to initiate as quickly as possible the necessary internal procedures for the ratification of the new convention.