

Procedure file

Basic information			
COD - Ordinary legislative procedure (ex-codecision procedure) Recommendation 2004/0066(COD)		Procedure completed	
Film heritage: collection and preservation, competitiveness of related industrial activities			
Subject 3.40.14 Industrial competitiveness 4.45.08 Cultural and artistic activities, books and reading, arts			
Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	CULT Culture and Education		22/09/2004
		PSE HEGYI Gyula	
	Former committee responsible		
	CULT Culture, Youth, Education, Media and Sport		
	Committee for opinion	Rapporteur for opinion	Appointed
	ECON Economic and Monetary Affairs		13/09/2004
	UEN RYAN Eoin		
	ITRE Industry, Research and Energy	The committee decided not to give an opinion.	
	Former committee for opinion		
	ECON Economic and Monetary Affairs		
	JURI Legal Affairs and Internal Market		
	ITRE Industry, External Trade, Research, Energy		
Council of the European Union	Council configuration	Meeting	Date
	Agriculture and Fisheries	2685	24/10/2005
European Commission	Commission DG	Commissioner	
	Education, Youth, Sport and Culture		

Key events			
16/03/2004	Legislative proposal published	COM(2004)0171	Summary
29/03/2004	Committee referral announced in Parliament, 1st reading		
16/09/2004	Committee referral announced in Parliament, 1st reading		
21/04/2005	Vote in committee, 1st reading		Summary

25/04/2005	Committee report tabled for plenary, 1st reading	A6-0101/2005	
09/05/2005	Debate in Parliament		
10/05/2005	Results of vote in Parliament		
10/05/2005	Decision by Parliament, 1st reading	T6-0167/2005	Summary
24/10/2005	Act adopted by Council after Parliament's 1st reading		
16/11/2005	Final act signed		
16/11/2005	End of procedure in Parliament		
09/12/2005	Final act published in Official Journal		

Technical information

Procedure reference	2004/0066(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Recommendation
Legal basis	EC Treaty (after Amsterdam) EC 157-p3
Stage reached in procedure	Procedure completed
Committee dossier	CULT/5/20798; CULT/6/21194

Documentation gateway

Legislative proposal		COM(2004)0171	16/03/2004	EC	Summary
Economic and Social Committee: opinion, report		CES1201/2004 OJ C 074 23.03.2005, p. 0018-0020	15/09/2004	ESC	
Committee opinion	ECON	PE347.211	14/03/2005	EP	
Committee report tabled for plenary, 1st reading/single reading		A6-0101/2005	25/04/2005	EP	
Text adopted by Parliament, 1st reading/single reading		T6-0167/2005 OJ C 092 20.04.2006, p. 0020-0089 E	10/05/2005	EP	Summary
Commission response to text adopted in plenary		SP(2005)2482/2	16/06/2005	EC	
Draft final act		03625/2/2005	16/11/2005	CSL	
Follow-up document		SEC(2008)2373	04/08/2008	EC	Summary
Follow-up document		SEC(2010)0853	02/07/2010	EC	Summary
Follow-up document		SWD(2012)0431	07/12/2012	EC	Summary

Additional information

European Commission	EUR-Lex
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Film heritage: collection and preservation, competitiveness of related industrial activities

PURPOSE : A recommendation that cinematographic works are systematically deposited in the Member States **PROPOSED ACT :** Recommendation of the European Parliament and of the Council on film heritage and the competitiveness of related industrial activities.

CONTENT : This Recommendation is being presented by the Commission following the publication of its Communication on certain legal aspects relating to cinematographic and other audiovisual works. The Communication itself deals with two aspects of issues vital for the cinematographic industry. Firstly, state aid for the film industry and secondly, the protection of cinematographic works for Europe's common heritage. The Recommendation concerns the latter aspect of this Communication only, and one facet in particular, namely the legal deposit of audiovisual works. Depositing films in national archives is accepted as a vital means for the preservation of films and, in turn, Europe's cultural heritage. In 2002, the Commission sponsored research into how films are currently deposited in the Member States. The results of the research show that four-fifths of the Member States have a system of compulsory deposit for all or publicly financed works. In other words, ten Member States have established a legal obligation for producers to deposit their cinematographic works in national libraries or film institutes; in three of the Member States the legal obligation to deposit films applies exclusively to those that have received public funding. In the remaining two Member States the deposit is done on a voluntary basis. Expert driven research into the depositing of films indicates, however, that neither private initiatives nor voluntary systems can ensure the preservation of all cinematographic works. Preservation can only be realised by systematically depositing all of the European film industry's works. A number of related Recommendations have been adopted by the Council (i.e. co-operation on the restoration and conservation of cinema heritage, exchange of good practice etc/ recognition that European cinematographic works are an essential manifestation of the diversity and richness within European culture.) Similarly, the European Parliament has prepared a number of Reports highlighting the importance of cinematography within the context of European heritage. Further, the Council of Europe has opened the Convention for the protection of the Audiovisual Heritage. It is against such a backdrop that the European Commission is proposing a non-binding Council and European Parliament Recommendation. The Recommendation itself focuses on cinematographic works only. For other audiovisual works e.g. television programmes, the Recommendation suggests a voluntary deposit scheme. Specifically speaking the Recommendation proposes that the Member States adopt legislation or administrative measures to ensure cinematographic works are systematically collected, catalogued, preserved, restored and made accessible for education and cultural purposes - while respecting copyright and related rights. This should be done through designated bodies such as film institutes. The systematic collection of such works should be undertaken on either a legal or contractual basis. Other measures would include the cataloguing and indexing of deposited works based on European norms as well as encouraging the interoperability of databases and their availability to the public. The Recommendation also suggests the creation of national legislation, which would ensure the preservation of deposited cinematographic works. As well as encouraging the restoration of old films or films of significant cultural/historical interest the Recommendation urges closer co-operation between the designated bodies. It concludes by proposing the Commission be informed every two years on action taken within the Member States in response to this Recommendation.?

Film heritage: collection and preservation, competitiveness of related industrial activities

The committee adopted the report by Gyula HEGYI(PES, HU) broadly approving the proposal, subject to a number of amendments under the 1st reading of the codecision procedure. The committee wanted to see an improvement in conditions for the conservation, restoration and exploitation of the film heritage and the removal of obstacles to the development and full competitiveness of the European film industry. It urged the Member States to consider "establishing national film academies where these do not exist, or supporting them". MEPs also recommended that Member States establish a system of mandatory deposit of cinematographic works with national archives, and set up a database at the European Audiovisual Observatory. Measures should be taken to guarantee access to deposited works for disabled people.

The committee also stressed the need for increased use of digital and new technologies in the collection, cataloguing, preservation and restoration of cinematographic works.

Other recommendations included: promoting the use of the film heritage as a way of strengthening the European dimension in education and promoting cultural diversity; and fostering the development of a European network of cinema schools and museums.

Film heritage: collection and preservation, competitiveness of related industrial activities

The European Parliament adopted the report by Gyula HEGYI(PES, HU) broadly approving the proposal, subject to a number of compromise amendments in order to avoid a second reading on film heritage and the competitiveness of related industrial activities. (Please refer to the summary dated 21/04/2005).

Film heritage: collection and preservation, competitiveness of related industrial activities

PURPOSE: To offer a recommendation on film heritage and the competitiveness of related industrial activities.

LEGISLATIVE ACT: European Parliament and Council Recommendation on film heritage and the competitiveness of related industrial activities.

CONTENT: This Recommendations aims to foster a better exploitation of the industrial and cultural potential of Europe's film heritage by encouraging research into how best to conserve and restore cinematographic works. In addition it seeks to guarantee a high level of collecting old cinematographic works, cataloguing them and classifying them. The actions recommended are an attempt to guarantee a competitive edge to the European film industry. Accordingly, the European Parliament and Council have taken note of the Commission's intention to consider making it compulsory for beneficiaries of EU funding to deposit a copy of European films in at least one national archive, to support co-operation amongst designated bodies, to fund research projects involving the long-term preservation and resonation of films, to promote European standardisation on film cataloguing, to negotiate a standard contract between designated bodies and rights-holders outlining the conditions when a deposited work could be made accessible to the public and to monitor how effective the measures set out in this Recommendation are.

Based on the above the European Parliament and Council make the following recommendations to the Member States:

- To improve conservation, restoration and exploitation methods.
- To adopt by 17 November 2007 legislative, administrative or other appropriate measures, that guarantee cinematographic work are systematically collected, catalogued, preserved, restored and made accessible to educational, cultural, research or other non-commercial uses ? in compliance with copyright and related rights.
- To designate a body to carry out the tasks outlined above.
- To specify, in agreement with right's holders, the conditions under which deposited works may be made available to the public.
- To encourage the establishment of national film academies or similar bodies.
- To increase the use of digital and new technologies for the collection, cataloguing, preservation and restoration of cinematographic works.
- To undertake the systematic collection of works forming part of their audiovisual heritage. This can be done either through a mandatory legal or contractual deposit of at least one high quality copy of works with the designated bodies.
- To promote European standardisation and the inter-operability of databases and to encourage their accessibility to the public through, for example, the internet.
- To explore the possibility of establishing a network of databases storing culturally significant and historically interesting films and to invite archiving bodies to organise collected works into an EU collection.
- To adopt legislation guaranteeing the preservation of deposited cinematographic works. Methods should include, for example, the reproduction of films on new storage mediums and the preservation of equipment for showing cinematographic works on different mediums.
- To introduce measures which allow for the reproduction of deposited works for the purposes of restoration. Right's holders must be able to benefit from the improved industrial potential of their works
- To promote the use of Europe's film heritage as a way of strengthening the European dimension in education and for the promotion of cultural diversity.
- To foster and promote visual education, film studies and media literacy in education at all levels, professional training programmes and European training programmes.
- To promote close co-operation between producers, distributors, broadcasters and film institutes for educational purposes while respecting copyright and related rights.
- To inform the Commission every two years of action taken in response to the Recommendation.

Film heritage: collection and preservation, competitiveness of related industrial activities

This report contains the Commission's assessment of the implementation of the Recommendation of 16 November 2005 on film heritage and the competitiveness of related industrial activities. It examines the Commission's initiatives in this area, as well as

Member State actions.

The report states that Member States should continue the application of the Recommendation, and report again to the Commission by November 2009. As a result of the analysis of the current situation, the following points should be considered by Member States in case that they have not yet been tackled:

- establishing a long-term strategy for their national film heritage and annual plans for specific
- issues (digitisation, restoration, education, etc);
- monitoring compliance with the mandatory forms of deposit (both with the obligation of
- deposit and the technical quality of the material);
- promoting voluntary deposit as a complement to legal deposit. The Commission has facilitated the negotiation of a framework agreement between the Association of European Film Libraries (ACE) and the International Federation of Film Producers Associations (FIAPF) to establish procedures for voluntary deposit of films with preservation archives. The agreement will regulate the obligations of the archive (responsibility for conservation and preservation, duty to collaborate with the producer, cataloguing), questions related to preservation/restoration (decisions and methods for restoring and preserving the deposited material, possession of the new materials), access, use and withdrawal of the material (both the originally deposited material and the new prints produced by the archive), circulation of works between ACE members for public screening and restoration and, finally, the conditions for permanent withdrawal of deposited material. The signature of the agreement is expected in 2008. The use of the framework contract between ACE and FIAPF is recommended as soon as it becomes available. In the absence of signature of this contract, Member States should encourage by all means agreements between film heritage institutions and right-holder associations covering the possible uses of the deposited material by the archive;

- continuing efforts to achieve interoperability of film databases, and to make those databases accessible via the Internet;
- restoration of cinematographic works, with the objective of sharing know-how and increase resources available;
- seeking agreements with right-holders with a view to promote cultural access to film heritage as broadly as possible;
- creating specialised courses at university level for all areas related to film archives;
- giving higher priority and visibility to educational programmes and activities.

Film archives should, as a priority, make the necessary changes to face the challenges of the digital era. It is estimated that within 5 years, most films will be distributed in digital format. This implies that the following issues will have to be addressed:

- collection / acquisition of digital material (distributed in cinemas or via new channels);
- storage / conservation of digital material, which could require regular migration to new formats or supports;
- applying digital technologies for restoration;
- giving access via internet to the collections, while ensuring respect of copyright laws;
- integration in the European digital library.

The Commission will continue with the execution of its current projects and with the organisation of meetings of the Cinema Expert Group / Subgroup Film Archives to facilitate the exchange of good practices in the areas mentioned above.

Film heritage: collection and preservation, competitiveness of related industrial activities

This Commission working document constitutes the second implementation report on film heritage and the competitiveness of related industrial activities (Film Heritage Recommendation).

Main objectives of the 2005 Recommendation: this Recommendation was the follow-up to the Commission Communication on certain legal aspects relating to cinematographic and other audiovisual works and of a number of political statements from the Council and the European Parliament underlying the importance of European film heritage.

The Recommendation gave new impulse to the protection of the European film heritage. It initiated a dynamic process based on Member States' periodical reporting. The Commission committed itself to monitor and assess the extent to which the measures set out in the Recommendation were working effectively, and to consider the need for further action.

The principles on which the Film Heritage Recommendation is based are still valid: Cinematographic works are an essential component of our cultural heritage and therefore merit full protection. In addition to their cultural value, cinematographic works are a source of historical information about European society.

In order to ensure that the European film heritage is passed down to future generations, there is a need for it to be systematically collected, catalogued, preserved and restored. In addition, European film heritage should be made accessible for educational, academic, research and cultural purposes.

As cinematography is an art contained on a fragile support, it therefore requires positive action from the public authorities to ensure its preservation.

A second implementation report: the first implementation report on the Film Heritage Recommendation was adopted in August 2008. This current reports on the implementation of the Film heritage recommendation based on Member States' implementation report is based on implementation reports prepared by the Member States in December 2009 on the basis of a questionnaire circulated by the European Commission. The questionnaire covered all the aspects of the Film Heritage Recommendation. In addition, it raised two other issues, which are not contemplated in the Recommendation: challenges and opportunities for European Film heritage arising from the transition from the analogue to the digital area as well as the link between film funding policies and film heritage. Therefore, these aspects are also included in this report.

This report is divided into three chapters:

1. Analysis of the situation of film heritage in Europe in those areas covered by the Film Heritage Recommendation;
2. Challenges and opportunities of the digital era for film heritage institutions;
3. Access to European film heritage.

It also contains two annexes:

- Annex I - List of EU Activities in relation to film heritage;
- Annex II - Summary of the situation in Member States, in relation to each subject raised in the questionnaire.

Next steps: the results presented in this report are only a first evaluation of the challenges and opportunities of the digital era for European film heritage. The Commission will launch an independent study in 2010, which will look in detail into this issue. The Commission would consider a Communication or a revision of the Film Heritage Recommendation, taking into account the results of the study.

According to the Film Heritage Recommendation, Member States will make their next application report by November 2011.

The Commission will continue to examine the options for a balanced legal solution permitting an efficient access to film heritage for cultural and educational purposes.

Film heritage: collection and preservation, competitiveness of related industrial activities

The European Parliament and Council adopted a Recommendation on film heritage and the competitiveness of related industrial activities (Film Heritage Recommendation) on 16 November 2005. This third report on the Film Heritage Recommendation analyses the reports received from Member States in reply to a Commission questionnaire circulated in July 2011.

The report points out that the change in the film industry, which has evolved into a fully digital industry from production to screen, has enormous consequences on the collection, preservation, restoration and access to film heritage. The reports main findings are as follows:

- Member States should encourage rights holders to digitise and exploit on-line or through digital projection the master pieces of their catalogues; the dialogue between right-holders, on-line platforms and FHI should be supported in order to facilitate commercial exploitation of heritage master pieces.
- Regarding Film Heritage Institutions (FHIs), new investment and organisational changes are required in order to fully exploit the opportunities of the digital era for film heritage, as well as to ensure that the digital film heritage will be collected and preserved.
- All Member States have legal or contractual deposit systems for the collection of film heritage, but the enforcement of these mechanisms needs to be improved in many cases.
- FHIs need to update their collection policy to deal with digital films and to take on the task of preservation of digital film.
- With regard to the interoperability of film databases, the application of the 2009 and 2010 European standards should be extended.
- Preservation of digital film is a new task for FHIs and the preservation of analogue film needs to be continued and improved.
- FHI and rights holders should continue to explore and expand online access to collections, in order to meet the cultural and educational demand.