

Annex

Questionnaire on the implementation of the Recommendation of the European Parliament and the Council of 16 November 2005 on "Film heritage and the competitiveness of related industrial industries" (hereafter referred to as 'The Recommendation')

Notes:

1. The questionnaire refers to all public film heritage institutions in the Member States, including those of local or regional character.
2. After each question, it is indicated in brackets its correspondence with the information already reported in the first implementation report. The aim is to facilitate your reporting, in case that the situation has not changed.

Questions:

1. LEGISLATIVE AND ADMINISTRATIVE MEASURES PROMOTING THE OBJECTIVES OF THE FILM HERITAGE RECOMMENDATION (TABLE 8)

What legislative, administrative or other appropriate measures have you adopted to ensure that cinematographic works forming part of your audiovisual heritage are systematically collected, catalogued, preserved, restored and made accessible for educational, cultural, research or other non-commercial uses of a similar nature, in all cases in compliance with copyright and related rights?

The Law of 18 May 1989 establishing the National Audio-visual Centre (Centre national de l'audiovisuel - CNA) introduced legal deposit with the CNA.

Article 18 of the Law of 25 June 2004 on the reorganisation of the state's cultural institutes entrusts the CNA with the safeguard of the national audio-visual heritage through legal deposit, voluntary deposit, donation or purchase of audio-visual, film, audio and photographic documents produced in the country and made available to the public irrespective of production, editing and distribution techniques, as well as some documents produced abroad, especially those that are of 'significant importance for the national heritage'. The CNA is also responsible for 'making the audio-visual heritage deposited there accessible to those who are interested'.

The practical details regarding legal deposit were specified in a Grand-Ducal regulation, which, as of 24 November 2009, awaits only the signature of the Grand Duke before being published in the 'Mémorial'.

As regards productions that pre-date legal deposit or that do not fall within the framework of legal deposit, the CNA has compiled, where there were still extant copies, almost all the works produced in Luxembourg prior to the introduction of legal deposit. This includes film heritage in the narrow sense, but also RTL archives and more than 7000 amateur films on 16mm, 8mm, S8 or 9.5mm tape, entrusted to the care of the CNA under the voluntary deposit scheme.

These works are made accessible for the purposes of research and, where possible and where rights permit, for teaching purposes.

The law of 18 April 2001 on copyright, related rights and databases permits "the reproduction and communication to the public of works for the purposes of illustration, teaching or research, to the extent justified by the stated goal and subject to compliance with good practice."

2. DEFINITION OF CINEMATOGRAPHIC WORKS FORMING PART OF THE NATIONAL FILM HERITAGE (TABLE 8)

How do you define the notion of cinematographic works forming part of your audiovisual heritage?

The Grand-Ducal Regulation requires the deposit of short, medium length and feature length films; documentaries and fiction; series; video games and video documents; advertisements and promotions; phonograms; television and radio programmes; news programmes; magazines; programmes produced mostly on-set; programmes about politics, economics, society, culture, science,

religion, sport and tourism in the Grand-Duchy of Luxembourg; including websites and web content; where these documents are produced in Luxembourg or co-produced by a legal or natural person residing or headquartered in the Grand-Duchy of Luxembourg or supported by the state, and intended mainly for an audience in Luxembourg.

3. FILM HERITAGE INSTITUTIONS (TABLE 1)

What appropriate bodies have you designated to carry out the public interest tasks described in point 2 with independence and professionalism, ensuring that they are provided with the best available financial and technical resources? What is their budget for 2009? What is their workforce for 2009 (staff directly related to film heritage)?

Please list of all the Film Heritage Institutions, including also those of regional or local character, as well as their websites.

The CNA (www.cna.lu) is the only agency in Luxembourg involved in legal deposit of the national audio-visual heritage. The CNA's financial allocation for 2009 amounts to € 3 900 000. This amount does not include the benefits, costs and salaries of the staff nor is it restricted to heritage conservation. Part of it is assigned to the photography, audio and multi-media library departments. The budget for the film/video department for 2009 is € 995 000. The part devoted strictly to conservation is € 42 300, to which must be added the digitisation budget of approximately € 50 000. It should be noted that the CNA's multi-annual digitisation plan, which ran until December 2008 covered the digitisation of the vast majority of the film/video heritage.

Other budget items can be used in part for heritage purposes and, in particular, for enhancing access to our heritage. Others contribute directly or indirectly to this task (equipment, database, etc.). Five members of staff work directly and exclusively on film heritage (including film, video, amateur films and television).

4. COLLECTION

4.1. Deposit of cinematographic works forming part of national audiovisual heritage (Table 2)

1) What steps have been taken to systematically collect cinematographic works forming part of your audiovisual heritage?

Prior to the entry into force of the Grand-Ducal Regulation on legal deposit, it is not possible to collect cinematographic works systematically. However, the majority of producers in Luxembourg have deposited their productions with the CNA voluntarily on the basis of an informal agreement and a common interest in safeguarding the national heritage.

As for Luxembourg's television archives, an initial formal agreement has been signed with CLT-UFA, referring to the mention that is made of legal deposit in the initial law of 1989 that established the CNA. A final agreement signed in 2007 confirms the transfer of ownership of the archives from the CLT-UFA to the CNA, requires regular deposit of their production and specifies that the rights to use the material are transferred to the CNA.

2) Would you describe the type of deposit in your Member State as

- Legal Deposit
- Compulsory Deposit of all funded films
- Voluntary Deposit
- Other (please specify)

In view of the preceding remarks, the deposit of television archives can be considered as legal, whereas the deposit of audio-visual works (video and cinema) by national producers has up to the present time been voluntary.

3) What material has to be deposited?

For audio-visual documents produced or viewed on tape, the following have to be deposited:

- *a negative of the document or an internegative or an interpositive or any other similar intermediary element or, failing that, a new positive copy without subtitles*
- *a copy of the document for use, when it is a film intended to be viewed in cinemas in the Grand-Duchy of Luxembourg or abroad,*
- *a master copy of the video in digital format (MPEG file in HD or SD depending on the quality of the original) compatible with the CNA's digital library or, failing that, on an XDCAM, HDCAM or LTO disk or tape,*
- *accompanying material including a list of dialogues, advertising and previews,*
- *a factsheet concerning the technical and artistic parameters defined by the CNA and on the nature and exact scope of intellectual property rights.*

For audio-visual documents produced as analogue, digital or High Definition video content, the following have to be deposited:

- *a master copy of the video in digital format (MPEG file in HD or SD depending on the quality of the original) compatible with the CNA's digital library or, failing that, on an XDCAM, HDCAM or LTO disk or tape,*
- *two copies of the document in commercial and original format,*
- *for films marketed in cinemas, accompanying material including the list of dialogues, advertising and previews,*
- *a factsheet concerning the technical and artistic parameters defined by the CNA and the nature and exact scope of intellectual property rights.*

For television programmes, the following have to be deposited:

- *a broadcast copy of the different language versions in digital format (MPEG, HD or SD file depending on the quality of the original), compatible with the CAN's digital library. In exceptional cases, a copy will be accepted on a tape or disk, in a format to be approved by the CNA,*
- *a factsheet concerning the contents of the programme, the production date and first broadcast date, the length of the sequences and the nature and exact scope of intellectual property rights,*
- *a copy of the broadcast version.*

4) What is the deadline for deposit? Do you ensure that deposit takes place when the film is made available to the public and in any case not more than two years later?

At the latest, 6 months from the day on which they were made available to the public in whatever form.

5) Is there monitoring of compliance with the obligation to deposit and of the quality of the copies submitted? Which measures have been taken to ensure good technical quality of the deposited cinematographic works (with accompanying metadata as appropriate)?

Prior to the entry into force of the Grand-Ducal Regulation on legal deposit, there has been no monitoring of compliance. It will be put in place by the CNA.

4.2. Collection of cinematographic works not forming part of national audiovisual heritage (Table 9)

Is there any provision / practice in your Member State concerning the collection of cinematographic works not forming part of the national audiovisual heritage?

And about moving-image material other than cinematographic works?

The City of Luxembourg Film Library (Cinémathèque de la Ville de Luxembourg) collects films that are not part of the national heritage.

Television programmes, productions for video and DVD editions are also part of the national film heritage as defined by the Grand-Ducal Regulation and must therefore be deposited with the CNA (see above).

The CNA also collects amateur films (produced only on tape) that the right holders deposit voluntarily (see above). The use that the CNA can make of these films is governed by a convention.

4.3. Collection of non-film material (Table 9)

Is there any provision / practice in your Member State concerning the collection of non-film material?

All kinds of publication, printed or produced by methods other than printing, irrespective of the technical production method, format, and editing and broadcasting procedure, with the exception of the audio-visual and sound publications referred to in Article 19, but including databases, software and applications, expert systems and other artificial intelligence products, produced in Luxembourg and made publicly available for sale, distribution or rent, or made available for reproduction, are subject to the formality of legal deposit at the National Library.

Sound productions (radio programmes, CDs, etc.) as well as multimedia productions are subject to legal deposit at the CNA.

5. CATALOGUING AND DATABASES (TABLE 3)

What measures have been taken to promote the cataloguing and indexing of deposited cinematographic works and to encourage the creation of databases containing information about the films, making use of European and international standards?

What measures have you taken to promote European standardization and interoperability of film databases of and their availability to the public, for instance through the internet?

The CNA has been working for several years to put in place a new database. In the wake of the bankruptcy of the company responsible, this work has been suspended. The database works internally but is not accessible externally or on the internet. Access for the public (researchers and general public) through the internet is however envisaged in the long term.

The database was initially conceived in accordance with the European and international standards in force to enable interoperability with other databases through the internet. However, it has never been possible to test these functions.

Have you contributed to the setting-up of a network of databases encompassing the European audiovisual heritage together with the relevant organizations, in particular the Council of Europe (Eurimages and the European Audiovisual Observatory)?

The CNA is currently assessing, with others of Luxembourg's cultural institutes, the best way to make its works available on Europeana (where applicable via European Film Gateway).

Have you invited archiving bodies to add value to stocks by organizing them in collections at EU level, for instance, by theme, author and period?

Not as yet.

Could you describe the databases that are used by your Film Heritage Institutions? Are they searchable via internet?

The database being used has been created for the CNA and is called Sygaal+. It cannot be searched via the internet for the moment (see above).

6. PRESERVATION (TABLE 4)

What measures/programmes have been taken in order to ensure preservation of deposited cinematographic works? Preservation measures should include in particular:

- The reproduction of films on new storage media;
- The preservation of equipment for showing cinematographic works on different legacy storage media.

Does the national copy-right law implement the exception of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society? This exception allows Member States to authorise acts of reproduction made by publicly accessible libraries or archives which are not for direct or indirect economic commercial advantage.

The CNA started by making duplicates/internegatives and polyester copies of all the nitrate films in our possession, which was financially feasible in view of their small number (around fifty boxes). The CNA still keeps the nitrates in good condition.

The films deposited at the CNA are restored, transferred onto Digital Beta and digitised on MPEG2 to be stored in a "Storagetek" robot. Of course, tapes in all formats (amateur and professional) are preserved.

The programme to digitise the whole of the film and television tape archive is practically finished.

The CNA has new archives compliant with international standards, on which are stored films on tape (6 degrees) and video cassettes in different formats (16 degrees).

It keeps some old projection equipment, while making sure that it will still be possible, if necessary, to transfer all the tape formats using appropriate digital telecines.

According to the Grand-Ducal Regulation on legal deposit, documents and works entered by legal deposit become the property of the CNA. They can be reproduced and made available to the public in accordance with the amended law of 18 April 2001 on copyright, related rights and databases.

The Law of 18 April 2001 on copyright, related rights and databases allows 'the reproduction of a work legally available to the public, by a library, a film library, a documentation centre or another scholarly or cultural not-for-profit institution, with the sole aim of preserving heritage and taking any useful measures within reason to safeguard this work, on condition that the normal use of the said works are not compromised and that the legitimate interests of the authors are not adversely affected. It further allows audio-visual works to be screened in public by these institutions in order to make the country's cultural heritage known to a wider audience, on condition that the screenings take place on the institution's premises and that the institution is recognised by the minister responsible for culture in the form of a Grand-Ducal regulation.'

7. RESTORATION (TABLE 4)

What measures have been adopted in order to permit, within your legislation, the reproduction of deposited cinematographic works for the purpose of restoration while allowing rights-holders to benefit from the improved industrial potential of their works resulting from that restoration on the basis of an agreement between all interested parties?

How have you encouraged projects for the restoration of cinematographic works with high cultural or historical value?

For the moment, nothing is planned. It should be noted that this is much less of an issue in Luxembourg than in other countries!

Up to now, the CNA has taken charge of the restoring works that are part of the country's of film heritage and has concluded separate agreements with rights holders.

8. ACCESSIBILITY (TABLE 5)

Have you adopted legislative or administrative measures to allow designated bodies to make deposited cinematographic works accessible for educational, cultural, research or other non-commercial uses of a similar nature, in compliance with copyright and related rights? Please give details of the measures taken.

See point 6, which covers the issue of accessibility.

Have you taken measures to ensure access for people with disabilities to deposited cinematographic works, in compliance with copyright and related rights? Please give details of the measures taken.

When the database is ready and has been put on the internet, handicapped people will have access to the works stored on it (description and possibly viewing) as will everyone else. The state's websites comply with the conditions of accessibility for handicapped persons. However, there are no plans, for example, to provide an oral description of the films or subtitles especially for the hard of hearing.

9. PROFESSIONAL TRAINING (TABLE 5)

What steps have been taken to promote professional training in all fields related to film heritage?

No particular steps.

10. EDUCATION AND MEDIA LITERACY (TABLE 6)

What steps have been taken to promote the use of film heritage as a way of strengthening the European dimension in education and promoting cultural diversity?

For the moment, no specific initiative exists in this area.

What steps have been taken to foster and promote visual education, film studies and media literacy in education at all levels, in particular in professional training programmes or European programmes?

In spite of the sustained efforts of several organisations, individual teachers and various other initiatives, the use of film heritage in schools remains sporadic: the "Hautrah" Festival at the Luxembourg City Film Library (Cinémathèque de la Ville de Luxembourg), the DirActors Festival, school trips to the CNA, to the Film Library and to commercial cinemas as well as regional cinemas supported by the state, etc. Certain high schools offer audio-visual options created and sustained by the commitment of one or several teachers.

There is no national media literacy education programme. A proposal to create a Media Literacy Education Centre (Centre d'éducation aux médias) is currently being assessed but will not come to fruition for at least 2 or 3 years.

What steps have been taken to promote close cooperation between producers, distributors, broadcasters and film institutes for educational purposes?

All cinemas offer sessions for school groups, both with or without an accompanying teacher. The CNA makes a particular effort in this regard. Having the participation of Luxembourgish producers in these efforts has never been a problem.

11. FOLLOW-UP OF PRIORITIES IDENTIFIED IN THE FIRST IMPLEMENTATION REPORT

What has been done in your Member State, in order to address the following priorities, identified in Point 24 of the first implementation report:

- 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. Member States should encourage by all means agreements between film heritage institutions and right-holder associations covering the possible cultural uses of the deposited material by the archive. .

Since Luxembourg's national film heritage does not comprise a very large quantity of material compared to other countries, preserving it does not raise any real problems. Nonetheless, a long-term plan was put forward for the digitisation of documents that have already been compiled. This plan has now been completed. Since a single institute is responsible for preserving the national film heritage, there are no collaboration issues.

- continuing efforts to achieve interoperability of film databases, and to make those databases accessible via the Internet;

- establishing partnerships with the commercial sector and with other film archives for the 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. Have you encouraged the designated bodies to specify, in agreement or by contract with rights-holders, the conditions under which deposited cinematographic works may be made available to the public?

- creating specialised courses at university level for all areas related to film archives;

- giving higher priority and visibility to educational programmes and activities.

See above

12. CHALLENGES OF THE DIGITAL ERA FOR FILM HERITAGE INSTITUTIONS

What has been done or it is planned to be done in order to face the challenges of the digital era, described in Point 25 of the first implementation report:

- collection / acquisition of digital material (distributed in cinemas or via new channels);

The CNA collects material stored on digital storage media. However, all the problems arising from the different formats, their conservation and their use have still to be resolved.

- storage / conservation of digital material, which could require regular migration to new formats or supports;

A large portion of the CNA's archives are digitised on MPEG2 and stored in a "StorageTek" robot.

- applying digital technologies for restoration;

The CNA regularly restores films digitally, but after transfer onto video, without going back to tape. The restorations are carried out by an external partner most often on "Terranex" or "Paintbox".

- giving access via internet to the collections, while ensuring respect of copyright laws;

The CNA plans to make the works for which it holds rights available through the internet (including amateur films subject to the agreement of rights holders). Currently, this plan cannot be followed through in the absence of an adequate database.

- integration in the European digital library.

13. FILM POLICY AND FILM HERITAGE

Is film heritage fully included in the film policy of your Member State? Have you consider linking funding film production and film heritage? For instance, it could be consider that films that have been financed with public funds are deposited and made available for cultural and education purposes by recognized film heritage institutions. This could be implemented in practice, for instance by requesting from producers that have received funding that they agree that:

- film heritage institutions make cultural screenings of those films without paying a fee;
- there is an educational use of their films (screenings made in schools, extracts made available for teaching purposes);
- extracts of their films are made available in Europeana.

Films are very often made available by producers for cultural and educational purposes such as those suggested in your questionnaire, without any formal agreement between producers and the state.

14. EUROPEAN AND INTERNATIONAL ACTIVITIES (TABLE 6)

Are your film heritage institutions involved in bilateral co-operation with Film Heritage Institutions of other Member States? Are they active in European associations and projects? Are they active at international level?

The CNA is a member of IFTA (International Federation of Film Archives) and ECFA (European Children's Film Association) and of Association Inédits.

How are you encouraging and supporting designated bodies for the purpose of exchanging information and coordinating their activities at national and European levels in order for example to:

- (a) ensure the coherence of collection and conservation methods and the interoperability of databases
- (b) release, for example on DVDs, archival material with subtitles in as many European Union languages as possible, in compliance with copyright and related rights
- (c) compile a European filmography
- (d) develop a common standard for electronic information exchange
- (e) produce common research and educational projects, while promoting the development of European networks of cinema schools and museums

The CNA is ready to collaborate with European agencies but problems arise concerning availability and resources.

The CNA currently distributes Luxembourgish films (new films and heritage films) on DVD and on the national television channel. Producers also distribute their own films. The films are subtitled in French and/or German and/or English depending on the subject matter and the target audience. It is not financially possible to subtitle films in all the languages of the European Union, since the market for Luxembourgish films is too limited.

The CNA is currently in the process of compiling a filmography for Luxembourg. The filmography is made available progressively as it is compiled on the CNA's website and can be made available to European agencies.

15. PROGRESS IN RELATION TO PROBLEMS ENCOUNTERED IN THE FIRST IMPLEMENTATION REPORT (TABLE 7)

What has been done to address the problems encountered or weak areas identified in table 7 of the First Implementation report, in relation to your country?

No reply

16. BEST PRACTICES

Is there any specific good practice in the area of film heritage in your Member States that you would like to report?

17. NEED FOR FURTHER EU ACTION?

Is there a need of further action of the EU in any of the areas related to film heritage?

Audio-visual heritage (film/video) is not limited to cinema heritage. Television heritage must also be taken into account (though it is often scattered between private companies) as must amateur films, which account for a significant portion of the national audio-visual heritage, but are still largely ignored by official agencies, both at European level and, in many countries, at national level. The agencies that archive amateur films are very often regional archives, not always specialised in film and sometimes financially insecure. For almost 20 years, Association Inédits, with no financial support whatsoever or even encouragement from European agencies, has been trying to encourage sharing of experiences and of databases, to carry out professional archiving of amateur films, to resolve the complex rights issues arising from this process and to encourage both practical and theoretical study of this subject.

If amateur films (which are generally collected by voluntary deposit) could be integrated into current thinking about European audio-visual heritage, this might well help to speed up collection (which in many countries does not exist, being left to haphazard voluntary deposits), archiving and accessibility of sources that provide invaluable information, in particular – but not exclusively – on daily life in Europe.