



## EUROPEAN COMMISSION

Directorate-General for Communications Networks, Content and Technology

Media and Data  
Converging Media and Content

### **Questionnaire on the implementation of the Recommendation of the European Parliament and of the Council of 16 November 2005 on film heritage and the competitiveness of related industrial industries<sup>1</sup> (hereinafter referred to as the ‘Film Heritage Recommendation’)**

#### **Notes:**

- The replies to this questionnaire should cover all the public film heritage institutions in the Member State, including those of local or regional character.
- The structure of the questionnaire follows Annex I of the Third implementation report, in order to facilitate your reporting. If the situation has not changed since your 2011 report, please indicate: ‘NO CHANGE’.

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#### **Questions:**

##### **(1) TABLE 1 – FILM HERITAGE INSTITUTIONS**

1.1 What appropriate bodies have you designated to carry out the public interest tasks described in point 2 of the Film Heritage Recommendation, ensuring that they are provided with the best available financial and technical resources?

*Film conservation in Germany is carried out by systematic conservation and restoration work in the Federal Archives [Bundesarchiv, BA] and at various qualified entities of the Länder.*

*On 8 December 1978, the Federal Republic of Germany and the Land of Berlin concluded an ‘Administrative Agreement on the setting up and management of a Cinematheque Association*

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<sup>1</sup> OJ L 323, 09.12.2005:  
[http://eur-lex.europa.eu/LexUriServ/site/en/oj/2005/l\\_323/l\\_32320051209en00570061.pdf](http://eur-lex.europa.eu/LexUriServ/site/en/oj/2005/l_323/l_32320051209en00570061.pdf)

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*[Kinematheksverbund, KVJ]’ aimed at conferring on this body the ‘duties of a central German cinemathèque’. The Administrative Agreement formed the basis of bilateral contractual agreements between the Federal Archives and, respectively, the German Cinemathèque Foundation [Stiftung Deutsche Kinemathek, SDK] in Berlin and the German Film Institute [Deutsches Filminstitut, DIF] in Frankfurt am Main. Thus, the work of these three institutions was coordinated for the first time; in 2005 it was contractually agreed to continue the collaboration.*

*The Federal Archives, the German Cinemathèque and the German Film Institute are full members of the German Cinemathèque Association. Under this Association, the Federal Archives manage the fullest possible collection and preservation of German films produced from the very beginning of film-making to the present day, while the German Film Institute and the German Cinemathèque have the role of imparting German film culture through non-commercial distribution, holding film festivals, retrospectives and issuing publications, collecting ancillary material on film history and archiving foreign films and special film stock. Although the German Cinemathèque Foundation has evolved historically as an organisation at Land level and the profile of its collection places particular importance on film production and history in Berlin, it has, however, been regarded as a national film heritage institution for imparting film culture and film history since it was brought under the responsibility of the Federal Government in 2004. The Foundation therefore also acts as chair in the German Cinemathèque Association.*

*In various ways, all three institutions fall under the auspices of the Federal Commissioner for Culture and Media or are supported by this office. The Federal Archives are a federal authority subordinate to the Federal Commissioner. The German Cinemathèque Foundation receives institutional funding from the Federal Commissioner and the German Film Institute receives project funding from the Federal Commissioner.*

*In addition to the Cinemathèque Association’s three full members (the Federal Archives, the SDK and the DIF), co-opted members are the film museums of Düsseldorf, Munich and Potsdam, and CineGraph (the Hamburg Centre for Film Research). Associate members are the Friedrich Wilhelm Murnau Foundation, Wiesbaden, and the DEFA Foundation, Berlin.*

*In addition, there are numerous image and film institutes and similar bodies at Land, district and municipal level which perform film archiving and educational tasks in their respective sectors. The exchange between these institutions is organised by the Network of Multimedia Resource Centres [Netzwerk Mediatheken], which is managed by the German Cinemathèque Foundation. Information on network members can be found at [www.netzwerk-mediatheken.de](http://www.netzwerk-mediatheken.de).*

1.2 What is their budget for 2013?

*No data available.*

1.3 What is their workforce for 2013 (staff directly related to film heritage)? Please list all the film heritage institutions, including those of regional or local character, as well as their websites.

*In total, approximately 170 people are directly involved in film heritage at the full members of the Cinemathèque Association (Federal Archives: 62 people; SDK: 54 people; DIF: 54 people).*

1.4 Please list all the film heritage institutions, including those of regional or local character, as well as their websites.

*Members of the Cinemathèque Association:*

Federal Archives/Film Archives:

[http://www.bundesarchiv.de/bundesarchiv/organisation/abteilung\\_fa/index.html.en](http://www.bundesarchiv.de/bundesarchiv/organisation/abteilung_fa/index.html.en)

Deutsches Filminstitut e.V. (DIF):

<http://deutsches-filminstitut.de/en/>

German Cinematheque Foundation — Film and Television Museum:

<http://www.deutsche-kinemathek.de/en>

Also the co-opted members (the film museums of Düsseldorf, Munich and Potsdam, and CineGraph, Hamburg) and the associate members of the Cinematheque Association, the Friedrich Wilhelm Murnau Foundation, Wiesbaden, and the DEFA Foundation, Berlin:  
<https://www.kinematheksverbund.de>

Network of Multimedia Resource Centres:

[http://www.netzwerk-mediatheken.de/index\\_en.html](http://www.netzwerk-mediatheken.de/index_en.html).

1.5 Is there any change to report in relation to 2011?

Yes.

## **(2) TABLE 2 – LEGISLATIVE MEASURES/DEFINITION OF NATIONAL FILM HERITAGE**

2.1 List the legislative/administrative measures promoting the objectives of the 2005 Film Heritage Recommendation.

*Germany ratified the European Convention for the Protection of the Audiovisual Heritage of 8 November 2001 and the Protocol to the European Convention for the Protection of the Audiovisual Heritage, on the Protection of Television Productions of 8 November 2001 in 2013.*

*A statutory obligation to deposit films supported by public funds was introduced back in 2004, when the amendment to the Film Funding Act [Filmförderungsgesetz, FFG] entered into force (Film Funding Act of 24 August 2004 (Federal Law Gazette BGBl. I p. 2277), as last amended by Article 1 of the Seventh Act Amending the Film Funding Act of 7 August 2013 (BGBl. I p. 3082 — 2014 Film Funding Act)). This deposit obligation has been supplemented by mandatory registration since an amendment to the Federal Archives Act [Bundesarchivgesetz, BArchG] entered into force in 2013 (Federal Archives Act of 6 January 1988, as last amended by Article 4(38) of the Act of 7 August 2013, BGBl. I p. 3154). The amended Federal Archives Act imposes an obligation on makers of German cinematographic works to register their works within one year of said works being publicly shown for the first time or their completion. In this context, the location at which a technically perfect and archivable copy of the cinematic work in question is held is also recorded. Data about these works is entered in the new German Film Register at the Federal Archives. All German cinematographic works are therefore now registered with the Federal Archives, in its capacity as the central film archive, regardless of whether they have been publicly funded or not.*

*In 2012 and 2013, the Federal Commissioner for Culture and Media became involved in the digitisation of audiovisual heritage works within the context of digitisation initiatives, providing public funds in this respect (2012: EUR 430 000; 2013: EUR 1 million). The funding for digitisation primarily targeted classic works and milestones in German film history which existed only in analogue film format and, particularly in light of the continuing digitisation of film theatre screens in Germany, were also to be made available to cinema audiences. As part of the 2013 digitisation offensive, funding was also given by*

*the Federal Commissioner for a pilot project involving the SDK and the DIF to create a comprehensive and collaborative stock catalogue of already archived cinematographic works. The aim of this stock catalogue is to provide an overview of works stored in public film archives or film archives that can be attributed to the public sector. An overview is also to be provided of which films are still held and whether, in some cases, cinematographic works have been archived multiple times. The stock catalogue should also make it possible to ascertain the technical state of the works and the resulting expenditure needed for digitisation.*

*In terms of future financial efforts by the Federal Government, it should be noted that the coalition agreement signed by the governing parties (CDU, CSU and SPD) on 27 November 2013 for the current legislative period stipulates that our national film heritage be safeguarded in the long term and must remain viewable in the digital era. According to the agreement, in addition to digitisation funding from the Federal Government, this also requires the participation of the Länder and the film industry.*

*Support for digitisation measures by the film industry was laid down as a statutory requirement by the amendment to the Film Funding Act which will enter into force on 1 January 2014 (Film Funding Act of 24 August 2004 (BGBl. I p. 2277), as last amended by Article 1 of the Seventh Act Amending the Film Funding Act of 7 August 2013 (BGBl. I p 3082 — 2014 Film Funding Act)). Under Section 2(1) No 3, funding the digitisation of German film heritage is now also the task of the German Federal Film Board [Filmförderungsanstalt, FFA].*

2.2 What is the definition of cinematographic works forming part of your national film heritage?

*Germany's film heritage basically includes all cinematographic works produced or co-produced in Germany which are intended for public showing in a film theatre or have actually been shown in public. This includes all films which have received funding from Federal or Land film funding bodies for their production and/or distribution.*

2.3 Is there any change to report in relation to 2011?

*Yes.*

**(3) TABLE 3 – DEPOSIT OF CINEMATOGRAPHIC WORKS FORMING PART OF YOUR NATIONAL AUDIOVISUAL HERITAGE**

3.1 How do you define the type of deposit in your Member State?

- a) Legal deposit:
- b) Compulsory deposit of cinematographic works that have received public funding (contractual deposit):
- c) Voluntary deposit:

*Compulsory deposit of cinematographic works that have received public funding (at Federal and Land level).*

*The provision requiring compulsory deposit of funded films, implemented by means of corresponding declarations of intent by the film funding bodies, was introduced with the amendment to the Film Funding Act in 2004. The requirements of the European Convention for the Protection of the Audiovisual Heritage (Council of Europe) are therefore already met in this regard. By ratifying the European Convention in 2013, the Federal Government has perpetuated the legal situation which has already applied since*

*2004: All bodies funding films require recipients of the funding to deposit a copy of the film produced. Voluntary deposit is also possible.*

*Partly for historical and federal reasons, films are currently deposited decentrally, i.e. not only with the Federal Archives, but also with other film archives (e.g. the SDK, the DIF and qualified Länder archives).*

3.2 Are films on digital carriers covered by the obligations of deposit?

*Yes.*

3.3 What material has to be deposited?

*A technically perfect, archivable copy of the funded film is currently expected to be deposited. As a rule, this will be an unused 35 mm positive copy. In light of the continuing digitisation of film production and distribution, and the publicly funded digitisation of film heritage titles, the Federal Archives have recently adopted guidelines governing which digital formats can similarly be deposited at the Federal Archives.*

3.4 What is the deadline for deposit?

*The film funding bodies have made a commitment to adopt a common arrangement in their film funding guidelines whereby at the latest 12 months after the first public showing of the film or, if the film is on release in theatres for more than 12 months, at the end of its theatrical release, the recipient of production or distribution funding places a technically perfect, archivable copy of the film funded at the disposal of the appropriate archiving institutions free of charge for archiving. If the film has not been released to the public, the 12-month period begins with the completion of the zero copy.*

3.5 Is compliance with the deposit obligation checked?

*Germany does not yet have any legal control mechanisms for checking compliance with the deposit obligation for publicly funded films. Its film funding bodies have, however, themselves made an undertaking to tie the granting of funds to the physical deposit of a technically perfect, archivable copy.*

3.6 Is the quality of the deposited material checked?

*The quality of the copies submitted to comply with the deposit obligation is checked, in that the archives accepting the film copies check that they are technically serviceable.*

3.7 Do you have any problems or best practices to report in relation to collecting cinematographic works?

*Despite the guidelines adopted by the Federal Archives, a degree of uncertainty currently prevails among producers and film archives concerning the deposit of digital formats. Better networking and cooperation between archives, post-production facilities and the film industry is needed in this respect.*

*From the perspective of the Federal Archives, the option to voluntarily deposit national productions has been successful. It is also possible to voluntarily deposit international productions with other institutions in the Cinematheque Association.*

3.8 Is there any change to report in relation to 2011?

*Yes, see above.*

**(4) TABLE 4 – COLLECTION OF MATERIAL OTHER THAN CINEMATOGRAPHIC WORKS FORMING PART OF YOUR NATIONAL AUDIOVISUAL HERITAGE**

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

*In Germany, works may be shown or made accessible to the public only if they have been passed by the Voluntary Self-Regulation of the Film Industry [Freiwillige Selbstkontrolle der Filmwirtschaft, FSK] (in particular in order to protect the young). This means that data is collected on all films submitted to the FSK for examination (including films that are not part of Germany's audiovisual heritage). There is, however, no deposit obligation attached to the FSK inspection.*

- 4.2 And concerning moving-image material other than cinematographic works?

*Film videos as published media works and cinematographic works showcasing music ('music films') are collected at the German National Library [Deutsche Nationalbibliothek] as part of a statutory deposit obligation (see Section 14 in conjunction with Section 3(4) of the German National Library Act [Gesetz über die Deutsche Nationalbibliothek, DNBG] of 29 June 2006 (BGBl. I p. 1338)).*

*Other moving-image material, e.g. provided for release on DVD or Blu-ray only, is collected in the course of the necessary FSK inspection (see 4.1 above).*

- 4.3 Is there any change to report in relation to 2011?

*No.*

**(5) TABLE 5 – CATALOGUING AND DATABASES**

- 5.1 Can you describe your cataloguing practices?

*With financial support from the Federal Commissioner for Culture and Media, the German Film Institute (DIF) and the German Cinematheque Foundation (SDK) are currently laying the foundations in a German Cinematheque Association pilot project for a web-based stock catalogue of German films. The catalogue provides information on the tradition of German films, the physical material kept for an individual film and the availability thereof to the public. This stock catalogue will become the central source of information when determining the preservation state of German film heritage and when making films available. Data contained in the stock catalogue (which is maintained decentrally) is held as an integral part of the central internet platform for German film [www.filmportal.de](http://www.filmportal.de). This project will enable the databases of the SDK and the DIF, which have been internal databases up to now, to be gradually networked with those of other film heritage institutes. Drawing up a model for a stock catalogue also has the additional benefit that data collected by the SDK, which has been object-based up to now, can be converted to CEN standard and thus be combined with existing and future databases at national and international level.*

- 5.2 Can you describe your filmographic databases?

[www.filmportal.de](http://www.filmportal.de):

*A systematic filmography of German cinema productions is being put together by the DIF's internet portal on German cinema ([www.filmportal.de](http://www.filmportal.de)). This site now contains information on some 81 000 German films and 181 000 people in the German film industry. The DIF updates [filmportal.de](http://www.filmportal.de) constantly to include the latest films*

systematically. Projects are also currently under way on the site to add to the German film heritage data retrospectively.

[www.pflichtregistrierung-film.bundesarchiv.de](http://www.pflichtregistrierung-film.bundesarchiv.de)

The 'German Film Register' was launched in 2013, with the aim of centrally collecting at the Federal Archives all data on films produced in Germany in the future. The amended Federal Archives Act imposes an obligation on makers of German cinematographic works to register their films within one year of said films being publicly shown for the first time or their completion. All German cinematographic works are therefore now registered with the Federal Archives, in its capacity as the central film archive, regardless of whether they have been publicly funded or not.

[www.filmarchives-online.eu](http://www.filmarchives-online.eu):

Provides access to information on the collections of 18 European film archives. Searches for films by content, filmography details and physical properties can be performed using the multilingual internet portal.

<http://www.europeanfilmgateway.eu>:

The EFG Portal provides access to more than 600 000 documents relating to the history of film, which are kept in 26 European film heritage institutions. These include stills and set photos, film posters, production documents, costume designs, programmes, magazines, censorship office cards, rare feature and documentary films, newsreels and other material.

The following databases are also maintained:

[www.bam-portal.de](http://www.bam-portal.de)

[www.lost-films.eu](http://www.lost-films.eu)

[www.Kameradatenbank.de](http://www.Kameradatenbank.de)

- 5.3 How do you ensure the interoperability of your databases with other databases in your Member State or with other Member States?

EFG - The European Film Gateway ([www.europeanfilmgateway.eu](http://www.europeanfilmgateway.eu)) collects metadata from the participating archives and makes this available to Europeana in a structured and prepared format. The collections of European film archives are thus networked with collections of libraries, archives and museums in Europe.

The introduction of the CEN standard will enable a high level of compatibility in the future, to the extent that this standard is used by all film heritage institutes. In addition, the SDK is seeking to cooperate closely with the British Film Institute, whose experience in designing the data model could be made useful. In this way, it should be possible to incorporate internationally gained knowledge and the new standard into the stock catalogue described above in a meaningful manner.

- 5.4 Have you implemented or do you plan to implement the European Standard EN 15744:2009 'Film identification – Minimum set of metadata for cinematographic works' and/or standard EN 15907:2010 'Film identification – Enhancing interoperability of metadata – Element sets and structures'?

The filmographic standards EN 15744:2009 and EN 15907:2010 are partly used in the EFG metadata scheme and have been implemented for the German Film Register of the Federal Archives.

The databases of the German Film Institute and the German Cinematheque Foundation are currently being consolidated in order to implement the standards.

- 5.5 Do you have any problems or best practices to report in relation to cataloguing and databases?

*No data available.*

- 5.6 Is there any change to report in relation to 2011?

*Yes.*

## **(6) TABLE 6 – PRESERVATION AND RESTORATION**

- 6.1 What measures/programmes have been taken in order to ensure preservation of deposited cinematographic works?

*- See 2.1.*

- 6.2 List the measures or programmes in place for restoration.

*- See 2.1.*

*The Federal Government provided EUR 430 000 in 2012 and EUR 1 million in 2013 for various digitisation measures. The German Federal Film Board has also been providing funds for digitisation since 2012. Restoration also takes place as part of the digitisation measures.*

*Using funds from the Federal Commissioner's digitisation initiative, some films from the collections of the German Film Institute, the German Cinematheque Foundation, the DEFA Foundation and the Friedrich Wilhelm Murnau Foundation were digitised in 2013. The goal of the digitisation strategy is to convert collected materials that only exist in analogue format into high-resolution, DCI-compatible Digital Cinema Packages (DCP) and Blu-rays.*

*As part of the Federal Commissioner's digitisation offensive, the German Film Institute received EUR 100 000 to upgrade a total of seven full-length films and a number of 'sound pictures' from the early days of film-making. The SDK received EUR 200 000 and will also be able to upgrade seven feature films and a number of shorter documentaries. The Friedrich Wilhelm Murnau Foundation and the DEFA Foundation each received EUR 250 000. This puts the institutions in a position to digitise a good number of films (Friedrich Wilhelm Murnau Foundation: approx. 20 films and DEFA Foundation: approx. 40 films).*

*Approximately 400 cinematographic works are restored every year at the Federal Archives. Restoration measures are also carried out occasionally at the Federal Archives when the right holder makes a financial contribution to restoration. Digitisation measures are carried out occasionally at the SDK at the request of users if the user participates in the digitisation or finances the digitisation.*

- 6.3 Does national copyright law transpose the exception provided for in Article 5(2)(c) 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<sup>2</sup>? This exception allows Member States to authorise certain acts of reproduction made by publicly accessible libraries or archives which are not for direct or indirect economic or commercial purposes. If the exception has been transposed, are all the film heritage institutions in your

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<sup>2</sup> OJ L 167, 22.6.2001, p. 10.



Member State authorised to make use of this exception? Has the exception been transposed in a way that allows format-shifting for digital material?

*Yes. Article 5(2)(c) of the Directive is reflected, in particular, by the limiting provision laid down in Section 53(2), first sentence, No 2 in conjunction with second sentence, No 3 of the Copyright Act [Urheberrechtsgesetz, UrhG]. Those archive institutions that act in the public interest and do not pursue any direct or indirect economic or commercial purpose benefit from the limiting provision. Format-shifting is also possible for these archive institutions.*

*Similarly, Article 5(2)(c) of the Directive is transposed by Section 58(2) of the Copyright Act; this limiting provision is not relevant to cinematographic works, however.*

*The Copyright Act in its entirety can be accessed online, in German at <http://www.gesetze-im-internet.de/urhg/> and in English at [http://www.gesetze-im-internet.de/englisch\\_urhg/index.html](http://www.gesetze-im-internet.de/englisch_urhg/index.html).*

- 6.4 Do you have any problems or best practices to report in relation to preservation and restoration?

*The member institutions of the Cinematheque Association are particularly critical of the lack of financial resources provided by the Federal Government for digitisation and restoration measures. In light of the considerable pressure to cut public budgets, significant efforts are needed in this respect to be able to secure the appropriate funds in the future. Nevertheless, the Federal Government is aware of the responsibility regarding the national film heritage, as shown in the coalition agreement between the governing parties which was signed on 27 November 2013 (see 2.1 above). In the future, the film industry will also participate in financing digitisation measures via the German Federal Film Board (see 2.1 above).*

- 6.5 Is there any change to report in relation to 2011?

*Yes.*

## **(7) TABLE 7 – ACCESSIBILITY, PROFESSIONAL TRAINING AND EDUCATION**

- 7.1 Does national copyright law transpose the exception provided for in Article 5(3)(n) 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 ‘in situ’ consultation for research purposes. Has the exception been transposed so as to allow consultation in a ‘closed network’?

*Yes. Article 5(3)(n) of the Directive is transposed into national law by Section 52b of the Copyright Act. This limiting provision ensures that users of public libraries, museums or non-commercial archives can use the collections of these institutions at dedicated terminals in the same way as in analogue form.*

***'Section 52b Communication of works at terminals in public libraries, museums and archives***

*So far as there are no contractual provisions to the contrary, it shall be permissible to make published works available from the stocks of publicly accessible libraries, museums or archives, which neither directly nor indirectly serve economic or commercial purposes, exclusively on the premises of the relevant institution at terminals dedicated to the purpose of research and for private study. In principle, reproduction of a work in excess of the number stocked by the institution shall not be made simultaneously at such terminals. Equitable remuneration shall be paid in consideration of their being made available. The claim may only be asserted by a collecting society.'*

*The Copyright Act in its entirety can be accessed online, in German at <http://www.gesetze-im-internet.de/urhg/> and in English at [http://www.gesetze-im-internet.de/englisch\\_urhg/index.html](http://www.gesetze-im-internet.de/englisch_urhg/index.html).*

- 7.2 Does national copyright law transpose the exception provided for in Article 5(3)(a) 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 reproduction for illustration purposes for teaching or scientific research. If so, are cinematographic works also covered by the exception?

*Yes. Sections 46, 47, 52, 52a, 53 and 53a in conjunction with Section 63 of the German Copyright Act lay down limiting provisions equivalent to Article 5(3)(a) of the Directive. However, these limiting provisions do not apply to cinematographic works. This is because use of cinematographic works is always only possible with the consent of the right holder under Section 52(3), 52a(2) and Section 53(7).*

***Section 52(3)***

*'Public stage performances, making available to the public and broadcasting of a work, as well as public screenings of a cinematographic work shall always only be permissible with the consent of the right holder.'*

***Section 52a(2)***

*'Making a work intended for use in instruction in schools available to the public shall in all cases be permissible only with the consent of the copyright owner. Making a cinematographic work available to the public, in the territory in which this Act applies, before the expiration of two years from the beginning of normal regular release in film theatres, shall in all cases be permissible only with the consent of the right holder.'*

***Section 53(7)***

*'The recording of public lectures, productions or performances of a work on video or audio recording media, the realisation of plans and drafts of artistic works and the reconstruction of architectural works shall always be permissible only with the consent of the right holder.'*

*The Copyright Act in its entirety can be accessed online, in German at <http://www.gesetze-im-internet.de/urhg/> and in English at [http://www.gesetze-im-internet.de/englisch\\_urhg/index.html](http://www.gesetze-im-internet.de/englisch_urhg/index.html).*

- 7.3 Has the Directive on certain permitted uses of orphan works been transposed in your Member State?

*Yes. This Directive has been transposed by means of the Act on the Use of Orphan and Out-of-Commerce Works [Gesetz zur Nutzung verwaister und vergriffener Werke], and a*

*further amendment to the Copyright Act of 1 October 2013 (BGBl. 2013, Part I, No 59, p. 3728 et seq.)*

- 7.4 Are there any licensing practices that facilitate access to cinematographic works for educational, cultural and research purposes or other non-commercial uses of a similar nature? Please give details of the measures taken.

*If film copies have been obtained privately and legally (e.g. DVDs), these may then be shown by a teacher in the classroom. To show these beyond the environment of a classroom, a licence is required. The legal situation is not particularly clear, however, in this respect. Licensed educational films can be lent out via municipal or church media centres.*

- 7.5 Have you taken any 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.

*By means of the amendment to the Film Funding Act which will come into force on 1 January 2014 (Film Funding Act of 24 August 2004 (BGBl. I p. 2277), as last amended by Article 1 of the Seventh Act Amending the Film Funding Act of 7 August 2013 (BGBl. I p. 3082 — 2014 Film Funding Act)), statutory provisions were laid down to also improve disabled people's access to funded works. Accordingly, a barrier-free version of the work with audio description for the visually impaired and subtitles for people that are hard of hearing will have to be made in the future for all films funded by the German Federal Film Board. These requirements apply equally to works funded by the Federal Commissioner for Culture and Media.*

*Publicly funded institutions are also required by their government mandate to comply, in particular, with the provisions of the Act on Equal Treatment for Persons with Disabilities [Behindertengleichstellungsgesetz, BGG]. Measures derived from this include barrier-free access to cinema halls and library rooms and the preparation of ancillary materials for people with sensory disabilities. The German Cinematheque Foundation is also involved in 'touch tours' and audio-led screenings for the blind, for example, in order to impart audiovisual heritage to people with disabilities. Similar services are provided to the deaf or those with hearing impairments with the help of sign language.*

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

*Together with the Institute for Theatre, Film and Media Studies at the Goethe University in Frankfurt am Main, the German Film Institute has established a four-semester Masters programme FILM CULTURE: ARCHIVING, PROGRAMMING, PRESENTATION. Students acquire basic skills in the technical, knowledge system-related, administrative, economic and legal aspects of archiving, programming and presentation of common film and AV media formats. Particular focus is placed on the challenges involving the digitisation of analogue stock, maintaining digital archiving media, and publishing and circulating digitised material.*

*Through the appointment of Prof. Martin Koerber as head of the film archive, the German Cinematheque has had close links with the University of Applied Sciences since 2007, where a programme of study for restorers of audiovisual media and photography is run, on which Prof. Koerber teaches. A cooperation agreement is in place, which enables students to complete training placements at the Cinematheque and to work on objects in the Cinematheque's collection (films and other items) during their studies.*

- 7.7 What steps have been taken to foster and promote film literacy? Do film heritage institutions provide free footage so that the public can learn to manipulate images through mash-ups?

*In Germany there are numerous bodies at Federal and Land level offering special programmes for using the film heritage as a means of strengthening the European dimension in education and promoting cultural diversity and film and media literacy. The means especially suitable and most used for this are exhibitions, retrospectives, festivals, conferences, colloquia, film study courses, publications and DVD releases.*

*In the supraregional school education sector, the federally funded agency Vision Kino ([www.visionkino.de](http://www.visionkino.de)) is among those promoting film and media literacy jointly with distributors, cinemas, producers and cinematheques. This includes the 'school cinema weeks' that are organised annually in the individual Länder. Institutions in the Cinematheque Association also participate. The German Film Institute, for example, organises the school cinema weeks in Hessen. The German Cinematheque Foundation regularly organises exhibitions on film and television that are aimed specifically at children and young people.*

*Both the DIF and the German Cinematheque regularly hold workshops and events, covering the theoretical and practical basics of cinematographic narration. The 'Image and education' section of the German Cinematheque also provides a range of educational events, including film talks, exhibition tours, project days and workshops. The German Cinematheque also offers 'train the teacher' events and is a cooperation partner of LISUM (Berlin-Brandenburg Institute for Schools and Media). The material available at <http://www.first-we-take-berlin.de/> encompasses several hundred hours of recordings from Berlin and is expressly available for mash-ups. A competition has already been held in this respect.*

- 7.8 Do you have any problems or best practices to report in relation to accessibility, professional training or education?

*Problems: Film excerpts cannot be shown in film museum exhibitions without the consent of the right holder. This limits the imparting of film literacy and film culture since the licence fees are often so high that the institutions refrain from showing these excerpts.*

- 7.9 Is there any change to report in relation to 2011?

*Yes.*

## **(8) TABLE 8 – EUROPEAN AND INTERNATIONAL ACTIVITIES**

- 8.1 Do you cooperate with other film heritage institutions, broadcaster archives or other cultural institutions in your Member State?

*The member institutions of the Cinematheque Association actively cooperate with one another and with other relevant institutions (see 1.1 above). A number of relationships are in place with the institutions mentioned. The German Cinematheque Foundation maintains many cooperative relationships for example. These range from the deposit agreement with producing television broadcasters to ensure secure depositing of selected works, through to cooperation with public and private television corporations for filling the programme gallery, cooperation with the German Radio Archive, Deutsche Welle and the Federal Agency for Civic Education in enhancing the portal 'Wir waren so frei', [www.wir-waren-so-frei.de](http://www.wir-waren-so-frei.de).*

8.2 Have you established bi-lateral cooperation with film heritage institutions in other Member States?

*The institutions in the Cinematheque Association coordinate their work with other European film heritage bodies through their membership in the Association of European Cinematheques (Association des Cinémathèques Européennes, ACE). All full members of the Cinematheque Association are also members of the ACE and the FIAF. In addition to such memberships, there is also intensive international cooperation on a project-by-project basis with regard to programming, but also restoration and the exchange of material.*

8.3 Do you participate in European projects? If so, please list them.

*The member institutions of the Cinematheque Association participate in various European projects in different capacities:*

*Ongoing projects:*

- *EFG1914 (2012–2014), coordinated by the German Film Institute. A total of 21 film archives are involved. In addition to the German Film Institute, the German Cinematheque and the Federal Archives/film archives are partners in EFG1914 from Germany.*
- *FORWARD (2013–2016), coordinated by the Royal Belgian Film Archive, Brussels. The German Film Institute is a project partner.*

*Completed, EU-funded projects:*

*filmarchives-online, COLLATE, EFG*

8.4 Do you participate in international activities?

- *See 8.2 and 8.3.*

**(9) TABLE 9 – FOLLOW-UP OF PRIORITIES**

What has been done in your Member State in order to address the following fields of action since 2011? Please also mention if you envisage taking measures in each field of action in 2014/2015.

**Collection**

9.1 Are enforcement mechanisms envisaged for statutory or contractual compulsory deposit?

*Germany does not yet have any legal control mechanisms for checking compliance with the deposit obligation for publicly funded films. Its film funding bodies have, however, themselves made an undertaking to tie the granting of funds to the physical deposit of a technically perfect, archivable copy.*

9.2 Have you introduced systematic quality checks on deposited material? Has the concept of ‘good quality’ be defined in the legal instruments which stipulate statutory or compulsory deposit, if this is not yet the case?

*All materials deposited are subject to technical examination and evaluated upon inclusion into the archive.*

- 9.3 Have you actively promoted voluntary deposit of cinematographic works and related film material? Have you ensured that all deposits are accompanied by contracts? Do you use the model contract for voluntary deposit signed by the ACE and FIAPF?

*The member institutions of the Cinematheque Association of course do everything they can to encourage voluntary deposits of film and related material. The Federal film funding guidelines therefore also provide for voluntary deposit of the starting materials of a film.*

*The member institutions of the Cinematheque Association have different approaches for managing the contractual arrangements for voluntary deposits: The DIF use the ACE/FIAPF model contract, while the SDK uses a contract with provisions that are based on the ACE/FIAPF model contract.*

### **Cataloguing and creation of databases**

- 9.4 Are your databases completely available and searchable on the Internet?

*Yes, this is true of various databases. The following should be mentioned here in particular:*

*filmportal.de (<http://www.filmportal.de>) and the*

*EFG Portal ([www.europeanfilmgateway.eu](http://www.europeanfilmgateway.eu)).*

*As a result of creating the stock catalogue, other databases will also be searchable online in the future.*

- 9.5 Have your institutions participated in the coaching financed by the EU for the implementation of European standards EN 15744:2009 and EN 15907:2010 on interoperability of film databases? Have you implemented or plan to implement those standards?

*Yes. The German Film Institute assumed the lead role in developing and implementing the CEN standards EN 15744:2009 and EN 15907:2010.*

*These standards are already in use at the DIF in the EFG metadata scheme. Preparations for implementing the standards are under way at the SDK.*

*See also 5.1 and 5.3.*

### **Preservation**

- 9.6 Have you established a long-term strategy for your national film heritage or 'national preservation plans'?

*Yes. See response to 5.1.*

### **Restoration**

- 9.7 Have you created restoration plans, including a prioritisation system in line with the budget available?

*For funding provided by the Federal Government to date (through the Federal Commissioner for Culture and Media), funding criteria have been drawn up (see 2.1 or 6.1 and 6.2) with the full members of the Cinematheque Association (Federal Archives, SDK,*

*DIF) in agreement with the German Federal Film Board. These criteria provide for prioritisation in line with the budget available. In particular, for a title to receive such funding it has to appear in the list of films having value in terms of film history and being worthy of funding established by the Cinematheque Association. In addition, priority is to be given to films where their starting material, i.e. the analogue copy, is in danger of disintegrating. Specific areas of focus have also been established, e.g. precedence is to be given to historical children's films.*

*There is no doubt, however, that further development of a national strategy, based on the budget available, is needed as the Federal Government's efforts on digitisation funding continue. The Cinematheque Association will also address this issue intensively in the future.*

- 9.8 Have you intensified your efforts to attract financial resources other than State funds for restoration projects, for instance from right holders and from philanthropic or cultural institutions?

*In light of the pressures to cut public budgets, the member institutions of the Cinematheque Association have intensified their efforts to acquire financing from private sources.*

- 9.9 Have you established partnerships with other film heritage institutions for European restoration projects?

*No.*

- 9.10 Have you pursued agreements with right holders for non-commercial exploitation of restored works?

*Such agreements are, of course, made by the member institutions of the Cinematheque Association. Even the simple deposit contract already enables various forms of use similar to that in museums. Licence agreements are also entered into for many works.*

### **Accessibility**

- 9.11 Have you established agreements with right holders, in order to obtain the rights for cultural use of films and film related material?

*Yes.*

### **Education/Media literacy**

- 9.12 Have your film heritage institutions and schools sought to establish agreements with right holders in order to obtain the rights for cultural use of films and film-related material?

*a) Yes. Selected short films shown at the International Children's Film Festival LUCAS are furnished with accompanying pedagogical material for use in schools and education. The rights of use to the short film 'Sehen und Lernen' (2013) cover a duration of use of five years.*

*b) With the nationwide project 'Spielfilmpioniere', the DIF produced 2 000 DVDs for schools, providing educators with stimuli to work with early silent films and enabling them to realise their own projects on silent film dubbing with pupils. The DVD contains five early silent films to be dubbed in the lesson, various teaching materials, accompanying*

*information for teachers, silent film scores and a sound library. Rights of use have been secured from Lobster Film.*

9.13 Have you developed national strategies for film and young people?

*- See 7.1.*

*In the supraregional school education sector, the federally funded agency Vision Kino ([www.visionkino.de](http://www.visionkino.de)) is among those promoting film and media literacy jointly with distributors, cinemas, producers and cinematheques.*

### **Professional training**

9.14 Have you considered or put in place temporary exchange of professionals between European film heritage institutions as a way of improving professional training?

*Yes.*

## **(10) TABLE 10 – MEASURES FACING THE CHALLENGES OF THE DIGITAL ERA**

What has been done since 2011 or is planned to be done in order to face the challenges of the digital era?

10.1 Collection/acquisition of digital material (distributed in cinemas or via new channels): Have you updated the legal instruments establishing statutory or compulsory deposit of films, in order to cover films produced in all media and distributed through all channels? Have you established standards specifying the conditions for submission of digital films to archives and the conditions for their preservation?

*See above: 3.1 et seq., particularly 3.1, 3.3.*

Would it be useful to develop European standards in these fields?

*Yes. The experiences of other European countries, some of which have made greater progress with digitisation than Germany, could be helpful.*

10.2 Storage, preservation and long-term accessibility of digital material, which could require regular migration to new formats or data carriers: Have you established a policy on digital preservation? Are film heritage institutions benchmarking with other sectors which are confronted with the same challenges? Are you investing in research on the long-term preservation of digital film? Have you invested in the equipment and professional training needed to be put in place in order to ensure the long-term survival of cinema in digital format? Have you established or considered the possibility of common digital archives in order to pool expertise and reduce scale costs?

*A strategy on digital preservation has been established by the Federal Archives and film heritage institutions benchmark with other sectors. These bodies have also invested in the equipment and professional training needed to ensure the long-term survival of cinema in digital format.*

*Considerable financing is needed to address these issues overall. Please refer to 2.1 and 6.2 in this respect.*



- 10.4 Digitisation/Integration in Europeana: Have you established strategies and plans for digitisation of film heritage? What efforts have you made to digitise films and make them available to Europeana, in particular through sector or national ‘aggregators’? Can you provide the percentage of your film and non-film collections that have been digitised, and the definition of the digitisation? Have you used or plan to use structural funds for digitisation projects? What is the budget allocated to digitisation of film heritage since 2010?

*All content aggregated or digitised as part of EFG 1 (2008–2011) and EFG1914 (2012–2014) is available via Europeana. In total, there are 600 000 items that can be searched via the EFG Portal ([www.europeanfilmgateway.eu](http://www.europeanfilmgateway.eu)), including in Europeana. However, the proportion of moving images is still low (approximately 1 500 clips in EFG) because of copyright issues and a lack of funding for digitisation. Approximately 660 hours of moving images is being digitised and made available under the EFG1914 project. The proportion of German archives runs to approximately 100 hours. Representing the audiovisual media sector, the German Film Institute is also involved in establishing the German Digital Library (DDB). In this capacity, the German Film Institute supports and advises members of the Cinematheque Association and other multimedia resource centres that wish to make their digital collections available in the German Digital Library. This also includes offering to supply the data of these institutions via [filmportal.de](http://filmportal.de) to the German Digital Library and thus also to Europeana.*

*The DIF estimates that less than 0.5 % of the national film heritage has been digitised so far. To date, material has been digitised for the purposes of simply viewing it and to achieve cinema quality. There are no concrete figures for digitised works, however. The stock catalogue that is currently being established will be able to provide information on this in the future.*

*Regarding the budget for digitising film heritage since 2010: see responses to 2.1 and 6.2.*

- 10.5 Access via Internet to the collections: What have you done to exploit all the different ways of providing access to film heritage made possible by new technologies? If applicable, what channels are you using (website, dedicated YouTube channel, Wikipedia, VoD ...)? Can you provide the percentage of your film and non-film collections that are available online to citizens free of charge?

*All content provided on [filmportal.de](http://filmportal.de) and the European Film Gateway is available online free of charge. Access via [www.filmportal.de](http://www.filmportal.de), [www.europeanfilmgateway.eu](http://www.europeanfilmgateway.eu); links to works in Wikipedia.*

*The SDK is currently working on opening up the archive of the German Film and Television Academy in an online archive, which will be available in 2015. At the moment, films from the SDK collections can be viewed on project-related websites:*

*[www.lost-films.eu](http://www.lost-films.eu)*

*<http://breloer.deutsche-kinemathek.de/>*

*<http://www.berlin-ecke-bundesplatz.de/>*

*<http://www.deutsche-kinemathek.de/de/publikationen/online-publikationen/murnaus-tabu>[www.wir-waren-so-frei.de](http://www.wir-waren-so-frei.de)*

*<http://www.first-we-take-berlin.de/>*

10.6 Digital projection and film heritage: Have you included cinemathèques in your strategy for equipping European cinemas with digital projectors? Have you sought agreements with film distributors or film theatres in order to foster digital projection of heritage films?

*Yes.*

**(11) TABLE 11 – FILM POLICY AND FILM HERITAGE**

Is film heritage fully included in the film policy of your Member State? Is there a link between the funding of film production and film heritage, for enforcing contractual deposit or for allowing cultural and educational use of funded films?

Is there any change to report in relation to 2011?

*As already outlined in 2.1 and 6.2, high priority is afforded to preserving film heritage in all film policy measures. This is emphasised not least by the anchoring of film heritage in the coalition agreement entered into by the governing parties for the current legislative period.*

*Regarding enforcement of contractual deposit, please see the response to 9.1.*

*With regard to the question on whether there is a link between funding of film production and film heritage, and the question on the use of funded films for cultural and educational purposes, it should be pointed out that such an arrangement would mean a considerable encroachment on producers' private legal positions. For this reason, Germany is not aiming for such a blanket arrangement, affecting all public funding measures equally. It is nevertheless common practice in individual cases where a film deals with educationally useful subject matter to reach agreement with the producer for the film to be screened in a school free of charge.*

**(12) TABLE 12 – PROGRESS IN RELATION TO PROBLEMS ENCOUNTERED IN THE LAST IMPLEMENTATION REPORT**

What has been done to address the problems encountered or weak areas identified in table 12?

**(13) TABLE 13 – BEST PRACTICES**

Are there any specific best practices in the area of film heritage in your Member State that you would like to report?

*Even though the film heritage information portal [www.filmportal.de](http://www.filmportal.de) has already been mentioned in previous reports, the constantly growing importance of this platform for national film heritage should also be underlined again here. The same applies to the 'Lost Films' project ([www.lost-films.eu](http://www.lost-films.eu)).*

*An important instrument for film education is the school cinema weeks that take place every year in all 16 Länder. These are organised by Vision Kino together with other institutions and the film and cinema industry. Through the school cinema weeks, the aim is to generally enhance awareness of opportunities for film education and the cinema as a*

*venue for cultural education in the context of school lessons. Between November 2011 and April 2012, more than 690 000 pupils and their teachers registered for events taking place as part of school cinemas weeks. 755 film theatres of all types and sizes took part, more than 430 film talks and seminars with film educators were held as well as approx. 220 special events involving film-makers and experts. In just under 60 training sessions held prior to the actual school cinema weeks, teachers were able to deepen their knowledge of using film in lessons. It is clear from these figures how successfully this film education measure has developed.*

**(14) TABLE 14 – NEED FOR FURTHER EU ACTION?**

Could you please comment on the suggestions for further action of the EU in any of the areas related to film heritage, proposed by Member States in Table 14? Which of those would you be willing to support? Do you have any other suggestions for further EU action?

*It is important that the European Union continues to run funding programmes for film digitisation to ensure that film heritage can be preserved and made available for future generations. Such a measure should take place in addition to digitisation programmes at national level.*

**(15) TABLE 15 – FOLLOW-UP OF COUNCIL CONCLUSIONS ON EUROPEAN FILM HERITAGE, INCLUDING THE CHALLENGES OF THE DIGITAL ERA**

Have you introduced any policy change in relation to film heritage following the invitations made by the Council in its conclusions on European film heritage, including the challenges of the digital era of 18–19 November 2010<sup>3</sup> ?

*Film policy measures have been taken in light of the introduction of mandatory registration for cinematographic works (cf. response to question 2.1). Funding has also been provided by the Federal Government under the digitisation initiatives of 2012 and 2013 (cf. response to question 2.1 and 6.2). Furthermore, the amendment to the Film Funding Act laid down a statutory provision under which the film industry, via the German Federal Film Board, will also participate in funding digitisation measures in the future (cf. response to question 2.1).*

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<sup>3</sup> [http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/educ/117799.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/educ/117799.pdf).