



European Treaty Series - No. 34

EUROPEAN AGREEMENT ON THE PROTECTION OF TELEVISION BROADCASTS

Strasbourg, 22.VI.1960

Text amended according to the provisions of Protocol (ETS No. 54), which entered into force on 24 March 1965, of Additional Protocol to the Protocol (ETS No. 81), which entered into force on 31 December 1965 and of Additional Protocol to the Protocol (ETS No. 113), which entered into force on 1 January 1985.

Preamble

The governments signatory hereto, being members of the Council of Europe,

Considering that the object of the Council is to achieve a greater unity between its members;

Considering that exchanges of television programmes between the countries of Europe are calculated to further the achievement of that object;

Considering that these exchanges are hampered by the fact that the majority of television organisations are at present powerless to restrain the re-broadcasting, fixation or public performance of their broadcasts, whereas the organisers of musical or dramatic performances or the like, and the promoters of sports meetings, make their consent to broadcasting to other countries conditional upon an undertaking that the relays will not be used for purposes other than private viewing;

Considering that the international protection of television broadcasts will in no way affect any rights of third parties in these broadcasts;

Considering that the problem is one of some urgency, in view of the installations and links now being brought into service throughout Europe, which are such as to make it easy from the technical point of view for European television organisations to exchange their programmes;

Considering that, pending the conclusion of a potentially universal convention on "neighbouring rights" at present in contemplation, it is fitting to conclude a regional Agreement restricted in scope to television broadcasts and of limited duration,

Have agreed as follows:

Article 1

Broadcasting organisations constituted in the territory and under the laws of a Party to this Agreement or transmitting from such territory shall enjoy, in respect of all their television broadcasts:

- 1 in the territory of all Parties to this Agreement, the right to authorise or prohibit:
 - a the re-broadcasting of such broadcasts;
 - b the diffusion of such broadcasts to the public by wire;
 - c the communication of such broadcasts to the public by means of any instrument for the transmission of signs, sounds or images;
 - d any fixation of such broadcasts or still photographs thereof, and any reproduction of such a fixation; and
 - e re-broadcasting, wire diffusion or public performance with the aid of the fixations or reproductions referred to in sub-paragraph d of this paragraph, except where the organisation in which the right vests has authorised the sale of the said fixations or reproductions to the public;

- 2 in the territory of any other Party to this Agreement, the same protection as that other Party may extend to organisations constituted in its territory and under its laws or transmitting from its territory, where such protection is greater than that provided for in paragraph 1 above.

Article 2¹

Subject to paragraph 2 of Article 1, and Articles 13 and 14, the protection provided for in paragraph 1 of Article 1 shall last not less than a period of twenty years from the end of the year in which the broadcast took place.

Article 3²

- 1 Parties to this Agreement, by making a declaration as provided in Article 10, and in respect of their own territory, may:
- a withhold the protection provided for in sub-paragraph 1.b of Article 1 as regards broadcasting organisations constituted in their territory or transmitting from such territory, and restrict the exercise of such protection, as regards broadcasts by broadcasting organisations constituted in the territory of another Party to this Agreement or transmitting from such territory, to a percentage of the transmissions by such organisations, which shall not be less than 50% of the average weekly duration of the broadcasts of each of these organisations.
 - b withhold the protection provided for in sub-paragraph 1.c of Article 1, where the communication is not to a paying audience within the meaning of their domestic law;
 - c withhold the protection provided for in sub-paragraph 1.d of Article 1, where the fixation or reproduction of the fixation is made for private use, or solely for educational purposes;
 - d withhold the protection provided for in sub-paragraphs 1.d and e of Article 1, in respect of still photographs or reproductions of such photographs;
 - e without prejudice to sub-paragraph 1.a of this article, withhold all protection provided for in this Agreement from television broadcasts by broadcasting organisations constituted in their territory and under their laws or transmitting from such territory, where such broadcasts enjoy protection under their domestic law.
 - f restrict the operation of this Agreement to broadcasting organisations constituted in the territory and under the laws of a Party to this Agreement and also transmitting from the territory of such Party;
- 2 It shall be open to the aforesaid Parties, in respect of their own territory, to provide exceptions to the protection of television broadcasts:

¹ Text amended according to the provisions of Protocol (ETS No. 54), which entered into force on 24 March 1965.

² Text amended according to the provisions of Protocol (ETS No. 54), which entered into force on 24 March 1965. This Protocol provides in Article 2, paragraph 4, that "*Any State which in accordance with Article 10 of the Agreement has, before the entry into force of this Protocol, availed itself of the option in sub-paragraph 1.a of Article 3 of the Agreement may, notwithstanding anything in paragraph 1 of the present article, maintain the application of such option*".

- a for the purpose of reporting current events, in respect of the re-broadcasting, fixation or reproduction of the fixation, wire diffusion or public performance of short extracts from a broadcast which itself constitutes the whole or part of the event in question;
 - b in respect of the making of ephemeral fixations of television broadcasts by a broadcasting organisation by means of its own facilities and for its own broadcasts.
- 3 The aforesaid Parties may, in respect of their own territory, provide for a body with jurisdiction over cases where the right of diffusion to the public by wire referred to in sub-paragraph 1.b of Article 1, or the right of communication to the public referred to in sub-paragraph 1.c of Article 1, has been unreasonably refused or granted on unreasonable terms by the broadcasting organisation in which the said right vests.

Article 4

- 1 Fixations of a broadcast in which protection under this Agreement subsists, or still photographs thereof, as well as reproductions of such photographs, made in a territory to which this Agreement does not apply and imported into the territory of a Party to this Agreement where they would be unlawful without the consent of the broadcasting organisation in which the right vests, shall be liable to seizure in the latter territory.
- 2 The provisions of the last preceding paragraph shall apply to the importation into the territory of a Party to this Agreement of still photographs of a broadcast in which protection under this Agreement subsists and of reproductions of such photographs, where such photographs or reproductions are made in the territory of another Party to this Agreement by virtue of sub-paragraph 1.d of Article 3.
- 3 Seizure shall be effected in accordance with the domestic law of each Party to this Agreement.
- 4 No Party to this Agreement shall be required to provide protection in respect of still photographs, or the reproduction of such photographs, of broadcasts made by a broadcasting organisation constituted in the territory and under the laws of another Party to this Agreement or transmitting from such territory, if the said other Party has availed itself of the reservation provided for in sub-paragraph 1.d of Article 3.

Article 5

The protection afforded by this Agreement shall apply both in relation to the visual element and in relation to the sound element of a television broadcast. It shall not affect the sound element when broadcast separately.

Article 6

- 1 The protection provided for in Article 1 shall not affect any rights in respect of a television broadcast that may accrue to third parties, such as authors, performers, film makers, manufacturers of phonographic records or organisers of entertainments.
- 2 It shall likewise be without prejudice to any protection of television broadcasts that may be accorded apart from this Agreement.

Article 7

- 1 This Agreement shall be open to signature by the members of the Council of Europe, who may become Parties to it either by:
 - a signature without reservation in respect of ratification; or
 - b signature with reservation in respect of ratification, followed by the deposit of an instrument of ratification.
- 2 Instruments of ratification shall be deposited with the Secretary General of the Council of Europe.

Article 8

- 1 This Agreement shall enter into force one month after the date on which three members of the Council of Europe shall, in accordance with Article 7 thereof, have signed it without reservation in respect of ratification or shall have ratified it.
- 2 In the case of any member of the Council of Europe who shall subsequently sign the Agreement without reservation in respect of ratification or who shall ratify it, the Agreement shall enter into force one month after the date of such signature or deposit of the instrument of ratification.

Article 9

- 1 After this Agreement has come into force, any European government which is not a member of the Council of Europe or any non-European government having political ties with a member of the Council of Europe may accede to it, subject to the prior approval of the Committee of Ministers of the Council of Europe.
- 2 Such accession shall be effected by the deposit of an instrument of accession with the Secretary General of the Council of Europe and shall take effect one month after the date of deposit.

Article 10

Signature, ratification or accession shall imply full acceptance of all the provisions of this Agreement; provided always that any country may declare, at the time of signature or of deposit of its instrument of ratification or accession, that it intends to avail itself of one or more of the options in paragraph 1 of Article 3 above.

Article 11

The Secretary General of the Council of Europe shall notify members of the Council, the governments of any countries which may have acceded to this Agreement and the Director of the Bureau of the International Union for the Protection of Literary and Artistic Works:

- a of any signatures, together with any reservations as to ratification, of the deposit of instruments of ratification and of the date of entry into force of this Agreement;
- b of the deposit of any instruments of accession in accordance with Article 9;
- c of any declaration or notification received in accordance with Articles 12, 13 or 14;
- d of any decision of the Committee of Ministers taken in pursuance of paragraph 2 of

Article 13.

Article 12

- 1 This Agreement shall apply to the metropolitan territories of the Parties.
- 2 Any Party may, at the time of signature, of the deposit of its instrument of ratification or accession, or at any later date, declare by notice addressed to the Secretary General of the Council of Europe that this Agreement shall extend to any or all of the territories for whose international relations it is responsible.
- 3 Any government which has made a declaration under paragraph 2 of this article extending this Agreement to any territory for whose international relations it is responsible may denounce the Agreement separately in respect of that territory in accordance with Article 14 thereof.

Article 13³

- 1 This Agreement shall remain in force indefinitely.
- 2 Nevertheless, as from 1 January 1990, no State may remain or become a Party to this Agreement unless it is also a Party to the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations signed in Rome on 26 October 1961.

Article 14

Any Contracting Party may denounce this Agreement by giving one year's notice to that effect to the Secretary General of the Council of Europe.

In witness whereof, the undersigned, being duly authorised thereto, have signed this Agreement.

Done at Strasbourg, this 22nd day of June 1960, in English and French, both texts being equally authoritative, in a single copy, which shall remain in the archives of the Council of Europe and of which the Secretary General shall send certified copies to each of the signatory and acceding governments and to the Director of the Bureau of the International Union for the Protection of Literary and Artistic Works.

³ Text amended according to the provisions of Protocol (ETS No. 54), which entered into force on 24 March 1965, of Additional Protocol to the Protocol (ETS No. 81), which entered into force on 31 December 1965 and of Additional Protocol to the Protocol (ETS No. 113), which entered into force on 1 January 1985.