# Study on the Economic and Cultural Impact, notably on Co-productions, of Territorialisation Clauses of state aid Schemes for Films and Audiovisual Productions

## A final report for the European Commission, DG Information Society and Media

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# Contents


| | | Page |
|---|---|---|
| Glossary of Terms | | v |
| Executive Summary | | |
| | English version | ix |
| | French version | xx |
| | German version | xxxii |
| 1. | Introduction | 1 |
| 2. | Part A: Legal Synopsis | 6 |
| 3. | Part B: Analysis of Public Subsidies | 24 |
| 4. | Sample of Countries for Further Analysis | 48 |
| 5. | Part C: Economic Structure of Audiovisual Industries | 60 |
| 6. | Part D: Comparative Analysis of Audiovisual Industries in terms of Economic Structure and Budgets | 86 |
| 7. | Part E: Synopsis of Co-Production Agreements | 111 |
| 8. | Part F: Qualitative Assessment of the Impact of Territorialisation Requirements on Co-productions | 132 |
| 9. | Part G: Cultural Implications of the Potential Removal of Territorialisation | 151 |
| 10. | Conclusions | 163 |
| 11. | Bibliography | 169 |

**Appendices**

Appendix A: Compiled Output Tables from Part A 176
Appendix A bis: Main Charts relating to the Output Tables from Part A 265
Appendix B: Legal Questionnaire 280
Appendix C: List of Funding Bodies 286
Appendix D: Questionnaire for Funding Bodies 288
Appendix E: Member State Questionnaire 296
Appendix F: Analysis of Member State Response 298
Appendix G: Specifications of Parameters of Typical Services 306
Appendix H: Proceedings of Stakeholder Workshop 308
Appendix I: Responses to Quantifiable Questions from Parts F and G 352
Appendix J: Interview Guides for Parts F and G 353

# Glossary of Terms

| Term | Meaning / Interpretation / Definition |
|---|---|
| *Territorialisation and related terms* | |
| Territorialisation | The term "territorialisation" refers to conditions requiring that, in return for state aid granted under a given funding scheme, part of this aid or of the film budget must be spent in the territory where such funding scheme<br>- is located or administered, and/or;<br>- is itself funded from taxes and/or or other public resources, and/or<br>- is intended to contribute to achieving certain cultural and/or economic policy goals related to film and audiovisual production.<br><br>For the purpose of this study, territorialisation includes expenditure for staff where a domicile or residence in the granting State is required. |
| Degree or intensity of territorialisation | In this study we use three main approaches to assess the degree or intensity of territorialisation:<br><br>(i) The measure of territorialisation based on the *legal* assessment (Chapter 2);<br><br>The "measure of territorialisation based on the legal assessment" used in Chapter 2 of this study distinguishes between "high territorialisation", "moderate territorialisation" and "no territorialisation" according to the following definitions:<br><br>- "High territorialisation" means that a sum larger than the granted aid must be territorialised (ratio "total amount subject to territorialisation"/" total aid granted" >1);<br><br>- "Moderate territorialisation" means that the same or a lower amount of state aid than awarded must be territorialised (ratio "total amount subject to territorialisation"/" total aid granted" =1 or ratio "total amount subject to territorialisation"/" total aid granted" <1);<br><br>- "No territorialisation" means that no territorialisation requirements apply (total amount subject to territorialisation = 0).<br><br>(ii) The funding bodies' *self-assessment* measure of territorialisation (Chapter 3);<br><br>This measure reports the results of a survey, in which the funding bodies themselves were asked to estimate the percentage proportions of their annual budgets and actually spent amounts that were subject to territorialisation, without taking the intensity into account. The percentage proportions indicated by a funding body thus cover all funding schemes administered by this body. The degree of territorialisation was categorised according to the following conditions:<br><br>1. High degree of territorialisation: 80% - 100%<br><br>2. Moderate territorialisation: >5% - <80%<br><br>3. No territorialisation: 0% – 5% |

| Term | Meaning / Interpretation / Definition |
|---|---|
| | (iii) The *producer-based* measure of territorialisation (Chapter 4 and throughout the study).<br><br>The "producer-based measure of territorialisation" used in Chapter 4 (and throughout the study) identifies those funds which impose territorialisation conditions on components of production budgets and calculates an intensity measure based on the percentage share that a territorialized component has in total production costs and the relative importance of the territorialised fund compared to all those available to a representative producer. The measure is divided into four levels:<br><br>1. High territorialisation: "share of production budget subject to territorialisation" = 80% - 100%<br><br>2. Moderate territorialisation: "share of production budget subject to territorialisation" = >20% - <80%<br><br>3. Low territorialisation: "share of production budget subject to territorialisation" = >5% - 20%<br><br>4. No significant territorialisation: total amount of production budget subject to territorialisation = 0% - 5% |
| Direct territorialisation requirement | Direct territorialisation requirements are rules and related judicial and administrative practice that are contained in provisions of the applicable regulations specifically addressing territorialisation. |
| Indirect territorialisation requirement | Indirect territorialisation requirements are rules and related judicial and administrative practice that are not standing on their own, but that are located under nationality certification criteria and procedures, under mechanisms for granting selective state aid or under any other provision of the applicable regulations, such as purpose or cultural clauses, that obliges the producer to make local expenditures. |
| Explicit or objective territorialisation requirement | Territorialisation requirements are considered as "explicit" or "objective" if they are specifically articulated in a rule of law governing the funding scheme at stake or result from reported judicial or administrative practice. All explicit territorialisation requirements are either direct or indirect territorialisation requirements (see the definition of "direct" and "indirect" territorialisation requirement above). |
| Implicit or implied territorialisation requirement | Territorialisation requirements are considered as "implicit" or "implied" if they are not specifically articulated in a rule of law governing the funding scheme at stake or do not result from reported judicial or administrative practice. |
| Intensity of territorialisation | (Please refer to the definition of "degree of territorialisation" above). |
| Objective or explicit territorialisation requirement | (Please refer to the definition of "explicit or objective territorialisation" above.) |
| Regional territorialisation requirement | "Regional territorialisation requirement" means a territorialisation requirement referring to spending obligations within a region as opposed to within the Member State, eg the obligation to spend part of the production budget in a given German Land. |
| Quantified and not-quantified territorialisation requirement in the law | "Quantified territorialisation requirement in the law" means a territorialisation requirement that is measurable in terms of a percentage of the production budget or of the amount of the State aid granted as per the applicable law or case law (eg 50% of the production budget must be locally spent or 150% of the grant must be locally spent). In contrast, a "territorialisation requirement that |

| Term | Meaning / Interpretation / Definition |
|---|---|
| | is not quantified in the law" means a territorialisation requirement that cannot be precisely measured in terms of a percentage of the production budget or of the amount of the State aid granted as per the applicable law or case law (eg local shooting requirements). |
| *Co-productions and related terms* | |
| Co-production | A film made using producers and funding from more than one country. |
| Territorialised co-productions and non-territorialised co-productions | Territorialised co-productions are co-productions made between two or more Member States that both apply explicit territorialisation. Non-territorialised co-productions are those made between Member States neither of which applies explicit territorialisation.<br><br>In analysing European co-productions, the study also looks at co-productions between territorialised Member States and non-territorialised Member States. |
| Runaway production | A runaway production is a film or television production that is intended for initial release/exhibition or television broadcast in one particular country, but is actually filmed in another country for predominantly economic reasons. |
| *State aid and related terms* | |
| State aid | The definition of "state aid" as it is relevant for this study is based on Article 87 (1) of the EC Treaty that has been further clarified by case law. According to this provision any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the common market, save as otherwise provided in the Treaty. It is the effect rather than the form of the measure that is crucial in determining whether it is State aid or not. Certain funding schemes based on tax advantages may therefore also qualify as State aid and, therefore, be relevant for the assessment of territorialisation requirements. The Commission does not consider funds provided directly from EC programmes like MEDIA as State aid. Furthermore, legal obligations imposed by Member States upon television broadcasters to invest in audiovisual production do not constitute State aid, if these investments provide a reasonable compensation to broadcasters. |
| State aid automatically or selectively granted | |
| Automatic state aid | State aid granting criteria and procedures are "automatic" if they are based on conditions set forth by the applicable rules without involving any discretionary judgement by experts, for example, when a funding scheme grants the sum of €10 for each cinema ticket sold to the producer of a film that is eligible for such state aid and generates such ticket sale. |
| Selective state aid | Criteria and procedures for granting state aid are "selective" if they are based on conditions referring for example to the quality, originality, cultural value and like values applied by experts who are mandated by funding schemes to evaluate, in their personal capacity, films and television programmes at the stage of projects or completed works. |
| State aid in the form of grants and soft loans | Grants and loans given on more favourable terms than the market would provide. |
| State aid in form of "tax incentives" | A tax reduction to producers or investors aimed at encouraging |

| Term | Meaning / Interpretation / Definition |
|---|---|
| for film production | investments in films. |
| Funding body | A "funding body" is an institution responsible for the administration of one or more state aid funding schemes for films and other audiovisual productions. |
| Funding scheme | A "funding scheme" is a financing instrument granting state aid for the production and distribution of films and other audiovisual productions. |
| *Phases of production* | |
| Pre-production | Pre-production includes all the activities of director, cast, scriptwriter, producer and their assistants before shooting starts. |
| Production | Production includes the activities during the actual shooting of a film, including the work of technical crew and non-starring cast members. Production costs also include expenses for technical equipment and services. |
| Post-production | Post-production is defined as activities related to editing, music, sound and effects, which are completed after shooting of the film is complete. |
| *Economic terms* | |
| Capacity utilisation rate | The capacity utilisation rate for a service sector is defined as the relationship between the actual number of people working on the specific service and the number of qualified people available for the specific service. |
| Labour capacity | The labour capacity of a service sector is defined as the number of people qualified for the specific service multiplied by the average number of annual working hours per person. |
| Turnover | Total revenue or the amount of business transacted during a given period of time. |
| Value added | Value added by an industry is its turnover minus costs of inputs. The value added is thus the amount available for remuneration of the applied labour and capital. |

# Executive Summary – English Version

**Introduction**

- The objective of the study is to provide *clear* and *reliable* data on the consequences of 'territorialisation' requirements imposed by certain state aid schemes supporting the cinema sector. The study ("Territorialisation Study") is to provide:

1. an objective and synthetic view of the legal situation concerning territorialisation clauses,
2. a clear assessment of how territorialisation clauses affect the film industry from an economic point of view (both macro and micro),
3. an assessment of whether territorialisation requirements are an obstacle to European co-productions,
4. an objective assessment of the consequences of potentially removing territorialisation from a cultural point of view.

- The study focuses exclusively on the legal, economic and cultural assessments - any political question is beyond the scope of this study.

- The reference period covered by the study is the latest five years for which data are available, ie 2001 - 2005.

- The geographical coverage of the study is restricted to the EU25, as Bulgaria and Romania joined the EU after the study had commenced.

**Part A: Legal Synopsis**

- The objective of Part A, the legal chapter of the Territorialisation Study, is to assess the regulations and administrative and judicial practice pertaining to territorialisation requirements in the specific context of the issues addressed in Section 2 of the Commission's Cinema Communications of 2001 and 2004. Part A, therefore, contains a summary and evaluation of the main legal issues at stake and, in the on-line database, a detailed and critical analysis of the legal aspects of territorialisation in each of the 25 Member States ("Member State Synthesis Sheets"[2]). It covers all identified national and regional funding schemes that were assumed to have an annual budget of at least €1m (one million euros) during the reference period 2001-2005.

- We have analysed the territorialisation requirements and related administrative and judicial practice of 140 funding schemes as reported by local counsels. The territorialisation requirements of these funding schemes present a great variety in form and content.

- We found that certain types of territorialisation requirements allow clear quantification of the degree of territorialisation whereas the other ones do not contain quantifiable criteria:

[2] The Member States Synthesis Sheets can be consulted at the on-line legal database at www.germann-avocats.com. This legal database contains the replies from local lawyers in the 25 Member States to our questionnaire on territorialisation requirements (Appendix B) as well as the relevant regulations for each Member State.

- Among the quantified or quantifiable territorialisation requirements, we found the obligation to spend a percentage of the film budget or a percentage of the grant in the Member State or in one of its regions.
- Quantitatively-indeterminate requirements include, for example, the requirement that a film should, to a predominant extent, be shot locally or that use should be made of local technical goods and service providers or that staff should be employed who are locally resident or domiciled.
- In certain cases, clauses articulating cultural justifications and economic goals further blur the picture when they refer to general concepts or goals that leave room for a broad margin of interpretation. We did not include these as territorialisation requirements where there was no conclusive evidence that they were in practice translated into such requirements. In other words, we only addressed clearly stated territorialisation requirements based on a literal interpretation of the relevant provisions.

- The main findings of Part A can be summarised as follows (for fuller details, see also Appendixes A and A bis):
  - Territorialisation requirements can be grouped in two main categories: territorialisation requirements that are quantified and those that are not quantified in the law. They can be further subdivided into direct and indirect requirements.
  - Certain territorialisation requirements specify that a percentage of the film budget or of the state aid awarded must be spent locally ("territorialisation requirements quantified in the law"), whereas other obligations require local shooting, use of local technical services suppliers and facilities or of staff locally domiciled or resident ("territorialisation requirements not quantified in the law").
  - Territorialisation requirements are located under provisions specifically addressing them as such ("direct territorialisation requirements") as well as under provisions on nationality certification criteria and procedures, selective state aid granting mechanisms or purpose and cultural clauses ("indirect territorialisation requirements").
  - Different categories of territorialisation requirements may be found within the same funding scheme (eg the same funding scheme can have direct and indirect as well as quantified and not quantified territorialisation requirements) and among funding schemes within the same Member State.
  - Direct territorialisation requirements quantified in the law apply in the case of 21% of the funding schemes analysed that account in total for 24% of the budgets of all the funding schemes analysed.
  - Direct territorialisation requirements not quantified in the law apply in the case of 9% of the funding schemes analysed that account in total for 12% of the budgets of all the funding schemes analysed.
  - In 21% of the funding schemes analysed there are neither direct nor indirect territorialisation requirements. In 6% of the funding schemes analysed there are only direct territorialisation requirements, and in 49% of the schemes analysed there are only indirect territorialisation

requirements. Finally, 24% of the funding schemes analysed contain both direct and indirect territorialisation requirements.

- A large majority of the funding schemes analysed, i.e. 68% of the funding schemes accounting in total for 59% of the budgets of all funding schemes, contain direct and indirect territorialisation requirements that are not quantified or not fully quantified in the applicable regulations.
- 11% of the funding schemes analysed contain only quantified territorialisation requirements, accounting in total for 25% of the budgets of all funding schemes analysed.
- There is almost no judicial or administrative case law reported, and therefore no evidence for "implicit" or "implied" territorialisation requirements. Accordingly, we did not take them into account in the calculation of the territorialisation intensity in Part A. In many cases, one can construe purpose and cultural clauses as instructing the funding scheme to favour local content and local content providers. Such instructions may arguably influence the granting of state aid. However, we did not take into account these clauses in our calculation where the local counsels did not report clear evidence on their impact.

**Part B: Analysis of Public Subsidies**

- The objective of Part B was to discover and analyse the budgets available and actually spent on supporting films and other audiovisual works in the 25 Member States.

- The main data sources were (1) the KORDA database, (2) a survey conducted by the consultant from November 2006 to May 2007 among 90 European film funding bodies all of whom were assumed to have budgets exceeding €1m (one million euro), and (3) a combined desk research and telephone survey among European tax-incentive schemes. 45 of the 90 funding bodies gave partial or full answers to the questionnaire. Therefore, the survey is not completely representative. Moreover, there turned out to be gaps in some types of KORDA data and in data related to tax incentive schemes.

- The main findings of the survey of funding bodies with annual budgets exceeding €1m were:

  - According to the assessment of the funding bodies, around 20% of their budgets are subject to territorialisation requirements. This percentage appears to have been very stable over the observed five-year period.

  - More than two-thirds (68%) of the film aid is awarded on a selective basis. Among all other respondents than the largest player, CNC of France, the average percentage of aid selectively granted was 87% during the study period. The remainder is awarded automatically.

  - Almost 70% of the budgets of the funding bodies is spent on activities in the production phase.

- Only a few funding bodies gave information on the types of production supported, but for those who did, 80% was spent on national productions and the remaining 20% on co-productions.

- About 75% of budgets have been given as grants and 25% as soft loans. This result, however, is affected by the French CNC, without which the average share of budgets given as grants is only about 50%.

- Data on tax incentive schemes were collected from a variety of sources. Tax incentive schemes are found in an increasing number of countries. In ten Member States this is an important part of state aid, and in particular in the UK, Malta, Finland, Hungary and Ireland, tax incentives constitute a significant part of total state aid.

- Total state aid from analysed funding bodies with budgets exceeding €1m and from tax-incentive schemes is equivalent to an average of €5 per capita in the EU25 of which about 40% comes in the form of tax incentives. The average state aid varies from maxima of €16 per capita in the UK and €10 in France to below €1 in Greece, Latvia, Lithuania, and the Czech Republic.

**Sample of Countries**

- Having analysed the legal and budgetary information for all 25 Member States, the objective of this section was to choose a representative sample of Member States for detailed analysis of the effects of territorialisation.

- The choice of the sample was supported and validated by qualitative assessment based on information from Parts A and B of the study. In particular, the sample was designed to be representative in terms of geographical location, size of audiovisual industry and practice of territorialisation.

- To help with the selection process the consultants developed two indices measuring the intensity or degree of territorialisation:

  - a legally-based index of territorialisation, based upon the ratio of legally-territorialised funding to the total funding in the Member State;

  - a production-cost index, building on the legally-based measure but focusing on the implications for a representative film producer of the percentage of production costs to be territorialised.

- Although the legally-based measure of territorialisation was used for reference purposes, it was ultimately the production-cost measure that was used to rank the Member States for selection and for subsequent analysis.

- The production-cost based measure categorised the Member States selected for analysis into four levels:

  - high territorialisation: share of production budget subject to territorialisation = 80% -100%

  - moderate territorialisation: share of production budget subject to territorialisation = >20% - <80%;

- low territorialisation: share of production budget subject to territorialisation = >5% - 20%;
- no significant territorialisation: share of production budget subject to territorialisation = 0%-5%.

- A list of eight countries for the analysis in Parts C and D was developed, consisting of countries representing the four levels of territorialisation according to the production-cost measure: the Czech Republic, Denmark, Finland and Sweden (no significant territorialisation), Hungary (low territorialisation), Germany and Spain (moderate territorialisation), and France (high territorialisation).

**Part C: Description of Economic Structure**

- Part C aims to describe the economic structure of the audiovisual industry in the above mentioned sample of eight countries, some of which apply territorialisation conditions and some of which do not. The economic structure is described by presentation of macro-level industry data and micro-level data for six selected services related to film production.

*Part C1: macro data*

- Part C1 describes macro-level data on the cinema and audiovisual industries collected from available data sources, including the European Audiovisual Observatory (EAO) Yearbook and existing studies of the film sector.

- The annual turnover per capita of the audiovisual industry ranges from €70 in the Czech Republic to about €350 in France. Total audiovisual turnover ranges from 0.7% to 1.4% of GNP in all eight countries.

- Audiovisual employment constitutes approximately 0.2% – 0.3% of the labour force in all the selected countries except the Czech Republic with 0.1%.

- The number of companies in the audiovisual sector in the eight Member States varies from 113 per million inhabitants in Germany to more than 400 in Sweden and Hungary.

- The number of feature films per million inhabitants produced in the eight Member States ranges between one and seven per year, of which less than 50% are international co-productions. The percentage of national films is highest in the Czech Republic, Hungary and Germany.

*Part C2: micro data*

- Part C2 provides a collection of more specific data on micro-level characteristics of the film and audiovisual industries in the selected eight countries. Data were collected through telephone interviews and email correspondence with a number of relevant and core stakeholders in the selected countries.

- Six typical services were selected and data were gathered in order to estimate: price levels, capacities and rates of capacity utilisation. The selected services are all specialised and closely related to the film industry. Thus this selection allows the highest possible degree of comparability.

They are: casting services, gaffer services, focus pulling, rental of camera equipment, editing of films and development of films.

**Part D: Comparison of Economic Indicators and Film Budgets**

- The overall objective of Part D is to analyse and compare the economic structures of the film industry in the context of varying levels of territorialisation. In particular, Part D contains an analysis of the possible correlations between territorialisation and data at the micro and macro levels.

*Part D1: comparison of economic indicators*

- In Part D1 the economic characteristics of the cinema and audiovisual industries, as identified in Part C, were analysed for groups of countries with varying levels of territorialisation.
- In relation to economic characteristics at the macro level, there was only a weak, positive correlation between the per capita audiovisual turnover of the country and its intensity of territorialisation. It is not possible, however, to come to a definite conclusion about whether the higher level of turnover per capita is caused by the higher level of territorialisation, or whether the political interest in territorialisation is caused by the greater importance of the audiovisual sector in countries where this sector is relatively large.
- The analysis of economic characteristics at the micro level showed that there is also a certain positive correlation between costs of technical service of the film industry and the level of territorialisation. Apart from Eastern European countries, territorialisation seems to be accompanied by relatively higher service price levels compared to the general salary levels of the respective countries.
- The analysis further leads to a rejection of the hypothesis that the capacity (per head of the population) of selected film sector services is positively correlated to the level of territorialisation.
- No positive or negative correlation has been found between capacity utilisation and the intensity of territorialisation.

*Part D2: analysis of film budgets*

- The aim of Part D2 is to analyse the structures of film budgets for films produced in countries with different intensities of territorialisation and to examine how territorialisation may affect the competitiveness of the audiovisual industry.
- The cost budgets were analysed for 25 films (including national productions and co-productions), with different budget sizes. The cost budgests were provided by the producers with a breakdown of pre-production, production and post-production costs. In some cases the budgets contained more details.
- A weak positive correlation was identified between the percentage of the budgets spent on production and pre-production and the level of territorialisation in the countries of production.

- The analysis of specific cost items of the budgets suggests that, for films produced in countries applying territorialisation, a slightly higher proportion of budgets is spent on costs related to travel, transport, accommodation and allowances.

**Part E: Synopsis of Co-Production Agreements and Identification of Total EU25 Co-productions**

- The objective of Part E is to provide a clear synopsis of the co-production agreements in force in the EU25 Member States and, in particular, to identify the number of international co-productions, in relation to the total number of productions, over the reference period between Member States applying territorialisation, between those not applying it, and between one Member State applying territorialisation and one not applying it.

- All 36 bilateral co-production treaties listed in the EAO's MERLIN database between EU25 Member States are in force between the UK, France, Spain, Germany or Italy and another Member State.[3]

- The majority of the agreements cover cinematographic films of any length and genre, and require a minimum financial contribution of 20%-30%, a maximum contribution of 70%-80%, as well as technical and creative contributions from all co-producing countries.

- A small minority of agreements allow for a co-producing country to be solely a financial partner, in which case its contribution is normally between 10% and 20%.

- Of the 1,009[4] bilateral co-productions in the EU25 during the reference period, 816 co-productions were made between two EU25 members that apply territorialisation, 104 were between two Member States, of which one applies territorialisation and one does not, and 89 co-productions were made between two Member States neither of which applies territorialisation.[5]

- France, Germany, Italy, Spain and the UK, all of which apply territorialisation, were involved in 84.5% of all bilateral co-productions in the EU25 during the reference period.

- During the reference period, 43.3% of total productions of Member States that do not apply territorialisation were co-productions. The proportion was very similar, 43%, in Member States that apply territorialisation.

- There does not appear to be a direct link between the size and stability of an industry and its propensity to co-produce. Some wealthy, stable

[3] We are aware that the European Audiovisual Observatory's MERLIN database is not yet complete, and a limited number of EU25 co-production agreements are missing. These have, where possible, been captured in Part A of this study. However, the MERLIN database contains the necessary data to compare treaties and so the 36 treaties contained in MERLIN are the focus of this part.

[4] Of the 1,009 bilateral co-productions, 317 (31.4%) took place outside of the bilateral agreements identified in MERLIN and in Part A. Many are likely to have taken place under the European Convention on Cinematographic Co-Production, which EU25 Member States are party to, and which can act as a bilateral treaty where no bilateral treaty is currently in existence. However, informal co-productions and runaway productions may well also be included here.

[5] Data on the total number of co-productions in 2001-2005 were supplied by the EAO from the LUMIERE admissions database. They cover bilateral co-productions only and do not differentiate between majority and minority co-productions. Data covers films released in 2001-2005, and so excludes some films made in the reference period but released after 2005. Films made with US partners on a purely financial basis have generally been excluded.

territorialised industries had a high proportion of co-productions (eg France at 42% of total productions) whereas some had a low proportion (eg Spain at 24%). A similar variety existed for non-territorialised countries (eg Czech Republic at 33% and Denmark at 56%). However, there is some evidence that particularly small, non-territorialised industries may be more likely to co-produce than better-established industries.

- There does appear to be a strong relationship between geographical proximity and the incidence of co-production, with neighbouring countries often co-producing together. In the group of Member States that do not apply territorialisation, co-productions between Sweden and Denmark (52%), the Czech Republic and Slovakia (17%), and Sweden and Finland (26%) account for the majority of co-productions in this group. In the group of Member States that apply territorialisation, the most active partnerships for co-productions are between France and Belgium (14% of co-productions in this group), France and Italy (9%), and France and the UK (9%).

**Part F: Qualitative Assessment of the Impact of Territorialisation Requirements on Co-productions**

- The objective of Part F is to provide a qualitative assessment, based on interviews with key stakeholders and on conclusions from previous Parts of the study, of whether territorialisation requirements of aid schemes hinder the production of films under European co-production agreements.
- Qualitative data were collected by means of interviews with 40 stakeholders, who were mainly producers and representatives from national and regional film funds.
- Funding bodies apply territorialisation clauses in order to justify larger public spending on the audiovisual industry, including on co-productions.
- In general, there was a widely held view that the co-production and territorialisation clauses are complementary. Co-productions are undertaken in order to get access to funds available in other Member States, but these funds would not be available without some degree of territorialisation.
- Qualitative data from the interviews suggest that implicit territorialisation is common in Europe and works towards the same goal of increased national production. The implication of this is that, if explicit territorialisation clauses were removed, the situation might not change markedly and would become less transparent, as the level of implicit territorialisation may increase.
- Other factors than territorialisation can impact on co-productions, in particular geography, with neighbouring countries more likely to co-produce with each other. Quantitative and qualitative data suggest that the size and scale of a particular country's industry has no direct impact on its propensity to co-produce.
- The main motives for making co-productions, according to stakeholders, are access to additional funding, the sharing of risk, and access to distribution channels. The features of co-production that are most likely to be directly affected by territorialisation clauses are access to additional funding and the needs of the script.

- Territorialisation can cause increased production costs and some inefficiencies for co-productions. However, producers made it clear that, wherever possible, this negative impact was avoided through careful evaluation of, and discussion with, funding bodies.
- Flexible but clearly defined and simple territorialisation rules were considered by most stakeholders to be the way to avoid territorialisation hindering co-production. Automatic schemes were preferred over selective ones.

**Part G: Cultural Implications of Potential Removal of Territorialisation**

- The objective of Part G is to provide a qualitative assessment, based on interviews and using conclusions from previous Parts of the study, of what the cultural consequences might be if territorialisation rules were removed from national and regional aid schemes, or reduced.
- Qualitative data were collected through interviews with the same 40 stakeholders who were interviewed for Part F.
- The cultural characteristics of film considered by the stakeholders to be protected by territorialisation are: language, national identity, new talent and festivals.
- Most respondents argued that territorialisation, explicit and implicit, stimulates cultural diversity. However some major reservations were expressed: 1) current rules favour national production over co-production; 2) current rules lead to an 'over-supply' of small, national films that are unable to circulate.
- As in Part F, there was a concern among stakeholders that the removal of explicit territorialisation would lead to more implicit territorialisation. This could lead to an increased focus on national productions and make circulation of films more problematic.
- Most respondents believe that local industry is needed to promote cultural diversity, and that territorialisation, explicit and implicit, protects local industry. Some respondents believed that Member States with less established industries might feel a particularly negative cultural impact if territorialisation were removed or reduced, as they could lose much of their ability to make their own films.
- Co-production, because of its sharing of cultures, was considered by many stakeholders to be important to cultural diversity. Thus our finding that flexible and clear territorialisation rules are believed to facilitate co-production should be borne in mind.

**Overall conclusions**

*Legal analysis*

- The territorialisation requirements analysed under legal considerations in this Study present a great variety in terms of their forms and contents. The considerable number and complexity of the territorialisation requirements can cause conflicts of rules and legal uncertainty. We conclude that this legal situation is difficult and costly to manage, both for film producers when applying for state aid, and for policy and law makers as well as for the funding schemes when aiming at coherence in developing and

implementing the various rules and policies at stake related to culture, competition and trade.

- A large majority of the reported funding schemes contain territorialisation requirements that are not quantified or not fully quantified in the applicable regulations. The analysis under legal considerations can therefore only provide a limited picture of the intensity of territorialisation at the level of Member States.
- There is almost no relevant judicial case law and administrative practice reported, and therefore no evidence for "implicit" or "implied" territorialisation requirements. Furthermore, we found no indication that existing territorialisation requirements could constitute obstacles to co-production agreements from the legal perspective. However, in both cases, we cannot conclude whether these findings also reflect reality in the absence of reported jurisprudence.

*Economic structure*

- The economic analysis showed that the greater the degree of territorialisation in a Member State the higher the turnover of that state's audiovisual industry. It is not possible, however, to determine whether the territorialisation causes the higher turnover or whether the size of the turnover creates pressure for greater territorialisation.
- The data also suggest that the costs of services for film production are higher in countries that apply territorialisation requirements than in those that do not.

*Co-productions*

- Territorialisation requirements do not hinder co-productions; rather they facilitate funding for all kinds of productions (including co-productions) that might not otherwise have been available.
- Territorialisation requirements can, however, cause some difficulties for co-productions and may make co-production less efficient.

*Cultural implications*

- It seems that the removal of territorialisation rules might lead to an increase in implicit territorialisation. One consequence of this could be that funding would be more likely be directed towards national productions and, as a result, circulation of films between different countries and cultures might be made more difficult.

**Disclaimers and caveats relating to statistical analysis**

- All the work undertaken in the report is, to some extent, based on sampling, survey work and rests on certain assumptions, so it should be borne in mind that the validity of the conclusions is conditioned by these limitations.
- In particular, the analysis of funding bodies in Part B is based on the information, interpretation and assessment of a survey, conducted among European funding bodies of varying sizes, but all with annual budgets assumed to be more than €1m. With response rates of up to 40%, varying from question to question, the results cannot be interpreted as statistically representative, but are nonetheless valid as indications of the current pattern of support to the audiovisual sector.
- In addition, the descriptions, analyses and the conclusions of Parts C and D are based on a variety of sources. The macro level data are mainly from the EAO Yearbook and from other official sources such as national statistical

offices. The micro level data are all gathered from a variety of market sources such as service providers, purchasers of services, trade unions, producers, and producers' organisations in the eight selected Member States. Despite the effort devoted to obtaining exact and reliable information, data of this type are less reliable than the statistical data, in particular because they are estimated figures based on a limited number of economic actors in each country.

- In addition to the uncertainty of the economic data, the correlation of these data with estimated degrees of territorialisation in the selected sample of countries adds further uncertainty to the results. The conclusions about these correlations, therefore, must not be taken to be statistically reliable / significant, but rather they should be treated as indications of possible correlations.

# Document de synthèse – version française

## Introduction

- L'objectif de l'étude sur la territorialisation consiste à fournir des données *claires* et *fiables* sur l'impact des conditions de « territorialisation » imposées par certains États membres pour l'octroi d'aides d'État au secteur du cinéma. L'étude fournira :

1 Un point de vue objectif et synthétique de la situation juridique concernant les clauses de territorialisation.

2 Une évaluation claire, d'un point de vue économique (tant au niveau macro- que micro-économique), de l'impact des clauses de territorialisation sur l'industrie du cinéma.

3 Une évaluation portant sur la question de savoir si les conditions de territorialisation constituent une entrave aux coproductions européennes.

4 Une évaluation objective, d'un point de vue culturel, de l'impact d'une suppression éventuelle des conditions de territorialisation.

- Le contenu des travaux porte exclusivement sur les évaluations juridique, économique et culturelle – toute considération politique sort du cadre du présent rapport.

- La période de référence couverte par l'étude correspond aux cinq dernières années pour lesquelles des données sont disponibles, à savoir 2001 – 2005.

- La couverture géographique se limite à l'UE25, car la Bulgarie et la Roumanie ont rejoint l'UE après le commencement de l'étude.

## Partie A : Synopsis du cadre juridique

- L'objectif de la partie juridique de l'étude, Partie A, consiste à évaluer les dispositions réglementaires ainsi que les pratiques administratives et judiciaires concernant les conditions de territorialisation, dans le contexte spécifique des questions abordées à la Section 2 des Communications Cinéma de 2001 et de 2004 de la Commission. Par conséquent, ce chapitre présente un résumé et une évaluation des principales questions juridiques en jeu et, dans l'Annexe électronique, une analyse détaillée et critique des aspects juridiques de la territorialisation dans chacun des 25 États membres (« Fiches de synthèse »[6]), couvrant tous les régimes de financement (funding schemes) nationaux et régionaux qui disposaient pendant la période de référence d'un budget annuel d'au moins € 1 million. Nous avons analysé 140 régimes de financement dans 25 États membres en ce qui concerne les règlements renfermant des conditions de territorialisation et les pratiques administratives et judiciaires y associées. Les conditions de territorialisation de ces régimes de financement varient énormément quant à leur forme et à leur contenu.

[6] Les Fiches de synthèse des États membres se trouvent dans la base de données juridiques en ligne sur le site www.germann-avocats.com. Cette base de données juridiques renferme les réponses des avocats locaux à notre questionnaire sur les conditions de territorialisation (Annexe B), ainsi que les dispositions réglementaires applicables pour chaque État membre.

- Nous avons constaté que certains types de conditions de territorialisation permettent de quantifier clairement le degré de territorialisation tandis que d'autres ne renferment aucun critère quantifiable :
  - Parmi les conditions de territorialisation quantifiées ou quantifiables figure l'obligation de dépenser un certain pourcentage du budget d'un film ou de la subvention dans l'État membre ou une de ses régions.
  - Les conditions quantitativement indéfinies comprennent, par exemple, l'obligation de tourner un film localement dans sa majeure partie, d'utiliser des marchandises et des prestataires techniques locaux, ou d'employer du personnel résidant ou domicilié dans le pays.
  - Dans certains cas, des clauses exposant des justifications culturelles et des objectifs économiques rendent la situation encore plus floue lorsqu'elles s'appliquent à des concepts ou des objectifs généraux se prêtant à des interprétations très diverses.
- Les principales conclusions de la Partie A peuvent se résumer comme suit (pour plus de détails, voir également les annexes A et A bis) :
  - Les conditions de territorialisation peuvent se classer en deux catégories principales : les conditions de territorialisation qui sont quantifiées par la loi et celles qui ne le sont pas. Chaque catégorie peut ensuite être subdivisée en conditions directes et indirectes.
  - Certaines conditions de territorialisation spécifient qu'un certain pourcentage du budget du film ou de l'aide d'État accordée soit dépensé localement (« conditions de territorialisation quantifiées par la loi »), tandis que d'autres obligations exigent un tournage dans le pays, l'utilisation d'installations et de prestataires techniques locaux ou l'emploi de personnels domiciliés ou résidant dans le pays (« conditions de territorialisation non quantifiées par la loi »).
  - Les conditions de territorialisation se trouvent au sein de dispositions s'y rapportant spécifiquement (« conditions directes de territorialisation »), ainsi qu'au sein de dispositions portant sur des critères et procédures de certification de nationalité, sur des mécanismes sélectifs d'octroi d'aides d'État ou des clauses de finalité ou culturelles (« conditions indirectes de territorialisation »).
  - On peut trouver différentes catégories de conditions de territorialisation au sein d'un même régime de financement (p. ex. un même régime de financement peut imposer des conditions de territorialisation directes et indirectes, ainsi que quantifiées et non quantifiées) et parmi les régimes de financement d'un même État membre.
  - Des conditions directes de territorialisation quantifiées par la loi s'appliquent dans le cas de 21 % des régimes de financement analysés, qui représentent en tout 24 % des budgets de tous les régimes de financement analysés.
  - Des conditions directes de territorialisation non quantifiées par la loi s'appliquent dans le cas de 9 % des régimes de financement analysés, qui représentent au total 12 % des budgets de tous les régimes de financement analysés.
  - 21 % des régimes de financement analysés n'imposent aucune condition directe ni indirecte de territorialisation. 6 % des régimes de financement analysés n'imposent que des conditions directes de territorialisation, et

49 % des régimes de financement analysés n'imposent que des conditions indirectes de territorialisation. Enfin, 24 % des régimes de financement analysés imposent à la fois des conditions directes et indirectes de territorialisation.

- Une grande majorité des régimes de financement analysés, à savoir 68 % des régimes de financement, représentant au total 59 % des budgets de la totalité des régimes de financement, impose des conditions de territorialisation directes ou indirectes qui ne sont pas quantifiées, ou ne le sont pas pleinement, dans les dispositions réglementaires applicables.
- 11 % des régimes de financement analysés comportent uniquement des conditions de territorialisation quantifiées, représentant au total 25 % des budgets de la totalité des régimes de financement analysés.
- Il n'existe pratiquement pas de jurisprudence ou pratique administrative, et par conséquent aucune preuve de l'existence de conditions tacites ou implicites de territorialisation. De ce fait, nous n'avons pas tenu compte de ces dernières dans le calcul du degré de territorialisation dans la partie A. Dans de nombreux cas, on peut interpréter les clauses de finalité et culturelles comme une instruction au régime de financement de favoriser les œuvres locales et les fournisseurs d'œuvres locaux. De telles instructions peuvent d'une certaine façon influencer l'accord d'aides d'État. Toutefois, nous n'avons pas pris ces clauses en compte dans nos calculs lorsque les avocats locaux ne fournissaient pas de preuves manifestes de leur impact.

**Partie B : Analyse des subventions publiques**

- L'objectif de la partie B était d'identifier et d'analyser les budgets disponibles et réellement consacrés au soutien des œuvres cinématographiques et audiovisuelles dans les 25 États membres.

- Les principales sources de données ont été (1) la base de données KORDA, (2) un sondage réalisé par le consultant de novembre 2006 à mai 2007 auprès de 90 organismes européens de financement du cinéma, tous supposés disposer de budgets dépassant €1m (un million d'euros), et (3) une recherche sur documents et un sondage par téléphone sur les régimes d'incitation fiscale. Sur les 90 organismes de financement, 45 ont répondu complètement ou partiellement au questionnaire. Par conséquent, le sondage n'est pas totalement représentatif. Par ailleurs, on a découvert des lacunes dans certains types de données KORDA, ainsi que dans les données relatives aux régimes d'incitation fiscale.

- Les principales conclusions tirées du sondage réalisé auprès des organismes de financement dont le budget annuel dépassait 1 million d'euros sont les suivantes :

  - Sur la base de ce sondage, il est estimé qu'environ 20 % du budget des organismes de financement au sein des États membres de l'U.E. sont subordonnés à des conditions de territorialisation explicites. Ce pourcentage est resté très stable sur la période de cinq ans considérée.

  - Selon le sondage, plus des deux tiers de l'aide au cinéma sont accordés d'une manière sélective, le reste étant octroyé automatiquement. Le

pourcentage moyen d'aide octroyée de manière sélective s'élève à 87 % pour tous les répondants, à l'exception du CNC français. Cette pratique est restée inchangée au cours de la période d'étude.

- Presque 70 % du budget des organismes de financement sont consacrés à des activités en phase de production.

- Seuls quelques organismes de financement ont fourni des informations sur les types de production qui bénéficiaient de leur soutien, mais ceux qui en ont fourni ont indiqué qu'ils allouaient 80 % de leur budget aux productions nationales et les 20 % restants aux coproductions.

- Environ 75 % du budget est alloué sous forme de subventions et 25 % sous forme de prêts à taux bonifié. Toutefois, ce résultat est influencé par le CNC français, sans lequel la part moyenne des budgets accordée sous forme de subventions ne serait que d'environ 50 %.

- Un nombre croissant de pays applique des régimes d'incitation fiscale. Dans dix États membres, ceci représente une part importante de l'aide d'État. Au Royaume-Uni, à Malte, en Finlande, en Hongrie et en Irlande en particulier, les incitations fiscales constituent une part importante du total de l'aide d'État.

- Le montant total de l'aide d'État qui provient des organismes de financement analysés disposant de budgets de plus d'un million d'euros et des régimes d'incitation fiscale équivaut en moyenne à 5 euros par habitant dans l'UE25, les incitations fiscales représentant 40 % de ce montant. Le montant moyen de l'aide d'État varie d'un maximum de 16 euros par habitant au Royaume-Uni et 10 euros par habitant en France et moins d'un euro dans des pays comme la Grèce, la Lettonie, la Lituanie et la République tchèque.

**Échantillon de pays**

- Sur la base de l'analyse des informations juridiques et budgétaires pour chacun des 25 États membres, l'objectif de cette section consistait à choisir un échantillon représentatif d'États membres afin de procéder à une analyse détaillée des effets de la territorialisation.

- Le choix de l'échantillon a été étayé et validé par une évaluation qualitative basée sur les informations tirées des parties A et B de l'étude. L'échantillon était notamment conçu de manière à être représentatif du point de vue de la situation géographique, de l'importance du secteur audiovisuel et de l'application de conditions de territorialisation.

- Pour faciliter le processus de sélection, les consultants ont élaboré deux indices permettant de mesurer l'intensité ou le degré de territorialisation :

  - un indice de territorialisation fondé sur des données juridiques, et calculé sur la base de la proportion du financement qui est légalement territorialisé par rapport au financement total dans l'État membre

- un indice du coût de production, s'appuyant sur l'indice (juridique) susmentionné, mais axé sur les conséquences, pour un réalisateur de cinéma représentatif, de l'obligation de territorialiser un certain pourcentage des coûts de production.

- Bien que l'indice juridique de territorialisation ait été utilisé comme référence, c'est en définitive sur la base de l'indice du coût de production que les États membres ont été classés en vue de leur sélection et de l'analyse ultérieure.

- L'indice du coût de production a permis de classer les États membres sélectionnés pour l'analyse selon quatre niveaux de territorialisation :
  - forte territorialisation : part du budget de production subordonnée à des conditions de territorialisation = 80 % - 100 %
  - territorialisation modérée : part du budget de production subordonnée à des conditions de territorialisation = > 20 % - < 80 %
  - faible territorialisation : part du budget de production subordonnée à des conditions de territorialisation = > 5 % - 20 %
  - aucune territorialisation significative : part du budget de production subordonnée à des conditions de territorialisation = 0 % - 5 %

- En vue de l'analyse dans le cadre des parties C et D, on a établi une liste de huit pays représentant les quatre niveaux de territorialisation selon l'indice du coût de production : la République tchèque, le Danemark, la Finlande et la Suède (aucune territorialisation significative), la Hongrie (faible territorialisation), l'Allemagne et l'Espagne (territorialisation modérée) et la France (forte territorialisation).

**Partie C : Description de la structure économique**

- La partie C fournit une description de la structure économique du secteur audiovisuel dans l'échantillon susmentionné de huit pays. La structure économique est décrite par le biais de la présentation de données macroéconomiques relatives au secteur concerné et de données microéconomiques concernant six services sélectionnés liés à la production cinématographique.

*Partie C1 : données macro-économiques*

- La partie C1 décrit les données macroéconomiques relatives aux secteurs du cinéma et de l'audiovisuel qui ont été collectées à partir des sources de données disponibles, y compris l'annuaire de l'Observatoire européen de l'audiovisuel et les études existantes du secteur du cinéma.

- Le chiffre d'affaires annuel par habitant du secteur audiovisuel va de €70 en République tchèque à environ €350 en France. Le chiffre d'affaires total du secteur audiovisuel varie entre 0,7 % et 1,4 % du PNB dans les huit pays.

- Les emplois dans le secteur audiovisuel représentent environ 0,2 – 0,3 % du nombre total d'emplois dans tous les pays sélectionnés, sauf la République tchèque, où ils en représentent 0,1 %.

- Le chiffre d'affaires annuel par habitant du secteur audiovisuel va de €70 en République tchèque à environ €350 en France. Il varie entre 0,7 % et 1,4 % du PNB dans les huit pays.

- Le nombre de sociétés actives dans le secteur audiovisuel dans les huit États membres varie entre 113 par million d'habitants en Allemagne à plus de 400 en Suède et en Hongrie.

- Le nombre de longs métrages par million d'habitants varie entre un et sept par an, dont moins de 50 % sont des coproductions internationales. Le pourcentage de films nationaux est le plus élevé en Finlande, en République tchèque, en Hongrie et en Allemagne.

*Partie C2 : données micro-économiques*

- La partie C2 fournit un ensemble de données plus spécifiques sur les caractéristiques microéconomiques des secteurs du cinéma et de l'audiovisuel dans les huit pays sélectionnés. Les données ont été collectées au cours de sondages par téléphone et par correspondance électronique avec plusieurs parties prenantes clés et concernées dans les pays sélectionnés.

- Six services typiques ont été sélectionnés et des données ont été recueillies afin d'estimer : les prix, les capacités et le degré d'utilisation de ces capacités. Les services sélectionnés sont tous spécialisés et étroitement liés au secteur du cinéma. Ainsi, cette sélection permet le plus haut degré possible de comparabilité. Il s'agit des services de distribution artistique, du chef électricien, du réglage de la mise au point, de la location de matériel cinématographique, ainsi que du montage et du développement des films.

**Partie D : Comparaison entre les indicateurs économiques et les budgets des films**

- La partie D a pour objectif général d'analyser et de comparer les structures économiques du secteur du cinéma dans le contexte des divers degrés de territorialisation. La partie D contient notamment une analyse des corrélations possibles entre la territorialisation et les données aux niveaux macroéconomique et microéconomique.

*Partie D1 : comparaison des indicateurs économiques*

- Dans la partie D1, les caractéristiques économiques des secteurs du cinéma et de l'audiovisuel identifiées dans la partie C, ont été analysées pour des groupes de pays selon les divers degrés de territorialisation.

- En ce qui concerne les caractéristiques macroéconomiques, on n'a observé qu'une faible corrélation positive entre le chiffre d'affaires par habitant du secteur audiovisuel d'un pays et l'intensité de territorialisation dans ce pays. Toutefois, il n'est pas possible de tirer une conclusion définitive quant à la question de savoir si les chiffres d'affaires plus élevés par habitant résultent d'une territorialisation plus forte, ou si l'intérêt politique accordé à la territorialisation résulte de la plus grande importance du secteur audiovisuel dans les pays où ce secteur est relativement développé.

- L'analyse des caractéristiques microéconomiques a révélé qu'il existe une certaine corrélation positive entre les coûts des services techniques dans le secteur du cinéma et le degré de territorialisation. À l'exception des pays de l'Europe de l'Est, la territorialisation semble s'accompagner de prix de

prestations relativement plus élevés par rapport au niveau général des salaires dans les pays respectifs.

- L'analyse conduit par ailleurs au rejet de l'hypothèse selon laquelle il existerait une corrélation positive entre les capacités (par habitant) des services sélectionnés du secteur du cinéma et le degré de territorialisation.

- Aucune corrélation (positive ou négative) n'a été observée entre l'utilisation des capacités et l'intensité de territorialisation.

*Partie D2 : analyse des budgets de films*

- La partie D2 analyse la structure des budgets de films réalisés dans des pays connaissant des intensités de territorialisation différentes. Elle a pour but d'examiner comment la territorialisation peut affecter la concurrence dans le secteur audiovisuel.

- On a analysé les budgets de 25 films (dont des productions réalisées dans un seul pays et des coproductions), disposant de budgets de différentes tailles. Les budgets fournis par les réalisateurs de cinéma étaient généralement ventilés en catégories de coûts couvrant la préproduction, la production et la postproduction. Dans certains cas les budgets contenaient davantage de détails.

- On a identifié une faible corrélation positive entre le pourcentage du montant des budgets consacré à la production et à la préproduction et l'intensité de territorialisation dans les pays concernés.

- L'analyse des catégories de coûts spécifiques des budgets semble indiquer que, pour les films produits dans les pays appliquant des conditions de territorialisation, une proportion légèrement supérieure du budget est consacrée aux frais de déplacement, de transport, d'hébergement et aux indemnités.

**Partie E : Synopsis des accords de coproduction et identification du nombre total de coproductions dans l'UE25**

- L'objectif de la partie E consiste à fournir un résumé clair des accords de coproduction en vigueur dans les États membres de l'UE25 et, tout particulièrement, d'identifier le nombre de coproductions internationales par rapport au nombre total de productions, pour la période de référence, entre les États membres qui imposent des conditions de territorialisation, entre ceux qui n'en imposent pas, et entre un État membre qui impose des conditions de territorialisation et un autre qui n'en impose pas.

- Les 36 traités bilatéraux de coproduction existant entre les États membres de l'UE25 qui sont répertoriés dans la base de données MERLIN sont en vigueur entre le Royaume-Uni, la France, l'Espagne, l'Allemagne ou l'Italie et un autre État membre[7].

[7] Nous sommes conscients du fait que la base de données MERLIN de l'Observatoire Européen de l'Audiovisuel (OEA) n'est pas encore complète et qu'un petit nombre d'accords de coproduction n'y figurent pas encore. Dans la mesure du possible, nous avons inclus les accords manquants dans la partie A de l'étude. Toutefois, la base de données MERLIN renferme les données nécessaires à la comparaison des traités et, par conséquent, cette partie de l'étude se concentre sur les 36 traités figurant dans MERLIN.

- La majorité des accords couvre des films cinématographiques de n'importe quelle longueur et n'importe quel genre, et exige de tous les pays coproducteurs une contribution financière minimum de 20 %-30 %, une contribution maximum de 70 %-80 %, ainsi que des contributions techniques et créatives.

- Une petite minorité d'accords prévoit la possibilité pour un pays coproducteur d'être uniquement un partenaire financier, dans quel cas sa contribution se situe normalement entre 10 % et 20 %.

- Sur les 1 009[8] coproductions bilatérales[9] réalisées dans l'UE25 durant la période de référence, 816 coproductions ont été réalisés par deux États membres de l'UE25 imposant des conditions de territorialisation, 104 par deux États membres, dont l'un imposait des conditions de territorialisation et l'autre pas, et 89 par deux États, qui n'imposaient ni l'un ni l'autre des conditions de territorialisation.

- La France, l'Allemagne, l'Italie, l'Espagne et le Royaume-Uni, qui imposent tous des conditions de territorialisation, ont participé à 77 % à toutes les coproductions réalisées dans l'UE25 durant la période de référence.

- Durant la période de référence, 43,3 % du nombre total de productions des États membres qui n'imposent pas de conditions de territorialisation étaient des coproductions, cette proportion étant très similaire (43 %) dans les États membres qui imposent des conditions de territorialisation.

- Il ne semble pas exister de lien direct entre l'importance et la stabilité d'un secteur audiovisuel et sa propension à réaliser des coproductions. Certains secteurs stables dotés d'importants moyens financiers et territorialisés affichent une forte proportion de coproductions (par exemple en France, où elles représentent 42 % du nombre total de productions), tandis que dans d'autres la production est faible (24 % en Espagne, par exemple). On a constaté des écarts semblables entre les pays n'imposant pas de conditions de territorialisation (par exemple, entre la République tchèque avec 33 % et le Danemark avec 56 %). Toutefois, certaines données indiquent que les secteurs de petite taille non territorialisés peuvent être plus susceptibles de réaliser des coproductions que les secteurs plus développés.

- Il semble y avoir un lien étroit entre la proximité géographique et la fréquence des coproductions, les pays voisins réalisant souvent des coproductions ensemble. Parmi le groupe des États membres qui n'imposent

[8] Sur les 1 009 coproductions bilatérales, 317 (31,4 %) ont été réalisées en dehors des accords bilatéraux identifiés dans la base de données MERLIN et dans la partie A. Bon nombre d'entre elles ont vraisemblablement été réalisées dans le cadre de la Convention européenne sur la coproduction cinématographique, à laquelle les États membres de l'UE25 sont parties, et qui peut tenir lieu de traité bilatéral lorsqu'aucun n'est en vigueur. Toutefois, cela peut bien aussi inclure les coproductions informelles et les « runaway productions » ou délocalisations des tournages (productions tournées dans un lieu particulier purement pour des raisons financières).

[9] Les données concernant le nombre total de coproductions réalisées entre 2001 et 2005 ont été fournies par l'OEA et tirées de la base de données LUMIERE qui répertorie les entrées réalisées par les films distribués en salle. Elles couvrent uniquement les coproductions bilatérales et ne font pas la distinction entres les coproductions majoritaires et minoritaires. Les données couvrent les films sortis entre 2001 et 2005, et par conséquent excluent certains films réalisés durant la période de référence, mais sortis après 2005. Les films réalisés en collaboration avec des partenaires américains uniquement pour des raisons financières ont généralement été exclus.

pas de conditions de territorialisation, les coproductions entre la Suède et le Danemark (52 %), entre la République tchèque et la Slovaquie (17 %), et entre la Suède et la Finlande (26 %) représentent la majorité des coproductions dans ce groupe. Parmi le groupe des États membres qui imposent des conditions de territorialisation, les partenariats entre la France et la Belgique (14 % des coproductions de ce groupe), entre la France et l'Italie (9 %), et entre la France et le Royaume-Uni (9 %) sont les plus actifs en matière de coproductions.

**Partie F : Évaluation qualitative de l'impact des conditions de territorialisation sur les coproductions**

- L'objectif de la partie F consiste à fournir une évaluation qualitative, basée sur des sondages menés auprès des principales parties prenantes et sur les conclusions des parties précédentes de l'étude, de la question de savoir si les conditions de territorialisation rattachées aux régimes d'aide constituent une entrave à la réalisation de films aux termes des accords européens de coproduction.
- Les données ont été collectées par le biais de sondages auprès de 40 parties prenantes, qui étaient principalement des producteurs et des représentants de fonds nationaux et régionaux de soutien au cinéma.
- Les organismes de financement appliquent des clauses de territorialisation afin de justifier des dépenses publiques plus importantes en faveur du secteur audiovisuel, y compris les coproductions.
- En général, les personnes interrogées partagent largement l'opinion selon laquelle les clauses de coproduction et de territorialisation sont, en fait, complémentaires. On entreprend des coproductions afin d'accéder aux fonds disponibles dans d'autres États membres, mais ces fonds ne seraient pas disponibles sans un certain degré de territorialisation.
- Les données qualitatives retirées des entretiens indiquent l'existence courante en Europe d'une territorialisation implicite, allant dans le sens du même objectif qui est d'accroître la production nationale. Cela implique que, si l'on supprimait les clauses de territorialisation explicites, la situation ne changerait peut-être pas énormément, et deviendrait moins transparente du fait que le degré de territorialisation implicite risquerait d'augmenter.
- Des facteurs autres que la territorialisation peuvent influer sur les coproductions, en particulier la situation géographique, les pays voisins étant plus susceptibles de réaliser des coproductions ensemble. Les données quantitatives et qualitatives semblent indiquer que la taille et l'importance du secteur audiovisuel d'un pays particulier n'ont pas d'effet direct sur sa propension à réaliser des coproductions.
- Selon les parties prenantes, les raisons principales incitant à réaliser des coproductions sont l'accès à des fonds supplémentaires, le partage des risques et l'accès à des canaux de distribution. Les aspects des coproductions qui sont les plus susceptibles d'être directement influencés par les clauses de territorialisation sont l'accès à des fonds supplémentaires et les nécessités du scénario.
- La territorialisation peut engendrer une augmentation des coûts de production et certains manques d'efficacité pour ce qui est des

coproductions. Cependant, les réalisateurs ont bien précisé que, dans la mesure du possible, cet effet négatif était évité par le biais d'une évaluation rigoureuse des organismes de financement, d'une part, et de discussions avec ces derniers, d'autre part.

- La plupart des parties prenantes considèrent que l'établissement de modalités de territorialisation souples, mais clairement définies et simples, permettrait d'éviter que la territorialisation n'entrave les activités de coproduction. Elles préfèrent également les régimes octroyant une aide de manière automatique aux mécanismes sélectifs.

**Partie G : Impact culturel de la suppression éventuelle des conditions de territorialisation**

- La partie G a pour objet de fournir une évaluation qualitative, basée sur des sondages et sur les conclusions des parties précédentes de l'étude, des conséquences culturelles que pourrait avoir la suppression, ou la réduction, des modalités de territorialisation qui sont rattachées aux régimes d'aide nationaux et régionaux.
- Les données ont été collectées par le biais de sondages auprès des 40 parties prenantes déjà interrogées pour la partie F.
- Les caractéristiques culturelles du cinéma qui, selon les parties prenantes, sont protégées par la territorialisation sont les suivantes : langue, identité nationale, nouveaux talents et festivals.
- La plupart des personnes interrogées soutiennent que la territorialisation, explicite et implicite, stimule la diversité culturelle. Toutefois, d'importantes réserves ont été exprimées : 1) les modalités actuelles favorisent les productions nationales plutôt que les coproductions ; 2) les modalités actuelles conduisent à un « surapprovisionnement» en petits films nationaux qu'il n'est pas possible de distribuer.
- Comme dans la partie F de l'étude, les parties prenantes craignaient que la suppression des conditions explicites de territorialisation ne conduise à une territorialisation implicite plus répandue. Cela pourrait entraîner une concentration des moyens sur les productions nationales et rendre la distribution des films plus problématique.
- La plupart des personnes interrogées estiment que le secteur local est nécessaire à la promotion de la diversité culturelle, et que la territorialisation, explicite ou implicite, protège le secteur local. Certaines personnes pensent que les États membres où le secteur audiovisuel n'est pas aussi développé, pourraient ressentir un impact particulièrement négatif au niveau culturel si l'on supprimait ou réduisait les conditions de territorialisation, car ils risqueraient de perdre une grande part de leurs capacités à réaliser leurs propres films.
- Un grand nombre de parties prenantes considèrent que les coproductions, qui permettent un partage des cultures, sont importantes pour la diversité culturelle. Il conviendra donc de ne pas perdre de vue notre conclusion selon laquelle l'application de modalités de territorialisation souples et claires faciliteraient, de l'avis général, la réalisation de coproductions.

## Conclusions générales

*Analyse juridique*

- Les obligations de territorialisation analysées dans cette Etude sous l'angle juridique présentent une grande diversité au niveau de leurs formes et contenus. Le nombre élevé et la complexité considérable de ces obligations de territorialisation peuvent causer des conflits de règles et de l'insécurité juridique. Nous en concluons que cette situation juridique est difficile et coûteuse à gérer, cela tant pour les producteurs de films lorsqu'ils demandent des aides publiques que pour les législateurs et les instances octroyant ces aides lorsqu'ils cherchent à élaborer et à mettre en œuvre de manière cohérente les diverses règles et politiques applicables, qui sont liées à la culture, à la concurrence et au commerce.
- Une grande majorité des fonds de financement qui ont été répertoriés par les avocats locaux contiennent des obligations de territorialisation qui ne sont pas ou seulement partiellement quantifiés au niveau des règles en question. L'analyse de l'intensité de la territorialisation à l'échelle des Etats membres sur la base d'outils juridiques est par conséquent limitée.
- Sur la base des informations fournies par les avocats locaux, il n'existe aucune jurisprudence et pratique pertinente qui nous permettrait de conclure à l'existence d'obligations de territorialisation "implicites" ou "tacites". En outre, sur la base de notre analyse juridique, nous n'avons pas trouvé d'indications selon lesquelles les obligations de territorialisation en vigueur constitueraient des obstacles aux accords de coproduction. Dans ces deux cas, toutefois, nous ne sommes pas en mesure de conclure si ces constatations reflètent également la réalité en l'absence d'une jurisprudence et pratique rapportée.

*Structure économique*

- L'analyse économique a révélé que plus le degré de territorialisation était fort, plus le chiffre d'affaires du secteur audiovisuel de l'État membre en question était élevé. Il n'est toutefois pas possible de déterminer si la territorialisation est à l'origine de l'augmentation du chiffre d'affaires ou si le volume du chiffre d'affaires exerce des pressions qui poussent à une plus grande territorialisation.
- Les données suggèrent également que les coûts des services nécessaires à la réalisation de films sont plus élevés dans les pays qui imposent des conditions de territorialisation que dans les autres.

*Coproductions*

- Les conditions de territorialisation n'entravent pas la réalisation de coproductions, En fait, elles facilitent le financement de toutes sortes de productions (y compris les coproductions) qui, sans cela, n'auraient peut-être pas vu le jour.
- Les conditions de territorialisation peuvent, néanmoins, créer des difficultés au niveau des coproductions et parfois rendre celles-ci inefficaces.

*Incidences culturelles*

- Il semblerait que la suppression des modalités de territorialisation puisse conduire à une intensification de la territorialisation implicite. Si cela se produisait, les fonds risqueraient, entre autres conséquences, d'être davantage dirigés vers des productions nationales, ce qui rendrait plus difficile la circulation des films entre les différents pays et cultures.

**Clauses de non responsabilité et mise en garde concernant l'analyse statistique**

- Tous les travaux réalisés dans le cadre de ce rapport sont, dans une certaine mesure, basés sur l'échantillonnage et les sondages effectués et reposent sur certaines suppositions ; il faudra donc tenir compte du fait que la validité des conclusions est déterminée par ces contraintes.
- En particulier, l'analyse des organismes de financement de la partie B est basée sur les informations, l'interprétation et l'évaluation d'un sondage réalisé auprès d'organismes de financement européens de différentes tailles, mais disposant tous de budgets annuels supposés supérieurs à €1 million. Étant donné des taux de réponse atteignant un maximum de 40 %, et variant d'une question à l'autre, les résultats ne peuvent pas être interprétés comme étant statistiquement représentatifs. Ils sont néanmoins valides en tant qu'indications de la tendance actuelle en ce qui concerne le soutien au secteur audiovisuel.
- Par ailleurs, les descriptions, analyses et conclusions des parties C et D sont basées sur des sources diverses. Les données macroéconomiques proviennent principalement de l'annuaire de l'Observatoire européen de l'audiovisuel et d'autres sources officielles, telles que les offices statistiques nationaux. Les données microéconomiques ont toutes été rassemblées à partir de diverses sources liées au marché, à savoir prestataires de services, acheteurs de services, organisations syndicales, réalisateurs et associations de réalisateurs des huit États membres sélectionnés. Malgré les efforts déployés afin d'obtenir des informations exactes et fiables, les données de ce type sont moins fiables que les données statistiques, notamment parce qu'il s'agit de chiffres estimés sur la base d'un nombre limité d'acteurs économiques dans chaque pays.
- Outre l'incertitude des données économiques, la corrélation de ces données avec les degrés estimés de territorialisation dans l'échantillon de pays sélectionné accroît encore l'incertitude des résultats. Par conséquent, les conclusions concernant ces corrélations ne devront pas être considérées statistiquement fiables/significatives, mais traitées plutôt comme indications de corrélations possibles.

# Kurzfassung – Deutsche Version

**Einführung**

- Ziel dieser Territorialisierungsstudie ist es, *klare* und *zuverlässige* Daten über die Konsequenzen der „Territorialisierung" zu liefern, wie sie durch gewisse staatliche Beihilfeprogramme zur Unterstützung der Filmwirtschaft vorgeschrieben wird. Ergebnisse der Studie:

1 Eine objektive und synthetische Darstellung der rechtlichen Situation im Zusammenhang mit den Territorialisierungsvorschriften.

2 Eine klare Beurteilung der Auswirkungen der Territorialisierung auf die Filmwirtschaft aus ökonomischer Sicht (sowohl auf Makro- als auch auf Mikroebene).

3 Eine Untersuchung, ob Territorialisierungsklauseln ein Hindernis für europäische Koproduktionen darstellen.

4 Eine objektive Beurteilung (aus kultureller Sicht) der Folgen, die eine mögliche Aufhebung der Territorialisierungsvorschriften nach sich ziehen würde.

- Inhaltlich befasst sich die Arbeit ausschließlich mit den rechtlichen, wirtschaftlichen und kulturellen Fragen; die politische Dimension fällt außerhalb dieses Berichts.

- Der von der Studie abgedeckte Referenzzeitraum umfasst die letzten fünf Jahre, für die Daten verfügbar sind, d. h. die Jahre 2001 - 2005.

- Die Studie ist begrenzt auf die EU25 Staaten, da Bulgarien und Rumänien der EU erst nach Beginn der Studie beigetreten sind.

**Teil A: Rechtliche Zusammenfassung**

- Ziel von Teil A (Rechtlicher Teil) der Territorialisierungsstudie ist die Beurteilung der Regelungen sowie der Rechtsprechung und Verwaltungspraxis im Zusammenhang mit den Territorialisierungsklauseln und im spezifischen Kontext der Fragen in Teil 2 der *Mitteilung der Kommission zur Filmwirtschaft* aus den Jahren 2001 und 2004. Dieses Kapitel enthält folglich eine Zusammenfassung und eine Bewertung der wichtigsten rechtlichen Fragestellungen und, im elektronischen Anhang, eine detaillierte und kritische Analyse der rechtlichen Aspekte der Territorialisierung in jedem der 25 Mitgliedstaaten („Synthesis Sheets"[10]). Erfasst wurden alle relevanten nationalen und regionalen Beihilfeprogramme ("funding schemes"), die innerhalb des Referenzzeitraums ein Budget von wenigstens 1 Mio € vorwiesen.

- Wir haben 140 Beihilfeprogramme in 25 Mitgliedstaaten in Bezug auf Regelungen mit Territorialisierungsklauseln sowie die damit in Verbindung stehende Rechtsprechung und Verwaltungspraxis geprüft. Die

[10] Die Synthesis-Sheets der Mitgliedstaaten werden in der juristischen Online-Datenbank unter www.germann-avocats.com gespeichert. Diese Datenbank enthält die Antworten von Juristen der jeweiligen Länder auf unseren Fragebogen über Territorialisierungsklauseln (Anhang B) sowie die geltenden Regelungen für die verschiedenen Mitgliedstaaten.

Territorialisierungsklauseln dieser Beihilfeprogramme zeichnen sich durch eine große Vielfalt in Form und Inhalt aus.

- Wir haben ermittelt, dass bestimmte Territorialisierungsklauseln eine klare Quantifizierung des Grades der Territorialisierung zulassen, wohingegen andere keine quantifizierbaren Kriterien beinhalten.
  - Unter den quantifizierten oder quantifizierbaren Territorialisierungsklauseln fanden wir die Verpflichtung einen prozentualen Anteil des Filmbudgets oder der Beihilfe entweder innerhalb des Mitgliedstaates oder in einer ihrer Regionen auszugeben.
  - Nicht quantifizierbare Territorialisierungsklauseln beinhalten zum Beispiel Konditionen, die besagen, dass ein Film in erster Linie innerhalb des jeweiligen Landes gedreht werden sollte, dass inländische technische Dienstleistungsanbieter und -einrichtungen zum Einsatz kommen sollten, oder dass inländische oder gebietsansässige Werktätige angestellt werden sollten.
  - Klauseln die kulturelle Rechftertigungen und ökonomische Ziele beschreiben, können allerdings für Unklarheit sorgen, wenn sie sich auf allgemeine Konzepte oder Ziele beziehen und so einen breiten Interpretationsspielraum lassen.

- Die Hauptergebnisse von Teil A der Studie können wie folgt zusammengefasst werden (für weitere Details, siehe Anhang A und A bis):
  - Territorialisierungsklauseln können in zwei Hauptkategorien unterteilt werden: rechtlich quantifizierte Territorialisierungsklauseln und nicht rechtlich quantifizierte Territorialisierungsklauseln. Letztere könne weiterhin unterteilt werden in direkte und indirekte Klauseln.
  - Territorialisierungsverpflichtungen sind entweder unter Rechtsbestimmungen zu finden, welche spezifisch diese Verpflichtungen zum Inhalt haben (“direct territorialisation requirements”), oder in Rechtsbestimmungen, welche nationalitätsbezogene Kriterien bzw. Zertifikationsverfahren, selektive Beihilfegewährungsmechanismen, gesetzgeberische Zielvorgaben oder Kulturförderungsklauseln beinhalten (“indirect territorialisation requirements”).
  - Bestimmte Territorialisierungsklauseln schreiben vor, dass ein prozentualer Anteil des Filmbudgets oder der vom Staat gewährten Beihilfe im Inland auszugeben ist („rechtlich quantifizierte Territorialisierungsklauseln“), während andere Bestimmungen verlangen, im Inland zu drehen, Aufträge an inländische technischen Dienstleistungsanbieter und -einrichtungen zu vergeben oder Aufträge durch inländische oder gebietsansässige Werktätige ausführen zu lassen („rechtlich nicht quantifizierte Territorialisierungsklauseln“).
  - Man findet sowohl innerhalb desselben Beihilfeprogramms, als auch unter den verschiedenen Beihilfeprogrammen desselben Mitgliedstaats, oft eine Mischung der verschiedenen Kategorien von Territorialisierungsklauseln (so kann ein Beihilfeprogramm direkte,

indirekte, sowie quantifizierte und nicht quantifizierte Territorialisierungsklauseln enthalten).

- Direkte, rechtlich quantifizierte Territorialisierungsklauseln gelten in 21% der analysierten Beihilfeprogramme, die insgesamt 24% der Budgets analysierten Beihilfeprogramme ausmachen.
- Direkte, nicht rechtlich quantifizierte, Territorialisierungsklauseln gelten in 9% der analysierten Beihilfeprogramme, die insgesamt 12% der Budgets aller analysierten Beihilfeprogramme ausmachen.
- In 21% der analysierten Beihilfeprogramme gibt es weder direkte noch indirekte Territorialisierungsklauseln. In 6% der analysierten Beihilfeprogramme gibt es nur direkte Territorialisierungsklauseln, und in 49% nur indirekte. Schließlich enthalten 24% der analysierten Beihilfeprogramme sowohl direkte als auch indirekte Territorialisierungsklauseln.
- Eine große Mehrheit der analysierten Beihilfeprogramme (68%), welche insgesamt 59% des Budgets aller Beihilfeprogramme ausmachen, beinhalten direkte and indirekte Territorialisierungsklauseln. Bezüglich der maßgeblichen Klauseln sind diese entweder gar nicht oder nicht vollständig quantifiziert.
- 11% der analysierten Beihilfeprogramme enthalten ausschließlich quantifizierte Territorialisierungsklauseln. Sie machen insgesamt 25% des Budgets aller analysierten Beihilfeprogramme aus.
- Es sind praktisch keine gerichtlichen oder administrativen Rechtsfälle bekannt, weswegen keine Beweise für stillschweigende oder implizierte Territorialisierungsvorschriften vorliegen. Daher haben wir sie nicht in die Berechnung der Territorialisierungsintensität in Teil A miteinbezogen. In vielen Fällen kann man die Bestimmungs- und Kulturklauseln dahingehend interpretieren, dass sie Beihilfeprogramme für lokale Drehorte und ansässige Produktionsteams bevorzugen. Es ist durchaus möglich, dass derartige Direktiven die Beihilfe von staatlicher Seite beinflussen. Wir haben die Klauseln jedoch nicht in unsere Berechnung miteinbezogen, wenn Juristen der jeweiligen Länder deren Einfluß nicht eindeutig nachweisen konnten.

**Teil B: Analyse der öffentlichen Subventionen**

- Ziel von Teil B war die Ermittlung und Analyse der verfügbaren und tatsächlich gewährten Beihilfen zur Förderung von Filmen und anderen audiovisuellen Werken in den 25 Mitgliedstaaten.

- Die wesentlichen Datenquellen waren (1) die Datenbank KORDA, (2) eine durch den Berater zwischen November 2006 und Mai 2007 durchgeführte Umfrage unter 90 europäischen Filmfördereinrichtungen, von denen jeweils angenommen wurde dass sie über Budgets von über 1 Mio € verfügten, und (3) eine kombinierte „Schreibtisch-Recherche“/Telefonumfrage im Zusammenhang mit europäischen Steueranreizmaßnahmen. Teilweise oder vollständige Antworten der Umfrage erhielten wir von 45 der 90 Filmfördereinrichtungen, womit die Umfrage faktisch nicht representativ ist. Desweiteren wiesen bestimmte Bereiche der KORDA Daten, sowie Daten die sich auf Steuererleichterungen bezogen, Lücken auf.

- Die wichtigsten Resultate der Umfrage unter Filmfördereinrichtungen mit jährlichen Budgets von über 1 Mio € waren:

  - -Schätzungsweise 20% der Budgets der Fördereinrichtungen in den EG-Mitgliedstaaten unterliegen Territorialisierungsvorschriften. Dieser Prozentsatz ist über den fünfjährigen Betrachtungszeitraum sehr stabil geblieben.

  - -Mehr als zwei Drittel der Beihilfe für die Filmproduktion wird auf selektiver Basis gewährt, der Rest automatisch. Der Prozentsatz der selektiv vergebenen Förderungsmittel liegt bei den Befragten durchschnittlich bei 87%. Die Ausnahme bildet das französische CNC (Centre National de la Cinématographie - das Nationale Filmzentrum). Auch dieser Wert ist über den fünfjährigen Betrachtungszeitraum sehr stabil geblieben.

  - -Fast 70% der Budgets der Förderungseinrichtungen wird für Aktivitäten in der Produktionsphase ausgegeben.

  - -Nur wenige Förderungseinrichtungen gaben Auskunft über die Natur der unterstützten Produktionen. Aber wenn diese Informationen vorlagen, wurden 80% für inländische Produktionen und die restlichen 20% für Koproduktionen ausgegeben.

  - -Etwa 75% der Budgets geförderter Filmwerke wurden in Form von Zuschüssen und 25% als „Soft Loan"-Vorschüsse zur Verfügung gestellt. Allerdings ist dieses Ergebnis durch das CNC beeinflusst; ohne das CNC sinkt der durchschnittliche Anteil der als Zuschüsse gewährten Budgets auf nur etwa 50%.

- In immer mehr Ländern gibt es mittlerweile auch steuerliche Anreize zur Unterstützung der Filmindustrie. In zehn Mitgliedstaaten sind Steuererleichterungen ein wichtiger Teil der staatlichen Beihilfe, namentlich im Vereinigten Königreich, in Malta, Finnland, Ungarn und Irland, in denen steuerliche Anreize einen erheblichen Teil der staatlichen Beihilfe insgesamt ausmachen.

- Die gesamte staatliche Unterstützung aus den analysierten Förderungseinrichtungen (mit Budgets über 1 Mio €) und von Steuererleichterungsprogrammen entspricht in den EU25 im Durchschnitt 5 € pro Kopf, und davon stammen etwa 40% von steuerlichen Sonderregelungen. Die durchschnittliche staatliche Pro-Kopf-Beihilfe für die Filmindustrie variiert zwischen maximal 16 € im Vereinigten Königreich, etwa 10 € in Frankreich und weniger als 1 € in Ländern wie Griechenland, Lettland, Litauen und der Tschechischen Republik.

**Länderbeispiele**

- Angesichts der Analyse von Rechts- und Beihilfeinformationen aller 25 Mitgliedsstaaten war die Zielsetzung dieses Abschnittes eine representative Auswahl von Mitgliedsstaaten zu treffen, um eine detaillierte Analyse der Territorialisierungsauswirkungen zu ermöglichen.

- Unterstützt und auf ihre Gültigkeit überprüft wurde diese Auswahl durch quantitative Untersuchungen, die auf Informationen von Teil A und B der Studie basierten. Im Besonderen war die Auswahl darauf ausgerichtet die geografische Lage, die Größe des audiovisuellen Sektors und der Territorialisierungspraxis widerzuspiegeln.

- Um den Auswahlprozess zu erleichtern wurden zwei Verzeichnisse entwickelt, welche Intensität, bzw. Grad der Territorialisierung messen:

  - ein Rechtsverzeichnis, basierend auf dem Verhältnis zwischen rechtlich territorialisierenden Zuschüssen und den gesamten Beihilfen innerhalb eines Mitgliedsstaates;

  - ein Produktionskostenverzeichnis, welches auf den Maßstäben des Rechtsverzeichnisses aufbaut, sich jedoch auf die Auswirkungen konzentriert, den der prozentuale Anteil der zu territorialisierenden Produktionskosten auf representative Filmproduzenten hat.

- Obwohl das Rechtsverzeichnis als Nachschlagwerk diente, wurde letztendlich das Produktionskostenverzeichnis herangezogen, um die Mitgliedstaaten für Auswahl und nachfolgende Analyse zu ordnen.

- Das Produktionskostenverzeichnis teilt die zur Analyse ausgewählten Mitgliedstaaten in vier Ebenen ein:

  - Hohe Territorialisierung: Anteil des Produktionskostenbudgets, das der Territorialisierung unterliegt = 80% - 100%;
  - Mittlere Territorialisierung: Anteil des Produktionskostenbudgets, das der Territorialisierung unterliegt = >20% - <80%;
  - Niedrige Territorialisierung: Anteil des Produktionskostenbudgets, das der Territorialisierung unterliegt = >5% - 20%;
  - Keine wesentliche Territorialisierung: Anteil des Produktionskostenbudgets, das der Territorialisierung unterliegt = 0% - 5%.

- Es wurde eine Liste von acht Ländern erstellt, die obige vier Territorialisierungebenen anhand des Produktionskostenverzeichnisses repräsentieren: Tschechische Republik, Dänemark, Finnland und Schweden (keine wesentliche Territorialisierung), Ungarn (niedrige Territorialisierung), Deutschland und Spanien (mittlere Territorialisierung), und Frankreich (hohe Territorialisierung).

**Teil C: Beschreibung der ökonomischen Struktur**

- Teil C enthält eine Beschreibung der ökonomischen Struktur des audiovisuellen Sektors in der oben genannten acht-Länder-Auswahl. Die ökonomische Struktur wird durch Daten auf Makro- und Mikroebene für sechs ausgewählte Dienstleistungen mit Bezug zur Filmindustrie beschrieben.

*Teil C1: Makrodaten*

- Teil C1 beschreibt Daten auf Makroebene in der Film- und audiovisuellen Industrie aus verfügbaren Datenquellen, u.a. dem Europäischen

Audiovisuellen Beobachtungsstelle (EAO)-Jahrbuch und Studien zum Filmsektor.

- Der in der audiovisuellen Industrie produzierte jährliche Pro-Kopf-Umsatz reicht von 70 € in der Tschechischen Republik bis 350 € in Frankreich. In allen acht Ländern variiert der gesamte audiovisuelle Umsatz zwischen 0,7% und 1,4% des Bruttosozialprodukts.

- Die Beschäftigung im audiovisuellen Sektor beträgt rund 0,2 - 0,3% der Gesamtbeschäftigung in allen ausgewählten Ländern. Ausnahme ist die Tschechische Republik mit nur 0,1%.

- Die Zahl der im audiovisuellen Sektor tätigen Unternehmen in den acht Mitgliedstaaten variiert von 113 Unternehmen pro Million Einwohnern in Deutschland zu über 400 Unternehmen in Schweden und Ungarn.

- Die Anzahl von Spielfilmen pro Million Einwohner variiert zwischen einem und sieben Filmen pro Jahr; von diesen sind weniger als 50% internationale Koproduktionen. Am höchsten ist der prozentuale Anteil nationaler Filme in Finnland, der Tschechischen Republik, in Ungarn und in Deutschland.

*Teil C2: Mikrodaten*

- Teil C2 ist eine Zusammenstellung spezifischer Daten auf Mikroebene zu Merkmalen der Film- und audiovisuellen Branche in den acht ausgewählten Ländern. Die Daten wurden anhand von Telefoninterviews und E-Mail-Korrespondenz mit einer Reihe von Teilnehmern aus den betroffenen Kreisen in den ausgewählten Ländern erhoben.

- Es wurden sechs typische Dienstleistungen ausgewählt, und Daten wurden gesammelt, um Preisniveaus, Kapazitäten und Kapazitätsnutzungsraten zu ermitteln. Die ausgewählten Dienstleistungen sind alle spezialisiert und eng mit der Filmindustrie verbunden. Die Auswahl ermöglicht daher ein Höchstmaß an Vergleichbarkeit. Es handelt sich hierbei um: Casting, Lichttechnik, Kameraassistenz, Verleih von Kameraausrüstung, Filmschnitt und -entwicklung.

**Teil D: Vergleich zwischen den ökonomischen Kennzahlen und den Filmbudgets**

- Ziel von Teil D ist die Analyse und der Vergleich der ökonomischen Strukturen der Filmindustrie im Zusammenhang mit den unterschiedlichen Territorialisierungsgraden. Im besonderen enthält Teil D eine Analyse der möglichen Korrelationen zwischen Territorialisierung und Daten auf Mikro- und Makroebene.

*Teil D1: Vergleich der ökonomischen Kennzahlen*

- In Teil D1 wurden die ökonomischen Merkmale der Kino- und audiovisuellen Industrien (wie bereits in Teil C identifiziert) für Ländergruppen analysiert, die unterschiedliche Territorialisierungsgrade aufweisen.

- In Bezug auf die ökonomischen Merkmale auf Makrooebene wurde nur eine schwache, positive Korrelation zwischen dem Pro-Kopf-Umsatz der audiovisuellen Industrie eines Landes und seiner Territorialisierungs-Intensität festgestellt. Es ist jedoch nicht möglich, eine definitive Schlussfolgerung zu ziehen, ob der höhere Pro-Kopf-Umsatz durch den

höheren Grad der Territorialisierung verursacht wird, oder ob das politische Interesse an Territorialisierung sich durch die stärkere Bedeutung des audiovisuellen Sektors in Ländern erklärt, in denen dieser Sektor verhältnismäßig groß ist.

- Die Analyse der ökonomischen Merkmale auf Mikroebene ergab auch eine gewisse positive Korrelation der Kosten von technischen Dienstleistungsanbietern der Filmindustrie und dem Ausmaß der Territorialisierung. Mit Ausnahme der osteuropäischen Länder, scheint Territorialisierung (im Vergleich mit dem allgemeinen Einkommen der jeweiligen Länder) mit relativ höheren Diensleistungspreisen verknüpft zu sein.

- Die Analyse widerlegt desweitern die Hypothese, dass die Kapazität (pro Kopf der Bevölkerung) ausgewählter Filmsektor-Diensteistungen positiv mit dem Ausmaß der Territorialisierung korreliert.

- Es wurde weder eine negative noch eine positive Korrelation zwischen der Kapazitätsnutzung und der Intensität der Territorialisierung gefunden.

*Teil D2: Analyse der Filmbudgets*

- Teil D2 analysiert die Strukturen der Filmbudgets für Produktionen in Ländern mit unterschiedlicher Intensität der Territorialisierung. Hier besteht das Ziel darin zu ermitteln, welchen Einfluss die Territorialisierung auf die Wettbewerbsfähigkeit der Film- und audiovisuellen Industrie haben könnte.

- Es wurden die Kostenbudgets für 25 Filme (einschließlich nationaler Produktionen und Koproduktionen) mit unterschiedlichen Budgets analysiert. Die Kostenbudgets wurden von den Produzenten zur Verfügung gestellt und enthielten in der Regel eine Aufschlüsselung nach Vorproduktions-, Produktions- und Nachproduktionskosten. In einigen Fällen waren die Budgets stärker aufgeschlüsselt.

- Eine schwache, positive Korrelation ergab sich zwischen dem prozentualen Anteil der Budgets für Produktion und Vorproduktion und der Intensität der Territorialisierung.

- Die Analyse von Einzelpositionen des Budgets lässt vermuten, dass bei Filmen, welche in Ländern mit Territorialisierungsvorschriften produziert werden, eine geringfügig höhere Proportion des Budgets für Reise-, Transport-, Unterkunfts- und Aufwandsentschädigung eingesetzt wird.

**Teil E: Zusammenfassung der Koproduktions-Verträge und Identifizierung aller EU25 Koproduktionen**

- Ziel von Teil E ist es, eine klare Übersicht der Koproduktionvereinbarungen zu verschaffen welche in den EU25 Mitgliedstaaten zur Anwendung kommen. Ermittelt (innerhalb der Referenzperiode) wurden die Anzahl internationaler Koproduktionen sowie die Gesamtsumme aller Produktionen, und zwar jeweils zwischen Mitgliedstaaten, die Territorialisierung entweder anwenden oder nicht anwenden, sowie zwischen jenen wo ein Mitgliedstaat sie anwendet und der andere nicht.

- Alle 36 in der Datenbank MERLIN aufgelisteten Koproduktionsabkommen zwischen EU25 Mitgliedstaaten bestanden zwischen dem Vereinigten

Königreich, Frankreich, Spanien, Deutschland oder Italien und einem anderen Mitgliedstaat[11].

- Die Mehrzahl der Abkommen betrifft Kinofilme unterschiedlicher Länge und Genres und erfordert einen finanziellen Beitrag von mindestens 20%-30% und einen maximalen Beitrag von 70%-80% sowie technische und kreative Beiträge aller koproduzierenden Länder.

- Eine kleine Minderheit der Abkommen erlaubt einem koproduzierenden Land die Mitwirkung als finanzieller Partner allein, in diesem Fall beläuft sich der Beitrag normalerweise auf zwischen 10% und 20%.

- Von 1.009[12] bilateralalen Koproduktionen[13] in EU25 Staaten während des Referenzzeitraums wurden 816 zwischen zwei Mitgliedstaaten durchgeführt die Territorialisierungsvorschriften auferlegen; 104 Koproduktionen kamen zwischen zwei Mitgliedstaaten zu stande, von denen der eine Territorialisierungsvorschriften auferlegt und der andere nicht; an 89 Koproduktionen waren zwei Mitgliedstaaten beteiligt, von denen keiner Territorialisierung vorschreibt.

- Frankreich, Deutschland, Italien, Spanien und das Vereinigte Königreich (die alle Territorialisierung anwenden) waren während des Referenzzeitraums an 77% aller Koproduktionen in der EU25 beteiligt.

- Während des Referenzzeitraums waren 43,3% der Produktionen insgesamt in Mitgliedstaaten, die keine Territorialisierung anwenden. In Mitgliedstaaten, die Territorialisierung anwenden, war das Verhältnis mit 43% sehr ähnlich.

- Zwischen Größe und Stabilität von Filmindustrien, sowie deren Tendenz zu koproduzieren, scheint kein direkter Zusammenhang zu bestehen. So wiesen einige wohlhabende, stabile territorialisierte Filmindustrien einen hohen Anteil von Koproduktionen auf (z.B. Frankreich mit 42% aller Produktionen), andere jedoch einen niedrigen Anteil (z.B. Spanien, mit 24%). Ähnliche Abweichungen finden sich für nicht-territorialisierte Filmindustrien (z.B. die Tschechische Republik mit 33%, und Dänemark mit 56%). Es gibt jedoch Hinweise, dass insbesonds kleine, nicht-territorialisierte Filmindustrien eher zu Koproduktionen neigen als besser etablierte.

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[11] Es ist uns bekannt, dass die Datenbank MERLIN der europäischen audiovisuellen Informationsstelle noch nicht vollständig ist und einige Koproduktionsverträge darin nicht zu finden sind. Fehlende Verträge sind, soweit möglich, in Teil A (dem rechtlichen Teil) dieser Studie genannt. Dessenungeachtet enthält MERLIN die notwendigen Daten um Abkommen zu vergleichen. Die 36 in MERLIN aufgeführten Abkommen sind daher Bestandteil dieses Teils.

[12] Von den 1.900 bilateralen Koproduktionen erfolgten 317 (31,4%) außerhalb der bilateralen Vereinbarungen die in MERLIN und Teil A identifiziert wurden.Viele Koproduktion erfolgten vermutlich innerhalb der European Convention on Cinematographic Co-production, mit der EU25 Mitgliebstaaten assoziert sind, und die als bilaterales Abkommen fungieren kann wenn derzeit kein bilaterales Abkommen existiert. Zwanglose Koproduktionen und „Runaway“ Produktionen (Filme die aus finaziellen Gründen in einem Land gedreht werden, obwohl sie für den Markt eines anderen Landes bestimmt sind) könnten allerdings ebenfalls hier mit einbezogen sein.

[13] Daten aller Koproduktionen der Jahre 2001-2005 stammen von der LUMIERE Zulassungs-Datenbank über die EAO. Die Daten stammen ausschließlich von bilateralen Koproduktion und unterscheiden nicht zwischen Mehrheits- und Minderheits-Koproduktionen. Daten beziehen sich auf Filme, die in den Jahren 2001-2005 herauskamen und schließen demzufolge einige Filme aus, die in der Refrenzperiode produziert wurden, aber erstnach 2005 Premiere hatten. Generell ausgeschlossen wurden Filme, die aus rein finanziellen Gründen in Koproduktion mit den USA entstanden.

- Ein starker Zusammenhang scheint allerdings zwischen geografischer Nähe und dem Vorkommen von Koproduktionen zu bestehen, d.h. benachbarte Länder produzieren oft gemeinsam. Innerhalb derjenigen Mitgliedstaaten ohne Territorialisierung machen Koproduktionen zwischen Schweden und Dänemark (52%), der Tschechischen Republik und der Slovakischen Republik (17%), sowie Schweden und Finnland (26%) die Mehrzahl aller Koproduktionen aus. Innerhalb der Mitgliedstaaten in denen Territorialisierung zur Anwendung kommt, besteht die aktivste Zusammenarbeit zwischen Frankreich und Belgien (14% Koproduktionen), Frankreich und Italien (9%), sowie Frankreich und dem Vereinigten Königreich (9%).

**Teil F: Qualitative Beurteilung der Auswirkungen von Territorialisierung auf Koproduktionen**

- Ziel von Teil F ist die qualitative Bewertung der Frage, ob Territorialisierungsvorschriften für Beihilfeprogramme die Produktion von Filmen unter europäischen Koproduktionsregeln behindern. Die Beurteilung basiert auf Interviews von Interessenvertretern sowie auf Schlussfolgerungen von früheren Teilen der Studie.
- Die Datenerhebung erfolgte anhand von Interviews mit 40 Interessenvertretern, meist Produzenten und Vertreter der nationalen und regionalen Filmfördereinrichtungen.
- Filmfördereinrichtungen verwenden Territorialisierungsklauseln, um größere Ausgaben aus öffentlichen Mitteln zu rechtfertigen, die dem autovisuellen Sektor (inclusive Koproduktionen) zugute kommen.
- Generell herrschte die Meinung vor, dass Koproduktionen und Territorialisierungsklauseln sich gegenseitig ergänzen. Koproduktionen werden arrangiert,um Zugang zu Förderungsmitteln zu bekommen, die in anderen Mitgliedstaaten zur Verfügung stehen, und diese Mittel würden ohne ein bestimmtes Ausmaß von Territorialisierung nicht zur Verfügung stehen.
- Qualitative Daten der Interviews deuten darauf hin, dass implizierte Territorialisierung in Europa verbreitet ist und das gleiche Ziel gesteigerter nationaler Produktion verfolgt. Daraus folgt, dass die Streichung expliziter Territorialisierungsklauseln die Situation nicht grundlegend ändern, jedoch weniger transparent machen würde, da der Anteil implizierter Territorialisierung steigen könnte.
- Abgesehen von Territorialisierung können noch weitere Faktoren Einfluss auf Koproduktionen nehmen. Hier ist insbesondere die geografische Lage zu nennen, da benachbarte Länder eher koproduzieren. Quantitative und qualitative Daten deuten darauf hin, dass Größe und Ausmaß der Filmindustrie eines bestimmten Landes und deren Tendenz zu koproduzieren in keinem direkten Zusammenhang stehen.
- Laut Interessengemeinschaften sind die hauptsächlichen Beweggründe zu koproduzieren der Zugang zu weiteren Fördermitteln, Risikoverteilung, sowie Zugang zu Verteilerkanälen. Merkmale von Koproduktionen, welche wahrscheinlich am ehesten von Territorialisierungsklauseln betroffen wären, sind der Zugang zu weiteren Fördermitteln und die Drehbuchansprüche.

- Territorialisierung kann gesteigerte Produktionskosten verursachen und sich unwirschaftlich auf Koproduktionen auswirken. Dennoch haben Produzenten betont, dass, soweit möglich, dieser negative Einfluss durch vorsichtige Auswertung von und Diskussionen mit Fördereinrichtungen verhindert wird
- Flexible, jedoch klar definierte und einfache Territorialisierungsregeln wurden von den meisten Interessengemeinschaften genannt, um Territorialisierungbarrieren hinsichtlich Koproduktionen zu vermeiden. Bedarfsbedingte Förderung wurde gegenüber selektiven Auswahlvervahren bevorzugt.

**Teil G: Kulturelle Implikationen bei möglichem Wegfall der Territorialisierung**

- Ziel von Teil G ist die qualitative Beurteilung der potentiellen kulturellen Konsequenzen, würden die Territorialisierungsregeln nationaler oder regionaler Bezuschussungen abgeschafft oder reduziert. Die Beurteilung basiert auf Interviews von Interessenvertretern sowie auf Schlussfolgerungen von früheren Teilen der Studie.
- Diesbezügliche Daten wurden über Interviews mit den gleichen 40 Betroffenen erhoben, die auch für Teil F herangezogen wurden.
- Die kulturellen Charakteristika eines Films, die durch Territorialisierung geschützt werden, sind laut den Interessengemeinschaften: Sprache; nationale Identität, neue Talente und kulturelle Veranstaltungen.
- Die Mehrzahl der Befragten gab an, dass explizite oder implizierte Territorialisierung kulturelle Vielfalt stimuliert. Dennoch wurden einige größere Bedenken geäußert: 1) derzeitige Regeln bevorzugen nationale Produktion über Koproduktion, 2) derzeitige Regeln führen zu einer „Übersättigung“ mit kleinen, nationalen Filmen, die nicht in weiteren Umlauf gebracht werden können.
- Wie bereits in Teil F angesprochen, bestand unter den Interessengemeinschaften die Befürchtung, dass die Beseitigung der „ausdrücklichen“ oder „explizierten“ Territorialisierung die Zunahme der stillschweigenden Territorialisierung provozieren würde. Darauf könnten steigende Zahlen nationaler Produktionen folgen, was die Verbreitung der Filme erschweren.
- Die meisten Befragten glaubten, dass lokale Filmindustrien notwendig seien, um kulturelle Vielfalt zu fördern, und dass sowohl stillschweigende wie auch ausdrückliche Territorialisierung die lokale Industrie erhalte. Einige der Befragten vermuteten, Mitgliedstaaten mit weniger etabliertem Filmindustrien würden einen negativen kulturellen Einfluss spüren, sollte die Territorialisierung abgeschafft oder reduziert werden, da diese Länder viel von ihrer Fähigkeit verlieren könnten, eigene Filme zu produzieren.
- Viele Interessengemeinschaften betrachteten Koproduktionen aufgrund des notwendigen Kulturaustausches als wichtig für kulturelle Vielfalt. Unsere Erkenntis, dass flexible und klare Territorialisierungsregeln dem Anschein

nach Koproduktionen förderlich sind, sollte daher im Hinterkopf behalten werden.

## Zusammenfassung

*Rechtliche Analyse*

- Die Territorialisierungsverpflichtungen, die wir in dieser Studie unter juristischen Betrachtungen begutachtet haben, weisen eine grosse form- und inhaltsbezogene Vielfalt auf. Die beträchtliche Anzahl und Komplexität der Territorialisierungsverpflichtungen können Konflikte zwischen Rechtsregeln sowie Rechtsunsicherheit verursachen. Wir kommen zum Schluss, dass die Handhabung dieser Rechtslage schwierig und kostenträchtig ist. Dies gilt sowohl aus Sicht der Filmproduzenten, wenn diese Beihilfen beantragen, als auch für die Gesetzgeber und die öffentlichen Geldgeber, wenn diese nach Kohärenz trachten in der Gestaltung und Umsetzung der verschiedenen relevanten kultur-, wettbewerb- und handelsbezogenen Regeln und Politiken.
- Eine grosse Mehrheit der Beihilfeprogramme, worüber die lokalen Rechtsanwälte berichtet haben, beinhalten Territorialisierungsverpflichtungen, die nicht oder nur unvollständig in den anwendbaren Rechtsbestimmungen quantifizierbar sind. Die juristische Analyse kann daher nur ein beschränktes Bild der Territorialisierungsintensität auf Stufe der Mitgliedstaaten vermitteln.
- Gemäss Mitteilungen der lokalen Rechtsanwälte besteht keine relevante Rechtsprechung und Praxis, die uns erlauben würde, auf „implizite“ oder „stillschweigende“ Territorialisierungsverpflichtungen zu schliessen. Ferner fanden wir keine Angaben rechtlicher Natur, wonach bestehende Territorialisierungsverpflichtungen Hindernisse für Koproduktionsabkommen darstellen würden. In beiden Fällen können wir jedoch wegen mangelnder berichteter Rechtsprechung und Praxis nicht die Schlussfolgerung ziehen, dass diese Feststellungen auch der Realität entsprechen.

*Ökonomische Struktur*

- Die ökonomische Analyse zeigte, dass das Maß an Territorialisierung innerhalb eines Mitgliedstaates umso größer ist, je höher der Umsatz der audiovisuellen Industrie dieses Landes ist. Es ist jedoch nicht möglich festzustellen, ob Territorialisierung als solches einen höheren Umsatz bewirkt oder ob die Höhe des Umsatzes Druck in Richtung einer größeren Territorialisierung ausübt.
- Die Daten weisen auch darauf hin, dass die Dienstleistungskosten einer Filmproduktion höher sind in Ländern, die Territorialisierungsvorschriften anwenden, als in Ländern, wo sie nicht zur Anwendung kommen.

*Koproduktionen*

- Territorialisierungsvorschriften erschweren Koproduktionen nicht; vielmehr ermöglichen sie die Beantragung von Fördermitteln die sonst nicht zur Verfügung stünden und schaffen so die Voraussetzungen für zahlreiche Produktionen (inklusive Koproduktionen).
- Dennoch können Territorialisierungsvorschriften Koproduktionen erschweren und diese weniger wirtschaftlich machen.

*Kulturelle Auswirkungen*

- Es scheint, dass die Abschaffung von Territorialisierungsregeln zu einem Anstieg stillschweigender Territorialisierung führen würde. Konsequenz wäre die steigende Förderung nationaler Produktionen und, nachfolgend, eine erschwerte Zirkulation von Filmen zwischen unterschiedlichen Ländern und Kulturen.

**Verzichtleistungen und Einsprüche hinsichtlich der statistischen Analyse**

- Alle in diesem Bericht beschriebenen Untersuchungen basieren, zumindest teilweise, auf Stichproben und Umfragen sowie auf Annahmen. Die Gültigkeit dieser Schlussfolgerungen ist demnach begrenzt.
- Insbesondere die Analyse der Filmfördereinrichtungen in Teil B basiert auf Informationen, Interpretationen, sowie der Auswertung einer Umfrage unter europäischen Filmfördereinrichtungen unterschiedlicher Größe mit jeweils jährlichen Etats von mehr als 1 Mio €. Mit Antwortquoten von bis zu 40% pro Frage können die Ergebnisse zwar nicht als statistisch relevant angesehen werden, sie geben aber dennoch wertvolle Hinweise auf das momentane Förderungsmuster des audiovisuellen Sektors.
- Die Beschreibungen, Analysen und Schlussfolgerungen von Teil C und D sind vielfältigen Ursprungs. Daten auf Makroebene sind haupsächlich dem EAO-Jahrbuch entnommen, oder stammen aus anderen offiziellen Quellen, wie den nationalen statistischen Ämtern. Alle Daten auf Mikroebene stammen von einer Reihe relevanter Quellen der acht ausgewählten Mitgliedstaaten, wie Dienstleistungsbetrieben, Gewerkschaften, Produzenten und Dachorganisationen der Produzenten. Trotz des Bemühens, genaue und zuverlässige Informationen zu bekommen, sind Daten dieser Art weniger zuverlässig als statistische Angaben, insbesondere da es sich um geschätzte Zahlen handelt, die jeweils auf einer begrenzten Anzahl landeseigener ökonomischer Faktoren basieren.
- Zu der Unsicherheit der ökonomischen Daten kommt der Bezug dieser Daten zu dem geschätzen Ausmaß der Territorialisierung innerhalb der Beispielländer, wobei den Ergebnissen ein weiterer Grad der Unsicherheit hinzugefügt wird. Schlussfolgerungen hinsichtlich dieser Wechselbeziehungen dürfen daher nicht als statistisch relevant bzw. bedeutsam angesehen werden, sondern sollten sich als Hinweis auf mögliche Korrelationen verstehen.

# 1. Introduction

## 1.1. Background to the study

**EC Treaty provisions on culture and state aid**

Article 87(1) of the EC Treaty sets forth that any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the common market, except as otherwise provided in this Treaty. Article 87(3)-(d) of the EC Treaty states that the Commission may consider, compatible with the common market, "aid to promote culture and heritage conservation, where such aid does not affect trading conditions and competition in the Community to an extent that is contrary to the common interest".

Under Article 151(1) of the EC Treaty, "the Community shall contribute to the flowering of the cultures of the Member States, while respecting their national and regional diversity". Article 151(4) enshrines the principle that the Community shall take cultural aspects into account in its action under other provisions of the Treaty, in particular in order to respect and to promote the diversity of its cultures. Cinematographic and audiovisual productions are an essential component covered by Article 151.

*State aid criteria for cinema and TV production*

The criteria used by the European Commission to assess the compatibility with the EC Treaty of aid schemes for cinema and TV production are set out in Section 2 of the Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions on certain legal aspects relating to cinematographic and other audiovisual works ("Cinema Communication of 2001")[14].

This general approach to state aid to the cinema and TV production sector was extended up to 30 June 2007 by a further Communication ("Cinema Communication of 2004")[15] which also announced the Commission's intention to launch a study covering the effects of state aid systems and in particular the economic and cultural impact of *territorialisation* requirements taking into account the impact on co-productions.

The current criteria for state aid to these sectors are two-fold:

1 Respect of the general legality criteria

The Commission must first verify that the eligibility conditions of the state aid schemes do not contain clauses contrary to the EC Treaty provisions in fields other than state aid. The Commission must ensure, inter alia, that the EC Treaty principles prohibiting discrimination on the grounds of

[14] COM(2001)534 final of 26.09.2001, OJ C 43 of 16.02.2002; see: http://europa.eu.int/eurlex/lex/LexUriServ/site/en/com/2001/com2001_0534en01.pdf

[15] Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions on the follow-up of the Commission communication on certain legal aspects relating to cinematographic and other audiovisual works, COM(2004)171 final of 16.3.2004, OJ C 23/1 of 30.04.2004. In order to allow time for completion of the Territorialisation Study and the subsequent review of the Cinema Communication, the Commission has decided to continue to apply the current criteria until such time as new rules on state aid to cinematographic and other audiovisual works come into effect, or, at the latest, until 31 December 2009; see Commission communication concerning the prolongation of the application of the Cinema Communication, OJ C 134/5 of 16.6.2007 and http://ec.europa.eu/avpolicy/reg/cinema/index_en.htm.

nationality, freedom of establishment, free movement of goods and freedom to provide services have been respected (Articles 12, 28, 30, 39, 43, 48 and 49 EC). The Commission enforces these principles in conjunction with the application of competition rules when the provisions in breach of these principles are not detachable from the operation of the scheme. In compliance with the above principles, aid schemes must not, for example, reserve the aid for nationals exclusively; require beneficiaries to have the status of national undertaking established under national commercial law (undertakings established in one Member State and operating in another by means of a permanent branch or agency must be eligible for aid; furthermore the agency requirement should only be enforceable upon payment of the aid); require workers of companies from other Member States providing filmmaking services to comply with national labour standards[16].

2 Specific compatibility criteria for state aid to production

Four criteria relating to state-aided production are particularly relevant to territorialisation. These state:

(i) The aid must be directed to a cultural product. Each Member State must ensure that the content of the aided production is cultural according to verifiable national criteria (in compliance with the application of the principle of subsidiarity);

(ii) The producer must be free to spend at least 20% of the film budget in other Member States without suffering any reduction in the aid provided for under the scheme;

(iii) Aid intensity must in principle be limited to 50% of the production budget with a view to stimulating normal commercial initiatives inherent in a market economy and avoiding a bidding contest between Member States;

(iv) Aid supplements for specific filmmaking activities (eg post-production) are not allowed, in order to ensure that the aid has a neutral incentive effect, and consequently that the protection/attraction of those specific activities in/to the Member State granting the aid is avoided[17].

The Commission further elaborated these specific compatibility criteria in its Cinema Communication of 2001. In particular, the Commission considered that aid should be towards the overall budget of a specific film-making project and the producer should be free to choose the items of the budget that will be spent in other Member States. Aid schemes shaped on this basis are deemed to support the creation of film and television content and not to assist the development of an industrial activity. Consequently, this aid is to be assessed under the culture derogation of Article 87(3) (d) of the EC Treaty rather than the industrial derogation of Article 87(3) (c) of the EC Treaty. Undertakings in the film and TV programme production sector may also benefit from other aid types granted under national horizontal aid schemes authorised by the Commission under the exemptions pursuant to Article 87(3)(a) and (c) of the

[16] Point 2.3 a) of the Cinema Communication of 2001.
[17] Point 2.3 of the Cinema Communication of 2001.

EC Treaty (eg regional aid, aid for small and medium-sized enterprises, research and development aid, training aid, employment aid) [18].

On the basis of these provisions, the Commission has examined and approved all the national schemes of state aid to cinema/audiovisual production that have been notified since the adoption of the 2001 Cinema Communication[19].

**Context for the study**

The Commission has stated in the 2004 Communication[20] that its "main concerns are not related to the volume of the aid, which, being aimed at supporting culture is compatible with the Treaty, but over the territorialisation clauses of certain aid schemes. Such territorialisation clauses impose on producers an obligation to spend a certain amount of the film budget in a particular Member State as an eligibility condition for receiving the full aid amount. Territorialisation clauses may therefore constitute a barrier to the *free circulation* of workers, goods and services across the EC. They may, therefore, *fragment the internal market for the provision of goods and services for audiovisual production and hinder its development*. However, the Commission considers that these clauses may be justified under certain circumstances in order *to ensure the continued presence of human skills and technical expertise required for cultural creation*" (our emphasis).

## 1.2. Objectives

**Specific objectives**

The specific objective of the study is to provide *clear* and *reliable* data on the consequences of 'territorialisation' requirements imposed by certain state aid schemes supporting the cinema sector. The study is to provide:

1 An objective and synthetic view of the legal situation concerning territorialisation clauses.

2 A clear assessment of how territorialisation clauses affect the film industry from an economic point of view (both macro and micro).

3 An assessment of whether territorialisation requirements are an obstacle to European co-productions.

4 An objective assessment of the consequences of removing territorialisation from a cultural point of view.

The content of the work focuses exclusively on the legal, economic and cultural assessments - any political question is beyond the scope of the study.

*Reference period*

The reference period covered by the study is the latest five years for which data are available, ie 2001-2005.

*Geographical coverage*

This report covers 25 Member States; it does not include Bulgaria and Romania, which were not Member States in the reference period or in 2006 when the study started.

[18] Point 2.3 b) of the Cinema Communication of 2001.

[19] According to point 2.3 b) of the Cinema Communication of 2001, these criteria "strike a balance between the aims of cultural creation, the development of the EC audiovisual production and the respect of the EC rules on state aid." The relevant cultural aspects are addressed in part G of this study.

[20] Point 2.6 of the Communication of 16.03.2004 (see previous footnote 2).

### 1.3. Remaining sections of the report

**Parts of the study** The study is split into seven parts.

*Parts A and B* Parts A and B provide an objective view of the situation in relation to state aid in the 25 Member States. Part A provides an analysis of the legal provisions relating to territorialisation. Part B discusses the subsidies that are effectively paid in the 25 Member States[21].

*Sample of Countries* From the overall analysis of the 25 Member States, a representative sample is selected for further detailed research on the implications of territorialisation.

*Parts C and D* Parts C and D identifies whether there are economic inefficiencies in the sector that can be explained by the existence of territorialisation requirements. Part C gives a description of the economic structure of the audiovisual sectors in a representative sample of countries, some of which apply territorialisation and some of which do not. Part D undertakes a comparison of the economic structure of the audiovisual sectors in these countries[22].

*Parts E and F* Parts E and F deal with co-productions and the impact of territorialisation. Part E explores the issue from two points of view:

1 Legal (summary of co-production agreements).

2 Statistical (number of co-productions). It calls, finally, for an analysis of whether and how territorialisation may influence the way in which co-productions are financed.

Part F involves a qualitative assessment of whether territorialisation is an obstacle to European co-productions. This assessment is based mainly on interviews with a representative sample of stakeholders.

*Part G* Part G looks at the issue from a cultural perspective, to evaluate what the cultural consequences might be of removing territorialisation. This assessment is also based mainly on interviews with a representative sample of stakeholders.

### 1.4. Disclaimers and caveats relating to the statistical analysis

**Part B** The analysis of funding bodies in Part B is based on the information, interpretation and assessment of a survey, conducted among European funding bodies of varying sizes, but all with annual budgets assumed to be more than €1m. With response rates of up to 40%, varying from question to question, the results cannot be interpreted as statistically representative, but are nonetheless valid as indications of the current pattern of support to the audiovisual sector.

The analysis of tax incentive schemes have been based on information from a variety of other sources, including various reports, web-sites, telephone interviews and e-mail contacts with persons representing tax incentive schemes or having special information on these.

[21] The European Audiovisual Observatory provides data on the budgets that are available in each Member State, but not on how much is effectively spent. The results of Part B are necessary for comparing the magnitude of public intervention in relation to the turnover of the sector. Given that regional state aid regimes are a substantial part of the budget, there is also a requirement for data on the budget of larger regional schemes.

[22] In addition, part D compares the structure of budget films produced in countries that apply territorialisation with that of those produced in countries not applying territorialisation. The aim is to analyse whether and how territorialisation affects the cost categories of films.

**Parts C and D**

In addition, the descriptions, analyses and the conclusions of Parts C and D are based on a variety of sources. The macro level data are mainly from the EAO Yearbook and from other official sources such as national statistical offices. The micro level data are all gathered from a variety of market sources such as service providers, purchasers of services, trade unions, producers, and producers' organisations in selected eight Member States.

Despite the effort done to get exact and qualified information, this type of data is of course less reliable than the statistical data, in particular because they are estimated figures based on a limited number of economic actors in each country.

In addition to the uncertainty of the economic data, the comparison of these data with estimated degrees of territorialisation in the selected sample of countries contributes to the uncertainty of the results. To repeat therefore - the conclusions cannot be seen as statistically reliable / significant, but rather as indications of possible correlations.

# 2. Part A: Legal Synopsis

## 2.1. Terms of reference and context of the Territorialisation Study

**Objectives**

The core purpose of Part A, the legal chapter of this Study on the economic and cultural impact, notably on co-productions, of territorialisation clauses of state aid schemes for films and audiovisual productions ("Territorialisation Study"), is to assess the regulations and administrative and judicial practice pertaining to territorialisation requirements in the specific context of the issues addressed in Section 2 of the Commission's Cinema Communications of 2001 and 2004[23]. This report therefore contains, in the present chapter, a summary and evaluation of the main legal issues at stake and, in the on-line legal database on www.germann-avocats.com, a detailed and critical in-depth analysis of the legal aspects of territorialisation in the Member States ("Synthesis Sheets").

This chapter, which is to be read as an introduction to and in conjunction with the on-line Member States Synthesis Sheets, informs on and discusses:

- the context of the legal research;
- the sources of law;
- the method of work related to the gathering and processing of the legal data;
- the relevant definitions used in this analysis;
- the method of assessing the intensity of territorialisation requirements from the legal perspective;
- the legal aspects of cultural justifications for territorialisation requirements.

This part of the Territorialisation Study aims to provide a solid and objective picture of the relevant legal situation for the subsequent parts of the Territorialisation Study, in particular for Parts C, E, F and G.

**Scope of analysis**

The legal analysis provides a precise description and analysis of territorialisation requirements by covering the rules governing all national funding schemes and regional funding schemes for the cinema sector with an annual budget of at least Euro one million that were in force in the 25 Member States during the reference period for this Study from 2001 to 2005 as identified by the legal counsels listed below (hereinafter "relevant funding schemes").[24]

**Results**

The main findings of our assessment are presented in Appendix A in table format and summarized in Appendix A bis in the form of charts. The output of Part A is an objective picture of the current legal situation of territorialisation requirements in the jurisdictions at stake. Part A contributes to this Territorialisation Study by the collection of up-to-date and accurate legal information by local lawyers who enjoy professional independence and competence in the relevant national laws of the 25 Member States covered by

[23] See the references under footnotes 1 and 2 above.

[24] Territorialisation requirements can be located in specific provisions or under the definition of the nationality conditions which productions have to satisfy in order to qualify for aid, as well as under the criteria for granting selective aid or under other clauses such as those articulating the cultural and economic purposes of State support. Our analysis, therefore, covers these forms of so-called "indirect" territorialisation requirements as well if they clearly contain territorialisation requirement based on a literal interpretation of their content or if such interpretation results from case law (see also the definitions in the Glossary at the beginning of this Study and the examples in Chapter 2.4 below).

this study. Furthermore, the analysis of the data gathered in this part informs the subsequent parts B to G of the Territorialisation Study with respect to the following questions from the legal perspective:

- What are the various cultural and economic rationales underlying territorialisation clauses?
- What are the consequences of territorialisation requirements on co-production agreements?
- What is the impact of territorialisation clauses on competition in the European film industry and on the free movement of suppliers of audiovisual services?

**Context** As the Commission stated in its Cinema Communication of 2004, territoriality requirements can fragment the Internal Market for the provision of goods and services for audiovisual production and arguably hinder the development of this sector. Possible distortion of competition created by aid to cinema and television-programme production supposedly originates more from territorialisation requirements than from the level of the aid itself.[25] Territorialisation requirements exceeding what may be judged acceptable under the necessity and proportionality criteria go beyond the strict limits of cultural promotion and aim basically at industrial objectives. Therefore, the Commission, in its decision on the French aid scheme of 29 July 1998, considered that the Member States should be encouraged to reduce national preferences about the place of expenditure for an important part of the costs.[26] The Commission considers that the rationale behind territorialisation measures is based on both cultural and industrial considerations. Such measures have the primary cultural aim of ensuring that national and regional cultures and creative potential are expressed in the audiovisual media of film and television. On the other hand, they aim to generate the critical mass of activity that is required to create the dynamic for the development and consolidation of the industry. The creation of soundly-based production undertakings and the development of a permanent pool of human skills and experience are expected to contribute to achieving this goal.[27]

The Commission currently requires that the producers must be free to spend at least 20% of their film budget in other Member States without suffering any reduction in the aid provided under a given funding scheme. In other words, the Commission accepts that Member States may require up to 80% of the film production budget to be disbursed on their territory as an eligibility criterion for aid. This is based on the reasoning that a certain degree of territorialisation of the expenditure may be necessary to ensure the continued presence of the human skills and technical expertise required for cultural creation.[28] However, as the Commission expressly stated, this flexibility should be limited to the minimum degree required to promote cultural objectives.[29]

[25] Point 2.6 of the Cinema Communication of 2004.
[26] Commission decision, N 3/98, OJ C 279, 08/09/1998 p.4.
[27] Point 2 of the Cinema Communication of 2001.
[28] Points 2 and 2.3 of the Cinema Communication of 2001, with further references.
[29] Point 2.3 of the Cinema Communication of 2001.

## 2.2. Sources of legal information

**Legal information procurement**

The Commission's previous country investigations, existing databases, in particular KORDA, and other statistics from the European Audiovisual Observatory (EAO) as well as from other sources such as national databases and reports served as useful starting points for the research.

The legal information on which this part of the study is based includes regulations currently in force as well as reported judicial and administrative practice concerning the activities of relevant funding schemes that are related to territorialisation. In order to obtain these data we sent the legal questionnaire that is attached to this report (Appendix B) together with existing information on the relevant legal situation to local lawyers in the 25 Member States specialising in film and television law in their respective jurisdictions (see list of national counsels in Table 2.1 below).[30] Legal skills, independence (ie avoidance of conflicts of interest), and professional quality as attorneys at law possessing the necessary expertise in national law, judicial and administrative practice pertaining to the film and television sector were essential in order to obtain up-to-date and reliable legal information for Part A.

**TABLE 2.1: LOCAL LAWYERS CONTRIBUTING TO THE STUDY**

| Member States | Lawyers in Charge of the Review (Law Firms) |
|---|---|
| Austria | Johannes Juranek (Dallmann & Juranek) |
| Belgium | Daniel Fesler and Elisabeth Dehareng (Baker & McKenzie) |
| Cyprus | Olga Georgiades (Lellos P. Demetriades) |
| Czech Republic | Vladimír Kroupa (Kroupa and Petrmichl) |
| Denmark | Kathrin Schlueter (Johan Schlueter Law Firm) |
| Estonia | Peeter Kutman and Aet Bergmann (Luiga Mody Hääl Borenius) |
| Finland | Markku Varhela (Heinonen & Co, Ltd.) |
| France | Yannick-Eléonore Scaramozzino (Scaraye Avocats) |
| Germany | Mathias Schwarz and Sabine Richly (Schwarz Kelwing Wicke Westpfahl) |
| Greece | Costas Roussos, Ioanna Dimopoulou and Antonia Koukouritaki (Roussos & Hatzidimitriou) |
| Hungary | Tamás Tercsák and Gyorgy Bacsatyai (Szabó, Kővári, Tercsák and Partners) |
| Ireland | Ruth Hunter (Matheson Ormsby Prentice Solicitors) |
| Italy | Daniela Marrani (Portolano Colella Cavallo Studio Legale) |
| Latvia | Armands Skudra and Inga Kacevska (Skudra & Udris) |
| Lithuania | Deividas Soloveicikas and Karolis Smaliukas (Soloveicikas, Markauskas and Aviza SMA) |
| Luxembourg | Antoine Laniez |

[30] The Commission sent a legal questionnaire to the culture ministries of the 25 Member States in April 2006. Our questionnaire integrated essential parts of this questionnaire. Our questionnaire as compared to the Commission's one is more detailed and differently structured in order to specifically address each relevant funding scheme. The replies to the Commission's questionnaire were sent to the local counsels for their information for those jurisdictions from where the Commission received answers.

**TABLE 2.1: LOCAL LAWYERS CONTRIBUTING TO THE STUDY**

| Member States | Lawyers in Charge of the Review (Law Firms) |
|---|---|
| | (De Meester) |
| Malta | Pierre Mifsud<br>(Ellul Mifsud & DeBono) |
| Netherlands | Niels Mulder and Diederik Stols<br>(DLA Piper Nederland N.V.) |
| Poland | Marcin Górski<br>(Tataj Górski Adwokaci SP) |
| Portugal | Miguel Pena Machete<br>(Serra Lopes, Cortes Martins & Associados) |
| Sweden | Mathias Berggren<br>(Advokatfirma Lindhs DLA Nordic) |
| Slovakia | Viliam Karas<br>(ULC Carnogurský) |
| Slovenia | Katarina Prebil<br>(Attorneys' Office Prebil Katarina) |
| Spain | Pilar Sánchez-Bleda, Julia Montes and Ana Nogales<br>(Ecija) |
| United Kingdom | Hakan Kousetta and Anwen Garston<br>(Howard Kennedy) |

**Inventory and assessment of the legal situation**

The local lawyers' replies and follow-up replies to our legal questionnaire provide an inventory and assessment of the legal situation of territorialisation in each Member State during the relevant reference period. This information is contained on-line in the legal database. In summary, for their respective jurisdictions, these local lawyers have:

- listed all relevant funding schemes, and the specific regulations that govern these funds;
- listed the current national legislation containing provisions on territorialisation, quoted the relevant provisions, and described their mechanism of implementation;
- quoted judicial and administrative practice (case law, guidelines and commentaries) pertaining to the territorialisation rules if this practice was reported;
- described and analysed purpose and cultural clauses, selective state aid granting mechanisms and nationality certification procedures and criteria applying the funding schemes;
- listed existing and expected conventions on co-production agreements, and indicated the way possible conflicts between these international treaties and domestic legislation are solved;
- quoted studies and academic works on territorialisation requirements;
- provided copies of or links to the relevant legislation.

**Disclaimer**

The analysis, data and conclusions under Part A on the legal aspects of territorialisation requirements are exclusively based on the information, interpretation and assessment of the relevant Member States' laws, judicial and administrative practice as provided to the consultants by the local lawyers listed in Table 2.1 of this Study. These information, interpretation and assessment are recorded in the local lawyers' replies and follow-up replies to the consultants' legal questionnaire (Appendix B) as published on-line in the

database at www.germann-avocats.com. The consultants did not rely on any other sources of information, interpretation and assessment of the relevant legal situation for their analysis, data and conclusions contained in Part A and in related Parts of this Study including Chapters 1, 2 and 10, the executive summary, the Appendixes A and A bis, the glossary and the 25 Member State Synthesis Sheets.

**Member State Synthesis Sheets**

## 2.3. Method and structure of the analysis

Based on the information delivered by the local counsels we have drafted our own analysis of the relevant legal situation in each jurisdiction that is contained in the on-line database ("Member State Synthesis Sheets"). These Synthesis Sheets are all structured in a uniform manner as follows:

**Comparative law approach**

This common structure allows cross-country comparisons of the relevant law

**TABLE 2.2: TABLE OF CONTENTS OF SYNTHESIS SHEETS**

**A Overview of the Member State's legal situation**

*1 Summary of main findings*
*2 Synopsis of conventions on co-production agreements*
*3 Synopsis of formal nationality certification procedures*
*4 Synopsis of expected legal developments*

**B The Member State's funding schemes**

*1 Overview*
*2 Analysis of the funding scheme*

*2.1 Description of the funding scheme*
*2.2 Synopsis of objective explicit territorialisation requirements*
2.2.1 Rules
2.2.2 Practice
2.2.3 Discussion
2.2.4 Conclusions
*2.3 Synopsis of indirect territorialisation requirements*
2.3.1 Practice
2.3.2 Discussion
2.3.3 Conclusions
*2.4. Synopsis of selective state aid granting criteria and procedures*
*2.5 Synopsis of the relation between territorialisation requirements and co-production agreements*
*2.6 Synopsis of purpose and cultural clauses applying to the funding scheme*

and practice in force in the 25 Member States. The local counsels established the list of relevant funding schemes pursuant to the criterion of "regulatory units". This means that each funding scheme is defined in reference to the set of rules that specifically governs it[31].

[31] There are different ways to define a "funding scheme", based on the criterion of "administrative unit" or on the criterion of "regulatory unit". Many funding schemes contained in the KORDA database are defined according to the administrative rather than the regulatory unit approach, ie each of these schemes (or "funding bodies") is considered as

In the first section of the Synthesis Sheets (Section A 1), the reader finds the country output tables that provide a summary of the main findings on:

- the direct territorialisation requirements;
- the indirect territorialisation requirements;
- the assessment of the intensity of territorialisation requirements for each funding scheme and Member State where the corresponding data were available[32].

The Member State Synthesis Sheets provide a short description and an analysis of the relevant rules and case law in the 25 Member States. They are based exclusively on the information provided by the local counsels in their replies and follow-up replies to our legal questionnaire contained in the on-line legal database. Our understanding and interpretation of the relevant legal situation in each jurisdiction are, therefore, grounded on the responses from the local counsels to our legal questionnaire and does not rely on the original sources of applicable law. We therefore provide three sources of legal information for the questions covered under this part: first, the original regulations (usually in their original language); second, the interpretation provided by the local counsels; and third, our analysis based on the local counsels interpretation of their domestic law.

**State aid definition**

The legal questionnaire sent to the local lawyers from the 25 Member States takes as reference the definitions of "State aid" and "territorialisation" as provided by the Commission in its communications on the subject matter.

According to Article 87 (1) of the EC Treaty, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the common market, save as otherwise provided in the Treaty. It is the effect rather than the form of the measure that is crucial in determining whether it is State aid or not[33]. All four criteria of this provision as further articulated by case law must be met for a measure to be deemed a State aid, ie:[34]

1 The measure must confer on recipients an advantage which relieves them of charges that are normally borne from their budgets, eg a reduction in a firm's tax burden.

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a distinct unit based on organizational considerations; within such administrative units, one can find one or more funding schemes that are governed by distinct sets of rules. For the purpose of assessing the legal situation of territorialisation requirements, we adopted in part A of this study the definition based on the regulatory unit criterion. This explains why the number of "funding schemes" that we have analysed in Part A is higher than the number of "funding schemes" or "funding bodies" recorded in the KORDA database and analysed in Part B.

[32] The evaluation of the degree of territorialisation is based on grading references that are described and discussed in further detail in Chapter 2.5 below and in Chapter 4.3.

[33] See for example Case 173/73 *Italy v. Commission* [1974] ECR 709. For an introduction to the legal aspects of State aid in the European Union, see Vademecum Community Rules on State aid, updated version of 15 Febuary 2007, at: http://ec.europa.eu/comm/competition/state_aid/studies_reports/vademecum_on_rules_2007_en.pdf On the definition of State aid, see also R. Plender, Definition of Aid, in A. Biondi / P. Eeckhout / J.Flynn (eds), The Law of State Aid in the European Union, Oxford University Press, Oxford, 2004, pp. 3-39; and M. Slotboom, State aid in Community Law: A broad or a Narrow definition, in European Law Review, 20/1995, pp. 289 ss.).

[34] See 1998 Commission Communication on the application of State aid rules to measures relating to direct business taxation, OJ C 38, 10/12/1998 P. 0003 – 0009 ("Direct Business Taxation Communication of 1998": http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31998Y1210(01):EN:HTML), points 8 to 16, with further references to case law.

2 The advantage must be granted by the State (eg direct grant aid) or through State resources (eg loss of tax revenue).

3 The measure must affect competition and trade between Member States. This is interpreted in the widest possible sense by the Court of Justice. The mere fact that the aid strengthens the firm's position compared with that of other firms which are competitors in intra-Community trade is enough to allow the conclusion to be drawn that intra-Community trade is affected. Neither the fact that aid is relatively small in amount,[35] nor the fact that the recipient is moderate in size or its share of the
EU market very small, nor indeed the fact that the recipient does not carry out exports or exports virtually all its production outside the EU do anything to alter this conclusion.[36]

4 The measure must be specific or selective in that it "favours certain undertakings or the production of certain goods"[37].

In the light of these criteria, certain funding schemes based on tax advantages may also qualify as State aid and, therefore, be relevant for the assessment of territorialisation requirements.[38]

It is recalled that the Commission does not consider funds provided directly from EC programmes like MEDIA as State aid. Furthermore, legal obligations imposed by Member States upon television broadcasters to invest in audiovisual production do not constitute State aid, if these investments provide a reasonable compensation to broadcasters[39].

## 2.4. Categories of territorialisation requirements

**Examples illustrating the territorialisation typology resulting from the legal assessment**

On the basis of our legal analysis, we distinguish between various categories of territorialisation requirements that are defined in the Glossary, ie between:

- "explicit" (or "objective") territorialisation requirements and "implicit" (or "implied") territorialisation requirements;

- territorialisation requirements "quantified in the law" and territorialisation requirements "not quantified in the law";

[35] With the exception, however, of aid meeting the tests of the de minimis rule. See the Commission notice published in OJ C 68, 6.3.1996, p. 9.

[36] Joined Cases C-278/92, C-279/92 and C-280/92 Spain v. Commission [1994] ECR I-4103; Case 102/87 France v. Commission [1998] ECR 4067; Case C-142/87 Belgium v. Commission [1990] ECR I-959.

[37] Case 173/73 Italy v. Commission [1974] ECR 709. The Commission guidelines draw a distinction between general tax measures which are open to all economic agents on an equal basis within a Member State and specific measures such as a reduced tax rate or base for a particular sector; see Direct Business Taxation Communication of 1998, point 13.

[38] Tax measures can come within the scope of Article 87 of the EC Treaty given that this provision applies to aid measures granted "through State resources in any form whatsoever". The question whether fiscal relief to producers can be qualified as aid is to be assessed under the principles contained in the Direct Business Taxation Communication of 1998. In particular, a tax incentive scheme can qualify as State aid if the beneficiary receives an economic advantage that it would not have obtained under normal market conditions; see Spain v. Commission, C 342/96; Case C-39/94 SFEI and Others [1996] ECR I-3547, paragraph 60 (compare also the cases T-195/01 and T-207/01 in which the State aid under examination concerned tax scheme in Gibraltar). The ECJ applies the same legal qualification to loans at reduced rates of interest granted by public authorities to an undertaking which enable the latter to avoid having to bear costs which would normally have had to be met out of the undertaking's own financial resources, thereby preventing market forces from having their normal effect; see Case C-301/87 France v Commission [1990] ECR I-307, paragraph 41.

[39] This would be typically the case of licensing arrangements on the basis of which television broadcasters co-finance independent film productions in exchange for broadcasting rights. In its Cinema Communication of 2001, the Commission recalls at Point 2.3 that the extent to which these legal obligations may be considered State aid as such has to be considered in view of the development of the EC Court of Justice jurisprudence after its judgement of 13 March 2001 in Case C-379/98 (PreussenElektra).

- "direct" territorialisation requirements and "indirect" territorialisation requirements.

These types of territorialisation requirements can be illustrated by the following examples taken from the Member States Synthesis Sheets in the on-line legal database.[40]

**A) Explicit or objective territorialisation requirement quantified in the law**

Section B 6.2.4 of the Germany Synthesis Sheet addressing the funding scheme "Filmförderung Hamburg GmbH":

*The objective explicit territorialisation requirements that apply to this funding scheme can be summarised as follows: at least 150% of the amount of the funding annually awarded shall be spent locally (in Hamburg).*

**B) Explicit or objective territorialisation requirement not quantified in the law:**

Section B 10.2.4 of the Germany Synthesis Sheet addressing the funding scheme "Hessische Filmförderung":

*The objective territorialisation requirements that apply to this funding scheme can be summarized as follows: the recipient of the state aid for film production must spend locally (in Hessen) an unquantified amount of the aid. The regulation allows funding without any connection of the project to Hessen only in exceptional circumstances.*

**C) Indirect territorialisation requirements located under formal nationality certification procedures:**

Section A 3 of the Italy Synthesis Sheet:

*Indirect territorialisation requirements are located under the rules on formal nationality procedures that apply to the Italian funding scheme.*

*The assessment of Italian nationality of a film or television production is a necessary step in order to obtain financial aid provided by the Legislative Decree n. 28 of 22 January 2004 (ie incentives to production, contributions, loans, etc.). The authority in charge of the procedure is the Ministry of Culture, according to Article 1 b) of the Legislative Decree. The criteria for assessing Italian nationality set forth by Article 5, n. 2 of the Legislative Decree are based on the relevant artistic and technical components of the film (for a detailed list see reply A.4 for Italy).*

[40] The legal questionnaire (Appendix B) that we sent to the local counsels further mentioned the category of implicit, implied or de facto territorialisation requirements. We deliberately defined this category very broadly to include all territorialisation requirements that are not clearly spelt out in a rule of law or interpreted as such by courts or administrations in published form (reported judicial or administrative case law). The discovery and analysis of explicit or objective territorialisation requirements generally does not cause major problems, whereas implicit, implied or de facto territorialisation requirements are considerably more difficult to spot and to acknowledge as such. In order to avoid any speculation, we opted in this report not to discuss implicit, implied or de facto territorialisation requirements in the absence of clear evidence based on reported judicial and administrative case law. In other words, we only considered clearly stated territorialisation requirements based on a literal interpretation of the relevant provision or clear case law. As a matter of fact, no administrative or judicial case law specifically on implicit, implied or de facto territorialisation requirements has been reported in any of the 25 Member States. Finally, we did not consider conditions that were obviously justified on cultural policy grounds as territorialisation requirements. For this reason, we did not qualify the obligation to use local languages as a territorialisation requirement.

*Among them the provision explicitly mentions:*

- *Italian film director*
- *Italian author of the subject or majority of the authors Italian*
- *Italian screenwriter or majority of the screenwriters Italian*
- *Majority of principal actors Italian*
- *direct sound take in Italian language*
- *Italian crew*
- *shooting and use of studios in Italy (see also below Section B 2.2)*
- *use of Italian technical industries*
- *spending at least 30% of the total budget of the film in Italy*

*Applicants must prove their Italian nationality and a "cultural interest" of their film projects to the Ministry of Culture.*

In this example, citizens of EU Member States are treated like Italian citizens according to Article 5 n. 3 of this Decree.[41]

**D) <u>Indirect territorialisation requirements located under selective aid criteria and procedures</u>**

Section B 12.4 of the France Synthesis Sheet addressing the funding scheme "Conseil régional d'Aquitaine":

*As concerns production, the Conseil régional d'Aquitaine Funding Scheme presents indirect territorialisation requirements which can be summarised as follows: place of establishment, film's theme being related to the region and its geographical, historical, cultural, social and economic characteristics (except for feature films), shooting location (entirely or to a significant extent in the region), expenditures to be spent in Aquitaine — without mention of a precise amount to be spent (See reply B.7).*

**E) <u>Indirect territorialisation based on any other provisions in the law (such as purpose and cultural clauses) that force the producer to make local spending</u>**

Section B 6.6 of the Germany Synthesis Sheet addressing the funding scheme "Filmförderung Hamburg GmbH":

*Art. 1.1 states that the aim of the film support scheme is to develop, maintain and strengthen film culture and film business in Hamburg. Support should be directed in particular toward:*

- *film productions that show economic promise;*
- *films of different genres that make an important contribution to film culture;*
- *television films and series of high quality whose content, form and cast make them suitable for international sales;*
- *television and video productions of cultural importance.*

[41] See also point A 3 in fine of the Italy Synthesis Sheet.

*These include projects in the area of pre-production and measures to strengthen the areas of distribution and sales as well as theatrical release and presentation.*

*In order to strengthen the audiovisual media in Hamburg, it is intended that at least one-and-a half times the amount of the funding awarded for the current year be spent in Hamburg. A further aim of the support scheme is to safeguard and create employment in Hamburg (see reply B.12 for Germany for Hamburg funding Scheme).*

*The requirement to promote the local film economy arguably qualifies as indirect territorialisation that is partially not quantifiable.*

### 2.5. Stocktaking and assessment of the degree of territorialisation

**Introduction**

The territorialisation requirements of the funding schemes of the 25 Member States analysed in this study present a great variety in form and content. Whereas certain territorialisation conditions are quantified or, at least, quantifiable, most of the rules imposing local expenditures are difficult to quantify.

Among the quantified or quantifiable requirements, we find the obligation to spend a percentage of the film budget or of the grant in the Member State or in one of its regions. Quantitatively-indeterminate requirements include, for example, the requirement that a film should, to a predominant extent, be shot locally or that use should be made of local technical goods and service providers or that staff should be employed who are locally resident or domiciled. In certain cases, clauses articulating cultural justifications and economic goals further blur the picture when they refer to general concepts or goals that leave a broad margin of interpretation (see discussion in Chapter 2.6 below).

Our findings are presented in the attached country output tables (Appendix A) under three main categories as follows:

**Table A – Direct Territorialisation Requirements**

In Table A we distinguish between direct "*explicit territorialisation requirement quantified in the law*" and direct "*explicit territorialisation requirement not quantified in the law*". These requirements are further described and analysed in more detail in Section B 2.2 of the Member State Synthesis Sheets.

Table A also indicates the available budget of each funding scheme, whether the funding schemes are national or regional, and (on the basis of the local lawyers' replies to point A 6 of our legal questionnaire) informs about expected new funding schemes containing explicit territorialisation requirements.

**Table B – Indirect territorialisation requirements**

In Table B we distinguish between

- "indirect territorialisation requirements located under formal nationality certification procedures", which are further described and analysed in Section A 3 of the Member State Synthesis Sheets;
- "indirect territorialisation requirements located under selective aid criteria and procedures", which are further described and analysed in Section B 2.4 of the Member State Synthesis Sheets;

- "indirect territorialisation requirements based on any other provisions in the law that force the producer to make local spending", which are further described and analysed either in Section B 2.3 or in Section B 2.6 of the Member State Synthesis Sheets.

**Table C – Territorialisation intensity in relation to budget**

In Table C, we present three measures of the intensity of territorialisation (in the final three columns).

The first measure rates funding schemes according to the proportion of state aid that must be spent locally (ie that must be territorialised). This is the "funding scheme level" column in Table C.

The second measure rates funding bodies according to self-assessments by the funding bodies which provided estimates of the proportions of their budgets subject to territorialisation requirements. This is the "funding body level" column in Table C.

The third measure rates Member States according to the average proportion of total audiovisual budgets of subsidised audiovisual productions that is required to be spent locally, and is the last column in Table C, ie "Member State level".

The rationale on which the first measure is based is described below. The second measure is described in Chapter 3.4, while the third measure is described in Chapter 4.3. It was on the basis of the third measure that categorisation of countries was made for the subsequent analysis in Parts C and D.

*Grading scale for funding bodies and schemes in relation to state aid*

The grading scale for intensity of territorialisation in relation to state aid at the funding scheme level uses the following three categorisation levels:

1 >1 meaning that a sum larger than the granted aid must be spent locally

2 =1 or <1 meaning that an amount equivalent to or lower than the state aid awarded must be spent locally

3 =0 meaning that no territorialisation requirements apply

We categorise level 1 as a "high territorialisation", level 2 as "moderate territorialisation" and level 3 as "no territorialisation".

*Examples*

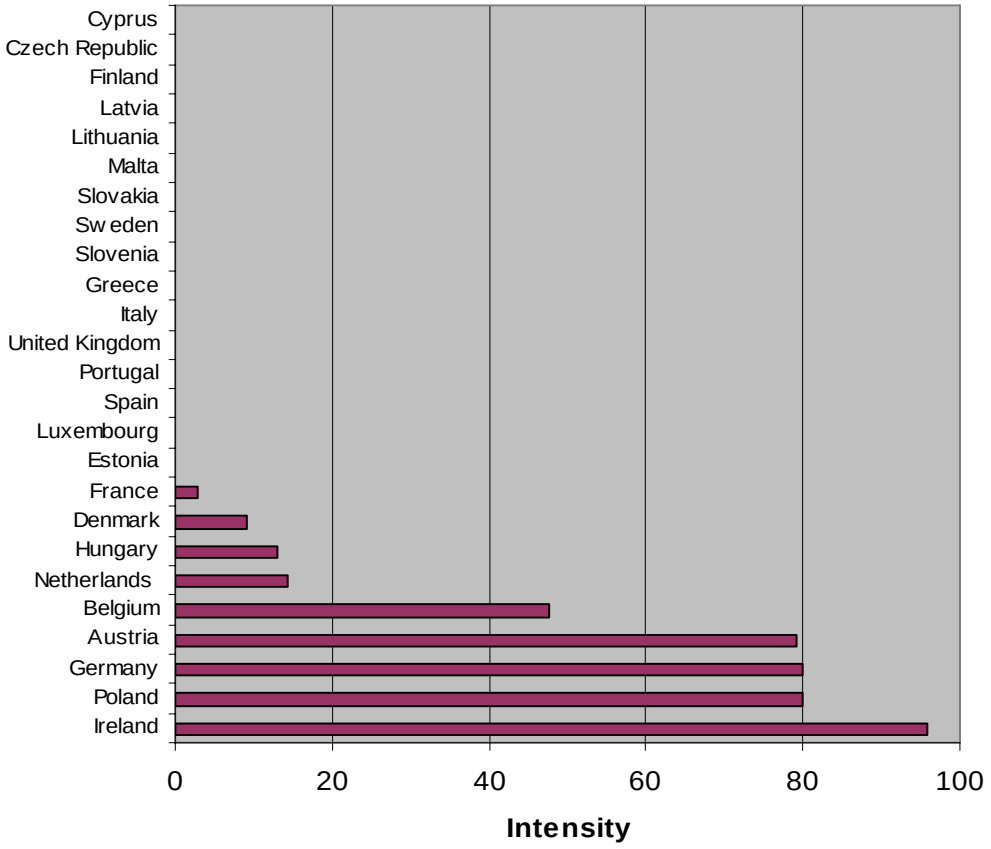
The direct territorialisation conditions that apply to the scheme "Filmförderung Hamburg GmbH" bring the scheme into the high category since at least 150% of the amount of the funding annually awarded must be spent locally (see Section B 6.2.4 of the Germany Synthesis Sheet).

The indirect territorialisation requirements that apply to the national funding scheme of Italy "Direzione Generale per il Cinema" provide, among other not quantified or quantifiable conditions, that 30% of the film budget must be locally spent (see Section A 3 of the Italy Synthesis Sheet). This territorialisation requirement, which is located under the criteria and procedures for nationality certification in the applicable law, brings the scheme into the moderate category (60% of the state aid granted must be spent locally). However, one must bear in mind in this example that the Italian funding scheme imposes additional unquantified requirements such as local shooting and the use of local technical facilities (see Sections A 3 and B 2.2 of the Italy Synthesis Sheet).

*Legal territorialisation intensity of Member States in relation to state aid*

We also calculated for some Member States a measure of the total legal requirement for territorialisation as a proportion of state aid across all the state-aid schemes in the Member State. Chart 2.1 provides a summary of these findings at Member State level – the fact that a large number of countries have zero values is one indication of the difficulty of obtaining this measure at such an aggregate level.

**CHART 2.1: MEASURES OF LEGALLY BASED TERRITORIALISATION INTENSITY BY EU25 MEMBER STATE**




There are many difficulties in the way of constructing such a measure. In the first place, we need to distinguish between Member States in terms of the degree of their legal complexity related to territorialisation, as follows:

- "Territorialisation-related high legal complexity": Member State with more than one funding scheme operating on the national (federal) and/or regional levels with *regional* territorialisation requirements.[42]
- "Territorialisation-related moderate legal complexity": Member State with more than one funding scheme operating on the national and/or regional levels without *regional* territorialisation requirements.

[42] "Regional territorialisation requirements" means territorialisation requirements referring to spending obligations within a region as opposed to within the Member State, eg the obligation to spend part of the production budget in a given German Land.

- "Territorialisation-related low legal complexity": Member State with one funding scheme only.

We doubt whether one can make a robust statement about the degree of territorialisation for the first category (high legal complexity), except for the situation where, in such a jurisdiction, no funding scheme requires explicit objective territorialisation. For the second and third categories (moderate and low legal complexity), one can measure territorialisation intensity but only where appropriate data are available. Often they are not.

Based on this differentiation between low, moderate and high territorialisation related legal complexity of the jurisdictions at stake, we submit that the evaluation of intensity of territorialisation in Member States belonging to the first category tends to be of lower reliability, the second category of moderate reliability, the third category of higher reliability, provided that predominantly quantified territorialisation requirements apply.

## 2.6. Legal provisions with cultural objectives as justification for territorialisation requirements

### Introduction

*Purpose of state aid*

There is arguably a balance to find between the requirement that the "Community shall contribute to the flowering of the cultures of the Member States, while respecting their national and regional diversity" (Article 151(1) of the EC Treaty) on the one hand, and, on the other hand, the objective to promote overall cultural diversity, the dissemination of cultural contents and the openness via cooperation between its Member States and third States (Article 151(2), 151(3) and 151(4) of the EC Treaty, and, more recently, the UNESCO Convention on cultural diversity, approved in autumn 2005, that came into force on 18 March 2007). Fragmentation of the internal market and distortion of competition could, as it is put forward here, also be detrimental to these latter cultural concerns.

The relationship between cultural and industrial policies is often articulated, structured and implemented in an ambiguous way. In our analysis, we found in the regulations of certain funding schemes purpose clauses indicating that state aid shall increase the quality of the independent film and television sector in cultural and economic terms. Under its component addressing economic objectives, such public support shall, for example, contribute to creating local jobs and to strengthening the local suppliers of audiovisual goods and services (see Section B 6.6 of the Germany Synthesis Sheet addressing the funding scheme "Filmförderung Hamburg GmbH"). As the Commission stated under Point 2.5 of its Cinema Communication of 2001, territorialisation requirements exceeding what may be judged acceptable under the necessity and proportionality criteria go beyond the strict limits of cultural promotion and aim basically at industrial objectives. In this context, it is argued here that territorialisation requirements cannot be justified as an end in themselves, ie solely as an industrial policy goal on the national level protecting the domestic market from foreign trade and competition. On the contrary, to be justified they need to function as an instrument to achieve cultural objectives, on the levels both of the European Union and of the Member States, as required by

Article 151 of the EC Treaty and by the corresponding provisions in the national constitutions addressing cultural policy goals.

*Values underlying cultural policy objectives in the audiovisual sector*

The Commission articulated the values underlying cultural objectives in the audiovisual sector in a statement of 1999 as follows:

> *The audiovisual media play a central role in the functioning of modern democratic societies. Without the free flow of information, such societies cannot function. Moreover, the audiovisual media play a fundamental role in the development and transmission of social values. This is not simply because they influence to a large degree which facts about and which images of the world we encounter, but also because they provide concepts and categories - political, social, ethnic, geographical, psychological and so on - which we use to render these facts and images intelligible. They therefore help to determine not only what we see of the world but also how we see it.*
>
> *The audiovisual industry is therefore not an industry like any other and does not simply produce goods to be sold on the market like other goods. It is in fact a cultural industry par excellence. It has a major influence on what citizens know, believe and feel and plays a crucial role in the transmission, development and even construction of cultural identities. This is true above all with regard to children.*[43]

*Diverging interests at stake*

From the national and regional perspectives, there is a strong incentive for the grantors and certain categories of beneficiaries of state aid to have these subsidies locally disbursed. State aid comes to a large extent directly or indirectly from local tax revenues. One argument repeatedly advanced by the representatives of the audiovisual industry in order to achieve broader political support for state aid among legislators emphasises the benefits of such state aid not only for the specific economy of the film and television sector, but also for the local economy in general (citing, eg, the creation of highly qualified jobs). If persuaded by this argument, both national legislators and stakeholders have a strong interest in preventing state aid from flowing into other Member States. This gives a strong motive for introducing territorialisation requirements.[44] On the other hand, producers and filmmakers can take considerable advantage of the "footloose" character of the film and television industry in creative and entrepreneurial terms provided that they are not bound by excessive territorialisation requirements[45]. This implies, in turn, that corresponding rules should be clear and transparent in order to be predictable for the producers and other stakeholders.

*Conflicts of rationales and justifications*

There are various rationales and justifications, both economic and cultural, for territorialisation requirements. In some jurisdictions, these grounds were debated and formulated during the legislative procedures in which the

[43] Communication of 14 December 1999 from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions: Principles and guidelines for the Community's audiovisual policy in the digital age [COM (1999) 657 final - not published in the Official Journal], p. 7-8 (see: http://eur-lex.europa.eu/LexUriServ/site/en/com/1999/com1999_0657en01.pdf).

[44] See Part G of this Study.

[45] The debate in California about so-called "runaway film production", ie the shooting and postproduction of films outside the market for which they are intended (in this case the United States) illustrates most of the issues at stake within a free market economy. In the early 1990s, important segments of the U.S. film industry became increasingly concerned about the growing loss of film and television production to foreign shores. For further references, see Office of Public Affairs, *The Migration of U.S. Film and Television Production*, January 2001, at: www.ita.doc.gov/media/Publications/abstract/filmtvproddesc.html.

regulations governing the funding schemes were elaborated and adopted. Under Point B.12 of our legal questionnaire (Appendix B), we asked the local counsels to quote the legal provisions of their jurisdiction expressing cultural policy goals (eg promotion of cultural identity and cultural diversity) that could legitimate territorialisation requirements.

At the constitutional level of the Member States, one finds cultural clauses that are comparable in their function to Article 151 of the EC Treaty. These clauses contain principles that are usually drafted in general and abstract terms to cover State intervention in all the fields where it practises cultural policies. They commonly provide overall guidance to the State on the protection and promotion of culture in general as well as cultural identity and cultural diversity in particular. These provisions must be read in conjunction with constitutional rules articulating industrial, trade and competition policies. Their interpretation is rendered more complex since these areas of law are often regulated in detail also at the supra-national level: by European law and by the relevant rules of the World Trade Organization (WTO), of bilateral trade agreements, of the General Conference of the United Nations Educational, Scientific and Cultural Organisation (UNESCO) and of the Council of Europe. It is a highly challenging task to elaborate and translate into operational legal rules public policies across disciplines that involve a variety of, often at least partially, conflicting interests underlying culture, trade and competition and that are no longer under the full legislative sovereignty of Member States.

*Inventory of cultural clauses and analysis*

The promotion of culture finds expression in many provisions of the legal order. The law has developed different responses to the issues at stake in the national and regional jurisdictions. From the legal perspective, cultural objectives tend to be elusive concepts. They are often less determined than those underlying multilateral, plurilateral or bilateral trade regulations or national industrial and competition laws and policies.

At the level of national laws addressing the film and television sector as well as in regulations and guidelines specifically applying to funding schemes for state aid in the European Union, one may find clauses that more concretely articulate the purposes of the state aid at stake. The legal analysis in the Member State Synthesis Sheets provides an inventory of these clauses. Under Section 2.6 of the Synthesis Sheets ("Synopsis of purpose and cultural clauses applying to the funding scheme"), we initially made the attempt to assess these cultural clauses in their function as instruments to legitimise territorialisation requirements. In particular, we tried to evaluate the degree of specificity in the articulation of cultural purposes in relation to territorialisation requirements. In other words, we aimed at providing a clearer picture of the degree of legal certainty of cultural clauses as legitimising territorialisation requirements. In the end, however, we had to conclude that all the analysed provisions granted a very broad discretion for interpretation, and that none of them contained constraining legal safeguards against unjustified economic protectionism. As a matter of fact, in many cases, these cultural clauses also express economic objectives. This combination of cultural and economic state goals may tend to blur the picture, because it becomes more difficult to distinguish between objectives and instruments, to sort out which objective justifies which instrument, and to understand the interaction between different objectives and instruments over time. For the purposes of our assessment, we considered that

the purpose and cultural clauses expressly mentioning the economic promotion of the local audiovisual sector qualify as indirect territorialisation requirements (see Chapter 2.4 on definitions above). Beyond that, one may argue that objectives setting forth pure cultural promotion could also qualify as territorialisation conditions. If we followed this approach, we should encounter the so-called *implicit*, or *implied,* territorialisation requirements for the existence of which one cannot generally find satisfactory evidence due to the limited judicial scrutiny they are subject to. Nevertheless, these cultural clauses give in most cases more or less clear instructions to the state aid grantors to favour local content and the local content providers. However, unless the local counsels could provide evidence in form of reported practice, ie administrative or judicial case law that was published, we did not consider such clauses in our Member State Synthesis Sheets. In sum, we only took into account territorialisation requirements in our analysis contained in the Member Synthesis Sheets where these requirements were clearly stated in the law or resulted from clear case law as reported by the local counsels. In this context it must be emphasised that there is very little case law in this area. Stakeholders, in particular the film and television programme producers, usually avoid any litigation with the administration of funding schemes, arguably in order not to jeopardize their chances of obtaining state aid in the future. This area of law is, therefore, only very exceptionally further developed through reported judicial or administrative procedures[46].

## 2.7. Comments from stakeholders

As a consequence of the public presentation of a preliminary draft of this study to interested stakeholders on 6 July 2007, we received specific comments in written form inviting us to review our findings for Part A from the German Federal Film Board with respect to the "Medienfonds" that operated until 2004, and from the FilmFernsehFonds Bayern in relation to the computation of the territorialisation intensity for the Bayern funding scheme.[47] Accordingly, we corrected and completed our findings regarding the territorialisation intensity for the FilmFernsehFonds of Bayern. However, we did not amend our legal assessment on Germany in relation to the "Medienfonds" funding scheme since it does not qualify as "state aid" in the sense of the legal definition used in this Study (see section 2.3 *in fine* and Glossary pp. v-vi above).

The French Film Commission mentioned in its written comments that this report only gives an idea about the existing regulations, which, it stressed, is "already an accomplishment." We recall in this context that the Commission sent its own preliminary legal questionnaire to the funding bodies in April 2006. Many of them did not reply at all or only referred to a common declaration by the European Film Agency Directors (EFAD) of 24 April 2006 without providing specific answers to the Commission's questions.

During the workshop of July 2007, representatives from producers associations emphasised the importance of clear and transparent rules that contribute to a

[46] For an example of litigation related to the French nationality certification criteria and procedures, see Section A 4 of the France Synthesis Sheet.
[47] See section on "Comments on the draft Preliminary Final Report" at www.eufilmstudy.eu .

predictable legal environment for film producers.[48] Their argument is that, because film producers have an important role to play in sustaining cultural diversity in the European cinema sector, legal certainty, if it substantially improves the film producers' working conditions, makes an important contribution to this cultural diversity. In particular, based on certain stakeholders' feedback, one can suggest that the legal expressions of cultural objectives have to be more specific if they are to be better operable and to provide predictability and a secure legal framework. In this connection we believe that, independently of any contribution of this report to the Commission's deliberations on the issue of territorialisation, the legal database established on the basis of the questionnaire in Appendix B arguably has the positive side-effect of enhancing legal transparency and predictability and thus benefiting European film production and the commonly-accepted policy goal of cultural diversity.

## 2.8. Main findings and conclusions

**Main findings of Part A**

The main findings of Part A of the Territorialisation Study can be summarised as follows:

- We have analysed 140 funding schemes in 25 Member States with regard to rules containing territorialisation requirements and related administrative and judicial practice.
- The great variety of forms of territorialisation requirements in these funding schemes can be grouped in two main categories: direct and indirect requirements. They can be further subdivided into requirements quantified and not quantified in the law.
- Territorialisation requirements are located under provisions specifically addressing them as such ("direct territorialisation requirements") as well as under provisions on nationality certification criteria and procedures, selective state aid granting mechanisms or purpose and cultural clauses ("indirect territorialisation requirements").
- Certain territorialisation requirements specify that a percentage of the film budget or of the state aid awarded must be spent locally ("territorialisation requirements quantified in the law"), whereas other obligations require local shooting, use of local technical services suppliers and facilities or of staff locally domiciled or resident ("territorialisation requirements not quantified in the law").
- Different categories of territorialisation requirements may be found within the same funding scheme (eg the same funding scheme can have direct and indirect as well as quantified and not quantified territorialisation requirements) and among funding schemes within the same Member State.
- Direct territorialisation requirements quantified in the law apply in the case of 21% of the funding schemes analysed that account in total for 24% of the budgets of all the funding schemes analysed (see Charts 2.1 A and 2.1 B of Appendix A bis).

[48] In its written submission, the European Film Companies Alliance (EFCA) expressed the need of more legal certainty, accountability and transparency in the context of advocating a block exemption. The EFCA stated: "In order to avoid any unfair treatment and create more legal certainty EFCA would support the establishment of a block exemption for state aid to cinema, as it would allow for more accountability and transparency. A block exemption would contribute to a stable and secure environment for the cinema industry. However, such desired result of course also depends on the criteria that will be selected."

- Direct territorialisation requirements not quantified in the law apply in the case of 9% of the funding schemes analysed that account in total for 12% of the budgets of all the funding schemes analysed (see Charts 2.2 A and 2.2 B of Appendix A bis).
- In 21% of the funding schemes analysed there are neither direct nor indirect territorialisation requirements. In 6% of the funding schemes analysed there are only direct territorialisation requirements, and in 49% of the funding schemes analysed there are only indirect territorialisation requirements. Finally, 24% of the funding schemes analysed contain both direct and indirect territorialisation requirements (see Chart 2.6.1 A of Appendix A bis; see Chart 2.6.2 A for the percentages of funding scheme budgets).
- A large majority of the funding schemes analysed, ie 68% of the funding schemes accounting in total for 59% of the budgets of all funding schemes, contain territorialisation requirements (whether direct or indirect) that are not quantified or not fully quantified in the applicable regulations ("mixed situation"). Another 11% of the funding schemes analysed contain only quantified territorialisation requirements, accounting in total for 25% of the budgets of all funding schemes (see Charts 2.7.1 A and 2.7.2 A of Appendix A bis; for the corresponding percentages without France, see Charts 2.7.1 B and 2.7.2 B of Appendix A bis).
- There is almost no judicial or administrative case law reported, and therefore no evidence for implicit or implied territorialisation requirements.
- In many cases, one can construe purpose and cultural clauses as instructing the funding scheme to favour local content and local content providers. Such instructions may arguably influence the granting of state aid. In this absence of reported practice related to such clauses we did not consider them for the purposes of this study.

The findings presented in the legal output tables in Appendix A and in the charts in Appendix A bis result from the Member State Synthesis Sheets in the on-line database on www.germann-avocats.com

# 3. Part B: Analysis of Public Subsidies

## 3.1. Introduction

The objective of the present Chapter is to uncover and analyse the budgets available for film aid as well as the amounts actually spent on supporting films and other audiovisual works in 25 Member States of the European Union. On the basis of a survey, conducted among the European funding bodies, the analysis focuses on the degree to which the funding is subject to territorialisation clauses, whether the aid is allocated automatically or not, whether it is given as grants or loans, and on the distribution of the various kinds of productions and activities supported.

The main data sources are the KORDA database of the European Audiovisual Observatory, the information gathered in connection with Part A and a survey conducted by Rambøll Management among 96 European funding bodies. Only 90 of these turned out to exceed the minimum budget of 1 MEUR required for being covered by the study. In addition, extensive desk research has been undertaken to identify possible alternative information sources. The overall budgets available for film aid have been determined on the basis of the funding bodies identified in the KORDA database. The analysis is based on the questionnaire survey and on a number of contacts subsequently made with the individual funding bodies and with administrators of tax incentive schemes.

The activities carried out in relation to the survey among funding bodies are described in 3.2. In 3.3, the budget data are analysed, and in Chapters 3.4 to 3.9 we present the analysis of the various parameters concerning the film aid, which leads to the conclusions in 3.10.

**Consistency between Parts A and B**

Two different data collection approaches have been applied in Part A and Part B. In Part A, funding schemes were identified and categorised on the basis of the legal rules governing them ("regulatory unit" approach)[49]. In contrast to this, Part B has been based mainly on data from a survey among administrative units, the funding bodies.

Funding schemes are therefore in some cases defined differently under Part A and B, which means that the number of schemes and the budget figures are not immediately comparable. At the same time, as Part B is based on survey figures, it does not cover all funding bodies. The response rate was about 20 - 40%, varying from question to question, but the responding bodies represent a total of more than half of total funding body budgets. Our survey data are therefore not 100% complete and are of course less representative than KORDA data. Where a complete picture of film aid is estimated, budget figures have therefore been taken from KORDA.

## 3.2. The Survey

Data were collected through a survey among European funding bodies and from the KORDA database.

[49]See Glossary p. vi and Section 2.3 above.

**Identification of funding bodies for survey**

Around 200 national funds supporting film, television and other audiovisual works are listed in the KORDA database. In addition, this database covers a number of supra-national funds.

The KORDA database contains information on the budgets of each of the funding bodies that give financial aid for the production and distribution of films and other audiovisual productions in the EU Member States. The database was not fully updated for 2005, and in some cases the data did not cover a full five-year period. Consequently the following tables give budget data for 2004, not for 2005.

The intention was to focus on funding bodies with annual budgets greater than €1m (one million euros). The funding bodies identified from the KORDA database were, therefore, subjected to a filtering process using the €1m budget limit for 2005 or €0.9m for 2004.

The final list of funding bodies for the questionnaire, which consisted of 96 funds, is shown in Appendix C. These were contacted by telephone in order to identify relevant respondents for the questionnaire survey.

**TABLE 3.1: MEDIA FUNDS AND THEIR BUDGETS ACCORDING TO KORDA IN EUROPE, 2004**

| Country | Number of funds with budget larger than 1MEUR | Total budget for funds in MEUR | Population (million) 2005 | Budget per capita, EUR |
|---|---|---|---|---|
| Austria | 5 | 27.7 | 8.1 | 3.4 |
| Belgium | 3 | 24.1 | 10.4 | 2.3 |
| Czech Republic | 1 | 1.9 | 10.2 | 0.2 |
| Cyprus | 1 | 1.0 | 0.7 | 1.4 |
| Denmark | 3 | 35.9 | 5.4 | 6.7 |
| Estonia | 2 | 3.2 | 1.4 | 2.4 |
| Finland | 2 | 14.0 | 5.2 | 2.7 |
| France | 14 | 512.1 | 62.0 | 8.3 |
| Germany | 11 | 203.2 | 82.5 | 2.5 |
| Greece | 1 | 6.0 | 11.0 | 0.5 |
| Hungary | 3 | 19.9 | 10.1 | 2.0 |
| Ireland | 1 | 11.4 | 4.0 | 2.9 |
| Italy | 1 | 90.0 | 57.9 | 1.6 |
| Latvia | 1 | 1.1 | 2.3 | 0.5 |
| Lithuania | 1 | 1.1 | 3.4 | 0.3 |
| Luxembourg | 1 | 3.9 | 0.5 | 8.7 |
| Malta | 0 | 0.0 | 0.4 | 0.0 |
| Netherlands | 5 | 40.3 | 16.3 | 2.5 |
| Poland | 1 | 3.5 | 38.2 | 0.1 |
| Portugal | 1 | 17.8 | 10.5 | 1.7 |
| Slovakia | 0 | 0.0 | 5.4 | 0.0 |
| Slovenia | 1 | 2.3 | 2.0 | 1.2 |
| Spain | 8 | 71.9 | 42.3 | 1.7 |
| Supranational | 5 | 40.7 | 458.9 | 0.1 |
| Sweden | 4 | 55.8 | 9.0 | 6.2 |
| United Kingdom | 14 | 118.3 | 59.7 | 2.0 |
| **TOTAL** | **90** | **1,307.1** | **458.9** | **2.9** |

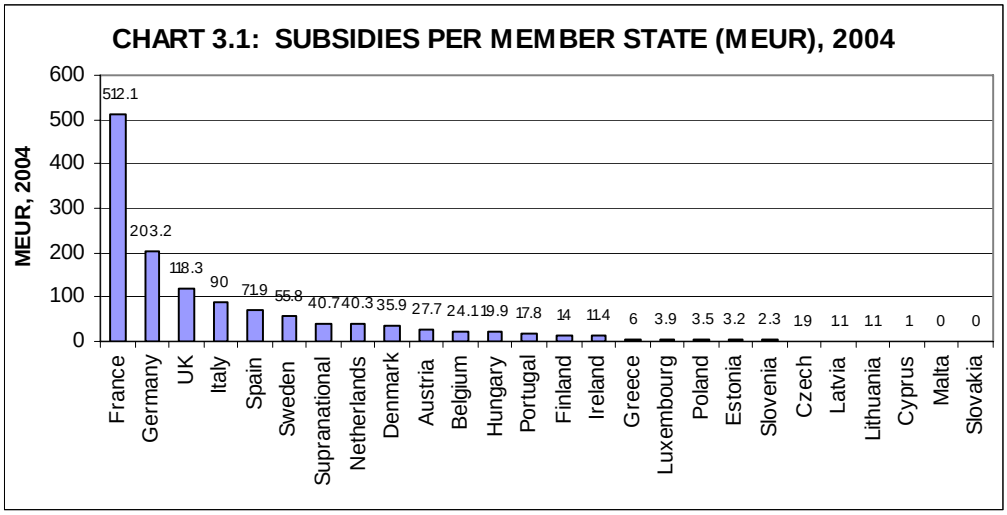
Source(s) : KORDA and Eurostat, ONS for the UK.
Note(s) : The figures in this table do not include tax incentive schemes; these are presented separately in Chapter 3.9.

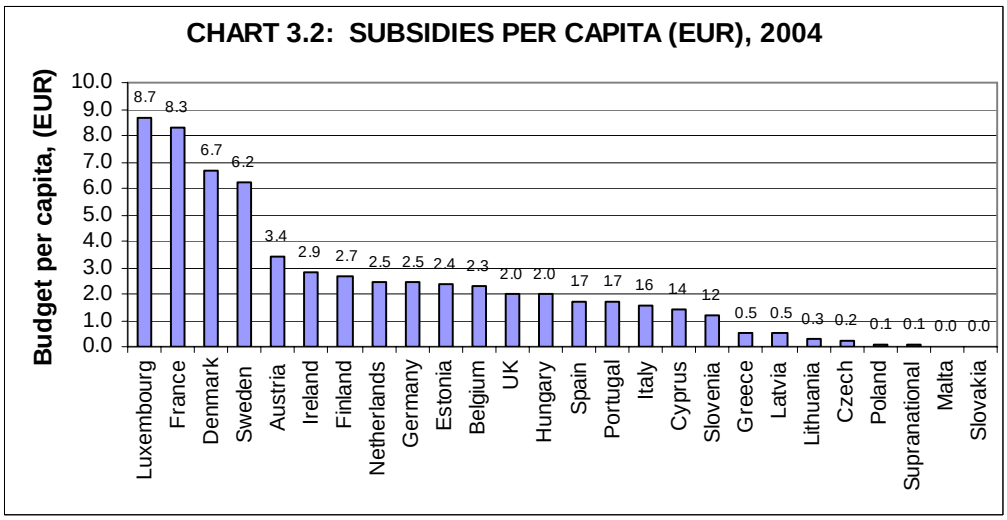
**Film aid per country and capita**

Table 3.1 shows the number and total budgets available, according to the KORDA database, of funding bodies, in the EU Member States, with annual budgets exceeding €0.9m in 2004 (or €1.0m in 2005). The budgets, which do not include tax incentives, amount to a total of €1.31bn or €2.9 per capita in Europe, ranging in per capita terms from €0 in Malta and Slovakia to €6.7 in Denmark, €8.3 in France, and €8.7 in Luxembourg.

Table 3.1 covers only 90 funds, because five of the 96 funds that have responded have indicated annual budgets lower than €1.0 million, and one was a tax incentive scheme. The five funds that are excluded because of size are:

- Greece: Hellenic Broadcasting Company
- Finland: State Grant for artists
- Malta: Malta Film Commission
- Supranational: Africa Cinemas (part of Europa Cinemas)
- Supranational: Agence Intergouvernementale de la Francophonie




The budget sizes[50] for each Member State as total annual amounts and as per capita annual amounts are shown in Charts 3.1 and 3.2. As small funds with budgets lower than €1.0 million are omitted, the figures may be underestimated

[50] Source(s) : KORDA and Eurostat.

for Member States with many small regional entities awarding aid, for example Spain.

**Design of questionnaire for funding bodies**

A questionnaire was developed in close cooperation with the Commission. The questionnaire was designed to collect information on budgets and on amounts actually paid by the funding body over a five year study period. The funding bodies were asked to indicate the breakdown of their budgets and spending by funding schemes. In addition, they were asked to give information on the following parameters.

- proportions of budgets and amounts actually paid that are subject to territorialisation
- proportions granted automatically or selectively
- proportions allocated for or spent on main groups of activities, ie pre-production, production, post-production, promotion & marketing, distribution and other activities
- proportions allocated for or spent on national productions, co-productions and other productions
- proportions allocated as grants, as soft loans, or as tax incentives.

Budget information was requested at funding scheme level (according to the "regulatory unit" approach), whereas other data were asked for at funding body level (according to the "administrative unit" approach).

At the design stage the scope and size of the questionnaire as well as its complexity were discussed. In spite of the difficulties in collecting the required data, it was decided to design a rather comprehensive and complicated questionnaire in order to cover all aspects specified in the Terms of Reference. The questionnaire is shown in Appendix C.

**Response to questionnaire and telephone interviews**

E-mails were sent to each of the funding bodies with a link to the questionnaire and with an individual password. It was possible for the respondents to enter the questionnaire more than once and to fill the questionnaire step by step along with the data collection.

The questionnaire was received positively by the funding bodies, and a number of questions, remarks and constructive suggestions for improvements have been received by e-mail from funding bodies all over Europe. In particular, the following types of comments were made.

- It is a very time-consuming task to estimate what was actually paid and at what time.
- It is not necessary or useful to look both at budgets and amounts actually paid. These figures will always be of similar size, and the deviations are not informative.
- Co-production needs to be defined, or we need to distinguish between different degrees of co-production. Respondents have applied their own definitions here.
- According to some funding bodies, it is not relevant to look at items other than production and postproduction when we talk about territorialisation. Other activities are almost always done in the region, and it is not necessary to require local spending.

Given these attitudes, and bearing in mind the levels of response to many other questionnaire surveys, the response rate has been acceptable or even high. Nonetheless, a higher response rate was expected to this survey, because of the relevance of the questions and the study to the respondents.

In an effort to improve the response rate, the funding bodies were contacted by e-mail and telephone with offers of assistance in completing the questionnaire.

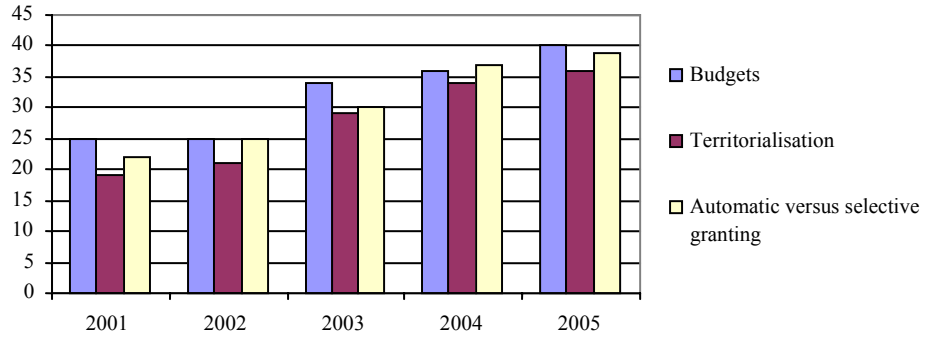
Of the total of 90 funds, 72 logged in to the questionnaire, giving a relatively high log-in rate of 79 %.

Of the total of 90 funds 45 gave answers to part of or the full questionnaire, either on the internet or by means of ordinary mail.

Forty respondents stated their 2005 budget and 25 stated their 2001 budget. The number of respondents to questions related to territorialisation and other parameters ranges from 33 indicating 'Automatic or selective granting' for 2005 to only five indicating 'Type of production supported' for 2001.

Chart 3.3 shows the numbers of respondents to the different questions in each year of the period covered by the questionnaire.

**CHART 3.3: RESPONSES TO QUESTIONS REGARDING BUDGETS, TERRITORIALISATION, AND SELECTIVE OR AUTOMATIC GRANTS FOR THE FIVE YEARS**




In parallel with the survey, tax incentive schemes were identified and relevant authorities were contacted. In some cases it was difficult to identify persons or institutions, responsible for and sufficiently informed about the tax incentive schemes to give the requested answers to the questionnaire. Only one partially filled questionnaire concerning a tax incentive scheme was received. Data and information on tax incentive schemes were therefore collected by other means, including desk study of available papers, websites and publications, and through telephone and e-mail contacts to persons that had partial information on the tax incentive schemes. The tax incentive schemes are therefore not included for the purpose of the following analysis, and are instead presented separately in Chapter 3.9.

## 3.3. Analysis of budget data

**TABLE 3.2: BUDGETS OF FUNDING BODIES IN 2004 ACCORDING TO KORDA AND ACCORDING TO SURVEY DATA**

| Country | | KORDA budget, 2004 | Survey budget, 2004 | Difference |
|---|---|---|---|---|
| Austria | Österreichisches Filminstitut | 9,600,000 | 9,600,000 | 0% |
| Austria | Fernsehfonds Austria (RTR-GmbH) | 7,500,000 | 7,000,000 | 7% |
| Austria | Filmfonds Wien | 8,000,000 | 7,995,000[51] | 0% |
| Belgium | Centre du Cinéma et de l'Audiovisuel | 11,042,699 | 10,354,166 | 7% |
| Belgium | Wallimage | 3,300,000 | 2,500,000 | 32% |
| Belgium | Vlaams Audiovisueel Fonds | 9,750,000 | 9,750,000 | 0% |
| Czech Republic | State Fund for the Support and Development of Czech Cinematography | 1,914,894 | 2,100,000 | -9% |
| Denmark | FilmFyn | 1,300,000 | 1,400,000 | -7% |
| Denmark | Det Danske Filminstitut | 32,711,409 | 35,049,000 | -7% |
| Estonia | Eesti Filmi Sihtasutus | 2,348,913 | 2,163,402 | 9% |
| Finland | Suomen Elokuvasäätiö | 12,424,000 | 12,793,581 | -3% |
| France | Centre régional de ressources audiovisuelles de la région Nord-Pas de Calais | 2,764,500 | 2,764,500 | 0% |
| France | Centre national de la cinématographie | 475,658,000 | 328,000,000 | 45% |
| France | Région Réunion | 2,320,000 | 815,800 | 184% |
| France | Conseil régional de Provence-Alpes-Côte d'Azur | 2,320,000 | 1,466,080 | 58% |
| Germany | Medienboard Berlin-Brandenburg | 25,397,318 | 25,397,319 | 0% |
| Germany | Nordmedia | 13,179,779 | 8,439,138 | 56% |
| Germany | Medien- und Filmgesellschaft Baden-Würtemberg GmbH | 10,362,633 | 6,459,000 | 60% |
| Germany | Filmförderungsanstalt | 46,903,000 | 84,223,000 | -44% |
| Germany | Filmförderung Hamburg GmbH | 7,000,000 | 7,208,000 | -3% |
| Germany | FFF-Bayern | 22,260,000 | 28,474,772 | -22% |
| Ireland | Bord Scannan na hEireann | 11,399,707 | 11,103,703 | 3% |
| Latvia | National Film Center of Latvia | 1,137,228 | 978,616 | 16% |
| Lithuania | Lietuvos Respublikos Kulturos Ministerija | 1,091,014 | 1,068,000 | 2% |
| Luxembourg | Fonds national de soutien à la production audiovisuelle | 3,928,775 | 4,000,000 | -2% |
| Netherlands | Stimuleringsfonds Nederlandse Culturele Omroepproducties | 15,992,458 | 13,856,000 | 15% |
| Netherlands | Rotterdams Fonds voor de Film en Audiovisuele Media | 2,700,000 | 2,400,000 | 13% |
| Netherlands | Hubert Bals Fund | 1,246,000 | 912,500 | 37% |
| Spain | Instituto de la Cinematografía y las Artes Audiovisuales | 33,361,000 | 32,397,000 | 3% |
| Sweden | Svensk Filminstitut | 44,119,761 | 22,300,000 | 98% |
| UK | UK Film Council | 79,878,571 | 71,527,450 | 12% |
| UK | Screen Yorkshire | 4,127,967 | 1,364,127 | 203% |
| UK | Northern Film & Media | 2,347,849 | 1,721,017 | 36% |
| UK | Northern Ireland Film and Television Commission | 2,688,992 | 780,000 | 245% |
| Total | | 912,076,467 | 758,361,171 | 24% |

Note (s) : This list only includes funding bodies that have responded to the questionnaire survey and given their budget for 2004. It does not include tax incentive schemes; these are presented in Chapter 3.9

Table 3.2 compares the budgets for 2004 as reported in the KORDA database with the corresponding figures from the survey. This and the following tables, presenting the results of the survey include only funding bodies that have responded to the questionnaire, and the figures are therefore not necessarily a representative sample.

[51] Budget for Filmfonds Wien provided by Stadt Wien Filmforderung in survey.

**Budgets for 2004: KORDA versus survey data**

There are evidently some differences in the 2004 budget figures between the two data sources. This is particularly the case for the five German funds and also for the UK, the Netherlands and the Czech Republic. On average, however, the survey figures for total budgets are only 20% lower than the corresponding KORDA figures. The differences may be due to deficiencies in both sources, but it is not possible to give a general explanation of this on the basis of information at hand.

**Budgets versus amounts actually paid**

The differences between budgets and amounts actually paid are displayed in Table 3.3. It is seen, that on average the difference is small, and that the amounts actually paid are 9% less than the budgets available. The deviations are considerably larger in three cases, namely in Wallimage in Belgium (21%), Filmförderungsanstalt in Germany (24%), State Fund for the Support and Development of Czech Cinematography (25%). In the four cases where amounts actually paid exceed the budgets, it is not clear whether or not these excesses represent surpluses that may be spent in the following years (or if they reflect over-consumption in earlier years).

**TABLE 3.3: BUDGETS AND AMOUNTS ACTUALLY PAID BY FUNDING BODIES ACCORDING TO SURVEY DATA (AMOUNTS IN €M ACTUALLY PAID IN ITALICS)**

| Funding body – | 2001 | 2002 | 2003 | 2004 | 2005 | Total | Deviation |
|---|---|---|---|---|---|---|---|
| Austria, Österreichisches | | | 9.6 | 9.6 | 9.6 | 28.8 | |
| Filminstitut | | | *8.7* | *8.4* | *9.7* | *26.8* | 7% |
| Austria, Stadt Wien | | | | 11.8 | 11.8 | 23.5 | |
| Filmförderung | | | | *11.8* | *11.8* | *23.5* | 0% |
| Austria, Fernsehfonds | | | | 7.0 | 7.0 | 14.0 | |
| Austria (RTR-GmbH) | | | | *2.4* | *8.9* | *11.3* | 19% |
| Belgium, Wallimage | 3.3 | 3.3 | 3.3 | 2.5 | 2.5 | 14.9 | |
| | *1.9* | *2.6* | *2.6* | *2.4* | *2.2* | *11.7* | 21% |
| Belgium, Vlaams | | 5.2 | 9.9 | 9.8 | 9.8 | 34.5 | |
| Audiovisueel Fonds | | *5.6* | *10.6* | *9.2* | *10.1* | *35.6* | -3% |
| Czech Republic, State Fund for the Support and Development of Czech Cinematography | 5.3 | 3.9 | 2.1 | 2.1 | 1.8 | 15.3 | |
| | *2.5* | *2.7* | *1.8* | *2.3* | *2.2* | *11.5* | 25% |
| Cyprus, Cinema | 0.9 | 0.9 | 0.9 | 0.7 | 1.0 | 4.2 | |
| Advisory Committee | *0.2* | *0.6* | *0.7* | *0.7* | *0.6* | *2.8* | 34% |
| Denmark, FilmFyn | | | 0.5 | 1.4 | 1.4 | 3.3 | |
| | | | *0.5* | *1.4* | *1.4* | *3.3* | 0% |
| Denmark, Det Danske | | | 33.8 | 35.0 | 36.0 | 104.9 | |
| Filminstitut | | | *34.3* | *35.5* | *39.0* | *108.8* | -4% |
| Estonia, Eesti Filmi | 1.2 | 1.9 | 2.0 | 2.2 | 2.7 | 10.0 | |
| Sihtasutus | *0.9* | *1.6* | *1.8* | *1.7* | *2.4* | *8.3* | 16% |
| Finland, Suomen | | | | | 13.3 | 13.3 | |
| Elokuvasäätiö | | | | | *13.3* | *13.3* | 0% |
| France, Centre régional de ressources audiovisuelles de la région Nord-Pas de | 0.7 | 0.8 | 0.7 | 2.8 | 2.0 | 7.0 | |
| Calais | *0.7* | *0.8* | *0.7* | *2.8* | *2.0* | *7.0* | 0% |
| France, Région Réunion | 0.4 | 0.6 | 1.3 | 0.8 | | 3.1 | |
| | *0.4* | *0.4* | *1.3* | *0.6* | | *2.7* | 13% |
| Germany, Nordmedia | 5.5 | 11.1 | 10.3 | 8.4 | 7.5 | 42.9 | |
| | *2.5* | *10.5* | *10.0* | *8.3* | *6.8* | *38.1* | 11% |
| Germany, Medien- und | 6.1 | 7.9 | 7.6 | 6.5 | 5.9 | 34.0 | |

**TABLE 3.3: BUDGETS AND AMOUNTS ACTUALLY PAID BY FUNDING BODIES ACCORDING TO SURVEY DATA (AMOUNTS IN €M ACTUALLY PAID IN ITALICS)**

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Filmgesellschaft Baden-Würtemberg GmbH | *7.0* | *7.4* | *7.7* | *7.4* | *6.5* | *36.0* | -6% |
| Germany, Filmstiftung Nordrhein Westfalen GmbH | | | | | 42.1<br>*36.0* | 42.1<br>*36.0* | 14% |
| Germany, Filmförderungsanstalt | 58.4<br>*48.7* | 64.9<br>*49.7* | 72.1<br>*52.5* | 84.2<br>*57.0* | 94.0<br>*75.2* | 373.5<br>*283.2* | 24% |
| Germany, Filmförderung Hamburg GmbH | 10.5<br>*9.0* | 10.2<br>*9.0* | 9.2<br>*10.7* | 7.2<br>*7.9* | 6.6<br>*6.7* | 43.7<br>*43.2* | 1% |
| Germany, FFF-Bayern | 33.5<br>*26.2* | 32.6<br>*28.5* | 31.7<br>*32.4* | 28.5<br>*23.9* | 22.1<br>*25.3* | 148.3<br>*136.3* | 8% |
| Netherlands, Stimuleringsfonds Nederlandse Culturele Omroepproducties | | | 13.9<br>*14.6* | 13.9<br>*14.6* | 14.8<br>*15.4* | 42.5<br>*44.7* | -5% |
| Netherlands, Rotterdams Fonds voor de Film en Audiovisuele Media/ | 2.0<br>*1.7* | 2.4<br>*2.5* | 2.4<br>*2.6* | 2.4<br>*2.3* | 2.4<br>*2.0* | 11.6<br>*11.0* | 5% |
| Netherlands, Hubert Bals Fund | | | 0.9<br>*1.0* | 0.9<br>*0.4* | 1.0<br>*1.2* | 2.8<br>*2.5* | 10% |
| Netherlands, The Dutch Co-production Fund for Broadcasting Companies | | 10.7<br>*9.0* | 9.2<br>*10.3* | 9.7<br>*7.9* | 10.2<br>*8.7* | 39.8<br>*35.9* | 10% |
| Lithuania, Lietuvos Respublikos Kulturos Ministerija | 1.0<br>*1.0* | 0.8<br>*0.8* | 0.9<br>*0.9* | 1.1<br>*1.1* | 1.4<br>*1.4* | 5.1<br>*5.1* | 0% |
| Latvia, National Film Center of Latvia | | | | | 2.0<br>*2.0* | 2.0<br>*2.0* | 0% |
| Luxembourg, Fonds national de soutien à la production audiovisuelle | 2.5<br>*2.3* | 4.5<br>*3.9* | 4.5<br>*3.3* | 4.0<br>*3.9* | 4.5<br>*3.4* | 20.0<br>*16.8* | 16% |
| UK, UK Film Council | 56.9<br>*37.6* | 64.6<br>*48.6* | 68.4<br>*70.9* | 71.5<br>*76.4* | 79.1<br>*90.6* | 340.6<br>*324.1* | 5% |
| UK, Screen Yorkshire | | | 0.3<br>*0.1* | 1.4<br>*1.3* | 3.4<br>*3.4* | 5.1<br>*4.8* | 6% |
| UK, Northern Film & Media | | | 2.1<br>*1.7* | 1.7<br>*1.8* | 1.4<br>*1.4* | 5.1<br>*5.0* | 3% |
| Sweden, Svensk Filminstitut | 20.0<br>*20.0* | 20.5<br>*20.5* | 23.5<br>*23.5* | 22.3<br>*22.3* | 21.5<br>*21.5* | 107.8<br>*107.8* | 0% |
| **TOTAL** | **208.1**<br>***162.5*** | **246.8**<br>***204.7*** | **321.1**<br>***305.2*** | **349.2**<br>***315.5*** | **418.7**<br>***411.2*** | **1543.8**<br>***1399.2*** | **9%** |

Source(s) : KORDA and survey conducted November 2006 to January 2007, N=30.

**Budget development**

The changes in budgets are shown in Table 3.4 for the funds that have indicated budgets for every year during the period 2001-2005.

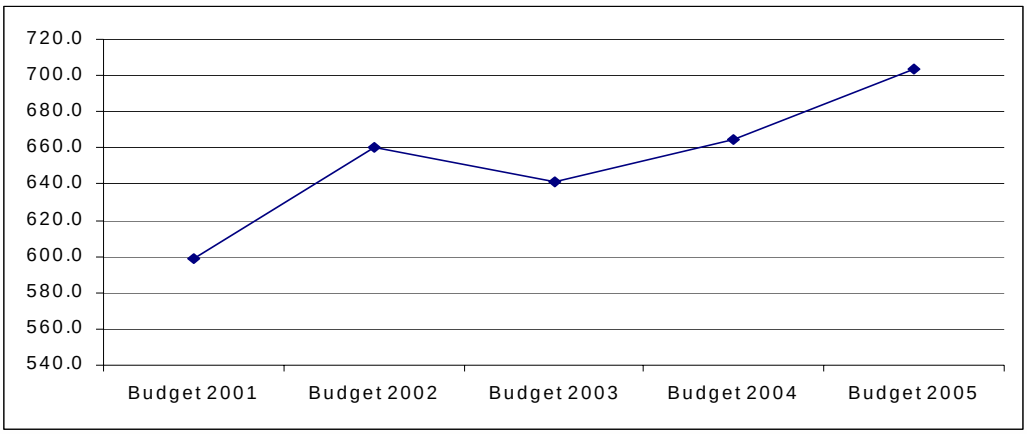
In this limited sample, the budgets (in current prices) have increased by only 18% on average during the period 2001 – 2005. However, the low growth during this period of the large French fund, CNC, reduces the average growth considerably. Without CNC, the average growth (again, in current prices) is 24% over the five-year period.

**TABLE 3.4: BUDGETS OF FUNDING BODIES 2001-2005**
**(ONLY INCLUDING DATA FROM FUNDING BODIES THAT HAVE GIVEN FIGURES FOR FIVE YEARS)**
**€ millions**

| Country | Funding body | Budget 2001 | Budget 2002 | Budget 2003 | Budget 2004 | Budget 2005 | Changes 2001-05 |
|---|---|---|---|---|---|---|---|
| Austria | Österreichisches Filminstitut | 8.1 | 7.9 | 9.6 | 9.6 | 9.6 | 18% |
| Belgium | Wallimage | 3.3 | 3.3 | 3.3 | 2.5 | 2.5 | -24% |
| Belgium | Vlaams Audiovisueel Fonds | 5.2 | 5.2 | 9.9 | 9.8 | 9.8 | 89% |
| Belgium | Centre du Cinéma et de l'Audiovisuel | 8.4 | 9.0 | 9.2 | 10.4 | 9.9 | 18% |
| Czech Republic | State Fund for the Support and Development of Czech Cinematography | 5.3 | 3.9 | 2.1 | 2.1 | 1.8 | -65% |
| Cyprus | Cinema Advisory Committee | 0.9 | 0.9 | 0.9 | 0.7 | 1.0 | 10% |
| Estonia | Eesti Filmi Sihtasutus | 1.2 | 1.9 | 2.0 | 2.2 | 2.7 | 122% |
| Finland | Suomen Elokuvasäätiö | 10.3 | 10.5 | 11.3 | 12.8 | 13.3 | 29% |
| France | Centre régional de ressources audiovisuelles de la région Nord-Pas de Calais | 0.7 | 0.8 | 0.7 | 2.8 | 2.0 | 184% |
| France | Centre national de la cinématographie | 319.6 | 356.0 | 322.0 | 328.0 | 357.0 | 12% |
| France | Région Réunion | 0.4 | 0.6 | 1.2 | 0.8 | 1.1 | 175% |
| Germany | Medienboard Berlin-Brandenburg | 15.2 | 17.4 | 17.2 | 25.4 | 21.4 | 41% |
| Germany | Nordmedia | 5.5 | 11.1 | 10.3 | 8.4 | 7.5 | 38% |
| Germany | Medien- und Filmgesellschaft Baden-Würtemberg GmbH | 6.1 | 7.9 | 7.6 | 6.5 | 5.9 | -2% |
| Germany | Filmförderungsanstalt | 58.4 | 64.9 | 72.1 | 84.2 | 94.0 | 61% |
| Germany | Filmförderung Hamburg GmbH | 10.5 | 10.2 | 9.2 | 7.2 | 6.6 | -37% |
| Germany | FFF-Bayern | 33.5 | 32.6 | 31.7 | 28.5 | 22.1 | -34% |
| Netherlands | Rotterdams Fonds voor de Film en Audiovisuele Media | 2.0 | 2.4 | 2.4 | 2.4 | 2.4 | 20% |
| Netherlands | The Dutch Co-production Fund for Broadcasting Companies | 13.2 | 10.7 | 9.2 | 9.7 | 10.2 | -23% |
| Ireland | Bord Scannan na hEireann | 10.0 | 12.1 | 10.8 | 11.1 | 14.2 | 42% |
| Lithuania | Lietuvos Respublikos Kulturos Ministerija | 1.0 | 0.8 | 0.9 | 1.1 | 1.4 | 38% |
| Latvia | National Film Center of Latvia | 0.5 | 0.9 | 0.9 | 1.0 | 2.0 | 288% |
| Luxembourg | Fonds national de soutien à la production audiovisuelle | 2.5 | 4.5 | 4.5 | 4.0 | 4.5 | 80% |
| UK | UK Film Council | 56.9 | 64.6 | 68.4 | 71.5 | 79.1 | 39% |
| Sweden | Svensk Filminstitut | 20.0 | 20.5 | 23.5 | 22.3 | 21.5 | 8% |
| **Total** | | **598.7** | **660.6** | **640.9** | **664.8** | **703.5** | **18%** |
| **Total, excluding CNC, France** | | **279.1** | **304.6** | **318.9** | **336.8** | **346.5** | **24%** |

Note(s) : Only including data from funding bodies that have given both figures for all five years.
Source(s) : Survey conducted November 2006 to January 2007, N=25.

**CHART 3.4: BUDGET TRENDS 2001 – 2005 (INCLUDING CNC)**




The growth patterns for the responding funding bodies as a group, with and without the French CNC are shown in Charts 3.4 and 3.5.

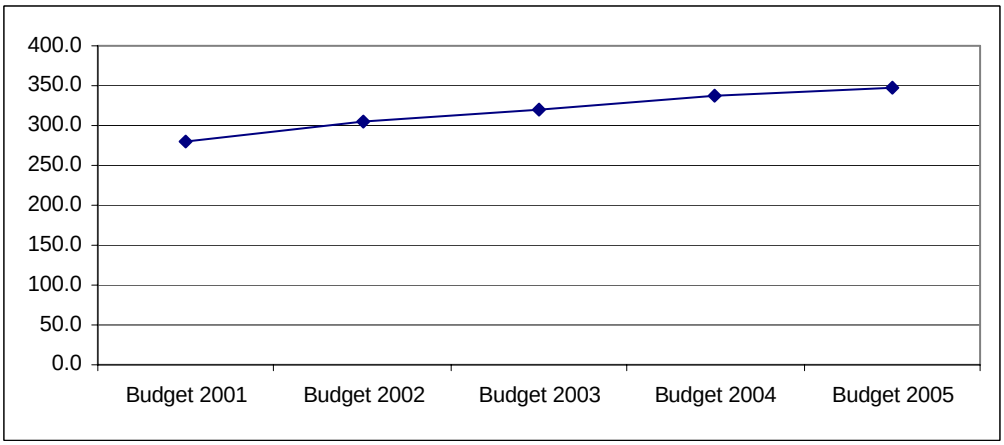
When the French CNC is excluded, a steady increase in the budgets can be seen from €279m in 2001 to €346m in 2005.

## 3.4. Territorialisation

Funds were asked to indicate the proportion of budgets subject to territorialisation requirements for the funding body as a whole[52].

Responses to the questions on budgets and degree of territorialisation were received from 32 funding bodies for 2005. The answers are given in Table 3.5.

**CHART 3.5: BUDGET TRENDS 2001 – 2005 (EXCLUDING CNC)**




[52] The following guidelines were given: Territorialisation clauses propose and in some cases demand that a certain amount of the film budget will be spent in a specific region. Territorialisation clauses can refer to region-specific use of location and/or talent.

**TABLE 3.5: PROPORTION OF FUNDING BODY BUDGETS SUBJECT TO TERRITORIALISATION CLAUSES IN 2005**

| Country | Film Fund | Percent of funding under territorialisation | Budget of the funding body, million € |
|---|---|---|---|
| Austria | Fernsehfonds Austria (RTR-GmbH) | 100% | 7.0 |
| Austria | Stadt Wien Filmförderung | 100% | 11.8 |
| Austria | Österreichisches Filminstitut | 0% | 9.6 |
| Belgium | Wallimage | 100% | 2.5 |
| Belgium | Vlaams Audiovisueel Fonds | 60% | 9.8 |
| Czech Republic | State Fund for Czech Cinematography | 0% | 1.4 |
| Denmark | Det Danske Filminstitut | 0% | 36.0 |
| Denmark | FilmFyn | 100% | 1.4 |
| Estonia | Eesti Filmi Sihtasutus | 80% | 2.7 |
| Finland | Suomen Elokuvasäätiö | 0% | 13.3 |
| France | Région Réunion | 25% | 1,1 |
| Germany | Filmförderungsanstalt | 0% | 94.0 |
| Germany | Medienboard Berlin-Brandenburg | 100% | 21.4 |
| Germany | Filmförderung Hamburg GmbH | 85% | 6.6 |
| Germany | Nordmedia | 100% | 7.5 |
| Germany | Medien- und Filmgesellschaft Baden-Würtemberg GmbH | 9% | 5.9 |
| Germany | FFF-Bayern | 0% | 22.1 |
| Lithuania | Lietuvos Respublikos Kulturos Ministerija | 0% | 1.4 |
| Italy | Direzione Generale per il Cinema | 0% | 99.5 |
| Latvia | National Film Center of Latvia | 0% | 2.0 |
| Luxembourg | Fonds national de soutien à la production audiovisuelle | 0% | 4.5 |
| Netherlands | Stimuleringsfonds Nederlandse Culturele Omroepproducties | 14% | 14.8 |
| Netherlands | Rotterdams Fonds voor de Film en Audiovisuele Media | 100% | 2.4 |
| Netherlands | Hubert Bals Fund | 0% | 1.0 |
| Netherlands | The Dutch Co-production Fund for Broadcasting Companies | 0% | 10.2 |
| Spain | Consorcio Audiovisual de Galicia | 100% | 0.5 |
| Sweden | Film i Skåne | 100% | 0.8 |
| Sweden | Svensk Filminstitut | 0% | 21.5 |
| UK | Screen Yorkshire | 100% | 3.4 |
| UK | UK Film Council | 15% | 79.1 |
| UK | Northern Ireland Film and Television Commission | 0% | 1.3 |
| UK | Northern Film & Media | 100% | 1.4 |
| **Total weighted average/budget** | | **18%** | **498.3** |

Note(s) : N=32. For tax incentive schemes see Chapter 3.9
Source(s) : Survey conducted November 2006 to January 2007

The 32 funding bodies had a combined budget of €500m in 2005. According to the survey, 18% of this budget was subject to territorialisation. However this table does not give any full picture, as the 32 funding bodies represent only about 37% of the total budgets of European funding bodies.

CNC of France is not included because it has not been able to state a precise percentage of its funds subject to territorialisation. According to information

received from CNC, about 70% of its funds to varying degrees, between 25% and 80%, are subject to territorialisation.

Fourteen of the 32 responding funds (ie excluding CNC) did not respond to the two questions about territorialisation and budgets for all five years. This means that the trend may be analysed over the five years for only 19 funds. This is shown in Table 3.6. However, 29 responded for the three-year period 2003-05, and their answers are summarized in Table 3.7. Simple averages are calculated as the average percentage given by each of the funding bodies, whereas the weighted averages show the percentage of the total budgets of all the responding funding bodies that are subject to territorialisation clauses.

In both tables the simple average proportions of funding bodies subject to territorialisation are higher than the weighted averages. The reason for this lies in a large number of small funds that are subject to territorialisation, which increases the simple average, and in a few larger funds without territorialisation, which reduces the weighted average degree of territorialisation.

**TABLE 3.6: WHAT PROPORTIONS OF BUDGETS AVAILABLE WERE SUBJECT TO TERRITORIALISATION CLAUSES FOR ALL FIVE YEARS, 2001-05?**

| | 2001 | 2002 | 2003 | 2004 | 2005 |
|---|---|---|---|---|---|
| Simple average | 27.7% | 28.0% | 28.5% | 28.3% | 28.1% |
| Weighted average | 14.4% | 17.6% | 18.3% | 18.4% | 16.3% |
| Total budgets | 262,772,661 | 286,785,602 | 296,386,410 | 311,088,379 | 321,231,620 |
| Budgets subject to territorialisation | 37,733,469 | 50,610,561 | 54,224,916 | 57,275,554 | 52,207,238 |

Note(s) : N=19 - (CNC of France did not respond on this question). Only including data from those funding bodies that have given figures for all five years.
The simple average is the sum the indicated territorialisation percentages divided by the number of funding bodies. This gives information on the frequency of funding bodies applying territorialisation.
The weighted average is the sum of the products of funding body budgets multiplied by their respective territorialisation percentages divided by the total budgets of all funding bodies included in the calculation. This provides an average territorialisation per amount of funding body budgets.

Source(s) : Survey among funding bodies conducted November 2006 – May 2007.

**TABLE 3.7: THE PROPORTION OF BUDGETS AVAILABLE SUBJECT TO TERRITORIALISATION CLAUSES FOR THE THREE YEARS, 2003-05**

| | 2003 | 2004 | 2005 |
|---|---|---|---|
| Simple average | 41.2% | 41.1% | 41.0% |
| Weighted average | 22.5% | 22.7% | 21.2% |
| Total budgets | 378,500,865 | 396,064,487 | 410,387,964 |
| Budgets subject to territorialisation | 85,298,137 | 90,000,600 | 87,167,288 |

Note(s) : N=29 - (CNC of France did not respond on this question). Only including data from the funding bodies that have given budget figures for the three years, 2003-05.
Source(s) : Survey among funding bodies conducted November 2006 – May 2007.

**Consistency with degree of territorialisation established in Part A**

The two tables also show that among the responding bodies, the weighted proportion of funding subject to territorialisation is rather stable over the period. The weighted average fluctuates between the low point of 14.4% in 2001 and the high point of 18.4% in 2004.

The self-assessments by the funding bodies provide estimates of the proportions of budgets subject to territorialisation requirements. In order to make an overall comparison of the self-assessments with the classification made on the basis of the legal survey (see Chapter 2.5), these self-estimates are divided into the following three categories:

- High degree of territorialisation: 80% - 100%
- Moderate territorialisation: >5% - <80%
- No territorialisation: 0% – 5%

On the basis of this categorisation a direct comparison between the two assessments of territorialisation degrees is possible. A total of 29 schemes were subject to both a legal assessment and an own assessment by the funding bodies. Among these 29 observations, 21 match, in the sense that the two assessments come under the same category.

A fairly high degree of consistency is thus found between the legal and organisational assessments of territorialisation degrees with 72 % of observations matching. Where differences are found between the legal and the organisational assessments of territorialisation the tendency is for funding bodies rating their territorialisation degree lower than the legal assessment.

The legal-based measure and self-assessment measures are compared in Table C of Appendix A, alongside a third measure of territorialisation derived from a production cost basis, and which is further explained in Chapter 4.3.

## 3.5. Automatic versus selective granting

**Automatic versus selective granting**

The funds were also asked to indicate what proportions of grants were automatic and selective allocations respectively[53].

In Table 3.8 the percentage of budgets of the individual responding funds are given together with subtotals for each country. Answers to both questions were given by 35 funding bodies representing budgets totalling almost €900m in 2005, or more than half of the budgets of EU funding bodies, according to KORDA.

**TABLE 3.8: WHAT PROPORTIONS OF BUDGETS AVAILABLE WERE GRANTED SELECTIVELY IN 2005?**

| Country | Funding Body | Percentage Selective | Total Budget (€m) |
|---|---|---|---|
| Austria | Fernsehfonds Austria (RTR-GmbH) | 100% | 7.0 |
| Austria | Österreichisches Filminstitut | 83% | 9.6 |
| Belgium | Wallimage | 100% | 2.5 |
| Belgium | Vlaams Audiovisueel Fonds | 100% | 9.8 |
| Belgium | Centre du Cinéma et de l'Audiovisuel | 88% | 9.9 |
| Czech Republic | State Fund for the Support and Development of Czech Cinematography | 100% | 1.8 |
| Cyprus | Cinema Advisory Committee | 100% | 1.0 |

[53] The following guidelines were added to the questionnaire: Automatic allocations are granted where certain quantitative criteria are met, for instance box office returns. Selective allocation is the opposite of automatic allocation as it is based on a qualitative evaluation of a specific project. Grants based on selective criteria could for instance depend on artistic assessment, cultural value assessment etc.

**TABLE 3.8: WHAT PROPORTIONS OF BUDGETS AVAILABLE WERE GRANTED SELECTIVELY IN 2005?**

| Country | Funding Body | Percentage Selective | Total Budget (€m) |
|---|---|---|---|
| Denmark | Det Danske Filminstitut | 100% | 36.0 |
| Denmark | FilmFyn | 100% | 1.4 |
| Estonia | Eesti Filmi Sihtasutus | 99% | 2.7 |
| Finland | State Grant for Artists | 86% | 13.3 |
| France | Région Réunion | 100% | 1.1 |
| France | Centre National de la Cinématographie | 46% | 357.0 |
| France | Conseil régional de Provence-Alpes-Côte d'Azur | 100% | 1.5 |
| Germany | Filmförderungsanstalt | 71% | 94.0 |
| Germany | Filmförderung Hamburg GmbH | 100% | 6.6 |
| Germany | Filmstiftung Nordrhein Westfalen GmbH | 100% | 42.1 |
| Germany | Nordmedia | 100% | 7.5 |
| Germany | Medien- und Filmgesellschaft Baden-Würtemberg GmbH | 91% | 5.9 |
| Germany | FFF-Bayern | 97% | 22.1 |
| Netherlands | Stimuleringsfonds Nederlandse Culturele Omroepproducties | 100% | 14.8 |
| Netherlands | Rotterdams Fonds voor de Film en Audiovisuele Media | 100% | 2.4 |
| Netherlands | The Dutch Co-production Fund for Broadcasting Companies | 0% | 10.2 |
| Netherlands | Netherlands Film Fund | 100% | 19.6 |
| Lithuania | Lietuvos Respublikos Kulturos Ministerija | 85% | 1.4 |
| Italy | Direzione Generale per il Cinema | 78% | 99.5 |
| Latvia | National Film Center of Latvia | 84% | 2.0 |
| Luxembourg | Fonds national de soutien à la production audiovisuelle | 100% | 4.5 |
| Spain | Consorcio Audiovisual de Galicia | 100% | 0.5 |
| UK | Screen Yorkshire | 100% | 3.4 |
| UK | UK Film Council | 100% | 79.1 |
| UK | Northern Ireland Film and Television Commission | 100% | 1.3 |
| UK | Northern Film & Media | 89% | 1.4 |
| Sweden | Film i Skåne | 100% | 0.8 |
| Sweden | Svensk Filminstitut | 70% | 21.5 |
| **Total weighted average/budget** | | **68%** | **895.3** |

Note(s) : In two cases, Österreichisches Filminstitut and Eesti Film, only the share of funds actually paid was indicated. These figures have therefore been used. 35 funding bodies answered the question (N= 35).
Source(s) : Survey conducted November 2006 – May 2007.

It can be seen that most funds are 100% selectively granted and that on average 68% of the funds allocated by funding bodies that have responded to the survey have been selectively granted. The remaining 28% are allocated automatically. This result, however, is very much affected by the large French fund, CNC, which represents 40% of the total budget administered by the responding funding bodies, and which allocates 46% of its budgets selectively. Among the other responding funding bodies, excluding this major player, the average percentage of budgets selectively granted is 86%.

**TABLE 3.9: SHARES OF FUNDS GRANTED SELECTIVELY FOR THE THREE YEARS, 2003-05**

| | 2003 | 2004 | 2005 |
|---|---|---|---|
| Simple average | 83% | 83% | 83% |
| Weighted average | 60% | 61% | 67% |
| Weighted average, excl. CNC | 86% | 88% | 87% |
| Total budgets (EUR) | 688,265,002 | 712,837,894 | 755,931,088 |
| Budgets selectively granted (EUR) | 413,831,352 | 441,224,935 | 511,542,236 |

Note(s) : Only including data from the funding bodies that have given figures for the three years 2003-05.
Source(s) : Survey among funding bodies, conducted November 2006 - May 2007. N = 30.

Some of these 35 respondents have given answers only for one year, while 30 funding bodies have given answers to the relevant questions for three years. The average share of selectively granted funding in the budgets of these 30 is shown in Table 3.9. A simple average across the funding bodies gives 83% of the budget allocated selectively, but, taking the size of the funds into account, the weighted average, ie the overall share of total funds that are allocated selectively, is much lower (60% in 2003), with a positive trend, rising to 67% in 2005. When CNC of France is excluded, the weighted average across all other funding bodies that have responded is very stable over the three-year period, between 86% and 87%.

The average share of selectively granted funding in the budgets of the 22 funding bodies that answered the questions on automatic or selective granting and on budgets for all five years is shown in Table 3.10. When the French CNC is excluded, the share of total funds being allocated selectively is very stable, around 83%.

**TABLE 3.10 SHARES OF FUNDS GRANTED SELECTIVELY FOR ALL FIVE YEARS, 2001-05**

| | 2001 | 2002 | 2003 | 2004 | 2005 |
|---|---|---|---|---|---|
| Simple average | 78% | 77% | 77% | 78% | 78% |
| Weighted average | 52% | 52% | 61% | 58% | 64% |
| Weighted average, excl. CNC | 82% | 83% | 85% | 86% | 84% |
| Total budgets (EUR) | 583,737,591 | 645,927,178 | 710,870,211 | 641,629,750 | 680,804,563 |
| Budgets selectively granted (EUR) | 302,739,313 | 337,637,757 | 436,771,850 | 370,349,093 | 436,771,850 |

Note(s) : Only including data from the funding bodies that have given figures for all five years.
Source(s) : Survey conducted November 2006 – May 2007. N= 22

## 3.6. Funding by groups of activities

**Types of activity supported**

The break-down of budgets for 2005 by various groups of activities that are financed by the funding bodies is shown in Table 3.11. Funding bodies were asked to indicate percentages of budgets allocated for preproduction,

production, post-production, promotion and marketing, distribution and other activities, respectively. No specific definitions of these six categories were given to the respondents.

On average, 70% of the funds from the 21 funding bodies that answered this part of the questionnaire survey were spent on production activities in 2005. The proportions range from 40% to 100% among the individual respondents. The highest share among all other categories was 7% (for-pre-production), except for the group of unallocated 'other activities', which accounts for 14% of total funds. Seven funds including the UK Film Council indicated what they included in this category of 'Other activities': festivals, training scholarships, film events, publications, post-release support, cultural export, cinema modernisation and equipment.

Because of a low response rate for 2001 and 2002 to this part of the survey, the trend has been analysed only for the last three years of the study period, for which all 21 funding bodies responded to this question. The trends are shown in Tables 3.12 and 3.13. Table 3.14 shows a high degree of stability in the composition of activities supported.

Table 3.13 shows the composition of activities supported and trends for all funding bodies other than CNC of France. Without CNC, production accounts for a smaller share, between 50% and 60%, and promotion and marketing and in particular 'other activities' account for higher shares of the funding. However, the stability over the three-year period is high both with and without CNC.

**TABLE 3.11: SHARES OF FUNDS BEING GRANTED MAIN GROUPS OF ACTIVITIES, 2005**

| | | Pre-production | Production | Post-production | Promotion and marketing | Distribution | Other activities | Total budget |
|---|---|---|---|---|---|---|---|---|
| Austria | Österreichisches Filminstitut | 7% | 78% | 0% | 0% | 5% | 9% | 9.600.000 |
| Austria | Fernsehfonds Austria (RTR-GmbH) | 0% | 100% | 0% | 0% | 0% | 0% | 7.000.000 |
| Belgium | Wallimage | 0% | 50% | 50% | 0% | 0% | 0% | 2.500.000 |
| Belgium | Vlaams Audiovisueel Fonds | 9% | 91% | 0% | 0% | 0% | 0% | 9.750.000 |
| Czech Republic | State Fund for the Support and Development of Czech Cinematography | 0% | 77% | 0% | 7% | 11% | 5% | 1.840.000 |
| Denmark | FilmFyn | 0% | 100% | 0% | 0% | 0% | 0% | 1.400.000 |
| Estonia | Eesti Filmi Sihtasutus | 13% | 80% | 0% | 2% | 2% | 3% | 2.664.789 |
| France | Centre national de la cinématographie | 8% | 80% | 0% | 0% | 5% | 8% | 357.000.000 |
| Germany | Nordmedia | 2% | 85% | 0% | 0% | 1% | 12% | 7.525.700 |
| Germany | Medien- und Filmgesellschaft Baden-Würtemberg GmbH | 9% | 62% | 2% | 0% | 7% | 20% | 5.921.000 |
| Germany | Filmförderungsanstalt | 1% | 41% | 0% | 26% | 10% | 22% | 93.976.000 |
| Germany | Filmförderung Hamburg GmbH | 8% | 78% | 0% | 0% | 12% | 2% | 6.615.662 |
| Germany | FFF-Bayern | 4% | 84% | 0% | 0% | 10% | 2% | 22.085.554 |
| Netherlands | Rotterdams Fonds voor de Film en Audiovisuele Media | 10% | 90% | 0% | 0% | 0% | 0% | 2.400.000 |
| Netherlands | The Dutch Co-production Fund for Broadcasting Companies | 0% | 100% | 0% | 0% | 0% | 0% | 10.200.000 |
| Netherlands | Netherlands Film Fund | 15% | 76% | 3% | 1% | 2% | 3% | 19.600.000 |
| Ireland | Bord Scannan na hEireann | 11% | 78% | 0% | 0% | 0% | 11% | 14.194.649 |
| Lithuania | Lietuvos Respublikos Kulturos Ministerija | 1% | 85% | 1% | 13% | 0% | 0% | 1.371.000 |
| Latvia | National Film Center of Latvia | 18% | 39% | 41% | 2% | 0% | 0% | 2.037.578 |
| Luxembourg | Fonds national de soutien à la production audiovisuelle | 4% | 94% | 0% | 1% | 0% | 0% | 4.455.000 |
| UK | UK Film Council | 8% | 39% | 0% | 0% | 0% | 53% | 75.170.128 |
| **Total weighted average** | | 6.6% | 69.9% | 0.4% | 3.8% | 4.9% | 14.4% | 657.307.059 |

Source(s) : Survey among funding bodies, November 2006 – May 2007. N=21.

**TABLE 3.12: SHARES OF FUNDS BY MAIN GROUPS OF ACTIVITIES FOR THE THREE YEARS, 2003-2005**

| | 2003 | 2004 | 2005 |
|---|---|---|---|
| Preproduction | 4% | 3% | 6% |
| Production | 72% | 72% | 69% |
| Postproduction | 0% | 0% | 0% |
| Promotion and marketing | 2% | 3% | 4% |
| Distribution | 6% | 6% | 5% |
| Other activities | 16% | 15% | 15% |
| Total | 100% | 100% | 100% |

Source(s) : Survey among funding bodies, November 2006 – May 2007. N=20

**TABLE 3.13: SHARES OF FUNDS BY MAIN GROUPS OF ACTIVITIES FOR THE THREE YEARS, 2003-2005 (EXCLUDING CNC, FRANCE)**

| | 2003 | 2004 | 2005 |
|---|---|---|---|
| Preproduction | 5% | 5% | 5% |
| Production | 60% | 54% | 56% |
| Postproduction | 1% | 1% | 1% |
| Promotion and marketing | 6% | 9% | 9% |
| Distribution | 4% | 5% | 5% |
| Other activities | 25% | 26% | 24% |
| Total | 100% | 100% | 100% |

Source(s) : Survey among funding bodies, November 2006 – May 2007. N=19

## 3.7. Type of production supported

For each year of the five-year period 2001-2005 every fund was asked to indicate what proportions of budgets were distributed to different types of production. No specific definition of co-productions was given to the participants in the survey. A few asked for clarifications, but in general the funding bodies made use of their own definitions. This may add uncertainty to the figures. Table 3.14 shows the proportions indicated by the nine respondents that gave answers to the questions on productions and budgets. On average 83% of funds are spent on national productions. But the types of production supported vary considerably between the funds. Centre Regional de Resources Audiovisuelles Nord Pas-de-Calais places 93% of its budgets in co-productions. This limited sample, however, covers less than 10% of total budgets of European funding bodies.

**TABLE 3.14: DISTRIBUTION OF PRODUCTIONS SUPPORTED**

| | National productions | Co-productions | Other productions[54] | Total budget (EUR) |
|---|---|---|---|---|
| Vlaams Audiovisueel Fonds, Belgium | 75% | 25% | 0% | 9,750,000 |
| FilmFyn, Denmark | 100% | 0% | 0% | 1,400,000 |
| Centre régional de ressources audiovisuelles (région Nord-Pas de Calais) France | 0% | 93% | 7% | 1,991,000 |
| FFF-Bayern | 87% | 14% | 0% | 22,085,554 |
| Stimuleringsfonds Nederlandse Culturele Omroepproducties, Netherlands | 100% | 0% | 0% | 14,791,100 |
| Rotterdams Fonds voor de Film en Audiovisuele Media, Netherlands | 27% | 19% | 54% | 2,400,000 |
| Netherlands Film Fund, Netherlands | 90% | 10% | 0% | 19,600,000 |
| National Film Center of Latvia, Latvia | 63% | 37% | 0% | 2,037,578 |
| UK Film Council, UK | 81% | 19% | 0% | 79,126,450 |
| **Total** | 83% | 17% | 1% | 153,181,582 |

Source(s): Survey among funding bodies, conducted November 2006 – May 2007, N=9.

The trend is analysed on the basis of responses from the same eight funding bodies over three years and from five that answered the questions for the full five-year period.

No significant patterns are apparent. National productions seem to take a stable 80%-85% of the budgets of the responding funding bodies.

**TABLE 3.15: PRODUCTIONS SUPPORTED FOR THE THREE YEARS, 2003 – 2005 (WEIGHTED AVERAGES)**

| | 2003 | 2004 | 2005 |
|---|---|---|---|
| National productions | 86% | 84% | 81% |
| Co-productions | 12% | 15% | 17% |
| Other productions | 1% | 1% | 1% |

Source(s) : Survey among funding bodies, conducted November 2006 – May 2007, N=8.

**TABLE 3.16: PRODUCTIONS SUPPORTED FOR ALL FIVE YEARS, 2001 – 2005 (WEIGHTED AVERAGES)**

| | 2001 | 2002 | 2003 | 2004 | 2005 |
|---|---|---|---|---|---|
| National productions | 82% | 82% | 83% | 80% | 79% |
| Co-productions | 17% | 17% | 15% | 18% | 19% |
| Other productions | 1% | 1% | 2% | 1% | 1% |

Source(s) : Survey among funding bodies, conducted November – May 2007, N=6.

[54] Other productions, as referred to in Table 3.15 – 3.17, include mainly project development and special projects regarding tv, film and internet.

## 3.8. Grants and soft loans

The funds were asked to indicate what proportions of allocations were given as grants and what proportions as soft loans. Nineteen funding bodies responded to this question and have also indicated budget size for 2001-2005. The answers for 2005 are shown in Table 3.17.

**TABLE 3.17: SHARES OF FUNDS BEING GIVEN AS GRANTS AND SOFT LOANS IN 2005**

| | | Grants (%) | Soft loans (%) | Budget (€million) |
|---|---|---|---|---|
| Austria | Österreichisches Filminstitut | 100 | 0 | 9.6 |
| Belgium | Vlaams Audiovisueel Fonds | 0 | 100 | 9.8 |
| Czech Republic | State Fund for the Support and Development of Czech Cinematography | 84 | 16 | 1.8 |
| Estonia | Eesti Filmi Sihtasutus | 100 | 0 | 2.7 |
| Finland | Suomen Elokuvasäätiö | 100 | 0 | 13.3 |
| France | Centre national de la cinématographie | 96 | 4 | 357.0 |
| France | Région Réunion | 100 | 0 | 1.1 |
| Germany | Nordmedia | 2 | 98 | 7.5 |
| Germany | Medien- und Filmgesellschaft Baden-Würtemberg GmbH | 12 | 88 | 5.9 |
| Germany | Filmförderungsanstalt | 48 | 52 | 94.0 |
| Germany | Filmförderung Hamburg GmbH | 100 | 0 | 6.6 |
| Germany | FFF-Bayern | 10 | 90 | 22.1 |
| Netherlands | Rotterdams Fonds voor de Film en Audiovisuele Media/ | 0 | 100 | 2.4 |
| Netherlands | The Dutch Co-production Fund for Broadcasting Companies | 0 | 100 | 10.2 |
| Netherlands | Netherlands Film Fund | 10 | 90 | 19,6 |
| Ireland | Bord Scannan na hEireann | 9 | 91 | 14.2 |
| Latvia | National Film Center of Latvia | 100 | 0 | 2.0 |
| UK | UK Film Council | 62 | 38 | 79.1 |
| Sweden | Svensk Filminstitut | 100 | 0 | 21.5 |
| | **EU Total, weighted average** | **63%** | **37%** | **680** |

Source(s) : Survey conducted November – December 2006. N=19.

**TABLE 3.18: PROPORTION OF DISBURSEMENTS GIVEN AS GRANTS, PERCENTAGE OF BUDGET 2001-2005**

| | 2001 | 2002 | 2003 | 2004 | 2005 |
|---|---|---|---|---|---|
| Simple average | 62% | 61% | 63% | 60% | 57% |
| Weighted average | 74% | 76% | 74% | 74% | 75% |
| Weighted average, excl. CNC | 49% | 50% | 53% | 52% | 52% |
| | 568,64 | 623,82 | 604,36 | 618,03 | 660,82 |
| Total budgets | 8,874 | 7,178 | 4,317 | 6,480 | 8,652 |
| | 419,33 | 473,16 | 449,04 | 454,85 | 492,47 |
| Budgets for grants | 3,140 | 6,318 | 7,319 | 6,216 | 0,953 |

Source(s) : Survey conducted among funding bodies November 2006 – May 2007. N= 18.

The weighted averages in Table 3.18 show that by far the larger part of the funds is distributed as grants. The table also shows that without CNC of France the average percentage in the remaining group of 18 funding bodies in Europe is only just above 50%. The table shows a fairly stable proportion of disbursements being given as grants.

## 3.9. Tax incentives

Production of films is in many countries supported through different types of tax incentives.

Tax incentive schemes and the administration and monitoring of them vary greatly from country to country. Because it turned out not to be possible to collect data about tax incentive schemes almost solely on the basis of the funding bodies survey, so we collected data on size and types of tax incentive schemes through a combination of survey, interviews and desk research.

Tax incentive schemes are either given as incentives to investors or to production companies. The size (actual annual expenditures) and types of tax incentive schemes are shown in Table 3.19.

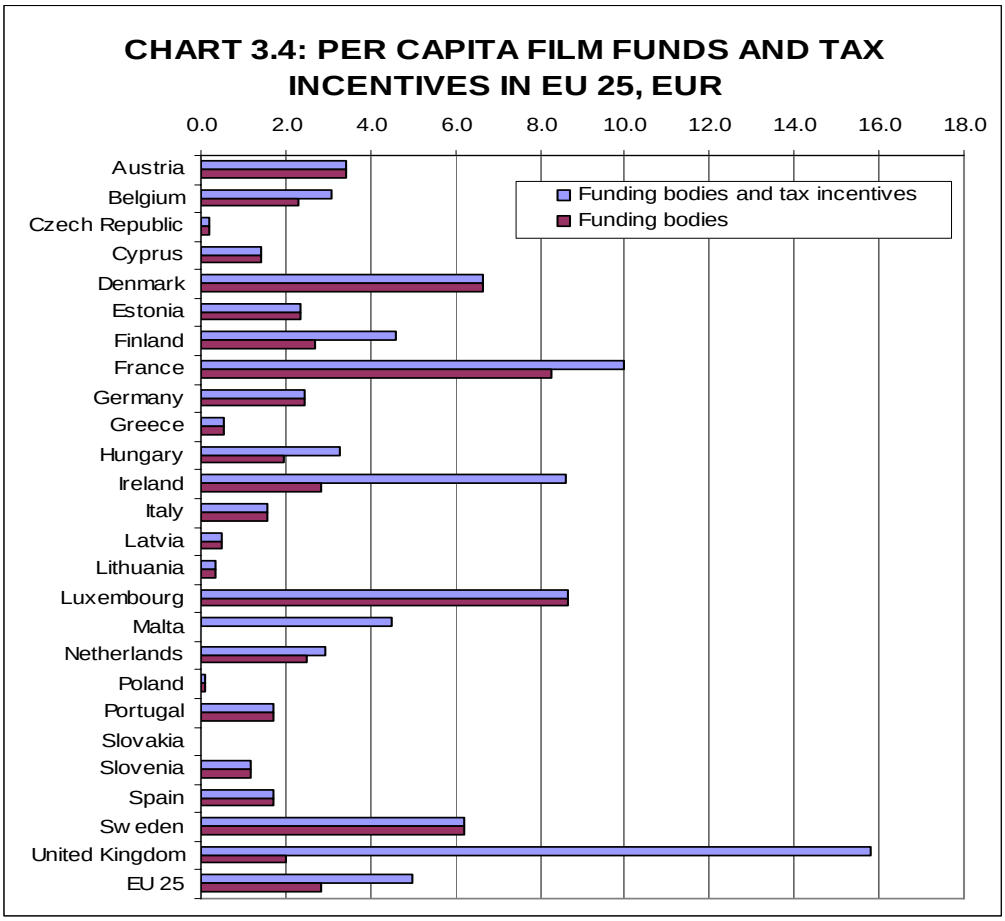
**TABLE 3.19: ESTIMATES OF ACTUAL EXPENDITURES ON TAX INCENTIVE SCHEMES**

| Member State | Name of incentives | Type of incentive: | Year and annual spend, MEUR | Characteristics of incentive |
|---|---|---|---|---|
| Belgium | Belgian tax shelter | Tax allowance for investors to support Belgian AV production. Includes a Flemish and a French part | 2003: 1.5<br>2004: 5.5<br>2005: 8.0 | Selective<br>Conditional<br>Has explicit territorialisation requirements |
| Finland | Production support | Income tax exemption | 2002: 7.9<br>2003: 8.1<br>2004: 9.7<br>2005: 10.0<br>2006: 11.8 | Automatic<br>No explicit territorialisation requirements |
| France | SOFICA | A reduction in taxable turnover now changed to a 40% tax allowance for individuals or companies investing in SOFICAS, which itself invests in qualified films. | 2005: 18.4<br>2006: 22.4 (approx) | Selective.<br>Has explicit territorialisation requirements |
| | Tax Credit (Credit d'impot) | Tax credit for production companies for works approved by CNC. Compensation of tax, corresponding to 20% of eligible costs. | 2005: 87.0 | Selective.<br>Launched 2005.<br>Has explicit territorialisation requirements |
| | Tax Credit | Tax credit for distribution expenses | 2001-05: 0.0 | Launched 2007.<br>Territorialisation requirements |
| Greece | Tax return schemes for producers, distributors and cinemas | Tax return schemes under which production and distribution companies and cinema theatres receive a tax refund. Producers of feature length film may have a refund of up to the amount of the films production expenses. | n.a. | Selective<br>No explicit territorialisation requirements |
| Hungary | The Indirect Subsidy scheme | Local production costs are refunded through the issue of tax certificates of up to 20% of local spends are issued. | 2006: 13.4 | Selective<br>Has explicit territorialisation requirements |

**TABLE 3.19: ESTIMATES OF ACTUAL EXPENDITURES ON TAX INCENTIVE SCHEMES**

| Member State | Name of incentives | Type of incentive: | Year and annual spend, MEUR | Characteristics of incentive |
|---|---|---|---|---|
| Ireland | Section 481 | Tax allowance scheme for investors providing income or corporate tax relief for 80% of share capital subscribed to Irish producers of certified film projects (at top tax rate of 42%). | 2002: 26.1<br>2003: 35.6<br>2004: 24.4<br>2005: 23.0<br>2006: 46.4 | Selective<br>Has explicit territorialisation requirements |
| Luxembourg | Audiovisual Investment Programme | Tax incentive scheme, granting single year tax reductions of up to 30% of taxable incomes to holders of investment certificates | n.a. | Selective<br>Has explicit territorialisation requirements |
| Malta | Malta Film Commission Financial incentives | Cash grants of 20% of local expenditures of qualifying productions. | 2006: 2.3 | Selective<br>Has explicit territorialisation requirements.<br><br>Launched 2005 |
| | Tax Credit | Tax credits of up to 50% of local expenditures for AV production companies in Malta. . | 2006: 3.5 | Selective<br>Has explicit territorialisation requirements.<br><br>Launched 2005 |
| | Business Promotion Regulations incentives | Companies producing and distributing films from Malta have a reduced corporate tax rate of down to 5% | 2001: 3.2<br>2002: 1.8<br>2003: 5.1<br>2004: 8.4<br>2005: 1.8 | Selective<br>Has explicit territorialisation requirements. |
| Netherlands | FIT - Film Investment Tax Scheme | Tax break scheme in which private investors can deduct investments in film in the income tax statement. | 2001-05: 5-10 p.a. | Selective<br>Has explicit territorialisation requirements. |
| UK | Section 42 tax relief programme (high budget films)<br><br>Section 48 tax relief programme (low budget films) | Tax credit schemes, based on sales and lease back arrangement.<br>Films with budgets up to 15 million £ get back 20% of the budget, and larger films get back about 16% of the costs (or the British part). | Section 42:<br>2001-02: 44.0<br>2002-03: 88.0<br>2003-04: 132.0<br>2004-05: 250.0<br>2005-06: 323.5<br>Section 48:<br>2001-02: 177.0<br>2002-03: 220.0<br>2003-04: 280.0<br>2004-05: 515.0<br>2005-06: 500.0 | Selective.<br>Has explicit territorialisation requirements[55] |

Source(s) (in addition to those listed in Chapter 2 of this study):
Belgium: Federal Belgian Ministry of Finance and Media desk
Finland: Finnish Tax Administration and Finnish Ministry of Education
France: Milène Lefevre: Les SOFICAs, mode d'emploi. Screen International: Global Tax Guide, April 2007, and information from CNC, France. (According to CNC, SOFICA is not considered as state aid).
Greece: KPMG, 2005: Film Financing and Television programming: A taxation Guide.
Hungary: Screen International: Global Tax Guide, April 2007, and KPMG, 2005: Film Financing and Television Programming: A taxation Guide.
Ireland: Revenue Commissioners, Ireland (answers to survey questions) and Screen International: Global Tax Guide, April 2007
Luxembourg: KPMG, 2005: Film Financing and Television Programming: A taxation Guide.
Malta: Malta Film Commission and Malta Enterprise
Netherlands: Dutch Ministry of Finance
UK: UK Revenue and Customs Department. Screen International: Global Tax Guide, April 2007




The total value of the tax incentive schemes, in the final year (2005/06) of the reference period amounted to about €1bn, corresponding to 70-75% of the total budgets of the funding bodies. The UK share constitutes more than 80% of this total.

In almost all cases, the tax incentives are characterised as selective and have territorialisation requirements.

The Copenhagen Report[56], *Think Tank on European Film and Film Policy*, which is a study of trends within the European film sector, has arrived at a slightly different picture, including Spain and Poland as countries having tax incentive schemes for film production, but excluding Finland and Greece. The difference is mainly explained by the fact that the present study has its focus on the period 2001-05, whereas the Copenhagen Think Tank, based on a conference held in June 2006, was focusing on the current situation in 2006.

The importance of tax incentives as compared to film funds in EU25 in 2005 and the differences among Member States are illustrated in Chart 3.4. The per capita value of funds and tax incentives for all Member States was €5.0, of which €2.2 was provided through tax incentives. Tax incentives are of particular importance as a percentage of the total state aid in the UK, Malta, Finland, Hungary and Ireland.

[56]http://www.dfi.dk/NR/rdonlyres/FED37D42-EB92-4BD1-B15E-C475895C2DB9/0/CopenhagenReport2007.pdf

## 3.10. Conclusions

The objective of Part B was to uncover and analyse budgets available and actual amounts spent as state aid for film and other audiovisual productions in the 25 EU Member States, ie not including Bulgaria and Romania (EU25) in the period 2001-2005.

Part B was based on three main data sources: a survey conducted by the consultants between November 2006 and January 2007, the KORDA database, and desk research and interviews related to identified tax incentives schemes in EU25.

We draw the following conclusions for Part B.

- According to the survey among funding bodies, their budgets have grown, in current prices, by about 18% over a five-year period. The budget of the largest player, CNC of France, has grown at a slower pace, and the others have indicated budget increases of 24% on average over the five-year period.
- In general, indicated actual spending by the funding bodies correspond very well to their indicated budgets available for the same years. Because of this close correspondence, the present analysis has focused on budget figures which were available for the largest number of years.
- On the basis of the survey among funding bodies in the EU Member States, which did not include tax incentives, around 20% of the budgets of funding bodies are subject to explicit territorialisation requirements. This percentage has been very stable over the five-year period.
- According to the survey, more than two-thirds (68%) of the funds are granted on a selective basis, and the remaining 32% is awarded automatically. For CNC the proportion was lower, 54% in 2005. The average percentage of budgets selectively granted among all other respondents was 87%.
- Almost 70% of the budgets of the funding bodies are spent on activities in the production phase, 16% is equally distributed among pre-production, PR, and distribution, and the remaining 14% is spent on ‘other activities’.
- Only few funding bodies have given information on the types of production supported, but for those who have, about 80% was spent on national productions and the remaining 20% on co-productions.
- About 75% of budget allocations have been given as grants and the remaining 25% as soft loans. The French CNC, however, offers very little as soft loans, and without CNC, the average percentage part of budgets given as grants is only about 50%.
- Tax incentive schemes are found in an increasing number of countries. In ten Member States this has been an important part of state aid during the study period, and in particular in the UK, Malta, Finland, Hungary and Ireland, tax incentives constitute an important part of total state aid.

# 4. Sample of Countries for Further Analysis

## 4.1. Introduction

**Objectives**

The objective of this section is to explain the choice of countries for intensive study in Parts C (Chapter 5: Economic Structure of Audiovisual Industries) and D (Chapter 6: Comparison of Economic Structure and Budgets of Audiovisual Industries) of this study.

*Terms of reference*

The terms of reference for the study stated that, following the analysis in Parts A and B, a representative sample of countries would be chosen for the subsequent, more detailed, analysis. Furthermore, the selected countries would be classified into one of three categories:

1 countries applying a high level of territorialisation;

2 countries applying a low/moderate level of territorialisation;

3 countries applying no (significant) territorialisation.

**Selection method**

A number of different approaches were used to arrive at the final representative sample of countries.

*Information from Parts A and B*

A first list was made on the basis of the legal analysis in Part A (Chapter 2) and the examination of budget data in Part B (Chapter 3).

*Quantifiable indices*

In addition to the legally-based classification of countries by intensity of territorialisation, an index of intensity of territorialisation from the standpoint of producer's costs was developed. While the legally-based measure was useful for comparison, it was the production cost based measure that served to allocate the countries into the various categories of territorialisation (high, low, moderate and no significant territorialisation).

*Additional factors*

Finally, we took into account the desirability of covering all relevant European regions (North, South, East and West) and a range of different country sizes.

The resultant sample contains a group of states characterised by different sizes and economic structure of the audiovisual sector as well as by different types of film production and by different intensities of territorialisation. Using this sample it was then possible to analyse how far, if at all, the economic structures of the film-production industry vary with intensity of territorialisation.

## 4.2. Evidence from Parts A and B

**Part A analysis**

On the basis of Part A of the study, the legal synopsis (see Chapter 2), Table 4.1 presents those Member States proposed as candidates for further examination in Parts C and D.

**Part B analysis**

The analysis conducted in Part B (see Chapter 3) identified other relevant facts:

- Problem countries

*Countries not worth pursuing due to lack of data*

Examination of the availability of the data made it clear that in certain countries it would not be easy or worthwhile to pursue the investigation further. These are Cyprus, Estonia, Latvia, Malta and Slovakia. These countries lack by far the most data.

*Countries with partial data availability*

Data for most of the primary topics are available for the following countries, with the gaps noted in parentheses: Czech Republic (no data on number of households online), Austria (no breakdown of number of films produced into national productions and co-productions), Germany (no breakdown into minority and majority co-productions) and Poland (no data on number of households online). These gaps are all minor issues and did not remove these countries from consideration.

- Countries with available data

Data on all primary topics are available for the following countries: Belgium, Denmark, Finland, France, Greece, Italy, the Netherlands, Portugal, Spain, Sweden and the United Kingdom.

**TABLE 4.1: PROPOSED COUNTRY SELECTION BASED ON PART A ANALYSIS**

| Country | Justification |
|---|---|
| *Main proposal* | |
| Denmark | Legal framework applying to a successful exporter of local films. |
| Poland | Legal framework applying to an Eastern European country with a long-standing film tradition. |
| France | Major European film market with a sophisticated legal framework applying to the cinema sector. |
| UK | Major European film market with a sophisticated legal framework applying to the cinema sector. |
| Czech Republic | Legal framework applying to a small and less wealthy film country (but with a former high-level film industry). |
| Spain | Legal framework applying to a successful exporter of local films. |
| *Additional possibilities* | |
| Germany | Major European film market with a sophisticated legal framework applying to the cinema sector. |
| Italy | Legal framework applying to a successful exporter of local films. |
| Austria | Smaller film market with a sophisticated legal framework applying to the cinema sector. |

## 4.3. Constructing a quantifiable measure of territorialisation

To refine further the preliminary list derived from Parts A and B of the study, it was necessary to establish an index of intensity of territorialisation in order to differentiate between those countries with different levels of territorialisation: first, by using the explicit and quantified information from the legal study in Part A; second, by using information on territorialisation requirements in relation to the various production components in the film-making process.

**Legal and self-assessment measures**

The authors of the legal chapter drew up a measure of territorialisation intensity for individual schemes and for Member States, as described in Chapter 2.5. In addition, a self-assessment measure was obtained from the funding bodies, as described in Chapter 3.4.

**Production cost measure**

In order to grasp another facet of the ways in which territorialisation clauses might affect audiovisual productions, it was also judged useful to measure territorialisation from the standpoint of film producers.

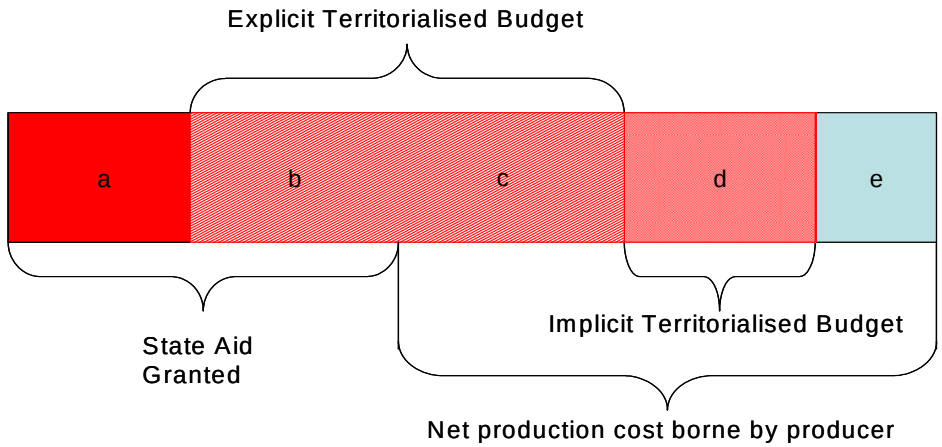
The production cost based measure of territorialisation has been designed to provide an indication of the leverage effect of the state aid schemes from the perspective of a producer wishing to control a project budget. Figure 4.1 indicates the relation between the concept of leverage and our measure of

territorialisation intensity. The figure shows the hypothetical partitioning up of a producer's prospective budget into overlapping, but distinct, elements:

a state aid granted not subject to territorialisation conditions;
b state aid granted subject to explicit territorialisation conditions;
c additional production costs (beyond the state aid granted) that are explicitly territorialised;
d additional production costs (beyond the state aid granted) that are implicitly territorialised;
e additional production costs (beyond the state aid granted) that are not subject to territorialisation conditions.

The producer will seek to receive funding (a+b). The requirement of territorialisation can then be expressed as a ratio to (a+b). This ratio will represent the leverage that the territorialisation requirement exerts on the producer's budget.

**FIGURE 4.1: HYPOTHETICAL PRODUCER'S BUDGET PARTITIONED INTO COMPONENTS**




There may be simply an explicit requirement for a certain proportion of the state aid granted to be spent in the territory of the Member State. In this case, b/(a+b) will express this simple leverage ratio. Where the requirement is that a sum greater than the aid granted be spent on the territory, the leverage ratio will be (b+c)/(a+b). We can then extend the principal to include any implicit territorialisation (d) in the conditions attaching to the aid granted. The enlarged leverage ratio would then be (b+c+d)/(a+b).

From the perspective of the producer, the intensity of territorialisation is the share of the budget that is required to be spent in a designated territory. This is defined as: (b+c+d)/(a+b+c+d+e). This is the ratio that we chose as the measure of intensity of territorialisation from the perspective of the producer.

*Method of calculation*

In practice, the estimation of this production cost measure of territorialisation involves judgements about the implications, for the budget of a representative producer, of the percentage of production costs that are required to be territorialised. The measure is calculated by identifying those funds which impose territorialisation conditions on components of a stylised production budget (see below for details); and an intensity measure is calculated based on

the percentage share that a territorialised component has in total production costs and the relative importance of the territorialised fund compared to all those available to a representative producer.

The measure is split into four categories:

1. No significant territorialisation: share of production budget subject to territorialisation = 0% - 5%
2. Low territorialisation: share of production budget subject to territorialisation = >5% - 20%
3. Moderate[57] territorialisation: share of production budget subject to territorialisation = >20% - <80%
4. High territorialisation: share of production budget subject to territorialisation = 80% - 100%

*Key assumptions*

The production-cost measure of territorialisation involves judgements about the implications, for the budget of a representative producer, of the percentage of production costs that are required to be territorialised. It relies on two key assumptions:

(i) It assumes that all funds in a Member State are potentially accessible to the representative producer, and the final index represents a weighted average of production cost territorialised to total available funds.

(ii) The production cost items for films in all members of the EU correspond to the average shares of films supported by CNC in France over the period 2003-05[58]. Table 4.2 provides a summary of this cost breakdown, while Table 4.3 provides a summary of which cost categories were assumed to be territorialised by each Member State.

**TABLE 4.2: AVERAGE COSTS OF PRODUCTION IN SUBSIDISED FRENCH FILMS 2003-05**

| Cost Category | Value (million euro) | % share |
|---|---|---|
| *Remuneration* | *440.5* | *55.4* |
| rights acquisition | 63.6 | 7.8 |
| technical staff | 187.1 | 23.5 |
| artistic staff (talent) | 96.2 | 11.9 |
| social contributions | 93.7 | 12.1 |
| *Technical* | *116.2* | *15.6* |
| technical means | 69.8 | 9.9 |
| film laboratories | 46.4 | 5.7 |
| *Shooting* | *217.1* | *29.0* |
| decorations and costumes | 56.0 | 8.1 |
| transport, expenses, classification | 70.8 | 9.5 |
| insurances and various | 44.7 | 5.6 |
| general expenses and unexpected contingencies | 45.6 | 5.9 |
| **Total** | **773.8** | **100.0** |

Source(s): CNC.

[57] The moderate category of producer-based territorialisation was added late in the project to allow for Germany and Spain to be grouped together, as otherwise they would have had quite different categorisations despite being quite close on the numerical scale.

[58] See: http://www.cnc.fr/Site/Template/T3.aspx?SELECTID=1049&ID=611&t=1.

Chart 4.1 plots the production cost measure of territorialisation for all Member States, with the countries ordered by increasing levels of territorialisation. A value of 100% would mean that, as an average across all available funding schemes within a given Member State, all production costs were territorialised.

**CHART 4.1: MEASURES OF PRODUCTION COST BASED TERRITORIALISATION INTENSITY BY EU25 MEMBER STATE**

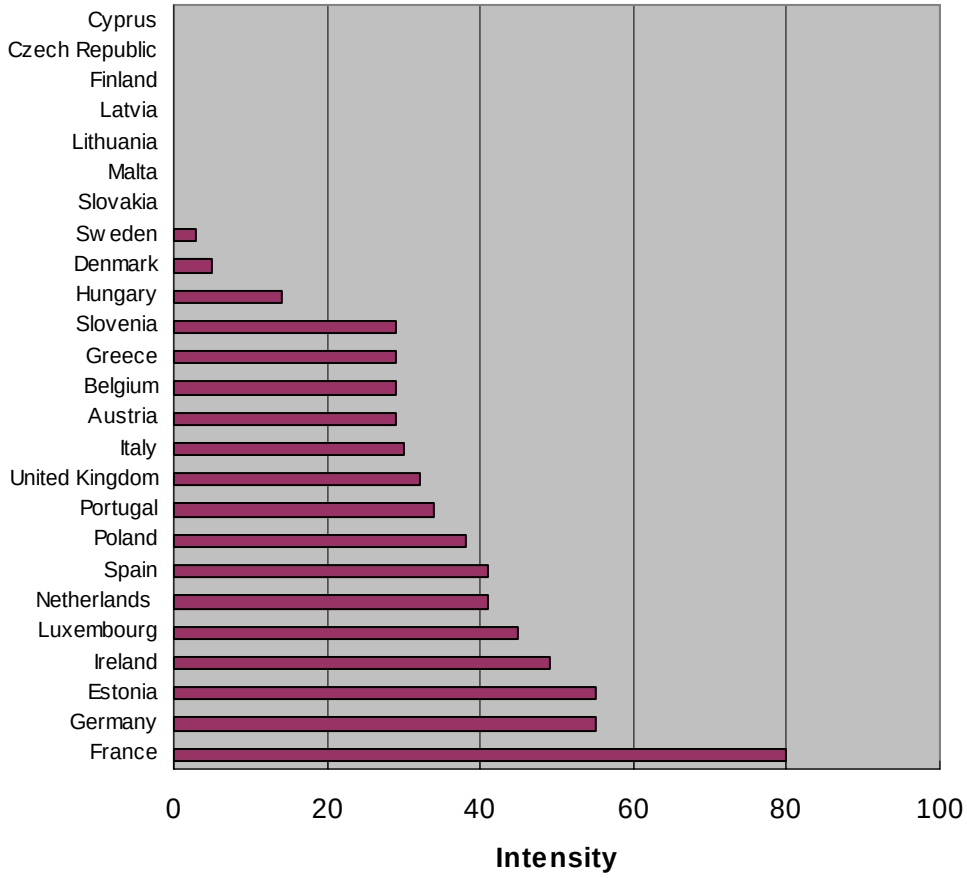


**TABLE 4.3: ASSUMPTIONS REGARDING TERRITORIALISED PRODUCTION COST CATEGORIES BY MEMBER STATE**

| Member State | Territorialisation Category (% in brackets) | Production Cost Categories | Fund Weighting Mechanism | Additional Notes |
|---|---|---|---|---|
| Austria | Moderate (29) | All shooting costs | Applied to all funds | The criteria for being an Austrian film require that all of the shooting be carried out in Austria. They do not impose spending any proportion of the budget in Austria. |
| Belgium | Moderate (29) | All shooting costs | Applied to all funds | Nationality certification requires that the film be shot in Belgium. |
| Cyprus | No significant territorialisation (0) | None | Not applicable | |
| Czech Republic | No significant territorialisation (0) | None | Not applicable | |
| Denmark | No significant territorialisation (5) | In the absence of detailed information about FilmFyn, we assumed that 100% of production costs are territorialised.<br>Because the Shorts & Documentaries scheme is territorialised only for documentaries, we assumed that 50% of production costs are territorialised. | Applied to all funds | To qualify as Danish the film must be in Danish or promote or display features of Denmark, but no explicit territorialisation is imposed, except in two schemes. There are two schemes with modest budgets, one of which (FilmFyn) requires that 200% of the aid is territorialised (and the other of which (Shorts and Documentaries) requires that 100% of the aid for documentaries be spent in Denmark. The overall effect of these two small schemes, set against the total film aid budget, puts Denmark in the category of no significant territorialisation. |
| Estonia | Moderate (55) | Despite evidence relating to territorialisation of the Estonian film fund, Eesti Filmi, there have been no details supplied concerning the production cost categories that are subject to such conditions. Therefore, in the absence of such information and in an effort to remain consistent with the other findings, all remuneration costs are assumed territorialised. | Not applicable (only one fund) | Following further investigation, the Estonian film fund, Eesti Filmi Sihtasutus, has been identified as having 80% of its budget subject to territorialisation conditions (see Table 3.5). In addition, Table A identifies that, in terms of direct territorialisation requirements quantified in the law, 100% of the film fund is territorialised, and accordingly Table C identifies the degree of territorialisation at funding body level as moderate. |
| Finland | No significant territorialisation (0) | None | Not applicable | |
| France | High (80) | No direct information was available on French film funds that imposed territorialisation on components of the production budget. Therefore the figure for France was not based upon the production cost method. Instead, it was made using the information that the tax credit system in France is equal to 20% of eligible production costs. These costs may not exceed 80% of the total production budget (or of the French part in an international co-production). | Applied to all funds | The source for the information is p14 of European Audiovisual Observatory (2007), "Tax Incentives for Films and Audiovisual Works in France", October 2007. |
| Germany | Moderate (55) | All remuneration costs | Applied to all funds | The federal funding scheme has no explicit territorialisation. |

**TABLE 4.3: ASSUMPTIONS REGARDING TERRITORIALISED PRODUCTION COST CATEGORIES BY MEMBER STATE**

| Member State | Territorialisation Category (% in brackets) | Production Cost Categories | Fund Weighting Mechanism | Additional Notes |
|---|---|---|---|---|
| Greece | Moderate (29) | All shooting costs | Applied to all funds | The certification is based on a points system and so can often involve a substantial proportion of the shooting taking place in Greece. |
| Hungary | Low (14) | No direct information available, so assumed to be half the 60% criteria for selected film funds, as a ratio to the total film aid budget. | Motion Picture Public Foundation of Hungary, the Hungarian History Film Public Foundation, and the National Cultural Fund | Direct Subsidy relating to the Motion Picture Public Foundation of Hungary (MPPFH) and the Hungarian History Film Public Foundation (HHFPF) (60% of aid received; authorities can allow up to 60% of aid received to be spent in other countries). |
| Ireland | Moderate (49) | No direct information available, so 50% assumed to apply to Section 481 and 100% applied to IFB Development and Production Investment Loans. | Section 481 and IFB Development and Production Investment Loans | Section 481 (a tax incentive scheme) states that the amount spent in Ireland must equal amount raised under this scheme). In addition, IFB Development and Production Investment Loans states that shooting should take place entirely or substantially in Ireland. |
| Italy | Moderate (30) | No direct information available, so a 30% figure was applied directly from information supplied by Fondo Unico per lo Spettacolo which is contained in Section A3 of the Italy Synthesis Sheet. | Fondo Unico per lo Spettacolo | Fondo Unico per lo Spettacolo states that at least 30% of the film budget must be spent in Italy. |
| Latvia | No significant territorialisation (0) | None | Not applicable | |
| Lithuania | No significant territorialisation (0) | None | Not applicable | |
| Luxembourg | Moderate (45) | No direct information available. Assumed to be 50% of the budget for Certificats d'investissement audiovisuel to the total film aid budget. | Certificats d'investissement audiovisuel | Certificats d'investissement audiovisuel (a tax incentive scheme, whose incentives are proportionate to the amount spent in Luxembourg; also most of the production must take place in Luxembourg). |
| Malta | No significant territorialisation (0) | None – no information could be obtained as the degree of production cost territorialised is not specified, although a zero-rating is likely to understate the actual figure. | Not applicable | Two schemes (Malta Enterprise – Incentives under the Business Promotion Regulations and MFC – Tax Credit for Audiovisual Infrastructure) state that the recipient of funding must spend locally a not-quantified amount of the film budget as the projects must expand and develop the audiovisual industry in Malta. |
| Netherlands | Moderate (41) | No direct information available. Assumed to be of the ratio 50% of Film Investment Tax scheme (FIT) budget, plus Rotterdam Film Fund budget, to total film aid budget. | Film Investment Tax scheme and Rotterdam Film Fund budget | For the Film Investment Tax scheme, more than 50% of production costs must be incurred in the Netherlands. For the Rotterdam Film Fund, 200% of aid must be spent in Rotterdam; 150% in the case of a co-production. The remaining fund (the Dutch Film Fund) has no territorialisation requirements. |
| Poland | Moderate (38) | No direct information available. Assumed to be 80% of the ratio of total available film aid budget to industry turnover. | Applied to all funds | The Programme for the Development of Cinema in Poland states that the contract may require that up to 80% of aid must be spent in Poland on film production. |

**TABLE 4.3: ASSUMPTIONS REGARDING TERRITORIALISED PRODUCTION COST CATEGORIES BY MEMBER STATE**

| Member State | Territorialisation Category (% in brackets) | Production Cost Categories | Fund Weighting Mechanism | Additional Notes |
|---|---|---|---|---|
| Portugal | Moderate (34) | 50% of remuneration costs and 50% of shooting costs | Applied to all funds | The nationality qualification applying to both schemes applies an 'at least 50% Portuguese' rule to technicians, professional staff, authors, actors etc. and also requires that at least 50% of production and shooting time should be in Portugal. |
| Slovakia | No significant territorialisation (0) | None | Not applicable | |
| Slovenia | Moderate (29) | No direct information available. Assumed to be 50% of all costs. | Applied to all funds | Under the Stimulation of Development of Cinematographic Activities in Slovenia, 100% of aid is to be spent in Slovenia, so far as is possible. |
| Spain | Moderate (41) | 50% of personnel costs plus all shooting costs. | Applied to all funds | Spanish nationality qualification for the film requires that it be shot in a language of Spain (there are four), on the territory of Spain and with a majority of Spanish or EU crew members. |
| Sweden | No significant territorialisation (3) | Assumed that 20% of all productions costs are territorialised. | Applied to Film i Väst and the Swedish Film Institute (Film i Skåne is 100% territorialised but under the threshold of €1m). | The producer provides a budget showing how much of the production budget will be spent in the region of Västra Götaland and Film i Väst can then grant a corresponding amount up to a maximum of 20% of the film's budget. This grant is 100% territorialised. |
| United Kingdom | Moderate (32) | No direct information available. Assumed to be 70% of available budget for selected funds for which some indication of territorialisation requirements is possible. | Applied to UK Film Council's Development Fund, UK Film Council's New Cinema, UK Film Council's Premiere, Film London | The productions costs test for qualifying as a British film is that 70% of the production cost of the film has to be spent on film-making activity in the United Kingdom. This figure only relates to the cost of production activity actually carried out in the United Kingdom rather than production costs of goods and services supplied from the United Kingdom. |

*Detailed example calculations*

In addition to Table 4.3, the following supplemental descriptions are provided as explanation of why certain Member States were allocated to the various categories of territorialisation.

1. No significant territorialisation: Czech Republic, Denmark, Finland and Sweden

The Czech Republic and Finland were straightforwardly identified as countries in which none of the funding schemes imposes territorialisation; hence the zero rating.

For Sweden, the rules of Film i Väst require that 100% of the aid granted be territorialised and specifies that aid granted may amount to a maximum of 20% of the production budget. However, the total aid budget of Film i Väst is relatively low (€7m) compared with the €44m annual aid budget of the Swedish Film Institute, which imposes no territorialisation requirements. This gives a territorialisation intensity for Sweden across all available funds granting film aid as just under 3%.

For Denmark, there are two schemes with modest budgets that impose territorialisation. FilmFyn (budget €1.3m) requires that 200% of its aid be territorialised and Shorts and Documentaries (budget €1.3m) requires that 100% of the aid for documentaries be spent in Denmark. Because the budgets of these two schemes are small, they bring the territorialisation intensity of Denmark, in the context of large schemes that impose no territorialisation, conditions to just under 5%.

Low territorialisation: Hungary

For Hungary, four funding schemes were identified:

(i) Direct Subsidy relating to the Motion Picture Public Foundation of Hungary (MPPFH) and the Hungarian History Film Public Foundation (HHFPF);

(ii) A direct subsidy from the National Cultural Fund (no territorialisation conditions);

(iii) A direct subsidy from the Broadcasting Fund (no territorialisation conditions)

(iv) An indirect subsidy from the Hungarian National Film Office (a tax incentive scheme).

Of these, the first scheme provides that territorialisation conditions may be imposed whereby up to 60% of the subsidy granted must be spent in Hungary, while the tax incentive scheme provides a tax refund of up to 20% of production costs spent in Hungary.

Unfortunately, no information was available on whether any production cost related territorialisation conditions were imposed, so the assumption was made that half[59] of the 60% criteria applied to the first two schemes, ie they were 30% territorialised in terms of production costs. By applying the share of these two schemes in the overall funding available, the figure of 30%

[59] There was no information available as to the exact proportions of the schemes that were territorialised, so rather than make extreme assumptions of 100% or 0%, a midway point was selected.

territorialisation dropped to 14%, as the two schemes accounted for just under a half of all available funding.

2. Moderate territorialisation: Austria, Belgium, Greece, Germany and Spain

Austria and Belgium are examples of countries where the state aid scheme requires shooting costs to be territorialized. Thus we have taken the share of shooting costs in the budget of French state-aided films to indicate the share of the budget that is territorialised, ie 29%.

A slightly more complex situation is presented in Greece, which had two schemes that were able to be quantified / covered by the study - Greek Film Centre: programme Orizontes ("Horizons"), and the Greek Film Centre: Kinitro ("Incentive"). From the production cost side, some indirect territorialisation requirements were identified, namely that the certification is based on a points system and can often involve a substantial proportion of the shooting taking place in Greece.; hence a level of 29% territorialisation intensity is assigned as this is the share of production budget allocated to shooting in Table 4.2.

For Germany, as has already been noted, the federal funding scheme has no explicit territorialisation. At the regional level, however, many schemes impose spending requirements, although most waive their local spending requirements if another Land waives its local spending requirement to the benefit of the first Land and to an equal amount. The majority of spending was assumed to take place on remuneration, and so an intensity of 55% was given based on the cost breakdown in Table 4.2.

For Spain, all funds require Spanish nationality qualification for the film, which in turn requires that the film be shot in a language of Spain (of which there are four[60]), on the territory of Spain and with a majority of Spanish or EU crew members. As only a majority of crew members need to be Spanish, or indeed just EU nationals, only half of remuneration costs were assumed to be territorialised, while the requirement that the film be shot on the territory of Spain led to the assumption that 100% of shooting costs should be territorialised, and so an intensity of 41% was given based on the cost breakdown in Table 4.2.

3. High territorialisation: France

For France, despite the detailed cost breakdown presented in Table 4.2 there was no direct information available on which costs were territorialised. Instead, the calculated figure of 80% came from the information that, for the tax credit system in France, eligible production costs may not exceed 80% of the total production budget (or of the French part in an international co-production).

[60] Castilian, Basque, Catalan and Galician.

## 4.4. Conclusions

**Final selection through discussion and compromise**

Ultimately a list of countries for the analysis in Parts C and D was developed in consultation with the Commission.

It was initially considered that, along with the 'big three' (ie the UK, Germany and France), two countries would be included for which it was clear that there was no significant territorialisation (Czech Republic and Sweden) and that another two countries, one with no significant territorialisation (Denmark) and another with low territorialisation (Hungary) would be added. This would also have the advantage that it would allow a comparison to be made between similar countries:

Nordic countries: Sweden vs Denmark

New Member States: Czech Republic vs Hungary

However, after some further discussion it was decided to add Finland (no significant territorialisation) and Spain (moderate territorialisation), and remove the UK. In this way, the following comparisons could be made:

France vs Spain

Germany vs Spain

France vs Finland

Germany vs Finland

In addition, two similar countries with no significant territorialisation (Sweden and Finland) could be compared to see if they had different industry structures, which then would be explained by factors other than territorialisation. Table 4.4 summarises the final selection of countries, ranked by the production cost-based measure, which is subsequently used as the ordering criteria in Parts C and D of the study.

**TABLE 4.4: FINAL COUNTRY SELECTION FOR PARTS C AND D**

| Country | Production cost-based territorialisation intensity | Categorisation |
|---|---|---|
| France | 80 | High territorialisation |
| Germany | 55 | Moderate territorialisation |
| Spain | 41 | Moderate territorialisation |
| Hungary | 14 | Low territorialisation |
| Denmark | 5 | No significant territorialisation |
| Sweden | 3 | No significant territorialisation |
| Czech Republic | 0 | No significant territorialisation |
| Finland | 0 | No significant territorialisation |

**Caveats**

**Initial consideration**

The difficulties of identifying a single portmanteau measure that captures the complexity of all the territorialisation constraints may be illustrated by:

*Misleading 'precision' of the numbers*

- the important differences between the requirements that all or part of the state subsidy of a funding scheme should be spent in a defined region and,
- the requirements that a part of the production costs should be spent in that region.

*Specific concerns*

Although the figures for territorialisation on the production-based measure are seemingly precise, stating, for example, levels of territorialisation at 41% or 55%, they are in fact the culmination of a set of assumptions that were required in order to complete the exercise. For this reason it is safer only to use the categories of no significant, low, moderate and high territorialisation.

Some concern has been expressed about the production cost territorialisation measure for Spain. Following consultation with a local expert, it seems possible that by using production cost data for Spain (rather than the assumptions for France) the territorialisation measure would move closer to 50%, ie by using production cost shares for Spain (which were not available at the time of calculation) rather than for France, the weighting might well have increased the intensity value.

The case of Germany has also been queried through comments received from the German Federal Film Board (see Appendix H). The notes supporting Table 4.3 do recognise the fact that federal funding is non-territorialised. Nonetheless, there are a number of regional film funds that do impose territorialisation criteria, the budgets for which add up to an amount greater than the federal funding aid.

Summary indicators of territorialisation can be valuable aids both in the selection of the countries for the research focus of Parts C and D and in summarising the complex range of information on the requirements of funding schemes. However, these indicators need to be used with great caution, especially when they are used to support comparisons made in this research at the levels of Member State, funding body and funding scheme.

# 5. Part C: Economic Structure of Audiovisual Industries

## 5.1. Introduction

In Part C of the study we describe the economic structure of the audiovisual sector in a representative sample of eight Member States, spanning four levels of territorialisation (see Table 5.1).

In Section 5.2 we present macro data for the audiovisual sector of the selected Member States and in Sections 5.3-5.6 we present selected micro data relating to six typical services in the audiovisual sector. In Section 5.4 we describe how we selected six services; in Section 5.5 we describe the methods by which we collected the micro data, and in Section 5.6 we present the micro data.

The macro and micro data here presented then form the basis for Part D of the study, the comparative analysis of the economic structure of the audiovisual sector across the selected countries. Part D is presented in Chapter 6.

**TABLE 5.1: PRODUCTION COST-BASED TERRITORIALISATION INTENSITIES OF SELECTED MEMBER STATES**

| Member State | Category of territorialisation |
|---|---|
| Czech Republic<br>Finland<br>Sweden<br>Denmark | No significant territorialisation |
| Hungary | Low territorialisation |
| Spain<br>Germany | Moderate territorialisation |
| France | High territorialisation |

## 5.2. Macro data concerning the audiovisual sector

**General data**

Table 5.2 displays the basic demographic and economic data at a general level. The Member States selected encompass a considerable range in terms of size and economic conditions.

Data on population and on GDP for the selected Member States for the years 2001-2005 were acquired from the Eurostat database. Figures are given in euros to facilitate comparison across Member States. GDP data can be compared with sector-specific data in order to understand the relative economic importance of the industry to a particular Member State.

**TABLE 5.2: BASIC DEMOGRAPHIC AND ECONOMIC DATA**

| Member State | Population (million) | Labour Force (million) | GDP (million €) | GDP per capita in Purchasing Power Standards, Index: EU-25 = 100 |
|---|---|---|---|---|
| Finland | 5.2 | 2.6 | 157,377 | 110.5 |
| Denmark | 5.4 | 2.8 | 208,609 | 121.8 |
| Sweden | 9.0 | 4.7 | 287,970 | 114.8 |
| Hungary | 10.1 | 4.2 | 87,894 | 62.5 |
| Czech Republic | 10.2 | 5.2 | 98,417 | 73.6 |
| Spain | 42.3 | 21.1 | 905,455 | 97.9 |
| France | 62.0 | 27.2 | 1,710,023 | 108.2 |
| Germany | 82.5 | 40.7 | 2,241,000 | 110.0 |

Source(s) : Eurostat.

## Data related to the cinema and audiovisual

The following paragraphs present the essential characteristics of the cinema and audiovisual industries in the selected Member States. The sector-specific parameters studied are: employment, turnover, value-added and the number and size of companies.

*Defining the audiovisual sector*

One of the challenges in analysing the audiovisual industry lies in defining the sector. For this study NACE codes 92.1 and 92.2 have been used as the sector definition. The codes include the following breakdown:

- 92.11 Motion picture and video production
- 92.12 Motion picture and video distribution
- 92.13 Motion picture projection
- 92.2 Radio and television activities

This definition is the most appropriate definition of the audiovisual industry. In practice it is difficult to capture all relevant companies since, in reality, a number of companies might be categorised wrongly. That said, the NACE codes 91.1 and 92.2 should include most relevant players in the market

*Data are not readily available at the European level*

For most sectors of European industry, trade and services, Eurostat is able to provide comprehensive and updated statistics, which have been collected from the national statistical bureaus. In the case of the audiovisual sector, however, updated data are not so readily available at the European level.

In 2003, the latest comprehensive report on the audiovisual sector was published by Eurostat under the title *Cinema, TV and radio in the EU - Statistics on audiovisual services*. Even though the report includes data from 1980–2002, data from 2001 and 2002 are very sparse. The nationally aggregated data on parameters relevant for this study are rather dated. Figures on employment, number of companies and turnover by audiovisual markets are reported from year 2000 and even so, a number of data gaps exist.

As the reference period for this study is 2001-2005, updated data would clearly have been preferable. According to Eurostat, however, the publication will not be updated, and data are no longer collected. According to the Eurostat publication *European Business* "no European structural business statistics

Groups 92.1 and 92.2)"[61] Instead *European Business* presents a brief analysis of audiovisual activities based on data from European Audiovisual Observatory (EAO) and the European Cinema Yearbook. Unfortunately, these sources do not include aggregate national data on such parameters as employment, turnover, value-added and number and size of companies.

*Data were collected from national sources*

The following analysis is, therefore, based on data collected or purchased from the national statistical institutes and other national authorities or studies that have been able to provide relevant information. All data have been collected according to the above sector definition.

It has not, however, proved possible to collect relevant data from all of the selected Member States. Especially in the case of value-added and size of companies data appear to be very sparse.

The collected data are presented below. For each parameter, a table with the aggregate national data is provided, and a subsequent table provides data per capita, per million labour force, or as percentage share of GDP, to facilitate comparison across the selected Member States.

## Employment data

*NACE code "O" is too broad*

The Eurostat database does not allow NACE code breakdowns to be made at the required level. Only data on NACE code O are available. This category refers to business activities under the heading 'Other community, social and personal service activities', and the audiovisual sector is contained within this category.[62] Table 5.3 displays data on employment in 2005 under NACE code O.

**TABLE 5.3: EMPLOYMENT DATA, NACE CODE O, 2005**

| Member State | Employment within NACE code 0, 2005 (Eurostat) | Employment within NACE code O as percentage of labour force (Eurostat) |
|---|---|---|
| Finland | 133,000 | 5.1% |
| Denmark | 149,000 | 5.2% |
| Sweden | 237,000 | 5.0% |
| Hungary | 176,000 | 4.2% |
| Czech Republic | 190,000 | 3.7% |
| Spain | 794,000 | 3.8% |
| France | 1,060,000 | 3.9% |
| Germany | 2,126,000 | 5.3% |

This information is of course very general. The audiovisual sector is estimated to make up only around 5-10% of the total code O employment. Such data are, therefore, not very useful for an analysis of audiovisual employment.

National data, collected from various sources, are presented in the following tables. Table 5.4 shows audiovisual employment in the eight Member States, Table 5.5 shows the number of audiovisual employees per million inhabitants,

[61] *European Business* (2006) chapter 21 on communications and media, page 368.
[62] Within 'O' the audiovisual sector is included under the headings: 92.11 ('Motion Picture and Video Production'), 92.12 ('Motion Picture and Video Distribution'), 92.13 ('Motion Picture Projection') and 92.20 ('Radio and Television Activities').

while Table 5.6 displays the number of audiovisual employees per million labour force.

**TABLE 5.4: NUMBER OF PEOPLE EMPLOYED IN THE AUDIOVISUAL SECTOR**

| Member State | 2001 | 2002 | 2003 | 2004 | 2005 |
|---|---|---|---|---|---|
| Finland[63] | 8,424 | 8,198 | 7,690 | 7,768 | 7,501 |
| Denmark[64] | 8,913 | 8,777 | 8,726 | 8,984 | N/A |
| Sweden[65] | 11,402 | 11,310 | 11,678 | 11,493 | N/A |
| Hungary[66] | 8,904 | 8,668 | 8,917 | N/A | N/A |
| Czech Republic[67] | 5,395 | 6,485 | 5,846 | 4,838 | 5,189 |
| Spain | 61,000[68] | N/A | N/A | N/A | 70,846[69] |
| France | 63,000[70] | N/A | N/A | 70,233[71] | N/A |
| Germany | N/A | N/A | N/A | N/A | 130,000[72] |

**TABLE 5.5: NUMBER OF AUDIOVISUAL EMPLOYEES PER MILLION PEOPLE**

| Member State | 2001 | 2002 | 2003 | 2004 | 2005 |
|---|---|---|---|---|---|
| Finland | 1,626 | 1,578 | 1,477 | 1,488 | 1,432 |
| Denmark | 1,666 | 1,634 | 1,620 | 1,664 | N/A |
| Sweden | 1,284 | 1,270 | 1,306 | 1,280 | N/A |
| Hungary | 876 | 851 | 879 | N/A | N/A |
| Czech Republic | 526 | 635 | 573 | 473 | 507 |
| Spain | 1,507[73] | N/A | N/A | N/A | 1,646[74] |
| France | 1,035[75] | N/A | N/A | 1,133[76] | N/A |
| Germany | N/A | N/A | N/A | N/A | 1,575[77] |

**TABLE 5.6: NUMBER OF AUDIOVISUAL EMPLOYEES PER MILLION LABOUR FORCE**

| Member State | 2001 | 2002 | 2003 | 2004 | 2005 |
|---|---|---|---|---|---|
| Finland | 3,235 | 3,141 | 2,959 | 2,996 | 2,862 |
| Denmark | 3,110 | 3,074 | 3,049 | 3,101 | N/A |
| Sweden | 2,511 | 2,488 | 2,555 | 2,510 | N/A |
| Hungary | 2,179 | 2,110 | 2,139 | N/A | N/A |
| Czech Republic | 1,060 | 1,271 | 1,147 | 946 | 1,003 |
| Spain | 3,389 | N/A | N/A | N/A | 3,390 |
| France | 2,429 | N/A | N/A | 2,604 | N/A |
| Germany | N/A | N/A | N/A | N/A | 3,236 |

[63] Source: All the data were provided by Statistics Finland; Finnish enterprises.
[64] Source: All data were provided by Danish Statistics.
[65] Source: All the data were provided by Svenska statistika centralbyrå.
[66] Source: Database of the Hungarian Central Statistical Office.
[67] Source: All the data were provided by Czech Statistical Office.
[68] Source: http://www.culturalpolicies.net/web/spain.php?aid=426
[69] Source: INE/MRC.
[70] http://www.af.ca/national/france/generalites/culture_.htm#5
[71] Source: 'Enquête annuelle d'entreprises dans les services' (2004), Insee FROM INSEE: LES SERVICES EN FRANCE: SERVICES AUX PARTICULIERS ET ACTVITES IMMOBILIERES EDITION 2006.
[72] Source: http://epp.eurostat.cec.eu.int/cache/ITY_OFFPUB/KS-BT-03-001/EN/KS-BT-03-001-EN.PDF
[73] Source: http://www.culturalpolicies.net/web/spain.php?aid=426
[74] Source: INE/MRC.
[75] http://www.af.ca/national/france/generalites/culture_.htm#5
[76] Source: INE/MRC.
[77] Source: http://epp.eurostat.cec.eu.int/cache/ITY_OFFPUB/KS-BT-03-001/EN/KS-BT-03-001-EN.PDF

It can be seen that audiovisual employment constitutes 2.5-3.4% of total employment in all Member States except in the Czech Republic, where only 1% are employed in the audiovisual sector.

**Turnover**

The collected data on turnover of the audiovisual industries in the selected Member States are shown in absolute numbers and per capita in Tables 5.7 and 5.8. Table 5.9 shows the turnover as a percentage of GDP.

Except for the Czech Republic and Hungary, the turnover per capita is in the order of magnitude of €200-300 in all the selected Member States.

In Table 5.9 the turnover as percentage of GDP is shown. It varies between 0.7% and 1.4 % in the eight Member States. There has been a high degree of stability in this indicator, except in the case of Hungary and Spain, where audiovisual turnover has been growing since 2001.

**TABLE 5.7: TOTAL TURNOVER OF AUDIOVISUAL SECTOR (MILLION €)**

| Member State | 2001 | 2002 | 2003 | 2004 | 2005 |
|---|---|---|---|---|---|
| Finland[78] | 1,020 | 978 | 1,026 | 1,121 | 1,066 |
| Denmark[79] | 1,457 | 1,467 | 1,524 | 1,598 | N/A |
| Sweden[80] | 2,719 | 2,365 | 2,588 | 2,719 | N/A |
| Hungary[81] | 540 | 991 | 924 | N/A | N/A |
| Czech Republic[82] | 540 | 575 | 691 | 713 | 763 |
| Spain | 6,430[83] | N/A | N/A | 9,400[84] | 10,520[85] |
| France[86] | 17,310 | 19,799 | 20,101 | 21,521[87] | N/A |
| Germany | 22,650[88] | N/A | N/A | N/A | N/A |

**TABLE 5.8: PER CAPTITA TURNOVER OF AUDIOVISUAL SECTOR (€)[89]**

| Member State | 2001 | 2002 | 2003 | 2004 | 2005 |
|---|---|---|---|---|---|
| Finland | 196.9 | 188.3 | 197.2 | 214.7 | 203.7 |
| Denmark | 272.3 | 273.2 | 283.2 | 295.9 | N/A |
| Sweden | 306.2 | 265.5 | 289.5 | 303 | N/A |
| Hungary | 52.9 | 97.4 | 91.1 | N/A | N/A |
| Czech Republic | 52.6 | 56.3 | 67.7 | 69.8 | 74.7 |
| Spain | 158.9 | N/A | N/A | 222 | 244.4 |
| France | 284.3 | 323,2 | 326,4 | 347.2 | N/A |
| Germany | 275.3 | N/A | N/A | N/A | N/A |

[78] Source: All the data were provided by Statistics Finland ; Finnish enterprises
[79] Source: All data were provided by Danish statistics.
[80] Source: All the data were provided by Svenska statistika centralbyrå.
[81] Source: Database of the Hungarian Central Statistical Office.
[82] Source: All the data were provided by Czech Statistical Office.
[83] Source: http://eurofound.europa.eu/emcc/content/source/eu06007a.html?p1=sectorfutures&p2=null
[84] Source: http://eurofound.europa.eu/emcc/content/source/eu06007a.html?p1=sectorfutures&p2=null
[85] Source: INE/MRC.
[86] Source: All data were provided by the French national statistic office.
[87] Source: 'Enquête annuelle d'entreprises dans les services' (2004), Insee FROM INSEE: LES SERVICES EN FRANCE: SERVICES AUX PARTICULIERS ET ACTVITES IMMOBILIERES EDITION 2006.
[88] Source: http://eurofound.europa.eu/emcc/content/source/eu06007a.html?p1=sectorfutures&p2=null
[89] The data in Table 2.8 and 2.9 are based on data from Table 2.7 and population and GDP data from Eurostat.

**TABLE 5.9: TURNOVER OF AUDIOVISUAL SECTOR AS PERCENTAGE OF GDP**

| Member State | 2001 | 2002 | 2003 | 2004 | 2005 |
|---|---|---|---|---|---|
| Finland | 0.7 | 0.7 | 0.7 | 0.7 | 0.7 |
| Denmark | 0.8 | 0.8 | 0.8 | 0.8 | N/A |
| Sweden | 1.1 | 0.9 | 1.0 | 1.0 | N/A |
| Hungary | 0.9 | 1.4 | 1.3 | N/A | N/A |
| Czech Republic | 0.8 | 0.7 | 0.9 | 0.8 | 0.8 |
| Spain | 0.9 | N/A | N/A | 1.1 | 1.2 |
| France | 1.2 | 1.3 | 1.3 | 1.3 | N/A |
| Germany | 1.1 | N/A | N/A | N/A | N/A |

*Other measures of turnover*

Measures of turnover related to the European film market have also been investigated. The *European Cinema Yearbook* includes comprehensive data on national gross box office revenues and other types of data related to the state of affairs within motion picture projection. Market shares of domestic films are also available from this publication and from the *EAO Yearbook*.

Data for the turnover of the filmed entertainment market are available from *Global Entertainment and Media Outlook, 2006-2010* published by PriceWaterhouseCoopers. The data cover consumer box office spending for theatrical motion pictures and spending on renting and purchasing DVD and VHS. The data also include online rental services and streaming services, and data on turnover from music videos, VOD, pay-per-view or film distribution by cable and satellite are available in a section of the report that focuses on television distribution.

Data for the turnover of the filmed entertainment market are readily available for most Member States for the period 2001-2005. Even though such data could potentially be used as an indicator of the relative turnover of the selected Member States, we have not so used them, because the data cover only a limited fraction of the total turnover of the audiovisual industry as it has been defined above. Gross box office figures only deal with the cinema revenue stream, while the turnover of the filmed entertainment market does not include the data on film production itself, which is the main focus of this study.

**Value added**

Only a limited amount of data is available for the value-added of the audiovisual sector. These data are shown at the aggregate national level and per capita in Table 5.10.

**TABLE 5.10: TOTAL VALUE ADDED OF THE AUDIOVISUAL SECTOR (MILLION €)**

| Member State | Czech Republic | France | Hungary | Spain | Sweden |
|---|---|---|---|---|---|
| 2001 | 130.3 | | 32.7 | | 703.3 |
| 2002 | 165.5 | | 47.7 | | 709.6 |
| 2003 | 195.2 | | 42.3 | | 787.0 |
| 2004 | 221.8 | 9712.0 | | | 829.2 |
| 2005 | 202.4 | | | 3430.0 | |
| Average per capita | 17.9 | 156.7 | 4.0 | 79.7 | 84.4 |

**Number of audiovisual companies**

The total number and the per capita number of companies in the audiovisual sector in the eight Member States are shown in Tables 5.11 and 5.12. These figures have remained fairly stable throughout the period except in Sweden and Hungary, where the number of audiovisual companies has grown.

**TABLE 5.11: TOTAL NUMBER OF COMPANIES IN THE AUDIOVISUAL SECTOR**

| Member State | 2001 | 2002 | 2003 | 2004 | 2005 |
|---|---|---|---|---|---|
| Finland[90] | 908 | 942 | 966 | 970 | 977 |
| Denmark[91] | 1,240 | 1,188 | 1,196 | 1,227 | N/A |
| Sweden[92] | 2,887 | 3,080 | 3,364 | 3,629 | - |
| Hungary[93] | 3,908 | 4,161 | 4,278 | N/A | N/A |
| Czech Republic[94] | 2,418 | 2,085 | 2,017 | 2,249 | 2,265 |
| Spain | N/A | N/A | N/A | 7111[95] | N/A |
| France[96] | 10,201 | 9,838 | 10,580 | 11,056 | N/A |
| Germany | N/A | N/A | N/A | N/A | 9,371[97] |

**TABLE 5.12: PER CAPITA NUMBER OF AUDIOVISUAL SECTOR COMPANIES[98]**

| Member State | 2001 | 2002 | 2003 | 2004 | 2005 |
|---|---|---|---|---|---|
| Finland | 175 | 181 | 185.5 | 185 | 186 |
| Denmark | 231 | 221 | 222 | 227 | N/A |
| Sweden | 325 | 345 | 376 | 404 | N/A |
| Hungary | 383 | 408 | 421 | N/A | N/A |
| Czech Republic | 235 | 204 | 197 | 220 | 221 |
| Spain | N/A | N/A | N/A | 167 | N/A |
| France | 168 | 161 | 172 | 178 | N/A |
| Germany | N/A | N/A | N/A | N/A | 113 |

**TABLE 5.13: AVERAGE NUMBER OF EMPLOYEES PER COMPANY IN THE AUDIOVISUAL SECTOR[99]**

| Member State | 2001 | 2002 | 2003 | 2004 | 2005 |
|---|---|---|---|---|---|
| Finland | 9.3 | 8.7 | 7.9 | 8.0 | 7.7 |
| Denmark | 7.2 | 7.4 | 7.3 | 7.3 | N/A |
| Sweden | 3.9 | 3.7 | 3.5 | 3.2 | N/A |
| Hungary | 2.3 | 2.1 | 2.1 | N/A | N/A |
| Czech Republic | 2.2 | 3.1 | 2.8 | 2.2 | 2.3 |
| Spain | N/A | N/A | N/A | 10.1 | N/A |
| France | 6.2 | N/A | N/A | 6.4 | N/A |
| Germany | N/A | N/A | N/A | N/A | 13.9 |

The reported number of audiovisual companies in Hungary does, however, seem rather high when compared to numbers in other countries. The Hungarian

[90] Source: All the data were provided by Statistics Finland ; Finnish enterprises
[91] Source: All data were provided by Danish statistics
[92] Source: All the data were provided by Svenska statistika centralbyrå
[93] Source: Database of the Hungarian Central Statistical Office
[94] Source: All the data were provided by Czech Statistical Office
[95] Source: INE/MRC
[96] Source : All data were provided by the French national statistic office
[97] Source: Statistisches Bundesamt ID-Statistischer Informationsservice
[98] Table 5.13 and Table 5.14 are based on data from Tables 5.4 and 5.12 and general population data from Eurostat.
[99] Table 5.13 is based on data from Tables 5.4 and 5.12.

data, which have been obtained from the database of the Hungarian Central Statistical Office, show that the high number of total audiovisual companies is due to an unusually high number of companies under the heading "Radio and television activities" (NACE 92.2).

The number of employees per company in the audiovisual sector varies from 2.1 to 13.9. The low average number of employees indicates that the sector is dominated by a high proportion of small companies and freelance workers. Table 5.13 shows that the number of employees per company is highest in Spain, Finland, Denmark and France. In Hungary and in the Czech Republic the average staff is only 2-3, and the average number is also low in Sweden.

**Size of audiovisual companies**

Data were also available for the size distribution of audiovisual companies in four Member States (Denmark, Sweden, Spain and the Czech Republic). They all show a dominance of small companies, as portrayed in Table 5.14.

**TABLE 5.14: NUMBER OF COMPANIES CATEGORISED ACCORDING TO SIZE (NUMBER OF EMPLOYEES)**

| Size categories | 0-2 | 2-4 | 5-19 | 20-99 | 99 < | Total |
|---|---|---|---|---|---|---|
| Denmark[100] (2001) | (739) 60.2 % | (319) 25.9 % | (119) 9.6 % | (45) 3.6 % | (5) 0.4 % | (1,227) 100% |
| Sweden[101] (2001) | (2290) 59.0 % | (690) 17.7 % | (859) 22.1 % | (27) 0.7 % | (14) 0.4 % | (3,880) 100 % |
| Spain[102] (2005) | (2752) 39.3 % | (2500) 35.6 % | (1289) 18.3 % | (399) 5.6 % | (71) 1.1 % | (7,011) 100 % |

| Size categories | 0-9 | 10-250 | 250 < | Total |
|---|---|---|---|---|
| Czech Republic[103104] (2001) | (2,573) 96 % | (91) 3.4 % | (5) 0.1 % | (2,669) 100% |

**Data on film production and distribution in the selected Member States**

The following tables provide data on film production and distribution in the selected Member States. Generally, the data were obtained for the period 2001-2005 from the EAO 2006 Yearbook.

Table 5.15 provides information on national TV Films broadcast[105] on television in those of the eight Member States where data were available.

[100] Source: Danish Statistics.
[101] Source: All the data were provided by Svenska statistika centralbyrå
[102] Source: Fuente: FAPAE
[103] Source: All the data were provided by Czech Statistical Office
[104] The categories vary across countries, eg the Czech Republic operates with only three categories.
[105] Data on TV films produced are not available, and in stead, the number of TV films broadcast on the main national TV channels is shown, as this is in practice the same as the number produced.

**TABLE 5.15: NUMBER AND DURATION OF NATIONAL TV FILMS BROADCAST IN 2005 PER MILLION PEOPLE**

| Member State | TV films broadcast (numbers) | Duration (hours) |
|---|---|---|
| Finland | 15.8 | 14.5 |
| Denmark | 11.5 | 5.9 |
| Sweden | 14.3 | 12.5 |
| Spain | 1.9 | 1.8 |
| France | 50.4 | 79.9 |
| Germany | 9.7 | 15.5 |

Source: The data has been calculated on the basis of information from EAO 2006 and Eurostat

The number of feature films produced per capita varied from one to seven per million in the selected Member States for the years 2001 to 2005, but only Finland, Denmark and Sweden produced more than four feature films per million inhabitants. Data were obtained from the EAO 2006 Yearbook. The figures in Table 5.16 cover all feature films produced, including 100%-national productions, feature documentaries, and all co-productions.

Table 5.17 shows the number of 100%-national feature film productions per million inhabitants. This number seems to be quite stable and was in the order of magnitude of 2-3.5 in all eight Member States in 2004.

**TABLE 5.16: NUMBER OF FEATURE FILMS (INCLUDING CO-PRODUCTIONS) PRODUCED PER MILLION INHABITANTS[106]**

| Member State | 2001 | 2002 | 2003 | 2004 | 2005 |
|---|---|---|---|---|---|
| Finland | 3.1 | 2.3 | 2.7 | 4.4 | 3.6 |
| Denmark | 5.0 | 6.0 | 7.1 | 6.1 | N/A |
| Sweden | 3.2 | 3.1 | 4.0 | 4.7 | 5.9 |
| Hungary | 2.2 | 2.4 | 2.1 | 2.6 | 2.6 |
| Czech Republic | 1.8 | 1.9 | 1.7 | 2.1 | 2.6 |
| Spain | 2.6 | 3.3 | 2.6 | 3.1 | 3.3 |
| France | 3.4 | 3.3 | 3.4 | 3.3 | 3.8 |
| Germany | 1.3 | 1.4 | 1.3 | 1.5 | 1.8 |

**TABLE 5.17: NUMBER OF 100 % NATIONAL PRODUCTIONS PER MILLION INHABITANTS[107]**

| Member State | 2001 | 2002 | 2003 | 2004 | 2005 |
|---|---|---|---|---|---|
| Finland | N/A | N/A | N/A | 2.9 | 2.3 |
| Denmark | 2.2 | 3.7 | 3.9 | 3.3 | 5.0 |
| Sweden | 1.8 | 1.3 | 1.6 | 2.5 | 3.1 |
| Hungary | 2.0 | 1.9 | 1.9 | 1.9 | 1.7 |
| Czech Republic | 1.2 | 1.8 | 1.0 | 1.9 | 1.7 |
| Spain | 1.7 | 2.0 | 1.6 | 2.2 | 2.1 |
| France | 2.1 | 1.7 | 1.7 | 2.1 | 2.0 |
| Germany | 1.0 | 0.9 | 1.0 | 1.1 | 1.2 |

[106] Source: EAO Yearbook 2006, population data from Eurostat
[107] Source: EAO Yearbook 2006, population data from Eurostat.

Table 5.18 shows that 100%-national productions account for more than 50% of the total number of feature films produced in all eight Member States.

The term 'majority co-productions' in Table 5.19 refers to feature films made in conjunction with other Member States but where the Member State in question was responsible for 50% or more of production costs. The share of majority co-productions as a percentage of feature films (Table 5.20) was highest in Denmark, Sweden and France, where it was in the range of 20-40%. It was lowest in Finland, Spain and Hungary (10-20%).

**TABLE 5.18: 100 % NATIONAL PRODUCTIONS IN PERCENT OF TOTAL NUMBER OF FEATURE FILMS PRODUCED**

| Menber State | 2001 | 2002 | 2003 | 2004 | 2005 |
|---|---|---|---|---|---|
| Finland | N/A | N/A | N/A | 65.2 | 63.2 |
| Denmark | 44.4 | 62.5 | 55.3 | 54.5 | N/A |
| Sweden | 57.1 | 42.9 | 38.9 | 52.4 | 56.6 |
| Hungary | 90.9 | 79.2 | 90.5 | 73.1 | 65.4 |
| Czech Republic | 66.7 | 94.7 | 58.8 | 90.5 | 63.0 |
| Spain | 62.6 | 58.4 | 61.8 | 69.2 | 62.7 |
| France | 61.8 | 53.0 | 49.5 | 64.0 | 52.5 |
| Germany | 75.7 | 61.5 | 75.7 | 77.7 | 70.5 |

**TABLE 5.19: NUMBER OF MAJORITY CO-PRODUCTIONS PER MILLION INHABITANTS[108]**

| Member State | 2001 | 2002 | 2003 | 2004 | 2005 |
|---|---|---|---|---|---|
| Finland | N/A | N/A | N/A | 0.6 | 0.6 |
| Denmark | 2.2 | 1.5 | 2.2 | 1.3 | 2.6 |
| Sweden | 1.0 | 1.0 | 1.5 | 1.6 | 1.7 |
| Hungary | 0.2 | 0.5 | 0.1 | 0.4 | 0.1 |
| Czech Republic | 0.5 | 0.1 | 0.4 | 0.1 | 0.4 |
| Spain | 0.5 | 0.5 | 0.4 | 0.4 | 0.7 |
| France | 0.8 | 0.9 | 1.3 | 0.6 | 1.0 |
| Germany | N/A | N/A | N/A | N/A | 0.2 |

**TABLE 5.20: MAJORITY CO-PRODUCTIONS AS A PERCENTAGE OF TOTAL NUMBER OF FEATURE FILMS PRODUCED**

| Member State | 2001 | 2002 | 2003 | 2004 | 2005 |
|---|---|---|---|---|---|
| Finland | N/A | N/A | N/A | 13.0 | 15.8 |
| Denmark | 44.4 | 25.0 | 31.6 | 22.2 | N/A |
| Sweden | 32.1 | 32.1 | 36.1 | 33.3 | 28.3 |
| Hungary | 9.1 | 20.8 | 4.8 | 15.4 | 3.8 |
| Czech Republic | 27.8 | 5.3 | 23.5 | 4.8 | 14.8 |
| Spain | 17.8 | 16.1 | 14.5 | 12.8 | 20.4 |
| France | 22.5 | 28.5 | 36.8 | 18.2 | 25.4 |
| Germany | N/A | N/A | N/A | N/A | 12.3 |

[108] Source: EAO Yearbook 2006, population data from Eurostat.

The term 'minority co-productions' (Table 5.21) refers to feature films made in conjunction with other Member States but where the Member State in question has been responsible for less than 50% of the film's cost. German data are available for 2005 only.

Table 5.22 shows that the number of minority co-productions as a percentage of the total number of feature films has varied, mainly in the range from 10% to 25%.

**TABLE 5.21: NUMBER OF MINORITY CO-PRODUCTIONS PER MILLION INHABITANTS[109]**

| Member State | 2001 | 2002 | 2003 | 2004 | 2005 |
|---|---|---|---|---|---|
| Finland | N/A | N/A | N/A | 1.0 | 0.8 |
| Denmark | 0.6 | 0.7 | 0.9 | 1.5 | N/A |
| Sweden | 0.3 | 0.8 | 1.0 | 0.7 | 0.9 |
| Hungary | 0.0 | 0.0 | 0.1 | 0.3 | 0.8 |
| Czech Republic | 0.1 | 0.0 | 0.3 | 0.1 | 0.6 |
| Spain | 0.5 | 0.9 | 0.6 | 0.6 | 0.5 |
| France | 0.5 | 0.6 | 0.5 | 0.6 | 0.8 |
| Germany | N/A | N/A | N/A | N/A | 0.3 |

It appears from Tables 5.20 and 5.22 that in Spain alone of the eight Member States there were more minority than majority co-productions until 2005. In 2004 and 2005, the balance is more even among the per capita numbers of minority and majority productions of the eight Member States.

**TABLE 5.22: MINORITY CO-PRODUCTIONS AS PERCENTAGE OF TOTAL NUMBER OF FEATURE FILMS PRODUCED**

| Member State | 2001 | 2002 | 2003 | 2004 | 2005 |
|---|---|---|---|---|---|
| Finland | N/A | N/A | N/A | 21.7 | 21.1 |
| Denmark | 11.1 | 12.5 | 13.2 | 24.2 | N/A |
| Sweden | 10.7 | 25.0 | 25.0 | 14.3 | 15.1 |
| Hungary | 0.0 | 0.0 | 4.8 | 11.5 | 30.8 |
| Czech Republic | 5.6 | 0.0 | 17.6 | 4.8 | 22.2 |
| Spain | 19.6 | 25.5 | 23.6 | 18.0 | 16.2 |
| France | 15.7 | 18.5 | 13.7 | 17.7 | 22.1 |
| Germany | N/A | N/A | N/A | N/A | 17.1 |

Tables 5.23 and 5.24, show the total number of co-productions per million inhabitants and as a percentage of the total number of feature films produced. Co-productions constitute a total of 40-60% of all feature films in Sweden and Denmark, and 30-50% in Spain and France.

[109] Source: EAO Yearbook 2006, population data from Eurostat

Data on the number of national films distributed (Table 5.25) were acquired from the EAO's 2006 Yearbook.

**TABLE 5.23: NUMBER OF TOTAL CO-PRODUCTIONS PER MILLION INHABITANTS[110]**

| Member State | 2001 | 2002 | 2003 | 2004 | 2005 |
|---|---|---|---|---|---|
| Finland | N/A | N/A | N/A | 1.5 | 1.3 |
| Denmark | 2.8 | 2.2 | 3.2 | 2.8 | N/A |
| Sweden | 1.4 | 1.8 | 2.5 | 2.2 | 2.6 |
| Hungary | 0.2 | 0.5 | 0.2 | 0.7 | 0.9 |
| Czech Republic | 0.6 | 0.1 | 0.7 | 0.2 | 1.0 |
| Spain | 1.0 | 1.4 | 1.0 | 1.0 | 1.2 |
| France | 1.3 | 1.5 | 1.7 | 1.2 | 1.8 |
| Germany | 0.3 | 0.5 | 0.3 | 0.3 | 0.5 |

**TABLE 5.24: TOTAL CO-PRODUCTIONS IN PERCENT OF TOTAL NUMBER OF FEATURE FILMS PRODUCED**

| Member State | 2001 | 2002 | 2003 | 2004 | 2005 |
|---|---|---|---|---|---|
| Finland | N/A | N/A | N/A | 34.8 | 36.8 |
| Denmark | 55.6 | 37.5 | 44.7 | 45.5 | N/A |
| Sweden | 42.9 | 57.1 | 61.1 | 47.6 | 43.4 |
| Hungary | 9.1 | 20.8 | 9.5 | 26.9 | 34.6 |
| Czech Republic | 33.3 | 5.3 | 41.2 | 9.5 | 37.0 |
| Spain | 37.4 | 41.6 | 38.2 | 30.8 | 36.6 |
| France | 38.2 | 47.0 | 50.5 | 36.0 | 47.5 |
| Germany | 24.3 | 38.5 | 24.3 | 22.3 | 29.5 |

The number of national films distributed per million inhabitants varies from 1.3 – 1.5 in Germany up to 4.5 – 6.1 in Denmark. Generally, the per capita number of national films distributed has slightly increased over the period 2001-2005.

Data on the market share of nationally produced films in Table 5.26 were obtained from the *European Cinema Yearbook* and the EAO *Yearbook 2006*, and based on the number of films released in national cinemas and admissions data from the LUMIERE database. Market share of nationally-produced films is the percentage of the total films screened in a particular year in a particular Member State that were a product of that Member State.

The national market share has been highest in France. It has been subject to a considerable fluctuation in all countries.

**TABLE 5.25: NUMBER OF NATIONAL FILMS DISTRIBUTED PER MILLION INHABITANTS[111]**

| Member State | 2001 | 2002 | 2003 | 2004 | 2005 |
|---|---|---|---|---|---|
| Finland | 3.1 | 2.5 | 2.7 | 3.4 | 2.9 |
| Denmark | 4.5 | 5.2 | 6.1 | 4.6 | 7.6 |
| Sweden | 2.8 | 2.4 | 3.0 | 4.0 | 4.9 |
| Hungary | 2.2 | 2.4 | 2.0 | 2.8 | 2.0 |
| Czech Republic | 1.8 | 2.1 | 1.5 | 2.3 | 2.3 |
| Spain | 2.6 | 3.3 | 2.6 | 3.1 | 3.0 |
| France | 3.4 | 3.2 | 3.5 | 3.9 | 3.8 |
| Germany | 1.3 | 1.4 | 1.3 | 1.5 | 1.8 |

[110] Source: EAO Yearbook 2005, population data from Eurostat
[111] Source: EAO Yearbook 2006, population data from Eurostat.

**TABLE 5.26: MARKET SHARE OF NATIONALLY-PRODUCED FILMS IN PERCENT[112]**

| Member State | 2001 | 2002 | 2003 | 2004 | 2005 |
|---|---|---|---|---|---|
| Finland | N/A | 23.17 | 21.61 | 16.8 | 15.33 |
| Denmark | 30.9 | 23.44 | 26.42 | 23.66 | 32.42 |
| Sweden | 20.79 | 16.76 | 19.85 | 23.32 | 21.98 |
| Hungary | 5.27 | 8.12 | 4.52 | 9.36 | 11.65 |
| Czech Republic | 31.64 | 11.75 | 24.6 | 23.76 | 24.66 |
| Spain | 17.06 | 11.2 | 14.79 | 12.48 | 12.65 |
| France | 40.17 | 32.90 | 32.43 | 35.37 | 33.37 |
| Germany | 16.14 | 10.13 | 16.55 | 24.19 | 15.97 |

## 5.3. Micro data concerning the audiovisual sector

**Types of micro-level data collected**

We supplemented the macro data about the audiovisual sector with a collection of more specific and "harder-to-get" data about the micro-level characteristics of the film and audiovisual industries in the selected countries.

For this purpose we selected six typical services used in film production (see Table 5.27) and we concentrated on the following three types of data in relation to these:

1 prices of the services

2 estimates of capacities

3 estimates of capacity utilisation rates

First, we describe in Chapter 5.4 how the services were selected and in Chapter 5.5 we give an account of the methodology we have applied in collecting data. We then present the data in Chapter 5.6.

**TABLE 5.27: SERVICES SELECTED FOR FURTHER INVESTIGATION**

| Production Stage | Selected Service |
|---|---|
| Pre-production | Casting services |
| Production | Gaffer services |
| | Focus pulling |
| | Rental of camera equipment |
| Post-production | Editing |
| | Development of film |

## 5.4. Selection of typical services

**Supply sector is diverse**

The supply sector related to film and audiovisual production is highly diverse ranging from large broadcasters through sophisticated technical services to self-employed freelancers. The number of products and services needed for film production is immense, and the types of services needed vary considerably according to the type of production.

**Selected services should be closely related to audiovisual production**

In the selection of typical core services for the film industry, one important criterion was the potential impact of territorialisation on the market for the services. Some of the services needed for film production belong to very broad sectors (eg transport, catering, accommodation and some legal services). It is

[112] Source: EAO Yearbook 2006.

very unlikely that these sectors are much affected by demand from the audiovisual industry.

Other services are much more specialised and more closely related to filmmaking (eg camera equipment, stunt work and special effects). The providers of these services are highly dependent on demand from the film industry, and consequently these sub-sectors could be affected by any territorialisation requirements. Therefore, we selected services that are specialised and closely related to the film industry.

**Transnational comparability of selected services is important**

Another selection criterion was transnational comparability. The more standardised the service or product, the easier it becomes to make comparisons between different countries. In many cases it is difficult to identify typical and standardised services, as film services tend to be very project-specific (eg set construction or special effects). The prices of some services tend to vary to a large extent in relation to major quality differences. For instance, the price of star talent is highly dependent on the qualifications and fame of the specific actors chosen for the production. Other services are more standardised and international comparisons are easier to make (eg medium-level film crew members). The selected services were chosen from such areas.

**Balancing selection considerations**

The task of identifying relevant typical services is not entirely straightforward as at least two considerations must be balanced. On the one hand, services must be standardised to allow for international comparison of prevailing prices, capacity and capacity utilisation rates. At the same time, however, the services should not be so narrowly defined that they would no longer play any role in the operational and financial considerations of the production companies. Ideally, the services would have a representative character which would allow more general conclusions to be drawn. However, the complex composition of the services provided by the supply sectors and the varying, individual needs of different productions tend to complicate matters.

**Guidance from experienced line producers**

In addition to the foregoing criteria, the selection of services was guided by consultations with European line producers who possess hands-on and in-depth knowledge of the range of products and services needed for film and audiovisual productions. Line producers are especially relevant informants in these matters, as they typically manage the budget of a motion picture and may also hire key members of the crew and negotiate deals with vendors.

**Selection across production phases**

In the selection of services we have aimed to cover as broad a part of the film industry value chain as possible. Consequently, services from the pre-production, production and post-production phases are included in the list of services selected. However, as the production phase normally accounts for the largest part of the budget, the majority of the services were selected from this phase.

**The services selected**

The following services were selected from the three stages of film production:

- Pre-production: casting services
- Production: gaffer services, focus pulling, rental of camera equipment
- Post-production: editing, development of film

The degree of labour intensity varies in the selected services, as they include both technical and staff services. While camera rental is a purely technical service that does not include much labour, the four selected film-worker categories provide services which are related only to their specific field and level of human skills. Film development is mostly a mechanical process, but does include a certain amount of labour (eg supervision and maintenance of machines).

*Casting services*

In audiovisual production, casting is often regarded as a vital part of the pre-production phase. Specifically, casting involves the process of selecting a cast of actors to play the characters in a script.[113] Casting is typically carried out by a casting director, but often with some input from the director, the producer, or the studio. The German casting director Tina Thiele, who has written several books on casting, describes the role of the casting director as follows: "As free objective agents, casting directors search for the appropriate faces for productions on the actors' market in accord with their clients".

The work of a casting director has been selected, as it is a typical and important service used in most productions. In addition, the services provided by a casting director are relatively standardized and therefore appropriate for international comparison. Furthermore, it is not an insignificant item in the budget, and experts have estimated that the casting process accounts for between 5% and 10% of the pre-production budget.

*Gaffer services*

A gaffer in the motion picture industry is the head of the electrical department, responsible for the execution (and sometimes the design) of the lighting plan for a production. Sometimes the gaffer is credited as Chief Lighting Technician[114]. An experienced gaffer can coordinate the entire job of lighting, given knowledge of the time of day and conditions to be portrayed, and will manage a wide range of resources including electrical generators, lights, cable, and manpower. Gaffers are responsible for knowing the appropriate colour of gel (plastic sheeting) to put on the lights or windows to achieve a variety of lighting effects.

Gaffer services were selected for study as the craft is closely related to audiovisual productions. Furthermore, the staff category is easily definable, as it is a standardised service across countries and projects.

*Focus Pulling*

In cinematography, a focus puller (or first assistant cameraman) is the member of a film crew responsible for keeping the camera at the correct focus during a shoot. Often this requires pulling the focus with a follow focus device during the take without looking through the camera (the camera operator is doing that), to compensate for camera or subject movement. Since the focus puller is not looking through the camera and cannot see the results of his or her focusing in real time, this job is considered to be technically extremely difficult. It is also the focus puller's responsibility to maintain the camera during the filming period, to apply or remove any necessary or unnecessary accessories, to reload the camera and to oversee the second assistant camera operator and any other members of the camera assistant team.

[113] Also casting of speakers, singers, dancers, extras etc. can be relevant.
[114] In television the term Lighting Director is often used.

Focus pullers were selected for study, among other reasons, because they provide a relatively standardised service. If cinematographers (ie camera operators) had been chosen, there would probably have been much more individual variation, as elements of star talent and fame would play a more important role and make comparison more difficult. In many countries, focus pullers are organised in labour unions, which makes international comparison of labour costs more robust.

*Rental of 35 mm camera equipment*

In mainstream film productions the 35 mm movie camera is the most common choice of producers and cinematographers.[115] As camera equipment is too expensive to buy, the production companies rent the equipment on a project basis. The cost of camera rental is not insignificant[116] and production companies can potentially save substantial amounts of money if proper price comparisons are made.

To facilitate price comparison (see Appendix G) a standard Arricam camera package was chosen. The Arricam is a very popular and frequently used high-end sync-sound 35 mm movie camera. The camera line is manufactured by the Arri Group, which has been the largest world wide supplier of high-quality motion picture film equipment since 1917.

*Editing*

Film editing has evolved since the time when a film editor physically cut and taped together pieces of film. Today the negative is optically scanned into computers, and the process of assembling footage into a coherent film is carried out in a digital format. Film editors are often responsible for pulling together all of the elements of story, dialogue, music, sound effects, visual effects, rhythm and pace of a film. In the making of a film, the editors usually play a dynamic and creative role. All types of audiovisual productions will need editing services.

Editing is a vital part of the post-production phase. Often the entire editing process goes on for many months and sometimes more than a year, depending on the film. Because of the long time taken, the cost of an editor is substantial. Editors and specialists have estimated the editing costs to be approximately 15% of the post-production budget.

*Development of 35 mm film*

35-mm film is recognized as the international standard gauge for motion pictures. Furthermore, the ubiquity of 35-mm film projectors in commercial film theatres makes it the only motion picture format, which can be played in almost any cinema in the world. Developing of 35-mm film includes the processing of negatives, together with the process of chemical cleaning and preparation for telecine transfer. Developing should not be confused with rushes (dailies) or release prints, which are distributed to cinemas.

Developing of film is not a minor item on a film budget. Approximately 35,000-40,000 metres of negatives are used for a motion picture that lasts for about 100 minutes. Developing of film accounts for between 10% and 15% of the post-production budget of an average feature film.

[115] Even though digital movie camera formats in recent years have entered the market, these new camera types still have technical limitations. Thus, 35 mm movie cameras are still preferred in mainstream productions.
[116] A typical estimate of camera rental costs related to a minor/medium European film is about €60,000.

## 5.5. Data collection methodology

**Specification of data collection**

In order to ensure comparability, the exact services were specified as precisely as possible before data collection began. The specifications were guided by consultations with line producers and other industry stakeholders. In Appendix G, we present the specific methods of operationalising service prices, capacities and capacity utilisation.

**Identification of interviewees**

The data were collected through telephone interviews and email correspondence with a number of relevant stakeholders in the selected countries. Interviewees were initially identified by means of national or international film industry directories.[117] National film institutes or foundations have also proved to be useful sources of information to locate the relevant and knowledgeable industry people in each country. When we were focusing on a single service, the identification of a relevant sample of stakeholders was relatively uncomplicated as the number of major players in the industry is limited. In smaller countries the market for the specific audiovisual service is often so small that most stakeholders know each other and consequently can provide a reliable overview of the market.

**Prices of technical services**

With regard to the technical services (camera rental and film development), available price lists were initially collected to estimate the official price levels in the country. However, as is the case in many other markets, the official listed price is not always equivalent to the "real" price. Especially with regard to rental of camera equipment, list prices are rarely the ones actually charged. Even though some countries seem to have more reliable price lists than others, the real price of equipment rental is dependent on a number of factors including, most importantly, the duration of the rental period and the total amount of equipment rented (including other types of equipment such as lighting and grip equipment). If the producer is a major client for the rental house and the shooting period is long, discounts of up to 60% of the list price have been reported.

In order to gather the most reliable data relevant to the present study we made use of information from price lists, we interviewed stakeholders about price levels and typical discounts and we made inquiries about specific quotes of the weekly rental price of the predefined standard camera package. The official price lists have typically been used as the point of departure for interviews and the collection of realistic quotes.

**Price comparison of camera rental**

However, there are still limitations. Even experienced cinematographers have difficulties conducting reliable price comparisons and, at the beginning of a film production process, rental houses may offer unrealistically low rental prices for the equipment in order to attract clients. A camera package is composed of many parts and accessories, which can vary greatly in quality and price. The initial quote may therefore include suboptimal accessories which must be upgraded before the camera package is really suitable for the production. It often happens that the actual rental price has not been finally negotiated until just before the shooting is to begin.

[117] The Kemps Film and Television Production Services Handbook (http://www.kftv.com) is often described as one of the best international directories of the film industry.

In our data gathering exercise, however, the package was specified beforehand, with the aim of ensuring comparable quotes. As our price inquiries were not being made by a production company, there was a risk that the typical discounts might not be revealed. Therefore, if there are in fact deviations from the "real" price, it is possible that some of our estimated price data are too high. Overall, however, we believe that the price levels are comparable across countries.

**Capacity and capacity utilisation**

The rental houses have been useful informants on capacity and capacity utilisation rates even if some companies have been reluctant to reveal these kinds of business information.

**Film development**

Compared to camera rental, development of film is a much more standardized service and the listed and quoted prevailing development prices are regarded as very reliable. The film laboratories have been helpful in providing price information and estimating total capacity and current capacity utilisation rates for the laboratories themselves and for the industry as such.

**An example**

A first step in the data collection concerning film development was to identify the major stakeholders in the industry. As mentioned earlier, it was relative uncomplicated to identify these stakeholders as the number of major players in the industry is limited. For example, in Finland there was only one laboratory developing film and in Germany there were six. To the extent that it was possible, in some way, to get in contact with these laboratories, they were all interviewed. The laboratories were asked for the price (in euros per metre) for development of 35 mm film negatives. They were also asked for information on the capacity of the development machine (metres per day) and the number of metre negatives developed during a normal day. On the basis of this and a number of other similar questions we were able to make estimates of capacity utilisation. In order to calculate weighted national averages of prices, capacities, and capacity utilisation rates, the laboratories were also asked to give estimates of their market shares and of total national capacities. Many laboratories were relatively small, and the managers of laboratories had generally a good knowledge of their competitors. It was therefore possible to get a reliable overview of the market size and market shares.

**Services from categories of audiovisual workers**

Because the remaining four selected services are related to categories of film workers, it was necessary to carry out the data collection in a rather different way. The most important difference is the involvement of various labour unions and associations for film workers. These have, in some cases, been able to provide general information about labour costs and capacities within the relevant craft categories. On the international level the UNI-MEI, Media, Entertainment and Arts of the global Union Network International (UNI)[118] was contacted. The European branch (EURO-MEI) had previously conducted similar studies to try to collect comparable data on minimum weekly rates for categories of freelance film workers in a number of European countries. However, the latest available data are from January 1995 and, according to a EURO-MEI report from 2001, these data on rates cannot be considered truly comparable. The report states:

[118] The bulk of MEI's membership consists of technicians and other employees in broadcasting, cinema production and exhibition, theatre and other audiovisual workers.

> "It is very tricky to compare rates and draw conclusions about the levels of income of film workers in different countries. The figures hide a lot of differences in eg tax legislation, social security payments and national price levels. Because of these differences it is very inaccurate to draw conclusions like "in country A, a freelance focus puller earns twice as much as in country B". Neither is it possible to compare the level of costs for a producer to hire a freelance focus puller in different countries. So the figures in these tables can only be compared with extreme caution."[119]

**Comparison of labour costs**

Partly as a result of these problems the data have not been updated since 1995. During the data collection, all efforts were made to ensure comparability of labour costs; and employers' social security contributions have been included when relevant. Absolutely true comparability is of course difficult to attain. Especially in job functions where it can be difficult to give stringent definitions of the craft. One example is casting director, which in Germany, for instance, seems to have a more rigid and exclusive definition than in other countries. Differing definitions will tend to bias the estimate of the average wage levels.

**Factors influencing labour cost**

Many different factors influence the labour costs, eg differing working hours and rules on overtime payment, but also the levels of general income and labour costs. Another matter is related to labour productivity and quality of the work performed. These factors could not be taken into account in the current study.

**Collection of data on capacities and capacity utilisation**

Apart from labour costs, data were also collected on levels of capacity (eg number of focus pullers) and the capacity utilisation rates (ratio of average number of working days to number of potential working days per year). Because labour unions do not normally have the resources to collect such data, we chose instead to collect data primarily through a number of telephone interviews with film workers and other stakeholders in each category. This procedure has been recommended by the international labour organisation UNI-MEI as the best way to collect reliable data, as only people closely connected to the specific craft have hands-on and up-to-date knowledge about the situation within the sub-sector. To ensure the highest degree of reliability production companies, service-providers and individual workers were interviewed to extract information. The chosen labour categories are often so specific that in most cases workers and stakeholders from the same Member State have been able to give identical answers about precisely the same type of job. As every effort has been made to validate the average estimates in each case, we believe that the figures presented in this section of the report are useful for indicative comparison across countries.

**An example of data collection for labour intensive services**

In order to illustrate and specify how the data collection concerning the four labour services has been carried out, the process of data collecting in the field of gaffer service is briefly described.

As with the other services, the initial task was to identify the major players in the countries. This was usually done by means of a trade union or a national film directory. For example in France the Bellefaye directory contains a list of 150 gaffers. Subsequently, a number of gaffers were interviewed in order to verify the validity of the information obtained from the directory or the trade

[119] Source Euro-MEI (2001) "Working conditions of freelance workers in feature film production"

union and to get additional information. The gaffers were asked to give estimates of average weekly incomes, working days per year and of the total number of gaffers in the country. In smaller countries like Hungary and Czech Republic the industry was very concentrated and the individual gaffers had therefore a good and reliable overview of the market. In larger countries with regional differences gaffers from different parts of the country were contacted.

Many service providers in the film industry work as freelances, and some gaffers work only part time as such. They were therefore asked a number of other questions regarding their actual and potentially possible working times, how much they were willing to and interested in working as gaffers etc.

### 5.6. Findings of the data collection about eight audiovisual services

**Presentation of results**

The following tables include the findings about prevailing prices, capacities and capacity utilisation rates. In many cases we give in footnotes background information about the estimate (eg origin of the data). Where no footnote states otherwise, the estimate was collected by means of the normal procedure of telephone interviews and e-mail correspondence with, typically, between two and four relevant stakeholders.

*Findings correspond to assessment from experts*

The Association of Independent Producers in Finland (SATU) has compared the overall price levels of production services in Finland to the price level of other European countries. The assessment from SATU is very much in line with the findings presented below. According to SATU the prices of audiovisual products in Finland are lower than in France, Germany, Spain, and Sweden, while the price levels of the Czech Republic and Hungary are lower than the Finnish price levels. For some of the specific services, the assessment deviates a bit, but in general the assessment from the Finnish producers' organisation corresponds very well with the findings below.

**TABLE 5.28: INFORMATION RELATING TO CASTING DIRECTORS**

| | Czech Republic | Denmark | Finland | France | Germany | Hungary | Spain | Sweden |
|---|---|---|---|---|---|---|---|---|
| Average weekly labour cost of a casting director.[120] (€ per week) | 1,076[121] | 1,533[122] | 1,245[123] (plus overtime) | 1,234[124] | 1,210[125] | 1,000 (plus overtime[126])[127] | 1,500[128] | 924[129] (plus overtime) |
| Capacity levels (number of casting directors for film, TV, commercials) | 28[130] | 42[131] | Approx. 20[132] | 90[133] | Approx. 105[134] (number includes only full-time professionals) | 20 | 50 | 40[135] |
| Capacity per capita[136] (casting directors per million population) | 2.7 | 7.7 | 3.8 | 1.5 | 1.2 | 2 | 0,9 | 4.4 |
| Capacity utilisation | 90%[137] | 60%[138] | 70%[139] | 66% | 70%[140] | 20-50%[141] | 63% | 60%[142] |

[120] Casting for an average European feature film.
[121] E.g, www.cinejessy.cz
[122] This is the estimated real average. The union minimum tariff (FAF, Denmark) is €1,087 (plus pension and overtime).
[123] This figure includes the union wage tariff (€1,004) and employer's social security contribution (24%). According to the Finnish trade union (TeMe) the collective agreement tariff is a reliable estimate of the average wages actually paid. Overtime is paid if the worker works more than eight hours in a day. However, according to some casting directors interviewed, the average weekly wage could be as low as €750. Casting is still a relatively new area in the Finnish audiovisual industry.
[124] This information was garnered from the l'Union Syndicale des Producteurs de l'Audiovisuel (USPA), and relates to a minimum wage (€869) for one week's work and employer's social security payments (42%). This is the price for high-quality television fiction production, rather than film production.
[125] Includes an average wage (€1,000) estimated from www.casting-network and from interviews with casting directors. It also includes employer's social security contribution (21%).
[126] Overtime is 110% of the normal hourly wage.
[127] http://www.starface.hu/starface%20angol.htm
[128] Based on interviews with several casting directors.
[129] Figure includes minimum tariff from Teaterförbundet, Sweden (€700) and employer's social security contribution (32%).
[130] http://www.filmcommission.cz/industry_directory.php?ctg=17
[131] According to DFI-bogen, the Danish Film Institute.
[132] A maximum of five professional casting directors work full time with feature films. Estimates from interviews with Finnish casting agencies
[133] Estimate from several casting directors in France
[134] Estimate from interviews, www.casting-network.de and the German casting association - http://www.castingverband.de/englisch/start.htm
[135] Estimate from several casting directors in Sweden.
[136] Source of population data: same as Table 3.1 in first interim report: Eurostat (Czech: 10.2, Denmark: 5.4, Finland: 5.2, France: 62.0, Germany: 82.5, Hungary: 10.1, Spain: 42.3, Sweden: 9.0).
[137] Estimate from interview.
[138] Estimate based on interviews with casting agencies.
[139] A maximum of five professional casting directors work full time with feature films. Estimates from interviews with Finnish casting agencies.
[140] Estimate from the vice-president of the German casting association and later confirmed by the president.
[141] The interviewees have given estimates within this range.
[142] Estimate from interviews with casting director.

**TABLE 5.29: INFORMATION RELATING TO GAFFERS[143]**

| | Czech Republic | Denmark | Finland | France | Germany | Hungary | Spain | Sweden |
|---|---|---|---|---|---|---|---|---|
| Average weekly labour cost of a gaffer (€ per week in feature film production) | 629 (average) plus overtime [144] | 1,294[145] (plus pension and overtime) | 1,065[146] (plus overtime) | 1,365[147] | 1,350 (plus overtime)[148] | 1,015 (plus overtime)[149] | 1,175[150] | 1,226[151] |
| Capacities (number of gaffers) | 25[152] | 33[153] | Approx. 30[154] | 150[155] | 200[156] | 12[157] | 50[158] | 50[159] |
| Capacity per capita[160] (gaffers per million population) | 2.5 | 6.1 | 5.7 | 2.4 | 2.4 | 1.2 | 1.2 | 5.5 |
| Capacity utilization | 90%[161] | 75%[162] | 60%[163] | 63%[164] | 30%[165] | 70%[166] | 55%[167] | 50%[168] |

[143] A gaffer in the motion picture industry is the head of the electrical department (chief electrician), responsible for the execution (and sometimes the design) of the lighting plan for a production. Sometimes the gaffer is credited as Chief Lighting Technician (CLT). In television the term Lighting Director is often used, but sometimes the Technical Director (T.D.) will light the studio set.
[144] Overtime is paid after twelve working hours in a day. Overtime pay is € 17.92 per hour.
[145] This includes the union tariff (FAF, Denmark) and a typical additional personal gaffer fee of €200.
[146] This figure includes the union wage tariff (€859) and employer's social security contribution (24%). According to the Finnish trade union (TeMe) the collective agreement tariff is a reliable estimate of the average wages actually paid. Overtime is paid if the worker works more than eight hours per day. Wages on commercials projects are lower.
[147] Source: 'Syndicat National des Techniciens et Réalisateurs'. These figures refer to minimum union rates (€961 for 39 hours) plus employer's social security contributions (42%). Figure corroborated for high-quality TV fiction, by USPA.
[148] Source: Olaf Michalke & Warwick Hempleman both members of the direction in BVB. Link is: http://www.bvb-verband.de/datenbank/sonst.php3?lang=de&akt=Impressum
[149] Overtime is paid after twelve working hours per day (€20 per hour). Based on interviews with Hungarian gaffers.
[150] Estimate based on a number of interviews with Spanish gaffers.
[151] This includes estimated wage level for a Swedish gaffer with a few years experience (€929) and employer's social security contribution (32%). The minimum wage according to the collective agreement is €622.
[152] http://www.afmlighting.com/cz/contact/contact_f.htm
[153] According to DFI-bogen, the Danish Film Institute.
[154] Estimate based on a number of interviews with gaffers.
[155] Estimate provided by Thierry de SEGONZAC president of FICAM.
[156] Source: Olaf Michalke & Warwick Hempleman both members of the direction in BVB. Link is: http://www.bvb-verband.de/datenbank/sonst.php3?lang=de&akt=Impressum
[157] Based on interviews.
[158] Estimate based on a number of interviews with Spanish gaffers.
[159] Source: ww.thefilmset.com/index.php?option=com_wrapper&Itemid=38
[160] Source of population data: same as Table 3.1 in first interim report: Eurostat (Czech: 10.2, Denmark: 5.4, Finland: 5.2, France: 62.0, Germany: 82.5, Hungary: 10.1, Spain: 42.3, Sweden: 9.0).
[161] Estimate based on interview. The gaffer worked approximately 200 days last year. Working year defined as 220 days.
[162] Estimate based on interviews with Danish gaffers.
[163] Estimate based on a number of interviews with gaffers.
[164] Estimate provided by Thierry de SEGONZAC president of FICAM.
[165] Source: Approximately estimate from Olaf Michalke & Warwick Hempleman both members of the direction in BVB. Link is: http://www.bvb-verband.de/datenbank/sonst.php3?lang=de&akt=Impressum
[166] Estimate based on interviews with Hungarian gaffers.
[167] Estimate based on a number of interviews with Spanish gaffers.
[168] Estimate based on interviews with Swedish gaffers.

**TABLE 5.30: INFORMATION RELATING TO FOCUS PULLERS[169]**

| | Czech Republic | Denmark | Finland | France | Germany | Hungary | Spain | Sweden |
|---|---|---|---|---|---|---|---|---|
| Average weekly labour cost of a focus puller (€ per week in feature film production) | 988.6[170] | 1,285[171] (plus pension and overtime) | 1,065[172] (plus overtime) | 1,617[173] | 1,337[174] | 961.5[175] (plus overtime) | 1,100[176] | 1,226[177] |
| Capacities (number of focus pullers) | Approx. 35[178] | 36[179] | 15[180] | Approx. 60[181] | 250[182] | 25[183] | 100[184] | 50[185] |
| Capacity per capita[186] (focus pullers per million population) | 3.4 | 6.6 | 2.9 | 1.0 | 3.0 | 2.5 | 2.4 | 5.5 |
| Capacity utilisation | Approx. 30%[187] | 30%[188] | 90%[189] | 50%[190] | 50%[191] | 25%[192] | 75%[193] | 61%[194] |

[169] The Focus Puller or first assistant camera (1 AC) is the member of a film crew responsible for keeping the camera at the correct focus during a shoot. Often this requires pulling the focus with a follow focus device during the take without looking through the camera (the camera operator is doing that), to compensate for camera or subject movement.
[170] A working day is twelve hours and a week is defined as five working days.
[171] Union tariff, FAF, Denmark. According to interviews with focus pullers, the tariff is reliable.
[172] This figure includes the union wage tariff (€859) and employer's social security contribution (24%). According to the Finnish trade union (TeMe) and Kinopeople the collective agreement tariff is a reliable estimate of the actual paid average wages. Overtime is paid if the worker works more than eight hours in a day.
[173] Source: SNTR: details guaranteed minimum salaries for cinema production workers (€1,138.7) plus employer's social security contributions (42%). This is for a 39 hour week (which is 35 hours + 4 hours at 10% extra). For high-quality TV fiction the rate is €1,123. Minimum rates, garnered through conversation with USPA.
[174] This figure includes the union tariff (€1,105) plus employer's social security contribution (21%). The tariff is based on an agreement between the camera association and production association. Source: http://www.bvkamera.org/bvkamera/gagentabelle.php. It has been described as a basic fee for newly educated or inexperienced focus pullers. According to interviews the estimated real average could be as high as €1,375.
[175] www.filmservice.hu
[176] Working week: twelve hours per day for five days.
[177] This includes estimated wage level for a Swedish focus puller with a few years experience (€929) and employer's social security contribution (32%). The minimum wage according to the collective agreement is €588.
[178] Estimate based on interviews with focus pullers
[179] According to DFI-bogen, the Danish Film Institute. Between ten and twelve are estimated to be fully professional.
[180] Source: Kinopeople, which represents virtually all Finnish focus pullers.
[181] Based on an interview with the vice-president of the French association for directors of photography
[182] Source: Emmanuel Suys BVK, a focus puller company in possession of lists giving the approximate number of focus pullers in Germany.
[183] Estimate based on interview.
[184] 40 are based in Barcelona and approximately 40 are based in Madrid.
[185] Estimates from interviews with focus pullers.
[186] Source of population data: Eurostat (in millions: Czech Republic: 10.2, Denmark: 5.4, Finland: 5.2, France: 62.0, Germany: 82.5, Hungary: 10.1, Spain: 42.3, Sweden: 9.0).
[187] This is a rough estimate from Czech cameramen and focus pullers.
[188] Estimate based on interviews with focus pullers.
[189] Source: Kinopeople, which represents virtually all Finnish focus pullers. Finnish focus pullers work as much as they can. There are too few focus pullers, and they are often imported from neighbouring countries like Sweden and Estonia.
[190] Based on a interview with the vice-president for the French association for directors of photography.
[191] Estimate based on interviews with focus pullers.
[192] Based on interview with a focus puller.
[193] It should, however, be noticed that the focus pullers claim that it is always possible to get a job if you are flexible about where you work.
[194] Estimate based on interviews with focus pullers.

**TABLE 5.31: INFORMATION RELATING TO RENTAL OF 35 MM FILM CAMERA EQUIPMENT[195]**

| | Czech Republic | Denmark[196] | Finland | France | Germany | Hungary | Spain | Sweden[197] |
|---|---|---|---|---|---|---|---|---|
| Prices (weekly rent for "standard" Arricam package) | €4,500 for local productions and up to €7,000 for foreign prod.[198] | €6,000[199] | Approx. €5,000[200] | €6,500[201] | €6,200 (price quote)[202] | €5,400 (price quote) | €6,500[203] | €5,388[204] |
| Capacities (number of 35 mm cameras for rental) | Approx. six cameras[205] | Approx. 25 | Approx. 20 (from four rental companies)[206] | 100[207] | Approx. 300 | Approx. 15 (including old models, 23) | 100[208] | 19 (from five rental companies) |
| Capacity per capita[209] (cameras per million) | 0.6 | 4.6 | 3.8 | 1.6 | 3.6 | 1.5 | 2.4 | 2.1 |
| Capacity utilisation (time camera rented per year)[210] | Approx. 50% | About 40 % (30-50% mentioned) | Above 50% | | Approx. 60% | Average about 33% | 22% | 26% |

[195] The camera chosen for price comparison is a "standard package" including the Arricam model (ST or LT), which is a top model and frequently used.
[196] Exchange rate: 7.5 DKK per €. A working week in Denmark is here defined as 39 weeks.
[197] Exchange rate: 9.28 SEK per €.
[198] If the package price is gathered from item prices in the price list, the total price amounts to about € 8,050 per week.
[199] The rental price in Denmark is about €2,000 per day. If the package is rented fro more than four weeks, the typical weekly rental price is equivalent to three weeks' rent.
[200] A number of years ago, the Finnish camera rental business was a monopoly. However, prices were low, perhaps because the company was closely related to the production companies. Today more players are in the market and they are struggling to raise the prices to international levels. Finnish film budgets are typically low. The quoted price is gathered from price lists.
[201] Estimate provided by FICAM.
[202] If items are collected from price lists the price amounts to about €6,280.
[203] According to the company EPC which has a market share around 40%.
[204] This is the estimated price after normal discount. The list price in Sweden is about €6,918.
[205] Only one truly Czech provider exists (Barrandov studios). Most other cameras are sub-rented from Germany through international companies with an office in Prague.
[206] One company has 90% market share.
[207] Estimate provided by FICAM.
[208] The camera rental companies in Spain were very reluctant to reveal information about rental days, number of cameras, and market shares. Hence, it was difficult to get reliable estimates
[209] Source of population data: Eurostat (in millions, Czech Republic: 10.2, Denmark: 5.4, Finland: 5.2, France: 62.0, Germany: 82.5, Hungary: 10.1, Spain: 42.3, Sweden: 9.0).
[210] Capacity utilisation can vary a lot from year to year. In such cases, the estimated figures refer to 2005.

**TABLE 5.32: INFORMATION RELATING TO DEVELOPMENT OF 35 MM FILMS[211]**

| | Czech Republic[212] | Denmark[213] | Finland[214] | France | Germany[215] | Hungary[216] | Spain | Sweden[217] |
|---|---|---|---|---|---|---|---|---|
| Prices (€ per metre) | 0.75 | 0.85[218] | 0.70[219] | 0.93[220] | 0.80[221] | 0.63[222] | 0.57[223] | 0.79[224] |
| Capacities[225] (metres per day) | Actual: 7,987 Full capacity: 28,000 | Actual: 7,700 Full capacity: 31,000 | Actual: 6,200[226] Full Capacity: 24,500 | Actual: Full Capacity: 24,000[227] | Actual: Full Capacity: 50,000[228] | Actual: 9850 Full capacity: 25,000 | | Actual: 12400 Full Capacity: 49,000 |
| Capacity per capita[229] (thousand metres per million population) | 2.7 | 5.7 | 5.6 | 3.9 | N/A | 2.5 | N/A | 6.5 |
| Capacity utilisation[230] | 28.5 % | 24.8 % | 25 %[231] | 10%[232] | 40%[233] | 39.4 % | 40% | 25.2 % |

[211] Development of films refers to the processing of negatives. Included in the price is also the process of chemical cleaning and preparation for telecine transfer. Approximately 30,000-40,000 metres of negatives are used for a motion picture with a duration of about 100 minutes. The service should not be confused with rushes (dailies) or release prints, which are distributed to cinemas.
[212] The information about CR is based on the Barrandov post-production company which holds about 90% of the market for that particular service.
[213] Danish service providers Digital film lab and Nordic film shortcut.
[214] Finn-lab.
[215] Major German service providers: Arri film and TV services and CinePostproductions
[216] Hungarian service providers: Focus Fox studio and Hungarian Film laboratory.
[217] Swedish service providers: Sto.pp. StockholmPostproduction AB and Nordic Film Stockholm.
[218] The price is a weighted average of the prices from two producers.
[219] Only one supplier is providing this service in Finland.
[220] Source: Price list from 'Datacine', major post-production company in France.
[221] The price is a weighted average of the prices from two producers.
[222] The price is a weighted average of the prices from two producers.
[223] Price from Spanish price list. Image Film Laboratorio Cinematográfico www.imagefilm.com
[224] The price is a weighted average of the prices from two producers.
[225] With regard to capacity amounts the following assumptions apply. Full capacity means working 16 hours a day seven days a week. Actual capacity means working six days a week. The assumptions are based on interviews with several informants from postproduction companies, which confirm an average actual working time of up to six days a week.
[226] In Finland only one supplier currently provides the service. Because of a strict company policy about disclosure of capacity amounts and utilisation, it has not been possible to gather data from the company in Finland. Therefore the figures listed in the above table are estimates provided by Nordic film in Sweden.
[227] This is an estimate given by a leading French film laboratory.
[228] This is an estimate given by a leading German film laboratory.
[229] Source of population data: Eurostat (in millionsCzech Republic: 10.2, Denmark: 5.4, Finland: 5.2, France: 62.0, Germany: 82.5, Hungary: 10.1, Spain: 42.3, Sweden: 9.0).
[230] It has been assumed that laboratories run seven days a week. This assumption has been verified by a number of informants.
[231] The figure is estimated by Nordic film in Sweden.
[232] This is an estimate given by a leading French film laboratory.
[233] This is a rough estimate based on information from a major German film laboratory.

**TABLE 5.33: INFORMATION RELATING TO EDITORS**

| | Czech Republic | Denmark | Finland | France | Germany | Hungary | Spain | Sweden |
|---|---|---|---|---|---|---|---|---|
| Average weekly labour cost of a feature film editor (€ per week) | 1,078 | 1,533[234] | 1,402[235] (plus overtime) | 1,808[236] | 1,573[237] | Approx. 760[238] | 1,500[239] | Estimated real average 1600[240] |
| Capacities (number of editors of film, TV, commercials) | 200[241] | 199[242] | 200[243] | | 1,500[244] | 200[245] | | 300[246] |
| Capacity per capita[247] (editors per million population) | 19.6 | 36.9 | 38.4 | | 18.2 | 19.8 | | 33.3 |
| Capacity utilisation | 90%[248] | 77%[249] | 70%[250] | | Approx. 60%[251] | 30-60%[252] | 55%[253] | 60-65%[254] |

[234] The union tariff is €,1240 plus pension and overtime (source: FAF, Denmark), but according to interviews this rate is too low in reality. Some interviewees have given figures up to €2,000.
[235] This figure includes the union wage tariff (€1,131) and employer's social security contribution (24%). According to the Finnish trade union (TeMe) the collective agreement tariff is a reliable estimate of the actual paid average wages. Overtime is paid if the worker works more than eight hours in a day.
[236] For a 39 hour week: minimum wage (€1,273) plus employer's social security contributions (42%). Information garnered from USPA.
[237] This figure includes the union tariff (€1,300) plus employer's social security contribution (21%) (source: http://www.verdi.de). According to interviews the estimated real average could be between €1,500- €1,800 and in some cases up to €2,000.
[238] Based on interviews with Hungarian editors.
[239] Based on interviews with Spanish editors.
[240] The figure is an approximate estimate based on interviews with two film editors.
[241] http://www.filmcommission.cz/industry_directory.php?i=535&ctg=32&m1=0&m2=0
[242] According to DFI-bogen, the Danish Film Institute.
[243] Estimate based on interviews with Finnish postproduction companies.
[244] Estimates based on interviews with editors and contact with the German editor association.
[245] Based on interview.
[246] Information is based on interviews with editors and SVT.
[247] Source of population data: Eurostat (in millionsCzech Republic: 10.2, Denmark: 5.4, Finland: 5.2, France: 62.0, Germany: 82.5, Hungary: 10.1, Spain: 42.3, Sweden: 9.0).
[248] Rough estimate.
[249] Estimated on the basis of a labour study conducted by the Danish Film School (*Beskæftigelsesrapport 2005*).
[250] Estimate based on interviews with Finnish postproduction companies. Finland has experienced a shortage of editors.
[251] Estimates based on interviews with editors.
[252] Extremely difficult to estimate according to the editors.
[253] Estimate based on interview with Spanish editors.
[254] Estimate based on interviews with Swedish film editors.

# 6. Part D: Comparative Analysis of Audiovisual Industries in terms of Economic Structure and Budgets

## 6.1. Introduction

The objective of Part D of the study is to analyse and compare the economic structures of the audiovisual sectors in the selected countries. In addition, the budget structures of films produced in countries that apply territorialisation are compared with the budget structure of films produced in countries not applying territorialisation. The aim of the analysis of economic structures and budgets is to discover whether or not territorialisation affects the economic structures of the sector and if territorialisation is generally accompanied by higher costs. The analysis will focus on the possible correlation between the territorialisation levels and the various macro and micro characteristics of the cinema and audiovisual industries that were presented in Part C (Chapter 5).

The analysis has been based on the available statistical sector data and the micro data on capacities, capacity utilisation and prices of six selected products and services in eight Member States that were presented in Chapter 5. In addition budget data for 25 films produced in countries with and without territorialisation requirements were gathered and analysed. The intention is to identify patterns and likely correlations, but the data are not sufficient for a proof of statistically significant relationships.

**National levels of territorialisation**

The eight Member States that have been selected for a further analysis are shown with their levels of territorialisation (see Chapter 4) as well as key economic indicators in Table 6.1.

**TABLE 6.1: SELECTED COUNTRIES AND DEGREE OF TERRITORIALISATION**

| Territorialisation level category | Country | Population (million) | GDP / capita | Average labour costs/hour | Per capita annual no. of feature films produced | State aid (euro per capita) |
|---|---|---|---|---|---|---|
| No significant territorialisation | Czech Republic | 10.2 | 73.6 | 6.21 | 2.1 | 0.2 |
| | Denmark | 5.4 | 121.5 | 31.34 | 6.1 | 6.7 |
| | Finland | 5.2 | 110.5 | 27.17 | 2.5 | 4.6 |
| | Sweden | 9.0 | 114.8 | 30.85 | 4.7 | 6.2 |
| Low | Hungary | 10.1 | 62.5 | 5.75 | 2.6 | 3.3 |
| Moderate | Spain | 42.3 | 97.9 | 14.34 | 3.1 | 1.7 |
| | Germany | 82.5 | 110.0 | 24.07 | 1.5 | 2.5 |
| High | France | 62.0 | 108.2 | 30.60 | 3.3 | 10.0 |

Source(s): Eurostat, and sources listed earlier in the present report.
Note (s): state aid includes costs of tax incentives.

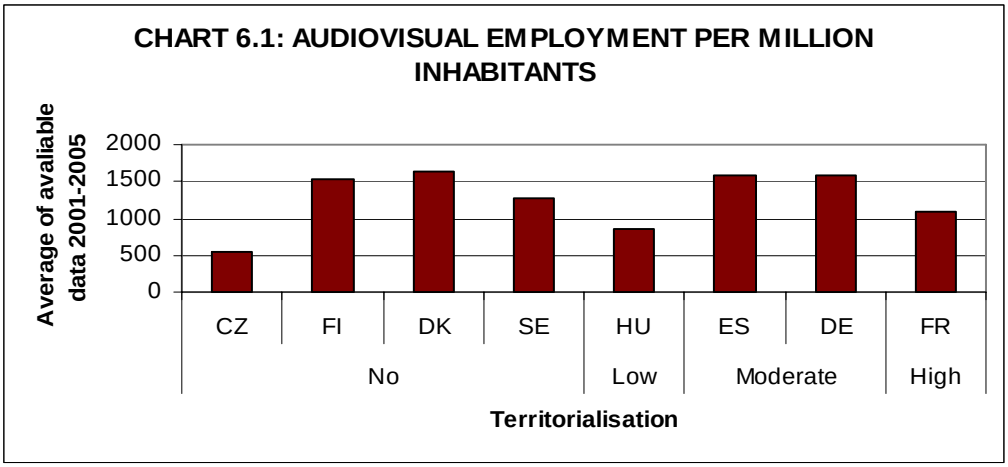
## 6.2. Comparison of macro-level data

In Chapter 6.2 the relationships between the macro-level data that were presented in Chapter 5.2 are analysed against the background of the various degrees of territorialisation in the eight Member States.

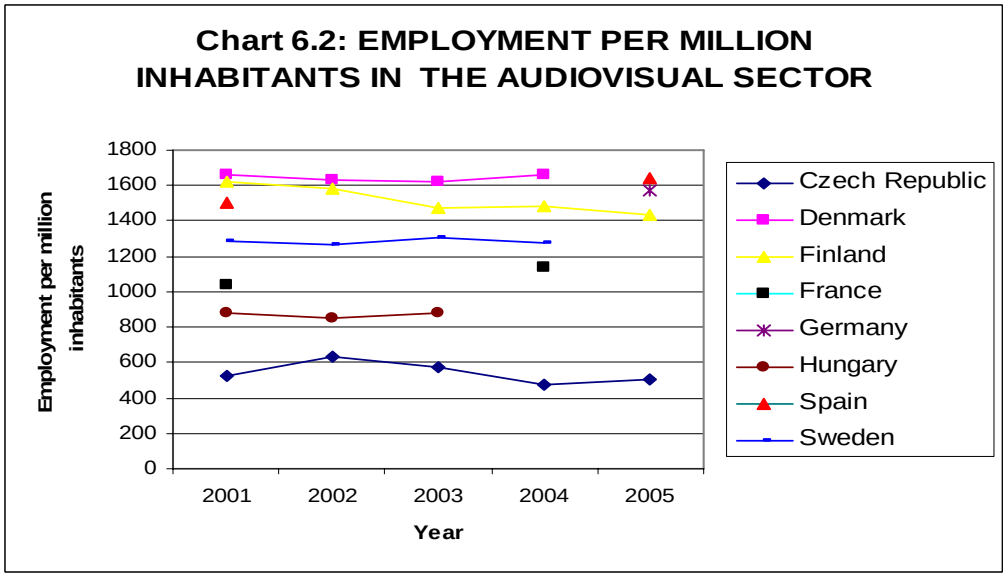
The charts below display the relationship between available macro data for the eight Member States averaged over the five-year reference period 2001-2005 and their territorialisation degrees. Generally, it is appropriate to take an average over the time period to give an overview of the reference period. This allows assessment of the variation between the average figures, which are then compared with the territorialisation degrees of the different countries. In some cases changes in the parameter during the reference period are also presented (depending on data availability).

**Employment**

Chart 6.1 shows the level of audiovisual employment per million inhabitants. No relationship with the degrees of territorialisation is seen. Among Member States with no territorialisation, the Czech Republic has a considerably lower level of audiovisual employment per million inhabitants than all others, while other Member States in this category are at about the same level as Member States with high degrees of territorialisation.



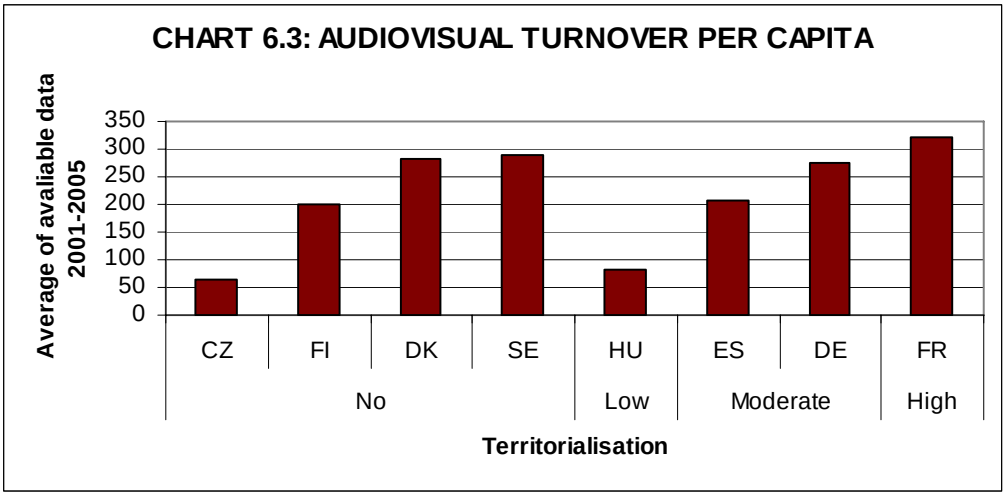

Source(s): Table 5.5




Source(s): Table 5.5

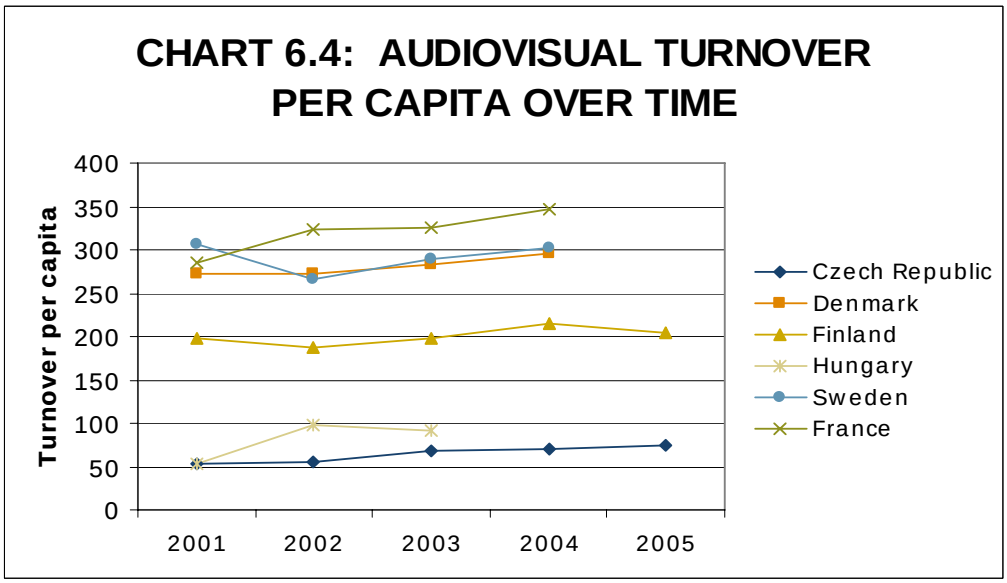
**Turnover** Chart 6.2 indicates that the levels of audiovisual employment have been relatively stable during the reference period. Finland has experienced a decline in employment per capita.

In terms of audiovisual turnover (Charts 6.3 and 6.4), no clear relationship to the degree of territorialisation seems to exist. In this case the Czech Republic (again) and Hungary are markedly different from the rest. Other Member States with no, medium, and high territorialisation differ just as much within these groups as among them in terms of audiovisual turnover per capita.



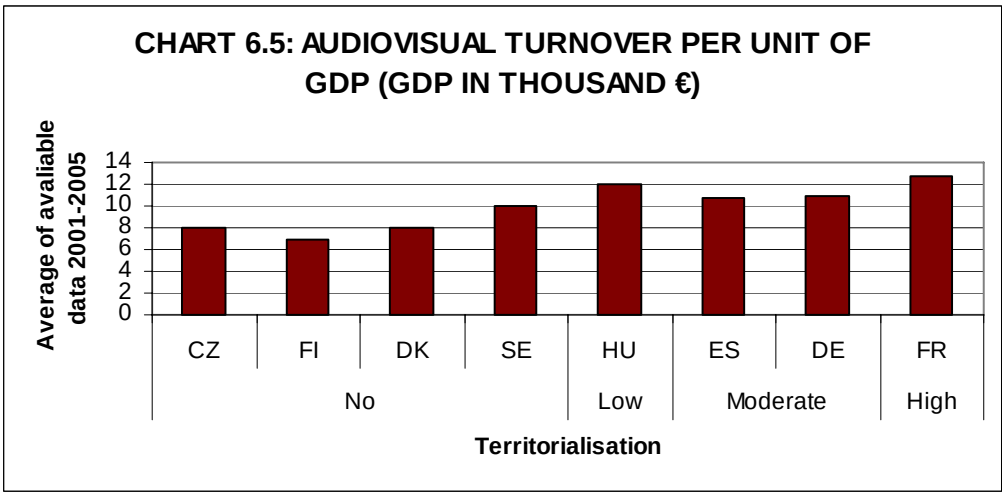

Source(s): Table 5.8

It seems that the audiovisual per capita turnover is more correlated to GDP and state aid than to territorialisation. This is also confirmed by Chart 6.5, which shows a relatively constant audiovisual turnover per GDP among the eight Member States.




Source(s): Table 5.8

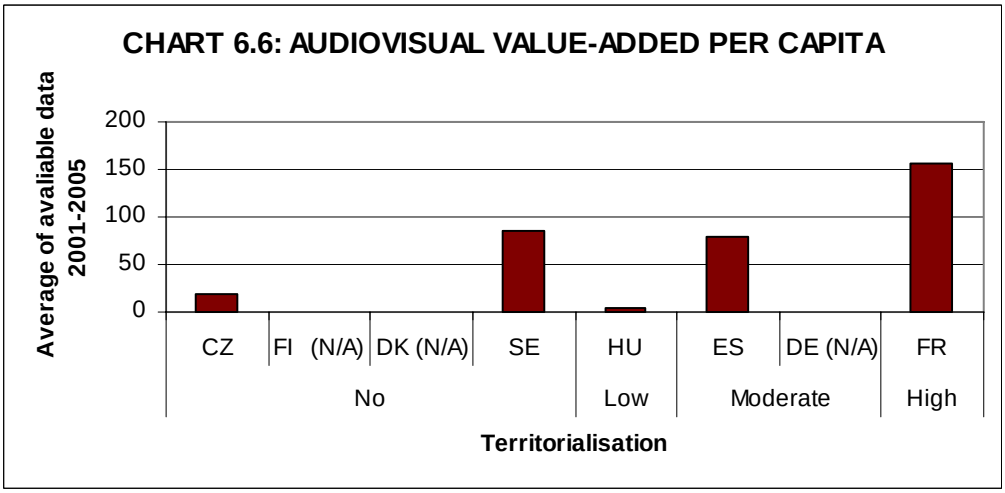
It is also apparent from Chart 6.5, however, that the turnover of the audiovisual sector per unit of GDP is slightly higher for countries with low, medium, and high territorialisation than for those with no territorialisation. It is therefore not possible to reject a possible correlation between territorialisation and audiovisual turnover as a percentage of GDP. It is also not possible, however, to say whether this is a result of territorialisation, or whether the causal relationship is in the other direction, namely that the differences in degrees of territorialisation are rather the result of the relative importance of the audiovisual sector to the economy in the different countries.




Source(s): Table 5.9

**Value-Added**

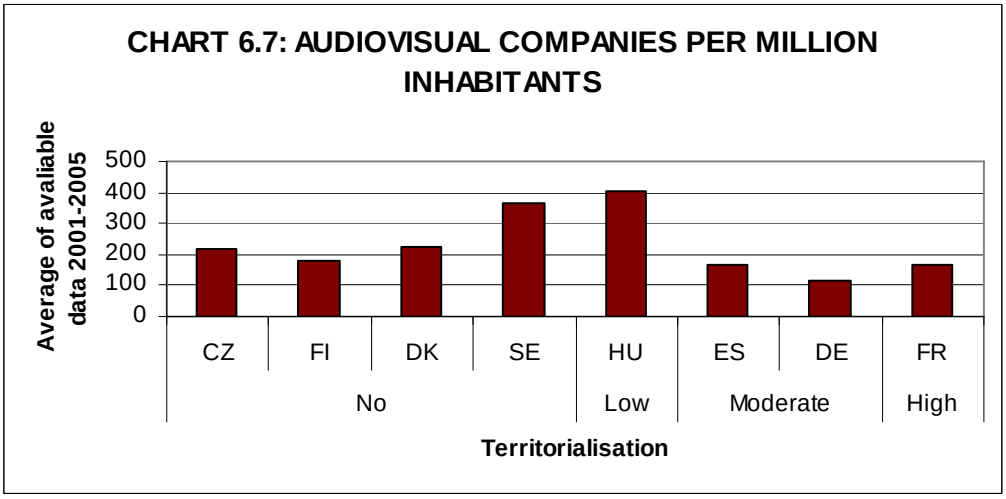
Because of the limited amount of data on value-added (Chart 6.6) in the audiovisual sector, it is impossible to say if there is any relationship between this parameter and territorialisation. France with high territorialisation has the highest per capita audiovisual value added, but the few other observations show no correlation between value-added of the audiovisual sector and the degrees of territorialisation.




Source(s): Table 5. 10

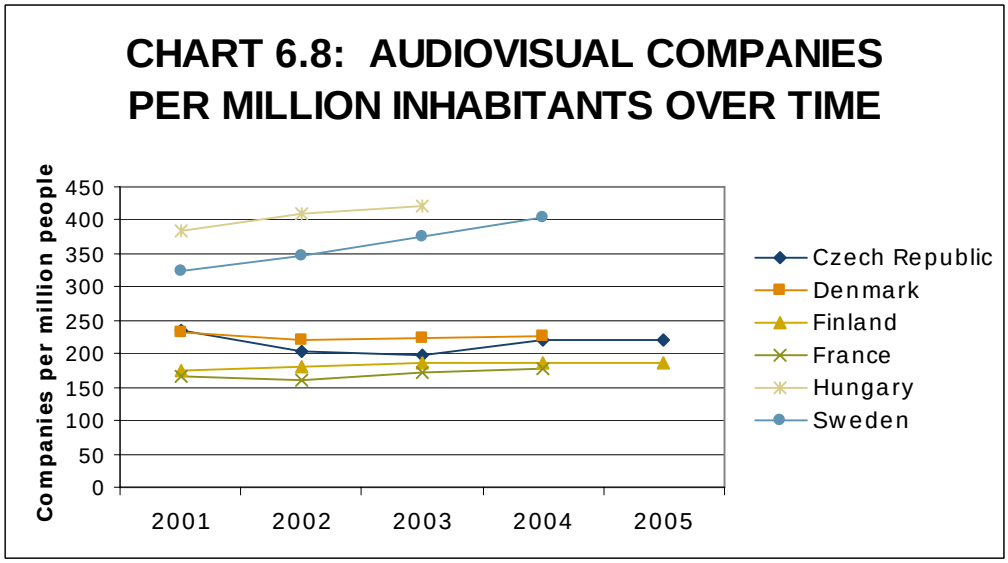
**Number of companies**

The relationship between territorialisation and number of audiovisual companies per capita is shown in Chart 6.7, and the change over time is shown in Chart 6.8. There is no expectation that such a relationship should exist, and the chart does also not give reason to believe it.




Source(s): Table 5.12

In general, the number of audiovisual companies is not a very informative concept as it covers very different units from sole traders to large enterprises with several thousands of employees.




Source(s): Table 5.12

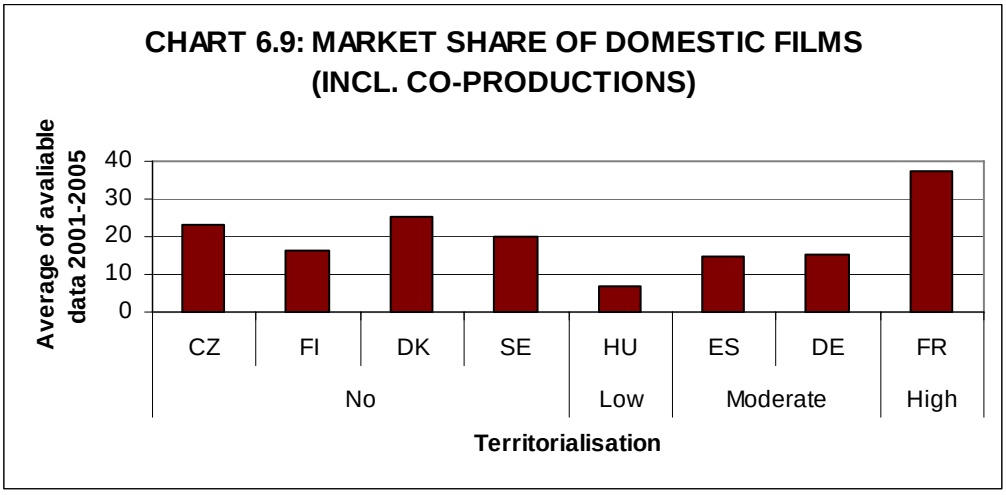
**Market share of domestic films**

It is also not possible to identify any positive (or negative) relationship between territorialisation and the national market shares of domestic films (see Chart 6.9).

**Overall conclusions**

On the basis of the collected data and the analysis conducted, it is possible only in the case of one parameter to conclude that there may be a correlation with the degree of territorialisation. There may be a positive correlation between the degree of territorialisation and the turnover of the audiovisual sector as percentage of GDP. However, it is not possible to say whether territorialisation is a cause of a relatively higher audiovisual turnover, or whether the size means greater importance of the audiovisual sector and hence leads to a higher degree of territorialisation. Nor do we have enough evidence to say whether turnover

is higher because of higher costs and prices or because the audiovisual sector is larger.




Source(s): Table 5.26

## 6.3. Comparison of micro-level data

In Chapter 6.3 we analyse the relationships between the micro-level data that were presented in Chapter 5.3-5.6 and the national degrees of territorialisation. In Chapter 5.3-5.6 we described how data on six typical services used in film production were collected and we presented the data on prevailing prices, capacities and capacity utilisation rates for each of the selected services. We have compared these three parameters with the calculated levels of territorialisation. On the basis of the examination of the data, a number of hypotheses can be established. The considerations related to these hypotheses are presented and discussed below.

**Prevailing prices and labour costs**

The first set of comparisons is between levels of territorialisation and identified prevailing prices of the selected services. In order to guide the analysis, we have put forward the following hypothesis:

*Hypothesis*

*Countries not applying territorialisation will have more competitive markets and hence lower prices of services and products used in relation to film production.*

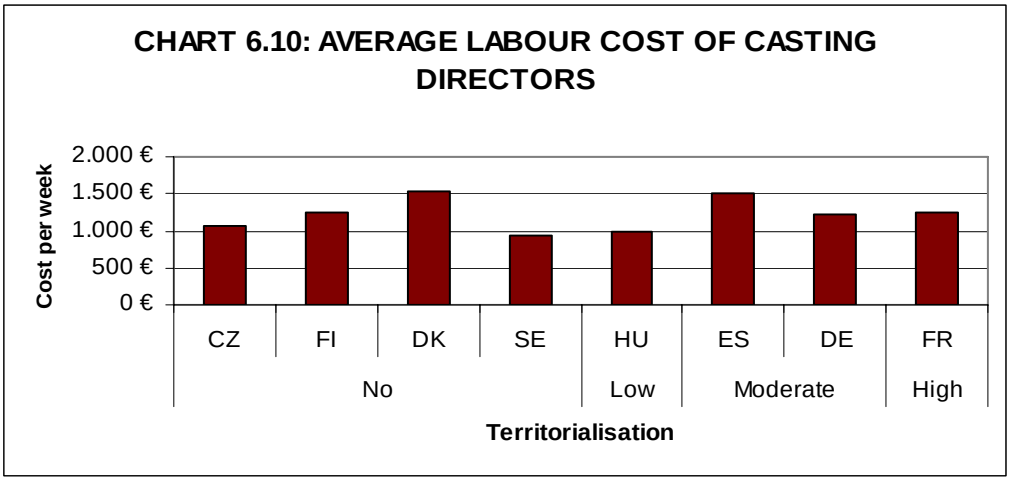
According to the above hypothesis, it can be expected that countries with high territorialisation intensity would generally have higher price levels, due to artificially high purchasing power of aided producers. On the other hand, in cases of low barriers to market entry, the increased local demand created by high territorialisation intensity does not necessarily have to increase the price levels. If it encourages more service providers to enter the market, it will tend to stabilise the price levels. In addition, differences in productivity among the countries and many other parameters may also have affected unit prices. The intention of the analysis is to shed empirical light on these considerations.

For each service the relationships between the level of territorialisation and prevailing price levels are illustrated in the corresponding charts (for all of which the source is the data presented in Chapter 5.6).

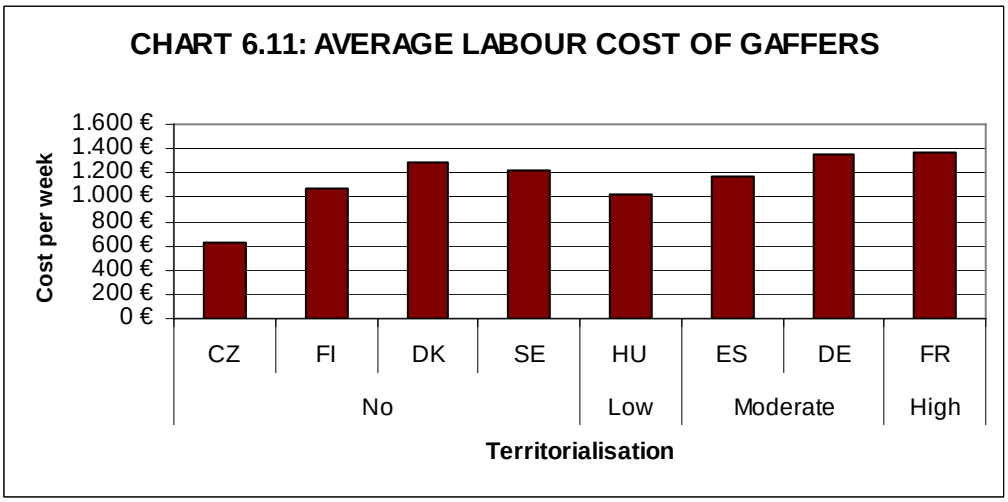
*Casting director*

The estimated average labour costs for casting directors are distributed on a relatively broad range (Chart 6.10). Countries with no territorialisation and

countries with moderate territorialisation both have relatively high labour costs, and it is not possible to find any correlation between territorialisation and labour costs for casting directors.



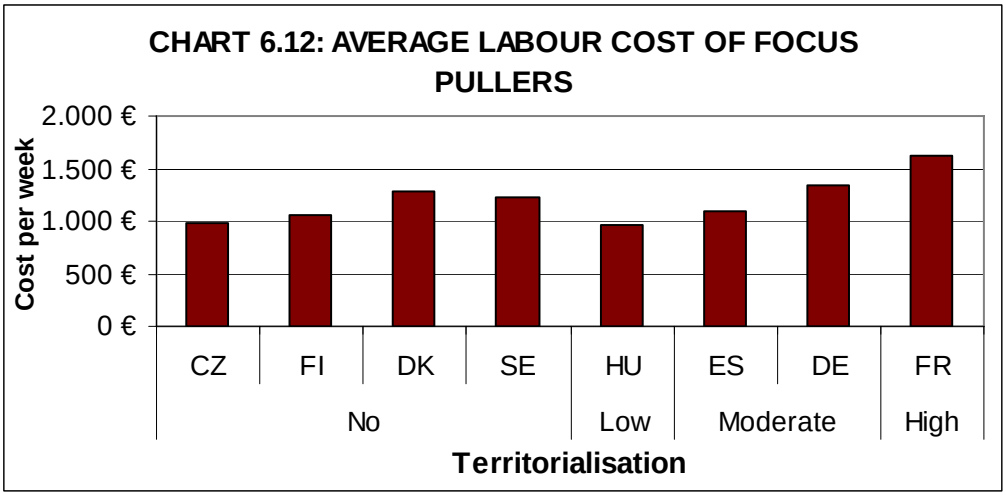

Source: Section 5.6




Source: Section 5.6

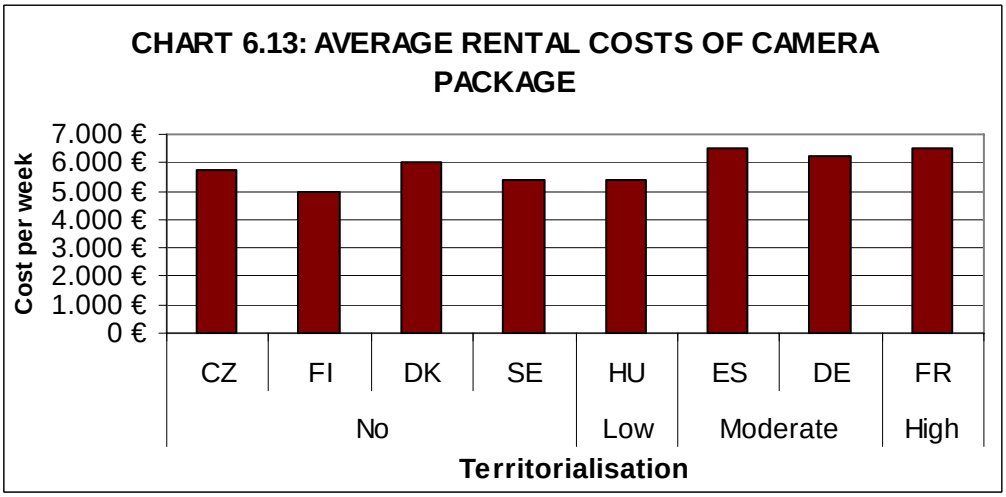
*Gaffer* The two labour categories from the production phase show similar patterns. In particular the data on gaffers show a certain positive relationship between degree of territorialisation and labour cost. At least the average labour costs are higher in countries with a high or moderate degree of territorialisation, and France with a high level of territorialisation has the highest costs in this category. The exceptions are Denmark and Sweden, where the average costs are at the same level as in the territorialised countries.

*Focus puller* Chart 6.12 shows the same pattern for the average costs of focus pullers, although the pattern is less clear. Here Hungary with a low level of territorialisation has lower costs than the Czech Republic without territorialisation, and Denmark and Sweden again have higher costs than both Spain and Hungary. The highest costs are again found in France with the highest level of territorialisation.



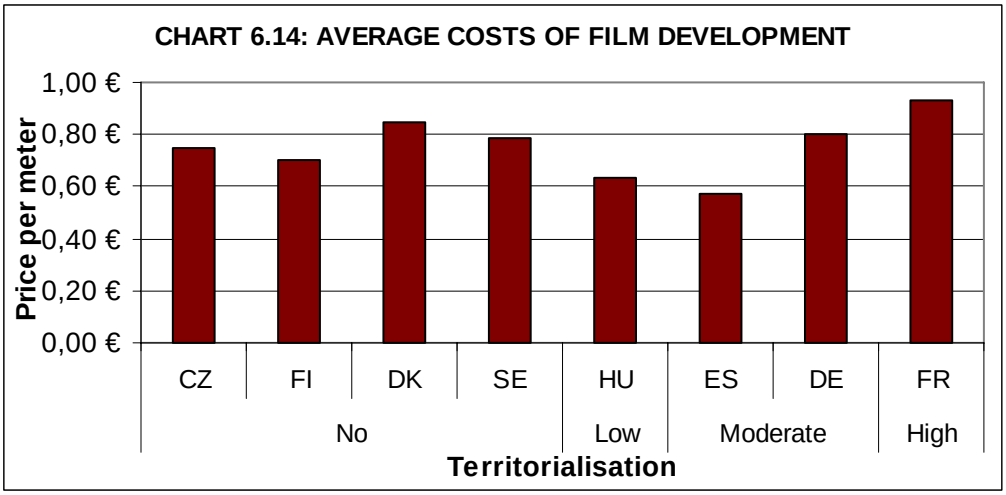

Source: Section 5.6

*Camera* In Chart 6.13, the most expensive places for renting a standard 35-mm motion picture camera package seem to be countries with a high and moderate degree of territorialisation. Overall cost differences among countries analysed are less pronounced than for other types of services. This may be due to a higher proportion of this service, being constituted by equipment, which may be sold at the same price to all countries.




Source: Section 5.6

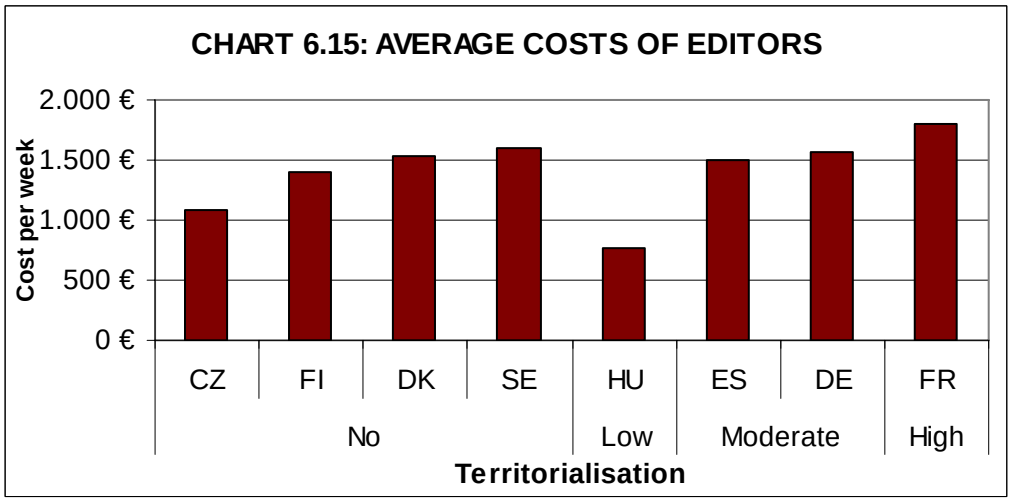
*Development of film* With regard to the developing of 35-mm film, the scattered distribution of countries shown in Chart 6.14 precludes the drawing of any clear conclusions. Still, the prices are highest in France, but they are lower in Spain and Hungary than in all Member States without territorialisation, and higher in Denmark than in Germany and Spain.




Source: Section 5.6

*Editing*

A weak positive correlation may indicate that also editing is more expensive in countries with a high degree of territorialisation (see Chart 6.15). The costs, in Denmark and Sweden, however, are just as high as in countries with moderate and high degrees of territorialisation, and here again the costs in Hungary are lower than in countries with no territorialisation.




Source: Section 5.6

*Comparison of labour cost*

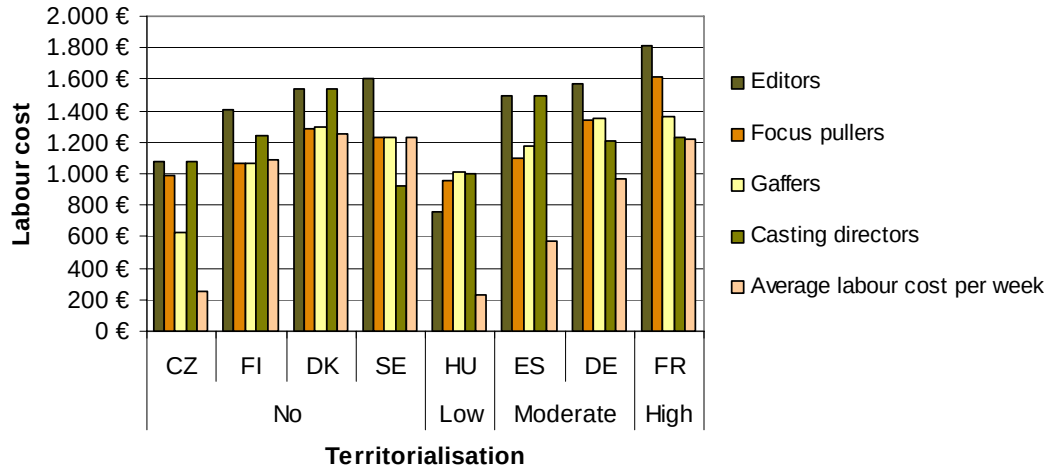
National average labour costs in Europe vary immensely. The east European countries including Hungary and the Czech Republic still have remarkably low average labour costs compared to Western Europe. Table 6.1 shows that there is a fivefold difference between the lowest labour costs in the Czech Republic and Hungary and the highest in Denmark, Sweden and France.

Nevertheless, the differential in labour costs is not as great in the audiovisual sector as it is across all employment. Even though Czech and Hungarian film workers generally are less costly than their west European counterparts, their identified labour costs are still much higher than would be expected from the national average labour costs. This might reflect the fact that the services provided by these specialised film workers are not limited to the national market, but that film production operates on an international market in which service costs are to some extent levelled across borders. Despite this, costs in

Hungary and the Czech Republic are still low enough overall to make them popular as locations for runaway productions.

Chart 6.16 presents all the collected data on labour costs, including the average salary costs of the eight Member States.

**CHART 6.16: COMPARISON OF TERRITORIALISATION AND LABOUR COST**




Source: Section 5.6

The following observations can be made on the basis of the data in Chart 6.16:

1. The Czech Republic and Hungary in general have low labour costs, and contrary to the other countries in the sample, the salaries for film production staff are between three and four times higher than the average salary and thereby close to the western European level. Except for gaffers, the difference is higher in the Czech Republic than in Hungary. The relatively high salaries in film production may be due to the high number of foreign productions, including runaway productions from outside Europe, that are attracted to these two countries by their overall cost levels, which are still low by international standards.

2. For each of the service categories, the costs are relatively high as compared to the average salary level of the respective countries, in France, Germany, Hungary, Spain and the Czech Republic. Of these five countries, only the Czech Republic has no territorialisation. For example, the costs for gaffers are higher than the average salary in all the five countries and lower or almost the same in Denmark, Sweden and Finland. For editors, the costs are more than 50% higher than average labour costs in these five countries but only 20-30% higher in Denmark, Sweden and Finland. This indicates that salaries related to film production are relatively higher in countries with territorialisation and in Eastern European Countries than in Denmark, Sweden and Finland.

3. Among countries with territorialisation, Spain with a moderate level of territorialisation has higher relative film production salaries than other countries with moderate and high territorialisation.

It appears that in the selected sample of countries, the average labour costs of film production staff are relatively highest in countries with some (low, medium or high) territorialisation and in eastern European countries with low salary costs in general.

The data support, to some extent, the hypothesis of a positive correlation between territorialisation and the price level, but it is clear that the differences in price levels between countries may also be affected by many other factors.

*Conclusion on prevailing prices*

On the basis of these findings we can conclude that the prices of services in the film industry are relatively higher, when compared to the general salary level, in particular in East European countries but also in countries with territorialisation than in countries without. This is particularly the case for the West European countries of the selected sample.

**Levels of capacities**

The second parameter to be compared with the national territorialisation intensity is the level of national capacities of the selected services. To ensure comparability across countries, the capacity of each of the selected services has been calculated as capacity per capita.[255]

*Hypothesis*

The following hypothesis has been applied:

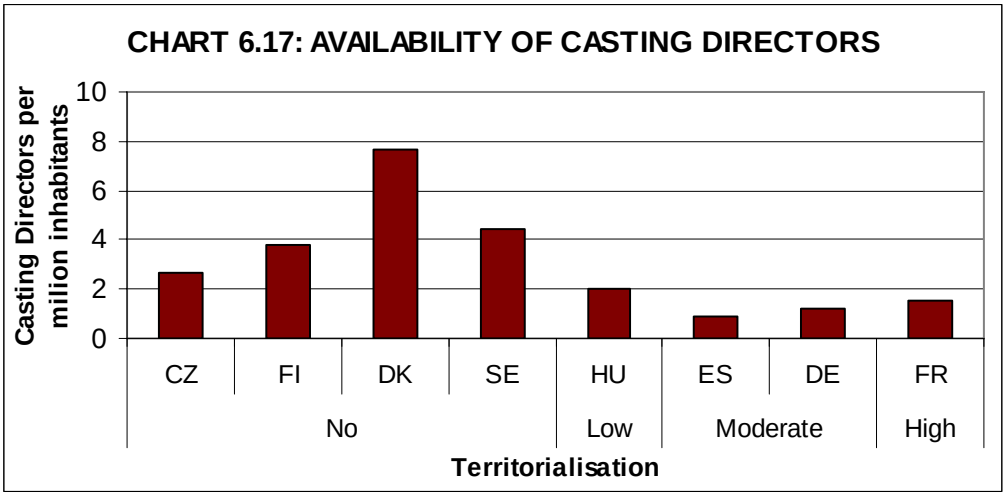
*High territorialisation intensity will entail higher levels of capacity among the service providers in the film industry.*

As high levels of territorialisation will lead to increased demand for services in a specific area, the capacity of the supply sector is expected to increase accordingly.

The following charts show the findings for each of the services.

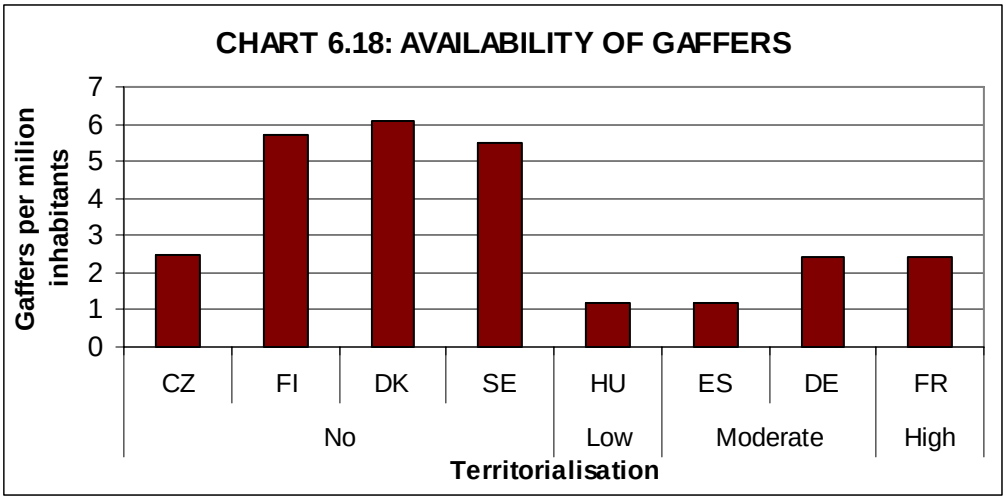
*Casting director*

Contrary to the hypothesis, the per capita capacity of casting directors (Chart 6.17) seems to be negatively related to territorialisation.




Source: Section 5.6

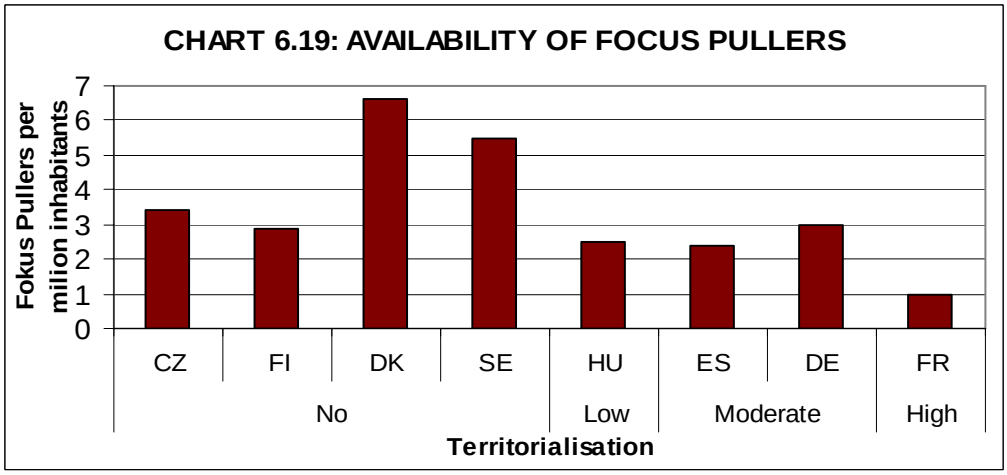
[255] For simplicity the capacity is typically measured in units per million inhabitants.



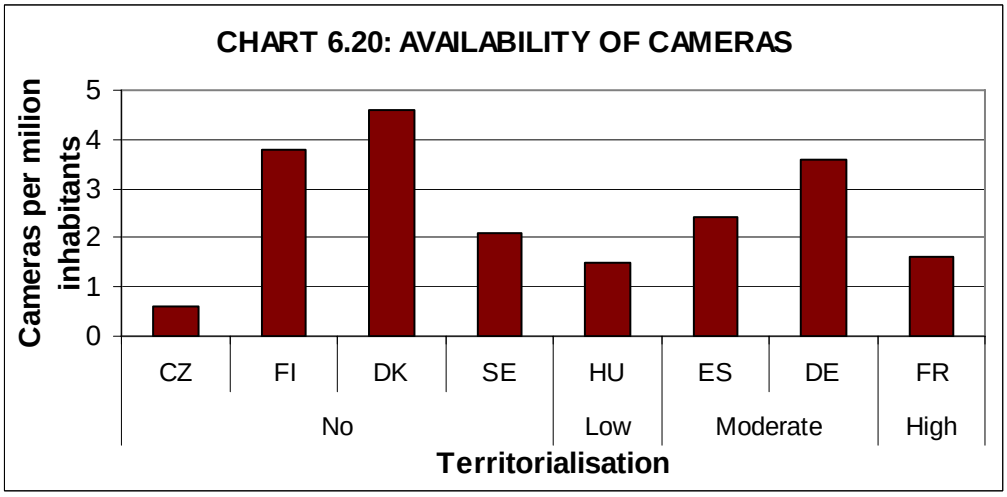

Source: Section 5.6

*Gaffer* The same result is found for gaffers (Chart 6.18), The highest per capita capacities are found in Member States with no territorialisation.

*Focus puller* The per capita capacity of focus pullers (Chart 6.19) also seems to be negatively correlated to the level of territorialisation, but the picture is less clear.

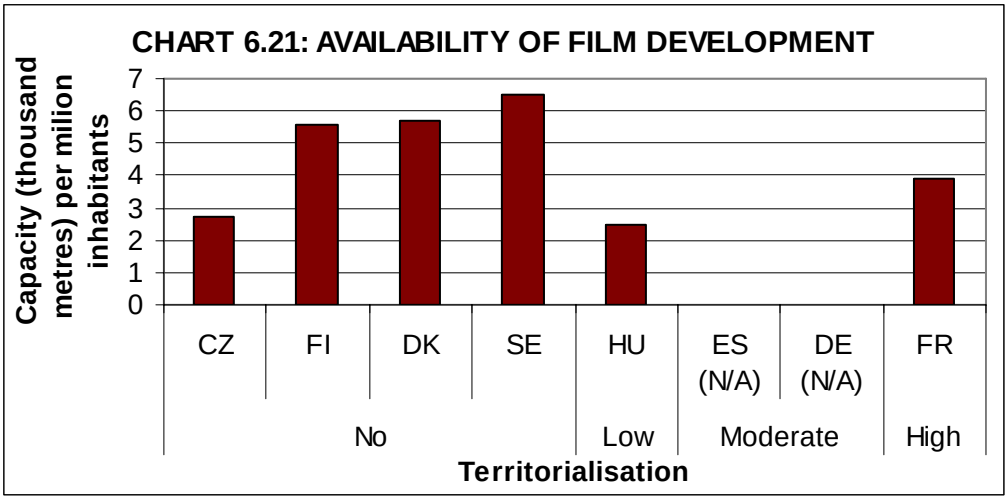



Source: Section 5.6



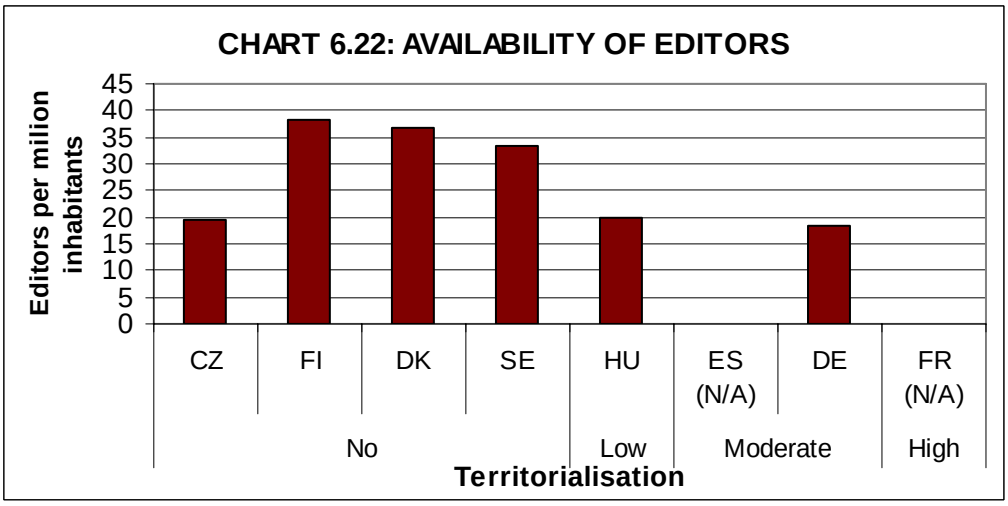

Source: Section 5.6

*Cameras* With regard to capacities of cameras for rental, Chart 6.20 does not indicate any correlation with territorialisation. If anything, the correlation is negative with the highest capacities in countries with no territorialisation.




Source: Section 5.6

*Development of film* Chart 6.21 shows that also the per capita laboratory capacity for the development of film is highest in countries with no territorialisation. The picture is not clear, as it has not been possible to obtain satisfactory figures for Spain and Germany.




Source(s): Chapter 5.6

*Editors* The per capita capacity of editors (Chart 6.22) shows exactly the same picture, and the editing capacity may also be negatively correlated to territorialisation, It has not been possible to make reliable estimates for France and Spain.

*Conclusion on capacities* The above analyses generally indicate that the level of territorialisation is not positively correlated with the per capita capacities of typical services like casting directors, gaffers, focus pullers, and editors. The Member States with high or moderate levels of territorialisation that are at the same time the largest countries, in general have the lowest per capita capacities. The same might be

said on per capita capacities of camera rental and film development, but here the correlation is even weaker. These findings contribute to a rejection of the above hypothesis that high territorialisation entails higher capacities. One factor that might have contributed to the apparent inverse correlation might be the country size. It might be argued that smaller countries would naturally have a higher per capita capacity in such a special field as film production than larger countries. Whether this is true or not, however, cannot be confirmed from this study.

**Capacity utilisation rates**

The third and last parameter to be related to territorialisation is the estimated capacity utilisation rate of the selected typical services.

*Expected relationship not clear*

It is not entirely straightforward to predict the nature of this relationship beforehand. Depending on the perspective, capacity utilisation can be plausibly related to territorialisation in two different ways.

In the short term, capacity utilisation will increase if market demand grows, and conversely, if demand weakens, capacity utilisation will slacken. Thus, if territorialisation increases demand for film services, high territorialisation intensity should entail higher capacity utilisation.

On the other hand, if territorialisation leads to higher price levels (we have seen that there is some evidence that it does), and if the reason for this is a lower level of competition, then service providers have a greater incentive to increase capacity and thereby reduce capacity utilisation rates. As a result of higher prices the required minimum rate of capacity utilisation may be marginally lower if the capacity does not increase correspondingly. This will be the case for equipment rental houses as well as for freelancers.

Both implications must be considered marginal and uncertain short-term movements. In the long term, there is no reason to believe that the capacity utilisation should be significantly affected by territorialisation.

Capacity utilisation rates in the film industry can vary immensely from year to year (and certainly from season to season). The fluctuations, especially in small countries, can be caused more or less by chance (for instance, a major American production company decides for other than economic reasons to shoot a number of films in the country in the same year). Furthermore, the rates depend on general market developments and investment behaviour of the market stakeholders. As a result the short-term data on capacity utilisation rates seem irrelevant to the question of territorialisation.

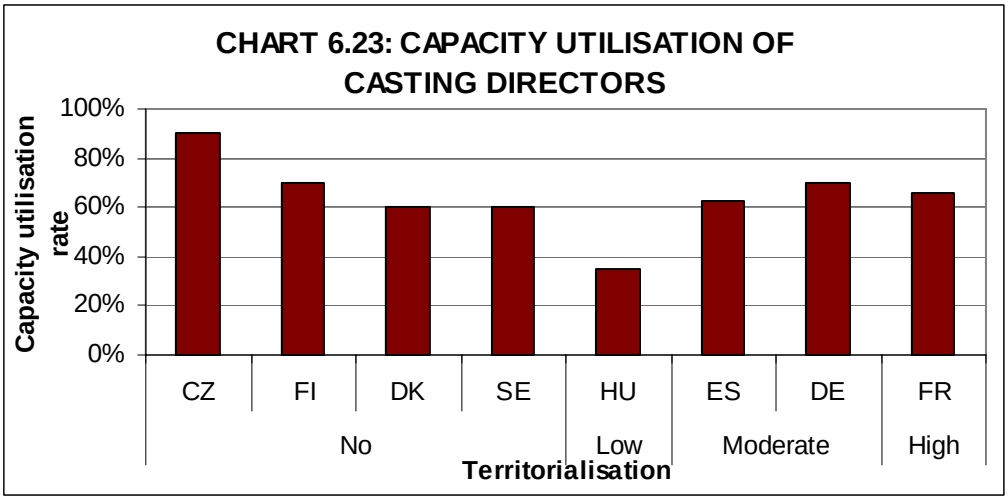
Changes in the market may of course affect capacity utilisation temporarily, but the market must be assumed to adjust to the new situation by changing capacities, and the ideal capacity utilisation rate will depend on the relative prices of capital and labour, a relationship that is not affected by varying degrees of territorialisation.

*Hypothesis*

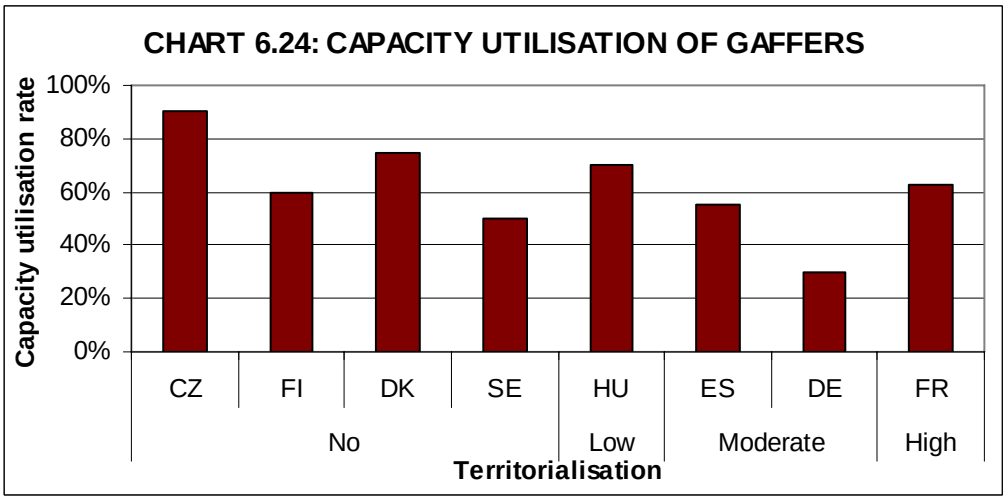
Therefore, the hypothesis is that *capacity utilisation should be the same, independent of degrees of territorialisation*.

*Casting director*

In accordance with this hypothesis, Chart 6.23 indicates that the capacity utilisation rates of casting directors are unrelated to the level of territorialisation.



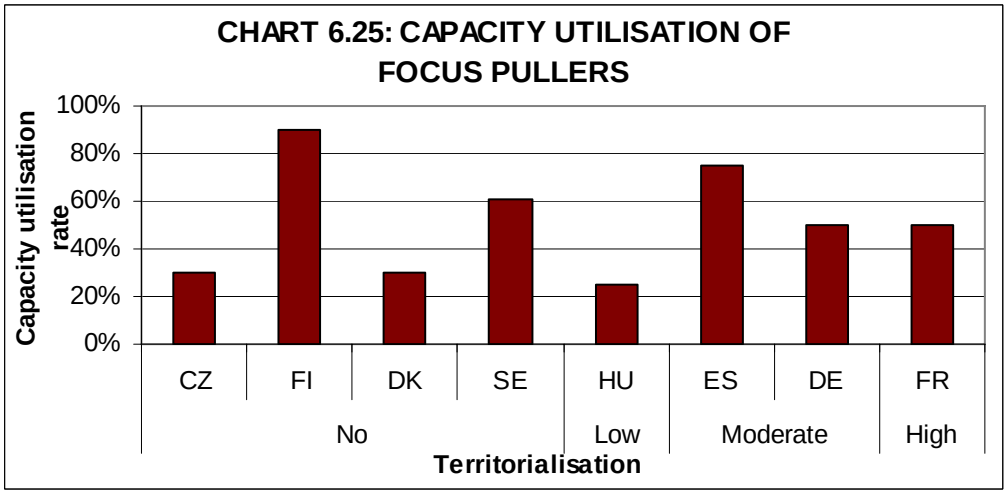

Source: Section 5.6



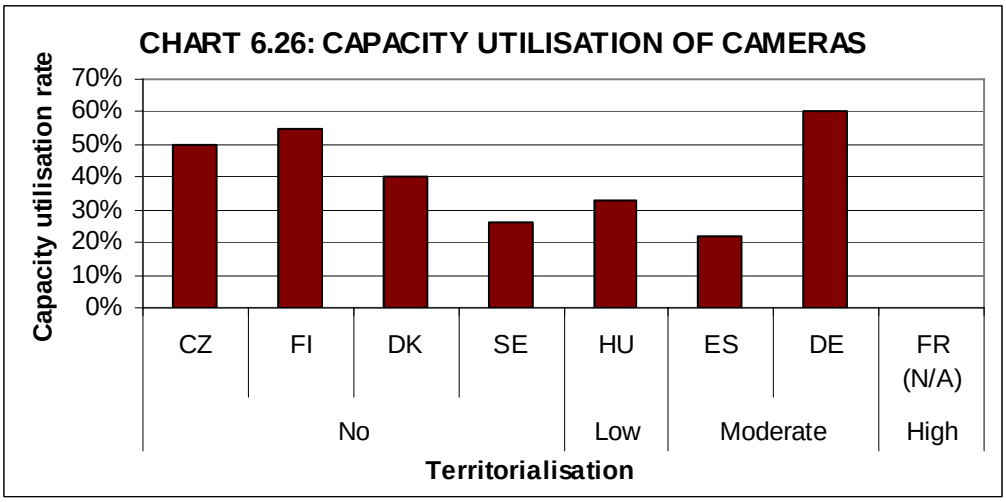

Source: Section 5.6

*Gaffer* The collected data on the utilisation rates of gaffer services (Chart 6.24) indicate that, if anything, there is a negative correlation with the level of territorialisation, but the picture is very unclear.

*Focus puller* The per capita capacity utilisation rates for focus pullers (Chart 6.25), according to the collected estimates, seem to be unrelated to territorialisation.



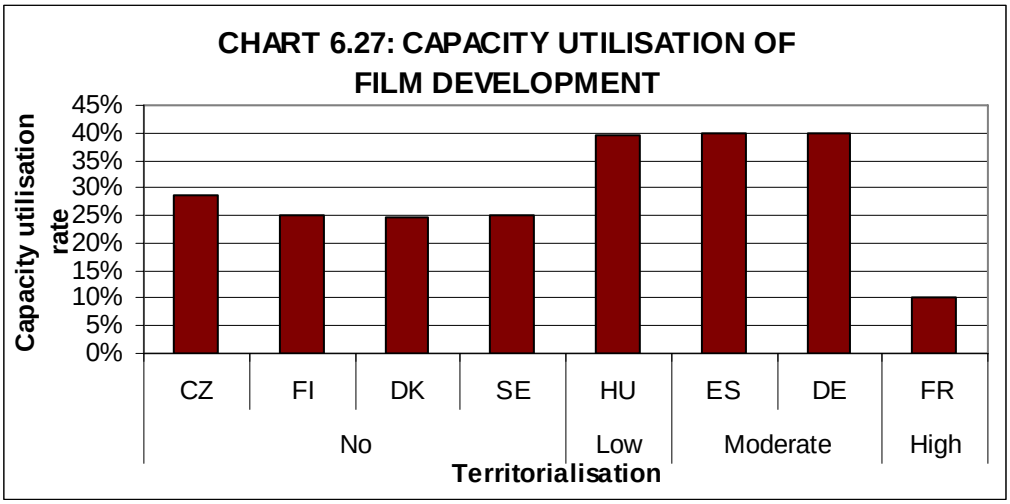

Source: Section 5.6



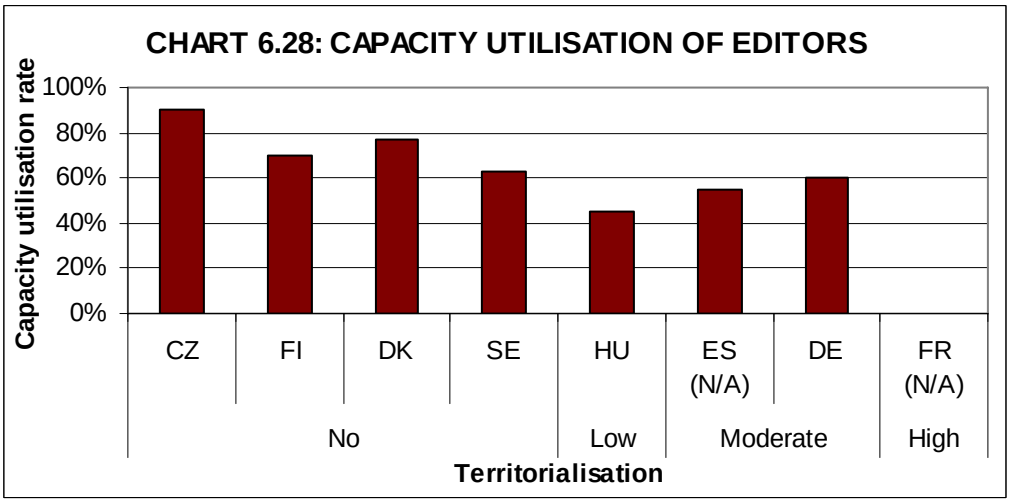

Source: Section 5.6

*Cameras* No correlation between the capacity utilisations of cameras for rent (Chart 6.26) and the degrees of territorialisation can be identified.

*Development of film* Nor can the capacity utilisation rates for development of film (Chart 6.27) be interpreted as correlated with the intensity of territorialisation.




Source: Section 5.6



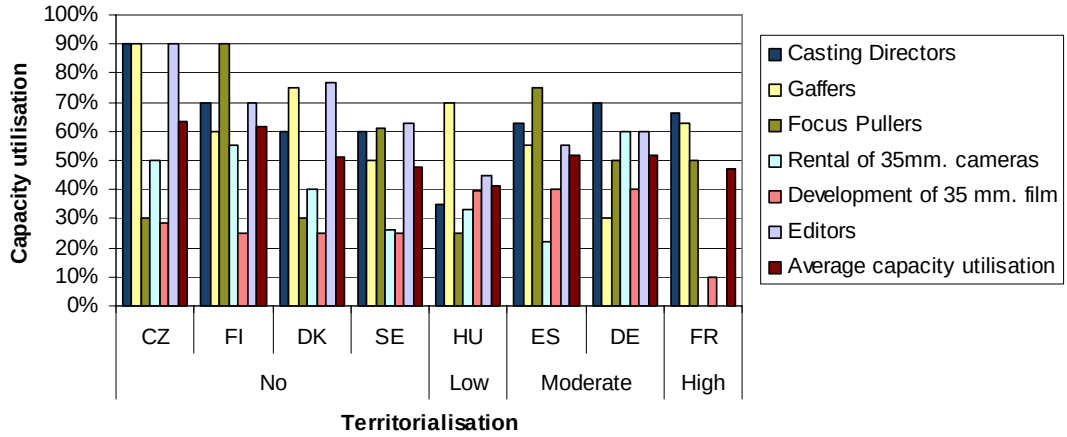

Source: Section 5.6

*Editor* For editors, the capacity utilisation rates may be interpreted as inversely correlated with territorialisation.

**Average capacity utilisation rates**

In Chart 6.29, all estimates of capacity utilisation rates have been gathered and an average capacity utilisation rate has been calculated. Countries with no territorialisation seem to have slightly higher average capacity utilisation than countries with low or high territorialisation, but the picture is too unclear to draw any firm conclusion here.

**CHART 6.29: COMPARISON OF TERRITORIALISATION AND CAPACITY UTILISATION**




Source: Section 5.6

**Conclusion on capacity utilisation**

The above findings about capacity utilisation rates confirm the hypothesis, that capacity utilisation is independent of territorialisation.

## 6.4. Overall conclusion about the comparison of measures related to selected services

In this chapter we have analysed the correlation between territorialisation and prices, capacities and capacity utilisation rates of a number of selected typical services used in different phases of film production.

**Indications of impact on price levels**

Overall, no strong correlation could be identified. In relation to the price levels of the selected services, however, the analysis has indicated that apart from eastern European countries with low salary levels, territorialisation seems to be accompanied by higher service price levels in relation to the general salary levels of the respective countries.

The hypothesis that there is a positive correlation between territorialisation and per capita capacities of film-sector services cannot be supported on the basis of the findings. This is in particular the case for labour intensive services.

There is no correlation between territorialisation and capacity utilisation.

## 6.5. Analysis of film budgets

**Objective** We analysed the budgets of films produced in countries with different territorialisation intensities with the aim of assessing whether and how territorialisation affects the competitiveness of the audiovisual sector.

**Selection of 25 films** We selected a sample of 25 films (Table 6.2) for analysis of their budgets. Our main sources were the Film File Europe website (www.filmfileeurope.com) and the UK Film Council's database on European film.

The sample was constructed so as to include films representing each of the following types under the three (partially overlapping) categories set out in the tender specifications:

1 Budget size

Low/Medium budget (less than €3m)
High budget

2 Territorialisation

Made in Member State applying territorialisation

Made in Member State not applying territorialisation

Co-production where both Member States apply territorialisation

Co-production where neither Member State applies territorialisation

Co-production where only one Member State applies territorialisation

3 Type of production

National production

Co-production

**TABLE 6.2: SUMMARY OF FILM SELECTION**

| Categories of films | 15 Low or medium- budget films | 10 High-budget films |
|---|---|---|
| Seven ***national productions*** - in Member State applying territorialisation | Film 1: HU<br>Film 2: FR<br>Film 3: DE<br>Film 4: ES<br>Film 5: ES | Film 6: DE<br>Film 7: FR |
| Four ***national productions*** – in Member State NOT applying territorialisation | Film 8: SE<br>Film 9: DK | Film 10: DK<br>Film 11: DK |
| Five ***co-productions*** – BOTH Member States applying territorialisation | Film 12: DE (AT)<br>Film 13: FR (BE) | Film 14: ES (FR/UK)<br>Film 15: FR (AT/DE/IT)<br>Film 16: DE (FR/ES) |
| Four ***co-productions*** – NEITHER Member State applying territorialisation | Film 17: SE (DK/FI)<br>Film 18: FI (SE)<br>Film 19: FI (SE)<br>Film 20: FI (SE) | |
| Five ***co-productions*** – between Member State applying and Member State not applying territorialisation | Film 21: DK (UK)<br>Film 22: DE (DK) | Film 23: DK (UK)<br>Film 24: FR (BE/FR/CZ)<br>Film 25: DK (FR/DE/NL/SE) |

Note(s): Member State codes denote the country of origin and codes in brackets indicate the co-producing Member State.

No budgets were obtained for high-budget films in the category of co-productions between countries not applying territorialisation.

**Details of budgets**

Even though absolute confidentiality was guaranteed, many of the large number of producers we contacted were reluctant to provide their budgets. In particular, wages and sources of finance are considered confidential.

We obtained 25 budgets, with different amounts of detail. Some budgets specified all expenses in detail, and others indicated the costs related to the five main cost categories: pre-production, production, post-production, promotion and marketing and distribution (see Table 6.3).

**TABLE 6.3: DISTRIBUTION BETWEEN MAIN CATEGORIES IN 1000 EUR**

| Film | Degree of territorialisation | Budget size | Type of production | Pre-production | Production | Post-production | Promotion and marketing | Distribution | Other | TOTAL |
|---|---|---|---|---|---|---|---|---|---|---|
| Film 1 | T | LM | N | 82 | 559 | 75 | 8 | n/a | 0 | 724 |
| Film 2 | T | LM | N | 77 | 1,147 | 125 | n/a | n/a | 279 | 1,628 |
| Film 3 | T | LM | N | 22 | 713 | 59 | n/a | n/a | 58 | 852 |
| Film 4 | T | LM | N | 637 | 868 | 307 | 359 | 144 | 183 | 2,498 |
| Film 5 | T | LM | N | 704 | 747 | 307 | 66 | 111 | 368 | 2,303 |
| Film 6 | T | H | N | 464 | 4,042 | 408 | n/a | n/a | 191 | 5,105 |
| Film 7 | T | H | N | 713 | 9,729 | 546 | n/a | n/a | 2,584 | 13,572 |
| Film 8 | NT | LM | N | 362 | 601 | 161 | n/a | n/a | 147 | 1,271 |
| Film 9 | NT | LM | N | 665 | 1,290 | 557 | 35 | n/a | 205 | 2,751 |
| Film 10 | NT | H | N | 801 | 2,962 | 861 | 67 | n/a | 103 | 4,794 |
| Film 11 | NT | H | N | 809 | 1,949 | 753 | 7 | n/a | 54 | 3,572 |
| Film 12 | T | LM | C | 10 | 649 | 204 | n/a | n/a | 65 | 928 |
| Film 13 | T | LM | C | 131 | 1,048 | 14 | n/a | n/a | 205 | 1,398 |
| Film 14 | T | H | C | 2,030 | 3,736 | 781 | 110 | 33 | 1,049 | 7,738 |
| Film 15 | T | H | C | 2,851 | 18,180 | 570 | n/a | n/a | 5,453 | 27,054 |
| Film 16 | T | H | C | 18,234 | 17,790 | 1,981 | n/a | n/a | 5,676 | 43,681 |
| Film 17 | NT | LM | C | 350 | 743 | 386 | n/a | 5 | 226 | 1,710 |
| Film 18 | NT | LM | C | 167 | 1,234 | 271 | 23 | n/a | 256 | 1,951 |
| Film 19 | NT | H | C | 252 | 1,773 | 521 | 231 | 20 | | 2,797 |
| Film 20 | NT | H | C | 378 | 1,033 | 406 | 72 | n/a | 263 | 2,152 |
| Film 21 | T/NT | LM | C | 534 | 1,179 | 416 | 26 | n/a | 486 | 2,641 |
| Film 22 | T/NT | LM | C | 188 | 289 | 158 | n/a | n/a | 41 | 676 |
| Film 23 | T/NT | H | C | 2,066 | 1,991 | 542 | n/a | n/a | 70 | 4,669 |
| Film 24 | T/NT | H | C | 3,759 | 4,601 | 425 | n/a | n/a | 2,302 | 11,087 |
| Film 25 | T/NT | H | C | 2,526 | 4,682 | 1,465 | 1,340 | n/a | 2,277 | 12,290 |
| Average | | | | 1,552 | 3,341 | 492 | 195 | 63 | 939 | 6,582 |
| Weighted average percentage distribution | | | | 24% | 51% | 7% | 3% | 1% | 14% | 100% |

Note(s) : Territorialisation:
H= high territorialisation
NT = No or low territorialisation
T/NT = Combined high and low/no territorialisation in a co-production agreement.

Budget size:
H = High budget, LM = Low or medium budget

N = National production
C = Co-production

On average, production costs accounts for the main part of the costs, namely 51%. Preproduction covers on average 24%, post-production 7%, promotion

and marketing 3%, distribution 1% and other expenses 14%. Table 6.4 shows the percentage distribution of cost budgets.

**TABLE 6.4: PERCENTAGE DISTRIBUTION OF MAIN COST CATEGORIES**

| Film characteristics | | | | Cost distribution | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| Film | Territorialisation | Budget size | Film Type | Preproduction | Production | Postproduction | Promotion and marketing | Distribution | Other | TOTAL |
| Film 1 | T | LM | N | 11% | 77% | 10% | 1% | 0% | 0% | 100% |
| Film 2 | T | LM | N | 5% | 70% | 8% | 0% | 0% | 17% | 100% |
| Film 3 | T | LM | N | 3% | 84% | 7% | 0% | 0% | 7% | 100% |
| Film 4 | T | LM | N | 25% | 35% | 12% | 14% | 6% | 7% | 100% |
| Film 5 | T | LM | N | 31% | 32% | 13% | 3% | 5% | 16% | 100% |
| Film 6 | T | H | N | 9% | 79% | 8% | 0% | 0% | 4% | 100% |
| Film 7 | T | H | N | 5% | 72% | 4% | 0% | 0% | 19% | 100% |
| Film 8 | NT | LM | N | 28% | 47% | 13% | 0% | 0% | 12% | 100% |
| Film 9 | NT | LM | N | 24% | 47% | 20% | 1% | 0% | 7% | 100% |
| Film 10 | NT | H | N | 17% | 62% | 18% | 1% | 0% | 2% | 100% |
| Film 11 | NT | H | N | 23% | 55% | 21% | 0% | 0% | 2% | 100% |
| Film 12 | T | LM | C | 1% | 70% | 22% | 0% | 0% | 7% | 100% |
| Film 13 | T | LM | C | 9% | 75% | 1% | 0% | 0% | 15% | 100% |
| Film 14 | T | H | C | 26% | 48% | 10% | 1% | 0% | 14% | 100% |
| Film 15 | T | H | C | 11% | 67% | 2% | 0% | 0% | 20% | 100% |
| Film 16 | T | H | C | 42% | 41% | 5% | 0% | 0% | 13% | 100% |
| Film 17 | NT | LM | C | 20% | 43% | 23% | 0% | 0% | 13% | 100% |
| Film 18 | NT | LM | C | 9% | 63% | 14% | 1% | 0% | 13% | 100% |
| Film 19 | NT | H | C | 9% | 63% | 19% | 8% | 1% | 0% | 100% |
| Film 20 | NT | H | C | 18% | 48% | 19% | 3% | 0% | 12% | 100% |
| Film 21 | T/NT | LM | C | 20% | 45% | 16% | 1% | 0% | 18% | 100% |
| Film 22 | T/NT | LM | C | 28% | 43% | 23% | 0% | 0% | 6% | 100% |
| Film 23 | T/NT | H | C | 44% | 43% | 12% | 0% | 0% | 2% | 100% |
| Film 24 | T/NT | H | C | 34% | 41% | 4% | 0% | 0% | 21% | 100% |
| Film 25 | T/NT | H | C | 21% | 38% | 12% | 11% | 0% | 19% | 100% |

Note(s) : Territorialisation: T= applying territorialisation
NT = No territorialisation
T/NT = Combined territorialisation and no territorialisation in a cooperation agreement.
Budget size: H = High budget, LM = Low or medium budget
Type: N = National production, C = Co-production

**Comparability of film budgets**

Some of the cost categories included in Table 6.4 had to be eliminated from our comparative analysis because data could not be compared across countries. Table 6.5 shows the average overall cost structure (percentage of budgets spent on preproduction, production, and postproduction) of films with similar characteristics after these cost categories had been eliminated.

**TABLE 6.5: COST STRUCTURE RELATED TO TERRITORIALISATION**

| | Film characteristics | | | Cost structure | | | Weight | |
|---|---|---|---|---|---|---|---|---|
| | Territorialisation | Budget Size | Film Type | Preproduction, (%) | Production, (%) | Postproduction, (%) | Average total budget | Number of respondents |
| Category 1 | T | LM | N | 19% | 69% | 12% | 1,286 | 5 |
| Category 2 | T | H | N | 8% | 85% | 7% | 7,951 | 2 |
| Category 3 | NT | LM | N | 29% | 52% | 18% | 1,818 | 2 |
| Category 4 | NT | H | N | 20% | 60% | 20% | 4,067 | 2 |
| Category 5 | T | LM | C | 6% | 82% | 12% | 1,028 | 2 |
| Category 6 | T | H | C | 31% | 63% | 7% | 22,051 | 3 |
| Category 7 | NT | LM | C | 16% | 63% | 21% | 1,879 | 4 |
| Category 8 | NT | H | C | - | - | - | - | - |
| Category 9 | T+NT | LM | C | 27% | 50% | 22% | 1,382 | 2 |
| Category 10 | T+NT | H | C | 39% | 50% | 11% | 7,352 | 3 |
| Category NT | NT | - | - | 20% | 60% | 20% | 2,411 | 8 |
| Category T and T+NT | T+T+NT | - | - | 30% | 62% | 7% | 6,786 | 17 |
| Category LM | - | LM | - | 20% | 62% | 18% | 1,493’ | 13 |
| Category H | - | H | - | 31% | 62% | 7% | 11,225 | 12 |
| National | - | - | N | 16% | 72% | 12% | 3,100 | 11 |
| Co-prod. | - | - | C | 33% | 59% | 8% | 7,182 | 14 |

Data about costs of promotion, marketing and distribution were hard to obtain, for two main reasons:

- For any particular film there are different distributors for different countries, all with different marketing/distribution/promotion costs, making it difficult to collect and collate total marketing/distribution/promotion costs.
- If a distributor has a 'studio-deal', whereby s/he has purchased the distribution of several films from a single studio, it will not be possible to determine how much was actually spent on distribution for a particular film.

To the extent that promotion, marketing and distribution costs are in some cases included and in others excluded from the budgets, the comparability of budgets is limited, and we therefore decided to exclude this type of cost from the further analysis of cost structures.

The contents of 'Other costs' vary. Some include contingency and completion bond while others do not. Therefore, the 'Other costs' category has not been included in the analysis of the budgets.

The definitions of what counts as preproduction, production and post-production costs seem highly standardized, and this makes the comparisons of these components in the different budgets reliable.

In some cases, actors' fees are included as a pre-production cost (above-the-line cost), in others as a production cost (below-the-line cost). In this study the actors' fees are considered pre-production. All production crew wages are considered as production costs.

It is evident from Table 6.5 that pre-production and production costs together constitute higher percentages of budgets for films produced in countries applying territorialisation than for films from countries not applying territorialisation. This is true for each of the listed categories as well as for the total group, where preproduction and production costs together constitute 92% of total budgets of films produced in countries with territorialisation. For films produced in countries without territorialisation, these two components constitute only 80% of total budgets. This is illustrated in Chart 6.30, where the distribution of the total budgets of eight films from countries not applying territorialisation is compared to the distribution of total budgets of 17 films from countries applying territorialisation. It is also evident that the main difference occurs in the category of post-production costs.

**CHART 6.30: COST STRUCTURES OF FILMS FROM COUNTRIES APPLYING AND NOT APPLYING TERRITORIALISATION TOTAL BUDGETS BREAKDOWN**

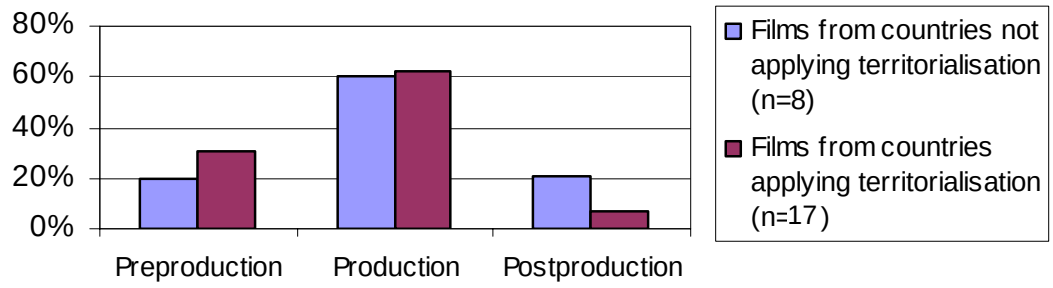


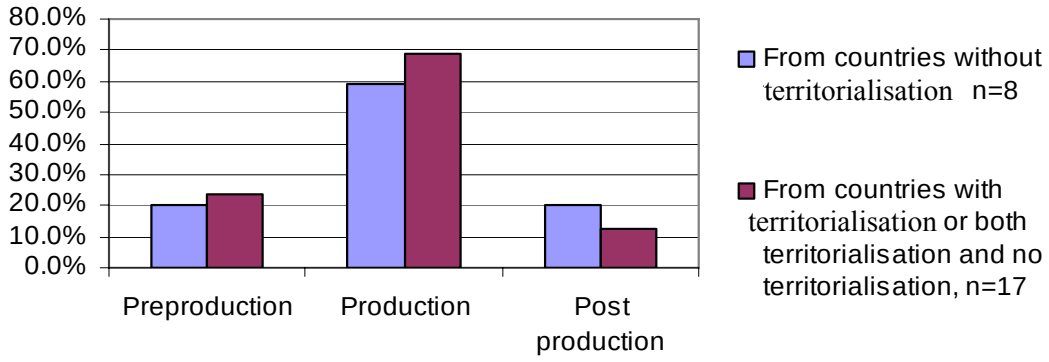

Chart 6.30 shows the distribution of total budgets of the films in the two groups, but the picture is even clearer when the focus is on cost structures at micro level, ie at the level of individual film budgets. We achieve this focus by comparing the average cost percentages of all the films rather than comparing the percentage distribution of total costs. This is seen in Chart 6.31, from which it appears that the average percentages of both preproduction and production costs are higher for films produced in countries with territorialisation.

Eight of 17 of the films produced in countries with territorialisation are high budget films and ten of the 17 are co-productions. Therefore, the reason for the higher costs of pre-production and production is not that films produced in

countries with territorialisation are predominantly or entirely high-budget films or co-productions.

High-budget films do spend a greater proportion of their budget on pre-production and production than low-budget films and co-productions spend a higher proportion on these activities than national productions. But that does not explain the higher pre-production and production costs in countries that apply territorialisation.

**CHART 6.31: AVERAGE PERCENTAGE COST STRUCTURES RELATED TO TERRITORIALISATION**




## Comparison of specific items in budgets

We were able to obtain more detailed information in 18 out of the 25 cost-budgets. Unfortunately the detailed cost categories differ between budgets, and this makes comparison difficult. Comparison is possible, however, for costs related to 'travel, accommodation and transport' in all 18 detailed budgets.

Costs related to travel, accommodation, and transport account for 11% of all costs for the 18 productions.

The percentage costs of these items are shown for each of the 18 films in Chart 6.32. The total and the average percentage spent on these items for all the productions in each category of territorialisation are shown in Table 6.6.

**CHART 6.32: COSTS FOR TRAVEL, ACCOMMODATION, ALLOWANCES, AND TRANSPORT AF PERCENTAGE OF ALL COSTS**

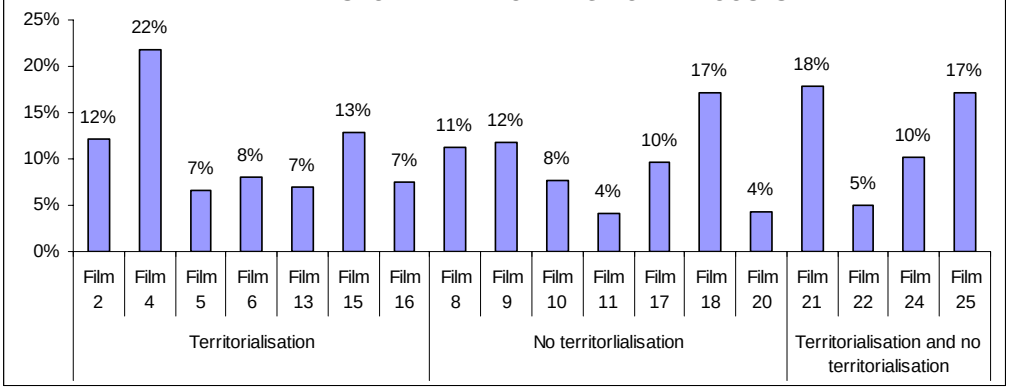


**TABLE 6.6: COSTS FOR TRAVEL, ACCOMMODATION AND TRANSPORT AS PERCENTAGE OF ALL COSTS**

| | Territorialisation | No territorialisation | Territorialisation and no territorial-isation | Total |
|---|---|---|---|---|
| Percentage of total costs related to travel, accommodation and transport | 9.6 | 8.6 | 13.8 | 10.2 |
| Average percentage of total costs related to travel, accommodation, and transport | 10.8 | 9.4 | 12.5 | 10.7 |
| N (Number of budgets) | 7 | 7 | 4 | 18 |

The costs are slightly higher for the group of productions made in countries applying territorialisation than for productions made in countries not applying territorialisation. The percentage of budgets spent on travel and accommodation by co-productions between countries applying and not applying territorialisation clauses is even higher.

The average percentages tell the same story. In the case of films produced in or between countries without territorialisation, the average percentage was 9.4%, whereas for films being produced in or between countries with territorialisation the average was 10.8% and for co-productions between countries with and without territorialisation the average was 12.5%.

Films produced in Member States applying territorialisation thus seem to have a higher proportion of their budgets spent on pre-production and production costs. This detailed analysis further shows that their spending on travel, accommodation and transport is higher than for films produced in countries not applying territorialisation requirements.

## 6.6. Conclusions from the comparative analysis of film budgets

No firm conclusions can be drawn from this limited sample of 25 film budgets, but the analysis indicate that the 17 films that were produced in countries with territorialisation had higher proportions of costs related to pre-production and production than the eight films produced in countries without territorialisation. This accords with the finding that there is a positive, but weak correlation between territorialisation and the costs of services in the film sector.

Costs of travel and accommodation are one category of activity in the production budget that might be expected to increase as a result of territorialisation. The empirical findings indicate that this was in fact the case in the group of 18 film budgets that allowed this detailed analysis.

## 6.7. Conclusions from the comparative analysis of economic structures and film budgets

The observed correlations that have been identified in this chapter are small and in the light of the uncertainties of the data, one must be cautious about generalising the conclusions. The analysis of this section of the report, however, has shown that total turnover of the audiovisual sector is generally

higher in countries with territorialisation than in countries without. This may, however, be explained the other way round: Territorialisation might be a result of the different importance of the audiovisual sector to the economy in different countries, and might be seen as a more appropriate instrument in countries where the audiovisual sector is larger and hence more important.

Other parts of the analysis more convincingly supports a hypothesis that territorialisation leads to higher costs. The analysis thus has indicated a certain positive correlation between the use of territorialisation in a country and the price level of film production services, and in addition to that, it has shown that films produced in countries applying territorialisation spend relatively more on preproduction and production, and that they spend more on travel and accommodation than other films.

No correlation between territorialisation and capacities and capacity utilisation rates has been identified.

# 7. Part E: Synopsis of Co-Production Agreements

## 7.1. Introduction

In this section we provide a synopsis of the co-production agreements in force in the EU25 Member States, and we also identify the number of international co-productions, in relation to the total number of productions, over the period 2001-2005 between Member States applying territorialisation, between those not applying it, and between one Member State applying territorialisation and one not applying it.

## 7.2. Synopsis of Co-production Agreements

Data for this synopsis were primarily acquired from the EAO's MERLIN database. The MERLIN database contains detailed information on 36 bilateral co-production treaties between EU25 Member States.[256] All 36 of these bilateral co-production treaties are in force between the UK, France, Spain, Germany or Italy and another Member State. The following outline will therefore concentrate on all treaties between these five countries and the other 20 EU Member States during the period 2001-2005.[257]

However, the MERLIN database is not yet complete and does not contain all co-production agreements in effect. Part A of this study (Chapter 2 above) identified some co-production agreements not found in the MERLIN database, which should also be referenced here. However, whereas Part A identified the co-production agreements, Part E's objective is to provide a synopsis of their requirements. This requires more detail about each particular agreement than found in Part A. This detail is available from the MERLIN database for the 36 co-production agreements included in it (for example, identifying maximum proportion of spend required). Therefore, although we can acknowledge the existence of bilateral co-production treaties beyond the 36 found in MERLIN, for the detailed synopsis below we can only look at those agreements found in MERLIN.

The following additional bilateral co-production agreements have been identified in Part A of this study:

Netherlands and Germany; Netherlands and Slovakia; Poland and Lithuania; Poland and Latvia; Poland and Germany; Poland and Slovakia.[258]

It is also important to note that the EU25 Member States are also party to the European Convention on Cinematographic Co-production. This convention applies to multilateral co-productions between three or more co-producers, and

[256] Bilateral treaties were investigated in particular for two reasons. First, these were the treaties for which data were available from the MERLIN database. Second, data on co-productions obtained from the European Audiovisual Observatory were for bilateral co-productions only.

[257] These cover agreements that have been formed during the reference period, as well as agreements which may have been in place previous to the reference period but are still valid to date. If a EU25 Member does not hold agreements with other EU25 Members, it has not been listed here.

[258] In addition to these bilateral treaties between Member States, the following agreements are worth noting. Belgium's two Communities have made agreements: the French-speaking Community of Belgium has a co-production treaty with Portugal, and the Flemish-speaking Community has one with the Netherlands. The Baltic States act closely in cultural matters, and in 2005 a trilateral co-production agreement was signed between Latvia, Lithuania and Estonia. Latvia and Austria have close co-operation with one another with regard to the arts, but have no official bilateral agreement at the government level (http://www.am.gov.lv/en/policy/bilateral-relations/4542/Austria/). Austria and Luxembourg signed a co-production agreement in early 2006, but this falls outside our reference period.

enforces a maximum contribution of 70% of the total budget from one co-producer and a minimum of 10%. Importantly, the Convention applies in the case of bilateral co-productions when no bilateral agreement already exists between two Member States (in which case the maximum contribution is 80% and the minimum is 20%). Thus the Convention should be considered when we look at quantitative data on bilateral co-productions below.

Table 7.1 summarises the key elements of the co-production treaties as detailed in the MERLIN database.

The majority of co-production agreements between EU25 Member States[259] cover cinematographic films of any length and genre, and require a minimum financial contribution of 20%-30%, a maximum contribution of 70%-80%, as well as technical and creative contributions from all co-producing countries. Article 6, Paragraph 2 of the European Convention stipulates: *"When this Convention takes the place of a bilateral agreement between two Parties under the provisions of Article 2, paragraph 4, the minimum contribution may not be less than 20% and the largest contribution may not exceed 80% of the total production cost of the cinematographic work."*[260] Thus where the Convention acts as a bilateral agreement its central financial requirements are similar to currently existing bilateral co-production agreements.

The key elements of the treaties as summarised in the present chapter have been chosen with regard to their level of importance in relation to territorialisation requirements, and are those which would be addressed in each co-production agreement.

They include:

- Minimum Spend: ie the minimum financial commitment a co-producing party must make to the whole production
- Maximum Spend: ie the maximum financial input beyond which a co-producing party may not contribute to the whole production
- Productions Included: ie the type of audiovisual content that is explicitly covered by the co-production agreement
- Technical Contribution Required: ie whether the agreement explicitly requires technical input from all co-producing countries
- Creative Contribution Required: ie whether the agreement explicitly requires creative input from all co-producing countries
- Financial Contribution Alone Possible: ie whether it is possible, as an exception, for a co-producing country to make merely a financial contribution without the technical or creative input.

[259] Here we are referring to co-production agreements between two countries, rather than agreements between two funding bodies from two different countries.
[260] http://conventions.coe.int/Treaty/en/Treaties/Html/147.htm.

**TABLE 7.1: CO-PRODUCTION AGREEMENTS BETWEEN THE FIVE MAIN CO-PRODUCING EU25 MEMBERS & OTHER EU25 MEMBER STATES**

| | Italy | France | Spain | Germany | UK |
|---|---|---|---|---|---|
| **Austria** | | | | | |
| Minimum Spend | 30% (20% for exceptional productions) | 20% | 25% (15% ) | 30% (10-20% for exceptional productions) | - |
| Maximum Spend | 70% | 80% | 75% | 70% | - |
| Productions Included | Films of any Length | Cinematographic Works Only | Films of any Length | Films | - |
| Technical Contribution required | Yes | Yes | Yes | Yes | - |
| Creative Contribution required | Yes | Yes | Yes | Yes | - |
| Financial Contribution Only Possible | No | No | No | No | - |
| | **Italy** | **France** | **Spain** | **Germany** | **UK** |
| **Belgium** | | | | | |
| Minimum Spend | 30% (20% for exceptional productions) | A new agreement has been signed but as yet not approved | - | 30% (20% for exceptional productions) | - |
| Maximum Spend | 70% | - | - | 70% | - |
| Productions Included | Films of any Length | - | - | Cultural and feature films, documentaries | - |
| Technical Contribution required | Not evident from treaty | - | - | Yes | - |
| Creative Contribution required | Not evident from treaty | - | - | Yes | - |
| Financial Contribution Only Possible | Not evident from treaty | - | - | No | - |
| | **Italy** | **France** | **Spain** | **Germany** | **UK** |
| **Czech Republic** | | | | | |
| Minimum Spend | 30% (20% for exceptional productions) | 30% | - | - | - |
| Maximum Spend | 70% | 70% | - | - | - |
| Productions Included | Films of any Length | Cinematographic Only | - | - | - |
| Technical Contribution required | Not evident from treaty | Yes | - | - | - |
| Creative Contribution required | Not evident from treaty | Yes | - | - | - |
| Financial Contribution Only Possible | Not evident from treaty | No | - | - | - |

**TABLE 7.1: CO-PRODUCTION AGREEMENTS BETWEEN THE FIVE MAIN CO-PRODUCING EU25 MEMBERS & OTHER EU25 MEMBER STATES**

| | Italy | France | Spain | Germany | UK |
|---|---|---|---|---|---|
| **Denmark** | | | | | |
| Minimum Spend | - | 25% | - | - | - |
| Maximum Spend | - | 75% | - | - | - |
| Productions Included | - | Cinematographic of any Length | - | - | - |
| Technical Contribution required | - | Yes | - | - | - |
| Creative Contribution required | - | Yes | - | - | - |
| Financial Contribution Only Possible | - | No | - | - | - |
| | **Italy** | **France** | **Spain** | **Germany** | **UK** |
| **Finland** | | | | | |
| Minimum Spend | - | 30% | - | - | - |
| Maximum Spend | - | 70% | - | - | - |
| Productions Included | - | Cinematographic of any Length | - | - | - |
| Technical Contribution required | - | Yes | - | - | - |
| Creative Contribution required | - | Yes | - | - | - |
| Financial Contribution Only Possible | - | No | - | - | - |
| | **Italy** | **France** | **Spain** | **Germany** | **UK** |
| **France** | | | | | |
| Minimum Spend | 10% (5% for exceptional productions) | - | 20% | 20% | 20% |
| Maximum Spend | 90% | - | 80% | 80% | 80% |
| Productions Included | Cinematographic films of any length and genre | - | Cinematographic films of any length and genre | Full length films of any genre | Films |
| Technical Contribution required | Yes | - | Yes | Yes | Yes |
| Creative Contribution required | Yes | - | Yes | Yes | Yes |
| Financial Contribution Only Possible | No | - | No | No | Yes (20%-30%) |
| | **Italy** | **France** | **Spain** | **Germany** | **UK** |
| **Germany** | | | | | |
| Minimum Spend | 20% | 20% | 20% | - | 30% |
| Maximum Spend | 80% | 80% | 80% | - | 70% |

**TABLE 7.1: CO-PRODUCTION AGREEMENTS BETWEEN THE FIVE MAIN CO-PRODUCING EU25 MEMBERS & OTHER EU25 MEMBER STATES**

| | | | | | |
|---|---|---|---|---|---|
| Productions Included | cinematographic works of any length, genre or medium | Full length films of any genre | Cinematographic works | - | Full length films of any genre |
| Technical Contribution required | Either technical or Creative contribution, not both | Yes | Yes | - | Yes |
| Creative Contribution required | Either technical or Creative contribution, not both | Yes | Yes | - | Yes |
| Financial Contribution Only Possible | Yes (10-25%) | No | Yes (20-25%) | - | No |
| | **Italy** | **France** | **Spain** | **Germany** | **UK** |
| **Greece** | | | | | |
| Minimum Spend | - | 30% (20% for exceptional productions) | - | - | - |
| Maximum Spend | - | 70% | - | - | - |
| Productions Included | - | Films of any Length | - | - | - |
| Technical Contribution required | - | Yes | - | - | - |
| Creative Contribution required | - | Yes | - | - | - |
| Financial Contribution Only Possible | - | No | - | - | - |
| | **Italy** | **France** | **Spain** | **Germany** | **UK** |
| **Hungary** | | | | | |
| Minimum Spend | 30% | 30% | - | - | - |
| Maximum Spend | 70% | 70% | - | - | - |
| Productions Included | Films of any Genre | cinematographic works | - | - | - |
| Technical Contribution required | Yes | Yes | - | - | - |
| Creative Contribution required | Yes | Yes | - | - | - |
| Financial Contribution Only Possible | No | No | - | - | - |
| | **Italy** | **France** | **Spain** | **Germany** | **UK** |
| **Italy** | | | | | |
| Minimum Spend | - | 10% (5% for exceptional productions) | 20% | 20% | 20% |
| Maximum Spend | - | 90% | 80% | 80% | 80% |

**TABLE 7.1: CO-PRODUCTION AGREEMENTS BETWEEN THE FIVE MAIN CO-PRODUCING EU25 MEMBERS & OTHER EU25 MEMBER STATES**

| | | | | | |
|---|---|---|---|---|---|
| Productions Included | - | Cinematographic films of any length and genre | Feature films, of any genre | Cinematographic works of any length, genre or medium | cinematographic works of any length or medium |
| Technical Contribution required | - | Yes | Yes | Either technical or Creative contribution, not both | Yes |
| Creative Contribution required | - | Yes | Yes | Either technical or Creative contribution, not both | Yes |
| Financial Contribution Only Possible | - | No | No | Yes (10-25%) | Yes (20-25%) |
| | **Italy** | **France** | **Spain** | **Germany** | **UK** |
| **Luxembourg** | | | | | |
| Minimum Spend | - | 10% | - | 20% | - |
| Maximum Spend | - | 90% | - | 80% | - |
| Productions Included | - | Cinematographic films of any length and genre | - | Cinematographic and TV films of any length, genre or medium | - |
| Technical Contribution required | - | Yes | - | Yes | - |
| Creative Contribution required | - | Yes | - | Yes | - |
| Financial Contribution Only Possible | - | No | - | Yes (minimum of 20%) | - |
| | **Italy** | **France** | **Spain** | **Germany** | **UK** |
| **Netherlands** | | | | | |
| Minimum Spend | - | 20% | - | - | - |
| Maximum Spend | - | 80% | - | - | - |
| Productions Included | - | Cinematographic films of any length and genre | - | - | - |
| Technical Contribution required | - | Yes | - | - | - |
| Creative Contribution required | - | Yes | - | - | - |
| Financial Contribution Only Possible | - | No | - | - | - |
| | **Italy** | **France** | **Spain** | **Germany** | **UK** |
| **Poland** | | | | | |
| Minimum Spend | | 30% | - | - | - |
| Maximum Spend | | 70% | - | - | - |

**TABLE 7.1: CO-PRODUCTION AGREEMENTS BETWEEN THE FIVE MAIN CO-PRODUCING EU25 MEMBERS & OTHER EU25 MEMBER STATES**

| | | | | | |
|---|---|---|---|---|---|
| Productions Included | | Cinematographic works | - | - | - |
| Technical Contribution required | | Yes | - | - | - |
| Creative Contribution required | | Yes | - | - | - |
| Financial Contribution Only Possible | | No | - | - | - |
| | **Italy** | **France** | **Spain** | **Germany** | **UK** |
| **Portugal** | | | | | |
| Minimum Spend | 20% | 30% (20% for exceptional productions) | 20% | 30% (20% for exceptional productions) | - |
| Maximum Spend | 80% | 70% | 80% | 70% | - |
| Productions Included | cinematographic works of any length, genre or medium | cinematographic works | Films of any length, genre or medium | Films | - |
| Technical Contribution required | Yes | Yes | Yes | Yes | - |
| Creative Contribution required | Yes | Yes | Yes | Yes | - |
| Financial Contribution Only Possible | Yes (minimum of 20%) | No | No | No | - |
| | **Italy** | **France** | **Spain** | **Germany** | **UK** |
| **Slovakia** | | | | | |
| Minimum Spend | 30% (20% for exceptional productions) | 30% | - | - | - |
| Maximum Spend | 70% | 70% | - | - | - |
| Productions Included | Films of any Length | Cinematographic works | - | - | - |
| Technical Contribution required | Yes | Yes | - | - | - |
| Creative Contribution required | Yes | Yes | - | - | - |
| Financial Contribution Only Possible | No | No | - | - | - |
| | **Italy** | **France** | **Spain** | **Germany** | **UK** |
| **Spain** | | | | | |
| Minimum Spend | 20% | 20% | - | 20% | - |
| Maximum Spend | 80% | 80% | - | 80% | - |

**TABLE 7.1: CO-PRODUCTION AGREEMENTS BETWEEN THE FIVE MAIN CO-PRODUCING EU25 MEMBERS & OTHER EU25 MEMBER STATES**

| | | | | | |
|---|---|---|---|---|---|
| Productions Included | Feature films of any genre | Cinematographic films of any length and genre | - | Cinematographic works | - |
| Technical Contribution required | Yes | Yes | - | Yes | - |
| Creative Contribution required | Yes | Yes | - | Yes | - |
| Financial Contribution Only Possible | No | No | - | Yes (20-25%) | - |
| | **Italy** | **France** | **Spain** | **Germany** | **UK** |
| **Sweden** | | | | | |
| Minimum Spend | 30% (25% for exceptional productions) | 30% | - | 30% | - |
| Maximum Spend | 70% | 70% | - | 70% | - |
| Productions Included | Full length films | Cinematographic works | - | Full length films (Short films in exceptional circumstances) | - |
| Technical Contribution required | Yes | Yes | - | Yes | - |
| Creative Contribution required | Yes | Yes | - | Yes | - |
| Financial Contribution Only Possible | No | No | - | No | - |
| | **Italy** | **France** | **Spain** | **Germany** | **UK** |
| **UK** | | | | | |
| Minimum Spend | 20% | 20% | - | 30% | - |
| Maximum Spend | 80% | 80% | - | 70% | - |
| Productions Included | Cinematographic works of any length or medium | Films | - | Full length films of any genre | - |
| Technical Contribution required | Yes | Yes | - | Yes | - |
| Creative Contribution required | Yes | Yes | - | Yes | - |
| Financial Contribution Only Possible | Yes (20-25%) | Yes (20%-30%) | - | No | - |

## 7.2. Number of co-productions

This section outlines the number of bilateral co-productions produced between countries that apply territorialisation and those that do not.[261] Tables 7.2 and 7.3 summarise the co-production activity between EU25 Member States during the period (2001-2005). During this period, 1,009 bilateral co-productions were made between EU25 Member States.

The data were provided to the consultants by the EAO, largely drawn from the LUMIERE admissions database. There are limitations to these data. It is not possible to differentiate between majority and minority co-productions from these data. It is therefore not possible to work out how many co-productions a particular country was the majority partner in. Films with a production year prior to 2001 have been excluded but films that were commercially released in 2006 or beyond, even if they entered production in the reference period, have not been included as admissions data were unavailable and thus did not form part of the LUMIERE database. It should also be noted that for some countries, eg Greece, few admissions data are available, and so films from these countries may be under-represented. Finally, films that the EAO consider "co-financements" (which in general are films made with US partners on a financial basis) are not included. Given that we are looking at co-productions between EU Member States, the consultants do not believe this poses a problem to the data presented. The consultants also believe, having completed extensive desk research into available data on total co-productions between Member States, that the data provided by the EAO are the most comprehensive available for the reference period.

When considering the data in Tables 7.3 and 7.4 it is clear that there are co-productions between countries where no bilateral agreements have been found in the MERLIN database, or among the additional bilateral treaties identified under Part A (see Chapter 2). Of the 1,009 bilateral co-productions in 2001-2005, 317 (31%) were between countries where treaties were not identified in MERLIN or in Chapter 2 (Part A) of this report. Table 7.2 indicates co-production partnerships found in the EAO data that are not covered by the treaties summarised above. Many are likely to be covered by the European Convention on Cinematographic Co-productions, acting as a bilateral co-production treaty when one did not exist beforehand. However, it is also possible that here we are seeing an indication of informal co-operation between countries (or of so-called "runaway" productions). However, as explained, this dataset has generally avoided referencing films that are essentially US productions made in Europe, which does reduce the number of runaway productions that are likely to have been captured. The data are, however, not detailed enough for us to go down to a production-by-production level, so we cannot specify how many co-productions are being made by informal agreement compared to those completed under the European Convention.

[261] As noted before, for data at this level of detail, the EAO were only able to provide data on bilateral co-productions.

## TABLE 7.2: BILATERAL CO-PRODUCTIONS, 2001-2005, COMPLETED OUTSIDE OF BILATERAL AGREEMENTS CAPTURED IN MERLIN DATABASE OR PART A

| | Country | Co-production Partner |
|---|---|---|
| Territorialised | Austria | Hungary, Netherlands, UK, Czech Republic, Slovakia |
| | Belgium | Spain, UK, Denmark, Slovakia, Luxembourg |
| | Estonia | France, Germany, Finland, Latvia |
| | France | Ireland, Slovenia, Estonia |
| | Germany | Greece, Hungary, Ireland, Czech Republic, Denmark, Estonia, Finland, Slovakia |
| | Greece | Germany, Italy, Czech Republic |
| | Hungary | Austria, Poland, UK, Finland, Slovakia, Sweden |
| | Ireland | France, Germany, Italy, Netherlands, Poland, UK, Denmark |
| | Italy | Greece, Ireland, Netherlands, Luxembourg |
| | Luxembourg | Belgium, Italy, Netherlands, Portugal, UK, Sweden |
| | Netherlands | Austria, Ireland, Italy, Portugal, Spain, UK, Denmark, Czech Republic, Luxembourg, Sweden |
| | Poland | Ireland, Sweden |
| | Portugal | Netherlands, Luxembourg, Sweden |
| | Slovenia | Czech Republic |
| | Spain | Belgium, Netherlands, Denmark, UK |
| | UK | Austria, Belgium, Hungary, Ireland, Netherlands, Spain, Czech Republic, Denmark, Finland, Lithuania, Luxembourg, Sweden |
| Non-territorialised | Cyprus | N/A |
| | Czech R. | Austria, Germany, Greece, Netherlands, Slovenia, UK, Denmark, Estonia, Finland, Slovakia |
| | Denmark | Belgium, Germany, Ireland, Netherlands, Spain, UK, Finland, Sweden |
| | Finland | Germany, Hungary, UK, Sweden |
| | Latvia | Estonia |
| | Lithuania | UK |
| | Malta | N/A |
| | Slovakia | Austria, Belgium, France, Germany, Hungary, Czech Republic |
| | Sweden | Hungary, Netherlands, Poland, Portugal, UK, Denmark, Finland, Luxembourg |

**Table 7.3 Number of co-productions**

| | Austria | Belgium | Estonia | France | Germany | Greece | Hungary | Ireland | Italy | Luxembourg | Netherlands | Poland | Portugal | Slovenia | Spain | UK | Cyprus | Czech R. | Denmark | Finland | Latvia | Lithuania | Malta | Slovakia | Sweden |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Austria | | 0 | 0 | 5 | 22 | 0 | 1 | 0 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 2 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 1 | 0 |
| Belgium | 0 | | 0 | 111 | 5 | 0 | 0 | 0 | 2 | 4 | 16 | 0 | 0 | 0 | 1 | 2 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 1 | 0 |
| Estonia | 0 | 0 | | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 5 | 2 | 0 | 0 | 0 | 0 |
| France | 5 | 111 | 1 | | 57 | 6 | 2 | 2 | 72 | 9 | 6 | 5 | 22 | 1 | 55 | 74 | 0 | 3 | 6 | 3 | 0 | 0 | 0 | 0 | 1 |
| Germany | 22 | 5 | 1 | 57 | | 2 | 7 | 6 | 16 | 6 | 14 | 4 | 0 | 0 | 13 | 57 | 0 | 4 | 7 | 6 | 0 | 0 | 0 | 1 | 4 |
| Greece | 0 | 0 | 0 | 6 | 2 | | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Hungary | 1 | 0 | 0 | 2 | 7 | 0 | | 0 | 10 | 0 | 0 | 1 | 0 | 0 | 0 | 4 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 1 | 1 |
| Ireland | 0 | 0 | 0 | 2 | 6 | 0 | 0 | | 1 | 0 | 1 | 1 | 0 | 0 | 0 | 27 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 |
| Italy | 0 | 2 | 0 | 72 | 16 | 2 | 10 | 1 | | 4 | 5 | 0 | 1 | 0 | 36 | 40 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 1 |
| Luxembourg | 1 | 4 | 0 | 9 | 6 | 0 | 0 | 0 | 4 | | 4 | 0 | 1 | 0 | 0 | 6 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 |
| Netherlands | 1 | 16 | 0 | 6 | 14 | 0 | 0 | 1 | 5 | 4 | | 0 | 1 | 0 | 4 | 14 | 0 | 1 | 5 | 0 | 0 | 0 | 0 | 1 | 1 |
| Poland | 0 | 0 | 0 | 5 | 4 | 0 | 1 | 1 | 0 | 0 | 0 | | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 3 |
| Portugal | 0 | 0 | 0 | 22 | 0 | 0 | 0 | 0 | 1 | 1 | 1 | 0 | | 0 | 13 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 |
| Slovenia | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Spain | 0 | 1 | 0 | 55 | 13 | 0 | 0 | 0 | 36 | 0 | 4 | 0 | 13 | 0 | | 29 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 |
| UK | 2 | 2 | 0 | 74 | 57 | 0 | 4 | 27 | 40 | 6 | 14 | 0 | 0 | 0 | 29 | | 0 | 2 | 21 | 2 | 0 | 1 | 0 | 0 | 4 |
| Cyprus | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Czech R. | 2 | 0 | 1 | 3 | 4 | 1 | 0 | 0 | 1 | 0 | 1 | 0 | 0 | 1 | 0 | 2 | 0 | | 1 | 1 | 0 | 0 | 0 | 15 | 0 |
| Denmark | 0 | 2 | 0 | 6 | 7 | 0 | 0 | 2 | 0 | 0 | 5 | 0 | 0 | 0 | 2 | 21 | 0 | 1 | | 3 | 0 | 0 | 0 | 0 | 46 |
| Finland | 0 | 0 | 5 | 3 | 6 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 0 | 1 | 3 | | 0 | 0 | 0 | 0 | 23 |
| Latvia | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | 0 | 0 | 0 | 0 |
| Lithuania | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | | 0 | 0 | 0 |
| Malta | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | 0 | 0 |
| Slovakia | 1 | 1 | 0 | 0 | 1 | 0 | 1 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 15 | 0 | 0 | 0 | 0 | 0 | | 0 |
| Sweden | 0 | 0 | 0 | 1 | 4 | 0 | 1 | 0 | 1 | 1 | 1 | 3 | 2 | 0 | 0 | 4 | 0 | 0 | 46 | 23 | 0 | 0 | 0 | 0 | |

Source(s): European Audiovisual Observatory/Rambøll Management/DGA.

Note(s): Countries highlighted in grey represent Member States that apply territorialisation, whereas non-highlighted Member States do not apply territorialisation. Thus, dark blue fields correspond to co-productions between two territorialised countries, light blue fields stand for co-productions between one territorialised and one non-territorialised Member State, and white fields signify co-productions between two Member States that do not apply territorialisation.

**Table 7.4 Number of co-productions in relation to total number of feature films produced by the country listed in rows (%)**

| | Austria | Belgium | Estonia | France | Germany | Greece | Hungary | Ireland | Italy | Luxembourg | Netherlands | Poland | Portugal | Slovenia | Spain | UK | Cyprus | Czech R. | Denmark | Finland | Latvia | Lithuania | Malta | Slovakia | Sweden |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Austria | | 0 | 0 | 5 | 21 | 0 | 1 | 0 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 2 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 1 | 0 |
| Belgium | 0 | | 0 | 67 | 3 | 0 | 0 | 0 | 1 | 2 | 10 | 0 | 0 | 0 | 1 | 1 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 1 | 0 |
| Estonia | 0 | 0 | | 6 | 6 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 6 | 0 | 31 | 13 | 0 | 0 | 0 | 0 |
| France | 0 | 10 | 0 | | 5 | 1 | 0 | 0 | 7 | 1 | 1 | 0 | 2 | 0 | 5 | 7 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 |
| Germany | 4 | 1 | 0 | 10 | | 0 | 1 | 1 | 3 | 1 | 2 | 1 | 0 | 0 | 2 | 10 | 0 | 1 | 1 | 1 | 0 | 0 | 0 | 0 | 1 |
| Greece | 0 | 0 | 0 | 6 | 2 | | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Hungary | 1 | 0 | 0 | 2 | 6 | 0 | | 0 | 9 | 0 | 0 | 1 | 0 | 0 | 0 | 4 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 1 | 1 |
| Ireland | 0 | 0 | 0 | 4 | 13 | 0 | 0 | | 2 | 0 | 2 | 2 | 0 | 0 | 0 | 57 | 0 | 0 | 4 | 0 | 0 | 0 | 0 | 0 | 0 |
| Italy | 0 | 0 | 0 | 12 | 3 | 0 | 2 | 0 | | 1 | 1 | 0 | 0 | 0 | 6 | 7 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Luxembourg | 2 | 7 | 0 | 16 | 11 | 0 | 0 | 0 | 7 | | 7 | 0 | 2 | 0 | 0 | 11 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 |
| Netherlands | 1 | 11 | 0 | 4 | 9 | 0 | 0 | 1 | 3 | 3 | | 0 | 1 | 0 | 3 | 9 | 0 | 1 | 3 | 0 | 0 | 0 | 0 | 1 | 1 |
| Poland | 0 | 0 | 0 | 4 | 3 | 0 | 1 | 1 | 0 | 0 | 0 | | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 |
| Portugal | 0 | 0 | 0 | 25 | 0 | 0 | 0 | 0 | 1 | 1 | 1 | 0 | | 0 | 15 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 |
| Slovenia | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Spain | 0 | 0 | 0 | 9 | 2 | 0 | 0 | 0 | 6 | 0 | 1 | 0 | 2 | 0 | | 5 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| UK | 0 | 0 | 0 | 18 | 14 | 0 | 1 | 7 | 10 | 1 | 3 | 0 | 0 | 0 | 7 | | 0 | 0 | 5 | 0 | 0 | 0 | 0 | 0 | 1 |
| Cyprus | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Czech R. | 2 | 0 | 1 | 3 | 4 | 1 | 0 | 0 | 1 | 0 | 1 | 0 | 0 | 1 | 0 | 2 | 0 | | 1 | 1 | 0 | 0 | 0 | 15 | 0 |
| Denmark | 0 | 1 | 0 | 4 | 4 | 0 | 0 | 1 | 0 | 0 | 3 | 0 | 0 | 0 | 1 | 12 | 0 | 1 | | 2 | 0 | 0 | 0 | 0 | 27 |
| Finland | 0 | 0 | 7 | 4 | 8 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 3 | 0 | 1 | 4 | | 0 | 0 | 0 | 0 | 31 |
| Latvia | 0 | 0 | 13 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | 0 | 0 | 0 | 0 |
| Lithuania | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 17 | 0 | 0 | 0 | 0 | 0 | | 0 | 0 | 0 |
| Malta | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | 0 | 0 |
| Slovakia | 4 | 4 | 0 | 0 | 4 | 0 | 4 | 0 | 0 | 0 | 4 | 0 | 0 | 0 | 0 | 0 | 0 | 60 | 0 | 0 | 0 | 0 | 0 | | 0 |
| Sweden | 0 | 0 | 0 | 1 | 2 | 0 | 1 | 0 | 1 | 1 | 1 | 2 | 1 | 0 | 0 | 2 | 0 | 0 | 25 | 12 | 0 | 0 | 0 | 0 | |

Source(s) : European Audiovisual Observatory/Rambøll Management/DGA.

**CHART 7.1: NUMBER OF CO-PRODUCTIONS BETWEEN TERRITORIALISED, TERRITORIALISED AND NON-TERRITORIALISED AND NON-TERRITORIALISED EU25 MEMBER STATES, 2001-2005**

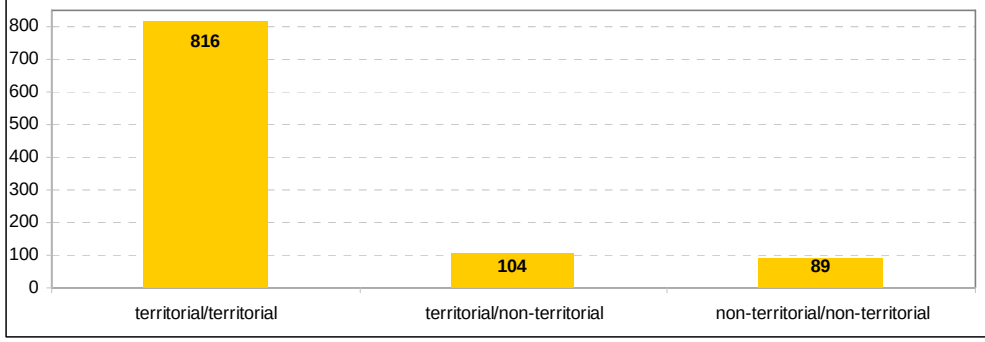



Chart 7.1 shows that the large majority (80.9%) of all co-productions between EU Member States made between 2001 and 2005 were between countries that apply territorialisation. Only 10.3% of co-productions were between countries that apply territorialisation and those that do not, and even fewer (8.8%) co-productions were made between EU counties that do not apply territorialisation.

The main co-producing EU countries, involved in 84.5% of all co-productions made between 2001 and 2005, are France, Germany, Italy, Spain and the UK, all of which apply territorialisation.

**CHART 7.2: CO-PRODUCTIONS OF THE FIVE MAIN CO-PRODUCING EU25 MEMBER STATES, TOTAL PRODUCTIONS VS. TOTAL EU25 CO-PRODUCTIONS WITH TERRITORIALISED PARTNER VS. TOTAL EU25 CO-PRODUCTIONS WITHOUT TERRITORIALISED PARTNER, 2001-2005**

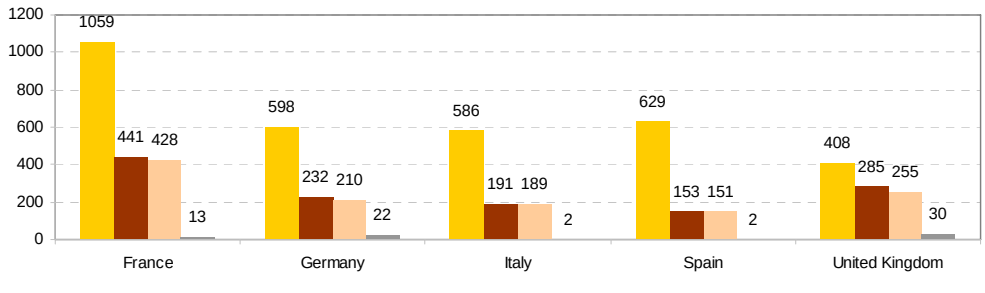



Chart 7.2[262] shows that, on average, 41% of total productions in these five countries are EU 25 co-productions, of which an average of 94.9% are made with other producers from EU Member States that also apply territorialisation, leaving only 5.1% of co-productions being made with countries that do not apply territorialisation.

[262] It should be noted that the total number of productions for an individual country includes national as well as international productions.

## 7.3. Co-productions between Member States not applying Territorialisation

The EU Member States that do not apply territorialisation are Cyprus, the Czech Republic, Denmark, Finland, Latvia, Lithuania, Malta, Slovakia and Sweden. Of these, only Cyprus and Malta made no co-productions at all between 2001 and 2005.

Chart 7.3 shows that of a total of 89 co-productions between non-territorialised EU countries, Sweden was involved in more than 77.5%, while Denmark took a part in more than half of the productions. Finland (30.3%), the Czech Republic (19.1%) and Slovakia (16.9%) were also involved in a number of these co-productions. Latvia and Lithuania made no co-productions with non-territorialised countries during the 2001-2005 period.

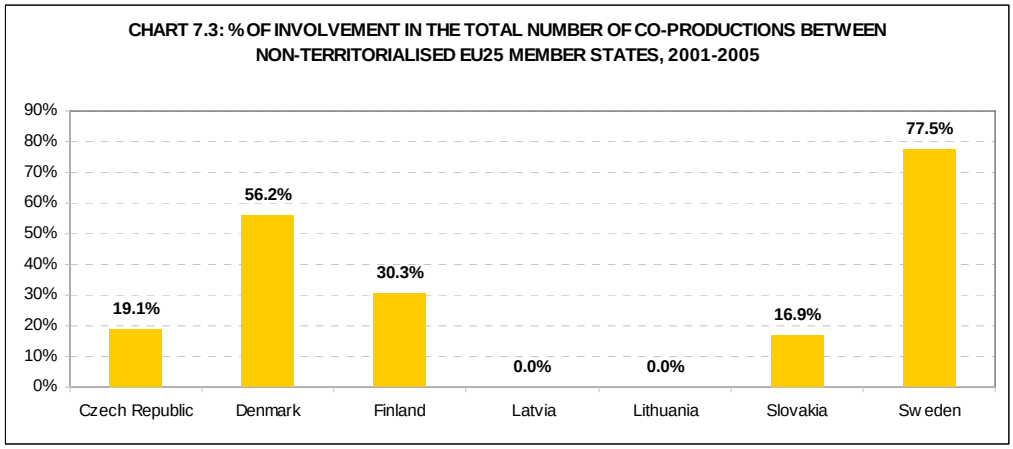



Chart 7.4 shows the total number of productions in non-territorialised countries during the reference period. It also shows the number of these productions that were co-productions, as well as the number of these co-productions that were made with other countries that also do not apply territorialisation.

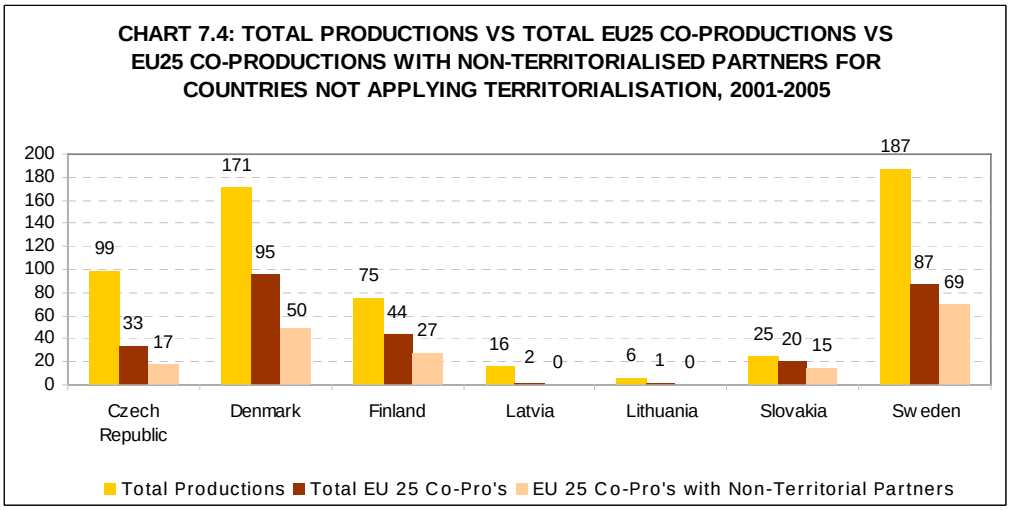



Chart 7.4 shows that, on average, 43.3% of a non-territorialised country's total productions are co-productions, of which an average of 45.6% are made with other producers from EU member countries that also do not apply

territorialisation. However, it should also be clear that there is a large amount of variety from country to country in the proportion of total productions that are co-productions. For example, the Czech Republic has 33% of its productions being co-productions, whereas Denmark has 56%, Finland 59% and Sweden 46%. It is also evident from this that the fewer total productions a country makes, the more likely it is that the majority of these will be co-productions. These figures do suggest that very small industries may be more likely to co-produce. However, the figures for the more stable and larger industries in Czech Republic, Denmark, Sweden and Finland do not show a direct relationship between the size and stability of an industry and the proportion of all its productions that are co-productions: more stable industries from larger Member States do not necessarily co-produce less. The higher figures for Denmark, Sweden and Finland may have more to do with geographical proximity, as Chart 7.5 indicates.

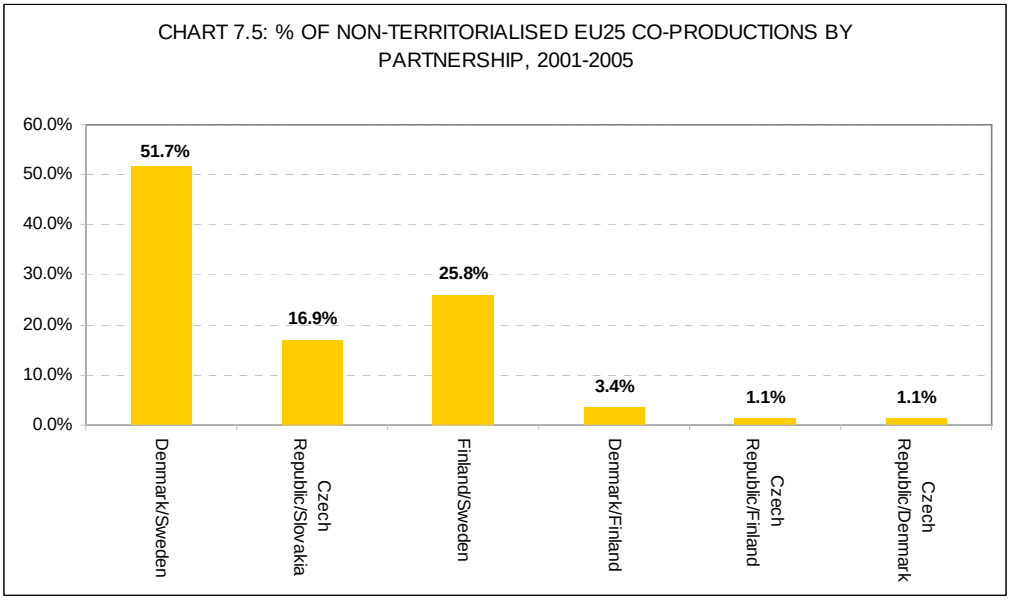



Chart 7.5 depicts all existing co-production partnerships between non-territorialised countries during the reference period. As is evident, there is a strong link between countries of geographical proximity, as over half the co-productions in this group were made between Denmark and Sweden, with over a quarter made by partnerships between Finland and Sweden, and a further 16.9% between the Czech Republic and Slovakia.

## 7.4. Co-productions between Member States applying Territorialisation

The EU Member States that do apply territorialisation are Austria, Belgium, Estonia, France, Germany, Greece, Hungary, Ireland, Italy, Luxembourg, Netherlands, Poland, Portugal, Slovenia, Spain and the UK. All of these countries have participated in at least two co-productions during the reference period 2001 to 2005.

Chart 7.6 illustrates that of a total of 816 co-productions between territorialised EU Member States, France was involved in nearly 53%, while the UK participated in nearly a third of the productions. Germany (25.7%), Italy (23.2%), Spain (18.6%), Belgium (17.3%) and the Netherlands (8.1%) were also involved in a number of these co-productions, whereas Austria, Estonia,

Greece, Hungary, Ireland, Luxembourg, Poland, Portugal and Slovenia were all involved in less than 5% of the productions.

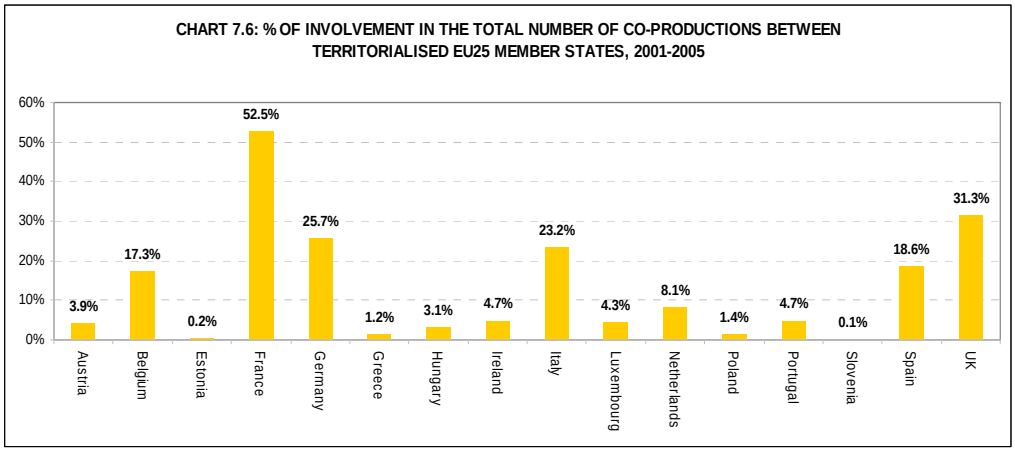
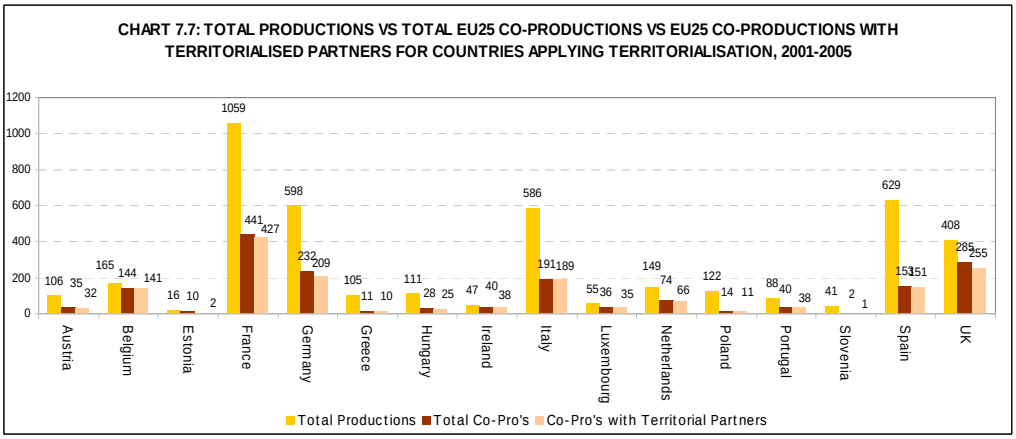
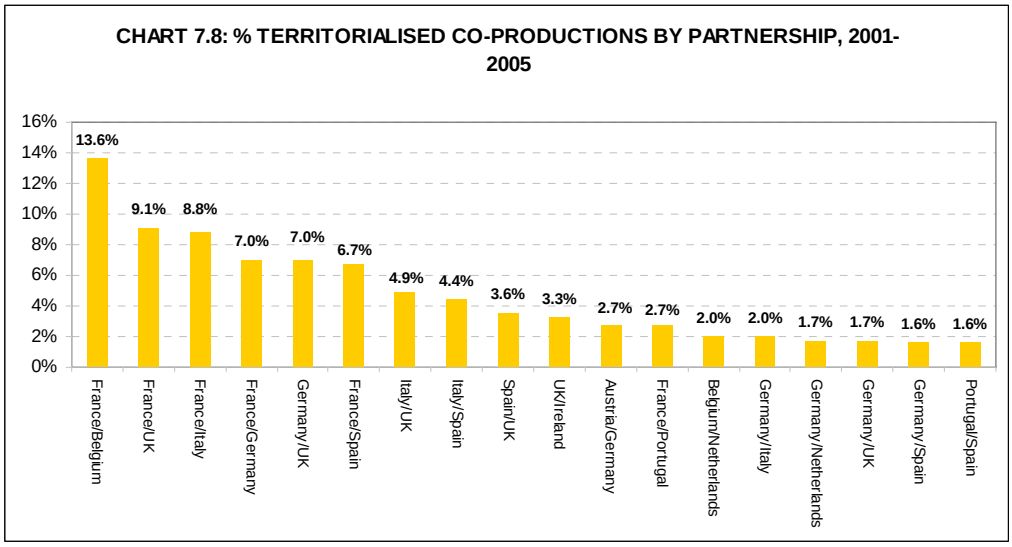



Chart 7.7 shows the total number of productions in territorialised countries during the reference period. It shows also the number of these productions that were EU25 co-productions, as well as the number of these co-productions that were made with other EU25 Member States that also apply territorialisation. The average proportion of all productions that are co-productions for territorialised Member States is 43%. However, this average figure may conceal the fact that there is a great deal of variety from Member State to Member State. But once again we can find no direct relationship between the size and stability of an industry, and the proportion of its total productions that are co-productions. If we take the major industries of France (42% co-productions), Germany (39%), Spain (24.3%), Italy (32.6%) and the UK (69%)[263] we see that large, stable industries may have a lot of co-productions (in the case of UK and France) or rather few (in the case of Spain). Smaller film industries exhibit a similar level of variety: as examples we can use Hungary (25%), Belgium (87%), Portugal (46%) and Greece (10%).




[263] This figure for the UK does seem very high compared to other Member States. If we look at the statistics on film production in the EAO's 2006 Yearbook (Volume 3), we find 408 total productions for the UK, of which 171 were co-productions. This would suggest that the proportion of all productions that are co-productions in the UK is closer to 42%. UK Film Council data, also included in the EAO 2006 Yearbook, shows that for 2002-2005 (shorter than our reference period), 61% of all productions were co-productions (although this includes US-UK co-productions as well). The consultants are unable to validate a reason for the discrepancies between data sources, but it is clear that all data suggests the UK still has a relatively high proportion of all productions being co-productions.

Although there appears to be no direct relationship between the size and stability of a territorialised Member State's industry and its propensity to co-produce, Chart 7.8 indicates that geographical proximity remains an important factor. Chart 7.8 depicts the main co-production partnerships between territorialised countries. These partnerships account for 84% of all co-productions in this group. The remaining 16% include partnerships resulting in less than 10 co-productions over the reference period.[264]




As can be seen, nearly 14% of territorialised co-productions were made between Belgium and France, with a further 9% between France and the UK, and France and Italy respectively.

## 7.5. Co-productions between Member States applying territorialisation and Member States not applying territorialisation

Between these two different groups, there were 104 co-productions made between 2001 and 2005.

Charts 7.9 and 7.10 show that of these 104 co-productions between territorialised and non-territorialised EU countries, Denmark was involved in 43%, while the UK participated in nearly 29% of the co-productions. Germany (21%), Sweden (17%), Finland (16%), the Czech Republic (15%) and France (12%) were also involved in a number of these co-productions, whereas Lithuania, Luxembourg, Greece, and Slovenia were all involved in only 1% of all mixed co-productions.

[264] For purposes of completeness these are: Spain/Portugal, Italy/Hungary, Germany/Hungary, France/Greece, France/Netherlands, Germany/Ireland, Austria/France, Belgium/Germany, France/Poland, Germany/Poland, Austria/UK, Germany/Greece, France/Hungary, France/Ireland, Italy/Greece, Austria/Hungary, Austria/Netherlands, France/Slovenia, Luxembourg/Austria, Luxembourg/Belgium, Luxembourg/France, Luxembourg/Germany, Luxembourg/Italy, Luxembourg/Netherlands, Luxembourg/Portugal, Luxembourg/UK, Estonia/France and Estonia/Germany.

**CHART 7.9: % OF INVOLVEMENT IN THE TOTAL NUMBER OF CO-PRODUCTIONS BETWEEN TERRITORIALISED AND NON-TERRITORIALISED EU MEMBER STATES, 2001-2005**

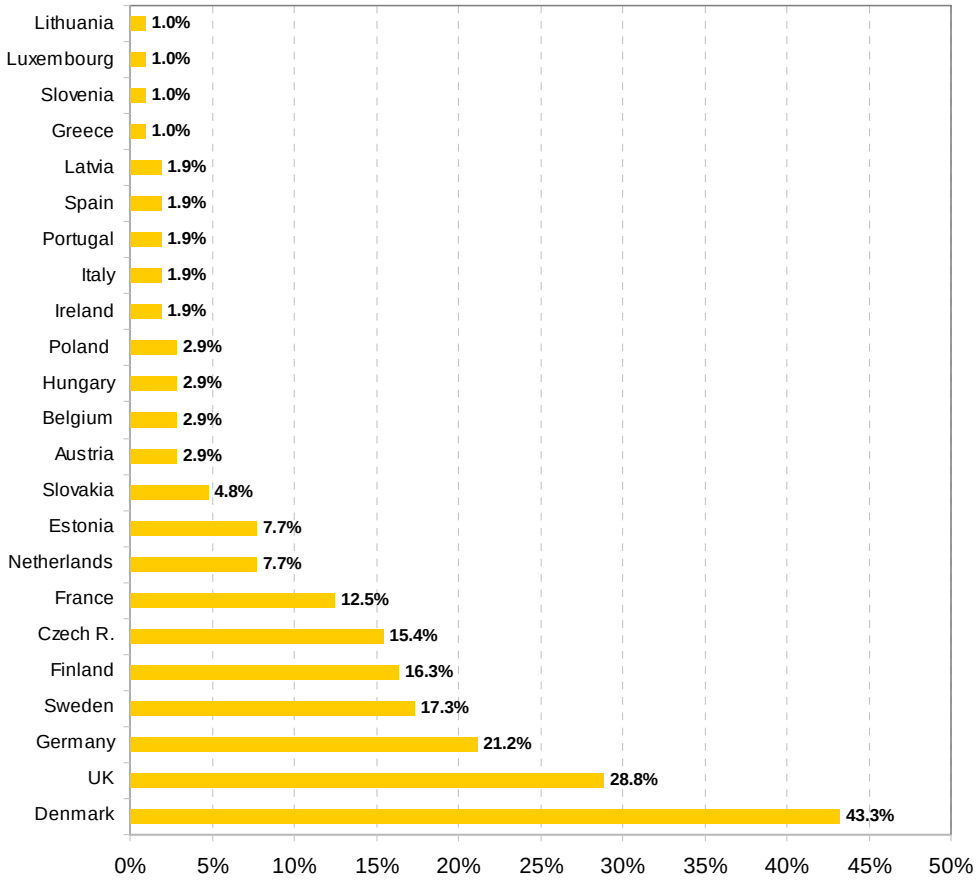


**CHART 7.10: TOTAL NUMBER OF TERRITORIALISED/NON-TERRITORIALISED CO-PRODUCTIONS WITH OTHER EU MEMBER STATES, 2001-2005**

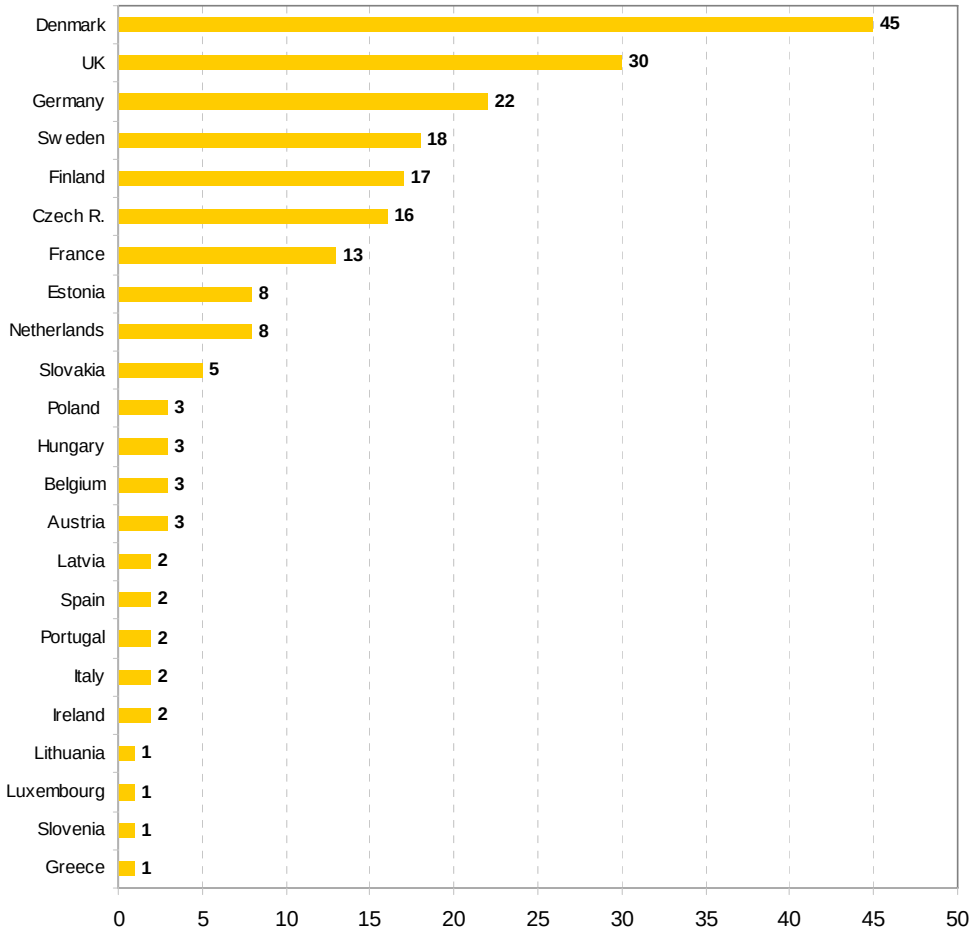
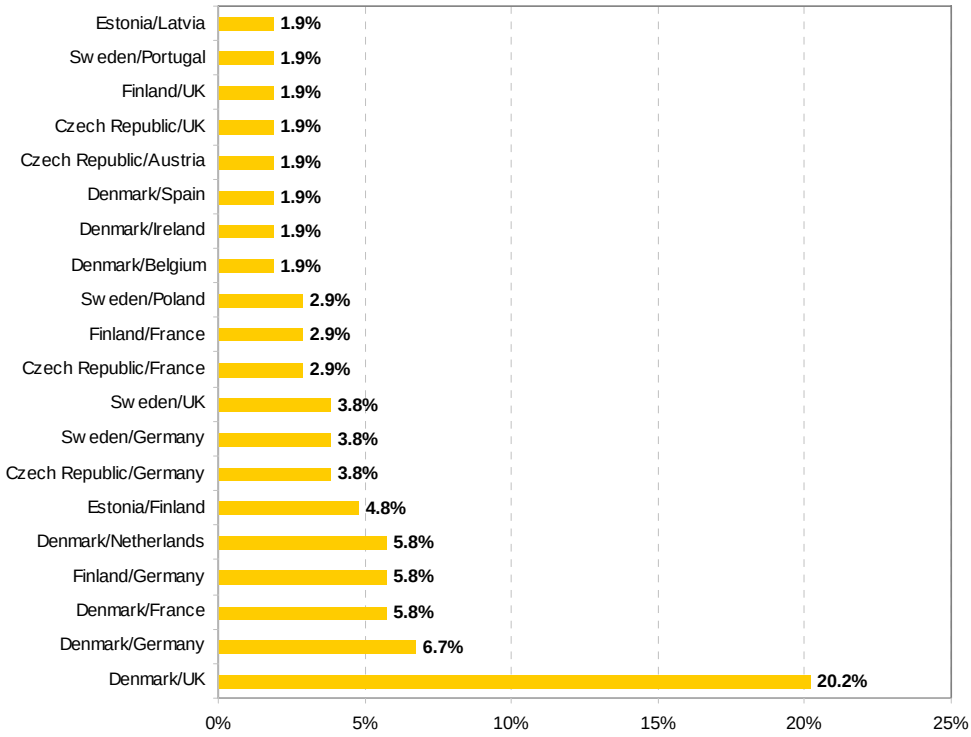



Chart 7.11 indicates the proportion of all territorialised/non-territorialised co-productions created by particular bilateral partnerships. It covers 85% of all these 104 co-productions, with the remaining 15% originating from partnerships that only led to one co-production over the five-year reference period. It is clear from Chart 7.11 that Denmark is involved in the most territorialised/non-territorialised co-productions, covering 20% of all co-productions of this sort. Once again we see that relative geographical proximity appears to lead to an increase in the number of co-productions.

**CHART 7.11: TERRITORIALISED/NON-TERRITORIALISED CO-PRODUCTIONS BY PARTNERSHIP, 2001-2005**




## 7.6. Conclusions

Synopsis of co-production agreements:

- All 36 bilateral co-production treaties between EU25 Member States, as currently detailed in the MERLIN database, are between France, Spain, Germany, Italy or the UK and another Member State. Of the total number of co-productions during the reference period, 84.5% involved one of these five specific Member States.
- Data reported in Chapter 2 (Part A) of this report indicate that the following EU25 bilateral treaties are not included in the MERLIN database: Netherlands and Germany; Netherlands and Slovakia; Poland and Lithuania; Poland and Latvia; Poland and Germany; Poland and Slovakia.
- The European Convention on Cinematographic Co-production applies to all the Member States.
- Most of the bilateral co-production treaties listed in MERLIN require a minimum financial contribution from each partner of 20%-30% of the total spend on the film, therefore requiring a maximum financial contribution of 70%-80%. The European Convention requires a 20% minimum and 80% maximum contribution if it is applied to a bilateral co-production where no previous bilateral agreement exists between the co-producers.

- Generally, technical and creative contributions are also required from all co-producing countries, although a small minority of agreements allow for a co-producing country to only contribute financially. In such cases, the maximum contribution is usually between 10% and 20% of the total spend.

Number of co-productions:

- During the reference period, 1,009 bilateral co-productions were made between EU25 Member States: 816 between two territorialised Member States, 89 between two non-territorialised Member States, and 104 between one Member State applying territorialisation and one that does not.
- 31% of these co-productions appear to be produced outside of the bilateral treaties found in the MERLIN database or the other treaties identified in Part A. These are likely to take place under the European Convention on Cinematographic Co-productions, but informal co-productions and run-away productions may also be taking place.
- On average, Member States applying territorialisation have 43% of their total productions as co-productions. For non-territorialised Member States the average is very similar, at 43.3% co-productions.
- There does not appear to be a direct link between the size and stability of an industry and its propensity to co-produce. Some wealthy, stable territorialised industries had a high proportion of co-productions (eg France at 42%) whereas some had a rather low proportion (eg Spain at 24%). A similar variety existed for non-territorialised countries (eg Czech Republic at 33% and Denmark at 56%). However, there is some evidence that particularly small, non-territorialised film industries may be more likely to co-produce than better established industries.
- There does appear to be a strong link between geographical proximity and co-production, with neighbouring Member States more likely to co-produce with one another.

# 8. Part F: Qualitative Assessment of the Impact of Territorialisation Requirements on Co-productions

## 8.1. Introduction

The aim of this part of the study is to provide a qualitative assessment, based on interviews with key stakeholders and on the conclusions of previous Parts of this study, as to whether territorialisation requirements of aid schemes hinder the production of films under European co-production agreements.

## 8.2. Methodology

To assess the issue of territorialisation in relation to co-productions we explored findings of earlier Parts of this study by means of interviews with stakeholders.

Given the gaps in the data and the various inconsistencies discussed in this report, it is difficult to draw conclusions directly from the current data. Of course, some findings seem clear across all datasets: national productions are more common than co-productions; significant amounts of state aid are territorialised. On their own, these implications of the data cannot answer the question of whether territorialisation does or does not hinder co-productions. Fortunately, however, key data on co-productions can be evaluated alongside qualitative data produced through the interviews and in that way we can address the question.

## 8.3. Qualitative data collection

Qualitative data were acquired through interviews with a broad selection of stakeholders. We chose to interview key people working within the industry and in its support structures. Producers are key stakeholders as they are involved in the initiation of projects, including co-productions, and continue to work on them throughout. Funding and national and regional film bodies (here grouped under the title 'Film Agencies') are also important as they can give crucial insight into the impact of territorialisation.[265] Interviewees have generally come from the countries selected for study in Parts C and D. However, we have also interviewed people from EU institutions, such as those dealing with the MEDIA Programme.

In interviewing those within the industry, we encountered the problem faced by most surveys: those whom we consult have an agenda of their own. In other industries, where public subsidy is concerned, there are sometimes powerful lobbies on both sides of the argument. With the European film industry this is not the case. Most of the stakeholders consulted have an interest in the continuation of support schemes, and clearly-articulated opposition to European film support from within Europe is limited.

[265] We also interviewed a small number of broadcasters and distributors, as other key players in the industry.

The research strategy we pursued for producers in this section required us to ask first whether a respondent had been involved in a co-production.[266] If so, respondents were asked to explain their role in the co-production, their reasons for initiating a co-production and how the funding and the co-production partners were selected. In interviewing non-producing stakeholders, we explored the impact of territorialisation in more general terms. As we are looking here at the impact on co-productions we weighted our sample towards producers, as they are directly responsible for production.

We sought to understand both positive and negative impacts of territorialisation on co-productions. We discussed impacts with stakeholders in an open fashion, allowing them to propose any impact of territorialisation, positive or negative, that they felt was important.

In total, 40 interviews were conducted (in addition, two broadcasters and two distributors were interviewed for their perspective on our findings from the 40 interviews, but the interviews with them are not collated in Tables 8.1 and 8.2). Tables 8.1 and 8.2 indicate the breakdown of these interviews by nationality and by type of interviewee.

**TABLE 8.1: INTERVIEWS BY COUNTRY AND INTERVIEWEE TYPE[267]**

| Country | Interviewee Type | Total |
|---|---|---|
| Austria | Film Agency | 1 |
| Czech | Production Company | 1 |
| Denmark | Film Agency | 1 |
| | Production Company | 2 |
| | Producers Organisation | 1 |
| Finland | Production Company | 2 |
| France | Film Agency | 4 |
| | Production Company | 5 |
| | Producers Organisation | 1 |
| Germany | Film Agency | 3 |
| | Production Company | 6 |
| | Producers Organisation | 1 |
| Hungary | Production Company | 2 |
| Spain | Film Agency | 2 |
| | Production Company | 3 |
| | Producers Organisation | 1 |
| | Media Consultancy | 1 |
| Sweden | Film Agency | 1 |
| | Production Company | 1 |
| Other | University | 1 |

[266] An outline interview guide is included in Appendix J of this study.
[267] One academic expert, familiar with the subject of economics and culture, including territorialisation, from outside Europe (the USA) was also interviewed.

**TABLE 8.2: TOTAL INTERVIEWS, BY INTERVIEWEE TYPE AND BY COUNTRY**

| | | |
|---|---|---|
| Total by Interviewee Type | Film Agency | 12 |
| | Production Company | 22 |
| | Producers Organisation | 4 |
| | Media Consultancy | 1 |
| | University | 1 |
| Total by Country | Austria | 1 |
| | Czech Republic | 1 |
| | Denmark | 4 |
| | Finland | 2 |
| | France | 10 |
| | Germany | 10 |
| | Hungary | 2 |
| | Spain | 7 |
| | Sweden | 2 |
| | Other | 1 |

Some questions led towards more quantifiable answers (ie yes or no), and where possible the responses have been quantified, to show how many of the 40 interviewees answered in a particular way. Appendix I contains all the answers to these quantifiable questions given by the 40 respondents, for both Parts F and G.

We will approach Part F as a series of questions, some determined by the objectives of the Part and others raised by the findings and conclusions reached up to this point.

One finding of Part B (Chapter 3.7 above) is that only 20% of public funds go towards co-productions. Although this conclusion is based on the small number of funds that responded to our survey in Part B, the figures still clearly suggest that the majority of public funding is spent on national productions. It is also a clear finding in Parts C and E (Chapters 5 and 7) of the study that national productions constitute the majority of all films made in Europe. Nonetheless, the amount of public funding directed to co-productions is substantial, and there are many co-productions: approximately €300m (three hundred million euros) of public money a year between 2001 and 2005, and a total of more than 1,000 films during the five years.[268]

During the interviews it was clear that territorialisation was considered critical to the survival of state aid at its current levels (the reasons are discussed in detail below). To explore this matter further, we have not only looked for evidence of the direct impact of territorialisation clauses on co-productions, but we have also examined the impact that high levels of public funding have on co-productions.

Two questions need to be answered as a preliminary to evaluating whether territorialisation is a hindrance to co-production:

[268] The €300m figure comes from combining results from Part B: it refers to 20% of a total budget for funding schemes, according to the KORDA database, totalling €1.36bn in 2004. Part E found that during the reference period there were 1,009 bilateral co-productions.

Why do public bodies apply territorialisation clauses?

Why do producers co-produce in the first place?

## 8.4. Why do public bodies apply territorialisation clauses?

State aid may have the dual purposes of promoting cultural as well as economic objectives. The economic objectives aim at creating local jobs and at strengthening local suppliers of audiovisual goods and services.

From the point of view of the Member States, it makes good sense to use territorialisation clauses. In general, state aid that is territorialised is less expensive to the state or region, because part of it will return to the region in tax payments and indirect income. This means that a higher amount of aid may be given without an increase in economic cost. As a result, it may be possible for a country to increase state aid to the film industry if it makes use of territorialisation clauses.

From this point of view a reduction in territorialisation would be likely to reduce the provision of state aid. Table 8.3 shows the total amount of state aid given by each country (as sampled in Parts C and D – Chapters 5 and 6 - of this study) per year, according to territorialisation category, as well as the state aid per capita.

**TABLE 8.3: SELECTED COUNTRIES AND DEGREE OF TERRITORIALISATION**

| Territorialisation category | Country | Total state aid (€m) | State aid (€ per capita) |
|---|---|---|---|
| No significant territorialisation | Czech Republic | 2.0 | 0.2 |
| | Denmark | 36.2 | 6.7 |
| | Finland | 23.9 | 4.6 |
| | Sweden | 55.8 | 6.2 |
| Low | Hungary | 33.3 | 3.3 |
| Moderate | Spain | 71.9 | 1.7 |
| | Germany | 206.3 | 2.5 |
| High | France | 620.0 | 10.0 |

Source(s): Chapters 4 and 5 of the report and Eurostat. State aid includes costs of tax incentives.

Table 8.3 indicates that countries with specific territorialisation requirements generally provide large quantities of state aid. However, Spain, Germany and France are all large, wealthy countries with long-established film industries. This could suggest that the size and strength of a Member State and its audiovisual industry are more important to the quantity of state aid provided than the fact that territorialisation is applied. It is important to note, however, that the state aid per capita is generally higher in non-territorialised countries than territorialised ones. If we follow the argument that territorialisation

encourages higher public spending, this suggests that "implicit" territorialisation, not captured by the territorialisation category as used in Table 8.3, is high in non-territorialised countries.

This is the first of a series of findings that suggest that "implicit" territorialisation could play a very important role. By "implicit" we refer to the situation where certain local spending conditions are required in order for producers to access public funding for film, without either direct or indirect rules (see Part A, Chapter 2, of this study, and glossary) to this effect being applied by a funding body or scheme. This process can therefore involve the taste and motivation of a committee from a particular funding body.

This is an important finding. Part A looked for juridical evidence for territorialisation (which does not cover implicit territorialisation) and Part B asked funding bodies to identify what part of the budget was territorialised (which excludes implicit territorialisation). The fact that interviewees from countries without territorialisation (as identified from Parts A and B) consider territorialisation to be significant in their country is thus a critical addition to the evidence from the qualitative data.[269]

Other data gathered during the present study also suggest that implicit territorialisation may be widespread: for example the majority of film funding in all countries, regardless of whether they are territorialised or not, goes to national films.

If, then, it is in fact the case that in most countries the grant of state aid is conditional on a perception that the bulk of funding will be spent domestically, territorialisation rules *per se* may not be necessary to achieve local spending.

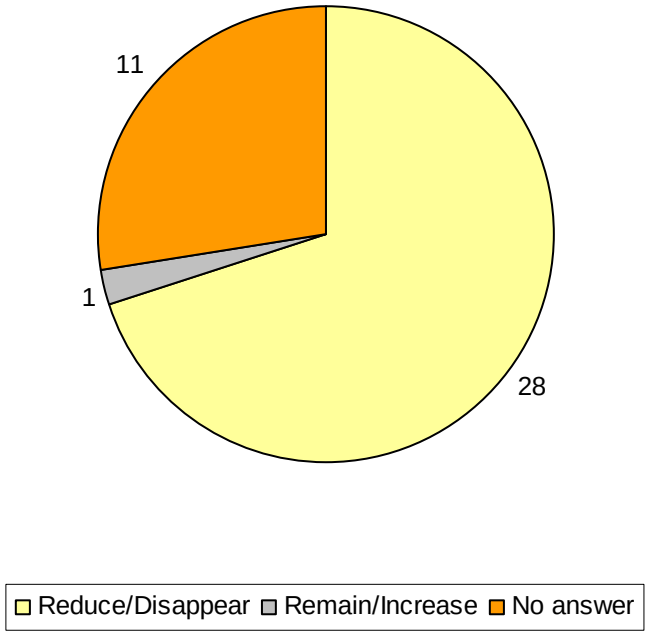
The foregoing argument tends to the conclusion that territorialisation (explicit or implicit) encourages Member States to fund the audiovisual industry. Territorialisation can thus be seen as a reason for the high level of public funding available. It does not specifically or directly promote co-productions, but is driven by local and national interests. In Part B we have noted that only a small proportion (20%) of funding is expended on co-productions.

This does suggest that territorialisation clauses, from the donor's point of view, are not designed to impact directly upon co-production. However, as they do stimulate high public funding, and co-productions rely on some of this funding to get made (as, of course, do national productions), it follows from this argument that territorialisation has an indirect positive impact on co-production. At the same time, we can say that territorialisation appears to have no direct impact on co-productions as a *share* of all productions.

This belief that territorialisation makes more money available (which, we have argued, helps co-production indirectly) was widely held by our interviewees, both donors and receivers of state aid, as Figure 8.1. shows.

[269] In further discussion with the Consortium partners, another reason for respondents from 'non-territorialised' countries talking as if they experienced territorialisation could be that there were schemes (likely regional) that were too small to be captured by this study (budget of less than €1m per year) and thus were not used to calculate whether a Member State was territorialised or not. If this be the case, then a producer may well have experience of territorialisation in small regional schemes that were not captured by this study. However, this does not change our general view that implicit territorialisation is prevalent in several Member States.

**FIGURE 8.1: WOULD FUNDING REDUCE/DISAPPEAR OR REMAIN/IMPROVE WITHOUT TERRITORIALISATION?**




Of the 40 interviewees, 29 responded. Only one respondent suggested that funding would continue, in contrast to the 28 (96.6%) who expressed the belief that without territorialisation there would be less or no funding for film. These 28 included producers' organisations, media consultants, production companies and film agencies.

**Conclusion: Funding bodies apply territorialisation clauses in order to justify larger public spending on the audiovisual industry. However, where there are no explicit territorialisation clauses, implicit rules appear to work towards a similar goal of increased national production activity.**

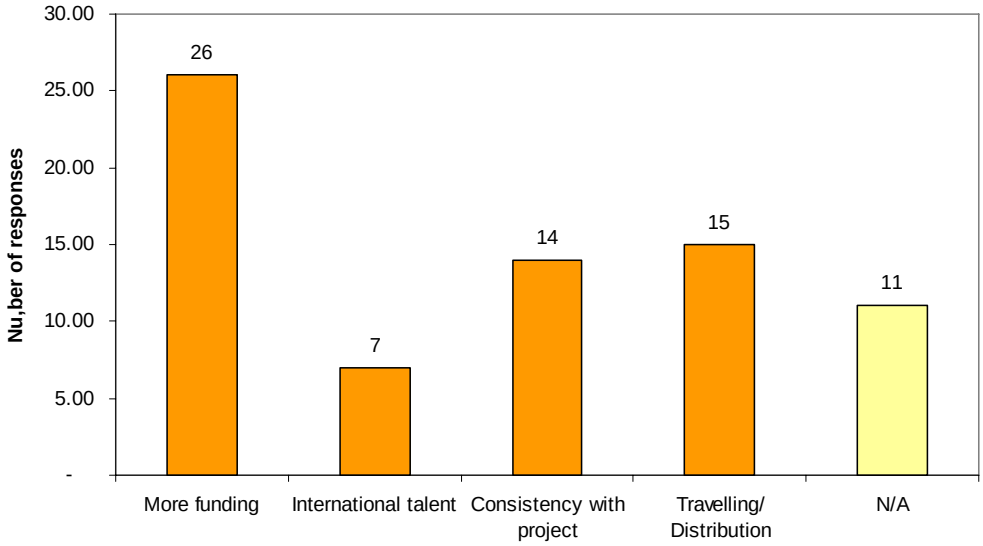
## 8.5. Why do producers co-produce?

To understand the impact of territorialisation on co-productions, we need to understand why producers co-produce in the first place.

Film producers choose to make co-productions for a variety of reasons. The production may benefit from co-operation with creative people and technicians from a larger geographic area. A co-production provides access to a specific talent or skillset available in another country.

The reason most often advanced, however, was that co-productions enable the financing of larger productions (see Figure 8.2).

**FIGURE 8.2: WHY DO RESPONDENTS CO-PRODUCE?**




Of the 40 interviewees, 26 (65%) made clear that increased financing was a major motivation to co-produce. Co-productions may often have a grander scale, involving, for example, more locations. Of our sample of film budgets analysed in Part D (Chapter 6.6), the two highest-budgeted films were co-productions. The "motive", as one producer put it, "is always money".[270] However there is a trade-off between increased revenue and increased risk." Co-productions often pose management and administrative challenges.

Most producers explained that, in the end, the script is "king" and that territorialisation clauses should not be allowed to interfere with the script. Of our 40 interviewees, 14 (35%) explained that the choice to co-produce was often instigated by the requirements of the script. However, a few producers gave examples where their script had been adversely affected by territorialisation, for example where 'non-scripted' locations needed to be used.

**Film Case Study**

**Budget: €2.9m.**

**Countries involved: Sweden, Finland.**

**Locations: Finland, Sweden.**

The producer explained that the motive for going into co-production was the script. The film took place in both Finland and Sweden and it was necessary to have both Finnish and Swedish producers involved.

The producer received financing from Film i Skåne, requiring the production team to spend about 150% of the funding in the region. Spending was mainly on hotels and technical crew.[271] The producer did not think they would have used the exactly the same crew if there were no requirements for local spending.

[270] See the findings of Working Group 4 of the *Think Tank on European Film and Film Policy* in The Copenhagen Report (see fn. 43 above) for their own view on this topic: "Today co-productions are mainly driven by mere financial necessity while natural co-productions driven by creative and/or technical reasons are the rare exception. With less financing available from the market sources, producers aim for maximum access to the various sources of public financing be it selective, automatic or fiscal support in different territories." (p. 61).

[271] Our study only covered funding bodies with an annual budget above €1m during the reference period. Film i Skåne had an annual budget of less than €1m during the reference period and therefore was not taken into account when evaluating the territorialisation intensity of Sweden.

The producer said that the requirements for local spending can be evaded by setting up a 'post-box' in the region making it possible to buy from the most economical supplier and still comply with the requirements for local spending.

The producer explained that they had never experienced a situation where a script was changed on the basis of the financing models. But the producer has experienced situations where schemes with possible local spending were not used because they simply did not fit with the script.

Seven respondents explained that access to international talent was important. One stakeholder added that a very important result of the territorialisation clauses (in this case requiring the use of talent from a particular territory) affecting co-productions was that talent, both creative and technical, from one Member State could be recognised in another Member State, eventually leading to talent being recognised at a European level. In this connection, seven interviewees, mostly production companies, explained that gaining access to international talent was a key reason to co-produce in the first place.

**Film Case Study**

**Budget: €20m. Spain (60%), UK (20%), France (10%), USA (10%).**

**Locations: Spain.**

The producer liked the script and wanted to work with a British resident, who was the screenwriter who also wished to direct. This enabled the film to qualify under British tax rules, which made the Section 42 and 48 schemes available to them. €1m was also provided from UK sales agents.

The producer also wanted an American actor which necessitated an American co-producer.

France provided 10% in a finance-only co-production. Territorialisation clauses were applied in the UK and Spain. This meant that the producer had to take on a British actor in a secondary role, but would have preferred Spanish performers.

Fifteen (37.5%) of our interviewees explained that an improved ability to sell or distribute the film was an incentive to co-produce. Interviewed distributors agreed that a production involving producers from multiple countries would make distribution in these countries more likely. As one producer put it, there is a "hidden pre-sale" in a co-production agreement, because broadcasters in all the co-producing countries tend to prefer co-productions with some domestic involvement over non-national films. Access to foreign television money is here seen to be an important reason to co-produce. Distribution, however, does not receive a large proportion of public funding (compared with the 70% that goes towards production), and as a result it is less likely to be influenced by any territorialisation clauses.

**Conclusion: The motivations for co-production that may be directly affected by territorialisation clauses are primarily the needs of the script and the desire to access larger budgets.**

## 8.6. Are there other factors than territorialisation that impact on co-production?

Before looking at the ways in which territorialisation impacts on co-production, it is worth considering any other factors, in particular those of

geography and the size and stability of the audiovisual industries in individual Member States.

One finding of Part E (see Charts 7.5, 7.8 and 7.11) is that partnerships between geographically close countries are particularly common. Such partnerships appear to exist regardless of explicit territorialisation: for example France and Belgium co-produce a lot together, as do Sweden and Denmark, the Czech Republic and Slovakia, and Sweden and Finland. In these cases we suspect that co-productions would take place whether or not the territorialisation rules were in effect. The desire to co-produce is probably grounded in inherent cultural similarities, such as language and history. However, as we have seen, without territorialisation clauses there is likely to be less public money available. Thus, although their removal may do less to affect co-production partnerships between neighbouring countries, it would still affect the total number of films that could be funded.

Another factor worth considering is the size and stability of a national industry.

Chapter 7.3 explained that there is no obvious direct link between the size and stability of an industry and its propensity to co-produce. Table 8.4 shows the proportion of all productions that were EU25 bilateral co-productions, for all Member States that were involved in at least one co-production. Table 8.4 includes data on the average GDP per capita for 2001-2005 and the total number of productions made in the 2001-2005 reference period, to give a basic indication of relative wealth as well as relative industry size.

The wide variety of results between relatively wealthy territorialised Member States (eg France, Germany, Spain, Italy and UK) with established industries, as well as between relatively wealthy non-territorialised Member States with established industries (eg Czech Republic, Denmark, Finland) does seem to suggest that the size and stability of an industry does not necessarily affect the proportion of its films that are co-productions. Again, geography may play an important role, for example explaining Denmark's high proportion of co-productions, given it has a large number of regionally similar industries to work with.

Interviewees did offer some explanations for the specific position of their own country on co-productions on this topic but these were limited. One respondent, from a funding body in Northern Germany, said that in large and competitive regions, the need for, and the value of, territorialisation clauses is less important. The interviewee said that it usually had no problem entering into contracts with a producer and agreeing specific plans for spending in the region.

One large producer also mentioned the size of his own (explicitly territorialised) country and its industry as a barrier to entering into co-productions. His country had a range of competencies that enabled it to supply all activities related to film production. It would therefore consider any unnecessary outsourcing a loss. As a result this producer mainly produced national films and only participated in co-productions as a minor participant. He added that it would be more expensive to move production abroad because most countries have less flexible working relations, and he would therefore need more staff, resulting in even higher production costs.

**Conclusion: Other factors than territorialisation (explicit or implicit) can impact on co-productions. Geography in particular seems to play an important role, with neighbouring countries more likely to co-produce with each other. Current data suggests that the size and scale of a particular country's industry has no direct impact on its propensity to co-produce.**

**TABLE 8.4: PROPORTION OF ALL PRODUCTIONS (2001-2005) THAT ARE EU25 BILATERAL CO-PRODUCTIONS**

| Territorialised? | Member State | Number of Productions | GDP per capita | Proportion of films that are co-productions |
|---|---|---|---|---|
| No | Latvia | 16 | 4565 | 13% |
| No | Lithuania | 6 | 4843 | 17% |
| Yes | Poland | 122 | 5548 | 11% |
| No | Slovakia | 25 | 5606 | 80% |
| Yes | Estonia | 16 | 6179 | 63% |
| Yes | Hungary | 111 | 7310 | 25% |
| No | Czech Republic | 99 | 8133 | 33% |
| Yes | Slovenia | 41 | 12442 | 5% |
| Yes | Portugal | 88 | 13317 | 45% |
| Yes | Greece | 105 | 14197 | 10% |
| Yes | Spain | 629 | 18856 | 24% |
| Yes | Italy | 586 | 23235 | 33% |
| Yes | France | 1059 | 25991 | 42% |
| Yes | Germany | 598 | 26356 | 39% |
| Yes | Belgium | 165 | 26790 | 87% |
| Yes | Austria | 106 | 28211 | 33% |
| Yes | UK | 408 | 28223 | 70% |
| No | Finland | 75 | 28380 | 59% |
| Yes | Netherlands | 149 | 29497 | 50% |
| No | Sweden | 187 | 30083 | 47% |
| Yes | Ireland | 47 | 34939 | 85% |
| No | Denmark | 171 | 35647 | 56% |
| Yes | Luxembourg | 55 | 57436 | 65% |

## 8.7. Does territorialisation influence the access to state aid for co-productions?

As we have seen, territorialisation is considered by many to be the key to the availability of funds. Territorialisation rules give public bodies the impetus to provide large sums of money to the audiovisual industry, either by justifying higher funds or making more sources of funding available.

One finding of Part B (Chapter 3) is that national productions are favoured by public funds.[272] This could suggest that territorialisation rules may hinder access to public funds for co-productions. However, qualitative data appears to refute this. The general consensus was that, if a particular funding scheme was inappropriate for a particular co-production, the producers would look to other funding schemes that were compatible: this suggests that enough funding is currently available from a variety of sources to allow co-producers to find funds that work best for them. The quantitative data in Part B also show that there are still significant amounts of funding available for co-productions.

[272] See Chapter 3.7 and Tables 3.15, 3.16 and 3.17.

**Film Case Study**

**Budget: €4.2m. France (30%), Israel (30%), Germany (20%), Italy (20%).**

**Locations: France, Germany, Israel.**

The producer explained that they always try to find ways of using funding schemes that are consistent with the project, and that they always make a "complete" study of the options.

The French and German funding was territorialised. Post-production took place in Germany, where the funding scheme required a spend of over 150% of the funds supplied for use on the film. However, because the shooting locations were Israel and France, the producer wanted to avoid too high a German contribution because it was linked to services and money spent in Germany. In order to access German funds the producer had to find a German co-producer with access to these.

Some of the French money came from a regional fund, which resulted in a shoot in Nice, but this was consistent with the script, although the Nice shoot was originally planned as an Italian shoot. Some additional French funding came from the CNC's special scheme for "film in a foreign language". This money had no conditions, except the requirement to pay 10% of receipts after recouping them, as an *avance sur recettes*.

The final contribution from public funds was approximately 15% (Germany), 10% (France), 25% (Israel), and 10% (Italy), with a "public-aid intensity" of 60%.

**Conclusion: Territorialisation does not necessarily hinder access to funds for co-productions.**

## 8.8. How can territorialisation clauses have a direct positive impact on co-production?

The evidence suggests that territorialisation clauses, explicit and implicit, indirectly help co-productions by opening up access to increased funding in other countries.

Looking at the direct impact of territorialisation, our interviews have suggested that flexible territorialisation rules are what producers are primarily after. Flexible rules can be seen as a middle ground where territorialisation can exist, justifying large sums of public money, but reducing its possible adverse effects on co-productions.

Let us take a fairly typical example of a European co-production.

The film *Captain Achab* was a co-production between Rhône-Alpes Cinema, Film i Väst of Sweden and Centre Images, a French regional fund.[273] *Captain Achab* was an expression of the interest of the Rhône-Alpes region in "Cine-Regio partnerships", a plan to build links with regional bodies in other countries. The co-production influenced the pattern of shooting days by requiring that the shoot should be divided between Sweden and France.[274] The respondent, a representative of one of the funding bodies, explained that there had to be a link between the funding and the site of production. In other words, the raison d'être of his organisation was to generate local activity.

It was also made clear that territorialisation requirements can be flexible enough to allow production to be completed. *Captain Achab* had to deal with

[273] The CNC and the Swedish Film Institute also offered some support.
[274] This finding does suggest that the Swedish body may propose some territorial conditions. See earlier refernce (Footnote 53) in the "Sample of Countries for Further Analysis" chapter for a full explanation.

the different regulations of three funds, which were difficult to combine (although made easier as they were all members of Cine-Regio). However, the Rhône-Alpes fund was prepared to soften the rules concerning the number of shooting days in the region.[275]

Cine-Regio, according to its response to the Workshop, believes *Captain Achab* to be a good example of the benefits of flexible territorialisation rules. Co-productions are, in its eyes, increasing artistic and creative exchange in Europe. *Captain Achab* indicates how co-productions, working alongside territorialisation clauses, can help cultural diversity and awareness.

Many producers, and some regulators, also argued against very strict "cultural" criteria. For example, one stakeholder raised a concern that the imposition of new stricter cultural criteria on the UK tax schemes, arising from negotiations between the UK authorities and representatives of the Commission, could have the effect of reducing co-productions.[276] In January 2008, UK Film Council CEO John Woodward explained "*2007 saw a significant drop in co-production activity. Some of this was expected given that the tax break is geared towards encouraging only shooting and post production in the UK*."[277] However, the cultural criteria do not apply to European co-productions, and the drop in co-production is likely in large part to be a drop in UK-US co-productions.[278] Therefore this example may in fact show us that a concern about strong cultural criteria has led to a misperception that the UK scheme will be detrimental to European co-production.

One film agency that provided advice and assistance to those intending to start co-productions explained that the different territorialisation clauses in different schemes were helpful. If they were all made the same by being standardised, then they would not be able to work together and could not complement one another. In this light, we can argue that some particularly strong explicit territorialisation clauses (for example, those requiring substantially more than the amount of the aid given be spent locally) can be seen as detrimental to co-production as it is more difficult to make these rules work alongside rules from other schemes. We can also argue that territorialisation clauses need to be transparent, so that co-producers can successfully work with a multitude of funding schemes.

Our qualitative data suggest that, on the whole, producers prefer specific, explicit, rules and automatic qualification. Quantitative data from Part B (Chapter 3) show that only 32% of funding body budgets was automatically granted during the reference period.[279] Where there is no explicit territorialisation clause, and where granting of aid is done selectively to projects, eg by a board of directors without very specific granting criteria, a

[275] http://www.cine-regio.org/co-production/case-studies/capitaine_achab/

[276] The new cultural test for British films requires a film to score 16 out of a possible 31 points to be classified as British. These points are available in four sections: cultural content (is the film set in the UK, does it have British characters, is it based on British subject matter or underlying material and is it filmed in English?); cultural contribution (does the film reflect British culture in relation to cultural diversity, heritage and creativity?); cultural hubs (is the film made in UK studios or on UK locations, does it use British visual or special effects or music recording facilities, does it use British post-production houses?) and cultural practitioners (are the people who work on the film from the European Economic Area?).

[277] http://ukfilmcouncil.org.uk/news?show=13461&page=1&step=10

[278] It is important to note that the original tax schemes in the UK, known as Sections 42 and 48, were stopped because they were considered to be paying for US production.

[279] If the CNC is discounted, the proportion of aid selectively granted rises to 87%.

producer may decide to spend more locally "to be on the safe side". This implicit territorialisation was a concern to several producers, who argued for more explicit territorialisation clauses, as they preferred more territorialisation clauses to an unspecific "cultural decision procedure", where the use of local actors or other local resources is a disguised criterion.

Some stakeholders argued strongly for clear territorialisation clauses on the grounds that removing them would lead to more selective commissioning. Selective commissioning, would in their view, lead to more national films. In other words they argued that a reduction of explicit territorialisation would lead to more implicit territorialisation. Seven of our 40 respondents made this point. The fact that these seven come from Sweden, Denmark, Finland, France and Germany indicates that this belief is held by those in territorialised and non-territorialised countries alike.[280]

Most producers express a strong preference for clear rules, and, consequently, a preference for automatic schemes. As one put it, "it takes two years to put a project together. If there are rules, you can get support from a bank on the basis of your plan. If there are no rules, you just have to wait for a decision from a committee". However, Proimage, in its response to the Workshop, made it clear that, in its view, too many rules can have a destructive effect on film-making. Rules need to be flexible enough to allow filmmakers freedom of expression.

Nevertheless, the complexities of co-production agreements add to transaction costs. Mastering the different rules and control measures is a real challenge.[281] Qualifying rules vary from country to country: in some agreements a technician employed overseas counts as a home-country contribution, in some cases it does not. Stakeholders expressed the importance of getting all the details right early on in the process. As one put it, "high costs and high criteria mean a 'big negotiation'". Another made it very clear that one of the most important requisites for a successful co-production was to get the various producers together as early as possible to discuss and agree on the details of the co-production agreement.

**Conclusion: To avoid territorialisation clauses directly hindering co-production, flexible but clearly defined and simple rules are required from the funding bodies. Transparency of funding body rules is seen as important by producers. Automatic schemes were considered more efficient than selective schemes by many respondents.**

### 8.9. Do territorialisation clauses affect the efficiency of co-productions?

As we have seen, co-productions are an expensive proposition and access to funds is a major reason for producers to consider co-production. Therefore, if territorialisation hinders the efficiency of the project, then it poses a negative impact on co-production.

[280] Response rates to this question were low, with only seven respondents providing an answer. As is clear, all of those who responded, therefore, believed a reduction in explicit territorialisation would lead to increased implicit territorialisation.

[281] The Council of Europe's Convention on Cinematic Co-Productions attempts to simplify this situation, by streamlining the co-production process, so as to provide common rules for co-production for all Member States.

Technical staff, including camera crews, and post-production can work on films of any nationality. Many American films are shot and edited outside America. To achieve maximum efficiency, a film-maker would normally go to the country with the services offering the best mix of quality and price, taking account of travel time and other costs. But 'spending clauses' may lead to the opposite. In the words of one stakeholder, they can "influence you to do stupid things. So the deal is more expensive than if you did not have the territorialisation clauses". In other words, territorialisation can add to the costs of production.

In certain respects, therefore, territorialisation can also be anti-competitive. The costs of filming and co-producing vary widely around Europe. In a competitive market, one territory or location would be likely to offer a concentration of facilities where the "infrastructure" was the most cost-effective. But the territorialisation clauses applying to a co-production may prevent a project being made in the most cost-efficient way.[282] One respondent explained: "In a co-production between a German and English producer I rewrote my script to satisfy territorial demands. There was a demand to spend money in Hamburg even though the shooting was meant to take place in London. We moved crew and costumes from London to Hamburg, even though the scene was supposed to be in London. You didn't even see Hamburg in the movie. This is quite inefficient."

Some respondents argued that co-production would be stimulated if territorialisation clauses were relaxed, reducing travel costs and increasing efficiency. We have shown already that flexible territorialisation rules would be to the benefit of co-productions.

**Film Case Study**

**Budget: €6m. Spain, UK, Sweden.**

**Locations: Spain, Ghana, South Africa.**

According to the producer the motive for a co-production is always to fund a film with a larger budget than one country could support.

The producer explained that he had originally hoped the film would be a German co-production but he found that they "preferred films that were to be shot in the region". It thus became a Swedish co-production.

Sweden's contribution totalled around €600,000, with €300,000 from public funds alongside approximately €300,000 from a production company. British financing came from the Section 48 tax scheme. Having both a British director and star helped here. Spain made contributions from two regional funds and from the ICAA. In total approximately 20% of the film was publicly funded.

The conditions of the schemes meant that the film was located in Spain. Although some shooting took place in Africa, the producer would have liked to have been able to use more African settings for several of the scenes, since the film is set in Africa. The producer had to use an all-European crew whereas they would have preferred to use some Africans and Asians.

In summary, as the producer put it, they are guided by willing partners and available funds. But the same producer added: "Private investors will not put money into European films because they lose money and 'money is clever'".

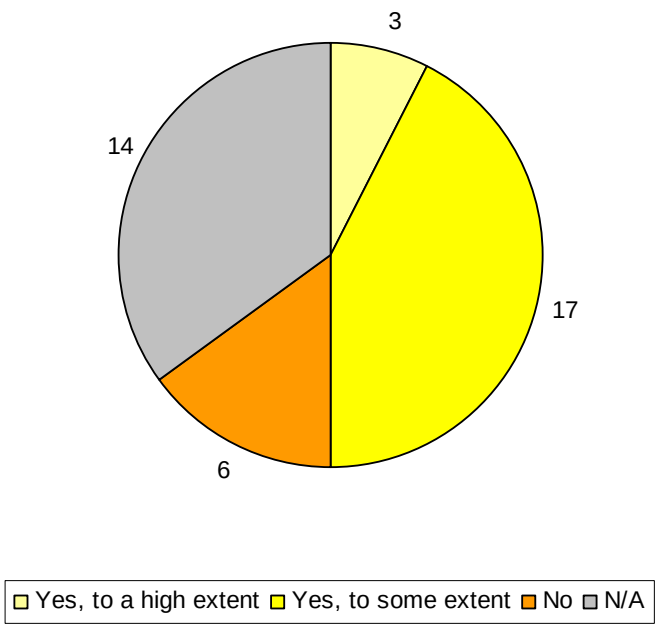
[282] According to one well-informed source, Romania and Bulgaria offer the lowest costs in Europe at the time of writing (July 2007), the UK the highest, while Spain and Portugal offer the lowest costs in western Europe.

As a stakeholder from one of Europe's largest film companies put it, subsidy schemes without territorialisation would be "Nirvana!" Territorialisation means increased travel and accommodation, administrative burdens and extended production time. However, as the response implies, this is not regarded as a realistic option.

We also encountered the argument the territorialisation had led to over-capacity: "too many studios and too many facilities". For example without local subsidy, which is currently protected by territorialisation, there would be a concentration of facilities where the "infrastructure" was best. It was suggested by some stakeholders that currently the infrastructure was best in countries with long-established film industries, and that without local subsidy it would be very difficult for smaller, poorer Member States to develop their own industry. Some stakeholders argued that there was a kind of negative feedback loop applying here: territorialisation increases capacity in Member States leading to European over-capacity, which in turn increases the demand for territorialisation and linked spending. However, our work on capacities in Part D (Chapter 6) did not support the hypothesis that high territorialisation intensities led to higher capacities.

The general view of many producers, as can be seen in Figure 8.3, was that territorialisation increases production costs for co-productions. But others added that it is usually possible to minimise the impacts to a level that is acceptable as compared to the value of the alternative funding.

**FIGURE 8.3: DOES TERRITORIALISATION INCREASE PRODUCTIONS COSTS?**




Of our respondents, 50% believed that territorialisation increased production costs. However, 14 respondents (35%) did not respond here, probably because this was considered a particularly sensitive issue.

In one case a Danish producer estimated the costs of moving the shooting of a €2m-3m film to a location a few hundred kilometres away at €150,000, or more than 5% of the production budget. His general rule of thumb was that you need to get two times your needs to cover the extra costs. He added that the costs of territorialisation are much higher in small countries than in large countries, because you have a smaller group of suppliers to choose from.

**Conclusion: Territorialisation can cause increased productions costs and some inefficiencies for co-productions. But we must consider this alongside the view that without territorialisation there may be less funding available in the first place.**

In the remainder of this section we focus on some key issues.

## 8.10. Does territorialisation increase funds available for co-productions?

We found a notable consistency on the importance of territorialisation.

As we saw in 8.4, Member States' governments find it easier to justify film subsidies if there is a payoff in terms of employment or encouragement for local industries. These factors act together, in the view of many stakeholders, to ensure political backing for film support schemes in the Member States. Without them both, film support would diminish, even disappear.

We have no basis on which to dispute this view, except to point out that countries without explicit territorialisation do not behave differently from those with explicit territorialisation. We discuss the implication of this finding in more detail further on in this section.

In general, there was a widely held view that the co-production and territorialisation clauses are complementary. The argument for this is as follows:

1 Many co-production agreements are initiated to get access to funds available in another country.

2 These funds are available because Member States would not authorise them without a degree of territorialisation.

It is the ability to support human skills and technical expertise particular to a specific territory that, in the view of many stakeholders, underpins political backing in the Member States for film support. As one stakeholder put it, "Removal of territorialisation will kill film support. The schemes are built on these rules".

This is why many respondents argue that territorialisation "encourages" co-production. It drives co-production, but by an indirect route: it liberates public funds from their national boundaries, access to which creates an incentive to co-produce. Co-production treaties are a tool by which cultural support initiated in one country may be shared or supplemented by cultural support from another country. Territorialisation may thus be seen as an important force

for promoting actual co-operation across borders and thereby contributing to developing a European market for audiovisual services. [283]

There is an important further point that is highlighted from the findings in this and earlier sections: countries that aid film companies without explicitly limiting the freedom to spend outside the Member State do not behave so very differently from countries that do so. This suggests that those who administer non-territorialised film funds have a view of their role not so very different from those who administer explicitly territorialised funds: to support, in the main, national productions. This in turn suggests that although state aid for film is very important, the specific clauses that determine the level of permissible spend outside the Member State may make relatively little difference to co-productions.

**Conclusion: Territorialisation, explicit and implicit, increases the public funds available to the audiovisual industry, therefore indirectly promoting co-productions.**

## 8.11. What if state aid were reduced?

As has been explained, it is widely held that territorialisation indirectly assists co-productions by making more public funds available. Therefore it is worth asking what the impact would be on co-productions if state aid were reduced.

The answer to the question, "What would be the impact on the number and nature of co-productions if territorialisation was removed?" was fairly consistent: "large parts of the state aid would disappear. That would mean fewer productions." In other words there would not only be fewer co-productions but fewer national productions, because there would be less funding in general. As another respondent put it, "If there were no territorialisation, the number of national and international productions would decrease".

There is a valid theoretical position that, if all national state aid were suspended, there would be a greater incentive to co-produce, simply because the total funds needed for a co-production budget would not, in general, be available from one country. There are associated arguments that the profusion of national state aid produces too many films of average quality, thus crowding out the potential for films made on the bigger budgets and more demanding conditions of co-production. The Copenhagen Report of the *Think Tank on European Film and Film Policy* makes clear that "for some [producers] – if not all – accessing subsidy has become their principle role, more important to their business that the development of successful creative and commercial strategies".[284] There are opposing arguments, equally theoretical, that even in the larger countries the home market alone cannot provide enough support to create the national films of high quality that are essential to cultural diversity, hence the need for national subsidies.

[283] A third party observer taking a critical view of stakeholder responses could argue that territorialisation has the effect attributed in this paragraph only under current conditions. This argument might go: public subsidy, as currently permitted under the state aid exception for culture, probably results in more domestic productions than there would be without such rules, while co-productions and the spending limits in the territorialisation rules counteract this pressure to some extent.

[284] The Copenhagen Report, p.25

The problem is that these are theoretical positions and any attempt to model them goes beyond the scope of this project.

**Conclusion: Under current conditions the availability of territorialisation to national governments underpins film support and this assists with the funding of co-productions, many of which would not be started without such support.**

## 8.12. What if the level of territorialisation were reduced

Here we are talking specifically about the reduction of the limit in the Cinema Communication that allows it to be a condition of awarding state aid that 80% of a film budget must be spent in the Member State. The 80% rule creates a model that enables co-productions to take place. It allows funding to be acquired in more than one territory without endangering funding from any particular source. Producers, as long as they know and can work within these rules, may look to co-produce as a way of increasing funding for their films.

We have already argued that flexible territorialisation rules would be a useful middle ground, whereby large sums of public money would be available to co-productions but possible negative impacts would be reduced. To further develop this we did attempt to ask a more direct question: would it help co-productions if the 80% limit were reduced? However, this proved a very difficult topic to discuss, with interviewees often assuming reduction was tantamount to removal.

We tried to explore relatively modest changes: the supposition, for example, that only 60% of the budget could be territorialised, leaving producers free to spend more of their budget elsewhere. The idea behind this supposition is that if producers were free to spend 40% of their budgets in other territories without jeopardising their funding from another Member State, they would be more inclined to co-produce than under the current rules. However, very few stakeholders provided comments here. One producer mentioned that such a reduction would reduce his restrictions and that it would be easier to adjust to such a light version. He accepted that, while such steps would be desirable to increase co-operation within Europe, only very modest steps in this direction were realistic.

Some producers argued that if the same level of funding were available with zero or reduced territorialisation, some inefficiency would be reduced and co-production would be further encouraged. However, as has been explained, stakeholders did not believe that the same level of funding would be available if there were no territorialisation.

**Conclusion: It is clear that this was a topic that stakeholders were less willing to discuss and therefore it is not possible from the interviews to get a clear opinion whether a specific reduction in the level of territorialisation would either help or hinder co-productions.**

## 8.13. Conclusions

In this section we have been seeking to answer the question: does territorialisation hinder co-production? After evaluating quantitative evidence

from earlier Parts of the project and, in particular, supplementing this with qualitative data from interviews, we have reached the following conclusions:

- Funding bodies apply territorialisation clauses in order to justify larger public spending on the audiovisual industry.
- Qualitative data suggested that where there are no explicit territorialisation clauses, implicit territorialisation can work towards a similar goal of increased national production activity.
- Under current conditions the availability of territorialisation to national governments underpins film support, including the funding of co-productions, many of which would not be started without such support.
- Other factors than territorialisation can impact on co-productions. Geography in particular seems to play an important role, with neighbouring countries more likely to co-produce with each other. The size and scale of a particular country's industry does not appear to have a direct impact on its propensity to co-produce.
- Producer's motivations for co-production that may be directly affected by territorialisation are primarily the needs of the script and the desire to access larger budgets.
- Territorialisation can cause increased productions costs and some inefficiencies for co-productions. But we must consider this alongside the view that without territorialisation there may be less funding available.
- Flexible but clearly defined and simple territorialisation rules were considered by most stakeholders to be the way to avoid territorialisation hindering co-production. Automatic schemes were preferred over selective ones.
- It is not possible from the interviews to get a clear stakeholder opinion on whether a specific reduction in the level of territorialisation would either help or hinder co-productions.

# 9. Part G: Cultural Implications of the Potential Removal of Territorialisation

## 9.1. Introduction

The aim of Part G of the study is to provide a qualitative assessment, based on interviews and using conclusions from previous Parts of the study, of what the cultural consequences might be if territorialisation rules were to be potentially removed from national and regional aid schemes.

## 9.2. Methodology

The interviewees for Part G were the same as those for Part F. Thus national and regional film agencies, as well as commercial production companies, were approached to discuss this issue. As in Part F (Chapter 8), we pose a series of questions in order to formulate and assessment of the cultural consequences of potentially removing territorialisation rules.

Culture is a difficult topic for discussion: it means different things to different people. In its widest sense, we may say that culture includes all forms of behaviour and communication. Thus, it includes the knowledge, experience, beliefs, values, attitudes, meanings and social conventions associated with a particular group or society. In this wide context, the relevance of media, communication and entertainment lies not only in their distinctive forms, but in the way they influence and contribute to the above.

Thus cultural contribution in a media context is ultimately about deep themes such as how nationality is perceived by national audiences, what value they place on particular stories and characters in films and how they react to, emulate or learn from what they see on-screen. Understanding the cultural contribution of European film would require a wide-ranging and challenging study designed to explore its impact on the general viewer and to determine, in cultural terms, the public value of support for film and other media.

However, that was not the objective of this study. Our task was to reach a conclusion, with the help of stakeholders, on the cultural impact were territorialisation requirements to be removed. We encouraged interviewees to discuss “culture” according to their own understanding of the term. The result was that “culture” was largely defined from the viewpoint of professionals, rather than audiences. Given the additional level of specificity determined by the focus on the impact of territorialisation, it was perhaps inevitable that the definition of culture used by interviewees was therefore quite narrow.

Another term that requires definition before progressing is “cultural diversity”. Many respondents identified diversity as a core value of European culture: for example, “our task is to integrate peculiarities without losing diversity”. Such speakers tended to accept, in the words of one respondent, that there are “European film industries rather than a European film industry”. The Copenhagen Report concurs that there is not a single European cinema but rather a variety of European film cultures, languages, administrative structures,

histories and policies.[285] Some went further, arguing that links on a regional rather than a national dimension are a special feature of European diversity.[286]

The UNESCO Universal Declaration on Cultural Diversity states that: "*Culture takes diverse forms across time and space. This diversity is embodied in the uniqueness and plurality of the identities of the groups and societies making up humankind. As a source of exchange, innovation and creativity, cultural diversity is as necessary for humankind as biodiversity is for nature*."[287] Thus not only is variety important to cultural diversity, but so too is the sharing of these varied cultures. From this starting point, with regard to film we see cultural diversity as having three elements: 1) a variety of films being made; 2) production of film taking place in many different cultures; 3) a certain level of sharing of these films between different cultures. Hence, we must consider the importance of co-production as a way of sharing cultures.

As we have made clear in Part F, territorialisation is often seen as allowing state aid to the audiovisual sector to exist at its current high levels. As Part F indicated, territorialisation encourages Member States to support the audiovisual industry because they will see a return on their investment. Therefore, without territorialisation, either explicit or implicit, it is likely that the quantity of public money available would diminish. Given that the question at hand in Part G is what the cultural consequences would be if territorialisation were to be removed, it is therefore also important to consider what the cultural impact would be of reduced state aid, given that this would be a likely result of the potential removal of territorialisation.

### 9.3. What cultural characteristics of film are likely to be affected were territorialisation to be removed?

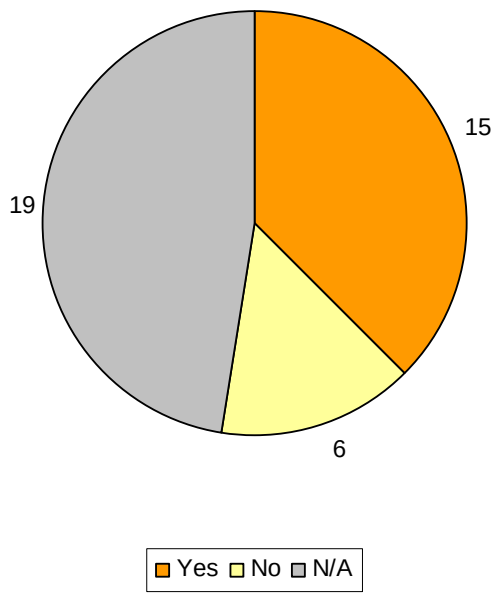
In our interviews we asked stakeholders to identify a number of specific cultural characteristics, which, in their view, are affected, protected and sometimes determined by the territorialisation requirements of Member States' schemes.

Local language

Most stakeholders agreed that funding schemes applying territorialisation increase the numbers of domestic, local language films, because they provide funding for films for which private finance would not be available. Respondents were asked directly whether the possible removal of territorialisation would reduce the diversity of language in European films. Figure 9.1 details their responses.

[285] The Copenhagen Report, p.9.
[286] The idea of European film clusters was generally accepted by most stakeholders. In their response to the workshop, the European Film Agency Directors (EFAD) argued that a creative and competitive film industry requires the development of industrial "clusters" and that these were critical to cultural diversity. We pursue this topic further in Section 9.7 on regional competence.
[287] http://unesdoc.unesco.org/images/0012/001271/127160m.pdf, p.13.

**FIGURE 9.1: WOULD THE POSSIBLE REMOVAL OF TERRITORIALISATION REDUCE THE DIVERSITY OF LANGUAGE IN FILM?**




Of the 21 respondents who answered this question 71% believed that without territorialisation, language diversity would reduce. It is unsurprising that local language was considered important to the cultural argument: language is often regarded as the carrier of culture.[288]

Many interviewees differentiated between small and large countries (often seen in terms of those without (small) and those with (large) an established film industry): in smaller countries there would simply be "no money for film-making", which would probably lead to there being no local language films. On the other hand, countries like France and Germany would continue to make national films in national languages because the demand in their home markets is large enough to justify investment in new production. Also, their national industries are substantially more stable.

A few respondents stated that language is not the carrier of the cultural value. The cultural dimension is defined by the tone and feeling of the film rather than the language. This idea was only presented by a limited number of stakeholders.

National Identity

Most stakeholders felt that national identity was a central reason for film support from public funds and the associated rules on territorialisation. As one stakeholder put it "audiences want to see national cultures rather than a created

[288] However, it is also something that *can* stand in the way of a culture's circulation beyond regional and national borders, and 'international' languages such as English are generally considered more commercial. Thus private funding for local languages can be more difficult, if they are not considered international. However, it is important to note in this consideration that dubbing can be very common in some European Member States, reducing the negative impact of non-domestic language films.

international culture".[289] The impact of removing film subsidy would "reflect globalisation". "National character would be removed." Film is a good "protection of our culture". Without support, "only films able to deal with market conditions will be produced". There is also an implied concern here that Hollywood films, which many see as having an international nature, will gain increased market share in the Member States unless public support is sustained.

New talent

A number of respondents felt that public funding was needed to encourage new talent: "the industry will not trust new directors, and that is why we need the rules". The concern here is that removing territorialisation, by reducing public funding, will reduce the ability of new talent to enter the cinematographic industry. It was argued that established talent would be able to get money for production from outside of Europe (from the US for example) even if current national and regional funds in Europe ceased to exist, but that this would not happen for new talent. We have found no evidence to contradict the assertion that state aid is critical to supporting the discovery and development of new talent, even though this may not be its specific objective.

Festivals

Stakeholders generally supported the role of festivals in "educating audiences", spreading awareness of, in particular, high-quality low-budget productions outside their home market, and launching new talent. Some felt that there were probably too many festivals, but that the ones considered particularly important, for example the more famous festivals that attract a lot of public attention, played a significant role. Part B has shown that a large quantity of public funding is expended on "Other Activities" (other than pre-production, production, post-production, promotion, marketing and distribution).[290] "Other Activities" includes money spent on festivals. On this basis, removing territorialisation would reduce the amount of money available to festivals.

**Conclusion: The cultural characteristics of film considered by the stakeholders to be protected by territorialisation are: language, national identity, new talent and festivals.**

## 9.4. Does territorialisation promote cultural diversity?

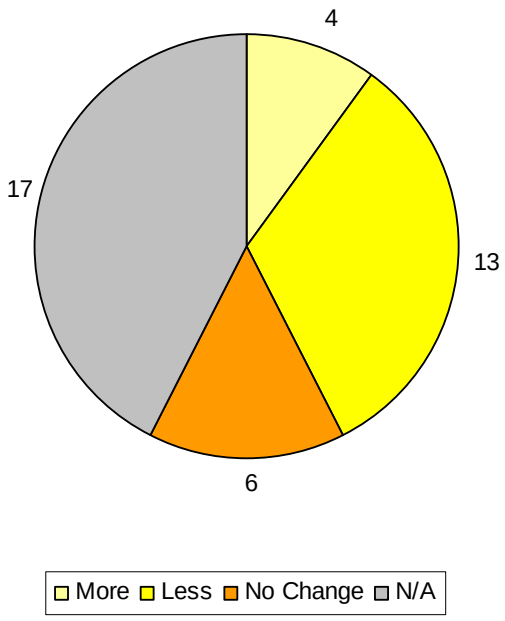
According to stakeholders, territorialisation helps circulate films and thus cultures, thereby promoting cultural diversity: "without territorialisation, we would see fewer movies travelling". It was also believed by some stakeholders that smaller countries would suffer in particular: "For smaller countries it would be harder to sell their films" one explained.

Many stakeholders were keen to argue that territorialisation stimulates diversity (see Figure 9.2) not only because it liberates funds in countries across Europe but because, as one respondent put it, "if a film is co-produced, it has more chance to circulate. If you have three countries involved, you have at

[289] 'International culture' was a term used in reference to Hollywood films, which were seen as needing to appeal to a mass, international audience in order to recoup their huge production budgets.
[290] For 2003-2005, the average annual proportion of all public funding spent on "Other Activities" was 15% (rising to 25% if the CNC budget, which is 80% production, is discounted).

least three guaranteed territories in which your stories, histories, cultures…will be shared and understood". In Part F we noted that co-production can help towards the circulation of films between cultures, which according to our definition of the term, is critical to cultural diversity.

**FIGURE 9.2: WOULD THERE BE MORE OR LESS CULTURAL DIVERSITY IF TERRITORIALISATION WERE REMOVED**




When asked "Would there be more or less cultural diversity if territorialisation were removed", 23 (57.5%) responded, of whom 13 (56.5%) said "less", clearly indicating a belief that territorialisation protects and stimulates cultural diversity. It is worth noting here that the response rate for this question was relatively low, indicating that that it was a difficult question for respondents to answer. As we indicated early on in Part G, cultural diversity is another difficult term, with several overlapping interpretations; a fact that may have led to some difficulty with this question. It is also worth noting that respondents saying "less" also came from countries with no explicit territorialisation clauses, suggesting that implicit territorialisation is also considered to protect diversity.

An interesting argument made by one respondent was that purely commercial films are less likely to travel. "The purely commercial films, for example, French comedy, Italian or Spanish comedy, will not be found outside their own country, they will not find any distribution. The 'auteurs', however, the ones with deep cultural roots in their own countries, will find a distributor in other countries in Europe." Another respondent made a similar point, "removing territorialisation would mean more similar films in Europe".

Critics of territorialisation

The majority of stakeholders interviewed did not have a strong view that there was, overall, a negative cultural impact from territorialisation. However, a minority were critical. The majority of public film support in Europe goes, as we have seen, to domestic or national films. In the view of some critics, this results in "too many films". In the words of one respondent, "there are too many 'localised' films on budgets of €1.5m to €2m." One respondent referred to certain film-makers as "snipers" because they "know how to capture public funds". A change in the rules, he felt, should encourage bigger budgets and more co-productions. He felt that many of the films going into cinemas in his country were "really TV movies".

A minority of producers acknowledged that the disparity between national funding and European funding might be acting against the emergence of a pan-European film culture. In other words, the larger supply of funding at the national level, relative to European level funding, is holding back the production of larger films with a European rather than a national vision.[291] The producers who voiced this opinion were not, in general, in favour of reduced national funding, but were in favour of enhanced pan-European funding. One producer described detailed proposals for enhanced support for pan-European distribution, but said that pan-European funding required the support of Member States and was unlikely to receive it.

There is a second strand of opinion, not widely represented by our interviewees, but with some eminent spokespersons: that the subsidy has allowed European filmmakers to ignore their audiences. David Puttnam advanced this argument in his keynote speech to the Copenhagen ThinkTank on European Film and Film Policy;

> "For a number of years we in Europe were encouraged to believe that we could ignore our audience by hiding behind a comfortable and ever-shifting wind-break of subsidy…Yet, for all this public investment, and for all the energy expended on production, where are the European examples of work that this year sits comfortably alongside Crash, Goodnight and Good Luck, Brokeback Mountain or even Munich, all of them films that have a fair degree of cultural integrity and have managed to reap an equally fair degree of commercial success?"[292]

This view is also echoed elsewhere in the Copenhagen Report:

> "The role of film funding and film policy has tended towards enabling producers, distributors and exhibitors to survive. In order to survive, producers need to have films in production; this leads to an over-supply of films that are "good enough" to attract public subsidy but not good enough and/or not marketed well enough to attract wider audiences and make a return."[293]

[291] DGA discussed this issue in their report for the European Parliament on the Digital Delivery of Film: "Subsidies certainly run the risk of producing more of something than consumers want. An excess supply of national films not only runs the risk of crowding out the relatively successful ones; an excess supply of national films also reduces the demand for non-national films. The current system, focussed on national production, may therefore result in an over-supply of films of an inadequate quality to succeed, either in their home markets or in other markets." (p.46). http://www.attentional.com/uploads/6.pdf.

[292] *The Copenhagen Report*, pp. 40-42.

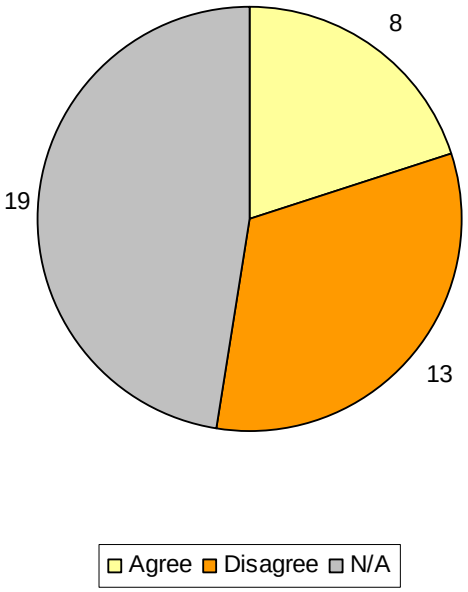
[293] *The Copenhagen Report*, p. 25.

To explore this issue we decided to ask our respondents to comment on the following statement, to ascertain whether territorialisation clauses were hindering the possibility of a 'European cinema':

- Statement 1: "Removing territorialisation clauses will better enable a common European market for the production and distribution of film".

Figure 9.3 details the responses to this statement.

**FIGURE 9.3: "REMOVING TERRITORIALISATION CLAUSES WILL BETTER ENABLE A COMMON EUROPEAN MARKET FOR THE PRODUCTION AND DISTRIBUTION OF FILM". DO YOU AGREE OR DISAGREE?**




Of the 21 interviewees who answered this question, the majority (62% - 13 respondents), disagreed with the statement. These respondents were from both territorialised and non-territorialised Member States. As we have already said, many respondents regard territorialisation as a foundation of financial support from public funds. Thus removing the clauses would result in less funding, with a consequential impact on both the volume of production and on budgets.

The respondents who agreed with this statement were mainly associated with larger and more commercial companies. The eight respondents who agreed with the statement were all from production companies in France, Spain, Germany, Denmark and Finland. It is interesting to note here that this list includes both territorialised and non-territorialised countries.

Some of these respondents simply believed that territorialisation rules infringe on commercial freedom and make production inefficient. If funding remained stable without territorialisation, then removal of territorialisation would increase the efficiency and reduce the costs of co-production. Others believed that this would actually be a stimulus to co-production, and thus better enable a common European market for the production and distribution of film. They acknowledged that a reduction in the intensity of territorialisation clauses

attached to public subsidy would further increase the incentive to co-produce, but possibly at the cost of the number of films made. A minority of respondents felt that public subsidy distorts the film market, which, if left to itself, would resolve it in a way that is consistent with the cultural objectives. However, these are theoretical arguments and evidence is not available to model them in detail.

For smaller, less commercial companies, who are likely to be more reliant on public subsidy, there will be a greater negative impact on the number of co-productions they make.

There is in fact fairly widespread recognition that, whereas linguistic and cultural diversity are recognised as core objectives of EU cultural policy, they are to some extent in conflict with the economic objective of a common production and distribution market. The European Film Companies Alliance (EFCA), in its response to the Workshop, also acknowledged that cultural and linguistic fragmentation in Europe is an obstacle to an internal European market. The biggest European films, according to EFCA, make the majority of their revenue in their domestic market; and this leads to a greater focus on national audiences by producers.

**Conclusion: Most respondents explained that territorialisation, explicit and implicit, stimulates cultural diversity. However some major reservations were raised: 1) current rules favour national production over co-production; 2) current rules lead to an 'over-supply' of small, national films that are unable to circulate. A minority of respondents also believed that a larger supply of funding at the national, rather than European, level is holding back the production of larger films with a European vision.**

### 9.5. How would cultural diversity be affected by potential changes to territorialisation clauses?

We found widely differing views about the impact on cultural diversity of territorialisation. As mentioned above, stakeholders felt that territorialisation clauses provide protection against globalisation of film content by promoting national films. Others went further and said that, without them, film production would diverge into globalisation on the one hand and regionalism on the other.

Stakeholders also argue that the regional culture and similarity of languages form a basis for a stronger collaboration between certain Member States.[294]

Others took the view that, provided funding was sustained, removing the territorialisation clauses would have little impact on cultural content. However, this was a minority view: only four interviewees said that a removal of territorialisation would lead to more cultural diversity, and six said there would be no change.[295] These responses came from both territorialised and non-territorialised countries, and were also from several types of interviewee.

[294] See our conclusions concerning the importance of the geographical factor to co-productions.
[295] Compared to the 14 respondents noted above who believed there would be less cultural diversity.

Flexible rules

Co-productions were considered by many stakeholders to be a model for the sharing of cultures through film, important to cultural diversity. As we found in Part F, there is a strong preference for flexibility in territorialisation rules, in order to avoid hindering co-production. Flexibility can also help the creative and cultural elements of film. In the following paragraphs we look at two very different types of film: a low budget film by a relatively new European director and a high-budget film[296] produced and distributed by one of Europe's largest film companies, Constantin Films.

The film *Grbavica* (2006) was a Croatian language co-production involving Austria, Germany, Bosnia and Croatia, with a Bosnian director. It was a prize-winner at the 2006 Berlin Festival. This film received support from some agencies on artistic grounds in spite of the fact that it did not qualify by the regional criteria, but we are told that the support bodies were criticised for this decision. We cannot know how many films that would have received support on purely artistic grounds are ruled out by territorialisation rules.

Some respondents expressed a strong preference for funding not tied to local spend, because they felt it increased creative freedom. The producers of the film *Perfume* (2006), a French/German/Spanish co-production, adapted from a German novel, felt that they were able to minimise risk because some funding was not tied to local spending. According to one respondent, "Dramas may be artificial because they are forced into co-productions with a territorial requirement. We have to use staff, which we, on other occasions, would not have used." Here we can see that territorialisation can have a negative impact on a key cultural component of film, creativity. However many respondents felt that it was possible to avoid too negative an impact on a film, if careful negotiations took place.

Most interviewees explained that "forcing" a script to optimise funding was counter-productive. An example was given of a German script that was carefully designed to move the story from Berlin, then to Cologne and so on throughout Germany, just so that they could get money from many regional funds. However, in the end it was decided that the resulting script was not strong enough. Territorialisation rules should not be allowed to take precedence over the artistic quality of the film.[297]

It therefore appears that, when it comes to the cultural impact on particular films, flexibility is again important.

**Conclusion: There is limited qualitative evidence to suggest that the removal of territorialisation clauses would reduce cultural diversity. Given the importance of co-production to cultural diversity, our findings regarding territorialisation and co-production in Part F, in particular the encouragement of flexible territorialisation rules, are also valid with regard to the promotion of cultural diversity.**

[296] High, that is in European terms. Information in the public domain suggests that the budget was between €50m and €60m.

[297] The French Film Commission made an interesting comment in their response to the Workshop: they explained that producers will, at first, look at getting the funds for their budget by either raising funds via co-producers and from funds local to the locations in the script, or by reducing the budget until the co-producer's money is enough. However, if it is not possible to collect the whole budget after this first stage, then a producer will need to look at territorialised funds and accept changes to the production that these may entail.

## 9.6. Would the potential removal of territorialisation damage national and regional film industries, and what is the cultural impact of this?

Stakeholders took very different views on the importance of 'cultural competence', that is, the argument that a national and regional film culture cannot grow without an associated industry.

A number of respondents told us that territorialisation rules help to build a local industry.[298] Some stakeholders said that local film industries would simply disappear in some countries, especially those in Eastern Europe, which have only recently been able to start developing a film industry.

As one stakeholder put it, "no one wants to give up the ability to express their national identity". But stakeholders differed over the link between this aim and the degree of 'cultural competence' needed to achieve it.

On the one hand, there was an argument that regional competence has a significant impact on diversity: "removing territorialisation clauses would mean that a number of smaller film centres would disappear. With them would disappear a number of marginal films in terms of language, experimental dimension, etc." On the other hand, there was a concern that tax shelters in smaller countries were not focused on cultural goals, having instead only socio-economic objectives.

It may be important to have skilled directors conversant with a local language and able to direct films in that language. But others felt that this does not necessarily require, or require to the same extent, that the more generic or 'industrial' activities – such as editing or studio management – take place in a given state. As one stakeholder put it, "it is hard to argue that renting a camera is cultural. It is easier to define creative roles as cultural". [299]

In general, however, respondents believed a local industry was needed to make films that promoted local cultures. The majority of respondents explained that national films require national industries.

To gain further insight into this issue we asked respondents to either agree or disagree with a statement:

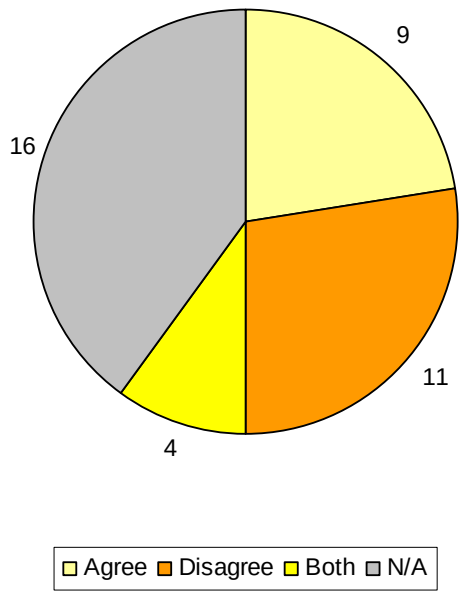
- Statement 2: "National and regional film funds are mainly engaged with business development and concern to a less extent the specific cultural aspects".

Figure 9.4 shows that the response rate for this statement was lower than with Statement 1. This is perhaps due to the more sensitive nature of this issue, with respondents being more wary about providing an answer.

[298] One Workshop participant explained that regional funds could not justify supporting film simply on a cultural basis, and that they were also required to support local business development and employment. However, they were not clear about how far this extended to national funds.

[299] Some other arguments on this theme: Provided funding was sustained, removing the territorialisation clauses would have little impact on cultural content. "Culturally, it makes no difference where money is spent. It would just mean more production in low-cost areas. French and German films would still be produced, just as American films are made in Toronto". "Larger production centres and physical location are not a problem for diversity," another argued.

**FIGURE 9.4: "NATIONAL AND REGIONAL FILM FUNDS ARE MAINLY ENGAGED WITH BUSINESS DEVELOPMENT AND CONCERN TO A LESS EXTENT THE SPECIFIC CULTURAL ASPECTS". DO YOU AGREE OR DISAGREE?**




Of the 40 interviewees, 24 provided a response. Of these interviewees, nine agreed with the statement, eleven disagreed, and four explained that the statement could be agreed with and disagreed with, depending on which country you looked at.

The European Film Companies Alliance (EFCA) noted, in their response to the Workshop, that, for film support and production, it was not possible to separate economic and cultural aims: "Cultural diversity helps to promote a competitive film sector. At the same time, a market-oriented focus does not preclude the creation of culturally distinctive films." The MEDIA 2007-2013 programme indicates that this has been acknowledged at the European policy level, as it aims to foster the competitiveness of the audiovisual industry, while simultaneously promoting cultural diversity.

One respondent pointed out that schemes that did not consider creative and artistic elements of film, but instead simply approached the award of state aid with economic considerations only in mind, were a possible distortion to competition.

Importantly, in a creative industry, artistic, technical and economic inputs are all needed for success. Thus in order to support film, both culture and industry need to be supported.

**Conclusion: Most respondents believe that local industry is needed to promote cultural diversity, and that territorialisation, explicit and implicit, protects local industry.**

## 9.7. Conclusions

The question we sought to answer in Part G of the present study, on the basis of the views of key stakeholders, was what the cultural consequences would be if territorialisation were to be potentially removed.

Conclusions about cultural consequences are hard to draw with great certainty. There are strongly held opinions, but many views that are hard to verify:

- Stakeholders believed that language, national identity, new talent and festivals were cultural characteristics of film protected by territorialisation.
- Most respondents believed that territorialisation stimulates cultural diversity.
- Co-production, in sharing cultures, was considered important to cultural diversity. Thus our findings that flexible and clear territorialisation rules are considered to aid co-production (see Part F – Chapter 8) remain valid when trying to aid cultural diversity through film.
- As in Part F (see Chapter 8), there was a concern from stakeholders that the removal of explicit territorialisation would lead to more implicit territorialisation. This could lead to an increased focus on national productions and make circulation of films more problematic, thus potentially impacting negatively on cultural diversity.
- There were two main reservations concerning how current state aid impacts on cultural diversity. Firstly current rules favour national production, and secondly current state aid rules lead to an over-supply of small, national films without the necessary quality to circulate widely.
- A minority of respondents added a concern that a disparity between national and pan-European funding, with substantially more of the former, was leading to difficulties creating larger films with a European vision.
- Most respondents considered local industry to be protected by territorialisation.
- Most stakeholders believe that local industry is needed to create local films and promote cultural diversity.

# 10. Conclusions

We present our conclusions in relation to the objectives of the study as formulated in the terms of reference.

## 10.1. Objectives of the study

The specific objective of the study is to provide *clear* and *reliable* data on the consequences of 'territorialisation' requirements imposed by certain state aid schemes supporting the cinema sector. In particular, the study is to provide:

1 An objective and synthetic view of the legal situation concerning territorialisation clauses.

2 A clear assessment of how territorialisation clauses affect the film industry from an economic point of view (both macro and micro).

3 An assessment of whether territorialisation requirements are an obstacle to European co-productions.

4 An objective assessment of the consequences of removing territorialisation from a cultural point of view.

## 10.2. Conclusions in brief

**Legal situation**

The territorialisation requirements analysed in Part A of this Study present a great variety in terms of form and content. A majority of the 140 reported funding schemes, ie 68% of the funding schemes (controlling 59% of the budgets of the funding schemes), contain territorialisation requirements that are not quantified or not fully quantified in the applicable regulations. There is almost no judicial or administrative case law reported, and therefore no evidence for "implicit" or "implied" territorialisation requirements.

The considerable number and complexity of the territorialisation requirements can cause conflicts of rules and legal uncertainty. This situation is difficult to manage, both for film producers when applying for state aid, and for policy and law makers when aiming at coherence between cultural diversity and concerns related to competition law and the relevant rules governing the internal market.

We found no indication that existing territorialisation requirements could constitute obstacles to co-production agreements from the legal perspective.

**Economic structure**

The economic analysis showed that the greater the degree of territorialisation in a Member State the higher the turnover of that state's audiovisual industry. It is not possible, however, to determine whether the territorialisation causes the higher turnover or whether the size of the turnover creates pressure for greater territorialisation.

The data also suggest that the costs of services for film production are higher in countries that apply territorialisation requirements than in those that do not.

**Co-productions**

Territorialisation requirements do not hinder co-productions; rather they facilitate funding for all kinds of productions (including co-productions) that might not otherwise have been available.

Territorialisation requirements can, however, cause some difficulties for co-productions and may make co-production less efficient.

**Cultural implications**

It seems that the removal of territorialisation rules might lead to an increase in implicit territorialisation, which could mean that funding would more likely be directed towards national productions and circulation of films made more problematic.

## 10.3. Conclusions in detail

We now set out our conclusions in more detail under the four heads of the legal situation, the economic analysis, the effects on co-productions and the consequences of removing territorialisation

### *10.3.1 Legal analysis*

Part A arguably contains an exhaustive picture of the legal situation of explicit territorialisation requirements that were in force during the reference period.

There is almost no judicial or administrative case law reported, and therefore no evidence for "implicit" or "implied" territorialisation requirements. However, certain stakeholders indicate in their replies analysed in Part G that they perceive selective state aid granting procedures as a potential camouflage for territorialisation. The local counsels from the 25 Member States did not provide evidence for this allegation based on reported judicial or administrative case law.

Nevertheless, we must point out that, since selective aid criteria typically refer to undetermined concepts such as the artistic quality of film projects, they leave a broad margin of interpretation and accordingly much discretion to the funding schemes and their experts in charge of evaluating such projects. For this reason, they are hardly suitable for judicial scrutiny, a fact that can partially explain the lack of reported practice. For the purpose of this study, it illustrates the difficulty of determining the exact and full impact of current territorialisation requirements on competition and the internal market.

We found no indication that existing territorialisation requirements could constitute obstacles to co-production agreements from the legal perspective. However, here again, we lack information on whether this finding also reflects the reality of practice. In view of the findings in Parts A, B and G, one must remain aware in this context that:

- film producers are highly dependent upon state aid in Europe,

- selective aid-granting procedures provide considerable decision-making power to funding schemes without corresponding legal safeguards (lack of justifiability of negative granting decisions), and

- there are strong political incentives for funding schemes to keep spending locally.

One cannot therefore reasonably exclude the possibility that film producers would prefer to comply with national or regional territorialisation requirements rather then challenging them in a court by claiming that these requirements violate international agreements to which their countries are parties. This type

of situation could constitute a hidden obstacle to a co-production agreement. However, we did not find any evidence that such hidden obstacles exist.

### *10.3.2 Economic and statistical analysis*

Eight Member States were selected from the original 25 for further analysis - the Czech Republic, Denmark, Finland, France, Germany, Hungary, Spain and Sweden.

The Member States were selected on the basis of a production-cost based measure of territorialisation, which focused on the implications for a representative film producer of the percentage of production costs to be territorialised. This measure categorised Member States into four different groupings relating to the degree of territorialisation (high, moderate, low and no significant territorialisation). The categorisation of the selected Member States was as follows: the Czech Republic, Denmark, Finland and Sweden (no significant territorialisation), Hungary (low), Germany and Spain (moderate), and France (high).

Sector-specific macro data analysed include economic data like employment, turnover, value-added and the number and size of companies, as well as data on film production and on the importance of minority and majority co-production.

Micro-level data were collected for six typical services selected on the basis of criteria including the potential impact of territorialisation on the service, a close relation to filmmaking, the standardisation of the service and its transnational comparability. The selected services were:

- Casting services
- Gaffer services
- Focus pulling
- Rental of 35mm camera equipment (package)
- Editing
- Development of 35mm film

For each of these, we collected information and data on prices, capacities and capacity utilisation in each of the eight selected countries.

The analysis focuses on the possible correlation between the intensity of territorialisation and the national macro and micro characteristics of the sector.

On the basis of the analysis, we conclude that there is a positive correlation between intensity of territorialisation and the per capita turnover of the audiovisual sector. It is impossible, without further investigation, to decide whether this correlation is caused by territorialisation or whether the size of the audiovisual sector puts pressure on the political system for an increased application of territorialisation. Moreover, if territorialisation is a cause of the size of the audiovisual sector, it is not possible to say whether it is the amount of audiovisual production or the level of costs and prices that is the main cause of higher per capita turnover.

National average labour costs in Europe vary immensely, but this is only partly reflected in the data about prices for the selected services. The service prices are lower in the Czech Republic and Hungary than in Western European

countries, but not as much lower as the overall labour costs of these two countries. The explanation might be that the services provided by specialised film workers are not limited to the national market, but take place in an international market in which service costs are to some extent levelled across borders. As a result of low costs, Hungary and the Czech Republic are popular production sites, and the resulting demand for services leads to higher prices.

In the selected sample of countries, the average labour costs of film production staff, when compared to the average salary level, are generally higher in countries with some territorialisation than in countries without. From these findings we conclude that the prices of services in the film industry are relatively higher in countries with territorialisation than in countries without, and in particular, this is the case among the Western European countries of the selected sample. However, the price differences are small, and they may also be affected by many other factors.

The analysis also shows that the intensity of territorialisation has a weak negative correlation with the per capita capacities of typical services like casting directors, gaffers, focus pullers, and editors. There is also a negative correlation, but an even weaker one, between intensity of territorialisation and the per capita capacities of camera rental and film development.

The findings from the analysis of capacity utilisation rates indicate that capacity utilisation is independent of territorialisation.

The analysis of 25 film budgets shows that 17 films that were produced during the five-year period in countries with territorialisation have higher proportions of costs related to pre-production and production than the eight films that were produced in countries without territorialisation. This cannot be taken as a firm proof, but it is in line with the finding of a positive, but weak correlation between territorialisation and salary costs.

Costs for 'travel, transportation, accommodation and allowances' are one category of activity under the production budget that might be expected to increase as a result of territorialisation. The empirical findings indicate that such a difference actually exists in the 18 film budgets where there was enough detail to carry out this analysis.

The result of the various analyses in Part D contributes to confirming the hypothesis that territorialisation could lead to higher costs. Higher salary costs and higher costs for travel and accommodation lead to higher costs of films being produced in countries with territorialisation. It must be stressed, however, that the observed differences are very small and that, in the light of the uncertainties of the data, the conclusion should not be pressed.

The fact that total turnover of the audiovisual sector is higher in countries with territorialisation than in countries without may to some extent be explained by higher costs. Another reason of equal plausibility, however, might be that differences in intensity of territorialisation might reflect the different degrees of importance of the audiovisual sector in the economy of different countries.

### *10.3.3 Co-productions and territorialisation*

The detailed findings of Part E of this study about the nature of the co-production agreements in force between Member States and about the numbers

and financing of co-productions made in the reference period between Member States (categorised according to whether the Member States do or do not apply territorialisation requirements to state aid for the film industry) are set out and also summarised in Chapter 7.

We do not think it is useful to repeat that summary here. Instead, we present our conclusions about the effects of territorialisation on co-productions (Part F of the study). A fuller account of our conclusions and the evidence on which we base them can be found in Chapter 8.

Our overall answer to the question posed in the terms of reference (whether territorialisation requirements hinder the production of films under European co-production agreements) is that they do not reduce the number of co-productions, but rather they provide funding that might otherwise not have been available. Territorialisation requirements do, however, sometimes create certain difficulties and inefficiencies. Moreover, one should not lose sight of other reasons, such as geographical proximity, that favour co-productions irrespective of the presence or absence of territorialisation requirements.

We elaborate and add to those overall conclusions in the following points.

- We have found evidence that the existence of territorialisation requirements increases the amount of public funds available to the audiovisual sector. Although a higher level of state funding assists audiovisual productions across the board, there is a particular benefit to co-productions simply because co-productions are expensive.
- In view of the complexities of seeking funding from different sources in different countries, it is of more assistance to co-productions if, where territorialisation clauses are in force, they are clear and their application is transparent.
- Because of the belief that awarders of funds may in fact (even in the absence of territorialisation requirements) favour productions that involve spending on the national or regional territory, producers tend to prefer automatic rather than selective schemes for awarding funds.
- There are examples of territorialisation requirements altering the nature of co-productions and sometimes making them less efficient by necessitating changes (for example to script or location). However, these are not examples of territorialisation preventing the co-production. Moreover producers also made it clear that wherever possible this kind of negative impact was reduced or eliminated through careful discussion with funding bodies.

Some factors encourage co-production irrespective of the presence or absence of territorialisation requirements attached to state aid. In particular, geographical proximity of Member States seems to be strongly correlated with a higher-than-average number of co-productions. This helps to explain our finding that, on average, in Member States applying territorialisation some 43% of their total productions are co-productions; in non-territorialised Member States the average share of co-productions is 43.3%, ie there is very little difference.

### *10.3.4 Cultural implications*

The terms of reference for Part G of the study asked us to provide a qualitative assessment of the consequences, in cultural terms, of potentially removing territorialisation requirements.

Our overall assessment is that the removal of explicit territorialisation requirements in any Member State that currently applies them would probably not appreciably reduce the total number of national films produced in that Member State, as removing explicit rules may lead to an increase in implicit territorialisation working towards a similar goal of increased national film production. Consequently, there would not necessarily be an appreciable diminution in the ability of films in that country to convey and promote cultural messages and stories if explicit rules were removed, but there is a potential risk, according to stakeholders, that the use of implicit rules, that are less clear and specific for producers, would increase.

We record also the strongly-held view that public subsidy, as currently distributed, may result in films of poor quality because of the emphasis on keeping local producers in business. Insofar as territorialisation requirements reinforce this pattern of local distribution of public subsidy, they may thereby be doing a disservice to the support of national and local cultural identity.

We recognise also, however, the risk that, where the film industry is not well-established, the removal of territorialisation requirements might well lead to a reduction in the amount of state aid available and thus put the continued existence of that country's film industry under threat.

In relation to the last point, we record the view of respondents to our interviews that territorialisation requirements, by promoting film-production in particular places, help to foster national and regional languages and identities, as well as local film festivals and new talent. If less well-established film industries were diminished by the removal of territorialisation requirements, then one support would be removed for cultural diversity within Europe.

# 11. Bibliography

Agence Intergouvernementale de la Francophonie / Haut Conseil de la Francophonie (eds.), 'Les industries culturelles des pays du Sud : enjeux du projet de convention internationale sur la diversité culturelle, Rapport d'août 2004'; see: www.agence.francophonie.org

Amiel, O. (2007), 'Le financement public du cinéma dans l'Union Européenne', published PhD Thesis, ISBN : 978-2-275-03234-4.

American Film Marketing Association (AFMA), *From Distribution to Exhibition: Bringing Films to Movie Theatres*, Los Angeles 1997.

Appelman, Marja, 'Fixed book price', in: Ruth Towse (ed.), *A handbook of cultural economics*, Cheltenham / Northampton 2003.

Baker, C. Edwin, 'An Economic Critique of Free Trade in Media Products', in: *North Carolina Law Review*, vol. 78, 2000, 1357.

Batz, Jean-Claude, *L'Audiovisuel européen : un enjeu de civilisation*, Paris 2005.

Benhamou, Françoise: *L'économie du star system*, Paris 2002.

Benhamou, Françoise: *L'économie de la culture*, Paris 2005.

Bénitah, Marc: *Fondements juridiques du traitement des subventions dans les systèmes GATT & OMC*, Geneva / Paris 1998.

Bernier, Ivan, 'Content Regulation in the Audiovisual Sector and the WTO', in: *Telecommunication, Communication and Convergence*, Oxford 2003.

Bernier, Ivan / Ruiz Fabri, Hélène, 'La mise en œuvre et le suivi de la Convention de l'UNESCO sur la protection et la promotion de la diversité des expressions culturelles', Rapport pour le Ministère québécois de la culture, Bibliothèque nationale du Québec, Québec 2005:

http://www.mcc.gouv.qc.ca/diversite-culturelle/pdf/UNESCO-francais.pdf

Bernier, Ivan, *Catalogue des instruments internationaux relatifs à la culture, 2000*, disponible sur : http://206.191.7.19/w-group/wg-cdg/catalogue_f.pdf

Beurier, Pervenche, *Les Politiques européennes de soutien au cinéma*, Paris 2004.

Blanchet, Robert, *Blockbuster: Ästhetik, Ökonomie und Geschichte des postklassischen Hollywoodkinos*, Marburg 2003.

Bonin, Valérie, *L'Economie du cinéma, repères et ressources documentaires*, Paris 2004.

Brown, Charles, *The Future of Film and TV Funding: Confrontation or Collaboration?,* London 1996.

Bullinger, Martin/Mestmäcker, Ernst-Joachim, *Multimediadienste. Struktur und staatliche Aufgaben nach deutschem und europäischem Recht*, Baden-Baden 1997.

Burucoa, Catherine, 'Les conditions juridiques et historiques des coproductions (1946–1995)', in: Jean A. Gili/Aldo Tassone (ed.), Paris Rome. *Cinquante ans de cinéma franco-italien*, Paris 1995.

Cahn, Sandrine / Schimmel, Daniel, 'The Cultural Exception: Does It Exist in GATT and GATS Frameworks ? How Does It Affect or Is It Affected by the Agreement on TRIPS?', in: *Cardozo Arts & Entertainment Law Journal*, vol. 15, 1997, 281.

Chérot, Jean-Yves, *Les aides d'Etat dans la Communauté Européenne*, Paris 1998.

Chion, Michel, *Le cinéma et ses métiers*, Paris 1990.

Cluzel, Jean, 'L'efficacité des aides publiques en faveur du cinéma français', *Rapport d'information 11 (1998-1999), 1ère partie*, Office parlementaire d'évaluation des politiques publiques, Paris 1998/1999:

http://www.senat.fr/rap/r98-011/r98-011_mono.html

Cornu, Marie, *Compétences culturelles en Europe et principe de subsidiarité*, Brussels 1993.

Copenhagen ThinkTank (2007), '*ThinkTank – on European Film and Film Policy. The Copenhagen Report*.' ISBN 978-87-87195-07-0. Webpage: http://www.dfi.dk/english/the_copenhagen_thinktank/thinktank.htm.

Cottier, T., Die völkerrechtlichen Rahmenbedingungen der Filmförderung in der neuen Welthandelsorganisation WTO-GATT', in: *ZUM, Zeitschrift für Urheber- und Medienrecht, Sonderheft*, Munich 1994, pp. 749.

Council of Europe, 'Convention on Cinematographic Co-Productions', Webpage: http://conventions.coe.int/treaty/en/Treaties/Html/147.htm.

David Graham & Associates (2006), 'Digital Platforms: Risks and Opportunities for European Film Makers'. Webpage: http://www.attentional.com/uploads/6.pdf

de Vany, Arthur, *Hollywood Economics, How extreme uncertainty shapes the film industry*, London/New York 2004.

de Witte, Bruno, 'Trade in Culture: International Legal Regimes and EU Constitutional Values', in: Gráinne de Búrca / Joanne Scott, *The EU and the WTO, Legal and Constitutional Issues*, Oxford / Portland 2001, pp. 249.

European Audiovisual Observatory (2006), 'Focus 2006'.

European Audiovisual Observatory (2007a), 'Focus 2007'.

European Audiovisual Observatory (2007b), Tax Incentives for Films and Audiovisual Works in France, October 2007. Webpage:

http://www.obs.coe.int/online_publication/reports/tax_incentives_films_france.pdf.en

Ruiz Fabri, Hélène, 'Jeux dans la fragmentation : la convention sur la protection et la promotion de la diversité des expressions culturelles', in: *Revue générale de droit international public*, 2007, 1.

Ruiz Fabri, Hélène, 'Reflections on possible future legal implications of the Convention', in: Obuljen, Nina / Smiers Joost (ed.), The UNESCO Convention on the promotion and protection of the diversity of cultural expressions – Making it work, Zagreb 2006, pp. 73.

Ruiz Fabri, Hélène, 'Analyse des questions fondamentales et techniques liées à l'élaboration d'une convention sur la diversité culturelle et à son incorporation dans le droit international existant', in: *La diversité et les échanges culturels dans le cadre de la globalisation*, Bruxelles 2005, pp. 53.

Falkenberg, Karl F., 'The Audiovisual Sector', in Jacques H. J. Bourgeois / Fréderique Berrod / Eric Gippini Fournier (éd.), *The Uruguay Round Results, Bruxelles 1995*, pp. 429.

Ferri, Delia, *La costituzione culturale dello spazio giuridico europeo*, Verona 2007.

Finney, Angus, *The State of European Cinema*, Londres 1996.

Film20 (2004), *Taz Incentives Für Filmproduktionen – Ein Internationaler Überblick*.

'French-Swedish co-production "Capitaine Achab" double winner in Locarno'. Webpage:http://www.cine-regio.org/co-production/case-studies/rhone-alpes_cinema_centre_images_film_i_vaest/.

Gaillard, Yann, Revoir la règle du jeu – Mieux évaluer l'efficacité des aides publiques au cinéma, Rapport d'information fait au nom de la commission des Finances, du contrôle budgétaire et des comptes économiques de la Nation sur les aides publiques au cinéma en France, Annexe au procès-verbal de la séance du 6 mai 2003, Session ordinaire du Sénat, no 276, Paris 2003: http://www.senat.fr/rap/r02-276/r02-2761.pdf

Germann, Christophe, 'Diversité culturelle et libre-échange à la lumière du cinéma' – Réflexions critiques sur le droit naissant de la diversité culturelle sous les angles du droit de l'UNESCO et de l'OMC, de la concurrence et de la propriété intellectuelle, International Public Law Series, Geneva / Brussels / Paris 2008.

Germann, Christophe, The "Rougemarine Dilemma": How much trust does a State deserve when it subsidises cultural goods and services?, in: European University Institute, Max Weber Working Papers (www.eui.eu), Florence 2008.

Germann, Christophe, 'Towards a Cultural Contract to counter trade related cultural discrimination', in: Nina Obuljen / Joost Smiers (eds.), *UNESCO Convention on the protection and promotion of the diversity of cultural expressions - Making it work*, Zagreb 2006.

Germann, Christophe, ‚Meinungsfreiheit in Zeiten der « Blockbusters ». Das neue Filmgesetz und die kulturelle Vielfalt in der Informationsgesellschaft', in: *Revue du droit de la propriété intellectuelle, de l'information et de la concurrence* sic! 7/8/2002, 481.

Gimeno Verdejo, Carlos, 'Les règles de concurrence (commentaires des art. 81 à 85)', in: Léger, Philippe (ed.), *Commentaire article par article des traités UE et CE*, Paris 2000, pp. 682.

Godineau, Daniel, 'La distribution des films en salles', *Rapport à Mme la ministre de la culture et de la communication*, Paris 2000.

Goodenough, Oliver R., 'Defending the Imaginary to the Death? Free Trade, National Identity, and Canada's Cultural Preoccupation', in: *Arizona Journal of International and Comparative Law*, vol. 15, 1998, 203.

Grant, Jonas M., '"Jurassic" Trade Dispute: The Exclusion of the Audiovisual Sector from GATT', dans : *Indiana Law Journal*, vol. 70, 1995, 1333.

Grant, Peter S. / Wood, Chris, *Blockbusters and Trade Wars : Popular Culture in a Globalized World*, Vancouver 2004.

Grave, Carsten, *Der Begriff der Subvention im WTO-Übereinkommen über Subventionen und Ausgleichsmassnahmen*, Berlin 2002.

Guillou, Bernard (Mediawise), *La distribution des films en ligne, Etude réalisée pour l'Observatoire Européen de l'Audiovisuel*, mai 2004.

Hahn, Michael J., 'Eine kulturelle Bereichsausnahme im Recht der WTO?', in: *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht*, 1996, 315.

Hamm, Bernd / Smandych, Russell (eds.), 'Cultural Imperialism', *Essays on the Political Economy of Cultural Domination*, Ontario 2005.

Hancock, David, *Film Production in Europe – A Comparative Study of Film Production Costs in Five European Territories: France – Germany – Italy – Spain – UK*, Strasbourg 1999.

Hancock, David, *La production cinématographique mondiale, Document de travail de la conférence organisée par EURO-MEI*, Venezia 1998.

Harcourt, Alison, 'The European Commission and Regulation of the Media Industry', in: *Cardozo Arts & Entertainment Law Journal*, vol. 16, 1998, 425.

Herold, Anna, 'EU Film Policy: between Art and Commerce', *European Diversity and Autonomy Papers*, EDAP 3/2004:

http://www.eurac.edu/documents/edap/2004_edap03.pdf

Herold, Anna, 'Les aides publiques européennes au cinema dans le cadre de l'OMC', in: IRIS plus, *Observations juridiques de l'Observatoire européen de l'audiovisuel*, June 2003.

Houcken, Robin, *The International Feature Film Industry: National Advantage and International Strategies for European Film Companies*, St. Gall 1999.

Hyun-Kyung Kim, Carolyn, 'Building the Korean Film Industry's Competitiveness: Abolish The Screen Quota and Subsidize the Film Industry', in : *Pacific Rim Law & Policy Journal*, vol. 9, 2000, 353.

IMCA, *Identification et évaluation des flux économiques et financiers du cinéma en Europe et comparaison avec le modèle américain*, Etude n° DG EAC/34/01 pour la DG EAC, Unité C1, 2002.

Jarothe, Sabine, *Die Filmpolitik der Europäischen Union im Spannungsfeld zwischen nationaler staatlicher Förderung und US-amerikanischer Mediendominanz*, Frankfurt am Main 1998.

KPMG (2005), *Film Financing and Television Programming: A Taxation Guide*.

Lang, Temple, *The principle of essential facilities and its consequences in European Community Competition law*, Oxford 1996

London Economics / BIPE Conseil for MEDIA Salles (eds.), *White Book of the European Exhibition Industry*, Londres 1994: http://www.mediasalles.it/whitebook.htm

Lourau, René, *Le principe de subsidiarité contre l'Europe*, Paris 1997.

Mayer-Robitaille, Laurence, *Le statut ambivalent au regard de la politique communautaire de concurrence des accords de nature culturelle et des aides d'État*, Paris 2004.

Motion Picture Alliance of America (2007), '2006 U.S. Theatrical Market Statistics'. Webpage: http://www.mpaa.org/2006-US-Theatrical-Market-Statistics-Report.pdf.

Motion Picture Association (MPA), *Worldwide Market Research, U.S. Entertainment Industry*: 2003 MPA Market Statistics, Encino 2003.

Observatoire européen de l'audiovisuel en coopération avec la Banque européenne d'investissement, *Les aides publiques aux oeuvres cinématographiques et audiovisuelles en Europe - Une analyse comparative*, Strasbourg 2004.

Observatoire européen de l'audiovisuel, *Focus 2005*:

http://www.obs.coe.int/online_publication/reports/focus2005.pdf.en

OMPI, *Guide on Surveying the Economic Contribution of the Copyright-Based Industries*, Genève 2003:

http://www.wipo.int/copyright/en/publications/pdf/copyright_pub_893.pdf

Regourd, Serge (ed.), *De l'exception culturelle à la diversité culturelle*, Paris 2004.

Relph, Simon / Headland, Jane / Overland, Anita, *The Relph Report, A study for the Film Council examining the costs of lower budget UK films and their value in the world market*, London 2002.

Ress, Georg / Ukrow, Jörg, Art. 151 EGV, in: Eberhard Grabitz / Meinhard Hilf (éd.), *Das Recht der Europäischen Union*, Kommentar, München 2000.

Ress, Georg / Ukrow, Jörg, 'Auswirkungen von Art. 128 Abs. 4 EGV auf die wettbewerbsrechtliche Beurteilung von Buchpreisbindungen', in: ZeuS – *Zeitschrift für europarechtliche Studien*, 1/1999, 5.

Ress, Georg / Ukrow, Jörg, Ad Artikel 128, in: *Eberhard Grabitz/Meinhard Hilf, Kommentar zur Europäischen Union*, Munich 1998.

Robins Kevin / Morley David, 'Euroculture: Communications, Community, and Identity in Europe', in: *Cardozo Arts & Entertainment Law Journal*, vol. 11, 1993, 387.

Schwark, Eberhard, Wirtschaftssubventionen von Spannungsfeld von nationalem Recht und Gemeinschaftsrecht, in: Kruse, Jörn / Stockmann, Kurt /

Vollmer, Lothar (eds.), Wettbewerbspolitik im Spannungsfeld nationaler und internationaler Kartellrechtsordnungen, *Festschrift für Ingo Schmidt*, Baden-Baden 1997, pp. 325.

Screen International (2007), *Global Tax Guide*. Compiled by Chris Evans, Geoffrey Macnab, Nancy Tartaglione-Vialatte, Nick Grant, Ted Sheehy, Sandy George, Stephen Cremin, Theo Schwinke, Theresa Smith, Vladan Petkovic.

Shao, W. Ming, 'Is There No Business Like Show Business? Free Trade and Cultural Protectionism', in: *Yale Journal of International Law*, vol. 20, 1995, 105.

Secrétariat gouvernemental à la diversité culturelle, Québec, *Bulletin des Nouvelles sur la Diversité des expressions culturelles*: http://www.diversite-culturelle.qc.ca

Sinclair, John, 'Culture and Trade: Theoretical and Practical Considerations', in: Emile G. McAnany/Kenton T. Wilkinson (eds.), *Mass Media and Free Trade: NAFTA and Cultural Industries*, Austin 1996, pp. 30.

Smiers, Joost, *Arts under pressure, Promoting cultural diversity in the age of globalization*, Londres / New York 2003

Staebe, Erik, *Rechtsschutz bei gemeinschaftswidrigen Beihilfen vor europäischen und deutschen Gerichten*, Berlin 2001.

Tardif, Jean / Farchy, Joëlle, *Les enjeux de la mondialisation culturelle*, Paris 2006.

UNESCO, Diversité culturelle: Synthèse des travaux preliminaires et des reunions d'experts de catégorie VI et perspectives, Rapport d'étape concernant la préparation d'un avant-projet de convention sur la protection de la diversité des contenus culturels et des expressions artistiques, doc. UNESCO 169 EX/40, Paris, 7 avril 2004:

http://unesdoc.unesco.org/images/0013/001342/134210f.pdf

UNESCO, 'Universal Declaration on Cultural Diversity'. Webpage:http://unesdoc.unesco.org/images/0012/001271/127160m.pdf

UNESCO, *World Culture Report 2000, Cultural Diversity, Conflict and Pluralism*, Paris 2000.

UNESCO, *Cultural Rights and Wrongs. A Collection of Essays in Commemoration of the 50th Anniversary of the Universal Declaration of Human Rights*, Paris 1998.

UNESCO, *World Culture Report 1998, Culture, Creativity and Markets*, Paris 1998.

UNESCO, *World Commission on Culture and Development, Our Creative Diversity*, Paris 1996.

UNESCO, *Cultural Industries: A Challenge for the Future of Culture*, Paris 1982.

van Bael, Ivo / Bellis, Jean-François, *Competition law of the European Community*, The Hague 2005.

Variety (2006), 'Runway drain?', on-line article, see http://www.variety.com/article/VR1117947748.html

Vogel, Harold L., *Entertainment Industry Economics, A Guide for Financial Analysis*, Cambridge 2004.

Voon, Tania, *Cultural Products and the World Trade Organization*, Port Melbourne Victoria 2007.

# Appendix A: Output Tables from Part A

**OUTPUT TABLES ON ALL COUNTRIES**
**Table A – Direct Territorialisation Requirements**

N/A means "not applicable"

| Member State | Names of Funding Schemes | Available Budget | National (Nat) / Regional (Reg) Funding Scheme | Direct territorialisation requirement quantified in the law | | | Direct territorialisation requirement not quantified in the law | | | Expected New Funding Schemes containing "Objective Explicit" Territorialisation Requirements (A.6): Y/N |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | | X% in terms of film budget | X% in terms of State aid granted | X% of the amount of the total available budget that is subject to territorialisation | List of requirements | Estimation of how much local expending this involves in terms of film budget | Estimation of how much local expending this involves in relation to the total aid available | |
| **Austria** | Austrian Film Institute (federal level) | 9,600,000 | Nat | N/A | N/A | N/A | Y[300] | N/A | N/A | N |
| | Film and TV[301] Agreement 2006 (federal level) | | Nat | N/A | N/A | N/A | Y[302] | N/A | N/A | |
| | Federal Chancellery (federal level) | 1,290,000 | Nat | N/A | N/A | N/A | N | N/A | N/A | |
| | TV Fund Austria (federal level) | 7,500,000 | Nat | N/A | 150%[303] | N/A | N | N/A | N/A | |
| | Vienna Film Fund (regional level) | 8,000,000 | Reg | N/A | 100%[304] | N/A | N | N/A | N/A | |

[300] The recipient of the State aid must shoot in Austria almost all the film. The FFA does not provide any percentage regarding the shooting. Exceptions are provided by the FFA (2.2).
[301] The budget figures are only available on the funding body level (as opposed to the funding scheme level).
[302] The recipient of the State aid must shoot in Austria almost all the film. The FFA does not provide any percentage regarding the shooting. Exceptions are provided by the FFA (3.2).
[303] Limited: At least 20% of all production costs can be spent in another MS (5.2).
[304] Limited: At least 20% of all production costs can be spent in another MS (6.2)

| Member State | Names of Funding Schemes | Available Budget | National (Nat) / Regional (Reg) Funding Scheme | Direct territorialisation requirement quantified in the law | | | Direct territorialisation requirement not quantified in the law | | | Expected New Funding Schemes containing "Objective Explicit" Territorialisation Requirements (A.6): Y/N |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | | X% in terms of film budget | X% in terms of State aid granted | X% of the amount of the total available budget that is subject to territorialisation | List of requirements | Estimation of the X% of how much local expending this involves in terms of film budget | Estimation of the X% of how much local expending this involves in relation to the total aid available | |
| **Austria (continued)** | Culture Department of the City of Vienna (regional level) | 450,000 | Reg | N/A | N/A | N/A | N/A | N/A | N/A | (continued) |
| | Film Promotion of the Province of Lower Austria (regional level) | 450,000 | Reg | N/A | N/A | N/A | N/A | N/A | N/A | |
| | Cine Styria Film Fund (regional level) | 1,500,000 | Reg | N/A | 150%[305] | N/A | N | N/A | N/A | |
| | Cine Tirol Film Fund (regional level) | 1,100,000 | Reg | N/A | 200% | N/A | N/A | N/A | N/A | |
| **Belgium** | Tax Shelter (Federal funding scheme) | 4,900.000 (Flanders), 7,930.000 (French Part) | Nat | N/A[306] | N/A | N/A | N/A | N/A | N/A | N |
| | Aide a la production | 969,045 (2002)[307] | Reg | N/A | 100% (3.2) | N/A | N/A | N/A | N/A | |
| | Aide à la production de programmes télévisuels | 495,790 | Reg | N/A | 100% (4.2) | N/A | N/A | N/A | N/A | |
| | Subvention à la diffusion et prime à la qualité | 1,142,789 | Reg | N/A | N/A | N/A | N/A | N/A | N/A | |
| | Fond Spécial | 964,589 | Reg | N/A | N/A | N/A | N/A | N/A | N/A | |

[305] Limited: At least 20% of all production costs can be spent in another MS (9.2)
[306] It is provided that expenditure in Belgium for production and exploitation must amount to at least 150% of the tax shelter risk capital. (2.2)
[307] In 2005, 78 requests for production support have been examined by the Commission, 24 projects have received a favourable opinion for a total of 1.086.750 EUR.

| Member State | Names of Funding Schemes | Available Budget | National (Nat) / Regional (Reg) Funding Scheme | Direct territorialisation requirement quantified in the law | | | Direct territorialisation requirement not quantified in the law | | | Expected New Funding Schemes containing "Objective Explicit" Territorialisation Requirements (A.6): Y/N |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | | X% in terms of film budget | X% in terms of State aid granted | X% of the amount of the total available budget that is subject to territorialisation | List of requirements | Estimation of the X% of how much local expending this involves in terms of film budget | Estimation of the X% of how much local expending this involves in relation to the total aid available | |
| **Belgium (continued)** | Financement d'œuvres audiovisuelles | 2,500,000 | Reg | Documentaries: minimum local expenditure 15%[308] | 100% (7.2) | N/A | N/A | N/A | N/A | (continued) |
| | Support for Development - *Ontwikkelingssteun* | 9,700,000 | Reg | N/A | 100%[309] | N/A | N | N/A | N/A | |
| | Support for Production – Productiesteun[310] | | Reg | N/A | 100%[311] | N/A | N | N/A | N/A | |
| | Support for Scriptwriting – Scenariosteun | | Reg | N/A | 100%[312] | N/A | N | N/A | N/A | |
| **Cyprus** | Program for the Development of the Cyprus Cinema | 877,193 (2003) | Nat | N/A | N/A | N/A | N | N/A | N/A | Y[313] |
| **Czech Republic** | State Fund of the Czech Republic for the Support and Development of the Czech Cinematography | 2,207,832 | Nat | N/A | N/A | N/A | N/A | N/A | N/A | N[314] |

[308] Documentaries must show a minimum local expenditure equivalent to 15% of the production's total budget. Moreover: Company applying for aid must demonstrate that a minimum of € 250,000 audiovisual expenditure will take place in the Walloon region.
[309] Exceptions are provided but the spending may not be lower than 60% of the amount the VAF has granted. Limited: at least 20% of all production costs can be spent in another MS without any reduction in the support.
[310] Budget only available on funding body level. But since territorialisation degree is similar for each scheme it makes no difference.
[311] Exceptions are provided but the spending may not be lower than 60% of the amount the VAF has granted. Limited: at least 20% of all producti on costs can be spent in another MS without any reduction in the support.
[312] Exceptions are provided but the spending may not be lower than 60% of the amount the VAF has granted. Limited: at least 20% of all production costs can be spent in another MS without any reduction in the support.
[313] New funding schemes under the Regulations of the Programme for the Development of Cyprus Cinema are to be introduced in 2007.
[314] (but there is a recommendation to introduce a 12.5% tax shelter system combined with a national certification system for eligible beneficiaries).

| Member State | Names of Funding Schemes | Available Budget | National (Nat) / Regional (Reg) Funding Scheme | Direct territorialisation requirement quantified in the law | | | Direct territorialisation requirement not quantified in the law | | | Expected New Funding Schemes containing "Objective Explicit" Territorialisation Requirements (A.6): Y/N |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | | X% in terms of film budget | X% in terms of State aid granted | X% of the amount of the total available budget that is subject to territorialisation | List of requirements | Estimation of the X% of how much local expending this involves in terms of film budget | Estimation of the X% of how much local expending this involves in relation to the total aid available | |
| **Denmark** | Danish Film Institute' Consultant Scheme | 11,812,081 | Nat | N/A | N/A | N/A | N | N/A | N/A | N |
| | Danish Film Institute' 60/40 Scheme | 5,557,047 | Nat | N/A | N/A | N/A | N | N/A | N/A | Y<br>New regional funding scheme "The Copenhagen Film Fund" (A 4) |
| | Danish Film Institute' Shorts and documentaries: Consultant scheme | 1,342,282 | Nat | N/A | 100%<br>in case of documentaries | N/A | N | N/A | N/A | |
| | Danish Film Institute' New Danish Screen | 13,417,367 | Nat | N/A | N/A | N/A | N | N/A | N/A | |
| | Danish Film Institute' New Doc | 268,456 | Nat | N/A | N/A | N/A | N | N/A | N/A | |
| | Nordic Film-&TV Fund | 8,561,481 | /[315] | N/A | N/A | N/A | N | N/A | N/A | |
| | FilmFyn | 1,300,000 | Nat | N/A | 200% | N/A | N | N/A | N/A | |
| **Estonia** | Eesti filmi sihtasutus / Film development and | 2,843,450 | Nat | N/A | 100% | N/A | N | N/A | N/A | N |
| **Finland** | Finnish Film Foundation's development support | 1,462,400 | Nat | N/A | N/A | N/A | N | N/A | N/A | N |
| | Finnish Film Foundation's advance support for production | 7,276,600 | Nat | N/A | N/A | N/A | N | N/A | N/A | |
| | Finnish Film Foundation's Post-release support for production | 6,358,000[316] | Nat | N/A | N/A | N/A | N | N/A | N/A | |

[315] It is a funding scheme on a supranational basis (it is defined as regional in the sense that it applies to the Nordic Region).
[316] Figure not listed in KORDA but is calculated by subtracting the two previous posts from total which figures on KORDA

| Member State | Names of Funding Schemes | Available Budget | National (Nat) / Regional (Reg) Funding Scheme | Direct territorialisation requirement quantified in the law | | | Direct territorialisation requirement not quantified in the law | | | Expected New Funding Schemes containing "Objective Explicit" Territorialisation Requirements (A.6): Y/N |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | | X% in terms of film budget | X% in terms of State aid granted | X% of the amount of the total available budget that is subject to territorialisation | List of requirements | Estimation of the X% of how much local expending this involves in terms of film budget | Estimation of the X% of how much local expending this involves in relation to the total aid available | |
| **Finland** **(continued)** | State grants for artists[317] | 755 670 | Nat | N/A | N/A | N/A | N | N/A | N/A | (continued) |
| | Production supports' exemption from income taxation[318] | ? | Nat | N/A | N/A | N/A | N | N/A | N/A | |
| | Reduced value added tax rate for cinema tickets | ? | Nat | N/A | N/A | N/A | N | N/A | N/A | |
| | Production subsidy of the Promotion Centre for Audiovisual Culture | 1,565,433 | Nat | N/A | N/A | N/A | N | N/A | N/A | |
| **France** | Conseil Régional Provence- | 2,320,000 | Reg | N/A | N/A | N/A | N/A | N/A | N/A | Y |
| | Charentes Department Funding Scheme | 1,552,000[319] | Reg | N/A | N/A | N/A | N/A | N/A | N/A | |
| | Poitou-Charentes Funding Scheme | | Reg | N/A | N/A | N/A | N/A | N/A | N/A | |
| | Rhône-Alpes CINEMA Funding Scheme | 3,000,000 | Reg | N/A | N/A | N/A | N/A | N/A | N/A | |
| | Conseil Régional de la Réunion | 2,320,000 | Reg | N/A | N/A | N/A | N/A | N/A | N/A | |

[317] Totally state grants for artist=15,300,000. Grants for artist in the film industry = 5 %

[318] State aid is exempted from corporate taxable incomes. The value of this depends on the amount of state aid as well as on the overall income and tax payments of the receivers. Therefore not possible to state specific figure.

[319] Charente Department Funding Scheme is administered by Conseil Régional Poitou-Charentes.

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|---|---|---|---|---|---|---|---|---|---|---|
| | | | | X% in terms of film budget | X% in terms of State aid granted | X% of the amount of the total available budget that is subject to territorialisation | List of requirements | Estimation of the X% of how much local expending this involves in terms of film budget | Estimation of the X% of how much local expending this involves in relation to the total aid available | |
| **France (continued)** | Aquitaine Image Cinéma/ Conseil régional d'Aquitaine (CRA) | 1,231,000 | Reg | N/A | N/A | N/A | N/A | N/A | N/A | (continued) |
| | Collectivité territoriale de Corse | 1,587,000 | Reg | N/A | N/A | N/A | N/A | N/A | N/A | |
| | Automatic Support | 154,100,000[320] | Nat | N/A | N/A | N/A | N/A | N/A | N/A | |
| | Conseil Régional du Centre | 1,080,000 | Reg | N/A | N/A | N/A | N/A | N/A | N/A | |
| | Ile de France-Production | 11,000,000 | Reg | N/A | N/A | N/A | N/A | N/A | N/A | |
| | Selective Support | 32,500,000[321] | Nat | N/A | N/A | N/A | N/A | N/A | N/A | |
| | Feam[322] | 5,000,000 | Nat | N/A | N/A | N/A | N/A | N/A | N/A | |
| | Conseil Régional du Limousin | 1,031,500 | Reg | N/A | N/A | N/A | N/A | N/A | N/A | |
| | Région Nord Pas de Calais | 2,764,000 | Reg | N/A | N/A | N/A | N/A | N/A | N/A | |
| | Video for private use | 6,430,000 | Nat | N/A | N/A | N/A | N/A | N/A | N/A | |
| | RIAM[323] | 1,006,000 | Nat | N/A | N/A | N/A | N/A | N/A | N/A | |
| | Cinema for the South | N/A[324] | Nat | N/A | N/A | N/A | N/A | N/A | N/A | |
| | IFCIC[325] | 10,000,000[326] | Nat | N/A | N/A | N/A | N/A | N/A | N/A | |

[320] Figure from survey, budget for 2004.
[321] Figure from survey, budget for 2004.
[322] CNC notes: Not related to cinema/audiovisual support.
[323] CNC notes: Not related to cinema/audiovisual support.
[324] No data available.
[325] CNC notes: Not related to cinema/audiovisual support.
[326] http://www.ifcic.fr/pc/ifcic/structur/ca_if_st.htm

| Member State | Names of Funding Schemes | Available Budget | National (Nat) / Regional (Reg) Funding Scheme | Direct territorialisation requirement quantified in the law | | | Direct territorialisation requirement not quantified in the law | | | Expected New Funding Schemes containing "Objective Explicit" Territorialisation Requirements (A.6): Y/N |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | | X% in terms of film budget | X% in terms of State aid granted | X% of the amount of the total available budget that is subject to territorialisation | List of requirements | Estimation of the X% of how much local expending this involves in terms of film budget | Estimation of the X% of how much local expending this involves in relation to the total aid available | |
| **France** (continued) | SOFICA[327] | 32,800,000 (2006)[328] | Nat | N/A | N/A | N/A | N/A | N/A | N/A | (continued) |
| | Tax Credit | 87,000,000 | Nat | N/A | N/A | N/A | N/A | N/A | N/A | |
| | Automatic Support for | 66,700,000 | Nat | N/A | N/A | N/A | N/A | N/A | N/A | |
| | Automatic Support for Distribution | 14,200,000 | Nat | N/A | N/A | N/A | N/A | N/A | N/A | |
| | Selective Support for Distribution | 3,300,000 | Nat | N/A | N/A | N/A | N/A | N/A | N/A | |
| | Selective Support for Cinema with | 11,200,000 | Nat | N/A | N/A | N/A | N/A | N/A | N/A | |
| | Selective Support for Exhibitions – Theatres in Rural areas | 10,000,000 | Nat | N/A | N/A | N/A | N/A | N/A | N/A | |
| | Support for Investment by Facilities company[331] | 5,400,000 | Nat | N/A | N/A | N/A | N/A | N/A | N/A | |
| | Procirep | N/A[332] | Nat | N/A | N/A | N/A | N/A | N/A | N/A | |
| | Automatic Support for production of short films | 6,200,000 | Nat | N/A | N/A | N/A | N/A | N/A | N/A | |
| | Automatic Support for production of feature films | 53,700,000 | Nat | N/A | N/A | N/A | N/A | N/A | N/A | |
| | Selective support for production: advance on receipts | 23,160,000 | Nat | N/A | N/A | N/A | N/A | N/A | N/A | |

[327] CNC notes: Not related to cinema/audiovisual support
[328] CNC states that this is not considered State Aid by the EC – according to CNC this scheme is not under CNC administration.
[329] Response to survey. There, CNC states that 0% of their total budget for 2004 is granted as tax incentives (for 2005 CNC states that 19.6% of their 328 MEUR budget is granted as tax incentives).
[330] CNC notes: Not related to cinema/audiovisual support.
[331] CNC notes: This is not a CNC scheme.
[332] No data available.

| Member State | Names of Funding Schemes | Available Budget | National (Nat) / Regional (Reg) Funding Scheme | Direct territorialisation requirement quantified in the law | | | Direct territorialisation requirement not quantified in the law | | | Expected New Funding Schemes containing "Objective Explicit" Territorialisation Requirements (A.6): Y/N |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | | X% in terms of film budget | X% in terms of State aid granted | X% of the amount of the total available budget that is subject to territorialisation | List of requirements | Estimation of the X% of how much local expending this involves in terms of film budget | Estimation of the X% of how much local expending this involves in relation to the total aid available | |
| **France** (continued) | Support for the development of feature films | 2,700,000 | Nat | N/A | N/A | N/A | N/A | N/A | N/A | (continued) |
| | Selective support for production of short films | N/A | Nat | N/A | N/A | N/A | N/A | N/A | N/A | |
| **Germany** | Filmförderungsanstalt (FFA; federal level) | 46,903,000 | Nat | N/A | N/A | N/A | N/A | N/A | N/A | Y (A 4) |
| | FilmFernsehFonds Bayern GmbH (Bavaria) | 29,081,510 | Reg | N/A | 150 % / 100 %[333] | N/A | N/A | N/A | N/A | |
| | MFG Medien- und Filmgesellschaft Baden-Württemberg mbH (Baden-Württemberg) | 10,362,633 | Reg | N/A | At least 120% (4.2) Limited to: At least 20% of all production costs can be spent in another MS | N/A | N/A | N/A | N/A | |
| | Medienboard Berlin-Brandenburg GmbH (Berlin-Brandenburg) | 25,397,318 | Reg | N/A | N/A | N/A | / [334] | N/A | / [335] | |
| | Filmförderung Hamburg GmbH (Hamburg) | 7,000,000 | Reg | N/A | At least 150% (6.2) | N/A | N/A | N/A | N/A | |

[333] 150 % (First loan); 100% (Success loan) (3.2)
[334] Art. 1.3.9 explicitly provides that film project costs should as far as possible be spent within Berlin-Brandenburg.
Practice reveals that these expenditures should be spent in Berlin-Brandenburg at least up to the level of the aid granted (so-called "regional impact")
Limited to: At least 20% of all production costs can be spent in ano ther MS (5.2)
[335] Practice reveals that these local expenditures should be at least 100%

| Member State | Names of Funding Schemes | Available Budget | National (Nat) / Regional (Reg) Funding Scheme | Direct territorialisation requirement quantified in the law | | | Direct territorialisation requirement not quantified in the law | | | Expected New Funding Schemes containing "Objective Explicit" Territorialisation Requirements (A.6): Y/N |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | | X% in terms of film budget | X% in terms of State aid granted | X% of the amount of the total available budget that is subject to territorialisation | List of requirements | Estimation of the X% of how much local expending this involves in terms of film budget | Estimation of the X% of how much local expending this involves in relation to the total aid available | |
| **Germany (continued)** | Filmstiftung NRW GmbH (North Rhine-Westphalia) | 30,899,544 | Reg | N/A | At least 150%[336] | N/A | N/A | N/A | N/A | (continued) |
| | MDM Mitteldeutsche Medienförderung GmbH for Saxonia, Saxony-Anhalt and Thuringia | 12,725,877 | Reg | N/A | At least 100%[337] | N/A | / [338] | N/A | N/A | |
| | Nord Media Die Mediengesellschaft Niedersachsen / Bremen mbH | 10,457,620 | Reg. | For film production 75% (80% for smaller production) | 125 % / 100 %[339] | N/A | N/A | N/A | N/A | |
| | Hessische Filmförderung (Hessen) | 1,019,551 | Reg. | N/A | N/A | N/A | Y[340] | N/A | N/A | |
| | MSH Gesellschaft zur Förderung audiovisueller Werke in Schleswig-Holstein mbH | 1,383,116 | Reg. | N/A | At least 100%[341] | N/A | N/A | N/A | N/A | |

[336] (7.2), 100% For production with a total budget of up to EUR 750.000,00. Limited to: At least 20% of all production costs can be spent in another MS (7.2).
[337] (8.2), Limited to: At least 20% o f all production costs can be spent in another MS (7.2).
[338] In the context of "package funding", no percentage is provided but Art. 3.3.3 of the MDM Regulations requires that aid should be spent in Central Germany as far as possible, and that the projects shall be locally produced as far as it is possible. The producer must state in detail the items of the production costs that will be spent locally.
[339] For film production 125% (100% for smaller film). For other film activities 100%. Possibility of exceptions (9.2).
[340] The recipient of the State aid for film production must spend locally an amount not quantified (10.2)
[341] (11.2). Limited to: At least 20% of all production costs can be spent in another MS.

| Member State | Names of Funding Schemes | Available Budget | National (Nat) / Regional (Reg) Funding Scheme | Direct territorialisation requirement quantified in the law | | | Direct territorialisation requirement not quantified in the law | | | Expected New Funding Schemes containing "Objective Explicit" Territorialisation Requirements (A.6): Y/N |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | | X% in terms of film budget | X% in terms of State aid granted | X% of the amount of the total available budget that is subject to territorialisation | List of requirements | Estimation of the X% of how much local expending this involves in terms of film budget | Estimation of the X% of how much local expending this involves in relation to the total aid available | |
| **Greece** | Greek Film Centre: program *Orizontes* ("Horizons") | 1,438,127 (2002) | Nat | N/A | N/A | N/A | N | N/A | N/A | N |
| | Greek Film Centre: *Kinitro* ("Incentive") | 1,114,878 | Nat | N/A | N/A | N/A | N | N/A | N/A | |
| | Greek Ministry of Culture:<br>- tax return scheme support to Greek Film Producers | | Nat | N/A | N/A | N/A | N | N/A | N/A | |
| | Greek Ministry of Culture:<br>- tax return scheme support to Cinema Theatre Enterprises in Greece | | Nat | N/A | N/A | N/A | N | N/A | N/A | |
| | Greek Ministry of Culture:<br>- tax return scheme support to Greek Film Distribution Agencies in Greece | | Nat | N/A | N/A | N/A | N | N/A | N/A | |
| | Hellenic Broadcasting Corporation (E.R.T.) : support to film production and co-production | | Nat | N | N/A | N/A | N | N/A | N/A | |

| Member State | Names of Funding Schemes | Available Budget | National (Nat) / Regional (Reg) Funding Scheme | Direct territorialisation requirement quantified in the law | | | Direct territorialisation requirement not quantified in the law | | | Expected New Funding Schemes containing "Objective Explicit" Territorialisation Requirements (A.6): Y/N |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | | X% in terms of film budget | X% in terms of State aid granted | X% of the amount of the total available budget that is subject to territorialisation | List of requirements | Estimation of the X% of how much local expending this involves in terms of film budget | Estimation of the X% of how much local expending this involves in relation to the total aid available | |
| **Hungary** | Foundation of the Hungarian Historical Motion Picture' Direct Subsidy | 1,659,055 | Nat | N/A | 60 % / 80 %[342] | N/A | N/A | N/A | N/A | N |
| | Direct subsidy – National Cultural Fund | 3 044 463[343] | Nat | N/A | N/A | N/A | N/A | N/A | N/A | |
| | Direct Subsidy – Broadcasting Fund | For public service broadcast: approx. 2,624,000 € (2005). For public service program: approx. 5,415,000 € (2005)[344] | Nat | N/A | N/A | N/A | N/A | N/A | N/A | |
| | Hungarian National Film Office's Indirect Subsidy (Tax Incentive Scheme) | 29,212,773 | Nat | Y[345] | N/A | N/A | N/A | N/A | N/A | |
| **Ireland** | Section 481 Tax Relief Incentive for Investment in Film Production | 24,400,000 | Nat | N/A | N/A[346] | N/A | N | N/A | N/A | N |

[342] Before 2006 no more than 80% of the subsidy granted must be spent in Hungary (after 2006 60%)
[343] In 2005: HUF 355,000,000
[344] both figures not from Korda Database but from the local counsel.
[345] The requirement consists in refunding the 20% of local film production costs which incurred in Hungary.
[346] Spend in Ireland must equal the amount raised under "Section 481".
The tax relief is calculated at the top rate of the respective tax payable to the extent of 80% of the investment made by way of shares in film production companies. (2.2)

| Member State | Names of Funding Schemes | Available Budget | National (Nat) / Regional (Reg) Funding Scheme | Direct territorialisation requirement quantified in the law | | | Direct territorialisation requirement not quantified in the law | | | Expected New Funding Schemes containing "Objective Explicit" Territorialisation Requirements (A.6): Y/N |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | | X% in terms of film budget | X% in terms of State aid granted | X% of the amount of the total available budget that is subject to territorialisation | List of requirements | Estimation of the X% of how much local expending this involves in terms of film budget | Estimation of the X% of how much local expending this involves in relation to the total aid available | |
| **Ireland (continued)** | The Irish Film Board ("IFB") Development and Production Investment Loans | 1,075,200 (2002) (The whole of IFB: 11,399,707 (2004) | Nat | N/A | N/A | N/A | N | N/A | N/A | (continued) |
| **Italy** | Direzione Generale per il Cinema | 83,626,139 | Nat | 30%[347] | N/A | N/A | N/A | N/A | N/A | N |
| **Latvia** | National Film Centre (NFC) | 1,440,240 | Nat | N/A | N/A | N/A | N | N/A | N/A | N |
| | State Culture Capital Foundation (SCCF) | 9,42,857 | Nat | N/A | N/A | N/A | N | N/A | N/A | |
| **Lithuania** | National Cinema Support Programme and the State budget of the Republic of Lithuania funding scheme | 1,091,014[348] | Nat | N/A | N/A | N/A | N | N/A | N/A | N |
| **Luxembourg** | Certificats d'investissement audiovisual | 32,673,380 | Nat | N/A | N/A | N/A | / [349] | N/A | N/A | Amendment expected/ [350] |
| | Aides Financières sélectives | 3,928,775 | Nat | N/A | N/A | N/A | N/A | N/A | N/A | |

[347] Since this requirements is located under the formal nationality certification procedure, it qualifies as indirect territorialisation requirements.
[348] the support for film projects was subsequent: in 2001 991,3 Thousand Euro, in 2002 838,2 Thousand Euro, in 2003 867,0 Thousand Euro, in 2004 1068,0 Thousand Euro, in 2005 1 371,0 Thousand Euro. To these sums the support of the Culture and Sport Support Fund which existed during this period, must be added. However, this Fund is responsible for all spheres of the sport and culture, and according to the information of the Ministry of Culture, this funding scheme financed film production projects yearly for approx. 200 000 – 250 000 Euro.
[349] The tax advantage is proportionate to the local costs. However the CAI does not provide for any percentage of funding to be spent locally. (2.2)
[350] Law governing the funding scheme "*Certificats d'Investissement Audiovisuel*" (Certificates of Audiovisual Investment) is expected to be amended.

| Member State | Names of Funding Schemes | Available Budget | National (Nat) / Regional (Reg) Funding Scheme | Direct territorialisation requirement quantified in the law | | | Direct territorialisation requirement not quantified in the law | | | Expected New Funding Schemes containing "Objective Explicit" Territorialisation Requirements (A.6): Y/N |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | | X% in terms of film budget | X% in terms of State aid granted | X% of the amount of the total available budget that is subject to territorialisation | List of requirements | Estimation of the X% of how much local expending this involves in terms of film budget | Estimation of the X% of how much local expending this involves in relation to the total aid available | |
| **Malta** | Malta Film Commission (MFC) - Financial Incentives for the Audiovisual Industry Regulations | 3,490,000 (2006)[351] | Nat | N/A[352] | N/A | N/A | N | N/A | N/A | Y |
| | Malta Enterprise – Incentives under the Business Promotion Regulations | 19,045,349[353] | Nat | N/A | N/A | N/A | Y[354] | N/A | N/A | |
| | MFC – Tax Credit for Audiovisual Infrastructure | 2,330,000 (2006)[355] | Nat | N/A | N/A | N/A | Y[356] | N/A | N/A | |
| **Netherlands** | Film Investment Tax Scheme (FIT) | 20,000,000[357] | Nat | >50%[358] | N/A | N/A | N | N/A | N/A | N |
| | Dutch Film Fund | 14,739,809 | Nat | N/A | N/A | N/A | N | N/A | N/A | |
| | Rotterdam Film Fund | 2,700,000 | Nat | N/A | 200% / 150 % | N/A | Y | N/A | N/A | |

[351] Scheme was started in 2006 – there are no budget figures for 2005 or years before that.
[352] There is no percentage but audiovisual productions spending less than Lm 35,000 (€81,780) in Malta are not eligible for the financial incentives.
[353] The incentives are expected to take the form of a cash grant given to qualifying productions on the portion of eligible expenditure spent in Malta. Up to 20% of this expenditure could be rebated to a qualifying production company. Feature film and television productions, mini-series, animation and documentaries are all eligible for the incentives, provided they are at least partially produced in Malta.
[354] The recipient tax reduction must spend locally a not quantified amount of the film budget (3.2).
[355] The scheme was started in 2006 – there are no budget figures for 2005 or years before that.
[356] The recipient tax reduction must spend locally a not quantified amount of the film budget as the projects must expand and develop the audiovisual industry in Malta. (4.2)
[357] The FIT inform that the tax scheme has been put out of order from 2006.
[358] The production costs incurred by a film company can be deducted if from the total production costs more than 50% relate to production in the Netherlands and the total production costs do not exceed € 15,000,000 (2.2)
[359] 200 % of the loan must be spent with Rotterdam facilities companies, For international coproduction 150%.

| Member State | Names of Funding Schemes | Available Budget | National (Nat) / Regional (Reg) Funding Scheme | Direct territorialisation requirement quantified in the law | | | Direct territorialisation requirement not quantified in the law | | | Expected New Funding Schemes containing "Objective Explicit" Territorialisation Requirements (A.6): Y/N |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | | X% in terms of film budget | X% in terms of State aid granted | X% of the amount of the total available budget that is subject to territorialisation | List of requirements | Estimation of the X% of how much local expending this involves in terms of film budget | Estimation of the X% of how much local expending this involves in relation to the total aid available | |
| **Poland** | Polish Institute of Cinematographic Arts (PICA) | 20,500,000[360] | Nat | N/A | 80 % [361] | N/A | N/A | N/A | N/A | / [362] |
| **Portugal** | Instituto do Cinema, Audiovisual e Multimédia (ICAM) – *Sistema de Apoio Financeiro Directo* ("Direct Financial Support Scheme") | 3,242,000 (2002)[363] | Nat | N/A | N/A | N/A | N[364] | N/A | N/A | Y *Fundo de Investimento para o Cinema e Audiovisual* (A 4) |
| | ICAM – *Sistema de Apoio Financeiro Selectivo* ("Selective Financial Support Scheme") | 9,498,826 (2002)[365] | Nat | N/A | N/A | N/A | N[366] | N/A | N/A | |
| | Ibermedia | 3,242,000 (2002)[367] | / | / | / | / | / | / | / | |
| **Slovakia** | AudioVision – Ministry of Culture of the Slovak Republic | 705,685 | Nat | N/A | N/A | N/A | N/A | N/A | N/A | N |

[360] total budget 2007; sources allocated for film production: 14,100,00 Euro
[361] Clause to be included in the contract of subsidisation (no direct obligation) to spend locally up to the 80% of the subsidy
Amended in 2006: the obligation to spend 80% of the subsidy must not cover the costs of preparation of film project, distribution and broadcasting insofar as they are included in the costs of producing the film (2.2).
[362] Amendment of the PICA. New funding scheme in 2006: *Telewizja Polska S.A. – Agencja Filmowa.* No other expected funding scheme.
[363] Funding provided for each scheme in year 2005 reached € 1.950.000, divided by three films given € 650.000 each in the form of non-reimbursable advancements.
[364] Not quantified requirements are located under the formal nationality certification procedures, they qualify as indirect territorialisation requirements.
[365] Funding provided for each scheme in year 2005 reached € 1.950.000, divided by three films given € 650.000 each in the form of non-reimbursable advancements.
[366] Not quantified requirements are located under the formal nationality certification procedures, they qualify as indirect territorialisation requirements (2.2).
[367] Funding provided for each scheme in year 2005 reached € 1.950.000, divided by three films given € 650.000 each in the form of non-reimbursable advancements.

| Member State | Names of Funding Schemes | Available Budget | National (Nat) / Regional (Reg) Funding Scheme | Direct territorialisation requirement quantified in the law | | | Direct territorialisation requirement not quantified in the law | | | Expected New Funding Schemes containing "Objective Explicit" Territorialisation Requirements (A.6): Y/N |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | | X% in terms of film budget | X% in terms of State aid granted | X% of the amount of the total available budget that is subject to territorialisation | List of requirements | Estimation of the X% of how much local expending this involves in terms of film budget | Estimation of the X% of how much local expending this involves in relation to the total aid available | |
| **Slovenia** | Stimulation of Development of Cinematographic Activities in Slovenia (SDAS) | 2,334,055[368] | Nat | N/A | N/A | N/A | / [369] | N/A | N/A | N |
| | Co-Financing of Audiovisual Media Project (CAMP) | 1,707,359 (2003)[370] | Nat | N/A | N/A | N/A | N/A | N/A | N/A | |
| **Spain** | Medidas de fomento a la cinematografía (central level) | 64,550,000 | Nat. | N/A | N/A | N/A | N/A | N/A | N/A | |
| | Impuesto de sociedades (central level) | N/A[371] | Nat. | N/A | N/A | N/A | N/A | N/A | N/A | |
| | Ayudas a la Producción Audiovisual (Valencia) | 1,202,020 | Reg. | N/A | N/A | N/A | N/A | N/A | N/A | |

[368] The Budget of the Republic of Slovenia for 2006 envisages that for all of its activities ion the area of Media and Audiovisual Culture in 2006 the Ministry for Culture should receive SIT 2.408.467.000 (ie EUR 10.050.355), ie:

- for culture, art cinema and purchase of films – SIT 47.650.000 (ie EUR 198.840)
- for Slovenian Film Fund – SIT 1.060.411.000 (ie EUR 4.425.017)
- for Film Studio Viba Film – SIT 125.906.000 (ie EUR 525.396)
- for audiovisual media programs – SIT 174.500.000 (ie EUR 728.176)
- for implementation of Public Media Law – SIT 1.000.000.000 (ie EUR 4.172.926)

[369] The recipient of state aid must spend locally as much as possible of the amount awarded (no percentage is specified). Limited to: the 20% of the film budget may be spent in MS.

[370] The Budget of the Republic of Slovenia for 2006 envisages that for all of its activities ion the area of Media and Audiovisual Culture in 2006 the Ministry for Culture should receive SIT 2.408.467.000 (ie EUR 10.050.355), ie:

- for culture, art cinema and purchase of films – SIT 47.650.000 (ie EUR 198.840)
- for Slovenian Film Fund – SIT 1.060.411.000 (ie EUR 4.425.017)
- for Film Studio Viba Film – SIT 125.906.000 (ie EUR 525.396)
- for audiovisual media programs – SIT 174.500.000 (ie EUR 728.176)
- for implementation of Public Media Law – SIT 1.000.000.000 (ie EUR 4.172.926)

[371] Note that there is a same degree of territorialisation as in Medidas de formento a la cinematografía.

| Member State | Names of Funding Schemes | Available Budget | National (Nat) / Regional (Reg) Funding Scheme | Direct territorialisation requirement quantified in the law | | | Direct territorialisation requirement not quantified in the law | | | Expected New Funding Schemes containing "Objective Explicit" Territorialisation Requirements (A.6): Y/N |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | | X% in terms of film budget | X% in terms of State aid granted | X% of the amount of the total available budget that is subject to territorialisation | List of requirements | Estimation of the X% of how much local expending this involves in terms of film budget | Estimation of the X% of how much local expending this involves in relation to the total aid available | |
| **Spain (continued)** | Subvenciones automaticás a la industria audiovisual catalana (Catalonia) | 8,025,000 (2006)[372] | Reg. | N/A | N/A | N/A | N/A | N/A | N/A | (continued) |
| | Subvenciones selectivas a la industria audiovisual catalana (Catalonia) | 5,982,672[373] | Reg. | between 50% and 75% [374] | N/A | N/A | N/A | N/A | N/A | |
| | Medidas de fomento del uso del catalán (Catalonia) | 2,193,263[375] | Reg. | N/A | N/A | N/A | N/A | N/A | N/A | |
| | Instituto Catalán de Finanzas, línea de préstamos para inversions en el sector de la producción audiovisual (Catalonia) | 22,226,100 | Reg. | N/A | N/A | N/A | N/A | N/A | N/A | |
| | Ayudas al desarollo de proyectos y la producción de obras audiovisuals (Andalusia) | 1,224,000 | Reg. | N/A | N/A | N/A | N/A | N/A | N/A | |
| | Concesión de ayudas a la creación, desarollo y producción audiovisual (Galicia) | 4,178,123 | Reg. | 25 % [376] | N/A | N/A | N/A | N/A | N/A | |

[372] http://www.catalanfilms.net/recursos/doc/document21317.pdf
[373] According to Korda
[374] depends on the kind of audiovisual production (B 6.2)
there are also special rules for Spanish or international co-production agreements (B 6.2, B 6.5)
[375] It is not clear if this budget is part of the overall 64 MEUR budget of the central level Medidas de fomento a la cinematographica.
[376] As a minimum limit the recipient of State aid is required to spend locally at least 25 % of production budget (B 10.2)

| Member State | Names of Funding Schemes | Available Budget | National (Nat) / Regional (Reg) Funding Scheme | Direct territorialisation requirement quantified in the law | | | Direct territorialisation requirement not quantified in the law | | | Expected New Funding Schemes containing "Objective Explicit" Territorialisation Requirements (A.6): Y/N |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | | X% in terms of film budget | X% in terms of State aid granted | X% of the amount of the total available budget that is subject to territorialisation | List of requirements | Estimation of the X% of how much local expending this involves in terms of film budget | Estimation of the X% of how much local expending this involves in relation to the total aid available | |
| **Spain (continued)** | Concesión de ayudas a la creación, desarollo y producción audiovisual (Euskadi, País Vasco) | 1,860,527 | Reg. | N/A | N/A | N/A | N/A | N/A | N/A | (continued) |
| | Financiación para el fomento de la producción audiovisual en la Comunidad Autónoma de Euskadi (Euskadi, País Vasco) | N/A | Reg. | N/A | N/A | N/A | N/A | N/A | N/A | |
| **Sweden** | Swedish Film Institute Foundation" ("SFIF") | 44,119,761 | Nat | N/A | N/A | N/A | N[377] | N/A | N/A | N |
| | Film I Väst | 7,032,609 | Reg | 20 % | 100 % | N/A | N/A | N/A | N/A | |
| **United Kingdom** | UK Film Council's Development Fund | 7,462,687 (Korda: 2001) | Nat | N/A | N/A | N/A | N/A | N/A | N/A | N |
| | UK Film Council's New Cinema | 7,462,687 (Korda: 2001) | Nat | N/A | N/A | N/A | N/A | N/A | N/A | |
| | UK Film Council's Premiere | 14,925,373 (Korda: 2001) | Nat | N/A | N/A | N/A | N/A | N/A | N/A | |
| | Cornwall Film | N/A | Reg | N/A | N/A | N/A | N/A | N/A | N/A | |
| | EM Media | 1,049,180 | Reg | N/A | N/A | N/A | N/A | N/A | N/A | |
| | Film London | 2,594,000 | Reg | N/A | N/A | N/A | N/A | N/A | N/A | |
| | North West Vision (including Merseyside Film and Television fund) | 680,328 (2002) | Reg | N/A | N/A | N/A | N/A | N/A | N/A | |

[377] However the distribution of a budget portion to three regional centres arguably implies indirect territorialisation as these centres provide territorialisation requirements (2.3).

| Member State | Names of Funding Schemes | Available Budget | National (Nat) / Regional (Reg) Funding Scheme | Direct territorialisation requirement quantified in the law | | | Direct territorialisation requirement not quantified in the law | | | Expected New Funding Schemes containing "Objective Explicit" Territorialisation Requirements (A.6): Y/N |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | | X% in terms of film budget | X% in terms of State aid granted | X% of the amount of the total available budget that is subject to territorialisation | List of requirements | Estimation of the X% of how much local expending this involves in terms of film budget | Estimation of the X% of how much local expending this involves in relation to the total aid available | |
| **United Kingdom (continued)** | Northern Film & Media | 2,347,849 | Reg | N/A | N/A | N/A | N/A | N/A | N/A | (continued) |
| | Northern Ireland Film and Television Commission | 4,753,587 | Reg | N/A | N/A | N/A | N/A | N/A | N/A | |
| | Scottish Screen | 3,211,429 | Reg | N/A | N/A | N/A | N/A | N/A | N/A | |
| | Screen East | 1,183,264 | Reg | N/A | N/A | N/A | N/A | N/A | N/A | |
| | Screen Yorkshire | 4,127,967 | Reg | N/A | N/A | N/A | N/A | N/A | N/A | |
| | Film Agency Wales | 1,162,979 | Reg | N/A | N/A | N/A | N/A | N/A | N/A | |
| | Screen South | 364,286 | Reg | N/A | N/A | N/A | N/A | N/A | N/A | |
| | Sgrîn Cymru | 2,619,808 | Reg | N/A | N/A | N/A | N/A | N/A | N/A | |
| | Gaelic Media Service | 13,659,807 | Reg | N/A | N/A | N/A | N/A | N/A | N/A | |
| | Creative IP | 7,000,000[378] | Reg | N/A | N/A | N/A | N/A | N/A | N/A | |
| | Screen West Midlands | 927,869 | Reg | N/A | N/A | N/A | N/A | N/A | N/A | |
| | South West Screen | 3,169,865 (2005) | Reg | N/A | N/A | N/A | N/A | N/A | N/A | |

[378] http://www.financewales.co.uk/eng/support.php/c_type=content~c_id=103~sM_id=10~ssM_id=111

## Table B – Indirect Territorisalisation Requirements

| Member State | Names of Funding Schemes | Indirect territorialisation requirements located under "Formal Nationality Certification Procedures" | | | Indirect territorialisation requirements located under selective aid criteria and procedures | | | Indirect territorialisation based on any other provisions in the law that forces the producer to make local spending | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | | List of requirements | Estimation of the X% of how much local expending this involves in terms of film budget | Estimation of the X% of how much local expending this involves in relation to the total aid available | List of requirements | Estimation of the X% of how much local expending this involves in terms of film - budget | Estimation of the X% of how much local expending this involves in relation to the total aid available | List of requirements | Estimation of the X% of how much local expending this involves in terms of film - budget | Estimation of the X% of how much local expending this involves in relation to the total aid available |
| **Austria** | Austrian Film Institute (federal level) | Y<br>*Inter alia* the requirements include German language of at least one of the final versions of the films, the nationality of the film director and of the crew members, the place of shooting are the formal criteria to grant the Austrian nationality to a motion picture (A 3 and 2.4) | N/A | N/A | Y<br>The criteria for granting selective aid refer to the place of shooting, to the composition of the staff and to the improvement of the economic condition of the cinema industry in Austria (2.4) | N/A | N/A | Y<br>The requirement to promote local film economy arguably qualifies as indirect territorialisation requirement (2.6) | N/A | N/A |

| Member State | Names of Funding Schemes | Indirect territorialisation requirements located under "Formal Nationality Certification Procedures" | | | Indirect territorialisation requirements located under selective aid criteria and procedures | | | Indirect territorialisation based on any other provisions in the law that forces the producer to make local spending | | |
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| | | List of requirements | Estimation of the X% of how much local expending this involves in terms of film budget | Estimation of the X% of how much local expending this involves in relation to the total aid available | List of requirements | Estimation of the X% of how much local expending this involves in terms of film - budget | Estimation of the X% of how much local expending this involves in relation to the total aid available | List of requirements | Estimation of the X% of how much local expending this involves in terms of film - budget | Estimation of the X% of how much local expending this involves in relation to the total aid available |
| | Film and TV Agreement 2006 (federal level) | Y<br>*Inter alia* the requirements include German language of at least one of the final versions of the films, the nationality of the film director and of the crew members, the place of shooting are the formal criteria to grant the Austrian nationality to a motion picture (A 3 and 2.4) | N/A | N/A | Y<br><br>The criteria for granting selective aid refer to the place of shooting, to the composition of the staff and to the improvement of the economic condition of the cinema industry in Austria (3.4) | N/A | N/A | Y<br>The requirement to promote local film economy arguably qualifies as indirect territorialisation requirement (3.6) | N/A | N/A |
| | Federal Chancellery (federal level) | N | N/A | N/A | N | N/A | N/A | N | N/A | N/A |
| | TV Fund Austria (federal level) | N | N/A | N/A | Y<br>Criteria include economic efficiency and aim of promoting Austrian television films, series and documentaries (5.4) | N/A | N/A | Y<br>The requirement to promote local film economy arguably quali-fies as indirect territorialisation requirement (5.6) | N/A | N/A |

| Member State | Names of Funding Schemes | Indirect territorialisation requirements located under "Formal Nationality Certification Procedures" | | | Indirect territorialisation requirements located under selective aid criteria and procedures | | | Indirect territorialisation based on any other provisions in the law that forces the producer to make local spending | | |
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| | Vienna Film Fund (regional level) | N | N/A | N/A | Y<br>Vienna film industry effect-In order to be eligible to apply for State aid under this funding scheme, the film project must contribute to the cultural and commercial development of the film industry in Vienna (6.4) | N/A | N/A | Y<br>The requirement to promote local film economy arguably qualifies as indirect territorialisation requirement (7.6) | N/A | N/A |
| | Culture Department of the City of Vienna (regional level) | N | N/A | N/A | N | N/A | N/A | N | N/A | N/A |

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| | Film Promotion of the Province of Lower Austria (regional level) | N | N/A | N/A | Y<br>State aid selective granting criteria include *inter alia* the percentage of Lower Austrian staff members , the employment of local companies, the contributions to the economic development of Lower Austria (8.4) | N/A | N/A | Y<br>The requirement to promote local film economy arguably qualifies as indirect territorialisation requirement (8.6) | N/A | N/A |
| | Cine Styria Film Fund (regional level) | N | N/A | N/A | Y<br>Selective criteria are based on artistic evaluation and economic policy goals (9.4) | N/A | N/A | N | N/A | N/A |

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| | Cine Tirol Film Fund (regional level) | N | N/A | N/A | Y<br>Selective criteria include *inter alia* the use of domestic facili-ties and the employment of Tyrol-resident film producers are decisive factors in evaluating the project's potential benefits to the local film industry (10.4) | N/A | N/A | Y<br>The requirement to promote local film economy arguably qualifies as indirect territorialisation requirement (10.6) | N/A | N/A |
| **Belgium** | Tax Shelter (Federal funding scheme) | N/A | N/A | N/A | N/A | N/A | N/A | N | N/A | N/A |

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| | Aide à la production | Y<br><br>All laboratory and studio works must be carried out in Belgium.<br>The film shall be in French language (A 3 and 3.4) | N/A | N/A | Y<br><br>The eligibility criteria require Belgian certification (this implies that the film must be made in Belgium). Moreover the selective aid criteria is based on the referring to “elements of production” (including financial plans and fees) cannot exclude indirect territorialisation not quantifiable (3.4) | N/A | N/A | N | N/A | N/A |

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| | Aide à la production de programmes télévisuels | Y<br><br>All laboratory and studio works must be carried out in Belgium<br>The film shall be in French language<br>(A 3 and 4.4) | N/A | N/A | Y<br><br>The eligibility criteria require Belgian certification (this implies that the film must be made in Belgium). Moreover the selective aid criteria is based on the referring to “elements of production” (including financial plans and fees) cannot exclude indirect territorialisation not quantifiable (4.4) | N/A | N/A | N | N/A | N/A |

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| | Subvention à la diffusion et prime à la qualité | Y<br>All laboratory and studio works must be carried out in Belgium.<br>The film shall be in French language<br>(5.4) | N/A | N/A | Y<br>The eligibility criteria require Belgian certification (this implies that the film must be made in Belgium). Moreover the selective aid criteria is based on the referring to "elements of production" (including financial plans and fees) cannot exclude indirect territorialisation not quantifiable (5.4) | N/A | N/A | N | N/A | N/A |
| | Fond Spécial | N | N/A | N/A | N | N/A | N/A | N | N/A | N/A |

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| | Financement d'œuvres audiovisuelles | N | N/A | N/A | Y<br><br>The main principle of the selective aid is that every Euro of aid given to a producer should generate at least one euro of audiovisual expenditure in the Walloon Region (structuring effect) (7.4) | N/A | N/A | Y<br><br>The requirement to promote the audiovisual economy of the Walloon Region arguably qualifies as indirect territorialisation that is not quantifiable (7.6) | N/A | N/A |
| | Support for Development - Ontwikkelingssteun | N/A | N/A | N/A | N | N/A | N/A | Y<br><br>The requirement to promote the Flemish audiovisual production arguably qualifies as indirect territorialisation that is not quantifiable (8.6) | N/A | N/A |

| Member State | Names of Funding Schemes | Indirect territorialisation requirements located under "Formal Nationality Certification Procedures" | | | Indirect territorialisation requirements located under selective aid criteria and procedures | | | Indirect territorialisation based on any other provisions in the law that forces the producer to make local spending | | |
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| | Support for Production – Productiesteun | N/A | N/A | N/A | N | N/A | N/A | Y<br>The requirement to promote the Flemish audiovisual production arguably qualifies as indirect territorialisation that is not quantifiable (9.6) | N/A | N/A |
| | Support for Scriptwriting – Scenariosteun | N/A | N/A | N/A | N | N/A | N/A | Y<br>The requirement to promote the Flemish audiovisual production arguably qualifies as indirect territorialisation that is not quantifiable (10.6) | N/A | N/A |
| **Cyprus** | Program for the Development of the Cyprus Cinema | N | N/A | N/A | N | N/A | N/A | N | N/A | N/A |

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| **Czech Republic** | State Fund of the Czech Republic for the Support and Development of the Czech Cinematography | N | N/A | N/A | N | N/A | N/A | N | N/A | N/A |
| **Denmark** | Danish Film Institute' Consultant Scheme | N | N/A | N/A | N | N/A | N/A | Y<br>The aim to sustain the variety and the volume of Danish film arguably qualifies as indirect territorialisation that is not quantifiable (2.6) | N/A | N/A |
| | Danish Film Institute' 60/40 Scheme | N | N/A | N/A | N | N/A | N/A | Y<br>The aim to sustain the variety and the volume of Danish film arguably qualifies as indirect territorialisation that is not quantifiable (2.6) | N/A | N/A |

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| | Danish Film Institute' Shorts and documentaries: Consultant scheme | N | N/A | N/A | N | N/A | N/A | Y<br>The aim to sustain the variety and the volume of Danish film arguably qualifies as indirect territorialisation that is not quantifiable (2.6) | N/A | N/A |
| | Danish Film Institute' New Danish Screen | N | N/A | N/A | N | N/A | N/A | Y<br>The aim to sustain the variety and the volume of Danish film arguably qualifies as indirect territorialisation that is not quantifiable (2.6) | N/A | N/A |

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| | Danish Film Institute' New Doc | N | N/A | N/A | N | N/A | N/A | Y<br>The aim to sustain the variety and the volume of Danish film arguably qualifies as indirect territorialisation that is not quantifiable (2.6) | N/A | N/A |
| | Nordic Film-&TV Fund (regional funding scheme) | N | N/A | N/A | N | N/A | N/A | Y<br>The purpose of promoting film productions in the Nordic area as the explicit support to Nordic language versions cannot arguably exclude indirect territorialisation. (3.6) | N/A | N/A |
| | FilmFyn | N | N/A | N/A | N | N/A | N/A | Y | N/A | N/A |

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| **Estonia** | Film development and production funds | N | N/A | N/A | Y<br>The economic evaluation referring to the "economic merits" of the film cannot arguably exclude indirect territorialisation (2.4) | N/A | N/A | N | N/A | N/A |
| **Finland** | Finnish Film Foundation's development support | N | N/A | N/A | N | N/A | N/A | N | N/A | N/A |
| | Finnish Film Foundation's advance support for production | N | N/A | N/A | N | N/A | N/A | N | N/A | N/A |
| | Finnish Film Foundation's Post-release support for production | N | N/A | N/A | N | N/A | N/A | N | N/A | N/A |
| | State grants for artists | N | N/A | N/A | N | N/A | N/A | N | N/A | N/A |
| | Production supports' exemption from income taxation | N | N/A | N/A | N | N/A | N/A | N | | N/A |
| | Reduced value added tax rate for cinema tickets | N | N/A | N/A | N | N/A | N/A | N | N/A | N/A |

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| | Production subsidy of the Promotion Centre for Audiovisual Culture | N | N/A | N/A | N | N/A | N/A | N | N/A | N/A |
| **France** | Conseil Régional Provence-Alpes-Côte d'Azur | N/A | N/A | N/A | Local Spending, Residence, and Shooting Location (2.4) | N/A | 150 (2.4) | N/A | N/A | N/A |
| | Charente Department Funding Scheme | N/A | N/A | N/A | Shooting Location, local expenditures (5.4) | N/A | 25 (5.4) | N/A | N/A | N/A |
| | Conseil Régional Poitou-Charentes | N/A | N/A | N/A | Residence, Local expenditures (6.4) | N/A | 25 (6.4) | N/A | N/A | N/A |
| | Rhône-Alpes CINEMA Funding Scheme | N/A | N/A | N/A | Residence, local expenditures (3.4) | N/A | From 150 to 400 (3.4) | N/A | N/A | N/A |
| | Conseil Régional de la Réunion | N/A | N/A | N/A | Local expenditures, hiring local staff and service (4.4) | N/A | N/A | N/A | N/A | N/A |

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| | Aquitaine Image Cinéma/ Conseil régional d'Aquitaine (CRA) | N/A | N/A | N/A | Shooting Location, local spending, film subject related to the region Place of establishment, film theme, local spending (12.4) | N/A | N/A | N/A | N/A | N/A |
| | Collectivité territoriale de Corse | N/A | N/A | N/A | Residence, Shooting Location (7.4) | | | | | |
| | Automatic Support | See A.3 | N/A | N/A | Local spending (8.4) | 50 (8.4) | N/A | N/A | N/A | N/A |
| | Conseil régional du Centre | N/A | N/A | N/A | Residence or establishment, film subject related to the region, Shooting location, hiring local staff (9.4) | N/A | N/A | N/A | N/A | N/A |
| | Ile de France-Production | N/A | N/A | N/A | Shooting Location, hiring local staff, local spending (10.4) | N/A | N/A | N/A | N/A | N/A |
| | Selective Support | N/A | N/A | N/A | Local Spending (11.4) | 50 (11.4) | N/A | N/A | N/A | N/A |
| | Feam | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A |

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| | Conseil régional du Limousin | N/A | N/A | N/A | Shooting location, residence (14.4) | N/A | N/A | N/A | N/A | N/A |
| | Région Nord Pas de Calais | N/A | N/A | N/A | Shooting Location, place of origin (15.4) | N/A | N/A | N/A | N/A | N/A |
| | Video for private use | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A |
| | RIAM | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A |
| | Cinema for the South | N/A | N/A | N/A | Local spending, hiring local staff (18.4) | 50 (18.4) | N/A | N/A | N/A | N/A |
| | IFCIC | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A |
| | SOFICA | See A.3 | N/A | N/A | N/A | N/A | N/A | 20.3 | N/A | N/A |
| | Tax Credit | See A.3 | N/A | N/A | Film produced mainly in France (21.4) | N/A | N/A | 21.3 | N/A | N/A |
| | Automatic Support for Exhibition | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A |
| | Automatic Support for Distribution | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A |
| | Selective Support for Distribution | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A |

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| | Selective Support for Cinema with the art and experimental cinema network | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A |
| | Selective Support for Exhibitions-Theatres in Rural areas | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A |
| | Support for Investment by Facilities company | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A |
| | Procirep | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A |
| | Automatic Support for production of short films | N/A | N/A | N/A | Local spending, shooting location (29.4) | N/A | N/A | 29.3 | N/A | N/A |
| | Automatic Support for production of feature films | See A.3 | N/A | N/A | Shooting location, use of French equipment (30.3) | N/A | N/A | N/A | N/A | N/A |
| | Selective support for production: advance on receipts | See A.3 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A |
| | Support for the develop-ment of feature films | See A.3 | N/A | N/A | Shooting location, use of French equipment (33.4) | N/A | N/A | 33.3 | N/A | N/A |
| | Selective support for production of short films | N/A | N/A | N/A | Incentive for shooting location (31.4) | N/A | N/A | N/A | N/A | N/A |

| Member State | Names of Funding Schemes | Indirect territorialisation requirements located under "Formal Nationality Certification Procedures" | | | Indirect territorialisation requirements located under selective aid criteria and procedures | | | Indirect territorialisation based on any other provisions in the law that forces the producer to make local spending | | |
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| **Germany** | Filmförderungsanstalt (FFA; federal level) | N | N/A | N/A | N | N/A | N/A | Y<br>The requirement to promote the local film economy arguably qualifies as indirect territorialisation that is not quantifiable (2.6) | N/A | N/A |
| | FilmFernsehFonds Bayern GmbH (Bavaria) | N/A | N/A | N/A | N | N/A | N/A | N | N/A | N/A |
| | MFG Medien- und Filmgesellschaft Baden-Württemberg mbH (Baden-Württemberg) | N/A | N/A | N/A | Y<br>The conditions referring to economic interest as one of the eligibility criteria can qualify as indirect territorialisation that is not quantifiable (4.4) | N/A | N/A | Y<br>The requirement to promote the local film economy arguably qualifies as indirect territorialisation that is not quantifiable (4.6) | N/A | N/A |

| Member State | Names of Funding Schemes | Indirect territorialisation requirements located under "Formal Nationality Certification Procedures" | | | Indirect territorialisation requirements located under selective aid criteria and procedures | | | Indirect territorialisation based on any other provisions in the law that forces the producer to make local spending | | |
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| | Medienboard Berlin-Brandenburg GmbH (Berlin-Brandenburg) | N/A | N/A | N/A | N | N/A | N/A | Y<br>The requirement to promote the local film economy arguably qualifies as indirect territorialisation that is not quantifiable (5.6) | N/A | N/A |
| | Filmförderung Hamburg GmbH (Hamburg) | N/A | N/A | N/A | N | N/A | N/A | Y<br>The requirement to promote the local film economy arguably qualifies as indirect territorialisation that is not quantifiable (6.6) | N/A | N/A |

| Member State | Names of Funding Schemes | Indirect territorialisation requirements located under "Formal Nationality Certification Procedures" | | | Indirect territorialisation requirements located under selective aid criteria and procedures | | | Indirect territorialisation based on any other provisions in the law that forces the producer to make local spending | | |
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| | Filmstiftung NRW GmbH (North Rhine-Westphalia) | N/A | N/A | N/A | Y<br>To be eligible for funding, film projects must *inter alia* have the potential to contribute to the cultural quality and commercial viability of German cinema (7.4) | N/A | N/A | Y<br>The requirement to promote the local film economy arguably qualifies as indirect territorialisation that is not quantifiable (7.6) | N/A | N/A |
| | MDM Mitteldeutsche Medienförderung GmbH for Saxonia, Saxony-Anhalt and Thuringia | N/A | N/A | N/A | Y<br>The criteria refer *inter alia* to economic interest of local culture (8.4) | N/A | N/A | Y<br>The requirement to promote the local film economy arguably qualifies as indirect territorialisation that is not quantifiable (8.6) | N/A | N/A |

| Member State | Names of Funding Schemes | Indirect territorialisation requirements located under "Formal Nationality Certification Procedures" | | | Indirect territorialisation requirements located under selective aid criteria and procedures | | | Indirect territorialisation based on any other provisions in the law that forces the producer to make local spending | | |
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| | Nord Media Die Mediengesellschaft Niedersachsen / Bremen mbH | N/A | N/A | N/A | N | N/A | N/A | Y<br>The requirement to promote the local film economy arguably qualifies as indirect territorialisation that is not quantifiable (9.6) | N/A | N/A |
| | Hessische Filmförderung (Hessen) | N/A | N/A | N/A | Y<br>The criteria for selective aid refer to the promotion of local film and of cinema culture (10.4) | N/A | N/A | Y<br>The requirement to promote the local film economy arguably qualifies as indirect territorialisation that is not quantifiable (10.6) | N/A | N/A |

| Member State | Names of Funding Schemes | Indirect territorialisation requirements located under "Formal Nationality Certification Procedures" | | | Indirect territorialisation requirements located under selective aid criteria and procedures | | | Indirect territorialisation based on any other provisions in the law that forces the producer to make local spending | | |
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| | MSH Gesellschaft zur Förderung audiovisueller Werke in Schleswig-Holstein mbH | N/A | N/A | N/A | Y<br>The criteria for selective aid refer to the promotion of local film and of cinema culture (11.4) | N/A | N/A | Y<br>The requirement to promote the local film economy arguably qualifies as indirect territorialisation that is not quantifiable (11.6) | N/A | N/A |
| **Greece** | Greek Film Centre: program *Orizontes* (“Horizons”) | Y<br>Territorialisation requirements are located under the nationality procedure in the form of requirements of shooting in Greece (A.3) | N/A | N/A | N | N/A | N/A | Y<br>The purpose clause aims at promoting the Greek infrastructure arguably qualifies as indirect territorialisation that is not quantifiable. (7.6) | N/A | N/A |

| Member State | Names of Funding Schemes | Indirect territorialisation requirements located under "Formal Nationality Certification Procedures" | | | Indirect territorialisation requirements located under selective aid criteria and procedures | | | Indirect territorialisation based on any other provisions in the law that forces the producer to make local spending | | |
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| | Greek Film Centre: *Kinitro* ("Incentive") | Y<br><br>Territorialisation requirements are located under the nationality procedure in the form of requirements of shooting in Greece (A.3) | N/A | N/A | N | N/A | N/A | Y<br>The purpose clause aiming at promoting the Greek infrastructure arguably qualifies as indirect territorialisation that is not quantifiable (6.6) | N/A | N/A |
| | Greek Ministry of Culture: - tax return scheme support to Greek Film Producers | Y<br>Territorialisation requirements are located under the nationality procedure in the form of requirements of shooting in Greece (A.3) | N/A | N/A | N | N/A | N/A | Y<br>The general aim to support the cinematography and the purpose of the "material enforcement of the production" qualify as indirect territorialisation not quantified (4.6) | N/A | N/A |

| Member State | Names of Funding Schemes | Indirect territorialisation requirements located under "Formal Nationality Certification Procedures" | | | Indirect territorialisation requirements located under selective aid criteria and procedures | | | Indirect territorialisation based on any other provisions in the law that forces the producer to make local spending | | |
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| | Greek Ministry of Culture: - tax return scheme support to Cinema Theatre Enterprises in Greece | Y<br><br>Territorialisation requirements are located under the nationality procedure in the form of requirements of shooting in Greece (A.3) | N/A | N/A | N | N/A | N/A | Y<br>The general aim to support the cinematography and the purpose of the "material enforcement of the production" qualify as indirect territorialisation not quantified (3.6) | N/A | N/A |
| | Greek Ministry of Culture: - tax return scheme support to Greek Film Distribution Agencies in Greece | Y<br>Territorialisation requirements are located under the nationality procedure in the form of requirements of shooting in Greece (A.3) | N/A | N/A | N | N/A | N/A | Y<br>The general aim to support the cinematography and the purpose of the "material enforcement of the production" qualify as indirect territorialisation not quantified (2.6) | N/A | N/A |

| Member State | Names of Funding Schemes | Indirect territorialisation requirements located under "Formal Nationality Certification Procedures" | | | Indirect territorialisation requirements located under selective aid criteria and procedures | | | Indirect territorialisation based on any other provisions in the law that forces the producer to make local spending | | |
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| | Hellenic Broadcasting Corporation (E.R.T.) : support to film production and co-production | Y<br>Territorialisation requirements are located under the nationality procedure in the form of requirements of shooting in Greece (A.3) | N/A | N/A | N | N/A | N/A | N | N/A | N/A |
| **Hungary** | Foundation of the Hungarian Historical Motion Picture' Direct Subsidy | Y<br>The nationality of a film is established according to the score achieved on the base of a table evaluating Hungarian elements (A 3) | N/A | N/A | N/A | N/A | N/A | Y<br>The purpose clauses concer-ning the develop-ment of local film industry and infrastructure arguably quali-fies as indirect territorialisation that is not quan-tifiable (2.6) | N/A | N/A |
| | Direct Subsidy National Cultural fund | Y<br>The nationality of a film is established according to the score achieved on the base of a table evaluating Hungarian elements (A 3) | N/A | N/A | N | N/A | N/A | N | N/A | N/A |

| Member State | Names of Funding Schemes | Indirect territorialisation requirements located under "Formal Nationality Certification Procedures" | | | Indirect territorialisation requirements located under selective aid criteria and procedures | | | Indirect territorialisation based on any other provisions in the law that forces the producer to make local spending | | |
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| | Direct Subsidy Broadcasting Fund | N/A | N/A | N/A | N | N/A | N/A | N | N/A | N/A |
| | Hungarian National Film Office's Indirect Subsidy (Tax Incentive Scheme) | Y<br>The nationality of a film is established according to the score achieved on the base of a table evaluating Hungarian elements (A 3) | N/A | N/A | N | N/A | N/A | Y<br>The purpose clauses concerning the development of local film industry and infrastructure arguably qualifies as indirect territorialisation that is not quantifiable (5.6) | N/A | N/A |
| **Ireland** | Section 481 Tax Relief Incentive for Investment in Film Production | N | N/A | N/A | Y<br>The criteria include *inter alia* the requirement to develop film industry (2.4) | N/A | N/A | Y<br>The requirement to promote the local film economy arguably qualifies as indirect territorialisation that is not quantifiable (2.6) | N/A | N/A |

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| | The Irish Film Board ("IFB") Development and Production Investment Loans | N | N/A | N/A | Y<br>The criteria include *inter alia* the expenditures in Irish economy. Moreover film is to be made wholly or partly in Ireland (3.4) | N/A | N/A | Y<br>The requirement to promote the local film economy arguably qualifies as indirect territorialisation that is not quantifiable (3.6) | N/A | N/A |
| **Italy** | Direzione Generale per il Cinema | Y<br>Obligations to proceed to local shooting; use Italian technical industries; spend at least 30% of the total budget of the film in Italy (A.3) | 30% | N/A | N | N/A | N/A | N | N/A | N/A |
| **Latvia** | National Film Centre (NFC) | N | N/A | N/A | N | N/A | N/A | N | N/A | N/A |
| | State Culture Capital Foundation (SCCF) | N | N/A | N/A | N | N/A | N/A | N | N/A | N/A |
| **Lithuania** | National Cinema Support Programme and the State budget of the Republic of Lithuania funding scheme | N | N/A | N/A | N | N/A | N/A | N | N/A | N/A |

| Member State | Names of Funding Schemes | Indirect territorialisation requirements located under "Formal Nationality Certification Procedures" | | | Indirect territorialisation requirements located under selective aid criteria and procedures | | | Indirect territorialisation based on any other provisions in the law that forces the producer to make local spending | | |
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| **Luxem-bourg** | Certificats d'investissement audiovisual | N | N/A | N/A | Y<br>The film project must have a positive impact on the culture and economy of Luxembourg in order to be eligible for State aid in the form of tax advantages (2.4) | N/A | N/A | Y<br>The purpose clause to promote local film economy arguably qualifies as indirect territorialisation requirement that is not quantifiable in the Law (2.6) | N/A | N/A |

| Member State | Names of Funding Schemes | Indirect territorialisation requirements located under "Formal Nationality Certification Procedures" | | | Indirect territorialisation requirements located under selective aid criteria and procedures | | | Indirect territorialisation based on any other provisions in the law that forces the producer to make local spending | | |
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| | Aides Financières sélectives | N | N/A | N/A | Y<br>Criteria governing the grant of State aid refer to the film's cultural identity and quality relate to the effective involvement of the Luxembourg producer and to the purpose of promoting the local economy.<br>(3.4) | N/A | N/A | Y<br>This funding scheme aims also to achieve economic objectives. The purpose clause to promote local film economy arguably qualifies as indirect territorialisation requirement that is not quantifiable in the Law (3.6) | N/A | N/A |

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| **Malta** | Malta Film Commission (MFC) - Financial Incentives for the Audiovisual Industry Regulations | N | N/A | N/A | N | N/A | N/A | Y<br>The purpose clause to promote the local economy arguably qualifies as indirect territorialisation that is not quantifiable (2.6) | N/A | N/A |
| | Malta Enterprise – Incentives under the Business Promotion Regulations | N | N/A | N/A | N | N/A | N/A | Y<br>The purpose clause to promote the local economy arguably qualifies as indirect territorialisation that is not quantifiable (3.6) | N/A | N/A |

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| | MFC – Tax Credit for Audiovisual Infrastructure | N | N/A | N/A | N | N/A | N/A | Y<br>The purpose clause to promote the local economy arguably qualifies as indirect territorialisation that is not quantifiable (4.6) | N/A | N/A |
| **Netherlands** | Film Investment Tax Scheme (FIT) | N/A | N/A | N/A | N | N/A | N/A | Y<br>It is expressly provided that project financed shall strengthen the film industry in the Netherlands (2.6) | N/A | N/A |
| | Dutch Film Fund | N/A | N/A | N/A | N | N/A | N/A | N | N/A | N/A |

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| | Rotterdam Film Fund | N/A | N/A | N/A | Y<br>*Inter alia* the criteria include the express requirement to promote the Rotterdam audiovisual sector | N/A | N/A | N | N/A | N/A |
| **Poland** | Polish Institute of Cinematographic Arts (PICA) | N/A | N/A | N/A | Y<br>The criteria include *inter alia* the development and employment of modern technologies in the area of recording and projection of films, the territorial scope of the project and the expected economic results (2.4) | N/A | N/A | N | N/A | N/A |
| **Portugal** | Instituto do Cinema, Audiovisual e Multimédia (ICAM) – *Sistema de Apoio Financeiro Directo* ("Direct Financial Support Scheme") | Y<br>*Inter alia* a minimum of 50% of shooting or production time take place on Portuguese territory, and the original version is in Portuguese language, (A 3) | N/A | N/A | N | N/A | N/A | N | N/A | N/A |

| Member State | Names of Funding Schemes | Indirect territorialisation requirements located under "Formal Nationality Certification Procedures" | | | Indirect territorialisation requirements located under selective aid criteria and procedures | | | Indirect territorialisation based on any other provisions in the law that forces the producer to make local spending | | |
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| | ICAM – *Sistema de Apoio Financeiro Selectivo* ("Selective Financial Support Scheme") | Y<br>*Inter alia* a minimum of 50% of shooting or production time take place on Portuguese territory, and the original version is in Portuguese language, (A 3) | N/A | N/A | N | N/A | N/A | N | N/A | N/A |
| | Ibermedia | / | / | / | / | / | / | / | / | / |
| **Slovakia** | AudioVision – Ministry of Culture of the Slovak Republic | N | N/A | N/A | Y<br>The conditions for selective aid referring to the place of shooting in a percentage that is not quantified in the law qualifies as indirect territorialisation (2.4) | N/A | N/A | N | N/A | N/A |
| **Slovenia** | Stimulation of Development of Cinematographic Activities in Slovenia (SDAS) | N | N/A | N/A | Y<br>Number of shooting days in Slovenia and usage of technical capacities in Slovenia (2.4) | N/A | N/A | Y<br>Cultural and purpose clauses concerning the development of local film production (2.6) | N/A | N/A |

| Member State | Names of Funding Schemes | Indirect territorialisation requirements located under "Formal Nationality Certification Procedures" | | | Indirect territorialisation requirements located under selective aid criteria and procedures | | | Indirect territorialisation based on any other provisions in the law that forces the producer to make local spending | | |
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| | Co-Financing of Audiovisual Media Project (CAMP) | N | N/A | N/A | Y<br>Criteria include strengthening Slovenian audiovisual production (3.4) | N/A | N/A | Y<br>Cultural and purpose clauses concerning the development of local film production<br>(3.6) | N/A | N/A |
| **Spain** | Medidas de fomento a la cinematografía (central level) | - nationality of the production authors (at least 75% of Spanish or EU citizens);<br>- Castilian (or one of the other official languages of Spain);<br>- domicile or permanent establishment of the production or postproduction services<br>(A 3) | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A |

| Member State | Names of Funding Schemes | Indirect territorialisation requirements located under "Formal Nationality Certification Procedures" | | | Indirect territorialisation requirements located under selective aid criteria and procedures | | | Indirect territorialisation based on any other provisions in the law that forces the producer to make local spending | | |
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| | | List of requirements | Estimation of the X% of how much local expending this involves in terms of film budget | Estimation of the X% of how much local expending this involves in relation to the total aid available | List of requirements | Estimation of the X% of how much local expending this involves in terms of film - budget | Estimation of the X% of how much local expending this involves in relation to the total aid available | List of requirements | Estimation of the X% of how much local expending this involves in terms of film - budget | Estimation of the X% of how much local expending this involves in relation to the total aid available |
| | Impuesto de sociedades (central level) | - nationality of the production authors (at least 75% of Spanish or EU citizens);<br>- Castilian language (or one of the other official languages of Spain);<br>- domicile or permanent establishment of the production or postproduction services<br>(A 3) | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A |
| | Ayudas a la Producción Audiovisual (Valencia) | N/A | N/A | N/A | Y<br>Recipient of State aid is required to use local resources and services | N/A | N/A | Y<br>Cultural condi-tion of selective State aid granting procedure to use local resources and services | N/A | N/A |

| Member State | Names of Funding Schemes | Indirect territorialisation requirements located under "Formal Nationality Certification Procedures" | | | Indirect territorialisation requirements located under selective aid criteria and procedures | | | Indirect territorialisation based on any other provisions in the law that forces the producer to make local spending | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | | List of requirements | Estimation of the X% of how much local expending this involves in terms of film budget | Estimation of the X% of how much local expending this involves in relation to the total aid available | List of requirements | Estimation of the X% of how much local expending this involves in terms of film - budget | Estimation of the X% of how much local expending this involves in relation to the total aid available | List of requirements | Estimation of the X% of how much local expending this involves in terms of film - budget | Estimation of the X% of how much local expending this involves in relation to the total aid available |
| | Subvenciones automaticás a la industria audiovisual catalana (Catalonia) | Y<br>Recipient of State aid is required to have Spanish or Catalan nationality certification, the requirements:<br>- nationality of the production authors;<br>- language;<br>- domicile or permanent establishment of the produc-tion or postproduction services (A 3) | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A |
| | Subvenciones selectivas a la industria audiovisual catalana (Catalonia) | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A |

| Member State | Names of Funding Schemes | Indirect territorialisation requirements located under "Formal Nationality Certification Procedures" | | | Indirect territorialisation requirements located under selective aid criteria and procedures | | | Indirect territorialisation based on any other provisions in the law that forces the producer to make local spending | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | | List of requirements | Estimation of the X% of how much local expending this involves in terms of film budget | Estimation of the X% of how much local expending this involves in relation to the total aid available | List of requirements | Estimation of the X% of how much local expending this involves in terms of film - budget | Estimation of the X% of how much local expending this involves in relation to the total aid available | List of requirements | Estimation of the X% of how much local expending this involves in terms of film - budget | Estimation of the X% of how much local expending this involves in relation to the total aid available |
| | Medidas de fomento del uso del catalán (Catalonia) | N/A | N/A | N/A | Y<br>Recipient of State aid is required to broadcast, distribute and promote the audiovisual production locally (B 7.4) | N/A | N/A | Y<br>Cultural conditions of selective State aid granting procedure as broadcasting, distribution and promotion of the audiovisual production locally (B 7.6) | N/A | N/A |
| | Instituto Catalán de Finanzas, línea de préstamos para inversions en el sector de la producción audiovisual (Catalonia) | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A |
| | Ayudas al desarollo de proyectos y la producción de obras audiovisuals (Andalusia) | N/A | N/A | N/A | Y<br>create an employment; use local human and material resources (B 9.4) | N/A | N/A | N | N/A | N/A |

| Member State | Names of Funding Schemes | Indirect territorialisation requirements located under "Formal Nationality Certification Procedures" | | | Indirect territorialisation requirements located under selective aid criteria and procedures | | | Indirect territorialisation based on any other provisions in the law that forces the producer to make local spending | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | | List of requirements | Estimation of the X% of how much local expending this involves in terms of film budget | Estimation of the X% of how much local expending this involves in relation to the total aid available | List of requirements | Estimation of the X% of how much local expending this involves in terms of film - budget | Estimation of the X% of how much local expending this involves in relation to the total aid available | List of requirements | Estimation of the X% of how much local expending this involves in terms of film - budget | Estimation of the X% of how much local expending this involves in relation to the total aid available |
| | Concesión de ayudas a la creación, desarollo y producción audiovisual (Galicia) | N/A | N/A | N/A | Y<br>create employment in the region of Galicia (B 10.4) | N/A | N/A | Y<br>State aid is aimed at facilitating audiovisual pro-duction | N/A | N/A |
| | Concesión de ayudas a la creación, desarollo y producción audiovisual (Euskadi, País Vasco) | N/A | N/A | N/A | Y<br>Recipient of State aid is required to promote the local film production; there are several other requirements: place of production; crew and employees' domicile and residency in Euska-di; use of Euskera lan-guage (B 11.4) | N/A | N/A | N/A | N/A | N/A |
| | Financiación para el fomento de la producción audiovisual en la Comunidad Autónoma de Euskadi (Euskadi, País Vasco) | N/A | N/A | N/A | Y<br>Recipient of State aid is required to be domiciled or permanently established in Euskadi (B 12.4) | N/A | N/A | N/A | N/A | N/A |

| Member State | Names of Funding Schemes | Indirect territorialisation requirements located under "Formal Nationality Certification Procedures" | | | Indirect territorialisation requirements located under selective aid criteria and procedures | | | Indirect territorialisation based on any other provisions in the law that forces the producer to make local spending | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | | List of requirements | Estimation of the X% of how much local expending this involves in terms of film budget | Estimation of the X% of how much local expending this involves in relation to the total aid available | List of requirements | Estimation of the X% of how much local expending this involves in terms of film - budget | Estimation of the X% of how much local expending this involves in relation to the total aid available | List of requirements | Estimation of the X% of how much local expending this involves in terms of film - budget | Estimation of the X% of how much local expending this involves in relation to the total aid available |
| **Sweden** | Swedish Film Institute Foundation" ("SFIF") | N | N/A | N/A | N | N/A | N/A | N | N/A | N/A |
| | Film I Väst AB | N | N/A | N/A | N | N/A | N/A | N | N/A | N/A |
| **United Kingdom** | UK Film Council's Development Fund | Projects should qualify as a British Film (See 2.2.1) | 70% of the budget must be spent in the UK (see Para 2.2 as well as section A 3) | N/A | See Para 2.4 for full list of requirements | N/A | N/A | N/A | N/A | N/A |

| Member State | Names of Funding Schemes | Indirect territorialisation requirements located under "Formal Nationality Certification Procedures" | | | Indirect territorialisation requirements located under selective aid criteria and procedures | | | Indirect territorialisation based on any other provisions in the law that forces the producer to make local spending | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | | List of requirements | Estimation of the X% of how much local expending this involves in terms of film budget | Estimation of the X% of how much local expending this involves in relation to the total aid available | List of requirements | Estimation of the X% of how much local expending this involves in terms of film - budget | Estimation of the X% of how much local expending this involves in relation to the total aid available | List of requirements | Estimation of the X% of how much local expending this involves in terms of film - budget | Estimation of the X% of how much local expending this involves in relation to the total aid available |
| | UK Film Council's New Cinema (not within the reference period) | Projects should qualify as a British Film (See 3.2.1) | 70% of the budget must be spent in the UK (see Para 3.2 as well as section A 3) | N/A | See Para 3.4 for full list of requirements | N/A | N/A | N/A | N/A | N/A |
| | UK Film Council's Premiere (not within the reference period) | Projects should qualify as a British Film (See 4.2.1) | 70% of the budget must be spent in the UK (see Para 4.4 as well as section A 3) | N/A | See Para 4.4 for full list of requirements | N/A | N/A | N/A | N/A | N/A |

| Member State | Names of Funding Schemes | Indirect territorialisation requirements located under "Formal Nationality Certification Procedures" | | | Indirect territorialisation requirements located under selective aid criteria and procedures | | | Indirect territorialisation based on any other provisions in the law that forces the producer to make local spending | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | | List of requirements | Estimation of the X% of how much local expending this involves in terms of film budget | Estimation of the X% of how much local expending this involves in relation to the total aid available | List of requirements | Estimation of the X% of how much local expending this involves in terms of film - budget | Estimation of the X% of how much local expending this involves in relation to the total aid available | List of requirements | Estimation of the X% of how much local expending this involves in terms of film - budget | Estimation of the X% of how much local expending this involves in relation to the total aid available |
| | Cornwall Film | N/A | N/A | N/A | Successful applicants should be located in the region (see Para 5.4) | N/A | N/A | N/A | N/A | N/A |
| | EM Media | N/A | N/A | N/A | Successful applicants must be based in the region (see Para 6.4) | N/A | N/A | N/A | N/A | N/A |
| | Film London | Projects should qualify as a British Film (See 7.4) | 70% of the budget must be spent in the UK (see Para 7.4 as well as section A 3) | N/A | Recipient must spend minimum proportion of budget in region; applicants must be based in region (See Para 7.4) | N/A | N/A | N/A | N/A | N/A |
| | North West Vision | N/A | N/A | N/A | See Para 8.4 for requirements | N/A | N/A | N/A | N/A | N/A |

| Member State | Names of Funding Schemes | Indirect territorialisation requirements located under "Formal Nationality Certification Procedures" | | | Indirect territorialisation requirements located under selective aid criteria and procedures | | | Indirect territorialisation based on any other provisions in the law that forces the producer to make local spending | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | | List of requirements | Estimation of the X% of how much local expending this involves in terms of film budget | Estimation of the X% of how much local expending this involves in relation to the total aid available | List of requirements | Estimation of the X% of how much local expending this involves in terms of film - budget | Estimation of the X% of how much local expending this involves in relation to the total aid available | List of requirements | Estimation of the X% of how much local expending this involves in terms of film - budget | Estimation of the X% of how much local expending this involves in relation to the total aid available |
| | Northern Film & Media | N/A | N/A | N/A | Applicants must be based in region, have projects that take place in the region, or demonstrate how project will benefit companies or individuals in region. (See Para 9.4) | N/A | N/A | N/A | N/A | N/A |
| | Northern Ireland Film and Television Commission | N/A | N/A | N/A | Successful applicants should be based in the region or have projects that take place in and benefit the region. (See Para 10.4) | N/A | N/A | N/A | N/A | N/A |

| Member State | Names of Funding Schemes | Indirect territorialisation requirements located under "Formal Nationality Certification Procedures" | | | Indirect territorialisation requirements located under selective aid criteria and procedures | | | Indirect territorialisation based on any other provisions in the law that forces the producer to make local spending | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | | List of requirements | Estimation of the X% of how much local expending this involves in terms of film budget | Estimation of the X% of how much local expending this involves in relation to the total aid available | List of requirements | Estimation of the X% of how much local expending this involves in terms of film - budget | Estimation of the X% of how much local expending this involves in relation to the total aid available | List of requirements | Estimation of the X% of how much local expending this involves in terms of film - budget | Estimation of the X% of how much local expending this involves in relation to the total aid available |
| | Scottish Screen | Projects should qualify as a British Film (See 11.1) | 70% of the budget must be spent in the UK (see Para 11.1 as well as section A 3 ) | N/A | Successful applicants should be based in the region (See Para 11.4) | N/A | N/A | N/A | N/A | N/A |
| | Screen East | N/A | N/A | N/A | Successful applicants or project should be based in region, or key personnel from region should be substantially involved (See Para 12.4) | N/A | N/A | N/A | N/A | N/A |
| | Screen Yorkshire | N/A | N/A | N/A | Successful applicants should be based in the region or be in the process of moving there (See Para 13.4) | N/A | N/A | N/A | N/A | N/A |

| Member State | Names of Funding Schemes | Indirect territorialisation requirements located under "Formal Nationality Certification Procedures" | | | Indirect territorialisation requirements located under selective aid criteria and procedures | | | Indirect territorialisation based on any other provisions in the law that forces the producer to make local spending | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | | List of requirements | Estimation of the X% of how much local expending this involves in terms of film budget | Estimation of the X% of how much local expending this involves in relation to the total aid available | List of requirements | Estimation of the X% of how much local expending this involves in terms of film - budget | Estimation of the X% of how much local expending this involves in relation to the total aid available | List of requirements | Estimation of the X% of how much local expending this involves in terms of film - budget | Estimation of the X% of how much local expending this involves in relation to the total aid available |
| | Film Agency Wales (successor of Sgrîn Cymru as of April 2006 – Not within reference period) | Projects should qualify as a British Film (See Para 14.4) | 70% of the budget must be spent in the UK (see Para 14.4 as well as section A 3 ) | N/A | Applicant must demonstrate that project will benefit Welsh filmmakers and key Welsh talent / personnel must be involved (See Para 14.4) | N/A | N/A | N/A | N/A | N/A |
| | Screen South | N/A | N/A | N/A | Successful applicants should be based in the region (See Para 15.4) | N/A | N/A | N/A | N/A | N/A |

| Member State | Names of Funding Schemes | Indirect territorialisation requirements located under "Formal Nationality Certification Procedures" | | | Indirect territorialisation requirements located under selective aid criteria and procedures | | | Indirect territorialisation based on any other provisions in the law that forces the producer to make local spending | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | | List of requirements | Estimation of the X% of how much local expending this involves in terms of film budget | Estimation of the X% of how much local expending this involves in relation to the total aid available | List of requirements | Estimation of the X% of how much local expending this involves in terms of film - budget | Estimation of the X% of how much local expending this involves in relation to the total aid available | List of requirements | Estimation of the X% of how much local expending this involves in terms of film - budget | Estimation of the X% of how much local expending this involves in relation to the total aid available |
| | Sgrîn Cymru | Projects should qualify as a British Film (See 16.4) | 70% of the budget must be spent in the UK (see Para 16.4 as well as section A 3 ) | N/A | Successful applicants should be based in the region (see Para 16.4) | N/A | N/A | N/A | N/A | N/A |
| | Gaelic Media Service | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A |
| | Creative IP | N/A | N/A | N/A | Projects by companies not based in Wales are required to spend a proportion of the total production budget in Wales (see Para 18.4) | N/A | N/A | N/A | N/A | N/A |
| | Screen West Midlands | N/A | N/A | N/A | Successful applicants should be based in the region (See Para 19.4) | N/A | N/A | N/A | N/A | N/A |

| Member State | Names of Funding Schemes | Indirect territorialisation requirements located under "Formal Nationality Certification Procedures" | | | Indirect territorialisation requirements located under selective aid criteria and procedures | | | Indirect territorialisation based on any other provisions in the law that forces the producer to make local spending | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | | List of requirements | Estimation of the X% of how much local expending this involves in terms of film budget | Estimation of the X% of how much local expending this involves in relation to the total aid available | List of requirements | Estimation of the X% of how much local expending this involves in terms of film - budget | Estimation of the X% of how much local expending this involves in relation to the total aid available | List of requirements | Estimation of the X% of how much local expending this involves in terms of film - budget | Estimation of the X% of how much local expending this involves in relation to the total aid available |
| | South West Screen | N/A | N/A | N/A | Successful applicants should be based in the region (See Para 20.4) | N/A | N/A | N/A | N/A | N/A |

## Table C – Budget and Territorialisation Intensity

| Member State | Names of Funding Schemes | Available Budget | Objective explicit territorialisation requirement quantified in the law[379] | Degree of the territorialisation | | |
|---|---|---|---|---|---|---|
| | | | | Funding Scheme Level[380] | Funding body level[381] | Member State Level[382] |
| **Austria** | Austrian Film Institute (federal level) | 9,600,000 | not available | < 1 | High | 29 % |
| | Film and TV[383] Agreement 2006 (federal level) | | not available | < 1 | | |
| | Federal Chancellery (federal level) | 1,290,000 | not applicable | = 0 | No data available | |
| | TV Fund Austria (federal level) | 7,500,000 | 150%<br>Limited:<br>At least 20% of all production costs can be spent in another MS (5.2). | > 1 | High | |
| | Vienna Film Fund (regional level) | 8,000,000 | 100%<br>Limited:<br>At least 20% of all production costs can be spent in another MS (6.2). | = 1 | High | |
| | Culture Department of the City of Vienna (regional level) | 450,000 | not applicable | No territorialisatio | No data available | |
| | Film Promotion of the Province of Lower Austria (regional level) | 450,000 | not available | < 1 | No data available | |

[379] Assessment based on replies from local lawyers (see synthesis sheet)

[380] The grading scale for intensity of territorialisation in relation to state aid (based on assessment by Germann Advocates and reported in Chapter 2.5) uses the following three levels:
Level 1: >1 meaning that a sum larger than the granted aid must be spent locally
Level 2: =1 or <1 meaning that an amount equivalent to or lower than the state aid awarded must be spent locally
Level 3: =0 meaning that no territorialisation requirements apply.

[381] Self-assessment by funding bodies of the proportion of budgets subject to territorialisation, as reported in Chapter 3.4 and based on work by Rambøll:
High territorialisation: ratio "share of production budget subject to territorialisation" 80-100%%
Moderate territorialisation: ratio "share of production budget subject to territorialisation" = >5% -<80%
No territorialisation: total amount subject to territorialisation = 0%-5%

[382] "share of production budget subject to territorialisation"
Assessment (Cambridge Econometrics) is based on the methodology outlined in Chapter 4.3. % figures relate to the following classifications:
High territorialisation: share of production budget subject to territorialisation = 80% - 100%
Moderate territorialisation: share of production budget subject to territorialisation = >20% - <80%
Low territorialisation: share of production budget subject to territorialisation = >5% - 20%
No significant territorialisation: share of production budget subject to territorialisation = 0% - 5%

[383] Budget only available on funding body level. But since territorialisation degree is similar for each scheme it makes no difference.

| Member State | Names of Funding Schemes | Available Budget | Objective explicit territorialisation requirement quantified in the law[379] | Degree of the territorialisation | | |
|---|---|---|---|---|---|---|
| | | | | Funding Scheme Level[380] | Funding body level[381] | Member State Level[382] |
| | Cine Styria Film Fund (regional level) | 1,500,000 | 150%<br><br>Limited:<br>At least 20% of all production costs can be spent in another MS (9.2) | > 1 | No data available | |
| | Cine Tirol Film Fund (regional level) | 1,100,000 | 200% | > 1 | No data available | |
| **Belgium** | Tax Shelter (Federal funding scheme) | 4,900.000 (Flanders), 7,930.000 (French Part) | It is provided that expenditure in Belgium for production and exploitation must amount to at least 150% of the tax shelter risk capital. (2.2) | | No data available | 29 % |
| | Aide a la production | 969,045 (2002)[384] | 100% of the amount awarded | | No data available | |
| | Aide à la production de programmes télévisuels | 495,790 | 100% of the amount awarded | | No data available | |
| | Subvention à la diffusion et prime à la qualité | 1,142,789 | No requirement | | No data available | |
| | Fond Spécial | 964,589 | No requirement | | No data available | |
| | Financement d'œuvres audiovisuelles | 2,500,000 | 100% of the amount awarded<br><br>Documentaries must show a minimum local expenditure equivalent to 15% of the production's total budget. | | High | |

[384] In 2005, 78 requests for production support have been examined by the Commission, 24 projects have received a favourable opinion for a total of 1.086.750 EUR.

| Member State | Names of Funding Schemes | Available Budget | Objective explicit territorialisation requirement quantified in the law[379] | Degree of the territorialisation | | |
|---|---|---|---|---|---|---|
| | | | | Funding Scheme Level[380] | Funding body level[381] | Member State Level[382] |
| | Support for Development - *Ontwikkelingssteun*[385] | 9,700,000 | 100% of the amount awarded | | Moderate | |
| | Support for Production – Productiesteun | | 100% of the amount awarded | | | |
| | Support for Scriptwriting – Scenariosteun | | 100% of the amount awarded | | | |
| **Cyprus** | Program for the Development of the Cyprus Cinema | 877,193 (2003) | No requirement | = 0 | No data available | 0 % |
| **Czech Republic** | State Fund of the Czech Republic for the Support and Development of the Czech Cinematography | 2,207,832 | No requirement | = 0 | No territorialisation | 0 % |
| **Denmark** | Danish Film Institute' Consultant Scheme | 11,812,081 | No requirement | = 0 | No territorialisation | 5% |
| | Danish Film Institute' 60/40 Scheme | 5,557,047 | No requirement | = 0 | | |
| | Danish Film Institute' Shorts and documentaries: Consultant scheme | 1,342,282 | 100% in case of documentaries | = 0/ =1 (in case of documentaries ) | | |
| | Danish Film Institute' New Danish Screen | 13,417,367 | No requirement | = 0 | | |
| | Danish Film Institute' New Doc | 268,456 | No requirement | = 0 | | |
| | Nordic Film-&TV Fund (regional funding scheme) | 8,561,481 | No requirement | = 0 | | |
| | FilmFyn | 1,300,000 | 200% | > 1 | | |

[385] Budget only available on funding body level. But since territorialisation degree is similar for each scheme it makes no difference.

| Member State | Names of Funding Schemes | Available Budget | Objective explicit territorialisation requirement quantified in the law[379] | Degree of the territorialisation | | |
|---|---|---|---|---|---|---|
| | | | | Funding Scheme Level[380] | Funding body level[381] | Member State Level[382] |
| **Estonia** | Film development and production funds | 2,843,450 | No requirement | = 0 | Moderate | 55 % |
| **Finland** | Finnish Film Foundation's development support | 1,462,400 | No requirement | = 0 | No territorialisation | 0 % |
| | Finnish Film Foundation's advance support for production | 7,276,600 | No requirement | = 0 | | |
| | Finnish Film Foundation's Post-release support for production | 6,358,000[386] | No requirement | = 0 | | |
| | State grants for artists[387] | 755 670 | No requirement | = 0 | No data | |
| | Production supports' exemption from income taxation[388] | ? | No requirement | = 0 | No data | |
| | Reduced value added tax rate for cinema tickets | ? | No requirement | = 0 | No data | |
| | Production subsidy of the Promotion Centre for Audiovisual Culture | 1,565,433 | No requirement | = 0 | No data | |
| **France** | Conseil Régional Provence-Alpes-Côte d'Azur | 2,320,000 | 150 | high | No data | 80 % |
| | Charentes Department Funding Scheme | 1,552,000[389] | 25 | moderate | No data | |
| | Conseil Régional Poitou-Charentes | | 25 | moderate | No data | |
| | Rhône-Alpes CINEMA Funding Scheme | 3,000,000 | from 150 to 400 | high | No data | |
| | Conseil Régional de la Réunion | 2,320,000 | not available | | No data | |
| | Aquitaine Image Cinéma/ Conseil régional d'Aquitaine (CRA) | 1,231,000 | not available | | No data | |
| | Collectivité territoriale de Corse | 1,587,000 | not available | | No data | |
| | Automatic Support | 154,100,000[390] | not available | | No data | |
| | Conseil régional du Centre | 1,080,000 | not available | | No data | |
| | Ile de France-Production | 11,000,000 | not available | | No data | |
| | Selective Support | 32,500,000[391] | not available | | No data | |
| | Feam[392] | 5,000,000 | not available | | No data | |
| | Conseil régional du Limousin | 1,031,500 | not available | | No data | |

[386] Figure not listed in KORDA but is calculated by subtracting the two previous posts from total which figures on KORDA
[387] Totally state grants for artist=15,300,000. Grants for artist in the film industry = 5 %
[388] State aid is exempted from corporate taxable incomes. The value of this depends on the amount of state aid as well as on the overall income and tax payments of the receivers. Therefore it is not possible to state specific figure.
[389] Charente Department Funding Scheme is administered by Conseil Régional Poitou-Charentes
[390] Figure from survey, budget for 2004
[391] Figure from survey, budget for 2004
[392] CNC notes: Not related to cinema/audiovisual support

| Member State | Names of Funding Schemes | Available Budget | Objective explicit territorialisation requirement quantified in the law[379] | Degree of the territorialisation | | |
|---|---|---|---|---|---|---|
| | | | | Funding Scheme Level[380] | Funding body level[381] | Member State Level[382] |
| | Région Nord Pas de Calais | 2,764,000 | not available | | No data | |
| | Video for private use | 6,430,000 | not available | | No data | |
| | RIAM[393] | 1,006,000 | not available | | No data | |
| | Cinema for the South | N/A[394] | not available | | No data | |
| | IFCIC[395] | 10,000,000[396] | not available | | No data | |
| | SOFICA[397] | 32,800,000 (2006)[398] | not available | | No data | |
| | Tax Credit | 87,000,000[399] | not available | | No data | |
| | Automatic Support for Exhibition[400] | 66,700,000 | not available | | No data | |
| | Automatic Support for Distribution | 14,200,000 | not available | | No data | |
| | Selective Support for Distribution | 3,300,000 | not available | | No data | |
| | Selective Support for Cinema with the art and experimental cinema network | 11,200,000 | not available | | No data | |
| | Selective Support for Exhibitions-Theaters in Rural areas | 10,000,000 | not available | | No data | |
| | Support for Investment by Facilities company[401] | 5,400,000 | not available | | No data | |
| | Procirep | N/A[402] | not available | | No data | |
| | Automatic Support for production of short films | 6,200,000 | not available | | No data | |
| | Automatic Support for production of feature films | 53,700,000 | not available | | No data | |
| | Selective support for production: advance on receipts | 23,160,000 | not available | | No data | |
| | Support for the development of feature films | 2,700,000 | not available | | No data | |
| | Selective support for production of short films | N/A | not available | | No data | |

[393] CNC notes: Not related to cinema/audiovisual support
[394] No data available.
[395] CNC notes: Not related to cinema/audiovisual support
[396] http://www.ifcic.fr/pc/ifcic/structur/ca_if_st.htm
[397] CNC notes: Not related to cinema/audiovisual support
[398] CNC states that this is not considered State Aid by the EC – according to CNC this scheme is not under CNC administration.
[399] Response to survey. There, CNC states that 0% of their total budget for 2004 is granted as tax incentives (for 2005 CNC states that 19.6% of their 328 MEUR budget is granted as tax incentives).
[400] CNC notes: Not related to cinema/audiovisual support
[401] CNC notes: This is not a CNC scheme
[402] No data available.

| Member State | Names of Funding Schemes | Available Budget | Objective explicit territorialisation requirement quantified in the law[379] | Degree of the territorialisation | | |
|---|---|---|---|---|---|---|
| | | | | Funding Scheme Level[380] | Funding body level[381] | Member State Level[382] |
| **Germany** | Filmförderungsanstalt (FFA; federal level) | 46,903,000 | no requirement | =0 | No territorialisation | 55 % |
| | FilmFernsehFonds Bayern GmbH (Bavaria) | 29,081,510 | 150% (First loan)<br>100% (Success loan)<br>Limited to: At least 20% of all production costs can be spent in another MS | >1 | No data | |
| | MFG Medien- und Filmgesellschaft Baden-Württemberg mbH (Baden-Württemberg) | 10,362,633 | 120%<br>Limited to: At least 20% of all production costs can be spent in another MS | >1 | Moderate | |
| | Medienboard Berlin-Brandenburg GmbH (Berlin-Brandenburg) | 25,397,318 | No requirement<br>But: film project costs should as far as possible be spent within Berlin-Brandenburg<br>Limited to: At least 20% of all production costs can be spent in another MS | >1 | High | |
| | Filmförderung Hamburg GmbH (Hamburg) | 7,000,000 | At least 150% | >1 | High | |

| Member State | Names of Funding Schemes | Available Budget | Objective explicit territorialisation requirement quantified in the law[379] | Degree of the territorialisation | | |
|---|---|---|---|---|---|---|
| | | | | Funding Scheme Level[380] | Funding body level[381] | Member State Level[382] |
| | Filmstiftung NRW GmbH (Nor the Rhine-Westphalia) | 30,899,544 | At least 150% 100% for production with a total budget of up to EUR 750.000,00 Limited to: At least 20% of all production costs can be spent in another MS | >1 | No data | |
| | MDM Mitteldeutsche Medienförderung GmbH for Saxonia, Saxony-Anhalt and Thuringia | 12,725,877 | 100% Limited to: At least 20% of all production costs can be spent in another MS<br><br>For "package funding", no percentage is provided but Art. 3.3.3 of the MDM Regulations requires that aid should be spent in Central Germany as far as possible | >1 | No data | |
| | Nord Media Die Mediengesellschaft Niedersachsen / Bremen mbH | 10,457,620 (2005) | 75% (80%) of film budget 125% (100%) of the aid granted | <1 | High | |
| | Hessische Filmförderung (Hessen) | 1,019,551 | unquantified requirement (connection to Hessen) | <1 | No data | |

| Member State | Names of Funding Schemes | Available Budget | Objective explicit territorialisation requirement quantified in the law[379] | Degree of the territorialisation | | |
|---|---|---|---|---|---|---|
| | | | | Funding Scheme Level[380] | Funding body level[381] | Member State Level[382] |
| | MSH Gesellschaft zur Förderung audiovisueller Werke in Schleswig-Holstein mbH | 1,383,116 | At least 100% Limited to: At least 20% of all production costs can be spent in another MS | ? | No data | |
| **Greece** | Greek Film Centre: program *Orizontes* ("Horizons") | 1,438,127(2002) | no requirement | = 0 | No data | 29 % |
| | Greek Film Centre: *Kinitro* ("Incentive") | 1,114,878 | no requirement | = 0 | No data | |
| | Greek Ministry of Culture: - tax return scheme support to Greek Film Producers | | no requirement | = 0 | No data | |
| | Greek Ministry of Culture: - tax return scheme support to Cinema Theatre Enterprises in Greece | | no requirement | = 0 | No data | |
| | Greek Ministry of Culture: - tax return scheme support to Greek Film Distribution Agencies in Greece | | no requirement | = 0 | No data | |
| | Hellenic Broadcasting Corporation (E.R.T.) : support to film production and co-production | | no requirement | = 0 | No data | |
| **Hungary** | Foundation of the Hungarian Historical Motion Picture' Direct Subsidy | 1,659,055 | Before 2006 no more than 80% of the subsidy granted must be spent in Hungary (after 2006 60%) | < 1 (moderate) | No data | 14 % |
| | Direct subsidy-National Cultural Fund | 3 044 463[403] | no requirement | = 0 | | |

[403] In 2005: HUF 355,000,000

| Member State | Names of Funding Schemes | Available Budget | Objective explicit territorialisation requirement quantified in the law[379] | Degree of the territorialisation | | |
|---|---|---|---|---|---|---|
| | | | | Funding Scheme Level[380] | Funding body level[381] | Member State Level[382] |
| | Direct subsidy-Broadcasting Fund | For public service broadcast: approx. 2,624,000 € (2005)<br>For public service program: approx. 5,415,000 € (2005)[404] | no requirement | = 0 | No data | |
| | Hungarian National Film Office's Indirect Subsidy (Tax Incentive Scheme) | 29,212,773 | The objective territorial requirement consists in refunding the 20% of local film production costs which incurred in Hungary | < 1 (moderate) | No data | |
| **Ireland** | Section 481 Tax Relief Incentive for Investment in Film Production | 24,400,000 | Not quantified: spend in Ireland must equal the amount raised under "Section 481". | (0) not applicable | No data | 49 % |
| | The Irish Film Board ("IFB") Development and Production Investment Loans | 1,075,200(2002)<br>(The whole of IFB: 11,399,707 (2004) | no requirement | = 0 | No data | |

[404] Both figures come not from Korda Database but from the local counsel.

| Member State | Names of Funding Schemes | Available Budget | Objective explicit territorialisation requirement quantified in the law[379] | Degree of the territorialisation | | |
|---|---|---|---|---|---|---|
| | | | | Funding Scheme Level[380] | Funding body level[381] | Member State Level[382] |
| **Italy** | Direzione Generale per il Cinema | 83,626,139 | 30%*<br><br>*Since this requirements is located under the formal nationality certification procedure, it qualifies as indirect territorialisation requirements | < 1 / N/A | No data | 30 % |
| **Latvia** | National Film Centre (NFC) | 1,440,240 | no requirement | = 0 | No territorialisation | 0 % |
| | State Culture Capital Foundation (SCCF) | 9,42,857 | no requirement | = 0 | No data | |
| **Lithuania** | National Cinema Support Programme and the State budget of the Republic of Lithuania funding scheme | 1,091,014[405] | no requirement | = 0 | No territorialisation | 0 % |
| **Luxembourg** | Certificats d'investissement audiovisual | 32,673,380 | Not quantified requirement: the tax advantage is proportionate to the local costs. | = 0 / N/A | No data | 45 % |
| | Aides Financières sélectives | 3,928,775 | no requirement | = 0 / N/A | No territorialisation | |

[405] The support for film projects was as follows: in 2001 991,300 Euro, in 2002 838,200 Euro, in 2003 867,000 Euro, in 2004 1,068,000 Euro, in 2005 1,371,000 Euro. To these sums the support of the Culture and Sport Support Fund which existed during this period, must be added. However, this Fund is responsible for all spheres of the sport and culture, and according to the information of the Ministry of Culture, this funding scheme financed film production projects yearly for approx. 200 000 - 250 000 Euro.

| Member State | Names of Funding Schemes | Available Budget | Objective explicit territorialisation requirement quantified in the law[379] | Degree of the territorialisation | | |
|---|---|---|---|---|---|---|
| | | | | Funding Scheme Level[380] | Funding body level[381] | Member State Level[382] |
| **Malta** | Malta Film Commission (MFC) - Financial Incentives for the Audiovisual Industry Regulations | 3,490,000 (2006)[406] | no applicable requirement<br><br>Audiovisual productions spending less than Lm35,000 (€81,780) in Malta are not eligible for the financial incentives | not applicable | No data | 0% |
| | Malta Enterprise – Incentives under the Business Promotion Regulations | 19,045,349[407] | no applicable requirement<br><br>The recipient tax reduction must spend locally a not quantified amount of the film budget. | not applicable | No data | |

[406] Scheme was started in 2006 – there are no budget figures for 2005 or years before that.

[407] The incentives are expected to take the form of a cash grant given to qualifying productions on the portion of eligible expenditure spent in Malta. Up to 20% of this expenditure could be rebated to a qualifying production company. Feature film and television productions, mini-series, animation and documentaries are all eligible for the incentives, provided they are at least partially produced in Malta.

| Member State | Names of Funding Schemes | Available Budget | Objective explicit territorialisation requirement quantified in the law[379] | Degree of the territorialisation | | |
|---|---|---|---|---|---|---|
| | | | | Funding Scheme Level[380] | Funding body level[381] | Member State Level[382] |
| | MFC – Tax Credit for Audiovisual Infrastructure | 2,330,000 (2006)[408] | no applicable requirement<br><br>The recipient tax reduction must spend locally a not quantified amount of the film budget as the projects must expand and develop the audiovisual industry in Malta. | not applicable | No data | |
| **Nether-lands** | Film Investment Tax Scheme (FIT) | 20,000,000[409] | Y<br>more than 50% of production cost must be spent locally | | No data | 41% |
| | Dutch Film Fund | 14,739,809 | no requirement | = 0 | No data | |
| | Rotterdam Film Fund | 2,700,000 | Y<br>200% of the loan must be spent with Rotterdam facilities companies | | High | |
| **Poland** | Polish Institute of Cinematographic Arts (PICA) | 20,500,000 (total budget 2007; sources allocated for film production: 14,100,000 Euro) | Local spending shall be up to the 80% of the subsidy (no direct obligation) | | No data | 38% |
| **Portugal** | Instituto do Cinema, Audiovisual e Multimédia (ICAM) – Sistema de Apoio Financeiro Directo ("Direct Financial Support Scheme") | 3,242,000 (2002)* | no requirement | = 0 | No data | 34% |

[408] The scheme was started in 2006 – there are no budget figures for 2005 or years before that.
[409] The FIT inform that the tax scheme has been put out of order from 2006.

| Member State | Names of Funding Schemes | Available Budget | Objective explicit territorialisation requirement quantified in the law[379] | Degree of the territorialisation | | |
|---|---|---|---|---|---|---|
| | | | | Funding Scheme Level[380] | Funding body level[381] | Member State Level[382] |
| | ICAM – Sistema de Apoio Financeiro Selectivo ("Selective Financial Support Scheme") | 9,498,826 (2002)* | no requirement | = 0 | No data | |
| | Ibermedia | 3,242,000 (2002)* | no requirement | = 0 | No data | |
| **Slovakia** | AudioVision – Ministry of Culture of the Slovak Republic | 705,685 | no requirement | = 0 | No data | 0 % |
| **Slovenia** | Stimulation of Development of Cinematographic Activities in Slovenia (SDAS) | 2,334,055[410] | Not quantified requirement: the recipient state aid must spend locally as much as it is possible the amount awarded | = 0 (not applicable) | No data | 29% |
| | Co-Financing of Audiovisual Media Project (CAMP) | 1,707,359 (2003)[411] | no requirement | = 0 | No data | |
| **Spain** | Medidas de fomento a la cinematografía (central level) | 64,550,000 | no requirement | = 0 | No data | 41% |
| | Impuesto de sociedades (central level) | N/A[412] | no requirement | = 0 | No data | |
| | Ayudas a la Producción Audiovisual (Valencia) | 1,202,020 | no requirement | = 0 | No data | |
| | Subvenciones automaticás a la industria audiovisual catalana (Catalonia) | 8,025,000 (2006)[413] | no requirement | = 0 | No data | |

[410] The Budget of the Republic of Slovenia for 2006 envisages that for all of its activities ion the area of Media and Audiovisual Culture in 2006 the Ministry for Culture should receive SIT 2.408.467.000 (ie EUR 10.050.355), ie:
for culture, art cinema and purchase of films – SIT 47.650.000 (ie EUR 198.840)
for Slovenian Film Fund – SIT 1.060.411.000 (ie EUR 4.425.017)
for Film Studio Viba Film – SIT 125.906.000 (ie EUR 525.396)
for audiovisual media programs – SIT 174.500.000 (ie EUR 728.176)
for implementation of Public Media Law – SIT 1.000.000.000 (ie EUR 4.172.926)

[411] The Budget of the Republic of Slovenia for 2006 envisages that for all of its activities ion the area of Media and Audiovisual Culture in 2006 the Ministry for Culture should receive SIT 2.408.467.000 (ie EUR 10.050.355), ie:
for culture, art cinema and purchase of films – SIT 47.650.000 (ie EUR 198.840)
for Slovenian Film Fund – SIT 1.060.411.000 (ie EUR 4.425.017)
for Film Studio Viba Film – SIT 125.906.000 (ie EUR 525.396)
for audiovisual media programs – SIT 174.500.000 (ie EUR 728.176)
for implementation of Public Media Law – SIT 1.000.000.000 (ie EUR 4.172.926)

[412] Note that there is a same degree of territorialisation as in Medidas de formento a la cinematografía.

[413] http://www.catalanfilms.net/recursos/doc/document21317.pdf

| Member State | Names of Funding Schemes | Available Budget | Objective explicit territorialisation requirement quantified in the law[379] | Degree of the territorialisation | | |
|---|---|---|---|---|---|---|
| | | | | Funding Scheme Level[380] | Funding body level[381] | Member State Level[382] |
| | Subvenciones selectivas a la industria audiovisual catalana (Catalonia) | 5,982,672[414] | between 50% - 75% of the film budget | < 1 | No data | |
| | Medidas de fomento del uso del catalán (Catalonia) | 2,193,263[415] | no requirement | = 0 | No data | |
| | Instituto Catalán de Finanzas, línea de préstamos para inversions en el sector de la producción audiovisual (Catalonia) | 22,226,100 | no requirement | = 0 | No data | |
| | Ayudas al desarollo de proyectos y la producción de obras audiovisuals (Andalusia) | 1,224,000 | no requirement | = 0 | No data | |
| | Concesión de ayudas a la creación, desarollo y producción audiovisual (Galicia) | 4,178,123 | Spend locally at least 25% of the film budget | < 1 | No data | |
| | Concesión de ayudas a la creación, desarollo y producción audiovisual (Euskadi, País Vasco) | 1,860,527 | no requirement | = 0 | No data | |
| | Financiación para el fomento de la producción audiovisual en la Comunidad Autónoma de Euskadi (Euskadi, País Vasco) | N/A | no requirement | | No data | |
| **Sweden** | Swedish Film Institute Foundation" ("SFIF") | 44,119,761 | no requirement | = 0 | No territorialisation | 3 % |
| | Film i Väst AB | 7.032,609 | requirement on max. 20% of the film budget | < 1 | moderate | |
| **United Kingdom** | UK Film Council's Development Fund | 7,462,687 (Korda: 2001) | not applicable: non of the UK replies indicate specific legal provisions for the territorialisation requirements | >1 | Moderate | 32% |
| | UK Film Council's New Cinema (not within the reference period) | 7,462,687 (Korda: 2001) | not applicable | >1 | | |

[414] According to Korda
[415] It is not clear if this budget is part of the overall 64 MEUR budget of the central level Medidas de fomento a la cinematográfica.

| Member State | Names of Funding Schemes | Available Budget | Objective explicit territorialisation requirement quantified in the law[379] | Degree of the territorialisation | | |
|---|---|---|---|---|---|---|
| | | | | Funding Scheme Level[380] | Funding body level[381] | Member State Level[382] |
| | UK Film Council's Premiere (not within the reference period) | 14,925,373 (Korda: 2001) | not applicable | >1 | | |
| | Cornwall Film | N/A | not applicable | <1 - >1 | No data | |
| | EM Media | 1,049,180 | not applicable | <1 - >1 | No data | |
| | Film London | 2,594,000 | not applicable | >1 | No data | |
| | North West Vision (including Merseyside Film and Television fund) | 680,328 (2002) | not applicable | <1 - >1 | No data | |
| | Northern Film & Media | 2,347,849 | not applicable | <1 - >1 | High | |
| | Northern Ireland Film and Television Commission | 4,753,587 | not applicable | | No data | |
| | Scottish Screen | 3,211,429 | not applicable | >1 | No data | |
| | Screen East | 1,183,264 | not applicable | <1 - >1 | No data | |
| | Screen Yorkshire | 4,127,967 | not applicable | <1 - >1 | High | |
| | Film Agency Wales (successor of Sgrîn Cymru as of April 2006 – Not within reference period) | 1,162,979 | not applicable | >1 | No data | |
| | Screen South | 364,286 | not applicable | <1 - >1 | No data | |
| | Sgrîn Cymru | 2,619,808 | not applicable | >1 | No data | |
| | Gaelic Media Service | 13,659,807 | not applicable | 0 | No data | |
| | Creative IP | 7,000,000[416] | not applicable | <1 - >1 | No data | |
| | Screen West Midlands | 927,869 | not applicable | <1 - >1 | No data | |
| | South West Screen | 3,169,865 (2005) | not applicable | <1 - >1 | No data | |

[416] http://www.financewales.co.uk/eng/support.php/c_type=content~c_id=103~sM_id=10~ssM_id=111

## Table D – Co-Production Agreements

| Member State | Titles of Co-Production Agreements | Dates of Entry into Force of Co-Production Agreements | Expected New Co-Production Agreements: Y/N |
|---|---|---|---|
| **Austria** | Germany | 1 November 1990 | N |
| | France | 1 October 1997 | |
| | Italy | 1 July 1968 | |
| | Canada | 18 May 2005 | |
| | Switzerland | 1 November 1990 | |
| | Spain | 10 April 1970 | |
| | Luxembourg | Signed 23 January 2006, not yet in force | |
| | European Convention on Cinematographic Co-Production | 1 January 1995 | |
| **Belgium** | France | 20 September 1962, revised in 2004 | |
| | Germany | 27 July 1964 | |
| | Italy | 15 October 1970 | |
| | Israel | 08 October 1971 | |
| | Tunisia | 11 March 1976 | |
| | Canada | 24 February 1984 | |
| | Switzerland | 09 January 1989 | |
| | The Belgian French-speaking Community (*Centre du Cinéma et de l'Audiovisuel*) also entered into five co-production agreements with:<br>• Portugal (agreement entered into force on 12 March 1993)<br>• Tunisia (agreement entered into force on 29 September 1997)<br>• Morocco (agreement entered into force on 16 February 2000)<br>• Italy (agreement entered into force on 31 August 2000)<br>• France (agreement entered into force on 18 May 2004) | | |
| | The Centre du Cinéma also entered into a « *protocole d'entente sur la coopération en matière de cinéma et de production télévisuelle* », as well as a « *entente sur la distribution de films* » with the Sodec (Société de développement des entreprises culturelles) in Québec. | | |

| Member State | Titles of Co-Production Agreements | Dates of Entry into Force of Co-Production Agreements | Expected New Co-Production Agreements: Y/N |
|---|---|---|---|
| | The Dutch-speaking Community also entered into the following co-productions agreement with :<br>• the Netherlands (agreement entered into on 1 Dec 2005): Vlaams Audiovisueel Fonds VZW – Nederlands Fonds voor de Film | | |
| | European Convention on cinematographic co-production | 2004 | |
| **Cyprus** | European Convention on Cinematographic Co-production | 2000 | New Co-production agreement in 2006 (A 4) |
| | Eurimages Fund | 26 October 1988 | |
| **Czech Republic** | European Convention of Film Co-production | 1 June 1997 | N |
| | France | 19 July 1968 (CSSR); after the split 1 January 1993 (CR) | |
| | Canada | 10 June 1988 (CSSR); 1 January 1993 (CR) | |
| | Italy | 25 March 1968 (CSSR); 1 January 1993 (CR) | |
| **Denmark** | European Convention on Cinematographic Co-Production | 1 April 1994 | N |
| | Sociéte Général des Industries Culturelles / Quebec and the Danish Film Institute | undated | |
| | Canada | 15 December 1997 | |
| | France | 27 June 1975 | |
| **Estonia** | European Convention on Cinematographic Co-Production | 1 September 1997 | N |
| | Canada | 4 November 2004 | |
| **Finland** | European Convention on Cinematographic Co-Production | 1 September 1995 | N |
| | Canada | 1 April 1999 | |
| | France | 4 March 1983 | |
| **France** | Germany (mini treaty/ *« mini Traité »*) | 23 November 2001 | ? |
| | Germany | 4 February 2002 | |
| | Argentina | 23 November 1984 | |
| | Australia | 15 May 1986 | |
| | Austria | 1 October 1997 | |

| Member State | Titles of Co-Production Agreements | Dates of Entry into Force of Co-Production Agreements | Expected New Co-Production Agreements: Y/N |
|---|---|---|---|
| | Belgium | Not yet | |
| | Brasil | 8 March 1969 | |
| | Bulgaria | 5 November 1972 | |
| | Burkina Faso | 1 May 1993 | |
| | Cameroon | 30 August 1993 | |
| | Canada (CINEMA AND AUDIOVISUAL) | 10 January 1985 | |
| | Films Co-Production Agreement between France and Canada | 11 July 1983 | |
| | Films Co-Production Agreement between France and Canada | 30 May 1983 | |
| | Canada (AUDIOVISUAL) | 14 March 1990 | |
| | Chile | 12 August 1992 | |
| | Colombia | 20 October 1985 | |
| | Ivory Coast | 2 March 1995 | |
| | Denmark | 26 November 1975 | |
| | Egypt | 1 February 1987 | |
| | Spain | 20 March 1989 | |
| | Finland | 4 March 1983 | |
| | Georgia | 19 May 1993 | |
| | United Kingdom | 7 February 1995 | |
| | Greece (CINEMA) | 19 January 1978 | |
| | Guinea | | |
| | Hungary | 26 August 1970 | |
| | India | 15 February 1985 | |
| | Iceland | 1 July 1991 | |
| | Israel | 1 February 2004 | |
| | Italy | 1 June 2003 | |
| | Lebanon | 27 March 2000 | |
| | Luxembourg | 1 November 2003 | |
| | Morocco | 20 October 1989 | |
| | Mexico | - | |
| | New Zealand | - | |
| | Netherlands | 1 March 1989 | |
| | Poland | 28 October 1970 | |

| Member State | Titles of Co-Production Agreements | Dates of Entry into Force of Co-Production Agreements | Expected New Co-Production Agreements: Y/N |
|---|---|---|---|
| | Portugal | 22 July 1981 | |
| | Czechoslovakia | 17 September 1968 | |
| | Romania | 6 October 1966 | |
| | USSR | - | |
| | Senegal | 2 June 1992 | |
| | Sweden | 17 November 1966 | |
| | Switzerland | not yet | |
| | Tunisia | 16 November 1994 | |
| | Turkey | 1 April 1996 | |
| | Venezuela | - | |
| | Yougoslavia | 21 September 1977 | |
| | Canada | 1989 | |
| | Australia | 1998 | |
| **Germany** | Australia | September 12, 2001 | Y: Co-Production Agreement with the countries as follows are currently under negotiation:<br><br>Argentina<br>Hungary<br>Ireland<br>Korea<br>Poland<br>Russia<br>Serbia, Montenegro |
| | Belgium | July 7, 1964 | |
| | Brazil | signed February 17, 2005, not yet ratified | |
| | France | February 4, 2002 | |
| | France II | November 23, 2001 | |
| | Great Britain | January 30, 1975 | |
| | Israel | May 27, 1971 | |
| | Italy | November 5, 2002 | |
| | Canada | June 22, 2004 | |
| | Luxembourg | September 22, 2003 | |
| | New Zealand | February 9, 2005 | |
| | Austria | May 16, 1990 | |
| | Portugal | April 29, 1988 | |
| | Sweden | June 14, 1977 | |
| | Switzerland | June 6, 1984 | |
| | Spain | December 13, 2000 | |
| | South Africa | January 7, 2005 | |
| | Croatia (Revalidation Note) | October 26, 1992 | |
| | Macedonia (Revalidation Note) | January 26, 1994 | |
| | Bosnia-Herzegovina (Revalidation Note) | November 16, 1992 | |

| Member State | Titles of Co-Production Agreements | Dates of Entry into Force of Co-Production Agreements | Expected New Co-Production Agreements: Y/N |
|---|---|---|---|
| | European Co-Production Agreement | March 24 1995 | |
| | Eurimages | October 26, 1988 | |
| **Greece** | European Convention on cinematographic co-production | 8 April 2004 | N |
| | France | 15 November 1974 | |
| | Canada | 25 October 1999 | |
| **Hungary** | European Convention on Cinematic Co-production | 1 February 1997 | Y |
| | France | 19 July 1970 | |
| | Italy | 2 November 1984 | |
| | (Canada) | (1985; never entered into force) | |
| **Ireland** | European Convention on Cinematographic Co-Production | 2000 | N |
| | Canada | 1989 | |
| | Australia | 1998 | |
| **Italy** | Albania | 1 June 2004 | N |
| | Algeria | Not yet (1989) | |
| | Argentina | 19 July 1990 | |
| | Australia | 12 December 1996 | |
| | Austria | 1 July 1968 | |
| | Belgium | 15 October 1970 | |
| | Belgium French Community | Not yet (2000) | |
| | Brazil | 4 July 1974 | |
| | Bulgaria | 29 July 1967 | |
| | Canada | 14 December 1999 | |
| | Czech Republic | 25 March 1968 | |
| | China | Not yet (2004) | |
| | Cuba | 23 August 1999 | |
| | Chile | Not yet (2004) | |
| | France | 1 June 2003 | |
| | Germany | 5 November 2002 | |
| | Hungary | 2 November 1984 | |
| | India | Not yet (2005) | |
| | Israel | 23 September 1987 | |
| | Macedonia | Not yet (2002) | |
| | Mexico | 28 June 1974 | |

| Member State | Titles of Co-Production Agreements | Dates of Entry into Force of Co-Production Agreements | Expected New Co-Production Agreements: Y/N |
|---|---|---|---|
| | Morocco | 4 June 1999 | |
| | New Zealand | 15 February 2000 | |
| | Portugal | 27 July 2000 | |
| | Romania | 5 December 1967 | |
| | Russian Federation | 15 June 2006 | |
| | Slovak Republic | 25 March 1968 | |
| | South Africa | Not yet (2003) | |
| | Spain | 3 June 1998 | |
| | Sweden | 24 July 1968 | |
| | Switzerland | 23 December 1993 | |
| | Tunisia | 3 August 2005 | |
| | Turkey | Not yet (2006) | |
| | Uruguay | 6 May 2004 | |
| **Latvia** | European Convention On Cinematographic Co- production | 1 April 1994 | N |
| | Canada | 19 November 2003 | |
| | Eurimages | 1 January 2002 | |
| | Baltic Films | 2000 | |
| | Austria | 22 May 2006 | |
| **Lithuania** | European Convention on Cinematographic Co-production | 1 October 1999 | N |
| **Luxembourg** | European Convention on Cinematographic Co-production | 2 May 1996 | Y |
| | Canada | 4 May 1996 | |
| | France | 27 July 2003 | |
| | Germany | 12 August 2003 | |
| **Malta** | European Convention on Cinematographic Co-Production | 1st January 2002 | N |
| | Canada | 23rd September 1997 | |
| **Netherlands** | European Convention on Cinematographic Co-Production | 1 July 1995 | N |
| | France | 1 January 1989 | But the "Rotterdam Film Fund" is exploring the |
| | Belgium | 1 January 2004 | |
| | Filmstiftung Nordrhein-Westfalen (Germany) | 1 January 2000 | |
| | Mexico | 18 February 1998 | |
| | Germany | 4 January 1999 | |

| Member State | Titles of Co-Production Agreements | Dates of Entry into Force of Co-Production Agreements | Expected New Co-Production Agreements: Y/N |
|---|---|---|---|
| | Romania | 1 March 1995 | |
| | Slovak Republic | 22 October 2001 | |
| | Tunisia | 24 July 1967 | |
| | Turkey | 7 April 2003 | |
| | Ukraine | 22 November 1999 | |
| **Poland** | European Convention on film co-production | 1st April 2003 | N |
| | Albania | 17 June 2004 (end of validity: 31 December 2006) | |
| | Belarus | 29 April 1996 | |
| | Brasil | 14 August 1992 | |
| | Canada | 3 September 1999 | |
| | France | 28 October 1970 | |
| | Israel | Not yet (2004) | |
| | Yugoslavia for 2002, 2003, 2004, 2005 | 28 January 2003 | |
| | Lithuania | 5 January 2002 | |
| | Latvia | 30 December 1992 | |
| | Mexico | 18 February 1998 | |
| | Germany | 4 January 1999 | |
| | Romania | 1 March 1995 | |
| | Slovak Republic | 22 October 2001 | |
| | Tunisia | 24 July 1967 | |
| | Turkey | 7 April 2003 | |
| | Ukraine | 22 November 1999 | |
| **Portugal** | Brazil | May 1981 | N |
| | France | June 1981 | |
| | Spain | July 1989 | |
| | Cabo Verde | August 1989 | |
| | Germany | October 1989 | |
| **Slovakia** | European Convention on Cinematographic Co-Production | 1 May 1995 | N |
| **Slovenia** | European Convention on Cinematographic Co-production | 1 March 2004 | N |
| | Canada | 24 November 1988 (YU); 8 June 1997 (SL) | |

| Member State | Titles of Co-Production Agreements | Dates of Entry into Force of Co-Production Agreements | Expected New Co-Production Agreements: Y/N |
|---|---|---|---|
| | Agreement on Facilitating International Circulation of Visual and Audio Materials of Educational, Scientific and Cultural Character | 14 November 1992 | |
| **Spain** | Germany | 5 December 2000 | Y<br><br>Spain is currently negotiating co-production conventions with Austria, New Zealand and India |
| | Argentina | 28 August 1969 | |
| | Brezil | 2 December 1963 | |
| | Canada | 14 January 1985 | |
| | Cuba | 31 January 1990 | |
| | Chile | November 2003 | |
| | France | 20 March 1989, Addenda: 30 June 2005 | |
| | Italy | 03 June 1998 | |
| | Morocco | 27 April 1998 | |
| | Mexico | 30 January 2004 | |
| | Portugal | 08 November 1989, amended 24 March 2004 | |
| | Puerto Rico | 27 May 2003 | |
| | Tunisia | 02 November 1971 | |
| | Russia | 08 October 1991 | |
| | Venezuela | 18 February 1997 | |
| | European Convention on Cinematographic Co-production | 01 February 1997 | |
| | Convenio de Integración Cinematográfica Iberoamericana | 08 May 1991 | |
| | adhesión de España al Acuerdo Latinoamericano de Coproducción Cinematográfica | 08 October 1992 | |
| | IBERMEDIA | 09 November 1997 | |
| | the Regions of Galicia, Cataluña and Andalucía have signed a Co-production agreement with Argentina, known as "Raíces" | 21 January 2005 (Andalusia from 22 September 2006) | |
| **Sweden** | European Convention on Cinematographic Co-Production | 1992 | N |
| | Canada | 1994 | |

| Member State | Titles of Co-Production Agreements | Dates of Entry into Force of Co-Production Agreements | Expected New Co-Production Agreements: Y/N |
|---|---|---|---|
| | Sweden is still party to old bilateral agreements on co-production with, among others, Germany and France. According to the Swedish Film Institute Foundation these agreements no longer have any practical effect since the respective parties have ratified the European Convention on Cinematographic Co-Production. | ? | |
| **United Kingdom** | Australia | 12 June 1990 | Y |
| | Canada | 5 July 1991 | Y |
| | France | 8 November 1994 | Y |
| | Germany | 30 January 1975 | N |
| | New Zealand | 14 April 1993 | Y |
| | Norway | 8 December 1982 | N |
| | Italy | (ended 2 May 2006) | N |
| | European Convention on Cinematographic Co-Production | (1 April 1995) | (see Para A4 for all) |

# Appendix A bis: Main Charts relating to the Output Tables from Part A

**CHART 2.1 A: DIRECT TERRITORIALISATION REQUIREMENTS QUANTIFIED IN THE LAW BY PERCENTAGE OF FUNDING SCHEMES (Output Table A)**

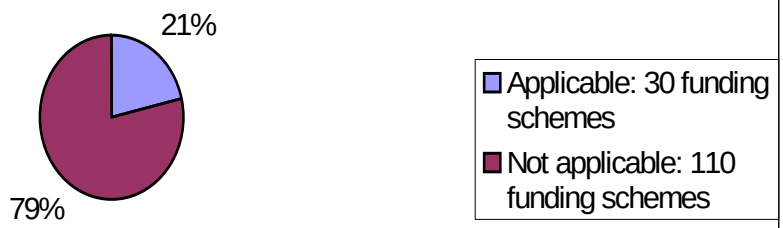
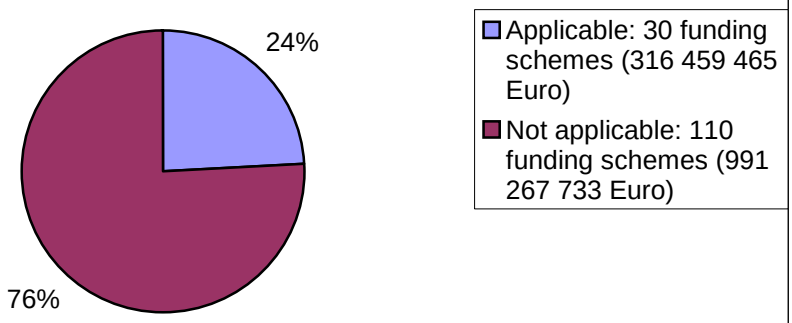



**CHART 2.1B: DIRECT TERRITORIALISATION REQUIREMENTS QUANTIFIED IN THE LAW IN PERCENT OF FUNDING SCHEMES' BUDGETS (Output Table A)**




Direct territorialisation requirements that are quantified in the law (output table A) as a percentage either of the film budget or the state aid awarded, apply[417] in the case of 30 funding schemes (21% of funding schemes) that account in total for 24 % of the budgets of all the funding schemes.[418]

[417] "Applicable" means schemes that contain direct territorialisation requirements, and "not applicable" means schemes that do not contain direct territorialisation requirements.

[418] The tables giving figures "in percentage of budget figures" must be treated carefully, as there are 16 schemes with no own separate budget figures, ie Cinema for the South, Cornwall Film, Film and TV Agreement 2006, Financiación para el fomento de la producción audiovisual en la Comunidad Autónoma de Euskadi (Euskadi, País Vasco), Greek Ministry of Culture: tax return scheme support to Greek Film Producers, Greek Ministry of Culture: tax return scheme support to Cinema Theatre Enterprises in Greece, Greek Ministry of Culture: tax return scheme support to Greek Film Distribution Agencies in Greece, Hellenic Broadcasting Corporation (E.R.T.) : support to film production and co-production, Impuesto de sociedades (central level), Poitou-Charentes Funding Scheme, Procirep, Production supports' exemption from income taxation, Reduced value added tax rate for cinema tickets, Selective support for production of short films, Support for Production – Productisteun, Support for Scriptwriting – Scenariosteun

**CHART 2.2 A: DIRECT TERRITORIALISATION REQUIREMENTS NOT QUANTIFIED IN THE LAW BY PERCENTAGE OF FUNDING SCHEMES (Output Table A)**

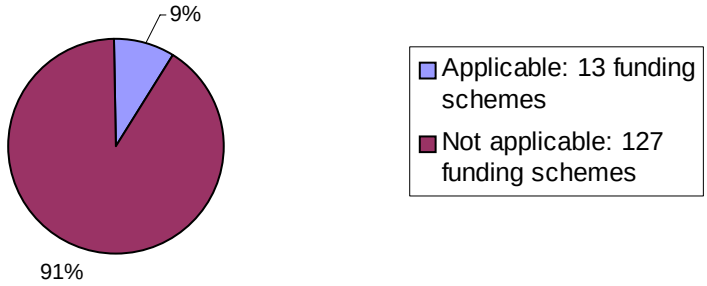
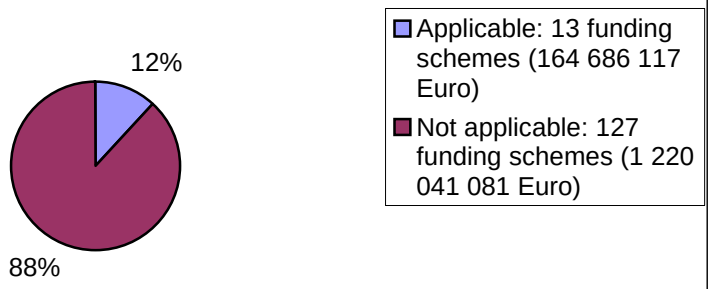



**CHART 2.2 B: DIRECT TERRITORIALISATION REQUIREMENTS NOT QUANTIFIED IN THE LAW IN PERCENTAGE OF FUNDING SCHEMES' BUDGETS (Output Table A)**




Direct territorialisation requirements not quantified in the law (output table A) apply in the case of 13 funding schemes (9% of the funding schemes) that account in total for 12% of the budgets of all the funding schemes.

**CHART 2.3 A: INDIRECT TERRITORIALISATION REQUIREMENTS LOCATED UNDER FORMAL NATIONALITY CERTIFICATION PROCEDURES BY PERCENTAGE OF FUNDING SCHEMES (Output Table B)**

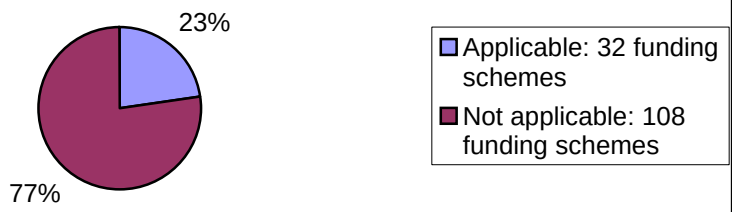
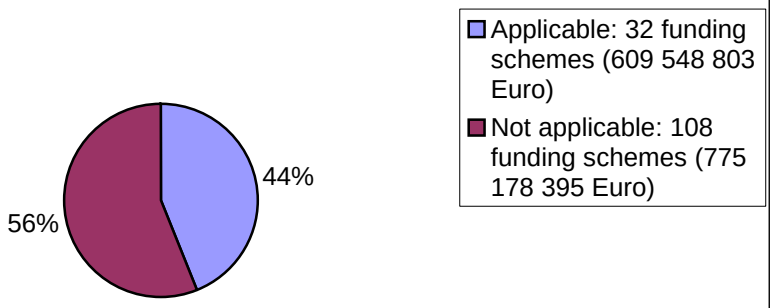


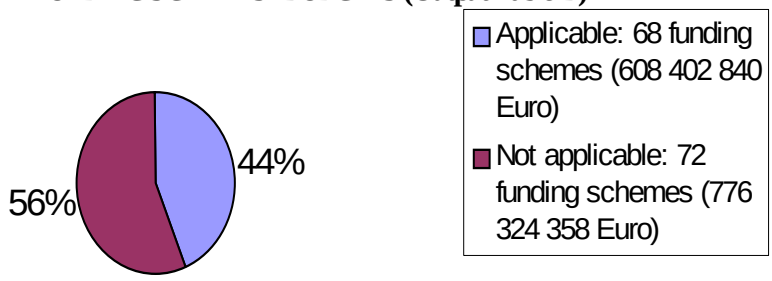

**CHART 2.3 B: INDIRECT TERRITORIALISATION REQUIREMENTS LOCATED UNDER FORMAL NATIONALITY CERTIFICATION PROCEDURES IN PERCENTAGE OF FUNDING SCHEMES' BUDGETS (Output Table B)**




Indirect territorialisation requirements located under formal nationality certification procedures (output table B) apply in the case of 32 funding schemes (23% of the funding schemes) that account in total for 44% of the budgets of all the funding schemes.

**CHART 2.4 A: INDIRECT TERRITORIALISATION REQUIREMENTS LOCATED UNDER SELECTIVE AID CRITERIA AND PROCEDURES BY PERCENTAGE OF FUNDING SCHEMES (Output Table B)**

**CHART 2.4 B: INDIRECT TERRITORIALISATION REQUIREMENTS LOCATED UNTER SELECTIVE AID CRITERIA AND PROCEDURES IN PERCENTAGE OF FUNDING SCHEMES' BUDGETS (Output Table B)**




Indirect territorialisation requirements located under selective state aid criteria and procedures (output table B) apply in the case of 68 funding schemes (49% of the funding schemes) that account in total for 44% of the budgets of all the funding schemes.

**CHART 2.5 A: INDIRECT TERRITORIALISATION BASED ON OTHER PROVISIONS IN THE LAW THAT FORCE THE PRODUCER TO MAKE LOCAL SPENDING BY PERCENTAGE OF FUNDING SCHEMES (Output Table B)**

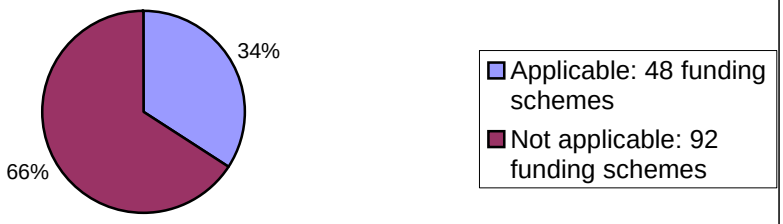
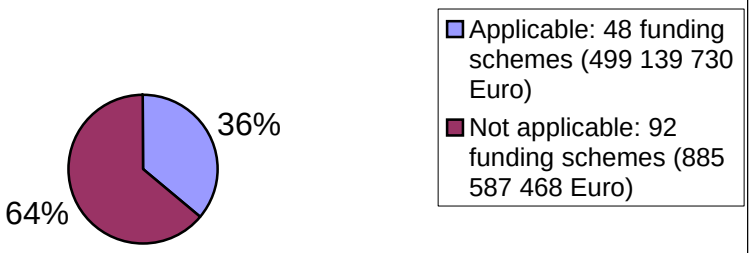



**CHART 2.5 B: INDIRECT TERRITORIALISATION BASED ON ANY PROVISIONS IN THE LAW THAT FORCES THE PRODUCER TO MAKE LOCAL SPENDING IN PERCENTAGE OF FUNDING SCHEMES' BUDGETS (Output Table B)**




Indirect territorialisation requirements located under such other provisions in the law as purpose or cultural clauses that force the producer to make local spending (output table B) apply in the case of 48 funding schemes (34% of the funding schemes) that account in total for 36% of the budgets of all the funding schemes.

**CHART 2.6.1 A: DIRECT AND INDIRECT TERRITORIALISATION REQUIREMENTS BY PERCENTAGE OF FUNDING SCHEMES (Output Tables A & B; France included)**

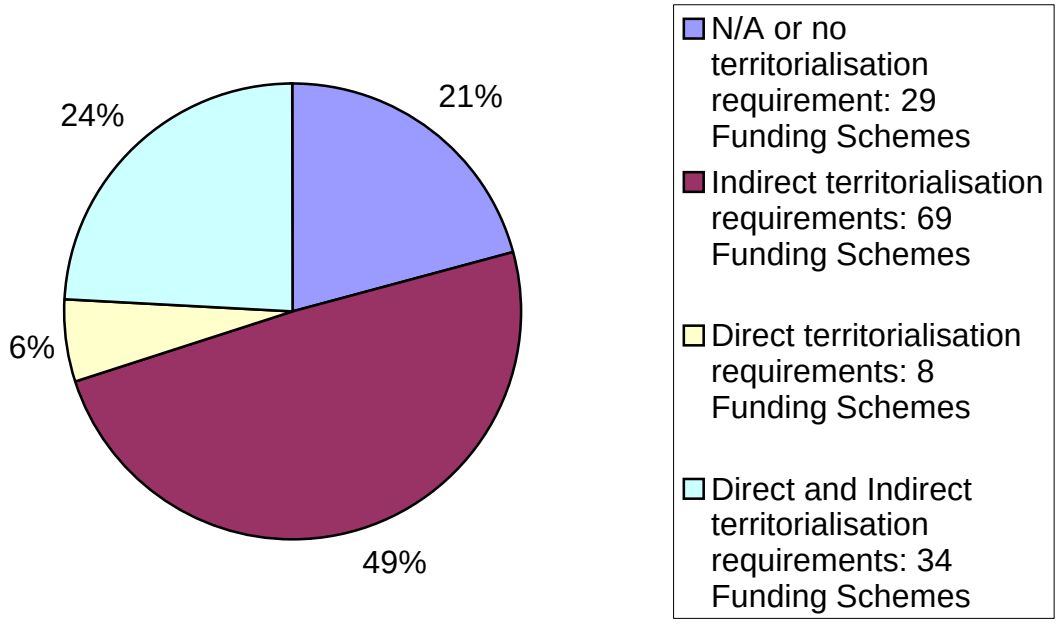
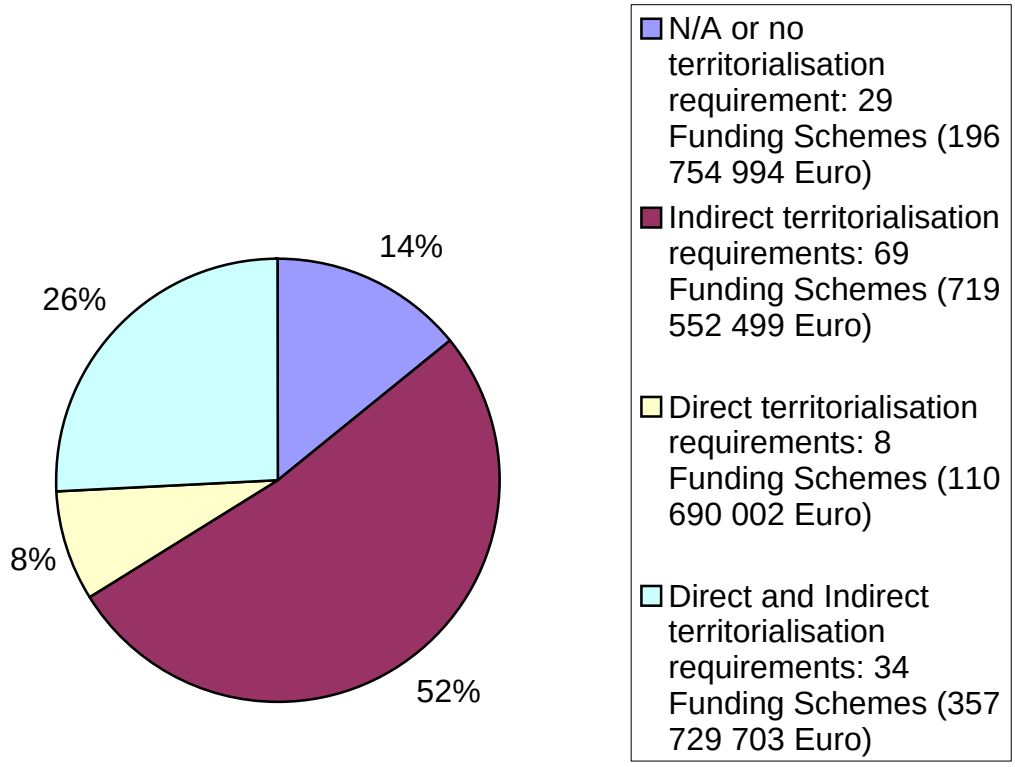


**CHART 2.6.1 B: DIRECT AND INDIRECT TERRITORIALISATION REQUIREMENTS IN PERCENTAGE OF FUNDING SCHEMES' BUDGETS (Tables A & B; France included)**




In 29 funding schemes (21 %) there are neither direct nor indirect territorialisation requirements, whereas direct territorialisation requirements occur in eight funding schemes (8 %), indirect territorialisation requirements in 69 funding schemes (49 %) and both direct and indirect territorialisation requirements in 34 funding schemes (24 %). Chart 2.6.1 A includes the French funding schemes.

In 29 funding schemes that account in total for 14 % of the budgets of all the funding schemes there are neither direct nor indirect territorialisation requirements, whereas direct territorialisation requirements occur in seven funding schemes that account in total for 7% of the budgets of all the funding schemes, and indirect territorialisation requirements in 69 funding schemes that account in total for 53 % of the budgets of all the funding schemes. Both direct and indirect territorialisation requirements occur in 34 funding schemes that account in total for 26% of the budgets of all the funding schemes. Chart 2.6.1 B includes the French funding schemes.

Chart 2.6.2 B does not include the French funding schemes. In 18 funding schemes (8 %) there are neither direct nor indirect territorialisation requirements, whereas direct territorialisation requirements occur in eight funding schemes (13 %), indirect territorialisation requirements in 34 funding schemes (36 %) and both direct and indirect territorialisation requirements in 48 funding schemes (43 %).

**CHART 2.6.2 B: DIRECT AND INDIRECT TERRITORIALISATION REQUIREMENTS IN PERCENTAGE OF FUNDING SCHEMES' BUDGETS (Output Table A & B; without France)**

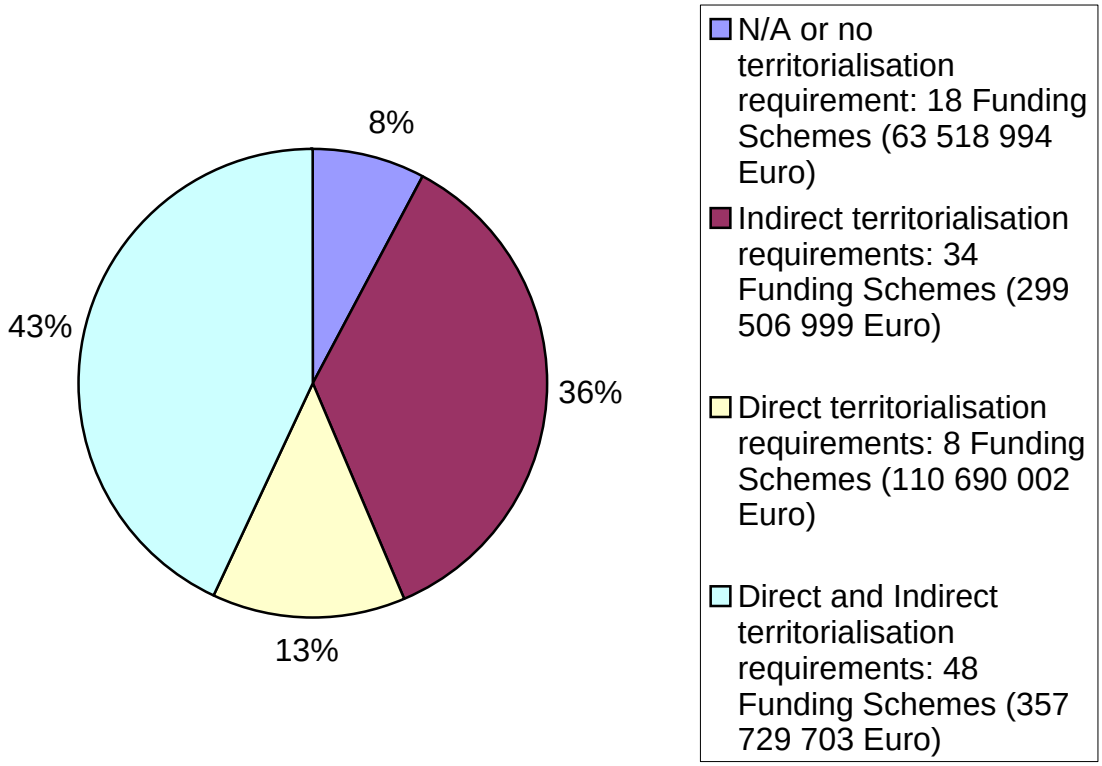



Chart 2.6.2 B does not include the French funding schemes. In 18 funding schemes that account in total for 8 % of the budgets of all the funding schemes there are neither direct nor indirect territorialisation requirements, whereas direct territorialisation requirements occur in seven funding schemes that account in total for 13 % of the budgets of all the funding schemes, and indirect territorialisation requirements in 34 funding schemes that account in total for 36% of the budgets of all the funding schemes. Both direct and indirect territorialisation requirements occur in 48 funding schemes that account in total for 43 % of the budgets of all the funding schemes.

**CHART 2.7.1 A: QUANTIFIED AND UNQUANTIFIED TERRITORIALISATION REQUIREMENTS BY PERCENTAGE OF FUNDING SCHEMES (Output Tables A & B; France included)**

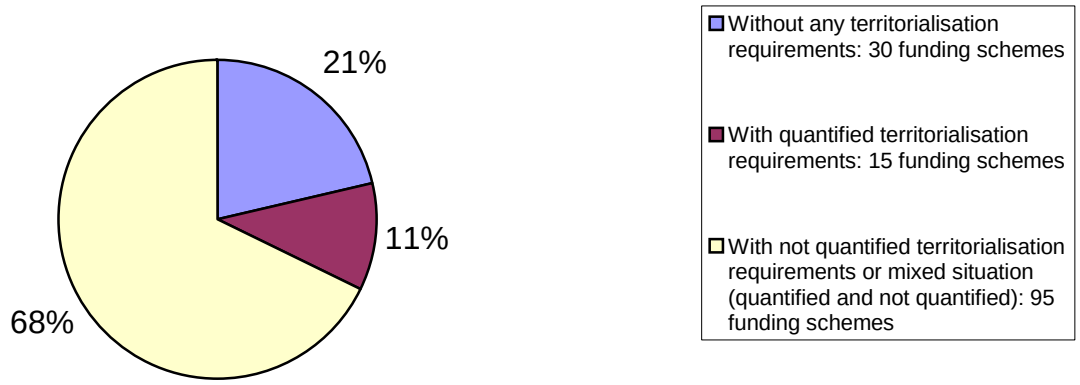
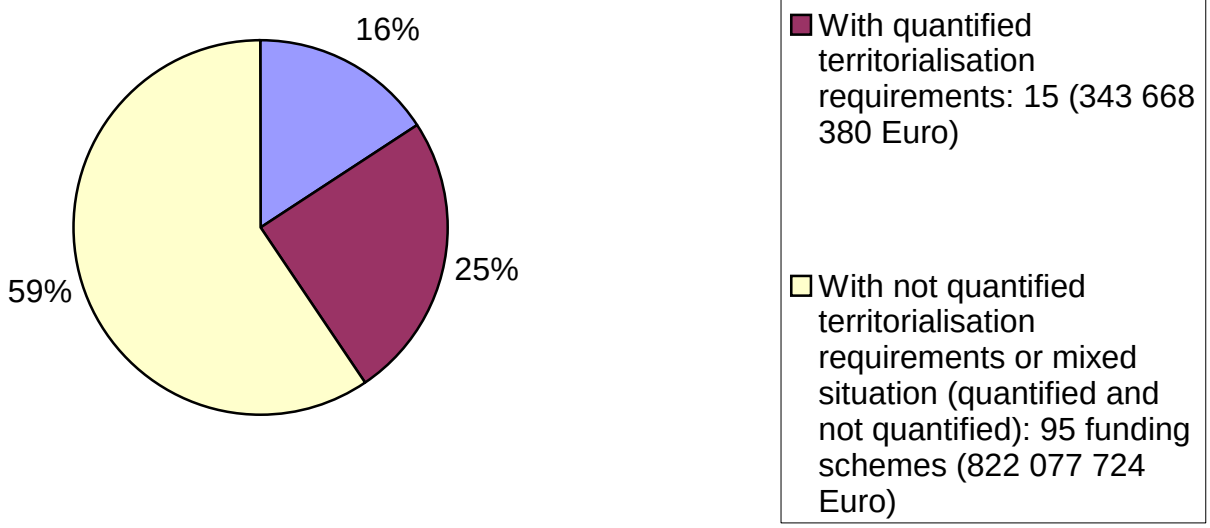



**CHART 2.7.1 B: QUANTIFIED AND UNQUANTIFIED TERRITORIALISATION REQUIREMENTS IN PERCENTAGE OF FUNDING SCHEMES' BUDGETS (Output Tables A & B; France included)**



There are no territorialisation requirements in 30 funding schemes (21 %) that account in total for 16 % of the budgets of all the funding schemes. Quantified territorialisation requirements occur in 15 funding schemes (11 %) that account in total for 25 % of the budgets of all the funding schemes, whereas in 95 funding schemes (68 %) that account in total for 59 % of the budgets of all the funding schemes, there are territorialisation requirements that are either not quantified or not fully quantified. Charts 2.7.1 include the French funding schemes.

**CHART 2.7.2 A: FUNDING SCHEMES WITH AND WITHOUT QUANTIFIED AND NOT QUANTIFIED TERRITORIALISATION REQUIREMENTS (Output Table A & B; without France)**

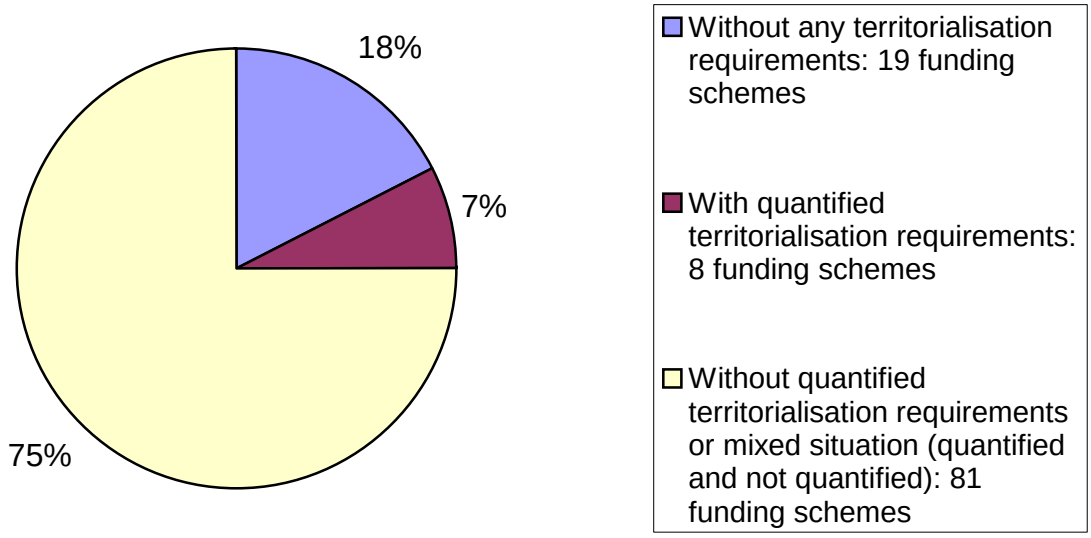
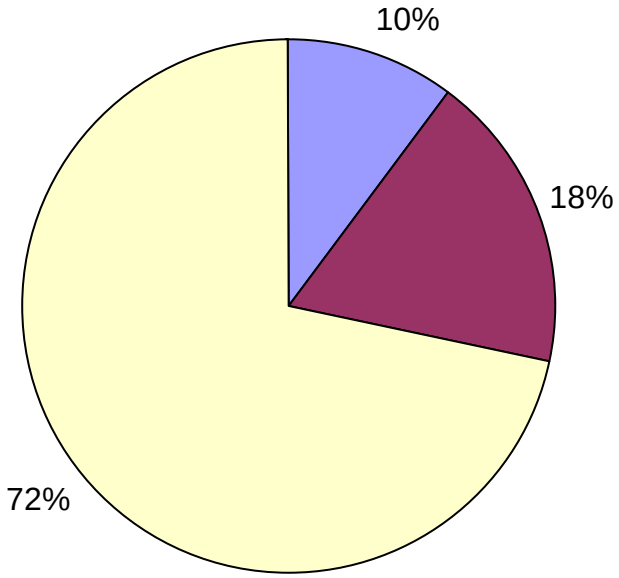


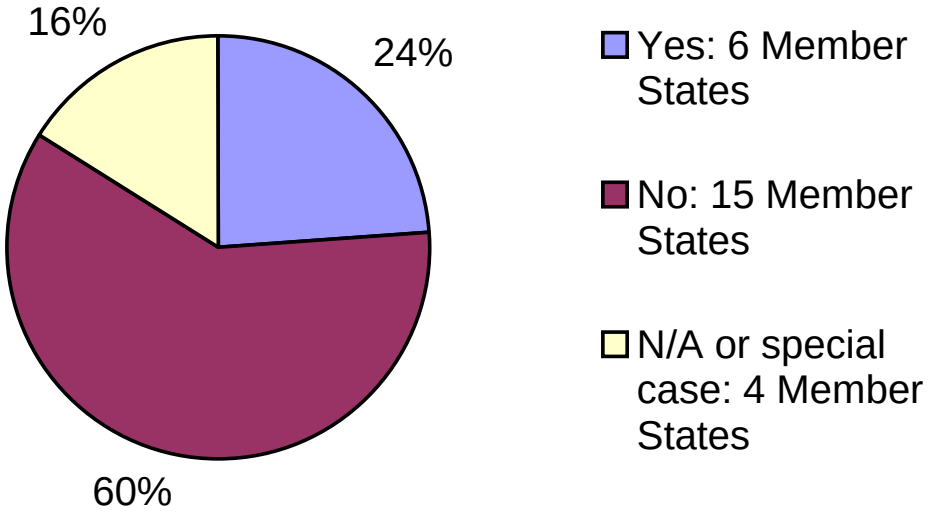
**CHART 2.7.2 B: FUNDING SCHEMES WITH AND WITHOUT QUANTIFIED AND NOT QUANTIFIED TERRITORIALISATION REQUIREMENTS IN PERCENTAGE OF FUNDING SCHEMES' BUDGETS (Output Tables A & B; without France)**




- Without any territorialisation requirements: 19 funding schemes (82 901 644 Euro)
- With quantified territorialisation requirements: 8 funding schemes (150 196 380 Euro)
- Without quantified territorialisation requirements or mixed situation (quantified and not quantified): 81 funding schemes (595 504 224 Euro)

Charts 2.7.2 do not include the French funding schemes. There are no territorialisation requirements in 19 funding schemes (18 %) that account in total for 10 % of the budgets of all the funding schemes. Quantified territorialisation requirements occur in eight funding schemes (7 %) that account in total for 18 % of the budgets of all the funding schemes, whereas in 81 funding schemes (75 %) that account in total for 72 % of the budgets of all the funding schemes there are territorialisation requirements that are either not quantified or not fully quantified.

**CHART 2.8: EXPECTED NEW FUNDING SCHEMES CONTAINING TERRITORIALISATION REQUIREMENTS (Output Table A)**



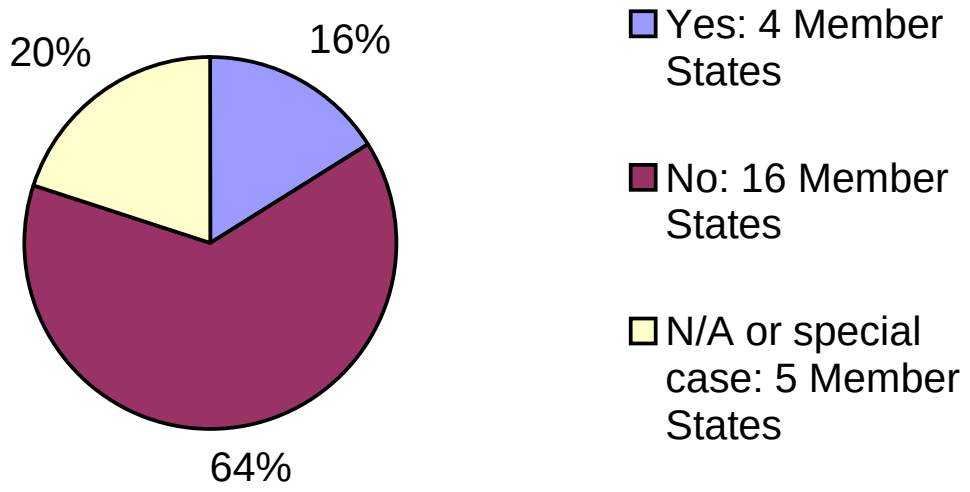

Six Member States intend to introduce new funding schemes containing territorialisation requirements.[419]

Four Member States intend to conclude new co-production agreements.[420]

[419] Special cases:
Czech Republic: There are no new funding schemes with territorialisation requirements expected, but there is a recommendation to introduce a 12.5% tax shelter system combined with a national certification system for eligible beneficiaries.
Luxembourg: Law governing the funding scheme "Certificats d'Investissement Audiovisuel" (Certificates of Audiovisual Investment) is expected to be amended.
Poland: Amendment of the PICA; new funding scheme in 2006: Telewizja Polska S.A. – Agencja Filmowa; no other expected funding scheme.
Spain: N/A.

[420] Special cases:
Cyprus: new co-production agreement in 2006.
Netherlands: There are no new co-production agreements expected, but the "Rotterdam Film Fund" is exploring the possibilities of concluding agreements with the Flemish Audiovisual Fund.
Belgium, France; UK: N/A.

**CHART 2.9: EXPECTED NEW CO-PRODUCTION AGREEMENTS (Output Table D)**



# Appendix B: Legal Questionnaire

**QUESTIONNAIRE ON STATE AID TO CINEMA AND TERRITORIALISATION REQUIREMENTS**
**(Version of 15 September 2006)**

**PRELIMINARY REMARK**

**This questionnaire is divided in two parts. Part A concerns general questions and part B specific questions related to state aid for independent film and television production, including state aid based on co-production agreements, in the context of territorialisation requirements.**

**Some information that could be relevant for this questionnaire is available on-line, eg:**

- the data from Korda and IRIS Merlin at: http://www.obs.coe.int/db/index.html (in particular the information by Korda on funding schemes at: http://korda.obs.coe.int/web/recherche_fonds.php and the information on co-production agreements by IRIS Merlin at: http://merlin.obs.coe.int/search.php )

- the links to regulating, control and funding bodies in the audiovisual sector (cinema and broadcasting) at: http://ec.europa.eu/comm/avpolicy/info_centre/links/index_en.htm

- the information on co-production agreements on the Council of Europe website and, eg for France and the United Kingdom, on the websites of the Centre National de la Cinématographie and the UK Film Council:
http://www.coe.int/T/E/Cultural_Co-operation/Eurimages/
http://www.cnc.fr/Site/Template/A2.aspx?SELECTID=35&id=36
http://www.ukfilmcouncil.org.uk/usr/ukfcdownloads/42/Co_production.pdf

**However, please consider that this information may not be exhaustive, fully accurate or up-to-date, and may therefore require to be completed for the purposes of this study.**

**When filling in this questionnaire, please specify in brackets your sources of information at the end of each of your answers.**

**Please deliver your replies in word format (font type: Times New Roman; font size: 12).**

# PART A

# GENERAL QUESTIONS

*Please use only one form per Member State.*

## OVERVIEW

A.1 Country / region:

A.2 Names of funding schemes with an annual budget of state aid dedicated to pre-production, production, post-production, marketing, distribution and promotion of independent cinematographic and audiovisual works[421] of at least € 1 million in 2005 (this includes any kind of support, eg direct subsidies, fiscal advantages, etc., to pre-production, production, post-production, marketing, distribution and promotion):

## COPRODUCTION AGREEMENTS

A.3 List the conventions on co-production agreements to which your country is currently a party, indicate the date of the entry into force of each convention, and indicate the name and address of the authority in charge of their administration and supervision:

## NATIONALITY CERTIFICATION PROCEDURES

A.4 Describe the formal procedure, if any, to assess and certify the nationality of an independent film or television production in your country by indicating the authority in charge of this procedure, the criteria of eligibility, and the scope of this certification procedure in relation to public funding schemes in your jurisdiction:[422]

## EXPECTED DEVELOPMENTS

A.5 Indicate whether new co-production agreements are to be expected in your jurisdiction as of 1 January 2007, indicate the contemplated date of the entry into force of each convention, and indicate the name and

[421] "Independent" means that the cinematographic and audiovisual works are produced and distributed by entities that are legally independent from broadcasters.
[422] Eg the French "Procédure d'agrément".

address of the authority in charge of their administration and supervision

A.6 Indicate whether new funding schemes containing territorialisation requirements entered into force or are to be expected to enter into force in your jurisdiction as of 1 January 2006,[423] and indicate the name and address of the administration of these funding schemes:[424]

## REFERENCES TO LOCAL STUDIES

A.7 Provide the references of studies, reports or other relevant materials on territorialisation requirements, on co-production agreements and on legal aspects of the promotion of film related cultural identities and cultural diversity in your jurisdiction (author, title, place, date of publication, and, if available, internet link):

# PART B

# FUND SPECIFIC QUESTIONS

*Please only cover funding schemes, including tax incentive schemes, that were operated at the national, regional (excluding EU schemes, eg the Media programme)[425] or local level in your country during the reference period from 1 January 2001 to 31 December 2005, and that disposed of an annual budget of state aid dedicated to pre-production, production, post-production, marketing, distribution and promotion of independent cinematographic and audiovisual works of at least € 1 million per year.[426]*

*Please use for each funding scheme a separate form.*

## IDENTIFICATION OF THE FUNDING SCHEME

[423] Any requirement/incentive that some of the development, production or post-production activities must take place in the country or region offering the state aid, either for the audiovisual work to be eligible for state aid or affecting the amount of state aid available to the audiovisual work.

[424] Eg in Germany, there will be a new funding scheme on the federal level containing a territorialisation clause as from 2007.

[425] Regional schemes mean both, schemes operated within your country and schemes to which your country is a party among other countries, eg the Nordic Film- and TV Fund (see http://korda.obs.coe.int/web/display_fonds.php?fonds_id=28 ).

[426] "Independent" means that the cinematographic and audiovisual works are produced and distributed by entities that are legally independent from broadcasters.

B.1 Country/region:

B.2 Name of the funding scheme:

B.3 Name and address of the funding scheme's administration and supervisory authority:

B.4 List the titles of the laws and regulations that govern this funding scheme as of 31 December 2005 (in the original language and in an English working translation), and indicate

- the dates when these laws and regulations entered into force,

- whether these laws and regulations were amended during the period from 2001 to 2005 (if so and if the amendments were significant, indicate their dates of entry in force),

and provide a copy of these laws and regulations in the version as of 31 December 2005 (in the national language only).

## TERRITORIAL CONDITIONS[427]

### Explicit territorial conditions

B.5 Does the scheme impose any explicit obligation on independent film and audiovisual project proposals that they must spend a minimum proportion of the production budget in the Member State/Region to qualify for state aid or to receive the maximum amount of state aid available (*consider the situation as of 31 December 2005 and, only in case of significant changes, the situation before this date during the period from 2001 to 2005*)?

Yes / No

If yes,

B.6 Quote (in the national language and in an English working translation) the provisions requiring territorialisation that are contained in the rules (legislation and internal regulations) listed under Answer B.4 (*provide quotes of the current version of the rules as of 31 December 2005 and, only in case of significant changes, of former versions of territorialisation clauses that were in force before this date during the period from 2001 to 2005*):

[427] Any requirement/incentive that some of the development, production or post-production activities must take place in the country or region offering the state aid, either for the audiovisual work to be eligible for state aid or affecting the amount of state aid available to the audiovisual work.

B.7 Describe how these territorialisation requirements are implemented, including the minimum proportion required and the maximum (*provide a description with respect to the current version of the territorialisation requirements as of 31 December 2005 and, only in case of significant changes, with respect to former versions of territorialisation requirements that were in force before this date during the period from 2001 to 2005*).

B.8 Describe how territorialisation requirements that apply to this scheme are interpreted and implemented in the context of the co-production agreements listed under answer A.3 (*provide a description with respect to the current version of the territorialisation requirements as of 31 December 2005 and, only in case of significant changes, with respect to former versions of territorialisation requirements that were in force before this date during the period from 2001 to 2005*):

B.9 Quote and summarize judicial and administrative practice (case law and guidelines) and legal commentaries addressing the implementation of territorialisation requirements that you quoted and described under answers B.6 to B.8 (*provide a quote and summary with respect to the current version of the territorialisation requirements as of 31 December 2005 and, only in case of significant changes, with respect to former versions of territorialisation requirements that were in force before this date during the period from 2001 to 2005*):

**Implicit or *de facto* territorial conditions**

B.10 Does the scheme provide any scope for territorial conditions to be applied implicitly or *de facto*? - For example, do the selection criteria imply that proposals are more likely to be selected for funding if they would create employment in the region/Member State, use local professionals, or generally promote interest in the region/Member State (*please cover the situation prevailing as of 31 December 2005 and, only in case of significant changes, the situation that prevailed before this date during the period from 2001 to 2005*)?

Yes/No

If yes,

B.11 Please describe the implicit or *de facto* territorialisation requirements that are practised by this funding scheme (*as of 31 December 2005 and, only in case of significant changes, before this date during the period from 2001 to 2005*):

**CULTURAL CLAUSES**

B.12 Quote the legal provisions of your jurisdiction (in the national language and in an English working translation) expressing cultural policy goals (eg promotion of cultural identity and cultural diversity) that could legitimate the explicit or implicit territorialisation requirements mentioned under answers B.6, B.7 and B.11 and that are currently in force:

**SELECTIVE SCHEMES**

B.13 If this scheme distributes aid selectively,[428] please list the qualitative criteria that were applied as of 31 December 2005 and, only in case of significant changes, before this date during the period from 2001 to 2005:

**CONTACT DETAILS**

B.14 Name, function and contact information (postal address, phone and email) of the liaison person at the funding scheme:

Name of the lawyer and law firm in charge of the data collection:

Date of the data collection and processing:

[428]Selective funding schemes grant state aid based on an evaluation of each project and following qualitative criteria. In contrast, automatic schemes grant state aid if certain quantitative criteria such as box office results of previous works are met.

# Appendix C: List of Funding Bodies

| Net list of funds with budgets exceeding 1 MEUR in 2005 or 900,000 in 2004 | Fund name |
|---|---|
| (AU)Austria - 5 funds | Filmfonds Wien |
| | Cine Tirol Filmförderung |
| | Cine Styria Filmcommission & Fonds |
| | Österreichisches Filminstitut |
| | Fernsehfonds Austria (RTR-GmbH) |
| (BE) Belgium - 3 funds | Centre du Cinéma et de l'Audiovisuel |
| | Vlaams Audiovisueel Fonds |
| | Wallimage |
| (CY) Cyprus - 1 fund | Cinema Advisory Committee |
| (CZ) Czech Republic - 1 fund | State Fund for the Support and Development of Czech Cinematography |
| (DE) Germany - 11 funds | Beauftragter der Bundesregierung für Kultur und Medien |
| | FilmFernsehFonds Bayern |
| | Filmförderung Hamburg GmbH |
| | Filmförderungsanstalt |
| | Filmstiftung Nordrhein Westfalen GmbH |
| | Hessische Filmförderung |
| | MSH Gesellschaft zur Förderung audiovisueller Werke in Schleswig-Holstein |
| | Medien- und Filmgesellschaft Baden-Würtemberg GmbH |
| | Medienboard Berlin-Brandenburg |
| | Mitteldeutsche Medienförderung GmbH |
| | Nordmedia |
| (DK) Denmark - 3 funds | Den Vestdanske Filmpulje |
| | Det Danske Filminstitut |
| | FilmFyn |
| (EE) Estonia - 2 funds | Eesti Kultuurkapital |
| | Eesti Filmi Sihtasutus |
| (ES) Spain - 8 funds | Conselleria de Cultura, Comunicacion Social e Turismo, Xunta de Galicia |
| | Direccio General de Política Lingüística de la Generalitat de Catalunya |
| | Direccion General de Fomento y Promocion Cultural, Junta de Andalucia |
| | Dirección de Creación y Difusión Cultural, Gobierno Vasco |
| | Institut Català de Finances |
| | Institut Català des Indústries Culturels |
| | Instituto Valenciano de Cinematografia Ricardo Munoz Suay |
| | Instituto de la Cinematografia y las Artes Audiovisuales |
| (FI) Finland - 3 funds | Centre for the Promotion of Audiovisual Culture in Finland |
| | Suomen Elokuvasäätiö |
| | State Grants for Artist |
| (FR) France – 14 funds | Agence pour le développement régional du cinéma |
| | Atelier de Production Centre Val de Loire |
| | Conseil régional d'Ile-de-France |
| | Région Réunion |
| | Centre régional de ressources audiovisuelles de la région Nord-Pas de Calais |
| | Conseil général de la Charente |
| | Conseil régional de Provence-Alpes-Côte d'Azur |
| | Rhône-Alpes Cinéma |
| | Conseil régional du Limousin |
| | Aquitaine Image Cinéma |
| | Centre national de la cinématographie |
| | Conseil régional Rhône-Alpes |

| Net list of funds with budgets exceeding 1 MEUR in 2005 or 900,000 in 2004 | Fund name |
|---|---|
| | Conseil régional de Poitou-Charentes |
| | Collectivité territoriale de la Corse |
| (GB) Great Britain - 14 funds | Arts Council of Wales |
| | EM Media |
| | Film London |
| | Isle of Man Film NOT MEMBER |
| | Northern Film & Media |
| | Northern Ireland Film and Television Commission |
| | Scottish Screen |
| | Screen East |
| | Screen West Midlands |
| | Screen Yorkshire |
| | Seirbheis nam Meadhanan Gaidhlig |
| | Sgrîn Cymru Wales |
| | South West Screen |
| | UK Film Council |
| (GR) Greece - 2 funds | Greek Film Centre |
| | Hellenic broadcasting cooperation |
| (HU) Hungary - 3 funds | Magyar Történelmi Film Alapítvány |
| | Motion Picture Public Foundation of Hungary |
| | National Cultural Fund of Hungary |
| (IE) Ireland - 2 funds | Bord Scannan na hEireann |
| | Department of Arts, Sport and Tourism |
| (I) Italy - 1 fund | Direzione Generale per il Cinema |
| (LT) Lithuania – 1 fund | Lietuvos Respublikos Kulturos Ministerija |
| (LU) Luxembourg - 1 fund | Fonds national de soutien à la production audiovisuelle |
| (LV) Latvia - 1 fund | National Film Center of Latvia |
| (MA) Malta – 1 fund | Malta Film Commission |
| (NL) Netherlands - 5 funds | Hubert Bals Fund |
| | Nederlands Fonds voor de Film |
| | Rotterdams Fonds voor de Film en Audiovisuele Media/ |
| | Stimuleringsfonds Nederlandse Culturele Omroepproducties |
| | The Dutch Co-production Fund for Broadcasting Companies |
| (PL) Poland - 1 fund | Agencja Produkcji Filmowej |
| (PT) Portugal - 1 fund | Instituto do Cinema, Audiovisual e Multimédia |
| (S) Sweden - 4 funds | Film i Skåne[429] |
| | Film i Väst |
| | Filmpool Nord |
| | Svensk Filminstitut |
| (SI) Slovenia - 1 fund | Filmski sklad Republike Slovenije |
| (SK) Slovakia - 0 funds | |
| SUPRANATIONAL - 7 funds | Africa Cinémas |
| | Eurimages |
| | Europa Cinemas |
| | Ibermedia |
| | Nordic Film & TV Fund |
| | Agence intergouvernementale de la Francophonie |
| | SEE Cinema Network |
| EU 25 total number of funds: | 96 |

[429] It was initially assumed that Film i Skåne had a budget over €1m, but this was corrected following the survey of funding bodies (see Table 3.5).

# Appendix D: Questionnaire for Funding Bodies

**QUESTIONNAIRE ON STATE AID TO CINEMA AND OTHER AUDIO VISUAL WORKS TO EUROPEAN FUNDING BODIES**

Thank you for taking time to fill in questionnaire about film aid.

You can move back and forth in the questionnaire by clicking on the arrows at the bottom of the page. If you wish to see the whole questionnaire and perhaps to print it, you can click here:
If you do not have the time to finish the questionnaire in one sitting, you can use the link in the email to return to the questionnaire. Your answers are automatically saved, although you will have to use the arrows to return to where you left the questionnaire.

**The questionnaire is divided into three parts.**

**Part 1** concerns background information.

**Part 2** concerns the funding body's budgets and the amounts actually paid.

**Part 3** concerns specific details on the funding body's overall distribution of funds.

## 1. Background Information

### 1.1 Contact Details

Name of funding body: _____

Name of questionnaire respondent: _____

E-mail: _____

Phone number: _____

Address: _____

### 1.2 Please stipulate the dates between which your financial year operates:

From (MM-DD), eg. 12-31 _____

To (MM-DD), eg. 12-31 _____

# 2. Budgets and amounts actually paid from the fund

## 2.1 Schemes under the funding body

Please indicate names of schemes operated by the funding body in the boxes below. Leave the boxes empty if the funding is not broken down into separate schemes.

*'Funding scheme' relates to specific programmes, whereas 'funding body' relates to the overall unit. Eg a funding body has three schemes: one for digital shorts; one production scheme and one video support scheme.*

Scheme 1

Scheme 2

Scheme 3

Scheme 4

Scheme 5

Scheme 6

Scheme 7

Scheme 8

Scheme 9

Scheme 10

Scheme 11

Scheme 12

Scheme 13

Scheme 14

Scheme 15

Scheme 16

Scheme 17

Scheme 18

## 2.2 Actual allocations from the Fund 2005, 2004

How much was budgeted for each funding scheme and how much was actually paid?

We require information for the financial year ending in the indicated year.

*If it is not possible to break down budget and amount actually paid into separate schemes please fill in for the 'total for funding body'.*

| | 2005 | | 2004 | |
|---|---|---|---|---|
| | *Budget* | *Amount actually paid* | *Budget* | *Amount actually paid* |
| Video | € | € | € | € |
| TV | € | € | € | € |
| Cinema | € | € | € | € |
| Total for Funding Body | € | € | € | € |

## 2.2 Actual allocations from the Fund 2003, 2002, 2001

How much was budgeted for each funding scheme and how much was actually paid?

We require information for the financial year ending in the indicated year.

*If it is not possible to break down budget and amount actually paid into separate schemes please fill in for the 'total for funding body'.*

| | 2003 | | 2002 | | 2001 | |
|---|---|---|---|---|---|---|
| | *Budget* | *Amount actually paid* | *Budget* | *Amount actually paid* | *Budget* | *Amount actually paid* |
| Video | € | € | € | € | € | € |
| TV | € | € | € | € | € | € |
| Cinema | € | € | € | € | € | € |
| Total for Funding Body | € | € | € | € | € | € |

## 3. Specifications on distribution of grants from funding body

### 3.1 Territorialisation

What proportion of the budget and what proportion of amount actually paid were subject to territorialisation clauses?

Note that this is for the funding body as a whole and on annual basis. Use financial year ending in the indicated year.

*Territorialisation clauses propose and in some cases demand that a certain amount of the grant will be used in a specific region. Territorialisation clauses can refer to region-specific use of location and/or talent (Eg A funding scheme proposing or demanding a territorialisation clause may require that a proportion of the amount actually paid is spent on regional locations and/or regional cast and crew.*

**If any of the required information is not known, please leave space empty.**

| | Proportion of grants subject to territorialisation clauses | Proportion of grants NOT subject to territorialisation clauses | Proportion of grants subject to territorialisation clauses | Proportion of grants NOT subject to territorialisation clauses |
|---|---|---|---|---|
| | *Budget a)* | *Budget b)* | *Amount actually paid a)* | *Amount actually paid b)* |
| **2005** | % | % | % | % |
| **2004** | % | % | % | % |
| **2003** | % | % | % | % |
| **2002** | % | % | % | % |
| **2001** | % | % | % | % |

**a + b =100 %**

## 3.2 Allocation types

What proportion of the budget and what proportion of the amount actually paid were automatic allocations and what proportion were selective allocations? Note that this is for the funding body as a whole and on annual basis. Use financial year ending in the indicated year.

*Automatic allocations are granted where certain quantitative criteria are met – for instance box office returns. Selective allocation is the opposite of automatic allocation as it is based on a qualitative evaluation of a specific project. Granting based on selective criteria could for instance take departure on artistic assessment, cultural value assessment etc. Allocations made as tax incentives covers tax reductions or other kind of tax rebates.*

**If any of the required information is not known, please leave space empty.**

| | **Proportion of grants automatically granted** *Budget a)* | **Proportion of grants selectively granted** *Budget b)* | **Proportion of grants automatically granted** *Amount actually paid a)* | **Proportion of grants selectively granted** *Amount actually paid b)* |
|---|---|---|---|---|
| **2005** | % | % | % | % |
| **2004** | % | % | % | % |
| **2003** | % | % | % | % |
| **2002** | % | % | % | % |
| **2001** | % | % | % | % |

**a + b =100 %**

## 3.3 Type of activity: Budget

What proportion of the **budget** was provisioned for the following types of activities? Note that this is for the funding body as a whole and on annual basis. Use financial year ending in the indicated year.

*If the funding body follows other categories of activities when granting please try adjusting to the categories set forth below.*

**If any of the required information is not known, please leave space empty.**

| | **Preproduction** | **Production** | **Post-production** | **Promotion and marketing** | **Distribution** | **Othe acti** |
|---|---|---|---|---|---|---|
| | *Budget a)* | *Budget b)* | *Budget c)* | *Budget d)* | *Budget e)* | *Budg* |
| **2005** | % | % | % | % | % | % |
| **2004** | % | % | % | % | % | % |
| **2003** | % | % | % | % | % | % |
| **2002** | % | % | % | % | % | % |
| **2001** | % | % | % | % | % | % |

**a + b + c + d + e + f =100 %**

## 3.3 Type of activity: Amount actually paid

What proportion of the **amount actually paid** was provisioned for the following types of activities? Note that this is for the funding body as a whole and on annual basis. Use financial year ending in the indicated year.

*If the funding body follows other categories of activities when granting please try adjusting to the categories set forth below.*

**If any of the required information is not known, please leave space empty.**

| | **Pre production** | **Production** | **Post-production** | **Promotion and marketing** | **Distn** | **Other activities** |
|---|---|---|---|---|---|---|
| | *Amount actually paid a)* | *Amount actually paid b)* | *Amount actually paid c)* | *Amount actually paid d)* | *Amount actually paid e)* | *Amount actually paid f)* |
| **2005** | % | % | % | % | % | % |
| **2004** | % | % | % | % | % | % |
| **2003** | % | % | % | % | % | % |
| **2002** | % | % | % | % | % | % |
| **2001** | % | % | % | % | % | % |

**a + b + c + d + e + f =100 %**

## 3.4 Type of production supported - Budget:

What proportion of the **budget** was distributed for the following productions? Note that this is for the funding body as a whole and on annual basis. Use financial year ending in the indicated year.

**If any of the required information is not known, please leave space empty.**

| | **National productions** *Budget a)* | **Co-productions** *Budget b)* | **Other production** *Budget c)* |
|---|---|---|---|
| **2005** | % | % | % |
| **2004** | % | % | % |
| **2003** | % | % | % |
| **2002** | % | % | % |
| **2001** | % | % | % |

**a + b + c=100 %**

## 3.4 Type of production supported - amounts actually paid:

What proportion of **amount actually paid** was distributed for the following productions? Note that this is for the funding body as a whole and on annual basis. Use financial year ending in the indicated year.

**If any of the required information is not known, please leave space empty.**

| | **National productions** *Amount actually paid a)* | **Co-productions** *Amount actually paid b)* | **Other production** *Amount actually paid c)* |
|---|---|---|---|
| **2005** | % | % | % |
| **2004** | % | % | % |
| **2003** | % | % | % |
| **2002** | % | % | % |
| **2001** | % | % | % |

**a + b + c=100 %**

## 3.5 Grants, soft loans and tax incentives - Budget

What proportion of the budget was allocated as grants, soft loans and tax incentives? Note that this is for the funding body as a whole and on annual basis. Use financial year ending in the indicated year.

**If any of the required information is not known, please leave space empty.**

| | **Allocations made as grants** *Budget a)* | **Allocations made as soft loans** *Budget b)* | **Allocations made as tax incentives** *Budget c)* |
|---|---|---|---|
| **2005** | % | % | % |
| **2004** | % | % | % |
| **2003** | % | % | % |
| **2002** | % | % | % |
| **2001** | % | % | % |

**a + b + c=100 %**

## 3.5 Grants, soft loans and tax incentives – Amount actually paid

What proportion of the amount actually paid was allocated as grants, soft loans and tax incentives? Note that this is for the funding body as a whole and on annual basis. Use financial year ending in the indicated year.

**If any of the required information is not known, please leave space empty.**

| | **Allocations made as grants** *Amount actually paid a)* | **Allocations made as soft loans** *Amount actually paid b)* | **Allocations made as tax incentives** *Amount actually paid c)* |
|---|---|---|---|
| **2005** | % | % | % |
| **2004** | % | % | % |
| **2003** | % | % | % |
| **2002** | % | % | % |
| **2001** | % | % | % |

**a + b + c=100 %**

The survey is now completed.
Thank you for taking time to participate.
On behalf of the project team,

**Henning Thomsen**
Chief Consultant
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Rambøll Management
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# Appendix E: Member State Questionnaire

**PREPARATORY QUESTIONNAIRE FOR THE STUDY ON STATE AID TO CINEMA**

Please fill in this questionnaire for each scheme operated at national, regional or local level in your country.

**IDENTIFICATION OF THE STATE AID SCHEME(S)**

1. Country/region:
2. Name of the scheme(s) :
3. Responsible agency:
4. Legal act creating the scheme(s):
5. Total budget available per year:

**TERRITORIAL CONDITIONS:**

**6. Explicit territorial conditions**

6.1 Does the scheme impose any explicit obligate on audiovisual project proposals that they must spend a minimum proportion of the production budget in the Member State/Region to qualify for state aid or to receive the maximum amount of state aid available?

If yes,

6.2 Please describe this obligation in detail and how it is implemented, including the minimum proportion required and the maximum.

6.3 What is the impact of this obligation on co-productions with producers from other EU Member States?

6.4 What percentage of the production budget does this obligation account for?

6.5 Please provide the quotation from the legal act or internal rules of procedure that institute this obligation:

6.6 What is the economic objective of this obligation?

6.7 Do you consider that this economic objective is being met?

6.8 Have you considered whether this economic objective could be met in any other way and, if so, how?

6.9 What is the cultural objective of this obligation?

6.10 Do you consider that this cultural objective is being met?

[1] Any requirement/incentive that some of the development, production or post-production activities must take place in the country or region offering the state aid, either for the audiovisual work to be eligible for state aid or affecting the amount of state aid available to the audiovisual work.

6.11 Have you considered whether this cultural objective could be met in any other way and, if so, how?

**7. Implicit territorial conditions**

7.1 Does the scheme provide any scope for territorial conditions to be applied implicitly? For example, do the selection criteria imply that proposals are more likely to be selected for funding if they would create employment in the region/Member State, use local professionals, or generally promote interest in the region/Member State?

If yes,

7.2 Please describe the funding selection criteria in detail.

7.3 What weight is given to "implicit territorial criteria"?

7.4 Of those films which received state aid under the scheme in 2005, what proportion did not fulfil any of these criteria?

7.5 Please provide the quotation from the legal act or internal rules of procedure that institute this mechanism.

**AUTOMATIC / SELECTIVE SCHEMES**

**8. Automatic schemes**

8.1 Of the total amount of aid distributed per year, how much is distributed through automatic schemes (schemes where there the aid is automatically granted if certain criteria are met)?

8.2 Please list the criteria used.

**9. Selective schemes**

9.1 Of the total amount of aid distributed per year, how much is distributed through selective schemes (schemes where State support is granted selectively after evaluation of each project and following qualitative criteria)?

9.2 Please list the qualitative criteria used:

**CONTACT DETAILS**

10. Contact person who can provide further details:
11. E-mail:
12. Phone:

**DATE:** **SIGNATURE:**

# Appendix F: Analysis of Member State Response

**Background**

During 2006 the European Commission conducted a separate investigation of state aid measures. A template of the questionnaire sent out is included as Appendix E. What follows in this section is an analysis of the replies received from the Member States.

**Responses received**

Responses to the preliminary questionnaire were received from 21 Member States and from the Flemish Community of Belgium.

*Non-response or response of a different kind*

Instead of responding to the questionnaire, France, Italy and the French Community of Belgium submitted French and Italian versions of the letter (sent on 24 April 2006 to M. Jean-Eric de Cockborne) detailing the common position on the state aid Questionnaire reached by the European Film Agency Directors, while Poland submitted a copy of the Decision (16 May 2006) of the Competition Commissioner *Not To Raise Objections* (our emphasis) to the Polish audiovisual fund. So we have at present no information relevant to answering any of the questions in the questionnaire with reference to France, Italy or the French Community of Belgium. It is, nevertheless, possible to derive answers to some of the questions in the questionnaire from the document submitted by Poland. This has been done where possible.

*Partial response*

Because the film law and related support schemes in Portugal are currently being revised, Portugal was only able to provide partial and provisional answers to the questions.

*German regional responses*

Responses were also received from ten German Länder:

Bayern, Nord-Rhein-Westfalen, Schleswig-Holstein, Hamburg, Baden-Württemberg, a joint response from the two Länder Berlin and Brandenburg and a joint response from the three central Länder Sachsen, Sachsen-Anhalt and Thüringen.

Because the film funds of the ten Länder are used to supplement federal funding by giving a regional focus and, consequently, their responses to the questionnaire were very similar to each other, these responses are treated separately (see below).

**Budgets for film funding**

In Greece the funding available to support film production is provided by broadcasting companies, who are obliged to contribute 1.5% of their gross budget each year into the film fund. No information about film funding budgets was provided in the documents submitted by Poland.

In other countries there is a fixed annual budget – Table F1 provides a summary of the total funds available in the current (2006) budgets.

**TABLE F1: TOTAL FUNDS AVAILABLE IN 2006 BUDGETS**

| Member State | Name of Fund | Budget (€m) |
|---|---|---|
| Austria | Fernsehfonds Austria | 7.5 |
| Flemish Community | Vlaams Audiovisueel Fonds | 12.0 |
| Cyprus | Cyprus Cinema | 1.0 |
| Czech Republic | n/a | 2.8 |

**TABLE F1: TOTAL FUNDS AVAILABLE IN 2006 BUDGETS**

| Member State | Name of Fund | Budget (€m) |
|---|---|---|
| Denmark | Consultant and 60/40 | 20.0 |
| Estonia | Film development | 2.4 |
| Finland | Public Support for Films | 17.4 |
| Germany | Filmförderungsgesetz | 96.7 |
| (regional funds) | Bayern, Nord Rhein-Westfalen and Baden-Württemberg | between 9-10 each |
| | Berlin and Brandenburg | 21.0 together |
| | Sachsen, Sachsen-Anhalt and Thüringen | 12.8 together |
| | Hamburg | 5.5 |
| | Schleswig-Holstein | 0.2 |
| Hungary | n/a | 28.2 |
| Latvia | n/a | 1.6 |
| Ireland | Film Tax Relief | 26.0 |
| Lithuania | n/a | 1.6 |
| Luxembourg | Aides Financières Sélectives | 4.5 |
| Malta | Financial Incentives | 3.5 |
| Netherlands | Netherlands Film Subsidy | 10.8 |
| | Tax Incentive | 20.0 |
| Portugal | n/a | 17.0 |
| Slovak Republic | Audiovision | 4.0 |
| Spain | Fomento Cinematografía | 64.5 |
| Slovenia | Cofinancing | 0.7 |
| Sweden | state aid | 36.1 |
| UK | Film Development | 33.3 |

Note(s) : The German budget includes €37.39m for production while the Portuguese budget includes €10m. Budgets are rounded to the first decimal point
Source(s) : Various Member State questionnaire replies.

## Territorialisation funding conditions

### *Explicit conditions*

Question 6.1 of the questionnaire asks

> 'Does the scheme impose any explicit obligation on audiovisual project proposals that they must spend a minimum proportion of the production budget in the Member State/Region to qualify for state aid or to receive the maximum amount of state aid available?'

In summary, there were:

- five positive answers (Austria, the Flemish Community of Belgium and Hungary, Malta and The Netherlands),
- three negative answers that have to be treated as positive (Cyprus, Ireland and Lithuania)[430],
- one positive answer that has to be taken as negative (Greece)[431],

[430] Cyprus, Ireland and Lithuania answered 'No', but their answers to the questions about implicit territorial conditions mean that they have to be grouped with the five countries that answered 'Yes'.

- fourteen negative answers (Czech Republic, Denmark, Estonia, Finland, Germany, Latvia, Ireland, Luxembourg, Portugal, Slovak Republic, Slovenia, Spain, Sweden and the UK),

Three of the five countries that answered 'Yes' (Austria, the Flemish Community of Belgium and Hungary) gave information not about the proportion of the production budget but about the proportion of the grant-aid that must be spent in the Member State/Region. Ireland also gave information about the proportion of the grant-aid, but described this as an implicit territorial condition (thus showing a misunderstanding of the question about implicit territorial conditions). It can also be inferred that a proportion of any grant received in Poland must be spent in Poland. The other two countries (Malta and the Netherlands) answered in terms of the proportion of the production budget. Cyprus and Lithuania may be grouped with these two, since they treated conditions on the production budget as implicit territorial conditions.

In legal terms the requirement that a proportion of the grant be spent in the state/region is not the same as a requirement that proportion of the production budget be spent in the state/region. Nonetheless, the two requirements can in effect amount to the same thing, because a proportion of the grant is equivalent to a proportion of the budget. However, the ratio between the two is variable. Under EU rules the total of public funds granted for any one production must not exceed 50% of the production budget, but in certain cases it can be raised to 85%. These cases are productions that are 'vulnerable' because of such factors as their minority interest, lack of funding or geographical limitation of the language.

We cannot tell from the questionnaire responses whether those respondents that (presumably) understood the question correctly and therefore made no mention of a proportion of the grant to be spent in the relevant state do in fact impose such a condition on the grant.

The proportions of the production grant that must be spent in the relevant country are summarised in Table F2.

**TABLE F2: RULES GOVERNING PROPORTION OF PRODUCTION GRANT SPENT IN THE RELEVANT COUNTRY**

| Member State | Specific Guidelines Or Rules |
|---|---|
| Austria | At least 1.5 times the grant awarded (but the response makes it unclear whether this applies only to the non-repayable grant, whose ceiling is 20% of the budget or also to the total of public funds that could be provided) |
| Flemish Community | 100% of the grant must be spent in Flanders or Brussels; under certain conditions this can be reduced, but not below a minimum of 60% |
| Cyprus | Either a minimum of five working days in the project should be in Cyprus or that some minimum number of technicians and/or artists be employed in Cyprus. |
| Hungary | The position is more complicated, because there are two types of support: direct support through subsidies and a tax incentive scheme. Recipients of direct support must spend a minimum of 60% and a maximum of 80% of the grant in Hungary, but the minimum may be reduced to 40% if, for example, shooting must unavoidably take place in locations outside Hungary. Tax incentives necessarily carry with |

[431] Greece answered 'Yes', but it is clear from other answers in the Greek questionnaire that the correct answer was 'No'.

**TABLE F2: RULES GOVERNING PROPORTION OF PRODUCTION GRANT SPENT IN THE RELEVANT COUNTRY**

| Member State | Specific Guidelines Or Rules |
|---|---|
| | them an obligation to spend some of the production budget in Hungary, since tax incentives are available for up to 20% of the total production costs incurred in Hungary. There is no ceiling on the total amount of production costs that may be incurred in Hungary and thus qualify for tax incentives. |
| Ireland | At least 100% of the grant must be spent in Ireland |
| Lithuania | Requires that at least 50% of production, distribution and exhibition work be carried out by Lithuanian organisations. |
| Malta | The explicit territorial condition is that no project qualifies to receive aid unless it spends a minimum of Lm35,000 (€81,780) in Malta[432]. However, it also has a points system for evaluating applications in which 25 of the possible total of 46 points are allocated according to the amount of spending in Malta, the numbers of local staff recruited and the amount spent on local high-value services. The amount of grant, up to a maximum of 20% of the production budget spent in Malta, is determined entirely on the points system. Thus the system of selection of projects amounts to the imposition of territorial conditions, but whether these are explicit or implicit is a moot point. |
| Netherlands | Like Hungary, The Netherlands has two types of support: subsidies and tax incentives. No territorial conditions are imposed on subsidies, but to be entitled to tax incentives a project must spend 50% of its total production costs in the Netherlands. The ceiling on qualifying production costs is €15m. |
| Poland | The awarding body may require that up to 80% of the grant be spent in Poland |

Note(s) : Four respondents answered the question by giving information about the proportion of the production budget that must be spent in the country.
Source(s) : Various Member State questionnaire replies.

Only the five Member States that explicitly answered 'Yes' to the question about explicit territorial conditions, and also Lithuania, answered the questions about the objectives of the conditions and possible alternative means to the same objectives.

All six respondents treated the economic and cultural objectives of explicit territorial conditions as identical to the objectives of film aid in general, namely to promote the audiovisual industry in their country/region, to retain and develop a stock of audiovisual skills and to promote their culture and, in the case of Flanders, their language. Malta specified the economic objectives, but asserted that the condition had no cultural objectives. Indeed, the points system is heavily weighted towards economic objectives and the only possible relevance to a cultural objective comes in the five points allocatable to 'productions featuring Malta as Malta'.

The alternative means of achieving economic or cultural objectives that had been considered were tax incentives (Austria and Flanders), some kind of automatic financial support (Austria) and investment funds (Flanders). It should be noted that Luxembourg has a system of certificates for audiovisual investment, but judges them to have no bearing on the questionnaire and

[432] Malta's answer reads
'The scheme is open to audiovisual productions spending less than Lm35,000 in Malta'.
However, other answers make it obvious that the word 'not' has been left out of the answer, so that it should read
'The scheme is not open to audiovisual productions spending less than Lm35,000 in Malta'.

consequently submitted no information about them. Austria believed that the economic and cultural objectives were being met; Flanders believed that the territorial condition had only a limited economic effect.

The two countries that use both direct support and tax incentives (Hungary and the Netherlands) have considered alternatives but believe that their approach offers the best means of reaching the economic and cultural objectives.

The answers about the effect of territorial conditions on co-production revealed different perspectives. Hungary asserted that tax incentives encourage foreign companies to enter into co-productions with Hungarian companies. Austria pointed out that the greater the number of non-Austrian companies involved the harder it is to meet the conditions that 1.5 times the value of the grant must be spent in Austria. Lithuania replied that co-productions are treated as entirely Lithuanian provided that they meet the condition that 50% of production etc must be carried out by Lithuanian organisations. The Netherlands replied that the 50% production condition on tax incentives does not restrict co-productions and that the film authorities encourage co-productions. Flanders expressed the view that the territorial condition has virtually no effect on co-productions.

*Implicit conditions*

Question 7.1 of the Member State questionnaire asks:

> 'Does the scheme provide any scope for territorial conditions to be applied implicitly?'

The explanatory illustration accompanying this question makes it clear that the question refers to the weight given to territorial conditions in the selection of projects for financial support. The illustration explains territorial conditions broadly as covering not only location of spending but also nationality of personnel and promotion of the country and its culture.

Here some confusion arises. Because all film funding bodies have the remit to promote films of their state/region, it becomes important to know what are the conditions for being a French, Spanish, Lithuanian etc film. Most of these conditions amount to territorial conditions, broadly understood. Thus, inevitably a project stands virtually no chance of receiving financial support unless it satisfies territorial conditions. It may also be inferred that the better it represents its national film industry, the better its chances. All this, however, may be regarded as explicit in the remit of film funding bodies.

These observations may explain why thirteen respondents (the Flemish Community of Belgium, Czech Republic, Denmark, Estonia, Finland, Germany, Hungary, Latvia, Lithuania, Portugal, Slovenia, Spain and Sweden) said there were no implicit territorial conditions. A negative answer may also be inferred from the documents submitted by Poland. Sweden also returned the answer 'No', but went on to explain that financial aid can only be given to Swedish films.

Three respondents that answered 'Yes' (Cyprus, Ireland and Lithuania) were in fact speaking about conditions on the spending of the grant or the budget. They have already been discussed. Cyprus did, however, provide the further information that for a proposal to qualify for funding it must be submitted by a company or individual resident in Cyprus or by the Cyprus representative of a company.

Five other respondents (Austria, Greece, Malta, the Netherlands and the Slovak Republic) answered 'Yes'.

In Austria, the chances of applications do improve in line with the distinctively Austrian character of the proposed film. However, in practice this condition is used to discriminate between applications only when the same company submits two applications in the same year or when there are not sufficient funds in the budget for the year to cover all eligible applications. In 2005 almost all projects submitted met the Austrian condition.

In Greece the scenario, the director and a proportion of the technicians must be Greek.

In Malta the points system gives a certain weighting (five out of 46 points) to productions whose subject matter is Malta and to those that have Maltese cast (four points) and technical crew (seven points).

In the Netherlands it is an explicit condition that the film must have 'enough Dutch characteristics' ('voldoende Nederlandse kennmerken'). There seems, however, to be no quantification of what counts as 'enough' ('voldoende'). In 2005 two out of twenty successful applications did not satisfy this condition.

In the Slovak Republic minimum levels of Slovak participation and content are required only in the financing of co-productions. Presumably, although the questionnaire responses did not say so, Slovak content etc is taken for granted in eligible applications that are not co-productions.

In Sweden there are conditions that the producer or a substantial proportion of the personnel must be Swedish, or that Swedish capital must be involved in the production.

*Automatic and selective schemes*

These questions ask whether some proportion of the grant-aid is distributed automatically, ie provided certain criteria are met, and whether some proportion is distributed after a selection process based on qualitative criteria. There are then questions about the criteria applied to each type of aid and the proportions of each type of aid given in 2005.

Six respondents (Austria, Cyprus, Denmark, Greece, the Slovak Republic and Slovenia) returned no answer to the question whether any aid is given automatically: These six should probably be understood as intending a negative answer, and so may be added to the five (Czech Republic, Estonia, Ireland, Luxembourg and the UK) that explicitly answered 'No'.

Lithuania answered 'Yes', but close examination of the explanation given reveals that the answer refers to the 15% of total film aid that is given under a trilateral agreement with Estonia and Latvia to support Baltic film. It is not clear whether this aid is granted automatically, but the text of the agreement seems to imply that it is not. Therefore, Lithuania is treated as having answered 'No'.

It is difficult to interpret the Spanish answers because they are so brief and do not explain clearly what sort of automatic aid is involved. It seems that the answers amount to the claim that 75% of all aid is distributed automatically on the basis of the cost, investment and box office takings of a film and that 25% is distributed on the basis of qualitative criteria.

**TABLE F3: PROPORTION OF TOTAL FILM AID NORMALLY GIVEN AUTOMATICALLY**

| Member State | Proportion (%) |
|---|---|
| Finland | 11.0 |
| Germany | 55.2 |
| Hungary | 29.0 |
| Latvia | 26.9 |
| Netherlands | 11.0 |
| Portugal | 5.0 |
| Spain | 75.0 |
| Sweden | 21.0 |

Note(s) : Four respondents answered the question by giving information about the proportion of the production budget that must be spent in the country.
Source(s) : Various Member State questionnaire replies.

If we tentatively include Spain, eight respondents answered that some proportion of aid is given automatically. In all cases this is post-production aid given on the basis of audience figures and/or representation at international film shows during the first twelve months after release. The seven, together with the proportion of total film aid normally given automatically, are shown in Table F3:

In these eight countries the balance of total film aid is given on a selective basis; in all others that returned answers to the questionnaires, 100% of aid is given on a selective basis. The criteria are very similar across all countries, and may be grouped as follows:

- quality, artistic merit, innovation and originality;
- the track record and experience of the producer and key staff;
- the professionalism of the production company;
- the financial viability of the project.

Poland also mentioned the Polish language, Ireland mentioned the Irish language and Flanders mentioned Flemish and connection with Flanders. Finland provided a list of the formal conditions for eligibility, but gave no account of the criteria for selection. Austria gave no answer to the questions about selective aid, but probably regarded them as having been answered in the earlier comments about the promotion of films with an Austrian focus.

*Responses from the German Länder*

In addition to the response from Germany, responses were also received from ten German Länder (Bayern, Nord-Rhein-Westfalen, Schleswig-Holstein, Hamburg, Baden-Württemberg, Berlin, Brandenburg, Sachsen, Sachsen-Anhalt and Thüringen).

These Länder, and presumably also the six from whom we did not receive any responses, have film funds in addition to the Federal funds for film support. They are used in all cases to bring about an economic benefit for the relevant Land by stimulating film production in that Land. The responses are very

similar, and so they may all be treated together, with the small variations between Länder being noted at the appropriate points.

There are no explicit territorial conditions in terms of spending a proportion of the production budget in the Land, but some proportion of the grant received has to be spent in the Land. Normally this proportion is 100%, but in Baden-Württemberg it is 120% and in Bayern, Nord-Rhein-Westfalen and Hamburg it is 150%.

There are no implicit territorial conditions, but it is a condition of eligibility that the project should be of economic benefit to the relevant Land. A related condition is that the production company should be registered in the Land.

In most Länder 100% of the aid is given on the basis of an evaluation of the likely economic benefit to the Land (its film industry in particular) and of the quality of the production. Another condition mentioned by several Länder is that the project should benefit the European audiovisual industry.

Only in Bayern and Baden-Württemberg is some of the aid granted automatically. In Baden-Württemberg 5% of the aid is distributed to municipal cinemas and in Bayern 4% of total aid is granted as aid towards the costs of new projects. This aid takes the form of a refund of some or all of repayments of a previous loan (capital and interest) made within a period of up to three years from the start of repayments).

The film funds available in the Länder are:

- Bayern, Nord Rhein-Westfalen and Baden-Württemberg – between €9m and €10m each;
- Berlin and Brandenburg - €21m together;
- Sachsen, Sachsen-Anhalt and Thüringen - €12.8m together;
- Hamburg - €5.5m;
- Schleswig-Holstein - €160,000.

In some Länder the annual film support budget has been reduced in recent years:

- from €13.3m in 2003 to €9.8m in 2005 in Bayern;
- from €12m pa between 2002 and 2005 to €10m in 2006 in NordRhein-Westfalen.

# Appendix G: Specifications of Parameters of Typical Services

| Services | Prevailing prices (in €) | Capacities | Capacity utilisation rate |
|---|---|---|---|
| Preproduction | | | |
| Casting services | Average weekly labour costs of a casting director working on an average European motion picture. | Estimated number of casting directors in the country (including every kind of audiovisual casting). | Estimated average ratio of work days per year to potential number of work days per year. Full capacity of the year is defined as the national standard amount of working time per year. The figure should be an average estimated for all casting directors working with audiovisual casting.<br><br>Estimates can be provided through interviews with labour unions and individual workers. |
| Production | | | |
| Rental of 35 mm camera equipment | Average weekly price of renting the following Arricam package in the country:<br><br>Arricam (Studio or Lite)<br>1 x camera body, 1 x set of prime lenses (eg Zeiss T2.1), 1 x 10:1 zoom (eg Angenieux 25-250); 2 x matte boxes; 1 x zoom control; 1 x spare 400' magazine; 1 x spare 1000' magazine; 1 x set of standard outdoor filters; 1 x set of indoor (tungsten) filters; 1 x set of tall & short legs (tripods).<br><br>This standard package has been selected as a result of consultation with British, Swedish and Finnish stakeholders (from both demand and supply side). | Estimate of number of all 35 mm rental cameras in the country.<br><br>The estimate should include for example Arricams, Arri 535, Arri 435, Arri 235 etc., but also other camera brands (eg Panavision) if applicable.<br><br>Cameras available for sub-hire from other countries should not be included. | Ratio of days per year that 35 mm cameras are rented in the country.<br><br>If figures are available by camera type, then an average can serve as an appropriate overall measure.<br><br>Can be estimated from weighted averages of figures from different rental houses. |
| Gaffer<br>(head of the electrical department) | Average weekly labour costs. In some cases national labour organisations can provide a standard wage, which should in most cases be added to employers' social security contributions. However, work time specifications etc. differ and should be noted. Also the level of experience will typically influence the wage. The aim is to pinpoint the pay level of an average gaffer with a number of years of experience. | Estimated number of gaffers in the country. | Estimated average ratio of work days per year to potential number of work days per year. Full capacity of the year is defined as the national standard amount of working time per year. The figure should be an average estimated for all gaffers.<br><br>Estimates can be provided through interviews with labour unions and individual workers. |

| Services | Prevailing prices (in €) | Capacities | Capacity utilisation rate |
|---|---|---|---|
| Focus Puller (first assistant camera person) | Average weekly labour costs of a focus puller working on an average European feature film. In some cases national labour organisations can provide a standard wage, which should in most cases be added to employers' social security contributions. However, work time specifications etc. differ and should be noted. Also the level of experience will typically influence the wage. The aim is to pinpoint the pay level of an average focus puller with a number of years of experience. | Estimated number of focus pullers in the country. | Estimated average ratio of work days per year to potential number of work days per year. Full capacity of the year is defined as the national standard amount of working time per year. The figure should be an average estimated for all focus pullers.<br><br>Estimates can be provided through interviews with labour unions and individual workers. |
| Postproduction | | | |
| Development of 35 mm films (colour) | Average price per meter of development (colour print).<br><br>The overall national price can be calculated as a weighted average of prices from different national providers (according to market share). | The full capacity in the country: Estimate of number of meters it is possible to develop in a country per time period.<br><br>Laboratories can often provide the maximum capacity of the lab in developing a number of meters per day. | Estimate of the capacity utilisation rate is found as the ratio between actual production and the full capacity of the national developing industry. |
| Editor | Average weekly labour costs of film editors working on an average European feature film. | Estimated number of editors in the country (all types of audiovisual editing film, commercials and TV). | Estimated average ratio of work days per year to potential number of work days per year. Full capacity of the year is defined as the national standard amount of working time per year. The figure should be an average estimated for all editors working with film, commercials and TV.<br><br>Estimates can be provided through interviews with labour unions and individual workers. |

# Appendix H: Proceedings of Stakeholder Workshop

**Introduction**

On 6 July 2007 a one-day workshop was held in Brussels to discuss the findings from the preliminary final report of the project, a version[433] of which was made available shortly before the event. The purpose of the workshop was to stimulate discussion among interested parties, in order to help validate the findings of the study.

**Workshop programme**

The programme for the workshop is shown below.

**Study on the Economic and Cultural impact, notably on co-productions, of territorialisation clauses of state aid schemes for Films and Audiovisual Productions**

**WORKSHOP BRUSSELS FRIDAY 6TH JULY 2007, CENTRE 'ALBERT BORSCHETTE', RUE FROISSART 36, B-1040 BRUSSELS, 9.30AM-5PM**

**PROGRAMME**

| | | |
|---|---|---|
| 8:45 | 9:30 | Registration |
| 9:30 | 9:45 | Welcome and Opening of workshop – Commission Mr Christophe Forax |
| 9:45 | 10:15 | Presentations:<br>Legal synopsis of agreements - Germann Avocats;<br>Statistical Analysis of Subsidies - Rambøll Management |
| 10:15 | 11:00 | Questions and Answers |
| 11:00 | 11:30 | Presentations:<br>Assessing the Relations between the Economic Structure of Audiovisual Production and Levels of Territorialisation - Cambridge Econometrics;<br>Results of a Comparison of Types of Economic Structure and Levels of Territorialisation - Rambøll Management |
| 11:30 | 12:30 | Questions and Answers |
| 12:30 | 14:00 | Lunch Break |
| 14:00 | 14:30 | Presentations:<br>Statistical Analysis of Co-productions - Rambøll Management;<br>Qualitative Assessment of Levels of Territorialisation and Co-productions- David Graham & Associates |
| 14:30 | 15:30 | Questions and Answers |
| 15:30 | 15:45 | Presentation:<br>Findings on the Cultural Impacts of Territorialisation - David Graham & Associates |
| 15:45 | 16:05 | Questions and Answers |
| 16:05 | 16:20 | Conclusion - Cambridge Econometrics |
| 16:20 | 16:45 | Questions and Answers |
| 16:45 | 17:00 | Close and Farewell – Commission Mr Jean-Eric de Cockborne |

[433] The preliminary final report that was distributed ahead of the meeting and subsequently placed on the film study website was accepted as a draft version, and had not been formally approved by Commission Services.

**List of participants** The Commission provided a preliminary list of invitees, which was added to through contacts made during the course of the study. The full list of participants[434] at the workshop is shown below.

**TABLE H1: LIST OF STAKEHOLDER WORKSHOP PARTICIPANTS**

| Organisation | Name | Country |
|---|---|---|
| A.Film A/S | Jørgensen, Anne | Denmark |
| ARD-Verbindungsbüro Brüssel | Kluczycki, Magdalena | Belgium |
| ARD-Verbindungsbüro Brüssel | Majuntke, Eva | Belgium |
| Association des scénaristes | Montondo, Catherine | Belgium |
| Association of Audiovisual and Film Industry | Müller, Werner | Austria |
| Association of Commercial Television in Europe | Chansel, Joanna | Belgium |
| Austrian Film Institute | Teichmann, Roland | Austria |
| Basque Government Office | Jauregi, Ainara | Belgium |
| Basque Government Office | Leciñana, Ana Isabel | Belgium |
| Bavarian State Chancellery | Ewert, Paula | Germany |
| Bertelsmann AG | Hinrichsen, Jan | Belgium |
| Bertelsmann AG | Lemmens, Tatjana | Belgium |
| British Screen Advisory Council | Clarke-Hackston, Fiona | United Kingdom |
| Bureau Bretagne-Pays de la | Peyhorgue, Stephane | Belgium |
| Cabinet de la Ministre Fadila Laanan | Lefebvre, Raphaël | Belgium |
| Cambridge Econometrics | Brettell, Saxon | United Kingdom |
| Cambridge Econometrics | Gardiner, Ben | United Kingdom |
| Cambridge Econometrics | Taylor, David | United Kingdom |
| Centre de promotion culturelle (CPC) | Dupont, Renelde | Belgium |
| CENTRE IMAGES | Porcher, Emmanuel | France |
| Centre National de la Cinematographie (CNC) | Merlin, Xavier | France |
| CINE REGIO | Appelgren, Charlotte | Sweden |
| Cinecittà Studios SpA | Mancini, Lamberto | Italy |
| CINELUMIERE | Chevalier, Thèrèse | France |
| Cine-Regio aisbl | Reynaert, Philippe | Belgium |
| Cineuropa.org | Caruso, Valerio | Belgium |
| Coalition belge pour la Diversité | Roosen, Tanguy | Belgium |
| Commission du Film d'Ile-de-France | Veillon, Olivier-René | France |
| Communauté française de Belgique | Blanchart, Jean-Louis | Belgium |
| Communauté française de Belgique | Colot, Muriel | Belgium |
| Communauté française de Belgique | Pacco, Véronique | Belgium |
| Conseil Régional d'Ile de France | Thomann-Fox, Mélaine | France |
| Constantin Film AG | Schwantes, Julian | Germany |
| Council for Electronic Media, Croatia | Pericic, Denis | Croatia |
| CSC TRANSCOM | Gilquin, Didier | Belgium |
| Cullen International | Deswarte, Céline | Belgium |
| Cullen International | Leal, Cristina | Belgium |
| Danish Film Institute | Hjorth , Claus | Denmark |
| David Graham & Associates | Graham, David | United Kingdom |
| David Graham & Associates | Rolfe, David | United Kingdom |
| De Meester | Laniez, Antoine | Luxembourg |
| Department for Culture, Media and Sport, United Kingdom | Cooper, Adam | United Kingdom |
| Department for Culture, Media and Sport, United Kingdom | Leonard, Brian | United Kingdom |
| Department of Arts, Sport and Tourism, Ireland | Brennan, Declan | Ireland |
| Department of Finance, Ireland | Murray, Ambrose | Ireland |

[434] The table contains only those people physically attending the meeting, as opposed to the larger list of people who initially expressed an interest in attending.

**TABLE H1: LIST OF STAKEHOLDER WORKSHOP PARTICIPANTS**

| Organisation | Name | Country |
|---|---|---|
| Department of Trade and Industry, United Kingdom | Evans, Julie | United Kingdom |
| Duckling Development Ltd | McSwiney, Séamus | France |
| Embassy of the Republic of Poland | Jedrzejczak, Anna | Belgium |
| EMD Advocates | Mifsud, Pierre | Malta |
| ERA Academy of European Law | Lulé, Marie-Laure | Germany |
| Erich Pommer Institut | Castendyk, Oliver | Germany |
| Estonian Film Foundation | Liiske, Marge | Estonia |
| Eurocinéma | Pickard, Alexia | Belgium |
| Eurocinéma | Thiec, Yvon | Belgium |
| European Audiovisual Observatory | Bermek, Hasan | France |
| European Audiovisual Observatory | Lange, Andre | France |
| European Broadcasting Union | Frank, Nicola | Belgium |
| European Commission - Cabinet Mrs Reding | Forax, Christophe | Belgium |
| European Commission - DG Competition | Chatterjee, Obhi | Belgium |
| European Commission - DG Competition | Gaal, Norbert | Belgium |
| European Commission - DG Competition | Martin Perez, Marcos | Belgium |
| European Commission - DG Competition | Orssich, Irina | Belgium |
| European Commission - DG Competition | Tosics, Nora | Belgium |
| European Commission - DG Information Society | Adam-Germain, Petra | Belgium |
| European Commission - DG Information Society | Cocq, Emmanuel | Belgium |
| European Commission - DG Information Society | de Cockborne, Jean-Eric | Belgium |
| European Commission - DG Information Society | Herold, Anna | Belgium |
| European Commission - DG Information Society | Hugon-Nicolas, Olivier | Belgium |
| European Commission - DG Information Society | Lenoël, Magali | Belgium |
| European Commission - DG Information Society | Perez Guevara, Marisol | Belgium |
| European Commission - DG Information Society | Rodondi, Giovanni | Belgium |
| European Film Academy | Szabó, István | Hungary |
| European Film Agency Directors' Network | Davis, Jonathan | Germany |
| European Film Companies Alliance (EFCA) | Kern, Philippe | Belgium |
| European Investment Bank - EIB | Vogten, Joseph | Luxembourg |
| European Producers Club | Cazes, Jean | France |
| European Publishers Council | Chrysopoulou, Sophia | Belgium |
| Executive Toon Services (ETS) | Rizet, Jean-Louis | France |
| Federal Government Commissioner for Culture and the Media, Germany | Horion-Vogel, Birgit | Germany |
| Fédération européenne des realisateurs de l'audiovisuel (FERA) | Despringre, Cécile | Belgium |
| Fédération Internationale des Associations de Distributeurs de Films (FIAD) | Virenque, Antoine | France |
| Fédération internationale des associations de producteurs de films (FIAPF) | Lepine-Karnik, Valérie | France |
| Federation of Screenwriters in Europe | Mercouris, Pyrrhus | Belgium |
| FICAM | Chateauneuf, Herve | France |
| Filas Regione Lazio | Priarone, Cristina | Italy |
| Film France | Lamassoure, Patrick | France |
| Film Fund Luxembourg | Daleiden, Guy | Luxembourg |
| FILM I VÄST | Toll, Bengt | Sweden |
| Film Investors Netherlands BV | Klaassen, Hugo | The Netherlands |
| Film og TV-arbejder Foreningen (FAF) | Baekgaard, Susanne | Denmark |
| film20 | Tornow, Georgia | Germany |
| FilmCamp | Andersen, Svein | Norway |
| FilmFernsehFonds Bayern GmbH | Rappold, Julia | Germany |
| Filmstiftung Nordrhein-Westfalen GmbH | Meyer-Döring, Heike | Germany |

**TABLE H1: LIST OF STAKEHOLDER WORKSHOP PARTICIPANTS**

| Organisation | Name | Country |
|---|---|---|
| Finnish Film Foundation | Krohn, Irina | Finland |
| Flemish Scriptwriters Guild | De Graeve, Pieter | Belgium |
| France Telecom Group | Grahovac, Goradana | France |
| Garrigues Abogados | Cabrera, Eduardo | Belgium |
| German Federal Film Board | Dinges, Peter | Germany |
| Germann Avocats | Ferri, Delia | Switzerland |
| Germann Avocats | Germann, Christophe | Switzerland |
| Germann Avocats | Jäger, Johanna | Switzerland |
| Gide Loyrette Nouel | Berland, Stéphanie | France |
| Gide Loyrette Nouel | Renault, Charles-Edouard | France |
| Glasgow Film Office | Reynolds, Jennifer | United Kingdom |
| Greek Film Centre | Kasimati, Anna | Greece |
| Groupe TSF | De Segonsac, Thierry | France |
| Hanse-Office, Schleswig-Holstein/Hamburg | Riedinger, Sonja | Belgium |
| HDF Kino e.V. | Kramer, Andreas | Germany |
| Headway International | Dupont, Arnaud | France |
| Ile-de-France Europe | Chotard, Françoise | Belgium |
| Ile-de-France Europe | Prevot, Carole | Belgium |
| Independent Film and Television Alliance | Safir, Lawrence | United Kingdom |
| Institut Català de les Indústries Culturals (ICIC) | Parache, Xavier | Spain |
| Instituto De La Cinematografia Y De Las Artes Audiovisuales (ICAA) | Alburquerque, Rosario | Spain |
| Instituto De La Cinematografia Y De Las Artes Audiovisuales (ICAA) | Lara, Fernando | Spain |
| Instituto do Cinema e do Audivisual | Ribeiro, José Pedro | Portugal |
| Instituto do Cinema e do Audivisual | Serras Pereira, Filomena | Portugal |
| International Federation of Actors (FIA) | Busuioc, Bianca | Belgium |
| Irish Film Board | Perry, Simon | Ireland |
| IVF International Video Federation | Lund-Thomsen, Charlotte | Belgium |
| KEA European Affairs | Laniez, Juliette | Belgium |
| Knut Ogris Films | Ogris, Knut | Austria |
| Kodak Pathe | Koudrine, Monique | France |
| Lagardère - Délégation aux Affaires européennes | Becker, Ann | Belgium |
| Lagardère Active Broadcast | Angulo Henry, Cécile | France |
| Levy & Stoffregen | Stoffregen, Katrin | Belgium |
| Liedekerke | Hendrickx, Pierre-Philippe | Belgium |
| Magyar Filmunió | Kézdi-Kovács, Zsolt | Hungary |
| Magyar Filmunió | Taba, Miklós | Hungary |
| Media Consulting Group | Catala, François | France |
| Media Consulting Group | Fontanel, Héloise | Belgium |
| MEDIA Desk Austria | Seitner, Gerlinde | Austria |
| MEDIA Desk Belgium | Leclercq, Thierry | Belgium |
| Media Desk Luxembourg | Schockweiler, Karin | Luxembourg |
| MEDIA Desk Netherlands | van Ratingen, Dominique | The Netherlands |
| Medienboard Berlin-Brandenburg | Niehuus, Kirsten | Germany |
| MFG Filmförderung Baden-Württemberg | Röthemeyer, Gabriele | Germany |
| MFG Filmförderung Baden-Württemberg | Runge, Jan | Belgium |
| Mikros Image | Buron, Pascal | France |
| Mind Mirror Pictures | Vandenbussche, Olivier | Belgium |
| Ministère de la Communauté française | Brunfaut, Jeanne | Belgium |
| Ministère de la Communauté française | Roland, Emmanuel | Belgium |
| Ministerium der Deutschsprachigen Gemeinschaft | Hermanns, Olivier | Belgium |

**TABLE H1: LIST OF STAKEHOLDER WORKSHOP PARTICIPANTS**

| Organisation | Name | Country |
|---|---|---|
| Ministry of Culture and Religious Affairs, Romania | Besnila, Monica | Romania |
| Ministry of Culture of the Slovak Republic | Zuffova, Vieroslava | Slovak Republic |
| Ministry of Culture, Sweden | Dunås, Jon | Sweden |
| Ministry of Education and Culture, Cyprus | Christodoulidou, Elena | Cyprus |
| Ministry of Education and Culture, Finland | Laaksonen, Leena | Finland |
| Ministry of Education, Hungary | Sámuel, Balázs | Hungary |
| Ministry of the Flemish Community | Heirman, Adriaan | Belgium |
| Mitteldeutsche Medienförderung | Schmidt, Manfred | Germany |
| MPA | Runge, Philipp | Belgium |
| Nacionalais Kino Centrs, Latvia | Dimisevskis, Uldis | Latvia |
| National Radio and Television | Kovács, György | Hungary |
| National Radio and Television | Ocskó, György | Hungary |
| Office for the Protection of Competition, Czech Republic | Petrova, Veronika | Czech Republic |
| Olsberg/SPI | McQuillan, Libbie | United Kingdom |
| Olsberg/SPI | Miller, Richard | United Kingdom |
| ORF Austrian Broadcasting Corporation | Fränzen, Barbara | Austria |
| ORF Austrian Broadcasting Corporation | Lackner, Susanne | Austria |
| Pact | Willis, Tim | United Kingdom |
| Pal AV | van der Pal, Jos | The Netherlands |
| Peacefulfish | Baujard, Thierry | Germany |
| Permanent Representation of Greece to the EU | Mitropoulou, Glykeria | Greece |
| Pinewood Shepperton | Dunleavy, Ivan | United Kingdom |
| POEM Foundation | Flink, Markku | Finland |
| Policy Partnership | Smith, Andrew | United Kingdom |
| Polish Film Institute | Fuksiewicz, Jacek | Poland |
| Polish Ministry of Culture | Jankowski, Krzysztof | Poland |
| Polish Ministry of Culture | Kluczewska-Strojny, Joann | Poland |
| Polish Ministry of Culture | Slomczewska, Barbara | Poland |
| Producentforeningen | Hansen, Klaus | Denmark |
| Production Guild | Martin, David | United Kingdom |
| Promimage | Licht, Monique | Belgium |
| Quinta Industries | Gibard, Jean-Robert | France |
| Rambøll Management | Thomsen, Henning | Denmark |
| Real Reality | Davy, Santisteban | Belgium |
| Région Ile-de-France | Haguet, Sophie | France |
| Regional Delegation of Andalucia | Rivera, Rosel | Belgium |
| Rotterdam Film Fund | Denissen, Mark | Netherlands |
| Rhône-Alpes Cinéma | Faes, Grégory | France |
| Romanian National Audiovisual Council | Popescu, Rasvan | Romania |
| RTL Group | Domergue, Agnes | Luxembourg |
| RTR-GmbH | Reindl, Kurt | Austria |
| Screen South | Nolan, Jo | United Kingdom |
| Screenwriters' Guild of Germany | Wagner, Maria Theresia | Germany |
| Swedish Film Institute | Hald, Peter | Sweden |
| Syndicat National des Techniciens de la Production Cinématographique et de Télévision (SNTPCT) | Pozderec, Stéphane | France |
| Teletota-Auditel | Massie, Christophe | France |
| transFOCAL GmbH | Stehling, Frank | Germany |
| Új Budapest Filmstúdió | Kántor, László | Humgary |
| UK Film Council | Comley, Carol | United Kingdom |
| UK Screen Association | Davenport, Gaynor | United Kingdom |
| UKMEDIA Desk | Moody, Agnieszka | United Kingdom |

**TABLE H1: LIST OF STAKEHOLDER WORKSHOP PARTICIPANTS**

| Organisation | Name | Country |
|---|---|---|
| Union des Producteurs de Films Francophones (UPFF) | Mougenot, Delphine | Belgium |
| VCF | Bommelaer, Rémy | France |
| Vlaams Audiovisueel Fonds (VAF) | Drouot, Pierre | Belgium |
| Vrije Universiteit Brussel | De Vinck, Sophie | Belgium |
| Vrije Universiteit Brussel | Donders, Karen | Belgium |
| World Intellectual Property Organization | Ghelfi, Donna | Switzerland |
| Zürcher Filmstiftung | Waser, Daniel | Switzerland |
| (Not attached to an organisation) | Celsing, Anna | Belgium |
| (Not attached to an organisation) | de Halleux, Gilles | Belgium |

**Stakeholder feedback**

Following the meeting, the preliminary final report was made available on the project website, and a system set up whereby people could submit comments[435]. These comments have since been collected together and synthesised in the table below, in order of where they are relevant in the report. This re-ordering process has made it easier to respond to the various comments received, and to note where amendments have been made.

[435] It should be noted that there was no written trasnscript of the workshop proceedings, so only comments submitted through the website portal are listed here. Any oral or written contributions made at the workshop and not subsequently submitted through the website have not been included.

**TABLE H2: COMMENTS RECEIVED ON THE PRELIMINARY FINAL REPORT**

| Report Section | Organisation | Comment | Consultant Response |
|---|---|---|---|
| General Comments | Cine Regio | state aid schemes to cinema and TV programme production are authorized on the basis of the culture derogation of Article 87(3) d) of the EC Treaty where such aid does not affect competition and trading conditions to an ex-tent contrary to the common interest. Cine-Regio, the European network of regional film funds, welcomes the conclusions of the draft preliminary report:<br><br>- According to the economic analysis territorialisation clauses are not the cause of economic inefficiencies or trade distortions affecting competition significantly;<br><br>- According to the qualitative assessment it is a widely held view that removal or modification of territorialisation will lead to significant reduction in public film funding in Europe. It will threaten the stability and clarity of funding rules, lead to less co-productions and less circulation of films in Europe. Cultural integration, exchange and diversity within Europe will be at risk. | Any comments under the heading of 'General Comments' are acknowledged by the consultants but are not responded to as they have no direct relevance to sections in the report. |
| | EFAD | The EFADs welcome this opportunity to submit their comments, and thank the consultants' consortium for the impressive work they've been carrying out: the study represents a much needed analysis of the role of territorialisation in state aid schemes.<br><br>Over and above our comments on the Cambridge Econometrics study, the EFADs would like to reaffirm their serious concern at the way the 2001 Communication is currently being interpreted and applied. These concerns were stressed in the EFAD Declaration issued in Cannes this year.<br><br>With the European Commission's recent emphasis on the necessity for National Film Agencies to define "cultural tests" (recent examples include Hungary, Finland, Slovakia and The Netherlands), the four criteria set out in the 2001 Communication appear to be interpreted and applied very differently than has been custom and practice.<br><br>Any automatic introduction of cultural tests could lead to the adoption of a restrictive and reductive approach towards film and culture. While the "four criteria" of the 2001 Communication have succeeded in reconciling Community competition principles with the right and duty of each Member State to implement cultural policies that help promote and develop European cultural diversity for film, EFAD is concerned that the new approach could lead to a less sustainable European film industry, thus threatening cultural diversity.<br><br>This move is all the more surprising as:<br>- the recent announcement by the European Commission to postpone until the end of 2009 the revision of the 2001 | |

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| | | Communication was aimed to secure legal certainty for film professionals;<br>- the Commission unveiled in May this year an ambitious "cultural agenda", with the objective of developing a coherent policy approach to the cultural sector, in partnership with all stakeholders.<br><br>In this context, the EFADs take the opportunity of the current consultation to:<br>- Strongly reaffirm that state aid to cinema, provided according to the criteria set out in the 2001 Cinema Communication, is a sine qua non condition to strengthen European cinema and cultural diversity.<br>- Reiterate serious concerns at the way EU competition policy is implemented, and urge the Commission to maintain the implementation of existing criteria without changing the interpretation it makes of these criteria.<br>- In the light of the principles laid down under the recent Communication on a European agenda for culture in a globalised world, insist on the need to develop a coherent policy approach to the cultural sector, and to implement a constructive discussion process with al stakeholders, including EFAD.<br><br>The conclusions mirror conclusions previously drawn by the EFADs' position (as set-out in a number of Declarations on this topic – see attached):<br><br>The report presents results which confirm that "territorialisation" should not be confused with "protectionism" in terms of preventing the functioning of the internal market, nor prevents European producers from making co-productions. The study makes clear that national support for audiovisual production to a large extent constitutes the foundation of the diverse European audiovisual sector, and enables artistic and cultural exchanges between European countries - in line with the audiovisual policy of the European Un-ion. It rejects the assumption of causal links between territorialisation and the malfunctioning of the internal market, highlighting the fact that the market alone cannot sufficiently stimulate co-productions. | |
| | FFF Bayern | It was a great idea to gather the film industry professionals to a conference. This meeting and the number of important representatives have shown clearly how important this topic is to everybody and how seriously it has been judged by the professionals.<br><br>We would like to point out some general notes:<br>a) We feel that the methodological approach should be questioned; in particular the study lacks clarity regarding data collection and sources. In addition, some important information provided to you was not utilised.<br>b) In our opinion, the study does not show any relevant conclusions regarding the effectiveness of the territorialisation clause, and in particular we could not comprehend any negative consequences for co-productions. | With regards to F and G, the qualitative sections, details as to the data collection has been improved. |

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| | | c) Also we believe that it is unlikely that the majority of production companies contacted for the report would disagree with the existing territorialisation clauses.<br>d) By having four different consultancies involved it is not easy to under-stand who is in charge of what, leading to a lack of transparency regarding communication.<br><br>Our suggestions for the future work would be:<br>a) Look closely at the positive effects of the territorialisation and listen to the experience of film industry professionals in this matter.<br>b) Also important would be to intensify the dialogue concerning the correlations between the territorialisation clause and co-productions.<br>c) Make sure that the given information is correct and the methodological procedure is convincing.<br>d) Keep in contact with film industry professionals.<br>e) Publish a list of contact people, so we know exactly who to contact in what matter.<br><br>Hopefully you understand our comments more as help than as criticism. It is appreciated that some of the arguments raised on the 6th of July 2007 now appear in the revised report. | |
| | German Federal Film Board | Stellungnahme der deutschen Filmförderungsinstitutionen zu den vorläufigen Ergebnissen der von der Kommission in Auftrag gegebenen Studie<br>"Zu den wirtschaftlichen und kulturellen Auswirkungen der territorialen Auflagen der öffentlichen Beihilfeprogramme für Filme und audiovisuelle Produktionen unter besonderer Berücksichtigung ihrer Auswirkungen auf Koproduktionen"<br><br>Die deutschen Filmförderungsinstitutionen danken dem internationalen Konsortium unter Leitung von Cambridge Econometrics für die Anfertigung der Studie, die einen wesentlichen Beitrag zum Verständnis der Auswirkungen der Territorialisierungsauflagen in öffentlichen Film- Beihilfeprogrammen liefern wird. Ebenfalls danken wir für die Möglichkeit einer schriftlichen Stellungnahme.<br>Ziel der Studie ist es, für die Überarbeitung der Kinomitteilung zum Aspekt der Territorialisierung die notwendige wissenschaftliche Datenbasis zu erstellen. In diesem Zusammenhang begrüßen die deutschen Filmförderungsinstitutionen die Entscheidung der Kommission, die derzeit gültige Kinomitteilung bis zum Ende des Jahres 2009 zu verlängern. Aus unserer Sicht gewährleistet die Kinomitteilung und die hierin festgelegten Kriterien das Gleichgewicht zwischen dem europäischen Wettbewerbsrecht und der Freiheit der Mitgliedsstaaten, ihre jeweilige Kulturpolitik eigenständig festzulegen. Die deutschen Filmförderungsinstitutionen verstehen daher | |

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| | | die Entscheidung zur Verlängerung als erklärten Willen der Kommission, den Filmsektor weiter zu stabilisieren und zugleich einen Raum der Rechtssicherheit und kontinuierlichen Rechtsanwendung zu schaffen.<br><br>Standpunkt zur Territorialisierung<br>Die deutschen Filmförderungsinstitutionen sind der festen Überzeugung, dass die Kommission mit ihrem wettbewerbsrechtlichen Beurteilungsansatz die möglichen negativen Auswirkungen der Territorialisierung überschätzt und deren positive Effekte, insbesondere die Beförderung der kulturellen Vielfalt, nur unzureichend berücksichtigt. Die vorwiegend ökonomische Schwerpunktsetzung der Studie spiegelt diese Unausgewogenheit wider.<br>Die deutschen Filmförderer sprechen sich ausdrücklich für die Beibehaltung der bestehenden Territorialisierungsregelung aus mit folgenden Begründungen:<br>• Die Territorialisierung führt weder zum Aufbau von Barrieren bezüglich des freien Verkehrs von Waren- und Dienstleistungen in Europa noch zu Wettbewerbs-verzerrungen innerhalb des Binnenmarktes. Nichts anderes bestätigen die vorliegenden Ergebnisse der Studie.<br>• Das Modell eines europäischen Binnenmarktes wurde für austauschbare Waren und Dienstleistungen ohne regionale Prägung und ohne Kulturbezug entwickelt. Es kann und darf daher für Filme nicht das ausschließliche Referenzmodell sein. Im Gegenteil: Seine uneingeschränkte Anwendung auf den Film würde in unverantwortlichem Ausmaße die kulturelle Vielfalt und die Qualität des Filmschaffens beschädigen.<br>• Wie überall in Europa haben die amerikanischen Filme in Deutschland eine dominante Marktposition mit ca. 70%. Die Antwort auf diese nach wie vor nicht zufriedenstellende Situation ist die Stärkung des nationalen Films und damit auch die Aufrechterhaltung der Territorialisierungsregelungen. Steigende Marktanteile überall in Europa, prominente Festivalerfolge und ein großes Reservoir weltweit anerkannter europäischer Kreativer zeigen, dass diese Politik richtig ist und fortgesetzt werden muss.<br>• Die Territorialisierung ist eine unabdingbare Voraussetzung für die Entwicklung eines ausreichenden Potentials an künstlerischen und tech-nischen Fachkräften, die über die notwendigen Fähigkeiten verfügen, in einer bestimmten Region. Nur so lässt sich ein Filmschaffen aufrechterhalten, das die kulturelle europäische Vielfalt widerspiegelt. Eine Reduzierung der Territorialisierung würde in vielen Regionen die Gefährdung dieses „Pools“ an kreativen und innovativen Fähigkeiten bedeuten.<br>• Regionale Filmförderungen können die Verwendung von Steuermitteln nicht nur mit kulturellen Zielen begründen, sondern es müssen auch regional positive Wirtschaftseffekte erzielt werden, so z.B. in Bezug auf den Arbeitsmarkt und das Wirtschaftswachstum. Die Territorialisierung ist für viele regionale und nationale Fördersysteme die conditio sine qua non für die Generierung finanzieller Mittel. Eine Reduzierung der | Reference to this comment concerning regional film funds is now made at the end of Part G. |

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| | | Territorialisierung wür-de in Deutschland definitiv zur Reduzierung der öffentlich bereit gestellten Mittel führen.<br>• Territorialisierungsklauseln verhindern Koproduktionen nicht, sondern insgesamt werden diese begünstigt, da ohne öffentliche Finanzierung Koproduktionen wegen ihres erhöhten wirtschaftlichen Risikos selten zustande kämen. Dies zeigt auch die Studie, da die Länder mit hohen Territorialisierungsquoten die höchste Anzahl von Koproduktionen haben. Einer der Gründe liegt darin, dass durch bi- und mulilaterale Koproduktionsabkommen grenzübergreifende Zugangsmöglichkeiten zu den Beihilfesystemen für die Filmproduzenten garantiert sind. Produzenten können somit zusätzliche Geldquellen in anderen Ländern erschließen und die Beihilfesysteme verschiedener Staaten kombinieren. Dadurch wird der künstlerische und kulturelle know-how Transfer zwischen den beteiligten Ländern gefördert. Koproduktionen tragen somit zur Entwicklung einer dynamischen Filmproduktion in Europa bei. | |
| | UK Film Council | The UK Film Council, the Government-backed lead agency for film in the UK ensuring that the economic, cultural and educational aspects of film are effectively represented at home and abroad. The UK Film Council welcomes the interim report by the consultants. Our general reaction is set out in the submission made by the European Film Agency Directors (EFADs). This note supplements our response through the EFADs and is confined to issues relating specifically to the UK.<br><br>- Methodology<br>The UK Film Council regrets that there has been no opportunity for the consultants to discuss their work with the UK Film Council, nor indeed with any of the national agencies responsible for the operation of the schemes that the study scrutinises. Even though the UK Film Council has an established relationship with the consultants (we have ourselves commissioned work from Cambridge Econometrics, the lead consultancy and from DGA) and, at the beginning of the study we contacted Rambøll, partners in the study, offering to assist them with directing their questionnaire to the right parties in the UK, our offers to discuss the work were declined. So that the first opportunity we had to note the progress of the study was when the interim report was published online at the end of June 2007, and the first opportunity to discuss it was at the workshop held by the consultants and the Commission on 6 July. In our view, the aim to prepare an authoritative study would have been much advanced had a dialogue between the consultants and the funding bodies been established at an early stage. Had we been able to review the data and analysis the consultants were proposing to present, we would have been able to help them correct any misunderstandings or questionable inferences. In particular, we would have been able to discuss what we understand by territorialisation, how we thought it affected how we administered our schemes, and what we believed its impact in terms of the way the market operated. Indeed, we might have also been able to discuss our understanding of how the market was defined. | |

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| | | In the absence of such exchanges, the consultants were left to rely on analysis of documents, of answers to poorly-specified questions (for example, the questions about co-productions failed to distinguish between majority and minority co-productions, a shortcoming we pointed out to Rambøll as soon as we received the questionnaire). As pointed out at the workshop, the legal experts appointed by the consultants to carry out an analysis of the UK film support schemes chose to discharge the task by writing to the UK Film Council under the aegis of the Freedom of Information Act without specifying why this information was required. This meant that the UK Film Council was constrained in how it responded by having to narrowly limit our answers to the questions, and was unable to volunteer information that might have better contextualised our response. Had the legal experts made direct contact with us and explained the purpose of their inquiry, notably that it related to the territorialisation study, we would have understood better what they needed and would have been able to volunteer information which went beyond what they obtained by their overly legalistic approach.<br><br>- Conclusions<br>The UK Film Council is pleased but unsurprised that the consultants have found no evidence of unwanted and unwarranted distortions relating to territorialisation clauses in national funding schemes: this outcome accords with the analysis of the UK Film Council and of other national film funding bodies. However, we should have liked to see a study that would have enriched our understanding of the effects of public film funding rather than contributing to the current, pervasive misinformation. | |
| | Promimage | La diversité culturelle est la plus grande richesse de l'Europe.<br>A l'époque où l'UE s'appelait le marché commun, j'étais secrétaire de l'ARPF dont je suis membre fondatrice. J'ai demandé aux réalisateurs-producteurs des associations européennes similaires à la nôtre, de bien vouloir signer tous ensemble une pétition en faveur de ce que nous appelions alors l'exception culturelle. Ce document fut joint aux revendications de nos dé-légués à Strasbourg.<br><br>Je tiens à rappeler cette démarche qui ne date pas d'hier car elle souligne l'importance primordiale que nous devons réserver aujourd'hui encore à la diversité culturelle.<br><br>Il faut rappeler que la transterritorialité bien comprise des œuvres cinéma-tographiques provient de l'addition, de la complémentarité des talents et des moyens dont nous disposons pour réaliser, produire et financer un film.<br>- Le film n'est pas un produit courant.<br>- Il est à la fois culturel et économique. | The following paragraph has been added in Part F in response to Proimage's comments "However, Proimage, in response to the Workshop, made it clear that too many rules can have a destructive effect on film-making." In order for films to be made by many Member States and mutually complement one another, filmmakers need to be free to associate with filmmakers in other countries. Therefore rules need to be flexible enough to allow filmmakers freedom of |

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| | | - Chaque film est un prototype.<br>- C'est son originalité, la valeur de ses composantes qui distingue un film d'un autre film.<br>- Trop de règles peuvent avoir un effet pervers et destructeur dans le domaine de la cinématographie.<br>- Il faut laisser aux créateurs du film la jouissance de leur liberté d'expression et le 7e art se qualifie seulement de cette manière.<br>- Les producteurs doivent pouvoir s'associer sans contraintes exorbitantes afin d'assurer le financement et la conduite à bonne fin des productions des films et permettre ainsi la libre circulation des œuvres en Europe et à travers le monde.<br><br>C'est de cette manière seulement que nous parviendrons au niveau des pays et des régions européennes à consolider les apports respectifs de chacun et à élargir ensemble, le champ des activités audiovisuelles.<br><br>En ma qualité de conseiller ayant participé activement à la création de Promimage en 2000 en Région wallonne, je constate depuis lors et au fil des reconductions de ce programme mobilisateur des nouvelles technologies de l'image et du son que ce guichet, ouvert sous forme d'avance récupérable, a permis un essor considérable des compétences professionnelles œuvrant dans le secteur des nouvelles technologies numérique.<br><br>« Si vous n'existez pas quelque part, vous n'existez nulle part » le pro-gramme à contribué à l'établissement de foyers de compétences à présent reconnus hors frontières. Et il génère des partenariats créatifs et financiers au niveau européen. | expression." |
| | European Audiovisual Observatory | This note is intended as a collection of remarks on the methodology and data collection in the study. It aims neither to validate nor invalidate the study as a whole nor to set forth a position of the European Audiovisual Observatory on the issue of territorialisation.<br><br>Sources<br>- The study demonstrates a good knowledge of the existing sources of statistical information on the film industry in Europe. The European Audiovisual Observatory appreciates that some of its publications and database have been used by the consultants. However, the following remarks need to be made in relation to the use of European Audiovisual Observatory publications:<br>- The report *Public Funding for Film and Audiovisual Works in Europe - A Comparative Approach*, published in 2004 by the European Audiovisual Observatory, is not quoted. This omission is remarkable given that this report is the only recent report summarising the complexity of direct funding in Europe. A careful reading of this publication | |

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| | | might have helped the authors of the study avoid some methodological misunderstanding.<br>- Other Observatory publications such as FOCUS, or Broadcasters' Obligations to Invest in Cinematographic Production, which may have been useful for the topic have been apparently ignored by the consultants. | |
| | French Film Commission | As we are in charge of developing film shoots in France, for the benefit of our industry and with the support of the CNC, this report represents a key issue for our field of activity. And we have to congratulate the consultants for this hard work of comparing the existing regulations linked to territorialisation clauses and incentives.<br><br>We won't go back arguing about the numerous wrong figures mentioned in the report, because that already was largely debated during the Brussels conference, and we'd rather thank you for that opportunity to exchange about this matter.<br><br>Thank you for this opportunity to contribute to this debate. We remain available for any other investigation related to this relevant issue. | |
| | European Film Companies Alliance (EFCA) | The European Film Companies Alliance ("EFCA") welcomes the opportunity to submit its comments regarding the impact of territorialisation clauses ("TC") on the European audiovisual sector. EFCA (www.efcasite.org) is a non-profit organisation representing important European Film Entrepreneurs active in film production and distribution. EFCA shares the Commission's interest in encouraging a sustainable and competitive European film sector, in stimulating European co-productions and in promoting European Cinema within Europe and in third countries.<br><br>EFCA welcomes the main conclusions of the report, which highlight the important cultural and economic benefits brought by territorialisation clauses.<br><br>We welcome that the report points out that objective and explicit territorial -isation clauses do not affect trade. According to the study:<br>• Territorialisation clauses do not have a strong impact on prices of audiovisual services nor do they lead to any overcapacity in the sector<br>• The majority of co-productions are made between two countries where territorialisation clauses are in place (more than 77%). In other words, territorialisation clauses do not hinder cooperation.<br>• The sector feels that a reduction of explicit territorialisation clauses would only lead to more implicit territorialisation. Moreover, explicit and objective territorialisation clauses favour automatic schemes over selective schemes. This is in line with the MEDIA programme's mechanisms. Territorialisation clauses thus encourage more certainty and foster a more competitive sector if based on transparent criteria. | |

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| | | • Even if territorialisation clauses do lead to slightly higher budgets in pre-production, the study recognises that producers generally prefer support schemes that imply territorialisation clauses than receiving grants/loans linked to interest rates calculated on market term basis.<br><br>The study shows that TC hardly create any economic distortions but contribute to promoting cultural diversity and foster the development of national and regional identities. TC support many European film industries rather than one European film industry. They therefore strongly contribute to the objectives set out in art. 151.4 of the EC Treaty which states that "The Community shall contribute to the flowering of the cultures of the Member States, while respecting their national and regional diversity and at the same time bringing the common cultural heritage to the fore."<br><br>- Conclusion: towards a block exemption for the cinema sector<br>A renewed integrated approach could foster the competitiveness of the sector. Promoting better and sustainable investment in production is both a cultural and an economic objective and should be considered as such.<br><br>EFCA takes the view that the current system of state aid notification is not fair. Film companies in some countries receive less public support as national or regional funding bodies are put under pressure by the EC 's restrictive interpretation of territorialisation clauses and/or cultural tests.<br><br>Furthermore, we are concerned by the Commission's new position encouraging cultural tests. We recall that in the N 3/98, French state aid notification, the Commission establishes that all cinematographic works that do not have exclusive commercial objectives are by nature cultural products. Further-more, we believe that in conformity with the subsidiary principle, Member States are the most apt to define the cultural nature of projects supported. Experience shows that Member States might not be treated equally in the review of their state aid scheme - making the process unfair.<br><br>In order to avoid any unfair treatment and create more legal certainty EFCA would support the establishment of a block exemption for state aid to cinema, as it would allow for more accountability and transparency. A block exemption would contribute to a stable and secure environment for the cinema industry. However, such desired result of course also depends on the criteria that will be selected.<br><br>The new block exemption should recognise that cultural and economical objectives are not antagonistic but | |

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| | | complementary, and interpret the 87.3d) article of the EC treaty with flexibility. In this regard, EFCA suggests abolishing the current distinction between "low budget and difficult films and other films". This distinction does not exist in the Media programme because it discriminates against films that contribute to a sustainable film industry. EFCA believes this 50% criteria should be modelled to take into account the various levels of development of the cinema industry in the different Member States. | |
| | Federation of Screenwriters in Europe (FSE) | Firstly, we would like to thank you and your colleagues for the public hearing organised on July 6, 2007 to present the provisional results of the study, and we thank you for giving us the opportunity to respond and to express our view on this subject.<br><br>The FSE represents 21 national guilds and 9.000 screenwriters working throughout the European Union. We are the ones required to create the material that we see on our TV screens and in the cinema, therefore how the sector is funded is of great concern and interest to us.<br><br>We would therefore like to state the importance of state aid to the European film industry. Thanks to state aid producers are able to access funds in various countries to finance the making of a film which is then distributed in more than one European country. Competition law should definitely not be the key instrument regulating rules to encourage cultural diversity and determining the future of state aid schemes.<br><br>Having examined the study and attended the hearing, we would also like to take the opportunity to indicate some additional points specific to our concerns in our quest to strengthen the existing mechanisms of state aid, which we believe can only happen on cultural grounds.<br><br>First, let me point at the fact that the relationship between the volume of projects in development and the volume in production varies across the EU. On average it could be said that a conservative estimate would be that for every film produced in the European Union three to five projects are in development. Only a very small percentage of this development is state aided as the present state aid system is production-focused. In the United States somewhere between ten projects and twenty are in seriously funded development for every film which goes in to production.<br><br>Because of the lack of development funds less and less professional writers can afford to write for the cinema, which means that Europe is losing its screenwriters – with obvious consequences. It is therefore our concern that more attention should be paid to content, to cultural diversity, to the individuals who write the stories that draw the audiences to participate in the first place. | |

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| Report Section | Organisation | Comment | Consultant Response |
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| | | And economic viability will come from audiences – audiences come for great stories – told by great scripts. Some level of funding for the development of scripts is now usual in most, though not all, European countries. But even this little funding is still usually provided to producers. Producers are often under pressure to push developed projects into production in pursuit of production fees, to recover development costs or because production funds are available, rather than because the project is ready. As a general statement the FSE has observed that there is a major need to trust the talent. State funding agencies and related government policies need to put in place structures – legal and administrative as much as financial – which will support the development and expression of creative talent, which will promote writing and writers as the best, indeed the only, way to ensure that the films and television programmes that we make will attract and keep European audiences thereby encouraging cultural diversity, better communications between cultures and an economically healthy industry.<br><br>From the perspective of writers the goal of state subsidy should be the support of creativity which is the only possible way to true cultural diversity. From this perspective it is also true that state aid will always be needed to sustain and maintain the essential human activity that is story telling.<br><br>We hope that you find these remarks useful. | |
| | International Federation of film distributors association (FIAD) | 1.) FIAD and distribution as a trade<br>FIAD - International federation of film distributors associations – gathers film distribution companies doing business in twelve countries. These companies have the following characteristics and fully represent the diversity of distribution as a trade: integrated companies (production, distribution, exhibition), specialised companies in theatrical distribution and video edition, subsidiary companies of television groups.<br><br>It must be recalled that the distributor is the intermediary between the film producer and the theatrical exhibitor. He often takes part in financing production by giving the producer a guarantee on the receipts of the film. He generally covers the release costs (prints and advertising). One of the main aspects of his job is to take into distribution films which look for him as the more likely to fulfill the expectations of the spectators in the territory where he is having business. The commercial and artistic qualities of the films which have been produced are therefore particularly important for the distributor.<br><br>2.) The necessity of a support to European production<br>Cinema is as a matter of principle an activity of offer: it is necessary to offer to the viewers a large diversity of | |

**TABLE H2: COMMENTS RECEIVED ON THE PRELIMINARY FINAL REPORT**

| Report Section | Organisation | Comment | Consultant Response |
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| | | films likely to suit them. In Europe film distribution testifies of the cultural diversity of the Member States of the European Union. Thanks to the mechanisms instituted by the European Commission, the European cinema, and more particularly the European non national cinema, as a significant market share of the viewers in cinemas: in 2006 the market share of European films was 27.6% against 24.9 in 2005 (European audiovisual observatory, *Focus 2007*, p. 10).<br>One of the characteristics of that activity of offer is its very aleatory character: film production is not the field of market research when it is to surprise and seduce the spectator. One may say, whatever the place of production of the films, that over ten films, five or six do not even recoup their release costs, two or three just recoup them and two or three are successful enough to cover the losses of all the other films. We take the risk of enunciating obvious things when saying that it is impossible to know in advance what will be the result of each film and their is not mutual sharing of wins and losses.<br><br>As a matter of consequence the support to cinematographic production is a necessity for preserving the diversity of cinematographic expression in Europe. It is the more so as that same cultural diversity makes the richness of our continent and is also a handicap: in spite of the supports from the MEDIA program which makes easier the circulation of the works, the European markets are the addition of national markets and not a continental sized market.<br><br>3.) Putting state aids in the right perspective<br>We must come back to the amounts in question: around € 1.6 billion for 27 countries. The sum is both important and small! Important if one considers the production cost of a film: in France, in 2005 that is € 5.27 M Id., p. 21.. Looking for figures in the field of cinema one sees that a French production company such as Europa Corp of Luc Besson is estimated € 302 M Les Echos, May 31 2007.. A web site dedicated to trailers and cinema programs, Allociné, was estimated € 160 M Les Echos, May 10 2007.. In a different range, Dresdner invested $ 300 M in film production with Paramount and $ 600 M with Fox Le Figaro, May 18 2007.. In a more different way in November 2006 BSkyB bought 17.9% of ITV channel for £ 900 M (close to € 1.700 M) in the view, according to Virgin Media to prevent that latter company from buying the channel for £ 6 billions: these figures have nothing in common with those present in cinema even if it is considered as an 'industry'.<br><br>We will not comment the opinions according to which without the territorialisation the State or regional aids would not exist or would be less important than now: whoever has met elected politicians managing public funds should be convinced about that. | |

**TABLE H2: COMMENTS RECEIVED ON THE PRELIMINARY FINAL REPORT**

| Report Section | Organisation | Comment | Consultant Response |
|---|---|---|---|
| | | 4.) National cinema industries: a necessity<br>The part played by cinema in the expression of cultural diversity and cultural identity should no more have to be demonstrated.<br><br>That way of artistic expression needs an industrial hinterland (labs, facilities) and even more human (skilled technicians): a consequent level of activity is necessary to make that hinterland exist and continue.<br><br>5.) Cinema films and the interior market<br>We must recall again that the European interior market is the addition of national markets. Cultural diversity and particularly the linguistic diversity mean that what the viewers in a country like is not necessarily what viewers from another country will like.<br><br>From an economical point of view:<br>a) if in some fields state aids distort competition (for example if cars manufactured in a country are less expensive than cars from another county), it is not the same with cinema: films are not products which may be exchanged one against the other, to the different of other goods;<br>b) so the cinema people in one country do not suffer of the competition of productions from other countries; one may even say that the opposite is true, if good films are produced in other countries and are likely to circulate in Europe and attract viewers, that will be for the large benefit of cinema industries of the countries where these films will be shown;<br>c) more precisely, a distributor does not buy a film according to its production cost – even if the cost as a consequence on the amount of the guarantee paid to the producer – but according to its artistic and commercial potential.<br><br>6.) Other matters of concern in the field of competition<br>Film distributors think that the question of the territorialisation of state aids is a pertinent one but that other matters in the field of competition must draw the attention:<br><br>a) in the relations with cinemas<br>The box-office gross is shared according to a percentage between the distributor and the cinema exhibitor: the success or the failures of the film interest both partners. Copyright makes that the remuneration of the authors is | |

**TABLE H2: COMMENTS RECEIVED ON THE PRELIMINARY FINAL REPORT**

| Report Section | Organisation | Comment | Consultant Response |
|---|---|---|---|
| | | proportionate to the gross.<br><br>Besides this price fixing is free and the exhibitor has the possibility to fix as he wishes the admission price.<br><br>So cinema is between the requirements of copyright and those of competition right. If, for reasons of his own (for example in a fierce action of operators in the same market place) the exhibitor has low prices the distributor can almost never refuse a film: the notion of predatory prices as known by the European Court of Justice European Court of Justice, July 3 1991, Akzo / Commission. may not be used when there is no seller price but a percentage of the gross.<br>At the moment when distributors will have to share financing of digital equipment in cinemas, the question of admission prices is nothing but neutral but may not be considered in the present law system.<br><br>b) in the relations with other operators<br>Television networks, telecom operators are drawn to get interested in the cinema industry, to buy cinema companies or to take a direct part in the release system of films. A French producer, Marin Karmitz, was recently complaining that competition authorities had not more looked closer at the questions of vertical integration in the Canal+ / TPS merger: Canal+ being, besides a broadcaster, the most important rights holder of French film and the owner of a production and distribution company Les Echos, May 22 2007..<br><br>The development of VOD and the presence of images both on the classic networks (Hertzian, cable, satellite) and on the emerging ones (Internet, mobile television) offered by operators whose financial capacities have nothing in common with those of the cinema world creates a true risk for cultural diversity.<br><br>7.) The contribution of the Cambridge Econometrics survey<br>The survey 'Study on the economic and cultural impact, notably on co-productions, of territorialisation clauses of state aid schemes for films and audiovisual productions' whose preliminary report had been made public on June 29, 2007 brings probably for the first time a comprehensive view of the state aids in the Member States of the European Union.<br><br>In our opinion the major question was to know if the requirements of territorialisation had an effect on the production costs of films, or, said differently, if there were distorting competition obliging producers to spend money where they would have prefer not to. | |

**TABLE H2: COMMENTS RECEIVED ON THE PRELIMINARY FINAL REPORT**

| Report Section | Organisation | Comment | Consultant Response |
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| | | The pages running from page 87 (part 6.4 of the study) are particularly interesting on that point of view: comparing costs such as casting director, focus puller, camera packages, according to the country and the intensity of territorialisation, the survey shows that there is no correlation. That is the main point of the survey.<br><br>As the EFAD has pointed out in the note published before the hearing on July 6, 2007, the producer will take care to get the best possible film with the available budget: for example he will not consider renting a second range camera if he may afford to rent a better one.<br><br>8.) The criteria for the state aids<br>The communication from the European Commission on September 26, 2001 giving a 'cultural derogation' to state aids was providing a balance between the requirements of the interior market and the concerns of the managers of these supports.<br><br>The rule according to which the supports should go to 'cultural' films, leaving each State to decide what would refer to a cultural production was comforted on the principle of subsidiary decision.<br><br>On could argue during hours over what is and what is not cultural. The use of tests, as considered by the Commission, related to the heritages of the countries in the fields of literature or history is a too short vision of the question. It would be easy to make the list of the films of acclaimed European directors which would not qualify these tests because the subject would be outside the range of the tests. That idea should be dropped.<br><br>9.) Conclusion<br>In conclusion FIAD considers important to preserve the system of a diversity of production in all the European countries. It thinks that the system resulting from the 2001 communication is satisfactory and does not need to be changed. | |
| Part A | German Federal Film Board | Die so genannten Medienfonds, die in Deutschland bis 2004 existierten, sind in der Datenbasis der Studie nicht erfasst, obwohl hier über staatliche Steuerabschreibungen erhebliche Mittel für die Filmproduktion im fraglichen Zeitraum aktiviert wurden und in deutsche und internationale Filmproduktionen flossen. Dieses Steueranreizmodell ohne jede territoriale Bindung wurde insbesondere deshalb abgeschafft, weil es in erheblichem Ausmaße der Finanzierung von US-Filmen diente, die nicht in Deutschland gedreht wurden. Die Nicht-Berücksichtigung dieses | Aside from the specific comments below, the consultants have added a new section (2.7) in Part A as a response. |

**TABLE H2: COMMENTS RECEIVED ON THE PRELIMINARY FINAL REPORT**

| Report Section | Organisation | Comment | Consultant Response |
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| | | Steuermodells ohne territoriale Auflagen in der Studie, stellt ein weiteres methodisches Problem dar, das zu einer nicht die Realitäten widerspiegelnden Überschätzung der durchschnittlichen Territorialisierungsintensität in Deutschland führt. | |
| | European Audiovisual Observatory | On the page 7 of the report, the database LUMIERE is quoted as a source of legal information. LUMIERE being a database on film admission does not contain any legal information. Listing it unter the above title is somewhat misleading. | |
| | German Federal Film Board | Die so genannten Medienfonds, die in Deutschland bis 2004 existierten, sind in der Datenbasis der Studie nicht erfasst, obwohl hier über staatliche Steuerabschreibungen erhebliche Mittel für die Filmproduktion im fraglichen Zeitraum aktiviert wurden und in deutsche und internationale Filmproduktionen flossen. Dieses Steueranreizmodell ohne jede territoriale Bindung wurde insbesondere deshalb abgeschafft, weil es in erheblichem Ausmaße der Finanzierung von US-Filmen diente, die nicht in Deutschland gedreht wurden. Die Nicht-Berücksichtigung dieses Steuermodells ohne territoriale Auflagen in der Studie, stellt ein weiteres methodisches Problem dar, das zu einer nicht die Realitäten widerspiegelnden Überschätzung der durchschnittlichen Territorialisierungsintensität in Deutschland führt. | Medienfonds has been included in the list of tax incentive schemes, but it has not been possible to get information on the exact annual spending on this scheme. Medienfonds operated only until 2004, and it does therefore not affect the illustrations of per capita film aid. |
| | UK Film Council | - Accuracy of the data<br>The UK was not one of the national markets for which a case study was undertaken, and so we have few factual matters we wish to raise. However, we do not understand data about the UK Film Council that appear in three tables in the report.<br><br>That said, we do not wish to replicate the omission we believe the consult-ants made by not opening up a dialogue with the UK Film Council on the collection and interpretation of the data in question, therefore we are not using this consultation as a forum to detail or correct the errors and anomalies we have identified in the consultants' figures. We are however available to discuss these with the consultants at a mutually convenient time.<br><br>Although our confidence in the reliability of the study's statistics more generally has been shaken (that confidence is further undermined by the non-inclusion in the analysis of data relating to two of the largest national markets in Europe, France and Italy), looking ahead, were these figures to be amended, the UK Film Council does not believe that this would alter the substantive conclusions emerging from the study.<br><br>Moreover we do fear that problems with the data and the analysis may give encouragement to those who, for whatever reasons, are looking for a pretext to change the 2001 Cinema Communication guidelines with the effect of | Until now, we have not been able to get in contact with a representative of UK Film Council, who is able to shed more light on these questions. |

**TABLE H2: COMMENTS RECEIVED ON THE PRELIMINARY FINAL REPORT**

| Report Section | Organisation | Comment | Consultant Response |
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| | | undermining the ability of Member States to pursue their national public film strategies. | |
| | European Audiovisual Observatory | The KORDA database (http://korda.obs.coe.int) on public funding has been widely used by the consultants. The Observatory acknowledges openly the fact that the KORDA database has not been fully updated and this is mentioned on page 25 of the study. For more than two years the Observatory has been confronted with a manpower problem in relation to KORDA entirely outside of its control. As a result the project has been on stand-by for more than a year. Work will start again on the database in September 2007.z<br><br>The sentence on page 10 states that: "This approach allows us to provide a more objective picture of the legal situation that can complete or correct the relevant information from other sources (for example from ... the KORDA database)." KORDA is not a database on legal information. We can recognise that in its current stage it is not complete or fully up-to-date, but we would certainly consider that it is "objective"! As for statistics, the data published in the KORDA database are that communicated by the funding bodies. Wherever possible the Observatory has obtained copies of the annual report of the various bodies as it considers data published in annual reports more reliable than data communicated in reply to a questionnaire.<br><br>The Observatory appreciated that factual mistakes have been corrected from the initial version in the Table 3.2. related to the budget of the funds (pages 29). However, there are important discrepancies in the tables that should be explained. Some of them may be explained by methodological choices to be discussed.<br><br>It should also be noted that the volume 3 of the Yearbook 2006 is now available and it should allow the consultants to up-date some of their figures on the markets developments.<br><br>Fiscal Incentives<br><br>The European Audiovisual Observatory does not claim at present a high level of expertise on fiscal incentives. However, it is clear that most fiscal incentive schemes have explicit territorialisation requirements, as is pointed out by the authors in table 3.20. (p. 44).<br><br>In this context it is worth noting that Table 3.20 does not mention the Medienfonds which existed in Germany up to 2004. This system did not include territorialisation criteria and, as a result, an important part of the funds collected (estimated in billions EUR) was principally used to finance U.S. movies, not necessarily shot in Germany. | We have inserted a footnote with the following text for clarification in Section 3.2: For more than two years the Observatory has been confronted with a manpower problem in relation to KORDA. As a result, the project has been on stand-by for more than a year. Work will start again on the database in September 2007. |

**TABLE H2: COMMENTS RECEIVED ON THE PRELIMINARY FINAL REPORT**

| Report Section | Organisation | Comment | Consultant Response |
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| | | For France the table quotes only the tax credit for production for works approved by CNC. Since 30 December 2006 there is also a tax credit for distribution expenses for audiovisual programmes with territorialisation requirements. | |
| | French Film Commission | The first point of this humble contribution is about the method of the study. The truth is, the current report only gives an idea about the existing REGULATIONS. And that is already an accomplishment. But it is far from enough to understand the real impact of territorialisation clauses. The only way to figure out the actual impact on film & TV production, would be to analyse a sample of productions (100 for instance), looking into their budget, into the structure and geography of the actual local spending, and interviewing the producers about the criteria that influenced their choices. | We agree that this alternative method could also be relevant, but it would have suffered from the difficulties we have had in obtaining film budget with a sufficient detail. Furthermore, we have had to follow the methodology, described in our Terms of Reference, and we believe it has been appropriate and useful. |
| Proposed Sample of Countries | German Federal Film Board | Methodische Probleme der Studie in Bezug auf Deutschland<br>Die deutschen Filmförderungsinstitutionen möchten die die Studie durchführenden Beratungsunternehmen auf folgende methodische Probleme hinweisen:<br><br>• In der Studie wird Deutschland sowohl nach dem zu Grunde gelegten „rechtlichen“ wie auch nach dem „produktionsbasierenden“ Index in die Territorialisierungskategorie „ Hohe Territorialisierung“ eingestuft. Dabei ist, wie in Chart 4.1 dargestellt, eine Territorialisierung von 80% (legal-based) und von 55% (production-based) ermittelt worden. Die Berechnungen für beide Indices sind für uns nicht nachvollziehbar.<br>• In dem „rechtlichen“ Territorialisierungsindex der Studie von 80% für Deutschland ist offensichtlich die FFA-Förderung unberücksichtigt geblieben, die keine Territorialisierungsauflagen hat und die in den letzten Jahren auf einen Anteil an der Filmfinanzierung von ca. 20% kam, bzw. ca. 35% der öffentlichen Mittel bereitstellte. Darüber hinaus sind Regularien der Länderförderer unbeachtet geblieben, die die Territorialisierungsintensität bestimmen. Zum Beispiel darf der FFF Bayern nur bis zu 30% der Herstellungskosten fördern, höchstens aber bis zu 1,6 Mio Euro ( s. auch Stellungnahme des FFF Bayern vom 14.8.07). Bei Zugrundelegung einer territorialen Bindung von 150% läge hier die maximale „rechtliche“ Territorialisierungsintensität bei 45%.<br>• Die in der Studie gewählte Territorialisierungsberechnung für den „produktionsbasierenden“ Index lässt den für die Darstellung der Realität sehr wesentlichen Parameter - die Förderintensität - außer Acht. So liegt die | The degree of territorialisation recorded for Germany is calculated through the assumption that all remuneration is territorialised, but that technical and shooting costs are not subject to territorialisation. Based on the statement in Section 4.3 of the report which allocates production costs along the lines of what was provided by CNC during the period 2003-05, these categories accounted for approximately 55% of production costs, hence the resulting territorialisation degree. |

**TABLE H2: COMMENTS RECEIVED ON THE PRELIMINARY FINAL REPORT**

| Report Section | Organisation | Comment | Consultant Response |
|---|---|---|---|
| | | durchschnittliche Förderintensität der über Länderförderungen unterstützten Filme in den Jahren 2004 und 2005 zwischen 23% und 27%. In den Jahren davor dürfte sie im gleichen Rahmen, wenn nicht darunter gelegen haben, da sehr viele sogenannte freie Mittel über die deutschen Medienfonds (s.u.) für Produzenten erhältlich waren. Selbst wenn Territorialisierungseffekte erzielt werden, die bei 100% oder wie in wenigen Förderprogrammen bis zu 150% bezogen auf die Fördersumme liegen, kann im Durchschnitt in Deutschland keine Territorialisierungsintensität in Höhe von den in der Studie genannten 55% (production-based) entstehen. Dies gilt auch vor dem Hintergrund, dass keine weiteren kumulativ zu nutzenden Förderprogramme existieren, die die durchschnittliche Territorialisierungsintensität in relevantem Ausmaß erhöhen könnten. | |
| | Netherlands Film Fund | Table 3.9 (page 37): please add 'Netherlands Film Fund', percentage selective 100%, total budget € 19.6m<br>Table 3.12 (page 39): please add 'Netherlands Film Fund', 15%, 76%, 3%, 1%, 2%, 3%, 19.000.000<br>Table 3.15 (page 41): please add 'Netherlands Film Fund', national prod. 90%, coprod. 10%<br>Table 3.18 (page 42): please add 'Netherlands Film Fund', grants 10%, soft loans 90% budget 19.6m<br>Table 3.20 (page 44): Netherlands: please change text in Type of Incentive: 'tax break scheme in which private investors can deduct investments in film in the income tax statement. | This information has been inserted and corrected in Part B of the report. |
| Part C | European Audiovisual Observatory | - Definition of the audiovisual sector (p.56)<br>The consultants take as definition of the audiovisual industry the complete NACE 92.1 and NACE 92.2 categories used by EUROSAT to classify economic activities. In principle, this definition makes sense. However, in reality, when companies are set up and filed they are not always initially categorised in the right classification and thus certain important companies may be classified elsewhere:<br>- this is in particular the case for home video publishers/distributors: in practice, these companies are placed in around 20 different NACE categories;<br>- a number of TV companies are included in the NACE 7487 (other service activities) and not in 92.2.<br><br>- Absence of collection of data at the European level<br>The authors are quite correct in identifying an absence of collection of structural data (employment, turnover, value-added, number and size of companies) at the European level. The European Audiovisual Observatory has argued for more than 10 years that this data can only be collected through a company survey to be undertaken by Eurostat in collaboration with the national statistical institutes.<br><br>It is interesting to note that the authors recognise the impossibility, given the current state of data collection, of | We agree that the use of these categories is not optimal, but as described in the report, we have had to make use of the data that is available. Even at the chosen level of detail, it has been necessary to collect data from various national institutions, and data has not been available for all countries. |

**TABLE H2: COMMENTS RECEIVED ON THE PRELIMINARY FINAL REPORT**

| Report Section | Organisation | Comment | Consultant Response |
|---|---|---|---|
| | | measuring audiovisual industry added-value. This opinion is shared by the Observatory. Nonetheless, some months ago in a report published by the Commission a consultant provided detailed figures on the contribution of the cultural industries to European Union GDP.<br><br>The European Audiovisual Observatory reiterates here the need for further work on structural statistics related to the audiovisual sector and its willing-ness and availability to cooperate with EUROSTAT and national statistical institutes on this issue.<br><br>- Relevance of the definition of the audiovisual industry used in the study<br>Territorialisation criteria apply only for public support to production activities. If the objective is to compare the level of territorialisation with the level of development of the turnover of the sector (as illustrated in the section 6.3 of the study "Comparison of macro level data") than it would have been wise to make this analysis only on the basis of the turnover of the production branch: - the branch NACE 92.12 "motion picture and video distribution" is largely dominated by subsidiaries of US companies, not eligible for public support; - the branch NACE 92.13 "motion picture projection" is also largely dominated by companies which are subsidiaries of foreign groups and not eligible for public support; - the branch 92.2 as defined by the NACE includes broadcasting activities and the production of TV "flow programmes". This branch is not relevant to a study on territorialisation:<br><br>- broadcasting revenue (including radio revenue) is outside the remit of the territorialisation issue (if not it would also appear necessary to examine territorialisation criteria as they apply to the allocation of the radio-TV licence fees);<br>- the production of flow programmes (news, sports, game shows) generally does not qualify for public support.<br><br>To summarise, to analyse the impact of territorialisation on the size of the industry (as measured by employment, turnover or added-value) only the 92.11 (Motion picture and video production) category should be analysed.<br><br>Given that in this present study production activities have been subsumed in the overall audiovisual sector in section 6.3 ("Comparison of macro level data"), we therefore consider that this section is irrelevant.<br><br>This question has not been answered in a satisfactory manner during the workshop of presentation of the study.<br><br>- Table 5.15 "Number and duration of national TV films produced in 2005 per million people": this table would | Data on TV Films broadcast |

**TABLE H2: COMMENTS RECEIVED ON THE PRELIMINARY FINAL REPORT**

| Report Section | Organisation | Comment | Consultant Response |
|---|---|---|---|
| | | seem to be sourced "EAO Yearbook 2005". The Observatory has never published this kind of data and does not understand the meaning of the table | (incorrectly, it was titled 'produced' beforehand) in Member States was taken from EAO Yearbook 2006. This has been properly referenced now. |
| | | - Table 5.26 "Market share of nationally-produced films" in percent. In this case the table is sourced MediaSalles (European Cinema Yearbook) and the Observatory. However, it should be noted that market shares are drawn up by national film agencies which sometimes include in their calculations films produced by their country as a minority co-producer. In its Yearbook (vol. 3, 2005, p. 48), the Observatory provides alternative figures, based on the LUMIERE database, where market shares are calculated taking into account only the countries of the majority co-producer. | Reference has been made to the limitations of the previous data, and a table including LUMIERE based market share has been added. |
| | | Fiscal Incentives | |
| | | The European Audiovisual Observatory does not claim at present a high level of expertise on fiscal incentives. However, it is clear that most fiscal incentive schemes have explicit territorialisation requirements, as is pointed out by the authors in table 3.20. (p. 44). | |
| | | In this context it is worth noting that Table 3.20 does not mention the Medienfonds which existed in Germany up to 2004. This system did not include territorialisation criteria and, as a result, an important part of the funds collected (estimated in billions EUR) was principally used to finance U.S. movies, not necessarily shot in Germany. | Medienfonds has been included in Table 3.20, but it has not been possible to get information on the exact annual spending on this scheme. As the Medienfonds was only operational until 2004, it is not relevant for the calculation of territorialisation degrees. |
| | | For France the table quotes only the tax credit for production for works approved by CNC. Since 30 December 2006 there is also a tax credit for distribution expenses for audiovisual programmes with territorialisation requirements. | |
| Part D | EFAD | EFADs are unpersuaded by the way the level of territorialisation has been calculated, statistical analyses and the conclusions drawn from them (for example the link made between prices and the level of territorialisation), as well as the lack of exhaustiveness and accuracy in the national "legal fact sheets" delivered. | Focus is on the definition of territorialisation and it is hence not a D-comment. |
| | European Audiovisual Observatory | - Relative importance of public support for production activities.<br>In omitting this limitation of definition, the study misses the key preliminary question: what is the financial weight of subsidies in the total revenue of the production branch? In chapter 11.4 "The Financial Impact of Public Subsidies" of its report on Public Funding for Film and Audiovisual Works in Europe, the Observatory attempted to provide estimates for the European Union countries for 2001. For this year, total direct public subsidies (including | Focus is on the definition of territorialisation and it is hence not a D-comment. |

**TABLE H2: COMMENTS RECEIVED ON THE PRELIMINARY FINAL REPORT**

| Report Section | Organisation | Comment | Consultant Response |
|---|---|---|---|
| | | supranational aids) for production and development were estimated at 798 million EUR, while the total operating revenues (ie turnover + subsidies) were estimated at 16 485 million EUR. Subsidies therefore represented 4.8 % of the total operating revenue of the branch. It was estimated that the proportion was higher for the production of films (9.2 %) than for TV production (2.7 %). The proportion of subsidies in the economics of production may of course vary from country to country and is probably much higher for smaller countries than for larger ones. However, if these average proportions are correct, one is led to ask if they are sufficiently important to structure the activity in terms of size. Public support is important but other sources of funding (investment by broadcasters, revenues from the various forms of pre-sales and distribution…) should be considered as more important. Analysing the correlation between territorialisation requirements and size of the production branch would in these circumstances appear to be not particularly pertinent. | |
| | European Investment Bank | Determining whether 'territorialisation clauses' of state aid schemes for films and audiovisual productions do cause distortion of competition.<br>It would appear reasonable that, in order to determine whether 'territorialisation clauses' of state aid schemes for films and audiovisual productions do cause distortion of competition, it ought to be demonstrated beyond any reasonable doubt that such aid schemes have fostered the production of films or audiovisual works which, in their turn, have prevented other films or audiovisual works from being produced at all.<br><br>Measuring a possible distortion of competition by 'territorialisation clauses' of state aid schemes for films and audiovisual productions.<br>It would be reasonable that, when considering whether 'territorialisation clauses' of state aid schemes for films and audiovisual productions would be acceptable or not – in the light of their possibly causing distortion of competition – it ought to be demonstrated that distortion of competition would be caused in any significant degree. Hence, it ought to be demonstrated that such aid schemes have fostered the production of films or audiovisual works which together represent a significant market share. Without such significant market share, a distortion of competition would not be of economic relevance but merely of academic relevance. | The existence of regional and national state aid, and the use of territorialisation are market distortions, and the question in the report is only if the last mentioned distortion is sufficiently large to affect the market prices and capacities.<br>This has been mentioned in the introduction to Part D1 of the revised report (comparison of economic indicators). |
| Part E | European Audiovisual Observatory | The MERLIN database has been used for calculating the number of bi-lateral co-production agreement. However the MERLIN database does not claim to be exhaustive on this matter. In the Executive Summary and other related parts in the documents the statement that all 34 co-production treaties between EU 25 Member States are in force between the UK, FR, ES, DE or IT and another Member State is omitting the reference to IRIS Merlin and therefore false. The statement is obviously a summary of what is said on page 104 (7. Part E: Synopsis of Co-Production Agrements/7.1. Introduction), where it is linked to the current/then collection of co-production treaties | The following footnote has been added in the executive summary for Part E: "Please note that the European Audiovisual Observatory's MERLIN database is not yet complete, and some other EU25 co-production agreements |

**TABLE H2: COMMENTS RECEIVED ON THE PRELIMINARY FINAL REPORT**

| Report Section | Organisation | Comment | Consultant Response |
|---|---|---|---|
| | | in the MERLIN database. Even though we regret that the IRIS Merlin database is not (yet) complete in this regard, the authors of the study could have used the more recent and comprehensive information from their own questionnaires. Pages 220, 225, 226 and also the respective online country information list, for example, co-production agreements between the Belgian French-speaking Community and Portugal or the Dutch-speaking Community and the Netherlands, or between Latvia and Austria or the Netherlands and the Slovak Republic or Poland and Lithuania. Also the Austrian-Luxembourg co-production agreement will enter in force on 1 September 2008. | are missing. These have, where possible, been captured in the legal questionnaires and databases completed under Part A of this study. The bullet point in Part E referring to 34 co-production treaties has made clear that this data is from the MERLIN database.<br><br>Further research has been done with regards to the work conducted in Part A, as well as further desk research into the suggested additions made. The following footnote has been added: "The MERLIN database is not yet complete, and a few EU25 co-production treaties, not involving the UK, France, Spain, Germany or Italy, have been subsequently identified. Reference has been made to the legal work compiled in Part A of this study, which also researched the various co-production treaties in effect in the EU25 Member States (see Table D, and German Avocats' online database). However, during the reference period, the extra intra-EU25 co-production treaties appear to be limited. The French-speaking community of Belgium has a co-production treaty with Portugal, and the Flemish-speaking community has one with the Netherlands. The Baltic States act closely in cultural matters, and in 2005 a tri-lateral co-production agreement was signed between Latvia, Lithuania and Estonia. Latvia and Austria have close co-operation with one another with regards to the arts, but |

**TABLE H2: COMMENTS RECEIVED ON THE PRELIMINARY FINAL REPORT**

| Report Section | Organisation | Comment | Consultant Response |
|---|---|---|---|
| | | | have no official bilateral agreement and the government level (http://www.am.gov.lv/en/policy/bilateral-relations/4542/Austria/). Austria and Luxembourg signed a co-production agreement in early 2006, thus falling outside of our reference period. The Netherlands Film Fund did not recognise a co-production agreement between Netherlands and Slovakia. We could not find any reference to a co-production treaty in force 2001-2005 between Poland and Lithuania. |
| | | The Council of Europe instrument on co-production, page 128. The statement "However, it does not, like the bilateral treaties, offer access to national funds" is at best misleading. Article 4 of the European Convention on Cinematographic Co-Productions (ETS No. 147) reads (emphasis added): Article 4 – Assimilation to national films:<br>1 European cinematographic works made as multilateral co-productions and falling within the scope of this Convention shall be entitled to the benefits granted to national films by the legislative and regulatory provisions in force in each of the Parties to this Convention participating in the co-production concerned:<br>2 The benefits shall be granted to each co-producer by the Party in which the co-producer is established, under the conditions and limits provided for by the legislative and regulatory provisions in force in that Party and in ac-accordance with the provisions of this Convention.<br><br>The Explanatory Report to this Article explains (emphasis added) that:<br>1. The chief aim of a co-production agreement is to confer on cinematographic works that can lay claim to it the nationality of each of the partners in the co-production. Works may thus benefit from national aids accorded to the cinematographic industry and the exhibition of films. They may also benefit from national rules regarding origin where television broadcasting is concerned. Co-production agreements also make it possible to extend the benefit of tax exemptions granted to these works in certain countries. Co-production works are thus placed on an equal footing with national works with regard to access to the advantages available to the latter.<br>2. Co-production works are, however, subject to the national rules governing cinematographic production and access to aids in the various countries that are partners in the production. By virtue of the non-discrimination rule, a co-production, even where it is a minority co- production, cannot enjoy a status different from a majority co- | The consultant's agree that the original statement was misleading. The purpose was not to set it aside from bilateral treaties, nor to suggest that there is no link with access to national funds. Rather, like bilateral treaties, the European convention sets out criteria for a film to meet in order to gain a national status in multiple territories, thus making them viable for national funding. The paragraph has thus been re-written:<br><br>"It was hard to secure specific comments on the value of this instrument. There was general view that it was a good thing to have a "framework" for co-productions. However, like the bilateral treaties, it |

**TABLE H2: COMMENTS RECEIVED ON THE PRELIMINARY FINAL REPORT**

| Report Section | Organisation | Comment | Consultant Response |
|---|---|---|---|
| | | production.<br><br>However, the application of the above-mentioned national rules implies prior proof of the conformity with the provisions of the convention (see Article 5) of those co-productions claiming the benefits thereof. This statement is actually the result of the convention system, which specifies the conditions in which the co-productions concerned are assimilated with national films in order that they may benefit from the advantages provided by the domestic legislation of the various partner countries involved in the co-production.<br><br>In other words, the Convention stipulates that European works shall benefit from the national schemes provided that they fulfill the remaining conditions also applicable to national films - sounds like the contrary of what the study proposes... | does not offer direct access to national funds, and rather attempts to set out the criteria a film must meet to be classified as a 'national' film in multiple Member States, thus making national funds from multiple territories available. The Council of Europe convention is thus focussed on harmonising multilateral relations in order to promote co-production. According to those producers who commented, its main practical value is that a film qualified as European is more likely to be bought by TV stations that are required to ensure that 50% of their output is of European origin."<br><br>It is important to note that this Part of the study is concerned with qualitative data – the consultants' are reporting on what stakeholders had to say about the Convention. We have made reference to the Convention and the description of it in *Public funding for film and audiovisual works in Europe – A comparative approach* as sources for more detailed information about the actual operation of the Convention. |
| Part F | Cine Regio | The study does not provide evidence regarding any positive impacts of lower territorialisation clauses for the European film sector. In contrary, Cine Regio considers that territorialisation can be beneficial for the sector. The | We have made reference to Cine Regio's support for the *Captain Achab* |

**TABLE H2: COMMENTS RECEIVED ON THE PRELIMINARY FINAL REPORT**

| Report Section | Organisation | Comment | Consultant Response |
|---|---|---|---|
| | | example of the French Swedish co-production "Capitaine Achab" (as mentioned in Part F of the report) demonstrates how funding schemes that imply a certain level of territorialisation foster cooperation rather than impede it. "Capitaine Achab" is the first French-Swedish co-production in 20 years. The production was project driven and realised on the initiative of a French and a Swedish producer. The fact that territorialisation clauses are used by the three regional film funds involved made it possible to come to an agreement useful to all. Regional support would not have been granted if territorialisation clauses could not have been applied.<br><br>Cine-Regio welcomes this use of the "Capitaine Achab" case study to high-light the benefits of territorialisation. From our experience, as a network of regional film funds, there are an increasing number of co-productions taking place at the interregional level, resulting in an increasing artistically and creative exchange in Europe. | reference in text. We have also highlighted at the same point the "increasing artistically and creative exchange in Europe" has been added, to add emphasis to this positive impact of territorialisation. Also, more case studies have been added.<br><br>Beyond this, Part F was simply reporting what we were told in interviews. Although several 'negative' impacts were noted, the conclusions suggest that territorialisation supports co-production, which is not a 'negative' impact. |
| | European Audiovisual Observatory | Section 8.7. The Council of Europe's co-production fund 'Eurimages' is discussed under the heading of the European Union's Media Plus Programme; | The heading has been corrected. |
| | European Investment Bank | The category of success cases should be more adequately represented. A number of European production companies have successfully benefited from state aid schemes for films and audiovisual productions and have grown to become sound business operations, enabling them to access financial markets on a corporate basis (eg corporate bank-loans, debt-financing through private placements or public bond issues, etc.), thus no longer needing to depend on state aid schemes, nor on the selling-out of rights/territories in order to bridge-finance such future revenues. | |
| Part G | Cine Regio | Cine-Regio finds that part G: "The cultural consequences of removing territorialisation" is a crucial part of the study. We would therefore welcome stronger analysis in this section. Cine-Regio would welcome it if statistical evidence and information collected was presented in a more structured and precise form. According to the study, so far 50 stakeholders have been interviewed, however, we lack information on the split (producers, distributors, public film agency representatives, regional/national/international civil servants, etc.) as well as the nationality of | In introduction to part G, more details about the **40** interviewees have been given, in terms of nationality and interviewee type.<br>Where possible in Parts F and G, |

**TABLE H2: COMMENTS RECEIVED ON THE PRELIMINARY FINAL REPORT**

| Report Section | Organisation | Comment | Consultant Response |
|---|---|---|---|
| | | those interviewed (minority languages vs. mainstream languages). Also, an analysis on respondents' answers would be welcomed (eg "if territorialisation level was modified" - how many thought it would threaten the stability of public film funding? How many thought it would lead to less co-productions or lead to less circulation of films?) | respondent answers have been quantified (ie how many exactly believed that less funding would exist if territorialisation rules were removed). This has led to further analysis of the responses being presented in F and G. Also, all answers to quantifiable questions have been added as an appendix to the report – Appendix I. |
| | | On the issue of defining what is culture and the cultural impact of territorialisation it would be important to know the methodology used by the consult-ants when approaching interviewees and whether the latter were working for national administration or commercial bodies. What was the definition given to the term "culture"? Was the term culture given a "positive definition" of culture or a "negative definition"? Is culture recognised as a catalyst for growth, employment and competitiveness? Are local, regional and national support policies important to the development of cultural industries and local expressions? What is the specific impact on the diversity of new talent and new audiences? What is the importance of cinema in contemporary culture? | Methodologically, questions on culture and cultural impact were simply woven into the interview guides for Parts F and G. Thus both national administration and commercial bodies were interviewed (as they were in Part F). The consultants avoided creating a definition for the term 'culture' because it is a term that can be differently interpreted by each interviewee. This has now been made clear in the text of Part G.<br>We do believe that given the focus on territorialisation, respondents may have provided a narrower concept of culture and cultural contribution of film, than they would have if approached outside of this study. This has been made clear in the report.<br>With regards to the latter questions posed here, it is important to note that we are reporting on the opinions of |

**TABLE H2: COMMENTS RECEIVED ON THE PRELIMINARY FINAL REPORT**

| Report Section | Organisation | Comment | Consultant Response |
|---|---|---|---|
| | | | stakeholders, and thus cannot comment where interviewees did not:<br>"Is culture recognised as a catalyst for growth, employment and competitiveness" – In general, the interviewees focused on the impact of territorialisation impact on these topics, arguing that culture is something protected by territorialisation. Thus it is difficult to say whether 'culture' was seen as a catalyst (ie territorialisation rules, which are seen as supporting growth etc, are there in response to a need to protect cultural diversity) or whether culture is simply another area alongside growth, employment, etc that territorialisation rules set out to support. We think that we have indicated that support polices are perceived by many stakeholders to be important to the development of cultural industries and local expressions.<br>With regards to new talent, we have reported what arose in discussion with stakeholders: that territorialisation rules protect new talent. We have added a clearer indication of the significance of new talent (ie they are the future of the industry and bring new ideas critical to cultural diversity).<br>Given that we were discussing Part G with key stakeholders in the film |

**TABLE H2: COMMENTS RECEIVED ON THE PRELIMINARY FINAL REPORT**

| Report Section | Organisation | Comment | Consultant Response |
|---|---|---|---|
| | | | industry, any answers to a question concerning the importance of cinema to contemporary culture would have been extremely biased. |
| | | Indeed and for the sake of coherence, territorialisation should be looked not only from a competition law point of view, but also from a point of view of EU trade and cultural policy. For instance it would be useful for the study to recall the European Commission's commitment to promote the ratification of the UNESCO convention on cultural diversity which authorises Member States to implement support policies for culture as they see fit and assess the relationship of such policy with a narrow interpretation of EU anti-trust rules, that would not take into account cultural imperatives and the freedom of Member States. | With regards to Parts F and G, where reference is currently made to international treaties affecting co-productions (Council of Europe), we have also made reference to the UNESCO convention. However, it is challenging to incorporate it in the study further than explaining that this issue is not just about competition law, but also cultural policy. This is for two reasons: 1) the policy was ratified outside of the reference period for the study; 2) stakeholders did not make reference to it. |
| | Cine Regio | Cine-Regio would welcome clear data on market failures. The European film industry suffers from a number of structural deficiencies, including linguistic fragmentation, fragmentation along national borders, undercapitalised com-pare to other sectors, enterprises in the sector are relatively small, lack of vertical integration and no "single market" opportunity in film distribution. In 2005 less than a quarter of all money spent in European cinemas went to European films. The strong market dominance of the American film industry impedes real competition in the European sector. Today, approximately 80% of market share in Europe belongs to the US majors. Geographically-focused film support in Europe should thus be considered as a remedy to correct market failure and not as its cause. | We agree that these considerations are very relevant, and that state aid may be seen as a remedy towards the effects of market inefficiencies. The question whether territorialisation may be justified on this basis is very difficult to answer and certainly outside the scope of our study, which focuses on the impacts of territorialisation. |
| | | Speaking about competition, we want to remember that the real competitor of every national and regional cinematography in Europe is a non-European adversary: the US industry! | We have made it clear in Part G that the USA was generally seen as the major competitor to European film. |

**TABLE H2: COMMENTS RECEIVED ON THE PRELIMINARY FINAL REPORT**

| Report Section | Organisation | Comment | Consultant Response |
|---|---|---|---|
| | | We would like to thank you for this opportunity to communicate our stand-points in writing. If we can be of any further assistance, please do not hesitate in contacting Secretary General, Charlotte Appelgren (ca@cineregio.org). | |
| | EFAD | Part of the consultant's brief was to assess the cultural impact of suppressing/maintaining territorialisation. This task was not carried out with the same level of detail and attention as for the micro- and macro- economic assessments. Whereas film policies are first and foremost cultural policies, we regret that the section addressing the cultural impact of territorialisation lacks depth, breadth and any real insight. | The consultants would like to make clear that Part G was a qualitative-based part of the study, rather than the quantitative-based economic assessments. Thus we could only comment and discuss what came up in interviews, and the quantity of data is more limited. Following workshop comments, we have added more detail concerning our respondents, to make it clearer where opinions lay. |
| | | Given the study brief, the issue of the specific characteristics of the EU film environment cannot be addressed per se and it must be linked to its context, ie to the specific characteristics of the European film market. | |
| | | Whereas the European film market is part of the audiovisual market with its high potential for growth, innovation and dynamism, it is at the same time split into different markets, defined by different languages and cultures. Operating mostly within their national borders, film-companies are predominantly small and medium-sized enterprises, producing often only one or two films per year. As a result, film markets in Europe are essentially a function of regional or national conditions, representing the multitude of cultural identities, and the market for European film in Europe does not resemble the European internal market for merchandises (goods and services). | The consultants agree in this description of the European film market. This may call for specific market interventions to ensure the full utilization of the potential, but the discussion of this falls outside the scope of the study. |
| | | In addition, and this is not a particularly European feature but a genuine characteristic of the creative economy, for the creation of films to take place, a number of inputs need to be combined, including artistic inputs (authors, actors, technicians), technical inputs (human know-how, equipment, plant) and economic inputs (investment capabilities, financing, sales and marketing, distribution, exhibition, etc.). In other words, the development of a creative and competitive film industry requires the development of industrial "clusters", and is difficult to reconcile with an open market without frontiers. This was clearly demonstrated in the Study on the economy of culture in Europe, undertaken for the European Commission and published in Autumn 2006. | The consultants see this particular response as important to the section on 'clusters' already in the report, and so EFAD's comments have been added. |

**TABLE H2: COMMENTS RECEIVED ON THE PRELIMINARY FINAL REPORT**

| Report Section | Organisation | Comment | Consultant Response |
|---|---|---|---|
| | | On all these important issues, EFAD would have welcomed deeper investigation. | |
| | FFF Bayern | We also have the impression that the study focuses on the negative aspects of territorialisation, without giving enough emphasis to the positive. Therefore we would like to emphasis clearly the positive effects of the controversial territorialisation clause – based on our experience:<br><br>Territorialisation clauses encourage…<br>a) cultural diversity which is a proclaimed aid of the European Union<br>b) regional competency by supporting the existing film industry as well as new talents<br>c) national identity by films shot in the local language, in the local environment and with local actors<br>d) transparency and legal certainty for the production companies<br>e) political argumentation for state aid<br>f) that national money benefits the European film industry. The most ineffective state aid schemes are those that had no territorialisation clause. The German tax credit system has shown in the past that most of that money has gone into foreign (American) projects. This system does not exist any more.<br>g) that all the applications are channeled to that institution that is the most promising and realistic one to give funding money.<br><br>However, after all our discussions, we should not forget that film is a cultural product and not a commodity: different standards should be applied than would be expected for an average commodity. | The consultants believe that in general these positive aspects are covered in Part G. However, as we were simply reporting on results from interviews, rather than promoting a particular agenda, we attempted to avoid undue emphasis on positive or negative aspects in the report itself. |
| | German Federal Film Board | Anregungen zur weiteren Arbeit und Kooperation<br>Die deutschen Filmförderungsinstitutionen begrüßen die vielfältigen Aktivitäten der Kommission, die darauf abzielen, sowohl die wesentliche Rolle der Kultur für Europa unter sozialen und wirtschaftlichen Aspekten anzuerkennen als auch auf die Förderung der Kultur im Sinne eines weit gefassten Kulturbegriffs hinzuwirken. Beispiele in diesem Zusammenhang sind die Ratifizierung des UNESCO- Übereinkommens über den Schutz und die Vielfalt kultureller Ausdrucksformen, die Studie zur Kulturwirtschaft vom Dezember 2006 sowie die Kommissionsmitteilung „über eine europäische Kulturagenda im Zeichen der Globalisierung“. In dieser Mitteilung | |

**TABLE H2: COMMENTS RECEIVED ON THE PRELIMINARY FINAL REPORT**

| Report Section | Organisation | Comment | Consultant Response |
|---|---|---|---|
| | | weist die Kommission auf die Notwendigkeit hin, die Kultur im Hinblick auf die Realitäten der modernen globalisierten Welt neu zu betrachten und die Kultur für eine weltweit bessere kulturelle und wirtschaftliche Positionierung der EU zu nutzen.<br>Des Weiteren werden die Anstrengungen der Kommission anerkannt, der technologischen Entwicklung im audiovisuellen Bereich und dem Übergang in das digitale Zeitalter Rechnung zu tragen, wie z.B. durch die Initiativen zu film- online und content-online sowie die verschiedenen Fördermaßnahmen zur Digitalisierung von Filmen.<br>Die deutschen Förderer betrachten aber mit Sorge, dass die Kommission offenbar damit beginnt, die bewährten Kriterien der Kinomitteilung neu auszulegen, z.B. durch die Einführung der kulturellen Tests, ohne dass hierüber eine Diskussion mit den Mitgliedstaaten geführt wurde. Damit ist eine beunruhigende Rechtsunsicherheit geschaffen worden, die zumindest scheinbar im Widerspruch zu der Verlängerungsentscheidung der Kommission steht. Nachdrücklich soll darauf hingewiesen werden, dass in der europäischen Beihilfepolitik der Doppelcharakter der audiovisuellen Güter - nämlich gleichzeitig Kulturgut und Wirtschaftsgut zu sein – nur unzureichend anerkannt wird und zwar tendenziell zunehmend. Noch einmal wird das eigentliche Wettbewerbsproblem der Mitgliedsstaaten der EU betont, nämlich den dominierenden US- Anteil an dem europäischen Filmmarkt, dem im Übrigen durch das MEDIA-Programm der EU explizit entgegengewirkt werden soll.<br>Die deutschen Filmförderer bitten die Kommission daher, auf eine Kohärenz der filmbezogenen Beihilfepolitik innerhalb der EU- Politik hinzuwirken und darüber hinaus ihre Beihilfepolitik im Filmbereich mit den Mitgliedsstaaten frühzeitig abzustimmen. Die durch die Verlängerungsentscheidung gewonnene Zeit sollte dazu genutzt werden, mögliche Widersprüche zwischen Beihilfepolitik und anderen EU-Politiken heraus zu finden und möglichst weitgehend aufzulösen. In einem vertieften Diskussionsprozess zwischen der EU-Kommission und der Filmbranche sollten kohärente Politikansätze erarbeitet werden, die auch in der filmbezogenen Wettbewerbspolitik der EU-Kommission zu berücksichtigen wären. Denn eine Beihilfepolitik mit restriktiver und isolierter Herangehensweise könnte vor dem Hintergrund der Globalisierung und der Entwicklung zur Konvergenz der Medien und den damit verbundenen großen Herausforderungen für den europäischen Filmsektor, zu unkalkulierbaren und irreversiblen Schäden der Filmbranche in Europa führen. Im Hinblick auf den gerade eingeleiteten Bewusstseinsprozess zur Bedeutung der Kultur wäre dies eine kontraproduktive Entwicklung.<br>Wir freuen uns darauf, gemeinsam mit der Kommission und den Repräsentanten der Filmkulturwirtschaft aus den anderen Mitgliedstaaten, Strategien zu erarbeiten, die auf die Erhaltung der kulturellen Vielfalt und die dauerhafte Entwicklung des Films in Europa abzielt und wir danken für die Gelegenheit, uns in diesen Diskussionsprozess einbringen zu können. | |
| | French Film | Most countries have developed film & TV production support schemes that include territorialisation clauses. In our | This point has been strengthen in the |

**TABLE H2: COMMENTS RECEIVED ON THE PRELIMINARY FINAL REPORT**

| Report Section | Organisation | Comment | Consultant Response |
|---|---|---|---|
| | Commission | opinion, as long as those schemes focus on supporting the creation of films that have a cultural content related to these countries' identity, such schemes are very legitimate. They contribute to the circulation of these countries' culture. And they have economical consequences that should be regarded as healthy in the frame of the European audiovisual market.<br><br>We would rather classify as "a distortion of competition" schemes designed for the sole purpose of economical goals ("tell me how much you spend and I'll tell you how much you get"), with no interest whatsoever for the artistic or cultural content of the film. | report, adding to the response to Statement 2 in Part G, indicating that a simply focus on economics was seen negatively. |
| | | Indeed, when a producer tries to gather the necessary financing for a film, he has two complementary ways of doing: finding the money, and reducing the budget. He will first look for the obvious partners for his production: co-producers interested in the content (and the market value) of the project; funds located in the area of the locations mentioned in the script, and so on. So far, during that basic first process, he has not been influenced by any scheme designed to attract local expenditure.<br><br>However, if that first stage does not allow him to find the proper amount of money (nor to properly reduce his budget), he will start looking into other possible funds, and accept the idea that part of the budget will have to be spent in territories where he was not supposed to shoot or post-produce in the first place. During that stage of the financing procedure, he might face the influence of schemes only designed to attract local spending. This is precisely what needs to be investigated in order to stress the possible distortion of competition caused by territorialisation clauses. If ever there is one. | The consultant's thank the French Film Commission for this clear and interesting contribution, which has now been referenced in the report. |
| | EFCA | - The distinctiveness of the European Audiovisual sector justifies state aid and territorialisation clauses<br>We welcome the above-mentioned positive conclusions. However, EFCA's members also believe that the nature and the specific requirements of the European film sector need to be further assessed and taken into account in the study. For example, the report should outline in more detail why market failure in the film sector justifies state aid and territorialisation clauses:<br><br>• Europe's cultural and linguistic fragmentation is an obstacle to the creation of an internal audiovisual market. The most successful European films make the majority of their revenues in their country of origin, which is why the majority of producers only have national audiences in mind and do not operate in a European or international context. The Copenhagen report of the Think Tank of European Film and Film Policy has even shown that co-producing does not always lead to international distribution | This is an interesting point and in Part G, when discussing circulation, the following has been added: "An interesting point was raised here by the European Film Companies Alliance |

**TABLE H2: COMMENTS RECEIVED ON THE PRELIMINARY FINAL REPORT**

| Report Section | Organisation | Comment | Consultant Response |
|---|---|---|---|
| | | | following the Workshop. Cultural and linguistic fragmentation in Europe is an obstacle to an internal European market. The biggest European films, according to EFCA, make the majority of their revenue in their domestic market, leading to a greater focus on national audiences by producers. Thus, according to this respondent, cultural diversity in Europe can actually reduce the ability to circulate one Member State's cultural product in another. On the other hand, it increases the focus on creating films that appeal to national audiences." |
| | | • Partly because of this fragmentation, the European production sector is characterised by a myriad of specialised SMEs that cannot compete on full market terms with vertically integrated Hollywood majors that make international films and benefit from international distribution networks. | The consultants agree in this description of the European film market. This may call for specific market interventions to ensure the full utilization of the potential, but the discussion of this falls outside the scope of the study. |
| | | The 2002 Council resolution on the development of the audiovisual sector highlights undercapitalisation and fragmentation in the sector and "invites the Commission to consider the importance and the role of state aid - which can contribute to the emergence of a European audiovisual market and to the development of its industrial fabric". In other words, the Council recognises the difficulty of the audiovisual sector to operate on full market terms. state aids are a prerequisite to developing a competitive European audiovisual industry in the context of existing market failures.<br>• Furthermore, the conclusion of the EU's budget summit in March 2007 recalls, "particular attention should be given to the potential of SMEs, including in the cultural and creative sectors, in view of their role as drivers of growth, job creation and innovation". Internal market policy should therefore take into account the specificities of | |

**TABLE H2: COMMENTS RECEIVED ON THE PRELIMINARY FINAL REPORT**

| Report Section | Organisation | Comment | Consultant Response |
|---|---|---|---|
| | | the creative sector.<br><br>National support schemes differ from Community programmes in the sense that public resources must be primarily used to achieve national objectives. No national support scheme will therefore consider allocating its funds to international projects without explicitly or implicitly ensuring a return on in-vestment for its own country. | |
| | | The disparity of public resources prevents equal reciprocity between different national or regional funding schemes across Europe. If all European film agencies had the same level of resources, France or Germany could – for example - fully allocate their funds to productions in other European Member States. They would anticipate that their industry will also benefit from the same level of funding deriving from Malta or Bulgaria, for instance. However, the financial realities of Member States' government budgets differ across the EU. Countries spending a lot of money on the development of the film industry would not equally benefit if they made available their funding to film activity across Europe . Countries will therefore only accept to support inter-national projects if territorialisation clauses are there to guarantee a certain degree of return on public investment.<br><br>Territorialisation clauses guarantee local benefits in terms of jobs, expertise and regional spend and help to achieve the Lisbon objective of becoming the world's most competitive knowledge-driven economy. Geographically focused film support also attracts inward investment and fosters international knowledge exchange. For example, territorialisation clauses clearly contributed to fostering the Walloon audiovisual industry: Wallimage is the Walloon regional funding organisation created in 2001 that implies regional spending. Due to its policy the fund attracted 25 films and ensured the local spend of 60.000 workdays in the audiovisual industry. This led to the creation of six audiovisual companies in the past four years .<br><br>The consultants' report comes to a similar conclusion when highlighting that "state aid given with territorialisation is less expensive to the State or the region because part of it will return with tax payments with direct and indirect income.(…) As a result it may be possible for a country to increase state aid by a factor of two or three, if it makes use of territorialisation clauses "<br><br>It also stresses that territorialisation clauses "liberate public funds from their national boundaries, access to which creates an incentive to co-produce (…) Territorialisation may thus be seen as an important factor for promoting actual co-operation across borders and thereby it contributes to developing a European market for audiovisual services ". | The consultants believe this important point is clear in the report. |

**TABLE H2: COMMENTS RECEIVED ON THE PRELIMINARY FINAL REPORT**

| Report Section | Organisation | Comment | Consultant Response |
|---|---|---|---|
| | | state aids are necessary for the competitiveness of the European cinema sector considering its structural weaknesses in the context of international competition. Territorialisation clauses are the best way to ensure public funds continue to support the film sector and foster European audiovisual cooperation. | |
| | | - Cultural diversity for European competitiveness<br>EFCA believes that the consultant's approach to conducting the study is based on a flawed distinction between economic and cultural rationales pertaining to film. We feel that such differentiation is not only misleading but also counterproductive for the industry and would like to stress the dual nature of the sector: Cultural diversity helps to promote a competitive film sector. At the same time, a market oriented focus does not preclude the creation of culturally distinctive films. The European Union shares this point of view: In 2000, the conclusions of the Lisbon summit invited the Commission to "identify and promote measures to enhance the competitiveness of the European content industry" and insisted on the necessity to develop an approach integrating economic and cultural objectives. Accordingly, the MEDIA 2007-2013 programme aims to foster the competitiveness of the audiovisual industry while promoting cultural diversity. | The consultants have, in light of these comments and others, to make clear towards the end of Part G, that stakeholders have made clear that it is impossible to distinguish between economics and culture when dealing with film. Reference to EFCA's comment: "Cultural diversity helps to promote a competitive film sector. At the same time, a market oriented focus does not preclude the creation of culturally distinctive films" has been made specifically in text. |
| | | EFCA therefore would welcome if the report highlighted that content which is deeply rooted in European culture contributes to the creation of a competitive European audiovisual market. | |
| | | Furthermore, EFCA would welcome it if the study examined territorialisation clauses within the context of other EU policies. For example, the Commission argued in the GATS negotiations as well as during the development of the UNESCO Convention on Cultural Diversity that Member States should be left free to establish national public policies to defend, develop and promote cultural diversity. It appears as if the Commissions seeks to promote the concept of geographically focussed film support internationally (by advocating for a cultural exemption) while considering limiting such opportunities internally. | Reference is now made to UNESCO. However, as comments are not available from stakeholders regarding this treaty, and the fact that it was ratified later than our reference period, it is not possible to examine territorialisation clauses in context of |

**TABLE H2: COMMENTS RECEIVED ON THE PRELIMINARY FINAL REPORT**

| Report Section | Organisation | Comment | Consultant Response |
|---|---|---|---|
| | | We would therefore suggests to examine carefully whether any future changes regarding existing territorialisation clauses in the EU could have an impact on the EU's trade policies pertaining to audiovisual products and culture.<br><br>- Reducing territorialisation clauses<br>The study proved that territorialisation clauses do not affect trade but bring substantial benefits to the audiovisual sector. EFCA therefore questions the validity of any restrictions to territorialisation.<br><br>• EFCA shares the concern of stakeholders referred to in the report that restraining territorialisation provokes public authorities to transform the explicit clauses into implicit requirements. This results in uncertainty for the entire sector.<br>• Limiting territorialisation clauses narrow the possibilities to justify spending on audiovisual projects and hence proportionally reduce the availability of public funding, primarily in regions/states lacking a strong cultural awareness/cinematographic tradition.<br><br>From EFCA's point of view, restricting territorialisation requirements can seriously damage national and regional film sectors. Moreover, it hinders industry development in European Member States with low production costs as EFCA believe that were it not for territorialisation requirements, producers would only relocate the most technical parts of their projects to low-cost countries due to the lack of creative skills. Any limitation to territorialisation does not resolve but deepen the "audiovisual divide".<br><br>In theory, limiting territorialisation requirements would result in a better allocation of resources by the market across the EU. In reality, the distinctiveness of the European audiovisual sector implies that a high level of territorialisation clauses is necessary to foster the economic and cultural competitiveness of the sector. | UNESCO's convention in much detail. However, the consultant's believe reference to UNESCO's convention remains important, indicating that cultural policy, not just competition law, is important to consider here. |
| Appendix A | Netherlands Film Fund | Page 158: please change name Dutch Film Fund in Netherlands Film Fund and add 80% instead of N/A<br>Page 191: please change name Dutch Film Fund in Netherlands Film Fund.<br>page 225: we are not familiar with co-production agreements with the following countries: Mexico, Romania, Slovak Republic, Tunisia, Turkey, and Ukraine. Germany is mentioned twice. Please remove 2nd mention. | |
| Appendix D | European Audiovisual Observatory | The questionnaire does not appear to give any guidelines to non-Euro zone respondents as to the exchange rates to be applied for conversions of budgets. | The questionnaire was a European Commission initiative and therefore the consultants have no comment on this. |

# Appendix I: Responses to Quantifiable Questions from Parts F and G

| Country | Company Type | Will funds still supply aid if there is no territorialisation? | | | Will a reduction in territorialisation lead to more selective and implicit territorialisation? | | | Does the interviewee want a change in the territorialisation rules? | | | What are the motives for co-productions? | | | | | Would there be more or less cultural diversity if territorialisation was removed? | | | | Would the diversity of language be reduced if territorialisation was removed? | | | Removing territorialisation clauses will better enable a common European market for the production and distribution of film' | | | 'National and regional film funds are mainly engaged with business development and concerned to a lesser extent with specific cultural aspects' | | | | Do territorialisation requirements cause higher production costs? | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | Yes | No | N/A | Yes | No | N/A | Yes | No | N/A | More funding | International talent | Consistency with project | N/A | Travelling/ Distribution | More | Less | No Change | N/A | Yes | No | N/A | Agree | Disagree | N/A | Agree | Disagree | Both | N/A | Yes, to a high extent | Yes, to some extent | No | N/A |
| Austria | Film Agency | | 1 | | | | 1 | | 1 | | 1 | | | | 1 | | | | 1 | | | 1 | | | 1 | | 1 | | | | | | 1 |
| Czech Republic | Production Company | | | 1 | | | 1 | | | 1 | 1 | | | | 1 | | | | 1 | | | 1 | | | 1 | | | | 1 | | | | 1 |
| Denmark | Producers Organisation | | 1 | | | | 1 | | 1 | | 1 | 1 | | | 1 | | 1 | | | 1 | | | | 1 | | 1 | | | | | | | 1 |
| Denmark | Production Company | | 1 | | | | 1 | | 1 | | 1 | 1 | 1 | | 1 | | | 1 | | 1 | | | | | 1 | | | | 1 | | 1 | | |
| Denmark | Film Agency | | 1 | | 1 | | | | 1 | | 1 | | 1 | | 1 | | 1 | | | 1 | | | | 1 | | | 1 | | | | | | 1 |
| Denmark | Production Company | | | 1 | | | 1 | 1 | | | | | 1 | | | | | | 1 | | | 1 | 1 | | | 1 | | | | | 1 | | |
| Finland | Production Company | | | 1 | | | 1 | 1 | | | 1 | 1 | | | 1 | 1 | | | | | 1 | | 1 | | | | | | 1 | 1 | | | |
| Finland | Production Company | | 1 | | 1 | | | | 1 | | 1 | | 1 | | | | | 1 | | | | 1 | | | 1 | | | | 1 | | 1 | | |
| France | Film Agency | | 1 | | 1 | | | | 1 | | | | | 1 | | | | | 1 | 1 | | | | | 1 | | | 1 | | | | 1 | |
| France | Producers Organisation | | 1 | | 1 | | | | 1 | | | | | 1 | | | 1 | | | | | 1 | | 1 | | | 1 | | | | | | 1 |
| France | Production Company | | 1 | | 1 | | | | | 1 | 1 | | 1 | | | | | | 1 | | 1 | | | | 1 | 1 | | | | | 1 | | |
| France | Production Company | | 1 | | | | 1 | | | 1 | 1 | 1 | | | | | 1 | | | 1 | | | 1 | | | 1 | | | | | 1 | | |
| France | Production Company | | 1 | | | | 1 | | 1 | | | 1 | 1 | | | | 1 | | | 1 | | | | | 1 | | | 1 | | | 1 | | |
| France | Production Company | | | 1 | | | 1 | | | 1 | 1 | | 1 | | | | | | 1 | 1 | | | | | 1 | | | 1 | | | 1 | | |
| France | Production Company | | 1 | | 1 | | | | 1 | | 1 | 1 | 1 | | 1 | | 1 | | | 1 | | | | 1 | | | 1 | | | | | 1 | |
| France | Film Agency | | 1 | | 1 | | | | 1 | | | 1 | 1 | | | | | | 1 | 1 | | | | 1 | | | | 1 | | | | 1 | |
| France | Film Agency | | 1 | | 1 | | | | 1 | | | | | 1 | | | | | 1 | | | 1 | | | 1 | | | | 1 | | 1 | | |
| France | Film Agency | | 1 | | 1 | | | | 1 | | | | | 1 | | | 1 | | | 1 | | | | 1 | | | 1 | | | | | | 1 |
| Germany | Production Company | | | 1 | | | 1 | 1 | | | 1 | | | | 1 | | | 1 | | | 1 | | 1 | | | | | | 1 | 1 | | | |
| Germany | Production Company | | 1 | | | | 1 | 1 | | | | | | 1 | | | | 1 | | | 1 | | 1 | | | 1 | | | | | 1 | | |
| Germany | Production Company | | | 1 | | | 1 | 1 | | | 1 | | | | 1 | 1 | | | | | | 1 | 1 | | | 1 | | | | | 1 | | |
| Germany | Film Agency | | | 1 | | | 1 | | | 1 | | | | 1 | | 1 | | | | | | 1 | | | 1 | | | | 1 | | 1 | | |
| Germany | Film Agency | | 1 | | | | 1 | | | 1 | 1 | | | | 1 | | | 1 | | | | 1 | | | 1 | | | | 1 | | | | 1 |
| Germany | Production Company | | 1 | | | | 1 | 1 | | | 1 | | 1 | | 1 | | | | 1 | | | 1 | 1 | | | | | | 1 | | 1 | | |
| Germany | Producers Organisation | | 1 | | | | 1 | | 1 | | 1 | | | | 1 | | | | 1 | | | 1 | | 1 | | | 1 | | | | | | 1 |
| Germany | Film Agency | | 1 | | 1 | | | | 1 | | 1 | | 1 | | 1 | | 1 | | | 1 | | 1 | | | 1 | | | | | | 1 | | |
| Germany | Production Company | | | 1 | | | 1 | | | 1 | 1 | | 1 | | | | | | 1 | | | 1 | | | 1 | | | | 1 | | 1 | | |
| Germany | Production Company | | | 1 | | | 1 | | 1 | | 1 | | 1 | | | | | | 1 | | | 1 | | | 1 | | | | 1 | | 1 | | |
| Hungary | Production Company | | | 1 | | | 1 | | | 1 | | | | 1 | | | | | 1 | | | 1 | | | 1 | | | | 1 | | | | 1 |
| Hungary | Production Company | | | 1 | | | 1 | | 1 | | 1 | | | | 1 | | 1 | | | 1 | | | | 1 | | | | | 1 | | 1 | | |
| Spain | Production Company | 1 | | | | | 1 | | 1 | | 1 | | | | 1 | | | | 1 | | | 1 | | | 1 | | | | 1 | | | | 1 |
| Spain | Media Consultancy | | 1 | | | | 1 | 1 | | | | | | 1 | | | | | 1 | | | 1 | | 1 | | 1 | | | | | | | 1 |
| Spain | Production Company | | 1 | | 1 | | | 1 | | | 1 | | | | | | | | 1 | 1 | | | | | 1 | | | | | | 1 | | |
| Spain | Production Company | | 1 | | | | 1 | | | 1 | | | | 1 | | 1 | | | | | | 1 | 1 | | | 1 | | | | | | | 1 |
| Spain | Film Agency | | 1 | | | | 1 | 1 | | | | | | 1 | | | 1 | | | | | 1 | | 1 | | 1 | | | | | | | 1 |
| Spain | Producers Organisation | | 1 | | | | 1 | 1 | | | 1 | | | | | | 1 | | | | 1 | | | | 1 | | 1 | | | 1 | | | |
| Spain | Film Agency | | 1 | | | 1 | | | | 1 | | | | 1 | | | 1 | | | 1 | | | | | 1 | | 1 | | | | | 1 | |
| Sweden | Film Agency | | 1 | | 1 | | | | 1 | | 1 | | | | | | 1 | | | 1 | | | | 1 | | | 1 | | | | | 1 | |
| Sweden | Production Company | | 1 | | | | 1 | | | 1 | 1 | | 1 | | | | | | 1 | | | 1 | | | 1 | | | | 1 | | 1 | | |
| Other | University | | 1 | | | | 1 | | 1 | | 1 | | | | | | | 1 | | | 1 | | | 1 | | | | | 1 | | | | 1 |
| | **Total** | **1.00** | **28.00** | **11.00** | **12.00** | **1.00** | **27.00** | **10.00** | **19.00** | **11.00** | **26.00** | **7.00** | **14.00** | **11.00** | **15.00** | **4.00** | **13.00** | **6.00** | **17.00** | **15.00** | **6.00** | **19.00** | **8.00** | **13.00** | **19.00** | **9.00** | **11.00** | **4.00** | **16.00** | **3.00** | **17.00** | **6.00** | **14.00** |
| | **Percentage of respondents** | **2.4%** | **68.3%** | **26.8%** | **29.3%** | **2.4%** | **65.9%** | **24%** | **48%** | **28%** | **65%** | **18%** | **35%** | **28%** | **38%** | **10%** | **33%** | **15%** | **43%** | **38%** | **15%** | **48%** | **20%** | **33%** | **48%** | **23%** | **28%** | **10%** | **40%** | **8%** | **43%** | **15%** | **35%** |

# Appendix J: Interview Guides for Parts F and G

Main questions to be answered:

**Impact of Territorialisation on the way in which co-productions are financed** - the location of spending by cost categories (*The main financing models of international co-productions with specific reference to the impact of Territorialisation-issues, the Media Plus programme and the instruments of the Council of Europe on co-productions*).

**Impacts of Territorialisation on co-productions** and in particular **whether Territorialisation is an obstacle** to European co-productions.

What would be the **cultural consequences of removing Territorialisation** from national and regional aid schemes? (Number and genres of film produced and distributed, number of festivals etc.),

## Producers:

- Clarify experience of producer (how long in business, how many co-production, in which position)

If possible, the interview may focus on a particular co-production case. Otherwise a broader view may be taken, depending on the interviewee.

The interview guide is seen as a guide, and we will not necessarily cover all aspects in all interviews. On the other hand, when a respondent has more interesting details concerning some aspects, it may be worth spending more time on that.

At first I would like you to think of a specific case, where you were involved in the establishment and funding of a co-production.

***Roles and motives***

- Please explain your role as majority or minority co-producer, what was your role in relation to preparation of the co-production, identification of co-production partners, and in planning the funding (in this case or generally – valid for all questions)?
- What were the motives for establishing a co-production agreement?

***Selection of partners***

- How was the co-operation partners identified and selected. What were the important factors influencing these key decisions?

***Funding***

- How was the funding of the co-production planned. What was the ideal funding structure and what was achieved?

- Did any of the funding sources have territorialisation clauses/spending requirements, please explain.
- Do you find that you will pick certain funds over others because of different territorialisation clauses / spend requirements? And was the funding of the co-production eventually influenced by the existence of different territorialisation clauses? Please explain the process that led to the final funding pattern.
- Did you encounter problems such as conflicts between the standard terms of bilateral co-production treaties and the territorialisation clauses of funding schemes? Please explain.
- In your view, how does this case deviate from a typical situation.

***Territorialisation in general***

- Do you think the national states and the national or regional funding bodies would continue to give state aid (national and regional), if they could not make territorialisation requirements? Why?
- In case the state aid would continue without territorialisation requirements:

- Do you think the **number of co-productions and national productions** would change if territorialisation clauses were removed? Please explain.
- Do you think the **distribution of costs related to production, post-production, marketing, distribution and promotion** would increase/decrease/stay unchanged if territorialisation clauses were removed? Please elaborate.
- Do you think the **average budget size of European film and other audiovisual productions** would increase/decrease/stay unchanged if territorialisation clauses were removed? Please elaborate.

***Cultural aspects***

- In case the state aid would continue without territorialisation requirements:

- Do you think that films and other audiovisual works would be less culturally diverse and distinct?
- What kind of films do you think would be particularly affected? Genres (drama, horror, comedy, etc), types of film (shorts, animations, feature films, first-time films, etc), budgets (high, medium, low).
- Would the quality of films and the marketability abroad be affected? Success at festivals, and the number of total festivals, should be asked as well.
- Would the diversity of language in European film be affected?
- Would the number and character of experimental works in the European film industry be affected?
- Would the development of talent and regional competence be affected?
- Would the development and maintenance of regional cultural identity be affected?.

- Do you agree in the following statement: Removing of territorialisation clauses will better enable a common European market for the production and distribution of film.
- Do you agree in this statement: National and regional film funds are mainly engaged with business development and concerns to a less extent the specific cultural aspects.
- Can you identify any other cultural consequences of the removal of territorialisation clauses?

***Other questions (optional, if relevant and possible)***

- How will you describe the cost- and price level concerning film production in other European countries as compared to yours? Do the price variations reflect different productivities? And why is it that the mobility of labour and services does not result in a higher degree of parity.
- Concentration in the European film sector: What is the turnover of the largest ten enterprises in the EU?
- In your view what countries demand the highest spending as a condition for support?
- In your view which are the funding schemes of your country that demand the highest local spending as a condition of support?
- How (criteria) do you evaluate the level of territorialisation of a given country / funding scheme?
- In your perception, are the rules on territorialisation requirements that you have to meet clear and transparent? - If not, how do you proceed to apply them?
- How do you solve conflicts, if any, between territorialisation requirements and requirements based on co-production agreement?

## Funding Bodies

- Please explain the background for and the overall objectives of your Fund.
- Who are your main target groups? To what extent are you funding co-operation projects.
- Does your fund ask for regional or national spending as a condition for funding an AV production?

***Motives***

- What do you think is the main motives for entering international co-production agreements? Risk-sharing, Get more funding, get access to other markets, get access to other competencies, or others?

***Selection of partners***

- How in your experience do producers identify and select co-producers? How do you evaluate co-producers when you are approached for funding – do some work better

than others for you? What are the important factors influencing these key decisions? Traditional connections, ideal match of funding or access to funding without territorialisation clauses/spending requirements, access to main markets?

***Funding***

- Are your funds normally involved in the design of the funding pattern for a co-production, and how is an ideal funding structured, taking into consideration the different terms and conditions on one hand and the need for risk diversification on the other?
- Will you prefer to see co-funding without territorialisation clauses, and does such a priority affect the funding pattern?
- Do you encounter problems such as conflicts between the standard terms of bilateral co-production treaties and the territorialisation clauses of funding schemes? Please explain.

***Territorialisation in general***

- Do you think the national states and the national or regional funding bodies would continue to give state aid, if they could not make territorialisation requirements? Why?
- In case the state aid would continue without territorialisation requirements:

- Do you think the **number of co-productions and national productions** would change if territorialisation clauses were removed? Please elaborate. Well I wouldn't go so far. Hard to foresee. Maybe better to have it than not.
- Do you think the **distribution of costs related to production, post-production, marketing, distribution and promotion** would increase/decrease/stay unchanged if territorialisation clauses were removed? Please elaborate.
- Do you think the **average budget size of European film and other audiovisual productions** would increase/decrease/stay unchanged if territorialisation clauses were removed? Please elaborate.

***Cultural aspects***

- How does territorialisation affect your entrepreneurial and the artistic freedom of the creative people involved in your productions?
- In case the state aid would continue without territorialisation requirements:

- Do you think that films and other audiovisual works would be less culturally diverse and distinct?
- What kind of films do you think would be particularly affected?
- Would the quality of films and the marketability abroad be affected?
- Would the diversity of language in European film be affected? no
- Would the number and character of experimental works in the European film industry be affected?
- Would the talent and regional competence development be affected? no
- would the development and maintenance of regional cultural identity be affected?.

- Do you agree in the following statement: Removing of territorialisation clauses will better enable a common European market for the production and distribution of film.
- Do you agree in this statement: National and regional film funds are mainly engaged with business development and concerns to a less extent the specific cultural aspects.

***Other questions (optional, if relevant and possible)***

- How will you describe the cost- and price level concerning film production in other European countries as compared to yours? Do the price variations reflect different productivities? And why is it that the mobility of labour and services does not result in a higher degree of parity.
- Concentration in the European film sector: What is the turnover of the largest ten enterprises in the EU?
- In your view what countries demand the highest spending as a condition for support?
- In your view which are the funding schemes of your country that demand the highest local spending as a condition of support?
- How (criteria) do you evaluate the level of territorialisation of a given country / funding scheme?
- In your view, are there any changes to territorialisation clauses that would improve the current situation?
- In your perception, are the rules on territorialisation requirements that you have to meet clear and transparent? - If not, how do you proceed to apply them?
- How do you solve conflicts, if any, between territorialisation requirements and requirements based on co-production agreement?

## Film body representative and regulators

At first I would like you to think of a specific case, where you were involved in the establishment and funding of a co-production.

***Roles and motives***

- Please explain what was your role in relation to preparing the co-production, identification of co-production partners, and in planning the funding (in this case or generally – valid for all questions)?
- What were the motives for establishing a co-production agreement?

***Selection of partners***

- How was the co-operation partners identified and selected. What were the important factors influencing these key decisions?

***Funding***

- How was the funding of the co-production planned. What was the ideal funding structure and what was achieved?
- Did any of the funding sources have territorialisation clauses/spending requirements, please explain.

- Do you find that you will pick certain funds over others because of different territorialisation clauses / spend requirements? And was the funding of the co-production eventually influenced by the existence of different territorialisation clauses? Please explain the process that led to the final funding pattern.
- Did you encounter problems such as conflicts between the standard terms of bilateral co-production treaties and the territorialisation clauses of funding schemes? Please explain.
- In your view, how does this case deviate from a typical situation.

***General impacts of territorialisation***

- Do you think the national states and the national or regional funding bodies would continue to give state aid, if they could not make territorialisation requirements? Why?
- In case the state aid would continue without territorialisation requirements:

- Do you think the **number of co-productions and national productions** would change if territorialisation clauses were removed? Please elaborate. Well I wouldn't go so far. Hard to foresee. Maybe better to have it than not.
- Do you think the **distribution of costs related to production, post-production, marketing, distribution and promotion** would increase/decrease/stay unchanged if territorialisation clauses were removed? Please elaborate.
- Do you think the **average budget size of European film and other audiovisual productions** would increase/decrease/stay unchanged if territorialisation clauses were removed? Please elaborate.

***Cultural aspects***

- In case the state aid would continue without territorialisation requirements:

- Do you think that films and other audiovisual works would be less culturally diverse and distinct? In Germany, it is anyhow different. We don't have any special German requirements. We are more European. It doesn't matter for us. The cultural tests are carried out in, for example, the UK. I n Germany you don't ask for German – rather for European.
- What kind of films do you think would be particularly affected?
- Would the quality of films and the marketability abroad be affected?
- Would the diversity of language in European film be affected? no
- Would the number and character of experimental works in the European film industry be affected?
- Would the talent and regional competence development be affected? no
- would the development and maintenance of regional cultural identity be affected?.

- Do you agree in the following statement: Removing of territorialisation clauses will better enable a common European market for the production and distribution of film.
- Do you agree in this statement: National and regional film funds are mainly engaged with business development and concerns to a less extent the specific cultural aspects.

***Other questions (optional, if relevant and possible)***

- How will you describe the cost- and price level concerning film production in other European countries as compared to yours? Do the price variations reflect different productivities? And why is it that the mobility of labour and services does not result in a higher degree of parity.
- Concentration in the European film sector: What is the turnover of the largest ten enterprises in the EU?
- In your view what countries demand the highest spending as a condition for support?
- In your view which are the funding schemes of your country that demand the highest local spending as a condition of support?
- How (criteria) do you evaluate the level of territorialisation of a given country / funding scheme?
- In your view, are there any changes to territorialisation clauses that would improve the current situation?
- In your perception, are the rules on territorialisation requirements that you have to meet clear and transparent? - If not, how do you proceed to apply them?
- How do you solve conflicts, if any, between territorialisation requirements and requirements based on co-production agreement?