



Launch of the AVMSDigest

EAO Brussels Conference, 29 November 2023

Eric Munch
Legal Analyst
European Audiovisual Observatory



Concept & Info Quick legal overviews on the topic of European works

Scope

Scope: EU27, UK, EEA, EFTA

First issue

General overview of national transpositions of Articles 13, 16, 17 AVMSD

Data origin

AVMSDatabase and EAO monitoring of legal evolutions in the field

Release date

Presented at the EAO's Brussels Conference on **29 November 2023**

Available for free on the EAO website on **4 December 2023**



European Works Definition

Article 1(1)(n): “European works’ means the following:

- (i) works originating in Member States;
- (ii) works originating in European third States party to the European Convention on Transfrontier Television of the Council of Europe and fulfilling the conditions of paragraph 3;
- (iii) works co-produced within the framework of agreements related to the audiovisual sector concluded between the Union and third countries and fulfilling the conditions defined in each of those agreements.

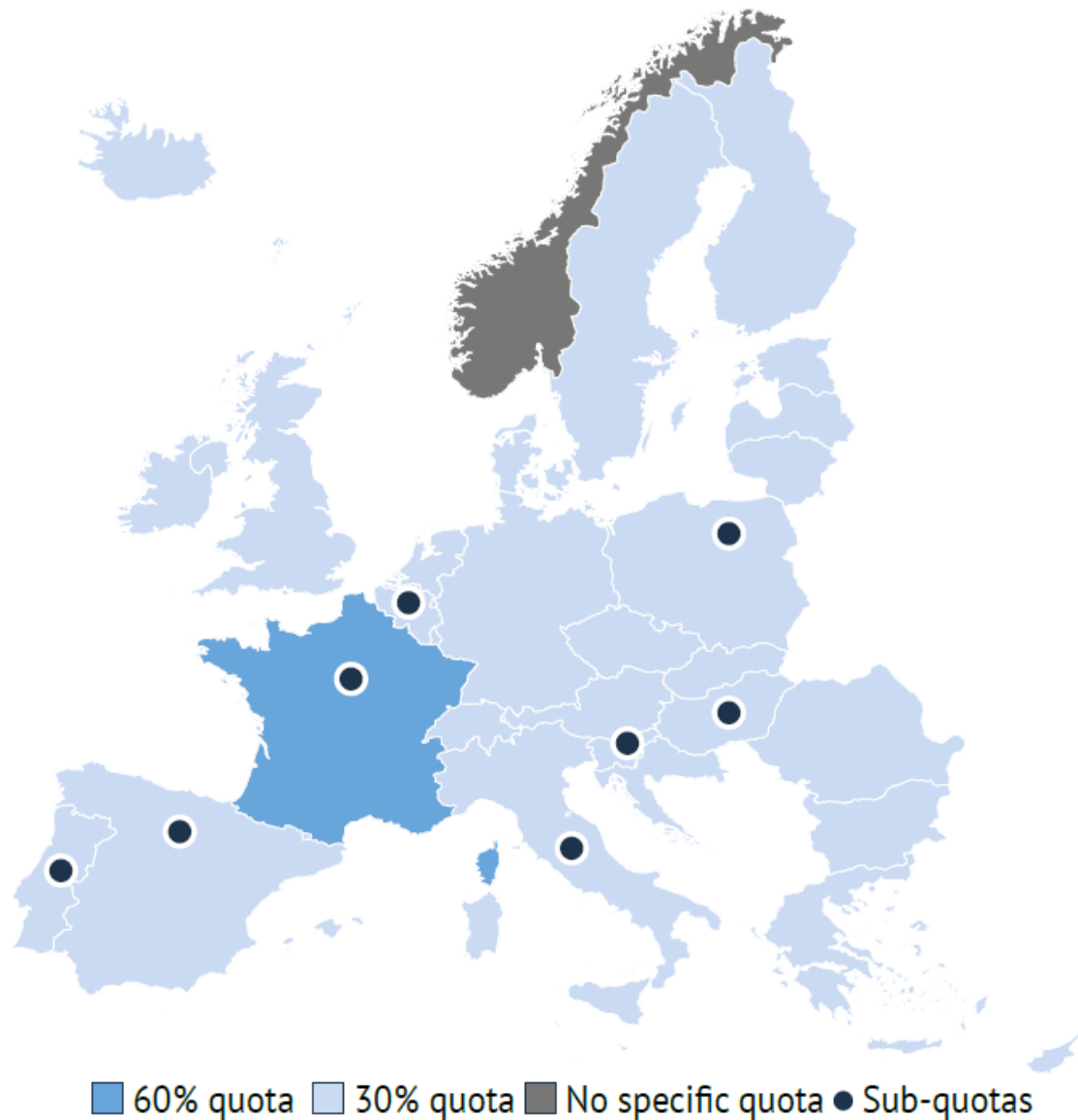
(3) The works referred to in points (n)(i) and (ii) of paragraph 1 are works mainly made with authors and workers residing in one or more of the States referred to in those provisions provided that they comply with one of the following three conditions:

- (i) they are made by one or more producers established in one or more of those States;
- (ii) the production of the works is supervised and actually controlled by one or more producers established in one or more of those States;
- (iii) the contribution of co-producers of those States to the total co-production costs is preponderant and the co-production is not controlled by one or more producers established outside those States.

(4) Works that are not European works within the meaning of point (n) of paragraph 1 but that are produced within the framework of bilateral co-production agreements concluded between Member States and third countries shall be deemed to be European works provided that the co-producers from the Union supply a majority share of the total cost of production and that the production is not controlled by one or more producers established outside the territory of the Member States.

Article 13(1)

Share of European works in VOD catalogues



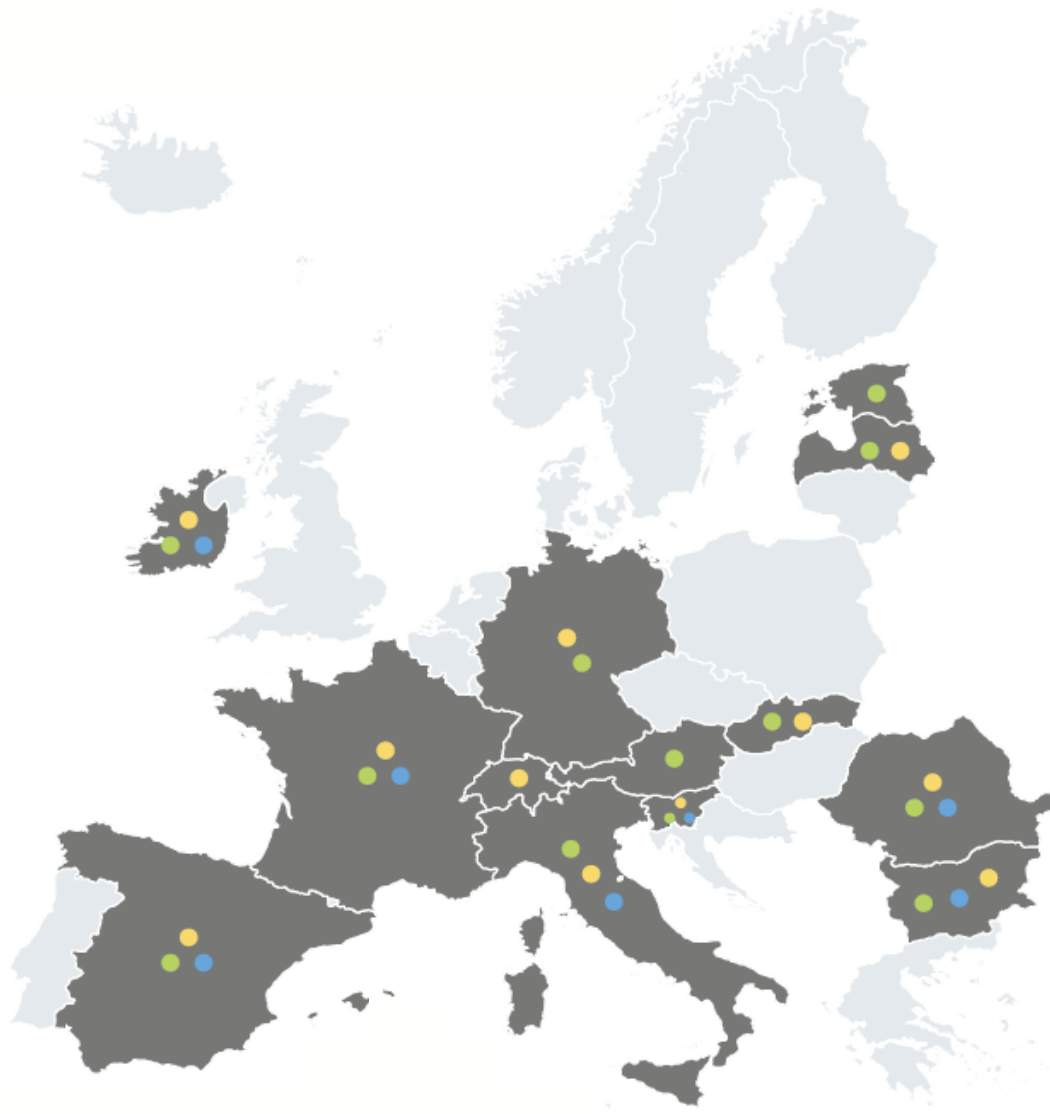
FOCUS

FR Of the total number of feature films on the one hand and audiovisual works on the other made available to the public, a share of at least 60% shall be reserved for European works.

BE(FR) The proportion must increase gradually and each year from the entry into force of the decree (2021) to reach 40% at the end of a transitional period of five years.



Article 13(1) Prominence of European works in VOD catalogues



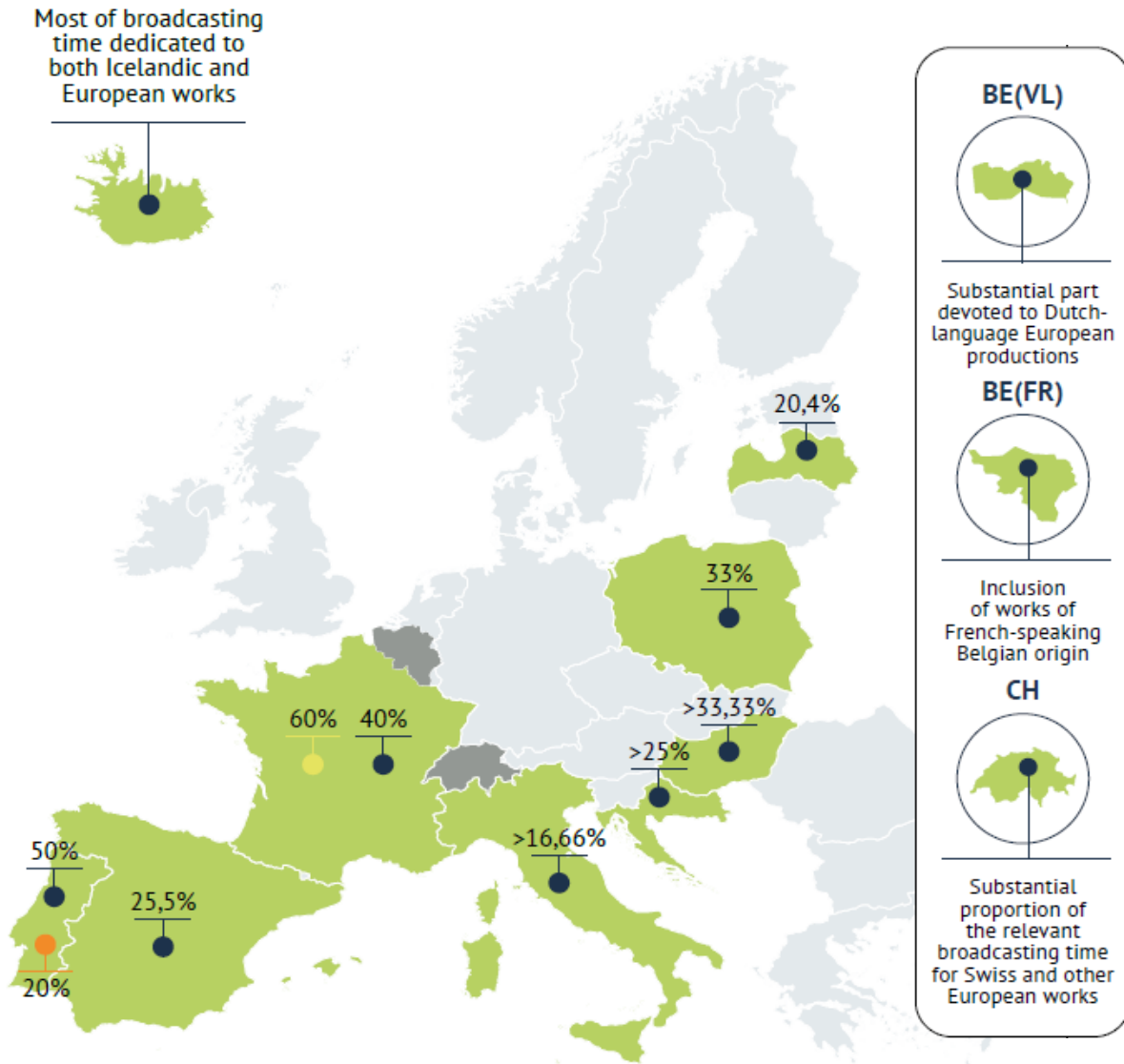
- Countries implementing specific prominence tools
- Search tool
- Attractive presentation
- Campaigns



In Spain, audiovisual content produced, dubbed or subtitled in the official languages of the Autonomous Communities must be promoted.

Article 16(1)

Majority proportion of transmission time for European works

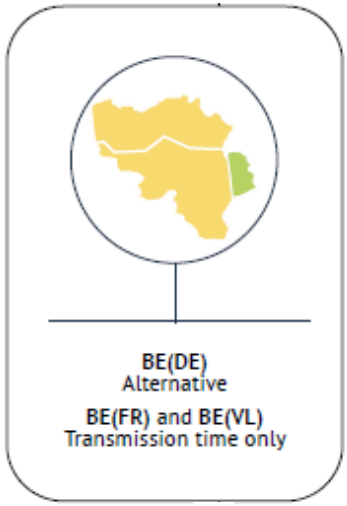
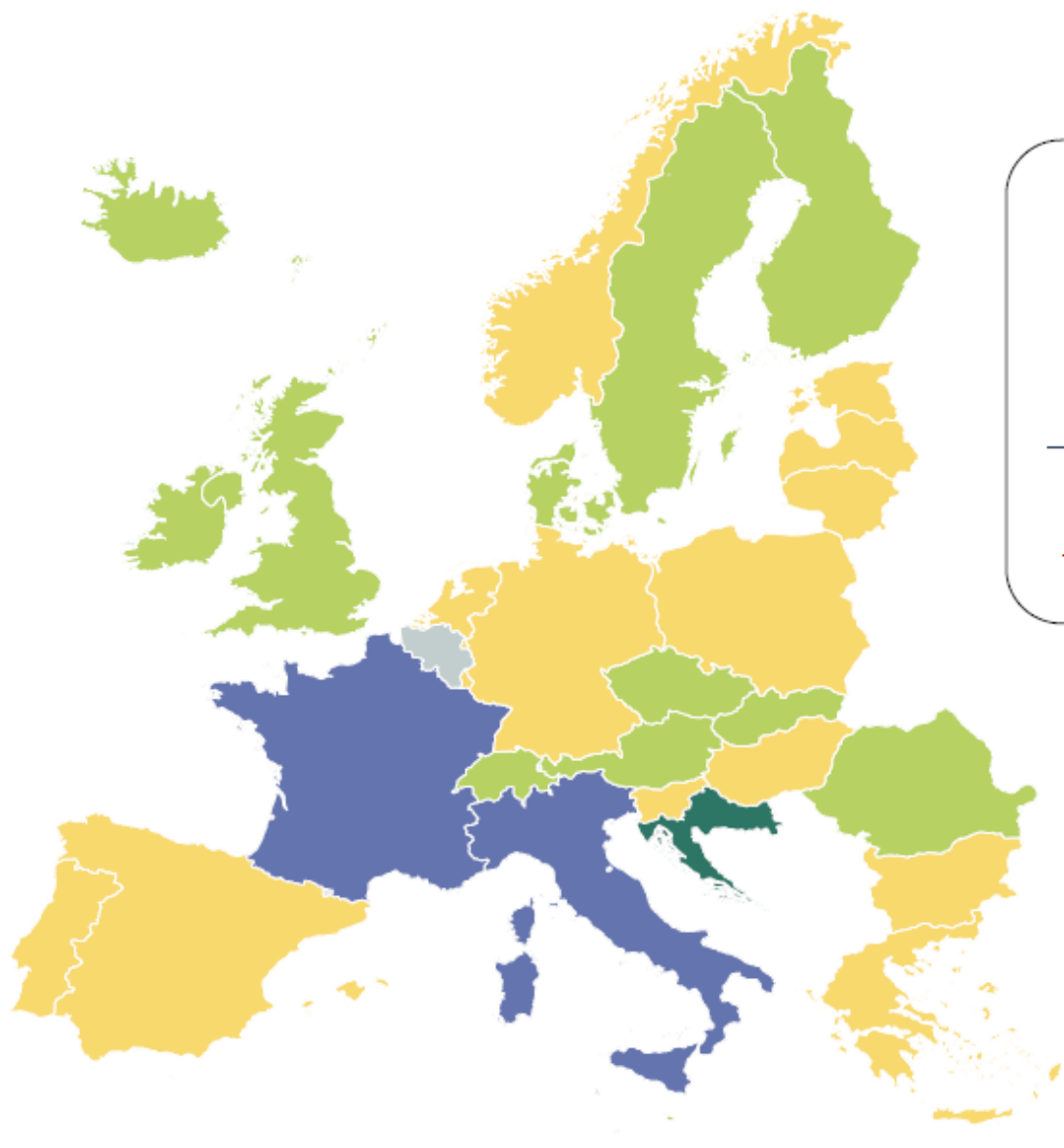


- Countries with sub-quotas
- Countries without sub-quotas
- See focus box

Sub-quotas

- Original expression works
- Creative works
- European cinematographic and audiovisual works

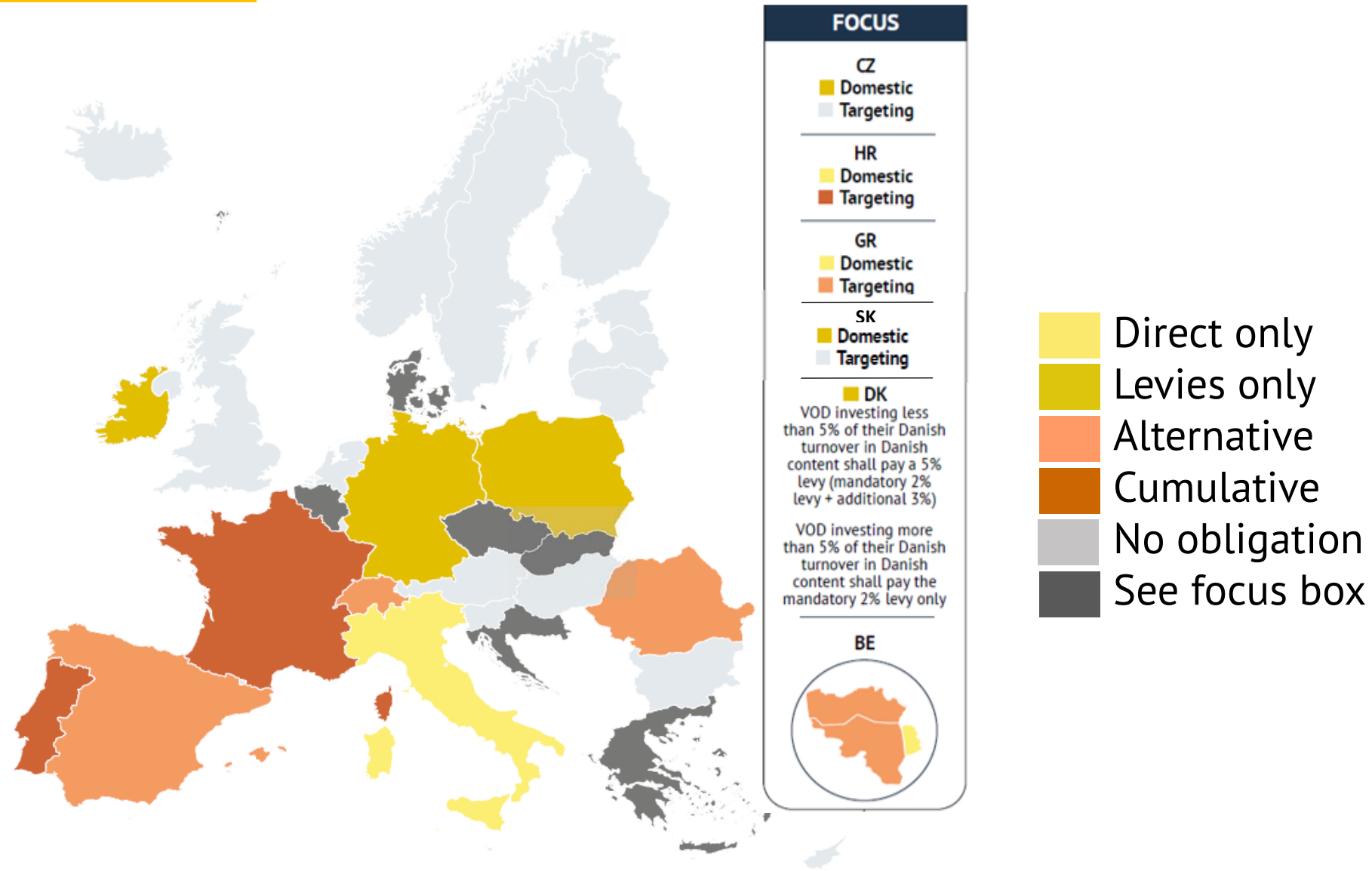
Share of independent productions



- Programming budget only
- Transmission time only
- Alternative
- Cumulative
- See focus box

Article 13(2)

Financial obligations on VOD services



Article 13(2)

Sneak peek: direct and indirect contributions for VOD services

DIRECT

FRANCE*

Rate	Subscription VOD services 25% when they offer at least one feature film/year within a period of less than 12 months after its theatrical release in France. 20% in other cases (for pay-per-view services and free-of-charge services: see Article 20 of 22 June 2021 Decree).
	Other VOD services 15%
	Catch-up TV (cinematographic contribution) Identical rate to that to which the service publisher is subject in respect of the operation of the television service from which the catch-up television service originates.
Base	Subscription VOD services and catch-up TV Net annual turnover of the previous financial year.
	Other VOD services The annual turnover arising from the exploitation of cinematographic works.

* Additional French provisions require VOD services to financially contribute to independent productions (original expression, audiovisual and cinematographic works) by spending parts of their expenditures to the development of independent AV works and cinematographic works.

Remember!
 Financial obligations remains the responsibility of member states. Countries are free to decide not only if AVMS must contribute to the promotion of European works but also the amount of such contributions.

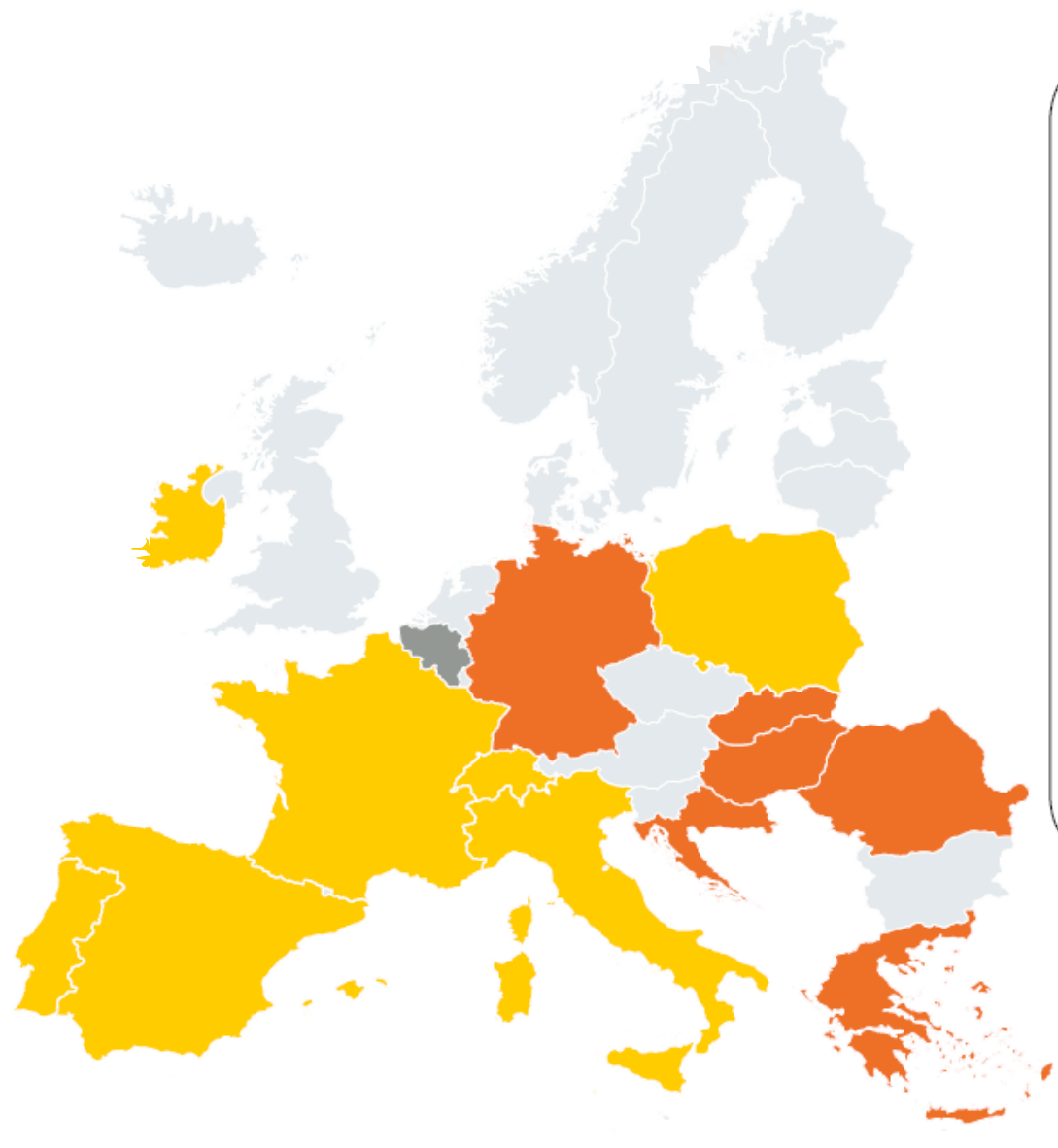


INDIRECT

DENMARK

Base & Rate	General rule: all VOD services pay a levy based on their Danish turnover	2%
	VOD services investing less than 5% of their Danish turnover in Danish content shall pay an additional 3% levy (5% in total)	5%
	VOD services investing more than 5% of their Danish turnover in Danish content shall pay the mandatory 2% levy only.	2%

Article 13(2) Financial obligations on broadcasters



BE(FR)
Obligations on domestic and targeting services

BE(VL)
No obligation

BE(DE)
No obligation

- Domestic and targeting services
- Domestic services only
- No obligation
- See focus box

Article 13(2)

Sneak peek: direct and indirect contributions for broadcasters

DIRECT

FRANCE		
Rate	Cinema	3.2% for the development of European cinematographic works, including 2.5% towards developing the production of original French-language works
	Audiovisual	15% (reduced to 12.5% when the expenditure is entirely devoted to heritage works)
Base	Net annual turnover for the previous financial year	

SWITZERLAND*

Rate	4%
Base	Gross revenues

*A substitute levy shall be due if the investment obligation is not achieved on average over a period of four years.

INDIRECT

ROMANIA	
Rate	4%
Base	Value of the advertising minutes contracted by public and private television stations.



In Romania, the 4% is added to the price and directly collected from the advertiser, the intermediary company buying the advertising minutes or the economic operator buying the advertising minutes, which is obliged to send the National Cinematography Centre a list of the contracts concluded, including their value and the names of the selling agents.