



OBSERVATOIRE EUROPÉEN DE L'AUDIOVISUEL
EUROPEAN AUDIOVISUAL OBSERVATORY
EUROPÄISCHE AUDIOVISUELLE INFORMATIONSTELLE

Public funding for film and audiovisual works in Europe

– A comparative approach

André Lange and Tim Westcott,

with the collaboration
of Olivier Debande and Susan Newman

Published in cooperation with
the European Investment Bank



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Public funding for film and audiovisual works in Europe – A comparative approach

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Executive Director, European Audiovisual Observatory,

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Systematic information and analysis of public policies supporting the film and audiovisual industry: a priority area of work for the European Audiovisual Observatory

Wolfgang CLOSS
Executive Director
European Audiovisual Observatory

Due to its unique characteristics, the film and audiovisual sector has attracted particular attention in terms of public policies in the European states virtually since it first came into existence. Such public intervention has been necessitated by the domination of the international film market by the Hollywood giants since the end of the First World War, as well as the economic weakness of national film industries and the political and cultural issues associated with the production and distribution of images.

Public authorities can affect the economic structure of the film and audiovisual industry in various ways. The most traditional forms of intervention concern the regulatory and financial structure of television. Public bodies exert a strong influence on the economy of the sector through the way television is funded (whether through public funding or the regulation of private funding), by imposing a regulated structure on relations between broadcasters and producers, and by obliging broadcasters to invest in production.

In parallel to their policies on the structure of the television sector, public authorities have set up various forms of sectoral aid.

Sectoral aid is traditionally defined as any financial intervention by public authorities in the day-to-day running of a given market. Public authorities' financial intervention to support the film and audiovisual industry can take a variety of different forms:

- a. direct intervention in the form of subsidies in the strict sense of the term
- b. tax relief on income, aimed at promoting investment
- c. granting of preferential credit
- d. organisation of a system of financial guarantees aimed at covering the major risks associated with investment in production
- e. financial transfers ordered or assisted by the public authorities in order to ensure the transfer of resources from one branch of the industry to another (particularly from television to production)
- f. provision of practical help to promote filming through the establishment of film commissions
- g. organisation of film promotion measures (festivals, international promotion, etc)
- h. organisation of legal and economic measures aimed at encouraging co-operation with economic players from other countries.

This report will focus only on sectoral policy types a. and e., in other words **direct public aid** whether from direct state subsidies or from funds financed by various taxes on the income

of branches of the industry or of other bodies, such as lottery organisers.

Current challenges

The systematic gathering of information and comparison of public policies supporting the film and audiovisual industry clearly fall within the remit of the European Audiovisual Observatory.

2004 will be an important year as far as these activities are concerned:

- In 2004, UNESCO will draft an international convention on the protection of cultural diversity, aimed, inter alia, at establishing the legality of public aid for cultural industries vis-à-vis other instruments of international law.

- The enlargement of the European Union to 25 member states will increase the need for information on the situation in the acceding states. Since all ten new members were founding members of the Observatory and have thus fallen within the scope of our work for ten years, the Observatory is ideally placed to help provide that information.

- Also in 2004, the EU instruments that support the audiovisual industry, particularly the future of the MEDIA Programme, will be re-evaluated. The meeting of experts on the reform of the instruments designed to promote the European audiovisual industry, organised by the Italian Presidency (Taormina, 15-16 November 2003), looked in particular at the problems of coordinating national and European aid schemes.

- The European Commission has published the 26th March 2004 a new Communication that confirms the current criteria for the analysis of the conformity of aids with the EU competition law. An in-depth study is announced.

The Observatory Statute clearly explains that the Observatory should not be involved in the definition of audiovisual policies. The Observatory should not therefore express opinions on the merits of such policies, particularly sectoral aid mechanisms. However, it is clear that most professional bodies within the industry and all European governments believe that sectoral aid is necessary for the survival of such a diverse and creative industry. Providing the most comprehensive and accurate information available can only improve people's understanding of the international and European issues at stake.

Activities of the European Audiovisual Observatory to analyse public intervention supporting the film and audiovisual industry

Listing and comparing all the forms of intervention practised in the different European countries is a long-term project which has already been tackled on several occasions by the Council of Europe, especially since 1978. Clearly, it has formed one of the principal tasks of the European Audiovisual Observatory since its creation.

The main activities carried out by the Observatory in this field are as follows:

- establishment between 1993 and 2000 of an internal database (RAP – Resources for Audiovisual Production) of national public aid schemes,

- involvement in the drafting in 1996 of the report *European cinema – a common future*, 8th Conference of European Ministers responsible for Cultural Affairs, organised by the Council of Europe (Budapest, 28-29 October 1996),

- publication in 1998, in collaboration with the CNC, of the report *Public Aid Mechanisms for the Film and the Audiovisual*

Industry in Europe. This report, comprising two volumes, contained firstly a comparative analysis of national aid mechanisms (vol.1), and secondly, a series of national monographs (vol. 2),

- publication in 2001 of a legal report: *National Film Production Aid: Legislative Characteristics and Trends (IRIS plus 2001/4)*,

- for the first time in 2002, publication of statistical data on public aid in different European countries in volume 3 (*Film-Video*) of the *Yearbook*,

- official launch in May 2003 of the KORDA database on public aid mechanisms for the film and audiovisual industry (<http://korda.obs.coe.int>). This database can be used for systematic searches for public aid bodies and support programmes, whether European, national or regional. It is compiled in direct co-operation with the KORDA network of relevant bodies, which are themselves able to update information concerning them,¹

- publication in June 2003 of a report in IRIS plus entitled "*European Public Film Support within the WTO Framework*",

- launch in September 2003 of the *IRIS-Merlin* database, providing better access to the legal information published in the *IRIS Newsletter* and, in particular, information concerning regulatory aspects of support for the film and audiovisual industry,

- organisation, in collaboration with the European Investment Bank, of a conference *Film Financing in Europe: policy, strategy and effect* (London, 20 November 2003).

This report contains:

The present report follows on from these various activities and is partly intended as an update of the first volume of the 1998 report *Public Aid Mechanisms for the Film and the Audiovisual Industry in Europe*. It did not seem necessary to publish an update of volume 2 of that report, since the KORDA database offers much more comprehensive access to more frequently updated information on the aid mechanisms operated in each country.

This report contains:

- a general overview of measures adopted by public authorities to support the film and audiovisual industries,

- an analysis of some macro-economic parameters of film and audiovisual production and public funding policies,

- a comparative analysis of direct public support mechanisms,

- an analysis of the role of banks in the financing of film and audiovisual production, with a contribution by Olivier Debande (European Investment Bank).

¹ See presentation of the KORDA database in part 5 of this report.

Future Observatory activities

The Observatory is aware that this report is not exhaustive and various activities remain in the pipeline.

The Observatory's action programme for 2004 includes:

- strengthening of links with national film agencies, coordinated within EFAD (European Film Agencies Directors). An initial meeting of researchers from these agencies was hosted by the UK Film Council (London, 19 October 2003). The Observatory will take the baton by organising a meeting of this new network in autumn 2004.
- further updating of the KORDA database. Particular efforts will be made to increase the amount of information on regional funds in collaboration with Cinéregio, the new organisation coordinating the activities of regional funds, backed by the European Commission (Interreg Programme).
- continued reporting in the monthly *IRIS Newsletter* of legal developments concerning public policies on support for the industry.
- improvements to the gathering of legal information in order to collate and publish in the *IRIS Merlin* database relevant information on co-production agreements. KORDA and *IRIS Merlin* will be systematically linked in this area.
- gathering of documentation concerning issues parallel to KORDA (tax incentives, role of broadcasters in production), not necessarily for publication.

The Observatory's Action Plan for 2003-2005, adopted by the Executive Council on 15 November 2002, makes provision for a broadening of the internal expertise of the Observatory Secretariat through the creation of a post for a lawyer specialising in tax law issues. For obvious reasons, this part of the Action Plan has yet to be implemented. However, it is a necessary step if the Observatory is to possess the additional expertise that its Advisory Committee considers indispensable if we are to supplement our information-gathering and comparative analysis of sectoral aid mechanisms in terms of the different types of fiscal policy used to support the industry.

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On behalf of the Observatory, I would like to thank the European Investment Bank for its direct involvement with this project, as well as the members of the KORDA network who, by feeding information into the database of the same name and kindly replying to our questions, provided the basic information necessary for the drafting of this report.

Strasbourg, May 2004

Bank lending to the film and audiovisual industry: the involvement of the European investment bank

Michel Deleau

**Director General – Projects Directorate
European Investment Bank (EIB)**

The audiovisual and film sector – with its associated industrial and cultural challenges and the major role it affords to new technologies – is an important one for the balanced development of the European Union. Structurally the industry involves a wide variety of players, ranging from small companies to large groups, and it is beset by problems of "fragmentation" affecting both audiovisual production (film and TV programme making) and distribution. This situation explains some of the weaknesses apparent in the EU particularly by comparison with the United States, resulting in a high level of penetration by US films and TV programmes and a substantial commercial deficit. There is a risk that the market could be further fragmented by enlargement of the EU to 25 member States.

Recently there have been contradictory trends in the European film and audiovisual market as market growth has moved in one direction and profitability in another. On the one hand, household consumption of audiovisual products and services is growing, as is turnover in the sector. On the other hand, financial returns in the different segments of the industry (production, distribution and exploitation) are falling – the notable exception here being the DVD market. The European media world has experienced a series of major industrial setbacks affecting big groups (such as Vivendi Universal), some of which (notably Kirch Gruppe) have actually gone bankrupt. At the exploitation end, cinema operators face high levels of debt incurred in modernisation (with the development of multiplexes), although there has also been a positive impact here with an upturn in cinema attendance. Meanwhile the television sector has had to cope with a slump in the advertising market up to 2002 and a steep rise in the cost of acquiring rights for sports events and films, leading to the consolidation or restructuring of many pay-TV channel operators (in Italy, for example, Telepiú and Stream merged, as did Via Digital and Canal Satélite Digital in Spain). In a parallel development the launch of digital television was followed by the collapse of ITV Digital in the UK and Quiero Digital in Spain. There is a danger that recession in the pay-TV market in particular could have a domino effect on film production and distribution.

The number of banks lending in the audiovisual sector in Europe has declined in recent years for various reasons: the bursting of the Internet bubble; the relatively low return on loans to this industry and particularly to SMEs (where lending volume is too low and administrative and transaction costs are high); risk perception; new banking regulatory constraints associated with the implementation of Basel II; and, lastly, a deteriorating macro-economic situation that has a strategic effect on banks, prompting them to refocus on traditional areas of business. Because the banks that specialise in lending to the audiovisual and film sector tend not to be large ones, the current

situation has produced a squeeze on financing capacity. The sector in Europe thus faces a shortage of risk-sharing resources. The fragmentary nature of the film and audiovisual market at European level and the need for lenders to be familiar with local markets (factors here being the difficulty of evaluating intangible assets and the importance of information about local players, such as producers etc) make it hard for new financial intermediaries to gain a foothold.

Traditionally, producers of audiovisual products and/or films are able to mobilise various sources of funding: (i) equity capital; (ii) subsidies from the public purse via regional, national or European authorities; (iii) ad-hoc tax arrangements (such as the tax shelter model under which investment in the media sector attracts tax relief); (iv) the discounting of distribution or broadcasting contracts; (v) distributors' minimum guarantees; and (vi) financing contributions from co-producers.

TV channels play an increasingly important role in the financing of European audiovisual production. Ultimately each stage in the creation of an audiovisual work requires a source of funding that reflects the underlying risks: the development phase demands capital resources in the form of venture capital, public subsidies, and resources committed by co-producers, whereas requirements in the production phase can be met through structured borrowing.

From a lending bank's point of view the financing of films is similar to project financing inasmuch as loan repayment depends on the production company's ability to complete the film within a fixed budget and to generate enough revenue to service the debt. It should also be pointed out that audiovisual or film production companies with a sufficiently solid financial base can use underwriting facilities based on their asset value, although there are few instances of this practice. It is a feature of the European film financing market that financing capacity is relatively low due to the highly specialised nature of the market and the deterrent effect of past mistakes. The practice of European banks, unlike their counterparts in the US market, is to discount contracts with distributors for film pre-sales (minimum guarantees) and contracts with TV channels: what they offer, except when they finance US productions, is not therefore genuine "gap financing".¹ A "portfolio approach", entailing securitisation of a package of films currently in production, is one solution developed for film financing particularly in the US. A further major difference between the European and American markets is the importance attached in the financing of European films and TV programmes to public-sector funding. Obviously the audiovisual sector has needs other than film financing and more traditional forms of financing, such as corporate loans, also have their place.

In December 2000 under its Innovation 2000 Initiative – launched in June of that year in order to foster the development of a knowledge and innovation-based European economy – the EIB Group, in close cooperation with the European Commission and its Media Plus initiative, embarked on a special programme to support the European audiovisual industry. Entitled "i2i Audiovisual", the programme aims to help the industry develop in a balanced way both geographically and technologically and to make it more competitive, particularly by supporting the development of transnational business with a view to deriving maximum benefit from the scale of the European audiovisual market. In 2003, building on the positive results achieved since the launch of "i2i" and in furtherance of the Lisbon process, the EIB Group extended and enhanced its support for those sectors associated with a knowledge-based economy by putting in place a new financing programme known as the Innovation 2010 Initiative. The EIB is thus continuing to support the European film and audiovisual sector.

This report concentrates on comparative analysis of the ways in which public authorities in Europe provide financial support either via direct subsidies from the public purse or through mechanisms for transferring resources between different sectors of the film and audiovisual industry or from other bodies. As part of a broader study of funding arrangements, the role of bank financing for film and audiovisual production was explored, and this is the focus of the EIB's particular contribution which appears as a chapter of the report.

How the EIB supports the film and audiovisual industry

The EIB works with partner banks to co-finance film and audiovisual projects on commercial terms. It selects the banks with which it works on the basis of their expertise and their track record in the media sector. Loans are granted in respect of tangible assets (physical infrastructure) or intangible assets (content) at the different stages in the industry's value chain:

- film and audiovisual production;
- distribution (covering digital networks, digitalisation of film catalogues, and distribution groups' assets);
- cinema operation;
- infrastructure and equipment for post-production studios, TV channels, etc.

The EIB supports the media sector through four different types of lending.

1. For projects with a high investment cost it offers individual or "corporate" loans, which are granted to public and private radio and TV stations and to production, distribution and cinema-operating companies. In the case of project promoters in the first category, the purpose of the loans is to support modernisation of existing buildings or equipment, or development of new activities associated with the introduction of new information and communication technologies (digitalisation, Internet etc). Loans to companies in the second category may be for the construction of multiplex cinemas or for digitalisation of distributors' catalogues etc.

2. For projects with a lower investment cost brought forward by SMEs, financing without risk-sharing is available through global loans or credit lines granted to specialised lenders. This type of financing aims to support the many independent SMEs involved in audiovisual production and distribution. The EIB risk in such cases is the risk associated with the financial intermediary rather than the final beneficiary.

3. For projects with a lower investment cost brought forward by SMEs, risk-sharing resources are also available via specialised risk-sharing credit lines. Here the EIB makes available a credit line with risk sharing on a *pari passu* basis for financing SMEs in the audiovisual sector – a type of arrangement that more closely reflects the risk structure characteristic of the industry. The Bank has already made available two successive credit lines on this basis with Natexis Coficiné and Cofiloisirs covering not only the French market but also lending to companies in other European countries. Scope for developing this type of instrument elsewhere in Europe is limited because only a few banks specialise in lending to the audiovisual sector. Moreover, putting such machinery in place also depends on public authorities making appropriate legislative and regulatory provision.

4. Pan-European venture capital funds specialising in content industries.

The EIB aims to continue providing types of financing tailored to the needs of the European audiovisual and film industry with

¹ This term denotes financing of a film where the various contributions included by the producer in the finance plan do not cover the film's entire budget (as a rule, financial resources are required in every case but unsold rights for certain territories also enter into the equation). The proportion of the budget not covered is generally 15-20% and this is met by commercial or investment bank lending based on analysis of the potential of unallocated territorial and other rights.

a view to making the sector more competitive while at the same time taking account of its "cultural diversity" aspect, particularly against the background of EU enlargement to 25 member States. In order to do this it must be able to rely on the cooperation of specialised banks with the necessary expertise and a recognised track record in financing the sector, based specifically on thorough familiarity with the nature of local markets and with the calibre of the various players involved (producers, actors etc). A key requirement here is knowledge not only of how specialised bank financing for the media works but also of the public financing mechanisms operated by authorities at different levels in Europe, and of country-specific regulatory and legislative provision for the industry.

This report's analysis of bank financing is a first step that should pave the way for fresh thinking about the development

of appropriate financing models capable of strengthening the European media sector, and particularly of helping it to withstand US competition and ensuring its survival at national level while at the same time promoting the circulation throughout an enlarged Europe of made-in-Europe works.

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On behalf of the European Investment Bank I should like to thank the European Audiovisual Observatory for inviting us to participate in this study, and more generally for the quality of its work and the statistics it produces, which improve our knowledge of the sector and our ability to work with it.

The political and institutional context of public aid for the film and audiovisual industry in Europe

1.1 History

1.2 Council of Europe activities promoting public aid for film and audiovisual production

1.3 State aid to the film industry in the European Union context

1.4 Recent trends in national policies on aid to the European film industry

1.5 Support policies in the face of internationalisation of the film industry

1.1

History

Sectoral aid to the film industry dates back to the 1930s, when the emergence of talking films strengthened America's domination of the European markets, a phenomenon which was well and truly established by the end of the Second World War.

Following an initial wave of protectionist regulation in the form of screen quotas (Germany, 1921, United Kingdom, 1927, Italy, 1927), public authority intervention quickly began to take the form of direct economic aid. Apart from the nationalisation of film companies by the Soviet authorities (1920), the earliest public authority economic intervention for the film industry was carried out by the Italian fascist regime (1931)¹, the national-socialist regime in Germany (1933)², and the Franco regime in Spain (1938, 1941)³. In France, the first proposals for state economic intervention in the film industry were made in various official reports in the 1930s. However, it was the creation of the *Comité d'organisation de l'industrie cinématographique* (Committee for the organisation of the film industry - COIC) by the Vichy regime (framework law of 16 August 1940) which marked the launch of public intervention in France.⁴

This first wave of economic intervention by totalitarian regimes was clearly not free from propaganda-related objectives and involved a certain amount of censorship, but it nonetheless benefited films produced by the private sector, not all of which were pure propaganda. After the Second World War, the economic justification for this type of intervention, once the censorship and propaganda had been eliminated, was not questioned by the democratic regimes.

In France, for example, the creation of the *Centre national de la cinématographie* (national film centre - CNC) (Act of 26 October 1946) ensured the continuation of many aspects of the system set up in 1940⁵. From 1952 onwards, some *Länder* of the Federal

¹ Legge n.918 18 giugno 1931. This took the form of a 10% levy on box office receipts. It was therefore automatic rather than selective aid, justified for both economic and educational reasons. See G.P. BRUNETTA, *Storia del cinema italiano, 1895-1945*, Editori Riuniti, Roma, 1979, pp. 303 et seq. and B. CORSI, *Con qualche dollaro in meno. Storia economica del cinema italiano*, Editori Riuniti, Roma, 2001, p. 23.

² Goebbels announced an interventionist policy on 14 March 1933. The Filmkreditbank GmbH (Film Credit Bank) was established at the end of May 1933. See K. KREIMEIER, *The Ufa Story: A History of Germany's Greatest Film Company, 1918-1945*, translated from German by R. and R. Kimber, University of California Press, 1999.

³ Creation of the Subcomisión Reguladora de la Cinematografía under the auspices of the Ministerio de Industria y Comercio (1939) and Orden del Ministerio de Industria y comercio, 11 November 1941, establishing a film credit system which could cover up to 40% of production costs plus annual awards for high-quality production. See J.E. MONTERDE, "El cine de la Autarquía (1939-1950)", in R. GUBERN et al. *Historia del cine español*, Catedra, Madrid, 1995 and A. CUEVAS, *Economía cinematográfica. La producción y el comercio de películas*, Imaginografo, Madrid, 1999, p. 85.

⁴ See P. BILLARD, *L'âge classique du cinéma français. Du cinéma parlant à la Nouvelle Vague*, Flammarion, Paris, 1995.

⁵ See, inter alia, G. VALTER, *Le régime de l'organisation professionnelle de la cinématographie, du corporatisme au régime administratif*, Librairie générale de droit et de jurisprudence, Paris, 1969; D. KESSLER, "Le CNC, au cœur du cinéma français", in *Quelle diversité face à Hollywood ?*, Cinémaction, Condé-sur-Noirau, 2002, pp. 174-177.

Republic of Germany established bank credit guarantee schemes for the film industry. In Belgium, where the public authorities had supported the industry in the 1930s by commissioning documentaries⁶, the first automatic aid schemes were launched in 1952. In the United Kingdom, state intervention was first discussed in 1944, although economic aid funded by a tax on cinema tickets (the "Eady Levy") was not introduced until 1951. This funding system, which was initially meant to operate until 1954, actually continued until 1985.⁷

The principle of public aid for the film industry therefore spread across various European states. The Council of Europe and the European Community institutions (particularly the European Commission and Parliament) have generally adopted a positive attitude to this principle.

1.2

Council of Europe activities promoting public aid for film and audiovisual production

The Council of Europe began looking at the question of state aid for the film industry in 1978 (Report by its Committee on Culture and Education, Lisbon symposium). Parliamentary Assembly Recommendation 862 (1979) on cinema and the state recommended that the Committee of Ministers instruct an appropriate committee to prepare recommendations to governments for the elaboration of new cinema policies, covering in particular, at national level, practical measures for the stimulation of film production. The Council for Cultural Co-operation set up a committee of government film experts, which was active until early 1990.

Over the years, the Council of Europe has published various comparative studies of public aid for the cultural industries, particularly the film and audiovisual industry.⁸

The Council of Europe's support for film production was boosted by the creation in October 1988 of the Eurimages co-production fund.⁹

On 2 October 1992, the Council of Europe opened for signature the European Convention on Cinematographic Co-production, which entered into force on 1 April 1994.¹⁰

The importance of public film aid policies was highlighted at the 8th Conference of European Ministers responsible for Cultural Affairs (Budapest, 28-29 October 1996). The conclusions

of this conference particularly stressed that "the process of gradual enlargement from the Council of Europe to Greater Europe makes it even more necessary to take account of cultural and economic differences between member States with regard to assistance in the production, distribution and use of moving images. This state of affairs amply justifies the special treatment that public, national and international policies must give the cinema, which like books cannot be regarded as a mere consumer product entirely subject to market law".

1.3

State aid to the film industry in the European Union context

Since the adoption of the Treaty of Rome (1957), establishing the European Community, the question of aid to the film industry has been frequently debated, particularly in relation to European competition law. This debate has been particularly topical since 2001 and is on the European Union agenda for the first half of 2004. This chapter merely aims to lay down some reference points to aid an understanding of the issues involved.

⁶ F. SOJCHER, *La kermesse héroïque du cinéma belge*, Vol. 1, *Des documentaires et des farces (1896-1965)*, L'Harmattan, Paris, 1999.

⁷ B. BAILLIEU and J. GOODCHILD, *The British Film Business*, John Wiley & Sons, London, 2002, p.61.

⁸ The most significant reports based on the Council of Europe's activities on public film aid include:

- Proceedings of the Symposium "Cinema and the State", Culture and Education Committee (Lisbon, 14-16 June 1978)
- F. ROUET, *Des aides à la culture, Le soutien public aux industries de la culture en Europe et au Québec*, Pierre Mardaga, Bruxelles, s.d ; (1987)
- *Finance and taxation in the audio-visual sector in Europe*, CDMM (89)5, Secretariat Memorandum prepared by the Human Rights Directorate, Council of Europe, Strasbourg, 1989.
- *Finance and taxation in the audio-visual sector in Europe*, Mass Media Files, Council of Europe, Strasbourg, 1991
- J.-N. DIBIE, *Aid for cinematographic and audio-visual production in Europe*, Dixit/Council of Europe, Paris, 1992
- C. JODLOWSKI and L. LE FLOCH ANDERSEN, *Financing cinematographic production in Europe*, based on the RAP – Resources for audiovisual Production Reference file, 8th Conference of European Ministers responsible for Cultural Affairs (Budapest, 28-29 October 1996), Council of Europe, Strasbourg, CM (96)4, 1998.

Analysis of national policies on support for the film and audiovisual industry can be found in the context of member States' cultural policies in Cultural policies in Europe : a compendium of basic facts and trends. This on-line information service, edited by the Council of Europe's Directorate General: Education, Culture and Heritage, Youth and Sport, is available at the following Internet address: <http://www.culturalpolicies.net/>.

It is based on the results of the Council of Europe's programme examining national cultural policies and on other research; it is regularly updated and so far contains 28 country profiles.

⁹ See chapter 10, below

¹⁰ See chapter 7, below

1.3.1. Admissibility of aid to the film industry under the principle of Article 92.3 (c) of the Treaty of Rome

This special dispensation is based on the approach taken by the European Community following the adoption of the Treaty of Rome (1957). Under Article 92.3 (c) of the Treaty of Rome, certain state aid could be considered to be compatible with the common market¹¹

The Commission has consistently considered film aid, due to its specific economic and cultural nature, to be covered by the dispensatory provisions of the said EEC treaty under the terms of Article 92.3 (c), provided it respects all the provisions of the Treaty, particularly those concerning the free movement of people and free provision of services (Articles 7, 48, 52 and 59).

In 1989, a Commission decision stated that the film aid mechanism introduced by Greek law no. 1597 of 12 May 1986 was incompatible with the common market under the terms of Article 92.1 of the EEC Treaty, since the granting of aid was subject to conditions relating to nationality which were incompatible with Articles 7, 48, 52 and 59.¹²

1.3.2. The Maastricht Treaty

With the adoption of the Maastricht Treaty on European Union on 7 February 1992, a cultural dimension was introduced to the process of European construction through the provision in Article 3(p) added to the Treaty establishing the European Community that one of the purposes of the European Union is to contribute to "the flowering of the cultures of the member States".

Article 128 of the Treaty establishing the European Community (Article 151 after revisions introduced in the Treaty of Amsterdam) authorises the European Union to establish instruments supporting cultural initiatives such as the Culture 2000, European City of Culture and European Month of Culture programmes. It has two main objectives: not only to contribute to the flowering of the cultures of the member States with respect for their national and regional diversity, but also to promote the shared cultural heritage. The European Union supports co-operation between cultural players in the different member States and supplements their initiatives, but it does not require them to harmonise their cultural policies. The Community's activities cover the following four areas:

- enhancing awareness and dissemination of culture and European history;
- preserving and protecting cultural heritage with European significance;

- non-commercial cultural exchange;
- artistic and literary creation, including in the audiovisual sphere.

Co-operation with non-member States and international organisations, particularly the Council of Europe, is encouraged.

Under Article 128(4), now 151(4), the European Union has to take cultural aspects into account in all its activities. The procedure for adopting cultural activities proposed by the Commission is co-decision (agreement of the European Parliament and Council of Ministers), whereby the Council of Ministers has to agree unanimously.

With regard more specifically to the question of state aid, Article 92 (d) of the Treaty of Maastricht specified that are in conformity 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".

1.3.3. Examination of aid mechanisms by the Commission

It was therefore necessary to determine at what point such aid should be considered to affect trading conditions and competition. In 1997, the Commission had to deal with this question in response to a complaint about the exclusion effects created by the French film production aid system. At the Commission's request, the French authorities amended a series of incompatible provisions of their film production aid system, which was authorised by the Commission on 3 June 1998. In its decision (N3/98), the Commission mentioned four specific compatibility criteria for the authorisation of film and television production aid, in accordance with the "culture derogation" enshrined in Article 87.3 (d). The Commission also undertook to re-examine the systems of other member States in the light of the criteria adopted in the decision concerning France.

The Commission has also examined systems in Ireland, Denmark, France, the Netherlands, Germany and Sweden. The Surveillance Authority of EFTA also approved the law in Iceland having checked its conformity with the Agreement on the European Economic Area. The legal basis of state aid was underlined in decisions by the Commission that each support system for film should guarantee the cultural content of the film, that the producer should do the same, and that it should be possible for 20% of the of the budget of the film to be spent in other countries. In addition, support should not exceed 50% of the cost and should be neutral in respect of the subsidised activities.¹³

¹¹Treaty of Rome, Article 92:

"1. Save as otherwise provided in this 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. (...)

3. The following may be considered to be compatible with the common market: (...)

(c) aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest."

¹² 89/441/EEC: Commission Decision of 21 December 1988 on aid granted by the Greek Government to the film industry for the production of Greek films, Official Journal L 208 of 20/07/1989 pp. 0038 - 0041.

On discussions from the beginning of the 1980s, see in particular J.-C. BATZ, "Cinéma et Marché commun. Le Traité de Rome, les aides étatiques au cinéma et leur éventuelle harmonisation communautaire", in Rapport introductif, "Le problème de la production de films en Belgique", Colloque de l'Institut de Sociologie de l'Université libre de Bruxelles (Bruxelles, 2-6 December 1963).

¹³ See S. NIKOLTCHEV and F.J. CABRERA BLAZQUEZ, "National Film Production Aid: Legislative Characteristics and Trends", in *Key Questions for the Audiovisual Sector*, IRIS Plus Collection, European Audiovisual Observatory/ Victoires Edition, Strasbourg/Paris, 2002, pp.118-127.

1.3.4. Concerns of member States and professional

These decisions were a source of some concern in professional circles and among those responsible for national aid mechanisms. At the meeting of the Council of the European Union on 26 September 2000, several member States expressed concern that the Commission had questioned the compatibility of their national aid systems with the provisions of the Treaty related to competition. On 23 November 2000, the Council passed a Resolution on national aid to the film and audiovisual industries.

The Council considers the audiovisual industry to be a cultural industry and national aid as a means of safeguarding cultural diversity. It believes that national policies to support film and audiovisual production are justified, particularly since they can contribute to the development of a European audiovisual market. It is therefore necessary to look at ways of strengthening the legal certainty of these measures. The Council is also in favour of continuing the current dialogue between the Commission and the member States. The Resolution concluded by urging the Commission to communicate its position on this matter by the end of 2001.

1.3.5. Commission Communication on the future of the film and audiovisual industry in Europe (26 September 2001)

The Commission Communication of 26 September 2001 on certain legal aspects relating to cinematographic and other audiovisual works (COM(2001)534final) deals with matters such as state aid for film and television production and the compatibility of certain funding mechanisms with European legislation. This document gave rise to further discussions concerning existing compatibility criteria which, according to the Commission's conclusion, "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 Commission Communication explains the criteria according to which aid mechanisms for film and TV production are evaluated. The Commission begins by verifying that the eligibility conditions of the schemes are not contrary to the EC Treaty, particularly in terms of discrimination on the grounds of nationality (for example, aid being reserved exclusively for nationals) and respect for the rules of the internal market. Secondly, the Commission ensures that aid mechanisms fulfil the specific criteria for film and television aid set out in the decision of June 1998 concerning the French aid scheme.

In doing so, the Commission applies the "culture derogation" contained in the Treaty, which gives special treatment to the cultural sector, and seeks a balance between the objectives of cultural creation, the development of audiovisual production in the EU and respect for Community law on state aid. These specific criteria are as follows:

- The member State must ensure that the content of the aided production is cultural according to verifiable national criteria. In accordance with the subsidiarity principle, the Commission should never pass judgement on what should be considered to be cultural.
- The member State cannot require the producer to spend more than 80% of the budget of the aided film or TV work on national territory and the producer should be free to choose which items of the budget are spent abroad.
- Although aid intensity must in principle be limited to 50% of the production budget, this limit does not apply to difficult and low budget films. Member States define what are consid-

ered to be difficult and low budget films in each aid mechanism. Films produced in a limited linguistic or cultural region shall be afforded extra flexibility.

- In order to prevent national aid schemes for film or TV production from attracting business from one member State to another, aid supplements for specific production activities (eg post-production) are not allowed. On the basis of these criteria, the Commission has already examined and approved several national schemes: France, Spain, the Netherlands, Germany (federal level and some *Länder*), Ireland and Sweden.

A full review of national schemes is to be completed in 2004.

1.3.6. European Parliament report on the Commission Communication¹⁴

In the report of the Committee on Culture, Youth, Education, the Media and Sport, the European Parliament noted the Commission Communication and:

(...)

"3. supports the Commission's moves to make the criteria it uses when examining aid to the audiovisual sector in the member States more transparent; regrets the fact that certain parts of its communication of September 2001 on this topic, however, remain vague or are incomplete;

4. calls on the Commission, in assessing the funding of cinema films, other audiovisual works and public-service radio from the point of view of aid legislation, to take account of the relevant judgments of the ECJ, e.g. the *Preussen-Elektra* judgment of March 2001;

5. calls on the Commission to amend, where necessary, the legislative provisions that deal with State aid in order to take account of the fact that the audiovisual sector is both cultural and industrial in nature (...)

8. urges that legal certainty, which the Commission wishes to generate in the audiovisual sector with respect to State aid, should be guaranteed and should continue over coming years and takes the view that, if a re-examination of this issue is considered necessary in June 2004, this should lead to increased flexibility rather than a stricter application of the aid rules of EU competition law, and genuine consideration of the cultural and industrial needs of the cinematographic and audiovisual sector."

1.3.7. Development in 2003 - New coordination between European film agency directors (EFAD)

In 2003, the political context (activities of the World Trade Organisation concerning audiovisual services, activities of the European Convention on the European Constitution, preparation of the UNESCO General Assembly with the possibility of adopting a binding instrument protecting cultural diversity) did not fully calm member states' fears relating to the future of aid policies for the film and audiovisual industry.

In an unprecedented step, on 17 March 2003, the directors of the national film agencies of the 15 European Union member states published a joint declaration. This group of European film agency directors (EFAD) noted, in its Communication of 26 September 2001, that "the Commission acknowledges that audiovisual works, and in particular the cinema, play a key role in the forging of European identities and that these works present unique characteristics associated with their dual economic and cultural nature. This is why the development of this sector has never been left solely up to market forces".

¹⁴ Report on the Commission communication on certain legal aspects relating to cinematographic and other audiovisual works (COM(2001)534 - C5-0078/2002 2002/2035(COS)) of 5 June 2002, Doc. No. A5-0222/2002, European Parliament Committee on Culture, Youth, Education, the Media and Sport, Rapporteur: Lucas Vander Taelen

However, the directors clearly voice their fears:

"However, the examination of State Aids schemes by the European Commission remains based on rules that reflect adequately neither the cultural, economic and social specificity of cinema, nor the objective differences in conditions encountered in the different member States. The definition - for each country - of the criteria for granting support, and sometimes the very existence of national support measures, continue to be questioned and therefore give rise to uncertainty. We therefore consider that:

- The rationale for supporting films cannot be confined only to those considered as "cultural". A clear-cut distinction between commercial and cultural works is artificial, since each film is both a commercial venture and an expression of culture. Similarly, it is not possible to single out "difficult" films.

- Restricting the level of state support to a predetermined percentage of the costs may not adequately reflect market conditions; in no member State is the market of sufficient size or stability to provide the conditions for a healthy and diverse film market.

- The fabric of the industry needs to be strong enough to enable creativity. It is therefore legitimate for the facilities sector to benefit both from direct or indirect support (e.g. through contributions to the budgets of films that satisfy criteria regarding the proportion of local expenditure).

- The support measures do not confer any kind of dominant position on national films in their national markets. On the contrary, the status of those films is often fragile. The support measures do not therefore represent a barrier to the circulation of films from other parts of Europe. Moreover, the measures have functioned to encourage and reinforce co-operation and networking between member States' film industries by granting access to each other's national support schemes, by stimulating the framing of bilateral agreements and by fostering the use of multilateral funds.

- Such competition as exists between films from different European countries is indeed marginal as compared to the competition with non-European films, especially given the position of the films of the US Majors. As a rule, circulation of films within the EU is possible only if, in a first instance, they can exist in their own national markets.

For those reasons, the rules of examination and approval by the European Commission undermine the effectiveness of our state aids because of their failure to take into account the specificity of the sector. The short duration of the approvals (that the Commission has limited to 2004) serves to remove certainty and deny the long-term well-being, both of which are necessary for the development of coherent and structurally-effective cultural policies that are capable of adapting to evolving market conditions."

The EFAD members therefore wish to draw to the attention of their governments:

- The need to affirm the legitimacy of prevailing cultural policies and to reiterate to the European Commission this legitimacy.

- The urgent need to work with the European Commission to find a solution that guarantees the maintenance and evolution of systems of state aids for the cinema in the long term.

- The particular usefulness of measures that serve to make markets open and audiences receptive to the widest range of works, and therefore stimulate pluralism and diversity."

1.3.8. The Cannes declaration by the Ministers for Culture

The ministers for culture, meeting in Cannes on 15 May 2003, in the presence of Mrs Viviane Reding, European Commissioner for Culture and Education, and Mr Michel Rocard, President of the European Parliament's Culture Commission, adopted a declaration dealing in particular with the legitimacy of public aid schemes:

"Film and creativity are at the heart of European cultural identities. Europe is rich in talent, ideas, films makers, actors and technicians, which gives it an enormous potential in the field of cinema. Notwithstanding, European film remains in a minority, and sometimes marginal position on its own markets. Without the support of the European market, several national film industries could be in danger. An extended Europe will bring new momentum to the film industries of the twenty-five countries.

Aware of our strengths, but also of the fragile situation of our creative sector, the European Union has put in place an ambitious audiovisual policy, the two pillars of which are the Media programme and the "Television Without Frontiers" directive. Further action should be developed, for example, to promote film and media literacy in schools.

Europe has also been able to promote its audiovisual sector vis-à-vis trade rules. European countries have committed themselves strongly to promote their creative industries by putting in place film support funds and mechanisms. These support measures do not have the purpose of creating dominant positions for national films in national markets. On the contrary, they have helped to encourage and strengthen cooperation in the film sector between member States by allowing access between systems through a policy of bilateral agreements and the establishment of multilateral funds.

Culture ministers intend to retain their powers to support film and creativity. This is why they insist on maintaining the rule whereby all member States accept decisions made in relation to cultural and audiovisual services in trade agreements. It is vital that each country be allowed to continue to design and implement its cultural policy. In this respect, Art.151 of the EC Treaty is essential and European support action must be decided by a qualified majority.¹⁵

1.3.9. Preparation of a communication for the first half of 2004

Mrs Reding announced that, during the first half of 2004, a new Commission communication would be drafted on support for the film and audiovisual industry. At the ARP conference in Beaune in October 2003, she said:

"Mario Monti and I published the communication on the way in which competition law should deal with public film aid, whether regional or national. It was a minor miracle, but lightning can strike twice. Although we performed that miracle in 2001, we can perform another one in 2004. Mario Monti and I are currently considering how we can publish another Commission communication on European cinema.

In the previous Commission, the Competition Commissioner and the Audiovisual Commissioner did not work together. However, Mario Monti and I have managed it and we will continue to do so. We hope that, in 2004, we will be able to publish a new com-

¹⁵ See <http://www.culture.gouv.fr/culture/actualites/communiq/aillagon/cannes-festival.htm>

communication which gives the film industry long-term legal security. In future we will need regional and national aid as well as European aid, which is both complementary and different at the same time. For example, aid from the MEDIA programme helps with film distribution. The two types of aid combined produce results."

On 15 December 2003, the European Commission published a Communication on "The future of European regulatory audiovisual policy" (COM(2003)784final)¹⁶. After recalling the criteria set out in the September 2001 Communication and the Commission's recent assessment of certain state aid programmes¹⁷, the document states that "the Commission Services are working on a new cinema communication, which should be adopted before June 2004, in order to guarantee legal security in line with state aid rules over a longer period of time".

The EFAD is still concerned about the Commission's plans. According to *CNC Info*¹⁸, in a letter recently addressed to Viviane Reding, European Commissioner for Culture and Education, the European film agencies responsible for public aid to the film and audiovisual industries in the EU member States withdrew their support at the Commissioner's request so that the Commission will not be reviewing all European countries' aid schemes in 2004. According to the EFAD, this aid is necessary for the development of constructive cultural policies that can be adapted to the constant changes in the sector, and for the development of an ambitious European film industry. The short duration of approval means that these provisions lack the necessary stability and legal security. The letter also points out that ten new states will join the European Union in 2004. Given the highly precarious situation of the national and European film industries, the agencies hope that the Commission will guarantee the stability of the principles it has laid down, in order to help these countries move towards stronger aid mechanisms.

On 18 December 2003, the Commission submitted two working documents:

- Discussion document on the adjustment of compatibility criteria for State aid to cinema and TV programme production
- Discussion paper on the financing of State aid systems through parafiscal levies

In the first of these documents, the Commission notes that some national aid schemes impose "territorialisation rates" (i.e. a percentage of the amount of aid or of the budget of an aided film which should be spent in the country concerned) and asks the member States for their views on this subject. It suggests three possible options for the harmonisation of territorialisation criteria:

- 1. to link the degree of territorialisation to the proportion represented by aid in the film budget (the producer may spend 20% of the aid in other member States);
- 2. to limit territorialisation criteria to those posts identified

in the film budget as cultural or artistic;

- 3. to remove any territorialisation clause, but allow a higher percentage of the film budget to be funded by aid schemes.

These documents were discussed with representatives of the member States on 9 January 2004 and with professionals on 19 January 2004¹⁹. According to *CNC Info*, "the two meetings demonstrated unanimous opposition among the states as well as professionals to the Commission's approach, which does not take into consideration the specificities of the film and audiovisual sectors. The Commission, which has exclusive powers regarding competition, hopes to publish this new Communication in the spring and then to use its provisions as guidelines for the examination of the different national systems"²⁰. On 11 February, in Berlin, the members of EFAD published a declaration underlining the unanimous support of the national film agencies for the maintenance of the status quo in terms of the current rules. The declaration emphasises that "no evidence has been presented that support measures for their industries and their film-makers, put in place by member States, significantly impair the workings of the internal market".²¹

On 16 March 2004, the European Commission published "a Proposal for a Recommendation of the European Parliament and of the Council on film heritage and the competitiveness of related industrial activities".²²

In this communication, the Commission declared that it has "carefully considered the arguments put forward by the national authorities and the professionals of the cinematographic sector. It accepts that the sector of film production is under pressure. It is therefore willing to consider, at the latest at the time of the next review of the Communication, higher aid amounts being made available provided that the aid schemes comply with the conditions of general legality under the Treaty and, in particular, that barriers to the free circulation of workers, goods and services across the EC in this sector are reduced".

The Commission said it would carry out an extensive study on the effects of the existing State aid systems, which should examine in particular the economic and cultural impact of the territorialisation requirements imposed by member States, in particular taking into account their impact on co-productions.

The Commission extended the validity of the specific compatibility criteria for aid to cinema and TV programme production, as set out in the Communication, until 30 June 2007.

The announcement was welcomed by member States, in particular in France.²³

¹⁶ http://europa.eu.int/eur-lex/fr/com/cnc/2003/com2003_0784fr01.pdf

and press release of 16 December 2003:

http://www.europa.eu.int/rapid/start/cgi/guestfr.ksh?p_action.gettxt=gt&doc=IP/03/1732|OIRAPID&lg=FR&display=>

¹⁷ N410/02 (Belgian "tax-shelter" system), N261/03 (FFG in Germany), available at http://europa.eu.int/comm/secretariat_general/sgb/droit_com/index_en.htm#aides

¹⁸ Letter from European film agencies to Viviane Reding, *CNC Info*, n°10, Paris, December 2003-January 2004, p.2

¹⁹ For information on territorialisation, see chapter 6.8, below.

²⁰ "Aides nationales au cinéma et à l'audiovisuel", *CNC Info*, n°11, February 2004, p. 2.

²¹ "Déclaration des agences européennes du cinéma", *CNC Info*, n°12, March 2004.

²² COM(2004)171 final. Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on the follow-up to the Commission communication on certain legal aspects relating to cinematographic and other audiovisual works (Cinema communication) of 26.09.2001 (published in OJ C 43 on 16.2.2002) Proposal for a recommendation of the European Parliament and of the Council on Film Heritage and the competitiveness of related industrial activities, Brussels, 16.3.2004.

²³ In particular, "Le ministre de la Culture et de la Communication, Jean-Jacques Aillagon, salue l'adoption par la Commission européenne, le mardi 16 mars 2004, d'une nouvelle Communication sur le cinéma et les œuvres audiovisuelles", press release 16 March 2004.

Recent trends in national policies on aid to the European film industry

In the report *Public aid mechanisms for the Film and Audiovisual Industries in Europe* published in 1998 by the CNC and the European Audiovisual Observatory, Anne-Marie Autissier and Catherine Bizern divided the post-war history of public aid into different phases:

- first phase of establishing automatic film aid mechanisms (1950-1957)
- development of selective film aid mechanisms (1959-1981)
- first wave of regional aid development (1980s)
- emergence of aid for audiovisual production (1980s)
- search for a new balance between the economic and cultural aspects of the film industry (1990s)
- disruption of production economies in Central and East European countries following the political upheavals of 1989.

The Autissier/Bizen report noted the spread of public aid mechanisms at national and regional levels in all European countries from the 1990s onwards. It estimated the total amount of aid in the European Union to be 500 million ecus in 1995. In the present report, we estimate that EUR 1,2 billion of aid was granted in the European Union in 2002. Even taking into account inflation and the fact that the Observatory's data collection methods have improved, particularly thanks to the new KORDA database, it is clear that the rise in aid levels has accelerated.²⁴

1.4.1. New laws and reforms

Since that report was published, numerous reforms, changes and innovations have taken place in most European states. We will try to cover these in the present report.

New framework laws on the film industry have been adopted in several countries, either completely replacing previous legislation (Spain 2001, Switzerland 2001, Romania 2002, Italy 2003, Hungary 2004), filling a void in national legislation (Finland, 2000), or substantially amending existing provisions (Portugal 1998, French-speaking Community of Belgium 1998, France 1999 and 2003, Sweden 2000, Germany 2003). A new bill is being prepared in Portugal (and is expected to be enacted in the first half of 2004).

The adoption of new laws in Romania (2000, 2002) and Hungary (2004), incorporating large numbers of regulations from Western Europe, is set to be the start of a new wave of legislative reforms in Central and East European countries, most of which will join the European Union on 1 May 2004. New laws are being drafted in Bulgaria, the Czech Republic, Estonia, Latvia, Poland and Slovakia.

Some new national agencies have been set up (ICAM in Portugal, 1998, National fund for the promotion of the audiovisual industry in the Grand Duchy of Luxembourg, 1999, UK Film Council in the United Kingdom, 2000, Norwegian Film Fund, 2001, Vlaams Audiovisuelle Fund, 2002), while others have had their status strengthened or clarified (Finnish Film Foundation in Finland, 2000, Estonian Film Foundation, 2000, Centrul Național al Cinematografiei, Romania, 2002).

1.4.2 Cultural aspects and economic measures

The political affirmation of the cultural objectives of aid mechanisms does not mean - quite the contrary - that the economic dimension (André Malraux's famous "*besides, film is an industry*" comment) is taken into account in the definition of support programmes.

The trend identified in the 1990s, with a rebalancing of selective and automatic aid mechanisms, has continued, with more and more automatic aid systems being based on the success of films: since 1998, such systems have been established in the French-speaking Community of Belgium, Estonia, Switzerland, Norway, Finland, Hungary and Portugal, while existing systems in France, Spain and Italy have been reformed.

This rapid growth in the number of aid mechanisms based on commercial success is also due in part to tax incentive schemes. By stressing companies' performance, the possibility of attracting foreign investors who can benefit national production or service infrastructures, and the creation of spin-off jobs, any tax incentive scheme for the film industry clearly strengthens the economic approach.

The movement towards decentralisation, observed since the 1980s, has also developed. However, whereas this was initially connected to the emergence of regional authorities with legislative autonomy and specific powers in the area of cultural policy (*Länder* in Germany and Austria, Cantons in Switzerland, Autonomous Communities in Spain, Communities in Belgium and, later on, Nations in the United Kingdom), the 1990s saw the emergence of new regional support agencies set up by regional authorities with economic responsibilities but without constitutional autonomy in terms of cultural policy (regions in France and the United Kingdom, Wallonia, certain provinces and municipalities, etc). This second wave of decentralisation is also therefore accompanied by a movement towards a more economic and social approach, supported by regional investment trusts (United Kingdom, Wallonia) or by central state bodies which retain cultural responsibilities (France, Italy).

²⁴ See aid figures, below, Chapter 9

Support policies in the face of internationalisation of the film industry

There is one problem common to the strengthening of automatic aid schemes, the growing number of regional structures founded on economic policies, and the development of tax incentive schemes: the relationship between the economic sphere, which is undergoing rapid internationalisation, and the definition of the legal nationality of works and companies. On the one hand, it is hard for measures based on economic foundations or at least on economic principles (automatic aid, regional aid, tax incentives) to ignore geographical criteria, while on the other the European film industries, which largely remain national industries, have increasingly complex relations with companies from non-European countries, including of course the Hollywood majors.

The American majors are no longer content just to treat Europe as a group of markets that enables them to make more money from films that are already proving profitable in North America: since the 1980s, the anticipated revenue from the international market has been included in the ever-increasing budgets of the big blockbusters. However, the majors have also learned to take advantage of Europe's technical, creative and even financial potential:

- **creative potential:** distribution (in Europe and also internationally) of the few European films which are potential blockbusters²⁵, pre-emption of the rights to adapt novels likely to become successful films (*Harry Potter* by JK Rowling and *Un long dimanche de fiançailles* by Sébastien Japrisot have been those most frequently talked about in recent months);

- **technical potential:** search for studios, filming locations and facilities in Europe (but also in Canada, New Zealand, etc.), which can provide high-quality services at a reasonable cost in a favourable fiscal environment, triggering competition between different tax systems;

- **financial potential:** American production companies, which can achieve a higher return on investments than their European counterparts, are able to win support from European banks (eg *Crédit Lyonnais* Nederland in the 1980s), European groups (Canal+/Carolco, Vivendi/Universal, etc.) and small investors (the best example being the German Medienfond, which has invested several billion Euros in Hollywood projects).²⁶

This growing trend of internationalisation, with more and more subsidiaries of American firms present in the European market (not only in the distribution sector, but also in film production and exploitation, the production and marketing of videos, cable networks and, to a lesser degree, television), is having a direct impact on aid policies:

- **the definition of film nationality criteria**, which are used to determine a film's eligibility for aid, is becoming a real issue, especially following the abrogation of the 1963 Directive, which went virtually unnoticed and abolished European standards for the definition of European films (requiring managerial independence but not excluding production companies controlled by non-European firms) and since the principles of the internal market tend towards assimilation (as included in the Spanish and German laws, for example)²⁷. Recent examples such as the eligibility of the *Harry Potter* films for automatic distribution aid from the MEDIA Programme or of the *Un long dimanche de fiançailles* by Jean-Pierre Jeunet for CNC support show how sensitive this issue has become with the majors starting to produce in Europe, employing European actors, technical staff and technical companies for films based on European novels.

- **territorialisation criteria**, which are set out in a number of regulatory instruments concerning direct aid, but also in most tax incentive schemes in order to promote the development of production and of the national or regional industrial fabric, are criticised by those who think that, as suggested by Adam Smith's theory, territorial aid is an obstacle to competition and to the development of the internal market of the European Community.

- **European cultural co-operation**, which as far as support for the film and audiovisual industries is concerned, is promoted through legal instruments (Convention on European Co-production and a complex series of bilateral co-production agreements), a Community action programme (MEDIA Programme) and various multilateral projects (Council of Europe's Eurimages Fund, Nordisk Film- and TV Fund, etc.). Although it counterbalances national considerations, it is less well funded and has to deal with the enormous variety of national institutional and industrial structures.

A direct consequence of this internationalisation process, the debate on the legitimacy of territorial aid has become one of the key elements of international negotiations within the WTO, OECD and UNESCO between supporters of the **liberalisation of services** and advocates of **cultural diversity**. This international dimension is not covered by this report, although it does form part of the international political context dealt with by the report.

²⁵ See European Audiovisual Observatory, The fragmented universe of film distribution companies in Europe - Contribution to the workshop "Distribution of European Films" during the Ministerial Seminar of the Ministers of Culture of the European Union on "The Circulation of European Works of Art inside the European Union: Support Mechanisms & New Technologies" (Venice, 28 - 31 August 2003), http://www.obs.coe.int/online_publication/expert/filmdistcompanies.pdf.en

²⁶ Over the first two years in which the Medienfond system was in operation, (1999 et 2000), it is estimated that 3 billion USD of German money was invested in Hollywood. See V. HAPPE und K. OTTO, „Steuerwahnsinn - deutsche Steuerzahler finanzieren Hollywood-Filme“, Monitor (WDR), 13 Februar 2003, <http://www.wdr.de/tv/monitor/beitrag.phtml?bid=434&sid=93>

²⁷ See chapter 6.2

The different forms of public policy related to the film and audiovisual industry

2.1 Funding of the television industry

2.2 Regulating TV programming

2.3 Regulation of broadcasters' investments in film and audiovisual production

BOX N°1

Investment obligations of broadcasters in film and audiovisual production

2.4 Diversity of sectoral aid

2.5 Limitations of this report

BOX N°2

Tax incentive schemes in Europe – a summary

Due to its unique characteristics, the film and audiovisual sector has been a particular focus of numerous public policies in European States virtually since it came into existence. Such public intervention has been necessitated by the domination of the international film market by the Hollywood majors since the end of the First World War, as well as the economic weakness of national film industries and the political and cultural aspects associated with the production and distribution of images.

Public authorities can affect the economic structure of the film and audiovisual industry in various ways.

2.1

Funding of the television industry

The most traditional type of policy affecting the funding of film and audiovisual production concerns the regulatory and financial structure of television. Public bodies exert a strong influence on the economy of the sector through the way television is financed (whether through public funding or the regulation of private funding).¹

2.2

Regulating TV programming

The regulation of the programming activities of television channels usually consists of provisions designed to promote national or European audiovisual works.

In the European Union member States, this regulation is largely based on Articles 4 and 5 of the "Television Without Frontiers" Directive.

1. Member States shall ensure where practicable and by appropriate means, that broadcasters reserve for European works, within the meaning of Article 6, a majority proportion of their transmission time, excluding the time appointed to news, sports events, games, advertising and teletext services. This proportion, having

¹ The financing of public television is analysed in the Yearbook, *Economy of the European audiovisual industry*, 2003 Edition, vol.1, European Audiovisual Observatory, Strasbourg, 2003.

regard to the broadcaster's informational, educational, cultural and entertainment responsibilities to its viewing public, should be achieved progressively, on the basis of suitable criteria. (...)

Article 5

Member States shall ensure, where practicable and by appropriate means, that broadcasters reserve at least 10 % of their transmission time, excluding the time appointed to news, sports events, games, advertising and teletext services, or alternately, at the discretion of the member State, at least 10 % of their programming budget, for European works created by producers who are independent of broadcasters. This proportion, having regard to broadcasters' informational, educational, cultural and entertainment responsibilities to its viewing public, should be achieved progressively, on the basis of suitable criteria; it must be achieved by earmarking an adequate proportion for recent works, that is to say works transmitted within five years of their production.

Every two years, the European Commission publishes a report on the implementation of these articles, based on declarations by the member States.²

Article 10 of the Council of Europe European Convention on Transfrontier Television, a legal instrument which complements the Directive, also sets out cultural objectives, stipulating that "each transmitting Party shall ensure, where practicable and by appropriate means, that broadcasters reserve for European works a majority proportion of their transmission time, excluding the time appointed to news, sports events, games, advertising and teletext services. This proportion, having regard to the broadcaster's informational, educational, cultural and entertainment responsibilities to its viewing public, should be achieved progressively, on the basis of suitable criteria".

Most national television laws have incorporated these provisions, in some cases laying down even stricter obligations (in the United Kingdom, for example, 25% of programmes must be independently produced, rather than 10% as stated in Article 5 of the Directive).³

The general definition of the tasks and cultural obligations of TV channels, particularly public service channels, can also affect the vitality of the film and audiovisual industry.

2.3

Regulation of broadcasters' investments in film and audiovisual production

In addition to provisions on programming, several countries impose obligations on broadcasters regarding investment in film and audiovisual production.

These direct investment obligations, which form part of a regulatory framework, can take various forms:

- general cultural obligations laid down in the statutes or terms of reference of public service broadcasters, taking the form of investment via specialised subsidiaries, own production or works commissioned from independent producers;
- compulsory or voluntary contributions by channels to aid funds, such as those in Germany, Denmark, the United Kingdom and Sweden (see chapter 5.2.5, below);
- agreements between broadcasters undertaking to invest specified sums in film and/or audiovisual production and producers' associations, public authorities or through participation in companies functioning as collective investment funds;
- taxation of broadcasters' income, with money fed directly into funds (system which exists in France) (see chapter 5.2.7, below).

² Regarding the review of the Directive, see the Internet site of the European Commission Directorate General for Education and Culture: http://www.europa.eu.int/comm/avpolicy/regul/regul_en.htm

³ These provisions, introduced through the Broadcasting Act 1990, were included with certain amendments in Section 277 of *Communications Act 2003*.

⁴ In **Switzerland**, the Audiovisual Pact is an agreement between SRG SSR idée suisse and six partners from the film industry. First signed in Locarno in 1996, it promotes collaboration between the audiovisual sector and SRG SSR as well as encouraging financial support from the Confederation for TV production. Funds are used to promote film and audiovisual production and to reward successful productions with money to be reinvested in new projects. The 2003/05 Audiovisual Pact has a budget of CHF 50,4 million (EUR 32,4m), distributed as follows: film productions: CHF 6 million; animation films: CHF 0,3 million; TV productions: CHF 7,4 million; awards for successful productions: CHF 3,1 million.

Similar agreements have been concluded in **Germany** (agreements involving public service broadcasters) **Spain** (ICO-FAPAE-RTVE and ICO-FAPAE agreements, Antena 3) and **Italy** (agreements in 1998 and 2000 between the Minister of Culture and Telepiù).

In the **United Kingdom**, various broadcasters (Granada, Channel Four, BSKyB) were involved in financing British Screen Finance Ltd, a film production investment company (now defunct).

Investment obligations of broadcasters in film and audiovisual production

Direct investment obligations of this type exist:

- in the **French-speaking Community of Belgium**:

Broadcasters can choose between direct investment, in the form of co-production or advance purchase, or contributions to the Centre du Cinéma et de l'Audiovisuel;

Decree of 23 February 2003, Art. 41. para. 1: *"Providers of television broadcasting services shall contribute to the production of audiovisual works. Such contribution shall take the form of co-production, the advance purchase of audiovisual works, or payment to the Centre du cinéma et de l'audiovisuel. Means of contributing to the Centre du Cinéma et de l'audiovisuel shall be determined by the Government.*

"Means of contributing in the form of co-production or advance purchase shall be determined in an agreement to be concluded between the service provider, the Government and the professional organisations representing independent producers in the French-speaking Community."

§ 2. *"The sum to be contributed by providers of television broadcasting services mentioned in para. 1 shall be at least:*

- 1,4% of turnover less than EUR 5 million;
- 1,6% of turnover between EUR 5 and 10 million;
- 1,8% of turnover between EUR 10 and 15 million;
- 2% of turnover between EUR 15 and 20 million;
- 2,2% of turnover higher than EUR 20 million"

- in **Spain**:

Ley 15/2001, de 9 de julio, de fomento y promoción de la cinematografía y el sector audiovisual strengthened the provisions that were initially established in Ley 22/1999. Broadcasters must allocate 5% of their total income from the previous year to the pre-financing of the production of feature films or short films, with 60% of the money to be spent on productions in one of Spain's official languages.

Ley 15/2001, de 9 de julio, de fomento y promoción de la cinematografía y el sector audiovisual :

"DISPOSICIÓN ADICIONAL SEGUNDA. Inversión de los operadores de televisión.

Se modifica el segundo párrafo del apartado 1 del artículo 5 de la Ley 25/1994, de 12 de julio, por la que se incorpora al ordenamiento jurídico español la Directiva 89/552/CEE, sobre la coordinación de disposiciones legales, reglamentarias y administrativas de los Estados miembros, relativas al ejercicio de actividades de radiodifusión televisiva, modificada por la Ley 22/1999, de 7 de junio, que queda con la redacción siguiente:

Los operadores de televisión que tengan la responsabilidad edito-

rial de canales de televisión en cuya programación se incluyan largometrajes cinematográficos de producción actual, es decir, con una antigüedad menor de siete años desde su fecha de producción, deberán destinar, como mínimo, cada año, el 5 % de la cifra total de ingresos devengados durante el ejercicio anterior, conforme a su cuenta de explotación, a la financiación anticipada de la producción de largometrajes y cortometrajes cinematográficos y películas para televisión europeos, incluidos los supuestos contemplados en el artículo 5.1 de la Ley de fomento y promoción de la cinematografía y del sector audiovisual. El 60 % de esta financiación deberá destinarse a producciones cuya lengua original sea cualquiera de las oficiales en España.

A estos efectos se entenderá por películas para televisión las obras audiovisuales de características similares a los largometrajes cinematográficos, es decir, obras unitarias de duración superior a sesenta minutos con desenlace final, con la singularidad de que su explotación comercial no incluye la exhibición en salas de cine; y por ingresos de explotación, los derivados de la programación y explotación del canal o canales de televisión que dan origen a la obligación, reflejados en sus cuentas de explotación auditadas.

El Gobierno, previa consulta a todos los sectores interesados, podrá establecer reglamentariamente las duraciones exigibles para considerar una obra audiovisual como película para televisión."

- in **France**:

The Act of 1 August 2000 amended the Freedom of Communication Act of 30 September 1986, particularly Articles 27 and 71 on the contribution of TV channels to the development of cinema film and audiovisual production. The aim was to increase the financing of production by the television channels, to reinforce the economic independence of production companies and to improve the distribution of cinema films and audiovisual works. The decree of 9 July 2001⁵ replaced the decree of 17 January 1990, which was based on the 1986 Act.

Heading I covers contributions to the development of cinematographic production. TV services which broadcast more than 52 full-length cinema films per year are now required to devote 3.2% of their annual net turnover to European cinema film production (compared with 3% under the previous regulations). The proportion to be spent on works originally in French remains 2.5%. At least three-quarters of the contribution must be devoted to independent production. Heading II of the decree deals with contributions to the development of audiovisual production. The minimum rate of contribution applicable to the production of audiovisual works originally in French is increased from 15% to 16% of annual turnover. As before, this investment is tied to the obligation to broadcast 120 hours of European or French-language audiovisual works that have never been broadcast, and to start their first broadcast between 8 and 9 pm.

The decree also confirms the option scheme whereby channels undertaking to pay a higher financial contribution may reduce the number of hours of first-time broadcasts. This kind of arrangement is currently being used for M6, France 2 and France 3, whereas TF 1 and La Cinquième remain subject to the basic scheme. The decree confirms that at least two-thirds of service providers' contributions should be devoted to independent production. The criteria used for determining independence have been relaxed and brought into line with those applicable to the cinema sector. The duration of exclusive broadcasting rights allowed by producers is limited to 18 months for a single broadcast on the network used by the service provider. It should

⁵ Décret n° 2001-609 du 9 juillet 2001 pris pour l'application du 3° de l'article 27 et de l'article 71 de la loi n° 86-1067 du 30 septembre 1986 et relatif à la contribution des éditeurs de services de télévision diffusés en clair par voie hertzienne terrestre en mode analogique au développement de la production d'œuvres cinématographiques et audiovisuelles, JO du 11 juillet 2001.

be emphasised that this reform, which entered into force on 1 January 2001, concerns unencrypted channels broadcast terrestrially in analogue mode. In the future, it will be supplemented by further regulations covering subscription-based terrestrial analogue channels, terrestrial digital channels and cable and satellite channels⁶.

- in **Italy**:

Obligations for broadcasters to invest in production were established by Legge 31 Luglio 1997, n.249, *Legge 31 Luglio 1997, n.249, relativi all'Autorità per le garanzie nelle comunicazioni, nonché norme in materia di programmazione e di interruzione pubblicitarie televisive*⁷:

- broadcasters subject to Italian law must reserve at least 10% of their net annual income from advertising to the purchase of audiovisual programmes (at least 40% of which must be films) and children's programmes of European origin (Art. II, para. 5);

- the public service broadcaster must devote a proportion of its income from the licence fee to the production of European works. This proportion is stipulated in the service contract and, from 1999 onwards, must be at least 20%. This amount, in accordance with the service contract, should include a reserve for the production or purchase from independent Italian or European producers of cartoon films made especially for children's education (Art. II, para. 5).

- Contributions may also be compulsory in **Switzerland**:

Article 31, para. 2, (d) and (e) of the Federal Act on film production of 14 December 2001 amended the Federal Act on radio and television of 21 June 1991, stating that the broadcasting licence *may impose* in particular charges comprising a proportion to be reserved for independent production and a tax for the promotion of cinema, not exceeding 4% of gross income, in lieu of service provision. The licence of the main broadcaster, SSR-SRG *idée suisse*, does not include such obligations, although SSR-SRG is linked to the film industry through a voluntary agreement, the "Audiovisual Pact".⁸

⁶ This summary written by Amélie Blocman was published in *IRIS Legal Observations of the European Audiovisual Observatory*, IRIS 2001-8:7/14.

⁷ Istituzione dell'Autorità per le garanzie nelle comunicazioni e norme sui sistemi delle telecomunicazione e radiotelevisione, *Gazeta Ufficiale*, n.177, 31 Luglio 1997.

⁸ See footnote 4, above.

Diversity of sectoral aid

In parallel to policies on the structure of the television sector, public authorities have set up various forms of sectoral aid.

Sectoral aid is traditionally defined as any financial intervention by public authorities in the day-to-day running of a given market.

Public authorities' financial support of the film and audiovisual industry can take a variety of different forms:

- a. direct intervention in the form of subsidies in the strict sense of the term;
- b. tax relief on income, aimed at promoting investment,⁹
- c. granting of preferential credit,¹⁰
- d. organisation of a system of financial guarantees aimed at covering the major risks associated with investment in production,¹¹
- e. financial transfers ordered or assisted by the public authorities in order to ensure the transfer of resources from one branch of the industry to another (particularly from television to production in the form of legal obligations or framework agreements on direct investments or broadcasters' contributions to support funds),¹²
- f. provision of practical help to promote filming through the establishment of film commissions,¹³
- g. organisation of film promotion measures (festivals, international promotion, etc),¹⁴
- h. organisation of legal and economic measures aimed at encouraging co-operation with economic players from other

countries (particularly in the form of co-production agreements),

i. legal provisions aimed at enabling producers to control the rights to audiovisual programmes financed by television stations,

j. regulation of programme sponsorship in order to promote additional investments in audiovisual production or regulation of product placement in film production.¹⁵

Limitations of this report

This report will focus only on sectoral policy types **a.** and **e.** in other words **direct public aid and inter-branch transfer systems organised by public authorities.** The Observatory hopes, in the near future, to publish a more detailed analysis of other types of support, notably tax incentive schemes, which are listed here as a matter of reference.

The diversity of public aid models only highlights the need for caution where statistical comparisons are concerned. Although we are currently able to compare the amounts of direct aid distributed by public funds, we do not have detailed data on indirect aid, particularly the income tax advantages afforded by the various tax incentive schemes.

⁹ See Box No.2.

¹⁰ This is one of the oldest forms of support, practised in Germany (in 1933), Italy and Spain (from 1941) and France (Crédit national, 1941 to 1959). These low-interest loans are managed in Italy by the Banca Nazionale del Lavoro – BNL (Titolo 7 della Legge 1213/65) and in Spain by the Instituto de Crédito Oficial – ICO. In Spain, the agreements between the ICAA and the ICO were renewed on 22 December 2003. In Catalonia, the Catalan Finance Institute also awards loans at preferential rates.

¹¹ Such a system was set up in 1983 with the creation of the Institut pour le financement du cinéma et des industries culturelles (IFCIC) (<http://www.ifcic.fr>). The IFCIC is a registered body, charged by the Ministry of Culture and the Ministry of the Economy and Finance with helping to develop the cultural industries in France by facilitating access to bank loans. The IFCIC offers the banks financial guarantees against the bankruptcy of borrowing companies as well as expertise on the specific risks of cultural companies, particularly linked to short-term credit for film and audiovisual projects. For cultural businesses, it facilitates bank loans for specific projects, as well as offering financial expertise. 49% of the IFCIC, a neutral, independent establishment, is owned by the state, the BDPME and the Caisse des Dépôts, with the remainder belonging to a private shareholding owned by virtually all the French banks.

In 1995 the European Commission and European Parliament proposed the creation of a European guarantee fund to promote film and television production. The purpose of the proposed financial instrument was to stimulate investment in the European programming industry. It was meant to take the form of a specialised guarantee fund for the audiovisual sector, underwriting on behalf of the banks and financial establishments by offering to guarantee a proportion of the credits and loans given to the programming industry. It would therefore have encouraged them to commit more funding to the audiovisual industry. The fund would complement the MEDIA II programme and focus primarily on the production of European audiovisual works for cinema and television, all of them fictional.

The Commission proposed that this financial instrument should be incorporated in the management structures of the European Investment Fund (EIF), with details of how the new fund should operate set out in a co-operation agreement between the Commission and the EIF. The EIF would be responsible for managing a budget comprising funds lent by the Commission and the private and public sectors. These funds, serving as guarantee capital, could be as high as 200 million ecus, including 90 million from the European Union. Bearing in mind the possibility of the EIF providing coguarantees, the total sum thus released for audiovisual production could reach one billion ecus.

This project did not gain the necessary consensus within the Council of Ministers of the European Union.

¹² Such systems exist in Germany, Belgium, France, Italy, Portugal and Sweden. See Chapter 5, below.

¹³ Film commissions are usually created with the support of national, regional and/or local public authorities. 25 film commissions from eight European countries met in Malaga on 18 December 2003 and adopted the "Malaga Declaration", which advocates the creation of an association of European film commissions, recognised by the European institutions, and the organisation in October 2004 of the inaugural Convention of European film commissions.

¹⁴ These schemes have not been systematically included in the KORDA database.

¹⁵ As far as we know, the new Italian law is the only one to have facilitated product placement through explicit regulation. Art. 9 para. 3 of the Decreto legislativo 22 gennaio 2004 Riforma della disciplina in materia di attività cinematografica.

Tax incentive schemes in Europe – References

The following systems offering tax breaks to encouragement investment in the film industry exist in Europe:

- in **Belgium**¹⁶ : "tax-shelter" system introduced in l'Arrêté royal du 3 mai 2003 within the framework of Articles 128 and 129 of the Loi-programme du 2 août 2002;

- in **Germany**¹⁷ : Medienerlass of 23 February 2001, Az.: IV A 6 - S 2241 - 8/01, Bundesministerium der Finanzen (Ministry of Finance), No. IV A 6 - S 2241 - 81/0 ; Schreiben des Bundesministeriums der Finanzen, Az.: IV A 6 - S 2241 - 81/03. See C. HILGER, "Amendment of Media Decree on Film and TV Fund Taxation", *IRIS* 2003/8;

- in **France**¹⁸ :

- system of SOFICA (Article 238 bis HE of the du Code général des impôts). This fiscal instrument offers a person to claim tax relief on investments in SOFICA, up to a limit of 25%. Monies collected are reinvested exclusively in French films.

- tax credits set up by the Article 220 de Loi de finances pour 2004 (n° 2003-1311 du 30 décembre 2003) modifiant l'art. 220 sexies du code général des impôts.¹⁹

- in the **United Kingdom**²⁰ :

- *capital allowance* system introduced by Section 68 of the Capital Allowance Act 1990 and "tax relief" brought in through Articles 41 and 42 of the Finance (No. 2) Act 1992 (c. 48);

- system of tax relief on production expenditure introduced in Articles 41 and 42 of the Finance (no.2) Act 1992 (c. 48). These regulations were modified by subsequent legislation. See Finance Act 1997 Clause 48 - Films. Relief for Expenditure on Production and Acquisition; Finance Bill 2000 Clause 112 - Tax treatment of expenditure on films - clarificatory measures 21 March 2000; Finance Act 2001: Clause 72 - Expenditure on film production etc.; Extension of film tax relief - Press release of the Chancellor, 7 March 2001.

- The Budget presented by the Chancellor of the Exchequer in March 2004 announced the replacement of Section 48 "relief for low-budget British qualifying films", which was due to expire on 1 July 2005, by a new system of tax relief on production expenses. In order to avoid abuse, relief will apply only to the film-maker rather than third parties. Relief will typically cover 20% of the production costs of British films, compared with the 15 per cent typically provided by the current system. The Government is reviewing the treatment of co-productions with

a view to creating a tighter definition of British films. The Government will also consider the scope for the new relief to increase the proportion of British films that get distribution. Full details of the new relief will be published in summer 2004, following further discussions with the industry.²¹

- in **Hungary**²²: New film law adopted 22 December 2003 (Act II of 2004 on Movie Picture);

- in **Ireland**²³: *tax relief* system introduced by Section 481 of the Taxes Consolidation Act, 1997 (Relief for the film industry), amended by Finance Act 1998. 32nd Amendment of section 481 (relief for investment in films) of Principal Act; Finance Act 1999. 61st Amendment of section 481 (relief for investment in films) of Principal Act; Finance Act 2000. 48th Amendment of section 481 (relief for investment in films) of Principal Act; Section 77 of Finance Act 2001. The system of Section 481 was confirmed end of 2003 for a five years period (2004-2009)²⁴ ;

- in **Iceland**²⁵: Act on Temporary Reimbursements in Respect of Film Making in Iceland, No. 43/1999; Regulation No. 131/2001 on Temporary Reimbursements in Respect of Film Making in Iceland;

- in **Italy**²⁶ : Individuazione dei soggetti e delle categorie di soggetti beneficiari di contributi in denaro, per lo svolgimento dei propri compiti istituzionali e per la realizzazione di programmi culturali nei settori dei beni culturali e dello spettacolo (art. 38 della legge 21 novembre 2000, n. 342, e art. 65, lettera c-nonies del decreto del Presidente della Repubblica n. 917 del 1986;

- in the **Grand Duchy of Luxembourg**²⁷ : System of "Certificats d'investissement audiovisuel", introduced by the Loi du 13 décembre 1988 instaurant un système fiscal temporaire pour les certificats d'investissement audiovisuel (telle qu'elle a été modifiée) modifiée par les lois du 21 décembre 1998 et 21 décembre 2001;

- in the **Netherlands**²⁸ : "Film CV" system, established by Finance Act 2001 Wetinkomstenbelasting 2001 (Art. 3.33, 3.37, 3.42b) and confirmed for 2004 by the Besluit van 23 december 2003 tot verlenging van de filminvesteringsafteek;²⁹

- in **Romania**³⁰ : reduction of taxes on investments in film production, introduced by LEGE nr.571 din 22 decembrie 2003 privind Codul fiscal (Art. 38, 7; Art. 274, 2).

¹⁶ Décret royal du 3 mai 2000:

<http://www.tax-shelter.be/PDF/TextesLegaux/Moniteur-Staatsblad.pdf>

Ministère des Finances, press release, May 2003 : 'Loi-programme du 2 août 2002, Mesures en faveur de la production et la création cinématographique belge':

<http://www.minfin.fgov.be/portail1/fr/cadrefr.htm>

Letter from Commissioner Mario Monti to the Belgian Minister of Foreign Affairs, 13 May 2003 : http://europa.eu.int/comm/secretariat_general/sgb/state_aids/industrie/n410-02-fr.pdf

¹⁷ Medienerlass vom 23. Februar 2001, Az.: IV A 6 _ S 2241 _ 8/01:

<http://www.bundesfinanzministerium.de/Aktuelles/BMF-Schreiben-.745.2087/Artikel/.htm>

Statement by Bundesministerium der Finanzen (Finance Ministry), No. IV A 6 _ S 2241 _ 81/0

<http://www.bundesfinanzministerium.de/Anlage19766/BMF-Schreiben-vom-5.-August-2003-IV-A-6-S-2241-81/03-Adobe-Acrobat-5.0.pdf>

"Amendment of Media Decree on Film and TV Fund Taxation" - See C. HILGER, *IRIS*, 2003/8. <http://merlin.obs.coe.int/iris/2003/8/article26.en.html>

¹⁸ *Réflexions sur le dispositif français de soutien à la production cinématographique*, Report by M. Jean-Pierre Leclerc commissioned by the Ministry of Culture and Communication, January 2003 :

Report: <http://www.culture.gouv.fr/culture/actualites/rapports/leclerc/rapportleclerc.pdf>

Appendices: <http://www.culture.gouv.fr/culture/actualites/rapports/leclerc/annexes.pdf>

Presse statement by Minister:

<http://www.culture.gouv.fr/culture/actualites/communiq/aillagon/leclerc.htm>

Note presented by M. Marcel Vidal in the name of the Commission des Affaires Culturelles on the Loi de finances 2003 adoptée par l'Assemblée Nationale, , TOME II , CINÉMA - THÉÂTRE DRAMATIQUE :

<http://www.senat.fr/rap/a03-074-2/a03-074-2.html>

Report by Yann Gaillard and Paul Loridant, Sénat, 6 May 2003, Revoir la règle du jeu - Mieux évaluer l'efficacité des aides publiques au cinéma:

<http://www.senat.fr/rap/r02-276/r02-276.html>

Sofica - Article 238 bis HE du Code Général des Impôts :

http://lexinter.net/CGI/financement_en_capital_d'oeuvres_cinematographiques_ou_audiovisuelles.htm

Crédit d'impôt - Adoption par l'Assemblée nationale d'un amendement instituant un dispositif de crédit d'impôt pour le cinéma, CNC Press release, 17 November 2003 :

http://www.cnc.fr/b_actual/r5/ssrub1/cp143.htm

Institut pour le financement du cinéma et des industries culturelles (IFCIC)

<http://www.ifcic.fr/>

¹⁹ See: "Introduction of a Tax Credit for the Cinema in the 2004 Budget", *IRIS*, 2004/2.

²⁰ Section 68 Capital Allowance Act 1990:

http://www.hmso.gov.uk/acts/acts1990/Ukpga_19900001_en_11.htm#mdiv68

Finance (No. 2) Act 1992 (c. 48)

http://www.hmso.gov.uk/acts/acts1992/Ukpga_19920048_en_1.htm#tcon

Films

41. Relief for preliminary expenditure.

42. Relief for production or acquisition expenditure.

43. Interpretation of sections 41 and 42.

69. Capital allowance - Films, etc.

Finance Act 1997 Clause 48 - Films. Relief for expenditure on production and acquisition

<http://www.hmso.gov.uk/acts/acts1997/97058--c.htm#48>

Finance Act 1999 Clause 62 Expenditure on film production and acquisition

<http://www.hmso.gov.uk/acts/acts1999/99016--c.htm#62>

Finance Bill 2000 : Clause 112. Tax treatment of expenditure on films

http://www.hm-treasury.gov.uk/consultations_and_legislation/financebill2000/consult_finance_clause112_2000.cfm

Tax treatment of expenditure on films - Clarificatory measures 21 March 2000 : http://www.hm-treasury.gov.uk/budget/budget_2000/press_notices/bud_bud00_pressrev13.cfm

Finance Act 2001 : Clause 72 - Expenditure on film production etc.

<http://www.hmso.gov.uk/acts/acts2001/10009--e.htm#72>

Extension of film tax relief - Press release of the Chancellor, 7 March 2001: http://www.hm-treasury.gov.uk/budget/budget_2001/press_notices/bud_bud01_pressfilm.cfm

Capital Allowance Act 2001- Schedule 2 : Amendment of Film Act 1985 (c.21) Section 6 (certification of films as British films)

<http://www.hmso.gov.uk/acts/acts2001/10002-cc.htm#sch2>

Finance Act 2002 - Section 99, 100, 101 <http://www.hmso.gov.uk/acts/acts2002/20020023.htm#aofs>

Films

99. Restriction of relief to films genuinely intended for theatrical release

100. Exclusion of deferrals from production expenditure

101. Restriction of relief for successive acquisitions of the same film

Minister backs films tax breaks (BBC News, 23 September 2003)

<http://news.bbc.co.uk/1/hi/entertainment/film/3148704.stm>

²¹ Budget 2004, *Prudence for a purpose: A Britain of stability and strength*, HM Treasury, 17 March 2004

http://www.hm-treasury.gov.uk/media/DD446/bud04_ch3_281.pdf

²² See : http://www.filmunio.hu/downloads/2004_II_motion_picture_act.doc

"New law on cinema production and distribution", *IRIS*, 2004/2.

²³ Section 481 of the Taxes Consolidation Act, 1997 (Website of the Department of Sports, Art and Tourism) : http://www.arts-sport-tourism.gov.ie/What%20We%20Do/film/www_d_f_section481.htm

Section 481 Finance (Website of the Irish Film Board) : http://www.filmboard.ie/section_481.php

See also: http://www.iftn.ie/download/pwc_report.pdf

See also: http://www.iftn.ie/download/pwc_report.pdf

²⁴ See : "Tax Relief for Investment in Film Industry to Continue", *IRIS*, 2004/1 and "Budget 2004 Announcement - Section 481 retained to 2008", Press release from Bord Scannán na hÉireann /The Irish Film Board, 3 December 2003

from Bord Scannán na hÉireann /The Irish Film Board, 3 December 2003

²⁵ <http://eng.idnadarraduneyti.is/laws-and-regulations//nr/1162> and <http://eng.idnadarraduneyti.is/1999-377>

²⁶ <http://www.beniculturali.it/normative/dettagliodetriministeriali.asp?id=899>

²⁷ Loi du 21 Décembre 1998 modifiant la loi du 13 décembre 1988 introduisant un régime fiscal temporaire de 'Certificat d'investissement audiovisuel' et la loi du 11 Avril 1990 créant un Fonds National pour le Soutien à la Production Audiovisuelle :

http://www.etat.lu/legilux/DOCUMENTS_PDF/MEMORIAL/memorial/a/1998/a1112412.pdf

Loi du 16 mars 1999 du Grand Duché promulguant la loi du 13 Décembre 1988 introduisant un régime fiscal temporaire de 'Certificat d'investissement audiovisuel' :

http://www.etat.lu/legilux/DOCUMENTS_PDF/MEMORIAL/memorial/a/1999/a0391904.pdf

²⁸ Film Investors Netherlands BV (Fine) : <http://www.fine.nl>

Loi du 16 mars 1999 du Grand Duché promulguant la loi du 13 Décembre 1988 introduisant un régime fiscal temporaire de 'Certificat d'investissement audiovisuel' :

http://www.etat.lu/legilux/DOCUMENTS_PDF/MEMORIAL/memorial/a/1999/a0391904.pdf

²⁸ Film Investors Netherlands BV (Fine) : <http://www.fine.nl>

Bijlage kamerbrief - Stimuleringsmaatregelen Nederlandse film - evaluatie. O/B 3052121 - D9762 Eindrapport film 4 september 2003.doc

<http://www.ez.nl/upload/docs/Kamerbrieven/PDF-Documenten/3052121-bijlage.pdf>

Motie De Bakker, 1.10.2003, De Tweede Kamer (Prorogation of the CV-film system till 1.1.2005 :

http://www.fine.nl/ZopeHosting/fine/site/nf_nieuws_tekst01.html

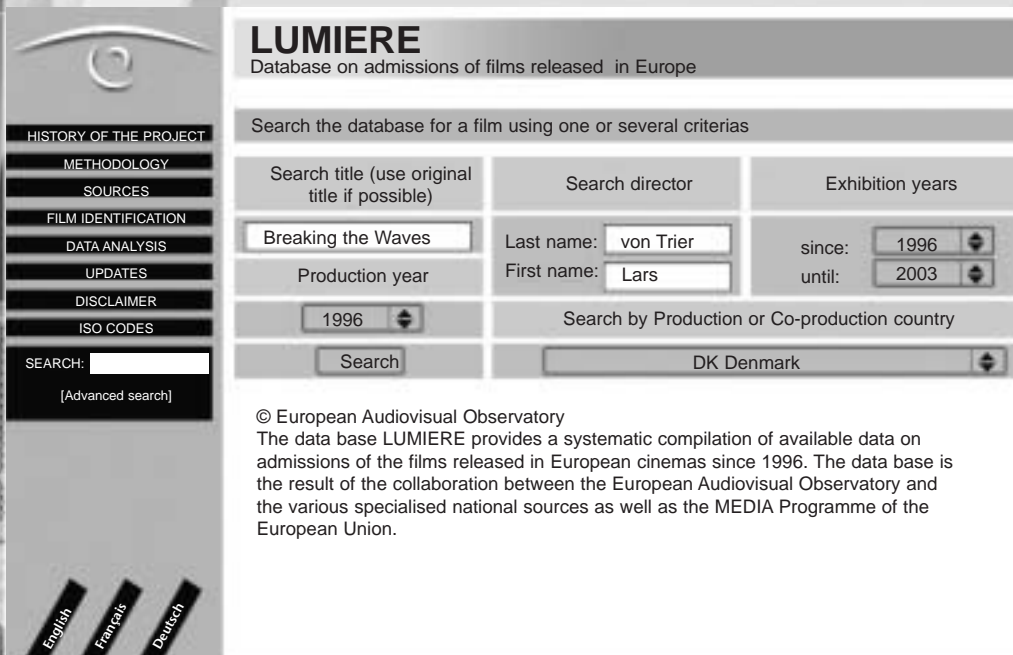
²⁹ See : "One Year Extension of Tax Advantages for Investment in Film", *IRIS*, 2004/2.

³⁰ http://www.cdep.ro/pls/legis/legis_pck.hp_act_text?id=52436

See : "Aid for Film Makers in Romania", *IRIS* 2004-2.

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Production year: <input type="text" value="1996"/>	Search by Production or Co-production country	
<input type="button" value="Search"/>	<input type="text" value="DK Denmark"/>	

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The economic and political basis for aid to the film and audiovisual industry

3.1 Economic basis

3.2 Legal and political basis for aid to the film and audiovisual industry

3.3 Will to converge

3.1

Economic basis

This report does not aim to provide detailed analysis of the economic theory behind public aid to the film industry, a subject which divides economists according to the particular school of thought they belong to.¹

The main arguments which, from an economic theory point of view, may justify public aid to the film industry are as follows:

- the identification of market failures can justify public aid within the framework of the neoclassical theory of the market: the nature of film as a "collective service" (ie the possibility of joint consumption of a film without the possibility of individual appropriation) has sometimes been mentioned as a justification of aid. However, this argument can be refuted insofar as this "collective service" can nonetheless be divided, since it is possible to work out the quantity consumed by individuals through analysis of cinema ticket sales;

- public authorities' activities can be justified by non-economic arguments, particularly of a cultural nature (defence of a national or regional culture or minority cultures or languages, etc), in a situation where one producing country dominates the international market. Such intervention by the public authorities may also find elements of justification in analysis of the asymmetry of information, since the market for information on available films is distorted by marketing investments that are fundamentally different for national films and those produced in other countries (particularly, of course, the USA)² ;

- the definition of the film industry and the audiovisual sector in general as a branch of industry can give rise to industrial policy arguments (contribution to GDP, job creation, positive influence on related industries, etc)³ ;

¹ Recent relevant publications include E. DUBET, *Economie du cinéma européen : de l'interventionnisme à l'action entrepreneuriale*, L'Harmatan, Paris, 2000.

² The domination of the various European audiovisual markets both by American distribution companies and by American products is extensively documented in the Observatory's statistical publications, particularly the *Yearbook*.

³ It is noteworthy that, in the **United States**, professional organisations representing the film industry and other copyright industries have made regular efforts since 1987 to conduct an annual economic analysis of the financial weight of copyright industries in the national economy. (Latest edition: S.E. SIWEK and Economists Inc., *Copyright Industries in the U.S. Economy, The 2002 Report*, International Intellectual Property Alliance, April 2002). In Europe, similar studies are carried out from time to time, but only at national level. See WIPO, *Guide on Surveying the Economic Contribution of the Copyright-Based Industries*, WIPO, Geneva, 2003. http://www.wipo.org/copyright/en/publications/pdf/copyright_pub_893.pdf

It should also be noted that there is still no regular analysis of employment figures in the European film and audiovisual sector.

For an analysis of the regional impact of film aid, see M. GORDON, *Regionalwirtschaftliche Filmförderung. Kosten und Nutzen*, Michael Gordon Verlag, Vienna, 1996.

- "it has sometimes been argued that the film industry is a victim of the "cost disease" noted by American economist W.J. Baumol in relation to the performing arts: as with the performing arts, the productivity gains in film production are poor and certainly lower than those possible in other production sectors. The film production industry therefore tends to "lag behind" the rest of the economy, which means it is necessary to put up prices, operate at a loss or secure subsidies, or risk disappearing altogether. Baumol's theory has rallied the interest of economists for twenty years.

The most common arguments against public funding include the following⁴ :

- the "cost disease" identified by Baumol does not affect cultural activities alone, but can also be identified in other service sectors which manage to survive despite a lack of public funding. Public intervention would be less effective than market forces in dealing with increasing costs;

- public intervention can generate bureaucratisation within the bodies responsible for intervention;

- the argument that cultural activities should be aided because of the positive spin-off effects on other sectors does not prove that those effects are greater than those that could be achieved if aid was allocated directly to other sectors;

It is not our intention here to argue in favour of one approach or the other, since the ultimate choice depends on economic policies, which are outside the terms of reference of the European Audiovisual Observatory.

A comparative study of policies on aid to the film and audiovisual industry appears to be justified by the simple fact that virtually all European States operate aid systems. As we will see, the political and legal justification for this aid varies according to the country and the institution situation, but the legitimacy of such aid is rarely questioned in political circles. Political debate tends to concentrate more on the different forms of aid, their possible impact on the internal market and, of course, the sums involved.

The political basis for aid can usually be found in the legal texts that provide the legal framework for aid (preambles, remit of bodies that allocate aid, etc), while the legal basis tends to be enshrined in more general legal instruments.

In documents of this type, the economic arguments are generally not discussed and it is usually the cultural aspects that are put forward. However, this is not always the case, as can be seen particularly with the European Community's MEDIA programmes. It is therefore worth reviewing some of these texts in order to understand the nuances that can arise, often in relation to the institutional characteristics of each of the funds under consideration.

3.2.1 Multilateral support funds for co-production: **Eurimages (Council of Europe), Agence intergouvernementale de la Francophonie, Norsk Film- & TV Fund (Nordic Council) and Ibermedia (Conferencia de Autoridades Cinematográficas de Iberoamérica- CACI)**

Multilateral support funds for co-production are based on cultural co-operation agreements between States (or, in the case of Ibermedia, between public bodies) from the same region (Europe, Nordic States) or with similar linguistic cultures (Spanish/Portuguese, French). They are usually set up for cultural reasons (cultural co-operation, protection of cultural and linguistic diversity), although certain economic considerations may also come into play (particularly the small size of some national markets, which limits production capacity).

Resolution (88) 15 of the Committee of Ministers of the Council of Europe setting up a European support fund for the co-production and distribution of creative cinematographic and audiovisual works: "Eurimages" particularly stresses the cultural dimension of the fund (referring to the European Cultural Convention, Committee of Ministers Resolution (86) 3 on European cultural co-operation, the role of European film and audiovisual production in the promotion of Europe's cultural identity, etc.). However, the preamble also refers to the general economic context, ie that of the growth in demand for programmes: "*Realising that the constant advance of information and communication technology and the large-scale emergence of new transmission and distribution channels will result in increased demand for programmes and increased competition in the programme market.*"

⁴ For a recent summary, see in particular F. PERRETTI, G. NEGRO, *Economia del cinema, Principi economici e variabili strategiche del settore cinematografico*, Etaslab, Milano, 2003.

⁵ This chapter does not claim to offer legal analysis of aid systems, but simply to provide the basic elements needed to identify the principles of aid schemes. It was not written by the Observatory's Legal Information department. For legal analysis, *National film production aid: legislative characteristics and trends, Iris plus*, European Audiovisual Observatory, Strasbourg, April 2001 and A. HEROLD, *European public film support within the WTO framework, IRIS plus*, European Audiovisual Observatory, Strasbourg, 6/2003.

3.2.2 The MEDIA programmes (European Union)

MEDIA I Programme: an essentially industrial programme

Under Decision 90/685/EEC of 21 December 1990 concerning the implementation of an action programme to promote the development of the European audiovisual industry (Media) (1991 to 1995), the first MEDIA Programme was created within the legal context of industrial policy activities (Article 235 of the Treaty of Rome). At the time, the European Community did not have any specific remit covering cultural matters. The preamble and the objectives both highlighted the economic dimension of the audiovisual sector and the need for an industrial policy, while the cultural dimension was only mentioned indirectly in a political section of the preamble.⁶

MEDIA II Programme and MEDIA Plus Programme: industrial programmes, but with greater emphasis on the objectives of cultural diversity

The Council Decision of 10 July 1995 on the implementation of a programme encouraging the development and distribution of European audiovisual works (Media II - Development and distribution) (1996-2000) confirmed this industrial policy dimension of support for the audiovisual industry, based on Article 130 para. 3 of the Treaty. The industrial dimension of the MEDIA II Programme is particularly evident in the reference to the White Paper *Growth, competitiveness and employment*, used as a reference point for action by the European Union and its member States. The White Paper supported an industrial development approach based on global competitiveness as the key to growth and employment and stated, in particular in Chapter 5-C, the economic importance of the audiovisual industry.

However, the Maastricht Treaty gave the European Community cultural responsibilities. As a result, the dual justification of support programmes has become more evident. Article 128 para. 4 is mentioned in para. 11 of the preamble ("*whereas participation in the Programme should reflect European cultural diversity*"). The aims of the MEDIA II programme should therefore particularly work towards:

- an increase in the competitiveness of the audiovisual industry notably in the European market, by supporting the development of projects which have a true distribution potential;
- respect for European linguistic and cultural diversity.

The same duality is found in Decision 2000/821/EC of 20 December 2000 on the implementation of a programme to encourage the development, distribution and promotion of European audiovisual works (MEDIA Plus 2001-2005).

3.2.3 European Commission development support programme

Film aid granted by the European Commission's Development DG falls within the framework of the Commission's general development aid policy.

3.2.4. National aid schemes for the film and audiovisual industry

Most national aid schemes for the film and audiovisual industry originate in regulatory provisions (laws or decrees) concerning art and/or the film industry.

However, the legal basis for such systems is not always found in texts relating to the organisation of aid: for example, many of the support funds of the German Länder are based on a provision of the constitution (*Verfassung*), obliging the Land to support culture. Laws concerning the regulation of broadcasting activities must sometimes be taken into account. For example, in Portugal the Lei da Televisão (Lei n.º 32/2003, de 22 de Agosto) stipulates that the State should ensure there are incentives for the production of audiovisual works, including fiction, documentaries and cartoons, in Portuguese.⁷

However, as far as we know, there are no specific regulatory provisions covering film aid in the following countries:

- countries in which aid is granted directly by a ministerial body: Cyprus, the former Yugoslav Republic of Macedonia, Turkey;
- countries where aid is provided by foundations, but which have no legislative framework specific to the film industry. Here, the foundation rules serve as a regulatory framework: Estonia⁸, Iceland⁹, Latvia, Netherlands¹⁰, Norway¹¹;
- countries where the regulatory framework is based on an agreement between the State and industrial partners: Sweden¹²;
- countries where there is no aid scheme at all: Liechtenstein, Malta.

In countries where aid schemes are established through legislation or decree, there is a certain polarisation between cultural justification and economic justification based on industrial policy. From reading the relevant laws or policy documents, three different types of justification appear to be put forward (although these should not be defined too strictly).

⁶ "Whereas the Heads of State and Government meeting in the European Council in Rhodes on 2 and 3 December 1988 pointed out that it is extremely important to strengthen efforts, including cooperation, to develop Europe's audiovisual capacity, whether with regard to the free movement of programmes, to the promotion of the European high-definition television system or to a policy of encouraging creativity, production and broadcasting so as to provide an opportunity of demonstrating the richness and diversity of European culture."

⁷ "Artigo 44.º Apoio à produção. O Estado deve assegurar a existência de medidas de incentivo à produção áudio-visual de ficção, documentário e animação de criação original em língua portuguesa, tendo em vista a criação de condições para o cumprimento do disposto nos artigos 40.º e 42.º, através da adopção dos mecanismos jurídicos, financeiros, fiscais ou de crédito apropriados."

⁸ In **Estonia**, the Ministry of Culture has set up a committee to define a legal basis for the film industry, including a system of tax incentives for foreign producers.

⁹ Fund Regulation No. 229/2003 REGULATION on the Icelandic Film Fund. Iceland also has a tax incentive scheme: see Act on Temporary Reimbursements in Respect of Film Making in Iceland, No. 43/1999.

¹⁰ The legal basis for the Dutch Film Fund (Nederlandse Film Fond) is found in legal instruments defining the role of cultural funds (Act of 11 March 1993 containing rules on a few aspects of specific cultural policy, "Specific Cultural Policy Act"). In the **Netherlands**, as well as aid allocated by these funds, there is a tax incentive scheme, created by the 2001 Finance Act (Wet inkomstenbelasting 2001 (art. 3.33, 3.37, 3.42b) and renewed for 2004 by a decree of 23 December 2003 (Besluit van 23 december 2003 tot verlenging van de filminvesteringaftak).

¹¹ Regulations for Support for Film Production, issued by the Ministry for Cultural Affairs on 8 February 2002, amended on 23 November 2003: Forskrift for tilskudd til audiovisuelle produksjoner fastsatt av Kultur- og kirkedepartementet 20. november 2003 med hjemmel i Stortingets årlige budsjettvedtak.

¹² The 2000 Film Agreement. The parties to the agreement are the Swedish State, various professional associations (producers, distributors, cinema owners), a group of trade unions and the two main national TV channels (SVT and TV4).

An essentially economic approach, but with cultural references

The economic element is clearly dominant in the following national systems:

- In **Germany**, federal aid granted by the Filmförderungsanstalt Anstalt (FFA) is defined as economic aid under the terms of Article 74 no.11 of the Federal Constitution (Artikel 74 Nr. 11 Grundgesetz (*Recht der Wirtschaft*). In this case, the federal State has no competence in cultural affairs and the economic aid principle is dominant.¹³ It is considered that "film is an important cultural and economic asset. Maintaining and developing German film culture is only possible on the basis of a healthy film economy".¹⁴

- In **France**, although aid to the film and audiovisual industry comes, via the CNC, under the supervision of the Ministry of Culture and the political justification for it constantly refers to the cultural dimension, the nature of this aid is clearly a matter of industrial policy. The terms "film industry" and "audiovisual industry" regularly appear in the titles of regulatory texts that organise this funding¹⁵. In a system unique in Europe, the instruments relating to the film industry are gathered together in a *Film Industry Code*.

An essentially economic approach, but with cultural references

In other States, the cultural aspect is more strongly emphasised in support policies. Although these policies inevitably have an economic dimension, the cultural element is particularly highlighted.

- In the **French-speaking Community of Belgium**, Article 1 of the royal decree of 22 June 1967 on the promotion of film culture stipulates that aid is granted "in order to promote French-language film culture";

- In **Denmark**, Article 1 of Film Act n°186 of 12 March 1997 states that "The objective of this Act shall be to promote film art, and film and cinema culture, in Denmark";

- In **Estonia**, there is still no specific law on film, although the Estonian Film Foundation was created as a private body through a government decree in May 1997, with the aim of "supporting and developing the promotion of Estonian film culture";

- In **Switzerland**, although the title of the Act of 14 December 2001 concerns culture and film production, Article 1 states that the aim of the Act is to "promote the diversity and quality of film and film creativity and to develop film culture";

- In **Greece**, Law 1597 of 21 May 1986 on "Protection and development of cinematographic art, support of Greek cinema and other provisions" has a mainly cultural focus. That focus was highlighted by the Greek Government in its response to the European Commission's criticism of certain aspects of the Law, which was considered to be incompatible with the common market (particularly the nationality criteria);¹⁶

- In **Iceland**, Article 1 of the Act on temporary reimbursements for film production in Iceland (n°43/1999) states that the purpose of the tax incentive system is to strengthen Icelandic culture. According to the Act on the Icelandic Film Fund, promulgated on 1 January 2003, the role of the Icelandic Film Fund is to promote Icelandic film production by providing financial support and any project supported by the Fund must be related to Icelandic culture.

- In **Norway**, the "Regulations on Support for Film Production Purposes, Delivered by the Royal Norwegian Ministry for Cultural and Church Affairs on 8 February 2002, with legal basis in Parliaments' annual decisions on state appropriations" stipulate that the purposes of public support for film production are to promote film as a form of cultural expression and to help promote high-quality Norwegian films, to ensure that Norwegian films achieve the largest possible audience, to promote films aimed at children and teenagers and to promote the economic efficiency of film production.

- In **Portugal**, Article 4 of the Act of 7 December 1971 (Lei n.º 7/71, de 7 de Dezembro, as amended by Decreto-lei n.º350/93 de 7 de Outubro) describes "the recognition by the State of the cultural, economic and social importance of film and audiovisual activities and of the role they can play as artistic creations that promote the country's image". The Bill on cinematographic and audiovisual arts (lei das artes cinematográficas e do audiovisual, Anteprojecto 1º revisão), published on 3 July 2003 by the Office of the State Secretary attached to the Ministry of Culture, aims to review this Act while retaining the cultural justifications.¹⁷

- In **Slovenia**, to the film industry forms part of the *National Cultural Programme*.

¹³ Created by a Federal Act in 1967, which entered into force on 1 January 1968, the FFA is governed by the Act on measures to promote German cinema - Film Support Act (FFG) of 6 August 1998 (BGBl. I p. 2053-2070) - which came into force on 1 January 1999. This Act has been amended several times. The most recent amendment, adopted by the Bundesrat on 19 December 2003, entered into force on 1 January 2004 http://www.ffa.de/start/download.php?file=artikelgesetz_filmfoerderung.pdf

¹⁴ "Der Film ist ein wichtiges Kultur- und Wirtschaftsgut. Erhalt und Entwicklung deutscher Filmkultur sind nur möglich auf der Basis einer funktionierenden Filmwirtschaft", description of Filmförderung nach dem Filmförderungsgesetz (FFG) on the Federal Government website. <http://www.bundesregierung.de/txt/Regierung/Beauftragte-fuer-Kultur-und-Me-,9454/Filmfoerderung-nach-dem-Filmfo.htm>

¹⁵ As for support to production, the main texts are the following:

- Décret no 95-110 du 2 février 1995 modifié relatif au soutien financier de l'Etat à l'industrie des programmes audiovisuels.

- Décret no 98-35 du 14 janvier 1998 relatif au soutien financier de l'Etat à l'industrie audiovisuelle.

- Décret no 99-130 du 24 février 1999 relatif au soutien financier de l'industrie cinématographique, modifié par les décrets no 2001-771 du 28 août 2001, no 2001-1030 du 6 novembre 2001 et no 2003-27 du 8 janvier 2003.

- Décret n° 2003-1017 du 24 octobre 2003 modifiant le décret n° 99-130 du 24 février 1999 relatif au soutien financier de l'industrie cinématographique et le décret n° 98-35 du 14 janvier 1998 relatif au soutien financier de l'Etat à l'industrie audiovisuelle.

- Décret n° 2003-1019 du 24 octobre 2003 modifiant le décret n° 99-130 du 24 février 1999 relatif au soutien financier de l'industrie cinématographique.

- Arrêté du 24 octobre 2003 fixant les taux de calcul du soutien financier de l'Etat alloué aux entreprises de production d'œuvres cinématographiques à raison de la commercialisation de ces œuvres sous forme de vidéogrammes destinés à l'usage privé du public.

¹⁶ See 89/441/EEC: Commission Decision of 21 December 1988 on aid granted by the Greek Government to the film industry for the production of Greek films See also : WRITTEN QUESTION No. 2019/96 by Yves VERWAERDE to the Commission. Commission Decision of 21 December 1988 - Greek Government aid to the film industry OFFICIAL JOURNAL NO. C 365 , 04/12/1996 P. 0067

¹⁷ "O Estado apoia a produção, a distribuição, a exibição, a difusão e a promoção cinematográfica e audiovisual enquanto instrumentos de cultura, afirmação da identidade nacional, protecção da língua e valorização de imagem do país no mundo, em especial no que respeita ao aprofundamento das relações com os países de língua portuguesa." (Artigo 3º ; 2)

A mixed approach, focusing on both economic and cultural aspects

The third type of regulatory framework comprises systems in which the economic and cultural dimensions of film activities are treated relatively equally.

- In **Spain**, Ley 15/2001 de 9 de julio, de fomento y promoción de la cinematografía y el sector audiovisual stresses the cultural dimension of film and audiovisual creativity right from the start. However, it explains that the economic measures set out in Articles 4, 5 and 6 (dealing respectively with the development of film and audiovisual production, aid for production and the promotion and distribution of cinematographic and audiovisual works) fall within the framework of Article 149.1.13 of the Constitution on the basis and coordination of general planning of economic activity;

- In the **United Kingdom**, the film industry is funded by the National Lottery¹⁸. The UK Film Council and Scottish Screen are two of the bodies that distribute the money collected by the National Lottery. The UK Film Council is not a State-owned company, but a private company limited by guarantee, which should in future acquire a statutory basis. The UK Film Council has two objectives:

1. to develop film culture by enhancing access to and education about cinema;
2. to develop a sustainable British film industry;

- In the **Flemish Community (Belgium)**, the Government delegates the management of support funds to a not-for-profit organisation, the Vlaams Audiovisueel Fonds, to which it accedes and in which it participates. This organisation "aims to stimulate independent audiovisual production within the Flemish-speaking Community". Aid is granted "en tenant compte de la qualité, de la diversité, du rayonnement culturel et de la portée".

- In **Finland**, the Film Promotion Act was adopted in 2000 in order to establish the status of the Finnish Film Foundation. Section 2 of the Act states that the Ministry of Education allocates funds to the Foundation "in order to support the production and distribution of films and for other forms of promotion of film culture".

- In **Hungary**, the preamble to Act II of 2004 on Motion Pictures states that the text was adopted "to reinforce and preserve the values of Hungarian film culture" and "to develop the Hungarian film industry and make it competitive at international level" and "to develop the Hungarian film industry and make it competitive at international level (...)".

- In **Ireland**, the objectives of the Film Board as set out in the Irish Film Board Act 1980 are two-fold: to aid and encourage by all possible means the production of films on national territory and the development of the film industry and, insofar as it considers it appropriate, to take into consideration the need to express national culture.

- In **Italy**, Article 1 of the Decreto legislativo 22 gennaio 2004. Riforma della disciplina in materia di attività cinematografiche

stipulates that the Republic, through the implementation of Articles 21 (freedom of expression) and 33 (freedom of art and science) of the Constitution, recognises film as a fundamental form of artistic expression, cultural education and social communication. According to Article 2, cinematographic activities are in the general interest, for example in view of their economic and industrial importance;

- in the **Grand Duchy of Luxembourg**, the Act of 11 April 1990 on the creation of a national audiovisual production support fund (amended and revised through the Act of 21 December 1998) states that the purpose of the fund is to promote the development of audiovisual production in the Grand Duchy of Luxembourg and (...) the distribution of audiovisual works made in Luxembourg at home and abroad.²⁰

- In **Romania**, Article 2 of Film Act no. 630 of 27 November 2002 (Legea nr. 630 din 27 noiembrie 2002 cinematografie) sets out the principles of public support. These principles are both cultural (affirming the national cultural identity and that of minorities, promoting the national film industry at international level, protecting, developing and enhancing the national film heritage) and economic (promoting private initiatives in the fields of creativity, production, funding, distribution, broadcasting and cinema operations, promoting a competitive system);

Finally, we should note the rather vague nature of the basic provisions of the Act of the Czech National Council of the 14th April 1992 on State Fund of the **Czech Republic** to Assist and Promote Czech Cinematography

¹⁸ National Lottery etc. Act 1993 (c. 39), Statutory Instrument 1999 No. 2090 - The National Lottery etc. Act 1993 (Amendment of Section 23) (No. 2) Order 1999.

¹⁹ 13 APRIL 1999. - Decreet houdende machtiging van de Vlaamse regering om toe te treden tot en om mee te werken aan de oprichting van de vereniging zonder winstgevend doel Vlaams Audiovisueel Fonds / 13 APRIL 1999. - Decree authorising the Flemish Government to accede to and participate in the creation of the not-for-profit organisation "Vlaams Audiovisueel Fonds" (Flemish Audiovisual Fund).
25 OKTOBER 2002. - Besluit van de Vlaamse regering houdende uitvoering van de bepalingen van de artikelen 12 en 15 van het decreet van 13 april 1999 houdende machtiging van de Vlaamse regering om toe te treden tot en om mee te werken aan de oprichting van de vereniging zonder winstgevend doel Vlaams Audiovisueel Fonds / 25 OKTOBER 2002. - Order of the Flemish Government implementing Articles 12 and 15 of the Decree of 13 April 1999 authorising the Flemish Government to accede to and participate in the creation of the not-for-profit organisation "Vlaams Audiovisueel Fonds" (Flemish Audiovisual Fund).

²⁰ **Luxembourg** also operates a tax incentive system for purely economic reasons: the Act of 21 December 1998 establishing a special temporary tax regime for audiovisual preference shares states that the system is "designed to promote high-risk capital investment in the production of audiovisual works in the Grand Duchy of Luxembourg" (Article 1).

3.2.5 Systems set up by autonomous regional authorities.

In several States, national provisions are supplemented by regional or local systems.

These systems are established either

- by regional bodies independent of the State (Länder in Germany and Austria, Autonomous Communities in Spain, nations in the United Kingdom, Cantons in Switzerland)²¹;

- by administrative bodies in decentralised States (regions in the United Kingdom, France, Italy, etc.);

- by local authorities (departments, municipalities, urban communities).

The diversity of national situations in Europe makes it difficult to compare them and professionals rather pragmatically tend to talk about "regional funds" when referring to any funds that are not set up by national public authorities. However, the legal and political basis of these funds varies greatly. Generally speaking, funds created by autonomous regional bodies (with their own legislative and executive organs) are set up for reasons of cultural or sometimes linguistic policy (the latter is true in Catalonia, Galicia and Wales, for example). Funds set up by regions tend to have more obvious economic (eg to increase production or filming in the region) or tourism-related objectives. Initiatives by municipalities are usually launched for cultural reasons, although they may also have certain economic aims.

Autonomous regional bodies

In **Austria**, regional film funds are financed in accordance with the Kulturförderungsgesetz adopted by each of the Länder.

In **Germany**, the Constitutions of some Länder contain provisions referring to their responsibility for funding the arts and culture.²² On that legal basis, the Länder help to finance funds, which usually have the status of limited liability companies (GmbH) and have their own regulations setting out their methods of intervention. Some of these funds are the result of co-operation between different Länder.

In **Spain**, the Autonomous Communities have the power to adopt laws on cultural and linguistic promotion. Several of them have created systems for supporting the production, distribution and/or showing of films. In Catalonia, measures adopted to aid the film industry are taken in accordance with Act 1/98 of 7 January on linguistic policy.²³

In the **United Kingdom**, Scottish Screen has the same status as a "Distributing body" under the National Lottery etc. Act as the UK Film Council. It was created in accordance with the "need to foster within Scotland as a part of a healthy film culture in the UK the development of a sustainable film industry". The Arts Council of Wales is also a "Distributing body" which delegates the management of Lottery funding to Sgrin. The Northern Ireland Film and Television Commission (NIFTC), meanwhile, is an agency funded by the Department of Trade, Enterprise and Investment of the Northern Ireland Executive via Invest Northern Ireland.

In **Switzerland**, various Cantons have established film funds.

Regions

In **France**, regional or local funds, set up at the initiative of local and, in particular, regional authorities, began to spring up in the late 1990s with the aim of increasing regional production and filming. The development of this decentralisation process is one of the major thrusts of the policy announced by the Raffarin Government and is supported by the CNC.²⁴

In the **United Kingdom**, new regional funds have been created in England by the Regional Development Agencies, whose objectives are primarily economic.²⁵

In **Italy**, regional funds are still rare: there is currently only one, created at the initiative of the autonomous region of Friuli Venezia Giulia. Funds are in the process of being set up in Apulia and Sardinia.

In **Belgium**, the Walloon Region (which has responsibilities in terms of economic policy) has created the Wallimage Fund.

²¹ *Stricto sensu*, the **French-speaking** and **Flemish Communities of Belgium** should come under this category. Since **Belgium** no longer has a federal support system, we decided, as is the custom, to include the systems of these two Communities in the national aid category.

²² For example: Bayerische Verfassung, Art. 140 ; Niedersächsische Verfassung, Art. 6 ; Verfassung des Landes Brandenburg : Art. 34 ; Verfassung für Rheinland-Pfalz : Art. 40 ; Verfassung für das Land Nordrhein-Westfalen : Art. 18 ; Verfassung des Saarlandes : Art. 34 ; Verfassung des Freistaates Sachsen : Art. 11 ; Verfassung des Landes Sachsen-Anhalt : Art. 36 ; Verfassung des Landes Schleswig-Holstein : Art. 9 ; Verfassung des Freistaates Thüringen : Art.30

²³ Llei 1/1998, de 7 de gener, de política lingüística
Ordre CLT/83/2002, d'1 de març, per la qual s'aproven les bases reguladores de les subvencions destinades a augmentar l'exhibició comercial de llargmetratges doblats o subtitulats en llengua catalana.
Ordre CLT/148/2003, de 19 de març, per la qual s'aproven les bases que han de regir la concessió de subvencions per a iniciatives destinades a augmentar les estrenes comercials de llargmetratges doblats o subtitulats en llengua catalana (codi 102)

²⁴ See Communication by Jean-Jacques Aillagon, Minister of Culture and Communication, presented to the Council of Ministers on 30 April 2003, concerning film aid policy in France:
"Some local authorities, particularly certain regions, have set up, several years ago or more recently, measures to support film and audiovisual production. These funds are already widespread in several European countries and should be encouraged in France. The Government would therefore like to promote the creation of funds through which local authorities can support film production by means of subsidies or loans. The State, through the CNC support fund, will encourage these initiatives by adding to the funds provided by local authorities up to an overall limit of EUR 10 million at national level. Agreements concluded with the CNC will guarantee the diversity of regional funding, which will often be directed at works that are more difficult to finance (short films, documentaries, cartoons, first and second films, etc) and promote the production of longer films. The CNC will shortly begin negotiating with regional authorities wishing to participate in this project. The first funds will be able to start operating on 1 January 2004".

²⁵ These agencies are governed by the Regional Development Agencies Act 1998.

3.2.6 Initiatives by local authorities (provinces, cantons, municipalities, urban communities, etc)

Some cities and urban communities have also set up production aid schemes. Some municipalities also support production structures, technical services or even cinemas themselves. Aid may also be given through festivals, as part of municipal cultural policy (Gothenburg, Rotterdam, Montpellier, etc).

We cannot give an exhaustive list of these initiatives here, nor of their legal foundations. They include, for example:

- In **Austria**: Wien Films Fond, set up by the City of Vienna;
- In **Croatia**: Gradski proracun Grada Zagreba production aid fund, set up by the City of Zagreb;
- In **France**: a fund has been set up by the Urban Community of Strasbourg; support for screenplay writers is available through the Montpellier International Festival of Mediterranean Cinema, etc;
- In **Italy**: the Lecce Province Film Commission is preparing to set up a fund which should help promote filming in the Apulia region;
- In the **United Kingdom**: the Scottish Executive has published guidelines for local authorities wishing to launch initiatives in the cultural sphere, particularly the film industry (*Implementation of the National Cultural Strategy: Draft Guidance for Scottish Local Authorities*).²⁶

markets in Europe, but also by the significant role played by cinema in the expression of cultures."

Complementarity of cultural and economic approaches

We shall conclude this chapter with some words from Laurent Creton, a French economist who specialises in analysing the economy of French film and who sums up very well the complementarity of the cultural and economic approaches of support policies:

"The European film and audiovisual industries are actually fighting two battles. The first mainly relates to a cultural policy aimed at safeguarding and promoting creativity and expression. The second revolves around industrial policy and the protection of production capacity, companies and jobs. These two elements are, in reality, often combined. Creativity is not only a matter of cultural policy, but fulfils the Research and Development role of the whole industry. Conversely, the industry is a vital aid for creativity and expression. It seems in this debate that the attempt to divide film and audiovisual activities into two distinct categories - the "artistic" and the "commercial" - is futile. Of course, film critics and experts are entitled to emphasise distinctions and to help develop labels. However, the whole concept needs to be considered in order that all the sub-systems may benefit from its synergies. To distinguish and to unify: this seems to be the dialectic that needs to be resolved".²⁷

3.3

Will to converge

As we have said, the opposition between economic and cultural factors should not be overestimated, since it is true that these two aspects are interwoven in the activities of national agencies and the initiatives of non-national public bodies.

The first two paragraphs of the "Common Declaration of European National Film Agencies" 17 March 2003 illustrate this desire for convergence:

"1. The European national film agencies exist to support national and European film cultures. For such cultures to thrive, two sets of pre-conditions are necessary: a durable, renewable indigenous talent and skills base, not just for production but throughout the value chain; and an open, competitive market that encourages innovation, risk-taking and the most diverse offer to the public. It is therefore necessary for European Union member States, through national film agencies and other relevant bodies, to intervene so as to create the conditions for national and European films to be made, to circulate and to be accessible to the public.

"2. To this end, member States have put in place State aids to cinema and/or the audiovisual sector at a national and/or regional level according to their own specific needs. These measures are dedicated notably to development, production, distribution, exhibition, promotion, training, education, and access to heritage. They are justified not only by the structural weaknesses of feature film

²⁶ Accessible at: <http://www.scotland.gov.uk/library5/culture/incs-08.asp>

Illustration: examples of local authority initiatives

- In Shetland, a new animation studio is providing employment opportunities for local people.
- In Glasgow, the City Council supports Glasgow Film Theatre (primarily for cultural reasons), the Glasgow Film Office (to build the local industry) and Glasgow Media Access Centre (for community access reasons).
- In Angus, the Digital Media Access Centre provides community and industry training and production opportunities.
- Across Scotland, from the Highlands to Dumfries and Galloway, many local authorities employ designated Film Liaison Officers to support and regulate incoming production.
- All major cities in Scotland benefit from high quality specialised cinemas offering films not provided by commercial chains.
- The Galloway Film Challenge provides opportunities for young people to produce their first film.

NB: All of these initiatives are endorsed and supported by Scottish Screen, the national agency supporting all areas of screen culture and the screen industries in Scotland. The agency offers support and advice to local authorities and can partner-fund screen-based initiatives and projects. Scottish Screen has a particular priority to develop community-based access to digital media technology across Scotland.

²⁷ L. CRETON, *Cinéma et marché*, Armand Collin, Paris, 1997, pp.78-84.

Status, aims and tasks of agencies that support the film and audiovisual industry

4.1 Status of agencies that support the film and audiovisual industry

4.2 Other types of public body granting aid to the film and audiovisual industry

BOX N°3

The Italian system: tasks delegated by the Dipartimento dello Spettacolo to the Banca Nazionale del Lavoro (BNL)

4.3 Aims and tasks of agencies

4.4 Areas of activity: films, audiovisual production and multimedia

4.5 Support for the cinema industry: diversity in the types of activity supported

4.1

Status of agencies that support the film and audiovisual industry

The status, aims and tasks of agencies that support the film and audiovisual industry in Europe vary quite considerably.

In Europe, these agencies can be divided into at least six different categories.

4.1.1 "Film" department within Ministries of Culture

In some countries, there are no support bodies as such. Aid is granted by the Ministry of Culture. This is the case:

- in **Switzerland** (Film Section of the Federal Department of Culture),
- in **Cyprus** (Film and Audiovisual Production Section of the Press and Information Office),
- in **Croatia**, Film Department of the Ministry of Culture,
- in **Italy**: the Direzione Generale per il Cinema, established in May 2001 as part of a reform of the Ministero per i beni culturali, used to manage the film section of the Fondo unico per il Spettacolo.¹ The Decreto Legislativo 22 gennaio 2004 replaced the section with the Fondo per la produzione, la distribuzione, l'esercizio et le industrie tecniche, which is run by the Ministry (Art. 12),
- in **Lithuania** (Film Department of the Ministry of Culture),
- in the "**former Yugoslav Republic of Macedonia**", Film Department of the Ministry of Culture,²
- in the **Russian Federation**: the State Committee for Cinematography (Goskino) was incorporated in the Ministry of Culture² in May 2000,
- in **Slovakia**, Film Department of the Ministry of Culture,
- in **Turkey** (Directorate General of intellectual property and film).

¹ It should be noted that a substantial proportion of public support for the film industry takes the form of credit granted by the Banca Nazionale del Lavoro, a public bank which operates in this field on behalf of the Ministry responsible for the film industry. (Articolo 32 della Legge 31 Luglio 1956, n.897 amended by Legge 14 agosto 1971, n.819 Interventi a favore del credito cinematografico).

² See D. DONDUREI and N. VENGER, *The Film Sector in the Russian Federation*, Report for the European Audiovisual Observatory, Moscow, 2001. http://www.obs.coe.int/oea_publ/eurocine/doubled_film.pdf

4.1.2 bodies with financial and administrative independence

The most traditional form is that of a public body with administrative and financial independence:

- in **Austria**, the Österreichisches Film Institut ("*juristische Person des öffentlichen Rechts*")³

- in the **French Community of Belgium**, the Centre du Cinéma et de l'Audiovisuel is "*an independently managed State department in the sense of Article 140 of the laws on public finance, coordinated on 17 July 1991. This department falls under the direct authority of the Minister responsible for the audiovisual industry*"⁴

- in the **Czech Republic**, the State Fund for the support and development of the Czech film industry

- in **Germany**, the Filmförderungsanstalt (FFA) is a "*bundesmittelbare rechtsfähige Anstalt des öffentlichen Rechts*"⁵

- in **Denmark**, the Danske Filminstitutet (Danish Film Institute) is a "*statsinstitution*" (State institution)⁶

- in **Spain**, the Instituto de la Cinematografía y de las Artes Audiovisuales, created in 1984, is an "*autonomous administrative body*" with its own legal personality⁷

- in **France**, the Centre national de la Cinématographie, created in 1945, is a public body with financial independence⁸

- in **Ireland**, the Irish Film Board (Bord Scannán na hÉireann) is a "body corporate", with its own legal personality ("*body corporate with perpetual succession and power to sue and be sued in its corporate name*")⁹

- in **Iceland**, the Icelandic Film Fund is run by the Icelandic Film Centre, an "*autonomous governmental body*"

- in **Norway**, the Norwegian Film Fund (Norsk filmfond) is an "*ordinary executive civil body*"¹⁰

- in **Poland**, the Film Production Agency and the Film Distribution Agency are autonomous public bodies

- in **Portugal**, the Instituto do Cinema, Audiovisual e Multi-média (ICAM) is a public law body with administrative and financial independence and its own assets. It is supervised by the Ministry of Culture¹¹

- in **Romania**, the Centrul National al Cinematografiei is an autonomous administrative body supervised by the Ministry of Culture, which was created in 2001.¹²

4.1.3 Fondations

In some countries, agencies are private foundations.

- In **Finland**, a Film Art Promotion Act was adopted in 2000¹³ in order to meet one of the requirements of the Constitution, according to which the State may not delegate its powers to a private body without a specific legal text.

- In **Estonia**, the Estonian Film Foundation, created in 1997, is a private State-funded body and a law is currently being drafted to establish its status.

- In **Hungary**, the Motion Picture Public Foundation of Hungary (MMK) was established by the Government and 27 professional organisations in 1998. (The remit of this foundation will be broadened following the implementation of Act II of 2004 on Motion Pictures).

- In the **Netherlands**, the Film Fund is a "*Zelfstandige Bestuursorganen*". The status of the various support funds for cultural activities has been regulated since 1981 by the Creative Arts (Funds) Act. This Act defines a fund as "*a private-law legal entity with legal capacity*". It was amended in 1993 by the Cultural Policy (Special Purpose Funding) Act under which the Minister of Culture was authorised to create funds in the various fields of cultural policy.¹⁴

- In **Sweden**, the Svenska Filminstitutet has foundation status. It is financed under a long-term agreement between the Government, Swedish TV companies and professional film organisations.¹⁵

³ §1 of the Filmförderungsgesetz vom 25. November 1980, BGBl. Nr. 557/1980, ergänzt und geändert um die Novellierungen vom 1. Oktober 1987, BGBl. 517/1987, vom 16. März 1993, BGBl. Nr. 187/1993, vom 19. August 1994, BGBl. Nr. 646/1994 und vom 30. Jänner 1998, BGBl. 34/1998.

⁴ Art. 1 of the Decree of 22 December 1994 on various measures concerning the audiovisual industry and education.

⁵ §1 Abs.1 Viertes Gesetz zur Änderung des Filmförderungsgesetzes, Vom 22. Dezember 2003 (BGBl. I.S. 2771).

⁶ According to Danish administrative law, this type of public institution

- is subject to terms of reference / programme of objectives for a limited period (currently four years)

- receives funding in accordance with the Finance Act in order to carry out the activities entrusted to it under the Filmloven and in the four-year framework contract

- is subject to specific accounting and reporting conditions as part of the general modernisation of public administration in Denmark.

⁷ Art.1 of the Real Decreto 7/1997, de 10 de enero (BOE, 28/1/1997).

⁸ Art.1 of the Film Industry Code.

⁹ Sect. 3 of the Irish Film Board Act, 1980.

¹⁰ Art.1 of the Statute of the Norwegian Film Fund. Delivered by the Royal Norwegian Ministry for Culture on 28 June 2001, amended on 20 December 2001.

¹¹ Art.1 of the Decreto-Lei n.º 408/98 de 21 de Dezembro.

¹² Ordonanta de urgenta a Guvernului nr.9 din 11.01.2001.

¹³ Film Art Promotion Act (28/2000)

¹⁴ See Cultural Policy in the Netherlands, Ministry of Education, Culture and welfare, 2003, p.66-67

¹⁵ Film Agreement 2000.

4.1.4. Associations

In the Flemish-speaking Community (Belgium), the Vlaams Audiovisuele Fonds has the status of a not-for-profit association.¹⁶

4.1.5 Private companies

- In the **United Kingdom**, the UK Film Council was set up in 2000 with the temporary status of a "private company limited by guarantee"¹⁷

- In **Greece**, the Greek Film Centre was created in 1998 as a limited company, owned entirely by the State.¹⁸

In **Germany**, some of the funds set up by the Länder also have the status of limited liability companies (GmbH).

4.1.6 Delegation of support to other organisations

In some cases, State bodies delegate the management of support schemes to other organisations.

- Since 1956, the **Italian system** has had the distinctive feature of delegating the management of the public aid fund to the Banca Nazionale del Lavoro (BNL). It is relevant to explain the system in this report, since it is complex and it is necessary to understand the mechanism behind certain Italian aid schemes (see Box n°3).¹⁹

4.2

Other types of public body granting aid to the film and audiovisual industry

As well as actual agencies, other types of public body may be entitled to grant aid.

4.2.1. Regulatory authorities

In two countries, support funds for audiovisual production are managed by broadcasting regulators:

- in **Austria**: the Fernsehfilmförderungsfonds was created in 2003 under the auspices of Rundfunk und Telekommunikation Regulierung GmbH.²⁰

- in the **United Kingdom**, the Broadcasting Act 1990 (Art. 183) set up the Gaelic Television Fund with the aim of funding TV programmes in the Gaelic language. The Fund is administered by the Comataidh Telebhisein Gaidhlig (the Gaelic Television Committee), funded by a grant from Parliament. In 2004, the Gaelic Broadcasting Committee was renamed Seirbheis nam Meadhanan Gàidhlig/the Gaelic Media Service and placed under the supervision of Ofcom, the newly set up communications regulator.

- in **Hungary**, the ORTT grants aid for audiovisual production.

- in "**the former Yugoslav Republic of Macedonia**", a support fund for audiovisual and radio production exists within the Broadcasting Council.²¹

4.2.2. Festivals

Some funds have been set up to support production or screenplay writing as part of festivals, which may be funded by national, regional or local authorities. Examples include Rotterdam, Montpellier and Gothenburg.

¹⁶ 13 APRIL 1999. - Décret houdende machtiging van de Vlaamse regering om toe te treden tot en om mee te werken aan de oprichting van de vereniging zonder winstgevend doel Vlaams Audiovisueel Fonds (1) / 13 AVRIL 1999. - Décret portant autorisation du Gouvernement flamand à accéder et à participer à la création de l'association sans but lucratif "Vlaams Audiovisueel Fonds" (Fonds audiovisuel flamand).

²⁵ OKTOBER 2002. - Besluit van de Vlaamse regering houdende uitvoering van de bepalingen van de artikelen 12 en 15 van het decreet van 13 april 1999 houdende machtiging van de Vlaamse regering om toe te treden tot en om mee te werken aan de oprichting van de vereniging zonder winstgevend doel Vlaams Audiovisueel Fonds / 25 OCTOBRE 2002. - Arrêté du Gouvernement flamand portant exécution des articles 12 et 15 du décret du 13 avril 1999 portant autorisation du Gouvernement flamand à accéder et à participer à la création de l'association sans but lucratif "Vlaams Audiovisueel Fonds" (Fonds audiovisuel flamand).

¹⁷ Company limited with guarantee: "members' liability is limited to the amount they have agreed to contribute to the company's assets if it is wound up."

¹⁸ Article 1 of Presidential Decree n°113, 11 May 1998 - Constitution of the Hellenic Centre for Cinematography

¹⁹ Based on the description by C. BODO (coord.), "Market and State in the Film Industry in Italy in the Nineties", A report for the European Audiovisual Observatory, 2000. http://www.obs.coe.int/oea_publ/eurocine/IT.pdf

²⁰ Art. 9 of the Bundesgesetz über die Einrichtung einer Kommunikationsbehörde Austria ("KommAustria") und eines Bundeskommunikationssenates (KommAustria-Gesetz - KOG) in der Fassung BGBl. I Nr. 71/2003

²¹ According to Article 77 of the Law on Broadcasting Activity, adopted in July 1997, 10% of the broadcasting fee is allocated to commercial broadcasting companies - concessionaires, and to independent producers for creation and transmission of programs of public interest.

The Italian system: tasks delegated by the Dipartimento dello Spettacolo to the Banca Nazionale del Lavoro (BNL)

Since 1985, the Dipartimento dello Spettacolo,²² has managed a single fund, the Fondo unico dello spettacolo (F.U.S.), which finances film and the performing arts (music, theatre, dance). In principle, this is a three-year fund, although in practice its budget is reviewed annually in the Budget Act. The original idea was that the budget should be index-linked.²³ A proportion of the fund is allocated by the Ministero del Tesoro to support the film industry (Stanziamento per il cinema). These funds are, in turn, split between the Fondo d'intervento (34,9% of film aid in 2001) and "film activities" (65,1% in 2001).²⁴ The funds for "film activities" are managed by the Direzione Generale per il Cinema within the Dipartimento, while the Fondo d'intervento is managed by the Sezione Autonoma per il Credito Cinematografico della Banca nazionale del Lavoro (BNL).

The BNL has been active in the film sector since 1935, when it was entrusted with the task of managing the taxes paid by cinemas on income from foreign films.²⁵ This money was used to set up, within the BNL, a fund for the financing of national films. In 1971, the Fondo d'intervento was created to enable the BNL to award low-interest loans to national film producers.²⁶ The 1994 Act²⁷ confirmed the role of the BNL,²⁸ instituted the Fondo de garanzia covering investments in the production of cultural films of national interest²⁹ and broadened the remit of the Fondo d'intervento to include distribution and exhibition as well as the use of technologies.³⁰ In 1998, the BNL lost its monopoly in the management of public loans and the Sezione Autonoma di Credito cinematografico became part of the BNL s.p.a.

The Fondo d'intervento managed by the BNL is funded by: sums allocated by the Dipartimento dello Spettacolo and unused funds from previous years.

The funds from the Fondo d'intervento are distributed as follows:³¹

- 85% of the funds from the Fondo d'intervento are distributed as follows:
 - 70% for the production, distribution and exportation of national films
 - 30 % for efforts to strengthen national film production and distribution, as well as technical industries
- The remaining 15% are set aside for contributions to the capital account (conto capitale), awarded to cinema managers or owners, particularly for cinema renovation.

The BNL provides low-interest loans. It manages loans granted for the production of feature-length and short films.³² Feature-length films are themselves subdivided into films of national cultural interest, first and second works and nationally produced films.

The BNL therefore manages the funds of the Dipartimento dello Spettacolo as well as its own funds. Moreover, in 2001 the BNL obtained a credit line from the European Investment Bank for total funding of EUR 100 million earmarked for Italian companies active in the audiovisual sector, particularly the film industry. These funds are meant to promote the production, exportation and importation of European films, the creation of audiovisual works such as TV drama, technological innovation for the technical industries, studios and the construction of cinemas and theatres. Thanks to this arrangement, the BNL has increased its contribution to European audiovisual activity. Including public funds and its own funds, it manages EUR 500 million for the audiovisual sector.

The general reform of public intervention for the film industry, introduced through the Decreto legislativo 22 gennaio 2004, only provisionally confirms the BNL's role as the manager of public funds. It replaces the various film industry support funds with a Fondo per la produzione, la distribuzione, l'esercizio e le industrie tecniche.³³ The financial management of this fund is entrusted for a 12-month period to the BNL - Sezione di credito cinematografico e teatrale s.p.a.³⁴ According to the explanatory memorandum (Relazione illustrativa) communicated to the press, at the end of the 12-month period the Ministero per i Beni e le Attività Culturali will take over the management of the fund, with the help of specific bodies and agreements with one or more credit institutes, in order better to meet the need for an efficient, rapid aid system.³⁵

²² The Dipartimento dello Spettacolo, which is responsible for the performing arts (theatre, dance, music) as well as film, was part of the Ministero per il Turismo e il Spettacolo until 1992. Following a referendum, tourism policy became a regional responsibility. From 1992, the Dipartimento dello Spettacolo was therefore directly supervised by the Prime Minister's Office and was virtually in a legal vacuum between 1992 and 1998. In November 1998, under Decreto 368/1998, the Dipartimento dello spettacolo became part of a new ministry, the Ministero per i Beni e le Attività Culturali, which was also responsible for the artistic and historical heritage, museum, libraries and archives and, subsequently, for literary and artistic copyright. Under Act 237/1999, this ministry also became the sole shareholder in Cinecittà Holding, which had previously been owned by the Ministry of Finances.

²³ The proportion of the funds distributed by the F.U.S. that were allocated to the film industry fell from 25% in the early years to 19% from 1989. It was fixed at 18,87% for 2000 and 2001. In real terms, the value of FUS funds allocated to film dropped by 25,8% between 1985 and 2001.

²⁴ In 2001, 27,3% of the funding allocated to film activities (apart from the Fondo d'intervento) by the Ministry of Finances (Ministero del Tesoro) went to production and 72,7% to promotional activities.

²⁵ Regio Decreto del 14 novembre 1935.

²⁶ Legge 14 Agosto 1971, n.819 - Interventi a favore del credito cinematografico.

²⁷ Legge n. 153/94, Interventi urgenti a favore del cinema.

²⁸ Art. 7

²⁹ See below Box Nr 7

³⁰ Art. 10.

³¹ Art.2 Legge 14 Agosto 1971, n.819.

³² Short films are in the same category as the films described in Art.8, previously Art.28 of Legge 1213/65, in other words films produced with investments by the authors, actors and other crew members

³³ Decreto legislativo 22 gennaio 2004. Riforma della disciplina in materia di attività cinematografiche, Art.12.

³⁴ Art.12.8.

³⁵ Relazione illustrativa, <http://www.cinema.beniculturali.it/archivionews/2003/relazione.pdf>
Des dispositions complémentaires figurent dans le Decreto-Legge 22 marzo 2004, n.72. Interventi per contrastare la diffusione telematica abusiva di materiale audiovisivo, nonché a sostegno delle attività cinematografiche e dello spettacolo.

Aims and tasks of agencies

The diversity of status is matched by the wide range of aims and tasks of film support agencies, which are laid down in statutory texts. Analysis of these texts shows that they vary enormously.

All film support agencies have one common function, which is to manage support funds. However, in addition to that key function, they may also be responsible for:

- **more general tasks:**
- advising the government or setting out film policy strategies,
- drafting regulations,
- implementing regulations,
- liaising with other national or regional bodies,
- coordinating relations between the different branches of the film and audiovisual industry, particularly with TV channels

- **tasks at international level:**
- making representations to the European institutions and agencies in other countries,
- promoting national films abroad,
- stimulating foreign investment and/or co-productions,
- **research, study, information and training,**
- **conservation and archiving,**
- **organising events (particularly festivals) and awards.**

Table 1 aims to summarise the distribution of these aims and tasks as they are set out in agencies' statutes.

Some agencies (eg the CNC in France, ICAA in Spain, ICAM in Portugal and CNC in Romania) have a very broad range of tasks and objectives. Others, in contrast, are responsible for little more than managing the funds (Vlaamse Audiovisuelle Fond, Norsk Filmfond).

4.3.1 General tasks

Most agency statutes contain a general definition of tasks relating to:

- the promotion of film culture,³⁶
- the promotion of works,³⁷
- strengthening of the film economy,³⁸

Economic and cultural tasks are often mixed together in the same sentence in these general definitions of tasks.³⁹

It should be noted that the statutes of the ICAA in Spain are the only ones to mention obtaining a market share for national films as an objective necessary for the health of the industry⁴⁰

³⁶ In **Austria**, the main objective of the ÖFI is defined in the Filmförderungsgesetz: " § 2. (1) Ziel der Filmförderung ist es, die Herstellung, die Verbreitung und Verwertung österreichischer Filme zu unterstützen, die geeignet sind, entsprechende Publikumsakzeptanz und/oder internationale Anerkennung zu erreichen und dadurch die Wirtschaftlichkeit und die Qualität des österreichischen Filmschaffens zu steigern (...)"

³⁷ In the **French-speaking Community of Belgium**, art.2 of Décret du 22 décembre 1994 portant diverses mesures en matière d'audiovisuel et d'enseignement (establishing the Centre du cinéma et de l'audiovisuel).

³⁸ In **France**, Art 2 para. 2 of the Film Industry Code (Code de l'industrie cinématographique) requires the CNC " 2° "(2) to take the regulatory measures necessary to ensure the coordination of company activity programmes with a view to more rational use of staff, modernisation of companies, coordination between the different branches of the film industry, statistical observation of professional activities and the general development of the French film industry, and possibly to arbitrate conflicts arising from these regulations, except for actual industrial disputes." (unofficial translation)

In **Ireland**, Art. 4 (1) of the Irish Film Board Act 1980 states that "the Board shall assist and encourage by any means it considers appropriate the making of films in the State and the development of an industry in the State for the making of films (...)." The cultural dimension of the Board's remit is left up to the Board's own discretion by Art.4 (2): "In so far as it considers it appropriate, the Board shall have regard to the need for the expression of national culture through the medium of film-making".

In **Luxembourg**, the main task of the FNSP is "to promote the development of the audiovisual production sector in the Grand Duchy of Luxembourg".

³⁹ In **Germany**, the tasks of the FFA are mainly described in para. 1.1 of the Viertes Gesetz zur Änderung des Filmförderungsgesetzes vom 22. Dezember 2003: "Die Filmförderungsanstalt (FFA) fördert als bundesweite Filmförderungseinrichtung die Struktur der deutschen Filmwirtschaft und die kreativ-künstlerische Qualität des deutschen Films als Voraussetzung für seinen Erfolg im Inland und im Ausland."

In **Spain**, the primary task of the ICAA is to "1. Desarrollar la creación, incrementar la producción y favorecer la distribución de producciones españolas." (Art 2.1. de 1450 REAL DECRETO 7/1997, de 10 de enero de estructura orgánica y funciones del Instituto de la Cinematografía y de las Artes Audiovisuales.)

In **Finland**, Section 2 of the Film Promotion Act 2000 states that funds are allocated by the State to the Finnish Film Foundation "in support of the production and distribution of a film or other audiovisual programmes and for other promotion of film culture".

In the **United Kingdom**, the main aim of the UK Film Council is "To stimulate a competitive, successful and vibrant UK film industry and culture, and to promote the widest possible enjoyment and understanding of cinema throughout the nations and regions of the UK." (Film Council website).

In **Greece**, the task of the EKK is "a.) the protection and development of the art of cinematography in Greece and b.) the promotion and distribution of Greek cinematographic production within Greece and abroad " (Art.17 § 1 Law 1597 (21 May 1986), Protection and development of cinematographic art, support of Greek cinema and other provisions.)

In **Iceland**, the role of the IFF is "to promote Icelandic filmmaking by providing financial support" (Art.1 Fund Regulation n°229/2003).

In the **Netherlands**, the Dutch Film Fund has two main objectives: "To encourage film production in the Netherlands, focussing on quality and diversity; To engender a good climate for Dutch film culture." (NFF website).

In **Sweden**, the aims of the SFI "include the promotion, support and development of film in its cultural and broader contexts, the allocation of grants for the production, distribution and public showing of Swedish films at home, and the promotion for Swedish cinema at international level." (SFI website).

⁴⁰ "2. Alcanzar una proporción aceptable de mercado interior que permita el mantenimiento de todo el conjunto industrial del cine español.", art. 2.2. du 1450 REAL DECRETO 7/1997, de 10 de enero de estructura orgánica y funciones del Instituto de la Cinematografía y de las Artes Audiovisuales.

4.3.2 Advisory role and drafting of regulations

According to their statutes, many agencies are responsible for advising their respective governments. This is the case in Germany (FFA), Luxembourg (FNSPA), Norway (NFF) and Romania (CNC).

In France, the first explicit task of the CNC is :

"1. to study draft laws, decrees and orders relating to the film industry, particularly those which give the industry a legal status adapted to its needs".⁴¹ Similar tasks are attributed in Luxembourg (FNSPA), Portugal (ICAM) and Romania (CNC).

4.3.3 Implementation of the regulatory framework

Three agencies are specifically responsible for implementing the regulatory framework: the CNC in France,⁴² the ICAM in Portugal and the CNC in Romania.

4.3.4 Coordination with other national or regional bodies

In several countries, particularly countries with structures at other administrative levels (Communities, Länder), the task of coordination with other national or regional bodies is expressly mentioned. This is the case in Austria, Germany and Spain. In Portugal and Romania, agencies are responsible for coordination with other ministerial or administrative bodies.

4.3.5 Consultation and coordination of the various branches of the industry

In several countries, agencies have the specific task of consulting the different branches of the industry and even coordinating them in order to enhance the success of the national film industry. Such provisions may be written in general terms, such as in the case of the French CNC, which also has an arbitration role.⁴³

In other countries, the coordination role concerns more specifically relations between the film industry and television channels.⁴⁴

The ICAM (Portugal) is the only agency with an explicit responsibility to coordinate not just the film and audiovisual sector, but also the multimedia sector.⁴⁵

4.3.6 Aid management

Aid management is in fact the most important task for these agencies. The different types of aid are defined in the next chapter.

4.3.7 International tasks

Agencies are often specifically responsible for tasks at international level.

The most common of these is to contribute to the international renown of the national film industry and to promote films and audiovisual works on the international market. This role is set out in the statutes of the ÖFI (Austria), FFA (Germany), DFI (Denmark), ICAA (Spain), CNC (France), EKK (Greece), MMK (Hungary), IFF (Iceland), FNSPA (Luxembourg), ICAM (Portugal), SFI (Sweden) and SFF (Slovenia). In some countries, the task of promoting films in international markets may be entrusted to other bodies, usually associations.

Some agencies make representations to the European institutions and/or agencies in other partner countries with whom cultural co-operation agreements have been signed.⁴⁶

Finally, another specific task is to stimulate international co-productions⁴⁷ and, in some cases (particularly in countries such as Ireland, Iceland and Luxembourg, which operate tax incentive schemes), to search for foreign investors.

⁴¹ Art. 2 § 1 of the Film Industry Code.

⁴² Art.2 § 2 of the Film Industry Code.

⁴³ See the provisions on "coordination between the different branches of the film industry" and "possibly to arbitrate conflicts arising from these regulations, except for actual industrial disputes" in Art.2 § 2 of the aforementioned Film Industry Code.

⁴⁴ In **Austria**, Art. 2 d) of the Filmförderungsgesetz states that one of the objectives of the ÖFI is "die Zusammenarbeit zwischen Film und Fernsehen zu fördern". In the **French-speaking Community of Belgium**, one of the responsibilities of the Centre du Cinéma et de l'Audiovisuel is "to encourage co-production of audiovisual works between independent producers and the RTBF on the one hand and RTL-TV1 on the other". (Art.2, § 2 du décret du 23 décembre 1994). § 5 also states that the Centre may be asked by the Government "to fulfil all tasks (...) particularly the negotiation and implementation of agreements with broadcasting bodies".

In **Germany**, Article 1 para. 2 of the Viertes Gesetz zur Änderung des Filmförderungsgesetzes vom 22. Dezember 2003 states that one of the FFA's roles is "die Zusammenarbeit zwischen der Filmwirtschaft und den Fernsehveranstaltern zur Stärkung des deutschen Kinofilms zu unterstützen".

In **Slovenia**, Article 5 of the Law on The Slovenian Film Fund (17-664/1994) stipulates that the fund should "cooperate with RTV Slovenia in the production of artistic films".

⁴⁵ Art.2 f) of the Decreto-Lei n°408/98 de 21 de Dezembro : "Estimular a articulação entre o cinema, o audiovisual e o multimédia com vista a potenciar as suas relações de carácter cultural e económico".

⁴⁶ **French-speaking Community of Belgium** : according to Art.2, para. 5 of the Decree of 23 December 1994, the Centre du Cinéma et de l'audiovisuel may be asked by the Government to "negotiate and implement (...) co-operation agreements in the audiovisual sector".

In **Spain**, the ICAA is responsible for "las relaciones con organismos e instituciones internacionales y extranjeros de fines similares".

In **Iceland**, of the roles of the Icelandic Film Centre is "participation in international bodies, such as Eurimages, the Nordic Film and TV Fund, Media, Filmkontakt Nord, North by North West, European Film Promotion and Scandinavian Films". (Icelandic Film Centre website).

In **Portugal**, the ICAM must "Promover a cooperação com países terceiros, com especial relevância para os de língua oficial portuguesa, no âmbito das suas atribuições" (Art. 2 l. du Decreto-Lei n°408/98 de 21 de Dezembro).

In **Roumanie**, le CNC a parmi ses attributions : "participa la initierea si la negocierea conventiilor, acordurilor si a altor intelegeri internationale în domeniul cinematografiei, potrivit legii;" (art. 6 n) Legea nr. 630 din 27 noiembrie 2002 cinematografie).

⁴⁷ This is stipulated in the statutes of the ÖFI (Austria), FFA (Germany), Film Council (United Kingdom) and EKK (Greece).

4.3.8 Vocational training, research and information

Vocational training is provided by several agencies: ÖFI (Austria), ICAA (Spain), CNC (France), UK Film Council (United Kingdom), CNC (Romania).

Carrying out research and study and/or producing statistics are specific tasks for the VFA (Flemish-speaking Community - Belgium), FFA (Germany), DFI (Denmark), CNC (France), Film Council (United Kingdom), EKK (Greece), IFC (Iceland), FNSPA (Luxembourg), CNC (Romania) and SFF (Slovenia).

4.3.9 Conservation and archiving

Some agencies are responsible for conserving and archiving the cinematographic and/or audiovisual heritage, or for helping with these tasks: DFI (Denmark), ICAA (Spain), IFF (Ireland), CNC (Romania). In most other countries, these tasks are delegated to other bodies.

4.3.10 Organisation of events (festivals, awards)

Some agencies are also responsible for organising national or international events:

- festivals: CNC (France), EKK (Greece), IFC (Iceland), CNC (Romania), SFF (Slovenia)
- awards: EKK (Greece), CNC (Romania), SFI (Slovenia).

4.3.11 Other tasks

Finally, agencies may be responsible for other specific or as yet undefined tasks.

T.1 Description of agencies' aims and tasks

	AT	BE	BE	DE	DK	ES	FI	FR	GB	GR
	ÖFI	(CFR) CCA	(VLG) VFA	FFA	DFI	ICAA	FFF	CNC	UKFC	EKK
Improve the quality of national cinema, national film culture and the promotion of creativity	•			•					•	•
Advise the government, draw up strategies				•						
Prepare the regulatory framework								•		
Implement the regulatory framework								•		
Coordinate with other national or regional bodies	•			•		•				
Improve the industry's structures	•			•				•	•	
Maintain market shares for national cinema						•				
Coordinate the different branches of the industry, make contact with professional organisations	•			•				•		
Financial support / Promotion of the industry	•		•							•
Aid for development, creativity, and screenplay writing	•				•	•				•
Aid for production	•	•		•	•	•	•	•	•	•
Ensure the promotion and distribution of films in the country	•	•	•		•	•	•		•	
Aid for cinemas							•		•	•
Aid for experimental or non-commercial films					•			•	•	
Aid for documentaries, educational films				•	•			•		
Allocate grants			•							
Financial control								•		
Income control								•		
International relations				•		•				
Promotion abroad	•			•	•	•		•		•
Stimulate co-productions or foreign investments	•			•					•	•
Professional training	•					•		•	•	
Research/Statistics/Information			•	•	•			•	•	•
Archiving					•	•				
Organise activities for the general public					•				•	
Organise national or international events								•		•
Award prizes										•
Coordinate social works								•		

T.1 (cont.) Description of agencies' aims and tasks

	HU	IE	IS	LU	NL	NO	PT	RO	SE	SI
	MMK	IFB	IFC /IFF	FNSPA	NFF	NFF	ICAM	CNC	SFI	SFF
Improve the quality of national cinema, national film culture and the promotion of creativity			•	•	•					
Advise the government, draw up strategies	•			•		•	•	•		
Prepare the regulatory framework	•			•			•	•		
Implement the regulatory framework	•						•	•		
Coordinate with other national or regional bodies							•	•		
Improve the industry's structures		•		•			•			
Maintain market shares for national cinema										
Coordinate the different branches of the industry, make contact with professional organisations							•			•
Financial support / Promotion of the industry	•						•	•		
Aid for development, creativity, and screenplay writing	•									•
Aid for production	•	•	•	•	•	•	•		•	•
Ensure the promotion and distribution of films in the country							•		•	•
Aid for cinemas									•	
Aid for experimental or non-commercial films									•	•
Aid for documentaries, educational films										
Allocate grants										
Financial control				•						
Income control										
International relations	•		•				•	•		•
Promotion abroad	•		•	•			•			•
Stimulate co-productions or foreign investments	•		•	•						
Professional training	•							•		
Research/Statistics/Information	•		•	•				•		•
Archiving	•	•						•	•	•
Organise activities for the general public										
Organise national or international events			•					•		•
Award prizes								•		•
Coordinate social works										

Areas of activity: films, audiovisual production and multimedia

A further difficulty in analysing support policies stems from the differing concepts of the areas involved and definitions of spheres of activity. What is certain is that all the agencies concerned are involved in support for film production itself and, in some cases, for other film industry branches or activities (distribution, screening, promotion, video release, technical industries, etc.).

4.4.1 . Film and/or audiovisual production

Matters are less clear where support for audiovisual production is concerned. Various scenarios are possible and it is important to bear them all in mind:

- Certain national or regional film funding agencies have dedicated support programmes for audiovisual productions which are distinct from their specific film programmes. This is quite plainly the case in France, where the regulations make a clear distinction between films and audiovisual works, and the national film board, the CNC, runs a fund (COSIP) that specifically provides financial support for audiovisual programmes. This is also the case in the French Community in Belgium, where the film and audiovisual board has a specific support programme for animation and television fiction; the same also applies to Filmförderung Hamburg, the Filmstiftung Nord-Rhein Westfalen, the Medien- und Filmgesellschaft Baden-Württemberg GmbH, the Institut Catala des Industries Culturals, Scottish Screen and the ICAM in Portugal.

- Some bodies only provide funding for television production: this is the case with the Swiss fund, Teleproduktions Fonds / Fonds de production télévisuelle, and the Filmfernseh Fonds in Bavaria. It also applies to one local fund in France (in Côtes d'Armor).

- Most organisations can provide support through one and the same programme for film production (of full-length and short films), audiovisual production (particularly fiction) and the types of work that lie somewhere between cinema and television (animated films, documentaries, etc.).

It should also be pointed out that in some cases the term "*audiovisual*" has to be understood in its broadest sense, that is to say that it includes both films and television. For instance, the Vlaams Audiovisueel Fonds is involved not only in television but also in film funding. Other support agencies' activities reach beyond the cinema and audiovisual sector and cover all types of support for a whole range of cultural activities (as with Cultural Endowment in Estonia, the Institut Catala des Industries Culturals in Spain, etc.).

4.4.2 Multimedia

In recent years, the growth of multimedia publishing and video games has prompted some authorities to include multimedia products among those attracting financial support.

The same comments apply as for audiovisual production. More often than not, it would seem that funding programmes are "all-inclusive" and also encompass support for multimedia publishing.

Some film agencies have set up specific support programmes for multimedia products. These include the "Digital Content" programme and the support scheme for film-related productions with interactive content set up by Medien- und Filmgesellschaft Baden-Württemberg GmbH, the "Support for production of multimedia and media art" scheme run by the Centre for the Promotion of Audiovisual Culture in Finland, the support for multimedia publishing provided by the French national film board, the CNC, various French regional support fund programmes, the Irish Film Board's "Irish Flash" programme, Nederlands Fonds voor de Film's Nieuwe Media Programme, and the ICAM's Apoio ao desenvolvimento e à produção projectos multimedia scheme.

The KORDA database does not list any organisations whose exclusive task is to support multimedia publishing but we cannot rule out the possibility that such bodies exist.

4.5

Support for the cinema industry: diversity in the types of activity supported

An examination of the types of cinema industry activity supported by national film agencies reveals, once again, marked differences between the approaches taken.

All national film agencies support feature film production; it is at the heart of their activity.⁴⁸ For this reason, Chapter 6 is devoted to an analysis of these schemes.

Support for screenwriting, development and pre-production are also quite common. Schemes supporting distribution are offered less systematically and support for video (and DVD) production only exist in four countries (Finland, France, Portugal and, since January 2004, in Germany⁴⁹), while in Germany there is a support programme for video libraries.⁵⁰ Support for post-production (including dubbing) are offered only in the French Community of Belgium and Italy. In France, the use of new technologies in production is supported. Support for technical industries techniques exist in France and are planned in new Italian legislation. Support programmes for digital projection are generally considered as exhibition support.⁵¹

National support programmes for cultural activities, support for international promotion, training and support for professional organisations, are not systematically collected in the KORDA database. It is therefore possible that not all such schemes have been included here.

⁴⁸ However it should be noted that in **Poland**, three separate organisations have been created to support scriptwriting, production and distribution

⁴⁹ §53b de la Filmförderungsgesetz introduit par l'article 43 de la Viertes Gesetz zur Änderung des Filmförderungsgesetz vom 22. Dezember 2003.

⁵⁰ It is possible that in some cases, support for video publishing have been included in figures for distribution support.

⁵¹ The "Digital Screen Network" programme launched by the UK Film Council in 2003

T.2 Support schemes for the cinema operated by national film agencies

	Script writing		Production		Distribution		Edition video	Facilities	National promotion (1)	International promotion (1)	Training (1)	Professional organisations (1)
	Development/Pre-production		Postproduction New technologies	Exhibition								
AT	ÖFI	•	•	•	•				•		•	
BE (CFR)	CCAV	•	•	•						•		
BE (VLG)	VAF	•	•									
BG	NFC		•									
CH	OFC	•	•	•					•	•	•	
CZ	SFC		•									
DE	FFA	•	•	•	•	•	•		•	•		
DK	DFI	•	•	•	•				•			
EE	EFF	•	•						•	•		
ES	ICAA	•	•	•					•	•		
FI	FFF	•	•	•	•	•	•		•	•		
FR	CNC	•	•	•	•	•	•	•	•	•	•	
GB	UKFC	•	•	•	•				•	•	•	
GR	EKK	•	•						•	•		
HR	MC		•									
HU	MMFK	•	•							•		
IE	IFF	•	•							•		
IS	IFC		•									
IT	DGC	•	•	•	•	•	•		•	•	•	•
LU	FNSPA	•	•	•					•	•		
LV	NFCL		•							•		
NL	NFF	•	•	•								
NO	NFF		•									
PL	IFAS	•										
PL	APF		•									
PL	FP			•								
PT	ICAM	•	•	•	•	•	•		•	•	•	
RO	CNC		•									
SE	SFI		•	•	•	•			•	•	•	•
SI	SFRS		•									•
SK	MC		•						•			
TR	MC		•									

(1) Information about these activities is not systematically collected in KORDA – this list may therefore be incomplete Source: European Audiovisual Observatory/KORDA

Funding bodies in Europe – a general overview

5.1 Organisations offering direct support for film and audiovisual works

5.2 How the funds are funded

BOX N°4 Voluntary contributions of broadcasters to funds

5.3 Conclusions

5.1

Organisations offering direct support for film and audiovisual works

5.1.1 Funding bodies and funding programmes in Europe

Every country in Europe operates some form of public funding for arts and culture, and in almost every country this extends to direct support for the film and audiovisual industry.

The KORDA database¹ lists details of funding organisations and funding programmes throughout the 35 countries which are members of the European Audiovisual Observatory.

KORDA makes a distinction between funding bodies, i.e. the organisations in charge of funding, and funding programmes, i.e. the detailed operational supports provided by the funding bodies.

At the time of writing (April 2004), there were a total of 169 funding bodies on KORDA in 32 countries.²

KORDA aims to list every organisation which offers direct support on a continuous basis for each phase of the film, television and multimedia production. The funding bodies included in KORDA vary considerably in size: from national film organisations disposing of budgets running into hundreds of millions of EUR to smaller funds whose budgets amount to a few thousand EUR.

Organisations active at national level

According to KORDA, there were 51 organisations active at national level. These include national film agencies, plus in some countries separate lines of support offered by ministries of culture or other organisations. In Germany, for example, the three national bodies are the Filmförderungsanstalt (Federal Film Board), the Ministry of Culture and Media, and the Stiftung Junger Deutscher Film (Fund for young people's films). Other countries, including Italy, Spain and the UK, have a single national support body.

¹ <http://korda.obs.coe.int>

² Tax incentive programmes operated by the governments of Ireland and Luxembourg are included in KORDA, but excluded from our comparative analysis of support schemes. Both schemes are aimed at encouraging investment in films, but are fundamentally different from programmes which offer direct financial support to the industry.

Organisations active at a Community, regional or local level

The importance of funding Community, regional³ or local level is underlined by the quantity of organisations listed on KORDA: 118.

These funds operate at various levels, in many cases reflecting the political make-up of each country. Under Germany's federal system, cultural policy, including the funding of cultural institutions, is the preserve of the 16 Länder and of the municipalities. In France, regions and local municipalities have developed their own cultural policies, which gained impetus with further moves to decentralise government in the 1980s and the guidelines of the Minister of Culture proposed in 2003 and implemented in the 2004 CNC budget. KORDA has details of 30 organisations in France which operate at the level of regions, departments and in some cases, municipalities.

Organisations active at a supra-national level

KORDA also includes details of five bodies which operate at the European level or by inter-governmental agreement, across several countries:

- the largest is the European Union of which the MEDIA Programme runs in its current form until 2005 (but is likely to be extended for a further year). Other EU funds also exist such as the EC Development Directorate and in the framework of the EUROMED Partnership.

- Eurimages, which operates under the Council of Europe, currently has 30⁴ member states.

- The Nordisk Film and TV Fund comprises the five Nordic countries.

- The Agence intergouvernementale de la Francophonie operates two mechanisms (one Fund and one grant mechanism).

- Ibermedia is a venture between Spanish and Portuguese-speaking countries in Europe and Latin America.

Other organisations

KORDA also lists seven funding national bodies which make their funding available to more than one country. These include the Balkan Fund, a script development funds set up by the Greek Film Centre in 2003 which supports film-makers in 11 countries in south-eastern Europe. Others, such as the Hubert Bals Fond, the Jan Vrijman Fund and the Gothenburg Film Festival Fund, are aimed at developing countries, including Africa, Asia, the Caribbean and South America.

The dominance of national programmes

The number of funding programmes at national level is greater than those operating at regional level. This reflects a disparity in budgets and the much greater range of intervention by funding bodies operating at national level.

The Centre national de la Cinématographie in France is the most active fund, with 32 separate funding programmes listed on KORDA. The database lists 13 different CNC programmes supporting production alone. The larger national funds mostly support each phase of production of films: development, production, distribution and exhibition. The largest regional German funds also support multiple strands of activity, but for the most part regional bodies operate just one or two programmes.

T.3 Numbers of funding bodies

Country	National	Communitary	Regional	Local	Total
AT	2	12	1	4	18
BE		2			3
BG	1				1
CH	4	8		2	14
CY	1				1
CZ	1				1
DE	3	17	2		20
DK	1				3
EE	3				3
ES	1	12		1	14
FI	2		1		3
FR	3		24	9	36
GB	1	4	10		15
GR	1				1
HR	1			1	2
HU	4				4
IE	1				1
IS	1				1
IT	1		1		2
LT	1				1
LU	1				1
LV	2				2
MK	1				1
MT	0				0
NL	3			1	4
NO	2		2		4
PL	3				3
PT	1				1
RO	1				1
SE	1		4		5
SI	1				1
SK	1				1
TR	1				1

Total without					
RU	51	55	45	18	169
RU	1		ca 80		ca 81
Supra-national					5
TOTAL	52	55	ca 125	18	ca250

Source : European Audiovisual Observatory/KORDA

T.4 Total funding programmes by level (Federation of Russia not included)

National	253
Community	circa 193
Regional	circa 108
Local	circa 21
Supranational	26

Source : European Audiovisual Observatory/KORDA

³ By Community we mean, by opposition to Regions, the autonomous territorial administrative entities with their own regulatory competence in the cultural field (Länder in Austria and Germany, Communautés in Belgium, Comunidad in Spain, Cantons in Switzerland and Nations in United Kingdom). In this overview and statistical summary, we have not considered the Federation of Russia. In the report *The Film Sector in the Russian Federation*, published by the European Audiovisual Observatory in 2002, D. Dondurei and N. Venger indicated that in the Federation, "there are 89 legal entities – geographical regions which are administrated and controlled in accordance with the Constitutions of the Republics or Organisation Charts of Areas. In most territories there are organisations, which coordinate or control the cinematographic activity of each territory. In 55 regions the administrative structures of the cinematographic network are included in the structures of local administration, as a rule in the Department of Culture; in 21 regions they are independent co-ordinating establishments".

⁴ For a full list, see Chapter 10.2.

T.5 Overall funding bodies and funding programmes

Funding bodies	Number of programmes					TOTAL
	Supranational	National	Community	Regional	Local	
AT						
Bundeskanzleramt, Sektion für Kunstangelegenheiten	NAT	1				n.a.
Österreichisches Filminstitut	NAT	8				8
Abteilung Kultur im Amt der Tiroler Landesregierung	COM					n.a.
Amt der Kärntner Landesregierung	COM					n.a.
Amt der Vorarlberger Landesregierung - Kulturabteilung	COM					n.a.
Cine Tirol Filmförderung	COM		3			3
Cine-Culture Carinthia GmbH	COM					n.a.
Film Fonds Wien	COM		7			7
Filmförderung des Landes Salzburg	COM					n.a.
Filmförderung des Landes Niederösterreich	COM					n.a.
Förderung des Landes Salzburg für kommerzielle Filmproduktionen	COM					n.a.
Oberösterreich - Institut für Kulturförderung	COM					n.a.
Oberösterreichisches Filmbüro	COM					n.a.
Steiermark - Amt der steirischen Landesregierung	COM					n.a.
Kulturabteilung der Stadt Wien	LOC					n.a.
Kulturamt der Stadt Graz	LOC					n.a.
Kulturamt der Stadt Salzburg	LOC					n.a.
Magistrat der Stadt Klagenfurt - Abteilung Kultur	LOC					n.a.
BE						
Centre du Cinéma et de l'Audiovisuel	COM		8			8
Vlaams Audiovisueel Fonds	COM		4			4
Wallimage	REG			2		2
BG						
National Film Centre	NAT	1				1
CH						
Office fédéral de la Culture	NAT	3				3
Suissimage	NAT	1				1
Teleproduktions Fonds	NAT	3				3
Euroinfo (MEDIA compensatory measures)	NAT	4				4
Fondation Vaudoise pour le cinéma	COM		1			1
Fonds Regio	COM		1			1
Kanton Argau	COM					n.a.
Kanton Bern	COM					n.a.
Canton de Lucerne	COM					n.a.
Kanton Solothurn	COM					n.a.
Cantone Ticino	COM					n.a.

T.5 (cont.) Overall funding bodies and funding programmes

Funding bodies	Number of programmes					TOTAL
	Supranational	National	Community	Regional	Local	
Ville de Bâle	LOC					n.a.
Ville de Genève	LOC					n.a.
Stadt und Kanton Zürich	COM /LOC					n.a.
CY						
Cinema Advisory Committee	NAT	1				1
CZ						
State Fund for the Support and Development of Czech Cinematography	NAT	1				1
DE						
BKM	NAT	3				3
Filmförderungsanstalt	NAT	14				14
Kuratorium Junger Deutscher Film	NAT	6				6
Bremer Innovations Agentur	COM		5			5
Filmboard Berlin-Brandenburg	COM		6			6
Kulturelle Filmförderung Bremen	COM		4			4
Filmfernsehfonds Bayern	COM		6			6
Filmförderung Hamburg	COM		7			7
Filmstiftung NRW	COM		15			15
Hessische Filmförderung	COM		6			6
Kulturelle Filmförderung Sachsen	COM					n.a.
Kulturelle Filmförderung Sachsen-Anhalt	COM		3			3
Kulturelle Filmförderung Schleswig Holstein	COM		3			3
MDM	COM		7			7
Meckelnburg Vorpommern Film e.V.	COM		3			3
MFG Filmförderung	COM		10			10
MSH	COM		4			4
Nordmedia Fonds	COM		5			5
Saarland Medien	COM		2			2
Kulturelle Filmförderung Thüringen	COM					n.a.
DK						
Dansk Film Institut	NAT	11				11
Den Vestdanske Filmpulje	REG			1		1
Filmfyn	REG			1		1
EE						
Eesti Filmi Sihtasutus	NAT	6				6
Eesti Kultuurkapital	NAT					n.a.
Ministry of Culture	NAT					n.a.

T.5 (cont.) Overall funding bodies and funding programmes

Funding bodies	Number of programmes					TOTAL
	Supranational	National	Community	Regional	Local	
ES						
Instituto de la Cinematografía y las Artes Audiovisuales	NAT	6				6
Comunidad de Madrid, Oficina de Promoción del Cine	COM		2			2
Generalitat de Catalunya	COM		3			3
Institut Catala de Finances	COM		1			1
Institut Catala des Industries Culturals	COM		13			13
Instituto Valenciano de Cinematografía Ricardo Muñoz Suay	COM		4			4
Junta de Andalucía, Dirección General de Fomento y Promoción Cultural,	COM		4			4
Gobierno Vasco, Dirección de Creación y Difusión Cultural,	COM		5			5
Xunta de Galicia, Consellería de Cultura, Comunicación Social e Turismo,	COM		6			6
Departamento de Cultura y Turismo, Aragón	COM					n.a.
Junta de Castilla la Mancha	COM					n.a.
Junta de Extremadura	COM					n.a.
Gobierno de Navarra	COM					n.a.
Diputación de Almería	LOC					n.a.
FI						
AVEK/Centre for the Promotion of Audiovisual Culture	NAT	3				3
Suomen Elokuvasäätiö	NAT	12				12
POEM/Northern Film & Media Centre	REG			4		4
FR						
ADRC	NAT	1				1
Centre national de la Cinématographie	NAT	32				32
Ministère des Affaires Étrangères	NAT	4				4
Agence Culturelle d'Alsace	REG			3		3
Aquitaine Image Cinéma	REG			1		1
Atelier de Production Centre Val de Loire	REG			5		5
Collectivité Territoriale de Corse	REG			1		1
Conseil Régional Champagne Ardenne	REG			1		1
Conseil Régional d'Alsace	REG			2		2
Conseil Régional d'Aquitaine	REG			1		1
Conseil Régional d'Auvergne	REG			3		3
Conseil Régional de Basse Normandie	REG			1		1
Conseil Régional de Bretagne	REG			5		5
Conseil Régional de Franche Comté	REG			2		2

T.5 (cont.) Overall funding bodies and funding programmes

Funding bodies	Number of programmes					TOTAL
	Supranational	National	Community	Regional	Local	
Conseil Régional de Lorraine	REG			1		1
Conseil Régional de Picardie	REG			3		3
Conseil Régional des Pays de la Loire	REG			1		1
Conseil Régional Limousin	REG			2		2
Conseil Régional Midi-Pyrénées	REG			9		9
Conseil Régional Rhône-Alpes	REG			2		2
CRRAV (Nord/Pas-de-Calais)	REG			7		7
Pôle Image Haute-Normandie	REG			2		2
Conseil Régional Île-de-France	REG			1		1
Conseil Régional Poitou-Charentes	REG			6		6
Conseil Régional Provence-Alpes Côtés d'Azur	REG			2		2
Rhône Alpes Cinéma	REG			3		3
THECIF -Théâtre et Cinéma en Île-de-France	REG			3		3
Communauté Urbaine de Strasbourg	LOC				1	1
Conseil général des Côtes d'Armor	LOC				1	1
Conseil général du Finistère	LOC				1	1
Conseil général du Puy-de-Dôme	LOC				1	1
Conseil général Loire-Atlantique	LOC				1	1
Conseil général de la Sarthe	LOC				1	1
Conseil général Bouches du Rhône	LOC					n.a.
Conseil général Seine-Saint-Denis	LOC					n.a.
Conseil général Val-de-Marne	LOC					n.a.
GB						
The UK Film Council	NAT	8				8
Northern Ireland Film & Television Commission	COM			3		3
Scottish Screen	COM			13		13
Sgrŷn, Media Agency for Wales	COM			2		2
Gaelic Television Fund	COM			4		4
EM Media	REG				2	2
Film London	REG				3	3
Isle of Man Film & TV Fund	REG				1	1
North West Vision	REG				1	1
Northern Film & Media	REG				4	4
Screen East	REG				4	4
Screen South	REG				2	2
Screen West Midlands	REG				4	4
Screen Yorkshire	REG				3	3
South West Screen	REG				2	2
GR						
Greek Film Centre (EKK/GFC)	NAT	8				8

T.5 (cont.) Overall funding bodies and funding programmes

Funding bodies	Number of programmes					TOTAL
	Supranational	National	Community	Regional	Local	
HR						
Ministry of Culture	NAT	1				1
City of Zagreb	LOC				1	1
HU						
Foundation of the Hungarian Historical Motion Picture	NAT	3				3
Motion Picture Public Foundation of Hungary	NAT	7				7
National Cultural Fund of Hungary	NAT	1				1
ORTT	NAT	1				1
IE						
Irish Film Board	NAT	14				14
IS						
Icelandic Film Centre	NAT	1				1
IT						
Direzione Generale per il Cinema	NAT	5				5
Friuli Venezia Giulia Film Commission	REG			1		1
LT						
Ministry of Culture of the Republic of Lithuania	NAT					n.a.
LU						
Fonds national de soutien à la production audiovisuelle	NAT	4				4
LV						
Culture Capital Foundation	NAT					
National Film Centre of Latvia	NAT	2				2
MK						
Broadcasting Council	NAT	1				1
MT						
—	NAT	0				0
NL						
CoBo Fonds	NAT	1				1
Nederlands Fonds voor de Film	NAT	11				11
Stimuleringsfonds Nederlandse	NAT	3				3
Rotterdam Film Fund	LOC				3	3

T.5 (cont.) Overall funding bodies and funding programmes

Funding bodies	Number of programmes					TOTAL
	Supranational	National	Community	Regional	Local	
NO						
Norsk Filmfond	NAT	6				6
Norsk Filmutvikling	NAT	1				1
Nordnorsk Filmsenter	REG			1		1
Vestnorsk Filmsenter	REG			1		1
PL						
Film Polski	NAT	1				1
Film Production Agency	NAT	1				1
Polish Script Agency	NAT	1				1
PT						
ICAM	NAT	19				19
RO						
Centrul National al Cinematografei	NAT	1				1
RU						
Ministry of Culture (1)	NAT					n.a.
Regions and territories (1)	COM/REG					n.a.
SE						
Svensk Filminstitutet	NAT	16				16
Film i Dalarna	REG			1		1
Film i Skane	REG			1		1
Film Pool Nord	REG					n.a.
Film i Väst	REG			1		1
SI						
Slovenian Film Fund	NAT	2				2
SK						
Ministry of Culture	NAT	2				2
TR						
Ministry of Culture	NAT	1				1
SUPRANATIONAL						
Agence Intergouvernementale de la Francophonie	SUP	2				2
Communauté européenne :						
- MEDIA Plus	SUP	8				8
- EC Development Directorate Culture Section	SUP	1				1
- Euromed	SUP	3				3
Eurimages	SUP	3				3
Ibermedia	SUP	4				4
Nordisk Film- & TV Fond	SUP	5				5

(1) See note 3 p.46.

T.5 (cont.) Overall funding bodies and funding programmes

Funding bodies	Number of programmes						
	Supranational	National	Community	Regional	Local	TOTAL	
OTHERS							
Balkan Fund	NAT	1				1	
Baltic-Russian Development Fund for Documentaries	NAT	1				1	
Jan Vrijman Fund	NAT	1				1	
Hubert Bals Fonds	NAT	1				1	
Nordic Baltic Film Fund	NAT	1				1	
SEE Cinema Network	NAT					n.a.	
Göteborg Film Festival	LOC				1	1	
Festival internat. Film méditerranéen Montpellier	LOC					n.a.	
GRAND TOTAL		26	circa 253	circa 193	circa 108	circa 21	circa 601

Note: table includes all funding bodies listed on KORDA and programmes in operation in December 2003, together with other bodies identified by the Observatory but not added to KORDA at the time of writing.

Financial analysis in other sections is based on 2002 data and therefore includes some organisations which did not distribute funding in 2003, such as Dansk Novelle Film (DK) and Arts Council of Wales (GB). Cornwall Film Fund (GB) is excluded on the grounds that it distributed no funds in 2003.

Despite our best efforts, we have not been able to collect information on all operating funds, so this list cannot claim to be exhaustive. Detailed information about funding programmes had not been received from funds where there is na (not available) in the end column.

Source: European Audiovisual Observatory / KORDA

5.1.2. Trends in the budgets of funding bodies

The Observatory's survey of funding body intervention budgets between 1998 and 2002 reveals that in 2002 the overall value of support in the 31 countries surveyed was EUR 962,9 million in 1998 and EUR 1 271,8 million in 2002. The increase between 2002 and 2001 was 1,5 %, and represents only a marginal increase on the year before, and represents a significant slowing of growth over the five-year period surveyed. The overall value of funding in 2002 was EUR 309 million higher than in 1998 – an increase of 32%.

The overall trend of relative stagnation in 2002 masked some large increases in funding – such as the Bundesamt für Kultur (CH), the Institut Catala des Industries Culturals (ES), the Île-de-France Region (FR), the Motion Picture Public Foundation of Hungary and the Dutch Film Fund.

Large funds which stayed the same or diminished in 2002 versus the year before included the German regional funds Filmfernsehfonds Bayern, Filmboard Berlin Brandenburg and Mitteldeutscher Medienförderung, as well as the CNC in France and the Svenska Filminstitutet (SE). Direct funding by the Direzione Generale per il Cinema in Italy fell 43%, with more film support being allocated in the form of loans by the state-owned Banca Nazionale del Lavoro. These cutbacks show the impact of the sluggish economy and declining revenues in the TV industry.

The Observatory has listed the intervention budget of the

funds in this table, excluding administrative and staff costs as well as funding support for archives and other production facilities, which are excluded from KORDA. The income of the FFA, for example, was EUR 53,6 million in 2002⁵, but we have listed its intervention budget ("Förderungsmassnahmen") of EUR 49,7 million. Where no intervention budget was available, however, the overall budget (including administration costs) has been excluded. Because this involved mostly smaller funds, we do not believe this significantly detracts from the accuracy of our figures.

The 15 (prior to May 2004) European Union countries accounted for EUR 1,1 billion, or 92% of funding in the 3 countries concerned. The five largest countries – France, Germany, Italy, Spain and the UK – represented a total of EUR 861 million, or 72% of the overall European total. France alone accounted 46% of direct public funding in 2002, and Germany 17%.

Overall, national funds represented a majority of support in 2002, valued at EUR 915 million compared to EUR 248 million in funding distributed at Community/regional/local level. National funding declined in several countries – notably in Denmark, France, Italy, Norway and Sweden. However, it showed a major increase in the UK with the establishment of the national UK Film Council. There were also significant increases in Germany, Switzerland and the Netherlands.

⁵ Geschäftsbericht 2002, Filmförderungsanstalt, page 7.

T.6 Budgets of public funding bodies in Europe 1998-2002

EUR thousand

Country	Body	Year					Type
		1998	1999	2000	2001	2002	
AT	Österreichisches Filminstitut	12 274,37	12 281,98	7 691,86	8 418,61	9 641,43	Nat
AT	Cine Tirol Filmförderung	722,02	1 090,12	1 090,12	1 090,12	1 081,00	Com
AT	Cine-Culture Carinthia	-	-	-	-	270,00	Com
AT	Filmfonds Wien	5 054,15	5 595,93	7 609,01	10 384,83	9 015,01	Com
BE	Centre du Cinéma et de l'Audiovisuel	8 742,00	8 731,90	8 732,03	8 889,46	10 041,70	Com
BE	Fonds Film in Vlaanderen (1)	5 723,78	8 153,20	10 187,69	8 383,74	3 996,00	Com
BE	Vlaams Audiovisueel Fonds (1)	-	-	-	-	5 750,00	Com
BE	Wallimage	-	-	-	3 120,00	3 120,00	Reg
BG	Bulgarian National Film Centre	8 333,33	5 283,32	783,40	705,66	1 015,228	Nat
CH	Bundesamt für Kultur/Office fédéral de la culture	5 149,86	5 364,01	6 214,34	9 107,16	8 894,48	Nat
CH	Euroinfo (MEDIA Ersatzmassnahmen)	1 063,70	1 060,83	1 056,64	1 108,45	1 761,74	Nat
CH	Kulturfonds Suissimage	1 506,20	1 577,11	1 741,25	1 366,77	1 398,80	Nat
CH	Succes Cinéma	1 234,57	1 875,00	1 923,08	1 973,69	2 837,84	Nat
CH	Teleproduktions Fonds	802,47	1 000,00	1 025,64	953,95	371,62	Nat
CH	Fonds Regio	-	-	723,08	838,82	1 084,46	Reg
CY	Cinema Advisory Committee	862,07	862,07	862,07	877,19	862,07	Nat
CZ	State Fund for the Support and Development of Czech Cinematography	1 848,82	3 286,73	2 286,85	1 151,06	2 193,33	Nat
DE	Filmförderungsanstalt	29 707,61	26 423,47	32 165,82	48 678,00	49 691,00	Nat
DE	Beauftragter der Bundesregierung für Angelegenheiten der Kultur und der Medien	6 789,34	6 864,80	7 917,06	7 698,98	10 266,00	Nat
DE	Stiftung Kuratorium Junger Deutscher Film	929,85	932,52	945,22	997,76	947,78	Nat
DE	Bremer Innovationsagentur	500,00	500,00	500,00	500,00	500,00	Com
DE	FilmFernsehFonds Bayern	28 994,92	27 438,77	31 683,67	34 170,00	29 507,00	Com
DE	Filmboard Berlin-Brandenburg	19 560,28	20 253,00	18 706,11	14 694,37	17 393,37	Com
DE	Filmförderung Hamburg GmbH	11 009,20	10 490,31	10 255,76	10 209,44	10 580,00	Com
DE	Filmstiftung Nordrhein-Westfalen GmbH	36 225,83	31 775,03	25 789,76	35 230,00	29 582,74	Com
DE	Gesellschaft zur Förderung audiovisueller Werke in Schleswig-Holstein	1 248,73	1 173,47	1 377,55	1 395,41	1 392,29	Com
DE	Hessische Filmförderung	749,71	1 187,68	1 306,17	795,00	1 368,00	Com
DE	Kulturelle Filmförderung Bremen	82,74	93,72	91,38	95,41	112,18	Com
DE	Kulturelle Filmförderung Sachsen	870,79	786,35	826,01	700,21	702,40	Com

T.6 (cont.) Budgets of public funding bodies in Europe 1998-2002

EUR thousand

Country	Body	Year					Type
		1998	1999	2000	2001	2002	
DE	Kulturelle Filmförderung Sachsen-Anhalt	304,57	306,12	306,12	306,12	n.a.	Com
DE	Kulturelle Filmförderung Schleswig-Holstein e.V	n.a.	n.a.	n.a.	n.a.	201,23	Com
DE	Mecklenburg-Vorpommern-Film e.V	n.a.	n.a.	n.a.	n.a.	269,60	Com
DE	Medien- und Filmgesellschaft Baden-Württemberg GmbH	5 601,02	6 075,51	6 997,96	8 934,69	9 092,00	Com
DE	Mitteldeutsche Medienförderung GmbH	4 879,24	12 780,24	15 351,09	13 458,48	12 712,13	Com
DE	Nordmedia (2)	-	-	-	7 617,35	9 931,47	Com
DE	Saarland Medien GmbH	-	290,82	290,82	290,82	291,44	Com
DK	Det Danske Filminstitut	18 133,33	22 732,17	27 395,97	32 707,78	32 567,20	Nat
DK	Dansk Nouvelle Film	3 200,00	3 310,90	3 221,48	3 217,16	3 051,07	Nat
DK	Den Jydske Filmfond	-	-	268,46	268,10	-	Reg
DK	Den Vestdanske Filmpulje	-	-	-	-	403,23	Reg
EE	Eesti Filmi Sihtasutus	1 117,97	1 237,70	1 237,70	1 222,85	2 194,08	Nat
EE	Eesti Kultuurkapital	1 049,85	731,13	1 052,79	1 089,37	548,50	Nat
EE	Ministry of Culture	125,71	126,52	240,15	314,65	292,65	Nat
ES	Instituto de la Cinematografía y las Artes Audiovisuales	22 874,87	31 618,98	31 790,26	31 083,00	40 830,00	Nat
ES	Conselleria de Cultura, Comunicación Social e Turismo, Xunta de Galicia	1 238,19	1 244,07	5 655,39	6 117,80	2 930,25	Com
ES	Direccio General de Política Lingüística de la Generalitat de Catalunya	-	-	1 290,73	1 160,03	2 006,77	Com
ES	Direccio General de Promocio Cultural de la Generalitat de Catalunya (3)	4 781,22	n.a.	4 564,21	1 710,72	-	Com
ES	Direccion General de Fomento y Promocion Cultural, Junta de Andalucía	129,19	156,04	807,69	807,69	807,69	Com
ES	Direccion de Creacion y Difusion Cultural, Gobierno Vasco	-	-	817,36	817,36	817,36	Com
ES	Institut Catala de Finances	-	4 557,97	8 578,04	10 730,28	15 753,90	Com
ES	Institut Catala des Industries Culturals (3)	-	-	-	2 831,90	5 507,00	Com
ES	Instituto Valenciano de Cinematografía Ricardo Muñoz Suay	1 076,68	888,58	1 202,00	1 202,00	1 382,33	Com
ES	Oficina de la Promoción del Cine de la Comunidad de Madrid	149,54	210,35	270,45	300,50	300,50	Com
FI	Suomen Elokuvasäätiö (Finnish Film Foundation)	8 523,58	10 737,31	10 542,52	10 907,00	11 089,00	Nat
FI	Centre for the Promotion of Audiovisual Culture in Finland (AVEK)	n.a.	2 023,82	1 783,95	1 973,33	1 934,15	Nat
FI	POEM	-	-	321,01	600,94	1 189,49	Reg
FR	Centre national de la cinématographie	367 454,55	378 841,46	399 725,61	472 160,06	468 686,32	Nat
FR	Agence pour le développement régional du cinéma	1 515,15	3 048,78	2 972,56	2 903,96	2 744,08	Nat
FR	Ministère des Affaires Etrangères	1 909,09	2 652,44	2 728,66	2 515,24	2 515,24	Nat

T.6 (cont.) **Budgets of public funding bodies in Europe 1998-2002**

EUR thousand

Country	Body	Year					Type
		1998	1999	2000	2001	2002/2001	
FR	Agence culturelle d'Alsace	—	—	43,45	44,03	45,49	Reg
FR	Aquitaine Image Cinéma	376,21	523,78	560,21	750,20	808,58	Reg
FR	Atelier de Production Centre Val de Loire	282,58	448,93	512,20	751,67	722,35	Reg
FR	Centre régional de ressources audiovisuelles de la Région Nord-Pas de Calais	590,91	719,51	557,17	920,03	942,50	Reg
FR	Collectivité Territoriale de la Corse	119,70	105,18	94,51	171,51	170,87	Reg
FR	Communauté Urbaine de Strasbourg	204,39	274,09	254,57	333,86	489,60	Loc
FR	Conseil général Bouches du Rhône	—	—	64,03	91,47	90,00	Loc
FR	Conseil général de Corrèze	—	—	19,51	28,97	12,91	Loc
FR	Conseil général de l'Eure	—	—	14,48	15,25	59,60	Loc
FR	Conseil général d'Indre-et-Loire	36,36	36,59	36,59	36,59	—	Loc
FR	Conseil général de l'Isère	—	—	10,67	13,72	7,63	Loc
FR	Conseil général de Loire-Atlantique	36,36	28,96	41,16	34,30	17,20	Loc
FR	Conseil général de Lot	—	—	—	—	7,60	Loc
FR	Conseil général de la Sarthe	21,21	22,87	22,87	25,15	26,22	Loc
FR	Conseil général des Côtes d'Armor	27,73	39,63	58,69	48,78	68,22	Loc
FR	Conseil général du Finistère	—	—	103,36	79,94	113,72	Loc
FR	Conseil général du Puy-de-Dôme	34,85	27,44	27,44	27,44	—	Loc
FR	Conseil général Seine Saint-Denis	97,57	112,81	64,03	205,81	—	Loc
FR	Conseil général du Val de Marne	148,64	159,49	163,12	109,00	160,07	Loc
FR	Conseil régional Champagne-Ardenne	—	—	—	—	330,00	Reg
FR	Conseil régional Midi-Pyrénées	284,85	297,71	286,13	307,19	396,80	Reg
FR	Conseil régional Rhône-Alpes	—	—	—	—	283,50	Reg
FR	Conseil régional d'Alsace	268,18	378,35	308,38	545,01	502,60	Reg
FR	Conseil régional d'Auvergne	88,63	103,66	144,82	210,99	122,00	Reg
FR	Conseil régional d'Île-de-France	—	—	—	1 554,98	4 269,00	Reg
FR	Conseil régional de Basse-Normandie	96,97	102,90	143,29	217,24	157,95	Reg
FR	Conseil régional de Franche-Comté	381,36	389,48	415,70	453,54	421,25	Reg
FR	Conseil régional de Lorraine	45,46	45,73	92,99	37,35	53,37	Reg
FR	Conseil régional de Poitou-Charentes	—	—	838,26	785,80	580,65	Reg

T.6 (cont.) **Budgets of public funding bodies in Europe 1998-2002**

EUR thousand

Country	Body	Year					Type
		1998	1999	2000	2001	2002/2001	
FR	Conseil régional de Provence-Alpes-Côte d'Azur	—	—	361,28	210,38	225,00	Reg
FR	Conseil régional de la Bretagne	364,09	1 141,77	811,28	1 775,12	871,17	Reg
FR	Conseil régional de la Picardie	103,03	32,77	101,37	105,95	121,70	Reg
FR	Conseil régional des Pays de la Loire	93,94	128,05	112,81	462,68	492,00	Reg
FR	Conseil régional du Limousin	99,24	107,47	273,63	330,05	452,09	Reg
FR	Pôle Image Haute Normandie	213,64	210,37	250,00	221,05	222,33	Reg
FR	Rhône-Alpes Cinéma	1 260,61	2 327,74	4 408,54	2 909,03	2 737,00	Reg
FR	Théâtre et Cinéma en Île-de-France	159,09	227,13	233,08	297,25	479,64	Reg
FR	Ville d'Aubagne	—	—	15,25	10,67	24,42	Loc
FR	Ville de Clermont-Ferrand	15,25	15,25	49,24	25,92	—	Loc
FR	Ville de Décines	6,82	—	9,15	8,08	6,10	Loc
FR	Ville de Nevers	—	—	7,62	7,62	—	Loc
FR	Ville de Nièvre	73,03	—	—	—	—	Loc
GB	UK Film Council (6)	—	—	—	33 937,03	46 044,83	Nat
GB	Arts Council of England (4)	40 588,24	41 203,04	40 882,40	—	—	Reg
GB	Arts Council of Wales	1 651,72	2 300,00	2 052,46	—	—	Com
GB	EM Media (5)	—	—	—	104,24	983,61	Reg
GB	London Film & Video Development Agency/Film London	1 008,09	741,79	1 071,31	1 251,67	1 512,30	Reg
GB	Gaelic Television Fund	11 878,21	12 056,77	11 787,81	14 705,54	11 993,39	Com
GB	Isle of Man Film & Television Fund	n.a.	5 970,15	6 557,38	6 716,42	n.a.	Reg
GB	Moving Image Development Agency/North West Vision (5)	n.a.	n.a.	n.a.	243,44	614,75	Reg
GB	Northern Film & Media (5)	—	—	—	300,88	989,39	Reg
GB	Northern Ireland Film and Television Commission	697,92	838,33	1 270,98	1 208,74	1 023,82	Com
GB	Scottish Arts Council	3 473,65	5 472,57	3 533,50	—	—	Com
GB	Scottish Screen	2 670,09	2 039,91	3 403,28	3 388,33	3 811,48	Com
GB	Screen East (5)	—	—	—	70,01	1 229,51	Reg
GB	Screen South (5)	—	—	—	86,42	838,53	Reg
GB	Screen West Midlands (5)	—	—	—	108,76	862,30	Reg
GB	Sgrŷn	—	—	1 374,96	1 200,52	1 729,83	Reg
GB	South West Screen	—	—	—	—	989,74	Reg

T.6 (cont.) **Budgets of public funding bodies in Europe 1998-2002**

EUR thousand

Country	Body	Year					Type
		1998	1999	2000	2001	2002	
GB	Yorkshire Media Production Agency (5)	—	—	—	162,88	1 295,08	Reg
GR	Greek Film Centre	6 094,06	6 176,55	9 269,56	7 890,00	8 180,00	Nat
HR	Ministry of Culture	4 340,88	2 474,05	3 623,19	4 087,19	3 996,84	Nat
HR	City of Zagreb	660,07	587,99	551,93	481,11	1 008,31	Loc
HU	Magyar Történelmi Film Alapítvány	371,27	495,63	463,53	774,90	558,39	Nat
HU	Motion Picture Public Foundation of Hungary	2 716,47	3 185,86	3 018,65	3 077,43	6 367,61	Nat
HU	National Cultural Fund of Hungary	1139,828	1163,665	1194,301	1277,022	1 475,38	Nat
IE	Bord Scannan na hEireann	6 185,02	6 694,34	9 113,92	10 967,18	12 304,12	Nat
IS	Icelandic Film Centre	1254,705	1523,423	1653,348	1830,035	2722,718	Nat
IT	Direzione Generale per il Cinema	51 485,45	50 428,97	66 124,61	64 658,34	41 419,95	Nat
LU	Fonds national de soutien à la production audiovisuelle	1 449,78	1 637,67	1 747,33	2 326,99	3 926,67	Nat
LV	Culture Capital Foundation	129,66	353,79	396,88	315,74	883,93	Nat
LV	National Film Center of Latvia	1 033,44	866,49	813,21	1 075,19	1 125,18	Nat
NL	Nederlands Fonds voor de Film	8 193,07	10 269,82	9 859,09	9 882,73	17 746,78	Nat
NL	Stimuleringsfonds Nederlandse Culturele Omroepproducties	—	14 090,91	15 263,50	16 328,14	16 013,16	Nat
NL	The Dutch Co-production Fund for Broadcasting Companies	9 793,24	14 342,42	9 691,06	11 969,31	11 040,65	Nat
NL	Rotterdams Fonds voor de Film en Audiovisuele Media	737,67	1 277,50	1 432,29	1 721,44	2 443,89	Loc
NO	Norsk Filmfond	—	19 258,87	16 704,92	28 251,77	27 159,52	Nat
NO	Audiovisuelt Produksjonsfond (7)	7 841,16	7 020,94	—	—	—	Nat
NO	Norsk Filmutvikling	779,22	818,29	986,44	833,33	1 090,23	Nat
NO	Nordnorsk Filmsenter AS	384,89	404,33	414,30	436,74	446,49	Reg
NO	Vestnorsk Filmsenter AS	305,79	300,84	320,59	369,95	345,87	Reg
PL	Agencja Produkcji Filmowej	3 980,97	3 288,59	3 644,64	3 083,11	1 505,07	Nat
PL	Instytucja Filmowa Agencja Scenariuszowa	244,72	162,56	178,63	144,54	104,34	Nat
PT	Instituto do Cinema, Audiovisual e Multimédia	19 721,75	20 369,47	22 426,70	19 726,63	21 164,91	Nat
RO	Centrul National al Cinematografiei	n.a.	n.a.	988,05	2 150,20	2 976,13	Nat
SE	Svensk Filminstitut	20 777,00	20 598,00	29 034,00	27 166,00	27 135,00	Nat
SE	Filmpool Nord	1054	1678	1775	2384	3187	Reg
SE	Film i Dalarna	264,01	337,92	412,90	420,91	445,82	Reg
SE	Film i Skåne	314,46	346,09	779,29	894,04	944,21	Reg

T.6 (cont.) **Budgets of public funding bodies in Europe 1998-2002**

EUR thousand

Country	Body	Year					Type
		1998	1999	2000	2001	2002	
SE	Film i Väst	3 365,16	4 138,70	6 094,68	6 852,66	5 836,37	Reg
SI	Filmski sklad Republike Slovenija	2 038,07	2 210,18	2 426,50	2 303,57	2 134,01	Nat
SK	Ministerstvo Kultúry Slovenskej Republiky	-	437,03	882,27	769,17	705,68	Nat
TR	Ministry of Culture - DG of Copyrights and Cinema	68,09	106,69	453,59	230,00	-	Nat
EUR 15	Total e	807 888,80	876 264,38	960 226,36	1 070 910,42	1 084 169,51	
EUR 30	Total e	858 273,00	938 572,98	1 018 088,32	1 143 111,03	1 162 230,00	
SUPRA	EC Development Directorate Culture Section	-	-	2 000,00	2 000,00	2 000,00	Supra
	Eurimages	24 656,02	22 925,65	22 034,57	24 540,21	25 461,62	Supra
	Ibermedia	4 133,93	3 669,73	4 347,83	3 882,35	3 750,03	Supra
	MEDIA Programme (8)	68 300,00	63 000,00	63 000,00	70 993,00	69 115,00	Supra
	Nordisk Film- & TV Fond	7 235,33	7 665,03	7 556,48	8 159,78	7 821,60	Supra
Total supra		104 325,28	97 260,41	98 938,88	109 575,34	108 148,25	
OTHERS	Baltic-Russian Development Fund for Documentaries	-	-	-	40,21	40,32	Others
	Göteborg Film Festival Filmfund	n.a.	111,86	118,34	108,34	107,30	Others
	Hubert Bals Fund	540,97	789,22	944,72	996,63	934,97	Others
	Jan Vrijman Fund	105,28	222,43	203,61	258,37	293,00	Others
	Nordic-Baltic Film Fund	84,07	116,40	74,83	74,73	73,12	Others
Total others		730,32	1 239,91	1 341,50	1 478,29	1 448,71	

(1) Funding transferred from Fonds Film in Vlaanderen to Vlaams Audiovisueel Fonds in course of 2002.

(2) Nordmedia replaced Filmbüro NW e.V. and Niedersächsische Landestreuhandstelle für Wirtschaftsförderung in 2001.

(3) Institut Catala des Industries Culturals replaced Direccio General de Promocio Cultural de la Generalitat de Catalunya in 2001.

(4) In 2001 responsibility for National Lottery funding was delegated from the Arts Council of England to the UK Film Council.

(5) Budget figures for these English regional agencies represent National Lottery funding only.

(6) Lottery funding awarded to regional agencies is excluded from UK Film Council figures.

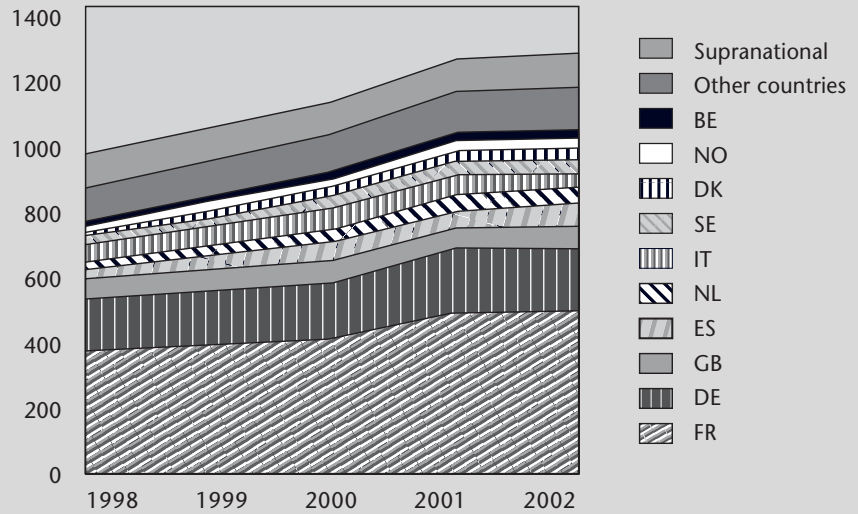
(7) Total includes the support budgets of the Audiovisuell Produktionsfond, the Norsk filminstitutt and Norsk Film AS up to June 2001. From July 2001 support budget is that of the Norsk filmfond.

(8) MEDIA Programme figures for 1998, 1999 and 2000 are overall budget figures, which may be higher than the actual amount distributed - Individual contributions from not-EUR15 participants to the programme are not included.

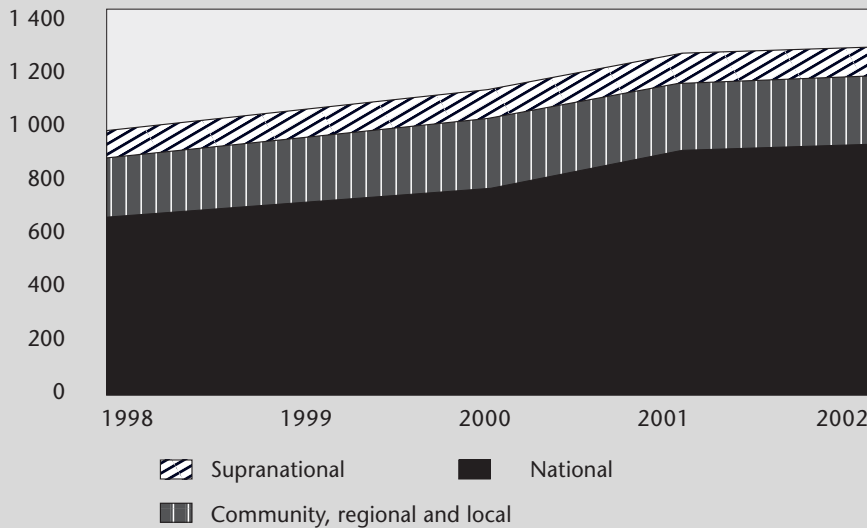
G.1 Evolution of direct public funding by country in Europe (1998-2002)

EUR million

Source: European Audiovisual Observatory

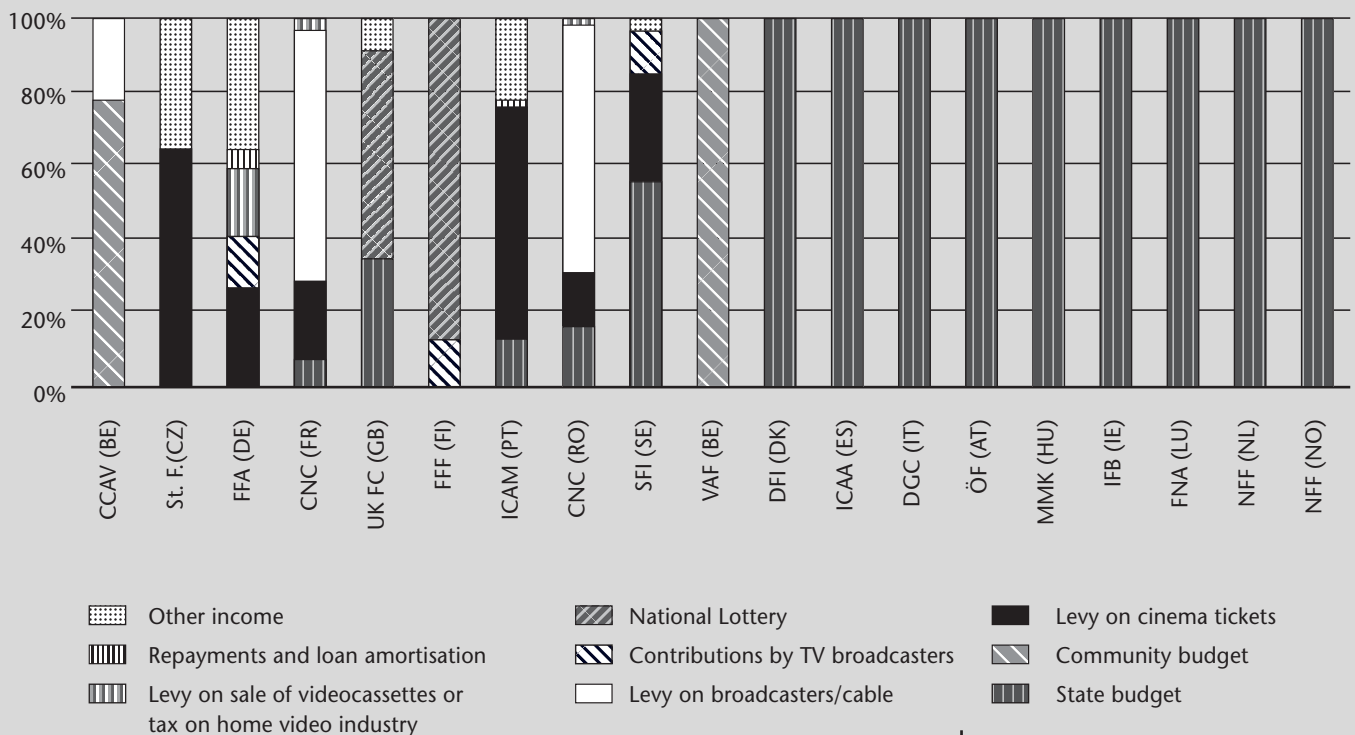


G.2 Evolution of funds budgets in Europe (1998-2002) EUR million



Source: European Audiovisual Observatory

G.3 Breakdown of the sources of funding of main national film agencies (2002) (in %)



Source: European Audiovisual Observatory

T.7 Five-year budgets at national level (1998-2002)

EUR thousand

Country	Year				
	1998	1999	2000	2001	2002
AT	12 274,37	12 281,98	7 691,86	8 418,61	9 641,43
BG	8 333,33	528,32	783,40	705,66	1015,228
CH	9 756,81	10 876,95	11 960,952	14 510,012	15 264,483
CY	862,07	862,07	862,07	877,19	862,07
CZ	1 848,82	3 286,73	2 286,85	1 151,06	2 193,33
DE	37 426,80	34 220,79	41 028,09	57 374,74	60 904,78
DK	21 333,33	26 043,07	30 617,45	35 924,93	35 618,28
EE	2 293,53	2 095,34	2 530,64	2 626,87	3 035,23
ES	22 874,87	31 618,98	31 790,26	31 083,00	40 830,00
FI	8 523,58	12 761,13	12 326,48	12 880,33	13 023,15
FR	370 878,79	384 542,68	405 426,83	477 579,26	473 945,64
GB	–	–	–	33 937,03	46 044,83
GR	6 094,06	6 176,55	9 269,56	7 890,00	8 180,00
HR	4 340,88	3 710,66	3 427,92	4 496,34	4 550,74
HU	4 227,56	4 845,15	4 676,48	5 129,35	8 401,38
IE	6 185,02	6 694,34	9 113,92	10 967,18	12 304,12
IS	1254,705	1523,423	1653,348	1830,035	2722,718
IT	51 485,45	50 428,97	66 124,61	64 658,34	41 419,95
LU	1 449,78	1 637,67	1 747,33	2 326,99	3 926,67
LV	1 163,10	1 220,27	1 210,09	1 390,93	2 009,11
NL	17 986,30	38 703,15	34 813,65	38 180,17	44 800,59
NO	8 620,38	27 098,10	17 691,36	29 085,10	28 249,75
PL	4 225,69	3 451,15	3 823,27	3 227,65	1 609,41
PT	19 721,75	20 369,47	22 426,70	19 726,63	21 164,91
RO	n.a.	n.a.	988,05	2 150,20	2 976,13
SE	20 777,00	20 598,00	29 034,00	27 166,00	27 135,00
SI	2 038,07	2 210,18	2 426,50	2 303,57	2 134,01
SK	–	437,03	882,27	769,17	705,68
TR	68,09	106,69	453,59	230,00	–

T.8 Five-year budgets at Community/regional/local level (1998-2002)

EUR thousand

Country	Year				
	1998	1999	2000	2001	2002
AT	5 776,17	6 686,05	8 699,13	11 474,94	10 366,01
BE COM	14 465,78	16 885,10	18 919,72	17 273,19	19 787,70
BE REG	–	–	–	3 120,00	3 120,00
CH (est.)	–	–	723,08	838,82	1 084,46
DE	110 027,03	113 151,03	113 482,39	128 397,29	123 635,84
DK	–	268,46	268,10	403,23	–
ES	7 374,82	7 056,99	23 185,85	25 678,27	29 505,79
FI	–	–	321,01	600,94	1 189,49
FR	5 530,68	8 007,67	11 510,86	14 163,61	16 491,13
GB	61 967,91	70 622,55	71 934,07	29 547,83	27 873,71
HR	660,07	587,99	551,93	481,11	1 008,31
NL	7	1 277,50	1 432,29	1 721,44	2 443,89
NO	690,67	705,17	734,90	806,69	792,36
SE	4 997,63	6 500,71	9 061,86	10 551,61	10 413,39

| European Audiovisual Observatory

T.9 Five-year budgets by country (1998-2002)

EUR thousand

Country	Year				
	1998	1999	2000	2001	2002
AT	18 050,54	18 968,02	16 390,99	19 893,55	20 007,43
BE	14 465,78	16 885,10	18 919,72	20 393,19	22 907,70
BG	8 333,33	528,32	783,40	705,66	1 015,228
CH	9 756,81	10 876,95	12 684,03	15 348,83	16 348,94
CY	862,07	862,07	862,07	877,19	862,07
CZ	1 848,82	3 286,73	2 286,85	1 151,06	2 193,33
DE	147 453,83	147 371,82	154 510,48	185 772,03	184 540,62
DK	21 333,33	26 043,07	30 885,91	36 193,03	36 021,50
EE	2 293,53	2 095,34	2 530,64	2 626,87	3 035,23
ES	30 249,69	38 675,97	54 976,12	56 761,27	70 335,79
FI	8 523,579	12 761,126	12 647,48	13 481,27	14 212,64
FR	376 409,47	392 550,35	416 937,68	491 742,88	490 436,78
GB	61 967,91	70 622,55	71 934,07	63 484,86	73 918,54
GR	6 094,06	6 176,55	9 269,56	7 890,00	8 180,00
HR	5 000,947	4 298,649	3 979,852	4 977,446	5 559,048
HU	4 227,561	4 845,146	4 676,477	5 129,346	8 401,38
IE	6 185,02	6 694,34	9 113,92	10 967,18	12 304,12
IS	1 254,705	1 523,423	1 653,348	1 830,035	2 722,718
IT	51 485,45	50 428,97	66 124,61	64 658,34	41 419,95
LU	1 449,78	1 637,67	1 747,33	2 326,99	3 926,67
LV	1 163,10	1 220,27	1 210,09	1 390,93	2 009,11
NL	18 723,98	39 980,65	36 245,94	39 901,61	47 244,47
NO	9 311,06	27 803,27	18 426,25	29 891,79	29 042,11
PL	4 225,69	3 451,15	3 823,27	3 227,65	1 609,41
PT	19 721,75	20 369,47	22 426,70	19 726,63	21 164,91
RO	n.c.	n.c.	988,05	2 150,20	2 976,13
SE	25 774,63	27 098,71	38 095,86	37 717,61	37 548,39
SI	2 038,07	2 210,18	2 426,50	2 303,57	2 134,01
SK	—	437,03	882,27	769,17	705,68
TR	68,09	106,69	453,59	230,00	n.a.

| Source: European Audiovisual Observatory

T.10 Public funding of cinematographic and audiovisual works in Europe by level of funding (1998-2002)

EUR thousand

	Year					
	1998	1999	2000	2001	2002	2002/2001
National totals	646 357	706 911	757 513	898 456	915 579	1,9%
Community/ Regional/Local	212 228	231 481	260 826	244 924	248 115	1,3%
Supranational	104 325	97 260	98 939	109 575	108 148	-1,3%
TOTAL	962 911	1 035 652	1 117 277	1 252 956	1 271 843	1,5%

Note : Federation of Russia not included
Administrative costs not included.

| Source: European Audiovisual Observatory

Over the five-year period, regional funding showed a less significant increase than at national level and a similar stability between 2002 and the previous year. There were slight declines in Austria, Germany, the UK and Sweden. Community funding grew in Spain, however, due to increased funding in Cataluña and the launch of support schemes in other Communities.

Revised At supranational level, no funding body has shown five years of growth. Both Ibermedia and the Nordisk Film & TV Fund decreased slightly in 2002.

5.2

How the funds are funded

5.2.1. Introduction - Funding of national film agencies

The concept of “public funding” does not mean, as is it often wrongly understood, that the money allocated by the public agencies automatically derives from the state budget. In fact, various different models of support are in evidence across Europe. As public funding at the Community, regional or local level is important in various countries, a complete overview of is necessary to make comparison.

Funds allocated from the state budget is most important means of funding the national film agencies in Austria, Bulgaria, in the Flemish Community of Belgium, Denmark, Estonia, Spain, Croatia, Hungary, Ireland, Iceland, Italy, Lithuania, Luxembourg, Latvia, the Netherlands, Norway, Poland, Slovenia, Slovakia, Turkey.

In two countries funding is drawn mainly from a national lottery: in UK and Finland.

In other countries, national funds are partly or mainly financed by contributions – organised by law or by professional agreement – of the film industry itself (levy on the cinema ticket and/or levy on the revenues of video publishers or levy on the cable-operators revenues) or of the TV broadcasters.

These systems of reallocation are mandatory:

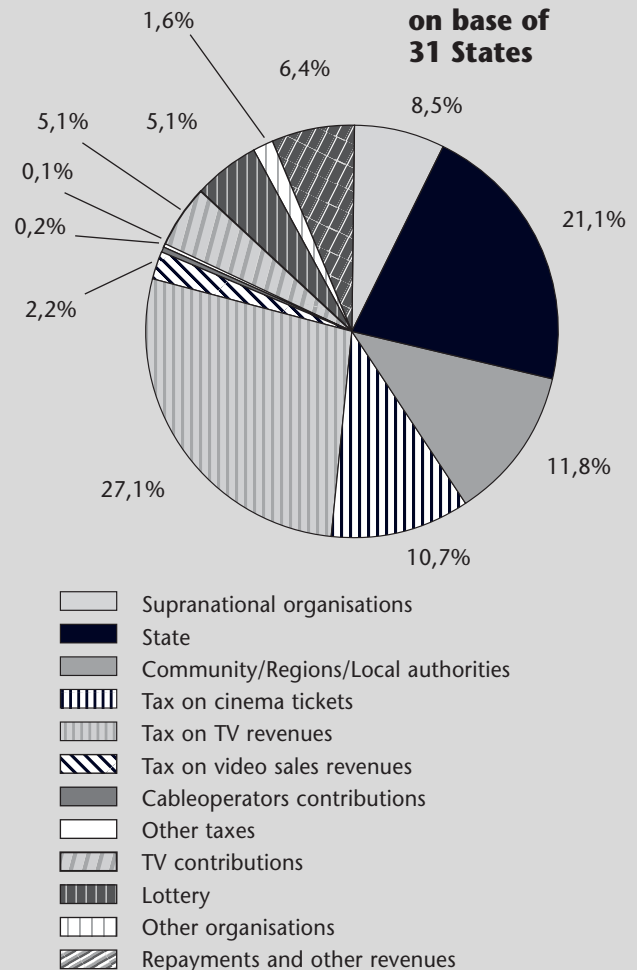
- in **the French Community of Belgium** (mandatory contributions of broadcasters and of cable operators),
- in **the Czech Republic** (tax on cinema tickets)
- in **France** (additional tax on cinema tickets, mandatory contributions by broadcasters and video publishers)
- in **Germany** (tax on the cinema ticket)
- in **Portugal** (mandatory contribution by broadcasters).
- in **Romania** (tax on cinema tickets and mandatory contributions by broadcasters)
- In **Sweden** (tax on cinema tickets)

Voluntary contributions by broadcasters are an important source of support in Switzerland, in Germany⁶, in Denmark and in Sweden.

In most cases, agencies or funds established by Community, regional or local authorities are financed from their own budget. However voluntary contributions by broadcasters are a significant source of support for regional agencies in Germany. Regional agencies in the UK are funded in large part by the National Lottery.

G.4. Origin of contributions to funding bodies in Europe 2002

Calculated on base of 31 States



Source: European Audiovisual Observatory

⁶ It is interesting to note that in Germany the fact that the tax on the film ticket is mandatory when the broadcasters contribution is voluntary was the matter of a strong political debate during 2003, in the context of the reviewing of the Filmförderungsgesetz. The HDF, representing the cinema owners has complained on unbalanced treatment of broadcasters and exhibitors. The law adopted the 22 December 2003 and implemented the 1st January 2004. The 15 January 2004, the HDF has complained to the Constitutional Court. See: <http://www.kino-hdf.com/>.

T.11 Origin of contributions to national, regional and European funding bodies 2002

Country	State Community/ (including EU and CoE)	Regional/ Local authorities	Levy on cinema tickets	Levy on TV industry	Levy on home video industry	Levy on cable TV operators	Other taxes	Direct contributions from TV	Lottery	Other organisations	Repayments to the fund and other revenues
AT	9 641 425	10 366 005									
BE		20 776 660				2 231 041					
BG	1 015 228							206 897	482 759	405 406	1 398 799
CH	13 512 060	341 216									
CY	862 069										
CZ		354 469								1 647 641	
DE	10 266 000	75 455 399	20 397 000		13 873 000			53 960 488		2 360 560	35 109 576
DK	34 722 848	403 226						1 742 244			
EE	3 035 233										
ES	40 830 000	15 171 247								15 753 900	15 753 900
EU	4 761 000										
FI	667 902	1 003 264			1 934 150			1 929 279	9 643 000		
FR	33 911 038	16 161 130	103 038 766	315 200 000	12 653 268		76 225				12 729 493
GB	20 459 023	4 819 123						631 149	55 204 918	191 804	9 173 968
GR	4 980 000										3 200 000
HR	4 550 736	1 008 308									
HU	6 925 997						1 660 205				
IE	12 304 924							500 000			500 000
IS	3 187 039							28 173			
IT	41 419 945										
LU	3 926 674										
LV	2 009 113										
NL	27 439 698	2 443 885		16 013 162				45 377		2 010 246	206 331
NO	29 605 267							561 758			
PL	1 583 098										26 308
PT	2 794 057		27 833	13 418 210							
RO	485 669		441 207	2 011 423	37 827						
SE	25 108 369	3 583 154	13 233 262					6 020 355			1 714 953
SI	2 134 009										
SK	705 682										

T.11 (cont.) **Origin of contributions to national, regional and European funding bodies 2002**

Country	State Community/ (including EU and CoE)	Regional/ Local authorities	Levy on cinema tickets	Levy on TV industry	Levy on home video industry	Levy on cable TV operators	Other taxes	Direct contributions from TV	Lottery	Other organisations	Repayments to the fund and other revenues
Norsk Ministerrad	2 602 133										
MEDIA (1)	69 115 000										
Eurimages	25 461 620										
Ibermedia	3 750 033										
EC Dev	2 000 000										
Nordic Baltic Development Fund								73 118			
GRAND TOTAL	445 772 889	151 432 617	137 492 537	346 642 795	28 498 245	2 231 041	1 736 430	65 625 720	65 330 677	20 795 037	81 460 969

Source : European Audiovisual Observatory

(1) Contributions of not-EU15 Members not included. Administrative costs and MEDIA Desks not included

Budget for 2002 estimated

GB - Northern Ireland Film and TV Commission

No breakdown available for 2002, therefore funds excluded:

CH - Fondation Vaudoise pour le Cinéma, Teleproduktions Fonds; HU-ORTT;
GB, Isle of Man Film and TV Fund; SE - Film i Dalarna, SUPRA - Europa
Cinemas

Funds whose financials were not available at time of going to press:

DE - KF Thüringia; ES - Castilla, Navarra, Extremadura, Almeida, Aragon,
Malaga, Vitoria

5.2.2 Relative importance of the various sources of funding in Europe

Taken as a whole, **national state budgets** contributed EUR 342,8 million to public film and audiovisual funding bodies in Europe in 2002, or 21,1% of the overall total. In 2002, the Czech Republic was the only country in which the state did not provide any direct funding.⁷

This does not include the national contributions to supranational bodies/programmes such as the European Union's MEDIA Programme and Eurimages. Funding by supranational organisations in 2002 was EUR 108,1 millions in 2002 (8,5% of the total public funding in Europe). Data on direct contributions to the MEDIA Programme from not-EUR15 States are not available.

Funding by authorities at sub-national level is another very important source of finance, accounting for EUR 151 million or 12% of the overall total in 2002.

The most substantial sub-national funding stems from the governments of the German Länder, which have responsibility for cultural affairs under Germany's federal system. In Spain, funding by some of the larger Communities reinforces cultural support for local languages: especially Catalonia, but also Galicia and the Basque Community.

Contributions of the broadcasting industry were worth an estimated EUR 347m in 2002.

Some EUR 315m of this total was allocated to the Centre National de la Cinématographie in France. Similar levies were also an important contributor to the budget of the ICAM in Portugal and the CNC in Romania.

The regional funds in Germany are heavily supported by direct contributions from broadcasters: usually the local station of public service operators ARD and ZDF, but in some cases private broadcasters as well. Overall, these voluntary contributions were valued at EUR 66m in 2002, or 5% of the total.

Levies on the sale of cinema tickets were worth less in overall value (EUR 137m, or 10% of the total) in 2002, but are drawn on by the national film funding bodies in four countries: the Czech Republic, France, Romania and Sweden.

Since the early 1990s, the bulk of film support in the UK has derived from the proceeds of the **national lottery**. Until the 1980s, a levy on the sale of cinema tickets combined with direct government grants to support the industry. However, both the National Film Finance Corporation (set up in 1948) and the Eady Levy were abolished in 1985; The national film funds in Greece and Finland and the Swiss regional Fonds Regio are the only other examples of lottery funding.

5.2.3. Funding by the State budget

In several countries, the state budget supports 100% of public film and TV funds: Italy, Cyprus, Estonia, Latvia, Slovenia and Slovakia. The state supplies more than 90% of funding in Belgium (Communities), Denmark, Spain, Norway (where, since 2002, donations from national public broadcasters NRK and TV2 have been accounted as direct state investment) and Poland.

In most of the countries the national funding bodies are working in the framework of an annual budget, but in some cases, their budgets are fixed by agreement lasting for four or more years. The Danish Film Institute, for example, which is

funded by an annual grant from the Danish Ministry of Culture, operates under a four-year agreement.

The Centre du Cinéma et de l'Audiovisuel in the French Community of Belgium – is funded by the budgets of the Community partly supplemented by contributions from the broadcasters and cable operators.

In the case of Italy, the role of the state in film funding goes further than the annual budget of national funding body, the Direzione Generale per il Cinema, which awarded EUR 41 million in support of film production and promotion in 2002. An even larger role in supporting Italian film-making is played by the state-owned Banca Nazionale del Lavoro (BNL), which offers soft loans to film producers. The loans are drawn from a pot of funding which, until 2002, was replenished from the state budget to compensate for loans producers were unable to repay.

As mentioned above, the Czech Republic was the only country in 2002 where the state provided no public funding support. However, the Czech Republic is one of a number of countries where the state is an occasional contributor; in 2000, parliament made a one-off grant of EUR 300 000 to the State Fund for the Support and Development of Czech Cinematography to compensate for late payment of film royalties, the Fund's main source of income.

Portugal's ICAM and France's CNC also receive grants from the state budget but which vary from year to year.

In various countries the state budget funds various funding bodies, in addition to the national film agency:

- Germany's ministry of culture awards annual prizes for scriptwriting, film production and film distribution alongside the national film agency, the FFA, which is mainly funded by levy on cinema ticket and TV contributions. In Norway, the Ministry of Culture and Church Affairs funds both the Norsk Film Fond and Norsk Filmutvikling. (This was also the case in Denmark until the closure of Dansk Novellefilm in 2002.)

- The state funds three organisations in Estonia which support film and TV: the Ministry of Culture, the Culture Capital Foundation and the Estonian Film Foundation.

- There is a similar situation in Latvia, where the National Film Board and Culture Capital Foundation are both state-funded.

- The main category of state funding independent of national film funds comes from national foreign affairs and development ministries. France's foreign affairs ministry funds the production of films by producers in Africa and other developing regions of the world in partnership with the CNC (Fonds Sud Cinéma) and with the development directorate general of the EU (Fonds Image Afrique).

- Some aid from the Netherlands, Denmark and Sweden also goes into various international funds. Denmark funds the Baltic-Russian co-production fund, the Dutch ministry for development part funds the Hubert Bals Fonds, and the Swedish International Development Co-operation supports the Gothenberg Film Festival Fund.

- In the UK, the national finance ministry funds the Gaelic Media Service (formerly the Gaelic Broadcasting Committee), which supports the production of TV and radio programmes in the Gaelic language by Scottish broadcasters and independent producers.

⁷ En 2002, the budget of the Czech Republic has dedicated 92 millions CZK to film support, but under the form of aids to festivals, associations, trade press and to European public organisations. This kind of support is not included in our calculations.

T.12 Funding by the Direzione Generale per il Cinema Support granted by the state to the FUS for cinematographic activities (2000-2002)

In EUR

	2000	2001	2002
Fondo d'intervento ("intervention fund")	32 950 880	35 519 368	0
Direct support awarded by DG Cinema			
Production			
Awards (" <i>premi di qualità</i> ") for feature film production	5 164 569	5 267 860	9 812 774
Awards for short film production	258 228	—	—
Automatic film production support	9 812 681	12 094 675	18 075 992
Promotion			
Activities outside Italy	1 549 371	774 685	1 394 443
Other promotional activities	16 388 882	—	—
Support for markets, festivals etc	—	7 128 322	8 263 310
Cultural associations	—	1 291 142	1 291 142
Cinema d'essai	—	2 582 284	2 582 284
Other interventions	—	—	—
SUBTOTAL A	66 124 611	64 658 336	41 419 945
Support for cinema industries via DGC/Banca Nazionale del Lavoro			
Production of national films	22 362 583	6 736 147	403 869
Production of first works	11 516 989	14 238 408	11 337 096
Production of films of national cultural interest	40 025 410	47 227 401	110 844 380
Production of short films	—	703 345	992 725
Distribution funding	27 113 987	25 418 976	22 727 813
SUBTOTAL B	101 018 969	94 324 277	146 305 884

Source : DG Cinema

T.13 Funding by French regions and other localities (2002)

In EUR thousand

	Feature films	Short and medium-length films	Documentaries	TV drama	Animation	Multimedia	TOTAL
Regions	7 616	2 131	3 254	1 994	552	200	15 746
Departments	27	337	161	—	23,244	15,245	563
Cities	67	83	353	17,646	—	—	520
TOTAL	7 710	2 500	3 768	2 011	575	215	16 829

Source: Guide Mode d'Emploi APCVL 2003

T.14 Germany – Funding by the Länder (2002)

In EUR thousand

Senator für Wirtschaft und Häfen (Bremen)	Bremer Innovationsagentur	500
Freie und Hansestadt Hamburg	FF Hamburg	7 500
Länder Berlin und Brandenburg (1)	Filmboard Berlin-Brandenburg	13 163
Freistaat Bayern	Filmfernsehfonds Bayern	16 229
Land Nord-Rhein Westfalen	Filmstiftung NRW	12 594 (2)
Land Hessen	Hessischer Filmförderung	600
Land Sachsen-Anhalt	KF Sachsen-Anhalt, MDM	2 862 (3)
Freistaat Thüringen	KF Thüringen (not on KORDA), MDM	2 556
Land Baden-Württemberg	MFG	5 119
Schleswig-Holstein	MSH	205
Länder Niedersachsen und Bremen	Nordmedia	3 835
Land Saarland	Saarland Medien	146
Freistaat Sachsen	KF Sachsen, MDM	4 537
Bremischen Landesmedienanstalt	Filmbüro Bremen	45
Senators für Inneres, Kultur und Sport (Bremen)	Filmbüro Bremen	67

Notes:

(1) No breakdown of funding available, but the two Länder give roughly the same amount

(2) 2003

(3) 2001

Source: European Audiovisual Observatory/KORDA

T.15 Funding by French local authorities (2002)

EUR thousand

Regions		283	
Alsace	548	Rhône-Alpes	2 737
Aquitaine	809	Rhône-Alpes Cinéma	
Auvergne	122		90
Basse-Normandie	158	Departments (1)	13
Bretagne	871	Bouches du Rhône	60
Conseil régional du Centre	722	Corrèze	8
Collectivité Territoriale de la Corse	171	Eure	17
Franche-Comté	421	Isère	8
Haute Normandie	222	Loire-Atlantique	26
Île-de-France	4 269	Lot	68
Théâtre et Cinéma en Île-de-France	480	Sarthe	114
Limousin	452	Côtes d'Armor	160
Lorraine	53	Finistère	
Midi-Pyrénées	397	Val de Marne	
Nord Pas de Calais	942		
Pays de la Loire	492	Cities	490
Picardie	122	Communauté Urbaine de Strasbourg	24
Poitou-Charentes	581	Ville d'Aubagne	6
Provence-Alpes-Côte d'Azur	225	Ville de Décines	

(1) funding by Indre et Loire included in Région Centre

Source: Guide Mode d'Emploi APCVL 2003

T.16 SFI grants to regional bodies (2001-2002)
In SEK thousand

	2001	2002
Film i Väst	2 300	3 300
Film i Dalarna	1 200	1 200
Film i Gävleborg	200	300
Film i Halland	400	400
Film i Orebro Län	500	500
Film i Ost	150	200
Film i Skane	1 000	2 000
Film i Sörmland	400	400
Film i Sydost	400	400
Film i Uppland	200	200
Film i Värmland	1 400	1 400
Film i Västerbotten	900	900
Film i Västernorrland	1 400	1 400
Film i Västmanland	500	500
Film pa Gotland	500	500
Filmik	700	700
Filmpool Jämtland	800	800
Filmpool Nord	1 400	2 400
Lanstignet I Jönköping	50	200
Stockholms läns landsting	1 000	1 000
TOTAL	15 400	18 700

T.17 Grant-in-aid and Lottery funding awarded via UK Film Council (2001-2002)
In GBP

Region	Organisations	2001	2002
East England	E Eng Arts/Screen East	42 003	750 000
East Midlands	EM Arts/East Midlands Media	62 545	600 000
Northern England	Northern Arts/Northern Film & Media	180 526	603 530
South-east England	SE Arts/Screen South	51 850	531 500
South-west England	SWMDA/SW Screen	81 031	700 000
West Midlands	WM Arts/Screen West Midlands	65 255	526 000
Yorkshire	YMPA/Screen Yorkshire	97 726	790 000
London	LFVDA/Film London	216 257	680 004
North-west England	MIDA/NW Vision	146 065	375 000
TOTAL		943 258	5 556 034

Source: UK Film Council Annual Reports

Source: Svenska Filminstitutet Annual Reports

5.2.4. Funding of bodies created by Community, regional or local authorities

Germany and Spain are the two countries which have the best-resourced "regional" funds.

Germany

In Germany, the regional film funds operated by the Länder and often supported by public broadcast TV stations, deliver more than twice as much funding as the national funds: in 2002, EUR 123 million compared to EUR 61 million.

Spain

Most of the Communities in Spain offer incentives to local film makers, many of which offer cultural support for a language (as in Catalonia, Galicia and Basque country).

The Institut Catala de Finances operates exclusively through bank loans as opposed to subsidies.

France

France boasts the largest number of regional film funding bodies of any country. Most of these funds operate at the level of regions, the largest of which are in the Rhône Alpes and Île-de-France regions. National film body the CNC funds part of budgets of some of the larger funds. Funding is also offered by some of the departments and some cities and towns.

In 2003, the French government announced new measures to increase funding delivered by the regions. One EUR of state

funding will be added to every two EUR awarded by the regions, up to a maximum of EUR 1 million per region. A total of EUR 10 million was added to the state budget for 2004 to finance this measure. Priority will be given to the regions (as opposed to smaller administrative units) and only applies to funding bodies with budgets of over EUR 100 000.⁸

Sweden and UK

In the 1990s, a new model of regional funding emerged in Sweden and the UK: the existence of what might be called a nationally planned network of regional organisations which concentrate on implementing national strategic objectives at local level. Regional agencies are part-funded by their respective national film agencies.

In both countries, regional agencies have also drawn on the European Union's ERDF funding programme which is designed to support areas with lower than average economic activity or rural areas.

While the regional agencies in the UK are a very recent phenomenon (most were set up in England in 2001), those in Sweden have already made an impact. Sweden's Film i Väst has co-financed 90 feature films since it was set up in 1992.

Italy

In Italy, the development of regional funds is only in an early phase. The film commission in the northern Italian region of Friuli Venezia Giulia launched a film fund in 2003. The fund offers financial incentives (relatively small for the time being)

⁸ Annexe 3, *Horizons 2004*, CNC budget for 2004 published 16 October 2003.

for film productions using the region as a location. Early 2004, two other regions (Sardegna and Puglia) were preparing funds, as well as the Provincia di Lecce.

The new Law adopted in January 2004 marks a step towards a more regional approach by the creation of a consultative body where regional and local authorities will be represented (Consulta territoriale per le attività cinematografiche).⁹

Belgium (Wallonia)

Created in 2000 at the initiative of the Walloon Region and its Minister for Economic Affairs, the Public Limited companies Wallimage and SOWALM are geared to an investment fund, intended to support the image sector in Wallonia. The Fund deploys its action along two complementary lines:

- financing of audiovisual works presented by Walloon production companies,
- financing of production companies or services of the Walloon audiovisual industry.

The first line of credit functions on the principles of conditioned loans, whereas the second consists mainly of capital investments.

The Cinéregio project

Five regional investment funds, led by Wallimage of Belgium, set up ECRIF-AV (European Co-ordination of Regional Investment Funds - Audiovisual), a network designed to foster cross-border co-operation between funding bodies. The other founder members were the Medien- und Filmgesellschaft Baden-Württemberg (Germany), the Rotterdam Film Fund (the Netherlands), the Film Fonds Wien (Austria) and the Provincia di Lecce (Italy).

The partners of ECRIF-AV set three goals: the removal of regulatory and legal barriers that prevent regional funds from working together; the identification of best practices and their transfer to other European regions; and the development of new funding initiatives for film production companies.

ECRIF-AV is funded by a EUR 600 000 grant from the European Union's European Regional Development Fund (ERDF).

5.2.5. Direct voluntary contribution from broadcasters to public funding bodies

In various broadcasters invest directly in funding schemes in a number of European countries. Those contributions – not to be confused with mandatory direct investments in production¹⁰ or with taxation of broadcasters revenues – are formalised in agreements with the film professional associations and possibly the State.¹¹

Usually these concern public service broadcasters. This is the case in Denmark (contributions of DR and TV2 to DFI), in Finland (contributions of YLE to the FFF), in Switzerland (SRG-SSR Idée Suisse). In Germany, where direct contributions from broadcasters make up more than 20% of overall public funding, private broadcasters are also required to contribute to the funding of the FFA. In Sweden, the 2000 Agreement also involved the commercial broadcaster TV4.

In Germany, public broadcasters – in particular the regional ARD stations - make voluntary contributions to the federal agency (FFA) and also contribute to the financing of the regional funds. In most cases, investments by German broadcasters are linked to the region in which they operate. However, the second network ZDF, RTL, Pro7 (all national channels) also invest in the regional film funds.

Contributions by broadcasters in the UK are extremely limited by comparison with most countries. Channel 4, historically an important supporter of the UK film industry, has scaled back its activities but continues to co-finance short film production with the UK Film Council as well as contributing to Scottish Screen and Film London. Commercial broadcaster Scottish Media Group is the next most significant contributor, supporting the New Found Land TV fiction production scheme. Nordic broadcasters also contribute to the multilateral Norsk Film- and TV Fund.

BOX N° 4

Voluntary contributions of broadcasters to funds

In **Denmark**, in the framework of the Filmaftalen (the Film Agreement) of 1 November 2002 both public service broadcasters DR and TV2 are bound to engage in feature film production through contribution to the Danish Film Institute and in short films and documentary by direct investment. (Filmaftalen 2003-2006, 1 November 2002 Film Agreement 2003-2006 See abstract in IRIS 2003-4).

In **Finland** the Finnish Film Foundation has a contract with the Finnish Broadcasting Company (YLE) on grounds of which YLE grants the Foundation an appropriation whose amount is confirmed every year and which is used for film production support.

In **Sweden**, the contribution by SVT and TV4 to the budget of the Swedish Film Institute is included in The 2000 Film Agreement passed in 1999 for the years 2000-2004 between the two broadcasters, the Government and various professional organisations of the film industry.

In **Germany**, the article 67 of the Filmförderungsgesetz 1979 indicated that the contribution of the public and private broadcasters to the financing of the FFA should be contrasted between the broadcaster and the agency. This principle is confirmed in the new law (Viertes Gesetz, 22. Dezember 2003) with some amendments. German broadcasters have agreed to double their financial contribution.

In the **French Community of Belgium**, the broadcasters have the choice between direct investments (co-production or pre-sales) or contribution to the Centre du Cinéma et de l'Audiovisuel. A similar contribution is organised for the distributors of television services (and in particular cable operators, see below 5.2.9).

In **Switzerland**, the contributions of broadcasters to the public funding of the aids managed by the Federal Office for Culture are quoted in the art.15 §2 of the Loi fédérale sur la culture et la production cinématographiques du 14 décembre 2001 (Etat le 23 juillet 2002). The public broadcaster SRG-SSR Idée Suisse signs pluriannual agreements with the professional organisations of the film industry, but it does not imply a contribution of the broadcaster to the Fund. See chapter 2, note 4.

⁹ Art. 4, Decreto legislativo 22 gennaio 2004. Riforma della disciplina in materia di attività cinematografiche.

¹⁰ Statutory obligations to invest in funds are different of requirements by TV channels to invest in films or audiovisual production as quoted in the chapter 1.2.

¹¹ References: see Frame n°4.

T.18 Direct contributions to public film and audiovisual bodies by broadcaster (2002)

In EUR thousand

Contributor	Country	Amount of contribution	Funding bodies
Télévision Suisse Romande	CH	203	Fonds Regio
Bayerischer Rundfunk	DE	3 541	FilmFernsehFonds Bayern
Hessischer Rundfunk	DE	768	Hessische Filmförderung
Mitteldeutscher Rundfunk	DE	2 556	Mitteldeutsche Medienförderung GmbH
NDR	DE	7 649	FF Hamburg, MSH, Nordmedia
ProSieben Sat 1	DE	4 327	FilmFernsehFonds Bayern, Filmboard Berlin-Brandenburg
RTL	DE	1 180	FilmFernsehFonds Bayern
Radio Bremen	DE	125	Nordmedia
SWR	DE	3 462	Medien- und Filmgesellschaft Baden-Württemberg GmbH
Taurus Film	DE	1 770	FilmFernsehFonds Bayern
TeleMünchen Gruppe	DE	885	FilmFernsehFonds Bayern
ZDF	DE	6 093	FFF Bayern, F Berlin-Brandenburg, FF Hamburg, MFG, MDM, Nordmedia
Danmarks Radio	DE	871	Dansk Novelle Film, Nordisk Film & TV Fond
TV2 Danmark	DK	871	Dansk Novelle Film, Nordisk Film & TV Fond
Yleisradio	FI	1 929	Suomen Elokuvasäätiö, Nordisk Film & TV Fond
BBC Cymru Wales	GB	98	Sgrîn
BBC Scotland	GB	25	Scottish Screen
BBC West	GB	10	SW Screen
Carlton Television	GB	123	Film London
Channel Four	GB	221	Film London, Scottish Screen
HTV	GB	16	South West Screen
S4C	GB	179	Sgrîn
Scottish Media Group	GB	426	Scottish Screen
Riksuvarpid	IS	14	Nordisk Film- & TV Fond
Stöd 2	IS	14	Nordisk Film- & TV Fond
Nederlandse Programma Stichting	NL	45	Hubert Bals Fund
NRK	NO	281	Nordisk Film- & TV Fond
TV2 Norge	NO	280	Nordisk Film- & TV Fond
TV4	SE	1115	Svenska Filminstitutet, Nordisk Film & TV Fond

Source: European Audiovisual Observatory / KORDA

5.2.6. Tax on cinema tickets

A levy imposed on the sale of cinema tickets was one of the main means of raising finance for film funds in Europe when the first schemes were launched in the mid-20th Century. The system remains in place in seven countries: the Czech Republic, France, Germany, Greece, Portugal, Romania and Sweden. Other countries have scrapped it – notably Spain and the UK, which both operated a tax on cinema tickets until the 1980s.

In France, the CNC received EUR 103 m in 2002, equivalent to 22% of its budget. Cinema tickets represent a larger component of income for the FFA in Germany (27% in 2002) and the SFI in Sweden (29%). For both the CNC and FFA, funding from TV is a more important source of funding than cinema ticket sales. However, in the case of Portugal's ICAM, revenue from cinema (taxa de exibição) made up 63% of the annual budget in 2002.

Film funds in the Czech Republic and Romania derive most of their revenue from the state budget and have modest revenues from the ticket levy.

5.2.7. Tax on broadcasters advertising revenues

Only four countries currently use a tax on the revenues of TV companies to fund films: France, the Netherlands, Portugal and Romania. However, in all three cases the amounts raised are important, and are all used to support a national support body which funds audiovisual as well as cinema production.

By far the most important funding in the form of a tax on the television industry is levied in France. The CNC receives more than two-thirds of its income from a tax levied on TV advertising and subscription sales: this was equivalent to EUR 315,2 million in 2002.

Television plays a significant role in the financing of Portugal's ICAM: EUR 13,4 million in 2002 and Romania's Central National Cinema, where taxes levied on TV advertising were worth just over EUR 2 million in 2002.

STIFO in the Netherlands is funded on a different model. STER, the public agency responsible for selling advertising space on the public TV and radio networks, gives an amount equivalent to up to one sixteenth of its revenue to the STIFO fund, which uses the money to finance TV and radio development and production schemes.

5.2.8 Tax on sale of video cassettes and DVDs

Taking into account the increasing importance of the video market – and the high profit margins of the video distribution business – France introduced a tax on the turnover of video cassette publishers. In 2002, this tax contributed EUR 12,6 million to the budget of the CNC.

With the rapid development of DVD, the regime was reviewed on 1 July 2003 (with implementation in 2004). The tax principle has been harmonised with the principle of taxes on cinema tickets: the basis of the tax is no longer the turnover of the publishers but the turnover of retailers. It is estimated that this reform will increase the amount collected from EUR 18 million in 2003 to EUR 40 million in 2004. This will allow a greater contribution of the video industry to the financing of cinema and audiovisual production, but also an improved support to the video publishing of French works.¹²

The FFA in Germany is also partly funded by a levy on the home video business. The 1998 *Filmförderungsgesetz* has created a tax of 1,8% on the turnover of video distributors¹³. In 2002, the FFA budget included EUR 13,9 million raised from this tax. The revision of the Law in December 2003 has modified the taxation format: the taxation remains 1,8% of the turnover for the video distributors with a total turnover inferior to EUR 30 million; it becomes of 2% for video distributors with a turnover between EUR 30 and 60 million and 2,3% for video distributors with a turnover superior to EUR 60 million.¹⁴

Romania's CNC derives a small share of its revenues – just over EUR 300 000 in 2002 – from a tax on the video industry.

5.2.9. Contributions by cable operators

In 1995, the French Community of Belgium agreed a convention ("protocole d'accord") with all operators of single cable

systems in Wallonia fixing the terms of their contribution to the development of audiovisual creation. This contribution consists of:

- an amount of EUR 1,86 indexed, by year and by subscriber to be transferred to the Centre du Cinéma et de l'Audiovisuel,
- an amount of EUR 1,86 by year and by subscriber to be transferred to the local television station corresponding to its operational area.

Between 1995 and 2002, the contribution of cable operators amounted to more than EUR 30 millions (half for the Centre du Cinéma et de l'Audiovisuel; half for local television).

The system was confirmed by the Décret sur la radiodiffusion du 23 février 2003¹⁵. EUR 2 million from subscriptions for cable TV channels distributed in the region went into the CCAV in the French Community in 2002. Effectively, this formula is a way of compensating the local production industry for the widespread distribution of foreign programming.

5.2.10 Other taxes

Hungary's National Cultural Fund distributes the proceeds of a cultural tax introduced in 1993. This consists of a levy on cultural products and services, including a 1% levy on TV sets and computer monitors and a 10% levy on toy weapons.

The Culture Endowment in Estonia derived part of its revenues from a tax on tobacco for the first few years after its foundation in 1995. This was phased out in 2001 and the body is now funded entirely by the state.

5.2.11 Proceeds from lottery

The establishment of a National Lottery in 1993 in the UK restored direct support for the film industry in the UK. A fixed percentage of the lottery proceeds is distributed to the industry by the UK Film Council, which was established in 2001. Before then, lottery funds were distributed by the Arts Council for each nation within the UK.

In Scotland, lottery funding is managed by Scottish Screen, which like the UK Film Council is a "distribution body" of lottery funds. In Wales and Northern Ireland, lottery funds were distributed by national Arts Councils until 2002, when the task devolved to Sgrin and the Northern Ireland Television and Film Commission respectively.

¹² See: Décret no 94-562 du 30 juin 1994 modifié relatif au soutien financier de l'Etat à l'édition de vidéogrammes destinés à l'usage privé du public, Décret n° 2003-1018 du 24 octobre 2003 relatif au soutien financier de l'industrie vidéographique ; Arrêté du 24 octobre 2003 pris pour l'application des dispositions de l'article 8 du décret n° 2003-1018 du 24 octobre 2003 relatif au soutien financier de l'industrie vidéographique ; Arrêté du 24 octobre 2003 fixant les taux de calcul du soutien financier de l'Etat alloué aux entreprises d'édition de vidéogrammes destinés à l'usage privé du public ; Arrêté du 24 octobre 2003 pris pour l'application des dispositions de l'article 8 du décret n° 2003-1018 du 24 octobre 2003 relatif au soutien financier de l'industrie vidéographique. *Le budget 2004 du CNC*: http://www.cnc.fr/index_dyn.htm?b_actual/r5/ssrub5/p1_d1_budget04.htm

¹³ § 66a Gesetz über Maßnahmen zur Förderung des deutschen Films (Filmförderungsgesetz – FFG) in der Fassung der Bekanntmachung vom 06. August 1998.

¹⁴ Art. 50 of Viertes Gesetz zur Änderung des Filmförderungsgesetzes, Vom 22. Dezember 2003 amending the quoted §66a.

¹⁵ " Art. 79 §1. Tout distributeur de services de radiodiffusion télévisuelle doit contribuer à la production d'oeuvres audiovisuelles. Cette contribution se fait soit sous la forme de coproduction ou de pré-achat d'oeuvres audiovisuelles, soit sous la forme d'un versement au Centre du cinéma et de l'audiovisuel.

Le montant de la contribution au Centre du cinéma et de l'audiovisuel est payé par le distributeur de services en deux versements semestriels pour la fin des mois de janvier et de juillet de chaque année. Au moment du paiement, le distributeur de services adresse au Centre du cinéma et de l'audiovisuel et au CSA une déclaration reprenant le nombre d'abonnés constaté au 30 septembre de l'année précédente.

Les modalités de la contribution sous forme de coproduction ou de pré-achat sont définies dans une convention à conclure entre le distributeur de services, le Gouvernement et les organisations professionnelles représentatives des producteurs indépendants de la Communauté française.

§ 2. La contribution du distributeur de services visée au § 1er est fixée à 2 EUR par an et par abonné. Ce montant est indexé tous les deux ans à partir du 1er janvier 2005 en fonction de l'indice santé, l'indice du mois septembre précédent étant pris en considération.

§ 3. La contribution à la coproduction d'oeuvre audiovisuelle est calculée au prorata de la part de l'éditeur de services dans le coût total de cette coproduction. "

The national film funds in Greece and Finland and the Swiss regional Fonds Regio are the only other examples of lottery funding in Europe.

In Finland, the Ministry of Education and Culture allocates funds to the Finnish Film Foundation from lottery and other gambling funds; its grant totalled just under EUR 10 million in 2003.

A breakdown of funding support for the Greek Film Centre was unavailable for 2001 and 2002. However, in 2000, the lottery provided 55% of the annual budget of the GFC.

5.2.12 Repayments made to the fund

While it is difficult to provide an exact indication of the amount of funding in Europe which is awarded in the form of loans as opposed to non-repayable subsidy, it is possible to generalise that most funding is in the form of loans. In some cases these are awarded in the expectation that the recipient of the loan may not be able to return the payment; loans by the BNL in Italy, for example, are automatically converted into a form of subsidy if they have not been repaid after four years.

Where a producer is able to repay all or part of their loan to a public funding body, the money typically flows through into the budget of the funding organisation for the prior year. In some cases, budget shortfalls may also be transferred into a different year. However, very few funding bodies publish detailed information about repayments, and the total of EUR 14 million indicated by the Observatory's research certainly under-represents the level of public support stemming from this source.

Germany's FFA is one of a handful of organisations to publish detailed figures on repayments. In 2002, reimbursement represented EUR 3,9 million on total revenues of EUR 75,5 million, i.e. 5,1 % of the total.

The UK Film Council declared total income of just over EUR 8 million from various film rights in its 2001/2 Annual Report. These included repayments of loans from previous years and income from rights, loans, profits and fees. These represented 13% of its overall budget for film support (excluding the GBP 20m grant in aid from the Department of Culture, Media and Sport, most of which goes to the British Film Institute).

The Polish Script Agency, which invests in the development of scripts by Polish film-makers, reported that one third of its annual budget for 2002 came from repayments. In the case of the Filmförderung Hamburg, 8% of its 2002 budget came from repayments.

5.2.13 Revenues from copyright collection

Although amounts collected for intellectual property rights should, in principle, be reallocated to the individual rights owners, part of the money collected is increasingly allocated for funding the production or funding activities of general interest for the profession.

Levy on blank tape: the Finnish example

Taxation on sales of pre-recorded videos and DVDs should not be confused with the levy introduced in various countries on the sales revenues of blank tape to compensate rights owners for the practice of private copying. The only case that we have identified where a part of this levy is used to finance a funding body is the case of AVEK in Finland. AVEK is financed by an annual levy on the sale of videocassettes collected by copyright organisation Kopioisto. It is responsible for the management of funds which arise from authors' copyright entitlements for levies on blank video tapes and are used for the right owners' common interests. AVEK's support activities cover the entire field of audiovisual culture, with the emphasis on the production support of

short films and documentaries. The other two activities are training and audiovisual culture in general. AVEK does not support the distribution of films in cinemas. In other countries, the general interest activities supported are grants to associations, training activities or awards.

In France, the "société civile" ARP, managing the fees on blank tapes of the réalisateurs-producteurs (filmmakers which are also producers) is not participating into production but in training activities and in the operation of cinema theatre in Paris specialising in the exhibition of French and European arthouse films.

Cable copyright fees: the CoBo example

The CoBo fund (Stichting Coproductiefonds Binnenlandse Omroep) is partly funded by payments from cable operators in Belgium and Germany which retransmit the three Dutch public service channels. The payments represent repayment of copyright fees for the channels.

Suissimage

Switzerland is unique in the leading role taken by organisations representing author's and creators' rights in direct funding. Suissimage takes into account new forms of media such as cable TV and video, which have made the monitoring of rights more complicated. The organisation acts as a kind of collection agent for its members, who are mainly active in scriptwriting, direction, production and film distribution: user organisations acquire the rights from Suissimage and pay royalties according to a set tariff. Suissimage, which is privately-held but is regulated by the federal government, passes on royalties to the rights holders.

As well as operating a feature film funding scheme of its own, Suissimage also funds the Teleproduktions Fonds, which supports audiovisual works by independent producers, and the regional Fondation Vaudoise de Cinéma and Fonds Regio.

Copyright from historical archives: the Czech example

The Czech State Fund receives annual royalties from the exploitation of older Czech films, which were produced in studios owned by the state. The levels of funding have, in the past few years, fluctuated dramatically. In 2002, the fund received 53 million CZK (EUR 1,6 million), but in 2001 only 10,6 million CZK (EUR 300 000) was received and the Fund's income had to be supplemented by a one-off donation from the government. The Fund has also been stymied by delays in payment of royalties from some of the organisations handling the commercial exploitation of films; at one stage, in the late 1990s, the fund was owed more than EUR 3 million.

T.19 Annual budgets of film bodies by source 2002

EUR thousand

France: CNC

Levy on TV industry	330 076
Levy on cinema tickets	103 039
Ministry of Culture	35 700
Levy on sale of videocassettes	12 653
Other income	2 058
Special tax on pornographic films	76
TOTAL	483 603

Germany: FFA

Levy on cinema tickets	20 397
Carried over from previous year	20 017
Contributions by TV broadcasters	10 658
Tax on home video industry	13 873
Repayments and loan amortisation	3 878
Interest and administrative earnings	4 422
Payments from reserve fund	102
Various contributions	2 138
TOTAL	75 485

GB: UK Film Council

National Lottery	55 205
Grant-in-aid	34 197
Investment returns on the National Lottery distribution Fund	4 761
Arts Council of England portfolio recoupment income	2 697
Other income	480
Fees receivable	351
Profits from films	311
Interest from film loans	139
Sale of Film rights	7
TOTAL	98 148

SE: Svenska Filminstitutet

State budget (Ministry of Culture)	24 733
Tax on cinema admissions	13 233
SVT	4 313
TV2	815
Föreningen Sveriges Filmproducenter	342
Other	1114
TOTAL	44 550

PT: ICAM

Tax on cinema	13 418
Tax on TV	28
Other income (repayments, etc)	174
Other income	4 751
State budget	2 794
TOTAL	21 165

BE: Centre du Cinéma et de l'Audiovisuel

French-speaking Community of Belgium	7 811
Cable operators	2 231
TOTAL	10 042

CZ: State Fund for the Support and Development of Czech Cinematography

Royalties from Czech film archive	1 648
Tax on cinema admissions	354
Other income	191
TOTAL	2 193

RO: Centrul National al Cinematografiei

Tax on television advertising	2 011
State budget	486
Tax on cinema tickets	441
Tax on video sales	38
TOTAL	2 976

Source: European Audiovisual Observatory

Conclusions

This overview on the financing of film agencies illustrates the diversity of the European landscape of public funding: from the classical approach of support to the cultural industry based on public funding by the State, through to the complex system of solidarity between branches regulated by the State and/or by professional agreement. The “French model” is probably the most complex and sophisticated, organised as it is around a systematic solidarity between the various branches, a system which is regularly updated as markets evolve. Such a system is based on the principle of a “virtuous circle” which constantly refurbishes the financing of production, but which at the same time tries to organise the diversity of the system (in production as well as in exhibition and video publishing). This system may be subject to periodical crisis, with impact of phenomena such as decline of admissions or of broadcasters’ revenues on the total amount available for the fund.

The political debate about broadcasters’ contributions to the financing of the film and audiovisual production is commonplace in Europe, but, after years of talks and conferences, a European model (and possible measures at the European level) are still difficult to identify, mainly as a result of the diversity of film supply by channels in Europe and diversity of the political approach of between broadcasters and producers, as illustrated in this report. The French mandatory system (also partly adapted in the French Community of Belgium, Spain, Portugal, Italy and Romania) can be opposed to the principle of voluntary contributions as illustrated in Nordic countries, Switzerland and Germany.

The recent complaint to the Constitution Court by HDF, the German cinema owners professional organisation, against the still non-mandatory contribution of broadcasters to the FFA (when exhibitors and video distributors are mandatory), illustrates how tense this debate may become in the future. In the UK, a committee of MPs reported on the British film industry in September 2003. The MPs said that they “*would like to see increased levels of support for film production and exhibition of British product from the public service broadcasters*”. They recommended that “*this should be done in co-operation with broadcasters*” rather than through new regulations. The MPs also called for the regulator, Ofcom, to “*take meaningful action to improve the relationship between the British film industry and the public service broadcasters*”. They were critical of the approach to film investment by the BBC, which they described as “*cursory*”.¹⁶ In Italy, the announcement by Sky Italia in September 2003 of its project to reduce its commitment in the Italian film production has also created important controversy.

The recent reforms in France and in Germany of the video industry contributions to the funds are also an interesting trend. In a context where the consumers’ expenditure for video and DVD is higher than the box-office expenditure, the role of the video sector cannot be neglected. Increasing the role of this branch of the industry will probably face the difficult question of relations with US majors, as according to Observatory calculations, of the 50 top European video publishing/distribution companies in Europe, around 30 were subsidiaries of US major companies or joint ventures between European companies and a US major company.¹⁷

¹⁶ *The British Film Industry*, Report by the House of Commons Culture, Media and Sport Committee, published 18 September 2003, pages 45-6.

¹⁷ See European Audiovisual Observatory, *Yearbook 2003*, vol. 3, *Film and Video*, page 91.

Requirements to qualify for production support

6.1 Conditions related to lawfulness and respect for human dignity

6.2 Nationality of the film

BOX N° 5 Definitions of the nationality of films – references

6.3 Film genre

6.4 The existence of a company and the national base of applicant companies

6.5 Independence of applicant companies

6.6 Reliability of the company

6.7 Intellectual property rights

6.8 Territoriality of activities

BOX N° 6 Territoriality rules under the various national and regional aid schemes

Film production support, whether provided for economic or cultural reasons or at European, national or regional level, is generally subject to qualifying conditions, which it would be impossible to list comprehensively in this document. The rules governing public funding are so complex and diverse that it is difficult to imagine how we would acquire a full and accessible compendium of all the European legislation in the field. This report will merely give a list of types of condition, providing a few examples from the bodies of national legislation to which we have access while making no claim to be exhaustive.

6.1

Conditions related to lawfulness and respect for human dignity

The requirement that films must be in compliance with the constitution and the law is explicitly set out in the rules of the Austrian Film Institute.¹ In Switzerland, one of the qualifying conditions for a film is that it abides by the principles of human dignity.²

In Germany, films cannot benefit from grants if they are against the Constitution against the Law or against religious convictions.^{2bis}

6.2

Nationality of the film

The most common criterion applied is the nationality of the film. Aid is generally only provided for films which are recognised national productions. It is unusual for the regulations governing public funding, particularly those covering production support, to authorise support for non-national films, although this is the case in some countries or has been in the past. In some countries (France, Germany and the Grand-Duchy of Luxembourg), there is no definition of nationality *per se*, but qualifying conditions are set which mean that a film for which funding is applied for must have certain national characteristics (nationality of the producer in Luxembourg, a points system

¹ Österreichischer Filminstitut, Filmförderungsrichtlinien, September 2003, Article 3.7

² Section 16 of the Loi fédérale sur la culture et la production cinématographiques states: "No measure of encouragement may be given to films which, *inter alia*, undermine human dignity, present a degrading image of men or women or persons belonging to a particular community, glorify or minimise violence or are pornographic."

^{2bis} §19 Nicht förderungsfähige Filme, Gesetz über Maßnahmen zur Förderung des deutschen Films, in der Fassung der Bekanntmachung vom 06. August 1998.

with different weightings for differing items of expenditure in France).

In a study on the definition of the nationality of films in eight European countries carried out by Michel Györy for the European Audiovisual Observatory (updated in 2000)³ the Netherlands and Norway were cited as two countries in which funding was not dependent on nationality. Since then, regulations adopted by the Norwegian Film Institute on 8 February 2002 have introduced nationality requirements⁴ Apart from this, we found no rules relating to nationality in Finland and in Ireland.

A European definition of nationality was given in Article 3 of Council Directive 63/607/EEC of 15 October 1963 implementing, in respect of the film industry, the provisions of the General Programme for the abolition of restrictions on freedom to provide services⁵;

"Article 3

For the purposes of this Directive, a film shall be regarded as having the nationality of a Member State where it satisfies the following conditions:

a) the film must be produced by an undertaking which satisfies the provisions of Title I of the General Programme for the abolition of restrictions on freedom to provide services⁶;

(b) studio-filming must take place in studios situated in Community territory; if the subject of the film requires the filming of outdoor scenes in a third country, up to 30 % of the studio-filmed scenes may be shot in the territory of that third country;

(c) the original version must be recorded in the language, or in one of the languages, of the Member State in question, except for any parts of the dialogue which the screenplay requires to be in another language; where the film is recorded in more than one version, one of those versions must be in the language, or in one of the languages, of the Member State in question;

(d) the screenplay, adaptation, dialogue and, if specially composed for the film in question, musical score must be written or composed by persons who are nationals of the Member State in question or who come within its cultural domain;

(e) the director must be a national of the Member State in question or a person who comes within its cultural domain;

(f) the majority of the executants, that is to say of the following: - principal players, executive producer, director of photography, sound engineer, editor, art director and wardrobe chief-must be nationals of the Member State in question or persons who come within its cultural domain.

Participation in the activities referred to in (d), (e) and (f) by nationals of other Member States, or by persons who come within the cultural domain of any such State, shall not preclude recognition of the nationality of a film where the Member State in question accords its nationality to that film. Neither shall participation in the activities referred to in (d) and (f) by nationals of third countries who are not persons coming within the cultural domain of a Member

State preclude recognition of the nationality of a film where the Member State in question accords its nationality to that film provided that such nationals do not constitute more than two-fifths of the total of the persons participating in such activities. The same shall apply if the person referred to in (e) is a national of a third country who is not a person coming within the cultural domain of a Member State, provided that all the activities referred to in (d) and not less than four-fifths of the functions referred to in (f) are performed by nationals of Member States."

This Directive no longer applies⁷ but most member States have introduced definitions including the criteria set out in Article 3, with differing weightings for the various factors to be taken into account.⁸ It should be noted that some of the domestic legislation puts emphasis on the national aspect of the conditions, particularly where condition (b) is concerned. In some countries (France, the French Community of Belgium), weightings are standardised by means of a points system.

Through bilateral coproduction agreements or the application of the European Convention on Cinematographic Coproduction, coproducers from partner countries can be treated in the same way as national producers.

6.3

Film genre

In most cases, certain types of film are ruled out (this applies, in particular, to advertising films, pornographic films and sometimes scientific or educational films).⁹ In the case of audiovisual production, "perishable" programmes (news, current affairs and sport) are generally ruled out.¹⁰

The regulations governing funding often contain an implicit semiology of types or, at the very least, of main categories of films. Some systems limit funding to "cultural films"¹¹ while others take a less restrictive approach, referring to films' "cultural, artistic or entertainment qualities".¹²

Another criterion which is sometimes explicitly mentioned in the regulations is the film's potential in terms of public appeal.¹³

Specific genre-related criteria are of course specified in the qualifying conditions for particular types of film (documentaries, animated films, short films, audiovisual production, etc.).

Qualification of a specific work in a specific eligible genre may be at the origin of debates, as it was illustrated in France by the case of *Popstars*, which should lead to a regulatory review of the CNC decision procedures.^{13 bis}

³ M. GYÖRY, "Making and Producing Films in Europe: the Problem of Nationality", site of the European Audiovisual Observatory, http://www.obs.coe.int/online_publication/reports/natfilm.html.en

⁴ *Regulations for Support for Film Production*, issued by the Ministry of Cultural Affairs on 8 February 2002, Chapter 1.

⁵ JO 1963, 159, p. 2661

http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=fr&numdoc=31963L0607&model=guichett.

⁶ Title I of the General Programme stated that entitlement to free circulation of services was granted to companies established in accordance with the legislation of a member State and having their registered office, their administrative headquarters or their main place of business within the Community, provided that if it was merely their registered office that was within the Community, there was an effective and permanent link between their activity and the economy of a member State, it being understood that this link could not depend on the nationality inter alia of associates or members of management or supervisory bodies or persons holding share capital.

⁷ It was repealed by Directive 1999/42/EC of the European Parliament and of the Council of 7 June 1999 establishing a mechanism for the recognition of qualifications in respect of the professional activities covered by the Directives on liberalisation and transitional measures and supplementing the general systems for the recognition of qualifications (Article 11 and Appendix B). http://europa.eu.int/eur-lex/pri/en/oj/dat/1999/l_201/l_20119990731en00770093.pdf

⁸ Summary in Table 20 below.

Definitions of the nationality of films – References (EUR 15)

- **Austria:** Section 11(2) of the Filmförderungsgesetz of 25 November 1980 (BGBl. (Official Gazette) No. 557/1980), supplemented and modified by the amendments of 1 October 1987 (BGBl. 517/1987), 16 March 1993 (BGBl. No. 187/1993), 19 August 1994 (BGBl. No. 646/1994) and 30 January 1998 (BGBl. 34/1998).

- **French Community of Belgium:** Article 4 de l'Arrêté royal du 22 juin 1997 tendant à promouvoir la culture cinématographique (tel que modifié les 17 février 1976, 24 mars 1978, 4 avril 1995, 25 mars 1996 et 27 décembre 1998), Coordination officieuse du 2 mars 1999.

- **Flemish Community:** Flemish government decrees of 22 December 1993 and 23 February 1994.

- **Denmark:** Section 17.1 of the Film Act (Law no. 186) of 12 March, 1997.

- **Spain:** Section 2 of Law 15/2001 of 9 July "de fomento y promoción de la cinematografía y el sector audiovisual".

- **United Kingdom:** The 1985 Films Act, Schedule I, para. 4 (b), as amended by Statutory Instrument 1999 No. 2224 - The Films (Certification) (Amendment) Regulations 1999 – and Statutory Instrument 1999 No. 2334 - The Films (Certification) (Amendment) (No. 2) Regulations 1999.

- **Greece:** Section 5, Law 1597. Protection and development of cinematographic art, support for Greek cinema and other provisions.

- **Italy:** Article 5, Decreto legislativo recante disposizioni in materia di attività cinematografiche, ai sensi dell'articolo 10 della Legge 6 Luglio 2002, N°137.

- **Portugal:** Article 3, Decreto-Lei n°350, 7 October.

- **Sweden:** Section 4 of the 2000 Film Agreement.

There are no definition *stricto sensu* of national films in the following countries:

- in **Germany**, the film law of 1999 has replaced the definition of a German national film by a definition of entitlement to FFA funds.

- in **France**, there is no definition of what constitutes a "French film" *per se*, but a definition of the conditions for entitlement to aid, involving a points system. See Articles 7 and 10 of Décret n°99-130 du 24 février 1999 relatif au soutien financier de l'industrie cinématographique.

- in the **Grand Duchy of Luxembourg**, there is no definition of what constitutes a "Luxembourg film" *per se*, but section 2 of the Règlement grand-ducal du 16 mars 1999 portant exécution de la loi modifiée du 11 avril 1990 portant création d'un Fonds national de soutien à la production audiovisuelle lays down the conditions for entitlement to support, which include some provisions relating to the producer's having Luxembourg nationality.

- in **Finland**, the Film Promotion Act (No 28/2000) contains no definition of what constitutes a Finnish film.

We found no definition of what constitutes a national film in **Ireland** or the **Netherlands**.

| Source: European Audiovisual Observatory

⁹ For example, in **Switzerland**, section 16.1 of the Loi fédérale sur la culture et la production cinématographiques states that no financial support may be granted to advertising films, films whose main purpose is an educational one or films made to order.

¹⁰ For example, in the **Grand Duchy of Luxembourg**, section 3 of Loi du 11 avril 1990 portant création d'un Fonds national de soutien à la production audiovisuelle.

¹¹ For example, in the **French Community of Belgium** the Arrêté royal of 22 June 1967 "tendant à promouvoir la culture cinématographique" states that funding is awarded "to the producers, authors or directors of Belgian cultural films". No definition of "cultural films" is given but Article 6 states: "Grants or subsidies may not be awarded for films made for the purposes of advertising, scientific films, educational films or news films. An exception shall be made for educational films with an artistic or literary purport." (Unofficial translation)

¹² For example, in **Italy**, Article 9 of the Decreto legislativo of 22 January 2004 - Riforma della disciplina in materia di attività cinematografiche. This article also makes technical quality ("idoneità tecnica") a condition. A film commission views the film to check that it satisfies these conditions.

¹³ In **Ireland**, for example, the Irish Film Board document, "Criteria for Decision Making", contains the following passage:

"Creative Strength of Project. The Board looks for imaginative, original, compelling projects that have the potential to attract an audience. We are particularly keen to support an Irish cinema which tells stories, both contemporary and historical, that engage specifically, though not exclusively, with the cultures and communities indigenous to this island. (...) Distribution / Sales – Commercial Potential

The assessment of any film's commercial potential has always been a very inexact science throughout the history of cinema. While we would not apply the same commercial expectations to all films, the Board intends to support a combination of films, some of which, even if successful in art house cinema, festivals etc., would not have great commercial potential. Nonetheless we also wish to invest in quality films aimed at a wide popular audience with significant commercial potential."

^{13bis} On October 2001, the Centre national de la cinématographie (CNC) qualified the programme *Popstars*, broadcast by the private channel M6, as a documentary eligible for the "Compte de soutien aux industries de programmes" (Programme industry support fund). On November 2001, the broadcasting regulatory body, the Conseil supérieur de l'audiovisuel (CSA) also considered this programme could be qualified as audiovisual work under the regulation defining the relations between producers and broadcasters (broadcasting quotas and production): "this programme should not be considered as being part of the genres excluded from the definition of the audiovisual work defined in the article 4 of the Décret n°90-66 du 176 janvier 1990 modifié". (unofficial translation).

The professional organisations of producers and rights owners reacted strongly and opened two procedures against these decisions. On 30 July 2003, the Conseil d'Etat rejected their complaint and confirmed that the programme *Popstars* was indeed an audiovisual work in the sense of the Décret du 17 janvier 1990 related to the definition of works. However, a decision of the Tribunal administratif de Paris (11 March 2004) has indeed ended with the annulment of the CNC decision.

The classification of *Popstars* as an audiovisual work has opened a debate on the opportunity to modify the definition of the audiovisual work included in the Décret du 17 janvier 1990. Two official reports (one by David Kessler, Director General of the CNC and one by the CSA) have been published and could end with a regulatory review of the CNC decision procedures.

See http://www.ddm.gouv.fr/dossiers_thematiques/documents/oeuvre00.html

T.20 Summary of criteria for definition of the nationality of films in national legislation

	Definition of a film's nationality										Definition of nationality criteria	
	AT	BE	DK	ES	GB	GR	IT(4)	PT	SE	LU	DE	FR(5)
national producer or resident of the country or production company established in the country	X	X	X	X	X(*)	X	X(*)		X		X(*)	X
non-dependence on a foreign company of under control from another Member State		X(*)			X(*)						X	
national artistic or logistical contribution	X		X or 8		X	X	X					X
majority of film made in the country		X		X (*)	70 % expenses	"greater part"	X				X	X
technical services employed in the country		X				X	30%					X
national crew or crew established in the country	X	X		75%	X ("requisite amount") (*) (**)	75%	X	X			X(*)	X
national cast							X(*)	X			X or 10	X(*)
shooting of the film in national language or including a national language version	X		X or 3	X		X	X(*)					
national subject matter or cultural references	X			X								
national writer/director				75% (*)		X	X(*)				X or 7	X(*)
first screening in national language or in the country concerned											X	
assimilation des coproductions	(1)	(2)	(3)	(3)	(3)	(3)	(3)	artistic and technical participation > 30 %	national investment > 20 %			national investment > 10 %

(*) EU treated as national

(**) Commonwealth treated as national

(1) at the discretion of the ministry

(2) in the case of a reasonable level of contributions, influence on the production together with artistic and technical contributions

(3) Subject to terms of relevant co-production treaty

(4) System of coupling of the criteria (combination of various criteria taken into account).

(5) Points system to determine level of automatic support

This summary table contains some simplifications. For the detail, the relevant legal texts should be consulted

6.4

The existence of a company and the national base of applicant companies

Funding is generally awarded to companies or legal entities, not to individuals.

In the United Kingdom, however, individuals are allowed to apply for funding support from the New Cinema Fund in their own names or that of another organisation provided that they subsequently set up a company.¹⁴ In Austria and Sweden, the film producer can be a natural person.¹⁵

State funding is generally awarded only if the applicant company is based in the country concerned.¹⁶ In some countries (France, Hungary, Italy, Portugal, and Romania), companies must have a licence or be registered with the national agency or Ministry which grants funds.

6.5

Independence of applicant companies

The requirement that the production company must be based in the country concerned may be complemented by provisions aimed at ensuring that applicant companies are controlled by nationals (or persons regarded as such under European Community rules).¹⁷ In France this question was the subject of some debate in 2003, when a subsidiary of Warner Brothers France applying for funding for the production of the film *Un long dimanche de fiançailles* by Jean-Pierre Jeunet was asked by the French film agency, the CNC, to revise its statutes and change its shareholder base for

it to be entitled to aid. In the United Kingdom, one of the conditions for a film to be regarded as British (which it has to be for it to be granted funding) is that if the film maker is a company, it is registered in a member State of the European Union and its central management and control of business is exercised in a member State.¹⁸

In the area of funding for the production of television programmes, one of the conditions can be that the producer is independent from the broadcasting company.¹⁹ In Finland, film production funding cannot be granted to television companies or companies in which television companies have a controlling stake of more than 15%.²⁰

Some regulations rule out funding for films produced by public bodies or authorities²¹ while others allow such bodies to be recognised as eligible producers.²²

6.6

Reliability of the company

The reliability of the company may be one of the qualifying conditions. According to the country, the emphasis may be placed on technical, financial, commercial and/or artistic reliability.²³

Some agencies ask applicant companies to include documents relating to the company's financial situation with their applications, but this is not an established practice in all countries.

¹⁴ **United Kingdom:** UK Film Council, General Guidelines, 1.1.

¹⁵ **Austria:** Section 11 of the Filmförderungsgesetz; **Sweden:** Section 16, § 5 of the Film Agreement, 2000.

¹⁶ In **France**, for example, Article 7 du Décret n°99-130 du 24 février relatif au soutien financier de l'industrie cinématographique states:

"Article 7. - I. - Only companies and bodies based in France shall be entitled to film industry grants. Companies belonging to the film industry must hold the licence provided for in Article 14 of the Film Industry Code wherever said licence is compulsory.

II. - Production companies must also satisfy the following conditions:

1) Have chairpersons, directors or managers who are French nationals or nationals of a member State of the European Community, a State party to the European Convention on Transfrontier Television of the Council of Europe or another European State with which the European Community has negotiated agreements relating to the audiovisual sector. Aliens other than nationals of the aforementioned European States having recognised resident status shall be treated in the same manner as French citizens for the purposes of this paragraph;

2) Not be controlled, within the meaning of section 355-1 of the Law of 24 July 1966 cited above, by one or more natural or moral persons who are nationals of countries other than the European States mentioned in 1)." (Unofficial translation)

In **France** also, with regard to support for audiovisual production, Article 3. - I. of du Décret n°95-110 du 2 février 1995 relatif au soutien financier de l'Etat à l'industrie des programmes audiovisuels states: *"Production companies which are capable of being granted the funds provided for in Article 1 of this decree shall:*

1) Be based in France;

2) Have a chairperson, director or manager and a majority of governors who are either French nationals or nationals of a member State of the European Community, a State party to the European Convention on Transfrontier Television of the Council of Europe or a State with which the European Community has negotiated agreements. Aliens other than nationals of the States mentioned in the previous sentence who have been resident in France for more than five years shall be treated in the same manner as French citizens for the purposes of these provisions;

3) Not be controlled, within the meaning of section 355-1 of the Law of 24 July 1966 cited above, by one or more other production companies based outside the aforementioned European countries;

4) Personally or jointly take the initiative and assume financial, technical and artistic responsibility for the realisation of the work they are producing and ensure that it is properly completed." (Unofficial translation)

Intellectual property rights

One of the qualifying conditions which is sometimes set by framework legislation and frequently found in agency regulations is that the production company must have intellectual property rights.²⁴

Territoriality of activities

Aid may be dependent on an undertaking that some of the production or post-production activities take place in the country concerned. This condition is usually defined in general terms in national legislation and it is not always easy to find out what the exact arrangements are. These are sometimes to be found in internal rules of procedure and often seem to be more a question of established practice than fixed rules. As far as we know, no detailed study has yet been made of this question and so this section can only be regarded as an initial approach to the matter.

Territorial coverage is one of the main focuses of the investigation being conducted by the European Commission into the conformity of national aid systems with European Community competition rules. It is not always easy to find details in the national regulations concerning the percentages of production budgets which must be spent in the country or the region in which the body awarding aid is based. These percentages sometimes seem to depend more on the practice of funds than on standard rules set out in documents.

The problem of the compatibility of the territorial coverage condition with European Community competition rules dates back to the European Commission decision of June 1988 autho-

rising the French film production funding system to continue until June 2004. At the time the Commission undertook to apply the same criterion to other member States' funding systems. It considered that one of the specific aspects of the French system was its "territorialisation" clause, whereby producers had to spend a given amount of the film budget in France to qualify for aid. In its decision of June 1998, the Commission began by setting the admissible level of the territorial coverage condition at 80% of the total film budget. This level was set with reference to the situation in France before the decision was adopted, in which producers had to spend 100% of their budget in France to avoid incurring any reduction in the aid provided. At the time, the Commission had not established the forms and levels of territorialisation in the other member States in any detail.

The Commission considers that, in general, territorial requirements fragment markets for the supply of goods and services and stunt their growth, that their effect is to protect national industry, that they are a barrier to the free movement of persons, goods and services in the Community and that they increase the anti-competition effects of aid. Consequently, in its decision of June 1998, the Commission encouraged the member States to increase the proportion of unconditioned spending allowed and announced its intention to review the admissible degree of territorialisation.

Consultations between the Commission and the member States on the question of the degree of territorialisation are being held over the first six months of 2004. A large majority of member States seem to prefer the status quo where the provisions of June 1998 are concerned (see chapter 1.3).

The definition of the criterion of territoriality can often be singled out as such but it may also derive from the definition of the nationality conditions which producers have to satisfy to qualify for aid.

We are dealing here only with direct aid. Tax incentive systems, one of the aims of which is to attract foreign investment, generally impose stricter territoriality conditions.

¹⁷ For example, in the **French Community of Belgium**, Article 4 (a) of the Arrêté royal du 22 juin 1967 tendant à promouvoir la culture cinématographique states: "Neither may such producers be dependent on or controlled by a foreign company." (Unofficial translation). For **France**, see note 16.

¹⁸ The 1985 Film Act, section I, para. 4 (b), as amended by Statutory Instrument 1999 N°2386. The Films (Modification of the definition of "British Film") Order 1999: "a company which is registered in a member State and in the case of which the central management and control of business is exercised in a member State".

¹⁹ For example, in France, Article 3 – II du Décret n°95-110 du 2 février 1995 relatif au soutien financier de l'Etat à l'industrie des programmes audiovisuels states: "II. - Production companies eligible for the funding described in Article 1, paragraph I of this decree must also:

1) Be independent, within the meaning of Article 11 of Decree no. 90-67 of 17 January 1990 cited above, of any television company or service;

2) Not be controlled, within the meaning of section 355-1 of the Law of 24 July 1966 cited above, by one or more other production companies with an account opened in their name at the French National Film Board (CNC), in accordance with Article 6, paragraph I of this decree." (Unofficial translation)

²⁰ Finnish Film Foundation, *Guidelines for film production support*.

²¹ For example, in **Italy**, Article 9.2 of the Decreto legislativo of 22 January 2004 - Riforma della disciplina in materia di attività cinematografiche, and in **Finland**, the Finnish Film Foundation's *Guidelines for film production support*.

²² For example, in **Denmark**, section 17.2.3 of the Film Act (Law no. 186) of March 12, 1997

²³ Examples: in **Austria**, section 10 (2) of the Filmförderungsgesetz of 25 November 1980 (as amended) "The Film Institute must stipulate that applicants shall only take up offers from companies with the technical and human resources to guarantee that film projects will be carried out in an entirely faultless manner." (Unofficial translation)

In **Italy**, Article 3.2 of the Decreto legislativo of 22 January 2004 - Riforma della disciplina in materia di attività cinematografiche divides companies into two categories. Whether they belong to one category or the other is decided by a weighting system based on the following criteria: a) the quality of the film produced, b) the reliability of the project, including the likelihood that grants will be repaid, and c) proven commercial potential.

²⁴ In **Spain**, for example, Art. 5.1.a de la Ley 15/2001, de 9 de julio, de fomento y promoción de la cinematografía y el sector audiovisual. « Los productores deben ser titulares de los derechos de propiedad de las obras audiovisuales producidas, incluidos los de explotaciones futuras, sin perjuicio de lo dispuesto en la legislación de propiedad intelectual en materia de transmisión de derechos. »

Territoriality rules under the various national and regional aid schemes

- In **Austria**, section 10(3) of the Filmförderungsgesetz of 25 November 1980 (as amended) stipulates that the Austrian Film Institute's guidelines must also take account of the proportion of the budget for services which is spent in Austria. In certain cases, the Institute may keep back some of the sums awarded which are needed for technical services (film processing, audio units, studio services and other similar services for the filming of outdoor scenes) and pay them directly to the company providing the services described above²⁵.

- In **Bulgaria**, for producers to be entitled to production support, they must spend at least 30% of the direct production budget in Bulgaria. 50 % of the production "in kind", including film developing costs must be carried out in Bulgaria.

- In the **French Community of Belgium**: under Article 4 (b) of the Arrêté royal du 22 juin 1967: "(Films) must be shot in Belgium. However, outdoor scenes may be filmed in a foreign country if the screenplay or climate-related reasons so require. All film processing and studio work shall be carried out in Belgium unless this is technically impossible." (unofficial translation)

- In the **Flemish Community of Belgium**: under Vlaams Audiovisuelle Fond rules, at least 60% of the funding awarded must be spent in Flanders or Brussels, with prior authorisation from the Fund.

- In **Switzerland**, one of the criteria by which a film is defined as Swiss is that it "has been made, in so far as possible, using actors and technicians who are Swiss nationals or live in Switzerland and using technical industries based in Switzerland".²⁶

- In **Germany**, in the 1998 version of the Federal law on film funding, one of the conditions for entitlement to aid was that studio filming had to take place in Germany. However, if the subject of the film required the filming of outdoor scenes in a foreign country, up to 30 % of indoor scenes could be shot in a studio in that country. This 30% level, calculated on the basis of the length of filming, could be exceeded if most of the film was shot outdoors in a foreign country and the governing board of the Filmförderungsanstalt conceded that it was necessary to shoot indoor scenes in the same country for financial reasons.²⁷ The new version of the law, which was adopted on 22 December 2003 and entered into force on 1 January 2004, altered this criterion by stipulating that studios, technical production service companies and production companies had to be located in Germany or in a member State of the European Union or the European Economic Area.²⁸

However, it should be said that most regional funds' guidelines include territorial conditions. For example:

- the Berlin-Brandenburg Film Board stipulates that produ-

cers must spend 100% of any funds they are awarded in Berlin-Brandenburg ;²⁹

- FFF Bayern says that 150 % of any funds awarded must be invested in Bavaria ;³⁰

- Film NRW says that 150 % of any loans granted must be spent in North-Rhine Westphalia ;³¹

- FF Hamburg says that at least 150 % of any funds awarded must be spent in Hamburg.³²

- In **Danmark**, there are no specific territorial conditions for national productions, but in the case of coproductions, the funds awarded by the Danish Film Institute are dependent on the use of Danish creative and technical staff.³³

- In **Spain**, Law 15/2001 of 9 July "de fomento y promoción de la cinematografía y el sector audiovisual" does not include a territoriality clause. One of the conditions for a film to be regarded as Spanish is that filming and technical activities must take place in a member State of the European Union (section 2.d.).

Section 5.1.c. of the same law stipulates that films produced by Spanish production companies or production companies based in countries of the European Union or the European Economic Area will only qualify for aid if a part of the budget can be spent in other countries, taking account of coproduction agreements and European directives. "Las ayudas a las películas producidas por empresas de producción españolas o de un Estado miembro de la Unión Europea, o del Espacio Económico Europeo, establecidas en España, deberán respetar el criterio de que parte de los gastos podrán realizarse en otros países, teniendo en cuenta, en su caso, los convenios de coproducción y las Directivas Europeas de aplicación, así como el criterio sobre participación de profesionales europeos previsto en los convenios o Directivas, o establecido reglamentariamente".

- We failed to find any specific territorial conditions in **Finland**, the Finnish Film Foundation's Guidelines state that "the Finnish Film Foundation grants support for professional film production in Finland".

- In **France** Article 10 of Décret n°99-130 du 24 février 1999 relatif au soutien financier de l'industrie cinématographique states as follows:

"Unless stipulated otherwise herein, financial support for the production and preparation of full-length films shall be granted only to films of this type which satisfy the following conditions.

(...)

²⁵ "(3) Das Filminstitut hat in seinen Förderungsrichtlinien auch auf die Sicherung der Bezahlung der in Österreich in Anspruch genommenen Leistungen Bedacht zu nehmen. Er kann sich in besonderen Fällen vorbehalten, Teile der zuerkannten Förderungsmittel die für die Herstellung des Filmprojektes notwendigen Dienstleistungen (Kopierwerks-, Tonstudio-, Atelierleistungen und gleichartige Dienstleistungen für Außendreharbeiten) direkt an die im Rahmen des Förderungsprojektes in Anspruch genommenen Unternehmen zu überweisen."

²⁶ Loi fédérale sur la culture et la production cinématographiques, section 2.

²⁷ See article by M. Györy cited above.

Gesetz über Maßnahmen zur Förderung des deutschen Films (Filmförderungsgesetz – FFG), as published on 6 August 1998 (BGBl. I p. 2053):

§ 15, 2, (3) "(2) Förderungshilfen werden für programmfüllende Filme gewährt, wenn (...) für Atelieraufnahmen Ateliers benutzt worden sind, die im Geltungsbereich dieses Gesetzes liegen. Sind vom Thema her Außenaufnahmen in einem anderen Land erforderlich, so dürfen höchstens 30 vom Hundert der Atelieraufnahmen im Gebiet dieses Landes gedreht werden. Wird der größere Teil eines Films an Originalschauplätzen in einem anderen Land gedreht, so können auch für mehr als 30 vom Hundert der Atelieraufnahmen Ateliers dieses Landes benutzt werden, wenn und soweit der Vorstand dies aus Kostengründen für erforderlich hält. Die Grundlage für die Bemessung nach den Sätzen 2 und 3 ist die Drehzeit."

II. - Films must be made with the assistance of studios and laboratories based in France, a member State of the European Community or, where they are an international coproduction authorised under an intergovernmental coproduction agreement, in one of the coproducing countries. Dispensations from these conditions may be allowed without prejudice to the application of the provisions in III below.

III. - Films must be made, up to a minimum proportion established by the order made for the application of Article 6 of Decree no. 90-66 of 17 January 1990 cited above, with the assistance of:

1) Authors, leading actors and technicians involved in creative work who are French nationals or nationals of a member State of the European Community, of a State party to the European Convention on Transfrontier Television of the Council of Europe, of another European State with which the European Community has negotiated agreements relating to the audiovisual sector or, where the film is an international coproduction authorised under an intergovernmental coproduction agreement, of the coproducing country or countries. Aliens other than nationals of the aforementioned European states who are officially resident in France shall be treated in the same manner as French citizens. For films which are the result of a so-called "French initiative", non-professional foreign actors not officially resident in France but whose participation is justified by the narrative and who express themselves in their mother tongue, may, through special dispensation, be taken into account for the application of the present paragraph.

2) Technical industries based in France or in the States mentioned in 1). Where these technical industries are based in France, they must hold the licence provided for in Article 14 du Code de l'industrie cinématographique." (Unofficial translation)

There is not in fact anything in France that could be strictly called an "80% national territorialisation rule" with regard to production spending. On the qualifying scale of the automatic support account, a film that obtains 80 points out of 100 (under the system of points allocated to each item of expenditure) gives rise to a 100 % grant payment onto the producer's account, which he or she can reinvest in the following film.

- In the **United Kingdom**, does not have a specific territorial clause. However, the document on General Contract Parameters produced by the UK Film Council says that to qualify for funding "A project ought to be wholly or substantially capable of qualification as a British film (under the terms of the Films Act 1985" - and the 1985 Films Act's definition of a British film (which was amended in 1999 and 2000) requires, among other things, that 70% of the total costs incurred in making the film are incurred in production activities carried out in the United Kingdom.³⁴

- In **Ireland**, the Irish Film Board's Guidelines state, in the chapter entitled "Criteria for Decision-making" that "the role of ancillary Irish services in all stages of production and post-production is a vital factor in the Board's consideration of production applications". (<http://www.filmboard.ie/criteria.php>).

- In **Italy**, the conditions for a film to qualify as Italian are defined by Article 5 of the Decreto legislativo of 22 gennaio 2004. One of the conditions is that the studios or the technical industries used are located in Italy.

- In **Portugal**, Article 13 of Decreto-Lei n°350/93 de 7 de Outubro stipulates that films are entitled to production support provided that:

" (...)

"c) 20% of the cast and crew is made up of Portuguese nationals;

d) at least 5% of the scenes are shot in Portugal, save where the screenplay or technical considerations dictate otherwise;

e) most of the technical services used are in Portuguese territory." (unofficial translation)

- In **Romania**, section 22 h) and i) of the Film Act of 27 November 2002 (Legea r 630 cinematografie) states that 50 % of the actors in the leading roles and 50 % of the crew must be Romanian and two-thirds of the filming must take place in Romania.

²⁸ Fourth amendment to the Filmförderungsgesetz, 22 December 2003 (BGBl. I.S. 2771) (§ 14) – Article 13 modifying Article 14

²⁹ An Introduction to Film Board Berlin-Brandenburg GmbH, http://www.filmboard.de/english/fbb_e.htm#requirements

³⁰ Film Fernsehen Fond Guidelines, <http://www.fff-bayern.de/en/?rub=foerderung&nav=richtlinien>

³¹ Information on production funding (in German),

http://www.filmstiftung.de/Foerderungen/Produktion/main_produktion.php

³² Guidelines (in German), http://www.lbhh.de/seiten/ffhh/foerderungen/de_richtlinien3.asp

³³ Paragraph 4.5.5 "Terms for subsidies for feature films. Consultants and 60/4 schemes",

http://www.dfi.dk/sitemod/upload/Root/Filmstoette/sf_vilkaar_2003_eng.pdf

³⁴ See CNC, "Les 100 points du barème du soutien financier",

http://www.cnc.fr/index_dyn.htm?a_presentation/2/ssrub1/p2_1za_barem.htm

Statutory Instrument 1999 n°2386, "The Films (Modification of the definition of "British Film") Order 1999: "Schedule 1, par.4, (3): The second requirement is that at least 70 per cent of the total expenditure incurred in the production of the film was incurred on film production activity carried out in the United Kingdom". In the Guidance Notes published by the DCMS in February 2002, it is made clear that this has to be production activities "carried out" in the United Kingdom and not just goods and services "supplied from" the United Kingdom.

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FOR THE FILM AND AUDIOVISUAL SECTOR
IN EUROPE



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Cultural cooperation – principles of co-production

7.1 Bilateral co-production treaties

7.2 The European Convention on Cinematographic Co-production

7.3 Co-production support programmes

7.4 Financial and statistical assessment of co-productions

The fundamental aim of national aid is to foster the development of national audiovisual and cinematographic production and creativity. As we have seen, this approach generally results in the definition of criteria for the nationality of films and of requirements for producers to qualify for aid and the more or less explicit setting of territorial conditions for expenditure on the making, production and post-production of films.

It would be wrong, however, to assume that national aid is systematically only ever granted to companies of the country concerned. Aid such as distribution grants or support for cinemas can be of indirect benefit to films from other countries. The existence in a country of a network of national distribution companies and cinemas specialising in what the French refer to as experimental and art films and the British call difficult or specialist films is certainly a factor where it comes to being receptive towards more unusual forms of film-making, whether of European origin or from other regions of the world.

In production, nationality-related criteria for access to and use of aid are largely offset by co-production agreements. The general principle underlying co-production agreements is to determine under what conditions foreign co-producers can make contributions to the production of national films, and, conversely, to determine what benefits national producers can draw from co-production in the partner country.

7.1

Bilateral co-production treaties

The first co-production agreements date back to the period just after the Second World War and in particular to the establishment of a framework for cooperation between France and Italy. Today in Europe there are at least¹ 49 co-production treaties between European states and 44 between a European State and a third-party State.

¹ One of the aims stated in the European Audiovisual Observatory's 2004 action plan is the systematic identification of the co-production treaties that currently exist in Europe.

T.21 Bilateral co-production treaties between European States

	AT	BE	BG	CH	CZ	DE	DK	ES	FI	FR	GB	GR	HU	IE	IS	IT	LU	LV	NL	NO	PL	PT	RO	RU	SE	TR
AT				•		•		•		•						•										
BE				•		•				•						•			•			•				
BG										•						•										
CH	•	•				•				•						•										
CZ										•						•										
DE	•	•		•						•	•					•						•			•	
DK								•		•																
ES	•					•				•						•						•		•		
FI										•																
FR	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•		•		•	•	•	•	•	•
GB						•				•						•				•						
GR										•																
HU										•						•										
IE																										
IS										•																
IT	•	•	•	•	•	•		•		•	•		•										•	•		
LU																										
NL		•								•																
NO											•															
PL										•																
PT		•				•		•		•																
RO										•																
RU								•		•						•										
SE						•				•																
TR										•																

• = co-production treaties

This table shows treaties identified by the Observatory and is not exhaustive.

Source: European Audiovisual Observatory

T.22 Bilateral co-production treaties between European and non-European States

	Australia	Brazil	Canada	Israel	Morocco	Tunisia	New Zealand
AT			•				
BE			•	•	•	•	
BG			•				
CH			•				
CZ							
DE	•	•	•	•			
DK							
ES		•	•		•	•	
FI			•				
FR	•	•	•	•	•	•	•
GB	•	•				•	
GR			•				
HU			•				
IE			•				
IS			•				
IT	•	•	•	•		•	
LU			•				
NL			•				
NO							
PL			•				
PT		•	•				
RO			•				
RU			•				
SE			•				
TR			•				

• = co-production treaties

This table shows treaties identified by the Observatory and is not exhaustive.

Source: European Audiovisual Observatory

T.23 Bilateral co-production treaties

	Co-production treaties - Europe	Co-production treaties - ex-Europe	European Convention of Cinematographic Co-operation
AT AUSTRIA	France, Germany, Italy, Spain, Switzerland	Canada	Yes
AZ AZERBAIJAN			Yes
BE BELGIUM*	France, Germany, Italy, Switzerland	Canada, Israel, Tunisia	
BG BULGARIA	France, Italy+	Canada+	
CH SWITZERLAND	Austria, Belgium, France, Germany, Italy (project)	Canada	Yes
CY CYPRUS	+	+	Yes
CZ CZECH REPUBLIC	France, Italy+	Canada+	Yes
DE GERMANY	Austria, Belgium, France, Italy, Portugal, Spain, Sweden, Switzerland, UK	Australia, Brazil, Canada, Israel	Yes
DK DENMARK	France+	Canada+	Yes
EE ESTONIA	+	Canada+	Yes
ES SPAIN	Austria, Germany, France, Italy, Portugal, Russia	Argentina, Brazil, Canada, Cuba, Morocco, Tunisia, Venezuela	Yes
FI FINLAND	France+	Canada+	Yes
FR FRANCE	Austria, Belgium, Bulgaria, Czech Republic, Denmark, Finland, Germany, Greece, Hungary, Iceland, Italy, Luxembourg, Netherlands, Poland, Portugal, Romania, Spain, Sweden, Switzerland, Russia, Turkey, UK	Argentina, Australia, Brazil, Burkina-Faso, Canada, Cameroon, Chile, Colombia, Egypt, Georgia, Guinea, India, Israel, Ivory Coast, Lebanon, Morocco, Mexico, New Zealand, Senegal, Tunisia, Venezuela, Yugoslavia (sic)	Yes
GB UK	France, Germany, Italy, Norway	Australia, Canada, New Zealand	Yes
GEORGIA			Yes
GR GREECE	France+	Canada+	Yes
HR CROATIA	+	Canada+	
HU HUNGARY	France, Italy+	Canada+	Yes
IE IRELAND		Australia, Canada	Yes
IS ICELAND	France+	Canada+	Yes
IT ITALY	Austria, Belgium, Bulgaria, Czech Republic, France, Germany, Hungary, Romania, Russia, Spain, Switzerland (project), Sweden, UK	Algeria (project), Australia, Brazil, Canada, Israel, Tunisia, Venezuela	Yes
LT LITHUANIA	+	+	Yes
LU LUXEMBOURG	France, Germany	Canada	Yes
LV LATVIA	+	+	Yes
MK FYR MACEDONIA	+	Canada+	Yes
MT MALTA	+	Canada+	Yes

* The French Community of Belgium has also signed co-production accords with Portugal, Tunisia, Morocco and Italy. Compiled from available lists of bilateral agreements; a + sign indicates that a complete list was not available from this country.

T.23 (cont.) **Bilateral co-production treaties**

	Co-production treaties - Europe	Co-production treaties - ex-Europe	European Convention of Cinematographic Co-operation
NL NETHERLANDS	Belgium, France	Canada	Yes
NO NORWAY	UK	Canada	
PL POLAND	France+	Canada+	Yes
PT PORTUGAL	Belgium (French Community), France, Germany, Spain	Angola, Brazil, Canada, Cape Verde, Mozambique, Sao Tome and Principe	Yes
RO ROMANIA	France, Italy+	Canada+	Yes
RU RUSSIA	France, Italy+	Canada+	Yes
SE SWEDEN	France, Germany+	Canada+	Yes
SI SLOVENIA	+	Canada+	
SK SLOVAKIA	+	Canada+	Yes
TR TURKEY	France+	Canada+	

7.2

The European Convention on Cinematographic Co-production

On October 2, 1992, the Council of Europe opened for signature a European Convention on Cinematographic Co-production.²

European cultural co-operation in the cinema field takes place primarily through co-productions. In these joint efforts to support creation (for a long time exclusively bilateral, although now increasingly multilateral), the rules governing state support for film production are not always the same. The main objectives of this convention are to minimise these differences and to harmonise multilateral relations between states when they decide to co-produce a film.

Objectives

Designed to encourage the development of film co-productions in Europe, the convention tries to simplify procedures and production on the basis of criteria established by the Eurimages fund (a European fund set up within the framework of the Council of Europe in 1988 in order to support co-productions and the distribution of film and audiovisual productions). It also constitutes a step forward in lowering the threshold of financial participation in co-productions and also, in permitting financial co-productions, provided these promote European identity. This requirement concerning identity is in some respects the guiding principle of the convention, which is inspired by a versatile but unified vision of European film production.

The scope of the Treaty

The Convention institutes rules of international law intended to govern relations between States with regard to cinematographic co-production arrangements involving producers from at least two States. The Convention may also serve as a bilateral agreement between two countries when no bilateral co-production agreement has been concluded between them and when they have not decided against making a reservation under Article 20.

It has been agreed that the words "multilateral co-productions originating in the territory of the Parties" do not imply that there exists one single certificate of origin, but one per co-producing State.

The Parties are those that are Parties to the Convention. The Convention may be invoked only by producers who are nationals of States which are Parties to the Convention. These producers must furnish proof of their origin, that is, of their establishment in one of the States Parties to the Convention.

When the Convention applies to a multilateral co-production, it may also include co-producers who are established in countries not Parties to the Convention, provided that the co-production involves at least three co-producers established in States Parties to the Convention and that those co-producers contribute at least 70% of the financing of the production. In order to comply with the aims set forth in Article 1 of the text, namely, the promotion of European co-productions, it seemed necessary to establish a general eligibility condition regarding the European origin of the work. The criteria used to define that

² This description is taken in the main from the presentation of the Convention contained in the Council of Europe's explanatory report on the Convention. The Convention can be consulted at the following address: <http://conventions.coe.int/Treaty/EN/Treaties/Html/147.htm> and the explanatory report: at: <http://conventions.coe.int/Treaty/EN/Reports/Html/147.htm>

origin are set forth in Article 3 and in Appendix 11, which is an integral part of the Convention.

In the case of a bilateral co-production, the provisions of the bilateral agreements are fully applicable. In the case of multilateral co-productions, the provisions of the bilateral agreements between States Parties to the convention are applicable only if they do not contradict the provisions of the Convention. If there is a discrepancy, the provisions of the Convention are directly applicable and override the conflicting provisions of the bilateral agreements.

Assimilation to national films

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.

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-production.

However, the application of the above-mentioned national rules implies prior proof of the conformity with the provisions of the convention 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.

Conditions for obtaining Co-production status

In accordance with the rule laid down in bilateral co-production agreements, recognition of the status of co-production requires consultation between and approval by the competent authorities of each country. The purpose of these formalities is to establish that the co-production conforms to the rules set forth in the Convention. Each party designates the competent authority to be responsible for application of the Convention. A list of such authorities will be transmitted to the Secretary General of the Council of Europe and be regularly up-dated by the Parties.

As regards recognition of the producer's qualifications, it should be borne in mind that these may be officially recognised in some countries (by means of a system of professional identity cards or lists), but that this is not usually the case. The purpose of the provision is above all to prevent producers whose professional incompetence is commonly acknowledged and amateur producers from making co-productions. Companies existing in name only ("letterbox" companies), and set up merely to help with the financial backing of a given multilateral project, should also be excluded.

Proportions of contributions from each co-producer

The agreements currently in force provide for levels of participation by minority countries ranging from 20% to 30%. The Eurimages fund, on the other hand, provides for a participation level as low as 10%. However, this possibility does not entitle the co-production to be accorded national status if the

threshold adopted for Eurimages is lower than that established in the agreements. In view of the larger number of partners involved in multilateral co-productions, which necessarily entails a concomitant lowering of participation by the co-producers, it was considered appropriate to adopt a minimum threshold of 10%, which will also make it possible to bring the regulations into line with the practice adopted at Eurimages. On the other hand, a participation lower than 10% cannot be described as a co-production, usually merely denoting a pre-purchase. With a view to preserving the status of co-production, which genuinely brings together several partners in a joint work, it was proposed that the majority share should be limited to 70%. Between 70% and 80%, the majority participation threshold continues to be acceptable in the case of a bilateral co-production, but rules out the involvement of a third co-producer.

However, in the case of a minority participation lower than the traditional threshold of 20%, with a view to resolving the problems that arise particularly in countries where automatic aid is granted to the co-producer in full, irrespective of the national share in the co-production, it is provided that the State of origin of the minority co-producer may take steps to limit access to national mechanisms for aid to co-production.

Where bilateral co-productions are concerned, 20% and 80% are the percentages most usually recognised in the agreements currently in force.

Rights of co-producers

Since the object of the co-production is to share the rights over the original negative, the negative must belong to each of the co-producers. In order to preserve the rights of co-ownership implied by co-production, each co-producer must be able to have free access to the negative, so as to be able to make the copies necessary for the exploitation of the work.

In order to facilitate distribution, it is often necessary for the co-producer to have, for his own use, an internegative or any other medium which enables the work to be reproduced. That right is sometimes relinquished for financial reasons. In that case, agreement must be reached between the various co-producers regarding the place where the original negative is to be kept.

Technical and artistic participation

Given that the Convention grants the co-produced work the nationalities of the various countries that are partners in the co-production, that recognition of nationality must be reflected in a genuine participation by technical and artistic staff of those countries in the making of the film. Such participation makes it possible to create a link between the co-produced work and the countries whose nationality it will acquire. That Participation must logically be commensurate with the size of each partner country's share of the co-production. It is clear that where the financial participation fails to be proportional to the artistic and technical participation the competent authorities may either refuse to grant co-production status to the project or withdraw their provisional agreement. That rule is to be understood in the light of the international obligations assumed by the various States Parties to the Convention, and in particular, the rules regarding free movement of workers set forth in the Treaty of Rome. The content of the terms, both artistic and technical, is defined in Appendix II.

The obligation, except as otherwise provided, to use technicians and technical industries established in the countries that are partners in the co-production ensures that it will not be possible to use workers or technical industries enjoying a lesser degree of protection, outside the framework of a co-production. Technicians legally established in the countries that are partners in the co-production are considered to be nationals of these States.

As far as post-production is concerned, this may not be car-

ried out in a country which is not a partner in the co-production except in the absence of adequate technical facilities in those countries.

A State may assimilate to its residents the residents of countries belonging to its cultural sphere.

Financial co-productions

While the principle, referred to in Article 8, of a technical and artistic contribution commensurate with the financial investment remains legitimate, concerns as to the identity and financing of national works have led to the retention of an alternative method of editing. Quite frequently the principle of an artistic and technical contribution commensurate with the share in financing may lead to choices that take greater account of the requirements; of the co-production agreement than of the need for artistic coherence. Furthermore, the growing financing needs of European productions mean that co-production is becoming a model generally adopted even in the case of projects whose inspiration derives from just one country. In order to take account of the need to respect the cultural identity of each of the States Parties and the coherence of the producers' artistic choices, it has been proposed that the financial co-production model, which at present is recognised only by a very small number of bilateral agreements, should become the general model. Recourse to the provisions governing financial co-productions does not confer exemption from the conditions set forth in Article 5, paragraph 4 concerning the involvement of bona fide co-producers. Furthermore, and particularly where the financial co-production gives full entitlement to the aids to traditional co-productions available at national level, the conditions regarding an overall balance set forth in Article 10 below take on particular importance.

a. With regard to the particular requirements for financial co-productions, it is considered that the maximum financial participation should not exceed 25%, since it can be argued that beyond that threshold the financial contribution of the minority producer is such that technical and artistic production will follow as a matter of course. A party is free, however, to derogate from this rule under the conditions laid down in Article 20.1.

b. It also follows from the text that only minority participations may be granted exemption from the rule set forth in Article 8 concerning artistic and technical participation. As the purpose of financial co-productions is to ensure respect for cultural identities, the artistic and technical participation by majority producers is in fact logically larger than the co-producers' shares in the co-production.

d. Furthermore, any financial co-production must be able to present co-production contracts, providing for the sharing of income between all the co-producers. This self-evident provision is particularly necessary in the case of financial co-production, so as to avoid participation by purely financial institutions that do not participate in the risks and profits of the production. Where these conditions are fulfilled, financial co-productions may prove a particularly appropriate instrument for the development of European cultural identities. In fact, by mobilising substantial financial resources from several European countries while respecting the national identity of the majority producer, who is the real artistic driving force behind the work, they will make a real contribution to an expression of national cultures that are authentic.

The conditions for authorisation for financial Co-productions (which vary according to the case) may give rise to individual agreements between States.

General balance between Parties

The objective of the Convention is the development of the cinematographic industry in each of its States Parties. The development of co-productions is one of the most effective and appropriate instruments for that purpose. However, the devel-

opment of traditional or financial co-productions may in some cases lead to a lack of balance between a country and one or more of its partners over a given period of time. Since in most countries of Europe the cinematographic industry receives substantial financing from public funds, the concern of States to preserve their own culture is a legitimate one. That is why it was considered necessary to introduce into the text the concept of an overall balance between Parties, which must be applicable to traditional co-productions and financial co-productions alike. It cannot be part of the intention of the Convention that a national fund should be used to contribute to other States' cinematographic undertakings where insufficient reciprocity exists. States must necessarily be allowed some latitude in interpretation of the concept of reciprocity while bearing in mind that the spirit of the Convention calls for a flexible and open assessment of that principle.

Where a Party observes a deficit in its co-production relations with one or more other Parties, that deficit may take several forms:

– a State may observe a manifest imbalance between the flow of national investment to finance foreign films and the flow of foreign investment to finance its own film industry;

– it may also observe an imbalance over a given period between the number of majority co-productions and the number of minority co-productions with one or more partner countries;

– finally, the imbalance may take the form of a lack of correlation between use of directors and artistic and technical staff on the one hand, and the number of majority and minority co-productions on the other.

However, the competent authority should refuse to grant the status of co-production only as a last resort, after the usual channels of consultation between the Parties concerned have been exhausted.

Languages

With regard to the language of the original version, it is obvious that the spirit of the Convention, whose aim is to promote the emergence of co-productions reflecting the European identity, which depends on the expression of an authentic national identity, is clearly in favour of the use of the language culturally suited to the work.

Choosing to shoot the film in a language unrelated to the demands of the screenplay for purely commercial reasons in the hope – frequently belied by the facts of penetrating the "world market" is patently contrary to the real aim of the Convention.

However, it has not proved possible to clearly formalise this requirement in the Convention in the form of a legal rule. The reason for this is that the language deemed as culturally appropriate may be defined in several ways. It is generally defined as the language of one of the countries participating in the co-production; but in a tripartite co-production, if the language used is that of a co-producer whose stake is only 10% and which has provided neither the director, nor the actors, nor the storyline, this is clearly artificial. Formalising the requirement to use the language of the co-producing countries may, in these circumstances, encourage the mounting of "ad hoc" co-productions.

In fact, the most suitable original version language seems to be what might be termed the "natural language of the narrative", the language which the characters would naturally speak according to the demands of the screenplay. The language of the narrative, defined in this way, may be completely unrelated to the financial set-up adopted by the co-production, which means that there can be no legal definition of that language.

For that reason, it seemed preferable to leave the States Parties to the Convention entirely free on this point, so that they could define their own expectations in this matter.

Consequently, Article 14 merely provides that in order to enable a film to be distributed in all the countries which co-produced it, the countries concerned may require presentation of a final copy in their own languages, either dubbed or subtitled, depending on each country's cultural customs. In accordance with the provisions of Article 4, Article 14 does not exhaust the possibility for a State Party to the Convention to lay down linguistic rules regarding access to certain aid systems, provided that such arrangements are not discriminatory in relation to the nationality of the film.

Signatories

Thirty states have signed the Convention: Austria; Azerbaijan; Cyprus; Czech Republic; Denmark; Estonia; Finland; France; Georgia; Germany; Greece; Hungary; Iceland; Ireland; Italy; Latvia; Lithuania; Luxembourg; Malta; the Netherlands; Poland; Portugal; Romania; Russia; Slovakia; Spain; Sweden; Switzerland; the Former Yugoslav Republic of Macedonia and the United Kingdom.

7.3 Co-production support programmes

In addition to the multilateral co-production funds, Eurimages, Ibermedia, Fonds de l'Agence intergouvernementale de la Francophonie, Norsk Film and TV Fund (see Chapter 10 below), some national funding bodies have specific support programmes in cases of co-production:

- in **Austria**: Finanzielle Gemeinschaftsproduktion (Kofinanzierung) (ÖFI);
- in **France**:
 - Aide à la coproduction internationale (CNC);
 - Aide à la coproduction cinématographique franco-allemande;
 - Fonds Sud (CNC);
- in **the Netherlands**: Coproductiefonds Binnenlandse Omroep (CoBo);
- in **Portugal**:
 - Apoio as co-produções cinematográficas;
 - Apoio a co-produções com países de língua portuguesa (ICAM).
- In **Bulgaria**, funding is granted by the National Film Centre only if the producer has received undertakings from foreign co-producers (particularly through Eurimages).

7.4

Financial and statistical assessment of co-productions

It is not easy at this stage to provide a financial or even a statistical assessment of co-productions. For this purpose, we would need more detailed information about the implementation of bilateral co-production agreements, co-productions made under the Convention and multilateral funds. We would also have to have a database establishing precisely which films were made under co-production agreements and which were merely co-financed.

Sums invested, flows of investment into co-production and flows of expenditure

Detailed data on the contributions of various co-producers and the outlays of aid bodies would be necessary to be able to assess production flows. We would also require precise information as to whether money was spent in the country or not to gauge to what extent co-production agreements counterbalance territorial qualifying conditions.³

Some countries publish statistics on the amount of foreign investment in productions in their country (although it is not always possible to determine whether these are genuine co-productions or merely co-financed).⁴

Number of films

Neither do national statistics tell us precisely how many full-length films are produced as co-productions. In a variety of countries, statistics provided by national film agencies, professional organisations and the film press fail to make any distinction between majority co-productions, fifty-fifty co-productions and minority co-productions. Even if this distinction was made, there could be imbalances because of differing national approaches to statistics: the same film may be attributed to different years depending on whether the statistics are based on the date on which the production licence is issued (as in France), the film is finished or the film is released.

Table T.24 showing the number of films produced in Europe must therefore be viewed in the light of the comments above. When calculating the total number of films produced in Europe, the Observatory obviously tries to avoid counting co-produced films two or three times, but the processes of elimination require a degree of supposition.

Table T.25 and graph G.5 are based on the LUMIERE database and show the number of co-produced or co-financed films released or re-released in Europe between 1997 and 2002. No films are counted twice. Films made in partnership by European and US companies are regarded as co-financed projects, not co-productions. It can be seen that the number of co-produced or co-financed films with a majority of European investment increased considerably in 2002, rising to 243 compared to 184 in 2001.

³ A working party made up of research and statistics officials from the member bodies of the EFAD met in London on 19 November 2003 to examine the possibility of exchanging data which may help us to solve these problems. The European Audiovisual Observatory is taking an active part in this work and will be hosting the second meeting of the working party in autumn 2004. There are major legal, methodological and practical problems to be tackled and so there will not be any immediate solutions.

⁴ See below, Chapter 12.

Box-office success of co-produced or co-financed European films

Assessing the impact of co-productions on admissions poses even more complex problems. Statistics on market shares of national films published by national agencies take account of the principle of assimilation (meaning, for example, that admissions for the Franco-German co-production *Le fabuleux destin d'Amélie Poulain* are counted as French in CNC statistics and German in FFA statistics).

Statistics derived by the Observatory from the LUMIERE database are calculated on the basis of the nationality of the main co-producer. It is not possible at this stage to calculate the market shares of co-produced or co-financed films and still less

to break down these statistics according to the proportionate national contributions of the co-producers.

Of the 50 European films with the largest number of admissions between 1996 and 2002 in the 25 European countries covered by the LUMIERE database, 10 were European co-productions and 13 were partly financed by a US partner. Of the 50 European films with the largest number of admissions in Europe in 2002, 21 were co-productions and 3 were partly financed by a US partner.

In general, co-productions with third-party countries (particularly African, South American and Asian countries) and central and eastern European countries represent a means for these films to break into the European Union market.⁵

T.24 Number of feature films produced in Europe (1997-2002)

Pays								Source
AT	Total	15	22	23	17	12	26	OGFMK/FAF
BE	Total	24	35	33	28	25	26	MFB
BE	100% national	6	9	6	10	5	5	MFB
BE	maj. co-prod.	7	13	11	12	7	9	MFB
BE	min. co-prod.	11	13	16	6	13	12	MFB
BG	Total	7	4	2	3	8	6	NFC/OBS
BG	100% national	1	3	2	3	3	5	NFC/OBS
BG	maj. co-prod.	1	1	0	0	3	1	NFC/OBS
BG	min. co-prod.	5	0	0	0	2	n.c.	NFC/OBS
CH	Total	29	37	31	35	33	47	OFC
CH	100% national	16	26	19	24	20	29	OFC
CH	co-productions	13	11	12	11	13	18	OFC
CH	maj. co-prod.	–	6	–	3	9	11	OFC
CH	min. co-prod..	–	5	–	8	4	7	OFC
CY	Total	2	0	1	1	4	2	PIO
CY	100% national	0	0	0	0	0	0	PIO
CY	maj. co-prod.	1	0	1	1	4	2	PIO
CY	min. co-prod.	1	0	0	0	0	0	PIO
CZ	Total	20	14	17	16	18	21	Min.Cult./OBS
CZ	100% national	14	9	13	11	12	18	Min.Cult./OBS
CZ	maj. co-prod.	2	4	3	4	5	3	Min.Cult./OBS
CZ	min. co-prod.	4	1	1	1	1	n.c.	Min.Cult./OBS
DE	Total	61	50	74	75	83	84	SPIO
DE	100% national	47	39	44	47	57	39	SPIO
DE	Co-productions	14	11	30	28	26	45	SPIO
DK	Total	31	21	19	22	23	23	DFI
DK	100% national	16	6	10	13	11	11	DFI
DK	maj. co-prod.	8	12	6	4	8	8	DFI
DK	min. co-prod.	7	3	3	5	4	4	DFI
EE	Total	1	3	4	0	3	2	Min.Cult./EFSA
EE	100% national	1	2	n.c.	0	2	1	Min.Cult./EFSA
EE	maj. co-prod.	0	0	n.c.	0	1	1	Min.Cult./EFSA

⁵ See "Distribution on the European Union Market: Films from Central and Eastern Europe, the Mediterranean Basin, Africa, Latin America and Asia" (Report of the European Audiovisual Observatory for the Conference on the Future of Cinema and the Audiovisual Sector within the Framework of European Union Enlargement, Thessaloniki, 25 - 27 May 2003). http://www.obs.coe.int/online_publication/expert/disfilm_thessaloniki.pdf.en

T.24 (cont.) **Number of feature films produced in Europe (1997-2002)**

Country								Source
ES	Total	80	65	82	98	107	137	ICAA
ES	100% national	55	45	44	64	67	80	ICAA
ES	co-productions	25	20	38	34	40	57	ICAA
ES	maj. co-prod.	13	9	12	10	18	21	ICAA
ES	co-productions 50-50	1	0	4	3	1	1	ICAA
ES	min. co-prod.	11	11	22	21	21	35	ICAA
FI	Total	10	9	13	10	12	11	FFF
FI	100% national	9	8	n.c.	n.c.	n.c.	n.c.	FFF
FI	maj. co-prod.	–	–	n.c.	n.c.	n.c.	n.c.	FFF
FI	min. co-prod.	1	–	n.c.	n.c.	n.c.	1	FFF
FR	"French initiative"	125	148	150	145	172	163	CNC
FR	100% national	86	102	115	111	126	106	CNC
FR	co-productions	72	78	66	60	78	94	CNC/OBS
FR	maj. co-prod.	39	46	35	34	46	57	CNC
FR	min. co-prod.	33	32	31	26	32	37	CNC
GB	Total	115	91	103	90	83	84	BFI/SF
GB	100% national	74	65	71	51	52	41	BFI/SF
GB	maj. co-prod.	20	8	9	6	8	13	BFI/SF
GB	co-productions 50-50	n.c.	n.c.	n.c.	7	4	6	BFI/SF
GB	min. co-prod.	9	7	17	13	15	18	BFI/SF
GB	US production (1)	12	11	6	11	3	6	BFI/SF
GB	Other Foreign production	–	–	–	2	1	0	BFI/SF
GR	Total	16	17	19	18	23	17	GFC/OBS
GR	100% national	n.c.	12	13	14	15	12	GFC/OBS
GR	maj. co-prod.	n.c.	2	3	2	3	3	GFC/OBS
GR	min. co-prod.	n.c.	3	3	2	5	2	GFC/OBS
HR	Total	1	3	6	0	1	1	CBS
HR	100% national	1	3	6	0	1	1	CBS
HU	Total	16	13	17	21	22	24	Min.Cult./AFD
HU	100% national	13	10	15	17	20	19	Min.Cult./AFD
HU	maj. co-prod.	3	1	2	4	2	5	Min.Cult./AFD
HU	min. co-prod.	n.c.	2	n.c.	n.c.	n.c.	n.c.	Min.Cult./AFD
IE	Total	8	5	4	3	n.c.	n.c.	Irish Filmography
IE	100% national	2	3	1	0	n.c.	n.c.	Irish Filmography
IE	maj. co-prod.	2	2	3	3	n.c.	n.c.	Irish Filmography
IE	min. co-prod.	4	n.c.	n.c.	n.c.	n.c.	n.c.	Irish Filmography
IE	Total	9	9	12	10	8	2	IFB/OBS
IS	Total	4	2	2	6	4	9	HI
IS	100% national	0	0	0	1	3	6	HI
IS	co-production	4	2	2	5	1	3	HI
IT	Total	87	92	108	103	103	130	ANICA
IT	100% national	71	79	92	86	68	96	ANICA
IT	co-productions	16	13	16	17	35	34	ANICA
IT	maj. co-prod.	–	–	–	8	22	17	ANICA
IT	min. co-prod.	–	–	–	9	13	17	ANICA
LT	Total	3	0	1	2	0	1	Min. Cult.
LT	100% national	2	0	0	0	0	0	Min. Cult.
LT	maj. co-prod.	1	0	0	1	0	0	Min. Cult.
LT	min. co-prod.	0	0	1	1	0	1	Min. Cult.
LU	Total	4	10	7	8	10	10	CNA/OBS
LU	100% national	0	0	0	0	0	1	CNA/OBS
LU	min. co-prod.	4	10	7	8	n.c.	9	CNA/OBS
LV	Total	3	3	3	2	3	2	CSBL/NFCLV
LV	100% national	3	3	1	2	2	0	CSBL/NFCLV
LV	min. co-prod.	n.c.	n.c.	2	n.c.	1	1	CSBL/NFCLV

(1) US production in GB

T.24 (cont.) **Number of feature films produced in Europe (1997-2002)**

Country								Source
MK	Total	2	2	1	1	1	2	ICMK/Min.Cult
MK	100% national	1	2	1	—	0	0	CMK/Min.Cult
MK	Co-productions	1	—	—	—	1	2	CMK/Min.Cult
NL	Total	13	22	22	23	28	29	NFC
NL	Co-productions	n.c.	n.c.	n.c.	n.c.	4	5	NFC/OBS
NO	Total	21	20	17	17	10	17	NFI/NFF
NO	100% national	11	10	7	8	7	10	NFI/NFF
NO	maj. co-prod.	2	3	4	2	0	3	NFI/NFF
NO	min. co-prod.	8	7	6	7	3	4	NFI/NFF
PL	Total	20	15	24	22	29	30	CCP/Min.Cult.
PL	100% national	16	11	21	19	27	27	CCP/Min.Cult.
PL	maj. co-prod.	2	0	2	0	1	0	CCP/Min.Cult.
PL	min. co-prod.	2	4	1	3	1	3	CCP/Min.Cult.
PT	Total	12	14	13	10	17	10	ICAM
PT	100% national	2	2	2	2	4	1	ICAM
PT	maj. co-prod.	7	8	7	5	10	5	ICAM
PT	min. co-prod.	3	4	4	3	3	4	ICAM
RO	Total	6	11	6	11	14	9	CNPS/CNC
RO	100% national	2	3	0	0	6	8	CNPS/CNC
RO	maj. co-prod.	1	2	0	0	2	1	CNPS/CNC
RO	min. co-prod.	3	6	6	11	6	0	CNPS/CNC
RU	Total	40	38	31	39	47	62	DD
RU	100% national	29	34	25	32	n.c.	n.c.	DD
RU	Co-productions	11	4	n.c.	7	n.c.	n.c.	DD
RU	maj. co-prod.	0	0	6	n.c.	n.c.	n.c.	DD
SE	Total	36	34	23	44	28	28	SFI
SE	100% national	23	20	13	20	16	12	SFI
SE	maj. co-prod.	9	14	10	18	9	9	SFI
SE	min. co-prod.	4	n.c.	n.c.	6	3	7	SFI
SI	Total	3	3	4	5	9	10	SOS/SFF
SI	100% national	3	3	4	5	8	9	SOS/SFF
SI	Co-productions	0	0	0	0	1	1	SOS/SFF
SK	Total	3	1	3	3	4	5	SKFI
SK	100% national	0	0	0	0	2	0	SKFI
SK	Co-productions	3	1	3	3	2	5	SKFI
TR	Total	14	10	14	16	19	12	Exh. Ass./Sinema/OBS
TR	100% national	n.c.	n.c.	n.c.	11	16	7	Exh. Ass./Sinema/OBS
TR	Co-productions	n.c.	6	2	5	3	5	Exh. Ass./SD/Sinema/OBS
TR	maj. co-prod.	n.c.	n.c.	n.c.	4	1	2	Exh. Ass./Sinema/OBS
TR	min. co-prod.	n.c.	n.c.	n.c.	1	2	3	Exh. Ass./Sinema/OBS
EUR 15e (2)		557	561	600	594	628	634	OBS
EUR 33e (2)		707	706	757	755	828	—	OBS
US	Films produced	767	686	758	683	611	543	MPAA
US	Films rated	673	661	677	762	739	786	MPAA
US	Distributed by Majors	219	221	213	191	188	220	MPAA
US	Distributed by independents	242	269	229	267	274	229	MPAA
US	TOTAL NEW RELEASES	461	490	442	458	462	449	MPAA
JP	Released	278	249	270	282	281	282	EIREN

(2) Not including minority co-productions, US and other foreign production in GB

Source: European Audiovisual Observatory figures collected from national sources

T.25 Number of co-produced or co-financed films released in Europe (1997-2002)

Co-producing countries	Year of distribution					
	1997	1998	1999	2000	2001	2002 prov.
US - EUR	13	13	23	23	33	42
US - GB	5	7	10	5	9	15
US - FR	3	2	4	8	11	3
US-DE	2	1	3	7	7	19
Maj co-prod. DE	17	11	25	32	12	18
Maj co-prod. ES	25	12	15	9	25	33
Maj co-prod. FR	41	41	57	46	45	61
Maj co-prod. GB	25	16	20	33	27	40
GB - US	10	5	5	19	9	10
Maj co-prod. IT	15	12	22	16	24	20
Other maj co-prod. EUR	71	52	76	72	51	71
Total maj. EUR	194	144	215	208	184	243
Total	207	157	238	231	217	285

Each year includes films being distributed for the first time and re-releases.

Source: European Audiovisual Observatory/LUMIERE (<http://lumiere.obs.coe.int>)

G.5 Number of co-produced or co-financed films distributed on the European Union market (1998-2002)

US - EUR



DE maj. coprod.



ES maj. coprod.



FR maj. coprod.



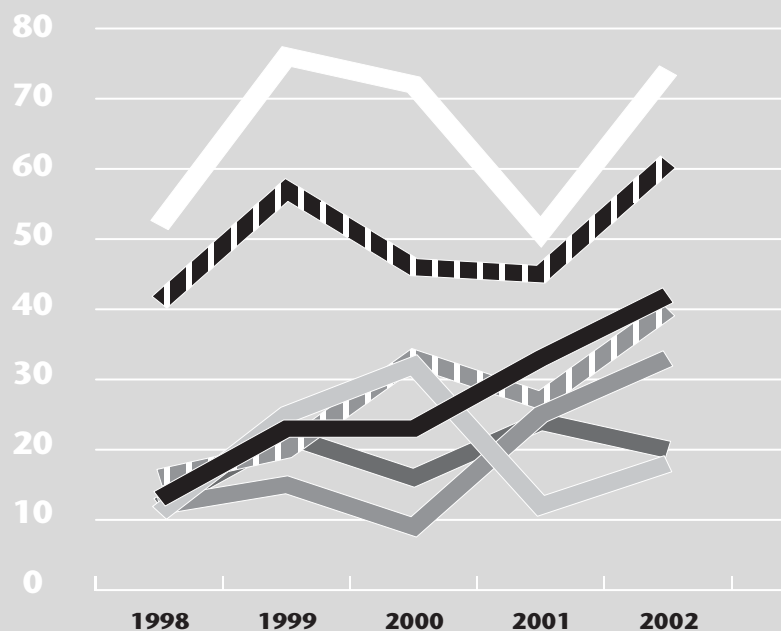
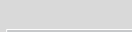
GB maj. coprod.



IT maj. coprod.



Other EUR maj. co-prods.



Source: European Audiovisual Observatory / LUMIERE (<http://lumiere.obs.coe.int>)

Types of funding

8.1 The main funding system options

8.2 Funding for projects or structural funding for companies

8.3 General funding or specific funding

BOX N°7

Automatic support schemes for production – a summary

8.4 Automatic funding or selective funding

8.5 *Ex-ante* or *ex-post* funding

BOX N°8

A few examples of selective funding of features-length films

8.1

The main funding system options

What we mean by the main funding system options are the various ways and means available to those who organise funding systems (legislators, government departments and the managers of funding bodies).

There is such a huge variety of systems in the various European States that it is difficult to provide an overview of all the types of funding available, but it can be said that the decisions involved always boil down to a small range of paradigmatic choices.

To illustrate the choices to be made when organising funding policies, it will be enough to perform a comparative analysis of the core ingredient of all funding systems, namely funding for the production of feature-length films.

A comparative analysis of types of funding can be made by looking at the way in which legislators and fund managers deal with the main choices with which they are faced:

- Funding for projects or structural funding for companies
- General funding or specific funding
- Automatic funding or selective funding
- *Ex ante* or *ex post* funding
- Repayable or non-repayable funding

8.2

Funding for projects or structural funding for companies

Funding can be distinguished according to whether it is provided for projects (single projects or project portfolios) or in the form of structural support for companies.

Funding for single projects

Most funding in Europe consists of subsidies awarded to a production company for a specific project. In most cases, the project relates to a single film.

Slate funding

Funding for series of projects (called "slate funding") has been introduced in a number of countries, including:

- the **United Kingdom**: Development Slate Funding (UK Film Council) and National Lottery Company Development Funding (Scottish Screen)
- **Germany**: *Paketförderung* (Filmboard Berlin-Brandenburg Mitteldeutsche Medienförderung, etc.).
- **Norway**: the Support for Film Production Companies Programme set up in September 2002 includes a slate funding component.

Funding for companies

A number of countries provide specific funding for companies.

This type of funding can be provided by agencies specialising in the film and audiovisual sector:

- **Germany**: Förderung von Investitionen (Nordmedia, agencies run by the *Länder* of Lower Saxony and Bremen). Small and medium-sized enterprises have access to investment subsidies which can cover up to 50% of their organisational costs, up to a limit of 100 000 EUR.

- **Austria**: Förderung strukturverbessernder Massnahmen (Österreichisches Filminstitut): Companies can be awarded a subsidy representing up to 30% of their investment costs.

- In **Belgium** (Walloon region), the Walloon Fund Wallimages is the body responsible for promoting the creative work and development of companies working in the audiovisual sector which meet the criteria outlined below. This support takes the form of financial contributions in partnership with one of Walloon's eight "Invests" (investment funds), supervised by the SMEs or another public partner, and taking the form of a share in the capital, a subordinated loan or convertible bonds.

- In **France**, the national film board, the CNC, runs a funding programme for the production of short films, the aim of which is to nurture the growth of the most experienced and enterprising companies in the sector.

- In **Ireland**, the Company Development Initiative was set up by the Irish Film Board in collaboration with the Anglo Irish Bank in 2001. The programme is aimed at supporting Irish producers and production companies with a view to stimulating their growth and making them more competitive on the international audiovisual market. During Phase I (2001-2003), a number of selected companies were awarded development funding of 1,9 million EUR from the Anglo-Irish Bank and 1.05 million EUR from the Irish Film Board over a three-year period. Phase II of the Initiative was launched in February 2003.

- In the **United Kingdom**, the regional fund, Screen East, provides funding for company development schemes. The regional fund, Screen Yorkshire, provides funding for new and existing companies' R&D activities, for the recruitment of consultants, training, marketing, etc.

- In **Norway**, the Support for Film Production Companies Programme set up in September 2002 by the Norwegian Film Fund includes development grants for activities in the film industry.

Support for film and audiovisual companies may also form part of the programmes of agencies set up to encourage investment whose purview extends well beyond the film and audiovisual industries alone (for example, in Germany, the Film- und Medienförderung (FuM) forms part of the Bremer Innovation Agentur of the Land of Bremen).

Another form of structural aid is fiscal facilities offered by local authorities to encourage businesses to set up in investment parks, media poles, film centres, etc.¹

8.3

General funding or specific funding

General funding means funding which is accessible to all types of production while specific funding means forms of funding which are designed for certain types of production with their own specific characteristics (feature-length films, animated films, documentaries, short films, first films, television productions, multimedia projects, etc.).

An analysis of the programmes or services offered by the main national agencies reveals once again that approaches vary enormously. Generally speaking, agencies in large countries tend to provide more specialist production funding by setting up specific programmes, whereas smaller countries have a single service available to all types of production. Nonetheless, agencies in small countries such as Switzerland, Denmark, Greece, Hungary, Ireland, the Netherlands or Portugal also have specialised funding programmes.

8.4

Automatic funding or selective funding

Another major decision to be taken when organising funding is the choice between automatic funding and selective funding. This choice corresponds largely – although not always – to the difference between support for films pursuing commercial aims and films pursuing cultural aims. Automatic funding and selective funding are not mutually exclusive; they can generally be combined, but the way in which they are coupled varies according to country.²

8.4.1. Automatic funding: the example of feature-length films

Automatic funding is funding to which applicants have automatic access provided that they have satisfied the conditions required and filed their application correctly. There can be automatic funding systems for production, distribution and exhibition.

As far as production is concerned, the most common system, which was adopted by many European countries in the 1990s, is automatic funding linked to the success of the film. However, automatic funding has now been abandoned in the United

¹ This type of funding is not yet listed in the KORDA database.

² This comparative description does not enable us to enter into all the details of each national system. See below the examples of the way in which Spain and Sweden create the conditions in which automatic and selective funding are combined.

T.26 Types of production covered by the main national agencies' production funding programmes

	General funding	Specific funding					Television productions	Multimedia projects	Others
		Feature-length films	Short and medium-length films	Animated and youth-oriented films	Documentaries	First feature-length film			
AT	ÖFI RTR	•							•
BE (CFR)	CCAV	•							•
BE (VLG)	VAF	•							•
BG	BFC	•							
CH	OFC	•	•	•					
CY	CAC	•							
CZ	SF								
DE	FFA	•	•						
DK	DFI	•	•		•				
EE	EFF	•							
ES	ICAA	•	•	•	•				
FI	FFF	•							
FR	CNC	•	•	•	•	•	•	•	(2)
GB	UKFC	•	•	•	•	•		•(1)	
GR	GFC	•	•	•	•	•			
HR	MC	•							
HU	MMK ORTT	•		•	•			•	(3)
IE	IFF	•	•	•	•	•			•
IS	IFF	•							
IT	DGC	•							•
LU	FNSPA	•							
LV	NFCL	•							
MK	MBC								•
NL	NFF CoBo	•	•	•	•	•			•
NO	NFF	•							
PL	FP / APF	•							
PT	ICAM	•	•	•	•	•			•
RO	CNC	•							(4)
SE	SFI	•							•
SI	SFRS	•							
SK	MinK	•							
TR	MinC	•							

(1) With subdivisions by type: fiction, short fictional films, animation, documentaries "de création", cultural interest magazine programmes, live shows, and music videos
(2) Funding for foreign-language films, funding for experimental films, Fonds Sud
(3) Funding for science films
(4) Funding for co-productions with Portuguese-speaking countries

Source: European Audiovisual Observatory / KORDA

Kingdom and Belgium. The aim of these systems is to encourage investment in films with a large audience potential and thus to contribute to the durability of the industrial fabric, adopting the principle that it is desirable to create a "virtuous circle".

The amounts of funding to which the success of the film gives rise (or in the case of France, the sums credited to an account on the basis of which the funding to be awarded will be calculated) is determined according to objective, measurable or clearly identifiable criteria (such as prizes awarded at festivals or major international events). Indicators and application details vary according to programmes.

Automatic funding functions in many different ways:

- Automatic funding is generally managed by national film agencies but this is not always the case. In Italy, the Banca Nazionale del Lavoro (BNL) manages funding for the provision of services for the Ministero per i Beni e le Attività Culturali.

- Automatic funding is usually awarded to production companies, but in some countries (particularly Switzerland and Italy), other operators can also apply for subsidies for films in which they are involved (authors, directors, screenwriters, etc.).³

- It is not always compulsory to reinvest amounts awarded in the production. The obligation exists in Austria, Germany, France, Italy and Portugal, but we were unable to identify any legal obligations in other countries.

- The bases for calculation vary (some depend on receipts, others on admissions).

- The funding awarded is calculated differently according to the country (some use percentages, others a points system). The maximum amounts that a producer can be awarded also vary depending on the country.

Bases on which the amount of funding is calculated

The usual approach is to calculate funding on the basis of the number of admissions or receipts achieved by a film, which entitle the producer to *ex post* payments, generally on the condition that they are reinvested in a new film.

This system is used in various countries (Austria, the French Community of Belgium, Switzerland, Germany, Estonia, Spain, Finland, France, Italy, Norway, Portugal, Sweden⁴). It has just been introduced in Hungary⁵.

T.27 Funding thresholds for feature-length reference films

	Minimum number of admissions on the national market	Basis for calculation	Period after release
Austria	40 000	Admissions + awards	18 months
Belgium	No minimum level	Box-office receipts	5 years
(French Community)			
Switzerland (1)	5 000	Admissions + awards	12 months
Germany 1998-2003	100 000	Admissions	12 months
Germany > 2004	150 000	Admissions + awards	12 months
Spain		Box-office receipts	24 months
Estonia	20 000	Admissions + awards	12 months
Finland	45 000	Admissions	12 months
France	No minimum level	Special additional tax on film tickets	5 years
Hungary >2004	To be determined	Box-office receipts + awards	
Italy 1965-2003	No minimum level	Box-office receipts	
Italy > 2004	To be determined	Box-office receipts	18 months
Norway	No minimum level	Box-office receipts	Not specified
Portugal	EUR 25 000 of box-office receipts	Box-office receipts	12 months
Sweden	No minimum level	Box-office receipts	12 months

(1) Only up to 100 000 admissions are taken into account (70 000 per linguistic region)

| Source: European Audiovisual Observatory

³ In Switzerland, distributors and cinema owners can also apply.

⁴ 2000 Film Agreement, sections 15 and 16.

⁵ 2004 Motion Picture Act II, section 16.

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Austria: Österreichischer Filminstitut, Förderungsrichtlinien, Article 7

Belgium: Arrêté of the Government of the French Community of 25 December 1998, amending the Arrêté Royal of 22 June 1967 "tendant à promouvoir la culture cinématographique d'expression française" (now Title II of the consolidated version of the Arrêté Royal of 22 June 1967).

Denmark: DFI Ordinance "sur l'encouragement du cinéma" of 20 December 2002, section 3.

Germany: The system was outlined in the Gesetz über Maßnahmen zur Förderung des deutschen Films (Filmförderungsgesetz – FFG) as published on 6 August 1998, § 22. Article 22 was completely revised in the Filmförderungsgesetz of 22 December 2003, which came into force on 1 January 2004. The minimum number of admissions was increased from 100 000 to 150 000. A points system gives credit for prizes awarded at film festivals and major international competitions.

Estonia: Statutes - Allocation of financial support by the Estonian Film Foundation, approved by the resolution of the Board of the Estonian Film Foundation on December 27, 2000, Part 2.

Spain: Real Decreto 1039/1997 of 27 June "por el que se refunde y armoniza la normativa de promoción y estímulos a la cinematografía", Article 10 (amended by Article 2.3 of Real Decreto 196/2000 of 11 February).

Finland: Film Promotion Decree - Asetus elokuvataiteen edistämistä - Förordning om främjande av filmkonsten (121/2000)

France: Decree no 99-130 of 24 February 1999 "relatif au soutien financier de l'industrie cinématographique", Title III.

Italy: Under the former system governed by Law no. 1213 of 4 November 1965, "Nuovo ordinamento dei provvedimenti a favore della cinematografia" (Article 7), producers were entitled to funding equivalent to 13% of the gross box-office receipts in the five years following the film's release. Directors and screenwriters were entitled to a subsidy amounting to 0.4% of the gross box-office receipts.

These provisions were amended by Article 10 of the Decreto legislativo of 22 January 2004 "Riforma della disciplina in materia di attività cinematografica". Funding is calculated as a percentage of the receipts for the 18 months following the film's release. A system of ceilings on the subsidies awarded compared to box-office receipts was established. Directors and screenwriters may still be awarded subsidies. The percentages to be applied, the ceilings and a minimum level of receipts required to be able to apply for funding will be set out in a ministerial decree.

Norway: Regulations on Support for Film Production Purposes delivered by the Royal Norwegian Ministry for Cultural and Church Affairs on 8 February 2002, with legal basis in Parliament's annual decisions on state appropriations, section 6.

Portugal: Decreto-Lei n°350/93 of 7 October, Article 6°. Precise arrangements are set out in Regulamento de Apoio Inanceiro Automático à Produção Cinematográfica (anexo a Portaria n°45-D/95 de Janeiro), which has been amended on several occasions by annual decisions of the Minister of Culture (Portarias). See <http://www.icam.pt/folha.asp?codigo=000200270055AAAA#automatico>

The Belgian, Spanish, Italian, Norwegian, Portuguese and Swedish systems are based on box-office receipts. The French system is based on the amount of additional tax on the ticket produced by the reference film. All the other systems are based on admissions figures.

The French support fund system also takes account of the proceeds of taxes on video sales or rental, and payments by television channels for rights to broadcast the film in question.

The Austrian, Swiss, German and Hungarian systems also take account of awards won by the film at festivals or major international events.

Determining the amounts of funding to be granted

The systems based on the number of admissions grant a fixed amount of money for each admission. Under the new German law, these amounts are determined according to a points system, which makes it possible to combine admissions figures with

credit for prizes awarded at festivals.

Under the systems based on box-office receipts, the amounts of funding due are calculated on the basis of a percentage of the receipts:

- In **Spain**, the basis is 15% of the gross receipts over a period of two years following the film's release. Producers who have made films without applying for selective subsidies may be granted 25% of gross receipts or 33% of the amount invested if the turnover amounts to no less than 300 000 EUR and no more than 600 000 EUR.

- In **Italy**, the law of 1965 set funding at 13% of gross receipts over a period of five years after the film's release. The new law has not set a percentage, as it is to be set out in implementing regulations, but states that the amounts to be granted will be calculated over a period of 18 months following the film's release.

- In **Norway**, the funding due amounts to 55% of the reference film's box-office receipts, up to a maximum equal to the amounts invested, the administrative costs and the producer's

film rental income. Funding may be increased to 100% in the case of films for children.

- In **Sweden**, if over 49% of the film's production costs are financed by advances against takings (selective funding), the amount of automatic funding may not exceed 25% of the reference film's box-office receipts. Where advances against takings cover 49% or less of film production costs, automatic funding may amount to 50% of box-office receipts. Where a film does not resort to advances on takings at all, funding can amount to up to 75% of box-office receipts.⁶

- In **France**, calculating the amounts that can be taken into account for the exhibition of films is a complex operation⁷. Funding is calculated by applying a percentage – currently 130% – to the T.S.A. (a special additional tax on cinema tickets, which amounts to around 11% of total annual cinema receipts)⁸. Any producer wishing to calculate roughly how much funding he can expect for his film can apply the following formula:

$$\text{Film box-office receipts} \times \text{T.S.A. (circa. 11\%)} \times 130\%$$

In other words, to be able to draw the comparison with the standardised percentages adopted in other countries, we can consider that the sums due amount to some 13 or 14% of the gross box-office receipts.

Conditions to qualify for funding

To qualify for the funding deriving from automatic support funds, production companies must satisfy a number of conditions, which can be stricter than the more general ones outlined in Chapter 1.6.

Automatic funding systems set limits on the amounts that can be used on various aspects of the film to be produced. These limits take the form of a percentage of the overall film budget or an absolute figure (see Table 27).

In the French and Hungarian systems, the amounts of funding that can be claimed are determined according to a system of calculation which applies weightings to the theoretical amounts produced by a points system setting the film's degree of nationality.⁹

T.28 Comparison of the nationality weighting scales used for the automatic funding systems in France and Hungary

	FR	HU
Production company	10	15
Language	20	15
Authors	10	20
comprising: - director	5	10
- authors, adapters, screen writers	4	7
- composer	1	3
Actors	20	15
comprising: - leading roles	10	10
- supporting roles and minor roles	10	5
Crew and creative staff	14	13
comprising: - direction staff other than director	2	4
- administration and production	2	
- filming	3	
- sets	2	1
- wardrobe		1
- sound	2	2
- editing	2	2
- make-up	1	1
- others		2
Labour	6	2
comprising: - filming crew	4	
- building workers	2	
Filming and post-production	20	20
comprising: - finding places to film	5	5
comprising: - film locations	3	3
- studios	2	2
- technical filming equipment	5	
comprising: - cameras	2	2
- lights	2	2
- machinery	1	1
- sound post-production (mixing the original version)	5	3
- picture post-production (lab. work)	5	3
TOTAL	100	100

Sources: France: CNC;
Hungary: 2004 Motion Picture Act II, section 3.

⁶ The Swedish system was introduced by the 2000 Film Agreement. It was fully operational by 2001 but was already encountering financial problems in 2002. The potential for the Swedish Film Institute to provide for film funding using its budget is limited. In autumn 2001, the Institute had to announce that it could not make any more funding pledges before it knew the results of the films due to be released in 2002. Negotiations on this issue were held between the parties to the Agreement in June 2002. See <http://www.sfi.se/sfi/smpage.fwx?page=3136>

⁷ Added to this are the sums deriving from television broadcasts and video sales.

⁸ For more details, see CNC, *Mémo: l'agrément du film de long métrage*, http://www.cnc.fr/b_actual/reforme.pdf

⁹ In France, a film will only trigger off the automatic funding calculation if the producers have a production licence delivered by the Director General of the CNC. The sums calculated are placed on accounts opened at the CNC in the name of the recipient production companies and can be used by these producers for investments in film production.

T.29 National funding programmes for the production of feature-length films

Programme	Automatic Related to success in on on video cinemas TV at festivals	Weighting according to production features	Sélective Related to cultural attributes	Related to potential for success	Repayable	Maximum level of funding (as a % of the production budget or in absolute terms)
AT Erfolgsabhängige Filmförderung (referenzfilmförderung) Herstellungsförderung	•	•	•	•	Must be reinvested	30% of the following production budget
BE (CFR) Aide à la production Aides à la diffusion	•		•		Yes/No	EUR 495 000
BE (VLG) Productiesteun			•			35% of receipts (25% to the producer and 10% to the distributor). May not exceed 100% of the film budget.
BG Production funding	•	•	•	•		50% 80% of the Bulgarian share in the co-production
CH Aidé liée au succès Encouragement sélectif		•	•			CHF 1 million (EUR 667 000)
CZ Repayable advances					Yes	50%
DE Support to "reference films" Support to long length feature films	•	•		•	Yes	EUR 2 million 85%
DK 60/40-ordningen			•		Yes	60%
EE Menutoetus Tõpptomistõetus	•	•	•			70% - EUR 38 000
ES Ayudas para la amortización de largometrajes Ayudas para la realización de largometrajes	•		•			15% of receipts of film for which funding was granted. (25%, if no application made for selective funding, or 33% of the budget up to a maximum of ESP 100 million)
FI Support for Production			•			70%
FR Support for successful film Soutien automatique Avances sur recettes avant réalisation Avances sur recettes après réalisation	•	•	•	•	Must be reinvested Yes	EUR 700 000 50% of the final cost of the production or 50% of the French contribution EUR 457 000
			•		Yes	EUR 76 300 (EUR 152 000 for a first film)

Source : European Audiovisual Observatory

T.29 (cont.) **National funding programmes for the production of feature-length films**

	Programme	Automatic related success in on on video at cinemas TV on video festivals	Weighting to production features	Selective Related to cultural attributes	Related to potential for success	Repayable	Maximum level of funding (as a % of the production budget or in absolute terms)
GB	New Cinema Fund			•			15-50%
	Premiere Fund				•		Up to 35%
GR	Horizons II Programmes			•			EUR 264 000 for 100% Greek films, no limit on international co-productions
HR	Film financing			•			80% - EUR 534 000
HU (*)	Direct subsidy					Yes / No	80 - 100% / 80% of the Hungarian share in the co-production
	Selective subsidy			•			
	Normative subsidy	•	•				
IE	Production Loans for Feature Length Fiction Films			•		Yes	A share of the total budget
IS	Film Fund		•	•			40% - EUR 883 000
IT	Incentivi alla produzione	•				Must be reinvested	
IT (**)	Film di produzione nazionale					Yes	70% / LIT12 Mia (6m EUR)
	Film di interesse culturale nazionale			•		Yes(Guarantee fund)	90% / LIT 8 mia (4m EUR)
	Opere prime e seconde			•		Yes (Guarantee fund)	90% / LIT 2,5 mia (1,2m EUR)
IT (***)	"Reference system"			•	•		
LT	Film support			•			
LU	Aides à la production			•		Yes	EUR 496 000
NL	Publieksfilms			•	•		30% - EUR 900 000
	Lange Speelfilm			•			EUR 454 000
NO	Box Office Bonus	•					Amount required to cover investment costs (equity funding), administrative costs and producer's film rental income / 100% for children's films
	Tilskudd etter markedsvurdering "Support to films according commercial criteria"				•		50% - NOK 10 million (1.3m EUR)
	Tilskudd til langfilm (utvikling, produksjon)			•	•		50%

T.29 (cont.) **National funding programmes for the production of feature-length films**

	Programme	Automatic related success in cinemas on TV on video at festivals	Weighting according to production features	Selective Related to cultural attributes	Related to potential for success	Repayable	Maximum level of funding (as a % of the production budget or in absolute terms)
PT	Sistema de Apoio Financeiro Selectivo			•	No	No	EUR 650 000
	Sistema de Apoio Financeiro Directo					No	EUR 650 000
	Sistema de Apoio Financeiro Automático	•				Must be reinvested	EUR 650 000
RO	Fondul cinzmatografic			•	•		65%
SE	Förhandsstöd			•			80%
	Publikrelaterat Stöd (Audience related subsidies)	•					80%

Source : European Audiovisual Observatory

8.4.2 Selective funding

The implication of selective funding is that the funding body selects film projects according to qualitative selection criteria. Selective funding may or may not be repayable. It may be granted for the production *per se* (see table) or for specific stages in the production (screen writing, development or, less frequently, post-production or distribution).

A description of the way in which the selection process is organised (appointment of experts, establishment of criteria, methods adopted, etc.) would require a separate study, which it is impossible for us to conduct here. It is of course in the implementation of these practices that the interacting political, cultural, aesthetic and economic factors which form the complex alchemy of film production come into play.

Explicit cultural and/or economic conditions

Historically, selective funding stems from the desire of those who frame public policies to offset the deficiencies of the market by supporting projects on the basis of largely cultural criteria (advantages of the project for the national culture or language, films aimed at children or other types of minority in the country, standing of the director, experimental nature of the project, etc.). During the 1990s, however, there was a rise in selective funding based on largely economic criteria (in particular, appraisals of the film's potential for success). The two types of criteria may also be taken into account simultaneously, either in accordance with provisions set out explicitly in laws or regulations¹⁰ or through the day-to-day practice of selection panels.

Special features of selective funding

Whereas automatic funding is generally managed by national film agencies, selective funding may be granted by other national¹¹, regional or local bodies.

As far as feature-length films are concerned, specific selective funding can be provided:

- for first films
- for co-productions

Selective funding can also be granted for the following stages prior to production:

- screen-writing
- development
- pre-production

Films other than feature-length ones are generally granted specific selective funding¹²:

- films for children
- animated films
- documentaries
- short films
- television productions (French Community of Belgium)

Selective funding for the distribution of films (frequently feature-length ones) is also granted in Austria, Switzerland, Germany, Denmark, Spain, Finland, France, the United Kingdom, Hungary, Luxembourg, the Netherlands, Poland, Portugal and Sweden. Funding for distribution is granted not only for national films but also for European non-national films (MEDIA Programme, Spain) or films from certain countries (Germany provides funding for the distribution of French and Austrian films).

Selective subsidies for the exhibition of films are awarded in Germany.

Funding for video editing in Germany, France and Portugal is also provided in the form of selective subsidies.

Selective funding based on economic criteria

Selective funding based on economic criteria is made up mainly of forms of support which take account quite explicitly of the commercial success expected of the film.

Selective funding based on an assessment of the film's potential for commercial success may take the form of an investment as part of a co-production agreement. The Filmboard Berlin-Brandenburg GmbH has been experimenting with this approach since 1994. When it talks of commercial success, the Filmboard does not necessarily mean huge audiences; what it requires is for the budget and the target audience to be sufficiently well matched.¹³

The Austrian Film Institute's *Herstellungsförderung* Programme provides funding based on an assessment of the film's commercial potential.¹⁴

In Sweden, advances on takings for feature-length films can be granted only if the producer provides a distribution plan. The possibility that the film may be broadcast by one of the television channels that are parties to the Swedish Film Institute's finance agreement is also taken into consideration.¹⁵

In Bulgaria, one of the conditions to qualify for production support is that at least 25% of the finance for the film comes from foreign producers. In this case, the National Film Centre can cover up to 80% of the Bulgarian share of the budget or a maximum of 60% of the total film budget.

¹⁰ In **Germany**, section 32(1) of the 1998 Filmförderungsgesetz stated that the decision to grant funds should be based on considerations taking account of the film's potential in terms of quality and "economicalness" ("Wirtschaftlichkeit"). While preserving these two conditions, an addition to section 32(1) introduced by the law of 22 December 2003 stated that support should also be provided for projects put forward by talented newcomers ("Projekte von talentierten Nachwuchskräften").

¹¹ **Germany** provides an example of a national body which complements the work of the national agency in the form of the Stiftung Kuratorium Junger Deutscher Film, whose aim is to support films for children and the work of talented newcomers, while the Government representative for cultural and media affairs (BKM) awards a screenplay prize, a short film prize and a German film prize.

¹² See table T.26 above.

¹³ "It makes no difference whether the audience is large or small, but the proportions must be right.", in *An Introduction to the Filmboard Berlin-Brandenburg GmbH*, http://www.filmboard.de/english/fbb_e.htm#categories

¹⁴ "Die Förderung wird als erfolgsbedingt rückzahlbarer Zuschuss gewährt", ÖFI, *Förderungen-Richtlinien*.

¹⁵ 2000 Film Agreement, section 18

8.4.3. Repayable or non-repayable funding. The financial arrangements for selective funding: subsidy, advance, loan or investment¹⁶

Non-repayable subsidies

The most commonly encountered form of cultural funding is the non-repayable subsidy. In such cases, funding bodies consider from the outset that the cultural project in question is not economically viable and so there is no hope of the money they provide being repaid.

This type of funding still exists but the general trend in Europe is to try to find formulas which make producers (and the creative artists working with them) shoulder more responsibility so that their cultural project also pursues an economic goal. In their 1998 report, Anne-Marie Autissier and Catherine Bizern noted that only three European countries granted funding only in the form of selective subsidies (Switzerland, Iceland and Norway). Since then, Switzerland and Norway have introduced automatic, success-related funding schemes and Iceland has set up a tax incentive scheme. Non-repayable subsidies are often the solution chosen by agencies in countries with a low production potential or by regional funding organisations.

Besides direct subsidies, the types of funding granted by public funding bodies in Europe vary enormously. However, it is possible to divide them into three quite distinct types, namely repayable advances, loans with or without interest and, lastly, funding in the form of investments in co-productions¹⁷.

Repayable advances on film receipts

Repayable advances are mainly provided for the production and distribution industries. In this case, they take the form of advances on takings which the producers must repay when their films are screened, under various conditions, including the following:

- **from the very first franc**, as with the advances on takings granted to productions by the French Community of Belgium and France since the 1997 reform of the system of advances on takings, which altered the repayment procedures. Advances must now be repaid wherever possible from the proceeds of the exhibition of the film or in the alternative directly from any automatic support granted after application of an exemption.

- **where the film generates proceeds above a certain level**, as with the Austrian Film Institute's production funding, which must be repaid as soon as the film receipts have made it possible to cover the share invested by the producer in the financing of the film or with the Finnish Film Foundation's production funding, which must be repaid at least in part where a producer recoups twice the amount of his own investment during the first year following release.

- **depending on the number of admissions**, as with the selective funding granted to authors, screenwriters and pro-

ducers in Sweden, which can only be awarded if the film attracts more than 100 000 spectators. The import funding for foreign films granted by the DFI in Denmark has to be repaid in half where the number of tickets sold exceeds 30 000 and in full where it exceeds 60 000.

Repayment on the first day of filming

Where funds granted prior to production are awarded in the form of advances, they must always be repaid according to the same arrangements, namely on the first day of filming as soon as the project in question goes into production, and in some cases this can cause real cash flow problems for producers. Repayment is also required as soon as someone who has been granted funds sells the rights to the production. This is also the case with the development aid awarded by the Scottish Film Fund in the form of a loan with interest.

Variable interest rates

The sectors to which funding in the form of loans is granted depend on the country concerned but loans are awarded for the production, distribution and exhibition of films. They can be interest-free but some countries grant loans with interest, mostly at special low rates – this is the case in particular with the loans granted by Wiener Filmförderungsfonds or those granted for productions since the law of 1971 under the Italian aid system managed by the Banca Nazionale del Lavoro (BNL)¹⁸. In Spain, an agreement between the ICAA and the ICO (Instituto de Credit Official) guarantees special low rates for producers and distributors entitled to ICAA funding¹⁹. However, loans may also be granted at standard rates, as is the case, for example, with the funding provided for the modernisation of cinemas in large towns by the Finnish Film Foundation.

Subsidies supplemented by repayable funding

Some funding is awarded in the form of a combination of a subsidy and an advance or loan. Most frequently, subsidies are awarded up to a certain amount, in excess of which any further funding provided must be repaid. This is the case with the film marketing and exhibition subsidies provided by the FFA in Germany and the production support provided by the Mecklenburg and Western Pomerania Cultural Film Fund and the Lower Saxony NDR Film Support Fund.

It also applies to the selective production funding provided in Portugal, where 20% of the funding for feature-length films is a repayable advance, as is 25% of the funding for short films.

Co-producing bodies

Some funding bodies behave like co-producers, to whom a share of the proceeds from the exhibition of the film is repaid according to their initial investment. This applies in particular to the Greek Film Centre, which becomes a joint owner of the rights to the films it subsidises²⁰ and is paid a share of the pro-

¹⁶ In this section, we have adopted the categories of selective funding proposed by Anne-Marie Autissier and Catherine Bizern in their report.

¹⁷ Repayable advances differ from interest-free loans in that they are always potentially repayable and so they can be transformed into subsidies.

¹⁸ See Box no. 3 (Chapter 4) for a description of the role of the BNL.

¹⁹ In late 1999, the State credit institution, the ICO, negotiated an agreement with the ICAA to open a line of credit intended to finance the production of feature-length films and improvements to or the acquisition of technical equipment. In 2002, this line of credit amounted to 39 million EUR and was used for 77 projects costing a total of 27,7 million EUR (ICO, *Informe anual 2002*, 33). The agreement was renewed on 22 December 2003, establishing a line of credit of 40 million EUR. Loans granted to producers may not exceed 90% of the funding provided by the ICAA and no single producer may be granted credit of over 4 million EUR per year. The producer's bank is granted the EURIBOR 6 month rate and the final user (the producer) is granted the EURIBOR 6 month + 0,75 p.p., which can be reviewed every 6 months. See <http://www.porlared.com/cinered/portada/ico1.pdf>

²⁰ In other rare cases, the Greek Film Centre may grant advances on takings.

ceeds. The support system for films in the Basque Country in Spain takes part in productions in the same way.

This is also partly the case with the Filmboard Berlin-Brandenburg, which awards an advance which has to be repaid out of the producer's share of the net receipts at a percentage equal to half of his proportionate contribution to the subsidised film's budget.

In **Denmark**, the industrial subsidies awarded to the Copenhagen and Haderslev studios give the funding bodies a share of the film rights; this makes their activities similar to those of a co-producer, as part of the proceeds from the exhibition of subsidised films is also allocated to them.

In **France**, Rhône-Alpes Cinéma is virtually a production company. As a part owner of the negative of the feature-length films which it supports, it receives dividends from the profits on the film. The CRRAV in the Nord-Pas-de-Calais region is also a co-producer of the audiovisual works for which it provides funding. As it does not hold a producer's licence, it may not, however, take part as a co-producer in film productions. Consequently, it merely co-finances films, with the result that it does not have any share in ownership of the negative.

In **the Netherlands**, the two funds which support the audiovisual sector (the STIFO and the COBO-Fund) also co-finance projects.

In the **United Kingdom**, co-production is an extremely widespread method. Production funding from the UK Film Council and Scottish Screen is awarded in the form of production investment.

In **Belgium**, the Walloon fund, Wallimages, can also support projects by acquiring an interest in them.

8.5

Ex-ante or ex-post funding

Funding can also be differentiated according to whether it is *ex-ante* or *ex-post*.

Ex-ante funding is immediately available to producers before or during filming in the form of subsidies or loans.

Ex-post funding is available only once filming is over. This is obviously the case with automatic funding linked to the success of the film 12 or 18 months after release. It is usually expected that success-related funding (or reference film funding) will be invested in a subsequent film.

In France, the CNC's automatic support fund is a typical *ex-post* system. Producers who have reached a given number of points on a 100-point scale are granted a proportionate amount of funding for the following film.

A number of countries also grant *ex-post* funding in the form of quality bonuses. These may be granted, for example, if a film has been awarded a prize at a festival.

A few examples of selective funding of feature-length films

It would not be possible in this report to describe all of the selective funding provided in Europe, which is awarded via over 500 programmes. We shall confine ourselves here to a description of just some of the selective funding programmes for feature-length films, as provided by the bodies themselves. For an individual description of the other programmes, readers should consult the KORDA database or the websites of the funding bodies concerned.

DE – Germany: the FFA's selective, project-based funding system (Projektprinzip)²¹

The FFA can grant an interest-free repayable loan to a producer where the screenplay, the budget, the financial plan, the cast and crew (and in some cases the sales and operating contracts) are of sufficient standard to assume that the project will help to improve the quality and the economic prosperity of the German film industry.

Loans are granted by an eleven-member committee. They usually amount to EUR 250 000. In some cases they can reach a million euros.

To qualify for selective funding, producers must cover at least 15% of the cost of their own project. Loans are repaid when the producer has covered 20% of the film-making budget approved by the FFA through the proceeds of exhibition. From this point on, the amounts repaid generally correspond to 10% of any new receipts.

FR – France: "Avances sur recettes" Advances on takings (CNC)²²

Advances on takings ("avances sur recettes") were introduced in 1960 with the aim of nurturing new creative talent by encouraging newcomers to make their first film and supporting a more independent and daring form of cinema than the commercial norm – a type of cinema which cannot balance its budgets without State aid.

Advances on takings are granted by the Director General of the CNC on the advice of a commission made up of leading members of the profession. The commission has highly demanding selection criteria; each year it examines some 550 applications but accepts only about ten percent of these on average.

The commission on selective production funding has one chairperson, three vice-chairpersons and thirty-two members.

- The first college is made up of the chairperson, one of the vice-chairpersons and seven members. Its role is to consider applications for advances prior to the making of directors' first films.

- The second college is also made up of the chairperson, one

of the vice-chairpersons and seven members. It considers applications for advances prior to filming for films by directors who have already made at least one feature-length film.

- The third college is made up of the chairperson, one of the vice-chairpersons and eleven members. Its role is to consider applications for advances after the making of films.

A. Advances prior to filming

Eligibility of projects

Candidatures take effect once the full application for an advance has been registered by the secretariat; they are considered in the order in which they are filed.

Advances prior to filming may be applied for:

- directly by the authors of the screenplay or the makers of the planned film, provided that they are French nationals or nationals of a member State of the EU or they have official resident status, or;

- by feature-length-film production companies holding a licence issued by the CNC, irrespective of whether the planned production is French or an international co-production carried out in accordance with the conditions set by intergovernmental co-production agreements.

Regulations

Applications must comply with the provisions of the amended decrees of 16 June 1959 and 30 December 1959, particularly those relating to the requirement that the original version of the film must be mainly in French to be described as an original French language film in the certificate issued by the national regulatory body, the Conseil supérieur de l'audiovisuel (CSA).

Consideration of projects

Projects are considered in two stages.

a. Shortlisting

1st College: First films

Projects are examined initially by a reading committee comprising the chairperson, the vice-chairperson, a member of the commission and four readers. Panel 1 is made up of 7 reading committees.

2nd College: Directors who have made at least one feature-length film before

This shortlist is drawn up by two reading committees, each of which comprises a chairperson, a vice-chairperson and half of the college members.

The identity of the members and readers on the committees is not revealed to the applicants.

Projects rejected by reading committees may not be resubmitted.

b. Selection

Shortlisted projects are then passed on for consideration by the whole of the relevant college.

Where projects are rejected by the full college, only the commission has the authority to allow a second and final application depending on the outcome of the deliberations and the vote. Where a second application is permitted, it is considered again by the reading committees.

At the full college meetings, the members may be provided with further information through the screening of previous films by the director in question.

²¹ A full description can be found on the FFA site at <http://www.ffa.de>

²² From the notes published by the CNC on its website at <http://www.cnc.fr> (unofficial translation by the Observatory)

If the candidate has not directed any films before or if the characteristics of the project so require, the first college may, at its instigation alone, grant funding for the preparation of a storyboard to be presented in support of the application for an advance at a subsequent plenary meeting.

Pledges of funding - procedure

Pledges of funding remain valid for 24 months from the date on which the applicant is notified thereof.

They lapse if filming does not start within this period. They may be extended by a decision of the Director General in response to a request from the producer with a supporting statement of reasons.

The project support office run by the commission may assist in attempts to find a producer and any other partners required to fund the film.

Amount of the advance and repayment arrangements

The amount of the advance and the arrangements for its repayment are decided by the Director General of the CNC on the advice of a financial committee comprising the chairperson, the vice chairpersons and representatives of the administrative departments. This committee decides on the amount of the advance, having examined a detailed file submitted by the producer describing the financial and technical conditions of the production of the film.

Arrangements for the payment and repayment of the advance are set out in a signed agreement between the producer and the CNC.

Payment of the advance is subject to the issue to the film producer of the certificate approving the investments in the film.

B. Advances after the film has been made

Eligibility of projects

This type of advance must be applied for by the production companies of feature-length films holding a licence issued by the CNC. Applications must be filed at such a time that it is still possible for the commission to give its opinion before the film is released.

Regulations

The provisions concerning the requirement that the original version of the film must be in French are the same as those for advances before filming.

Applicants must submit a contract for the distribution of the film to cinemas entered on the Public Film and Audiovisual Register.

If the investments in the film have not been officially approved, then it needs to have been produced in conditions complying with the main requirements for approval to be granted.

Selection

Applications are examined by the third college after a screening of a standard copy of the film.

Amount of the advance and repayment arrangements

If the college is in favour of the film, the financial committee carries out a detailed study of the technical and financial conditions in which it was made then advises the Director General of the CNC on the amount of the advance to be granted (which is currently limited by decree to 75 000 EUR and 150 000 EUR for first films) and the repayment arrangements to be made.

Payment of the advance is subject to the signature of an agreement between the film producer and the CNC and the allocation of a distribution number.

GB - UK: The Premiere Fund (UK Film Council)²³

The Premiere Fund, created in 2001, plays an important role in the production of feature films, from development to marketing and distribution. The fund aims to combine the flexibility, vision, dynamism and entrepreneurial spirit that is traditionally associated with the private sector of the industry by investing in popular commercially viable feature films. Equally, a key objective of the fund is to facilitate through specific film investments a greater breadth of experience and expertise across the UK film industry, and in that way to play a key role in assisting the development of sustainable British film businesses capable of long-term growth.

Eligibility and selection criteria

Applications are only accepted from a company which is registered and centrally-managed in the UK; or a company which is registered and centrally-managed in another state of the European Union or European Economic Area.

A UK-based co-producer must be attached to the project. Applicants based in another state of the European Union or European Economic Area can apply in their name and subsequently attach a UK co-producer. In the case of companies not based in the European Union or European Economic Area, applications can only be made by a UK co-producer.

In both instances the UK Film Council will make its offer of funding direct to the UK co-producer and may require the non-UK based producers to sign the Production Finance Agreement.

The UK Film Council will also expect a UK distribution arrangement to be in place before finance documentation is closed.

The Premiere Fund will only consider exceptions to the eligibility criteria at its own discretion and if it believes that such an exception will help achieve one of the UK Film Council's objectives.

The Premiere Fund will generally expect the applicant to have secured, or be in the advanced stages of securing, the services of a director and the principal cast of the film unless they are making an application for an early commitment of investment.

Projects will be assessed initially on their creative merit. The Premiere Fund will also evaluate the project as a whole with particular attention being paid to the degree of confidence in the film reflected by the level of investment offered by the commercial sector as co-finance.

²³ Reproduced here are the key elements of the UK Film Council's description of the Fund on its site: <http://www.ukfilmcouncil.org.uk/funding/features/premierefund/>

Funding available

The budget of the Premiere Fund is £8 million (12 million EUR).

The Premiere Fund will usually contribute up to 35% of a feature film's production budget but will consider a higher level of investment where the balance of the funding is from commercial sector sources (pre-sales, distribution guarantees, broadcasters, etc.). Funding will usually be provided by way of an equity investment in the film.

The Production Budget

A production budget does not have to be submitted with the initial application. However, if the Premiere Fund is interested in the project, it will require a production budget before it can progress the application further. The Premiere Fund will expect a production budget to be based on industry norms and market rates. The level of production budget should reflect the level of recoupment that the project can reasonably expect to deliver. When the production budget is submitted (either at application stage or later at the request of the Premiere Fund) it must contain provision for the following costs and expenses:

- Clearances of all rights in the film worldwide in all media in perpetuity (except for those sums due in respect of music performing rights);
- An independent guarantee of completion;
- All customary production insurances (including errors and omissions) on which the UK Film Council will require to be named as an additional insured;
- A mandatory contribution to the Skills Investment Fund;
- All the delivery items set out in Delivery Requirements including, among others, the access materials relating to exhibition to people with sensory impairments; and
- Adequate unit publicity and test screenings.

Conditions of funding

Production Finance Agreement : The UK Film Council uses standard form Production Finance Agreements. These documents are adjusted to the specific requirements of each project. The UK Film Council will not begin to cashflow a project until the Production Finance Agreement has been executed, all other financial commitments and distribution commitments are in place and the conditions of funding set out in the agreement have been satisfied.

Skills Investment Fund levy: The UK Film Council is committed to building the skills and talent of individuals entering and already working in the film industry. The Skills Investment Fund levy is a key component in helping to deliver a comprehensive training strategy for the UK film industry. A contribution to the Skills Investment Fund of 0.5% of the production budget up to a maximum contribution of £39 500 (60 000 EUR) is mandatory. The UK Film Council will also expect the production budget to contain provision for any appropriate trade association fees.

Training and education: The UK Film Council supports ways of trying to improve the profile of the industry's workforce so that it becomes more inclusive of the diversity of contemporary UK society. In this regard, applicants will be required to comply with obligations relating to interns and trainees as requested by UK Film Council. Key personnel shall be obliged to pass on knowledge and skills in a training/education capacity to less experienced writers, directors, actors, producers etc.

Access for people with sensory impairments: the UK Film Council is committed to enabling all sectors of the community to participate in and enjoy film but for many disabled people opportunities to appreciate and enjoy the medium are limited. Applicants will therefore be required to ensure, as a minimum, that any agreement for the distribution of the film in the UK provides for distribution of a subtitled film print in UK cinemas and the inclusion of a subtitled track (for the hearing-impaired) and an audio-description track (for the visually-impaired) on any UK DVD release of the Film.

Chain of titles/sequels, etc: Applicants must establish clear rights to all works required for the making and exploitation of the project. The UK Film Council expects production companies to acquire (where possible) sequel, remake, spin-off rights, and all ancillary rights and the UK Film Council expects to participate in revenues from the exploitation of all rights.

Cashflow: The UK Film Council's cashflow will not commence until all third party funding documentation has been executed to the satisfaction of the UK Film Council. The Council will expect all financiers to cashflow pro rata and pari passu with the UK Film Council.

Funds will be advanced in accordance with a cashflow schedule agreed by the UK Film Council. The UK Film Council will make a retention of up to 10% of its investment for delivery of physical delivery items and delivery of the final audited cost report certified by an independent auditor (in any event such retention will never be less than 2,5%).

Net Profit share: The UK Film Council will expect and require a net profit share commensurate with its participation in the production funding in relation to other equity investors.

Recoupment: The UK Film Council will normally expect and require to be offered recoupment terms on a pro rata pari passu basis with those offered to other equity investors and where a sales agent or distributor is recouping a sales advance, UK Film Council will expect to receive a corridor of revenues against such sales agent or distributor.

Producer's revenue entitlement: The UK Film Council actively seeks to reward organisations and individuals who intend to use UK Film Council investment to assist in the development of a sustainable UK film industry. The UK Film Council will aim to maximise the production company's share of revenues from the film. The UK production company will be entitled to receive an amount equal to 5% from 'first dollar' of the money recouped by the UK Film Council (excluding net profits) against its investment in the film provided that the company spends this money only on the following uses: staff skills training; project development; production funding; company business planning; film marketing; or raising capital for the company's business initiatives or such other uses as approved in advance by UK Film Council. This 5% corridor cannot be assigned by the producer to any other person or company and cannot be offered as a recoupment corridor to another financier of their project.

Copyright ownership: The UK Film Council will take a share of copyright in the film, and a share of all other rights including the underlying and ancillary rights, commensurate with its investment in relation to other equity investors. Once the Premiere Fund's investment has been recouped, the UK Film Council's share of ownership of rights and copyright may be assigned to the UK production company.

Security: The UK Film Council will take a fixed and floating charge over the company incorporated for the purposes of owning and producing the film, its rights, interests and revenue entitlement in relation to the film as security for its investment until the UK Film Council's investment has been repaid in full. The UK Film Council may also take a charge over any co-producer of the film, if appropriate.

Approvals and documentation: The UK Film Council will have a right of approval over the main elements of the film: script, choice of director and producer, principal cast and crew, budget, cashflow and production schedule, identity of all other co-financiers, and the business terms of the remaining finance for the film, and financing costs, distributor(s) and distribution agreements including P&A commitments, sales agents and sales agency agreements, rights, collection agent, completion guarantor and terms of completion guarantee, auditor, processing laboratory/facilities house, details of production account including signatories and bank mandate, details of production insurance (including errors and omissions) on which the UK Film Council will require to be named as an additional insured, credits, and final cut (together with full consultation rights on the assembly and all cuts of the film); and such other approvals as the UK Film Council may require from time to time.

According to Carla Bodo, the former director of the Osservatorio dello Spettacolo at the dipartimento dello Spettacolo, *"this is a mechanism that quite clearly involves a considerable commitment by the State precisely to defend films of considerable cultural value that could encounter insurmountable difficulties on the market"*.

The Guarantee Fund was abolished in a recent reform²⁵. The Italian Government gave the following reasons for the reform: *"The proportion of funding provided by the Guarantee Fund is too high and this tends to divest producers of responsibility. There is a need therefore to simplify and rationalise the financing and guaranteeing of films by the State. In this context, what the reform proposes is that granted funding should match guaranteed funding. At the same time the funding covered by the guarantee will be reduced to 50% for films of national cultural interest"*.²⁶

IT - Italy: reform of the support fund for films of national cultural interest

In Italy, the system of repayable advances was coupled with a Guarantee Fund, set up in 1994, which was available for the production, distribution and exhibition of films deemed to be of "national cultural interest"²⁴. This concept was introduced by Law no. 153/1994, fleshing out the definition of so-called Article 28 films, which were described in Article 28 of Law no. 1213/1965 as films financed jointly by authors, actors and workers.

Under the system set up in 1994, projects were submitted to a Film Advisory Committee, which considered the screenplay and the production plan. Approved projects went on to a second selection procedure by a Film Loans Committee, which gave its opinion on the eligibility for funding and the amount to be awarded for each individual film. Funding was provided by the Banca Nazionale del Lavoro, which granted the loan in the form of a capital account once the Loans Committee had given its approval. The amount of the loan could not go over a ceiling set by the Ministerial Commission.

What made this system distinct from others was its Guarantee Fund.

Let us take the example of a production company granted a loan by the Banca Nazionale del Lavoro to make a specific film. The company had two years from the date of payment to repay the loan. Once these two years were up, the Guarantee Fund came into play. Then, 30% of the total loan was used to form the producer's share, which had to be repaid no matter what the circumstances, otherwise the production company in question would be prohibited from applying for any further funding from the Dipartimento dello Spettacolo. The Fund covered 70% of the funding for films of "national cultural interest" and 90% of Article 28 films if the production company could show that the film had not earned enough (from cinema, television, foreign and other sales) for it to be possible to repay the loan.

²⁴ See C. BODO (coord.), *"Market and State in the Film Industry in Italy in the Nineties"*, a report for the European Audiovisual Observatory, http://www.obs.coe.int/oea_public/eurocine/IT.pdf.en

²⁵ The Guarantee Fund was introduced by Article 16 of Decreto-legge no. 26 of 14 January 1994, which was converted into law, with certain amendments, by Law no. 153 of 1 March 1994. Article 12 of the Decreto legislativo of 22 January 2004 incorporated the Guarantee Fund's resources into the new Fondo per la produzione, la distribuzione, l'esercizio e le industrie tecniche.

²⁶ "Nuove Norme Cinema. Cosa cambia", Nota del Ministero per i Beni e le Attività Culturali, published on the Italian Government's Presidenza del Consiglio dei Ministri site, http://www.governo.it/GovernoInforma/Dossier/cinema/cosa_cambia.html

Analysis of intervention by the funding bodies in Europe

9.1 Introduction : breakdown by activities supported

9.2 Support for production

9.3 The importance of automatic support schemes

9.1

Introduction : breakdown by activities supported

As demonstrated in Chapter 4.3, the fields of intervention by film agencies in Europe, as described by their mission statements, differ from country to country. In this chapter we will analyse further the budgets of the agencies and funds for the year 2002.¹

T.30 Number of programmes in KORDA by phase of intervention

Production	252
Development	60
Scripts	47
Slate funding	6
Post-production	7
Distribution	56
Exhibition	33
Video/DVD	8
Promotion	18
Cultural activities	13
Training	11
Company Development	10

| Source: European Audiovisual Observatory / Korda

A first look at the breakdown of programmes identified in the KORDA database shows at once the perception of the importance of programmes dedicated to production : of the 521 programmes, almost one half is dedicated to production.

While a majority of support is directed to the production phase – whether for feature film, television or other activities – programmes targeting other phases of the production process such as development have become increasingly common.

¹ Comprehensive figures for all funding bodies and programmes in the 35 member States of the European Audiovisual Observatory were not available, although we estimate that our data covers over 90% of funds. For this reason, actual figures should be slightly higher than the data we publish here.

In terms of value, production accounted for around three-quarters of production support in 2002 (see Chart G.6). Most of the largest and some of the smaller funds divide production support by genre (feature film, TV, shorts etc). Our analysis is not as precise as we would have wished because the data published by some funds does not break down grants by activity. Where this is the case, this data has been counted as production.

Development and scriptwriting have been identified for support because of the recognition that for a project to have better chances of success, more time and money should be spent on the preparation of projects. Besides the commercial impact of these types of support (the creation of more marketable scripts and storylines, for example), scriptwriting and development in particular have a role in encouraging new talents and those who are on the fringes of the production industry. Many scriptwriting awards are in the form of subsidies which are only repayable where a script has been developed into a fully-fledged project.

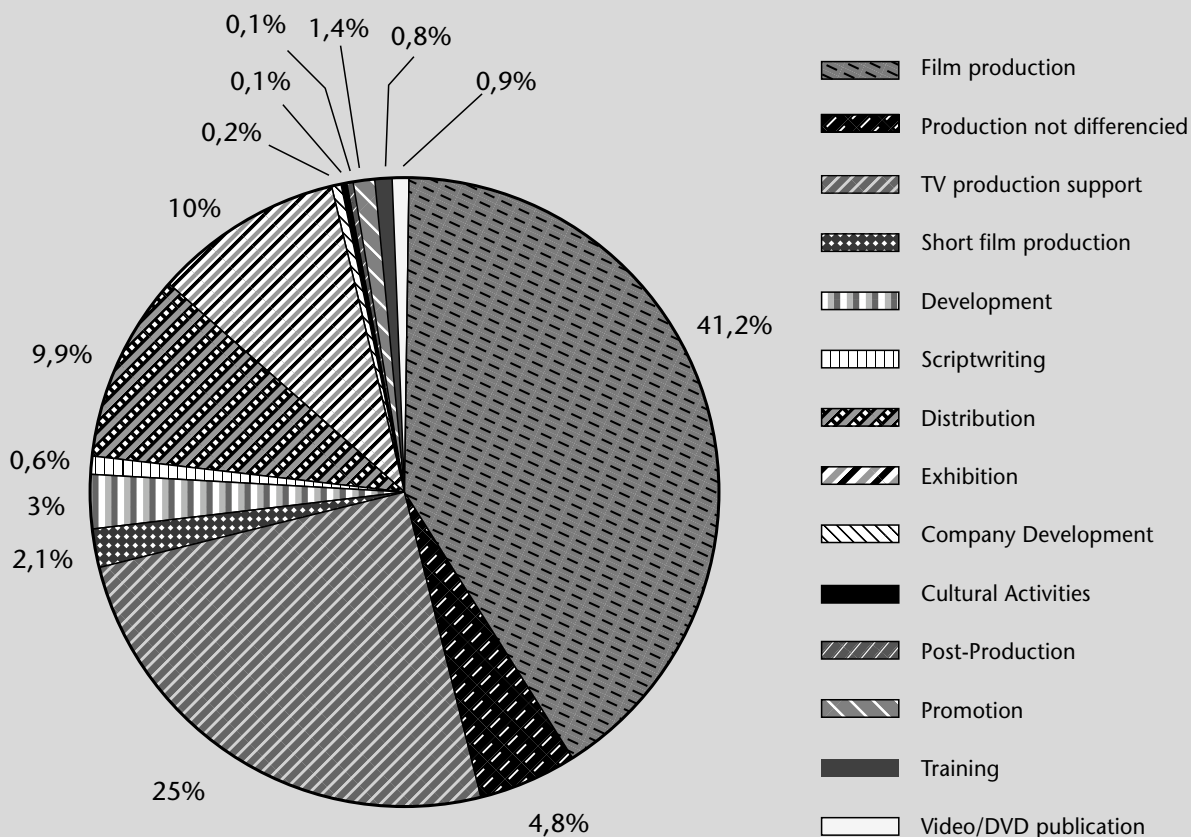
Although it is difficult to compare the funding of these activities by the Hollywood studios, it is probably the case that the average US-made film still receives stronger resources in these two areas than the average European film.

The pre-production phase of the process - scriptwriting and development - account for a combined 4% of funds allocated in 2002. Support for this phase usually entails much smaller awards than the production phase.

Support to **distribution, exhibition and video publishing** aims to ensure - with various concrete objectives in the countries - that films, once produced, are accessible to the public. The most important form of support in this category are supports to exhibition, which accounted for 10% of support in 2002, followed by distribution, which accounted for 8%. Support to the video sector (to publishers or videothèques) remains marginal in Europe with only 1 % of the budgets.

Most of the larger funds now complement production programmes with schemes to support the **marketing of films** and other productions, either on national markets (through cultural activities) either on the international market.

G.6. Breakdown of support by phase of intervention 2002



Source: European Audiovisual Observatory / KORDA

T.31 Value of support by phase of intervention by country 2002 (EUR thousand)

	Production	Scriptwriting (**)	Development (**)	Distribution	Exhibition
AT	20 456	88	630	1 494	508
BE(CFR) (*)	10 057	100		144	
CH	8959		872	1 639 (***)	765
CZ	1 794	15		326	74
DE	133 138	2 573	3 995	17 625	14 700
DK	25 347	1 817	1 346		
EE	1 553	13	77		
ES	42 325	673	2 683	2 332	237
FI	8 691				
FR	296 184	610	2 818	19 665	81 614
GB	67 324		2 685		
GR	4 908	82			
HU	4 682	29			
IE	9 841		2 360		
IS	1 525			103	
IT	28 882			22 728	
LU	3 724				
LV	731				
NL	24 143	543		261	
NO	20 043		439		
PL	5 163	104			
PT	7 513				
RO	1 075				
SE	12 981				
SI	2 134				
Eurimages	18 398			648	630
Europa Cinemas					5 785
MEDIA Programme			13 695	33 286	(included in Europa Cinemas)(****)
Nordisk Film & TV	6 850		157		
TOTAL	774 236	6 647	31 757	100 251	104 313

(*) Data are for the French Community only. As for Flemish Community the Vlaams Audiovisuele Fond was not yet operational in 2002. The breakdown of its operational budget for 2003 was EUR 9 750 000 for individual project (mainly production) and EUR 1 000 000 for ateliers (development).

(**) In some cases (eg CH, GB), grants for scriptwriting are included in the total for development

(***) CH figure includes BAK/OFC promotional support.

(****) see Box N° 9, chapter 10.

| Source: European Audiovisual Observatory / KORDA

T.32 Value of other kinds of support by country in 2002 (EUR thousand)

	Promotion	Video and DVD	Training	Company development	Cultural activities	Post-production
AT	264		94			
BE (CFR) (*)	456			620		86
CH	107	177	296			
DE	2 822	5 642			186	205
EE	42					
ES	123	510	55		297	
FI	250	94			322	
FR	1 100	3 014				262
GB			368			
IE				919		
LU						
NO	45					
SE			182	877		
MEDIA	1 555		7 452		319	
Hubert Bals	8 185					
Ibermedia			92			302
TOTAL	14 949	9 437	8 539	2416	1 194	855

(*) 2002 data for Flemish Community not available.

Source: European Audiovisual Observatory / KORDA

T.33 National film funding bodies: phases of intervention 2002 (EUR thousand)

		Scriptwriting		Development		Production		Distribution	Exhibition	Promotion	Training
		automatic	selective								
ÖFI	AT	88	324	9 724	6 104	989					94
CCA V	BE(CFR) (1)	100			4 902	144				456	
BAK/ OFC/ UFC (2)	CH		493	261	7962	835		765			98
FFA	DE	502		20 354	34 354	9 177		508		2 781	
DFI	DK	1 008	2 151		21 304	4 993 (incl promotion)		11 553			
ICAA	ES	583	2 524	33 900	4 738	781		753			
SE	FI	441	987	471	9 947	1 087		213			
CNC	FR	610	2 200	277 700	81 469	19 665		482			
UK FC	GB		2 271		39 059			81 614			
GFC	GR	82			4 159						
IFB	IE		2360		9 841	103					
DGC	IT			18 076	10 805	22 728					
FF	LU		143		3 724						
NFF	NL	543	110		10 775	261					
NFF (3)	NO			3 938	18 371						
ICAM	PT	150		749	6 197	715					
SFI	SE			5 827	25 117	482		1 271			

(1) Data for the Flemish Community not available. The Vlaams Audiovisuele Fond was not yet operational in 2002. Its budget for 2003 was EUR 12 500 000.

(2) Figures for BAK/OFC/UFC include Succès Cinéma.

(3) Figures for Norsk Filmfond production support include development.

Source: European Audiovisual Observatory / KORDA, Annual Reports

T.34 National film funding bodies: phases of intervention in percent (2002)

	Scriptwriting	Development	Production automatic	Production selective	Distribution	Exhibition	Promotion	Training
ÖFI	1%	2%	56%	35%	6%	—	—	1%
CCAV	2%	—	—	80%	2%	8%	7%	—
BAK/OFC/UFC	—	6%	2%	74%	8%	7%	—	3%
FFA	1%	—	26%	44%	12%	15%	4%	—
DFI	3%	7%	—	71%	17%	2%	—	—
ICAA	1%	6%	79%	11%	2%	—	—	—
SE	3%	7%	4%	74%	8%	4%	—	—
CNC	—	—	60%	19%	4%	16%	—	—
UK FC	—	5%	—	95%	—	—	—	—
GFC	2%	—	—	98%	—	—	—	—
IFB	—	19%	—	80%	1%	—	—	—
DGC	—	—	35%	21%	44%	—	—	—
FF	—	4%	—	96%	—	—	—	—
NFF	5%	1%	—	92%	2%	—	—	—
NFF	—	—	18%	82%	—	—	—	—
ICAM	2%	—	10%	79%	9%	—	—	—
SFI	—	—	18%	77%	1%	4%	—	—

Source: European Audiovisual Observatory

9.2

Support for production

9.2.1. Overview

Funding bodies allocated EUR 768 million to support different kinds of production in 2002. Of this, more than EUR 435 million, or 57% of the total, went to support the production of feature films. Another EUR 55 million (7%) was awarded by funding bodies which did not differentiate between film, TV and multimedia productions. Television programme production amounted to EUR 252 million, one-third of the total, and short films received EUR 24 million (3%).

One important reason for the scale of film support is the prime focus of many national support agencies on the feature film industry. In two of the big five European territories - Italy and Spain - the main public funding body has a mission which is almost exclusively directed to the film industry. Most of the UK Film Council's support is aimed at the feature film industry.

Only in France and Germany does the activity of the national film agency embrace TV to any significant degree. The COSIP programme, operated by the CNC in France, was worth EUR 203 million in 2002, while overall support for TV production was EUR 237 million. Other significant TV funding programmes exist in the French Community of Belgium and at regional level in Germany, Spain and the UK.

Feature film is the prime target of support programmes for the distribution and exhibition sector, with some significant exceptions such as the MEDIA Programme, which provides encouragement for TV co-productions between independent producers and broadcasters.

9.2.2. Feature films

Support for feature film production was worth an overall EUR 435 million in 2002, equivalent to 57% of all production funding. The primacy of film production in the landscape of public funding has persisted despite the increase in funds targeting other areas of the film-making process such as development and distribution.

The CNC is the largest individual supporter of film, distributing EUR 76 million for feature film production in 2002. However, Germany offered a slightly larger overall volume of film support than France, with EUR 83.5 million compared to EUR 83 million. It should be borne in mind that this figure excludes organisations like MDM and MFG which did not single out film in their budget information.

Apart from the CNC, the top five of film funds by 2002 awards includes - not surprisingly - the national film funds of the UK, Spain and Italy. All three devote almost all of their support to the film industry. Among the other larger funding bodies, the Österreichischer Filminstitut also funds TV fiction, while the DFI, the NFF and the SFI offer specific support to animation and documentary producers. Under the current Film Agreement with the government, the SFI is required to award 67% of its support to feature films.

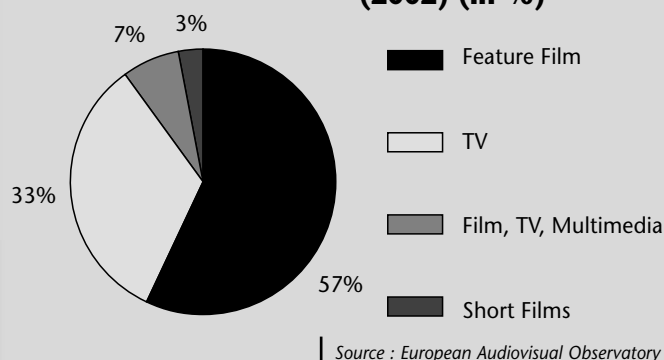
The larger schemes - particularly the automatic production support schemes - tend to support ongoing activity by established production companies. Selective funds mostly offer support to single projects, although in the UK, the UK Film Council invests a significant share of lottery money in three mini-studio "franchises" as opposed to individual projects.

A distinction has emerged between films which have prospects of wide distribution and those which are supported because they are deemed to have strong artistic or cultural content. The UK Film Council and the Nederlands Fonds voor de Film both single out more broadly appealing films for support, and Eurimages introduced a similar approach during the years 2001-2003.

While national film funds are provide the bulk of support for the genre, the larger regional funds are also an important source of support. German regional funds in Nordrhein Westphalia and Bayern are among the leading supporters. French local authorities awarded EUR 7.7 million to feature films in 2002. Film I Väst in Sweden has backed, 90 feature films since it was set up in 1992.

Different approaches to support for film production are discussed in more detail in the next chapter.

G.7 Breakdown by genre of support for production in Europe (2002) (in %)



T.35 Support for production by genre 2002 (EUR thousand)

	Feature film	TV	Film, TV and Multimedia	Short films
AT	15 814		4 642	
BE (CFR) (*)	7 124	1 878		1 055
CH	4 277	1 943		1 511
CZ	1 521			273
DE	83 527	17 612	30 677	1 322
DK	14 465	4 441		2 384
EE			1 553	
ES	36 326	3 562	1 348	1 089
FI	6 757		1 934	
FR	83 107	204 958	3 838	4 281
GB	48 669	11 585	4 018	3 022
GR	4 159		391	358
HU	4 682			
IE(**)	6 759	1 833		1 608
IS	1 525			
IT	27 889			993
LU	3 724			
LV	731			
NL	10 366	10 897	2 324	556
NO	18 371			1 672
PL	5 163			
PT	7 333			180
RO	657			418
SE	12 435			546
SI	1 819			315
Eurimages	18 398			
NFTF	4 264	2 386		200
TOTAL	429 862	261 095	55 166	22 365

(*) The Vlaamse Audiovisuelle Fond was not yet operational in 2002. Its production budget for 2003 was EUR 9.750.000 with the following breakdown : Fiction (incl. Feature films) : EUR 4 500 000 (36 %), Documentary : EUR 1 000 000 (8 %), Animation EUR 1 000 000 (8 %), Exposition Mediakunst (EUR 500 000) (4 %), Flexible allocation EUR 2 750 000 (22 %).

(**) The Irish Film Board: documentaries classified here as TV, animation included here in short films.

Source : European Audiovisual Observatory

T.36 Feature film production funding by body, 2002 (EUR thousand)

		0
Centre national de la cinématographie	FR	75 969
UK Film Council	GB	39 059
Instituto de la Cinematografía y las Artes Audiovisuales	ES	35 437
Filmförderungsanstalt	DE	29 893
DG Cinema	IT	27 889
Filmstiftung NRW	DE	21 309
Eurimages	CoE	18 398
Norsk Filmfond	NO	18 371
Det Danske Filminstitut	DK	16 465
FilmFernsehFonds Bayern	DE	15 508
Svenska Filminstitut	SE	12 435
Nederlands Fonds voor de Film	NL	10 366
Österreichisches Filminstitut	AT	8 059
Filmfonds Wien	AT	7 756
Instituto do Cinema, Audiovisual e Multimédia	PT	7 333
Bbeauftragter der Bundesregierung für Angelegenheiten der Kultur und der Medien	DE	7 120
Scottish Screen	GB	6 775
Irish Film Board	IE	6 759
Suomen Elikuvasaatio	FI	6 757
FilmFörderung Hamburg	DE	6 150
Film Production Agency	PL	5 163
Centre du Cinéma et de l'Audiovisuel	BE	4 602
Motion Picture Public Foundation of Hungary	HU	4 490
Bundesamt für Kultur/Office fédéral de la culture/Ufficio Federale della Cultura	CH	4 277
Nordisk Film&TV	NoC	4 264
Greek Film Centre	GR	4 159
Film Fund	LU	3 724
Conseil régional d'Ile-de-France	FR	3 363
Nordmedia	DE	2 930
Rhône-Alpes Cinéma	FR	2 714
Wallimage	BE	2 522
Arts Council of Wales	GB	2 073
Slovenian Film Fund	SI	1 819
Icelandic Film Centre	IS	1 525
State Fund for the Support and Development of Czech Cinematography	CZ	1 521
Northern Ireland Film and Television Commission	GB	763
Suissimage	CH	736
National Film Centre	LV	731
Centrul National al Cinematografiei	RO	657
Direccion de Creacion y Difusion Cultural, Gobierno Vasco	ES	601
Kuratorium Junger Deutscher Film	DE	542
Institut Catala des Industries Culturals	ES	467
Atelier de Production Centre Val de Loire	FR	366
Direccion General de Fomento y Promocion Cultural, Junta de Andalucia	ES	288
Centre régional de ressources audiovisuelles de la région Nord-Pas de Calais	FR	225
Foundation of the Hungarian Historical Motion Picture (MTFA)	HU	192
Conseil régional de Franche-Comté	FR	181
Aquitaine Image Cinéma	FR	121
Agence culturelle d'Alsace	FR	109
Conseil régional du Limousin	FR	84
Conseil régional Midi-Pyrénées	FR	81
Hessische Filmförderung	DE	75
Communauté Urbaine de Strasbourg	FR	67
Conseil régional des Pays de la Loire	FR	45
Conseil général du Val de Marne	FR	27
Conseil régional d'Auvergne	FR	24
Conseil régional de Poitou-Charentes	FR	15

| Source: European Audiovisual Observatory/KORDA from annual reports and APCVL Guide Mode d'Emploi 2003

T.37 Awards for film, TV and multimedia production 2002 (EUR thousand)

Filmboard Berlin Brandenburg	DE	12 806
Mitteldeutsche Medienförderung	DE	10 567
Medien- und Filmgesellschaft Baden-Württemberg	DE	5 809
Österreichisches Filminstitut	AT	4 642
Dansk Filminstitut	DK	4 441
UK Film Council	GB	3 741
Rotterdam Film Fund	NL	2 324
AVEK	FI	1 934
Eesti Film Sihatus	EE	1 553
IVAC	ES	1 202
Gesellschaft zur Förderung audiovisueller Werke in Schleswig-Holstein	DE	1 109
Conseil régional de la Bretagne	FR	613
Greek Film Centre	GR	391
Communauté urbaine de Strasbourg	FR	353
Conseil régional d'Alsace	FR	327
Centre régional de ressources audiovisuelles de la région Nord-Pas de Calais	FR	304
Conseil régional de Poitou-Charentes	FR	302
Conseil régional de l'Aquitaine	FR	286
Sgrîn	GB	277
Conseil régional Rhone Alpes	FR	227
Conseil régional des Pays de la Loire	FR	223
Mecklenburg-Vorpommern-Film	DE	210
Conseil régional Midi-Pyrénées	FR	199
Kulturelle Filmförderung Schleswig-Holstein	DE	176
Conseil régional du Limousin	FR	142
Collectivité Territoriale de la Corse	FR	128
Conseil régional de Provence-Alpes-Côte d'Azur	FR	115
Conseil régional de Basse-Normandie	FR	99
Théâtre et Cinéma en Île-de-France	FR	80
Conseil général du Val de Marne	FR	68
Atelier de Production Centre Val de Loire	FR	66
Conseil général Bouches du Rhône	FR	63
Pôle Image Haute Normandie	FR	63
Conseil régional de Lorraine	FR	47
Conseil général de Franche-Comté	FR	36
Conseil régional des Côtes d'Armor	FR	28
Agence culturelle d'Alsace	FR	27
Conseil général de Picardie	FR	21
Conseil général de la Sarthe	FR	13

Notes: Figures include totals of production awards reported by funding bodies but not broken down by type of production. French regional bodies: animation, documentary and multimedia production.

Source: European Audiovisual Observatory/KORDA from annual reports and APCVL Guide Mode d'Emploi 2003

9.2.3. First feature film

As mentioned before, much of the funding allocated to film production is predicated on supporting continuing production activity, often by experienced directors (particularly automatic support schemes). However, other schemes are directed to encouraging and fostering new talent and even, in some cases, supporting feature films by first-time directors.

The most substantial new director's scheme is offered by the ICAA in Spain. Here, a new director is defined as one who has released less than three films in the cinema.

The ICCA scheme also makes a link with low budget and experimental works. Film budgets are expected to be lower than EUR 1,2 million, and encouragement is given to experimental films which would otherwise have difficulty in finding finance. New directors not receiving this support may also recover 33% of their investment plus further amounts subject to box office under the ICAA's automatic support scheme.

FFF Bayern operates the largest scheme for new directors. The scheme is aimed at graduates of the Bayern region's two largest film schools; students can apply while they are still enrolled or within five years of their graduation. The programme was valued at EUR 1,5 m in 2002.

Portugal's ICAM allocates part of its funding to producers of feature films which are the first or second of this type made by the director. Applications are judged twice a year by a panel convened by ICAM. Grants are not repayable although recipients have to fulfil print and publicity obligations towards ICAM.

The UK Film Council's New Cinema Fund, budgeted at EUR 8 million a year, supports new film makers as part of an overall brief to encourage "unique ideas, innovative approaches and new voices". Applications can be taken from producers and directors with no previous feature film experience, although in these cases the funding body may require the use of an experienced executive producer.

The Greek Film Centre's New Perception programme is open only to first-time directors, though they are required to have won a prior distinction at a recognised film event or a GFC award at the Drama Short Film Festival.

The Irish Film Board introduced two new feature film funding schemes - the low budget and micro budget initiatives - in 2002. Neither is restricted to first time directors, but they are designed mainly to encourage new talent and experimental techniques.

9.2.4. TV programmes

By a huge margin, the Compte de soutien à l'industrie des programmes (COSIP) in France is the largest support programme for television production in Europe. COSIP is mainly funded by a tax of 5,5% on TV channel revenues which is distributed to TV programme producers. The tax is shared between the two sectors for which the CNC is responsible: 64% for the TV industry and 36% for the cinema. COSIP is also partly funded by a tax on the video industry. COSIP costs nothing to the State, which simply

T.38 France - Support to audiovisual production by the CNC (EUR thousand)

COSIP - Breakdown of supports

Automatic support	2002
Fiction	66 200
Documentary	60 400
Animation	11 400
Live show	14 000
Magazine	0

Avances sur recettes

Fiction	16 700
Documentary	8 100
Animation	6 700
Live show	4 000
Magazine	0

Selective support

Fiction	8 000
Documentary	11 000
Animation	2 000
Live show	1 200
Magazine	2 800

Sources of funding of French audiovisual production (2002) (EUR thousand)

	Fiction	Documentary	Animation
French producers	80 400	58 300	27 400
French presales	9 700	5 400	9 500
Broadcasters	421 900	162 400	30 900
Sofica	1 900	900	2 800
COSIP	90 900	79 500	20 100
Others	5 900	31 600	2 300
Foreign sales/partners	40 500	29 900	78 500
TOTAL	651 200	368 000	171 500

Source: CNC

passes the levy on. COSIP is administered by the CNC, and totalled more than EUR 200 million in automatic and selective support, loans and subsidies in 2002.²

Automatic support accounted for the largest share of aid (EUR 152 million) in 2002. Funding is structured to support continuing production by French companies. Producers whose work has already been aired on French TV can access an account which can be drawn on to supply reinvestment subsidies to fund development and production of new works.

Companies which have used up their automatic support can apply for supplementary subsidies in subsequent years. Producers who do not have access to automatic support are eligible for selective funding. Selective grants amounted to EUR 25 million in 2002.

COSIP is an integral part of the TV production industry in France, though producers generally have to raise most of their budgets through sales to broadcasters and distributors and international co-production partnerships. In 2002, the largest amounts of support went into TV fiction and documentaries.

After the CNC, the most significant TV film fund is operated by the FF Bayern in Germany. More than EUR 9 million was awarded in 2002 to 25 TV films, with grants ranging from EUR 100 000 to EUR 1 million. Television funding accounted for almost one-third of FFB's funding in 2002.

In comparison, Filmstiftung NRW allocated EUR 6.7m to TV films and FFF Hamburg EUR 970 000 to TV films and series in 2002.

Support for TV films is also singled out for support by the ICIC in Catalonia. Support for production companies producing TV films is the largest single programme operated by the ICIC.

Any production companies established or with an office in the region is eligible for support. The maximum award for a production in the Catalan language is more than double the amount for productions in other languages.

The CCAV in the French community of Belgium allocates support of TV films, series and other programmes. These accounted for just over 23% of its funding in 2002.

French regions allocated EUR 6,4 million to audiovisual projects - chiefly documentaries and animation - in 2002.

Apart from France, Germany, Belgium, Spain and Portugal, there are few funds which specifically address television production. In countries such as Italy and the UK, support is almost entirely aimed at the film industry. However, some of the major production funds in Germany such as MDM and MFG do not distinguish between television and film productions in their data.

Television is undoubtedly the major market for the documentary genre, though most funding targeted to documentaries is not limited to the small screen. Indeed, in some cases funding is targeted to long-form documentaries - "documentaries de création" - for the very reason that they are less likely to find a wide market in the cinema.

The MEDIA Programme offers support for television broadcasting of European audiovisual works, which is designed to encourage co-productions between independent TV producers and broadcasters in Europe. Awards of more than EUR 12 million were made in 2002. Eligible projects include TV dramas, documentaries and animation.

T.39 Support programmes for TV production 2002 (EUR thousand)

Centre national de la cinématographie	FR	203 350
Gaelic TV Fund	GB	11 138
Stifo	NL	10 897
FilmFernsehFonds Bayern	DE	9 909
Filmstiftung NRW	DE	6 733
Nordisk Film & TV		2 386
Institut Catala des Industries Culturals	ES	2 148
BAK/OFC/UFC	CH	1 943
Centre du Cinéma et de l'Audiovisuel	BE	1 878
Irish Film Board	IE	1 833
Generalitat de Catalunya	ES	1 414
FilmFörderung Hamburg	DE	970
Conseil régional d'Ile-de-France	FR	906
Scottish Screen	GB	477
Aquitaine Image Cinéma	FR	232
Conseil régional de la Bretagne	FR	114
Conseil régional de Poitou-Charentes	FR	109
Centre régional de ressources audiovisuelles de la région Nord-Pas de Calais	FR	95
Conseil régional d'Auvergne	FR	90
Conseil régional du Limousin	FR	46
Communauté Urbaine de Strasbourg	FR	18

| Source: European Audiovisual Observatory/KORDA on the basis of annual reports and APCCVL Guide Mode d'emploi 2003.

² For the current state of the debate on a possible reform, see : Antoine SCHWARZ, *La production audiovisuelle française et son financement*, Rapport au Ministre de la Culture et de la Communication, Paris, Decembre 2003. http://www.ddm.gouv.fr/rapports_etudes/index.html

9.2.5. Animation

The expensive and labour-intensive process of producing animation has led to the creation of a handful of programmes which offer specific support for the genre. In themselves, they amount to relatively small amounts of funding; however many schemes which do not specifically apply to animation - such as the COSIP in France and most of the regional German funds - have offered considerable support to television and film projects.

Specific animation schemes are in operation in the UK, France, Hungary, Greece, the Netherlands, Portugal and Ireland. In most cases, they are targeted to specific aspects of the animation process such as development and the production of shorts - which in some cases provide a platform for development into full-scale productions.

Support for animation production via COSIP totalled EUR 20,1m in 2002; and another EUR 492 900 was awarded for development of animated TV series and films in the same year. Animation is also funded in some French regions, in particular Poitou Charentes.

The Dutch Film Fund awarded EUR 450 690 for animation production in 2002. The NFF also offers funding for animation development and a specific programme to support the creation of storyboards.

Sgrin, the film agency for Wales, is one of the major funders of animation production in the UK. Since its foundation, it has operated a variety of schemes to fund the production of short animated films. These have been funded by the lottery and by TV partners including BBC Wales and S4C.

The Irish Film Board offers development and production loans for animation. In addition, the Frameworks programme supports the

production of short films making "creative use of the medium and is primarily aimed at an adult audience".

Many of the largest awards for animation are made to feature film projects by the national and regional film funds. FFF Bayern funded three animated features in 2002, worth a combined total of over EUR 2 million. The UK Film Council awarded EUR 750 000 to *Water Warriors*, while Eurimages made one grant of EUR 700 000 in 2002 to the film *Moby Dick - The Legend Returns*.

9.2.6. Documentary

Support for documentaries spans the range of production genres. While some schemes offer encouragement for long-form documentaries produced for the cinema, others address the genre as a low-cost format, suitable for digital production.

The most significant support is awarded by the Danish Film Institute, which subsidises scripts, development and production of documentary films made by Danish producers or involving the participation of a Danish producer in a co-production. In 2002, the DFI awarded more than EUR 8 million to production of short films and documentaries.

The Dutch Film Fund operates specific schemes for script development and production. Together, they were worth more than EUR 2 million in 2002.

French regional funds offered a combined total of EUR 3,7 million in development and production funding in 2002, according to the Guide Mode d'Emploi 2003 published by the APCVL. This was slightly less than the year before. In all, 26 local authorities offered support for the genre.

T.40 Programmes of support to animation

Funding body	Country	Funding programme	2002 budget EUR thousand
Institut Catala des Industries Culturals	ES	Subsidies for animation development	Launched 2003
Centre for the Promotion of Audiovisual Culture in Finland	FI	Support for production of short films and animation	528
Centre régional de ressources audiovisuelles de la région Nord-Pas de Calais	FR	Support for the production of animation films	122
Conseil régional de Poitou-Charentes	FR	Support for the production of animation in the region	207
Conseil régional de la Bretagne	FR	Support for the production of animation	82
Sgrin	GB	Animate it!	557
Greek Film Centre	GR	Animation programme	97
Motion Picture Public Foundation of Hungary	HU	Animation film	335
Irish Film Board	IE	Animation development loans	nc
Irish Film Board	IE	Animation production loans	nc
Irish Film Board	IE	Frameworks VI	nc
Dutch Film Fund	NL	Animation production	451
Dutch Film Fund	NL	Animation script development	61
Instituto do Cinema, Audiovisual e Multimédia	PT	Support for the development of animation projects	38
Instituto do Cinema, Audiovisual e Multimédia	PT	Support for the production of animation	384

| Source: European Audiovisual Observatory / KORDA.

Typically, regional funds in France target the writing, development and production of creative documentaries. The producer or director should either be based in the region or be making a film about the region. In Spain, the ICIC allocates funds to documentaries made by regional independent producers.

The Irish Film Board awarded loans of just under 2 million EUR for development and production of documentaries.

Sweden's SFI supported development and production of documentaries and also operates a programme to support the distribution of short and documentary films beyond television.

The Baltic Russian Film Fund, operated by the Baltic Media Centre in Denmark, aims to facilitate documentary co-productions between Russia and Baltic countries. It also encourages networking between producers and the "exchange of objective information and its appearance on TV channels in more than one country". The Irish Film Board awarded loans of just under EUR 2 million in 2002 for development and production of documentaries. (See Table T.41)

9.2.7. Short films

Programmes supporting the production of short films have become increasingly prevalent in Europe. As with long-form documentaries, there is a limited commercial market for short films, but they offer a training-ground for new film-makers and a medium for experimentation.

Dansk Novelle Film granted over EUR 2 million for the production of short films of less than 60 minutes "telling stories about Denmark and the Danes" in 2002. The funding body has now been absorbed into the Danish Film Institute.

Support for short films is largest in France, with support programmes operated by the CNC and a number of regional, departmental and local organisations. Funding totalled more than EUR 2,6 million in 2002. Schemes to support development and scriptwriting are in operation in several regions, but the majority goes into production.

Short films are also well supported in the French-speaking community of Belgium, where the CCAV funded more than EUR

million-worth worth of short films in 2002. In the Netherlands, short film production is supported by the national NFF and by the Rotterdam Film Fund.

The reorganisation of the film funding in the UK has also led to the creation of a number of regionally based short film support schemes. In addition, the UK Film Council has operated short film schemes with the CNC in France, and with the public broadcaster Film Four. The Digital Shorts scheme, part of the New Cinema Fund, is implanted by the nine regional agencies in England.

The Norwegian Film Fund operates a funding scheme for the development and production of short films. It was worth more than EUR 1 million in 2002. (See Table T. 42)

9.2.8. Multimedia

Support for multimedia - a somewhat catch-all term embracing production of CD Roms, websites and other interactive programme formats - is very rare in Europe, although many of the larger production schemes in theory embrace non-conventional formats.

The CNC in France offers support for multimedia publishing and for the use of innovative digital technologies. FAEM (the multimedia support fund) offers loans and subsidies to cover up to 30% of the production costs of optical and internet capable media. Computer games with cultural content were included among eligible formats in 2001.

The German regional fund MFG operates one of the most significant multimedia funds, Digital Content; launched in 2001, the programme is open to any companies active in the multimedia sector, and awards grants for development, production and distribution.

The Poitou Charente Region in France operates a support scheme for multimedia production aimed at local producers. Funding is awarded to cultural and educational projects using CD Rom, DVD or internet media. A total of 10 projects were supported in 2002. Development accounted for EUR 13 000 while EUR 19 700 was given in production grants.

T.41 Documentary support programmes on KORDA

Funding body	Country	Funding programme	2002 budget (EUR thousand)
Dansk Film Institutet	DK	Support for Script Writing for Short and Documentary Films	286
Dansk Film Institutet	DK	Short and Documentary Films (Development funding)	709
Dansk Film Institutet	DK	Short and Documentary Films (production)	8 834
Eesti Filmi Sihatus	EE	Documentary	
Institut Catala des Industries Culturals	ES	Subsidies for the production of documentaries by independent producers	
Centre for the Promotion of Audiovisual Culture in Finland	FI	Support for production of documentary films	1 149
Atelier de Production Centre Val de Loire	FR	Support for Creative Documentaries	
Centre régional de ressources audiovisuelles de la région Nord-Pas de Calais	FR	Support for the Production of Documentaries	
Collectivité Territoriale de la Corse	FR	Support for Short Documentary and Fiction Films	
Conseil régional Champagne-Ardenne	FR	Soutien à la création de court métrage et de documentaire	
Conseil régional d'Auvergne	FR	Fonds d'Aide à la Production de courts métrages et de documentaires	
Conseil régional d'Auvergne	FR	Support for Short Films and Documentaries to be Shot on Film	
Conseil régional de la Bretagne	FR	Selective Support for the Production of Creative Documentaries	
Conseil régional de la Picardie	FR	Support for the Development of Short Films and Documentaries	
Conseil régional de Provence-Alpes-Côte d'Azur	FR	Support for the Production of Documentaries	
Conseil régional du Limousin	FR	Support for the Production of Documentaries	
Conseil régional Midi-Pyrénées	FR	Support for the Production of Documentaries	
Ministère des Affaires Etrangères	FR	Fonds Images de France	
Ministère des Affaires Etrangères	FR	Fonds audiovisuel de coopération culturelle internationale et de développement (FACCID)	158
Ministère des Affaires Etrangères	FR	Support for distribution of documentaries	
Greek Film Centre	GR	Documentary Programme	293
Foundation of the Hungarian Historical Motion Picture	HU	Support for documentary film production	338
Motion Picture Public Foundation of Hungary	HU	Support for documentary production	335
Irish Film Board	IE	Development Finance Loans for Documentaries	120
Irish Film Board	IE	Production Finance Loans for Documentaries	955
Nederlands Fonds voor de Film	NL	Documentary production	2 159
Nederlands Fonds voor de Film	NL	Documentary script development	107
Instituto do Cinema, Audiovisual e Multimédia	PT	Direct support for the production of documentaries	200
Instituto do Cinema, Audiovisual e Multimédia	PT	Support for the Production and Development of Documentaries	50
Svenska Filminstitut	SE	Support for Circulation of Swedish Short and Documentary Films	
Baltic-Russian Development Fund for Documentaries	DK	Baltic-Russian Development Fund for Documentaries	40

| Source: European Audiovisual Observatory / KORDA

T.42 Support for production of shorts in 2002 (in EUR)

Dansk Novelle Film	DK	2 384 404
CNC	FR	1 905 000
UK FC	GB	1 686 344
Norsk Filmfond	NO	1 672 126
Irish Film Board	IE	1 607 978
CCAV	BE	1 054 875
DG Cinema	IT	992 725
Sgrin	GB	954 098
Scottish Screen	GB	758 229
FFA	DE	720 013
ICAA	ES	560 000
SFI	SE	546 137
Cinema Fund	RO	418 000
Dutch Film Fund	NL	408 643
GFC	GR	357 939
BKM	DE	340 000
Slovenian Film Fund	SI	314 592
State Fund	CZ	273 122
Pays de la Loire	FR	216 500
CNC	RO	207 000
Nordisk Film&TV	NoC	199 749
FF Hamburg	DE	184 000
Région Centre	FR	180 800
Instituto do Cinema, Audiovisual e Multimédia	PT	180 000
Franche-Comté	FR	180 000
Haute Normandie	FR	159 283
Limousin	FR	157 072
Rotterdam Film Fund	NL	147 500
THECIF	FR	137 205
Région Aquitaine	FR	125 915
Vasco	ES	120 202
Finistere	FR	113 718
Midi Pyrenées	FR	111 360
Provence Cotes d'Azur	FR	110 000
Nord Pas de Calais	FR	100 000
Picardie	FR	96 500
Poitou Charentes	FR	80 400
Filmstiftung NRW	DE	77 866
ICIC	ES	76 316
Val de Marne	FR	64 274
Région de Bretagne	FR	63 720
Région Alsace	FR	59 600
Basse Normandie	FR	58 600
Région Rhone Alpes	FR	56 546
Communauté urbaine de Strasbourg	FR	52 000
Eure	FR	48 800
Andalucia	ES	42 086
Corse	FR	38 500
Région Bouches du Rhone	FR	27 000
Cotes d'Armor	FR	24 500
Ville d'Aubagne	FR	24 419
Agence Culturelle d'Alsace	FR	22 869
Loire-Atlantique	FR	17 200
Sarthe	FR	13 722
Corrèze	FR	9 100
Isère	FR	7 625
Région Auvergne	FR	7 600
Lorraine	FR	6 100
Ville de Décines	FR	4 573

Source: European Audiovisual Observatory / KORDA

The importance of automatic support schemes

The vast majority (all but 19 out of more than 500) of funding programmes operate in a selective fashion, with panels of experts assessing the suitability of presented projects for funding. However, many of the major film support schemes are automatic funds. Typically, a producer obtains aid for a film which is based on the box office receipts or number of admissions (see 8.4.1).

Funding bodies in 12 countries operate automatic support schemes for feature film production (with Hungary creating a new one in its 2004 Act). The CNC in France also offers automatic support for TV production and film distribution and exhibition. Germany national agency the FFA also supports distribution and exhibition while the EU MEDIA programme offers an automatic film distribution support programme.

The CNC allocates support to film producers based on box office takings, TV screenings of films and sale on video. Investment in feature films totalled EUR 55.1m euros in 2002. Film distributors may also apply for automatic support; in 2002, 37 companies received support of EUR 17.7m. Exhibitors also receive a portion of cinema ticket sales to fund new equipment, refurbishment and the construction of new cinemas. In all, 53 million in grants was awarded to exhibitors in 2002.

The proportion of automatic funding is highest in Spain. The ICAA awarded 88% of its film funding using this method in 2002.

In contrast, the FFA's "Referenz" fund, worth a total of EUR 20 million in 2002, accounted for 37% of the German agency's overall support. Referenz support for feature films totalled EUR 14.8 million in 2002.

Automatic funding by the FFA declined by a small amount in 2002; in contrast, selective funding of films more than doubled. Similarly, the Austrian film institute awarded less money via its automatic scheme in 2002, though selective funding for film also decreased.

The UK, Denmark and the Netherlands currently have no automatic funding programmes, digital networks, and adapting them to local cultural requirements.

T.43 Automatic funding programmes

Funding Body	Funding programme	Value in EUR	
		2001	2002
Feature films			
Centre national de la cinématographie	FR Automatic support for the production of feature films	52 611	55 100
Direzione Generale per il Cinema	IT Automatic support for film production	12 095	18 076
Eesti Filmi Sihtasutus	EE Support based on box office results		64
Finnish Film Foundation	FI Support for production based on box office results	707	471
Filmförderungsanstalt	DE Automatic support for the production of feature films based on a 'reference' film	15 559	14 765
Filmförderungsanstalt	DE Support for the production of short films	721	722
Instituto de la Cinematografía y las Artes Audiovisuales	ES Support for the amortization of feature film costs	24 004	33 990
Instituto do Cinema, Audiovisual e Multimédia	PT Automatic support for feature film production	717	749
Norsk Filmfond	NO Billetstotte (support based on sale of cinema tickets)	1 374	3 938
Österreichisches Filminstitut	AT Automatic support for film production	4 612	9 724
Succes Cinéma	CH Automatic support film and TV production	2 514	2 514
Svenska Filminstitut	SE Automatic support for feature film production	5 467	5 827
TV production			
Centre national de la cinématographie	FR COSIP automatic support	130 400	151 900
Centre national de la cinématographie	FR COSIP: advances on rights to automatic support	35 400	35 500
Distribution			
Filmförderungsanstalt	DE Automatic support for film distribution	2 232	2 511
Centre national de la cinématographie	FR Automatic support for distribution	13 020	17 700
MEDIA Programme	EU Automatic support for the transnational distribution of European films	8 057	9 291
Exhibition			
Filmförderungsanstalt	DE Automatic support for exhibition	1 778	2 356
Centre national de la cinématographie	FR Automatic support for exhibition	43 750	53 000

Source: European Audiovisual Observatory based on KORDA and Annual Reports

European and other supranational funding

10.1 Introduction

10.2 Council of Europe: Eurimages

10.3 The European Union - the MEDIA Programme (MEDIA Plus and MEDIA Training)

10.4 The European Union - The i2i Audiovisual Project

10.5 The future of the MEDIA Programme and of the i2i Audiovisual Project

10.6 Other EU Funds relevant to the Audiovisual Sector

10.7 Other supranational funding programmes

10.8 Other audiovisual support funds or programmes with international objectives operated by national governments or other bodies with public support

10.1

Introduction

The first support programmes for the film and TV industry at a European level were set up in the 1980s. They fall into two distinct categories: funds created via the two major supranational bodies, the Council of Europe and the European Union; and those created by agreement between countries with shared cultural or linguistic aims and objectives (Nordic Council, Agence intergouvernementale de la Francophonie, Cumbre Iberoamericana de Jefes de Estado y de Gobierno).

Taken as a whole, these funds are designed to complement the funding mechanisms which operate at a national and local level. The Council of Europe's Eurimages fund and the Nordic Film and TV Fund aim to encourage co-production between countries and to boost cross-border film distribution. The MEDIA Programme of the European Union has four main lines of activity (development, distribution, promotion and training). Various programmes aim to support co-productions with countries outside Europe: the Agence intergouvernementale de la Francophonie funds target support mainly at francophone Africa, while Ibermedia aims to develop collaboration between Spain, Portugal and South-American countries. The objective of supporting the development of film and audiovisual activities is also supported by the "Fonds Sud" of the CNC and the European Union and by various national programmes.

10.2

Council of Europe: Eurimages

Eurimages was set up as a partial agreement of the Council of Europe - that is an agreement which does not extend to all 45 of the Council's member states - in 1988. There are now 30 member states. Eurimages has supported more than 900 full-length films and documentaries since its debut.

Eurimages was set up with twin objectives, which it defines as cultural and economic. Its cultural goal is to *"support works which reflect the multiple facets of a European society whose common roots are evidence of a single culture"*. In parallel, it aims to foster the co-production of films in Europe and their distribution in the cinema, on TV and in other media. Its budget is made up of annual contributions from its members, loan repayments, and "other payments, donations or legacies".

T.44 Eurimages member States

Founder members (1988)

Belgium, Cyprus, Denmark, France, Germany, Greece, Italy, Luxembourg, the Netherlands, Portugal, Spain and Sweden

Others (date they joined)

Iceland (1989), Norway (1989), Switzerland (1989), Hungary (1990), Finland (1990), Turkey (1990), Austria (1991), Poland (1991), Ireland (1992), Bulgaria (1993), Czech Republic (1994) Slovak Republic (1996), Romania (1998), Slovenia (2001), Latvia (2002), Croatia (2003), The "Former Yugoslav Republic of Macedonia" (2003), Estonia (2004)

The United Kingdom joined in 1993 but withdrew in 1997

Support decisions are made by the Management Board, on which each member state has one representative, on the basis of the quality of the proposal and on "*whether it reflects and promotes the diverse national components of Europe's cultural identity*".

Eurimages has three funding programmes:

- **Assistance for co-production**
- **Assistance for distribution**
- **Assistance to cinemas**

Assistance for co-production

The majority of its support (more than 90%) is given to co-productions: a total of EUR 18,4 million in grants were awarded in 2003.

Rules were reformed in 2000 to divide production support into two categories: films with the potential to circulate widely, and films which reflect "*the cultural diversity of European cinema*". Awards in the former category were generally larger. However, this system was reformed again on the 15 December 2003 by the Management Board, and there is no longer such a distinction even if the cultural aspects are a major criterion for the Board when taking its decisions.

The new rules for co-productions

The former two scheme system has been replaced by a single support mechanism.

Projects must conform to the national legislation of the countries involved in the co-production as well as to international co-production agreements (i.e. bilateral treaties and/or European Convention on Cinematographic Co-production).

The participation of the majority co-producer must not exceed 80% and the participation of the minority co-producer must not be lower than 10%. For bilateral co-productions with a budget above EUR 5 million, the maximum participation of the majority co-producer must not exceed 90%.

The maximum participation of co-producer(s) from non Eurimages member States must not exceed 30%.

Multilateral financial co-productions are now eligible provided that they have access to national accreditation in the co-producing countries.

Artistic and/or technical cooperation shall be assessed on the basis of nationality (or residence) of the heads of departments (director, scriptwriter, composer, director of photography, sound engineer, editor, art director) and of the main roles (first, second and third role), as well as on the studio and/or shooting location and post-production location.

The European character of the project shall be assessed on the basis of the 19 points system of the European Convention on Cinematographic Co-production. In the event that the required total of 15 points is not achieved, the project can still be considered eligible on condition that it has access to national accreditation in accordance with the legislation in force in the co-producing countries concerned.

Principal photography must not commence prior to the Board of Management's examination of the application and in no event later than six months after this date. However, brief pre-

shooting justified by weather-related or technical constraints, can be authorised by the Executive Secretary.

Each project must benefit, in each of the co-producing countries, from either national support or a television pre-sale. At least 50% of the financing by each of the co-producing countries must be confirmed by formal undertakings or agreements in principle (contracts, deal memos, letters of intent, confirmation of national support). However, a bank guarantee cannot be the sole means of reaching the financing threshold. Deferrals (including producers' fee, overheads and in-kind contributions) can be accepted as confirmed source of financing, only up to a maximum of 15% of the total co-production budget.

The selection criteria are the following:

- the artistic merits of the project,
- the experience of the director, of the producers, of the artistic (authors, casting, etc.) and technical teams
- the circulation potential of the project,
- the commercial potential of the project,
- the artistic and/or technical co-operation between the co-producers,
- the level of confirmed financing for the project.

The same project cannot be placed on, and withdrawn from, the agenda of the Board of Management more than three times. A project previously rejected by the Board of Management cannot be re-submitted.

Financial assistance must not exceed 15% of the total production costs of the film up to a maximum of 700 000 EUR. However, for projects with a budget below 1,5 million EUR, financial assistance must not exceed 20% of the total production costs.

· Eurimages' support shall be paid in three instalments:

- 60% on the first day of principal photography, approval of the definitive financing plan and signature of the Eurimages' award agreement.

- 20% after receipt of distribution guarantees and/or pre-sales upon which binding agreements have been concluded before the first answer print of the film has been completed, approval of the credit list by the Executive Secretary and receipt of the confirmation of the production of the first answer print from the laboratory.

- 20% after confirmation of the cinema release in the co-producing countries, receipt and approval of audited production costs and final financing plan, receipt of the evidence of the payment of the minima guarantees included in the financing plan approved by Eurimages, receipt and approval by Eurimages of the publicity material and confirmation of the award of the definitive national accreditation.

The Eurimages support is a conditionally repayable loan (advance on receipts) to be recouped from the first euro and from each co-producer's net receipts at a rate equal to the percentage of Eurimages' share in the financing of the film. Distribution guarantees and/or pre-sales upon which binding agreements have been concluded before completion of the first answer print can be deducted.

T.45 Eurimages statistics on co-production and distribution support (1994-2003)

	CO-PRODUCTION						DISTRIBUTION		
	Number of applications for co-production support			Number of co-production projects supported ¹			Total amount awarded (EUR) ¹	Amount repaid on all projects supported (EUR)	Number of applications for distribution support supported ²
	Feature films	Documentaries	Total	Feature films	Documentaries	Total			
1994	136	37	173	71	18	89	22 041 841	355 724	31
1995	147	37	184	83	16	99	24 386 073	482 715	45
1996	127	29	156	68	19	87	19 901 458	362 828	118
1997	94	31	125	58	21	79	19 347 306	968 330	92
1998	100	20	120	59	17	76	19 725 384	588 997	137
1999	115	16	131	63	9	72	17 933 343	1 002 206	161

AFTER REFORM	FEATURE FILMS AND DOCUMENTARIES			FEATURE FILMS AND DOCUMENTARIES			Total amount awarded ¹	Amount repaid on all projects supported	DISTRIBUTION Number of applications for distribution support supported ²
	Number of applications for support			Number of projects supported					
	Scheme1	Scheme2	Total	Scheme1	Scheme 2	Total	EUR	EUR	
2000	32 45 ³	113 127 ³	145 172 ³	15	30	45	16 486 000	682 331	136
2001	31 34 ³	109 131 ³	140 165 ³	16	41	57	18 447 739	1 312 163	119
2002	28 35 ³	102 126 ³	130 161 ³	15	37	52	18 397 798	931 588	138

¹ Includes projects cancelled after support was approved.

² Excludes projects cancelled after support was approved.

³ Includes projects re-enrolled.

National or legal persons from one of the Eurimages member states are able to apply to the fund. Co-productions with non-member states are permitted, but their contribution is not allowed to exceed 30% of the budget.

Improving the selection procedures : the "Co-production" Working Group

The "Co-production" Working Group was instigated on an experimental basis as from February 2003. The objective of this Working Group was to raise the standard of selection of co-production projects placed on the Agenda and to assist the Board of Management in decision-making. This experimental

basis was considered successful and the Co-production Working Group is now an official part of the Board of Management meeting process.

The Group consists of seven persons: the Chair ensures the Group's continuity and six members of the Board of Management are selected by drawing lots, which is liable to be modified in order to ensure due regard for a balanced geographical distribution. The objective is that each member State shall participate in the Group's work at least once in every five meetings. The Group maintains an advisory role, examining in an impartial manner the projects placed on the Agenda and providing the Board of Management with justified recommendations for

¹ It was instituted by two decisions:

- Council Decision 2000/821/EC of 20 December 2000 on the implementation of a programme to encourage the development, distribution and promotion of European audiovisual works (MEDIA plus - Development, Distribution and Promotion) (2001-2005);
- Decision n°163/2001/EC of the European Parliament and of the Council of 19 January 2001 on the implementation of a training programme for professionals in the European audiovisual programme industry (MEDIA TRAINING) (2001-2005)

² Switzerland was an associated member till 1992, but had to withdraw after the 1992 referendum in which the Swiss people voted against integration with the European Union. The MEDIA Desk Switzerland was then renamed Euroinfo and compensatory allocated by the Federal Office for Culture

For 2004, the amounts of MEDIA compensatory measures in Switzerland were budgeted at 2 758 millions CHF, with the following breakdown:

- training : 227 000 CHF
- project development : 600 000 CHF
- distribution and promotion : 1,44 million CHF
- euroinfo Suisse : 246 000 CHF

³ APRIL, *Mid-term evaluation of the MEDIA Plus and MEDIA Training Programmes*. Available at : http://www.europa.eu.int/comm/avpolicy/media/eval2_en.html

awarding assistance for co-production. The Board of Management continues to make the final decisions.

Support to distribution

Support for distribution is managed by the Eurimages Secretariat, it is aimed at providing a system of support for distribution complementary to the MEDIA Programme of the European Union. The support is available to distributors of the member States who are not able to benefit from the support awarded by MEDIA, i.e. Croatia, Romania, Switzerland and Turkey.

In this way, distributors from these countries may apply for support for distribution assistance for films originating in any of the Eurimages member States.

Moreover, distributors from any member State may apply for distribution assistance for films originating in the five above-mentioned States.

No distributor, however, may apply for a film originating in its own State.

The *Board of Management* of Eurimages decides on the amount of support to be awarded.

Financial assistance is given towards the distribution costs. Assistance may not exceed 50% of the costs and the maximum contribution from the Fund may not exceed EUR 8 000.

Assistance to cinemas

While support for coproduction and distribution are managed directly by Eurimages' Secretariat, the management of the programme for assistance to cinemas has been entrusted to Europa-Cinemas in order to achieve a complementary system to cinemas functioning within the heart of the MEDIA Programme of the European Union.

Therefore, only cinemas situated in *Eurimages Member States* that do not have access to support by the MEDIA Programme are eligible for assistance.

In 2003, 13 cinemas passed over to the MEDIA+ Programme (Poland : 4 cinemas, Czech Republic : 3 cinemas, Bulgaria : 5 cinemas, Slovak Republic: 1 cinema).

By the end of 2003, the Eurimages/Europa Cinemas network comprised 34 cinemas in Five countries (Croatia, Hungary, Romania, Switzerland, Turkey). As Hungary will become part of the MEDIA Programme by joining the European Union as at 1 May 2004, Hungarian cinemas will no longer be supported by Eurimages.

The annual budget for 2003 allocated to this programme amounted to EUR 621 631 (see Table T.45).

10.3

The European Union - the MEDIA Programme (MEDIA Plus and MEDIA Training)

The MEDIA programme was launched by the European Union in 1990. MEDIA II covered the years 1996-2000. The current MEDIA Programme entered into force in January 2001¹ for the period 2001-2005 and has two different strands: MEDIA Plus (Development, Distribution and Promotion) and MEDIA Training.

As of 1 January 2004, a total of 29 were members of the MEDIA Programme, including the 15 member states of the EU, three EEA

countries which are not members of the EU but are members of MEDIA; and 11 candidate countries.

T.46 Members of the MEDIA Programme as at 1st May 2004

European Union countries	Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, the UK
European Economic Agreement countries participating in MEDIA	Iceland, Liechtenstein, Norway
New Member States of the EU as at 1.5.2004	Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovak Republic, Slovenia
Candidate country which is already member of MEDIA	Bulgaria

Equipped with a budget of EUR 400 million for the years 2001-2005, MEDIA brings support both before and after production. MEDIA co-finances training initiatives for audiovisual industry professionals, the development of production projects (feature films, television drama, documentaries, animation and new media), as well as the distribution and promotion of European audiovisual works (see Table T.47).

In 2003, a mid-term evaluation of the MEDIA Plus and MEDIA Training programmes was carried out by the company APRIL on behalf of the Directorate General Education and Culture of the European Commission. On the 24th November 2003, the Commission published a report summarizing this study (years 2001-2002).⁴

10.3.1 Support for development

The MEDIA Plus Programme provides European independent production companies with financial support for the development of production projects. There are three support mechanisms.

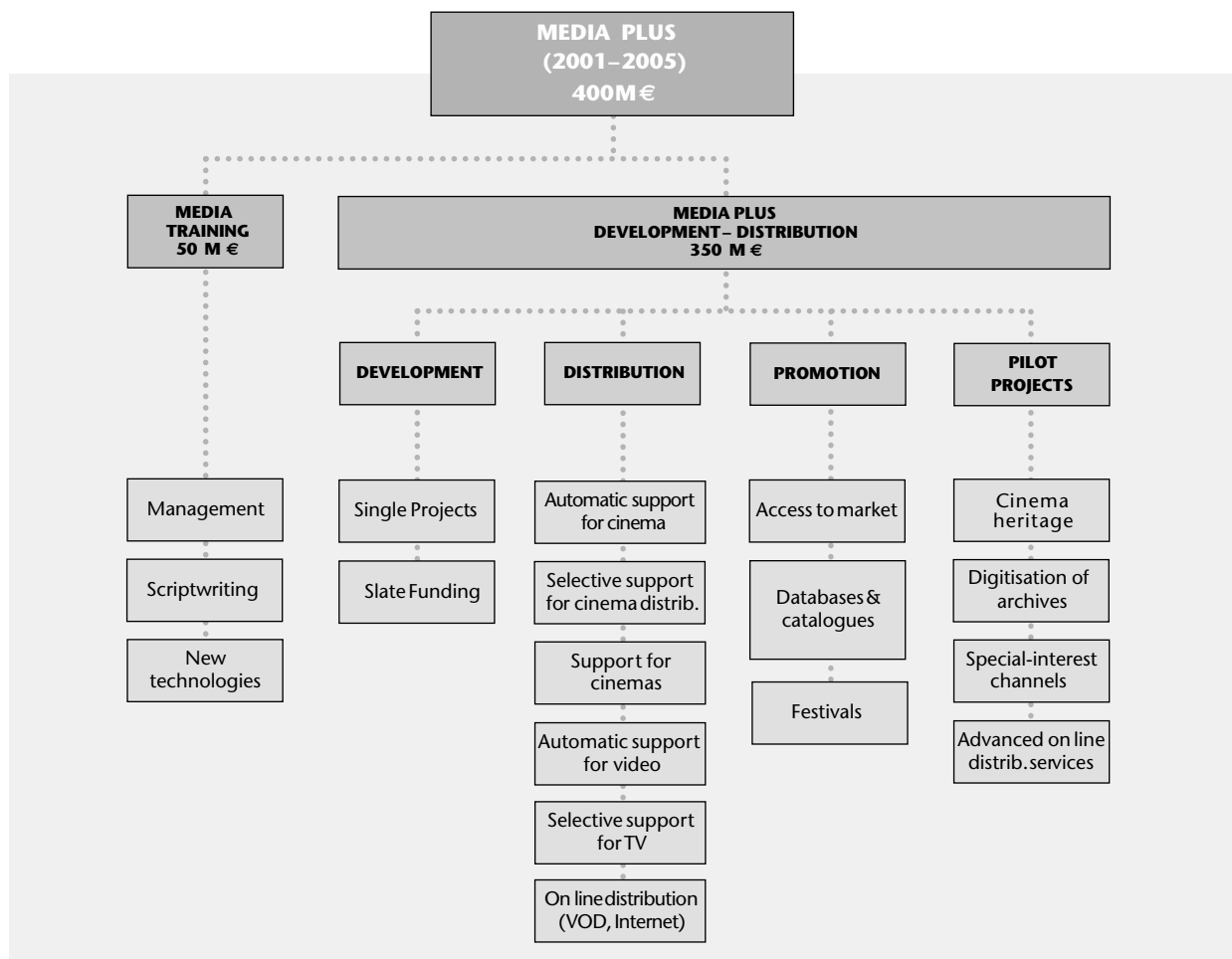
1) "MEDIA New Talent" (as from 2004) - The support is reserved for independent production companies which have produced at least one work within the 24 months before the date of submission of the application. There are no minimum requirements in terms of the company's turnover or profit, but the company must provide evidence of its financial capacity. The project for which support is requested must have been the subject of a MEDIA training activity, followed in the precedent years. Programmes supported are fiction, animation, creative documentaries and multimedia concepts. MEDIA Plus aid may cover up to 50% or 60% of the eligible development costs for a work, subject to the ceiling laid down for each type of work. An estimation of the global budget available in 2004 for the call for proposals "MEDIA New Talent" will be 750 000 EUR. Among the projects selected in the call for proposals "MEDIA New Talent", the feature film scripts written by screenwriters younger than 35 will be the subject of a specific ranking according to their merit.

2) Support to development of single projects

Applicants for funding must be independent European produc-

⁴ COMMISSION OF THE EUROPEAN COMMUNITIES, Report from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions, Report on the implementation and the mid-results of the MEDIA Plus and MEDIA Training programmes (2001-2005) and on the results of the preparatory action "Growth and audiovisual i2i audiovisual". COM(2003) 725 final.

G.8 Structure of the MEDIA programme (2001-2005)



tion companies. There are no minimum requirements in terms of the company's turnover or profit, but the company must provide evidence of its financial capacity. Programmes supported are fiction, animation, creative documentaries and multimedia. MEDIA Plus assistance may cover up to 50% of the eligible development costs for a work, subject to the ceiling laid down for each type of work. For the 2003 call for proposals, the budget earmarked for the Development priority (single projects and Slate Funding) was EUR 15 million. EUR 5 945 000 were awarded to single projects. The proportion could be slightly different in 2004, depending on the number of applications received for single projects and Slate Funding, and their respective merits.

3) Support to development of slate funding 1st and 2nd stage

Slate Funding is for medium-sized companies with prior experience at international level and the financial capacity to develop several projects simultaneously. Slate Funding 1 and 2 are designed for companies of different size and financial capacity. To apply for Slate Funding 1, a company must submit a development plan for three years comprising 3 to 6 projects. To apply for Slate Funding 2, a company must submit a development plan for three years comprising 5 to 10 projects.

Slate Funding second stage is for companies that have already been selected once for Slate Funding. All of the first stage funding must already have been allocated to development projects, and 75% must already have been credited to the dedicated bank account. Applicants for funding for the development of catalogues of projects must be independent European production companies

at least one year old. Support is dedicated to fiction, animation, creative documentaries and multimedia.

The MEDIA Plus support is between EUR 60 000 and EUR 90 000 for Slate Funding 1 and between EUR 100 000 and EUR 1 500 000 for Slate Funding 2. For the 2003 call for proposals, the budget earmarked for the Development priority (single projects and Slate Funding) was EUR 15 million. EUR 9 055 000 million were awarded to Slate Funding projects. The proportion could be slightly different in 2004, depending on the number of applications received for single projects and Slate Funding, and their respective merits.

According to the Commission mid-term evaluation report, the support from MEDIA represents on average 18% of development costs. This aid is considered as sufficient to reduce the risks assumed by the independent producers.

10.3.2. Support for distribution⁵

Support to distribution has five action lines: three for theatrical distribution, one for TV distribution and one for video/DVD distribution.

Support to theatrical distribution :

a. *Automatic support:* The aim of the "automatic" support scheme is to encourage and support the wider transnational distribution

⁵ The support to distribution schemes are managed by D and S MEDIA Service GmbH, the MEDIA Programme Technical Assistance Office. See : <http://www.d-and-s.com/>

of recent non-national European films by providing funds to operators for further investment in such films based upon their record of generating an audience for European films. The call for proposals also aims to encourage the development of links between the production and distribution sector thus improving the competitive position of non-national European films. The Automatic Support Scheme for the distribution of European Films was launched in June 1997 by the European Commission. The support is based upon the number of paying admissions achieved by the European Distribution companies in the previous calendar year.

b. *Selective support.* Selective support is aimed at fostering the wider transnational distribution of non-domestic European films and at encouraging theatrical distributors in particular to invest in promotion and adequate distribution for non-domestic European films. It also aims to encourage the establishment and consolidation of co-operation networks between European distributors, as well as cooperation between distributors, sales agents and/or producers.

According to the Commission mid-term evaluation report, 90% of the films distributed outside their national territory during the reference period for the evaluation received support from MEDIA. On average, beneficiaries of the selective support received support amounting to 27% of the distribution costs incurred, i.e. substantially covering risks. There were on average 5,5 national distribution campaigns per film supported. The aid generated by the automatic support increased from EUR 12,2 million to EUR 20 million, due to the successes registered by European cinema over these two years. Some 70% of reinvestments were used for guaranteed minima, 28% for P&A and 1% for co-productions. Reinvestments mainly benefited French and United Kingdom works, but films from countries with a low production capacity and/or a restricted linguistic and geographical area generated more support than they generated in receipts.

c. *Support to sales agents.* The aim of this support scheme is to encourage and support the wider transnational distribution of recent European films by providing funds to sales agents, based upon their performance on the market, for further reinvestment in new European films. The scheme also aims to encourage the development of links between the production and distribution sectors thus improving the competitive position of European films.

According to the Commission mid-term evaluation report, few applications were submitted and selected during the two reference years and 17 projects were selected each year.

d. *Support to exhibitors.* The scheme is aimed to encourage the networking of European première cinemas and the screening of non-domestic European films by these cinemas.⁶

According to the Commission mid-term evaluation report, the results of this action during the period 2001-2003 are in line with the aims pursued. Some 700 cinemas were supported. Sales of tickets for European films increased by 18% and represent 59 % of the total of the tickets of the supported theatres. In 2002, cinemas in the network scheduled an average of 38% of non-national European works. Market share for non-national European films in cinemas not participating in the network was only 8 %. The Commission considers that, overall, there is a positive correlation between the number of cinemas supported by MEDIA in each country and that MEDIA makes a clear contribution to reducing the potential risk of showing non-national European films.

Support to television programmes distribution:

The support scheme is aimed at European companies whose activities contribute to the promotion and the movement of European television programmes produced by independent

companies within and outside the Community by encouraging cooperation between broadcasters on one hand and independent European distributors and producers on the other hand. It also aims to encourage independent production companies to produce works (fiction, documentary and animated films) involving no less than two broadcasters, preferably more, who participate or co-operate in several member states and belong to different language zones.

According to the Commission mid-term evaluation report, each work supported brought together on average 6,4 broadcasters. Support from MEDIA represented up to 20% of the production costs for documentaries and 12,5% for fiction and animation. Documentaries were the genre most represented.

Support to video/DVD distribution

The scheme is aimed at European companies whose activities contribute to the strengthening of the distribution sector for European works on media intended for private use, by encouraging publishers to invest in digital technology and the promotion of non-domestic European works on video and DVD.

10.3.3. Support to promotion and to festivals

The aim of this financial support is to encourage all kinds of promotional activities designed to facilitate European producers and distributors' access to and participation in major European and international events.

Since 1992, the European Commission has published an annual call for proposals for the support of film festivals and events, organised in partnership within the audiovisual sector, in order to promote European cinematographic works and to encourage their distribution throughout the 15 member states.

According to the Commission mid-term evaluation report, during the years 2001-2002, 44% of the projects supported were aimed at promotion measures, and 56% at markets/festivals. On average, 80% of European works were scheduled in the festivals supported, giving the strand a high European added value.

10.3.4. Support to training

The MEDIA Training Programme aims at encouraging the setting up of European training initiatives allowing professionals of the audio-visual industry to increase their competence and their competitiveness on the international market. It rests on a close co-operation and an exchange of know-how between various partners working in the training area: cinema and television schools, specialised training centres, production and distribution companies.

According to the Commission mid-term evaluation, the Community financial support represents on average 49% of the costs of training, being then vital for the viability of the projects supported. Some 42% of the training given relates to new technologies, 32% to management and 27% to writing techniques.

10.3.5 Pilot Projects

The pilot projects constitute the way in which the Council Decision ensures that the MEDIA Plus programme takes account

⁶ The exhibition support scheme is managed by the Europa Cinemas network (<http://www.europa-cinemas.com/>) Europa Cinemas is also supported by the French CNC and the French Ministry of Foreign Affairs. It also receives funding from Eurimages (for supporting exhibitors in European countries which are not members of the MEDIA Programme) and from EuroMed (for exhibitors and distributors in Mediterranean countries).

T.47 Implementation of the MEDIA programme in 2002:

Breakdown	Number of projects supported/expected	Forecast costs	Number of projects supported/actual	Actual costs
		EUR million		EUR million
Total MEDIA Training	16	8,000	35	7,452
Development				
- single projects	150	6,000	141	4,499
- slate funding	64	8,000	104	9,196
Sub-total	214	14,000	245	13,695
Distribution				
- film - selective	333	12,000	273	11,162
- film - automatic support	189	10,000	231	9,291
- networks of cinema theatres	278	4,180	299	4,761
- sales agents	43	2,600	9	0,235
- support for online distribution	15	1,000	0	0,0
- TV distribution	70	7,000	79	12,598
- DVD	80	2,800	0	0,0
Sub-total	1 008	39,580	891	38,047
Promotion				
- audiovisual markets	40	4,000	45	6,125
- festivals	47	1,190	79	2,060
Sub-total	87	5,190	124	8,185
Technical development				
- pilot projects	5	2,000	1	0,648
Sub-total	5	2,000	1	0,648
Actions vis-à-vis du secteur				
- promotion of programme		1,000		1,190
- MEDIA desks	32	2,600	33	2,550
Sub-total	32	3,600	33	3,740
Cost of support		5,600		5,550
Total MEDIAPlus	1 346	70,000	1 294	69,865
Grand total	1 362	78,000	1 329	77,215

The above figures relate to the 15 member states of the European Union (prior to May 2004), and do not include awards to EEA and candidate countries.

With EEA and candidate countries included, the total number of awards made in 2002 was as follows:

- . MEDIA Training: 35
- . MEDIA Plus - Development: 254
- . MEDIA Plus - Distribution: 935
- . MEDIA Plus - Promotion: 128
- . MEDIA Plus - Pilot projects: 5

of rapid technological change. It is expected that in the next few years the use of digital technologies will make European audiovisual works more easily accessible, because of new ways of transporting audiovisual content and as a result more widely available outside their country of origin. Competitiveness of the audiovisual content industry will depend largely on the use of new technologies in the development, production and distribution stages.

Areas in the MEDIA Plus programme in which technology is expected to play a key role are, inter alia (point 1.4 of the Annex to the Decision): cinematographic heritage, European audiovisual programme archives, catalogues of European audiovisual works and the digital dissemination of European content through for instance advance distribution services. Moreover, digital technologies are mentioned in several areas throughout the

Decision. Attention will be paid to the opportunities for distance learning and innovation in teaching methods offered by the development of distance learning systems using online technologies on issues identified in the European Parliament's and Council's Decision N° 163/2001/EC of 19 January 2001 on the implementation of a training programme for professionals in the European audiovisual programme industry (MEDIA Training 2001-2005).

During the two first years of the period, the pilot projects supported were few in number (five projects) but represented EUR 3,2 million. MEDIA participation amounted on average to 20,78% of their costs. On average, four European countries were involved in their implementation.

T.48 MEDIA Plus 2003:

	Call for proposals n°	contracted projects	EUR
Grants (commitments) (EUR 15)			67 129 361,00
Distribution - automatic support	89-2001 22-2001		
	20-2003	408	17 903 940,00
Distribution - selective support	21/2001 88/2002	319	10 775 704,00
Sales agents	49/2001 36/2002	49/2001 8 36/2002 22	
Distribution on-line	–	–	
Distribution TV	31/2001 (3rd session) 85/2002 (1st and 2nd session)	75	12 600 956,00
Promotion	40/2002 65/2003	40	5 456 351,00
Festivals	festivals festivals in third countries networks of festivals Total	74/2002 – 75/2003 36219 36191 96	88 4 2 3 005 800,00
Development	single projects SF 1 and 2 SF second stage Total	82/2002 83/2002	184 80 15 15 000 000,00
Pilot projects		7	5 138 869,00
MEDIA desks		38	2 819 524,00
		contracted projects	EUR
MEDIA TRAINING 2003		45	7 576 165,00
Grants (commitments) (EUR 15)			
		contracted projects	EUR
i2i audiovisual 2003	Insurance; completion guarantees, financing costs	97	2 774 834,00
Grants (commitments) (EUR 15)			

The European Union - The i2i Audiovisual Project

The European Commission published on 11 July 2003, (OJ n° C 162) a new Call for proposals based on the Preparatory Action "Growth and Audiovisual: i2i Audiovisual". This new action is intended to help film and audiovisual production companies to have access to external funding from banks and other financial institutions, by funding some of the costs of the guarantees demanded by these banks or financial institutions and/or part of the cost of a loan - Discount Contract Loan - for financing the production of their works.

Context

The proposed action comes under the initiative put forward by the Lisbon European Council of 23 and 24 March 2000 and aims to encourage banks and financial institutions to invest in the content industries (film and audiovisual).

At the Lisbon Council, the Heads of State and Government, aware of the upheavals caused by globalisation and the challenges inherent in a new knowledge-based economy, set a new objective for the Union for the coming decade: "to become the most competitive and dynamic knowledge-based economy in the world, capable of sustained economic growth accompanied by a rise in the number and quality of jobs available, thus strengthening the social fabric".

The Council called on *"the Community and the Member States, with the support of the EIB, to make available in all European countries low-cost, high-speed interconnected networks for Internet access and foster the development of state-of-the-art information technology and other telecom networks as well as the content for those networks."*

Following the conclusions of the Lisbon European Council, the EIB Group launched the Innovation 2000 Initiative, the aim of which is to support investments promoting the information society, research and development, innovation and competitiveness as well as human capital. In order to contribute to the demand for enhancing the conditions for the use of information technologies, the EIB Group decided to support enterprises working in the area of high-speed dissemination, especially in the area of the media, and established the i2i Audiovisual subprogramme.

The objectives of the i2i Audiovisual subprogramme are to:

- Enhance the competitiveness of the European film and audiovisual industry
- Promote the creation of European cinematographic, television and educational works
- Act as a catalyst for support from the financial and banking sector for schemes undertaken by European audiovisual firms
- Assist the European audiovisual industry to adapt to new technologies and the digitalisation of production, distribution and archives.

In particular, in the context of acting as a catalyst for support for the film and audiovisual industry, the EIB Group makes credit lines (Global Loan and Risk Sharing Global Loan) available to the specialised banking sector for the funding of small and medium-sized enterprises (SMEs) in audiovisual creation, audiovisual technology or the performance of subcontracting in this sector.⁷

The Budgetary Authority has decided to supplement this Initiative with a new mechanism based on the Preparatory Action "Growth and Audiovisual : i2i Audiovisual".

The Commission report on the mid-term evaluation of the MEDIA Programme included in its scope the i2i audiovisual Programme. The period covered by the evaluation contained only one selection exercise. Forty projects were supported, with an approximate value of EUR 1 million. Average MEDIA support per project selected was EUR 25 000. The action enabled effective compensation for a proportion of the difference between the interest rates applied to micro-undertakings and those applied to larger undertakings.

The future of the MEDIA Programme and of the i2i Audiovisual Project

The 16 April 2003, the European Commission has made a proposal to the Council and the European Parliament to extend the existing Community programmes on culture (Culture 2000) and the audiovisual industry unchanged until the end of 2006, the aim being to ensure continuity of Community action in these fields until such time as the EU's new financial perspective kicks in the 2007. It was proposed that the MEDIA Plus budget would grow from EUR 350 million to 435,6 million (2003-2006) and the MEDIA Training budget from EUR 50 to 57,4 million for the period.⁸

The 12 March 2004, the Commission published two modified proposals,⁹ integrating the amendments proposed by the Parliament : the budget amount of the MEDIA Plus Programme is increased by EUR 18 million from EUR 435,6 million to EUR 453,6 million and the budget of MEDIA Training is increased by EUR 2 million from EUR 57,4 million to EUR 59,4 million. These increases are intended to take account of the impact of enlargement for 2004 and 2005 (as laid down in the Communication of the Commission COM(2003)777.

As requested by the Parliament, the Commission intends to present an assessment report on the MEDIA programmes by 31 December 2005 as specified, but considers that this in no way affects its right to initiative to present possible proposals for a new programme for the European audiovisual sector before that date.

⁷ For more details on the action of the European Investment Bank, see below, chapter 12.

⁸ Press release IP/03/549, Brussels, 16 April 2003. Proposal for a Decision of the European Parliament and of the Council modifying Council Decision 2000/821/EC of 20 December 2000 on the implementation of a programme to encourage the development, distribution and promotion of European audiovisual works (MEDIA Plus - Development, Distribution and Promotion) COM(2003) 0191 final and Proposal for a Decision of the European Parliament and of the Council modifying Decision No 163/2001/EC of the European Parliament and of the Council of 19 January 2001 on the implementation of a training programme for professionals in the European audiovisual programme industry (MEDIA-Training) (2001-2005) COM(2003) 0188.

⁹ Amended proposal for a Decision of the European Parliament and of the Council modifying Council Decision 2000/821/EC of 20 December 2000 on the implementation of a programme to encourage the development, distribution and promotion of European audiovisual works (MEDIA Plus - Development, Distribution and Promotion) (presented by the Commission pursuant to Article 250 (2) of the EC Treaty) COM(2004)0175 final and Amended proposal for a Decision of the European Parliament and of the Council modifying Decision No 163/2001/EC of the European Parliament and of the Council of 19 January 2001 on the implementation of a training programme for professionals in the European audiovisual programme industry (MEDIA-Training) (2001-2005) (presented by the Commission pursuant to Article 250 (2) of the EC Treaty), COM(2004) 0176 final.

In 2003, the Commission has initiated the design of the new generation of programmes for the audiovisual sector.¹⁰ In the course of 2004 the Commission will present a proposal for a new Programme that will follow on from the MEDIA Plus and MEDIA Training Programmes (which will end in 2006) namely for the years 2007-2013.

10.6

Other EU programmes relevant to the Audiovisual Sector

10.6.1. European Union Regional Development Fund

The Regional Development directorate of the European Union is responsible for distributing funding to the regions of Europe where per capita income is below average. It administers four structural funds, including the European Regional Development Fund and the European Social Fund, which will hand out EUR 195 billion in the 2000-2006 period. These funds - in particular the ERDF - have been drawn on by a handful of regional film and TV funds.

The structural funds concentrate on clearly defined priorities:

- funding for regions whose development is lagging behind accounts for 70% of the funding (defined as Objective 1).
- Economic and social conversion in areas experiencing structural difficulties (Objective 2).
- Modernisation of training systems and creation of employment (Objective 3).

Eligible regions for Objective 1 include areas where per capita income is at or below 75% of the European Community average, and areas which are thinly populated or not easily accessible. Overall, 83 million people live in Objective 1 areas, the largest numbers in Spain, Italy, Germany and Greece.

Objective 2 areas include areas with high unemployment, rural areas, and areas with high rates of poverty and crime, environmental problems and a low level of education. Some 69 million live in Objective 2 areas; the countries with the highest percentage of their population in these areas are France, Finland, Austria and the UK.

To date, funding bodies in Sweden, Finland Ireland and the UK have received funding from the ERDF. The Irish Film Board is the only national funding body to have been supported by the ERDF, between 1995 and 1999.

Film i Väst, the regional agency in the west of Sweden, received EUR 1,9 million in ERDF support in 2002. POEM in northern Finland received EUR 186 000 in the same year.

In the UK, most of the English regional agencies receive some form of ERDF support. Most notably, North West Vision used Objective 1 funding to launch the Merseyside Film & TV Programme in September 2003. The programme, which applies only to the area of the city of Liverpool, is budgeted at 6 million GBP (EUR 8 million) over three years, with one-third of the funding coming from the ERDF.

10.6.2 The Directorate-General of Development

The European Commission's development directorate is responsible for aid to countries in the third world. Support for culture forms a relatively limited, though important, part of its activities. The Cotonou Agreement, signed in 2000 between the European Union and the 77 Africa, Caribbean and Pacific (ACP) countries, includes the aim of "developing cultural industries and enhancing market access opportunities for cultural goods and services".

The ACP Cinema Support Programme co-finances the production and distribution of audiovisual works from ACP countries, including movies, TV series, documentaries and animation. The DG also supports cultural events in ACP countries and in Europe.

An annual call for support is issued, with applications received both in Brussels and in EU offices in the ACP countries. The latest three-year phase of the programme, which launched in 2000, was worth EUR 6 million, of which EUR 5 million was awarded to production and EUR 1 million for distribution. In 2003, a cinema support programme was put into place in partnership with the French ministry of foreign affairs.

10.6.3 Euromed

Set up within the framework of the Euro-Mediterranean Partnership launched at the Barcelona Conference in 1995, Euromed Audiovisual is a support programme embracing culture and communications together with economic, technological and trade dimensions. The second, three-year phase of the Euromed Audiovisual Programme launched in 2004 with a grant of 20 million EUR. Activities supported include Europa Cinemas, the Cinemamed festival, and MEDEA, a support fund for the development phase of international co-productions.

10.6.4 The eContent programme

The eContent programme of the European Commission focuses on commercial use of European digital content and has a budget allocation of EUR 100 million for the period 2001-05. eContent aims to promote the production, use and dissemination of European digital products and services by supporting cooperation between individual companies and the public and private sectors. The subject matter may include art, cultural heritage, archives, libraries or tourism. The programme is also concerned with multilingual access to multimedia products and services distributed via digital networks, and adapting them to local cultural requirements.¹¹

¹⁰ Commission site : http://www.europa.eu.int/comm/avpolicy/media/med2eva_en.html

¹¹ See <http://www.cordis.lu/econtent/> As the e-content programme has a larger scope, we have not included it in our calculations.

Europa Cinemas : a project funded by three European programmes and two French bodies

Set up in 1992 under the MEDIA Programme and with support from France's CNC, Europa Cinemas manages a range of support schemes for the cinema exhibition sector. The Paris-based organisation has also become the intermediary for the exhibition support programmes of Eurimages, the French Ministry of Foreign Affairs, and the European Union-backed Euromed Audiovisual.

In 2002, Europa Cinemas awarded EUR 5,7 million. MEDIA was the largest single contributor to its budget with EUR 4,9 million, or 76% of its budget

T.49 Budget of Europa Cinemas (EUR thousand) :

	1998	1999	2000	2001	2002
Total of support awarded	3789	3761	4 100	4 738	5 785
Contributions of partners					
MEDIA Programme	3 800	3 900 000	4 200	4 300	4 900
Foreign Affairs Ministry (France)	235	243	243	243	212
Euromed Audiovisual			350	850	1 300
TOTAL	4 035	3 900 243	4 793	5 393	6 412

| Source: Europa Cinemas

Europa Cinema's activities encompass the core European territories covered by the MEDIA programme, but also central and eastern Europe, north Africa, the Middle East and the province of Quebec in Canada. In Europe, its support is directed solely at cinema exhibitors, but in others it also supports distributors and festivals which promote European films.

T.50 Countries covered by Europa Cinemas

MEDIA territories	EUR 25, EFTA countries (Iceland, Norway) and Bulgaria.
Euromed Audiovisual	Algeria, Cyprus, Egypt, Israel, Jordan, Lebanon, Malta, Morocco, Palestinian territories, Syria, Tunisia, Turkey
Eurimages	Hungary, Romania, Switzerland, Turkey
French Ministry of Foreign Affairs	Albania, Armenia, Azerbaijan, Belarus, Belraus, Bosnia Hercegovina, Croatia, The "Former Yugoslav Republic of Macedonia", Georgia, Kazakhstan, Kirghizstan, Moldova, Romania, Russia, Slovenia, Serbia & Montenegro, Tadjikistan, Turkmenistan, Ukraine, Uzbekistan
Others	Iran, Jordan, Quebec (Canada),

The objectives of Europa Cinemas are:

- To increase the programming of European and Mediterranean films in film theatres, with non-national films taking priority.
- To encourage initiatives by exhibitors aimed at young audiences.
- To develop a network of theatres to enable joint initiatives at an international level.

In practical terms, Europa Cinemas makes awards of between 15 000 and 50 000 EUR to cinemas which offer programmes of European films. Cinemas are required to invest at least the same amount. Programmes for young people, initiatives to network with other cinemas and participation in programmes like Cinedays are given special encouragement.

Distributors in the Mediterranean countries may also be given financial support for prints, subtitling and dubbing, and advertising. The acquisition of film rights is not covered. Funding is also given to festivals which promote European and Mediterranean films which have not been commercially released in the region.

Other supranational funding programmes

10.7.1 Ibermedia

Ibermedia, the Iber-American support programme, was created in November 1997 by agreement between Spanish and Portuguese-speaking governments.

The objective of Ibermedia is to support co-productions of films and TV programmes between member countries, to support distribution and promotion of these works, and to develop training programmes.

These different strands will, it is hoped, create more favourable conditions for the development of an "audiovisual space" encompassing Spain, Portugal and Latin America.

There are 13 member countries in Ibermedia: Argentina, Brazil, Bolivia, Colombia, Cuba, Chile, Spain, Mexico, Peru, Portugal, Puerto Rico, Uruguay and Venezuela.

Support is divided into four programmes: co-production of feature films and documentaries, distribution, development and education and training. Independent producers with no link to a TV company and which are co-producing with at least three member states are eligible for support.

Ibermedia's budget is made up of direct contributions from its members. In 2002, it amounted to 3,4 million USD, of which the majority (3,4 million USD) went into production.

10.7.2 Nordic Film & TV Fund

The Nordic Film and TV Fund was set up to promote the production of film, TV and multimedia projects in the Nordic countries. The countries concerned are the five Nordic countries - Denmark, Finland, Iceland, Norway, Sweden - and dependent territories, the Faroe Islands and Greenland.

The annual budget of the fund - EUR 7,8 million in 2002 - comes in roughly equal proportions from government (via the Nordic Council), national film institutes, and broadcasters (both public service and private).

The Fund offers financing to film, TV and multimedia productions which are deemed to have the potential to reach a wide audience in the region. Development, distribution and promotion, and Nordic language versions are also funded. The Fund also administers funds from the Nordic Council of Ministers, which are earmarked for distribution and film cultural initiatives.

There are no pan-Nordic thematic requirements, national quotas, or requirements in regards to the artistic or technical staff.

Productions aimed at youth and children are offered special encouragement.

Nordic production companies are eligible for support. Projects are expected to have already assembled a significant degree of support; in the case of films, for example, they are expected to have distribution agreements in a minimum of two Nordic countries, and a presale to one of the Fund's TV partners.

10.7.3 The Agence intergouvernementale de la Francophonie

Created in 1970, the Agence aims to contribute to the development of the French language, to the promotion of French-speaking culture, and to foster links between countries

where the language is spoken. The Agence is headquartered in Paris and has 50 member states around the world, most of which have French as an official language. Its activities include support for film and television.

Its actions include support for the production of TV programmes originating from a French-speaking country in receipt of development aid; the budget for this programme was EUR 2,7 million in 2002. The Agence also offers subsidies for the marketing and promotion of films and TV programmes (EUR 910 000 in 2002.)

10.8

Other audiovisual support funds or programmes with international objectives operated by national governments or other bodies with public support

Various programmes of support to the film and audiovisual works are provided by national bodies (or other bodies with public support) but have an explicit mission of supporting film and audiovisual works from other countries, in particular of countries in development.

10.8.1 The "Fonds Sud" of the French Ministry of Foreign Affairs

The French Ministry of Foreign Affairs is directly involved in the support and promotion of film and television initiatives. In addition to supporting cultural industries in developing countries outside France, it acquires non-commercial rights to French documentaries.

The Ministry's main programme is Fonds Sud Cinéma: created in 1984 and jointly funded by the Ministry and the CNC. Since its creation, the fund has supported more than 280 projects.

The fund is aimed at film directors from a total of 55 countries which are included in the Zone de Solidarité Prioritaire - Africa, the Middle East, the Caribbean and Asia. The annual budget was EUR 2,4 million in 2003.

To qualify for funding, films must be entirely shot in one of the ZSP countries, in French or in a local language. Awards are given by a six member commission which sits three times a year. Most grants are allocated to production, with a maximum of EUR 152 000, but some grants for script development and post-production are also made. All of the script grants must be spent on post-production in France.

In 2000, the Ministry launched the Fonds Sud Télévision for a trial period of three years. The support is awarded to all genres of TV production and in any phase of development. The same year also saw the launch of the Fonds audiovisuel de coopération culturelle internationale et de développement (FACCID), which offers grants to documentaries about the culture of developing countries. The programme is co-funded with the Ministry of culture and communication.

The Fonds Images de France, a support scheme for documentaries about French culture and civilisation, and a programme of support for the promotion of French documentaries, both involve the acquisition of rights by the ministry. In return for its grant, the Ministry takes rights for non-commercial screenings of the films concerned in embassies, cultural institutions and libraries around the world. In some cases, it will also acquire TV rights for the satellite TV channels CFI and TV5 or for sale to public service broadcasters in developing countries.

10.8.2. Jan Vrijman Fund

The Jan Vrijman Fund was founded in 1998 by the International Documentary Filmfestival Amsterdam and named after its founder. The Fund is aimed at documentary film makers living and working in developing countries. The Fund supports documentary projects which are aimed at research and script development, production and post-production, distribution and sales. Other activities such as workshops, documentary film festivals and other education programs, are also eligible for support. The Fund takes all distribution rights for the Benelux countries for all projects it supports.

10.8.3 Hubert Bals Fund

The Hubert Bals Fund was set up as part of the International Film Festival Rotterdam in 1988. The fund supports feature films and creative documentaries from developing countries. The activities supported are development, post-production and distribution. The fund awards about EUR 935 000 each year and grants up to EUR 30 000 per project. Since it was founded, the Fund has supported over 400 projects.

The Fund receives support from a number of organisations, including three government bodies: the Ministry for Overseas Development, Hivos and NCDO.

10.8.4 The Nordic-Baltic Film Fund and the Baltic-Russian Fund for Documentaries

The Danish government funds two initiatives which aim to develop the audiovisual economy in the eastern European states on the Baltic sea. The Nordic-Baltic Film Fund supports work placements and training in the Nordic countries for professionals from Estonia, Lithuania, and Latvia. The Baltic Russian Fund for Documentaries aims to facilitate documentary co-production between Russia and the Baltic countries, networking between producers from different countries, and to support the production and broadcast of factual programming.

10.8.5. The Balkan Fund

Set up under the aegis of the Thessaloniki Film Festival and funded by the Greek Film centre, the Balkan Film Fund supports the development of film scripts by writers in 11 countries in and around the Balkan region. Five awards of EUR 10 000 were due to be made in 2003, its first year in operation.

10.8.6. SEE Cinema Network

Formed on the initiative of the Greek Film Centre, the South-Eastern European Cinema Network met for the first time in May 2000. Film institutions from the 11 countries represented agreed to collaborate on promoting and developing their national industries. In 2003, the Network agreed to fund jointly the development of five film co-productions, which were each awarded EUR 15 000.

10.8.7. Funds allocated by festivals

Gothenburg Film Festival Film Fund

Launched in 1999, the Gothenburg Film Festival Film Fund supports film production in the developing countries and aims to strengthen the opportunities available to the film-makers of the world. The Fund provides support only for development and post-production. A government agency, the Swedish International Development Cooperation, provides the Fund's annual budget of EUR 107 000.

Festival international du Cinema méditerranéen de Montpellier

The annual Festival held in Montpellier, supported by the City of Montpellier, offers development grants in addition to awards for feature films, documentaries, shorts and experimental films. The CNC sponsors the Festival's main development grant, worth 7 000 EUR in 2004.

Macro-economic parameters of film and audiovisual production and public funding policies

11.1 Introduction: the difficulty of analysing financial flows in the film and audiovisual sector

11.2 Analysis of average production budgets and total amounts invested

11.3 Analysis of the financial performances of film and audiovisual production companies

11.4 The financial impact of public subsidies

11.1

Introduction: the difficulty of analysing financial flows in the film and audiovisual sector

Ideally, public policies for the direct or indirect funding of a specific sector of the economy should be devised in a context in which as much detailed information about the economics of the sector is available as possible. It has to be said that in the case of the film and audiovisual industry, this kind of exercise is difficult to carry out. Few European States are in a position to produce a comprehensive, coherent overview of their national film industry's financial figures. The absence of any national figures, which applies as much to certain large States with a major economic influence as to any of the others, clearly makes it all the more problematic to analyse the situation at European level.

The main parameters which are generally missing are as follows:

- overall data on the total amount of investment in production, including:
 - i. figures broken down according to the different contributors involved,
 - ii. figures broken down according to whether the investments are from domestic or foreign sources;
- Average production costs and tables of the numbers of films per cost bracket;
- median production costs;
- breakdowns of production budgets according to budget item;
- returns accruing to producers upstream (particularly television, video and export revenue)¹;
- receipts from foreign importers on domestic markets and the European market;
- statistics on profit margins:
 - between cinema owners and distributors,
 - between producers and distributors.

¹ The lack of transparency in this area was highlighted by the study carried out for the European Commission by IMCA: *Study on the economic and financial aspects of the film industry* (http://www.europa.eu.int/comm/avpolicy/stat/studi_en.htm)

Analysis of average production budgets and total amounts invested

Analysing average production budgets and total amounts invested in European production is not an easy process.

The first problem, of course, is defining what production costs are. There is no standard European definition of production costs and so it is impossible to guarantee that the same definition is always used to produce national statistics. It can, however, be said that there is a commonly accepted concept of production costs in the film industry itself, which corresponds to the notion of "negative costs" applied in the United States and includes all the costs incurred, from screenwriting and development up to the making of the first copy, but not marketing and distribution costs (dubbing and subtitling, making of copies, etc.).

It would obviously be useful to be able to work on a full body of data on the real production costs of films produced in Europe, but in most countries these data are confidential.

Some national film funds publish data, either on individual films or in the form of aggregate figures, relating to the budgets (but not the final cost) of productions as presented by producers when applying for funding². We know that there can be significant gaps between declared budgets and actual costs, either because of the tendency for producers to inflate budgets or because projected costs are exceeded as a result of unexpected events during production. However, it is generally considered that this bias is constant and hence statistically balanced.

In principle, data published by national agencies should relate only to nationally instigated films (i.e. 100% national films and majority co-productions). However, this principle is not always thoroughly applied.³

T.51 Average production costs of films produced in Europe (1997-2002) EUR million

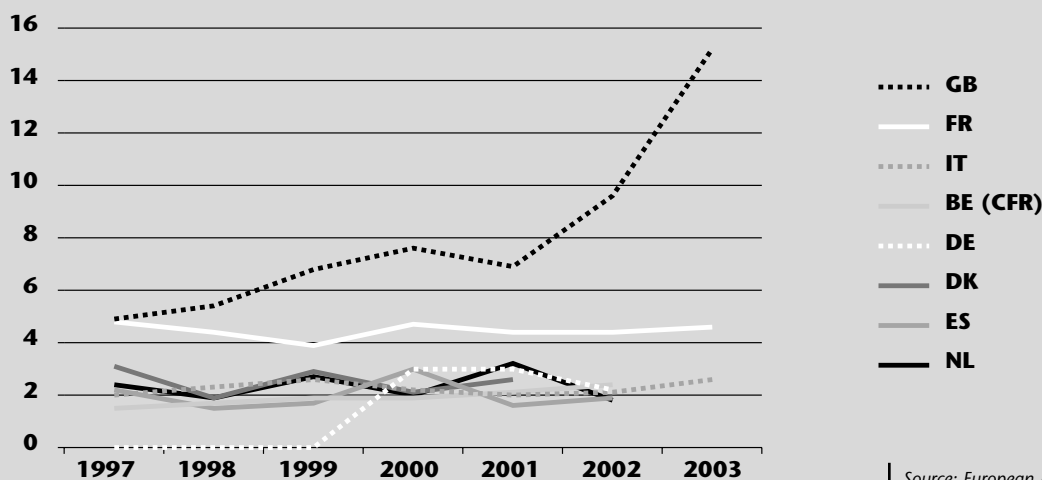
	1997	1998	1999	2000	2001	2002	2003
BE (CFR) (1)	2,4	1,9	2,7	2	3,2	1,8	n.a.
DE	3,1	1,9	2,9	2,1	2,6	n.a.	n.a.
DK	2,2	1,5	1,7	3	1,6	1,9	n.a.
ES	1,5	1,7	1,9	1,9	2,1	2,4	n.a.
FR	4,8	4,4	3,9	4,7	4,4	4,4	4,6
GB	4,9	5,4	6,8	7,6	6,9	9,6	15,2
IT (2)	2,0	2,3	2,6	2,2	2	2,1	2,6
NL	n.a.	n.a.	n.a.	3	3	2,2	n.a.

(1) Films recognised as Belgian – includes majority and minority co-productions

(2) Change of methodology in 2000.

Source: European Audiovisual Observatory

G.9 Average production costs of films produced in Europe (1997-2003) EUR million



Source: European Audiovisual Observatory

² For the United Kingdom, we preferred to use the detailed, film-by-film statistics published by the professional magazine, *Screen Finance*, as they make it possible to remove minority co-productions and foreign films shot in the UK from the equation.

³ The data provided by the French Community of Belgium relates to films "recognised as Belgian" and so they include minority co-production.

BE (CFR) – French Community of Belgium

T.52 Total costs of films recognised as Belgian by the French Community (1)

Year	Exclusively Belgian films			Co-productions			Total		
	BEF million	EUR million	No. of films	BEF million	EUR million	No. of films	BEF million	EUR million	No. of films
1997	21,1	0,5	1	570,0	14,1	5	591,1	14,6	6
1998	81,4	2,0	2	471,4	11,6	5	552,8	13,6	7
1999	8,6	0,2	1	1171,1	29,0	10	1179,7	29,2	11
2000	0,0	0,0	0	480,7	11,9	6	480,7	11,9	6
2001	–	0,6	1	–	50,5	15	–	51,0	16
2002	–	1,1	2	–	18,8	9	–	19,9	11

Average costs of films recognised as Belgian by the French Community (1)

Year	Exclusively Belgian films		Co-productions		Total	
	BEF million	EUR million	BEF million	EUR million	BEF million	EUR million
1997	21,1	0,5	114,0	2,8	98,5	2,4
1998	40,7	1,0	94,3	2,3	79,0	1,9
1999	8,6	0,2	117,1	2,9	107,2	2,7
2000	0,0	0,0	80,1	2,0	80,1	2,0
2001	–	0,6	–	3,4	–	3,2
2002	–	0,5	–	2,1	–	1,8

(1) Films recognised as "Belgian" by the French Community, including some Belgian minority co-productions

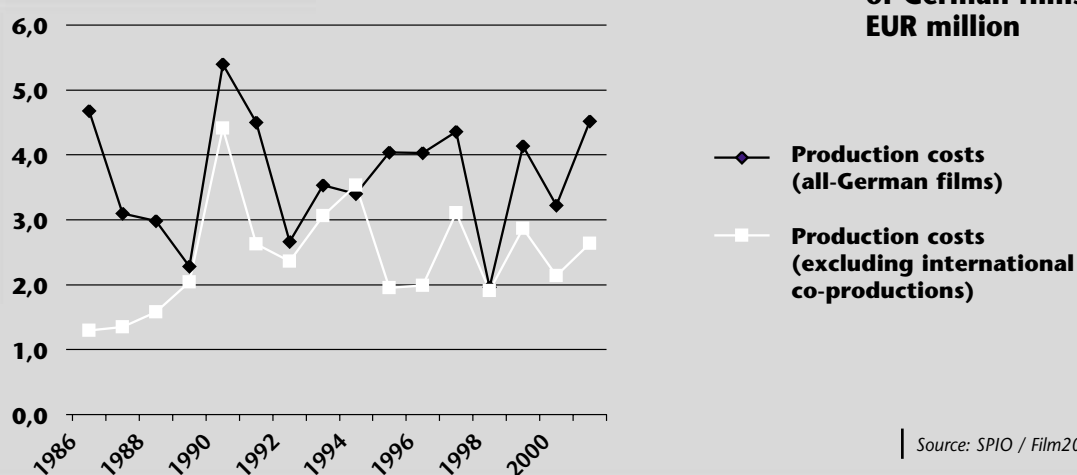
Source: Annuaire de l'audiovisuel, published by the French Community of Belgium

DE - Germany

T.53 Average budget of German films (1986-2001) EUR million

	1997	1998	1999	2000	2001
Production costs (all-German films)	4,4	2,0	4,1	3,2	4,5
Production costs (excluding international co-productions)	3,1	1,9	2,9	2,1	2,6

Source: SPIO / Film20



DK - Denmark

T.54 Production costs of films supported by the DFI (Excluding minority co-productions)

	Production costs		No. of films	Average cost	
	DKK million	EUR million		DKK million	EUR million
1997	258,0	34,5	16	16,1	2,2
1998	203,2	27,1	18	11,3	1,5
1999	198,2	26,6	16	12,4	1,7
2000	374,9	50,3	17	22,1	3,0
2001	220,6	29,7	18	12,1	1,6
2002	228,1	30,7	16	14,3	1,9
2003	494,98	66,64	24	20,6	2,8

Source: DFI

DFI funding for feature-length films

	DKK million	EUR million	Percentage of production costs
1997	83,14	11,11	32,2%
1998	69,11	9,22	34,0%
1999	60,45	8,12	30,5%
2000	81,50	10,94	21,7%
2001	101,66	13,68	46,1%
2002	101,77	13,70	44,6%
2003	126,39	17,02	25,6%

Source: DFI / OBS

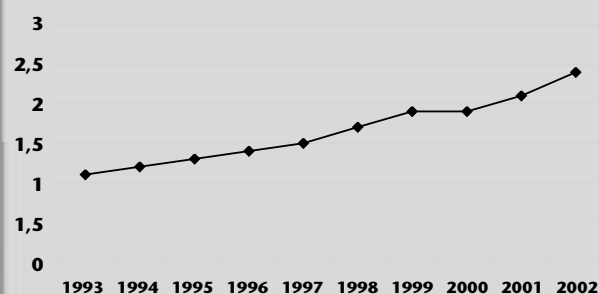
ES - Spain

T.55 Average cost of a Spanish feature film (1993-2002)

Year	EUR million
1993	1,1
1994	1,2
1995	1,3
1996	1,4
1997	1,5
1998	1,7
1999	1,9
2000	1,9
2001	2,1
2002	2,4

Source: ICAA

G.11 Average cost of a Spanish feature film (1997-2003) EUR million



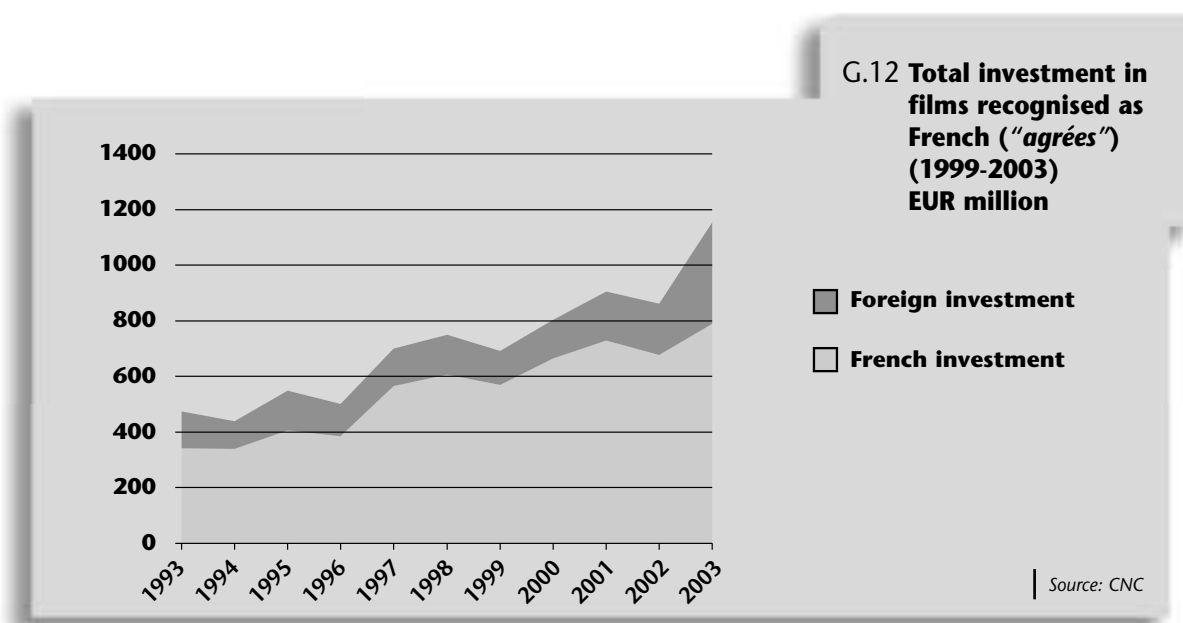
Source: ICAA

FR - France

T.56 French and foreign investments in accredited films (1993-2003)
EUR million

	French investment	Foreign investment	Total investment
1993	341,12	133,87	474,99
1994	340,43	98,47	438,91
1995	406,24	142	548,24
1996	386,24	114,83	501,07
1997	565,4	135,01	700,41
1998	605,88	142,82	748,70
1999	568,74	123,19	691,93
2000	665,28	137,99	803,27
2001	728,73	176,43	905,16
2002	678,25	182,47	860,72
2003	789,34	363,96	1153,30

Source: CNC



**T.57 Total investment in films recognised as French ("agrés") (1994-2003)
EUR million**

	French-instigated films "Films d'initiative française"	Minority co-produced films	Films granted a selective support	Total
1994	354,1	78,5	6,3	438,9
1995	415,0	117,8	15,5	548,2
1996	385,0	112,0	4,0	501,1
1997	597,1	103,4	4,9	705,3
1998	645,5	103,2	4,6	753,3
1999	585,7	106,3	–	691,9
2000	678,3	125,0	–	803,3
2001	749,1	156,0	–	905,2
2002	724,2	136,6	–	860,7
2003	789,34	363,96	–	1153,3

T.58 Number of feature films produced in France (1994-2003)

	French-instigated	Minority co-productions	Granted a selective support
1994	89	22	4
1995	97	32	12
1996	104	27	3
1997	125	33	5
1998	148	32	3
1999	150	31	–
2000	145	26	–
2001	172	32	–
2002	163	37	–
2003	183	29	–

T.59 Total investment in feature films produced in France (1994-2003) EUR million

	French-instigated films	Minority co-productions
1994	315,5	21,7
1995	369,5	29,3
1996	355,1	28,9
1997	538,7	26,7
1998	578,9	27,0
1999	541,7	27,0
2000	634,3	31,0
2001	687,9	40,8
2002	644,3	33,9
2003	720,6	68,7

| Source : CNC

T.60 Average cost of French-instigated films (1994-2003) EUR million

1994	3,98
1995	4,28
1996	3,70
1997	4,78
1998	4,36
1999	3,90
2000	4,68
2001	4,36
2002	4,44
2003	4,63

| Source : CNC

GB – United Kingdom

T.61 Average cost of British-instigated films (including fifty-fifty co-productions)

	GBP million	EUR million
1991	3,00	4,28
1992	3,27	4,43
1993	2,22	2,85
1994	3,75	4,84
1995	4,35	5,25
1996	3,28	4,03
1997	3,40	4,90
1998	3,64	5,38
1999	4,45	6,75
2000	4,62	7,58
2001	4,28	6,89
2002	6,00	9,66
2003	10,40	15,19

Source: OBS from Screen Finance data

T.62 Investments and average budgets for films produced in the United Kingdom (1992-2002)

	"inward" films		British films		Total films		Average budget (GBP million)	
	Number	Cost (GBP million)	Number	Cost (GBP million)	Number	Cost (GBP million)	"inward" films	British films
1992	8	58,5	22	39,98	30	98,48	7,31	1,82
1993	15	127,74	25	30,34	40	158,08	8,52	1,21
1994	13	182,65	33	59,51	46	242,16	14,05	1,80
1995	14	216,45	34	94	48	310,45	15,46	2,76
1996	25	387,1	73	172,2	98	559,3	15,48	2,36
1997	20	261,9	84	202,89	104	464,79	13,10	2,42
1998	16	214,2	67	174,96	83	389,16	13,39	2,61
1999	22	336,37	70	170,31	92	506,68	15,29	2,43
2000	28	366,57	52	211,7	80	578,27	13,09	4,07
2001 (*)	23	198,5	51	180,12	74	378,62	14	3,53
2002 (*)	19	234,3	42	165,25	61	399,55	14,6	3,93

"Inward" films are films financed by foreign investors, produced in the UK.

(*) Average budgets for 2001 et 2002 do not take into account Indian films produced in the UK.

Source: UK Film Council

T.63 Comparison of the median and average budgets of films produced in the United Kingdom (2002 and 2003)

Category	Median budget GBP million		Average budget GBP million	
	2002	2003	2002	2003
"Inward" films (single country)	6,9	12,1	17,0	26,5
"Inward" films (co-productions)	25,0	46,6	32,3	51,6
British films	2,0	3,0	4,2	6,1
Co-productions (other than "inward" films)	3,2	3,5	6,0	5,5

Source: UK Film Council

IT – Italy

T.64 Investment in the production of feature-length films and average production investment (1996-2003)

Year	Total investments (1)		No. of films produced	Average investment	
	ITL billion	EUR million		ITL billion	EUR million
1996	354 638	181,0	99	3 582,2	1,83
1997	338 807	175,6	87	3 894,3	2,02
1998	408 714	210,3	92	4 442,5	2,29
1999	532 278	274,9	108	4 928,5	2,55
2000	435 251	224,8	103	4 225,7	2,18
2001	–	210,2	103	–	2,09
2002	–	277,6	130	–	2,14
2003	–	301,7	117	–	2,58

(1) Investment in films involving an Italian producer, including Italian minority co-productions.

| Source: Cinema d'Oggi, based on data from ANICA

NL – The Netherlands

T.65 Investment in the production of feature-length films and average budgets (2000-2002)

	Total investment (1)		No. of films produced	Average budget
	NLG million	EUR million		EUR million
2000	91,973	41,81	14	3,0
2001	98,9	45	15	3,0
2002	–	29,02	13	2,2

(1) Total of the budgets of feature-length films subsidised by the Dutch Film Fund (Nederlands Fonds voor de Film), excluding international co-productions

| Source: Nederlands Fonds voor de Film

11.3

Analysis of the financial performances of film and audiovisual production companies

The European Audiovisual Observatory has launched an economic and financial analysis of the sector, concentrating on film production companies and making systematic use of the AMADEUS database, which provides balance sheets and profit and loss statements of some 35 000 companies working in the sector.

However, this method itself has methodological limitations. The initial problem is establishing which companies fall into each category. The world of film and audiovisual companies is an unstable one, made up mainly of small and medium-sized enterprises or even micro-businesses. The Observatory has categorised companies according to their supposed main activity but it sometimes happens that companies are mainly active in

production one year and in distribution the following year. Companies which claim to be active in the film production sector may also be active in the service industries.

Problems also arise in the following cases:

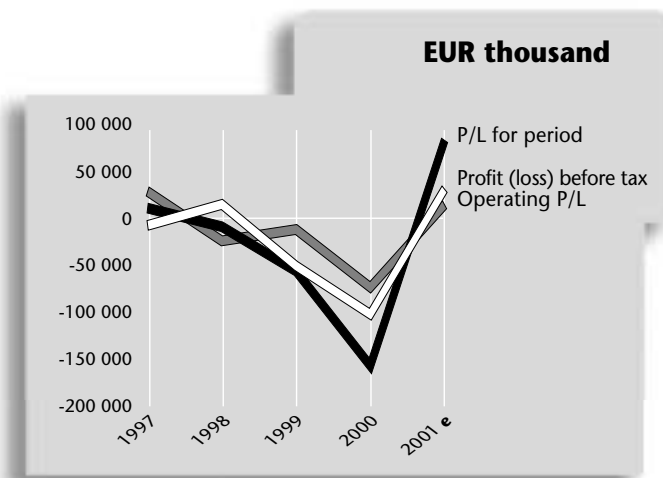
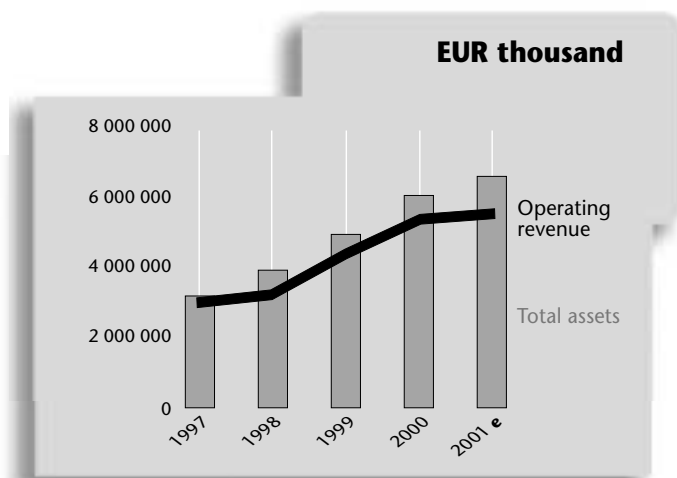
- an almost total lack of transparency in some countries owing to the fact that balance sheets and profit and loss accounts are not published there (particularly in Germany, Denmark, Ireland, the Netherlands and Portugal);
- only some of the statistics are available (particularly in the United Kingdom, where production companies frequently publish their balance sheets but not their profit and loss accounts);
- the failure to break down figures according to activities or sources of income. The distinction between production and distribution activities is not usually made and neither for that matter is the distinction between film and audiovisual production;
- problems posed by consortiums, which publish consolidated results.

Company stability can also vary according to country, particularly where film production companies are concerned. The French funding system, which is based on the principle that funding must be reinvested, tends to ensure the continuity of

T.66/G13 : Financial situation of film production companies in the EU (1998-2001)
EUR thousand

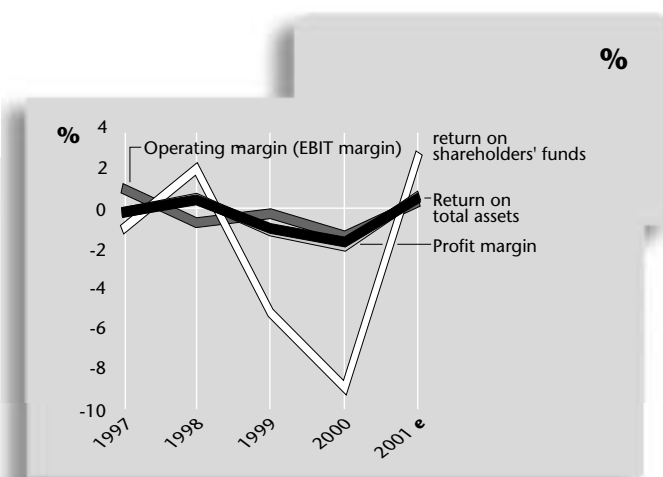
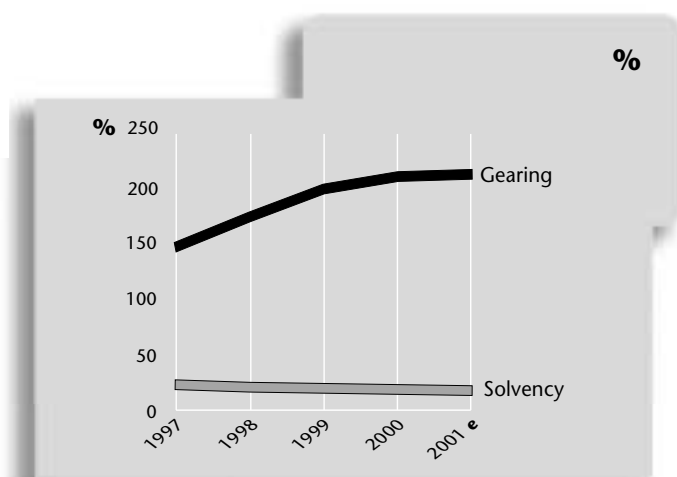
	1998	1999	2000	2001 e
Number of companies included	1 921	2 193	2 546	2 538
Operating revenue (1)	3 198 758	4 350 439	5 326 968	5 485 196
Total assets (1)	3 875 571	4 883 489	5 980 065	6 517 840
Operating profit/loss (1)	-23 770	-11 757	-73 001	14 399
Profit/loss before tax (1)	14 835	-50 357	-101 556	30 945
Net profit/loss (1)	-8 826	-55 890	-156 126	82 651

(1) Data has been calculated by the method of averages on the basis of company accounts available in the AMADEUS database (in which the rate of coverage for the population considered varies according to the item: ca 70% for profit and loss accounts and ca 80% for balance sheets).
 e = estimates



in %	1998	1999	2000	2001 e
Debt	171,0	196,0	207,0	209,0
Solvency	21,0	20,0	19,0	18,0
Operating margin	-0,7	-0,3	-1,4	0,3
Profit margin	0,5	-1,2	-1,9	0,6
Return on total assets	0,4	-1,0	-1,7	0,5
Return on shareholders' funds	1,9	-5,2	-8,9	2,7

e = estimates

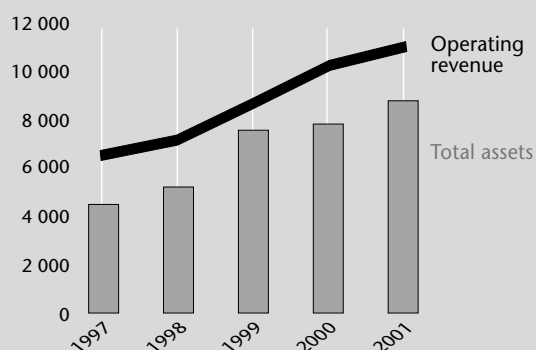


T.67/G.14 : Financial dituation of TV production companies in the EU (1998-2001)
EUR million

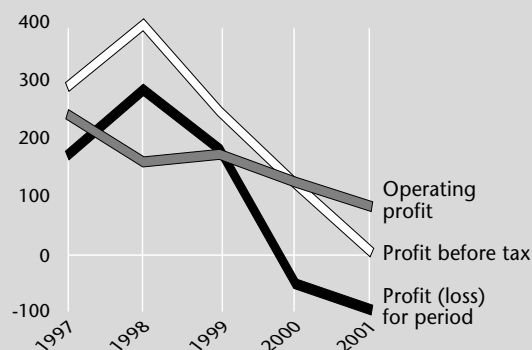
	1998	1999	2000	2001 e
Number of companies included	2 410	2 897	3 064	3 003
Operating revenue (1)	7 144	8 661	10 225	10 999
Total assets (1)	5 188	7 526	7 781	8 738
Operating profit/loss (1)	159	172	124	82
Profit/loss before tax (1)	395	246	121	3
Net profit/loss (1)	283	181	-51	-96

(1) Data has been calculated by the method of averages on the basis of company accounts available in the AMADEUS database (in which the rate of coverage for the population considered varies according to the item: ca 70% for profit and loss accounts and ca 80% for balance sheets).
 e = estimates

EUR million

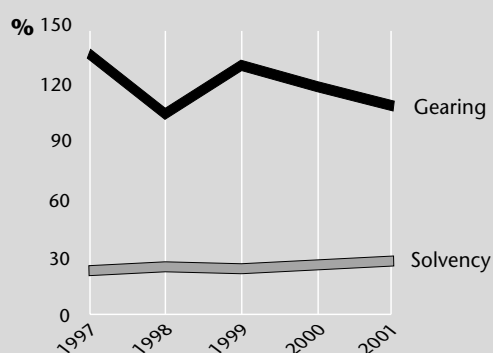


EUR million

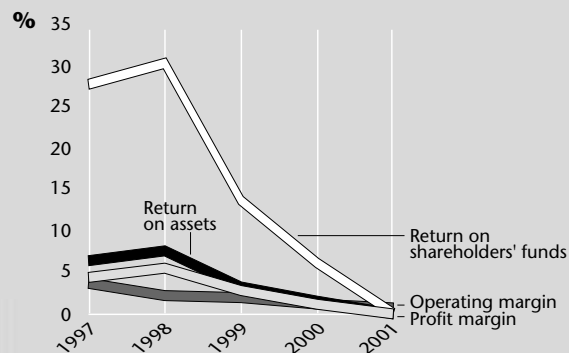


in %	1998	1999	2000	2001
Debt	104,0	129,0	118,0	108,0
Solvency	25,0	24,0	26,0	28,0
Operating margin	2,2	2,0	1,2	0,7
Profit margin	5,5	2,8	1,2	0,0
Return on total assets	7,6	3,3	1,6	0,0
Return on shareholders' funds	30,2	13,7	6,2	0,1

%



%



companies. By contrast, the British system, in which specific tax incentives play a major part, often means that production companies are established for just one film, and so they are active for only one or two years.

Another major obstacle to this type of analysis is the lack of consistent accounting practices. In some countries, production companies' accounting practices are relatively standardised but in others, they vary enormously. There is no standard European approach in this area. In a macro-economic approach, we will have to be content therefore to make use of the great masses of balance sheets and profit and loss accounts available, without being able to make any kind of fine analyses⁴.

11.4

The financial impact of public subsidies

11.4.1 The proportion of direct funding

There are three possible methods of assessing the impact of direct funding on production.

The first is to ask the producers themselves. The study conducted by the IMCA, based on a survey of a cross-section of producers of significant European films, shows that the proportionate contribution of direct public funding to the financing of films varies from around 42% in Spain and Italy to 60% in other countries. It would seem that what is being measured in this case is the amount of aid received compared to the production costs.

The second method is that used by some funds, which is to compare for a given year the amount of funding granted and the total amounts invested in the films under consideration. In France, direct funding (whether automatic or selective) represented some 13% of the investments in feature-length films in 1997, but the level had declined to 10,2% by 2001 and 11% in 2002. Public funding levels are generally higher in small countries. In Denmark, for example, depending on the year, the funding provided by the Danish Film Institute, varies between 22,7 and 46,1% of total investments. In the Netherlands, NFF funding for the production of feature-length films amounted to 11,4% of investments in 2000 and 11,6% in 2001; it increased to 19% in 2002.

The third method is the macro-economic approach, which is to compare the amount of funding to the operating revenue of the range of companies under consideration. This method can only be approximative, as the categories of companies and the amounts of funding granted cannot be made to match perfectly. Nonetheless, we can propose, by way of an estimate, the following figures, established for the entire European Union for 2001, relating to production companies alone (see Table T.61).

Direct public funding would therefore seem to amount to some 3% of the operating revenue of audiovisual production companies and around 10% of the operating revenue of film production companies.

11.4.2. The need to put figures on indirect funding

There should be more systematic efforts, particularly in respect of tax reductions arising from tax incentive schemes, to put figures, even if only estimated ones, on indirect funding, so as to be able to produce a satisfactory comparative table showing the full extent of public funding in the film and audiovisual industry.

The amount of tax reductions granted is not always published or easy to determine. In the United Kingdom, the Inland Revenue estimates that the total tax revenue waived as a result of the tax relief for British films of no more than GBP 15 million introduced by Section 48 of the Finance Act (N°2) 1997 is GBP 300 million for 2002-2003 (around EUR 468 million) and GBP 140 million for 2003-2004 (around EUR 220 million).⁵

In France, a study by the BIPE estimated that the French funding agencies, the SOFICA, were granted a total of FRF 1,15 billion in tax relief between 1985 and 1996.⁶

11.4.3. The proportion of the European Union countries' public funding granted to cultural industries.

According to an analysis carried out by the European Commission's Competition DG of all public funding in every sector of the EU member States' economies in 2001, the State aid granted to media, culture and services that year amounted to only 1% of the total aid granted.⁷

By way of comparison, the European Audiovisual Observatory estimates that the cultural industries account for some 3,5% of the gross domestic product of the European Community.⁸ According to the Task Force on Cultural Employment, 2% of the European Union's active population are employed in the cultural industries.⁹

⁴ Even the concept of turnover poses problems. Instead, we have usually preferred to use that of operating revenue, which includes both subsidies and (in the case of France) production in stock. However, for some British production companies, turnover amounts more to a notion of the film budget, which is used up during the year for tax reasons, than to that of the accrual of actual receipts.

⁵ http://www.inlandrevenue.gov.uk/stats/tax_expenditures/table15.pdf

⁶ Quoted in *Les aides publiques au cinéma français : le prix d'une réussite*, by Jean Cluzel, senator (7 October 1998) [Assemblée nationale: n° 1107, Sénat: n° 11, 1998-1999].

⁷ "Other Key Indicators: Share of State aid by sector" http://europa.eu.int/comm/competition/state_aid/scoreboard/indicators/k9.html

⁸ "Economic Importance of the Copyright-Based industries in the European Union", Provisory note, European Audiovisual Observatory (unpublished), 13 January 2004.

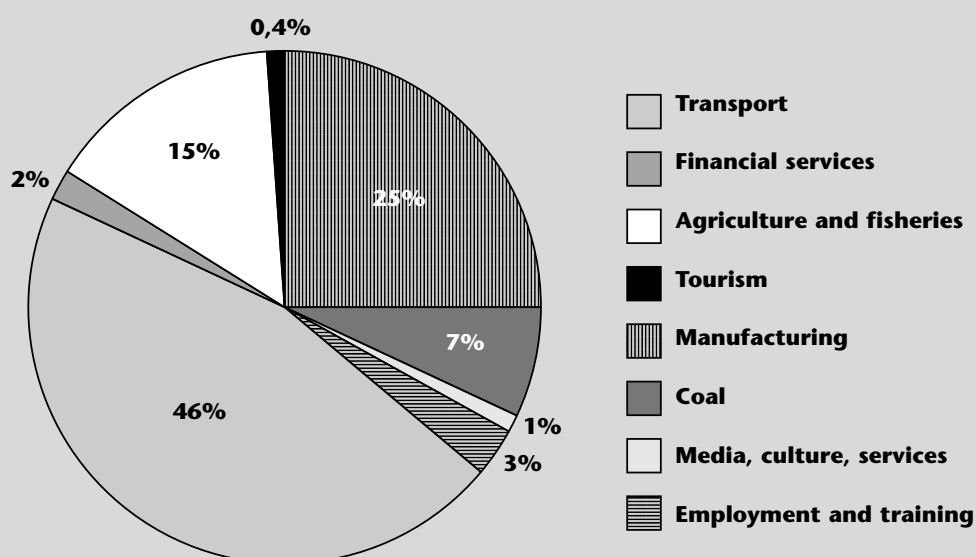
⁹ J. CARDONA (Ministry of Culture and Communication, France) "Cultural Statistics in Europe: Updates and Trends" in *Proceedings of the International Symposium of Culture Statistics* (Montreal, 21-22 October 2002). Contribution available on <http://www.mcc.gouv.qc.ca/international/diversite-culturelle/eng/pdf/update0307.pdf/> or http://www.colloque2002symposium.gouv.qc.ca/PDF/Cardona_paper_Symposium.pdf

T.68 : Estimates of the relative importance of direct public funding in the operating revenues of film and television production companies in the European Union (2001)

	Subsidies (estimated)	Operating revenue (estimated)	Subsidies as a proportion of operating revenue (estimated)
	EUR million	EUR million	in % of operating revenue
Total funding	1 015		
Of which, production/development	798	16 485	4,8%
- of which cinema (63 %)	503	5 485	9,2%
- of which TV programmes (37 %)	295	11 000	2,7%

Source: Observatoire européen de l'audiovisuel

G.15 Share of State aid by sector in the European Union in 2001 (as a percentage of total aid)



Source: European Commission / DG Competition

Financing the European audiovisual market: the role of private investors

12.1 Introduction

12.2 Audiovisual production financing

12.3 The financing of AV products in the US market: some lessons to be learned?

12.4 The European financing market: diversity is still prevailing

12.5 The role of a European banking institution: The European Investment Bank

12.6 The way forward to Europe: some considerations about alternative instruments to attract private funding

By Olivier Debande¹
European Investment Bank

12.1

Introduction

The financing of film and television (TV) programmes by private investors and commercial banks is a limited market in Europe involving competition between a few specialised commercial banks (such as Société Générale, Royal Bank of Scotland, HVB, Natexis Coficiné, Cofiloisirs). Over the last years, some financial players have exited the audiovisual (AV) industry,² a reflection of the high level of perceived risk in financing film and TV programmes. As a niche market, the AV industry demands experience and knowledge, and financial institutions have limited their pan-European activities due to the difficulty of assessing the soundness of non-national partners. In addition, this market structure creates barriers to entry which limit the emergence of new players ready to provide funding to European production companies.³

The financing of the AV sector has features in common with financing of R&D, notably the need to cope with the high level of intangibles and risks. Recourse to different financial instruments will depend on the stage of development of the companies, funding needs and the risk associated with each market segment. For instance, venture capital might be more appropriate for financing projects addressing the development or pre-production of AV goods. Furthermore, the AV sector is characterised by complex interaction among the various players and different sources of funds.

When a production company decides on a prospective production, they have to line up financing, and different alternatives are conceivable. If they decide entirely to self-finance the production, all the risk of the project is borne by the producing company. On the other hand, if third party financing is mobilised, the fund provider should be in a position to secure interests in the producing company's assets as collateral for the loan. These assets could have different forms including rights to the future production, a library of films or TV programmes made or acquired by the production company, or other capital assets. In some cases, producers may have specific distribution agreements with large distributors, or be affiliated to major media groups, broadcasters or

¹ I would like to thank particularly André Lange (European Audiovisual Observatory) as well as Constantin Christofidis (EIB), Constantin Synadino (EIB), Jo Vogten (EIB) and Steve Wright (EIB) for helpful comments and suggestions. Errors of fact and opinion remain, of course, my own. The views expressed in this paper are solely those of the authors, and do not necessarily reflect the position of the European Investment Bank (EIB) or of the European Audiovisual Observatory. Correspondence address : European Investment Bank - 100, Boulevard Konrad Adenauer - L-2950 Luxembourg. E-mail : o.debande@eib.org

² The notion of audiovisual industry also covers the film and television industries.

³ With the notable exception of the European Investment Bank (EIB) entering into this market in 2000

studios. Additional 'soft' assets will also enter into the assessment of the creditworthiness of the production company, such as its reputation and track record in producing films or TV programmes within the initial budget and delivering their products on time.

The intervention of lenders in the financing of films and TV programmes is structured on the basis of a relatively well-known model. Commercial banks require the producers to obtain pre-sale agreements in some markets from distributors and TV channels prior to financing the film. By selling the exhibition or broadcast rights to the film or TV programme, for a pre-determined amount of money, producers can then get financing from the bank. The bank may then discount the contracts, generating the liquidity for the production of the AV work. After the film or the TV programme is made, the pre-sale agreement can be exercised and the rights on other secondary markets or windows sold. The loan would then be paid out of these earnings and, in the event that the revenues generated by the exploitation of the rights exceeded the loan amount, the producer would be a residual claimant. Pre-sale agreements are a key ingredient to reducing the risk of the loan for the lender, which could rely on the expertise of the distributors for the assessment of the market potential of the film. The role of the distributor is to act as a signalling device for the bank by assessing the value of the production in their own market, and evaluating the quality and the commercial potential of the production.

A distinction has to be established with regard to the size of the production company. In Europe, the AV market is characterised by the prevalence of small independent production companies for which the recourse to third party financing is a critical issue. For most producers belonging to this group, their primary collateral is the prospective film or TV programme itself. Recent evolution seems to demonstrate increased difficulties for small production companies to access the debt financing market due to a set of factors: (i) their low level of capitalisation, (ii) restricted credit policy of the banks, especially in the perspective of the implementation of Basel II agreement,⁴ and (iii) perception by the commercial banks and private investors of the high risk attached to transactions in this sector.

In addition, the European AV landscape is affected by inequality of access to the banking sector on the part of national producers across Europe. In small countries, few banks have adequate expertise and know-how in the audiovisual sector. But even in the few big countries, there is declining interest by the commercial banks in this sector (even for the discounting of pre-sales contracts with TV channels) due to the high administrative costs and a shortage of expertise. Only in France, thanks to the active

role played by Natexis Coficiné and Cofiloisirs, is the market accessible to independent producers as well as being profitable for the two French specialised financial institutions.

This evolution of the European market led to the emergence of new forms of funding based on co-production schemes and recourse to tax shelter instruments.⁵ This trend is also related to the downturn in different segments of the audiovisual market such as pay-TV and the restructuring of various major media groups. Given the heavy dependence of European producers on TV channels as a source of production finance, the financial situation of broadcasters - both commercial and public - has a direct impact on production companies. There is a limited development of structured financing instruments, such a securitisation of package of films, in Europe compared to the US. The development of European co-production schemes and the need for producers to set up multiple sources of funding (tax-driven schemes, national public support) increases the complexity and the length of time needed for a producer to close the financing arrangement for new films or other audiovisual work. As a consequence, the cost of financing increases in proportion to the total budget cost as well as transaction costs related to the design of the contractual structure with an appropriate securities package.

These market evolutions hamper the potential emergence of a strong European financial market for the funding of AV production. Despite the high level of activity of the European production market and the recovery of cinema admissions, and the emergence of new TV channels,⁶ there has been no significant expansion of the AV private financing market. It is also important to stress the role of the regulatory and institutional framework. Investors are affected by the lack of harmonised accounting standards⁷ used across the AV industry, which affects their ability properly to assess the financial viability of production companies. Another issue related to transparency and information on the AV industry is the absence of adequate industry databases providing the information required for due diligence

Potential actions to attract private funds within the European audiovisual market, i.e. to reduce and spread the investment risk in funding film or TV programme productions, are: (i) support the emergence of a stronger distribution structure; (ii) development of a pan-European guarantee fund backed by private investors; (iii) development of an adequate database allowing tracking of success and failure in production and assessing the performance of production companies; (iv) improvement of the accounting standards used in the audiovisual industry (namely for amortisation practices, income recognition and rights valuation).

⁴ Basel II regulation (<http://www.bis.org/bcbs/aboutbcbs.htm>) aims to introduce a new capital adequacy framework for banks to replace the former capital measurement system agreed in 1988 as the Basel Capital Accord, this agreement required by end-1992 the implementation of a credit risk measurement framework with a minimum capital standard of 8% for banks. The purpose of the current reform is to better align the capital charges of banks and by extension interest rates on loans with underlying credit risks. The proposed capital framework consists of three pillars: minimum capital requirements, refining the standardised rules of the 1988 Accord; supervisory review of an institution's internal assessment process and capital adequacy; and effective use of disclosure to strengthen market discipline as a complement to supervisory efforts. More specifically, the new regulation for corporate bank loans allows banks to set capital requirements as a function of a firm's credit rating and to take into account portfolio diversification effects. Two approaches are proposed: the "Standardised Approach" (SA) based on credit ratings of external rating agencies for corporates or the "Internal Ratings Based Approach" (IRBA) where banks would develop their own model to compute expected default probabilities (PDs), i.e. the main driver of credit ratings, under a set of rules. The former is less suitable for most SMEs as they lack the size to obtain a costly rating. Nevertheless, the standardised approach is likely to be applied by small banks, which often focus on small business lending. The latter approach should be used by most medium-sized and large banks

A potential consequence of this banking regulation is to make access to debt financing by smaller audiovisual companies more difficult since the capacity of European banks to provide adequate financing in the audiovisual sector could be further squeezed given the level of credit risk associated with audiovisual lending and the specialised nature of the active financial institutions in the audiovisual business. However, recent adjustments in the proposal have been made to lower capital requirements on loans to SMEs.

⁵ Tax-shelter schemes are currently accessible for the AV industry in Belgium (Tax-shelter), France (SOFICA, Crédit d'impôt), Germany (Medien Fond system), Ireland ("Section 35"), Luxembourg (Certificat d'investissement audiovisual), Netherlands (Film-CV and Fine BV). See reference in Box 2, Chapter 2.

⁶ The demand generated by the creation of new TV channels as well as the existing regulation (quota for the diffusion of European works, obligations for TV channels to invest in the production of new TV programmes and films) sustained the price for the acquisition of rights, but in parallel, the content of the programming by the European broadcasters has changed. During prime time, a substitution has been operated for reality shows or other life programmes costing less and very appealing in terms of audience. In addition, rather than diffusing film, TV channels are more inclined to show TV-series more in line with the demand of viewers.

⁷ See for instance, the recent survey made in the UK: Back T. and Hilbourne M. (2001), *Survey into the accounting policies of UK television and film companies in the production, distribution and broadcast sectors*, Grant Thornton - Media and Entertainment Group, London.

Audiovisual production financing

Financing a film requires a large investment that is irrecoverable and entails a palpable chance of loss. The "nobody knows" property implies a high variance of gross profits from film to film. According to US analysis, on average in a sample of 10 films produced; six or seven may be broadly characterised as unprofitable, two or three as break-even productions, and one a successful film allowing the cost of the production of the set of 10 films⁸ to be repaid. In addition, there is a distinct lack of indicators to determine what constitutes a successful film:

- Large production budgets are not necessarily an indicator for success - a simple correlation analysis between the film budget and box office success for the top US films by budget in 1999 shows a weak correlation coefficient of just 0,3.

- Stars (actors, directors) or producers with a good track record do not guarantee box office success either. They attract rentals which may help to make the film "bankable" by increasing the likelihood of debt repayment by increasing the expected gross revenue, but they do not reduce the riskiness of gross losses.

- Marketing budgets, which have their impact on the number of cinema screens available for a film (for 'wide' releases in the US typically some 3,500 screens and in some cases even more than 7,000 screens), as well as the reach of a film's promotional / advertising campaign (marketing costs in 2002 for films released by the seven US major studios amounted to an average of 30,6 million USD per film).

The structure of the American film industry has allowed the debt-equity moral hazard problem to be partially addressed. Creative talent prefers to risk all for a big win (only mitigated by some effect on their reputation). The lenders will be interested in having talent committed in order to guarantee the project's success, thereby reflecting the importance of creative staff in the completion of the production, while the talent prefers to commit only when funds are secured. The studio's output model pools numerous risky

projects, making their aggregate cash flow reasonably safe for the suppliers of debt, especially since the exhibitors' profits, though sensitive to the business cycle, are relatively immune to the hazards of individual film. Besides, a cinema theatre as collateral could be considered as more comfortable for a bank than a film negative. As a consequence, a few banks support studio activities, knowing that lending a moderate proportion of a Studio's production cost is not particularly risky. However, the business is limited to just a few banks, which can bear the fixed costs of developing a specialised and costly monitoring system.

The financing of film production (and to some extent TV-series) is subject to Parkinson's law :⁹ the number of projects expands to absorb all capital available, regardless of quality and virtually without regard to the quantity of other films scheduled for completion and release at around the same time. This "law" is particularly relevant in an industry where films produced are essentially financed by lenders' money. In addition, there is an unavoidable bias for costs to rise at least as fast as anticipated revenues, meaning that the existence of new windows would not necessarily lead to higher profitability of a film over its life cycle.

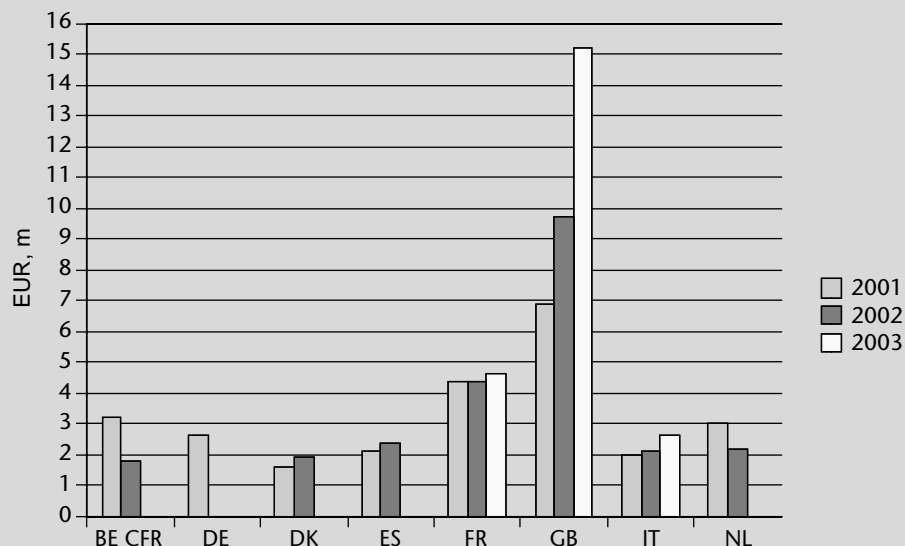
Contrary to the US model, no typical structure is identifiable for the financing of films in Europe, with varied sources of finance available. The proportion accounted for by the television channels and by the major audiovisual groups has become crucial. In addition, the share of public funding in the total budget of a typical European film is substantial.¹⁰ The amount of public subsidies is higher for low-budget films than for more ambitious projects based on a commercial strategy.

Before analysing the different financing models available to producers, G.16 compares the average costs of film produced in a sample of European countries between 1997 and 2002.¹¹

This shows an important discrepancy in the average costs of films produced. Costs in France and the UK are relatively high. In contrast, the average costs of films remain in the same range for Belgium, the Netherlands, Denmark, Germany, Italy and Spain regardless of the different size of the country.

G.16 Average costs of production of feature films in Europe (2001-2003)

EUR million



Source : European Audiovisual Observatory

⁸ Vogel H. (2001), *Entertainment industry economics - A guide for financial analysis* (5th edition), Cambridge University Press, Cambridge

⁹ Vogel H. (2001), op. cit.

¹⁰ In a recent study commissioned by the EC, on average total public funding represents 42% of the total film budget on the basis of a representative sample of films for the EU (IMCA (2002), *Identification et évolution des flux économiques et financiers du cinéma en Europe et comparaison avec le modèle américain*, Report for DG EAC - Unit C1 - European Commission). This study underlines the methodological difficulties in obtaining accurate information from producers on their revenues, in particular from television and video. Based on recent data released by the European Audiovisual Observatory, the amount covered by public funds in the film budgets is estimated at around 20%.

¹¹ For a more detailed discussion, see Chapter 11 of this report.

Considering the evolution of average costs of films produced between 1997 and 2002, the trend has been contrasted among the various major European countries: while production investment increased by around 8,8% p.a. in Italy, 9,9% p.a. in Spain and 14,8% p.a. in the UK, other countries have been confronted with a reduction in the average costs of the film in a range between 1,7% in France and 14,4% in the Netherlands.

In terms of financing, the audiovisual sector is undergoing major changes worldwide, notably through the increasingly close relationship between cinema and television production and distribution.

12.2.1. The audiovisual financing market

12.2.1.1. The key players

The financing arrangement of an audiovisual work requires an interaction between different players. The number of active players varies in different national markets. The independent producer arranges the AV product financing and is in charge of bringing all parties together. It remains owner for life of the film rights and obtains its financing through sales or licensing of rights to distribution companies or TV channels, for a specific period from seven to 25 years. Not including public authorities active through the various existing public support mechanisms (subsidies, loan guarantee schemes, tax-driven instruments), the following parties can be identified.

The **commercial bank** when considering the provision of a loan is expecting a certain number of distribution contracts and/or pre-sales contracts with TV companies in order to achieve the entire budget. It will lend the funds in the form of loans with or without recourse (depending on the financial structure, i.e. creation of a dedicated special purpose vehicle, and on the quality of the balance sheet of the production company). The commercial bank is taking the credit risk with regard to the distributors and the TV channels (or could ask them to back their commitment with a letter of credit); but is also keeping the first claim on the distribution rights of the territory or alternatively support (video, DVD) purchased by the distributor or the TV channels. In the case of non-payment by the producer, the bank has the ability to sell the rights. The bank must ensure that all necessary production funds (i.e. strike price corresponding to the amount of money, usually the same as the budget, that the financier has to pay into the production account in order to trigger the liability of the completion guarantor) are available in order for the insurance given by the completion guarantor to be put in place. However, this latter condition depends on recourse to comple-

tion bonds, which is not a common practice across Europe.

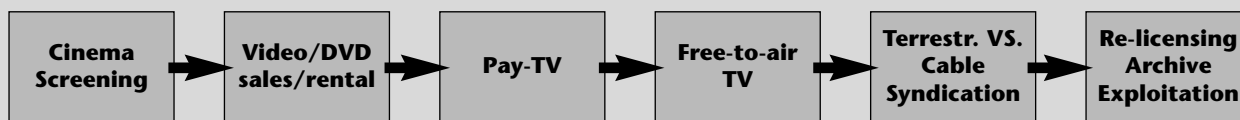
The **completion guarantor** firstly confirms the film's budget in order to issue the insurance policy. This insurance policy gives responsibility to the insurer to cover all budget cost overruns and to reimburse the bank in the event of the film being called off. The completion guarantor, when reviewing the budget, checks that an extra percentage is added to cover contingencies (around 10% of total budget cost or more in the case of a complex production). In terms of likelihood of occurrence of the risks, the risk of the film being called off appears to be relatively low; but on the other hand, various risks such as bad weather conditions or defective production equipment could occur during the production period. The completion guarantor will cover all known risks, from political to weather risks. For the production company, the cost of this insurance can vary from 3% to 4% of the budget. In addition, an additional percentage (between 1 and 1,5%) could be added to the budget for miscellaneous insurance such as errors and omissions.

The **sales agent** is an important player in the preparation of the financial package. He represents the producer in all negotiations with distributors for each territory. The sales agent knows which distributor to approach for which type of film for a given territory as well as its financial situation and the required timing for the film's release. His involvement will contribute to an optimisation of the management of the rights associated with the films across the different release windows. The sales agent charges a commission from 7,5% to 15% for this service, based on the performance of the film for which he has negotiated the distribution agreement.

The **distribution company** will purchase the rights for each territory where it plans to ensure the distribution of the film or the TV series. Most of the revenue generated by a film is received within the first five years of film's life (corresponding a first cycle of exploitation of the film), and most of this is collected during the 18 months of a film's distribution cycle. Indeed, after exhibition in its home country, the film passes over the next several years into other channels: exhibition abroad, video-cassette/DVD, pay-TV,¹² then free TV. The "profit release window"¹³ representing the life cycle of a film could be described on the basis of its revenue potential along the different market segments, according to territoriality (by country and linguistic zone) and time (duration of distribution rights) agreements (see graph G.17 below):

The sequence of this distribution life cycle differs from one country to another and is designed to ensure a satisfactory return on each window. Films are normally firstly distributed in the market that will generate the highest marginal revenue in the shortest period of time. They will subsequently cascade by order of marginal-revenue contribution to markets that return successfully lower

G.17 Profit life cycle of a film



¹² In the pay-TV market, a distinction could be made between the first-window (usually six months), i.e. the first period of premium films availability on pay-TV, and then the second-window (usually also a six months period). After the second-window, the film becomes available for free television. Pay-TV operators' subscribers often consider the second-window as "second quality" and the pay-TV operator may be forced to reduce its subscription price to differentiate itself accordingly.

¹³ In Article 7 of the "Television without Frontiers" Directive (89/552/EEC), adopted on 3 October 1989 by the Council and amended on 30 June 1997 by the European Parliament and the Council Directive 97/36/EC concerning media chronology, it is laid down that Member States shall ensure that the television broadcasters under their jurisdiction do not broadcast any cinematographic work, unless otherwise agreed between its rights holders and the broadcaster. The broadcasting chronology for the economic exploitation of films in the Member States of the European Union is based on agreements concluded between the economic players concerned. Three countries, i.e. Germany, France and Portugal, supplemented this legislative framework by additional legislation. This Directive is currently under review and the issue of the harmonisation of the media chronology across the Member States is addressed in this review process.

revenues per unit of time. Film utilisation across the profit windows is becoming progressively more important as a source of (re)financing increasingly expensive film productions, which today can hardly be financed from the receipts generated from the cinema alone. The relationship between the various segments still stresses the importance of the box office success which will determine the attractiveness of films. Indeed, under this system, the information generated in the domestic theatrical exhibition market - in terms of box office revenues and word-of-mouth transmission of film quality assessment - has great influence on consumer demand in the ancillary and foreign exhibition markets. In the US market, there is clear market segmentation between the different supports for the release of films. Some productions are targeted only for the TV, video/DVD or PPV market.

The **TV channels**, in the case of the production of a TV series or when acquiring the rights for the diffusion of a film, are a major source of funding for producers. They could intervene in the market either by commissioning the production, co-production, or through pre-sale agreements for the exploitation of the rights on their channels.

The **collection agent** is an independent entity selected by the producer, sales agent and financiers to collect and distribute the revenue generated by the exploitation of the film. In general, the exact position of the different stakeholders in the recoupment process is pre-agreed, giving confidence to the parties that they will receive their entitlements assuming that the film generates sufficient receipts. The collecting agent could also be in charge of paying the profit participants.

Private investors could participate in the financial package of a film or TV series for tax reasons. The level of commitment of the private investors will depend on the existence of tax shelter instruments available in various European countries and they will cover the part of the transactions not covered by pre-sales contracts.

Lawyers specialising in media financing are active in the preparation of the documentation associated with the transaction. Unlike a property mortgage secured on a fixed asset with an intrinsic value, loans for the production of an audiovisual work are secured primarily on contractual distribution arrangements. Given the complex nature of the intellectual property rights management, production financing and distribution arrangement and related insurance packages, the production company has recourse to a specialised firm of lawyers.

12.2.1.2. Private funding structures

Various funding alternatives involving private investors and private banks are available to film producers:¹⁴

1. Industry sources, including studio development and in-house production deals in the US, and financing by independent distributors, completion, and other end-users such as television networks, pay cable, and home video (including DVD) distributors;
2. Lenders, including banks, insurance companies and distributors;
3. Private investors.

This simple classification according to the source of funding has to be matched with the various film financing instruments:

1. In-house financing and production-finance-distribution deals;
2. Negative pick-ups;
3. Distribution sales or pre-sale of exhibition rights (minimum guarantees);
4. TV pre-sales;
5. Debt financing;
6. End-user financing.

Table 69 reviews the main financing mechanisms available in the US, identifying the main advantages and disadvantages for the producers.

¹⁴ Vogel H. (2001), op. cit.

T.69 : Alternative financing mechanisms for producers

Schemes	Main players	Basic structure	Advantages	Disadvantages
"In-house" financing	Writer/producer and studio	Studio in charge of the development of the screenplay, of the production and financing of the film and finally of the marketing and distribution	<ul style="list-style-type: none"> - Financing borne by the studio - Provision of facilities by the Studio 	<ul style="list-style-type: none"> - Loss of creative power of the producer - Lack of control on the decision of studio of "greenlighting" or not the film - Lack of participation of the producer in potential upside
Production-finance-distribution (PDF)	Producer, studio and distributor	Studio lending the cost of producing the film, managing its distribution and sharing with the producer (and other participants) the resulting net profits	<ul style="list-style-type: none"> - Financing raised by the studio (partially coming from the pre-selling of distribution rights to distributors) - Option contract feature with the Studio 	<ul style="list-style-type: none"> - Loss of creative power of the producer - Lack of control by the producer on the agreement with the different distributors
Negative pick-up	Producer and studio/distributor	Commitment made by studio/distributor to purchase distribution rights at an agreed price before production. This commitment is usually made before production allowing the producer to use it as security to obtain financing	<ul style="list-style-type: none"> - Possibility of negotiating better terms with the distributor since offering a less uncertain product - Valorisation of the commitment to secure debt financing 	<ul style="list-style-type: none"> - Strong bargaining power in the hands of the distributor, especially since budget is pre-agreed placing the liability of any cost overruns onto the producer
Pre-sale of exhibition rights	Producer and distributors	Distributors purchasing the distribution rights over territories and release windows against the provision of funds, the producer having to provide some equity	<ul style="list-style-type: none"> - Valorisation of the guaranteed minimum payment to secure debt financing - Higher discretion in terms of risk sharing and cross-collateralisation - Higher creative freedom 	<ul style="list-style-type: none"> - Limited market for this type of deal - Bargaining and monitoring costs over distributors' agreement - Lower integration between the various windows release reducing the potential internalisation of P&A efforts
TV pre-sales	Producer and TV channels	TV channels (pre-) purchase the rights to broadcast the film against the provision of funds	<ul style="list-style-type: none"> - Valorisation of the guaranteed minimum payment to secure debt financing - Possibility of pre-sale when the TV channel acts as a co-producer - Higher creative freedom 	<ul style="list-style-type: none"> - Loss of control on the management of the film rights
Debt financing	Producer and lenders	Lender providing a recourse loan secured on other assets than the film and with fixed repayment date	<ul style="list-style-type: none"> - Film profits not shared with lenders - Higher creative freedom 	<ul style="list-style-type: none"> - Cost of guarantees that the producer has to provide
End-user financing	Producer and end-investor	Cash investment by the end-user in exchange for an equity participation in the film's revenues in specified territories or release windows	<ul style="list-style-type: none"> - Preservation of equity interest and creative control - Strong incentives for an optimal exploitation of the end-users 	<ul style="list-style-type: none"> - Limited to producer with an established track record - Cost of raising funds

| Source: adapted from Morgan Stanley Dean Witter (2000)

In addition to the use of PDF schemes, essentially in the US market (see Section 12.3), a common way of financing films is to **pre-sell exhibition rights** to national and foreign distributors, for a pre-defined period of time and for a specified geographical area. The producer can use the **guaranteed minimum payment** from distributors to obtain additional financing from lenders or investors (i.e. providing promissory notes discountable at banks). This scheme offers more creative freedom to the producer, although he loses the benefits accruing from the film's promotion because these are retained by the distributor. Indeed, the distributor can profit from the price discrimination policy by managing the promotion on the basis of the rights he has obtained both in terms of duration and geographical coverage. The pre-selling of rights to several independent distributors makes it difficult for the producer to benefit from the interdependency between the various exhibition "windows" but at the same time, the producer benefits from greater creative freedom since the dispersal of the bargaining power among various distributors lowers their ability to affect artistic choices. Finally, this scheme implies another sharing of risk due to the absence of "cross-collateralisation", since each agreement with a distributor is independent of the others. Producers generally relying on presale strategies manage to reduce their downside risks while giving away much of the substantial upside profits and cash flow potential from hits. The producer will still usually need interim loans to cover cash outlays during the period of production.

The producer could also **pre-sell the rights on his film to national or regional TV channels**. The mechanism shares some similarities with the pre-selling of exhibition rights, since the producers could discount the TV channel's contracts to banks in order to finance the production of his films. In most of the cases of the pre-sale of TV rights, the TV channel is a co-producer, which could entail some control over the artistic package.

The use of venture capital funds for the financing of AV works produced by small production companies appears unsuitable the following reasons: (i) the uncertainty on the evaluation methods of the rights recorded on the balance sheet of the company; (ii) the lack of adequate exit mechanisms due to the complexity and difficulties of realising the rights recorded on the balance sheet of the company (the only potential exit mechanism is the sale of the company assets to another company); (iii) the importance of the personality of the producer and the assets attached to the producer with un-quantifiable market value; (iv) the uncertainty in the development of a film and the need to achieve a portfolio of a sufficient size properly to diversify risks (e.g. 12-14 films); (v) the specificity of the audiovisual product.¹⁵

12.2.1.3 The risks and mitigating measures

The **main risks** for the financing of films are:

-The risks related to the product: (i) cost overruns postponing the delivery and requiring additional funds to complete the film; (ii) delay in the delivery of the film due to uncontrollable contingencies during production or post-production stages; (iii) commercial success; (iv) revenue shortfalls due to inadequate estimation of sales forecasts (especially in the case of gap financing where all the sales contracts are not signed at the disbursement of the credit facility).

-The risks related to the production company: (i) risks associated with the quality of the balance sheet of the company; (ii) risks associated with the evaluation of the underlying assets i.e. the films' rights; (iii) risks related to the size of the overheads costs.

Mitigating measures

Regardless of the financial structure set up for the funding of films or TV productions, the due diligence process integrates the following elements in order to minimise the risks associated with

the transaction: (i) analysis of the track record and performance of the producer (number of films produced, rate of performance in terms of box office, recruitment and management of the team engaged in the production); (ii) review of the film's characteristics (film scenario, casting, potential technical difficulties related to the shooting process) and (iii) analysis of the film budget (structure of the financing, co-production and pre-sale contracts providing an estimate of the self-liquidating nature of the credit, quality of the co-producer, quality of the final buyers).

The types of securities requested are the following:

- To cover the risk associated with the product: assignment of rights on contracts generating future film revenues, pledge on the negative, insurances, completion bond.
- To cover the risk associated with the company: corporate guarantee or asset-based securities (library of films).

12.2.2. The debt finance market

The **debt finance** market can be split into two categories:

- The global lenders' market, where the main players are large international banks such as SG, Chase, Citibank, Dresdner, ING and ABN operating from head offices in Los Angeles and sometimes London. They concentrate on large deals (\$10 million minimum) for large sponsors (either Hollywood majors, European mini-majors or large independent companies);
- The niche domestic lenders' markets, where players are small specialised finance institutions (sometimes part of larger retail banks) that provide finance on the back of national public aid mechanisms for small local production/distribution companies. These are the likes of France's Natexis Coficiné or Cofiloisirs.

Focusing on global lenders, they provide the following senior debt products, not really developing subordinated debt/equity products:

- Single picture distribution contract-based financing: These deals are usually put together for independent producers: before engaging heavily in production, the producer pre-sells its rights to one or several distributors. The distributor(s) guarantee(s) payment of a certain amount once the film is completed and delivered. The role of the lenders is therefore to fund the bridge from production expenditure to receipt of the distributor's payment. Financing relies on the credit quality of the distributor(s), the assurance that the film will be completed (completion bonds are used) and the receivables to cover costs ("borrowing base value") and to avoid funding gaps (although on larger productions gap financing is sometimes used). There are a variety of structures along the same theme such as "negative pick-ups" where letters of comfort are provided to a sales agent, which offers a series of distribution commitments as security. Contract-based facilities are short-term (12/18 months).

- Structured finance deals.

Such financing tends to be for a longer term (five to seven years) and more complicated given the structuring and risk aspects. These can take several forms:

- Insurance/tax/accounting driven structures provided for US majors or European mini majors;
- Single film project finance: although lenders rarely take theatrical performance risks, single film project financings are sometimes put together for the large US studios. In these structures, lenders rely on the film's future box office receipts. The lender's analysis concentrates on the suitability of the debt to equity ratio, the talent quality (both directing and acting) and the commitment to P&A. Studios sometimes offer partial security coverage in the form of assignment of receivables or rights on an existing film library.

¹⁵ In Europe, there is a lack of an adequate database providing historical information on films' success and failures.

- Package financing (securitisation), where debt repayment relies on the cash flows of an existing film library (cash generated from video sales and rentals, pay-TV or mainstream TV showings). These structures are relatively common in the US (given the extent of the US major film libraries) but have so far failed to take off in Europe.

In the case of independent producers, little collateral can usually be provided to back a loan except by having recourse to presale contracts and other rights agreements relating directly to the production (making a production loan more akin to an account receivable scheme). The lender then has to look at the credit-worthiness of the licensees for repayment of the loan and is hence exposed to the risk that a licensee fails to accept delivery of a completed picture, especially for loans with a relatively long term. As a consequence, the best option is to lend a fraction of the total amount of the presales advances, or better still to design the loan on the basis of a portfolio of films to "cross-collateralise" the risks between the various films.

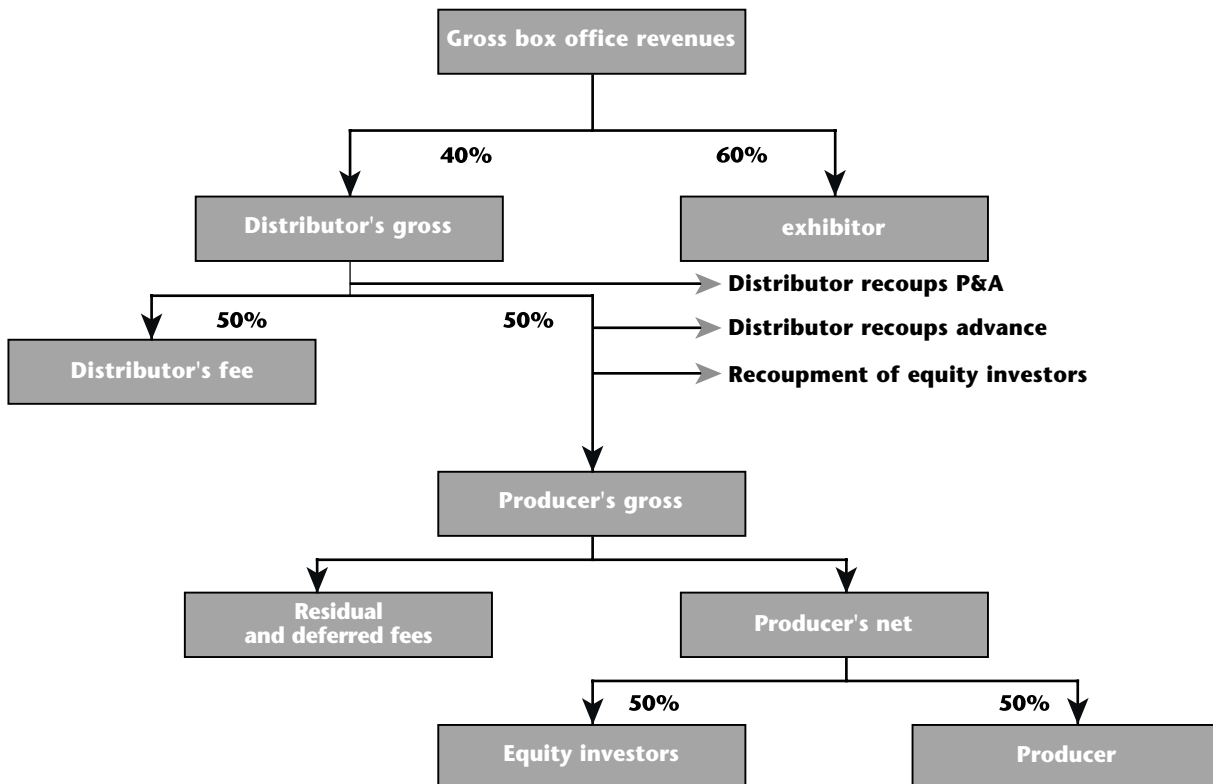
Various German companies (such as Constantin, Kinowelt and Helkon) have raised significant amounts of funds on the Neuer Markt, invested essentially in American production. However, with the end of the Internet bubble and numerous bankruptcies among media companies, the market perception dramatically changed, reflecting the lack of trust in the valuation of the companies and the inadequate business model.

The financing of film production has an impact on the market structure observed in the cinema industry. On the one hand, distributors are increasingly aware of the need to invest upstream and expand their financial involvement in production and the acquisition of film rights. On the other hand, producers are becoming aware of the importance of an integrated production, distribution and exploitation structure for the success of a film in order to manage more profitably their rights on a film over its life cycle and to add those assets to the company's catalogue.

Indeed, consider the typical flow of revenue for an independent producer who has decided to finance his production by pre-selling the exhibition rights to a distributor or the broadcasting rights to TV channels. In order to set up the financing package, the independent producers might end up selling in advance practically all the distribution rights to their films. It is apparent that little of the box office revenue (assuming good performance) will reach the producer¹⁶ and he will be left with little net profit to re-invest into production. Although vertical integration could partially solve the challenge faced by the producers, there is an upper limit to the scope for vertical integration due to the risk of losing independence, and hence the creativity skills which are the crucial asset for the realisation of film.

Table 70 also describes the claims' sequence on profits generated or the recoupment structure. The exhibitors' full cost (including a normal profit remuneration) has to be repaid first.

T.70 Profit generation from a theatrical release for a producer: the UK model



Source: UK Government Creative Industries Task Force (1998)

¹⁶ In addition on the US market, "creative" accounting procedure used by the studio and to a lesser extent by the independent distributor networks generates an elusiveness of net profits for producers whose compensation includes a profit share. This situation impacts the terms of participation for major talents (requiring up-front fixed compensation or gross participation) and induces important transaction costs to decide on the "appropriate" definition of net profit.

It reflects the fact that contracts in creative industries are based on the approach that the party about to sink resources into a project has either the first right to terminate the venture or the first claim on the revenue that it generates. The percentage associated with the sharing of the profits coming from film exhibitions is only an indication. Although the producer could be in a difficult situation in terms of his ability to recover production costs, the divergent interests of the distributor and the exhibitor could affect their respective share of the profits. Indeed, the distributor has an interest in ensuring that the film will be widely shown. On the contrary, the exhibitor is interested in having a local monopoly (which could vary with the level of vertical integration with the distributor). The same conflict of interest applies in the pricing of the various release windows.

12.3

The financing of AV products in the US market: some lessons to be learned?

The cinema industry in the US is dominated by the majors or studios.¹⁷ Vertically integrated companies, each produce around 25 films every year¹⁸ which they distribute throughout the world using their own distribution channels. This gives them strong control of the value chain. In 2001, the majors generated 8 413 million USD of US film revenue and 3 859 million USD of European film revenue. In addition to the distribution of their internal production, they also acquire, for partial or total distribution, films produced by the independent production sector. The majors are well-capitalised entities with strong balance sheets thanks to a well-diversified portfolio of film rights built up over many years. They have recourse to bank loans mostly through large corporate syndicated lines of credit.

Although a key strength of the US studios is the integration of production, financing and distribution, they have now more recourse to outside distributors:¹⁹ sales agents (acting as owner of rights in a given territory in exchange for a sales agency fee), territorial distributors and global independent distributors. This evolution could reflect a strategy of risk-sharing given the increasingly higher cost of advertising and promotion (cf. 'Marketing budgets', Section 12.2). The funding of production costs by major studios is made from cash flow generated by their portfolio of existing films and related activities, such as the exploitation of merchandising rights. They are working on a portfolio basis. In other words, their objective is not to maximise the profitability of each single film but to optimise the profitability and revenue flow through the exploitation of the existing synergies within their catalogue of films. The corporate structure of the majors generates substantial overhead costs, largely equal to salaries and related costs of development, production, distribution and marketing staff and maintenance costs of existing facilities.

The market structure of the US independent production sector is characterised by an important diversity in the nature and size of the companies, from a single-man production company to entities controlled by one of the majors. In parallel, the films made by independent producers vary in size from low budget films to blockbusters made by companies such as Initial Entertainment Group

and Beacon. The distribution of the production of the independent sector is also done by a limited number of independent distributors in the US (Artisan entertainment, Lions Gate, Filmworks, Revolution studios and Dreamworks).

Broadly speaking, in the US market, the producer has the choice between major-studio or independent-type financing. The most characteristic financing mechanism is the production-distribution-financing scheme (PDF) as described in Table 69, where the studio lends up to the cost of producing the film and undertakes to manage its distribution to some or all exhibition channels in exchange for sharing with the producer and other participants the resulting net profits. The distributor's services, which could be performed directly by the studio network or by an independent distribution network, involve the acquisition of sufficient prints of the film, planning and executing the promotion and advertising campaign, and physically distributing the film through its network of branch offices. The distributor's compensation takes two forms:

- (i) overhead charge deducted from gross rental (the payment received from exhibitors) estimated at around 40%;²⁰
- (ii) cash inflow net of the overhead charge to recoup the distributor's cost of prints and advertising.

If the distributor has participated in funding the production, he has first claim on the interest on the loans. The distributor bears a substantial part of the risks giving him a strong incentive to promote the film, given the existing compensation structure. The contractual structure of PDF schemes is close to an option-contract structure²¹, i.e. expenses incurred up to any point in a project's development are sunk and so the decision (i.e., the control rights) to continue is given to the party which has to invest further funds. If the studio decides to exit at any such step, the producer has the option to purchase all rights by paying the studio's cost plus an overhead fee and a profit participation (between 2.5 and 5%) if the film is produced elsewhere. In the US, around 25-35% of completed films have had recourse to this mechanism. In parallel, the distributor retains full discretion over the decision of promoting the film and is not obliged to distribute even a completed negative but has to provide some compensation to other parties.

In this structure, the commercial banks provide secured revolving credit facilities to major studio entities. The majors differing from independent producers in that they have recourse to bank loans on a project basis. Benefiting from a good level of capitalisation and from a rich portfolio of assets, they also have recourse to large corporate syndicated lines of credit. Such credit facilities will be provided to the big entities with adequate net worth and based on acceptable securities (for example, assignment of all copyrights and first security interest on the borrower's assets, assignment of all proceeds payable to the borrower) and controlled through the design of a borrowing basis reflecting the nature of the transaction. The bank loan will be supported by a covenant package (operating, financial and production covenants) in line with the credit standards of the commercial bank. In general, such operations are syndicated on the financial market and involve a relatively limited number of players given the required expertise for the due diligence process. The financing of US films has benefited from substantial financial flows coming from Europe, either through the involvement of European banks in syndicated deals or the optimisation of existing tax incentive schemes implemented in Europe (e.g. German funds or sale and leaseback schemes in the UK).

¹⁷ Sony (Sony Classic, Columbia Tristar...), AOL Time Warner (Warner Bros, New Line, Turner Clasiic) renamed Time Warner, Disney (Miramax), Fox, Viacom (Paramount,...), Universal, MGM.

¹⁸ The Motion Picture Association of America (MPAA) reported that in 2002 the seven major studios together released 225 films (an increase of 29 from the previous year).

¹⁹ Morgan Stanley Dean Witter (2000), *'Ja Baby'; Here Come the German Majors*, Neuer Markt Film Group, Industry Overview - December 1, 2000, Equity Research Europe.

²⁰ This percentage could vary depending on the country, the size of the network...

²¹ Caves H. (2000) *Creative Industries - Contract between Art and Commerce*, Harvard University Press, Cambridge, Massachusetts.

The US market, and to a lower extent some European markets (see Section 12.4 for a discussion of the completion bond market in Europe), have also seen the emergence of **completion bonds**²² to back financial schemes either with a studio or for independently-financed films. A completion bond, often required by the financier, commits a third party to take over and finish the production of a film if the producer and/or director have exceeded some stated budget or time. In general, on the US market, guarantors charge 6% of the production budget (3% reimbursed if the guarantee is not used). Although the ability of a financier to step in to complete a film could be challenged, the associated loss of control of the project for the producer as well as the reputation effect could incite him not to "throw budgetary rectitude to the winds in the pursuit of art".²³

In a market not limited to AV products but covering also other (intangible) assets, securitisation structures have been used in the US by major US studios.²⁴ A securitisation structure could be defined as the issue of notes secured by a pool of homogeneous financial assets producing 'predictable' cash flows. The basic structure is the following: the owner of the assets (in our case a major US studio) transfers them into a special purpose vehicle (SPV), typically a wholly owned subsidiary of the owner. The SPV in turn transfers the assets to a newly-dedicated trust, issuing commercial papers backed by the trust's assets and sold to investors either through private placement, often with commercial banks as participants ("Conduits"), who thus mobilise funds from the money market as a source of finance for a studio, or a SEC-registered public offering targeted at institutional and/or private investors. The owner of the assets continues to serve the assets to ensure periodic payments of security holders, the funds being put in a segregated account managed by the trust. The structuring of the deals is organised in order to have an adequate level of risk transfer to the trust.

For instance, in the US case, the trust is not taking film completion risk, this risk being borne by the studio or by a completion guarantor, and is purchasing the studio's entire future sale of completed films to avoid a moral hazard problem (for example, the studio 'cherry-picking' films with the greater likelihood of success). The notion of a film portfolio is of key importance to have sufficient cross-collateralisation between the revenues of the films in order to achieve sufficient risk diversification. In addition, the studio is ensuring the distribution of the films. The major advantages for the studio are: (i) to create financial liquidity at a potential lower funding cost; (ii) to transfer a share of the film performance risks to bondholders; and (iii) to generate off-balance sheet operation. The private investors, when considering a securitised transaction, are looking at the underlying assets as the principal source of repayments. The importance of the quality of the assets stresses the need to have an adequate history, track record of performance of films and TV programmes production as well as from the producers, distributors and sales agents active in the market. Indeed, a major issue in such a transaction is the evaluation of the historical performance of a studio's film and the probability of sustaining this level of performance in the future. A major difference with Europe is the fact that a lot of studios already have a credit rating.

After briefly reviewing the basic characteristics of the financing of AV products in the US, the following key features could be identified:

- The importance of having strong industrial structures with partial vertical integration and which control the distribution

segment, offering adequate securities for bank lending;

- The role of risk diversification instruments such as completion bonds market, asset-backed securitisation transactions, the latter emphasising the potential generated by the ownership of a large portfolio of assets;

- The importance of the creation of an adequate database on the historical performance of producers' films (rating issue).

12.4

The European financing market: diversity is still prevailing

The fragmentation of the European audiovisual industry is characterised by the existence of a fringe of small under-capitalised firms, especially in the independent production sector, working on a film-by-film basis, facing difficulties to access the funding required for the development of their activities and to create the conditions for a sustainable business model. When production companies are forced to sell the rights to their film or TV programme to secure the next production, they are self-perpetuating the vicious circle of under-capitalisation.

In some cases, the micro-companies do not have a sufficient balance sheet to have access to debt financing. Indeed, a bank will only consider a level of equity equal to the amount of the loan (50:50 financial structure as adequate), implying de facto that only the major American companies would be able to produce films. An adequate level of equity should reflect the peculiarity of the audiovisual industry; however, the under-capitalisation of numerous small independent production companies implies that quite often the producer does not have not enough funds at the end of the production of a film to invest the adequate funding for the development of a new project. This partially explains the lack of investment observed in Europe at the development stage. In such a situation based on a film-by-film approach, the risk: reward ratio is too negative to attract private investors.²⁵ It is indeed well known that, as a rule of thumb, Hollywood majors are unlikely to achieve more than one or two successes for every ten films produced (see Section 12.2). Differing from European production companies, US majors are able to cross-collateralise the losses and the benefits over an adequate portfolio of films (without considering the revenue generated by the exploitation of the rights of the 'unsuccessful' films in terms of box-office in other media).

The European audiovisual market also suffers from a lack of transparency concerning the accessibility and quality of the balance sheets of a lot of entities active in the production and distribution sectors. This situation results from the limited number of listed production companies on European stock markets since the majority of independent producers are too small to justify listing, and from the lack of harmonisation of the accounting policies/practices of the audiovisual companies within national markets and across Europe (valuation methods of library of films, amortisation rules).

When considering a production company having access to the financial market, the financial structure for a filmmaker is based on an interest-bearing loan facility on a secured basis.

²² Garçon F. (1999), "Du risque de fabrication dans l'industrie cinématographique: la garantie de bonne fin", in: Creton L. (ed.), *Le Cinéma et l'argent*, Nathan Université - Série "Cinéma", Paris, pp. 75-87.

²³ Caves R.E. (2000), op. cit.

²⁴ See for instance, Moody (2000), *You Ought to Be in Pictures: Moody's Approach to Rating Future Film Securitizations*, Special Report - Structured Finance, Moody's Investor Service, New York and Katz A. (2003), 'Financial Alchemy Turns Intellectual Property Into Cash: Securitization of Trademarks, Copyrights, and Other Intellectual Property Assets', *Journal of Structured and Project Finance*, Winter, pp. 55-58.

²⁵ 'A common complaint is that investors do not have "anything to invest in", reflecting the "here today, gone tomorrow" nature of many single-project production companies', Report to the Secretary of State for National Heritage (1996) - The Advisory Committee on Film Finance (p. 18).

The security usually takes the form of pre-sale contracts with distributors or TV channels for contractual minimum guarantees, the discounted value of the contracts being generally equal to or in excess of the production budget and the cost of financing. The advantage of such an approach for the producer is that he is in a position to retain control and ownership of the film and its profit stream once the bank's loan, interest and expenses have been repaid. In general, the commercial bank is not asking for a participation in the profits of the films; but is providing additional finance services to the producers generating additional fees for the bank, and minimising risk taking.

Due to regulatory, historical, legal and cultural reasons, the financing arrangement of AV products remains quite different across Europe. To illustrate this diversity, an analysis of the typical financial structure for a film in France and in the UK is provided.

12.4.1. The typical UK financial arrangement

In the UK, the financing of an independent film or TV series production is structured on a project basis (as in a project financing deal) and, if fully collateralised, is on a non-recourse basis, i.e. no recourse on the filmmaker's balance sheet.²⁶ The borrowing entity is usually a single purpose vehicle (SPV) of nominal capital whose assets will be the rights to the story and as the production is progressing, the film itself. On the liabilities side of its balance sheet will be the nominal capital and the production loan, assuming the cost of the film is fully covered by pre-sales. The advantage of such an arrangement for the producer is that he is in a position where he can retain control and ownership of his film and its revenues after deduction of the various sub-distributors' shares and once the bank's loan, interest and charges have been repaid.

The role of the producer is to arrange the financial package for the film or TV programme, based on the concept of the creation of bankable security through the presale of rights. The producer will sell his rights for the exploitation of the film to distributors and TV channels, which, on the basis of various elements (script, actors, producer and director's reputation and track record), will buy all or partial rights to exploit the film in a territory and/or media. The distributors will agree to pay a minimum guaranteed amount on the account of the producer's share of income derived from the exploitation of the particular rights with the payment being made at specific point in time - signature, delivery of the film, date of video availability. The objective of the producer is to find enough contractual agreements with distributors to cover the budgeted cost of the film and the cost of the loan to finance it.

The loan provided by the bank usually covers 80-100% of the film costs. In fact, the financing could be provided for a project covered by a minimum of 80% of pre-sales when the producer works with a well-known sales agent. If this is not the case, the coverage in terms of pre-sales has to reach 100% of the film cost. In other words, a maximum gap of 20% could be considered by a commercial bank only when the producer has a well-established track record within the bank portfolio, has recourse to a reliable sales agent and major territories are available with an estimated pre-sale value which exceeds the uncovered amount by a ratio of 1,5 to 2 (not including the sale potential in the US). Gaps might also be covered by deferrals of fees (producer or actor fees), equity put into the project by investors for tax motivation, grants given by European/national/regional public authorities and co-production arrangements or facilities deals in various countries. Finally, the gap should be covered within one month from the end of the principal photography. Distribution fees and

other commissions are not paid by the sales agent until the gap is covered by distribution contracts unless they have been budgeted. The commercial bank, and especially in the case of a financial package including gap financing, requires the provision of a completion guarantee by the producer. The completion guarantor undertakes an in-depth analysis of the estimated budget of the film to identify the risks of cost overruns. This guarantee, provided by specialised insurance companies (such as Film Finances (part of Lloyds), International Film Guarantors (Fireman Fund) and CineFinance), secures the bank's loan through the provision, within a specified timeframe, of the elements required to trigger the minimum guarantees provided by the distributors; and of the amount of funds required to complete and deliver the film in the case of any cost overruns during the production of the film.

The disbursement of the loan by the bank will be linked to a precise timing. Where other financing is involved, whether to cover a gap or as part of the producer's plan of action, the bank will usually require that its loan is only advanced after all other funds have been disbursed. This sequence of disbursement is related to the completion's guarantor obligation becoming callable only if the full cost of the film has been provided.

Average loan size:	Typical loan between 6 million USD and 35 million USD
Criteria for the due diligence process:	Assessment of the track record and reputation of the entities involved and of the supporting security and documentation of the loan
Bank's risks:	Creditworthiness of the various distributors and the completion guarantor
Remuneration:	Interest margin of about 0,75% to 3% above Libor or Euribor and a flat fee of 0,5% to 4% depending on the risks and the securities provided by the production company to the commercial bank
Security package:	Pre-sale distribution contracts and completion guarantee

The completed financial arrangement includes a set of legal documentation including: (i) the loan agreement replicating all the terms and conditions attached to the provision of the loan; (ii) the security assignment specifying the film rights ceded to the commercial bank item by item; (iii) the various contracts with the actors and director; (iv) the full chain of title ensuring ownership of the film's title; (v) the music synchronisation licences ensuring ownership of the film's music; (vi) the laboratory pledge holder's agreement ensuring that the film's original tape does not leave the laboratory's premises without the bank's agreement; (v) the insurance policies (film producer indemnity, errors & omissions...); (vi) the completion guarantee replicating the terms and conditions of the insurance for the whole period of the production until the film's delivery to various distributors; (vii) legal opinion from the production company's lawyers certifying the status of the company; (viii) the sales

²⁶ See for instance The Advisory Committee on Film Finance - Report to the Secretary of State for National Heritage - July 1996 or the Relph Report on the Production of Lower Budget Films - UK Film Council - March 2002.

agency contract setting out the rights and obligations of the sales agent and the producer; (ix) the distribution contract setting out the rights and obligations of the distributor and the producer and including payment dates in function with well-specified events during the period of the production; (x) notice of assignment and acknowledgement concerning the payment mechanism by the distributor of the minimum guarantee to the bank; (xi) the drawdown notice determining the amount to be drawn and corresponding to the cash flow approved by the completion guarantor as well as the interest period; (xii) the letter of credit in the case of a financing package where the bank is not taking a risk on a particular distributor; and finally (xiii) the cash flow schedule.

12.4.2. The typical French financial arrangement

The financing of films and TV programmes by commercial banks or specialised financial institutions in France is based on a different structure resulting from mechanisms specific to the French market in terms of regulatory and institutional environment (Centre National de la Cinématographie - CNC),²⁷ legal environment ('Registre Public du Cinéma et de l'Audiovisuel' providing the security framework to have valuable and certified guarantees on the rights associated with the film)²⁸ and financial structure (Soficas which are specific tax-deductible investment funds created in 1958 to offer attractive tax-efficient products to wealthy clients and corporates and act as co-producer although they are not entitled to any rights in the film's negative). In addition, the market is dominated by two specialised financial institutions, Natexis Coficiné and Cofiloisirs.

The financing of a film is based on a transaction where there is a full coverage (100% or more) through pre-sales with distributors and TV channels. The security package requested by the banks of the producer includes the assignment of the claims arising from pre-sales distribution contracts, the assignment of the potential support entitlement generated by the various European, national or regional public support schemes, the assignment of the share in any co-production agreement or from any tax-shelter or tax driven mechanism supporting the production sector. The proportion secured to pre-sell agreements with TV channels is bigger than in the UK.

The financial arrangement does not include recourse to a completion bond. As a consequence, the specialised financial institutions active on the market play the role of the completion guarantor. A way to compensate for the non-recourse to completion bond is to request a recourse on the production company assets, assuming that the company has a sufficiently viable financial structure and mobilisable assets on its balance sheet. The characteristics of the production companies imply that access to this type of security

remains limited. The legal documentation for the financing structure of a film or a TV programme is less demanding in France than in the UK.

The French financing market is characterised by the existence of a guarantee fund, called 'Institut pour le Financement du Cinéma et des Industries Culturelles' (IFCIC)²⁹, which provides guarantees to credit facilities set up by commercial banks to producers. The main beneficiaries of IFCIC are independent producers who benefit from direct IFCIC financing for film or TV production or from counter-guarantees of bank financing of their activities. Access to IFCIC instruments is restricted to French producers or co-producers³⁰ and only commercial banks being shareholders of this institution can benefit from the guarantee scheme.

Similar institutions are not yet active in Europe, even if in the Spanish market through the intermediary of the public bank ICO, and in the Italian market through the intermediary of BNL managing funds on behalf of the Italian government, some forms of guarantee are provided to the production companies. The purpose of such a guarantee fund is to facilitate the spreading of investment risk and to enable a sound portfolio approach for investments in the audiovisual sector.

The following table summarises the basic features of film financing in France.

Average loan size:	Typical loan between 1 million USD and 30 million USD
Criteria for the due diligence process:	Assessment of the track record and reputation of the entities involved and of the supporting security and documentation of the loan
Bank's risks:	Creditworthiness of the various distributors and TV channels
Remuneration:	Depending on the borrower's quality and securities provided, interest margin generally of about 1% to 4% plus 0,5% to 1% commission on the amount borrowed and to be paid quarterly in advance until maturity
Security package:	Pre-sale distribution contracts and no completion guarantee but recourse against the production company. Contracts are spread over a longer period as these are usually with TV companies with a lower contribution from distributors through minimum guarantee

²⁷ The regulation and support of the French AV market is done through the CNC. Indeed, the French AV industry does not benefit from direct state subsidies but from funds managed by the CNC and directed to the *TV production companies* (so called automatic support ('Aides automatiques'), through which producers are entitled to receive a subsidy called COSIP corresponding to a percentage of the contract price paid by the TV channel purchasing the rights to the production and which has to be reinvested in the financing of the next production; and selective support ('Aides selectives') corresponding to dedicated subsidies to support original TV production) and to *film producers, distributors and exhibitors* (automatic subsidy for (i) cinema theatre exhibitors receiving funds proportional to the sales revenues generated in their theatres over a year to be used for the construction or, modernisation of cinema theatres; (ii) film production companies benefiting from a subsidy calculated as a percentage of revenue generated by the exploitation of their film (Special Additive Tax (SAT) collected from their latest films released in France (box office performance) and a special tax levied on the revenue from French TV broadcasters) that should be earmarked for the financing of another film; and distribution companies receiving a subsidy as a percentage of revenues based on SAT collected from their latest films released in cinema theatres to be invested in the financing of the distribution of next film; and selective support especially as advance on future revenue for film production by young producers or with less commercial potential).

The French system of reinvestment in the next production is based on the objective of providing the conditions to ensure a sufficient financial stability to audiovisual companies; and hence to support their permanence within the industry. To some extent, this objective could be generalised for any automatic support system.

²⁸ This Public Cinema Register enables banks and financial institutions to register their assignments of film rights and to check and ensure the legal validity of such rights. In addition, the Law enables a direct payment from the debtor to the beneficiary of the security after notification, meaning that these assigned receivables cannot be challenged by third parties (i.e. they are paid whatever the financial situation of the borrower).

²⁹ For more information on the IFCIC, see the web site at www.ifcic.fr

³⁰ Knowing that France has signed co-production agreements with numerous countries except the US and Japan.

The analysis of the UK and French approaches to film financing shows the major differences between a market characterised by recourse to market contractual mechanisms with a strong legal environment offering the adequate enforcement procedure (the UK situation) and a market characterised by the development of institutionalised legal rules limiting the complexity of complete financial arrangements and mimicking partially (or trying to replicate) arm's length contractual relationships. The contractual structure induces a different sharing of risks between the various players and a trade-off between the reduction of uncertainty and flexibility in the management of the contractual relationships.

The financing of French productions or co-productions is heavily dependent on the broadcasting market.³¹ TV channels face various obligations to invest in French co-productions, associated with quotas of French and European films to be broadcast, restrictions on the number of films broadcast on a weekly basis and regulated elapsed time for the release of a film after cinema theatre exposure (differing between free-TV channels (two years after theatrical release) and pay-TV channel dedicated to cinema (one year)). The nature of these obligations depends on the type of broadcaster, i.e. generalist (free-TV channels) versus specialised (pay-TV) channels. For the former, they have a co-production obligation defined as 3% of their turnover; while for the latter (initially only Canal+), it corresponds to 20% of the turnover. As a consequence, TV channels, either through co-production where they invest funds during the production phase having rights in proportion to their investment on the negative and future revenues of the films, or pre-sale contracts by which they purchase the right to broadcast films on their channel paying upon delivery of the completed film, become key players. The positive consequence is the provision of an important regular source of funding, leading to additional effects such as the increase in the value of French and European film libraries through the 'quota' effect, the contractualisation of the relationship between film industry representatives and Canal + and increased competition between TV channels on their specific release window. However, the relation of dependence created between the cinema industry and the broadcasters increases the vulnerability of the film producers to downturns in the broadcasting market. In addition, it could induce 'interference' in the artistic and commercial quality of the films designed to reflect more the demand from the broadcasters than the one from cinemagoers in a market already dominated by US films (in terms of box office market share).

12.4.3. Some final considerations

The recent evolution in SME financing seems to demonstrate an increase in bank lending to SME despite the forthcoming introduction of the new Basel II capital accord. This general evolution is reflected in the audiovisual sector by an increase in the indebtedness level of production companies.³²

The access to debt financing for producers also varies in function of the size of the country. Indeed, in small countries with a low production capacity reflecting the restricted linguistic and geographical size of the final market, the level of activities does

not favour the emergence of specialised financial institutions. In general, producers rely on the traditional banking network, which exacerbates the impact of the lack of expertise of the financial institutions (and hence the ability to assess in a proper way the level of risk attached to an operation). Moreover, in the absence of dedicated internal departments dealing only with audiovisual financing, the ability of the producer to secure financing is linked to the creation of a privileged relationship with a banker based on mutual trust and specific soft knowledge. The continuity of such a relationship is more versatile, partially depending on the bank's internal risk policy.

The due diligence process for the financing of small production companies rests on 'soft issues' related to the knowledge of the people active in this sector and market practices. A credit analysis only based on a classical corporate approach (e.g. balance sheet analysis or minimum size for structured transaction) could not allow the relevant issues for evaluation of a funding request to be addressed. The support for major productions in France is done through classical corporate loans, while in the UK the structure is mainly based on the creation of an SPV for the financing of independent producers or major players (e.g. Sony Columbia).

12.5

The role of a European banking institution: The European Investment Bank

Among the various European instruments existing to support the European audiovisual industry,³³ the European Investment Bank (EIB) - the financial institution of the EU, provides loans for audiovisual projects. The scope of its intervention covers films, TV series, music and publishing. More specifically; the EIB can co-finance a variety of European audiovisual projects covering intangible assets (i.e. content) and tangible ones (i.e. physical infrastructure) in the various segments of the AV value chain:

- production of films;
- distribution (digital networks; digitalisation of catalogues; distribution groups);
- exhibition (cinemas);
- infrastructures such as studio and post-production facilities, broadcasting stations.

The approach followed by the EIB is to contribute to the competitiveness and creativity of the European audiovisual industry by providing lending capacity, for sound bankable loans, at basic market conditions, in order to achieve the following objectives:

- to encourage the production and distribution of European content;
- to ensure the preservation of European culture;
- to catalyse support from the banking and financial community;

³¹ In complement to the various CNC publications, various public reports on the financing of the film industry in France are available: (i) *Réflexions sur le dispositif français de soutien à la production cinématographique*. Rapport établi à la demande du ministre de la culture et de la communication par Jean-Pierre Leclercq, janvier 2003 (Rapport: <http://www.culture.gouv.fr/culture/actualites/rapports/leclercq/rapportleclercq.pdf>, Annexes: <http://www.culture.gouv.fr/culture/actualites/rapports/leclercq/annexes.pdf>, Communiqué de presse du ministre : <http://www.culture.gouv.fr/culture/actualites/communiq/aillagon/leclercq.htm>); (ii) AVIS PRÉSENTÉ au nom de la commission des Affaires culturelles (1) sur le projet de loi de finances pour 2003, Adopté par l'Assemblée Nationale, TOME II, Cinéma - Théâtre Dramatique, Par M. Marcel VIDAL, <http://www.senat.fr/rap/a03-074-2/a03-074-2.html>; (iii) Revoir la règle du jeu - Mieux évaluer l'efficacité des aides publiques au cinéma - Rapport d'information de Yann Gaillard et Paul Loridant, Sénat, 6 mai 2003, <http://www.senat.fr/rap/r02-276/r02-276.htm>

³² See European Audiovisual Observatory (2003), *Yearbook 2003*, vol. 3, *Film and Home Video*.

³³ For more information on EU instruments, see: <http://europa.eu.int/comm/avpolicy/media/>

- and to support the European audiovisual industry's adaptation to new technologies.

This new area of EIB lending was initiated in 2000 for projects in the EU but is extended to Accession countries, provided of course appropriate frameworks are in place (concerning issues such as legislation, regulation and ownership rights) and that bankable projects can be structured. The Bank's operations follow the principle of subsidiarity by intervening mainly through various forms of co-financing with partner banks. Essentially, the Bank adds financing capacity where it is needed, provided that this is done in bankable terms for bankable projects. This means, *inter alia*, that projects must present a projection of cash flows enabling timely repayment of the loans which have been contracted, and include appropriate security packages.

The projects could be carried out by various types of promoter (film producers, public or private broadcasters, studios and other SMEs or larger enterprises in the audiovisual sector). The EIB essentially focuses on the underlying quality of the promoter (track record, reputation, financial viability...).

For **large projects** (with an investment cost above EUR 25 million) for which a direct appraisal is made, loans are structured on a corporate basis. As an illustration, the following projects have been financed until now:

1. Danish TV and State Radio for the installation of production, digitalisation, broadcasting and other similar equipment (loan of EUR 201 million);
2. Retevisión for an amount of EUR 72 million in Spain for the development of cable networks,
3. BBC Worldwide for investments as a co-producer in new BBC audiovisual productions through the acquisition of the rights for the exploitation of the programmes within the UK for the secondary commercial value and outside the UK on all types of support (TV, video, DVD) (loan of EUR 40 million);
4. BBC Broadcast for the construction and operation of the new broadcasting centre of the BBC (loan of EUR 96.4 million);
5. ARTE, the Franco-German TV channel, for the installation of the production and broadcasting centre (loan of EUR 5,5 million).

For **small/medium sized projects** (investment cost up to EUR 25 million) the financial structure for the operation is based on the use of "global loans", consisting of credit lines made available to first-class financial intermediaries which on-lend the proceeds for small and medium scale investment projects fulfilling the EIB's criteria. These credit lines are particularly important in order to facilitate access to external finance for small and medium-sized undertakings and even micro-undertakings. A distinction should be established in function with the nature of the risk-sharing agreement between the EIB and the financial intermediary. For classic global loans, the EIB's risk is on the intermediary bank (on which the EIB is carrying out an extensive due diligence), not on the final beneficiary. The intermediary bank can draw on EIB funds at first-rate conditions, reflecting the EIB's AAA rating on the capital markets, to which it adds the risk margin it deems appropriate for the risk it takes on the final beneficiary.

A complementary instrument is some risk-sharing global loans where the EIB co-finances projects with the agent intermediary bank and shares, *pari passu* with the Agent and the other co-financing banks (if it is a syndication), both the risks, and the market pricing and the associated security, on these projects. In this case, the EIB performs a due diligence on each proposal presented by the Agent and the EIB does not take a majority position, at most 50/50. In both types of financial structure, a

key element is the capacity for the EIB to work with financial partners able to demonstrate a strong track record in the financing of the audiovisual sector.

The first global loan operation for audiovisual sector projects, essentially for film financing in this case, was set up in France at the end of 2001 and is a risk-sharing audiovisual global loan. It is a twin operation, for EUR 20 million each, with Natexis Coficiné and with Cofiloisirs, the two specialised French financial institutions. Through this scheme, 30 European films or TV programmes have been co-financed for an overall production cost estimate of almost EUR 260 million. A number of the projects financed were co-productions involving producers from different EU countries with distribution of the production throughout Europe and, in some cases, outside the EU, in the US, Canada, Japan and Australia. Given the level of disbursement of the first two lines, this operation was renewed in 2003 on the same contractual and financial terms. The main advantage of this approach is to enable both institutions to increase their financing capacity at risk. This should offset the lack of resources besetting the audiovisual sector for pan-European projects and facilitate access to credit by enterprises, especially independent producers.

Concerning the classic global loans, two operations have already been set up in early 2002 in Italy and in Spain. The first is with Banca Nazionale del Lavoro (BNL), for EUR 100 million, through which various films and TV programmes have been co-financed as well as the modernisation and extension of multiplexes and multi-screen cinemas. The Spanish operation is with the Institut Català de Finances (ICF), for EUR 30 million, where various feature films, animation films, animation series and TV series have been co-financed. In 2003, a new global loan for an amount of EUR 100 million with Hypovereinsbank (HVB group) covering Germany and Austria was signed.

Through its subsidiary, the European Investment Fund, the EIB can also provide either equity or guarantee schemes. The EIF, acting as fund of funds, invests in venture capital funds, some of which include the audiovisual industry among their sectors of intervention. In terms of guarantee schemes, the purpose of the EIF's guarantee products is to provide effective support for SMEs by increasing the volume of bank lending to SMEs. Loan guarantees allow the sharing of the borrower's credit risk between the lending bank and the guarantor; and, in the case of public sector intervention, induces high leverage for public funds as lending can be expanded substantially through relatively small guarantee amounts. Although such instruments could offer interesting risk-sharing instruments for the audiovisual sector, the EIF has not been approached for structuring such a guarantee mechanism at a national or pan-European level. The EIF guarantees have developed from portfolio guarantees towards new financial transactions such as asset-backed securities. This securitisation technique allows financial institutions to diversify funding sources at attractive conditions, and hence supports SMEs' access to debt finance by facilitating credit risk transfer from the originating banks to the capital markets. In the audiovisual sector, securitisation schemes are used for the financing of a slate of films by US majors; but are not developed in the European market, mainly due to the difference in the market structure.

To support the EIB action and facilitate access to external financing by audiovisual SME entities, the European Commission (EC) in the framework of the MEDIA Programme launched a Preparatory Action, called "Growth and Audio-visual: i2i audio-visual".³⁴ The aim is to help film and audiovisual production companies to have access to external funding from banks and other financial institutions (by funding some of the costs of the guarantees demanded by these banks or financial institutions and/or part of the cost of a loan for financing their trade debts).

³⁴ See http://europa.eu.int/comm/avpolicy/media/i2iav_en.html

The evaluation of the first preparatory action is available at: http://europa.eu.int/comm/avpolicy/media/eval2_en.html

Recent developments in film law - extracts from *IRIS, Legal Observations of the European Audiovisual Observatory*



[DE] – GERMANY

“Film Support Act Adopted”,

Caroline Hilger, Institute of European Media Law,
Saarbrücken / Brussels, *IRIS* 2004-1: 10

On 13 November 2003, the *Bundestag* (lower house of parliament) passed the amended *Filmförderungsgesetz* (Film Support Act *FFG*) in time for it to enter into force, as planned, on 1 January 2004 (for more details on the Bill, see *IRIS* 20035:14).

However, first it was necessary to eliminate certain differences that had emerged immediately prior to the second and third readings in the *Bundestag* between private and public-service broadcasters concerning the future composition of the Awards Committee of the *Filmförderungsanstalt* (Film Support Institute - *FFA*). According to the final recommendation of the *Bundestagssausschuss für Kultur und Medien* (Parliamentary Committee for Culture and Media) of 10 November 2003, both public service broadcasters ARD and ZDF would have occupied two seats each on the Awards Committee, while only one place was allocated to private broadcasters. Because of this allocation of seats, the *Verband Privater Rundfunk und Telekommunikation* (Private Broadcasting and Telecommunications Union - *VPRT*) announced the withdrawal of its original promise to double its voluntary payments to the *FFA* to EUR 22,4 million from 2004. In the end, the public service broadcasters relinquished one of their seats on the Awards Committee shortly before the *Bundestag* voted on the *FFG*. According to Minister for Culture Weiss, the rise in funding levels and improvements to the film support system make the new Act a more effective instrument for the support of the German film industry. In addition, the new *FFG* would ensure that all groups involved in the industry, such as authors, directors, producers, distributors and cinema operators, were supported.

Meanwhile, however, the *Hauptverband Deutscher Filmtheater* (Union of German Cinemas - *HDF*) heavily criticised the amended Act and announced that it would ask the Constitutional Court or another court to examine its provisions. It accused the legislature of failing to dispel the legal and content-related reservations expressed by the cinemas about the new *FFG* in the parliamentary procedure. The *HDF*'s criticism was essentially directed at the rise in the statutory video and cinema tax which, in contrast to the voluntary payments made by private broadcasters, is a legal requirement. The Minister for Culture rejected the *HDF*'s complaints as unfounded. She said that the tax, only half of which was paid by cinema operators (the other half being paid by the distributors), was offset by a similar level of direct support as well as other general assistance given to the film industry. Besides, the increase of approximately EUR 3,6 million translated into a rise of only around EUR 400 per cinema per year. The new *FFG* contained some important advantages for cinema owners. For example, support for sales of German films and film production would be significantly increased, with indirect benefits for cinemas.

➔ *Beschlussesempfehlung und Bericht des Ausschusses für Kultur und Medien zum Gesetzesentwurf der Bundesregierung, BT-Drucksache 15/1958 vom 10. November 2003. Viertes Gesetz zur Änderung des Filmförderungsgesetzes vom 22. Dezember 2003 BGBl I Nr 2003/64 vom 24. Dezember 2003*
<http://merlin.obs.coe.int/redirect.php?id=8810>

[FR] – FRANCE

“Introduction of a Tax Credit for the Cinema in the 2004 Budget”,

Clélia Zérah, *Légipresse*, *IRIS* 2004-2: 11

In a communication on policy in favour of the cinema presented on 30 April 2003, the Minister for Culture and Communication, Mr Jean-Jacques Aillagon, pointed out that the system for funding cinema was showing signs of fragility, and that it was necessary to make changes in the system.

This has now been done, with the adoption of a tax credit system for cinema as part of the 2004 budget on 30 December 2003. Implementing regulations dated 7 January 2004 lay down the way in which the measure is to be implemented.

The new system is a response to the recurrent concerns of professionals in the sector. It enables cinematographic production companies that are liable to company tax and which act as executive production undertakings to benefit from a tax credit in respect of a range of production expenses listed in the new legislation these correspond to operations carried out in France with a view to producing full-length cinematographic works that are approved and may receive financial support intended for the cinematographic industry.

There is a ceiling of EUR 500 000 on the amount of this tax advantage for a cinematographic work of fiction or a documentary, increased to EUR 750 000 for full-length animated films. The difference is justified by the fact that technical expenditure for this type of film takes up a larger proportion of their budgets.

The tax credit will be offset against the company tax due from the undertaking for the current year, in respect of which the expenditure that may attract this advantage is set out. If the amount of the tax credit exceeds the amount of tax due for a financial year, the surplus shall be repaid.

This new measure reflects the Minister for Culture and Communication's concern to encourage a new increase in the number of films being made in France using local technical services, in the face of the increase in the number of films that were shot outside France in 2002 and 2003.

➔ *Loi de finances pour 2004 (n° 2003-1311 du 30 décembre 2003), JO du 31 décembre 2003*
<http://merlin.obs.coe.int/redirect.php?id=8768>
Décret n° 2004-21 du 7 janvier 2004 pris pour l'application des articles 220 sexies et 220 F du code général des impôts et relatif à l'agrément des œuvres cinématographiques de longue durée ouvrant droit au crédit d'impôt pour dépenses dans la production d'œuvres cinématographiques
<http://merlin.obs.coe.int/redirect.php?id=8865>

"New Act on Film Production and Distribution",Márk Lengyel, Legal Expert, Budapest, *IRIS* 2004-2: 13

On 22 December 2003 the Hungarian Parliament approved the Act on Motion Pictures. The aim of the Act is to increase the level of Hungarian film production by establishing a coherent national film support system.

The nationality of a film is defined in the Act by detailed rules, based on the criteria specified in the European Convention on Cinematographic Co-Production.

The Act lays down provisions concerning the *Magyar Mozgókép Közalapítvány* (Motion Picture Public Foundation of Hungary). This institution was established by the government and 27 organisations in the field of cinema in 1998. According to the new Act, the Public Foundation is responsible for the distribution of financial support allocated in the central budget for the Hungarian film sector. The Act defines the legal status of this organisation and sets out, to a limited extent, basic procedural rules for its activities.

The new law also specifies the different kinds of public support mechanisms. In regard to this, the Act provides rules for reference film aid and selective funding as well. While adopting the Act on Motion Pictures, the Parliament also amended the Act on Corporation Tax, granting certain preferences for enterprises engaged in film production.

The Act on Motion Pictures sets up several new organisations. One of these is the *Mozgókép Koordinációs Tanács* (Motion Pictures Coordination Council). This consultative body is composed of delegates from the public authorities playing a role in the financing of films and on the other hand broadcasters and professional organisations. It should be noted that Art. 16 of Act No. I. of 1996 on Radio and Television Broadcasting (Broadcasting Act, see *IRIS* 2002-8:8, *IRIS* 2000-6:9 and *IRIS* 1996-1:14) imposes an obligation on national television broadcasters in Hungary to expend 6% of their advertising revenue on the production of new films. The formation of the council is intended to serve the purpose of achieving harmony between the functioning of this kind of private funding and the public support provided from the state budget.

The other institution set up by the new law is the *Nemzeti Filmroda* (National Film Office). This public authority will keep the official registers of motion picture organisations and enterprises claiming financial support. The Office will also register films produced or distributed with public funding, and be responsible for the protection of minors in the film sector by classifying films distributed in Hungary. This classification system follows the same rules as provided by articles 5/A 5/F of the Broadcasting Act in the case of television programmes. In carrying out this function the Office will be backed by the *Korhatár Bizottság* (Classification Commission), consisting of six specialists.

The *Magyar Nemzeti Filmarchívum* (Hungarian National Film Archive) is defined in the Act as the collector and the trustee of the national film heritage. This means that those enterprises of the Hungarian film industry that are owned by the State via the *Állami Privatizációs és Vagyonkezelő Rt.* (Hungarian Privatization and State Holding Company) will transfer their film rights to the Archive.

The Act on Motion Pictures will enter into force on 1 April 2004. The Ministry of National Cultural Heritage is expected to issue the decrees necessary for the proper application of the new Act by this date also.

➔ 2004. évi II. Törvény a mozgóképről, 22.12.2003 - Act II on Moving Pictures, 22 December 2003.
<http://merlin.obs.coe.int/redirect.php?id=8836>

"Tax Relief for Investment in Film Industry to Continue",Candelaria van Strien-Reney, Faculty of Law, National University of Ireland, Galway, *IRIS* 2004-1: 14

Bord Scannán na hÉireann /The Irish Film Board ("the Board") has warmly welcomed the decision of the Minister for Finance to continue tax relief for investment in the Irish film industry until the end of 2008 and his plan to increase the upper limit on investment to EUR 15 million per film from 2005.

The Board is a statutory body whose remit is "to assist and encourage the making of films, and the development of a film industry in the State, having regard to the need for the expression of national culture through the medium of film-making". It deals with funding for the Irish film industry.

Tax relief for investment in the film industry was introduced in 1987 in attempt to encourage co-productions with film industries abroad and to nurture an indigenous film industry. It has continued since then, in amended and extended forms (see *IRIS* 2001-2:10, *IRIS* 2000-2:8 and *IRIS* 1999-8:12). However, some uncertainty had arisen recently as the present provisions were due to last until December 2004, and the Minister had not indicated if he intended to continue them beyond that date. As a result, it proved difficult to finalise a number of proposed projects.

The provisions of the tax relief are contained in Section 481 of the Taxes Consolidation Act 1997, as amended.

➔ "Budget 2004 Announcement - Section 481 retained to 2008", Press release from Bord Scannán na hÉireann /The Irish Film Board, 3 December 2003.
<http://merlin.obs.coe.int/redirect.php?id=8798>

"New Law on Cinema",Liliana Ciliberti, Masters Lecturer, Universities of Milan Statale and Rome Sapienza, *IRIS* 2004-3: 12.

The Legislative Decree setting forth new provisions in the field of cinematographic activities in Italy entered into force on 20 February 2004. It establishes, under the Ministry for cultural assets and activities, a Commission for cinematography divided into two sub-commissions. The first sub-commission will be in charge of the acknowledgment of the cultural interest, at the planning stage, of a movie. It will also decide on the maximum share of financial support to be allocated to such a movie, to be determined also on the basis of the proved artistic value of its authors. The other sub-commission will verify, in respect of any work of acknowledged cultural interest, its substantial conformity to the original project as submitted to the other sub-commission. Furthermore, it will verify, in respect of all movies, the existence of the requisites necessary to obtain financial benefits, as well as the qualification of a movie as an art movie (i.e. "film d'essai").

The Decree also institutes information lists in which Italian film companies must enrol as a condition for obtaining financial benefits. Companies from other EU Member States having a branch or an agency in Italy are made equivalent to national undertakings, on the basis of reciprocity, if their activities are carried out mainly in Italy.

The conditions for the admittance of a film to the benefits provided for by the Decree are the acknowledgment of Italian nationality (such acknowledgement to be applicable to co-productions with EU Member States and, subject to a minimum share of 20% of the costs to be borne by the Italian producer, with third countries), its cultural or artistic or spectacular qualities, as well as adequate technical requirements, and the enrolment of the beneficiary undertaking in the information lists.

Subject to existing provisions regarding the ban on advertising tobacco products and a number of other conditions, the framing

in a movie of trademarks and products no longer prevents it from admittance to the benefits.

A new Fund for film production, distribution, exhibition and technical industries substitutes the various previous funds for the financing of cinematographic activities. It will be managed by the Ministry for cultural assets and activities on the basis of agreements with credit institutions. During a transition period of twelve months, the Fund will continue to be managed by the *Banca Nazionale del Lavoro*.

In respect of production activities, the Decree introduces objective (*automatici*) criteria for the determination of the admissible financing. Also the evaluation of the applications for the acknowledgement of the cultural interest of a movie will be based partially on objective (*automatici*) parameters.

The Decree provides for automatic contributions for the distribution of movies of acknowledged cultural interest in Italy. The amount of the contribution shall be proportionate to the number of theatrical admissions obtained by the same distribution company in respect of the distribution, in Italy, of movies of cultural interest in the previous year.

The Decree provides also for the financing of cinema exhibitors in the form, inter alia, of a reduction of the interest payable on loan agreements and financial leases. Further benefits are granted in respect of interventions to be realised in small towns upon condition that the cinema theatre or its owner undertakes to schedule a certain percentage of Italian or European movies.

Further Ministerial decrees will be adopted in order to implement the provisions laid down in the main Legislative Decree.

➡ Decreto Legislativo 22 Gennaio 2004, n. 28, Riforma della disciplina in materia di attività cinematografiche (Legislative Decree of 22 January 2004, no. 28, New provisions in the field of cinematographic activities), published in the Official Gazette of 5 February 2004, no. 29.
<http://merlin.obs.coe.int/redirect.php?id=8964>

[NL] – THE NETHERLANDS

“One Year Extension of Tax Advantages for Investment in Film”,

Lisanne Steenmeijer, *IVIR, IRIS 2004-2:14*

For the past five years, the Dutch film industry has benefited from the existence of special tax advantages for private investors who financially support films (see *IRIS 1997-7:15*). This scheme was due to expire on 1 January 2004, but the government has decided on a one-year extension of the tax advantages. The European Commission has approved this prolongation. The extra costs that are involved in the extension of these film-support measures, are being covered by funds that are left over from 2002 and 2003.

➡ Besluit tot verlenging van de filminvesteringsaftrek Stb. 2003, 536, 23.12.2003, Statutory instrument on the extension of the film investment tax credit : Stb. 2003, 536, 23 December 2003.
<http://merlin.obs.coe.int/redirect.php?id=8835>

[NO] – NORWAY

“Government Tightens Film Support Regime”,

Nils Klevjer Aas, *Norwegian Film Fund, IRIS 2004-4: 14*

In a Green Paper on national film support schemes published on 12 March, the Norwegian Ministry for Cultural and Church Affairs argues for a tightening of the support measures currently in force for Norwegian film production. Observing that some current support schemes “*may seem unduly generous*”, the Ministry would like to see tighter maximum limits on aid accrued through the

automatic Box Office Bonuses system, and a stepped-up repayment scale on soft-loan production support. The proposals come after Parliament during last December's state budget debate forced the minority centre-right government to produce a report on the general economic conditions of Norway's film industry, which has seen a dramatic upturn in film production volume and admissions since the (then-Labour) government overhauled national film support policies in 2001. Following the lead of film industry lobbying groups, the Parliamentary majority pressed for the government to introduce measures that would encourage private investment in film production (i.e. some form of tax incentive funding) and for relieving film producers of paying end-stage VAT (there is no VAT on cinema tickets in Norway, and hence no deduction of VAT for the film production sector). Both these measures would, in effect, institute further state support for a growing industry, but indirectly and at the expense of state tax and levy income. It therefore came as no (political) surprise that the government's reply was to show that Norwegian film production already enjoys generous benefits through direct support schemes, and that the Ministry's counter-proposal consisted in schemes for the redistribution of currently available support appropriations. The Green Paper should come up for debate before Parliament adjourns for its summer break, and there is another milestone further down the road, in 2005, when the government is committed to a full review and audit of its 2001 film policies.

➡ St.meld. nr. 25 (2003-2004) Økonomiske rammebetingelser for filmproduksjon (Green Paper on national film support schemes), 12 March 2004.
<http://merlin.obs.coe.int/redirect.php?id=8985>

[PL] – POLAND

“Draft Act on Cinematography”,

Malgorzata Pek, *Dept. of European Integration and International Relations, National Broadcasting Council of Poland, IRIS 2004-3: 13*

On 24 September 2003, the Government sent a draft Act on cinematography to Parliament, which held the first reading of it on 10 December 2003. After the reading the draft was sent to the Commission for Culture and Mass Media, which began its consultations at its meeting on 6 January 2004.

Taking into account that currently the Act of 16 July 1987 (with subsequent amendments) regulating the cinematographic sector is not suited to the new market conditions, the government proposed a completely new, comprehensive draft bill. It is argued that it has as its main objective a change in the way cinematography is currently organised: adjusting to market conditions, not forgetting the necessity to financially support non-commercial, ambitious productions and creating conditions for the development of Polish film with mechanisms similar to those existing in other European countries. The draft also provides that commercial enterprises of the film industry (cinema owners and distributors selling film copies in tangible form) will have deductions made from the profits of the film.

An important change concerns the proposal for the creation of the Film Art Institute, that would be a State legal person, supervised by the Minister of Culture. The Institute's competences would be quite considerable and broad: firstly, to inspire and contribute to the development of all kinds of Polish film creativity and to the preparation of film projects, production, distribution and making available of film to the public; secondly, to support the activities aiming at popularisation of both Polish and world (especially European) film art; thirdly, to support the artistic development of young filmmakers; fourthly, to promote Polish film art; and, finally, to create conditions for the development of Polish film production. The Institute is supposed to co-operate with administrative bodies. Its revenues consist of (among others): grants from the State budget, revenues from the exploitation of films whose economic rights belong to the Institute, revenues from the Institute's property and its commercial activity and the aforementioned quotas (percentages from revenues) from enterprises operating theatres and

enterprises selling film copies. The revenues should be used for the realisation of the tasks described in the bill.

The bill recognises that the collection, protection and popularisation of national heritage in the field of cinematography belongs to the already existing National Film Archives (*Filmoteka Narodowa*), whose duties are also specified in the bill.

➔ Draft Act on Cinematography, Paper No. 2055.
<http://merlin.obs.coe.int/redirect.php?id=8629>

[PT] - PORTUGAL

"New Law Proposal for Audiovisual and Cinematographic Arts",

**Luís António Santos, Departamento de Ciências da Comunicação
Instituto de Ciências Sociais Universidade do Minho,
IRIS 2004-3: 14**

On 4 February, the Portuguese government presented its proposed law on the regime and principles of action for the development and protection of the arts and cinematographic and audiovisual activities, thus stating the intention to replace the legal framework set up by Decree-Law no. 350/93 of 7 October 1993.

The proposed law aims to (article 4):

- promote the production, distribution, exhibition, diffusion and editing of cinematographic and audiovisual works;
- guarantee the copyrights of authors, artists, interpreters and performers of cinematographic and audiovisual works;
- promote international co-production, through the establishment of bilateral agreements and international conventions;
- increase production, distribution and exhibition cooperation with Portuguese-speaking countries;
- develop the distribution and exhibition markets through the creation of fiscal measures and the signing of bilateral and multi-lateral reciprocity agreements;
- promote the participation of the private sector in the development of the cinematographic and audiovisual industries;
- promote both national and international cinematographic and audiovisual production;
- ensure free circulation of cinematographic and audiovisual works;
- promote the conservation, valorisation and permanent cultural accessibility of the Portuguese cinematographic and audiovisual heritage;
- promote independent regulation and the application of competition principles to the cinematographic and audiovisual activities;
- promote the participation of cinematographic and audiovisual sectors' representative entities in the definition of policies for the area;
- develop teaching and continuous formation activities in the cinematographic and audiovisual sectors;
- ensure equal access for all citizens to all forms of cinematographic and audiovisual works.

The most significant change contained in this proposed law is the creation of a new capital investment fund for the development of cinematographic arts and the audiovisual sectors. This fund is to manage resources resulting from contributions of film distributors, restricted TV channels operators, and other non-specified entities. Film distributors are to invest no less than 2% of their distribution income (article 31), and operators and distributors of restricted TV channels are to contribute no less than 5% of their net income, including revenues from all distribution platforms, like cable, satellite, terrestrial digital, wireless, or any others that might exist (article 27).

The proposed law is now to be considered by Parliament, and the Culture Minister, Pedro Roseta, has indicated that he expects it to be approved before the end of 2004.

➔ Lei das Artes Cinematográficas e do Audiovisual (Anteprojecto 1ª revisão) (Draft law on Audiovisual and Cinematographic Arts), 3 June 2003.

[RO] - ROMANIA

"Aid for Film Makers in Romania",

**Mariana Stoican, Radio Romania International, Bucharest,
IRIS 2004-2: 15**

The new Film Act adopted in Romania on 27 November 2002 not only introduced new regulations on every aspect of the organisation, funding and production of films; one of its main aims was also to encourage private initiative in the area of national film production while at the same time making Romania attractive for foreign film producers interested in co-productions (see IRIS 20032: 13). This concern also gave rise to the introduction of tax relief for film producers, which will still apply in certain circumstances even after the entry into force of the country's new tax laws on 1 January 2004. Under section 38, paragraph 7 of the Taxation Act, taxpayers who are active in the field of cinema production and are entered as such in the cinema industry's register will benefit from the following advantages until 31 December 2006:

- profit tax will be waived on the share of any proceeds or profits that are re-invested in cinema production;
- profit tax will be reduced by 20% if new jobs are created in this area, provided that this means that the number of employees exceeds that of the previous year by at least 10%.

➔ Legea cinematografiei Nr. 630 din 27 noiembrie 2002
Legea privind Codul Fiscal, Monitorul Oficial No. 927,
23.12.2003

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Article 19
CoE - Council of Europe (all)
CoE: Advisory Committee National Minorities
CoE: Advisory Panel on media concentrations

References
International (all)
International: Jurisprudence
International: Legislation
International: Policy Documents
National (all)
National: Decision of Administrative Bodies
National: Jurisprudence
National: Legislation
National: Policy Documents
Reports, Press Releases

Advertising
Broadcasting (all)
Broadcasting : Digital
Broadcasting : Licenced/Fees
Broadcasting : Programming
Broadcasting : Radio
Broadcasting : Television
Broadcasting : Others
Competition: (all)
Competition: Liberalisation of markets:market power
Competition: Unfair competition
Consumer Protection
Copyright/ Related rights
Criminal laws
Diversity, pluralism
E-commerce
Encryption
Film
Freedom of Expression:Information, Art.10 ECHR
Jurisdiction

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Public funding for film and audiovisual works in Europe

– A comparative approach

This report from the European Audiovisual Observatory, compiled in co-operation with the European Investment Bank (EIB), contains a comparative analysis of direct public funding mechanisms for film and audiovisual works in 35 European countries.

Alongside other measures such as funding of public broadcasting services, regulation of relations between broadcasters and producers and the implementation of tax incentive schemes, direct funding is one of the most traditional and important ways in which public authorities support the film and audiovisual industry. Virtually all European States, as well as territorial communities, regions, some municipalities, the European institutions (Council of Europe, European Community) and various intergovernmental organisations have set up direct aid mechanisms that provide around EUR 1,3 billion of funding for the industry each year. The European Audiovisual Observatory's KORDA database, an important source of information for this report, lists more than 170 support bodies and around 600 different aid programmes.

Backed up with facts and figures, this study illustrates the enormous diversity of these mechanisms: diversity in terms of legal foundations, the tasks fulfilled by national support bodies, funding, methods of intervention and, in particular, the sums involved. Despite this variety, which results from the history and political and administrative structure of each European state, the support bodies are keen to find common conceptual ground for their policies, based on the notion that film and audiovisual creativity cannot be governed solely by the rules of the market and that funding is justified by the need for cultural diversity. The European Commission does not question this principle, although it does have to ensure that funding does not disrupt the correct functioning of the common market. The report describes how this whole issue has evolved since 1963 up to the recent European Commission Communication of 16 March 2004.

The report covers recent events up to spring 2004: reform of Eurimages, new laws in Germany, Italy, Hungary, draft laws in Poland and Portugal, etc.

Finally, Olivier Debande, an expert at the European Investment Bank, analyses the role of private investors and intervention by the banking sector in three countries using distinct models (USA, United Kingdom, France).

*Scientific coordination: André Lange and Tim Westcott
With the collaboration of Olivier Debande and Susan Newman.*

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76, allée de la Robertsau - F-67000 Strasbourg - France
Tél. +33 (0)3 88 14 44 00 - Fax +33 (0)3 88 14 44 19
E-mail : obs@obs.coe.int

www.obs.coe.int



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