

**CINEMA STUDY ON TERRITORIALISATION REQUIREMENTS**  
**(Annex to Part A)**

**MEMBER STATE LEGAL REVIEW**



**CYPRUS**  
**SYNTHESIS SHEET**

**July 2007**

**This Member State Synthesis Sheet should be read in conjunction with Chapter A of the Study on the economic and cultural impact, notably on co-productions, of territorialisation clauses of state aid schemes for films and audio-visual productions for the European Commission that is available on [www.eufilmstudy.eu](http://www.eufilmstudy.eu)**

## **Acknowledgements**

### **Legal Report by Germann Avocats**

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## A Overview of the legal situation in Cyprus

### 1 Summary of main findings

**Table A – Direct Territorialisation Requirements**

Member State	Names of Funding Schemes	Available Budget	National (Nat) / Regional (Reg) Funding Scheme	Direct territorialization requirement quantified in the law			Direct territorialization requirement not quantified in the law		
				X% in terms of film budget	X% in terms of State aid granted	X% of the amount of the total available budget that is subject to territorialization	List of requirements	Estimation of the X% of how much local expending this involves in terms of film budget	Estimation of the X% of how much local expending this involves in relation to the total aid available
									Expected New Funding Schemes containing “Objective Explicit” Territorialisation Requirements (A.6): Y/N

Cyprus	Program for the Development of the Cyprus Cinema	877,193 (2003)	Nat	N/A	N/A	N/A	N	N/A	N/A	Y New funding schemes under the Regulations of the Programme for the Development of Cyprus Cinema are to be introduced in 2007
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**Table B – Indirect territorialisation Requirements**

Member State	Names of Funding Schemes	Indirect territorialization requirements located under “Formal Nationality Certification Procedures”			Indirect territorialization requirements located under selective aid criteria and procedures			Indirect territorialization based on any other provisions in the law that forces the producer to make local spending		
		List of requirements	Estimation of the X% of how much local expending this involves in terms of film budget	Estimation of the X% of how much local expending this involves in relation to the total aid available	List of requirements	Estimation of the X% of how much local expending this involves in terms of film-budget	Estimation of the X% of how much local expending this involves in relation to the total aid available	List of requirements	Estimation of the X% of how much local expending this involves in terms of film-budget	Estimation of the X% of how much local expending this involves in relation to the total aid available
Cyprus	Program for the Development of the Cyprus Cinema	N	N/A	N/A	N	N/A	N/A	N	N/A	N/A

**Table C – Budget and Territorialisation Intensity**

Member State	Names of Funding Schemes	Available Budget	Objective explicit territorialisation requirement quantified in the law <sup>1</sup>	Degree of the territorialisation <sup>2</sup>		
				Funding Scheme Level <sup>3</sup>	Funding body level	Member State Level <sup>4</sup>
Cyprus	Program for the Development of the Cyprus Cinema	877,193 (2003)	No requirement	= 0	No data available	0 %

<sup>1</sup> Assessment based on replies from local lawyers (see synthesis sheet)

<sup>2</sup> High territorialisation: ratio “total amount subject to territorialisation”/“total budget available” >1  
 Moderate territorialisation: ratio “total amount subject to territorialisation”/“total budget available” =1 or <1  
 No territorialisation: total amount subject to territorialisation = 0

Assessment (Cambridge Econometrics/Ramboll) based on the methodology outlined in Appendix G

<sup>3</sup> Formula: Sum of the budget of the scheme x its degree of territorialisation and divided by the sum of the budget of all the schemes.

Assessment (Cambridge Econometrics/Ramboll) based on the methodology outlined in Appendix G

<sup>4</sup> “total amount subject to territorialisation”/“total budget available”

Assessment (Cambridge Econometrics/Ramboll) based on the methodology outlined in Appendix G

**Table D – Co-Production Agreements**

Member State	Titles of Co-Production Agreements	Dates of Entry into Force of Co-Production Agreements	Expected New Co-Production Agreements: Y/N
Cyprus	European Convention on Cinematographic Co-production	2000	New Co-production agreement in 2006 (A 4)
	Eurimages Fund	26 October 1988	

Cyprus is currently a party to the European Convention on Cinematographic Co-production. In addition Cyprus is a party to the “Eurimages Fund”, a Council of Europe institution financing European Co-production (see reply A.3 for Cyprus).

There is one funding scheme named “Programme for the Development of the Cyprus Cinema” (see reply A.2 for Cyprus; see below Section B.1).





## **2** *Synopsis of conventions on co-production agreements*

Cyprus is a party to the European Convention on Cinematographic Co-production. Cyprus signed this Convention on 19 May 1999 and ratified it with Law No. 11(I) of 2000 (published in the Official Gazette of the Republic of Cyprus on 28 January 2000). The Law does not mention the authority in charge of its supervision. For further details see reply A.3 for Cyprus.

Cyprus is a party to the “Eurimages Fund” of the Council of Europe, which was set up by Resolution [(88)15] of 26 October 1988. The aim of this fund is to support the co-production and distribution of creative cinematographic and audiovisual works (see reply A.3 for Cyprus).

## **3** *Synopsis of formal nationality certification procedures*

In Cyprus there is no formal nationality certification procedure, but projects are assessed on the basis of their quality without specifically referring to their nationality (see “Regulation of the Programme for the Development of Cyprus Cinema”, hereafter the “Regulation”).

The “Regulation” prescribes that proposals for receiving funding under the Programme may be submitted by all production houses or producers registered in Cyprus, specialising in the production of films or other audiovisual material, and which produce films or audiovisual works other than the personal productions of its shareholders. Production houses having their seat in a Member State of the EU, and which operate in Cyprus through a permanent branch or office, may also be entitled to receive funding for certain actions, such as participation in the development of the production plan of a proposal for feature films, scriptwriting and so forth.

## **4** *Synopsis of expected legal developments*

According to the Council of Europe, at the 101st meeting of the Board Members from 25/06/2006 to 27/06/2006 in Lisbon, the following co-production was agreed with regard to Cyprus: Mikro Eglima (CY) Feature Film, Awarded: €230,000, Coproducers: TWENTY TWENTY VISION (DE) and LYCHNARI PRODUCTIONS (CY)

New funding schemes under the Regulations of the Programme for the Development of Cyprus Cinema are to be introduced in 2007 for the funding of short films, newcomers’ films, short and long-duration documentaries, development plans and scenario development for short-duration films. In addition the funding scheme might be available for the funding of experimental cinema and animated film. For further details see reply A.6 for Cyprus.

## **B The Cypriot funding scheme**

### **1 Overview**

In Cyprus there is a “Program for the Development of the Cyprus Cinema”. This is a funding scheme set up by the Cyprus Cinema Advisory Committee (*Συμβουλευτική Επιτροπή Κινηματογράφου*). This Committee was established first in 1980 by a decision of the Council of Ministers n° 18.816/1980 of 21 February 1980. It ceased to function in 1987 and it was then re-established in 1994 by the decision of the Council of Ministers n° 40.698/1994, recently amended by the Decision n° 56.727, 2002. For further details see replies A.2 and A.4 for Cyprus (see also below point 2.1)

### **2 Analysis of the “Program for the Development of the Cyprus Cinema”**

#### **2.1 Description of the funding scheme**

The “Programme for the Development of the Cyprus Cinema” (“PDCC”) is based on Decision n° 40.698/1994 of the Council of Ministers of 22 March 1994, most recently amended by the Decision n°56.727/2002 of the Council of Ministers of 7 November 2002 (the “Regulation”). There were no significant regulatory changes in the period from 2001 to 2005 affecting the legal questions addressed by this study.

Funding under the program is provided by the Cyprus Cinema Advisory Committee (“Cyprus CAC”). For contact information see reply B.3-B.14 for Cyprus for “PDCC”.

The “Cyprus CAC” is responsible for State film financing. It recommends for funding to a competent Ministerial Committee the best proposals submitted by Cypriot producers or directors in the categories of feature-length films, short films and documentaries. Following approval by the “Cyprus CAC” and the ratification of this approval by the Ministerial Cinema Committee, the Cyprus CAC will state the specific amount available for funding the production of the film. For further details see reply A.2 for Cyprus.

This scheme provides eight categories of funding:

- Script Funding for a Feature Film
- Production Development Plan for Feature Films (addressed exclusively to experienced producers and established directors)
- Participation in First Feature Film (addressed to producers who undertake the production of the first feature film of new directors)
- Low-Budget Feature Films
- High-Budget Feature Films
- Funding for Film promotion

- Participation in Festivals
- Participation in Alternative Cinema Proposals

For additional information see the Regulation of the “PDCC” (see also reply B.13 for Cyprus for “PDCC”).

## 2.2 Synopsis of objective territorialisation requirements

### 2.2.1 Rules

The “PDCC” does not contain any objective territorial condition. There is no obligation, under the “Regulations”, to spend a minimum proportion of the budget in Cyprus (see reply B.5 for Cyprus for “PDCC”). Furthermore it is provided that “the producer is free to spend at least 20 % of the production budget in Member States of the European Union without being faced with a reduction in the funding provided in accordance with the plan” (see the Regulation, part “Funding participation of the Committee”).

### 2.2.2 Practice

There is no relevant judicial or administrative practice reported (see reply B.5 for Cyprus for “PDCC”)

### 2.2.3 Discussion

N/A (see reply B.5 for Cyprus for “PDCC”)

### 2.2.4 Conclusions

No objective explicit territorialisation requirements apply to this funding scheme.

## 2.3 Synopsis of indirect territorialisation requirements

### 2.3.1 Practice

There is no relevant judicial or administrative practice reported (see reply B.10 for Cyprus for “PDCC”)

### 2.3.2 Discussion

N/A

### 2.3.3 Conclusions

There is no reported practice on indirect territorialisation requirements.

#### 2.4. Synopsis of selective State Aid granting Criteria and procedures

Funding by the “Cyprus CAC”, under the “Regulation of the Programme for the Development of Cyprus Cinema”, is provided selectively and on the basis of qualitative criteria.

The Regulation, for the category of “Script Funding for a Feature Film”, requires that the scriptwriter must have already written a feature film script that became a film, or two scripts for short films that were made into films or a script of a fiction TV programme. The criteria of selective aid refers to the “originality and artistic excellence of the proposed script”, to the “scriptwriter’s previous work”, to the “producer’s previous work” etc. (see reply B.13 for Cyprus for “PDCC”).

The “Production Development Plan for Feature Films” is a funding category addressed exclusively to experienced producers and established directors. The criteria for granting selective aid expressly refer to the “professional experience of the producer, the adequacy and capabilities of the production house”, to the director’s and producer’s previous filmography and to the scriptwriter’s previous work (see reply B.13 for Cyprus for “PDCC”).

Furthermore it should be mentioned that other criteria refer to originality in the development of the film’s theme, to the “artistic excellence of the proposal” and to the “possibilities of artistic and commercial success of the proposal, at the discretion of the Committee”.

The “Participation in First Feature Film” is a funding category of its own within the “PDCC”. It is addressed to producers who undertake the production of the first feature film of new directors. In this case there are particular eligibility criteria which include the evaluation of the producer’s experience (see reply B.13 for Cyprus for “PDCC”).

The “Low-Budget Feature Films” category is addressed to producers who intend to organise the production of a low-budget feature film (for the execution of which no additional financial resources from abroad are needed). There are particular terms for participation in this category of funding which include the evaluation of the producer’s experience (see reply B.13 for Cyprus for “PDCC”).

Within the “High-Budget Feature Films” category, the criteria for granting selective aid expressly refer to the professional experience of the production house and to the director’s and the producer’s track record.

The selective aid scheme provided by the Regulation is also based on the “originality in the conception and the development of the plot”, and on “the value of the production’s artistic and technical resources”.

The “Participation in Alternative Cinema Proposals” is a funding of developmental nature. It gives young people with limited cinematographic experience the opportunity to take their first steps in short films. The criteria for granting selective aid expressly refer to the “professional experience of the producer, the adequacy and capabilities of the production house”, to the director’s previous work and to “the originality in the development of the plot” (see reply B.13 for Cyprus for “PDCC”).

Arguably the above-mentioned qualitative criteria leave discretion to the “Cyprus CAC” in selecting scripts or film projects for State aid. This discretion can be lower in the case of “high-budget films” since the Regulation requires that “the director must have directed at least two feature films with plot or a feature film with plot that received an award at a recognised film festival”.

No indirect territorialisation requirements are located under the selective aid granting criteria and procedure.

## 2.5 *Synopsis of the relation between territorialisation requirements and co-production agreements*

In Cyprus there are no objective or indirect territorialisation requirements.

Nevertheless in case of conflict or inconsistency between a requirement and an agreement, the rules contained in the international convention on co-production agreements will prevail over national law on condition that they have been published in the Official Gazette of the Republic and on condition that the other party to the said agreement or convention also applies same.

In case of conflict or inconsistency, the parties may address the matter to the competent authority established by the relevant international agreement or convention or treaty, if any. In addition, according to Article 140 of the Constitution of the Republic, the President of the Republic may, at any time prior to the promulgation of any law (i.e. a Law ratifying an international treaty or convention or agreement) or decision of the House of Representatives, refer to the Supreme Court of Cyprus for its opinion on the question as to whether such law or decision or any specified provision thereof is repugnant to or inconsistent with any provision of the Constitution. Furthermore, according to Article 144 of the Constitution of the Republic, a party to any judicial proceedings, including proceedings on appeal, may, at any stage thereof, raise the question of the unconstitutionality of any law (i.e. a Law ratifying an international treaty or convention or agreement) or decision or any provision thereof material for the determination of any matter at issue in such proceedings and thereupon the Court

before which such question is raised shall reserve the question for the decision of the Supreme Court of Cyprus and stay further proceedings until such question is determined by the Supreme Court. The Supreme Court, on a question so reserved, shall, after hearing the parties, consider and determine the question so reserved and transmit its decision to the Court by which such question has been reserved. Any decision of the Supreme Court shall be binding on the court by which the question has been reserved and on the parties to the proceedings and shall, in case such decision is to the effect that the law or decision or any provision thereof is unconstitutional, operate as to make such law or decision inapplicable to such proceedings only.

Finally, according to Article 149 of the Constitution, the Supreme Constitutional Court shall have exclusive jurisdiction to make, in case of ambiguity, any interpretation of the Constitution.

## *2.6 Synopsis of the purpose and cultural clauses applying to the funding scheme*

The “Regulation of the Programme for the Development of Cyprus Cinema” states in the preamble that the Regulation itself is the result of the experience gained by the Cyprus Cinema Advisory Committee over the recent years. The Committee has drawn up the Regulation after having analysed the realities of Cyprus and the difficulties faced by the local film production industry.

With regard to the funding category “Production Development Plan for Feature Films”, the Regulation provides that, having recognised the difficulties in funding the production of films and the importance of this phase in the execution of a production, the Committee has the aim of assisting the producer in completing the production file and in proceeding to the final phase. Similar policy goals are pursued with respect to “high-budget films” (see reply B.12 for Cyprus for “PDCC”). Furthermore with respect to the “High-Budget Films”, the “Cyprus CAC” has decided to give this programme comparative priority e.g. by supporting such proposals approved by the Committee, before other European agencies such as “Eurimages”, the “Greek Film Centre” and “Greek television” (see reply B.12 for Cyprus for “PDCC”).

Moreover, funding for “Participation in Festivals” demonstrates the cultural policy pursued by the Committee. According to the Regulations, the Committee, having recognised that a proper participation in a film festival requires expenditure, preparation and organisation, may, in order to make possible the promotion of films from Cyprus, fund such films against their budget and receipts.

The regulation provides as an objective policy goal “the participation of Cyprus in various European bodies which promote cinema and the co-production of films such as Eurimages and Eureka” and the “selection and support of Cypriot candidate movies for funding and promotion through such bodies” (see reply B.12

for Cyprus for “PDCC”). Furthermore the State aid to cinema is seen as a tool to “attract foreign producers for shooting films in Cyprus”.

No indirect territorialisation requirements are located under the purpose and cultural clauses.

References:

- “CO-OPERATIVE REGULATORY SYSTEMS IN THE MEDIA SECTOR OF CYPRUS”. Report by Dr. Christophoros Christophorou for the Study on Co-Regulation Measures in the Media Sector. Study commissioned by the European Commission, Directorate Information Society Unit A1 Audiovisual and Media Policies, Digital Rights, Task Force on Coordination of Media Affairs DG EAC 03/04 (see <http://co-reg.hans-bredow-institut.de>)

**Attachments:**

- Replies to the legal questionnaire by Olga Georgiades, attorney at law, Lellos P. Demetriades Law Office, Cyprus
- Regulations for Cyprus