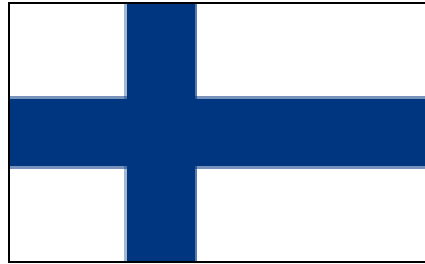


**CINEMA STUDY ON TERRITORIALISATION REQUIREMENTS
(Annex to Part A)**

MEMBER STATE LEGAL REVIEW



**FINLAND
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

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Legal Report by Germann Avocats

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Finland	Finnish Film Foundation's development support	1,462,400	Nat	N/A	N/A	N/A	N	N/A	N/A	N
	Finnish Film Foundation's advance support for production	7,276,600	Nat	N/A	N/A	N/A	N	N/A	N/A	
	Finnish Film Foundation's Post-release support for production	6,358,000 ¹	Nat	N/A	N/A	N/A	N	N/A	N/A	
	State grants for artists ²	755 670	Nat	N/A	N/A	N/A	N	N/A	N/A	
	Production supports' exemption from income taxation ³	?	Nat	N/A	N/A	N/A	N	N/A	N/A	
	Reduced value added tax rate for cinema tickets	?	Nat	N/A	N/A	N/A	N	N/A	N/A	
	Production subsidy of the Promotion Centre for Audiovisual Culture	1,565,433	Nat	N/A	N/A	N/A	N	N/A	N/A	

¹ Figure not listed in KORDA but is calculated by subtracting the two previous posts from total which figures on KORDA

² Totally state grants for artist=15,300,000. Grants for artist in the film industry = 5 %

³ state aid is exempted from corporate taxable incomes. The value of this depends on the amount of state aid as well as on the overall income and tax payments of the receivers. Therefore not possible to state specific figure.

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
Finland	Finnish Film Foundation’s development support	N	N/A	N/A	N	N/A	N/A	N	N/A	N/A
	Finnish Film Foundation’s advance support for production	N	N/A	N/A	N	N/A	N/A	N	N/A	N/A
	Finnish Film Foundation’s Post-release support for production	N	N/A	N/A	N	N/A	N/A	N	N/A	N/A
	State grants for artists	N	N/A	N/A	N	N/A	N/A	N	N/A	N/A
	Production supports’ exemption from income taxation	N	N/A	N/A	N	N/A	N/A	N		N/A

	Reduced value added tax rate for cinema tickets	N	N/A	N/A	N	N/A	N/A	N	N/A	N/A
	Production subsidy of the Promotion Centre for Audiovisual Culture	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 ⁴	Degree of the territorialisation ⁵		
				Funding Scheme Level ⁶	Funding body level	Member State Level ⁷
Finland	Finnish Film Foundation's development support	1,462,400	No requirement	= 0	No territorialisation	0 %
	Finnish Film Foundation's advance support for production	7,276,600	No requirement	= 0		
	Finnish Film Foundation's Post-release support for production	6,358,000 ⁸	No requirement	= 0		
	State grants for artists ⁹	755 670	No requirement	= 0	No data	
	Production supports' exemption from income taxation ¹⁰	?	No requirement	= 0	No data	
	Reduced value added tax rate for cinema tickets	?	No requirement	= 0	No data	
	Production subsidy of the Promotion Centre for Audiovisual Culture	1,565,433	No requirement	= 0	No data	

⁴ Assessment based on replies from local lawyers (see synthesis sheet)

⁵ 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

⁶ 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

⁷ “total amount subject to territorialisation”/“total budget available”

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

⁸ Figure not listed in KORDA but is calculated by subtracting the two previous posts from total which figures on KORDA

⁹ Totally state grants for artist=15,300,000. Grants for artist in the film industry = 5 %

¹⁰ State aid is exempted from corporate taxable incomes. The value of this depends on the amount of state aid as well as on the overall income and tax payments of the receivers. Therefore it is not possible to state specific figure.

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
Finland	European Convention on Cinematographic Co-Production	1 September 1995	N
	Canada	1 April 1999	
	France	4 March 1983	

Finland is currently a party to the European Convention on Cinematographic Co-production. In addition there are two bilateral conventions on co-production (see reply A.3 for Finland).

In Finland there are seven funding schemes (see reply A.2 for Finland; see below Part B:

- the Finnish Film Foundation’s Development Support
- the Finnish Film Foundation’s Advance Support for Production
- the Finnish Film Foundation’s Post-release Support for Production
- state grants for artists
- production supports - exemption from income taxation
- reduced VAT rate for cinema tickets (8 % instead of 22 %)
- the Production subsidy of the Promotion Centre for Audiovisual Culture

2 Synopsis of conventions on co-production agreements

Finland is a party to the European Convention on Cinematographic Co-production, which came into force on 1 September 1995. The Ministry of Education is in charge of its administration and supervision.

Finland is a party to the Convention on Film Co-Production between Finland and France (7/1983) which came into force on 4 March 1983. The Finnish Film Foundation is in charge of its administration and supervision.

Finland is a party to a Convention on Film and Television Co-Production with Canada (24/1999) which came into force on 1 April 1999. The Ministry of Education and the Finnish Film Foundation are in charge of its administration and supervision (see reply A.3 for Finland).

3 Synopsis of formal nationality certification procedures

In Finland there is no general procedure applicable to all funding schemes to assess the nationality of a production (see reply A.4 for Finland).

4 Synopsis of expected legal developments

In Finland no new co-production agreements are expected, as of 1 January 2007 (see reply A.5 for Finland).

No new schemes containing territorialisation requirement are expected (see reply A.6 for Finland).

B The Finnish funding schemes

1 Overview

In Finland there are seven funding schemes:

- the Finnish Film Foundation's Development Support
- the Finnish Film Foundation's Advance Support for Production
- the Finnish Film Foundation's Post-release Support for Production
- state grants for artists
- production supports - exemption from income taxation
- reduced VAT rate for cinema tickets (8 % instead of 22 %)
- the Production subsidy of the Promotion Centre for Audiovisual Culture

2 Analysis of the Finnish Film Foundation's Development Support

2.1 Description of the funding scheme

The Finnish Film Foundation's Development Support is based on the *Laki elokuvataiteen edistämisestä (28/2000)* (Act on Promotion of Cinema), which came into force on 1 March 2000, on *Asetus elokuvataiteen edistämisestä (121/2000)* (Regulation on Promotion of Cinema), which came into force on 1 March 2000 and on the *Suomen Elokuvasäätiön tuotantotuen tukiohjeet* (The Finnish Film Foundation's Guidelines for Film Production Support FFF Guidelines), which came into force on 2 February 2005.

There were no significant regulatory changes during the period from 2001 to 2005 affecting the legal questions addressed by this study, but it should be noted that the FFF Guidelines came into force on 2 February 2005.

The supervisory authority for Development Support is the Finnish Film Foundation (FFF). For contact information see reply B.14 for Finland.

2.2 Synopsis of objective territorialisation requirements

2.2.1 Rules

The Finnish Film Foundation's Development Support does not contain any objective territorial condition.

2.2.2 Practice

There is no relevant judicial or administrative practice reported (see reply B.5 for Finland for Development Support).

2.2.3 Discussion

N/A

2.2.4 Conclusions

No objective territorialisation requirements apply to this funding scheme (see reply B.5 for Finland for Development Support).

2.3 Synopsis of indirect territorialisation requirements

2.3.1 Practice

There is no relevant judicial or administrative practice reported (see reply B.11 for Finland for Development Support).

2.3.2 Discussion

N/A

2.3.3 Conclusions

There is no reported practice on indirect territorialisation requirements.

2.4. Synopsis of State aid selective granting criteria and procedures

The decision on granting a subsidy is based on qualitative criteria provided by Section 3 of the Finnish Film Foundation's Support Guidelines for Film Production Support (FFF Guidelines of 2 February 2005).

Under the FFF Guidelines the decision on granting aid must take into account, *inter alia*, the content of the project and the applicant's artistic, production and financial potential to complete the production (see reply B.13 for Finland for Development Support).

Furthermore, support for a Finnish contribution to international co-productions is based also on the evaluation of the project's potential interest to a Finnish

audience. The prospects of continued co-operation between the co-producers and the volume of Finnish contribution and artistic input in the project are also taken into account (see reply B.13 for Finland for Development Support).

Selective aid under this scheme can always be refused on the basis of considerations on the “Finnish contribution” that is not further defined. However no indirect territorialisation requirements are located under the selective aid granting criteria and procedure in the form of expenditure requirements.

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

The support for a Finnish contribution to international co-productions is based on an evaluation of the project’s potential interest to a Finnish audience. The prospects of continued co-operation between the co-producers and the volume of Finnish contribution and artistic input in the project are also taken into account (see reply B.13 for Finland for Development Support). The criteria for granting selective aid expressly refer to the Finnish contribution to the project.

As there are no rules on territorialisation in Finnish legislation (see replies B.5 and B.10 for Finland for Development Support), no conflicts or inconsistencies are possible between Finnish law and international agreements (see follow-up reply of 17 October 2006). Nevertheless, the general rule concerning the conflicts between these two different sources of law is that international law prevails over national law.

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

There are arguably no provisions containing cultural clauses (see reply B.12 for Finland for Development Support).

3 Analysis of the Finnish Film Foundation Advance Support for Production

3.1 Description of the funding scheme

The Finnish Film Foundation’s Advance Support for Production (Advance Support) is based on the *Laki elokuvataiteen edistämisestä (28/2000)* (Act on Promotion of Cinema), which came into force on 1 March 2000, on *Asetus elokuvataiteen edistämisestä (121/2000)* (Regulation on Promotion of Cinema), which came into force on 1 March 2000 and on the *Suomen Elokuvasäätiön tuotantotuen tukiohjeet* (The Finnish Film Foundation’s Guidelines for Film Production Support, FFF Guidelines), which came into force on 2 February 2005.

There were no significant regulatory changes between 2001 and 2005 affecting the legal questions addressed by this study. However, it should be noted that the FFF Guidelines came into force on 2 February 2005.

The Advance Support supervisory authority is the Finnish Film Foundation (FFF). For contact information see reply B.14 for Finland for Advance Support.

3.2 Synopsis of objective territorialisation requirements

3.2.1 Rules

The Advance Support funding scheme does not contain any objective territorial condition.

3.2.2 Practice

There is no relevant judicial or administrative practice reported (see reply B.5 for Finland for Advance Support).

3.2.3 Discussion

N/A

3.2.4 Conclusions

No objective territorialisation requirements apply to this funding scheme (see reply B.5 for Finland for Advance Support).

3.3 Synopsis of indirect territorialisation requirements

3.3.1 Practice

There is no relevant judicial or administrative practice reported (see reply B.11 for Finland for Advanced Support).

3.3.2 Discussion

N/A

3.3.3 Conclusions

There is no reported practice on indirect territorialisation requirements (see reply B.10 for Finland for Advance Support).

3.4. Synopsis of State aid selective granting criteria and procedures

The decision on granting a subsidy is based on qualitative criteria contained in Section 3 of the Finnish Film Foundation's Support Guidelines for Film Production Support (FFF Guidelines).

According to the FFF Guidelines, the decision on granting the aid shall take into account, *inter alia*, the content of the project and the applicant's artistic, production and financial capacity to complete the production (see reply B.13 for Finland for Advance Support).

Furthermore, support for a Finnish contribution to international co-productions is based also on the evaluation of the project's potential interest to a Finnish audience. The prospects of continued co-operation between the co-producers and the volume of Finnish contribution and artistic input in the project are also taken into account (see reply B.13 for Finland for Advance Support).

Selective aid under this scheme can always be refused on the basis of considerations on the "Finnish contribution" that is not further defined. However no indirect territorialisation requirements are located under the selective aid granting criteria and procedure in the form of expenditure requirements.

3.5 Synopsis of the relation between territorialisation requirements and co-production agreements

See Section 2.5 above.

3.6 Synopsis of purpose and cultural clauses applying to the funding scheme

There are no provisions containing cultural clauses (see reply B.12 for Finland for Advance Support).

4. Analysis of the Finnish Film Foundation's Post-release support for production

4.1 Description of the funding scheme

The Finnish Film Foundation's Post-release Support for Production (Post-release Support) is based on the *Laki elokuvataiteen edistämisestä (28/2000)* (Act on

Promotion of Cinema), which came into force on 1 March 2000, on *Asetus elokuvataiteen edistämisestä (121/2000)* (Regulation on Promotion of Cinema), which came into force on 1 March 2000 and on the *Suomen Elokuvasäätiön tuotantotuen tukiohjeet* (The Finnish Film Foundation's Guidelines for Film Production Support, FFF Guidelines), which came into force on 2 February 2005.

There were no significant regulatory changes during the period from 2001 to 2005 affecting the legal questions addressed by this study, but it should be noted that the FFF Guidelines came into force on 2 February 2005.

The Post-release Support supervisory authority is the Finnish Film Foundation (FFF). For contact information see reply B.14 for Finland for Post-release Support.

This scheme does not provide objective territorialisation requirements (see reply B.5 for Finland for Post-release Support). Furthermore, this scheme does not contain indirect territorialisation requirements (see reply B.10 for Finland for the Post-release Support).

4.2 Synopsis of objective territorialisation requirements

4.2.1 Rules

The Post-release Support funding scheme does not contain any objective territorial condition.

4.2.2 Practice

There is no relevant judicial or administrative practice reported (see reply B.5 for Finland for Advance Support).

4.2.3 Discussion

N/A

4.2.4 Conclusions

No objective territorialisation requirements apply to this funding scheme (see reply B.5 for Finland for Post-release Support).

4.3 Synopsis of indirect territorialisation requirements

4.3.1 Practice

There is no relevant judicial or administrative practice reported (see reply B.11 for Finland for Post-release Support).

4.3.2 Discussion

N/A

4.3.3 Conclusions

There is no reported practice on indirect territorialisation requirements (see reply B.10 for Finland for Post-release Support).

4.4 Synopsis of State aid selective granting criteria and procedures

This scheme does not distribute aid selectively (see reply B.13 for Finland for Post-release Support).

4.5 Synopsis of the relation between territorialisation requirements and co-production agreements

See Section 2.5 above.

4.6 Synopsis of purpose and cultural clauses applying to the funding scheme

N/A (see reply B.12 for Finland for Post-release support; see Section 2.5 above)

5 Analysis of State Grants for Artists

5.1 Description of the funding scheme

The State Grants for Artists (SGA) is based on the *Laki elokuvataiteen edistämisestä (28/2000)* (Act on Promotion of Cinema), which came into force on 1 March 2000 and on the *Valtionavustuslaki (688/2001)* (Act on State aid) which came into force on 1 September 2001.

There were no significant regulatory changes between 2001 and 2005 affecting the legal questions addressed by this study.

The SGA supervisory authority is the Arts Council of Finland (ACF). For contact information see reply B.14 for Finland for SGA.

5.2 Synopsis of objective territorialisation requirements

5.2.1 Rules

The State Grants for Artists funding scheme does not contain any objective territorial condition.

5.2.2 Practice

There is no relevant judicial or administrative practice reported (see reply B.5 for Finland for SGA).

5.2.3 Discussion

N/A

5.2.4 Conclusions

No objective territorialisation requirements apply to this funding scheme (see reply B.5 for Finland for SGA).

5.3 Synopsis of indirect territorialisation requirements

5.3.1 Practice

There is no relevant judicial or administrative practice reported (see reply B.11 for Finland for SGA).

5.3.2 Discussion

N/A

5.3.3 Conclusions

There is no reported practice on indirect territorialisation requirements (see reply B.10 for Finland for SGA).

5.4 Synopsis of State aid selective granting criteria and procedures

The selective granting procedure is based on the curriculum of the artist (see reply B.13 for Finland for SGA).

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

5.5 Synopsis of the relation between territorialisation requirements and co-production agreements

See Section 2.5 above.

5.6 Synopsis of purpose and cultural clauses applying to the funding scheme

There are no provisions reported on cultural objectives and justifications (see reply B.12 for Finland for SGA).

6. Analysis of Production supports' exemption from income taxation

6.1 Description of the funding scheme

The Production supports' exemption from income taxation is based on *Laki elinkeinotulon verottamisesta (360/1968) 6 § 1 momentti 6 kohta* (Section 6 Paragraph 1 Subparagraph 6 of the Act on Business Income Taxation), which came into force on 1 January 1996.

There were no significant regulatory changes between 2001 and 2005 affecting the legal questions addressed by this study.

The supervisory authority for this tax exemption scheme is the Finnish Tax Administration (FTA). For contact information see replies B.4 and B.14 for Finland for Production supports' exemption from income taxation.

6.2 Synopsis of objective territorialisation requirements

6.2.1. Rules

This scheme does not provide any objective territorialisation requirements (see reply B.5 for Finland for Production supports' exemption from income taxation).

6.2.3. Practice

There is no relevant judicial or administrative practice reported.

6.2.3 Discussion

N/A

6.2.4 Conclusions

No objective territorialisation requirements apply to this funding scheme (see reply B.5 for Finland for Production supports' exemption from income taxation).

6.3 Synopsis of indirect territorialisation requirements

6.3.1 Practice

There is no relevant judicial or administrative practice reported.

6.3.2 Discussion

N/A

6.3.3 Conclusions

There is no reported practice on indirect territorialisation requirements (see reply B.10 for Finland for Production supports' exemption from income taxation).

6.4 Synopsis of State aid selective granting criteria and procedures

There is no selective aid granting procedure. The State aid is granted automatically (see reply B.13 for Finland for Production supports' exemption from income taxation).

6.5 Synopsis of the relation between territorialisation requirements and co-production agreements

N/A

6.6 Synopsis of purpose and cultural clauses applying to the funding scheme

There are no provisions reported on cultural objectives and justifications (see reply B.12 for Finland for Production supports' exemption from income taxation).

7. Analysis of Reduced value added tax rate for cinema tickets

7.1 Description of the funding scheme

The Reduced value added tax rate for cinema tickets (8 % instead of 22 %) is based on *Arvonlisäverolaki (1501/1993) 85a § 1 momentti 4 kohta*, (Section 85a Paragraph 1 Subparagraph 4 of the Value Added Tax Act), which came into force on 1 January 1996.

There were no significant regulatory changes between 2001 and 2005 affecting the legal questions addressed by this study.

The supervisory authority for the Reduced VAT rate for cinema tickets is the Finnish Tax Administration (FTA). For contact information see replies B.4 and B.14 for Finland for Reduced VAT rate for cinema tickets.

7.2 Synopsis of objective territorialisation requirements

7.2.1. Rules

This scheme does not contain any objective territorialisation requirements (see reply B.5 for Finland for Reduced value added tax rate for cinema tickets).

7.2.2. Practice

There is no relevant judicial or administrative practice reported.

7.2.3 Discussion

N/A

7.2.4 Conclusions

No objective territorialisation requirements apply to this funding scheme.

7.3 *Synopsis of indirect territorialisation requirements*

7.3.1 Practice

There is no relevant judicial or administrative practice reported.

7.3.2 Discussion

N/A

7.3.3 Conclusions

There is no reported practice on indirect territorialisation requirements (see reply B.11 for Finland for Reduced value added tax rate for cinema tickets).

7.4 Synopsis of State aid selective granting criteria and procedures

There is no selective aid granting procedure. The State aid is granted automatically (see reply B.13 for Finland for Reduced value added tax rate for cinema tickets).

7.5 Synopsis of the relation between territorialisation requirements and co-production agreements

See Section 2.5 above.

7.6 Synopsis of purpose and cultural clauses applying to the funding scheme

There are no provisions containing cultural clauses (see reply B.12 for Finland for Reduced value added tax rate for cinema tickets).

8. Analysis of Production subsidy of the Promotion Centre for Audiovisual Culture

8.1 Description of the funding scheme

The Production subsidy of the Promotion Centre for Audiovisual Culture (Production Subsidy) is based on the *Audiovisuaalisen kulttuurin edistämiskeskuksen tukiohjeisto* (The Finnish Film Foundation's Guidelines for Film Production Support), which came into force on 2 February 2005.

There were no significant regulatory changes during the period from 2001 to 2005 affecting the legal questions addressed by this study, but it should be noted that the FFF Guidelines came into force on 2 February 2005.

The Production Subsidy supervisory authority is the Promotion Centre for the Audiovisual Culture (PCAC). For contact information see replies B.4 and B.14 for Finland for Production subsidy.

8.2 Synopsis of objective territorialisation requirements

8.2.1. Rules

This scheme does not contain any objective territorialisation requirements (see reply B.5 for Finland for Production subsidy).

8.2.2. Practice

There is no relevant judicial or administrative practice reported.

8.2.3. Discussion

N/A

8.2.4. Conclusions

No objective territorialisation requirements apply to this funding scheme.

8.3 Synopsis of indirect territorialisation requirements

8.3.1 Practice

There is no relevant judicial or administrative practice reported.

8.3.2 Discussion

N/A

8.3.3 Conclusions

There is no reported practice on indirect territorialisation requirements (see reply B.10 for Finland for Production subsidy).

8.4 Synopsis of State aid selective granting criteria and procedures

The selective granting procedure is based on qualitative criteria, in particular on an evaluation of the overall expressive impact of the project. Special attention is paid to professionalism, subject matter, themes and narration (see reply B.13 for Finland for Production subsidy).

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

8.5 Synopsis of the relation between territorialisation requirements and co-production agreements

See Section 2.5 above.

8.6 Synopsis of purpose and cultural clauses applying to the funding scheme

There are no provisions on cultural objectives and justifications (see reply B.12 for Finland for Production Subsidy).

References

None

Attachments:

- Replies to the legal questionnaire by Markku Varhela, attorney at law, Heinonen & Co Ltd, Finland
- Regulations for Finland