

**PART A OF THE CINEMA STUDY
REPLIES TO THE LEGAL QUESTIONNAIRE FOR LITHUANIA**

Member State:	LITHUANIA
Re:	Follow Up Reply
Date:	23 February 07

(...)

Please find enclosed answer to your question on conflicts or inconsistencies between the rules on territorialisation contained in internal legislation on State aid to cinema and the rules contained in conventions on co-production agreements.

(...)

Attachment to e-mail of 23 February 2007: answer to follow-up questions_Lithuania_questionnaire on film production territorialisation.doc
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(...)

By this we make reference to your follow-up request to specify information about the legal mechanism addressing conflicts between the rules on territorialisation contained in co-production convention and those in the national legislation.

The principle that provisions of international agreements (hereinafter – treaty) shall prevail over provisions of national legislation in case of conflict between provisions of treaty and internal legal acts shall be applied in the Republic of Lithuania. Therefore, the provisions of co-production agreements shall be applied if these agreements contain territorialisation provisions different than those in national legislation. There are no exceptions to these rules unless the particular treaty stipulates otherwise. This principle is implemented by the further legal mechanism.

The clause 11.2 of the Law on Treaties of the Republic of Lithuania provides, that if a ratified treaty of the Republic of Lithuania which has entered into force establishes norms other than those established by the laws, other legal acts of the Republic of Lithuania which are in force at the moment of conclusion of the treaty or which entered into force after the entry into force of the treaty, the provisions of the treaty of the Republic of Lithuania shall prevail. Besides under the Law on Treaties, all treaties which establish legal norms other than the effective laws of the Republic of Lithuania shall be subject to ratification.

In addition, the common principle *lex speciali generali derogat* (specific rules of legislation prevail over general rules of legislation) shall be applied in case of conflict of rules as well. Therefore provisions of co-production agreements as they may provide specific norms addressing different situations than those that are regulated by the national legislation shall be applied. These provisions enables to ensure compliance with the Article 27 of the Vienna Convention on the Law on Treaties to which Lithuania is a party as under this Article a party of a treaty may not invoke the provisions of its internal law as justification for its failure to perform a treaty.

(...)

Member State:	LITHUANIA
Re:	Follow Up Question
Date:	21 February 07

(...)

We are in the finalization phase of the country reports (...):

1) With respect to your reply to question B.8 we assume that, in case of a conflict or an inconsistency between the rules on territorialisation contained in your national or internal legislation on State aid to cinema and the rules contained in conventions on co-production agreements to which you country is a party, the latter rules prevail over the former, i.e. international agreements prevail over national or internal law. Should this principle exceptionally not apply in your jurisdiction to the concrete case of territorialization requirements, please provide us with a short description of the legal mechanism addressing such conflicts or inconsistencies as applied in your jurisdiction.

(...)

Member State:	LITHUANIA
Re:	Follow Up Reply
Date:	06 January 07

(...)

I would like to provide complemented answers to the questionnaire (please find attached file).

I would like to pay your attention that relevant information and answers to questions that you have enquired by your last email (regarding Baltic Films, conflict of international and national law, public procurements) are placed in answers to the questionnaire. If it is necessary to provide this information separately from questionnaire, please inform us.

I would like to pay your attention that links to some information are not available, e.g. to Convention between the Ministry of Culture of the Republic of Lithuania, the Ministry of Culture of the Republic of Estonia and the Ministry of Culture of the Republic of Latvia on Baltic Films cooperation project as this documents is under administration of Ministry of Culture but is not publicized in Official gazette, therefore it was complicated to get this information.

Quite similar situation is regarding film funding during period 2001 to 2003. The civil servant of the Ministry of Culture referred that the support for film projects was subsequent:

Years	Thousands Euro
2001	991,3
2002	838,2
2003	867,0
2004	1 068,0
2005	1 371,0

To these sums the support of the Culture and Sport Support Fund which existed during this period, must be added. However, this Fund is responsible for all spheres of the sport and culture, and according to the information of the Ministry of Culture, this funding scheme

financed film production projects yearly for approx. 200 000 – 250 000 Euro.

As present funding scheme was established by the Law on Cinema which entered into force in 2003, and previous to this funding scheme support does not reach 1 million Euro, it is not discussed in answers to the questionnaire. However, as if it is may be important to the study and proper implementation of your mandate, we are ready to provide additional information. I would like to pay your attention that none of the internet pages or databases of publicised legal acts provide relevant information how film production was supported during 2001-2003 except the Culture and Sport Support Fund scheme. To get this additional information we referred to the Ministry of Culture. On replies we would be able to provide additional information.

(...)

We also would like to know whether it is necessary to provide additional information on the film funding during 2001-2003 as it does not qualify the requirement of the threshold for the territorialisation study.

(...)

Attachment to e-mail of 06 January 2007
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- Completed questionnaire on film production territorialisation_Lithuania.rar
 - o Annex_1_Law on Cinema.doc
 - o Annex_2_Order No. [V-314 of the Minister of Culture of 5 of September 2003 on Instructions on Designation of the State Budget of Republic of Lithuania Funds for Film Production and Cinema Projects.doc
 - o Annex_3_Order No. [V-147 of the Minister of Culture of 16 of June 2004 amending Order No. [V-314 of the Minister of Culture of 5 of September 2003.doc
 - o Annex_4_Order No. [V-88 of the Minister of Culture of 15 April 2004 on Approval of National Cinema Support Programme.doc
 - o Annex_5_Order No. 482 of the Minister of Culture of 20 of December 2002 on Approval of Regulations and Composition of Cinema Council.doc
 - o Annex_6_Resolution of Government on investment of authority.doc
 - o Questionare on film production territorialisation_Lithuania.doc

PART A

GENERAL QUESTIONS

OVERVIEW

A.1 Country / region:

The information provided in this memorandum is limited to the Republic of Lithuania.

A.2 Names of funding schemes with an annual budget of State aid dedicated to pre-production, production, post-production, marketing, distribution and promotion of independent cinematographic and audiovisual works of at least € 1 million in 2005 (this includes any kind of support, e.g. direct subsidies, fiscal advantages, etc., to pre-production, production, post-production, marketing, distribution and promotion):

The Ministry of Culture of the Republic of Lithuania (hereinafter – the Ministry of Culture) operates National Cinema Support Programme's¹ and the State budget of the Republic of Lithuania funding scheme². The Ministry of Culture under this funding scheme gave support for the amount of 3.293.200 litas (that is approx. 954.550 €)³ in 2005.

COPRODUCTION AGREEMENTS

A.3 List the conventions on co-production agreements to which your country is currently a party, indicate the date of the entry into force of each convention, and indicate the name and address of the authority in charge of their administration and supervision:

¹ National Cinema Support programme was approved by Order No. IV-88 of the Minister of Culture of 15 April 2004 on Approval of National Cinema Support Programme. Link to the text in Lithuanian: http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc_l?p_id=231110&p_query=&p_tr2=

² There is no express name of this funding scheme, as the Ministry of Culture operates funding scheme under Order No. IV-314 of the Minister of Culture of 5 September 2003 on Instructions on Designation of the State Budget of Republic of Lithuania Funds for Film Production and Cinema Projects and is in charge of the implementation of National Cinema Support Programme.

³ List of donations in 2005: http://www.lrkmlt.lt/EasyAdmin/sys/files/filmu_sarasas_2005.doc.

European Convention on Cinematographic Co-production. Entered into force on 1 of October 1999⁴.

Convention between the Ministry of Culture of the Republic of Lithuania, the Ministry of Culture of the Republic of Estonia and the Ministry of Culture of the Republic of Latvia on Baltic Films cooperation project⁵. This convention is in force since 2000 m.

The authority in charge of administration and supervision of these conventions is the Ministry of Culture. Address of the Ministry of Culture - J. Basanaviciaus str. 5, LT-01118 Vilnius, Lithuania.

NATIONALITY CERTIFICATION PROCEDURES

A.4 Describe the formal procedure, if any, to assess and certify the nationality of an independent film or television production in your country by indicating the authority in charge of this procedure, the criteria of eligibility, and the scope of this certification procedure in relation to public funding schemes in your jurisdiction:

According to the definition of the national film provided in the Law on Cinema⁶, the production is of national nature automatically if it complies with below mentioned criteria. Article 4 of the Law on Cinema defines what should be considered as a national film and a national co-production film.

Pursuant to Paragraph 1 of Article 4 of the Law on Cinema a film qualifies as a Lithuanian if it complies with one of the below mentioned criteria. The first, the film is national if content, topics of a film reflects fundamental principles of development of Lithuanian culture, problems of national character of Lithuanians, revealing national peculiarities and traditions. The second criterion requires that at least 50 percent of the budget of the film, which comprises expenses on the production, distribution and showing, must be spent for the services of the Lithuanian cinema organizations. The cinema organization is a legal person, which one of the main activities is the film production, distribution, public demonstration, conservation, producing and promotion. According to the third criterion, main creators of film

⁴ The Law on Ratification of European Convention on Cinematographic Co-production: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_e?p_id=80020

⁵ This convention governs representation of the film production in the international festivals, foreign promotional events and foreign markets. An annual project budget is approved every year under an agreement of the Ministries of the Parties to this convention. The budget of the project was 73 481 Euro in 2006. The link to the text of the convention is not available.

⁶ Link to the Law on Cinema edition as of 31 December 2005 in Lithuanian: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_e?p_id=221593&p_query=&p_tr2=

(screenwriter, director, cameraman, composer and animator) must be, if they are natural persons:

- i. citizens of the Republic of Lithuania;
- ii. live in the Republic of Lithuania;
- iii. citizens of other Member States;

if they are legal persons:

- i. registered in the Republic of Lithuania;
- ii. registered in other Member States.

In all cases the main language of the film must be Lithuanian (Paragraph 3 of Article 4 of the Law on Cinema), the other languages may be used if it complies with a scenario.

Pursuant to Paragraph 2 of Article 4 of the Law on Cinema a co-production film qualifies as a Lithuanian if it is produced with the foreign cinema organization according to the conditions of the co-production agreements to which Lithuania is a party and if content, topics of a film reflects fundamental principles of development of Lithuanian culture, problems of national character of Lithuanians, revealing national peculiarities and traditions.

Whether a film is of national nature it is reviewed by the civil servant assigned by the Minister of the Culture responsible for formal expertise of the applications and Cinema Council⁷.

EXPECTED DEVELOPMENTS

A.5 Indicate whether new co-production agreements are to be expected in your jurisdiction as of 1 January 2007, indicate the contemplated date of the entry into force of each convention, and indicate the name and address of the authority in charge of their administration and supervision.

We have no knowledge of new co-production agreements to be expected to come into force as of 1 January 2007.

A.6 Indicate whether new funding schemes containing territorialisation requirements entered into force or are to be expected to enter into force in your jurisdiction as of 1 January 2006, and indicate the name and address of the administration of these funding schemes:

⁷ Order No. IV-314 of the Minister of Culture of 5 September 2003 on Instructions on Designation of the State Budget of Republic of Lithuania Funds for Film Production and Cinema Projects. Link to the text in Lithuanian: http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc_l?p_id=217613.

We have no knowledge of new funding schemes conforming A.2. criteria.

REFERENCES TO LOCAL STUDIES

A.7 Provide the references of studies, reports or other relevant materials on territorialisation requirements, on co-production agreements and on legal aspects of the promotion of film related cultural identities and cultural diversity in your jurisdiction (author, title, place, date of publication, and, if available, internet link):

Studies:

Rasa Paukstyte. Lithuanian Cinema in 1990 – 2004. Part 1. 19 July 2004. Link:
<http://www.lfc.lt/en/Page=ArticleList&ID=1118> .

Laws and regulations:

The Constitution of the Republic of Lithuania (in English).

http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_e?p_id=275302.

The Law on Cinema (in Lithuanian).

http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_e?p_id=221593&p_query=&p_tr2=.

Instructions on Designation of the State Budget of Republic of Lithuania Funds for Film Production and Cinema Projects (in Lithuanian).

http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc_l?p_id=217613.

National Cinema Support Programme (in Lithuanian).

http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc_l?p_id=231110&p_query=&p_tr2=.

Other related links:

The Ministry of Culture: <http://www.lrkm.lt/>

Lithuanian Film Centre: <http://www.lfc.lt/en/>

PART B
FUND SPECIFIC QUESTIONS

IDENTIFICATION OF THE FUNDING SCHEME

B.1 Country/region:

Lithuania.

B.2 Name of the funding scheme:

National Cinema Support Programme's and the State budget of the Republic of Lithuania funding scheme.

B.3 Name and address of the funding scheme's administration and supervisory authority:

The authority in charge of administration and supervision of the funding scheme is the Ministry of Culture. Address of the Ministry of Culture - J. Basanaviciaus str. 5, LT-01118 Vilnius, Lithuania.

B.4 List the titles of the laws and regulations that govern this funding scheme as of 31 December 2005 (in the original language and in an English working translation), and indicate the dates when these laws and regulations entered into force, whether these laws and regulations were amended during the period from 2001 to 2005 (if so and if the amendments were significant, indicate their dates of entry in force), and provide a copy of these laws and regulations in the version as of 31 December 2005 (in the national language only).

The funding scheme named in B.2 was established by the Law on Cinema and subsequent regulations:

1. Kino įstatymas. (*The Law on Cinema*). Provided in Annex No 1.

1.1. Entered into force on 27 of March 2003.

1.2. Amendments (immaterial): Kino įstatymo 6, 8 ir 12 straipsnių pakeitimo įstatymas (*The Law Amending Article 6, 8 and 12 of the Law on Cinema*). Entered into force on 29 of November 2003.

2. 2003 m. rugsėjo 5 d. Kultūros ministro įsakymas Nr. ĮV-314 Dėl Lietuvos Respublikos biudžeto lėšų skyrimo filmų gamybos ir kino programų projektams tvarkos patvirtinimo

(Order No. IV-314 of the Minister of Culture of 5 September 2003 on Instructions on Designation of the State Budget of Republic of Lithuania Funds for Film Production and Cinema Projects). Provided in Annex No 2.

2.1. Entered into force on 13 September 2003.

2.2. Amending acts:

2.2.1. 2004 m. gegužės 4 d. Kultūros ministro įsakymas Nr. IV-147 Dėl 2003 m. rugsėjo 5 d. Kultūros ministro įsakymas Nr. IV-314 Dėl Lietuvos Respublikos biudžeto lėšų skyrimo filmų gamybos ir kino programų projektams tvarkos patvirtinimo pakeitimo (*Order No. IV-147 of the Minister of Culture of 4 of May 2004 amending Order No. IV-314 of the Minister of Culture of 5 of September 2003 on Instructions on designation of the state budget of Republic of Lithuania funds for film production and cinema projects*). Under this amendment there was simplified order of spending the production budget. Provided in Annex No 3.

2.2.2. 2004 m. birželio 16 d. Kultūros ministro įsakymas Nr. IV-147 Dėl 2003 m. rugsėjo 5 d. Kultūros ministro įsakymas Nr. IV-314 Dėl Lietuvos Respublikos biudžeto lėšų skyrimo filmų gamybos ir kino programų projektams tvarkos patvirtinimo pakeitimo (*Order No. IV-147 of the Minister of Culture of 16 of June 2004 amending Order No. IV-314 of the Minister of Culture of 5 of September 2003 on Instructions on designation of the state budget of Republic of Lithuania funds for film production and cinema projects*). (Immaterial amendments).

3. 2002 m. gruodžio 20 d. Kultūros ministro įsakymas Nr. 482 Dėl Kino tarybos nuostatų ir jo sudėties patvirtinimo (*Order No. 482 of the Minister of Culture of 20 of December 2002 on Approval of Regulations and Composition of Cinema Council*). Provided in Annex No 4.

3.1. Entered into force on 5 January 2003.

3.2. Amended twice, amendments are immaterial.

4. 2004 m. balandžio 14 d. Kultūros ministro įsakymas Nr. IV-88 Dėl Nacionalinio kino rėmimo programos patvirtinimo (*Order No. IV-88 of the Minister of Culture of 15 April 2004 on Approval of National Cinema Support Programme*). Provided in Annex No 5.

4.1. Entered into force on 21 April 2004.

5. 2002 m. liepos 4 d. Vyriausybės nutarimas Nr. 1055 Dėl įgaliojimų suteikimo įgyvendinant Lietuvos Respublikos kino įstatymą (*Resolution No. 1055 of the Government of the Republic of Lithuania of 4 July 2002 on Investment of the Authority to Implement the Law on Cinema*). Provided in Annex No 6.
- 5.1. Entered into force on 11 July 2002.

TERRITORIAL CONDITIONS⁸

Explicit territorial conditions

B.5 Does the scheme impose any explicit obligation on independent film and audiovisual project proposals that they must spend a minimum proportion of the production budget in the Member State/Region to qualify for State aid or to receive the maximum amount of State aid available (*consider the situation as of 31 December 2005 and, only in case of significant changes, the situation before this date during the period from 2001 to 2005*)?

No.

B.6 Quote (in the national language and in an English working translation) the provisions requiring territorialisation that are contained in the rules (legislation and internal regulations) listed under Answer B.4 (*provide quotes of the current version of the rules as of 31 December 2005 and, only in case of significant changes, of former versions of territorialisation clauses that were in force before this date during the period from 2001 to 2005*):

Not applicable according to the answer to B.5. question.

B.7 Describe how these territorialisation requirements are implemented, including the minimum proportion required and the maximum (*provide a description with respect to the current version of the territorialisation requirements as of 31 December 2005 and, only in case of significant changes, with respect to former versions of territorialisation requirements that were in force before this date during the period from 2001 to 2005*).

Not applicable according to the answer to B.5. question.

B.8 Describe how territorialisation requirements that apply to this scheme are interpreted and implemented in the context of the co-production agreements listed under answer A.3 (*provide a description with respect to the current version of the territorialisation requirements as of 31 December 2005 and, only in case of significant changes, with*

⁸ Any requirement/incentive that some of the development, production or post-production activities must take place in the country or region offering the State aid, either for the audiovisual work to be eligible for State aid or affecting the amount of State aid available to the audiovisual work.

respect to former versions of territorialisation requirements that were in force before this date during the period from 2001 to 2005):

As mentioned in answer to B.5. question this scheme does not provide any explicit territorialisation requirements. In this context it is important to explain the legal mechanism regarding conflicts of national and international law in particular co-production agreements.

Pursuant to Paragraph 11.2 of the Law on Treaties⁹, if a ratified treaty of the Republic of Lithuania which has entered into force establishes norms other than those established by the laws, other legal acts of the Republic of Lithuania which are in force at the moment of conclusion of the treaty or which entered into force after the entry into force of the treaty, the provisions of the treaty of the Republic of Lithuania shall prevail. Paragraph 11.3 of the Law on Treaties states that in case a law or any other legal act has to be passed for the purpose of implementation of a treaty of the Republic of Lithuania, the Government of the Republic of Lithuania shall submit to the Seimas (the Parliament of the Republic of Lithuania) according to the established procedure a draft of the appropriate law or shall adopt an appropriate resolution of the Government or ensure according to its competence the passing of another legal act. According to these provisions and general principal of the supremacy of international law, in case a co-production convention provides different rules other than those established in national laws regulating funding scheme, the competent authority should ensure an avoidance of any contradictions by amending national laws and regulations or providing exceptions.

Regarding situation of the co-production agreements, present legislation provides no explicit territorialisation requirements. According to the Law on Cinema in case the co-production is national and complies requirements provided in international treaties of Lithuania it has priority to the State aid. The State aid will not be given, if the production does not comply any obligatory requirement of the co-production agreement and therefore can not be recognised as co-production, but not because a film does not comply implicit territorialisation clauses.

⁹ The Law on Treaties. Link to the text in Lithuanian.
http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_e?p_id=265678.

B.9 Quote and summarize judicial and administrative practice (case law and guidelines) and legal commentaries addressing the implementation of territorialisation requirements that you quoted and described under answers B.6 to B.8 (*provide a quote and summary with respect to the current version of the territorialisation requirements as of 31 December 2005 and, only in case of significant changes, with respect to former versions of territorialisation requirements that were in force before this date during the period from 2001 to 2005*):

Not applicable according to the answer to B.5 question.

Implicit or *de facto* territorial conditions

B.10 Does the scheme provide any scope for territorial conditions to be applied implicitly or *de facto*? - For example, do the selection criteria imply that proposals are more likely to be selected for funding if they would create employment in the region/Member State, use local professionals, or generally promote interest in the region/Member State (*please cover the situation prevailing as of 31 December 2005 and, only in case of significant changes, the situation that prevailed before this date during the period from 2001 to 2005*)?

Yes.

B.11 Please describe the implicit or *de facto* territorialisation requirements that are practised by this funding scheme (*as of 31 December 2005 and, only in case of significant changes, before this date during the period from 2001 to 2005*):

One of the criterion allowing a film to be considered as national is that at least 50 percent of the film budget, which comprises expenses on production, distribution and demonstration, must be spent for the services of the Lithuanian cinema organizations. According to this a film producer may be encouraged to spend at least 50 percent of the budget in Lithuania in order to qualify for support as well as the Council of Cinema could tend to support such projects. However, this requirement is not binding, as a film will be of a national nature if it complies with one of the rest two criteria defined in Paragraph 1 of Article 4 of the Law on Cinema.

Another condition which may indirectly create a territorialisation effect is cultural clauses declaring cultural goals and priority to support films which reflects fundamental principles of development of Lithuanian culture, problems of national character of Lithuanians, revealing national peculiarities and traditions as this may be achieved by shooting films in Lithuania. This could contribute additionally to the goals provided in National Cinema Support Programme, such as to promote national cinema, to develop system of distribution and demonstration of national films in

Lithuania as well as abroad, to modernize cinema industry (measures) and to create conditions for the improvement of the professional artistry and qualification of young cinema artists. Quite similar implicit territorialisation clauses regarding the contribution of the co-producers relating to creative, technical and artistic personnel, cast and facilities are provided in the European convention on Cinematographic Co-production (Article 8).

In addition, it should be mentioned there is an indirect effect to the territory of the supply for the procurement of the producers due to the regulation of public procurement. Pursuant to the Paragraph 9 of the Instructions on Designation of the State Budget of Republic of Lithuania Funds for Film Production and Cinema Projects producers must acquire all supplies, services and works following the Law of the Republic of Lithuania on Public Procurement¹⁰. Where the producers are contracting authorities under the Law of the Republic of Lithuania on Public Procurement, this obligation exists *ex officio*. Order No IV-147 of the Minister of Culture of 4 of May 2004 amending the Instructions on Designation of the State Budget of Republic of Lithuania Funds for Film Production and Cinema Projects¹¹ simplified the order of spending a film production budget. According to these amendments producers not considered as contracting authorities must acquire supplies, services and works under the regulation approved by the head of the organization (e.g. producing company). Under this simplified procedure where the value of the object of procurement is lower than 75 000 litas (approx. 21 740 Euro) for supplies and services and 300 000 Lt (approx. 87 000 Euro), a producer should follow the principles of equal treatment, non-discrimination and transparency allowing a rational and economic use of the State budget resources allocated for this particular purpose. In case value of procurement is higher above mentioned thresholds, an open procedure must be held. However, a publication about an open procedure should be made at a daily newspaper distributed in all Lithuania. Such provision may indirectly restrict the territory of the supply for the procurement.

The same indirect effect is possible where the public procurement is carried under the Law of Public Procurement as obligation to publicize notices are only in the

¹⁰ Link to the actual edition of the Law on Public Procurement in English: http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc_l?p_id=273790. Reference to the edition as of 31 December 2005 of the Law on Public Procurement in English is not available (link to the edition as of 31 December 2005 in Lithuanian: http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc_l?p_id=269035).

¹¹ Link to the text in Lithuanian: http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc_l?p_id=233003&p_query=&p_tr2=.

Lithuanian official gazette, provided the values of procurement are not above an international threshold value, with some strictly regulated exceptions related with a possibility to apply negotiated procedures or procedures of usual commercial practice. The contractors may also face some problems as it may be necessary to provide particular documents of the Lithuanian state authorities and all documents (tender and its annexes) must be in Lithuanian.

However, it should be mentioned that the Law on Public Procurement complies with all EU legal acts (directives) in the sector of public procurements and none of the above mentioned aspects does not preclude possibility to acquire supplies, services or works from undertakings of other Member States or comprises an obligation to spend a particular part of the budget in Lithuania.

CULTURAL CLAUSES

B.12 Quote the legal provisions of your jurisdiction (in the national language and in an English working translation) expressing cultural policy goals (e.g. promotion of cultural identity and cultural diversity) that could legitimate the explicit or implicit territorialisation requirements mentioned under answers B.6, B.7 and B.11 and that are currently in force:

The main cultural clauses and goals regarding the State responsibilities are provided in the third part of Article 42 of the Constitution of the Republic of Lithuania¹² according to which:

The State shall support culture and science, and shall take care of the protection of Lithuanian historical, artistic and cultural monuments and other culturally valuable objects.

(Valstybė remia kultūrą ir mokslą, rūpinasi Lietuvos istorijos, meno ir kitų kultūros paminklų bei vertybių apsauga).

This constitutional principal provision is detailed and implemented by various laws including the Law on Cinema.

¹² Link to the text of the Constitution of the Republic of Lithuania in English: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_e?p_id=275302.

Pursuant to Paragraph 1.1. of Article 5 of the Law on Cinema, the film may be considered as national and therefore supported if:

Content, topics of a film reflects fundamental principles of development of Lithuanian culture, problems of national character of Lithuanians, revealing national peculiarities and traditions.

(Filmo turinys, jo tematika atspindi esminius Lietuvos kultūros raidos principus, lietuvių tautinio charakterio problemas, atskleidžia nacionalinius ypatumus, tradicijas).

The National Cinema Support Programme expresses cultural policy goals for film production as well, in particular Paragraph 5 of the Programme states that:

There must be given major attention in the policy of culture to national cinema as a proof of the national identity and peculiarities of national culture <...>. *(Nacionaliniam kinui kaip tautos identiteto ir nacionalinės kultūros savitumo liudytojui kultūros politikoje turėtų būti skiriamas didelis vaidmuo <...>).*

Paragraph 12 states that:

<...>fundamental goal of the Programme – <...> to create better conditions for more active production and showing of national films <...>.

(<...> strateginis programos tikslas – tarp kitų <...>sudaryti palankias sąlygas aktyvesnei nacionalinių filmų gamybai, nacionalinių filmų rodymui <...>).

These above mentioned cultural goals and clauses may be additional arguments to justify selective decisions to give financial support based on qualitative criteria.

SELECTIVE SCHEMES

B.13 If this scheme distributes aid selectively,¹³ please list the qualitative criteria that were applied as of 31 December 2005 and, only in case of significant changes, before this date during the period from 2001 to 2005:

Paragraph 5 of Instructions on Designation provides that projects for the State aid are selected considering their cultural importance and the potential level of artistry. Paragraph 1 of Article 4 of the Law on Cinema (requirements for national film) must be considered as well as some of them are of the qualitative nature.

The Cinema Council approves its own Work regulations upon which Council analyses, evaluates and as a result gives an opinion whether to support of particular cinema project¹⁴.

CONTACT DETAILS

B.14 Name, function and contact information (postal address, phone and email) of the liaison person at the funding scheme:

The Ministry of Culture. Renata Šukaitytė, senior specialist responsible for cinema.
Tel. + 370 5 262 39 41, E-mail r.sukaityte@lrkm.lt .

Common contacts of the Ministry of Culture: tel.+ 370 5 262 39 41, fax. 262 31 20. E-mail: culture@lrkm.lt .

Contacts of the Ministry of Culture: <http://www.lrkm.lt/index.php/lt/34331/> .

Name of the lawyer and law firm in charge of the data collection:

Lawyer Mr. Karolis Smaliukas, Law firm Soloveicikas, Markauskas and Aviza SMA.

Date of the data collection and processing:

6 October 2006

¹³ Selective funding schemes grant State aid based on an evaluation of each project and following qualitative criteria. In contrast, automatic schemes grant State aid if certain quantitative criteria such as box office results of previous works are met.

¹⁴ Order No. 482 of the Minister of Culture of 20 of December 2002 on Approval of Regulations and Composition of Cinema Council. Link to the text in Lithuanian: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=198073&p_query=&p_tr2=. However, a link to the text of the Work regulation is not available.

Member State:	LITHUANIA
Re:	Follow Up Question
Date:	30 November 2006

(...)

Please provide us your replies to the follow-up requests for clarification as follows so that we can integrate them into our final report on your jurisdiction:

- 1) With respect to your reply to question B.8 we assume that, in case of a conflict or an inconsistency between the rules on territorialisation contained in your national or internal legislation on State aid to cinema and the rules contained in conventions on co-production agreements to which you country is a party, the latter rules prevail over the former, i.e. international agreements prevail over national or internal law. Should this principle exceptionally not apply in your jurisdiction to the concrete case of territorialization requirements, please provide us with a short description of the legal mechanism addressing such conflicts or inconsistencies as applied in your jurisdiction.
- 2) According to the replies to the legal questionnaire that the European Commission sent to your country in spring 2006, Lithuania adheres since 2000 to a trilateral co-production agreement, the "Baltic Films". We note that you did not address this co-production agreement in your replies to our legal questionnaire. Please provide us with the relevant information on this scheme.
- 3) Please describe the funding scheme that were in force during the reference period from 2001 to 2005 prior to the entry into force of the current funding scheme in 2003.
- 4) You mentioned in your replies that producers who obtained State aid for film production must comply with the Lithuanian law on public procurement with respect to their contractual relationships with suppliers. Please specify whether this law applies in all cases or only if the contract between the producer and her supplier reaches a certain amount of money. Furthermore, please specify the limitations imposed by this law on producers to contract foreign suppliers, in particular suppliers from other Member States.
- 5) Please quote and summarize in more details constitutional and legal provisions governing the Lithuanian funding scheme that articulate cultural objectives and justifications.

(...)

Member State:	LITHUANIA
Re:	Follow Up Question
Date:	13 October 2006

(...)

With respect to your reply to question B.8 we assume that, in case of a conflict or an inconsistency between the rules on territorialization contained in your national or internal legislation on State aid to cinema and the rules contained in conventions on co-production agreements to which your country is a party, the latter rules prevail over the former, i.e. international agreements prevail over national or internal law. Should this principle exceptionally not apply in your jurisdiction to the concrete case of territorialization requirements, please let us know via email, and please provide us with a short description of the legal mechanism addressing such conflicts or inconsistencies as applied in your jurisdiction.

(...)

Member State:	LITHUANIA
Re:	Reply
Date:	06 October 2006

(...)

Please find the attached completed questionnaire and laws and regulations concerning funding of the film production.

(...)

Attachments to e-mail of 06 October 2006

- completed questionnaire.doc
- Law on Cinema.doc
- Resolution of Government on investment of authority.doc
- Order No. ĮV-314 of the Minister of Culture of 5 of September 2003 on Instructions on Designation of the State Budget of Republic of Lithuania Funds for Film Production and Cinema Projects.doc
- Order No. ĮV-147 of the Minister of Culture of 16 of June 2004 amending Order No. ĮV-314 of the Minister of Culture of 5 of September 2003.doc
- Order No. ĮV-88 of the Minister of Culture of 15 April 2004 on Approval of National Cinema Support Programme.doc
- Order No. 482 of the Minister of Culture of 20 of December 2002 on Approval of Regulations and Composition of Cinema Council.doc

Attachment to e-mail of 06 October 2006: completed questionnaire.doc

[replaced by updated version; see attachment to email of 06 January 2007]