

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

**MEMBER STATE LEGAL REVIEW**



**LITHUANIA**  
**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 Lithuania**  
**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			Expected New Funding Schemes containing “Objective Explicit” Territorialisation Requirements (A.6): Y/N
				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	
Lithuania	National Cinema Support Programme and the State budget of the Republic of Lithuania funding scheme	1,091,014 <sup>1</sup>	Nat	N/A	N/A	N/A	N	N/A	N/A	N

<sup>1</sup> the support for film projects was subsequent: in 2001 991,3 Thousand Euro, in 2002 838,2 Thousand Euro, in 2003 867,0 Thousand Euro, in 2004 1068,0 Thousand Euro, in 2005 1 371,0 Thousand Euro. To these sums the support of the Culture and Sport Support Fund which existed during this period, must be

**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
Lithuania	National Cinema Support Programme and the State budget of the Republic of Lithuania funding scheme	N	N/A	N/A	N	N/A	N/A	N	N/A	N/A

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.

**Table C – Budget and Territorialisation Intensity**

Member State	Names of Funding Schemes	Available Budget	Objective explicit territorialisation requirement quantified in the law <sup>3</sup>	Degree of the territorialisation <sup>4</sup>		
				Funding Scheme Level <sup>5</sup>	Funding body level	Member State Level <sup>6</sup>
Lithuania	National Cinema Support Programme and the State budget of the Republic of Lithuania funding scheme	1,091,014 <sup>2</sup>	no requirement	= 0	No territorialisation	0 %

**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
Lithuania	European Convention on Cinematographic Co-production	1 October 1999	N

<sup>2</sup> The support for film projects was as follows: in 2001 991,300 Euro, in 2002 838,200 Euro, in 2003 867,000 Euro, in 2004 1,068,000 Euro, in 2005 1,371,000 Euro. 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.

<sup>3</sup> Assessment based on replies from local lawyers (see synthesis sheet)

<sup>4</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>5</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>6</sup> “total amount subject to territorialisation”/“total budget available”

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



Lithuania is currently a party to the European Convention on Cinematographic Co-Production.

In Lithuania, there is one funding scheme that is managed by the Ministry of Culture, the “National Cinema Support Programme and the State budget of the Republic of Lithuania funding scheme”. The operations under this funding scheme started in 2003.

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

Lithuania is a party to the European Convention on Cinematographic Co-production, which came into force on 1 October 1999 (see the Law on Ratification of European Convention on Cinematographic Co-production at [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_e?p\\_id=80020](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_e?p_id=80020); see reply A.3 for Lithuania). The authority in charge of the administration and of the supervision of this convention is the Ministry of Culture.

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

Under this funding scheme film projects may be funded if they are of “Lithuanian nationality”.

Pursuant to Paragraph 1 of Article 4 of the Law on Cinema a national film must satisfy the following criteria. The content and topics should reflect fundamental principles of development of Lithuanian culture, or problems of national character of Lithuanians, and should reveal national peculiarities and traditions. The producer’s contribution must be at least 50% of the total production budget. The main creators of film (screenwriter, director, cameraman, composer, and animator) are EU citizens or people who live in the Republic of Lithuania or legal persons registered in the Republic of Lithuania or in other Member States.

According to the definition of the national film provided in the Law of Cinema, the production is of national nature automatically if it meets the above-mentioned criteria. The assessment of Lithuanian nationality is not subject to a formal nationality certification procedure (see reply A.4 for Lithuania).

The Council of Cinema is competent to evaluate projects and to recommend to the Ministry of Culture whether they qualify for State aid.

No territorialisation requirements are located under the nationality certification procedure.

## **5 Synopsis of expected legal developments**

No new funding schemes containing territorialisation requirements or the conclusion of new co-production agreements are expected in the near future.

However, on 31 March 2006 the Minister of Culture passed an Order approving regulations on organisation of the competition to produce the historical full-length film provided in the Millennium Programme of Lithuania. The 2006/07 annual budget for this film is approximately €300,000.

## **B The Lithuanian funding scheme**

### **1 Overview**

The *National Cinema Support Programme and the State budget of the Republic of Lithuania funding scheme* is currently the only funding scheme for independent film production in Lithuania (for additional information see follow-up reply of 6 January 2007).

### **2 Analysis of the National Cinema Support Programme and the state budget of the Republic of Lithuania funding scheme**

#### 2.1 Description of the funding scheme

The “National Cinema Support Programme and the state budget of the Republic of Lithuania Funding Scheme” is based on the “*Kino įstatymas*” (Law on Cinema) of 27 of March 2003, most recently amended on 29 November 2003 by the “*Kino įstatymo 6, 8 ir 12 straipsnių pakeitimo įstatymas*” (Law Amending Article 6, 8 and 12 of the Law on Cinema), and on the “*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. ĮV-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) most recently amended on 16 June 2004 by the *Kultūros ministro įsakymas Nr. ĮV-147 Dėl 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 pakeitimo* (Order No. ĮV-147 of the Minister of Culture amending 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).

It also regulated by the “*Kultūros ministro įsakymas Nr. 482 Dėl Kino tarybos nuostatų ir jo sudėties patvirtinimo*” (Order No. 482 of the Minister of Culture on Approval of Regulations and Composition of Cinema Council) of 20 December 2002, amended immaterially twice), by the “*Kultūros ministro įsakymas Nr. ĮV-88 Dėl Nacionalinio kino rėmimo programos patvirtinimo*” (Order No. ĮV-88 of the Minister of Culture on Approval of National Cinema Support Programme) of 15 April 2004, and by the “*Vyriausybės nutarimas Nr. 1055 Dėl įgaliojimų suteikimo įgyvendinant Lietuvos Respublikos kino įstatymą*” (Resolution No. 1055 of the Government of the Republic of Lithuania on Investment of the Authority to Implement the Law on Cinema) of 4 July 2002 (see reply B. 4 for Lithuania).

This funding scheme was established in 2003. The authority in charge of its supervision and of its administration is the Ministry of culture.



For contact information, see reply B.14 for the National Cinema Support Programmes and the state budget of the Republic of Lithuania funding scheme, and for additional information on this scheme the website of the Ministry of Culture: [www.lrkm.lt/index.php/lt/34331/](http://www.lrkm.lt/index.php/lt/34331/).

## 2.2 Synopsis of objective territorialisation requirements

### 2.2.1 Rules

The “National Cinema Support Programmes and the state budget of the Republic of Lithuania funding scheme” does not contain any objective territorial conditions. There is no obligation, under the “Regulations”, to spend a minimum proportion of the budget in Lithuania (see reply B.5 for Lithuania for “National Cinema Support Programmes and the state budget of the Republic of Lithuania funding scheme”)

### 2.2.2 Practice

There is no relevant judicial or administrative practice reported

### 2.2.3 Discussion

N/A

### 2.2.4 Conclusions

No objective explicit territorialisation requirements apply to this funding scheme (see reply B.5 for Lithuania for “National Cinema Support Programmes and the state budget of the Republic of Lithuania funding scheme”)

## 2.3 Synopsis of indirect territorialisation requirements

### 2.3.1 Practice

There is no relevant judicial or administrative practice reported.

### 2.3.2 Discussion

N/A

### 2.3.3 Conclusions

There is no reported practice on indirect territorialisation requirements (see reply B. 10 for Lithuania for “National Cinema Support Programmes and the state budget of the Republic of Lithuania funding scheme”).

#### 2.4. Synopsis of State aid selective granting criteria and procedures

This funding scheme grants State aid in an exclusively selective way. The regulations for the selection of film projects refer to the criteria of the cultural significance and the artistic quality of the film projects as well as their Lithuanian nationality (see point A.3 above). The Council of Cinema sets forth these criteria.

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

The general principle that provisions of international agreements 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 the provisions of the treaty entered into force in the Republic of Lithuania shall prevail.

All the 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.

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

The main objective of the National Cinema Support Programme consists, *inter alia*, of creating better conditions for a dynamic production, distribution and exhibition of national films (see Art. 12 of the National Cinema Support Programme).

Furthermore, the promotion of national film shall be the particular object of cinema-related cultural policies as an expression of national identity and of the distinctive features of national culture (see Art. 5 of the National Cinema Support Programme).

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

## References:

Studies:

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

Links:

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

Lithuania Cinema Studios: <http://www.lfs.lt/>

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

Lithuanian Filmmakers Union: <http://www.kinosajunga.lt/en/>

## Attachments:

- Replies to the legal questionnaire by Karolis Smaliukas, attorney at law, Law firm Soloveicikas, Markauskas and Aviza SMA, Lithuania
- Regulations for Lithuania