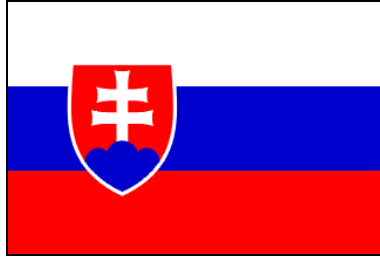


CINEMA STUDY ON TERRITORIALISATION REQUIREMENTS
(Annex to Part A)

MEMBER STATE LEGAL REVIEW



SLOVAKIA
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

Acknowledgements

Legal Report by Germann Avocats

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Dr. Delia Ferri
(main legal Consultant for the Synthesis
Sheets)

Johanna Jaeger
(main Consultant for the Output Tables and
Charts)

Dr. Marwa Daoudy
(Consultant)

Gritt Knirie Sogaard
(Consultant)

Brigitte Vézina
(Consultant)

Andrzej Jakubowski
(Consultant)

John Morijn
(Consultant)

Ljuba Kostadinova
(Consultant)

Dr. Cristina Poncibò
(Consultant)

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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

Slovakia	AudioVision – Ministry of Culture of the Slovak Republic	N	N/A	N/A	Y The conditions for selective aid referring to the place of shooting in a percentage that is not quantified in the law qualifies as indirect territorialisation (2.4)	N/A	N/A	N	N/A	N/A
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Table C – Budget and Territorialisation Intensity

Member State	Names of Funding Schemes	Available Budget	Objective explicit territorialisation requirement quantified in the law ¹	Degree of the territorialisation ²		
				Funding Scheme Level ³	Funding body level	Member State Level ⁴
Slovakia	AudioVision – Ministry of Culture of the Slovak Republic	705,685	no requirement	= 0	No data	0 %

¹ Assessment based on replies from local lawyers (see synthesis sheet)

² 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

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
Slovakia	European Conventaion on Cinematographic Co-Production	1 May 1995	N

Slovakia is currently a party to the European Convention on Cinematographic Co-production.

Slovakia has a funding scheme, “AudioVision”, granting State aid to the independent film and television sector. The Ministry of Culture of the Slovak Republic is in charge of the application of this funding scheme.

No territorialisation: total amount subject to territorialisation = 0

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

³ 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

⁴ “total amount subject to territorialisation”/“total budget available”

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

2 Synopsis of conventions on co-production agreements

Slovakia is a party to the European Convention on Cinematographic Co-production (Európsky dohovor o filmovej koprodukcii). The Convention came into force on 1 May 1995. The Ministry of Culture of the Slovak Republic is in charge of its supervision and implementation.

3 Synopsis of formal nationality certification procedures

The Act No. 1/1996 Coll. on Audiovision establishes the conditions under which an audiovisual work is considered a Slovak audiovisual work, and may be funded by the Ministry of Culture.

An audiovisual work is qualified as Slovak if the producer has or had at the time of its first public presentation permanent residence or domicile on the territory of the Slovak Republic. An audiovisual work is also considered to be a Slovak audiovisual work if in its creation the Slovak producer has shared at least 20% of the entire budget for the work.

However, in case of multilateral co-productions, the basic legislative norm applied in Slovakia when assessing the nationality of the audiovisual work is the European Convention on Cinematographic Co-production.

4 Synopsis of expected legal developments

No new co-production agreements and no new funding schemes containing territorialisation requirements are expected in the near future.

B The Slovakia funding scheme

1 Overview

Slovakia has one funding scheme named “AudioVision” that grants State aid to the independent film and television sector.

2 Analysis of the Scheme

2.1 Description of the funding scheme

AudioVision is also based on the *Zákon č. 1/1996 Z.z. o audiovizii* (Act No. 1/1996 Coll. on Audiovision), which came into force on 5 January 1996, on the *Audiovision Výnos Ministerstva kultúry Slovenskej republiky zo 16. novembra 2005 č. MK-12947/05-110/30493 o poskytovaní dotácií v pôsobnosti Ministerstva kultúry Slovenskej republiky* (Order of Ministry of Culture No. MK-12947/05-110/30493 on funding in the jurisdiction of the Ministry of Culture of Slovak Republic) which came into force on 1 December 2005.

It is based also on the *Smernica Ministerstva kultúry Slovenskej republiky č. MK-136/06-110/2422 o poskytovaní dotácií* (Direction of Ministry No. MK-136/06-110/2422 on funding and the Methodical instruction of the Ministry), which are not generally-binding legal acts, but internal rules of the Ministry

AudioVision is also based on a series of budget laws as amended (see the complete list under the reply B 4)¹:

- *Zákon č. 472/2000 o štátnom rozpočte na rok 2001* (Act No. 472/2000 Coll. on the State Budget for 2001) which came into force on 1 January 2001
- *Zákon č. 586/2001 Z. z. o štátnom rozpočte na rok 2002* (Act No. 586/2001 Coll. on the State Budget for 2002) which came into force on 1 January 2002
- *Zákon č. 750/2002 o štátnom rozpočte Z. z. na rok 2003* (Act No. 750/2002 Coll. on the State Budget for 2003) which came into force on 1 January 2003
- *Zákon č. 598/2003 Z. z. o štátnom rozpočte na rok 2004* (Act No. 598/2003 Coll. on the State Budget for 2004) which came into force on 1 January 2004
- *Zákon č. 740/2004 Z. z. o štátnom rozpočte na rok 2005* (Act No. 740/2004 Coll. on the State Budget for 2005) which came into force on 1 January 2005

¹ This indication refers to the attached replies and follow-up replies from the local lawyer to the legal questionnaire.

A new draft of the Bill on AudioVision should replace the current Act No. 1/1996 Coll. on AudioVision. The Bill strictly defines the Slovak audiovisual work, Slovak cinematographic work, Slovak phonogram and Slovak multimedia work. The Bill on AudioVision was submitted by the Legislative board of the government to the National Council of the Slovak Republic for discussion. However, it has not been adopted yet (see <http://www.culture.gov.sk/index/>).

There were no regulatory changes during the reference period from 2001 to 2005 affecting the legal questions addressed by this study. For contact information see reply B.14 for Slovakia.

2.2 Synopsis of objective territorialisation requirements

2.2.1 Rules

No objective territorialisation requirements apply to this funding scheme.

2.2.2. Practice

N/A

2.2.3. Discussion

N/A

2.2.4. Conclusion

No objective territorialisation requirements apply to this funding scheme (see reply B.5 for Slovakia for the AudioVision Funding scheme).

2.3 Synopsis of indirect territorialisation requirements

2.3.1 Practice

No judicial practice addressing indirect territorialisation is reported (see reply B.10 for Slovakia for the AudioVision Funding scheme).

AudioVision is divided into eight subprogrammes. In the subprogramme, Minority Co-production, one of the criteria is “the volume of the Slovak participation in the project: participation in the artistic team (creativity), production crew and place of shooting” (see below Section 2.4). Regarding administrative practice it should be noted that, as far as audiovisual production in the Slovak Republic is concerned, minority projects predominate in the country. When funding minority projects, the Ministry of Culture of the Slovak Republic

by means of its grant system supports the minority projects with the amount of money necessary for Slovak participation.

2.3.2 Discussion

Indirect territorialisation requirements that are partially quantifiable are located under the selective granting procedure (see Section 2.4 below).

2.3.3 Conclusions

The indication of local shooting (not quantified in the law) qualifies as an indirect territorialisation requirement since it is located under the selective criteria and procedures.

There is no relevant judicial practice reported.

2.4. Synopsis of State aid selective granting criteria and procedures

The AudioVision funding scheme grants State aid on a selective basis. The funding in the programme Audiovision is granted in accordance with the conditions stated in the Order of the Ministry of Culture of the Slovak Republic.

The funding scheme AudioVision is divided into eight sub-programmes as follows:

- Development of Audiovisual Works
- Production of Audiovisual Works
- Production of Full-length Films for Cinema
- Postproduction and/or Distribution of Audiovisual Works
- Minority Co-production of Full-length films for Cinema
- Distribution of Foreign Audiovisual Works
- Events, Educational Activities and/or Presentation of Audiovisual Works
- Publishing Activities in Audiovisual Industry

For each sub-programme, specific criteria for evaluation of projects apply on the basis of a quality evaluation. Each project is first classified under one of the subprogrammes and then evaluated according to seven specific criteria stated for this subprogram. The project shall be awarded points, from 0 to a maximum of 12 points for each criterion.

Projects are evaluated by a Committee of Experts, which is an advisory body of the Ministry. The judgement of the Committee is not binding on the Ministry. The final decision on whether or not to grant state aid is made at the discretion of

the Ministry. Even if the applicant (project) meets all the conditions, it does not have the legal title for funding, i.e. the funding is granted exclusively on the discretion of the Ministry.

Under the sub-programme “Minority Co-production”, film projects are assessed on the basis of the importance of Slovak participation by taking into account the composition of the staff and place of shooting. From the Slovak funding scheme’s perspective, minority co-production agreements must satisfy the conditions on minimum contribution set forth in the European convention on cinematographic co-production.

The condition for selective aid that refers to the composition of the staff and place of shooting but without any percentage quantified in the law qualifies as indirect territorialisation.

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

N/A

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

A “cultural clause” is provided by Para. 1 of the Order of the Ministry of Culture dated November, 16 2005 No. MK-12947/05-110/30493 on funding in the jurisdiction of the Ministry of Culture. According to this rule the objectives for State intervention in the cultural sphere in the Slovak Republic are: the development and spread of cultural values; the protection and development of cultural heritage; foreign and international cultural activities of nationwide importance; education and training in cultural fields; the cultural development of national minorities; cultural activities of handicapped people.

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

References:

MEDIA Desk Slovakia: *Report on the Slovak audiovisual situation in 2005*,
<http://www.mediadesk.sk/mediadesk/common/news/2006-05AVSK/Sprava-o-stave-SK-AV-2005.pdf>

Draft of the Bill on Audiovision, which should replace the current Act on Audiovision. The Bill strictly defines the Slovak audiovisual work, Slovak cinematographic work, Slovak phonogram and Slovak multimedia work. The Bill on Audiovision was submitted by the Legislative board of the government to the National Council of the Slovak Republic for discussion. However, it has not been adopted and will have to be submitted to the legislative procedure again.
<http://www.culture.gov.sk/index/>

Attachments:

- Replies to the legal questionnaire by Viliam Karas, attorney at law, ULC Čarnogurský s.r.o., Slovakia
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- Regulations for Slovakia