

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

<b>Member State:</b>	<b>SPAIN</b>
<b>Re:</b>	<b>Follow Up question</b>
<b>Date:</b>	<b>03 May 2007</b>

(...)

According to our knowledge there is no possibility of forcing the Instituto Catalán de Finanzas to provide us with that information. There is no such law as in the UK.

(...)

<b>Member State:</b>	<b>SPAIN</b>
<b>Re:</b>	<b>Follow Up question</b>
<b>Date:</b>	<b>22 March 2007</b>

(...)

In the United Kingdom, there is a legislation (Freedom of Information Act of 2000) based on which one can oblige inter alia funding schemes to provide information on State aid based on the principle of transparency. If you have an equivalent tool in Spain, please use it in order to compel the funding scheme below to provide the requested information.

(...)

<b>Member State:</b>	<b>SPAIN</b>
<b>Re:</b>	<b>Follow Up Reply</b>
<b>Date:</b>	<b>05 March 2007</b>

(...)

herewith we send you our e-mail exchange of letters with the Institut Catalá de Finances, at the same time we have been calling them quite often, but their reply always was that the Agreement is a privat document between ICF and the catalan producers association and therefore it's not available for third parties, for this reason we even sent the Part B questionnaire to the ICF hoping they would fulfil it, but there was no answer.

After many calls, they answer an e mail (on 16-02-07) where they tried to send us back to another authority in Catalonia (ICIC) which we had already research. Our reply to their email remains without answer.

(...) if they didn't want to cooperate there was no possibility to reach the information, because the agreement is not public.

(...)

<b>Attachments to e-mail of 05 March 2007</b>
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- Información sobre convenio producción audiovisual.eml
- RV\_ Información sobre convenio producción audiovisual.eml
- RE\_ RV\_ Información sobre convenio producción audiovisual.eml
- Re\_ RV\_ Información sobre convenio producción audiovisual.eml
- (...)

<b>Attachment to e-mail of 05 March 2007: Información sobre convenio producción audiovisual.eml</b>
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31 October 2006  
To: IC Finances.com

Estimados Señores,

les envío adjunto el modelo de cuestionario que la comisión europea nos han encargado completar. Las preguntas más importantes son:

- las que se refieren a la legislación o acuerdos que proporciona el marco necesario en el que se desenvuelven estas ayudas, insisten en que se les adjunte una copia de los mismos (B.4)
- También quieren saber el porcentaje que explícitamente se exige que se invierta de esas ayudas en la región que las otorga y si es el caso, cómo se lleva a la práctica.(B.5-B9)
- O bien si no se exige expresamente, pero sí tacitamente. (B.10- B.11)

- Las normas en las que se basa la política cultural que hace posible que esas ayudas se consideren dentro del 87.3 del Tratado EU. (B.12)
- Así como los criterios de selección en el caso de que las ayudas no sean automáticas (B.13).

Es la misma comisión la que nos ha rogado que le proporcionemos información sobre la línea de financiación del ICF , de lo cual deduzco que en algún momento se ha solicitado autorización a la Comisión para que estas ayudas se consideren recogidas bajo el 87.3 Tratado EU y por tanto compatibles con el mercado común.

(...)

Attachment: Part B1.doc (questionnaire on Part B; empty)

**Attachment to e-mail of 05 March 2007:  
RV\_ Información sobre convenio producción audiovisual.eml**

15 February 2007  
To: IC Finances.com

Estimados señores,

con fecha 31 de octubre de 2006 les reenvié la solicitud de información adjunta que la Comisión Europea nos ha encargado recabar en España, dicha solicitud nunca ha sido contestada o no se nos ha hecho llegar.

Les comunico que el plazo de presentación de la información expira mañana y que la valoración del ICF va a ser negativa puesto que carecemos de la información pertinente que se les solicitó.

(...)

Attachment: Part B1.doc (questionnaire on Part B; empty)

**Attachment to e-mail of 05 March 2007:  
RE\_ RV\_ Información sobre convenio producción audiovisual.eml**

16 February 2007  
To: IC Finances.com

(...)

le informo una vez más de que la información que necesitamos es del ICF y no del ICIC, cuyas ayudas han quedado ya plasmadas en su correspondiente formulario.

Y una vez más le reitero que la mención expresa a la línea de financiación del ICF viene impuesta por la propia Comisión Europea, de lo cual deduzco que superan las ayudas de minimis y se tuvo que notificar a la Comisión, según el art. 88.3 del Tratado.

A diferencia de las ayudas del ICIC o del ICAA o de cualquier otra subvención, el cuerpo regulador de la línea de financiación del ICF es el acuerdo firmado con las compañías productoras catalanas, el vigente entre 2001-2005, que no está a disposición de terceros y por lo tanto nos vemos incapaces de responder al formulario, situación ésta que motivaba mi pregunta del 31 de Octubre y el envío del formulario que hay que contestar.

(...)

Attachment: Part B1.doc (questionnaire on Part B; empty)

**Attachment to e-mail of 05 March 2007:  
RE\_ RV\_ Información sobre convenio producción audiovisual.eml**

16 February 2007  
from: IC Finances.com

(...)

Les pedimos disculpas por no haberles contestado con anterioridad.

El ICF facilita préstamos al sector audiovisual, en base a un convenio de colaboración con el ICIC y con Avalis. Los criterios de decisión son financieros y a precios de mercado.

Mediante la financiación del ICF se pueden financiar planes de producción o bien anticipar contratos o subvenciones recibidas.

Para cualquier información sobre ayudas al sector audiovisual o política cultural, pueden contactar con (...) Director de Fomento del area audiovisual del ICIC. (...) a quien enviamos copia del correo.

(...)

no attachment

<b>Member State:</b>	<b>SPAIN</b>
<b>Re:</b>	<b>Follow Up Reply</b>
<b>Date:</b>	<b>26 February 2007</b>

(...)

On one hand, and regarding to the e-mail that you sent on 24 February, I would like to inform you that:

1. (...)
2. we can not provide you with the answer concerning the fundig scheme "Instituto Catalán de Finanzas, línea de préstamos para inversiones en el sector de la producción audiovisual", because they are based on an **private agreement** between Instituto Catalá de Finanzas and the catalan Production companies, agreement that is is not published. The Instituto Catalá de Finanzas has ignored our requirements regarding to obtain a copy of the Agreement, this makes impossible to answer those questions.
3. The tax deduction is only applicable to distribution or to production companies, as we explain in the questionnaire of this funding scheme.

(...)

<b>Member State:</b>	<b>SPAIN</b>
<b>Re:</b>	<b>Follow Up Question</b>
<b>Date:</b>	<b>24 February 2007</b>

(...)

We have reviewed your most recent replies to our questionnaire that you sent on 16 February 2007. We have the requests for clarification as follows:

1) (...)

2) You have deleted most replies that you have previously sent to us concerning the funding scheme "Instituto Catalán de Finanzas, línea de préstamos para inversiones en el sector de la producción audiovisual" governed by the Instituto Catalán de Finanzas. You explain that the funding scheme administration did not want to collaborate with you. However, we assume that you can provide most of the answers to our legal questionnaire by consulting the applicable regulations that should be published. Therefore, please either complete the questionnaire or explain us why you are not able to provide the answers.

3) You covered as a relevant funding scheme the "Impuesto de Sociedades". Please note that according to our initial instructions the funding schemes must grant sector specific State aid to be considered as relevant, "State aid" being understood in its Community definition. Please confirm that this funding scheme specifically addresses the Spanish independent film and television sector (if this tax scheme is applicable to all sectors, it should not be considered as sector specific unless it does, de facto, favor the audiovisual sector in particular).

(...)

<b>Member State:</b>	<b>SPAIN</b>
<b>Re:</b>	<b>Follow Up Reply</b>
<b>Date:</b>	<b>16 February 2007</b>

(...)

please find attached the revised questionnaire. Please confirm safe receipt of this email.

As discussed, the texts have been newly revised

(...)

<b>Attachments to e-mail of 16 February 2007</b>
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- Questionnaire16.02.07.rar
  - o Part A.doc
  - o Part B Andalucía
    - orden30-09-2005.pdf
    - Página 20351 del Boletín número 183 de 17-09-2004.htm
    - Página 20353 del Boletín número 183 de 17-09-2004.htm
    - Página 20354 del Boletín número 183 de 17-09-2004.htm
    - Página 20355 del Boletín número 183 de 17-09-2004.htm
    - Part B Andalucia.doc
  - o Part B Cataluña automatics
    - 271-2005.pdf
    - 275-2005.pdf
    - 336-2005.pdf
    - 337-2005.pdf
    - Decreto Legislativo 3-2002, de 24 de diciembre, por el que se aprueba el Texto Refundido de la Ley de Finanzas Públicas de Cataluña.htm
    - Decreto\_100\_2001.pdf
    - DLeg 3-2002 de finanzas públicas de Cataluña.doc
    - DOGC núm\_ 4291 - 30-12-2004 (Pàg 26671).htm
    - Ley 20-2000, de 29 de diciembre, de Creación del Instituto Catalán de las Industrias Culturales.htm
    - PartB Cataluña automatics.doc
  - o Part B Cataluña Selectives
    - 272-2005.pdf
    - 273-2005.pdf
    - 274-2005.pdf
    - 281-2005.pdf
    - 282-2005.pdf
    - 283-2005.pdf
    - 334-2005.pdf
    - 335-2005.pdf
    - 3391-2005.pdf



- Decreto Legislativo 3-2002, de 24 de diciembre, por el que se aprueba el Texto Refundido de la Ley de Finanzas Públicas de Cataluña.htm
  - Decreto\_100\_2001.pdf
  - DLeg 3-2002 de finanzas públicas de Cataluña.doc
  - DOGC núm\_ 4291 - 30-12-2004 (Pàg 26671).htm
  - Ley 20-2000, de 29 de diciembre, de Creación del Instituto Catalán de las Industrias Culturales.htm
  - PartB Cataluña selectives.doc
- Part B Cataluña sub
  - DVD
    - 05045139dvd.pdf
    - Entitat Autònoma del Diari Oficial i de Publicacionsdvd.htm
  - film
    - 05045161cine.pdf
    - Entitat Autònoma del Diari Oficial i de Publicacions.htm
  - rules
    - Act 1-1998
    - decreto\_216\_2005.pdf
  - PartB Cataluña sub.doc
- Part B Euskadi
  - Decreto34-2002.pdf
  - Decreto7-2001.pdf
  - ordenayudaseuskadi.pdf
  - Part B Euskadi.doc
- Part B Galicia
  - 010723\_decreto\_172\_2001\_galicia.pdf
  - audiovisuallaw.pdf
  - desenvolvemento+ produción05.pdf
  - Part B Galicia.doc
- Part B ICAA
  - A30472-30504.pdf
  - ley152001.tif
  - Part B ICAA.doc
  - rdcine.tif
- Part B línea de financiación Cataluña
  - e\_informacio\_legislacio\_ley2.pdf
  - PartB Cataluña linea de financiación.doc
- Part B línea de financiación Euskadi
  - Decreto338-2003.pdf
  - Decreto34-2002.pdf
  - Decreto7-2001.pdf
  - orden-8.pdf
  - Part B línea financiación Euskadi.doc
- Part B Tax
  - Part B Tax.doc
  - RDleg 4-2004.pdf
- Part B Valencia
  - leyivac.rtf
  - Orden-Resolución Producción Castellano2005.doc
  - Part B Valencia.doc

## PART A

### GENERAL QUESTIONS

#### OVERVIEW

A.1 Country / region: Spain

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<sup>1</sup> 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):

Spain has eleven funding schemes with an annual budget of at least €1million. Each of this eleven funding schemes is administrated by the Authority that authorises or creates it, and the aid or funding scheme is usually known under the name of such Authority.

Mostly, the aid or funding schemes are found in legal rules, and are granted every year through Orders (laws), which are published in the Regional Official Journal or in the Federal Official Journal, the publishing in one or the other journal, depends on the authority that grants the Order.

Spain classifies the funding schemes with the name of the Authority in charge of it, and we distinguish them in Federal or Regional Funding schemes (depending on the Authority that grants them).

1. Federal funding schemes:

- I. Instituto de la Cinematografía y de las Artes Audiovisuales (“ICAA”), which is an independent agency and is a part of the Federal Culture Department.
- II. Agencia Tributaria, which is a part of the Tax Office.

2. Regional funding schemes, which have been created as independent agencies for audiovisual management:

- I. Instituto Valenciano de Cinematografía (“IVAC”) is part of the Department of Culture of the Valencia region.

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<sup>1</sup> “Independent” means that the cinematographic and audiovisual works are produced and distributed by entities that are legally independent from broadcasters.

- II. Instituto Catalá de las Industrias Culturals (“ICIC”), is part of the Department of Culture of the Catalonia region, which **has two funding schemes**, one which is an **automatic** and another which is **selective**.
  - III. Secretaría de política lingüística, is part of the Government Department of the Catalonia region.
  - IV. Instituto Catalán de Finanzas is subjected to the Economy and Finances Department of the Catalonia region.
3. Regional funding schemes, which are developed directly by the Culture Department of each Region:
- I. Xunta de Galicia
  - II. Junta de Andalucía
  - III. Comunidad Autónoma de Euskadi, which **has two funding schemes**, one which is a **subsidy** and another which is a **credit line**.

## COPRODUCTION AGREEMENTS

A.3 These agreements list the conventions on co-production agreements to which your country is currently a party to, 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:

### **Federal Coproduction Agreements:**

#### 1. Bilateral Conventions:

a.  Germany

Acuerdo de relaciones cinematográficas entre el Gobierno del Reino de España y el Gobierno de la República Federal de Alemania.

(Agreement governing cinematographic relationships between the Spanish Kingdom and the German Federal Republic)

Entry into force: 5-12-2000

b.  Argentina

Convenio Hispano-Argentino de relaciones cinematográficas. (Agreement governing Hispanic and Argentinian cinematographic relationships)

Entry into force: 28-08-1969.

c.  Brazil

Canje de notas sobre Coproducción Cinematográfica. (Exchange of Notes regarding cinema co-productions)

Entry into force: 02-12-1963.

d.  Canada

Convenio referente a las relaciones cinematográficas entre el Gobierno de España y el Gobierno de Canada. (Agreement that refers to the cinematographic relationships between the Spanish Kingdom and the Canadian Government)

Entry into force: 14-01-1985

e.  Cuba

Acuerdo de colaboración cinematográfica entre el Reino de España y la República de Cuba. Cinematographic Collaboration Agreement between the Spanish Kingdom and Republic of Cuba.

Entry into force: 31-01-1990.

f.  Chile

Memorandum de colaboración en materia de coproducción, promoción, difusión y conservación del Patrimonio Cinematográfico entre el Ministerio de Educación, Cultura y Deporte del Reino de España y el Consejo Nacional de la Cultura y las Artes de la República de Chile. (Memo regarding the cooperation in co-production, promotion, distribution and conservation of the Cinematographic Cultural Heritage between Spain's Ministry of Education, Culture and Sports and the National Culture Counsel of the Republic of Chile).

Entry into force from november 2003

g.  France

Acuerdo sobre las relaciones cinematográficas entre el Reino de España y la República Francesa. (Agreement regarding Cinematographic relationships between the Spanish Kingdom and the Republic of France)

Entry into force: 20-03-1989

Addenda, Entry into force: 30-06-2005

h.  Italy

Acuerdo hispano-italiano firmado en Bolonia el 10-9-97. (Hispanic-Italian Agreement signed in Bolonia on 10-9-97).

Entry into force: 03-06-1998.

i.  Marruecos

Acuerdo de Coproducción e intercambios cinematográficos entre el Reino de España y el Reino de Marruecos. (Agreement for Co-production and cinematographic exchanges between the Spanish Kingdom and the Kingdom of Morocco .

Entry into force 27-04-98.

j.  Mexico

Acuerdo de Coproducción cinematográfica entre el Reino de España y Los Estados Unidos mexicanos. Agreement for co-production regarding cinematographic work between the Spanish Kingdom and the United Mexican States.

Entry into force: 30-01-2004

k.  Portugal

Acuerdo sobre las relaciones cinematográficas entre el Reino de España y la República Portuguesa. (Agreement regarding cinematographic relationships between the Spanish Kingdom and the Portuguese Republic).

Entry into force 08-11-1989.

Protocolo de colaboración en materia de Cinematografía entre el Instituto de la Cinematografía y de las Artes Audiovisuales de España y el Instituto de Cinema, Audiovisual e Multimedia de Portugal, para la distribución y

promoción recíproca de películas Nacionales. (Protocol for collaboration regarding cinematographic work between the Cinematographic Institute and Audiovisual Arts of Spain and the Portuguese Institute for Cinema, Audiovisual and Multimedia, to distribute and promote national motion pictures).

Protocolo de colaboración entre el Ministerio de Cultura del Reino de España y el Ministerio de Cultura de la República Portuguesa sobre cooperación cinematográfica y para el fomento de las co-producciones. (Protocol for collaboration between the Spanish Kingdom's Ministry of Culture and the Portuguese Republic's Ministry of Culture regarding cinematographic work and the promotion of co-productions).

Entry into force 24-03-2004.

l.  Puerto Rico

Memorando de Colaboración entre el Instituto de la Cinematografía y de las Artes Audiovisuales del Reino de España y la Corporación para el Desarrollo de las Artes, Ciencias e Industria Cinematográfica del Estado Libre Asociado de Puerto Rico. (Collaboration Memo entered into by the Spanish Kingdom's Cinematographic Work and Audiovisual Arts Institute and the Development of Arts, Science and Industry of Cinematographic Work Corporation of the Free Associate State of Puerto Rico)

Entry into force: 27-05-2003

m.  Tunisia

Acuerdo cinematográfico entre el Gobierno de España y el Gobierno de Túnez. (Cinematographic Agreement between the Spanish Government and the Tunisian Government).

Entry into force 02-11-1971.

n.  Russia

Acuerdo sobre relaciones cinematográficas entre el Reino de España y Rusia. Madrid. (Agreement governing cinematographic relationships between the Spanish Kingdom and Russia.)

Entry into force: 08-10-1991.

o.  Venezuela

Acuerdo de coproducción. (Co-production Agreement)

Entry into force: 18-02-1997

2. Multilateral Conventions:

a. Instrumento de ratificación del Convenio Europeo sobre Coproducción Cinematográfica. (Confirmation of the European Agreement regarding cinematographic co-production).

Entry into force for Spain: 01-02-1997.

- b. Instrumento de ratificación del Convenio de Integración Cinematográfica Iberoamericana<sup>2</sup>. (Confirmation of the Cinematographic Integration of Latin America).

Entry into force for Spain: 08-05-1991.

- c. Instrumento de adhesión de España al Acuerdo Latinoamericano de Coproducción Cinematográfica<sup>3</sup>. (Adherence of Spain to the Latin American cinematographic co-production agreement)

Entry into force for Spain: 08-10-1992.

The authority in charge of administration and supervision of all those Agreements is:

Instituto de la Cinematografía y de las Artes Audiovisuales, ICAA  
Subdirección General de Promoción y Relaciones Internacionales  
Plaza del Rey, nº 1  
28071 MADRID  
SPAIN

3. Other Agreements:

Spain is also member of IBERMEDIA, a fund created in 1997, the object of which consists in encouraging co-productions between the Member States<sup>4</sup> granting low interest loans.

Entry into force: 09-11-1997

The authority in charge of its administration and supervision:

Programa Ibermedia  
C/ Ferraz, nº 10  
28008 MADRID  
SPAIN

4. Regional Agreements:

The Regions of Galicia, Catalonia and Andalucía (the latter entered in 22 September 2006) have signed a Co-production agreement with Argentina, known as “Raíces”.

Entry into force: 21-01-2005

The authority in charge of its administration and supervision are:

Consejería de Cultura de la Junta de Andalucía  
Dirección General de Fomento y Promoción Cultural  
Calle Levías, 17  
41004 Sevilla

Consortio audiovisual de Galicia

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<sup>2</sup> España, México, Perú

<sup>3</sup> Cuba, España, México, Perú, Venezuela

<sup>4</sup> Argentina, Bolivia, Brasil, Colombia, Cuba, Chile, España, México, Panamá, Perú, Portugal, Puerto Rico, Uruguay y Venezuela.

C/Hórreo 61-1°  
15 702 Santiago de Compostela  
Spain

Institut Catalá de les industries Culturals  
Rambla Santa Mónica 8  
ES-08002 Barcelona  
Spain

## **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:<sup>5</sup>

The authority in charge of the procedure is the Instituto de Cinematografía y Artes Audiovisuales, ICAA, and the criteria of eligibility is found in the law called: “**Ley 15/2001** de Fomento y Promoción de la Cinematografía y el Sector Audiovisual”, see under ICAA aids attachment, under **article 2**, which determines, that a film or motion picture has Spanish nationality if:

The Spanish production company or European production company has been established permanently in Spain and fulfils the following requirements:

1. Film’s Authors, (Director, Screenplay writer, and music composer) are at least 75% Spanish or citizens from EU states,
2. The film’s crew, actors and employees are Spanish or citizens from EU States,
3. The film should be shot in Spanish or in another Spanish language.
4. The shooting, post-production and labs are to be located preferably in EU States.

The formal procedure to access and certify the Spanish nationality is through filling out all the necessary documents that certify compliance with all the abovementioned information, and within a month the certification will be given. Should certification be declined, an appeal can be submitted to the superior authority of the ICAA.

That a film fulfills Spanish nationality is relevant regarding the access to public funding schemes from ICAA, but it is not so relevant regarding the regional funding schemes, to access this regional schemes the criteria is that the production company must be resident (or be permanently established) in its Region. Therefore the certification from ICAA is more relevant in Federal funding schemes.

It is important to mention, that Catalonia certifies through the ICIC (a Regional funding scheme).

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<sup>5</sup> E.g. the French “Procédure d’agrément”.

## **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

Co-production agreements with Austria, New Zealand and India, are presently being negotiated.

The authority in charge of their administration and supervision:

Instituto de la Cinematografía y de las Artes Audiovisuales  
Subdirección General de Promoción y Relaciones Internacionales  
Plaza del Rey, nº 1  
28071 MADRID  
SPAIN

- 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,<sup>6</sup> and indicate the name and address of the administration of these funding schemes:<sup>7</sup>

There are no funding schemes containing territorialisation requirements and there are none expected to enter into force.

## **REFERENCES TO LOCAL STUDIES**

- A.7 There are no studies, reports or other relevant materials on territorialisation requirements.

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<sup>6</sup> 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.

<sup>7</sup> E.g. in Germany, there will be a new funding scheme on the federal level containing a territorialisation clause as from 2007.



## PART B

### FUND SPECIFIC QUESTIONS

*Please only cover funding schemes, including tax incentive schemes, that were operated at the national, regional (excluding EU schemes, e.g. the Media programme)<sup>8</sup> or local level in your country during the reference period from 1 January 2001 to 31 December 2005, and that disposed of 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 per year.<sup>9</sup>*

*Please use for each funding scheme a separate form.*

#### **IDENTIFICATION OF THE FUNDING SCHEME**

B.1 Country/region: Comunidad Autónoma de Andalucía

B. Name of the funding scheme: Ayudas al desarrollo de proyectos y a la producción de obras audiovisuales

*Aids for the development of projects and for audiovisual production*

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

CONSEJERÍA DE CULTURA  
Dirección General de Fomento y Promoción Cultural  
Calle Levías, 17  
41004 Sevilla

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

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<sup>8</sup> Regional schemes mean both, schemes operated within your country and schemes to which your country is a party among other countries, e.g. the Nordic Film- and TV Fund (see [http://korda.obs.coe.int/web/display\\_fonds.php?fonds\\_id=28](http://korda.obs.coe.int/web/display_fonds.php?fonds_id=28) ).

<sup>9</sup> "Independent" means that the cinematographic and audiovisual works are produced and distributed by entities that are legally independent from broadcasters.

- a. **Decreto 489/2004**, se aprueba la estructura orgánica de la consejería de cultura, (*Decree that approves the Culture department's organisational structure*).  
Entry into force 18-09-2004
- b. **Orden de 30/09/2005** de la Consejera de Cultura, por la que se convoca la concesión de ayudas a la creación, desarrollo y producción audiovisual. (*Order of the Cultural Department (dated 30/09/2005) which grants aids for creation, development and audiovisual production*).

Attached you will find the aforementioned laws.

## **TERRITORIAL CONDITIONS<sup>10</sup>**

### **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*)?

Yes / No

No

If yes,

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*):

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*).

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

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<sup>10</sup> 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.

- 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*):

### **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/No

Yes

If 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*):

In order to apply for aid, the production company must be established in Andalucía and must be registered as an audiovisual company in the appropriate register for audiovisual companies.

The aid given is classified into different types and granted for development of projects and production of motion pictures, documentaries and short films .The general criteria has to be equal and each case is valued individually. There are two stages, in each one, every requirement will be valued on an individual basis.

In the first stage, the project will be assessed on the basis of whether it is: creative, original, financially viable, that the budget adapts to the project, as well as the professional experience of the team as a whole (technicians, and artistic talent). At this stage, with regards to short films, it will be valued in what measure the Project contributes towards the promotion of employment in Andalucía and the use of Andalucía's resources.

This law does not detail how many points are necessary in order to pass to the second valuation stage.

In the second valuation stage, the criteria is based on the territorialisation requirements, that the project uses Andalucía's resources and that it creates employment in Andalucía. Other criteria valued in this second stage, is again the

professional experience of the team (technicians and artistic talent), and the company background (whether it has pre-existing contractual arrangements to distribute and commercialise the project.).

## **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:

La Constitución Española, de 6-12-1978

Artículo 148

1. Las Comunidades Autónomas podrán asumir competencias en las siguientes materias:

(..)

17.- El fomento de la cultura, de la investigación y, en su caso, de la enseñanza de la lengua de la Comunidad Autónoma.

*(Spanish Constitution), from 6-12-1978,*

*Section 148*

1. *Autonomous regional governments may assume competences over the following matters:*

*(..)*

*17. - The promotion of culture and research and, where applicable, the teaching of the autonomous region's language.*

Ley orgánica de Estatuto de Autonomía de Andalucía, Ley orgánica 6/1981,

Artículo 13.

La Comunidad Autónoma de Andalucía tiene competencia exclusiva sobre las siguientes materias:

(..)

26.-Promoción y fomento de la cultura en todas sus manifestaciones y expresiones, sin perjuicio del artículo 149.2 de la Constitución.

*Federal law which regulates Andalucía's administrative and political organisation*

Section 13

*“Andalucía’s Autonomous regional governments has exclusive competences over the following matters:*

(..)

*26. - Promotion and aid of culture in every expression and presentation, except for section 149.2 of the Constitution (which regulates the federal competences).*

**SELECTIVE SCHEMES**

B.13 If this scheme distributes aid selectively,<sup>11</sup> 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:

(see answer B.11)

**CONTACT DETAILS**

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

Guadalupe Ruiz Herrador  
Calle Levías, 17  
41004 Sevilla (Sevilla)  
Teléfono: 955 036 600  
Fax: 955 036 609  
E-mail: [informacion.dgfpc.ccul@juntadeandalucia.es](mailto:informacion.dgfpc.ccul@juntadeandalucia.es)

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

Julia Montes  
Ecija Abogados  
Plza. del Marqués de Salamanca, 3-4  
28006, Madrid  
Tfno: 91 781 61 60 - Fax: 91 578 38 79  
[jmontes@ecija.com](mailto:jmontes@ecija.com)  
<http://www.ecija.com>

Date of the data collection

28-09-2006

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<sup>11</sup> 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.

**PART B**

**FUND SPECIFIC QUESTIONS**

**IDENTIFICATION OF THE FUNDING SCHEME**

*In the following part B we are dealing with automatic aid systems in Cataluña.*

B.1 Country/region: Cataluña

B.2 Name of the funding scheme: Subvenciones automáticas a la industria audiovisual catalana

*Automatic aid for the Catalan audiovisual industry*

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

INSTITUT CATALÀ DE LES INDÚSTRIES CULTURALS, ICIC

Rambla Santa Mònica 8  
ES-08002 Barcelona  
Spain

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 dates when these laws and regulations entered into force

- a. **LEY 20/2000**, de 29 de diciembre, de Creación del Instituto Catalán de las Industrias Culturales,

*Law that creates ICIC ("Catalan Instituto for Cultural Industries). Entry into force: February 2001.*

- b. **Decreto 100/2001** Estatutos del ICIC

**Decree on the Statutes and Rules of the ICIC, Entry into force: February 2001.**

- c. **Decreto, 470/2004**, de 28 de diciembre, por el que se atribuyen funciones internacionales al Instituto Catalán de las Industrias Culturales.

*Decree which determines the ICIC's international competence. Entry into force: January 2005*

**Decrees on automatic aids for 2005:**

- d. **RESOLUCIÓ** CLT/336/2005, de 7 de febrer, per la qual sobre convocat.ria per a la concession de subvencions per a la produccion en versió original catalana i lestrena en versió catalana de llargmetrages cinematografics i produccions en gran formato,

*Aid for film productions shot in Catalan language.*

- e. **RESOLUCIÓ** CLT/337/2005, de 4 de febrer, per la qual es convoca concurs public per a la concession de subvencions a empreses catalanes per a l'assistencia i participacion a fires, festivals i mercats internacionals durant lany 2005,

**Aid for Catalan companies for participating in film festivals and international markets during 2005.**

- f. **RESOLUCIÓ** CLT/275/2005, de 7 de febrer, per la qual sobre convocaria per a la concession de subvencions per a l'explotacion de llargmetrages cinematografics i de produccions en gran formats.

**Aid for film distribution**

- g. **RESOLUCIÓ** CLT/271/2005, de 8 de febrer, per la qual sobre convocat.ria per a la concession de subvencions per a la promoció i publicitat de llargmetratges cinematogafics i de produccions de gran format.

*Aid for film promotion and publicity.*

All those rules are attached to this questionnaire

**TERRITORIAL CONDITIONS<sup>12</sup>**

**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

Yes / No

No

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<sup>12</sup> 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.

As already described in Part A, ICIC has two variants of film subsidies: a selective and an automatic aid. In the selective aid programs dealt with in Part A there are explicit obligations as to that a minimum proportion of the budget must be spent in the region. But there are no such obligations in automatic aids.

- 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*):
- B.7 Describe how these territorialisation requirements are implemented, including the minimum proportion required and the maximum
- 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 respect to former versions of territorialisation requirements that were in force before this date during the period from 2001 to 2005*):
- 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*):

### **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/No

Yes

If yes,

- B.11 Please describe the implicit or *de facto* territorialisation requirements that are practised by this funding scheme:



The production companies have to be registered in Cataluña or at least possess a permanent establishment in Cataluña. The film must have a certificate of origin from ICIC or ICAA, certifying that it is a Catalan or Spanish production.

The aid for film production is given only for films in Catalan as the original version. The film has to be shown at least a whole week in one well known cinema in Barcelona.

## **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:

La Constitución Española, de 6-12-1978

Artículo 148

2. Las Comunidades Autónomas podrán asumir competencias en las siguientes materias:

(..)

17.- El fomento de la cultura, de la investigación y, en su caso, de la enseñanza de la lengua de la Comunidad Autónoma.

*Spanish Constitution, from 6-12-1978,*

*Section 148*

2. *Autonomous regional governments may assume competences over the following matters:*

*(..)*

*17. - The promotion of culture and research and, where applicable, the teaching of the autonomous region's language.*

*Ley Orgánica 4/1979 de creación del Estatuto de Cataluña,*

*Artículo 9*

*La Generalitat de Cataluña tiene competencia exclusiva sobre las materias siguientes:*

*(..)*

4. - *Cultura.*

*Federal law which regulates Catalonia's administrative and political organization*

*Section 9*

*Catalonia's autonomous regional government has exclusive competence over the following matters:*

*(...)*

*4. - Culture*

#### **SELECTIVE SCHEMES**

B.13 If this scheme distributes aid selectively,<sup>13</sup> 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:

#### **CONTACT DETAILS**

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

ICIC

Director Sr. Xavier Marcé Carol  
Rambla Santa Mònica, 8 (Palau Marc)  
08002 Barcelona  
Telèfon 93 316 27 00  
Fax 93 316 28 65

[icic.cultura@gencat.net](mailto:icic.cultura@gencat.net)

<http://cultura.gencat.net/icic/index.htm>

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

Julia Montes  
Ecija Abogados  
Plza. del Marqués de Salamanca, 3-4  
Tfno: 91 781 61 60 - Fax: 91 578 38 79

[jmontes@ecija.com](mailto:jmontes@ecija.com)

<http://www.ecija.com>

Date of the data collection and processing:

02-10-2006

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<sup>13</sup> 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.

## PART B

### FUND SPECIFIC QUESTIONS

#### IDENTIFICATION OF THE FUNDING SCHEME

In the following part we are dealing with selective aid systems in Cataluña.

- B.1 Country/region: Cataluña
- B.2 Name of the funding scheme: Subvenciones selectivas a la industria audiovisual catalana

#### Selective aid for the catalan audiovisual industry

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

INSTITUT CATALÀ DE LES INDÚSTRIES CULTURALS, ICIC  
Rambla Santa Mònica 8  
ES-08002 Barcelona  
Spain

- 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 dates when these laws and regulations entered into force
- a. **Ley LEY 20/2000**, de 29 de diciembre, de Creación del Instituto Catalán de las Industrias Culturales.  
*Statute law, dated 29 december 2000 that creates the independent agency for Catalonia's audiovisual funding, the ICIC*  
*Entry into force: February 2001*
  - b. **Decreto 100/2001** Estatutos del ICIC,  
*Decree that creates the ICIC's rules)*
  - c. **Decreto, 470/2004**, de 28 de diciembre, por el que se atribuyen funciones al Instituto Catalán de las Industrias Culturales.  
*Decree dated 28 december 2004, that assigns international competence to the ICIC,*

*Entry into force: January 2005*

**-Orders that regulate selective film aids for 2005:**

- d. **RESOLUCIÓ** CLT/334/2005, de 7 de febrer, per la qual sobre convocat.ria per a la concessió de subvencions a empreses de producció independents per a la realització de documentals, destinats a ser emesos per televisió.  
*Aid for for TV documentaries*
- e. **RESOLUCIÓ** CLT/281/2005, de 4 de febrer, per la qual es convoca concurs p.blic per a la concessió de subvencions a la producció de curtmetratges cinematogr.fics.  
*Aid for shortfilm productions*
- f. **RESOLUCIÓ** CLT/273/2005, de 7 de febrer, per la qual es convoca concurs p.blic per a la concessió de subvencions per tal d'impulsar la coproducció de llargmetratges cinematogr.fics amb empreses productores independents de l'Argentina i Galícia, dins del marc de l'acord Raíces.  
*Aid for co-productions based on the Raíces program. See under A3.4.a)*
- g. **RESOLUCIÓ** CLT/335/2005, de 7 de febrer, per la qual s'obre convocat.ria per a la concessió de subvencions a empreses de producció independents per a la realització de llargmetratges televisius de ficció destinats a ser emesos per televisió.  
*Aid for production of fiction films made for TV*
- h. **RESOLUCIÓ** CLT/283/2005, de 4 de febrer, per la qual es convoca concurs p.blic per a la concessió de subvencions per a la producció de llargmetratges cinematogr.fics que siguin l'obra prima o el segon llargmetratge d'un nou realitzador.  
*Aid for a director's first or second film*
- i. **RESOLUCIÓ** CLT/3391/2005, de 24 de novembre, per la qual s'obre convocatòria per a la concessió de subvencions a empreses de producció independents per a la realització de llargmetratges televisius de ficció, destinats a ser emesos per televisió.  
*Aid for production of TV fiction films*
- j. **RESOLUCIÓ** CLT/274/2005, de 7 de febrer, per la qual sobre convocaria per a la concessió de subvencions a empreses de producció independents per al desenvolupament de sèries d'animació, destinades a ser emesos per televisió  
*Aid for animation films made for TV*
- k. **RESOLUCIÓ** CLT/282/2005, de 4 de febrer, per la qual es convoca concurs públic per a la concessió de subvencions per a la creació d'obres que articulin una nova mirada sobre l'audiovisual, dirigides per realitzadors que provenen d'altres disciplines artístiques diferents de la cinematografia i la producció per a televisió.

*Aid for directors from other artistic areas, who start in the area of film*

1. **RESOLUCIÓ CLT/272/2005**, de 7 de febrer, per la qual es convoca concurs public per a la concession de subvencions per tal de promoure el cinema d'autor

*Aid for promotion of cinema d'auteur films*

**Copies of these laws and rules are attached to this questionnaire**

## **TERRITORIAL CONDITIONS<sup>14</sup>**

### **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.

Yes / No

Yes

- 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.

The aids are granted every year, and an Order is necessary, which regulates those aids, specifying application, time limit, and all the complete requirements.

All the aids under B.4 for 2005 require a regional spend:

**RESOLUCIÓ CLT/334/2005**, de 7 de febrer, per la qual sobre convocat.ria per a la concession de subvencions a empreses de produccion independents per a la realizació de documentals, destinats a ser emesos per television.

*Aid for documentaries for TV, requirement is to be found under art.4.e:*

“4. e) Almenys el 50% del cost total de la producció haurá de correspondre a treballs efectuats per persones físiques o jurídiques domiciliades o amb seu permanent a Catalunya. No obstant, en cas de coproduccions amb dltres Comunitats Aut.nomes o de coproduccions internacionals, almenys el 50% de la inversió catalana, pública i privada, haurá de correspondre a treballs efectuats per persones físiques o juríiques

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<sup>14</sup> 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.

domiciliades o amb seu permanent a Catalunya. Aix mateix, l'aportació de personal tècnic i artístic de cada empresa coproductora, haurà de ser equilibrada respecte al seu percentatge de participació en la coproducció només podran accedir a la present subvenció aquelles coproduccions internacionals en les quals la participació a la producció de l'empresa sol·licitant sigui almenys del 10%”

*“4. e) at least 50% of the total production costs must be invested in activities by workers or companies, which are located in Catalonia. However, in the case of Spanish or international co-productions, at least 50% of the catalan investment, both public and private, shall be invested in activities by workers or companies, which are permanently domiciled in Catalonia. The participation of artistic and technical crew must be balanced in reference to the percentage of their participation in the co production. Only those international co productions in which the participation is a minimum of 10% in the production, will be eligible to apply for this aid.”*

**RESOLUCIÓ CLT/281/2005**, de 4 de febrer, per la qual es convoca concurs públic per a la concessió de subvencions a la producció de curtmetratges cinematogràfics.

*Aid for shortfilm productions, requirement is to be found under art.4.c*

“4.c) Un mínim del 75% de la despesa en la producció i la postproducció de la participació catalana en la pel·lícula haurà de correspondre a treballs efectuats per persones físiques o jurídiques domiciliades o amb seu permanent a Catalunya.”

*“4.c) At least 75% of the production and postproduction costs of the Catalan investment in the film must be invested in activities performed by workers or companies, which are located in Catalonia.”*

**RESOLUCIÓ CLT/273/2005**, de 7 de febrer, per la qual es convoca concurs públic per a la concessió de subvencions per tal d'impulsar la coproducció de llargmetratges cinematogràfics amb empreses productores independents de l'Argentina i Galícia, dins del marc de l'acord Raíces.

*Aid for co-productions based on the Raíces program. See under A3.4.a)  
Requirement is to be found under art. 4*

- “4) Per poder optar a la subvenció s'hauran de complir els requisits següents:
- a) Les empreses productores hauran d'haver signat un contracte de coproducció, el qual haurà de definir els percentatges de participació i les aportacions econòmiques de cadascuna de les empreses coproductores.
  - b) La participació de cadascuna de les empreses coproductores no podrà ser inferior al 20% del cost total de producció. No podran accedir a la subvenció aquells coproductors en que la seva participació sigui financera.
  - c) Els llargmetratges que vulguin accedir a la present subvenció no podran tenir una participació superior al 30% de coproductors que no tinguin la seva seu social a Catalunya, Galícia o Argentina, i el coproductor majoritari haurà de ser una empresa productora amb seu social a Catalunya, Galícia o Argentina.
  - d) Un mínim del 20% de la despesa en producció i en postproducció del llargmetratge haurà de correspondre a treballs efectuats per persones físiques o jurídiques

domiciliades o amb seu permanent a Catalunya, havent de ser imputable d'una manera equilibrada a cadascun d'ambdós conceptes.

e) L'aportació de personal tècnic i artístic de cada empresa coproductora haurà de ser globalment equilibrat respecte al seu percentatge de participació en el projecte.

f) S'haurà de designar un productor executiu per cadascun dels tres territoris.. “

*“4. In order to qualify for the aid, the following requirements must be met:*

*a) Co production companies must arrange a co production agreement, which determines the co production investment quote.*

*b) The investment by each of the co production companies cannot be less than 20% of the total production costs. Those co producers whose investment is financial will not qualify for the aid.*

*c) Films wanting to qualify for this aid will not be allowed to have more than a 30% investment of coproducers not located in Galicia, Catalonia or Argentina. In any case the major co producer has to be a company located in Catalonia, Galicia or Argentina.*

*d) At least 20% of the total productions cost shall be invested in activities performed by workers or companies, which are located in Catalonia, but this, shall be equally executed.*

*e) The contribution of technique and artistic crew shall be made equally to the co production quote.*

*f) An executive producer from one of these three countries should be appointed.*

**RESOLUCIÓ** CLT/335/2005, de 7 de febrer, per la qual sobre convocatòria per a la concessió de subvencions a empreses de producció independents per a la realització de llargmetratges televisius de ficció destinats a ser emesos per televisió.

*Aid for production of fiction films made for TV, Requirement is to be found under art.5.b*

*“5.b) Almenys el 75% del cost total de la producció haurà de correspondre a treballs efectuats per persones físiques o jurídiques domiciliades o amb seu permanent a Catalunya. No obstant, en cas de coproduccions amb dltres Comunitats Aut.nomes o de coproduccions internacionals, almenys el 75% de la inversió catalana, pública i privada, haurà de correspondre a treballs efectuats per persones físiques o jurídiques domiciliades o amb seu permanent a Catalunya. Aix mateix, l'aportació de personal tècnic i artístic de cada empresa coproductora, haurà de ser equilibrada respecte al seu percentatge de participació en la coproducció només podran accedir a la present subvenció aquelles coproduccions internacionals en les quals la participació a la producció de l'empresa sol·licitant sigui almenys del 10%”*

*“5.b) at least 75% of the total production costs must be invested in activities by workers or companies, which are located in Catalonia. However, in the case of Spanish or international co-productions, at least 75% of the catalan investment, both public and private, shall be invested in activities by workers or companies, which are permanently domiciled in Catalonia. The participation of artistic and technical crew must be balanced in reference to the percentage of their participation in the co production. Only those international co productions in which the participation is a minimum of 10% in the production, will be eligible to apply for this aid.”*

**RESOLUCIÓ** CLT/283/2005, de 4 de febrer, per la qual es convoca concurs públic per a la concessió de subvencions per a la producció de llargmetratges cinematogràfics que siguin l'obra prima o el segon llargmetratge d'un nou realitzador.

*Aid for a director's first or second film, Requirement is to be found under art.4.c*

“4.c) En cas de llargmetratges de ficció Un mínim del 75% de la despesa en la producció i la postproducció de la participació catalana en la pel·lícula haurà de correspondre a treballs efectuats per persones físiques o jurídiques domiciliades o amb seu permanent a Catalunya.”

*“4.c) In case of fictional movies, at least 75% of the production and postproduction costs of the Catalan investment in the film must be invested in activities performed by workers or companies, which are located in Catalonia.”*

**RESOLUCIÓ** CLT/3391/2005, de 24 de novembre, per la qual s'obre convocatòria per a la concessió de subvencions a empreses de producció independents per a la realització de llargmetratges televisius de ficció, destinats a ser emesos per televisió.

*Aid for production of TV fiction films, requirement is to be found under art 5.b*

“5.b) Almenys el 75% del cost total de la producció haurà de correspondre a treballs efectuats per persones físiques o jurídiques domiciliades o amb seu permanent a Catalunya. No obstant, en cas de coproduccions amb altres Comunitats Autònomes o de coproduccions internacionals, almenys el 75% de la inversió catalana, pública i privada, haurà de correspondre a treballs efectuats per persones físiques o jurídiques domiciliades o amb seu permanent a Catalunya. Així mateix, l'aportació de personal tècnic i artístic de cada empresa coproductora, haurà de ser equilibrada respecte al seu percentatge de participació en la coproducció només podran accedir a la present subvenció aquelles coproduccions internacionals en les quals la participació a la producció de l'empresa sol·licitant sigui almenys del 10%”

*“5.b) at least 75% of the total production costs must be invested in activities by workers or companies, which are located in Catalonia. However, in the case of Spanish or international co-productions, at least 75% of the catalan investment, both public and private, shall be invested in activities by workers or companies, which are permanently domiciled in Catalonia. The participation of artistic and technical crew must be balanced in reference to the percentage of their participation in the co production. Only those international co productions in which the participation is a minimum of 10% in the production, will be eligible to apply for this aid.”*

**RESOLUCIÓ** CLT/274/2005, de 7 de febrer, per la qual sobre convocaria per a la concessió de subvencions a empreses de producció independents per al desenvolupament de sèries d'animació, destinades a ser emeses per televisió



*Aid for animation films made for TV, requirement is to be found under art. 4.c*

“4.c) La despesa en la producció i la postproducció de la participació catalana en la pel·lícula haurà de correspondre a treballs efectuats per persones físiques o jurídiques domiciliades o amb seu permanent a Catalunya”

*“4.c). At least 75% of the production and postproduction costs of the Catalan investment in the film must be invested in activities performed by workers or companies, which are located in Catalonia.”*

**RESOLUCIÓ** CLT/282/2005, de 4 de febrer, per la qual es convoca concurs públic per a la concessió de subvencions per a la creació d'obres que articulin una nova mirada sobre l'audiovisual, dirigides per realitzadors que vinguin d'altres disciplines artístiques diferents de la cinematografia i la producció per a televisió.

*Aid for directors from other areas, who start in the area of film, requirement is to be found under art. 4.e*

“4.e) Un mínim del 75% de la despesa en la producció i la postproducció de la participació catalana en la pel·lícula haurà de correspondre a treballs efectuats per persones físiques o jurídiques domiciliades o amb seu permanent a Catalunya.”

*“4.e) At least 75% of the production and postproduction costs of the Catalan investment in the film must be invested in activities performed by workers or companies, which are located in Catalonia.”*

**RESOLUCIÓ** CLT/272/2005, de 7 de febrer, per la qual es convoca concurs públic per a la concessió de subvencions per tal de promoure el cinema d'autor

*Aid for promotion of cinema d'auteur films, requirement is to be found under art.4.c*

“4.c) En cas de llargmetratges de ficció Un mínim del 50% de la despesa en la producció i la postproducció de la participació catalana en la pel·lícula haurà de correspondre a treballs efectuats per persones físiques o jurídiques domiciliades o amb seu permanent a Catalunya.”

*“4.c) In case of fictional movies, at least 50% of the production and postproduction costs of the Catalan investment in the film must be invested in activities performed by workers or companies, which are located in Catalonia.”*

B.7 Describe how these territorialisation requirements are implemented, including the minimum proportion required and the maximum.

The minimum proportion required oscillates between 50% and 75% of the total production budget or of the Catalan investment.

Fictional Film Production for TV must always reach 75%. In addition, as a prerequisite for TV production aid, the producer has to have an agreement with a Catalan TV station for one transmission during a minimum license period of one year.

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:

In the context of the co production agreements “Raíces”:

- the Catalan’s production company must be one of the producers with a share in the co-production of at least 20%.
- a production company, that is not Catalan, Gallego or Argentinian should not have a share of more than 30% of the film.
- 20% from the whole budget has to be spent in Catalonia.
- the executive producers have to come from all the countries where the participating co-production companies have their business seat.
- technical and artistic staff have to be Catalan in equal proportion.

In the context of a normal co-production (not falling under Raíces) it is required that the applying company should have a share in the co-production of at least 10%.

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

There is no case law.

In 2000, the Parliament of Catalonia created the ICIC to assist the development of audiovisual industries in the territory. Since then, it has become a key factor in the build-up of the industry through dialogue, new financing formulas, support to exportation of cultural products and by guaranteeing its presence in their own market. Therefore, ICIC is developing a strategic and active audiovisual policy in Catalonia, supporting all the different players in the industry, from production companies to movie theatres.

Given that cinema is a key sector in the promotion of Catalan, one of the objectives of the Language Policy Act is to achieve a significant presence of the Catalan language in the range of films on offer, especially in terms of dubbed films given the predominance of US films on European and Catalan screens which in some years easily exceed 75% of box-office, and also of films made in Catalonia.

One of the Government’s main policies in films dubbed into Catalan is a more painstaking selection of titles based on their quality and commercial potential; many of the films which are dubbed are for children as this is a market which companies believe to be more profitable. Another goal is to ensure that dubbing made for cinema is also included automatically in domestic DVDs, something which has not always happened. The Secretariat of ICIC aims to reinforce the promotion of Catalan versions through advertising campaigns and upgrading cinemas where these versions are *shown*.

### **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

Yes/No

No

If yes,

B.11 Please describe the implicit or de facto territorialisation requirements that are practised by this funding scheme:

### **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:

La Constitución Española, de 6-12-1978

Artículo 148

3. Las Comunidades Autónomas podrán asumir competencias en las siguientes materias:

(..)

17.- El fomento de la cultura, de la investigación y, en su caso, de la enseñanza de la lengua de la Comunidad Autónoma.

*Spanish Constitution, from 6-12-1978,*

*Section 148*

*3. Autonomous regional governments may assume competences over the following matters:*

(..)

17. - *The promotion of culture and research and, where applicable, the teaching of the autonomous region's language.*

*Ley Orgánica 4/1979 de creación del Estatuto de Cataluña,*

*Artículo 9*

*La Generalitat de Cataluña tiene competencia exclusiva sobre las materias siguientes:*

(..)

4. - *Cultura.*

*Federal law which regulates Catalonia's administrative and political organization*

*Section 9*

*Catalonia's autonomous regional government has exclusive competence over the following matters:*

(...)

4. - *Culture*

## **SELECTIVE SCHEMES**

B.13 If this scheme distributes aid selectively,<sup>15</sup> 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:

Value criteria

1. - Qualitative Criteria:

- The director's previous experience
- Originality and visual arts
- Film's composition
- Technical and artistic staff's previous experience

2. - Economic Criteria

- The producer's previous experience
- Secured financing
- Sales predictions
- An adequate budget

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<sup>15</sup> 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.

## **CONTACT DETAILS**

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

ICIC  
Director Sr. Xavier Marcé Carol  
Rambla Santa Mònica, 8 (Palau Marc)  
08002 Barcelona  
Telèfon 93 316 27 00  
Fax 93 316 28 65

[icic.cultura@gencat.net](mailto:icic.cultura@gencat.net)

<http://cultura.gencat.net/icic/index.htm>

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

Julia Montes  
Ecija Abogados  
Plza. del Marqués de Salamanca, 3-4  
Tfno: 91 781 61 60 - Fax: 91 578 38 79

[jmontes@ecija.com](mailto:jmontes@ecija.com)

<http://www.ecija.com>

Date of the data collection and processing:

02-10-2006

## PART B

### FUND SPECIFIC QUESTIONS

*Please only cover funding schemes, including tax incentive schemes, that were operated at the national, regional (excluding EU schemes, e.g. the Media programme)<sup>16</sup> or local level in your country during the reference period from 1 January 2001 to 31 December 2005, and that disposed of 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 per year.<sup>17</sup>*

*Please use for each funding scheme a separate form.*

#### **IDENTIFICATION OF THE FUNDING SCHEME**

- B.1 Country/region:  
Comunidad Autónoma de Euskadi
- B. Name of the funding scheme:  
Concesión de ayudas a la creación, desarrollo y producción audiovisual.  
*Grant of aid for the creation, development and audiovisual production.*
- B.3 Name and address of the funding scheme's administration and supervisory authority:  
  
DEPARTAMENTO DE CULTURA  
Dirección de Creación y difusión cultural  
Donostia-San Sebastián, 1  
ES-01010 Vitoria-Gasteiz (Alava)
- 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),
- a. Decreto 7/ 2001 de creación, supresión y modificación de los Departamentos de la Administración de la Comunidad Autónoma del País Vasco y de determinación de funciones y áreas de actuación de los mismos,

<sup>16</sup> Regional schemes mean both, schemes operated within your country and schemes to which your country is a party among other countries, e.g. the Nordic Film- and TV Fund (see [http://korda.obs.coe.int/web/display\\_fonds.php?fonds\\_id=28](http://korda.obs.coe.int/web/display_fonds.php?fonds_id=28) ).

<sup>17</sup> "Independent" means that the cinematographic and audiovisual works are produced and distributed by entities that are legally independent from broadcasters.

*(Euskadi's Decree that creates and determines areas and competences from Euskadi's public departments).*

*Entry into force 17-07-2001*

- b. Decreto 34/2002 por el que se establece la estructura orgánica del Departamento de Cultura.  
*(Decree that determines the Culture department's organisational structure).*  
*Entry into force 19-02-2002*
- c. ORDEN de 29 de marzo de 2005, de la Consejera de Cultura, por la que se convoca la concesión de ayudas a la creación, desarrollo y producción audiovisual.  
*(Order that appoints the Regional aid for the promotion audiovisual production for 2005)*

A copy of these regulations is attached to this questionnaire

## **TERRITORIAL CONDITIONS<sup>18</sup>**

### **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*)?

Yes / No

No

If yes,

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*):

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*).

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<sup>18</sup> 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.

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

### **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/No

Yes

If 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*):

The production company must be resident in Euskadi or must have a permanent establishment of a minimum of one year before the aid will be granted, and must be registered as an audiovisual company in the appropriate register for audiovisual companies.

The application for subsidies will be considered more favourably, if the production is shot in the basque language (Euskera) or if it is produced with crew members who are domiciled in Euskadi. Those criteria are not compulsory.

### **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:

Euskadi or País Vasco is a Region in Spain that has its own language.

La Constitución Española, Constitution, from 6-12-1978,

La Constitución Española, de 6-12-1978

Artículo 148

4. Las Comunidades Autónomas podrán asumir competencias en las siguientes materias:

(..)

17.- El fomento de la cultura, de la investigación y, en su caso, de la enseñanza de la lengua de la Comunidad Autónoma.

*Spanish Constitution, from 6-12-1978,*

*Section 148*

*4. Autonomous regional governments may assume competences over the following matters:*

*(..)*

*17. - The promotion of culture and research and, where applicable, the teaching of the autonomous region's language.*

Ley orgánica de Estatuto de Autonomía del País Vasco o Euskadi, Ley orgánica 3/1979,

Artículo 10.

(...)

La Comunidad Autónoma del País Vasco tiene competencia exclusiva en las siguientes materias:

(..)

17.- Cultura sin perjuicio de lo dispuesto en el artículo 149.2 de la Constitución

*Federal law which regulates Euskadi's administrative and political organization, Organic law 3/1979*

Section 10

Euskadi's Autonomous regional government has exclusive competence over the following matters:

(...)

17. - Culture, except for the federal competences.

### **SELECTIVE SCHEMES**

B.13 If this scheme distributes aid selectively,<sup>19</sup> 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:

First the followings criteria will be checked with a maximum of 60 points, which can be reached:

- a. The applied production company has to provide solid financing, max 30 points<sup>20</sup>
- b. crew and employees from Euskadi, max 10 points
- c. The production company has to be solvent, max 10 points
- d. Shot in Euskadi, max 10 points

If 40 points at least are reached the project comes to the second examination:

Artistic excellence and cultural value, (maximum of 40 points can be reached)

- a. Script, max 20 points
- b. Link with the cultural heritage of Euskadi, max 10 points
- c. original film version in Euskera language, max 10 points

In this second examination, the projects should reach a minimum of 15 points.

### **CONTACT DETAILS**

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

Iñaki Gómez Sarasola

---

<sup>19</sup> 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.

DONOSTIA-SAN SEBASTIAN, 1  
01010 VITORIA-GASTEIZ (ALAVA)  
[i-gomez@eg-gv.es](mailto:i-gomez@eg-gv.es)  
Tlf.: 945019466 Ext. 19466

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

Julia Montes  
Ecija Abogados  
Plza. del Marqués de Salamanca, 3-4  
28006, Madrid  
Tfno: 91 781 61 60 - Fax: 91 578 38 79  
[jmontes@ecija.com](mailto:jmontes@ecija.com)  
<http://www.ecija.com>

Date of the data collection and processing:

29-09/2006

## PART B

### FUND SPECIFIC QUESTIONS

*Please only cover funding schemes, including tax incentive schemes, that were operated at the national, regional (excluding EU schemes, e.g. the Media programme)<sup>21</sup> or local level in your country during the reference period from 1 January 2001 to 31 December 2005, and that disposed of 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 per year.<sup>22</sup>*

*Please use for each funding scheme a separate form.*

#### **IDENTIFICATION OF THE FUNDING SCHEME**

- B.1 Country/region:  
Comunidad Autónoma de Galicia
- B.2 Name of the funding scheme:  
Concesión de ayudas a la creación, desarrollo y producción audiovisual.  
*Grant of aids for the creation, development and audiovisual production*
- B.3 Name and address of the funding scheme's administration and supervisory authority:  
  
CONSELLERIA DE CULTURA  
Edificios Administrativos de San Caetano  
15704 Santiago de Compostela  
Telf: 981 545400 Fax: 981 544802
- 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  
  
-Ley 6/1999 audiovisual de Galicia.  
  
*Galicia's audiovisual law  
Entry into force 09-09-1999*

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<sup>21</sup> Regional schemes mean both, schemes operated within your country and schemes to which your country is a party among other countries, e.g. the Nordic Film- and TV Fund (see [http://korda.obs.coe.int/web/display\\_fonds.php?fonds\\_id=28](http://korda.obs.coe.int/web/display_fonds.php?fonds_id=28) ).

<sup>22</sup> "Independent" means that the cinematographic and audiovisual works are produced and distributed by entities that are legally independent from broadcasters.

-Decreto 172/2001 sobre incentivos para desarrollo económico y fomento de la actividad empresarial en la Comunidad Autónoma de Galicia,

*Galicia's decree on incentives for the Promotion and development of Galicia's entrepreneurial activities in the region.. Entry into force: 24-07-2001*

-Orden de 23 de diciembre de 2004 de subvención de empresas audiovisuales para desarrollar proyectos en lengua gallega.

*Order that regulates the aid for audiovisual projects in Galicia's own language for 2005*

*Entry into force: 01-01-2005*

Attached you will find the aforementioned laws.

## **TERRITORIAL CONDITIONS<sup>23</sup>**

### **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*)

Yes / No

Yes

If yes,

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*)

The aid is granted every year, and the publication of an Order that establishes the regulation of this aid is necessary, (e.g.: application, time limit, and all the complete requirements).

*In 2004 the Order of 23-12-2004 that regulates the aids for audiovisual projects in Galicia's own language was passed the provisions are to be found under Article 2, that establishes:*

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<sup>23</sup> 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.

Aid is granted to companies in the audiovisual sector and which support the development of audiovisual production projects in Galicia's language, as well as to audiovisual productions in Galicia's language.

Companies must be established as audiovisual producers and multimedia companies in the European Union, or at least have a representation agent in Galicia. The projects submitted under such official announcement must have at least 25% of the budget invested in Galicia. In every case, these requirements need to be fulfilled in order to obtain this aid."

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

The Order requires only a minimum proportion, of at least 25%, of the film budget to be spent in Galicia.

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

Under the terms of the Order there are no references to co-production. The production company has to be resident in Galicia or at least have an agency or have permanent establishment.

At least 25% of the submitted projects must be developed in Galicia.

The co-production agreement "Raices" see under A3 is administrated by "Consortio Audiovisual Gallego" not by Consellería de Cultura and its aid comes with just 150.000€per year. The aforementioned, indicates that it is under 1 million Euros and is not the object of this questionnaire.

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

There is no case law.

Galicia's audiovisual law regulates the importance and necessity to assist and promote the film or motion picture production in Galicia, so Galicia is brought into the

European information society. The legislator wants to encourage the use of “gallego”, Galicia’s language, and the promotion of Galicia’s audiovisual companies.

### **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/No

Yes

If 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, the situation that prevailed before this date during the period from 2001 to 2005*):

To create employment in Galicia, and to encourage Galicia’s culture, by promoting the “gallego” language, encouraging job offers in Galicia, as it is one of Spain’s poorest regions.

### **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:

La Constitución Española, de 6-12-1978

Artículo 148

5. Las Comunidades Autónomas podrán asumir competencias en las siguientes materias:

(..)

17.- El fomento de la cultura, de la investigación y, en su caso, de la enseñanza de la lengua de la Comunidad Autónoma.

*Spanish Constitution, from 6-12-1978,*

*Section 148*

5. *Autonomous regional governments may assume competences over the following matters:*

(..)

17. - *The promotion of culture and research and, where applicable, the teaching of the autonomous region's language.*

Ley orgánica de Estatuto de Autonomía de Galicia, Ley orgánica 1/1981,

*Artículo 27*

En el marco del presente Estatuto corresponde a la Comunidad Autónoma gallega la competencia exclusiva de las siguientes materias:

(...)

19.-El fomento de la cultura y de la investigación en Galicia, sin perjuicio de lo establecido en el artículo 149. 2 de la Constitución.

20.- La promoción y la enseñanza de la lengua gallega.

*Federal law which regulates Galicia's administrative and political organisation*

*Section 27*

*Galicia's Autonomous regional government has exclusive competence over the following matters:*

(..)

19.- *The aid of Culture and investigation in Galicia, except for the Federal competences which are regulated under section 149.2 of the Constitution.*

20.- *The promotion and teaching of the Gallego language.*

**SELECTIVE SCHEMES**

B.13 If this scheme distributes aid selectively,<sup>24</sup> 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:

Besides criteria under B.7 and B.8

a. Projects should be creative and original

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<sup>24</sup> 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.



- b. The applicant production company has to prove solid financing
- c. crew and employees have to be from Galicia
- d. experienced co-operators and staff members
- e. Links with the cultural heritage of Galicia

### **CONTACT DETAILS**

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

Consellería de Cultura  
Sr. Francisco Fernández Naval  
Edificios Administrativos de San Caetano  
15704 Santiago de Compostela  
Telf: 981 545400 Fax: 981 544802  
[audiovisual.cultura@xunta.es](mailto:audiovisual.cultura@xunta.es)

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

Julia Montes Heras  
Ecija Abogados  
Plza. del Marqués de Salamanca, 3-4  
28006, Madrid  
Tfno: 91 781 61 60 - Fax: 91 578 38 79  
[jmontes@ecija.com](mailto:jmontes@ecija.com)  
<http://www.ecija.com>

Date of the data collection and processing:

02-10-2006

## PART B

### FUND SPECIFIC QUESTIONS

*Please only cover funding schemes, including tax incentive schemes, that were operated at the national, regional (excluding EU schemes, e.g. the Media programme)<sup>25</sup> or local level in your country during the reference period from 1 January 2001 to 31 December 2005, and that disposed of 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 per year.<sup>26</sup>*

*Please use for each funding scheme a separate form.*

#### **IDENTIFICATION OF THE FUNDING SCHEME**

- B.1 Country/region: Spain
- B. Name of the funding scheme: Medidas de fomento a la cinematografía  
*Measures for the fostering of cinema*
- B.3 Name and address of the funding scheme's administration and supervisory authority:  
INSTITUTO DE LA CINEMATOGRAFÍA Y DE LAS ARTES AUDIOVISUALES  
(ICAA)  
Plaza del Rey, nº 1  
28071 MADRID  
SPAIN
- 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
- a) **Ley 15/2001** de fomento y promoción de la cinematografía y el sector audiovisual, (*Law for the fostering and promotion of the film and audiovisual sector*). Entry into force 11-07-2001
  - b) **Real Decreto 526/2002** por el que se regulan medidas de fomento y promoción de la cinematografía y la realización de películas en coproducción.

<sup>25</sup> Regional schemes mean both, schemes operated within your country and schemes to which your country is a party among other countries, e.g. the Nordic Film- and TV Fund (see [http://korda.obs.coe.int/web/display\\_fonds.php?fonds\\_id=28](http://korda.obs.coe.int/web/display_fonds.php?fonds_id=28) ).

<sup>26</sup> "Independent" means that the cinematographic and audiovisual works are produced and distributed by entities that are legally independent from broadcasters.

*(Decree, which regulates provisions for the fostering and promotion of films and co productions)* Entry into force 29-06-2002

- c) **Orden ECD/2240/2003**, por la que se dictan normas de aplicación del Real Decreto 526/2002 (Order which implements the Decree 526/2002) Entry into force: 08-08-2003

This order lays down the rules of application of this decree.

*A copy of these laws and regulations is enclosed in this questionnaire.*

## **TERRITORIAL CONDITIONS**<sup>C27</sup>

### **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*)?

Yes / No

No

If yes,

- 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*):
- 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*).
- 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*

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<sup>27</sup> 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).*

- 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*):

### **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/No

Yes

If 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*):

Article 7 Decree 526/2002, under B.4, provides that, even though it is not a decisive factor, as general criteria is preferable that the film is shot in a Spanish language, in Spain and with a majority of Spanish or European staff. These criteria will not be applied in the case of co productions between a Spanish company and a foreign company.

### **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 most important legal provisions are:

La Constitución Española, from 06-12-1978 (*Spanish Constitution*) Art. 149.2  
“Without prejudice to the competences that may be assumed by the Communities

with an autonomous government, the State shall consider the promotion of culture as a duty and as an essential function and shall facilitate cultural communication between Communities with autonomous governments, in cooperation with them”.

Ley 15/2001, Ley de fomento y promoción de la cinematografía y el sector audiovisual (*Law for the fostering and promotion of films and the audiovisual sector*), in virtue of Art. 1, 4, 5 Promotion of culture is an objective in need of state aid.

### **SELECTIVE SCHEMES**

B.13 If this scheme distributes aid selectively,<sup>28</sup> 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:

25% of the total amount of annual aid is distributed through selective schemes.

The criteria are:

- a. Quality and artistic value.
- b. Proportionate budget for the project.
- c. Film's financing plan
- d. The production company has to be solvent and has to have no debts with ICAA, in any case.

### **CONTACT DETAILS**

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

Beatriz de Armas Sierra  
Plaza del Rey, nº 1  
28071 MADRID  
SPAIN  
Tfno: 917017257  
[beatriz.dearmas@icaa.mcu.es](mailto:beatriz.dearmas@icaa.mcu.es)

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

Julia Montes Heras  
Ecija Abogados  
Plza. del Marqués de Salamanca, 3-4  
28006, Madrid  
Tfno: 91 781 61 60 - Fax: 91 578 38 79

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<sup>28</sup> 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.

[jmontes@ecija.com](mailto:jmontes@ecija.com)  
<http://www.ecija.com>

Date of the data collection:

28-09-2006

**PART B**

**FUND SPECIFIC QUESTIONS**

**IDENTIFICATION OF THE FUNDING SCHEME**

- B.1 Country/region: Cataluña
- B.2 Name of the funding scheme: Instituto Catalán de Finanzas, línea de préstamos para inversiones en el sector de la producción audiovisual
- Credit line for investments in the audiovisual production sector.*
- B.3 Name and address of the funding scheme's administration and supervisory authority:
- INSTITUTO CATALÁN DE FINANZAS  
Dirección: Gran Vía de las Cortes Catalanas, 635  
08010 Barcelona  
Teléfono 93 342 84 10  
E-mail: info@icfinances.com
- 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 dates when these laws and regulations entered into force
- Ley 2/1985 del instituto catalán de finanzas  
Act 2/1985, establishing the Institut Català de Finances.  
Entry into force: February 1985.
- These rules are attached to this questionnaire

**TERRITORIAL CONDITIONS<sup>29</sup>**

**Explicit territorial conditions**

<sup>29</sup> 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.

- 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

Yes / No

The Institut Catalá de Finances has not collaborated with this questionnaire.

The Agreement between Institut Catalá de Finances and the production companies in Catalonia was not provided by the Institut Catalá de Finances. Due to this lack of information it is therefore not possible to give an answer to this question.

- 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*):
- B.7 Describe how these territorialisation requirements are implemented, including the minimum proportion required and the maximum
- 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 respect to former versions of territorialisation requirements that were in force before this date during the period from 2001 to 2005*):
- 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*):

### **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/No



B.11 Please describe the implicit or *de facto* territorialisation requirements that are practised by this funding scheme:

### **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:

### **SELECTIVE SCHEMES**

B.13 If this scheme distributes aid selectively,<sup>30</sup> 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:

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<sup>30</sup> 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.

## **CONTACT DETAILS**

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

Conseller delegat Sr. Josep Maria Ayala i Vargas

Gran Via de les Corts Catalanes, 635

08010 Barcelona

93 342 84 10

93 487 37 87

[direccioicf@icfinances.com](mailto:direccioicf@icfinances.com)

<http://www.icfinances.com>

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

Julia Montes

Ecija Abogados

Plza. del Marqués de Salamanca, 3-4

28006 Madrid

Tfno: 91 781 61 60 - Fax: 91 578 38 79

[jmontes@ecija.com](mailto:jmontes@ecija.com)

<http://www.ecija.com>

Date of the data collection and processing:

30-10-2006

**PART B**

**FUND SPECIFIC QUESTIONS**

*Please only cover funding schemes, including tax incentive schemes, that were operated at the national, regional (excluding EU schemes, e.g. the Media programme)<sup>31</sup> or local level in your country during the reference period from 1 January 2001 to 31 December 2005, and that disposed of 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 per year.<sup>32</sup>*

*Please use for each funding scheme a separate form.*

**IDENTIFICATION OF THE FUNDING SCHEME**

B.1 Country/region:  
Comunidad Autónoma de Euskadi

B. Name of the funding scheme:  
Financiación para el fomento de la producción audiovisual en la Comunidad Autónoma de Euskadi

*Financing for the fostering of audiovisual production in Euskadi's autonomous region.*

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

DEPARTAMENTO DE CULTURA  
Dirección de Creación y difusión cultural  
Donostia-San Sebastián, 1  
ES-01010 Vitoria-Gasteiz (Alava)

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),

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<sup>31</sup> Regional schemes mean both, schemes operated within your country and schemes to which your country is a party among other countries, e.g. the Nordic Film- and TV Fund (see [http://korda.obs.coe.int/web/display\\_fonds.php?fonds\\_id=28](http://korda.obs.coe.int/web/display_fonds.php?fonds_id=28) ).

<sup>32</sup> "Independent" means that the cinematographic and audiovisual works are produced and distributed by entities that are legally independent from broadcasters.

- d. Decreto 7/ 2001 de creación, supresión y modificación de los Departamentos de la Administración de la Comunidad Autónoma del País Vasco y de determinación de funciones y áreas de actuación de los mismos,  
*(Decree for the creation, suppression and modification of Euskadi's public administrative departments and the determination of areas and competencies of the same departments).*  
*Entry into force 17-07-2001*
- e. Decreto 34/2002 por el que se establece la estructura orgánica del Departamento de Cultura.  
*(Decree that determines the organisational structure of the department of Culture).*  
*Entry into force 19-02-2002*
- f. Decreto 338/2003 por el que se regula la financiación para la promoción de la producción audiovisual en la Comunidad Autónoma de Euskadi.  
*(Decree that regulates the funding program for the promotion of audiovisual productions in the Basque region) Entry into force: 31-12-2003*
- g. ORDEN de 8 de junio de 2005, de la Consejera de Cultura por la que se efectúa la convocatoria para el ejercicio 2005, del régimen de financiación para el fomento de la producción audiovisual en la Comunidad Autónoma de Euskadi, dentro del marco establecido por el Decreto 338/2003, de 29 de diciembre.  
*(Order dated 8 June 2005, from the Counsellor for Culture which regulates the call for 2005 of the funding program for the promotion of audiovisual productions in the Basque region)*

A copy of these regulations is attached to this questionnaire

## **TERRITORIAL CONDITIONS<sup>33</sup>**

### **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*)?

Yes / No

No

If yes,

<sup>33</sup> 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.

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

### **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/No

Yes

If 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*):

This funding scheme was created in 2003 and provides a line of credit for production companies, which must be resident in the Basque region or be established permanently

for a minimum of two years before the credit line is granted. These companies must be registered as an audiovisual company in the appropriate register for audiovisual companies as well as being registered in the tax office. This is regulated under art. 5 Decree 338/2003.

This funding scheme is divided into two different kinds of credit:

1. A credit line excluding interest for audiovisual productions but not for television series.

This type is regulated under chapter 2 Decree 338/2003, and arranges a maximum financing of 30% of the film budget. If the film is completely shot in Basque, the financing increases by 60%. In case of a co production, the co producer in the Basque region has to have at least a 20% share in the production, until the credit is completely repaid.

2. A low interest credit. This is regulated under Chapter 3 Decree 338/2003, and is only for audiovisual series productions. This kind of credit is based on the estimated value of the license agreement, e.g. with the TV channel, and the interest is calculated on Euribor plus 0.50%.

## **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:

Euskadi, also known as the País Vasco (Basque Country) is a Region in Spain that has its own language.

La Constitución Española, de 6-12-1978

Artículo 148

6. Las Comunidades Autónomas podrán asumir competencias en las siguientes materias:

(..)

17.- El fomento de la cultura, de la investigación y, en su caso, de la enseñanza de la lengua de la Comunidad Autónoma.

*Spanish Constitution, from 6-12-1978,*

*Section 148*

*6. Autonomous regional governments may assume competences over the following matters:*

*(..)*

*17. - The promotion of culture and research and, where applicable, the teaching of the autonomous region's language.*

Ley orgánica de Estatuto de Autonomía del País Vasco o Euskadi, Ley orgánica 3/1979,

Artículo 10.

(...)

La Comunidad Autónoma del País Vasco tiene competencia exclusiva en las siguientes materias:

(..)

17.- Cultura sin perjuicio de lo dispuesto en el artículo 149.2 de la Constitución

*Federal law which regulates Euskadi's autonomous regional government, Organic law 3/1979*

Section 10

*Euskadi's autonomous regional government has exclusive competence over the following matters:*

(...)

*17. - Culture, except for the federal competences.*

## **SELECTIVE SCHEMES**

B.13 If this scheme distributes aid selectively,<sup>34</sup> 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:

The application is divided into four parts: (under art. 3 Order 8 June 2005)

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<sup>34</sup> 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.

1. The first part concerns legal information of the company, e.g legal entity, and legal administrator, which must be resident in the Basque region for at least two years.
2. The second part concerns economic information, such as the balance sheet.
3. The third part is concerned with information about the production, e.g. budget, memo, crew, productions plan, and marketing, etc.
4. Finally, it covers the repayment schedule and its guarantee.

### **CONTACT DETAILS**

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

Iñaki Gómez Sarasola  
DONOSTIA-SAN SEBASTIAN, 1  
01010 VITORIA-GASTEIZ (ALAVA)  
[i-gomez@eg-gv.es](mailto:i-gomez@eg-gv.es)  
Tlf.: 945019466 Ext. 19466

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

Julia Montes  
Ecija Abogados  
Plza. del Marqués de Salamanca, 3-4  
28006, Madrid  
Tfno: 91 781 61 60 - Fax: 91 578 38 79  
[jmontes@ecija.com](mailto:jmontes@ecija.com)  
<http://www.ecija.com>

Date of the data collection and processing:

29-09/2006



## PART B

### FUND SPECIFIC QUESTIONS

*Please only cover funding schemes, including tax incentive schemes, that were operated at the national, regional (excluding EU schemes, e.g. the Media programme)<sup>35</sup> or local level in your country during the reference period from 1 January 2001 to 31 December 2005, and that disposed of 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 per year.<sup>36</sup>*

*Please use for each funding scheme a separate form.*

#### **IDENTIFICATION OF THE FUNDING SCHEME**

- B.1 Country/region: Spain
- B. Name of the funding scheme: Impuesto de sociedades (tax incentive scheme)
- B.3 Name and address of the funding scheme's administration and supervisory authority:  
Agencia Tributaria  
C/Infanta Mercedes 37  
28020 Madrid  
Spain
- 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  
-Real Decreto Legislativo 4/2004, Texto refundido de la ley de Impuesto sobre sociedades, art. 34, Art. 38 (*Real Decree about companies tax, here in after referred as "RDleg 4/2004"*). Entry into force: 12-03-2004

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<sup>35</sup> Regional schemes mean both, schemes operated within your country and schemes to which your country is a party among other countries, e.g. the Nordic Film- and TV Fund (see [http://korda.obs.coe.int/web/display\\_fonds.php?fonds\\_id=28](http://korda.obs.coe.int/web/display_fonds.php?fonds_id=28) ).

<sup>36</sup> "Independent" means that the cinematographic and audiovisual works are produced and distributed by entities that are legally independent from broadcasters.

## **TERRITORIAL CONDITIONS<sup>37</sup>**

### **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*)?

Yes / No

Yes

If yes,

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*):

Article 34 of the RDleg 4/2004, which regulates the distribution bonus

Article 38 of the RDleg 4/2004 which regulates the deduction for an investment in an audiovisual production.

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*).

This is a tax incentive for companies which make investments in audiovisual work production or distribution (not both). In order to have these benefits, the Company has to be resident in Spain or to be permanently established in Spain, so that it can be taxable in Spain, this incentive is applicable to the company's annual tax declaration. The tax consists in a reduction of the contingent amount up to 20% of the production Companies' annual tax declaration, the audiovisual production has to be Spanish, as described under Part A.4. The incentive is calculated based on the investment minus aid and co-production investment.

The tax foresees also an incentive for executive co-productions, and the requirements to obtain this type of incentive is that the investment lies between 10% and 25%, and The incentive awarded 5% of the amount invested.

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<sup>37</sup> 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.

The incentive for distribution is a bonus reduction of up to 99% of the investment, which has to be reinvested in the distribution companies.

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

Only a company, which is taxable in Spain, can apply to this scheme.

- 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*):

### **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/No

No

If 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*):

**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:

Constitución Española

Artículo 44

1. Los poderes públicos promoverán y tutelarán el acceso a la cultura, a la que todos tienen derecho.

Artículo 46

Los poderes públicos garantizarán la conservación y promoverán el enriquecimiento del patrimonio histórico, cultural y artístico de los pueblos de España y de los bienes que lo integran, cualquiera que sea su régimen jurídico y su titularidad. La ley penal sancionará los atentados contra este patrimonio.

Spanish Constitution,

Section 44

- 1.- The public authority shall promote and grant access to culture, to which all are entitled.

Section 46

The public authority shall assure the promotion of the historical, cultural and artistic patrimony of Spain.

### **SELECTIVE SCHEMES**

- B.13 If this scheme distributes aid selectively,<sup>38</sup> 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:

### **CONTACT DETAILS**

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

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<sup>38</sup> 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.

The administration and supervision of the funding scheme depends on each independent region, as vary from region to region.

There is a general information phone:  
901335533

Agencia Tributaria  
C/Infanta Mercedes 37  
28020 Madrid  
Spain  
[www.aeat.es](http://www.aeat.es)

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

Julia Montes  
Ecija Abogados  
Plza. del Marqués de Salamanca, 3-4  
Tfno: 91 781 61 60 - Fax: 91 578 38 79  
jmontes@ecija.com  
<http://www.ecija.com>

Date of the data collection:

28-09-2006

## PART B

### FUND SPECIFIC QUESTIONS

*Please only cover funding schemes, including tax incentive schemes, that were operated at the national, regional (excluding EU schemes, e.g. the Media programme)<sup>39</sup> or local level in your country during the reference period from 1 January 2001 to 31 December 2005, and that disposed of 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 per year.<sup>40</sup>*

*Please use for each funding scheme a separate form.*

#### **IDENTIFICATION OF THE FUNDING SCHEME**

- B.1 Country/region: Comunidad Autónoma de Valencia
- B. Name of the funding scheme: Ayudas a la Producción Audiovisual
- B.3 Name and address of the funding scheme's administration and supervisory authority:  
INSTITUTO VALENCIANO DE CINEMATOGRAFÍA  
IVAC – LA FILMOTECA Edificio Rialto  
Placa de l'Ajuntament 17  
46002 Valencia  
Spain
- 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
- a. **LEY 5/1998**, de 18 de junio, de Creación del Instituto Valenciano de Cinematografía Ricardo Muñoz Suay.  
(*Law 5/1998, dated 18 June that creates the Instituto Valenciano de Cinematografía Ricardo Muñoz Suay, (IVAC)*). Entry into force 24-06-1998

<sup>39</sup> Regional schemes mean both, schemes operated within your country and schemes to which your country is a party among other countries, e.g. the Nordic Film- and TV Fund (see [http://korda.obs.coe.int/web/display\\_fonds.php?fonds\\_id=28](http://korda.obs.coe.int/web/display_fonds.php?fonds_id=28) ).

<sup>40</sup> "Independent" means that the cinematographic and audiovisual works are produced and distributed by entities that are legally independent from broadcasters.

- b. **Orden 30-12-2004** por la que se convocan la concesión de ayudas para creación audiovisual.  
(*Order of 30-12-2004 that grants state aid for the creation of audiovisual projects*)

## **TERRITORIAL CONDITIONS<sup>41</sup>**

### **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*)?

Yes / No

No

If yes,

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

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<sup>41</sup> 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.

*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):*

### **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/No

Yes

If 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*):

Before the company applies for aid, the production company must be established in the region and be registered as an audiovisual company in the appropriate register for audiovisual companies.

The application for subsidies will be considered more favourably, if the production is filmed in Valencia's Region or if it is produced with a crew of members or audiovisual companies which are domiciled in Valencia's Region. These criteria are not compulsory:

- The production crew has to be a working team with technicians and artistic talent from Valencia
- Using dubbing studios in Valencia and contract services that are in Valencia.
- The filming of the motion picture has to be in Valencia, unless the company can justify that the script or the co-producer (national or international) has a necessity to film outside Valencia.
- It will be subject to value the fulfilment of the requirements in a value scale made ad hoc by the FEVA (Federació Valenciana de l'Audiovisual).

### **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:



La Constitución Española, de 6-12-1978

Artículo 148

7. Las Comunidades Autónomas podrán asumir competencias en las siguientes materias:

(..)

17.- El fomento de la cultura, de la investigación y, en su caso, de la enseñanza de la lengua de la Comunidad Autónoma.

*Spanish Constitution, from 6-12-1978,*

*Section 148*

*7. Autonomous regional governments may assume competences over the following matters:*

*(..)*

*17. - The promotion of culture and research and, where applicable, the teaching of the autonomous region's language.*

Ley orgánica de Estatuto de Autonomía de la Comunidad Autónoma Valenciana, Ley 5/1982.

Artículo 31

La Generalitat Valenciana tiene competencia exclusiva sobre las siguientes materias:

(..)

4. Cultura

*Federal law which regulates Valencia's administrative and political organisation*

*Section 31*

*Valencia's autonomous regional government has exclusive competence over the following matters:*

*(...)*

*4. Culture.*

**SELECTIVE SCHEMES**

- B.13 If this scheme distributes aid selectively,<sup>42</sup> 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:

The applying production company has to prove solid financing, and the script has to be original, creative and interesting. It's also positively valued if the project is a co-production.

- The Project has to be viable and original.
- The script has to be interesting and be of a high quality
- The company's professional experience and the production personnel's curriculum vitae will be valued.
- Projects that have a co-production of more than two companies will also be valued.

More criteria see under B11

## **CONTACT DETAILS**

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

**JOSÉ LUIS RADO ARANCE**

IVAC Director

96 353 93 19

[rado\\_jos@gva.es](mailto:rado_jos@gva.es)

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

Julia Montes Heras

Ecija Abogados

Plza. del Marqués de Salamanca, 3-4

28006, Madrid

Tfno: 91 781 61 60 - Fax: 91 578 38 79

[jmontes@ecija.com](mailto:jmontes@ecija.com)

<http://www.ecija.com>

Date of the data collection and processing:

28-09-2006

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<sup>42</sup> 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.

<b>Member State:</b>	<b>SPAIN</b>
<b>Re:</b>	<b>Follow Up Question</b>
<b>Date:</b>	<b>14 February 2007</b>

(...)

Thank you for the new file.

We have "merged" your previous answers with you follow-up replies of last week. You will find attached the corresponding new versions. Please check the attached files with respect to their accurateness and completeness.

In addition, please

- provide full replies to our questionnaire for "Pais Vasco".
- reply to the follow-up questions according to the attached table.

(...)

<b>Attachments to e-mail of 14 February 2007</b>
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- Spain FU Q 14 02 07.pdf
- Spain Questionnaire Merged 14 02 07.zip

(...)

**Spain follow-up questions to the local counsel:**

**REF: Part A:**

**A.2** Is the Instituto Catalán de Finanzas a separate authority governing a separate funding scheme? Should it be listed in the Part A as one of the “Regional funding schemes, which have been created as independent agencies for audiovisual management”?

**A.2.** Please, could you clarify the issue of Secretaría de política lingüística? Which specific

answers (part B) apply to this funding scheme? It seems that there is no detailed information on this authority.

**A.3.** Please, could you provide the dates of entry into force of following agreements: IBERMANIA, CINE REGIO.

**REF: Part B:**

**“Subvenciones selectivas a la industria audiovisual catalana”, ICIC:B.9** If the Language Policy Act also regulates this scheme, please quote its original language version and indicate dates when this law entered into force.

(...)

## PART A

### GENERAL QUESTIONS

#### OVERVIEW

A.1 Country / region: Spain

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<sup>43</sup> 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):

Spain has nine funding schemes with an annual budget of at least €1million. Each of this eight funding schemes is administrated by the Authority that authorises or creates it, and the aid or funding scheme is usually known under the name of such Authority.

Mostly, the aid or funding schemes are found in legal rules, and are granted every year through Orders (laws), which are published in the Regional Official Journal or in the Federal Official Journal, the publishing in one or the other journal, depends on the authority that grants the Order.

Spain classifies the funding schemes with the name of the Authority in charge of it, and we distinguish them in Federal or Regional Funding schemes (depending on the Authority that grants them).

4. Federal funding schemes:

- I. Instituto de la Cinematografía y de las Artes Audiovisuales (“ICAA”), which is an independent agency and is a part of the Federal Culture Department.
- II. Agencia Tributaria, which is a part of the Tax Office.

5. Regional funding schemes, which have been created as independent agencies for audiovisual management:

- I. Instituto Valenciano de Cinematografía (“IVAC”), is part of the Department of Culture of the Valencia region.
- II. Instituto Catalá de las Industrias Culturals (“ICIC”), is part of the Department of Culture of the Catalonia region.

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<sup>43</sup> “Independent” means that the cinematographic and audiovisual works are produced and distributed by entities that are legally independent from broadcasters.

III. Secretaría de política lingüística, is part of the Government Department of the Catalonia region.

6. Regional funding schemes, which are developed directly by the Culture Department of each Region:

IV. Xunta de Galicia

V. Junta de Andalucía

VI. Comunidad Autónoma de Euskadi, which has two funding schemes, one which is a subsidy and another which is a credit line.

### **COPRODUCTION AGREEMENTS**

A.3 These agreements list the conventions on co-production agreements to which your country is currently a party to, 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:

**Federal Coproduction Agreements:**

5. Bilateral Conventions:

a.  Germany

Acuerdo de relaciones cinematográficas entre el Gobierno del Reino de España y el Gobierno de la República Federal de Alemania.

(Agreement governing cinematographic relationships between the Spanish Kingdom and the German Federal Republic)

Entry into force: 5-12-2000

b.  Argentina

Convenio Hispano-Argentino de relaciones cinematográficas. (Agreement governing Hispanic and Argentinian cinematographic relationships)

Entry into force: 28-08-1969.

c.  Brazil

Canje de notas sobre Coproducción Cinematográfica. (Exchange of Notes regarding cinema co-productions)

Entry into force: 02-12-1963.

d.  Canada

Convenio referente a las relaciones cinematográficas entre el Gobierno de España y el Gobierno de Canada. (Agreement that refers to the cinematographic relationships between the Spanish Kingdom and the Canadian Government)

Entry into force: 14-01-1985

e.  Cuba

Acuerdo de colaboración cinematográfica entre el Reino de España y la República de Cuba. Cinematographic Collaboration Agreement between the Spanish Kingdom and Republic of Cuba.

Entry into force: 31-01-1990.

f.  Chile

Memorandum de colaboración en materia de coproducción, promoción, difusión y conservación del Patrimonio Cinematográfico entre el Ministerio de Educación, Cultura y Deporte del Reino de España y el Consejo Nacional de la Cultura y las Artes de la República de Chile. (Memo regarding the cooperation in co-production, promotion, distribution and conservation of the Cinematographic Cultural Heritage between Spain's Ministry of Education, Culture and Sports and the National Culture Counsel of the Republic of Chile).  
Entry into force from november 2003

g.  France

Acuerdo sobre las relaciones cinematográficas entre el Reino de España y la República Francesa. (Agreement regarding Cinematographic relationships between the Spanish Kingdom and the Republic of France)  
Entry into force: 20-03-1989  
Addenda, Entry into force: 30-06-2005

h.  Italy

Acuerdo hispano-italiano firmado en Bolonia el 10-9-97. (Hispanic-Italian Agreement signed in Bolonia on 10-9-97).  
Entry into force: 03-06-1998.

i.  Marruecos

Acuerdo de Coproducción e intercambios cinematográficos entre el Reino de España y el Reino de Marruecos. (Agreement for Co-production and cinematographic exchanges between the Spanish Kingdom and the Kingdom of Morocco .  
Entry into force 27-04-98.

j.  Mexico

Acuerdo de Coproducción cinematográfica entre el Reino de España y Los Estados Unidos mexicanos. Agreement for co-production regarding cinematographic work between the Spanish Kingdom and the United Mexican States.  
Entry into force: 30-01-2004

k.  Portugal

Acuerdo sobre las relaciones cinematográficas entre el Reino de España y la República Portuguesa. (Agreement regarding cinematographic relationships between the Spanish Kingdom and the Portuguese Republic).  
Entry into force 08-11-1989.

Protocolo de colaboración en materia de Cinematografía entre el Instituto de la Cinematografía y de las Artes Audiovisuales de España y el Instituto de Cinema, Audiovisual e Multimedia de Portugal, para la distribución y promoción recíproca de películas Nacionales. (Protocol for collaboration regarding cinematographic work between the Cinematographic Institute and Audiovisual Arts of Spain and the Portuguese Institute for Cinema,

Audiovisual and Multimedia,, to distribute and promote national motion pictures).

Protocolo de colaboración entre el Ministerio de Cultura del Reino de España y el Ministerio de Cultura de la República Portuguesa sobre cooperación cinematográfica y para el fomento de las co-producciones. (Protocol for collaboration between the Spanish Kingdom's Ministry of Culture and the Portuguese Republic's Ministry of Culture regarding cinematographic work and the promotion of co-productions).

Entry into force 24-03-2004.

l.  Puerto Rico

Memorando de Colaboración entre el Instituto de la Cinematografía y de las Artes Audiovisuales del Reino de España y la Corporación para el Desarrollo de las Artes, Ciencias e Industria Cinematográfica del Estado Libre Asociado de Puerto Rico. (Collaboration Memo entered into by the Spanish Kingdom's Cinematographic Work and Audiovisual Arts Institute and the Development of Arts, Science and Industry of Cinematographic Work Corporation of the Free Associate State of Puerto Rico)

Entry into force: 27-05-2003

m.  Tunisia

Acuerdo cinematográfico entre el Gobierno de España y el Gobierno de Túnez. (Cinematographic Agreement between the Spanish Government and the Tunisian Government).

Entry into force 02-11-1971.

n.  Russia

Acuerdo sobre relaciones cinematográficas entre el Reino de España y Rusia. Madrid. (Agreement governing cinematographic relationships between the Spanish Kingdom and Russia.)

Entry into force: 08-10-1991.

o.  Venezuela

Acuerdo de coproducción. (Co-production Agreement)

Entry into force: 18-02-1997

6. Multilateral Conventions:

a. Instrumento de ratificación del Convenio Europeo sobre Coproducción Cinematográfica. (Confirmation of the European Agreement regarding cinematographic co-production).

Entry into force for Spain: 01-02-1997.

b. Instrumento de ratificación del Convenio de Integración Cinematográfica Iberoamericana<sup>44</sup>. (Confirmation of the Cinematographic Integration of Latin America).

Entry into force for Spain: 08-05-1991.

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<sup>44</sup> España, México, Perú



- c. Instrumento de adhesión de España al Acuerdo Latinoamericano de Coproducción Cinematográfica<sup>45</sup>. (Adherence of Spain to the Latin American cinematographic co-production agreement)  
Entry into force for Spain: 08-10-1992.

The authority in charge of administration and supervision of all those Agreements is:

Instituto de la Cinematografía y de las Artes Audiovisuales, ICAA  
Subdirección General de Promoción y Relaciones Internacionales  
Plaza del Rey, nº 1  
28071 MADRID  
SPAIN

7. Other Agreements:

- a. Spain is also member of IBERMEDIA, a fund created in 1997, the object of which consists in encouraging co-productions between the Member States<sup>46</sup> granting low interest loans.

The authority in charge of its administration and supervision:

Programa Ibermedia  
C/ Ferraz, nº 10  
28008 MADRID  
SPAIN

8. Regional Agreements:

- a. The Regions of Galicia, Catalonia and Andalucía (as of 22 September 2006) have signed a Co-production agreement with Argentina, known as “Raíces”.  
Entry into force: 21-01-2005

The authority in charge of its administration and supervision are:

Consejería de Cultura de la Junta de Andalucía  
Dirección General de Fomento y Promoción Cultural  
Calle Levías, 17  
41004 Sevilla

Consortio audiovisual de Galicia  
C/Hórreo 61-1º  
15 702 Santiago de Compostela  
Spain

Institut Català de les industries Culturals

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<sup>45</sup> Cuba, España, México, Perú, Venezuela

<sup>46</sup> Argentina, Bolivia, Brasil, Colombia, Cuba, Chile, España, México, Panamá, Perú, Portugal, Puerto Rico, Uruguay y Venezuela.

Rambla Santa Mónica 8  
ES-08002 Barcelona  
Spain

- b. The Regions of Galicia, Valencia and Catalonia are also members of the Organisation Cine Region, which is not properly a co-production agreement, but rather a cooperation between the Authorities in Europe for helping production companies to find a partnership for a European co-production.

The authority in charge of its administration and supervision are:

Consortio audiovisual de Galicia  
C/Hórreo 61-1º  
15 702 Santiago de Compostela  
Spain

Institut Catalá de les industries Culturals  
Rambla Santa Mónica 8  
ES-08002 Barcelona  
Spain

Ivac-La filmoteca  
Edificio Rialto  
Placa de l'Ajuntament 17  
46002 Valencia  
Spain

## **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:<sup>47</sup>

The authority in charge of the procedure is the Instituto de Cinematografía y Artes Audiovisuales, ICAA, and the criteria of eligibility is found in the law called: “**Ley 15/2001** de Fomento y Promoción de la Cinematografía y el Sector Audiovisual”, see under ICAA aids attachment, under **article 2**, which determines, that a film or motion picture has Spanish nationality if:

The Spanish production company or European production company, has been established permanently in Spain and fulfils the following requirements:

5. Film’s Authors, (Director, Screenplay writer, and music composer) are at least 75% Spanish or citizens from EU states,

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<sup>47</sup> E.g. the French “Procédure d’agrément”.

6. The film's crew, actors and employees are Spanish or citizens from EU States,
7. The film should be shot in Spanish or in another Spanish language.
8. The shooting, post-production and labs are to be located preferably in EU States.

The formal procedure to access and certify the Spanish nationality is through filling out all the necessary documents that certify compliance with all the abovementioned information, and within a month the certification will be given. Should certification be declined, an appeal can be submitted to the superior authority of the ICAA.

That a film fulfills Spanish nationality is relevant regarding the access to public funding schemes from ICAA, but it is not so relevant regarding the regional funding schemes, to access this regional schemes the criteria is that the production company must be resident (or be permanently established) in its Region. Therefore the certification from ICAA is more relevant in Federal funding schemes.

It is important to mention, that Catalonia certifies through the ICIC (a Regional funding scheme).

#### **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

Co-production agreements with Austria, New Zealand and India, are presently being negotiated.

The authority in charge of their administration and supervision:

Instituto de la Cinematografía y de las Artes Audiovisuales  
Subdirección General de Promoción y Relaciones Internacionales  
Plaza del Rey, nº 1  
28071 MADRID  
SPAIN

- 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,<sup>48</sup> and indicate the name and address<sup>49</sup> of the administration of these funding schemes:

---

<sup>48</sup> 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.

<sup>49</sup> E.g. in Germany, there will be a new funding scheme on the federal level containing a territorialisation clause as from 2007.

There are no funding schemes containing territorialisation requirements and there are none expected to enter into force.

#### **REFERENCES TO LOCAL STUDIES**

A.7 There are no studies, reports or other relevant materials on territorialisation requirements.

## PART B

### FUND SPECIFIC QUESTIONS

*Please only cover funding schemes, including tax incentive schemes, that were operated at the national, regional (excluding EU schemes, e.g. the Media programme)<sup>50</sup> or local level in your country during the reference period from 1 January 2001 to 31 December 2005, and that disposed of 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 per year.<sup>51</sup>*

*Please use for each funding scheme a separate form.*

#### **IDENTIFICATION OF THE FUNDING SCHEME**

- B.1 Country/region: Comunidad Autónoma de Andalucía
- B. Name of the funding scheme: Ayudas al desarrollo de proyectos y a la producción de obras audiovisuales
- B.3 Name and address of the funding scheme's administration and supervisory authority:
- CONSEJERÍA DE CULTURA  
Dirección General de Fomento y Promoción Cultural  
Calle Levías, 17  
41004 Sevilla
- 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
- c. **Decreto 489/2004**, se aprueba la estructura orgánica de la consejería de cultura, (*Decree that approves the Culture department's organisational structure*).  
Entry into force 18-09-2004

<sup>50</sup> Regional schemes mean both, schemes operated within your country and schemes to which your country is a party among other countries, e.g. the Nordic Film- and TV Fund (see [http://korda.obs.coe.int/web/display\\_fonds.php?fonds\\_id=28](http://korda.obs.coe.int/web/display_fonds.php?fonds_id=28) ).

<sup>51</sup> "Independent" means that the cinematographic and audiovisual works are produced and distributed by entities that are legally independent from broadcasters.

- d. **Orden de 30/09/2005** de la Consejera de Cultura, por la que se convoca la concesión de ayudas a la creación, desarrollo y producción audiovisual.  
*(Order of the Cultural Department (dated 30/09/2005) which grants aids for creation, development and audiovisual production).*

Attached you will find the aforementioned laws.

## **TERRITORIAL CONDITIONS<sup>52</sup>**

### **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*)?

Yes / No

No

If yes,

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

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<sup>52</sup> 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.

*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):*

### **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/No

Yes

If 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*):

In order to apply for aid, the production company must be established in Andalucía and must be registered as an audiovisual company in the appropriate register for audiovisual companies.

The aid given is classified into different types and granted for development of projects and production of motion pictures, documentaries and short films .The general criteria has to be equal to acquire the aid is valued case by case. There are two stages, in each one, every requirement will be valued on an individual basis.

In the first stage, the project will be assessed on the basis of whether it is: creative, original, financially viable, that the budget adapts to the project, as well as the professional experience of the team as a whole (technicians, and artistic talent). At this stage, with regards to short films, it will be valued in what measure the Project contributes towards the promotion of employment in Andalucía and the use of Andalucía's resources.

In the second valuation stage, the criteria is based on the territorialisation requirements, that the project uses Andalucía's resources and that it creates employment in Andalucía. Other criteria valued in this second stage, is again the professional experience of the team (technicians and artistic talent), and the company background (whether it has pre-existing contractual arrangements to distribute and commercialise the project.).

## **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:

La Constitución Española, (*Spanish Constitution*), from 6-12-1978,

### **Section 148**

Ley 38/2003 General de Subvenciones.  
(*Law regulating State aid*)  
Entry into force: 18-02-2004

Ley orgánica de Estatuto de Autonomía de Andalucía, Ley orgánica 6/1981,  
(*federal law which regulates Andalucía's administrative and political organisation*).

And the laws from Andalucía's Parliament that regulate Culture, see under B.4

## **SELECTIVE SCHEMES**

- B.13 If this scheme distributes aid selectively,<sup>53</sup> 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:

(see answer B.11)

## **CONTACT DETAILS**

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

Guadalupe Ruiz Herrador  
Calle Levías, 17  
41004 Sevilla (Sevilla)  
Teléfono: 955 036 600  
Fax: 955 036 609  
E-mail: [informacion.dgfpc.ccul@juntadeandalucia.es](mailto:informacion.dgfpc.ccul@juntadeandalucia.es)

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

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<sup>53</sup> 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.



Julia Montes  
Ecija Abogados  
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28006, Madrid  
Tfno: 91 781 61 60 - Fax: 91 578 38 79  
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<http://www.ecija.com>

Date of the data collection

28-09-2006

**PART B**

**FUND SPECIFIC QUESTIONS**

**IDENTIFICATION OF THE FUNDING SCHEME**

- B.1 Country/region: Cataluña
- B.2 Name of the funding scheme: Línea de Préstamos para inversiones en el sector de la producción audiovisual
- Credit line for investments in the audiovisual production sector.*
- B.3 Name and address of the funding scheme's administration and supervisory authority:
- INSTITUTO CATALÁN DE FINANZAS  
Dirección: Gran Vía de las Cortes Catalanas, 635  
08010 Barcelona  
Teléfono 93 342 84 10  
E-mail: info@icfinances.com
- 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 dates when these laws and regulations entered into force

Ley 2/1985 del instituto catalán de finanzas.  
Act 2/1985, establishing the Institut Català de Finances.

Act 25/1987, dated December 29, regarding the Budgets of the Generalitat de Catalunya, of its autonomous organisations and of the Social Security management organisations for 1988.

Decret 203/1991, de 2 de setembre, pel qual s'aprova el Reglament de Regim Interior de l'Institut Català de Finances

Decree 203/1991, dated 2 September, which approves the Regulation of the Interior Regime of the Catalan Institute of Finance

Decret 207/1995, de 13 de juny, pel qual s'aprova el Reglament del Consell Assessor de l'Institut Català de Finances.

Decree 207/1995, dated 13 June, which approves the Regulation of the Advisory Council of the Catalan Institute of Finance.

Decret legislatiu 4/2002, de 24 de desembre, pel qual s'aprova el Text refós de la llei de l'Institut Català de Finances de 14 de gener de 1985.

Legal Decree 4/2002, dated 24 December, which approved the revised Text on the Law of the Catalan Institute of 14 January 1985.

Resolució ECF/1275/2004, de 3 de maig, de modificació de la Resolució ECF/2035/2002, de 9 de maig, de creació de la Comissió Executiva i de delegació de competències de la Junta de Govern de l'Institut Català de Finances.

Resolution ECF/1275/2004, dated 3 May, which is a modification of Resolution ECF/2035/2002, dated 9 May, for the creation of the Executive Committee and of the delegation of competencies of the Government Authority of the Catalan Institute of Finance.

All those rules are attached to this questionnaire

## **TERRITORIAL CONDITIONS<sup>54</sup>**

### **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

Yes / No

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*):

B.7 Describe how these territorialisation requirements are implemented, including the minimum proportion required and the maximum

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<sup>54</sup> 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.

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

### **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/No

Yes

If yes,

- B.11 Please describe the implicit or *de facto* territorialisation requirements that are practised by this funding scheme:

The requirements are to be found under art. 2 and 13.

The most important territorialisation requirement is the dubbing into or having subtitles in Catalan.

These aids are usually destined to distribution companies, which have to be registered in a register of audiovisual companies.

Normally the sound studio will be located in Catalonia, except in case of a large productions.

These kinds of aids include also P&A expenses, which have also to be written in Catalan.

### **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:

Constitución Española, 06-12-1978,  
*Spanish Constitution art. 148.17*

Ley Orgánica 4/1979 de creación del Estatuto de Cataluña,  
*Federal law which regulates Catalonia's administrative and political organization ,  
art. 3*

*And the federal laws from Catalonia's Parliament see under B.4 global rules.*

### **SELECTIVE SCHEMES**

- B.13 If this scheme distributes aid selectively,<sup>55</sup> 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:

- Artistic value and importance of the film.
- Estimated Profit making of the film or DVD.
- Significant Target audience
- Broadcast of the film in a catalan TV channel.
- In the case of DVDs, they must be distributed in Catalan speaking regions.
- Estimate of cost in Catalan advertising.

### **CONTACT DETAILS**

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

Conseller delegat Sr. Josep Maria Ayala i Vargas

Gran Via de les Corts Catalanes, 635

08010 Barcelona

93 342 84 10

93 487 37 87

[direccioicf@icfinances.com](mailto:direccioicf@icfinances.com)

<http://www.icfinances.com>

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<sup>55</sup> 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.

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

Julia Montes  
Ecija Abogados  
Plza. del Marqués de Salamanca, 3-4  
28006 Madrid  
Tfno: 91 781 61 60 - Fax: 91 578 38 79  
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<http://www.ecija.com>

Date of the data collection and processing:

30-10-2006

## PART B

### FUND SPECIFIC QUESTIONS

#### IDENTIFICATION OF THE FUNDING SCHEME

In the following part we are dealing with selective aid systems in Cataluña.

- B.1 Country/region: Cataluña
- B.2 Name of the funding scheme: Subvenciones selectivas a la industria audiovisual catalana

#### Selective aid for the catalan audiovisual industry

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

INSTITUT CATALÀ DE LES INDÚSTRIES CULTURALS, ICIC  
Rambla Santa Mònica 8  
ES-08002 Barcelona  
Spain

- 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 dates when these laws and regulations entered into force

- m. **Ley LEY 20/2000**, de 29 de diciembre, de Creación del Instituto Catalán de las Industrias Culturales.  
*Statute law, dated 29 december 2000 that creates the independent agency for Catalonia's audiovisual funding, the ICIC*  
*Entry into force: February 2001*
- n. **Decreto 100/2001** Estatutos del ICIC,  
*Decree that creates the ICIC's rules)*
- o. **Decreto, 470/2004**, de 28 de diciembre, por el que se atribuyen funciones al Instituto Catalán de las Industrias Culturales.  
*Decree dated 28 december 2004, that assigns international competence to ICIC,*

*Entry into force: January 2005*

**-Orders that regulate selective film aids for 2005:**

- p. **RESOLUCIÓ** CLT/334/2005, de 7 de febrer, per la qual sobre convocat.ria per a la concessió de subvencions a empreses de producció independents per a la realització de documentals, destinats a ser emesos per televisió.  
*Aid for for TV documentaries*
- q. **RESOLUCIÓ** CLT/281/2005, de 4 de febrer, per la qual es convoca concurs p.blic per a la concessió de subvencions a la producció de curtmetratges cinematogr.fics.  
*Aid for shortfilm productions*
- r. **RESOLUCIÓ** CLT/273/2005, de 7 de febrer, per la qual es convoca concurs p.blic per a la concessió de subvencions per tal d'impulsar la coproducció de llargmetratges cinematogr.fics amb empreses productores independents de l'Argentina i Galícia, dins del marc de l'acord Raíces.  
*Aid for co-productions based on the Raíces program. See under A3.4.a)*
- s. **RESOLUCIÓ** CLT/335/2005, de 7 de febrer, per la qual s'obre convocat.ria per a la concessió de subvencions a empreses de producció independents per a la realització de llargmetratges televisius de ficció destinats a ser emesos per televisió.  
*Aid for production of fiction films made for TV*
- t. **RESOLUCIÓ** CLT/283/2005, de 4 de febrer, per la qual es convoca concurs p.blic per a la concessió de subvencions per a la producció de llargmetratges cinematogr.fics que siguin l'obra prima o el segon llargmetratge d'un nou realitzador.  
*Aid for a director's first or second film*
- u. **RESOLUCIÓ** CLT/3391/2005, de 24 de novembre, per la qual s'obre convocatòria per a la concessió de subvencions a empreses de producció independents per a la realització de llargmetratges televisius de ficció, destinats a ser emesos per televisió.  
*Aid for production of TV fiction films*
- v. **RESOLUCIÓ** CLT/274/2005, de 7 de febrer, per la qual sobre convocaria per a la concessió de subvencions a empreses de producció independents per al desenvolupament de sèries d'animació, destinades a ser emeses per televisió  
*Aid for animation films made for TV*
- w. **RESOLUCIÓ** CLT/282/2005, de 4 de febrer, per la qual es convoca concurs públic per a la concessió de subvencions per a la creació d'obres que articulin una nova mirada sobre l'audiovisual, dirigides per realitzadors que provenguin d'altres disciplines artístiques diferents de la cinematografia i la producció per a televisió.



*Aid for directors from other artistic areas, who start in the area of film*

- x. **RESOLUCIÓ CLT/272/2005**, de 7 de febrer, per la qual es convoca concurs public per a la concession de subvencions per tal de promoure el cinema d'autor

*Aid for promotion of cinema d'auteur films*

**Copies of these laws and rules are attached to this questionnaire**

## **TERRITORIAL CONDITIONS<sup>56</sup>**

### **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.

Yes / No

Yes

- 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.

The aids are granted every year, and an Order is necessary, which regulates those aids, specifying application, time limit, and all the complete requirements.

All the aids under B.4 for 2005 require a regional spend:

**RESOLUCIÓ CLT/334/2005**, de 7 de febrer, per la qual sobre convocat.ria per a la concession de subvencions a empreses de produccion independents per a la realizació de documentals, destinats a ser emesos per television.

*Aid for documentaries for TV, requirement is to be found under art.4.e:*

“4. e) Almenys el 50% del cost total de la producció haurá de correspondre a treballs efectuats per persones físiques o jurídiques domiciliades o amb seu permanent a Catalunya. No obstant, en cas de coproduccions amb dltres Comunitats Aut.nomes o de coproduccions internacionals, almenys el 50% de la inversió catalana, pública i privada, haurá de correspondre a treballs efectuats per persones físiques o juríiques

<sup>56</sup> 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.

domiciliades o amb seu permanent a Catalunya. Aix mateix, l'aportació de personal tècnic i artístic de cada empresa coproductora, haurà de ser equilibrada respecte al seu percentatge de participació en la coproducció només podran accedir a la present subvenció aquelles coproduccions internacionals en les quals la participació a la producció de l'empresa sol·licitant sigui almenys del 10%”

*“4. e) at least 50% of the total production costs shall be invested in activities by workers or companies, which are located in Catalonia. However, in case of Spanish or international co-productions, at least 50% of the catalan investment, both public and private, shall be invested in activities by workers or companies, which are permanently domiciled in Catalonia. The participation of artistic and technical crew must be balanced in reference to the percentage of their participation in the co production. Only those international coproductions in which the participation in the coproduction is a minimum of 10% in the production, will be eligible to apply for this aid.”*

**RESOLUCIÓ** CLT/281/2005, de 4 de febrer, per la qual es convoca concurs públic per a la concessió de subvencions a la producció de curtmetratges cinematogràfics.

*Aid for shortfilm productions, requirement is to be found under art.4.c*

“4.c) Un mínim del 75% de la despesa en la producció i la postproducció de la participació catalana en la pel·lícula haurà de correspondre a treballs efectuats per persones físiques o jurídiques domiciliades o amb seu permanent a Catalunya.”

*“4.c) At least 75% of the inversion in production and postproduction of the Catalane proportion in the movie shall be invested in activities performance by workers or companies, who are located in Catalonia.”*

**RESOLUCIÓ** CLT/273/2005, de 7 de febrer, per la qual es convoca concurs públic per a la concessió de subvencions per tal d'impulsar la coproducció de llargmetratges cinematogràfics amb empreses productores independents de l'Argentina i Galícia, dins del marc de l'acord Raíces.

*Aid for co-productions based on the Raíces program. See under A3.4.a)  
Requirement is to be found under art. 4*

- “4) Per poder optar a la subvenció s'hauran de complir els requisits segents:
- a) Les empreses productores hauran d'haver signat un contracte de coproducció, el qual haurà de definir els percentatges de participació i les aportacions econòmiques de cadascuna de les empreses coproductores.
  - b) La participació de cadascuna de les empreses coproductores no podrà ser inferior al 20% del cost total de producció No podran accedir a la subvenció aquells coproductors en que la seva participació sigui financera.
  - c) Els llargmetratges que vulguin accedir a la present subvenció no podran tenir una participació superior al 30% de coproductors que no tinguin la seva seu social a Catalunya, Galícia o Argentina, i el coproductor majoritari haurà de ser una empresa productora amb seu social a Catalunya, Galícia o Argentina.
  - d) Un mínim del 20% de la despesa en producció i en postproducció del llargmetratge haurà de correspondre a treballs efectuats per persones físiques o jurídiques

domiciliades o amb seu permanent a Catalunya, havent de ser imputable d'una manera equilibrada a cadascun d'ambdós conceptes.

e) L'aportació de personal tècnic i artístic de cada empresa coproductora haurà de ser globalment equilibrat respecte al seu percentatge de participació en el projecte.

f) S'haurà de designar un productor executiu per cadascun dels tres territoris.. “

*“4. the following conditions are required to apply:*

*g) The co production companies shall arrange a co production agreement, which determines the co production inversion quote.*

*h) A minimum of 20% inversion of the total cost of the production is required for apply this aid.*

*i) It will be not allow that a co producer which is not located in Galicia, Catalonia or Argentina owns more than a 30% of the co production. In any case the major co producer has to be a company located in Catalonia, Galicia or Argentina.*

*j) At least 20% of the total productions cost shall be invested in activities performance by workers or companies, which are located in Catalonia, but this, shall be equally executed.*

*k) The contribution of technique and artistic crew shall be made equally to the co production quote.*

*l) An executive producer shall be designate in each three countries.*

**RESOLUCIÓ** CLT/335/2005, de 7 de febrer, per la qual sobre convocatòria per a la concessió de subvencions a empreses de producció independents per a la realització de llargmetratges televisius de ficció destinats a ser emesos per televisió.

*Aid for production of fiction films made for TV, Requirement is to be found under art.5.b*

*“5.b) Almenys el 75% del cost total de la producció haurà de correspondre a treballs efectuats per persones físiques o jurídiques domiciliades o amb seu permanent a Catalunya. No obstant, en cas de coproduccions amb dltres Comunitats Aut.nomes o de coproduccions internacionals, almenys el 75% de la inversió catalana, pública i privada, haurà de correspondre a treballs efectuats per persones físiques o juriiques domiciliades o amb seu permanent a Catalunya. Aix mateix, l'aportació de personal tècnic i artístic de cada empresa coproductora, haurà de ser equilibrada respecte al seu percentatge de participacio en la coproducció nomás podran accedir a la present subvenció aquelles coproduccions internacionals en les quals la participació a la producció de l'empresa solàlicitant sigui almenys del 10%”*

*“5.b) at least 75% of the total productions cost shall be invested in activities performance by workers or companies, which are located in Catalonia. Notwithstanding in case of Spanish or international Co-production, at least 75% of the total inversion cost public as well as private executed by the catalane company, shall be invested in activities performance by workers or companies, who are located in Catalonia. The participation of artistic and technique crew shall be equable regarding the co production percentage. In case of an international co production will be required a minimum of 10% in the production quote to apply for this aid.”*

**RESOLUCIÓ CLT/283/2005**, de 4 de febrer, per la qual es convoca concurs públic per a la concessió de subvencions per a la producció de llargmetratges cinematogràfics que siguin l'obra prima o el segon llargmetratge d'un nou realitzador.

*Aid for a director's first or second film, Requirement is to be found under art.4.c*

“4.c) En cas de llargmetratges de ficció Un mínim del 75% de la despesa en la producció i la postproducció de la participació catalana en la pel·lícula haurà de correspondre a treballs efectuats per persones físiques o jurídiques domiciliades o amb seu permanent a Catalunya.”

*“4.c) In case of fictional movies, at least 75% of the inversion in production and postproduction of the Catalane proportion in the movie shall be invested in activities performance by workers or companies, who are located in Catalonia.”*

**RESOLUCIÓ CLT/3391/2005**, de 24 de novembre, per la qual s'obre convocatòria per a la concessió de subvencions a empreses de producció independents per a la realització de llargmetratges televisius de ficció, destinats a ser emesos per televisió.

*Aid for production of TV fiction films, requirement is to be found under art 5.b*

“5.b) Almenys el 75% del cost total de la producció haurà de correspondre a treballs efectuats per persones físiques o jurídiques domiciliades o amb seu permanent a Catalunya. No obstant, en cas de coproduccions amb altres Comunitats Autònomes o de coproduccions internacionals, almenys el 75% de la inversió catalana, pública i privada, haurà de correspondre a treballs efectuats per persones físiques o jurídiques domiciliades o amb seu permanent a Catalunya. Així mateix, l'aportació de personal tècnic i artístic de cada empresa coproductora, haurà de ser equilibrada respecte al seu percentatge de participació en la coproducció només podran accedir a la present subvenció aquelles coproduccions internacionals en les quals la participació a la producció de l'empresa sol·licitant sigui almenys del 10%”

*“5.b) at least 50% of the total productions cost shall be invested in activities performance by workers or companies, who are located in Catalonia. Notwithstanding in case of Spanish or international Co-production, at least 50% of the total inversion cost public as well as private executed by the catalane company, shall be invested in activities performance by workers or companies, who are located in Catalonia. The participation of artistic and technique crew shall be equable regarding the co production percentage. In case of an international co production will be required a minimum of 10% in the production quote to apply for this aid.”*

**RESOLUCIÓ CLT/274/2005**, de 7 de febrer, per la qual sobre convocaria per a la concessió de subvencions a empreses de producció independents per al desenvolupament de sèries d'animació, destinades a ser emeses per televisió

*Aid for animation films made for TV, requirement is to be found under art. 4.c*

“4.c) La despesa en la producció i la postproducció de la participació catalana en la pel·lícula haurà de correspondre a treballs efectuats per persones físiques o jurídiques domiciliades o amb seu permanent a Catalunya”

*“4.c) The inversion in production and postproduction of the Catalane proportion in the movie shall be invested in activities performance by workers or companies, who are located in Catalonia.”*

**RESOLUCIÓ** CLT/282/2005, de 4 de febrer, per la qual es convoca concurs public per a la concessió de subvencions per a la creació d'obres que articulin una nova mirada sobre l'audiovisual, dirigides per realitzadors que vinguin d'altres disciplines artístiques diferents de la cinematografia i la producció per a televisió.

*Aid for directors from other areas, who start in the area of film, requirement is to be found under art. 4.e*

“4.e) Un mínim del 75% de la despesa en la producció i la postproducció de la participació catalana en la pel·lícula haurà de correspondre a treballs efectuats per persones físiques o jurídiques domiciliades o amb seu permanent a Catalunya.”

*“4.e) At least 75% of the inversion in production and postproduction of the Catalane proportion in the movie shall be invested in activities performance by workers or companies, who are located in Catalonia.”*

**RESOLUCIÓ** CLT/272/2005, de 7 de febrer, per la qual es convoca concurs public per a la concessió de subvencions per tal de promoure el cinema d'autor

*Aid for promotion of cinema d'auteur films, requirement is to be found under art.4.c*

“4.c) En cas de llargmetratges de ficció Un mínim del 50% de la despesa en la producció i la postproducció de la participació catalana en la pel·lícula haurà de correspondre a treballs efectuats per persones físiques o jurídiques domiciliades o amb seu permanent a Catalunya.”

*“4.c) In case of fictional movies, at least 50% of the inversion in production and postproduction of the Catalane proportion in the movie shall be invested in activities performance by workers or companies, who are located in Catalonia.”*

- B.7 Describe how these territorialisation requirements are implemented, including the minimum proportion required and the maximum.

The minimum proportion required oscillates between 50% and 75% of total production budget or of Catalan investment.

Fictional Film Production for TV must always reach 75%. In addition, as a prerequisite for TV production aid, the producer has to have an agreement with a Catalan TV station for one transmission during a minimum license period of one year.

- 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:

In the context of the co production agreements “Raíces”:

- the Catalan’s production company must be producer with a share in the co-production of at least 20%.
- a production company, that is not Catalan, Gallega or Argentina should not have a share of more than 30% of the film.
- 20% from whole budget has to be spent in Catalonia.
- the executive producers have to come from all the countries where the participating co-production companies have their business seat.
- technical and artistic staff have to be Catalan in equal proportion.

In the context of a normal co-production (not falling under raíces) it is required from the applying company to have a share in the co-production of at least 10% proportion.

- 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

There is no case law.

In 2000, the Parliament of Catalonia created the ICIC to assist the development of audiovisual industries in the territory. Since then, it has become a key factor in the build-up of the industry through dialogue, new financing formulas, support to exportation of cultural products and by guaranteeing its presence in the own market. Therefore, ICIC is developing a strategic and active audiovisual policy in Catalonia, supporting all the different players in the industry, from production companies to movie theatres.

Given that cinema is a key sector in the propagation of Catalan, one of the objectives of the Language Policy Act is to achieve a significant presence of the Catalan language in the range of films on offer, especially in terms of dubbed films given the predominance of US films on European and Catalan screens which in some years easily exceed 75% of box-office, and also of films made in Catalonia.

One of the Government’s main policies in films dubbed into Catalan is a more painstaking selection of titles based on their quality and commercial potential; many of the films which are dubbed are for children because this is a market which companies believe to be more profitable. Another goal is to ensure that dubbing made for cinema is also included automatically in domestic DVDs, something which has not always happened. The Secretariat of ICIC aims to reinforce the promotion of Catalan versions through advertising campaigns and upgrading cinemas where these versions are *shown*.

### **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

Yes/No

No

If yes,

B.11 Please describe the implicit or de facto territorialisation requirements that are practised by this funding scheme:

### **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:

*Constitución Española, 06-12-1978, Spanish Constitution*

*Ley Orgánica 4/1979 de creación del Estatuto de Cataluña, federal law which regulates administrative and political organization from Catalonia.*

*And the laws from Catalonia's Parliament see under B.4*

### **SELECTIVE SCHEMES**

B.13 If this scheme distributes aid selectively,<sup>57</sup> 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:

Value criteria

1. - Qualitative Criteria:

- director's antecedents
- originality and visual arts
- film's composition
- antecedents of technical and artistic staff.

2. - Economics Criteria

- producer antecedent
- secured financing
- sales prediction

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<sup>57</sup> 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.

- adequate budget

## **CONTACT DETAILS**

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

ICIC  
Director Sr. Xavier Marcé Carol  
Rambla Santa Mònica, 8 (Palau Marc)  
08002 Barcelona  
Telèfon 93 316 27 00  
Fax 93 316 28 65  
[icic.cultura@gencat.net](mailto:icic.cultura@gencat.net)  
<http://cultura.gencat.net/icic/index.htm>

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

Julia Montes  
Ecija Abogados  
Plza. del Marqués de Salamanca, 3-4  
Tfno: 91 781 61 60 - Fax: 91 578 38 79  
[jmontes@ecija.com](mailto:jmontes@ecija.com)  
<http://www.ecija.com>

Date of the data collection and processing:

02-10-2006



## PART B

### FUND SPECIFIC QUESTIONS

*Please only cover funding schemes, including tax incentive schemes, that were operated at the national, regional (excluding EU schemes, e.g. the Media programme)<sup>58</sup> or local level in your country during the reference period from 1 January 2001 to 31 December 2005, and that disposed of 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 per year.<sup>59</sup>*

*Please use for each funding scheme a separate form.*

#### **IDENTIFICATION OF THE FUNDING SCHEME**

- B.1 Country/region:  
Comunidad Autónoma de Galicia
- B.2 Name of the funding scheme:  
Concesión de ayudas a la creación, desarrollo y producción audiovisual.
- B.3 Name and address of the funding scheme's administration and supervisory authority:  
  
CONSELLERIA DE CULTURA  
Edificios Administrativos de San Caetano  
15704 Santiago de Compostela  
Telf: 981 545400 Fax: 981 544802
- 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  
  
-Ley 6/1999 audiovisual de Galicia.  
  
*Galicia's audiovisual law*  
*Entry into force 09-09-1999*

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<sup>58</sup> Regional schemes mean both, schemes operated within your country and schemes to which your country is a party among other countries, e.g. the Nordic Film- and TV Fund (see [http://korda.obs.coe.int/web/display\\_fonds.php?fonds\\_id=28](http://korda.obs.coe.int/web/display_fonds.php?fonds_id=28) ).

<sup>59</sup> "Independent" means that the cinematographic and audiovisual works are produced and distributed by entities that are legally independent from broadcasters.

-Decreto 172/2001 sobre incentivos para desarrollo económico y fomento de la actividad empresarial en la Comunidad Autónoma de Galicia,

*Galicia's decree on incentives for the Promotion and development of Galicia's entrepreneurial activities in the region.. Entry into force: 24-07-2001*

-Orden de 23 de diciembre de 2004 de subvención de empresas audiovisuales para desarrollar proyectos en lengua gallega.

*Order that regulates the aid for audiovisuals projects in Galicia's own language for 2005*

*Entry into force: 01-01-2005*

Attached you will find the aforementioned laws.

## **TERRITORIAL CONDITIONS<sup>60</sup>**

### **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*)

Yes / No

Yes

If yes,

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*)

The aid is granted every year, and the publication of an Order that establishes the regulation of this aid is necessary, (e.g.: application, time limit, and all the complete requirements).

In 2004 the *Order of 23-12-2004 that regulates the aids for audiovisual projects in Galicia's own language was passed* the provisions are to be found under *Article 2, that establishes:*

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<sup>60</sup> 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.

“Artículo 2 de la Orde do 23 de decembro de 2004 pola que se convocan subvenións a empresas vinculadas co sector audiovisual para apoiar o desenvolvemento de proxectos de produción audiovisual en lingua galega así como a produción audiovisual en lingua galega”.

Aid is granted to companies in the audiovisual sector and which support the development of audiovisual production projects in Galicia's language, as well as to audiovisual productions in Galicia's language.

Companies must be established as audiovisual producers and multimedia companies in the European Union, or at least have a representation agent in Galicia. The projects submitted under such official announcement must have at least 25% of the budget invested in Galicia. In every case, these requirements need to be fulfilled in order to obtain this aid.”

- 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, of former versions of territorialisation requirements that were in force before this date during the period form 2001 to 2005*)

The Order requires only a minimum proportion, of at least 25%, of the film budget to be spent in Galicia.

- 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, of former versions of territorialisation requirements that were in force before this date during the period form 2001 to 2005*)

Under the terms of the Order there are no references to co-production. The production company has to be resident in Galicia or at least an agency or to have permanent establishment.

At least 25% of the submitted projects must be developed in Galicia.

The co-production agreement “Raices” see under A3 is administrated by “Consortio Audiovisual Gallego” not by Consellería de Cultura and its aid comes with just 150.000€per year. The aforementioned, indicates that it is under 1 million Euros and is not the object of this questionnaire.

- 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, of former versions of territorialisation requirements that were in force before this date during the period form 2001 to 2005*)

There is no case law.

Galicia's audiovisual law regulates the importance and necessity to assist and promote the film or motion picture production in Galicia, so Galicia is brought into the European information society. The legislator wants to accentuate the use of "gallego", Galicia own language, and the promotion of Galicia's audiovisual companies.

### **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/No

Yes

If 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, the situation that prevailed before this date during the period from 2001 to 2005*):

To create employment in Galicia, and to encourage Galicia's culture, by promoting the "gallego" language, encouraging job offers in Galicia, because it is one of Spain's poorest regions.

### **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:

La Constitución Española, (*Spanish Constitution*) from 6-12-1978,

Ley orgánica de Estatuto de Autonomía de Galicia, Ley orgánica 1/1981, (*Federal law which regulates Galicia's administrative and political organisation*)

And the laws from Galicia's Parliament see under B.4, *Audiovisual law from 1999*,

### **SELECTIVE SCHEMES**

B.13 If this scheme distributes aid selectively,<sup>61</sup> 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:

Besides criteria under B.7 and B.8

- f. Projects should be creative and original
- g. The applicant production company has to prove solid financing
- h. crew and employees have to be from Galicia
- i. experienced co-operators and staff members
- j. Link with the cultural heritage of Galicia

#### **CONTACT DETAILS**

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

Consellería de Cultura  
Sr. Francisco Fernández Naval  
Edificios Administrativos de San Caetano  
15704 Santiago de Compostela  
Telf: 981 545400 Fax: 981 544802  
[audiovisual.cultura@xunta.es](mailto:audiovisual.cultura@xunta.es)

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

Julia Montes Heras  
Ecija Abogados  
Plza. del Marqués de Salamanca, 3-4  
28006, Madrid  
Tfno: 91 781 61 60 - Fax: 91 578 38 79  
[jmontes@ecija.com](mailto:jmontes@ecija.com)  
<http://www.ecija.com>

Date of the data collection and processing:

02-10-2006

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<sup>61</sup> 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.

## PART B

### FUND SPECIFIC QUESTIONS

*Please only cover funding schemes, including tax incentive schemes, that were operated at the national, regional (excluding EU schemes, e.g. the Media programme)<sup>62</sup> or local level in your country during the reference period from 1 January 2001 to 31 December 2005, and that disposed of 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 per year.<sup>63</sup>*

*Please use for each funding scheme a separate form.*

#### **IDENTIFICATION OF THE FUNDING SCHEME**

- B.1 Country/region: Spain
- B. Name of the funding scheme: Impuesto de sociedades (tax incentive scheme)
- B.3 Name and address of the funding scheme's administration and supervisory authority:  
Agencia Tributaria  
C/Infanta Mercedes 37  
28020 Madrid  
Spain
- 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  
-Real Decreto Legislativo 4/2004, Texto refundido de la ley de Impuesto sobre sociedades, art. 34, Art. 38 (Real Decree about companies tax, here in after referred as "RDleg 4/2004"). Entry into force: 12-03-2004

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<sup>62</sup> Regional schemes mean both, schemes operated within your country and schemes to which your country is a party among other countries, e.g. the Nordic Film- and TV Fund (see [http://korda.obs.coe.int/web/display\\_fonds.php?fonds\\_id=28](http://korda.obs.coe.int/web/display_fonds.php?fonds_id=28) ).

<sup>63</sup> "Independent" means that the cinematographic and audiovisual works are produced and distributed by entities that are legally independent from broadcasters.

## **TERRITORIAL CONDITIONS<sup>64</sup>**

### **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*)?

Yes / No

Yes

If yes,

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*):

Article 34 of the RDleg 4/2004, which regulates the distribution bonus  
Article 38 of the RDleg 4/2004 which regulates the deduction for a inversion in an audiovisual production.

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*).

This is a tax incentive for companies who make investments in audiovisual work production or distribution (not both). In order to have these benefits, the Company has to be resident in Spain or has a permanent establishment in Spain, so that it can be taxable in Spain, this incentive is applicable to the company's annual tax declaration. The tax consists in a reduction of the contingent amount up to 20% of the production Companies' annual tax declaration, the audiovisual production has to be Spaniard, as described under Part A.4. And the incentive is calculated based on the investment minus aid and co-production investment.

The tax foresees also an incentive for the executive co-production, and the requirements to obtain this type of incentive is that the investment lies between 10% and 25%, and the incentive will be calculated for 5% incentive.

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<sup>64</sup> 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.

The incentive for distribution is a bonus reduction of up to 99% of the investment, which has to be reinvested in the distribution companies.

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

Only a company, which is taxable in Spain, can apply to this scheme.

- 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*):

#### **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/No

No

If 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*):

#### **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:



Spanish Constitution, under Art. 44.1 and 46.

### **SELECTIVE SCHEMES**

B.13 If this scheme distributes aid selectively,<sup>65</sup> 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:

The administration and supervision depends on every independent region, the aforesaid, in order that the tax administration is assigned to each region.

### **CONTACT DETAILS**

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

There is a general information phone:  
901335533

Agencia Tributaria  
C/Infanta Mercedes 37  
28020 Madrid  
Spain  
[www.aeat.es](http://www.aeat.es)

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

Julia Montes  
Ecija Abogados  
Plza. del Marqués de Salamanca, 3-4  
Tfno: 91 781 61 60 - Fax: 91 578 38 79  
jmontes@ecija.com  
<http://www.ecija.com>

Date of the data collection:

28-09-2006

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<sup>65</sup> 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.

## PART B

### FUND SPECIFIC QUESTIONS

*Please only cover funding schemes, including tax incentive schemes, that were operated at the national, regional (excluding EU schemes, e.g. the Media programme)<sup>66</sup> or local level in your country during the reference period from 1 January 2001 to 31 December 2005, and that disposed of 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 per year.<sup>67</sup>*

*Please use for each funding scheme a separate form.*

#### **IDENTIFICATION OF THE FUNDING SCHEME**

- B.1 Country/region: Comunidad Autónoma de Valencia
- B. Name of the funding scheme: Ayudas a la Producción Audiovisual
- B.3 Name and address of the funding scheme's administration and supervisory authority:  
Instituto Valenciano de Cinematografía  
IVAC – LA FILMOTECA Edificio Rialto  
Placa de l'Ajuntament 17  
46002 Valencia  
Spain
- 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
- c. **LEY 5/1998**, de 18 de junio, de Creación del Instituto Valenciano de Cinematografía Ricardo Muñoz Suay.  
(Law 5/1998, dated 18 June that creates the Instituto Valenciano de Cinematografía Ricardo Muñoz Suay, (IVAC)). Entry into force 24-06-1998

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<sup>66</sup> Regional schemes mean both, schemes operated within your country and schemes to which your country is a party among other countries, e.g. the Nordic Film- and TV Fund (see [http://korda.obs.coe.int/web/display\\_fonds.php?fonds\\_id=28](http://korda.obs.coe.int/web/display_fonds.php?fonds_id=28) ).

<sup>67</sup> “Independent” means that the cinematographic and audiovisual works are produced and distributed by entities that are legally independent from broadcasters.

- d. **Orden 30-12-2004** por la que se convocan la concesión de ayudas para creación audiovisual.  
(*Order of 30-12-2004 that grants state aid for the creation of audiovisual projects*)

## **TERRITORIAL CONDITIONS**<sup>68</sup>

### **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*)?

Yes / No

No

If yes,

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

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<sup>68</sup> 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.

*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):*

### **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/No

Yes

If 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*):

Before the company applies for aid, the production company must be established in the region and be registered as an audiovisual company in the appropriate register for audiovisual companies.

The application for subsidies will be considered more favourably, if the production is shot in Valencia's Region or if it is produced with a crew of members or audiovisual companies which are domiciled in Valencia's Region. These criteria are not compulsory:

- The production crew has to be a working team with technicians and artistic talent from Valencia
- Using dubbing studios in Valencia and contract services that are in Valencia.
- The filming of the motion picture has to be in Valencia, unless the company can justify that the script or the co-producer (national or international) has a necessity to film outside Valencia.
- It will be subject to value the fulfilment of the requirements in a value scale made ad hoc by the FEVA (Federació Valenciana de l'Audiovisual).

### **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:

- a. La Constitución Española, Constitution, from 6-12-1978,
- b. Ley orgánica de Estatuto de Autonomía de la Comunidad Autónoma Valenciana, Ley 5/1982. (*Federal law which regulates Valencia's administrative and political organisation*).
- c. And the laws from Valencia's Parliament that regulate Culture, see under B.4

## **SELECTIVE SCHEMES**

B.13 If this scheme distributes aid selectively,<sup>69</sup> 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:

The submitted production company has to prove solid financing, and the script has to be original, creative and interesting. It's also positively valued if the project is a co-production.

- The Project has to be viable and original.
- The script has to be interesting and be of a high quality
- The company's professional experience and the production personnel's curriculum vitae will be valued.
- Projects that have a co-production of more than two companies will also be valued.

More criteria see under B11

## **CONTACT DETAILS**

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

**JOSÉ LUIS RADO ARANCE**

IVAC Director

96 353 93 19

[rado\\_jos@gva.es](mailto:rado_jos@gva.es)

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

Julia Montes Heras

Ecija Abogados

Plza. del Marqués de Salamanca, 3-4

28006, Madrid

Tfno: 91 781 61 60 - Fax: 91 578 38 79

[jmontes@ecija.com](mailto:jmontes@ecija.com)

<http://www.ecija.com>

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<sup>69</sup> 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.

Date of the data collection and processing:

28-09-2006

**PART B**

**FUND SPECIFIC QUESTIONS**

**IDENTIFICATION OF THE FUNDING SCHEME**

*In the following part B we are dealing with automatic aid systems in Cataluña.*

B.1 Country/region: Cataluña

B.2 Name of the funding scheme: Subvenciones automáticas a la industria audiovisual catalana

*Automatic aid for the Catalan audiovisual industry*

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

INSTITUT CATALÀ DE LES INDÚSTRIES CULTURALS, ICIC

Rambla Santa Mònica 8  
ES-08002 Barcelona  
Spain

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 dates when these laws and regulations entered into force

h. **LEY 20/2000**, de 29 de diciembre, de Creación del Instituto Catalán de las Industrias Culturales,

*Law that creates ICIC. Entry into force: February 2001.*

i. **Decreto 100/2001** Estatutos del ICIC

**Decree on the Statutes and Rules of ICIC, Entry into force: February 2001.**

j. **Decreto, 470/2004**, de 28 de diciembre, por el que se atribuyen funciones internacionales al Instituto Catalán de las Industrias Culturales.

*Decree which determines ICIC international competence. Entry into force: January 2005*

**Decrees on automatic aids for 2005:**

- k. **RESOLUCIÓ** CLT/336/2005, de 7 de febrer, per la qual sobre convocat.ria per a la concession de subvencions per a la produccion en versió original catalana i lestrena en versió catalana de llargmetrages cinematografics i produccions en gran formato,

*Aid for film productions shot in Catalan language.*

- l. **RESOLUCIÓ** CLT/337/2005, de 4 de febrer, per la qual es convoca concurs public per a la concession de subvencions a empreses catalanes per a l'assistencia i participacion a fires, festivals i mercats internacionals durant lany 2005,

**Aid for Catalan companies for participating in filmfestivals, film markets and the like**

- m. **RESOLUCIÓ** CLT/275/2005, de 7 de febrer, per la qual sobre convocaria per a la concession de subvencions per a l'explotacion de llargmetrages cinematografics i de produccions en gran formats.

**Aid for film distribution**

- n. **RESOLUCIÓ** CLT/271/2005, de 8 de febrer, per la qual sobre convocat.ria per a la concession de subvencions per a la promoció i publicitat de llargmetratges cinematografics i de produccions de gran format.

*Aid for film promotion and publicity.*

All those rules are attached to this questionnaire

**TERRITORIAL CONDITIONS<sup>70</sup>**

**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

<sup>70</sup> 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.



Yes / No

No

As already described in Part A, ICIC has two variants of film subsidies: a selective and an automatic aid. In the selective aid programs dealt with in Part A there are explicit obligations as to that a minimum proportion of the budget must be spent in the region. But there are no such obligations in automatics aids.

- 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*):
- B.7 Describe how these territorialisation requirements are implemented, including the minimum proportion required and the maximum
- 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 respect to former versions of territorialisation requirements that were in force before this date during the period from 2001 to 2005*):
- 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*):

### **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/No

Yes

If yes,

- B.11 Please describe the implicit or *de facto* territorialisation requirements that are practised by this funding scheme:

The production companies have to be registered in Cataluña or at least possess a permanent establishment in Cataluña. The film must have a certificate of origin from ICIC or ICAA, certifying that it is a Catalan or Spanish production.

The aid for film production is given only for films in Catalan as the original version. The film has to be shown at least a whole week in one well known cinema in Barcelona.

### **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:

*Constitución Española, 06-12-1978,  
Spanish Constitution*

*Ley Orgánica 4/1979 de creación del Estatuto de Cataluña,  
Federal law which regulates administrative and politic organization from Cataluña*

*And the laws from Catalonia's Parliament see under B.4*

### **SELECTIVE SCHEMES**

- B.13 If this scheme distributes aid selectively,<sup>71</sup> 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:

### **CONTACT DETAILS**

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

ICIC  
Director Sr. Xavier Marcé Carol

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<sup>71</sup> 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.

Rambla Santa Mònica, 8 (Palau Marc)  
08002 Barcelona  
Telèfon 93 316 27 00  
Fax 93 316 28 65

[icic.cultura@gencat.net](mailto:icic.cultura@gencat.net)

<http://cultura.gencat.net/icic/index.htm>

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

Julia Montes  
Ecija Abogados  
Plza. del Marqués de Salamanca, 3-4  
Tfno: 91 781 61 60 - Fax: 91 578 38 79  
[jmontes@ecija.com](mailto:jmontes@ecija.com)  
<http://www.ecija.com>

Date of the data collection and processing:

02-10-2006

## PART B

### FUND SPECIFIC QUESTIONS

Please only cover funding schemes, including tax incentive schemes, that were operated at the national, regional (excluding EU schemes, e.g. the Media programme)<sup>72</sup> or local level in your country during the reference period from 1 January 2001 to 31 December 2005, and that disposed of 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 per year.<sup>73</sup>

Please use for each funding scheme a separate form.

#### IDENTIFICATION OF THE FUNDING SCHEME

B.1 Country/region: Spain

B. Name of the funding scheme: Medidas de fomento a la cinematografía

B.3 Name and address of the funding scheme's administration and supervisory authority:  
Instituto de la cinematografía y de las artes audiovisuales (ICAA)  
Plaza del Rey, nº 1  
28071 MADRID  
SPAIN

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

d) **Ley 15/2001** de fomento y promoción de la cinematografía y el sector audiovisual, (Law for the fostering and promotion of the film and audiovisual sector). Entry into force 11-07-2001

e) **Real Decreto 526/2002** por el que se regulan medidas de fomento y promoción de la cinematografía y la realización de películas en coproducción. (Decree, which regulates provisions for the fostering and promotion of films and co productions) Entry into force 29-06-2002

<sup>72</sup> Regional schemes mean both, schemes operated within your country and schemes to which your country is a party among other countries, e.g. the Nordic Film- and TV Fund (see [http://korda.obs.coe.int/web/display\\_fonds.php?fonds\\_id=28](http://korda.obs.coe.int/web/display_fonds.php?fonds_id=28) ).

<sup>73</sup> "Independent" means that the cinematographic and audiovisual works are produced and distributed by entities that are legally independent from broadcasters.

- f) **Orden ECD/2240/2003**, por la que se dictan normas de aplicación del Real Decreto 526/2002 (Order which implements the Decree 526/2002) Entry into force: 08-08-2003

This order lays down the rules of application of this decree.

*A copy of these laws and regulations is enclosed to this questionnaire.*

## **TERRITORIAL CONDITIONS<sup>74</sup>**

### **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*)?

Yes / No

No

If yes,

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

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<sup>74</sup> 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.

- 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*):

#### **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/No

Yes

If 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*):

Article 7 Decree 526/2002, under B.4, provides that, even though it is not a decisive factor, as general criteria is preferable that the film is shot in a Spanish language, in Spain and with a majority of Spanish or European staff. These criteria will not be applied in the case of co productions between a Spanish company and a foreign company.

#### **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 most important legal provisions are:

La Constitución Española, from 06-12-1978 (*Spanish Constitution*) Art. 149.2 “Without prejudice to the competences that may be assumed by the Communities with an autonomous government, the State shall consider the promotion of culture as a duty and as an essential function and shall facilitate cultural communication between Communities with autonomous governments, in cooperation with them”.

Ley 15/2001, Ley de fomento y promoción de la cinematografía y el sector audiovisual (*Law for the fostering and promotion of films and the audiovisual sector*), in virtue of Art. 1, 4, 5 Promotion of culture is an objective in need of state aid.

Ley 38/2003 General de Subvenciones, (*Spanish State Aid law*) under art. 2.c

### **SELECTIVE SCHEMES**

B.13 If this scheme distributes aid selectively,<sup>75</sup> 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:

25% of the total amount of annual aid is distributed through selective schemes.  
The criteria are:

- e. Quality and artistic value.
- f. Proportionate budget for the project.
- g. Film's financing plan
- h. The production company has to be solvent and has to have no debts with ICAA, in any case.

### **CONTACT DETAILS**

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

Beatriz de Armas Sierra  
Plaza del Rey, nº 1  
28071 MADRID  
SPAIN  
Tfno: 917017257  
[beatriz.dearmas@icaa.mcu.es](mailto:beatriz.dearmas@icaa.mcu.es)

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

Julia Montes Heras  
Ecija Abogados  
Plza. del Marqués de Salamanca, 3-4  
28006, Madrid  
Tfno: 91 781 61 60 - Fax: 91 578 38 79  
[jmontes@ecija.com](mailto:jmontes@ecija.com)  
<http://www.ecija.com>

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<sup>75</sup> 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.

Date of the data collection:

28-09-2006



<b>Member State:</b> SPAIN
<b>Re:</b> Follow Up Reply
<b>Date:</b> 12 February 2007

(...)

Further to our telephone conversation this morning, please find attached the revised questionnaire

(...)

<b>Attachments to e-mail of 12 February 2007</b>
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- Questionnaire.rar
  - o PartA.doc
  - o PartBAndalucía.doc
  - o PartBCataluña automatics.doc
  - o PartBCataluñaselectives.doc
  - o PartBGalicia.doc
  - o PartBICAA.doc
  - o PartBlinea Financiación Cataluña.doc
  - o PartBTax.doc
  - o PartBValencia.doc

## PART A

### GENERAL QUESTIONS

#### OVERVIEW

A.1 Country / region: Spain

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<sup>76</sup> 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):

Spain has nine funding schemes with an annual budget of at least €1million. Each of this eight funding schemes is administrated by the Authority that authorises or creates it, and the aid or funding scheme is usually known under the name of such Authority.

Mostly, the aid or funding schemes are found in legal rules, and are granted every year through Orders (laws), which are published in the Regional Official Journal or in the Federal Official Journal, the publishing in one or the other journal, depends on the authority that grants the Order.

Spain classifies the funding schemes with the name of the Authority in charge of it, and we distinguish them in Federal or Regional Funding schemes (depending on the Authority that grants them).

7. Federal funding schemes:

- I. Instituto de la Cinematografía y de las Artes Audiovisuales (“ICAA”), which is an independent agency and is a part of the Federal Culture Department.
- II. Agencia Tributaria, which is a part of the Tax Office.

8. Regional funding schemes, which have been created as independent agencies for audiovisual management:

- I. Instituto Valenciano de Cinematografía (“IVAC”), is part of the Department of Culture of the Valencia region.
- II. Instituto Catalá de las Industrias Culturals (“ICIC”), is part of the Department of Culture of the Catalonia region.
- III. Secretaría de política lingüística, is part of the Government Department of the Catalonia region.

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<sup>76</sup> “Independent” means that the cinematographic and audiovisual works are produced and distributed by entities that are legally independent from broadcasters.

9. Regional funding schemes, which are developed directly by the Culture Department of each Region:

- VII. Xunta de Galicia
- VIII. Junta de Andalucía
- IX. Comunidad Autónoma de Euskadi, which has two funding schemes, one which is a subsidy and another which is a credit line.

**COPRODUCTION AGREEMENTS**

A.3 These agreements list the conventions on co-production agreements to which your country is currently a party to, 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:

**Federal Coproduction Agreements:**

9. Bilateral Conventions:

a.  Germany

Acuerdo de relaciones cinematográficas entre el Gobierno del Reino de España y el Gobierno de la República Federal de Alemania.

(Agreement governing cinematographic relationships between the Spanish Kingdom and the German Federal Republic)

Entry into force: 5-12-2000

b.  Argentina

Convenio Hispano-Argentino de relaciones cinematográficas. (Agreement governing Hispanic and Argentinian cinematographic relationships)

Entry into force: 28-08-1969.

c.  Brazil

Canje de notas sobre Coproducción Cinematográfica. (Exchange of Notes regarding cinema co-productions)

Entry into force: 02-12-1963.

d.  Canada

Convenio referente a las relaciones cinematográficas entre el Gobierno de España y el Gobierno de Canada. (Agreement that refers to the cinematographic relationships between the Spanish Kingdom and the Canadian Government)

Entry into force: 14-01-1985

e.  Cuba

Acuerdo de colaboración cinematográfica entre el Reino de España y la República de Cuba. Cinematographic Collaboration Agreement between the Spanish Kingdom and Republic of Cuba.

Entry into force: 31-01-1990.

f.  Chile

Memorandum de colaboración en materia de coproducción, promoción, difusión y conservación del Patrimonio Cinematográfico entre el Ministerio de Educación, Cultura y Deporte del Reino de España y el Consejo Nacional de la Cultura y las Artes de la República de Chile. (Memo regarding the cooperation in co-production, promotion, distribution and conservation of the Cinematographic Cultural Heritage between Spain's Ministry of Education, Culture and Sports and the National Culture Counsel of the Republic of Chile).  
Entry into force from november 2003

g.  France

Acuerdo sobre las relaciones cinematográficas entre el Reino de España y la República Francesa. (Agreement regarding Cinematographic relationships between the Spanish Kingdom and the Republic of France)  
Entry into force: 20-03-1989  
Addenda, Entry into force: 30-06-2005

h.  Italy

Acuerdo hispano-italiano firmado en Bolonia el 10-9-97. (Hispanic-Italian Agreement signed in Bolonia on 10-9-97).  
Entry into force: 03-06-1998.

i.  Marruecos

Acuerdo de Coproducción e intercambios cinematográficos entre el Reino de España y el Reino de Marruecos. (Agreement for Co-production and cinematographic exchanges between the Spanish Kingdom and the Kingdom of Morocco .  
Entry into force 27-04-98.

j.  Mexico

Acuerdo de Coproducción cinematográfica entre el Reino de España y Los Estados Unidos mexicanos. Agreement for co-production regarding cinematographic work between the Spanish Kingdom and the United Mexican States.  
Entry into force: 30-01-2004

k.  Portugal

Acuerdo sobre las relaciones cinematográficas entre el Reino de España y la República Portuguesa. (Agreement regarding cinematographic relationships between the Spanish Kingdom and the Portuguese Republic).  
Entry into force 08-11-1989.

Protocolo de colaboración en materia de Cinematografía entre el Instituto de la Cinematografía y de las Artes Audiovisuales de España y el Instituto de Cinema, Audiovisual e Multimedia de Portugal, para la distribución y promoción recíproca de películas Nacionales. (Protocol for collaboration regarding cinematographic work between the Cinematographic Institute and Audiovisual Arts of Spain and the Portuguese Institute for Cinema, Audiovisual and Multimedia,, to distribute and promote national motion pictures).

Protocolo de colaboración entre el Ministerio de Cultura del Reino de España y el Ministerio de Cultura de la República Portuguesa sobre cooperación cinematográfica y para el fomento de las co-producciones. (Protocol for collaboration between the Spanish Kingdom's Ministry of Culture and the Portuguese Republic's Ministry of Culture regarding cinematographic work and the promotion of co-productions).

Entry into force 24-03-2004.

l.  Puerto Rico

Memorando de Colaboración entre el Instituto de la Cinematografía y de las Artes Audiovisuales del Reino de España y la Corporación para el Desarrollo de las Artes, Ciencias e Industria Cinematográfica del Estado Libre Asociado de Puerto Rico. (Collaboration Memo entered into by the Spanish Kingdom's Cinematographic Work and Audiovisual Arts Institute and the Development of Arts, Science and Industry of Cinematographic Work Corporation of the Free Associate State of Puerto Rico)

Entry into force: 27-05-2003

m.  Tunisia

Acuerdo cinematográfico entre el Gobierno de España y el Gobierno de Túnez. (Cinematographic Agreement between the Spanish Government and the Tunisian Government).

Entry into force 02-11-1971.

n.  Russia

Acuerdo sobre relaciones cinematográficas entre el Reino de España y Rusia. Madrid. (Agreement governing cinematographic relationships between the Spanish Kingdom and Russia.)

Entry into force: 08-10-1991.

o.  Venezuela

Acuerdo de coproducción. (Co-production Agreement)

Entry into force: 18-02-1997

## 10. Multilateral Conventions:

a. Instrumento de ratificación del Convenio Europeo sobre Coproducción Cinematográfica. (Confirmation of the European Agreement regarding cinematographic co-production).

Entry into force for Spain: 01-02-1997.

b. Instrumento de ratificación del Convenio de Integración Cinematográfica Iberoamericana<sup>77</sup>. (Confirmation of the Cinematographic Integration of Latin America).

Entry into force for Spain: 08-05-1991.

c. Instrumento de adhesión de España al Acuerdo Latinoamericano de Coproducción Cinematográfica<sup>78</sup>. (Adherence of Spain to the Latin

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<sup>77</sup> España, México, Perú

American cinematographic co-production agreement)  
Entry into force for Spain: 08-10-1992.

The authority in charge of administration and supervision of all those Agreements is:

Instituto de la Cinematografía y de las Artes Audiovisuales, ICAA  
Subdirección General de Promoción y Relaciones Internacionales  
Plaza del Rey, nº 1  
28071 MADRID  
SPAIN

11. Other Agreements:

- a. Spain is also member of IBERMEDIA, a fund created in 1997, the object of which consists in encouraging co-productions between the Member States<sup>79</sup> granting low interest loans.

The authority in charge of its administration and supervision:

Programa Ibermedia  
C/ Ferraz, nº 10  
28008 MADRID  
SPAIN

12. Regional Agreements:

- a. The Regions of Galicia, Catalonia and Andalucía (as of 22 September 2006) have signed a Co-production agreement with Argentina, known as “Raíces”.  
Entry into force: 21-01-2005

The authority in charge of its administration and supervision are:

Consejería de Cultura de la Junta de Andalucía  
Dirección General de Fomento y Promoción Cultural  
Calle Levís, 17  
41004 Sevilla

Consorcio audiovisual de Galicia  
C/Hórreo 61-1º  
15 702 Santiago de Compostela  
Spain

Institut Català de les industries Culturals  
Rambla Santa Mónica 8  
ES-08002 Barcelona  
Spain

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<sup>78</sup> Cuba, España, México, Perú, Venezuela

<sup>79</sup> Argentina, Bolivia, Brasil, Colombia, Cuba, Chile, España, México, Panamá, Perú, Portugal, Puerto Rico, Uruguay y Venezuela.

- b. The Regions of Galicia, Valencia and Catalonia are also members of the Organisation Cine Region, which is not properly a co-production agreement, but rather a cooperation between the Authorities in Europe for helping production companies to find a partnership for a European co-production.

The authority in charge of its administration and supervision are:

Consortio audiovisual de Galicia  
C/Hórreo 61-1°  
15 702 Santiago de Compostela  
Spain

Institut Catalá de les industries Culturals  
Rambla Santa Mónica 8  
ES-08002 Barcelona  
Spain

Ivac-La filmoteca  
Edificio Rialto  
Placa de l'Ajuntament 17  
46002 Valencia  
Spain

## **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:<sup>80</sup>

The authority in charge of the procedure is the Instituto de Cinematografía y Artes Audiovisuales, ICAA, and the criteria of eligibility is found in the law called: “**Ley 15/2001** de Fomento y Promoción de la Cinematografía y el Sector Audiovisual”, see under ICAA aids attachment, under **article 2**, which determines, that a film or motion picture has Spanish nationality if:

The Spanish production company or European production company, has been established permanently in Spain and fulfils the following requirements:

9. Film’s Authors, (Director, Screenplay writer, and music composer) are at least 75% Spanish or citizens from EU states,
10. The film’s crew, actors and employees are Spanish or citizens from EU States,
11. The film should be shot in Spanish or in another Spanish language.

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<sup>80</sup> E.g. the French “Procédure d’agrément”.

12. The shooting, post-production and labs are to be located preferably in EU States.

The formal procedure to access and certify the Spanish nationality is through filling out all the necessary documents that certify compliance with all the abovementioned information, and within a month the certification will be given. Should certification be declined, an appeal can be submitted to the superior authority of the ICAA.

That a film fulfills Spanish nationality is relevant regarding the access to public funding schemes from ICAA, but it is not so relevant regarding the regional funding schemes, to access this regional schemes the criteria is that the production company must be resident (or be permanently established) in its Region. Therefore the certification from ICAA is more relevant in Federal funding schemes.

It is important to mention, that Catalonia certifies through the ICIC (a Regional funding scheme).

### **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

Co-production agreements with Austria, New Zealand and India, are presently being negotiated.

The authority in charge of their administration and supervision:

Instituto de la Cinematografía y de las Artes Audiovisuales  
Subdirección General de Promoción y Relaciones Internacionales  
Plaza del Rey, nº 1  
28071 MADRID  
SPAIN

- 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,<sup>81</sup> and indicate the name and address of the administration of these funding schemes:<sup>82</sup>

There are no funding schemes containing territorialisation requirements and there are not expected to enter into force.

### **REFERENCES TO LOCAL STUDIES**

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<sup>81</sup> 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.

<sup>82</sup> E.g. in Germany, there will be a new funding scheme on the federal level containing a territorialisation clause as from 2007.



A.7 There are no studies, reports or other relevant materials on territorialisation requirements.

## PART B

### FUND SPECIFIC QUESTIONS

*Please only cover funding schemes, including tax incentive schemes, that were operated at the national, regional (excluding EU schemes, e.g. the Media programme)<sup>83</sup> or local level in your country during the reference period from 1 January 2001 to 31 December 2005, and that disposed of 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 per year.<sup>84</sup>*

*Please use for each funding scheme a separate form.*

#### **IDENTIFICATION OF THE FUNDING SCHEME**

- B.1 Country/region: Comunidad Autónoma de Andalucía
- B. Name of the funding scheme: Ayudas al desarrollo de proyectos y a la producción de obras audiovisuales
- B.3 Name and address of the funding scheme's administration and supervisory authority:
- CONSEJERÍA DE CULTURA  
Dirección General de Fomento y Promoción Cultural  
Calle Levías, 17  
41004 Sevilla
- 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
- e. **Decreto 489/2004**, se aprueba la estructura orgánica de la consejería de cultura, (*Decree that approves the Culture department's organisational structure*).  
Entry into force 18-09-2004

<sup>83</sup> Regional schemes mean both, schemes operated within your country and schemes to which your country is a party among other countries, e.g. the Nordic Film- and TV Fund (see [http://korda.obs.coe.int/web/display\\_fonds.php?fonds\\_id=28](http://korda.obs.coe.int/web/display_fonds.php?fonds_id=28) ).

<sup>84</sup> "Independent" means that the cinematographic and audiovisual works are produced and distributed by entities that are legally independent from broadcasters.

- f. **Orden de 30/09/2005** de la Consejera de Cultura, por la que se convoca la concesión de ayudas a la creación, desarrollo y producción audiovisual.  
*(Order of the Cultural Department (dated 30/09/2005) which grants aids for creation, development and audiovisual production).*

Attached you will find the aforementioned laws.

## **TERRITORIAL CONDITIONS**<sup>85</sup>

### **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*)?

Yes / No

No

If yes,

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

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<sup>85</sup> 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.

*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):*

### **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/No

Yes

If 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*):

In order to apply for aid, the production company must be established in Andalucía and must be registered as an audiovisual company in the appropriate register for audiovisual companies.

The aid given is classified into different types and granted for development of projects and production of motion pictures, documentaries and short films. The general criteria has to be equal to acquire the aid is valued case by case. There are two stages, in each one, every requirement will be valued on an individual basis.

In the first stage, the project will be assessed on the basis of whether it is: creative, original, financially viable, that the budget adapts to the project, as well as the professional experience of the team as a whole (technicians, and artistic talent). At this stage, with regards to short films, it will be valued in what measure the Project contributes towards the promotion of employment in Andalucía and the use of Andalucía's resources.

This law does not detail how many points are necessary in order to pass to the second valuation stage.

In the second valuation stage, the criteria is based on the territorialisation requirements, that the project uses Andalucía's resources and that it creates employment in Andalucía. Other criteria valued in this second stage, is again the professional experience of the team (technicians and artistic talent), and the company background (whether it has pre-existing contractual arrangements to distribute and commercialise the project.).

## **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:

La Constitución Española, (*Spanish Constitution*), from 6-12-1978,

### **Section 148**

Ley 38/2003 General de Subvenciones.

(*Law regulating State aid*)

Entry into force: 18-02-2004

Ley orgánica de Estatuto de Autonomía de Andalucía, Ley orgánica 6/1981,  
(*federal law which regulates Andalucía's administrative and political organisation*).

And the laws from Andalucía's Parliament that regulate Culture, see under B.4

## **SELECTIVE SCHEMES**

- B.13 If this scheme distributes aid selectively,<sup>86</sup> 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:

(see answer B.11)

## **CONTACT DETAILS**

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

Guadalupe Ruiz Herrador

Calle Levías, 17

41004 Sevilla (Sevilla)

Teléfono: 955 036 600

Fax: 955 036 609

E-mail: [informacion.dgfpc.ccul@juntadeandalucia.es](mailto:informacion.dgfpc.ccul@juntadeandalucia.es)

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<sup>86</sup> 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.

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

Julia Montes  
Ecija Abogados  
Plza. del Marqués de Salamanca, 3-4  
28006, Madrid  
Tfno: 91 781 61 60 - Fax: 91 578 38 79  
[jmontes@ecija.com](mailto:jmontes@ecija.com)  
<http://www.ecija.com>

Date of the data collection

28-09-2006

**PART B**

**FUND SPECIFIC QUESTIONS**

**IDENTIFICATION OF THE FUNDING SCHEME**

*In the following part B we are dealing with automatic aid systems in Cataluña.*

B.1 Country/region: Cataluña

B.2 Name of the funding scheme: Subvenciones automáticas a la industria audiovisual catalana

*Automatic aid for the Catalan audiovisual industry*

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

INSTITUT CATALÀ DE LES INDÚSTRIES CULTURALS, ICIC

Rambla Santa Mònica 8  
ES-08002 Barcelona  
Spain

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 dates when these laws and regulations entered into force

- o. **LEY 20/2000**, de 29 de diciembre, de Creación del Instituto Catalán de las Industrias Culturales,

*Law that creates ICIC. Entry into force: February 2001.*

- p. **Decreto 100/2001** Estatutos del ICIC

**Decree on the Statutes and Rules of ICIC, Entry into force: February 2001.**

- q. **Decreto, 470/2004**, de 28 de diciembre, por el que se atribuyen funciones internacionales al Instituto Catalán de las Industrias Culturales.

*Decree which determines ICIC international competence. Entry into force: January 2005*

**Decrees on automatic aids for 2005:**

- r. **RESOLUCIÓ** CLT/336/2005, de 7 de febrer, per la qual sobre convocat.ria per a la concession de subvencions per a la produccion en versió original catalana i lestrena en versió catalana de llargmetrages cinematografics i produccions en gran formato,

*Aid for film productions shot in Catalan language.*

- s. **RESOLUCIÓ** CLT/337/2005, de 4 de febrer, per la qual es convoca concurs public per a la concession de subvencions a empreses catalanes per a l'assistencia i participacion a fires, festivals i mercats internacionals durant lany 2005,

**Aid for Catalan companies for participating in filmfestivals, film markets and the like**

- t. **RESOLUCIÓ** CLT/275/2005, de 7 de febrer, per la qual sobre convocaria per a la concession de subvencions per a l'explotacion de llargmetrages cinematografics i de produccions en gran formats.

**Aid for film distribution**

- u. **RESOLUCIÓ** CLT/271/2005, de 8 de febrer, per la qual sobre convocat.ria per a la concession de subvencions per a la promoció i publicitat de llargmetratges cinematogafics i de produccions de gran format.

*Aid for film promotion and publicity.*

All those rules are attached to this questionnaire

**TERRITORIAL CONDITIONS<sup>87</sup>**

**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

<sup>87</sup> 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.



Yes / No

No

As already described in Part A, ICIC has two variants of film subsidies: a selective and an automatic aid. In the selective aid programs dealt with in Part A there are explicit obligations as to that a minimum proportion of the budget must be spent in the region. But there are no such obligations in automatics aids.

- 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*):
- B.7 Describe how these territorialisation requirements are implemented, including the minimum proportion required and the maximum
- 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 respect to former versions of territorialisation requirements that were in force before this date during the period from 2001 to 2005*):
- 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*):

### **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/No

Yes

If yes,

- B.11 Please describe the implicit or *de facto* territorialisation requirements that are practised by this funding scheme:

The production companies have to be registered in Cataluña or at least possess a permanent establishment in Cataluña. The film must have a certificate of origin from ICIC or ICAA, certifying that it is a Catalan or Spanish production.

The aid for film production is given only for films in Catalan as the original version. The film has to be shown at least a whole week in one well known cinema in Barcelona.

### **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:

*Constitución Española, 06-12-1978,  
Spanish Constitution*

*Ley Orgánica 4/1979 de creación del Estatuto de Cataluña,  
Federal law which regulates administrative and political organization from Cataluña*

*And the laws from Catalonia's Parliament see under B.4*

### **SELECTIVE SCHEMES**

- B.13 If this scheme distributes aid selectively,<sup>88</sup> 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:

### **CONTACT DETAILS**

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

ICIC  
Director Sr. Xavier Marcé Carol

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<sup>88</sup> 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.

Rambla Santa Mònica, 8 (Palau Marc)  
08002 Barcelona  
Telèfon 93 316 27 00  
Fax 93 316 28 65

[icic.cultura@gencat.net](mailto:icic.cultura@gencat.net)

<http://cultura.gencat.net/icic/index.htm>

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

Julia Montes  
Ecija Abogados  
Plza. del Marqués de Salamanca, 3-4  
Tfno: 91 781 61 60 - Fax: 91 578 38 79  
[jmontes@ecija.com](mailto:jmontes@ecija.com)  
<http://www.ecija.com>

Date of the data collection and processing:

02-10-2006

**PART B**

**FUND SPECIFIC QUESTIONS**

**IDENTIFICATION OF THE FUNDING SCHEME**

In the following part we are dealing with selective aid systems in Cataluña.

- B.1 Country/region: Cataluña
- B.2 Name of the funding scheme: Subvenciones selectivas a la industria audiovisual catalana

**Selective aid for the catalan audiovisual industry**

- B.3 Name and address of the funding scheme's administration and supervisory authority:
- INSTITUT CATALÀ DE LES INDÚSTRIES CULTURALS, ICIC  
Rambla Santa Mònica 8  
ES-08002 Barcelona  
Spain
- 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 dates when these laws and regulations entered into force
- y. **Ley LEY 20/2000**, de 29 de diciembre, de Creación del Instituto Catalán de las Industrias Culturales.  
*Statute law, dated 29 december 2000 that creates the independent agency for Catalonia's audiovisual funding, the ICIC*  
*Entry into force: February 2001*
  - z. **Decreto 100/2001** Estatutos del ICIC,  
*Decree that creates the ICIC's rules)*
  - aa. **Decreto, 470/2004**, de 28 de diciembre, por el que se atribuyen funciones al Instituto Catalán de las Industrias Culturales.  
*Decree dated 28 december 2004, that assigns international competence to ICIC,*

*Entry into force: January 2005*

**-Orders that regulate selective film aids for 2005:**

- bb. **RESOLUCIÓ** CLT/334/2005, de 7 de febrer, per la qual sobre convocat.ria per a la concessió de subvencions a empreses de producció independents per a la realització de documentals, destinats a ser emesos per televisió.  
*Aid for for TV documentaries*
- cc. **RESOLUCIÓ** CLT/281/2005, de 4 de febrer, per la qual es convoca concurs p.blic per a la concessió de subvencions a la producció de curtmetratges cinematogr.fics.  
*Aid for shortfilm productions*
- dd. **RESOLUCIÓ** CLT/273/2005, de 7 de febrer, per la qual es convoca concurs p.blic per a la concessió de subvencions per tal d'impulsar la coproducció de llargmetratges cinematogr.fics amb empreses productores independents de l'Argentina i Galícia, dins del marc de l'acord Raíces.  
*Aid for co-productions based on the Raíces program. See under A3.4.a)*
- ee. **RESOLUCIÓ** CLT/335/2005, de 7 de febrer, per la qual s'obre convocat.ria per a la concessió de subvencions a empreses de producció independents per a la realització de llargmetratges televisius de ficció destinats a ser emesos per televisió.  
*Aid for production of fiction films made for TV*
- ff. **RESOLUCIÓ** CLT/283/2005, de 4 de febrer, per la qual es convoca concurs p.blic per a la concessió de subvencions per a la producció de llargmetratges cinematogr.fics que siguin l'obra prima o el segon llargmetratge d'un nou realitzador.  
*Aid for a director's first or second film*
- gg. **RESOLUCIÓ** CLT/3391/2005, de 24 de novembre, per la qual s'obre convocatòria per a la concessió de subvencions a empreses de producció independents per a la realització de llargmetratges televisius de ficció, destinats a ser emesos per televisió.  
*Aid for production of TV fiction films*
- hh. **RESOLUCIÓ** CLT/274/2005, de 7 de febrer, per la qual sobre convocaria per a la concessió de subvencions a empreses de producció independents per al desenvolupament de sèries d'animació, destinades a ser emesos per televisió  
*Aid for animation films made for TV*
- ii. **RESOLUCIÓ** CLT/282/2005, de 4 de febrer, per la qual es convoca concurs públic per a la concessió de subvencions per a la creació d'obres que articulin una nova mirada sobre l'audiovisual, dirigides per realitzadors que provenguin d'altres disciplines artístiques diferents de la cinematografia i la producció per a televisió.

*Aid for directors from other artistic areas, who start in the area of film*

- jj. **RESOLUCIÓ CLT/272/2005**, de 7 de febrer, per la qual es convoca concurs public per a la concession de subvencions per tal de promoure el cinema d'autor

*Aid for promotion of cinema d'auteur films*

**Copies of these laws and rules are attached to this questionnaire**

## **TERRITORIAL CONDITIONS<sup>89</sup>**

### **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.

Yes / No

Yes

- 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.

The aids are granted every year, and an Order is necessary, which regulates those aids, specifying application, time limit, and all the complete requirements.

All the aids under B.4 for 2005 require a regional spend:

**RESOLUCIÓ CLT/334/2005**, de 7 de febrer, per la qual sobre convocat.ria per a la concession de subvencions a empreses de produccion independents per a la realizació de documentals, destinats a ser emesos per television.

*Aid for documentaries for TV, requirement is to be found under art.4.e:*

“4. e) Almenys el 50% del cost total de la producció haurá de correspondre a treballs efectuats per persones fisiques o juridiques domiciliades o amb seu permanent a Catalunya. No obstant, en cas de coproduccions amb dltres Comunitats Aut.nomes o de coproduccions internacionals, almenys el 50% de la inversió catalana, pública i privada, haurá de correspondre a treballs efectuats per persones fisiques o juriiques

<sup>89</sup> 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.

domiciliades o amb seu permanent a Catalunya. Aix mateix, l'aportació de personal tècnic i artístic de cada empresa coproductora, haurà de ser equilibrada respecte al seu percentatge de participació en la coproducció només podran accedir a la present subvenció aquelles coproduccions internacionals en les quals la participació a la producció de l'empresa sol·licitant sigui almenys del 10%”

*“4. e) at least 50% of the total production costs shall be invested in activities by workers or companies, which are located in Catalonia. However, in case of Spanish or international co-productions, at least 50% of the catalan investment, both public and private, shall be invested in activities by workers or companies, which are permanently domiciled in Catalonia. The participation of artistic and technical crew must be balanced in reference to the percentage of their participation in the co production. Only those international coproductions in which the participation in the coproduction is a minimum of 10% in the production, will be eligible to apply for this aid.”*

**RESOLUCIÓ** CLT/281/2005, de 4 de febrer, per la qual es convoca concurs públic per a la concessió de subvencions a la producció de curtmetratges cinematogràfics.

*Aid for shortfilm productions, requirement is to be found under art.4.c*

“4.c) Un mínim del 75% de la despesa en la producció i la postproducció de la participació catalana en la pel·lícula haurà de correspondre a treballs efectuats per persones físiques o jurídiques domiciliades o amb seu permanent a Catalunya.”

*“4.c) At least 75% of the inversion in production and postproduction of the Catalane proportion in the movie shall be invested in activities performance by workers or companies, who are located in Catalonia.”*

**RESOLUCIÓ** CLT/273/2005, de 7 de febrer, per la qual es convoca concurs públic per a la concessió de subvencions per tal d'impulsar la coproducció de llargmetratges cinematogràfics amb empreses productores independents de l'Argentina i Galícia, dins del marc de l'acord Raíces.

*Aid for co-productions based on the Raíces program. See under A3.4.a)  
Requirement is to be found under art. 4*

- “4) Per poder optar a la subvenció s'hauran de complir els requisits segents:
- a) Les empreses productores hauran d'haver signat un contracte de coproducció, el qual haurà de definir els percentatges de participació i les aportacions econòmiques de cadascuna de les empreses coproductores.
  - b) La participació de cadascuna de les empreses coproductores no podrà ser inferior al 20% del cost total de producció No podran accedir a la subvenció aquells coproductors en que la seva participació sigui financera.
  - c) Els llargmetratges que vulguin accedir a la present subvenció no podran tenir una participació superior al 30% de coproductors que no tinguin la seva seu social a Catalunya, Galícia o Argentina, i el coproductor majoritari haurà de ser una empresa productora amb seu social a Catalunya, Galícia o Argentina.
  - d) Un m.nim del 20% de la despesa en producció i en postproducció del llargmetratge haurà de correspondre a treballs efectuats per persones físiques o jurídiques

domiciliades o amb seu permanent a Catalunya, havent de ser imputable d'una manera equilibrada a cadascun d'ambdós conceptes.

e) L'aportació de personal tècnic i artístic de cada empresa coproductora haurà de ser globalment equilibrat respecte al seu percentatge de participació en el projecte.

f) S'haurà de designar un productor executiu per cadascun dels tres territoris.. “

*“4. the following conditions are required to apply:*

*m) The co production companies shall arrange a co production agreement, which determines the co production inversion quote.*

*n) A minimum of 20% inversion of the total cost of the production is required for apply this aid.*

*o) It will be not allow that a co producer which is not located in Galicia, Catalonia or Argentina owns more than a 30% of the co production. In any case the major co producer has to be a company located in Catalonia, Galicia or Argentina.*

*p) At least 20% of the total productions cost shall be invested in activities performance by workers or companies, which are located in Catalonia, but this, shall be equally executed.*

*q) The contribution of technique and artistic crew shall be made equally to the co production quote.*

*r) An executive producer shall be designate in each three countries.*

**RESOLUCIÓ** CLT/335/2005, de 7 de febrer, per la qual sobre convocatòria per a la concessió de subvencions a empreses de producció independents per a la realització de llargmetratges televisius de ficció destinats a ser emesos per televisió.

*Aid for production of fiction films made for TV, Requirement is to be found under art.5.b*

*“5.b) Almenys el 75% del cost total de la producció haurà de correspondre a treballs efectuats per persones físiques o jurídiques domiciliades o amb seu permanent a Catalunya. No obstant, en cas de coproduccions amb dltres Comunitats Aut.nomes o de coproduccions internacionals, almenys el 75% de la inversió catalana, pública i privada, haurà de correspondre a treballs efectuats per persones físiques o juriiques domiciliades o amb seu permanent a Catalunya. Aix mateix, l'aportació de personal tècnic i artístic de cada empresa coproductora, haurà de ser equilibrada respecte al seu percentatge de participacio en la coproducció nomás podran accedir a la present subvenció aquelles coproduccions internacionals en les quals la participació a la producció de l'empresa solálicitant sigui almenys del 10%”*

*“5.b) at least 75% of the total productions cost shall be invested in activities performance by workers or companies, which are located in Catalonia. Notwithstanding in case of Spanish or international Co-production, at least 75% of the total inversion cost public as well as private executed by the catalane company, shall be invested in activities performance by workers or companies, who are located in Catalonia. The participation of artistic and technique crew shall be equable regarding the co production percentage. In case of an international co production will be required a minimum of 10% in the production quote to apply for this aid.”*



**RESOLUCIÓ** CLT/283/2005, de 4 de febrer, per la qual es convoca concurs públic per a la concessió de subvencions per a la producció de llargmetratges cinematogràfics que siguin l'obra prima o el segon llargmetratge d'un nou realitzador.

*Aid for a director's first or second film, Requirement is to be found under art.4.c*

“4.c) En cas de llargmetratges de ficció Un mínim del 75% de la despesa en la producció i la postproducció de la participació catalana en la pel·lícula haurà de correspondre a treballs efectuats per persones físiques o jurídiques domiciliades o amb seu permanent a Catalunya.”

*“4.c) In case of fictional movies, at least 75% of the inversion in production and postproduction of the Catalane proportion in the movie shall be invested in activities performance by workers or companies, who are located in Catalonia.”*

**RESOLUCIÓ** CLT/3391/2005, de 24 de novembre, per la qual s'obre convocatòria per a la concessió de subvencions a empreses de producció independents per a la realització de llargmetratges televisius de ficció, destinats a ser emesos per televisió.

*Aid for production of TV fiction films, requirement is to be found under art 5.b*

“5.b) Almenys el 75% del cost total de la producció haurà de correspondre a treballs efectuats per persones físiques o jurídiques domiciliades o amb seu permanent a Catalunya. No obstant, en cas de coproduccions amb altres Comunitats Autònomes o de coproduccions internacionals, almenys el 75% de la inversió catalana, pública i privada, haurà de correspondre a treballs efectuats per persones físiques o jurídiques domiciliades o amb seu permanent a Catalunya. Així mateix, l'aportació de personal tècnic i artístic de cada empresa coproductora, haurà de ser equilibrada respecte al seu percentatge de participació en la coproducció només podran accedir a la present subvenció aquelles coproduccions internacionals en les quals la participació a la producció de l'empresa sol·licitant sigui almenys del 10%”

*“5.b) at least 50% of the total productions cost shall be invested in activities performance by workers or companies, who are located in Catalonia. Notwithstanding in case of Spanish or international Co-production, at least 50% of the total inversion cost public as well as private executed by the catalane company, shall be invested in activities performance by workers or companies, who are located in Catalonia. The participation of artistic and technique crew shall be equable regarding the co production percentage. In case of an international co production will be required a minimum of 10% in the production quote to apply for this aid.”*

**RESOLUCIÓ** CLT/274/2005, de 7 de febrer, per la qual sobre convocaria per a la concessió de subvencions a empreses de producció independents per al desenvolupament de sèries d'animació, destinades a ser emeses per televisió

*Aid for animation films made for TV, requirement is to be found under art. 4.c*

“4.c) La despesa en la producció i la postproducció de la participació catalana en la pel·lícula haurà de correspondre a treballs efectuats per persones físiques o jurídiques domiciliades o amb seu permanent a Catalunya”

*“4.c) The inversion in production and postproduction of the Catalane proportion in the movie shall be invested in activities performance by workers or companies, who are located in Catalonia.”*

**RESOLUCIÓ** CLT/282/2005, de 4 de febrer, per la qual es convoca concurs public per a la concessió de subvencions per a la creació d'obres que articulin una nova mirada sobre l'audiovisual, dirigides per realitzadors que vinguin d'altres disciplines artístiques diferents de la cinematografia i la producció per a televisió.

*Aid for directors from other areas, who start in the area of film, requirement is to be found under art. 4.e*

“4.e) Un mínim del 75% de la despesa en la producció i la postproducció de la participació catalana en la pel·lícula haurà de correspondre a treballs efectuats per persones físiques o jurídiques domiciliades o amb seu permanent a Catalunya.”

*“4.e) At least 75% of the inversion in production and postproduction of the Catalane proportion in the movie shall be invested in activities performance by workers or companies, who are located in Catalonia.”*

**RESOLUCIÓ** CLT/272/2005, de 7 de febrer, per la qual es convoca concurs public per a la concessió de subvencions per tal de promoure el cinema d'autor

*Aid for promotion of cinema d'auteur films, requirement is to be found under art.4.c*

“4.c) En cas de llargmetratges de ficció Un mínim del 50% de la despesa en la producció i la postproducció de la participació catalana en la pel·lícula haurà de correspondre a treballs efectuats per persones físiques o jurídiques domiciliades o amb seu permanent a Catalunya.”

*“4.c) In case of fictional movies, at least 50% of the inversion in production and postproduction of the Catalane proportion in the movie shall be invested in activities performance by workers or companies, who are located in Catalonia.”*

- B.7 Describe how these territorialisation requirements are implemented, including the minimum proportion required and the maximum.

The minimum proportion required oscillates between 50% and 75% of total production budget or of Catalan investment.

Fictional Film Production for TV must always reach 75%. In addition, as a prerequisite for TV production aid, the producer has to have an agreement with a Catalan TV station for one transmission during a minimum license period of one year.

- 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:

In the context of the co production agreements “Raíces”:

- the Catalan’s production company must be producer with a share in the co-production of at least 20%.
- a production company, that is not Catalan, Gallega or Argentina should not have a share of more than 30% of the film.
- 20% from whole budget has to be spent in Catalonia.
- the executive producers have to come from all the countries where the participating co-production companies have their business seat.
- technical and artistic staff have to be Catalan in equal proportion.

In the context of a normal co-production (not falling under raíces) it is required from the applying company to have a share in the co-production of at least 10% proportion.

- 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

There is no case law.

In 2000, the Parliament of Catalonia created the ICIC to assist the development of audiovisual industries in the territory. Since then, it has become a key factor in the build-up of the industry through dialogue, new financing formulas, support to exportation of cultural products and by guaranteeing its presence in the own market. Therefore, ICIC is developing a strategic and active audiovisual policy in Catalonia, supporting all the different players in the industry, from production companies to movie theatres.

Given that cinema is a key sector in the propagation of Catalan, one of the objectives of the Language Policy Act is to achieve a significant presence of the Catalan language in the range of films on offer, especially in terms of dubbed films given the predominance of US films on European and Catalan screens which in some years easily exceed 75% of box-office, and also of films made in Catalonia.

One of the Government’s main policies in films dubbed into Catalan is a more painstaking selection of titles based on their quality and commercial potential; many of the films which are dubbed are for children because this is a market which companies believe to be more profitable. Another goal is to ensure that dubbing made for cinema is also included automatically in domestic DVDs, something which has not always happened. The Secretariat of ICIC aims to reinforce the promotion of Catalan versions through advertising campaigns and upgrading cinemas where these versions are *shown*.

### **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

Yes/No

No

If yes,

B.11 Please describe the implicit or de facto territorialisation requirements that are practised by this funding scheme:

### **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:

*Constitución Española, 06-12-1978, Spanish Constitution*

*Ley Orgánica 4/1979 de creación del Estatuto de Cataluña, federal law which regulates administrative and political organization from Catalonia.*

*And the laws from Catalonia's Parliament see under B.4*

### **SELECTIVE SCHEMES**

B.13 If this scheme distributes aid selectively,<sup>90</sup> 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:

Value criteria

1. - Qualitative Criteria:

- director's antecedents
- originality and visual arts
- film's composition
- antecedents of technical and artistic staff.

2. - Economics Criteria

- producer antecedent
- secured financing
- sales prediction
- adequate budget

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<sup>90</sup> 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.

## **CONTACT DETAILS**

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

ICIC  
Director Sr. Xavier Marcé Carol  
Rambla Santa Mònica, 8 (Palau Marc)  
08002 Barcelona  
Telèfon 93 316 27 00  
Fax 93 316 28 65  
[icic.cultura@gencat.net](mailto:icic.cultura@gencat.net)  
<http://cultura.gencat.net/icic/index.htm>

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

Julia Montes  
Ecija Abogados  
Plza. del Marqués de Salamanca, 3-4  
Tfno: 91 781 61 60 - Fax: 91 578 38 79  
[jmontes@ecija.com](mailto:jmontes@ecija.com)  
<http://www.ecija.com>

Date of the data collection and processing:

02-10-2006

## PART B

### FUND SPECIFIC QUESTIONS

*Please only cover funding schemes, including tax incentive schemes, that were operated at the national, regional (excluding EU schemes, e.g. the Media programme)<sup>91</sup> or local level in your country during the reference period from 1 January 2001 to 31 December 2005, and that disposed of 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 per year.<sup>92</sup>*

*Please use for each funding scheme a separate form.*

#### **IDENTIFICATION OF THE FUNDING SCHEME**

- B.1 Country/region:  
Comunidad Autónoma de Galicia
- B.2 Name of the funding scheme:  
Concesión de ayudas a la creación, desarrollo y producción audiovisual.
- B.3 Name and address of the funding scheme's administration and supervisory authority:  
  
CONSELLERIA DE CULTURA  
Edificios Administrativos de San Caetano  
15704 Santiago de Compostela  
Telf: 981 545400 Fax: 981 544802
- 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

-Ley 6/1999 audiovisual de Galicia.

*Galicia's audiovisual law  
Entry into force 09-09-1999*

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<sup>91</sup> Regional schemes mean both, schemes operated within your country and schemes to which your country is a party among other countries, e.g. the Nordic Film- and TV Fund (see [http://korda.obs.coe.int/web/display\\_fonds.php?fonds\\_id=28](http://korda.obs.coe.int/web/display_fonds.php?fonds_id=28) ).

<sup>92</sup> "Independent" means that the cinematographic and audiovisual works are produced and distributed by entities that are legally independent from broadcasters.

-Decreto 172/2001 sobre incentivos para desarrollo económico y fomento de la actividad empresarial en la Comunidad Autónoma de Galicia,

*Galicia's decree on incentives for the Promotion and development of Galicia's entrepreneurial activities in the region.. Entry into force: 24-07-2001*

-Orden de 23 de diciembre de 2004 de subvención de empresas audiovisuales para desarrollar proyectos en lengua gallega.

*Order that regulates the aid for audiovisuals projects in Galicia's own language for 2005*

*Entry into force: 01-01-2005*

Attached you will find the aforementioned laws.

## **TERRITORIAL CONDITIONS<sup>93</sup>**

### **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*)

Yes / No

Yes

If yes,

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*)

The aid is granted every year, and the publication of an Order that establishes the regulation of this aid is necessary, (e.g.: application, time limit, and all the complete requirements).

*In 2004 the Order of 23-12-2004 that regulates the aids for audiovisual projects in Galicia's own language was passed the provisions are to be found under Article 2, that establishes:*

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<sup>93</sup> 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.

“Artículo 2 de la Orde do 23 de decembro de 2004 pola que se convocan subvenións a empresas vinculadas co sector audiovisual para apoiar o desenvolvemento de proxectos de produción audiovisual en lingua galega así como a produción audiovisual en lingua galega”.

Aid is granted to companies in the audiovisual sector and which support the development of audiovisual production projects in Galicia's language, as well as to audiovisual productions in Galicia's language.

Companies must be established as audiovisual producers and multimedia companies in the European Union, or at least have a representation agent in Galicia. The projects submitted under such official announcement must have at least 25% of the budget invested in Galicia. In every case, these requirements need to be fulfilled in order to obtain this aid.”

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

The Order requires only a minimum proportion, of at least 25%, of the film budget to be spent in Galicia.

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

Under the terms of the Order there are no references to co-production. The production company has to be resident in Galicia or at least an agency or to have permanent establishment.

At least 25% of the submitted projects must be developed in Galicia.

The co-production agreement “Raices” see under A3 is administrated by “Consortio Audiovisual Gallego” not by Consellería de Cultura and its aid comes with just 150.000€per year. The aforementioned, indicates that it is under 1 million Euros and is not the object of this questionnaire.

- 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, of*



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

There is no case law.

Galicia's audiovisual law regulates the importance and necessity to assist and promote the film or motion picture production in Galicia, so Galicia is brought into the European information society. The legislator wants to accentuate the use of "gallego", Galicia own language, and the promotion of Galicia's audiovisual companies.

### **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/No

Yes

If 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, the situation that prevailed before this date during the period from 2001 to 2005*):

To create employment in Galicia, and to encourage Galicia's culture, by promoting the "gallego" language, encouraging job offers in Galicia, because it is one of Spain's poorest regions.

### **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:

La Constitución Española, (*Spanish Constitution*) from 6-12-1978,

Ley orgánica de Estatuto de Autonomía de Galicia, Ley orgánica 1/1981, (*Federal law which regulates Galicia's administrative and political organisation*)

And the laws from Galicia's Parliament see under B.4, *Audiovisual law from 1999*,

## **SELECTIVE SCHEMES**

B.13 If this scheme distributes aid selectively,<sup>94</sup> 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:

Besides criteria under B.7 and B.8

- k. Projects should be creative and original
- l. The applicant production company has to prove solid financing
- m. crew and employees have to be from Galicia
- n. experienced co-operators and staff members
- o. Link with the cultural heritage of Galicia

## **CONTACT DETAILS**

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

Consellería de Cultura  
Sr. Francisco Fernández Naval  
Edificios Administrativos de San Caetano  
15704 Santiago de Compostela  
Telf: 981 545400 Fax: 981 544802  
[audiovisual.cultura@xunta.es](mailto:audiovisual.cultura@xunta.es)

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

Julia Montes Heras  
Ecija Abogados  
Plza. del Marqués de Salamanca, 3-4  
28006, Madrid  
Tfno: 91 781 61 60 - Fax: 91 578 38 79  
[jmontes@ecija.com](mailto:jmontes@ecija.com)  
<http://www.ecija.com>

Date of the data collection and processing:

02-10-2006

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<sup>94</sup> 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.

## PART B

### FUND SPECIFIC QUESTIONS

*Please only cover funding schemes, including tax incentive schemes, that were operated at the national, regional (excluding EU schemes, e.g. the Media programme)<sup>95</sup> or local level in your country during the reference period from 1 January 2001 to 31 December 2005, and that disposed of 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 per year.<sup>96</sup>*

*Please use for each funding scheme a separate form.*

#### **IDENTIFICATION OF THE FUNDING SCHEME**

- B.1 Country/region: Spain
- B. Name of the funding scheme: Medidas de fomento a la cinematografía
- B.3 Name and address of the funding scheme's administration and supervisory authority:  
Instituto de la cinematografía y de las artes audiovisuales (ICAA)  
Plaza del Rey, nº 1  
28071 MADRID  
SPAIN
- 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
- g) **Ley 15/2001** de fomento y promoción de la cinematografía y el sector audiovisual, (*Law for the fostering and promotion of the film and audiovisual sector*). Entry into force 11-07-2001
  - h) **Real Decreto 526/2002** por el que se regulan medidas de fomento y promoción de la cinematografía y la realización de películas en coproducción. (*Decree, which regulates provisions for the fostering and promotion of films and co productions*) Entry into force 29-06-2002

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<sup>95</sup> Regional schemes mean both, schemes operated within your country and schemes to which your country is a party among other countries, e.g. the Nordic Film- and TV Fund (see [http://korda.obs.coe.int/web/display\\_fonds.php?fonds\\_id=28](http://korda.obs.coe.int/web/display_fonds.php?fonds_id=28) ).

<sup>96</sup> "Independent" means that the cinematographic and audiovisual works are produced and distributed by entities that are legally independent from broadcasters.

- i) **Orden ECD/2240/2003**, por la que se dictan normas de aplicación del Real Decreto 526/2002 (Order which implements the Decree 526/2002) Entry into force: 08-08-2003

This order lays down the rules of application of this decree.

*A copy of these laws and regulations is enclosed to this questionnaire.*

## **TERRITORIAL CONDITIONS**<sup>97</sup>

### **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*)?

Yes / No

No

If yes,

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

<sup>97</sup> 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.

*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):*

### **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/No

Yes

If 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*):

Article 7 Decree 526/2002, under B.4, provides that, even though it is not a decisive factor, as general criteria is preferable that the film is shot in a Spanish language, in Spain and with a majority of Spanish or European staff. These criteria will not be applied in the case of co productions between a Spanish company and a foreign company.

### **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 most important legal provisions are:

La Constitución Española, from 06-12-1978 (*Spanish Constitution*) Art. 149.2 “Without prejudice to the competences that may be assumed by the Communities with an autonomous government, the State shall consider the promotion of culture as a duty and as an essential function and shall facilitate cultural communication between Communities with autonomous governments, in cooperation with them”.

Ley 15/2001, Ley de fomento y promoción de la cinematografía y el sector audiovisual (*Law for the fostering and promotion of films and the audiovisual sector*), in virtue of Art. 1, 4, 5 Promotion of culture is an objective in need of state aid.

### **SELECTIVE SCHEMES**

B.13 If this scheme distributes aid selectively,<sup>98</sup> 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:

25% of the total amount of annual aid is distributed through selective schemes.

The criteria are:

- i. Quality and artistic value.
- j. Proportionate budget for the project.
- k. Film's financing plan
- l. The production company has to be solvent and has to have no debts with ICAA, in any case.

### **CONTACT DETAILS**

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

Beatriz de Armas Sierra  
Plaza del Rey, nº 1  
28071 MADRID  
SPAIN  
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Name of the lawyer and law firm in charge of the data collection:

Julia Montes Heras  
Ecija Abogados  
Plza. del Marqués de Salamanca, 3-4  
28006, Madrid  
Tfno: 91 781 61 60 - Fax: 91 578 38 79  
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Date of the data collection:

28-09-2006

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<sup>98</sup> 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.

**PART B**

**FUND SPECIFIC QUESTIONS**

**IDENTIFICATION OF THE FUNDING SCHEME**

B.1 Country/region: Cataluña

B.2 Name of the funding scheme: Línea de Préstamos para inversiones en el sector de la producción audiovisual

*Credit line for investments in the audiovisual production sector.*

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

INSTITUTO CATALÁN DE FINANZAS

Dirección: Gran Vía de las Cortes Catalanas, 635

08010 Barcelona

Teléfono 93 342 84 10

E-mail: info@icfinances.com

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 dates when these laws and regulations entered into force

Ley 2/1985 del instituto catalán de finanzas.

Act 2/1985, establishing the Institut Català de Finances.

Act 25/1987, dated December 29, regarding the Budgets of the Generalitat de Catalunya, of its autonomous organisations and of the Social Security management organisations for 1988.

Decret 203/1991, de 2 de setembre, pel qual s'aprova el Reglament de Regim Interior de l'Institut Català de Finances

Decree 203/1991, dated 2 September, which approves the Regulation of the Interior Regime of the Catalan Institute of Finance

Decret 207/1995, de 13 de juny, pel qual s'aprova el Reglament del Consell Assessor de l'Institut Català de Finances.

Decree 207/1995, dated 13 June, which approves the Regulation of the Advisory Council of the Catalan Institute of Finance.

Decret legislatiu 4/2002, de 24 de desembre, pel qual s'aprova el Text refós de la llei de l'Institut Català de Finances de 14 de gener de 1985.

Legal Decree 4/2002, dated 24 December, which approved the revised Text on the Law of the Catalan Institute of 14 January 1985.

Resolució ECF/1275/2004, de 3 de maig, de modificació de la Resolució ECF/2035/2002, de 9 de maig, de creació de la Comissió Executiva i de delegació de competències de la Junta de Govern de l'Institut Català de Finances.

Resolution ECF/1275/2004, dated 3 May, which is a modification of Resolution ECF/2035/2002, dated 9 May, for the creation of the Executive Committee and of the delegation of competencies of the Government Authority of the Catalan Institute of Finance.

All those rules are attached to this questionnaire

## **TERRITORIAL CONDITIONS<sup>99</sup>**

### **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

Yes / No

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*):

B.7 Describe how these territorialisation requirements are implemented, including the minimum proportion required and the maximum

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

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*

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<sup>99</sup> 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.



*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):*

### **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/No

Yes

If yes,

- B.11 Please describe the implicit or *de facto* territorialisation requirements that are practised by this funding scheme:

The requirements are to be found under art. 2 and 13.

The most important territorialisation requirement is the dubbing into or having subtitles in Catalan.

These aids are usually destined to distribution companies, which have to be registered in a register of audiovisual companies.

Normally the sound studio will be located in Catalonia, except in case of a large productions.

These kinds of aids include also P&A expenses, which have also to be written in Catalan.

### **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:

Constitución Española, 06-12-1978,  
*Spanish Constitution art. 148.17*

Ley Orgánica 4/1979 de creación del Estatuto de Cataluña,  
*Federal law which regulates Catalonia's administrative and political organization , art. 3*

*And the federal laws from Catalonia's Parliament see under B.4 global rules.*

## **SELECTIVE SCHEMES**

B.13 If this scheme distributes aid selectively,<sup>100</sup> 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:

- Artistic value and importance of the film.
- Estimated Profit making of the film or DVD.
- Significant Target audience
- Broadcast of the film in a catalan TV channel.
- In the case of DVDs, they must be distributed in Catalan speaking regions.
- Estimate of cost in Catalan advertising.

## **CONTACT DETAILS**

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

Conseller delegat Sr. Josep Maria Ayala i Vargas

Gran Via de les Corts Catalanes, 635

08010 Barcelona

93 342 84 10

93 487 37 87

[direccioicf@icfinances.com](mailto:direccioicf@icfinances.com)

<http://www.icfinances.com>

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

Julia Montes

Ecija Abogados

Plza. del Marqués de Salamanca, 3-4

28006 Madrid

Tfno: 91 781 61 60 - Fax: 91 578 38 79

[jmontes@ecija.com](mailto:jmontes@ecija.com)

<http://www.ecija.com>

Date of the data collection and processing:

30-10-2006

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<sup>100</sup> 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.

## PART B

### FUND SPECIFIC QUESTIONS

*Please only cover funding schemes, including tax incentive schemes, that were operated at the national, regional (excluding EU schemes, e.g. the Media programme)<sup>101</sup> or local level in your country during the reference period from 1 January 2001 to 31 December 2005, and that disposed of 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 per year.<sup>102</sup>*

*Please use for each funding scheme a separate form.*

#### **IDENTIFICATION OF THE FUNDING SCHEME**

- B.1 Country/region: Spain
- B. Name of the funding scheme: Impuesto de sociedades (tax incentive scheme)
- B.3 Name and address of the funding scheme's administration and supervisory authority:  
Agencia Tributaria  
C/Infanta Mercedes 37  
28020 Madrid  
Spain
- 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  
-Real Decreto Legislativo 4/2004, Texto refundido de la ley de Impuesto sobre sociedades, art. 34, Art. 38 (Real Decree about companies tax, here in after referred as "RDleg 4/2004"). Entry into force: 12-03-2004

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<sup>101</sup> Regional schemes mean both, schemes operated within your country and schemes to which your country is a party among other countries, e.g. the Nordic Film- and TV Fund (see [http://korda.obs.coe.int/web/display\\_fonds.php?fonds\\_id=28](http://korda.obs.coe.int/web/display_fonds.php?fonds_id=28) ).

<sup>102</sup> "Independent" means that the cinematographic and audiovisual works are produced and distributed by entities that are legally independent from broadcasters.

**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*)?

Yes / No

Yes

If yes,

- 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*):

Article 34 of the RDleg 4/2004, which regulates the distribution bonus  
Article 38 of the RDleg 4/2004 which regulates the deduction for a inversion in an audiovisual production.

- 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*).

This is a tax incentive for companies who make investments in audiovisual work production or distribution (not both). In order to have these benefits, the Company has to be resident in Spain or has a permanent establishment in Spain, so that it can be taxable in Spain, this incentive is applicable to the company's annual tax declaration. The tax consists in a reduction of the contingent amount up to 20% of the production Companies' annual tax declaration, the audiovisual production has to be Spaniard, as described under Part A.4. And the incentive is calculated based on the investment minus aid and co-production investment.

The tax foresees also an incentive for the executive co-production, and the requirements to obtain this type of incentive is that the investment lies between 10% and 25%, and the incentive will be calculated for 5% incentive.

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<sup>103</sup> 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.

The incentive for distribution is a bonus reduction of up to 99% of the investment, which has to be reinvested in the distribution companies.

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

Only a company, which is taxable in Spain, can apply to this scheme.

- 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*):

### **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/No

No

If 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*):

### **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:

Spanish Constitution, under Art. 44.1 and 46.

### **SELECTIVE SCHEMES**

- B.13 If this scheme distributes aid selectively,<sup>104</sup> 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:

The administration and supervision depends on every independent region, the aforesaid, in order that the tax administration is assigned to each region.

### **CONTACT DETAILS**

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

There is a general information phone:  
901335533

Agencia Tributaria  
C/Infanta Mercedes 37  
28020 Madrid  
Spain  
[www.aeat.es](http://www.aeat.es)

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

Julia Montes  
Ecija Abogados  
Plza. del Marqués de Salamanca, 3-4  
Tfno: 91 781 61 60 - Fax: 91 578 38 79  
jmontes@ecija.com  
<http://www.ecija.com>

Date of the data collection:

28-09-2006

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<sup>104</sup> 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.

## PART B

### FUND SPECIFIC QUESTIONS

*Please only cover funding schemes, including tax incentive schemes, that were operated at the national, regional (excluding EU schemes, e.g. the Media programme)<sup>105</sup> or local level in your country during the reference period from 1 January 2001 to 31 December 2005, and that disposed of 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 per year.<sup>106</sup>*

*Please use for each funding scheme a separate form.*

#### **IDENTIFICATION OF THE FUNDING SCHEME**

- B.1 Country/region: Comunidad Autónoma de Valencia
- B. Name of the funding scheme: Ayudas a la Producción Audiovisual
- B.3 Name and address of the funding scheme's administration and supervisory authority:  
Instituto Valenciano de Cinematografía  
IVAC – LA FILMOTECA Edificio Rialto  
Placa de l'Ajuntament 17  
46002 Valencia  
Spain
- 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
- e. **LEY 5/1998**, de 18 de junio, de Creación del Instituto Valenciano de Cinematografía Ricardo Muñoz Suay.  
(*Law 5/1998, dated 18 June that creates the Instituto Valenciano de Cinematografía Ricardo Muñoz Suay, (IVAC). Entry into force 24-06-1998*)
- f. **Orden 30-12-2004** por la que se convocan la concesión de ayudas para creación audiovisual.  
(*Order of 30-12-2004 that grants state aid for the creation of audiovisual projects*)

<sup>105</sup> Regional schemes mean both, schemes operated within your country and schemes to which your country is a party among other countries, e.g. the Nordic Film- and TV Fund (see [http://korda.obs.coe.int/web/display\\_fonds.php?fonds\\_id=28](http://korda.obs.coe.int/web/display_fonds.php?fonds_id=28) ).

<sup>106</sup> “Independent” means that the cinematographic and audiovisual works are produced and distributed by entities that are legally independent from broadcasters.

**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*)?

Yes / No

No

If yes,

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*):

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*).

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

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*):

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<sup>107</sup> 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.



## 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/No

Yes

If 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*):

Before the company applies for aid, the production company must be established in the region and be registered as an audiovisual company in the appropriate register for audiovisual companies.

The application for subsidies will be considered more favourably, if the production is shot in Valencia's Region or if it is produced with a crew of members or audiovisual companies which are domiciled in Valencia's Region. These criteria are not compulsory:

- The production crew has to be a working team with technicians and artistic talent from Valencia
- Using dubbing studios in Valencia and contract services that are in Valencia.
- The filming of the motion picture has to be in Valencia, unless the company can justify that the script or the co-producer (national or international) has a necessity to film outside Valencia.
- It will be subject to value the fulfilment of the requirements in a value scale made ad hoc by the FEVA (Federació Valenciana de l'Audiovisual).

## **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:

- d. La Constitución Española, Constitution, from 6-12-1978,

- e. Ley orgánica de Estatuto de Autonomía de la Comunidad Autónoma Valenciana, Ley 5/1982. (*Federal law which regulates Valencia's administrative and political organisation*).
- f. And the laws from Valencia's Parliament that regulate Culture, see under B.4

### **SELECTIVE SCHEMES**

B.13 If this scheme distributes aid selectively,<sup>108</sup> 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:

The submitted production company has to prove solid financing, and the script has to be original, creative and interesting. It's also positively valued if the project is a co-production.

- The Project has to be viable and original.
- The script has to be interesting and be of a high quality
- The company's professional experience and the production personnel's curriculum vitae will be valued.
- Projects that have a co-production of more than two companies will also be valued.

More criteria see under B11

### **CONTACT DETAILS**

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

**JOSÉ LUIS RADO ARANCE**

IVAC Director

96 353 93 19

[rado\\_jos@gva.es](mailto:rado_jos@gva.es)

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

Julia Montes Heras

Ecija Abogados

Plza. del Marqués de Salamanca, 3-4

28006, Madrid

Tfno: 91 781 61 60 - Fax: 91 578 38 79

[jmontes@ecija.com](mailto:jmontes@ecija.com)

<http://www.ecija.com>

Date of the data collection and processing:

28-09-2006

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<sup>108</sup> 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.