

CINEMA STUDY ON TERRITORIALISATION REQUIREMENTS
(Annex to Part A)

MEMBER STATE LEGAL REVIEW



GREECE
SYNTHESIS SHEET

July 2007

This Member State Synthesis Sheet should be read in conjunction with Chapter A of the Study on the economic and cultural impact, notably on co-productions, of territorialisation clauses of state aid schemes for films and audio-visual productions for the European Commission that is available on www.eufilmstudy.eu

Acknowledgements

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A Overview of the legal situation in Greece

1 Summary of main findings

Table A – Direct Territorialisation Requirements

Member State	Names of Funding Schemes	Available Budget	National (Nat) / Regional (Reg) Funding Scheme	Direct territorialization requirement quantified in the law			Direct territorialization requirement not quantified in the law			Expected New Funding Schemes containing “Objective Explicit” Territorialisation Requirements (A.6): Y/N
				X% in terms of film budget	X% in terms of State aid granted	X% of the amount of the total available budget that is subject to territorialization	List of requirements	Estimation of the X% of how much local expending this involves in terms of film budget	Estimation of the X% of how much local expending this involves in relation to the total aid available	
Greece	Greek Film Centre: program <i>Orizontes</i> (“Horizons”)	1,438,127(2002)	Nat	N/A	N/A	N/A	N	N/A	N/A	N
	Greek Film Centre: <i>Kinitro</i> (“Incentive”)	1,114,878	Nat	N/A	N/A	N/A	N	N/A	N/A	

	Greek Ministry of Culture: - tax return scheme support to Greek Film Producers		Nat	N/A	N/A	N/A	N	N/A	N/A	
	Greek Ministry of Culture: - tax return scheme support to Cinema Theatre Enterprises in Greece		Nat	N/A	N/A	N/A	N	N/A	N/A	
	Greek Ministry of Culture: - tax return scheme support to Greek Film Distribution Agencies in Greece		Nat	N/A	N/A	N/A	N	N/A	N/A	
	Hellenic Broadcasting Corporation (E.R.T.) : support to film production and co-production		Nat	N	N/A	N/A	N	N/A	N/A	

Table B – Indirect territorialisation Requirements

Member State	Names of Funding Schemes	Indirect territorialization requirements located under “Formal Nationality Certification Procedures”		Indirect territorialization requirements located under selective aid criteria and procedures		Indirect territorialization based on any other provisions in the law that forces the producer to make local spending	
		List of requirements	Estimation of the X% of how much local expending this involves in terms of film budget	Estimation of the X% of how much local expending this involves in relation to the total aid available	List of requirements	Estimation of the X% of how much local expending this involves in terms of film-budget	Estimation of the X% of how much local expending this involves in relation to the total aid available

Greece	Greek Film Centre: program <i>Orizontes</i> (“Horizons”)	Y Territorialisation requirements are located under the nationality procedure in the form of requirements of shooting in Greece (A.3)	N/A	N/A	N	N/A	N/A	Y The purpose clause aims at promoting the Greek infrastructure arguably qualifies as indirect territorialisation that is not quantifiable. (7.6)	N/A	N/A
	Greek Film Centre: <i>Kinitro</i> (“Incentive”)	Y Territorialisation requirements are located under the nationality procedure in the form of requirements of shooting in Greece (A.3)	N/A	N/A	N	N/A	N/A	Y The purpose clause aiming at promoting the Greek infrastructure arguably qualifies as indirect territorialisation that is not quantifiable. (6.6)	N/A	N/A
	Greek Ministry of Culture: - tax return scheme support to Greek Film Producers	Y Territorialisation requirements are located under the nationality procedure in the form of requirements of shooting in Greece (A.3)	N/A	N/A	N	N/A	N/A	Y The general aim to support the cinematography and the purpose of the “material enforcement of the production” qualify as indirect territorialisation not quantified (4.6)	N/A	N/A

	Greek Ministry of Culture: - tax return scheme support to Cinema Theatre Enterprises in Greece	Y Territorialisation requirements are located under the nationality procedure in the form of requirements of shooting in Greece (A.3)	N/A	N/A	N	N/A	N/A	Y The general aim to support the cinematography and the purpose of the “material enforcement of the production” qualify as indirect territorialisation not quantified (3.6)	N/A	N/A
	Greek Ministry of Culture: - tax return scheme support to Greek Film Distribution Agencies in Greece	Y Territorialisation requirements are located under the nationality procedure in the form of requirements of shooting in Greece (A.3)	N/A	N/A	N	N/A	N/A	Y The general aim to support the cinematography and the purpose of the “material enforcement of the production” qualify as indirect territorialisation not quantified (2.6)	N/A	N/A
	Hellenic Broadcasting Corporation (E.R.T.) : support to film production and co-production	Y Territorialisation requirements are located under the nationality procedure in the form of requirements of shooting in Greece (A.3)	N/A	N/A	N	N/A	N/A	N	N/A	N/A

Table C – Budget and Territorialisation Intensity

Member State	Names of Funding Schemes	Available Budget	Objective explicit territorialisation requirement quantified in the law ¹	Degree of the territorialisation ²		
				Funding Scheme Level ³	Funding body level	Member State Level ⁴
Greece	Greek Film Centre: program <i>Orizontes</i> (“Horizons”)	1,438,127(2002)	no requirement	= 0	No data	0 %
	Greek Film Centre: <i>Kinitro</i> (“Incentive”)	1,114,878	no requirement	= 0	No data	
	Greek Ministry of Culture: - tax return scheme support to Greek Film Producers		no requirement	= 0	No data	
	Greek Ministry of Culture: - tax return scheme support to Cinema Theatre Enterprises in Greece		no requirement	= 0	No data	
	Greek Ministry of Culture: - tax return scheme support to Greek Film Distribution Agencies in Greece		no requirement	= 0	No data	
	Hellenic Broadcasting Corporation (E.R.T.) : support to film production and co-production		no requirement	= 0	No data	

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

² High territorialisation: ratio “total amount subject to territorialisation”/“total budget available” >1
Moderate territorialisation: ratio “total amount subject to territorialisation”/“total budget available” =1 or <1
No territorialisation: total amount subject to territorialisation = 0

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

³ Formula: Sum of the budget of the scheme x its degree of territorialisation and divided by the sum of the budget of all the schemes.

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

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

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

Table D – Co-Production Agreements

Member State	Titles of Co-Production Agreements	Dates of Entry into Force of Co-Production Agreements	Expected New Co-Production Agreements: Y/N
Greece	European Convention on cinematographic co-production	8 April 2004	N
	France	15 November 1974	
	Canada	25 October 1999	

Greece is currently a party to the European Convention on Cinematographic Co-production. In addition Greece is a party to two co-production agreements.

In Greece there are six funding schemes which are managed by three funding bodies: the Ministry of Culture, the Greek Film Centre G.F.C. and the Hellenic Broadcasting Corporation E.R.T. The G.F.C. runs the programme *Orizontes* (Horizons) and *Kinitro* (Incentive); the E.R.T. gives support to film production and co-production; and the Ministry is responsible for three tax-repayment schemes to support Greek Cinematography related to Greek Film Producers, to Cinema Theatre Enterprises and to Greek Film Distribution Agencies.

2 Synopsis of conventions on co-production agreements

Since 2002, Greece has been a party to the European Convention on Cinematographic Co-Production. The authority in charge of its administration and supervision is the Greek Ministry of Culture.

Furthermore, Greece concluded two bilateral co-production agreements. The co-production agreement with France came into force in 1974, the one with Canada in 1999.

3 Synopsis of formal nationality certification procedures

The Greek nationality of the film project is not a formal condition of eligibility for State funding.

The funding schemes E.R.T. and G.F.C. grant State aid on the basis of the information supplied in the application about the films at the project stage.

However, it is worth noting that according to the Greek nationality certification procedure, the producer or, in case of co-productions, at least one of the producers must apply for a Certificate of Greek Nationality for the film at the Ministry of Culture.

There are separate formal procedures for full-length and for short completed feature films, documentaries and animated films, as follows.

In the case of completed feature films, the funding schemes require a solemn declaration on the percentage rate of use of the Greek language, on identity (name) and nationality of the producer or corresponding details of the production company, and on the nationality of the scriptwriter and music composers. To be certified as a Greek national film, a feature film must present 51% of its dialogues in the Greek language, and obtain 51 out of 100 points from a specific scale referring to various criteria of nationality (for details see reply A.4 for Greece).

For documentaries, similar criteria apply and they are differently weighted. In addition, producers of documentaries must declare the nationality of scientific or other specialized advisors (for details see reply A.4 for Greece).

For animated films the criteria differ slightly according to the specific mode of production. When applying for a certificate of Greek nationality for their film, producers must also declare the nationality of the leading actors, the animator, and art director (for details see reply A.4 for Greece).

Under these procedures, Greek nationals and nationals from other Member States are treated equally. The Board of Cinematography is in charge of delivering a final decision on the nationality of film projects in cases where this question is unclear.

Territorialisation requirements are located under this nationality procedure in the form of requirements of shooting in Greece (nine points are attributed if the location of the whole film shooting is in Greece. In case a percentage of the shooting took place in Greece, the points are determined on a pro rata basis).

4 Synopsis of expected legal developments

No new funding schemes are to be expected in the near future.

No new co-production agreements are planned to be signed in the near future. The reason is that all the relevant film production authorities apply the *European Convention on*

Cinematographic co-production in respect of any matter concerning production of European films such as funding and financing the production, post-production etc.

B The Greek funding schemes

1 Overview

In Greece, six funding schemes are managed by three funding bodies which are the Ministry of Culture, the Greek Film Centre (G.F.C.) and the Hellenic Broadcasting Corporation (E.R.T.). The G.F.C. runs the funding schemes *Orizontes* (Horizons Funding Scheme) and *Kinitro* (Incentive Funding Scheme), the E.R.T. provides additional support to film production and co-production, and the Ministry of Culture is responsible for three tax-repayment schemes providing support to the Greek film sector in the areas of production, distribution and exhibition.

Neither the Tax-repayment schemes nor the different funding schemes formally request a certified Greek nationality as a condition of eligibility for aid. However, Greek nationality is informally required.

2 *Analysis of the Tax-repayment Scheme – support to the enterprises of film distribution agencies*

2.1 *Description of the funding scheme*

The Tax-repayment Scheme (TRS support to the enterprises of film distribution agencies) based on Article 5 of Law n° 1597 from 1986, on the protection and development of Cinematography, the strengthening of Greek Cinematography, by other provisions and by two Ministerial decisions: Decision 56901/1999 and Decision 198/2003 specifying procedures and documents necessary.

There were significant regulatory changes in the period from 2001 to 2005 affecting the legal questions addressed by this study. As a matter of fact Paragraph 16 of Article 80 of Greek Law No. 3057/2002 (Official Government Gazette A' Issue No. 239 /10.10.2002) has amended and replaced Article 5 of Greek Law 1597/1986 providing for the general conditions and eligibility criteria of issuance of the Greek Nationality Certificate. Paragraph 9 of Article 4 of Greek Law No. 2557/1997 (Official Government Gazette A' Issue No. 271/1997) has amended paragraph 4 of Article 7 of Greek Law 1597/1986 by adding new sub – paragraph (d).

The authority in charge of its administration and supervision is the Ministry of Culture, Directorate of Cinema and Audiovisual Media.

Under this funding scheme's mechanism, film distributors will get back half of the taxes they paid if they distribute at least three Greek films for a minimum period of at least five weeks. This reimbursement of taxes is limited to the taxable revenues resulting from 100,000 cinema admissions per film.

For contact information see reply B.3-B.14 for Greece for TRS support to the enterprises of film distribution agencies

2.2 Synopsis of objective territorialisation requirements

2.2.1 Rules

The TRS does not contain any objective territorial condition. There is no obligation, under the “Regulations”, to spend a minimum proportion of the budget in Greece (see reply B.5 for Greece for TRS).

2.2.2 Practice

There is no relevant judicial or administrative practice reported.

2.2.3 Discussion

N/A

2.2.4 Conclusions

No objective explicit territorialisation requirements apply to this funding scheme.

2.3 Synopsis of indirect territorialisation requirements

2.3.1 Practice

There is no relevant judicial practice reported.

Regarding administrative practice it is worth noting that the regulations governing this scheme generally refer to films of Greek production and do not objectively require a Greek nationality certificate (see Section A.3 above). Nonetheless, this certificate is *de facto* required. It must be attached to the distributor’s application for the reimbursement of the tax under the Tax-repayment Scheme. Furthermore, the administrative authority of the Ministry of Culture in charge of this scheme generally requires that the competent department of the Ministry of Culture should confirm that such certificate was granted.

2.3.2 Discussion

The Greek nationality certificate must be attached to the distributor’s application for the reimbursement of the tax under the Tax-repayment Scheme.

2.3.3 Conclusions

There is no relevant practice on indirect territorialisation requirements. However, the requirement, *inter alia*, to proceed to local shooting (for a detailed list see reply A.4 for Greece) qualifies as an indirect territorialisation requirement since it is located under criteria and procedures governing formal nationality certification.

2.4. Synopsis of State aid selective granting criteria and procedures

The tax-repayment scheme (support to enterprises of film distribution agencies) does not grant State aid on a selective base.

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

In case of conflict or inconsistency between a requirement and an agreement, the rules contained in the international convention on co-production agreements will prevail over national law, according to the general provision of Article 28 Para.1 of the Greek Constitution.

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

The Greek tax-repayment schemes aim to contribute to the development of the cinematographic art, to support Greek cinematography and to further the implementation of culture policy in the context of cinema (see Greek Law 1597/1986 on the protection and development of Cinematography and the strengthening of Greek Cinematography, Art. 7, and Para. 1).

Under the law on the protection and development of Cinematography and the strengthening of Greek Cinematography, the State must take all the necessary measures for the moral and material enforcement of the production, distribution and promotion of Greek films and for the improvement of the cinema culture of the people.

The regulations governing the tax-repayment **scheme** (support to enterprises of film distribution agencies) do not contain other specific rules of law articulating cultural objectives or justifications.

However, the general aim to support the cinematography and the purpose of the “material enforcement of the production” cannot exclude the possibility of territorialisation that is not quantifiable.

3 Analysis of the Tax-Repayment Scheme – support to the enterprises of cinema theatres

3.1 Description of the funding scheme

This TRS-Support to the enterprises of cinema theatres is based on Article 5 of Law n° 1597 from 1986, on the protection and development of Cinematography, the strengthening of Greek Cinematography, by other provisions and by the Ministerial Decision 198/2003 specifying procedures and documents necessary.

There were significant regulatory changes in the period from 2001 to 2005 affecting the legal questions addressed by this study. As a matter of fact Paragraph 16 of Article 80 of Greek Law No. 3057/2002 (Official Government Gazette A' Issue No. 239 /10.10.2002) has amended and replaced Article 5 of Greek Law 1597/1986 providing for the general conditions and eligibility criteria of issuance of the Greek Nationality Certificate. Paragraph 9 of Article 4 of Greek Law No. 2557/1997 (Official Government Gazette A' Issue No. 271/1997) has amended paragraph 4 of Article 7 of Greek Law 1597/1986 by adding new sub – paragraph (d).

The applicable regulations provide that cinema theatres will be entitled to a reimbursement of 30% to 80% of the special tax that was levied in any one year on the admission tickets for Greek films. The concrete percentage depends on the number of films released and the duration of their exhibition (for details see reply B.7 on the support for cinema theatres scheme). No more than 60 000 tickets may be taken into account for the purpose of this tax reimbursement (see reply B.6 on the support for cinema theatres scheme).

For contacting the fund see reply B.14 for Greece for TRS- Support to the enterprises of cinema theatres. See also the website <http://www.culture.gr>.

3.2 Synopsis of objective territorialisation requirements

3.2.1 Rules

The TRS does not contain any objective territorial condition. There is no obligation, under the “Regulations”, to spend a minimum proportion of the budget in Greece. Cyprus (see reply B.5 for Greece for TRS).

3.2.2 Practice

There is no relevant judicial or administrative practice reported.

3.2.3 Discussion

N/A

3.2.4 Conclusions

No objective explicit territorialisation requirements apply to this funding scheme.

3.3 Synopsis of indirect territorialisation requirements

3.3.1 Practice

There is no relevant judicial practice reported.

It must be noticed that based on the administrative reported practice, only Greek films are taken into consideration to benefit from the tax advantages under this scheme.

3.3.2 Discussion

In order to apply under this scheme, the film theatre operators must provide a tax certificate issued by the competent Greek Tax Office indicating in particular the number of admission for eligible films, the duration of their exhibition and the tax paid for their exploitation (see reply B.9 on the support for cinema theatres scheme).

Although the provisions of the Ministerial Decision do not objectively require that the Greek Nationality Certificate be attached to the application of the film theatre operators applying for the reimbursement of taxes under this scheme, the administrative authority of the Ministry of Culture (the administrative authority in charge of this scheme) generally requires from the competent department of the Ministry of Culture a confirmation that such certificate was granted.

The Greek nationality certificate must be attached to the distributor's application for the reimbursement of the tax under the Tax-repayment Scheme.

3.3.3 Conclusions

There is no relevant practice on indirect territorialisation requirements. However the requirement *inter alia* to proceed to local shooting (for a detailed list see reply A.4 for Greece) qualifies as indirect territorialisation requirements since they are located under the criteria and procedures governing formal nationality certification.

3.4 *Synopsis of State aid selective granting criteria and procedures*

The tax-repayment scheme (support to cinema theatres) is not based on selective aid criteria and procedures, but on a purely automatic State aid granting mechanism.

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

See Section 2.5 above.

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

The Greek tax-repayment schemes aim to contribute to the development of the cinematographic art, to support Greek cinematography and to further the implementation

of culture policy in the context of cinema (see Greek Law 1597/1986 on the protection and development of Cinematography and the strengthening of Greek Cinematography, Art. 7, Para. 1).

Under the law on the protection and development of Cinematography and the strengthening of Greek Cinematography, the State must take all the necessary measures for the moral and material enforcement of the production, distribution and promotion of Greek films and for the improvement of the cinema culture of the people.

The regulations governing the tax-repayment scheme (support to enterprises of film distribution agencies) do not contain other specific rules of law articulating cultural objectives or justifications.

However, the general aim to support the cinematography and the purpose of the “material enforcement of the production” cannot exclude the possibility of territorialisation that is not quantifiable.

4 Analysis of tax-repayment scheme – support to the Producers of Greek films (feature length or short films)

4.1 Description of the funding scheme

This TRS, support to the producers of Greek films: feature-length or short films, is based on Article 5 of Law n° 1597 from 1986, on the protection and development of Cinematography, the strengthening of Greek Cinematography, by other provisions and by the Ministerial Decision 198/2003 specifying procedures and documents necessary.

There were significant regulatory changes in the period from 2001 to 2005 affecting the legal questions addressed by this study. As a matter of fact Paragraph 16 of Article 80 of Greek Law No. 3057/2002 (Official Government Gazette A’ Issue No. 239 /10.10.2002) has amended and replaced Article 5 of Greek Law 1597/1986 providing for the general conditions and eligibility criteria of issuance of the Greek Nationality Certificate. Paragraph 9 of Article 4 of Greek Law No. 2557/1997 (Official Government Gazette A’ Issue No. 271/1997) has amended paragraph 4 of Article 7 of Greek Law 1597/1986 by adding new sub – paragraph (d).

The authority in charge of the administration and the supervision of this funding scheme is the Ministry of Culture, Directorate of Cinema and Audiovisual Media.

The scheme grants a tax refund to producers of Greek feature-length films with respect to the taxes paid on the revenues from the release of such films. The total amount of this refund cannot exceed the amount of the film’s certified production expenses. Under the same conditions, the producers of Greek short films will be entitled to a return of an amount equal to 10% of the amount of tax that was received from the showing of such films as part of theatrical programmes (see Art. 7 of 1597/1986; see reply B.7 for the Tax-repayment Scheme – support to the producers of Greek films (feature length or short films)).

4.2 Synopsis of objective territorialisation requirements

4.2.1 Rules

The TRS does not contain any objective territorial condition. There is no obligation, under the Regulations, to spend a minimum proportion of the budget in Greece. Cyprus (see reply B.5 for Greece for TRS).

4.2.2 Practice

There is no relevant judicial or administrative practice reported.

4.2.3 Discussion

N/A

4.2.4 Conclusions

No objective explicit territorialisation requirements apply to this funding scheme.

4.3 Synopsis of indirect territorialisation requirements

4.3.1 Practice

There is no relevant judicial practice reported.

It must be noticed that, based on the administrative reported practice, only Greek films are taken into consideration to benefit from the tax advantages under this scheme.

4.3.2 Discussion

In order to apply under this scheme, the film theatre operators must provide a tax certificate issued by the competent Greek Tax Office indicating in particular the number of admission for eligible films, the duration of their exhibition and the tax paid for their exploitation (see reply B.9 on the support for cinema theatres scheme).

Although the provisions of the Ministerial Decision do not objectively require that a Greek nationality certificate be attached to the application of the film theatre operators applying for the reimbursement of taxes under this scheme, the administrative authority of the Ministry of Culture (the administrative authority in charge of this scheme) generally requires from the competent department of the Ministry of Culture a confirmation that such certificate was granted.

The Greek nationality certificate must be attached to the distributor's application for the reimbursement of the tax under the tax-repayment scheme.

4.3.3 Conclusions

There is no relevant practice on indirect territorialisation requirements. However the requirement, *inter alia*, to proceed to local shooting (for a detailed list see reply A.4 for Greece) qualifies as an indirect territorialisation requirement since it is located under the criteria and procedures governing formal nationality certification

4.4. Synopsis of State aid selective granting criteria and procedures

The rules governing the Tax-repayment scheme (support to producers of Greek films) do not contain selective aid granting criteria and procedures.

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

See Section 2.5 above.

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

See Sections 2.6 above.

5 Analysis of funding scheme support to film production and co-production

5.1 Description of the funding scheme

The E.R.T.'s funding scheme is based on the Law N° 1730 concerning the Statute of the Hellenic Broadcasting Corporation (E.R.T. S.A.) which came into force in 1987; on the Law N° 1866 concerning the incorporation of the National Broadcasting Counsel and the provision of licences for the establishment and operation of broadcasting enterprises, which came into force in 1989, and on the Law N° 1597 on the protection and development of Cinematography, the strengthening of Greek Cinematography and other provisions, which came into force in 1986 and was significantly amended in 2002 by Law 3057 providing for the general conditions and eligibility criteria of issuance of the Greek Nationality Certificate.

This funding scheme is also based on the Law N° 2328 concerning the profession of the independent producers of audiovisual works which came into force in 1995 and was most recently amended by Law N° 3021/2002 providing for the registration of the independent producer of audiovisual works with the relevant professional Chamber as a condition for the practice of such profession, and by Law N° 3166/2003 referring to the incompatibility of the profession of independent producer of audiovisual works with the status of someone working for the wider public sector and the owner/shareholder/board member/employee of an advertising enterprise.

This funding scheme is also based on the Ministerial Decision n. 6389/2005 concerning the establishment of a three-member Committee competent for the issuance of the certificate necessary for the registration of the independent producers with the relevant professional Chamber and on Ministerial Decision n. 198/2003 specifying the *procedure and documents necessary for the issuance of the Greek Nationality Certificate*. Finally, the Presidential Decree n° 285 from 1993 addresses *the procedure of production of cinema films by broadcasting enterprises* (see reply B.4 on the E.R.T.'s funding scheme).

The funding scheme support to film production and co-production is managed by the Hellenic Broadcasting Corporation E.R.T. (a non-profit organisation of the public sector supervised by the State) and supervised by the Ministry of Culture, Department of Cinema and Audiovisual Media. See also reply B.4 for Greece for ERT Funding Scheme

E.R.T. S.A. grants 1.5% of its annual gross income after deduction of taxes to support the production of Greek cinematographic full-length feature films. For contact detail see reply B.14 for ERT Funding Scheme. For further information on this funding scheme, see www.ert.gr.

5.2 Synopsis of objective territorialisation requirements

5.2.1. Rules

No provisions containing objective explicit territorialisation requirements apply to this funding scheme

5.2.2. Practice

There is no relevant judicial or administrative practice reported.

5.2.3. Discussion

N/A

5.2.4. Conclusion

No objective explicit territorialisation requirements apply to this funding scheme.

5.3 Synopsis of indirect territorialisation requirements

5.3.1 Practice

There is no judicial and administrative practice reported.

5.3.2 Discussion

N/A (see reply B.9 on the E.R.T.'s funding scheme; see also Section 5.4.1 below).

5.3.3 Conclusions

There is no reported practice on indirect territorialisation requirements.

5.4. Synopsis of State aid selective granting criteria and procedure

To be eligible for this funding scheme, the film must, *inter alia*, use professionals of Greek nationality in the production of the film, and production must take place in Greece (see Law N° 1597 of 1986, Article 5). However, it should be noted that issuance of the Greek Nationality Certificate is not a formal requirement in order to obtain State aid under this funding scheme. The Greek Nationality Certificate is granted at a post-production stage, whereas this funding scheme grants State aid at a pre-production stage, following the submission of the relevant application containing the film project and production file (see reply B.10 on the E.R.T.'s funding scheme).

This funding scheme grants State aid exclusively on a selective basis. According to oral information from E.R.T. S.A., the selection of the eligible film projects (between seven and ten applications are received each year) is at the discretion of the three members of the Board of E.R.T. The Board takes into account the film's screenplay, its financial potential and solidity, as well as the track record and reputation of the film director (see reply B.11 on the E.R.T.'s scheme).

The selection of the film production proposals that will be granted the funding of 1.5% (annually seven to ten film production proposals) is at the discretion of the three member opinion-rendering Board of E.R.T. S.A. Initially each film production proposal (production layout) is submitted by each producer (physical person or legal entity) to the Department of Dramatic Art Programmes of E.R.T. S.A. The opinion-rendering Board will evaluate, consider and select among the various applications, those film production proposals that will be granted the funding of 1.5%. The decision of the opinion rendering Board will be counter-signed by the President of E.R.T. S.A.

The selective aid is based on a quality evaluation which implies a broad discretion for the Board of the ERT. However no indirect territorialisation requirements are located under the selective State aid granting criteria and procedures.

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

According to E.R.T. S.A. no conflict has yet been reported between the funding scheme requirements and the international co-production agreement. Nevertheless in case of conflict or inconsistency international law prevails (See also Section 2.5 above).

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

E.R.T. S.A. is a non-profit entity supervised by the State. Its aims include the organisation, promotion and development of state radio and television, as well as contributing via the state radio and television to the information and education of Greek citizens as well as the protection, promotion and promulgation of Greek civilisation and tradition (Law N° 1730 of 1987, Article 3 Par. 2 and reply B.12 on the E.R.T. funding scheme).

These principles and goals leave great scope for interpretation. However no indirect territorialisation requirements are located under the purpose and cultural clauses

6 Analysis of funding scheme programme Incentive – Kinitro

6.1 Description of the funding scheme

The funding programme *Kinitro* (Incentive) is based on law N° 1597/1986 on the protection and development of Cinematography, the strengthening of Greek Cinematography, which came into force in 1986 and was most recently amended in 1989, on the provisions on the status of the Film Centre and on the law N° 2328/1995 on provisions concerning the profession of the independent producers of audiovisual works most recently amended in 2005.

This funding scheme is also regulated by internal guidelines (Internal Regulations governing the Funding Schemes of G.F.C., hereinafter called the “G.F.C.’s Internal Regulations) which came into force as from 1 January. The previous regulation of G.F.C.’s Funding Programmes came into force in September 1999. Thus the internal regulations governing this funding scheme were significantly amended between 2001 and 2005:

The authority in charge of its administration is the Greek Film Centre G.F.C. This funding scheme is supervised by the Ministry of Culture, Department of Cinema and Audiovisual Media.

6.2 Synopsis of objective territorialisation requirements

6.2.1. Rules

No provisions containing objective explicit territorialisation requirements apply to this funding scheme.

6.2.2. Practice

There is no relevant judicial or administrative practice reported.

6.2.3. Discussion

N/A

6.2.4. Conclusion

No objective explicit territorialisation requirements apply to this funding scheme.

6.3 Synopsis of indirect territorialisation requirements

6.3.1 Practice

There is no judicial and administrative practice reported

6.3.2 Discussion

N/A

6.3.3 Conclusions

There is no reported practice on indirect territorialisation requirements.

6.4. Synopsis of State aid selective granting criteria and procedure

The Incentive funding scheme is partly an automatic, partly a selective funding scheme.

To be eligible for this scheme, 60 % of the film budget must already be covered by the producer. On the basis of information submitted by the applicant the Production Department of G.F.C. and the Board of Directors assess whether the film project complies with the financial and technical standards to be eligible for funding.

Furthermore, the selection amongst film projects of comparable financial and technical quality is made on the basis of the artistic and dramatic quality of their screenplay (see reply B.13 for the Incentive Scheme). The selection committee further takes into account the producer's and the director's professional track record. Other elements may also influence the decision-making process such as distinctions awarded to the previous works of the director, the producer and the scriptwriter as well as the audience's response to those prior works (see reply B.13 for the Incentive scheme).

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

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

See for the general principles Section 2.5 above.

It should also be noticed that before 2003, film projects to be produced as international co-productions were excluded from the Incentive funding scheme, if they were submitted to the Eurimages programme. This restriction is no longer in force.

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

The Incentive Funding Scheme is to contribute to protect and develop cinematography in Greece and to promote Greek film production in Greece and abroad (see reply B.12 for the Incentive scheme).

The Producer must be either a Greek legal entity or a foreign legal entity that has established a branch in Greece. However, this funding scheme aims to strengthen independent Greek film production and the infrastructure of Greek cinematography. This scheme also aims to support and develop the Greek cinema sector and especially Greek independent film production (see reply B.11 for the Incentive – *Kinitro* funding scheme).

The purpose clause aiming at promoting the Greek infrastructure arguably qualifies as indirect territorialisation that is not quantifiable.

7 Analysis of the funding scheme program Horizons – Orizontes

7.1 Description of the funding scheme

The *Orizontes* Funding Scheme (Horizons Funding Scheme) is based on law N° 1597/1986 on the protection and development of Cinematography, the strengthening of Greek Cinematography, which came into force in 1986 and was most recently amended in 1989, on the provisions on the status of the Film Centre and on the law N° 2328/1995 on provisions concerning the profession of the independent producers of audiovisual works most recently amended in 2005.

Furthermore, the scheme is based on the *Internal Regulations governing the Funding Schemes of the Greek Film Centre* (the G.F.C.'s Internal Regulations) from 2004 (see Section 6.1 above). There were significant regulatory changes during the reference period from 2001 to 2005 affecting the legal questions addressed by this study. During this period, two different sets of regulations were in force, the first one until the end of 2003 (Former Regulations) and the subsequent one as from 2004 (Current Regulations). The Former Regulations defined the allocation of funding between the Horizons scheme and other funding schemes, whereas the Current Regulations no longer address this question.

For contact information, see reply B.14 for the Horizons Funding Scheme, and for additional information on this scheme: www.gfc.gr.

7.2 Synopsis of objective territorialisation requirements

7.2.1. Rules

No provisions containing objective explicit territorialisation requirements apply to this funding scheme.

7.2.2. Practice

There is no relevant judicial or administrative practice reported.

7.2.3. Discussion

N/A

7.2.4. Conclusion

No objective explicit territorialisation requirements apply to this funding scheme.

7.3 Synopsis of indirect territorialisation requirements

7.3.1 Practice

There is no judicial and administrative practice reported.

7.3.2 Discussion

N/A

7.3.3 Conclusions

There is no reported practice on indirect territorialisation requirements.

7.4. Synopsis of State aid selective granting criteria procedure

The Horizons Funding Scheme grants State aid on a selective basis.

In deciding on an award of State aid up to the amount of €25,000 per film, the selection committee assesses, *inter alia*, the film project's potential on the Greek and on international markets. Furthermore, it takes into consideration aesthetic and dramatic qualities of the screenplay. Finally, it evaluates the project on the basis of the professional track record of producer, director and screenwriter, taking particular account of awards for their prior work, their selection at film festivals and the expectation of successful commercial exploitation based on distribution deals.

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

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

For the general principles see Section 2.5 above.

The Horizons Funding Scheme also provides State aid up to €35,000 for international film co-productions if they comply with the following rules.

The beneficiaries shall be Greek producers, participating in the international co-production, in which Greece is not the principal country of the film production, but part of the film shooting shall take place in Greece with the participation of Greek artistic or technical crew or the use of Greek studios. The mere participation of a Greek producer does not automatically lead to an award of State aid since the G.F.C. assesses and evaluates such applications on a case-by-case basis (see reply B.6 for the Horizons Funding Scheme). The producer, when applying to G.F.C., must have covered at least 30% of the film's production budget corresponding to the Greek participation cost.

According to the convention on co-production between Greece and France, there must be at least one technician, one actor for a first role and one actor for a second role of both nationalities. Furthermore, the film that is co-produced under this convention must be made by directors, technical and artistic staff composed of French or Greek nationals or permanent residents, and the shooting must be carried out within the territory of France or Greece. The co-production agreement between Greece and France requires shooting in either country. This qualifies an indirect territorialisation requirement not quantified.

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

This funding scheme generally aims at the development of Greek cinematography via the production of films with significant artistic, technical and financial qualities (see reply B.13 for the Horizons Funding Scheme).

The Horizons funding scheme is managed by the G.F.C. According to its regulations, the G.F.C. shall protect and develop cinematography in Greece and promote and distribute Greek films nationally and internationally (see reply B.12 for the Horizons Funding Scheme).

The aim of the Horizons Funding Scheme is the development of Greek Cinematography through the production of films with significant artistic, technical and financial potential (see reply B.11 for the Horizons scheme and the Art. 2, Para. 1.3 of the G.F.C. Internal Regulations). This purpose clause arguably qualifies as indirect territorialisation that is not quantifiable.

References:

1. *Legal Opinion by the State Legal Counsel number 105/2005* regarding issues arising from application of Article 7 par. 1 et seq. of Greek Law number 1597/1986 “on special tax return”.
2. Jurisprudence
 - *Judgment 5446/1998 of the Administrative Court of First Instance of Athens* regarding the special Tax-repayment of article 7 par. 1 of Law number 1597/1986 and the legal deduction of 3% and 5% respectively for the collection and certification of the tax before its return to the beneficiaries.
 - *Judgments 550/2005 -558/2005 of the State Council* regarding the way the amount of the Tax-repayment is attributed to its beneficiaries.
3. Annual Reports of the Greek Film Centre for the years 2002, 2003 and 2005.

Attachments:

- Replies to the legal questionnaire by Mr. Costas Roussos/Mrs. Ioanna Dimopoulou/Ms. Antonia Koukouritaki, attorney at law, Roussos & Hatzidimitriou Law Offices, Greece
- Regulations for Greece