

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

**MEMBER STATE LEGAL REVIEW**



**LATVIA**  
**SYNTHESIS SHEET**

**July 2007**

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

## **Acknowledgements**

### **Legal Report by Germann Avocats**

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

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

Dr. Marwa Daoudy  
(Consultant)

Gritt Knirie Sogaard  
(Consultant)

Brigitte Vézina  
(Consultant)

Andrzej Jakubowski  
(Consultant)

John Morijn  
(Consultant)

Ljuba Kostadinova  
(Consultant)

Dr. Cristina Poncibò  
(Consultant)

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## A Overview of the legal situation in Latvia

### 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	
Latvia	National Film Centre (NFC)	1,440,240	Nat	N/A	N/A	N/A	N	N/A	N/A	N
	State Culture Capital Foundation (SCCF)	9,42,857	Nat	N/A	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	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
Latvia	National Film Centre (NFC)	N	N/A	N/A	N	N/A	N/A	N	N/A	N/A
	State Culture Capital Foundation (SCCF)	N	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 <sup>1</sup>	Degree of the territorialisation <sup>2</sup>		
				Funding Scheme Level <sup>3</sup>	Funding body level	Member State Level <sup>4</sup>
Latvia	National Film Centre (NFC)	1,440,240	no requirement	= 0	No territorialisation	0 %
	State Culture Capital Foundation (SCCF)	9,42,857	no requirement	= 0	No data	

<sup>1</sup> Assessment based on replies from local lawyers (see synthesis sheet)

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

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

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

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

<sup>4</sup> “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
Latvia	European Convention On Cinematographic Co- production	1 April 1994	N
	Canada	19 November 2003	
	Eurimages	1 January 2002	
	Baltic Films	2000	
	Austria	22 May 2006	

Latvia is currently a party to the European Convention on Cinematographic Co-production (see reply A.3 for Latvia). Moreover, Latvia is a party to the Council of Europe Fund for the co-production and distribution of films and fostering co-operation between professionals, and to the cooperation platform, Baltic Film.

There are also two other agreements: the Agreement between the Government of the Republic of Latvia and the Government of Canada on Audiovisual Co-production and the Agreement on Co-production between the Austrian Film Institute and the Latvian National Film Centre.

In Latvia there are two national funding schemes: the National Film Centre and the State Culture Capital Foundation (see reply A.2 for Latvia; see below Section B.1).

## 2 Synopsis of conventions on co-production agreements

Latvia is a party to the European Convention on Cinematographic Co-production, which came into force on 1 April 1994. The authority in charge of its administration and supervision is the Latvian National Film Centre (NFC).

Since 1 January 2002 Latvia has been a party to the Council of Europe Fund for the co-production and distribution of films and fostering co-operation between professionals, EURIMAGES. The authority in charge of administration and supervision is the Deputy Director of the National Film Centre (see reply A.3 for Latvia).

The Agreement between the Government of the Republic of Latvia and the Government of Canada on Audiovisual Co-production came into force on 19 November 2003. The authority in charge of administration and supervision is the Latvian Ministry of Culture (see reply A.3 for Latvia).

Baltic Films is an interstate (Estonia, Latvia, Lithuania) Co-operation Platform, established in 2000. The authorities in charge of administration and supervision are the National Film Centre, the Latvian and Estonian Film Foundations and the Estonian and Lithuanian Ministries of Culture (see reply A.3 for Latvia).

The Agreement between the Austrian Film Institute and the Latvian National Film Centre on Co-production came into force on 22 May 2006. The authorities in charge of administration and supervision are the Austrian Film Institute and the NFC of Latvia.

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

In Latvia there is a nationality certification procedure set out in the Regulations of the National Film Centre on the Allocation of State Funding for the Film Industry Projects (the NFC Regulations).

Article 2 of the NFC Regulations provides that a “Latvian film is a film produced by a legal person registered in the Commercial Register of the Republic of Latvia. Furthermore a Latvian film can also be an internationally co-produced film, in which the Latvian producer’s share is not less than 10% and is not larger than 80% of the total budget of the film” (see reply A.4 for Latvia).

The authority in charge of this procedure is the National Film Centre (NFC). For further details see reply A.4 for Latvia and for additional information see the NFC website [www.km.gov.lv/UI/Main.asp?id=19497](http://www.km.gov.lv/UI/Main.asp?id=19497).

### **4 *Synopsis of expected legal developments***

No new co-production agreements are expected as of 1 January 2007 (see reply A.5 for Latvia).

No new funding schemes containing territorialisation requirements are expected (see reply A.6 for Latvia).

## **B The Latvian funding schemes**

### **1 Overview**

In Latvia there are two national funding schemes: the *Nacionālais Kino centrs* - National Film Centre (NFC) and the *Valsts Kultūrkapitāla fonds* - State Culture Capital Foundation (see reply A.2 for Latvia).

### **2 Analysis of the Latvian National Film Centre Funding Scheme**

#### **2.1 Description of the funding scheme**

The Latvian National Film Centre (NFC) funding scheme is based on the *Valsts aģentūras Nacionālais kino centrs nolikums* (Regulations of the Cabinet of Ministers Nr. 558 of the 26 July 2005 Bylaws of the State Agency 'National Film Centre', the NFC Bylaws). Other relevant regulations governing this funding scheme are (see reply B.4 for Latvia for NFC funding scheme):

- the *Publisko aģentūru likums* (Public Agencies Law), which came into force on 25 April 2001 and was amended in 2002 and in 2005 (PAL)
- the *Filmu izplatīšanas noteikumi* (Regulations of the Cabinet of Ministers Nr. 487 of 20 November 2001 on Film Distribution)
- the *Par pārvaldes iestādes Latvijas Nacionālais kinematogrāfijas centrs reorganizāciju un valsts aģentūras Nacionālais kino centrs izveidi* (Order of the Cabinet of Ministers Nr. 491 of 27 July 2005 On State Administration Institution's Latvian National Cinematographic Centre Reorganisation and On State Agency National Film Centre establishment, the Order)
- the *Valsts Finansējuma piešķiršanas noteikumi filmu nozares projektiem* (Regulations of the National Film Centre of 12 December 2005 on the Allocation of the State Funding for the Film Industry Projects, NFC Regulations)

There was a significant regulatory change between 2001 and 2005 affecting the legal questions addressed by this study: the NCF was established in 2005 by the Order of the Cabinet of Ministers Nr. 491 of 27 July 2005 (the Order). This Order also reorganized the Latvian National Cinematographic Centre.



## 2.2 Synopsis of explicit territorialisation requirements

### 2.2.1 Rules

The NFC does not contain any objective territorial condition. There is no obligation, under the “Regulations”, to spend a minimum proportion of the budget in Latvia.

### 2.2.2 Practice

There is no relevant judicial or administrative practice reported

### 2.2.3 Discussion

N/A

### 2.2.4 Conclusions

No objective explicit territorialisation requirements apply to this funding scheme (see reply B.5 for Latvia for NFC funding scheme)

## 2.3 Synopsis of indirect territorialisation requirements

### 2.3.1 Practice

There is no relevant judicial or administrative practice reported (see reply B.10 for Latvia for NFC funding scheme)

### 2.3.2 Discussion

N/A

### 2.3.3 Conclusions

There is no reported practice on indirect territorialisation requirements.

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

Funding by the NFC under the NFC Regulations is provided selectively and on the basis of qualitative criteria.

The films financed are to be Latvian film. The NFC Regulations provide that a Latvian film is a film produced by a Latvian producer. A Latvian producer is a “legal person registered in the Commercial Register of the Republic of Latvia”. Furthermore the NFC Regulations state that “in the case of international co-production the Latvian producer’s share is not less than 10% and is not larger than 80 % from the total budget of the film” (Article 2 of the NFC Regulations).

Article II part 2 of the NFC Regulations, which came into force on 12 December 2005, provides that the National Film Centre shall announce the tender and for each tender special rules shall be drafted (see reply B.13 for Latvia for NFC funding scheme). Those Rules provide specific qualitative criteria for allocating state aid: e.g. the project’s artistic value and its significance in the context of Latvian and European culture; the experience of a director, filming crew and a producer; the performance of previously signed agreements between the producer and the National Film Centre and the distribution results of the supported films (see reply B.13 for Latvia for NFC funding scheme).

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

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

In the Latvian NFC there are neither objective nor indirect territorialisation requirements.

Nevertheless, it must be remembered that, as regards the hierarchy of legal instruments, the legal norms of international and European Union law as well as the general principles of law prevail over national law. This principle is endorsed in the Administrative Procedure Law (Article 15) and Civil Procedure Law (Article 5) as well as in case law.

Thus, if there is a conflict or an inconsistency between local rules on territorialisation and international/EU rules (including the conventions on co-production agreements to which Latvia is a party), the international legal norms shall have the supremacy.

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

On the constitutional level, Article 113 of the *Satversme* (Constitution) of the Republic of Latvia (the Constitution) provides that “The State shall recognize the freedom of scientific research, artistic and other creative activity, and shall protect copyright and patent right”. Furthermore Article 114 of the Constitution states that “Persons belonging to ethnic minorities have the right to preserve and

develop their language and their ethnic and cultural identity” (see reply B.12 for Latvia for the NFC funding scheme and see below Section 2.6).

On the legislative level the *Par ilgtermiņa politikas pamatnostādņēm Valsts kultūrpolitikas vadlīnijas 2006.-2015. gadam. Nacionāla valsts* (Order of the Cabinet of Ministers Nr. 264 of 18 April 2006 on the Long-term Political Statement of the State Cultural Policy Guidelines 2006-2015) declares that the National State has the precise aim “to create favourable conditions for the balanced development of cultural diversity in order to increase its contribution in the development of individual, society and state”.

The Guidelines offer solutions for the development of Latvia as a “state within the European Union and the world that is national, but at the same time open for cultural diversity” (see reply B.12 for Latvia for the NFC funding scheme and see below Section 2.6).

Moreover Article 2 Para. 1 of the *Valsts aģentūras Nacionālais kino centrs nolikums* (Regulations of the Cabinet of Ministers Nr. 558 of the 26 July 2005 Bylaws of the State Agency ‘National Film Centre’) provides that the “NFC shall have the duty to support the accessibility and promotion of audiovisual creative works and audiovisual heritage in Latvia and world” (see reply B.12 for Latvia for the NFC funding scheme and see below Section 2.6).

The objective of the NFC is to ensure the accessibility and the promotion of the audiovisual creative works and of the audiovisual heritage in Latvia and the world (Article 2 Para. 1 of the Bylaws of the State Agency ‘National Film Centre’).

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

### **3 Analysis of the State Culture Capital Foundation (SCCF) Funding Scheme**

#### **3.1 Description of the funding scheme**

The *Valsts Kultūrkapitāla fonds* (State Culture Capital Foundation, SCCF) is based on the *Valsts Kultūrkapitāla fonda likums* (State Culture Capital Foundation Law, SCCF Law), which came into force on 8 March 2004 and was most recently amended on 23 March 2006.

The SCCF funding scheme is also regulated by three bylaws (see reply B.4 for Latvia for SCCF funding scheme):

- the *Valsts Kultūrkapitāla fonda nolikums* (Cabinet of Ministers’ Regulations Nr. 128 of 8 March 2004 for the Bylaws on State Culture

Capital Foundation, SCCF Bylaws), which came into force on 3 December 2004

- the *Valsts kultūrkapitāla fonda nozares ekspertu komisijas (izveidošanas un darba kārtības) nolikums* (Bylaws of the Expert Commissions of the State Culture Capital Foundation's Branches, an SCCF document of 8 April 2004, SCCF's Branches Bylaws)
- the *Valsts kultūrkapitāla fonda kultūras projektu konkursu nolikums* (Bylaws of the Tenders of the State Culture Capital Foundation's cultural projects, SCCF's Tenders Bylaws), an SCCF document of 25 March 2004, amended on 4 November 2004 and most recently on 25 May 2006

There were arguably significant regulatory changes during the reference period from 2001-2005 affecting the legal questions addressed by this study: the SCCF was established in 2004 by the SCCF Law.

For contact information see reply B.14 for Latvia for SCCF funding scheme.

### 3.2 Synopsis of explicit territorialisation requirements

#### 3.2.1 Rules

The SCCF does not contain any objective territorial conditions. There is no obligation, under the "Regulations", to spend a minimum proportion of the budget in Latvia.

#### 3.2.2 Practice

There is no relevant judicial or administrative practice reported.

#### 2.2.3 Discussion

N/A

#### 2.2.4 Conclusions

No objective explicit territorialisation requirements apply to this funding scheme (see reply B.5 for Latvia for the SCCF funding scheme).

### 3.3 *Synopsis of indirect territorialisation requirements*

#### 3.3.1 Practice

There is no relevant judicial or administrative practice reported (see reply B.10 for Latvia for the SCCF funding scheme).

### 3.3.2 Discussion

N/A (see reply B.10 for Latvia for the SCCF funding scheme).

### 3.3.3 Conclusions

There is no reported practice on indirect territorialisation requirements (see reply B.10 for Latvia for the SCCF funding scheme).

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

Article 7 of the SCCF's Tender Bylaws provides that cultural projects, including films, shall be selected on the basis of qualitative criteria (see reply B.13 for Latvia for SCCF funding scheme).

In order to obtain support from the SCCF the topicality of the project and its compliance with the set priorities in the field are evaluated. In addition, there must be an evaluation of the project's feasibility. The criteria for granting selective aid expressly refer to the "precise and well- founded calculation of the project (base of the real costs)" and to the "compliance of the requested aid to the financial resources of the Fund". In assessing the impact of the project on the development and maintenance of the cultural environment, the expected results of the project must be taken into account. Furthermore it must be mentioned that other criteria refer to "education, work experience and competence of the project's manager". In order to obtain support from the SCCF the project shall promote "understanding between the different groups of society and their consolidation".

The projects are evaluated in their entirety, taking into account also the public interest in the development of such a project. Furthermore the aim of the project must be not commercial (see reply B.13 for Latvia for SCCF funding scheme). There are no obvious indications that the criteria of public interest lead to indirect territorialisation requirements.

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

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

See above Section 2.5

### 3.6 Synopsis of cultural clauses applying to the funding scheme

The purpose of the SCCF is to promote a balanced development of creativity in all sectors of culture and art and to promote the preservation of cultural heritage in the State in accordance with the guidelines of State cultural policy (Art. 3 Para. 1 of the SCCF Law).

Moreover Article 3 Para. 3 of the SCCF Law (see reply B.12 for Latvia) states that “the Foundation shall financially support projects implemented by natural and legal persons, which:

- promote the process of cultural renewal and artistic creativity and foster the diversity thereof
- foster the preservation and dissemination of cultural values and the availability thereof to the general public”

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

**References:**

- *Film News from Latvia*, Journal Published by the National Film Centre of Latvia, 2006
- *Public Report of the Year 2005*, National Film Centre, in Latvian, <http://www.km.gov.lv/UI/Main.asp?id=13210>

**Attachments:**

- Replies to the legal questionnaire by Inga Kacevska, attorney at law, Skudra & Udris, Latvia
- Regulations for Latvia