State aid and the audiovisual sector

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State aid and the audiovisual sector

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Foreword

From feature films to documentaries, audiovisual works contribute to the cultural fabric of Europe, enriching our shared understanding of who we are and where we come from.

Imagine a European filmmaker embarking on the exciting journey of creating a feature-length film. Beyond the artistry, however, lies another challenge that comes with bringing a vision to life: the practical reality of financing. Film and audiovisual projects in general are particularly cost-intensive due to the involvement of skilled labour, the need for high-quality equipment, location permits, and post-production processes, and the circulation of European films may be limited outside their country of origin or linguistic borders due to fragmentation of the market. For this reason, those involved in the planning process find it useful to keep an eye out for state aid schemes.

State aid allows European creators to craft works that are authentic, innovative, and reflective of local cultures, even when they do not promise immediate commercial success. The European Commission's Cinema Communication provides a framework for assessing this kind of aid while taking into account the very essence of audiovisual works.

Yet, the last reports from the European Audiovisual Observatory on the Cinema Communication date back to 2014 and 2018. Since then, significant changes to the state aid framework have taken place, justifying a renewed look at this subject.

This new report provides an insight into the state aid framework supporting the production of audiovisual works in the European Economic Area. By exploring the scope and forms of, as well as recent developments related to, state aid in this field, the report highlights how these support schemes contribute not only to the economic vitality of the sector but also to the promotion of cultural diversity across Europe. As a matter of fact, state aid is instrumental in helping fill the financing gaps.

More specifically, the report focuses on the legal framework applicable to state aid while providing concrete examples of state aid to support the creation and distribution of audiovisual works. It is complemented by an overview of certain societal issues that have been addressed in national state aid schemes concerning the production of audiovisual works.

Enjoy the read!

Strasbourg, June 2025

Maja Cappello

IRIS Coordinator

Head of the Department for Legal Information

European Audiovisual Observatory

Table of contents

Executive summary 9

1. Context and key concepts 11

1.1. Scope of the report 11

1.2. Promoting audiovisual works through state aid 11

1.3. Cultural diversity as a legal concept 13

1.4. Forms of state aid promoting audiovisual works 14

1.5. Key figures relating to public support for European film and audiovisual works 17

1.5.1. Volume of public support cannot be quantified 17

1.5.2. Public support forms the backbone of the European film production sector 18

1.5.3. Increasing importance of incentive schemes 18

1.5.4. Lion's share of public support goes to production 19

2. Legal framework of state aid benefitting audiovisual productions in the EEA 20

2.1. Compatibility assessment for the various state aid scenarios 20

2.2. Qualification as aid and exemptions 22

2.2.1. Qualification and nature of state aid for audiovisual productions 23

2.2.2. Notification thresholds and exemptions 25

2.3. Assessment of audiovisual aid under the Cinema Communication 29

2.4. Video games and the Cinema Communication 32

2.5. Complaint mechanism 32

3. Notified aid in the period 2020-2024 for audiovisual productions and video games under the Cinema Communication 34

3.1. Recent notified aid for audiovisual productions and video games under the Cinema Communication 34

3.1.1. Quantitative analysis of notified aid over the past four years 35

3.1.2. State aid objectives 38

3.2. Selected examples of state aid in film 40

3.2.1. France 40

3.2.2. Spain 41

4. Trends in approaches to new challenges regarding state aid for audiovisual works 43

4.1. Sustainability 43

4.2. Diversity and gender equality 44

4.3. Foreign artistic recognition 46

4.4. Innovation 46

4.5. Accessibility for people with visual or hearing impairments 47

5. Annex – Summarising tables 49

List of abbreviations 55

Figures

Figure 1. Production value chain 16
Figure 2. Estimated financing shares of European live-action films 2016 to 2021 18
Figure 3. Breakdown of net activity spend – national funds 2018-2022 19
Figure 4. Compatibility assessment of state aid 22
Figure 5. GBER evaluation of audiovisual aid 28
Figure 6. Cinema Communication evaluation of audiovisual aid 31
Figure 7. Complaint mechanism process 33
Figure 8. Approved aid from the European Commission under the Cinema Communication from 2020-2024 benefitting audiovisual productions 36
Figure 9. Aid approved by the European Commission under the Cinema Communication from 2020-2024 benefitting video games 38

Tables

Table 1. Support for cinema and audiovisual content 49
Table 2. Aid to attract foreign production companies to boost content creation 52
Table 3. Aid for video games 52

Executive summary

This report explores the concept of state aid, the legal framework governing it, and the specific ways in which aid is used to support audiovisual works. In the European Union (EU), state aid refers to any form of financial assistance provided by a member state to an entity or undertaking, which can distort competition and affect trade between EU countries. The Treaty on the Functioning of the European Union (TFEU) generally prohibits state aid unless it serves a broader public interest or can be justified by specific exceptions. The rules extend to the European Economic Area (EEA).

Member states must notify the European Commission about any planned aid measures, except in cases where such measures are exempt from notification requirements. The Commission's assessment is based on several criteria.

State aid schemes that promote culture must submit to specific rules, which reflect the cultural value of audiovisual works and their role in promoting European identity and diversity, while they also are economic products. The EU recognises the importance of supporting culturally significant audiovisual works that may not have strong commercial potential but contribute to the richness and diversity of European culture. To this end, the Cinema Communication provides a framework for evaluating aid for audiovisual works. The Communication explicitly addresses several forms that state aid can take as well as the various stages at which it can be provided, from development to promotion. It can support various forms of audiovisual works (even video games, as long as they qualify as cultural products). The increasing convergence of media sectors has led to a growing focus on multimedia projects that include elements of transmedia storytelling.

Chapter 1 provides an overview of state aid for audiovisual works in the European Economic Area (EEA). It discusses the scope and importance of public funding in promoting cultural diversity and supporting the creation of various audiovisual productions. The chapter outlines different forms of state aid, including grants, fiscal incentives, and other financial support mechanisms. It highlights recent trends in public support for the European film and audiovisual sectors.

This report also examines the legal framework governing state aid in the EEA, with a focus on the audiovisual industry. Chapter 2 highlights the core principle of the incompatibility of state aid with the internal market, which aims to prevent government interventions that distort competition and harm the internal market. Over time, the rules have become more detailed, and specific regulations apply to the cinema and audiovisual sectors. These include conditions for determining whether public support qualifies as state aid and the process for notifying the European Commission, along with industry-specific criteria to assess compatibility with the internal market.

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The chapter also outlines the process for assessing state aid regarding audiovisual works, starting with determining whether the public support qualifies as state aid under Article 107(1) TFEU. It explains the scenarios in which aid may be exempt from notification, such as *de minimis* aid (up to EUR 300 000) and block exemptions (such as those for audiovisual aid under the General Block Exemption Regulation, or GBER). For cases where the aid exceeds these thresholds, member states must notify the European Commission for evaluation. The Commission then assesses whether the aid is compatible with the internal market. It can approve the notified aid scheme, approve it with conditions, or reject it if it is deemed incompatible. If the aid is deemed unlawful due to lack of notification and incompatible with the internal market, the Commission can order the recovery of the aid from the beneficiaries.

Finally, the chapter details the conditions under which state aid can be exempted from notification, such as through the *de minimis* Regulation or under the GBER for audiovisual aid. The chapter concludes with a description of the complaint mechanism, whereby interested parties can challenge allegedly unlawful, and alleged misuse of, state aid through the European Commission, leading to a potential recovery decision if the aid is found to be incompatible with the internal market.

Chapter 3 presents an overview of the notified aid schemes between 2020 and 2024. This aid for audiovisual productions, distributed by national film funds, was assessed based on the Cinema Communication. The assessment highlights the fact that over 30 mechanisms were notified to the European Commission, with 12 countries regularly submitting notifications (Belgium, Denmark, France, Germany, Ireland, Italy, Malta, Poland, Slovenia, Spain and the United Kingdom). The aid primarily focused on film and audiovisual works, as well as support for video games. Production was the main target, with tax credits and direct grants the most common forms of support. The chapter outlines four key objectives in the granting of this aid: cultural preservation and promotion, economic support and competitiveness, innovation and creativity, and industry development. It also provides examples of successful films that benefited from these aid mechanisms, illustrating the practical impact of such support on the European audiovisual sector.

Finally, chapter 4 highlights the responsiveness of state aid rules to changing societal developments that affect the production of audiovisual works, addressing issues like environmental sustainability, diversity and gender equality, and social inclusion. In addition, state aid schemes increasingly support innovative projects, promoting the development of new forms of cultural expression. Some countries also reward films achieving foreign artistic recognition and are focusing on accessibility for people with visual or hearing impairments, showcasing a broader commitment to social and cultural values within the film industry.

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1. Context and key concepts

1.1. Scope of the report

The material scope of this report encompasses activities for which aid is provided within the meaning of the Communication from the European Commission on State aid for films and other audiovisual works (Cinema Communication),[1] which is a reference document relating to the subject of the report. The Cinema Communication refers to the concept of audiovisual works. This primarily includes cinema and television productions. Video games may also qualify as audiovisual works, but as they have characteristics other than those of films, "the rules designed for film production cannot apply automatically to games". However, based on a case-by-case assessment and "to the extent that the necessity of an aid scheme targeted at games which serve a cultural or educational purpose can be demonstrated, the Commission will apply the aid intensity criteria of [the Cinema] Communication by analogy".[2]

The territorial scope of this report covers the European Economic Area (EEA). The aforementioned Cinema Communication has been extended to all EEA states.[3] In this report, the expression "member states" refers, unless otherwise stated or the context otherwise requires, to the member states of the European Union (EU) as well as Iceland, Liechtenstein and Norway.

1.2. Promoting audiovisual works through state aid

State aid schemes in the field of audiovisual production provide filmmakers and producers with the financial support necessary to realise projects that may otherwise struggle to secure private investment. State aid schemes help support the creation of a broad range of films, animation, documentaries, TV programmes and other audiovisual works, and ensure, among other things, that regional cultures or various social issues are represented on screen. Therefore, these schemes contribute to the cultural diversity in Europe. This is primarily ensured by the Commission's assessment of the "cultural test", i.e. a verification mechanism that member states must put in place to ensure that an audiovisual support scheme fulfils the criteria of the definition of cultural activities, which is a condition for compatibility with Article 107(3)(d) TFEU.

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[1] "Communication from the Commission on State aid for films and other audiovisual works", OJEU C 332, 15.11.2013, pp. 1-11., Cabrera Blázquez F.J., Lepinard A., "The New Cinema Communication: All's Well that Ends Well?" in Nikoltchev S. (ed.), *The new Cinema Communication*, IRIS plus 2014-1, European Audiovisual Observatory, Strasbourg, 2014. Cabrera Blázquez F.J., "Notification obligations for state aid concerning audiovisual works in the EU", European Audiovisual Observatory, Strasbourg, 2018.

[2] Cinema Communication, paragraph 24.

[3] https://www.eftasurv.int/state-aid/state-aid-guidelines.

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With this in mind, it may be worth considering the thesis of a series of reports published from 2022 by the Swedish Film i Väst film fund, according to which public film funding is at a crossroads,[4] or even at a "confusing roundabout with many possible choices of exit and entry".[5]

These reports outline two linked phenomena that have dominated the public debate on film and contributed to the transformation process of the audiovisual sector's value chain.[6]

- The first is digitalisation, which has "made the production of film cheaper and more accessible" but at the same time has led to rapid growth in the number of released titles.[7]
- The second is the globalisation of the sector, described as a competition between streaming platforms for global and regional dominance, which has led them to increasingly produce, commission and acquire originals that are not limited to drama series but include documentaries and feature films.

In addition, these streaming platforms are set on the exclusive availability of content and strive for "high-end drama series" that share "the same ambition and production values as cinema film".[8] According to the 2022 report, this growth in production may contribute to a broader circulation of European film but risks hampering "the distinctive local character and the anchorage in the territory's stories, people, culture, temperament, and uniqueness, in favour of a generic approach".[9] However, the 2023 report notes: "Many feel that streaming giants offer greater artistic and creative freedom and control in the film field than 'old world' actors".[10] This could be due to a change in perception that has occurred in the meantime.

Finally, the 2023 report addresses the changing role of national film agencies, observing that there is a risk that support programmes may become less relevant.[11]

Regarding the dissemination of European works, the European Commission stated in its Cinema Communication that there was "little circulation of European audiovisual works outside their country of origin" due to the "fragmentation of the European audiovisual sector into national or even regional markets", which it considered "related to Europe's linguistic and cultural diversity".[12] As a consequence, the Cinema Communication spoke of the concept of commercially "difficult audiovisual works", i.e. works that have low

[4] Eskilsson T., "Public film funding at a crossroads", Film i Väst Analysis, Trollhättan, March 2022.
[5] Eskilsson T., "All that is solid melts into air, Public film funding at a crossroads II", Film i Väst Analysis, Trollhättan, May 2023, p. 8.
[6] Eskilsson T., "Public film funding at a crossroads", op. cit., p. 19, with elements relating to the historical background of the transformation process of the sector, in particular since the 2010s. See also Eskilsson T., "All that is solid melts into air, Public film funding at a crossroads II", p. 14.
[7] Eskilsson T., "Public film funding at a crossroads", op. cit., p. 20.
[8] Eskilsson T., "Public film funding at a crossroads", op. cit., p. 24. See also Eskilsson T., "All that is solid melts into air, Public film funding at a crossroads II", op. cit., p. 48.
[9] Eskilsson T., "Public film funding at a crossroads", op. cit., p. 24.
[10] Eskilsson T., "All that is solid melts into air, Public film funding at a crossroads II", op. cit., p. 72.
[11] Eskilsson T., "All that is solid melts into air, Public film funding at a crossroads II", op. cit., pp. 14, 112.
[12] Cinema Communication, paragraphs 2 and 3. The Cinema Communication only sets out the criteria for the compatibility of state aid and does not grant aid itself.

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commercial potential due to an expected limited audience while requiring high investment costs, such as films whose sole original version is in a language of a member state with a limited territory, population or language area, low budget and short films, films by first-time and second-time directors, or documentaries.[13] In comparison, the 2023 Film i Väst report, stressing the new role of what it calls the "streaming giants", posits that the latter "supply content to the inhabitants of most European countries, but they only commission local films and series in some parts of Europe".[14] In the latter only they have become "central commissioners of local content".[15] The 2025 report infers from its analysis of the current situation that "The balance between traditional cultural policy-based film financing and economic policy funding has shifted relatively sharply in favour of the latter".[16]

All this illustrates the important role of audiovisual works in shaping European identities, which has already been acknowledged by the Cinema Communication.

1.3. Cultural diversity as a legal concept

Audiovisual works are both economic and cultural goods[17] and reflect the "diversity and richness of European culture".[18]

The EU and its member states are parties to the UNESCO Convention on the protection and the promotion of the diversity of cultural expressions, adopted in Paris on 20 October 2005. Article 4(1) of this Convention sets out a legal definition of the concept of cultural diversity.

> *"Cultural diversity" refers to the manifold ways in which the cultures of groups and societies find expression. These expressions are passed on within and among groups and societies. Cultural diversity is made manifest not only through the varied ways in which the cultural heritage of humanity is expressed, augmented and transmitted through the variety of cultural expressions, but also through diverse modes of artistic creation, production, dissemination, distribution and enjoyment, whatever the means and technologies used.*

As parties to the Convention, the EU and its member states are committed to integrating the cultural dimension in their policies. Against this background, it is noteworthy that:

[13] Cinema Communication, paragraph 52.2 and footnote 26. See also Article 2(140) GBER.
[14] Eskilsson T., "All that is solid melts into air, Public film funding at a crossroads II", op. cit., p. 72.
[15] Eskilsson T., "The answers, Future film and audiovisual policies – Revolution, reforms or just let it be?, Public Film Funding at a Crossroads III", Film i Väst Analysis, Trollhättan, May 2025, p. 181 (in Appendix 3 summarising the first two reports).
[16] Eskilsson T., "The answers, Future film and audiovisual policies – Revolution, reforms or just let it be?, Public Film Funding at a Crossroads III", op. cit., p. 108.
[17] Cinema Communication, paragraph 1.
[18] Cinema Communication, paragraph 4.

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The Union shall take cultural aspects into account in its action under other provisions of the Treaties, in particular in order to respect and to promote the diversity of its cultures.[19]

In addition, the EU shall encourage cooperation between member states in the field of the audiovisual sector, according to Article 167(2) TFEU.

Against this background, it is no surprise that film funds can be found at the national and international level.[20]

1.4. Forms of state aid promoting audiovisual works

Currently, various state aid schemes are available in the European audiovisual sector. State aid takes multiple forms, and this observation can be extended to aid schemes that aim at promoting audiovisual works.[21] Nevertheless, the rules of the Cinema Communication cover all kinds of state aid to support audiovisual works regardless of the type of aid, the type of audiovisual work or the stage of the creative process.

a) Type of aid

State aid to produce films and other audiovisual works may be awarded in the following forms:

- Grants awarded to selected audiovisual content,
- Fiscal incentives, and
- Other types of financial support (reimbursable loans, repayable advances, guarantees, etc.).[22]

According to the Cinema Communication, the first two mechanisms cited are the main ones.[23] Furthermore, aid schemes can be applied automatically, provided certain criteria for the film's eligibility for aid are fulfilled, or selectively, when awarded by a selection panel. For instance, a tax reduction applies automatically to films that fulfil the eligibility criteria.

Grants awarded to selected film productions are often determined as a percentage of the production budget of the aid beneficiary. Typically, these grants are provided through national or regional legislation, allocating funds to be awarded by national or regional film

[19] Article 167(4) TFEU.

[20] See the case studies Nordisk Film and TV Fond (NFTVF) and Ibermedia (international funds), the German-French Mini-Treaty (bi-national), and the Cross-border co-development scheme of the *Greater Region*, in "Mapping of film and audiovisual public funding criteria in the EU", European Audiovisual Observatory, Strasbourg, 2019, point 5.5, pp. 85-91.

[21] Annex 2 of the State aid Cases Search user's guide, which is available on the European Commission's website, enumerates aid instruments that are utilised for the classification of cases and can be searched for in the database "Competition Case Search Tool": "Debt write-off, direct grant, guarantee, interest subsidy, provision of risk capital, reduction of social security contributions, reimbursable grant, repayable advances, soft loan, tax allowance, tax base reduction, tax rate reduction, tax deferment, other forms of tax advantage, other forms of equity intervention and other."

[22] Cinema Communication, paragraphs 8, 15 and 33.

[23] Cinema Communication, paragraph 33.

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agencies. However, alternative models also exist. For instance, in some member states, grants are awarded by a ministry (ministry of culture, ministry of economy, etc.).

Fiscal incentives, the second main mechanism applied by member states awarding aid for film production, represents aid awarded as a percentage of the expenditure on production activity undertaken in the granting member state (e.g. a tax incentive). Such fiscal incentives schemes have been increasingly implemented in Europe over the last years.[24]

For example, Ireland's Film Tax relief support scheme, based on Section 481 of the Taxes Consolidation Act (1997), offers a reduction of the tax due in Ireland that may be claimed against the producing company's corporation tax liabilities. The tax reduction concerns the production of so-called "qualifying films", i.e. films in respect of which the Minister has given a certificate that specifies the conditions that the Minister may consider proper ("having regard, in particular, to any contribution which the production of the film is expected to make to either or both the development of the film industry in the State and the promotion and expression of Irish culture"). The relief is granted by the Revenue Commissioners and the Department of Tourism, Culture, Arts, Gaeltacht, Sports and Media.[25]

Member states can opt for a **mixed approach**, i.e. combining multiple mechanisms. Poland offers an illustration of a mix of aid instruments through its "Audiovisual Fund" scheme (including interest-free loans and guarantees), approved by the European Commission in 2024.[26] This new scheme, which concerns the co-financing of projects in the field of cinematography, is based on the Act of 30 June 2005 on Cinematography and related secondary measures.[27] The Polish Film Institute awards direct grants, interest-free loans and guarantees. It uses its resources to support film project preparation, production, distribution and dissemination. The Polish Film Institute, like most film funds,[28] is a public entity whose revenues are under the control of public authorities, i.e. state resources.

State aid can cover both direct and indirect advantage granted to an undertaking. The roots of the distinction between both concepts can be traced back to a Court of Justice (of the European Communities) judgment of 1994.[29]

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[24] Cinema Communication, paragraph 15.

[25] European Commission, SA. 110921 (2023/N) – Ireland, Irish film tax relief support scheme – Modification of SA. 53399, 13 March 2024, C(2024) 1664 final.

[26] European Commission, SA. 108170 (2023/N) – Poland, Polish Audiovisual Fund, 7 May 2024, C(2024) 3159 final.

[27] Regulation of the Minister of Culture of 27 October 2005 on granting subsidies by the Polish Film Institute to undertakings in the field of cinematography; Ordinance of the Minister of Culture of 2 September 2005 on the statute of the Polish Film Institute.

[28] There are a few exceptions, e.g. the UK lottery.

[29] Judgment of the Court of Justice of 15 March 1994, *Banco Exterior de España*, C-387/92, ECLI:EU:C:1994:100, paragraphs 13 and 14: "13. As the Court has already held in the context of the ECSC Treaty (judgment in Case 30/59 De Gezamenlijke Steenkolenmijnen in Limburg v High Authority [1961] ECR 1), the concept of aid is thus wider than that of a subsidy because it embraces not only positive benefits, such as subsidies themselves, but also interventions which, in various forms, mitigate the charges which are normally included in the budget of an undertaking and which, without therefore being subsidies in the strict meaning of the word, are similar in character and have the same effect.

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The criterion of distinction is whether those advantaged are different from those to which state resources are directly transferred. For example, a subsidy granted by a member state to selected undertakings can be considered a direct advantage.

"A measure can also constitute both a direct advantage to the recipient undertaking and an indirect advantage to other undertakings, for instance, undertakings operating on subsequent levels of activity."[30]

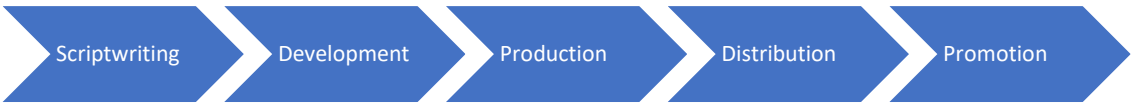
b) Type of audiovisual work

State aid promoting audiovisual works can cover TV programmes, short or feature-length (animated, documentary or fictional) films, and certain video games that qualify as audiovisual works or cultural products. TV series, video clips, user-generated content, interactive works, and VR can also be eligible if they meet the criteria of the Cinema Communication.

c) Stage of the creative process of audiovisual works, including films

As is the case with the film creation process, state aid to support audiovisual works can relate to every stage of the production value chain.[31] The main stages are scriptwriting, development, production, distribution, and promotion of audiovisual works.[32]

Figure 1. Production value chain



The rules of the Cinema Communication cover the creation of films "from story concept to delivery to the audience".[33] This includes the film production component of "transmedia storytelling" projects.[34]

14. "It follows that a measure by which the public authorities grant to certain undertakings a tax exemption which, although not involving a transfer of State resources, places the persons to whom the tax exemption applies in a more favourable financial situation than other taxpayers constitutes State aid within the meaning of Article 92(1) of the Treaty."

[30] https://enterprise.gov.ie/en/faqs/what-is-indirect-state-aid-.html. 2016 Commission Notice on the notion of State aid as referred to in Article 107(1) of the Treaty on the Functioning of the European Union, point 115.

[31] Cinema Communication, paragraphs 3 to 5. See also Article 54(1) GBER.

[32] Cinema Communication, paragraph 21.

[33] Cinema Communication, paragraph 21.

[34] "Transmedia storytelling (also known as multi-platform storytelling or cross-media storytelling) is the technique of telling stories across multiple platforms and formats using digital technologies, like films and games." (Cinema Communication, paragraph 23).

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1.5. Key figures relating to public support for European film and audiovisual works[35]

1.5.1. Volume of public support cannot be quantified

As mentioned above state aid – or public support in more general terms – supporting the European film and audiovisual sectors can take different forms. The most prominent ones are direct public funding, production incentives and direct investment obligations. Given that these different forms of public support i) are administered by a variety of different bodies (ranging from independent film funds to ministries of finance and local government), ii) can be provided at national, regional or local level, and iii) are subject to different reporting and confidentiality obligations, it is effectively impossible to quantify the total amounts of public support provided by European countries to their film and audiovisual sectors.

In 2014, the European Audiovisual Observatory estimated the total amount of public support provided by film agencies at EUR 2.4 billion.[36] This includes all forms of public support[37] provided by film funds at national, regional, local and supra-national level. A sample analysis of national and sub-national film funds in 2021 suggests that the cumulative amount of public support provided by film agencies may have grown by around 30% since 2014.

Data on production incentives (i.e. cash or tax rebates, tax shelters, tax credits) provided to European as well as international productions in Europe are not published systematically and are often subject to confidentiality obligations linked to their fiscal character. One way of arriving at a very rough estimate of the volumes made available in these schemes is to look at the annual budgets indicated in the European Commission's database on tax incentive schemes.[38] In 2024, the Observatory identified 34 such incentive schemes in the EU. Adding the volume of incentives schemes provided in the UK and Norway, the total cumulative budget of incentive schemes for the film and audiovisual sector available within the EU, the UK and Norway amounted to about EUR 4.3 billion in 2024.

Finally, the financial volume of investments in the film and audiovisual industry linked to investment obligations can currently not be measured at all at a pan-European level.

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[35] This section is mainly based on the most recent reports on market trends in audiovisual production, audiovisual media services in Europe and, in particularl, on direct public film funding in Europe, by the Department for Market Information of the European Audiovisual Observatory. Special thanks to Martin Kanzler for having authored this section.

[36] https://rm.coe.int/public-financing-for-film-and-television-content-the-state-of-soft-mon/16808e46df.

[37] Including production incentive support if administered by film agencies.

[38] Competition case search.

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1.5.2. Public support forms the backbone of the European film production sector

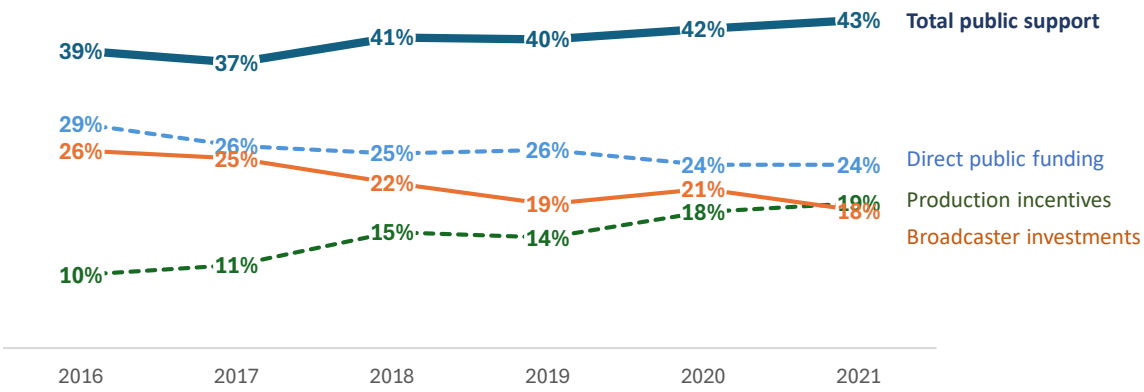
While no comprehensive picture of public support to the industry can be gained without understanding the volume and impact of all its different main forms, analysis of financing structures of European live-action fiction films suggests that all three forms of public support represent crucial elements in an overall complex financing system and cumulatively form the backbone of the European film production sector. Due to a lack of data, the role of public support for the audiovisual sector cannot be quantified in a comparable manner.

Public support certainly plays a major role for is certainly true for theatrical film production, where public support, i.e. direct public funding and incentive support, accounted for an estimated 43% of the cumulative financing volume of European live-action fiction films theatrically released in 2022.[39] Broadcaster investments, which may be linked – at least partially – to investment obligations in selected countries, contributed 18% to the total financing volume, with the lion's share coming from public service broadcasters.

1.5.3. Increasing importance of incentive schemes

As illustrated in Figure 2, the share of production incentives in financing of European fiction films increased from 10% in 2016 to 19% in 2021, while the share of direct public funding decreased from 29% to 24%. The cumulative share of public support increased from 39% to 43%, as the share of broadcaster investments decreased from 26% to 18%.

Figure 2. Estimated financing shares of European live-action films 2016 to 2021



[39] Kanzler M., *Fiction film financing in Europe: A sample analysis of films released in 2022*, European Audiovisual Observatory, Strasbourg, 2025

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Source: European Audiovisual Observatory

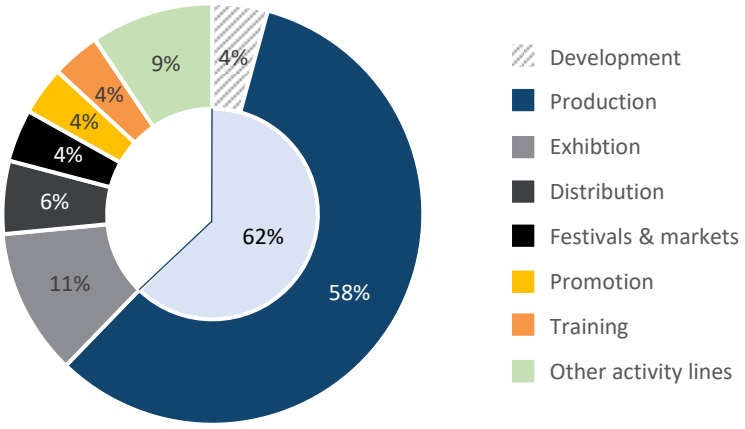
This trend is consistent with insights gained from a sample analysis of national film fund income and activity spend between 2018 and 2022,[40] which shows that the amount of direct public funding supporting the creation of works remained stable while the amount of incentive support dedicated to the development and production of films and audiovisual works provided by eight of the sample funds tripled over the five years.

1.5.4. Lion's share of public support goes to production

In line with the initial core purpose of most film funds, most of their funding has traditionally been allocated to supporting the creation of works. Between 2018 and 2022, 62% of direct public funding spend of national funds went to the production (58%) and development (4%) of film and other audiovisual works. In the case of sub-national funds, which generally have a narrower mandate compared to national funds, the share of support for the creation of works was significantly higher: 82% of their cumulative net activity spend (73% to production, 8% to development).

Figure 3. Breakdown of net activity spend – national funds 2018-2022

Estimated based on a sample of 27 national funds.



Source: European Audiovisual Observatory

While there are no data available on the type of activities benefitting from incentive support and investment obligations, it seems reasonable to assume that the vast majority of these forms of public support also go to production of film and audiovisual works.

[40] https://www.obs.coe.int/en/web/observatoire/industry/public-funding#.

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2. Legal framework of state aid benefitting audiovisual productions in the EEA

This Chapter introduces the legal framework of state aid in the EEA; it looks into the qualification and assessment of state aid for audiovisual productions and video games.

2.1. Compatibility assessment for the various state aid scenarios

The notion of state aid is central to competition law as it plays a crucial role in the functioning of the EEA market. State aid regulation ensures a level playing field and fair competition among member states and the undertakings they host.

Before presenting the state aid rules at the European Union level, understanding the various scenarios for assessing the compatibility of the aid with the internal market is essential.

The European Commission has the authority to assess whether existing or proposed aid complies with the EU's rules. When a member state plans to grant state aid, it must notify the Commission, unless the aid falls under a category that is exempted from the notification requirement by the EU rules.

First, the assessment process begins with determining whether the public support fulfils the criteria of state aid as defined under Article 107(1) of the TFEU. If the criteria are not met, the support is not state aid within the meaning of the TFEU. If the support passes the qualification test, the country shall present and notify the aid to the European Commission (Article 108(3) TFEU).

The EEA States can implement aid measures as specified in the EEA Agreement (Articles 61 to 64, plus 59 and 49), setting out the legal framework on state aid. The EFTA Surveillance Authority (ESA) monitors the state aid granted by Iceland, Liechtenstein and Norway.[41]

Under certain thresholds, there is no requirement to notify the aid to the European Commission. The first scenario involves *de minimis* aid,[42] where the support does not exceed EUR 300 000 per undertaking over a period of three years. The second scenario covers block-exempted aid for the cinema/audiovisual industry as long as no single aid measure

[41] The EFTA surveillance authority (ESA) monitors compliance with European Economic Area rules in Iceland, Liechtenstein and Norway.

[42] Commission Regulation (EU) 2023/2831 of 13 December 2023 on the application of Articles 107 and 108 of the TFEU to *de minimis* aid.

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exceeds EUR 55 million (per scheme per year) (Article 4(1)(aa) of the General Block Exemption Regulation (GBER)).[43]

When the aid measure exceeds those thresholds, member states must notify the European Commission (Article 108(3) TFEU), which assesses the compatibility of the aid with the internal market using industry-specific guidance (Articles 107(3)(d) TFEU and the Cinema Communication).[44]

Once the Commission receives a notification, it evaluates the measure to assess its compatibility with the internal market.[45] The Commission then either approves the aid measure, approves it with conditions, or rejects it if it is deemed incompatible with the internal market. In cases where the Commission finds that a new aid measure contravenes Article 108(3) TFEU ("unlawful aid") in addition to incompatibility with the internal market, the Commission can order the member state to recover the aid from the beneficiary.

[43] Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (consolidated version).
[44] Communication from the Commission on state aid for films and other audiovisual works of 15 November 2013.
[45] The European Commission's decisions are split between 1) the qualification as "state aid" and 2) the compatibility assessment of the aid regarding the internal market.

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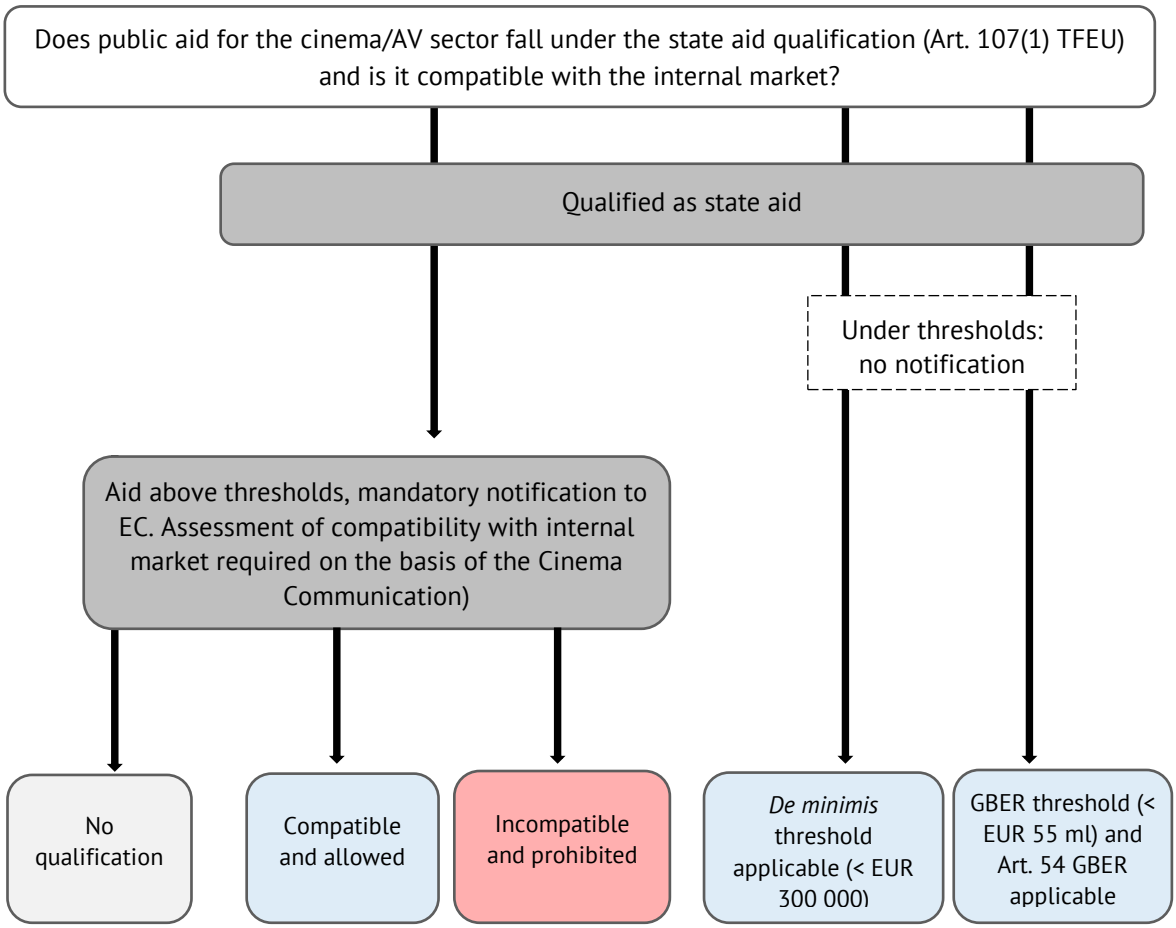
Figure 4. Compatibility assessment of state aid



Source: European Audiovisual Observatory

2.2. Qualification as aid and exemptions

Aid measures for audiovisual productions must meet four criteria to fall under the umbrella of state aid. If the measure qualifies as aid, it shall be notified to the European Commission, unless it falls under exemptions thresholds (*de minimis* or GBER).

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2.2.1. Qualification and nature of state aid for audiovisual productions[46]

2.2.1.1. Qualification of the measure as state aid

A member state is free to implement an aid measure for audiovisual productions without notification to the European Commission provided the aid falls under the *de minimis* or GBER thresholds.

Article 107(1) TFEU prohibits the favouring, via direct and indirect aid granted by or through a member state, of a selected undertaking (or group of undertakings) which distort (or may distort) competition within the internal market.

Before assessing the market compatibility of the aid, the European Commission first focuses on determining whether the measure about which it was notified constitutes state aid. In order to be qualified as state aid, the measures must meet the following criteria:[47]

- Direct intervention by the state or indirect intervention through the state. The intervention finds its origin in a national/regional legislation or a governmental decree for instance,
- This state intervention gives a selective advantage to the recipient compared to the competitors within the market of reference,
- Distortion of competition,
- Effect on trade between member states.

The following case illustrates the qualification of state aid for audiovisual productions in the European Commission's regular process.[48]

Case study: SA. 37479 FWB-RTBF Fund for Belgian series
The French Community of Belgium (FWB) and Radio-Télévision of the French Community (RTBF) are setting up an FWB-RTBF Fund for Belgian series. The Fund is set up following the adoption of RTBF's management contract for 2013-2017. Both the FWB and the RTBF will financially participate in financing the Fund. The Fund will finance the writing, development and production of series. **State intervention**: The management contract established between FWB and RTBF created the Fund, which is financed thanks to direct funding from the French Community of Belgium and its public service broadcaster.

[46] Based on the European Commission summary of decisions on state aid for audiovisual undertakings of 16 September 2024 and additional desk research.
[47] State Aid Overview, European Commission website.
[48] European Commission, SA. 28599, Commission Decision on the state Aid implemented by Spain for the deployment of digital terrestrial television in remote and less urbanised areas (outside Castilla-La Mancha), 10 June 2021, C(2021) 4048 final.

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Advantage for selected recipients: Only selected projects can benefit from the Fund. The Fund will provide support, giving beneficiaries an advantage compared to others. This means the beneficiaries can strengthen their position in relation to their competitors.

Distortion of competition: The aid being selective, the beneficiaries will obtain an advantage their competitors do not have. It is therefore likely that the measure will distort competition.

Effect on trade: Series can travel between member states which are de facto affected by the measure.

Article 108(3) TFEU requires member states to notify the European Commission of plans to grant aid. Following this notification, the European Commission goes through the process of qualification of "aid" under the meaning of Article 107(1) TFEU and then assesses the compatibility of the aid with the internal market. It is only after the Commission's assessment that the member state can put its aid into effect. The Commission can decide that:

- There is no aid in the meaning of the EU rules (based on the four criteria mentioned above) and the measure can be implemented,
- There is aid in the meaning of the EU rules, and it is compatible with the internal market because the positive effects of the measure outweigh its negative effects,
- There is aid in the meaning of the EU rules, and it is incompatible with the internal market as the negative effects outweigh the positive ones.

With the exception of cases of aid for audiovisual productions that fall under the *de minimis* or GBER thresholds, a member state notifies the European Commission of its aid measure, and must await the Commission's clearance to put the proposed measure into effect (standstill obligation) (Article 108(3) TFEU and Article 3 of the Procedural Regulation for state aid).[49]

! Aid is unlawful when it qualifies as state aid, could not be exempted, and was not notified to the European Commission.[50] If a member state puts its measure into effect prior to the Commission's assessment (e.g. prior to notification), the Commission will require the member state to recover the aid from the beneficiary (recovery decision) if the assessment concludes that the aid measure is incompatible with the internal market.[51]

[49] "Procedural Regulation for state aid," Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union, 13 July 2015.
[50] Article 1(f), Procedural Regulation for state aid: "'Unlawful aid'" means new aid put into effect in contravention of Article 108(3) TFEU".
[51] Communication from the Commission – Commission Notice on the recovery of unlawful and incompatible state aid, 23 July 2019, and Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (codification).

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2.2.2. Notification thresholds and exemptions

While state aid within the meaning of Article 107(1) TFEU is to be notified to the European Commission (Article 108(3) TFEU), there are categories of aid exempted from this obligation:

- *de minimis* aid,
- aid covered by a block exemption; block exemptions find their origin in Articles 107(2) or (3) TFEU.

2.2.2.1. De minimis aid

Article 3 of the *de minimis* aid Regulation stipulates that aid not exceeding a total amount of EUR 300 000 per single undertaking over any period of three years does not qualify as state aid under Article 107(1). Therefore, such aid is exempt from the notification requirement of Article 108(3).[52]

Prior to this rule, the *de minimis* threshold was set at EUR 200 000. The increase to EUR 300 000 was implemented in 2023 after a revision of the *de minimis* Regulation. This new threshold of EUR 300 000 is applicable since the revision and it entered into force on 1 January 2024.[53]

France, meanwhile, has introduced the "author plan" as illustrated by a 2023 instance of state aid benefitting from the *de minimis* exemption.[54] Authors can benefit from selective financial aid to encourage the conditions in which they create new cinematographic and audiovisual works (Articles 441-441-6 of the CNC Code).

2.2.2.2. The General Block Exemption Regulation

Certain types of audiovisual aid can be compatible with the internal market. Article 107(3)(d) TFEU allows for specific types of aid:

> *(3) The following may be compatible with the internal market: (d) aid to promote culture and heritage conservation where such aid does not affect trading conditions and competition in the Union to an extent that is contrary to the common interest.*

The Commission's General Block Exemption Regulation (GBER) for state aid details this exemption. It covers aids considered less likely to distort competition in the internal market, including support for the audiovisual sector. Article 3 GBER declares some aid schemes and

[52] Commission Regulation (EU) 2023/2831 of 13 December 2023 on the application of Articles 107 and 108 of the TFEU to de minimis aid.
[53] European Commission, "European Commission adopts new general rules for small amounts of State aid and for services of general economic interest", Press release, IP/23/6567, 13 December 2023.
[54] Point 66, French list of national aid schemes in 2023 subject to European *de minimis* rules.

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individual aids compatible with the internal market provided the aid fulfils both general conditions and specific industry-related criteria established in the GBER.[55]

The GBER therefore allows member states to implement aid measures without prior notification to the European Commission. Since the State Aid Modernisation (SAM) in 2014 (which included the revision of the GBER),[56] countries are responsible for assessing their compatibility of their aid measures with the GBER, eliminating the need for Commission clearance.[57] The member states must conduct *ex ante* control of their aid measures before implementation to ensure compliance with the GBER.

The GBER was recently revised to foster green and digital transitions, especially regarding exemptions for energy-related and environmental aid.[58] Additionally, Article 9(1) of the GBER was revised and now ensures more transparency with regard to member state aid measures: each individual aid measure exceeding EUR 100 000 must be publicly disclosed in a transparency register.[59]

Using the GBER, the EEA states can implement aid measures by submitting information to the EFTA Surveillance Authority (ESA)[60] via the GBER information sheet, specifically drafted for Iceland, Norway and Liechtenstein.[61]

What are the general and audiovisual conditions an aid measure must fulfil if it is to be implemented without prior notification?

One of the most important general conditions an aid measure must fulfil in order to fall under the GBER exemption is that it must not exceed a specific threshold (Article 4 GBER).

Aid schemes for audiovisual works exceeding EUR 55 million per year cannot benefit from the GBER (Article 4(1)(aa)).

The Commission has established the audiovisual-related conditions aid must fulfill in order to qualify for an exemption as per Article 54 GBER:

- Fall outside the exclusions and restrictions scenarios,
- Correspond to eligible aid as per the GBER (type of activity and form of support),

[55] Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (consolidated version).
[56] Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty.
[57] European Commission, "State aid: Commission exempts more aid measures from prior notification," press release, 21 May 2014.
[58] Commission Regulation (EU) 2023/1315 of 23 June 2023 amending Regulation (EU) No 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty and Regulation (EU) 2022/2473 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty.
[59] Commission Regulation (EU) 2023/1315 of 23 June 2023 amending Regulation (EU) No 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the TFEU.
[60] The EFTA surveillance authority (ESA) monitors compliance with European Economic Area rules in Iceland, Liechtenstein and Norway.
[61] Template, Information communicated by the EFTA States regarding State aid granted under the Act referred to in point 1j of Annex XV of the EEA Agreement (Commission Regulation (EU) No 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty).

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- Satisfy the cultural product requirement,
- Satisfy the eligible-costs requirement
- Satisfy the aid-intensity requirement
- Satisfy extra requirements in case of territoriality obligation.

Exclusion and restriction scenarios

First, member states cannot reserve aid for specific production activities nor individual parts of the production value chain. In addition, film studio infrastructure is ineligible for this type of aid. Finally, the aid must not discriminate based on national status (citizenship, or country of establishment of the undertaking).

Eligible aid types

Member states can provide aid across the entire audiovisual ecosystem (script-writing, development, production, distribution and promotion). These aid measures can take the form of production aid, pre-production aid or distribution aid.

Cultural product requirement

An important requirement is that related to the cultural product designation. Member states must establish processes to verify that the project to which the aid is to be directed is cultural according to the state's own national criteria. Such verification can occur via expert jury selection or by checking the project against a predetermined list of cultural criteria.

Eligible cost

Article 54 GBER defines eligible costs for each audiovisual aid category. Production aid covers overall production costs, including accessibility improvements. Pre-production aid covers script-writing and development costs. Distribution aid covers distribution and promotion expenses.

Aid intensity

The aid intensity for the production of audiovisual works shall not exceed 50% of the eligible costs (Art. 54(6) GBER).[62] The aid intensity for pre-production shall not exceed 100% of the eligible costs.[63] The aid intensity for distribution shall be the same as the aid intensity for production (Art. 54(8) GBER)).

Extra requirements: territorial spending obligations

In case a member state wishes to add a territoriality condition to the aid it provides, maximum territorial expenditure must not exceed 80% of the overall production budget, with a maximum level of local production activity at 50% of the overall production budget. Member states can choose between two territorial spending approaches: one requiring up to 160% of the aid to be spent within the local territory, or one calculating the aid as a percentage of the local production activity (e.g. tax incentive).

[62] It may be increased to 60% of the eligible costs for cross-border productions funded by more than one member state and involving producers from more than one member state, and to 100% of the eligible costs for difficult audiovisual works and co-productions involving countries from the Development Assistance Committee (DAC).
[63] If the resulting script or project is made into an audiovisual work such as a film, the pre-production costs shall be incorporated in the overall budget and taken into account when calculating the aid intensity.

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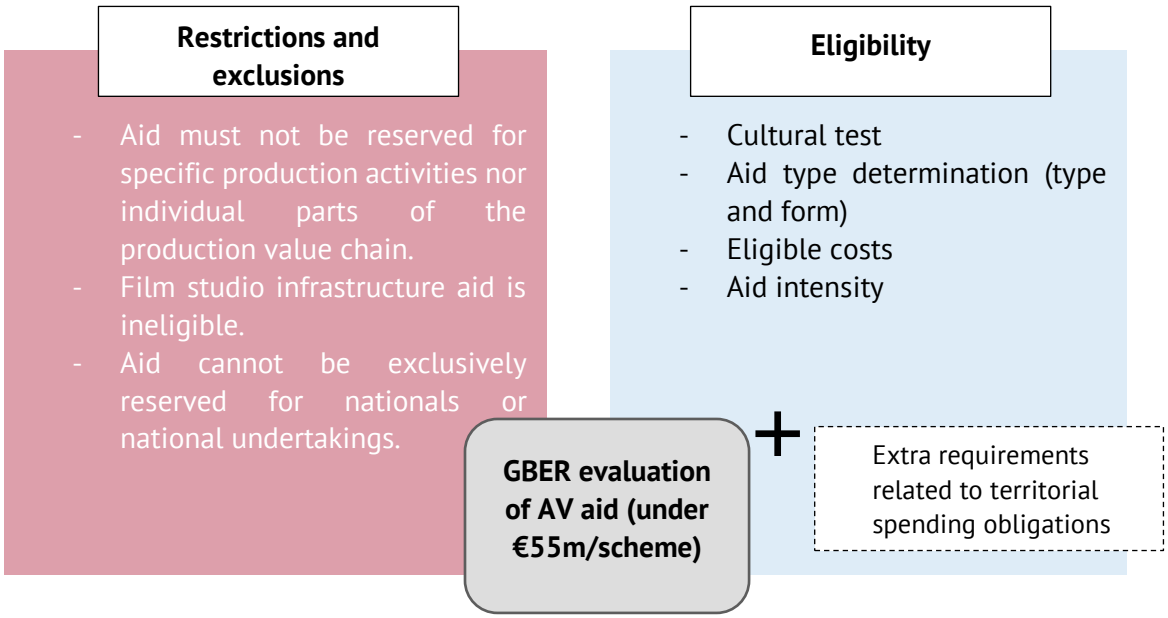
Figure 5. GBER evaluation of audiovisual aid



Source: European Audiovisual Observatory

! When the member state evaluates on its own whether its mechanism falls under the scope of the audiovisual aid exemption (Article 54 GBER), the aid can still be found unlawful later by the European Commission, if the specific conditions of the GBER are found to have been not fulfilled. The European Commission may adopt a decision stating that all or some of the future aid measures adopted by the member state concerned, which would otherwise fulfil the requirements of the Regulation, are to be notified to the Commission (Article 10 GBER). Following such a decision, the member state must present it's a measure or measures to the Commission, which assesses the compatibility of the aid with the internal market.

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In practice

A member state does not have to notify the European Commission when planning aid benefitting audiovisual productions if:

- the amount does not exceed EUR 55 million per year (per scheme)
- exclusions/restrictions do not apply,
- the aid benefits script-writing, development, production, distribution or promotion and takes the form of production aid, pre-production aid or distribution aid,
- the aid respects the cultural product requirement,
- the aid covers eligible costs.
- The intensity of the aid shall not exceed 50% of the eligible costs (with variations when the aid is related to cross-border production or pre-production for instance),
- The aid shall respect additional requirements in case of applicability of the territoriality obligation).

2.3. Assessment of audiovisual aid under the Cinema Communication

Article 108(3) TFEU requires member states to notify the European Commission of plans to grant aid. Following this notification, the European Commission determines whether or not the aid qualifies under the meaning of Article 107(1) TFEU and then assesses the compatibility of the aid with the internal market.

When the state aid for audiovisual productions falls outside the threshold of the block exemption for aid measures for audiovisual works (EUR 55 million per scheme per year) or of the *de minimis* threshold (EUR 300 000 per single company over any period of three years), the member state must notify the European Commission and wait for the Commission's evaluation before implementing the measure (Article 108(3) TFEU). The Commission then assesses the aid measure's compatibility with the internal market using the Cinema Communication criteria.

The EFTA surveillance authority, ESA, has adopted the "2014 Film and Audiovisual Guidelines", which correspond to the Cinema Communication from the European Commission. The guidelines are binding on ESA member states.[64] The European Commission conducts a two-phase assessment:

- general legality of the aid,

[64] ESA 2014 Film and Audiovisual Guidelines, 26 March 2014.

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- specific assessment.

General legality of the aid:

During the first phase of the assessment, the Commission ensures the aid does not contain clauses contrary to the TFEU principles (free movement of goods and citizens, movement of workers, freedom of establishment, freedom to provide services and freedom of movement of capital). The Commission also ensures the aid is not exclusively designed for nationals or national undertakings.

Specific assessment of the aid:

During this second phase, the Commission conducts a detailed evaluation of the proposed aid. This evaluation is based on Article 54 GBER criteria outlined in the previous section of this report. Additionally, the Commission applies further criteria as detailed in the Cinema Communication:[65]

- [*GBER, Article 54, and Cinema Communication, Section 5]* Eligible: script-writing, development, production, distribution and promotion. The aid must not be directed in a concentrated manner at specific production activities or value chain segments.
- [*GBER, Article 54, and Cinema Communication, Section 5*] Passing of the cultural product requirement: The Commission verifies that the member state has set up a strong cultural selection mechanism or a comprehensive cultural profile. The member state ensures that the content of the production that is to receive the aid is cultural according to its own national criteria. Linguistic diversity can play a role in this evaluation too.
- [*GBER, Article 54, and Cinema Communication, Section 5*] Aid intensity: The aid intensity must in principle be limited to 50 % of the production budget. Here too the intensity may rise to 60% in case of co-productions involving more than one member state.
- [*Cinema Communication, Section 5 Additional criterion*] Transparency is also a key principle in the assessment process. The Commission requires public disclosure of aid details on a single website, or on a single website retrieving information from several websites (aid details, including scheme specifics, beneficiary information, project characteristics, aid amounts, and intensity levels). This information must remain publicly accessible for a minimum of 10 years after the decision on whether or not the aid can be awarded.
- [*Cinema Communication, Section 5,* O*ptional and favourable criteria*] The Commission welcomes aid mechanisms which encourage the preservation of cultural heritage

[65] In addition to these five criteria, there are specific criteria applicable to certain scenarios (quote from the Cinema Communication, paragraph 52:
"52. (3) In principle, there is no limit for aid to scriptwriting or development. However, if the resulting script or project is ultimately made into a film, the costs of scriptwriting and development are subsequently included in the production budget and taken into account for calculating the maximum aid intensity for the audiovisual work as set out in sub-paragraph 2 above.
(4) The costs of distributing and promoting audiovisual works which are eligible for production support may be supported with the same aid intensity as they were or could have been for their production."

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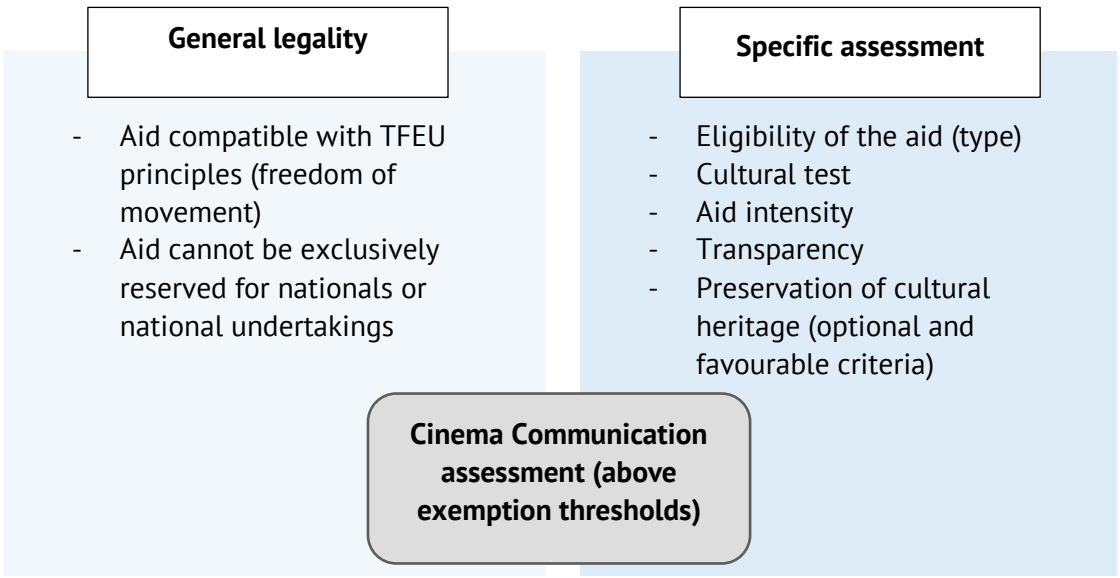
by promoting the channelling of audiovisual content that has benefitted form aid into designated heritage institutions in agreement with the rightsholders.

Figure 6. Cinema Communication evaluation of audiovisual aid



Source: European Audiovisual Observatory

In practice

A member state must notify the European Commission when planning aid for audiovisual productions in case the *de minimis* and the GBER block exemption for audiovisual works are not applicable.

The Commission conducts a two-phase compatibility assessment using the Cinema Communication:

- General legality of the aid (the aid is compatible with freedom of movement and the aid is not reserved for specific citizens or companies established in the member state notifying the aid),
- The aid benefits script-writing, development, production, distribution or promotion and takes the form of production aid, pre-production aid or distribution aid),
- The aid respects the cultural product requirement,
- The intensity of the aid does not exceed 50% of the production budget (with variations when the aid is related to cross-border production or difficult audiovisual works),
- The member state must ensure public disclosure of aid details.

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2.4. Video games and the Cinema Communication[66]

In practice, video games can benefit from *de minimis* aid provided the project for which the aid is designated does not exceed the EUR 300 000 threshold. Unlike audiovisual productions, video games do not benefit from a general block exemption under the GBER. Moreover, they normally do not benefit from the compatibility assessment based on the Cinema Communication, except when they qualify as cultural/educational products.

While the European Commission has not developed guidelines for the application of Article 107 TFEU to video games, the Cinema Communication refers to the possibility of granting aid to video games (point 24) on a case-by-case basis. The Commission applies the criteria of the Cinema Communication by analogy, provided the video game serves a cultural or educational purpose. State aid for video games may benefit from the Cinema Communication compatibility assessment provided the aid is framed as support for cultural and/or educational development.

2.5. Complaint mechanism

Outside aid mechanisms falling under the scope of the *de minimis* or block exemptions, the standard procedure requires notification to the European Commission, followed by assessment of compatibility with the internal market.

When the Commission is not notified of an aid measure, it may initiate an investigation on its own initiative (Article 12(1) of the Procedural Regulation for state aid),[67] or in response to a complaint from an "interested party" (Article 24, Procedural Regulation for state aid). An interested party is any member state and any person, undertaking or association of undertakings whose interests might be affected by the granting of aid, in particular the beneficiary of the aid, competing undertakings and trade associations (Article 1(h) Procedural Regulation for state aid). Interested parties may also submit a complaint to inform the Commission of any alleged misuse of aid.

In practical terms, a production company qualifies as an interested party which could complain about alleged misuse of aid.

The Commission may initiate an investigation and find the aid incompatible with the internal market, with the possibility of a recovery decision requiring beneficiaries to reimburse the aid received with interest, as provided for by Article 9 of Regulation No 797/2004.[68]

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[66] Cappello M. (ed.), "Legal challenges and market dynamics in the video games sector", IRIS, European Audiovisual Observatory, Strasbourg, November 2024.

[67] Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (codification).

[68] Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EU) 2015/1589 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union.

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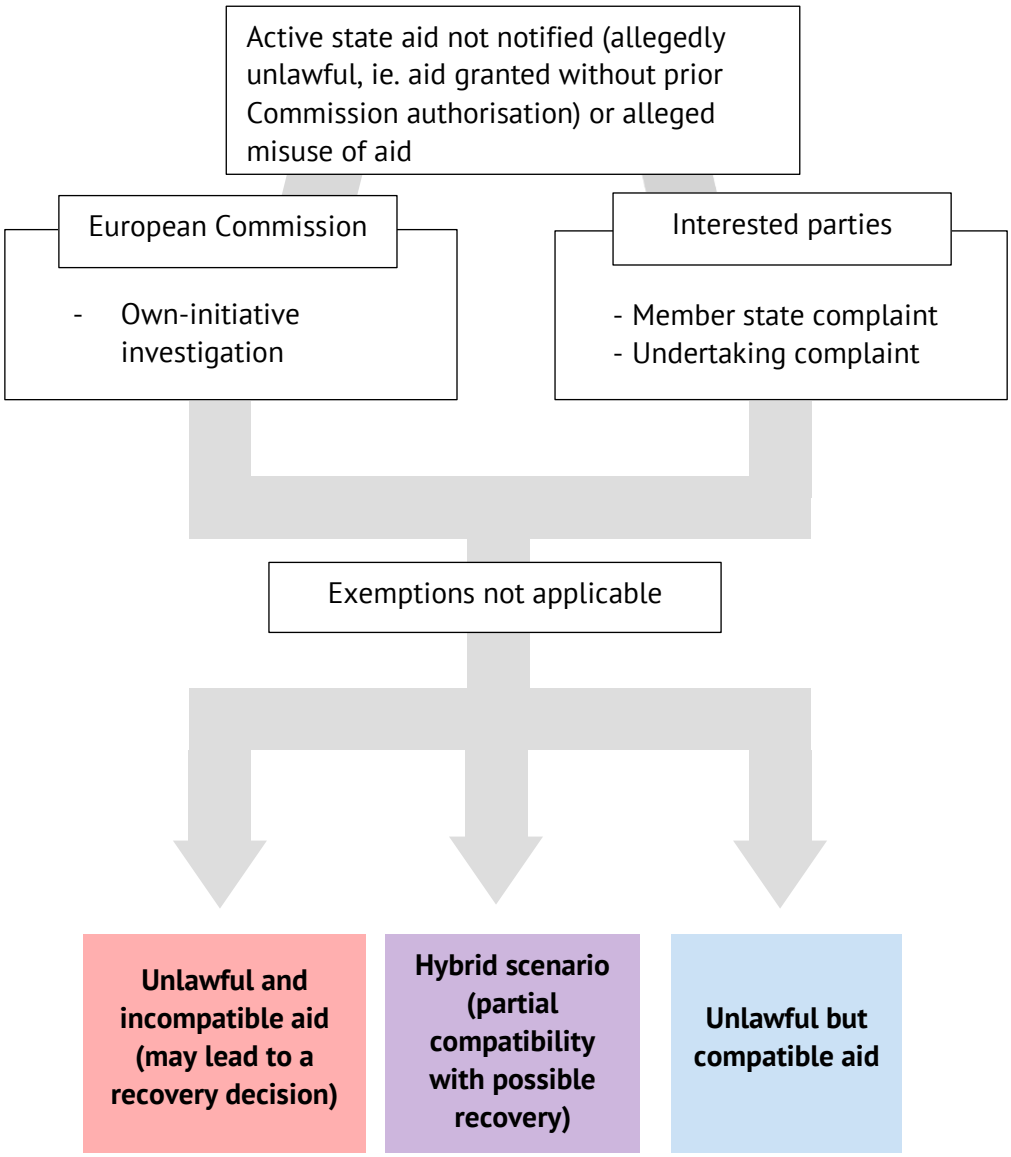
Consistent jurisprudence from the Court of Justice of the EU (CJEU) notes that the obligation on a member state to annul aid regarded by the Commission as being incompatible with the internal market is designed to re-establish the previously existing situation.[69] This objective is attained once the recipient has repaid the unlawful aid granted, thus forfeiting the advantage they enjoyed over internal-market competitors, and restoring the pre-existing situation. The recovery period runs from the date on which the aid was put at the disposal of the beneficiary, to effective recovery.

Figure 7. Complaint mechanism process



Source: European Audiovisual Observatory

[69] Judgment of the Court of Justice of 21 March 1990, C-142/87, *Belgium v. Commission*, paragraph 66.

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3. Notified aid in the period 2020-2024 for audiovisual productions and video games under the Cinema Communication

As provided for by Article 108(3) TFEU, the European Commission received notifications for over 30 state aid mechanisms between 2020 and 2024 directed at audiovisual productions and video games and exceeding the *de minimis* or GBER thresholds. 2020 marked a shift in support due to the COVID-19 pandemic, which led to more aid measures.

This chapter focuses on state aid benefitting audiovisual productions and video games, either distributed by film funds to content producers or via fiscal incentives designed to attract the production of films, audiovisual works and video games.

All of this aid for audiovisual productions and video games was assessed based on the provisions of the Cinema Communication.

This chapter explores the diverse objectives behind these aid measures, as justified by the member states.[70] The chapter showcases successful films supported by state aid, which obtained prizes at renowned film festivals.

An annex at the end of this report presents the state aid measures for audiovisual productions and video games in table form.

3.1. Recent notified aid for audiovisual productions and video games under the Cinema Communication

Between 2020 and 2024, approximately 30 state aid measures were notified to the European Commission, showing distinct trends in the allocation of support for audiovisual productions and video games. These trends appear across various stages of the creative process, as well as in the types of aid most frequently used. The first subsection, below, offers a quantitative overview of the aid, while the second delves into the underlying objectives of the measures.

[70] Based on the European Communication's summary of decisions from the European Commission on State aid to audiovisual undertakings of 16 September 2024 and additional desk research.

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3.1.1. Quantitative analysis of notified aid over the past four years

From 2020 to 2024, 11 European countries notified the European Commission of aid for audiovisual productions and video games; the European Commission then assessed the aid measures' compatibility under the Cinema Communication. These notifications, all of which were cleared, came from diverse member states: Belgium (5), Denmark (1), France (12), Germany (6), Ireland (1), Italy (4), Malta (1), Poland (1), Slovenia (1), Spain (2) and the United Kingdom (1).

Of the 30 aid measures, 22 were directed at audiovisual productions, 19 benefitted film and audiovisual works, and three were aimed to attract foreign productions and support for content creation.

Of 30 aid measures, 13 were dedicated to promoting video games and cleared by analogy based on the provisions of the Cinema Communication.

3.1.1.1. Aid to audiovisual productions

Over the past four years, production was the primary focus of this aid, with 17of the notifications falling into this stage of the creative process. Malta for instance introduced direct grants benefitting producers meeting specific criteria, including partial or full production in Malta,[71] of works related to animation, VFX and virtual production and post-production. Similarly, Germany reintroduced its German film promotion fund, offering direct grants to qualifying productions (after initial approval in 2006).[72]

Another notable trend over the past four years was the broad scope of aid, supporting multiple stages of the creation process. Four aid measures of such broad scope were notified, and are illustrated by Italy's introduction of a tax credit for both development and production phases.[73]

The types of aid employed by member states were diverse, with tax credits (10) and direct grants (5) the most prevalent. Other forms of support, such as tax shelters, tax rebates, and investment allocations, were also used, however less frequently. Spain, for instance, offered tax deduction for cinematographic and audiovisual productions benefitting production companies liable for corporation tax in Spain.[74] Belgium set up a tax shelter to encourage investments from various undertakings in production.[75]

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[71] SA. 109768 – Malta, Financial incentive for the audiovisual industry, 14 June 2024, C(2024) 3978 final.
[72] SA. 110872 – Germany, Reintroduction of the German Film Promotion Fund, 13 February 2024, C(2024) 987 final.
[73] SA. 58890 & SA. 58991 – Italy, Internal tax credit for the production of cinematographic works, 25 November 2020, C(2020) 8241 final.
[74] SA. 105988 – Spain, Spanish tax deduction for cinematographic and audiovisual productions, 14 August 2023, C(2023) 5618 final.
[75] SA. 59274 – Belgium, Tax shelter for audiovisual productions, 7 December 2020 (decision in French), C(2020) 8666 final.

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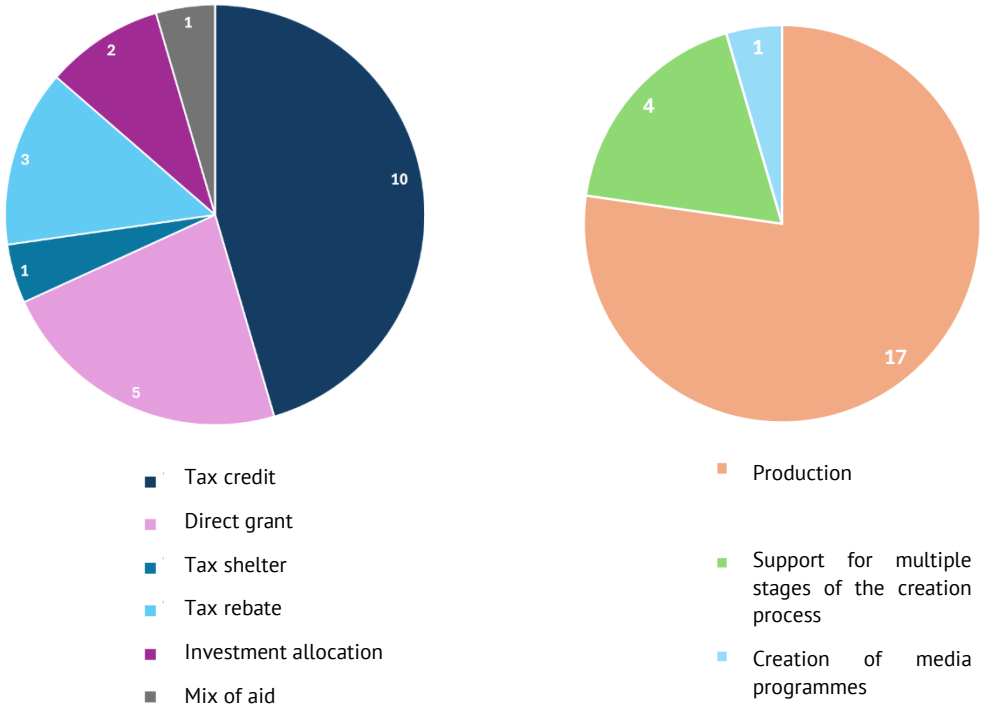
Slovenia's approach was different, with notification involving direct grants for media programmes, aimed at the selection and funding of various projects.[76]

Figure 8. Approved aid from the European Commission under the Cinema Communication from 2020-2024 benefitting audiovisual productions



Source: European Audiovisual Observatory

3.1.1.2. Video-game specificity

Of the more than 30 aid measures cleared by the European Commission between 2020 and 2024, 13 were dedicated to supporting the video games industry.[77] A few countries stand out as notifiers of these aid measures, with France and Belgium each notifying four schemes, followed by Germany with three, and Denmark and Italy with one each.

It is noteworthy that while the European Commission has not developed guidelines for the application of Article 107 TFEU to video games, the Cinema Communication refers to the possibility of granting aid to video games (point 24) on a case-by-case basis. The Commission applies the criteria of the Cinema Communication by analogy, provided the video game serves a cultural and/or educational purpose. This approach was followed for

[76] SA. 59284 – Slovenia, Co-financing of the creation of media programmes, 1 December 2020, C(2020) 8783 final.

[77] For more information on the video games sector, see the report Cappello M. (ed.), "Legal challenges and market dynamics in the video games sector", IRIS, European Audiovisual Observatory, Strasbourg, November 2024.

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13 video game aid measures notified between 2020 and 2024 and referenced in this report; their compatibility with the internal market was assessed with as per the Cinema Communication.

A common characteristic among these aid measures is that they were designed to support multiple stages of the creative process. Seven of the notified aid measurements did so, due to the interconnected nature of such stages in the creation of a video game. Direct grants were the most frequent type of aid, employed in seven instances, while tax incentives followed closely; they were used six times (split between tax credit, tax shelters and repayable advances).

For example, the French *Centre national du cinéma et de l'image animée* (National Centre for Cinema and the Animated Image – CNC) distributed direct grants to support the writing, pre-production and production of video games thanks to the creation of a video game support fund (*Fonds d'aides aux jeux vidéos*).[78] Meanwhile, Belgium offered repayable advances to video game producers. In this case, the beneficiaries received funding which they are required to reimburse to the state, subject to certain conditions. Reimbursement may be limited to 25% of the advance if the project fails to achieve commercialisation or if it generates gross revenues below 25% of the production cost.[79]

Germany's aid measures came in the form of direct support for the development of prototypes and for production with a cultural link to Germany or the EU (paragraph 32 of the Decision). This connection is determined through the cultural test, which considers factors such as whether the game's main characters relate to Germany or the EEA; or represent a personality of German or European history, or a fictional figure of German or European cultural history.[80]

The educational potential of video games is a justification for state aid, particularly relevant for an assessment of the aid under the Cinema Communication. Countries often indicate that the aid will be directed towards video games with pedagogical value.

For example, Denmark promoted Danish video games as a culture-bearing medium and to strengthen the cultural qualities of video games for play and learning (SA. 109683).

Germany established a direct grant to support the creation of video games that might be overlooked by some producers, due to the fact that studios may be more incentivised to prioritise global content over distinctive European cultural elements. This becomes evident in video games with culturally significant content, as their market is smaller than that of international mainstream titles. Therefore, the economic risk for such productions is high (SA. 116220).

In addition to the educational purpose, other justifications were used by member states.

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[78] European Commission, SA.60845 – France, Selective aid for video game creation, 29 April 2021, C(2021) 3019 final.

[79] European Commission, SA. 55046 – Belgium, Support for cultural, artistic and educative video games (Wallimage), 24 January 2020 (decision in French), C(2020) 494 final.

[80] European Commission, SA.55186 – Germany, Federal Computer Games Support, 18 February 2020, C(2020) 880 final.

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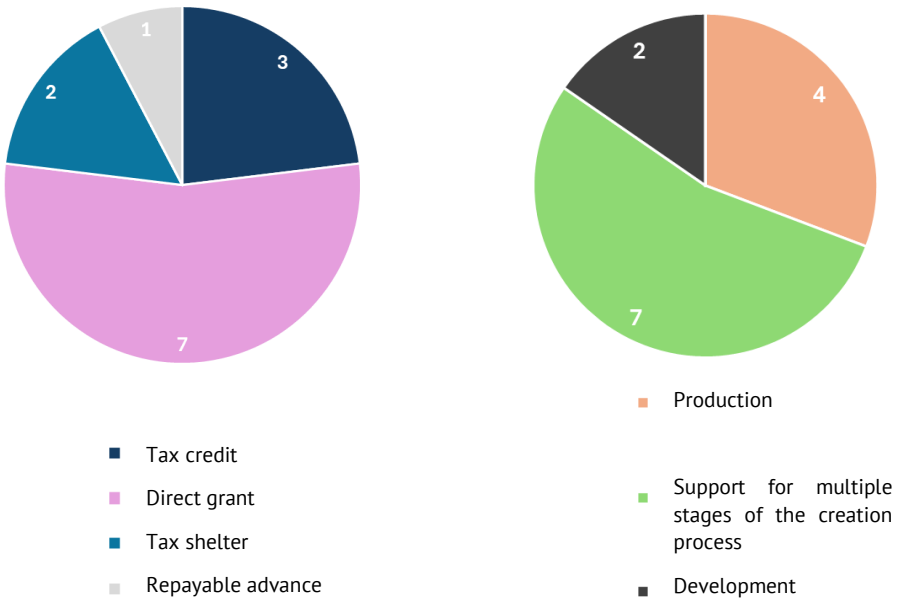
For instance, regarding innovative content, Belgium, for instance, created a tax shelter in order to encourage the development of high-quality, innovative and creative video games, with specific evaluation criteria for innovation and creativity (SA.54817).

To foster the video game industry, the Flemish community of Belgium set up a video game fund, to reinforce the independent video games sector in Flanders (SA. 101526).

Figure 9. Aid approved by the European Commission under the Cinema Communication from 2020-2024 benefitting video games



Source: European Audiovisual Observatory

3.1.2. State aid objectives

Over the past four years, member states used various justifications for implementing state aid mechanisms to benefit audiovisual productions. These justifications aimed to demonstrate the compatibility of such aid with the internal market, as required by the Cinema Communication. The key justifications can be categorised into four main areas: cultural preservation and promotion, economic support and competitiveness of the audiovisual sector, innovation and creativity, and industry development and structuring. These justifications are interconnected and sometimes used in combination.

The specific aid measures employed to achieve these objectives are listed in the tables presented in the Annex.

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3.1.2.1. Cultural preservation and promotion

A justification used by member states is the need to preserve and promote national and European culture through audiovisual works. This involves supporting the creation of culturally significant content that may not be commercially viable without public assistance. For instance, Malta justified its support for audiovisual works with cultural content by highlighting the difficulty these projects face in securing sufficient commercial financing (SA.109768). Other countries, such as Poland, have emphasised the importance of reinforcing cultural landscapes within their borders and across Europe, promoting national and European cultural heritage, traditions, and values (SA.108170). Furthermore, countries sometimes encourage the use of national languages and regional dialects in audiovisual content, as did France in requiring that productions be partially or fully made in French or a regional language (SA.63595).

3.1.2.2. Economic support and competitiveness

In combination or not with other objectives, member states emphasise the economic benefits of state aid in strengthening the audiovisual sector. This includes helping European companies compete against international players. This is observed in Poland's aim to develop the audiovisual industry and strengthen it against commercial productions from outside the European Union (SA.108170). Polish aid involved a selection system for works based notably on significance for national culture and strengthening of Polish tradition and the Polish mother tongue.

Furthermore, some aid measures are designed to ensure economically healthy and sustainable ecosystems for audiovisual content. France's investment allocation aid (automatic support production) is a mechanism whereby the production of a cinematographic work generates reusable financial support for the production of subsequent works by the same producer.

Some of the aid addressed the difficulty in attracting funding from investors for culturally significant projects, and encouraged investment by undertakings in content-production companies (SA.54817 for video games in Belgium), or sought to generate support for the production of content on a national territory commissioned by foreign production companies (e.g. Italy with SA.62194, to attract foreign production companies with a tax credit).

3.1.2.3. Innovation and creativity

Furthermore, countries also use aid measures to foster innovation and creativity within the audiovisual sector.

Finally, some aid, while promoting content production in general terms, offers greater incentives for incorporating digital elements. For instance, France gave a higher tax credit for cinematographic and audiovisual content when a minimum of 15% of the shots were digitally reworked (e.g. adding characters, landscapes, or products) (SA.104464).

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3.1.2.4. Fostering of the audiovisual industry

Aid is sometimes used to support professionals within in the industry. For instance, France created a tax credit to attract foreign production companies, when local infrastructures and staff are to be employed and benefit from new knowledge (SA.104464). In more particular, the tax credit was designed to attract international productions to showcase elements linked to the culture, heritage or territory of the States of the Union, as well as to mobilise local infrastructures and teams and to participate in bringing them up to standard with a view to their subsequent re-use.

3.2. Selected examples of state aid in film

To illustrate the concrete application of state aid to audiovisual productions, this section provides examples of how various aid mechanisms translate into real-world projects. While movie credits often acknowledge support from specific film funds, they rarely disclose the exact nature or amount of aid distributed. This section bridges the gap between legislations and their practical outcomes, offering insight into the diverse ways filmmakers benefit from these resources.

3.2.1. France

In France, the use of selective aid dedicated to feature-length films is governed by the Regulations for Financial Assistance annexed to the CNC Code, specifically Article 211-97 and subsequent articles. These aid measures are block-exempted under the GBER, meaning they do not require individual notification to the European Commission. As stated in Article 211-97:[81]

> *The award of selective financial aid for the production and preparation of feature-length cinematographic works is subject to the provisions of Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, in particular those provided for in Chapter I and Article 54 of Section 11 relating to aid schemes for audiovisual works.*

This framework aligns with the French "advance on revenue before realisation" (*avance sur recettes avant realisation*) scheme. Feature-length films intended for initial theatrical release are eligible for production aid, with grants awarded based on the subject matter, characteristics, qualities, and production conditions of the works. Articles 211-98 through 211-110 further detail these selective aid measures. The aid amount is capped at 50% of the film's production cost, but this threshold can be raised to 60% or 70% for films considered "difficult" due to low budgets or other challenges.[82]

[81] CNC Code.
[82] CNC website, Description of the advance on revenue before completion.

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For instance, the movies “Anatomie d'une chute" (Anatomy of a Fall) and “Emilia Perez” benefitted from such aid. [83] [84]

In France, the use of international tax credits dedicated to operations carried out in France with a view to the production of cinematographic or audiovisual works produced by production companies established outside France is regulated by Article 220 quaterdecies of the Tax Code. As stated in Article 220 quaterdecies (I):[85]

> *Film production companies and audiovisual production companies subject to corporation tax that act as executive production companies may benefit from a tax credit for the production expenses mentioned in III, corresponding to operations carried out in France with a view to the production of cinematographic or audiovisual works produced by production companies established outside France.*

The aid mechanism was first approved by the European Commission in 2009 and was prolonged over the years,[86] with the most recent European Commission Decision dating back to 2022.[87]

The movie “The Substance” obtained this aid.[88]

3.2.2. Spain

Chapter 3 of the Spanish Cinema Act (Article 19 onwards) governs public support for the audiovisual industry.[89] Article 26 introduces general aid for the production of long feature films based on projects (*ayudas generales para la producción de largometrajes sobre Proyecto)*. Such aid may be granted in advance to finance the cost of the production of feature film projects by production companies on the basis of objective criteria, which are determined on the basis of the economic and financial viability of the project, dissemination, the technical solvency of the beneficiary, the Spanish and European cultural relevance, the innovative nature of the project and the socio-economic impact of the investment in Spain.

To further specify its aid programs, Spain enacted the Order establishing the regulatory bases for state aid for the production of feature films and short films and regulating the structure of the Administrative Register of Film and Audiovisual Companies. As stated in the Recital of this Order:[90]

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[83] CNC website, « Oscars 2024 : Anatomie d’une chute sacré meilleur scénario original », 11 March 2024.
[84] CNC website, « Emilia Pérez triomphe aux Golden Globes 2025 », 6 January 2025.
[85] French Tax Code.
[86] European Commission, SA. 106/2009 – France, International tax credit for foreign productions, 2 July 2009, C (2009)5084 final.
[87] European Commission, SA. 104464 – France, International tax credit for foreign productions, 19 December 2022, C(2022) 9786 final.
[88] CNC website, “The Substance”: les coulisses du film de Coralie Fargeat , 29 October 2024.
[89] Cinema Act 55/2007, 28 December 2007 (in Spanish only).
[90] Order CUD/582/2020, of 26 June 2020, establishing the regulatory bases for State aid for the production of feature films and short films and regulating the structure of the Administrative Register of Film and Audiovisual Companies (in Spanish only).

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The aid covered by these regulatory bases is compatible with the internal market within the meaning of Article 107(3) of the Treaty and is exempt from the notification requirement of Article 108(3) of the Treaty, in accordance with Article 54 of Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty.

The aid measures outlined in this Order are therefore also exempted. General aid for the production of feature-length films based on projects is detailed in Section 3 of the Order (from Article 14 onwards). This aid is designed to finance the production costs of such projects. The minimum cost of the feature film, as recognised by the Instituto de la Cinematografía y de las Artes Audiovisuales (ICAA), must be EUR 1 300 000. At the time of application, proof must be provided that the project has secured funding of at least 35% of its anticipated budget.

Pedro Almodovar's recent movie "La habitación de al lado (The room next door)", benefitted from this aid.[91] According to the resolution by which the ICAA grants general aid for the production of feature film projects, the movie obtained EUR 900 000 of aid.[92]

[91] ICAA information about "La habitación de al lado (The room next door)".
[92] Resolution by which the ICAA grants general aid for the production of feature film projects, 14 October 2024, (in Spanish only).

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4. Trends in approaches to new challenges regarding state aid for audiovisual works

State aid rules are based on the TFEU, which provides legal certainty. This is of particular importance for economic operators, who often require, to a certain extent, stability and predictability. However, a certain degree of flexibility can be key to responding appropriately to changing circumstances.

In recent years, the landscape of state aid rules in Europe has evolved, particularly in the wake of the COVID-19 pandemic.

At the same time, some member states have increasingly incorporated new societal issues into their national state aid schemes, particularly with regard to the production of audiovisual works. These issues, which range from environmental sustainability and digital transformation to social inclusion, have led to a shift in the way state aid is designed and allocated. However, the intensity with which these considerations are integrated varies across member states, reflecting the respective priorities of their governments and societies.[93]

4.1. Sustainability

Sustainability is arguably one of the most pressing concerns of our time, given its role in reducing CO_2 emissions. It is increasingly a priority in the context of the production of audiovisual works, including films, in various member states.[94] The following examples illustrate some of the means that can be used to this end. These range from awareness-raising to setting guidelines and making state aid schemes conditional on compliance with environmental standards.

One of the aims of film funding in Austria is to create incentives for ecologically sustainable film production.[95] The *Österreichisches Filminstitut* (Austrian Film Institute) has set out specific funding guidelines for the implementation of ecologically sustainable productions.[96]

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[93] Eskilsson T., "The answers, Future film and audiovisual policies – Revolution, reforms or just let it be?, Public Film Funding at a Crossroads III", op. cit., p. 235. Eskilsson T., *Public film funding at a crossroads*, op. cit., pp. 19, 78.

[94] For a comprehensive report on the specific question of green transition: Munch E., "Green transition in the audiovisual sector", European Audiovisual Observatory, Strasbourg, September 2024.

[95] *Bundesgesetz vom 25. November 1980 über die Förderung des österreichischen Films (Filmförderungsgesetz)* (Federal Film Funding Act of 25 November 1980) (in German), Paragraph 2(1) (h).

[96] ÖFI, Green Filming / Funding, not dated.

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In Belgium (French Community), applicants for aid supporting audiovisual creation may answer a questionnaire detailing the measures they intend to implement to reduce the environmental impact of their project.[97] This is an incentive approach, as these measures are not considered an eligibility criterion.

In France, companies requesting financial assistance for the production of long and short cinematographic works, audiovisual works, or video games, must submit to the CNC a report relating to the carbon footprint induced by the production of the work.[98]

In Germany, applicant production service providers should submit a declaration of commitment regarding ecological standards. While meeting these requirements is not mandatory, it does allow applicants to achieve a higher score.[99]

In Ireland, skills development initiatives may be funded through the "Screen Stakeholders Funding Scheme" if they address one of the priority themes, such as sustainability / green production.[100] In Portugal, a main film policy objective is to encourage more sustainable film production. To this end, the Portugal Film Commission issued in 2021 a guide to sustainable filming. It contains guidelines and best practices covering all stages of the production process.[101]

4.2. Diversity and gender equality

Historically, the film industry has been criticised for underrepresenting marginalised groups, including women, both in front of and behind the camera. By making diversity and gender equality a cornerstone of funding criteria, state aid schemes can play a role in dismantling barriers to entry and ensuring that opportunities for creative expression are open to all.

In Belgium, both the French and the Flemish Communities address the issue of diversity. In the French Community, applicants have the option of completing a voluntary questionnaire on diversity within the project. The answers given will not affect the project's eligibility.[102] Hence, this is like the approach taken for sustainability (see above). Questions related to diversity includes reflections on potential stereotypes in cinema as well as the underrepresentation of specific categories of people based on gender, ethnicity, religion or belief, disability, age, sexual orientation, language or social class. The Flemish Community

[97] Cinema and Audiovisual Center of the Wallonia-Brussels Federation (Centre du cinéma et de l'audiovisuel de la Fédération Wallonie-Bruxelles - CCA), Formulaire de demande d'aide à la création (in French), December 2024, Form part No 8 "Durabilité".
[98] *Code du cinéma et de l'image animée* (Cinema and Animated Image Code), Appendix "General Regulations for Financial Aid", Article 122-18.
[99] Federal Government Commissioner for Culture and the Media (Beauftragte der Bundesregierung für Kultur und Medien – BKM), German Federal Film Fund DFFF, Guidelines of the BKM, Section 8(1) and Appendix 8 "Ecological standards for German cinema, TV, and online/VOD productions".
[100] Fís Éireann/Screen Ireland, Screen Stakeholders Funding Scheme.
[101] Portugal Film Commission, Green Shooting Portugal, Guide to sustainable filming, 2021.
[102] CCA, Formulaire de demande d'aide à la création (in French), December 2024, Form part No 7 "Diversité".

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has a gender-related impulse premium.[103] This impulse premium is intended for Flemish producers that have made a demonstrable effort to focus on female professionals with regard to a finished majority-Flemish creation, supported by the VAF.

In Austria, self-reflection about the diversity and inclusion aspects of projects has become a mandatory element of the submission documents.[104] Additional, conditional aid may be granted through "gender gap financing" and "gender incentive" mechanisms.[105] These approaches reflect the fact that the aim of state film funding is to contribute to equal opportunities for all genders in filmmaking, according to the Austrian Film Funding act.[106]

In Germany, diversity is one of the eligibility criteria taken into consideration in the "cultural content" tests to which each project submitted is subjected.[107] In addition, the recently enacted German *Filmförderungsgesetz* of 23 December 2024 (Film Support Act – FFG) stipulates that the *Filmförderungsanstalt* (Federal Film Support Agency – FFA) is responsible for establishing guidelines that provide incentives to promote equality between women and men.[108]

In Ireland, "Equality, Diversity & Inclusion" is also one of the priority themes of the abovementioned "Screen Stakeholders Funding Scheme".

In France, CNC production aid is conditional on compliance, by companies that request it, with specific obligations in terms of the prevention and detection of sexual harassment. As of 1 January 2025, film crews are required to undertake mandatory training on the prevention and combatting of sexist and sexual violence and harassment.[109]

Gender balance is one of the criteria that have an impact on prioritisation among applications for grants for the development, production and launch of audiovisual works under Norway's aid rules.[110]

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[103] Vlaams Audiovisueel Fonds (VAF), Deelreglement creatie (in Dutch), "Impulspremie voor gender", p. 14, point 4.4.

[104] ÖFI, Inklusions-Check (in German).

[105] ÖFI, Richtlinien, Paragraph 6a.10 and Appendix F (in German).

[106] Filmförderungsgesetz (Federal Film Support Act) (in German), Paragraph 2(1) (i).

[107] "Storyline/underlying material deals with religious or philosophical beliefs or issues of current social or cultural relevance (e.g. Muslim headscarf, refugees, etc.), addresses different ways of life (e.g. nomads) or deals with scientific issues or natural phenomena". Federal Government Commissioner for Culture and the Media (Beauftragte der Bundesregierung für Kultur und Medien – BKM), German Federal Film Fund DFFF, Guidelines of the BKM, Schedules 3 and 5.

[108] *Gesetz über Maßnahmen zur Förderung des deutschen Films (Filmförderungsgesetz - FFG) vom 23. Dezember 2024* (Film Support Act of 23 December 2024), BGBl. 2024 I Nr. 451, Paragraphs 65 and 91.

[109] *Code du cinéma et de l'image animée* (Cinema and Animated Image Code), Appendix "General Regulations for Financial Aid", Article 122-17-1; see also CNC, Conditionnalité des aides du CNC – Formations contre les violences sexistes et sexuelles (VHSS-VSS) (in French), Press release, 8 January 2025.

[110] *Forskrift om tilskudd til audiovisuell produksjon* (Regulations on subsidies for audiovisual production) (in Norwegian), Paragraph 3-5(e).

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4.3. Foreign artistic recognition

Some European countries have established state aid schemes that explicitly reward the production of audiovisual works that have achieved success abroad. The rationale behind this is that international recognition has a number of beneficial effects. It enhances the visibility of the country of origin, it has a stimulating effect on the local creative industry, and it encourages the international circulation of works.

Austria is a notable example of this approach, with its Film Support Act specifically aiming to enhance the international orientation of its filmmaking sector. A film is considered artistically successful if it has been selected for participation in, or has been awarded a prize by, an internationally significant film festival to be specified in the funding guidelines.[111] This is called the *Erfolgsprinzip* ('principle of success') and is a condition for the *Referenzfilmförderung* ("reference film funding").

Similarly, the new German Film Support Act (FFG) takes into account, among other things, the success of films at internationally significant festivals and the awarding of prizes, when calculating so-called reference points.[112] There is no legal definition of the concept, but reference points relate to an evaluation grid. They are a prerequisite for the granting of production funding by the Federal Film Board. The film must achieve at least 25 000 reference points.[113] For example, a film crowned with a Golden Palm in Cannes would receive 200 000 reference points.

In the Flemish Community of Belgium, an impulse premium may be granted to screenwriters, directors and producers on the basis of "foreign artistic recognition" of their audiovisual work, i.e. when their work has a significant impact on the international stage, as evidenced by selection for festivals.[114]

4.4. Innovation

Innovative audiovisual projects comprise interactive and immersive audiovisual content. By providing financial support through state aid, governments can encourage the growth of these projects and, as a result, enhance the cultural impact of the creators. This support can contribute to extending the soft power of these governments.

In the Flemish Community of Belgium, interactive and immersive projects can be the beneficiaries of aid measures. Interactive projects are audiovisual creations (excluding video games) where the user reacts during the viewing process (even by making choices between pre-foreseen options) and thus influences what follows. Immersive projects are virtual reality (VR) or augmented reality (AR) projects.[115]

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[111] *Bundesgesetz vom 25. November 1980 über die Förderung des österreichischen Films (Filmförderungsgesetz)* (Federal Film Funding Act of 25 November 1980), Paragraph 2(1) (e) and (4) (a).
[112] Paragraphs 61(2), 64 and 102(2) FFG.
[113] Paragraph 61(1) FFG.
[114] VAF, Deelreglement creatie (in Dutch), point 4.2.3 p. 12.
[115] VAF, Reglement VAF/Filmfonds: Algemene voorwaarden (in Dutch), p. 2, point 5.

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In the German federal state of Bavaria, immersive audiovisual projects, excluding games, can receive, on the basis of an application, project development and production funding in the form of a grant.[116] New, independent XR funding guidelines will replace this.[117]

In Ireland, the "Screen Stakeholders Funding Scheme" may fund skills development initiatives related to the priority theme "Future Technology / Virtual Production / Artificial Intelligence".

Audiovisual works that are eligible for support in Malta include those related to visual effects (VFX) and virtual production activities.[118] VFX covers computer-generated "imagery created, manipulated, or enhanced for any film that doesn't take place during live-action shooting".[119] Interestingly, eligible works must belong to the categories "feature film, television, video on demand or subscription video on demand production (including films, series and mini-series including pilots), creative documentary or short film".[120] The Commission authorised the Maltese state aid scheme – a direct grant with an overall budget of 500 million EUR, raising no objections.

4.5. Accessibility for people with visual or hearing impairments

Promoting accessibility to audiovisual works including films may also be achieved through state aid schemes. These schemes provide financial support for projects that focus on making films and other audiovisual content more accessible through measures such as subtitling, sign language interpretation, and audio descriptions.

Noteworthy in that regard is, in Germany's new Film Support Act 2024 (FFG), the strengthening of the participation of people with visual or hearing impairments by making accessible versions of subsidised films generally available in the future. "Funding for the production of films may only be granted if all final versions of the film are produced in an accessible version and the film is also made available in the accessible version at all levels of distribution in Germany up until its first release."[121]

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[116] FilmFernsehFonds Bayern (FFF Bayern) (Film and Television Fund Bavaria), Bayerische Richtlinien für die Förderung von Film-, Fernseh- und anderen audiovisuellen Projekten (Förderrichtlinien) (in German), point 4.3.2, p. 11. See also FFF Bayern, Virtual Reality: Immersive Audiovisual Content, not dated.

[117] FFF Bayern, Bayerische Richtlinien für die Förderung von Film-, Fernseh- und anderen audiovisuellen Projekten (Förderrichtlinien) (in German), point 9, p. 16.

[118] European Commission, State Aid SA.109768 (2023/N) – Malta Financial Incentives for the Audiovisual Industry, 14 June 2024, C(2024) 3978 final. For the eligibility criteria of works, see section 2.2(a) of the Screen Malta Financial Incentives Cash Rebate Guidelines 2024. For a description of the eligible expenditure, see section 5.1.18 of the same document.

[119] Maio A., "What is VFX? Defining the Term and Creating Impossible Worlds", 7 January 2025.

[120] European Commission, State Aid SA.109768 (2023/N) – Malta Financial Incentives for the Audiovisual Industry, 14 June 2024, C(2024) 3978 final, recital 16.

[121] Paragraph 46(1) FFG.

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France, following a reform in 2023, now allocates funding to support the creation of digital subtitle and audio description files for long featur films.[122]

[122] *Code du cinéma et de l'image animée* (Cinema and Animated Image Code), Appendix "General Regulations for Financial Aid", Articles 211-87 – 211-91 (in French).

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5. Annex – Summarising tables

The following tables categorise 25 notified state aid measures to support audiovisual productions and video games between 2020 and2024 according to their primary objective. All these aid measures were assessed under the Cinema Communication. [123]

The aid measures are listed under three areas: support for cinema and audiovisual content, incentives to attract foreign production companies, and support for video games.

Each table provides detailed information on the notifying country, general aid specifics (case number, date, title), the creation process stage targeted by the aid, the secondary legal basis used by the European Commission (in addition to the primary legal basis of Articles 107 and 108 TFEU), and the type of aid mechanism implemented.

Table 1. Support for cinema and audiovisual content

Country	General information	Creative stage	Secondary legal basis	Type of aid
MT	SA.109768 Financial incentives for the audiovisual industry 14 June 2024	Production	Cinema Communication	Direct grant
PL	SA.108170 Polish audiovisual fund 7 August 2024	Multiple stages of the creation process	Cinema Communication	Direct grant, loans and guarantees
DE	SA.110872 Reintroduction of the German Film Promotion Fund 13 February 2024	Production	Cinema Communication	Direct grant
DE	SA.100474 German motion picture fund 7 January 2022	Production	Cinema Communication	Direct grant
FR	SA.109167 Aides automatiques aux œuvres audiovisuelles du	Production	Cinema Communication	Investment allocation

[123] Based on the European Commission's summary of decisions on State aid for audiovisual undertakings of 16 September 2024 and additional desk research.

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Country	General information	Creative stage	Secondary legal basis	Type of aid
	genre fiction et documentaire de création 16 October 2023			
ES	SA.105988 Tax deduction for cinematographic and audiovisual productions 14 August 2023	Production	Cinema Communication	Tax deduction
IT	SA.62007 & 62008 Internal tax credit for the production of cinematographic and audiovisual works 22 April 2021	Multiple stages of the creation process	Cinema Communication	Tax credit
DE	SA.59636 German Film Promotion Fund, strengthening film production 2 February 2021	Production	Cinema Communication	Direct grant
IT	SA.58990 & 58991 Tax credit for the production of cinematographic and audiovisual works 25 November 2020	Multiple stages of the creation process	Cinema Communication	Tax credit
FR	SA.115203 Crédit d'impôt cinéma 21 October 2024	Production	Cinema Communication	Tax credit
IE	SA.110921 Irish film tax relief support scheme 13 March 2024	Production	Cinema Communication	Tax deduction
FR	SA.109153 Aides à la production des œuvres cinématographiques de longue durée 22 September 2023	Production	Cinema Communication	Investment allocation
FR	SA.104463 Crédit d'impôt audiovisuel	Production	Cinema Communication	Tax credit

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Country	General information	Creative stage	Secondary legal basis	Type of aid
	19 December 2022			
FR	SA.104462 Crédit d'impôt cinéma 19 December 2022	Production	Cinema Communication	Tax credit
FR	SA.63595 Crédit d'impôt audiovisuel 26 October 2021	Production	Cinema Communication	Tax credit
ES	SA.57608 Modification of Spanish tax deduction scheme for cinematographic and audiovisual productions 22 December 2020	Production	Cinema Communication	Tax deduction
BE	SA.59274 Prolongation du Régime d'aide Tax Shelter pour la production des œuvres audiovisuelles 7 December 2020	Production	Cinema Communication	Tax shelter
SI	SA.59284 Co-financing of the creation of media programmes 1 December 2020	Other	Cinema Communication	Direct grant
UK	SA.56047 Film tax relief 28 January 2020	Multiple stages of the creation process	Cinema Communication	Tax credit

Source: European Audiovisual Observatory's summary table of the aid measures as listed by the European Commission and additional desk research [124]

[124] Based on the European Commission's summary of decisions on State aid for audiovisual undertakings of 16 September 2024 and additional desk research.

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Table 2. Aid to attract foreign production companies to boost content creation

Country	General information	Creative stage	Secondary legal basis	Type of aid
IT	SA.62194 Tax credit to attract investment in cinematographic and audiovisual works in Italy 13 July 2021	Production	Cinema Communication	Tax credit
FR	SA.104464 Crédit d'impôt pour les œuvres étrangères 19 December 2022	Production	Cinema Communication	Tax credit
FR	SA.56276 Crédit d'impôt pour les dépenses de production en France d'œuvres cinématographiques ou audiovisuelles étrangères 23 March 2020	Production	Cinema Communication	Tax credit

Source: European Audiovisual Observatory's summary table of the aid measures as listed by the European Commission and additional desk research [125]

Table 3. Aid for video games

Country	General information	Creative stage	Secondary legal basis	Type of aid
DE	SA.116220 Video games support by the federal government 19 December 2024	Multiple stages of the creation process	Art. 107(3)(d) TFEU, case-by-case analysis Use of Cinema Communication if presence of cultural/educative goal	Direct grant
FR	SA.115028	Multiple stages of the	Art. 107(3)(d) TFEU, case-by-case analysis	Direct grant

[125] Based on the European Commission's summary of decisions on State aid for audiovisual undertakings of 16 September 2024 and additional desk research.

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Country	General information	Creative stage	Secondary legal basis	Type of aid
	Fonds d'aides sélectives à la création de jeux vidéo 13 September 2024	creation process	Use of Cinema Communication if presence of cultural/educative goal	
DE	SA.55186 Federal computer games support 18 February 2020	Multiple stages of the creation process	Art. 107(3)(d) TFEU, case-by-case analysis Use of Cinema Communication if presence of cultural/educative goal	Direct grant
DK	SA.109683 Scheme for the development, production and promotion of cultural and education digital games 19 December 2023	Multiple stages of the creation process	Art. 107(3)(d) TFEU, case-by-case analysis Use of Cinema Communication if presence of cultural/educative goal	Direct grant
DE	SA.116220 VG support by the federal government 13 December 2024	Multiple stages of the creation process	Art. 107(3)(d) TFEU, case-by-case analysis Use of Cinema Communication if presence of cultural/educative goal	Direct grant
BE	SA.54817 Tax shelter aid schemes for video game production 25 July 2022	Production	Art. 107(3)(d) TFEU, case-by-case analysis Use of Cinema Communication if presence of cultural/educative goal	Tax shelter
BE	SA.54817 Tax shelter aid schemes for video game production 30 April 2020	Production	Art. 107(3)(d) TFEU, case-by-case analysis Use of Cinema Communication if presence of cultural/educative goal	Tax shelter
FR	SA.103066 Crédit d'impôt en faveur de la création de jeux vidéo 29 July 2022	Development	Art. 107(3)(d) TFEU, case-by-case analysis Use of Cinema Communication if presence of cultural/educative goal	Tax credit

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Country	General information	Creative stage	Secondary legal basis	Type of aid
FR	SA.58838 Crédit d'impôt en faveur de la création de jeux vidéo 3 November 2020	Development	Art. 107(3)(d) TFEU, case-by-case analysis Use of Cinema Communication if presence of cultural/educative goal	Tax credit
BE	SA.101526 VAF Gamefonds 28 April 2022	Multiple stages of the creation process	Art. 107(3)(d) TFEU, case-by-case analysis Use of Cinema Communication if presence of cultural/educative goal	Direct grant
IT	SA.63373 Tax credit for video games of cultural value 26 October 2021	Production	Art. 107(3)(d) TFEU, case-by-case analysis Use of Cinema Communication if presence of cultural/educative goal	Tax credit
FR	SA.60845 Fonds d'aides sélectives à la création de jeux vidéo 29 April 2021	Multiple stages of the creation process	Art. 107(3)(d) TFEU, case-by-case analysis Use of Cinema Communication if presence of cultural/educative goal	Direct grant
BE	SA.55046 Soutien aux jeux vidéo culturels, artistiques et éducatifs 24 January 2020	Production	Art. 107(3)(d) TFEU, case-by-case analysis Use of Cinema Communication if presence of cultural/educative goal	Repayable advance

Source: European Audiovisual Observatory's summary table of the aid measures as listed by the European Commission and additional desk research [126]

[126] Based on the European Commission's summary of decisions on State aid for audiovisualundertakings of 16 September 2024 and additional desk research.

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List of abbreviations

AR	**Augmented reality**
AV	Audiovisual
BKM	Federal Government Commissioner for Culture and the Media (Beauftragte der Bundesregierung für Kultur und Medien) (Germany)
CJEU	Court of Justice of the European Union
CCA	Cinema and Audiovisual Center of the Wallonia-Brussels Federation (Centre du cinéma et de l'audiovisuel de la Fédération Wallonie-Bruxelles) (Belgium)
CNC	National Center for Cinema and the Moving Image (Centre national du cinéma et de l'image animée) (France)
DFFF	German Film Support Fund (Deutscher Filmförderfonds) (Germany)
EEA	European Economic Area
EU	European Union
FFA	Federal Film Support Agency (Filmförderungsanstalt) (Germany)
FFF Bayern	Film and Television Fund Bavaria (FilmFernsehFonds Bayern) (Germany)
FFG	Film Support Act (Filmförderungsgesetz) (Germany)
GBER	General Block Exemption Regulation
ÖFI	Austrian Film Institute (Österreichisches Filminstitut) (Austria)
RRF	Recovery and Resilience Facility
RRP	Recovery and Resilience Plan
VAF	Flemish Audiovisual Fund (Vlaams Audiovisueel Fonds) (Belgium)
VFX	Visual effects
VR	Virtual reality

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