

DECISIONS ADOPTED JOINTLY BY THE EUROPEAN PARLIAMENT AND THE COUNCIL

DECISION No 1041/2009/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 21 October 2009 establishing an audiovisual cooperation programme with professionals from third countries (MEDIA Mundus)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 150(4) and 157(3) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Having regard to the opinion of the Committee of the Regions ⁽²⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽³⁾,

Whereas:

- (1) The audiovisual sector contributes to achieving the goals of the Lisbon Agenda, namely to boost competitiveness, skills, growth and jobs in a knowledge-based economy. It plays a major role in the context of the i2010 initiative — the policy umbrella for the European information society and media policies — in the framework of the Lisbon Agenda.
- (2) The European Parliament has consistently emphasised that the audiovisual sector makes an important contribution to the European creative and knowledge economy and plays a central role in promoting cultural diversity and pluralism, as well as being an important platform for freedom of speech.
- (3) The cultural and creative sectors contribute substantially to the European cultural economy and in 2004 creative

industries employed at least 5,8 million people, equivalent to 3,1 % of the total employed EU-25 population.

- (4) Community support to the audiovisual sector takes into account Article 151 of the Treaty, which states that the Community and the Member States shall foster cooperation with third countries and the competent international organisations in the sphere of culture, and that the Community shall take cultural aspects into account in its action, in particular in order to respect and to promote the diversity of its cultures.
- (5) In its resolution of 16 November 2007 on a European Agenda for Culture ⁽⁴⁾, the Council considered that culture was a vital element of international relations and underlined the need to enhance its role in the EU's external relations and development policy. The European Parliament, in its resolution of 10 April 2008 on a European agenda for culture in a globalising world, also underlined, with respect to the Unesco Convention on the Protection and Promotion of the Diversity of Cultural Expressions, the importance of integrating a cultural dimension into all policies and programmes, including external policies and development.
- (6) On 21 November 2008 the Council and the Representatives of the Governments of the Member States, meeting within the Council, adopted conclusions on the promotion of cultural diversity and intercultural dialogue in the external relations of the Union and its Member States ⁽⁵⁾.
- (7) The Commission's communication of 8 June 2006 on 'Europe in the world' emphasises the inextricable link between the EU's internal and external policies, and stresses that Europe has the potential to share in the new opportunities created by emerging markets and globalisation, as it has an open society that can absorb people, ideas and new technologies.

⁽¹⁾ Opinion of 25 March 2009 (OJ C 228, 22.9.2009, p. 100).

⁽²⁾ Opinion of 21 April 2009 (OJ C 200, 25.8.2009, p. 51).

⁽³⁾ Opinion of the European Parliament of 7 May 2009 (not yet published in the Official Journal) and Council Decision of 14 September 2009.

⁽⁴⁾ OJ C 287, 29.11.2007, p. 1.

⁽⁵⁾ OJ C 320, 16.12.2008, p. 10.

- (8) The European Union was a major player in the process leading to the adoption of the Unesco Convention on the Protection and the Promotion of the Diversity of Cultural Expressions which entered into force on 18 March 2007, following the ratification by the European Community and 13 Member States on 18 December 2006. The Convention's aim is to strengthen international cooperation and solidarity so as to favour the cultural expressions of all countries. According to Article 12(e) of the Convention, parties to the Convention 'shall encourage the conclusion of co-production and co-distribution agreements'.
- (9) A number of Member State activities aim at increasing cooperation between European and third countries' audiovisual industries, such as international co-production funds and co-production treaties. Community support will be complementary to such actions.
- (10) The Charter of Fundamental Rights of the European Union, in Article 11, recognises freedom of expression and pluralism of the media.
- (11) The evaluation report of the MEDIA Plus programme identified the importance of international markets to overcoming the problems of the European audiovisual industry.
- (12) The international audiovisual landscape has changed significantly over the last two decades and is currently facing new challenges, notably under the impact of technological developments such as digital cinema projection, video on demand (VOD) or multi-channel digital television. This has created strong financial growth and promising investments and, consequently, a strong and growing demand for more audiovisual content, offering numerous opportunities to companies. Accordingly, there is a strong and increasing interest in developing projects relating to the various digital applications. In addition, there is a strong link between international cooperation on projects and the Union's ability to promote in the world its regulatory model on audiovisual issues and the convergence between audiovisual and electronic communications.
- (13) Given the increasing importance of the international dimension of audiovisual policy, the European Parliament, on 13 December 2007, adopted, in the 2008 budget, a preparatory action MEDIA International, that focuses on developing the Union's relations with third-country audiovisual markets and provides the opportunity for structuring and strengthening relations and networks between European and third-country professionals in the audiovisual sector, for the mutual benefit of the European industry and the third countries involved. The subsequent call for proposals attracted great interest from both European and third-country professionals. Eighteen projects were selected for support. The first year of the preparatory action MEDIA International thus confirmed the sector's interests and needs in the international field and the necessity for Community action.
- (14) The European Parliament renewed the preparatory action MEDIA International with an increased budget for 2009.
- (15) On 19 May 2008, at an informal gathering in Cannes, ministers responsible for audiovisual matters from a number of Member States welcomed the European Parliament's initiative on the preparatory action MEDIA International and encouraged the Commission 'to pursue the development of this initiative and to examine the desirability and the possibility of presenting a proposal for a support programme to promote cooperation between European audiovisual industry professionals and industry professionals in third countries for the mutual benefit of all participants'.
- (16) An open public consultation demonstrated strong support for strengthened cooperation between European and third-country professionals in the audiovisual sector, notably in the fields of training, the facilitation of co-productions, distribution and circulation of audiovisual works (including new platforms, such as VOD, and Internet protocol television (IPTV)) and film literacy.
- (17) Access to audiovisual markets in third countries should be facilitated by disseminating market knowledge among professionals operating in those markets and by creating networks between them. For those purposes, projects to provide training should be supported within the framework of a programme.
- (18) The distribution sector determines the diversity of audiovisual works on offer and consumer choice. European distributors are small companies, and because of the structure and fragmentation of the market, they are, unlike their large vertically-integrated competitors, ill equipped for gaining access to international markets. Furthermore, new players and distribution platforms have emerged, boosting or requiring more audiovisual content. It is therefore appropriate to take measures to improve the distribution, circulation and exhibition of European works in third countries and those of third countries within Europe.
- (19) There is therefore a need to establish a Community programme for the audiovisual sector, providing financial support to projects in the fields of information exchange and training, competitiveness, distribution, circulation and exhibition of audiovisual content.

- (20) In order to ensure the maximum mutual benefit and to simplify administration, projects under the programme should be proposed and implemented jointly by professionals from the European Union and from third countries and should promote international networking. In order to simplify administration, projects should be coordinated by a professional established in a country participating in the programme.
- (21) Appropriate measures should be drawn up and implemented to prevent irregularities and fraud and to recover funds which have been lost or transferred or used improperly.
- (22) It is appropriate to lay down, for the entire duration of the programme, a financial envelope constituting the prime reference for the budgetary authority, within the meaning of point 37 of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management ⁽¹⁾.
- (23) The measures necessary for the implementation of this Decision should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽²⁾.
- (24) The arrangements for monitoring and evaluating the programme should include detailed annual reports as well as specific, measurable, achievable, relevant and time-bound objectives and indicators.
- (25) Since the objectives of this Decision cannot be sufficiently achieved by the Member States, given the transnational and international character of the proposed actions, and can therefore, by reason of the scale and effects of those actions, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Decision does not go beyond what is necessary in order to achieve those objectives,

HAVE DECIDED AS FOLLOWS:

CHAPTER I

GENERAL PROVISIONS

Article 1

Establishment and aims of the programme

1. This Decision establishes the programme MEDIA Mundus (the programme) for the funding of projects for international

cooperation in the audiovisual sector for the period from 1 January 2011 to 31 December 2013.

2. The aims of the programme are to increase the competitiveness of the European audiovisual industry, to enable Europe to play its cultural and political role in the world more effectively and to increase consumer choice and cultural diversity. The programme will seek to improve access to third-country markets and to build trust and long-term working relationships.

Article 2

Scope of the programme

The programme is addressed to European and third-country professionals.

Article 3

Definitions

For the purposes of this Decision, the following definitions shall apply:

1. 'European professional' means a professional who:

(a) is a national of:

(i) an EU Member State; or

(ii) an EFTA State which is a member of the EEA, in accordance with the provisions of Part VI of the EEA agreement; or

(iii) a country referred to in Article 8, paragraphs 1 and 2, of Decision No 1718/2006/EC ⁽³⁾, and not already mentioned under point (ii), where the country:

— declares its willingness to be a member of the programme, and

— pays a contribution, calculated on the same basis as its contribution to the MEDIA 2007 programme;

or

⁽³⁾ Decision No 1718/2006/EC of the European Parliament and of the Council of 15 November 2006 concerning the implementation of a programme of support for the European audiovisual sector (MEDIA 2007) (OJ L 327, 24.11.2006, p. 12).

⁽¹⁾ OJ C 139, 14.6.2006, p. 1.

⁽²⁾ OJ L 184, 17.7.1999, p. 23.

- (b) is established as a legal person in one of the countries referred to in point (a)(i), or in a country fulfilling the requirements in points (a)(ii) or (iii), and is owned, whether directly or by majority participation, and continues to be owned by one or more of those countries or by one or more nationals from those countries until the end of the project;
2. 'third-country professional' means a professional that is not a European professional;
3. 'third country' means a country other than those referred to in point 1(a)(i), or those fulfilling the requirements set out in points 1(a)(ii) or (iii);
4. 'audiovisual work' means a set of moving images with or without sound. Examples of audiovisual works include feature films, documentaries and animation films;
5. 'European works' means audiovisual works originating in countries referred to in points 1(a)(i), (ii) or (iii).

Article 4

Conditions for participation in the programme

1. Projects shall be proposed and implemented jointly by European and third-country professionals in order to be eligible for funding under the programme.
2. Each project shall seek to promote international networking. To this end, each project shall have a minimum of three partners. However, projects with only two partners may be admitted where the necessary networking is guaranteed.
3. Each project shall be coordinated by a European professional and shall include at least one partner from a third country. The coordinator shall be responsible for the submission of the proposal, for the management of the project and for its financial administration and implementation.

CHAPTER II

SPECIFIC OBJECTIVES OF THE PROGRAMME

Article 5

Specific objective 1: Information exchange, training and market intelligence

In the field of information exchange and training, the operational objective of the programme shall be to strengthen the skills of European and third-country professionals, notably by:

- (a) improving professionals' understanding, in particular, of the operating conditions, legal frameworks (including in the

area of intellectual property rights), financing systems and cooperation possibilities of their respective audiovisual markets;

- (b) securing and facilitating audiovisual cooperation between professionals by improving their level of knowledge of audiovisual markets;
- (c) facilitating networking and the emergence of long-term working relationships, in particular through scholarships; or
- (d) supporting initial and continuous professional training.

Article 6

Specific objective 2: Competitiveness and Distribution

Regarding the improvement of the competitiveness of the European audiovisual industry and the distribution of European works outside Europe and those of third countries within Europe, the operational objectives of the programme shall be to:

- (a) facilitate the search for third-country partners for European works. The programme shall support the organisation of co-production markets and partner search events (pitching), aiming at bringing together possible partners (e.g. script writers, directors, actors, producers and distributors);
- (b) encourage international sales and promotion of European works in third-country markets and of audiovisual works from third countries in Europe. The programme shall encourage the conclusion of agreements between groupings of right-holders/sales agents/distributors to ensure distribution (e.g. in cinemas, on TV, IPTV, Web TV and on VOD platforms) and promotion.

Article 7

Specific objective 3: Circulation

In order to improve the circulation and visibility of European works in third countries and those of third countries within Europe and to increase public demand for culturally diverse audiovisual content, particularly amongst young people, the operational objectives of the programme shall be to:

- (a) encourage cinema operators in European and third countries to reciprocally increase the programming and exhibition conditions (duration of, exposure and number of screenings) of exclusive first releases of audiovisual works. The programme shall support projects presented by cinema networks with screens in Europe and in third countries that programme a significant number of audiovisual works on the territory/territories of their partner(s);

- (b) increase the supply of audiovisual content and improve broadcasting and distribution conditions for audiovisual works from third countries on European distribution channels (e.g. TV, IPTV, Web TV, VOD platforms) and for European works through international distribution channels. The programme shall support partnerships between broadcasters (or VOD platforms) and rights-holders aiming at broadcasting a package of works or at distributing a catalogue of works on VOD platforms;
- (c) facilitate the organisation of events and film literacy initiatives, notably aimed at young audiences, intended to internationally promote the diversity of audiovisual works and increase public demand for culturally diverse audiovisual content.

CHAPTER III

FINANCIAL PROVISIONS AND ARRANGEMENTS FOR THE IMPLEMENTATION OF THE PROGRAMME*Article 8***Financial provisions**

1. The measures financed under this Decision shall be implemented in accordance with Regulation (EC, Euratom) No 1605/2002 ⁽¹⁾.
2. In accordance with Article 176(2) and (4) of Regulation (EC, Euratom) No 2342/2002 ⁽²⁾, the Commission may decide, depending on the beneficiaries and the type of action, whether they may be exempted from verification of the professional competencies and qualifications required to successfully complete an action or work programme.
3. Depending on the type of action, financial aid may take the form of grants (reimbursable in respect of the programme's contribution, excluding support for dubbing/subtitling) or scholarships. The Commission may also award prizes for the programme's activities or projects. Depending on the nature of the activity, flat-rate financing or the use of scales of unit costs may be authorised in accordance with Article 181 of Regulation (EC, Euratom) No 2342/2002.
4. Funding awarded under the programme may not exceed 50 % of the final costs of the project to be funded. However, in the cases expressly provided for in the annual work programme and in the call for proposals, funding may be as high as 80 %.
5. In accordance with Article 113(1) of Regulation (EC, Euratom) No 1605/2002, in conjunction with Article 172(1) of Regulation (EC, Euratom) No 2342/2002, the beneficiaries'

⁽¹⁾ Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ L 248, 16.9.2002, p. 1).

⁽²⁾ Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ L 357, 31.12.2002, p. 1).

contribution may be provided either entirely or partly in kind if the value of the contribution can be established on the basis of costs actually borne and duly supported by accounting documents, or costs generally accepted in the market in question. Premises made available for training or promotional purposes may be included in such contributions.

6. In accordance with Article 112(1) of Regulation (EC, Euratom) No 1605/2002, the Commission may, where provided for in the annual work programme and in the call for proposals, decide that costs directly linked with implementing the project are eligible for funding, even if they were partially incurred by the beneficiary before the selection procedure.

*Article 9***Implementation of the programme**

1. The Commission is responsible for implementing the programme in accordance with the provisions laid down in the Annex. The Commission shall take steps to ensure that the actions supported under the specific objectives as set out in Articles 5 to 7 complement each other.
2. The following measures for the implementation of the programme shall be adopted in accordance with the management procedure referred to in Article 10(2):
 - (a) an annual plan of work, including priorities;
 - (b) an annual internal breakdown of the programme resources, including the breakdown between measures in the different fields;
 - (c) the general guidelines for implementing the programme;
 - (d) the content of the calls for proposals, the definition of the criteria and the procedures for the selection of projects;
 - (e) selection of proposals for the allocation of Community funds in excess of:
 - EUR 200 000 per beneficiary per year, in the case of specific objective 1,
 - EUR 300 000 per beneficiary per year, in the case of specific objective 2,
 - EUR 300 000 per beneficiary per year, in the case of specific objective 3.

3. The Commission shall adopt selection decisions other than those listed in paragraph 2(e). The Commission shall provide the European Parliament and the committee referred to in Article 10 with all relevant information including the selection decisions taken in accordance with this paragraph within two working days of the adoption of these decisions.

Article 10

Committee procedure

1. The Commission shall be assisted by the committee established under Article 11 of Decision No 1718/2006/EC, composed of representatives of the Member States and chaired by the representative of the Commission.

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

3. The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at two months.

Article 11

Contribution of the programme to other Community policies and principles

The programme shall help to strengthen the Community's horizontal policies and principles by:

- (a) contributing to the debate on, and information about, the Union as an area of peace, prosperity and security;
- (b) promoting the fundamental principle of freedom of expression;
- (c) encouraging awareness of the importance of cultural diversity, common values, intercultural dialogue and multilingualism in the world;
- (d) enhancing the knowledge base of the European economy and contributing to strengthening the global competitiveness of the Union; and
- (e) helping to combat all forms of discrimination based on sex, race or ethnic origin, religion or beliefs, disabilities, age or sexual orientation.

Article 12

Consistency and complementarity

The Commission shall pay particular attention to consistency and complementarity between the programme and other relevant Community policies, instruments and actions, in particular coordination with, and implementation of, the MEDIA 2007 programme and external cooperation

programmes in the audiovisual and cultural sectors with third countries.

Article 13

Monitoring and evaluation

1. The Commission shall monitor the projects regularly. The results of the monitoring process shall be taken into account in the implementation of the programme.

2. The Commission shall ensure that the programme is evaluated, externally and independently.

3. The Commission shall present to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions:

- (a) a communication on the possible continuation of the programme, by 31 January 2012;
- (b) an *ex-post* evaluation report by 31 December 2015.

Article 14

The financial envelope

1. The financial envelope for the implementation of the programme for the period set out in Article 1(1) is fixed at EUR 15 000 000.

2. The annual appropriations shall be authorised by the budgetary authority within the limits of the financial framework.

CHAPTER IV

ENTRY INTO FORCE

Article 15

Entry into force

This Decision shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2011.

Done at Strasbourg, 21 October 2009.

For the European Parliament
The President
J. BUZEK

For the Council
The President
C. MALMSTRÖM

ANNEX

ACTIONS TO BE IMPLEMENTED**1. Specific objective 1: Information exchange, training and market intelligence***Operational objective*

Strengthen the skills of European and third-country professionals and improve their level of information and knowledge.

Actions to be implemented:

- Support the development and implementation of training modules including trainees and trainers from European and third countries, with a focus on the conditions of production, co-production, distribution, exhibition and dissemination of audiovisual works in the relevant international markets.
- Support the development and implementation of training modules including trainees and trainers from European and third countries, with a focus on the inclusion of new technologies for the production, post-production, distribution (including new distribution platforms such as VOD, IPTV, Web TV), marketing and archiving of audiovisual works.
- Encourage exchanges between the institutions and/or existing continuous training activities.
- Contribute to training for trainers.

2. Specific objective 2: Competitiveness and distribution*1. Operational objective*

Facilitate the search for partners for co-productions.

Actions to be implemented:

- Support the organisation of forums for the development, financing, co-production and pre-sales of international co-productions, in particular co-production markets and partner search events (pitching), aiming at bringing together possible partners (e.g. script writers, directors, actors, producers and distributors).

2. Operational objective

Encourage international sales and promotion of audiovisual works.

Actions to be implemented:

- Encourage the conclusion of agreements between groupings of European and third-country rights-holders/sales agents/distributors to ensure the distribution (e.g. in cinemas, on TV, IPTV, Web TV and on VOD platforms) of their respective audiovisual works on the territory/territories of their partner(s).
- Raise public awareness, through reinforced promotion campaigns, of the release of films from European countries worldwide, and the release of third-country films in Europe.
- Support dubbing and subtitling for the distribution and dissemination through all available channels of European and third-country audiovisual works for the benefit of producers, distributors and broadcasters.
- Encourage the creation and consolidation of networks of artistic and industrial cooperation between European and third-country rights-holders/sales agents/distributors.

3. Specific objective 3: Circulation

1. Operational objective

Encourage cinema operators in European and third countries to reciprocally increase the programming and exhibition conditions of exclusive first releases of audiovisual works.

Actions to be implemented:

- Support projects presented by European and third-country cinema owners in programming a significant share respectively of European and third-country films in commercial cinemas for exclusive first release for a minimum defined duration. The support granted will, in particular, be determined according to the duration of, exposure and number of screenings made by these cinemas for third-country films (or European films in the case of third-country cinema owners) over a reference period.
- Support the creation and the consolidation of European and third-country cinema owners' networks developing common actions for this type of programming.

2. Operational objective

Increase the supply of audiovisual content and improve broadcasting and distribution conditions for third countries' audiovisual works on European distribution channels and European works on third countries' distribution channels.

Actions to be implemented:

- Support partnerships between European and third-country broadcasters (or VOD platforms etc.) and rights-holders aiming at broadcasting a package of European and third countries' works or at distributing a catalogue of European works and third countries' works on VOD platforms.
- Build trust and long-term working relationships between European and third-country broadcasters, VOD platforms and rights-holders.

3. Operational objective

Facilitate the organisation of events and film literacy initiatives.

Actions to be implemented:

- Support networking of European and third-country film literacy initiatives, in particular those aimed at young audiences, to internationally promote the diversity of audiovisual works.
 - Support partnerships between European and third-country broadcasters for the broadcasting of audiovisual works dedicated to young audiences.
-