[FR] Regional Aid to the Cinema Under Threat?

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On 3 April 2014, the administrative court in Lyon delivered a judgment which, beyond its local consequences, “threatens the entire system of aid to the cinema from the regions”, according to the President of the Rhône-Alpes Region. In the present case, a member of the Regional Council applied to the administrative court for cancellation of the Council’s decision renewing for 2011-2015 the Region’s subsidy to Rhône-Alpes Cinéma; its co-production structure. It is the leading regional structure providing aid to the cinema in France, with a catalogue of 220 titles including Tony Gatlif’s latest film, ‘Geronimo’, presented this year in competition at the Cannes Festival. In application of the convention approved by the contested deliberation, the Rhônes-Alpes Region is paying a subsidy of 2 million EUR to Rhône-Alpes Cinéma to be invested in films, as well as an additional contribution from the *Centre national de la cinématographie et de l'image animée* (National Centre of Cinematography - CNC) of a global annual amount of one million euros. In support of its application, the complainant claimed in particular that since the subsidy constituted State aid as construed by European Union law, the disputed deliberation disregarded the rules governing economic aid arising out the EU Treaty which are incorporated in the General Code on Local Authorities.

The court found that there was no question that this regional subsidy constituted State aid, within the meaning of Article 107 of the Treaty on the Functioning of the EU. Article 108(3) provides that “The Commission shall be informed (…) of any plans to grant or alter aid. (…) The Member State concerned shall not put its proposed measures into effect until this procedure has resulted in a final decision”. In application of these provisions, Article L. 1511-1-1 of the General Code on Local Authorities provides that “The State shall notify the European Commission of plans to provide aid or of aid schemes which the local authorities or their government wish to implement”. The court found that the Rhône-Alpes Region had not demonstrated that the specific subsidy it grants to Rhône-Alpes Cinéma would be among the aid notified by the French Government to the European Commission and validated by the Commission on 22 March 2006. Consequently, the applicant’s claim for the cancellation of the disputed deliberation was upheld.

This judgment would appear to jeopardise the continuity of the entire system of regional aid for cinema. The amount of this aid has been increasing constantly for the past ten years, with selective aid granted for between 17 and 23% of the

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budget for films with an estimated cost of less than four million euros (i.e. 133 productions in 2013, representing two-thirds of France's production). The Rhône-Alpes Region for its part says it is "looking into ways, in conjunction with the CNC, of safeguarding an economic model of financing for the cinema that has stood the test of time".

Tribunal administratif de Lyon (3e ch.), 3 avril 2014 - M. Tete

Administrative court of Lyon (3rd chamber), 3 April 2014 - Mr Tete

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