Committee of Ministers: A revised Convention on Cinematographic Co-Production

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Emmanuel Vargas Penagos
Institute for Information Law (IViR), University of Amsterdam

On 29 June 2016, a new Convention on Cinematographic Co-production (the "Convention") was adopted by the Committee of Ministers on at the 1261st meeting of the Ministers' Deputies. This instrument contains rules of international law for relations between States when cinematographic co-productions involving producers from at least two States are undertaken.

The scope of the Convention is limited to cinematographic works. According to the Explanatory Report of the Convention (the "Explanatory Report"), audio-visual works are excluded because their production is rarely made by co-production agreements and the evolution of technologies makes it difficult to find a proper definition of them.

The definition of "cinematographic work" under the Convention does not distinguish between length or media used, and includes works of fiction, animation, and documentaries which are intended to be shown in theatres. Furthermore, the Explanatory Report clarifies that, when a work is not screened in a cinema, it will not lose the co-production status.

The aim of a co-production agreement is to confer the nationality of each of the partners in the co-production. By this, the co-produced works may benefit from national aids and tax exemptions, among others. Nevertheless, the access to those aids is subject to the conditions and limits provided for by the legislative and regulatory provisions in force in each State and in accordance with the provisions of the Convention.

According to the Explanatory Report, the range of 10% to 70% of contribution for multilateral co-productions has been proved difficult to apply in countries with an undeveloped cinematographic industry. Furthermore, the report recalls that participation of cinematographic industry professionals from smaller countries in higher budget co-productions with experienced partners would grant them valuable expertise and helpful financial and creative input. Given this, the Convention broadens the range to 5% to 80% of contribution.

The Convention also establishes that the co-production contract must guarantee joint ownership of the property rights of the film for each of the co-producers. This instrument also takes account logistic measures of co-production by establishing

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that each party must facilitate entry and residence to the technical and artistic personnel from those who participate in co-productions. Moreover, work permits in the territory of the party must be granted and the temporary import and re-export of equipment required for the production and distribution of cinematographic works has to be permitted.

According to the Convention, each state party must designate a competent authority for applying the Convention. Moreover, a list of those authorities, which has to be regularly updated, must be submitted by the state parties to the Secretary General of the Council of Europe.

The Convention has two appendixes. The first of them provides the procedure for awarding co-producing status. The second one establishes the conditions for a work to qualify as an official co-production.

The Convention will be opened for signature by the member states of the Council of Europe and the other state parties to the European Cultural Convention at a later date, to be decided by the Committee of Ministers. The Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date on which three States, including at least two member States of the Council of Europe, have expressed their consent to be bound by the Convention.

This instrument follows years of work by different entities and persons who received, since 2008, the mission to revise the first version of the same convention, adopted in 1992 (IRIS 1995-1/44). Moreover, the preamble of the Convention has regard to the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (Paris, 20 October 2005) (see IRIS 2005-10/1), which strives to strengthen activities related to cultural expressions around the world.

Council of Europe Convention on Cinematographic Co-production (revised), adopted by the Committee of Ministers on 29 June 2016 at the 1261st meeting of the Ministers' Deputies

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Steering Committee for Culture, Heritage and Landscape, Council of Europe Convention on Cinematographic Co-production (revised) - Explanatory Report, 1 July 2016

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