# [PL] Promotion of European works in Poland

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Article 13(2) of the Audiovisual Media Services Directive provides that, where Member States require media service providers under their jurisdiction to contribute financially to the production of European works, including via direct investment in content and contribution to national funds, they may also require media service providers targeting audiences in their territories, but established in other Member States, to make such financial contributions which shall be proportionate and non-discriminatory.

In the Polish legal order, pursuant to Article 47f(2)-(3) of the Broadcasting Act, providers of on-demand audiovisual media services are required to allocate at least 30% of the catalogue content to European programmes, including those originally produced in Polish, and to give appropriate prominence to these programmes in the catalogue. The basis for calculating the percentage is the number of programmes made available in the catalogue in a given calendar quarter. One season of a series is treated as one programme.

The current wording of the provision is related to the adaptation of the content of the Act to the *Communication from the Commission - Guidelines pursuant to Article 13(7) of the Audiovisual Media Services Directive on the calculation of the share of European works in on-demand catalogues and on the definition of low audience and low turnover (2020/C 223/03)*. As a result of the amendment, the calculation of the percentage share of works in VoD catalogues is based on the number of titles of works and not, as before, on the duration and the time of availability of the programmes.

In addition, another piece of legislation - the Cinematography Act - regulates the obligation of different types of entities involved in the distribution of audiovisual works to contribute financially to a national fund aimed at financing audiovisual production. Pursuant to Article 19(3) of the Cinematography Act, a television programme broadcaster shall make a contribution to the Polish Film Institute (PISF) of the amount of 1.5% of the revenue generated by commercial broadcasts or of the revenue derived from fees collected directly from subscribers for access to broadcast programmes, if this revenue is higher in a given settlement period.

A television broadcaster established in another Member State of the European Union shall make a contribution determined on the basis of its revenues in the territory of the Republic of Poland. The amount of the contribution is at the same level as that for domestic broadcasters. The extension of the circle of entities

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obliged to make payments to PISF to include television broadcasters with their registered office in another EU Member State was made at the same time as the above-described amendment to the Broadcasting Act. The previous imposition of the contribution only on domestic broadcasters distorted fair competition in the media market. The Act introducing the changes discussed - the Act of 11 August 2021 amending the Broadcasting Act and the Cinematography Act - implemented Directive 2018/1808 of the European Parliament and of the Council amending the Audiovisual Media Services Directive into the Polish legal order.

***Ustawa z dnia 29 grudnia 1992 r. o radiofonii i telewizji (Dz.U. 2022 poz. 1722)***

https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20220001722

*Act of 29 December 1992 on Broadcasting (Journal of Laws 2022, item 1722)*

***Ustawa z dnia 30 czerwca 2005 r. o kinematografii (Dz.U. 2023 poz. 130)***

https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20230000130

*Act of 30 June 2005 on cinematography (Journal of Laws 2023, item 130*

***Ustawa z dnia 11 sierpnia 2021 r. o zmianie ustawy o radiofonii i telewizji oraz ustawy o kinematografii (Dz.U. 2021 poz. 1676)***

https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20210001676

*Act of 11 August 2021 amending the Broadcasting Act and the Cinematography Act (Journal of Laws 2021, item 1676)*

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