

No. 33134

MULTILATERAL

**European Convention on Cinematographic Coproduction
(with appendices). Concluded at Strasbourg on 2 October 1992**

Authentic texts: English and French.

Registered by the Secretary-General of the Council of Europe, acting on behalf of the Parties, on 9 September 1996.

Definitive signature by the Russian Federation

Ratification by Austria

MULTILATÉRAL

Convention européenne sur la coproduction cinématographique (avec annexes). Conclue à Strasbourg le 2 octobre 1992

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Enregistrée par le Secrétaire général du Conseil de l'Europe, agissant au nom des Parties, le 9 septembre 1996.

Signature définitive de la Fédération de Russie

Ratification de l'Autriche

EUROPEAN CONVENTION¹ ON CINEMATOGRAPHIC CO-PRODUCTION

Preamble

The member States of the Council of Europe and the other States party to the European Cultural Convention,² signatory hereto,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members in order, in particular, to safeguard and promote the ideals and principles which form their common heritage;

Considering that freedom of creation and freedom of expression constitute fundamental elements of these principles;

Considering that the defence of cultural diversity of the various European countries is one of the aims of the European Cultural Convention;

Considering that cinematographic co-production, an instrument of creation and expression of cultural diversity on a European scale, should be reinforced;

Determined to develop these principles and recalling the recommendations of the Committee of Ministers on the cinema and the audiovisual field, and particularly Recommendation No. R (86) 3 on the promotion of audiovisual production in Europe;

Acknowledging that the creation of the European Fund for the Support of Co-production and Distribution of Creative Cinematographic and Audiovisual Works, Eurimages, meets the concern of encouraging European cinematographic co-production and that a new driving force has thus been given to the development of cinematographic co-productions in Europe;

Resolved to achieve this cultural objective thanks to a common effort to increase production and define the rules which adapt themselves to European multilateral cinematographic co-productions as a whole;

Considering that the adoption of common rules tends to decrease restrictions and encourage European co-operation in the field of cinematographic co-production,

Have agreed as follows:

¹ Came into force on 1 April 1994, in accordance with article 17:

<i>Participant</i>	<i>Date of definitive signature (s) or of deposit of the instrument of ratification</i>
Denmark	2 October 1992 <i>s</i>
Latvia	27 September 1993 <i>s</i>
Sweden	10 June 1993 <i>s</i>
Switzerland	5 November 1992 <i>s</i>
United Kingdom of Great Britain and Northern Ireland	9 December 1993

² United Nations, *Treaty Series*, vol. 218, p. 139.

Chapter I — General provisions

Article 1 — Aim of the Convention

The Parties to this Convention undertake to promote the development of European cinematographic co-production in accordance with the following provisions.

Article 2 — Scope

- 1 This Convention shall govern relations between the Parties in the field of multilateral co-productions originating in the territory of the Parties.
- 2 This Convention shall apply:
 - a to co-productions involving at least three co-producers, established in three different Parties to the Convention; and
 - b to co-productions involving at least three co-producers established in three different Parties to the Convention and one or more co-producers who are not established in such Parties. The total contribution of the co-producers who are not established in the Parties to the Convention may not, however, exceed 30% of the total cost of the production.

In all cases, this Convention shall only apply on condition that the co-produced work meets the definition of a European cinematographic work as defined in Article 3, paragraph 3, below.

- 3 The provisions of bilateral agreements concluded between the Parties to this Convention shall continue to apply to bilateral co-productions.

In the case of multilateral co-productions, the provisions of this Convention shall override those of bilateral agreements between Parties to the Convention. The provisions concerning bilateral co-productions shall remain in force if they do not contravene the provisions of this Convention.

- 4 In the absence of any agreement governing bilateral co-production relations between two Parties to this Convention, the Convention shall also apply to bilateral co-productions, unless a reservation has been made by one of the Parties involved under the terms of Article 20.

Article 3 — Definitions

For the purposes of this Convention:

- a the term "cinematographic work" shall mean a work of any length or medium, in particular cinematographic works of fiction, cartoons and documentaries, which complies with the provisions governing the film industry in force in each of the Parties concerned and is intended to be shown in cinemas;
- b the term "co-producers" shall mean cinematographic production companies or producers established in the Parties to this Convention and bound by a co-production contract;

- c the term "European cinematographic work" shall mean a cinematographic work which meets the conditions laid down in Appendix II, which is an integral part of this Convention ;
- d the term "multilateral co-production" shall mean a cinematographic work produced by at least three co-producers as defined in Article 2, paragraph 2, above.

Chapter II — Rules applicable to co-productions

Article 4 — Assimilation to national films

- 1 European cinematographic works made as multilateral co-productions and falling within the scope of this Convention shall be entitled to the benefits granted to national films by the legislative and regulatory provisions in force in each of the Parties to this Convention participating in the co-production concerned.
- 2 The benefits shall be granted to each co-producer by the Party in which the co-producer is established, under the conditions and limits provided for by the legislative and regulatory provisions in force in that Party and in accordance with the provisions of this Convention.

Article 5 — Conditions for obtaining co-production status

- 1 Any co-production of cinematographic works shall be subject to the approval of the competent authorities of the Parties in which the co-producers are established, after consultation between the competent authorities and in accordance with the procedures laid down in Appendix I. This appendix shall form an integral part of this Convention.
- 2 Applications for co-production status shall be submitted for approval to the competent authorities according to the application procedure laid down in Appendix I. This approval shall be final except in the case of failure to comply with the initial undertakings concerning artistic, financial and technical matters.
- 3 Projects of a blatantly pornographic nature or those that advocate violence or openly offend human dignity cannot be accorded co-production status.
- 4 The benefits provided by co-production status shall be granted to co-producers who are deemed to possess adequate technical and financial organisation, and sufficient professional qualifications.
- 5 Each Contracting State shall designate the competent authorities mentioned in paragraph 2 above by means of a declaration made at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession. This declaration may be modified at any later date.

Article 6 — Proportions of contributions from each co-producer

- 1 In the case of multilateral co-production, the minimum contribution may not be less than 10% and the maximum contribution may not exceed 70% of the total production cost of the cinematographic work. When the minimum contribution is less than 20%, the Party concerned may take steps to reduce or bar access to national production support schemes.

- 2 When this Convention takes the place of a bilateral agreement between two Parties under the provisions of Article 2, paragraph 4, the minimum contribution may not be less than 20% and the largest contribution may not exceed 80% of the total production cost of the cinematographic work.

Article 7 — Rights of co-producers

- 1 The co-production contract must guarantee to each co-producer joint ownership of the original picture and sound negative. The contract shall include the provision that this negative shall be kept in a place mutually agreed by the co-producers, and shall guarantee them free access to it.
- 2 The co-production contract must also guarantee to each co-producer the right to an inter-negative or to any other medium of duplication.

Article 8 — Technical and artistic participation

- 1 The contribution of each of the co-producers shall include effective technical and artistic participation. In principle, and in accordance with international obligations binding the Parties, the contribution of the co-producers relating to creative, technical and artistic personnel, cast and facilities, must be proportional to their investment.
- 2 Subject to the international obligations binding the Parties and to the demands of the screenplay, the technical and craft team involved in filming the work must be made up of nationals of the States which are partners in the co-production, and post-production shall normally be carried out in those States.

Article 9 — Financial co-productions

- 1 Notwithstanding the provisions of Article 8, and subject to the specific conditions and limits laid down in the laws and regulations in force in the Parties, co-productions may be granted co-production status under the provisions of this Convention if they meet the following conditions:
 - a include one or more minority contributions which may be financial only, in accordance with the co-production contract, provided that each national share is neither less than 10% nor more than 25% of the production costs;
 - b include a majority co-producer who makes an effective technical and artistic contribution and satisfies the conditions for the cinematographic work to be recognised as a national work in his country;
 - c help to promote a European identity; and
 - d are embodied in co-production contracts which include provisions for the distribution of receipts.
- 2 Financial co-productions shall only qualify for co-production status once the competent authorities have given their approval in each individual case, in particular taking into account the provisions of Article 10 below.