



EUROPEAN COMMISSION

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PUBLIC VERSION

WORKING LANGUAGE

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Subject: State aid N 549/2009 – Germany - Prolongation of aid scheme to support film production in Bayern (N 248/2007)

Dear Sir,

1. Summary

1. The European Commission has assessed the aid scheme to the cinematographic and audiovisual sector in Bayern and decided to consider the aid to be compatible with the EC Treaty. The subject matter of the present notification is a planned increase of the annual budget from currently EUR 12,2 million to EUR 13,4991 million. The scheme is approved until 31 December 2013 on the basis that the German authorities have undertaken to implement any changes that may be required after the expiry of the Commission Communication on cinematographic and other audiovisual works (hereinafter “Cinema Communication”)¹.

¹ Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions on certain legal aspects relating to cinematographic and other audiovisual works of 26/09/2001 (OJ C 43 of 16/02/2002); extended by the Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions on the follow-up of the Commission communication on certain legal aspects relating to cinematographic and other audiovisual works of 26/09/2001 (OJ C 123 of 30/04/2004); by the Commission Communication on the prolongation of the application of the Communication on the follow-up of the Commission Communication on certain legal aspects relating to cinematographic and other audiovisual works (Cinema Communication) of 26 September 2001 (OJ C 134 of 16/06/2007); and finally by the Commission Communication on the prolongation of the application of the Communication on the follow-up of the

Seine Exzellenz Herrn Frank-Walter Steinmeier
Bundesminister des Auswärtigen
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2. Procedure

2. On 8 October 2009 the German authorities notified prolongation of the state aid scheme to cinematographic and audiovisual production in Bayern as well as an increase of its budget, using the simplified notification form.
3. By decision of 4 June 2007 (N 248/2007)², the Commission had authorised the current scheme until 31 December 2009. Prior to that, the state aid scheme was approved by decision of 19 September 2001 (N 439/01)³, until 30 June 2004 and by decision of 14 December 2004 (N 411/2004)⁴, until 30 June 2007.

3. Description of the measure

4. The notified scheme consists of a prolongation of a previously authorised aid until 31 December 2013. The budget is to be increased from currently EUR 12,2 million to EUR 13,4991 million annually. In total, the budget of the scheme for 2010 to 2013 will be EUR 53,9964 million. All other aspects remain unchanged.

5. The aid granted under the aforementioned authorised scheme consists of reimbursable grants, direct grants, soft loans and interest subsidies, awarded by the FilmFernsehFonds Bayern GmbH.

6. The scheme supports production of films and TV films in Bayern. The aid intensity in general does not exceed 50% but can in certain cases go up to 70%.

7. In all other respects, reference is made to the decisions of the Commission of 4 June 2007, 14 December 2004 and 19 September 2001

4. Assessment of the measure

4.1. Existence of State aid

8. As already set out in the State aid cases N 248/2007, N 411/2004 and N 439/2001, the measure constitutes State aid within the meaning of Article 87(1) of the EC Treaty.

4.2. Compliance with the EC Treaty

9. The envisaged measure is a prolongation of a scheme and an increase of its budget. The aid remains unchanged as to its substance and has previously been approved by the

Commission Communication on certain legal aspects relating to cinematographic and other audiovisual works (Cinema Communication) of 26 September 2001 (OJ C 31 of 07/02/2009).

² http://ec.europa.eu/competition/state_aid/register/ii/by_case_nr_n2007_0240.html#248

³ http://ec.europa.eu/competition/state_aid/register/ii/by_case_nr_n2001_0420.html#439

⁴ http://ec.europa.eu/competition/state_aid/register/ii/by_case_nr_n2004_0390.html#411

Commission under Article 87(3)(d) of the EC Treaty as compatible with the Common Market.

10. The preceding decision of the Commission of 4 June 2007 (N 248/2007) approving the aid scheme was based on the Cinema Communication. The validity of the compatibility criteria set out in this Communication was recently extended from 28 January 2009 until 31 December 2012, so that the Commission's statement on the compatibility of the aid scheme remains valid.
11. Concerning the prolongation of the aid scheme and the increase of the budget, they are compatible with the Cinema Communication because the conditions for providing loans for the film support remained otherwise unchanged. The conditions of the simplified notification procedure have therefore been fulfilled.

4.3. Conclusion

12. The Commission therefore concludes that the aid scheme constitutes State aid within the meaning of Article 87(1) of the EC Treaty which is compatible with the Common Market pursuant to Article 87(3)(d) of the EC Treaty.

5. Decision

13. The prolongation of the aid scheme and the increase of the annual budget from EUR 12,2 million to EUR 13,4991 million are compatible with the Common Market pursuant to Article 87(3)(d) of the EC Treaty. Therefore, the Commission does not raise objections in this respect. The scheme has been approved until 31 December 2013 on the basis that the Federal Republic of Germany obliged itself to re-evaluate the guidelines and to adapt them where necessary if the Cinema Communication was to expire and/or new State aid rules were to enter into force during the life time of the aid scheme.
14. The Commission reminds the Federal Republic of Germany to submit annual reports on the application of the aid scheme.
15. The Commission moreover reminds the Federal Republic of Germany to inform the Commission pursuant to Art 88(3) of the EC Treaty on all plans to approve anew or to modify this aid scheme.
16. If this letter contains confidential information, which should not be published, please inform the Commission services within 15 working days after receipt of this letter by providing reasons. If the Commission does not obtain a reasoned request within this delay, it will presume that you agree with the publication towards third parties and with the publication of the entire wording in the authentic language on the following internet website http://ec.europa.eu/community_law/state_aids/index.htm. Applications must be sent by encrypted E-mail to: stateaidgreffe@ec.europa.eu or via Fax to the following address:

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Generaldirektion Wettbewerb
Registratur Staatliche Beihilfen
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Sincerely,

For the Commission

Neelie KROES
Member of the Commission