

Luxembourg 27 July 2021

The undersigned Claudine Bohnenberger, certified translator with the Court of Justice in Luxembourg by ministerial decree of 18 December, 1991 in application of the Law of 7 July, 1971 hereby certifies that the translation of the document regarding Grand ducal regulation of 5 April 2001 on the applicable rules for the «promotion of»¹ European works «in audio-visual media services corresponds in content and in form to the version submitted for the translation.

In case of litigation the original version is binding.

Claudine Bohnenberger
Certified translator

Grand ducal regulation of 5 April 2001 on the applicable rules for the «promotion of»¹ European works «in audio-visual media services »^{1 2}

(Memorial A - 42 of 17 April 2001, p. 934; dir. 97/36/CE; 89/352/CEE; Published again in Memorial A - 88 of 1 August 2001, p. 1806) amended by:

Grand ducal regulation of 17 December 2010 (Memorial A - 241 of 24 December 2010, p. 4037; dir. 2007/65/CE)

Grand ducal regulation of 26 February 2021 (Memorial A - 175 of 8 March 2021)

Grand ducal regulation of 15 July 2021 (Memorial A - 555 of 23 July 2021).

Coordinated text of 23 July 2021

applicable as of 27 July 2021

(Grand ducal regulation of 17 December 2010)

«Art. 1. Scope

The present grand ducal regulation does not apply to local television services that are not part of a national network, nor to television services exclusively dedicated to tele-shopping or self-promotion.»

Art. 2. Definitions

(1) For the present regulation, European works shall mean:

- a) works originating from Member states of the European Economic Area ;
- b) works originating from third countries, but that are part of the European convention on transborder television of the European Council and meeting the conditions of paragraph (2) below; and

(Grand ducal regulation of 17 December 2010)

«c) works co-produced under agreements on the audio-visual sector signed by the European Union and third countries meeting the conditions defined in each of these agreements.»

Works referred to under letters b) and c) above are only considered as European works if works of the Member states of the European Economic Area are not subject to discriminatory measures in the relevant countries.

(2) Works referred to under paragraph (1) letters a) and b) are works produced essentially with authors and staff residing in one or more States referred to under the relevant letters and meeting one of the three following conditions:

- a) They are produced by one or more producers established in one or more of these States; or
- b) The production of these works is supervised and actually controlled by one or more producers established in one or more of these States; or
- c) There is a majority contribution by co-producers of these States in the total costs of the co-production and the latter is not controlled by one or more producers established outside one or more of these States.

(3) (...) *(repealed by the grand ducal regulation of 17 December 2010)*

(4) Works that are not European works within the meaning of paragraph (1) but that are produced under bilateral or multilateral co-production agreements signed between Member states and third countries are deemed to be European works if the co-producers established in these Member states have a majority participation in the total costs of the production and provided the production is not controlled by one or more producers located outside the territory of these Member states.

(5) (...) *(repealed by the grand ducal regulation of 17 December 2010)*

¹ As amended by the grand ducal regulation of 17 December 2010.

² Legal basis: Law of 27 July 1991 on electronic media.

(6) For the purpose of the present regulation, independent producer will mean any natural person producing audio-visual works without exercising the activity of «television service provider»¹ and any legal entity producing audio-visual works without exercising the activity of «television service provider»¹ of which the capital is not under the majority control of a «television service provider»¹

Art. 3. Content of European works «in television services»¹

(1) Any time feasible, any television «service»¹ reserves to European works, within the meaning of article 2 above, a majority part of its airtime, with exclusion of the time for information, sport events, games, advertising, teletext and tele-shopping services. This proportion, considering the responsibilities «of the television service providers»¹ with regard to their public as to information, education, culture and entertainment, shall be achieved progressively on the basis of appropriate criteria.

(2) Should the proportion defined in paragraph (1) not be reachable, it may not be lower than the one acknowledged for the «service»¹ in average in 1988.

Art. 4. Proportion of European works of independent producers «in television services»¹

Any time feasible, any television «service»¹ reserves at least 10% of its airtime, with exclusion of the time for information, sport events, games, advertising, teletext and tele-shopping services to European works from producers that are independent «from the television service provider»¹. This proportion, considering the responsibilities «of the television service providers»¹ with regard to their public as to information, education, culture and entertainment, shall be achieved progressively on the basis of appropriate criteria. It must be reached by reserving an adequate proportion to recent works, i.e., works broadcast within a period of time of five years after their production.

Art. 5. Statistics «on television services»¹

Every «television service provider»¹ submits to the «Autorité luxembourgeoise indépendante de l'audiovisuel»² a statistical list of the implementation of the proportions referred to under articles 3 and 4, specifying, if applicable, the reasons for which it was not possible to achieve these proportions as well as the measures taken or planned to achieve them.

(Grand ducal regulation of 17 December 2010)

«Art. 5bis. Promotion of European works in audio-visual media services »

(Grand ducal regulation of 26 February 2021)

«(1) On-demand audio-visual media service providers will propose at least 30 percent of European works in their catalogues and will highlight these works.»

(Grand ducal regulation of 17 December 2010)

«(2) On-demand audio-visual media service providers will submit to the «Autorité luxembourgeoise indépendante de l'audiovisuel»², not later than 30 September 2011, and every four years thereafter, a report on the implementation of paragraph (1).»

(Grand ducal regulation of 15 July 2021)

(3) The obligation pursuant to paragraph (1) does not apply to media service providers with a low turnover or a low audience in accordance with the guidelines of the Commission established pursuant to article 13, paragraph 7, of directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provisions of audiovisual media services (Audiovisual Media Services Directive).

(4) The obligation pursuant to paragraph (1) does not apply if it is impossible to comply with or unjustified due to the nature or the subject of the audiovisual media services.

Art. 6. Entry into force

Our Prime Minister, State Minister is in charge of the enforcement of the present regulation, which will be published in the Memorial (Official journal).

¹ As amended by the grand ducal regulation of 17 December 2010.

² Amended by the grand ducal regulation of 26 February 2021.