

# European integration, audiovisual governance and global online platforms

## Between market rationale, cultural logic and social considerations

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In multiple national and regional contexts, platformization has been a key driver for rethinking cultural policies and media regulation (Flew, 2016). Global online content platforms, such as Netflix, Disney Plus, HBO Max, Apple TV Plus or Amazon Prime Video, trigger major challenges for European Union (EU) governance related to the production, distribution, broadcasting and consumption of media and cultural contents.

On the one hand, public policies are a historical feature of the audiovisual industries and of the media sector more broadly – with financial aid, market regulation, intellectual property rights regulation and various regulatory and support measures for the protection and promotion of cultural diversity as key components of national and European audiovisual and media action (Psychogiopoulou, 2015; Calligaro & Vlassis, 2017). Moreover, media and audiovisual sectors are a key field of both European public policymaking and European integration (Sarikakis, 2007), linked to such issues as identity, democracy and protection of fundamental human rights and of rights to education and to intercultural dialogue. It is revealing that audiovisual and cultural industries have also become a key element of EU action in external relations (Vlassis, 2020a). The EU has played a critical role in the intergovernmental negotiations leading to the adoption in 2005 of the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (CDCE). As a party to the CDCE, the EU has the right to implement the CDCE, and this is also the case regarding the Member States (Psychogiopoulou, 2012; Vlassis, 2015).

On the other hand, global online platforms have become major enablers of global flow of cultural contents, with unparalleled gatekeeping powers (Albornoz & Leiva, 2019). In addition, they have traditionally favoured minimalist regulation for digital technologies, underpinned by the fear of untimely state intervention or inappropriate public policies (Simpson, Puppis, & Van den Bulck, 2016). Such strategies, coupled with the transnational and deterritorialized dimension of global online platforms, could destabilize national and European cultural and audiovisual policies (Lobato, 2018). They are also expected to thwart the attainment of public

objectives widely cherished in Europe, such as promoting diversity of cultural expressions, protecting intellectual property rights of creators and facilitating access to culture. The truth is that depending on how online platforms are treated by governance norms and rules, they can boost, revitalize and bolster European integration or concentrate power and cultural supply in the hands of a limited number of players (Vlassis, Rioux, & Tch  houali, 2020).

Under such conditions, fundamental questions are raised about EU audiovisual governance and European integration. EU audiovisual governance has been dominated by a major source of tension resulting from arguments about the ‘exceptionality’ of cultural and audiovisual goods and services, their role in building a European identity and the potential of audiovisual industry to make a major contribution to the EU’s economic and social agenda (Depetris, 2008; Vlassis, 2015). Indeed, audiovisual goods and services raise major issues for several actors as mentioned in Table 8.1 (Vlassis, 2016a).

In addition, normative challenges resulting from the adoption and implementation of the EU Digital Single Market (DSM) strategy are related, in particular, to the governance of the digital economy with a view to involve online platforms in the financing, distribution and visibility of European cultural works. In the framework of the DSM, the EU adopted an update of the EU audiovisual media rules through the review of the Audiovisual Media Services Directive (AVMSD).

In this respect, the chapter focuses on key dynamics through which European governance norms related to the audiovisual sector and – more recently – to online platforms are formulated. It aims to highlight the key rationale with respect to the scope and objectives of EU audiovisual governance and to explore the underlying dynamics of these complex policy debates in the light of European integration and their connexion to online platforms in the audiovisual sector. In its contested position between national and supranational interests, the study of European audiovisual governance can be seen to mirror central debate related to the future of the

*Table 8.1* Issues of audiovisual governance

Economic issues	Audiovisual industries are a key sector in terms of growth, competitiveness and employment for national economies. It is revealing that according to the UNESCO Institute for Statistics (2016: 11), audiovisual services are increasingly becoming the most important cultural service in terms of trade exchanges.
Political issues	Audiovisual goods and services – seen as vehicles of shared ideas, values and collective representations – are resources of the power of states and of their capacity to shape their international environment. In this respect, cinema is the sector in which most of the export and import measures are put in place (Deloumeaux, 2018: 136).
Social issues	Media industries, online platforms and associations of culture professionals involved in the production, distribution and consumption of media and cultural contents are powerful political actors, which exert strong pressure towards public authorities, seeking to influence decision-making process and shape public policies.
Cultural and identity issues	Audiovisual goods and services have a distinct cultural value. Cultural expressions – distributed by audiovisual industries – are usually components of national, regional or local identities, and several actors are increasingly worried about cultural dominance.

*Source:* Summary by the author

European project, “namely to negotiate and reconcile the desires of cultural specificity and national identity with the larger ideal of supranational community” (Bergfelder, 2005: 315).

The chapter primarily discusses the key norms which have dominated the global politics for audiovisual goods and services since the 1990s, highlighting specifically the link between economic integration and the audiovisual sector. It emphasizes, furthermore, the evolution of the relationship between EU institutions and the audiovisual industry, also focusing on the review of AVMSD. Finally, it seeks to draw up an inventory of the EU’s role within global audiovisual politics.

## Global audiovisual politics between free trade and cultural exception

Since the early 1990s, the elimination of regulatory and financial policies in the audiovisual sector has been a key priority of US trade diplomacy as well as a stumbling block in the process of the international and regional economic integration. “The USA stands as the major exponent of a competition approach to the production and supply of media content” (Gibbons & Humphreys, 2012: 18). National government policies in support of their film industries rely on two types of policies: those that attempt to restrict entry of foreign competitors, such as tariffs and quotas, and those that provide preferential treatment to the domestic industry in the form of subsidies and tax credits (Crane, 2014: 8). As mentioned previously, audiovisual goods and services raise economic, political, social and identity issues; they oscillate between material and symbolic spheres, and they cannot be reduced to simple commodities. In this view, several governments aimed to promote the ‘cultural exception’ norm: as such, the film industry is not an industry like any other, and public intervention is necessary in order to protect the specificity of audiovisual goods and services (Vlassis, 2015).

The goal of the US administration, followed mainly by several powerful industrial associations such as the Motion Picture Association of America (MPAA), was to incorporate cultural and audiovisual goods and services within the agenda of international trade negotiations. The most prominent examples are included in Table 8.2.

Meanwhile, since the 2000s, the US administration has also opted for the bilateral pathway, concluding free trade agreements (FTAs) with economically developed and developing countries<sup>1</sup> and seeking to promote the liberalization of audiovisual markets as a key norm (Gagné, 2016).

The US position, based on the ‘free trade’ norm, was largely associated with the Washington consensus, which has gained prominence since the end of the Cold War and the collapse of the bipolar global order. The consensus asserts that world welfare would be maximized by the liberalization of trade exchanges, finance and investment and by restructuring national economies

*Table 8.2* Historical moments of cultural exception

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The last period of negotiations on the General Agreement on Trade in Services (GATS) of the World Trade Organization (WTO) in 1993.
The negotiations on the Multilateral Agreement on Investment within the Organization for Economic Cooperation and Development (1995–1998).
The North American Free Trade Agreement (NAFTA) between the United States, Canada and Mexico in 1994.

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*Source:* Summary by the author

to provide an enabling environment for facilitating and increasing cross-border flows of capital, goods and services. In this regard, the assumption entails that audiovisual policies follow an underlying principle that “human well-being can best be advanced by liberating individual entrepreneurial freedoms and skills within an institutional framework characterized by strong private property rights, free markets, and free trade” (Harvey, 2005: 2).

At the same time, rapid financial globalization, bilateral and multilateral FTAs and liberalization of trade exchanges raised major concerns over the implications on cultural identities and legitimacy of public intervention in cultural industries. As such, a coalition of actors, driven by France, Canada, many EU Member States and several organizations of cultural professionals, promoted the ‘cultural exception’ (*exception culturelle*) norm in order to exclude cultural and audiovisual goods and services from the agenda of trade negotiations (Bohas, 2021: in this book). The ‘cultural exception’ norm focuses on the specificity of cultural goods and services – which are not considered simply commercial commodities bought and sold in markets – as well as on the importance of public intervention in the cultural and audiovisual sectors (Buchsbbaum, 2017; Vlassis, 2015). In other words, this coalition of actors regarded the audiovisual sector as too important to be left to the mechanisms of the free trade market due to its economic, political and identity significance. Consequently, the UNESCO CDCE was seen as a response to the threat to cultural policies coming from international and regional economic integration (Richieri-Hanania, 2009). As of December 2020, the CDCE has received the support of 148 of its Member States and of the EU. It recognizes the specificity of cultural goods and services and the legitimacy of cultural policies for the protection and promotion of the diversity of cultural expressions. It also incorporates concrete provisions about culture and sustainable development, aiming to strengthen international cultural cooperation through various tools, such as expert and information exchange among the parties, preferential treatment for developing countries and the setting up of the International Fund for Cultural Diversity (Vlassis, 2011).

However, since the 2010s, global online platforms have emerged as a powerful technologic player in the audiovisual economy. In the new context of “platform capitalism” (Srnicsek, 2017), one of the major trade priorities of the Obama administration was to include digital cultural services in the agenda of megaregional partnerships. The most representative cases are the Trans-Pacific Partnership (TPP) between 12 countries along the Pacific Rim,<sup>2</sup> signed in 2016; the negotiations on Transatlantic Trade and Investment Partnership (T-TIP) between the EU and United States; and those on Trade in Services Agreement (TiSA). Indeed, the US diplomacy priority was to treat online audiovisual services, such as video on demand (VOD) services, in a single chapter devoted to e-commerce and to eliminate all forms of discrimination with regard to digital cultural and audiovisual services. Its goal was to promote an open market environment and to “limit the right of States to implement cultural policies to support the creation, distribution and consumption of the digital local content” (Guèvremont, 2015: 142). The Trump administration withdrew the United States from the TPP in 2017, and the negotiations on TiSA and T-TIP are in hibernation mode. Today, global audiovisual governance is expected to be tested within two current negotiations: the trade negotiations between the United States and China dealing with several technological sectors and the plurilateral negotiations on electronic commerce including the EU, the United States, China, Japan and 48 other WTO members (Vlassis, 2020a).

## EU audiovisual policies between technological developments and cultural considerations

The EU audiovisual policy has not been static but evolving, and the balances of interests and objectives have varied, from cultural and democratic objectives to economic and industrial

ones (Iosifidis, 2011: 143–165). Over the last three decades, several EU policy tools have been designed to go hand in hand with the economic transformations of the audiovisual sector. The EU policy goals in the audiovisual sector oscillate between the free flow of audiovisual goods and services and the aim of identity building, as well as between the imperative of technological convergence and the protection and promotion of cultural diversity (Vlassis 2020a).

It can be said that since the 1980s, the EU has been playing an increasingly important role in the sphere of the media and audiovisual industry. As Iosifidis (2011: 143) pointed out, there are notably three key reasons: first, the globalization of communication systems contesting the idea of mainly national media; second, EU intervention in the field of media and communications was deemed necessary in the process of the Europeanization of national markets; and third, the increased EU competence over the communications industry was equally significant.

Until the early 1980s, cultural, technical and political issues related to the production, distribution and consumption of audiovisual goods and services had been mostly absent within European Community discourses, even though several voices from the *Centre national du cinema* (France) and organizations of culture professionals as well as academics started calling for the establishment of European public measures for the film industry (Depetris, 2008: 126–168). However, in the late 1980s, attempts to build audiovisual policy tools at the European level were triggered by several factors (Table 8.3).

Against this backdrop, in 1984, the European Commission launched the idea of a single European broadcasting market through the publication of the “Green Paper on the Establishment of the Common Market for Broadcasting, Especially by Satellite and Cable” (European Commission, 1984). However, this initiative was subject to criticisms due to “the sensitivities related to audiovisual policies and to the limited competencies of the European Commission to take the lead in this area of policy” (Pauwels & Donders, 2014: 528). Following a five-year period of intense negotiations, the Television Without Frontiers Directive (TWFD), issued in 1989 and amended in 1997, is the first EU regulatory instrument in the audiovisual field. It aimed to stimulate the cross-border circulation of audiovisual content, liberalizing the broadcasting market across EU borders, and supported media companies acting across several European markets in order to make them internationally competitive (Nowak, 2014: 98). It was argued that the TWFD was based on the logic of the “mandatory liberalization, optional interventionism” (Littoz-Monnet, 2007: 84).

In this respect, EU actions were seen more as a supplement to Member State policies, serving primarily as a means to encourage exchange and co-operation (Barnett, 2001). The directive also introduced a commitment to reserve a minimum of 50% of television programming to European works (Article 4), as well as for broadcasters to devote 10% of their television scheme or invest 10% of their production budget in independent productions (Article 5). Although a step in the right direction, the directive was criticized for having contributed to strong power asymmetries in the market, as well as for its limited impact in promoting European content,

*Table 8.3* Factors for the emergence of European audiovisual tools

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Development of satellite broadcasting
End of state monopoly in the broadcasting sector
Proliferation of private TV broadcasters
Economic crisis in the European film industry
Increasing trade deficit in relation with the United States in terms of audiovisual goods and services

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Source: Summary by the author

as the proposed measures only required broadcasters to stick to the quota “where practicable”, which was considered ineffective. The evidence presented in several studies (Chalaby, 2006; Vlassis, 2020a; Bohas, 2021: in this book) points to the remarkable position that the American film and television industry has achieved in the European audiovisual landscape since the end of 1980s. Put differently, the TWFD, seen as the main EU regulatory instrument specific to the audiovisual sector, has been about the establishment of some minimum common rules and the liberalization of the audiovisual market (Michalis, 2014).

In addition, the *Mesures pour Encourager le Développement de l’Industrie Audiovisuelle* (MEDIA) program – established in 1991 – became a supplementary financial instrument in order to support EU audiovisual industries in terms of production and distribution. Today, MEDIA is a part of the Creative Europe Programme, and its annual budget is 120 million EUR. In comparison, in 2017, the total budget of the French Film Centre reached 707 million EUR. Finally, two additional initiatives reveal that the development of a policy of audiovisual tools at the European level has gained increasing attention: first, established in 1989, the programme Eurimages is the audiovisual support fund of the Strasbourg-based intergovernmental organization of the Council of Europe. It provides financial support in order to encourage film co-productions in Europe, and it has a total annual budget of 26 million EUR. Second, the Franco-German television network *Association Relative à la Télévision Européenne* (ARTE) started broadcasting in 1992. ARTE is perceived as a European Culture channel, producing programmes for various national audiences, or even for a European audience.

In addition, until the Maastricht Treaty, signed in 1992, the EU enjoyed no legal competence in the field of culture. Article 128 of the Treaty of Maastricht (which became Article 151 in the 1997 Treaty of Amsterdam and consolidated as Article 167 of the TFEU) was the first formal legal instrument acknowledging EU-level competency in culture: “the Community shall take cultural aspects into account in its action under other provisions of this Treaty, in particular in order to respect and to promote the diversity of its cultures”. At the same time, in 1997, the publication of the “Green Paper on the Convergence of the Telecommunications, Media and Information Technology and the Implications for Regulation” established the concept of convergence in the core of the EU policy agenda and led to the 2002 “regulatory framework for electronic communications and services” (Harcourt, 2005). Since the late 1990s, convergence – namely the delivery of media, telephone and Internet services via the same transmission platform – has become a buzzword in the discourse of key actors involved in the regulation of the audiovisual media sector at EU level (Latzer, 2014). Often seen as a driving force of digitization, liberalization and globalization (Latzer, 2014: 37), convergence has represented challenges regarding the scope and objectives of EU audiovisual governance in the digital universe (Iosifidis, 2002).

In 2007, the revision of the TWFD into the AVMSD encompassed issues of technological convergence and exemplified the transversal aspects of the audiovisual media goods and services. As a result, it covered all content services, irrespective of the technology that delivers them, and it recognized that non-linear audiovisual services,<sup>3</sup> such as web television or video on demand, could no longer be neatly separated from their analog and linear services (Erickson & Dewey, 2011: 491). It also recognizes the country-of-origin principle as the cornerstone of the directive. It means that service providers are only subject to the rules of their country of origin or home country, namely the country where they are established. As stressed by Iosifidis (2011: 163), the AVMSD was notably “a victory for liberal economic forces but it contains cultural considerations”. In addition, even though the AVMSD dealt with the new digital services, it affirmed the “doubtful” regulatory distinction between “new and older modes” of culture service delivery, which provoked diverse criticisms (Pauwels & Donders, 2014: 531–540).



It is necessary to bear in mind that EU policy tools in the audiovisual sector have constantly struggled between two key political logics (Collins, 1994; Littoz-Monnet, 2007; Gibbons & Humphreys, 2012): on the one hand, an interventionist policy model – defended by France, the European film production industry and the Public Service Broadcasters and followed by several countries, such as Spain, Italy, Belgium, Greece and Romania and often by the European Parliament. This position highlights the importance of public policies – with financial aid, content quotas, market and investment regulation, intellectual property rights regulation, protection and promotion of cultural diversity – in audiovisual industries and recognizes the dual nature of cultural goods and services; on the other hand, an economic regulation model – defended mostly by the private broadcasting lobby, the telecoms and advertising industry, the United Kingdom, the Netherlands, the Czech Republic, Luxembourg and other Northern European countries, as well as by the European Commission (hereafter Commission). This position considers audiovisual goods and services both as an industrial sector based on a “free market” logic and conversely as a policy area on which the Commission should have reduced competency to intervene.

### **Audiovisual Media Services Directive review: bring online platforms back in**

The EU agenda on audiovisual services has recently been dominated by the review of the 2007 AVMSD (Vlassis, 2017). Here the issue was twofold: to ensure open audiovisual markets to transnational digital content and/or to establish governance arrangements in the digital economy in order to involve large online platforms in the financing, distribution and visibility of European audiovisual content. In this view, as argued by the 2013 Lescure Report of the French Ministry of Culture, the distinction between “traditional cultural services” and “new (online) cultural services” is “artificial”, and its use would mean “the death sentence of EU cultural and audiovisual policies, which would be confined only to traditional cultural services” (Lescure, 2013: 170). It is hence crucial to maintain “a single treatment to audiovisual services, in accordance with the principle of technology neutrality” (Lescure, 2013: 170). Instead, the Commission’s (2013) green paper on a “Fully Converged Audiovisual World: Growth, Creation and Values” prepared by DG “Communications Networks, Content and Technology (CONNECT)” stated that the distinction between linear and non-linear services is “based on the much higher degree of consumer control in on-demand services, justifying less stringent regulation in certain areas” (European Commission, 2013: 11).

The new AVMSD was adopted by the European Parliament on October 2, 2018, by 452 votes in favour, 132 against and 65 abstentions. The new legislation is going to apply to all broadcasters but also to video-on-demand platforms and online video-sharing ones, such as Netflix, Disney Plus and YouTube. More specifically, the new text [Regulation (EU), 2018/1808] includes obligations for providers of on-demand audiovisual services to respect a quota of 30% for European works on their catalogues. Note that during the negotiations on the AVMSD review, the initial proposal coming from the European Commission was to set up a quota of 20% for European works. Several EU Member States, such as France, Spain, Italy, Greece and Romania, proposed the establishment of a quota of 30% or 40% for European works, whereas Finland, Luxembourg, Denmark, Ireland and the Czech Republic were against the perspective of including quotas on the online platforms’ catalogues (New Europe, 2018).

In addition, the revised AVMSD includes exceptions to the country-of-origin principle in order to tax non-domestic VOD players targeting a given Member State. According to the new AVMSD, where Member States require linear broadcasters and VOD providers to contribute financially to the production of European and national film contents, they may require linear

broadcasters and VOD providers targeting audiences in their territories but established in other Member States to make such a financial contribution. The latter should be in association with the turnover generated in the country, where the audience is targeted. Indeed, the new text is based on an *à la carte* logic, which historically dominates EU intervention in audiovisual industries. It is indicative that as of June 2020, only France, Germany, Italy, Poland, Denmark and the Flemish community of Belgium have developed obligations for non-domestic providers of on-demand audiovisual media services (Donders et al., 2018). Besides, in May 2018, regarding the German case, the European Court of Justice (ECJ) rejected a lawsuit from Netflix after it filed a complaint regarding the payment of a fee to the Federal Film Board in Germany. According to the ECJ, due to the fact that the Californian VOD platform's content is available in Germany, Netflix is obliged to contribute to the German film fund (Cineuropa, 2018). Clearly, EU audiovisual governance indicates a path dependency from the analogue to the digital era, adopting the same type of policies, such as quotas of content and financial contribution of new content providers.

It is revealing that the EU VOD market is characterized by an asymmetry favouring US online platforms and US/anglophone content. According to available statistical data, in 2018, European works accounted for 20% of all content available on subscription VOD platforms in the European audiovisual market (European Audiovisual Observatory, 2020: 16). In a similar vein, in 2018, the US-based companies Netflix and Amazon Prime Video represented 74% of EU VOD revenues and 79% of EU VOD subscribers (Grece, 2019). In France, in 2018, the top 20 most-consumed content on VOD platforms included only two non-US programs – the series *La Casa de papel* and *Black Mirror* (Centre national du cinéma, 2019: 188).

In addition, the great lockdown due to the global pandemic of the COVID-19 has had a major impact on the functioning of cultural markets and the global flows of digital cultural content. Netflix is one of the companies benefiting from the new context. The US VOD platform doubled its forecasts with respect to new subscribers in the first quarter of 2020: in the first three months of 2020, it had 15.77 million new paying subscribers worldwide (+9.4%) compared to a forecast of 7 million new subscribers. As of April 2020, Netflix had 182.9 million subscribers compared to 167.1 million at the end of January 2020. Netflix's dominance is also challenged by Disney Plus, Disney's new VOD service, launched in November 2019 in the United States, Canada and the Netherlands. In early April 2020, Disney Plus reached more than 50 million subscribers. This figure is impressive, considering that Disney Plus reported 28.6 million paid subscribers in February 2020 (Vlassis, 2020b). Clearly, Disney Plus is also a key beneficiary of consumption changes of cultural content and growing in-home streaming practices due to the COVID-19 outbreak and the great lockdown. Disney Plus got a major boost in late March and early April, when it launched in eight Western European countries – the United Kingdom, Ireland, Germany, Italy, Spain, Austria, France and Switzerland (Vlassis, 2020b).

In the new context, EU Member States aim to establish new and more ambitious audiovisual legislation in terms of obligations for digital providers, strengthening the interventionist policy model. In France, the goal of a new bill is to re-balance the rules of the audiovisual ecosystem between traditional players in the sector, such as TV channels, which are subject to several obligations, and the new digital players, such as online platforms. The new bill seeks to establish a new financing mechanism, which can be applied to the large online platforms established abroad but targeting audiences in France. In the context of discussions on the implementation of the revised AVMSD, Franck Riester, French minister of culture, said that the goal is to oblige online video platforms specializing in fiction programs, such as Netflix, Disney Plus, HBO Max and Amazon Prime Video, to reinvest at least 25% of their turnover generated in France. Finally, the French minister of culture stated that if online platforms fail to comply with this type of



obligation, an array of sanctions would apply, even risking the ban of broadcasting content in France (Le Monde, 2020).

It can be said that public intervention in an online platform-dominated audiovisual environment relies not only upon cultural criteria but also upon social ones – and on the protection and promotion of some professional groups of the media and audiovisual sector, whose business model has come under pressure by platformization, non-EU global operators and asymmetry of regulation. In this context, the arrival of transnational online providers of cultural content and their capacity to exploit different jurisdictions become a key priority for EU media governance, which attempts to ensure a level playing field between all actors involved in the different value chains.

## Audiovisual issues in EU external action

The Convention on the Protection and Promotion of the Diversity of Cultural Expressions, adopted in 2005, legitimized increasing involvement of the European Commission in EU cultural external affairs, and it offered an opportunity for the EU to establish itself as a foreign policy actor in cultural affairs. Since 2003, the Commission has been involved in the establishment of an international policy tool on cultural industries, producing a communication entitled “Towards an International Instrument on Cultural Diversity” (European Commission, 2003). Following bargaining between the EU Member States, the European Parliament and the Commission, the latter enjoyed expanded observer status at UNESCO for the first time, participating in negotiations on the CDCE. As a result, the EU participated as a single entity in the intergovernmental UNESCO Conference, speaking with two voices during the negotiations, that of the Commission and that of the presidency of the Council (Psychogiopoulou, 2012: 376). The Commission’s role was to ensure consistency between the CDCE and the body of EU legislation and norms (the *acquis communautaire*). The protection of the internal cultural *acquis* allowed the Commission to attain external competences towards cultural and audiovisual affairs insofar as an international normative evolution would have internal consequences on the EU cultural and audiovisual policies.

The EU ratified the CDCE in 2006. It was the first time that the EU was party to an international culture-oriented agreement. As party to the CDCE, it has the formal right to implement the CDCE in the same way as the Member States. The “European Agenda for Culture in a Globalizing World” (European Commission, 2007), launched by the Commission in 2006 and adopted in 2007, is the first policy framework for culture at the EU level. More precisely, the agenda is based on the provisions of the CDCE, seen as fully compatible with the *acquis communautaire* of the EU, and it proposes three strategic crosscutting objectives: cultural diversity and intercultural dialogue, culture as a catalyst for creativity and innovation and culture in the EU’s international relations. In accordance with the European Agenda, since 2007, several EU initiatives have showed that the EU seeks to promote cultural norms as part of its international economic and cultural relations. It is worth mentioning four types of action, shown in Table 8.4.

More specifically, in 2010, UNESCO and the European Commission adopted the first international project to make the CDCE operational at the country level, highlighting the emergence of a supranational partnership for the implementation of international norms. As such, they created an expert facility project funded by the EU in order to implement the CDCE through the strengthening of the system of governance for cultural industries in developing countries. In this respect, the UNESCO/EU project (2011–2014) allocated 1.2 million EUR for creating a pool of 30 experts in public policies for cultural industries. Technical assistance

*Table 8.4* EU action in international cultural relations

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In 2010, UNESCO and the Commission created an expert facility project, funded by the EU.
The inclusion of a “Protocol on Cultural Cooperation” in trade agreements with Caribbean Forum (CARIFORUM) (2008), South Korea (2010) and Central America (2012).
The incorporation of explicit references to the CDCE in the agreements with Ukraine, Moldova and Georgia and in the Comprehensive Economic and Trade Agreement (CETA) between the EU and Canada.
The protection – such as in the T-TIP negotiations between the EU and United States or e-commerce negotiations in the WTO – of the capacity of the Union and its Member States to implement cultural and audiovisual policies, taking account of developments in the digital environment.

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*Source:* Author’s own compilation

missions were put in place in order to transfer knowledge and know-how towards institutional capacities and policy design to support creative sector. In February 2015, a renewed Expert Facility (2015–2017) composed of 43 international experts was created with the support of the Swedish International Development Cooperation Agency. Finally, the network of experts was renewed for the 2018–2021 period, receiving funding of 1.72 million EUR from the EU. The technical assistance missions funded by the EU took place in 13 countries in Africa,<sup>4</sup> 4 countries in Asia<sup>5</sup> and 8 countries in Latin America and the Caribbean.<sup>6</sup>

In addition, all the Protocols on Cultural Cooperation make explicit reference to the CDCE, using its definitions of several concepts such as cultural diversity, cultural expressions or cultural goods and services (Vlassis, 2016b; Garner, 2017). The protocols also recognize the importance of cultural policies and the twofold economic and cultural nature of cultural goods and services. Furthermore, they stipulate that the countries which have not yet ratified the CDCE intend to do so expeditiously. All the protocols seek reinforcement of cooperation regarding exchanges of artists and technical assistance for the development of cultural industries and the audiovisual industry.

However, in the recent EU trade agreements with Vietnam, Japan and Singapore, finalized between 2016 and 2018, the EU strategy has changed. The agreements contain a “cultural exception” dealing with audiovisual services, which is incorporated into Chapter 8 of the agreements devoted to “Trade in Services, Investment and E-Commerce”. In addition, no reference to the CDCE appears in the three agreements, and no Protocol on Cultural Cooperation is included, unlike the trade agreements with South Korea, CARIFORUM and Central America. A key reason for this change is related to the international commitments of Japan and Singapore. Neither of the two countries is a party to the CDCE, while Vietnam ratified the CDCE in 2007. Another reason is the highly developed level of Japanese and Singaporean cultural industries.

## Concluding remarks

The picture that emerges sheds light on five key points:

First, global audiovisual politics are based on a normative dichotomy between “free trade”, which favours breaking down regulatory and financial measures in the audiovisual sector on the one side, and on the other side, the “cultural exception” principle, which recognizes the importance of cultural policies and the specificity of cultural goods and services. This dichotomy has been established beyond international political cleavages, such as the North/South divide or the West versus the Rest (Vlassis, 2020a). Today, the context of platformization intensifies the

existing political debate insofar as online platforms offer innovative ways of providing audiovisual content through online networks, strongly challenging the “cultural exception” principle.

Second, the revised AVMSD seeks to find a balance between competition and public interest, between the circulation without frontiers of new audiovisual services and the principles of cultural diversity and cultural exception. It has become clear that the unprecedented transformation of audiovisual production, distribution and consumption due to the digital shift turns the effectiveness and the goals of EU audiovisual policies upside down. In this context, one question arises in the audiovisual media policymaking: whether the absence of rules for new online players is beneficial or obstructing for the achievement of the EU economic and socio-cultural aims (Kalimo & Pauwels, 2009, 353).

Third, according to several EU Member States, the financing, distribution and visibility of European audiovisual content should involve the large online platforms. Indeed, the EU measures follow a path-dependence logic from the analogue-broadcast age to the digital one, and the EU response is based on an *à la carte* logic, which historically dominates the EU governance in audiovisual industries. Moreover, today several EU Member States are seeking to re-balance the rules of the audiovisual ecosystem between traditional players in the sector, such as TV channels and movie theatres, which are subject to several obligations, and new digital players, such as online platforms. There is also a strong probability that some EU Member States will pursue more ambitious audiovisual legislation in terms of obligations for online platforms and to actively promote the cultural exception online. France is a good example here.

Fourth, since the CDCE's adoption, the EU has sought to include the diversity of cultural expressions among its priorities, especially using trade agreements as the main way to disseminate cultural norms. As such, despite some political divisions, the EU seeks to promote “cultural exception” principle in trade agreements, taking account of developments in the digital environment.

Finally, despite their competition with each other, US online platforms are connected by strong strategic interdependence, benefiting from technological advantages, a large base of consumers, economies of scale and popularity of the English language, as well as a strong market capitalization. The great lockdown could also have some crucial effects: consolidating the dominant place of some US VOD platforms in the global cultural market, giving an economic and technological advantage to these global players to establish their leading position in the global trade of digital cultural content, developing oligopolistic conditions of strong competition among the few US multinational firms in the digital audiovisual market and strengthening the material and symbolic resources of these platforms in order to become irreplaceable global actors for culture professionals and public authorities.

## Notes

- 1 Australia, Bahrain, Chile, Colombia, Costa-Rica, Dominican Republic, Guatemala, Honduras, Jordan, Morocco, Nicaragua, Oman, Panamas, Peru, Salvador, Singapore, South Korea.
- 2 Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, the United States, Vietnam.
- 3 The television broadcast or linear service covers audiovisual media services provided by a provider for simultaneous viewing of programs on the basis of a program schedule. On-demand or non-linear services are offers of content for the viewing of programs at the moment chosen by the user and at an individual request on the basis of a catalogue of programs selected by the provider.
- 4 Burkina Faso, Democratic Republic of the Congo, Ethiopia, Gabon, Kenya, Malawi, Mauritius, Namibia, Seychelles, South Sudan, Niger, Uganda, Zimbabwe.
- 5 Cambodia, Georgia, Palestine, Vietnam.
- 6 Argentina, Barbados, Costa-Rica, Haiti, Honduras, Mexico, Jamaica, Panama.

## Bibliography

- Albornoz L.A. & Leiva T.G. (2019) *Audio-Visual Industries and Diversity: Economics and Policies in the Digital Era*. London: Routledge.
- Barnett C. (2001) 'Culture, policy, and subsidiarity in the European Union: From symbolic identity to the governmentalisation of culture'. *Political Geography*, 20(4): 405–426.
- Bergfelder T. (2005) 'National, transnational or supranational cinema? Rethinking European film studies'. *Media, Culture & Society*, 27: 315–331.
- Buchsbaum J. (2017) *Exception Taken: How France Has Defied Hollywood's New World Order*. New York: Columbia University Press.
- Calligaro O. & Vlassis A. (2017) 'La politique européenne de la culture: entre paradigme économique et rhétorique de l'exception'. Special issue in *Politique européenne*, 56: 170.
- Centre national du cinéma (2019) *Bilan 2018*. Paris: CNC.
- Chalaby J. K. (2006) 'American cultural primacy in a new media order: A European perspective'. *International Communication Gazette*, 68(1): 33–51.
- Collins R. (1994) *Broadcasting and Audio-Visual Policy in the European Single Market*. London: John Libbey.
- Crane D. (2014) 'Cultural globalization and the dominance of the American film industry: Cultural policies, national film industries, and transnational film'. *International Journal of Cultural Policy*, 20(4): 365–382.
- Deloumeaux L. (2018) 'Persisting imbalances in the flow of cultural goods and services'. In: UNESCO, *Re-Shaping Cultural Policies: Advancing Creativity for Development*. Paris: UNESCO, 125–142.
- Depetris F. (2008) *L'État et le cinéma en France: le moment de l'exception culturelle*. Paris: L'Harmattan.
- Donders K. et al (2018) *Obligations on On-Demand Audiovisual Media Services Providers to Financially Contribute to the Production of European Works: An Analysis of European Member States' Practices*. Brussels: Vrije Universiteit Brussel.
- Erickson M. and Dewey P. (2011) 'EU media policy and/as cultural policy: economic and cultural tensions in MEDIA 2007'. *International Journal of Cultural Policy*, 17(5): 490–509.
- European Audiovisual Observatory (2020) *Yearbook 2019/2020 Key Trends*. Strasbourg: European Audiovisual Observatory.
- European Commission (1984) *Green Paper on the Establishment of the Common Market for Broadcasting, Especially by Satellite and Cable*. Brussels, COM (84) 300 final, 14 June.
- European Commission (2003) *Communication from the commission to the council and the European parliament: Towards an international instrument on cultural diversity*. Brussels, COM/2003/0520 final, 27 August.
- European Commission (2007) *Communication from the commission to the European parliament, the council, the European economic and social committee and the committee of the regions on a European agenda for culture in a globalizing world*. Brussels, COM 242, final 10 May.
- European Commission (2013) *Green paper: Preparing for a fully converged audiovisual world: Growth, creation and values*. COM (2013) Brussels, 231 final, 24 April.
- Flew T. (2016) 'Convergent media policy: Reflections based upon the Australian case'. In S. Simpson, M. Puppis & H. Van den Bulck (eds), *European Media Policy for the Twenty-first Century: Assessing the Past, Setting Agendas for the Future*. London: Routledge, 219–237.
- Gagné G. (2016) *The Trade and Culture Debate: Evidence from US Trade Agreements*. New York: Lexington Books.
- Garner B. (2017) 'Towards a European strategy on culture and development: Learning from the CARIFORUM-EU economic partnership agreement'. *Politique Européenne*, 56: 146–168.
- Gibbons T. & Humphreys P. (2012) *Audiovisual Regulation under Pressure: Comparative Cases from North America and Europe*. London: Routledge.
- Guèvremont V. (2015) 'Promoting the Convention in international forums'. In UNESCO, *Re-shaping Cultural Policies: A Decade Promoting the Diversity of Cultural Expressions for Development*. Paris: UNESCO, pp. 143–161.
- Grece C. (2019) *Trends on the EU VOD Market*. Strasbourg: European Audiovisual Observatory, 3 September.

- Harcourt A. (2005) *The European Union and the Regulation of Media Markets*. Manchester: Manchester University Press.
- Harvey D. (2005) *A Brief History of Neoliberalism*. Oxford: Oxford University Press.
- Heidsiek B. (2018) 'Netflix forced to pay the German film levy'. *Cineuropa*, 31 May.
- Iosifidis P. (2002) 'Digital convergence: Challenges for European regulation'. *Javnost – The Public*, 9(3): 27–47.
- Iosifidis P. (2011) *Global Media and Communication Policy*. London: Palgrave Macmillan.
- Kalimo H. & Pauwels C. (2009) 'Policy approaches in the converging media and communications sector'. In C. Pauwels, H. Kalimo, K. Donders & B. Van Rompuy (eds), *Rethinking European Media and Communications Policy*. Brussels: VUB Brussels University Press, 353–365.
- Latzer M. (2014) 'Convergence, co-evolution and complexity in European communication policy'. In K. Donders, C. Pauwels & J. Loisen (eds), *The Palgrave Handbook of European Media Policy*. London: Palgrave Macmillan, 36–53.
- Le Monde (2020) 'Netflix et Amazon priés d'investir dans la création française', 15 January.
- Lescure P. (2013) *Mission Acte II de l'exception culturelle: Contribution aux politiques culturelles à l'ère numérique*. Paris: French Ministry of Culture.
- Littoz-Monnet A. (2007) *The European Union and Culture: Between Economic Regulation and European Cultural Policy*. Manchester: Manchester University Press.
- Lobato R. (2018) *Netflix Nations: The Geography of Digital Distribution*. New York: New York University Press.
- Michalis M. (2014) 'Focal points of European media policy from inception till present: *Plus ça change?*' In K. Donders, C. Pauwels & J. Loisen (eds), *The Palgrave Handbook of European Media Policy*. London: Palgrave Macmillan, 128–142.
- New Europe (2018) *EU Institutions Strike Preliminary 30% Quota Deal on Netflix-Like Providers*. 1 May.
- Nowak E. (2014) 'Between economic objectives and public remit: Positive and negative integration in European media policy'. In K. Donders, C. Pauwels & J. Loisen (eds), *The Palgrave Handbook of European Media Policy*. Basingstoke: Palgrave Macmillan, 96–109.
- Pauwels C. & Donders K. (2014) 'From television without frontiers to the digital big bang: The EU's continuous efforts to create a future-proof internal media market'. In: Mansell M. and Raboy M. (eds) *The Handbook of Global Media and Communication Policy*. West Sussex: Wiley Blackwell, 525–542.
- Psychogiopoulou E. (2012) 'The convention on the diversity of cultural expressions and the European Union: The quest for competence and implementation'. In Kono T. & Van Uytsel S. (eds), *The UNESCO Convention on the Diversity of Cultural Expressions, A Tale of Fragmentation in International Law*. Cambridge, Antwerp, Portland: Intersentia, 365–394.
- Psychogiopoulou E. ed. (2015) *Cultural Governance and the European Union: Protecting and Promoting Cultural Diversity in Europe*. London: Palgrave Macmillan.
- Richieri-Hanania L. (2009) *Diversité culturelle et droit international du commerce*. Paris: La Documentation française.
- Sarikakis K. (eds) (2007). *Media and cultural policy in the European Union*. Amsterdam: Rodopi.
- Simpson S., Puppis M. & Van den Bulck H. eds. (2016) *European Media Policy for the Twenty-First Century: Assessing the Past, Setting Agendas for the Future*. London: Routledge.
- Srnicek N. (2017) *Platform Capitalism*. Cambridge: Polity Press.
- UNESCO Institute for Statistics (2016) *The Globalization of Cultural Trade: A Shift in Consumption: International Flows of Cultural Goods and Services 2004–2013*. Montréal: UNESCO-UIS.
- Vlassis A. (2011). 'La mise en œuvre de la Convention sur la diversité des expressions culturelles: portée et enjeux de l'interface "commerce-culture"' *Études internationales* 42(4): 493–510.
- Vlassis A. (2015). *Gouvernance mondiale et culture: de l'exception à la diversité*. Liège: Presses Universitaires de Liège.
- Vlassis A. (2016a) 'Soft power, global governance of cultural industries and rising powers: The case of China'. *International Journal of Cultural Policy*, 22(4): 481–496.
- Vlassis A. (2016b) 'European commission, trade agreements and diversity of cultural expressions: Between autonomy and influence'. *European Journal of Communication*, 31(4): 446–461.

- Vlassis A. (2017) 'The review of audiovisual media services directive: Many political voices for one digital Europe?' *Politique européenne*, 56: 102–123.
- Vlassis A. (2020a) 'European Union and online platforms in global audiovisual politics and economy: *Once Upon a Time in America?*' *International Communication Gazette*, OnlineFirst. Link: <https://journals.sagepub.com/doi/full/10.1177/1748048520918496>.
- Vlassis A. (2020b) 'Online platforms and culture: The winning actors of the great lockdown?' *Global Watch on Culture and Digital Trade*, published by International Federation of Coalitions for Cultural Diversity, 3: 1–5.
- Vlassis A., Rioux M. & Tchéhouali D. (2020) *La culture à l'ère du numérique: plateformes, normes et politiques*. Liège: Presses Universitaires de Liège.

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