



# Mapping of film and audiovisual public funding criteria in the EU

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# **Mapping of film and audiovisual public funding criteria in the EU**

**European Audiovisual Observatory**



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## Foreword

In 1519, the Portuguese navigator Ferdinand Magellan left Seville with a crew of 240 members in five vessels on an exploratory journey towards the East Indies – a journey which helped open new commercial routes and improve the cartography of the globe.

Although certainly not comparable, this first-of-its-kind gathering of information and analysis carried out by the European Audiovisual Observatory (EAO) upon request of the European Commission (MEDIA sub-programme) is closer to an exploratory journey than to a repository of funding criteria. The purpose of this mapping is namely to explore the different criteria that are used by film and audiovisual funds across Europe when they provide economic support to film and audiovisual projects at the different stages of their production process and throughout the different commercial windows in order to allow a better awareness and common understanding of the rationale for public support to European films and audiovisual works in the member states of the European Union. Such a mapping was felt by the European Commission as particularly relevant and timely in light of the profound transformation that the European audiovisual landscape is now experiencing with the digital shift.

In the following pages, the reader will be presented with a wide variety of typologies and examples for each of the different funding criteria identified among EU-28 national/federal and sub-national film and audiovisual funds<sup>1</sup>. Each of these public institutions may decide to divide its support into different lines or schemes devoted to different activities and formats; there is a rationale behind each scheme, and the way in which each institution chooses the criteria giving access to financial support can tell us about the underlying goals of a particular scheme or fund. This includes, among others, the nationality of the applicant, the minimum or maximum budget, the minimum theatrical release and performance, the nationality of the key members of the cast and talent, the spending and shooting requirements linked to a country or region or the gender of key talent. The analysis also focuses on how the amount of funding is calculated once an applicant is deemed eligible, taking into account the aid intensity caps; whether the support is granted automatically or selectively by a panel, an external consultant or a selection committee; whether it is repayable or not; and what the eligible costs are.

After an executive summary (chapter 1), the report begins by setting the scene (chapter 2) and provides an overview of the national and sub-national funding body population, and the income and expenditure of film and audiovisual funds in Europe. It

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<sup>1</sup> It is important to bear in mind, as explained in 3.1., that film and audiovisual funds are just one (in some cases, but not always, the only or the most important) of the four pillars of public support.



continues with the European legal framework, referring to the Cinema Communication and the General Block Exemption Regulations. These pieces of legislation have an impact on the aid intensity, nationality requirements, the assessment of cultural requirements and the scope of activities that can be supported by EU film and audiovisual funds. The structure, scope and methodology of analysis are explained in detail in chapter 3.

The core part of the mapping results in a comparative analysis (chapter 4); five case studies (chapter 5) which have allowed us to take a deeper look into green shooting, measures to support off-screen gender equality, the effect of regional funding, tools to measure the performance of a film, and multiparty collaboration between funds; the conclusive remarks as identified in Chapter 6; and 28 national factsheets, one for each of the countries analysed, which are included in chapter 7.

It would have been too ambitious to cover all the schemes for all the operating funds in the EU, so the analysis includes the national or federal funds in each country and one or more regional funds (depending on the size of the country and the economic relevance of the fund) in each of the 28 countries tracked; the analysis focuses on pre-production, production and distribution and promotion schemes devoted to film and audiovisual works.

The assessment of the different funds' policies based on the type of granting criteria they use goes well beyond the remit of the EAO and is, therefore, beyond our scope of analysis; however, the breakdown of the different existing options in the following pages may be a useful tool for benchmarking, comparison and planning for analysts, scholars, policy-makers and film and audiovisual funds alike. The study can serve as a precious source of information and inspiration for public funds and member states and allows exchanges of best practices. It can also be useful for professionals active in coproducing films and dealing thus with different sources of public funding.

Magellan died in 1521 in what is now the Philippines without having completed the journey; however, navigator Juan Sebastián Elcano took over command of the expedition and completed what was to become the first circumnavigation of the globe.

If the Observatory has managed to complete its journey, it is thanks to our national experts, who helped us gather the relevant information, and to the different film institutions of the European Film Agency Directors (EFADs) who assisted us in checking the correctness of the information. We brought it to the level of analysis; it's now up to the reader to take command of the next steps.

Strasbourg, April 2019

**Maja Cappello**

Head of the Department for Legal Information

European Audiovisual Observatory



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# 1. Executive Summary

The European Audiovisual Observatory (EAO) has carried out this mapping at the request of the European Commission (MEDIA sub-programme), analysing the funding criteria in public national/federal and regional film and audiovisual funds' schemes within the EU. The analysis is circumscribed to pre-production (script development, project development), production, distribution and promotion schemes for theatrical films, TV films, TV series, and other audiovisual content at national and regional levels.

The analysis builds upon two documents – a national **factsheet** and a national **overview table** (matrix), based on the feedback of national experts for each of the 28 countries tracked. The national overview table is a spreadsheet with key information and indicators for the schemes of the main funds in the country, including, *inter alia*, the country/region of establishment of the applicant, the aid intensity levels, the existence of a cultural test/assessment or the existence of linguistic requirements.

All national factsheets have the same structure, with a first section common to all the funds tracked and divided into three sub-sections:

- General description of the film funding legislation
- Definition of cultural criteria in the country
- Definition of the nationality of the applicant

The second section is broken down by type of activity supported into (1) pre-production support, (2) production support and (3) distribution and promotion support, and covers the following aspects:

- Theatrical release, broadcasting and visibility on VOD
- Theatrical performance
- Budget
- Awarded amount
- Spending and shooting criteria
- Talent, cast, crew, underlying copyright
- Shooting language and diversity

The comparative analysis is preceded by an explanation of the economic and legal background regarding film and audiovisual funding (chapter 2) as well as a description of the methodology and scope of the analysis (chapter 3). The actual **comparative analysis** (chapter 4) is based upon the 28 national factsheets and overview tables; it follows the same structure as the national factsheets, and the key takeaways include:



- Rather than a definition of *cultural activities*, the vast majority of funds provide a definition of *cultural products*. By and large, the verification mechanisms for **cultural criteria** take the form of a cultural profile (mandatory eligibility conditions, identified in funds in 18 countries) to be fulfilled as a condition for the aid or a cultural test (made up of individual non-mandatory evaluation criteria with a minimum score required, identified in funds in 17 countries).
- **Nationality or establishment** criteria related to the applicant are required by almost all funds. When the applicant is a natural person, requirements will generally be linked to their nationality and/or place of residence/establishment. When the applicant is a legal person, multiple requirements may apply, related to its establishment (headquarters or permanent branch), its registration, the nationality of the company's director or main shareholders.
- Requirements related to theatrical release, broadcasting and visibility on VOD are usually a way to guarantee that funded works have a minimum commercial potential. Most funds require that funded theatrical films are intended for or have proof of expected **theatrical release** in the country and that TV productions have the commitment of a broadcaster.
- Theatrical **performance** is used as a granting criterion mainly in schemes granted *a posteriori*, once the film is shot and released, where funding is to be used in future projects. In most cases, theatrical admissions and success in festivals are measured in order to calculate automatic support.
- Some schemes set a **minimum budget** to consider a project eligible in order to guarantee that the project has a budget within the market standards so that a commercial exploitation can be expected. The German GMPF is the fund with the highest minimum budget (EUR 25 million).
- 20.1% of the tracked schemes require a **minimum contribution** by the applicant (usually a one-digit share of the overall costs). It may also happen that a scheme requires that a certain share of the overall financing be secured before applying.
- The vast majority of funds strictly follow the **aid intensity** rules established in the EU Cinema Communication (50/60/100-rule)
- The highest average and median (most frequent) maximum awarded amounts in feature production support schemes were EUR 699 411 and EUR 300 000, respectively, in the 800+ EU funds tracked in the overview table.
- According to the EU Cinema Communication, the maximum **territorial spending** obligation should be limited to 160% of the aid amount and the territorial linking shall not exceed 80% of the overall production budget. Around half of the production schemes tracked set a precise minimum spending in the country/region as a share of the awarded amount (an average of 109% and a median of 100% of the awarded amount among the 800+ EU funds tracked in the overview table); only 25% in the case of a precise minimum spending in the region as a share of the budget (an average of 58% and a median of 50% of the budget among the 800+ EU funds tracked in the overview table).
- Out of the schemes tracked, only 17% of them (in 13 countries) declared that they had mandatory criteria related to the **nationality of talent, cast and crew**. This usually refers to key positions involved in the project (director, scriptwriter or producer).



- The shooting language, script language or the language in which the final version of the project is made available, are subject to conditions in funds in 20 countries. This criterion has special relevance in countries or regions with several languages or linguistic minorities.
- Funds in most countries have implemented some mechanisms to improve off-screen gender equality, the most common being data collection and monitoring activities (in funds in 14 countries), the integration of the gender dimension in the fund's policy (funds in 10 countries) and training and mentoring measures (in funds in 7 countries). No gender quotas were identified.

On top of the comparative analysis, the mapping includes five **case studies** (chapter 5) to dig deeper into some examples of cutting-edge developments, including the following topics:

- The effect of regional funding focuses on spending, shooting and cultural requirements in regional funds. This case study includes concrete examples from the German MBB and the Italian FVG.
- Off-screen Gender Equality and Film Funding breaks down and explains all the different forms of support accorded to gender equality behind the camera in the funds tracked.
- Green production offers an overview of different measures related to ecological shooting and presents the example of the Belgian VAF.
- SFI measuring of film performance describes the performance measuring tool developed by the Swedish Film Institute, including indicators such as theatrical admissions, film reviews and attendance at festivals.
- Multiparty collaboration in the field of film and audiovisual funding focuses on the different approaches for countries and funds in different countries to cooperate in the field of audiovisual funding.

The reader is also presented with the conclusions to the analysis (chapter 6), the **national factsheets** for each individual country (chapter 7), and a glossary of the main terms used (chapter 8).



## 2. Setting the scene

### 2.1. Funding body population, income and spend

Public film and audiovisual funds constitute one of the four pillars of public support for European film and audiovisual works, along with fiscal incentives (tax shelters, rebates and tax credits); financing obligations on industry stakeholders (broadcasters, the video industry and VOD providers); and guaranteeing facilities to bridge the gap between producers and credit institutions so as to ease access to finance.

This analysis focuses on the first pillar. The last comprehensive mapping and analysis of public funds at pan-European level conducted by the European Audiovisual Observatory in 2016<sup>2</sup> covered 35<sup>3</sup> European countries over the period 2010-2014. Relevant developments have taken place since then in the other three pillars, including numerous new fiscal incentives; new financial and investment obligations for industry stakeholders (notably for VOD service providers); and the development of new guarantee facilities to give SMEs in the field of film and audiovisual production access to credit.

The EAO has recently produced a Mapping of national rules for the promotion European works in Europe,<sup>4</sup> where an analysis of the different financial investment obligations, levies on industry stakeholders, quota obligations and prominence obligations on VOD platforms is provided. As for fiscal incentives, the last time the Observatory produced an analysis on the topic was in 2014;<sup>5</sup> ever since, the number of fiscal incentives has continued to increase, with most European countries currently implementing one or more fiscal incentive mechanisms. In fact the number of EU member states with one or more fiscal incentives has gone from 9 in 2010, to 15 in 2014 and 23 in 2019. However, it is safe to say that the situation has not changed much when it comes to public funds; therefore, the overall pan-European perspective presented in the abovementioned analysis is still valid.

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<sup>2</sup> Talavera Milla J. Fontaine G., Kanzler M., 2016. *Public financing for film and television content. The state of soft money in Europe*, European Audiovisual Observatory, Strasbourg (<https://rm.coe.int/public-financing-for-film-and-television-content-the-state-of-soft-mon/16808b6dee>).

<sup>3</sup> The 28 EU countries plus Albania, Bosnia and Herzegovina, Iceland, Norway, Russia, Switzerland, “The former Yugoslav Republic of Macedonia” and Turkey.

<sup>4</sup> *Mapping of national rules for the promotion European works in Europe*, European Audiovisual Observatory, Strasbourg, 2019 (<https://rm.coe.int/european-works-mapping/16809333a5>).

<sup>5</sup> Olsberg, J., Barnes, A., 2014. *Impact analysis of fiscal incentive schemes supporting film and audiovisual production in Europe*, European Audiovisual Observatory, Strasbourg (<https://rm.coe.int/impact-analysis-of-fiscal-incentive-schemes-supporting-film-and-audiov/16808e4506>).

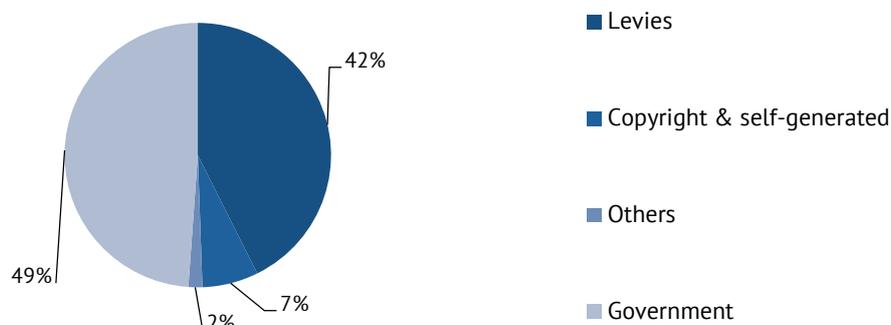


In a nutshell, film and audiovisual funds are public institutions, either independent or attached to a government department (usually the ministry of culture or its regional or local equivalent), aiming at fostering film and audiovisual production, distribution, exhibition and promotion among others (such as training, video games or the organisation of events) in a given territory (a country, a region, a city, a group of countries or regions, etc.)

The funding body population in the 35 countries analysed was of 249 funds operating by the end of 2014. Although sub-national funds (regional and local funds) accounted for 60.8% of the total population – with national/federal funds and supranational funds accounting for 29.7% and 9.5%, respectively – it is the national/federal funds which manage the lion's share of the economic resources available through this type of support mechanism. During the period 2010-2014, European funds had an average yearly income of EUR 2.53 billion, 74.9% of which was managed by national/federal funds.

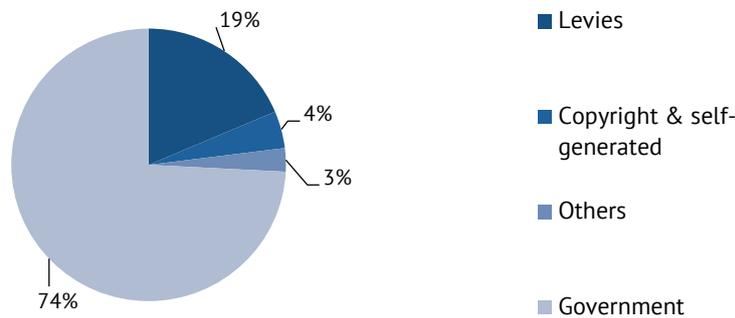
Most of the income of national and sub-national funds come via allocations from the state, regional or local budgets (49%) on the one hand, and from taxes and levies (42%), on the other. Only 9% of the incoming resources were self-generated, either through the exploitation of copyrighted material or thanks to the organisation of events, training and other activities. However, it is important to highlight that due to the outlying relative weight of France, figures vary significantly when excluding this country from the equation – with governmental contributions accounting for 74% of the overall income.

**Figure 1. Share of sources of income in Europe, 2010-2014**



Source: *Public financing for film and TV content, EAO, 2016*

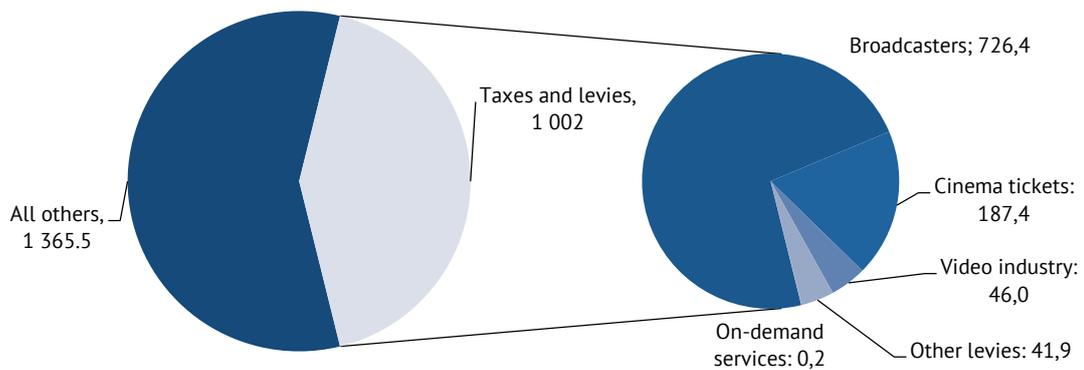
**Figure 2. Share of sources of income in Europe (excluding France), 2010-2014**



Source: *Public financing for film and TV content, EAO, 2016*

Taxes and levies accounted for 42% of the total income of European national and sub-national funds over the period of analysis (a yearly average of EUR 1 007 million). The broadcasting sector was, by far, the main contributor within this category, generating a yearly average of EUR 726 million (72% of the taxes and levies and 32% of the total income). Unsurprisingly, levies on VOD services accounted for a negligible share of the income via levies as during the period covered, these type of obligations were only imposed in a couple of countries.

**Figure 3. Income through taxes and levies (and as share of total income), 2010-2014 (yearly average in EUR million).**

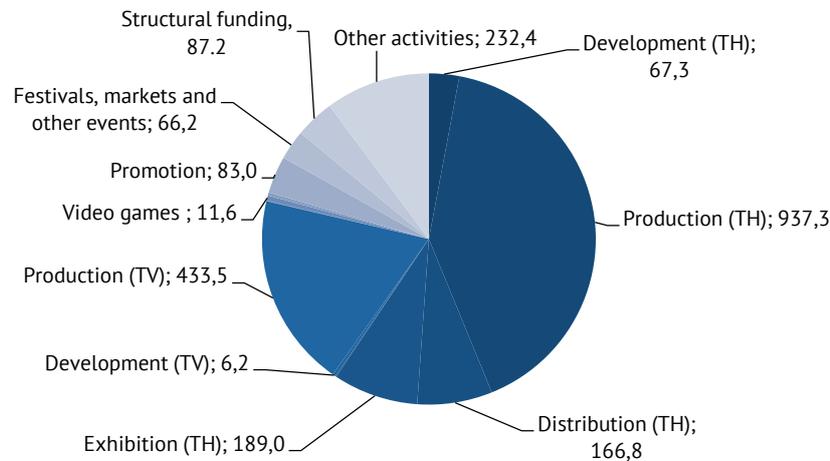


Source: *Public financing for film and TV content, EAO, 2016*

In spite of the increasing diversity of the lines of support granted by the film and audiovisual funds, theatrical (TH) and TV production continued to be the main activities by spend, accounting together for almost 60% of the overall expenditure of European funds over the period 2010-2014.



**Figure 4. Spend by type of activity (yearly average in EUR billion).**



Source: *Public financing for film and TV content, EAO, 2016*

## 2.2. EU legislative framework

The European Union, by virtue of Articles 6 and 167 of the Treaty on the Functioning of the European Union (TFEU)<sup>6</sup> has competence in the cultural field to carry out actions to support, coordinate or supplement the action of the member states. In this regard, the EU allows member states to adopt aid schemes for film and other audiovisual works, despite the general prohibition laid down by article 107 TFEU, as long as they qualify as one of the exceptions foreseen by this article:

- Aid to facilitate the development of certain economic activities or areas (Article 107.3 (c) TFEU),
- Aid to promote culture and heritage conservation (Article 107.3 (d) TFEU).

When the aid scheme falls into one of these categories, member states are required, under Article 108 TFEU, to notify the Commission of any plans to grant or alter aid. Nonetheless, they can be exempt from any such notification requirement in two cases, when the aid scheme for audiovisual works concerned is considered to have no appreciable effect on trade between states, under the *de minimis* Regulation,<sup>7</sup> or under the General Bloc Exemption Regulation (see below).

<sup>6</sup> Consolidated version of the Treaty on the Functioning of the European Union, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012E%2FTXT>.

<sup>7</sup> For instance, when the total amount granted per member state to a single undertaking doesn't exceed EUR 200 000 over any period of three fiscal years. See Commission Regulation n° 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the TFEU to *de minimis* aid, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32013R1407>.



In the absence of a notification exemption, the Commission is responsible for assessing the compatibility of the aid scheme with the internal market, within the framework of the rules laid down in the 2013 Cinema Communication.<sup>8</sup> The Commission will firstly consider the necessity, proportionality and adequacy of the aid measure and assess whether the aid scheme respects the “general legality” principle, that is, whether or not the scheme contains clauses that would be contrary to the provisions of the EU Treaty beyond state aid.

The Cinema Communication establishes the following requirements, relevant to the setting of granting criteria by the funds:

- Scope of activity: The aid can cover all aspects of film creation, from story concept to delivery to the audience, including production, scriptwriting, development, film distribution, or film promotion (including film festivals).
- Cultural criterion: “Aid to the audiovisual sector needs to promote culture. In line with the subsidiarity principle enshrined in Article 5 TEU, the definition of cultural activities is primarily a responsibility of the Member States”. It is therefore for each one to establish “either a cultural selection process to determine which audiovisual works should benefit from aid or a cultural profile to be fulfilled by all audiovisual works as a condition of the aid”.<sup>9</sup>

The aid must be directed to a cultural product. The assessment of the cultural criterion is based on the definition of cultural activities laid down by the member state in its own legislation. The Commission’s role is to verify whether a member state has a relevant, effective verification mechanism in place able to avoid manifest error. Moreover, linguistic diversity is considered an important element for cultural diversity; therefore, member states may require that the film be produced in a certain language.

- Aid intensity: the aid intensity is in principle limited to 50% of the production budget. It can increase to 60% for cross-border production,<sup>10</sup> and 100% for difficult audiovisual works<sup>11</sup> or co-productions involving countries from the DAC List of the OECD.<sup>12</sup> Aid to scriptwriting or development is not limited.<sup>13</sup> As for the costs of distribution and promotion, the aid intensity should be the same as it was or could have been for production.
- Territorial spending obligations: the following thresholds must be respected:

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<sup>8</sup> Communication from the Commission on State aid for films and others audiovisual works No. 2013/C 332/01,

[https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52013XC1115\(01\)&from=FR](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52013XC1115(01)&from=FR).

<sup>9</sup> Article 4.2 of the Cinema Communication, *Op. cit.*

<sup>10</sup> Produced by producers from several member states.

<sup>11</sup> Such as short films, films by first-time and second-time directors, documentaries, low-budget films or film whose sole original version is in an official language of a member state with a limited territory, population or language area. It is up to each member state to establish a definition of difficult film according to national parameters.

<sup>12</sup> <http://www.oecd.org/dac/financing-sustainable-development/development-finance-standards/daclist.htm>.

<sup>13</sup> However, if the resulting script or project is ultimately made into a film, the costs of scriptwriting and development are subsequently included in the production budget and taken into account for calculating the maximum aid intensity.



- In the case of aid awarded as direct grants,<sup>14</sup> the maximum territorial spending obligation should be limited to 160% of the aid amount.
- Any scheme may have an eligibility criterion requiring a minimum level of production activity in the territory of the granting member state. This level should not exceed 50 % of the production budget.
- The territorial linking shall not exceed 80% of the overall production budget.
- Nationality: the Commission must verify, *inter alia*, that the EC Treaty principles prohibiting discrimination on the grounds of nationality and relating to freedom of establishment, free movement of goods and freedom to provide services have been respected (Articles 18, 34, 36, 45, 49, 54 and 56 TFEU).

In 2014, the revised General Block Exemption Regulation (GBER)<sup>15</sup> considerably extended the scope of exemptions from prior notification of state aid granted to companies. According to Article 3 GBER, public aid schemes shall be considered compatible with the internal market and exempted from the notification requirement of Article 108(3) of the Treaty provided that such aid fulfils all the general conditions laid down in Chapter I GBER, as well as the specific conditions for the relevant category of aid laid down in Chapter III GBER.

According to Article 4(1)(aa) GBER, the notification threshold amounts to EUR 50 million per scheme per year.<sup>16</sup> Article 54 GBER lists the specific conditions rules according to which an aid scheme for audiovisual works shall be exempted from the notification requirement of Article 108(3) of the Treaty. Furthermore, Article 54 GBER also contains a list of eligible costs and includes rules concerning territorial spending obligations. All these requirements follow the lines of the Cinema Communication (see above in this section).<sup>17</sup>

The revised GBER entered into force on 1 July 2014.

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<sup>14</sup> Such as aid awarded by a selection panel and defined as a percentage of the production budget.

<sup>15</sup> Commission Regulation (EU) No. 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (Text with EEA relevance), <http://eur-lex.europa.eu/eli/reg/2014/651/oj/eng>.

<sup>16</sup> With regard to investment aid for culture and heritage conservation, Article 4(1)(z) imposes a threshold of EUR 100 million per project, and of EUR 50 million per undertaking per year for operating aid for culture and heritage conservation.

<sup>17</sup> For further information, see Cabrera Blázquez F.J., *Notification obligations for state aid concerning audiovisual works in the EU*, European Audiovisual Observatory, Strasbourg, 2018, <https://rm.coe.int/notification-obligations-for-state-aid-concerning-audiovisual-works-in/16808aa941>.



## 3. Scope and methodology

### 3.1. Data and information gathering

The Department for Legal Information of the European Audiovisual Observatory has put in place a methodology for all mappings carried out so as to guarantee, to the maximum extent possible, the accuracy of the data gathered as well as the independence of the sources. This process involves several stakeholders at different stages, including multiple checks, so as to deliver reliable and meaningful results. This particular mapping was commissioned by the European Commission's MEDIA sub-programme and included the following steps:

- Drafting a questionnaire including several questions related to each of the main indicators to be tracked (see section 4.4. below). The questionnaire includes brief instructions for each question as well as a glossary of terms at the end in order to guarantee the homogeneity of the replies. On this occasion, the questionnaire was supplemented by an excel sheet (matrix) in which the key indicators for each scheme of all national/federal funds as well as key regional funds in the country were requested (see section 4.5 below). Both the questionnaire and the matrix were green-lighted by the Commission.
- Identifying national experts in each of the countries covered. National experts are independent professionals (not linked to public institutions working in the field of film and audiovisual funds) with proven expertise or sound understanding of the funding system in their countries. Most of them are either researchers at universities or research centres or lawyers specialised in the screen industries. In addition, some of the experts are consultants or film and audiovisual professionals with hands-on experience in production. The national experts were asked to fill in the abovementioned matrix and a questionnaire covering all available schemes in the country within the defined geographical and activity scope (see sections 4.2. and 4.3.)
- Identifying national checkers in each of the countries covered. These checkers are members of the relevant official authorities in each country related to the topic of the mapping. In this case, most of the checkers belonged to the national film centres/funds and their identification was done with the valuable support of the European Film Agency Directors (EFADs).
- Submitting the questionnaire and matrix to each national expert.
- Receiving the input from the national experts. At this point the Observatory carries out a plausibility check of the feedback received and may exchange with the experts as many times as necessary until all responses are clear.



- Based on the answers from the experts, the EAO prepares a national factsheet, which is the transposition of the expert's replies into a structured format, adding the findings of additional desk research and checking for those funds or schemes where replies were not fully satisfactory.
- After giving the national expert the chance to comment and modify the draft national factsheet, this is sent to the national checkers for one more round of verification. The feedback provided is integrated into the now final national factsheet, which is forwarded to the national expert for final verification.

## 3.2. Time scope

The information collected refers to data, legislation and guidelines up until the end of 2018. In very few cases was it possible to update the information which changed between the data-gathering period (until the end of 2018) and the drafting of the actual report (early 2019). Nevertheless, the goal of this analysis is to offer the reader a catalogue of the different typologies for each of the existing funding criteria, not to provide an updated list of all existing pieces of regulation in each country, which would require a continuous updating process over time.

## 3.3. Geographical scope

The mapping concerns all national/federal film and audiovisual funds operating in the 28 EU member states. It may happen that, due to a simplification in the aggregation of results, federal funds are sometimes referred to as national funds instead of as national/federal funds. Regional funds in each country have been tracked up to a certain extent, either by focusing on one or a few relevant funds only (usually the best endowed funds) or by highlighting the relevant aspects of several regional funds' schemes.

The concept of region in the report refers to sub-national administrative divisions right under the national/federal level. Depending on the country, the concept and the name of these sub-national administrative divisions may vary; for instance, when this report refers to the United Kingdom, the nations<sup>18</sup> (Scotland, Wales, England and Northern Ireland) are taken into account. In the case of Spain, it refers to the Autonomous Communities;<sup>19</sup> while in Belgium, there are different sub-national divisions<sup>20</sup> (communities and regions) depending on their scope of competences. Although the analysis aims at

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<sup>18</sup> Cabinet Office, Northern Ireland Office, Office of the Secretary of State for Scotland, and Office of the Secretary of State for Wales, *Devolution of powers to Scotland, Wales and Northern Ireland*, 18 February 2013 (last updated 8 May 2019), <https://www.gov.uk/guidance/devolution-of-powers-to-scotland-wales-and-northern-ireland>.

<sup>19</sup> [https://administracion.gob.es/pag\\_Home/es/espanaAdmon/comoSeOrganizaEstado/ComunidadesAutonomas.html#.XMAEdhS-7Q](https://administracion.gob.es/pag_Home/es/espanaAdmon/comoSeOrganizaEstado/ComunidadesAutonomas.html#.XMAEdhS-7Q) (only available in Spanish).

<sup>20</sup> [https://www.belgium.be/en/about\\_belgium/government/federale\\_staat](https://www.belgium.be/en/about_belgium/government/federale_staat).



accommodating (and when necessary explaining) the peculiarities of each country regarding their administrative divisions, the term “region” is used throughout the text. This concept is not always equivalent to the division into regions used by the European Committee of the Regions.<sup>21</sup> The term region in this report is not linked to the NUTS<sup>22</sup> (Nomenclature of territorial units for statistics) used by Eurostat either. Local funds, as well as supra-national funds, are beyond the scope of analysis.

### 3.4. Types of work

For the sake of simplification and in order to track the main activities of most European film and audiovisual funds, the mapping focuses on schemes devoted to the following types of work: theatrical films, short films, TV films, TV series and audiovisual content for the Internet; furthermore, it is restricted to the following activities: pre-production (project development, script development, the pre-acquisition of rights, etc.), production (including post-production), and theatrical distribution and promotion.

### 3.5. Questionnaire and factsheets

The questionnaire and the factsheets are structured in the same way and include the following items:

- A general description of the film funding legislation;
- A definition of cultural criteria in the country;
- A definition of the nationality of the applicant: this refers to the nationality and/or place of residence of an eligible applicant in the case of a natural person, or to the nationality and/or place of establishment of an applicant in the case of a legal person (with reference to its headquarters or permanent branch);
- The key funding criteria (and how they are reflected in the corresponding legislation) broken down for pre-production, production and distribution and promotion schemes. Not all the criteria apply to all three categories (for instance, theatrical release and theatrical performance are not considered for pre-production support).

**Table 1. Key funding criteria for pre-production, production and distribution/promotion support**

Criteria	Definition
<b>Theatrical release, broadcasting</b>	A minimum theatrical release may be requested (in a minimum number of theatres, with a minimum number of screenings, during a minimum period of time). This also applies to other windows – a minimum number of broadcast or a

<sup>21</sup> <https://cor.europa.eu/en>.

<sup>22</sup> <https://ec.europa.eu/eurostat/web/nuts/background>.



Criteria	Definition
<b>and visibility on VoD</b>	certain visibility on VOD platforms may be required.
<b>Theatrical performance</b>	The performance of a work in terms of theatrical attendance in the domestic market or abroad (that is, the number of admissions sold; total gross revenues) or at festivals, events and award ceremonies (nominations and awards won); and whether or not it had an impact on the calculation of the final amount awarded.
<b>Budget</b>	The total amount invested in a project for its pre-production, production, distribution and/or promotion. Some schemes may require both a minimum and a maximum budget for a project to be eligible.
<b>Awarded amount</b>	<p>The amount of support allocated by a funding institution to a project. This includes, among others:</p> <ul style="list-style-type: none"> <li>■ The aid intensity (level of funding expressed as a percentage of the project's budget or eligible costs. For further details see section 3.2 above);</li> <li>■ The maximum awarded amount;</li> <li>■ Repayability of the funding and;</li> <li>■ Eligible costs.</li> </ul>
<b>Spending and shooting criteria</b>	Spending criteria refer to territorial spending obligations, which correspond to the amount of expenditure to be incurred in the country or region of the fund, usually calculated as part of the amount granted or as part of the project budget. Shooting criteria refer to the obligations related to a minimum number of shooting days in the country or region.
<b>Talent, cast, crew, underlying copyright</b>	<p>These are often established through a cultural test based on a point system with a minimum threshold for projects to qualify as eligible. Some of the most repeated elements are:</p> <ul style="list-style-type: none"> <li>■ The nationality of the talent (director, scriptwriter, composer);</li> <li>■ The nationality of other key creative members of the crew (director of photography, etc.);</li> <li>■ The nationality of key members of the cast;</li> <li>■ The shooting language;</li> <li>■ The use of underlying copyrights, such as adapting a novel by a domestic writer or using music by a domestic composer;</li> <li>■ The theme of the film or audiovisual work is related to the country's history or interests (that is, promoting certain values, showcasing the country/region, etc.).</li> </ul>
<b>Shooting language and diversity</b>	<p>The involvement of cast and crew members from ethnic or linguistic minorities as well as a gender-balanced distribution of the cast and crew involved in the production (or in key positions) may have an impact on the eligibility or the calculation of the awarded amount.</p> <p>In some cases, this is expressed in the form of linguistic requirements (dialogues in a given language) or by giving visibility to certain minorities by addressing issues relevant for them.</p>

Source: Response to European Audiovisual Observatory standardised questionnaire



All national factsheets (section 7 of this report) follow the same standardised structure as the questionnaire; the same identical headings are used for each national factsheet, so the reader can easily compare different countries. However, the complexity of the content presented varies from country to country and from criterion to criterion. Therefore, there are cases where the main headings are further broken down into sub-headings for each individual fund covered. In addition, in some cases, the information is presented in tables to facilitate the readability of the content. These formatting decisions were made on a case-by-case basis, looking at the best way to make the content easier to understand and, in any case, respecting a common homogenous structure for all factsheets.

### 3.6. The matrix

The matrix consists of a series of indicators made up mostly of quantitative (minimum spend required, maximum amount grantable, etc.) and binary indicators (is there a cultural test? are there theatrical performance criteria?), which will make it possible to draw conclusions on the most common pan-European patterns referred to when applying for the different types of schemes. For each of the schemes available in each of the funds tracked, the following questions will be answered:

- Country/region of establishment of the applicant,
- Minimum contribution of the applicant to the budget,
- Minimum/maximum budget (or eligible costs),
- Minimum share of the budget in place when applying,
- Maximum amount awarded/maximum share of the budget awarded (aid intensity),
- Spending in the country/region (as a share of the grant and as a share of the budget),
- Shooting criteria: minimum shooting days/time in the country/region required,
- Theatrical windows: minimum theatrical release in the country required,
- Broadcaster deal: pre-acquisition/co-production deal required,
- Cultural test/assessment,
- Requirements related to nationality of cast, crew and talent,
- Language, and
- Performance indicators: minimum number of theatrical admissions.

When it comes to the type of works, when a scheme is devoted to several types of work, in most cases the most common/frequent type of work is reflected in the answer. For instance, a scheme devoted to both theatrical films and audiovisual works will have been labeled as a scheme for theatrical films if this is the main target of that particular scheme.

Some of the criteria repeat themselves in both the matrix and the questionnaire, as the former is intended for a quantitative overall pan-European analysis and the latter will allow for a country-by-country qualitative, more detailed analysis. It is important to bear in mind that the national matrices were not checked by the respective competent funds and, therefore, it may happen that some of the data and information provided for each individual scheme is incomplete.



### **3.7. Comparative analysis and case studies**

The overall data collected through the matrices, along with the final national factsheets, serve to produce the comparative analysis. In addition to the comparative analysis and the national factsheets, the final report includes five case studies on the following topics:

- The effect of regional funding
- Off-screen Gender Equality and Film Funding
- Green production
- SFI measuring of film performance
- Multiparty collaboration in the field of film and audiovisual funding



## 4. Comparative analysis

This section analyses the different sets of indicators covered by the national factsheets, establishing typologies for the different granting criteria tracked and explaining the logic behind each of them, as well as providing some examples from different countries. Moreover, this section builds upon the conclusions extracted from the analysis of the matrices of information collected for all 28 countries covered, providing the reader with some indications as to the frequency and diversity of the different approaches or typologies for each of the granting criteria analysed. While the first two sub-sections (Definition of cultural criteria, and Nationality of the applicant) look at the general approach of the film funds in each country in this regard, the analysis in the remaining sections (from release and visibility to language, diversity and gender) may be broken down, where relevant, by type of scheme (pre-production, production, and distribution and promotion) as well as, less frequently, by type of work (theatrical films, short films, TV series, TV films, etc.)

For each of the sections covered, the different typologies identified are presented, giving some examples for each one and, where relevant, the frequency of each typology is indicated, either by referring to the number of countries or the share of tracked schemes where a given criterion applies. The reference for each of the examples in this chapter is to be found in the corresponding section of the relevant national factsheet.

### 4.1. Definition of culture and cultural criteria

According to the 2013 Cinema Communication, member states have “the primary cultural aim of ensuring that the national and regional cultures and creative potential are expressed in the audiovisual media of film and television”. In line with this, member states are required to provide a definition of *cultural activities* in the form of an effective verification mechanism put in place to avoid manifest error.

Rather than a definition of cultural activities, the vast majority of funds provide a definition of “cultural products”. For instance, in Spain, “aid may only be granted for the production of the cinematographic and audiovisual works that have proven their cultural character in light of their content, their connection with the Spanish cultural reality or their contribution to the enrichment of the cultural diversity of the cinematographic works exhibited in Spain”.<sup>23</sup> Moreover, the Croatian HAVC defines “cultural products”, and

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<sup>23</sup> Article 22 of the Royal Decree 1084/2015.



refers to an “established national selection system based on measurable cultural criteria” as a basis for granting financial support.<sup>24</sup>

By and large, the verification mechanisms for cultural criteria take the form of a **cultural profile** (mandatory eligibility conditions) to be fulfilled as a condition for the aid or a **cultural test** (made up of individual non-mandatory evaluation criteria with a minimum score required) which influences eligibility and may influence the amount granted. This verification will allow the fund to determine the cultural nature of the project and/or the cultural link with the country/region of the fund. It may also happen that the cultural test plays a role in the calculation of the grant or in the eligibility of the project (among many other non-cultural criteria), but cultural criteria are not a mandatory condition for eligibility.

Moreover, in some cases, cultural criteria have an impact on the work qualifying as a national work (via a cultural profile or test) – and this, in turn, may have an impact on eligibility, access to certain lines of support. For instance, access to any funding schemes in the United Kingdom, from the BFI or the regional funds, requires the issuing of the British Film certificate.

It is also the case in some funds that the cultural character of a project will influence the awarded amount; for instance, in the cases of the Czech Film Fund and the Luxembourg Film Fund. In the case of the former, the aid intensity rules, generally limited to 50% or 60% for international co-production, is increased to 90% of the total project costs when “the project concerned is a culturally ambitious project or if the project involves the development, production, distribution or promotion of a culturally ambitious audiovisual work”. In the case of the latter, the awarded amount is calculated based on “the cultural, social and economic impact of the audiovisual or cinematographic work”. Culture may also be mentioned in the general objectives of a fund, without further elaborating on the concept.<sup>25</sup>

In any case, it should be noted that the typologies detailed above are not exclusive and that different funds within the same country may combine different mechanisms related to assessing and/or defining culture or cultural works. For instance, a fund can establish a cultural profile or a cultural test and also include additional cultural requirements among the assessment criteria in order to calculate the amount granted.

### 4.1.1. Cultural profile

The cultural profile is the most common tool (identified in funds in 18 countries).<sup>26</sup> The cultural profile sets a series of mandatory conditions to be fulfilled by the project in order to be eligible for funding. For instance, this is the case of the BKM in Germany and the Finnish Film Foundation. The BKM provides that films are eligible when they are

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<sup>24</sup> Article 3 c) of the Law on Audiovisual Activities.

<sup>25</sup> EE, SE, SI

<sup>26</sup> AT, BE, CY, DE, DK, EE, ES, FI, FR, GB, HR, HU, IT, LT, MT, NL, PT, RO.



considered to have a significant German cultural character, for which they must necessarily fulfil the following four criteria:

- Either the original language of the film is: German or the director is German or has his/her permanent residence or registered office in Germany, another EU member state, another EEA state or Switzerland.
- At least one leading producer is German or has his/her permanent residence or registered office in Germany, another EU member state, another EEA contracting state or Switzerland.
- The financial share of the producer or several producers with a permanent residence or registered office in Germany is at least as high as the highest financial share of a foreign producer participating in the project or
- The first theatrical release takes place in Germany.

#### 4.1.2. Cultural test

Cultural tests are based on a series of alternative conditions. The applicant project must either comply with a minimum of conditions (identified in funds in 11 countries)<sup>27</sup> or reach a minimum number of points (point system) in order to be eligible for support (identified in funds in 7 countries).<sup>28</sup> Overall, cultural tests are used by funds in 17 countries. Some of the most frequent criteria include the following:

- The action takes place essentially in the country/region of the fund;
- The original script is essentially written in one of the official languages of the fund's country/region;
- The original or final version of the film is in the language of the fund's country/region;
- One of the main characters is connected to the fund's country/region;
- One of the key roles (director, screenwriter or producer) is established in the fund's country/region;
- The film's script or the work is based on the adaptation of a literary work or other work of cultural value for the fund's country/region;
- The project reflects historical events or characters, or current cultural, social or political issues relevant for the fund's country/region;
- The content is directly related to literature, music, and, in general, artistic creation from the country/region.

These criteria may refer to the country or region of the fund, the EU, the EEA, or a linguistic area.

In many cases, the cultural test is a pre-condition for eligibility, prior to the further evaluation of the project. However, in some cases, the cultural test is used as an

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<sup>27</sup> AT, BE, CY, DE, DK, ES, FR, LT, MT, NL, PT

<sup>28</sup> DE, EE, GB, HR, HU, IT, RO



assessment criterion during the evaluation of the applicant projects. For instance, in Belgium, Screen Brussels requires the project to comply with the cultural test in order to be considered eligible, before the assessment of the project. In turn, Wallimage's cultural test takes place during the assessment phase (along with other assessment criteria), and the project is required to comply with at least five of the cultural criteria which form part of this test. The same logic applies to DFFF and GMPF in Germany, where culture-related criteria are part of the Test of Characteristics during the evaluation process, and where applicants are required to fulfil a minimum number of cultural criteria in order to ensure the cultural character of the film.

In the case of co-productions, some funds may require a cultural test only for minority co-productions (for example, the Estonian Film Institute); others, like the CCA in Belgium, require a cultural test only when the project is not co-produced within “the framework of the film co-production Convention treaty, or a bilateral international co-production agreement of audio-visual works engaged with the French Community.”

Furthermore, funds can establish separate cultural tests depending on the type of work concerned (that is, feature film, documentary, short film); the activity concerned (that is, pre-production, production, distribution); or the type of support (automatic, selective, repayable, non-repayable, etc.). For example, in the case of the ICAA in Spain and the ICA in Portugal, the granting of automatic support requires the fulfilment of a cultural test; but for selective support, the cultural nature of the project is assessed by the selection committee, without a further definition of culture-related criteria. Requirements can be more or less strict or precise depending on the type of activity funded, as in Hungary, where the MNF sets stricter rules of compliance with the cultural test for production than for distribution.

## 4.2. Nationality and establishment

These requirements may refer to the nationality of natural persons or the place of establishment of natural persons or companies; it makes it possible to establish a territorial link between the fund's territory and the applicant, which thus justifies its intervention. Requirements linked to the nationality or country of establishment of the applicant can be part of the eligibility criteria or part of the assessment criteria.

The applicant may be either a natural person or a legal entity, but the majority of the funds tracked require that the applicant be a legal entity, such as a production company or a distribution company. When the applicant is a natural person (mostly scriptwriters and directors in the pre-production stage), requirements will generally be linked to their nationality and/or place of residence/establishment. When the applicant is a legal person, multiple requirements may apply, related to its establishment (headquarters or permanent branch), its registration, or the nationality of the company's director or main shareholders. In some cases, there may be additional requirements concerning its activity in the territory of the fund.

Requirements usually refer to the fund's country/region but also to other EU or EEA states (with regard to the nationality rules by the Cinema Communication, see section



2.2). In one way or another, nationality or establishment criteria are required by almost all funds. Regional funds may require that the applicant be established in its region (this was explicitly the case in 28.8% of the regional schemes tracked, in funds in 10 of the 15 countries where regional funds were identified).<sup>29</sup> In the case of national funds, most schemes (79%) require the applicant to be established in the country; the remainder are split between those who explicitly open the calls to applicants from EU or EEA member states and those who do not set any precise requirements. Compliance must be effective at the time of the application for support or, in some cases, at the time of receiving the funding.

#### 4.2.1. Criteria related to the nationality or establishment of natural persons

The nationality of the applicant is not a frequent criterion; only a few of the tracked funds<sup>30</sup> had requirements related to the nationality of the applicant (in addition, there are a few cases where a regional fund may establish that an applicant natural person come from the region).<sup>31</sup> It is much more frequent that funds set requirements related to the residence or country/region of establishment of the applicant (sometimes on top of nationality requirements). The Greek Film Centre showcases a typical example of the applicant being required to hold the nationality of an EU member state and be established in the country: the applicant must be an EU citizen, legally established in Greece or in another EU country (provided the applicant has a legal branch in Greece). In the case of the Arts Council Malta, individuals with a residence permit are explicitly included as eligible applicants: natural persons applying for the Presentation & Touring grant must be Maltese citizens or be in possession of a Maltese residence permit. Moreover, nationality requirements do not necessarily apply to all the funding schemes of the same fund: in the example above, Maltese citizenship is not required for the Translation Grant, for which only the place of establishment of the applicant will be taken into account. The minority co-production scheme of the DFI establishes that the applicant must be a Danish producer, which is defined, *inter alia*, by “any person holding Danish citizenship or resident in Denmark”.

Furthermore, when the applicant is a legal entity, some funds may have requirements related to the nationality of the president or director of the company in addition to other requirements related to the company’s country of establishment. In France, eligible applicants for support from the CNC must:

- Be established in France. The applicant will be deemed to be established in France even if its headquarters are in another member state of the EU or in the

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<sup>29</sup> AT, BE, CZ, DE, ES, GB, GR, IT, SE.

<sup>30</sup> As an example, the CCA, FFA, ICAA, Greek Film Centre, Screen Ireland, Lithuanian Film Centre or Arts Council Malta.

<sup>31</sup> For example, Northern Ireland Screen’s development support states that when the applicant is a natural person, they must be a Northern Irish writer or writing team.



EEA, as long as it has a stable establishment in France at the time funds are allocated.

- Have presidents, directors or managers, as well as a majority of its directors, who are either of French nationality (or with French residency status), or who are nationals of a member state of the EU or the EEA, or a country which is a signatory to the European Convention on Transfrontier Television or the Council of Europe Convention on Cinematographic Co-production, or of a third European state with which the EU has concluded agreements related to the audiovisual sector..

Similarly, the MFC in Malta considers an applicant company eligible if it is duly registered as an audiovisual production company in Malta or Europe, having at least one director or a major shareholder of the company who is a Maltese or European citizen.

#### 4.2.2. Criteria related to the country/region of establishment of legal persons

Although the conditions may vary depending on the scheme, fund and country or region, the territory of establishment of the applicant company is a rather common criterion for most schemes in all countries analysed. This criterion is mandatory for the vast majority of schemes and funds, and it will usually determine eligibility for support. In some cases, the establishment of the production company will have an affect on the qualification of the work as a national work. The criteria relating to the establishment of a company refer to the location of its registered seat or the location of a permanent branch.<sup>32</sup> In most cases, the existence of a branch in a given territory will suffice, regardless of the location of the company's headquarters. As a general rule, the applicant's connection to the fund's territory is required for most types of schemes, with the exception, in some cases, of distribution, international distribution or international promotion schemes.

For instance, the FFF in Finland sets different requirements regarding the nationality of the applicant or its country of establishment depending on the scheme concerned:

- For pre-production and production: support can only be allocated to a production company registered in Finland which manages the commercial rights of the film in Finland.
- In the case of the marketing and distribution support scheme, support can be allocated to a professional film distribution company with film distribution rights in Finland, or to a production company that manages the commercial rights of a film in Finland.
- For international promotion, support can be allocated to a production company registered in Finland, to the holder of the international exploitation rights of a

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<sup>32</sup> Although the term "permanent branch" is the most commonly used, the terminology varies from one fund to another; some funds may also refer to "permanent agency", "subsidiary" or "permanent establishment".



film (a corporation registered in Finland), to the filmmaker or a team of filmmakers for projects promoting the export of Finnish films.

Conversely, most of the Czech Film Fund's calls for application are opened to companies outside the country:

- A physical person
- A company with a seat in the Czech Republic.
- A company with a seat outside the Czech Republic.
- A company with a seat outside the Czech Republic, which is applying via its local representative.

As for international distribution, the NFF in the Netherlands sets no specific requirements for the establishment of the applicant, whereas this will be necessary for most production and pre-production support schemes. In a similar line, for the SFI's international distribution support scheme, the applicant may be established outside Sweden. In the few exceptional cases where the country/region of establishment of the applicant is not an eligibility criterion for production or pre-production support, the applicant will need to have a strong case to obtain funding (that is, a significant proportion of the film staff is established in or has the nationality of the country/region of the fund, or the work has a strong connection with the territory). For instance, in the case of Screen Scotland, applicants based outside Scotland can still be eligible for support provided that the project involves writing and/or directing talent based in Scotland.

Moreover, additional criteria related to the establishment obligation may apply:

- The legal entity must demonstrate significant or continuous **activity in the country**: for Screen Brussels, the applicant must be a production company that has had an operating seat in Belgium for at least one year,
- The activity of the legal entity must be aimed at **promoting the country or region**: for example, to be eligible for NFF support, the applicant must be, *inter alia*, a film professional or a legal entity whose main profession or activity is to write, develop, produce and exploit/distribute film productions or to organise and/or execute a film activity to promote the quality and diversity of film production in the Netherlands and a production climate in the Netherlands conducive to cinema.
- The legal entity must follow a specific **registration procedure**: in the case of the ICEC in Spain, the applicant must be an independent production company or an independent distribution company registered in the Catalan Register for Audiovisual Companies or in the Administrative Register of Cinematographic and Audiovisual Companies managed by the ICAA or those equivalent in an EU or EEA member state.
- The legal entity must be eligible for a **specific tax regime**: for instance, in the case of the RTBF in Belgium, the applicant must be an independent producer in the form of a commercial corporation eligible for tax shelter (in other words, paying corporate tax in Belgium). For Screen Ireland, the applicant must be a "*bona fide* Irish tax compliant producer with a production company established in the Republic of Ireland".



### 4.3. Theatrical release, broadcasting and visibility on VOD

This section does not deal with the existing funding schemes devoted to supporting the release of a film or audiovisual work through the different exhibition windows; rather, it analyses how the potentiality for exhibition is assessed as funding criteria by some funds. Requirements related to theatrical release, broadcasting and visibility on VOD are usually a way to guarantee that funded works have a minimum commercial potential. These granting criteria commonly apply to production and distribution support and quite rarely to pre-production or promotion support. Funding is generally granted before the film or work is produced, broadcast or distributed; therefore, these criteria are measured in terms of expectations or commitments. In the case of film and TV production support, funds may require a commitment from distributors, broadcasters or VOD platforms that they will get involved in the financing of the applicant project in the form of a distribution advance (in some cases a distribution agreement is enough), or a pre-sale to a broadcaster or VOD service (or a letter of intent thereof). In the case of distribution support, requirements are more concrete and are related to the actual distribution and marketing strategies. Requirements related to VOD distribution or visibility are almost non-existent and, in any case, expressed in a very wide, open way.

Most funds require that funded theatrical films be intended for or have proof of expected **theatrical release** in the country. In the case of the Danish Film Institute and the German MBB, applicants for theatrical production support are required to have a domestic distribution agreement. The Finnish Film Foundation's Support Guidelines provide that "[i]t is a condition of granting production support that the film is guaranteed professional commercial distribution reaching an appropriate, optimally broad audience and visibility for the film in cinemas, on television, on digital discs, or through other forms of public exhibition and distribution."

In the case of theatrical distribution support, the funds may require that the marketing and distribution plan be submitted along with the application. This may include, among others:

- Foreseen theatrical premiere;
- Foreseen copies;
- Targeted audience;
- Foreseen number of screens (for the opening weekend or opening week);
- Sales target;
- Foreseen distribution windows;
- Marketing strategy (planned promotional materials such as a poster, press kit, trailer, teaser, etc.);
- Festival strategy.

The NFF Distribution sub-regulations provide that "a cross-media marketing and distribution plan with the corresponding marketing & distribution budget and guarantees is submitted with the application", which must "aim to reach an optimal audience through a theatrical and non-theatrical release". A minimum number of theatres and a P&A (print and advertisement) commitment are usually required, determined on a case-by-case basis.



Only 26% of the schemes devoted to feature films which were tracked set concrete requirements regarding a minimum theatrical release in the country; this level of detail in the funding criteria is more commonly found in distribution schemes and usually comprises the following criteria:

- **Minimum number of screens.** Distribution support for foreign art-house films require a screening in at least ten Danish theatres.
- **Minimum number of screenings.** In the case of production support, for instance, the Italian MiBAC requires that the film be theatrically released for at least 60 screenings (reduced to 15 screenings in the case of documentaries) within a three-month period following its first theatrical release.
- **Minimum geographical release.** For instance, the Spanish ICAA's distribution support requires a minimum territorial scope of fifteen provinces and five autonomous communities in the case of feature films, and of four provinces in the case of a slate of short films. The FFA's Distribution Project Funding requires distributors to release between 2% and 5% of the total number of prints in territories with up to 20 000 inhabitants.
- **Minimum period on screen.** The Lithuanian Film Centre requires a minimum of seven days on screen in cinemas in two different cities in Lithuania over a one-month period to be eligible for distribution support for feature films.

When it comes to **broadcasting**, both TV and theatrical productions may be required to have a pre-acquisition deal with a broadcaster (although, in most cases, this requirement applies only to audiovisual works). Only 18.5% of the schemes devoted to theatrical and TV films or TV series declared a mandatory broadcasting deal as an eligibility criterion. In other cases, the fund may require that the film or work is intended for broadcasting.

FFF Bayern support may not be awarded unless a contract for the theatrical distribution of feature films or a contract with a television network for the broadcasting of TV films or series is in place. In the case of Ile de France support for audiovisual projects, a pre-sale to a broadcaster in the region must be secured.

In some cases, the requirement to have a distribution deal and a TV deal are interchangeable; for instance, feature animation/fiction projects supported by Nouvelle-Aquitaine in France must provide evidence of CNC selective support approval; and/or a co-production or pre-sale agreement with a French broadcaster; and/or a distribution guarantee from a distributor, or a significant investment from a SOFICA.

Lastly, it is quite remarkable that requirements related to **VOD release or visibility** are rather infrequent. In the very few cases where funds refer to this, it is usually as an alternative option, not an obligation; for instance, when the FFF, in the example above, refers to "other forms of public exhibition and distribution." Moreover, interactive films seeking support from the LFC can chose between a minimum theatrical release of seven days over a one-month period in Lithuania or a minimum of 30 days of visibility on VOD. Nevertheless, there are a few cases with more precise requirements; for instance, the Austrian Bundeskanzleramt's distribution support scheme requires a written guarantee of the online placement (VOD platform, etc.) of the film. Independently of this, there are, of course, distribution schemes open to VOD distribution; for instance, multiplatform



distribution proposals can apply for the BFI's Audience Fund. Moreover, the FFA's Video Funding scheme is open to VOD distribution.

In addition, some countries or funds may establish requirements related to the distribution windows' schedule (also known as **holdback periods**) that any film receiving public support (in some cases any film distributed in the country) must respect. Nevertheless, rules are usually flexible enough to accommodate special cases and waive some of the requirements. As an example, the NFF requires a lapse of six months for documentaries (and 18 months for feature films and long animated films) between theatrical and non-theatrical release on the one hand, and 24 months before television release in the open network. However, in practice, exemptions are given regularly, as common release windows tend to be shorter. Moreover, the German Cinema Law establishes holdback periods of six months after theatrical release for SVOD and TVOD, 12 months for pay-TV and 18 months for free TV and free VOD, which can, nevertheless, be reduced in special cases.

#### 4.4. Theatrical performance and performance at festivals

Theatrical performance is used as a granting criterion mainly in support schemes granted *a posteriori*, once the film is shot and released, where funding is to be used in future projects. In most cases, theatrical admissions are measured in order to calculate automatic support. Equally, success in festivals can also be a calculation factor; independently of this, there are funding schemes devoted to supporting participation in national and international festivals.

These criteria are a way of rewarding commercial success and the commercial boost and prestige of attending or winning awards at certain festivals. In fact, the potential theatrical performance of a film is actually assessed through other criteria such as the budget, the minimum theatrical release, the existence of a distributor's advance, the previous experience and success of the talent and cast involved in the project, etc. Although not linked to the calculation of funding, the SFI has created a performance calculation model which is further explained in a case study in 5.4.

By way of example, the FFA's *Referenzfilmförderung* (reference film funding scheme) requires a minimum number of admissions within the first year after its premiere in German cinemas - depending on the budget of the film and the type of work, this can be as much as EUR 500 000. Each film receives one reference point for each ticket sold in the country. When the gross box office (GBO) generated in the country goes beyond the production costs, additional admissions get a 25% bonus. In addition, films receive additional reference points depending on prizes and attendance at festivals:

- 200 000 points for receiving the Deutscher Filmpreis (German Film Award), an Oscar or the main prize in the main competition section of the international festivals in Berlin, Cannes or Venice;
- 100 000 points for receiving the European Film Prize, the main competition prize at other significant international festivals, a nomination for the German Film



Award or an Oscar, as well as for participating in the main competition of the international festivals in Berlin, Cannes or Venice;

- 50 000 points for participating in the main competition of other significant international festivals or for receiving a nomination for the European Film Award.

The funding is to be invested in the production of new feature films within three years of receiving the awarded amount.

Other funds, such as the BFI in the UK (Locked Box) or the SFI (Audience Related Support), set similar mechanisms. In France, the CNC's calculation of the amount granted will take into account theatrical exploitation, broadcasting and video exploitation. In the case of the Portuguese ICA, performance indicators other than national admissions are also taken into account, with the awarded amount calculated as follows:

- 30% of gross box office in Portugal;
- EUR 0.8 per ticket sold abroad (in the case of international co-productions the amounts will be calculated in proportion to the Portuguese share in the film);
- EUR 0.8 per VOD rental.

In the case of distribution schemes, reference funding is equally calculated based on the performance of the film and/or participation in festivals. The awarded amount is to be used by the distributor in future projects.

For instance, in the case of the CNC, reference funding for distribution is calculated as a share of the tax on cinema tickets (generally 10.72%), depending on the number of domestic theatrical revenues as follows:<sup>33</sup>

- 220% when revenues are below EUR 307 500;
- 140% when revenues are between EUR 307 500 and EUR 615 000;
- 120% when revenues are between EUR 615 000 and EUR 1 230 000;
- 50% when revenues are between EUR 1 230 000 and EUR 3 075 000;
- 30% when revenues are between EUR 3 075 000 and EUR 4 305 000;
- 10% when revenues are between EUR 4 305 000 and EUR 6 150 000;
- 0% when revenues are higher than EUR 6 150 000.

The FFA's reference funding for distribution is assessed in a similar way to that for production support, taking into account admissions and performance in festivals (see above). The awarded amount must be used within two years of receiving the grant decision in order to support, among others, distribution costs, the financing of minimum guarantees, or the making of fully accessible versions or foreign language versions.

There are also schemes devoted to foreign sales companies. For instance, in the case of the CNC's Support for the Promotion of Cinematographic Works Abroad, funding is reserved for foreign sales companies that have the foreign exploitation rights in respect of at least three feature films for which production approval has been granted by the CNC,

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<sup>33</sup> Article 221-10 of the RGA.



for all forms of distribution in at least 15 states and for a minimum period of twenty-four months. The amount is calculated on the basis of the film's commercial theatrical performance (between EUR 0.85 and EUR 0.05 per ticket sold, depending on the number of admissions).

In addition, there are also promotion support schemes devoted to participation in selected national and international festivals (usually according to a list pre-established by the fund). In this case, support is granted once a film or audiovisual work is invited to participate or is included/nominated in the relevant selection so as to cover certain promotional costs as well as the travel and accommodation costs of key talent and cast.

For example, the VAF/Film Fund grants support for promotional support abroad. In the event of a film being selected for the Berlinale (Official, Panorama, Generation, Forum), Cannes (Official, *Un certain regard*, *Quinzaine des Réalisateurs*, *Semaine de la Critique*), Toronto (TIFF and TIFF Kids) and Venice (Official, *Orrizonti*, Venice Days and Critics' Week), or in the case of a film being designated as the official Belgian candidate at the Oscars, the maximums were set at EUR 25 000 and EUR 10 000, respectively. In a similar line, Screen Scotland's Market and Festival Attendance Fund is dedicated to supporting attendance at international festivals and markets (BAFTA-qualifying film festivals and Academy Award-qualifying festivals are eligible) for screenwriters, directors and producers based in Scotland, in order to enable them to meet potential partners, access global markets and promote their completed projects.

## 4.5. Budget

There are several granting criteria related to the budget of a project. First, the schemes of some funds establish a minimum budget to consider a project eligible; this commonly happens in production schemes and the logic behind it is to guarantee that the film or audiovisual work has a budget within the market standards so that a commercial exploitation can be expected.

Secondly, some schemes establish a cap to the budget of the projects that can be funded. In line with the previous point, the logic here is to avoid the risk of larger projects exhausting the endowment of the scheme. Another way of avoiding this, as will be seen in the following section, is by establishing a maximum award.

Thirdly, some schemes require the applicant to make a minimum contribution to the overall costs of the project for which funding is requested. The rationale behind this is to guarantee a minimum level of commitment by the applicants, who would be ready to risk their own equity or any other form of in-kind contribution to the project (for instance, in the form of an advance of their fees).

Lastly, it may happen that a scheme requires the applicant to secure a certain share of the overall financing before applying, especially when applying for production support. Schemes could be broken down into *first-step* schemes, where commitments by broadcasters and VOD services (in the form of a pre-acquisition deal or a LOI) or distributors (in the form of a minimum guarantee or a LOI) have been secured, as well as confirmation of the eligibility for any existing fiscal incentive; *second-step* schemes, to be



applied for once – on top of this, a certain level of commitment from other public funds is guaranteed; and *last-step* schemes, that is, those requiring that, their contribution aside, all financing is in place. By and large, national/federal funds are *first-step* funds, while regional funds are *second-step* or *last-step* funds.

The **minimum and maximum budgets** of each scheme usually reflect the common pre-production, production and distribution costs in a country. Within the context of each country's reality, low caps in particular reflect the fund's interest in supporting low-budget films, while above-average budget caps, or even lack of them, usually implies that the fund is open to supporting larger-sized projects. When a scheme targets different types of work – that is, theatrical fiction films, theatrical documentaries, feature animation, TV films – it is normal that the minimum thresholds and the maximum caps are different for each of them, reflecting the reality of market, with different production costs for the different types of work.

The largest budget caps identified in the mapping were GBP 15 million (EUR 16.9 million) in the BFI Production Fund and GBP 8 million (EUR 9 million) for the BFI Film Export Fund - in this case, the maximum budget refers to the maximum production budget of the film produced, not the maximum budget of the film export process. Only 7.5% of the production schemes tracked required the budget to be below a certain amount, with an average of EUR 2 million and a median of EUR 805 000 within this small sample. However, no particular conclusions can be drawn from this fact, as many schemes limit the resources for high-budget films or audiovisual works by setting a maximum awarded amount per project and not by establishing a maximum budget to apply for funding.

The setting of a maximum budget in pre-production support is rather infrequent – only four of the 232 pre-production schemes tracked established the said requirement and this was related to the foreseen production budget of the project supported; for instance, the scheme *Talentfilm Drehbuch-/Projektentwicklungsförderung* (Script and Project Development Support for Talent Films) of the German KdJF only grants support to projects with an expected budget of less than EUR 1.5 million. Similarly, Screen NL Development - *The Crossing* only grants pre-production support to films with an intended budget of less than EUR 900 000.

A high minimum budget indicates that the scheme is industry-oriented and aims at films with a high commercial potential. The German GMPF is the fund with the highest minimum budget (EUR 25 million), followed by the German DFFF II (EUR 20 million). This requirement is mostly used as a guarantee that the applicant project is within the market production standards in the country or region; in fact, this requirement is not particularly frequent (only present in 7.7% of all schemes tracked) and, in any case, more frequent in production support schemes, with a median minimum budget of EUR 450 000 in the few schemes requiring it.

A **minimum contribution** to the financing plan by an applicant is not a frequent requirement either; however, it is more common in production schemes (yet in only 20.1% of the tracked schemes), usually within the range of one-digit shares of the overall budget. The ÖFI in Austria, the IDM Film Fund in Italy and the Polish Film Institute, to name but a few, establish a minimum contribution of 5% by the applicant producer. Several schemes by the Luxembourg Film Fund require that the applicant contribute at



least 10% of the overall budget of the project. In some cases, this contribution can be made in cash and/or services and/or in kind; for instance, Romania's CNC requires the applicant producer to contribute at least 6% of the total budget of the film (or of the participation of the Romanian party in case of co-production) in cash, in services or in kind.

This requirement is a little less frequent in the case of distribution support schemes (only identified in 19% of the schemes tracked); as an example, most of the SFI's distribution support schemes as well as distribution support awarded by German Films require a 50% contribution from the applicant. Moreover, in some cases, aid intensity limits for distribution support implies that, in the absence of additional sources of public support, the applicant must provide for the remainder of the financing.

In the case of pre-production support, only 10% of the schemes tracked set this requirement. For instance, some schemes by the Estonian Film Institute require the applicant to contribute 10% of the overall budget; in some cases, the minimum contribution is calculated as a share of the awarded amount - such is the case of the French FAIA's development support, where the producer's contribution must be at least equal to 20% of the funding awarded. As for promotion support, the Flemish VAF requires the applicant to match the requested contribution with their own resources. Moreover, the *Market and Festival Attendance Fund* of Screen Scotland establishes that the budget must include a minimum of 10% match funding of a cash or in-kind contribution by the applicant.

When it comes to the **minimum financing secured** in order to be eligible for funding, such criteria indicate at what stage of the financing process a funding institution gets involved. This condition applies mostly to production support schemes (23% of the production schemes tracked set this criterion, with a 50% minimum financing secured as the most frequent requirement among them).

There are funds joining the project at the end of the process, with schemes requiring that all financing, apart from their own contribution, be in place. For instance, Land Salzburg requires that the rest of the overall funding be secured in order to be eligible. In a similar way, the German DFFF and GMPF require that the applicant secure at least 75% of the financing in order to apply, with the remaining financing to be potentially obtained through them; 65% in the case of the Northern Ireland Screen Production support scheme.

*First-step* schemes set either lower requirements or, more frequently, no requirements at all (with the viability of the project assessed in different ways). For instance, the Spanish ICCA's General Aid scheme requires 35% of the budget to be secured in order to apply. The Portuguese ICA's Audiovisual and Multimedia Support Programme, devoted to the production of fiction, animation and documentary works, establishes that a minimum of 20% of the budget has to be in place in order to receive funding. Most of the Slovak Audiovisual Funds' production support schemes require 10% of the financing to be secured.

Even the schemes of film funds considered to be a first step for public funding may set a high minimum level of financing, for instance, when support is intended for works with a high commercial potential; in this line, the DFI's Market Scheme and the



SFI's Market Scheme for production support require the applicant to have secured at least 60% and 70% of the financing, respectively; therefore proving its commercial potential in the form of commitments from broadcasters, distributors or private equity.

Some funds establish higher requirements when it comes to international co-productions; for instance, the Croatian HAVC has no requirements in this regard except for international co-productions, requiring that 50% of the overall budget be secured prior to the application.

These requirements are very rare in the case of pre-production, distribution and promotion support. For instance, Comunidad de Madrid requires that 5% of the budget be in place in order to grant support for the development of feature film projects. Northern Ireland Screen asks for 50% of secured financing for beneficiaries of the Irish Language Broadcast Fund for the development of TV series. In addition, some Slovak Audiovisual Funds' distribution schemes set minimum percentages of mandatory co-financing from the applicant's own resources or from other sources.

## 4.6. Awarded amount

There are several criteria related to the calculation of the amount eventually awarded; on the one hand, the aid intensity rules in the guidelines of each fund (which are usually a transposition of the intensity rules established by the Cinema Communication; see section 3.2) serve as a framework for the calculation of the awarded amount. Moreover, most schemes set a maximum awardable amount, usually based on the endowment of the schemes and the planned number of projects to fund. In some cases, the guidelines or even the film law establish a maximum award per applicant over a given period. However, the maximum awardable amount is just a best-case scenario indicator; in fact, the actual funding will depend on the eligible costs, as recognised by each fund for each scheme. All these decisions can be made by a selection committee or through an automatic process. In either case, the amount funded takes the form of an investment, a (usually) interest-free loan (repayable or repayable under certain conditions) or a non-repayable subsidy (only repayable if the project fails to be completed or the agreed conditions are not met).

### 4.6.1. Aid intensity rules

The film and audiovisual funds follow quite strictly the rules established in the Cinema Communication regarding the aid intensity of funding by film and audiovisual funds; in fact, this is one of the most frequent criteria, present in 75% of the schemes tracked (80% in production support schemes). As a general rule, aid should be limited to 50% of the production budget (60% for international co-production and up to 100% for difficult audiovisual works). Pre-production support (scriptwriting, project development, etc.) is not limited. As for the costs of distribution and promotion, the aid intensity should be the same as it was or could have been for production. In fact, in most cases, the Cinema Communication is referred to in most film laws and even in some guidelines when it



comes to this criterion. This does not mean that all funds directly establish these aid intensity caps; in some cases, the funds may decide to reduce them – this is especially frequent in the case of pre-production support.

When it comes to production support, most of the national/federal funds have similar criteria:

- General aid intensity of 50% of the budget, which is always respected;
- Aid intensity for international co-productions: not always referred to, but when it is, it is limited to 60% of the budget;
- The aid intensity for difficult projects (usually because of the shooting language, the topic or even the format) as well as for debut films and low-budget films, is usually between 75% and 90% of the budget – even 100% in exceptional cases.

As an example, the Latvian NFC sets the following ceilings for support: 50% of the total costs of the project in general; 80% of the total costs of the project when it comes to difficult films; and 90% of the total costs of the project when it comes to low-budget films. Screen Flanders' aid intensity for production is in principle limited to 50% of the total production budget, 60% for co-productions, and 75% if it concerns a difficult production. The Italian Cinema Act establishes that support must be limited to 50% of the total project costs, or 60% when it comes to international co-production. However, section 2 of that article waives these requirements when “the project concerned is a culturally ambitious project or if the project involves the development, production, distribution or promotion of a culturally ambitious audiovisual work”, increasing the aid intensity cap to 90% of the total project costs.

Some regional funds establish lower aid ceilings; for instance, up to 20% of the production costs in Cine Tyrol or the Carinthia Film Commission in Austria; up to 15% in the case of the Danish FilmFyn; and up to 35% in the case of the Andalusian Agency for Cultural Institutions. This is because regional funds are usually second-step funders.

Aid intensity may also vary depending on the type and format of projects; for instance, in the case of Wallimage, documentaries and virtual and/or augmented reality projects cannot receive funding higher than 20% of the production budget. In turn, the Spanish ICEC funds theatrical production up to 18.2% of the costs assumed by the applicant; this is increased to 27,3% for audiovisual works in Catalan or Occitan original version in its Aranese variant. In Poland, the PISF sets different aid intensity rules for the support of TV series depending on the season of the series (50% of the budget for a first season, down to 40% for the second, 35% for the third and up to 30% from the fourth series onwards).

In some cases, the ceiling is linked to the average endowment of the scheme or the average budget of films or audiovisual works in the country; for instance, the Bulgarian NFC established an aid ceiling for difficult films of 80% of the eligible costs but not more than 70% of the average budget for the previous year for that type of film.

As already mentioned, the Cinema Communication does not establish an aid intensity ceiling for pre-production support; however, most schemes tracked set one, with a median of 75% of the scriptwriting or development costs among the schemes tracked. For instance, the Greek Film Centre's scriptwriting and development support schemes can



fund up to 100% of the costs. The Portuguese ICA's Audiovisual and Multimedia Support Programme for Writing and Development sets the ceiling at 80%. Moreover, the Czech Film Fund establishes a maximum aid intensity of 50% in its development schemes for feature films.

Aid intensity for distribution and promotion schemes must be in line with that of production schemes. Most schemes set aid intensity rules - most frequently 50% of the costs. As an example, the Malta Film Fund's Film Distribution Marketing Grant sets a maximum aid intensity level of 50%. In some cases, the funds mirror the requirements set for production support; for instance, the VAF Filmfonds' International Distribution scheme sets a support ceiling of 50% of the costs in general (60% for co-production and 90% for difficult and low-budget films).

The concept of difficult audiovisual works is defined in the Cinema Communication,<sup>34</sup> comprising works such as "short films, films by first-time and second-time directors, documentaries, or low budget or otherwise commercially difficult works." Moreover, "[u]nder the subsidiarity principle, it is up to each Member State to establish a definition of difficult film according to national parameters". In many of the schemes tracked there is no precise definition of difficult works - therefore it should be understood that this definition applies. In some cases, the fund explicitly refer to this definition; for instance, Screen Ireland states that aid intensity is "limited by regulations agreed with the Irish government or laid down by the European Commission".

Last, there are a few cases where the fund elaborates on the concept of difficult work and explains the scope in further detail, setting a precise budget and release and linking this denomination to linguistic, cultural and artistic aspects. Such is the case of the Italian MiBAC, according to which difficult works "are

- Documentaries, first work, second work, work by young authors, short films and animation works declared not capable of attracting significant resources from the private sector;
- Films selected for selective subsidies declared not capable of attracting significant resources from the private sector;
- Works with a production cost lower than Euros 2.5 million;
- Films that are distributed in at least 20 theatres at the same time and which are declared not capable of attracting significant resources from the private sector."

Equally, the VAF/Film Fund in Belgium define difficult and low budget films as:

- Feature-length films in the categories of fiction and animation (low-budget films, debut films, youth films, author films, Dutch-language films and films linked to the Flemish cultural identity/patrimony/heritage);
- Films based on a Dutch-language work; documentaries (if it concerns creations that are of remarkable artistic or cultural value);

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<sup>34</sup> Article 52.2 of the European Commission Communication on State aid for films and other audiovisual works (2013/C 332/01), *Op. cit.*



- Short and medium-length films in the categories of fiction and animation (if they have a remarkable artistic or cultural value), or
- Filmlab and Innovation Lab projects.

## 4.6.2. Maximum awarded amount

The maximum awarded amount is the result of a combination of factors, including the endowment of the scheme, the strategy of the fund in terms of the budget range of works supported, the objective to support a minimum number of projects and the average costs of the activities supported in each country.

Logically, figures will be higher for production support and lower for pre-production, distribution and promotion support. It may happen that in reality the grants awarded by a given fund are well below the set ceiling, but it is well beyond the scope of analysis to identify to what extent there is a correlation between the maximum amounts set and the actual average, median or highest awards granted by each fund. Overall, 73% of the schemes tracked set a maximum awarded amount.

**Table 2. Average, median and highest maximum awarded amount by type of scheme**

Type of scheme	Average	Median	Highest
<b>Pre-production</b>	EUR 49 996	EUR 29 000	EUR 500 000
<b>Production<sup>35</sup></b>	EUR 699 411	EUR 300 000	EUR 25 000 000
<i>National funds</i>	EUR 989 964	EUR 450 000	EUR 25 000 000
<i>Regional funds</i>	EUR 347 036	EUR 200 000	EUR 2 000 000
<b>Distribution and promotion</b>	EUR 66 491	EUR 25 000	EUR 600 000

Source: Response to European Audiovisual Observatory standardised questionnaire

The highest amounts in the EU are EUR 25 million for production support for theatrical films by DFFF II and EUR 10 million for production support for theatrical films, TV series and TV films by the Romanian National Commission for Strategy and Prognosis. The highest level of support for pre-production is granted by the CNC through the Development automatic support scheme (EUR 500 000 for animation films). As for distribution and promotion, the highest grant is awarded by the FFA's Distribution and Marketing scheme (EUR 600 000).

In a few cases, there is also a maximum awarded amount for the same applicant during a given period. For instance, in direct allocations based on production conditions

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<sup>35</sup> Schemes exclusively devoted to short film are not included.



within the automatic distribution support by the French CNC, it is established that for works with a production cost below EUR 4 million, support can go up to 50% of the distributor's investment (up to a yearly maximum of EUR 125 000 per company). For works with a production cost of between EUR 4 million and EUR 8 million, support can go up to 25% of the distributor's investment (up to a yearly maximum of EUR 250 000 per company).

### 4.6.3. Selective vs. automatic support

Funding can be granted selectively (by a selection committee or panel, by an external evaluator and/or by one or more film commissioners) or automatically, upon fulfilment of a predefined list of criteria. Selective support involves a series of qualitative, subjective elements of assessment, whereas automatic support has to be based on objective, measurable indicators. As a broad generalisation, it can be said that the former is the case in schemes where there are cultural and artistic aspects that need to be assessed whereas the latter is frequently the case in schemes relating funding to theatrical attendance, number of screenings, awards and prizes). In addition, funding awarded selectively is usually lower than that awarded automatically.

Most film and audiovisual funds' schemes in Europe are awarded selectively; automatic support is mostly to be found in reference support, generating an award based on theatrical performance (usually a balance in the producer's or distributor's account in the fund) to be invested in future projects; or by industry-oriented schemes whose funding is calculated based on the foreseen investment in the country or region.

In the case of selective support, this takes place in several stages, which usually include:

- Checking the completeness and accuracy of the required documents submitted by the applicant - carried out by the fund - , which may include compliance with a set of predefined criteria (nationality of the applicant, shooting language, etc);
- An evaluation by an external independent expert (or panel of experts) and/or by a fund's commissioner(s) who assess the project based on a set of criteria set by the fund depending on its goals and strategy;
- A prior agreement (valid for a given period);
- An agreement establishing the amount and conditions of funding.

For instance, the Malta Film Fund establishes that “[a]pplications will be reviewed by the Fund Administrators for completeness and eligibility. Applications which pass this initial review will be sent to an independent panel of evaluators (unless otherwise indicated). [...] The Fund Administrators will select evaluators on the basis of their independent and professional experience. The evaluators shall examine all eligible applications and rate them according to the specified award criteria. The evaluators will present an assessment on each of the proposed projects indicating the relevant rating awarded. [...] Shortlisted applicants may be requested to attend a meeting to discuss their project further”.

Depending on the fund, the assessment criteria for the commissioner, external evaluator, selection committee or panel vary significantly; these may include, *inter alia*,



the artistic quality of the project; the commercial potential; the viability of the production; or the adequacy of the project with respect to the fund's goals. For instance, selective production support by the MiBAC in Italy requires the assessment of the artistic quality, structure and potential of the project by a panel of five experts (well-known personalities with proven professional qualifications), taking into account, *inter alia*, the quality and originality of the story and script, the quality of the artistic and technical cast, the director's artistic vision, the potential for performance in Italy and abroad and the production structure.

As an example of automatic support, the German FFA production support is calculated through a point system - points are generated by theatrical admissions and awards in key festivals. The FFA also offers a distribution reference scheme operating under similar terms. Moreover, the ICA's scheme for the distribution of national works in Portugal is awarded automatically upon fulfilment of a series of requisites, which include: the registration of the cinematographic work with the ICA; the distribution agreements (if applicable); the distribution plan according to the model approved by the ICA (indicating the commercial release); the budget; any other elements considered relevant by the applicant; and a declaration of honour commitment. Funding is calculated based on the number of cinemas in which the film is released, the number of screenings and the time the film spends at the box office.

#### 4.6.4. Repayable vs. non-repayable schemes

Funding can take the form of an investment (where the fund participates as an equity investor retaining its copyrights to the final work) or, most frequently, in the form of an interest-free loan repayable under certain conditions or a non-repayable subsidy. Most pre-production schemes are non-repayable or repayable if the project goes into production. Production schemes are usually repayable under certain conditions; however, automatic schemes, industry-oriented schemes and schemes devoted to difficult films are normally non-repayable. Lastly, distribution and promotion schemes are generally non-repayable.

A very reduced number of funds get involved in the project as equity investors, becoming co-producers of the supported work. As an example, Screen Scotland's equity investment is recoupable behind debt and mezzanine funding and the fund expects to receive a share of net profits generated from the project proportionate to that equity investment. Equally, the fund will be assigned a share of copyrights in proportion to their investment.

In the case of pre-production support, subsidies may become repayable when and if the film goes into production; for instance, in the case of the PISF's scriptwriting support, the amount is repayable if the work receives production support and it will be deducted from the production support when it is awarded.

In the case of the repayment of loans (normally interest-free), this usually takes place when the recipient project has generated a certain benefit. Funds may establish the form and schedule for the reimbursement, as well as caps and other limits. The repayment



obligation usually expires after a certain period. For instance, in Poland, the PISF's support can be awarded in the form of a subsidy, but will be repayable if the project goes into profit, in which case "the entities which have received project co-financing have to return the amounts of project co-financing on the terms and conditions specified in the regulations on public finance." In Romania, when it comes to production or pre-production support, the amount awarded is repayable to the CNC within 10 years "from the proceeds obtained by the beneficiary of the credit, exclusively by making use of the film made with this credit".

The FFA's project support is awarded as repayable interest-free loans limited to EUR 1 million. Repayment takes place when the benefits are higher than 5% of the production costs (the fund can set more favourable conditions depending on the personal contribution made by the recipient of the financing). The FFA will recoup 50% of the recipient's revenues until repayment of the loan – unless different recoupment corridors are agreed with the German regional funds. Should more funding institutions contribute to the project, then the FFA will recalculate its recoupment corridor in proportion to its share of support. All obligations expire after ten years from the release of the film.

Support within Program 1 of the Slovak Audiovisual Fund can consist of a combination of a grant and loan or just a grant; the recoupable part of the funding will be recouped from the grant recipient's proceeds exceeding the amount of EUR 30 000 upon completion and release of the film and, in any event, the total repaid amount will not exceed 90% of the grant. Equally, distribution support by this same fund is repayable depending on the theatrical performance of the film in the Slovak Republic as follows:

- 0% for films with less than 20 000 admissions,
- 50% for films with an audience of between 20 000 and 100 000 admissions,
- 90% for films with an attendance of more than 100 000 admissions.

Repaid amounts can also be reinvested by the funds in the recipient's future projects; BFI's *locked box* sets aside a share of the amount recouped by the fund for the filmmakers involved to be used for the development and/or production of their future projects or towards staff training.

Most funds set conditions for the repayment of funding when the agreed conditions are not met. For instance, if a project is not concluded as agreed with the Portuguese ICA, the applicant must reimburse the ICA for the full amount of the grant plus interest at legal rates. In the case of the German FFA's production reference support, funding must be paid back, among other reasons, if it has not been spent within three years of it being awarded; if the recipient has failed to provide proof of the appropriate use of the support; or if the award or payment has been made on the basis of incorrect information on essential requirements.

#### 4.6.5. Eligible costs

Eligible costs are those costs which, according to the guidelines or regulations of each scheme, can be taken into account in the calculation of the awarded amount. These vary



from fund to fund and depending on the type of scheme. In many cases, only a general definition of these costs is provided; in others, eligible costs are described succinctly; however, many schemes provide a more detailed list of eligible and non-eligible costs:

- An overall idea of the costs that can be considered (those related to the work or project supported);
- The period during which spending will be considered;
- Where spending has to take place (within the EU, the EEA, a certain country or group of countries or a certain region);
- The transparency and reporting of the spend;
- Requirements to comply with the law and tax system.

For instance, Article 7 of the Regulation of the Luxembourg Film Fund states that “[e]xpenses must be recorded in the accounts by nature of expense and by activity for which they are incurred, the allocation of which to the production of the work concerned and the actual disbursement in respect of that production are duly justified by the recipient company and in the case of a co-production by the co-production companies, by all means recognised by the accounting and tax laws in force in the Grand Duchy of Luxembourg and in the countries of the foreign production companies”.

In a similar line, the PISF establishes that eligible production costs must be incurred during the production period and must be reliable, verifiable and made in an economic way, as well as complying with the applicable law.

**Production support schemes** usually set a series of eligible costs, the most frequent being the following:

- Costs related to the set,
- Hire of equipment and technology,
- Post-production costs,
- Producer fees (usually in proportion to the budget),
- Talent fees (usually in proportion to the budget),
- Crew’s salaries (in some cases it is stated that these cannot be lower than the national minimum wage),
- Acquisition of rights,
- Travel and transportation expenses,
- Insurance costs,
- Final completion costs,
- Overheads

As an example, these costs are detailed by the British BFI, the Maltese MFF and the Polish PISF. Frequently, the producer’s fee or other deferrable costs, as well as the overheads, are limited in the case of production support schemes. For instance, the Slovenian SFC limits overheads to 5% of the funding provided, and the costs for producer’s fees are also limited to 7% of the funding. Eligible overheads are generally within a range of between 5% and 10%, exceptionally going a bit higher, as in the case of the ICA in Portugal (15%). FFF-Bayern establishes that deferred personal services (director, producer or DOP fees)



can be used as a financing component for no more than 10% of the production costs, with the producer's fee capped at 2.5% of production costs.

The most common eligible costs in **pre-production support schemes** are related to the following activities:

- Writing and rewriting of the script,
- Optioning the rights to adapt pre-existing works,
- Development of the treatment,
- Script editing,
- Story development,
- External consultation,
- Training,
- Travel expenses,
- Research costs

As an example, Grand Est and Creative Scotland set this kind of criteria.

**Distribution support** usually sets the following eligible costs:

- Production of copies,
- Subtitling,
- Dubbing,
- Advertising and promotion,
- Measures taken against piracy,
- Actions to bring films closer to people with disabilities
- Design, manufacture and distribution of promotional materials,
- Purchase of advertising space

Moreover, eligible costs for **promotion support** usually include the production of a press kit and the hiring of an independent publicist; the organisation of targeted screenings; premiers; and the elaboration of a digital campaign or other promotional materials (as established, for instance, by the VAF/Film Fund).

In the case of promotion support to attend selected festivals, these may include travel and accommodation expenses for key members of the talent and cast, subtitling costs and the production of a DCP. As an example of eligible costs for distribution and promotion support, the ICAA in Spain and the CNC in France establish this kind of criteria. There are funds, such as the SFC in Slovenia, where only recipients of production funding can apply for distribution and promotion support.

Furthermore, some funds also establish lists of non-eligible costs (mostly for production support); the most frequent are the following (some eligible costs of a given scheme are ineligible in others and *vice versa*):

- Costs related to the acquisition of movable and immovable property,
- Travel costs of non-nationals,
- Payments for insurances, including completion bond,
- Payments for rights clearances (for production support),
- Contributions in kind,



- VAT and other taxes and charges,
- Fines,
- Interest fees,
- Purchase of land and real estate, and
- Fuel expenses.

As an example, Screen Ireland and the Maltese MFF have a list of non-eligible costs.

## 4.7. Territorial spending and shooting criteria

### 4.7.1. Territorial spending criteria

The EU Cinema Communication sets the framework for the minimum spending and shooting obligations that can be established by the funds (see 3.2), according to which the maximum territorial spending obligation should be limited to 160% of the aid amount. The territorial linking shall not exceed 80% of the overall production budget and no fund can request that production activity in its territory exceeds 50% of the production budget. Obviously, these criteria mostly refer to production support, with most funds setting minimum spending criteria below the maximum allowed for by the Cinema Communication. Commonly, the calculation of territorial spending is done in one of the following ways:

- As a share of the amount awarded;
- As a share of the budget;
- As a minimum amount.

Around half of the production schemes tracked set a precise minimum spend in the country/region as a share of the awarded amount; this was only 25% in the case of a precise minimum spend in the region as a share of the budget. Regional funds tend to set higher spending criteria - the report includes a case study devoted to the regional funding effect (see 5.1), where some examples of spending obligations by regional funds are provided.

The approach to territorial spending differs from scheme to scheme. In some cases, it is mandatory for eligibility; in others, it is taken into account in the assessment of eligibility (among other criteria) and/or in the definition of eligible costs. Equally, this can be an evaluation criteria used to calculate the awarded amount.

By way of illustration, the Bulgarian NFC requires that in the case of support for national films and co-productions, at least 75% and no more than 160% of the amount of state aid allocated shall be spent on the territory of the Republic of Bulgaria. The minimum level of production activity on the territory of the Republic of Bulgaria is up to 50% of the total production budget of the film. Furthermore, the MiBAC's selective subsidies requires that an amount equal to 100% of the awarded amount be spent in Italy.



The Irish Language Broadcast Fund requires that at least 70% of the project costs be spent in Northern Ireland. It is often the case that projects with a higher spending and shooting time in the country or region may have a better chance of being funded or the amount granted will be higher. Even when no specific criteria are set, spending and shooting in the country/region may play a role; for instance, the Catalan Cinema Law provides that “the investment and expenditure made in Catalonia” is one of the assessment criteria used during the evaluation of production support applications.

**Table 3. Average and median minimum spending in the country/region as a share of the award and as a share of the budget.**

Criterion	Average	Median
Minimum spending in the country/region (as a share of the awarded amount)	109%	100%
Minimum spending in the country/region (as a share of the budget)	58%	50%

*Source: Response to European Audiovisual Observatory standardised questionnaire*

It may happen that a fund sets different requirements for co-productions; for instance, the Lithuanian Film Centre requires that at least 80% of the awarded amount is spent in the country, and in the case of minority co-production, 100% of the awarded amount must be spent in the country. It may also happen that the criteria vary depending on the aid intensity or amount granted. For instance, the Cultural Service of the Cyprus Ministry of Education and Culture lays down the following rules regarding the spending required in Cyprus:

- In cases of aid covering less than 31% of production costs, 50% of production costs are to be spent on the territory of the Republic of Cyprus,
- If the aid covers more than 31% of production costs, then the territorial requirement follows the rule of the 160% ceiling of the aid up to a maximum of 80% of production costs.

Moreover, as already mentioned, some funds also require a minimum overall spending on top of the minimum spend as a share of the award or the budget. For instance, Wallimage asks the applicant to spend at least EUR 300 000 in Wallonia, representing a minimum of 150% of the requested investment. Equally, requirements may vary depending on the invested amount in the country or region: the GMPF requires that 40% of the production costs be spent in Germany, unless the German spending attains EUR 13 million for feature films and EUR 10 million for TV series. In some cases, spending and shooting criteria are not mandatory, but are part of a list of alternative criteria; for instance, in order to qualify as a “Greek cinematographic work” by the GFC, compliance with at least two of the following criteria is necessary:

- At least 51% of the film is in the Greek language
- At least 51% of the shooting has taken place in Greece



- At least 51% of the budget is spent in Greece

## 4.7.2. Territorial shooting criteria

Shooting criteria are slightly less frequent and more broadly defined than spending obligations, with funds often establishing that a significant part of the shooting must take place on the territory without further indications as to the number of days/hours required. Its goals are both cultural and economic, including the promotion of the country/region (tourism, the portrayal of historical buildings and landscape, etc.) and the fostering of industry in the country/region (use of facilities and staff in the region, etc.)

For instance, the Grand East guidelines state that “a significant part of the production – including shooting and post-production – must take place in the Grand Est region”. However, there are funds – especially regional funds – which require a precise number of shooting days to take place in the country/region. For instance, in the case of the Emilia Romagna Film Fund, a minimum of 6 shooting days in the region is required. Moreover, the maximum awardable amount by the FVG varies depending on the number of shooting days in the region and the type of work, as detailed below:

**Table 4. Awarded amount by shooting days and type of work in FVG**

Type of work	Shooting days in the territory	Amount awarded
Feature films, animation, TV film, TV series, web works:	More than 72	EUR 280 000
	From 24 to 71	EUR 200 000
	Up to 24	EUR 70 000
Documentaries, short films	More than 10	EUR 30 000
	Up to 10	EUR 10 000

*Source: Response to European Audiovisual Observatory standardised questionnaire*

It may also happen that shooting criteria are not mandatory but influence the eligibility of a project or the amount granted. For instance, the Croatian HAVC establishes a qualification test to apply for funding whereby a project needs to obtain at least 12 points out of a total of 34 to be eligible. The following criteria refer to the use of production infrastructure in the country:

- At least 50% of the total days of recording / production will take place in Croatia (5 points), or
- At least 30-50% of the total days of recording / production will take place in Croatia (3 points), or
- At least 15-30% of the total days of recording / production will take place in Croatia (2 points).



In a similar line, some of the requirements to qualify as a “Hungarian film” include, *inter alia*, shooting criteria:

- The filming location is in Hungary, (3 points)
- The preparation of film production or post-production takes place in Hungary, (3 points).

Even when shooting criteria do not apply, it is often the case that spending obligations or conditions related to the nationality of the film or the nationality of the cast, talent and crew guarantees that, *de facto*, a relevant part of the production takes place in the country or region.

## 4.8. Nationality of talent, cast and crew, underlying copyrights

### 4.8.1. Nationality of the talent, cast, crew

The nationality of the talent, cast and crew must be interpreted in its broadest sense, therefore including all measures or criteria aimed at establishing a link between the people involved in the project and a particular territory. This may affect the qualification of the film as a cultural product or a national work, its eligibility for funding or the calculation of the funding it will be awarded. Of all the schemes tracked, only 17% of them (in 13 countries) declared that they had mandatory criteria related to the nationality of talent, cast and crew.

The criteria are usually related to nationality or place of residence, but they may include other forms of significant factors linking some of the participants in the project to a given territory. Logically, these criteria apply mainly to production and pre-production support. They may be mandatory (affecting eligibility) or optional (affecting the granted amount) and they may include citizens of a region, a country, several countries, the EU, the EEA or a linguistic area.

It is frequent that funds set nationality requirements concerning the key positions involved in the project (director, scriptwriter or producer). For instance, the Malta Film Fund requires at least one key member of the crew (producer, writer or director) to be a Maltese citizen or resident. The FFA requires the film director to be a “German national within the meaning of Article 116 of the Basic Law, or a national of an EU or an EEA member states or a Swiss national”. Northern Ireland Screen’s development support states that when the applicant is a natural person, they must be a Northern Irish writer or writing team. Ffilm Cymru Wales will prioritise support for writers, directors and/or producers either born or currently residing in Wales working in English or Welsh.

It may also be the case that the share of nationals in the technical teams is taken into account. For instance, the cultural assessment criteria used by the Slovak Audiovisual Fund includes, *inter alia*, “the share of Slovak professionals’ participation (creative and technical) in the project”.



Nationality can also be one of the criteria assessed to qualify a work as a national work, which may, in certain cases, influence its eligibility for support or the intensity of the aid received. For instance, the qualification as a Bulgarian Film is based, *inter alia*, on a point system which takes into account the Bulgarian nationality of the talent, cast and crew. Furthermore, a film shall be considered an Austrian film pursuant to the Film Funding Act (and therefore eligible for most funding schemes) provided that the decision-makers in creative and managerial terms are Austrian nationals and the remaining staff members are mainly Austrian nationals (nationals of contracting parties of the EU and the EEA are equated to Austrian nationals).

## 4.8.2. Underlying copyrights

Underlying copyrights are to be understood as pre-existing copyrighted material (mainly literature and music) used in a new project - for example, a novel used to produce the script of a film. None of the funds tracked set mandatory requirements in this regard; on the one hand, it is rather the use of a pre-existing work, not the existence of copyrighted material, that is taken into account. On the other hand, the use of a pre-existing work is essentially an optional criterion, usually part of the cultural criteria used to determine the cultural character of a project and/or its link to a given territory (or the criteria for qualifying a work as a national or difficult work). For example, one of the eligibility criteria for the Latvian National Film Centre is that the script is based on an original Latvian literary work. One of the several optional conditions in the NFF's cultural test includes the requirement that "the script of the film production is based on a literary work of Dutch origin".

In some cases, the existence of a pre-existing work, regardless of the nationality of the author, is one of the criteria used during the cultural assessment. For instance, in the case of the HAVC in Croatia, the work can be inspired or based on the adaptation of an existing literary, musical, theatrical or audiovisual work; equally, the Hungarian MNF's assessment of cultural criteria takes into account whether the film "is based on the adaptation of a literary work or other work of cultural value (fine arts or applied arts, musical work, etc.)"

## 4.9. Language, minorities and gender

### 4.9.1. Shooting language and script language

Overall, the shooting language, script language or the language in which the final version of the project is available, are subject to measures or conditions, mandatory or optional,



by film funds in 20 countries.<sup>36</sup> The language used will influence eligibility for support or the intensity of the support received. Film funds that do not impose specific requirements or do not implement optional language-related measures will still require the film/project's cultural link with the fund's country/region to be demonstrated. Regarding the language required, it is, in most cases, that of the fund's country and/or region, or of one of the regional languages of the country. However, in some cases, the film funds may refer to the language of the country or the language of an EU or EEA member state alike. Concerning the language, the following general, non-exclusive typologies can be established:

- The script/shooting language is one of the criteria of the cultural test in 16 countries.<sup>37</sup> For instance, one of the criteria assessed by the HAVC under the criterion Cultural content is whether “the final version of the work is in Croatian or one of the European languages”.
- One of the final versions is in the language of the fund's country/region; for instance, in Germany, the German Film Board (FFA) requires the compromise that a German version of the final work be delivered when applying for funding. At least 9 countries<sup>38</sup> establish this type of requirement. Exemptions to this rule can be found in the case of co-productions – for instance, in the case of minority co-production, the rule on the shooting language set by the Slovenian Film Centre is not applied.
- The original version of the film or script must be in the language of the fund's country/region in 10 countries.<sup>39</sup> In Slovenia, to be eligible for pre-production support from the Slovenian Film Centre, the script is required to be presented in Slovenian. In France, for selective support from the CNC, the original version of a feature film is required to be produced either entirely or mainly in French or in a regional language in use in France in order to be eligible.
- The fact that the original version or the shooting language is the language of the fund's country/region influences the aid intensity or awarded amount; this is the case in 5 countries.<sup>40</sup> In Spain, the ICAA will reduce the aid it awards by 10% if the project does not use any of the official Spanish languages in its original version.

Film funds that do not employ these type of measures will nevertheless use the language of the film as a criterion for qualifying it as a national work or a difficult work, which may influence the aid intensity caps. For example, in Bulgaria, in order for a work to qualify as a *Bulgarian Film*, the original language of the film must be Bulgarian; and a film whose “*only original version is in the Bulgarian language*” can qualify as a difficult film, and has its aid intensity threshold increased to 70%.

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<sup>36</sup> AT, BE, BG, CY, DE, DK, ES, FI, FR, GB, GR, HR, HU, IE, IT, LT, LV, MT, NL, PL, PT, RO, SE, SI, SK

<sup>37</sup> AT, BE, CY, DE, DK, ES, FR, GB, HR, HU, IE, LV, MT, NL, PT, SK

<sup>38</sup> AT, BE, DE, DK, ES, FI, FR, PL, SI

<sup>39</sup> BG, BE, DE, ES, FR, GB, IE, IT, LT, SI

<sup>40</sup> BE, ES, FR, IE, SE



## 4.9.2. Linguistic minorities

Requirements related to the language serve to guarantee film and audiovisual production in the main language of the country, but also to promote production in other minority languages. For example, in Sweden, the SFI will assess whether a project in a language other than Swedish, including one of Sweden's minority languages (Yiddish, Romani Chib, Sami, Finnish and Meänkieli), has the potential to reach a Swedish audience. Indeed, one of the objectives of the SFI, especially when it comes to distribution and promotion support, is to increase accessibility to films in the national minority languages. In other countries, such as Finland or Romania, the fact that the original version is made mainly in a language spoken by an ethnic minority in the country will also be one of the conditions that allow the work to be qualified as a national work.

Moreover, one of the main goals of some regional funds is to promote production in a regional language or dialect. For instance, the following table presents selected examples of requirements related to the use of regional languages.

**Table 5. Linguistic criteria in selected funds**

Fund	Description
<b>Ffilm Cymru Wale</b>	Although not a mandatory requirement, Ffilm Cymru Wales will encourage Welsh cultural content as well as Welsh language projects.
<b>Northern Ireland Screen</b>	Regarding the shooting language, the Irish Language Broadcast Fund requires at least 75% of the spoken word within the production to be Irish. Furthermore, one of the criteria used to assess the application will be the “ <i>contribution to the stability and sustainability of the Irish language independent production sector in Northern Ireland</i> ”.
<b>ICEC</b>	The Catalan Cinema Law provides the rights of the citizens of Catalonia “ <i>to choose to see the cinematographic work in Catalan or in Castilian and favoring the presence of works in the original subtitled version</i> ”.

Source: Response to European Audiovisual Observatory standardised questionnaire

## 4.9.3. Ethnic, social and religious diversity

There are no quotas or other binding measures related to diversity (based on ethnic, social or religious origin) in film and audiovisual funds in the EU28 as such. Nevertheless, these issues are still taken into account by funds in 17 countries.<sup>41</sup> The following general non-exclusive typologies can be established regarding ethnic, social and/or religious diversity:

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<sup>41</sup> BG, CY, CZ, DE, DK, ES, FR, GB, HR, HU, LT, LV, NL, PT, RO, SE, SK



- Diversity forms part of the evaluation criteria in the cultural test (for example, how the project represents the cultural diversity of the country/region of the fund, how it improves the representation of certain minority groups, how it addresses important social themes relevant to the country/region, etc). This sort of criteria is used in the cultural test of 13 countries.<sup>42</sup> For instance, the cultural test of Spain's ICAA includes the following criteria related to the applicant project: "It provides further knowledge of cultural, social, religious, ethnic, philosophical or anthropological diversity".<sup>43</sup>
- Diversity is assessed separately at the time of application or during the evaluation of a project in 6 countries.<sup>44</sup> In the UK, as part of their application, the British Film Institute (BFI) requires all applicants to complete a BFI Standards form in which they must state their plans for diversity in their projects, responding to the BFI Diversity Standards (detailing how they intend to address industry underrepresentation in relation to disability, gender, race, age, sexual orientation and socio-economic status both on- and off-screen). In Sweden, the regional fund Film in Skåne considers "efforts to reflect society's composition regarding gender and cultural diversity" in their decision-making.
- Diversity is one of the general objectives pursued by the film funds in 4 countries.<sup>45</sup> In Sweden, one of the objectives arising from the 2013 Film Agreement and imposed on the Swedish Film Institute is that "funding shall be given based on the perspective of diversity".
- Funding can be received for actions directly related to diversity. For instance, the CNC's Diversity Image Fund is a scheme devoted to cultural diversity and equal opportunities. Support is granted to projects that represent the French immigrant population and their stories as well as to those that address equality between men and women and target disadvantaged populations in France. Moreover, the Swedish Film Institute's distribution grants are allocated, *inter alia*, to support the subtitling of "Swedish film in languages spoken by larger groups of newly arrived immigrants".
- In addition, some funds carry out data collection and monitoring on diversity issues.<sup>46</sup> As an example, the DFI has conducted two studies on the matter: Study of Ethnic diversity in Danish Film, in 2015 and "Social and geographical diversity in the Danish film industry, 2017".

#### 4.9.4. Gender

A case study, available in section 5.2 of this report, is devoted to off-screen gender equality measures implemented by the funds. It includes a chosen typology of these

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<sup>42</sup> CY, DE, DK, ES, HR, HU, LT, LV, NL, PT, RO, SK

<sup>43</sup> Article 12 of Order CUD / 769/2018, of July 17.

<sup>44</sup> BG, CZ, DK, GB, NL, SE

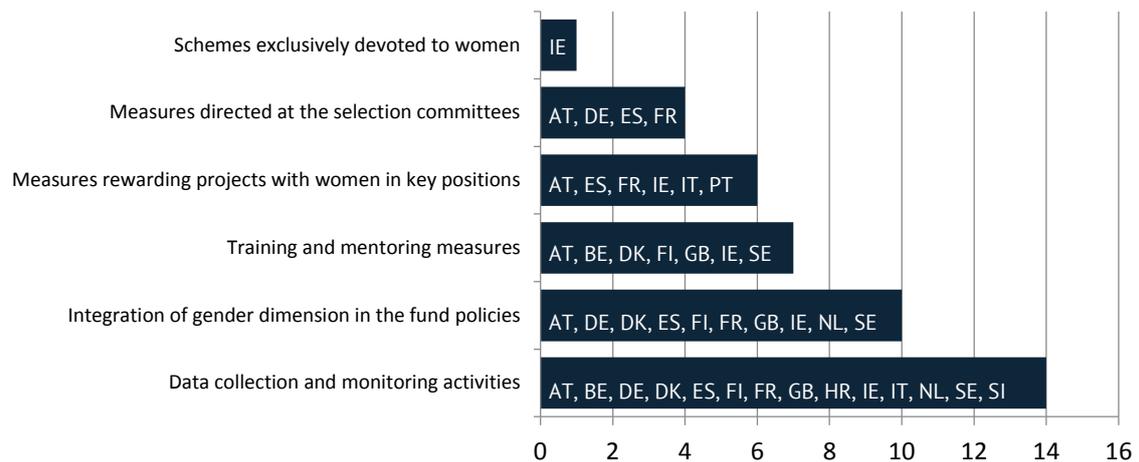
<sup>45</sup> DK, GB, RO, SE

<sup>46</sup> DK, GB



measures, with relevant examples for each category. Overall, 15 countries<sup>47</sup> have implemented measures or taken some sort of action in order to improve off-screen gender equality.<sup>48</sup>

**Figure 5. Type of gender measures by frequency by country**



Source: Response to European Audiovisual Observatory standardised questionnaire

In addition, several funds have introduced measures directed at improving on-screen representation of women.

**Table 6. Selected examples of on-screen gender measures by national/federal funds**

Country	Fund	Description of the measure
AT	ÖFI	The fund uses the Bechdel test <sup>49</sup> to analyse the content of submitted scripts. <sup>50</sup> In addition, the fund runs a scriptwriting competition for female characters beyond clichés entitled “If she can see it, she can be it”. <sup>51</sup>

<sup>47</sup> AT, BE, DE, DK, ES, FI, FR, GB, HR, IE, IT, NL, PT, SE, SI.

<sup>48</sup> It should be noted that the different options/measures are non-exclusive, that is, a fund can use several mechanisms in parallel.

<sup>49</sup> [https://equality.filminstitut.at/de/view/files/download/forceDownload/?tool=12&feld=download&sprach\\_connect=21&imp=true](https://equality.filminstitut.at/de/view/files/download/forceDownload/?tool=12&feld=download&sprach_connect=21&imp=true).

<sup>50</sup> <https://equality.filminstitut.at/de/was-bisher-geschah>.

<sup>51</sup> <https://equality.filminstitut.at/de/menu257>.



<b>ES</b>	ICAA	The Fund established the label for films and audiovisual works <i>Especialmente Recomendado para la Promoción de la Igualdad de Género</i> , to be assessed at the time of the age rating; it is granted based on a series of criteria such as non-sexist language, the fight against gender stereotypes and roles or the portrayal of an egalitarian image of both genders. If granted, the label entitles the film or audiovisual work to use a distinctive pictogram in any advertising or promotional material.
<b>IE</b>	BAI	As of 2019, the BAI will put particular focus on projects across all genres telling women's stories. <sup>52</sup>
<b>PL</b>	PISF	The Bechdel test <sup>53</sup> makes up part of the required documents to submit during the application process; however this does not affect the evaluation of the application and is only used for information purposes.

Source: Response to European Audiovisual Observatory standardised questionnaire

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<sup>52</sup> <https://www.bai.ie/en/bai-focuses-on-womens-stories-under-sound-vision-scheme>.

<sup>53</sup> The Bechdel test is a method of assessing the representation and portrayal of women on screen based on compliance with three criteria: (1) The film has at least two (named) women in it (2) who talk to each other (3) about something besides a man; <https://bechdeltest.com>.



## 5. Case studies

### 5.1. Case study: The effect of regional funding

#### 5.1.1. Introduction

Regional funds pay particular attention to how their contribution to film and audiovisual projects reverts to the region in economic and cultural terms (regional effect). As an example, according to a CNC study<sup>54</sup> in France, each euro invested by local authorities in a film generates EUR 6.62 in direct benefits (remuneration, technical expenses and shooting) and EUR 1.00 in tourism (accommodation, catering, leisure, transport), making a total of EUR 7.62.

The regional effect is usually linked to territorial spending obligations, shooting obligations, or providing proof of the applicant project's cultural link with the region. The requirements and obligations are, in most cases, restricted to production support schemes.

The most common goals of these measures are to promote the creation of skilled jobs, the emergence of new talent in the region, the development of the regional film industry, the development of the region's reputation as a shooting destination as well as attracting tourism and portraying the region's history and culture.

#### 5.1.2. Territorial spending obligations

Territorial spending obligations are usually calculated as a share of the amount granted and/or as a share of the eligible costs. In most cases, the most common minimum requirement is between 100% and 160% of the amount granted. As for the share of eligible costs, the requirement is usually between 50% and 80%. By and large, the requirements can be broken down into the following categories:

- Territorial spending obligations calculated as a share of the amount granted. For example, Film I Väst in Sweden requires that 100% of the aid be spent in the

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<sup>54</sup> The impact of filming on tourism, CNC prospective study, 2018, [https://www.cnc.fr/cinema/etudes-et-rapports/etudes-prospectives/limpact-des-tournages-sur-le-tourisme\\_227677](https://www.cnc.fr/cinema/etudes-et-rapports/etudes-prospectives/limpact-des-tournages-sur-le-tourisme_227677).



region.<sup>55</sup> Similar obligations requiring the expenditure of all aid in the region are also implemented by the Mazovia Western Pomeranian Film Fund (PL); MDM (DE) and the Prague Film Fund (CZ).

- Territorial spending obligations calculated as a share of the eligible costs or of the budget. For instance, the Department of Culture of the Basque Country requires the beneficiary to allocate a percentage equivalent to 32% of the production budget to the execution of work carried out by natural or legal persons residing or established in the region.<sup>56</sup> Similar obligations are implemented by the Riga Film Fund (LV); Northern Ireland Screen (GB), and the Ile de France Fund (FR).
- Territorial spending obligations calculated both as a share of the amount granted and as a share of the eligible costs or of the budget. The Ile de France Fund requires that at least 50% of the film's budget and 100% of the amount allocated be spent in the region.<sup>57</sup> Similar obligations are implemented by the Andalusian Agency for Cultural Institutions (ES); the IDM Film Fund (IT) and the VAF (BE).
- Minimum amount of expenditure in the region: in Belgium, Screen Brussels requires the applicant to commit to a minimum expenditure in the Brussels-Capital Region of EUR 250 000 for feature film and TV series formats, EUR 75 000 for documentary and special formats, and EUR 45 000 for web series formats.<sup>58</sup> Similar obligations are implemented by Wallimages (BE).
- Definition of eligible costs as costs incurred in the region: in the case of the Tartu Film Fund in Estonia, eligible project costs are defined as costs directly related to the production of the film project and incurred in Tartu.<sup>59</sup> Similar definitions of eligible costs are used by Screen Flanders (BE), Wallimages (BE) and the Ile de France Fund (FR).

Even for schemes where there is no spending obligation, a higher level of spending in the region may increase the chances of being supported as well as the amount granted. For instance, the Catalan Institute for Cultural Companies (ICEC) has a 100-point test of industrial criteria for the project whereby 10 points can be scored depending on the level of spending on work carried out by companies established in Catalonia.<sup>60</sup> Other funds,

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<sup>55</sup> Article 2.2 of the Film i Väst Guidelines for Feature Film Projects, <https://filmivast.se/regelverk-for-film-i-vasts-samproduktioner/>.

<sup>56</sup> Article 23 of the ORDER of 19 June 2018 from the Minister of Culture and Linguistic Policy, for the award of grants in 2018 to audiovisual production, [https://www.euskadi.eus/ayuda\\_subvencion/2018/ik\\_fikzioa/web01-tramite/es/](https://www.euskadi.eus/ayuda_subvencion/2018/ik_fikzioa/web01-tramite/es/).

<sup>57</sup> Article 2.2 of Annex 1 of the Deliberation 2017 (production) and Articles 1.2.2 and 2 of Annex 1 of Deliberation 2015.

<sup>58</sup> In any event, eligible audiovisual expenditure must be at least equal to the amount requested from the Fund. Article 3.2.2 of the Screen Brussels Regulation, [http://screen.brussels/sites/default/files/reglement\\_screen.brussels\\_fund\\_fr\\_2018.docx](http://screen.brussels/sites/default/files/reglement_screen.brussels_fund_fr_2018.docx).

<sup>59</sup> Paragraph 1.4.4 of the Tartu Film Fund's Statutes.

<sup>60</sup> Article 7.1 point b.1) of the Specific Production Guidelines, [http://cultura.gencat.cat/web/shared/OVT/Departaments/CLT/ICEC/Documents/AUDIOVISUAL/TEXT-REFOS-BASES-TEC073\\_-2018.pdf](http://cultura.gencat.cat/web/shared/OVT/Departaments/CLT/ICEC/Documents/AUDIOVISUAL/TEXT-REFOS-BASES-TEC073_-2018.pdf).



such as the Copenhagen Film Fund, ask the applicant to provide a detailed report on the costs of regional expenses.<sup>61</sup>

There can also be an agreement between film funds from different regions to acknowledge spending in each other's regions. For instance, there is an agreement between the Hessen Film Fund and MFG Baden-Württemberg on the mutual recognition of expenses incurred in both regions, under which up to 25% of the funds provided can be spent in the partner region.<sup>62</sup>

### 5.1.3. Shooting in the region

Shooting obligations in the region are less frequent than territorial spending obligations, and rarely mandatory. They can be classified into the following categories:

- Minimum number of shooting days required in the region. The Ile de France Fund requires at least 20 shooting days in the region (and at least 50% of the total shooting time) to be eligible for support. For European co-productions and for non-European films, at least 40% of the shooting must take place in Ile de France (with a minimum of 10 days for non-European films).<sup>63</sup> Similar requirements are laid down by the Emilia Romagna Film Fund (IT) and Regione Campania (IT).
- Number of shooting days in the region influences the amount awarded. For instance, the Friuli Venezia Film Commission can grant up to EUR 70 000 when there are less than 24 shooting days in the region; EUR 200 000 when there are between 24 and 71 shooting days; and up to EUR 280 000 when there are more than 72 shooting days.<sup>64</sup>
- Priority given to projects for which a significant part of the shooting takes place in the region. In the Lower Austria region, for example, filming in the region is a prerequisite to obtaining support. In addition, special consideration is given to projects which make Lower Austria recognisable as the setting for the action or as an important location.<sup>65</sup> Similar requirements are laid down by Brittany (FR).

In some cases, the obligations related to expenses and shooting in the region are closely linked:

- In Italy, in the case of the IDM Film Fund, the fact that the main scenes of the film are shot in recognisable locations in South Tyrol will influence the amount of expenditure needed in the region. For projects with a cultural reference to South Tyrol and whose main scenes are shot in identified locations in South Tyrol, the

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<sup>61</sup> Article 2.8 of the Copenhagen Film Fund's Terms and Conditions, <http://cphfilmfund.com/en/long-version-2/>

<sup>62</sup> [https://www.hessenfilm.de/fileadmin/data/download\\_f%C3%B6rderung/alte-foerderung/Produktion/Cooperation\\_between\\_Film\\_Funds\\_in\\_Hessen\\_and\\_Baden-Wuerttemberg.pdf](https://www.hessenfilm.de/fileadmin/data/download_f%C3%B6rderung/alte-foerderung/Produktion/Cooperation_between_Film_Funds_in_Hessen_and_Baden-Wuerttemberg.pdf)

<sup>63</sup> Article 2.1 of Annex 1 of the Deliberation 2017, *Op. cit.*

<sup>64</sup> <http://www.fvgfilmcommission.com/film-fund/>

<sup>65</sup> Articles 2.1.5 and 2.2.5 of the Guidelines for the Film Funding of the Province of Lower Austria, [http://www.no.e.gv.at/noe/Kunst-Kultur/Richtlinien\\_fuer\\_die\\_Filmfoerderung\\_des\\_Landes\\_NOe\\_2016.pdf](http://www.no.e.gv.at/noe/Kunst-Kultur/Richtlinien_fuer_die_Filmfoerderung_des_Landes_NOe_2016.pdf).



required territorial expenditure is 100% of the awarded amount. In the absence of these two criteria, the required expenditure is 150%.<sup>66</sup>

- In Austria, Cine Tyrol provides for the existence of a Tyrolean economic effect and/or Tyrolean content as a criterion for granting aid. A Tyrolean economic effect implies that spending associated with production (wholly or at least partially shot in the Tyrol) is incurred locally. This expenditure can include overheads in the Tyrol, the use of existing facilities in the regional film industry or the recruitment of Tyrolean filmmakers in artistic, technical and organisational functions. It is considered Tyrolean content if the Tyrol is clearly identifiable as the location of the action and/or if the film project deals in detail with the history, culture or nature of the Tyrol.

#### 5.1.4. Cultural link to the region

Some regional funds require the applicant to prove that their project has cultural links to the region. This cultural link can be defined in a broad sense, in the form of a cultural reference to the region. In this spirit, one of the granting criteria of the RTBF Fund in Belgium is the cultural interest of the project for the Wallonia-Brussels Federation.<sup>67</sup>

The cultural link can also be defined in more detail, according to some indicators such as the nationality and/or place of residence of the talent, cast and crew; the director or producer's previous experience in the region; the portrayal of the city/region (architecture and landscape); stories linked to the region; and the shooting language being one of the regional languages. By way of illustration, projects eligible for production support by the Nouvelle-Aquitaine Fund must meet at least two of the following criteria:<sup>68</sup>

- Author/director, scriptwriter, co-author with his/her main residence in the region,
- Producer/co-producer delegate with a permanent establishment in the region,
- Project justifying a strong cultural link with the region, resulting in subject matter that must be linked to the cultural, historical, social and economic characteristics of the territory,
- Significant manufacturing or shooting in the region,
- Significant use of regional skills in terms of contractualised cultural employment and technical services.

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<sup>66</sup> Section 6 of IDM Production Guidelines, [http://development.idm-suedtirol.com/upload/file/Film2015\\_rev\\_def\\_mit\\_Merkblatt.pdf](http://development.idm-suedtirol.com/upload/file/Film2015_rev_def_mit_Merkblatt.pdf)

<sup>67</sup> Section 3 RTBF Guidelines.

<sup>68</sup> P.5 of the Guidelines for Region Nouvelle Aquitaine.



### 5.1.5. An example: Medienboard Berlin-Brandenburg (MBB)<sup>69</sup>

The MBB funds a wide spectrum of national and international projects, ranging from short films, experimental films, art house and more commercial productions, to high-end TV series, web series, games and XR. The main share of the budget goes to films destined for theatrical release. The Medienboard has both an economic and a cultural mandate, just like other regional funds in Germany, but the minimum regional spend requirement in the region is 100% of the awarded amount. The only technical requirement, in addition to the regional spend, is that the applicant company/producer is based in Germany (preferably Berlin or Brandenburg) and that they have a German distributor attached to the project (for features). The decision-making factors vary and are partially project specific, seeking the best package for each project. While the content and the director are generally at the heart of the discussion, all the structural elements of a project (namely the producer's track record, the sales agent, the distributor, other partners, etc.) are also extremely relevant.

The overall calculation of the regional spend in 2018 was 504%, meaning that for each euro the MBB spent, five euros were spent in the region. In addition, in 2018, there was a total of 5 300 shooting days in the region.<sup>70</sup> Set within a larger context, the culture and creative industries in Berlin Brandenburg constitute 14.3% of the entire regional economy.

A very current example of the regional effect is *Babylon Berlin*,<sup>71</sup> the TV series submitted by the production company X Filme and directed by Tom Tykwer. Many convincing factors come together here: a good story, Berlin for Berlin, a strong production company, a successful director, good financial partners, a strong cast, a regional spend of about 600% and a couple of hundred shooting days in Berlin (over multiple seasons).

Other examples of international co-productions with varying levels of regional spend are:

- *Inglourious Basterds*,<sup>72</sup> by Quentin Tarantino, received EUR 600 000 in funding, with a regional spend of almost 2000% of the awarded amount.
- *The Square*,<sup>73</sup> by Ruben Ostlund, received EUR 250 000 in funding. The regional spend amounted to approximately 150% of the awarded amount. The artistic aspects of the project, the director and the producer's experience weighed more heavily than the foreseen economic impact on the region.

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<sup>69</sup> This section was drafted by Dr Teresa Hoefert de Turégano, Film Funding Advisor, MBB.

<sup>70</sup> <https://www.medienboard.de/nc/en/press/latest-news/latest-news/News/15-years-of-medienboard-thanks-to-its-extraordinary-film-creators-berlin-brandenburg-is-the-foremo>.

<sup>71</sup> <https://www.imdb.com/title/tt4378376/>.

<sup>72</sup> <https://www.imdb.com/title/tt0361748/>.

<sup>73</sup> <https://www.imdb.com/title/tt4995790/>.



- Toni Erdmann,<sup>74</sup> by Berlin-based Maren Ade, was awarded EUR 300 000 in financial support and had a regional spend of around 250% of the awarded amount.

### 5.1.6. An example: Fondo Audiovisivo Friuli Venezia Giulia<sup>75</sup>

The Fondo Audiovisivo Friuli Venezia Giulia (Friuli Venezia Giulia Audiovisual Fund, FVG)<sup>76</sup> aims at supporting the development of local film companies and promoting the regional audiovisual works in national and international markets via the funding of training, development and production. In this latter case, applicants must have secured at least 40% of the budget when applying (at least 10% of which has to come from a distributor – theatrical distributor, broadcaster, home video distributor, website, etc.)

As an example, the Italian film *Menocchio*,<sup>77</sup> by Alberto Fasulo, a director born and living in the FVG region of Italy, was produced by Nefertiti Film (based in FVG) with Rai Cinema in co-production with Hai Hui Entertainment (Romania), with a budget of EUR 1.68 million. First, it received development support from the FVG region (EUR 30 000). In addition, the production of the film received the following public funding:

- EUR 154 000 in funding from the FVG
- EUR 150 000 from the FVG Film Commission
- EUR 80 400 from the Trento Film Commission
- EUR 325 826 from MiBAC
- EUR 126 000 from the Romanian CNC

The impact/effect on the region can be summarised as follows:

- 6 weeks of shooting and 8 weeks of preparation in Friuli Venezia Giulia.
- 2 weeks of shooting and 2 weeks of preparation in Trento.
- 11 crew and 27 cast members in Trento.
- 18 crew and 80 cast members in the FVG region.
- EUR 190 000 in regional spending in Trento.
- EUR 680 000 in regional spending in FVG (224% of the amount received in funding from the region).
- Use of key historical locations: Castello del Buon Consiglio (Trento); Stavoli di Orias, Mulino di Cercivento, Fattoria di Pesariis, Sappada, Strada Vivarina (FVG).
- Attendance at festivals and award ceremonies: Among others, International Competition, Locarno Film Festival 2018 (Special Mention: Young Jury Award); Competition Annecy Cinema Italien 2018 (*Grand Prix du jury*); CHP PIX Copenhagen International Film Festival; Goteborg Film Festival.

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<sup>74</sup> <https://www.imdb.com/title/tt4048272/>.

<sup>75</sup> This section was drafted by Paolo Vidali, Managing Director, FVG Audiovisual Fund and Nadia Trevisan, CEO, Nefertiti Film.

<sup>76</sup> <http://www.audiovisivofvg.it>.

<sup>77</sup> <https://www.imdb.com/title/tt8300036>.



## 5.2. Case study: Off-screen Gender Equality and Film Funding

### 5.2.1. State of play and legal framework

According to a study by the European Audiovisual Observatory,<sup>78</sup> only 16.3% of European films produced between 2003 and 2012 were directed by women, accounting for just 8.9% of total admissions. A more recent study, covering the period 2012-2016, showed that the weighted average of films directed by women had barely increased, at 19.6%.<sup>79</sup> A recent study by Eurimages showed a 26% average share of project applications with a woman in one of the five main creative functions<sup>80</sup>. In Sweden, the share of supported films with a female scriptwriter rose from 28% over the period 2000-2005, to 44% between 2013-2016; decreasing to 25% in 2017-2018.<sup>81</sup> In the United Kingdom, 32.9% of publically funded films in 2007 had a female director; this figure dropped to 17% in 2014.<sup>82</sup>

Several pieces of legislation followed the Council of Europe Recommendation on Equality between Women and Men in the Media in 1984,<sup>83</sup> such as the Declaration on Gender Equality in the European Audiovisual Industry (Council of Europe, Sarajevo, 14 August 2015),<sup>84</sup> the Eurimages Gender Equality Strategy,<sup>85</sup> Recommendation CM/Rec(2017)9 on gender equality in the audiovisual sector,<sup>86</sup> and the European Parliament resolution of 17 April 2018 on gender equality in the media sector in the European Union.<sup>87</sup> In response, film and audiovisual funds in Europe have implemented a variety of measures to address gender imbalances.

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<sup>78</sup> Talavera, J., Female directors in European films, state of play and evolution between 2003 and 2012, European Audiovisual Observatory, Strasbourg, 2014, <https://rm.coe.int/090000168078b70d>.

<sup>79</sup> Study of the emergence of a new generation of European female film directors, Le Lab “Femmes de cinema”, 2017, <http://femmesdecinema.org/wp-content/uploads/2018/01/Study-of-Female-film-directors.pdf>.

<sup>80</sup> Editor, Scriptwriter, Producer, Director and Camera/Image. EURIMAGES – Strategy for Gender Equality in the Film Industry, 2017, <https://rm.coe.int/eurimages-strategy-for-gender-equality-in-the-european-film-industry-2/1680732870>.

<sup>81</sup> Swedish Film Institute.

<sup>82</sup> Cut Out of the Picture: A study of gender inequality among directors within the UK film industry, 2016, <https://www.directors.uk.com/news/cut-out-of-the-picture>

<sup>83</sup> [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectID=09000016804ec678](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016804ec678)

<sup>84</sup> [https://www.coe.int/en/web/chairmanship/bosnia-and-herzegovina-news/-/asset\\_publisher/c3raTSH5nvm8/content/declaration-on-gender-equality-in-the-european-film-industry/16695?inheritRedirect=false&desktop=true](https://www.coe.int/en/web/chairmanship/bosnia-and-herzegovina-news/-/asset_publisher/c3raTSH5nvm8/content/declaration-on-gender-equality-in-the-european-film-industry/16695?inheritRedirect=false&desktop=true).

<sup>85</sup> <https://www.coe.int/en/web/eurimages/gender-equality>.

<sup>86</sup> [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectID=09000016807509e6](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016807509e6).

<sup>87</sup> <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2018-0101+0+DOC+XML+V0//EN>.



## 5.2.2. Measures implemented by film and audiovisual funds

### 5.2.2.1. Data collection and monitoring

Many European funds have included gender as one of their statistical indicators. For instance, since the year 2000, the Swedish Film Institute (SFI) has been collecting gender data on various issues, such as the share of funding applications (production and development) with women in key roles; the share of female directors participating in award ceremonies and festivals; the analysis of the budget for projects with women involved in a key role; and the share of films with women in a leading role. In this spirit, 15 EU funding institutions have recently released reports and studies devoted to gender - either as a stand-alone document or as part of their annual statistical report (for example, the Austrian Film Institute (ÖFI),<sup>88</sup> the Danish Film Institute (DFI),<sup>89</sup> the French National Film and Moving Image Centre – CNC),<sup>90</sup> the British Film Institute (BFI)<sup>91</sup> and the Swedish Film Institut (SFI).<sup>92</sup>

In addition, some funds also require that applicants report on gender. For instance, the Broadcasting Authority of Ireland (BAI) requires that applicants report on the gender of the key creative roles (director, producer, scriptwriter, editor, director of photography, etc.) in order to draw down the final tranche of payment.<sup>93</sup> In turn, the presentation of the gender-specific allocation of personnel cost items in the application is mandatory to receive production support from the ÖFI.<sup>94</sup> Moreover, as of 2019, filmmakers applying to the DFI for production support are required to submit information on the gender distribution of the personnel involved in their projects, both in front of and behind the camera.<sup>95</sup> In future, producers will also have to disclose the salaries of cast and crew by gender as well as the number of words by gender contained in the roles in the final script. Similar reporting obligations are required of the applicant when applying for support from the BFI,<sup>96</sup> Screen Scotland<sup>97</sup> or the SFI.<sup>98</sup>

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<sup>88</sup> Austrian Film Gender Report 2012-2016, <https://equality.filminstitut.at/de/zentrale-ergebnisse-oesterreichischer-film-gender-report-2012-2016/>.

<sup>89</sup> Gender in Danish Film 2012-2017, <https://www.dfi.dk/branche-og-stoette/publikationer-og-indsatser/publikationer/kon-i-dansk-film-2012-2017>.

<sup>90</sup> The place of women in the film and audiovisual industry, 2017, <https://www.cnc.fr/documents/36995/181066/La+place+des+femmes+dans+l%E2%80%99industrie+cin%C3%A9matographique+et+audiovisuelle.pdf/451becd3-b0f7-497d-796a-eab768a5776e>.

<sup>91</sup> BFI gender pay gap report, 2017, <https://www.bfi.org.uk/education-research/film-industry-statistics-reports/reports/bfi-gender-pay-gap-report>.

<sup>92</sup> The Money Issue - Gender Equality Report 2018, [https://www.filminstitutet.se/globalassets/\\_dokument/sfi-gender-equality-report-2018---lowres.pdf](https://www.filminstitutet.se/globalassets/_dokument/sfi-gender-equality-report-2018---lowres.pdf).

<sup>93</sup> Gender Action Plan 2018, Sound & Vision, [https://www.bai.ie/en/media/sites/2/dlm\\_uploads/2018/04/20180423\\_BAI\\_GenderActionPlan\\_vFinal\\_AR.pdf](https://www.bai.ie/en/media/sites/2/dlm_uploads/2018/04/20180423_BAI_GenderActionPlan_vFinal_AR.pdf)

<sup>94</sup> Article 1.2 of the Funding Guidelines, <https://www.filminstitut.at/en/guidelines/>.

<sup>95</sup> <https://www.dfi.dk/nyheder/nu-indfores-selvangivelse-om-konsfordeling-i-filmproduktioner>.

<sup>96</sup> P. 15 of the BFI Production Funding Guidelines, <https://www.bfi.org.uk/supporting-uk-film/film-fund>.

<sup>97</sup> <https://www.creativescotland.com/resources/our-publications/funding-documents/equalities-monitoring>.

<sup>98</sup> P.5 of General Provisions 2017, <https://www.filminstitutet.se/globalassets/1.-sok-stod/filminstitutets-stod/generella-villkor/generella-villkor-stod-till-film-for-2017.pdf>.



Furthermore, the on-screen representation of women is also measured or assessed by some funds. For instance, the Spanish ICAA established a label for films and audiovisual works – Especially Recommended for the Promotion of Gender Equality<sup>99</sup> – to be assessed at the same time as the age rating; it is granted based on a series of criteria, such as non-sexist language; the fight against gender stereotypes and roles; or the portrayal of an egalitarian image of both genders. If granted, the label entitles the film or audiovisual work to use a distinctive pictogram in any advertising or promotional material.

### 5.2.2.2. Gender equality and funding policies

Several EU funds integrate gender equality into their policies and granting criteria. This can be reflected in the broad general objectives pursued by the fund, with a mid-term strategy or policy on gender, or by setting concrete mid- or long-term objectives.

When it comes to general requirements, the Netherland Film Fund takes into account diversity, gender equality and the representation of the various ethnic backgrounds of the people of the Netherlands during the selection process.<sup>100</sup> Moreover, one of the objectives of Filmfonds Wien is “the promotion of groups that have been under-represented in film-making up to now, especially women and people with a migration background, who despite their high professional qualifications are under-represented in creative positions.”<sup>101</sup>

Some funds have developed a gender policy or strategy which usually includes data gathering; creating specific working groups to develop concrete recommendations and proposals to improve gender equality; raising awareness of gender and diversity issues; organising training activities and targeted promotion, etc. As an example, the DFI’s gender and diversity policy consists mainly in working with the film industry to collect and share information to raise public awareness. In 2016, it set up three action groups to discuss how to achieve greater gender diversity in Danish cinema.<sup>102</sup> On the basis of their

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<sup>99</sup> Resolución de 16 de noviembre de 2011, del Instituto de la Cinematografía y de las Artes Audiovisuales, por la que se establecen criterios para el otorgamiento a las películas cinematográficas y otras obras audiovisuales de la categoría “Especialmente recomendada para el fomento de la igualdad de género”, así como pictograma informativo (ICAA’s Resolution of 16th November 2011, establishing the label “Especially Recommended for the Promotion of Gender Equality” for films and audiovisual Works), <https://www.boe.es/buscar/pdf/2011/BOE-A-2011-18717-consolidado.pdf>.

<sup>100</sup> Article 5 of the Regulations, [https://www.filmfonds.nl/media/inline/2018/3/9/algemeen\\_reglement\\_1\\_februari\\_2018.pdf](https://www.filmfonds.nl/media/inline/2018/3/9/algemeen_reglement_1_februari_2018.pdf); for English version see <https://www.filmfonds.nl/media/inline/id/2225>

<sup>101</sup> Article 2 of the General Part of the Funding Guidelines of the Vienna Film Fund, [https://www.filmfonds-wien.at/files/ffw\\_f\\_rderrichtlinien\\_teil-a\\_allgemeiner-teil.pdf](https://www.filmfonds-wien.at/files/ffw_f_rderrichtlinien_teil-a_allgemeiner-teil.pdf).

<sup>102</sup> Reports from Action Group 1, <https://www.dfi.dk/files/docs/2018-02/Aktionsgruppe%20I%20-%20rapport%20om%20k%C3%B8nsdiversitet%20i%20dansk%20film.pdf>; Action Group 2, <https://www.dfi.dk/files/docs/2018-02/ANBEFALINGER%20-%20Arbejdsgruppe%20II%20-FINAL%20271016.pdf>; Action Group 3, <https://www.dfi.dk/files/docs/2018-02/Barrieregruppe%20konklusion.pdf>.



recommendations, the fund adopted “Objectives for a better gender balance in Danish film”,<sup>103</sup> which rely on three main actions:

- A permanent dialogue with the industry organisations;
- Incorporating and prioritising gender initiatives throughout all DFI departments;
- Monitoring gender data and publishing annual reports.

Gender policies or strategies (or more broadly, diversity and equality policies), have also been put in place by the ÖFI,<sup>104</sup> Screen Ireland,<sup>105</sup> Screen Scotland,<sup>106</sup> Film Cymru Wales<sup>107</sup> and the SFI<sup>108</sup>, among others.

In addition, some European funds have concrete long-term objectives of distributing their grants more evenly between men and women. The ÖFI committed itself to “achieving a proportion of women of 50% in terms of the participants in [supported] projects”.<sup>109</sup> The Finnish Film Foundation’s target is to increase the number of female grant applicants from 35% to 50%.<sup>110</sup> In 2013, the SFI set the goal of achieving equality in film production in Sweden by 2015 in their action plan “Towards Gender Equality in Film Production”;<sup>111</sup> and extended this to both off- and on-screen representation in the new 2016-2020 action plan.<sup>112</sup> With regard to the BFI, the fund intends to achieve a gender-balanced distribution of supported filmmakers by 2022;<sup>113</sup> this is part of a broader inclusion policy also targeting people identifying themselves as under-represented ethnic groups, LGBTQ+ or deaf and disabled.

### 5.2.2.3. Selection committees

Actions related to selection committees include addressing the gender composition of its members, but also providing training on gender awareness. For example, the advisory committees of the CNC, responsible for allocating selective funding, must include an equal number of women and men.<sup>114</sup> Similar parity obligations have been implemented by

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<sup>103</sup> [https://www.dfi.dk/files/docs/2018-02/Maalsaetning-for-en-bedre-koensbalance-i-dansk-film\\_dec\\_16.pdf](https://www.dfi.dk/files/docs/2018-02/Maalsaetning-for-en-bedre-koensbalance-i-dansk-film_dec_16.pdf)

<sup>104</sup> <https://equality.filminstitut.at/de/>.

<sup>105</sup> <https://www.screenireland.ie/about/gender>.

<sup>106</sup> <https://www.creativescotland.com/what-we-do/the-10-year-plan/connecting-themes/equalities-and-diversity>.

<sup>107</sup> <http://www.ffilmcymruwales.com/index.php/en/company-details-and-contact/policies>.

<sup>108</sup> <https://www.filminstitutet.se/en/about-us/swedish-film-institute/gender-equality/>.

<sup>109</sup> Mission Statement of the project commission 2017-2020, <https://equality.filminstitut.at/de/mission-statement>. This objective stems from the principle of Gender budgeting, which has been enshrined in the Austrian Federal Constitution since 2009 (Articles 19 and 51), and which means that existing resources should be used as fairly as possible in order to achieve real equality between women and men in the public budget.

<sup>110</sup> [http://ses.fi/fileadmin/dokumentit/SES\\_toimepiteet\\_sukupuolten\\_tasa-arvon\\_edistaemiseksi.pdf](http://ses.fi/fileadmin/dokumentit/SES_toimepiteet_sukupuolten_tasa-arvon_edistaemiseksi.pdf)

<sup>111</sup> [https://www.filminstitutet.se/globalassets/4.-om-oss/svenska-filminstitutet/engelsk-media/eng\\_towards-gender-equality-in-film-production\\_may2013.pdf](https://www.filminstitutet.se/globalassets/4.-om-oss/svenska-filminstitutet/engelsk-media/eng_towards-gender-equality-in-film-production_may2013.pdf)

<sup>112</sup> [https://www.filminstitutet.se/globalassets/\\_dokument/handlingsplaner/mal-2020-en-jamstalld-filmproduktion-bade-framfor-och-bakom-kameran-2016.pdf](https://www.filminstitutet.se/globalassets/_dokument/handlingsplaner/mal-2020-en-jamstalld-filmproduktion-bade-framfor-och-bakom-kameran-2016.pdf)

<sup>113</sup> <https://www.bfi.org.uk/supporting-uk-film/diversity-inclusion/inclusion-targets>

<sup>114</sup> Article 122-5-1 of the Film and Moving Image Code, <https://www.legifrance.gouv.fr/affichCode.do?cidTexte=LEGITEXT000020908868>



the ÖFI, whereby the adequate representation of women within the commission must be ensured.<sup>115</sup> As for the ICEC, gender parity should be observed in the composition of the selection commissions.<sup>116</sup>

#### 5.2.2.4. Enhanced support.

Additional support can be granted when there is balanced gender participation or when female professionals are involved in key positions. These measures are generally based on a point system, which assesses the participation of women as directors, producers and scriptwriters, or as heads of key departments, among others. The score may affect the eligibility of the application and/or the award.

**Table 7. Selected examples of measures enhancing funding when female professionals are involved**

CC	Fund	Typology	Description
AT	ÖFI	Bonus	Gender incentive if the film reaches a minimum number of female staff – the production company will receive an automatic incentive of EUR 30 000. This amount can only be used for the development (script/project development) of new projects with the involvement of at least two female professionals working as the producer, director or scriptwriter. <sup>117</sup>
	Filmfonds Wien	Assessment criteria & Bonus	In the case of TV production, scripts written by female authors and works directed by women will receive special attention. <sup>118</sup> In addition, the maximum awardable amount “ <i>can only be applied for if at least one of the following positions is held by a woman: producer, scriptwriter, director</i> ”. <sup>119</sup>
FR	CNC	Bonus	Direct allowances equal to 15% of the sum invested by the production company from its CNC automatic account (reference funding) can be allocated for cinematographic works with a balanced female participation in key positions (assessed based on nine key positions). <sup>120</sup>

<sup>115</sup> Paragraph 6 (1) of the Film Promotion Act 2014.

<sup>116</sup> Article 8 of the Specific Rules for production support of cinematographic works, [http://cultura.gencat.cat/web/shared/OVT/Departaments/CLT/ICEC/Documents/AUDIOVISUAL/TEXT-REFOS-BASES-TECO30\\_-2018.pdf](http://cultura.gencat.cat/web/shared/OVT/Departaments/CLT/ICEC/Documents/AUDIOVISUAL/TEXT-REFOS-BASES-TECO30_-2018.pdf).

<sup>117</sup> <https://equality.filminstitut.at/de/gender-incentive-2019/>

<sup>118</sup> Article 4 of the Guidelines, [https://www.filmfonds-wien.at/files/ffw\\_f\\_rderrichtlinien\\_teil-d\\_herstellung-von-fernsehproduktionen.pdf](https://www.filmfonds-wien.at/files/ffw_f_rderrichtlinien_teil-d_herstellung-von-fernsehproduktionen.pdf).

<sup>119</sup> Article 7 of the Guidelines, *Op. cit.*

<sup>120</sup> Only for the production support of cinematographic feature films, see Articles 211-86-1 to 211-86-5 of the Film and Moving Image Code, *op. cit.*



IT	MIBAC	Eligibility criteria	In the case of selective subsidies, the gender of the director is included in the eligibility test. <sup>121</sup>
PT	Instituto do Cinema e do Audiovisual	Bonus	In the case of pre-production support, the ceiling of financial support can be raised by 10% when women make up more than 50% of the total number of authors of the project. <sup>122</sup>
ES	ICAA	Assessment criteria	In all production schemes, the evaluation process includes the assessment of gender equality (or female participation) in the project. Compliance with this criterion is achieved by having at least 40% of women in management positions in 10 of the most relevant categories in the production of a film. Likewise, it is foreseen that in the case of male co-participation, the score will be proportional to the number of women, as long as it is proven that they have the same level of responsibility, which must be expressly reflected in the credit titles. <sup>123</sup>
	ICEC	Assessment criteria	The promotion of gender equality is an integral part of the evaluation of an application. This is assessed by assigning points to projects based on the number of women in key roles (director, producer, scriptwriter, DOP, editor, composer, head of the sound department or head of special effects). <sup>124</sup> In the case of pre-production support, the assessment is based on the positions of director, producer and scriptwriter. <sup>125</sup>
	Basque Country	Assessment criteria	The participation of women in management, script and/or executive production, as well as the work's contribution to a balanced and non-stereotyped portrayal of the different genres, is worth a maximum of 5 points out of a total of 100 points. <sup>126</sup>

<sup>121</sup> Lett. b) paragraph 3, Article 16 of the 2018 Call for selective subsidies, [http://www.cinema.beniculturali.it/uploads/DCA/2018/bando-selettivi\\_2018.pdf](http://www.cinema.beniculturali.it/uploads/DCA/2018/bando-selettivi_2018.pdf).

<sup>122</sup> Article 11 of Annex 2, [http://www.ica-ip.pt/fotos/downloads/2\\_anexo\\_ii-escrita\\_e\\_desenvolvimento\\_de\\_obras\\_cinematograficas\\_2018\\_237645b0ebbd2123d7.pdf](http://www.ica-ip.pt/fotos/downloads/2_anexo_ii-escrita_e_desenvolvimento_de_obras_cinematograficas_2018_237645b0ebbd2123d7.pdf) and Annex 14; [http://ica-ip.pt/fotos/downloads/14\\_anexo\\_xiv-escrita\\_e\\_desenvolvimento\\_audiovisual\\_2018\\_322125b17f7196c2e5.pdf](http://ica-ip.pt/fotos/downloads/14_anexo_xiv-escrita_e_desenvolvimento_audiovisual_2018_322125b17f7196c2e5.pdf).

<sup>123</sup> P.3 of Order 769/2018.

<sup>124</sup> Article 7.1 point c of the Specific Production Guidelines (Annex 1), [http://cultura.gencat.cat/web/shared/OVT/Departaments/CLT/ICEC/Documents/AUDIOVISUAL/TEXT-REFOS-BASES-TEC073\\_-2018.pdf](http://cultura.gencat.cat/web/shared/OVT/Departaments/CLT/ICEC/Documents/AUDIOVISUAL/TEXT-REFOS-BASES-TEC073_-2018.pdf).

<sup>125</sup> Article 7 (1) point c of the Specific Development Guidelines, [http://icec.gencat.cat/web/shared/OVT/Departaments/CLT/ICEC/Documents/AUDIOVISUAL/TEXT-REFOS-BASES-TEC055\\_-2018.pdf](http://icec.gencat.cat/web/shared/OVT/Departaments/CLT/ICEC/Documents/AUDIOVISUAL/TEXT-REFOS-BASES-TEC055_-2018.pdf).

<sup>126</sup> Article 32 of Order ECD/2796/2015, of 18 December, establishing the bases regulating the aid provided for in Chapter III of Law 55/2007, of 28 December, on Cinema, and determining the structure of the Administrative Register of Cinematographic and Audiovisual Companies, <https://www.boe.es/boe/dias/2015/12/23/pdfs/BOE-A-2015-14059.pdf>.



	Xunta de Galicia	Assess-ment criteria	In the case of production support, under evaluation criterion C, "Promoting Galician cinema and contributing to the promotion of Galician talent" scores up to 50 points; a female director scores 2 points; and a share of women in the creative team (besides management) exceeding 50% also scores 2 points. <sup>127</sup>  As for pre-production support, if the project is written, directed and/or produced by women, it scores 2 points for each of them (if it is the same person, 3 points maximum), out of a total of 80 points. <sup>128</sup>
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Source: Response to European Audiovisual Observatory standardised questionnaire

### 5.2.2.5. Schemes exclusively devoted to women

Only Screen Ireland has specific schemes reserved for female applicants. First, the *Enhanced Production Funding for Female Talent*<sup>129</sup> is open to Irish female talent whose projects qualify for the Fiction Production and Documentary Production schemes. The grant is awarded in addition to the amount available for the abovementioned schemes and can reach up to EUR 100 000 for fiction if there is a female writer/director attached, and up to EUR 25000 for documentaries when the project has a female director attached. In addition, the *POV: Production and Training Scheme for Female Creative Talent*<sup>130</sup> is aimed at female writers and directors, in order to support the development and production of low-budget feature films (with a budget of up to EUR 400 000). In either case, gender balance is expected across the entire crew involved in the production. Six selected teams can be awarded development funding – up to EUR 10 000 per team for the initial development stage – of which only three can obtain production funding, along with further assistance, which includes access to networking events as well as mentoring and high-level training with established industry professionals.

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<sup>127</sup> The total points for all assessment criteria add up to 150 points for feature film projects for film and animation: films for cinema and TV series, mini-series or television series; and 130 points for documentary feature film projects for film and television. Article 13 of RESOLUTION of December 14, 2017, approving the bases for the granting of subsidies to audiovisual productions and co-productions of Galician cultural content and convened for the year 2018, [https://www.xunta.gal/dog/Publicados/2017/20171229/AnuncioG1097-151217-0001\\_gl.html](https://www.xunta.gal/dog/Publicados/2017/20171229/AnuncioG1097-151217-0001_gl.html).

<sup>128</sup> Article 13 (2) d of RESOLUTION of May 14, 2018, which approves the regulatory bases for the concession, under a competitive regime, of subsidies for the development of Galician audiovisual production projects and are convened for the year 2018, [https://www.xunta.gal/dog/Publicados/2018/20180528/AnuncioG1097-150518-0001\\_gl.html](https://www.xunta.gal/dog/Publicados/2018/20180528/AnuncioG1097-150518-0001_gl.html).

<sup>129</sup> <https://www.screenireland.ie/gender-and-diversity/ifb-gender-statistics/enhanced-production-funding-for-female-talent-other-funding-schemes>.

<sup>130</sup> <https://www.screenireland.ie/funding/production-loans/pov-low-budget-production-and-training-scheme-for-female-talent>.



#### 5.2.2.6. Training, mentoring and other measures

There are training and mentoring actions and programmes aimed at increasing the chances of female professionals in the film and audiovisual industries. For instance, in 2015, the ÖFI launched the Producers' Programme for Women,<sup>131</sup> ("ProPro"), aimed at helping women to further develop their film projects and/or company strategies, leadership skills and career planning. Screen Brussels is a partner of "BoostCamp", which is intended to accelerate the development of Belgian women's film projects and fiction series.<sup>132</sup> In a different line, the DFI provides training for employees involved in grant decisions in order to help them recognise and understand unconscious patterns of behaviour.<sup>133</sup>

As for other actions, the SFI launched the website "Nordic Women In Film" in 2016,<sup>134</sup> intended to disseminate awareness of women's professional contributions to the film industry. Moreover, the Finnish Film Foundation (FFF) edited the "Guidelines for the prevention of sexual harassment in the film and television industries" in order to strengthen early and effective action against sexual harassment in these industries.<sup>135</sup>

### 5.3. Case study: Green production

#### 5.3.1. Introduction

Films have been widely used for raising awareness of environmental issues, from documentaries, to advertising campaigns and fictional feature films. However, the audiovisual industries' growing concern about the environment is not only limited to on-screen representation. Many public institutions across Europe have engaged in "off-screen" initiatives, with the aim of improving the practices of media industries. Such initiatives include developing policies and building networks for exchange and cooperation. In that respect, one of the most notable measures taken by several film funding institutions in Europe is the adoption of Green production policies (also referred to as Green or sustainable shooting/filming).

Green production can be roughly described as the concept of promoting eco-friendly audiovisual and cinematographic production, in terms of sustainability, the use of resources and the preservation of natural spaces.

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<sup>131</sup> <https://equality.filminstitut.at/de/propro/>, see ProPro's website: <http://propro.filminstitut.at/>.

<sup>132</sup> <http://leboostcamp.com/>.

<sup>133</sup> <https://www.dfi.dk/en/english/about-dfi/enhanced-diversity-efforts>.

<sup>134</sup> <http://www.nordicwomeninfilm.com/about/>.

<sup>135</sup> [http://ses.fi/fileadmin/dokumentit/Guidelines\\_for\\_the\\_prevention\\_of\\_sexual\\_harassment\\_in\\_the\\_film\\_and\\_tv\\_industries.pdf](http://ses.fi/fileadmin/dokumentit/Guidelines_for_the_prevention_of_sexual_harassment_in_the_film_and_tv_industries.pdf).



When it comes to funding institutions, promotion generally relates to the allocation of funding dedicated to covering sustainable and environmentally friendly production costs and/or the attribution of environmental certification and shooting permits. Projects which respect the Hamburg Schleswig-Holstein Film Fund's<sup>136</sup> recommendations on environmentally-friendly shooting may receive a Green Shooting Card, which can simplify the procedure for the delivery of a shooting permit in the region.<sup>137</sup>

As Green production may, in certain cases, but not necessarily, lead to higher production costs, funding institutions adopting Green production policies do, under particular conditions, foresee exceptions to general rules on costs and spending. Some funding institutions have dedicated programmes, specifically tailored to meet both the funds' cost-effectiveness and environmentally-friendly objectives, by setting compromise objectives for projects to be both environmentally and financially sustainable. Such is the case in Germany, where the managing directors of several film funds at federal and state level expressed, in a joint statement, their commitment to supporting the additional costs of green production.<sup>138</sup>

Support is awarded based on the fulfilment of listed requirements, generally laid down in the form of criteria accompanied by an evaluation grid (or a rating system) for the purpose of assessing the different applications. Designated public institutions/administrations are generally given the responsibility of monitoring the different stages of production and evaluating the producers' performance in terms of compliance, in order to ensure they effectively comply with their obligations. The Trentino Film Commission's<sup>139</sup> T-Green Film (Italy) provides an illustration of an evaluation guide for applications.<sup>140</sup> The fund requires the provision of a "Sustainability Plan" as a prerequisite to the application, and the designation of a "Green Manager" in charge of the follow-up. The plan should include references to the actions to be taken and must involve all those involved in the implementation of the listed actions. The level of contribution to funded projects is calculated on the basis of the green points awarded following the evaluation.

Sustainable and environmentally-friendly filming requires the implementation of measures that are often detailed in specific guidelines and toolkits. Those measures might cover the different phases of production and post-production and can be addressed to the different categories of persons involved, including directors, actors, technicians, extras, and even to suppliers and other service providers. The featured best practices cover wide

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<sup>136</sup> The Film fund of the Hamburg Schleswig-Holstein region in Germany, see [https://www.ffhsh.de/en/ueber\\_die\\_filmfoerderung/](https://www.ffhsh.de/en/ueber_die_filmfoerderung/).

<sup>137</sup> Green Shooting Card, FFHSH, see [https://www.ffhsh.de/en/film\\_commission/gruener\\_drehpass.php](https://www.ffhsh.de/en/film_commission/gruener_drehpass.php).

<sup>138</sup> Stellungnahme aller deutschen Filmförderungen zum Thema „Grünes Drehen“, Munich 24 November 2017, [https://www.nordmedia.de/pages/foerderung/subpages/stellungnahme\\_aller\\_deutschen\\_filmfoerderungen\\_zu\\_m\\_thema\\_bdquo\\_gruenes\\_drehen\\_ldquo\\_/index.html](https://www.nordmedia.de/pages/foerderung/subpages/stellungnahme_aller_deutschen_filmfoerderungen_zu_m_thema_bdquo_gruenes_drehen_ldquo_/index.html).

<sup>139</sup> Trentino Film Commission's T-Green Film, <https://www.trentinofilmcommission.it/en/t-green-film/>.

<sup>140</sup> Trentino Film Commission, T-Green Film, Rating system for sustainable film production, see (in English) [https://www.trentinofilmcommission.it/wp-content/uploads/2017/05/Rating\\_system\\_T-GREENFILM\\_eng\\_web.pdf](https://www.trentinofilmcommission.it/wp-content/uploads/2017/05/Rating_system_T-GREENFILM_eng_web.pdf).



areas of production activities as well as providing general, useful tips and advice for a better use of:

- Logistics, including energy, shooting locations, catering, accommodation, transportation and waste management; as well as
- Production-related activities, including set-construction, decorations, equipment, props, wardrobe and make-up.

Screen Ireland<sup>141</sup> produced a Green Production Toolkit<sup>142</sup> for the purpose of creating environmentally-friendly production which covers the different phases of production and which features a selection of useful information which might be used as an example.

The Netherlands Film Fund produces filmed reports documenting green production, and featuring concrete illustrations of eco-friendly on-set activities.<sup>143</sup> It also offers professionals willing to share their experiences the opportunity to provide photos, videos and documentation for publication on the fund's platform.<sup>144</sup> Additionally, the fund has appointed a Sustainability Manager working within the framework of a foundation, Green Film Making. The latter organises thematic workshops where professionals from the industry share their eco-friendly experiences.<sup>145</sup>

Several networks operate in Europe, with the objective of sharing experiences and initiatives:

- Green Screen<sup>146</sup> is an Interreg Europe<sup>147</sup> five-year partnership project between eight key European regions which started in 2017. By sharing and promoting best practices, it aims at tackling the environmental impact of film and TV production and reducing the carbon footprint caused by the use of transport, construction, lighting, catering and water. To achieve this objective, production companies and their suppliers are encouraged to adopt green measures, train their staff and create jobs in order to make audiovisual production more sustainable. Actions taken by the members include developing sustainable partnerships and policies; raising awareness of resource efficiency technologies/approaches; promoting the use of renewable energy; promoting carbon dioxide emissions reduction strategies (including the use of a carbon calculator); and providing coaching programmes on sustainable film production.

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<sup>141</sup> Gree filmmaking, see <https://www.screenireland.ie/filming/green-filmmaking>.

<sup>142</sup> Green Production Toolkit, see [https://www.screenireland.ie/images/uploads/general/Green\\_Production\\_Toolkit..pdf](https://www.screenireland.ie/images/uploads/general/Green_Production_Toolkit..pdf).

<sup>143</sup> <https://www.filmfonds.nl/film-producties/green-film-making>.

<sup>144</sup> <https://www.filmfonds.nl/page/3985/deel>.

<sup>145</sup> <https://www.filmfonds.nl/page/3734/workshop-green-film-making-in-postproductie-op-24-mei>.

<sup>146</sup> For more information, see: <https://www.interregeurope.eu/greenscreen/>.

<sup>147</sup> Interreg Europe aims at promoting interregional cooperation between regional and local governments in Europe, through the provision of financial support, cooperation projects and policy-learning platforms in order to support research and innovation, as well as economic, social and environmental progress, <https://www.interregeurope.eu/about-us/what-is-interreg-europe/>.



- The European Film Commissions Network (EUFEN)<sup>148</sup> and Cineregio's Green Regio<sup>149</sup> aim to foster sustainable film production in Europe by sharing green filming experiences among their members and by conducting projects funded by the European Union. It also promotes collaborative activities between film commissions, public institutions and the film industry. Notable initiatives by its members include the Flanders Audiovisual Fund's e-Mission project, which is detailed hereinafter.

### 5.3.2. Sustainability at the VAF<sup>150</sup>

The Vlaams Audiovisueel Fonds (Flanders Audiovisual Fund, VAF) has been focusing on sustainable production since 2013 by using funding as leverage towards sustainability and by raising awareness amongst film professionals, helping them to support the Flemish policies on energy, sustainability and the environment. This effort is part of the Flemish Climate and Energy Pact,<sup>151</sup> whereby *“the Flemish Government recognises that, in order to achieve these goals, a transition within all sectors and areas of our society is needed. This transition is only possible through close cooperation between the government and societal actors, based on clear, ambitious and broadly-supported, long-term visions.”*<sup>152</sup>

The VAF is one of the funds that formally embeds sustainability within its funding. It coaches film and audiovisual productions that receive production support and filmmakers are inspired at an early stage of their production. The producer and the film crew are asked to compile a sustainable action plan; a set visit allows for a follow-up. Where possible, the VAF sustainability coordinator calculates actual CO<sub>2</sub> consumption and the financial savings related to low emissions. Moreover, sustainable projects can get an *e-Mission* ecolabel. Only when all requirements have been met and the production has actively made sustainable choices, can the final part of the VAF funding be granted.

On average, in 2017, a Flemish film had an impact of 73 tons of CO<sub>2</sub>;<sup>153</sup> this is equal to the annual output of 10 Flemish households.

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<sup>148</sup> A non-profit network of 96 European Film Commissions from 28 different European Countries, including 22 EU member states, <http://eufcn.com/about-us/>.

<sup>149</sup> [https://www.cineregio.org/subgroups/green\\_regio](https://www.cineregio.org/subgroups/green_regio).

<sup>150</sup> This section was drafted by Tim Wagendorp, VAF sustainability coordinator.

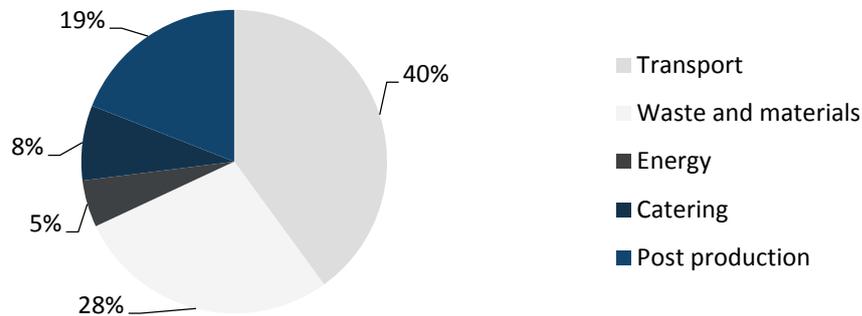
<sup>151</sup> Vlaams Klimaat en Energiepact (Flemish Pact on Climate and Energy), <http://www.vlaamseklimaatop.be/vket-01-12-2016-vlaams-klimaat-en-energiepact>.

<sup>152</sup> Visie 2050 (Vision 2050), Flemish Government, <https://www.vlaanderen.be/vlaamse-regering/visie-2050>.

<sup>153</sup> [https://www.vaf.be/sites/vaf/files/jaarverslagen/vaf\\_filmfonds\\_2017\\_jaarverslag.pdf](https://www.vaf.be/sites/vaf/files/jaarverslagen/vaf_filmfonds_2017_jaarverslag.pdf).



Figure 6. Breakdown of the CO2 impact of a Flemish film by category



Source: VAF

One of the VAF's main sustainability goals is to get in touch with producers at an early stage of their project in order to have the time to motivate them and help them make sustainable choices. For instance, one of the coached projects was *Buck*,<sup>154</sup> a TV series produced by the VRT and Zodiak. One of the important decisions taken was to limit the use of traditional generators (only 2 days out of a total of 73 shooting days). By plugging into the local power grids using a temporal connection unit, CO2 emissions were reduced by 36 tons, thereby making a saving of approximately EUR 12 000. Most importantly, this experience motivated the Flemish public broadcaster VRT to introduce sustainability within the company, trying to figure out how to be sustainable as a storyteller, employer and producer as well as trying to calculate the ecological impact of their programmes. The VAF made available tools and experiences, bringing VRT staff into contact with experienced broadcasting staff in the field of sustainability from other EU regions.

The theatrical feature film *Gangsta*<sup>155</sup> is another example of sustainable production. By parking equipment trucks overnight near the film set in Antwerp and hosting four heads of department in a nearby apartment, the production reduced transportation by circa 20 000 kilometres, resulting in a saving of EUR 10 000 and a reduction of 2.9 tons of CO2.

### 5.3.2.1. Broadening and deepening the scope

The VAF has a two-level approach towards sustainability; on the one hand, by further developing its current actions linked to existing support through the introduction of the Sustainable Development Goals<sup>156</sup> (SDGs) adopted by the United Nations General Assembly in 2015, it aims to translate the SDGs into concrete actions for film crews. On the other hand, the goal is to reach other audiovisual sectors such as cinema theatres and

<sup>154</sup> <https://www.flandersimage.com/browse-titles/detail/buck>.

<sup>155</sup> <https://www.flandersimage.com/browse-titles/detail/swagger>.

<sup>156</sup> [http://www.un.org/ga/search/view\\_doc.asp?symbol=A/RES/70/1&Lang=E](http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/70/1&Lang=E), <https://www.sdgs.be/nl/sdgs>



festivals, talent and education, production companies and broadcasters, and script development, as well as other funds.

As a SDGs advocate and ambassador, the VAF tries to inspire and encourage film and audiovisual professionals. A concrete example of this would be the Screener's Breakfast<sup>157</sup> that the VAF organised for exhibitors and festival professionals. Several sustainable practices were addressed, ranging from energy consumption (existing funding for isolating theatre roofs), the societal role of cinemas (how to make the infrastructure available to local initiatives, how to offer the screens to young creators, what type of films to programme), transportation to the venues (for instance, *Ancien Belgique*, a Brussels concert venue, offers free metro tickets and price-reduced train tickets for anyone buying a concert ticket), waste management (buying low-waste and local products) and sustainable messages.

Moreover, the VAF spreads sustainability knowledge in Flanders and abroad, playing an important active role in the Pulse - Transitienetwerk Cultuur Jeugd Media<sup>158</sup> (Pulse - Transition Network for Culture, Youth and Media). This network groups together approximately 1000 cultural players from Flanders around the themes of sustainability and societal transition. Instruments and best practices are exchanged. Some of the questions raised here were how to involve audiences in the debate on waste/plastic use; whether a film on any of the SDGs could be produced; and how to include gender and equity themes in cultural projects.

The VAF also introduces sustainability into the Flemish film academies by inspiring future professionals and teaching them about their societal role as a filmmaker. The VAF supports 'Less Is More'<sup>159</sup> (LIM), a programme which helps screenwriters to develop low-budget scripts. Sustainability messages can be imbedded within the message of a production; sometimes in a subtle way, at other times, more obviously – for instance, when the story focuses on sustainability issues. The goal is to raise the storyteller's awareness using SDGs as a moral compass. It is not only about the content, but also about the production impact of decisions made at script level.

The VAF also inspires other funds. Screen Brussels has been using a similar sustainability approach since 2018, benefiting from the exchange of knowledge with the VAF. This has led to them jointly developing new instruments and pulling together to expand sustainability in production.

At European level, the VAF is a member of the Green Screen project and the Cineregio network.<sup>160</sup> The main goal here is to exchange experiences, strategies and best practices and to work towards a homogeneous EU approach to sustainability in the film industry. For instance, within the framework of the Green Screen project, the VAF held a sustainable cinema seminar, during which a roundtable on film production in natural reserves and forests was organised.

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<sup>157</sup> <https://greenfilmmaking.com/2019/01/brussels-breakfast-meeting-green-in-cinema>.

<sup>158</sup> <https://www.pulsenetwerk.be>.

<sup>159</sup> <https://lim-lessismore.eu/about-lim>.

<sup>160</sup> See introduction of the case study.



## 5.4. Case study: SFI measuring of film performance<sup>161</sup>

This case study concentrates on a very precise example of how a film and audiovisual fund – in this case, the Swedish Film Institution (SFI) – measures the performance of a film at different levels; how the information on the different indicators is treated and aggregated; and what implications it has in terms of funding.

The vision for the national film policy in Sweden is that "Swedish film production should be of high quality and show such breadth and diversity of stories that it concerns everyone. A Swedish film should be an obvious choice for the audience throughout the country and be attractive internationally."<sup>162</sup>

In order to monitor the effects and the results of the Swedish Film Institute's support activities, the quality of the selected films must be measured to some extent.

Moreover, since the SFI distributes taxpayer's money, it has the obligation to assess and report the results of funded projects.

### 5.4.1. The indicators

In 2014, the Swedish Film Institute adhered to Harry Schein's quality definition from 1963, which can be summed up in three key indicators: degree of immediacy, craftsmanship and originality.

The degree of immediacy concerns the influence of the film's theme and content on society, highlighting the quality aspects that give increased commitment and generates discussion. One aspect of this dimension is how movies are consumed by the audience. Originality refers to whether the film adds something new by way of its formulation and story. As for craftsmanship, this dimension concerns the extent to which the film is inspired by high professionalism and craftsmanship.

For some time now, the organisation has used an index as a tool to assess the quality of films that have received production support from the organisation. The index is based on a combination of points for a film's festival successes and the average of reviews by film critics. The scale is between 0–7, composed of a review index (0–5) and festival points (0–2). The current model used by the Swedish Film Institute for evaluating Swedish films is the so-called success chart. It is based on two axes, where cinema admissions are measured in numbers on the horizontal axis and the quality index is measured on the vertical axis. The idea behind the two axes is that cinema admissions is one indication of the degree of immediacy and that the composite index of reviews and festivals is a measure of originality and craftsmanship.

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<sup>161</sup> This case study was drafted by Torkel Stål, Analyst, Swedish Film Institute.

<sup>162</sup> <https://data.riksdagen.se/fil/3D3CB884-9833-4B65-A813-57AE83E33CD9>.



## 5.4.2. Measuring the results

Cinema admissions are counted six months after the film's release. Critical reviews are collected from 15 different Swedish sources, including morning and evening newspapers, television, radio and blogs. Only reviews published up to the day of the film's release are included. A film must have a review from at least 5 sources to get points from 0-5, based on the average number of reviews. No consideration is given to whether or not the review is positive.

Festival points can be obtained depending on the relevance of the festival and the performance of the film at that festival, as follows:

**Table 8. Scoring at film festivals**

Points scored	Festivals/Conditions
0.5 points	<p>The film participated in one of the following film festivals or specific festival sections:</p> <ul style="list-style-type: none"> <li>■ Rotterdam (side sections, not the main competition)</li> <li>■ IDFA (side sections, not the main competition)</li> <li>■ CPH:DOX (only the main competition)</li> <li>■ Karlovy Vary</li> <li>■ London</li> <li>■ Tribeca</li> <li>■ Telluride</li> <li>■ TIFF Kids</li> <li>■ Cinekid</li> </ul>
1 point	<p>The film should have participated in one of the following film festivals (in some cases, a specific festival section):</p> <ul style="list-style-type: none"> <li>■ Cannes (Cannes Classic, Critics' Week, Directors' Fortnight)</li> <li>■ Berlin (Panorama, Forum, Generation, Berlinale Special)</li> <li>■ Venice (Orizzonti, Critics' Week, Venice Days, Venice Classics)</li> <li>■ Annecy</li> <li>■ Busan</li> <li>■ Locarno</li> <li>■ Rotterdam (only the main competition)</li> <li>■ San Sebastian</li> <li>■ Sundance</li> <li>■ Toronto</li> <li>■ IDFA (only the main competition)</li> </ul>
1.5 points	<p>The film should have participated in one of the following film festival sections or have received awards as follows:</p> <ul style="list-style-type: none"> <li>■ Cannes (Competition or Un Certain Regard)</li> <li>■ Berlin (Competition)</li> <li>■ Venice (Competition)</li> <li>■ The film participated in at least four festivals in the one-point category.</li> </ul>



	<ul style="list-style-type: none"><li>■ The film participated in at least two festivals and won at least two awards at festivals in the one-point category.</li></ul>
2 points	<ul style="list-style-type: none"><li>■ The film participated in one festival in the 1.5-point category and was awarded at least one prize.</li><li>■ The film participated in a festival in the 1 or 1.5-point category and has been nominated for an Oscar.</li><li>■ The film participated in a festival in the 1 or 1.5-point category and has been nominated in at least two official categories at the European Film Awards.</li></ul>

Source: Swedish Film Institute

A film cannot collect points from different levels, so it is not possible to get more than two points or to get points in ways other than those described for each score category.

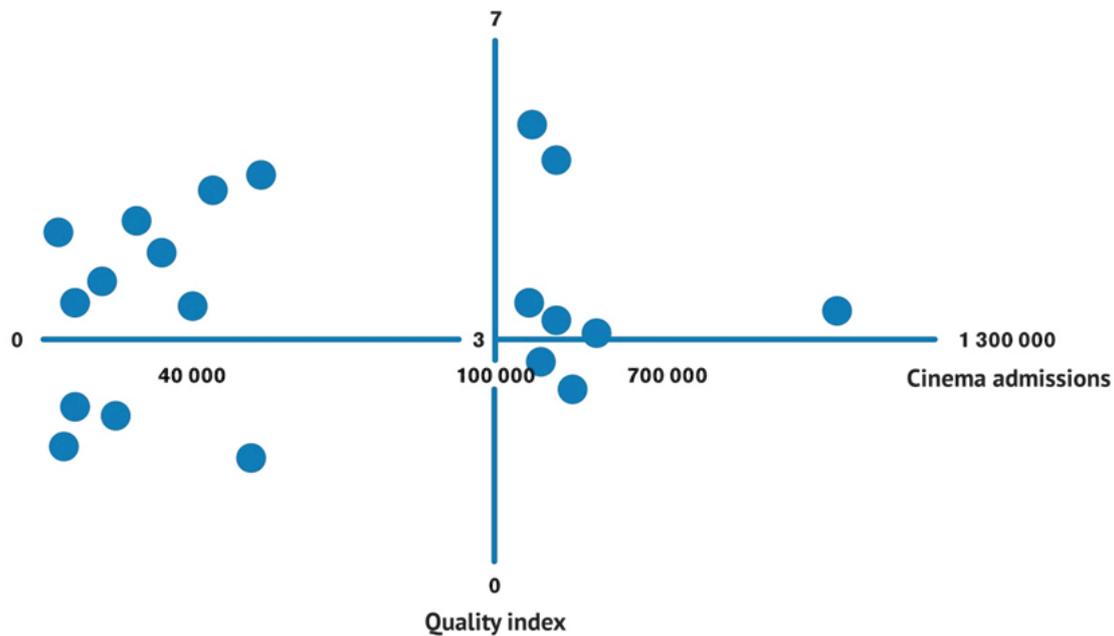
### 5.4.3. Aggregated results

The results for all Swedish films with production funding from the Swedish Film Institute (Film Commissioner's and Market Funding) are aggregated yearly. The success chart is produced in January and includes films released during the twelve-month period from July to June (of the previous year). Attendance figures refer to the number of admissions six months after the first release.

The midpoint of the chart is 3 in the quality index and 100 000 cinema admissions for feature films. Everything above the midpoint is considered to be successful. The figure below presents a picture of how a group of films perform. How an individual film has performed is less important than how the group has performed.



**Figure 7. Success chart of feature films funded by the SFI released between July 2017 and June 2018 (number of admissions six months after release).**



Source: Swedish Film Institute

The purpose of this assessment is not to evaluate or reward an individual film. No support is directly based on the outcomes according to this model. The success chart is used as a tool by the Swedish Film Institute only after a film is released, in order to get an overview and to follow up estimates and expectations. The SFI's specific goal is to support films that reach over 4 in the quality index and over 200 000 cinema visits. However, at the same time, it is important to keep in mind that if the results consisted only of films that received high review indexes, high cinema admission figures and successes at international festivals, this could be a sign that the decisions taken did not entail any risk. The Swedish Film Institute must be able to support films that risk not ending up in the upper right-hand corner of this success chart and to make decisions without completely "safe" decision grounds. One implication of the chosen indicators is that documentaries often end up on the left-hand side of the chart. This points to a more general problem with the success chart.

Of the three dimensions of quality mentioned above, the model does not properly measure the degree of immediacy. The degree of immediacy is not only about cinema admissions, but more broadly about the influence that the film's theme and content have on society. It is about quality aspects in relation to the audience – an important element of a film's success which is not reflected to any great extent in the existing model.



#### 5.4.4. New approaches

The success chart does not show whether a film contributes to and strengthens freedom of expression and public discussion (which is a political objective for films in Sweden), which can also be called the film's impact. This is especially important when it comes to documentary films. A documentary often has a far-reaching influence that cannot be measured by festival participation, a review index or cinema attendance.

Therefore, since 2018, the Swedish Film Institute has been investigating various ways of broadening the model. It is impossible to fully reflect all aspects of the quality of a film in a statistical model. Measuring success and quality linked to artistic practice is difficult, challenging and it leaves itself open to many questions and criticism. Collecting more key figures on a film's impact on the mass media would be a useful complement to figures on cinema admissions when measuring the degree of immediacy of a film. The Swedish Film Institute has created the conditions to start collecting statistics from 2019 onwards regarding the impact of Swedish films on the mass media.

### 5.5. Case study: Multiparty collaboration in the field of film and audiovisual funding

#### 5.5.1. Introduction

Multiparty collaboration in the field of film and audiovisual funding takes place at different geographical levels (pan-European, such as Eurimages or the MEDIA sub-programme; multinational, such as the Nordisk Film and TV Fund; bi-national, such as the German-French Mini-Treaty; as well as between a country and a region, such as the NFF/VAF Minority co-production fund). Moreover, this cooperation can result in the setting up of a new institution, such as Ibermedia or the Nordisk Film and TV Fond or, most commonly, the setting up of a joint scheme between existing funds (such as the Franco-German aid fund for the co-development of audiovisual fiction series).

In addition, the usual scope of multiparty collaboration covers the fields of co-development and co-production – mostly theatrical, but also in the field of TV, as well as distribution. The aims behind collaboration could be industry- or culture-related (for instance, to promote production in a common language, as in the case of the Netherlands-VAF). In some cases, the mechanisms express the institutional will to increase collaboration between countries or regions, in others, they are the result of growing interaction.



## 5.5.2. International funds

International funds are the result of collaboration between several national/federal entities (including film funds). Supranational funds, resulting from the action of supranational institutions such as Eurimages and the Media Sub-programme, are not covered here. Two relevant examples would be the Nordisk Film and TV Fond (NFTVF)<sup>163</sup> and Ibermedia.<sup>164</sup>

**Table 9. General information about Nordisk Film and TV Fond (NFTVF) and Ibermedia**

	Nordisk Film and TV Fond (NFTVF)	Ibermedia
<b>Establishment</b>	Created in 1990	Created in 1996
<b>Geographical scope</b>	Denmark, Finland, Iceland, Norway and Sweden	Italy, Portugal, Spain and 18 Latin American countries
<b>Primary objective of the Fund</b>	Promote film and TV productions of high quality in the five Nordic countries.	Create an Ibero-American audiovisual space by means of financial aid to independent film producers from the member countries.
<b>Results in 2018</b>	NOK 104.1 million awarded in funding in 2018 (41% for feature films, 38% for TV-Drama, 10% for documentaries, 8% for distribution and 3% for cultural initiatives). <sup>165</sup>	115 projects supported in 2018; 52 co-productions, 52 projects for development, 11 for training projects. <sup>166</sup>

Source: Nordisk Film and TV Fond, Ibermedia.

### 5.5.2.1. Nordisk Film and TV Fond (NFTVF)

The NFTVF is a foundation funded by 18 partners (the Nordic Council of Ministers,<sup>167</sup> five national film institutes/funds<sup>168</sup> and 12 public service and private broadcasters).<sup>169</sup> Its main objectives<sup>170</sup> are to strengthen Nordic content and creative talent; increase awareness of

<sup>163</sup> <http://www.nordiskfilmogtvfond.com>.

<sup>164</sup> <http://www.programaibermedia.com>.

<sup>165</sup> NFTVF Annual Report 2018,

[http://cdn.nordiskfilmogtvfond.com/assets/download/NFTVF\\_Annual\\_Report\\_2018.pdf](http://cdn.nordiskfilmogtvfond.com/assets/download/NFTVF_Annual_Report_2018.pdf).

<sup>166</sup> <http://www.programaibermedia.com/nuestras-convocatorias/seleccionados/>.

<sup>167</sup> It is the official body for inter-governmental co-operation in the Nordic Region, which involves Denmark, Finland, Iceland, Norway, Sweden, the Faroe Islands, Greenland and Åland. For further information, see: <https://www.norden.org/en>.

<sup>168</sup> Danish Film Institute; Finnish Film Foundation; Icelandic Film Centre; Norwegian Film Institute; Swedish Film Institute.

<sup>169</sup> Denmark: DR and TV2 Danmark; Finland: YLE and MTV; Iceland: RUV and 365 Media/Stö 2; Norway: NRK, TV2 Norge and Discovery Networks Norway/TVNorge; Sweden: SVT, TV4 and Discovery Networks Sweden/Kanal 5.

<sup>170</sup> Nordisk Film & TV Fond's Vision, <http://cdn.nordiskfilmogtvfond.com/assets/download/NFTVFs-Vision.pdf>.



Nordic film and TV production; and to support the Nordic brand in a global market, maintaining its relevance for Nordic and international audiences.

Among other things, the main actions carried out by the NFTVF include:

- Production funding for feature films, TV fiction/series and documentaries;
- Distribution funding and funding for dubbing;
- Funding for strategic development (like Nordic Genre Boost)<sup>171</sup> or for Special Initiatives (such as the Nordic Distribution Boost);<sup>172</sup>
- The Nordic Council Film Prize.

Concerning the criteria for granting production support, as detailed in the Fund's Statutes and the 2019 Guidelines,<sup>173</sup> the applicant must be a production company from one of the five Nordic countries, a member state of the EU, EEA or Switzerland, or be legally established in one of the five Nordic countries. The production must involve artistic and/or technical work that helps promote audiovisual culture in the Nordic Region. Moreover, the creative driving forces behind the production must be residents of the Nordic Region, or otherwise have a material and significant link to the Nordic audiovisual culture.

Moreover, theatrical distribution must be guaranteed in at least two Nordic countries. In addition, one of the broadcasters party to the fund must be involved in the production. Lastly, the project must prove that it has significant audience potential, primarily in the Nordic countries, and secondly on the global market.

### 5.5.3. Multinational schemes

#### 5.5.3.1. Co-production schemes

Multinational schemes are more frequent than multinational funds; this is where national/federal as well as regional film funds from different countries set aside resources for the funding of international co-production between given countries and regions.

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<sup>171</sup> <http://www.nordiskfilmogtvfond.com/events/nordic-genre-boost/2018>.

<sup>172</sup> <http://www.nordiskfilmogtvfond.com/funding/special-initiatives>.

<sup>173</sup> [http://cdn.nordiskfilmogtvfond.com/assets/download/Guidelines\\_UK\\_2019.pdf](http://cdn.nordiskfilmogtvfond.com/assets/download/Guidelines_UK_2019.pdf).

**Table 10. Selected examples of co-production funds between national and/or regional funds**

Name of the scheme	Funds & Geographical Scope <sup>174</sup>	
Aid for the co-production of Franco-Greek cinematographic works <sup>175</sup>	N – FR	Centre national du cinéma et de l'image animée (CNC)
	N – GR	Greek Film Centre
German-French <i>Mini-Traité</i> <sup>176</sup>	N – FR	Centre national du cinéma et de l'image animée (CNC)
	N - DE	Filmförderungsanstalt (FFA)
NFF/VAF Minority co-production fund <sup>177</sup>	N – NL	Netherlands Film Fund
	R – BE	Flanders Audio Visual Fund (VAF)
Polish-German <sup>178</sup>	N – DE	Polish Film Institute
	N – PL	Filmförderungsanstalt (FFA)
	R – DE	Medienboard Berlin-Brandenburg
	R – DE	Mitteldeutsche Medienförderung (MDM)

Source: Response to European Audiovisual Observatory standardised questionnaire

#### 5.5.3.1.1. The German-French Mini-Traité

The Franco-German Film Agreement<sup>179</sup> introduced the German-French Project Co-production Fund.<sup>180</sup> The endowment of the scheme (EUR 3.2 million annually)<sup>181</sup> is contributed equally by the two countries and managed by the Federal Government Representative for Culture and Media (BKM), the Filmförderungsanstalt (FFA) and the Centre national du cinéma et de l'image animée (CNC). In short, the scheme has the following objectives:

- To renew and strengthen French-German cooperation in film production;
- To contribute to and support the artistic quality of co-productions;

<sup>174</sup> N refers to national/federal funds) and R to regional funds. Links to the different funds can be found in the respective national factsheet.

<sup>175</sup> [https://www.cnc.fr/professionnels/aides-et-financements/multi-sectoriel/productionnot\\_specifiedide-a-la-coproduction-doeuvres-cinematographiques-francogrecques\\_191659](https://www.cnc.fr/professionnels/aides-et-financements/multi-sectoriel/productionnot_specifiedide-a-la-coproduction-doeuvres-cinematographiques-francogrecques_191659).

<sup>176</sup> <https://www.ffa.de/german-french-co-productions.html>.

<sup>177</sup> <https://www.filmfonds.nl/page/2693/minority-co-productions-with-vaf>.

<sup>178</sup> <http://en.pisf.pl/funding/polish-german-film-fund>.

<sup>179</sup> Agreement between the Government of France and Germany on the support of cinematographic co-production projects signed in Cannes on 17 May 2001, [https://www.cnc.fr/cinema/reglementation/allemaignefrance--accord-de-coproduction-du-17-mai-2001\\_124991](https://www.cnc.fr/cinema/reglementation/allemaignefrance--accord-de-coproduction-du-17-mai-2001_124991).

<sup>180</sup> In 2015, a co-development scheme was also introduced, [https://www.cnc.fr/cinema/reglementation/allemaignefrance-accord-de-coproduction-du-17-mai-2001\\_107628](https://www.cnc.fr/cinema/reglementation/allemaignefrance-accord-de-coproduction-du-17-mai-2001_107628).

<sup>181</sup> EUR 200 000 are earmarked for the German-French Project Development Fund.



- To achieve a balanced partnership/an equal number of majority co-productions between both countries.

Applications for co-production funding must be submitted simultaneously by the German producer to the FFA and the French producer to the CNC. Production companies in one of the two countries are eligible to apply. Each co-producer's share of the contribution must be between 20% and 80% of the final cost of the film. Co-productions are possible with one or more producers from states with which France or Germany are bound by film co-production agreements. The film must comply with the Franco-German co-production agreement, which requires that it be concretised by a co-production contract. Artistic and technical collaborators must have either French or German nationality or be a national of another member state of the EU or of the EEA. Shooting should preferably take place in studios established in the territory of either of the two states.

A Franco-German commission is in charge of evaluating the projects submitted. It assesses whether the co-production achieves a general balance both in terms of artistic and technical contributions, as well as financial contributions. Support is limited to EUR 500 000 (EUR 300 000 of which goes to the majority producer), up to 20% of the final cost of the film. This amount must be shared between the two countries in proportion to their respective co-production shares.

Over the period 2001-2012,<sup>182</sup> 113 grants were awarded out of a total of 199 applications; over 54% were French majority co-productions, and 43% were German majority co-productions. Seventy-six per cent of the films supported were released in both countries, with 28.8 million tickets sold in both countries by the end of 2013.

### 5.5.3.2. Co-development funds between regional film funds

Co-development funds follow the same logic as co-production funds, providing support for the pre-production stage of the project. They include not only theatrical films but also audiovisual works and new media projects.

**Table 11. Selected examples of co-development funds between national and/or regional funds**

Name of the scheme	Funds & Geographical Scope <sup>183</sup>	
German-Turkish Co-Production Development	N – TR	International Istanbul Film Festival (IIFF)
	R – DE	Medienboard Berlin-Brandenburg (MBB)

<sup>182</sup> The Mini-traité Programme 2001 – 2012 an Evaluation - Objectives and Key Findings, <https://www.ffa.de/download.php?f=e2aa1e12859580eebf36415090a543c0&target=0>.

<sup>183</sup> N refers to national/federal funds and R to regional funds. Links to the different funds can be found in the respective national factsheet.



<b>Fund<sup>184</sup></b>	R – DE	Film Fund Hamburg Schleswig-Holstein (FFHSH)
<b>Children's Film Co-Development Fund<sup>185</sup></b>	N – NL	Netherlands Film Fund
	R – DE	Mitteldeutsche Medienförderung (MDM)
<b>German-Danish Co-Development Initiative<sup>186</sup></b>	N – DK	Danish Film Institute
	R – DE	FFHSH
<b>Canadian-Danish Co-Development Incentive for Digital Media Projects<sup>187</sup></b>	N – DK	Danish Film Institute
	N – CA	Canada Media Fund
<b>Franco-German aid fund for the co-development of audiovisual fiction series <sup>188</sup></b>	N – FR	Centre national du cinéma et de l'image animée (CNC)
	R – FR	Région Grand Est
	R – DE	NRW Film- und Medienstiftung
	R – DE	MFG Baden-Württemberg
	R – DE	NRW Film- und Medienstiftung
	N – DE	Filmförderungsanstalt (FFA)

Source: Response to European Audiovisual Observatory standardised questionnaire

#### 5.5.3.2.1. The cross-border co-development scheme of the *Greater Region*

Created in 2015, this scheme is the result of a cross-border agreement<sup>189</sup> between three national film funds and three regional film funds in the Benelux and Germany.<sup>190</sup> The *Greater Region* comprises Luxembourg, Région Grand Est, Saarland and the German-speaking Community of Belgium. With a budget of EUR 60 000<sup>191</sup> for 2019, the scheme's primary objective is to strengthen cross-border audiovisual and film cooperation and to encourage co-productions between its members.

The granting criteria<sup>192</sup> establish that there must be at least two co-producers involved - at least one of them must be established in the *Greater Region* and the other one in a different country from the one based in the *Greater Region*. Support is intended

<sup>184</sup> <https://www.medienboard.de/?id=93>.

<sup>185</sup> <https://www.filmfonds.nl/nl/page/3303/overeenkomst-children-s-film-co-development-fund-with-mdm>.

<sup>186</sup> <https://www.dfi.dk/branche-og-stoette/stoette/initiativ-til-udvikling-af-tysk-danske-koproduktioner>.

<sup>187</sup> <https://www.dfi.dk/branche-og-stoette/stoette/canadisk-dansk-co-udvikling-af-digitale-projekter>.

<sup>188</sup> <https://www.grandest.fr/vos-aides-regionales/fonds-daide-franco-allemand-co-developpement-de-series-audiovisuelles-de-fiction/>.

<sup>189</sup> <http://www.filmfund.lu/fr/news-events/latest-news-events/news/signature-d-un-accord-de-co-developpement-transfrontalier-et-lancement-d-un-fonds-de-co-developpement-dans-la-grande-region>.

<sup>190</sup> Film Fund Luxembourg, Saarland Medien, Ministry of the German-speaking Community in Belgium, Région Grand Est, Centre national du cinéma et de l'image animée (CNC) and Filmförderungsanstalt (FFA).

<sup>191</sup> <http://www.filmfund.lu/fr/news-events/latest-news-events/news/fonds-d-aide-au-co-developpement-de-la-grande-region-appels-a-projets-2019>.

<sup>192</sup> Appel à projets – Fonds d'aide au co-développement de la Grande Région (Call for projects - Fund for the co-development of the Greater Region), <https://www.cnc.fr/documents/36995/197176/Descriptif+-+aide+au+co-dev%C3%A9loppement+Grande+R%C3%A9gion.pdf/31a62bcf-345a-e14a-4c21-d6e699eca0df>.



for theatrical and TV feature and medium-length projects as well as for new media projects in German, French or Luxembourgish intended for commercial theatrical exploitation or broadcasting. The project must prove it has the potential to be carried out and/or shot in the *Greater Region* - the applicant is requested to submit an estimate of their expenses in the region in the application form.<sup>193</sup>

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<sup>193</sup> [https://www.cnc.fr/professionnels/aides-et-financements/multi-sectoriel/ecriture-et-developpement/fonds-daide-au-codeveloppement-de-la-grande-region\\_191919#Prochaines-Commissions](https://www.cnc.fr/professionnels/aides-et-financements/multi-sectoriel/ecriture-et-developpement/fonds-daide-au-codeveloppement-de-la-grande-region_191919#Prochaines-Commissions).



## 6. Conclusions

Film and audiovisual funds are one of the several public support mechanisms available for film and audiovisual works. Although, historically, it has been the first pillar (both chronologically and in terms of importance), the relevance of fiscal incentives (which also have funding criteria, although usually much simpler than public funds) has grown quickly in recent years. In addition, other forms of soft money, especially the financing obligations on industry stakeholders (broadcasters, cinema theatres, the video industry and VOD providers) are also a relevant source of financing. Within this constellation, film and audiovisual funds are the public support mechanism that is closer to cultural and artistic objectives – although this does not mean that funds neglect criteria regarding commercial potential. In fact, the analysis of funding criteria shows that there is a balancing exercise between purely economic goals and fundamentally cultural objectives, which, depending on the case, leans more towards one or the other.

As to the different set of criteria established by each scheme, there is no right-or-wrong approach. Funds will establish funding criteria based on the goals of each scheme, the overall strategy of the fund and its overall endowment, within the legal framework at European, national and/or regional level.

### 6.1. National vs. regional

It can be concluded that there are two types of funds, depending on the moment they get involved in the financing of a work. As a broad generalisation, this is linked to the geographical level of the fund. *First-step* funds would be those where the applicant seeks funding in the first place (usually once they have secured support from a broadcaster, distributor, etc.); these funds are usually the national/federal funds. *Second-step* funds would be those where a commitment from another fund is expected before applying; generally these are sub-national funds.

In addition, regional funds tend to be more concrete and demanding regarding spending and the number of shooting days in the region. Moreover, requirements related to the use of architecture, landscape and local motives are more frequent in regional funds. In several cases, these sub-national institutions are a hybrid between a fund, a film commission and a regional promotion office, sometimes trying to attract production to the region, foster the local culture or language and use audiovisual production as a means to attract tourism to the region.



## 6.2. European legislative framework

Funds are not entirely free to decide on what and how they want to support. As indicated in section 3.2., European regulation defines an operational framework. When it comes to **aid intensity**, almost all funds explicitly state the same formulation and rules established in the Cinema Communication<sup>194</sup> in what we could call the 50/60/100-rule, establishing a maximum support of 50% of the production budget as a general rule; 60% for cross-border production; and 100% for difficult audiovisual works. On some occasions, the funds may decide to lower these caps (notably regional funds). Aid to scriptwriting or development is not limited, but some funds may decide to set ceilings below 100% of the overall costs. As for the costs of distribution and promotion, the aid intensity should be the same as it was or could have been for production and the 50/60/100-rule is explicitly referred to in some cases.

Rules regarding the framework for territorial **spending obligations** are also quite clearly defined in the Cinema Communication and explicitly transposed in most of the schemes' guidelines: the maximum territorial spending obligation should be limited to 160% of the aid amount and the territorial linking shall not exceed 80% of the overall production budget. In addition to this, some funds also request a minimum investment in the region. On average, the minimum spending in the country/region as a share of the awarded amount was 109% (a median of 100%) and the minimum spending in the country/region as a share of the budget was 58% (a median of 50%). In either case, figures are below the ceilings set by the Cinema Communication, showing that some funds are less strict than they are entitled to be when it comes to this requirement.

Nationality and culture are also alluded to in the Cinema Communication, although the framework set is less precise than in the two precedent cases. When it comes to **nationality**, the Commission must verify that the principles prohibiting discrimination on the grounds of nationality and relating to freedom of establishment, free movement of goods and freedom to provide services have been respected. In the vast majority of schemes, applicants from other EU member states are eligible for funding (usually as long as they are established in the fund's member state) and criteria related to the nationality of cast, talent and crew usually take into account the country/region of establishment, not only the nationality, therefore considering nationals of other EU member states (sometimes also nationals of other third countries) as local talent, cast and crew if they are established in the territory.

**Culture** is probably the more widely defined criterion, both in the Cinema Communication and in the respective national legislation, guidelines, etc. In line with the subsidiarity principle, the definition of cultural activities is primarily a responsibility of the member states, and the Commission "acknowledges that its task is limited to verifying whether a Member State has a relevant, effective verification mechanism in place."<sup>195</sup> Neither National/regional legislation nor the funds' guidelines offer a definition of culture or cultural activities. In the vast majority of cases, the cultural approach is fulfilled by

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<sup>194</sup> Cinema Communication, *Op. cit.*

<sup>195</sup> Article 25 of the Cinema Communication, *Op. cit.*



complying with a series of criteria, either via a cultural profile (mandatory eligibility conditions) to be fulfilled as a condition for the aid or a cultural test (made of individual non-mandatory evaluation criteria with a minimum score required) which influences eligibility and may influence the amount granted. In the absence of a definition, these criteria are not homogeneous along the funds; in many cases, the concept of artistic value and cultural value gets blurred. Sometimes, the cultural assessment coincides with the assessment of a film or work as a national work. In many cases, criteria related to the language; the nationality of the work, talent and crew; the use of elements from the territory (from a pre-existing literary work to the portrayal of architecture or landscape); or the artistic value of the project are put in the same pot under “cultural criteria”. In most cases, applicants have to fulfil a minimum number of criteria, so they have some leeway as to how they comply with the cultural requirements.

Moreover, the Cinema Communication considers linguistic diversity to be an important element for cultural diversity; in this line, member states may require that the film be produced in a certain language, and some funds, especially the sub-national ones, put their local language at the core of the cultural criteria.

### **6.3. Axes of analysis**

Funding criteria include the requirements for eligibility and the parameters for the calculation of the actual amount funded. There are a series of axes of analysis depending on whether the funding criteria are mandatory or optional; whether support is based on economic or cultural elements; whether it is awarded by a selective committee or automatically upon fulfilment of some preset requirements; or whether the granted amount takes the form of equity, a repayable loan or a non-repayable subsidy. The different constellations of these axes give us a glimpse into the logic behind each given scheme of a fund.

Criteria related to the nationality of the applicant are usually mandatory; equally, the form of the grant (selective vs. automatic, repayability, aid intensity) is set by fixed conditions. In some cases, certain cultural criteria (language, nationality of the director, etc.) are also mandatory. These aside, in most cases, the funds set a range of options, a minimum of which have to be complied with, or a point-scoring test, with a minimum score to be attained; therefore giving the applicant a certain amount of leeway as to how to fulfil the eligibility requirements. Moreover, there is a third type of criteria which refers to those which are flexible within a certain bracket (that is, spending in the territory), but which will have an impact on the awarded amount.

Economic requirements are linked to investment/spending in the country and/or the region and to guaranteeing a potential commercial exploitation (minimum budget of the applicant project, commitment from other financiers and funders, etc.). In turn, those of a cultural nature are linked to the nationality of key members of the cast and the talent, the shooting language or the use of cultural elements from the territory.

In connection with this, it can be stated that, by and large, support is awarded automatically upon compliance with a series of objectively measurable, pre-defined



conditions in the case of support devoted to rewarding commercial success. In turn, those lines of support which require an evaluation and selection process (usually by an external expert or panel) tend to focus more on the cultural and artistic subjective components of the project.

Lastly, the expectations of a fund to recoup the funded money also tell us about whether the scheme is commercial or culture oriented. Although the actual recoupment rate of each scheme is well beyond our scope of analysis, funding awarded in the form of a repayable loan – not to mention in the form of equity investment – indicates that the fund envisages a certain commercial exploitation of the funded work. Conversely, when the funding is granted as a non-repayable subsidy, it indicates that the fund is more focused on promoting certain artistic and cultural elements as well as fostering the breakthrough of new talent. Moreover, repayability is also very much linked to the type of activity funded; most funds expect to get their funding back in the case of production support devoted to commercial-oriented films and works. Distribution and promotion support are rarely repayable. In the case of pre-production support, it is not normally to be paid back, although it may become repayable when and if the film is further supported to go into production.

Summing up, it can be said that funding that is awarded based mostly on cultural and artistic criteria tends to be lower, awarded selectively and as a non-repayable subsidy. At the other extreme of the spectrum, there are the schemes where funding is awarded mostly on the basis of commercial criteria, often automatically, as equity (quite rarely) or as an interest-free repayable loan. Most schemes would be at some intermediate point between these two extremes. Moreover, selective support tends to be oriented to riskier, more culture- or artistic-oriented projects, while automatic support is usually a reward to envisaged or actual commercial performance and success. Normally, the same fund will have schemes with different aims within its portfolio, so it is not unusual to find that the granting criteria vary from scheme to scheme within this same fund in order to better define the target applicant.

## 6.4. Visibility and performance

By and large it can be said that criteria related to a minimum exploitation of the film or audiovisual work seek guaranteeing a minimum commercial performance, but not only. Although it would be tempting to make a link between performance and success, the latter is not necessarily a function of the former; in some cases, the goal of these requirements is to secure a certain level of visibility (to promote a region, a language, etc.)

A minimum exploitation can be proved via a contractual agreement or letter of intent with a distributor (in the case of theatrical projects), a pre-sale to a broadcaster (in the case of a TV project and, more rarely, also in the case of a theatrical film). A deal with a VOD provider would potentially be another form of guaranteeing certain exploitation through this window. However, it is worth noting that requirements related to exploitation or visibility on VOD are almost non-existent and, in the few cases where these apply, they are expressed in a very wide, open way.



## 6.5. Looking ahead

As indicated at the outset, when it comes to the coverage of schemes and funds, this mapping is more of a cartography than a comprehensive database. Moreover, in terms of the time range, the mapping is a snapshot rather than a video.

The analysis goes well beyond the pure drawing up of the typologies of the tools and mechanisms used to grant support, as it includes multiple examples in most countries and, more importantly, it also relies on data collected through the national tables (matrices) on 800+ schemes in the 28 EU member states. Nevertheless, the exercise is far from being a database as it is not fully comprehensive (not all existing sub-national funding institutions were covered; neither in the national factsheets, nor in the national tables (matrices)). In addition, the analysis is based on a snapshot of the situation at the end of 2018; it does not track the changes and evolution over time, which are only briefly mentioned in footnotes where particularly significant. Therefore, it would not be surprising that some of the criteria and references in some schemes have changed since the moment the picture was taken.

A broader picture could be achieved by combining the results from the three key pillars of public financing; namely, public funding – analysed in this report; obligations for stakeholders (broadcasters, cinema theatres, VOD providers, etc.) to contribute directly or indirectly to financing film and audiovisual projects; and fiscal incentives (now operating in 23 EU member states).

Regular data gathering for all the existing schemes of all the funds in the EU would certainly not change the sense of the results and conclusions presented but could contribute to confirming and fine-tuning the quantitative analysis of the typologies explained in the report. Moreover, such a tool could allow the monitoring of changes in trends or new mechanisms and tools related to assessing the eligibility for and the granting of public funds devoted to film and audiovisual pre-production, production, distribution and promotion. But, as Rudyard Kipling would put it, *that's another story*.



## 7. National factsheets

### 7.1. AT – Austria – National Summary<sup>196</sup>

#### 7.1.1. Summary

At federal level, there are five main operating funds in the country:

- *Österreichisches Filminstitut* (ÖFI) - Austrian Film Institute: it is the federal film financing body that supports Austrian cinema productions as well as the Austrian film industry by providing pre-production, production and distribution support to Austrian films according to cultural, economic and artistic criteria.
- *ORF/Film-Fernsehabskommen* (ORF Film/Television Agreement): the ORF (the Austrian Broadcasting Corporation) operates as a film fund which, in cooperation with the ÖFI, provides production support for Austrian films through the Film/TV Agreement.
- *Bundeskanzleramt* (Federal Chancellery, BKA): within Division II/3 - Film, the Federal Minister for the EU, Art, Culture and Media offers support for the pre-production, production and distribution of commercially difficult film projects (because of their limited resources, experimental nature, content/style or artistic design).
- *Fernsehfonds Austria*<sup>197</sup> (Austrian Television Fund): it is a TV film promotion fund, set up and managed by the *Rundfunk und Telekom Regulierungs-GmbH* (Austrian Broadcasting and Telecommunications Regulatory Authority, RTR)<sup>198</sup> since 2004, which provides support for the production of television content thanks to an annual budget of EUR 13.5 million.
- *Filmstandort Austria* (FISA) - Film Industry Support Austria: it is a subsidy programme created by the Austrian Federal Ministry for Digital and Economic Affairs in order to support the production of cinema films and to provide an ongoing stimulus for Austria as a film location.

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<sup>196</sup> The factsheet on Austria incorporates the feedback received from Roland Teichmann (ÖFI) during the checking round with the national film and audiovisual funds.

<sup>197</sup> *Fernsehfonds Rundfunk und Telekom Regulierungs-GmbH* (RTR)

<sup>198</sup> The Austrian Broadcasting and Telecommunications Regulatory Authority, [www.rtr.at/en/rtr/RTRGmbH](http://www.rtr.at/en/rtr/RTRGmbH).



By now, nearly all federal states have funding schemes; most of them define themselves as gap financing in order to promote local (cultural and economic) resources and provide smaller budgets. By far the most important and largest regional fund is the *Filmfonds Wien* (Vienna), with an elaborate funding scheme and organisation, followed by smaller funds like *Land Niederösterreich*, *Cinestyria*, *Cine Tirol* and the *Carinthia Film Commission*. In addition to these funding institutions, some federal states such as Burgenland, Vienna and the Tyrol mainly fund individuals, based on regulations for cultural funding in general, however they do not provide elaborate funding schemes or guidelines for film funding.

## 7.1.2. General framework

### 7.1.2.1. Overview of the film and audiovisual funding policy and legislation

Each film fund in Austria is regulated by legislation at federal or state level and supplemented by relevant guidelines.

**Table 12. Main funds in Austria**

Funding institution	Geographical level	Legislation / Guidelines
Österreichisches Filminstitut (ÖFI) <sup>199</sup>	Federal	Film Funding Act <sup>200</sup>
		ÖFI Guidelines <sup>201</sup>
ORF/Film-Fernsehabonnement <sup>202</sup>	Federal	Federal Act on Austrian Broadcasting (ORF Act) <sup>203</sup>
		The Film/TV Agreement <sup>204</sup>
Bundeskanzleramt	Federal	Art Promotion Act 1988 <sup>206</sup>

<sup>199</sup> [www.filminstitut.at/](http://www.filminstitut.at/).

<sup>200</sup> *Filmförderungsgesetz - Bundesgesetz vom 25. November 1980 über die Förderung des österreichischen Films* (Federal law consolidated: Entire legal provision for the Film Funding Act, version of 04.03.2019), [www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10009500](http://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10009500); to our knowledge, there is no up-to-date English version at the time of the elaboration of this factsheet, for the latest version available, see:

[www.filminstitut.at/en/view/files/download/forceDownload/?tool=12&feld=download&sprach\\_connect=553](http://www.filminstitut.at/en/view/files/download/forceDownload/?tool=12&feld=download&sprach_connect=553)

<sup>201</sup> *Förderungsrichtlinien* (Filminstitut's Guidelines), [www.filminstitut.at/de/richtlinien/](http://www.filminstitut.at/de/richtlinien/), for English version, see: [www.filminstitut.at/en/guidelines/](http://www.filminstitut.at/en/guidelines/).

<sup>202</sup> [www.filminstitut.at/de/orf-filmfernseh-abkommen/](http://www.filminstitut.at/de/orf-filmfernseh-abkommen/).

<sup>203</sup> ORF-Gesetz - *Bundesgesetz über den Österreichischen Rundfunk* (ORF Act - Federal Act on Austrian Broadcasting), [www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10000785](http://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10000785)

<sup>204</sup> *Film/Fernseh-Abkommen Jänner 2011* (The Film/TV Agreement January 2011), [www.filminstitut.at/de/orf-filmfernseh-abkommen/](http://www.filminstitut.at/de/orf-filmfernseh-abkommen/).



Funding institution	Geographical level	Legislation / Guidelines
(BKA) <sup>205</sup>		Guidelines <sup>207</sup>
Fernsehfonds Austria <sup>208</sup>	Federal	KommAustria Act <sup>209</sup>
		Fernsehfonds Austria Guidelines <sup>210</sup>
Filmstandort Austria (FISA) <sup>211</sup>	Federal	Film Location Act <sup>212</sup>
		FISA Guidelines <sup>213</sup>
Filmlocation Salzburg <sup>214</sup>	Regional	Guidelines <sup>215</sup>
Land Salzburg <sup>216</sup>	Regional	Law of 11 December 1997 on the Promotion of Culture in the Province of Salzburg <sup>217</sup>
		Guidelines <sup>218</sup>

<sup>206</sup> *Kunstförderungsgesetz - Bundesgesetz vom 25. Februar 1988 über die Förderung der Kunst aus Bundesmitteln* (Federal Act of 25 February 1988 on the Promotion of Art from Federal Funds, hereinafter "Art Promotion Act"), [www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10009667](http://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10009667).

<sup>205</sup> [www.kunstkultur.bka.gv.at](http://www.kunstkultur.bka.gv.at).

<sup>207</sup> *Richtlinien für die Gewährung von Förderungen nach dem Kunstförderungsgesetz durch das Bundeskanzleramt* (Guidelines for the granting of subsidies under the Art Promotion Law by the Federal Chancellery), <http://www.kunstkultur.bka.gv.at/documents/340047/618530/Richtlinie+Kunstfoerderungsgesetz/f808e354-f5f3-4677-9caa-61cdafe48e69>.

<sup>208</sup> [www.rtr.at/de/ffat/Fernsehfonds](http://www.rtr.at/de/ffat/Fernsehfonds).

<sup>209</sup> *KommAustria-Gesetz - Bundesgesetz über die Einrichtung einer Kommunikationsbehörde Austria* (KommAustria Act - Federal Act on the Establishment of a Communications Authority for Austria), [www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20001213](http://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20001213);

<sup>210</sup> *Richtlinien über die Gewährung von Mitteln aus dem Fernsehfonds Austria* (Guidelines on the granting of funds from the Fernsehfonds Austria), [www.rtr.at/de/ffat/Richtlinien](http://www.rtr.at/de/ffat/Richtlinien) for English version, see: [www.rtr.at/en/ffat/Richtlinien/Guidelines\\_for\\_FERNSEHFONDS\\_AUSTRIA\\_Version\\_as\\_of\\_1\\_December\\_2018.pdf](http://www.rtr.at/en/ffat/Richtlinien/Guidelines_for_FERNSEHFONDS_AUSTRIA_Version_as_of_1_December_2018.pdf).

<sup>211</sup> [www.filmstandort-austria.at/foerderung/](http://www.filmstandort-austria.at/foerderung/).

<sup>212</sup> *Filmstandortgesetz - Bundesgesetz über die Förderung des Filmstandortes Österreich* (Film Location Act - Federal Act on the Promotion of Film Location Austria), [www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20008872](http://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20008872).

<sup>213</sup> *FISA Richtlinien* (FISA Guidelines), [www.filmstandort-austria.at/foerderung/richtlinien/](http://www.filmstandort-austria.at/foerderung/richtlinien/); for English version, see: [www.filmstandort-austria.at/foerderung/richtlinien/index.php?lang=EN](http://www.filmstandort-austria.at/foerderung/richtlinien/index.php?lang=EN).

<sup>214</sup> [www.salzburgagentur.at/](http://www.salzburgagentur.at/).

<sup>215</sup> *Förderung kommerzieller Filmproduktionen Richtlinien* (Promotion of commercial film productions - Guidelines), [www.salzburgagentur.at/fileadmin/documents/filmfoerderung/Foerderrichtlinien\\_2015.pdf](http://www.salzburgagentur.at/fileadmin/documents/filmfoerderung/Foerderrichtlinien_2015.pdf).

<sup>216</sup> [www.salzburg.gv.at/themen/kultur/kulturfoerderungen](http://www.salzburg.gv.at/themen/kultur/kulturfoerderungen).

<sup>217</sup> *Salzburger Kulturförderungsgesetz - Gesetz vom 11. Dezember 1997 über die Förderung der Kultur im Land Salzburg* (Law of 11 December 1997 on the Promotion of Culture in the Province of Salzburg), [www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=LrSbg&Gesetzesnummer=10001052](http://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=LrSbg&Gesetzesnummer=10001052).

<sup>218</sup> *Richtlinien der Filmförderung* (Funding Guidelines), [www.salzburg.gv.at/kultur/ /Documents/richtlinien\\_filmfoerderung\\_2015.pdf](http://www.salzburg.gv.at/kultur/ /Documents/richtlinien_filmfoerderung_2015.pdf).



Funding institution	Geographical level	Legislation / Guidelines
Filmfonds Wien <sup>219</sup>	Regional	Vienna Land Foundation and Fund Act <sup>220</sup>
		Guidelines <sup>221</sup>
		Statute and Mission Statement for the Vienna Film Fund <sup>222</sup>
Land Niederösterreich <sup>223</sup>	Regional	Lower Austrian Culture Promotion Act <sup>224</sup>
		Guidelines for the Film Funding of the Province of Lower Austria <sup>225</sup>
Land Oberösterreich <sup>226</sup>	Regional	Upper Austrian Culture Promotion Act (Law of 2 October 1987 on the Promotion of Culture in Upper Austria <sup>227</sup>
		Upper Austrian Film Promotion <sup>228</sup>
Cine Art Steiermark <sup>229</sup>	Regional	Styrian Culture and Arts Promotion Act 2005 <sup>230</sup>
		Cine Art Funding Guidelines <sup>231</sup>
Cinestyria <sup>232</sup>	Regional	Funding Guidelines of the Cinestyria Film Commission & Funds <sup>233</sup>

<sup>219</sup> [www.filmfonds-wien.at/](http://www.filmfonds-wien.at/).

<sup>220</sup> *Gesetz über Stiftungen und Fonds - Wiener Landes-Stiftungs- und Fondsgesetz* (Vienna Land Foundation and Fund Act), [www.wien.gv.at/recht/landesrecht-wien/rechtvorschriften/html/i1400000.htm](http://www.wien.gv.at/recht/landesrecht-wien/rechtvorschriften/html/i1400000.htm).

<sup>221</sup> *Förderrichtlinien* (Guidelines), [www.filmfonds-wien.at/foerderung/richtlinien](http://www.filmfonds-wien.at/foerderung/richtlinien).

<sup>222</sup> *Satzung und Leitbild für den Filmfonds Wien* (Statute and Mission Statement for the Vienna Film Fund), [www.filmfonds-wien.at/files/140507\\_ffw\\_satzung\\_1.pdf](http://www.filmfonds-wien.at/files/140507_ffw_satzung_1.pdf).

<sup>223</sup> [www.no.e.gv.at/noe/Kunst-Kultur/Kunst\\_Kultur.html](http://www.no.e.gv.at/noe/Kunst-Kultur/Kunst_Kultur.html).

<sup>224</sup> *NÖ Kulturförderungsgesetz 1996* (Lower Austrian Culture Promotion Act), [www.no.e.gv.at/noe/Kunst-Kultur/NOE\\_Kulturfoerderungsgesetz\\_1996\\_3.pdf](http://www.no.e.gv.at/noe/Kunst-Kultur/NOE_Kulturfoerderungsgesetz_1996_3.pdf).

<sup>225</sup> *Richtlinien für die Filmförderung des Landes Niederösterreich* (Guidelines for the Film Funding of the Province of Lower Austria), [www.no.e.gv.at/noe/Kunst-Kultur/Richtlinien\\_fuer\\_die\\_Filmfoerderung\\_des\\_Landes\\_NOe\\_2016.pdf](http://www.no.e.gv.at/noe/Kunst-Kultur/Richtlinien_fuer_die_Filmfoerderung_des_Landes_NOe_2016.pdf).

<sup>226</sup> [www.land-oberoesterreich.gv.at/212728.htm](http://www.land-oberoesterreich.gv.at/212728.htm).

<sup>227</sup> *Oö Kulturförderungsgesetz - Gesetz vom 2. Oktober 1987 über die Förderung der Kultur in Oberösterreich* (Upper Austrian Culture Promotion Act - Law of 2 October 1987 on the Promotion of Culture in Upper Austria), [www.land-oberoesterreich.gv.at/Mediendateien/Formulare/DokumenteAbt\\_K/Kulturfoerderungsgesetz.pdf](http://www.land-oberoesterreich.gv.at/Mediendateien/Formulare/DokumenteAbt_K/Kulturfoerderungsgesetz.pdf).

<sup>228</sup> *Oberösterreichische Filmförderung 2018* (Upper Austrian Film Promotion 2018), [www.land-oberoesterreich.gv.at/212728.htm](http://www.land-oberoesterreich.gv.at/212728.htm).

<sup>229</sup> <http://www.filmkunst.steiermark.at>.

<sup>230</sup> *Steiermärkisches Kultur- und Kunstförderungsgesetz 2005* (Styrian Culture and Arts Promotion Act 2005), [www.filmkunst.steiermark.at/cms/dokumente/10557501\\_16090901/4036d30f/KuKuFöG%202005%20%28Fassung%20vom%2013%2001%202017%29.pdf](http://www.filmkunst.steiermark.at/cms/dokumente/10557501_16090901/4036d30f/KuKuFöG%202005%20%28Fassung%20vom%2013%2001%202017%29.pdf).

<sup>231</sup> *Förderungsrichtlinien Cine Art* (Cine Art Funding Guidelines), [www.filmkunst.steiermark.at/cms/dokumente/10557501\\_16090901/8da2c322/2011-09-19CINE%20ART%20Richtlinien%2BLandeslogo%20%282%29.pdf](http://www.filmkunst.steiermark.at/cms/dokumente/10557501_16090901/8da2c322/2011-09-19CINE%20ART%20Richtlinien%2BLandeslogo%20%282%29.pdf).

<sup>232</sup> [www.cinestyria.com/](http://www.cinestyria.com/).



Funding institution	Geographical level	Legislation / Guidelines
Carinthia Film Commission (CFC) <sup>234</sup>	Regional	Carinthian Culture Promotion Act 2001 - K-KFördG 2001 <sup>235</sup>
		Guidelines <sup>236</sup>
Cine Tirol Film Commission <sup>237</sup>	Regional	Cine Tirol Film Commission Guidelines <sup>238</sup>
Landesregierung Vorarlberg <sup>239</sup>	Regional	Cultural Promotion Act (Act on the Promotion of Culture) <sup>240</sup>

Source: Response to European Audiovisual Observatory standardised questionnaire

### 7.1.2.2. Definition of cultural criteria

Most federal and regional funds provide for a cultural selection criterion or a complete cultural test, with the exception of the *Bundeskanzleramt* at federal level, and the following regional funds:

- ÖFI: as per Article 6.1 of the ÖFI Guidelines, it is up to the project commission to decide what kind of content should be funded and whether it is “cultural content”. According to Article 10 (3), cultural content will be assessed on the basis of the criteria laid down in the funding guidelines. However, the guidelines do not provide a definition of “cultural content”, simply a definition of “Austrian Film” in Article 3.
- *Fernsehfond Austria*: the fund has a cultural test which requires a cultural production to fulfil at least three criteria from a given list in order to qualify for a grant, although most points are related to the film being connected to Austria or Europe (Article 1.4 of the RTR Guidelines).

<sup>233</sup> *Förderungsrichtlinien der Cinestyria Filmcommission & Fonds* (Funding Guidelines of the Cinestyria Film Commission & Funds), [www.cinestyria.com/upload/44218\\_Förderungsrichtlinien\\_Cinestyria\\_2012DSGVO2018.pdf](http://www.cinestyria.com/upload/44218_Förderungsrichtlinien_Cinestyria_2012DSGVO2018.pdf). Cinestyria is a service of the Steirische Tourismus GmbH, a company held by the Federal State of Styria. Its main task is to promote Styria as a film and touristic location.

<sup>234</sup> [www.filmcommission.at/](http://www.filmcommission.at/).

<sup>235</sup> K-KFördG 2001 - *Kärntner Kulturförderungsgesetz 2001* (Carinthian Culture Promotion Act 2001), [www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=LrK&Gesetzesnummer=20000113&ShowPrintPreview=True](http://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=LrK&Gesetzesnummer=20000113&ShowPrintPreview=True);

<sup>236</sup> *Richtlinien* (Guidelines), [www.kulturchannel.at/fileadmin/user\\_upload/cfc-richtlinien\\_2017\\_endg\\_1.pdf](http://www.kulturchannel.at/fileadmin/user_upload/cfc-richtlinien_2017_endg_1.pdf).

<sup>237</sup> [www.cine.tirol/en/cine-tirol-film-commission/](http://www.cine.tirol/en/cine-tirol-film-commission/).

<sup>238</sup> Cine Tirol Film Commission *Richtlinien* (Cine Tirol Film Commission Guidelines), [www.cine.tirol/wp-content/uploads/2017/04/richtlinien\\_062017\\_dt.pdf](http://www.cine.tirol/wp-content/uploads/2017/04/richtlinien_062017_dt.pdf). Cine Tirol is a service of Tirol Werbung GmbH, a company held by the Federal State of Tyrol. Cine Tirol promotes the film land Tyrol through marketing and communication activities and funding.

<sup>239</sup> [www.vorarlberg.at/vorarlberg/tourismus\\_kultur/kultur/aktuelles/foerderungen/film\\_kino\\_video.htm](http://www.vorarlberg.at/vorarlberg/tourismus_kultur/kultur/aktuelles/foerderungen/film_kino_video.htm).

<sup>240</sup> *Kulturförderungsgesetz - Gesetz über die Förderung der Kultur* (Cultural Promotion Act - Act on the Promotion of Culture), [www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=LrVbg&Gesetzesnummer=20000338](http://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=LrVbg&Gesetzesnummer=20000338).



- FISA: the Austrian Film Location Act provides a Cultural Test for Feature and Documentary Films and a Cultural Test for International Productions (annexes 2 and 3 of the FISA Guidelines) that is a bit more detailed, including cultural criteria not related to nationality, such as the plot/underlying material being based on literary material or depicting an artist or artistic genre, or the film involving a contemporary artist from a genre other than cinematography.
- *Filmfonds Wien*: Article 4 of the Guidelines indicates several cultural criteria, which include the cultural effect, the Viennese film industry effect and the respective significance for the cultural development and the added value for the film industry at the Vienna location.
- Carinthia Film Commission: Article 1.6 of the Guidelines stipulates that eligible projects must have a cultural connection to Carinthia, which is assessed based on a series of cultural criteria (such as the presentation of Carinthian cultural history or its specific regional way of life).

Most of the other regional funds connect cultural and local aspects, but do not provide a fixed cultural text; however, a professional commission is mostly responsible for selecting the projects to be funded.

#### 7.1.2.3. Nationality of the applicant

At federal level, nearly all funds define that the applicant has to be an Austrian or EEA citizen or a legal entity with a permanent branch or establishment in Austria:

- ÖFI: Article 11(1) of the Austrian Film Act provides that “the applicant shall be a legal entity or a partnership recorded in the commercial register with a permanent establishment or a branch in Austria and a seat in the EU or in a state which is a contracting party of the Agreement on the European Economic Area (EEA) and shall bear the responsibility for the execution of the film project”,
- *Bundeskanzleramt*: Article 1.3 of the Guidelines stipulates that eligible applicants are either natural persons who hold Austrian citizenship and reside in Austria at the time of receiving the grant, or legal entities with a branch in the EEA (as long as the director or co-producer has Austrian citizenship).
- *Fernsehfonds Austria*: the applicant is required to be a physical person or legal entity possessing the necessary specialised qualifications and having her/his place of establishment located within the EEA, as per Article 3.2 of the Guidelines.
- FISA: As per Article 2 (1) of the FISA Guidelines, eligible applicants are “independent film production companies with sufficient technical, i.e. artistic and business, qualifications and experience having an operation or branch office in Austria, irrespective of the location of their principal business, provided it is located within the EEA, or a company established for the sole purpose of making a film, and provided that applicants produce sustainable cultural properties of a specifically European character in the field of cinematographic films”.

At regional level, some funds do not focus on nationality or place of residence, but rather emphasise that the content has to be in the interests of the region; the funding has to be



spent in total in the region; or that the shooting has to be done in the region. However, the following funds have established criteria related to the nationality or establishment of the applicant:<sup>241</sup>

- *Filmfonds Wien*: the applicant must have at least a permanent establishment in Austria at the time of the payment of the subsidy.
- Film Location Salzburg: preference is given to applicants who have their residence or business located in the region of Salzburg.
- Steiermark - Cine Art: the applicant company has to be established within the EEA.
- *Land Niederösterreich*: when the applicant is a legal entity or a company, it must have an operating seat in the EEA.
- *Land Oberösterreich*: the seat of the production company must be in the region.

### 7.1.3. Funding criteria applicable to production support

#### 7.1.3.1. Theatrical release, broadcasting and visibility on VOD

Nearly all funds ask for an exploitation schedule and/or marketing concept for the film, and provide an obligation to distribute the film adequately.<sup>242</sup> Moreover, some funds have established requirements related to the theatrical release of the supported work:

- FISA: the applicant is required to “release the supported film within one year of completion for adequate commercial exploitation in cinemas”<sup>243</sup>.
- *Filmfonds Wien*: for theatrical feature films, “the applicants must demonstrate their efforts to have the film supported by the Fund premiered in Vienna”<sup>244</sup>.
- Steiermark - Cine Art: As per Article 2.5 of the Guidelines, the applicant must ensure that the premier takes place in Styria.

In the case of TV Funds, a TV distribution deal as well as the investment of TV broadcasters is often a precondition for applying:

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<sup>241</sup> Article 5.1 of the Film Fond Wien Guidelines; Articles 2 and 3.3 of the Filmlocation Salzburg Guidelines; Articles 1.1.3; 2.1.3 and 2.2.3 of the Land Niederösterreich Guidelines, Article 3 of the Land Oberösterreich, Guidelines; Article 3.3.2. of the Steiermark-Cine Art Guidelines; Article 3.1.2. of the Cinestyria Guidelines; and Article 2.2.1. of the Cine Tirol Guidelines.

<sup>242</sup> Article 6.1.3. of the Österreichisches Filminstitut Guidelines; Article 10.2. of the Fernsehfond Austria Guidelines; Article 4 (7) of the Filmstandort Austria Guidelines; Article 3.2. of the Filmlocation Salzburg Guidelines; Article C 7 of the Film Fond Wien Guidelines; Article 2.1.8. of the Land Niederösterreich Guidelines; Article 2.5. of the Steiermark-Cine Art Guidelines; Article 2.5. of the Cinestyria Guidelines; Article D 2.5. of the Carinthia Film Commission Guidelines; Article 2.2.2. of the Cine Tirol Guidelines; Antragstellung 7 of the Landesregierung Vorarlberg Guidelines.

<sup>243</sup> Paragraph 4 (7) of FISA Guidelines.

<sup>244</sup> Article 2.4 of the Funding Guidelines (C. Production of Cinematographic Films), [www.filmfonds-wien.at/files/ffw\\_f\\_rderrichtlinien\\_teil-c\\_herstellung-von-kinöfilmen.pdf](http://www.filmfonds-wien.at/files/ffw_f_rderrichtlinien_teil-c_herstellung-von-kinöfilmen.pdf).



- *Fernsehfond Austria*: as per Article 4.1 of the Guidelines “a production is only eligible for funding where one or more broadcasters contribute at least 30% of overall production costs to the financing of the production”. Additional rules governing the nature and extent of agreements with TV broadcasters are described in Articles 4.2 to 4.20 of the Guidelines.
- *Filmfonds Wien*: a project is eligible for TV production support only if TV broadcasters contribute at least 30% of the total production costs to the financing of the project.<sup>245</sup>
- *Land Niederösterreich*: for the production of economically and culturally relevant TV projects, at least one TV broadcaster must contribute to the total production costs.<sup>246</sup>
- *Cinestyria*: international potential is an essential criterion for funding, as demonstrated by a pre-sale agreement or contract with a TV broadcaster or distributor.<sup>247</sup>
- *Landesregierung Vorarlberg*: depending on the type of work, the participation of TV broadcasters or distributors is required, as per Article 3 (2) 9 of the Guidelines.
- *Carinthia Film Commission*: TV productions are eligible for production support only if broadcasters are involved in the project and contribute at least 30% of the production costs.<sup>248</sup>

For all other funds, it might be helpful to provide a letter of intent (LOI) from a distributor, but it is not a condition established in the application guidelines.

Concerning media windows, Article 11 of the ÖFI Guidelines provides holdback periods as follows: “To ensure the protection of the individual exploitation stages of a film, whoever receives funding is not permitted to exploit or allow others to exploit the funded film through picture carriers in Austria or in German-language versions (including synchronised or subtitled versions) abroad, or in television transmissions, or in any other manner prior to the expiry of the following holdback periods: “11.1.1. The holdback period for picture carrier exploitation is 6 months from the first regular cinema exploitation in Austria (first regular run).

11.1.2. The holdback period for individual access and retrieval schemes for individual films (“video-on-demand” and “near-video-on-demand”) or for pay-per-view schemes is 6 months following the first regular run.

11.1.3. The holdback period for exploitation by pay TV is 12 months following the first regular run.

11.1.4. The holdback period for exploitation by free television is 18 months following the first regular run.

11.2. The Film Institute may, upon a reasoned request by the producer, reduce the holdback periods listed in Article 11.1. The holdback periods may be reduced as follows:

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<sup>245</sup> Article 6 of Funding Guidelines D. Production of television production, [https://www.filmfonds-wien.at/files/ffw\\_f\\_rderrichtlinien\\_teil-d\\_herstellung-von-fernsehproduktionen.pdf](https://www.filmfonds-wien.at/files/ffw_f_rderrichtlinien_teil-d_herstellung-von-fernsehproduktionen.pdf).

<sup>246</sup> Article 2.2.6 of the Guidelines.

<sup>247</sup> Article 2.1.2 of the Guidelines.

<sup>248</sup> Article 1.1 of Guidelines D.



- 11.2.1. to 4 months following the first run for exploitation by a picture carrier
- 11.2.2. to 4 months following the first run for individual access and retrieval schemes for individual films ("video-on-demand" and "near-video-on-demand") or for pay-per-view schemes
- 11.2.3. to 8 months following the first run for pay TV
- 11.2.4. to 12 months following the first run for free television.”

Holdback periods are also specified at regional level by Steiermark - Cine Art, in Article 3.3.6 of the Guidelines, and by Cinestyria, in Article 3.1.7 of the Guidelines.

### 7.1.3.2. Theatrical performance and performance at festivals, events and awards

None of the schemes require a minimum theatrical performance, but most of them ask for an exploitation plan, a marketing plan or a statement about the expected target audience and potential participation in film festivals. Filmfonds Wien specifically asks for a report.<sup>249</sup>

Furthermore, the ÖFI has introduced a reference scheme whereby it supports the production and development of a new film in the form of non-repayable contributions (reference funds) based on the production of a successful cinema film (reference film) complying with the funding prerequisites. Reference funds can be gained through domestic admissions or through success at internationally recognised festivals and prizes.<sup>250</sup> The Wiener Film Fond has implemented a similar reference film funding scheme, based on refunds from successful films.<sup>251</sup>

Regarding performance abroad, international potential is an important requisite for Film Location Salzburg, substantiated, for example, by a signed distribution contract with a major German distributor.<sup>252</sup>

### 7.1.3.3. Budget

Only the following funds set requirements related to a minimum or maximum eligible budget:

- FISA: Articles 4 and 5 of the FISA Guidelines have fixed minimum budgets for film funding: EUR 2.3 million for fiction (EUR 4 million for international co-productions) and EUR 350 000 for non-fiction (EUR 500 000 for international co-productions).
- *Bundeskanzleramt*: Article 3.1 of the Guidelines defines a maximum budget of EUR 500 000.

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<sup>249</sup> Article 7 of the Funding Guidelines (C. Production of Cinematographic Films).

<sup>250</sup> Article 7 of the ÖFI Guidelines.

<sup>251</sup> Funding Guidelines (E. Success-based film funding), [https://www.filmfonds-wien.at/files/ffw\\_f\\_rderrichtlinien\\_teil-e\\_erfolgsabh\\_ngige-filmf\\_rderung.pdf](https://www.filmfonds-wien.at/files/ffw_f_rderrichtlinien_teil-e_erfolgsabh_ngige-filmf_rderung.pdf).

<sup>252</sup> Article 3.2 of the Guidelines.



- *Landesregierung Vorarlberg*: Article 2 (6) of the Guidelines sets the minimum eligible costs of a work at EUR 30 000.

Furthermore, all funds require the applicant to make an appropriate contribution to the budget. Several funds<sup>253</sup> require a minimum contribution from the applicant equal to at least 5% of the production costs. Specifically for Fernsehfond Austria, funding cannot be higher than the expected contribution of the highest share of the broadcaster involved and of the producer's own investment.<sup>254</sup> With regard to the share of the budget to be secured before applying, only the following funds set requirements:

- *Land Salzburg*: the rest of the overall funding has to be secured in order to be eligible.<sup>255</sup>
- *Cine Tirol*: At least 80% of the production budget must already be secured when applying, as per Article 2.2.1 of the Guidelines.

#### 7.1.3.4. Awarded amount

At federal level, the following requirements apply:

Österreichisches Filminstitut (ÖFI)	
<b>Aid intensity</b>	The aid intensity is up to: <sup>256</sup> 50% in general; 60% for co-productions; 80% for commercially difficult films or films produced with scarce resources; more than 80% in exceptional cases. There is no fixed ceiling for funding and no maximum share, only an indicative rate of EUR 440 000. <sup>257</sup> As regards automatic support for reference films, support cannot exceed EUR 800 000. <sup>258</sup>
<b>Repayable</b>	Repayable for production funding, <sup>259</sup> non-repayable for reference films. <sup>260</sup>
<b>Eligible costs</b>	Defined as per an ÖFI fixed calculation table. <sup>261</sup>
<b>Selective/Automatic</b>	Selectively upon a decision of a selection committee, automatically for reference films. <sup>262</sup>
ORF / Film Fernhabkommen	

<sup>253</sup> Article 6.1.2 of the ÖFI Guidelines; Article 6 (2) of the FISA Guidelines; Article 2.2 of the Film Fond Wien Funding Guidelines (C. Production of Cinematographic Films, only for theatrical feature films); Article 3.3.3 of the Steiermark - Cine Art Guidelines; Article 3.1.3 of the Cinestyria Guidelines; Article 2.3. of the Carinthia Film Commission Guidelines D.

<sup>254</sup> Articles 7 and 2.2 of the Guidelines.

<sup>255</sup> P.1 of the Guidelines.

<sup>256</sup> Paragraph 10 of the Film Funding Act.

<sup>257</sup> Attachment A of the ÖFI Guidelines, *Op. cit.* If the amount granted exceeds 10% of the ÖFI budget (2016: 1.779,000) an approval of the supervisory board is necessary.

<sup>258</sup> Article 7.4 of the ÖFI Guidelines.

<sup>259</sup> Article 14 of the ÖFI Guidelines.

<sup>260</sup> Article 7 of the ÖFI Guidelines.

<sup>261</sup> Article 6.2 of the ÖFI Guidelines.

<sup>262</sup> Article 6 of the Film Funding Act.



<b>Aid intensity</b>	ORF funds Austrian films selected by the ÖFI and ORF in a joint decision. The precondition is that the film is selected by the ÖFI. Thus, the ÖFI guidelines are applicable.
<b>Repayable</b>	Yes. <sup>263</sup>
<b>Eligible costs</b>	ÖFI Guidelines applicable.
<b>Selective/Automatic</b>	Selectively by a Joint Commission. <sup>264</sup>
<b>Bundeskanzleramt</b>	
<b>Aid intensity</b>	As per Articles 5.2 and 9 of the Guidelines, the maximum amount awarded is up to EUR 1 million for fiction, or EUR 200 000 for documentary works. Furthermore, it should be noted that cumulative funding for film projects from the ÖFI or the RTR is not possible, as the three institutions base their legal sources on different priorities. <sup>265</sup>
<b>Repayable</b>	No.
<b>Eligible costs</b>	Defined in Article 6 of the Guidelines.
<b>Selective/Automatic</b>	Selectively by the Film Advisory Council, final decision by the federal minister, as per Article 4.1 of the Guidelines.
<b>Fernsehfond RTR</b>	
<b>Aid intensity</b>	As per Article 7 of the Guidelines, the maximum amount awarded is capped at EUR 1 000 000 for fiction and EUR 200 000 for non-fiction, with the aid intensity limited to 20% of the production costs, increased to 30% under special conditions. <sup>266</sup> In any event, the grant cannot exceed the share of the television broadcaster contributing the greatest amount to the total financing of the film compared to the other television broadcasters participating in the production.
<b>Repayable</b>	No.
<b>Eligible costs</b>	Defined in Articles 2.1, 10.2 and 10.3 of the Guidelines.
<b>Selective/Automatic</b>	Decision based on a cultural test and a committee as per Articles 1.4 and 10.7 of the Guidelines.
<b>Filmstandort Austria (FISA)</b>	
<b>Aid intensity</b>	As per Article 8 of the FISA Guidelines, the aid intensity is up to 20% (or 25% for international co-productions) of the production costs eligible for support. The basis for calculating the extent of the aid is a maximum of 80% of the total production costs. In any event, support may not exceed a total equivalent to 15% of the annually available funds.
<b>Repayable</b>	No.
<b>Eligible costs</b>	Defined in Article 6 (4) and in Annex 1 a, and include personal services

<sup>263</sup> ORF receives licence rights for broadcasting.

<sup>264</sup> Paragraph 3 of the Film/TV Agreement.

<sup>265</sup> Article 1.4 of the Bundeskanzleramt Guidelines.

<sup>266</sup> For example, when the proposed production reflects Austrian cultural identity to an especially great extent.



	and business services incurred in Austria.
<b>Selective/Automatic</b>	Selectively upon a decision taken by the Federal Minister for Digital and Economic Affairs based on a cultural test and on the assessment of an advisory board, as per Article 10 (1) of the FISA Guidelines.

At state level, support is awarded selectively by a committee, commission or jury. Furthermore, for the majority of film funds, there is no specific definition of eligible costs, and the support awarded is non-repayable, with the exceptions of:

- *Filmfonds Wien*: the eligible costs are defined in the Guidelines, and in the case of theatrical feature films, the support is repayable as soon as the income received by the beneficiaries from the exploitation of the contractual film exceeds the fund's contractually recognised own share.<sup>267</sup>
- *Land Oberösterreich*: the support is non-repayable, and the eligible costs are defined as per the ÖFI calculation table.

In terms of aid intensity, the following ceilings apply:

- Salzburg: up to EUR 20 000, as per paragraph 3 of the Guidelines.
- *Filmfonds Wien*:<sup>268</sup> up to EUR 700 000 for theatrical feature films; up to EUR 450 000 for fiction TV series (EUR 200 000 for TV films); and up to EUR 100 000 for documentaries (TV films or series). As for reference film funding, the accumulation of repayments made from the proceeds of one or more reference films is possible up to a total amount of EUR 350 000.
- *Land Niederösterreich*: as per Article 1.4 of the Guidelines, up to 50% of production costs, 60% for co-productions, 100% for difficult works.
- *Land Oberösterreich*: up to 10% of production costs.
- Land Steiermark – Cine Art: up to 50% of production costs in Austria, as per Article 2.2 of the Guidelines.
- Cinestyria : 20% of the production budget as per Article 2.2 of the Guidelines.
- Carinthia Film Commission: up to 20% of production costs.<sup>269</sup>
- Cine Tirol: up to 20% of the production costs.
- Vorarlberg: up to 20% of production costs, capped at EUR 150 000, as per Article 2 (6) of the Guidelines.

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<sup>267</sup> Articles 1, 4 and 7 of the Funding Guidelines (C. Production of Cinematographic Films), Article 8 of the Funding Guidelines (D. Production of television production).

<sup>268</sup> Article 1 of the Funding Guidelines (C. Production of Cinematographic Films), Article 1 of the Funding Guidelines (D. Production of television production), Article 3.2 of the Funding Guidelines (E. Success-based film funding).

<sup>269</sup> Article 2.1 of Guidelines (D).



### 7.1.3.5. Spending and shooting criteria

Most of the local funding schemes ask for a specific local cultural or economic effect.<sup>270</sup> Specifically, in terms of spending obligations, the following requirements apply:

- *Fernsehfond Austria*: 160% of the awarded amount has to be spent in Austria, and up to 20% of the total production costs can be incurred in other member states of the EEA, as per Article 7.2 of the Guidelines.
- FISA: in the case of international co-productions, the applicant must provide evidence of at least EUR 400 000 of eligible costs as per Article 5 (2), which are defined as costs incurred in Austria.
- Film Location Salzburg: 200% of spending must be incurred in Salzburg or 100% for local film services, as per Article 3.1 of the Guidelines.
- *Land Niederösterreich*: for economically and culturally relevant feature films, documentaries and TV projects, local spending must amount to 150% of the requested amount for fiction, and 100% for non-fiction, as per Articles 2.1.7 and 2.2.8 of the Guidelines.
- Land Steiermark – Cine Art: 100% of expected local spending.<sup>271</sup>
- *Filmfonds Wien*: in the case of cinematographic or TV works, the Viennese film industry effect must be at least 100% of the grant awarded by the fund.<sup>272</sup>
- Cinestyria: at least 150% of the amount awarded must be spent in the region, as per Article 2.1.3 of the Guidelines.
- *Landesregierung Vorarlberg*: Article 2 (7) of the Guidelines stipulates: “Half of the funding granted for an audiovisual work pursuant to paragraph 6 must be spent on the Vorarlberg film industry, otherwise the whole work is not eligible for funding. The remaining half of the grant must be spent in Vorarlberg, otherwise half of the grant amount will be reduced proportionately.”

Concerning shooting obligations:

- ÖFI: Article 3.5.4 of the ÖFI Guidelines requires that for the film to qualify as Austrian, it must be shot in Austria (except for scenes requiring foreign locations).
- FISA: for feature films (except animated films), at least five shooting days must take place in Austria, as per paragraph 4 (5) of the Guidelines.
- *Land Niederösterreich*: for the production of feature films, documentaries and TV projects of economic and tourist interest, Articles 2.1.5 and 2.2.5 of the Guidelines stipulate that “filming in Lower Austria and economic Lower Austrian effects are a

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<sup>270</sup> For example, Article 2.2.1 of the Cine Tirol Guidelines stipulates that: “the prerequisites for the granting of a production subsidy are the economic Tyrolean effect and/or the Tyrolean content reference: the economic Tyrolean effect is given if production-related expenses are incurred on site as a result of the realisation of the filming of the submitted project, either wholly or at least partly in Tyrol. Tyrolean content reference is given if Tyrol is a clearly identifiable location of the plot and/or if the film project deals in detail with the history, culture or nature of Tyrol”.

<sup>271</sup> <http://www.filmkunst.steiermark.at/cms/ziel/16090901/DE/>.

<sup>272</sup> Article 2.1 of the Funding Guidelines (C. Production of Cinematographic Films), Article 4.2 of the Funding Guidelines (D. Production of television production).



prerequisite”. In addition, special consideration is given to projects which make Lower Austria identifiable as the setting for the action or as an important location.

- Cinestyria: Article 2.1.1 of the Guidelines provides that: “the submitted project must have essential content-related and production-technical characteristics that are relevant to Styria or suitable for achieving tourist and economic effects in Styria”. This is mainly achieved by setting the film, at least partially, and in such a way as to make it identifiable for viewers in Styria.

#### 7.1.3.6. Talent, cast, crew, underlying copyright

First, concerning the nationality of the film, a film shall be considered an Austrian film pursuant to the Film Funding Act (Article 3.5 of the ÖFI Guidelines) provided that the decision-makers in creative and managerial terms are Austrian nationals and the remaining staff members are mainly Austrian nationals (nationals of contracting parties of the TFEU (EU) and the EEA (Iceland, Liechtenstein and Norway) are equated to Austrian nationals). Moreover, the following funds have implemented criteria related to the nationality of the talent, cast and crew:

- ÖFI: where production support is requested, the nationality of the talent, cast and crew are taken into account, as per Article 6.1.2 of the ÖFI Guidelines. Specifically, in order to be eligible for entitled funds, at least two of the following three criteria must be fulfilled, as per Article 7.6 of the ÖFI Guidelines: the production must have an Austrian director; there must be Austrian majority participation or an Austrian responsible for at least two of the three areas of script, camera and editing.
- Fernsehfonds Austria: Article 1.4 of the Guidelines regarding the cultural test (see also section 7.1.2.2) includes the criteria that Austrian talent be engaged in the production.
- FISA: one of the film-related eligibility conditions is that “the persons deciding on the artistic or organisational aspects during the making of the film are Austrian nationals or nationals from EEA countries and the remaining team is composed of primarily Austrian nationals or nationals from EEA countries”.<sup>273</sup>

With regard to the underlying copyrights, all schemes refer to the content of local interest or talent. In particular, most regional schemes stress that the content has to have a connection to the region (besides economic aspects).

#### 7.1.3.7. Shooting language and diversity

The schemes do not refer to the shooting language but to cultural heritage. Nevertheless, the ÖFI (among others) requires that a final version of the film be made in German (dubbed or subtitled) as per Article 3.5.3 of their Guidelines, as does FISA, in paragraph 4

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<sup>273</sup> Article 4 (1) point 2 of the FISA Guidelines.



(6) of the FISA Guidelines. With regard to diversity-promoting criteria, the following applies:

- ÖFI has implemented a gender incentive: if the film reaches a target value of key female talent and crew members, as set out in Annex F,<sup>274</sup> the production company will receive an automatic incentive of EUR 30 000. This amount can only be used for the development (script/project development) of new projects which involve at least two professional females working as the producer, director or scriptwriter.
- Bundeskanzleramt: as per Article 3 of the Guidelines, one of the goals pursued by the fund is the “gender-fair distribution of funding to ensure equality between men and women”. In addition, as a general rule for all types of cultural support by the Federal Chancellery, women should be the beneficiary of at least 50% of grants for individuals.<sup>275</sup>
- Filmfonds Wien: the fund produces regular statistics on gender within their support schemes (share of projects and share of overall funding).<sup>276</sup> In addition, in the case of TV production support, Article 7 of the Guidelines stipulates that: “These funding ceilings can only be applied for if at least one of the following positions is held by a woman: producer, scriptwriter or director. Having signing authority (procurement, management) is relevant for the female producer function.” Furthermore, special attention is paid to films with scripts written by female authors or films directed by female directors, as per Article 4 of the Guidelines.

## 7.1.4. Funding criteria applicable to pre-production support

### 7.1.4.1. Budget

At federal level, when it comes to funding project development, only the Bundeskanzleramt has implemented requirements related to the budget, whereby the maximum eligible budget is limited to EUR 40 000, as per Article 5.2 of the Guidelines. At regional level, only the Carinthia Film Commission sets a requirement related to the budget, namely a minimum contribution from the applicant of at least 5% of the total project development costs.<sup>277</sup>

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<sup>274</sup> Gender Incentive 2019, ÖFI, <https://equality.filminstitut.at/de/gender-incentive-2019>.

<sup>275</sup> Richtlinien für die Gewährung von Förderungen nach dem Kunstförderungsgesetz durch das Bundeskanzleramt (Guidelines for the granting of subsidies under the Art Promotion Act by the Federal Chancellery), <https://www.kunstkultur.bka.gv.at/documents/340047/618530/Richtlinie+Kunstfoerderungsgesetz/f808e354-f5f3-4677-9caa-61cdafe48e69>.

<sup>276</sup> *Filmfonds Wien's* Gender Statistics, <https://www.filmfonds-wien.at/institution/gender>.

<sup>277</sup> Article 2.3 of Guidelines E.



## 7.1.4.2. Awarded amount

At federal level, the following requirements apply:

<b>Österreichisches Filminstitut (ÖFI)</b>	
<b>Aid intensity</b>	As per Attachment A and Articles 4 and 5 of the ÖFI Guidelines, the following caps apply: <ul style="list-style-type: none"> <li>■ Script development: up to EUR 12 000 (qualified author as applicant), EUR 12 500 (the author together with the producer), or EUR 15 000 (author/producer/dramaturge)</li> <li>■ Project development: up to EUR 50 000, with the aid intensity limited to 50% of the entire development project; this can be increased to 80% in exceptional and duly justified cases, especially if the Film Institute is the only major funding partner.</li> </ul>
<b>Repayable</b>	The support is not repayable. However, the funding awarded will be fully credited to any subsequent production funding. If the applicant uses the funded script/shooting outline as a basis for a TV film, she/he shall be obliged to repay the allocated amount. This obligation is not applicable if shooting starts more than 6 years after the disbursement of the last instalment. <sup>278</sup>
<b>Eligible costs</b>	Not specified.
<b>Selective/Automatic</b>	Selectively by the Film Advisory Council, final decision by the federal minister, as per Article 4.1 of the Guidelines.
<b>Bundeskanzleramt</b>	
<b>Aid intensity</b>	As per Article 5.2 of the Guidelines, the following caps apply: <ul style="list-style-type: none"> <li>■ Script development: up to EUR 7 000</li> <li>■ Project development: up to EUR 22 000 for fiction, and EUR 12 000 for documentary works.</li> </ul>
<b>Repayable</b>	No.
<b>Eligible costs</b>	Defined in Article 6 of the Guidelines.
<b>Selective/Automatic</b>	Selectively by the Advisory Committee.

At regional level, the following requirements apply:

- Carinthia Film Commission: the aid intensity is capped at 30% of the development costs.<sup>279</sup>
- Filmfonds Wien: this support takes the form of a conditionally repayable grant of up to EUR 75 000, repayable in the event of the film being produced, and awarded

<sup>278</sup> Articles 4.5 to 4.7 (Script development) and 5.2 to 5.3 (Project development) of the ÖFI Guidelines, *Op. cit.*

<sup>279</sup> Article 2.1 of Guidelines E.



selectively by an independent commission.<sup>280</sup> Regarding eligible costs, they are defined in Article 4 of the Funding Guidelines (B. Project Development).

- Steiermark - Cine Art: the aid intensity is limited to 50%, as per Article 2.2 of the Guidelines.

#### 7.1.4.3. Other criteria

The funding schemes do not mention copyright issues or any rules on the language of the script (for example, the ÖFI also accepts applications in English). With regard to diversity issues, the ÖFI and Film Fund Wien have developed several measures to implement gender budgeting and foster female filmmakers, as explained in section 7.1.3.7.

### 7.1.5. Funding criteria applicable to distribution and promotion support

#### 7.1.5.1. Theatrical release, broadcasting and visibility on VOD

The ÖFI and Filmfonds Wien fund the costs for the distribution of productions with specific funding schemes (Cinema Release Funding). Applicants have the obligation to distribute the film and to report back to the ÖFI and Filmfonds Wien every year on the exploitation of the funded film productions and subsequent earnings, also with respect to the obligation to refund the funding from those earnings. In the case of distribution support provided by the Bundeskanzleramt, Article 2.9 of the Guidelines stipulates that in order to be eligible for support, the applicant must provide:

- A written guarantee from at least one cinema theatre that the film will be screened on seven consecutive days in a fixed evening slot.
- A written guarantee of the online placement (VOD platform, etc.) of the film.

There are no specific schemes to support distribution via VOD. With regard to release windows, the ÖFI Guidelines provide holdback periods, as described in section 7.1.3.1.

#### 7.1.5.2. Theatrical performance and performance at festivals, events and awards

There are no mandatory requirements regarding the performance of a work in terms of theatrical attendance at home or abroad. In terms of performance at festivals and awards,

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<sup>280</sup> Articles 1 and 7 of the Funding Guidelines (B. Project Development), [https://www.filmfonds-wien.at/files/ffw\\_f\\_rderrichtlinien\\_teil-b\\_projektentwicklung.pdf](https://www.filmfonds-wien.at/files/ffw_f_rderrichtlinien_teil-b_projektentwicklung.pdf).



the ÖFI, Fernsehfond Austria and the Bundeskanzleramt provide support for films participating in festivals.<sup>281</sup>

### 7.1.5.3. Budget

There are no specific requirements related to the budget for any of the funds, except in the case of the additional funding provided by the ÖFI and Filmfonds Wien, where the applicant's own investment must be at least equal to the funding amount.<sup>282</sup>

### 7.1.5.4. Awarded amount

Österreichisches Filminstitut (ÖFI)	
<b>Aid intensity</b>	There is no aid intensity stipulated. In the case of additional funding, as mentioned in the previous section, the amount must be at least equal to the applicant's own contribution. Furthermore, as stipulated in attachment A of the ÖFI Guidelines, the maximum and indicative rates are as follows: <ul style="list-style-type: none"> <li>■ Cinema release funding: the basic amount is up to EUR 40 000, with the possibility of EUR 50 000 in additional funding .</li> <li>■ Other measures of dissemination: EUR 20 000 for festivals; EUR 26 000 for foreign-language dubbing; EUR 3 000 for DVD release.</li> </ul>
<b>Repayable</b>	The support is not repayable, except in the case of additional funding where the repayment of these funds to the ÖFI will be executed based on the gross proceeds from the distribution.
<b>Eligible costs</b>	Defined in Article 9.2 of the ÖFI Guidelines, and include, <i>inter alia</i> : expenses related to release prints, advertising material and measures (such as posters, press kit), etc.
<b>Selective/Automatic</b>	Selectively by a selection committee.
Bundeskanzleramt	
<b>Aid intensity</b>	As per Article 5.2 of the Guidelines, the following caps apply: <ul style="list-style-type: none"> <li>■ Participation in festivals: up to EUR 15 000</li> <li>■ Distribution support: EUR 15 000 for basic funding, EUR 20 000 in the case of innovative online measures.</li> </ul>
<b>Repayable</b>	No.
<b>Eligible costs</b>	Defined in Article 6 of the Guidelines.

<sup>281</sup> Article 9 of the ÖFI Guidelines; Article 8.1 of the Fernsehfond Austria Guidelines; Article 2.5.7 of the Bundeskanzleramt Guidelines.

<sup>282</sup> Article 9.2.4 and Attachment A of the ÖFI Guidelines; Article 2.1 of the Film Fond Wien Guidelines (F. Promotion), see [https://www.filmfonds-wien.at/files/ffw\\_f\\_rderrichtlinien\\_teil-f\\_verwertungsfo\\_rderung.pdf](https://www.filmfonds-wien.at/files/ffw_f_rderrichtlinien_teil-f_verwertungsfo_rderung.pdf).



<b>Selective/Automatic</b>	Selectively by the Film Advisory Council, final decision by the federal minister, as per Article 4.1 of the Guidelines.
<b>Fernsehfond Austria</b>	
<b>Aid intensity</b>	As per Article 8.1 of the Guidelines, the aid intensity is up to 50% for the costs of dubbing and festivals, and 80% of the costs for the production of versions for handicapped persons, with the following caps: <ul style="list-style-type: none"> <li>■ Festival distribution and foreign-language dubbing: EUR 30 000</li> <li>■ Production of versions for handicapped persons: EUR 10 000</li> </ul>
<b>Repayable</b>	No.
<b>Eligible costs</b>	Defined in Articles 2.1, 10.2 and 10.3 of the Guidelines.
<b>Selective/Automatic</b>	Decision based on a cultural test and a committee, as per Articles 1.4 and 10.7 of the Guidelines.
<b>Filmfonds Wien</b>	
<b>Aid intensity</b>	As per Articles 2 and 3.1 of the Guidelines (F. Promotion), the following caps apply: <ul style="list-style-type: none"> <li>■ Cinema release funding: the basic amount is up to EUR 40 000, with the possibility of EUR 50 000 in additional funding.</li> <li>■ Other measures of dissemination: EUR 20 000 for festivals, and EUR 26 000 for foreign-language dubbing.</li> </ul>
<b>Repayable</b>	The support is not repayable, except in the case of additional funding where the repayment of these funds to the Filmfonds Wien will be executed based on the gross proceeds from the distribution, as per Article 2.5 of the Guidelines.
<b>Eligible costs</b>	Defined in Articles 2.3 and 3.3 of the Guidelines.
<b>Selective/Automatic</b>	Selectively by a selection committee.
<b>Land Steiermark – Cine Art</b>	
<b>Aid intensity</b>	The aid intensity is limited to 50% of the production costs in Austria, as per Article 2.2 of the Guidelines.
<b>Repayable</b>	No.
<b>Eligible costs</b>	Not specified.
<b>Selective/Automatic</b>	Selectively by selection committee.

#### 7.1.5.5. Language and diversity

There are no specific requirements regarding the language of the film or linked to ethnic or linguistic minorities and gender.



## 7.1.6. Data compilation

This factsheet was produced based on data compiled by Harald Karl, Pepelnik & Karl Rechtsanwälte GmbH, Vienna.



## 7.2. BE – Belgium – National Summary<sup>283</sup>

### 7.2.1. Summary

In Belgium, film and audiovisual policies are mostly arranged on a regional and community level.<sup>284</sup> Depending on the nature of the fund and the competence concerned, the following ministries and regions/communities are competent:<sup>285</sup>

- The Film funds: they are part of the cultural competences, so part of the competences of the different Communities in Belgium and fall under the auspices of the Minister of Culture of each community. They include:
- Flanders Audiovisual Fund/Film Fund (*Vlaams Audiovisueel Fonds/ Filmfonds*) for the Flemish Community: As part of the Flanders Audiovisual Fund (hereinafter, “VAF”),<sup>286</sup> the Film Fund is a specialised fund which provides selective support for films of various genres and length, support for FilmLab and innovation projects and automatic support in the form of impulse grants.
- Film and Audiovisual Centre (*Centre du Cinéma et de L’audiovisuel* hereinafter, “CCA”) for the French-Speaking Community: it offers selective support (financial grants and advances on receipts) at various stages of a project and for various genre and formats.
- Fonds FWB-RTBF (for the French-speaking Community): it provides selective support for the development and production of TV series, and consists of funding from both the Wallonie-Brussels Federation and the public broadcaster RTBF.
- The VAF/Media Fund (*VAF/Mediafonds*) for the Flemish Community: launched in 2010, it provides selective support for TV fiction series, documentary series and animation series as well as cross-media/web series projects.
- The economic funds: they are part of the regional competences and fall under the competences of the Minister of Economy of each region. They include:
- Screen Flanders (for the Flemish Region): launched in April 2012, it provides selective support for film and television, with an annual budget of EUR 4.5 million.
- Wallimage (for the Wallon Region): with an annual budget of EUR 5.5 million, it provides production support by acting as a co-producer.

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<sup>283</sup> The factsheet on Belgium incorporates the feedback received from Karla Puttemans (VAF) and Edith Pirlot (CCA) during the checking round with the national film and audiovisual funds.

<sup>284</sup> For an overview of the structure of Belgium and its communities and regions, see: [https://www.belgium.be/en/about\\_belgium/government/federale\\_staat](https://www.belgium.be/en/about_belgium/government/federale_staat), and <https://www.belgiumfilm.be/film-financing>.

<sup>285</sup> In practice, some of the funds and competences can be pooled. For example, the Flanders Audiovisual Fund comprises of: the Film Fund (hereinafter, “VAF Film Fund”), the Media fund (“hereinafter, “VAF Media Fund”), and the management and selection of projects of Screen Flanders. Likewise, the RTBF is managed by the CCA.

<sup>286</sup> The VAF also comprises of a third specialised fund, the VAF/Game Fund, which is not covered by our study.



- Screen Brussels (for the Brussels-Capital Region): with an annual budget of EUR 3 million, it provides support for domestic productions and international co-productions.

## 7.2.2. General framework

### 7.2.2.1. Overview of the film and audiovisual funding policy and legislation

The general legal framework for film and audiovisual funding is established by the communities:

- Flanders: the general legal framework for VAF is defined by the VAF Decree, supplemented by the management agreements of VAF/Film Fund and of VAF/Media Fund, as well as by the General Terms and Conditions. In the case of Screen Flanders, it is defined by the Screen Flanders Decree, supplemented by the Ministerial Decree implementing the Screen Flanders Decree, the Ministerial Decree regarding the modalities of the calls in 2018 and the Application Guidelines.
- Brussel-Capital region: the legal framework for the support provided by Screen Brussels is mainly set by the Screen Brussels Regulation.
- Wallonia: the legal framework for the CCA is defined by the Decree for support to film and audiovisual works (hereinafter, the “CCA Cinema Decree”), supplemented by the Decree on establishment of the CCA, the Decision on reinvestment of grants,<sup>287</sup> the Decision on promotion support,<sup>288</sup> the Decision on support for creation, the Decision on Support for Audiovisual “Operators”,<sup>289</sup> and the General provisions on support for creation. The legal framework for the FWB/RTBF Fund for TV Series is set by the Guidelines for 2019 Calls.<sup>290</sup> Lastly, in the case of

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<sup>287</sup> *Arrêté du Gouvernement de la Communauté française du 29 mars 2012 relatif aux primes au réinvestissement modifié les 21 novembre 2013, 8 juillet 2015 et 17 mai 2017* (Decision on reinvestment grants), [http://www.audiovisuel.cfwb.be/index.php?eID=tx\\_nawsecuredl&u=0&g=0&hash=b41ef5f71b14c3996d97339fe7578b3fd3ec8e55&file=fileadmin/sites/avm/upload/avm\\_super\\_editor/avm\\_editor/documents/Divers\\_cinema/AGCF\\_du\\_29\\_mars\\_2012\\_relatif\\_aux\\_primes\\_aux\\_reinvestissements\\_modifie\\_par\\_les\\_arretes\\_des\\_21\\_novembre\\_2013\\_08\\_juillet\\_2015\\_et\\_17\\_mai\\_2017\\_cooronne.pdf](http://www.audiovisuel.cfwb.be/index.php?eID=tx_nawsecuredl&u=0&g=0&hash=b41ef5f71b14c3996d97339fe7578b3fd3ec8e55&file=fileadmin/sites/avm/upload/avm_super_editor/avm_editor/documents/Divers_cinema/AGCF_du_29_mars_2012_relatif_aux_primes_aux_reinvestissements_modifie_par_les_arretes_des_21_novembre_2013_08_juillet_2015_et_17_mai_2017_cooronne.pdf).

<sup>288</sup> *Arrêté du Gouvernement de la Communauté française du 17 mai 2017 relatif aux aides à la promotion d'oeuvres audiovisuelles* (Decision on promotion support), [http://www.audiovisuel.cfwb.be/index.php?eID=tx\\_nawsecuredl&u=0&g=0&hash=cd85873229f3feb47f96cbb8ca87e3749e2e2e&file=fileadmin/sites/avm/upload/avm\\_super\\_editor/avm\\_editor/documents/diffusion\\_et\\_promotion/arrete-promotion-oeuvres-audiovisuelles-juin-2017.pdf](http://www.audiovisuel.cfwb.be/index.php?eID=tx_nawsecuredl&u=0&g=0&hash=cd85873229f3feb47f96cbb8ca87e3749e2e2e&file=fileadmin/sites/avm/upload/avm_super_editor/avm_editor/documents/diffusion_et_promotion/arrete-promotion-oeuvres-audiovisuelles-juin-2017.pdf).

<sup>289</sup> *Arrêté du Gouvernement de la Communauté française du 29 mars 2012 relatif aux aides aux opérateurs audiovisuels modifié le 7 mars 2013* (Decision on support for audiovisual « operators ») [http://www.gallilex.cfwb.be/document/pdf/37486\\_001.pdf](http://www.gallilex.cfwb.be/document/pdf/37486_001.pdf).

<sup>290</sup> *Conditions de dépôt des projets* (Project submission conditions), [http://www.audiovisuel.cfwb.be/index.php?eID=tx\\_nawsecuredl&u=0&g=0&hash=d127476d901899437e2f9ae5a1ac0207b9dfcdc1&file=fileadmin/sites/avm/upload/avm\\_super\\_editor/avm\\_editor/documents/Divers\\_cinema/conditions\\_de\\_depot\\_2019-01-29.pdf](http://www.audiovisuel.cfwb.be/index.php?eID=tx_nawsecuredl&u=0&g=0&hash=d127476d901899437e2f9ae5a1ac0207b9dfcdc1&file=fileadmin/sites/avm/upload/avm_super_editor/avm_editor/documents/Divers_cinema/conditions_de_depot_2019-01-29.pdf).



Wallimage, it is set by the Wallimage Co-production Regulation<sup>291</sup> and the Regulation on Support for TV and Pilot Programmes).<sup>292</sup>

**Table 13. Main funds in Belgium**

Funding institution	Geographic level	Legislation / Guidelines
Flanders Audiovisual Fund (VAF) - Film and media Funds <sup>293</sup>	Community/Regional	The VAF Decree <sup>294</sup>
		Management agreements for film <sup>295</sup> and for media <sup>296</sup>
		General Terms and Condition of the VAF/Film Fund <sup>297</sup> and VAF/Media Fund <sup>298</sup>

<sup>291</sup> *Wallimage Coproductions Règlement* (Coproduction Regulation), <http://www.wallimage.be/downloads.php?lang=fr>; for the English version, see : <http://www.wallimage.be/downloads.php?lang=uk>.

<sup>292</sup> *Règlement de Soutien aux Pilotes de Format TV* (Regulation - TV Pilot Programmes), <http://www.wallimage.be/downloads.php?lang=fr>.

<sup>293</sup> [www.vaf.be/](http://www.vaf.be/).

<sup>294</sup> *Decreet houdende wijziging van diverse bepalingen van het decreet van 13 april 1999 houdende machtiging van de Vlaamse Regering om toe te treden tot en om mee te werken aan de oprichting van de vereniging zonder winstgevend doel Vlaams Audiovisueel* (Decree amending various provisions of the Decree of 13 April 1999 authorizing the Flemish Government to join and cooperate in the establishment of the non-profit association Flanders Audiovisual Fund),

[http://www.ejustice.just.fgov.be/cgi/article\\_body.pl?language=nl&caller=summary&pub\\_date=99-09-23&numac=1999036226](http://www.ejustice.just.fgov.be/cgi/article_body.pl?language=nl&caller=summary&pub_date=99-09-23&numac=1999036226), as amended by Decree of 25 April 2014,

[http://www.ejustice.just.fgov.be/cgi/loi/change\\_lg.pl?language=nl&la=N&cn=2014042512&table\\_name=wet](http://www.ejustice.just.fgov.be/cgi/loi/change_lg.pl?language=nl&la=N&cn=2014042512&table_name=wet).

<sup>295</sup> *Beheersovereenkomst 2018-2021 tussen de Vlaamse Gemeenschap en het Vlaams Audiovisueel Fonds vzw met betrekking tot het VAF/Filmfonds en de werking van de vzw* (Management agreement 2018-2021 between the Flemish Community and the Flemish Audiovisual Fund with regard to the VAF/Film Fund and the operation of the non-profit organisation),

[https://www.vaf.be/sites/vaf/files/beheersovereenkomsten/overeenkomst\\_filmfonds.pdf](https://www.vaf.be/sites/vaf/files/beheersovereenkomsten/overeenkomst_filmfonds.pdf).

<sup>296</sup> *Beheersovereenkomst 2018 - 2021 tussen de Vlaamse Gemeenschap en het Vlaams Audiovisueel Fonds vzw betreffende het VAF/Mediafonds* (Management agreement 2018 - 2021 between the Flemish Community and the Flemish Audiovisual Fund concerning the VAF/Mediafonds),

[https://www.vaf.be/sites/vaf/files/beheersovereenkomsten/overeenkomst\\_mediafonds.pdf](https://www.vaf.be/sites/vaf/files/beheersovereenkomsten/overeenkomst_mediafonds.pdf).

<sup>297</sup> *Reglement VAF/Filmfonds: Algemene Voorwaarden* (General Terms and Conditions of the VAF/Film fund), [https://www.vaf.be/sites/vaf/files/reglementen/1\\_ff\\_algemene\\_voorwaarden\\_20.09.2018.pdf](https://www.vaf.be/sites/vaf/files/reglementen/1_ff_algemene_voorwaarden_20.09.2018.pdf).

<sup>298</sup> *Reglement VAF/Mediafonds: Algemene Voorwaarden* (General Terms and Condition of the VAF/Media Fund), [https://www.vaf.be/sites/vaf/files/reglementen/1\\_mf\\_algemene\\_voorwaarden\\_20.09.2018.pdf](https://www.vaf.be/sites/vaf/files/reglementen/1_mf_algemene_voorwaarden_20.09.2018.pdf).



Funding institution	Geographic level	Legislation / Guidelines
Screen Flanders <sup>299</sup>	Regional	The Screen Flanders Decree <sup>300</sup>
		The Ministerial Decree implementing the Screen Flanders Decree <sup>301</sup>
		Application Guidelines <sup>302</sup>
Wallimage <sup>303</sup>	Regional	Wallimage Regulation <sup>304</sup>
Fonds RTBF Fédération Wallonie-Bruxelles <sup>305</sup>	Regional	Guidelines for 2019 Calls <sup>306</sup>
Centre du Cinéma et de L'audiovisuel (CCA) <sup>307</sup>	Community	CCA Cinema Decree <sup>308</sup>
		Decree on establishment of the CCA <sup>309</sup>

<sup>299</sup> [www.screenflanders.be/en/home](http://www.screenflanders.be/en/home).

<sup>300</sup> Ministerieel besluit van 23 februari 2018 houdende de uitvoering van artikel 33 van het besluit van de Vlaamse Regering van 8 december 2017 tot toekenning van steun aan audiovisuele werken van het type lange fictie-, documentaire of animatiefilm, of animatiereeksen (aangehaald als het besluit Screen Flanders), wat betreft de modaliteiten van de oproepen in 2018 (Ministerial Decree of 23 February 2018 on the implementation of Article 33 of the Decree of the Flemish Government of 8 December 2017 to grant support to film and audiovisual works including feature fiction films, documentaries, animated films, or animation series, regarding the modalities of the calls in 2018),

<https://codex.vlaanderen.be/Zoeken/Document.aspx?DID=1029205&param=inhoud&ref=search&AVIDS>.

<sup>301</sup> Ministerieel besluit van 23 februari 2018 houdende uitvoering en wijziging van het besluit van de Vlaamse Regering van 8 december 2017 tot toekenning van steun aan audiovisuele werken van het type lange fictie-, documentaire of animatiefilm, of animatiereeksen – aangehaald als het besluit Screen Flanders (Ministerial Decree of 23 February 2018 implementing and amending the decision of the Flemish Government of 8 December 2017 to grant support to film and audiovisual works including feature fiction films, documentaries, animated films, or animation series (referred to as the Screen Flanders Decree)),

<https://codex.vlaanderen.be/Zoeken/Document.aspx?DID=1029206&param=inhoud&ref=search&AVIDS>.

<sup>302</sup> Screen Flanders Handleiding oproepen 2018 (Screen Flanders Application Guidelines), [https://www.screenflanders.be/uploads/files/downloads/Screen\\_Flanders\\_Handleiding\\_2018\\_opmaak\\_DEF.pdf](https://www.screenflanders.be/uploads/files/downloads/Screen_Flanders_Handleiding_2018_opmaak_DEF.pdf); for the English version, see:

[https://www.screenflanders.be/uploads/files/downloads/Screen\\_Flanders\\_Application\\_Guidelines\\_2018\\_DEF.pdf](https://www.screenflanders.be/uploads/files/downloads/Screen_Flanders_Application_Guidelines_2018_DEF.pdf).

<sup>303</sup> [www.wallimage.be/intro.php?lang=fr](http://www.wallimage.be/intro.php?lang=fr).

<sup>304</sup> Wallimage Règlement co-productions et Pilotes TV 2019 (Wallimage Regulations Co-productions and TV Pilots 2019), [https://cms.wallimage.net/sites/default/files/downloads/reglement2019\\_fr.pdf](https://cms.wallimage.net/sites/default/files/downloads/reglement2019_fr.pdf).

<sup>305</sup> [www.audiovisuel.cfwb.be/index.php?id=10614](http://www.audiovisuel.cfwb.be/index.php?id=10614).

<sup>306</sup> Conditions de dépôt des projets,

[http://www.audiovisuel.cfwb.be/index.php?eID=tx\\_nawsecuredl&u=0&g=0&hash=cb08bef1c531b2a617968302adfb83876ef97ca0&file=fileadmin/sites/avm/upload/avm\\_super\\_editor/avm\\_editor/documents/Fonds\\_series\\_conditions\\_de\\_depot\\_2019\\_08\\_30.pdf](http://www.audiovisuel.cfwb.be/index.php?eID=tx_nawsecuredl&u=0&g=0&hash=cb08bef1c531b2a617968302adfb83876ef97ca0&file=fileadmin/sites/avm/upload/avm_super_editor/avm_editor/documents/Fonds_series_conditions_de_depot_2019_08_30.pdf).

<sup>307</sup> [www.audiovisuel.cfwb.be/index.php?id=avm\\_cinema](http://www.audiovisuel.cfwb.be/index.php?id=avm_cinema).

<sup>308</sup> Décret du 10 novembre 2011 relatif au soutien au cinéma et à la création audiovisuelle modifié les 17 juillet 2013 et 23 février 2017 (Decree for support to film and audiovisual works),

[http://www.audiovisuel.cfwb.be/index.php?eID=tx\\_nawsecuredl&u=0&g=0&hash=d943855480b68ae158bb0e52ff5c8070765c54b7&file=fileadmin/sites/avm/upload/avm\\_super\\_editor/avm\\_editor/documents/Decret\\_relatif\\_au\\_soutien\\_au\\_cinema\\_et\\_a\\_la\\_creation\\_03\\_04\\_2017.pdf](http://www.audiovisuel.cfwb.be/index.php?eID=tx_nawsecuredl&u=0&g=0&hash=d943855480b68ae158bb0e52ff5c8070765c54b7&file=fileadmin/sites/avm/upload/avm_super_editor/avm_editor/documents/Decret_relatif_au_soutien_au_cinema_et_a_la_creation_03_04_2017.pdf).



Funding institution	Geographic level	Legislation / Guidelines
		Decision on support for creation <sup>310</sup>
		Support for Creation – General provisions 2018 <sup>311</sup>
Screen Brussels <sup>312</sup>	Regional	Screen Brussel Regulation <sup>313</sup>

Source: Response to European Audiovisual Observatory standardised questionnaire

### 7.2.2.2. Definition of cultural criteria

VAF/Film Fund and VAF/Media Fund
<p>The project has to meet at least two of the following three criteria to qualify as a Flemish majority creation:<sup>314</sup></p> <ul style="list-style-type: none"> <li>■ The project is Flemish because of the identity of the artistic team,<sup>315</sup> with the key members of the production – the scriptwriter (in the script development phase) and the director (in the development and production phase) having Flemish identity. The production designer can also be a key member for animation projects in both the development and production</li> </ul>

<sup>309</sup> Arrêté du Gouvernement de la Communauté française du 29 mars 2012 portant création du Centre du Cinéma et de l'Audiovisuel (MB 08.05.2012) (Decree on establishment of the CCA), [http://www.audiovisuel.cfwb.be/index.php?eID=tx\\_nawsecuredl&u=0&g=0&hash=fd720a9c356cff378774993f7b53503d498b2534&file=fileadmin/sites/avm/upload/avm\\_super\\_editor/avm\\_editor/reglementation/Cinema/Centre\\_du\\_Cinema/decret\\_2011/08\\_cca.pdf](http://www.audiovisuel.cfwb.be/index.php?eID=tx_nawsecuredl&u=0&g=0&hash=fd720a9c356cff378774993f7b53503d498b2534&file=fileadmin/sites/avm/upload/avm_super_editor/avm_editor/reglementation/Cinema/Centre_du_Cinema/decret_2011/08_cca.pdf).

<sup>310</sup> Arrêté du Gouvernement de la Communauté française du 29 mars 2012 relatif aux aides à la création modifié les 24 janvier 2013, 30 janvier 2014 et 17 mai 2017 (version coordonnée) (Decision on support for creation), [http://www.audiovisuel.cfwb.be/index.php?eID=tx\\_nawsecuredl&u=0&g=0&hash=628e5e78c58feedf1d40632340fdfff7b86147e&file=fileadmin/sites/avm/upload/avm\\_super\\_editor/avm\\_editor/documents/Divers\\_cinema/Arrete\\_des\\_aides\\_a\\_la\\_creation\\_2017.pdf](http://www.audiovisuel.cfwb.be/index.php?eID=tx_nawsecuredl&u=0&g=0&hash=628e5e78c58feedf1d40632340fdfff7b86147e&file=fileadmin/sites/avm/upload/avm_super_editor/avm_editor/documents/Divers_cinema/Arrete_des_aides_a_la_creation_2017.pdf).

<sup>311</sup> Aides A La Création - Dispositions Générales Septembre 2018 (Support for Creation – General provisions september 2019) - non-official compilation of all legal sources, [http://www.audiovisuel.cfwb.be/index.php?eID=tx\\_nawsecuredl&u=0&g=0&hash=9f7a7c3b027452fdd52e98b668927309411c609a&file=fileadmin/sites/avm/upload/avm\\_super\\_editor/avm\\_editor/documents/Production/Dispositions\\_generales\\_CSF.pdf](http://www.audiovisuel.cfwb.be/index.php?eID=tx_nawsecuredl&u=0&g=0&hash=9f7a7c3b027452fdd52e98b668927309411c609a&file=fileadmin/sites/avm/upload/avm_super_editor/avm_editor/documents/Production/Dispositions_generales_CSF.pdf).

<sup>312</sup> <http://screen.brussels/fr>.

<sup>313</sup> Règlement du fonds d'investissement dans l'audiovisuel de La Région de Bruxelles-Capitale (Regulation of audiovisual investment funds in the Brussels Capital Region), [http://screen.brussels/sites/default/files/reglement\\_screen.brussels\\_fund\\_fr\\_2018.docx](http://screen.brussels/sites/default/files/reglement_screen.brussels_fund_fr_2018.docx).

<sup>314</sup> Minority productions (which do not meet at least 2 of the criteria) are only eligible for production support, see p.3 of the VFF Creation Guidelines, [https://www.vaf.be/sites/vaf/files/reglementen/2\\_ff\\_deelreglement\\_creatie\\_04.02.2019.pdf](https://www.vaf.be/sites/vaf/files/reglementen/2_ff_deelreglement_creatie_04.02.2019.pdf) and VMF Creation Guidelines, [https://www.vaf.be/sites/vaf/files/reglementen/2\\_mf\\_deelreglement\\_creatie\\_04.02.2019.pdf](https://www.vaf.be/sites/vaf/files/reglementen/2_mf_deelreglement_creatie_04.02.2019.pdf).

<sup>315</sup> According to the guidelines, this concept needs to be broadly interpreted. Natural persons of any nationality can belong to the Flemish culture community. For example, a Spaniard who works in Flanders, a Dutchman who attended film school in Ghent, a British director who lives in Bruges, or a Flemish production designer who lives in France, etc.



phases.

- The project is Flemish because of its content or IP,<sup>316</sup>
- The project is Flemish because a Flemish producer initiated the project or contributes the largest financial share.

### Screen Flanders

The cultural test established in the Application Guidelines<sup>317</sup> requires the project to comply with at least three (in the case of animation) or four (fiction and documentary) of the following cultural values:

- The script is mostly set in Flanders, in Belgium, in another member state of the European Economic Area (EEA) or in a member state of the European Free Trade Association (EFTA);
- The director or scriptwriter is established in Flanders, in Belgium, in another member state of the EEA or in a member state of the EFTA;
- One of the leading characters or three of the supporting characters have an association with the Belgian culture;
- At least one of the leading characters has an association with the Belgian culture;
- The original script is mostly written in, and the leading characters express themselves in, one of the official languages or regional dialects of Belgium;
- The script is an adaptation of an original literary work or inspired by another creation known for its cultural interest;
- The audiovisual work has art or artists as its main theme;
- The audiovisual work is mostly about historical figures or events;
- The audiovisual work generally addresses social themes relevant to Belgium or another member state of the EEA or the EFTA, and which have a topical, cultural, social or political aspect;
- The audiovisual work helps bring about a reassessment of Belgian or European audiovisual heritage.

### CCA

As per Article 9 of the CCA Decree, the support can be granted to works co-produced within the framework of the film Co-production Convention Treaty, or a bilateral international co-production agreement of audio-visual works engaged with the French Community. When the audiovisual work is not co-produced within this framework, it must fulfil at least three of the following criteria:

- The script places the action mainly in Belgium, in another member state of the EEA or in a member state of the EFTA;
- At least one of the main characters has a link with Belgian culture or the French language;
- The original script is essentially written in French;
- The script is an adaptation of an original Belgian literary work;
- The main theme of the audiovisual work is art or several artists;
- The audiovisual work focuses on historical characters or events;
- The audiovisual work deals mainly with societal issues relating to current cultural social or political issues;
- The audiovisual work contributes to enhancing the Belgian or European audio-visual

<sup>316</sup> The project has a connection with the Flemish cultural community via, for example, the subject, the underlying literary or theatre work, heritage, history, social relevance, political context, art, etc.

<sup>317</sup> P. 6-7 of the Screen Flanders Application Guidelines.



heritage.

#### FWB/RTBF Fund for TV series

The support decision will be based, *inter alia*, on the cultural aspects of the project and its cultural interest for the Wallonia-Brussels Federation.<sup>318</sup> “The project [must] demonstrate a strong local/Belgian link” and it “ensures the enhancement of the heritage of the Wallonia-Brussels Federation”.<sup>319</sup>

#### Wallimage

The cultural nature of the project constitutes one of the five main assessment criteria.<sup>320</sup> Appendix 1 of the Wallimage Regulations requires the work to comply with at least five of the 10 following cultural criteria:

- The audiovisual work mainly deals with social themes relating to current cultural, social or political issues relevant for Belgium, for a member state of the EEA or for a state bound to Belgium by a Co-production Treaty;
- The director and/or scriptwriter resides in Wallonia, Brussels, Belgium, another country or another member state of the EEA or in a state bound to Belgium by a Co-production Treaty;
- The script is an adaptation of an original literary work inspired by another creation culturally recognised which is the original work of a Walloon, Belgian, European or a resident scriptwriter in a state bound to Belgium by a Co-production Treaty;
- The scenario places its action mainly in Wallonia, Brussels, Belgium or another member state of the EEA or in a state bound to Belgium by a Co-production Treaty;
- The main theme of the audiovisual work is art and/or several artists;
- The audiovisual work essentially concerns historical characters or events;
- One of the main actors or three of the secondary roles were born in Belgium or are of Belgian nationality;
- At least one of the main characters has a privileged link with Belgian culture;
- The original script is essentially written in, and the characters express themselves in, one of the official or vernacular languages of Belgium, Europe or a state bound to Belgium by a Co-production Treaty;
- The audiovisual work contributes to the enhancement of the audiovisual heritage of Belgium, Europe or a state bound to Belgium by a Co-production Treaty.

#### Screen Brussels

As per the Screen Brussels Regulation,<sup>321</sup> the project must be considered as likely to enrich the heritage of the Region of the Brussels-Capital in order to be eligible. To this end, it must meet at least four of the following criteria:

- The action takes place mainly in the Brussels Capital Region, in Belgium, in Europe or in a state linked to Belgium by a Co-production Treaty;
- The director and/or screenwriter are established in Brussels, Belgium, Europe or a state linked to Belgium by a Co-production Treaty;

<sup>318</sup> Section 3 of the RTBF Guidelines.

<sup>319</sup> Section 1, paragraphs 1.3 and 1.6 of the RTBF Guidelines.

<sup>320</sup> Article 4 of the Wallimage Regulation.

<sup>321</sup> Section 3.1 of the Screen Brussels Regulation.



- One main actor or three in secondary roles are of Belgian nationality or were born in Belgium;
- One of the main characters has a link with Belgian culture;
- The original screenplay is written in French or Dutch and the main characters speak French or Dutch;
- The script is an adaptation of a literary work or a culturally recognised creation;
- The main subject of the audiovisual work is art and/or several artists;
- The audiovisual work focuses on characters or historical events;
- The audiovisual work deals mainly with issues relevant to Belgium, another member state of the EEA or the EFTA.

The audiovisual work contributes to enhancing the heritage of Belgium, Europe or that of a State with co-production treaty with Belgium.

### 7.2.2.3. Nationality of the applicant

<b>VAF/Film Fund and VAF/Media Fund</b>
Natural persons are required to be an inhabitant of the European Union. Production companies have to be independent and have their registered office or a permanent agency in Flanders at the moment of payment.
<b>Screen Flanders</b>
The applicant must be an independent audiovisual production company with a seat of operations in Belgium who can demonstrate continuity of operations in Belgium. <sup>322</sup>
<b>CCA</b>
As a general rule, the CCA Decree <sup>323</sup> requires the applicant (production company or natural person) to be of Belgian nationality or have the nationality of a member state of the EEA. <sup>324</sup> Moreover, as per Article 4 of the CCA Decree, “the liquidation of the aid can only be made to the beneficiaries whose principal residence, head office or permanent agency is located in the French-speaking regions or in the bilingual region of Brussels-Capital city.”
<b>FWB/RTBF Fund for TV Series</b>
Article 2.2 of the FWB-RTBF Guidelines specifies that the applicant must be an independent producer constituted in the form of a commercial corporation eligible for tax shelter. Moreover, “the liquidation of the aid can only be made to the beneficiaries whose principal residence, head office or permanent agency is located in the French-speaking regions or in the bilingual region of Brussels-Capital city”. <sup>325</sup>
<b>Wallimage</b>
As per Article 3.2 of the Wallimage Regulation, the applicant must be an audiovisual production company with its headquarters in Belgium, another member state of the EU, or a member state of

<sup>322</sup> Article 2.1 of Screen Flanders Application Guidelines.

<sup>323</sup> Article 19, 24 and 29 of the CCA Cinema Decree. This requirement does not apply to promotion support.

<sup>324</sup> Nationals of a non-member state of the European Economic Area and stateless persons resident in Belgium are assimilated to nationals of a member state of the EEA.

<sup>325</sup> Article 4.3 of the RTBF Guidelines.



the EFTA. If the company does not have its headquarters in Belgium, it will need to be proved before the payment of the first instalment of the granted support that it has a subsidiary, branch or permanent office in Belgium which employs at least one person full time, or that the funds can be paid to a Belgian company that is a co-signatory to the investment agreement and liable for the project's successful completion.

#### Screen Brussels

As per Article 4 of the Screen Brussels Regulation, the applicant must be a production company with an operating seat in Belgium for at least one year.

## 7.2.3. Funding criteria applicable to production support

### 7.2.3.1. Theatrical release, broadcasting and visibility on VOD

#### VAF/Film Fund and VAF/Media Fund

No specific requirements for VAF/Film Fund.

Support for VAF/Media Fund is awarded only when a television series is developed in co-production with a Flemish TV broadcaster. The series has to be broadcast in open-air TV. In the case of web series, as per Article 4.3 of the Regulations, they must be available online as well as on the platform of the broadcaster involved without additional cost for the viewer.

#### Screen Flanders

No specific requirements.

#### CCA

No specific requirements.

#### FWB/RTBF Fund for TV Series

No specific requirements, however support will be granted only for broadcasting for a large generalist audience.<sup>326</sup> Moreover, one of the assessment criteria during the selection procedure is “the adequacy between the proposed project and the prime-time on antennas of the RTBF”.<sup>327</sup>

#### Wallimage

No specific requirements.

#### Screen Brussels

No specific requirements.

<sup>326</sup> Article 1.4 of the RTBF Guidelines.

<sup>327</sup> Article 3 of the RTBF Guidelines.



### 7.2.3.2. Theatrical performance and performance at festivals, events and awards

VAF/Film Fund and VAF/Media Fund
VAF/Film Fund: the Fund does not set concrete requirements related to expected or actual theatrical performance on the home market or abroad as such. However, the Fund provides a type of automatic support in the form of impulse grants, based on the performance of a work. In these cases, applicants are awarded with automatic support they can invest in future projects. <sup>328</sup>
VAF/Media Fund: no specific requirements.
Screen Flanders
No specific requirements.
CCA
Like VAF/Film Fund, the Fund does not set specific criteria, but it does implement similar impulse grants, based on the number of viewers of a work in theatres and on television, VOD or DVD as well as on recognition (festivals and selection), granting amounts which can be used for future projects. <sup>329</sup>
FWB/RTBF Fund for TV Series
No specific requirements.
Wallimage
No specific requirements.
Screen Brussels
No specific requirements.

### 7.2.3.3. Budget

VAF/Film Fund and VAF/Media Fund
VAF/Film Fund: The budget of an eligible project is not subject to any minimum threshold or maximum cap. In the case of applications concerning a Flemish minority co-production, financing must be at least 50% secured or have a production support commitment from the lead territory's selective film fund. <sup>330</sup>
VAF/Media Fund: The budget of an eligible project is not subject to any minimum threshold or maximum cap. In the case of applications concerning a Flemish minority co-production, the support will be awarded only if the financing in the country or region of the main producer is secured, <sup>331</sup> and where the Flemish share accounts for at least 20% of the total financing of the

<sup>328</sup> Section 4 of the VFF Creation Guidelines described the functioning and modalities of the three forms of impulse grants. This form of impulse premium is regarded as an advance on regular VAF support but does not give an acquired right to selective support.

<sup>329</sup> Article 44/1 of the CCA Cinema Decree. For further information, see:

[http://www.audiovisuel.cfwb.be/index.php?id=avm\\_subv\\_primes](http://www.audiovisuel.cfwb.be/index.php?id=avm_subv_primes).

<sup>330</sup> VAF/Film Fund, <https://www.vaf.be/steun-aan-creatie/vaffilmfonds>.

<sup>331</sup> This can be done through the proof of production support by the public fund in the region of the lead producer or by demonstrating that at least 50% of the financing (excluding participation) is guaranteed.



project.<sup>332</sup> Furthermore, support for TV series is dependent on the investment of a Flemish broadcaster, which will vary depending on the type of series (for example, in the case of a fiction series, the broadcaster contribution must be the same as the VAF contribution).<sup>333</sup>

#### Screen Flanders

The only requirement related to a minimum or maximum budget concerns the definition of low-budget films, which are defined as films with a budget below EUR 2 500 000. Moreover, the applicant is required to have at least EUR 250 000 in qualifying expenses (excluding VAT) incurred in the production, and to demonstrate that 50% of the financing of the project has already been secured at the time of application.<sup>334</sup>

#### CCA

In order to award the support requested, at least 50% of the financing of the project must be secured for provisional granting (and 100% for final approval).<sup>335</sup>

Furthermore, films of foreign initiative which do not meet the grid of cultural criteria must demonstrate sufficient financing at the various stages of examination:<sup>336</sup>

- 40% of the estimated cost of the work, excluding any form of participation and valuation, during the first submission;
- 50% of the estimated cost of the work, excluding any form of participation and valuation, during the second review of the submission;
- 75% of the estimated cost of the work, excluding any form of participation and enhancement, during the third review of the submission;
- By derogation: a minimum of 30% of the estimated cost of the work at the moment of submission for projects with a budget of less than EUR 1 000 000.

#### FWB/RTBF Fund for TV Series

The FWB/RTBF Guidelines require the project to have a maximum average indicative budget of EUR 275 000 per episode (for a first season) or EUR 330 000 per episode (for the following seasons). This maximum budget can be increased to EUR 330,000/episode (season 1) or EUR 429,000/episode (season 2), only if it is justified by: "(i) the experience of the talent attached to the project (director, actors, ...); (ii) the number of days of filming per episode; (iii) the sets and costumes; (iv) the special effects budget."<sup>337</sup>

#### Wallimage

The applicant is required to prove that at least 30% of the total financing is already secured, or 50% when it comes to TV animated series<sup>338</sup>

#### Screen Brussels

<sup>332</sup> Article 2, point b of the VMF Creation Guidelines.

<sup>333</sup> Article 4 of the VMF Creation Guidelines.

<sup>334</sup> Article 2.2 of the Screen Flanders Application Guidelines.

<sup>335</sup> Pages 3-4 of the Approval Procedure Form,

[http://www.audiovisuel.cfwb.be/index.php?eID=tx\\_nawsecuredl&u=0&g=0&hash=176b0e07a23ff6837aa158f97c713bcc6738c734&file=fileadmin/sites/avm/upload/avm\\_super\\_editor/avm\\_editor/documents/Production/agrement\\_formulaireprod.doc](http://www.audiovisuel.cfwb.be/index.php?eID=tx_nawsecuredl&u=0&g=0&hash=176b0e07a23ff6837aa158f97c713bcc6738c734&file=fileadmin/sites/avm/upload/avm_super_editor/avm_editor/documents/Production/agrement_formulaireprod.doc).

<sup>336</sup> P. 5 of Support for Creation – General provisions 2018.

<sup>337</sup> Article 4.2 of the FWB/RTBF Guidelines.

<sup>338</sup> Article 3.3 of the Wallimage Regulation.



In the case of Screen Brussels, the budget of an eligible project is not subject to any minimum threshold or maximum cap. In turn, the applicant is required to have secured the following percentage of the overall financing, depending on the type of project concerned:<sup>339</sup>

- For feature film formats, TV series, documentaries, animation: 40%,
- For special formats (180 °, panoramic, 3D, video games, virtual reality, 4D, etc.): 60%,
- For web series: 80%.

#### 7.2.3.4. Awarded amount

VAF/Film Fund and VAF/Media Fund	
<b>Aid intensity</b>	VAF/Film Fund: as per Article 6 of the VFF Creation Guidelines, the aid intensity is in principle limited to 50% of the total production budget. However, it can be increased to 60% for co-productions <sup>340</sup> or 90% for difficult and low-budget films. <sup>341</sup> This support is repayable from net receipts generated by the work on a <i>pro rata</i> basis according to the fund's contribution share to the total financing of the film. <sup>342</sup>  VAF/Media Fund: quite similar aid intensity rules are laid down in Article 5 of the VMF Creation Guidelines, which states that the aid intensity is generally limited to 50% of the total production budget and is increased to 60% for co-productions or 80% for difficult and low-budget audiovisual work. <sup>343</sup>
<b>Repayable</b>	For both funds, the support is repayable from net receipts generated by the work on a <i>pro rata</i> basis according to the fund's contribution share to the total financing of the film. <sup>344</sup>
<b>Eligible costs</b>	Not specified.
<b>Selective/Automatic</b>	VAF/Film Fund: the support is awarded selectively once the competent assessment committees have issued their recommendations to the Board of Directors of the Fund, which makes the final decision, <sup>345</sup> except in the case of impulse grants, where the support is awarded automatically.

<sup>339</sup> Article 3.2 of the Screen Brussels Regulation.

<sup>340</sup> Financed by more than one member of the European Union and involving producers from more than one member state.

<sup>341</sup> Such as feature-length films in the categories of fiction and animation (low-budget films, debut films, youth films, author films, Dutch-language films and films linked to the Flemish cultural identity/patrimony/heritage); films based on a Dutch-language work; documentaries (if it concerns creations that are of remarkable artistic or cultural value); short and medium-length films in the categories of fiction and animation (if they have a remarkable artistic or cultural value), or FilmLab and Innovation Lab projects.

<sup>342</sup> Article 10 of the VFF Creation Guidelines.

<sup>343</sup> Such as fiction and animation series (low-budget series, debut series, youth series, author series, Dutch series and series based on a subject whose starting point is the Flemish cultural identity or the Flemish cultural patrimony and heritage, or based on a Dutch-language work); documentary series (if it concerns creations that are of remarkable artistic or cultural value); and web series.

<sup>344</sup> Article 10 of the VFF Creation Guidelines, Article 9 of the VMF Creation Guidelines.

<sup>345</sup> Article 8 of the VFF Creation Guidelines.



	VAF/Media Fund: the support is awarded selectively after a similar procedure. <sup>346</sup>
<b>Screen Flanders</b>	
<b>Aid intensity</b>	As per Article 2.2 of the Screen Flanders Application Guidelines, the aid intensity is in principle limited to 50% of the total production budget for the project, 60% for co-productions, <sup>347</sup> and 75% if it concerns a difficult production. <sup>348</sup>
<b>Repayable</b>	The support is repayable from all net receipts generated through the exploitation of the audiovisual work. <sup>349</sup>
<b>Eligible costs</b>	They mainly correspond to invoiced and paid expenses during the spending period; expenses invoiced by a VAT-paying company (which has a registered office, seat of operations and demonstrable continuity of operations in the Flanders Region) and paid in the Flanders Region; expenses incurred to ensure the completion of the audiovisual work in question, etc. <sup>350</sup>
<b>Selective/Automatic</b>	Support is awarded selectively by a jury following the presentation of the application at a hearing. <sup>351</sup>
<b>CCA</b>	
<b>Aid intensity</b>	<p>The support granted, cumulated with other public aids, cannot exceed 50% of the total cost of the audiovisual work. This intensity rule does not apply for difficult works with few commercial perspectives on the market, like short audiovisual works, first or second audiovisual works of a director, art house audiovisual works and experimental audiovisual works.<sup>352</sup></p> <p>In terms of the total maximum amount,<sup>353</sup> the support requested before the start of shooting is limited to:</p> <ul style="list-style-type: none"> <li>■ EUR 425 000 for French-speaking Belgian-initiative feature projects,<sup>354</sup> EUR 42 500 for short fiction; EUR 50 000 for short animation; EUR 100 000 for documentary works;</li> <li>■ EUR 212 500 for minor French-speaking Belgian initiative projects<sup>355</sup>;</li> </ul>

<sup>346</sup> Article 7 of the VMF Creation Guidelines.

<sup>347</sup> That receive funding from more than one member state of the EU and that involve producers from more than one member State.

<sup>348</sup> Which includes fiction and animation (low-budget project, debut project, youth project, author's project, Dutch-language project or a project based on a subject that touches on Flemish cultural identity or Flemish cultural patrimony and heritage, or which is based on a Dutch-language work) or documentaries of notable artistic or cultural value.

<sup>349</sup> Article 3.3 of the Screen Flanders Application Guidelines, *Op. cit.* The "recoupment percentage", as of the first euro in net receipts, in the first rank and at the same time as the other financiers. This percentage is set provisionally by the jury and is included in the decision of support allocation.

<sup>350</sup> Article 2.3 of the Screen Flanders Application Guidelines.

<sup>351</sup> Article 2.5.5 of the Screen Flanders Application Guidelines.

<sup>352</sup> Article 12 of Decree for support to film and audiovisual works.

<sup>353</sup> Section V of the Support for Creation – General provisions 2019.

<sup>354</sup> Whose Belgian producer has supervised the project since the project's development phase.



	<ul style="list-style-type: none"> <li>■ EUR 112 500 for a project examined by the CCA-VAF college and EUR 50 000 for documentary works;</li> <li>■ EUR 100 000 for a foreign-initiative project (animation or fiction), EUR 15 000 for short fiction; EUR 20 000 for short animation; EUR 50 000 for documentary works;</li> <li>■ EUR 100 000 for an entire documentary television series, EUR 60 000 for an entire series by a Flemish director;</li> <li>■ EUR 20 000 for LAB film before or after the start of shooting.</li> </ul> <p>The amount of production aid granted after the start of the shooting is capped at EUR 75 000 for feature fiction and animation and EUR 15 000 for short films and documentary works.</p>
<b>Repayable</b>	Support is granted in the form of advances repayable from the first euro of revenues from any type of exploitation, anywhere in the world, and up to 200% of the Fund's contribution. <sup>356</sup> Support for experimental audiovisual works is not repayable.
<b>Eligible costs</b>	Not specified.
<b>Selective/Automatic</b>	Support is awarded selectively according to the "approval procedure", <sup>357</sup> which comprises an examination by the Secretariat of the Film Selection Commission of the admissibility of the demands, which must then be approved by the Accreditation Committee (which verifies the technical and financial viability of the film), before forwarding its opinion to the Minister of Culture who takes the final decision. <sup>358</sup>
<b>FWB/RTBF fund for TV Series</b>	
<b>Aid intensity</b>	The aid intensity is limited to 50% of the production budget, or a maximum amount of EUR 943 500 for 10 episodes of 52 minutes (for season 1).
<b>Repayable</b>	Support is granted as an advance on repayable receipts on the basis of operating results. <sup>359</sup>
<b>Eligible costs</b>	Not specified.
<b>Selective/Automatic</b>	Awarded selectively by the Selection Committee composed of an equal number of representatives of the Wallonia-Brussels Federation and RTBF. <sup>360</sup>
<b>Wallimage</b>	

<sup>355</sup> i.e. one in which the development phase of the project was carried out by a foreign producer but the subsequent stages (production and monitoring of the operation) are carried out by the Belgian producer.

<sup>356</sup> First as 50% of the FWB's share until 100% recovery of its contribution in excess of 100%, then 25% of the share of the French Community up to a ceiling of 200% of its bring, as per Article 6 of the Decision on support for Creation.

<sup>357</sup> For further information, see section VI of the Support for Creation – General provisions 2018.

<sup>358</sup> Chapter 5 of the Decision on support for Creation, *Op. cit.* For further information, see: [http://www.audiovisuel.cfwb.be/index.php?id=avm\\_csf](http://www.audiovisuel.cfwb.be/index.php?id=avm_csf).

<sup>359</sup> Article 4.2 of the RTBF Guidelines.

<sup>360</sup> Article 3 of the RTBF Guidelines.



<b>Aid intensity</b>	In terms of aid intensity, the maximum awardable amount is EUR 400 000, <sup>361</sup> and specifically in the case of documentaries, support is limited to 20% of the total production budget. <sup>362</sup> Furthermore, Article 8 of the Wallimage Regulation specifies that in the event that a project receives state aid from other Belgian authorities or public undertakings or from another member state, the cumulative amount of such aid, including assistance from the Fund, may not exceed the maximum aid intensity threshold imposed by the GBER.
<b>Repayable</b>	Support is awarded as a contribution in the form of a participation with joint ownership of the tangible and intangible rights in the audiovisual work financed, resulting in access to the audiovisual work's revenues.
<b>Eligible costs</b>	The eligible costs are defined in Article 7 of the Wallimage Regulation and correspond to expenditures incurred in the Walloon Region relating to the audiovisual sector. The purpose of these expenses must be the successful completion of the production of the audiovisual work concerned.
<b>Selective/Automatic</b>	Awarded selectively after an assessment of the project by the Fund's Director and Board of Directors based on the cultural character of the work, the structuring effect on the audiovisual sector in Wallonia, the viability of the project, the credibility of the producer and his/her team, and the available budget appropriation.
<b>Screen Brussels</b>	
<b>Aid intensity</b>	As per Article 11.1 of the Screen Brussels Regulation, the total investment is limited to a maximum of 50% of the total budget up to EUR 500 000 per feature film, TV series, documentary and animation or EUR 20 000 per project for web series.
<b>Repayable</b>	The investment is awarded in the form of repayable advances on net revenues. <sup>363</sup>
<b>Eligible costs</b>	The eligible costs correspond in principle to all expenditure incurred for physical or intellectual goods and services directly related to the audiovisual sector. <sup>364</sup>
<b>Selective/Automatic</b>	Awarded selectively by the Board of Directors after an examination of the eligibility criteria and a qualitative selection procedure conducted by the Screen Brussels team. <sup>365</sup>

<sup>361</sup> Article 3.3 of the Wallimage Regulation.

<sup>362</sup> Article 11.1 of the Wallimage regulation.

<sup>363</sup> Article 11.1 of the Screen Brussels Regulation.

<sup>364</sup> Eligible and non-eligible expenses are further defined in Articles 7 and 8 of the Screen Brussels Regulation.

<sup>365</sup> Article 6 of the Screen Brussels Regulation.



### 7.2.3.5. Spending and shooting criteria

VAF/Film Fund and VAF/Media Fund	
Spending in the country	100% of the support must be spent in the Flemish Community of Belgium (or Flemish Region and Brussels-Capital Region). This can be changed by mutual agreement with the Fund if justified. However, the expenditure may never be less than 60% of the amount granted by the Fund. The applicant shall in any event retain the right to spend at least 20% of the production budget of the audio-visual creation in other EU member states. <sup>366</sup>
Shooting in the country	No requirements.
Screen Flanders	
Spending in the country	Only costs paid in the Flanders Region and invoiced by a company that has a registered office, seat of operations and continuity of operations in the Flanders Region are considered eligible. This means that, in practice, 100% of the eligible costs must be spent in the region. <sup>367</sup>
Shooting in the country	No requirements.
CCA	
Spending in the country	The beneficiary of the aid must provide proof that 100% of it is spent for the benefit of legal entities resident for tax purposes in Belgium - mainly in the French-speaking region or in the Brussels-Capital region. <sup>368</sup>
Shooting in the country	No requirements.
FWB-RTBF Fund for TV Series	
Spending in the country	No requirements.
Shooting in the country	No requirements.
Wallimage	
Spending in the country	The applicant must spend at least EUR 300 000 in Wallonia, representing a minimum of 150% of the requested investment. <sup>369</sup> However, for documentaries and virtual and/or augmented reality works, the spending requirement is limited to a minimum of EUR 75 000 and 20% of the production budget. <sup>370</sup> Moreover, only the expenses incurred with Walloon commercial companies are considered as eligible costs from Wallimage. <sup>371</sup>

<sup>366</sup> Article 11 of the VFF Creation Guidelines and Article 10 of the VMF Creation Guidelines.

<sup>367</sup> Article 2.3.1 of the Screen Flanders Application Guidelines.

<sup>368</sup> Article 5 of the Support for Creation – General provisions 2018.

<sup>369</sup> Article 3.3 of the Wallimage Regulation.

<sup>370</sup> Article 11 of the Wallimage Regulation.



<b>Shooting in the country</b>	No specific requirements, but the projects must enhance the patrimony of the Wallonia-Brussels Federation.
<b>Screen Brussels</b>	
<b>Spending in the country</b>	Screen Brussels applies the same principle as Screen Flanders, and considers as eligible only expenses incurred in the Brussels-Capital Region and invoiced by companies that are VAT-liable or self-employed workers with both their registered office and place of business in the Brussels-Capital Region. <sup>372</sup> Furthermore, Article 3.2.2 requires the applicant to commit to a minimum amount of spending in the region: <ul style="list-style-type: none"><li>■ For feature films and TV series: EUR 250 000;</li><li>■ For documentaries and special works: EUR 75 000;</li><li>■ For web series: EUR 45 000.</li></ul>

#### 7.2.3.6. Talent, cast, crew, underlying copyright

None of the funds set specific requirements regarding the nationality of the talent, cast and crew or related to the underlying copyrights (and how they are linked to the country). However, the nationality, establishment or identity of the talent and cast, and the Flemish content of the project are, in general, taken into consideration during the assessment of the cultural aspect of the projects in the various cultural tests and profiles implemented by these funds and described in section 7.2.2.2.

#### 7.2.3.7. Shooting language and diversity

In general, the language is taken into consideration for the cultural test or for the qualification of the work as a “difficult film”. In the case of the CCA, in order to qualify as a “French-speaking initiative project”, the shooting has to be principally done in French (but a derogation is possible).<sup>373</sup> Moreover, Wallimage sets specific requirement related to the language of the work: as per Article 3.5 of the Wallimage Regulation, the work can be filmed in a language other than French. In such cases, the producer must fund “a version dubbed or subtitled in French, a copy of which must be submitted to the Fund”. Apart from this, there are no further requirements linked to ethnic or linguistic minorities and gender.

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<sup>371</sup> Article 7.2 of the Wallimage Regulation.

<sup>372</sup> Article 7 of the Screen Brussels Regulation.

<sup>373</sup> Annex 2-5 of Decree of 29 March 2012 on creation support.



## 7.2.4. Funding criteria applicable to pre-production support

### 7.2.4.1. Budget

VAF/Film Fund and VAF/Media Fund
Only VAF provides pre-production (development) support in the region, and exclusively to Flemish majority creations. Moreover, the budget of an eligible project is not subject to any minimum threshold or maximum cap.
CCA
The budget of an eligible project is not subject to any minimum threshold or maximum cap. Furthermore, in the case of development support, as per Article 19 of the CCA Decree, the applicant must commit to contributing at least 50% of the awarded amount (for feature films) or 30% (in the case of creative documentaries).
FWB-RTBF Fund for TV Series
As for RTBF, there are no specific requirements laid down related to the budget. In turn, Wallimage and Screen Brussels do not provide pre-production support.

### 7.2.4.2. Awarded amount

VAF/Film Fund and VAF/Media Fund	
<b>Aid intensity</b>	<p>VAF/Film Fund: in terms of aid intensity, the following caps apply:<sup>374</sup></p> <ul style="list-style-type: none"> <li>■ Scriptwriting: up to EUR 7 500 (medium-length films), EUR 12 500 (feature documentary works/FilmLab) or EUR 15 000 (feature animation/fiction);<sup>375</sup></li> <li>■ Development: up to EUR 7 500 (short FilmLab), EUR 17 500 (short animation), EUR 20 000 (medium-length FilmLab), EUR 30 000 (medium-length InnovationLab or long-form FilmLab), EUR 50 000 (medium-length documentary works), EUR 75 000 (medium-length animation/fiction or long-form documentary works) and EUR 125 000 (long-form animation and fiction).</li> </ul> <p>VAF/ Media Fund: in terms of aid intensity, the following caps apply:<sup>376</sup></p> <ul style="list-style-type: none"> <li>■ Scriptwriting: up to EUR 7 500 (InnovationLab), EUR 25 000 (documentary series), EUR 50 000 (fiction or animation series), and EUR 75 000 (high-end fiction series);</li> <li>■ Development: up to EUR 30 000 (InnovationLab), EUR 100 000</li> </ul>

<sup>374</sup> Article 3.2 of the VFF Creation Guidelines.

<sup>375</sup> Extra support amounting to EUR 5000 can be added for animated film during the scriptwriting phase, awarded for the creation of a starter to storyboard and other graphic illustration material.

<sup>376</sup> Article 4.1 of the VMF Creation Guidelines.



	(documentary series), EUR 120 000 (fiction and animation series) and EUR 150 000 for animation series if this support also involves the creation of a pilot project.
<b>Repayable</b>	As a general rule, the grant for scriptwriting and development is not repayable if the project is not realised in the end. <sup>377</sup>
<b>Eligible costs</b>	Not specified.
<b>Selective/Automatic</b>	Support is awarded selectively by a commission according to a procedure equivalent to the one described for production support in section 7.2.3.4
<b>CCA</b>	
<b>Aid intensity</b>	The followings rules apply: <sup>378</sup> <ul style="list-style-type: none"> <li>■ Scriptwriting: the maximum subsidy for feature films (fiction or animation) is EUR 12 500, EUR 7 500 for creative documentaries and EUR 15 000 for documentary TV series.</li> <li>■ Development: a maximum of EUR 37 500 for feature films, EUR 20 000 for creative documentaries (first or second work) - EUR 25 000 from the third work onwards.</li> </ul>
<b>Repayable</b>	Support is awarded as a subsidy and therefore non-repayable, but it is deductible from possible future aid for the production of the project. <sup>379</sup>
<b>Eligible costs</b>	The eligible costs for development support related to feature films and documentaries are defined in Annexes 19 and 20 of the Decision on support for creation and can include costs related to the script, research, translation, copy, travel, casting, etc.
<b>Selective/Automatic</b>	Support is awarded selectively by the Film Selection Commission. <sup>380</sup>
<b>FWB/RTBF Fund for TV Series</b>	
<b>Aid intensity</b>	In terms of maximum amount awarded, the following caps apply: <sup>381</sup> <ul style="list-style-type: none"> <li>■ For first-stage development (scriptwriting): EUR 35 000<sup>382</sup></li> <li>■ For second-stage development: EUR 202 500 for the dialogues of the episodes; up to EUR 17 500 per 52-minute episode for the authors and EUR 5 000 per 52-minute episode for the producer; EUR 30 000 for the production of a pilot - 10-minute short (teaser type) illustration of the writing and acting.<sup>383</sup></li> </ul>
<b>Repayable</b>	Support is awarded in the form of a non-repayable grant. <sup>384</sup>

<sup>377</sup> Article 10 of the VFF Creation Guidelines, Article 9 of the VMF Creation Guidelines.

<sup>378</sup> Section III of the Support for Creation – General provisions 2018.

<sup>379</sup> Article 9 of the Support for Creation – General provisions 2019.

<sup>380</sup> Section II of the Support for Creation – General provisions 2019.

<sup>381</sup> Article 4 of the RTBF Guidelines.

<sup>382</sup> Of which 30.000 for the authors, 5000 for the producer).

<sup>383</sup> This amount of EUR 30 000 cannot be deducted from the production aid.

<sup>384</sup> Ibid.



<b>Eligible costs</b>	Not specified.
<b>Selective/Automatic</b>	Selectively by a Selection Committee. <sup>385</sup>

### 7.2.4.3. Underlying copyright

As in the case of production support, none of the funds set specific requirements related to the underlying copyrights (and how they are linked to the country). However, they can be taken into consideration during the assessment of the cultural aspect of the projects, in the various cultural tests and profiles implemented by these funds and described in section 7.2.2.2.

### 7.2.4.4. Script language and diversity

In general, the language of the work is taken into consideration for the cultural test, or for the qualification of the work as a “difficult film”. More specifically, VAF requires all applications and the associated data and annexes (scripts, synopses, treatments, declarations of intent, character descriptions, content and visual design or concepts) to be submitted in the Dutch language or to have been translated into Dutch.<sup>386</sup> Apart from this, there are no further requirements linked to ethnic or linguistic minorities and gender.

## 7.2.5. Funding criteria applicable to distribution and promotion support

### 7.2.5.1. Theatrical release, broadcasting and visibility on VOD

#### VAF/Film Fund and VAF/Media Fund

The VAF/Media Fund does not currently provide distribution support; only the VAF/Film Fund offers International Distribution support. The film must comply with the following eligibility criteria:<sup>387</sup>

- The film was formally invited to participate in the official selection of a top or priority festival,<sup>388</sup>
- An international sales agent recognised by the Fund is associated with the film,
- The application must be submitted within 12 months of the first public screening (world

<sup>385</sup> Article 3 of the RTBF Guidelines.

<sup>386</sup> Article 7 of the VFF Creation Guidelines and Article 6 of the VMF Creation Guidelines.

<sup>387</sup> Article 2.2.1 of the VAF/Filmfonds: Deelreglement Promotie (VAF/Film Fund: Subscription Promotion) (hereinafter, “VFF Promotion Guidelines”), [https://www.vaf.be/sites/vaf/files/reglementen/1\\_ff\\_deelreglement\\_promotie\\_20.09.2018.pdf](https://www.vaf.be/sites/vaf/files/reglementen/1_ff_deelreglement_promotie_20.09.2018.pdf).

<sup>388</sup> Festivals on this list can be there for various reasons, for example because of prestige, cultural value, international visibility or economic interest. A list of priority festivals is available here: <https://www.vaf.be/promotie/film/vaffilmfonds-lijst-top-en-prioritaire-festivals>.



premiere).

As for promotion, the VAF/Film's International Promotion support scheme also requires the application to be submitted within 12 months of the first world premiere of the creation.<sup>389</sup> In the case of the VAF/Media Fund, the promotion support schemes provided<sup>390</sup> do not set any requirement related to the performance and visibility of the work on VOD or to any release window schedule to be respected.

### CCA

Only the CCA provides distribution and promotion support. It offers distribution support for the first edition of Belgian francophone films in DVD/Blu-ray for the following works:<sup>391</sup>

- For the French-language Belgian feature films whose first domestic theatrical release took place at most in the 12 months preceding the application;
- For French-language Belgian feature films not released in cinemas in Belgium and whose first festival presentation in Belgium or abroad took place in the 12 months preceding the application;
- For programmes consisting of at least 5 short or medium-length Belgian majority productions (with a minimum duration of 70 minutes), whose first presentation at festivals in Belgium or abroad took place in the 20 months preceding the application.

Furthermore, the CCA sets different requirements related to the theatrical release of the work in its different promotion support schemes for feature and short films:<sup>392</sup>

- Theatrical release aid (classic potential) for feature<sup>393</sup> or short films:<sup>394</sup> the film must achieve at least 100 paid theatrical screenings in Belgium (at least 50% of them in Wallonia and no more than 20% of them in Flanders) over a period of 6 months;<sup>395</sup>
- Theatrical release aid (high potential) for feature films:<sup>396</sup> the film must achieve at least 200 paid theatrical screenings in Belgium during the first week of exploitation;
- Theatrical release aid for events:<sup>397</sup> the film must have at least 10 public screenings

<sup>389</sup> Article 2.2.1 of the VFF Promotion Guidelines.

<sup>390</sup> VAF/Mediafonds: *Deelreglement Promotie* (VAF/Media Fund: Promotion Support, hereinafter, "VMF Promotion Guidelines"), [https://www.vaf.be/sites/vaf/files/reglementen/1.\\_mf\\_deelreglement\\_promotie\\_20.09.2018.pdf](https://www.vaf.be/sites/vaf/files/reglementen/1._mf_deelreglement_promotie_20.09.2018.pdf).

<sup>391</sup> See *Soutien à l'édition des films belges francophones en DVD/Blu-Ray* (Support for edition of Belgian francophone films in DVD/Bluray), [http://www.audiovisuel.cfwb.be/index.php?id=avm\\_difdvd](http://www.audiovisuel.cfwb.be/index.php?id=avm_difdvd)

<sup>392</sup> The short film must be inserted into short programme features in order to be eligible for these supports.

<sup>393</sup> *Aides à La Promotion - Aide à la sortie en salles, potentiel classique* (Promotion aid – Support for the theatrical release, classic potential), [http://www.audiovisuel.cfwb.be/index.php?eID=tx\\_nawsecuredl&u=0&g=0&hash=0fcff378812816c4067d658b9b006496bca67372&file=fileadmin/sites/avm/upload/avm\\_super\\_editor/avm\\_editor/documents/diffusion\\_et\\_promotion/L\\_aide\\_a\\_la\\_sortie\\_en\\_salles\\_-\\_Potentiel\\_classique\\_-\\_1er\\_juillet\\_2017.pdf](http://www.audiovisuel.cfwb.be/index.php?eID=tx_nawsecuredl&u=0&g=0&hash=0fcff378812816c4067d658b9b006496bca67372&file=fileadmin/sites/avm/upload/avm_super_editor/avm_editor/documents/diffusion_et_promotion/L_aide_a_la_sortie_en_salles_-_Potentiel_classique_-_1er_juillet_2017.pdf).

<sup>394</sup> *Aides à la Promotion - Aide à la sortie en salles d'un programme de courts métrages* (Promotion aid – Support for the theatrical release of programmes of short films), [https://audiovisuel.cfwb.be/fileadmin/sites/sgam/uploads/Aides/Aides\\_a\\_la\\_promotion\\_-\\_diffusion/L\\_aide\\_a\\_la\\_sortie\\_en\\_salles\\_-\\_Programme\\_de\\_courts\\_metrages\\_-\\_1er\\_juillet\\_2017.pdf](https://audiovisuel.cfwb.be/fileadmin/sites/sgam/uploads/Aides/Aides_a_la_promotion_-_diffusion/L_aide_a_la_sortie_en_salles_-_Programme_de_courts_metrages_-_1er_juillet_2017.pdf).

<sup>395</sup> A paid public session is defined as any projection accessible to the public on payment of an entry fee.

<sup>396</sup> *Aides à La Promotion - Aide à la sortie en salles, potentiel élevé* (Promotion aid – Support for the theatrical release, high potential), [http://www.audiovisuel.cfwb.be/index.php?eID=tx\\_nawsecuredl&u=0&g=0&hash=068cea7ed7a8d428b8048cdc2b32ff3920bddb9&file=fileadmin/sites/avm/upload/avm\\_super\\_editor/avm\\_editor/documents/diffusion\\_et\\_promotion/L\\_aide\\_a\\_la\\_sortie\\_en\\_salles\\_-\\_Potentiel\\_eleve\\_-\\_1er\\_juillet\\_2017.pdf](http://www.audiovisuel.cfwb.be/index.php?eID=tx_nawsecuredl&u=0&g=0&hash=068cea7ed7a8d428b8048cdc2b32ff3920bddb9&file=fileadmin/sites/avm/upload/avm_super_editor/avm_editor/documents/diffusion_et_promotion/L_aide_a_la_sortie_en_salles_-_Potentiel_eleve_-_1er_juillet_2017.pdf).



(paying or free) within the French-language region and the bilingual region of Brussels-Capital for a maximum period of 6 months, at at least 4 different venues, and within the context of a promotional event such as a debate, a concert or an exhibition.

- Theatrical release aid for promotion on festivals:<sup>398</sup> the work can be a majority Belgian francophone feature or short film or a majority Belgian francophone TV series (which received production support from Fonds RTBF-FWB), selected in one of the priority festivals included in the French Community Government's list.<sup>399</sup>

### 7.2.5.2. Theatrical performance and performance at festivals, events and awards

#### VAF/Film Fund and VAF/Media Fund

In the case of both funds there are no requirements regarding the performance of a work in terms of theatrical attendance at home or abroad. However, they do provide support based on attendance at festivals and events.

VAF/Film Fund: As explained above, one of the main eligibility criteria to apply for International Distribution is that "the creation was formally invited, in official selection, to a top or priority festival". With regards to the International Promotional Support scheme, this is provided notably for creations recently supported by the VAF and selected at a festival<sup>400</sup> or nominated for specific film prizes.<sup>401</sup>

VAF/Media Fund: the Fund offers support in the form of International Promotion support; this is mainly for majority VAF-supported works selected for an important international film festival.<sup>402</sup> This support must be optimally used to significantly increase the visibility of the film at the

<sup>397</sup> *Aides à la Promotion - Aide à l'organisation d'événements en salles* (Promotion aid – Support for the organisation of events ),

[http://www.audiovisuel.cfwb.be/index.php?eID=tx\\_nawsecuredl&u=0&g=0&hash=95e629c6decf6bea2dd634ef33012535737e2eb5&file=fileadmin/sites/avm/upload/avm\\_super\\_editor/avm\\_editor/documents/diffusion\\_et\\_promotion/L\\_aide\\_a\\_l\\_organisation\\_d\\_evenements\\_-\\_1er\\_juillet\\_2017.pdf](http://www.audiovisuel.cfwb.be/index.php?eID=tx_nawsecuredl&u=0&g=0&hash=95e629c6decf6bea2dd634ef33012535737e2eb5&file=fileadmin/sites/avm/upload/avm_super_editor/avm_editor/documents/diffusion_et_promotion/L_aide_a_l_organisation_d_evenements_-_1er_juillet_2017.pdf).

<sup>398</sup> *Aides à la Promotion – Aide à la promotion en festivals* (Promotion aid – Support for promotion on festivals), [http://www.audiovisuel.cfwb.be/index.php?eID=tx\\_nawsecuredl&u=0&g=0&hash=e25a0b60a90c8e76bf2fff44c94a7b6a8bdd35f1&file=fileadmin/sites/avm/upload/avm\\_super\\_editor/avm\\_editor/documents/diffusion\\_et\\_promotion/L\\_aide\\_a\\_la\\_promotion\\_en\\_festivals\\_-\\_1er\\_juillet\\_2017.pdf](http://www.audiovisuel.cfwb.be/index.php?eID=tx_nawsecuredl&u=0&g=0&hash=e25a0b60a90c8e76bf2fff44c94a7b6a8bdd35f1&file=fileadmin/sites/avm/upload/avm_super_editor/avm_editor/documents/diffusion_et_promotion/L_aide_a_la_promotion_en_festivals_-_1er_juillet_2017.pdf).

<sup>399</sup> *Annexe 2 de l'arrêté du Gouvernement de la Communauté française du 17 MAI 2017 relatif aux aides à la promotion d'oeuvres audiovisuelles: Liste des festivals donnant accès à l'aide à la promotion en festivals pour les courts métrages, les longs métrages, les documentaires de création et les séries télévisuelles de fiction* (Annex 2 of the decree of the Government of the French Community of 17 May 2017 on aid for the promotion of audiovisual works: list of festivals giving access to promotion aid in short film festivals, feature films, creative documentaries and fiction television series),

[http://www.audiovisuel.cfwb.be/index.php?eID=tx\\_nawsecuredl&u=0&g=0&hash=800efe0556eaf51dbb60a40156040ad6a0dd75f6&file=fileadmin/sites/avm/upload/avm\\_super\\_editor/avm\\_editor/documents/diffusion\\_et\\_promotion/Liste\\_des\\_festivals.pdf](http://www.audiovisuel.cfwb.be/index.php?eID=tx_nawsecuredl&u=0&g=0&hash=800efe0556eaf51dbb60a40156040ad6a0dd75f6&file=fileadmin/sites/avm/upload/avm_super_editor/avm_editor/documents/diffusion_et_promotion/Liste_des_festivals.pdf).

<sup>400</sup> Whether it is a top festival, a strategic festival or any other foreign festival. For more detailed definitions of these type of festivals, see: <https://www.vaf.be/reglement-reiskosten-vaffilmfonds>.

<sup>401</sup> Article 2.2 of the VFF Promotion Guidelines.

<sup>402</sup> Article 2 of the VMF Promotion Guidelines.



festival. Furthermore, the Fund provides support in the form of the repayment of travel costs for creators of a majority VAF-supported work selected for an international film festival.<sup>403</sup>

#### CCA

As mentioned in the previous section, the Fund offers specific promotion support for feature and short films, as well as TV series selected for presentation at a priority festival.

### 7.2.5.3. Budget

For all of the Funds, the budget of an eligible project is not subject to any minimum threshold or maximum cap. Furthermore, no minimum contribution from the applicant is required, except in the case of the International Promotion support by VAF/Media Fund, in which case, the aid is granted in accordance with the principle of co-financing - the applicant needs to commit to an equivalent financial investment him/herself.<sup>404</sup>

### 7.2.5.4. Awarded amount

VAF/Film Fund and VAF/Media Fund	
<b>Aid intensity</b>	<p>VAF/Film Fund: in terms of aid intensity, in the case of additional domestic or foreign state aid, overall support is subject to the same aid intensity applicable to production support.<sup>405</sup> Lastly, in terms of maximum amounts, the following rules apply:</p> <ul style="list-style-type: none"> <li>■ Distribution support: it is limited to EUR 35 000 for a film selected for presentation at a top festival or EUR 25 000 if selected for presentation at a priority festival;<sup>406</sup></li> <li>■ Promotion support abroad: it is usually limited to a maximum of EUR 10 000 per film. For short and medium-term audiovisual creations, the maximum is limited to EUR 7 500. In the case of being selected for presentation at the Berlinale (Official, Panorama, Generation, Forum), Cannes (Official, Un certain regard, Quinzaine des Réalisateur, Semaine de la Critique), Toronto (TIFF and TIFF Kids) and Venice (Official, Orizzonti, Venice Days and Critics Week), or in the case of the designation of a film as an official Belgian candidate at the Oscars, the maximum amounts were set at EUR 25 000 and EUR 10 000 respectively.<sup>407</sup></li> </ul>

<sup>403</sup> The VAF distinguishes between two categories of foreign festivals: foreign festivals regarded as strategically important, all other foreign festivals. For further information, see: <https://www.vaf.be/reglement-reiskosten-vafmediafonds>.

<sup>404</sup> Article 2 of the VMF Promotion Guidelines.

<sup>405</sup> Article 3 of the VFF Promotion Guidelines.

<sup>406</sup> Article 2.2.3 of the VFF Promotion Guidelines.

<sup>407</sup> Article 2.2.2 of the VFF Promotion Guidelines.



	<p>VAF/Media Fund: support is limited to 50% of the eligible costs, for a maximum amount of EUR 15 000.<sup>408</sup> Furthermore, in the case of Travel Costs support, the aid intensity is equivalent to that for production and limited to EUR 5 000 per work.</p>
<b>Repayable</b>	<p>Non repayable.<sup>409</sup></p>
<b>Eligible costs</b>	<p>VAF/Film Fund: the eligible costs have a similar definition and correspond mainly to the costs related to specific actions aimed at optimising the visibility of creation and talent (such as organising press junkets, influencer screenings, premiere tours, the elaboration of a digital campaign, the hiring of an experienced independent publicist, etc.).<sup>410</sup></p> <p>VAF/Media Fund: the Fund publishes a list of eligible costs on its website. For projects from Brussels and French-speaking Belgium, the costs are detailed in the distribution and budget overview for distribution support.<sup>411</sup> Projects outside the Belgian market are mentioned in the distribution and budget overview for distribution support outside Belgium.<sup>412</sup></p>
<b>Selective/Automatic</b>	<p>The support is awarded automatically if the application meets all criteria.<sup>413</sup></p>
<b>CCA</b>	
<b>Aid intensity</b>	<p>In terms of aid intensity, the following caps apply:</p> <ul style="list-style-type: none"> <li>■ Theatrical release aid (classic potential):<sup>414</sup></li> <li>■ If support is requested by a recognised distributor:<sup>415</sup> a maximum of EUR 20 000 for a French-speaking Belgian initiative or EUR 7 500 for a foreign film which obtained production aid,</li> <li>■ If support is request by the producer: a maximum of EUR 10 000 for a French-speaking Belgian initiative;</li> <li>■ Theatrical release support (high potential): a maximum of EUR 40 000 for a Belgian initiative;<sup>416</sup></li> <li>■ Theatrical release support for short-film programmes: EUR 2 000 (per film) or EUR 6 000 (per programme);</li> <li>■ Theatrical release support for promotion on festivals: a maximum of EUR 4000;<sup>417</sup></li> </ul>

<sup>408</sup> Article 2 of the VMF Promotion Guidelines.

<sup>409</sup> Article 2.1.6 (distribution) and Article 2.2.5 (promotion) of the VFF Promotion Guidelines, Article 3 of the VMF Promotion Guidelines.

<sup>410</sup> Article 2.1.4 (distribution) and Article 2.2.3 (promotion) of the VFF Promotion Guidelines, *Op. cit.*

<sup>411</sup> Eligible cost for projects from Brussels and French Speaking Belgium are mentioned in the distribution and budget overview (Excel file) for distribution support, see: <https://www.vaf.be/document/distributie-budgetoverzicht-distributiesteun-brussel-en-franstalig-belgi%C3%AB>.

<sup>412</sup> Eligible costs for projects outside the Belgian market are mentioned in the distribution and budget overview (Excel file) for distribution support, see: <https://www.vaf.be/document/distributie-budgetoverzicht-distributiesteun-buiten-de-belgische-markt>.

<sup>413</sup> Article 2.1.5 (distribution) and Article 2.2.4 (promotion) of the VFF Promotion Guidelines, Article 2 of the VMF Promotion Guidelines.

<sup>414</sup> Article 10 of the Decision on Promotion Support.

<sup>415</sup> A definition of “recognised distributor” is set in Chapter VI of the Decision on Promotion Support.

<sup>416</sup> Article 12 of the Decision on Promotion Support.

<sup>417</sup> Article 3 of Decision on Promotion Support.



	<ul style="list-style-type: none"><li>■ Distribution support for the first edition of Belgian francophone films in DVD/Blu-ray: this is capped at EUR 2 000 for DVD-only edition and EUR 4 000 for a DVD and Blu-Ray edition. Additional aid amounting to EUR 500 is granted in the event of the film being subtitled in French, specifically adapted to the deaf and hard of hearing, and/or audio-description in French for the blind and partially sighted.</li></ul>
<b>Repayable</b>	Non-repayable.
<b>Eligible costs</b>	All costs related to the promotion or diffusion of the work. They correspond mainly to advertising, press, promotional items, copies, DVD edition...
<b>Selective/Automatic</b>	Automatic.

#### 7.2.5.5. Language and diversity

In the case of VAF, there are no particular requirements regarding the language of the film or linked to ethnic or linguistic minorities and gender.

As for the CCA, firstly, Article 29 of the CCA Cinema Decree provides that one of the requirements in order to be eligible for promotion support is that the original version of the creation must be in the French language, with the possible exemption by the government on the basis of “(a) the cultural interest of the project for the French Community; (b) the specificities of the script”. Furthermore, the language of the work can influence the amount received: as explained above, films originating from a French-speaking Belgian initiative can receive a higher amount. To qualify as such, the film must fulfil the following criteria:<sup>418</sup>

- The film is shot in French (more than 50% of the dialogue must be in French);<sup>419</sup>
- A number of positions (scriptwriter, actors, technician-manager) must be occupied by Europeans contracted under a Belgian contract (for which Belgian law is applicable).

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<sup>418</sup> As per Article 1 of the Promotion aid – Guidelines (*Aides à la Promotion – Mode d'emploi*), [http://www.audiovisuel.cfwb.be/index.php?eID=tx\\_nawsecuredl&u=0&g=0&hash=7a12a6b63cbf7e2a7dc352c9274f2405fd575f7a&file=fileadmin/sites/avm/upload/avm\\_super\\_editor/avm\\_editor/documents/diffusion\\_et\\_promotion/Mode\\_d\\_emploi\\_des\\_aides\\_a\\_la\\_promotion\\_-\\_1er\\_juillet\\_2017.pdf](http://www.audiovisuel.cfwb.be/index.php?eID=tx_nawsecuredl&u=0&g=0&hash=7a12a6b63cbf7e2a7dc352c9274f2405fd575f7a&file=fileadmin/sites/avm/upload/avm_super_editor/avm_editor/documents/diffusion_et_promotion/Mode_d_emploi_des_aides_a_la_promotion_-_1er_juillet_2017.pdf).

<sup>419</sup> Derogation to filming in French is possible in some cases, for example, a film whose script requires filming to take place in South America.



## 7.2.6. Data compilation

This factsheet was produced based on data compiled by Dr. Tim Raats, Senior Researcher at Imec-SMIT, VUB, lecturer at the Vrije Universiteit Brussel and board member of the Flanders Audiovisual Fund.



## 7.3. BG – Bulgaria – National Summary<sup>420</sup>

### 7.3.1. Summary

Most of the public support for film and audiovisual works takes place at national level through the ИЗПЪЛНИТЕЛНА АГЕНЦИЯ “НАЦИОНАЛЕН ФИЛМОВ ЦЕНТЪР” (Executive Agency National Film Centre, NFC), which is an administrative body under the supervision of the Ministry of Culture. Although not covered in this mapping, there are other sources of public financing for film and audiovisual works beyond the public funding institutions thanks to the mandatory support for productions and pre-acquisition from the Bulgarian National Television (the national public service broadcaster). Although not mandatory, private broadcasters are usually involved in the financing of film and audiovisual works.

Moreover, there are local cultural programmes, such as those in Sofia, Plovdiv or Varna, which support the production of short fiction and documentary films on subjects related to their respective municipalities. In addition, production support for short films by debut authors (under 35 years old) is granted by the National Cultural Fund.<sup>421</sup>

### 7.3.2. General framework

#### 7.3.2.1. Overview of the film and audiovisual funding policy and legislation

The main legal act regulating film funding in Bulgaria is the Film Industry Act (FIA). It regulates the film production (including script and project development), distribution, promotion and release of films in the Republic of Bulgaria as well as state support for the Bulgarian film industry. The FIA also establishes the National Film Centre (NFC). The latest amendments to the FIA were adopted in order to implement the requirements on aid compatibility set by Commission Regulation (EU) No. 651/2014 and Commission Regulation (EU) No. 1407/2013.<sup>422</sup>

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<sup>420</sup> The factsheet on Bulgaria incorporates the feedback received from Irina Kanousheva (NFC) during the checking round with the national film and audiovisual funds.

<sup>421</sup> Националният фонд “Култура” (National Cultural Fund), <http://www.ncf.bg>.

<sup>422</sup> Commission Regulation (EU) No. 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty: [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L\\_2014.187.01.0001.01.ENG](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_2014.187.01.0001.01.ENG), and Commission Regulation (EU) No. 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid, [http://ec.europa.eu/competition/state\\_aid/legislation/de\\_minimis\\_regulation\\_en.pdf](http://ec.europa.eu/competition/state_aid/legislation/de_minimis_regulation_en.pdf).



The provisions of the FIA are supplemented by the Rules for implementation of the Film Industry Act and the Rules of Procedure of the NFC. According to Article 26 of the FIA, film funding in Bulgaria is based on a selective procedure and the nature of the grant provided is a state aid for film production (Article 26 (1), point 1) and distribution (Article 26 (1), point 2) and *de minimis* for festivals and the showing of films (Article 26 (1), point 3) under Commission Regulation (EU) No. 1407/2013.<sup>423</sup>

**Table 14. Main funds in Bulgaria**

Funding institution	Geographical level	Legislation / Guidelines
National Film Centre <sup>424</sup>	National	Film Industry Act (FIA) <sup>425</sup>
		Rules for implementation of the Film Industry Act <sup>426</sup>
		Rules of Procedure of the NFC <sup>427</sup>

Source: Response to European Audiovisual Observatory standardised questionnaire

### 7.3.2.2. Definition of cultural criteria

Although the FIA has no explicit definition of cultural criteria, its Article 27 (1) lays down the assessment criteria for cultural products, such as:

- Their artistic potential within the context of European cultural diversity
- Their commercial potential and opportunities for international recognition
- The economic justification of the proposed budget
- The completeness of the strategic plan submitted by the producer with regard to the management and promotion of the project
- The professional experience of the producer and director and recognition of their previous works in terms of audience, international festivals and nominations by professional societies and organisations.<sup>428</sup>

<sup>423</sup> [http://ec.europa.eu/competition/state\\_aid/legislation/de\\_minimis\\_regulation\\_en.pdf](http://ec.europa.eu/competition/state_aid/legislation/de_minimis_regulation_en.pdf).

<sup>424</sup> <https://www.nfc.bg/>.

<sup>425</sup> Закон за филмовата индустрия (Film Industry Act), promulgated in State Gazette No. 105/2.12.2003, last amended in State Gazette No. 98/27.11.2018: <https://www.nfc.bg/нормативни-актове-и-заповеди/нормативни-актове>. Latest amendments available here: <http://dv.parliament.bg/DVWeb/showMaterialDV.jsp?idMat=132107>. To our knowledge, there is no up-to-date English version at the moment of elaboration of this factsheet, for the latest English version available see: <https://www.nfc.bg/legal-acts> (as amended in State Gazette No. 74/15.09.2009).

<sup>426</sup> Постановление № 274 от 6 декември 2018 г. за приемане на Правилник за прилагане на Закона за филмовата индустрия (Decree № 274 of December 6, 2018 adopting the Implementing Regulations of the Film Industry Act) adopted with Council of Ministers Decree No. 274/6 December 2018, promulgated in SG, issue 102/11.12.2018, <http://dv.parliament.bg/DVWeb/showMaterialDV.jsp?sessionId=F4FAA66DD6E34C2F7D088EC90F438F77?idMat=132829>.

<sup>427</sup> Устройствен правилник на изпълнителна агенция "национален филмов център" (Rules of Procedure of the NFC), <https://www.nfc.bg/нормативни-актове-и-заповеди/нормативни-актове>.



These assessment criteria are further elaborated in Annex 8 to the Rules of implementation of the FIA,<sup>429</sup> and are to be evaluated by the members of the National Artistic Committee, a consultative body to the Executive Director of the NFC, made up of experts, which is involved in the first stage of the selection procedure. The project must obtain at least 70% of the maximum score, as further explained in section 7.2.3.4 of this factsheet. The assessment criteria for the pre-production and production of feature and short fiction films and the maximum rating for each of them are as follows (very similar criteria are laid down for documentary and animation films):<sup>430</sup>

For pre-production - scriptwriting (out of a total of 50 points):

- Artistic and creative potential of the project. The overall impact of the project and its importance in the context of Bulgarian and European cultural diversity; the attractiveness of the plot; the chosen theme; if it refers to humane values; if it focuses our attention on important social themes and valuable human relations; if the project considers philosophical and ethical issues – 10 points
- Dramaturgical structure – 10 points
- Main characters – 5 points
- Assessment of the dialogue – 5 points
- Originality of the plot – 10 points
- Project potential for its production, according to the producer's notes – 10 points

For production (out of a total of 76 points):

- Artistic and creative potential of the project. The overall impact of the project and its importance in the context of Bulgarian and European cultural diversity; the attractiveness of the plot; the chosen theme; if it refers to humane values; if it focuses our attention on important social themes and valuable human relations; if the project considers philosophical and ethical issues – 10 points
- Script – assessment of the dramaturgical structure (10 points), main characters (5 points), dialogue (5 points) – 20 points in total
- Director's approach, according to the director's notes – artistic vision (10 points), characteristics of the main characters (5 points), the motivation and artistic approach of the director (5 points) – 20 points in total
- Commercial potential and international recognition, according to the producer's notes – 8 points
- Professional experience of the producer (3 points), and recognition of the previous works of the producer in Bulgaria and worldwide (5 points) – 8 points in total
- Professional experience of the director (5 points), and recognition of the previous works of the director in Bulgaria and worldwide (7 points) – 12 points in total

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<sup>428</sup> These criteria are not applicable to debut Bulgarian films – as provided in Article 17 (2) of the FIA.

<sup>429</sup> P.23 of Annexes to the Rules of implementation of the FIA, [http://dv.parliament.bg/DVPics/2018/102\\_18/102\\_priI.pdf](http://dv.parliament.bg/DVPics/2018/102_18/102_priI.pdf).

<sup>430</sup> In the case of debut feature films, the experience and the recognition of the previous work of the producer and director are not assessed.



### 7.3.2.3. Nationality of the applicant

The FIA does not require that the applicant be of Bulgarian nationality, resident or established in the country. However, in order to be eligible for support, the applicant must be a legal person or sole trader registered in the public register of the NFC<sup>431</sup> according to the procedure laid down in Chapter Four of the FIA.<sup>432</sup> In the case of a foreign applicant (a producer, distributor or any person showing films in Bulgaria), Article 19(4) of the FIA foresees that, firstly, they should be legally<sup>433</sup> registered as traders in their home country, before registering in the public register of the NFC. According to Article 20 of the FIA, for this registration procedure the applicant is required to provide:

- A translated and certified (by the consular office) document issued by a competent authority in its country of establishment certifying that they have the right to carry out production or distribution activities,
- A document for payment of the registration fee.

## 7.3.3. Funding criteria applicable to production support

### 7.3.3.1. Theatrical release, broadcasting and visibility on VOD

The National Artistic Committee must assess the commercial potential and international recognition of the project according to the producer's notes. The assessment should consider the definition of target audience, marketing strategy and festival strategy/or their forecast (including letters of intent by distributors, television and sales agent); and, in the case of animation films, the potential for VOD distribution should be considered.<sup>434</sup>

Several criteria related to the financial feasibility of the project, and therefore, to its potential performance, are taken into account during the second stage of the selection procedure<sup>435</sup> carried out by the Financial Committee;<sup>436</sup> the committee's role is to assess the financial justification of the project and to propose to the Executive Director a motivated decision on the amount of state support for each individual project. During this assessment, the Financial Committee, based on the documents presented by the

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<sup>431</sup> The NFC maintains a public register of film producers, film distributors, films exhibitors, cinema theatres, film productions (including those made by foreign producers on the territory of the Republic of Bulgaria,) and the films which have received visas for distribution and showing in the Republic of Bulgaria. For more information, see Article 19(1) of the FIA.

<sup>432</sup> For more information, see: Наредба № 1 от 23 юни 2004 г. за реда за водене на единен публичен регистър по глава четвърта от закона за филмовата индустрия (Ordinance No. 1 of 23 June 2004 for the order of maintenance of the Single Public Register under Chapter Four of the Film Industry act), <https://www.nfc.bg/нормативни-актове-и-заповеди/нормативни-актове>.

<sup>433</sup> In compliance with the law of its country of establishment, whether it is a European Union member state, a state within the European Economic Area, or Switzerland.

<sup>434</sup> Annex 8 of the Rules for implementation of FIA – scorecards.

<sup>435</sup> For more information about the selection procedure, see section 7.3.3.4.

<sup>436</sup> Article 13 of the FIA.



applicant,<sup>437</sup> carries out estimations of the film project according to the criteria laid down in Article 27 (1), points 3 and 4 of the FIA<sup>438</sup>, such as the economic justification of the proposed budget and the completeness of the strategic plan submitted by the producer with regard to the management and promotion of the project.

Nonetheless, compliance with those criteria does not affect the amount of support granted, as they are simply used as references by the Financial Committee to assess the feasibility of the project. For example, in terms of theatrical release, the application form<sup>439</sup> for production support requires a letter of intent or a contract with a distributor to be attached to the application, if available; however, the lack of a distribution deal does not render the application ineligible. In any case, successful applicants are obliged by contract with the NFC to make a theatrical release of the film upon completion within the timeframe specified by Article 45 of the FIA, which lays down the following general requirements:

- For distribution by means of video, DVD, the Internet or through a free television channel, the period is no less than three months after the date of the first theatrical release, unless the distribution contract provides otherwise;
- For broadcasting by a television channel, no less than six months after the date of the first theatrical release.

### 7.3.3.2. Theatrical performance and performance at festivals, events and awards

The FIA does not set specific requirements for a production project related to foreseen or actual theatrical performance in the home market, abroad or at festivals, events and awards. It only has the general requirement that the project be assessed by the National Artistic Committees for its commercial potential and opportunities for international recognition.<sup>440</sup> The assessment should consider the target audience, marketing strategy and festival strategy, as well as letters of intent by distributors, broadcasters and sales agents; in the case of animation films, the potential for VOD distribution should be considered.<sup>441</sup>

In addition, the audience potential and the recognition of the previous works of the producer and director (in terms of theatrical attendance, participation in international festivals and nominations by professional societies and organisations) are taken into account during the first stage of the selection procedure and constitute some of the

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<sup>437</sup> The documents required, such as the letters of intent, budget or financial plan, are stipulated in the application form. For more information, see the application form: [https://www.nfc.bg/media/documents/fe6339fdc0faac2b63f7a7d8fb16a47151c3989d/zayavlenie\\_FK\\_proekt.d](https://www.nfc.bg/media/documents/fe6339fdc0faac2b63f7a7d8fb16a47151c3989d/zayavlenie_FK_proekt.d) [QC](#).

<sup>438</sup> Article 55 (1), point 1 of the Rules for implementation of FIA.

<sup>439</sup> *Op. cit.*

<sup>440</sup> Point 2 of Article 27 (1) of FIA.

<sup>441</sup> Annex 8 of the Rules for implementation of FIA – scorecards.



criteria<sup>442</sup> (see section 7.3.2.2) for the assessment of the artistic qualities of the project by the National Artistic Committee. It is worth noting that these criteria do not affect the calculation of the eventual awarded amount (which is calculated by the Financial Committee).

### 7.3.3.3. Budget

The budget of an eligible project is not subject to any minimum threshold or maximum cap. However, the NFC sets a threshold to divide the call into two sub-sections: films with total budgets below BGN 600 000 (approximately EUR 306 775) and films with total budgets above BGN 600 000<sup>443</sup>. Secondly, the FIA<sup>444</sup> uses the average budgets for the different types of films as a reference when calculating the minimum and maximum threshold of the granted amount to film projects.<sup>445</sup> The average budget is calculated on the basis of the reported costs of the completed films and the budget costs of the films produced in the previous year, and for 2017<sup>446</sup> these were as follows:

- Fiction films: BGN 1 339 302 (EUR 684 774),
- Documentary films: BGN 133 077 (EUR 68 041),
- Animation films: BGN 11 804 per minute (EUR 6 035).

### 7.3.3.4. Awarded amount

The NFC makes the granting decision after a selective process involving two stages of selection. The first stage is the assessment of the artistic qualities of the project by the National Artistic Committees. Each Committee<sup>447</sup> reviews the submitted projects and assesses them in accordance with the criteria laid down in points 1, 2 and 5 of Article 27(1) of the FIA, which are further elaborated in Annex 8 to the Rules for implementation of FIA. During their assessment, the Committees are required to be guided by the instructions provided in the scorecards<sup>448</sup> regarding the assessment of the cultural aspects

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<sup>442</sup> For more information about the assessment criteria and the relevant points see Annex No. 3 of the Rules of procedure of the Executive Agency "National Film Center: <https://www.nfc.bg/нормативни-актове-и-заповеди/нормативни-актове>.

<sup>443</sup> Заповед № 142 - обявяване на конкурсни сесии за 2018 година - 29.11.2017 (Order of the Executive Director of the NFC No. 142/29.11.2017), [https://www.nfc.bg/media/documents/b68d929fa63dad46d1c0bee989c568eba721eb29/Zapoved%20142\\_29112017.pdf](https://www.nfc.bg/media/documents/b68d929fa63dad46d1c0bee989c568eba721eb29/Zapoved%20142_29112017.pdf).

<sup>444</sup> The definition of the average budgets for different types of films are laid down in paragraph 1, points 14-16 of the Additional provisions of the FIA.

<sup>445</sup> The minimum and maximum threshold of the amount of the state support for the film projects are described in section 7.3.3.4 of this study.

<sup>446</sup> As laid down in Средностатистически бюджети за 2017 година - 12.02.2018 (Protocol 1 of the Financial Commission as of 12 February 2018), [https://www.nfc.bg/media/documents/64e0cfdcb9cb9a94dabbe7806d529ae6b808d7d6/Protokol%2001\\_12022018.pdf](https://www.nfc.bg/media/documents/64e0cfdcb9cb9a94dabbe7806d529ae6b808d7d6/Protokol%2001_12022018.pdf).

<sup>447</sup> There is a National Artistic Committee of feature, documentary and animation films, appointed by an order of the Executive Director of the NFC for a period of one year.

<sup>448</sup> Annex 8 to the Rules for implementation of FIA.



of the project.<sup>449</sup> The National Artistic Commission presents the projects that received more than 70% of the maximum score to the Executive Director of the Agency. On the basis of this assessment and score, the Executive Director of the NFC issues an order by which s/he determines the awarded projects in accordance with the total amount of financial resources available for the respective application call.

The second stage is the assessment of the financial justification of the projects, carried out by the Financial Committee,<sup>450</sup> which proposes to the Executive Director a motivated decision on the amount of support to be awarded for each individual project. This Financial Committee is appointed for a term of two years and is composed of seven members with a proven experience in film funding.<sup>451</sup> It carries out estimations of the film projects according to the criteria laid down in points 3 and 4 of Article 27 (1) of the FIA, including the economic justification of the proposed budget and the completeness of the strategic plan submitted by the producer with regard to the management and promotion of the project.

On the ground of the decisions of the National Artistic Committee and the Financial Committee, the Executive Director of the NFC issues an order determining the amount of state support for the awarded projects.<sup>452</sup>

The amount granted is not repayable,<sup>453</sup> and should comply with the minimum and maximum threshold (aid intensity rules) laid down by Article 28(2) and (6) of the FIA: the amount shall not be less than 30% of the average budget for the respective type of film for the previous year<sup>454</sup>, and shall not exceed the following threshold depending on the type of work:

- For fully Bulgarian film projects: up to 50% of the eligible costs in the budget;
- For co-productions: up to 50% of the eligible costs relative to the Bulgarian share in the budget;
- For difficult films<sup>455</sup>: up to 80% of the eligible costs in the budget (but not more than 70% of the average budget for the previous year for that type of film).

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<sup>449</sup> The decision must be made according to the procedure laid down in Article 49 (1), points 2 and 3 of the Rules for implementation of the FIA. The procedure requires, among other things, that the Committee fill in and sign the respective scorecard and sign the respective summary assessment scorecard according to Annex 9 of the same regulation, giving an assessment of the project with a "support" resolution - with more than 70% of the maximum score or a "do not support" resolution.

<sup>450</sup> As per article 13 (1) of the FIA.

<sup>451</sup> Four representatives nominated by the professional associations and non-profit legal entities working in the field of the film industry, one representative of the Bulgarian National Television, one representative of the Ministry of Culture and one representative of the NFC.

<sup>452</sup> Article 47(7) of the Rules for implementation of FIA.

<sup>453</sup> See Article 26(1) of the FIA.

<sup>454</sup> This rule is not applicable for minority co-productions, therefore, in these cases, state support can go below this amount.

<sup>455</sup> A difficult film is a film whose only original version is in the Bulgarian language and has a budget not higher than the average budget for the respective type of film of the previous year, according to the definition laid down in paragraph 1, point 23 of the additional provisions of the FIA, *Op. cit.*



Lastly, regarding eligible costs, these are explicitly defined in Article 59 of the Rules for implementation of the FIA and include any costs directly related to the pre-production, preparation and production of the film: these are, *inter alia*, the purchase of props and sets for the production, the supplies and materials used in the production, personnel expenses and travel expenses.<sup>456</sup>

#### 7.3.3.5. Spending and shooting criteria

Article 28(7) of the FIA requires that in the case of support for national films and co-productions, at least 75% and no more than 160% of the amount of the state aid allocated shall be spent on the territory of the Republic of Bulgaria. The National Cinema Council (consultative body to the Executive Director of the NFC) may propose that the minimum percentage of spending be increased to over 75%. The minimum level of production activity on the territory of the Republic of Bulgaria is up to 50% of the total production budget of the film.

There are no legal requirements regarding shooting in the country. In the case of co-productions, it is worth noting that when applying to the NFC for co-production support, the applicant is required to provide a list of the Bulgarian elements in the co-production in their application for production support, including, among others, the foreseen shooting in Bulgaria and the creative team (scriptwriter, director, cinematographer, composer, production designer, etc).

#### 7.3.3.6. Talent, cast, crew, underlying copyright

There are no requirements regarding the nationality of the talent, cast and crew in order to apply for funding in Bulgaria. However, their nationality is relevant for the qualification of the film as a Bulgarian or European film and consequently, whether the applicant can apply for funding support under the application calls for national films (two calls per year) or minority co-productions (four calls per year).

The definition of the notion of a “Bulgarian film” is laid down by the FIA in its Additional provisions (paragraph 1, point 2) as a film which meets at least one of the following conditions:

- Collects at least 15 points under Annex 1<sup>457</sup>
- Has an original version in the Bulgarian language
- The financial participation of the Bulgarian producer is no less than 20% of the budget of the film in case of co-productions between two countries, and no less than 10% in case of co-productions between three or more countries, and the Bulgarian elements total at least 10 points under Annex 1;

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<sup>456</sup> Article 59 (1) of the Rules for implementation of FIA.

<sup>457</sup> Which include a point system based, *inter alia*, on the Bulgarian nationality of the cast, crew, talent and shooting locations.



If the film does not satisfy these criteria, it shall be considered as a “European film”, according to paragraph 1, point 3 of the Additional provisions of the FIA, if the following requirements are met:

- The European elements in the film total no less than 15 points under Annex 2<sup>458</sup>.
- The film has been produced in its larger part by one or more producers from countries which are parties to the European Convention on Cinematographic co-production.<sup>459</sup>

Regarding the underlying copyrights, these are not legally required to be linked to the country. Nonetheless, the applicant should submit a copy of the contract with the director and the scriptwriter confirming that their rights have been transferred to him/her, as well as submitting a declaration which states that s/he owns the rights to the script and other artistic materials (annotation, synopsis and treatment.).<sup>460</sup>

#### 7.3.3.7. Shooting language and diversity

Regarding the shooting language, this is a criterion used to qualify the film as a Bulgarian film or a difficult film. As explained above, this determines the intensity of the state aid for the application under the respective application calls (national films or minority co-productions).

On top of that, there are references to the theme of the script which guide the National Artistic Committee during its assessment of the project,<sup>461</sup> such as: the overall impact of the project and its importance in the context of Bulgarian and European cultural diversity; the attractiveness of the plot; the chosen theme; if it refers to humane values; if it focuses our attention on important social themes and valuable human relations; if the project considers philosophical and ethical issues (assessment criteria: artistic and creative potential of the project). Furthermore, Article 26a (3) of the FIA prohibits the provision of state support for projects preaching violence, intolerance based on religion, race or ethnicity, or containing pornography. Apart from that, there are no requirements linked either to ethnic or linguistic minorities or to gender.

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<sup>458</sup> Which include a point system based, inter alia, on the European elements aspect of the cast, crew, talent and shooting locations

<sup>459</sup> Council of Europe Convention on Cinematographic Co-production (revised), <https://rm.coe.int/168069309e>

<sup>460</sup> Point 2 of the Application form for film production, Annex No. 4 to the Rules for implementation of FIA.

<sup>461</sup> Annex No. 8 assessment scorecards. See a exhaustive list of these principles in section 7.3.2.2.



## 7.3.4. Funding criteria applicable to pre-production support

### 7.3.4.1. Budget

The budget of an eligible project is not subject to any minimum threshold or maximum cap, nor is anything mentioned regarding the minimum contribution from the applicant. However, in order for the applicant to receive support, the rest of the budget should be fully secured.<sup>462</sup>

### 7.3.4.2. Awarded amount

State support is awarded according to the same selection procedure as for production support (described in section 7.3.3.4), in the form of a non-repayable grant. According to Article 28(4) of the FIA, the amount of the state aid for pre-production (including script and project development) shall not be less than 5% of the average budget for the respective type of film for the previous year. Nonetheless, there are no legislative requirements regarding the maximum amount (intensity rule); however, according to the decisions of the Financial Committee for 2017,<sup>463</sup> the state support granted for script and project development is usually up to 80% of the total budget. For example, in 2017, development support was up to BGN 20 000 (EUR 10 226) for fiction films and BGN 7 000 (EUR 3 579) for documentary films.<sup>464</sup>

Regarding eligible costs, these are explicitly defined in Article 59 (1) of the Rules for implementation of the FIA and include, *inter alia*, the cost of supplies and materials used in the production, personnel expenses, overheads (up to 7% of the total budget) and travel expenses. As per Article 58 (2), expenditure related to VAT, the purchase of land and buildings, investment in infrastructure (studios), interest, fines and penalties as well as litigation costs are explicitly excluded from the eligible costs.

### 7.3.4.3. Underlying copyright

As in the case of production support, the applicant should submit a declaration providing that the rights of the director and the scriptwriter have been transferred to him/her and submitting a copy of the contract with the director and the scriptwriter confirming that this is the case, as well as a declaration which states that s/he owns the rights to the script and other artistic materials (annotation, synopsis and treatment).<sup>465</sup>

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<sup>462</sup> Article 63 (2), point 5 of the Rules for implementation of FIA.

<sup>463</sup> <https://www.nfc.bg/нормативни-актове-и-заповеди/заповеди>.

<sup>464</sup> In the last few years, there was no script and project development for animation films (although the law has no such exception).

<sup>465</sup> Point 2 of the Application form in Annex No. 3 to the Rules for implementation of the FIA.



#### 7.3.4.4. Script language and diversity

Regarding the language of the script, as for all the other documents at the stage of application, it must be presented in the Bulgarian language. On top of that, there are references to the theme of the script which guide the National Artistic Committee during its assessment of the project,<sup>466</sup> such as: the overall impact of the project and its importance in the context of Bulgarian and European cultural diversity; the attractiveness of the plot; the chosen theme; if it refers to humane values; if it focuses our attention on important social themes and valuable human relations; if the project considers philosophical and ethical issues (assessment criteria: artistic and creative potential of the project). Furthermore, Article 26a (3) of the FIA prohibits the provision of state support for projects preaching violence, intolerance based on religion, race or ethnicity, or containing pornography.

### 7.3.5. Funding criteria applicable to distribution and promotion support

#### 7.3.5.1. Theatrical release, broadcasting and visibility on VOD

The assessment criteria for the distribution of fiction films include the evaluation of the distribution and marketing plan presented by the applicant (15 points).<sup>467</sup> The National Distribution Committee has to assess the completeness and scope of the distribution plan and the means of reaching the target audience (number of cinemas, expected results, alternative forms of distribution); the feasibility of the marketing plan; partnerships in the implementation of the plan; and the completeness and scope of the promotion plan and PR (including the plan for premieres, digital strategies, working with audiences, etc.)<sup>468</sup>

Regarding the release window schedule for film distribution, Article 45 of the FIA foresees that:

- For distribution by means of video, DVD, the Internet or through a free television channel, the period is no less than three months after the date of the premiere showing in a cinema hall, unless the distribution contract provides otherwise;
- For broadcasting by a television channel, no less than six months after the date of the premiere showing in a cinema hall.

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<sup>466</sup> Annex No. 8 assessment scorecards. See a exhaustive list of these principles in section 7.3.2.2.

<sup>467</sup> Annex 10 to the Rules for implementation of FIA.

<sup>468</sup> Article 57, point 3 of the Rules for implementation of the FIA.



### 7.3.5.2. Theatrical performance and performance at festivals, events and awards

The assessment criteria for the distribution of fiction films include the recognition of the director and the film's potential, based on festival selections and awards (10 points out of 13). The scores are as follows:<sup>469</sup>

- 0 points - no festival success;
- 2 points - selection at a national or local festival;
- 4 points - selection at an international festival or award at national or local festivals;
- 6 points - selection at or award from a prestigious international festival - based on the list approved by the National Film Center for festivals;
- 8 points - selection at "A" film festivals
- 10 points - award obtained from "A" film festivals.

In the case of an application for film promotion, the Financial Committee must consider the following criteria in its assessment:<sup>470</sup>

- The category of the festival;
- The type of the festival section where the film will be presented;
- Principal support for the Bulgarian contender for foreign language Oscars and selection at the European Film Academy;
- Number of the supported festival participations of the film (up to 5 for the same film).

### 7.3.5.3. Budget

The budget of an eligible project is not subject to any minimum threshold or maximum cap, nor is anything mentioned regarding the minimum contribution of the applicant.

### 7.3.5.4. Awarded amount

The NFC makes the granting decision after a selective process involving two stages of selection. The first stage is the assessment of the artistic qualities of the project by the National Distribution Committee.<sup>471</sup> The Committee reviews the submitted projects and assesses them in accordance with the criteria laid down in points 1, 2 and 5 of Article 27(1) of the FIA, which are further elaborated in Annex 10 to the Rules for implementation of FIA.<sup>472</sup>

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<sup>469</sup> Annex 10 to the Rules for implementation of FIA.

<sup>470</sup> Article 57, point 4 of the Rules for implementation of the FIA.

<sup>471</sup> Article 10a of the FIA. The Committee is composed of 5 members, appointed by an order of the Executive Director of the NFC for a period of two years.

<sup>472</sup> The assessment criteria for distribution of fiction films include, inter alia, the artistic value of the film (15 points), the distribution and marketing plan (15 points), the professional experience and recognition of the



The decision must be made according to the procedure laid down in Article 53 (1) of the Rules for implementation of the FIA, which is similar to the procedure for production support described in section 7.3.3.4.

Support can be granted for the distribution and promotion of Bulgarian films and co-productions<sup>473</sup> as well as for European films.<sup>474</sup> The amount is non-repayable and different thresholds apply depending on the type of work or activity supported.<sup>475</sup>

- Support for the distribution of Bulgarian films and films created in co-production shall be no more than 50% of the eligible costs;
- Support for the distribution of European films shall be granted for no more than 25% of the eligible costs.

The eligible costs for film distribution are defined in Article 60 (1) of the Rules for implementation of FIA and include all costs directly related to film distribution, which include, *inter alia*: costs for advertising materials, film copies, subtitling, transportation costs and costs for subcontracting.<sup>476</sup>

#### 7.3.5.5. Language and diversity

There are no specific requirements regarding the language of the work. However, there are requirements regarding its nationality, as state support for the distribution of films is only provided for Bulgarian films, co-productions<sup>477</sup> or European films.<sup>478</sup> Furthermore, according to the scorecards in Annex No. 10 to the Rules for implementation of the FIA, an additional 3 points are granted for the distribution of Bulgarian films, or films which are co-productions with Bulgaria. Also, each of the following circumstances is awarded one point (under the criterion presence of national and European values in Annex No. 10 to the Rules for implementation of FIA):

- The film represents Bulgarian/European/world traditions, values and customs in their cultural diversity and traditions
- The main theme of the film is of key importance for Bulgarian or European society from a cultural, social or political point of view or is of great importance for the development of the Bulgarian public's film culture

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director and the film potential, based on festival selections and awards (13 points), the professional experience of the distributor (10 points), etc.

<sup>473</sup> Co-production between Bulgaria and countries, which are a party under the European Convention for cinematographic co-production or with other countries, with which the Republic of Bulgaria has concluded agreements in the film industry sector, and also for European films.

<sup>474</sup> Article 32 (1) of the FIA.

<sup>475</sup> Article 32 (2) of the FIA.

<sup>476</sup> Article 60 (1) of the Rules for implementation of FIA.

<sup>477</sup> Films created in co-production with countries which are a party to the European Convention for cinematographic co-production and with other countries with which the Republic of Bulgaria has concluded agreements in the film industry sector.

<sup>478</sup> Article 32(1) of the FIA.



- The film is based on a story or event that is part of Bulgarian or European culture; mythology or religion; a creator or artistic trend; or is based on scientific topics or natural phenomena
- The main characters represent Bulgarian or European culture, or they are the main characters related to the history and the society of the European Union
- The films have taken place in Bulgaria or in Europe

It is worth noting that the national law prohibits state support for projects preaching violence, intolerance based on religion, race or ethnicity, or containing pornography.<sup>479</sup>

### 7.3.6. Data compilation

This factsheet was produced based on data compiled by Katya Trichkova, Bulgarian producer at Contrast Films in Sofia and independent legal expert.

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<sup>479</sup> Article 26 a (3) of the FIA.



## 7.4. CY – Cyprus – National Summary<sup>480</sup>

### 7.4.1. Summary

Film and audiovisual support has been provided by the Cultural Service of the Cyprus Ministry of Education and Culture (Τμήμα Πολιτιστικών Υπηρεσιών του Υπουργείου Παιδείας και Πολιτισμού) since 2004. It has developed and implemented a multifaceted policy aimed at strengthening cinematographic art and education in Cyprus. This objective is partly achieved through grants to Cypriot filmmakers and producers to enable them to develop produce and distribute their works in cinemas and festivals in Cyprus and abroad.

### 7.4.2. General framework

#### 7.4.2.1. Overview of the film and audiovisual funding policy and legislation

The legal framework for the public film and audiovisual funding in Cyprus is set in the Funding Programmes Regulation for the Support of Cinematographic Films 2017-2020 (hereinafter, “the Regulation”).

**Table 15. Main funds in Cyprus**

Funding institution	Geographical level	Legislation / Guidelines
Cultural Service of the Cyprus Ministry of Education and Culture <sup>481</sup>	National	Funding Programmes Regulation for the Support of Cinematographic Films 2017-2020 <sup>482</sup>

Source: Response to European Audiovisual Observatory standardised questionnaire

<sup>480</sup> The factsheet on Cyprus incorporates the feedback received from Diomides Nikita (Cinema Advisory Committee of Cyprus) during the checking round with the national film and audiovisual funds.

<sup>481</sup> <http://filmingincyprus.gov.cy/>.

<sup>482</sup> Τμήμα Πολιτιστικών Υπηρεσιών του Υπουργείου Παιδείας και Πολιτισμού (the Funding Programmes Regulation for the Support of Cinematographic Films 2017-2020), <http://filmingincyprus.gov.cy/wp-content/uploads/2016/04/%CE%9D%CE%95%CE%9F%CE%A3-%CE%9A%CE%91%CE%9D%CE%9F%CE%9D%CE%99%CE%A3%CE%9C%CE%9F%CE%A3-2017-2020-BOOKLET-GR.pdf>; for an English version, see: <http://filmingincyprus.gov.cy/wp-content/uploads/2018/02/NEW-PROGRAMMES-REGULATION-2017-2020-pdf.pdf>.



#### 7.4.2.2. Definition of cultural criteria

Article 10 of the General Conditions of the Regulation establishes a cultural test, which requires the films applying for support to satisfy at least three of the following criteria:

- Filming must take place in Cyprus;
- The language/s of the film must predominantly be in one or both of the official languages of the Republic of Cyprus and/or in combination with other languages of the European Union;
- The project must be of high artistic specifications;
- At least one of the central characters of the film must be associated with the Cypriot culture;
- The scenario upon which the film is based must be mainly written by a Cypriot scriptwriter or a scriptwriter who lives and works in Cyprus;
- The main theme of the project must stem from contemporary or historical subjects relating to Cyprus or must be an adaptation of an existing Cypriot literary work or to an original script on Cyprus;
- The film has proven to promote the diversity of cultural expressions of people and multiculturalism.

When it comes to the minority co-production scheme,<sup>483</sup> another cultural test is implemented<sup>484</sup> which requires compliance with at least two of the following eligibility criteria:

- The main theme of the script must be based on contemporary cultural, social, political, historical, religious and mythological issues relating to Cypriot, European or International Civilization;
- At least one of the key characters of the film must be related to the Cypriot, European or International Civilization;
- The script or the main theme of the script must be based on an adaptation of an existing significant Cypriot, European or international literary work;
- The script or the main theme of the film must focus on Cypriot, European or international tradition and customs.
- The film must reflect important Cypriot, European or international values such as cultural diversity, equality, minority rights, tolerance, ecological protection, family and cultural traditions.

#### 7.4.2.3. Nationality of the applicant

The Regulation does not explicitly require that the applicant be of Cypriot nationality. In fact, the special conditions of the Regulation<sup>485</sup> provides that “European producers may also be entitled to funding if they are registered in a member state of the European

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<sup>483</sup> P. 54-55 of the Regulation.

<sup>484</sup> P.55-56 of the Regulation.

<sup>485</sup> Paragraph 12, p.12 of the Regulation.



Union; their applications for funding may be submitted either through a Cypriot production company or through a permanent branch or office they maintain in Cyprus. In the event where neither of the above applies, the applicant must establish a branch/office as soon as he/she is notified of the approval for aid.”

### 7.4.3. Funding criteria applicable to production support

#### 7.4.3.1. Theatrical release, broadcasting and visibility on VOD

The Regulation does not set any requirements regarding visibility and performance on any of the different release windows. However, it is worth mentioning that in the case of several schemes, one of the conditions for applying is to “have secured international distribution”.<sup>486</sup> Lastly, the Regulation establishes a theatrical release within two years; if the producer fails to comply with this, they will not be entitled to submit a new application.<sup>487</sup>

#### 7.4.3.2. Theatrical performance and performance at festivals, events and awards

The Regulation sets different requirements for a production project related to expected or previous theatrical performance on the home market and in festivals. First, for several schemes, the condition for applying can include the participation of previous works by the director in “at least one recognised/major international film festival abroad”.<sup>488</sup> Moreover, the selection process is based, *inter alia*, on:<sup>489</sup>

- Participations in festivals and awards of previous works by the director, the executive producer, and the scriptwriter,
- The public’s response to their previous work,
- The expected response from the public and film festivals

In addition, a complementary sum may be attributed to a project for its participation in an international film festival or in the event of the film being selected by the European Film Academy or the American Film Academy Awards (Oscars).<sup>490</sup>

#### 7.4.3.3. Budget

When it comes to long feature films with an extremely low budget, the budget must not exceed EUR 85 000<sup>491</sup> and for low-budget feature fiction films, there is a cap of

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<sup>486</sup> For Low Budget Film, p.29 of the Regulation, and for High Budget Fiction Film, p.32 of the Regulation.

<sup>487</sup> Paragraph 9 of the Special Conditions, p. 12 of the Regulation.

<sup>488</sup> For Low Budget Film, p. 29 of the Regulation, and for High Budget Fiction Film, p.32 of the Regulation

<sup>489</sup> P.30 and 33 of the Regulation.

<sup>490</sup> P. 49 of the Regulation.



EUR 850 000.<sup>492</sup> As for high-budget feature fiction films, there is no maximum budget cap laid down, but priority will be given to films with a budget of up to EUR 2 500 000.<sup>493</sup> In the case of production support for feature-length animated films, the producer is required to have secured 20% of the production budget in order to apply.<sup>494</sup>

#### 7.4.3.4. Awarded amount

Article 12 of the general conditions of the Regulation lays down the aid intensity rules applicable for all funding schemes, for short films up to 80%, and for minority co-production up to 25% of the total budget and for feature films as detailed below:<sup>495</sup>

- 50% of their budget,
- 60% for cross-border productions funded by more than one EU member state,
- 70% if the film falls under the category of “difficult films”,<sup>496</sup>
- 80% if the film falls under the category of “film with an extremely low budget”.<sup>497</sup>

In terms of maximum amounts awarded, the following caps apply:

- For low-budget fiction films:<sup>498</sup> the Ministry’s participation is up to EUR 595 000 or a percentage of up to 70%, whichever is the lowest.
- For high-budget fiction films:<sup>499</sup> the Ministry’s participation is up to EUR 850 000 or a percentage of up to 70%, whichever is the lowest.
- For short fiction films:<sup>500</sup>
  - Up to EUR 30 000 (for the first short film) or with a percentage of up to 80%, whichever is the lowest,
  - Up to EUR 40 000 (for the second short film) or with a percentage of up to 80%, whichever is the lowest.
- For short, medium and feature-length documentaries:<sup>501</sup>
  - For short films: up to EUR 50 000 or a percentage of up to 50%, whichever of the two is the lowest.
  - For medium and feature-length films: up to EUR 100 000 or a percentage of 50%, whichever of the two is the lowest.
- For animated films:<sup>502</sup>

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<sup>491</sup> P. 7 of the Regulation.

<sup>492</sup> P.29 of the Regulation.

<sup>493</sup> P.33 of the Regulation.

<sup>494</sup> P. 43 of the Regulation.

<sup>495</sup> P. 53 of the Regulation.

<sup>496</sup> Difficult films are defined as those films which are to be filmed in one of the two official languages of the Republic of Cyprus or in a combination of the two languages, and which satisfy at least two or more of the criteria referred to in paragraph 10 (cultural test) of the Regulation.

<sup>497</sup> Which means a film where the total budget does not exceed EUR 85 000 and the director of the film or the film itself is directly linked to the official languages of the Republic of Cyprus, and to Cypriot culture and civilization.

<sup>498</sup> P.30 of the Regulation.

<sup>499</sup> P.33 of the Regulation.

<sup>500</sup> P.36 of the Regulation.

<sup>501</sup> P.39 of the Regulation.



- For short animated films: up to EUR 40 000 or a percentage of 80%, whichever of the two is the lowest,
- For feature-length animated films: up to EUR 340 000 or up to 70% when it falls under the “difficult films” category, and up to 50% when it is an international film, whichever is the lowest.
- For minority co-production: up to EUR 120 000.<sup>503</sup>

Moreover, the amount awarded is not repayable, but the Ministry, as a co-producer and shareholder, receives percentages on the distribution revenues.<sup>504</sup> According to an interview with the Cultural Service of the Cyprus Ministry of Education and Culture, it is awarded selectively by the Cinema Advisory Committee. In addition, paragraph 11 of the special conditions (p.12 of the Regulation) establishes that “[t]he Ministry accepts the following remuneration for the main film factors: Producer’s percentage: not exceeding 9%; Scriptwriter’s percentage: not exceeding 3%; Director’s percentage: not exceeding 10% “. When it comes to the minority co-production scheme, eligible costs are defined as “those which are related to the production, post-production and purchase of other services within Cyprus”.<sup>505</sup>

#### 7.4.3.5. Spending and shooting criteria

Article 9 of the General Condition of the Regulations<sup>506</sup> lays down the following rules regarding the spending required in Cyprus:

- In cases of aid covering less than 31% of production costs, 50% of the production costs are to be spent on the territory of the Republic of Cyprus,
- If the aid covers more than 31% of the production costs, then the territorial requirement follows the rule of the 160% ceiling of the aid up to a maximum of 80% of the production costs.

When it comes to the minority co-production scheme, Articles 5 and 6 of the General Terms of the minority participation scheme provides that the amount received should be spent in Cyprus as follows:

- 100% for the provision of services,
- 140% for film shootings which will be carried out in Cyprus.

Regarding the shooting requirement, there are no specific requirements regarding the production support scheme, except in the case of the minority co-production scheme which states: “The number of Cypriot contributors participating in the film’s production or the days of filming in Cyprus shall constitute the basic prerequisite according to which the

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<sup>502</sup> P. 42 of the Regulation.

<sup>503</sup> P. 53 of the Regulation.

<sup>504</sup> Article 22 of the General Condition of the Regulation.

<sup>505</sup> P. 54 of the Regulation.

<sup>506</sup> P. 5-6 of the Regulation.



intensity of aid shall be determined. In the case of shootings taking place in Cyprus, the minimum duration provided is one week.”<sup>507</sup>

#### 7.4.3.6. Talent, cast, crew, underlying copyright

There are no mandatory requirements regarding the nationality of the talent, cast and crew or related to the underlying copyrights (and how they are linked to the country). However these considerations are part of the assessments criteria used in the cultural test, described in section 7.4.2.2, such as: “The scenario upon which the film is based must be mainly written by a Cypriot scriptwriter or a scriptwriter who lives and works in Cyprus” or “The main theme of the project must stem from contemporary or historical subjects relating to Cyprus or must be an adaptation of an existing Cypriot literary work or to an original script on Cyprus”. In addition, in the case of minority co-production, it is worth mentioning that “The number of Cypriot contributors participating in the film’s production or the days of filming in Cyprus shall constitute the basic prerequisite according to which the intensity of aid shall be determined”.<sup>508</sup>

#### 7.4.3.7. Shooting language and diversity

There are no mandatory requirements regarding the shooting language, ethnic or linguistic minorities and gender. However these considerations are part of the assessments criteria used in the cultural test, described in section 7.4.2.2, such as: “The language/s of the film must predominantly be in one or both of the official languages of the Republic of Cyprus and/or in combination with other languages of the European Union” or “The film has proven to promote the diversity of cultural expressions of people and multiculturalism”.

### 7.4.4. Funding criteria applicable to pre-production support

#### 7.4.4.1. Budget

The budget of an eligible project is not subject to any minimum threshold or maximum cap, and the applicant is not required to have secured any share of the budget as a condition to disbursing the awarded amount.

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<sup>507</sup> P. 54 of the Regulation.

<sup>508</sup> P. 54 of the Regulation.



#### 7.4.4.2. Awarded amount

Pre-production support is awarded after a selective process by the Cinema Advisory Committee. The amount awarded is not repayable, but the Ministry, as a co-producer and shareholder, receives percentages on the distribution revenues.<sup>509</sup> When it comes to aid intensity, the same general rules apply to the different support activities, including pre-production (described in 7.4.3.4). As for maximum amounts, the following caps apply:

For Scriptwriting, maximum amount:<sup>510</sup>

- For feature fiction films: up to EUR 20 000,
- For a feature-length documentary: up to EUR 7 000,
- For a feature-length animated film: up to EUR 13 500,
- For short fiction films and short documentaries: up to EUR 4 000.

For the development of a production plan scheme:<sup>511</sup>

- For low-budget films: up to EUR 35 000,
- For high-budget films: up to EUR 45 000,
- For long documentaries: from EUR 15 000 to EUR 35 000,
- For animation films: up to EUR 35 000.

#### 7.4.4.3. Underlying copyright

There are no mandatory requirements regarding the underlying copyright (and how this is linked to the country). As mentioned in section 7.4.3.6, the underlying copyright can be considered during the cultural test. Furthermore, for the Scriptwriting scheme, “Preference is given to scenarios of local interest, or that favour European reality with particular interest in Cyprus”.<sup>512</sup>

#### 7.4.4.4. Script language and diversity

There are no mandatory requirements regarding the language of the script, ethnic or linguistic minorities and gender. As mentioned in section 7.4.3.7, the script language and the diversity can be considered during the cultural test.

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<sup>509</sup> Paragraph 22 of the General Conditions, p.9 of the Regulation.

<sup>510</sup> P. 17 of the regulation.

<sup>511</sup> P. 24 of the Regulation.

<sup>512</sup> P. 14 of the Regulation.



## 7.4.5. Funding criteria applicable to distribution and promotion support

### 7.4.5.1. Theatrical release, broadcasting and visibility on VOD

The distribution scheme is reserved for production which has already secured a commercial presentation in a cinema theatre in Cyprus. In this case, the producer will receive an additional grant of EUR 1700 for each cinema hall per exhibition week.<sup>513</sup> Apart from that, the Regulation does not contain any specific requirements for distribution and promotion support applicants regarding theatrical release, performance and visibility on VOD.

### 7.4.5.2. Theatrical performance and performance at festivals, events and awards

As a general principle, there are no requirements regarding the performance of a work in terms of theatrical attendance at home or abroad. Nonetheless, as described in section 7.4.3.2, a complementary sum may be attributed to a project for its participation in an international film festival or in the event of the film being selected by the European Film Academy or the American Film Academy Awards (Oscars).<sup>514</sup>

### 7.4.5.3. Budget

The budget of an eligible project is not subject to any minimum threshold or maximum cap, nor is anything stipulated regarding a minimum contribution from the applicant.

### 7.4.5.4. Awarded amount

Distribution support is awarded after a selective process by the Cinema Advisory Committee. The amount awarded is not repayable, but the Ministry, as a co-producer and shareholder, receives percentages on the distribution revenues.<sup>515</sup> When it comes to aid intensity, the same general rules apply to the different support activities, including pre-production (described in 7.4.3.4). As for maximum amounts, these go up to EUR 17 000<sup>516</sup> or to EUR 34 000 where the production has secured a commercial presentation in a cinema hall in Cyprus.<sup>517</sup>

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<sup>513</sup> P.48 of the Regulation.

<sup>514</sup> P. 49 of the Regulation.

<sup>515</sup> Paragraph 22 of the General Conditions, p.9 of the Regulation.

<sup>516</sup> P. 50-51 of the Regulation.

<sup>517</sup> P. 48 of the regulation.



Lastly, regarding eligible costs, these are described in the Regulation<sup>518</sup> and can relate to the design and printing of the poster or promotional material, the translation and production of DVDs with subtitles, the production of photos and transparencies or the integration of subtitles in the master copy of the film.

#### 7.4.5.5. Language and diversity

There are no mandatory requirements regarding the language of the film or linked to ethnic or linguistic minorities and gender. However, as mentioned in section 7.4.3.6 and section 7.4.3.7, language and diversity can be considered during the cultural test.

### 7.4.6. Data compilation

This factsheet was produced based on data compiled by Yorgos Trillidis, Lawyer at Polakis Sarris.

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<sup>518</sup> P. 47 of the Regulation.



## 7.5. CZ – Czech Republic – National Summary<sup>519</sup>

### 7.5.1. Summary

At national level, the main fund operating in the country is the Czech Film Fund (*Státní fond kinematografie*), established in 2013. It is the national institution responsible for managing the productions incentives (fiscal incentives, therefore not covered in this analysis), with a yearly budget of CZK 800 million (EUR 31.3 million) and selective support schemes, with a yearly budget of CZK 370 million (EUR 14.5 million)<sup>520</sup>. The amount varies from year to year, as it comes from levies. Through its selective support schemes, the Czech Film Fund supports pre-production and production, as well as the distribution and promotion of Czech films and other film-related activities (technological development, research and publications, education and training, etc.).

A few regional support schemes have developed recently. They have a relatively smaller budget and include the Prague Film Fund, the South-Moravian Film Fund, the Zlín Region Funding Program for the Support of Audiovisual Productions, the Film Fund of the City of Zlín, and the Support for Audiovisual Production in the Tourist Regions of Jeseníky and Central Moravia. Moreover, there are eleven regional Film Offices providing services to both domestic and foreign filmmakers.

### 7.5.2. General framework

#### 7.5.2.1. Overview of the film and audiovisual funding policy and legislation

The main legal framework for the public film and audiovisual funding in the Czech Republic was set by the Act on Audiovisual Works and Support for Cinematography (2012) (hereinafter “the Cinema Act”), which defines, among others, the status, financing, supported activities and the internal operation of the Czech Film Fund. Further details on the lines of support and the internal organisation of the Czech Film Fund – including the Fund’s director and office, its Executive Council (responsible for decisions on selective film support), and the pool of third-party experts carrying out assessments to inform the Fund’s decisions, are specified in its Statutes.<sup>521</sup> The Fund’s strategic goals are articulated

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<sup>519</sup> The factsheet on the Czech Republic incorporates the feedback received from Veronika Lengálová (Czech Film Fund) during the checking round with the national film and audiovisual funds.

<sup>520</sup> Co-productions and incentives in the Czech Republic, Czech Film Fund, 2018.

[https://fondkinematografie.cz/assets/media/files/fond/EN/co-productions&incentives\\_CZE.pdf](https://fondkinematografie.cz/assets/media/files/fond/EN/co-productions&incentives_CZE.pdf).

<sup>521</sup> Statut Státního fondu kinematografie (Czech Film Fund’s Statutes):

<https://fondkinematografie.cz/assets/media/files/Honza/Zm%C4%9Bna%20Statutu%20St%C3%A1tn%C3%ADh>



in its Long-term Policy (six-year strategy plan)<sup>522</sup> and Short-term Policy (annual strategy plan).

Concerning the provision of support by the regional support schemes, it is regulated by either municipal or regional authorities, in some cases by special statutes, and individual calls.

**Table 16. Main funds in Czech Republic**

Funding institution	Geographical level	Legislation / Guidelines
Czech Film Fund <sup>523</sup>	National	Act on Audiovisual Works and Support for Cinematography (2012) <sup>524</sup>
Prague Film Fund <sup>525</sup>	Regional	Statute of the Prague Film Fund <sup>526</sup>
Zlín Film Fund <sup>527</sup>	Regional	Statutes and Rules <sup>528</sup>
South-Moravian Film Fund <sup>529</sup>	Regional	Statutes of the South Moravian Film Fund <sup>530</sup>

Source: Response to European Audiovisual Observatory standardised questionnaire

### 7.5.2.2. Definition of cultural criteria

Czech law does not have a proper definition of cultural criteria in place.<sup>531</sup> However, culture is alluded to in the conditions for support, as described in Article 35 of the Cinema Act,<sup>532</sup> which in particular takes into account:

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[o%20fonde%20kinematografie%20ze%20dne%203.%20kv%C4%9Bna%202017.pdf](https://fondkinematografie.cz/2020fonde%20kinematografie%20ze%20dne%203.%20kv%C4%9Bna%202017.pdf); for the English version, see: [https://fondkinematografie.cz/assets/media/files/H/Legislativa/Statutes\\_Czech\\_Film\\_Fund.pdf](https://fondkinematografie.cz/assets/media/files/H/Legislativa/Statutes_Czech_Film_Fund.pdf).

<sup>522</sup> Dlouhodobá koncepce, 2017 (Long-term policy, 2017)

[https://fondkinematografie.cz/assets/media/files/legislativa/DK\\_A5\\_FIN\\_online.pdf](https://fondkinematografie.cz/assets/media/files/legislativa/DK_A5_FIN_online.pdf)

<sup>523</sup> [www.fondkinematografie.cz](http://www.fondkinematografie.cz).

<sup>524</sup> Zákon č. 496/2012 Sb., o audiovizuálních dílech a podpoře kinematografie a o změně některých zákonů (zákon o audiovizu) (Act on Audiovisual Works and Support for Cinematography) as amended in 2016:

<https://fondkinematografie.cz/assets/media/files/Honza/Z%C3%A1kon%20o%20audiovizu%20-%20platn%C3%A9%20zn%C4%9Bn%C3%AD.pdf>; for English version, see

[https://fondkinematografie.cz/assets/media/files/filmove%20pobidky/2017/ACT\\_496\\_AJ\\_final.doc](https://fondkinematografie.cz/assets/media/files/filmove%20pobidky/2017/ACT_496_AJ_final.doc).

<sup>525</sup> [www.praguefilmfund.eu](http://www.praguefilmfund.eu).

<sup>526</sup> Statutes of Endowment FundPraha ve filmu Prague Film Fund, [http://praguefilmfund.eu/wp-content/uploads/2017/04/PFF\\_Statutes\\_21-December-2017.pdf](http://praguefilmfund.eu/wp-content/uploads/2017/04/PFF_Statutes_21-December-2017.pdf).

<sup>527</sup> [www.zlin-film.cz](http://www.zlin-film.cz).

<sup>528</sup> Pravidla Filmového fondu statutárního města Zlína (Regulation of Zlin film fund), <http://www.zlin.eu/statut-a-pravidla-cl-3077.html> (in Czech only).

<sup>529</sup> [www.jfnf.cz/](http://www.jfnf.cz/).

<sup>530</sup> [http://jfnf.cz/img/uvodni/VYZVA\\_2018\\_2.pdf](http://jfnf.cz/img/uvodni/VYZVA_2018_2.pdf) (in Czech only).

<sup>531</sup> There is, however, a definition of the cultural criteria by a cultural test in the case of the automatic production incentive scheme (fiscal incentive). This programme is also administrated by the Czech Film Fund;

however, fiscal incentives are beyond the scope of this mapping.

<sup>532</sup> Ibid.



- “b) [T]he project’s contribution to the development and diversity of Czech and European cinematography,
- c) the project’s cultural importance for Czech cinematography, [...]
- g) the artistic or documentary worth of addressing an ethnic theme, if the project is so focused.”

More specifically, in the case of the production and development of feature films, Article 7.6.7(A) of the Status of the Czech Film Fund<sup>533</sup> establishes that some of the rating criteria of any call for applicants should take into account “1) [the] artistic quality of the project” with up to 40 points in a scale of 100 and “3) [its] contribution to the Czech and European cinema” with up to 15 additional points.

### 7.5.2.3. Nationality of the applicant

The Czech Film Fund does not explicitly require that the applicant is of Czech nationality or that their company be established in the country. In fact, the different calls for application are usually open to the following applicants<sup>534</sup>:

- A physical person
- A company with a seat in the Czech Republic
- A company with a seat outside the Czech Republic
- A company with a seat outside the Czech Republic, which is applying via its local representative

However, most of the schemes are aimed at Czech cinematographic works, defined in Article 2.1(f) of the Cinema Act<sup>535</sup> as “a Czech audiovisual work which is also a cinematographic work”. The broader term Czech audiovisual work is defined in Article 2.1(e) as an audiovisual work:

- “Produced with a contribution of a producer or co-producer with his place of business, permanent residence or registered office in the Czech Republic, such contribution covering at least 10% of the total production costs, or
- Produced with a contribution of a co-producer with his place of business, permanent residence or registered office in the Czech Republic, combined with the contribution of a co-producer not having its place of business, permanent residence or registered office in the Czech Republic, provided that such an audiovisual work meets the conditions of the European Convention on Cinematographic Co-production or any other international agreement binding on

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<sup>533</sup> *Op. cit.*

<sup>534</sup> Point B.13 of the Feature Film Production Support call, <https://fondkinematografie.cz/assets/media/files/H/Vyzvy/2-1-1%202018/1.2018-2-1-1Vyroba-celovecerniho-hraneho-filmu.pdf>; or point B.10 of the Distribution of Czech Films Support call, [https://fondkinematografie.cz/assets/media/files/H/Vyzvy/3-6-33%202017/1.2017-3-6-33Distribuce\\_ceskych\\_filmu.pdf](https://fondkinematografie.cz/assets/media/files/H/Vyzvy/3-6-33%202017/1.2017-3-6-33Distribuce_ceskych_filmu.pdf).

<sup>535</sup> *Op. cit.*



the Czech Republic, irrespective of how such a co-producer contributed to the financing of the production costs”.

This definition implies the necessary involvement in the production of such works of a producer established in the Czech Republic. Moreover, with the only exception of the Distribution of Foreign Feature Film scheme, all other selective support schemes are aimed at Czech cinematographic works; therefore, regardless of the nationality of the applicant, the object of the support will be the pre-production, production, promotion or distribution of Czech cinematographic works.

### 7.5.3. Funding criteria applicable to production support

#### 7.5.3.1. Theatrical release, broadcasting and visibility on VOD

The Cinema Act does not contain any requirement regarding visibility and performance on any of the different release windows, nor does it establish a release window schedule to be respected. Nevertheless, Article 2.1(b) of the Cinema Act<sup>536</sup> establishes that “cinematographic work shall mean an audiovisual work intended for public performances” and Article 2.1(a) of the Cinema Act<sup>537</sup> defines cinematographic performance as a “public theatrical presentation, or other similar form of release, of an audiovisual work”. Therefore, it is required that there is an intended theatrical release in order to receive support from the fund.

More specific requirements relating to a minimum theatrical release can be included in the decision on the provision of support to a given project, which usually requires a minimum of ten screenings.<sup>538</sup>

#### 7.5.3.2. Theatrical performance and performance at festivals, events and awards

The Czech Film Fund does not set concrete requirements for a production project related to expected or actual theatrical performance on the home market or abroad as such. However, each application needs to include an annex with the project descriptions, including the producer’s distribution strategy (target group of the work as well as a marketing and distribution plan).<sup>539</sup>

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<sup>536</sup> *Op. cit.*

<sup>537</sup> *Op. cit.*

<sup>538</sup> Interview with Czech Film Fund’s director Helena Fraňková by Petr Szczepanik for the purposes of this report, 30 July 2018.

<sup>539</sup> Popis projektu Výroba českého kinematografického díla Výroba celovečerního hraného debutu (Project description – Production of Czech cinematographic work, production of feature-length debut); <https://fondkinematografie.cz/assets/media/files/H/Vyzvy/2018-2-6-17%20V%C3%BDroba/3.popsis-vyroba-debut2018.docx>.



In addition, the distributor's distribution and marketing strategy can influence the Fund's Council decision. This is in line with the need for the economic viability of a project, as established in Article 35.2 on support decisions of the Cinema Act:<sup>540</sup> "When evaluating an application for support for cinematography, the Council shall take into account the expert analyses prepared for each project and shall consider, in particular: [...]"

d) the project's economic feasibility, [...]"

f) the project's contribution to the economic viability of Czech cinematography and to strengthening its independence and identity".

Lastly, an applicant's previous production performance and their accolades also play a role in the decision. Article 35.2(h) of the Cinema Act<sup>541</sup> establishes that "previous works by the same author or producer" shall be taken into account when making a decision on production and pre-production support applications. Moreover, according to Article 7.6.7(B)(4) of the Czech Film Fund's Statutes,<sup>542</sup> "the applicant's credit with regard to his current activities in the field in respect of which the support application has been filed, to the results of such activities and to any awards" will be rated with up to five points out of 100 in the assessment of support applications.

### 7.5.3.3. Budget

The budget of an eligible project is not subject to any minimum threshold or maximum cap. However, the decision support issued by the Fund's Council will typically require the applicant to have secured at least 75% of the budget as a condition to disbursing the first installment of the awarded amount.<sup>543</sup>

### 7.5.3.4. Awarded amount

Following what is established in Article 52.2 of the EU Cinema Communication,<sup>544</sup> the aid intensity rules are described in Article 57a(1)(a) and (b)<sup>545</sup> of the Cinema Act, establishing that it must be limited to 50% of the total project costs, or 60% when it comes to international co-production. However, section 2 of that article waives these requirements when "the project concerned is a culturally ambitious project or if the project involves the development, production, distribution or promotion of a culturally ambitious audiovisual work", increasing the aid intensity cap up to 90% of the total project costs.

The Fund's Council makes the granting decision after a selective process involving independent experts and, being a subsidy; the amount granted is non-repayable (Article

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<sup>540</sup> *Op. cit.*

<sup>541</sup> *Op. cit.*

<sup>542</sup> *Op. cit.*

<sup>543</sup> Interview with Czech Film Fund's director Helena Fraňková by Petr Szczepanik for the purposes of this questionnaire, 30 July 2018.

<sup>544</sup> Communication from the Commission on State aid for films and other audiovisual works (2013/C 332/01), [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52013XC1115\(01\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52013XC1115(01)&from=EN).

<sup>545</sup> *Ibid.*



32 of the Cinema Act). Furthermore, in the case of profit-sharing subsidies: “the money so provided shall be non-repayable but the decision on the provision of support shall contain the Fund’s share of the income from the project.”

Regarding eligible costs, these are explicitly defined in Article 7.9.2 of the Czech Film Fund’s Statutes and include the “purchase of goods or services from third parties between the submission date of the support application and the completion date of the project [...] for the implementation of the project for which the Fund granted the support”; the royalty or fee of the recipient “up to the maximum amount specified in the budget attached to the application for support”; “the wage costs incurred by the recipient in the period between the submission date of the support application and the completion date of the project set forth in the decision to provide support, provided that they are associated solely with the implementation of the project for which the Fund granted the support” and overhead costs in connection with the project in an “amount not exceeding 7% of the granted support but up to the maximum amount specified in the budget attached to the application for support.”

A series of non-eligible costs are detailed in Article 7.9.3 of the Statues, including, among others, allocations for losses and contingencies, bank charges and interests, costs of auditing services, contractual fines, compensations for material or immaterial losses and damages, arbitration and litigation costs as well as a series of taxes (VAT, income tax, road tax, real estate tax, real estate acquisition tax, excise tax and customs duty).

#### 7.5.3.5. Spending and shooting criteria

Article 7.6.10.1 of the Czech Film Fund’s Statutes requires that in the case of support for the development or production of a Czech cinematographic work, 50% of the awarded amount be spent in the country. However, this 50% requirement can be reduced “in case of the development or production of a work where the artistic or technical solution requires the purchase of services abroad which was mentioned and substantiated by the applicants in the support application.” There are no further requirements regarding a minimum of shooting days in the country.

#### 7.5.3.6. Talent, cast, crew, underlying copyright

There are no requirements regarding the nationality of the talent, cast and crew or related to the underlying copyrights (and how they are linked to the country). The applicant is asked to submit the names and CVs of the main crew members (producer, scriptwriter, director, director of photography, sound designer, editor, cast). Even though not all of these professions need to be known at the time of the application’s submission, it is advisable to apply with a project which has the core crew members booked.

#### 7.5.3.7. Shooting language and diversity

There are no requirements regarding the shooting language, ethnic or linguistic minorities and gender.



## 7.5.4. Funding criteria applicable to pre-production support

### 7.5.4.1. Budget

The budget of an eligible project is not subject to any minimum threshold or maximum cap. However, unlike the case of production support, the decision support issued by the Fund's Council does not require the applicant to have secured any share of the budget as a condition to disbursing the awarded amount.

### 7.5.4.2. Awarded amount

Pre-production support is awarded after a selective process. When it comes to aid intensity, the same general rules apply to the different support activities, including pre-production (described in 7.5.3.4).

### 7.5.4.3. Underlying copyright

There are no requirements regarding the underlying copyright (and how this is linked to the country).

### 7.5.4.4. Shooting language and diversity

There are no requirements regarding the language of the script, ethnic or linguistic minorities and gender

## 7.5.5. Funding criteria applicable to distribution and promotion support

### 7.5.5.1. Theatrical release, broadcasting and visibility on VOD

The Cinema Act does not contain any specific requirements for distribution support applicants regarding theatrical release, performance and visibility on VOD or the release window schedule. Nevertheless, the Czech Film Fund considers only two kinds of applicants eligible for the distribution support, namely producers or distributors who can apply for support for their film's theatrical release.

### 7.5.5.2. Theatrical performance and performance at festivals, events and awards

As a general principle, there are no requirements regarding the performance of a work in terms of theatrical attendance at home or abroad. Nonetheless, according to Article



7.6.8(c) of the Czech Film Fund's Statutes,<sup>546</sup> “the applicant’s credit with regard to his current activities in the field in respect of which the support application has been filed, to the results of such activities and to any awards” will be rated with up to five points out of 100 in the assessment of support applications. In addition, this same article establishes up to ten rating points for the implementing strategy, which in the case of distribution support refers to the distribution strategy,<sup>547</sup> to be submitted along with the application. Lastly, festival attendance and accolades may affect the evaluation of the “artistic, program, technical” quality of the project (up to 40 points out of a total of 100).<sup>548</sup>

### 7.5.5.3. Budget

The budget of an eligible project is not subject to any minimum threshold or maximum cap, nor is anything stipulated regarding a minimum contribution from the applicant.

### 7.5.5.4. Awarded amount

Distribution support is awarded after a selective process. When it comes to aid intensity, the same general rules apply to the different support activities, including distribution (described in 7.5.3.4).

### 7.5.5.5. Language and diversity

There are no particular requirements regarding the language of the film (the distribution calls are divided between Czech Films and Foreign Films). In addition, there are no requirements linked to ethnic or linguistic minorities and gender.

## 7.5.6. Data compilation

This factsheet was produced based on data provided by the Czech Film Fund and compiled by Petr Szczepanik, Associate Professor at Charles University in Prague.

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<sup>546</sup> *Op. cit.*

<sup>547</sup> See the latest distribution scheme calls: “Distribution of Czech Films” support call: [https://fondkinematografie.cz/assets/media/files/H/Vyzvy/3-6-33%202017/1.2017-3-6-33Distribuce\\_ceskych\\_filmu.pdf](https://fondkinematografie.cz/assets/media/files/H/Vyzvy/3-6-33%202017/1.2017-3-6-33Distribuce_ceskych_filmu.pdf); “Distribution of Foreign Films” support call: [https://fondkinematografie.cz/assets/media/files/H/Vyzvy/3-7-34%202017/1.2017-3-7-34Distribuce\\_zahranicnich\\_filmu.pdf](https://fondkinematografie.cz/assets/media/files/H/Vyzvy/3-7-34%202017/1.2017-3-7-34Distribuce_zahranicnich_filmu.pdf)

<sup>548</sup> Art. 7.6.8(a) of the Czech Film Fund's Statutes; *Op. cit.*



## 7.6. DE – Germany – National Summary<sup>549</sup>

### 7.6.1. Summary

The public film and audiovisual funding in Germany amounts to more than EUR 580 million<sup>550</sup> per year, granted by the numerous federal and regional funds.

At federal level, the German Federal Film Board (*Filmförderungsanstalt*, hereinafter “FFA”) is the federal film funding institution in charge of supporting all the interests of German cinema and it operates accordingly with an annual budget of approximately EUR 76 million. From the point of view of economic viability and culture, and through its different schemes, the FFA funds feature films at all stages of pre-production and production. Additionally, it also supports the distribution of German feature films via Media services or via the Distribution reference funding programmes as well as distribution project funding. Apart from its duties as a funding body, the FFA is also the central service structure for the German film industry, notably by administrating two other federal funding schemes:

- The German Federal Film Funds (Deutscher Filmförderfonds, hereinafter, “DFFF”),<sup>551</sup> reserved for the production or co-production of theatrical feature film. This fund is administrated by the FFA on behalf of the Federal Government Commissioner for Culture and Media (Beauftragte der Bundesregierung für Kultur und Medien, hereinafter, “BKM”).<sup>552</sup> Support is provided based on an automatic system in which financial aid is given in the form of grants for producers/co-producers of theatrical features films under “DFFF I”, which has a yearly budget of EUR 50 million,<sup>553</sup> and for production service providers<sup>554</sup> under the new “DFFF

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<sup>549</sup> The factsheet on Germany incorporates the feedback received from Bénérice Honold (FFA) during the checking round with the national film and audiovisual funds.

<sup>550</sup> Zahlen aus der Filmwirtschaft, FFA Info, January 2019 (For FFA, BKM and regional funds), <https://www.ffa.de/download.php?f=f8a36649a9947497dbf360a4278c7fd0&target=0>, plus DFFF (EUR 125 million between the two schemes) and GMPF (EUR 10 million).

<sup>551</sup> DFFF at a glance, 2017: <http://www.dfff-ffa.de/download.php?f=7745c06fc3ca6cc3427de26d0f8fd32c>.

<sup>552</sup> <https://www.bundesregierung.de/breg-de/bundesregierung/staatsministerin-fuer-kultur-und-medien/medien/filmfoerderung>.

<sup>553</sup> To date, the highest amount granted to a film by the DFFF was EUR 10 million for Cloud Atlas in 2011.

<sup>554</sup> DFFF guidelines, Section 4(2) “According to these Guidelines, the production services provider is the company which has agreed, on the basis of a contract with the producer for work or services, to assemble the technical and artistic means to produce the films or film segments assigned to them and to ensure the production of these films or film segments and their monitoring, and which is responsible for the production costs resulting from the activities within its area of responsibility in Germany”, such as production studios or VFX service providers with responsibility for commissioned films or film sequences.



II”<sup>555</sup> (which came into force on 1 August 2017), with a budget of EUR 75 million for 2018.

- The German Motion Picture Fund (hereinafter, “GMPF”), a stand-alone BKM funding programme administered by the FFA, with a budget of EUR 10 million for the support of innovative film and serial formats with high production costs and expenditure in Germany, in the form of non-repayable grants.

Additionally, FFA manages BKM’s own film funding programme, which provides support for the production of feature films, documentaries, short films and children’s films, as well as for the screenplay development of the abovementioned works and the distribution of artistically demanding films. It also has a dedicated support scheme, the *Deutscher Filmpreis*,<sup>556</sup> which awards directors of feature fiction films, documentaries and children’s films with sums of money to be invested in their next productions.

The *Kuratorium junger deutscher Film* (Board for Young German Talent), hereinafter, “Kuratorium”), is the only film funding institution that is collectively supported by the federal states. It aims at promoting young talent by supporting the first and second feature films of up-coming directors or up-coming authors.

German Films Service + Marketing GmbH<sup>557</sup> (hereinafter, “German Films”) aims at supporting a wider international distribution of German films. It also provides financial support for subtitling and the marketing of German films and co-productions screening at international film festivals.

At regional level, film funding schemes are available in each German region. By and large, they provide grants in the form of repayable loans, to be repaid from the proceeds of the exploitation - usually after the recoupment of the producer’s own costs. The main objective of these regional schemes is to promote the regional film culture and industry; consequently, territorial spending obligations constitute the main criterion used in the selection process. The main regional funds are Film- und Medienstiftung North Rhine-Westphalia (NRW), FFF Bayern, Medienboard Berlin-Brandenburg (M BBB), Filmförderung Hamburg Schleswig-Holstein (FFHSH), MFG Baden-Württemberg, Mitteldeutsche Medienförderung (MDM), operating in Saxony, Saxony-Anhalt and Thuringia, Nordmedia fonds in Lower Saxony and Bremen, Hessische Filmförderung in Hessen, and Kulturelle Filmförderung MV Mecklenburg-West Pomerania (KFF). For the purpose of this report, most of the analysis on regional funds was conducted based on the first three abovementioned regional funds.

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<sup>555</sup> For further information: [http://www.dfff-ffa.de/index.php?dfff-news&newsdetail=20170801-20\\_boost-for-the-german-federal-film-fund-dfff-applications-can-now-be-filed-dfff-ii-came-into-force-on-01082017](http://www.dfff-ffa.de/index.php?dfff-news&newsdetail=20170801-20_boost-for-the-german-federal-film-fund-dfff-applications-can-now-be-filed-dfff-ii-came-into-force-on-01082017).

<sup>556</sup> Deutscher Filmpreis, <https://www.deutscher-filmpreis.de/>.

<sup>557</sup> German Films’ Distribution Support, <https://www.german-films.de/distributorscorner/distribution-support/index.html>.



## 7.6.2. General framework

### 7.6.2.1. Overview of the film and audiovisual funding policy and legislation

In Germany, the German Film Law (hereinafter “FFG”) is the main legislation governing funding policy at federal level. Under Chapters 1 to 3, it defines the role, missions and scope of the activities of the FFA; its structural organisation; its statutes and overall functioning, including in terms of budget management and the supervision of its activities; as well as the general (Chapter 4) and specific provisions (Chapters 5-10) regarding the conditions relating to the attribution of funds for the different funding schemes, including the promotion of film pre-production, production and distribution for different categories of works and activities which include feature films, short films, children’s films and the digitisation of German film heritage.

Along with the FFG, film funding granted by the FFA also follows the provisions set by its own guidelines for the different financing schemes.

As to federal funds administrated by the FFA (DFFF and GMPF), they have their own guidelines. The DFFF guidelines are divided into the two different funding schemes of the programme: DFFF I, addressed to producers, and DFFF II, for providers of production services

At regional level, the activities and funding programmes of each regional film fund are governed by the FFG, along with their own statutes and guidelines. Wherever the funding guidelines do not contain specific rules, the rules provided by the FFG apply, unless specified otherwise in the guidelines, as stipulated, for instance, in the guidelines of FFF Bayern<sup>558</sup> and MBBB.<sup>559</sup>

**Table 17. Main funds in Germany**

Funding institution	Geographical level	Legislation / Guidelines
FFA <sup>560</sup>	Federal	FFG <sup>561</sup>
		Guidelines <sup>562</sup>
DFFF <sup>563</sup>	Federal	Guidelines <sup>564</sup>

<sup>558</sup> Article 1.3.9, FFF Bayern’s Guidelines for Bavarian Film and Television Funding.

<sup>559</sup> Article 3.7.1, MBBB Funding Guidelines.

<sup>560</sup> FFA’s website, <https://www.ffa.de/index.php?id=170>.

<sup>561</sup> *Gesetz über Maßnahmen zur Förderung des deutschen Films (Filmförderungsgesetz – FFG) in der Fassung der Bekanntmachung vom 23. Dezember 2016 (BGBl. I S. 3413), in Kraft getreten am 1. Januar 2017* (German Film Law, as published on 23 December 2016 (BGBl. I S. 3413), entry into force on 1 January 2017), <https://www.ffa.de/download.php?f=a8aa7d2a4a9f9c74f714bc64b7d7e218&target=0>.

<sup>562</sup> *FFA Richtlinien* (FFA Guidelines), <https://www.ffa.de/richtlinien.html>.

<sup>563</sup> <http://www.dfff-ffa.de/en.html>.



Funding institution	Geographical level	Legislation / Guidelines
BKM <sup>565</sup>	Federal	Guidelines <sup>566</sup>
GMPF <sup>567</sup>	Federal	Guidelines <sup>568</sup>
Kuratorium <sup>569</sup>	Federal	Guidelines <sup>570</sup>
German Films <sup>571</sup>	Federal	Rules & Regulations <sup>572</sup>
MFG (State of Baden-Württemberg) <sup>573</sup>	Regional	Guidelines <sup>574</sup>
FFF Bayern <sup>575</sup>	Regional	Guidelines <sup>576</sup>
MBBB (Medienboard Berlin Brandenburg) <sup>577</sup>	Regional	Guidelines <sup>578</sup>

<sup>564</sup> *Deutscher Filmförderfonds Richtlinie* (Guidelines Issued by the Federal Government Commissioner for Culture and the Media, hereinafter, “DFFF guidelines”), BKM, 15 October 2018, (in English): <http://dfff-ffa.de/download.php?f=8b943c2e7963985088f40b18198579f6&target=0>.

<sup>565</sup> <https://www.bundesregierung.de/breg-de/bundesregierung/staatsministerin-fuer-kultur-und-medien>.

<sup>566</sup> *Richtlinie für die kulturelle Filmförderung der BKM* (Guidelines for the cultural support of the BKM), <https://www.bundesregierung.de/resource/blob/973862/459166/9b7fcd472b2abd4ada245b8b78ed08df/2017-08-11-richtlinien-kulturelle-filmforderung-data.pdf?download=1>.

<sup>567</sup> GMPF website, <https://www.bmwi.de/Redaktion/EN/Artikel/Economy/german-motion-picture-fund.html>.

<sup>568</sup> Guidelines of the German Motion Picture Fund (in German), 24 October 2018, <https://www.bundesregierung.de/resource/blob/973862/1541456/91b46861dbcce92db4195648235a9b83/2018-10-24-gmpf-richtlinien-data.pdf?download=1> (in German) and <https://www.ffa.de/download.php?f=be3ab39d26e43301d953da2bddd6a545&target=0>.

<sup>569</sup> Kuratorium’s website, <http://www.kuratorium-junger-film.de/>.

<sup>570</sup> *Förderrichtlinien des Kuratoriums junger deutscher Film* (Kuratorium Guidelines), <http://www.kuratorium-junger-film.de/files/media/Antragsformulare%20und%20Richtlinien/F%C3%96RDERRICHTLINIEN%20Juni%202018.pdf>.

<sup>571</sup> <https://www.german-films.de/home/index.html>.

<sup>572</sup> German Films Distribution Support: Rules for the subsidisation of films starts in foreign countries (in English. Hereinafter, the “German Films Distribution Support rules”), [https://www.german-films.de/fileadmin/mediapool/pdf/Distribution\\_Support/Regularien\\_Distribution\\_Supp\\_2018\\_amended\\_31Aug\\_2018.pdf](https://www.german-films.de/fileadmin/mediapool/pdf/Distribution_Support/Regularien_Distribution_Supp_2018_amended_31Aug_2018.pdf). For Distribution support, see also: the “Program bullet points” (in English), [https://www.german-films.de/fileadmin/mediapool/pdf/Distribution\\_Support/Distribution\\_Support\\_program\\_bullet\\_points\\_9Nov2018.pdf](https://www.german-films.de/fileadmin/mediapool/pdf/Distribution_Support/Distribution_Support_program_bullet_points_9Nov2018.pdf) and; for festival support: *Regularien für die Unterstützung von Untertitelungen und Marketing bei internationalen Festivals* (“Regulations for the support of subtitling and marketing at International festivals”), [https://www.german-films.de/fileadmin/mediapool/pdf/Downloads\\_General/RegularienUntertitelungMarketingUnterst%C3%BCtzung\\_9November2017.pdf](https://www.german-films.de/fileadmin/mediapool/pdf/Downloads_General/RegularienUntertitelungMarketingUnterst%C3%BCtzung_9November2017.pdf).

<sup>573</sup> MFG’s website, <https://film.mfg.de/>.

<sup>574</sup> *MFG Vergabeordnung* (in English), [https://film.mfg.de/files/02\\_MFG\\_Filmfoerderung/PDF/141013\\_Vergabeordnung-2014-MFG-Filmfoerderung\\_englisch.pdf](https://film.mfg.de/files/02_MFG_Filmfoerderung/PDF/141013_Vergabeordnung-2014-MFG-Filmfoerderung_englisch.pdf).

<sup>575</sup> FFF Bayern’s website, <https://www.fff-bayern.de/en.html>.

<sup>576</sup> *Richtlinien für die Bayerische Film- und Fernsehförderung - Vergaberichtlinien* (Guidelines for Bavarian Film and Television Funding), the English version starts on page 12, [https://www.fff-bayern.de/fileadmin/user\\_upload/downloads/FFF/Allgemein/Richtlinien/01\\_Richtlinien\\_Guidelines\\_Bayerische\\_Film-\\_und\\_Fernsehfoerderung\\_dt\\_engl.pdf](https://www.fff-bayern.de/fileadmin/user_upload/downloads/FFF/Allgemein/Richtlinien/01_Richtlinien_Guidelines_Bayerische_Film-_und_Fernsehfoerderung_dt_engl.pdf).

<sup>577</sup> MBBB’s website, <https://www.medienboard.de/en/>.

<sup>578</sup> *Medienboard Berlin Brandenburg Funding Guidelines* (in English),



Funding institution	Geographical level	Legislation / Guidelines
Nordmedia fonds <sup>579</sup>	Regional	Guidelines <sup>580</sup>
FFHSH <sup>581</sup>	Regional	Guidelines <sup>582</sup>
Hessische Filmförderung <sup>583</sup>	Regional	Guidelines <sup>584</sup>
KFF (Kulturelle Filmförderung MV Mecklenburg-West Pomerania) <sup>585</sup>	Regional	Guidelines <sup>586</sup>
NRW (Film- und Medienstiftung North Rhine-Westphalia) <sup>587</sup>	Regional	Guidelines <sup>588</sup>
MDM (Mitteldeutsche Medienförderung) <sup>589</sup>	Regional	Guidelines <sup>590</sup>

Source: Response to European Audiovisual Observatory standardised questionnaire

### 7.6.2.2. Definition of cultural criteria

On a federal level, the FFG does not provide a definition of culture. However, it does include linguistic and cultural criteria to be eligible for funding by the FFA.<sup>591</sup>

- Article 41(2) requires that, in the case of feature films, the final version should be shot or dubbed in the German language and, in the case of short films, German subtitling is provided for the final version of the film,

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[https://www.medienboard.de/fileadmin/user\\_upload/pdf/Richtlinien-Merkblaetter/Funding\\_Guidelines\\_2015.pdf](https://www.medienboard.de/fileadmin/user_upload/pdf/Richtlinien-Merkblaetter/Funding_Guidelines_2015.pdf). Further brochures providing complementary information to the guidelines, for the different funding schemes, may be found here: <https://www.medienboard.de/nc/en/film-funding>.

<sup>579</sup> Nordmedia's website, <https://www.english.nordmedia.de/>.

<sup>580</sup> *Richtlinie zur kulturwirtschaftlichen Film- und Medienförderung der Nordmedia – Film- und Mediengesellschaft Niedersachsen/Bremen mbH (Nordmedia) vom 01.01.2018* (Nordmedia Guidelines), in German, [https://www.nordmedia.de/meta\\_downloads/107296/foerderrichtlinie\\_nordmedia\\_01.01.2018.pdf](https://www.nordmedia.de/meta_downloads/107296/foerderrichtlinie_nordmedia_01.01.2018.pdf).

<sup>581</sup> FFHSH's website, <https://www.ffhsh.de/en/>.

<sup>582</sup> *Richtlinien für Filmförderung* (Guidelines for Film Promotion), in German, [https://www.ffhsh.de/download/MB\\_Richtlinien\\_2016\\_01.pdf](https://www.ffhsh.de/download/MB_Richtlinien_2016_01.pdf).

<sup>583</sup> Hessische Filmförderung's website, <https://www.hessenfilm.de/>.

<sup>584</sup> *Richtlinien für die hessische Film- und Fernsehförderung durch die HessenFilm und Medien GmbH* (HessenFilm Guidelines for film and television promotion), in German, [https://www.hessenfilm.de/fileadmin/data/richtlinien/RichtlinienHessenFilm\\_Stand\\_01-02-2018-final\\_mit\\_Logo.pdf](https://www.hessenfilm.de/fileadmin/data/richtlinien/RichtlinienHessenFilm_Stand_01-02-2018-final_mit_Logo.pdf).

<sup>585</sup> KFF's website, <https://www.filmbuero-mv.de/>.

<sup>586</sup> *Vereinbarung über die Gewährung von Zuwendungen zur Kulturellen Filmförderung Mecklenburg–Vorpommern* (in German), [https://www.filmbuero-mv.de/documents/AA\\_PDFs/kff\\_filmfrdvereinbarung\\_2009\\_neu.pdf](https://www.filmbuero-mv.de/documents/AA_PDFs/kff_filmfrdvereinbarung_2009_neu.pdf).

<sup>587</sup> NRW's website, <https://www.filmstiftung.de/en/>.

<sup>588</sup> Guidelines are not available online, <https://www.filmstiftung.de/en/funding/>.

<sup>589</sup> MDM's website, <https://www.mdm-online.de/index.php?id=aktuelles&L=1>.

<sup>590</sup> *Förderrichtlinie der Mitteldeutschen Medienförderung* (in German), [https://www.mdm-online.de/uploads/media/2016\\_MDM\\_Fo\\_rderrichtlinie\\_AGVO.pdf](https://www.mdm-online.de/uploads/media/2016_MDM_Fo_rderrichtlinie_AGVO.pdf).

<sup>591</sup> Applications for BKM and Kuratorium funding must fulfil these requirements.



- Article 41(5) requires that the films feature a cultural, historical or social subject related to Germany,
- Article 41(6) requires that the film has its premiere in the German language in Germany, or represents a German contribution at a selected international film festival.
- Article 41(7) requires that some of the following criteria apply: the film uses German elements or predominantly German locations; or elements or locations from another EU or EEA member state or from Switzerland; or that the script is based on an original or traditional literary work, or deals with issues related to minorities, scientific, socio-political, religious or artistic topics related to the country.

The DFFF's guidelines include a Test of Characteristics as part of the evaluation process, as stipulated under Articles 13 and 25 of the guidelines. Within that test, for both DFFF I and DFFF II, applicants are required to fulfil a minimum number of cultural criteria in order to ensure the cultural character of the film.<sup>592</sup> Culture-related criteria account for 30 points out of a total of 96 points in the test. The evaluation grids for each type of audiovisual work are annexed to the guidelines, under Annexes 3 to 5. Among other things, the assessment criteria include:

- The film mainly deals with or is set in Germany or in an area of German culture and language or deals with issues relating to Germany,
- The film uses German elements (architecture or landscapes) or locations,
- The leading character(s) of the underlying material is/was German or is associated with the German language or cultural area,
- The storyline is German,
- One final version of the work is in German,
- The film is set mainly in another EU member state, another EEA state or Switzerland, or uses European elements,
- The leading character of the underlying material is from another EU member state, another EEA state or Switzerland.

While the abovementioned criteria have an approach to culture linked to nationality, by formally mentioning Germany, German culture and language as well as Europe and European culture, the grid also includes other criteria with a broader definition of culture, including, among others:

- The storyline/underlying material is based on literary material; deals with artists or an art genre; is based on a historical figure; refers to a globally known historical or fictional event; deals with religious or philosophical beliefs or issues of current social or cultural relevance; or deals with the ways of life of people/minorities, scientific topics or natural phenomena,
- A contemporary artist from a field other than filmmaking makes a significant contribution to the film.

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<sup>592</sup> Article 13(2) for DFFF I and Article 25(2) for DFFF II of the DFFF guidelines, *Op. cit.*



The GMPF Guidelines include a Test of Characteristics for films, series, and animation projects<sup>593</sup> which require films to achieve at least 40 out of a total of 109 points. The test is divided into three categories – one of which refers to creative criteria (a minimum score of seven points out of a total of 37 points in this sub-section is required in the case of feature films).<sup>594</sup> The list of assessment criteria includes, among other:

- The majority of scenes (fictional content/material) are played out in Germany or in German-speaking areas, or in another EU or EEA state,
- The project is thematically related to German/European history/politics,
- The project uses German elements or other European elements,
- A main character in the underlying material is/was German or from another EU or EEA state,
- The final version is in German/has German subtitles,
- The plot/underlying material is German or from another EU or EEA state.

As to the BKM's own funding programme, films are eligible when they are considered to have a significant German cultural character, for which they must fulfil the following four criteria:<sup>595</sup>

- The original language of the film is either:
  - German (the film has been shot in the German language) or
  - The director is German or has his/her permanent residence or registered office in Germany, another EU member state, another EEA state or Switzerland.
- At least one of the leading producers is German or has his/her permanent residence or registered office in Germany, another EU member state, another EEA contracting State or Switzerland.
- The financial share of the producer or several producers with a permanent residence or registered office in Germany is at least as high as the highest financial share of a foreign producer participating in the project or
- The first theatrical release takes place in Germany (a premiere at a festival does not count).

The guidelines of the Kuratorium establish that support should contribute to the diversity of cinematographic culture,<sup>596</sup> and applicant projects should have a significant German cultural character.<sup>597</sup>

Some regional funds have their own definition of cultural criteria. For FFF Bayern, the criteria for artistic and cultural quality include, among other aspects, the form and content, and the historical, contemporary, creative, social or societal relevance of the story, along with other aesthetic aspects.<sup>598</sup> For Filmstiftung NRW, production funding

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<sup>593</sup> See Annex 1 for films and series, Annex 2 for animated projects and Annex 3 for animated films produced according to the European Convention on Cinematographic Co-production, of the GMPF Guidelines

<sup>594</sup> Article 4.5 of the GMPF Guidelines.

<sup>595</sup> Article 3(3) of the BKM Guidelines.

<sup>596</sup> Article 1.1.1 of the Kuratorium Guidelines.

<sup>597</sup> Article 1.5.2 of the Kuratorium Guidelines.

<sup>598</sup> Article 1.1.2 of the FFF Bayern Guidelines for Bavarian Film and Television Funding.



requires projects to demonstrate their ability to improve the cultural quality and profitability of German cinema.<sup>599</sup> The guidelines base their concept of culture and its principles of cultural funding on a broad definition provided in the NRW Law for the Promotion of Culture.<sup>600</sup>

### 7.6.2.3. Nationality of the applicant

As a general requirement under the FFG rules, for all film production funding schemes, including international co-productions, the producer must be established in Germany, in an EU or EEA member state, or in Switzerland, or have a subsidiary established in Germany at the time of disbursement of the aid<sup>601</sup>, and the film director has to be a German national within the meaning of Article 116 of the Basic Law,<sup>602</sup> a national of an EU or EEA member state or a Swiss national.<sup>603</sup>

For the other funding schemes (DFFF I and II, BKM, GMPF and Kuratorium), the applicant must be established or have a registered office in Germany, or in some cases as detailed hereinafter, in another EU or EEA member state or Switzerland. However, the following specific exceptions apply:

- In the case of the DFFF funding programmes, the applicant may have a business establishment within Germany at the time of the disbursement of the grant. In cases where the applicant is a German subsidiary with a registered office outside the European Union, the EEA or Switzerland, the German subsidiary has to meet all grant requirements.<sup>604</sup>
- In the case of the BKM, if the applicant has a residence or a business establishment in another EU member state, another EEA state or Switzerland, the latter must have a branch in Germany.<sup>605</sup>
- In the case of the GMPF, if the applicant is established outside of the EU or the EEA, the application may only be submitted by a German subsidiary or branch.<sup>606</sup>
- In the case of Kuratorium, both the applicant producer and the director must have their residence in Germany.<sup>607</sup>

With regard to the regional funds, some of them set conditions regarding establishment in the country, as detailed below:

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<sup>599</sup> Article 4.1.1 of the NRW Funding Guidelines.

<sup>600</sup> Footnote 2 of the NRW Funding Guidelines.

<sup>601</sup> Article 41(1) FFG.

<sup>602</sup> *Grundgesetz* (Basic Law for the Federal Republic of Germany),

[https://www.gesetze-im-internet.de/englisch\\_gg/englisch\\_gg.html#p0725](https://www.gesetze-im-internet.de/englisch_gg/englisch_gg.html#p0725)

<sup>603</sup> Article 41(4) FFG.

<sup>604</sup> DFFF Guidelines, section 7(2) for DFFF I and section 21(2) for DFFF II.

<sup>605</sup> Article 4(1) of the BKM Guidelines.

<sup>606</sup> Article 3(4) and (5) of the GMPF Guidelines.

<sup>607</sup> For instance, see the guidelines for Talent Film: <http://www.kuratorium-junger-film.de/talentfilm>.



- FFF Bayern: for the production funding scheme, only producers based in Germany or with branch offices or permanent business establishments in Germany are eligible.<sup>608</sup>
- MBBB: applicants are required to have an office, a branch office, or at least an operational presence in Berlin-Brandenburg, at the time of the disbursement of the funding. Exceptions can be made if the project is in the particular interest of Berlin-Brandenburg.<sup>609</sup>
- Filmstiftung NRW: as a general requirement, applicants are required to be resident or to have an establishment (headquarters or branch) in the region (North Rhine-Westphalia) or in Germany, both at the moment of application and at the moment of the disbursement of the aid.<sup>610</sup>

## 7.6.3. Funding criteria applicable to production support

### 7.6.3.1. Theatrical release, broadcasting and visibility on VOD

Requirements regarding the performance of a work in terms of minimum theatrical release vary from one fund to another. The FFG requires a theatrical release with a minimum of seven days of screening in theaters.<sup>611</sup> There are holdback periods under the FFG (six months after theatrical release for SVOD and TVOD, 12 months for pay TV and 18 months for free TV and free VOD), which nevertheless can be reduced in special cases.<sup>612</sup> The broadcasting rights of supported theatrical films must return to the applicant no later than five years after the TV premiere.<sup>613</sup>

For both DFFF I and DFFF II, the film must be commercially released and screened for at least seven consecutive days in Germany. In exceptional cases, the FFA's managing board may extend this period.<sup>614</sup> The holdback periods stipulated by the FFG apply to both programmes.<sup>615</sup>

The BKM does not have any requirements concerning theatrical release and performance. The GMPF does not have any such requirements either; however, it requires the supported films and series to be released on German television or on VOD platforms accessible in Germany within a year of the work's completion.<sup>616</sup>

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<sup>608</sup> Article 3.1 of the FFF Bayern Guidelines for Bavarian Film and Television Funding.

<sup>609</sup> Article 3.2.1 of the MBBB Funding Guidelines.

<sup>610</sup> Article 2.1.1 of the NRW Funding Guidelines.

<sup>611</sup> Article 40(7) FFG.

<sup>612</sup> Articles 53-56 FFG.

<sup>613</sup> Article 67(7) FFG.

<sup>614</sup> Sections 9(1) and (5) for DFFF I and sections 23(1) and (2) for DFFF II of the DFFF Guidelines.

<sup>615</sup> Section 10(1) for DFFF I and section 24 for DFFF II of the DFFF guidelines.

<sup>616</sup> Article 5.3(1) and 6.3(1) of the GMPF Guidelines.



Under the Kuratorium production support scheme, support is given to projects with an expected theatrical release.<sup>617</sup>

As for regional funds, funding by FFF Bayern may not be awarded unless a contract for the theatrical distribution of feature films or a contract with a television network for the broadcasting of TV films or series, or alternately written proof of an agreement is submitted along with the application.<sup>618</sup> The premiere screening of theatrical films has to take place in the region, but exceptions can be made if the Bavarian contribution is lower than other federal or regional contributions.<sup>619</sup> The commercial exploitation of the work on television in German-speaking countries shall observe a holdback period of one year from the film's theatrical release.<sup>620</sup> Web series must make available an episode on successfully established video portals or VOD services at least once a week.<sup>621</sup>

As for the MBBB, theatrical films are required to have a German distribution agreement. In the case of documentaries, a world sales agreement suffices, and exceptions can be made for short films.<sup>622</sup> The premiere screening of theatrical films has to take place in Berlin or Brandenburg.<sup>623</sup> Rules on holdback windows apply under the FFG, but exceptions may be made at the producer's request.<sup>624</sup> In order to be eligible for series production funding, the producer must provide evidence that there is interest in the exploitation of the work.<sup>625</sup> The Filmstiftung NRW requires that the German premieres of funded theatrical films take place in the region.<sup>626</sup>

#### 7.6.3.2. Theatrical performance and performance at festivals, events and awards

Participation in the main competition of significant German and international film festivals, as well as participation in the Oscars, leads to the attribution of reference points under the FFA's reference film funding.<sup>627</sup>

The FFA's *Referenzfilmförderung* (Reference film funding scheme) requires feature films to reach a minimum number of admissions within the first year of its premiere in German cinemas. This minimum number of admissions varies between 25 000 and 500 000 depending on the budget of the film and the type of work (feature film, documentary, children's film, etc.).<sup>628</sup> The BKM guidelines contain a reporting obligation

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<sup>617</sup> Article 1.3.1. of the Kuratorium guidelines.

<sup>618</sup> Article 3.7 of the FFF Bayern Guidelines for Bavarian Film and Television Funding.

<sup>619</sup> Article 3.13 of the FFF Bayern Guidelines for Bavarian Film and Television Funding.

<sup>620</sup> Article 3.14 of the FFF Bayern Guidelines for Bavarian Film and Television Funding.

<sup>621</sup> <https://www.fff-bayern.de/de/foerderung/foerderbereiche/webserien.html>.

<sup>622</sup> Article 2.2.2 of the MBBB Funding Guidelines.

<sup>623</sup> Article 2.2.8 of the MBBB Funding Guidelines.

<sup>624</sup> Article 2.2.9 of the MBBB Funding Guidelines.

<sup>625</sup> Article 2.5.3 of the MBBB Funding Guidelines.

<sup>626</sup> Article 4.1.7 of the NRW Funding Guidelines.

<sup>627</sup> Article 75 FFG.

<sup>628</sup> Articles 73 to 79 FFG.



regarding participation, nomination and awards received in German and international film festivals.<sup>629</sup>

With regard to regional funds in Germany, none of the funding guidelines features any mandatory requirements regarding the performance of the work.

### 7.6.3.3. Budget

The FFA has no threshold requirement. However, the production budget determines the film's objectives in terms of theatrical performance, which is, on the other hand, a prerequisite for financing, as detailed in the previous segment.

Under DFFF I, the minimum production costs must amount to at least EUR 1 million for feature films, EUR 200 000 for documentary films and at least EUR 2 million for animated films. As for DFFF II, a minimum budget of EUR 20 million for feature or animated films is required to apply.

The GMPF sets the minimum total production costs at EUR 25 million<sup>630</sup> and EUR 1.2 million per episode for TV series.<sup>631</sup> Kuratorium has set a maximum amount of EUR 1.5 million, while allowing projects slightly above the limit to be eligible in exceptional cases.<sup>632</sup> As for BKM production support, production costs can reach EUR 5 million.<sup>633</sup>

Additionally, some federal funds have set a minimum German share of the total production costs, which are as follows:

- DFFF I: 25% of the total production costs up to EUR 20 million, and 20% for costs exceeding that amount.<sup>634</sup>
- DFFF II: at least EUR 8 million of German participation; the amount can be reduced to EUR 2 million for animation projects fulfilling the Test of Characteristics.<sup>635</sup>
- GMPF: at least 20% of the production costs. For production costs over EUR 35 million, German participation shall be at least EUR 7 million.<sup>636</sup>

Applicants are required by the FFG and most of the production funding guidelines to make a minimum contribution to the production costs in order to be eligible. The FFG requires the applicant to make a financial contribution of at least 5% of the production costs. In the case of international co-productions, the German share of the financing will be used

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<sup>629</sup> Article 17(10) of the BKM Guidelines.

<sup>630</sup> Article 5.2(1) of the GMPF Guidelines.

<sup>631</sup> Article 6.2(1) of the GMPF Guidelines.

<sup>632</sup> Article 3.3.3 of the Kuratorium Guidelines.

<sup>633</sup> Article 13(1) of the BKM Guidelines.

<sup>634</sup> Article 12 of the DFFF Guidelines.

<sup>635</sup> Article 22(2) of the DFFF Guidelines.

<sup>636</sup> Article 2(2) of the GMPF Guidelines.



as the basis of calculation.<sup>637</sup> For Reference film funding, the applicant's contribution shall amount to EUR 25 000.<sup>638</sup> Other than the producer's own investment, the contribution can come from third-party investments or from loans with an unconditional repayment obligation. Nevertheless, the required financial contribution can be reduced by the FFA upon request for the producer's first two feature films or if the project's production costs exceed twice the average amount of production costs of all the productions supported by the FFA in the previous year.<sup>639</sup>

The same 5% minimum contribution applies to funding by BKM,<sup>640</sup> Kuratorium<sup>641</sup> and DFFF I<sup>642</sup>. For the latter, in the case of international co-productions, the applicant's own financial contribution shall amount to at least 20% of the total production costs unless the costs exceed EUR 25 million, in which case, a financial contribution of at least EUR 5 million is required.<sup>643</sup> As for the GMPF, there are no regulations regarding the share of the budget the applicant has to contribute. Both the DFFF<sup>644</sup> and GMPF<sup>645</sup> require applicants to provide evidence that 75% of the project's budget is secured.

With regard to regional funds in Germany, FFF Bayern only sets rules regarding a minimum/maximum budget for international co-production funding – a minimum budget of EUR 5 million and a 50% German co-production share for feature films, and a minimum budget of EUR 20 000 per minute and a 30% German co-production share (or a minimum of EUR 5 million) for high-end series.<sup>646</sup>

Private funds, including the producer's own funds as well as bank credits and participatory loans, must account for at least 2.5% of the total production costs.<sup>647</sup> Deferred personal services calculated on the basis of the current market rate can represent up to 10% of the production costs. In the case of TV films and series, the television networks' share of the production costs should be at least 60%.<sup>648</sup>

In the case of MBBB, producers should contribute 50% of the total German share, which may be provided through, *inter alia*, personal resources, licences and third-party contributions.<sup>649</sup> For cross-border or difficult projects, the producer's own contribution may be reduced to at least 30% for feature films, 70% for TV films and series and 20% for

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<sup>637</sup> Article 63 FFG. This minimum contribution applies to most schemes financed by the FFA as well as other funds following FFG rules, unless provided otherwise.

<sup>638</sup> Article 6(1) of the FFA Guidelines for Reference film Funding.

<sup>639</sup> Article 64 FFG.

<sup>640</sup> Article 17(2) of the BKM Guidelines.

<sup>641</sup> Article 3.3.7 of the Kuratorium Guidelines.

<sup>642</sup> Article 11 of the DFFF Guidelines.

<sup>643</sup> Section 14 of the DFFF Guidelines

<sup>644</sup> Section 18(2) for DFFF I and section 29(2) for DFFF II of the guidelines.

<sup>645</sup> Article 8.1(3) of the GMPF Guidelines.

<sup>646</sup> Article 2.3 of the FFF Bayern's Guidelines for the Funding of the Co-production of Theatrical Films or Series as International Co-productions (hereinafter, "Guidelines for International Co-productions"), see: [https://www.fff-bayern.de/fileadmin/user\\_upload/downloads/FFF/Allgemein/Richtlinien/Guidelines\\_International\\_Co-productions.pdf](https://www.fff-bayern.de/fileadmin/user_upload/downloads/FFF/Allgemein/Richtlinien/Guidelines_International_Co-productions.pdf).

<sup>647</sup> Article 3.6 of the FFF Bayern Guidelines for Bavarian Film and Television Funding.

<sup>648</sup> Article 3.3 and 3.4 of the FFF Bayern Guidelines for Bavarian Film and Television Funding.

<sup>649</sup> 2.2.4 of the MBBB Funding Guidelines.



documentaries, short and experimental films.<sup>650</sup> No minimum or maximum budget is indicated in the guidelines.

When it comes to the *Filmstiftung NRW*, the guidelines do not mention any minimum or maximum budget for a project to be eligible for funding, except under the Simplified Support (Vereinfachte Förderung) scheme which aims at supporting culturally sophisticated films,<sup>651</sup> where the project's total costs may not exceed EUR 1.5 million.<sup>652</sup> The recipient must contribute at least 5% of the production costs.<sup>653</sup>

#### 7.6.3.4. Awarded amount

The amount awarded by the FFA in support of a project is decided on a case-by-case basis, and depends on the amount of the expected production costs as well as the overall assessment of the project.<sup>654</sup> In the case of project production funding, the awards are in the form of repayable, interest-free loans limited to EUR 1 million; the minimum funding is set at EUR 200 000 for feature films and EUR 100 000 for documentaries. Eligible production costs may include: pre-production costs, rights and script, staff, studio costs, equipment, travel and transportation, material and editing, final production, insurance and overhead fees, among other things.<sup>655</sup> Funding may not exceed 50% of the production costs, except for international co-productions, where the share is raised to 60% of the German production costs.<sup>656</sup>

In the case of reference funding<sup>657</sup>, the number of reference points awarded for admissions as well as for success at festivals are to be taken into account for the calculation of the subsidy. The minimum number of reference points required depends on the production budget and may vary from EUR 300 000 to EUR 50 000 for feature films and between EUR 50 000 and EUR 25 000 for documentaries, children's films, first time and low-budget films (under EUR 1 million). The film generates one reference point per ticket sold until box office revenues equal production costs (1.25 points beyond that threshold). Reference points are also generated by receiving awards at key international festivals, the German Film Prize or the Oscars (for example, 200 000 points for Berlin, Cannes or Venice) as well as participation in the said events. The actual awarded amount depends on the number of applicants and their score, as the available budget for this scheme is automatically granted among all successful applicants in proportion to their score. In any case, the overall reference support of a film can never go beyond EUR 2

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<sup>650</sup> Article I. 2. of the Brochure on own contribution (*Merkblatt Eigenanteil*), [https://www.medienboard.de/fileadmin/user\\_upload/pdf/Richtlinien-Merkblaetter/Merkblatt\\_EIGENANTEIL.pdf](https://www.medienboard.de/fileadmin/user_upload/pdf/Richtlinien-Merkblaetter/Merkblatt_EIGENANTEIL.pdf)

<sup>651</sup> Article 10.1.1 of the NRW Funding Guidelines.

<sup>652</sup> Article 10.1.2 of the NRW Funding Guidelines.

<sup>653</sup> Article 4.1.3 of the NRW Funding Guidelines.

<sup>654</sup> Article 60 of the FFG.

<sup>655</sup> Article 15 of the D.1 Guideline for Project Film Funding, <https://www.ffa.de/download.php?f=1d2e726c85a34a26dbbdd839450bae89&target=0>.

<sup>656</sup> Article 67 of the FFG.

<sup>657</sup> Articles 73 to 79 of the FFG.



million. The amount granted is non-repayable and has to be reinvested in the production of new projects within three years.<sup>658</sup>

In the case of DFFF I, the awarded amount is calculated on the basis of the German share and equals up to 20% of the eligible German share for projects under EUR 8 million and 25% of the production costs for higher budgets, with a cap of EUR 4 million per film.<sup>659</sup> As for DFFF II, the grant equals up to 25% of the eligible German production costs, up to a maximum of EUR 25 million per film.<sup>660</sup> In both cases, eligible costs cannot go beyond 80% of the total budget and the award is non-repayable.<sup>661</sup> German production costs are “costs incurred by companies or their employees as well as by freelancers and self-employed persons for film-related goods and services provided in Germany”.<sup>662</sup> Eligible German costs include, *inter alia*, pre-production costs, costs of copyrights, costs for legal and tax advice, insurance costs, financing costs, travel and transport costs for performers, overhead costs, actors’ fees within a certain limit, contingency costs and shooting costs.

Funding by the BKM is limited to EUR 500 000 for feature films and children’s films – but can be raised to EUR 1 million in exceptional cases and is limited to 80% of the total eligible production costs.<sup>663</sup> The funding of short films is limited to EUR 15 000. BKM grants are non-repayable unless specified otherwise in the contract.<sup>664</sup>

Funding by the GMPF is awarded as a non-repayable grant of up to 20% of the eligible German production costs and is limited to EUR 2.5 million per film.<sup>665</sup> In the case of television series, the same rules apply per season, but the limit may exceptionally be raised to EUR 4 million if the German costs amount to at least EUR 20 million.

Funding by Kuratorium is awarded as a repayable loan (recouped from the film’s revenues). The awarded amount may reach a maximum of EUR 50 000.<sup>666</sup>

The right to cumulate grants from different funds is only possible up to the aid intensity ceiling under European law, which is up to 50% of the production costs. In the case of cross-border projects involving producers from more than one member state, the aid intensity may be up to 60% of the respective total production costs. It is worth noting that all funds, except MEDIA and Eurimages, are to be taken into account for the purpose of complying with aid intensity rules, as established in the FFG,<sup>667</sup> as well as by BKM,<sup>668</sup> GMPF<sup>669</sup> and Kuratorium’s<sup>670</sup> Guidelines.

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<sup>658</sup> Article 84 FFG.

<sup>659</sup> Section 16 of the DFFF Guidelines.

<sup>660</sup> Section 27 of the DFFF Guidelines.

<sup>661</sup> Section 2 of the DFFF Guidelines.

<sup>662</sup> Section 4(5) of the DFFF Guidelines.

<sup>663</sup> Articles 13-15 of the BKM Guidelines.

<sup>664</sup> Article 4(5) of the BKM Guidelines.

<sup>665</sup> Article 7.2-7.4 of the GMPF Guidelines.

<sup>666</sup> Articles 3.3.4 of the Kuratorium Guidelines.

<sup>667</sup> Article 67(2) FFG.

<sup>668</sup> Article 5(2) of the BKM Guidelines.

<sup>669</sup> Section 4.1 (1) and (2) of the GMPF Guidelines.

<sup>670</sup> Article 1.4.2 of the Kuratorium Guidelines.



The following rules apply in the main regional funds:

FFF Bayern	
<b>Awarded amount</b>	Up to 30% of eligible production costs, up to EUR 2 million for theatrical films, EUR 600 000 for TV films and EUR 1 million for TV series <sup>671</sup> (60% and EUR 50 000 for web series <sup>672</sup> ). In the case of international co-productions, executive producers based in Germany may apply for grants worth up to 20% of the production costs and a maximum funding amount of EUR 500 000. <sup>673</sup>
<b>Aid intensity</b>	It may not exceed 50% (60% in the case of international co-productions). Exceptions may be made for challenging audiovisual works, that is, short films, directors' first and second films, documentaries, low-budget productions and other commercially challenging works. <sup>674</sup>
<b>Repayable</b>	Repayable loan: for theatrical and TV films and TV series; <sup>675</sup> in the case of support for new talent; it is allocated either as a grant or a success-related repayable loan. <sup>676</sup>
<b>Eligible costs</b>	Deferred personal services (director, producer or DOP fees) calculated on the basis of the current market rate can be used as a financing component for no more than 10% of the production costs. In the case of theatrical films, a producer's fee representing no more than 2.5% of the production costs can be credited to the personal services rendered <sup>677</sup> .
<b>Selective/Automatic</b>	Support is awarded after a selection procedure by an Allocation Committee. <sup>678</sup> In the case of international co-productions, projects have to go through a selection procedure by a Special Committee on International Productions. <sup>679</sup>
MBBB	
<b>Awarded amount</b>	No minimum or maximum threshold is indicated in the guidelines. Films by emerging talent with production costs not exceeding EUR 500 000 may receive a grant of up to EUR 100 000. <sup>680</sup>
<b>Aid intensity</b>	Funding may be combined with support from other public bodies, but shall not exceed 50% of the total production costs. <sup>681</sup> As regards TV films, total public funding may not exceed 30% of the German share of the production costs. <sup>682</sup>

<sup>671</sup> Articles 3.2-3.4 of the FFF Bayern's Guidelines for Bavarian Film and Television Funding.

<sup>672</sup> Article 4.1.1 of the FFF Bayern guidelines.

<sup>673</sup> Article 2.6 of the FFF Bayern's Guidelines for International Co-productions.

<sup>674</sup> Article 1.3.10 of the FFF Bayern's Guidelines for Bavarian Film and Television Funding.

<sup>675</sup> Article 3.1 of the FFF Bayern's Guidelines for Bavarian Film and Television Funding.

<sup>676</sup> Article 3.5.1 of the FFF Bayern's Guidelines for Bavarian Film and Television Funding.

<sup>677</sup> Article 3.5 of the FFF Bayern's Guidelines for Bavarian Film and Television Funding.

<sup>678</sup> Article 1.3.8 of the FFF Bayern's Guidelines for Bavarian Film and Television Funding.

<sup>679</sup> Article 3.4 and 3.5 of the FFF Bayern's Guidelines for International Co-productions.

<sup>680</sup> Article 2.2.12 of the MBBB Funding Guidelines.

<sup>681</sup> Article 3.1.3 of the MBBB Funding Guidelines.

<sup>682</sup> Article 2.4.3 of the MBBB Funding Guidelines.



<b>Repayable</b>	Funding is generally awarded as a repayable, interest-free loan <sup>683</sup> to be reimbursed from the proceeds of the domestic and foreign exploitation of the work. <sup>684</sup> In the case of co-financing by several funding bodies, the repayment shall be proportional to the amounts provided by each fund. In the case of theatrical films, the repayment obligation expires 5 years following the theatrical release, unless provided otherwise. <sup>685</sup>  Funding may be awarded as a grant in the case of graduation films and certain projects by emerging talent. <sup>686</sup>
<b>Eligible costs</b>	Prices before taxes and other charges apply. <sup>687</sup> Further details on eligible costs and the relevant calculation are included in the guidelines. <sup>688</sup>
<b>Selective/Automatic</b>	Selective, following examination by the Medienboard. <sup>689</sup>
<b>Filmstiftung NRW</b>	
<b>Awarded amount</b>	The awarded amount may be up to 50% of the total production costs for theatrical films, <sup>690</sup> and 30% for television projects <sup>691</sup> . Low-budget films and films that are difficult to exploit may be funded with up to 70% of the funding recipient's share of the total production costs for theatrical films and 50% for television projects. Theatrical films with total production costs below EUR 750 000 may be funded with up to 80% of the total production costs. <sup>692</sup> Culturally sophisticated films may receive funding of up to 80% of the total costs, <sup>693</sup> with a threshold of EUR 100 000 for theatrical films and EUR 25 000 for short films. <sup>694</sup>
<b>Aid intensity</b>	N/A.
<b>Repayable</b>	Funding is awarded as a repayable loan. <sup>695</sup>
<b>Eligible costs</b>	N/A.
<b>Selective/Automatic</b>	Funding is awarded following a decision by a funding committee. <sup>696</sup>

<sup>683</sup> Article 3.1.6 of the MBBB Funding Guidelines.

<sup>684</sup> Article 2.2.5 of the MBBB Funding Guidelines.

<sup>685</sup> Article 2.2.6 of the MBBB Funding Guidelines.

<sup>686</sup> Article 2.2.12 of the MBBB Funding Guidelines.

<sup>687</sup> Article 3.1.5 of the MBBB Funding Guidelines.

<sup>688</sup> Section on Financing, Brochure on the Production of Theatrical Films (feature and documentaries), MBBB, [https://www.medienboard.de/fileadmin/user\\_upload/pdf/Richtlinien-Merkblaetter/Merkblatt\\_PRODUKTION\\_KINOFILME\\_19.11.2018.pdf](https://www.medienboard.de/fileadmin/user_upload/pdf/Richtlinien-Merkblaetter/Merkblatt_PRODUKTION_KINOFILME_19.11.2018.pdf).

<sup>689</sup> Article 3.4 of the MBBB Funding Guidelines.

<sup>690</sup> Article 4.1.3 of the NRW Funding Guidelines.

<sup>691</sup> Article 4.3.2 of the NRW Funding Guidelines.

<sup>692</sup> Article 4.2.4 of the NRW Funding Guidelines.

<sup>693</sup> Article 10.2.5 and 10.2.6 of the NRW Funding Guidelines.

<sup>694</sup> Article 10.1.5 of the NRW Funding Guidelines.

<sup>695</sup> Article 1.3.2 of the NRW Funding Guidelines.

<sup>696</sup> Section 2.2 and Article 4.2.2 of the NRW Funding Guidelines.



### 7.6.3.5. Spending and shooting criteria

There is no minimum territorial spending to be eligible for funding by the FFA. Nevertheless, article 41(c) of the FFG establishes territorial ceilings for production support in line to those set by the EU Cinema Communication (up to 160% of the granted award and up to 80% of the overall production budget). Under the DFFF Guidelines, spending in the country allows the attribution of points as part of the Test of Characteristics. As for the GMPF, 40% of the production costs have to be spent in Germany, unless German spending attains EUR 13 million for feature films<sup>697</sup> and EUR 10 million for TV series.<sup>698</sup>

The FFG stipulates that financial support is granted to films that use facilities, that is, studios, laboratories and post-production facilities, established in Germany or in another state of the EU, EEA or in Switzerland.<sup>699</sup> If shooting needs to take place in another country due to thematic reasons, only 30% of the shooting time in the studio may be taken in that country. If the shooting takes place in original locations in other countries and the executive board considers it necessary for financial reasons, the 30% limit may be waived.<sup>700</sup> The guidelines of the various FFA schemes are based on the FFG. Moreover, the use of shooting locations and studios in Germany is part of the assessment criteria in the case of the DFFF's Test of Characteristics<sup>701</sup> and the GMPF's Test of Characteristics.<sup>702</sup>

In the case of regional funds, FFF Bayern requires that at least 150% of the granted amount for the production of theatrical films, TV films and series, including international co-productions, be spent in Bavaria.<sup>703</sup> In the case of theatrical films, at least half of the shooting days have to take place in the region. For the purpose of the calculation of shooting days, digital production computes as shooting.<sup>704</sup> As for the MBBB, the granted amount has to be spent in Berlin-Brandenburg unless otherwise approved by the Medienboard.<sup>705</sup> Lastly, the NRW Filmstiftung requires that at least 150% of the awarded amount be spent in North Rhine-Westphalia for both theatrical films and television projects.<sup>706</sup> Exceptionally, theatrical films with total production costs below EUR 750 000 just need to spend the awarded amount in the region.<sup>707</sup>

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<sup>697</sup> Article 5.2(2) of the GMPF Guidelines.

<sup>698</sup> Article 6.2(2) of the GMPF Guidelines.

<sup>699</sup> Article 41(1) 3. And 7. FFG.

<sup>700</sup> Article 41(2) FFG.

<sup>701</sup> Ibid.

<sup>702</sup> Ibid.

<sup>703</sup> Article 3.8 of the FFF Bayern's Guidelines for Bavarian Film and Television Funding and Article 1, FFF Bayern's Guidelines for Funding International Co-productions.

<sup>704</sup> Article 2.7 of the FFF Bayern's Guidelines for Funding International Co-productions.

<sup>705</sup> Article 3.3 of the MBBB Funding Guidelines.

<sup>706</sup> Article 4.2.3 of the NRW Funding Guidelines.

<sup>707</sup> Article 4.2.4 of the NRW Funding Guidelines.



#### 7.6.3.6. Talent, cast, crew, underlying copyright

The FFA requires the director to be either German, or to be from an EU or an EEA country or from Switzerland, or to belong to the German cultural area; alternatively, it requires that everyone except the scriptwriter or up to two persons with a leading role be from one of these listed countries.<sup>708</sup> The nationality of the film talent, cast and crew is often part of the funds' assessment criteria; such is the case of the DFFF<sup>709</sup> and GMPF<sup>710</sup>, with both including a list of the different positions susceptible to score points in the Tests of Characteristics. Having a German director, or a director established in Germany, in another EU or EEA country or in Switzerland is considered to be part of a German cultural imprint, which is a requirement for obtaining financing from the BKM.<sup>711</sup>

In the case of regional funds, most of the guidelines do not feature any requirements regarding the nationality of the film talent, cast and crew and the underlying copyright.

#### 7.6.3.7. Shooting language and diversity

The FFG does not have any requirements regarding the shooting language. However, it requires that a German version of the final work be delivered.<sup>712</sup> The same rule applies to the DFFF<sup>713</sup> and GMPF<sup>714</sup> guidelines, where a version with German subtitles suitable for cinema showing is deemed to fulfil this obligation, while the BKM guidelines<sup>715</sup> consider the fact that the original language of the film is German as a German cultural imprint.

Film policies in Germany do not require any quotas or similar measures directed towards gender equality or the promotion of ethnic minorities. However, the FFA must act in the best interests of gender equality.<sup>716</sup> The BKM guidelines state that the BKM is committed to promoting the equal participation of women and men as one of the fund's main goals.<sup>717</sup>

There are no requirements regarding the shooting language, ethnic or linguistic minorities and gender in the regional funds' guidelines.

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<sup>708</sup> Article 41 (1)4 and (4) FFG.

<sup>709</sup> Test of Characteristics for Feature Films of the DFFF guidelines.

<sup>710</sup> Appendix 1, 2 and 3 of the GMPF Guidelines.

<sup>711</sup> Article 3(5)b. of the BKM Guidelines.

<sup>712</sup> Article 41 (1)2 FFG.

<sup>713</sup> Sections 8(4) and 22(3) of the DFFF Guidelines.

<sup>714</sup> Articles 5.3 (2) and (3) and Articles 6.3 (2) and (3) of the GMPF Guidelines.

<sup>715</sup> Article 3(3)1.a. of the BKM Guidelines.

<sup>716</sup> Article 2 FFG.

<sup>717</sup> Article 1 (3) of the BKM Guidelines.



## 7.6.4. Funding criteria applicable to pre-production support

### 7.6.4.1. Budget

The FFG as well as the FFA and BKM guidelines have no conditions regarding a minimum/maximum budget for pre-production support. However, the general obligation for the applicant to contribute a minimum personal contribution of 5% applies to both funds. Due to the nature of the Kuratorium fund, the eligible cost of supported films may attain EUR 1.5 million,<sup>718</sup> including a minimum contribution of 20% of the budget.<sup>719</sup> The DFFF and GMPF do not offer pre-production support.

In the case of regional funds, FFF Bayern establishes that the applicant must provide an appropriate personal contribution.<sup>720</sup> In the case of the MBBB, the producer's own contribution, through their own or external provisions, shall make up at least 20% of the total costs for project development and screenplay development support.

### 7.6.4.2. Awarded amount

The FFA funds the development of scripts for German feature films with non-repayable grants of up to EUR 25 000, which may rise to EUR 35 000 in exceptional cases.<sup>721</sup> Further script development support of up to EUR 75 000 can be awarded for German feature films of exceptional quality, with another EUR 25 000 being allocated upon request.<sup>722</sup>

The BKM provides support of up to EUR 30 000 for German language scripts; this consists of an initial grant of EUR 15 000 aimed at supporting the first version of the script and an additional EUR 15 000 to finance further script development, which is granted on the condition that the beneficiary provides a production agreement with a contribution of at least EUR 10 000 to the development of the script.<sup>723</sup> In exceptional cases, the total amount may attain EUR 50 000. The amount may be up to EUR 20 000 for documentaries.<sup>724</sup> Funding is awarded by a selection committee as a non-repayable grant.<sup>725</sup>

As for funding granted by Kuratorium, the applicant has to prove that the script development is supported by a producer.<sup>726</sup> In all cases, the maximum amount awarded is EUR 15 000 for script development and EUR 50 000 for project development.<sup>727</sup> The grants are in the form of repayable loans covering up to 80 % of the development costs which

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<sup>718</sup> Article 3.2.4. of the Kuratorium Guidelines.

<sup>719</sup> Articles 3.2.6. and 4.3.5. of the Kuratorium Guidelines.

<sup>720</sup> Article 2.4.2 of the FFF Bayern's Guidelines for Bavarian Film and Television Funding.

<sup>721</sup> Article 100(1) FFG.

<sup>722</sup> Article 107(1) FFG.

<sup>723</sup> Article 6(1)-(3) of the BKM Guidelines.

<sup>724</sup> Article 10(1) of the BKM Guidelines.

<sup>725</sup> Article 4(5) of the BKM Guidelines.

<sup>726</sup> Article 3.1.5. of the Kuratorium Guidelines.

<sup>727</sup> Article 3.2.5. and 3.2.8. of the Kuratorium Guidelines.



should be reimbursed when the project goes into production. They are awarded by a selection committee.<sup>728</sup>

Concerning regional funds:

FFF Bayern	
<b>Awarded amount</b>	In the case of project development, the loan may amount to a maximum of 70% of the calculated project development costs – up to EUR 100 000 for feature and television films and EUR 150 000 for TV series. <sup>729</sup> As for script development, awarded amounts can go up to a maximum of EUR 30 000 for theatrical feature films and internationally marketable series and EUR 20 000 for theatrical documentary films. <sup>730</sup>
<b>Aid intensity</b>	The same conditions as those under the general funding prerequisites apply (see production section).
<b>Repayable</b>	Funds are granted in the form of a repayable, interest-free loan. If the screenplay is sold, the recipient has to pay back half of the proceeds, but no more than the amount of the granted loan. If the recipient produces the film him/ herself, the entire funding must be paid back when shooting starts. <sup>731</sup>
<b>Eligible costs</b>	The same conditions as those under the General funding prerequisites apply (see production section).
<b>Selective/Automatic</b>	As regards production funding, the support is awarded following a selection procedure by an Allocation Committee. <sup>732</sup>
MBBB	
<b>Awarded amount</b>	N/A
<b>Aid intensity</b>	The amount for screenplay and project development may not exceed 50% of the development costs (80% in exceptional cases). <sup>733</sup>
<b>Repayable</b>	The same general rules as those for production funding.
<b>Eligible costs</b>	<p>Eligible costs for project development include overheads of up to 7.5% of the total grant, as well as author, dramaturge and producer fees of up to EUR 2 000 for feature films and EUR 1 000 for documentaries, along with other costs including research, the creation of a storyboard, casting and legal advice.</p> <p>Eligible costs for screenplay development include overheads of up to 6% of the total grant, as well as author, dramaturge and producer fees, translation and legal advice, and, if necessary, research costs of up to EUR 10 000.</p>

<sup>728</sup> Article 1.6.1. of the Kuratorium Guidelines.

<sup>729</sup> Article 2.4.2 of the FFF Bayern's Guidelines for Bavarian Film and Television Funding.

<sup>730</sup> Articles 2.1.4, 2.2.1 and 2.3.1 of the FFF Bayern's Guidelines for Bavarian Film and Television Funding.

<sup>731</sup> Articles 2.1.8, 2.2.3 and 2.3.3 of the FFF Bayern's Guidelines for Bavarian Film and Television Funding.

<sup>732</sup> Articles 2.1.5, 2.2.3 and 2.3.3 of the FFF Bayern's Guidelines for Bavarian Film and Television Funding.

<sup>733</sup> See the Financing section in the respective brochures for Screenplay development and Project development.



<b>Selective/Automatic</b>	The same general rules as those for production funding.
<b>Filmstiftung NRW</b>	
<b>Awarded amount</b>	The amount awarded may not exceed EUR 20 000 for screenplay funding, <sup>734</sup> EUR 75 000 for project development funding <sup>735</sup> and EUR 100 000 for pre-production funding. <sup>736</sup>
<b>Aid intensity</b>	Up to 80% of the pre-production costs.
<b>Repayable</b>	Funding is awarded as a repayable loan <sup>737</sup> to be paid back six months after the beginning of the principal photography or upon the sale of the rights associated with the funded project. <sup>738</sup>
<b>Eligible costs</b>	N/A.
<b>Selective/Automatic</b>	Selectively, following a decision by a funding committee. <sup>739</sup>

#### 7.6.4.3. Underlying copyright

At federal and regional levels, there are no mandatory requirements regarding the underlying copyright (and how this is linked to the country).

#### 7.6.4.4. Script language and diversity

There are no references to requirements linked to ethnic or linguistic minorities or to gender in any of the federal or regional funds' guidelines.

The FFG requires screenplays to be submitted in German, with the exception of dialogues which may be in other languages for dramaturgical purposes.<sup>740</sup> To be eligible for script funding from the FFA<sup>741</sup> and BKM<sup>742</sup>, the script must be in German. On a regional level, for instance, FFF Bayern also requires that screenplays be submitted in German.<sup>743</sup>

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<sup>734</sup> Article 3.3.2 of the NRW Funding Guidelines.

<sup>735</sup> Article 3.2.3 of the NRW Funding Guidelines.

<sup>736</sup> Article 3.4.2 of the NRW Funding Guidelines.

<sup>737</sup> Article 1.3.2 of the NRW Funding Guidelines.

<sup>738</sup> Article 3.1.2 of the NRW Funding Guidelines.

<sup>739</sup> Section 2.2 and Article 4.2.2 of the NRW Funding Guidelines.

<sup>740</sup> Article 100(3) FFG.

<sup>741</sup> Article 41(2) FFG.

<sup>742</sup> Article 6(1) of the BKM Guidelines.

<sup>743</sup> Article 1.3.2 of the FFF Bayern's Guidelines for Bavarian Film and Television Funding.



## 7.6.5. Funding criteria applicable to distribution and promotion support

### 7.6.5.1. Theatrical release, broadcasting and visibility on VOD

The FFA supports the distribution of German feature films<sup>744</sup> via the Media services scheme and the Distribution reference funding programmes as well as the Distribution project funding:

- To be eligible for funding from the FFA under the Distribution project funding, distributors are required to release between 2% and 5% of the total number of prints in territories with up to 20 000 inhabitants.<sup>745</sup> In addition to theatrical release, video (DVD and Blu-ray) and VOD distribution are also eligible under the Video funding scheme.<sup>746</sup>
- The Media services programme consists of funds awarded by the FFA to distributors for advertising campaigns on public and commercial broadcasting services, but also for the promotion of video and VOD premiers. This scheme is directly funded by broadcasters with up to 40% of their mandatory contribution to the FFA.<sup>747</sup> At least 25 nationwide releases are required to benefit from this support.<sup>748</sup>
- The Distribution reference funding is awarded retroactively to successful German features and documentaries, based on reference points generated by domestic theatrical admissions as well as participation and awards at important national and international film festivals and events.<sup>749</sup>

To be eligible for distribution funding from the BKM, a maximum number of 40 theatrical releases was set.<sup>750</sup> Consequently, if the number of releases exceeds 50 after the application, the subsidies may be withdrawn, with the exception of artistically demanding films.

As for the German Films' distribution support, which aims at improving the distribution of German films on foreign markets, films must be theatrically released in at least 5 territories to be eligible for funding.<sup>751</sup>

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<sup>744</sup> FFA's Distribution and Marketing Funding, <https://www.ffa.de/distribution-and-marketing-funding.html>.

<sup>745</sup> Article 7 of FFA's Guidelines for the Promotion of Film Sales, <https://www.ffa.de/download.php?f=a5000dd8e10564510d2819fd77faaf6e&target=0>.

<sup>746</sup> Article 115 FFG. See also: FFA, Video funding (link in German), <https://www.ffa.de/video.html>.

<sup>747</sup> Article 157 FFG.

<sup>748</sup> <https://www.ffa.de/distribution-and-marketing-funding.html>.

<sup>749</sup> Article 127(2) FFG.

<sup>750</sup> Article 18(3) of the BKM Guidelines.

<sup>751</sup> See the Conditions for participation in the Program bullet points, [https://www.german-films.de/fileadmin/mediapool/pdf/Distribution\\_Support/Distribution\\_Support\\_program\\_bullet\\_points\\_9Nov2018.pdf](https://www.german-films.de/fileadmin/mediapool/pdf/Distribution_Support/Distribution_Support_program_bullet_points_9Nov2018.pdf).



Holdback periods in Germany, and for German language versions, are defined by the FFG as follows: six months for VOD, 12 months for SVOD and 18 months for Free TV and free VOD after the premiere.<sup>752</sup>

In the case of regional funds, there are no requirements regarding theatrical release, broadcasting or visibility on VOD in the guidelines of FFF Bayern, MBBB and Filmstiftung NRW. However, funding will be awarded “mainly to theatrical feature films funded in Bavaria”<sup>753</sup> in the case of the former. Equally, the MBBB will grant support “mainly when it is in the interest of the cinematographic culture and industry of Berlin-Brandenburg”.<sup>754</sup>

#### 7.6.5.2. Theatrical performance and performance at festivals, events and awards

The FFA’s Distribution reference funding requires a minimum of 100 000 reference points obtained through domestic admissions or awards and success at festivals, within a year from the German premiere.<sup>755</sup> The points may correspond either to an equivalent number of admissions (of 100 000) or to 50 000 admissions plus 50 000 from awards and success at festivals within a year of the German premiere. For the calculation of the subsidy, a maximum of 750 000 admissions and 200 000 reference points for success at festivals are to be taken into account. However, films with production costs under EUR 1 million, debut films, children’s films and documentaries may benefit from lower thresholds.

In the case of regional funds, no requirements are stated in the guidelines regarding theatrical performance or performance at festivals, however, in the case of FFF Bayern, for instance, grants may be awarded for activities including advertising in connection with the Oscars or the Golden Globes or for participation in internationally recognised film festivals.<sup>756</sup>

#### 7.6.5.3. Budget

German federal funds do not set conditions on the minimum/maximum budget of an eligible project. However, the following funds have requirements regarding the share of the budget contributed by the applicant:

- The FFA<sup>757</sup> and BKM:<sup>758</sup> the distributor’s own contribution has to be at least 30% of the film’s release costs.
- German Films Service: to be eligible for its distribution support, the distributor’s own share must be at least 50% of the total distribution costs.<sup>759</sup>

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<sup>752</sup> Article 53(1) FFG.

<sup>753</sup> Article 4.1 of the FFF Bayern’s Guidelines for Bavarian Film and Television Funding.

<sup>754</sup> Article 2.3 of the MBBB Funding Guidelines.

<sup>755</sup> Article 127, FFG.

<sup>756</sup> Article 5.5 of the FFF Bayern’s Guidelines for Bavarian Film and Television Funding.

<sup>757</sup> Article 3 (5) of the FFA’s Guidelines for the Promotion of Film Sales.

<sup>758</sup> Article 18(3) of the BKM Guidelines.



At regional level, MBBB requires that the producer cover at least 50% of the distribution-related costs,<sup>760</sup> whereas Filmstiftung NRW requires that the applicant provide at least 30% of the distribution costs.<sup>761</sup>

#### 7.6.5.4. Awarded amount

In the case of Distribution project funding as well as Video funding, the FFA provides support of up to EUR 600 000 in the form of conditionally repayable loans, intended to cover the production of prints and marketing and promotion costs.<sup>762</sup> The amount depends on the nature of the activities covered and the type of work, as detailed in the FFG. Other activities such as the international distribution of feature films, children's films and short films may also be supported.<sup>763</sup> The amount awarded may be used, *inter alia*, to finance guarantee payments for the acquisition of exploitation rights, for the production of barrier-free or foreign language versions as well as for advertisements and measures aimed at expanding sales and markets reached or at reaching new markets.<sup>764</sup>

The FFA's Distribution reference automatic funding depends on the number of participating films as well as on the available budget, and is determined by the number of reference points attributed to the film (for the calculation of reference points, the same rules as those for production support apply; see 7.6.3.4). As an example, in 2016, a reference point within the distribution scheme was worth EUR 0.23.<sup>765</sup> The amount awarded must be used within two years of the grant decision, and must support, among other things, distribution costs, the financing of minimum guarantees, or the making of fully accessible versions or foreign language versions.<sup>766</sup>

The amount awarded under the BKM's Distribution funding scheme is selectively awarded and non-repayable.<sup>767</sup> It may amount to EUR 50 000, to be used for covering the costs related to the production of copies as well as advertising in Germany.<sup>768</sup>

As for Kuratorium, the subsidy is awarded selectively as a conditionally repayable interest-free loan, which may cover up to 50% of the distribution costs and up to EUR 25 000, which is intended to support distribution and festival participation costs.<sup>769</sup>

The German Films Service's Distribution Support programme provides:<sup>770</sup>

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<sup>759</sup> See the Conditions for Participation in the Program bullet points.

<sup>760</sup> Article 2.3.3, MBBB Funding Guidelines.

<sup>761</sup> Article 5.4, NRW Funding Guidelines.

<sup>762</sup> Article 118, FFG and Article 3 (1) and (2) of FFA's Guidelines for the Promotion of Film Sales.

<sup>763</sup> Article 2(1) 1.-5. of FFA's Guidelines for the Promotion of Film Sales.

<sup>764</sup> Article 116(1) FFG.

<sup>765</sup> FFA Overview (page 11): [www.ffa.de/download.php?f=c66bd7af137f78d5aa452ddc387baba4&target=0](http://www.ffa.de/download.php?f=c66bd7af137f78d5aa452ddc387baba4&target=0).

<sup>766</sup> Article 130(2) FFG.

<sup>767</sup> Article 4(5) of the BKM guidelines.

<sup>768</sup> Article 18(2) of the BKM Guidelines.

<sup>769</sup> Article 5.4. and 5.5. of the Kuratorium Guidelines.

<sup>770</sup> Article 4 of the German Films Distribution Support rules.



- Repayable loans, whose reimbursement depends on the theatrical performance of the film, with up to EUR 50 000 per film. Such loans may only be awarded to films that do not benefit from any other loan from third parties.
- Additional subsidies of up to EUR 10 000 may be awarded as non-repayable grants.

The subsidy is awarded selectively and must be used to cover distribution costs incurred between five months before and two months after the film's theatrical release on the territory.<sup>771</sup> In the case of the Festival support programme, for both subtitling and marketing, the awarded amount varies (up to EUR 15 000 for films on the official selection list of key festivals) depending on the festival and the nature of the participation (official programme, competition or out-of-competition screening).<sup>772</sup>

The fund also awards grants for feature and short films to participate in festivals. To support the participation of short films in festivals, up to 75% of the net costs may be supported.<sup>773</sup> The awarded amount depends on the festival and the award section, as well as the nature of the work and the supported activity, which includes subtitling and marketing, as detailed in the fund's Regulations.

At regional level:

FFF Bayern	
<b>Amount awarded</b>	A maximum of 50%, with a loan of up to EUR 205 000. <sup>774</sup>
<b>Aid intensity</b>	The total amount of public funding may not exceed 50%, with the exception of challenging audiovisual works, that is, short films, directors' first and second films, documentaries, low-budget productions and other commercially challenging works – in such cases, a non-repayable grant may be awarded in place of a loan.
<b>Repayable</b>	Funding is granted in the form of a conditionally repayable loan, for the distribution and sale of theatrical films. <sup>775</sup> Loans are to be repaid from the distribution proceeds. <sup>776</sup>
<b>Eligible costs</b>	All documented distribution or sales costs are eligible. <sup>777</sup> The General

<sup>771</sup> Article 6 of the German Films Distribution Support rules.

<sup>772</sup> Article I.a., I.b. and I.c. respectively for the support of subtitling for feature films, documentaries and short films; and section II for the support of marketing, Regulations for the support of subtitling and marketing at International festivals.

<sup>773</sup> Section I.c., Regulations for the support of subtitling and marketing at international festivals, <https://www.german-films.de/producerscorner/festival-support/index.html>.

<sup>774</sup> Article 5.2 of the FFF Bayern Guidelines for Bavarian Film and Television Funding.

<sup>775</sup> Article 5.1 of the FFF Bayern guidelines for Bavarian Film and Television Funding.

<sup>776</sup> Article 5.4 of the FFF Bayern guidelines for Bavarian Film and Television Funding.

<sup>777</sup> Article 5.2 of the FFF Bayern guidelines for Bavarian Film and Television Funding.



	funding requirements apply (see production section).
<b>Selective/Automatic</b>	Selective. <sup>778</sup>
<b>MBBB</b>	
<b>Amount awarded</b>	N/A
<b>Aid intensity</b>	The awarded amount can be up to 50% of the documented distribution costs. <sup>779</sup>
<b>Repayable</b>	The same general rules apply as those for production funding. Repayment is expected after the applicant has recovered the accepted distribution-related costs. <sup>780</sup>
<b>Eligible costs</b>	Eligible costs include costs for the production of copies, and marketing and promotion costs. <sup>781</sup>
<b>Selective/Automatic</b>	The same general rules apply as those for production funding (see production section).
<b>Filmstiftung NRW</b>	
<b>Amount awarded</b>	N/A.
<b>Aid intensity</b>	The awarded amount may not exceed 50% of the distribution costs - 70% for films considered difficult to release or suited to preserving cultural diversity. <sup>782</sup>
<b>Repayable</b>	The loan is to be repaid. <sup>783</sup>
<b>Eligible costs</b>	N/A.
<b>Selective/Automatic</b>	Funding is awarded following a decision by a funding committee. <sup>784</sup>

In general, regional funds require that the amount awarded be spent in the region.<sup>785</sup>

#### 7.6.5.5. Language and diversity

There is no particular requirement regarding ethnic or linguistic minorities and gender or the nationality of the cast and crew, in any of the federal or regional programmes supporting distribution or promotion. When it comes to the language, funds usually require that there is a German version of the film (namely, the FFA).<sup>786</sup>

<sup>778</sup> Article 3.4.3 of the FFF Bayern guidelines for Bavarian Film and Television Funding.

<sup>779</sup> Article 2.3.3 of the MBBB funding guidelines.

<sup>780</sup> Article 2.3.4 of the MBBB funding guidelines.

<sup>781</sup> MBBB brochure on promotion.

<sup>782</sup> Article 5.3 of the NRW funding guidelines.

<sup>783</sup> Article 5.5 of the NRW funding guidelines.

<sup>784</sup> Section 2.2 and Article 4.2.2 of the NRW funding guidelines.

<sup>785</sup> E.g.: Article 4.4 of the FFF Bayern guidelines for Bavarian Film and Television Funding.

<sup>786</sup> Article 115 FFG.



However, the German Films Service's Distribution Support programme requires a majority of German members of cast and crew as well as proof of a significant German cultural imprint in order to grant an application.<sup>787</sup>

### 7.6.6. Data compilation

This factsheet was produced based on data compiled by Markus Vogelbacher, Managing Director at IFP Entertainment GmbH, Germany.

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<sup>787</sup> Article 2 of the German Films distribution support rules.



## 7.7. DK – Denmark – National Summary<sup>788</sup>

### 7.7.1. Summary

There are four public film funds in Denmark - one national and three regional. The Danish Film Institute (hereinafter, the “DFI”) is the national and the major film fund. It operates in accordance with the Film Act, and within the Film Agreement, which lays down the framework for national involvement in the Danish film industry and its overall budget.

According to the former Film Agreement 2015-2018<sup>789</sup>, the DFI must spend at least DKK 28 million on support for regional film production outside the capital area. Thus, DKK 14 million have been transferred to two regional film funds:<sup>790</sup>

- West Danish Film Fund, established in 2002. It supports films, documentaries, television series and multimedia productions, including international co-production; and
- FilmFyn, founded in 2003. It supports and invests in feature films, short and documentary films and in television fiction.

The DFI proposes a variety of support lines providing subsidies for the production and pre-production of feature films, where subsidies are awarded under three different schemes: the Commissioner Scheme, the Market Scheme and the Minority co-production Scheme).<sup>791</sup> It also provides support for the production and pre-production of documentaries<sup>792</sup> and short fiction films,<sup>793</sup> the development of new talents (New Danish

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<sup>788</sup> The factsheet on Denmark incorporates the feedback received from Palle Dam Leegaard (DFI) during the checking round with the national film and audiovisual funds.

<sup>789</sup> A new Film Agreement is in the process of the implementation at the time of publishing this report. The analysis below refers to the former Film Agreement 2015-2018; therefore some of the schemes and conditions may no longer apply.

<sup>790</sup> Under the new 2019-2023 Film Agreement, which came into force end of 2018, this amount was increased to DKK 23.7 million (EUR 3.2m) a year in subsidies, <http://www.nordiskfilmogtvfond.com/news/stories/new-danish-film-agreement-for-2019-2023-in-place>.

<sup>791</sup> DFI, *Vilkår for støtte til spillefilm* (Terms for support for feature films), 1 July 2016, amended 12 April 2018, <https://www.dfi.dk/files/docs/2018-04/DFI-Vilkaar-spillefilm-1-juni-2017-med-rettelser.pdf>, for the latest English version available (2016) see: [https://www.dfi.dk/files/docs/2018-02/Vilk%C3%A5r\\_SPILLEFILM\\_1\\_jul\\_2016\\_UK.pdf](https://www.dfi.dk/files/docs/2018-02/Vilk%C3%A5r_SPILLEFILM_1_jul_2016_UK.pdf).

<sup>792</sup> DFI, *Vilkår for støtte til dokumentarfilm* (Terms for support for documentary films), 1 May 2016, amended 12 April 2018, [https://www.dfi.dk/files/docs/2018-04/Vilk%C3%A5r\\_DOK\\_1\\_maj\\_2016\\_4.pdf](https://www.dfi.dk/files/docs/2018-04/Vilk%C3%A5r_DOK_1_maj_2016_4.pdf), for the latest English version available (2016) see: [https://www.dfi.dk/files/docs/2018-02/DFI-Vilk%C3%A5r\\_DOK\\_1\\_maj\\_2016\\_UK.pdf](https://www.dfi.dk/files/docs/2018-02/DFI-Vilk%C3%A5r_DOK_1_maj_2016_UK.pdf).

<sup>793</sup> DFI, *Vilkår for støtte til kort fiction* (Terms for support for short fiction films), 1 May 2016, amended 12 April 2018, [https://www.dfi.dk/files/docs/2018-04/Vilk%C3%A5r\\_KF\\_1\\_maj\\_2016\\_0.pdf](https://www.dfi.dk/files/docs/2018-04/Vilk%C3%A5r_KF_1_maj_2016_0.pdf), to our knowledge, for the latest English version available (2012) see: <https://www.dfi.dk/files/docs/2018-02/dfi-vilkaar-kort-fiktion-2012-english.pdf>.



Screen),<sup>794</sup> cross-media development,<sup>795</sup> and digital games. Furthermore, it administers public service support for the pre-production and production of Danish television drama, TV documentary programmes and television programmes aimed at children,<sup>796</sup> as well as for participation in international film festivals<sup>797</sup>, among other things<sup>798</sup>. It also has schemes for supporting the distribution of short and documentary films<sup>799</sup> and dedicated schemes for low-budget films<sup>800</sup> and for films produced, wholly or partly, outside of the Greater Copenhagen area. One of the schemes is part of a cooperation agreement: the New Danish Screen, which is the result of a partnership between the DFI and the Danish Broadcasting Corporation DR, TV 2 Denmark. Funds are awarded by the scheme's artistic management.

The Copenhagen Film Fund (hereinafter, "CPHFF") is the third regional film fund. It was established in 2013 at the initiative of the Producers Association and in collaboration with eight municipalities from the Copenhagen region. It invests primarily in international productions of high artistic merit with Danish co-producers. However, Danish projects with international distribution in place can also qualify. The fund focuses on productions shot within the Copenhagen capital region. In 2017, the fund was granted EUR 2.1 million by the municipalities and other investors.<sup>801</sup>

Filmfyn supports the production of feature films, TV movies, and TV series. It is owned by a number of Fynian municipalities, Fionia Fond and TV 2 Denmark and receives funding from the Danish Ministry of Culture.

The West Danish Film Fund (hereinafter, "DVF") supports artistically interesting films, documentaries, TV series and multimedia productions, including international co-productions as well as pre-production, with the aim of promoting the film industry in the region.

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<sup>794</sup> DFI, *Vilkår for støtte til New Danish Screen* (Terms for support for New Danish Screen), 1 January 2017, amended 12 April 2018, [https://www.dfi.dk/files/docs/2018-08/Vilk%C3%A5r\\_NDS\\_1\\_januar\\_2017%20med%20C3%A6ndringer%20af%2012%20april%202018%20%2802%29.pdf](https://www.dfi.dk/files/docs/2018-08/Vilk%C3%A5r_NDS_1_januar_2017%20med%20C3%A6ndringer%20af%2012%20april%202018%20%2802%29.pdf)

<sup>795</sup> DFI, *Vilkår for støtte til Tværmiddel Udvikling* (Terms for support for cross-media development), 1 July 2016, amended 12 April 2018, [https://www.dfi.dk/files/docs/2018-04/Vilk%C3%A5r\\_TV%C3%86RMEDIELLE\\_UDVIKLINGSORDNING\\_1\\_JUL\\_2016.pdf](https://www.dfi.dk/files/docs/2018-04/Vilk%C3%A5r_TV%C3%86RMEDIELLE_UDVIKLINGSORDNING_1_JUL_2016.pdf)

<sup>796</sup> DFI, *Vilkår for støtte til Public Service Puljen* (DFI's Terms for Support for Public Service Pool), 1 May 2016, amended 12 April 2018, [https://www.dfi.dk/files/docs/2018-04/Vilk%C3%A5r\\_PSP\\_1\\_maj\\_2016.pdf](https://www.dfi.dk/files/docs/2018-04/Vilk%C3%A5r_PSP_1_maj_2016.pdf).

<sup>797</sup> DFI, *Vilkår for støtte til deltagelse i internationale filmfestivaler samt andre relaterede aktiviteter* (Conditions for support to participation in international film festivals and other related activities), 1 July 2016, amended 14 February 2018, [https://www.dfi.dk/files/docs/2018-04/Vilk%C3%A5r\\_DELTAGELSE\\_INTERNATIONALE\\_FILMFESTIVALER\\_1\\_JUL\\_2016.pdf](https://www.dfi.dk/files/docs/2018-04/Vilk%C3%A5r_DELTAGELSE_INTERNATIONALE_FILMFESTIVALER_1_JUL_2016.pdf).

<sup>798</sup> For more information on further involvements of the DFI in supporting the Danish audiovisual industries, see <https://www.dfi.dk/branche-og-stoette/stoette>

<sup>799</sup> DFI, *Vilkår for støtte til distributionsinitiativer for kort- og dokumentarfilm* (Terms for support for distribution of short and documentary films), 12 June 2014, amended 12 April 2018, <https://www.dfi.dk/files/docs/2018-04/DFI-vilkaar-distributionsinitativer-kort-og-dokumentar-12-06-2014-med-rettelser.pdf>.

<sup>800</sup> *Lavbudgetfilm* (English low-budget film), <https://www.dfi.dk/branche-og-stoette/stoette/lavbudgetfilm>.

<sup>801</sup> <http://cphfilmfund.com/wp-content/uploads/2013/10/13.10.09-FINAL-UK-VILKÅR-CPHFF.pdf>.



## 7.7.2. General framework

### 7.7.2.1. Overview of the film and audiovisual funding policy and legislation

The main legal framework for film funding in Denmark is determined by the Film Act of 1997 (Danish “Filmlov”). It defines the scope of activities of the DFI, along with its composition and management (Chapter 2), the obligations regarding the submission of applications (Chapter 3), general definitions such as that of “a Danish film”, “producer”, and other terms on co-production (Chapter 4) as well as regional film funding activities (Chapter 5), among other things.

Additionally, the Film Agreement defines the full economic and film policy of the DFI for a fixed period and establishes its annual budget, which was EUR 67 million under the 2015-2018 Agreement – EUR 75 million under the 2019-2023 Agreement. Every Film Agreement must be approved by the Danish Parliament. The 2019-2023 Agreement focuses on some of the following areas:<sup>802</sup>

- Fostering support for regional funding by increasing the yearly grant of FilmFyn and the West Danish Film Fund to DKK 23.7 million (EUR 3.2 million) each and by making it possible for new regional film funds to receive state subsidies;
- Supporting the distribution of films, including works facing selling difficulties;
- Enabling more flexibility for film subsidies; and
- Pursuing the activities of the last Agreement, including working on improving the market share of Danish films, the promotion of talent development, and the development of digital games and productions that are relevant to children/youth.

The general terms for the different funding schemes are detailed in separate documents, Terms for support for each type of work (feature films, documentaries and short films), which are published by the DFI.

At regional level, film funding is governed by the general terms and guidelines of the respective regional funding institutions.

**Table 18. Main funds in Denmark**

Funding institution	Geographical level	Legislation / Guidelines
Danish Film Institute <sup>803</sup>	National	Film Act <sup>804</sup>

<sup>802</sup> DFI Filmaftale 2019-2023 (2019-2023 DFI's Film Agreement), [https://www.dfi.dk/files/docs/2018-11/Filmaftale\\_2019-2023.pdf](https://www.dfi.dk/files/docs/2018-11/Filmaftale_2019-2023.pdf); press release in English: <https://www.dfi.dk/en/english/news/film-agreement-next-five-years-place>.

<sup>803</sup> [www.dfi.dk](http://www.dfi.dk).

<sup>804</sup> Filmlov (The Film Act), No 186 of 12 March 1997 (as amended by law No. 1627 of 26 December 2013), <https://www.retsinformation.dk/Forms/R0710.aspx?id=83975>, for English version, see: <https://english.kum.dk/services/legislation/film/the-film-act/>.



Funding institution	Geographical level	Legislation / Guidelines
FilmFyn <sup>805</sup>	Regional	Assessment criteria <sup>806</sup>
West Danish Film Fund(DVF) <sup>807</sup>	Regional	Terms of support <sup>808</sup>
Copenhagen Film Fund (CPHFF) <sup>809</sup>	Regional	Terms and conditions <sup>810</sup>

Source: Response to European Audiovisual Observatory standardised questionnaire

### 7.7.2.2. Definition of cultural criteria

The Film Act does not provide any definition of cultural criteria. On the other hand, the DFI guidelines for the different funding schemes include “requirements on the film production’s artistic and cultural association with Denmark”. For feature films<sup>811</sup>, documentary films<sup>812</sup> and short fiction films<sup>813</sup>, and TV films and series<sup>814</sup> the production must contain a special artistic and/or technical aspect that contributes to promoting cinematic art and film culture in Denmark. For this purpose, the film must be recorded in Danish or in a Danish version, and/or the production’s main creative forces and/or technical functions must be resident or live permanently in Denmark or in some other way have a fundamental and significant association with and/or importance to Danish cinematic art or film culture. Minority co-productions are exempt from the obligation stipulating that work must be recorded in Danish. Instead, in the case of feature films, a Danish version must be published.<sup>815</sup> However, the DFI does not provide information regarding the assessment of these cultural criteria.

The Public Service scheme’s page on the DFI’s website provides more general details about the scheme’s cultural requirements. In order to meet the cultural criteria, the project needs to demonstrate originality, relevance and quality; show clear, original or innovative elements; be creatively developed for a Danish audience, in terms of content, form or expression; and make a cultural, social or democratic contribution to society.<sup>816</sup>

<sup>805</sup> [www.filmfyn.dk](http://www.filmfyn.dk).

<sup>806</sup> Assessment criteria, <http://www.filmfyn.dk/funding/filmfyn-investering/>

<sup>807</sup> [www.filmpuljen.dk](http://www.filmpuljen.dk).

<sup>808</sup> The West Danish Film Fund’s conditions for subsidies and/or investments, 5 December 2014, amended 2 January 2018, [http://filmpuljen.dk/wp-content/uploads/2018/01/DVF\\_vilkaar\\_for\\_stotte\\_2014\\_v2.pdf](http://filmpuljen.dk/wp-content/uploads/2018/01/DVF_vilkaar_for_stotte_2014_v2.pdf), and in English (2014 without amendments): <http://filmpuljen.dk/wp-content/uploads/2013/05/Regulations-WestDanishFilmFund.pdf>.

<sup>809</sup> <http://cphfilmfund.com/en/>.

<sup>810</sup> Copenhagen Film Fund’s terms and conditions for investment in feature films and TV series, <http://cphfilmfund.com/en/long-version-2/>

<sup>811</sup> Article 6.3.1 of the Terms for support for feature films, *Op. cit.*

<sup>812</sup> Article 5.3 of the Terms for support for documentary films, *Op. cit.*

<sup>813</sup> Article 5.3 of the Terms for support for documentary films, *Op. cit.*

<sup>814</sup> Article 4.3 of the Terms for support for documentary films, *Op. cit.*

<sup>815</sup> Article 6.3.2 of the Terms for support for feature films, *Op. cit.*

<sup>816</sup> For further information on DFI’s Public service support, see in Danish: <https://www.dfi.dk/branche-og-stoette/stoette/public-service-puljen>.



As for regional funds, they mainly focus on the economic and artistic<sup>817</sup> interests of the project, and do not mention any cultural criteria. In FilmFyn's Assessment criteria, it is mentioned that the assessment is based on a set of criteria, including the project's ability to create geographical and cultural diversity.<sup>818</sup>

### 7.7.2.3. Nationality of the applicant

The DFI guidelines, under its different schemes, require the applicant, who is also the recipient of the grant, to:<sup>819</sup>

- be an independent producer/production company domiciled in Denmark, an EU or EEA member state, or in Switzerland, at the time of application, with a fixed and established business in the country, and
- Be legally represented by a producer who can document an experience in film production in order to be eligible for production support.

The same conditions apply to pre-production support, that is, screenplay, under the Commissioner scheme,<sup>820</sup> and to distribution schemes, as the applicant (screenwriter, director and distributors/distribution companies) must meet the abovementioned prerequisites.<sup>821</sup>

For the minority co-production of feature films, documentaries and short films under the respective production schemes, the applicant must be a Danish producer;<sup>822</sup> the Film Act defines a “Danish producer” as:<sup>823</sup>

- Any person holding Danish citizenship or resident in Denmark;
- Any limited liability company or private company registered in Denmark;
- Any central or local government institution;
- Any other company with limited liability domiciled in Denmark, including foundations and societies, if the management and the majority of the members of the Board of Directors hold Danish citizenship or are resident in Denmark; or
- Any foreign limited liability company or private company which has registered a branch office in Denmark with the Danish Commerce and Companies Agency, or any other foreign company with limited liability in so far as the branch manager holds Danish citizenship or is resident in Denmark.

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<sup>817</sup> Articles 1.2 and 3.1 of DVF's guidelines.

<sup>818</sup> FilmFyn's guidelines, *Op. cit.*

<sup>819</sup> For feature films, see Article 6.2 of the Terms for support for feature films. For documentaries and short films, see Article 5.2 of the respective Terms for support. For Public service support, see Article 4.2 of the Terms for support for Public service support.

<sup>820</sup> Article 6.2 of the Terms for support for feature films.

<sup>821</sup> Article 9.2 of the Terms for support for distribution of short and documentary films.

<sup>822</sup> For feature films, see Article 4.10.2 of the Terms for support for feature films. For documentaries and short films, see Article 3.8.2 of the respective Terms for support.

<sup>823</sup> Article 17(2) of the Film Act.



In the case of regional funds, the West Danish Film Fund requires the applicant to be a Danish producer/co-producer.<sup>824</sup> The two other regional funds do not mention any requirements regarding the nationality of the applicant or recipient of the subsidy in their guidelines.

### 7.7.3. Funding criteria applicable to production support

#### 7.7.3.1. Theatrical release, broadcasting and visibility on VOD

There are no requirements regarding the performance of the work in theatres (number of screenings) or on VOD platforms, or regarding the minimum time between theatrical distribution and VOD release and TV premiere. As for TV programmes supported under the DFI's Scheme Public Service Pool, they must be broadcast within 24 months of the grant being awarded.<sup>825</sup>

When it comes to Danish majority productions of feature films, the producer must have a distribution agreement and include it as part of the application for DFI support.<sup>826</sup> As for Danish minority co-productions, the guidelines require that a distribution agreement be made for Danish cinema distribution or for broadcasting on Danish television, for feature films,<sup>827</sup> short films,<sup>828</sup> documentaries<sup>829</sup> and TV programmes under the Public Service Pool support scheme.<sup>830</sup>

Moreover, when it comes to feature films, a complete distribution plan across windows in Denmark must be submitted no later than two months after the film's commercial world premiere and/or its first screening at an international festival. Producers seeking exemption from the abovementioned obligation on distribution have to file a request at least four months after the film's commercial world premiere and/or its first screening at an international festival.<sup>831</sup> Special attention is brought to allowing feature films to benefit from their theatrical release by avoiding any overlapping between Danish cinema premieres. The guidelines require at least a one-week gap between Danish cinema premieres for Danish films aimed at the same target groups.<sup>832</sup> As part of its follow-up activities, the DFI may at any time ask the producer to provide information about distribution and sales agreements concerning the film.<sup>833</sup>

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<sup>824</sup> Website of the West Danish Film Fund, see <http://filmpuljen.dk/english/>.

<sup>825</sup> Article 1.6 of Terms for support for Public Service Pool, [https://www.dfi.dk/files/docs/2018-04/Vilkår\\_PSP\\_1\\_maj\\_2016.pdf](https://www.dfi.dk/files/docs/2018-04/Vilkår_PSP_1_maj_2016.pdf)

<sup>826</sup> Article 4.5 of the Terms for support for feature films.

<sup>827</sup> Article 4.10.2 of the Terms for support for feature films.

<sup>828</sup> Article 3.8.2 of Terms for support for short films.

<sup>829</sup> Article 3.8.2 of Terms for support for documentary films.

<sup>830</sup> Article 1.3 of Terms for support for public service support.

<sup>831</sup> Article 4.10.3 of Terms for support for feature films.

<sup>832</sup> Article 4.15.4 of Terms for support for feature films.

<sup>833</sup> Article 4.14.5 of Terms for support for feature films.



If the signed Danish distribution agreement, previously approved by the DFI, is cancelled and the producer fails to conclude other distribution agreements, the distribution rights are automatically transferred, free of charge, to the DFI, who can distribute the film in Denmark, including on its own platforms for features films,<sup>834</sup> short films,<sup>835</sup> and documentaries.<sup>836</sup>

#### 7.7.3.2. Theatrical performance and performance at festivals, events and awards

The DFI's funding guidelines do not provide any specific details – minimum or maximum requirements – regarding the circulation and admissions of the supported works.

Nevertheless, the distribution and economic potential is assessed<sup>837</sup> prior to the decision being made to award a subsidy and it is also taken into consideration for the calculation of the awarded<sup>838</sup> amount for features films – where the distribution deal has to be the widest possible in order to fully exploit the feature film's potential exploitation and distribution in all media – as well as for short films<sup>839</sup> and documentaries.<sup>840</sup>

#### 7.7.3.3. Budget

In general, projects applying for production support are not subject to any threshold or maximum budget in order to be eligible for financing, with the exception of films financed through the New Danish Screen Scheme (mostly very low-budget films, for which support can go up to EUR 800 000 (DKK 6 million).<sup>841</sup>

The DFI guidelines do not mention any minimum contribution or share of the budget that the applicant has to secure in order to be eligible for production support under the different schemes, apart from two exceptions:

- For Danish majority productions under the Market scheme, the producer must secure at least 60% of the overall budget, and provide a written confirmation as part of the application.<sup>842</sup>
- For Danish minority co-productions, the DFI can finance up to 60% of the Danish producer's budget share.<sup>843</sup>

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<sup>834</sup>Article 4.10.4 of the Terms for support for feature films.

<sup>835</sup>Article 3.8.4 of the Terms for support for short films.

<sup>836</sup>Article 3.8.4 of the Terms for support for documentary films.

<sup>837</sup>Article 4.2 of the Terms for support for feature films.

<sup>838</sup>Article 6.7.5 of the Terms for support for feature films.

<sup>839</sup>Article 3.2 of the Terms for support for short films.

<sup>840</sup>Article 3.2 of the Terms for support for documentary films.

<sup>841</sup>Article 4.7.8 of the Terms for support for new Danish screen. This no longer applies within the new Film Agreement 2019-2023.

<sup>842</sup>Article 4.5 of the Terms for support for feature films.

<sup>843</sup>Article 4.10.1 the Terms for support for feature films.



As for regional film funds, the CPHFF's Terms and conditions require that 60% of the finances be secured and attested by letters of intent at the time of application,<sup>844</sup> as well as including a distribution agreement or a letter of intent regarding theatrical or TV distribution, at both national and international levels.<sup>845</sup> The guidelines of the other two regional funds do not impose a minimum share in the budget on the producer.

#### 7.7.3.4. Awarded amount

The DFI, as well as the regional funds, operates on the basis of selective schemes which value projects based on their cultural and economic potential. The regional funds also prioritize selective schemes, where projects are selected on the basis of their cultural and artistic merit as well as their economic impact on the region.

The funding guidelines do not specify any caps on financing in terms of awarded amounts, but rather provide a share of the Danish contribution to the production costs, and in accordance with aid intensity rules.

As stipulated under the "General terms" section of the current schemes, the aid intensity is in principle limited to 50% of the overall production budget, with the exception of "difficult works".<sup>846</sup> However, as shown above, some DFI schemes may apply different aid intensity rules, such as the DFI's Market scheme, with a maximum of 40% of the production budget (at least 60% of the financing has to be secured), and the DFI's minority co-production scheme, with a maximum of 60% of the Danish share of the production budget.<sup>847</sup> Furthermore, the awarded amount may go beyond the support limit, provided that such an exception is justified by the production conditions, as is the case for programmes supported by the Public Service Scheme.<sup>848</sup> As for FilmFyn, support is limited to between 5% and 15% of the budget or up to 50% of the regional spend;<sup>849</sup> in the case of the West Danish Film Fund, it is up to 50% of the budget and this amount increases to 60% for co-productions.<sup>850</sup>

The awarded amount is calculated based on the production budget, which has to show all costs at market prices in the local currency (DKK); on the financing plan, as approved by the DFI, according to the funding contract – in all cases, all expenses and costs incurred prior to the application date must be approved separately by the DFI if they are to be included in the budget;<sup>851</sup> and by taking into account the amount of Danish spend for Danish minority co-productions.<sup>852</sup> Additionally, for documentaries,<sup>853</sup> short

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<sup>844</sup> Article 2.7.2 of CPHFF's Terms and conditions.

<sup>845</sup> Article 2.5.2 of CPHFF's Terms and conditions.

<sup>846</sup> Article 6.7.6 of the Terms for support for feature films.

<sup>847</sup> Article 4.10.1 the Terms for support for feature films.

<sup>848</sup> Article 3.5.3 of the Terms for support for public service support.

<sup>849</sup> FilmFyn's Assessment criteria.

<sup>850</sup> Article 4.1 of DVF's Terms of support.

<sup>851</sup> Article 3.6.1. and 3.6.3 of Terms for support for feature films.

<sup>852</sup> Article 4.10.6 of the Terms for support for feature films.

<sup>853</sup> Article 2.9.1. and 2.9.3 of the Terms for support for documentary films.



films<sup>854</sup> and TV programmes,<sup>855</sup> the awarded amount is estimated based on the project assessment in terms of its production, financing and distribution potential.

The funding guidelines do not foresee any requirements regarding the recoupment of their subsidies. Nonetheless, the subsidy is repayable only in cases of unspent amounts<sup>856</sup> or where the recipient fails to fulfil the obligations under the funding contract with the DFI – in the case of the termination or abandonment of the contract, or if the final work cannot be screened legally in Denmark.<sup>857</sup> These exceptions also apply to funding schemes for documentaries,<sup>858</sup> short films<sup>859</sup> and TV programmes.<sup>860</sup>

However, the situation is different regarding regional funds. When supporting film and television fiction, FilmFyn enters an investment agreement, which includes a recoupment plan, calculated on the basis of the total awarded amount, and equal to the investment rate, starting once the private investment has been repaid.<sup>861</sup> The same rules apply as per the DVF's Terms of support<sup>862</sup>. In the case of minority co-productions, the repayment rate corresponds to the DVF's share of Danish funding.<sup>863</sup> Moreover, if the regional revenue requirements are not met, the DVF may ask for the negative balance to be repaid from the film's revenues.<sup>864</sup> Finally, according to the CPHFF's guidelines, the fund's investments must be recouped on the same terms and conditions as private investors, based on the film's total net revenues.<sup>865</sup>

Eligible costs, in the case of the regional funds, are the ones spent in the region.<sup>866</sup> As a general rule, at both national and regional levels, eligible costs are those included in the financing plan and approved by the DFI, meaning that costs incurred prior to the application must be approved by the DFI to be included, as mentioned above. Such costs usually include the producer's fee and administrative costs up to a certain amount, among others.<sup>867</sup> The schemes may also foresee a fixed budget contingency margin or require that budget overruns and adjustments be subject to approval by the funding body.

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<sup>854</sup> Article 2.9.1. and 2.9.3 of the Terms for support for short films.

<sup>855</sup> Article 3.5.1. and 3.5.2 of the Terms for support for public service scheme.

<sup>856</sup> Article 6.12.1 of the Terms for support for feature films.

<sup>857</sup> Article 6.12.2 of the Terms for support for feature films.

<sup>858</sup> Article 5.12 of the Terms for support for documentary films.

<sup>859</sup> Article 5.12 of the Terms for support for short films.

<sup>860</sup> Article 4.11 of the Terms for support for public service scheme,

<sup>861</sup> FilmFyn's Assessment criteria.

<sup>862</sup> Article 11 of DVF's Terms of support.

<sup>863</sup> Article 11.4 of DVF's Terms of support.

<sup>864</sup> Article 11.5 of DVF's Terms of support.

<sup>865</sup> Articles 2.10 and 2.12 of CPHFF's Terms and conditions.

<sup>866</sup> Article 2.7.3. of CPHFF's Terms and conditions, Article 4.3. and Annexe 1 of the DVF's Terms of support.

<sup>867</sup> Article 4.7.5. of the Terms for support for feature films, Article 3.5.4. of the Terms for support for documentary films, Article 3.5.4. of the Terms for support for short films, and Article 3.5.4 of the Terms for support for public service scheme.



### 7.7.3.5. Spending and shooting criteria

The DFI production support schemes include a territorial expenditure commitment, or a “Danish spend”, as it is referred to in the guidelines. The Danish spend obligation stipulates that 100%, that is, the total awarded grant, must be spent in Denmark in terms of artistic, creative, technical and/or production costs. Danish minority co-production is an exception to the rule, where there is not a requirement for the Danish spend to constitute more than 50% of the Danish producer's share of the film's total production budget.<sup>868</sup>

Regional funds also have territorial expenditure policies, as they require that parts of the grant be spent in the region. Both the CPHFF<sup>869</sup> and the DVF<sup>870</sup> require that the costs planned to be incurred in the respective regions be communicated.

The Danish spend may be possible by means of shooting, post-production, engaging local cast and crew, promoting regional tourist locations and providing jobs in the country or in the respective regions.

### 7.7.3.6. Talent, cast, crew, underlying copyright

There are no requirements regarding the nationality of the talent, cast and crew or related to the underlying copyrights (and how they are linked to the country).

### 7.7.3.7. Shooting language and diversity

As previously specified, it is generally required that the entirety of the awarded amounts granted under the different schemes be Danish spends. This includes, among other things, Danish talents, cast and crew. The applicant must be resident or live permanently in Denmark or have a significant association with Danish film culture.

The funding guidelines do not mention that the underlying copyrights need to be linked to Denmark.

The funding guidelines specify that the language of the supported works is supposed to be Danish; either as the shooting language or as an additional version, as part of the work's cultural link with Denmark.<sup>871</sup>

Film policies in Denmark do not require any quotas or similar measures directed towards gender equality or the promotion of Danish ethnic minorities. However, the DFI took some initiatives in this regard by conducting a study of gender equality in Danish

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<sup>868</sup> Article 6.5. of the Terms for support for feature films, Article 5.5. of the Terms for support for documentary films, Article 5.5. of the Terms for support for short films, and Article 4.4. of the Terms for support for public service scheme.

<sup>869</sup> Article 2.5.2 of CPHFF's Terms and conditions.

<sup>870</sup> Article 9.4 of DVF's Terms of support.

<sup>871</sup> Article 6.3.1 of the Terms for support for feature films, Article 5.3 of the Terms for support for documentary films; Article 5.3 of the Terms for support for short films, Article 6.3 of the Terms for support for new Danish screen; and Article 4.3 of the Terms for support for public service.



cinema<sup>872</sup> in 2016 as well as a study of ethnic diversity in Danish cinema in 2015.<sup>873</sup> The two studies indicated an alarming situation when it comes to both gender equality and ethnic diversity in the overall Danish film industry. Therefore, the DFI proposed that a higher priority be assigned to gender equality and ethnic diversity in the 2019-2023 Film Agreement.<sup>874</sup>

## 7.7.4. Funding criteria applicable to pre-production support

### 7.7.4.1. Budget

In Denmark, neither national nor regional funds have any requirements under their different schemes regarding the minimum/maximum budget of an eligible project for pre-production support. However, the budget, including the producer's own investments and the financing plan, have to be presented as part of the application in order to be assessed by the DFI.<sup>875</sup> In the case of co-productions, the agreement must specify the distribution of the project's financing and rights among co-producers, investors and the producer.

In all cases, a development funding contract cannot be issued until the producer has presented a budget and financing plan and these have been approved by the DFI.<sup>876</sup>

The only regional fund supporting pre-production is the DVF. All types of development costs are eligible for support, as well as overheads of up to 7% of the granted amount.<sup>877</sup>

### 7.7.4.2. Awarded amount

Support is awarded selectively, following a production and economic assessment of the project as well as an assessment of the distribution potential and all the criteria underlying the application. The awarded amount is calculated based on an estimation which takes into account the abovementioned assessments.<sup>878</sup> In all cases, all expenses

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<sup>872</sup> DFI, *Undersøgelse af kønsfordelingen i Dansk film*, June 2016, <https://www.dfi.dk/files/docs/2018-02/Koensfordelingen%20i%20dansk%20film%2031052016.pdf>.

<sup>873</sup> DFI, *Undersøgelse af etnisk mangfoldighed i Dansk film*, January 2015, [https://www.dfi.dk/files/docs/2018-02/Etnisk\\_mangfoldighed\\_i\\_dansk\\_film\\_dfi\\_2015.pdf](https://www.dfi.dk/files/docs/2018-02/Etnisk_mangfoldighed_i_dansk_film_dfi_2015.pdf).

<sup>874</sup> <http://www.nordiskfilmogtvfond.com/news/interview/the-boss-of-the-all-on-the-new-film-agreement>.

<sup>875</sup> Article 3.5. of the Terms for support for feature films; Article 2.8.1. of the Terms for support for documentary films; Article 2.8.1. of the Terms for support for short films; and Article 2.4 of the Terms for support for public service scheme.

<sup>876</sup> Article 3.6.1. of the Terms for support for feature films; Article 2.9.1. of the Terms for support for documentary films; Article 2.9.1. of the Terms for support for short films; and Article 2.7 of the Terms for support for public service scheme.

<sup>877</sup> Article 3.3 of DVF's Terms of support, Op. cit

<sup>878</sup> Articles 3.4. and 6.7.5. of the Terms for support for feature films; Articles 3.2. and 5.7.5. of the Terms for support for documentary films; Articles 3.2. and 5.7.5. of the Terms for support for short films; and Article 4.6.5. of the Terms for support for public service scheme.



and costs incurred prior to the application date must be approved separately by the DFI if they are to be included in the budget.

There is no mention of aid intensity rules regarding development support. To be eligible for screenplay development support under the Commissioner scheme, the subsidy for acquiring literary rights may not exceed 50% of the costs.<sup>879</sup>

Under the general applicable terms, the funding guidelines do not foresee any requirements regarding the recoupment of their subsidies. Nonetheless, the subsidy is repayable only in cases of unspent amounts or where the recipient fails to fulfil the obligations under the funding contract with the DFI – in the case of termination or abandonment of the contract, or if the final work cannot be screened legally in Denmark.<sup>880</sup> However, for both screenplay and development support for feature films, the repayment obligation is waived if the film project is not awarded a production subsidy.<sup>881</sup>

#### 7.7.4.3. Underlying copyright

There are no requirements regarding the underlying copyrights needing to be linked to Denmark.

#### 7.7.4.4. Shooting language and diversity

The funding guidelines do not include requirements regarding the language of the script. However, the guidelines require the works to have a cultural link with Denmark.

As for production support lines, the development funding guidelines do not include requirements regarding the language of the script, ethnic or linguistic minorities and gender.

### 7.7.5. Funding criteria applicable to distribution and promotion support

#### 7.7.5.1. Theatrical release, broadcasting and visibility on VOD

There are no requirements regarding the performance of the work in theatres (number of screenings) or on VOD platforms, except in the case of the distribution of foreign art house films, where the film is required to be booked for screening in at least ten Danish

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<sup>879</sup> Article 2.4 of the Terms for support for feature films.

<sup>880</sup> See Article 6.12. of the Terms for support for feature films, Article 5.12. of the Terms for support for documentary films, Article 5.12. of the Terms for support for short films, and Article 4.11. of the Terms for support for public service scheme.

<sup>881</sup> Articles 2.13. and 3.8.11 of the Terms for support for feature films.



theatres.<sup>882</sup> The guidelines do not provide any specifications regarding the release windows' schedule. However, distribution agreements must be signed with commercial VOD players and/or video retailers, securing the widest possible distribution and dissemination in order to exploit the film's potential to a sufficient degree,<sup>883</sup> and these agreements must be assessed by the DFI. In addition, in the case of films under the New Danish Screen Scheme, distribution contracts must be signed with key players (for example, pay TV, VOD distributors and streaming services, among others) to ensure the widest possible distribution; moreover, the applicant must cooperate with a distributor who has relevant experience with the distribution of Danish films in the country<sup>884</sup>.

#### 7.7.5.2. Theatrical performance and performance at festivals, events and awards

The DFI provides support for the participation of Danish films in international film festivals under a specific scheme. The list of eligible festivals includes Sundance, Berlin, Cannes, Venice and Toronto.<sup>885</sup> The DFI collects data on the performance of Danish films in international festivals.<sup>886</sup> Supported works are those with a higher potential to perform (get premiered) in international film festivals.<sup>887</sup> There is no information in the guidelines about such performances affecting the amount of the awarded grant.

For the other schemes, there are no rules or figures regarding theatrical performance (that is, minimum admissions) or theatrical release in other countries. The calculation of the awarded amount is not based on performance.

#### 7.7.5.3. Budget

The budget of an eligible project is not subject to any minimum threshold or maximum cap, nor is anything stipulated regarding a minimum contribution from the applicant.

#### 7.7.5.4. Awarded amount

Support is awarded selectively. The estimation of the amount to be awarded is based on the assessment of the work's promotion and distribution potential. The different promotion funding guidelines require that producers conclude VOD distribution agreements, and secure the widest possible dissemination, taking into account the film's

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<sup>882</sup> Article 2 of the Terms of Support for the Launch and Distribution of Art-house Films, [https://www.dfi.dk/files/docs/2018-04/Vilk%C3%A5r\\_UDENLANDSKE\\_ART\\_HOUSE\\_FILM\\_1\\_JAN\\_2017\\_NY.pdf](https://www.dfi.dk/files/docs/2018-04/Vilk%C3%A5r_UDENLANDSKE_ART_HOUSE_FILM_1_JAN_2017_NY.pdf)

<sup>883</sup> Article 5.7. of the Terms for support for features films.

<sup>884</sup> Article 5.10 of the Terms for Support for New Danish Screen.

<sup>885</sup> Article 4.3 of the Conditions for support to participation in international film festivals and other related activities.

<sup>886</sup> DFI, International Awards 2017, <https://www.dfi.dk/node/43081>.

<sup>887</sup> Article 3.2 of the Conditions for support to participation in international film festivals and other related activities.



profile, target group and potential.<sup>888</sup> In the case of feature films, the application must include promotion campaign elements, information on the budget, and the premiere date, all of which have to be assessed by the DFI.

With regard to aid intensity, the conditions provided under the “General terms” section of the respective guidelines apply (see 7.7.3.4. Awarded amount).

Eligible costs are those specified in the distribution and promotion budget as approved by the DFI and the financing plan indicating the distributor. The budget and financing plan forms specify in more detail the items that are approved by the DFI when it comes to both theatrical and VOD/DVD eligible distribution/promotion costs.

#### 7.7.5.5. Language and diversity

The funding guidelines do not include requirements regarding the language of the script. However, the guidelines require the works to have a cultural association with Denmark.

As for distribution support lines, the development funding guidelines do not include requirements regarding the language of the script, ethnic or linguistic minorities and gender.

### 7.7.6. Data compilation

This factsheet was produced based on data compiled by Petar Mitric, PhD Fellow at the University of Copenhagen.

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<sup>888</sup> Articles 5.4.1. and 5.7. of the Terms for support for feature films, Article 4.9. of the Terms for support for documentary films, and Article 4.9. of the Terms for support for short films.



## 7.8. EE – Estonia – National Summary<sup>889</sup>

### 7.8.1. Summary

At national level, the main funds operating in the country are the Estonian Film Institute<sup>890</sup> (*Eesti Filmi Instituut*, hereinafter the “EFI”)<sup>891</sup> and the Cultural Endowment of Estonia (*Eesti Kultuurkapital*, hereinafter the “Cultural Endowment”).<sup>892</sup>

The Estonian Film Foundation was established by the Estonian Ministry of Culture in 1997 with the task of sharing and distributing the national film budget. In 2013, the Estonian Film Institute (EFI) came to be its successor, embracing a much wider scope of activities in the film industry.

It provides direct support for the pre-production, production, distribution and promotion of all types of audiovisual and cinematographic works. It also runs a cash rebate scheme that goes up to 30% of eligible production costs, through its Film Estonia scheme.<sup>893</sup>

The Cultural Endowment is a public entity, whose main purpose is to support the arts, folk culture, sport and the construction and renovation of cultural facilities. The Cultural Endowment is divided into eight structural units, the endowments, the function of which is to distribute appropriate funding to a specific area of culture. In relation to audiovisual arts, the Audiovisual Art Endowment<sup>894</sup> promotes Estonian audiovisual culture by supporting the production of films, the organisation of film events and other activities that strengthen the position of audiovisual art in Estonian culture. For that purpose, the Audiovisual Art Endowment provides pre-production, production and post-production support for theatrical feature and short films.

At regional level, support is provided by two separate funding bodies: the Tartu Film Fund (*Tartu Filmifond*)<sup>895</sup> and the Viru Film Foundation (*Viru Filmifond*).<sup>896</sup>

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<sup>889</sup> The factsheet on Estonia incorporates the feedback received from Edith Sepp (EFI) during the checking round with the national film and audiovisual funds.

<sup>890</sup> Successor of the Estonian Film Foundation, in operation from 1997 to 2013.

<sup>891</sup> Eesti Filmi Instituut, <https://www.filmi.ee/>.

<sup>892</sup> Eesti Kultuurkapital, <https://www.kulka.ee/meist/kultuurkapitalis>, for English, see: <https://www.kulka.ee/about-us/about-endowment>.

<sup>893</sup> See Film Estonia cash-rebate at <http://filmestonia.eu/index.php/film-estonia-cash-rebate/> (in English); see also *Toetuse eraldamise tingimused ja kord* (Conditions of and procedure for allocation of support), <http://filmestonia.eu/wp-content/uploads/2017/11/FilmEstonia-Toetuskava-06.12.2017-EST.pdf>; for English version, see: <http://filmestonia.eu/wp-content/uploads/2017/11/FilmEstonia-Conditions-06.12.2017-ENG.pdf>. N.B As cash rebate schemes are not part of this study, it will no longer be referred to.

<sup>894</sup> Audiovisual Art Endowment, <https://www.kulka.ee/endowments/audio-visual-arts/introduction> (in English).

<sup>895</sup> Tartu Filmifond, <http://tartufilmfund.ee/film-fund>.

<sup>896</sup> Viru Filmifond, <http://ivek.ee/en/programs/film-foundation/>.



## 7.8.2. General framework

### 7.8.2.1. Overview of the film and audiovisual funding policy and legislation

Film funding at national level is provided by the two following main institutions:

- The Estonian Film Institute (EFI), operating on the basis of its regulations for aid support (hereinafter, the “EFI Regulation”); and,
- The Cultural Endowment, operating on the basis of the Cultural Endowment of Estonia Act (hereinafter, the “Act”), according to the procedure established in the “Principles of paying award, grant and support amounts and procedure for applying, processing an application and recovery of grants” (hereinafter, the “General Principles”),<sup>897</sup> pursuant to subsection paragraph 2(4) of the Act.

The overall legislative framework for public film and audiovisual funding was established by the Estonian film aid scheme (State aid SA.37526 (2013/N) – supporting the Estonian audiovisual sector (hereinafter, the “State aid scheme”),<sup>898</sup> approved by the European Commission until 31 December 2018 and extendable after that date upon approval by the European Commission.

Starting from 1 January 2019, the Estonian film aid scheme governing the support system of the EFI (the abovementioned State aid scheme SA.37526) was replaced by a Decree of the Minister of Culture, based on Article 53 of the State Budget Act and entitled “Conditions and procedures for supporting the development, production and distribution of cinematographic works”.<sup>899</sup> The Decree was signed on 4 January 2019 and entered into force on 7 January 2019.

It establishes the conditions and procedures for the development, production and distribution of films; the development of mini-TV series; the support to be given to art house cinema programmes, film education, film research and research; and for the restoration and protection of film heritage. Support for the activities is considered to be state aid and shall be granted pursuant to Article 342 of the Competition Act and the following categories of aid under the Block Exemption Regulation: (1) Article 53 (3) (b), (5) and (8) of the Block Exemption Regulation (Aid to promote culture and heritage conservation); 2) Article 54 of the Block Exemption Regulation (aid schemes for audiovisual works). The main conditions of support remain the same as under the Estonian film aid scheme (State aid SA.37526 (2013/N).

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<sup>897</sup> *Preemiate, stipendiumide ja toetuste maksmise alused, taotlemise ja taotluste menetlemise ning toetuste tagasinõudmise kord* (Principles of paying award, grant and support amounts and procedure for applying, processing an application and recovery of grants), <http://kulka.ee/taotlemine/preemiate-stipendiumite-ja-toetuste-kord>; for English, see: <http://kulka.ee/applications/general-principle>.

<sup>898</sup> Decision of the European Commission declaring compatible with the Internal Market according to Article 107 (3) (d) of the TFEU the State aid scheme SA.37526 (2013/N); Support of the audiovisual sector in Estonia, C (2014) 472 final, [http://ec.europa.eu/competition/state\\_aid/cases/251106/251106\\_1517125\\_100\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/251106/251106_1517125_100_2.pdf).

<sup>899</sup> *Filmikunsti arendamise, tootmise ja levitamise toetamise tingimused ja kord* (Decree on “Conditions and procedures for supporting the development, production and distribution of cinematographic works”), <https://www.riigiteataja.ee/akt/104012019025> (in Estonian).



Concerning the Cultural Endowment, new principles have been adopted by the Board that are effective as of 1 January 2019. Among its principles, the Cultural Endowment declares that it is guided by state aid (including state aid covered by the block exemption) and the granting of *de minimis* aid under European Commission legislation and Chapter 6 of the Competition Act, including:

- Commission Regulation (EU) No. 1407/2013 (hereafter referred to as the VFB Regulation);
- Commission Regulation (EU) No. 651/2014 on the application of Articles 107 and 108 of the Treaty on European Union declaring certain categories of aid compatible with the internal market under Article 53 "Promoting culture and cultural heritage" aid for the preservation of human beings;
- Article 54 of the Commission Block Exemption Regulation (EU) No. 651/2014 entitled "Aid schemes for audiovisual works";
- Provisions of Articles 33 and 342 of the Competition Act 1.5.

The Cultural Endowment acknowledges that no State aid notification is required under the EU Block Exemption Regulation (EU) No. 651/2014, if all the conditions of the Regulation are met in the implementation of the scheme. The Cultural Endowment had its schemes updated and included new provisions concerning audiovisual support as of 1 January 2019.

In addition to the support provided by the EFI and the Cultural Endowment, the Ministry of Culture provides support to distributors of art house films in Estonia,<sup>900</sup> based on the Statutes of the Ministry of Culture of the Republic of Estonia, which were approved by Regulation No. 284 of 12 November 1996.<sup>901</sup> Each year, the Ministry announces by decree the call for proposals, sets the conditions and principles for the granting of the awards, as well as the composition of the board that decides on the grants. In 2018, the total budget of the scheme was EUR 340 000, the budget being based on the budget law of the respective year. On 19 December 2018, the Minister of Culture adopted a Decree on "Conditions and procedure for supporting art house films".<sup>902</sup> The Decree establishes that the purpose of granting such support is to "promote the distribution of art house films in Estonian cinemas and to allow the expansion of art house film distribution in order to broaden and enrich the audience's choice of films."

On the other hand, regional support is provided by two separate funding bodies (and schemes): the Tartu Film Fund, which is regulated by the Statute of the Tartu Film Fund, and the Viru Film Foundation, which is governed by the Statute of Viru Film Foundation.

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<sup>900</sup> Kultuuriministeerium, Väärtfilmilevi toetus, <https://www.kul.ee/et/vaartfilmilevi-toetus>.

<sup>901</sup> Kultuuriministeeriumi põhimääruse kinnitamine, Kinnitatud Vabariigi Valitsuse 12. novembri 1996. A määrusega nr 284 (Approval of Statutes of the Ministry of Culture of the Republic of Estonia, approved by Regulation No. 284 of 12 November 1996 of the Government of the Republic of Estonia), <https://www.riigiteataja.ee/akt/104082015006>; for English version, <https://www.riigiteataja.ee/en/eli/511092018001/consolide>.

<sup>902</sup> Väärtfilmikino toetamise tingimused ja kord (Decree on conditions and procedure for supporting art house films), <https://www.riigiteataja.ee/akt/12212>.

**Table 19. Main funds in Estonia**

Funding institution	Geographical level	Legislation / Guidelines
Estonian Film Institute <sup>903</sup>	National	Regulation for Aid Support <sup>904</sup>
Cultural Endowment of Estonia <sup>905</sup>	National	Cultural Endowment of Estonia Act <sup>906</sup>
Tartu Film Fund <sup>907</sup>	Regional	Statute of the Tartu Film Fund <sup>908</sup>
Viru Film Foundation <sup>909</sup>	Regional	Statute of Viru Film Foundation <sup>910</sup>

Source: Response to European Audiovisual Observatory standardised questionnaire

### 7.8.2.2. Definition of cultural criteria

There is no explicit definition of cultural criteria in the guidelines for the allocation of support by the Estonian funding bodies. However cultural aspects are taken into account by the EFI and the Cultural Endowment when assessing applications for support.

Regarding the EFI, paragraph 2.3.1.2. of the EFI Regulation states that: “When processing applications, the following shall be assessed: the film’s topic, content and artistic intent, its budget and financing plan, and distribution potential and potential at festivals, and also the applicant’s previous film-related experience and results”.

The decisions for granting support are made discretionally by the professionals working at the EFI. Depending on the scheme, the applications are evaluated by: a) the EFI’s Head of Production; b) the EFI’s Head of Development and Marketing; or c) the EFI’s Head of Film Heritage. Where necessary, the evaluation also involves independent experts.

Different assessment criteria are set out for the different schemes, generally including elements that relate to the project’s cultural and artistic characteristics, as well as its financial elements and the potential outcome or impact of the project. The EFI thus has an extensive set of criteria for the assessment of the script, the development and production support,<sup>911</sup> detailing the principles of assessing the script from an artistic point

<sup>903</sup> <http://filmi.ee/>.

<sup>904</sup> *Toetuste Eraldamise Eeskiri* (Regulation for Aid support), <http://filmi.ee/wordpress/wp-content/uploads/2017/11/TEE-08.11.2017-1.pdf>; for English version, see: <http://filmi.ee/wordpress/wp-content/uploads/2017/11/TEE-08.11.2017-2.pdf>.

<sup>905</sup> <http://kulka.ee/meist/kultuurkapitalis/seadus>.

<sup>906</sup> *Eesti Kultuurkapitali seadus* (Cultural Endowment of Estonia Act), 1 June 1994, <https://www.riigiteataja.ee/akt/111072014026>; for English version, see: <https://www.riigiteataja.ee/en/eli/ee/520012015005/consolide/current>.

<sup>907</sup> [www.tartufilmfund.ee/et/](http://www.tartufilmfund.ee/et/).

<sup>908</sup> *Tartu Filmifondi statuut* (Statute of the Tartu Film Fund), <https://www.tartufilmfund.ee/et/tingimused>; for English version, see: <https://www.tartufilmfund.ee/terms-and-conditions>.

<sup>909</sup> <http://ivek.ee/programmid/filmifond/>.

<sup>910</sup> *Viru Filmifondi statuut* (Statute of Viru Film Foundation), <http://ivek.ee/static/STATUUT.pdf>; for English version, see: <http://ivek.ee/static/STATUTE.pdf>.

<sup>911</sup> See for example the procedure for evaluation of EFI animation films applications, <http://filmi.ee/taotlemine/hindamiskriteeriumid/animafilm> (only available in Estonian).



of view, the director's vision, the development and production package, the festival and distribution potential of the project, etc.

Concerning the Cultural Endowment, the activities of each scheme within the Cultural Endowment are organised by an endowment board, consisting of seven persons active in the corresponding area of culture and who are nominated by organisations of this area of culture. In general terms, the applications are assessed from an artistic, cultural and viability point of view; yet, the rules and conditions of support by the Cultural Endowment are set differently according to the funding body. The Audiovisual Art Endowment, which is responsible for the distribution of support in the audiovisual area, includes the promotion of culture among its main purposes, as stated in its introduction: "The purpose of the Audiovisual Art Endowment is to promote Estonian audiovisual culture by supporting the production of films, the organisation of film events and other activities, including photography, that strengthen the position of audiovisual art in Estonian culture".<sup>912</sup>

In practice, applications to the Audiovisual Art Endowment can be submitted at four calls a year and are assessed by a board of seven professionals active in the audiovisual field. The cultural criteria are assessed through a selection process, taking into account the projects' influence on Estonian and world culture. Several elements are taken into account through this assessment, such as the different possibilities of support (the development and production of domestic films and films made within the framework of international cooperation); the potential for the exhibition of art house film programmes in cinemas; and the organisation of public events and festivals related to the audiovisual arts – support may also concern foreign audiovisual creations or art house films from other cultures.

Furthermore, the conditions for the application for funds from the Ministry of Culture are set up by decree. For each programme set up by the Ministry under such a decree, a project selection committee is set up, which evaluates the projects on their importance for Estonian (film) culture. The Minister takes the final support decisions on the basis of a proposal by this committee. As for the Cultural Endowment, the Ministry of Culture carries out the assessment based on the cultural and creative elements of the project, as well as on its budgetary and financial aspects.

Concerning regional aid schemes, the criteria for granting support are mainly linked to the promotion of the region, either on economic and/or cultural grounds. In this line, the Statute of the Tartu Film Fund provides as follows: "The objective of the Fund is to promote [...] the production [...] of audiovisual works relating to the Tartu region [...] in order to attract investment, create jobs, promote local tourism and the economy in Tartu and to promote Tartu both within Estonia and abroad. In the award of grants, particular consideration shall be given to the locations planned for the Film Project, the share of regional enterprises and local talents used in the Film Project, the content of the Film Project and its future potential for success on the domestic and foreign market."<sup>913</sup>

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<sup>912</sup> <http://kulka.ee/endowments/audio-visual-arts/introduction>.

<sup>913</sup> Paragraph 1.2. of the Statute of the Tartu Film Fund.



In the same way, the Statute of the Viru Film Foundation specifies that the object of the fund is, *inter alia*, to “advertise the country in Estonia as well as abroad”.<sup>914</sup> The assessment of the applications is carried out in three stages by a committee of experts, the second stage of which is devoted to examining the conformity of the applications with the Fund’s objectives.

### 7.8.2.3. Nationality of the applicant

The State aid scheme specifies that “[u]nder the scheme, aid can only be paid to companies that are registered in the Estonian Commercial Register, either as an Estonian trading company or as the Estonian branch of a foreign enterprise”. In line with this, the Estonian authorities have confirmed, in the notification, that no conditions of establishment must be fulfilled by the beneficiaries other than that of being represented by a permanent agency at the moment of payment of the aid.<sup>915</sup> This requirement of registration is usually found in the different funding bodies.

For the EFI, the EFI Regulation lay down different requirements regarding the applicant depending on the scheme:

- For the pre-production, production and distribution support, the “applicant must be a legal entity registered in Estonia by the moment of the payment of support at the latest”.<sup>916</sup>
- For minority co-production support, it “shall be allocated to an Estonian producer for participation in a project of an international full-length feature film, long documentary film (50 minutes or longer) or animation film provided that the main producer of the film project is not a legal entity registered in Estonia and that the Estonian co-producer owns property rights for the film that are proportional to his or her participation”.<sup>917</sup>

Concerning the Cultural Endowment, the General Principles state that: “[a]pplications for receiving project support may be submitted by natural and legal persons”, with no further indications about the nationality of the applicant or the procedure of registration.”<sup>918</sup>

In addition, the new principles in force from 1 January 2019 specify in relation to aid for audiovisual works<sup>919</sup> that “the support must not be reserved exclusively for its own nationals and the beneficiaries may not be required to have the status of an undertaking established under national commercial law.”

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<sup>914</sup> Article 2 of the Statute of Viru Film Fund.

<sup>915</sup> Paragraph 4.2.1 (46) of the State aid notification.

<sup>916</sup> Paragraphs 2.2.1, 2.2.2 and 2.2.3 of the EFI Regulations.

<sup>917</sup> Paragraph 2.1.4.1 of the EFI Regulations.

<sup>918</sup> See paragraph 2.1.3 of the General Principles.

<sup>919</sup> *Op. cit.*



As to the Tartu Film Fund, the Statutes require that “the applicant is a legal person registered in Estonia.”<sup>920</sup> In turn, the Viru Film Foundation does not present any requirements regarding the nationality of the applicant.

### 7.8.3. Funding criteria applicable to production support

#### 7.8.3.1. Theatrical release, broadcasting and visibility on VoD

The only requirement regarding the theatrical release of the supported work is stated in the minority co-production scheme of the EFI as follows: “A film that is produced in international minority co-production shall be in the Estonian language or shall have Estonian subtitles and it shall be screened in Estonian cinemas within 1 (one) year after its international premiere”.<sup>921</sup>

There are no other specific requirements regarding minimum theatrical distribution, visibility or performance on VOD in any other support schemes.

#### 7.8.3.2. Theatrical performance and performance at festivals, events and awards

None of the schemes set concrete requirements for a production project with respect to expected or actual theatrical performance in the domestic market or abroad, or theatrical releases in other countries. Nevertheless, in practice, when assessing the applications for production and distribution support of the EFI and the production support of the Cultural Endowment, the artistic quality of the proposed project is assessed according to the prospects of potential festival or audience success, which may influence the award decision (but not the amount of the award).

#### 7.8.3.3. Budget

At national level, the budget of an eligible project is not subject to any minimum threshold<sup>922</sup> or maximum cap.

At regional level, only the Tartu Film Fund lays down specific minimum thresholds,<sup>923</sup> as follows:

- For the production and post-production of feature films with a total length of not less than 60 minutes and a total budget of not less than EUR 400 000;

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<sup>920</sup> Paragraph 1.4.1. of the Tartu Film Fund's Statutes.

<sup>921</sup> Paragraph 2.4.1.6 of the EFI Regulation.

<sup>922</sup> Except in the case of Film Estonia (cash rebate scheme). For more information, see paragraph 3.3 of the Conditions of and procedure for allocation of support.

<sup>923</sup> According to paragraphs 1.4.2.1.1 to 1.4.2.1.3 of the Tartu Film Fund's Statutes.



- For the production and post-production of documentary films with a total length of not less than 60 minutes and a total budget of not less than EUR 50 000;
- For the production and post-production of short feature films with a budget of not less than EUR 50 000;

Regarding the minimum share of the budget, the different funding bodies have set different obligations for the applicant's minimum personal contribution to the project:

- For the EFI: in the case of a domestic project, the applicant's contribution to the financing of the project must represent at least 5% of the consolidated budget, and in the case of an international cooperation project, at least 5% of the consolidated budget of the Estonian participation.<sup>924</sup>
- For the Cultural Endowment: the cost-sharing or co-financing of the project must represent at least 10% of the total project expenses.<sup>925</sup>
- For the Tartu Film Fund: since the award represents between 10% and 20% of the eligible costs incurred in Tartu,<sup>926</sup> the remaining budget must be provided from other sources, but it does not require a specific contribution from the applicant.
- For the Viru Film Foundation: the annual amount of the Fund being approximately EUR 50 000, the Fund operates on a "first come, first served" basis, so that even in the absence of an explicit requirement, the applicant's own contribution must be considerable.

#### 7.8.3.4. Awarded amount

In practice, the awarded amount is not repayable, whatever the scheme or the funding body providing it. Otherwise, the requirements and rules related to the awarded amount change from one funding body to another.

In terms of aid intensity rules, State aid SA.37526 (2013/N) establishes a general rule that applies to all funding bodies in Estonia and reads as follows: "The general maximum aid intensity under the scheme for film production activities is 50%, but higher aid intensities of up to 95% of the production budget are possible. Each of the funding bodies can support a difficult or low-budget film project for up to 70% of the budget, or – if it is the only supporter of a project with significant influence on Estonian culture and society - up to 95% of the budget."<sup>927</sup>

Based on this general framework, the Estonian funding bodies have established the following rules:

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<sup>924</sup> Paragraph 2.2.8 of the EFI Regulations.

<sup>925</sup> Paragraph 2.1.7 of the General Principles.

<sup>926</sup> Paragraph 1.4.4 of the Tartu Film Fund's Statutes.

<sup>927</sup> State aid SA.37526 (2013/N), paragraph 3.5 (21).



- For the EFI: the aid intensity must be limited to 50% of the film project's consolidated budget, or 70% in the case of a low-budget film or a film with limited international distribution potential.<sup>928</sup>
- For the Cultural Endowment: according to the new updated 2019 rules,<sup>929</sup> the aid intensity for the production of an audiovisual work shall not exceed 50% of the eligible costs. The aid intensity can be increased as follows:
  - 60% of the eligible costs for multinational projects co-produced by film producers in several member states and financed by several member states;
  - up to 100% of eligible costs for difficult audiovisual works and co-productions produced in cooperation with countries included in the OECD DAC list of beneficiaries on aid for audiovisual works;
  - Support may not be reserved for individual parts of the production or production value chain. Support for film studio infrastructure is not eligible
- For the Tartu Film Fund: the awarded amount can represent up to between 10% and 20% of the eligible costs incurred in Tartu.<sup>930</sup>
- For the Viru Film Foundation: there are no aid intensity specific rules.

Regarding the eligible costs:

- For the EFI: the eligible and ineligible costs of the project are listed in the EFI Regulation.<sup>931</sup> Eligible costs include, *inter alia*, the costs of the first screening copy in the planned format; the marketing and promotion costs incurred while the film is in production; the overhead costs of the film production company<sup>932</sup> (up to 7% of the direct costs); the unforeseen costs (up to 5%); and the production fee of the film project (up to 5% of the costs). The ineligible costs include, *inter alia*, the costs related to the acquisition of movable and immovable property.
- For the Cultural Endowment: only the ineligible costs are listed in the General Principles.<sup>933</sup> They include, *inter alia*, the acquisition costs of office furniture and office equipment; the acquisition costs of real estate; the expenses on construction or renovation works; daily allowances; catering, etc. According to the new updated principles, eligible costs for production support refer to “the costs of producing an audiovisual work”.
- For the Tartu Film Fund: the eligible and ineligible costs are stated in paragraphs 1.4.5, 1.4.6 and 3.3 of the Tartu Film Fund's Statutes.

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<sup>928</sup> A film whose original version is in the official language of an EU member state with a limited territory, population and language area. See paragraph 2.2.7.1 of the EFI Regulations.

<sup>929</sup> *Op. cit.*

<sup>930</sup> Paragraph 1.4.4 of the Tartu Film Fund's Statutes.

<sup>931</sup> Paragraphs 2.2.6.3 to 2.2.6.5 of the EFI Regulation.

<sup>932</sup> Overhead costs of a film production company include: office supplies (not including office machines or furnishings); communications services; the running costs of post and electronic data communication; the maintenance and repair of IT and office machines; utility costs; rent; the opening and management of a solely project-related bank account and transfer fees; security service; land tax. Overhead costs are eligible for support if based on actual project implementation costs and directly necessary for the implementation of the project. This rule also applies to schemes other than production support. See paragraph 2.2.6.4. of the EFI Regulations.

<sup>933</sup> Paragraph 2.1.4 of the General Principles.



- For the Viru Film Foundation: the eligible and ineligible costs are stated in paragraphs 11 and 13 of the Statutes.

Finally, regarding the decision procedure for the granting of support:

- For the EFI: the applications for script, development and production support shall be evaluated by the EFI's Head of Production or an expert responsible for the relevant field, who shall involve at least two external experts in the evaluation process. Applications for minority co-production support shall be evaluated by the EFI's Head of Production, the EFI's expert responsible for the relevant field, the EFI's budget expert, and a member of the EFI's Management Board. A member of the Management Board at the EFI shall appoint the experts for an application round by a directive.<sup>934</sup>
- For the Cultural Endowment: all the applications are assessed four times a year by the Audiovisual Endowment Board, consisting of seven professionals active in the audiovisual field, who are nominated by professional organisations of the same field, and appointed by the Minister of Culture for two consecutive years.<sup>935</sup>
- For the Tartu Film Fund: the Supervisory Board sets up an Expert Committee of up to five members for the Fund.<sup>936</sup>
- For the Viru Film Foundation: the Supervisory Board appoints a Committee of Experts composed of up to three members who process the applications.<sup>937</sup>

#### 7.8.3.5. Spending and shooting criteria

At national level, only the EFI requires that in the case of production support, at least 50% of the awarded amount be spent on economic activity in Estonia<sup>938</sup> and 100% in the case of minority co-production support.<sup>939</sup>

Concerning regional support, in the case of the Tartu Film Fund, grants from the Fund for a film project represent 10%–20% of the eligible costs of the film project incurred in Tartu. It is paid after costs have been incurred and a relevant report has been submitted by the grant recipient and after the report has been reviewed and approved by the Fund,<sup>940</sup> although there is no requirement for the amount to be spent in the region.

As for the Viru Film Foundation, there are no specific requirements; it is flexible and depends on the project's intentions to shoot in the region, the funds available, etc.

The different funds can be combined. Since the minimum spending requirements concern the support and not the budget, the combination of different requirements is not difficult to meet. Regarding the shooting of the work, it must take place in the

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<sup>934</sup> Paragraph 2.3 of the EFI Regulation.

<sup>935</sup> Paragraph 14 of the Act.

<sup>936</sup> Paragraph 5 of the Tartu Film Fund's Statutes.

<sup>937</sup> Paragraphs 4.5, 19 and 20 of the Statute.

<sup>938</sup> Paragraph 2.1.3.2 of the EFI Regulation.

<sup>939</sup> Paragraph 2.1.4.3 of the EFI Regulation.

<sup>940</sup> Paragraph 1.4.4 of the Tartu Film Fund's Statutes.



corresponding regions in the cases of the Tartu Film Fund and the Viru Film Foundation (spending in the region).<sup>941</sup> No minimum shooting days are required.

#### 7.8.3.6. Talent, cast, crew, underlying copyright

There are no specific requirements regarding the nationality of the talent, cast and crew in any of the schemes.

The main goal of the EFI's aid support is to promote professional, high-level and versatile Estonian film culture, and consequently the EFI supports the development, production and distribution of Estonian films and internationally co-produced films.<sup>942</sup>

The Cultural Endowment has a similar purpose, as stated in the introduction of its Audiovisual Art Endowment: "The purpose of the Audiovisual Art Endowment is to promote Estonian audiovisual culture by supporting the production of films, the organisation of film events and other activities, that strengthen the position of audiovisual art in Estonian culture."<sup>943</sup>

Nevertheless, there are no cultural tests requiring a minimum number of points for an application for production support for long or short feature or animation films (nor for any of the national funding schemes). The applicants can include foreign creative professionals in the project, if needed.

A cultural test is performed for the EFI's minority co-production support scheme. According to the minority co-production grading table, Estonian creative or production-related participation in a feature and animation film project should score at least 5 points in a grading table including the creative and technical crew of the film, of which at least two points should come from the creative team.<sup>944</sup>

Regarding the underlying copyright, it is not required that it be related to the awarding country or region.

#### 7.8.3.7. Shooting language and diversity

There are no specific requirements regarding the shooting language (the films can be shot in other languages if the creative aspects of the project so requires – without the need for justification)<sup>945</sup> or ethnic or linguistic minorities and gender.

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<sup>941</sup> Spending in the region may also include spending other than shooting, as for example, post-production services.

<sup>942</sup> Paragraphs 1.4 and 1.5 of EFI Regulation.

<sup>943</sup> See Section 7.8.2.2. of this factsheet.

<sup>944</sup> Paragraph 2.1.4.5 of EFI Regulation.

<sup>945</sup> For example, "Une estonienne à Paris" (in French and Estonian), "The Arbiter" (in English) or "Tangerines" (in Estonian and Russian) are also Estonian films.



## 7.8.4. Funding criteria applicable to pre-production support

### 7.8.4.1. Budget

Pre-production support is only allocated at national level by the EFI and the Cultural Endowment. In either case, the budget of an eligible project is not subject to any minimum threshold or maximum cap.

The only requirements laid down in relation to the budget are the minimum share of the budget that the applicant must personally contribute to the project. They are the same as for production support, as follows:

- For the EFI: in the case of a domestic project, the applicant's contribution to the financing of the project must represent at least 5% of the consolidated budget, and in the case of an international cooperation project, at least 5% of the consolidated budget of the Estonian participation;<sup>946</sup>
- For the Cultural Endowment: the cost-sharing or co-financing of the project must represent at least 10% of the total project expenses.<sup>947</sup>

### 7.8.4.2. Awarded amount

The awarded amount is not repayable, as long as all the conditions laid out in the contract have been fulfilled. When it comes to the aid intensity, the same general rules apply to the different support activities, including pre-production.<sup>948</sup>

The new updated principles adopted by the Cultural Endowment for audiovisual support specify that the intensity of pre-production aid may not exceed 100% of the eligible costs. If an audiovisual work, such as a film, is created on the basis of a script or a project that already previously received support, pre-production costs must be included in the general budget and taken into account when calculating the aid intensity.

Regarding eligible costs, the new updated principles establish that eligible costs for pre-production support refer to script-writing costs and the costs of developing an audiovisual work. For the EFI, the eligible costs include all planned development costs, as well as the overhead costs of the film production company (up to 7% of the direct costs of development);<sup>949</sup> and the ineligible costs include costs related to the acquisition of movable and immovable property. Fixed assets are not eligible for support either.<sup>950</sup> Finally, the granting decision follows the same procedure as described for production support.<sup>951</sup>

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<sup>946</sup> Paragraph 2.2.8 of the EFI Regulations.

<sup>947</sup> Paragraph 2.1.7 of the General Principles.

<sup>948</sup> See Section 7.8.3.4 of this factsheet.

<sup>949</sup> Paragraphs 2.2.6.1, 2.2.6.2., 2.2.6.4. and 2.2.6.5. of the EFI Regulation.

<sup>950</sup> Paragraph 2.2.6.5 of the EFI Regulation.

<sup>951</sup> See Section 7.8.3.4 of this factsheet.



#### 7.8.4.3. Underlying copyright

In the case of the script and development support of the EFI, there are requirements regarding the ownership of the underlying copyright, according to which support “can be applied for by a legal entity whose principal activity is the production of films and to whom the property rights of the authors of the audio-visual work are transferred or licensed. The applicant must be a legal entity registered in Estonia by the moment of the payment of support at the latest.”<sup>952</sup> There are no further requirements regarding the underlying copyright (and how it is linked to the country).

For the Cultural Endowment support, there is no such specific requirement either.

#### 7.8.4.4. Script language and diversity

There are no requirements regarding the language of the script, ethnic or linguistic minorities and gender.

### 7.8.5. Funding criteria applicable to distribution and promotion support

#### 7.8.5.1. Theatrical release, broadcasting and visibility on VOD

Only the EFI provides distribution support in the country in the cases listed in paragraph 3.1 of the EFI Regulation (Estonian short and feature films, European art house films, youth and children’s films as well as subtitles for the hard-of-hearing and audio description for the visually impaired). There are no specific schemes to support distribution on VOD. The criteria for the assessment of applications for distribution support (both for national and European films) are listed on the EFI website and take into account the P&R plan; the distribution plan; the budget; foreseen admissions; and the importance of the European films to be distributed, according to various criteria such as whether the programme is diverse, enriching the overall distribution scene, etc. However, these criteria do not require any minimum theatrical release.

Regarding the visibility of the work, the EFI Regulation requires that within two years of a film’s public premiere, the recipient of the support for the film ensures its broadcast by Estonian Public Broadcasting or by a media services provider having a media service license.<sup>953</sup>

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<sup>952</sup> Paragraphs 2.2.1 and 2.2.2 of the EFI Regulation.

<sup>953</sup> Paragraph 3.9 of the EFI Regulation.



### 7.8.5.2. Theatrical performance and performance at festivals, events and awards

As a general principle, there is no requirement regarding the performance of a work in terms of theatrical attendance at home or abroad. On top of that, the awarded amounts do not take into account the potential performance of the work.

Nonetheless, in assessing the applications for distribution support of the Estonian Film Institute, the foreseen audience success may influence the award decision (but not the amount of the award).<sup>954</sup> Regarding performance in festivals, this is not a granting criteria.<sup>955</sup>

### 7.8.5.3. Budget

The budget of an eligible project is not subject to any minimum threshold or maximum cap. Regarding the minimum share of the budget, the applicant has to personally contribute to the project; this shall represent at least 5% of the consolidated budget.<sup>956</sup>

### 7.8.5.4. Awarded amount

Distribution support is awarded after a selective process and the amount is not repayable. As regards the aid intensity, the total amount of support allocated by the EFI shall not exceed 50% of the project's consolidated budget or 70% of the consolidated budget if the film has a low-budget or limited international distribution *potential*.<sup>957</sup>

Regarding eligible costs, the only requirement is that “[t]he distribution budget of an Estonian film project for which Estonian distribution support is applied must not cover the producer's fee of the film production company or unforeseen costs”.<sup>958</sup>

As for the selection procedure, the applications for distribution support are evaluated by the EFI's Head of Marketing, who shall involve at least two external experts in the evaluation process. A member of the Management Board at the EFI shall appoint the experts for an application round by a directive.<sup>959</sup>

Concerning the Cultural Endowment, the new updated principles adopted for audiovisual support specify that the intensity for distribution support is the same as the intensity for production support.

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<sup>954</sup> Paragraph 3.7.c of the EFI Regulation requires that the final report on distribution support contained a performance report on the distribution of the film in Estonia (specifying the number of audiences, screening times and venues, and ticket revenue).

<sup>955</sup> Paragraph 5.1 of the EFI Regulation: “5.1. Miscellaneous support shall be allocated for: a) organizing film-related events; b) participation in film fairs and festivals; (...)” refers to the support provided for smaller film events organised in Estonia (a), and for Estonian professionals wanting to participate in film festivals or markets, to cover certain costs related to the event (b), but not for the performance of the films in festivals.

<sup>956</sup> Paragraph 3.4.4 of the EFI Regulation.

<sup>957</sup> Paragraph 3.4.2. of the EFI Regulation.

<sup>958</sup> Paragraph 3.4.3 of the EFI Regulation.

<sup>959</sup> Paragraph 3.5.1 of the EFI Regulation.



#### 7.8.5.5. Language and diversity

There are no particular requirements regarding the language of the film. However, when it comes to diversity, it is worth noting that, in addition to distribution support for national films, support is also awarded to “film distribution companies that intermediate programmes of European art-house films and of youth and children’s films, provided that the programme consists of at least 4 (four) films and these films are distributed in cinemas and on the VOD platforms used in Estonia.”<sup>960</sup>. There are no requirements linked to ethnic or linguistic minorities and gender.

#### 7.8.6. Data compilation

This factsheet was produced based on data compiled by Marge Liiske, CEO of Industry@Tallinn and Baltic Event in Tallinn and member of the EFI Board.

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<sup>960</sup> Paragraph 3.1.c of the EFI Regulation.



## 7.9. ES – Spain – National Summary<sup>961</sup>

### 7.9.1. Summary

At national level, the main fund operating in the country is the Institute of Cinematography and Audiovisual Arts (*Instituto de la Cinematografía y de las Artes Audiovisuales*, hereinafter “ICAA”), an autonomous agency within the Ministry of Culture. Created in 1985, it is responsible for planning support and protection policies for the film and audiovisual industries. More specifically, its main objectives are to promote and increase film and audiovisual production and facilitate the distribution of the country’s cinema heritage. Its action is part of the film policy of Spain, which considers cinema as a “strategic sector of culture and economy” in the national agenda, so that most of the funding programmes are aimed at supporting cultural diversity, helping the film industry and its stakeholders to adapt to the new digital era and paying special attention to beginners and experimental works.

At regional level, there are several funds operating in Spain, as listed in the table below.

**Table 20. Film funding institutions in Spain<sup>962</sup>**

Geographical scope	Funding institution
Spain (national)	Instituto de la Cinematografía y de las Artes Audiovisuales (ICAA) <sup>963</sup> - Institute of Cinematography and Audiovisual Arts
Andalusia	Agencia Andaluza de Instituciones Culturales (AAIC) <sup>964</sup> - Andalusian Agency of Cultural Institutions
Aragon	Dirección General de Cultura y Patrimonio <sup>965</sup> - General Directorate for Culture and Heritage
Asturias	Asturias Paraíso Natural Film Commission <sup>966</sup> - Asturias Natural Paradise Film Commission

<sup>961</sup> The factsheet on Spain incorporates the feedback received from Jaime Alejandro (ICAA), José Luís Moreno Maicas (Valencian Institute of Culture) and Etxeberria Agirresarobe (Department of Culture and Language Policy, Basque Government) during the checking round with the national film and audiovisual funds.

<sup>962</sup> The different applicable pieces of legislation applicable at national and regional level can be found in the Code of Cinematography and Audiovisual Arts (Código de Cinematografía y Artes Audiovisuales), <https://www.boe.es/legislacion/codigos/codigo.php?id=220&modo=1&nota=0&tab=2>.

<sup>963</sup> <http://www.culturaydeporte.gob.es/cultura-mecd/areas-cultura/cine/el-icaa.html>.

<sup>964</sup> <https://www.juntadeandalucia.es/cultura/aaicc/>.

<sup>965</sup> <http://film.aragon.es/category/film-ar/>.

<sup>966</sup> <https://www.turismoasturias.es/filmcommission>.



Balearic Islands	Conselleria de Cultura, Participació i Esports <sup>967</sup> - Regional Ministry of Culture, Participation and Sports
Basque country	Kultura eta Hizkuntza Politika Saila / Departamento de Cultura y Política Lingüística <sup>968</sup> - Department of Culture and Linguistic Policy
Canary Islands	Canary Islands Film <sup>969</sup>
Cantabria	Cantabria Film Commission <sup>970</sup>
Castilla-La Mancha	Castilla-La Mancha Film Commission <sup>971</sup>
Castille and León	Gobierno de Castilla y León <sup>972</sup> - Government of Castille and León
Catalonia	Institut Català de les Empreses Culturals (ICEC) <sup>973</sup> - Catalan Institute of Cultural Enterprises
Ceuta	Government of the Autonomous City of Ceuta <sup>974</sup>
Extremadura	Fundación extremeña de la cultura <sup>975</sup> - Extremadura Cultural Foundation
Galicia	Aaxencia Galega das Industrias Culturais (AGADIC) <sup>976</sup> - Galician Agency of Cultural Industries
Madrid	Comunidad De Madrid - Asesoría de Cine <sup>977</sup> - Community of Madrid - Film Advisory Unit.
Melilla	Consejería de Cultura de Melilla <sup>978</sup> - Ministry of Culture of the Autonomous City of Melilla
Murcia	Instituto de las Industrias Culturales y las Artes (ICARM) <sup>979</sup> - Institute of Cultural Industries and the Arts
Navarra	Navarra Film Commission <sup>980</sup>
La Rioja	La Rioja Film Commission <sup>981</sup>
Valencia	Institut Valencià de Cultura (IVC) <sup>982</sup> - Valencian Institute of Culture

Source: Response to European Audiovisual Observatory standardised questionnaire

<sup>967</sup> <https://www.caib.es/seucaib/ca/organigrama/2390379>.

<sup>968</sup> <http://www.euskadi.eus/audiovisuales-promocion-cultura/web01-a2ikusen/es/>.

<sup>969</sup> <https://www.canaryislandsfilm.com/en/>.

<sup>970</sup> <http://cantabriafilmcommission.com/en/>.

<sup>971</sup> <https://cultura.castillalamancha.es/artes-escenicas/cine-audiovisual/clm-film-comission>.

<sup>972</sup> <http://www.jcyl.es/web/jcyl/Gobierno/es/Plantilla100DetalleFeed/1246464876027/ConsejoGobierno/1195110149396/Comunicacion>.

<sup>973</sup> <http://icec.gencat.cat/ca/sectors/audiovisual/>.

<sup>974</sup> <https://www.ceuta.es/ceuta/cultura>.

<sup>975</sup> <https://fundacionextremenadelacultura.org/>.

<sup>976</sup> [www.agadic.gal](http://www.agadic.gal).

<sup>977</sup> <http://www.comunidad.madrid/cultura/oferta-cultural-ocio/cine-audiovisual>.

<sup>978</sup> [http://www.melilla.es/melillaPortal/contenedor.jsp?seccion=s\\_floc\\_d4\\_v1.jsp&contenido=1615&nivel=1400&tipo=1&codResi=1&language=es&codMenu=36&codMenuPN=602&codMenuSN=604](http://www.melilla.es/melillaPortal/contenedor.jsp?seccion=s_floc_d4_v1.jsp&contenido=1615&nivel=1400&tipo=1&codResi=1&language=es&codMenu=36&codMenuPN=602&codMenuSN=604).

<sup>979</sup> <http://www.icarm.es/>.

<sup>980</sup> <http://www.navarrafilm.com/>.

<sup>981</sup> <http://www.filmcommissionlarioja.org/en/>.

<sup>982</sup> <http://ivc.gva.es>.



## 7.9.2. General framework

### 7.9.2.1. Overview of the film and audiovisual funding policy and legislation

The main legal framework for public film and audiovisual funding in Spain is established by Law 55/2007 (hereinafter, the “Cinema Law”), further developed by Royal Decree No. 1084/2015.<sup>983</sup> This regulation defines the main goals of the film protection policy in Spain, as well as the general aid schemes available to support and promote cinematographic and audiovisual works. It is complemented by the 2010 General Broadcasting Act (Ley 7/2010),<sup>984</sup> which systematised the sector-related rules and regulated several new issues along with this. On top of that, all subsidies granted by national or regional funds are subject to the General framework for Subsidies set in Law 38/2003.<sup>985</sup> Lastly, every year an Order (pending on the annual budget and the current political and economic priorities) sets the regulatory framework for the given year; for instance, 2018 was regulated by Order CUD/769/2018 of 17 July (hereinafter, “Order CUD/769/2018”). All additional laws and regulations can be found on the ICAA’s website.<sup>986</sup>

Regarding the regional funds, the legal framework in which they operate varies depending on the policy adopted in the given region. Indeed, the Spanish Constitution of 1978 defines the political Spanish structure and the division of competences between the state and the so-called autonomous communities. While the state has exclusive competences over telecommunications (Article 149.1.21) and cultural policies (Article 149.1.21), film development is a shared competence between the state and the autonomous communities. However, the state has the exclusive competence to establish the basic legislation (that is, the legal framework described above), without prejudice to the competences that the Autonomous Communities may develop and implement, and this according to the film policy adopted on their territory. For example, in the case of support provided by the ICEC, the general framework is set first by the state and then, under the basic state legislation, the Catalan Cinema Law may establish Regional Rules for all funding schemes (hereinafter, “Regional Rules”) and the specific rules for each type of scheme.<sup>987</sup> The case of feature fiction films will be analysed here.<sup>988</sup>

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<sup>983</sup> *Real Decreto 1084/2015, de 4 de diciembre, por el que se desarrolla la Ley 55/2007, de 28 de diciembre, del Cine* (Royal Decree 1084/2015, of 4 December, implementing Film Act 55/2007, of 28 December), [https://www.boe.es/diario\\_boe/txt.php?id=BOE-A-2015-13207](https://www.boe.es/diario_boe/txt.php?id=BOE-A-2015-13207)

<sup>984</sup> *Ley 7/2010, de 31 de marzo, General de la Comunicación Audiovisual* (Law 7/2010, of March 31, General of Audiovisual Communication), <https://www.boe.es/buscar/act.php?id=BOE-A-2010-5292>.

<sup>985</sup> *Ley 38/2003, de 17 de noviembre, General de Subvenciones* (Law 38/2003, of November 17, General framework for Subsidies), see <https://www.boe.es/eli/es/l/2003/11/17/38/con>.

<sup>986</sup> <https://www.meecd.gob.es/cultura-meecd/en/areas-cultura/cine/industria-cine/normativa-reguladora.html>.

<sup>987</sup> Available here: [http://icec.gencat.cat/ca/serveis\\_tramits/subvencions\\_financament/tramits-per-temes/?tema=73e1c51e-a82c-11e3-a972-000c29052e2c&subtema=73da721c-a82c-11e3-a972-000c29052e2c](http://icec.gencat.cat/ca/serveis_tramits/subvencions_financament/tramits-per-temes/?tema=73e1c51e-a82c-11e3-a972-000c29052e2c&subtema=73da721c-a82c-11e3-a972-000c29052e2c)

<sup>988</sup> *Bases específiques que han de regir la concessió de subvencions per a la producció de llargmetratges cinematogràfics* (Specific rules on theatrical feature film production, hereinafter, the “Specific Production Guidelines (Annex 1)”),

**Table 21. Main funds in Spain<sup>989</sup>**

Funding institution	Geographical level	Legislation / Guidelines
Instituto de la Cinematografía y de las Artes Audiovisuales (ICAA) <sup>990</sup>	National	Law 55/2007, of 28th December 28, of Cinema <sup>991</sup>
		Order CUD / 769/2018 <sup>992</sup>
Catalan Institute for Cultural Companies (ICEC) <sup>993</sup>	Regional	Ley 20/2010, de 7 de julio, del cine / Comunidad Autónoma de Cataluña <sup>994</sup>
		General Rules <sup>995</sup>
Valencian Institute of Culture <sup>996</sup>	Regional	Decree 5/2013, of 4 January. <sup>997</sup>
		Decree 141/2014 of 5 September <sup>998</sup>
		Decree 124/2016 of 30 September <sup>999</sup>

[http://cultura.gencat.cat/web/shared/OVT/Departaments/CLT/ICEC/Documents/AUDIOVISUAL/TEXT-REFOS-BASES-TEC073\\_-2018.pdf](http://cultura.gencat.cat/web/shared/OVT/Departaments/CLT/ICEC/Documents/AUDIOVISUAL/TEXT-REFOS-BASES-TEC073_-2018.pdf).

<sup>989</sup> The different applicable pieces of legislation applicable at national and regional level can be found in the *Código de Cinematografía y Artes Audiovisuales* (Code of Cinematography and Audiovisual Arts), <https://www.boe.es/legislacion/codigos/codigo.php?id=220&modo=1&nota=0&tab=2>.

<sup>990</sup> <https://www.mecd.gob.es/cultura-mecd/areas-cultura/cine/el-icaa.html>.

<sup>991</sup> *Ley 55/2007, de 28 de diciembre, del Cine* (Law 55/2007, of 28 December, of Cinema), <https://www.boe.es/buscar/act.php?id=BOE-A-2007-22439&p=20150515&tn=0>.

<sup>992</sup> *Orden CUD/769/2018, de 17 de julio, por la que se establecen las bases reguladoras de las ayudas previstas en el Capítulo III de la Ley 55/2007, de 28 de diciembre, del Cine, y se determina la estructura del Registro Administrativo de Empresas Cinematográficas y Audiovisuales*, [https://www.boe.es/diario\\_boe/txt.php?id=BOE-A-2018-10176](https://www.boe.es/diario_boe/txt.php?id=BOE-A-2018-10176).

<sup>993</sup> <http://icec.gencat.cat/ca/inici>.

<sup>994</sup> *Ley 20/2010, de 7 de julio, del cine / Comunidad Autónoma de Cataluña* (Catalan Cinema Law 20/2010, of July 7.), <https://www.boe.es/buscar/pdf/2010/BOE-A-2010-12709-consolidado.pdf>.

<sup>995</sup> *Bases generals reguladores dels procediments per a la concessió 'ajuts en règim de concurrència tramitats per l'institut català de les empreses culturals* (General Rules Regulating the granting procedure for competitive support by the ICEC, hereinafter, "the General Rules"),

<http://cultura.gencat.cat/web/shared/OVT/Departaments/CLT/ICEC/Documents/TEXT-REFOS-BASES-GENERALS.pdf>.

<sup>996</sup> <http://ivc.qva.es/>.

<sup>997</sup> *Decreto 5/2013, de 4 de enero, del Consell, por el que se aprueba el Reglamento de Organización y Funcionamiento de CulturArts Generalitat* (Decree of the Consell 5/2013, of 4 January, by which the Regulation of Organization and Functioning of CulturArts Generalitat is approved), [http://www.dogv.qva.es/datos/2013/01/07/pdf/2013\\_100.pdf](http://www.dogv.qva.es/datos/2013/01/07/pdf/2013_100.pdf).

<sup>998</sup> *Decreto 141/2014, de 5 septiembre, del Consell, por el que se modifica el Reglamento de Organización y Funcionamiento de CulturArts Generalitat* (Decree of the Consell 141/2014, of 5 September, by which the Regulation of Organization and Functioning of CulturArts Generalitat is modified), [http://www.dogv.qva.es/datos/2014/09/08/pdf/2014\\_8137.pdf](http://www.dogv.qva.es/datos/2014/09/08/pdf/2014_8137.pdf).

<sup>999</sup> *Decreto 124/2016, de 30 de septiembre, del Consell, por el que se modifica el Reglamento de organización y funcionamiento de CulturArts Generalitat* (Decree 124/2016 of the Consell of 30 September, by which the Regulation of organization and operation of CulturArts Generalitat is modified), [http://www.dogv.qva.es/datos/2016/10/04/pdf/2016\\_7664.pdf](http://www.dogv.qva.es/datos/2016/10/04/pdf/2016_7664.pdf).



Funding institution	Geographical level	Legislation / Guidelines
		Order 33/2016 of 18 July <sup>1000</sup> Resolution of 11 March 2019 <sup>1001</sup>
Basque Country Department of Culture <sup>1002</sup>	Regional	Order of 15 March 2019, of the Minister of Culture and Linguistic Policy <sup>1003</sup>
		Order of 19 June 2018, of the Minister of Culture and Linguistic Policy <sup>1004</sup> Order of 6 February 2019, of the Minister of Culture and Linguistic Policy <sup>1005</sup>
Galician Agency of cultural industries (AGADIC) <sup>1006</sup>	Regional	Law 4/2008, of 23 May, the creation of the Galician Agency for Cultural Industries <sup>1007</sup>
Andalusian Agency for Cultural Institutions <sup>1008</sup>	Regional	Law 6/2018, of 9 July, Film Andalusia <sup>1009</sup>

Source: Response to European Audiovisual Observatory standardised questionnaire

<sup>1000</sup> Orden 33/2016, de 18 de julio, de la Conselleria de Educació, Investigació, Cultura y Deporte por la que se establecen las bases reguladoras para la concesión de subvenciones públicas en régimen de concurrencia competitiva de las diferentes materias culturales integradas en CulturArts Generalitat (Order 33/2016 of the Regional Ministry of Education, Research, Culture and Sport of 18 July, establishing the regulatory bases for the granting of public subsidies on a competitive basis for the different cultural subjects integrated into CulturArts Generalitat), [http://www.dogv.gva.es/datos/2016/07/20/pdf/2016\\_5797.pdf](http://www.dogv.gva.es/datos/2016/07/20/pdf/2016_5797.pdf).

<sup>1001</sup> Resolució de 11 de marzo de 2019, del presidente del Institut Valencià de Cultura, por la que se convoca la concesión de ayudas para la producción audiovisual (Resolution of 11 March 2019 of the President of the Institut Valencià de Cultura calling for the granting of aid for audiovisual production), <https://ivc.gva.es/admin/assets/docs/2/0/20192657.pdf>.

<sup>1002</sup> [www.euskadi.eus/audiovisuales-promocion-cultura/web01-a2ikusen/es/](http://www.euskadi.eus/audiovisuales-promocion-cultura/web01-a2ikusen/es/).

<sup>1003</sup> Orden de 15 de marzo de 2019, del Consejero de Cultura y Política Lingüística, por la que se regula y convoca el régimen de concesión de subvenciones, en el ejercicio 2019, al desarrollo de proyectos audiovisuales (Order of 15 March 2019, of the Minister of Culture and Linguistic Policy, which regulates and calls for the grant system for the development of audiovisual projects in fiscal year 2019), <https://www.euskadi.eus/y22-bopv/es/bopv2/datos/2019/04/1901771a.pdf>.

<sup>1004</sup> Orden de 19 de junio de 2018, del Consejero de Cultura y Política Lingüística, por la que se convoca y regula la concesión de subvenciones en el ejercicio 2018 a la producción audiovisual (Order of 19 June 2018, of the Minister of Culture and Linguistic Policy, which calls for and regulates the granting of subsidies in 2018 to audiovisual production), <https://www.euskadi.eus/bopv2/datos/2018/06/1803327a.pdf>.

<sup>1005</sup> Orden de 6 de febrero de 2019, del Consejero de Cultura y Política Lingüística, por la que se regula y convoca el régimen de concesión de subvenciones durante el ejercicio 2019 a la creación cultural, <https://www.euskadi.eus/y22-bopv/es/bopv2/datos/2019/02/1900814a.pdf>.

<sup>1006</sup> [www.agadic.gal/](http://www.agadic.gal/).

<sup>1007</sup> Lei 4/2008, do 23 de maio, de creación da Axencia Galega das Industrias Culturais (Law 4/2008, of 23 May, on the establishment of the Galician Agency for Cultural Industries), [http://www.agadic.gal/gfx/lexislacion/agadic\\_lei\\_creacion.pdf](http://www.agadic.gal/gfx/lexislacion/agadic_lei_creacion.pdf).

<sup>1008</sup> [www.juntadeandalucia.es/cultura/aiiicc/](http://www.juntadeandalucia.es/cultura/aiiicc/).

<sup>1009</sup> Ley 6/2018, de 9 de julio, del Cine de Andalucía (Andalusian Film Law 6/2018, of 9 July), <https://www.juntadeandalucia.es/boja/2018/135/1>.



### 7.9.2.2. Definition of cultural criteria

In accordance with Article 22 of Royal Decree No. 1084/2015, “Aid may only be granted for the production of the cinematographic and audiovisual works that have proven their cultural character in light of their content, their connection with the Spanish cultural reality or their contribution to the enrichment of the cultural diversity of the cinematographic works exhibited in Spain”. In line with this, Article 12 of Order CUD/769/2018 of July 17 provides that the cultural character of a project would be assessed according to the procedure in place.

In the case of selective financial aid, the cultural certificate will be issued *ex officio*, without the need for an express request, if the project’s cultural nature has been assessed and confirmed by the Committee for financial aid for the production of feature films and short films.

In the case of general financial aid for the production of project-based feature films, the cultural certificate will be required and issued by the ICAA if at least two of the following requirements are met:

- Its original version is in any of Spain’s official languages. In the case of co-productions with foreign companies, the feature film may have as its original version any European Union official language.
- The setting of the content is mainly in Spain.
- The content is directly related to literature, music, dance, architecture, painting, sculpture and, in general, creations of artistic expression.
- The script is an adaptation of a pre-existing literary work.
- The content is biographical or, in general, reflects historical events or characters, without prejudice to the free adaptation inherent to a cinematographic script.
- The content basically includes mythological or legendary stories, events or characters that may be considered to belong to world heritage or cultural tradition.
- It provides further knowledge of cultural, social, religious, ethnic, philosophical or anthropological diversity.
- The content is related to matters or topics that belong to Spain’s social, cultural or political reality, or has an incidence on them.
- It is specifically directed at children or young spectators and contains values in line with educational principles and purposes.
- It possesses a special cultural and/or social interest for the European and/or Ibero-American public.

The cultural certificate application will be deemed as jointly filed along with a request for the subsidy in question and will be issued, in the case of it being granted, along with the resolution granting the financial aid.

Regarding the ICEC, the Catalan Cinema Law requires that the application be assessed according to a set of criteria which includes “the artistic and cultural value of the



cinematographic or audiovisual work”.<sup>1010</sup> The various funding schemes define in more detail the procedure for assessing this artistic and cultural value. In the case of production support for feature films,<sup>1011</sup> it would be assessed based on the background of talent and key crew members as well as the quality of the treatment and script, but also on the following criteria:

- The original version is in Catalan or Occitan (in its Aranese variant): up to 10 points
- Catalan cultural, social and historical references:
  - Up to 10 points for auteur films, debut films and second feature films of a director,
  - 5 points for market-oriented auteur films,
  - No points for projects with a high potential for internationalisation.

### 7.9.2.3. Nationality of the applicant

As a general rule, Article 2 of the Cinema Law provides that “The provisions of this Law are applicable to natural persons residing in Spain and Spanish companies and nationals of other Member States of the European Union and the European Economic Area established in Spain in accordance with the legal system, who develop creative activities, cinematographic and audiovisual production, distribution and exhibition as well as related technical industries.” In addition to the specific obligations established for each type of aid, all applicants are required to “have a legal residence or establishment in Spain at the time of effective collection of the aid.”<sup>1012</sup>

At regional level, different requirements apply regarding the nationality or establishment of the applicant. For example, the ICEC for Cultural Companies (ICEC) requires the applicant to be an independent production company or an independent distribution company with an operating establishment in Spain.<sup>1013</sup> In addition, it must be registered in the Audiovisual Companies Register of Catalonia, in the Administrative Register of cinematographic and audiovisual companies managed by the ICAA, or in those of a member state of the European Union or of the European Economic Area.

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<sup>1010</sup> Articles 33, 36 and 40 of the Catalan Cinema Law.

<sup>1011</sup> Article 7.1 of the Specific Production Guidelines (Annex 1), *Op. cit.* The total number of points for the cultural and artistic criterion is 95 points for auteur films, debut films and second feature films of a director; 75 points for market-oriented auteur films; and 60 points for projects with a high potential for internationalisation.

<sup>1012</sup> Article 9, point b of Order CUD/769/2018.

<sup>1013</sup> Article 3 (1), point C of the General Rules.



## 7.9.3. Funding criteria applicable to production support

### 7.9.3.1. Theatrical release, broadcasting and visibility on VoD

#### A) National fund: ICAA

First of all, regarding the ICAA, Order 769/2018 establishes mandatory requirements regarding the theatrical release of the supported work. For the general aid scheme: the premiere of the film must take place within a maximum period of 9 months from the notification of the qualification certificate, and in the following number of exhibition halls, depending on the type of work:<sup>1014</sup>

- “Feature films with a recognized cost of more than EUR 2 000 000: 40 rooms.
- Feature films with a recognized cost equal to or less than EUR 2 000 000: 20 rooms.
- Feature films with their original version in co-official languages other than Spanish: 12 rooms, in 6 of which, at least, they will be shown in their original version.
- Feature films of a documentary nature: 5 rooms.”

For the selective aid scheme: “the premiere of the feature film takes place, at least, not necessarily simultaneously, in 15 exhibition halls within a maximum period of 12 months from the notification of the qualification certificate.”<sup>10151016</sup>

In addition, regarding the general aid scheme, at least 15% of the budget declared for the supported project, as per article 14 (1), point d of Order 769/2018, must be intended for copies, advertising and promotion for its commercial premiere in theatres in Spain.<sup>1017</sup> Regarding the selective aid scheme, this requirement is reduced to 10% of the budget declared for the supported project.<sup>1018</sup> Moreover, although not a mandatory requirement, any pre-existing distribution deal (with national or international distribution companies) is taken into account<sup>1019</sup> when assessing the part of the budget secured by the applicant (further detailed in section 7.9.3.3).

#### B) Regional fund: ICEC<sup>1020</sup>

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<sup>1014</sup> Article 14 e) of Order 769/2018.

<sup>1015</sup> Article 22 (2), point e of the Order 769/2018.

<sup>1016</sup> The number of rooms will be reduced to 5 in the case of feature films and documentaries with original version in co-official languages other than Spanish. In this case, the film must be exhibited in its original version in at least 3 rooms.

<sup>1017</sup> If these criteria are not met, 15% of the aid received for the project will be reduced proportionally.

<sup>1018</sup> Article 22 (2), point d.

<sup>1019</sup> Article 14 (1) b) and Article 22 (2) b) of the Order 769/2018.

<sup>1020</sup> For the section on production support, the scheme “production support of feature fiction film” was used as an example. A complete list of production support schemes offered by ICEC is available here: [http://icec.gencat.cat/ca/serveis\\_tramits/subvencions\\_financament/tramits-per-tema=73e1c51e-a82c-11e3-a972-000c29052e2c&subtema=73da721c-a82c-11e3-a972-000c29052e2c](http://icec.gencat.cat/ca/serveis_tramits/subvencions_financament/tramits-per-tema=73e1c51e-a82c-11e3-a972-000c29052e2c&subtema=73da721c-a82c-11e3-a972-000c29052e2c)



The ICEC sets requirements related to the minimum theatrical release of the work. In the case of feature fiction films,<sup>1021</sup> the supported work is required to be released within 9 months in the following numbers of theatres in Catalonia, depending on the type of work:

- For auteur films, debut films and second feature films of a director: at least three theatres;
- For market-oriented auteur films: at least 10 theatres (five theatres if co-productions);
- For projects with a high potential for internationalisation: at least 20 theatres (10 theatres if co-productions).

In addition, as per Article 3, point j, the applicant is required, depending on the type of work, to invest at least 5%, 7%, or 10% of the total budget in promotion and advertising for the work's premiere in cinemas in Spain, which includes expenses/investment incurred on other windows and distribution platforms beyond the theatrical window.

### **C) Regional fund: IVAC**

The IVC sets requirements related to the minimum theatrical release<sup>1022</sup> of the work:

- Fiction feature films must be screened in their original version in a minimum of 5 cinemas in the Valencian Community, with no less than two screenings open to the public in each cinema. The film has to be released in each of the three provinces of the Valencian Community.
- TV movies must be broadcast at least once on public or private television, either nationwide or with coverage throughout the Valencian Community. Local television channels shall not be taken into account for this purpose.
- Documentary and animated feature films must either be screened, in their original version, in a minimum of 5 cinemas in the Valencian Community, with no less than 2 screenings open to the public in each venue. The film has to be released in each of the three provinces of the Community; or be broadcast at least once on public or private television, either nationwide or with coverage throughout the Valencian Community for such a broadcast. Local television channels shall not be taken into account for this purpose.
- Short films must prove the participation of the work in at least two competitive sections of national or international film festivals or its screening open to the public in at least one cultural centre or cinema in each province of the Valencian Community.

### **D) Regional fund: Basque Country Department of Culture**

For the granting of aid to audiovisual production, no minimum number of screenings is envisaged in any of the modalities. A detailed marketing and distribution plan must be

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<sup>1021</sup> Article 3.1, paragraphs g and i of the Specific Production Guidelines (Annex 1).

<sup>1022</sup> Article 8 of the Resolution of 11 March 2019.



presented (except in the case of short films) and the distribution and marketing strategy is evaluated in the selection and evaluation phases.<sup>1023</sup>

### 7.9.3.2. Theatrical performance and performance at festivals, events and awards

#### A) National fund: ICAA

There are no mandatory requirements related to expected or actual theatrical performance in the home market or abroad as such. However, it is taken into account during the evaluation of the application, as follows:

For the general aid scheme: the evaluation process contains an assessment of the solvency of the applicant,<sup>1024</sup> which is based on the number of spectators, the volume of national and international sales and the participation and/or obtaining of prizes in festivals and cinematographic contests obtained by a feature film of Spanish nationality produced by the applicant and premiered in Spain in the 6 years prior to the call.<sup>1025</sup>

For the selective aid scheme: the evaluation process consists of a first evaluation against a set of criteria, which includes the assessment of the director's career and the solvency of the applicant.<sup>1026</sup> For the assessment of these criteria, the number of Spanish films directed and the participation in festivals as well as prizes obtained are taken into account.<sup>1027</sup>

For short films: participation in international and national festivals is taken into account during the evaluation process.<sup>1028</sup>

Moreover, it is worth mentioning that theatrical attendance and the income generated by the exploitation of the film can influence the amount the applicant must reimburse to the film fund, based on the real benefit he obtained and the amount of support he received, as per Article 13 of Order 769/2018, when theatrical revenues are higher than three times the approved budget (up to 100% of the awarded amount if the revenues go beyond 500% of it).

#### B) Regional fund: ICEC

The ICEC does not set concrete requirements for a production project related to theatrical performance in the home market or abroad as such. Nonetheless, the previous and potential theatrical performance of the work is part of the assessment criteria for the determination of the industrial potential of the project, which includes, *inter alia*, the national and international distribution strategy, the potential participation in festivals, or the expected return from the exploitation of television channels and distribution

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<sup>1023</sup> Article 15 of the Order of 15 March 2019.

<sup>1024</sup> Article 18 (1), point c of the Order 769/2018.

<sup>1025</sup> Article 18 (2), of the Order 769/2018.

<sup>1026</sup> Article 25 (1) of the Order 769/2018.

<sup>1027</sup> Annexes II and III.B of the Order 769/2018.

<sup>1028</sup> Annex III.C of the Order 769/2018.



companies.<sup>1029</sup> The number of points obtained by the project under those criteria will influence the amount awarded.<sup>1030</sup>

Basque Country Department of Culture

### C) Regional fund: Basque Country Department of Culture

There are no requirements related to exhibition in the domestic or external market. However, in the selection and evaluation phase, the applicant's solvency and track record are evaluated based on, among others, the number of feature films made and premiered in the last five years and the selection and awards obtained in festivals.<sup>1031</sup>

#### 7.9.3.3. Budget

##### A) National fund: ICAA

First, depending on the type of aid requested, the project's budget is subject to the following requirements:

- For the general aid scheme: in general, the minimum cost of the project must be at least EUR 1 300 000, or lower in the following situations:<sup>1032</sup>
- For documentaries and international co-productions with Ibero-American countries, or with Ibero-American countries and one or several third countries whose joint participation is minority, the minimum cost is EUR 300 000.
- For other international co-productions, the minimum cost is EUR 700 000.
- For the selective aid scheme:<sup>1033</sup> the project's cost may not exceed EUR 1 800 000 in general, or EUR 2 500 000 in the case of animated feature films.
- For experimental projects (selective aid scheme): a minimum budget of EUR 80 000 and a maximum budget of EUR 300 000.<sup>1034</sup>

Moreover, the applicant is required to have secured the following percentage/share of the budget at the moment of the application:

- For the general aid scheme: at least 35% of the budget,<sup>1035</sup>
- For the selective aid scheme: at least 15% of the budget.<sup>1036</sup>

Lastly, although there is no minimum contribution required from the applicant, it is taken into account during the assessment of the application.<sup>1037</sup>

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<sup>1029</sup> Article 7.1, points b.2), b.6) and b.7) of the Specific Production Guidelines (Annex 1).

<sup>1030</sup> Article 7.3 of the Specific Production Guidelines (Annex 1).

<sup>1031</sup> Articles 26.1.3, 29.1.3, 32.1.3 y 35.1.3 of the Order of 19 June 2018.

<sup>1032</sup> Article 14 (1), point a of the Order 769/2018.

<sup>1033</sup> Article 22 (2), point a of the Order 769/2018.

<sup>1034</sup> Article 30 (1) of the Order 769/2018.

<sup>1035</sup> Article 14 (1), point b of the Order 769/2018.

<sup>1036</sup> Article 22 (2), point b of the Order 769/2018.

<sup>1037</sup> Articles 14 and 22 of the Order 769/2018.



## B) Regional fund: ICEC

First, in the case of feature fiction film, the project is subject to the following minimum and maximum budget, depending on the type of work concerned:<sup>1038</sup>

- For auteur films, debut films and second feature films of a director: a total maximum budget of EUR 1 200 000.
- For market-oriented auteur films: a total budget of over EUR 1 200 000.
- For projects with a high potential for internationalisation: a total budget starting from EUR 2 500 000.

Moreover, the applicant is required to have at least secured the following percentages of the financing plan:<sup>1039</sup>

- For auteur films, debut films and second feature films of a director: a minimum of 30%.
- For market-oriented auteur films: a minimum of 40%.
- For projects with a high potential for internationalisation: a minimum of 50%.

In addition, an equity contribution from the production company is not required; in turn, there are thresholds, depending on the type of work concerned, for the share of the budget filled through the production company's own resources (10% to 15%).<sup>1040</sup>

## C) Regional fund: IVAC

In the case of feature fiction films, the project is subject to the following minimum and maximum budget, depending on the type of work concerned:<sup>1041</sup>

- Cultural feature film A: a film directed by a new director whose budget does not exceed EUR 300 000.
- Cultural feature film B: a film with a budget of more than EUR 300 000 but not more than EUR 1 000 000.
- Cultural feature film C: a film with a budget of more than EUR 1 000 000.
- Industrial feature films: those films with a budget of more than EUR 1 000 000, of which solid financing will be particularly valued.

## D) Regional fund: Basque Country Department of Culture

A budgetary requirement is established for the following modalities:

- For the production of low-budget fiction feature films, it is established that support will be provided for the production of such feature films with a budget of less than EUR 800 000.<sup>1042</sup>

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<sup>1038</sup> Article 3, point h of the Specific Production Guidelines (Annex 1).

<sup>1039</sup> Article 3 point k of the Specific Production Guidelines (Annex 1).

<sup>1040</sup> Article 3, point k.3 of the Specific Production Guidelines (Annex 1).

<sup>1041</sup> Article 2 of the Resolution of 11 March 2019.

<sup>1042</sup> Article 27 of the Order of 19 June 2018.



- For the production of feature-length fiction films, the minimum cost must be EUR 800 000.

There is no minimum project cost concerning the production of short films, animated feature films or creative documentary feature films.

#### 7.9.3.4. Awarded amount

##### A) National fund: ICAA

The following aid intensity rules apply, depending on the type of scheme:

- For the general aid scheme: the aid support is up to 40% of the eligible costs of the project, and up to a maximum amount per project of EUR 1 400 000.<sup>1043</sup>
- For the selective aid scheme: the aid support is up to 40% of the eligible costs, and up to a maximum amount per project of EUR 500 000.<sup>1044 1045</sup>
- For short films: the aid support is up to 75% of the eligible costs,<sup>1046</sup> and up to a maximum of EUR 70 000 per project.<sup>1047</sup>

In addition, the amount awarded can be reduced by 10% for each of the following requirements not met:<sup>1048 1049</sup>

- The project uses in its original version any of the official Spanish languages;
- The project uses mainly the Spanish territory in the shooting of the work;
- The project carries out the post-production work in a studio and the laboratory work mainly in Spanish territory.

Furthermore, for the general aid scheme only: as per Article 18 (3) of Order 769/2018: “Depending on budget availability, the individual amount of each aid will be determined according to the following rules:

- Each project will be assigned a total score obtained by adding together the points obtained in each of the evaluation criteria mentioned in section 1.
- Only those projects that have obtained a total minimum score of 50 points will be able to access the aid.
- Aid will be distributed according to the following scores: 100% of the aid requested for projects scoring between 100 and 75 points; 85% of the aid

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<sup>1043</sup> Article 17 of the Order 769/2018.

<sup>1044</sup> Article 23 (1) of the Order 769/2018.

<sup>1045</sup> For experimental projects, the same rule applies, provided that the amount awarded does not exceed the investment of the producer (as per Article 30 (1) of the Order 769/2018).

<sup>1046</sup> Articles 31(2), 32 (1) and 36 (1) of the Order 769/2018.

<sup>1047</sup> Article 31 (2) of the Order 769/2018.

<sup>1048</sup> Article 11, point 5 of the Order 769/2018.

<sup>1049</sup> These requirements do not apply to co-production with foreign companies.



requested for projects scoring between 74.99 and 65 points; and 75% of the aid requested for projects scoring between 64.99 and 50 points.

- A project priority ranking will be established according to the total score obtained by them.”

Moreover, in the case of general aid, selective aid and experimental projects, the amount awarded is repayable in accordance with the procedure laid down in Article 13 of Order 769/2018, which provides that the aid must be reimbursed in whole or in part depending on the real benefit for the producer, as follows:

- “If the real benefit exceeds 250% of the amount of the aid received, 25% of the amount must be reimbursed.
- If the actual benefit exceeds 350% of the amount of the aid received, 50% of the amount must be reimbursed.
- If the actual benefit exceeds 500% of the amount of the aid received, 100% of the amount must be reimbursed.”

The amount is awarded selectively after a competitive contest, as per Articles 4 and 8 of Order 769/2018, after an evaluation carried out by the Commission for aid for the production of feature films and short films.<sup>1050</sup> Lastly, the eligible costs for all funding schemes are determined as per the specific regulation on the recognition of costs.<sup>1051</sup>

## B) Regional fund: ICEC

As a general principle, the General Rules establish that the aid will not exceed 50% of the project’s costs, unless other thresholds are established for specific funding schemes.<sup>1052</sup> In the case of feature fiction film, the Specific Production Guidelines<sup>1053</sup> specify the following caps for maximum amounts and aid intensity rules:

- For auteur films, debut films and second feature films of a director: EUR 400 000 for projects whose original version is in Catalan or Occitan (in its Aranese variant), with a limit of 60% of the production costs (and a maximum of EUR 300 000 for projects in other languages, with a limit of 50% of the production costs).
- For market-oriented auteur films: EUR 500 000 for projects whose original version is in Catalan or Occitan (in its Aranese variant), with a limit of 60% of the production costs (and a maximum of EUR 400 000 for projects in others languages, with a limit of 50% of the production costs).
- For projects with a high potential for internationalisation: EUR 600 000 for projects in Catalan or Occitan in the original version (in the Aranese variant), with

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<sup>1050</sup> Article 70 (1), point (a) of Order 769/2018, *Op. cit.* This Commission is regulated by Articles 33 and 34 of the Royal Decree.

<sup>1051</sup> Orden ECD/2784/2015, de 18 de diciembre, por la que se regula el reconocimiento del coste de una película y la inversión del productor (Order ECD/2784/2015 of December 18, which regulates the recognition of the cost of a film and the producer’s investment), [https://www.boe.es/diario\\_boe/txt.php?id=BOE-A-2015-14022](https://www.boe.es/diario_boe/txt.php?id=BOE-A-2015-14022).

<sup>1052</sup> Article 4, paragraph 3 of the General Rules.

<sup>1053</sup> Article 5, paragraphs 1 and 3 of the Specific Production Guidelines (Annex 1).



a limit of 60% of the production costs (and a maximum of EUR 500 000 for projects in other languages, with a limit of 50% of the production costs).

- For the international co-productions scheme: the amount of the subsidy cannot exceed 40% of the production costs assumed by the applicant producer, with the same maximum threshold as in the abovementioned categories. The amount awarded is not repayable, and is awarded selectively<sup>1054</sup> by the Evaluation Committee (Comissió de valoració).<sup>1055</sup>

The eligible costs, as per Article 5 of the General Rules,<sup>1056</sup> exclude the amortisation of tangible assets. Overheads cannot represent more than 10% of the eligible costs. More specifically, in the case of feature fiction films, the eligible expenses are determined by Article 4 of the Specific Production Guidelines (Annex 1).

### C) Regional fund: IVAC

The maximum aid<sup>1057</sup> per project depends on the type of project:

- Fiction feature films:
  - Cultural feature film A: maximum aid per project: EUR 210 000; maximum of the total aid: 70% of the budget.
  - Cultural feature film B: maximum aid per project: EUR 300 000; maximum of the total aid: 50% of the budget.<sup>1058</sup>
  - Cultural feature film C: maximum aid per project EUR 350 000; maximum of the total aid: 50% of the budget.<sup>1059</sup>
  - Industrial feature film: maximum aid per project: EUR 375 000; maximum of the total aid: 50% of the budget.<sup>1060</sup>
- Feature film documentaries:
  - Cultural documentary feature A: maximum aid per project: EUR 90 000; maximum of the total aid: 50% of the budget.<sup>1061</sup>
  - Cultural documentary film B: maximum aid per project: EUR 90 000; maximum of the total aid: 50% of the budget.<sup>1062</sup>
- Animated feature films: maximum aid per project: EUR 400 000; maximum of the total aid: 50% of the budget.<sup>1063</sup>
- Short films of any genre: maximum aid per project: EUR 40 000; maximum of the total aid: 75% of the budget.

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<sup>1054</sup> Article 10, p.13 of the General Rules, *Op. cit.*

<sup>1055</sup> Article 8 of the Specific Production Guidelines (Annex 1), *Op. cit.*

<sup>1056</sup> Article 5 of the General Rules, *Op. cit.*

<sup>1057</sup> Article 9 of Order 33/2016 and Article 2 of Resolution of 11 March 2019.

<sup>1058</sup> If the original version is in Valencian: up to 60% of the budget.

<sup>1059</sup> If the original version is in Valencian: up to 60% of the budget.

<sup>1060</sup> If the original version is in Valencian: up to 60% of the budget.

<sup>1061</sup> If the original version is in Valencian: up to 60% of the budget.

<sup>1062</sup> If the original version is in Valencian: up to 60% of the budget.

<sup>1063</sup> If the original version is in Valencian: up to 60% of the budget.



## D) Regional fund: Basque Country Department of Culture

The total allocation for production aid is EUR 2 260 000.<sup>1064</sup> As a general criterion for feature film productions, it is established that the aid granted will not exceed 20% of the production budget (this limit will be 50% for low-budget fiction feature films)<sup>1065</sup> and that it will not exceed the producer's investment. In addition, the following limits are established for each of the support lines:

- Aid for the production of feature-length fiction films: the amount of aid that may be granted for a specific project may not exceed EUR 300 000, except in the case of productions whose original language is Euskera (Basque language), in which case it may exceed this amount.<sup>1066</sup>
- Aid for the production of low-budget fiction feature films: the amount of aid that may be granted for a specific project may not exceed EUR 250 000.<sup>1067</sup>
- Aid for the production of animated feature films: the amount of aid for a specific project may not exceed EUR 250 000, except in the case of productions whose original language is Euskera, in which case this amount may be exceeded.<sup>1068</sup>
- Aid for the production of feature-length creative documentaries: the amount of aid for a specific project may not exceed EUR 60 000, except in the case of productions whose original language is Euskera, in which case this amount may be exceeded.<sup>1069</sup>
- Aid for the production of short films: under no circumstances may the amount allocated to a specific project exceed 60% of the film's expenditure budget or the maximum amount of EUR 20 000.<sup>1070</sup>

### 7.9.3.5. Spending and shooting criteria

#### a) National fund: ICAA

For all types of funding schemes, the applicant is required to spend “at least 50% of the budget declared for the purpose of cost recognition of the film in Spain or reverts to authors, technical, artistic or Spanish service teams”.<sup>1071</sup> Regarding the shooting of films in the country, there are no mandatory requirements established as such. Nevertheless, it is worth recalling that, as explained in the previous section, the amount awarded can be reduced by 10% if the applicant does not “shoot most of the film in Spain”.

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<sup>1064</sup> Article 1 of the Order of 19 June 2018.

<sup>1065</sup> Article 19 of the Order of 19 June 2018.

<sup>1066</sup> Article 25 of the Order of 19 June 2018.

<sup>1067</sup> Article 28 of the Order of 19 June 2018.

<sup>1068</sup> Article 30 of the Order of 19 June 2018.

<sup>1069</sup> Article 34 of the Order of 19 June 2018.

<sup>1070</sup> Article 38 of the Order of 19 June 2018.

<sup>1071</sup> Articles 14c, 22c and 30 (2) of Order 769/2018, *Op. cit.* In the case of co-productions with foreign companies, this requirement will be applied to the expenses corresponding to the percentage of Spanish participation.

**B) Regional fund: ICEC**

The ICEC does not set mandatory or quantitative requirements regarding spending or shooting in the region. However, the Catalan Cinema Law provides that “the investment and expenditure made in Catalonia”<sup>1072</sup> is one of the assessment criteria used during the evaluation of the production support application. More specifically, in the case of feature fiction films, the resources invested in Catalonia are taken into account during the assessment of the industrial criteria of the project.<sup>1073</sup> They must be certified with an audit report.<sup>1074</sup>

**C) Regional fund: IVAC**

In general, the beneficiary of any work must spend 100% of the aid in the Valencian Community. Without prejudice to complying with this, in the case of industrial feature films, in addition, local expenditure in the region will be at least 33% of the total cost of production, less promotional and advertising costs.<sup>1075</sup>

**D) Regional fund: Basque Country Department of Culture**

For all lines of aid, it is established that the beneficiary of the aid must allocate at least 32% of the production budget to work carried out by natural or legal persons residing or established in the Autonomous Community of Euskadi (Basque Country).<sup>1076</sup> In the case of co-production, the abovementioned percentage will be applied to the beneficiary's share of the audiovisual production.

**7.9.3.6. Talent, cast, crew, underlying copyright**

In the case of the ICAA and the ICEC, there are no mandatory requirements regarding the nationality of the talent, cast and crew or related to the underlying copyrights (and how they are linked to the country/region). However, these can be considered during the assessment of the cultural aspects of the project, as described in section 7.9.2.2.

**7.9.3.7. Shooting language and diversity****A) National fund: ICAA**

Regarding the shooting language, there are no mandatory requirements. However, it is worth recalling that the aid awarded will be reduced by 10% if the project does not use any of the official Spanish languages in its original version,<sup>1077</sup> such criteria also being part of the cultural test, as described in section 7.9.2.2.

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<sup>1072</sup> Article 33 1), point b of the Catalan Cinema Law.

<sup>1073</sup> Article 7.1, point b.1) of the Specific Production Guidelines (Annex 1).

<sup>1074</sup> Article 11 (5.1) of the Specific Production Guidelines (Annex 1).

<sup>1075</sup> Article 8 of the Resolution of 11 March 2019.

<sup>1076</sup> Article 23 of Order of 19 June 2018.

<sup>1077</sup> Article 11 (5) point (a) of Order 769/2018, *Op. cit.*



Moreover, regarding requirements related to gender equality, Article 5, point a of Order 769/2018 establishes, as a mandatory requirement for all funding schemes of the ICAA, that the applicant must not have been “sanctioned with the loss of the possibility of obtaining subsidies for non-compliance with the regulations on equality between women and men in accordance with the provisions of Royal Legislative Decree 5/2000 of August 4”. Moreover, for all production schemes, the evaluation process includes criteria assessing gender equality (or female participation) in the project:

- For the general aid scheme: Annex I 5. Socioeconomic and investment and innovation impact - 5.2 Promotion of gender equality (up to 7 points);
- For the selective aid scheme: Annex II 5. Socioeconomic and investment and innovation impact - 5.3 Promotion of gender equality (up to 5 points);
- For experimental projects: “Article 30 3 d) Female participation in the project: Up to 7 points according to the following scale. In the case of male co-participation, the score will be proportional to the number of women, provided that all the partners have the same level of responsibility, which should be reflected in the credit titles.”
- For short films: Article 33, point e: “Female participation in the project: Up to 5 points according to the scale indicated. In the case of male co-participation, the score will be proportional to the number of women, provided that all the partners have the same level of responsibility, which should be reflected in the credit titles.”
- For short films made: Article 37 c) “Female participation in the project: Up to 5 points according to the scale indicated. In the case of male co-participation, the score will be proportional to the number of women, provided that all the partners have the same level of responsibility, which should be reflected in the credit titles.”

As a general rule, for all production schemes, compliance with these criteria will be scored by having at least “40% of women in management positions of 10 of the most relevant categories in the production of a film”. Likewise, it is foreseen that “in case of male co-participation, the score will be proportional to the number of women as long as it is proven that they have the same level of responsibility, which must be expressly reflected in the credit titles.”<sup>1078</sup>

## B) Regional fund: ICEC

The Catalan Cinema Law provides the rights of the citizens of Catalonia “to choose to see the cinematographic work in Catalan or in Castilian and favoring the presence of works in the original subtitled version”.<sup>1079</sup> Moreover, the promotion of gender equality is part of the assessment criteria used to evaluate the application. As per the Specific Production Guidelines,<sup>1080</sup> it is assessed by assigning points to projects based on the number of

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<sup>1078</sup> p.3 of Order 769/2018, *Op. cit.*

<sup>1079</sup> Article 1 of the Catalan Cinema Law, *Op. cit.*

<sup>1080</sup> Article 7.1, point c of the Specific Production Guidelines (Annex 1), *Op. cit.*



women in key roles (director, producer, script-writer, DOP, editor, composer, head of the sound department or head of special effects).

### C) Regional fund: IVAC

The fact that the original version of an audiovisual work is in Valencian<sup>1081</sup> is a plus in fiction and documentaries. In fiction, it is more relevant in low-budget works. In feature fiction films it ranges from 15 points out of 100 in feature films A and B to only 5 points in industrial feature films. In documentaries, up to 15 points are awarded for feature films A (Valencian themes) and only 5 for feature films B (national and international themes). In the animation genre, the language is not evaluated.

The role of women in the script (including animation) will be rewarded with 1 additional point. It is understood that women have a leading role in a project when any of the following circumstances<sup>1082</sup> occur:

- The project deals with an issue that is linked to or focused mainly on women.
- The main character is a woman, without sharing this character with any male character, and the plot does not revolve around a man.<sup>1083</sup>
- When there are more than two main characters, the number of female protagonists is higher than the number of male protagonists.

In addition, in every category, value is attached to the fact that there are women in the technical teams and, depending on the number of women, it can suppose 1 or 2 additional points.

### D) Regional fund: Departamento de Cultura y Política Lingüística

With regard to language, the following considerations are taken into account:

- The general obligation that in the case of productions whose original version is in Basque, all screenings made of the film in commercial cinemas, film festivals or audiovisual exhibitions in the Autonomous Community of the Basque Country must be in Basque, and may include subtitles in other languages.<sup>1084</sup>
- Concerning feature films, in the selection and evaluation phase, it is evaluated that the shooting of the original version of the film is in Basque.
- The support ceilings on production support do not apply to feature fiction films, animated films and creative documentaries whose original language is Basque.

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<sup>1081</sup> Article 6 of the Resolution of 11 March 2019.

<sup>1082</sup> Article 3 of the Resolution of 11 March 2019.

<sup>1083</sup> In documentary projects, the protagonist is understood to be the person(s) who, according to the script, is/are the object of the script. In documentaries, the people interviewed are not considered protagonists if they are not really the object of the story, but merely provide testimonies to illustrate the central theme. If there is no protagonist/s, it will only be assessed if it deals with an issue that is linked to or focused mainly on women.

<sup>1084</sup> Article 13 of the Order of 19 June 2018.



Among the requirements relating to gender equality, it is established that those who are administratively or criminally sanctioned for incurring discrimination on the basis of gender will not be eligible for aid. Likewise, in the selection and evaluation phase, the participation of women in direction, script and/or executive production tasks is evaluated, as well as the contribution of the work to a balanced and non-stereotyped projection between the genders.<sup>1085</sup>

## 7.9.4. Funding criteria applicable to pre-production support

### 7.9.4.1. Budget

#### A) National fund: ICAA

The ICAA does not provide pre-production support.

#### B) Regional fund: ICEC

The budget of an eligible project is not subject to any minimum threshold or maximum cap, nor is anything stipulated regarding a minimum contribution from the applicant.

#### C) Regional fund: IVAC

There is no minimum budget, but only animation, fiction and documentary feature film projects are eligible (there is no pre-production funding for short films, series or other modalities).

### 7.9.4.2. Awarded amount

#### A) Regional fund: ICEC

The aid intensity of support granted by the ICEC is limited to 50% of the eligible costs, with a maximum amount of EUR 25 000 awarded per project.<sup>1086</sup> The amount is not repayable, and is awarded selectively after an evaluation carried out by the Evaluation Commission (Comissió de valoració).<sup>1087</sup> Lastly, eligible costs are defined in Article 5 of the Specific Development Guidelines, and include, *inter alia*, the costs of scriptwriting, translating the script, producing a teaser, producing graphic material, acquiring rights and press and communication costs.

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<sup>1085</sup> Articles 26, 29, 32, 35 and 40 of the Order of 19 June 2018.

<sup>1086</sup> Article 4 of the *Bases Específiques que han de regir la concessió de subvencions per al desenvolupament de projectes audiovisuals* (Specific Bases that shall govern the concession of subsidies for the development of audiovisuals projects, hereinafter, the "Specific Development Guidelines"), [http://icec.gencat.cat/web/shared/OVT/Departaments/CLT/ICEC/Documents/AUDIOVISUAL/TEXT-REFOS-BASES-TEC055\\_-2018.pdf](http://icec.gencat.cat/web/shared/OVT/Departaments/CLT/ICEC/Documents/AUDIOVISUAL/TEXT-REFOS-BASES-TEC055_-2018.pdf)

<sup>1087</sup> Article 8 of the Specific Development Guidelines, *Op. cit.*

**B) Regional fund: IVAC**

The aid amounts to EUR 16 000 per project, of which EUR 8 000 is distributed for scriptwriters/authors and EUR 8 000 for the company producing the project that is the beneficiary of the aid.

**7.9.4.3. Underlying copyright****A) Regional fund: ICEC**

There are no requirements regarding the underlying copyright (and how this is linked to the country).

**B) Regional fund: IVAC**

Production companies applying for such aid are required to provide proof of a contract with the authors of the script. In the case of literary or theatrical adaptations, proof must be provided that the production company has the right to adapt the work.

**7.9.4.4. Script language and diversity****A) Regional fund: ICEC**

The language of the script must be Catalan or Spanish.<sup>1088</sup> Moreover, the promotion of gender equality is one of the assessment criteria used during the evaluation process.<sup>1089</sup>

**B) Regional fund: IVAC**

In this phase, the language used by the script is not evaluated. However, in the evaluation of the script, it will be evaluated with 1 point out of 30 that the woman has a leading role. It is understood that women have a leading role in a project when any of the following circumstances occur:

- The project deals with an issue that is linked to or focused mainly on women.
- That the main character is a woman, without sharing this character with any male character, and that the plot does not revolve around a man.<sup>1090</sup>
- When there are more than two main characters, that the number of female protagonists is higher than the number of male protagonists.

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<sup>1088</sup> Article 6 (1), point b of the Specific Development Guidelines, *Op. cit.*

<sup>1089</sup> Article 7 (1), point c of the Specific Development Guidelines, *Op. cit.*

<sup>1090</sup> In documentary projects, the protagonist is understood to be the person(s) who, according to the script, is/are the object of the script. In documentaries, the people interviewed are not considered protagonists if they are not really the object of the story, but merely provide testimonies to illustrate the central theme. If there is no protagonist/s, it will only be assessed if it deals with an issue that is linked to or focused mainly on women.



The same shall apply to the scripts of animation projects.

### C) Regional fund: Basque Country Department of Culture

In the case of aid for the development of audiovisual projects, the evaluation criteria in the selection and assessment phase are the following:<sup>1091</sup>

- Original version in Basque.
- The participation of women in direction, script and/or executive production, as well as the contribution of the work to a balanced and non-stereotyped projection between genders.<sup>1092</sup>

## 7.9.5. Funding criteria applicable to distribution and promotion support

### 7.9.5.1. Theatrical release, broadcasting and visibility on VOD

#### A) National fund: ICAA

When it comes to distribution support, the ICAA sets specific requirements related to the performance of the work in terms of theatrical release, both as eligible criteria and assessment criteria. First, as per Article 40 of Order CUD, the distributor is required to meet the following criteria in order to be eligible to apply:

- The commercial premiere has taken place in the periods and conditions that are established in the corresponding calls and the film has had a theatrical distribution;
- Be an independent distributor<sup>1093</sup> and have the distribution rights in Spain of the film;
- In the case of a foreign film, it must have been theatrically released less than two years beforehand in its country of origin;
- A minimum territorial scope of fifteen provinces and five autonomous communities should be reached in the case of feature films, and of four provinces in the case of a set of short films.

Moreover, three of the evaluation criteria used to assess the application refer to:

- The distribution and promotion budget (up to 32 points out of 100),<sup>1094</sup>
- The territorial scope of distribution of the film (up to 15 points out of 100).<sup>1095</sup>

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<sup>1091</sup> Article 15 of the Order of 15 March 2019.

<sup>1092</sup> Those who are administratively or criminally sanctioned for incurring discrimination on the basis of gender will not be eligible for any aid.

<sup>1093</sup> Under the terms provided in Article 4.ñ) of Law 55/2007 of December 28.

<sup>1094</sup> Article 43, point b of Order 769/2018.

<sup>1095</sup> Article 43, point c of Order 769/2018.



- The history of the distribution company “with special attention to the last five years, and the experience in the distribution of quality films and outstanding artistic values, preferably in the European Union and in Latin America” (up to 7 points out of 100).<sup>1096</sup>

### B) Regional fund: ICEC

The ICEC provides distribution support for feature films, in the form of a repayable contribution or subsidy (hereinafter, the “distribution scheme”), and promotion support for feature films in Catalan and Occitan (in its Aranese variant) in its original version (hereinafter, the “promotion scheme”). The Institute sets the following requirements in terms of theatrical release:

- For the distribution scheme, the applicant must have “distributed at least five cinematographic feature films in Spain within the three years prior to the granting, or to show that the company’s executives have a proven track record and experience in similar activities”.<sup>1097</sup>
- For the promotion scheme, the feature film has to be “exhibited in at least six commercial cinemas in Catalonia, at the latest on September 15 of the year after the granting of the subsidy”.<sup>1098</sup>

### C) Regional fund: IVAC

The IVC does not provide specific support for the distribution and promotion of films.

### D) Regional fund: Basque Country Department of Culture

Support for the promotion and advertising of audiovisual productions is regulated with the aim of encouraging the dissemination and marketing of these works both in the Basque Autonomous Community and in the rest of the European Union in order to preserve the presence and greater knowledge of the cultural identity of the Basque Country in an increasingly globalised cultural market.

The criteria for evaluation comprise the integration of the gender perspective in the project; the economic effort in terms of promotion and publicity; whether the original

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<sup>1096</sup> Article 43, point g of Order 769/2018.

<sup>1097</sup> Article 3 (1) b of the *Bases específiques que han de regir la concessió d’ajuts, en les modalitats d’aportacions reintegrables i subvencions, a plans de distribució de llargmetratges cinematogràfics* (Specific Bases that shall govern repayable aid and subsidies to the distribution of theatrical feature films, hereinafter, the “Specific Distribution Guidelines”), [http://icec.gencat.cat/web/shared/OVT/Departaments/CLT/ICEC/Documents/ADE/TEC015\\_TEXT-REFOS\\_2019.pdf](http://icec.gencat.cat/web/shared/OVT/Departaments/CLT/ICEC/Documents/ADE/TEC015_TEXT-REFOS_2019.pdf).

<sup>1098</sup> Article 3 (1) c of the *Bases Específiques que han de regir la concessió de subvencions per a la promoció de llargmetratges cinematogràfics en versió original catalana o occitana, en la seva variant aranese* (Specific Bases that shall govern the concession of subsidies for the promotion of theatrical feature films in original Catalan or Occitan version, in its Aranese variant, hereinafter, the “Specific Promotion Guidelines”), [http://icec.gencat.cat/web/shared/OVT/Departaments/CLT/ICEC/Documents/AUDIOVISUAL/TEXT-REFOS-BASES-TEC076\\_-2018.pdf](http://icec.gencat.cat/web/shared/OVT/Departaments/CLT/ICEC/Documents/AUDIOVISUAL/TEXT-REFOS-BASES-TEC076_-2018.pdf).



version is in Basque; and whether the business and human resources involved are from the Basque Community.

#### 7.9.5.2. Theatrical performance and performance at festivals, events and awards

##### A) National fund: ICAA

The ICAA does not set quantitative requirements regarding the performance of the work in terms of theatrical attendance at home or abroad. Nevertheless, one of the evaluation criteria used is the assessment of the quality and cultural interest of the films, which pays special attention to “the presence in festivals and the obtention of prestigious awards in the cinematographic field, as well as the theatrical audience” (up to 20 points out of 100).<sup>1099</sup>

On top of that, the ICAA offers a specific scheme supporting Spanish films selected by or invited to festivals or that have won a prestigious award.<sup>1100</sup> The amount awarded is determined based on “the international prestige and the trajectory of the festival or prize, and its impact on the film industry and its impact on the media and the public”.<sup>1101</sup>

##### B) Regional fund: ICEC

There are no specific requirements regarding the performance of the work in terms of theatrical attendance at home or abroad. However, when it comes to the Distribution subsidy scheme, the fact that the film has been selected in festivals or has won a prestigious prize is one of the evaluation criteria used to calculate the amount awarded (allocates up to 10 points out of a total of 100).<sup>1102</sup> In addition, for the promotion scheme, the applicant is required to provide a “plan to launch the feature film” which must include, among other things, “Festivals to which the feature film is planned”<sup>1103</sup> when submitting the application.

##### C) Regional fund: IVAC

Currently, the IVC does not provide specific support for distribution and promotion, nor for participation in festivals. Participation in festivals and the obtaining of prizes is evaluated as merit of the production company, of the executive producer and of the director in the production aid scheme.

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<sup>1099</sup> Article 43, point a of Order 769/2018.

<sup>1100</sup> Article 47 of Order 769/2018.

<sup>1101</sup> Article 49 of Order 769/2018.

<sup>1102</sup> Article 7 (1), point e of the Specific Distribution Guidelines.

<sup>1103</sup> Article 6 (1), point a of the Specific Promotion Guidelines.



### 7.9.5.3. Budget

#### A) National fund: ICAA

The budget of an eligible project is not subject to any minimum threshold or maximum cap, nor is anything stipulated regarding a minimum contribution from the applicant.

#### B) Regional fund: ICEC

For the distribution scheme, the distribution budget is not subject to any minimum threshold or maximum cap. However, it influences the amount of support received, as per Article 6 (1) of the Specific Distribution Guidelines. Furthermore, in the case of repayable contributions, the budget will also influence the minimum share required to be secured by the applicant when applying, as per Article 8 of the Specific Distribution Guidelines.

Regarding the promotion scheme, the film must have a minimum budget of EUR 800 000 including promotion costs.<sup>1104</sup> There are no further requirements related to the minimum contribution of the applicant.

#### C) Regional fund: IVAC

Currently, the IVC does not provide specific support for distribution and promotion, nor for participation in festivals.

#### D) Regional fund: Basque Country Department of Culture

No minimum budget is envisaged.

### 7.9.5.4. Awarded amount

#### A) National fund: ICAA

In principle, the aid intensity is limited to 50% of the eligible costs of the work distributed, up to a maximum of EUR 150 000 per work.<sup>1105</sup> As for the promotion of Spanish films in festivals, the amounts granted for each of the listed film festivals go up to EUR 25 000 for festivals such as Cannes or the Berlinale, and when it comes to awards and prizes, the amount granted can go up to EUR 40 000 in the case of an Oscar nomination for Best Foreign Movie.<sup>1106</sup>

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<sup>1104</sup> Article 3 (1), point b of the Specific Promotion Guidelines.

<sup>1105</sup> Article 41 of Order 769/2018.

<sup>1106</sup> Article 4 of the *Resolución del Insitituto de la Cinematografía y las Artes Audiovisuales, por la que se convoca la concesión de ayudas para la participación de películas españolas en festivales durante el año 2018* (ICAA's Decision announcing the granting of support for Spanish films to participate in festivals during the year 2018), <http://www.culturaydeporte.gob.es/servicios-al-ciudadano-mecd/catalogo/general/cultura/055040/ficha/055040-2018.html%20-%20dg#ds3>



The support is not repayable and is awarded selectively after an evaluation carried out by the Advisory Committee for distribution aid (composed of five members, appointed among professionals with knowledge of the exhibition and distribution sector)<sup>1107</sup> or by the Promotion Assistance Advisory Committee (composed of four members, appointed among professionals with knowledge of the sector)<sup>1108</sup> for the promotion of Spanish films in festivals scheme.

Lastly, regarding eligible costs, these are respectively defined in Article 41 for distribution and Article 48 for promotion in festivals of Order CUD 769/2018:

- For distribution: the production of copies, subtitling, dubbing, advertising and promotion, measures taken against piracy, technical resources and resources invested to bring films closer to people with disabilities,
- For the promotion of Spanish films in festivals: expenses inherent to the participation of the Spanish film in the events for which it has been selected or invited and the minimum percentage that must be allocated to advertising expenses.

## B) Regional fund: ICEC

### Support for the distribution of feature films

In principle, the aid intensity is limited to 50% of the total budget, and to a maximum amount of EUR 150 000 per project.<sup>1109</sup> In addition, support cannot exceed 75% of the recognised distribution budget.

Moreover, the distribution scheme can take the form of a subsidy or a repayable contribution<sup>1110</sup>. Applicants can choose between the latter or a combination of both, never the former alone. The contribution is interest-free and fully repayable, while the subsidy is repayable depending on the revenues from the exploitation of the film.<sup>1111</sup> During the evaluation of the project, the applicant must score a minimum of 60 points on the assessment of the economic viability of the project (up to 80 points) and the impact of the company's activity in Catalonia (up to 20 points), in order to be eligible for support.<sup>1112</sup>

Lastly, the eligible costs include advertising, promotion, copies and expenses related to access to the digital display market, as well as the incorporation of systems that facilitate the access of people with disabilities to the cinematographic works.<sup>1113</sup>

### Subsidies for the promotion of feature films in Catalan and Occitan (in its Aranese variant) in their original versions

The aid intensity is limited to 60% of the promotional cost of the feature film and up to a maximum of EUR 180 000.<sup>1114</sup> The amount is not repayable and is awarded automatically.<sup>1115</sup>

<sup>1107</sup> Article 70 (1) point b of Order 769/2018.

<sup>1108</sup> Article 70 (1), point c of Order 769/2018.

<sup>1109</sup> Article 6 (2) of the Specific Distribution Guidelines.

<sup>1110</sup> Article 1 of the Specific Distribution Guidelines.

<sup>1111</sup> Articles 1 (3) and 10 (2), point b of the Specific Distribution Guidelines.

<sup>1112</sup> Article 4 (2) of the Specific Distribution Guidelines.

<sup>1113</sup> Article 5 of the Specific Distribution Guidelines.

<sup>1114</sup> Article 5 of the Specific Promotion Guidelines.



Lastly, the eligible costs are defined as per Article 4 of the Specific Promotion Guidelines and include, *inter alia*, the expenses related to the elaboration and management of the materials destined for the distribution of the film (dubbing, translation, subtitles, audio description, etc.) and the development and management of promotional items intended for distribution (trailer, graphic design, advertising in cinemas or in the media, etc.)

### **C) Regional fund: IVAC**

Currently, the IVC does not provide specific support for distribution and promotion, nor for participation in festivals.

### **D) Regional fund: Basque Country Department of Culture**

The budget earmarked for promotion and advertising is EUR 150 000. As a general criterion, the aid may reach up to 50% of the total expenditure incurred and audited for promotion and advertising, with a maximum amount of EUR 35 000 per film, except in the case of productions whose original language is Basque, in which case this amount may be exceeded. Under no circumstances may the total amount of public aid (including that granted under this Call) exceed 50% of the expenditure incurred and audited for promotion and advertising.

## **7.9.5.5. Language and diversity**

### **A) National fund: ICAA**

With regard to the scheme for the participation of Spanish films in festivals, it is reserved for Spanish films, therefore films eligible for this scheme must obtain Spanish nationality<sup>1115</sup> in accordance with the criteria laid down in Article 5 of the Cinema Law, which implies compliance with criteria such as “d) That the cinematographic or audiovisual work is preferably done in its original version in any of the official languages of the Spanish State”. Apart from this, there are no further requirements linked to ethnic or linguistic minorities and gender.

In addition, it is worth mentioning that the ICAA established the label for films and audiovisual works Especially Recommended for the Promotion of Gender Equality<sup>1117</sup>, to be assessed at the time of the age rating; it is granted based on a series of criteria such as non-sexist language, the fight against gender stereotypes and roles or the portrayal of

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<sup>1115</sup> Article 7 of the Specific Promotion Guidelines.

<sup>1116</sup> Article 47 of Order 769/2018.

<sup>1117</sup> Resolución de 16 de noviembre de 2011, del Instituto de la Cinematografía y de las Artes Audiovisuales, por la que se establecen criterios para el otorgamiento a las películas cinematográficas y otras obras audiovisuales de la categoría “Especialmente recomendada para el fomento de la igualdad de género”, así como pictograma informativo (ICAA’s Resolution of 16th November 2011, establishing the label “Especially Recommended for the Promotion of Gender Equality” for films and audiovisual Works), <https://www.boe.es/buscar/pdf/2011/BOE-A-2011-18717-consolidado.pdf>



an egalitarian image of both genders. If granted, the label entitles the film or audiovisual work to use a distinctive pictogram in any advertising or promotional material.

### **B) Regional fund: ICEC**

First, the Catalan Cinema Law requires any distribution company which is developing its activity in Catalonia (regardless of where they are established) to include the Catalan language version in the linguistic menu of the cinematographic or audiovisual works that are distributed through different channels for projection in cinematic exhibition halls, and which have previously been released in Catalonia dubbed or subtitled in Catalan.<sup>1118</sup> Furthermore, as per Article 18 of the same law, distribution companies are required, when a cinematographic work dubbed or subtitled with more than one copy is released in Catalonia, to distribute 50% of all the analogical copies in the Catalan language version.<sup>1119</sup>

Moreover, when it comes to distribution support in the form of a subsidy, the fact that the work uses the Catalan or Occitan language (in its Aranese variant) in its original version is one of the evaluation criteria used to calculate the amount awarded (based on 40 points out of a total of 100).<sup>1120</sup> As for promotion support, this is reserved for feature films in Catalan and Occitan (in its Aranese variant), therefore the release of the film in one of these languages will have to be demonstrated by the applicant as per Article 9 of the Specific Promotion Guidelines. Apart from that, there are no specific requirements linked to ethnic or linguistic minorities and gender.

### **C) Regional fund: IVAC**

Currently, the IVC does not provide specific support for distribution and promotion, nor for participation in festivals.

### **D) Regional fund: Basque Country Department of Culture**

The criteria for evaluation comprise the integration of the gender perspective in the project; the economic effort in terms of promotion and publicity; whether the original version is in Basque; and whether the business and human resources involved are from the Basque Community. Moreover, Zineuskadi runs a programme to provide Basque citizens with a selection of films dubbed into Basque (Zinema Euskaraz).

## **7.9.6. Data compilation**

This factsheet was produced based on data compiled by Martina Fuster Ferrer, Lawyer, EAPIA; Mikel Etxeberria Agirresarobe, Basque Country Department of Culture; and José Luis Moreno Maicas, Valencian Institute of Audiovisual and Cinematography.

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<sup>1118</sup> Article 17 of the Catalan Cinema Law.

<sup>1119</sup> This provision is currently the subject of a pending case before the European Commission, for more information see: [http://europa.eu/rapid/press-release\\_IP-12-663\\_en.htm](http://europa.eu/rapid/press-release_IP-12-663_en.htm)

<sup>1120</sup> Article 7 (1), point a of the Specific Distribution Guidelines.



## 7.10. FI – Finland – National Summary<sup>1121</sup>

### 7.10.1. Summary

There are three main funds providing film and audiovisual support in the country:

- The Finnish Film Foundation<sup>1122</sup> (Suomen elokuvasäätiö, hereinafter, “FFF”), which is the main fund operating in the country. Created in 1969, it is an independent foundation operating under the supervision of the Department for Cultural Policy of the Ministry of Education and Culture. The various forms of support provided by the FFF include, *inter alia*, scriptwriting grants, development support, production support, marketing and distribution support, 50/50 production support, short film marketing and distribution support.
- The Arts Promotion Centre Finland (Taiteen edistämiskeskus, “Taike”), is an agency operating under the Ministry of Education and Culture, funded by the state budget and lottery income. It awards annually around EUR 35 million in grants to different artistic expressions; EUR 1.25 million goes to film artists and authors.<sup>1123</sup> There are both individual and collective (community) forms of support. Personal grants exist in the form of artist grants, multicultural grants, travel grants, project grants (also regional) and project grants for children’s culture, among others. A project grant refers to support for professional artists for individual projects, and artist grants are for artists from various fields, with the term ranging from half a year to five years.<sup>1124</sup>
- The Centre for promoting audiovisual culture (Audiovisuaalisen kulttuurin edistämiskeskus, “AVEK”), created in 1987, operates as part of the copyright society Kopiosto.<sup>1125</sup> The Ministry of Education and Culture allocates funds from the budget and it stems mainly from copyright compensation for private copying.<sup>1126</sup> Support is available for scripts (personal grant), pre-production, production, and post-production (production companies). In addition, it supports

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<sup>1121</sup> The factsheet on Finland incorporates the feedback received from Lasse Saarinen (FFF) during the checking round with the national film and audiovisual funds.

<sup>1122</sup> <http://ses.fi/en/home/>.

<sup>1123</sup> Either to individual artists/authors or to groups.

<sup>1124</sup> Although the funding schemes offered by Taike are very open and can benefit cinematographic and audiovisual works, they are not specific to film and audiovisual funding and consequently do not use granting criteria specific to this type of funding, which is the focus of our study. Therefore, this fund will not be further discussed in the factsheet.

<sup>1125</sup> Which is a performing artists, authors and publishers copyright management organisation; for more information see: [https://www.kopiosto.fi/kopiosto/kopiosto/kopiosto\\_lyhyesti/fi\\_FI/kopiosto\\_lyhyesti/](https://www.kopiosto.fi/kopiosto/kopiosto/kopiosto_lyhyesti/fi_FI/kopiosto_lyhyesti/).

<sup>1126</sup> Article 2 (a) of the Copyright Act (404/1961), (*Tekijänoikeuslaki*), <https://www.finlex.fi/fi/laki/ajantasa/1961/19610404>; an unofficial translation by the Ministry of Education and Culture is available at: <https://www.finlex.fi/fi/laki/kaannokset/1961/en19610404.pdf>.



audiovisual cultural (for example, film festivals), audiovisual media art and has a dedicated production advisor for short and documentary films.<sup>1127</sup>

## 7.10.2. General framework

### 7.10.2.1. Overview of the film and audiovisual funding policy and legislation

The regulatory framework governing the public film and audiovisual funding granted by the FFF comprises of the Film Promotion Act (28/2000) and the Film Promotion Decree (843/2007).<sup>1128</sup> These were, however, replaced early in 2019 by a new Act on Government Funding to Promote Film Culture.<sup>1129</sup> In addition, the FFF Support Guidelines define in further detail the instructions on various support forms, support applications and the criteria for granting subsidies; on concluding and rescinding support agreements; on the payment of subsidies; on support reporting; on the recovery of subsidies; and on the regulatory control of subsidies.<sup>1130</sup> Moreover, the support provided by Taike is mainly regulated by the Act on the Arts Promotion Centre Finland (657/2012), the Decree on the Arts Promotion Centre Finland (727/2012), the Rules of procedure,<sup>1131</sup> the Artists Grants Act (734/1969)<sup>1132</sup> and the Artists Grants Decree (845/1969).<sup>1133</sup> Lastly, the State Aid Act (688/2001),<sup>1134</sup> which sets the general framework within which aid may be granted by the government for an activity or a project, also governs the film support granted by the FFF and Taike.

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<sup>1127</sup> As AVEK is not a public fund (as it operates as part of a copyright society), it will not be further discussed in the factsheet.

<sup>1128</sup> *Hallituksen esitys eduskunnalle laiksi valtion rahoituksesta elokuvakulttuurin edistämiseen* (HE 56/2018 vp), (Government Bill for an Act on State funding to Promote Film Culture), was adopted by the Parliament. A new act will replace the current Film Promotion Act 28/2000.

[https://www.eduskunta.fi/FI/vaski/HallituksenEsitys/Documents/HE\\_56+2018.pdf](https://www.eduskunta.fi/FI/vaski/HallituksenEsitys/Documents/HE_56+2018.pdf)

<sup>1129</sup> *Hallituksen esitys eduskunnalle laiksi valtion rahoituksesta elokuvakulttuurin edistämiseen* (Government Bill for an Act on State Funding to Promote Film Culture), <http://finlex.fi/fi/laki/alkup/2018/20181174>. According to this new law, all grant decisions will be adopted by the Finnish Film Foundation, and the official guidelines will be replaced by the conditions and restrictions provided for in the grant announcements of the 19 existing support schemes.

<sup>1130</sup> A complete list of the applicable texts and guidelines is available here: <http://ses.fi/tukitoiminta/ohjeet-ja-lomakkeet/>

<sup>1131</sup> *Taiteen edistämiskeskuksen työjärjestys 2016* (9.8.2016), (Rules of procedure),

[http://www.taike.fi/documents/10921/1094096/Taiken\\_ty%C3%B6j%C3%A4rjestys\\_2016.pdf/82cacc8d-00f3-e0f8-94cf-9d3e81196f34](http://www.taike.fi/documents/10921/1094096/Taiken_ty%C3%B6j%C3%A4rjestys_2016.pdf/82cacc8d-00f3-e0f8-94cf-9d3e81196f34)

<sup>1132</sup> *Laki valtion taiteilija-apurahoista* (Artists Grants Act), <https://www.finlex.fi/fi/laki/ajantasa/1969/19690734>.

<sup>1133</sup> *Valtioneuvoston asetus valtion taiteilija-apurahoista* (Artist Grants Decree), <https://www.finlex.fi/fi/laki/ajantasa/1969/19690845>.

<sup>1134</sup> *Valtionavustuslaki* (688/2001), (Act on Discretionary Government Transfers), <https://www.finlex.fi/fi/laki/ajantasa/2001/20010688>; an unofficial translation by the Ministry of Finance is available at <https://www.finlex.fi/en/laki/kaannokset/2001/en20010688.pdf>.



Table 22. Main funds in Finland

Funding institution	Geographical level	Legislation / Guidelines
Finnish Film Foundation (FFF) <sup>1135</sup>	National	Film Promotion Act <sup>1136</sup>
		Fim Promotion Decree <sup>1137</sup>
		FFF Support Guidelines <sup>1138</sup>
The Arts Promotion Centre Finland (TAIKE) <sup>1139</sup>	National	Act on the Arts Promotion Centre Finland <sup>1140</sup>
		Decree on the Arts Promotion Centre Finland (727/2012) <sup>1141</sup>

Source: Response to European Audiovisual Observatory standardised questionnaire

### 7.10.2.2. Definition of cultural criteria

The Film Promotion Decree<sup>1142</sup> provides that “Support provided for in Section 2 of the Film Promotion Act (28/2000) may be granted for the production and distribution of a film and other audiovisual programme which is regarded as a cultural product. A film and other audiovisual programme shall be considered a cultural product entitled to financial support when:

- It forms an artistic entity;
- Its content is based on cultural values stemming from the cultural identity;
- It incorporates the contribution of creative and performing artists, and the salaries and fees paid to them make up a significant proportion of the production costs.”

<sup>1135</sup> <http://ses.fi/en/home/>.

<sup>1136</sup> *Laki elokuvataiteen edistämisestä* (Film Promotion Act), <https://www.finlex.fi/fi/laki/ajantasa/2000/20000028>; an unofficial translation in English is annexed in the FFF Support Guidelines, p.42-43.

<sup>1137</sup> *Asetus elokuvataiteen edistämisestä* (Film Promotion Decree), <https://www.finlex.fi/fi/laki/alkup/2007/20070843>. An unofficial translation in English by the Ministry of Education and Culture is available at <https://www.finlex.fi/en/laki/kaannokset/2007/en20070843.pdf>.

<sup>1138</sup> *SES Tukiohjeisto* (The Finnish Film Foundation, Support Guidelines 1 January 2017, as approved 21/09/2016), [http://ses.fi/fileadmin/dokumentit/Suomen\\_elokuvasaetaioen\\_tukiohjeisto.pdf](http://ses.fi/fileadmin/dokumentit/Suomen_elokuvasaetaioen_tukiohjeisto.pdf); for the English version, see: [http://ses.fi/fileadmin/dokumentit/FFF\\_Support\\_Guidelines.pdf](http://ses.fi/fileadmin/dokumentit/FFF_Support_Guidelines.pdf). New guidelines were published for 2019 (<http://ses.fi/tukitoiminta/tukioppaat/>) which are not covered in this report as they go beyond the time scope of the analysis.

<sup>1139</sup> <http://www.taike.fi/>.

<sup>1140</sup> *Laki Taiteen edistämiskeskuksesta* (Act on the Arts Promotion Centre Finland), <https://www.finlex.fi/fi/laki/ajantasa/2012/20120657>.

<sup>1141</sup> *Asetus Taiteen edistämiskeskuksesta* (Decree on the Arts Promotion Centre Finland (727/2012)), <https://www.finlex.fi/fi/laki/alkup/2012/20120727>.

<sup>1142</sup> Article 1 (1) of the Film Promotion Decree.



### 7.10.2.3. Nationality of the applicant

Focusing on FFF support, there are different requirements regarding the nationality of the applicant or their country of establishment depending on the scheme concerned:

- For pre-production and production: support can be allocated only to a production company registered in Finland which manages the commercial rights of the film in Finland.<sup>1143</sup>
- For distribution and promotion, depending on the scheme, the different requirements are the following:
  - In the case of the marketing and distribution support scheme, the support can be allocated to a professional film distribution company with film distribution rights in Finland, or to a production company that manages the commercial rights of a film in Finland.<sup>1144</sup> However, as this support is primarily for projects which received development/production support (which require the applicant to be registered in Finland), the applicant has to be equally registered in Finland.<sup>1145</sup>
  - For short film marketing and distribution funding: the applicant must be a corporation registered in Finland.<sup>1146</sup>
  - For international promotion project support, the support can be allocated to a production company registered in Finland, to the holder of international exploitation rights of a film (a corporation registered in Finland), to the filmmaker or a team of filmmakers for projects promoting the export of Finnish films.<sup>1147</sup> When it comes to material support or travel support for international promotion, only a Finnish bank account is required.<sup>1148</sup>

Moreover, regarding payment, it occurs via “*the recipient’s active Finnish bank account*” or, in the case of production support and for legitimate reasons, it can also occur into the applicant’s foreign bank account.<sup>1149</sup>

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<sup>1143</sup> Article 1.2 (pre-production) and Article 1.4 (production) of the FFF Support Guidelines.

<sup>1144</sup> Article 1.5 of FFF Support Guidelines.

<sup>1145</sup> Information not written in the law; based on an interview with FFF officials conducted by the national expert for the purpose of this report.

<sup>1146</sup> Article 1.7 of FFF Support Guidelines.

<sup>1147</sup> Article 2.1 of FFF Support Guidelines.

<sup>1148</sup> Information not written in the law; based on an interview with FFF officials conducted by the national expert for the purpose of this report.

<sup>1149</sup> Article 1.4.4 of the FFF Support Guidelines.



### 7.10.3. Funding criteria applicable to production support

#### 7.10.3.1. Theatrical release, broadcasting and visibility on VOD

There are no specific requirements regarding visibility and performance on any of the different release windows; nor is there any release window schedule to be respected. Nevertheless, the potential performance of the work can be assessed during the selection process. Indeed, the FFF Support Guidelines provide that “[i]t is a condition of granting production support that the film is guaranteed professional commercial distribution reaching an appropriate, optimally broad audience and visibility for the film in cinemas, on television, on digital discs, or through other forms of public exhibition and distribution.”<sup>1150</sup> In addition, when submitting their application, applicants must include a marketing and distribution plan following the model approved by the FFF<sup>1151</sup> as well as a production plan including information on the TV distribution.

#### 7.10.3.2. Theatrical performance and performance at festivals, events and awards

Regarding theatrical performance in terms of theatrical attendance at home or abroad, there are no specific requirements implemented by any of the funds; the only mention of theatrical performance concerns the obligation to include a distribution plan as described in the previous question. Moreover, in terms of performance at festivals, events and award ceremonies, such a performance may also be taken into account as part of the overall assessment.

Furthermore, the marketing and distribution plan described above also includes information on festival strategy and schedule (domestic and international), including the festival strategy and specifying the festivals to which the film plans to attend. Besides, in 50/50 support for production, applicants get points based on pre-defined criteria, such as a minimum guarantee from the distribution company as well as the potential audience.

#### 7.10.3.3. Budget

The budget of an eligible project is not subject to any minimum threshold or maximum cap. However, if “the total eligible costs of the film exceed EUR 500 000, then a film production insurance, covering the necessary production-related risks pertaining to filmed

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<sup>1150</sup> *Hakuohje Tuotantotuki* (Application guidelines: production support) <http://ses.fi/fileadmin/dokumentit/Tuotantotuki.pdf>, For an English version, see: [http://ses.fi/fileadmin/dokumentit/Production\\_support.pdf](http://ses.fi/fileadmin/dokumentit/Production_support.pdf).

<sup>1151</sup> Article 1.6 of the FFF Support Guidelines, *Op. cit.* The model approved by the FFF is available here: <http://ses.fi/tukitoiminta/ohjeet-ja-lomakkeet/>. It must include the distribution strategy and schedule and analysis of the competitive situation in theatres. With regard to distribution, the details must be provided concerning: the foreseen theatrical premiere, the attendance target, the estimate of the break-even point in theatres, foreseen number of screens for the opening weekend, distribution schedules and distribution windows, as well as the sales target for the foreseen distribution windows.



material, persons and equipment shall be a condition of granting production support”.<sup>1152</sup> In addition, at the decision phase, the applicant is required to “provide binding confirmations or agreements (...) demonstrating that integral financing for the film has been confirmed”.<sup>1153</sup> More specifically, in the case of 50/50 production support, the production company can apply for support only if “no less than 50 per cent of the financing has been confirmed through financing decisions or binding letters of intent.”<sup>1154</sup>

#### 7.10.3.4. Awarded amount

The maximum amount for direct production support is determined annually.<sup>1155</sup> Apart from that, there are no aid intensity rules established, except for the 50/50 production support, where the maximum support is limited to 50% of the production costs.<sup>1156</sup> The eligible costs are described in the FFF Support Guidelines and include, *inter alia*, the direct production costs of the film, part of the general overheads of the production company, the cost of the project development excluding VAT, the salaries of the production company’s permanent staff, etc.<sup>1157</sup> In addition, the support is in principle non repayable, unless it exceed the maximum amount determined annually, in which case the support shall be repayable in the form of a loan.<sup>1158</sup>

Support is awarded selectively by the FFF Managing Director, upon the decision of the Film Commissioners responsible for assessing the film project based on its content, artistic expression, and considering the applicant’s artistic and professional qualifications for carrying out the project.<sup>1159</sup>

#### 7.10.3.5. Spending and shooting criteria

There are no concrete requirements in terms of spending or shooting in the country. However, the specific guidelines for production support include indications on the support “remaining in Finland”. Therefore, the economic impact of the support is assessed, notably in terms of the level of expenditure in Finland, the participation of Finnish authors or the level of income generated in Finland. The producer shows this in the budget, production plan and financial plan. Approval comes from the FFF production advisor and controller.<sup>1160</sup>

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<sup>1152</sup> Article 1.4.2 of the FFF Support Guidelines.

<sup>1153</sup> Ibid.

<sup>1154</sup> Article 1.6 of the FFF Support Guidelines.

<sup>1155</sup> Article 1.4 of the FFF Support Guidelines. For example, in 2017 the maximum total amount was EUR 1 million.

<sup>1156</sup> Article 1.6 of the FFF Support Guidelines.

<sup>1157</sup> Article 1.4.2 of FFF Support Guidelines.

<sup>1158</sup> Article 1.4.1 of the FFF Support Guidelines.

<sup>1159</sup> Article 1.4.2 of the FFF Support Guidelines. The same awarding procedure applies for the 50/50 production support, as per p.19 of the FFF Support Guidelines.

<sup>1160</sup> P.9 of *Hakuohje Tuotantotuki* (15.8.2018) (Application Guidelines: Production support), <http://ses.fi/fileadmin/dokumentit/Tuotantotuki.pdf>; for English version, see



### 7.10.3.6. Talent, cast, crew, underlying copyright

There are no particular requirements regarding the nationality of the talent, cast and crew or related to the underlying copyrights (and how they are linked to the country). Nevertheless, as explained in the previous section, the assessment of the share of support “remaining in Finland” takes into account the participation of Finnish authors as well as the nationality of the talent, cast and crew. In addition, when support is sought for a Finnish minority interest in an international co-production, the relevance of the project for Finnish audiences, as well as the Finnish artistic and technical contributions to the production are taken into consideration.<sup>1161</sup>

### 7.10.3.7. Shooting language and diversity

There are no requirements regarding the shooting language, ethnic or linguistic minorities and gender.

## 7.10.4. Funding criteria applicable to pre-production support

### 7.10.4.1. Budget

The budget of an eligible project is not subject to any minimum threshold or maximum cap. Furthermore, as for production support, the applicant is required to demonstrate that, at the decision stage, the integral development stage financing has been secured.<sup>1162</sup>

### 7.10.4.2. Awarded amount

The maximum support awarded is decided annually by the FFF. For 2017-2018, the following caps were established:

- For scriptwriting: support is issued in monthly grants with no more than eight months available for one film. For 2017-2018, the maximum awarded was EUR 1 625/month or a maximum total of EUR 13 000 for 8 months.<sup>1163</sup>
- For development:<sup>1164</sup> support is issued for one individual film or several films. In 2016, the maximum amount was EUR 150 000. Regarding eligible costs, these are defined in the FFF Support Guidelines and include, *inter alia*, costs directly

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[http://ses.fi/fileadmin/dokumentit/Production\\_support.pdf](http://ses.fi/fileadmin/dokumentit/Production_support.pdf).

<sup>1161</sup> Article 1.2.2 and 1.4.2 of the FFF Support Guidelines.

<sup>1162</sup> Articles 1.2.4 and 1.2.5 of the FFF Support Guidelines.

<sup>1163</sup> P.1 of *Hakuohje Käsikirjoitusapuraha* (Application Guidelines: Scriptwriting grant), <http://ses.fi/fileadmin/dokumentit/Kaesikirjoitusapuraha.pdf>.

<sup>1164</sup> Article 1.2.1 of the FFF Support Guidelines.



attributable to a development project, the salaries of the permanent staff and the project's cost excluding VAT.

Support is awarded selectively by the FFF Managing Director, upon the decision of the Film Commissioners responsible for assessing the scriptwriting or development project based on its content, artistic expression, production planning, and considering the applicant's artistic and professional qualifications for carrying out the project.<sup>1165</sup>

#### 7.10.4.3. Underlying copyright

There are no requirements regarding the underlying copyright (and how this is linked to the country).

#### 7.10.4.4. Script language and diversity

In general, there are no specific requirements regarding the language of the script, ethnic or linguistic minorities and gender. However, in the case of support sought for by a Finnish minority producer for an international co-production, the support decision would take into consideration "the relevance of the project for Finnish audiences, the possibility for continuing co-producer collaboration, and the Finnish artistic and technical contributions to the production."<sup>1166</sup>

### 7.10.5. Funding criteria applicable to distribution and promotion support

#### 7.10.5.1. Theatrical release, broadcasting and visibility on VOD

There are no specific requirements regarding visibility and performance on any of the different release windows, or a release window schedule to be respected. Nevertheless, the applicant is required to "furnish the Foundation with up-to-date admissions figures for cinema distribution, and for DVD, Blu-ray and VOD distribution for statistical purposes".<sup>1167</sup> This information would also be assessed as part of the application, as the annexes include a marketing and distribution plan.<sup>1168</sup> Furthermore, there is a specific marketing and

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<sup>1165</sup> Articles 1.2.2 and 1.2.3 of the FFF Support Guidelines.

<sup>1166</sup> Article 1.2.2 of the FFF Support Guidelines.

<sup>1167</sup> Article 1.5.2 of the FFF Support Guidelines.

<sup>1168</sup> Which includes, *inter alia*, information regarding the distribution company, the premiere at the theatre, the goals in terms of viewers, an estimate of the break-even point in theatres/number of silver screens, schedules for display and distribution windows and the goal of sales in distribution windows



distribution support scheme for digital formats, which aims at promoting “the marketing and availability of Finnish films on DVD, Blu-ray or other digital formats”.<sup>1169</sup>

For film import support, the imported film is required to be screened in at least three other cities or areas alongside the festival’s main location.<sup>1170</sup> Moreover, for marketing and distribution support, the distributor is required to “have furnished the Foundation with the correct and up-to-date figures required for compiling cinema statistics”.<sup>1171</sup>

#### 7.10.5.2. Theatrical performance and performance at festivals, events and awards

Information on the potential theatrical attendance would be assessed as part of the application. This information includes the festival strategy and schedule (domestic and international), including questions related to the way in which attendance at festivals would be approached and specifying the festivals to which the film has been planned, offered or accepted.<sup>1172</sup> Furthermore, the expected performance in terms of theatrical attendance is taken into account and might affect the amount of support received, as explained in section 7.10.5.4. On top of that, the FFF provides support for projects promoting the export of Finnish films when a film is invited to screen at an important international film festival through its International promotion scheme.<sup>1173</sup> Finally, foreign productions can benefit from film import support, which aims to “support the importing of films intended for public screening at cinemas and the international programme acquisitions of regular film festivals”.<sup>1174</sup>

#### 7.10.5.3. Budget

The budget of an eligible project is not subject to any minimum threshold or maximum cap, nor is anything stipulated regarding a minimum contribution from the applicant.

#### 7.10.5.4. Awarded amount

The marketing and distribution support (as part of the production support scheme) has a cap of EUR 120 000. A further EUR 6 000 per film may also be granted for the costs of

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<sup>1169</sup> Article 4.3 of the FFF Support Guidelines.

<sup>1170</sup> Article 4.2.1 of the FFF Support Guidelines.

<sup>1171</sup> Article 4.2.2 of the FFF Support Guidelines.

<sup>1172</sup> *Hakuohjeet Markkinointi- ja levitystuki* (Application Guidelines: Marketing and distribution support), [http://ses.fi/fileadmin/dokumentit/Markkinointi- ja\\_levitystuki.pdf](http://ses.fi/fileadmin/dokumentit/Markkinointi- ja_levitystuki.pdf); for a summary in English, see: [http://ses.fi/fileadmin/dokumentit/Marketing\\_and\\_distribution\\_support.pdf](http://ses.fi/fileadmin/dokumentit/Marketing_and_distribution_support.pdf).

<sup>1173</sup> Article 2.2 of the FFF Support Guidelines.

<sup>1174</sup> Article 4.2 of the FFF Support Guidelines.



subtitling for the hearing impaired and audio description for the visually impaired (in special cases 100%).<sup>1175</sup>

More specifically, there are different thresholds for support<sup>1176</sup> depending on the type of project and its potential.<sup>1177</sup>

- EUR 100 000 – 120 000 if the project meets one of the following criteria: children/youth films aiming at a wide audience with the commissioner's estimate of at least 150 000 viewers; FFF production support has been granted the maximum grantable support of EUR 1 million; the amount applied from the FFF covers less than a third of the marketing and distribution costs with the commissioner estimating over 200 000 admissions.
- EUR 70 000 – 100 000 if the project meets one of the following criteria: commissioner's estimate of between 70 000 and 150 000 admissions; the project has received 50/50 production support.
- EUR 40 000 – 70 000 if the project meets one of the following criteria: commissioner's estimate of between 30 000 and 70 000 admissions; the FFF commissioner considers that the film has an exceptionally huge societal and/or cultural impact.
- EUR 10 000 – 40 000 if the project meets one of the following criteria: commissioner's estimate of between 10 000 and 30 000 admissions; the commissioner considers that the film has major societal and/or cultural impact; the commissioner estimates less than 10 000 admissions but considers that the film has an exceptionally huge societal and/or cultural impact.
- Less than EUR 10 000 if the commissioner estimates an attendance below 10 000 admissions.

Overall, the support is awarded selectively after a similar procedure to that for production and pre-production support. The assessment is made taking into account the target groups of the genre and activities planned to reach them.<sup>1178</sup> Regarding eligible costs, only net costs of the project - excluding VAT - will be considered.<sup>1179</sup>

For its part, marketing and distribution support for digital formats is non-repayable, awarded selectively and may, in general, cover a maximum of 50 % of the marketing and distribution costs.<sup>1180</sup> In terms of the total maximum amount, the following caps apply: "EUR 10 000 for the first digital format release of a film, EUR 2 500 for the re-

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<sup>1175</sup> To reach these objectives, support may be granted to cover all costs (100 %) for essential and legitimate reasons in 2017. Only for marketing and distribution support scheme.

<sup>1176</sup> The FFF commissioner conducts initial categorization in the context of production support decision. Also both productions advisors of a theatrical film and documentary film participate in the decision-making. The final category is determined by the commissioner after watching the working copy of the film. Also both productions advisors of a theatrical film and documentary film watch the working copy.

<sup>1177</sup> P.3-4 of the Application Guidelines: Marketing and Distribution Support, *Op. cit.*

<sup>1178</sup> Article 1.5.2 of the FFF Support Guidelines, *Op. cit.*

<sup>1179</sup> Articles 1.5.7, 2.1.1, 2.2.1, 2.3.1, 4.2.2 and 4.3.2 of the FFF Support Guidelines, *Op. cit.*

<sup>1180</sup> Article 4.3.1 of the FFF Support Guidelines.



release of a film on DVD, Blu-ray or other digital formats. A collection of several films tied together by a theme or director may qualify for support not exceeding EUR 19 000”.<sup>1181</sup>

For International promotion support, the awarded amount is also non-repayable and awarded selectively. Furthermore, support can go up to 100% to achieve the objectives for essential and legitimate reasons, and the maximum amount awarded is decided annually by the Foundation.<sup>1182</sup> Lastly, eligible costs vary depending on the type of support requested. For instance, in the case of material support, they include the costs of preparing an international screening copy and film promotion materials (including the trailer, press kit and posters), post-production and translation costs, press agent expenses, etc.<sup>1183</sup> Whereas in the case of travel support, they include the costs of attending international film events for those whose film is being screened there (excluding per diem allowances).<sup>1184</sup>

For Film import, the support is non-repayable and awarded selectively. The eligible costs are defined as “realised importing and marketing costs approved by the Foundation”, and can correspond to, *inter alia*: “costs of dubbing films for children and families for cinema distribution” or “the screening fee for the rightsholder and international freight charges for the film copy”.<sup>1185</sup> When it comes to aid intensity, the following rules apply:<sup>1186</sup>

- Support of up to EUR 15 000 that does not exceed 70% for importing a film intended for cinema distribution.
- Support of up to EUR 19 000 that does not exceed 70% for the costs of dubbing films for children and families for cinema distribution.
- Support not exceeding EUR 500 per film and EUR 10 000 per festival for the international programme acquisitions of film festivals.

#### 7.10.5.5. Language and diversity

For every distribution support scheme, the film “shall be subtitled or dubbed in accordance with the Language Act”,<sup>1187</sup> which implies that a copy shall always be available in Finnish and Swedish whenever a film is distributed in more than one copy. Furthermore, with regard to marketing and distribution support for digital formats, qualification for the maximum support requires that the film includes subtitles for the hearing impaired.<sup>1188</sup> There are no further requirements related to ethnic or linguistic minorities and gender.

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<sup>1181</sup> Ibid.

<sup>1182</sup> Article 2.1.1 of the FFF Support Guidelines.

<sup>1183</sup> Article 2.2 of the FFF Support Guidelines.

<sup>1184</sup> Article 2.3 of the FFF support Guidelines.

<sup>1185</sup> Article 4.2.1 of the FFF support Guidelines.

<sup>1186</sup> Ibid.

<sup>1187</sup> Article 1.5.2 (Marketing and distribution), Article 4.2.2 (Film import) and Article 4.3.2 (Marketing and distribution for digital formats) of the FFF Support Guidelines.

<sup>1188</sup> Article 4.3.1 of the FFF support Guidelines.



## 7.10.6. Data compilation

This factsheet was produced based on data compiled by Anette Alén-Savikko, postdoctoral researcher, University of Helsinki.



## 7.11. FR – France – National Summary<sup>1189</sup>

### 7.11.1. Summary

The French audiovisual public funding landscape is characterised by one central national agency, the *Centre National du Cinéma et de l'Image Animée* (National Centre for Cinema and Animation, CNC) and 32 regional agencies.<sup>1190</sup>

The CNC is a public agency constituted as a moral entity with financial autonomy. Under the direction of the Ministry of Culture, the CNC is responsible for ensuring the implementation of the government policy with respect to the cinema and the associated industries of the screen production sector, namely television, video and multimedia, including video games. Its missions include the monitoring of the sector; supporting and developing the screen industries, monitoring the commercial receipts of the exhibitors and distributors of cinema and video; maintaining the formal registries for cinema and television; preserving cinematographic archives through the legal deposit mechanism; and combating the piracy of audiovisual works.

The CNC administers financing from a range of sources, totaling approximately EUR 683.8 million.<sup>1191</sup> These funds are distributed to the sector via automatic and selective support through more than 90 distinct funding streams.<sup>1192</sup>

For the purposes of this document, these streams have been classified into the following clusters:

- Aides Financières Automatiques (Cinema) – Automatic Support for Film Production, Pre-production and Distribution/Exhibition;
- Aides Financières Sélectives (Cinema) - Selective Support for Film Production, Pre-production and Distribution/Exhibition;
- Fonds de Soutien Audiovisuel (FSA – formerly COSIP) – Automatic and Selective Support for Television Pre-production and Production;
- Fonds d'Aide aux Expériences Numériques (Fonds XN) ;
- Fonds d'Aide aux Créateurs Vidéo sur Internet (CNC Talent) ;

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<sup>1189</sup> The factsheet on France incorporates the feedback received from Mathieu Fournet (CNC) during the checking round with the national film and audiovisual funds.

<sup>1190</sup> A full list of regional agencies is available at <http://www.ciclic.fr/ressources/trouver-une-collectivite-panorama-2018>.

<sup>1191</sup> For a breakdown of sources contributing to the Support Fund, see: <http://www.cnc.fr/web/fr/fonds-de-soutien-2017>.

<sup>1192</sup> Several schemes propose funding not included in the scope of our study (such as support for video games or support for actions in favour of cinematographic heritage) and will therefore not be mentioned in this factsheet or in the matrix.



- Dispositif pour la Création Artistique Multimédia et Numérique (DICRéAM) – a partnership between the CNC, the Centre National du Livre and various departments of the French Ministry of Culture ;
- Aide aux Cinémas du Monde (ACM) – Selective support for co-productions with third countries awarded in conjunction with the French Institute (Institut Français);
- Fonds Images de la Diversité - Images of Diversity Fund ;
- Aides à la création visuelle ou sonore par l'utilisation des technologies numériques de l'image et du son - CVS (former NTP) - Support to audiovisual creation through digital technologies.

At regional level, the most significant funds in terms of levels of investment are:<sup>1193</sup>

- Ile de France: EUR 17.48 million
- Nouvelle-Aquitaine: EUR 7.75 million
- Hauts de France: EUR 7.6 million
- Provence-Alpes-Cote d'Azur: EUR 6.62 million
- Grand Est: EUR 3.96 million
- Bretagne: EUR 3.62 million

## 7.11.2. General framework

### 7.11.2.1. Overview of the film and audiovisual funding policy and legislation

The CNC was established by law on 25 October 1946, and subsequently reformed by Ordinance No. 2009-901 of 24 July 2009,<sup>1194</sup> which amended legislative aspects of the Code of the CNC. The rules and regulations which determine how support is delivered by the CNC are outlined in the *Code du Cinéma et de l'Image Animé* (Film and Moving Image Code), specifically within the annex *Règlement Général des Aides Financières du Centre National du Cinéma et de l'Image Animée* (General Regulation on Financial Aids, hereinafter, "RGA").

Concerning the provision of support by the regional support schemes, it is regulated by either municipal or regional authorities and in some cases by special statutes and individual calls.

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<sup>1193</sup> Given the number of national funding schemes and regional funds in France, only these six regional funds will be covered in this study.

<sup>1194</sup> *Ordonnance n° 2009-901 du 24 juillet 2009 relative à la partie législative du code du cinéma et de l'image animée* (Ordinance 2009-901 of 24 July 2009 on the Legislative Part of the Film and Moving Image Code), <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000020900294>.



Table 23. Main funds in France

Funding institution	Geographical level	Legislation / Guidelines
CNC <sup>1195</sup>	National	Law of 25 October 1946 <sup>1196</sup>
		Film and Moving Image Code (including RGA) <sup>1197</sup>
Ile de France <sup>1198</sup>	Regional	Deliberation No. CR 2017-10 of 26 January 2017 <sup>1199</sup>
		Deliberation No. CR 46-15 of 10 July 2015 <sup>1200</sup>
Nouvelle Aquitaine <sup>1201</sup>	Regional	Guidelines for Region Nouvelle Aquitaine <sup>1202</sup>
Hauts de France <sup>1203</sup>	Regional	Deliberation No. 20181431 <sup>1204</sup>
		Fiction Regulation <sup>1205</sup>
		Short Film Regulation <sup>1206</sup>
		Animation Regulation <sup>1207</sup>

<sup>1195</sup> [www.cnc.fr/](http://www.cnc.fr/).

<sup>1196</sup> *Loi n°46-2360 du 25 octobre 1946 Creation Du Centre National* (Law n°46-2360 of 25 October 1946 Creation of the National Centre),

<https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000508989&categorieLien=cid>.

<sup>1197</sup> *Code du cinéma et de l'image animée et Règlement général des aides financières du Centre national du cinéma et de l'image animée* (Code of Cinema and Moving Image and General Regulation of Financial Aid of the National Center for Cinema and Moving Image, hereinafter, the "CNC Code and the RGA"), [https://www.legifrance.gouv.fr/affichCode.do?jsessionid=17400D4880A311717F875EACE509E6EB.tplqfr41s\\_1?cidTexte=LEGITEXT000020908868&dateTexte=20190329](https://www.legifrance.gouv.fr/affichCode.do?jsessionid=17400D4880A311717F875EACE509E6EB.tplqfr41s_1?cidTexte=LEGITEXT000020908868&dateTexte=20190329).

<sup>1198</sup> [www.iledefrance.fr/aides-services/fonds-de-soutien-cinema-audiovisuel](http://www.iledefrance.fr/aides-services/fonds-de-soutien-cinema-audiovisuel).

<sup>1199</sup> *Délibération cadre n° CR 2017-10 du 26 janvier 2017 - Aides régionales au Cinéma et à l'Audiovisuel* (deliberation No. CR 2017-10 of 26 January 2017 - Regional Aids for Cinema and Audiovisual), <https://www.iledefrance.fr/sites/default/files/medias/2017/05/documents/rapcr2017-10del.pdf>.

<sup>1200</sup> *Delibération N° Cr 46-15 du 10 Juillet 2015 - Aides Regionales au Cinema et à L'audiovisuel - Adaptation des Dispositifs Regionaux* (Deliberation No Cr 46-15 of 10 July 2015 - Regional Aids to Cinema and Audiovisual - Adaptation of regional arrangements), <https://www.iledefrance.fr/sites/default/files/mariane/RAPCR46-15DFL.pdf>.

<sup>1201</sup> <https://les-aides.nouvelle-aquitaine.fr/cinema-et-audiovisuel>.

<sup>1202</sup> *Règlement d'Intervention Fonds De Soutien au Cinéma et à l'Audiovisuel - Création et Production* (Rules of Procedures of the Film and Audiovisual Support Fund (Creation and Production), hereinafter, "Guidelines for Region Nouvelle Aquitaine"), <https://les-aides.nouvelle-aquitaine.fr/sites/default/files/2018-08/Re%CC%80glement-d'intervention.pdf>.

<sup>1203</sup> [www.pictanovo.com/financer-un-projet/](http://www.pictanovo.com/financer-un-projet/).

<sup>1204</sup> *Délibération n° 20181431 de la commission permanente du Conseil Régional Hauts-de-France du 27 septembre 2018* (Deliberation No. 20181431 of the Standing Committee of the Regional Council Hauts-de-France of September 27, 2018).

<sup>1205</sup> *Règles de Fonctionnement du Fonds Régional d'Aide Selectif à la Fiction Cinématographique et Audiovisuelle Long Métrage - Série - Unitaire* (Operating Rules of the Regional Fund for Selective Support for Cinematographic and Audiovisual Fiction - Feature Film - Series - Unit, hereinafter, "Fiction Regulation"), [http://www.pictanovo.com/wp-content/uploads/2018/11/reglement\\_fiction.pdf](http://www.pictanovo.com/wp-content/uploads/2018/11/reglement_fiction.pdf).

<sup>1206</sup> *Règles de Fonctionnement du Fonds d'aide Regional Sélectif au Court Métrage hors Animation* (Operating Rules of the Selective Regional Support Fund for Short Films excluding Animation, hereinafter, the "Short Film Guidelines"), [http://www.pictanovo.com/wp-content/uploads/2018/11/reglement\\_court\\_metrage.pdf](http://www.pictanovo.com/wp-content/uploads/2018/11/reglement_court_metrage.pdf).



Funding institution	Geographical level	Legislation / Guidelines
		Documentary Regulation <sup>1208</sup>
		New Media Regulation <sup>1209</sup>
Provence-Alpes-Côte d'Azur <sup>1210</sup>	Regional	Cinema and Audiovisual 2017 Intervention Framework <sup>1211</sup>
Grand Est <sup>1212</sup>	Regional	Cooperation agreement for cinema and moving images <sup>1213</sup>
		Script Development Guidelines <sup>1214</sup>
		Cinematographic and audiovisual work development guidelines <sup>1215</sup>
		Animation development and Production guidelines <sup>1216</sup>
		Short film, documentary and fiction production guidelines <sup>1217</sup>
		Feature films, documentary and fiction production

<sup>1207</sup> *Règles de Fonctionnement du Fonds Regional d'aide Selectif à L'Animation Court Métrage - Long Métrage - Série Animée* (Rules of Operation of the Regional Selective Support Fund for Short Film Animation - Feature Film - Animated Series, hereinafter, the "Animation Regulation"), [http://www.pictanovo.com/wp-content/uploads/2018/11/Reglement\\_animation.pdf](http://www.pictanovo.com/wp-content/uploads/2018/11/Reglement_animation.pdf).

<sup>1208</sup> *Règles de Fonctionnement du Fonds d'Aide Régional Sélectif Documentaire Audiovisuel* (Operating Rules of the Selective Regional Support Fund for Audiovisual Documentary, hereinafter, the Documentary Regulation), [http://www.pictanovo.com/wp-content/uploads/2018/11/reglement\\_documentaire.pdf](http://www.pictanovo.com/wp-content/uploads/2018/11/reglement_documentaire.pdf).

<sup>1209</sup> *Règles De Fonctionnement du Fonds d'Aide Régional Sélectif Nouveaux Médias* (Operating Rules of the Selective Regional Support Fund New Media, hereinafter, the "New Media Regulation"), [http://www.pictanovo.com/wp-content/uploads/2018/11/reglement\\_nouveaux\\_medias.pdf](http://www.pictanovo.com/wp-content/uploads/2018/11/reglement_nouveaux_medias.pdf).

<sup>1210</sup> [www.maregionsud.fr/vivre-ensemble/culture/cinema-et-audiovisuel.html?no\\_cache=1](http://www.maregionsud.fr/vivre-ensemble/culture/cinema-et-audiovisuel.html?no_cache=1).

<sup>1211</sup> *Cadre d'intervention Cinema et Audiovisuel 2017* (Cinema and Audiovisual 2017 Intervention Framework, hereinafter, the "Cinema and Audiovisual Framework"), [https://www.maregionsud.fr/uploads/media/Cadres-intervention\\_cinema-audiovisuel-2017.pdf](https://www.maregionsud.fr/uploads/media/Cadres-intervention_cinema-audiovisuel-2017.pdf).

<sup>1212</sup> [www.grandest.fr/vos-aides-regionales/dispositifs-cinema-audiovisuel/](http://www.grandest.fr/vos-aides-regionales/dispositifs-cinema-audiovisuel/).

<sup>1213</sup> *Convention de coopération pour le cinéma et l'image animée*, <https://www.grandest.fr/wp-content/uploads/2018/01/convention-2017-2019-grand-est-elements-de-cadrage-pour-site-interne.pdf>.

<sup>1214</sup> *Aide à l'écriture Cinéma, Audiovisuel et Nouveaux Médias* (Grand Est - Film, Audiovisual and New Media Writing Support, hereinafter, the "Script development Guidelines"), <https://www.grandest.fr/wp-content/uploads/2017/08/dcpm-aide-ecriture-cinema-151216.pdf>.

<sup>1215</sup> *Aide au développement des œuvres cinématographiques et audiovisuelles ou à destination des nouveaux médias* (Support for the development of cinematographic and audiovisual works or for new media, hereinafter, the "Development support guidelines"), <https://www.grandest.fr/wp-content/uploads/2017/08/DCPM-dvpt-documentaires-fictions-en-prise-de-vue-reelle-151216.pdf>.

<sup>1216</sup> *Aide au développement et à la production cinéma, audiovisuel et nouveaux médias d'œuvres d'animation*, (Aid for the development and production of cinema, audiovisual and new media for animation works, hereinafter, the "Animation Development and Production guidelines"), <https://www.grandest.fr/wp-content/uploads/2017/08/DCPM-developpement-et-production-oeuvres-animation-151216.pdf>.

<sup>1217</sup> *Aide à la production de courts métrages cinéma, documentaire et fiction prise de vue réelle* (Support for the production of short films, documentaries and real-life fiction, hereinafter, the "Short film production guidelines"), <https://www.grandest.fr/wp-content/uploads/2017/08/DCPM-cinema-cm-documentaire-fiction-151216.pdf>.



Funding institution	Geographical level	Legislation / Guidelines
		guidelines <sup>1218</sup>
		Audiovisual and new media documentary production guidelines <sup>1219</sup>
		Audiovisual and new media fiction production guidelines <sup>1220</sup>
Bretagne <sup>1221</sup>	Regional	Regulation F.A.C.C.A. 2019 <sup>1222</sup>

Source: Response to European Audiovisual Observatory standardised questionnaire

### 7.11.2.2. Definition of cultural criteria

There is no single and general definition of cultural criteria in the CNC Code. The cultural aspect of projects requiring financial support is assessed according to different criteria specific to the different funding schemes. As a general rule, the cultural selection process used by the CNC takes into account:

- The language in which the work is produced;<sup>1223</sup>
- The nationality of the crew/collaborators;<sup>1224</sup> or
- The location of shooting and post-production.<sup>1225</sup>

In addition, whilst funding is available to residents of EU member states, the specific amounts awarded to projects depends upon their level of cultural relevance. For example, in the case of automatic and selective support for cinematographic works, a minimum proportion of French participation is required.<sup>1226</sup>

<sup>1218</sup> *Production longs métrages cinéma documentaire et fiction prise de vue réelle* (Grand Est - Production of feature films documentary cinema and fiction documentary and fiction real shot, hereinafter, the “Feature films production guidelines”), <https://www.grandest.fr/wp-content/uploads/2017/08/production-lm-cinema-fiction-prv-et-doc-cp0618-reglement.pdf>.

<sup>1219</sup> *Aide à la production audiovisuelle et nouveaux médias documentaire* (Support for audiovisual production and new documentary media, hereinafter, the “Audiovisual documentary production guidelines”), <https://www.grandest.fr/wp-content/uploads/2017/08/DCPM-prod-audio-et-nvx-medias-documentaire-151216.pdf>.

<sup>1220</sup> *Aide à la production audiovisuelle et nouveaux médias fiction prise de vue réelle* (Support for audiovisual production and new media fiction real shot, hereinafter, the “Audiovisual fiction production guidelines”), <https://www.grandest.fr/wp-content/uploads/2017/08/production-audio-nvx-medias-fiction-prv-cp0618-reglement.pdf>.

<sup>1221</sup> [www.bretagne.bzh/jcms/preprod\\_32781/fr/creation-cinematographique-et-audiovisuelle](http://www.bretagne.bzh/jcms/preprod_32781/fr/creation-cinematographique-et-audiovisuelle).

<sup>1222</sup> *Règlement F.A.C.C.A. Janvier 2019* (Regulation F.A.C.C.A. January 2019), [https://www.bretagne.bzh/upload/docs/application/pdf/2019-01/reglement\\_facca\\_janvier2019.pdf](https://www.bretagne.bzh/upload/docs/application/pdf/2019-01/reglement_facca_janvier2019.pdf).

<sup>1223</sup> Articles 7.11.3.7, 7.11.4.4 and 7.11.5.5 of the CNC Code.

<sup>1224</sup> Articles 7.11.3.6 and 7.11.5.5 of the CNC Code.

<sup>1225</sup> Article 7.11.3.5 of the CNC Code.

<sup>1226</sup> Article 211-7 (Feature), Article 411-14 (Short), of the RGA.



Regarding the regional funds, in general, the objectives associated with production support by the regions are explicitly stated in funding guidelines as being threefold: cultural, economic and regional development.

Regional fund	Cultural requirements
<b>Nouvelle Aquitaine</b>	<p>At least two of the following criteria must be met in order to be eligible for production funding:<sup>1227</sup></p> <ul style="list-style-type: none"> <li>■ The main place of residence of the writer/director, writer or co-writer must be the Nouvelle-Aquitaine region;</li> <li>■ The delegate producer/co-producer must have a stable production company in the Nouvelle-Aquitaine region;</li> <li>■ The project must have a strong cultural relevance for the region;</li> <li>■ Significant aspects of the production (shooting or otherwise) must take place in the region;</li> <li>■ The project must generate significant employment within the region in terms of cultural or technical services.</li> </ul>
<b>Provence Alpes Cotes d'Azur</b>	One of the eligibility criteria refers to “works with a cultural or geographical link with the Provence-Alpes-Côte d’Azur region.” <sup>1228</sup>
<b>Grand-Est</b>	The project must have a significant link with the region. Several pre-production support schemes require the establishment of key talents in the region, or the justification of a regular activity or a significant professional artistic background in the region. <sup>1229</sup>
<b>Bretagne</b>	One of the eligibility criteria for several schemes requires that “the project has a cultural link with the region of Bretagne”. <sup>1230</sup>

### 7.11.2.3. Nationality of the applicant

#### A) CNC

Beyond the guidelines specific to each individual scheme, the RGA stipulates certain general conditions whereby the applicant is required to comply with the following requirements:<sup>1231</sup>

<sup>1227</sup> P5 of the Guidelines for Region Nouvelle Aquitaine.

<sup>1228</sup> P.4-5 of the Cinema and Audiovisual Framework.

<sup>1229</sup> P.2 of the respective guidelines for Script, Development, Animation development and production, and Audiovisual documentary.

<sup>1230</sup> P.3 of the FACCA Regulation.

<sup>1231</sup> Articles 211-3, 212-50 and 411-3 (production and pre-production support for feature and short cinematographic works); Articles 311-3 and 312-40 (production and pre-production support for audiovisual works); Articles 321-3, 321-15, 321-28 (production and pre-production and support for immersive or interactive work projects); Articles 322-4, 322-14, 322-24 (pre-production, production and distribution support of innovative and experimental works); Articles 422-7, 422-16, 422-25 (pre-production, production and distribution of works dealing with the diversity of the population and equal opportunities); Article 441-6



- To be established in France. The applicant will be deemed to be established in France even if it has its headquarters in France, in a member state of the EU or in the EEA, as long as it has a stable establishment in France at the time funds are allocated.
- To have presidents, directors or managers, as well as a majority of its directors, either of French nationality (or with French residency status), or nationals of a member state of the EU or the EEA, or a country which is a signatory to the European Convention on Transfrontier Television, the Council of Europe Convention on Cinematographic Co-production, or of a third European state with which the EU has concluded agreements related to the audiovisual sector.

Nonetheless, several funding schemes (such as distribution support for cinematographic works or for works dealing with the diversity of the population and equal opportunities<sup>1232</sup>) only require the applicant to be established in France without stipulating any requirement regarding the nationality.

In the case of ACM distribution, the applicant is required to be a company established in a country participating in the MEDIA sub-programme and held directly by majority participation or by nationals of these countries.<sup>1233</sup>

## B) Regional funds

The information in this table is only provided for production schemes.

Regional funds	Nationality/Establishment of the applicant
<b>Ile de France</b>	Production and post-production support: the applicant must be a production company with its headquarters in the EU and a company or subsidiary in France at the time support is granted. Production companies established outside the EU must be represented by a French co-producer (co-delegate producer or executive producer). <sup>1234</sup>
<b>Nouvelle Aquitaine</b>	Applicants must be production companies or associations with headquarters in the EU or in a country which is a signatory to the EEA, with a permanent establishment in France at the time the support is allocated.
<b>Hauts de France</b>	The applicant must be the delegate producer (or delegate co-producer) which has initiated the project, has the financial, technical and creative

(Support for creation and distribution on digital platforms); Article 621-3 (Visual or sound creation through the use of digital image and sound technologies); and Articles 721-4 and 722-4 (promotion of cinematographic and audiovisual works abroad), of the RGA.

<sup>1232</sup>Article 221-3 (theatrical distribution support for features); Article 422-34 (Distribution support for works dealing with the diversity of the population and equal opportunities); and Article 441-16 (editorialization of digital channel programs), of the RGA.

<sup>1233</sup> P.1 of ACM Distribution,

<https://www.cnc.fr/documents/36995/169050/Descriptif+complete+ACM+distribution.pdf/1106af16-01b1-8b85-c1f9-587df627e798>.

<sup>1234</sup> Article 1.2 of Annex 1 of Deliberation 2017 (Production), Article 1.2.1 of Annex 1 of Deliberation 2015 (Post-production).



	responsibility for the project, and can provide a completion guarantee. The company must be a commercial production company whose principle activity is the production of films. It must be established in France or have a permanent establishment in France at the time support is allocated, if it is established elsewhere in the European Union. <sup>1235</sup>
<b>Provence-Alpes-Côte d'Azur</b>	The applicant must be a production company with its headquarters in France or in a member state of the EU or the EEA. In the latter case, the production companies must have a stable office in France at the time finance is allocated. <sup>1236</sup>
<b>Grand Est</b>	The applicant must be a production company of the delegate producer or co-producer; be working with the author/director; have an APE <sup>1237</sup> code for film and television production at the time funds are transferred; and be established in France or in a member state of the EU or the EEA. <sup>1238</sup>
<b>Bretagne</b>	The guidelines make no specific mention of nationality. All forms of financial support are aimed at scriptwriters, directors and producers from the region of Bretagne, as well as those who wish to shoot in the region. <sup>1239</sup> Regarding the establishment of the applicant, the Regulation sets some requirements. <sup>1240</sup> Moreover, priority will be given to projects whose director/author has his/her main residence in the region or whose production company has its headquarters or permanent establishment in the region. <sup>1241</sup>

### 7.11.3. Funding criteria applicable to production support

#### 7.11.3.1. Theatrical release, broadcasting and visibility on VOD

At national and regional level, all funds are required to comply with the release window schedule as regulated in the CNC Code,<sup>1242</sup> which includes detailed provisions concerning the exploitation of a cinematographic work in the form of a videogram, by on-demand audiovisual media services and TV services.<sup>1243</sup> More specifically, a professional agreement was concluded on 6 July 2009<sup>1244</sup> for the reorganisation of the media chronology, which requires any company in the film sector, on-demand AVMS providers and TV services

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<sup>1235</sup> Article 2.3 of each Regulation for Fiction, Short films, Animation, Documentary, New media.

<sup>1236</sup> P.3 of the Cinema and Audiovisual Framework.

<sup>1237</sup> Each company in France is classified under an activity code (Activité Principale de l'Entreprise, APE) –.

<sup>1238</sup> P.1 of each set of guidelines.

<sup>1239</sup> P.1 of the FACCA Regulation.

<sup>1240</sup> P.3 of the FACCA Regulation.

<sup>1241</sup> P.5 of the FACCA Regulation.

<sup>1242</sup> Livre II, Title 3 “Chronology of the exploitation of cinematographic works” of the CNC Code, *Op. cit.*

<sup>1243</sup> Articles L. 231-1 to L 233-1 of the CNC Code.

<sup>1244</sup> *Arrêté du 9 juillet 2009 pris en application de l'article 30-7 du code de l'industrie cinématographique* (Order of 9 July 2009 adopted pursuant to Article 30-7 of the Film Industry Code), <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000020835631>.



providers to respect specific time limits for the exploitation of cinematographic works on each of these media (for example: video rental and TVOD exploitation – not before four months after theatrical release).

Many film funds require a pre-sale or theatrical distribution guarantee as a way to prove the potential for exploitation of the applicant project.

## A) CNC

<b>Aides Financières Automatiques (Cinéma)</b>
Support is based on the exploitation revenues (theatrical admissions, television broadcasts or private video sales) generated by a previous film funded by the CNC (reference funding).
<b>Aides Financières Sélectives (Cinéma)</b>
No specific requirements, except for post-production (“Aide après réalisation”) where the film is required to have secured theatrical distribution. <sup>1245</sup>
<b>Fonds de Soutien Audiovisuel (FSA – formerly COSIP)</b>
For automatic and selective financial support, the audiovisual work must be the subject of a financial contribution in the form of a pre-purchase of broadcasting rights, possibly supplemented by a co-production contribution, specified by a contract, from one or more French broadcasters <sup>1246</sup> and/or one or more on-demand AVMS. <sup>1247</sup> In addition, the audiovisual work is required to be intended either for a first broadcast on a TV service, or a first availability to the public on an on-demand AVMS. <sup>1248</sup>
More specifically, in order to be eligible for automatic support, the audiovisual work must first qualify as a “reference work” which requires, <i>inter alia</i> , that it has been broadcast for the first time during the previous year or a first availability to the public on an on-demand audiovisual media service. <sup>1249</sup> The applicant producer gets an “automatic account” to which the amounts granted are transferred.
<b>Device for Multimedia and Digital Artistic Creation (DICRéAM)</b>
This scheme, co-funded by the Ministry for Culture, has the objective of promoting cross-disciplinary collaboration and innovation. Therefore, performance requirements relate to forms other than traditional theatrical and digital distribution (for example: representations at theatres, dance, music/visual arts and digital works). <sup>1250</sup>

<sup>1245</sup> Article 211-130 of the RGA.

<sup>1246</sup> An authorised national or local service or holder of a convention with the audiovisual regulatory authority, the Conseil Supérieur de l’Audiovisuel (CSA), broadcast by terrestrial means or by other networks: cable, satellite, ADSL, etc.

<sup>1247</sup> Article 1.4 of the Audiovisual Support Fund - General Presentation Brochure (*Fonds de soutien audiovisuel - Plaque de présentation générale*), <https://www.cnc.fr/documents/36995/180962/Fonds+de+soutien+audiovisuel+%28FSA%29.pdf/f60d8b68-9f2d-4053-2559-87d8851f89f7>.

<sup>1248</sup> Article 311-8 of the RGA.

<sup>1249</sup> Article 311-30 of the RGA.

<sup>1250</sup> *Dispositif pour la Création Artistique Multimédia et Numérique - DICRéAM (Device for Multimedia and Digital Artistic Creation)*, [https://www.cnc.fr/professionnels/aides-et-financements/nouveaux-medias-et-creation-numerique/dispositif-pour-la-creation-artistique-multimedia-et-numerique-dicream\\_191324](https://www.cnc.fr/professionnels/aides-et-financements/nouveaux-medias-et-creation-numerique/dispositif-pour-la-creation-artistique-multimedia-et-numerique-dicream_191324).



### Aide aux Cinémas du Monde

This scheme is intended for “films of a duration longer than one hour and that will be exhibited in cinemas in France or internationally or at an international film festival”.<sup>1251</sup>

## B) Regional funds

### Ile de France

In order to be eligible for post-production support, the work has to be intended for theatrical release.<sup>1252</sup> Moreover, for audiovisual projects, a pre-sale to a broadcaster in Ile de France must be secured.<sup>1253</sup>

### Nouvelle Aquitaine

Requirements vary depending on the format of the project. Feature animation/fiction projects must provide evidence of CNC selective support approval; and/or a co-production or pre-sale agreement with a French broadcaster; and/or a distribution guarantee from a distributor or a significant investment from a SOFICA;<sup>1254</sup> and, in the case of an international co-production, a foreign investment.<sup>1255</sup> Short documentary/fiction projects must be able to obtain theatrical distribution (visa d'exploitation).<sup>1256</sup> As to TV series and one-off works (animation, fiction, documentary), the project must meet the eligibility criteria for CNC funding (automatic or selective) and also must demonstrate the financial participation of one or more French broadcasters through either pre-sale or co-production (the broadcaster must be one operating under the auspices of the CSA).<sup>1257</sup>

### Hauts de France

The requirements regarding distribution guarantees and pre-sales vary according to the type and genre of project, as detailed below:

- Documentaries: evidence of a pre-sale or co-production agreement with an approved television broadcaster must be provided;<sup>1258</sup>
- TV film or series (Fiction/Animation): a TV broadcaster deal must have been secured;<sup>1259</sup>
- Feature films: 30% (fiction) or 40% (animation) of finances must be in place at the time of application – either in the form of television pre-sale, a co-production contract, or a distribution guarantee;<sup>1260</sup>
- New media: a contract with a broadcaster or a platform eligible for the CNC will be

<sup>1251</sup> *Lignes directrices d'Aide aux cinémas du monde* (Support for world cinemas guidelines), [https://www.cnc.fr/professionnels/aides-et-financements/multi-sectoriel/production/aide-aux-cinemas-du-monde\\_190862](https://www.cnc.fr/professionnels/aides-et-financements/multi-sectoriel/production/aide-aux-cinemas-du-monde_190862).

<sup>1252</sup> Article 1.1.1 of Annex 1 of Deliberation 2015.

<sup>1253</sup> Article 1.1.6 of Annex 1 of Deliberation 2017.

<sup>1254</sup> Sociétés de financement de l'industrie cinématographique et de l'audiovisuel, SOFICA, (Film and Audiovisual Industry Financing Societies) are investment companies intended to raise private funds devoted to the financing of film and audiovisual production, [https://www.cnc.fr/professionnels/aides-et-financements/multi-sectoriel/production/les-sofica\\_759536](https://www.cnc.fr/professionnels/aides-et-financements/multi-sectoriel/production/les-sofica_759536).

<sup>1255</sup> P. 13, 25 of the Guidelines for Region Nouvelle Aquitaine.

<sup>1256</sup> P. 19, 25 of the Guidelines for Region Nouvelle Aquitaine.

<sup>1257</sup> P. 14, 19, 26 of the Guidelines for Region Nouvelle Aquitaine.

<sup>1258</sup> Article 4.3.3 of the Documentary Regulation.

<sup>1259</sup> Article 4.3.3 of the Fiction Regulation and Article 3.3 of the Animation Regulation.

<sup>1260</sup> Article 4.3.3 of the Fiction Regulation and Article 3.3 of the Animation Regulation, *Op. cit.*



required (excluding online video sharing platforms such as YouTube).<sup>1261</sup>

#### Provence-Alpes-Côte d'Azur

The requirements regarding distribution guarantees and pre-sales vary according to the type and genre of the project:<sup>1262</sup>

- Animation: TV special or series – participation of a French broadcaster; feature – securing CNC investment approval;
- Television film or series: the presence of a broadcaster eligible for COSIP is required when the file is submitted;
- Feature film (drama): must have CNC “agrément d’investissement” (investment approval); participation of a distributor or broadcaster will be looked upon favourably.
- Feature documentary: participation of a French broadcaster;

#### Grand Est

When assessing the financial and technical feasibility of the project, distribution potential and prospective festivals, as well as confirmed financial interest from other parties will be taken into account.<sup>1263</sup> Moreover, in order to be eligible for TV and New Media support, the participation of a television broadcaster or Internet broadcaster must be acquired at the time of the application.<sup>1264</sup>

#### Bretagne

In the case of TV films and series, producers must include a broadcaster's commitment with their request for support.<sup>1265</sup>

In the case of web projects, support is reserved for programmes that have acquired the commitment of a web broadcaster allowing the production structure supporting the project to meet the conditions for eligibility for CNC production support as well as the validation of the web broadcaster by the regulator (CSA).<sup>1266</sup>

### 7.11.3.2. Theatrical performance and performance at festivals, events and awards

#### A) CNC

##### Aides Financières Automatiques (Cinéma)

The CNC's automatic subsidies are granted either in the form of investment allowances or direct grants. Investment allowances require that the applicant open an automatic assistance account in the CNC (hereinafter “automatic account”).<sup>1267</sup> The calculation of the amount will take into account

<sup>1261</sup> Article 4.3.3 of the New Media Regulation, *Op. cit.*

<sup>1262</sup> P. 8 of the Cinema and Audiovisual Framework, *Op. cit.*

<sup>1263</sup> P. 3 of the Animation Development and Production guidelines, p.2 of the Short Film Production guidelines and the Feature Film Production guidelines, *Op. cit.*

<sup>1264</sup> P.2 of the Audiovisual documentary production guidelines and Audiovisual fiction production guidelines, *Op. cit.*

<sup>1265</sup> P. 2 of the FACCA Regulation, *Op. cit.*

<sup>1266</sup> P. 3 of the FACCA Regulation, *Op. cit.*

<sup>1267</sup> Articles 211-21 and 211-22 of the RGA.



the theatrical exploitation, broadcasting and video exploitation.<sup>1268</sup> Coefficients set according to the artistic and technical conditions of the film production will serve to set the final granted amount.<sup>1269</sup> The sums are non-transferable and non-sizeable and must be invested in the production and/or preparation of the production of feature or short cinematographic works.<sup>1270</sup> Regarding direct allocations, the calculation of the amount of this support does not take into account the performance of the work.

#### Aides Financières Sélectives (Cinéma)

For the post-production support of short films, the film must comply with at least one of the following criteria:<sup>1271</sup>

- Have been selected for one of the festivals listed in the guidelines;<sup>1272</sup>
- Have been pre-selected by the Academy of Cinema Arts and Techniques (César) or have been awarded the Jean Vigo Prize;
- Have been selected by the Short Film Agency as part of the RADi scheme;<sup>1273</sup>
- Have been the subject of an assignment of broadcasting rights to a television service publisher subject to the tax provided for in Article L. 115-6 of the CNC Code.

#### Fonds de Soutien Audiovisuel (FSA – formerly COSIP)

As the FSA is exclusively for television productions, there are no requirements regarding theatrical performance.

In order to be eligible for selective support under the production scheme, the applicant is required to score at least 35 points in the assessment of the production company based on the broadcasting and promotion of previously produced works, taking into account the commercial domestic and overseas distribution (up to 50 points) and the promotion at French or international festivals (up to 50 points).<sup>1274</sup>

#### Fonds d'Aide aux Créateurs Vidéo sur Internet (CNC Talent)

Applicants must have at least 10 000 subscribers to their digital channel or have directed or produced a work that has won a prize during the course of the preceding five years at one of the festivals shown at Annex 22 of Book 4 of the RGA.<sup>1275</sup>

#### Dispositif pour la Création Artistique Multimedia et Numérique (DICRéAM)

See previous section.

<sup>1268</sup> Articles 211-26 to Article 211-32-2 of the RGA.

<sup>1269</sup> P.3 of the Descriptif - L' des films de longue durée (Guidelines - The approval of long-term films), *Op. cit.*

<sup>1270</sup> Articles 211-42 to 211-44 of the RGA.

<sup>1271</sup> Article 411-52 of the RGA.

<sup>1272</sup> Annex 7 of the RGA.

<sup>1273</sup> *Op. cit.*

<sup>1274</sup> P.2 of the Notice for Programme production support for 2019 (*Aide au programme de production - Notice d'information pour la session 2019*),

<https://www.cnc.fr/documents/36995/145016/Notice+d%27information+pour+l%27aide+au+programme+de+p+roduction+-+session+2019.pdf/ce73e0c7-28f6-e9e7-943d-d7f7d8b4ef06>

<sup>1275</sup> Article 441-7 of the RGA.



## B) Regional funds

None of the regional funds stipulate requirements regarding the performance of a work in terms of theatrical attendance at home or abroad, or at festivals and award ceremonies.

### 7.11.3.3. Budget

#### A) CNC

There are no specific requirements related to a minimum or maximum budget, or to a minimum contribution from the applicant, with the exception of automatic support for short film production, where the production company is required to invest a minimum of EUR 7 600 per work.<sup>1276</sup>

#### B) Regional funds

Ile de France
<p>In order to be eligible for post-production support, the budget of the film should be under EUR 60 000 for short films and EUR 1 500 000 for feature films.<sup>1277</sup></p> <p>Regarding the share of the budget that must be in place when applying:</p> <ul style="list-style-type: none"><li>■ Cinematographic projects with budgets over EUR 3 million: 10% of the finances must be in place;<sup>1278</sup></li><li>■ Web fiction: the contribution of the broadcaster, the television channel or the web platform must reach at least 25% of the total budget of the work.<sup>1279</sup></li></ul>
Hauts de France
<p>Concerning short films, the beneficiary is required to hold a co-production share of more than 50%.<sup>1280</sup> Regarding the share of the budget that must be in place when applying, the following requirements apply:<sup>1281</sup></p> <ul style="list-style-type: none"><li>■ Television films or series (fiction/animation): 40% of the finances;</li><li>■ Feature films: 30% (fiction) or 40% (animation) of the finances;</li><li>■ Documentaries: 30% of the finances.</li></ul>
Provence-Alpes-Côte d'Azur
<p>At least 20% of the budget must have been secured at the time of the application for all types of work, except in the case of short films, where only 10% of the budget must be secured.<sup>1282</sup></p>
Grand Est
<p>The proportion of the budget that must be secured varies according to genre, as detailed below:<sup>1283</sup></p>

<sup>1276</sup> Article 411-16 of the RGA.

<sup>1277</sup> Article 1.1.3 of Annex 1 of Deliberation 2015.

<sup>1278</sup> Article 1.1.6 of Annex 1 of Deliberation 2017.

<sup>1279</sup> Article 1.1.6 of Annex 1 of Deliberation 2017.

<sup>1280</sup> Article 2.4 of the Short Film Regulation.

<sup>1281</sup> Article 4.3.3 of the Fiction Regulation, Article 3.3 of the Animation Regulation, Article 4.3.3 of the Documentary Regulation.

<sup>1282</sup> P.8 of the Cinema and Audiovisual Framework.



- Television productions: a broadcaster must have been secured with financial participation of at least 40% of the budget.
- New media content: a web broadcaster must have been secured with a financial participation of at least 25% of the budget.

#### 7.11.3.4. Awarded amount

##### A) CNC

Aides Financières Automatiques (Cinéma)	
<b>Aid intensity</b>	Aid intensity is limited to: <sup>1284</sup> <ul style="list-style-type: none"> <li>■ 50% of the production budget (or of the French participation for a co-production); and</li> <li>■ 60% for “difficult” or low-budget films<sup>1285</sup> (or 70% for the same type of work if it does not benefit from the tax credit for delegated production expenses for cinematographic works provided for in Article 220 <i>sexies</i> of the General Tax Code);<sup>1286</sup> and</li> <li>■ 80% in the case of cinematographic short film production.<sup>1287</sup></li> </ul>
<b>Repayable</b>	The support can take the form of investment allowances or direct grants. In either case, it is non-repayable.
<b>Eligible costs</b>	As explained in section 7.11.3.1, there are no eligible costs as such, as the automatic support is calculated based on the performance of the film.
<b>Selective/Automatic</b>	The support is awarded automatically.
Aides Financières Sélectives (Cinéma)	
<b>Aid intensity</b>	Selective aid is subject to the overarching aid intensity rule, outlined in the previous scheme. In terms of the maximum amount granted, the following caps apply: <ul style="list-style-type: none"> <li>■ Production support for genre films: EUR 500 000;<sup>1288</sup></li> <li>■ Post-production: EUR 76 300 (EUR 152 000 for a second feature film).<sup>1289</sup></li> </ul>

<sup>1283</sup> P.2 of the Audiovisual documentary production guidelines and the Audiovisual fiction production guidelines.

<sup>1284</sup> Articles 211-16 to 211-17-1 of the RGA.

<sup>1285</sup> A “difficult” work is the first or second work of a director. A low-budget work is one whose total budget is less than or equal to EUR 1 250 000.

<sup>1286</sup> A tax credit of 20% for film and audiovisual production companies, <https://www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006069577&idArticle=LEGIARTIO00006303577>.

<sup>1287</sup> Article 411-9 of the RGA.

<sup>1288</sup> Article 211-118-6 of the RGA.

<sup>1289</sup> Article 211-137 of the RGA.



<b>Repayable</b>	In principle, the support takes the form of a repayable advance, <sup>1290</sup> except in the case of aid for the production of works of interest to overseas cultures <sup>1291</sup> and production support before shooting and post-production support for short films, <sup>1292</sup> where the support is awarded in the form of a non-repayable subsidy.
<b>Eligible costs</b>	The eligible costs are outlined in the agreement established between the applicant and the CNC. <sup>1293</sup>
<b>Selective/Automatic</b>	Support is awarded selectively, following an assessment by the Commission for Selective Production Aid in the case of support before shooting and support for post-production, <sup>1294</sup> or after a pre-selection by a Reading Committee and a selection by the jury of the genre film for production support for genre film, <sup>1295</sup> or by the Commission for Overseas Support for support to works of interest to overseas cultures. <sup>1296</sup>
<b>Fonds de Soutien Audiovisuel (FSA – formerly COSIP)</b>	
<b>Aid intensity</b>	Maximum support is limited to 40% of the total budget. In addition, depending on the balance on their automatic account, production advances may be granted to production companies up to a maximum of EUR 3 810 000 yearly (when the amount recorded on the automatic account exceeds EUR 3 810 000). <sup>1297</sup>
<b>Repayable</b>	Support is non-repayable. For production advances (from the automatic account): support is partially repayable. <sup>1298</sup> As to the selective schemes of the FSA, support is non-repayable.
<b>Eligible costs</b>	N/A.
<b>Selective/Automatic</b>	The FSA offers both automatic and selective support. Automatic support can be awarded if the producer has an existing automatic account. Selective support is awarded by a specialised committee. <sup>1299</sup>
<b>Fonds d'Aide aux Expériences Numériques (Fonds XN)</b>	
<b>Aid intensity</b>	Aid intensity is limited to 50% of the production costs, or 60% for “difficult” works. <sup>1300</sup>
<b>Repayable</b>	The support takes the form of a non-repayable grant. <sup>1301</sup>

<sup>1290</sup> Article 211-115 (production support before shooting), 211-118-10 (production support for genre film) and 211-138 (Post-production) of the RGA.

<sup>1291</sup> Article 211-154 of the RGA.

<sup>1292</sup> Article 411-35 and 411-57 of the RGA.

<sup>1293</sup> Article 211-115, 211-118-10 and 211-138 of the RGA.

<sup>1294</sup> Articles 211-109 and 211-133 (Features), Article 411-29 and 411-56 (Shorts) of the RGA.

<sup>1295</sup> Article 211-118-8 of the RGA.

<sup>1296</sup> Article 211-153 of the RGA.

<sup>1297</sup> Article 311-63 to 311-68 of the RGA.

<sup>1298</sup> Article 311-68 of the RGA.

<sup>1299</sup> Article 311-126 to 311-129 of the RGA.

<sup>1300</sup> Article 321-10 of the RGA.

<sup>1301</sup> Article 321-13 of the RGA.



<b>Eligible costs</b>	A written agreement between the applicant and the CNC establishes eligible costs and how these will be calculated. <sup>1302</sup>
<b>Selective/Automatic</b>	Selectively by the Commission for aid for immersive or interactive works. <sup>1303</sup>
<b>Fonds d'Aide aux Créateurs Vidéo sur Internet (CNC Talent)</b>	
<b>Aid intensity</b>	Aid intensity is limited to 50% (higher share for "difficult" works), up to a maximum of EUR 30 000 or EUR 2 000 for "difficult" works. <sup>1304</sup>
<b>Repayable</b>	The support takes the form of a non-repayable grant. <sup>1305</sup>
<b>Eligible costs</b>	Not specified.
<b>Selective/Automatic</b>	Selectively by the commission on aid for creation and distribution on digital platforms. <sup>1306</sup>
<b>Dispositif pour la Création Artistique Multimedia et Numérique (DICRéAM)</b>	
<b>Aid intensity</b>	Aid intensity is limited to 50% of the production expenses. <sup>1307</sup>
<b>Repayable</b>	The support takes the form of a non-repayable grant. <sup>1308</sup>
<b>Eligible costs</b>	Eligible expenses are outlined in an agreement between the applicant and the CNC. <sup>1309</sup>
<b>Selective/Automatic</b>	Selectively by the Commission on aid for multimedia and digital artistic creation. <sup>1310</sup>
<b>Aide aux Cinémas du Monde</b>	
<b>Aid intensity</b>	The aid intensity is limited to 50% of the French producer's financial contribution (80% for "difficult" films or low-budget films upon certain conditions). <sup>1311</sup> The maximum amount of support per project is EUR 250 000 for production funding or EUR 50 000 for projects applying for completion support. <sup>1312</sup>
<b>Repayable</b>	The support takes the form of a non-repayable grant. <sup>1313</sup>
<b>Eligible costs</b>	Eligible costs are defined in the Guidelines and final payments are subject to the verification of these expenses. <sup>1314</sup>

<sup>1302</sup> Ibid.

<sup>1303</sup> Article 321-36 of the RGA.

<sup>1304</sup> Articles 441-9 and 441-12 of the RGA.

<sup>1305</sup> Article 441-13 of the RGA.

<sup>1306</sup> Article 441-11 of the RGA.

<sup>1307</sup> Article 322-17 of the RGA.

<sup>1308</sup> Article 322-21 of the RGA.

<sup>1309</sup> Article 322-22 of the RGA.

<sup>1310</sup> Article 322-20 of the RGA.

<sup>1311</sup> Article 9 of Decree No. 2012-543 of 23 April 2012 on aid to world cinemas (*Décret n° 2012-543 du 23 avril 2012 relatif aux aides aux cinémas du monde*),

<https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000025740247&dateTexte=20190208>.

<sup>1312</sup> P.5 of the Descriptif complet aide aux cinémas du monde (Guidelines - Aid to cinemas around the world), <https://www.cnc.fr/documents/36995/165400/Descriptif+complet+aide+aux+cin%C3%A9mas+du+monde.pdf/e44a136-5a85-9b78-42c6-20b6c10b4180>.

<sup>1313</sup> Article 1 of Decree No. 2012-543 of 23 April 2012 on aid to world cinemas.



<b>Selective/Automatic</b>	Selectively by the Commission on Aide aux Cinémas du Monde. <sup>1315</sup>
<b>Fonds Images de la Diversité</b>	
<b>Aid intensity</b>	Aid intensity is limited to 50% of the production costs for feature films and television production (60% for “difficult” or low-budget works, and to 70% for short films). <sup>1316</sup>
<b>Repayable</b>	The support takes the form of a non-repayable grant. <sup>1317</sup>
<b>Eligible costs</b>	N/A.
<b>Selective/Automatic</b>	Selectively by the Images of Diversity Commission. <sup>1318</sup>
<b>Aides à la création visuelle ou sonore par l’utilisation des technologies numériques de l’image et du son - CVS (anciennement NTP)</b>	
<b>Aid intensity</b>	The aid intensity is limited to 50% of the final cost of the work (50% of the French contribution in the case of international co-production). <sup>1319</sup>
<b>Repayable</b>	Non-repayable.
<b>Eligible costs</b>	Direct allocations correspond to the expenses incurred in France. <sup>1320</sup> In the case of selective support, they include, notably, expenses incurred in France related to the use of digital technologies for the manufacture and processing of images, expenses related to the design work of the stage special effects, etc. <sup>1321</sup>
<b>Selective/Automatic</b>	Automatic for direct allocations. Selectively by the Commission of aids to visual or sound creation through the use of digital image and sound technologies for selective support. <sup>1322</sup>

## B) Regional funds

<b>Ile de France</b>	
<b>Aid intensity</b>	For production support, aid is limited to 80% of the total production budget and the maximum amount is set at EUR 600 000. For post-production support, a maximum amount of between EUR 5 000 (for short films) and EUR 55 000 (for feature-length fiction or animation) is awarded. <sup>1323</sup>
<b>Repayable</b>	The support is not repayable, except in the case of non-compliance with certain obligations or provisions of the Deliberation. <sup>1324</sup>

<sup>1314</sup> P.7 of the Guidelines – Aid to world cinemas.

<sup>1315</sup> Chapter 2 of Decree No. 2012-543 of 23 April 2012 on aid to world cinemas.

<sup>1316</sup> Article 422-29 of the RGA.

<sup>1317</sup> Article 422-32 of the RGA.

<sup>1318</sup> Articles 422-1 and 422-13 of the RGA.

<sup>1319</sup> Article 621-4 of the RGA.

<sup>1320</sup> Article 621-8 of the RGA.

<sup>1321</sup> Article 321-21 of the RGA.

<sup>1322</sup> Article 621-25 of the RGA.

<sup>1323</sup> Article 4 of Annex 1 of Deliberation 2017.

<sup>1324</sup> Articles 2.2 and 5.4 of Annex 1 of Deliberation 2017, and Article 3 of Annex 1 of Deliberation 2015.



<b>Eligible costs</b>	The eligible costs include expenditure in the Ile de France region, excluding overheads and contingencies. <sup>1325</sup>
<b>Selective/Automatic</b>	Production support is awarded selectively by a Reading Committee (Comité de lecture). <sup>1326</sup> Post-production support is also awarded selectively, by a Screening Commission and a Pre-selection Committee. <sup>1327</sup>
<b>Nouvelle Aquitaine</b>	
<b>Aid intensity</b>	Support can be combined with other public funds within the limit of the aid intensity rules authorised by Article 54 of Rule (UE) on general exemption by category No 651/2014 of 17 June 2014.  The maximum amount awarded ranges from EUR 30 000 (for TV documentary works) to EUR 250 000 (feature animation). <sup>1328</sup>
<b>Repayable</b>	The support is non repayable.
<b>Eligible costs</b>	N/A.
<b>Selective/Automatic</b>	Selectively by a validation committee upon the advice of an expert committee. <sup>1329</sup>
<b>Hauts de France</b>	
<b>Aid intensity</b>	The aid granted may cover up to 50% of the production costs, raised to 60% for cross-border productions and “difficult” works and 100% for co-productions involving countries on the DAC of the OECD. <sup>1330</sup>  The maximum amount awarded ranges from EUR 30 000 (TV animation short films or documentary web doc) to EUR 400 000 (feature fiction film, TV animation series). Support for short films can cover up to 49% of the total cost of the work, to a maximum of EUR 30 000. <sup>1331</sup>
<b>Repayable</b>	The support is not repayable as the fund participates as a co-producer. <sup>1332</sup>
<b>Eligible costs</b>	They include, <i>inter alia</i> : set and costume costs, shooting costs, post-production costs, etc. Moreover, at the time of application, the producer must provide a detailed proposition detailing regional expenditure. Similar costs apply for short film and animation. <sup>1333</sup>

<sup>1325</sup> Article 2.2 of Annex 1 of Deliberation 2017.

<sup>1326</sup> Article 3 of Annex 1 of Deliberation 2017.

<sup>1327</sup> Article 3 of Annex 1 of Deliberation 2015.

<sup>1328</sup> P. 11-12 of the Guidelines.

<sup>1329</sup> P. 9-10 of the Guidelines for Region Nouvelle Aquitaine.

<sup>1330</sup> Article 5.3 and 5.5 of their respective guidelines for Fiction, Animation, Documentary and New Media and Articles 4.3 and 4.5 of the Animation Regulation.

<sup>1331</sup> Articles 4.3 and 4.4 of the Short Film Regulation.

<sup>1332</sup> Articles 5.5.2 of Fiction/ Documentary/New Media Regulation; Article 4.4.2 of Short Film Regulation; and Article 4.5.2 of the Animation Regulation.

<sup>1333</sup> Article 5.1 of the Regulation for fiction, documentary and new media, and Article 4.1 of the Short Film Regulation.



<b>Selective/Automatic</b>	Support is awarded selectively by the Reading Committee based on artistic and cultural criteria but also taking account of economic and employment benefits to the region. <sup>1334</sup>
<b>Provence-Alpes-Côte d'Azur</b>	
<b>Aid intensity</b>	Aid intensity is fixed at 50% of the total costs for new media, co-production, Internet content, TV fiction and animation; 60% of the total costs for difficult works or low-budget works; and 80% of the total costs for short films or creative documentaries.  The maximum amount awarded ranges from EUR 15 000 (TV documentary works without pre-sale) to EUR 200 000 (feature, animation and fiction films). <sup>1335</sup>
<b>Repayable</b>	A repayable investment for feature-length drama, documentary works and animation; and a non-repayable subsidy for the other formats. <sup>1336</sup>
<b>Eligible costs</b>	Costs incurred in the region linked to the production of the supported film and paid by the grant recipient. <sup>1337</sup>
<b>Selective/Automatic</b>	Selectively by a Reading Committee, which assesses the quality, cultural and economic aspects of the work on the basis of the eligibility criteria. <sup>1338</sup>
<b>Grand Est</b>	
<b>Aid intensity</b>	The aid intensity is, in principle, limited to 50% (60% for "difficult" films, low-budget films or European co-production with countries bordering the region, and increased to 80% for short films).  The maximum amount awarded ranges from EUR 30 000 (for one-off short drama) to EUR 300 000 (for feature fiction film). <sup>1339</sup>
<b>Repayable</b>	The support is non-repayable.
<b>Eligible costs</b>	The eligible costs must entail expenses in the Grand Est region through employment, services, material or logistics. <sup>1340</sup>
<b>Selective/Automatic</b>	Selectively by a Consultative Committee <sup>1341</sup> on the basis of the following criteria: overall artistic quality, financial and technical feasibility, regional impact, and the expected visibility of the work in the region.
<b>Bretagne</b>	
<b>Aid intensity</b>	The Guidelines do not make specific mention of aid intensity. The maximum amount awarded ranges from EUR 35 000 (TV documentary

<sup>1334</sup> Articles 5.8 of Fiction/ Documentary Regulation, Articles 4.7 of Short Film/Animation Regulation, Article 6.2 of New Media Regulation.

<sup>1335</sup> P. 8 and 10 of the Cinema and Audiovisual Framework.

<sup>1336</sup> P.9 of the Cinema and Audiovisual Framework.

<sup>1337</sup> Nomenclatures of eligible expenditure p.62-66 of the Cinema and Audiovisual Framework.

<sup>1338</sup> P.4 and p .9 of the Cinema and Audiovisual Framework.

<sup>1339</sup> P.3-4 of each set of guidelines.

<sup>1340</sup> Ibid.

<sup>1341</sup> P. 2-3 of each set of guidelines.



	works) to EUR 200 000 (feature films). <sup>1342</sup>
<b>Repayable</b>	The support is non-repayable and awarded as a flat-rate investment grant. <sup>1343</sup>
<b>Eligible costs</b>	N/A.
<b>Selective/Automatic</b>	Awarded selectively by a Reading Committee, which assesses the artistic quality of each project studied and the feasibility and coherence of the project. <sup>1344</sup>

### 7.11.3.5. Spending and shooting criteria

#### A) CNC

<b>Aides Financières Automatiques (Cinéma)</b>	
<b>Spending in the country</b>	<p>There are no specific requirements pertaining to a minimum spending in France. However, the direct allocations for short cinematographic works are awarded to works that give rise to production expenses in France amounting to at least 80% of their final cost, or the French share in the case of international co-production, up to a maximum of 160% of the cumulative amount of sums invested and direct allocations.<sup>1345</sup></p> <p>Furthermore, the Guidelines for automatic support stipulate that the production company must be established in France, and that the film must be made with the participation of studios and laboratories established in France or a member state of the EU.<sup>1346</sup> In addition, in order to access automatic support, the film must obtain a minimum of 25 points out of a total of 100 on an evaluation scale which assesses: the language of shooting; the location of the principal photography and post-production; and the nationality of the project's authors, actors, cast and crew.<sup>1347</sup> This scale and the number of points obtained also weigh on the amounts transferred to the automatic account.<sup>1348</sup> In the case of automatic direct allocations for production, the film must obtain a minimum of 64 points.<sup>1349</sup></p>
<b>Shooting in the country</b>	See the shooting location criteria included in the evaluation scale referred to above.
<b>Aides Financières Sélectives (Cinéma)</b>	

<sup>1342</sup> P. 11 of the FACCA Regulation.

<sup>1343</sup> P.12 of the FACCA Regulation.

<sup>1344</sup> P.1 and 5 of the FACCA Regulation.

<sup>1345</sup> Article 411-22 of the RGA.

<sup>1346</sup> P.4-5 of the Guidelines - The approval of long-term films (*Descriptif - L' des films de longue durée*), <https://www.cnc.fr/documents/36995/144781/descriptif+de+1%27agr%C3%A9ment.pdf/c35eafcc-2f53-2a0d-d8a5-0b128391034b>.

<sup>1347</sup> For feature fiction film, Article 211-9 of the RGA.

<sup>1348</sup> Articles 211-34 to 211-37 of the RGA.

<sup>1349</sup> Article 211-85 to 211-86 of the RGA.



<b>Spending in the country</b>	Spending obligations are only laid down for the production support of genre films, where at least 50% of the total production budget must be spent in France (or 50% of French participation for co-production). <sup>1350</sup>
<b>Shooting in the country</b>	N/A.
<b>Fonds de Soutien Audiovisuel (FSA – formerly COSIP)</b>	
<b>Spending in the country</b>	At least 50% of the budget. <sup>1351</sup> The production expenses incurred in France taken into account for the calculation of the support are capped at 80% of the production budget. <sup>1352</sup> Furthermore, automatic support is calculated based on the expenditure on French elements. <sup>1353</sup> When a work is produced as part of an international co-production, the work must be subject to production expenses in France amounting to at least 50% of the French participation. <sup>1354</sup>
<b>Shooting in the country</b>	N/A.
<b>Fonds d'Aide aux Expériences Numériques (Fonds XN)</b>	
<b>Spending in the country</b>	At least 50% of the budget. <sup>1355</sup> When the work is produced as part of an international co-production, the work must be subject to production expenses in France amounting to at least 50% of the French participation. <sup>1356</sup>
<b>Shooting in the country</b>	N/A.
<b>Aide aux Cinémas du Monde</b>	
<b>Spending in the country</b>	Between 50% and 75% of the support awarded must be spent in France. <sup>1357</sup> Where the co-production is with a country from Sub-Saharan Africa or an under-developed country (as defined by the UN), or in a defined priority zone, a minimum of 25% must be spent in that foreign territory. <sup>1358</sup>
<b>Shooting in the country</b>	N/A.
<b>Aides à la création visuelle ou sonore par l'utilisation des technologies numériques de l'image et du son - CVS (anciennement NTP)</b>	
<b>Spending in the</b>	Direct allocations are granted in order to contribute to visual effects expenses provided in France by companies established in France. <sup>1359</sup> These expenses

<sup>1350</sup> Article 211-118-2 of the RGA.

<sup>1351</sup> Article 311-15 of the RGA.

<sup>1352</sup> Article 311-17 of the RGA.

<sup>1353</sup> Article 311-43 of the RGA.

<sup>1354</sup> Article 311-16 of the RGA.

<sup>1355</sup> Article 321-9 of the RGA.

<sup>1356</sup> Ibid.

<sup>1357</sup> Article 4 of the Decree No. 2012-543 of 23 April 2012 on aid to world cinemas.

<sup>1358</sup> Ibid.

<sup>1359</sup> Article 621-8 of the RGA.



<b>country</b>	<p>must amount to certain minimum amounts,<sup>1360</sup> or to an amount at least equal to 50% of the production budget of the French work (or participation in the case of an international co-production). The expenses taken into account for the calculation of the direct allocation are capped at 80% of the production budget of the work or of the French contribution.<sup>1361</sup></p> <p>In the case of selective support, only expenses incurred in France are taken into consideration.</p>
<b>Shooting in the country</b>	N/A.

## B) Regional funds

<b>Ile de France</b>	
<b>Spending in the region</b>	For production support, at least 50% of the film's budget (excluding overheads, contingency, financial and insurance fees) must be spent in Ile de France. <sup>1362</sup> For post-production support, at least 10% of the film's production budget and 100% of the awarded amount must be spent in Ile de France. <sup>1363</sup>
<b>Shooting in the region</b>	<p>To be eligible for this support scheme, at least 20 shooting days, and no less than 50% of the total shooting time must be located in Ile de France.</p> <p>In the case of European co-productions financed by at least three countries, each of them contributing a minimum of 15% to the budget, and where shooting takes place in all three territories, shooting in Ile de France must be equal to at least 40% of the total.</p> <p>In the case of non-European films, at least 10 days and 40% of the shooting time must take place in Ile de France.<sup>1364</sup></p>
<b>Nouvelle Aquitaine</b>	
<b>Spending in the region</b>	No specific requirements are established. However, as explained in section 7.11.2.2, some of the eligibility criteria include "significant production activity or principle photography takes place in the region" or "significant regional competencies are used in terms of employment and technical services for the production of the work".
<b>Shooting in the region</b>	N/A.
<b>Hauts de France</b>	
<b>Spending in the region</b>	For fiction and documentary support, 160% of the aid granted must be spent in the Hauts de France region. <sup>1365</sup> For short film, animation and new media support there is no specific minimum spending is required, but priority is

<sup>1360</sup> Article 621-9 of the RGA.

<sup>1361</sup> Article 621-10 of the RGA.

<sup>1362</sup> Article 2.2 of Annex 1 of Deliberation 2017.

<sup>1363</sup> Articles 1.2.2 and 2 of Annex 1 of Deliberation 2015.

<sup>1364</sup> Article 2.1 of Annex 1 of Deliberation 2017.

<sup>1365</sup> Article 5.2 of the Fiction/Documentary Regulation.



	given to projects that create jobs and economic spin-offs in the Hauts-de-France region. <sup>1366</sup>
<b>Shooting in the region</b>	N/A
<b>Provence-Alpes-Côte d'Azur</b>	
<b>Spending in the region</b>	At least 160% (125% for short films) of the awarded amount must be spent in the region, within a limit of 80% of the total budget. <sup>1367</sup>
<b>Shooting in the region</b>	N/A
<b>Grand Est</b>	
<b>Spending in the region</b>	The minimum spending in the region as a share of the awarded amount is 160% for feature films, animation and TV film/series; 100% for TV series pilot; and 80% for short film (or 100% if granted more than EUR 30 000). <sup>1368</sup>
<b>Shooting in the region</b>	No specified shooting requirements but the guidelines state that “a significant part of the production – including shooting and post-production – must take place in the Grand Est region, making use of the region’s resources and residents”. <sup>1369</sup>
<b>Bretagne</b>	
<b>Spending in the region</b>	<p>No more than 50% of the budget or 160% of the amount of aid obtained.<sup>1370</sup> More specifically, depending on the type of work supported, the minimum spending required in the region (as a percentage of the amount awarded) is as follows:</p> <ul style="list-style-type: none"> <li>■ Short films and innovative projects: 130% of the awarded amount and 25% of the overall budget (or, where more than 35% of the budget is spent in the region, only 100% of the attributed regional aid is required to be spent in region);</li> <li>■ Feature fiction and animation: 120% of the awarded amount and 10% of the budget;</li> <li>■ TV fiction (one-off and series): 140% of the attributed regional aid and 20% of the budget;</li> <li>■ TV animation: 120% of the attributed regional aid and 15% of the budget;</li> <li>■ Feature TV fiction: 140% of the attributed regional aid and 10% of the budget;</li> <li>■ Documentary works: 120% of the attributed regional aid and 30% of the budget;</li> <li>■ Internet content: the amount of minimum spending to be respected is that which corresponds to the audiovisual category concerned (TV</li> </ul>

<sup>1366</sup> Article 4.2 of the Short Film/Animation Regulation, Article 5.2 of New Media Regulation.

<sup>1367</sup> Article 4.2 of the Short Film Regulation/Animation Regulation; article 5.2 of New Media Regulation.

<sup>1368</sup> P.2 of each set of guidelines.

<sup>1369</sup> P.2 of Feature films production guidelines.

<sup>1370</sup> P. 2-3 of the FACCA Regulation FACCA.



	film and series, documentary works).  In addition, priority will be given to projects that create jobs in the region. <sup>1371</sup>
<b>Shooting in the region</b>	There are no minimum shooting requirements. However, priority will be given to projects where the shooting in the region accounts for more than 50% of the total shooting time. <sup>1372</sup>

### 7.11.3.6. Talent, cast, crew, underlying copyright

#### A) CNC

<b>Aides Financières Automatiques (Cinéma)</b>
As explained in section 7.11.2.2, the cinematographic work must be produced with a minimum proportion of French participation. Moreover, in order to access automatic support, the film must obtain a minimum of 25 points (or 64 points for direct allocations) out of a total of 100 on an evaluation scale which assesses, <i>inter alia</i> , the nationality or place of residence of the project's authors, actors, cast and crew. <sup>1373</sup>
<b>Aides Financières Sélectives (Cinéma)</b>
As explained in section 7.11.2.2, the film must be produced with a minimum proportion of French participation.
<b>Fonds de Soutien Audiovisuel (FSA – formerly COSIP)</b>
The general provisions regulating FSA support require that the audiovisual work be produced in a minimum proportion with the assistance of authors, main actors and technical creative collaborators who are either French nationals, nationals of an EU or EEA member state, nationals from a state party to the European Convention on Transfrontier Television of the Council of Europe or from a European third state with which the EU has concluded agreements relating to the audiovisual sector or from a state party to an intergovernmental co-production agreement when the work is made within the framework of such an agreement. <sup>1374</sup>  With regard to automatic support, the amount of finance is allocated based on a calculation which takes into account, <i>inter alia</i> , the nationality or place of residence of the talent, cast and crew. <sup>1375</sup>
<b>Aide aux Cinémas du Monde</b>
The director of the project must be a foreign citizen or, where the director holds French nationality, the language of the film must not be French. <sup>1376</sup>

<sup>1371</sup> p.5 of the FACCA Regulation.

<sup>1372</sup> Ibid.

<sup>1373</sup> Article 211-9 of the RGA.

<sup>1374</sup> Article 311-14 of the RGA.

<sup>1375</sup> Article 311-43 of the RGA.

<sup>1376</sup> Article 4 of Decree No. 2012-543 of 23 April 2012 on aid to world cinemas.



## B) Regional funds

There are no requirements regarding the nationality of the talent, cast and crew or related to the underlying copyrights. However, for Nouvelle Aquitaine, the place of establishment of the writer/director or of the production company in the region are cultural assessment criteria, as described in section 7.11.2.2.

### 7.11.3.7. Shooting language and diversity

#### A) CNC

##### Aides Financières Automatiques (Cinéma)

In order to be eligible for investment allowances for short cinematographic works, the works are required to be produced mainly in French or in a regional language in use in France, or for which the use of a foreign language is justified for artistic reasons relating to the scenario.<sup>1377</sup> The same applies to direct allocations.<sup>1378</sup> In addition, the shooting language is one of the assessment criteria used to determine eligibility for automatic aid, as explained in section 7.11.3.5.

Moreover, direct allowances of an amount equal to 15% of the investment by production companies for the production of feature films of French initiative can be allocated when there is a balanced female participation in key positions.<sup>1379</sup>

##### Aides Financières Sélectives (Cinéma)

In order to be eligible for production support, feature films are required to be produced entirely or mainly in their original version in French or in a regional language in use in France.<sup>1380</sup>

Regarding diversity, there is a scheme for the production of films promoting overseas cultures aimed at Guadeloupe, French Guiana, Martinique, Reunion, Mayotte and Saint-Pierre-et-Miquelon. Grants are awarded in consideration of the contribution that films are likely to make to a better knowledge of these communities, to their promotion to a wider audience, to the promotion of their cultural expressions or to the training of their residents in cinematographic expression and film professions.<sup>1381</sup>

##### Fonds de Soutien Audiovisuel (FSA – formerly COSIP)

Where a television programme is produced by one or several production companies established in France, it must be mainly in the French language or a regional language in use in France.<sup>1382</sup>

In addition, with regards to automatic support, the fact that the work has been made entirely or mainly in the original version in French or in a regional language in use in France is one of the criteria that may increase by 25% the amount transferred to the automatic accounts of production companies.<sup>1383</sup>

<sup>1377</sup> Article 411-12 of the RGA.

<sup>1378</sup> Article 211-84 and in Article 411-22 of the RGA.

<sup>1379</sup> Articles 211-86-1 to article 211-86-6 of the RGA.

<sup>1380</sup> Article 211-104 (Production support before shooting); Article 211-118-2 (Production support for genre films); and Article 211-126 (Post-production support), of the RGA.

<sup>1381</sup> Article 211-149 and 211-150 of the RGA.

<sup>1382</sup> Article 311-15 of the RGA.

<sup>1383</sup> Article 311-50 of the RGA.



<b>Fonds d'Aide aux Expériences Numériques (Fonds XN)</b>
The work must be conceived and written principally in French or in a regional language of France. <sup>1384</sup>
<b>Fonds d'Aide aux Créateurs Vidéo sur Internet (CNC Talent)</b>
Eligible works are required to be a “ <i>audiovisual work of original French expression</i> ” <sup>1385</sup> , which implies to be produced in their entirety or mainly in their original version in French or in a regional language in use in France. <sup>1386</sup>
<b>Aide aux Cinémas du Monde</b>
The main shooting language is the official language or one of the languages in use in the foreign country or countries where the shooting takes place or in the country of the director. <sup>1387</sup>  Furthermore, priority is given to projects co-produced with production companies established in countries that have ratified the Convention on the Protection and Promotion of the Diversity of Cultural Expressions, countries of Sub-Saharan Africa, under-developed countries (as defined by the UN), and countries on the priority list of the Inter-ministerial Committee for International Co-operation and Development. <sup>1388</sup>
<b>Fonds Images de la Diversité</b>
Production aid is only granted for works produced entirely or mainly in French or in a regional language in use in France, or for which the use of a foreign language is justified for artistic reasons relating to the scenario. <sup>1389</sup>  This scheme is intended to address cultural diversity and equal opportunity, such as the representation of French immigrant populations and their history, integration policies, the fight against discrimination by residents of disadvantaged neighbourhoods, etc. <sup>1390</sup>

## B) Regional funds

There are no requirements regarding the shooting language, ethnic or linguistic minorities and gender, with the exception of Hauts de France and Bretagne which set the following requirements:

- Hauts de France: in the case of documentary works., the work must be shot in a language of the EU. Failing that, the beneficiary must undertake to produce a dubbed and subtitled version in French or in a European language.<sup>1391</sup>

<sup>1384</sup> Article 321-6 and 422-3 of the RGA.

<sup>1385</sup> Article 441-2 of the RGA.

<sup>1386</sup> As per the definition laid down in Article 5 of Decree No. 90-66 of 17 January 1990 implementing Act No. 86-1067 of 30 September 1986 and laying down the general principles governing the distribution of cinematographic and audiovisual works by television service providers (*Décret n° 90-66 du 17 janvier 1990 pris pour l'application de la loi n° 86-1067 du 30 septembre 1986 et fixant les principes généraux concernant la diffusion des œuvres cinématographiques et audiovisuelles par les éditeurs de services de télévision*), <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000342173&categorieLien=cid>.

<sup>1387</sup> Article 4 of Decree No. 2012-543 of 23 April 2012 on aid to world cinemas.

<sup>1388</sup> Article 2 of Decree No. 2012-543 of 23 April 2012 on aid to world cinemas.

<sup>1389</sup> Article 422-28 of the RGA.

<sup>1390</sup> Article 422-3 of the RGA.

<sup>1391</sup> Article 4.2 of the Documentary Regulation, *Op. cit.*



- Bretagne: the Procedure for Selection indicates that, consistent with regional linguistic policies, projects may be presented in Breton.<sup>1392</sup>

## 7.11.4. Funding criteria applicable to pre-production support

### 7.11.4.1. Budget

#### A) CNC

Aides Financières Automatiques (Cinéma)
This fund is only available to producers with an automatic account, thus writers cannot access it directly, but must have entered into an agreement with a producer in possession of an automatic account in order to apply.
Aides Financières Sélectives (Cinéma)
There are no specific requirements. However, for project's concept support (Aides à la conception de projets), the applicants/authors must be able to demonstrate that a previous project on which they have collaborated achieved theatrical release and had a budget of under EUR 4 million. <sup>1393</sup>
Fonds de Soutien Audiovisuel (FSA – formerly COSIP)
To be eligible for development support, the production company is required to contribute a minimum of 20% of the awarded amount. <sup>1394</sup>
Dispositif pour la Création Artistique Multimedia et Numérique (DICRéAM)
The work must be financed by a contribution in cash of at least 25% of the production expenses. <sup>1395</sup>

#### B) Regional funds

The budget of an eligible project is not subject to any minimum threshold or maximum cap in any of the regional funds, nor is anything stipulated regarding a minimum contribution from the applicant.

### 7.11.4.2. Awarded amount

#### A) CNC

Aides Financières Automatiques (Cinéma)	
<b>Aid intensity</b>	The producer's investment of available sums in their existing automatic

<sup>1392</sup> P.4 of the FACCA Regulation, *Op. cit.*

<sup>1393</sup> Article 212-11 of the RGA, *Op. cit.*

<sup>1394</sup> Article 312-41 of the RGA, *Op. cit.*

<sup>1395</sup> Article 322-15 of the RGA, *Op. cit.*



	<p>account may not exceed 10% of the estimated development budget, up to a maximum of EUR 230 000 (EUR 500 000 for animation).<sup>1396</sup> Moreover, a direct allocation equal to up to 25% of the amount invested by the production company is also possible.<sup>1397</sup></p> <p>Direct allocations are limited to the following caps:<sup>1398</sup></p> <ul style="list-style-type: none"> <li>■ Direct grants for the financing of development expenditure (other than writing and rights purchases): equal to 20 % of the amount of the selective aid granted;<sup>1399</sup></li> <li>■ Direct grants for projects developed jointly by at least two production companies under certain conditions:<sup>1400</sup> equal to 40% of the amount of the selective aid granted;</li> <li>■ Direct grants for “difficult” projects:<sup>1401</sup> equal to 100% of the amount of the selective aid granted;</li> <li>■ Direct grants for projects including the creation of an original soundtrack: equal to 40% of the amount of the selective aid granted.</li> </ul>
<b>Repayable</b>	The investment from the producer’s automatic account is repayable. Direct grants are non-repayable. <sup>1402</sup>
<b>Eligible costs</b>	Direct grants for development are intended to contribute to the financing of development expenditure other than expenditure on writing, rewriting, rights purchases and graphic design work. <sup>1403</sup>
<b>Selective/Automatic</b>	Awarded automatically.
<b>Aides Financières Sélectives (Cinéma)</b>	
<b>Aid intensity</b>	<p>The RGA does not set specific aid intensity rules as a share of the budget for selective pre-production support. The maximum amounts awarded for each scheme are as follows:<sup>1404</sup></p> <ul style="list-style-type: none"> <li>■ Project’s concept support: up to EUR 10 000;</li> <li>■ Scriptwriting support: up to EUR 30 000 (with a maximum of EUR 20 000 for the author);</li> <li>■ Script rewriting support: up to EUR 21 000 (with a maximum of EUR 9 000 for the author), or up to EUR 2 000 for short films;</li> <li>■ Project development support: up to EUR 70 000 (or EUR 100 000 for</li> </ul>

<sup>1396</sup> Article 211-71 of the RGA, *Op. cit.*

<sup>1397</sup> Article 211-88 of the RGA, *Op. cit.*

<sup>1398</sup> Articles 212-3 to 212-6 of the RGA, *Op. cit.*

<sup>1399</sup> Article 212-3 of the RGA, *Op. cit.*

<sup>1400</sup> Articles 212-50 and 212-51 of the RGA, *Op. cit.*

<sup>1401</sup> The project involves for example a first-time feature film director and a production company that has produced no more than two feature films for which investment approval and production approval have been granted. See details in Article 212-4 (3) of the RGA, *Op. cit.*:

<sup>1402</sup> Article 212-7 of the RGA, *Op. cit.*

<sup>1403</sup> Article 212-3 of the RGA, *Op. cit.*

<sup>1404</sup> Article 212-16 (Project’s concept support), Article 212-30 (Scriptwriting support), Article 212-47 (Script rewriting support), Article 411-36-2-1 (Script rewriting for shorts), Article 212-57 (Project development support) of the RGA, *Op. cit.*



	animation), with a cap at 50% of the costs of writing, rewriting and purchasing rights.
<b>Repayable</b>	In the case of project's concept, scriptwriting and script rewriting, the support takes the form of a non-repayable grant. <sup>1405</sup> In the case of project development, the support takes the form of a repayable advance for feature films <sup>1406</sup> and a non-repayable grant for short films. <sup>1407</sup>
<b>Eligible costs</b>	The eligible costs mainly correspond to the writer's fee, and are outlined in the agreement between the CNC and the applicant.
<b>Selective/Automatic</b>	Awarded selectively by the Writing and Script Rewriting Assistance Commission <sup>1408</sup> or the Commission for Project Development Aid. <sup>1409</sup>
<b>Fonds de Soutien Audiovisuel (FSA)</b>	
<b>Aid intensity</b>	In the case of automatic development support, where the producer has an automatic account, up to 40% of the amount in the account can be automatically drawn down from this account to use for project preparation, with a cap at 40% of the development budget, up to a maximum of EUR 100 000. <sup>1410</sup> The support may be increased to 50% for fiction works and to 60% for animated work under certain conditions. <sup>1411</sup> If the producer does not have access to/balance in such an account, they can apply for selective funding.  The aid intensity rules for selective support are as follows: <sup>1412</sup> <ul style="list-style-type: none"> <li>■ Development support: up to 40% of the expenses, increased to 50% for the first season of an animated audiovisual work, and capped at a maximum of EUR 100 000;</li> <li>■ Concept support: between EUR 7 500 and EUR 40 000 for projects involving fiction works, EUR 10 000 for animation projects and EUR 25 000 for unitary work projects;</li> <li>■ Scriptwriting support: between EUR 8 000 and EUR 20 000 for series or unitary animation projects (depending on the estimated duration of the work);</li> <li>■ Support for the co-writing of projects for the international co-production of audiovisual fiction works: EUR 50 000;</li> <li>■ Rewriting support: up to EUR 15 000 for fiction projects (series), and up to EUR 12 500 for unitary work projects; up to EUR 12 000</li> </ul>

<sup>1405</sup> Article 212-17 (Project's concept support); Article 212-31 (Scriptwriting support); Article 212-48 (Script rewriting support); and Article 411-36-2-2 (Script rewriting for shorts), of the RGA.

<sup>1406</sup> Article 212-59 of the RGA.

<sup>1407</sup> Article 411-50-3 of the RGA.

<sup>1408</sup> Article 212-26 ; 212-43 of the RGA.

<sup>1409</sup> Article 212-56 of the RGA.

<sup>1410</sup> Article 311-75 and Article 311-76 of the RGA.

<sup>1411</sup> Article 311-76 of the RGA.

<sup>1412</sup> Article 311-109-1 (Preparation), Article 312-19 (Concept and Scriptwriting support); Article 312-21-10 (co-writing of projects for the international co-production of audiovisual fiction works); and Article 312-36 (Rewriting support) of the RGA.



	for animation projects (for series), and up to EUR 10 000 for unitary work projects.
<b>Repayable</b>	Automatic aid is, in principle, non-repayable. Selective support is non-repayable for preparation support. In the case of scriptwriting and development support, where the project goes subsequently into production, the pre-production funding is integrated into the global calculation of the production support. If the project does not receive production approval within two years, the CNC may request full or partial repayment of the amount awarded as development support. <sup>1413</sup>
<b>Eligible costs</b>	Automatic support is not calculated based on eligible costs. The eligible costs for selective support mainly include expenditure related to the remuneration of authors and other collaborators, the acquisition of literary and artistic rights, research and pre-selection of performers, etc. <sup>1414</sup>
<b>Selective/Automatic</b>	Automatic support is awarded automatically. Selective support is awarded upon consultation of the relevant specialised Committee for development support, <sup>1415</sup> or of the Commission for innovation support for the other funding schemes. <sup>1416</sup>
<b>Fonds d'Aide aux Expériences Numériques (Fonds XN)</b>	
<b>Aid intensity</b>	The amount awarded for development support must not exceed 50% of the production costs. This threshold can be increased to 60% for "difficult" works <sup>1417</sup> . There is no aid intensity specified for scriptwriting.
<b>Repayable</b>	The support takes the form of a non-repayable grant. <sup>1418</sup>
<b>Eligible costs</b>	A written agreement between the applicant and the CNC establishes eligible costs and how these will be calculated. <sup>1419</sup>
<b>Selective/Automatic</b>	Awarded selectively by the Commission of immersive or interactive support. <sup>1420</sup>
<b>Dispositif pour la Création Artistique Multimedia et Numérique (DICRéAM)</b>	
<b>Aid intensity</b>	The awarded amounts cannot exceed 75% of the development expenses. <sup>1421</sup>
<b>Repayable</b>	The support is awarded as a non-repayable grant. <sup>1422</sup>

<sup>1413</sup> Article 312-21 (Concept and Scriptwriting); Article 312-21-12 (Co-writing of projects for the international co-production of audiovisual fiction works); and Article 312-54 (Development).

<sup>1414</sup> Article 311-104 (preparation), Article 312-45 (development) of the RGA.

<sup>1415</sup> Article 311-108 of the RGA.

<sup>1416</sup> Article 312-14 (Concept and Scriptwriting); Article 312-21-8 of the RGA (Co-writing of projects for the international co-production of audiovisual fiction works ), Article 312-34 (Rewriting), Article 312-51 (Development) of the RGA.

<sup>1417</sup> Article 321-23 of the RGA.

<sup>1418</sup> Article 321-26 (Development), Article 321-35 (Scriptwriting) of the RGA, *Op. cit.*

<sup>1419</sup> *Ibid.*

<sup>1420</sup> Article 321-25 (Development) and Article 321-34 (Scriptwriting) of the RGA.

<sup>1421</sup> Article 322-7 of the RGA.

<sup>1422</sup> Article 322-11 and 322-12 of the RGA.



<b>Eligible costs</b>	The agreement between the applicant and the CNC outlines eligible expenses. <sup>1423</sup>
<b>Selective/Automatic</b>	Awarded selectively by the Commission on support for multimedia and digital artistic creation. <sup>1424</sup>
<b>Fonds Images de la Diversité</b>	
<b>Aid intensity</b>	<ul style="list-style-type: none"> <li>■ Development of feature films and television productions: up to 50% of the production costs; 60% for “difficult” or low-budget works; 70% for short films;<sup>1425</sup></li> <li>■ Scriptwriting: the maximum amount awarded is EUR 10 000 for TV pilots, short TV series or TV one-offs and new media projects, and EUR 20 000 for feature films, feature audiovisual one-offs and 52-minute-per-episode audiovisual series.<sup>1426</sup></li> </ul>
<b>Repayable</b>	The support takes the form of a non-repayable grant. <sup>1427</sup>
<b>Eligible costs</b>	The agreement between the applicant and CNC outlines eligible expenses. <sup>1428</sup>
<b>Selective/Automatic</b>	Awarded selectively by the Images of Diversity Commission <sup>1429</sup>

## B) Regional funds

<b>Ile de France</b>	
<b>Aid intensity</b>	<p>The grant must be used to remunerate the scriptwriter and for participation in script workshops, over the period of an 18-month contract.<sup>1430</sup> Maximum grants are as follows:</p> <ul style="list-style-type: none"> <li>■ Short films (10-30 mins): EUR 8 000 – EUR 12 000;</li> <li>■ Medium-length films (31-59 mins): EUR 10 000 – EUR 14 000;</li> <li>■ Feature films (over 60 mins): EUR 12 000 – EUR 18 000.</li> </ul>
<b>Repayable</b>	Non-repayable. <sup>1431</sup>
<b>Eligible costs</b>	N/A.
<b>Selective/Automatic</b>	Selectively, after a favourable assessment by the script assessment panel and a favourable vote by the permanent commission of the regional council. <sup>1432</sup>

<sup>1423</sup> Article 322-11 of the RGA.

<sup>1424</sup> Article 322-10 of the RGA.

<sup>1425</sup> Article 422-20 of the RGA.

<sup>1426</sup> P.5 of Description of the Diversity Images Fund (*Descriptif du Fonds Images de la diversité*), [https://www.cnc.fr/professionnels/aides-et-financements/multi-sectoriel/images-de-la-diversite/fonds-images-de-la-diversite\\_191484](https://www.cnc.fr/professionnels/aides-et-financements/multi-sectoriel/images-de-la-diversite/fonds-images-de-la-diversite_191484).

<sup>1427</sup> Article 422-14 (Scriptwriting) and Article 422-23 (Development) of the RGA.

<sup>1428</sup> Ibid.

<sup>1429</sup> Article 422-13 (Scriptwriting) and Article 422-22 (Development) of the RGA.

<sup>1430</sup> Article 1.3 of Annex 2 of Deliberation 2017.

<sup>1431</sup> Ibid.



Nouvelle Aquitaine	
<b>Aid intensity</b>	Development support ranges from EUR 5 000 (short animated film) to EUR 30 000 (project development for animation, documentary or fiction works). Scriptwriting support can go up to EUR 20 000 (EUR 10 000 for documentaries and EUR 5 000 for short films). The combination of writing and development support cannot go beyond EUR 40 000. <sup>1433</sup>
<b>Repayable</b>	Non-repayable.
<b>Eligible costs</b>	N/A.
<b>Selective/Automatic</b>	Selectively by a validation committee upon the advisory opinion of an expert committee. <sup>1434</sup>
Hauts de France	
<b>Aid intensity</b>	Support can cover up to 100% of the eligible costs, up to a maximum amount of EUR 15 000 for fiction, EUR 7 500 for documentaries, and EUR 10 000 for new media. <sup>1435</sup>
<b>Repayable</b>	The support is non repayable but the fund participates as a co-producer and must be repaid <i>pro rata</i> from the first euro of revenues generated. <sup>1436</sup>
<b>Eligible costs</b>	The eligible costs can include, <i>inter alia</i> , costs generated by the acquisition of copyright, the costs of finalising writing work, expenses incurred for the employment of technical and artistic collaborators, etc. <sup>1437</sup>
<b>Selective/Automatic</b>	The support is awarded selectively (similar procedure to the one described in section 7.11.3.4.)
Provence-Alpes-Côte d'Azur	
<b>Aid intensity</b>	The aid intensity rules are detailed as follows: <sup>1438</sup> <ul style="list-style-type: none"> <li>■ 50% of the total costs for new media, co-production, Internet content, TV fiction and animation;</li> <li>■ 60% of the total costs for “difficult” or low-budget works;</li> <li>■ 80% of the total costs for short films or creative documentaries.</li> </ul> <p>The maximum amount awarded ranges from EUR 5 000 (Script development for documentary works.) to EUR 20 000 (Co-production development and innovation of fiction and animation; project development for New Media).</p>
<b>Repayable</b>	Non-repayable. <sup>1439</sup>
<b>Eligible costs</b>	<ul style="list-style-type: none"> <li>■ Scriptwriting support: in order to be eligible, they must be incurred</li> </ul>

<sup>1432</sup> Article 1.2 of Annex 2 of Deliberation 2017.

<sup>1433</sup> P. 11-12 of the Guidelines for the Region Nouvelle Aquitaine.

<sup>1434</sup> P.9-10 of the Guidelines.

<sup>1435</sup> Articles 5.3 and 5.5 of the Fiction Regulation and of the Documentary Regulation and of Media Regulation.

<sup>1436</sup> Articles 5.5.2 of the Fiction/Documentary/New Media Regulation.

<sup>1437</sup> Article 5.1 of the respective guidelines for fiction, documentary and new media.

<sup>1438</sup> P. 8 and 10 of the Cinema and Audiovisual Framework.

<sup>1439</sup> P. 5 of the Cinema and Audiovisual Framework.



	<p>in the region, refer to private law bodies, be directly related to the writing of the supported film, and be paid by the grant recipient;</p> <ul style="list-style-type: none"> <li>■ Development support: they must be incurred in the region, be directly linked to the development of the supported film and be paid by the grant recipient.<sup>1440</sup></li> </ul>
<b>Selective/Automatic</b>	The support is awarded selectively by a Reading Committee which assesses the quality, cultural and economic aspect and impact of the work on the basis of the eligibility criteria. <sup>1441</sup>
<b>Grand Est</b>	
<b>Aid intensity</b>	<p>Support can go up to 100% of the writing and development costs, but this amount must then be taken into account if/when the project goes into production in calculating the aid intensity.<sup>1442</sup></p> <p>As regards the maximum amount awarded, it ranges from EUR 3 500 (script development: short film/TV production) to EUR 20 000 (project development: animation).</p>
<b>Repayable</b>	Non-repayable.
<b>Eligible costs</b>	They include, <i>inter alia</i> : costs related to research, costs directly related to the rewriting work, travel expenses, training, external consultations, costs related to tracking work, etc. <sup>1443</sup>
<b>Selective/Automatic</b>	It is awarded selectively by a Reading Committee (script development) or by a consultative committee (development support) on the basis of the overall artistic quality of the project, its regional anchor and its future progress or economic feasibility. <sup>1444</sup>
<b>Bretagne</b>	
<b>Aid intensity</b>	The maximum amount awarded ranges from EUR 3 000 (script development for documentaries) to EUR 20 000 (project development of feature films). <sup>1445</sup>
<b>Repayable</b>	Non-repayable and awarded as a flat-rate investment grant. <sup>1446</sup>
<b>Eligible costs</b>	N/A.
<b>Selective/Automatic</b>	Awarded selectively by a Reading Committee which assesses the artistic quality of each project studied and the feasibility and coherence of the project. <sup>1447</sup>

<sup>1440</sup> Detailed in the Nomenclatures of eligible expenditure, p.62-66 of the Cinema and Audiovisual Framework.

<sup>1441</sup> P. 4 of the Cinema and Audiovisual Framework.

<sup>1442</sup> P. 3 of Script Development Guidelines and Development support guidelines.

<sup>1443</sup> P. 2-3 of the relevant guidelines.

<sup>1444</sup> P. 2 of the relevant guidelines.

<sup>1445</sup> P. 11 of the FACCA Regulation.

<sup>1446</sup> P.12 of the FACCA Regulation.

<sup>1447</sup> P. 1 and 5 of the Regulation FACCA.



### 7.11.4.3. Underlying copyright

At national and regional level, there are no requirements regarding the underlying copyrights (and how these are linked to the country).

### 7.11.4.4. Script language and diversity

#### A) CNC

<b>Aides Financières Automatiques (Cinéma)</b>
The direct allocations for preparation are granted on the condition that the preparatory work relating to design, adaptation and writing gives rise to the preparation of literary and artistic documents written or expressed in French or in a regional language in use in France. <sup>1448</sup>
<b>Aides Financières Sélectives (Cinéma)</b>
In order to be eligible for support, the project must be intended to be produced entirely or mainly in French in the original version or in a regional language in use in France. However, this condition does not apply in the case of projects concerning works of fiction taken from operas and produced in the language of the libretto or projects concerning works of animation. <sup>1449</sup>
<b>Fonds de Soutien Audiovisuel (FSA – formerly COSIP)</b>
Selective support is, with the exception of development support, only awarded to projects conceived and written mainly in the French language or in a regional language of France. <sup>1450</sup>
<b>Fonds d'Aide aux Expériences Numériques (Fonds XN)</b>
Support is only awarded to projects conceived and mainly written in the French language or in a regional language of France. <sup>1451</sup>
<b>Fonds Images de la Diversité</b>
Aid is only granted for projects designed and written entirely or mainly in French or in a regional language used in France, or for which the use of a foreign language is justified for artistic reasons relating to the script <sup>1452</sup> . Furthermore, as explained in section 7.11.3.7, this funding scheme is intended to address cultural diversity and equal opportunity. The support is for projects that represent the French immigrant population and their stories as well as those that address equality between men and women and target disadvantaged populations in France.

#### B) Regional funds

There are no requirements regarding the underlying copyright (and how this is linked to the country), with the exception of the three following regional funds:

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<sup>1448</sup> Article 211-87 of the RGA.

<sup>1449</sup> Article 212-12 (Project concept), Article 212-23 (Scriptwriting), Article 212-39 (Rewriting), Article 212-52 (Development) of the RGA.

<sup>1450</sup> Article 312-8 (Concept and Scriptwriting support); Article 312-21-5 (Co-writing of projects for the international co-production of audiovisual fiction works); Article 312-28 (Rewriting support); and Article 312-44 (Development) of the RGA.

<sup>1451</sup> Article 321-19 (Development), Article 321-30 (Scriptwriting) of the RGA.

<sup>1452</sup> Article 422-10 (Scriptwriting), Article 422-19 (Development) of the RGA.



- Ile de France: the script must be in French.<sup>1453</sup>
- Nouvelle-Aquitaine: the writer/director, writer or co-writer must have their principle residence in Nouvelle-Aquitaine, or have entered into a contract with a production company based in the region.<sup>1454</sup>
- Bretagne: the Procedure for Selection indicates that, consistent with regional linguistic policies, projects may be presented in Breton.<sup>1455</sup>

## 7.11.5. Funding criteria applicable to distribution and promotion support

### 7.11.5.1. Theatrical release, broadcasting and visibility on VOD

At regional level, none of the six regional funds mentioned above provide distribution or promotion support. At national level, the following applies:

#### Aides Financières Automatiques (Cinéma)

##### 1) Theatrical distribution

The allocation of investment allowances (reference funding) requires the existence of an automatic account opened in the name of a distribution company at the CNC. The amount available in the account is calculated on the basis of the previous commercial theatrical performance of films distributed by the company.<sup>1456</sup>

Moreover, direct funding can also be granted for the theatrical distribution of films. In order to be eligible for this support, the distribution company must, among other things, have distributed at least three feature films in the 24 preceding months, each released in at least five cinemas at the time of their national theatrical release.<sup>1457</sup> In addition, eligible films must have a theatrical release on between five and 200 screens".<sup>1458</sup>

##### 2) Theatrical screening of short films

Direct allocations to feature programmes (feature film plus a short film): A minimum of five copies and 200 screenings are required.<sup>1459</sup> Direct allocations to short programmes (mainly made up of short films and audiovisual works): awarded depending on their theatrical performance.<sup>1460</sup>

##### 3) Support for the promotion of cinematographic works abroad

This type of support is reserved for foreign sales companies that have the foreign exploitation rights of at least three feature films for which production approval has been granted by the CNC,

<sup>1453</sup> Article 1.1.2 of Annex 2 of Deliberation 2017, *Op. cit.*

<sup>1454</sup> P. 5-8 of Guidelines for Region Nouvelle-Aquitaine, *Op. cit.*

<sup>1455</sup> P. 4 of the FACCA Regulation, *Op. cit.*

<sup>1456</sup> Articles 221-6 to 221-10 of the RGA, *Op. cit.*

<sup>1457</sup> Article 221-23-2 of the RGA, *op.cit.*

<sup>1458</sup> Article 221-23-3 of the RGA, *Op. cit.*

<sup>1459</sup> Article 412-7 of the RGA, *Op. cit.*

<sup>1460</sup> Article 412-11 and Article 211-27 of the RGA, *Op. cit.*



for all forms of distribution in at least 15 states and for a minimum period of twenty-four months.<sup>1461</sup> The amount is calculated on the basis of the commercial theatrical performance (between EUR 0.85 and EUR 0.05 per ticket sold, depending on the number of admissions).<sup>1462</sup>

#### Aides Financières Sélectives (Cinéma)

Selective support for theatrical distribution may be granted either for unreleased works<sup>1463</sup>, repertoire works<sup>1464</sup> or for works intended for young audiences.

In the case of the distribution of unreleased works and repertoire works, the distribution company is required to justify a regular distribution activity, notably by having distributed at least three cinematographic works in each of the two years preceding the application.<sup>1465</sup> Furthermore, the distributor must undertake to release the film within one year in a minimum number of theatres:

- Distribution of unreleased works: at least 30 French cinemas;<sup>1466</sup>
- Distribution of repertoire works: at least 15 French cinemas;<sup>1467</sup>
- Distribution of works intended for young audiences: at least 30 French cinemas.<sup>1468</sup>

#### Fonds de Soutien Audiovisuel (FSA – formerly COSIP)

The FSA provides automatic and selective support for the promotion and sales abroad of audiovisual works. In both cases, the applicant company must be able to demonstrate international sales for eligible programmes during the previous 12 months for a value of EUR 100 000, or during the previous 24 months to a value of EUR 200 000.<sup>1469</sup>

#### Fonds d'Aide aux Créateurs Vidéo sur Internet (CNC Talent)

The scheme provides distribution support through the programme entitled: "Aid for the enrichment and editorialisation of digital channels' programmes." The applicant must be able to demonstrate a minimum of 50 000 subscribers to their Internet channel.<sup>1470</sup>

#### Dispositif pour la Création Artistique Multimedia et Numérique (DICRéAM)

This scheme offers support for the dissemination of innovative and experimental works. There are no specific requirements regarding theatrical release, broadcasting or VOD, nor regarding release

<sup>1461</sup> Article 721-5 of the RGA.

<sup>1462</sup> Article 721-14 of the RGA.

<sup>1463</sup> Unreleased cinematographic works where distribution is particularly difficult, Article 221-24 of RGA.

<sup>1464</sup> Films whose production dates back more than 20 years and which have not been released in cinemas during the ten years preceding the request; Article 221-42 of the RGA.

<sup>1465</sup> Article 221-28 (Unreleased works), Article 221-44 (Repertoire works) of the RGA.

<sup>1466</sup> Aide sélective à la distribution - 1er collège (films inédits) (Selective distribution support - 1st college (unreleased films)), [https://www.cnc.fr/professionnels/aides-et-financements/cinema/Distribution/aide-selective-a-la-distribution--1er-college-films-inedits\\_191140](https://www.cnc.fr/professionnels/aides-et-financements/cinema/Distribution/aide-selective-a-la-distribution--1er-college-films-inedits_191140).

<sup>1467</sup> Aide sélective à la distribution - 2e collège (films de répertoire) (Selective distribution support - 2nd college (repertory films)), [https://www.cnc.fr/professionnels/aides-et-financements/cinema/Distribution/aide-selective-a-la-distribution--2e-college-films-de-repertoire\\_191132](https://www.cnc.fr/professionnels/aides-et-financements/cinema/Distribution/aide-selective-a-la-distribution--2e-college-films-de-repertoire_191132).

<sup>1468</sup> Aide sélective à la distribution - 3e collège, films pour le jeune public (Selective distribution support - 3rd college, films for young audiences), [https://www.cnc.fr/professionnels/aides-et-financements/cinema/Distribution/aide-selective-a-la-distribution--3e-college-films-pour-le-jeune-public\\_191172](https://www.cnc.fr/professionnels/aides-et-financements/cinema/Distribution/aide-selective-a-la-distribution--3e-college-films-pour-le-jeune-public_191172).

<sup>1469</sup> Article 722-5 of the RGA.

<sup>1470</sup> Article 441-17 of the RGA.



windows.

#### Aide aux Cinémas du Monde (ACM Distribution)

ACM Distribution is a scheme dedicated to supporting and promoting the distribution and circulation of international co-productions. The applicant company must comply with a series of obligations in order to demonstrate its experience in the field of distribution and its distribution strategy in relation to the film.<sup>1471</sup> Moreover, the selection criteria include prior experiences and consistency of the distribution strategy.<sup>1472</sup>

#### Fonds Images de la Diversité

This fund offers theatrical distribution support and support for video editing. In both cases, there are no specific requirements regarding theatrical release, broadcasting or VOD, nor regarding release windows.

### 7.11.5.2. Theatrical performance and performance at festivals, events and awards

There are no specific requirements regarding the performance of a work in terms of theatrical attendance at home or abroad or at festivals and award ceremonies, but CNC's automatic support for theatrical distribution and promotion abroad, as explained in the previous section, is calculated based on theatrical performance.

### 7.11.5.3. Budget

Requirements related to the budget are set out in only three of the following clusters:

- Automatic support (Cinema): to be eligible for direct allocations, production costs must be under EUR 8 million.<sup>1473</sup>
- Selective support (Cinema): in all schemes, the budget for distribution expenses must not exceed EUR 550 000 - EUR 750 000 for animation.<sup>1474</sup>
- Dispositif pour la Création Artistique Multimedia et Numérique (DICRéAM): the work must have secured at least 50% of the diffusion expenses.<sup>1475</sup>

### 7.11.5.4. Awarded amount

#### Aides Financières Automatiques (Cinéma)

Aid intensity	The aid intensity for the investment allowances for theatrical distribution and promotion abroad is, in principle, limited to 50%;

<sup>1471</sup> Article 3 of ACM Distribution Guidelines, <https://www.cnc.fr/documents/36995/169050/Descriptif+complet+ACM+distribution.pdf/1106af16-01b1-8b85-c1f9-587df627e798>.

<sup>1472</sup> P.5 of the ACM Distribution Guidelines.

<sup>1473</sup> Article 221-21 of the RGA.

<sup>1474</sup> Article 221-29 (Unreleased works); Article 221-45 (Repertoire works); and Article 221-59 (Young audience) of the RGA.

<sup>1475</sup> Article 322-25 of the RGA.



	<p>however, it can be increased to 60% for “difficult” and low-budget works for promotion abroad,<sup>1476</sup> and 70% for theatrical distribution.<sup>1477</sup></p> <p>The following specific aid intensity rules apply for direct allocations:</p> <ul style="list-style-type: none"> <li>■ Direct allocations based on production conditions: for works with a production cost under EUR 4 million, support can go up to 50% of the distributor’s investment (up to a yearly maximum of EUR 125 000 per company). In the case of works with a production cost of between EUR 4 million and EUR 8 million, support can go up to 25% of the distributor’s investment (up to a yearly maximum of EUR 250 000 per company),<sup>1478</sup></li> <li>■ Direct allocations according to the conditions of distribution: support can go up to 50% of the final distribution costs, capped at EUR 61 000 per feature film.<sup>1479</sup></li> </ul> <p>No aid intensity is specified for the screening of short programmes.<sup>1480</sup></p>
<b>Repayable</b>	In principle, automatic support is not repayable.
<b>Eligible costs</b>	Eligible costs include, among other things, dubbing and subtitling, design, the manufacture and distribution of promotional materials and the purchase of advertising space, as detailed in the RGA for each scheme <sup>1481</sup> . Support is conditional on CNC’s distribution authorisation (agrément de distribution), delivered once costs have been verified and approved. <sup>1482</sup> .
<b>Selective/Automatic</b>	Automatically.
<b>Aides Financières Sélectives (Cinéma)</b>	
<b>Aid intensity</b>	Selective aid is subject to the overarching aid intensity rule, as outlined in the previous section. The amount of the aid shall be determined on the basis of the financial investment of the distribution company <sup>1483</sup> .
<b>Repayable</b>	The support takes the form of a non-repayable grant. <sup>1484</sup>
<b>Eligible costs</b>	The eligible costs for the distribution of unreleased works include, <i>inter alia</i> , the expenses for the duplication of digital files, expenses related to

<sup>1476</sup> Articles 721-8 and 721-9 of the RGA.

<sup>1477</sup> Article 221-4 of the RGA.

<sup>1478</sup> Article 221-22 of the RGA.

<sup>1479</sup> Article 221-23-5 of the RGA.

<sup>1480</sup> The amount of direct allocations are calculated based on the conditions provided for respectively in Articles 412-9 and 412-10 of the RGA for full programmes, and in Article 412-18 for short programmes.

<sup>1481</sup> For investment allowances for theatrical distribution (Article 221-15 of the RGA); for direct allocations for theatrical distribution within the limit of EUR 122 000 (Article 221-23-7); for promotion abroad (Article 721-18).

<sup>1482</sup> Articles 221-16 and Article 221-23 of the RGA.

<sup>1483</sup> Article 221-36 (Unreleased works); Article 221-52 (Repertoire works); and Article 221-63 (Young audience) of the RGA.

<sup>1484</sup> Article 221-38 (Unreleased works); Article 221-53 (Repertoire works); and Article 221-64 (Young audience) of the RGA.



	dubbing and subtitling, expenses related to the design, manufacture and distribution of advertising material, etc. <sup>1485</sup> For the other types of works, they are set out in an agreement between the distribution company and the CNC.
<b>Selective/Automatic</b>	Selectively by the Commission for film distribution subsidies. <sup>1486</sup>
<b>Fonds de Soutien Audiovisuel (FSA – formerly COSIP)</b>	
<b>Aid intensity</b>	Support cannot exceed 50% of the expenses borne by the applicant company (capped at EUR 200 000 per company per year). <sup>1487</sup> Additional rules apply to direct allocations depending on the type of expenditure <sup>1488</sup> . The amount awarded for selective support cannot exceed: <sup>1489</sup> <ul style="list-style-type: none"> <li>■ 50% of the expenses related to the design, creation and substantial redesign or development of a website dedicated to international sales, up to a maximum of EUR 30 000 per company every three years;</li> <li>■ 50% of the expenses related to web marketing, up to a maximum of EUR 5 000 per company per year.</li> </ul>
<b>Repayable</b>	Direct allocations are recoupable. Selective support takes the form of a non-repayable grant. <sup>1490</sup>
<b>Eligible costs</b>	The eligible costs for direct allocations include dubbing, subtitling and voice-over in foreign languages. <sup>1491</sup> The eligible costs for selective support include promotional expenses related to the design, creation, redesign or substantial development of a website dedicated to international sales, or to web marketing. <sup>1492</sup>
<b>Selective/Automatic</b>	Automatically for direct allocations. Selectively by the Commission on aid for audiovisual promotion for selective support.
<b>Fonds d'Aide aux Créateurs Vidéo sur Internet (CNC Talent)</b>	
<b>Aid intensity</b>	Support must not exceed 50% of the eligible costs; the maximum amount awarded is EUR 50 000. <sup>1493</sup>
<b>Repayable</b>	Non-repayable. <sup>1494</sup>
<b>Eligible costs</b>	Eligible costs include expenses related to the acquisition of broadcasting

<sup>1485</sup> Article 221-29 of the RGA.

<sup>1486</sup> Article 221-34 (Unreleased works), Article 221-50 (Repertoire work), Article 221-60 (young audience) of the RGA.

<sup>1487</sup> Articles 722-7 and 722-8 of the RGA.

<sup>1488</sup> Articles 722-13 and 722-17 of the RGA.

<sup>1489</sup> Article 722-26 of the RGA.

<sup>1490</sup> Article 722-25 of the RGA.

<sup>1491</sup> Article 722-11 of the RGA.

<sup>1492</sup> Article 722-20 of the RGA.

<sup>1493</sup> Articles 441-19 and 441-23 of the RGA.

<sup>1494</sup> Article 441-24 of the RGA.



	rights, technical expenses associated with the preparation for online delivery, editorialization and promotion. <sup>1495</sup>
<b>Selective/Automatic</b>	Selectively by the Commission on aid for creation and distribution on digital platforms. <sup>1496</sup>
<b>Dispositif pour la Création Artistique Multimedia et Numérique (DICRéAM)</b>	
<b>Aid intensity</b>	The amount awarded must not exceed 50% of the estimated transmission/broadcasting costs, up to a maximum of EUR 10.000. <sup>1497</sup>
<b>Repayable</b>	Non-repayable. <sup>1498</sup>
<b>Eligible costs</b>	The eligible costs are outlined in an agreement between the CNC and the applicant. <sup>1499</sup>
<b>Selective/Automatic</b>	Selectively by the Commission of support for multimedia and digital artistic creation. <sup>1500</sup>
<b>Aide aux Cinémas du Monde (ACM Distribution)</b>	
<b>Aid intensity</b>	Support is limited to 50% of the French producer's financial contribution (80% for "difficult" films or low-budget films). The maximum grant per project is EUR 60 000. <sup>1501</sup>
<b>Repayable</b>	Non-repayable. <sup>1502</sup>
<b>Eligible costs</b>	The eligible costs correspond to technical costs (subtitling, encoding), promotional costs (prospecting, marketing and campaigning, the purchase of advertising space), etc. <sup>1503</sup>
<b>Selective/Automatic</b>	Selectively by the Commission on aid to world cinemas.
<b>Fonds Images de la Diversité</b>	
<b>Aid intensity</b>	Up to 50% of the distribution costs, or 70% for "difficult" or low-budget works. <sup>1504</sup>
<b>Repayable</b>	Non-repayable. <sup>1505</sup>
<b>Eligible costs</b>	The eligible costs are outlined in the agreement established between the applicant and the CNC. <sup>1506</sup>
<b>Selective/Automatic</b>	Selectively by the Images of Diversity Commission. <sup>1507</sup>

<sup>1495</sup> Article 441-18 of the RGA.

<sup>1496</sup> Article 441-22 of the RGA.

<sup>1497</sup> Articles 322-27 and 322-31 of the RGA.

<sup>1498</sup> Article 322-32 of the RGA.

<sup>1499</sup> Ibid.

<sup>1500</sup> Article 322-30 of the RGA.

<sup>1501</sup> P. 6 of the ACM Distribution Guidelines.

<sup>1502</sup> P.7 of the ACM Distribution Guidelines.

<sup>1503</sup> Article 4 of the ACM Distribution Guidelines.

<sup>1504</sup> Article 422-38 (Theatrical distribution) and Article 422-47 (Video editing) of the RGA.

<sup>1505</sup> Article 422-41 (Theatrical distribution) and Article 422-50 (Video editing) of the RGA.

<sup>1506</sup> Ibid.

<sup>1507</sup> Article 422-40 (Theatrical distribution) and Article 422-49 (Video editing) of the RGA.



### 7.11.5.5. Language and diversity

<b>Aides Financières Automatiques (Cinéma)</b>
In the case of direct allocation based on production conditions, the amount of support is reduced by 25% for cinematographic works that are not made entirely or mainly in French or in a regional language in use in France. <sup>1508</sup>
The sums calculated for the investment allowances of promotion abroad are increased by 10% for works produced entirely or mainly in French in the original version or in a regional language in use in France. <sup>1509</sup>
<b>Aides Financières Sélectives (Cinéma)</b>
There are no specific requirements related to the language of the work. In some cases, it is explicitly stated that cinematographic works of French or foreign origin can access support <sup>1510</sup> .
<b>Fonds d'Aide aux Créateurs Vidéo sur Internet (CNC Talent)</b>
Support is only available to online channels broadcasting videos in French. <sup>1511</sup>
<b>Fonds Images de la Diversité</b>
Support is only granted to projects in the French language or in a regional language in use in France (or for which the use of a foreign language can be justified in artistic terms). <sup>1512</sup> Furthermore, as explained in section 7.11.3.7, this funding scheme is intended to address cultural diversity and equal opportunity.

## 7.11.6. Data compilation

This factsheet was produced based on data compiled by Dr Julia Hammett-Jamart, Co-founder, researcher, International Coproduction Research Network.

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<sup>1508</sup> Article 221-23-5 of the RGA.

<sup>1509</sup> Article 721-15 of the RGA.

<sup>1510</sup> Articles 221-25 (unreleased works) and 221-42 (repertoire works) of the RGA.

<sup>1511</sup> *Fonds d'aide aux créateurs vidéo sur Internet - CNC Talent* (Support for video creators on the Internet (CNC Talent), [https://www.cnc.fr/professionnels/aides-et-financements/nouveaux-medias-et-creation-numerique/fonds-daide-aux-createurs-video-sur-internet-cnc-talent\\_190814](https://www.cnc.fr/professionnels/aides-et-financements/nouveaux-medias-et-creation-numerique/fonds-daide-aux-createurs-video-sur-internet-cnc-talent_190814)

<sup>1512</sup> Article 422-37 (Theatrical distribution) and Article 422-46 (Video editing) of the RGA.



## 7.12. GB – United Kingdom – National Summary<sup>1513</sup>

### 7.12.1. Summary

At a UK-wide level, the main form of film and audiovisual public funding are the tax reliefs for the screen industries which are part of the UK Government's Creative Sector Tax Reliefs. Introduced in the 2006 Finance Act, the Film Tax Relief (FTR) offers a tax relief of various rate for films (25% of qualifying film production expenditure). In 2013, new tax reliefs modelled on the FTR were introduced – these included reliefs for high-end television programmes and animation television programmes. This was followed with a video game tax relief in 2014 and Children's television programmes tax relief in 2015 (on qualifying UK core production expenditure on the lower of either 80% of the total core expenditure or the actual UK core expenditure incurred); The video games tax relief extends the expenditure to the EEA (on qualifying UK/EEA development expenditure on the lower of either 80% of the total core expenditure or the actual UK/EEA core expenditure incurred).

In all cases, there must be a production or development company responsible for making the film, television programme or video game; the content must be intended for theatrical release (film); broadcast release (television); or intended for supply for video games. For the film and television tax reliefs there must be a minimum core expenditure in the UK of 10% and for video games the minimum expenditure is 25% in the UK/EEA. All projects must qualify as British under the relevant cultural test for each sector or in the case of the film and television tax reliefs as an official co-production qualifying under one of the UK's bi-lateral co-production treaties or the European Convention on Cinematographic Co-production.

The cultural test assessments are administered by the BFI Certification Unit on behalf of the Department for Digital, Culture, Media and Sport (DCMS). Production and development companies in receipt of an interim or final cultural test certificate can they apply to Her Majesty's Revenue and Customs (HMRC) to claim the tax relief as expenditure is incurred.

The second most important form of film public funding is the selective funding awarded by the British Film Institute (BFI). The BFI is the UK's lead organisation for film, television and the moving image. It is a cultural charity that:

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<sup>1513</sup> The factsheet on the United Kingdom incorporates the feedback received from Carol Comley (BFI), Robbi Allen (Creative Scotland) for Scotland, Sion Eirug (Ffilm Cymru Wales) for Wales and Richard Williams (Northern Ireland Screen) for Northern Ireland during the checking round with the national film and audiovisual funds.



- Curates and presents the greatest international public programme of World Cinema for audiences - in cinemas, at festivals and online.
- Cares for the BFI National Archive - the most significant film and television archive in the world.
- Actively seeks out and supports the next generation of filmmakers.
- Works with Government and industry to make the UK the most creatively exciting and prosperous place to make film internationally.

In terms of funding for production, pre-production, distribution and promotion of cinematographic and other audiovisual works, it provides approximately GBP 19-22 million each year through the BFI Film Fund which supports film development, production, distribution and associated exhibition and education activities intended to grow audiences. The Film Fund offers a number of funding schemes which prioritise talent development and progression; support for films with a strong cultural impact; projects that recognise the quality of new voices and perspectives, talent and recruitment; and an increase in the number of active projects and filmmakers outside London and the South East. Within this, the BFI's Audience Fund has objectives which include growing the diversity of audiences engaging with film; developing the 16- to 30-year-old audience for film and increasing access to independent British and international film for audiences, especially those outside London.

Additionally, the BFI has taken responsibility for delivering a Young Audiences Content Fund which was launched on 1 April 2019 and which aims to support the creation of distinctive, high-quality content for audiences up to the age of 18.<sup>1514</sup> No awards have been made as at the date of this report.

Across the four nations of the UK and in the regions, film and audiovisual funding is mainly provided by the following funds: Screen Scotland (part of Creative Scotland), Ffilm Cymru Wales, Northern Ireland Screen, Creative England,<sup>1515</sup> Screen Yorkshire (Yorkshire Content Fund),<sup>1516</sup> and Film London.<sup>1517</sup>

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<sup>1514</sup> <https://www.bfi.org.uk/supporting-uk-film/production-development-funding/young-audiences-content-fund>

<sup>1515</sup> [www.creativeengland.co.uk/](http://www.creativeengland.co.uk/). It is a semi-private screen fund that supports film development and production in England outside of London. However, as only public funds are part of our study, it will not be further analysed.

<sup>1516</sup> [www.screenyorkshire.co.uk](http://www.screenyorkshire.co.uk). The funding offered (Yorkshire Content Fund) for the development and production of various audiovisual works, is a commercial investment fund, which is not part of our study and will therefore not be further analysed.

<sup>1517</sup> [www.filmlondon.org.uk](http://www.filmlondon.org.uk). It is the capital's screen industries agency. However, as local funds are beyond the scope of our study, it will not be further analysed.



## 7.12.2. General framework

### 7.12.2.1. Overview of the film and audiovisual funding policy and legislation

A key part of the legal framework for public film and audiovisual funding is the 1985 Films Act, (as amended) which mainly regulates the tax relief scheme and introduced the certification of British films system, the Films Order 2015,<sup>1518</sup> which specifies the definition of “British Film” and the Films Co-production Agreements Order 2015, with regards to the funding of co-productions. National Lottery funding provided by BFI, Creative Scotland, Ffilm Cymru Wales and Northern Ireland Screen is governed by the National Lottery etc. Act 1993 (as amended).

More details on the lines of support provided by the BFI can be found in their specific guidelines.<sup>1519</sup>

The selective funding allocated is mainly regulated by the specific guidelines created by the funds themselves, which can be found in the table below.

**Table 24. Main funds in the United Kingdom**

Funding institution	Geographical level	Legislation / Guidelines
British Film Institute (BFI) <sup>1520</sup>	UK-wide	Funding guidelines (various)
		The Films Act 1985 <sup>1521</sup>
		National Lottery etc. Act 1993 (as amended) <sup>1522</sup>
Screen Scotland <sup>1523</sup>	Scotland	National Lottery etc. Act 1993 (as amended)
		Public Services Reform (Scotland) Act 2010 <sup>1524</sup>
		Film Development and Production Fund Guidance 2018/19 <sup>1525</sup>
		Production Growth Fund Guidance 2018/19 <sup>1526</sup>

<sup>1518</sup> The Films (Definition of “British Film”) Order 2015, <http://www.legislation.gov.uk/uksi/2015/86/contents/made>.

<sup>1519</sup> Available here: <https://www.bfi.org.uk/supporting-uk-film/film-fund>.

<sup>1520</sup> [www.bfi.org.uk/](http://www.bfi.org.uk/).

<sup>1521</sup> Film Act 1985, <https://www.legislation.gov.uk/ukpga/1985/21/contents>.

<sup>1522</sup> National Lottery etc. Act 1993, <https://www.legislation.gov.uk/ukpga/1993/39/contents>.

<sup>1523</sup> [www.screen.scot](http://www.screen.scot). See also [www.creativescotland.com](http://www.creativescotland.com).

<sup>1524</sup> Public Services Reform (Scotland) Act 2010 asp 8, [http://www.legislation.gov.uk/asp/2010/8/pdfs/asp\\_20100008\\_en.pdf](http://www.legislation.gov.uk/asp/2010/8/pdfs/asp_20100008_en.pdf).

<sup>1525</sup> [https://www.creativescotland.com/\\_data/assets/pdf\\_file/0008/51479/Film-Devt-Prod-Guidance-Aug-2018.pdf](https://www.creativescotland.com/_data/assets/pdf_file/0008/51479/Film-Devt-Prod-Guidance-Aug-2018.pdf).

<sup>1526</sup> [https://www.creativescotland.com/\\_data/assets/pdf\\_file/0013/52006/Production-Growth-Guidance-Aug-2018.pdf](https://www.creativescotland.com/_data/assets/pdf_file/0013/52006/Production-Growth-Guidance-Aug-2018.pdf).



Funding institution	Geographical level	Legislation / Guidelines
		Distribution and Exhibition Fund Guidance 2018/19 <sup>1527</sup>
		Market and Festival Attendance Guidance 2018/19 <sup>1528</sup>
		Broadcast Content Fund Guidance 2018/19 <sup>1529</sup>
Ffilm Cymru Wales <sup>1530</sup>	Wales	National Lottery etc. Act 1993 (as amended) Production Funding Guidelines 2018 <sup>1531</sup>
		Development Funding Guidelines 2018 <sup>1532</sup>
Northern Ireland Screen <sup>1533</sup>	Northern Ireland	National Lottery etc. Act 1993 (as amended) Industrial Development Act (Northern Ireland) 2002 <sup>1534</sup>
		Production Funding Guidelines <sup>1535</sup>
		Development Funding Guidelines <sup>1536</sup>
		Irish Language Broadcast Fund (ILBF) <sup>1537</sup>

Source: Response to European Audiovisual Observatory standardised questionnaire

#### 7.12.2.2. Definition of cultural criteria

Access to feature film development, production, completion or film export/promotion funding schemes<sup>1538</sup> generally require the cinematographic or audiovisual work to obtain a British Film certificate, delivered after the assessment carried out by the BFI Certification Unit on behalf of DDCMS. This certificate can be obtained under:

- The cultural test for film
- One of the UK's official bilateral co-production agreements
- The European Convention on Cinematographic Co-production

<sup>1527</sup> [https://www.creativescotland.com/\\_data/assets/pdf\\_file/0003/51474/Distribution-Exhibition-Guidance-Aug-2018.pdf](https://www.creativescotland.com/_data/assets/pdf_file/0003/51474/Distribution-Exhibition-Guidance-Aug-2018.pdf).

<sup>1528</sup> [https://www.creativescotland.com/\\_data/assets/pdf\\_file/0004/51475/Markets-Festivals-Guidance-Aug-2018.pdf](https://www.creativescotland.com/_data/assets/pdf_file/0004/51475/Markets-Festivals-Guidance-Aug-2018.pdf).

<sup>1529</sup> <https://www.screen.scot/funding-and-support/screen-scotland-funding/broadcast-content-fund>.

<sup>1530</sup> [www.ffilmcymruwales.com/index.php/en/](http://www.ffilmcymruwales.com/index.php/en/).

<sup>1531</sup> <http://www.ffilmcymruwales.com/attachments/article/94/Production%20Guidelines%202018.pdf>.

<sup>1532</sup> <http://www.ffilmcymruwales.com/attachments/article/93/Ffilm%20Cymru%20Wales%20Development%20Guidelines%202018.pdf>.

<sup>1533</sup> [www.northernirelandscreen.co.uk/](http://www.northernirelandscreen.co.uk/).

<sup>1534</sup> Industrial Development Act (Northern Ireland) 2002, <https://www.legislation.gov.uk/nia/2002/1/contents>

<sup>1535</sup> <http://www.northernirelandscreen.co.uk/filming/production/>.

<sup>1536</sup> <http://www.northernirelandscreen.co.uk/funding/development/>.

<sup>1537</sup> <https://www.northernirelandscreen.co.uk/irish-language-broadcast-fund>.

<sup>1538</sup> Including the tax relief scheme.



The cultural test for film <sup>1539</sup> comprises of a points-based test where, , the project<sup>1540</sup> needs to achieve 18 of a possible 35 points to pass. It comprises of four sections:

- Cultural content: up to 18 points.
- Film set in the UK or EEA (up to 4 points)
- Lead characters British or EEA citizens or residents (up to 4 points)
- Film based on British or EEA subject matter or underlying material (4 points)
- Original dialogue recorded mainly in English or UK indigenous language or EEA language (up to 6 points)
- Cultural contribution (the film demonstrates British creativity, British heritage and/or diversity): up to 4 points.
- Cultural hubs: up to 5 points.
- (a) At least 50% of the principal photography or SFX takes place in the UK (2 points)
- (b) At least 50% of the VFX takes place in the UK (2 points)
- (c) An extra 2 points can be awarded if at least 80% of principal photography or VFX or SFX takes place in the UK (2 points)
- Music Recording/Audio Post Production/Picture Post Production (1 point)
- Cultural practitioners (UK or EEA citizens or residents): up to 8 points, with one point for key roles (director, scriptwriter, producer composer, etc.) and one point for lead actors, majority of cast, key staff ( 1 of the following roles - lead cinematographer, lead production designer, lead costume designer, lead editor, etc.) and majority of crew.

These criteria are not relevant to all funding schemes (e.g. the BFI's Audience Fund can provide distribution aid towards the distribution of films from any country of origin provided the funded activity is intended to grow priority audiences and offer greater choice for audience).

Furthermore, these rules also apply to the other funding schemes although they often have additional priorities.

### 7.12.2.3. Nationality of the applicant

#### A) BFI

For film development and production funding, the BFI requires the applicant to be “a company registered and centrally managed in the UK or another state of the European Union or European Economic Area”<sup>1541</sup> as a condition to apply, except for:

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<sup>1539</sup> First defined in Schedule 1 of the Films Act 1985, revised in 2005 by the Film Order 2005, *Op. cit.* For further information, see: <https://www.bfi.org.uk/supporting-uk-film/british-certification-tax-relief/cultural-test-film>.

<sup>1540</sup> Different cultural tests have been implemented for animations and documentaries, in paragraphs 4B and C of the British Film Certification Schedule 1 to the Films Act 1985 Cultural Test Guidance Notes, <https://www.bfi.org.uk/sites/bfi.org.uk/files/downloads/bfi-revised-cultural-test-for-guidance-notes-2015-03.pdf>.



- Film Export scheme, where there is no specific requirement related to the nationality or establishment of the applicant,
- Audience Fund scheme: where support is reserved to UK resident, as the applicant must be “legally constituted organisations centrally managed in the UK” and “Applicants and/or their partners should have direct experience of film distribution, exhibition and audience development activity within the UK”.<sup>1542</sup>

## B) Screen Scotland

For pre-production and production support, the Fund requires the applicant to be based in Scotland. When the applicant is a producer not based in Scotland, the project has to involve writing and/or directing talent based in Scotland. Overall, Screen Scotland will not fund the development of a project on which all of the key creative talent (writer, director, producer) are based outside Scotland, even if the project is set in Scotland or based on underlying material which may have originated in Scotland.<sup>1543</sup> More specifically, in the case of Production Growth Fund, producers based within and outside Scotland can apply if they are able to demonstrate that by accessing the scheme they will secure major production and/or post-production expenditure within Scotland, employing cast and crew based in Scotland, and/or using Scotland-based production facilities companies.<sup>1544</sup>

For distribution and promotion support, similar requirements apply:

- For Distribution and Exhibition Fund: the fund aims at supporting wider distribution of completed Scottish films across Scotland and internationally. The qualification of Scottish film a film from writing, directing and producing talent based in Scotland, or from producers based outside Scotland that involve writing and/or directing talent based in Scotland. More specifically, the applicant must be a distribution company with a track record of releasing films theatrically within the UK or a Film production companies based in Scotland.
- For Market and Festival Attendance Fund: the applicant must be a screenwriter, director, producer or other key talent based in Scotland.
- For the Broadcast Content Fund, the fund requires the applicant to be a company that is headquartered or has a substantive business and production base in Scotland, and has an established track record of broadcast production; or be a start-up production company headquartered in Scotland with an experienced management team who have previously held senior positions within an

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<sup>1541</sup> P.6 of the BFI Production Funding Guidelines, <https://www.bfi.org.uk/supporting-uk-film/film-fund>; P.6 of the BFI Development Guidelines, <https://www.bfi.org.uk/sites/bfi.org.uk/files/downloads/bfi-film-fund-development-funding-application-guidelines-2018.pdf>; p.7 of the BFI Completion Fund Guidelines, <https://www.bfi.org.uk/sites/bfi.org.uk/files/downloads/bfi-film-fund-completion-fund-guidelines-2018-06-14.pdf>; p.5 of the Doc Society Guidelines, [https://docsociety.org/static/core/pdf/DocSocietyDocumentaryGuidelines2018\\_FINAL.pdf](https://docsociety.org/static/core/pdf/DocSocietyDocumentaryGuidelines2018_FINAL.pdf).

<sup>1542</sup> P.9 of the BFI Audience Fund Guidelines, BFI Audience Fund Guidelines.

<sup>1543</sup> However, if the film will be shot and/or post-produced in Scotland, may qualify for support via the Production Growth Fund.

<sup>1544</sup> If the applicant is a producer based outside Scotland, the attachment of a Co-Producer based in Scotland can enhance the overall benefits for Scotland, which taken together with a significant spend to funding ratio will strengthen the application.



established production company or broadcaster. The fund will also accept applications from companies established in another state of the European Union or Economic Area that have a permanent branch or agency in Scotland at the time that funding from the Broadcast Content Fund is defrayed. If there is no such permanent branch or agency at the time funding is defrayed but the project involves a “meaningful co-production” with a Scottish based company. Lastly, the fund will accept applications from companies not based in the European Union or Economic Area, who that have an established track record of broadcast production and are co-producing the project with a Scottish based company where the role of the Scottish based company in the co-production is meaningful. Whether a Scottish based company’s role is “meaningful” will be assessed by reference to issues such as creative involvement, ownership of copyright, respective roles of the parties, credits and financial terms (including fees and net profit participation).<sup>1545</sup>

### **C) Ffilm Cymru Wales**

Early development support (delivered through delegated BFI NETWORK funds) can be accessed by lone writers without a company. Arts Council Development funding and Production Funding requires a company registered and managed in the UK, or another state of the European Union or European Economic Area. All funds prioritise writers, directors and/or producers either born or currently residing in Wales working in English or Welsh.

### **D) Northern Ireland Screen**

For development support, the applicants can be Northern Ireland writers and writing teams, as well as Northern Ireland based companies or production companies based outside Northern Ireland who are working with Northern Ireland resident writers. As for production support, there are no specific requirements related to the nationality or establishment of the applicant. Last, with regards to the Irish Language Broadcast Fund, the applicant must be an independent production companies located in Northern Ireland.<sup>1546</sup>

## **7.12.3. Funding criteria applicable to production support**

### **7.12.3.1. Theatrical release, broadcasting and visibility on VoD**

#### **A) BFI Film Fund**

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<sup>1545</sup> P.4 of the Screen Scotland Broadcast Content Fund Guidance.

<sup>1546</sup> Irish Language Broadcast Fund Guidelines.



There are no specific requirements regarding visibility and performance on any of the different release windows. Moreover, BFI removed theatrical window restrictions in November 2017.<sup>1547</sup>

## B) The funds in Scotland, Wales and Northern Ireland

None of the other funds set mandatory or quantitative requirements, regarding visibility and performance on any of the different release windows, or any release window schedule to be respected. The only requirements relating to the performance of the project in terms of theatrical release or visibility are as follow:

- For Screen Scotland: it requires the project to be a “feature length fiction or documentary feature project intended for theatrical release” and to have a “strong audience potential for UK and international distribution”.<sup>1548</sup> Furthermore, when applying, the applicant is expected to “have confirmed, or secured, a written indication of strong interest of a sales agent and/or a distributor”, or to “demonstrate the reason for this strategic choice and also provide a sales and distribution strategy with the application”.<sup>1549</sup>
- In the case the Screen Scotland Broadcast Content Fund the applicant ‘must have secured, or have written indication of, a broadcast commission’.<sup>1550</sup>
- For Ffilm Cymru Wales: the project must “demonstrate a likelihood of gaining distribution”,<sup>1551</sup> therefore the applicants are expected to include foreseen sales figures, supplied by an established sales agency and / or evidence of interest from a UK Distributor.
- For Northern Ireland Screen: the project must be commercially viable and able to demonstrate clear possibilities for commercial exploitation. In the case of feature films, the attachment of an experienced sales agent would be an asset, as would UK or US domestic distribution.<sup>1552</sup>

### 7.12.3.2. Theatrical performance and performance at festivals, events and awards

There are no mandatory or quantitative requirements for a production project related to expected or actual theatrical performance at the home market or abroad as such, or related to the performance at festivals, events and awards, for BFI or any of the other funds. However, with regards to Screen Scotland, one of the key assessment criteria is that “the project demonstrates the ability to be a high-quality work that promotes Scotland’s creativity and can attract a national and international audience”.<sup>1553</sup> For Ffilm Cymru Wales, the assessment will also be based, among other, on “the project’s market

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<sup>1547</sup> For further information, see : <https://www.screendaily.com/comment/bfis-ben-roberts-how-and-why-were-reforming-the-film-fund/5123067.article>.

<sup>1548</sup> P. 11 of the Creative Scotland - Film Development and Production Fund Guidance.

<sup>1549</sup> P. 12 of the Creative Scotland - Film Development and Production Fund Guidance.

<sup>1550</sup> P. 11 of the Screen Scotland Broadcast Content Fund Guidance.

<sup>1551</sup> P. 7 of the Ffilm Cymru Wales - Production Guidelines.

<sup>1552</sup> Northern Ireland Screen - Production Funding Guidelines.

<sup>1553</sup> P. 4 of the Creative Scotland - Film Development and Production Fund Guidance.



appeal”, which should demonstrate “an identifiable and reachable core audience and the means by which this audience will be reached”.<sup>1554</sup> Last, regarding performance at festivals and awards, the BFI offers completion scheme reserved for films invited at a major international film festival.<sup>1555</sup>

### 7.12.3.3. Budget

Regarding the budget of an eligible feature film project, BFI requires the production budget to be not less than GBP 250 000 and not more than GBP 15 million,<sup>1556</sup> and defines debut and lower budget films as films under GBP 750 000.<sup>1557</sup> Regardless of this, none of the funds set a minimum threshold or maximum cap to be respected.

Furthermore there are no specific requirements regarding the minimum contribution of the applicant. Regarding requirements related to the funding already secured at the time of application, the following rules apply:

- For Screen Scotland: the applicant should have a fully developed financing package in place (including a secured written indication of strong interest or confirmed co-funding from other private or public sources) before applying.<sup>1558</sup> In the case of the Broadcast Content Fund applicants ‘must have secured, or have written indication of, a broadcast commission and/or source of third-party co-funding (excluding the UK creative industries tax reliefs)’<sup>1559</sup>
- For Ffilm Cymru Wales: the project should have “*some firm partnership funding*” in place.<sup>1560</sup>
- For Northern Ireland Screen: the applicant is required to have already secured 65% of the budget.<sup>1561</sup>

Last, it should be noted that the BFI and Screen Scotland have a “locked box”<sup>1562</sup> to share income from successes - if the producer has more than GBP 20 000 in this then it will be used as the producer’s financial contribution.<sup>1563</sup>

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<sup>1554</sup> P. 4 of the Ffilm Cymru Wales - Production Guidelines.

<sup>1555</sup> The list of qualifying festivals is at Appendix A of the Completion Guidelines, <https://www.bfi.org.uk/sites/bfi.org.uk/files/downloads/bfi-film-fund-completion-fund-guidelines-2018-06-14.pdf>.

<sup>1556</sup> P.6 of the BFI Production Guidelines. The production budget must not be more than GBP 5 000 000 for documentaries with regards to the BFI Doc Society Fund, p.5 of the Doc Society Guidelines.

<sup>1557</sup> P. 10 of the BFI Production Funding Guidelines.

<sup>1558</sup> P. 11 of the Creative Scotland - Film Development and Production Fund Guidance.

<sup>1559</sup> P. 11 of the Screen Scotland Broadcast Content Fund Guidance.

<sup>1560</sup> P. 3 of the Ffilm Cymru Wales - Production Guidelines.

<sup>1561</sup> Northern Ireland Screen - Production Funding Guidelines.

<sup>1562</sup> The Locked Box correspond to the share of income from supported film productions that is put aside (into the Locked Box) and can be used by the filmmakers for the development and/or production of their future projects or towards staff training. For more information, see: <https://www.bfi.org.uk/supporting-uk-film/production-development-funding/filmmaker-benefits-bfi-locked-box>.



#### 7.12.3.4. Awarded amount

##### A) BFI Film Fund

Following what is established in art. 52.2 of the EU Cinema Communication,<sup>1564</sup> the aid intensity rules are described in BFI State aid submission 30/09/2011<sup>1565</sup> and are limited to:

- 50% of the production budget in general unless the film meets the Member State's definition of a difficult and low budget film,
- 60% of the production budget for co-productions that involve activity in more than one Member State unless the film meets the member state's definition of a difficult and low budget film. Furthermore, some of the BFI Film Fund's awards are made to international co-productions to support up to 10% of the budget on creative 'minority' UK co-productions (fiction and animation) where the majority of the creative input comes from one of the UK's partner countries.<sup>1566</sup>
- 100% of the cash production budget for debut and lower budget films under GBP 750 000.

Part of the support recouped by the BFI<sup>1567</sup> is made available to the producer, director and scriptwriter through the BFI Locked Box initiative, which applies to the BFI's production and development funding. This recoupment corridor consist of 25% share of the BFI's recouped investment in the film until the BFI has recouped 50% of its total investment, rising to 50% of the BFI's recouped investment until the BFI has recouped 100% of its investment. This corridor of revenues is payable into a Locked Box bank account held by the BFI for the benefit of the UK production company, writer and director of the film who may draw-down those funds and spend them on development or production of film projects or on staff skills training, subject to certain conditions.

On top of that, the BFI supports the UK production company being entitled to recoup an amount equal to the UK Tax Relief advance included in the final finance plan for the film (known as the UK Tax Relief Entitlement), subject to a cap of the actual amount of the UK Tax Relief proceeds, if lower.

The amount is awarded selectively after a two-step assessment<sup>1568</sup> and the approval of the BFI Lottery Finance Committee.<sup>1569</sup> Last, the eligible costs<sup>1570</sup> can include, *inter alia*:

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<sup>1563</sup> P. 5-6 of the BFI Production Funding Guidelines, *Op. cit.* For more information on the BFI Locked Box, see: <https://www.bfi.org.uk/supporting-uk-film/production-development-funding/filmmaker-benefits-bfi-locked-box>.

<sup>1564</sup> Communication from the Commission on State aid for films and other audiovisual works (2013/C 332/01), [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52013XC1115\(01\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52013XC1115(01)&from=EN).

<sup>1565</sup> British Film Institute - European Commission Issued Paper Assessing State Aid For Films And Other Audiovisual Works - September 2011, [http://ec.europa.eu/competition/consultations/2011\\_state\\_aid\\_films/uk\\_british\\_film\\_institute\\_en.pdf](http://ec.europa.eu/competition/consultations/2011_state_aid_films/uk_british_film_institute_en.pdf).

<sup>1566</sup> P. 11 of the BFI Production Funding Guidelines.

<sup>1567</sup> P. 5 and 26 of the BFI Production Funding Guidelines. For further information, see BFI Locked Boxes Fact Sheet: <https://www.bfi.org.uk/sites/bfi.org.uk/files/downloads/bfi-locked-box-fact-sheet-2017.pdf>.

<sup>1568</sup> P. 19-21 of the BFI Production Funding Guidelines.



producer fees (proportionate to the proposed budget), crew's salaries (obliged not to be lower than the national minimum wage), customary production insurances, etc.

## B) Screen Scotland

The support awarded is in the range of GBP 100 000 - GBP 500 000.<sup>1571</sup> This amount is repayable,<sup>1572</sup> and Screen Scotland expects to receive a share of net profits generated from the project proportionate to their equity investment.<sup>1573</sup> Furthermore, Screen Scotland operates a locked-box scheme (the CS Locked-Box), which mirrors the BFI's Locked-Box initiative, whereby filmmakers based in Scotland benefit from their project's success.<sup>1574</sup> Nonetheless, when it comes to the Production Growth Fund, the production support is awarded in the form of a non-recoupable grant.<sup>1575</sup>

The support is awarded selectively after an initial assessment carried out by Screen Scotland officers, upon the decision on final awards by the Screen Team (for amounts up to GBP 100 000) or by Screen Scotland's Senior Leadership Team (for amounts over GBP 100 000).<sup>1576</sup> Last, the eligible costs are calculated based on a proposed budget.

## C) Ffilm Cymru Wales

Ffilm Cymru Wales may award up to a maximum of GBP 200,000. Production awards are equity investments, the terms of which are agreed upon in the production agreement.<sup>1577</sup>

The support is awarded selectively by members of Ffilm Cymru Wales talent team (for funding decision below GBP 25 000), by Ffilm Cymru Wales talent team and either the Chair or Deputy Chair of the Board of Ffilm Cymru Wales (for funding decision between GBP 25 000 and GBP 50 000), and by the above mentioned and subject to Board approval (for funding decision above GBP 50 000).<sup>1578</sup> Last, the eligible costs are calculated based on a proposed budget.

## D) Northern Ireland Screen

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<sup>1569</sup> P. 22-23 of the BFI Production Funding Guidelines. With regards to Doc Society scheme, the support is awarded by the Fund Committee, which is comprised of the Fund executives, a representative of the BFI, and Doc Society executive directors. See P.17-18 of the Doc Society guidelines, [https://docsociety.org/static/core/pdf/DocSocietyDocumentaryGuidelines2018\\_FINAL.pdf](https://docsociety.org/static/core/pdf/DocSocietyDocumentaryGuidelines2018_FINAL.pdf).

<sup>1570</sup> P. 7-9 of the BFI Production Funding Guidelines.

<sup>1571</sup> P. 13 of the Creative Scotland - Film Development and Production Fund Guidance. A higher amount is possible where the project demonstrates exceptional benefits for the film sector in Scotland, as well as strongly meeting all the funding criteria to the highest level.

<sup>1572</sup> P. 11 of the Creative Scotland - Film Development and Production Fund Guidance.

<sup>1573</sup> P. 19 of the Creative Scotland - Film Development and Production Fund Guidance.

<sup>1574</sup> For further information, see Appendix B Creative Scotland Locked-Box Scheme, Creative Scotland - Film Development and Production Fund Guidance.

<sup>1575</sup> P.3 of Production Growth Fund Guidance 2018/19.

<sup>1576</sup> P. 16 of the Creative Scotland - Film Development and Production Fund Guidance.

<sup>1577</sup> P. 5 of the Ffilm Cymru Wales - Production Guidelines.

<sup>1578</sup> P. 4 of the Ffilm Cymru Wales - Production Guidelines.



The support for production is generally limited to 25% of the budget and to a maximum amount of GBP 800 000,<sup>1579</sup> but the aid intensity can increase up to 50%.<sup>1580</sup> Aid intensity can go up to 75% of the budget for difficult works - mostly through the Irish Language Broadcasting Fund (see below). The support usually takes the form of a recoupable loan or, in limited circumstances, a grant, together with profit participation. Northern Ireland Screen's fund's terms for its recoupment are negotiated individually on each production, but certain principles will apply to all negotiations.<sup>1581</sup> Northern Ireland Screen's normal position is to recoup its full award plus a 50% premium should the project go into production. The support is awarded selectively, and the eligible costs are not defined in the Guidelines.

Last, with regards to the Irish Language Broadcast Fund, the aid intensity is limited to 75% of the project costs and up to a maximum of GBP 400 000 per project. The support is not repayable and is awarded selectively by the ILBF Investment Committee.

#### 7.12.3.5. Spending and shooting criteria

There are no requirements related to spending or shooting in the UK as such, for any of the funds. The only exceptions are:

- Northern Ireland Screen: in the case of Irish Language Broadcast Fund, the applicant is required that at least 70% of the project costs must be spent in Northern Ireland.<sup>1582</sup>
- Screen Scotland when it comes to the Production Growth Fund, the ratio of the Estimated Scottish Spend to the level of funding requested should be a minimum of 8:1.<sup>1583</sup> Moreover, the applicant can apply for a grant towards the production costs of a project that will be shot and/or post-produced wholly or partially in Scotland.<sup>1584</sup> When it comes to the Broadcast Content Fund, there is an expectation that 50% of the budget of a project be spent in Scotland.<sup>1585</sup>

#### 7.12.3.6. Talent, cast, crew, underlying copyright

There are no specific requirements related to nationality of the talent, cast and crew or to the underlying copyrights (and how they are linked to the country) for BFI and Northern Ireland Screen. For the other funds, the following rules apply:

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<sup>1579</sup> Northern Ireland Screen - Production Funding Guidelines.

<sup>1580</sup> Article 17 of Northern Ireland Screen Commission – State Aid.

<https://www.northernirelandscreen.co.uk/wp-content/uploads/2017/01/GBER-1.pdf>.

<sup>1581</sup> The Screen Fund normally recoups *pro rata*, *pari passu*, in line with the level of its award in the production. P.15 of Northern Ireland Screen - Production Funding Guidelines.

<sup>1582</sup> Irish Language Broadcast Fund Guidelines.

<sup>1583</sup> P. 4 of the Production Growth Fund Guidance 2018/19.

<sup>1584</sup> P. 9 of the Creative Scotland - Film Development and Production Fund Guidance.

<sup>1585</sup> P.6 of the Screen Scotland Broadcast Content Fund Guidance.



- Screen Scotland will prioritise production support for projects by filmmakers based in Scotland, or the production of projects in Scotland from international producers (but only when working with writing and directing talent based in Scotland).<sup>1586</sup> In the case of the Broadcast Content Fund, projects should provide significant opportunities for the creative and professional development of established and emerging writers, directors, producers as well as craft and technical talent based in Scotland.<sup>1587</sup>
- Ffilm Cymru Wales will prioritise support for writers, directors, and/or producers, either born or currently residing in Wales.<sup>1588</sup>

### 7.12.3.7. Shooting language and diversity

#### A) BFI Film Fund

The shooting language is part of the cultural test and allocates up to 6 points for “Original dialogue recorded mainly in English or UK indigenous language; EEA language or British Sign language”.<sup>1589</sup> Furthermore, all applicants are required to complete a BFI Diversity Standards form, as part of their application where their plans and intentions for diversity in their projects, responding to the BFI Diversity Standards, must be stated<sup>1590</sup> (detailing how they intend to address industry underrepresentation in relation to disability, gender, gender identity, race, age, sexual orientation and regional participation and socio-economic status). More specifically, the projects must demonstrate commitment to inclusion and meet the criteria in at least two of the following four areas: on-screen representation, creative leadership, industry access and training opportunities and distribution and exhibition strategies.<sup>1591</sup> This enables BFI to gauge the diversity of the applications and understand the breadth of applications and the decisions made regarding them. Furthermore, the Standards require applicants submit an Equality Monitoring Report<sup>1592</sup> at the end of the project, providing BFI with vital data from early development stages through to completion.<sup>1593</sup>

#### B) Screen Scotland

There are no specific requirements regarding the shooting language. Moreover, Screen Scotland is committed to addressing diversity in film and television, as outlined in our

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<sup>1586</sup> P. 3 of the Creative Scotland - Film Development and Production Fund Guidance.

<sup>1587</sup> P.5 of the Screen Scotland Broadcast Content Fund Guidance.

<sup>1588</sup> P. 2 of the Ffilm Cymru Wales - Production Guidelines.

<sup>1589</sup> The cultural test for film,

<https://www.bfi.org.uk/supporting-uk-film/british-certification-tax-relief/cultural-test-film>.

<sup>1590</sup> BFI Diversity Standards,

<https://www.bfi.org.uk/supporting-uk-film/diversity-inclusion/bfi-diversity-standards>.

<sup>1591</sup> Diversity Standards criteria, <https://www.bfi.org.uk/supporting-uk-film/diversity-inclusion/bfi-diversity-standards/diversity-standards-criteria>.

<sup>1592</sup> P. 15 of the BFI Production Funding Guidelines.

<sup>1593</sup> P. 16 of the BFI Production Funding Guidelines.



review of equalities, diversity and inclusion in Scotland's screen sector.<sup>1594</sup> Applications for support to all screen funds will be strengthened by a specific and targeted contribution to improving diversity. The BFI's Diversity Standards provide detailed guidance to potential approaches.<sup>1595</sup>

### C) Ffilm Cymru Wales

Although not a mandatory requirement, Ffilm Cymru Wales will encourage Welsh cultural content as well as Welsh language projects.<sup>1596</sup> The Fund is committed to supporting a diverse and inclusive film sector in Wales and has set comprehensive targets across gender, LGBTQI, socio-economic status, disability, welsh language, and ethnicity. In line with this, applicants are asked to complete and submit an online Diversity Monitoring Form as well as a diversity plan, and funded producers are required to develop this plan as well as submitting anonymous diversity data on their crew as part of the film's delivery.<sup>1597</sup>

### D) Northern Ireland Screen

Regarding the shooting language, for Irish Language Broadcast Fund, at least 75% of the spoken word within the production has to be Irish. Furthermore, one of the criteria used to assess the application will be the "contribution to the stability and sustainability of the Irish language independent production sector in Northern Ireland".<sup>1598</sup> Beyond this there are no specific requirements in terms of diversity, or related to ethnic or linguistic minorities and gender.

## 7.12.4. Funding criteria applicable to pre-production support

### 7.12.4.1. Budget

#### A) BFI Film fund

The budget of an eligible project is not subject to any minimum threshold or maximum cap, nor is anything stipulated regarding a minimum contribution from the applicant.

#### B) Screen Scotland

The budget of an eligible project is not subject to any minimum threshold or maximum cap, nor is anything stipulated regarding a minimum contribution from the applicant.

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<sup>1594</sup> Equality Matters – A Review of Equalities, Diversity and Inclusion within Scotland's Screen Sector (2017), <https://www.creativescotland.com/resources/professional-resources/research/creative-scotland-research/equality-matters>.

<sup>1595</sup> P.4 of Creative Scotland - Film Development and Production Fund Guidance.

<sup>1596</sup> P. 2 of the Ffilm Cymru Wales - Production Guidelines.

<sup>1597</sup> P. 3 of the Ffilm Cymru Wales - Production Guidelines.

<sup>1598</sup> ILBF Guidelines, [https://www.northernirelandscreen.co.uk/wp-content/uploads/2016/11/doc\\_7552159.doc](https://www.northernirelandscreen.co.uk/wp-content/uploads/2016/11/doc_7552159.doc).



However, applicants should aim to secure co-funding for their project as it will help strengthen the application.<sup>1599</sup>

### C) Ffilm Cymru Wales

The budget of an eligible project is not subject to any minimum threshold or maximum cap, nor is anything stipulated regarding a minimum contribution from the applicant.

### D) Northern Ireland Screen

The budget of an eligible project is not subject to any minimum threshold or maximum cap, nor is anything stipulated regarding a minimum contribution from the applicant. However, as described in the next section, the project's budget will influence the intensity of the support received.

## 7.12.4.2. Awarded amount

### A) BFI Film Fund

When it comes to aid intensity, the same general rules, described in the EU Cinema Communication<sup>1600</sup> and in the BFI State aid submission 30/09/2011,<sup>1601</sup> apply to the different support activities, including pre-production (described in 7.12.3.4). In addition, all development support is repayable from the production budget.<sup>1602</sup> Subject to some conditions this may be held in a Locked Box.<sup>1603</sup> In order to access development funding, producers are required to assign a share of all rights including copyright to the BFI (normally the share is 50% of all rights) as security for repayment of the funding. These rights will be reassigned, and subject to, repayment of the development funding and ahead of production of the film.<sup>1604</sup> Producers will be required to repay development funding to the BFI and provide BFI with a net profit participation from any film that go into production.<sup>1605</sup>

The support is awarded selectively after a thorough assessment and the approval of the Lottery Finance Committee.<sup>1606</sup> Last, the eligible costs are described in the

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<sup>1599</sup> P. 6 of the Creative Scotland - Film Development and Production Fund Guidance.

<sup>1600</sup> Communication from the Commission on State aid for films and other audiovisual works (2013/C 332/01), [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52013XC1115\(01\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52013XC1115(01)&from=EN).

<sup>1601</sup> British Film Institute - European Commission Issued Paper Assessing State Aid For Films And Other Audiovisual Works - September 2011, [http://ec.europa.eu/competition/consultations/2011\\_state\\_aid\\_films/uk\\_british\\_film\\_institute\\_en.pdf](http://ec.europa.eu/competition/consultations/2011_state_aid_films/uk_british_film_institute_en.pdf).

<sup>1602</sup> P. 12 of the BFI Development Guidelines.

<sup>1603</sup> For the producer to draw down against their future filmmaking activities including development of new film projects, staff training, or to make production investments in future work. P.3 of BFI Locked Boxes Fact Sheet, *Op. cit.*

<sup>1604</sup> BFI Locked Boxes Fact Sheet.

<sup>1605</sup> P. 19 of the BFI Development Guidelines.

<sup>1606</sup> P. 14-15 of the BFI Development Guidelines.



Development Guidelines,<sup>1607</sup> and include, *inter alia*: the writer fees, payments to option the rights to adapt pre-existing works for the screen, research costs associated with the project, the director's services during the development, etc.

## B) Screen Scotland

The support awarded from the Film Development and Production Fund is in the range of GBP 3 000- GBP 50 000.<sup>1608</sup> It is repayable,<sup>1609</sup> and is awarded selectively. As for the eligible costs, they are calculated based on a proposed budget and can include: payment to option the rights to adapt pre-existing works, development of the treatment, outline and/or screenplay, script editing and story development, research, etc.<sup>1610</sup> For the Broadcast Content Fund, awards are in the range of GBP 10 000-50 000 for the development of single projects and up to GBP 100 000 for the development of a slate of projects. It is repayable and awarded selectively.<sup>1611</sup>

## C) Ffilm Cymru Wales

In terms of aid intensity, Ffilm Cymru Wales will contribute up to 75% of the total development costs of a project.<sup>1612</sup> This contribution is recouped when the project proceeds to production. A premium of 50% is repayable on all development funds, as well as 2% of producer's net should the project move into production.<sup>1613</sup> The support is awarded selectively as per a similar procedure as for production support.<sup>1614</sup> Last, the eligible costs calculated based on a proposed budget.

## D) Northern Ireland Screen

In terms of aid intensity, the following thresholds apply:<sup>1615</sup>

- For Script Development, up to 75% on an initial development budget up to GBP 10,000 but beyond the first GBP 10,000 the aid will not exceed 50% of the remaining development budget. Furthermore, for awards beyond GBP 7,500 Northern Ireland Screen would expect to see cash match finance and confirmed market interest in the project.
- For Project Development and Slate Development, up to 90% for projects with a budget up to GBP 10 000; up to 75% of project budget for projects with a budget of over GBP 10 000 and less than GBP 20 000; and up to 50% of project budget for projects with a budget of over GBP 20 000 up to a maximum of GBP 100 000.

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<sup>1607</sup> P. 8-9 of the BFI Development Guidelines.

<sup>1608</sup> P. 10 of the Creative Scotland - Film Development and Production Fund Guidance.

<sup>1609</sup> P. 7 of the Creative Scotland - Film Development and Production Fund Guidance.

<sup>1610</sup> P. 5 of the Creative Scotland - Film Development and Production Fund Guidance.

<sup>1611</sup> P.10 of the Screen Scotland Broadcast Production Fund Guidance .

<sup>1612</sup> P. 3 of the Ffilm Cymru Wales - Development Guidelines, *Op. cit.*

<sup>1613</sup> P. 5 of the Ffilm Cymru Wales - Development Guidelines, *Op. cit.*

<sup>1614</sup> P. 4 of the Ffilm Cymru Wales - Development Guidelines, *Op. cit.*

<sup>1615</sup> Northern Ireland Screen - Development Guidelines,

<http://www.northernirelandscreen.co.uk/funding/development/#ScriptDevelopment>



- For Irish Language Broadcast Fund, up to 50% of the overall development budget.<sup>1616</sup>

In terms of maximum amounts, for Script Development, up to a maximum amount of GBP 2 250 may be awarded for individuals and up to maximum amount of GBP 40 000 for companies.

The support takes the form of a recoupable loan and is awarded selectively. Last, the eligible costs are calculated based on the proposed budget.

#### 7.12.4.3. Underlying copyright

There are no specific requirements regarding the underlying copyright (and how this is linked to the country), for any of the funds. They can however be recognized as part of the cultural tests.

#### 7.12.4.4. Script language and diversity

##### A) BFI

The script language is part of the cultural test, as explained in section 7.12.3.7. Regarding diversity, the BFI Diversity Standards, described in section 7.12.3.7 are applicable for all funding schemes offered by BFI, including development funding.

##### B) Screen Scotland

There are no specific requirements related to the script language. In terms of diversity, as explained in Section 7.12.3.7, applications for support to all screen funds will be strengthened by a specific and targeted contribution to improving diversity.<sup>1617</sup>

##### C) Ffilm Cymru Wales

Although not a mandatory requirement, like production support, Ffilm Cymru Wales will encourage Welsh cultural content as well as Welsh language projects and have supported many projects in different international languages.<sup>1618</sup> In line with this, and where applicable, writer, director and producer are required to complete a diversity form.<sup>1619</sup>

##### D) Northern Ireland Screen

Although there are no specific requirements for development support by the Irish Language Broadcast Fund, the same general requirements as for production support apply (see 7.12.3.7(d)).

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<sup>1616</sup> Irish Language Broadcast Fund Guidelines, *Op. cit.*

<sup>1617</sup> P.4 of Creative Scotland - Development and Production Guidance.

<sup>1618</sup> P. 2 of the Ffilm Cymru Wales - Development Guidelines.

<sup>1619</sup> P. 4 of the Ffilm Cymru Wales - Development Guidelines.



## 7.12.5. Funding criteria applicable to distribution and promotion support

### 7.12.5.1. Theatrical release, broadcasting and visibility on VoD

#### A) BFI

With regards to the Film export scheme, the film is required to be intended for theatrical release.<sup>1620</sup> But regardless of this, there are no specific requirements regarding the theatrical release, the performance and visibility on VoD, or any release window schedule to be respected.

#### B) Screen Scotland

The distribution support provided is aimed at supporting and extending the theatrical release of completed Scottish films across Scotland, as well as supporting their international distribution.<sup>1621</sup> In line with this, Screen Scotland sets the following rules:

- Applicants are required to demonstrate the film's market potential by providing a detailed sales and marketing strategy for the film, which can be evidenced by the film having already secured a strong festival run and/or having received critical recognition.<sup>1622</sup>
- Priority will be given to projects that have a UK distributor in place and where funding is being sought to augment the distribution strategy in Scotland, and in any case, the applicant is required to obtain approval of the UK distribution agreement as a condition of any award to a distributor.<sup>1623</sup>

### 7.12.5.2. Theatrical performance and performance at festivals, events and awards

#### A) BFI

With regards to the Audience Fund scheme, priority will be given to project that demonstrate national reach,<sup>1624</sup> and application need to meet the objectives of the Audience Fund to increase audience choice and audience engagement across the UK, and have the potential to engage new and diverse audiences including a focus on 16- to 30-year-olds.<sup>1625</sup> Examples of proposals the BFI will consider include, but are not limited to: film festivals, distribution releases, multiplatform distribution proposals, touring film

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<sup>1620</sup> P. 4 and 8 of the BFI Film Export Guidelines.

<sup>1621</sup> P. 3 of the Creative Scotland - Distribution and Exhibition Guidance.

<sup>1622</sup> P. 5 of the Creative Scotland - Distribution and Exhibition Fund Guidance.

<sup>1623</sup> P. 6 of the Creative Scotland - Distribution and Exhibition Fund Guidance.

<sup>1624</sup> P. 6 of the BFI Audience Fund Guidelines.

<sup>1625</sup> Ibid.



programmes, large scale and ambitious film programmes, proposals that take the art form in innovative directions, and marketing or data audience development initiatives.<sup>1626</sup>

Separately, the Film Export scheme is reserved for British films selected to appear at important international film festivals. Applications must be for either the International, North American or European premiere.<sup>1627</sup> More specifically, the quality of the marketing and sales strategy for the film at the festival will be one of the criteria used during the assessment of the application.<sup>1628</sup>

## B) Screen Scotland

First, one of the key assessment criteria is that “the project demonstrates the ability to be a high-quality work that promotes Scotland’s creativity and can attract a national and international audience”.<sup>1629</sup> In addition, Screen Scotland implements a specific scheme, a “*Market and Festival Attendance Fund*”, dedicated to supporting attendance at international festivals and markets for screenwriters, directors and producers based in Scotland, in order to enable them to meet potential partners, access global markets and promote their completed projects.<sup>1630</sup>

### 7.12.5.3. Budget

The budget of an eligible project is not subject to any minimum threshold or maximum cap, except for the BFI Film export fund which requires the film to have a production budget under GBP 8 million.<sup>1631</sup> In addition, all applicants to the BFI Audience Fund must be able to demonstrate an element of partnership funding whether in cash or in kind.<sup>1632</sup> For *Market and Festival Attendance Fund* of Screen Scotland, the budget must include a minimum of 10% match funding of cash or in-kind contribution.<sup>1633</sup>

### 7.12.5.4. Awarded amount

## A) BFI

When it comes to aid intensity, the same general rules, described in the EU Cinema Communication<sup>1634</sup> and in the BFI State aid submission 30/09/2011,<sup>1635</sup> apply to the

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<sup>1626</sup> P. 5 of the BFI Audience Fund Guidelines.

<sup>1627</sup> P. 4 of the BFI Film Export Guidelines.

<sup>1628</sup> P. 10 of the BFI Film Export Guidelines.

<sup>1629</sup> P. 3 of the Creative Scotland - Distribution and Exhibition Fund Guidance.

<sup>1630</sup> Creative Scotland - Market and Festival Attendance Guidance 2018/19.

<sup>1631</sup> P. 4 of BFI Film Export Guidelines.

<sup>1632</sup> P. 13 of the BFI Audience Fund Guidelines.

<sup>1633</sup> P.4 of Creative Scotland - Market and Festival Attendance Guidance 2018/19.

<sup>1634</sup> Communication from the Commission on State aid for films and other audiovisual works (2013/C 332/01), [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52013XC1115\(01\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52013XC1115(01)&from=EN).

<sup>1635</sup> British Film Institute - European Commission Issued Paper Assessing State Aid For Films And Other Audiovisual Works - September 2011, [http://ec.europa.eu/competition/consultations/2011\\_state\\_aid\\_films/uk\\_british\\_film\\_institute\\_en.pdf](http://ec.europa.eu/competition/consultations/2011_state_aid_films/uk_british_film_institute_en.pdf).



different support activities, including distribution and promotion. In terms of maximum amount, the following caps apply:

- For the Audience Fund:
- For Project Awards: majority of awards approved to be between GBP 20 000 and GBP 50 000 with an upper limit for proposals of exceptional scale or ambition of GBP 200 000. The BFI reserves the right to make higher awards at their discretion.<sup>1636</sup>
- For Organisational Awards: majority of awards approved to be between GBP 50 000 and GBP 200 000. The BFI reserves the right to make higher awards at their discretion.<sup>1637</sup>
- For Film export: the aid intensity is limited to 50% of the total anticipated eligible costs to be incurred directly by the applicant, up to GBP 15 000 per film.<sup>1638</sup>

Besides, when it comes to production funding of debut or lower budget film (under GBP 750 000), the successful applicant for production support, can include an additional request for a GBP 25,000 (non-recoupable) marketing and distribution award from the BFI, “regardless of whether he/she has partnered with a UK distributor at the point of financing [...] to be held for the initial release of the film in the UK”.<sup>1639</sup> The amount is not repayable<sup>1640</sup> and awarded selectively by the Lottery Finance Committee.<sup>1641</sup>

Last, regarding the eligible costs, they are determined as follows:

- For Audience Fund: they are defined as “costs that directly relate to the delivery of the proposal, including a portion of costs for organisational overhead” for Project awards, and as “costs that directly support ongoing work to grow audiences for independent British and specialised film, but must have a focus on new and younger audiences and can include a portion of costs for existing staff and organisational overhead” for Organisational awards.<sup>1642</sup>
- For Film Export, they can include, *inter alia*: subtitling costs, DCP transport costs, public relations activities at the eligible festival, marketing and promotional items specific to the film’s inclusion at the eligible festival, etc.<sup>1643</sup>

## B) Screen Scotland

The awards are likely to be in the range of GBP 5 000 - GBP 15 000.<sup>1644</sup> Moreover, once the applicant has recouped an amount of money equal to their own spend on the relevant

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<sup>1636</sup> P. 10 of the BFI Audience Fund Guidelines.

<sup>1637</sup> P. 12 of the BFI Audience Fund Guidelines.

<sup>1638</sup> P. 6 of the BFI Film Export Guidelines.

<sup>1639</sup> P. 10 of BFI Production Funding Guidelines.

<sup>1640</sup> However, where a proposal is expected to result in corporate or private gain (such as where public funding is used to enhance a film’s release plan), the BFI reserves the right to make the award by way of a recoupable loan instead of a grant. P. 22 of the BFI Audience Fund Guidelines.

<sup>1641</sup> P. 17-18 of the BFI Audience Fund Guidelines and P.11 of the BFI Film Export Guidelines.

<sup>1642</sup> P. 13-14 of the BFI Audience Fund Guidelines.

<sup>1643</sup> P. 6 of the BFI Film Export Guidelines.



distribution costs, then, any receipts in excess of this amount will be paid to Screen Scotland towards recoupment of the awards. Thus, the grant can cover up to 100% of the distribution costs.<sup>1645</sup> The support is awarded selectively, after an initial assessment by Screen Scotland Officers, upon the decision on final awards taken by the Screen Scotland team.<sup>1646</sup> Last, the eligible costs can include digital and certification costs, media/advertising, publicity, production of materials (including disability access materials), etc.<sup>1647</sup>

#### 7.12.5.5. Language and diversity

##### A) BFI

There are no specific requirements related to the language of the film. Regarding diversity, the Diversity standards, described in section 7.12.3.7 are applicable for all funding scheme offered by BFI, including distribution and promotion funding.

##### B) Screen Scotland

There are no specific requirements related to the language of the film. Furthermore, as explained in Section 7.12.3.7, applications for support to all screen funds will be strengthened by a specific and targeted contribution to improving diversity.<sup>1648</sup>

### 7.12.6. Data compilation

This factsheet was produced based on data compiled by Professor Philip Drake, Manchester Metropolitan University, UK.

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<sup>1644</sup> P. 4 of the Creative Scotland - Distribution and Exhibition Fund Guidance. For Market and festival attendance, the maximum amount awarded is up to GBP 1500. P.4 of Creative Scotland - Market and Festival Attendance Guidance 2018/19.

<sup>1645</sup> P. 6 of the Creative Scotland - Distribution and Exhibition Fund Guidance.

<sup>1646</sup> P. 8 of the Creative Scotland - Distribution and Exhibition Fund Guidance.

<sup>1647</sup> P. 4 of the Creative Scotland - Distribution and Exhibition Fund Guidance.

<sup>1648</sup> P. 6 of the Creative Scotland - Distribution and Exhibition Fund Guidance.



## 7.13. GR – Greece – National Summary<sup>1649</sup>

### 7.13.1. Summary

At national level, the main fund operating in the country is the Greek Film Center (GFC) (Ελληνικό Κέντρο Κινηματογράφου “ΕΚΚ”). Created in 1970,<sup>1650</sup> it is a public non-profit legal entity, established under private law, which is supervised by the Minister of Culture and Sports. The GFC is the main institution exercising film policy in Greece; its main objectives are:

- The protection, support and development of film production in Greece,
- The promotion and diffusion of Greek film productions, both domestically and internationally,
- The promotion of Greece abroad as an appropriate location for filming cinematic productions, as well as attracting foreign cinematic productions to Greece.

The GFC funds all types of cinematographic work at every stage of the creation process. Moreover, it is worth mentioning that two funding schemes<sup>1651</sup> were evenly co-funded along with the Hellenic Broadcasting Corporation (ERT), the state-owned public radio and television broadcaster for Greece.<sup>1652</sup>

In addition, in 2018 a cash rebate was launched and managed by the National Centre for Audiovisual Media and Communication (Εθνικό Κέντρο Οπτικοακουστικών και Επικοινωνίας), EKOME.<sup>1653</sup> Lastly, at regional level, in June 2018, the Film Office of the region of Central Greece (hereinafter, “FOCG”) created the Hospitality fund<sup>1654</sup>, which is currently supporting the planning and/or completion of four productions. A specific budget will be allocated to this fund in 2019. However, it is worth mentioning that there is no law or decision as such that regulates this scheme, as it is the result of a regional initiative.

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<sup>1649</sup> The factsheet on Greece incorporates the feedback received from Vassilis Kosmopoulos (GFC) during the checking round with the national film and audiovisual funds.

<sup>1650</sup> Under the name “General Film Investments”, as a subsidiary production company of a state bank, the Greek Industrial Development Bank.

<sup>1651</sup> The New Directors Program and the Documentaries Production Program.

<sup>1652</sup> These two schemes have not been operational for TV projects since the shutdown of ERT in 2013.

<sup>1653</sup> As fiscal incentives are beyond the scope of our study, Ekome will not be further analysed.

<sup>1654</sup> <https://filmincentralgreece.com/el/criteria/>.



## 7.13.2. General framework

### 7.13.2.1. Overview of the film and audiovisual funding policy and legislation

The main legal framework for the public film funding in Greece was set by Law 3905/2010 (hereinafter, the “Film Law”),<sup>1655</sup> which defines, among other things, the status, financing, supported activities and internal functioning of the GFC. Further details on the different lines of support for pre-production, production, distribution and promotion, and on the internal organisation of the GFC are specified in the GFC’s financing regulation (hereinafter, the “Regulation”<sup>1656</sup>). The EKOME cash rebate is regulated by Law 4487/2017 and joint decision 923 of 28 March 2018.<sup>1657</sup> As for the FOCG, the granting criteria are indicated directly on the fund’s website.<sup>1658</sup>

**Table 25. Main funds in Greece**

Funding institution	Geographical level	Legislation / Guidelines
Greek Film Centre <sup>1659</sup>	National	Law No. 3905/2010 <sup>1660</sup>
		GFC’s Financing regulation <sup>1661</sup>
National Centre of Audiovisual Media and Communication <sup>1662</sup>	National	Law No. 4487/2017 <sup>1663</sup>
Film office of the region of central Greece <sup>1664</sup>	Regional	N/A <sup>1665</sup>

Source: Response to European Audiovisual Observatory standardised questionnaire

<sup>1655</sup> Νόμος 3905/2010 (Law 3905/2010),

[http://www.gfc.gr/images/files/%CE%9D%CF%8C%CE%BC%CE%BF%CF%82\\_3905.pdf](http://www.gfc.gr/images/files/%CE%9D%CF%8C%CE%BC%CE%BF%CF%82_3905.pdf).

<sup>1656</sup> Κανονισμός Χρηματοδοτικών Προγραμμάτων (Regulations for Funding Programs 2013),

[http://www.gfc.gr/images/files/KANONISMOS\\_2015.pdf](http://www.gfc.gr/images/files/KANONISMOS_2015.pdf); for an English version, see:

[http://www.gfc.gr/images/files/REGULATIONS\\_2015.pdf](http://www.gfc.gr/images/files/REGULATIONS_2015.pdf).

<sup>1657</sup> Establishment of a regulatory framework for the provision of aid to the production of audiovisual works in

Greece, [https://www.ekome.media/wp-content/uploads/EKOME\\_4487\\_2017.pdf](https://www.ekome.media/wp-content/uploads/EKOME_4487_2017.pdf); for English version, see:

[https://www.ekome.media/wp-content/uploads/Law4487\\_2017eng.pdf](https://www.ekome.media/wp-content/uploads/Law4487_2017eng.pdf).

<sup>1658</sup> Eligibility criteria, <https://filmincentralgreece.com/el/criteria/>.

<sup>1659</sup> [www.gfc.gr/el](http://www.gfc.gr/el).

<sup>1660</sup> [http://www.gfc.gr/images/files/%CE%9D%CF%8C%CE%BC%CE%BF%CF%82\\_3905.pdf](http://www.gfc.gr/images/files/%CE%9D%CF%8C%CE%BC%CE%BF%CF%82_3905.pdf).

<sup>1661</sup> Law No. 3905/2010, [http://www.gfc.gr/images/files/KANONISMOS\\_2015.pdf](http://www.gfc.gr/images/files/KANONISMOS_2015.pdf); for an English version, see:

[http://www.gfc.gr/images/files/REGULATIONS\\_2015.pdf](http://www.gfc.gr/images/files/REGULATIONS_2015.pdf).

<sup>1662</sup> [www.ekome.media](http://www.ekome.media).

<sup>1663</sup> Law No. 4487/2017, [https://www.ekome.media/wp-content/uploads/EKOME\\_4487\\_2017.pdf](https://www.ekome.media/wp-content/uploads/EKOME_4487_2017.pdf); for English

version, see: [https://www.ekome.media/wp-content/uploads/Law4487\\_2017eng.pdf](https://www.ekome.media/wp-content/uploads/Law4487_2017eng.pdf).

<sup>1664</sup> <https://filmincentralgreece.com>.

<sup>1665</sup> There is no proper law in place, the granting criteria are indicated directly on the fund’s website. See:

<https://filmincentralgreece.com/el/criteria/>.



### 7.13.2.2. Definition of cultural criteria

As a general principle, there is no proper definition of cultural profile or test in place to evaluate the cultural content of the project.<sup>1666</sup> However, it is worth mentioning that the Film Law sets a definition for “Greek cinematographic work”, which comprises a set of cultural criteria used when the certification of the Greek nationality is required.<sup>1667</sup> Article 3 of the Film Law states that the cinematographic work needs to meet at least two of the three following criteria:

- At least 51% of the film is in the Greek language;
- At least 51% of the shooting takes place in Greece;
- At least 51% of the budget is spent in Greece.

In addition, the cinematographic work also needs to comply with the requirements laid down in Article 4, which differ depending on the type of work concerned. For example, when it comes to fiction films, it needs to have at least 14 out of 18 of the following points on the nationality of the cast and crew:

- Director: 3
- Scriptwriter: 2
- Composer of original music:1
- Actor first role: 3
- Actor second role: 2
- Actor third role: 1
- Director of Photography/cameraman/first assistant: 1
- Sound (sound recordist, first assistant): 1
- Editor, first assistant: 1
- Set design - Costumes: 1
- Post-Production: 1
- Studio - Place of filming: 1

Greek nationality is not evaluated at the time of application, and is not required for the production and distribution/promotion funding programmes of the GFC. The Regulation (page 42) states that “the work will be categorised as Greek or European according to the applicable rules of the European Co-production Convention”. Greek nationality can be required in order to obtain the final installment from the Greek Broadcaster or to be eligible for the Greek Academy awards.<sup>1668</sup> Regarding the support provided by FOCG, no cultural criteria are applied.

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<sup>1666</sup> There is, however, a definition of the cultural criteria through a cultural test in the case of the EKOME cash rebate; nonetheless, fiscal incentives, as said before, are beyond the scope of this mapping.

<sup>1667</sup> In accordance with the Film Law (Articles 3 and 4) and in certain situations, both the Greek Film Centre and the Minister of Culture can make exceptions to these rules.

<sup>1668</sup> It is worth noting that any film recognised as an official co-production automatically receives the Greek nationality.



### 7.13.2.3. Nationality of the applicant

According to the Regulation,<sup>1669</sup> the applicant must be an EU citizen legally established in Greece. However, applicants based in another EU country can still apply for support if:

- They have a legal branch in Greece,
- They are responsible for the work,<sup>1670</sup>
- There is guaranteed reciprocity between the countries where these producers are based.

## 7.13.3. Funding criteria applicable to production support

### 7.13.3.1. Theatrical release, broadcasting and visibility on VOD

There are no concrete requirements regarding visibility and performance on any of the different release windows, nor is there a release window schedule to be respected. Nevertheless, the distribution potential and the level of financing already secured are part of the evaluation criteria.<sup>1671</sup> Regarding FOCG, the only requirement is the existence of a distribution deal, which awards a maximum of 20 points out of a total of 100.<sup>1672</sup>

### 7.13.3.2. Theatrical performance and performance at festivals, events and awards

There are no concrete requirements for a production project related to expected or actual theatrical performance on the home market or abroad as such, nor at festivals, events and award ceremonies. However, it is worth mentioning that the track record of the producer and the distribution potential of the project are part of the evaluation criteria.<sup>1673</sup> For FOCG, there is no concrete requirement, except the “existing distribution deal” requirement described in the previous section.

### 7.13.3.3. Budget

The budget of an eligible project is not subject to any minimum threshold or maximum cap, except when it comes to the qualification of “Low budget film production program” where the maximum budget is EUR 200 000.<sup>1674</sup> Moreover, within 12 months (or 18 months in the case of the basic Production Scheme) of the project being pre-selected, the applicant must submit the “final production application”, with 100% of the budget

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<sup>1669</sup> Paragraph 2, page 41 of the Regulation (paragraph 6, page 37 of the English version).

<sup>1670</sup> This means, in practice, the delegate producer.

<sup>1671</sup> Paragraph 8b, p. 43 of the Regulation (paragraph 8b, p. 38 of the English version).

<sup>1672</sup> FOCG’s website.

<sup>1673</sup> Paragraph 8b, p. 43 of the Regulation (paragraph 8b, p. 38 of the English version).

<sup>1674</sup> Paragraph 4, p. 22 of the Regulation (paragraph 4, p. 19 of the English version).



secured.<sup>1675</sup> In the case of FOCG, there are no specific requirements related to the project's budget.

#### 7.13.3.4. Awarded amount

The maximum support awarded, both in terms of the maximum share of the budget and the maximum total amount, depending on the support schemes, are as follows:

For production support:

- Basic Production scheme: a maximum of EUR 250 000, or 33% of the budget,
- Low Budget films: a maximum of EUR 75 000, or 50% of the budget,
- New Directors: a maximum of EUR 150 000, and up to 60% of the budget,
- Documentaries: a maximum of EUR 70 000,
- Short films: a maximum of EUR 25 000,
- Greek minority co-production:
  - With countries that a) have signed the European Co-production Convention and b) have a bilateral agreement with Greece (at the time of writing, Canada): a maximum of EUR 50 000, upon producing invoices for expenses incurred in Greece by the Greek co-producer,
  - For the rest of the world: a maximum of 20% of the expenses incurred in Greece by the Greek co-producer, and up to EUR 80 000.

For works which have already been completed (post-production support):

- Fiction films: a maximum of EUR 80 000,
- Short films: a maximum of EUR 10 000,
- Documentaries: a maximum of EUR 25 000,
- GFC-CNC co-production fund: a maximum of 50% of the production budget, and a maximum amount of EUR 45 000 (total budget of the scheme, CNC-GFC combined).

The amount awarded is not repayable except in the case of the GFC-CNC support; otherwise, the GFC gets a percentage of the net revenues equivalent to the percentage of the awarded amount in the budget.<sup>1676</sup> Moreover, the support is awarded selectively after an assessment procedure which involves the bodies responsible for evaluating the projects (which include advisors, script readers, the Director of the GFC Development and Production Department, and the GFC General Director) and the bodies responsible for evaluating funding programmes (which include the Director of the GFC Development and Production Department, the GFC General Director and the GFC Board of Directors).<sup>1677</sup>

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<sup>1675</sup> Paragraph 5, p. 40 of the Regulation (paragraph 5, p. 36 of the English version).

<sup>1676</sup> Paragraph 9, p. 43 of the Regulation (paragraph 9, p. 39 of the English version).

<sup>1677</sup> P. 7-8 of the Regulation (P.7 of the English version).



In the case of programmes co-funded by the GFC and the Hellenic Broadcasting Corporation, the project evaluation is conducted by a joint committee of the two organisations, which consists of five members.<sup>1678</sup>

Lastly, regarding eligible costs, these are described in the GFC's budget model<sup>1679</sup> and include, *inter alia*: the producer's and director's fees, film-material costs, travel costs, etc.

Regarding the support provided by the FOCG, the aid intensity can reach 65%. The support awarded is not repayable and is awarded selectively by professionals. As for eligible costs, all expenditure in the region is considered eligible.<sup>1680</sup>

#### 7.13.3.5. Spending and shooting criteria

As described above, the qualification of "Greek cinematographic work" implies compliance with at least two of the following criteria:

- At least 51% of the film is in the Greek language;
- At least 51% of the shooting takes place in Greece;
- At least 51% of the budget is spent in Greece.

However, the qualification of "Greek cinematographic work" it is not mandatory to comply with this requirement in order to be eligible for support. The only mandatory requirements related to spending in the country concern the co-production schemes, as follows:

- For minority co-production with a member state of the Council of Europe which has ratified the European Co-production Treaty or with other countries which have concluded or may conclude a transnational treaty with Greece: support will be awarded only after "the audit of the expenses incurred in Greece is conducted, based on legitimate invoices in the name of the Greek co-producer, for the specific work".<sup>1681</sup>
- For minority co-production originating from the rest of the countries of the world: support is also awarded only after an audit of the expenses incurred in Greece, and on top of that, the "amount of funding by the GFC cannot exceed 20% of these expenses".<sup>1682</sup>
- For the GFC-CNC co-production funds: at least 50% of the awarded amount must be spent in Greece, and the rest in France.<sup>1683</sup>

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<sup>1678</sup> P. 8 of the Regulation (P 7 of the English version).

<sup>1679</sup> Paragraph 12, p. 46 of the Regulation (paragraph 12.3, p.42 of the English version).

<sup>1680</sup> Information not available on the FOCG's website; based on an interview with FOCG officials conducted by the national expert for the purpose of this report.

<sup>1681</sup> P.32 of the Regulation (p. 29 of the English version).

<sup>1682</sup> P. 32 of the Regulation (p. 29 of the English version).

<sup>1683</sup> Article 6, p. 3 of Κοινό Ταμείο EKK-CNC (Joint GFC-CNC coproduction fund), [http://www.gfc.gr/images/files/tameio\\_ekk\\_cnc/2018.pdf](http://www.gfc.gr/images/files/tameio_ekk_cnc/2018.pdf).



As for the FOCG, as explained above, only expenses incurred in the region are considered eligible, and at least 15 days of shooting must take place in the region (compliance with this criteria allocates 20 points out of a total of 100).<sup>1684</sup>

#### 7.13.3.6. Talent, cast, crew, underlying copyright

Apart from the qualification of Greek nationality (previously explained), there are no concrete requirements regarding the nationality of the talent, cast and crew or related to the underlying copyrights (and how they are linked to the country).

#### 7.13.3.7. Shooting language and diversity

There are no requirements regarding the shooting language, ethnic or linguistic minorities and gender.

### 7.13.4. Funding criteria applicable to pre-production support<sup>1685</sup>

#### 7.13.4.1. Budget

The budget of an eligible project is not subject to any minimum threshold or maximum cap. Moreover, within 12 months (18 months in the case of the basic Production Scheme) of the project being pre-approved, the applicant must submit the “final production application”, with 100% of the budget secured.<sup>1686</sup>

#### 7.13.4.2. Awarded amount

There are no aid intensity rules established when it comes to pre-production (to be confirmed by the expert). As for the maximum amount awarded, depending on the support schemes, these are as follows:

- Idea to treatment phase: a maximum of EUR 4 000,
- Treatment to the first script draft: a maximum of EUR 9 000,
- Scriptwriting to development: a maximum of EUR 12 500,
- Development phase: a maximum of EUR 12 500.

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<sup>1684</sup> FOCG's website.

<sup>1685</sup> The Film Office Central Greece only supports production; therefore, it will not be covered in the sections on pre-production and distribution.

<sup>1686</sup> Paragraph 5, p. 40 of the Regulation (paragraph 5, p. 36 of the English version).



These amounts are not repayable and are awarded selectively by the same bodies as described for production support.

#### 7.13.4.3. Underlying copyright

There are no requirements regarding the underlying copyright (and how this is linked to the country).

#### 7.13.4.4. Script language and diversity

There are no requirements regarding the language of the script, ethnic or linguistic minorities and gender

### 7.13.5. Funding criteria applicable to distribution and promotion support<sup>1687</sup>

#### 7.13.5.1. Theatrical release, broadcasting and visibility on VOD

GFC has designed a promotion festival support scheme for Greek productions (majority and minority) which includes a financial support for their world or international premiere in international festivals. The support is based on the following criteria:

Regarding the classification of the festival, section of the festival, percentage of the Greek production company, every year there is an evaluation process for the festivals' list and their classification. If a film is selected to an international festival which is not included in the list then the support is evaluated on a case by case basis. There is no requirement regarding the performance of a work in terms of theatrical attendance at home or abroad.

#### 7.13.5.2. Theatrical performance and performance at festivals, events and awards

There are no requirements regarding the performance of a work in terms of theatrical attendance at home or abroad. However, it is worth mentioning that, in practice, the GFC supports films that have their world premiere at international festivals. The amount of support is decided on a case-by-case basis, taking into account the classification of the festival and whether the film is majority or minority Greek. Films that premiere at a national festival and then travel internationally can also request support. In this case, the awarded amount would be lower.

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<sup>1687</sup> Information on requirements and criteria described in this section are not available in the Regulation; based on an interview with GFC officials conducted by the national expert for the purpose of this report.



#### 7.13.5.3. Budget

The budget of an eligible project is not subject to any minimum threshold or maximum cap, nor is anything stipulated regarding a minimum contribution from the applicant.

#### 7.13.5.4. Awarded amount

GFC is reevaluating the existing distribution support scheme and presently supports financially on a case by case basis all the Greek productions (majority and minority) which manage to have a national theatrical release. The support is based on the following criteria: The total distribution budget, the distribution plan and whether the film has been funded from GFC's funding programmes.

#### 7.13.5.5. Language and diversity

The work must be in Greek, according to the qualification criteria defined in Articles 3 and 4 of the Film Law, in order to apply for distribution and festival funding support. Apart from this, there are no requirements linked to ethnic or linguistic minorities and gender.

### 7.13.6. Data compilation

This factsheet was produced based on data compiled by Eleni Chandrinou, freelance producer and consultant working in Athens and Brussels.



## 7.14. HR – Croatia – National Summary<sup>1688</sup>

### 7.14.1. Summary

At national level, the main fund operating in Croatia is the Croatian Audiovisual Centre (*Hrvatski audiovizualni centar*, HAVC), which was established by law in 2008. It is responsible for allocating subsidies on a national level through its selective funding scheme, with the aim of stimulating the Croatian audiovisual industry as well as promoting audiovisual works across the country. It is financed by grant-in-aid from the government and through stakeholders' contributions<sup>1689</sup>, such as broadcasters, digital, cable and satellite operators, Internet providers, telecoms, etc. It has set schemes for theatrical feature films, short films, TV films and TV series, including experimental and animated creations. The activities covered by public funding include support for the development, production and distribution of Croatian audiovisual works. It also supports international co-productions with Croatian producers, including a dedicated scheme for Croatian minority co-productions. In addition, it supports the promotion and sales of Croatian films abroad and festivals, with schemes and programmes aimed at reaching audiences, archiving, film education and training. The Centre is presided by three autonomous and equal bodies, which are: the Managing Board, the Chief Executive Officer and the Croatian Audiovisual Council.<sup>1690</sup>

HAVC has also set up the *Filming in Croatia* department, a film commission dedicated to promoting the country as a location for international film production, by helping and guiding international filmmakers through the different procedural and practical requirements for filming in Croatia, including the different supporting schemes available in the country.<sup>1691</sup> HAVC is also responsible of the implementation of a

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<sup>1688</sup> The factsheet on Croatia incorporates the feedback received from Daniel Rafaelić (HAVC) during the checking round with the national film and audiovisual funds.

<sup>1689</sup> Article 25 of the Law on Audiovisual Activities states that these contributions are calculated based on the total annual gross income earned by stakeholders carrying out audiovisual activities as defined by Article 3 of the same Act, and that HAVC is in charge of collecting these contributions.

<sup>1690</sup> The composition and tasks of the Croatian Audiovisual Council are defined under Articles 35 and 36 of the Law on Audiovisual Activities. It is composed of 17 members from various stakeholders in the audiovisual industry and is, among other things, responsible for all things pertaining to allocation of subsidies such as public calls, appointment of Artistic Consultants and approval/validation of Artistic Consultants' recommendations on allocation of the subsidies in accordance with the National Programme for Advancement of Audiovisual Activities, which is laid down under Article 6 of the Law on Audiovisual Activities.

<sup>1691</sup> Croatian Audiovisual Centre, *Filming in Croatia 2018*, <https://www.havc.hr/file/publication/file/havc-filming-2018-web.pdf>.



production incentive scheme in the form of cash rebate, which is governed by the Regulations to Encourage Investment in the Production of Audiovisual Works.<sup>1692</sup>

On a regional level, the City Offices for Culture have established support schemes, such as in the cities of Zagreb, Rijeka and Split. They mainly provide support for short films. Additionally, the first regional film commission was established in Zadar in 2014, covering the Zadar county, followed by Pula in 2015, for the region of Istria, and in Kvarner in 2016, covering the City of Rijeka and the Primorje and Gorski Kotar County.<sup>1693</sup> Regional commissions work in partnership with HAVC to provide advice and information.

## 7.14.2. General framework

### 7.14.2.1. Overview of the film and audiovisual funding policy and legislation

The main legal framework for the public film and audiovisual funding in Croatia is the Law on Audiovisual Activities, which establishes HAVC and governs film funding activities on a national level. This main law is complemented by the Regulations on Procedure, Criteria and Deadlines for the Implementation of the National Programme for Advancement of Audiovisual Activities (hereinafter, the “Regulations on Procedure”), which provides further details with regard to the activities carried out by HAVC, the different procedures and the projects’ assessment flow, for selective support schemes in Croatia.

At regional level, film funding is governed by the Law on Financing of Public Demand in Culture.<sup>1694</sup> Article 10 serves as the basis for the bylaws/guidelines issued by the respective regional governing bodies.

**Table 26. Main funds in Croatia**

Funding institution	Geographical level	Legislation / Guidelines
Croatian Audiovisual Centre <sup>1695</sup>	National	Law on Audiovisual Activities <sup>1696</sup>

<sup>1692</sup> *Pravilnik o ulaganju u proizvodnju audiovizualnih djela* (Regulations to Encourage Investment in the Production of Audiovisual Works), Official Gazette NN 3/2015, Zagreb, 30 December 2014, [https://narodne-novine.nn.hr/clanci/sluzbeni/2015\\_01\\_3\\_66.html](https://narodne-novine.nn.hr/clanci/sluzbeni/2015_01_3_66.html); for the English version, see [http://media.filmingincroatia.hr/havcfic/document\\_translations/doc/000/000/045/2015\\_Regulations\\_Rebate\\_Scheme\\_clean.pdf?1422975182](http://media.filmingincroatia.hr/havcfic/document_translations/doc/000/000/045/2015_Regulations_Rebate_Scheme_clean.pdf?1422975182).

<sup>1693</sup> Guide to filming in Croatia, [http://filmingincroatia.hr/en/guide\\_to\\_filming\\_in\\_croatia](http://filmingincroatia.hr/en/guide_to_filming_in_croatia)

<sup>1694</sup> *Zakon o financiranju javnih potreba u kulturi* (Law on Financing of Public Demand in Culture), Official Gazette NN 47/1990; 27/1993; 38/2009, Zagreb, 9 November 1990, [https://narodne-novine.nn.hr/clanci/sluzbeni/1990\\_11\\_47\\_866.html](https://narodne-novine.nn.hr/clanci/sluzbeni/1990_11_47_866.html).

<sup>1695</sup> <https://www.havc.hr/eng>.

<sup>1696</sup> *Zakon o audiovizualnim djelatnostima* (Law on Audiovisual Activities), Official Gazette NN 61/2018; 90/2011; 76/2007, [https://narodne-novine.nn.hr/clanci/sluzbeni/2018\\_07\\_61\\_1266.html](https://narodne-novine.nn.hr/clanci/sluzbeni/2018_07_61_1266.html).



Funding institution	Geographical level	Legislation / Guidelines
		Regulations on Procedure <sup>1697</sup>
Zagreb - City Office For Culture <sup>1698</sup>	Regional	Criteria for the programmes of public needs in culture <sup>1699</sup>
Rijeka - City Office For Culture <sup>1700</sup>	Regional	System evaluation of the programmes of public needs in culture <sup>1701</sup>
Split – Office for Culture <sup>1702</sup>	Regional	Guidelines for applicants <sup>1703</sup>

Source: Response to European Audiovisual Observatory standardised questionnaire

#### 7.14.2.2. Definition of cultural criteria

Article 3 c) of the Law on Audiovisual Activities provides the definition of “cultural product”, and refers to an “established national selection system based on measurable cultural criteria” as a basis for granting financial support.

The selection process is carried out by Artistic Consultants appointed by the Croatian Audiovisual Council. A project must earn at least four out of a maximum eight possible points (each criterion is worth two points) to be eligible for a funding support. The Regulations on Procedure provides the following list of cultural criteria used for the qualification test of a cultural product, under Section A “Cultural content” of Annexe 1 of the Regulations:

- The work is located on a location in Croatia or in one of the European countries, or its pictures represent Croatia or some other European country or cultural environment;
- The work is inspired or based on the adaptation of an existing literary, musical, theatrical or audiovisual work;

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<sup>1697</sup> *Pravilnik o postupku, kriterijima i rokovima za provedbu Nacionalnog programa promicanja audiovizualnog stvaralaštva* (Regulations on Procedure, Criteria and Deadlines for the Implementation of the National Programme for Advancement of Audiovisual Activities), Official Gazette NN 144/2014, [https://narodne-novine.nn.hr/clanci/sluzbeni/2014\\_12\\_144\\_2704.html](https://narodne-novine.nn.hr/clanci/sluzbeni/2014_12_144_2704.html).

<sup>1698</sup> <https://www.zagreb.hr/>.

<sup>1699</sup> *Kriteriji za utvrđivanje programa javnih potreba u kulturi Grada Zagreba* (the criteria for the programs of public needs in culture of the City of Zagreb), <https://www.zagreb.hr/kriteriji-za-utvrđivanje-programa-javnih-potreba-55992>.

<sup>1700</sup> <https://www.rijeka.hr/>.

<sup>1701</sup> *Sustav vrednovanja prijedloga programa javnih potreba u kulturi Grada Rijeke* (System evaluation of the programs of public needs in culture of the City of Rijeka), <https://www.rijeka.hr teme-za-gradane/kultura-2/javne-potrebe-kulturi/sustav-vrednovanja-prijedloga-programa-javnih-potreba-kulturi-grada-rijeke/audiovizualna-djelatnost/>.

<sup>1702</sup> <http://www.split.hr/Default.aspx?art=9120&sec=2>.

<sup>1703</sup> *Javni Poziv Program Javnih Potreba U Kulturi Grada Splita Za 2018. GODINU - Upute za prijavitelje* (2018 Public Call Environmental and Cultural Program in Split City - Guidelines for Applicants), <http://www.split.hr/Default.aspx?art=9120&sec=2>.



- The work deals with contemporary political, social or cultural topics and/or contents;
- The final version of the work is in Croatian or one of the European languages.

This qualification test is a pre-condition for the further assessment of the project by the Artistic Consultants based on the qualitative and artistic aspects of the project.

#### 7.14.2.3. Nationality of the applicant

Croatian regulations have nationality criteria for the granting of funding for all the activities supported by HAVC.

In the different support schemes, including selective support for pre-production and minority co-production support, the applicant has to be either a natural or legal person established in Croatia or in an EU member state and, in the case of production support, registered for the production of audiovisual works, according to Article 6 of the Regulations on Procedure.

### 7.14.3. Funding criteria applicable to production support

#### 7.14.3.1. Theatrical release, broadcasting and visibility on VOD

There are no requirements regarding the performance of audiovisual works in terms of theatrical release or in VOD, regarding the visibility or distribution of the work or regarding the release window, in order to be eligible for production support on a national level in Croatia.

#### 7.14.3.2. Theatrical performance and performance at festivals, events and awards

There are no requirements regarding the performance of audiovisual works in terms of theatrical attendance or attendance at festivals in order to be eligible for production support on a national level in Croatia.

#### 7.14.3.3. Budget

Croatian law does not require a minimum contribution to be made by the applicant in order to be eligible for production support. Moreover, applicants are not required to secure part of the budget beforehand, through pre-acquisition deal or distribution deal in order to apply for support; the only exception being the selective minority co-production scheme, where 50% of the overall budget needs to be secured prior to the application. Further details are provided under Article 35 of the Regulations on Procedure, and include, among others, these finance-related conditions:



- “[E]vidence that part of the planned funds have already been secured in the home country of the majority producer,
- The financing plan and the financial plan in HRK terms expressed in the average exchange rate of the European Central Bank on the date of drawing up the plan, with the exact date of its establishment and the amounts that are intended to be spent in the Republic of Croatia by items,
- Representation of co-producers’ shares in percentages and by country co-producers.”

#### 7.14.3.4. Awarded amount

As a general rule, aid intensity from public sources in Croatia, including for co-productions, shall not exceed 50% of the eligible production costs, as stipulated under Article 6 of the State-aid Programme for the Allocation of Subsidies for the Advancement of Audiovisual Creativity, Audiovisual Culture and the Preservation of the Audiovisual Heritage (hereinafter, the “State-aid Programme for Allocation”).<sup>1704</sup> The latter Article foresees an exception for difficult, demanding and low-budget audiovisual works, where state aid can amount up to 80% of the total budget. Amounts before deduction of taxes and other fees are used as a basis for the calculation of the aid intensity. Also, Article 11 of the Regulations on Procedure refers to the exception for films and audiovisual works considered to be low-budget, difficult or demanding.

The concept of a demanding audiovisual work is defined under Article 3(d) of the Law on Audiovisual Activities as “a work of special artistic and/or cultural value for national or European film art that contributes to cultural diversity and pluralism of artistic expression, as well as:

- A work of high quality or creative risk, which for any reason is not commercially viable or which makes it difficult to access financing;
- The work of demanding topics important for a cultural goal that is not commercially viable;
- The first or second film of a director;
- Audiovisual work of a low budget.”

Low-budget audiovisual works are those whose costs do not exceed the average production costs in its category. This average cost is set in the same Article 11 as follows:

- Feature and debut feature films: HRK 10 000 000
- Short film: HRK 1 000 000
- Feature documentary: HRK 1 000 000
- Short documentary: HRK 500 000
- Animated film: HRK 80 000 per minute

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<sup>1704</sup> *Program državne potpore za dodjelu sredstava za promicanje audiovizualnog stvaralaštva, audiovizualne kulture i očuvanja audiovizualne baštine (State-aid Programme for Allocation of Subsidies for Advancement of Audiovisual Creativity, Audiovisual Culture and Preservation of the Audiovisual Heritage)*, January 2015, [https://www.havc.hr/img/newsletter/files/prog\\_drzavne\\_potpore.pdf](https://www.havc.hr/img/newsletter/files/prog_drzavne_potpore.pdf).



- Experimental film: HRK 500 000

The State-aid Programme for Allocation provides an outline of eligible costs under Article 6(b), but there is no precise list of costs for the different support categories. The awarded amounts are not repayable according to Article 29 of the Regulations on Procedure, except in cases of non-fulfilment of the obligations by the applicant.

#### 7.14.3.5. Spending and shooting criteria

In the case of production support schemes, no requirements are set for a minimum spend in Croatia, with the exception of the minority co-production scheme, where it is stipulated that at least 60% of the awarded amount be spent in the country, as per Article 36 of the Regulations on Procedure.

However, the Regulations on Procedure includes a cluster of criteria dedicated to the use of Croatian infrastructure as part of the qualification test, that is, by ensuring that the shooting and/or the production takes place on locations or in studios in Croatia. Annexe 1 establishes the qualification test to apply for HAVC funding whereby a project needs to obtain at least 12 points out of 34 to be eligible. The following criteria refer to the use of production infrastructure in the country:

- At least 50% of the total days of recording/production will take place in Croatia (5 points), or
- At least 30-50% of the total days of recording/production will take place in Croatia (3 points), or
- At least 15-30% of the total days of recording production will take place in Croatia (2 points).

#### 7.14.3.6. Talent, cast, crew, underlying copyright

Production support schemes have to include the nationality of talent, cast and crew as part of the qualification test, where points are awarded for the contribution of Croatian or EEA member states nationals. Projects are required to obtain at least 4 out of 12 possible points, as follows:

- Director (1 point),
- Producer (1 point),
- At least one co-author - director of photography, scriptwriter, screenwriter, composer, head animator (1 point),
- At least one creative collaborator (1 point),
- Lead actor/actress (1 point),
- Minimum of three supporting actors/actresses (1 point),
- Other cast and crew members, including at least 50% of the cast and crew members of the work realised in Croatia, with the exception of the contributors who scored points in B1 and extras, are Croatian citizens or citizens of the EEA member states (6 points); or at least 40% of the cast and crew members of the work realised in Croatia, with the exception of the contributors who scored points



in B1 and extras, are citizens of Croatia or citizens of the EEA member states (4 points); or at least 30% of the cast and crew members of the work realised in Croatia, with the exception of the contributors who scored points in B2 and extras, are citizens of Croatia or citizens of the EEA member states (3 points).

#### 7.14.3.7. Shooting language and diversity

There are no requirements regarding the shooting language, ethnic or linguistic minorities and gender.

### 7.14.4. Funding criteria applicable to pre-production support

#### 7.14.4.1. Budget

The budget of an eligible project is not subject to any minimum threshold or maximum cap, nor is there an obligation to secure any share of the budget as a condition to disbursing the awarded amount.

#### 7.14.4.2. Awarded amount

There are no aid intensity rules in terms of a maximum share of the pre-production budget. The maximum total amount in the case of script development for films intended for theatrical release is HRK 35 000, and in the case of project development for films intended for theatrical release, the maximum is HRK 175 000, except in the case of feature-length animation films intended for theatrical release where it can be above HRK 175 000 with no fixed maximum.<sup>1705</sup> In the case of TV development schemes, the maximum total amounts are HRK 25 000 for script development per TV work and HRK 40 000 for TV series<sup>1706</sup> and for project development: HRK 90 000 for a TV work and HRK 175 000 for TV series.

According to the guidelines, eligible costs are calculated on the basis of costs incurred in the development of the projects. In the case of project development, eligible costs are all the costs associated with script development as well as all costs associated with practical undertakings during the project development. In the case of script development, they include screenwriters' fees, script consultant's fees as well as the costs

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<sup>1705</sup> Application Guidelines for Script and Project Development of feature films, feature-length documentary and animated films, January 2016, <https://www.havc.hr/file/attachment/attachmentFile/smjernice-za-razvoj-projekata-2016.pdf>.

<sup>1706</sup> Application Guidelines for Script and Project Development of television Works, January 2016, <https://www.havc.hr/file/attachment/attachmentFile/smjernice-razvoj-scenarija-pojedinacna-i-serijska-televizijska-djela-2017.pdf>.



of research, literary option and participation in professional script development training programmes. Those amounts are not repayable.

#### 7.14.4.3. Underlying copyright

There are no requirements regarding the underlying copyright and to how they are linked to the country.

#### 7.14.4.4. Script language and diversity

There are no requirements regarding the shooting language, ethnic or linguistic minorities and gender.

### 7.14.5. Funding criteria applicable to distribution and promotion support

#### 7.14.5.1. Theatrical release, broadcasting and visibility on VOD

The Law on Audiovisual Activities does not contain any specific requirements for distribution support applicants regarding theatrical release. In addition, it does not refer to any support schemes for distribution through on-demand services, or regarding the visibility of the audiovisual works on VOD services.

#### 7.14.5.2. Theatrical performance and performance at festivals, events and awards

The Law on Audiovisual Activities does not contain any requirements regarding theatrical performance or attendance at festivals.

Article 31 of the Regulations on Procedure foresees a line of support exclusively aimed at cinematographic works (feature, short and experimental films) already produced with the support of HAVC. Its purpose is to allocate a fixed amount defined by the Audiovisual Council on a case-by-case basis, and intended for the production of materials for festival distribution and promotion. The Audiovisual Council publishes a list of relevant international festivals, which is updated once every two years.<sup>1707</sup>

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<sup>1707</sup> See the list of relevant festivals published by the Council of the year 2017, [https://www.havc.hr/img/newsletter/files/Programi%20i%20kategorije%202017\\_kolovoz.xlsx](https://www.havc.hr/img/newsletter/files/Programi%20i%20kategorije%202017_kolovoz.xlsx).



#### 7.14.5.3. Budget

The budget of an eligible project is not subject to any minimum threshold or maximum cap, nor is anything stipulated regarding a minimum contribution from the applicant.

#### 7.14.5.4. Awarded amount

Distribution support is not subject to any aid intensity rules and is awarded on a selective basis. Eligible costs are defined under Article 32 of the Regulations on Procedure, which lists the material to be produced using the allocated fund, namely, the provision of DVDs, posters, promotional material and a press kit. As to repayment of the support, the general rule provided under Article 29 of the Regulations on Procedures applies stipulates that the amount is not repayable except in the case of failure to fulfil the obligations stipulated in the contract.

#### 7.14.5.5. Language and diversity

There are no particular requirements regarding the language of the film or linked to ethnic or linguistic minorities and gender.

### 7.14.6. Data compilation

This factsheet was produced based on data compiled by Sanja Ravlic, consultant.



## 7.15. HU – Hungary – National Summary<sup>1708</sup>

### 7.15.1. Summary

Film support is awarded by the *Magyar Nemzeti Filmalap* (Hungarian National Film Fund), hereinafter “the MNF”, which has been in operation since 2011. The main mission of this public institution is “to contribute to the production of Hungarian films or co-production that provide art and entertainment for moviegoers and bring significant success both domestically and on an international level”. In line with this objective, and with an estimated budget of around EUR 32 million in 2018, the MNF provides support for script development, project development, production, as well as for the distribution and promotion of Hungarian films. Beyond its role as a funding body, the MNF is also involved in other activities through its different departments, such as Mafilm Studio, Filmlab, Film Archive, Training and innovation departments, etc.

The Media Support and Asset Management Fund (MTVA)<sup>1709</sup> is responsible for supporting the production, development and promotion of public service media programmes, among other activities. It is managed by the Media Council of the National Media and Communications Authority (hereinafter, “NMHH”).<sup>1710</sup> The detailed rules for managing the fund are determined by the NMHH<sup>1711</sup> and published on the website of the ministry responsible for media policy and on the NMHH’s website.<sup>1712</sup>

### 7.15.2. General framework

#### 7.15.2.1. Overview of the film and audiovisual funding policy and legislation

The main legal framework for the public film and audiovisual funding in Hungary was set by Act II of 2004 on Motion Pictures (hereinafter, “the Film Act”) which defines, *inter alia*, the general objectives of the film policy in Hungary, as well as the status, the activities supported and the internal operation of the MNF. Further details on the different funding schemes are provided by the Funding Regulations of the Hungarian National Film Fund

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<sup>1708</sup> The factsheet on Hungary incorporates the feedback received from Gergely Kalocsay (MNF) during the checking round with the national film and audiovisual funds.

<sup>1709</sup> The Broadcast Support and Asset Management Fund, <http://www.mtva.hu>.

<sup>1710</sup> The Media Council of the National Media and Communications Authority, [www.nmhh.hu](http://www.nmhh.hu). From January 2019, the law regarding the support of television formats has changed. This support will now be channelled through the Television Film Patronage Program.

<sup>1711</sup> <http://mecenatura.mtva.hu/index.php?p=palyazatok&act=det&pid=226&&m1=34&m2=36>.

<sup>1712</sup> The tax-rebate managed by this institution will not be analysed as it is beyond the scope of the study.



Inc. (hereinafter, “the MNF Regulation”). The Television Film Patronage Program is regulated by Act 185 of 2010 on Media Services and Mass Communication.

**Table 27. Main funds in Hungary**

Funding institution	Geographical level	Legislation / Guidelines
Hungarian National Film Fund <sup>1713</sup>	National	Act II of 2004 on Motion Picture <sup>1714</sup>
		The MNF Regulation <sup>1715</sup>
Television Film Patronage Program (formerly MTVA/NMHH) <sup>1716</sup>	National	Act 185 of 2010 on Media Services and Mass Communication <sup>1717</sup>

Source: Response to European Audiovisual Observatory standardised questionnaire

#### 7.15.2.2. Definition of cultural criteria

This section concentrates on rules related to the MNF. As per Article 12/A (2) and (3) of the Film Act, film support can be granted only if the cinematographic work fulfils certain requirements.

To be eligible for film production support, a cinematographic work shall be considered to comply with cultural requirements if it scores at least 16 points based on the criteria set out in Annex 2 in the manner that it scores points in at least four of the criteria listed in paragraphs a) to n), and it either:

- Qualifies as a European co-production, provided that it is produced with Hungarian participation, or
- Complies with at least two of the conditions listed in the criteria regarding cultural content (paragraphs a) to h)).

To be eligible for film distribution support, a cinematographic work shall be considered to comply with cultural requirements if, based on the criteria set out in Annex 2, it complies

<sup>1713</sup> <https://mnf.hu/en>.

<sup>1714</sup> 2004. évi II. Törvény a mozgóképről (Act II of 2004 on Motion Pictures) <https://net.jogtar.hu/jogszabaly?docid=A0400002.TV>

<sup>1715</sup> Támogatási Szabályzat - Magyar Nemzeti Filmalap Zrt (Funding Regulations of the Hungarian National Film Fund Inc), [http://mnf.hu/files/document/document/210/TAMOGATASI\\_SZABALYZAT\\_2016\\_08\\_10.pdf](http://mnf.hu/files/document/document/210/TAMOGATASI_SZABALYZAT_2016_08_10.pdf), for an English version, see:

[http://cms.mnf.hu/files/document/document/737/Hungarian%20National%20Film%20Fund%20Nonprofit%20Private%20Share%20Company\\_cl.pdf](http://cms.mnf.hu/files/document/document/737/Hungarian%20National%20Film%20Fund%20Nonprofit%20Private%20Share%20Company_cl.pdf)

<sup>1716</sup> <http://mecenatura.mtva.hu/index.php?mid=15>.

<sup>1717</sup> 2010. évi CLXXXV. Törvény a médiaszolgáltatásokról és a tömegkommunikációról (Act 185 of 2010 on Media Services and Mass Communication), <https://net.jogtar.hu/jogszabaly?docid=A1000185.TV>



with at least two of the conditions listed in the criteria regarding cultural content (paragraphs a) to h)).

The assessment criteria are set out in Annex 2 to Act II of 2004 as follows:

Regarding the cultural content:

- “[T]he topic of the film or the work it is based on is based on an historic story (event) that is part of the Hungarian or European culture, and/or is related to the presentation and/or processing of a story (event) important from an historic, mythological or religious point of view (1 point)
- People or characters that are featured in the film’s topic or in the work it is based on are related to Hungarian or European culture and/or history, and they are considered significant due to their relationship with society or religion (1 point)
- The film features Hungarian or European customs and ways of life or promotes certain elements of it (1 point)
- The film is set in a Hungarian or other European location and/or in a cultural environment that can be linked to it and displays Hungarian or other European settlements (town, country, rural area), and/or a characteristic Hungarian or European cultural feature (1 point)
- The film’s script or the work it is based on is based on the adaptation of a literary work or other work of cultural value (fine arts or applied arts, musical work, etc.)
- The film’s topic or the material it is based on focuses on an issue relevant for Hungarian society or the society of another European country, or from a sociological or political perspective (1 point)
- The film reflects or displays an important Hungarian or European value, in particular, cultural diversity, respect for cultural traditions or the family, solidarity, equality, the protection of minorities, human rights, tolerance, and protection of the environment (1 point)
- The film serves to impart better knowledge of Hungarian or European culture and identity (1 point)”.

Regarding the production conditions:

- “[T]he film is a cinematographic work of cultural value on the basis of its genre (4 points)
- There are Hungarian citizens or citizens of another EEA Member State, and/or citizens from non-EEA Member States awarded a prize at an international film festival as: ja) director; jb) producer; jc) director of photography; jd) scriptwriter; je) lead and supporting cast; jf) composer; jg) visual effects designer; jh) costume designer; ji) editor; jj) master make-up artist jk) line producer/production manager, jl) post-production manager (sound/image/digital) (1 point for all 2 complied categories; a maximum of 6 points)
- The final version of the film is produced in the language of an EEA Member State (4 points)
- At least 51 per cent of the contributors to the film, other than those awarded a score under paragraph j), are citizens of an EEA Member State or the film is a co-production not qualifying as a European film co-production (4 points)
- The filming location is in Hungary (3 points)



- The preparation of film production or post-production takes place in Hungary (3 points).”

### 7.15.2.3. Nationality of the applicant

Section III of the MNF Regulation indicates the type of applicant eligible for support as follows:

- Development of screenplays or film plans: screenwriters/producers/film production companies with appropriate references
- Pre-production and production of films: producers/film production companies/directors with appropriate references
- Film distribution (film marketing): film production companies and film distributors.<sup>1718</sup>

Overall, the applicant must be a legal entity (except in the case of script development, where it can be a physical person), and must have a registered seat in Hungary or a registered seat in one of the EEA states “with at least one branch in Hungary at the time of the disbursement of the state aid at the latest”.<sup>1719</sup> However, support agreement can be concluded only with legal entities.<sup>1720</sup>

## 7.15.3. Funding criteria applicable to production support

### 7.15.3.1. Theatrical release, broadcasting and visibility on VOD

There are no mandatory requirements regarding visibility and performance on either of the different release windows, nor is there a release window schedule to be respected. However, the previous or potential performance of the work is still taken into account at the time of the application. First, the applicant is required to attach to the application “a pre-contract for distribution or letter of intent (for concluding the contract)”.<sup>1721</sup> Moreover, as explained in the previous section, the applicant is required to have “appropriate references” in order to be eligible for support. For example, an applicant who “participated as a producer in creating at least one feature-length film which was shown in cinemas in Hungary, and their name was listed in the film credits as producer”, or “participated as a producer in creating at least one feature-length film which participated in a contest in one of the film festivals specified by genres in Annex 2, or participated in

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<sup>1718</sup> The various definition of “film production company” or “screenwriters with appropriate references”, and every other terms mentioned above are defined in Section I article 3 of the MNF Regulation.

<sup>1719</sup> Section III, Articles 14.3 and 15.1 point i of the MNF Regulation.

<sup>1720</sup> If the applicant is a private individual, he or she must have a majority holding in the supported company, and the company must have the film adaptation rights. Paragraph 24.1.2 of the MNF Regulation.

<sup>1721</sup> Annex 3, Article II.3.10 of the MNF Regulation.



the official competition programme of one of the film events specified in Annex 2, and their name was listed in the film credits as the producer”.<sup>1722</sup>

### 7.15.3.2. Theatrical performance and performance at festivals, events and awards

The potential performance of the work is indirectly assessed for the qualification as “appropriate reference”, as described in the previous section. Regardless of this, neither the Film Act nor the MNF Regulation sets mandatory or quantitative requirements for a production project related to expected or actual theatrical performance in the home market or abroad as such. However, during the evaluation of the applications, the MNF pays special attention to the appropriate targeting of audiences.<sup>1723</sup>

### 7.15.3.3. Budget

The budget of an eligible project is not subject to any minimum threshold or maximum cap. However, the applicant must prove that in addition to the amount of support applied for, the rest of the financing required is in place.<sup>1724</sup>

### 7.15.3.4. Awarded amount

The aid intensity rules are described in Section 13 of the Film Act. Aid is limited to up to 50% of the film’s production budget<sup>1725</sup> for any cinematographic work; up to 60% of the film’s production budget, when it comes to international co-production with a Hungarian film producer and at least one film producer from an EEA member state; and up to 100% of the film’s production budget in the following cases:

- For a Hungarian film<sup>1726</sup> produced for presentation in cinema and pertaining to the feature film, full-length feature documentary, popular scientific and animation genre, if the film’s production budget does not exceed HUF 237 million for a Hungarian film<sup>1727</sup> and HUF 467 million for an international co-production film<sup>1728</sup>,
- For a Hungarian film originally produced in the Hungarian language, and if it is likely that the film’s production budget will not be recovered even through all revenues coming from all forms of distribution,
- For a Hungarian film, if an international co-production film is produced, in addition to the Hungarian film producer, with the participation of at least one film

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<sup>1722</sup> Section I 3.5 of the MNF Regulation, *Op. cit.*

<sup>1723</sup> Paragraph 22.1 point d of the MNF Regulation, *Op. cit.*

<sup>1724</sup> Paragraph 16.1 point c of the MNF Regulation, *Op. cit.*

<sup>1725</sup> In case of international co-production, the aid intensity rules are calculated based on the Hungarian contribution.

<sup>1726</sup> As per section 2 (7) a of the Film Act: “Hungarian film shall mean any cinematographic work in which Hungarian participation reaches at least 75 points based on the table set out in Annex 1;”. Annex 1 and the definition of Hungarian film is further described in section 7.15.3.6.

<sup>1727</sup> HUF 338,5 million since the Budget Act 2019 entered into force

<sup>1728</sup> HUF 599,1 million since the Budget Act 2019 entered into force



producer from a country listed by the Development Assistance Committee of the Organization for Economic Cooperation and Development.

- For a Hungarian film pertaining to the documentary, animation, scientific documentary, experimental film or short film genre, if the resources required to produce the film contributing to cultural diversity cannot be provided otherwise.

The amount awarded can be repayable or non-repayable,<sup>1729</sup> as per Section II (6) of the Film Act.<sup>1730</sup> It is non-repayable for the following activities, related to the creation of feature-length (at least 70 minutes) feature films/animation films/documentary films:

- For the development of screenplays or film plans,
- For pre-production,
- For film production

Otherwise, when the amount is repayable, the mode and extent of the repayment will be defined in the support agreement. Furthermore, the support is awarded selectively by the Decision Board.<sup>1731</sup> Lastly, the eligible costs are described in the MNF Regulation, and mainly comprise, *inter alia*, the cost of acquiring the copyright to produce the film, the administration fee of the Supporter, the interest on transactions, etc.<sup>1732</sup>

#### 7.15.3.5. Spending and shooting criteria

In principle, the applicant is required to use at least 60% of the direct support received for covering the direct Hungarian film production expenses.<sup>1733</sup> Regarding shooting criteria, there are no mandatory quantitative requirements laid down; however, it is part of the cultural test (described in section 7.15.2.2) and of the qualification as a “Hungarian film”.

#### 7.15.3.6. Talent, cast, crew, underlying copyright

There are no mandatory requirements regarding the nationality of the talent, cast and crew or related to the underlying copyrights (and how they are linked to the country). However, such requirements are part of the cultural test (described in section 7.15.2.2) and of the qualification as a “Hungarian Film”<sup>1734</sup> in accordance with Annex 1 to the Film Act, where Hungarian elements in the form of Hungarian talent, cast and crew are some

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<sup>1729</sup> According to the national expert compiling this factsheet, since 2011 they were more often repayable.

<sup>1730</sup> Paragraphs 6.1 and 6.2 of the MNF Regulation.

<sup>1731</sup> Section V, paragraph 20 of the MNF Regulation.

<sup>1732</sup> For an exhaustive list of the eligible costs and ineligible costs, and the different provisions regulating their calculation, see Annex 1 “Eligible costs with regard to the support” of the MNF Regulation.

<sup>1733</sup> Section II, paragraph 10.8 of the MNF Regulation. This threshold can either be increased up to 80% of the support by MNF, or decreased, with the approval of MNF, when the screenplay of the film requires shooting on original locations.

<sup>1734</sup> It is worth mentioning that the qualification of “Hungarian film” generates higher aid intensity, as described in the section 7.15.3.4.



of the elements computing for the point-based calculation of the status of “Hungarian film”.

#### 7.15.3.7. Shooting language and diversity

There are no requirements regarding the shooting language, ethnic or linguistic minorities and gender, apart from the general assessment criteria used in the cultural test and in the qualification as a “Hungarian film”, as previously explained. Indeed, the film shall also be considered as a Hungarian film if the language predominantly used by the actors during shooting (by the narrator during post-production) is a language spoken by an ethnic minority in Hungary, or if the film is related to the life and culture of that ethnic minority in Hungary.

### 7.15.4. Funding criteria applicable to pre-production support

#### 7.15.4.1. Budget

The budget of an eligible project is not subject to any minimum threshold or maximum cap. However, the applicant must prove that in addition to the amount of support applied for, the rest of the financing required is in place.<sup>1735</sup>

#### 7.15.4.2. Awarded amount

The aid intensity for pre-production activities can be up to 100% of the eligible costs directly related to activities for the development of screenplays or film plans<sup>1736</sup> or of the costs directly related to pre-production activities.<sup>1737</sup> When it comes to the recoupment of the grant, and the awarding process, the same general rules apply to the different support activities, including pre-production, as described in 7.15.3.4. As for eligible costs, these can include casting costs, the cost of planning the budget and the financing, location scouting, the preparation of a storyboard, or negotiating with co-producers.<sup>1738</sup>

#### 7.15.4.3. Underlying copyright

There are no specific requirements regarding the underlying copyright (and how this is linked to the country). However, this is part of the cultural test (described in section

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<sup>1735</sup> Paragraph 16.1 point c of the MNF Regulation.

<sup>1736</sup> Paragraph 8.1 of the MNF Regulation.

<sup>1737</sup> Paragraph 9.1 of the MNF Regulation.

<sup>1738</sup> For an exhaustive list of the eligible costs and ineligible costs, and the different provisions regulating their calculation, see Annex 1 “Eligible costs with regard to the support” of the MNF Regulation.



7.15.2.2) and of the qualification as a “Hungarian Film” in accordance with Annex 1 to the Film Act, according to which, the film’s topic or the material it is based on (and whether it focuses on an issue relevant for Hungarian society or the society of another European country, or from a sociological or political perspective) are some of the elements computing for the point-based qualification as a “Hungarian film”.

#### 7.15.4.4. Script language and diversity

There are no requirements regarding the language of the script (it can be written in a foreign language, but a Hungarian translation must be included in the application), or regarding ethnic or linguistic minorities and gender, apart from the general assessment criteria used in the cultural test and in the qualification as a “Hungarian film”, as previously explained.

### 7.15.5. Funding criteria applicable to distribution and promotion support

#### 7.15.5.1. Theatrical release, broadcasting and visibility on VOD

Neither the Film Act nor the MNF Regulation contains any direct general requirements for distribution support applicants regarding theatrical release, performance and visibility on VOD or the release window schedule.

#### 7.15.5.2. Theatrical performance and performance at festivals, events and awards

As a general principle, there are no direct general requirements regarding the performance of a work in terms of theatrical attendance at home or abroad. Nonetheless, when it comes to distribution support, the MNF proceeds to a classification of the cinematographic work “into categories of distribution on the basis of estimated audience figures, with the decision on the amount of the support based on these categories”.<sup>1739</sup> Therefore, the performance, in terms of the estimated audience, will affect the calculation of the final amount awarded. Furthermore, specific conditions can be directly included in the contract of support between the applicant and the MNF, such as the “obligation to enter the film (in the case of MTVA as well) into at least one international film festival”, the “obligation to conclude a distribution agreement for theatres, TV and VOD”, and to “ensure the release of the film according to the distribution plan”.<sup>1740</sup>

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<sup>1739</sup> Section II (11) 4 of the MNF Regulation.

<sup>1740</sup> Information not written in the law but indicated by the Hungarian national expert based on his personal experience as a film producer in Hungary.



### 7.15.5.3. Budget

The budget of an eligible project is not subject to any minimum threshold or maximum cap. However, the applicant must prove that in addition to the amount of support applied for, the rest of the financing required is in place.<sup>1741</sup>

### 7.15.5.4. Awarded amount

When it comes to the awarding process, the same general rules apply to the different support activities, including distribution and promotion (described in 7.15.3.4). The aid intensity for film distribution and promotion may not exceed the intensity specified for film production. The eligible costs are defined in a specific Decree<sup>1742</sup> and can include costs related to the production of prints, translation, dubbing, subtitling, the transportation of prints, film theatre rentals costs for press screening and premieres, marketing, etc. Lastly, film distribution support is repayable from the revenues if the applicant is the film producer, and non-repayable if the applicant is the distributor.<sup>1743</sup>

### 7.15.5.5. Language and diversity

There are no particular requirements regarding the language of the film or linked to ethnic or linguistic minorities and gender. However, the cultural criteria explained above shall apply.

## 7.15.6. Data compilation

This factsheet was produced based on data compiled by Dr. Tamás Joó, film producer and former Eurimages Representative.

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<sup>1741</sup> Paragraph 16.1 point c of the MNF Regulation.

<sup>1742</sup> Paragraph 5 of 67/2013. *EMMI rendelet a nem filmgyártási célú mozgóképzakmai tevékenységek állami támogatásának szabályairól* (Decree 67/2013 (EMMI of the Minister of Human Resources on the rules of state aid of motion picture activities other than film production), <https://net.jogtar.hu/jogszabaly?docid=A1300067.EMM>

<sup>1743</sup> Section 11 of the MNF Regulation.



## 7.16. IE – Ireland – National Summary<sup>1744</sup>

### 7.16.1. Summary

Fís Eireann/Screen Ireland (hereinafter, “Screen Ireland”)<sup>1745</sup> is a national development agency for the film, television and animation industry in Ireland. Its missions include supporting and fostering talent and creativity, promoting Irish film, television and animation and attracting filmmakers and investment into Ireland. It has the power to provide grants, loans and guarantees for the making of films in Ireland. Screen Ireland provides support for development, production and distribution, and also has dedicated support schemes for short films and for female creative talents.

The Broadcasting Authority of Ireland (hereinafter, the “BAI”) is the regulator of broadcasting in Ireland. The BAI has many functions, including licensing radio and television services additional to those provided by national broadcasters; making broadcasting codes and rules; and providing and awarding funding for programming and archiving relating to Irish culture, heritage and experience. Aside from its regulatory duties, the BAI administers a funding scheme for television and radio programmes: the “Sound & Vision 3” scheme, which is funded through the Irish television licence fee.<sup>1746</sup> Its objectives include developing high quality television programmes; representing Irish culture, heritage and experience; developing programmes in the Irish language; representing the diversity of Irish culture and heritage; increasing the availability of these programmes; and fostering local and community broadcasting.

### 7.16.2. General framework

#### 7.16.2.1. Overview of the film and audiovisual funding policy and legislation

Screen Ireland is a state body established by the Irish Film Board Act, 1980 to assist and encourage the development of a film industry in Ireland. Within this legal framework, Screen Ireland is the national development agency for the Irish film, television and animation industry, supporting and developing talent, creativity and enterprise. Screen Ireland has the power to provide investment, grants, loans and guarantees for the making of films in Ireland. Screen Ireland’s mission is to support and promote Irish film, television

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<sup>1744</sup> The factsheet on Ireland incorporates the feedback received from James Hickey (Irish Film Board) during the checking round with the national film and audiovisual funds.

<sup>1745</sup> Fís Eireann/Screen Ireland, <https://www.screenireland.ie/>.

<sup>1746</sup> Sound & Vision 3, <https://www.bai.ie/en/broadcasting/funding-development-3/sound-vision-3/>.



and animation through fostering Irish artistic vision and Irish diverse creative and production talent, increasing audiences, and attracting filmmakers and investment into the country. Screen Ireland provides development, production, distribution, and short film funding.<sup>1747</sup>

The Broadcasting Act 2009 (the “Broadcasting Act”) provided for the establishment of the BAI. Section 154 of the Irish Broadcasting Act<sup>1748</sup> gives the BAI authority to develop funding schemes to support Irish television and radio broadcasting programmes. The BAI developed a funding scheme for television and radio programmes pursuant to section 154(1) entitled “Sound & Vision 3”,<sup>1749</sup> which is funded through the Irish television licence fee. The objectives of the Sound & Vision 3 scheme include the following:

- Developing high-quality programmes based on Irish culture, heritage and experience;
- Developing programmes in the Irish language; representing the diversity of Irish culture and heritage;
- Recording oral Irish heritage and aspects of Irish heritage; and
- Developing local and community broadcasting.

**Table 28. Main funds in Ireland**

Funding institution	Geographical level	Legislation / Guidelines
Fís Eireann/ Screen Ireland <sup>1750</sup>	National	Irish Film Board Act, 1980 <sup>1751</sup>
		Guidelines <sup>1752</sup>
BAI <sup>1753</sup>	National	The Broadcasting Act <sup>1754</sup>

Source: Response to European Audiovisual Observatory standardised questionnaire

#### 7.16.2.2. Definition of cultural criteria

Culture is considered as one of the five fundamental principles which guide Screen Ireland and form the basis of its decision-making process when granting funding. “Developing Talent, Cultural & Industrial Priorities”<sup>1755</sup> is one of Screen Ireland’s

<sup>1747</sup> <https://www.screenireland.ie/funding>.

<sup>1748</sup> Broadcasting Act 2009, Section 154, <http://www.irishstatutebook.ie/eli/2009/act/18/section/154/enacted/en/html>.

<sup>1749</sup> [http://www.bai.ie/en/media/sites/2/dlm\\_uploads/2015/11/20161201\\_GuideForApplicants\\_vFinal\\_ND.pdf](http://www.bai.ie/en/media/sites/2/dlm_uploads/2015/11/20161201_GuideForApplicants_vFinal_ND.pdf).

<sup>1750</sup> [www.screenireland.ie](http://www.screenireland.ie).

<sup>1751</sup> Irish Film Board Act, 1980, <http://www.irishstatutebook.ie/eli/1980/act/36/enacted/en/html>.

<sup>1752</sup> The different guidelines for development, production, distribution and for short film schemes are available here: <https://www.screenireland.ie/funding>.

<sup>1753</sup> [www.bai.ie/en/broadcasting/funding-development-3/sound-vision-3/](http://www.bai.ie/en/broadcasting/funding-development-3/sound-vision-3/).

<sup>1754</sup> The Broadcasting Act of 2009, Section 154, <http://www.irishstatutebook.ie/eli/2009/act/18/enacted/en/html>.

<sup>1755</sup> Fourth fundamental principle of “Principles & Criteria”, <https://www.screenireland.ie/funding/principles-criteria>.



fundamental principles, and Screen Ireland has stated that “strong preference” will be given to submissions on behalf of projects, which:

- Are of Irish initiation in a creative sense (that is, conceived, written, produced and/or directed by Irish talents);
- Entail new and emerging Irish talent in key creative roles; and
- Tell Irish stories, drawing on and depicting Ireland’s culture, history, way of life, view of the world and of itself.

In addition, “serious attention” will be given to:

- Strongly Irish projects (in terms of setting, characters, etc.) that are to be directed by non-Irish talents, where the director’s track record gives Screen Ireland an assurance of quality;
- Projects that involve an Irish producer as minority co-producer, where Screen Ireland is convinced of the quality of the project and the amount of Screen Ireland’s investment corresponds to the level of involvement of Irish personnel, elements and facilities in the project.

Submissions on behalf of works to be made wholly or predominantly in the Irish language will be also “particularly welcomed” by Screen Ireland.

Cultural criteria are also examined during the assessment process, according to Screen Ireland’s “Production Funding Guidelines 2019”, which state that a project will only be considered for production funding if, *inter alia*, the production company can show that it makes an ongoing significant contribution to the culture and development of the film and TV industry in the Republic of Ireland.<sup>1756</sup>

As for the Sound & Vision 3 scheme, one of its key goals is to award funding for programming and archiving relating to “Irish culture, heritage and experience”, defined in Section 154 (1) of the Broadcasting Act 2009 as being new television or sound broadcasting programmes including feature films, animation and drama featuring history, historical buildings, the natural environment, Folk, rural and vernacular heritage, traditional and contemporary arts; the Irish language; and the Irish experience in European and international contexts.

The BAI takes a broad view of Irish culture, heritage and experience and includes all of its contemporary expressions. Programmes can be Irish, English, bilingual (Irish and English) or multilingual (that is, Irish plus two or more languages). Bilingual and multilingual programmes must include a minimum of 30% Irish language content.<sup>1757</sup>

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<sup>1756</sup> Screen Ireland Production Funding Guidelines 2019,

[https://www.screenireland.ie/images/uploads/general/Production\\_Funding\\_Guidelines\\_2019\\_1.pdf](https://www.screenireland.ie/images/uploads/general/Production_Funding_Guidelines_2019_1.pdf).

<sup>1757</sup> Section 3.2 of the Sound and Vision 3 Guide of Applicant, <http://www.bai.ie/en/download/132415/>.



### 7.16.2.3. Nationality of the applicant

Screen Ireland sets the following requirements depending on the type of activity supported:

- For production support: the applicant has to be a “*bona fide* Irish tax compliant producer with a production company established in the Republic of Ireland”.<sup>1758</sup>
- For distribution support: the applicants have to be “*bona fide* distribution companies established in the Republic of Ireland, which are planning to release a qualifying film theatrically in Ireland (including Northern Ireland). In order to be considered as a *bona fide* distribution company, and thus eligible to apply for funding under this scheme, the applicant must be able to demonstrate either that it is in the business of distributing films regularly in the Irish market or that it has verifiable plans to establish itself as such a company.”<sup>1759</sup>
- For development support: project development, animation development, documentary development, international development, and screenplay development (established talent), new writing development and international co-production development fund in partnership with Creative BC<sup>1760</sup> are available to Irish applicants.

For the BAI (Sound & Vision 3), the applicant must be an individual (Irish or EU national/resident) or an established legal entity (incorporated in Ireland or the EU).<sup>1761</sup>

## 7.16.3. Funding criteria applicable to production support

### 7.16.3.1. Theatrical release, broadcasting and visibility on VOD

Screen Ireland requires viable theatrical windows for all feature film and feature documentary projects, especially those involving broadcaster support. In the case of feature films, Screen Ireland requires a 24-month theatrical window from the date of the first theatrical screening (18 months for documentaries).<sup>1762</sup>

The BAI (Sound & Vision 3) will only fund the production of programmes that will be broadcast by an eligible broadcaster. The eligibility criteria for a broadcaster are as follows:

- A broadcaster licensed by the BAI or an RTE service;

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<sup>1758</sup> Screen Ireland Production Funding Guidelines 2019.

<sup>1759</sup> Screen Ireland Distribution Funding Guidelines 2019, <https://www.screenireland.ie/funding/distribution-loans/distribution-support>.

<sup>1760</sup> Creative BC is an independent fund from British Columbia, Ontario, <https://www.creativebc.com/>.

<sup>1761</sup> Section 3.1 of “Sound and Vision 3” Guide for Applicants.

<sup>1762</sup> Paragraph i p.4 of Screen Ireland Production Funding Guidelines 2019.



- A free television service, which provides near universal coverage to the state, or an appropriate network provider, as defined in section 77(1) of the Broadcasting Act, or MMD system as part of a community content provision contract under Section 72.<sup>1763</sup>

At application stage, the BAI requires applicants to provide a letter of commitment from a broadcaster which confirms agreement to broadcast the programme in line with the BAI's requirements.<sup>1764</sup>

#### 7.16.3.2. Theatrical performance and performance at festivals, events and awards

Neither Screen Ireland nor BAI set concrete requirements for a production project related to expected or actual theatrical performance on the home market or abroad as such, or at festivals, events and awards. However, one of Screen Ireland's principles in deciding whether to grant funding is "Making Cinema", in respect of which Screen Ireland states its primary objective is to "encourage, sustain and promote work in Ireland that is made to be shown on the big screen". In line with this, documentaries, for example, "are rigorously assessed in terms of their potential to achieve theatrical release, stimulate interest from international film festivals or engage on new and emerging platforms".<sup>1765</sup>

Another funding principle guiding Screen Ireland is "Accessing Audiences", which suggests that all funding decisions "will favour projects that are clearly targeted at the appropriate audience."<sup>1766</sup>

#### 7.16.3.3. Budget

For Screen Ireland, the budget of an eligible project is not subject to any minimum threshold or maximum cap, however, for *POV: Production and Training Scheme for Female Creative Talent*, the minimum total budget must be EUR 400 000.<sup>1767</sup>

The BAI (Sound & Vision 3) does not have any requirements in relation to minimum or maximum budget limits, or for any minimum contribution from the applicant.

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<sup>1763</sup> [https://www.bai.ie/media/sites/2/dlm\\_uploads/2015/11/20161201\\_GuideForApplicants\\_vFinal\\_ND.pdf](https://www.bai.ie/media/sites/2/dlm_uploads/2015/11/20161201_GuideForApplicants_vFinal_ND.pdf), page 8.

<sup>1764</sup> Section 3.5 of "Sound and Vision 3" Guide for Applicants.

<sup>1765</sup> Screen Ireland's Principle & Criteria.

<sup>1766</sup> Ibid.

<sup>1767</sup> POV Production & Training Scheme for Female Creative Talent GUIDELINES 2018, <https://www.screenireland.ie/funding/production-loans/pov-low-budget-production-and-training-scheme-for-female-talent>



## 7.16.3.4. Awarded amount

Screen Ireland	
<b>Aid intensity</b>	<p>Aid intensity<sup>1768</sup> in terms of maximum amount and size of the budget is “limited by regulations agreed with the Irish government<sup>1769</sup> or laid down by the European Commission”.<sup>1770</sup> Screen Ireland’s Guidelines on Production Funding establish specific aid intensity rules for the various production schemes:<sup>1771</sup></p> <ul style="list-style-type: none"> <li>■ For “Fiction: Irish Production”: Screen Ireland can provide up to 65% of the budget (between a maximum of EUR 650 000 for films with a budget under EUR 1.5 million and a maximum of EUR 900 000 for projects with a budget of more than EUR 5 million.</li> <li>■ For “Fiction: Creative Co-Production”: two thirds of the admissible Irish expenditure up to a maximum of EUR 350 000.</li> <li>■ For “TV Drama Production”: up to EUR 600 000.</li> <li>■ For “Animation Television Production”: up to EUR 350 000.</li> <li>■ For “Documentary Production”: up to 65% of the budget with Screen Ireland investment unlikely to exceed EUR 150 000 per project.</li> <li>■ For “Completion”: up to EUR 50 000 for a live action or animated feature-length film, and up to EUR 15 000 for a feature-length documentary film.</li> </ul> <p>For projects with budgets of up to EUR 100 000, Screen Ireland can fully finance the production.<sup>1772</sup></p>
<b>Repayable</b>	Funding is awarded in the form of a limited recourse production loan and is recoverable from a share of revenues from the exploitation of the project, as well as a share of the net profits. <sup>1773</sup>
<b>Eligible costs</b>	Screen Ireland funding may only be spent where there is equivalent admissible Irish creative expenditure, <sup>1774</sup> which includes fees, salaries and per diems paid to Irish persons working in the Republic of Ireland or abroad, as well as expenditure on goods and services purchased in the

<sup>1768</sup> Screen Ireland, Regulations and Limits, <https://www.screenireland.ie/funding/regulations-and-limits>

<sup>1769</sup> See State aid No M 151/2006 Ireland (Tax relief for investment in film – Modification of scheme N387/04: [http://ec.europa.eu/competition/state\\_aid/cases/204292/204292\\_591125\\_23\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/204292/204292_591125_23_2.pdf).

<sup>1770</sup> Section 52.2 of the European Commission Communication on State aid for films and other audiovisual works (2013/C 332/01) states that in the case of schemes designed to support the scriptwriting, development, production, distribution and promotion of audiovisual works that aid intensity in principle must be limited to 50% of the production budget of the film, or in the case of cross-border productions, funded by more than one member state and involving producers from more than one member state, up to 60% of the production budget. However, the Commission states that low-budget and commercially difficult films, as defined in national legislation, are excluded from these limits. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52013XC1115%2801%29>.

<sup>1771</sup> Screen Ireland Production Funding Guidelines 2019.

<sup>1772</sup> Applications for these projects may be submitted under the Irish Production scheme if they meet all criteria outlined in the Irish Production Guidelines. P.2 of Screen Ireland Production Funding Guidelines 2019.

<sup>1773</sup> Paragraph A p.3 of the Screen Ireland Production Funding Guidelines 2019.

<sup>1774</sup> P.5-6 of Screen Ireland Production Funding Guidelines 2019.



	<p>Republic of Ireland.</p> <p>The following costs are not eligible</p> <ul style="list-style-type: none"> <li>■ Travel costs of non-Irish persons unless travelling to/from Ireland in order to carry out work in Ireland</li> <li>■ Payments for insurances, including completion bonds</li> <li>■ Payments for rights clearances in respect of music, literary work, archive material, etc.</li> <li>■ Financing costs.</li> </ul>
<b>Selective/Automatic</b>	<p>The amount is awarded selectively in accordance with the “Production Funding Assessment Process” as outlined in Screen Ireland’s Production Funding Guidelines, which state that the application will be assessed by “members of the Project Group utilising Screen Ireland Principles &amp; Criteria at a funding meeting comprising of all members of Screen Ireland Production, Development &amp; Distribution team, members of the Legal &amp; Business Affairs team and, on an ad hoc basis, consultants drawn from a small pool of non-Screen Ireland professionals retained for their specific skills. The decisions taken by the Project Group will be expressed as recommendations to the Board of Screen Ireland and will then require endorsement by the Board of Screen Ireland to give effect and thereafter be communicated to applicants.”<sup>1775</sup></p>
<b>BAI- Sound &amp; Vision 3</b>	
<b>Aid intensity</b>	<p>The Sound &amp; Vision 3 scheme can fund a maximum of 95% of the costs in the eligible budget (if the amount awarded does not exceed EUR 50 000 and up to 85% if the amount awarded exceeds EUR 750 000.<sup>1776</sup></p> <p>The BAI requires a programme to qualify as low-budget in order to receive state aid funding above 50% of the total budget. There are three exclusions to the 50% maximum,<sup>1777</sup> related to programmes which are difficult to make,<sup>1778</sup> low-budget or to counteract the limited geographic extension of certain languages and cultures.</p>
<b>Repayable</b>	<p>The amount awarded is usually recouped as per a recoupment clause inserted in all contracts made under Sound &amp; Vision 3. All recouped funding will be re-assigned directly into the Broadcasting Fund and will be available for further disbursement.<sup>1779</sup></p>
<b>Eligible costs</b>	<p>Eligible costs are defined as “the costs associated with the production and delivery of the programme(s) and, in addition to general production costs, may include financial, legal and banking costs. Development costs may be</p>

<sup>1775</sup> P.3 of Screen Ireland Production Funding Guidelines 2019.

<sup>1776</sup> Article 3.10, p.12 of “Sound & Vision 3 - Guide for Applicants 2019”.

<sup>1777</sup> Article 3.9 of “Sound & Vision 3 – Guide for Applicants 2019”.

<sup>1778</sup> The criteria for assessing “difficult to make” include: producer, broadcaster or project resources; lack of commercial potential; lack of significant audience appeal; specificity of the linguistic, educational and cultural themes; the experimental nature and/or creative risk.

<sup>1779</sup> See Broadcasting Authority of Ireland “Sound & Vision 3, A Broadcasting Funding Scheme” at par 6.6, [https://www.screenproducersireland.com/sites/default/files/bai\\_sv3\\_the\\_scheme\\_2015.pdf](https://www.screenproducersireland.com/sites/default/files/bai_sv3_the_scheme_2015.pdf).



	eligible provided they are directly related to the production of the programme and have been supported by budget notes”. <sup>1780</sup>
<b>Selective/Automatic</b>	The support is provided on a selective basis following a Preliminary Evaluation, Qualitative Evaluation, Strategic Assessment and Formal Ratification. <sup>1781</sup>

### 7.16.3.5. Spending and shooting criteria

Spend in the Irish economy is included as part of Screen Ireland’s Further Considerations of its guiding Principles and Criteria,<sup>1782</sup> implying that the Fund will consider the following:

- Will the work be made in the Republic of Ireland?
- Will the project make extensive use of Irish production and post-production facilities?
- Will the project attract inward investment into the Irish economy?

More concretely, the Screen Ireland Production Funding Guidelines 2019 establish a spend ratio for some of its production schemes. In particular, the “Production Funding Admissible Irish Creative Expenditure Guidelines” state that “a fundamental principle of Screen Ireland funding for production is that the entire amount invested in a project must be spent on Irish personnel, goods and services. Where only part of the production of a project will take place in the Republic of Ireland, producers should be aware that the amount of funding requested from Screen Ireland may be limited by the amount of such Irish creative expenditure to be incurred.”<sup>1783</sup> The definition of “Admissible Irish Creative Expenditure” is described in the previous section.

When it comes to co-productions, specific rules can apply. Creative co-production funding is for live-action or animated feature films originating outside Ireland in which an Irish producer is involved as a creative collaborator, not merely a service producer and provider of a minority of the finance needed. The film must be structured as an official co-production with third-party funding from the leading territory in place and must employ key Irish talent.<sup>1784</sup>

Reciprocity from funding agencies in other jurisdictions will be sought in appropriate circumstances. Funding is unlikely to be given, or it will be limited, in cases of co-production where:

- The eventual film will have little or no visual Irish content or no apparent cultural connection with Ireland;

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<sup>1780</sup> Article 3.10 of BAI “Sound & Vision 3 - Guide for Applicants 2019”, *Op. cit.*

<sup>1781</sup> Article 6.1 of BAI “Sound & Vision 3 - Guide for Applicants 2019”, *Op. cit.*

<sup>1782</sup> See Screen Ireland Principles and Criteria, under “Further considerations - Spend in the Irish economy”.

<sup>1783</sup> See in the Screen Ireland Production Funding Guidelines 2019, *Op. cit.*

<sup>1784</sup> Screen Ireland’s Fiction: Creative Co-production scheme, <https://www.screenireland.ie/funding/production-loans/fiction-creative-co-production>.



- No principal photography is taking place in the Republic of Ireland;
- The Irish creative elements are limited to one or two actors and one or two HOD's working outside Ireland;
- Only a part of post-production is taking place in Ireland (full digital visual effects productions in Ireland will be positively regarded).

In the case of Ireland/UK Co-Productions where the production is taking place in the Republic of Ireland and Northern Ireland, as part of its considerations in relation to Screen Ireland funding, Screen Ireland may take into account the ratio of section 481 and UK tax credit expenditure in relation to the project.<sup>1785</sup>

In respect of shooting in Ireland, there is no mandatory requirement to do so, however in the case of co-production support, priority will be given to projects that utilise Ireland as a film location, depict Ireland for Ireland, and where a number of key Irish heads of department and/or Irish cast are employed.<sup>1786</sup>

The BAI “Sound & Vision 3 Guide for Applicants 2019”<sup>1787</sup> lays down the following requirements regarding territorial spend (subject to change in justified cases):

- When the aid intensity represents less than 50% of the total budget: 160% of the grant aid awarded must be spent within the territory of the Republic of Ireland.
- When the aid intensity represents 50% or more of the total budget: 80% of the overall production budget must be spent within the island of Ireland.

#### 7.16.3.6. Talent, cast, crew, underlying copyright

Screen Ireland’s Principles and Criteria state<sup>1788</sup> that in the case of a project whose “content and creative team are seen as persuasive”, a number of other considerations may inform Screen Ireland’s involvement in the project; *inter alia*, “Irish Employment” will be taken into account considering the presence of Irish personnel in key creative and technical positions.

In relation to production funding, Screen Ireland refers to the nationality of the talent, cast or crew, as follows:

- Fictions: the funding is for feature films originated and creatively led by Irish talent, the practical management of which is primarily in Irish hands,<sup>1789</sup>
- Fiction: Creative Co-Production: an Irish producer must be involved as a creative collaborator, and priority will be given to projects which, *inter alia*, use a number of key Irish Heads of Department and/or Irish cast,<sup>1790</sup>

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<sup>1785</sup> Screen Ireland Production Funding Guidelines 2019.

<sup>1786</sup> Screen Ireland’s Fiction: Creative Co-production scheme, *Op. cit.*

<sup>1787</sup> Section 3.9 of Sound & Vision 3 – Guide for Applicants.

<sup>1788</sup> See Screen Ireland Principles and Criteria, “Further considerations”.

<sup>1789</sup> Screen Ireland’s Fiction: Irish Production, *Op. cit.*

<sup>1790</sup> Fiction: Creative Co-Production, <https://www.screenireland.ie/funding/production-loans/fiction-creative-co-production>.



- TV Drama Production: the funding is for TV drama series originated and creatively led by Irish talent, the practical management of which is primarily in Irish hands.<sup>1791</sup>
- Animation: Television: the funding is for animated TV series originated and creatively led by Irish talent, the content of which will generally (but not invariably) express Irish culture in some way, and the practical management of which is primarily in Irish hands.<sup>1792</sup>
- Documentary: the funding is for documentary feature films originated and creatively led by Irish talent, the practical management of which is primarily in Irish hands.<sup>1793</sup>

As for the underlying copyright, Screen Ireland does not refer to any specific requirement that underlying copyrights must be linked to the country.

In the case of the BAI (Sound & Vision 3), there is no specific requirement related to the nationality of the talent, cast or crew or related to the underlying copyrights (and how they are linked to the country).

#### 7.16.3.7. Shooting language and diversity

Production funding from Screen Ireland is generally (but not invariably) provided for the making of projects predominantly in English or Irish, or a combination of the two.<sup>1794</sup> This applies to all Screen Ireland production funding schemes, save for Fiction: Creative Co-Production and POV: Production and Training Scheme for Female Creative Talent. All Screen Ireland short-film funding schemes require that films be made in the English or Irish language. If produced in the Irish language, subtitling will be necessary for festivals and sales worldwide.<sup>1795</sup>

Furthermore, Screen Ireland provides enhanced funding for female talent,<sup>1796</sup> of EUR 50 000 for a writer and EUR 50 000 for a director, specifically for Fiction Irish Production and in the case of Documentary Production, of EUR 25 000 for a director, which is available for Irish Female talent only (resident or born in Ireland). Screen Ireland also runs an intensive production and training scheme for female talent, the *POV: Production and Training Scheme for Female Creative Talent*, which aims at supporting the development and production of low-budget live action feature films by female writers and directors. Up to six projects are selected for an intensive development process which will

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<sup>1791</sup> TV Drama Production, <https://www.screenireland.ie/funding/production-loans/tv-drama-production>.

<sup>1792</sup> Animation: Television, <https://www.screenireland.ie/funding/production-loans/animation-television>.

<sup>1793</sup> Documentary, <https://www.screenireland.ie/funding/production-loans/documentary>.

<sup>1794</sup> Screen Ireland's Fiction: Irish Production, *Op. cit.*

<sup>1795</sup> Screen Ireland's Focus Short, <https://www.screenireland.ie/funding/short-film-schemes/focus-shorts>.

<sup>1796</sup> See "Enhanced Production Funding for Female Talent – Guidance Note", [https://www.screenireland.ie/images/uploads/general/Enhanced\\_Production\\_Funding\\_for\\_female\\_talent\\_\(english\\_and\\_irish\)\\_FE-SI.pdf](https://www.screenireland.ie/images/uploads/general/Enhanced_Production_Funding_for_female_talent_(english_and_irish)_FE-SI.pdf).



include mentorship, workshopping and story development. Following this phase, three projects will be selected for production.<sup>1797</sup>

As previously explained, one of the key functions of the BAI Sound and Vision 3 scheme is to award funding for programming and archiving relating to Irish culture, heritage and experience. The BAI takes a broad view of Irish culture, heritage and experience and includes all of its contemporary expressions, which means that programmes can be Irish, English, bilingual (Irish and English) or multilingual (that is, Irish plus two or more languages). However, bilingual and multilingual programmes must include a minimum of 30% Irish language content.<sup>1798</sup>

In addition, in 2018 the BAI adopted a Gender Action Plan,<sup>1799</sup> putting a particular focus on projects across all genres which tell women's stories, and stated that it would include an additional strategic criterion at the assessment phase in order to encourage applications in this regard.<sup>1800</sup>

## 7.16.4. Funding criteria applicable to pre-production support

### 7.16.4.1. Budget

Only Screen Ireland provides development support. The budget of an eligible project is not subject to any minimum threshold or maximum cap.

### 7.16.4.2. Awarded amount

The maximum amount of Screen Ireland development funding that can be provided to any one project is EUR 100 000. Any amount of Screen Ireland development funding above EUR 50 000 to any one project must be matched by funding from other sources.<sup>1801</sup>

The Screen Ireland Guidelines on Development Funding establish the following cap depending on the scheme concerned:<sup>1802</sup>

- Live action or animated feature films: up to EUR 50 000 in the first instance or up to EUR 100 000 where matching development funding is in place;
- Animated TV series or single: up to EUR 20 000 only for animated TV series or animated single;

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<sup>1797</sup> POV: Production and Training Scheme for Female Creative Talent schemes.

<sup>1798</sup> Section 3.2 of the Sound and Vision 3 - Guide for Applicants.

<sup>1799</sup> BAI Gender Action Plan, April 2018,

[https://www.bai.ie/en/media/sites/2/dlm\\_uploads/2018/04/20180423\\_BAI\\_GenderActionPlan\\_vFinal\\_AR.pdf](https://www.bai.ie/en/media/sites/2/dlm_uploads/2018/04/20180423_BAI_GenderActionPlan_vFinal_AR.pdf).

<sup>1800</sup> BAI focuses on Women's stories under Sound & Vision Scheme, 21 December 2018, <https://www.bai.ie/en/bai-focuses-on-womens-stories-under-sound-vision-scheme/>.

<sup>1801</sup> See Section 3 of Screen Ireland's "Regulations and limits", <https://www.screenireland.ie/funding/regulations-and-limits>.

<sup>1802</sup> Screen Ireland Development Funding Guidelines 2019.



- Cinematic Feature Length Documentaries: up to EUR 15 000;
- TV Drama Series: up to EUR 50 000 in the first instance or up to EUR 100 000 where matching development funding is in place;
- Screenplay development for Live Action or Animated Feature Films: up to EUR 12 000 for an individual or up to EUR 16 000 for two or more individuals;
- New writing development for Live Action or Animated Feature Films: up to EUR 8 000 for an individual or up to EUR 10 000 for teams of two or more individuals;

According to the Screen Ireland Guidelines on Development Funding, support is awarded after a selective process, and is provided in the form of loans which are only repayable on the first day of principal photography of the developed film. Screen Ireland development awards do not carry interest, no premium is charged at the time of repayment, and Screen Ireland does not receive a profit share in return for its development funding.

In respect of eligible costs, funding can only ever be a contribution towards the development costs of a project and generally Screen Ireland is not in a position to cover all development costs. In addition, Screen Ireland will not fund retrospective development costs.

#### 7.16.4.3. Underlying copyright

Unless otherwise agreed, copyright in the funded screenplay remains with the writer(s) or production company. Screen Ireland is likely to require a share of copyright in the project.<sup>1803</sup> However, the underlying copyrights do not need to be linked to Ireland or Irish culture.

#### 7.16.4.4. Script language and diversity

Funding is provided to projects written in the English or Irish language, or a combination of the two.<sup>1804</sup> In respect of gender, as referred to previously, Screen Ireland has implemented a *POV: Production and Training Scheme for Female Creative Talent*,<sup>1805</sup> which aims at supporting the development and production of low budget live action feature films by female writers and directors.

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<sup>1803</sup> Screen Ireland Development Funding Guidelines 2019, *Op. cit.*

<sup>1804</sup> Guidelines of Project Development, Animation Development, Documentary Development, Television Drama Development, Screenplay Development (Established Talent), New Writing Development.

<sup>1805</sup> POV: Production and Training Scheme for Female Creative Talent.



## 7.16.5. Funding criteria applicable to distribution and promotion support

### 7.16.5.1. Theatrical release, broadcasting and visibility on VOD

Only Screen Ireland provides distribution support. Screen Ireland does not set any specific requirements for distribution support applicants regarding theatrical release, and performance and visibility on VOD. However, it states that the distributor or producer has to “take full responsibility for the preparation of the film for the theatrical release in the Irish market and for its physical distribution”.<sup>1806</sup> There are no restrictions related to the release window schedule.

A decision by Screen Ireland to assist the release of a qualifying film in Ireland, through funding under the Distribution Support or Direct Distribution schemes, will be predicated on a positive assessment of the distributor's campaign, release plan and overall prints and advertising budget. Under the Direct Distribution scheme, Screen Ireland will consider *inter alia* any commitment from an exhibitor to screen the film for at least one week, prior exposure at an Irish Film Festival, and evidence of a positive critical and/or audience reaction from a screening at an Irish or International Film Festival when deciding whether to assist with the release of a qualifying film.<sup>1807</sup>

### 7.16.5.2. Theatrical performance and performance at festivals, events and awards

There are no requirements regarding the performance of a work in terms of theatrical attendance in Ireland or abroad. Theatrical performance is not relevant to the calculation of the awarded amount. However, Screen Ireland is increasingly focused on ensuring that funding decisions will favour projects that are clearly targeted at the appropriate audience.<sup>1808</sup> This does not mean that Screen Ireland does not support material with commercial prospects, but instead that it is open to considering projects that may appeal to a wide spectrum of viewers, be they commercial, art house, festival-going or on television, etc. Particular emphasis will be put on a project's potential to engage its intended audience as well as the planned approach and scale of the project.<sup>1809</sup> In respect of the Direct Distribution scheme, as explained previously, the decision to award funding will include its performance in festivals.<sup>1810</sup>

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<sup>1806</sup> Screen Ireland Distribution Support, <https://www.screenireland.ie/funding/distribution-loans/distribution-support>; Screen Ireland Direct Distribution, <https://www.screenireland.ie/funding/distribution-loans/direct-distribution>.

<sup>1807</sup> Screen Ireland Direct Distribution.

<sup>1808</sup> See Screen Ireland Funding Principles and Criteria.

<sup>1809</sup> Ibid.

<sup>1810</sup> Screen Ireland Distribution Support, Screen Ireland Direct Distribution.



Moreover, Screen Ireland also provides publicity support for the world premiere of feature films invited to screen at an approved major international A-list film festival, listed in the Guidelines.<sup>1811</sup>

#### 7.16.5.3. Budget

The budget of an eligible project is not subject to any minimum threshold or maximum cap, nor is anything stipulated regarding a minimum contribution from the applicant.

#### 7.16.5.4. Awarded amount

Screen Ireland establishes the following intensity rules:<sup>1812</sup>

- Distribution support: 90% of the total distribution budget, up to a maximum of EUR 75 000,<sup>1813</sup>
- Direct distribution: 80% of the total distribution budget, up to a maximum amount of EUR 15 000,<sup>1814</sup>
- Publicity support: up to a maximum amount of EUR 5 000, decreased to EUR 2 500 for feature films in reception of Creative Co-production funding from Screen Ireland.

Distribution support is awarded after a selective process in the form of limited-recourse loans recoverable from a share of revenues from the exploitation of the film. The repayment of this loan is applicable once the distributor expenses and commission, which will have been agreed in advance with Screen Ireland, have been recouped.<sup>1815</sup> Publicity support is awarded selectively and is non-repayable.

Regarding Eligible costs, these are defined for each scheme as follows:<sup>1816</sup>

- Distribution support: costs of publicity and promotion of qualifying films in the Irish market, such as media space costs (TV, press, radio, outdoor, online); publicity costs (media screenings, talent visits, festivals in Ireland; and (to the extent not provided by the production) stills/clips/EPK for editorial use); PR agency fees; and promotional costs (trailer design and edit; website; talker screenings; special promotions; the manufacture and distribution of merchandise for promotional use only).
- Direct distribution: costs of release prints; trailer design and creation; creative and production costs of key art, posters, and advertising; censorship submission; media space costs; and marketing, publicity and promotional costs.

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<sup>1811</sup> Screen Ireland Publicity Support, <https://www.screenireland.ie/funding/distribution-loans/publicity-support-fund>.

<sup>1812</sup> Ibid.

<sup>1813</sup> Screen Ireland Distribution Support.

<sup>1814</sup> Screen Ireland Direct Distribution.

<sup>1815</sup> Screen Ireland Distribution Support; Screen Ireland Direct Distribution, *Op. cit.*

<sup>1816</sup> Screen Ireland Distribution Support; Screen Ireland Direct Distribution, Screen Ireland Publicity Support.



- Publicity support: not specified in the Guidelines.

#### 7.16.5.5. Language and diversity

Qualifying films for the purposes of distribution funding are full-length feature films (fiction, animation or documentary) that are already in receipt of Screen Ireland production or completion funding.<sup>1817</sup> Many of the Screen Ireland production and completion funding schemes require that the projects be made predominantly in English or Irish, or a combination of the two. While the distribution funding schemes do not have explicit requirements regarding the language of the project or nationality of the cast and crew, the requirements of the production and completion funding schemes are of relevance here. In addition, there are no requirements linked to ethnic or linguistic minorities and gender.

#### 7.16.6. Data compilation

This factsheet was produced based on data compiled by the Media and Entertainment Department at Philip Lee.

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<sup>1817</sup> Ibid.



## 7.17. IT – Italy – National Summary<sup>1818</sup>

### 7.17.1. Summary

At national level, the main fund operating in the country is the Ministry for Cultural Heritage Activities – General Directorate for Film (hereinafter “MiBAC”), which has jurisdiction over the cinema and audiovisual sectors and is responsible for all public functions relating to the development, production and distribution of films and audiovisual works. In this line, it administrates the Fund for the Development of Film and Audiovisual Investments (*Fondo per lo Sviluppo degli Investimenti nel Cinema e nell’Audiovisivo*), hereinafter “The Fund”, which is endowed annually with at least EUR 400 million. It provides support in the form of tax credit schemes, automatic subsidies, promotion subsidies and selective subsidies for film production, distribution and promotion.

At regional level, the entities responsible for supporting the film and audiovisual industry are divided between the film commissions and the regional film funds. The former pursue objectives of public interest in the cinema and audiovisual industry by providing free support and assistance to the competent authorities for the film and audiovisual industry in the reference territory. This can include, *inter alia*, logistic assistance, the mapping of qualified manpower and service providers, location scouting, or the management of regional funds supported by European funds. The latter consists of regional funds which offer selective schemes funding cinematographic and audiovisual works produced in the region. The schemes are mainly focused on supporting production activities. The main regional funds by support volume are in the Apulia Region (the Apulia Film Fund 2018/2020 and the Apulia Promotion Film Fund), the Piedmont Region (FIP Film Investment Piedmont), the Lazio Region (Lazio Cinema International and the Lazio Cinema and Audiovisual Fund), and the Alto Adige Region (the IDM Film Fund).<sup>1819</sup>

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<sup>1818</sup> The factsheet on Italy incorporates the feedback received from Chiara Fortuna (MiBAC) during the checking round with the national film and audiovisual funds.

<sup>1819</sup> Regional funds are not covered comprehensively in this factsheet. By way of example, the IDM Film Fund was analysed in the section related to production and pre-production support, and the Apulia Promotion Film Fund in the section related to distribution support. Unless otherwise indicated, the text refers to Mibac support schemes.



## 7.17.2. General framework

### 7.17.2.1. Overview of the film and audiovisual funding policy and legislation

The main legal framework for the public film and audiovisual funding in Italy<sup>1820</sup> is set by the Law of 14 November 2016 No. 220 - Discipline of Cinema and the Audiovisual (hereinafter the “Film Law”), effective from January 1, 2017, which is a comprehensive statute setting forth the basic rules applicable to film funding in Italy. The specific rules governing the Fund’s management are set forth by the Decree of the President of the Council of Ministers of 20 May 2017.<sup>1821</sup> In addition, this legal framework is supplemented by the following decrees, each specific to one type of subsidy:

- The Ministerial Decree of 31 July 2017 no. 343 (the Selective Subsidies Decree)<sup>1822</sup> for selective subsidies, which are composed of: the Writing Selective Scheme, the Development Selective Scheme, the Production Selective Scheme, the Distribution Selective Scheme and the Exhibitors Selective Scheme,
- The Ministerial Decree of 31 July 2017 no. 342 (the Automatic Subsidies Decree)<sup>1823</sup> for automatic subsidies, granted directly to cinema and audiovisual companies to support the development, production and distribution of new film and audiovisual works of Italian nationality.

Concerning the provision of support provided by the regional support schemes, it is mainly regulated by regional legislation; the respective legal framework for some key regional funds is available in the table below.

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<sup>1820</sup> A comprehensive list of all applicable laws is available here: <http://www.cinema.beniculturali.it/direzione generale/61/normativa-statale/>.

<sup>1821</sup> DPCM 20 maggio 2017, *Modalità di gestione del Fondo per lo sviluppo degli investimenti nel cinema e nell'audiovisivo, di cui all'Article 13, comma 4, della Legge 14 novembre 2016 n. 220*, <http://www.beniculturali.it/mibac/multimedia/MiBAC/documents/feed/pdf/DPCM%20FONDO%20SVILUPPI%20CINEMA%20E%20AUDIOVISIVO-imported-69896.pdf>.

<sup>1822</sup> DM 31 luglio 2017, n. 343, *Disposizioni applicative in materia di contributi selettivi di cui all'Article 26 della Legge 14 novembre 2016, n.220* (Ministerial Decree 31 July 2017 rep. 343), [http://www.beniculturali.it/mibac/multimedia/MiBAC/documents/1506932919760\\_REGISTRATO\\_D.M.\\_343\\_31\\_LUGLIO\\_2017\\_.pdf](http://www.beniculturali.it/mibac/multimedia/MiBAC/documents/1506932919760_REGISTRATO_D.M._343_31_LUGLIO_2017_.pdf).

<sup>1823</sup> DM 31 luglio 2017, n. 342, *Disposizioni applicative in materia di contributi automatici di cui agli artt. 23, 24 e 25 della Legge 14 novembre 2016, n.220* (Ministerial Decree 31 July 2017 rep. 342), [http://www.beniculturali.it/mibac/multimedia/MiBAC/documents/1507043291743\\_REGISTRATO\\_D.M.\\_31\\_LUGLIO\\_2017\\_REP.\\_342.pdf](http://www.beniculturali.it/mibac/multimedia/MiBAC/documents/1507043291743_REGISTRATO_D.M._31_LUGLIO_2017_REP._342.pdf).



Table 29. Main funds in Italy

Funding institution	Geographical level	Legislation / Guidelines
Ministry of Cultural Heritage and Activities - Directorate General of Cinema <sup>1824</sup>	National	Law of 14 November 2016 No. 220 - Discipline of Cinema and the Audiovisual <sup>1825</sup>
Apulia Film Fund <sup>1826</sup>	Regional	Public Notice - Apulia Film Fund 2018/2020 <sup>1827</sup>
		Puglia General Exemption Regulation No. 6 of 26 February, 2015 <sup>1828</sup>
		Apulia Film Promotion Guidelines <sup>1829</sup>
IDM Film Fund <sup>1830</sup>	Regional	IDM Film and TV Production Guidelines <sup>1831</sup>
		Pre-production Funding Guidelines <sup>1832</sup>
Lazio Cinema and Audiovisual Fund <sup>1833</sup>	Regional	Regional Law for Cinema and Audiovisual Promotion. <sup>1834</sup>

Source: Response to European Audiovisual Observatory standardised questionnaire

<sup>1824</sup> [www.cinema.beniculturali.it](http://www.cinema.beniculturali.it).

<sup>1825</sup> *Legge 14 novembre 2016, n. 220, Disciplina del cinema e dell'audiovisivo* (Law 14 of November 2016 No. 220 - Cinema and the Audiovisual Disciplines), <http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:2016-11-14:220!vig>, as amended by D.M. 531 29/11/2018 (Ministerial Decree no 531 of 29 November 2018), <http://www.cinema.beniculturali.it/Notizie/4956/66/d-m-modifiche-sui-casi-di-esclusione-delle-opere-audiovisive-dai-benefici-previsti-dalla-legge-14-novembre-2016>.

<sup>1826</sup> [www.apuliafilmcommission.it/fondi/apulia-film-fund](http://www.apuliafilmcommission.it/fondi/apulia-film-fund).

<sup>1827</sup> *Avviso Pubblico Apulia Film Fund 2018/2020* (Public Notice of Apulia Film Fund 2018/2020), [http://www.apuliafilmcommission.it/wp-content/uploads/aff20182020/Avviso%20pubblico%20Apulia%20Film%20Fund%202018-2020\\_v2.pdf](http://www.apuliafilmcommission.it/wp-content/uploads/aff20182020/Avviso%20pubblico%20Apulia%20Film%20Fund%202018-2020_v2.pdf); for the English version, see [http://en.apuliafilmcommission.it/wp-content/uploads/ff1820/Public%20Notice\\_Apulia%20Film%20Fund%202018-2020%20copia.pdf](http://en.apuliafilmcommission.it/wp-content/uploads/ff1820/Public%20Notice_Apulia%20Film%20Fund%202018-2020%20copia.pdf).

<sup>1828</sup> *Bollettino ufficiale della Regione Puglia n. 31 del 02/03/2015, Regolamento Regionale della Puglia per gli aiuti in esenzione* (Puglia Region Official Gazette, General Exemption Regulation No. 6 of 26 February 2015), <http://www.regione.puglia.it/documents/10192/4734972/REGOLAMENTO+REGIONALE+26+febbraio+2015%2C%20n.+6+%28id+4734985%29/3829af9c-3e44-4a49-85fb-a117e9ee7be2;jsessionid=3EAB90ECBBD0F7C7346A94B551743150>.

<sup>1829</sup> Fondazione Apulia Film Commission "Apulia Promotion Film Fund", [http://www.apuliafilmcommission.it/wp-content/uploads/APFF\\_AvvisoPubblico\\_2016\\_REV.pdf](http://www.apuliafilmcommission.it/wp-content/uploads/APFF_AvvisoPubblico_2016_REV.pdf).

<sup>1830</sup> [www.idm-suedtirol.com/en/business-development/film-fund-commission/film-funding.html](http://www.idm-suedtirol.com/en/business-development/film-fund-commission/film-funding.html).

<sup>1831</sup> [http://development.idm-suedtirol.com/upload/file/Film2015\\_rev\\_def\\_mit\\_Merkblatt.pdf](http://development.idm-suedtirol.com/upload/file/Film2015_rev_def_mit_Merkblatt.pdf).

<sup>1832</sup> <http://development.idm-suedtirol.com/it/film-location/finanziamenti/finanziamento-separato-della-pre-produzione/informativa>.

<sup>1833</sup> [www.regione.lazio.it/rl\\_cultura/?vw=contenutiDettaglio&cat=1&id=108](http://www.regione.lazio.it/rl_cultura/?vw=contenutiDettaglio&cat=1&id=108).

<sup>1834</sup> *Legge regionale n.2, 13 aprile 2012, "Interventi regionali per lo sviluppo del cinema e dell'audiovisivo"* (Regional Law n.2 of 13 April 2012, "Regional promotion for the development of Cinema and Audiovisual"), <http://www.consiglio.regione.lazio.it/consiglio-regionale/?vw=leggiregionalidettaglio&id=8614&sv=vigente>



### 7.17.2.2. Definition of cultural criteria

The MiBAC does not have a proper definition of cultural criteria in place.<sup>1835</sup> However, there are loosely-related cultural requirements implemented for certain selective subsidies (namely, writing subsidies, development subsidies, etc.), as detailed below:

- For scriptwriting subsidies:<sup>1836</sup> the quality of the story (such as the quality of the text, the quality and originality of the narrative structure and characters, the quality of the dialogues, innovation); feasibility requirements (such as theatrical or audiovisual capability); and circulation requirements (such as foreign writers, potential international audiences, it being a potential tool to promote Italian creativity).
- For development: story/script requirements (such as the quality and artistic relevance of the project and of the first draft of the script, innovation, the director's artistic vision and the like); feasibility requirements (such as the producer's curriculum, the coherence of the development schedule, artistic elements, development costs, partnerships); and circulation requirements (such as potential distributors in Italy and abroad, festivals, etc.)<sup>1837</sup>

In the case of the IDM Film Fund,<sup>1838</sup> up until 2018, the project was eligible for support only if it had obtained a minimum score of 4 out of a total of 16 points in the verification of its cultural value.<sup>1839</sup>

### 7.17.2.3. Nationality of the applicant

The requirements relating to the applicant's nationality or country of establishment vary according to the type of subsidies or scheme concerned. For automatic subsidies, the applicants shall be Italian audiovisual companies,<sup>1840</sup> defined as "film or audiovisual companies with a registered office in Italy or that are subject to taxation in Italy. On a reciprocity basis, companies (i) with a registered office and nationality in another EU member state; (ii) with a branch, agency or subsidiary established in Italy; (iii) conducting

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<sup>1835</sup> However, there is a cultural test, established by Article 14 of the Film Law, which applies only to Tax Credit.

<sup>1836</sup> Table 1 of the Public Notice on the granting of selective support for scriptwriting, and the development, pre-production, production and national distribution of film and audiovisual works - Article 26 of the Film Law (*Bando per la concessione di contributi selettivi per la scrittura, lo sviluppo e la pre-produzione, la produzione, la distribuzione nazionale di opere cinematografiche e audiovisive – articolo 26 della legge n. 220 del 2016 – Anno 2018*), hereinafter "2018 Call for selective subsidies", [http://www.cinema.beniculturali.it/uploads/DCA/2018/bando-selettivi\\_2018.pdf](http://www.cinema.beniculturali.it/uploads/DCA/2018/bando-selettivi_2018.pdf).

<sup>1837</sup> Table 2 of the 2018 Call for selective subsidies.

<sup>1838</sup> Section 7 of the IDM Production Guidelines and section 9 of the IDM Pre-production Guidelines, *Op. cit.*

<sup>1839</sup> The IDM Film Fund regulation is in review and this requirement could not be confirmed. Applications are possible via the Film Fund's website upon registration only, <https://filmfund.idm-suedtirol.com/index.php>

<sup>1840</sup> Article 14.1 of the Film Law.



its activity predominantly in Italian; and (iv) subject to taxation in Italy when the subsidies are paid, are made equivalent<sup>1841</sup>.

As regards selective subsidies, the following rules apply depending on the scheme:<sup>1842</sup>

- Writing Selective Scheme: applicants are Italians or EEA citizens and subject to taxation in Italy when the subsidies are paid,<sup>1843</sup>
- Development and Production Selective Scheme: applicants are Italian audiovisual companies,<sup>1844</sup> defined in the same way as for automatic subsidies,<sup>1845</sup> that can also be in association or in co-production, partnership or international production.
- Distribution Selective Scheme: applicants are Italian audiovisual companies also in partnership with foreign companies.<sup>1846</sup>

In the case of the IDM Film Fund, there are no requirements relating to the applicant's nationality or country of establishment.<sup>1847</sup> For the Apulia Film Promotion Fund, the applicant is required to be at least established in the region at the moment of payment.<sup>1848</sup>

### 7.17.3. Funding criteria applicable to production support

#### 7.17.3.1. Theatrical release, broadcasting and visibility on VOD

In principle, access to any film scheme is conditional upon the occurrence of the following requirements:<sup>1849</sup>

- The film is conceived, produced and exploited either artistically, technically, financially or promotionally to be first released in cinema theatres;
- Dissemination to the public meets the following two requirements:

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<sup>1841</sup> Article 2.3, of the Automatic Subsidies Decree, *Op. cit.* With respect to automatic subsidies for international distribution, the international distributor must be established in Italy for at least three years.

<sup>1842</sup> Non-EU companies cannot access Development, Production and Distribution Selective Schemes as per 2, Article 9, paragraph 1 of the "Selective Subsidies Decree".

<sup>1843</sup> Article 14.1 of the Film Law.

<sup>1844</sup> Article 14.1 of the Film Law.

<sup>1845</sup> Article 2.3, of the Selective Subsidies Decree.

<sup>1846</sup> Article 6. 1 of the Film Law.

<sup>1847</sup> Section 4.1 of the IDM Production Guidelines and Section 6.1 of the IDM Pre-production Guidelines.

<sup>1848</sup> Article 14 of the Apulia Film Promotion Guidelines.

<sup>1849</sup> Article 2 of the DM 14 luglio 2018 n. 303, "Individuazione dei casi di esclusione delle opere audiovisive dai benefici previsti dalla Legge 14 novembre 2016, n.220, nonché dei parametri e requisiti per definire la destinazione cinematografica delle opere audiovisive" (Ministerial Decree 303 of 14 July 2018, "Identification of the cases of exclusion of audiovisual works from the benefits envisaged by Law No. 220 of 14 November 2016, as well as the parameters and requirements for defining the cinematographic destination of audiovisual works"), [http://www.beniculturali.it/mibac/multimedia/MiBAC/documents/1501856021934\\_REGISTRATO\\_REP\\_303.pdf](http://www.beniculturali.it/mibac/multimedia/MiBAC/documents/1501856021934_REGISTRATO_REP_303.pdf), as amended by Article 2 of the Ministerial Decree No. 531 of 29 November 2018.



- The film is theatrically released for at least 60 screenings (reduced to 15 screenings in the case of documentaries) within a three-month period, commencing from the date of its first theatrical release; and
- The film is first released in cinema theatres and a time lag of 105 days is respected between a film's first screening in theatres and its availability on other platforms.<sup>1850</sup>

Moreover, in the case of selective subsidies, the submission of a binding theatrical distribution agreement (for films) or a binding distribution agreement with an audiovisual service media provider (for short films, television and web works, documentaries and animation) is a condition for the payment of the last 20% of the granted subsidies.<sup>1851</sup> Aside from this, there are no further requirements regarding theatrical release, performance and visibility on VOD.

In the case of the IDM Film Fund, as per section 13 of the IDM Production Guidelines, the producer must contribute to the financing of the project with adequate resources, which can take the form of distribution guarantees, pre-sales or minimum guarantees.

#### 7.17.3.2. Theatrical performance and performance at festivals, events and awards

There are no mandatory requirements for a production project related to expected or actual theatrical performance on the home market or abroad as such, except in the case of automatic subsidies, where the amount of support is calculated based on the actual performance of a film and awarded a posteriori in order to be reinvested in the production of new films. To this end, the following criteria are taken into account:

- Funding for films is awarded taking into account (i) theatrical performance (taking into account production/distribution costs/ box office ratio and the release period); (ii) home entertainment performance (taking into account the value of the transactions for the sales of film on physical devices and digitally directly to final users); (iii) other performance (taking into account the value of the transactions with media service providers related to the right to offer the film to audiences in Italy via a platform under the editorial control of such a media service provider; (iv) foreign performance (taking into account the revenues deriving from the sales and pre-sales of exploitation rights in other countries targeting audiences outside Italy).<sup>1852</sup>

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<sup>1850</sup> Article 1 of the Ministerial Decree No. 531 of 29 November 2018 provides that if the film availability on other platforms is not promoted during the theatrical windows, the time lag of 105 days can be reduced (i) to 10 days for short-time released movies (3 days or less in theatres, excluding Friday, Saturday, Sunday and public holidays); or (ii) to 60 days for films released in less than 80 cinema theatres and having gained less than 50 000 viewers within the first 21 days.

<sup>1851</sup> Article 26.e) v) and vi) of the 2018 Call for selective subsidies.

<sup>1852</sup> Article 6 of the Automatic Subsidies Decree.



- Funding for television works<sup>1853</sup> is awarded taking into account (i) the length of the work; (ii) the average production cost per hour; (iii) the audience share when the work is first broadcast compared to the average share per hour of the relevant channel; (iv) revenues deriving from the licensing of exploitation rights to national broadcasters; (v) revenues deriving from the transactions for the sales of television works on physical devices and digitally directly to final users; (vi) revenues deriving from the assignment of exploitation rights to media service providers for the dissemination to an audience resident in Italy; (vii) revenues deriving from the assignment of exploitation rights in other countries targeting audiences outside Italy.<sup>1854</sup>
- Funding for web works<sup>1855</sup> is awarded taking into account (i) the average production cost per hour; (ii) the number of views within a certain period; (iii) net revenues deriving from the assignment of exploitation rights to media service providers (other than national broadcasters) for the dissemination to an audience resident in Italy; (iv) revenues deriving from the assignment of exploitation rights in other countries targeting audiences outside Italy.<sup>1856</sup>

As regards performance at festivals, events and awards, the following criteria are taken into account:<sup>1857</sup>

- For films: 40% of the available funding<sup>1858</sup> is awarded taking into account (i) participation in national and international cinema festivals and events, and, in the case of competitions, awards obtained; (ii) being selected and obtaining awards of national and international relevance; (iii) being selected for international cinema and television markets; (iv) the number of countries where the work has been commercially exploited; (v) being a work co-produced; (vi) admittance to supranational contributions (such as Creative Europe) or multilateral funds.
- For television and web works (other than animated works): 40% of the available funding<sup>1859</sup> is awarded taking into account (i) participation in national and international events and, in the case of competitions, awards obtained; (ii) being selected and obtaining awards of national and international relevance; (iii) being selected for international markets; (iv) the number of countries where the work has been commercially exploited; (v) being admitted to selective subsidies; (vi) being a work co-produced; (vi) admittance to supranational contributions (such as Creative Europe) or multilateral funds.

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<sup>1853</sup> Pursuant to Article 2 d) 2) of the Automatic Subsidies Decree. The term “television work” refers to the audiovisual work intended to be first exploited by a national broadcaster.

<sup>1854</sup> Article 7 of the Automatic Subsidies Decree.

<sup>1855</sup> Pursuant to Article 2 d) 3) of the Automatic Subsidies Decree, *Op. cit.* The term “web work” refers to the audiovisual work intended to be first exploited by an audiovisual media service provider other than a national broadcaster.

<sup>1856</sup> Article 8 of the Automatic Subsidies Decree.

<sup>1857</sup> Articles 6.1 of the Automatic Subsidies Decree.

<sup>1858</sup> The remaining 60% being calculated on the basis of economic results.

<sup>1859</sup> The remaining 60% being calculated on the basis of economic results.



- For animated works: the available funding is awarded taking into account (i) participation in national and international events and, in the case of competitions, awards obtained; (ii) being selected and obtaining awards of national and international relevance; (iii) being selected for international markets; (iv) the number of countries where the work has been commercially exploited; (v) being admitted to selective subsidies; (vi) being a work derived from a novel, an illustrated book or an Italian graphic novel, or being based on the graphics by an Italian author; (vii) qualifying as a film essay; (viii) being admitted to selective subsidies; (ix) being a work co-produced; (x) at least 50% of the work being carried out in Italy; (xi) admittance to supranational contributions (such as Creative Europe) or multilateral funds.

As regards the IDM Film Fund, there are no specific requirements for a production project related to expected or actual theatrical performance on the home market or abroad.

### 7.17.3.3. Budget

The budget of an eligible project is not subject to any minimum threshold or maximum cap in the case of automatic subsidies. However, regarding selective subsidies, the following threshold and cap are applicable:<sup>1860 1861</sup>

- First and second film productions may apply if the budget does not exceed EUR 4 million and the above-the-line costs (that is, director, authors and main cast) does not exceed 25% of the production cost;
- Documentary and short film may apply if the budget does not exceed, respectively, EUR 1 million and Euro 200.000;
- Difficult films may apply if the budget does not exceed EUR 1.5 million;
- Films of particular artistic quality<sup>1862</sup> may apply if the budget does not exceed EUR 4 million and the above-the-line costs (that is, director, authors and main cast) does not exceed 30% of the production cost.

The applicant is not subject to a minimum contribution to the budget, nor must they have secured part of the budget in order to apply, except in the case of selective subsidies, which require supporting evidence of the financial plan to be submitted within 12 months (which may be extended another 6 months) from the granting of the subsidy<sup>1863</sup>, and

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<sup>1860</sup> In the case of co-productions, these restrictions only apply to the Italian shares.

<sup>1861</sup> Article 22.5-6, of the 2018 Call for selective subsidies.

<sup>1862</sup> The "artistic quality" is assessed by a panel of experts taking into account, *inter alia*, the quality and originality of the story and script; the quality of the artistic and technical cast; the director's artistic vision; the performance potential in Italy and abroad; and the production structure (that is, co-productions). paragraph 2, Article 26 of the Film Law, Article 8 of the Selective Subsidies Decree and Article 24 of the 2018 Call for selective subsidies.

<sup>1863</sup> Article 26 a), paragraph 1 of the 2018 Call for selective subsidies.



distribution deals to be submitted within 24 months (36 months for animation) as a condition for the disbursement of the last 20% of the granted subsidy.<sup>1864</sup>

In the case of the IDM Film Fund, the budget of an eligible project is not subject to any minimum threshold or maximum cap. The applicant is required to provide a minimum contribution equal to 5% of the budget of an eligible project.<sup>1865</sup> In addition, section 2 of the Guidelines specifies that projects without a confirmed minimum level of funding will only be funded in exceptional cases.

#### 7.17.3.4. Awarded amount

In accordance with Article 52.2 of the EU Cinema Communication,<sup>1866</sup> Italian law<sup>1867</sup> provides that the aid intensity must be limited to 50% of the total project costs, 60% when it comes to international co-production, and 100% when it comes to co-productions involving countries from the Development Assistance Committee (DAC) list of the OECD<sup>1868</sup> or “difficult works”.<sup>1869</sup>

The maximum amounts are as follows:

- For Selective Subsidies: feature fiction films: EUR 2.4 million; documentaries: EUR 600 000; short films: EUR 120 000; animation: EUR 1 million; difficult films: EUR 900 000.<sup>1870</sup>
- For Automatic Subsidies: the maximum amount is determined by the MiBAC on a yearly basis, depending on the available resources, the number of films supported and their performance.<sup>1871</sup>

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<sup>1864</sup> Article 26 e) v) of the 2018 Call for selective subsidies.

<sup>1865</sup> Section 13 of the IDM Production Guidelines.

<sup>1866</sup> Communication from the Commission on State aid for films and other audiovisual works (2013/C 332/01), [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52013XC1115\(01\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52013XC1115(01)&from=EN).

<sup>1867</sup> Article 12.5 of the Film Law and Article 5 of the “Tax Credit Decree” (*Decreto attuativo delle disposizioni in materia di credito d'imposta per le imprese di produzione cinematografica e audiovisivo*; <http://www.gazzettaufficiale.it/eli/gu/2018/05/25/120/so/24/sg/pdf>) and Article 4 of the 2018 Call for selective subsidies.

<sup>1868</sup> The DAC list shows all countries and territories eligible to receive official development assistance. These consist of all low and middle-income countries based on gross national income (GNI) per capita as published by the World Bank, with the exception of G8 members, EU members, and countries with a firm date for entry into the EU. The list also includes all of the Least Developed Countries (LDCs) as defined by the United Nations, [http://www.oecd.org/document/45/0,3746,en\\_2649\\_34447\\_2093101\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/45/0,3746,en_2649_34447_2093101_1_1_1_1,00.html).

<sup>1869</sup> “Difficult works” are (i) documentaries, first work, second work, work by young authors, short films and animation works declared not capable of attracting significant resources from the private sector; (ii) films selected for selective subsidies declared not capable of attracting significant resources from the private sector; (iii) works with a production cost lower than Euros 2.5 million; (iv) films that are distributed in at least 20 theatres at the same time and which are declared not capable of attracting significant resources from the private sector. Article 5, paragraph 3 of the Tax Credit Decree *Op. cit.* and Article 4 of the 2018 Call for selective subsidies.

<sup>1870</sup> Article 25, No.2 of the 2018 Call for selective subsidies.

<sup>1871</sup> Article 5 of the Automatic Subsidies Decree.



In either case, the amount awarded is not repayable. However, in the case of automatic subsidies, it must be reinvested in the development, production and/or distribution of new audiovisual works of Italian nationality.<sup>1872</sup> Furthermore, selective subsidies are granted by a panel of five experts<sup>1873</sup> from the film and audiovisual sector. The selection procedure is based on the quality and originality of the script and concept, the quality of the artistic cast and the director's artistic vision, and the possible participation in national and international festivals, as detailed in the Selective Subsidies Decree.<sup>1874</sup>

Lastly, the eligible costs for selective subsidies are detailed in the yearly call implementing the Selective Subsidies Decree.<sup>1875</sup> In the case of automatic subsidies, there is no definition of eligible costs, as the support is exclusively calculated based on the artistic and economic performance of the film.<sup>1876</sup>

As for the IDM Film fund, the aid intensity is limited to 50% of the budgeted production costs (increased to 80% for low-budget<sup>1877</sup> or difficult films) with a cap equal to EUR 1.5 million.<sup>1878</sup> The support is non-repayable and is awarded selectively by a panel of experts.<sup>1879</sup> As for eligible costs, these are defined in section 12 of the IDM Production Guidelines.

#### 7.17.3.5. Spending and shooting criteria

Regarding selective subsidies, an amount equal to 100% of the awarded amount must be spent in Italy.<sup>1880</sup> In the case of automatic subsidies, there is no minimum spending requirement established, but it is worth recalling that these subsidies must be reinvested in the development, production and/or distribution of Italian works, and spending in the country is one of the items considered for the nationality test.

As concerns the IDM Film Fund, section 6 provides the following requirements with regard to spending in the region:

- At least 150% for projects that do not present a cultural reference to South Tyrol and whose main scenes are not shot in location recognisable in South Tyrol;
- At least 125% for projects with a cultural reference to South Tyrol or whose main scenes are shot in identifiable locations in South Tyrol;
- At least 100% for projects with a cultural reference to South Tyrol and whose main scenes are shot in identifiable locations in South Tyrol

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<sup>1872</sup> Article 12 of the Automatic Subsidies Decree.

<sup>1873</sup> Pursuant to the combined provisions of Article 5 and Article 8 of Selective Subsidies Decree.

<sup>1874</sup> Article 8 of the Selective Subsidies Decree.

<sup>1875</sup> Article 3 No. 2 of the Selective Subsidies Decree.

<sup>1876</sup> Article 6, paragraph 4 of the Automatic Subsidies Decree.

<sup>1877</sup> Films with a budget of less than EUR 1.5 million.

<sup>1878</sup> Section 5 of the IDM Production Guidelines.

<sup>1879</sup> Sections 2 and 3 of the IDM Production Guidelines.

<sup>1880</sup> Article 27 a), 1, of the 2018 Call for selective subsidies.



Furthermore, the guidelines specify that, in any case, 20% of production costs can be spent in any other country of the EEA, and beneficiaries cannot be asked to spend more than 80% of the production budget in South Tyrol. Lastly, the majority of the shooting shall be carried out in instantly recognisable locations of the territory.<sup>1881</sup>

In addition, some regional funds have set up obligations related to the number of shooting days in the region, as detailed below:

Name of the fund (region)	Type of work	Minimum shooting days in the territory	Amount awarded
<b>FVG FILM FUND (Friuli Venezia Giulia)</b> <sup>1882</sup>	Feature films, animation, TV films, TV series, web works:	More than 72	EUR 280 000
		From 24 to 71	EUR 200 000
		Up to 24	EUR 70 000
	Documentaries, short-films	More than 10	EUR 30 000
		Up to 10	EUR 10 000
<b>EMILIA ROMAGNA FILM FUND (Emilia Romagna)</b> <sup>1883</sup>	All audiovisual works	At least 6 and, in general, more than 30% of the total days of shooting	N/A
<b>APULIA FILM FUND 2018/2020 (Puglia)</b> <sup>1884</sup>	Feature films	6	N/A
	Documentaries	6	N/A
	Short films	2	N/A
	Animation films	6	N/A
	Formats	2	N/A
<b>FIP FILM INVESTMENT PIEDMONT (Piemonte)</b> <sup>1885</sup>	All audiovisual works	21	N/A
<b>Campania</b> <sup>1886</sup>	Feature films	6	N/A
	Documentaries	6	N/A
	Short/web works	2	N/A

<sup>1881</sup> Article 17.2. d), paragraph 2 of the Resolution of 22 December 2015 No. 1492 of the Provincial Committee, [http://lexbrowser.provincz.bz.it/doc/it/203891%C2%A710%C2%A7210%C2%A7220/delibera\\_22\\_dicembre\\_2015\\_n\\_1492/allegato/capo\\_iv\\_territorializzazione\\_e\\_sostegno\\_ai\\_giovani\\_talenti/articolo\\_17\\_effetto\\_territoriale\\_alto\\_adige.aspx](http://lexbrowser.provincz.bz.it/doc/it/203891%C2%A710%C2%A7210%C2%A7220/delibera_22_dicembre_2015_n_1492/allegato/capo_iv_territorializzazione_e_sostegno_ai_giovani_talenti/articolo_17_effetto_territoriale_alto_adige.aspx).

<sup>1882</sup> Friuli Venezia Giulia (FVG) Film Commission, <http://www.fvgfilmcommission.com/film-fund/>.

<sup>1883</sup> Emilia-Romagna Creativa, Bando per il sostegno alla produzione di opere cinematografiche e audiovisive realizzate da imprese nazionali ed internazionali - anno 2019, <https://cinema.emiliaromagnacreativa.it/bando/bando-per-il-sostegno-alla-produzione-di-opere-cinematografiche-e-audiovisive-realizzate-da-imprese-nazionali-ed-internazionali-anno-2019/>.

<sup>1884</sup> Apulia Film Fund 2018/2020, <http://www.apuliafilmcommission.it/fondi/apulia-film-fund>.

<sup>1885</sup> FIP - Film Investimenti Piemonte, <https://www.italyformovies.it/incentivi-detail.php?id=99&name=fip-film-investimenti-piemonte>.

<sup>1886</sup> Public Notice - Contributions to support film and audiovisual productions in Campania, <http://www.regione.campania.it/assets/documents/avviso-pubblico-contributi-cinema.pdf>.



#### 7.17.3.6. Talent, cast, crew, underlying copyright

Although not a mandatory requirement, the Italian or EU nationality of the director, authors, main cast and crew contributes to obtaining the minimum score required for the work to be awarded “Italian nationality”,<sup>1887</sup> which is required when applying for any type of support, as explained in section 7.17.2.2. Aside from this, there are no requirements related to the underlying copyrights (and how they are linked to the country).

#### 7.17.3.7. Shooting language and diversity

If a film is set in a region with linguistic minorities or if characters from such regions are portrayed in the work, the relevant language is considered as Italian for the purposes of the minimum score required for the work to be awarded “Italian nationality”. Apart from that, there are no mandatory requirements related to the shooting language or to ethnic or linguistic minorities.

However, it is worth mentioning that when it comes to selective subsidies, the gender of the director is included in the point system which determines eligibility<sup>1888</sup>.

With regard to the IDM Film Fund, the recruitment of local professionals and suppliers contributes to obtaining funding.<sup>1889</sup> Except for this, there are no specific requirements related to ethnic or linguistic minorities or to gender.

### 7.17.4. Funding criteria applicable to pre-production support

#### 7.17.4.1. Budget

The budget of an eligible project is not subject to any minimum threshold or maximum cap. Moreover, there are no requirements regarding the minimum contribution of the applicant or related to having to secure part of the budget.

For IDM Film Fund, the budget of an eligible project is not subject to any minimum threshold or maximum cap. The applicant is required to provide a minimum contribution equal to 5% of the total budgeted costs.<sup>1890</sup>

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<sup>1887</sup> Article 5. a), paragraph 1 of the Film Law.

<sup>1888</sup> Article 16. b), paragraph 3 of the 2018 Call for selective subsidies; for automatic subsidies: to Table A, section B “Cultural Criteria” No. 4-5 of the Automatic Subsidies Decree.

<sup>1889</sup> Section 1 of the IDM Production Guidelines.

<sup>1890</sup> Section 15 of the IDM Pre-production Guidelines.



#### 7.17.4.2. Awarded amount

When it comes to aid intensity, the same general rules described in 7.17.3.4 apply. Regarding selective support, the maximum amounts are as follows:

- For the Writing Selective Scheme: EUR 20 000 per script (reduced to EUR 5 000 for Internet works' scripts),<sup>1891</sup>
- For the Development Selective Scheme: 60% of eligible costs, capped at EUR 100 000 for each project (reduced to EUR 30 000 in the case of works primarily intended for web exploitation).<sup>1892</sup>

Moreover, automatic support (previously accrued and standing to the credit of the production company) may be reinvested in the pre-production<sup>1893</sup> of new works, subject to the aid intensity rules. The amount granted is not repayable in either case.<sup>1894</sup> It is disbursed automatically for automatic subsidies<sup>1895</sup> and awarded selectively for selective subsidies, as per the same procedure described in section 7.17.3.4. Lastly, the eligible costs are detailed in the call implementing yearly the Selective Subsidies Decree.<sup>1896</sup>

In the case of the IDM Film Fund, support is limited to 50% of the costs, with a cap of EUR 50 000.<sup>1897</sup> In exceptional cases, it may support script development.<sup>1898</sup> Moreover, the support is awarded selectively by a panel of experts<sup>1899</sup> and is not repayable. As for eligible costs, these are defined in section 14 of the IDM Pre-production Guidelines.

#### 7.17.4.3. Underlying copyright

There are no requirements regarding the underlying copyright (and how this is linked to the country).

#### 7.17.4.4. Script language and diversity

The script shall be submitted in the Italian language (translated into Italian if the original language is not in Italian).<sup>1900</sup> There are no further requirements regarding the language of the script, ethnic or linguistic minorities. It is worth mentioning that when it comes to

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<sup>1891</sup> Article 10 of the 2018 Call for Selective Subsidies.

<sup>1892</sup> Article 17 of the 2018 Call for Selective Subsidies.

<sup>1893</sup> Article 23 of the Film Law.

<sup>1894</sup> Article 12 of the Automatic Subsidies Decree, and Article 11 of the Selective Subsidies Decree.

<sup>1895</sup> Article 12 of the Automatic Subsidies Decree.

<sup>1896</sup> Table 3 of the Selective Subsidies Decree.

<sup>1897</sup> Section 7 of IDM Pre-production Guidelines.

<sup>1898</sup> Section 2 of IDM Pre-production Guidelines.

<sup>1899</sup> Section 10.6 of IDM Pre-production, guidelines.

<sup>1900</sup> Article 7.4. c) of the 2018 Call for selective subsidies.



selective subsidies, the gender of the director is included in the point system determining eligibility.<sup>1901</sup>

The IDM Film Fund stipulates no specific requirements regarding the script language or linked to ethnic or linguistic minorities or gender.

## 7.17.5. Funding criteria applicable to distribution and promotion support

### 7.17.5.1. Theatrical release, broadcasting and visibility on VOD

As in the case of production support, support is conditional upon the occurrence of the requirements described in section 7.17.3.1 and related to the performance of the work.<sup>1902</sup> Moreover, when it comes to automatic subsidies for international distribution, the funding is awarded on the basis of “(i) the types of work (first work, second work, documentary works, young talent and similar) and revenues deriving from the sales and pre-sales of the exploitation rights in other countries targeting an audience non-resident in Italy; (ii) the number of foreign markets where exploitation rights have been exploited; (iii) the international distribution of film essays of Italian nationality and films awarded with selective subsidies; (iv) admittance to supranational contributions (such as Creative Europe) or multilateral funds.; (iv) the number of festivals, events and award ceremonies.”<sup>1903</sup> There are no specific requirements regarding the performance and visibility on VoD.

In the case of the Apulia Film Promotion Fund, the applicant must plan at least one public screening in the municipality where most of the filming was shot.<sup>1904</sup>

### 7.17.5.2. Theatrical performance and performance at festivals, events and awards

As a general principle, there are no mandatory requirements regarding the performance of a work in terms of theatrical attendance at home or abroad. Nonetheless, the potential or actual performance does affect the calculation of the subsidies, as specified below:

- For selective subsidies for national distribution: the funding is awarded taking into account performance potential;<sup>1905</sup>

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<sup>1901</sup> Article 16.3 b) of the 2018 Call for selective subsidies, *Op. cit.*

<sup>1902</sup> Article 2 of the Ministerial Decree of 14 of July 2017, No. 303 as amended by Art 1 Ministerial Decree no 531 of 29 November 2018, (*Individuazione dei casi di esclusione delle opere audiovisive dai benefici previsti dalla Legge 14 novembre 2016, n.220, nonché dei parametri e requisiti per definire la destinazione cinematografica delle opere audiovisive*),

[http://www.beniculturali.it/mibac/multimedia/MiBAC/documents/1501856021934\\_REGISTRATO\\_REP\\_303.pdf](http://www.beniculturali.it/mibac/multimedia/MiBAC/documents/1501856021934_REGISTRATO_REP_303.pdf)

<sup>1903</sup> Article 10 of the Automatic Subsidies Decree.

<sup>1904</sup> Article 15 of Apulia Film Promotion Guidelines.

<sup>1905</sup> Article 32.1 of the Call for Selective Subsidies.



- For automatic subsidies for national distribution: the amount of support is calculated based on the actual performance of a film and awarded a posteriori in order to be reinvested in the development, production and distribution of new films, based on the same criteria as described in section 7.17.3.2.
- For automatic subsidies for home video publishers: the funding is awarded on the basis of (i) the value of the transactions for the sales of the work on physical devices or digitally directly to final users; (ii) the distribution of film essays of Italian nationality and films awarded with selective subsidies; (iii) admittance to supranational contributions (such as Creative Europe) or multilateral funds.<sup>1906</sup>

In the case of the Apulia Film Promotion Fund, selection for a relevant film festival gives access to the promotion support scheme.<sup>1907</sup>

### 7.17.5.3. Budget

The budget of an eligible project is not subject to any minimum threshold or maximum cap, nor is anything stipulated regarding a minimum contribution from the applicant.

### 7.17.5.4. Awarded amount

Regarding aid intensity, the same general rules apply to the different support activities, including distribution (described in section 7.17.3.4). The maximum amounts are as follows:

- For the Distribution Selective Scheme: EUR 200 000, capped at 60% of the eligible costs.<sup>1908</sup>
- For the Automatic Subsidies Scheme: the maximum amount is determined by the MiBAC each year on the basis of, *inter alia*, available resources, the number of films and their performance.<sup>1909</sup>

Moreover, in the case of automatic subsidies, the overall amount previously accrued and standing to the credit of the distribution company may be reinvested in the distribution of new audiovisual works of Italian nationality, subject to the aid intensity rules.<sup>1910</sup>

As for selective subsidies, the amount is not repayable and is awarded selectively by a panel consisting of five experts in the audiovisual and cinematographic sector. The selection procedure is based on the quality and originality of the work, the level of the strategic approach relating to promotion and distribution activities and the balance

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<sup>1906</sup> Pursuant to the combined provisions of Articles 7-8, and Article 4 No. 2.b, paragraph 2 of the "Automatic Subsidies Decree".

<sup>1907</sup> Article 2 (4) of the Apulia Film Promotion Guidelines.

<sup>1908</sup> Article 33, No. 2 of the 2018 Call for Selective subsidies.

<sup>1909</sup> Article 5 of the Automatic Subsidies Decree.

<sup>1910</sup> Article 12 of the Automatic Subsidies Decree.



between the financial assets and the previous criteria.<sup>1911</sup> Lastly, the eligible costs for selective subsidies are detailed in the yearly call implementing the Selective Subsidies Decree.<sup>1912</sup>

The Apulia Film Promotion Fund's support takes the form of a cash rebate of 70% of the eligible expenses incurred for the promotion (including digital) of the audiovisual work, with a cap equal to EUR 25 000.<sup>1913</sup> The aid intensity is limited to 50% of the total costs, 60% in the case of cross-border productions funded by more than one member state and involving producers from more than one member state, and 100% in the case of difficult films and co-productions involving countries on the DAC-OECD list.<sup>1914</sup> As for eligible costs, these are defined in Article 4 of the Apulia Film Promotion Guidelines, and include costs incurred for digital or traditional promotional tools related to the audiovisual work eligible for the promotional phase of the audiovisual work itself. The support is awarded selectively following an assessment conducted by a commission of experts.<sup>1915</sup>

#### 7.17.5.5. Language and diversity

There are no particular requirements regarding the language of the film (it is sufficient that the works qualify as national)<sup>1916</sup> or linked to ethnic or linguistic minorities. Nonetheless, with respect to selective subsidies, the gender of the director affects the calculation of the score to calculate eligibility for support.<sup>1917</sup>

The Apulia Film Promotion Fund has no specific requirements regarding the language of the film or linked to ethnic or linguistic minorities or gender. However, it is worth mentioning that the fund will support films and audiovisual work set or filmed entirely in Apulia.<sup>1918</sup>

### 7.17.6. Data compilation

This factsheet was produced based on data compiled by Barbara Bettelli, Lawyer at BeLaw Law Firm in Rome.

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<sup>1911</sup> Article 26.2 of the Film Law, Article 8 of the Selective Subsidies Decree and Article 24 of the 2018 Call for selective subsidies.

<sup>1912</sup> Article 4 of the Selective Subsidies Decree.

<sup>1913</sup> Article 3 of the Apulia Film Promotion Guidelines.

<sup>1914</sup> Article 9 of the Puglia General Exemption Regulation No. 6 of 26 February, 2015 (*Puglia Regolamento Generale di Esenzione*), <http://www.regione.puglia.it/documents/10192/4734972/REGOLAMENTO+REGIONALE+26+febbraio+2015%2C%20n.+6+%28id+4734985%29/3829af9c-3e44-4a49-85fb-a117e9ee7be2;jsessionid=3EAB90ECBBD0F7C7346A94B551743150>.

<sup>1915</sup> Article 8 of the Apulia Film Promotion Guidelines.

<sup>1916</sup> Article 9 of the Selective Subsidies Decree.

<sup>1917</sup> Article 16. b), paragraph 3 of the 2018 Call for selective subsidies.

<sup>1918</sup> Article 1 of the Apulia Film Promotion Guidelines.



## 7.18. LT – Lithuania – National Summary<sup>1919</sup>

### 7.18.1. Summary

Film and audiovisual support is provided by the Lithuanian Film Centre, a state institution under the Ministry of Culture of the Republic of Lithuania. The aim of the Centre is to participate in designing an effective film and audiovisual sector policy and to foster the sustainability of the Lithuanian film industry. Its activities are as follows:

- Allocating subsidies for the development, production and distribution of Lithuanian films and International co-productions;
- Promoting Lithuanian films at home and abroad;
- Implementing programmes in the areas of film education, national film heritage, training for professionals, research and statistics;
- Administering The Film Registry and film ratings scheme;
- Fostering private sector investment in filmmaking;
- Aiming to position Lithuania among the countries offering the most favorable environment to foreign film productions;
- Representing Lithuania at International film festivals, fairs, organisations and programmes.

### 7.18.2. General framework

#### 7.18.2.1. Overview of the film and audiovisual funding policy and legislation

The main legal framework for the public film and audiovisual funding in Lithuania was set by the Film Law of the Republic of Lithuania<sup>1920</sup> (hereinafter, the “Film Law”). More precisely, the Lithuanian Film Centre operates based on the Regulation of the Lithuanian Film Centre (hereinafter, “the Regulations”) and the Regulation of the internal rules of procedure of the Lithuanian Film Centre.<sup>1921</sup>

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<sup>1919</sup> The factsheet on Lithuania incorporates the feedback received from Rolandas Kvietkauskas (Lithuanian Film Centre) during the checking round with the national film and audiovisual funds.

<sup>1920</sup> *Lietuvos Respublikos Kino Įstatymas 2002 m. kovo 5 d. Nr. IX-752 Vilnius* (The Film Law of the Republic of Lithuania, 5<sup>th</sup> march 2002 No.IX-752 Vilnius), <https://www.e-tar.lt/portal/en/legalAct/TAR.C828E20E430B/BkuFtiNfoF>.

<sup>1921</sup> *Lietuvos Kino Centro Prie Kultūros Ministerijos Vidaus Tvarkos Taisyklės* (the regulation of the internal rules of procedure of the Lithuanian Film Centre), <http://www.lkc.lt/wp-content/uploads/2013/01/Lietuvos-kino-centro-prie-kulturos-ministerijos-vidaus-tvarkos-taisykles.pdf>.



Regarding copyrights, it is regulated by the Law on Authors' rights and related rights of the Republic of Lithuania.<sup>1922</sup>

Finally, the following texts are applicable depending on the type of activity supported:

- For development and production support: Regulations of the state support for the development and production of film projects<sup>1923</sup>
- For distribution support: Regulations of the state support for film distribution projects<sup>1924</sup>
- For promotion support: Regulations of the state support for film promotion projects<sup>1925</sup>

**Table 30. Main funds in Lithuania**

Funding institution	Geographical level	Legislation / Guidelines
Lithuanian Film Centre <sup>1926</sup>	National	The Regulation of the Lithuanian Film Centre <sup>1927</sup>

Source: Response to European Audiovisual Observatory standardised questionnaire

#### 7.18.2.2. Definition of cultural criteria

In general, the evaluation of the project involves the following three stages:

- Examination of the application and the application documents
- Assessment of the cultural content of the project indicated in the application, which shall be carried out by expert committees appointed by the Director of the Lithuanian Film Centre. In the event that the expert committees concludes that a project does not conform to cultural content assessment criteria, the Lithuanian Film Centre shall notify in writing the applicants that the application has been rejected.
- Evaluation of the content of the projects.

<sup>1922</sup> Lietuvos Respublikos autorių teisių ir gretutinių teisių įstatymo pakeitimo įstatymas (The Law on Authors' Rights and Related Rights of the Republic of Lithuania), <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.207019>.

<sup>1923</sup> Filmų parengiamųjų ir gamybos darbų projektų valstybinio finansavimo taisyklės (Regulations of the state support for development and production of film projects), <https://www.e-tar.lt/portal/lt/legalAct/e6884320537c11e884cbc4327e55f3ca>.

<sup>1924</sup> Filmų platinimo projektų valstybinio finansavimo taisyklės (Regulations of the state support for film distribution projects), <https://www.e-tar.lt/portal/en/legalAct/d224d680d1dc11e8bea9885f77677ec1>.

<sup>1925</sup> Filmų sklaidos projektų valstybinio finansavimo taisyklės (Regulations of the state support for film promotion projects), <https://www.e-tar.lt/portal/en/legalAct/2a95c2f064ba11e4b6b89037654e22b1>.

<sup>1926</sup> [www.lkc.lt/](http://www.lkc.lt/).

<sup>1927</sup> Dėl Lietuvos Kino centro prie Kultūros ministerijos nuostatų, 2012 m. gegužės 8 d. Nr. JV-320 (The provisions of the Lithuanian Film Centre under the Ministry of Culture), <https://www.e-tar.lt/portal/en/legalAct/TAR.69F0DEC0C06D>.



The assessment of the cultural content is based on the cultural profile established by Article 8 of the Film Law, which provides that the project must comply with at least 2 of the following criteria:

- The screenplay or central theme of the film is based on events that are part of Lithuanian or European culture, history, mythology or religion.
- The film centres on a character or personality who is part of Lithuanian or European culture, history, society or religion.
- The screenplay or central theme of the film is based on a culturally significant work of national or European literature.
- The film reflects important Lithuanian or European values such as cultural diversity, solidarity, equality, minority rights, human rights, tolerance, environmental protection and respect for cultural and family traditions.
- The film focuses on the issues of Lithuanian or European identity, customs and traditions.

### 7.18.2.3. Nationality of the applicant

The Lithuanian Film Centre<sup>1928</sup> requires the applicant to be of Lithuanian nationality or of the nationality of another state of the European Economic Area. More specifically, regarding state funding (support agreement and payment), it should be allocated only to legal persons or organisations or the subdivisions (of a foreign entity from another state of the EEA) established in the Republic of Lithuania.

## 7.18.3. Funding criteria applicable to production support

### 7.18.3.1. Theatrical release, broadcasting and visibility on VOD

The Regulation of the state support for the development and production of film projects does not set requirements regarding visibility and performance on any of the different release windows, nor does it establish a release window schedule to be respected.

However, there are two exceptions: in the case of TV creative documentary film projects,<sup>1929</sup> a TV-distribution deal (agreement, deal memo or a recent letter of intent) is

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<sup>1928</sup> As per Article 1 of the Regulations of the state support for the development and production of film projects; Article 1 of the Regulations of the state support for film distribution projects and Article 1 of the Regulations of the state support for film promotion projects.

<sup>1929</sup> A TV creative documentary (one-off or series) of a total duration of minimum of 50 minutes intended primarily for the purposes of television, as per Article 1 of the Regulations of the state support for the development and production of film projects.



required;<sup>1930</sup> and in the case of animation series projects, a TV or VOD distribution deal is also required.<sup>1931</sup>

### 7.18.3.2. Theatrical performance and performance at festivals, events and awards

The Regulation does not set concrete requirements for a production project related to expected or actual theatrical performance on the home market or abroad as such, nor for performance at festivals, events and awards.

### 7.18.3.3. Budget

The budget of an eligible project is not subject to any minimum threshold or maximum cap, except in the case of micro-budget films where the total budget of the film cannot exceed EUR 150 000.<sup>1932</sup> There are no requirements related to the minimum contribution by the applicant to the project. Finally, regarding requirements related to part of the budget that needs to be secured, only the minority co-production scheme requires that at least 50% of the total budget be in place at the time of application.<sup>1933</sup>

### 7.18.3.4. Awarded amount

The aid intensity rules are described in Article 6 of the Regulations of the state support for the development and production of film projects, establishing that it must be limited to 50% of the film production budget, 60% when it comes to international co-production and up to 75% in the case of a co-production with a country from the OECD list, or 90% in the case of difficult films.<sup>1934</sup>

In terms of maximum total amounts awarded, the different caps are laid down in the same article as follows:

- Production of a feature fiction film – up to EUR 725 000
- Production of a short film – up to EUR 60 000
- Production of a feature documentary film – up to EUR 200 000
- Production of a short documentary film – up to EUR 85 000
- Production of a feature animation film – up to EUR 725 000
- Production of a short animation film – up to EUR 145 000
- Production of an animation series – up to EUR 725 000
- Production of a micro-budget feature film – up to EUR 112 500

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<sup>1930</sup> Article 26 of the Regulations of the state support for the development and production of film projects.

<sup>1931</sup> Article 25.6 of the Regulations of the state support for the development and production of film projects.

<sup>1932</sup> According to Article 1 paragraph 4.2 of the Regulation of the state support for development and production of film projects.

<sup>1933</sup> According to article 28.1 of the Regulation.

<sup>1934</sup> A film in Lithuanian language or artistically valuable but commercially difficult film, as per the definition laid down in Article 6 paragraph 4.36 of the Regulations of the state support for development and production of film projects.



- Production of a first-time short film – up to EUR 15 000
- Production of a TV creative documentary film – up to EUR 10 000
- Production of an interactive film project – up to EUR 50 000
- Production of a minority co-production – up to EUR 200 000

The amount awarded is not repayable,<sup>1935</sup> and is awarded by expert committee as per Article 10 of the Film Law and Article 1 of the Regulations of the state support for the development and production of film projects. Regarding eligible costs, these are calculated according to the Regulations<sup>1936</sup> and the project information (script or treatment, production plan, estimated budget, etc.)

#### 7.18.3.5. Spending and shooting criteria

According to Article 6, paragraphs 66 and 67 of the Regulations of the state support for the development and production of film projects, the Lithuanian Film Centre requires that at least 80% of the awarded amount be spent<sup>1937</sup> in the country, and in the case of minority co-production 100% of the awarded amount must be spent in the country. There are no further requirements regarding a minimum of shooting days in the country.

#### 7.18.3.6. Talent, cast, crew, underlying copyright

Article 6, paragraphs 62 and 63 of the Regulations of the state support for the development and production of film projects requires the film director or the script-writer to be a citizen of the Republic of Lithuania. Moreover, in the case of minority co-production, it states that: “either Director or Script writer or Art director, or DOP, or Composer, or Editor, or Sound director, or Costume designer, or Main cast, or Director of animation, or Art director animation, or Character Designer, or Storyboard Creator must be a citizen of the Republic of Lithuania”. Apart from that, they are no requirements related to the underlying copyrights (and how they are linked to the country).

#### 7.18.3.7. Shooting language and diversity

There are no requirements regarding the shooting language, ethnic or linguistic minorities and gender.

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<sup>1935</sup>Article 1 (Paragraph 6) of the Regulations of the state support for development and production of film projects.

<sup>1936</sup> Article 7 the Regulations of the state support for the development and production of film projects.

<sup>1937</sup> Spent in Lithuania means that awarded funds are paid to individuals or companies paying tax in Lithuania.



## 7.18.4. Funding criteria applicable to pre-production support

### 7.18.4.1. Budget

The budget of an eligible project is not subject to any minimum threshold or maximum cap. Moreover, the Regulation does not require the applicant to have secured any share of the budget as a condition to disbursing the awarded amount.

### 7.18.4.2. Awarded amount

Pre-production support (development support) is awarded after a selective process operated by expert committees,<sup>1938</sup> and the amount awarded is not repayable. When it comes to aid intensity, as per Article 6 of the Regulations of the state support for the development and production of film projects, it is limited to 90% of the film development budget, and in terms of maximum total amounts, the following cap are applicable:

- Development of a feature film – up to EUR 45 000
- Development of a documentary film – up to EUR 25 000
- Development of an animation film – up to EUR 60 000
- Development of an interactive film project – up to EUR 15 000
- Film scriptwriting – up to EUR 6 000

Regarding eligible costs, these are calculated according to the Regulations<sup>1939</sup> and project information (script or treatment, production plan, estimated budget, etc.)

### 7.18.4.3. Underlying copyright

There are no requirements regarding the underlying copyright (and how this is linked to the country).

### 7.18.4.4. Script language and diversity

There are no requirements regarding ethnic or linguistic minorities and gender. However, the script language must be Lithuanian, as it is part of the application and all applications are required to be submitted in Lithuanian.

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<sup>1938</sup> As per Article 10 of the Film Law and Article 1 of the Regulations of the state support for the development and production of film projects.

<sup>1939</sup> Article 7 of the Regulations of the state support for the development and production of film projects.



## 7.18.5. Funding criteria applicable to distribution and promotion support

### 7.18.5.1. Theatrical release, broadcasting and visibility on VOD

Article 3 (16.2) of the Regulation of the state support for film distribution projects<sup>1940</sup> sets the following requirements regarding the performance of a work in terms of theatrical release:

- For feature films (including documentary and animation): a minimum of 7 days screening in cinemas in two different cities in Lithuania over a one-month period,
- For short films programmes: a minimum of five days screening in cinemas in two different cities in Lithuania over a one-month period,
- For interactive films: a minimum of seven days in Lithuania over a one-month period, or a minimum of 30 days visibility on VOD.

Apart from that, there are no further requirements regarding performance and visibility on VOD or the release window schedule.

### 7.18.5.2. Theatrical performance and performance at festivals, events and awards

As a general principle, there are no concrete requirements regarding the performance of a work in terms of theatrical attendance at home or abroad. However, there is a specific line of support, the Film promotion support, which awards support based on the World or European film premiere and participation in the programmes of important film festivals.<sup>1941</sup>

### 7.18.5.3. Budget

The budget of an eligible project is not subject to any minimum threshold or maximum cap, nor is anything stipulated regarding a minimum contribution from the applicant.

### 7.18.5.4. Awarded amount

Distribution support is awarded automatically by a panel upon fulfillment of a series of requisites.<sup>1942</sup> When it comes to aid intensity, it is limited to 50% of the film distribution budget, and in terms of the maximum total amount awarded, it goes up to EUR 6000, according to Article 6, paragraphs 25 and 24 of the Regulations for distribution support. The amount awarded is not repayable. Regarding eligible costs, these are calculated

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<sup>1940</sup> Regulation of the state support for film distribution projects, *Op. cit.*

<sup>1941</sup> Article 5, paragraphs 22.2 and 22.3 of the Regulations of the state support for film promotion projects.

<sup>1942</sup> Article 5, paragraph 22 of the Regulations of the state support for film distribution projects.



according to the Regulations<sup>1943</sup> and the project information (marketing strategy, estimated budget, etc.).

As per promotion support, it is also awarded automatically by a panel upon fulfillment of a series of requisites.<sup>1944</sup> The aid intensity is limited to 90% of the film promotion budget and in terms of the maximum total amount, to EUR 20 000.<sup>1945</sup> Concerning eligible costs, these are calculated according to the Regulations<sup>1946</sup> and the project information (marketing strategy, estimated budget, etc.)

#### 7.18.5.5. Language and diversity

There are no specific requirements related to the language of the work, nationality of the cast and crew (it is sufficient that the work qualifies as national as per the definition laid down in the regulations)<sup>1947</sup> or linked to ethnic or linguistic minorities and gender.

### 7.18.6. Data compilation

This factsheet was produced based on data compiled by Dr. Erika Furman, Founder and Director of Future Society Institute.

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<sup>1943</sup> Article 7, paragraph 26 of the Regulations of the state support for film distribution projects.

<sup>1944</sup> Article 5, paragraph 20.1 of the Regulations of the state support for film promotion projects.

<sup>1945</sup> Article 6, paragraphs 25 and 26 of the Regulations of the state support for film promotion projects.

<sup>1946</sup> Article 7, paragraph 27 of the Regulations of the state support for film promotion projects.

<sup>1947</sup> Article 1 paragraph 6 of the Regulations of the state support for film distribution projects and Article 1 paragraph 6 of the Regulations of the state support for film promotion projects.



## 7.19. LU – Luxembourg – National Summary<sup>1948</sup>

### 7.19.1. Summary

In Luxembourg, film and audiovisual support is provided by the Film Fund Luxembourg. Created in 1990, it is an official body supervised by the minister responsible for the audiovisual sector and the minister responsible for culture. Its main goal is to implement the overall policy of the government's support for audiovisual productions which aims at promoting and strengthening the country's film production industry. In this respect, Film Fund Luxembourg has, among other things, the following missions:<sup>1949</sup>

- Manage the programmes through which the Luxembourg Government provides pre-production and production support to audiovisual works,
- Ensure the promotion of Luxembourgish audiovisual works in the Grand Duchy of Luxembourg and abroad,
- Ensure the management and the follow-up of works benefiting from financial support,
- Establish statistics relating to the audiovisual production sector,
- Assist the minister(s) in charge of supervising the sector, notably with the definition of the objectives and the execution of the policy of support to the audio-visual production as well as with the preparation of the regulation of the sector concerned,
- Cooperate closely with the audiovisual industry representatives (such as the Luxembourg Film Academy and the Luxembourg Producers Association) in order to promote the sector's development.

### 7.19.2. General framework

#### 7.19.2.1. Overview of the film and audiovisual funding policy and legislation

The main legal framework for public film and audiovisual funding in Luxembourg is the Law of 22 September 2014 on the National Fund to Support Audiovisual Production which established the Film Fund Luxembourg and defined, among other things, the status, objectives, financing, supported activities and the internal operation and organisation of the Fund. This act was implemented by the Grand-Ducal Regulation of 4 November 2014,

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<sup>1948</sup> The factsheet on Luxembourg incorporates the feedback received from Karin Schockweiler (Film Fund Luxembourg) during the checking round with the national film and audiovisual funds.

<sup>1949</sup> Article 2 of the Law of 22 September 2014 on the National Fund to Support Audiovisual Production.



which provides further details on the conditions, granting criteria and methods of intervention of the Fund.

**Table 31. Main funds in Luxembourg**

Funding institution	Geographical level	Legislation / Guidelines
Film Fund Luxembourg <sup>1950</sup>	National	Law of 22 September 2014 on the National Fund to Support Audiovisual Production <sup>1951</sup>
		Grand-Ducal Regulation of 4 November 2014 <sup>1952</sup>

Source: Response to European Audiovisual Observatory standardised questionnaire

### 7.19.2.2. Definition of cultural criteria

As per Article 10 of the Law of 22 September 2014 on the National Fund (hereinafter, the “Film Law”), audiovisual work eligible for selective financial support must “1. contribute to the development of the European and, in particular, Luxembourg audiovisual production sector, taking into account a reasonable proportionality between the benefits granted and the long-term cultural, economic and social benefits of the production of these works”. In this line, some of the assessment criteria used during the selection process are “1. artistic and cultural quality criteria”<sup>1953</sup> and “3. interest in national socio-cultural and historical heritage and collective memory”.<sup>1954</sup> In addition, Article 6 of the Regulation provides that the awarded amount be calculated based on “the cultural, social and economic impact of the audiovisual or cinematographic work”.

### 7.19.2.3. Nationality of the applicant

As a general principle, Article 9 of the Film Law establishes that “the selective financial assistance under the law may only be granted to Luxembourg residents who are fully taxable and whose purpose is audiovisual production”. More specifically, Article 2 of the Regulation provides that grants for writing and development for production and co-production can only be allocated to a Luxembourg production company.

<sup>1950</sup> <http://www.filmfund.lu/>.

<sup>1951</sup> Loi du 22 septembre 2014 relative au Fonds national de soutien à la production audiovisuelle (Law of 22 September 2014 on the National Fund to Support Audiovisual Production, hereinafter, the “Film Law”), <http://legilux.public.lu/eli/etat/leg/loi/2014/09/22/n1/jo>.

<sup>1952</sup> Règlement grand-ducal portant execution de la loi du 22 septembre 2014 relative au Fonds national de soutien à la production audiovisuelle (Grand-Ducal Regulation of 4 November 2014 implementing the Act of 22 September 2014 on the National Fund for Audiovisual Production Support and amending, hereinafter, “the Regulation”), <http://legilux.public.lu/eli/etat/leg/rgd/2014/11/04/n1/jo>.

<sup>1953</sup> Based on the value of the script, and on the contribution of the creative team, the technical team and the production and administrative team, Article 5 of the Regulation.

<sup>1954</sup> Such as “the project’s interest in promoting the country’s brand image and promoting its socio-cultural heritage, history, historical and tourist sites and language”, Article 5 of the Regulation.



## 7.19.3. Funding criteria applicable to production support

### 7.19.3.1. Theatrical release, broadcasting and visibility on VOD

There are no specific requirements regarding visibility and performance on any of the different release windows, or a release window schedule to be respected. However, it is worth mentioning that the economic impact of the work will be assessed and quantified using a points-based evaluation framework, which will then affect the calculation of the awarded amount.<sup>1955</sup> Furthermore, the performance in terms of theatrical release and distribution can be taken into account during the selection process, under the assessment of “the prospects for distribution, dissemination and exploitation” which includes “the potential for circulation, distribution and dissemination, the exploitation and marketing strategy defined according to the project, its content and its target audience (festivals, exploitation, distribution)”.<sup>1956</sup>

### 7.19.3.2. Theatrical performance and performance at festivals, events and award ceremonies

There are no concrete requirements for a production project related to expected or actual theatrical performance on the home market or abroad as such. However, as mentioned in the previous section, the economic impact of the work will influence the calculation of the awarded amount. Furthermore, the potential for performance at festivals can be taken into account during the selection process, under the assessment of the criteria “the prospects for distribution, dissemination and exploitation” which includes “the exploitation and marketing strategy defined according to the project, its content and its target audience (festivals, exploitation)”.<sup>1957</sup>

### 7.19.3.3. Budget

The budget of an eligible project is not subject to any minimum threshold or maximum cap. Furthermore, the applicant is required to contribute at least 10% of the total production cost of the work concerned.<sup>1958</sup> Moreover, as per Article 6 of the Regulation and Article 13 of the Film Law, the amount of aid is calculated based on all costs incurred and “taking into account the beneficiary company’s financial contribution to those costs”, consequently, the support “cannot exceed the financial participation of the said company”. This financial contribution corresponds to “the total of the sums raised by that company for the financing of all or part of the costs incurred in connection with a film or audiovisual production, with a view to the effective holding of film or audiovisual

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<sup>1955</sup> Article 6 of the Regulation.

<sup>1956</sup> Article 5 of the Regulation.

<sup>1957</sup> Article 5 of the Regulation.

<sup>1958</sup> Article 2, paragraph 2 of the Regulation. The Ssme rule applies to a possible foreign minority co-producer.



exploitation rights”. Lastly, “the budget consistency and confirmed level of funding” is taken into account during the assessment of the application.<sup>1959</sup>

#### 7.19.3.4. Awarded amount

As explained in the previous section, the amount of aid is calculated based on all costs incurred in connection with a film or audiovisual production. Apart from that, there are no aid intensity rules established as such, in terms of the share of the budget or the maximum total amount.

The eligible costs correspond to “the expenses actually disbursed as shown in the accounts of the work concerned, and considered appropriate and useful for the production of cinematographic or audiovisual works and in accordance with the objectives of this Law”.<sup>1960</sup> Furthermore, Article 7 of the Regulation states that the “[e]xpenses must be recorded in the accounts by nature of expense and by activity for which they are incurred, the allocation of which to the production of the work concerned and the actual disbursement in respect of that production are duly justified by the recipient company and in the case of a co-production by the co-production company (ies), by all means recognised by the accounting and tax laws in force in the Grand Duchy of Luxembourg and in the country (ies) of the foreign production company (s)”. Additional rules related to eligible costs are set out in Article 8 of the Regulation, which specifies, among other things, the threshold for the remuneration of the producer and any co-producers (7.5% of the budget) and the definition of overhead costs (7.5% of the budget).

In addition, the support awarded is, in principle, repayable and capitalised for reinvestment in future projects of the recipient company.<sup>1961</sup> Lastly, the support is awarded selectively by the Committee.<sup>1962</sup>

#### 7.19.3.5. Spending and shooting criteria

There are no requirements related to spending or shooting in the country. However, Article 10 of the Film Law states that “to be eligible for financial assistance, the work must be designed to be carried out mainly in one or more member states of the European Union, the countries of the European Economic Area or Switzerland and in particular in the territory of the Grand Duchy of Luxembourg”.

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<sup>1959</sup> Under “the criteria for production and impact on the growth of the sector”, Article 5 of the Regulation.

<sup>1960</sup> Article 13 of the Film Law.

<sup>1961</sup> Article 9 of the Film Law. The conditions of reimbursement are further defined in Article 11 of the Regulation.

<sup>1962</sup> Articles 11 and 12 of the Film Law.



#### 7.19.3.6. Talent, cast, crew, underlying copyright

There are no requirements regarding the nationality of the talent, cast and crew or related to the underlying copyrights (and how they are linked to the country).

#### 7.19.3.7. Shooting language and diversity

There are no requirements regarding the shooting language, ethnic or linguistic minorities and gender.

### 7.19.4. Funding criteria applicable to pre-production support

#### 7.19.4.1. Budget

The budget of an eligible project is not subject to any minimum threshold or maximum cap. Moreover, as explained in the production section, as per Article 6 of the Regulation and Article 13 of the Film Law, the amount of aid is calculated based on all the costs incurred and “taking into account the beneficiary company’s financial contribution to those costs”, consequently, the support “cannot exceed the financial participation of the said company”. This financial contribution corresponds to “the total of the sums raised by that company for the financing of all or part of the costs incurred in connection with a film or audiovisual production with a view to the effective holding of film or audiovisual exploitation rights”. In addition, “the budget consistency and confirmed level of funding” is taken into account during the assessment of the application.<sup>1963</sup>

#### 7.19.4.2. Awarded amount

The same general rules apply to the different support activities, including pre-production (described in 7.19.3.4). The only difference lies in the definition of the eligible costs which are defined in Article 2, paragraph 1 of the Regulation, and which mainly relate to writing costs and costs incurred prior to the actual production of the work (such as costs related to the acquisition of rights, translation costs, writing training, research and documentation costs, etc.).

#### 7.19.4.3. Underlying copyright

There are no requirements regarding the underlying copyright (and how this is linked to the country).

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<sup>1963</sup> Under “the criteria for production and impact on the growth of the sector”, Article 5 of the Regulation.



#### 7.19.4.4. Script language and diversity

There are no requirements regarding the language of the script, ethnic or linguistic minorities and gender.

### 7.19.5. Funding criteria applicable to distribution and promotion support

#### 7.19.5.1. Theatrical release, broadcasting and visibility on VoD

The Luxembourg Film Fund does not provide direct distribution or promotion support.

#### 7.19.5.2. Theatrical performance and performance at festivals, events and awards

N/A.

#### 7.19.5.3. Budget

N/A.

#### 7.19.5.4. Awarded amount

N/A.

#### 7.19.5.5. Language and diversity

N/A.

### 7.19.6. Data compilation

This factsheet was produced based on data compiled by Aleksandra Suwała, Attorney-at-law, LL.M.



## 7.20. LV – Latvia – National Summary<sup>1964</sup>

### 7.20.1. Summary

The main fund operating in the country is the National Film Centre of Latvia (*Nacionālais kino centrs* – hereinafter, the “NFC”), a governmental institution subordinated to the Ministry of Culture. Its main objective is to implement national policy in the cinema and film industry and to administer the funds from the state budget intended for the film industry (in 2018, the NFC allocated around EUR 5 455 699 of state support to the film industry). Still at national level, the other fund allocating support to the film industry is the National Culture Capital Foundation (*Valsts kultūrkapitāla fonds* – hereinafter, the “NCCF”), a foundation funded by the state budget and targeted donations, which provides support for cultural projects, including those in the film industry. Financial support is granted according to project competitions, and in 2018, it represented EUR 736 938. The total annual state support provided in Latvia was EUR 6 192 637 in 2018.<sup>1965</sup>

At local level, only the City of Riga has a separate budget for film funding within the Riga Film Fund (*Rīgas filmu fonds*), applicable to foreign productions or co-productions where foreign financing makes up at least 75% of the budget.

### 7.20.2. General framework

#### 7.20.2.1. Overview of the film and audiovisual funding policy and legislation

The main legal framework is laid down in the Film Law, adopted on 17 June 2010, which has been in force since 30 June 2010. The NFC operates according to the Bylaws of the National Film Center, approved by Regulation No. 1627 of the Cabinet of Ministers of 22 December 2009, in force since 1 January 2010. More precisely, the procedure according to which the NFC grants and distributes film funding is regulated by Regulation No. 975 of the Cabinet of Ministers of 12 October 2010, in force since 30 October 2010 (hereinafter, “Regulation No. 975”). There is a separate procedure for the granting of public funding for foreign productions, which is regulated by Regulation No. 163 of the Cabinet of Ministers of 26 March 2013, in force since 9 April 2013 (hereinafter, “Regulation No. 163”). Regarding the National Culture Capital Foundation, it is mainly governed by the Law on

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<sup>1964</sup> The factsheet on Latvia incorporates the feedback received from Dita Rietuma (NFC) during the checking round with the national film and audiovisual funds.

<sup>1965</sup> Facts and Figures 2018, National Film Centre, p.6 <http://nkc.gov.lv/wp-content/uploads/2014/09/FF-2018-web.pdf>.



the National Culture Capital Foundation. Further details on the various lines of support can be found in the Tender Rules for the Culture Projects of the National Culture Capital Fund.<sup>1966</sup>

As for the Riga Film Fund, there is neither legislation nor guidelines governing its operations and the rules vary depending on the call and the funding period. The rules currently covering the application period between 1 October 2018 and 30 September 2019 are established by Riga City Council.<sup>1967</sup>

Recent changes in the regulation in 2019 could not be taken into account. Some of the schemes and conditions in this factsheet may have changed.

**Table 32. Main funds in Latvia**

Funding institution	Geographical level	Legislation / Guidelines
National Film Centre <sup>1968</sup>	National	Film Law <sup>1969</sup>
		Bylaws of the National Film Center <sup>1970</sup>
		Regulation No.975 <sup>1971</sup>
		Regulation No.163 <sup>1972</sup>
National Culture Capital Foundation <sup>1973</sup>	National	Law on the National Culture Capital Foundation <sup>1974</sup>
		NCCF rules <sup>1975</sup>

<sup>1966</sup> *Valsts kultūrkapitāla fonda kultūras projektu konkursu nolikums* (Tender Rules for the Culture Projects of the National Culture Capital Fund), adopted in 25 March 2004, with last amendments adopted on 20 December 2018, hereinafter, the “NCCF rules”), <http://www.kkf.lv/index/konkursi/projektu-konkursi/filmu-maksla.html>.

<sup>1967</sup> All applicable information and regulations are available here: <http://filmriga.lv/en/co-financing/tender-regulations>.

<sup>1968</sup> <http://nkc.gov.lv>.

<sup>1969</sup> *Filmu likums* (Film Law), <https://likumi.lv/doc.php?id=212399>; for an English version, see: <http://nkc.gov.lv/en/wp-content/uploads/sites/2/2014/10/E1741-Film-Law1.pdf>.

<sup>1970</sup> *Nacionālā kino centra nolikums* (By-law of the National Film Centre), available in Latvian and in English: <https://likumi.lv/doc.php?id=202940>.

<sup>1971</sup> *Kārtība, kādā Nacionālais kino centrs piešķir publisko finansējumu filmu nozares projektiem* (Procedures by which the National Film Centre shall Grant Public Financing to Film Industry Projects), available in Latvian and in English: <https://likumi.lv/doc.php?id=220300>. New regulation since January 2019 (not included in this analysis).

<sup>1972</sup> *Valsts budžeta līdzfinansējuma piešķiršanas kārtība ārvalsts filmu uzņemšanai Latvijā* (Procedures for Granting of the State Budget Co-financing for Filming of Foreign Films in Latvia), available in Latvian and in English: <https://likumi.lv/doc.php?id=255894>. New regulation since January 2019 (not included in this analysis).

<sup>1973</sup> <http://kkf.lv>.

<sup>1974</sup> *Valsts kultūrkapitāla fonda likums* (the Law on the National Culture Capital Foundation), available in Latvian and in English: <https://likumi.lv/doc.php?id=81064>.

<sup>1975</sup> [www.vkkf.lv/fails.php?fid=758](http://www.vkkf.lv/fails.php?fid=758).



Funding institution	Geographical level	Legislation / Guidelines
Riga Film Fund <sup>1976</sup>	Regional	Regulations of the Riga City Council and the Tender rules (approved on 17 May 2018) <sup>1977</sup>

Source: Response to European Audiovisual Observatory standardised questionnaire

### 7.20.2.2. Definition of cultural criteria

Section 8 of the Film Law lists the following criteria for the granting of public funding for Latvian films, out of which at least three must apply:

- The action of the film mainly takes place in Latvia or another European Union Member State, or in a Member State of the European Economic Area, or in Switzerland;
- At least one of the main characters is connected to the culture of Latvia or a territory where Latvian is spoken;
- The film producer or the scriptwriter is a citizen of Latvia or a non-citizen of Latvia, or a person who has received a permanent residence permit in Latvia, or the scriptwriter is a person who speaks Latvian;
- The main theme of the film concerns issues related to culture, society, politics or history relating to the Latvian community and is important thereto;
- At least one of the original final versions of the film is in Latvian; and
- The film script is based on an original literary work of Latvia.

The notion of “culture” is mentioned in several of the above criteria, but is not further defined. Furthermore, Section 3 of the Law on National Culture Capital Foundation mentions the notion of “culture” for defining the supported projects as “culture projects”, but without providing a definition of “culture”.

### 7.20.2.3. Nationality of the applicant

For the NFC, according to Section 8 (3) of the Film Law, applicants for production support may be a film producer registered in the National Registry of Film Producers<sup>1978</sup> maintained by the National Film Center, and can be a merchant, a foundation or an

<sup>1976</sup> <http://filmriga.lv>.

<sup>1977</sup> *Rīgas pilsētas pašvaldības līdzfinansējuma programmas „Rīgas filmu fonds” ārvalstu filmu uzņemšanai Rīgā konkursa nolikums* (Tender rules of the Riga city municipality co-financing programme “Riga Film Fund” for the filming of foreign films in Riga, approved on 17 May 2018 for the projects to be submitted between 1 October 2018 and 30 September 2019), [http://filmriga.lv/data/files/Nolikums\\_2019.pdf](http://filmriga.lv/data/files/Nolikums_2019.pdf); for English version, see: [http://filmriga.lv/data/files/Regulations\\_en\\_3.pdf](http://filmriga.lv/data/files/Regulations_en_3.pdf).

<sup>1978</sup> *Filmu producentu reģistrācijas kārtība* (Procedures for the Registration of Film Producers), available in Latvian and in English: <https://likumi.lv/doc.php?id=213314>.



association registered in Latvia.<sup>1979</sup> The same rules apply for the co-financing of foreign production projects. According to paragraph 3 of Regulations No. 163 for co-financing, merchants, associations or foundations registered in Latvia, which have been registered as film producers in accordance with the procedures laid down in laws and regulations and which have entered into a contract regarding the filming of a foreign film in Latvia with a foreign film producer, may submit an application.

For the NCCF, Section 3.2 of the NCCF rules provides that natural persons and legal entities may participate in the calls and tenders; legal entities must be registered in Latvia as tax payers with the State Revenue Service.

As to Riga Film Fund, support for production granted by the Riga Film Fund may currently be applied for by a merchant registered as a film producer in the European Union in accordance with the existing laws and regulation.<sup>1980</sup>

### 7.20.3. Funding criteria applicable to production support

#### 7.20.3.1. Theatrical release, broadcasting and visibility on VOD

There are no specific requirements related to theatrical release, performance and visibility on VOD, nor is there a release window schedule to be respected for any of the funds. However, in the case of the National Film Centre, it is worth mentioning that paragraph 5 of Appendix No. 2 of Regulation No. 163 mentions distribution as one of the criteria with respect to the assessment of tender projects for the co-financing of foreign films. The distribution potential of the applied project is assessed as follows:

- The distribution plan of the film has been certified by a written certification signed by several foreign broadcasting organisations or distributors – 5 points,
- The distribution plan of the film has been certified by a written certification signed by at least one foreign broadcasting organisation or distributor – 3 points,
- The distribution plan of the film has not been certified by written certifications – 1 point.

#### 7.20.3.2. Theatrical performance and performance at festivals, events and awards

There are no concrete requirements for a production project related to expected or actual theatrical performance in the home market or abroad for any of the funds.

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<sup>1979</sup> Article I paragraph 2 of the Procedures for the Registration of Film Producers.

<sup>1980</sup> Paragraph 3.1 of the Regulation of Riga City Council.



### 7.20.3.3. Budget

For the NFC, there is no minimum or maximum budget requirement for the public funding of Latvian films, except when it comes to the qualification of low-budget films,<sup>1981</sup> which will be considered as such if they do not exceed the following amounts:

- EUR 853 723 – theatrical feature films (with a duration no shorter than 65 minutes);
- EUR 1 422 871 – theatrical animation films;
- EUR 142 287 – short feature films and short animation films;
- EUR 113 829 – documentary films;
- EUR 996 010 – co-production theatrical feature films<sup>1982</sup>

Furthermore, with regard to the co-financing of foreign films, according to paragraph 4.3 of Regulation No. 163, co-financing may be granted if the total costs of a foreign film project for feature films and animated films reach at least EUR 711 436, and at least EUR 142 287 for documentary films. With regard to the part of the budget that needs to be secured, there are no specific requirements, except in the case of the co-financing of foreign films, where the finances available to the producer on the day of submitting the project, according to the financing plan, must be at least 50% of the total costs of filming a film.<sup>1983</sup>

For the NCCF, the budget of an eligible project is not subject to any minimum threshold or maximum cap, nor is anything stipulated regarding a minimum contribution from the applicant.

As to Riga Film Fund, the minimum budget to be eligible is EUR 700 000.<sup>1984</sup> Moreover, the fund requires that at least 75% of the budget come from foreign financing and at the moment of application, at least 50% of the total costs must be secured.<sup>1985</sup>

### 7.20.3.4. Awarded amount

For the NFC, in terms of aid intensity, the following rules apply

- For Latvian films:<sup>1986</sup>
  - 50% of the total costs of the project in general,
  - 80% of the total costs of the project when it comes to difficult films,<sup>1987</sup>
  - 90% of the total costs of the project when it comes to low-budget films.<sup>1988</sup>
- For foreign films,<sup>1989</sup> the amount of co-financing for foreign films shall be:

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<sup>1981</sup> Paragraph 22 of the Regulation n°163.

<sup>1982</sup> In accordance with the European Convention on Cinematographic Co-Productions

<sup>1983</sup> Paragraph 4.4 of the Regulation n° 163.

<sup>1984</sup> Paragraph 3.1.2.1 of the Regulations of the Riga City Council.

<sup>1985</sup> Paragraph 3.1.2.2 of the Regulations of the Riga City Council.

<sup>1986</sup> Paragraphs 19, 20 and 21 of the Regulation No.975.

<sup>1987</sup> Defined in paragraph 23 of the Regulation No.975.

<sup>1988</sup> The definition of the low-budget film is provided in the section 7.20.3.3.

<sup>1989</sup> Paragraph 36 of Regulation No.163.



- 25% of the eligible expenditure indicated in the co-financing contract,<sup>1990</sup> if the principal action of the film takes place in Latvia or if the landscape or architecture of Latvia is used in the final version of the film, including identifiable indications regarding Latvia in the film;
- 20% of the eligible expenditure indicated in the co-financing contract,<sup>1991</sup> if the final version of the film does not include an identifiable indication regarding Latvia, however, the services of merchants registered in Latvia are used in shooting the film.

The amount awarded is not repayable.<sup>1992</sup> Furthermore, when it comes to the calculation of eligible costs:

- For Latvian Films: the eligible costs are not defined in the legislation, but according to paragraph 8.8 of Regulation No. 975, they must be specified in each set of tender rules. The current tender rules establish that the amount of unexpected expenditure may not exceed 7%, and indirect costs (overheads) may not exceed 7% of the requested financing.
- For Foreign films, according to paragraph 29 of Regulation No. 163, the costs must comply with the following criteria in order to qualify as eligible costs:
  - They have been performed after the day of entering into a co-financing contract;
  - They have been utilised in Latvia;
  - They are directly related to the filming process;
  - They are directly related to the following needs: the cost of the administrative and professional staff necessary for the provision of filming a film; the renting of equipment and services; transport services and fuel; construction services related to the filming of a film; security services; etc.

Lastly, decisions on awards by the NFC are made on a selective basis, both for Latvian films and for the co-financing of foreign films:

- Latvian films are assessed according to Regulation No. 975. Each project must comply with both administrative and quality criteria.<sup>1993</sup> Upon compliance with administrative or formal criteria, projects are forwarded to one of the selection committees. According to paragraph 30 of Regulation No. 975, a permanent expert committee devoted to each type of project (feature films, documentaries, animation films, etc.), and created by the National Film Centre, shall continue to evaluate the project. The committee assesses each project on the basis of the quality criteria <sup>1994</sup>(Annex 3 of the Regulation) and renders its opinion, which will

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<sup>1990</sup> Which do not exceed 80% of the total costs of the film project.

<sup>1991</sup> Which do not exceed 80% of the total costs of the film project.

<sup>1992</sup> However, according to Paragraph 46 of Regulation No.975, if the National Film Centre determines that the financing granted is not being used in accordance with the conditions of the financing contract, it shall unilaterally terminate the financing contract entered into and recover the unsuitably utilised financing

<sup>1993</sup> Section V of the Regulation No. 975.

<sup>1994</sup> The quality criteria is assessed on the basis of: the professional and artistic quality of the project, the significance and topicality of the project, the commensurability of finances, time and work schedule of the project, and the previous experiences and competences of the submitter and author of the project.



inform the decision of the Director of the National Film Centre. Financing shall be granted for the implementation of projects which have received the highest evaluation in accordance with the quality evaluation criteria.

- Foreign films are assessed according to Regulation No. 163. The project is initially assessed for conformity with administrative criteria and then it is forwarded to a specially formed committee which assesses the quality criteria. According to paragraph 26, in conformity with the opinion provided by the committee, the head of the Centre shall take a decision to enter into a co-financing contract or to refuse to enter into a co-financing contract. The right to enter into a co-financing contract (while there is sufficient co-financing provided for the project tender) shall be granted for the implementation of such projects which have obtained a higher evaluation according to the criteria “Project Evaluation Criteria” referred to in Annex 2 to this Regulation.<sup>1995</sup>

For the NCCF, regarding aid intensity, there is no maximum amount of aid provided for in the NCCF rules. The amount is not repayable and is awarded selectively, after an assessment based on administrative and quality criteria. The quality criteria are defined in clause 7 of the NCCF rules, and include *inter alia*: the relevance of the project; its conformity with industry priorities; having a precise and substantiated budget; the conformity of the requested financing with the means of the NCCF; the education and experience of the project manager and of other involved persons; public interest; the non-commercial character of the project, etc. Lastly, eligible costs are not specified.

As to Riga Film Fund, the aid intensity rules are set in paragraph 25.3 of the Regulations of Riga City Council and provide that:

- For a project where the main activity of the film takes place in Riga or where the reflection of Riga, according to the script, is a substantial part of the film (at least 20% of the screen time) and which is at least partially shot in Riga territory: the support goes up to 25%;
- For a project which is being shot in the territory of Latvia: 20%; but if it has achieved maximum points based on quality criteria it can still receive 25%.

The amount is not repayable and the award procedure is carried out by a tender committee in three stages. Firstly, the administrative criteria<sup>1996</sup> are assessed, then the quality criteria,<sup>1997</sup> and the third stage determines the intensity of the award (20% to 25% of the eligible costs). Furthermore, the eligible costs are listed in each tender. The

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<sup>1995</sup> This project evaluation criterion is assessed on the basis of: the planned costs of filming of the film in the Republic of Latvia, the use of services and specialists of the film industry of Latvia, the previous experiences of a Latvian producer and of a foreign producer, and the distribution potential of the project.

<sup>1996</sup> Listed in the Appendix 3 of the tender rules,

[http://filmriga.lv/data/files/Pielikums%20Nr3\\_administrativie%20kriteriji\\_2.pdf](http://filmriga.lv/data/files/Pielikums%20Nr3_administrativie%20kriteriji_2.pdf). They mainly ask for compliance with the tender rules, proper submission of required documents, relevant signatures, etc.

<sup>1997</sup> Defined in Appendix 4 of the tender rules,

[http://filmriga.lv/data/files/Pielikums%20Nr4\\_kvalitativie%20kriteriji\\_3.pdf](http://filmriga.lv/data/files/Pielikums%20Nr4_kvalitativie%20kriteriji_3.pdf). It involves such criteria as the assessment of the involvement of professionals, actors, and producers, their experience, the distribution potential of the project, and the cultural value.



currently available rules list the costs in paragraph 12 of the Regulation of Riga City Council, which largely resemble the costs mentioned in Regulation No.163, such as: accommodation services related to the shooting of the film; equipment rental; transport services and fuel; catering services; construction services; security services; and telecommunication services. The providers of the services and goods must be registered in Latvia for the costs to be deemed eligible. On top of that, only 80% of the total production budget computes for the calculation of eligible costs.

#### 7.20.3.5. Spending and shooting criteria

In the case of Latvian films, under NFC, there are no requirements regarding how much money is spent in Latvia. However, for foreign production, there is a mandatory requirement that services must be purchased from entities registered in Latvia.<sup>1998</sup> Moreover, according to paragraph 29.2 of Regulation No.163, all eligible costs must be spent in Latvia, and the applicant must submit evidence that the services have been purchased from entities registered in Latvia. On top of that, the amount of intended filming costs to be spent in Latvia is taken into account when awarding points for quality criteria, as follows:<sup>1999</sup>

- For feature films or animated films:
  - More than EUR 500 000 – 20 points;
  - EUR 250 000 - EUR 500 000 – 15 points;
  - Less than EUR 250 000 – 10 points.
- For documentary films:
  - More than EUR 100 000 – 20 points;
  - Between EUR 50 000 and EUR 100 000 – 15 points;
  - Less than EUR 50 000 – 10 points.

In the case of co-production, there are no specific spending requirements. In fact, according to Section 8, part 2, a co-produced film can apply for public funding according to the same criteria as a Latvian film if it is conform to at least 3 out of the 6 criteria listed in Section 8, part 1 of the Film Law, or if so provided by international agreements regulating the film industry and the creation of co-produced films binding to Latvia. When it comes to requirements regarding shooting in Latvia, for the co-financing of foreign films, full or partial shooting in Latvia is a mandatory requirement for the receipt of public funds.<sup>2000</sup> However, what the share of “partial” shooting must be is not further defined.

Under NCCF, there are no requirements related to spending or shooting in the country.

Although the Riga Film Fund does not specify how much money should be spent in the region, the Regulations state that the providers of the services which qualify as eligible expenses must carry out their commercial activity within the framework of the project in

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<sup>1998</sup> Paragraph 4.2 of the Regulation No.163.

<sup>1999</sup> Paragraph 1 of Appendix 2 of the Regulation No.163.

<sup>2000</sup> Paragraph 4.1 of the Regulation No.163.



Riga city and Latvia.<sup>2001</sup> Moreover, there is a requirement that shooting takes place in Latvia, and if the shooting at least partially takes place in Riga City and Riga is reflected on screen for a substantial amount of time (at least 20% of the screen time), the aid intensity is 25% of the eligible costs, as explained in the previous section.

#### 7.20.3.6. Talent, cast, crew, underlying copyright

In general, there are no concrete requirements related to the nationality of the talent, cast and crew or to the underlying copyright (and how they are linked to the country). However, as described in section 7.20.2.2, section 8 (3) of the Film Law uses six potential criteria to qualify a film as a “Latvian film” (and thus eligible for public funding), which includes notably:

- The film producer or the scriptwriter is a citizen of Latvia or a non-citizen of Latvia, or a person who has received a permanent residence permit in Latvia, or the scriptwriter is a person who speaks Latvian.
- The film script is based on an original literary work of Latvia

#### 7.20.3.7. Shooting language and diversity

There are no requirements regarding the shooting language, ethnic or linguistic minorities and gender. However, and as in the previous question, it is worth recalling the fact that “at least one of the original final versions of the film is in Latvian” is one of the six criteria used to qualify as a “Latvian Film”.

### 7.20.4. Funding criteria applicable to pre-production support

#### 7.20.4.1. Budget

Pre-production support by NFC can only be granted for Latvian films. Furthermore, the budget of an eligible project is not subject to any minimum threshold or maximum cap, nor is anything stipulated regarding a minimum contribution from the applicant. However, the tender rules request applicants to indicate the total budget, the requested financing, the financing plan and strategy.<sup>2002</sup>

As to NCCF, the budget of an eligible project is not subject to any minimum threshold or maximum cap, nor is anything stipulated regarding a minimum contribution from the applicant.

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<sup>2001</sup> Paragraph 13 of the Regulations of the Riga City Council.

<sup>2002</sup> Appendix 2 of the Tender rules on Film project development, <http://nkc.gov.lv/finansejums/izsludinati-konkursi/>.



#### 7.20.4.2. Awarded amount

The maximum total amount awarded by the NFC is specified in the specific tender rules for film project development, and the overall available financing is EUR 155 917. More specifically, the maximum total amounts per project are:

- For animation films: EUR 34 500, supporting five short-length or two full-length projects,
- For documentary films: EUR 32 917, supporting 5 projects,
- For feature films: EUR 88 500, supporting 5 projects.

The amount is not repayable, and the eligible costs are not specified.<sup>2003</sup> Support is awarded selectively by the expert committee of the National Film Centre, based on administrative<sup>2004</sup> and quality criteria.<sup>2005</sup>

The maximum amount awarded is not specified and depends on the finances available to the NCCF for each respective year. Moreover, the amount is not repayable and is awarded selectively after an assessment based on administrative and quality criteria, as used for production support (described in section 7.20.3.4).

#### 7.20.4.3. Underlying copyright

There are no requirements regarding the underlying copyright (and how this is linked to the country).

#### 7.20.4.4. Script language and diversity

There are no requirements regarding the language of the script, ethnic or linguistic minorities and gender.

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<sup>2003</sup> But, as for production support, it is indicated in Appendix 2 to the tender rules that unforeseen expenditures may be no more than 7% and indirect costs (administrative expenses) no more than 7% from the requested financing; the project financing (studio) costs are not financed.

<sup>2004</sup> The administrative criteria are listed in Appendix 3 to the rules, and include the requirement to have proper registration, no tax debts, no insolvency, no unsolved liabilities to the National Film Centre, the applicant may not be a broadcasting organization, and the share of state or municipality in the share capital does not exceed 25%.

<sup>2005</sup> The quality criteria are listed in the Appendix 5 and contain creative criteria (the relevance of the project, artistic quality, previous experience of the project authors) and production criteria (professional quality, the plan of project timing and financing, experience of the applicant for the project).



## 7.20.5. Funding criteria applicable to distribution and promotion support

### 7.20.5.1. Theatrical release, broadcasting and visibility on VOD

There are no support schemes for distribution and promotion support established as such in the legislation. However, the National Film Centre organises calls for applications related to distribution and promotion support on a regular basis,<sup>2006</sup> with a regular call for marketing activities, educational and industry events with an open deadline. In addition, the National Culture Capital Foundation allocates distribution and promotion support for Latvian films or film projects participating in international festivals and film fairs.<sup>2007</sup> In any case, there are no specific requirements regarding theatrical release, performance and visibility on VOD, nor is there any release window schedule to be respected.

### 7.20.5.2. Theatrical performance and performance at festivals, events and awards

There are no requirements regarding the performance of a work in terms of theatrical attendance at home or abroad as such. With regard to performance at festivals, as mentioned in the previous paragraph, both national funds can occasionally provide support for films participating in film festivals or film fairs.

### 7.20.5.3. Budget

The budget of an eligible project is not subject to any minimum threshold or maximum cap, nor is anything stipulated regarding a minimum contribution from the applicant.

### 7.20.5.4. Awarded amount

In the NFC call rules for the year 2018, the total financing available in this support line was EUR 100 000. More specifically, the financing for the distribution of Latvian films within domestic theatres and related marketing activities was up to EUR 9 000 for fully national or Latvian majority co-production feature or animation films; up to EUR 5 000 for fully national or Latvian majority documentary films; and up to EUR 5 000 for Latvian minority co-production films. This amount was not repayable and was awarded selectively

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<sup>2006</sup> e.g., on 9 May 2017 the tender rules were published for the demonstration and marketing support of films within the programme Latvian Films for Latvian Centenary. On 11 December 2017, tender rules for year 2018 were published for the support of the marketing of Latvian films, industry events and continuing education of the industry professionals, <http://nkc.gov.lv/finansejums/izsludinati-konkursi>.

<sup>2007</sup> Appendix 6 to the NCCF rules.



by a project committee based on administrative and quality criteria.<sup>2008</sup> Lastly, eligible costs are strictly specified in clause 7 of the tender rules for the year 2018 as follows:

- Marketing expenses for film demonstration in the theatres of Latvia – printworks, announcements and information in the media, copywriting, trailers, DCP reproduction, landing pages, project managers, consultants, screenings for media or focus groups, stationary, post and transport expenses, etc.
- Marketing expenses for the participation of films in international events abroad: printworks, announcements and information in the media, copywriting, translations, trailers, consultants, screenings for media or focus groups, post, transport and hotel expenses, etc.

For NCCF, the maximum amount is not specified and depends on the finances available to the NCCF for the respective year. Moreover, the support is not repayable and is awarded selectively after an assessment based on administrative and quality criteria, as used for production support (see section 7.20.3.4).

#### 7.20.5.5. Language and diversity

There is no particular requirement regarding the language of the film or linked to ethnic or linguistic minorities and gender.

### 7.20.6. Data compilation

This factsheet was produced based on data compiled by Ieva Andersone, Attorney-at-law, Sorainen.

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<sup>2008</sup> Quality criteria are specified in Appendix No.3 to the tender rules for year 2018, and include the relevance of the project, its artistic quality, previous experience and qualifications of the project managers.



## 7.21. MT – Malta – National Summary<sup>2009</sup>

### 7.21.1. Summary

At national level, the main fund operating in the country is the Malta Film Fund (hereinafter, the “MFF”), established in 2008 by the Malta Film Commission (hereinafter, the “MFC”), with an overall endowment of EUR 600 000 for 2019. It supports the production of feature and short films; pre-production through two grants - one for writers and one for development; film distribution; and participation in international film festivals.<sup>2010</sup> It also administrates the Film Distribution Grants Programme for Maltese feature films that are already receiving MFF production funding. This grant was awarded in collaboration with the Arts Council Malta<sup>2011</sup> (hereinafter, the “ACM”) for the first call, and is now entirely covered by the Malta Film Fund. Additionally, the ACM offers grants for development, translation, travel, presentation and touring. Furthermore, the National Book Council offers support to short films based on Maltese literary works, with a maximum grant of EUR 20 000.

### 7.21.2. General framework

#### 7.21.2.1. Overview of the film and audiovisual funding policy and legislation

Due to the geographic and demographic size of the country, all film-related legislation is enacted on a national level; with the only exceptions being at local/council levels, where in some cases by-laws are established to regulate procedures and fees for film production in public spaces.

The main legal framework for the public film and audiovisual funding in Malta is the Malta Film Commission Act (hereinafter, the “Film Act”). It covers the scope of operation of the MFC and defines, among others, the financial provisions along with the schemes and supported activities of the Malta Film Fund.

Act No. XV of 2015 (also known as the Arts Council Malta Act) established the Arts Council Malta (ACM) and defines its functioning, objectives and financial provisions.

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<sup>2009</sup> The factsheet on Malta incorporates the feedback received from Susan Ronald (MFC) during the checking round with the national film and audiovisual funds.

<sup>2010</sup> <https://maltafilmcommission.com/malta-film-fund/grants/>.

<sup>2011</sup> Film Distribution Grants Programme, <https://www.artscouncilmalta.org/news/film-distribution-grants-programme>.



In addition, the National Book Council's guidelines contain the application criteria and requirements to benefit from the support awarded under the Malta Literary Short-Film Contest scheme.

**Table 33. Main funds in Malta**

Funding institution	Geographical level	Legislation / Guidelines
Malta Film Fund <sup>2012</sup>	National	Malta Film Commission Act <sup>2013</sup>
		Malta Film Fund – Guidelines <sup>2014</sup>
Arts Council Malta <sup>2015</sup>	National	Arts Council Malta Act, 2015 <sup>2016</sup>
National Book Council <sup>2017</sup>	National	Malta Literary Short-Film Contest Guidelines <sup>2018</sup>

Source: Response to European Audiovisual Observatory standardised questionnaire

#### 7.21.2.2. Definition of cultural criteria

Cultural criteria are not defined in the respective legislation as such, but within the respective fund's guidelines. Thus, the guidelines for the various Malta Film Fund schemes specify the following main objectives, alluding to culture: "to preserve and promote Maltese cultural and linguistic diversity through qualifying productions", or "to strengthen films as a cultural product and Malta as a production location".<sup>2019</sup> In line with this, in order to apply, the applicant must satisfy at least one of the following eligible criteria:<sup>2020</sup>

- The producer is a Maltese citizen or holds a permanent residence status in Malta;
- The writer is a Maltese citizen or holds a permanent residence status in Malta;
- The director is a Maltese citizen or holds a permanent residence status in Malta.

And one of the following criteria:

<sup>2012</sup> <https://maltafilmcommission.com/malta-film-fund/>.

<sup>2013</sup> The Malta Film Commission Act, Chapter 478 of the Civil Code, 15 July 2015, <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8944&l=1>

<sup>2014</sup> Malta Film Fund – Guidelines for Applicants (hereinafter, the "MFF Guidelines"), <https://maltafilmcommission.com/malta-film-fund/wp-content/uploads/2018/10/Malta-Film-Fund-Guidelines-GENERAL-updated-03-10-2018-1.pdf>.

<sup>2015</sup> [www.artscouncilmalta.org](http://www.artscouncilmalta.org).

<sup>2016</sup> Arts Council Malta Act, [www.artscouncilmalta.org/files/uploads/misc/CEF\\_Guidelines\\_Presentation%20and%20Touring\\_updated%204.012018.pdf](http://www.artscouncilmalta.org/files/uploads/misc/CEF_Guidelines_Presentation%20and%20Touring_updated%204.012018.pdf).

<sup>2017</sup> <http://ktieb.org.mt/>.

<sup>2018</sup> Application and Adjudication Criteria for the Malta Literary Short-Film Contest, <http://ktieb.org.mt/wp-content/uploads/2018/01/NBC-PBS-criteria-ENG-2018.pdf>.

<sup>2019</sup> P. 2 of the MFF Guidelines.

<sup>2020</sup> P. 5 of the MFF Guidelines.



- The content and location of the story is based completely or partially in Malta;
- The language to be used is Maltese;
- The likely location of the development, production and/or post-production is Malta.

More specifically, any applications will be assessed on several criteria such as, *inter alia*: “The strength and originality of the script and the potential to reach both a national and international audience as cultural products” which can include whether the “project features a Maltese or a Maltese-related story and/or setting or Maltese characters, contemporary and/or historical personalities or Malta’s diverse urban and rural heritage and landscapes or makes use of the Maltese language to reflect the Maltese cultural context”.<sup>2021</sup>

With regard to the Art Council Malta, it does not have a definition of cultural criteria in place, although the various schemes may allude to culture in their granting criteria or objectives:

- Presentation & Touring Grant: the scheme aims to “increase the potential of sustainable activity in the cultural and creative sectors through export” and “support a geographic spread of artistic and/or cultural work from Malta”,<sup>2022</sup>
- Translation Grant: the scheme aims to “increase the visibility of Maltese creative writing” and “help creative writing in the Maltese language access international markets and audiences”.<sup>2023</sup>

Lastly, the National Book Council, with regard to their short-film production scheme, requires the work to comply with the following criteria:<sup>2024</sup>

- The screenplay must be an adaptation of a Maltese short story published in book form.
- The screenplay must be written in Maltese.

Moreover, applicants need to demonstrate how their “approach to the project will ensure a clear adaptation of the original story and help promote Maltese literature and the collaboration between literature and film.”

### 7.21.2.3. Nationality of the applicant

The Malta Film Fund requires the applicant to be an independent audiovisual company that has audiovisual production<sup>2025</sup> as its main purpose and activity and a company that is

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<sup>2021</sup> P. 4 of the Malta Film Fund - Action 2 – Production Grants, Guidelines for applicants (hereinafter, the “MFF Production Guidelines”), <https://maltafilmcommission.com/malta-film-fund/wp-content/uploads/2018/09/Malta-Film-Fund-Action-2-Production-Support-Guidelines.pdf>.

<sup>2022</sup> P.8 of the ACM, Cultural Export Fund, Presentation & Touring Grant Guidelines.

<sup>2023</sup> P.9 of the ACM, Cultural Export Fund, Translation Grant Guidelines, <https://www.artscouncilmalta.org/files/uploads/misc/CEF%20Translation%20Guidelines%2015.05.2018.pdf>

<sup>2024</sup> P.1 of the Malta Literary Short-Film Contest Guidelines.



duly registered as an audiovisual production company in Malta or Europe, having at least one director or a major shareholder of the company who is a Maltese or European citizen.<sup>2026</sup> Furthermore, as explained in the previous section, in order to apply, at least the producer, director or writer has to be a Maltese citizen or hold permanent residence status in Malta.

With regard to the Arts Council Malta, similar requirements are implemented for the various schemes:

- For the Presentation & Touring grant:<sup>2027</sup> the applicant must be a Maltese citizen or be in possession of a Maltese residence permit;
- For the Translation Grant:<sup>2028</sup> the applicant is a Malta-based individual or a Maltese-registered or international publisher.

As for the National Book Council, the fund does not set specific requirements related to the nationality or establishment of the applicant.

### 7.21.3. Funding criteria applicable to production support

#### 7.21.3.1. Theatrical release, broadcasting and visibility on VOD

There are no specific requirements regarding visibility and performance on any of the different release windows; neither is there a release window schedule to be respected. Nonetheless, the Malta Film Fund takes into account the potential performance of the work during the assessment of the application, based on the following criteria:

- The quality of the creative team's previous work/s, and its relevant experience and potential to undertake and manage the proposed project (such as the performance on previous projects developed and/or produced by the creative team);
- The strength and originality of the script and the potential to reach both a national and international audience as cultural products;
- The quality, viability and professional, industry-standard treatment of the proposed budget, the financing plan and strategy, and the implementation plan (production schedule and shooting schedule);
- The potential for local and international distribution, as well as the potential to stimulate interest from sales agents, distributors and/or broadcasters.

Furthermore, it is worth mentioning that the distribution strategy (local and international) of the applicant is part of the mandatory documentation to be submitted, and it must

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<sup>2025</sup> This requirement does not apply to The Short Film Production – NEW TALENT grant and International Film Festival Fees Grant.

<sup>2026</sup> P.5 of the MFF Guidelines.

<sup>2027</sup> P. 6/7 of the ACM, Cultural Export Fund, Presentation & Touring Grant Guidelines.

<sup>2028</sup> P.6 of the ACM, Cultural Export Fund, Translation Grant Guidelines.



include:<sup>2029</sup> “Audience Research and Strategy” as well as “Screening, Festival and Market Strategy”. A similar requirement is implemented with regard to the Translation Grant of the Arts Council Malta,<sup>2030</sup> where one of the granting criteria entitled “International engagement” assess “the details of the plan for international distribution, dissemination and promotion of the translated work” as well as “relevance of the work to be translated to the target international market” and represent 40 points (out of a total of 100).<sup>2031</sup> There are no such requirements set by the National Book Council.

#### 7.21.3.2. Theatrical performance and performance at festivals, events and awards

There are no concrete requirements for a production project related to expected or actual theatrical performance on the home market, abroad or at festivals and events as such. With regard to the Malta Film Fund or the Arts Council Malta, the potential or actual performance of the work is taken into account during the assessment of the application or in the mandatory documentation to be submitted, as explained in the previous section.

#### 7.21.3.3. Budget

The budget of an eligible project is not subject to any minimum threshold or maximum cap, nor is anything stipulated regarding a minimum contribution from the applicant. With regard to the Malta Film Fund, a specific part of the budget is not required to be secured, but the overall quality and viability of the proposed budget as well as the financing plan and strategy (including the level of confirmed financing already in place) is one of the assessment criteria.<sup>2032</sup>

#### 7.21.3.4. Awarded amount

In the case of the Malta Film Fund, the aid intensity, both in terms of share of the budget and maximum amount, is as follows:<sup>2033</sup>

- For the Production Grant: up to 50% of the project costs with a maximum grant of EUR 120 000;
- For the Short Film production: up to 100% of the project costs with a maximum grant of EUR 20 000;

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<sup>2029</sup> P.8 of the MFF Production Support Guidelines. Overall, once the film is completed, the Fund will remain in contact with filmmakers, monitor their progress and ask them to complete a form informing them of the film’s distribution and performance.

<sup>2030</sup> Which can provide support for Subtitling and supertitling, and in this regard, can be considered as production support.

<sup>2031</sup> P. 12/13 of the ACM, Cultural Export Fund, Translation Grant Guidelines. In order to be considered for funding, the projects have to obtain an average mark of at least 60.

<sup>2032</sup> P.4 of the MFF Production Support Guidelines.

<sup>2033</sup> Ibid.



- For the Short Film Production – New Talent Grant: up to 100% of the project costs with a maximum grant of EUR 2500.

The amount is not repayable and is awarded selectively, after the review of the application by a board of evaluators and a pitching session.<sup>2034</sup> Regarding eligible costs, these are calculated according to the indicative lists of eligible costs and ineligible costs laid down in the Production Support Guidelines.<sup>2035</sup> Eligible costs mainly comprise costs related to the set, the hiring of equipment and technology, the acquisition of rights, travel and transportation expenses, insurance costs, final completion costs, etc. As for ineligible costs, these include contributions in kind, VAT and other taxes and charges, the purchase of land and real estate, fuel expenses, etc.

In the case of the Arts Council Malta, the translation grant may support 100% of the translation fees, up to a maximum of EUR 5 000.<sup>2036</sup> The grant is not repayable and is awarded selectively after an evaluation session by the Evaluation Board.<sup>2037</sup> As for eligible costs, these mainly cover translation costs (such as the translators' fees, costs related to subtitling and surtitling, and proofreading).<sup>2038</sup>

In the case of the National Book Council: the support can go up to EUR 20 000, with a EUR 1 000 grant to the author of the original short story as compensation for the use of his story.<sup>2039</sup> The amount is not repayable and is awarded selectively through a contest by an adjudication board composed of judges appointed by the NBC. Furthermore, there is no specific list of eligible costs established, but the guidelines specify that the support should cover all the technical requirements and logistics, including electricity charges and lights.<sup>2040</sup>

#### 7.21.3.5. Spending and shooting criteria

There are no specific requirements related to spending or shooting in Malta. However, regarding the Malta Film Fund, it is worth mentioning that these are part of the assessment criteria of the cultural profile described in section 7.21.2.2, such as that the “content and location of story is based completely or partially in Malta” and the “likely location of the development, production and/or post-production is Malta”.

#### 7.21.3.6. Talent, cast, crew, underlying copyright

Regarding the Malta Film Fund, at least one key member of the crew (producer, writer or director) must be a Maltese citizen or resident. With regard to the Arts Council Malta,

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<sup>2034</sup> P. 6/7 of the MFF Production Support Guidelines.

<sup>2035</sup> P.5/6 of the MFF Production Support Guidelines.

<sup>2036</sup> P.10 of the ACM, Cultural Export Fund, Translation Grant Guidelines.

<sup>2037</sup> P. 13/14 of the ACM, Cultural Export Fund, Translation Grant Guidelines.

<sup>2038</sup> P.11 and 12 of the ACM, Cultural Export Fund, Translation Grant Guidelines.

<sup>2039</sup> P.1/2 of Malta Literary Short Film Contest Criteria Guidelines.

<sup>2040</sup> Ibid.



priority is given to works in Maltese or works which were originally written in the Maltese language.<sup>2041</sup> As for the National Book Council, as mentioned in section 7.21.2.2, in order to apply, the screenplay must be an adaptation of a Maltese short story published in book form and written in Maltese.

#### 7.21.3.7. Shooting language and diversity

There are no requirements regarding the shooting language, ethnic or linguistic minorities and gender.

### 7.21.4. Funding criteria applicable to pre-production support

#### 7.21.4.1. Budget

The budget of an eligible project is not subject to any minimum threshold or maximum cap, nor is anything stipulated regarding a minimum contribution from the applicant. With regard to the Malta Film Fund, as for production support, the overall quality and viability of the proposed budget as well as the financing plan and strategy (including the level of confirmed financing already in place) is one of the assessment criteria.<sup>2042</sup>

#### 7.21.4.2. Awarded amount

Pre-production support from the Malta Film Fund is awarded selectively after assessment by the evaluation panel<sup>2043</sup> and the amount is not repayable. Moreover, the aid intensity both in terms of share of the budget and maximum amount is as follows:<sup>2044</sup>

- For the Writers' Grant: up to 100% of the project's costs with a maximum grant of EUR 5 000
- For the Development Support grant: up to 80% of the project's costs with a maximum grant of EUR 30 000

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<sup>2041</sup> P.9 and 12 of the ACM, Cultural Export Fund, Translation Grant Guidelines.

<sup>2042</sup> P.3 of the Malta Film Fund Action 1 – Writers' Grant, Guidelines for Applicants (hereinafter, the "MFF Writers' Grant Guidelines"),

<https://maltafilmcommission.com/malta-film-fund/wp-content/uploads/2018/09/Malta-Film-Fund-Action-1-Development-Support-Writers-Grant-Guidelines.pdf>; and p.4 of the Malta Film Fund – Action 1 – Development Grant, Guidelines for Applicants (hereinafter, the "MFF Development Grant Guidelines"), <https://maltafilmcommission.com/malta-film-fund/wp-content/uploads/2018/09/Malta-Film-Fund-Action-1-Development-Support-Development-Grant-Guidelines.pdf>.

<sup>2043</sup> P.5 of the MFF Writer's Grant Guidelines and p. 6/7 of the MFF Development Grant Guidelines.

<sup>2044</sup> P.2 of the MFF Writer's Grant Guidelines and the MFF Development Grant Guidelines.



Lastly, as concerns eligible costs, these are determined in the indicative list of eligible costs and ineligible costs and include, *inter alia*, the writer's fee, the researchers' fees, the mentoring costs, the acquisition of rights, etc.<sup>2045</sup> As for ineligible costs, these correspond to contributions in kind, VAT and other taxes and charges, the purchase of land and real estate, fuel expenses, etc.

As for the Translation grant of the Arts Council Malta,<sup>2046</sup> the same rules described in section 7.21.3.4 apply.

#### 7.21.4.3. Underlying copyright

There are no mandatory requirements regarding the underlying copyright (and how this is linked to the country). However, one of the criteria used during the assessment of the application refers to a "storyline or underlying material deals with contemporary or historical Maltese, Mediterranean or European issues of political and socio-cultural relevance".<sup>2047</sup> With regard to the Arts Council Malta, priority is given to works in Maltese or works which were originally written in the Maltese language.<sup>2048</sup>

#### 7.21.4.4. Script language and diversity

First, the use of the Maltese language is one of the assessment criteria of the cultural profile described in section 7.21.2.2. In addition, one of the criteria used during the assessment of the application assesses whether a "project features a Maltese or a Maltese-related story and/or setting or Maltese characters, contemporary and/or historical personalities or Malta's diverse urban and rural heritage and landscapes or makes use of the Maltese language to reflect the Maltese cultural context".<sup>2049</sup> As for the Arts Council Malta, as mentioned in the previous section, priority is given to works written in Maltese. Apart from this, there are no further requirements regarding ethnic or linguistic minorities and gender.

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<sup>2045</sup> P.5 of the MFF Writer's Grant Guidelines and of the MFF Development Grant Guidelines.

<sup>2046</sup> Which also provides support for TV drama scripts, film scripts, animation scripts, creative documentaries written and/or produced by a Malta-based audio-visual company and/or Maltese broadcaster and subtitling, and in this regard, can also be considered as pre-production support.

<sup>2047</sup> P.3 of the MFF Writer's Grant Guidelines and of the MFF Development Grant Guidelines.

<sup>2048</sup> P.9 and 12 of the ACM, Cultural Export Fund, Translation Grant Guidelines.

<sup>2049</sup> Ibid.



## 7.21.5. Funding criteria applicable to distribution and promotion support

### 7.21.5.1. Theatrical release, broadcasting and visibility on VOD

There are no specific requirements for distribution support applicants regarding the theatrical release, performance and visibility on VOD or the release window schedule. Nonetheless, like production support, the Malta Film Fund takes into account the potential performance of the work during the assessment of the application, based on similar criteria to those used for production support:<sup>2050</sup>

- The experience of the Team and their potential to undertake and manage the proposed project;
- The artistic merit of the film;
- The potential for local and international distribution, as well as the potential to stimulate interest from sales agents, distributors and/or broadcasters;
- The quality, viability and professional, industry-standard treatment of the proposed budget, the financing plan and the implementation plan.

Furthermore, among the documents to submit, the applicant is required to provide:

- An evaluation report of the distribution process, outlining festivals, markets and screening events attended;<sup>2051</sup>
- A distribution strategy (local and international), provided by the applicant, is part of the mandatory documentation to be submitted, and must include:<sup>2052</sup>
  - The Audience Research and Strategy clearly targeting an appropriate audience and showing a well-conceived planned approach (that is, displays awareness of the market and the prospects of reaching audiences)
  - The Screening, Festival and Market Strategy clearly shows a well-conceived and planned approach for attendance at proposed markets and festivals.
- A marketing/publicity strategy.

### 7.21.5.2. Theatrical performance and performance at festivals, events and awards

As a general principle, there are, as such, no concrete requirements for a production project related to expected or actual theatrical performance on the home market or abroad. With regard to the Malta Film Fund, the potential or actual performance of the work is taken into account during the assessment of the application, as explained in the

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<sup>2050</sup> P.3 of Malta Film Fund – Action 3 - Film Distribution Marketing Support Grants, Guidelines for applicants (hereinafter, the “MFF Film Distribution & Marketing Support Grant Guidelines”), <https://maltafilmcommission.com/malta-film-fund/wp-content/uploads/2018/09/Malta-Film-Fund-Action-3-Film-Distribution-Marketing-Support-Guidelines.pdf>.

<sup>2051</sup> P.4 of the MFF Film Distribution & Marketing Support Grant Guidelines.

<sup>2052</sup> P.3 of the MFF Film Distribution & Marketing Support Grant Guidelines.



previous section. Moreover, in the Guidelines, the assumption is generally made that the applicant will specifically seek to reach international audiences. For example, in the case of the Film Distribution Marketing Grant, one of the objectives of the scheme is that it assists “local filmmakers who intend to self-distribute and/or seek sales agents or distributors to distribute and reach out to international audiences with their feature film”.<sup>2053</sup>

Furthermore, the Malta Film Fund offers a specific support scheme, the International Film Festival Fees Grant, for entry fees paid to put Maltese productions into international film festivals to widen the distribution and improve the market opportunities of the film.<sup>2054</sup> As for the Arts Council Malta, it provides specific support for the export of artistic works abroad. In this line, a commitment letter and/or invitation by the presenter or promoter in the host country is required to be submitted along with the application, and the fund will assess, among other things, the international engagement and collaboration which is based notably on the profile of the event.<sup>2055</sup>

### 7.21.5.3. Budget

The budget of an eligible project is not subject to any minimum threshold or maximum cap, nor is anything stipulated regarding a minimum contribution from the applicant.

### 7.21.5.4. Awarded amount

Distribution support is not repayable and is awarded selectively after evaluation by a panel.<sup>2056</sup> Regarding the aid intensity rules, both in terms of share of the budget and maximum amount, the following applies:<sup>2057</sup>

- For the Film Distribution Marketing Grant: up to 50% of the total project costs or a maximum grant of EUR 10 000;
- For the International Film Festival Fees Grant: up to 50% of the total project costs or a maximum grant of EUR 300 (for short films) or EUR 500 (for feature films and documentaries).

Lastly, regarding eligible costs, these are “identifiable as specific costs directly linked to the distribution of the feature film for which a grant is being granted”, and include, *inter alia*: the production of a trailer, sub-titling, media costs, costs relating to censorship – rating, etc.<sup>2058</sup>

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<sup>2053</sup> P.2 of the MFF Film Distribution & Marketing Support Grant Guidelines.

<sup>2054</sup> Ibid.

<sup>2055</sup> P. 13 of the ACM, Cultural Export Fund, Translation Grant Guidelines.

<sup>2056</sup> P.5 of the MFF Film Distribution & Marketing Support Grant Guidelines.

<sup>2057</sup> Ibid.

<sup>2058</sup> P.4-5 of the MFF Film Distribution & Marketing Support Grant Guidelines.



For the Arts Council Malta, the support provided is not repayable and is awarded selectively by an evaluation team.<sup>2059</sup> Eligible costs mainly correspond to travel costs, standard accommodation, production fees, insurance and visa costs, etc.<sup>2060</sup> As for the aid intensity, support can go up to 80% of the project to implement the mobility project, or a maximum amount of EUR 8000.<sup>2061</sup>

#### 7.21.5.5. Language and diversity

There is no mandatory requirement regarding the language of the film or linked to ethnic or linguistic minorities and gender. However, with regard to the Malta Film Fund, the different criteria assessments mentioned for production support in sections 7.21.3.6 and 7.21.3.7 indirectly apply here, since a necessary pre-condition for consideration for the strands of Film Distribution & Marketing support is to have been awarded production support for the same film.<sup>2062</sup>

### 7.21.6. Data compilation

This factsheet was produced based on data compiled by Kenneth Scicluna, Filmmaker at Seaward Films.

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<sup>2059</sup> P. 11 of the ACM, Cultural Export Fund, Presentation & Touring Grant Guidelines, *Op. cit.*

<sup>2060</sup> *Ibid*

<sup>2061</sup> P. 9 of the ACM, Cultural Export Fund, Presentation & Touring Grant Guidelines, *Op. cit.* An additional EUR 2,000 may be allocated for travel support and assistance to artists with a disability.

<sup>2062</sup> *Ibid.*



## 7.22. NL – Netherlands – National Summary<sup>2063</sup>

### 7.22.1. Summary

Film and audiovisual support is provided by the Netherlands Film Fund (*Nederlands Filmfonds*, hereinafter, the “NFF”). Created in 1993 as one of the six cultural funds by the Minister of Education, Culture and Science, it is an independent public administrative body responsible for supporting and strengthening Dutch cinema and film culture, both domestically and internationally, through various selective support schemes covering the development, production and distribution of cinematographic and audiovisual works. In particular, the selective support for development and production is awarded through two programmes:

- New Screen NL (focusing mostly on new talent, cinematic experiments and short films, with a budget of EUR 3.5 million in 2018, and EUR 5.4 million in 2019),
- Screen NL (for established filmmakers of feature films, animated feature films and documentaries, with a budget of EUR 22.5 million in 2018 and EUR 25.2 million in 2019).

Besides development and production, the NFF also offers distribution support as well as support for training, festivals, research and publications. The budget for distribution support was EUR 1 million in 2018 (EUR 2 million in 2019) and the budget for film activities such as training, festivals, research and publication was EUR 1.6 million in 2018 (EUR 2.9 million in 2019). In addition, the NFF is also responsible for the Film Production Incentive,<sup>2064</sup> a cash rebate of up to 35% of production costs spent in the Netherlands, and it oversees the activities of the Netherlands Film Commission. It has a yearly endowment of EUR 19.25 million.

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<sup>2063</sup> The factsheet on the Netherlands incorporates the feedback received from Doreen Boonekamp (NFF) during the checking round with the national film and audiovisual funds.

<sup>2064</sup> For further information, see: <https://www.filmfonds.nl/international/netherlands-film-production-incentive>. As fiscal incentives are beyond the scope of our study, it will not be further analysed.



## 7.22.2. General framework

### 7.22.2.1. Overview of the film and audiovisual funding policy and legislation

The Specific Cultural Policy Law<sup>2065</sup> defines the legal framework for cultural policy and the conditions under which the state is allowed to allocate specific subsidies for the benefit of works of cultural expression, and notably the legal basis for the creation of the NFF. More specifically, the rules on the lines of support provided and the internal organisation can be found in the General regulations (hereinafter, “the Regulations”) and in three Sub-Regulations for Development, Realisation and Distribution.<sup>2066</sup> It should be noted that all sub-regulations will be updated in the spring of 2019. The NFF also provides a Film Activities Sub-Regulation as well as Regulations on the Netherlands Film Production Incentive. For the purpose of this research, only the selective schemes for development, production and distribution are discussed.

**Table 34. Main funds in the Netherlands**

Funding institution	Geographical level	Legislation / Guidelines
Netherlands Film Fund <sup>2067</sup>	National	General Regulations of the Netherlands Film Fund Foundation <sup>2068</sup>
		Realisation Sub-Regulations 2018 <sup>2069</sup>
		Development Sub-regulation 2017 <sup>2070</sup>
		Distribution Sub-Regulations 2018 <sup>2071</sup>

Source: Response to European Audiovisual Observatory standardised questionnaire

<sup>2065</sup> *Wet op het specifiek cultuurbeleid* (Specific Cultural Policy Law), <https://wetten.overheid.nl/BWBR0005904/2016-07-01>.

<sup>2066</sup> All the sub-regulations are available in Dutch and in English here: <https://www.filmfonds.nl/over-het-nederlands-filmfonds/reglementen-en-procedures>.

<sup>2067</sup> [www.filmfonds.nl/](http://www.filmfonds.nl/).

<sup>2068</sup> *Algemeen Reglement van de Stichting Nederlands Fonds voor de Film* (General Regulations of the Netherlands Film Fund Foundation), <https://www.filmfonds.nl/nl/page/2443/algemeen-reglement>; for English version, see: <https://www.filmfonds.nl/nl/page/2225/algemeen-reglement-engels>.

<sup>2069</sup> *Deelreglement Realisering van de Stichting Nederlands Fonds voor de Film* (Realisation Sub-Regulations of the NFF), [https://www.filmfonds.nl/media/inline/2018/3/6/deelreglement\\_realisering\\_1\\_maart\\_2018.pdf](https://www.filmfonds.nl/media/inline/2018/3/6/deelreglement_realisering_1_maart_2018.pdf) ; for the English version, see [https://www.filmfonds.nl/media/inline/2018/3/1/sub\\_regulation\\_realisation\\_2018\\_1\\_march\\_2018.pdf](https://www.filmfonds.nl/media/inline/2018/3/1/sub_regulation_realisation_2018_1_march_2018.pdf).

<sup>2070</sup> *Deelreglement Ontwikkeling van de Stichting Nederlands Fonds voor de film* (Development Sub-regulation), <https://wetten.overheid.nl/BWBR0042196/2019-05-01>; for the English version, see [https://www.filmfonds.nl/media/inline/2017/2/7/development\\_sub\\_regulations\\_of\\_the\\_netherlands\\_film\\_fund\\_foundation\\_2017.pdf](https://www.filmfonds.nl/media/inline/2017/2/7/development_sub_regulations_of_the_netherlands_film_fund_foundation_2017.pdf).

<sup>2071</sup> *Deelreglement Distributie van de Stichting Nederlands Fonds voor de film* (Distribution Sub-Regulations 2018), <https://wetten.overheid.nl/BWBR0040562/2018-02-01>; for the English version, see [https://www.filmfonds.nl/media/inline/2018/3/1/sub\\_regulation\\_distribution\\_2018\\_1\\_feb\\_2018.pdf](https://www.filmfonds.nl/media/inline/2018/3/1/sub_regulation_distribution_2018_1_feb_2018.pdf).



### 7.22.2.2. Definition of cultural criteria

Paragraph 4.1. of the Regulations establishes a cultural test as follows: “To be eligible for a subsidy within the meaning of these regulations, a film production, without prejudice to the provisions in the European State support regulations as pertaining to feature films, shall meet at least three and, in the case of the other categories and minority co-productions, two of the following characteristics:

- The script on which the film production is based largely takes place in the Netherlands, in another member state of the European Union, in a state that is party to the Agreement concerning the European Economic Area, or in Switzerland;
- At least one of the main characters belongs to the Dutch culture or Dutch language area;
- The script on which the film production is based is mainly written in Dutch;
- The script of the film production is based on a literary work of Dutch origin;
- The main theme of the film production relates to art or artists;
- The main theme of the film production relates to historic figures or events;
- The main theme of the film production relates to current cultural, social or political issues relevant for the Dutch population.”

### 7.22.2.3. Nationality of the applicant

In principle, applications for funding are not limited to Dutch Companies.<sup>2072</sup> As per Article 9 of the Regulations, the applicant is required to comply with the following requirements:

- To be a film professional<sup>2073</sup> or a legal entity,<sup>2074</sup> whose profession or main activity is writing for, developing, producing, exploiting/distributing film productions or the organisation and/or execution of a film activity to promote the quality and diversity of film production in the Netherlands and a (production) climate in the Netherlands receptive to film art.
- To be based and active for at least two years beforehand in the Netherlands, a member state of the European Union, in a state that is party to the Agreement establishing the European Economic Area, or in Switzerland.

Three sub-schemes set additional requirements to these general principles, as follows:

- For the International distribution of Dutch Films (outside the Benelux): there are no specific requirements related to the nationality or establishment of the applicant, so that a foreign distributor can be an applicant;

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<sup>2072</sup> However, as the reference films must have been released theatrically in the Netherlands within the given timeframe, only a limited number of non-Netherlands based production companies will be able to apply under the NFF regulations.

<sup>2073</sup> Who is no longer following vocational training.

<sup>2074</sup> Who is not a public or commercial media company within the meaning of the Media Act (Mediawet).



- For the International Festival selection of Dutch Films/Co-Productions: the applicant has to be established in the Netherlands,<sup>2075</sup>
- For the co-production agreement between the NFF and VAF for the selection of minority co-production: the applicant has to be established in the Netherlands.<sup>2076</sup>

### 7.22.3. Funding criteria applicable to production support

#### 7.22.3.1. Theatrical release, broadcasting and visibility on VOD

In general, the NFF focuses on films intended for theatrical distribution and/or those with a strong non-theatrical release to reach out to the largest possible audience, both within the Netherlands and across borders. Although there is no minimum number of release weeks or screenings, certain production schemes require a distribution agreement (or guarantee) to be already in place, with a commitment by the distributor for a minimum number of release theatres as well as a minimum P&A budgeted for the release.<sup>2077</sup>

In addition, for certain collaboration schemes between the NFF and other (public) parties (for example, Telescoop, Cinema Junior, De Oversteek – The Crossing), presale to a public TV broadcaster is a prerequisite.<sup>2078</sup> Indeed, over 60% of films produced in the Netherlands will have a presale agreement with a Dutch-TV public or private broadcaster as part of their financing plan. Moreover, there are no specific requirements related to visibility or performance on VOD. Lastly, when it comes to production support, there is no governmentally mandated window schedule established for production support.

#### 7.22.3.2. Theatrical performance and performance at festivals, events and awards

Several schemes<sup>2079</sup> require that the film support applied for be used to target certain audiences and intended to achieve a minimum number of cinema admissions. For example, if the applicant requests a “contribution for mainstream films”, he/she is required to potentially reach a minimum of 150 000 paying admissions in Dutch cinemas in the case of a feature or long animated film. In the case of a children’s film or a film for young people, a minimum requirement of 100 000 paying cinema admissions applies

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<sup>2075</sup> Distribution Sub-Regulations 2018, *Op. cit.*

<sup>2076</sup> Article 3.1 of the Cooperation agreement between the Netherlands Film Fund and the Flemish Audiovisual Fund for Dutch-Flemish co-productions (*Samenwerkingsovereenkomst tussen het Nederlands Fonds voor de Film en het Vlaams Audiovisueel Fonds vzw m.b.t. Nederlands-Vlaamse coproducties*), [https://www.filmfonds.nl/media/inline/2018/12/20/nff\\_vaf\\_overeenkomst\\_2019.pdf](https://www.filmfonds.nl/media/inline/2018/12/20/nff_vaf_overeenkomst_2019.pdf).

<sup>2077</sup> Articles 15 (minority co-production), 16 (completion) and 19 (production of feature film) of the Realisation Sub-Regulations of the NFF Realisation Sub-Regulations.

<sup>2078</sup> Collaboration projects are mandated under Article 8 of the Production Sub-regulations and the specific rules on collaboration schemes are given on the NFF website, <https://www.filmfonds.nl/page/2660/de-oversteek> <https://www.filmfonds.nl/page/2669/telescoop> <https://www.filmfonds.nl/page/4609/cinema-junior>.

<sup>2079</sup> For example, Screen NL Matching contribution, Telescoop, Crossover.



instead”. In the case of the Dutch Crossover scheme, the film is required to potentially reach a crossover audience in Dutch cinemas of 50 000 people or more.<sup>2080</sup>

Moreover, as per Article 16 (5) of the Realisation Sub-Regulations, the theatrical release of a prior film outside the Netherlands, being selected for an A-List festival and winning awards can all lead to bonus grants on subsequent films by the same producer/director/writer.

### 7.22.3.3. Budget

First, within a special low-budget film scheme, the budget is limited to EUR 500 000. Apart from that, there are no minimum thresholds or maximum caps established in the regulations, but these might be set on a case-by-case basis for certain schemes.<sup>2081</sup>

### 7.22.3.4. Awarded amount

As per Article 4 of the Regulations, the aid intensity is in principle limited to:<sup>2082</sup>

- 50% of the production costs,
- 60% for a cross-border film production in which producers from more than one EU member state are involved,
- Over 60% when it comes to a “difficult” film<sup>2083</sup> or a cross-border film production involving countries from the DAC country list of the OECD, which therefore has limited commercial value. In that case, the producer must have enclosed a “written vision with the subsidy application which, in the opinion of the board, shows that the film production: contributes to the diversity of film in the Netherlands; and in addition, either signifies a marked artistic enrichment and/or an innovative addition to the regular film.”

Furthermore, different caps apply depending on the type of work:<sup>2084</sup>

- New Screen NL Production - Low budget feature: EUR 250 000

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<sup>2080</sup> Dutch Crossover Guidelines, <https://www.filmfonds.nl/page/2670/dutch-crossover>.

<sup>2081</sup> For example, the Screen NL Production – Cinema Junior scheme currently requires the project’s budget to be at least EUR 1 000 000. <https://www.filmfonds.nl/page/4609/cinema-junior>. Screen NL Production - The Crossing (‘De Oversteek’) sets a maximum eligible budget of EUR 1 200 000, <https://www.filmfonds.nl/page/2660/de-oversteek>.

<sup>2082</sup> For specific schemes, a lower aid intensity is applied. For example, for Screen NL Minority Co-production, the aid is limited to 10% of the production costs; for Screen - NL - Matching Grant it is limited to 20%; and for Screen NL Production - De Oversteek (‘the crossing’), it is limited to 35.5% of the production costs.

<sup>2083</sup> According to the explanatory notes to Article 4 (4) of the General Regulations, for each application, the board of the Fund decides whether, based on the vision of the producer, director and screenwriter, it is a difficult film. A short film, documentary, or low-budget film for which the production costs amount to a maximum of EUR 2 million, a cinematic experiment or an art-house film may be considered as a difficult film with a limited market potential.

<sup>2084</sup> Financial and Production Protocol, Chapter 2 (III), <https://www.filmfonds.nl/nl/page/2230/financieel-en-productieprotocol-engels>.



- Screen NL Production: EUR 600 000 or EUR 500 000 for a first-time director
- Screen NL Minority Co-Production Feature: EUR 200 000
- Screen NL Production - De Oversteek ('the crossing'): EUR 320 000
- Screen NL/VAF minority co-production Feature: EUR 200 000
- Screen NL/HBF minority co-production: EUR 50 000
- Screen NL Production Crossover: EUR 800 000
- Screen NL Production - Cinema Junior: EUR 600 000
- Screen NL - Telescoop: EUR 600 000
- Screen NL - Post Production : EUR 75 000

The support awarded is generally repayable and must be repaid from income obtained from the exploitation of the film production.<sup>2085</sup> Furthermore, it is awarded selectively by the NFF board of directors<sup>2086</sup> upon the positive or negative recommendation of an NFF consultant or (ad hoc) advisors. As for eligible costs, there are certain caps to individual items; for example, the acquisition rights cannot go beyond 2.5% of the budget or EUR 75 000. Any amount in excess of that will not be subsidised.<sup>2087</sup> The decision to grant support will be made according to sets of criteria:

- In assessing a subsidy application, the board uses the following criteria to assess the quality of the film production or film activity. The film production or film activity must have content-related quality and be based on a strong film plan or activity plan and have a feasible reach.
- In assessing the track record, the board assesses the results that the scenarist, director, producer and/or organisations concerned have achieved with previous film productions or film activities.
- In assessing the contribution to diversity and the film climate, the board assesses the degree to which the film production or film activity contributes to the diversity of the (film) supply and film professionals involved in this in the Netherlands and the professionalisation and strengthening of the Dutch film climate.

To be able to grant funding for the application, the opinion regarding the assessment criteria stated in the first to third paragraphs must be positive, and the relationship between these criteria is also involved in this opinion. The board may include further assessment criteria in the sub-regulations.

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<sup>2085</sup> Article 5 of the Realisation Sub-Regulations.

<sup>2086</sup> Article 9 of the Realisation Sub-Regulations.



#### 7.22.3.5. Spending and shooting criteria

Article 14 of the Production Sub-regulations provides that the applicant is obliged to spend an amount equal to the subsidy granted in the Netherlands. In the situation whereby the application receives support from other funds that qualify as state support, “with which a (partial) spending commitment is associated in the Netherlands, the applicant is at all times free to spend 20% of the budgeted production costs in another member state of the European Union, in a state that is party to the Agreement establishing the European Economic Area, or in Switzerland”.

Furthermore, there are no specific requirements regarding the shooting of cinematic production in the country. However, due to the cultural criteria in Article 4 of the General Regulations, any film supported by the NFF is required to have a substantial link to the Netherlands in order to qualify for support.

#### 7.22.3.6. Talent, cast, crew, underlying copyright

As a general rule, there are no requirements per se related to the nationality of the talent, cast and crew or related to the underlying copyrights (and how they are linked to the country). However, the nationality of the talent or the underlying copyright is taken into consideration in the application assessment.

#### 7.22.3.7. Shooting language and diversity

There are no specific requirements regarding the shooting language, ethnic or linguistic minorities and gender. However, in the assessment of applications by NFF consultants and (ad hoc) advisors, diversity, gender equality and the representation of the various ethnic backgrounds of the people of the Netherlands are some of the selection criteria being evaluated: “In assessing the contribution to diversity and the film climate, the board assesses the degree to which the film production or film activity contributes to (...) the diversity of the (film) supply and film professionals involved in this in the Netherlands.”<sup>2088</sup>

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<sup>2088</sup> Article 5 of the Regulations.



## 7.22.4. Funding criteria applicable to pre-production support

### 7.22.4.1. Budget

Except for the schemes Low Budget Film, Screen NL Development - Cinema Junior and Screen NL Development - The Crossing (*De Oversteek*),<sup>2089</sup> there is no minimum or maximum budget threshold laid down.

### 7.22.4.2. Awarded amount

The aid intensity rules described for production support in section 7.22.3.4 do not apply to pre-production support, where the aid can reach 100% of the project's budget. If the film goes into production, the development support becomes part of the entire NFF contribution and is repayable from the films revenues.<sup>2090</sup> Different caps apply depending on the type of scheme and work:<sup>2091</sup>

- New Screen NL - Low Budget Feature Development: EUR 25 000
- New Screen NL - Feature Development - Novice Writer's retreat: EUR 12 500
- Screen NL - Feature Development – regular: EUR 40 000
- Screen NL - Feature Development – Free Space for Experienced Writers: EUR 17 500
- Screen NL - Feature Development Slate Funding: EUR 135 000
- Screen NL - Feature Development Slate Funding Documentary: EUR 80 000
- Screen NL - Feature Development - International Talent Development: EUR 70 000
- Screen NL - Documentary Development - International Talent Development: EUR 50 000
- Screen NL Development Cooperation with Mitteldeutsche Medienforderung: EUR 33 500
- Screen NL Development - The Crossing: EUR 30 500
- Screen NL Development - Cinema Junior: EUR 45 000
- Screen NL - Documentary Development – regular: EUR 37 500
- Screen NL - Production development – EUR 40 000

Moreover, the support is awarded selectively by the NFF board of directors upon the recommendation of an NFF consultant or (ad hoc) advisors. The eligible costs are generally defined as script development (in the event of documentary works including research, and animation including visual development) and production development (the

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<sup>2089</sup> For example, Screen NL Development - Cinema Junior requires the budget to be at least EUR 1 000 000, <https://www.filmfonds.nl/page/4609/cinema-junior>. Screen NL Development - The Crossing (*De Oversteek*) sets a maximum eligible budget of EUR 1 200 000, <https://www.filmfonds.nl/page/2660/de-oversteek>

<sup>2090</sup> Article 7 of the Realisation Sub-Regulations.

<sup>2091</sup> See Chapter 2(II) Financial & Production Protocol.



cost of raising finances and technical tests). As concerns development, additional funding for coaching and further artistic development is available.<sup>2092</sup>

#### 7.22.4.3. Underlying copyright

There are no set requirements regarding the underlying copyright (and how this is linked to the country), but it is part of the cultural test: “d. the script of the film production is based on a literary work of Dutch origin”.<sup>2093</sup>

#### 7.22.4.4. Script language and diversity

The script does not have to be in Dutch. However, language is one of the characteristics taken into account in the cultural test. Moreover, diversity, gender equality and the representation of the various ethnic backgrounds of the people of the Netherlands are taken into account during the assessment process (as described in section 7.22.3.7).

### 7.22.5. Funding criteria applicable to distribution and promotion support

#### 7.22.5.1. Theatrical release, broadcasting and visibility on VOD

The NFF provides support for national distribution as well as for international distribution. Regarding national distribution, the support provided is generally based on a certain number of minimum theatre and P&A commitments and determined on a case-by-case basis. In addition, Article 9 (2) of the Distribution Sub-regulations provides that “a cross-media marketing and distribution plan with corresponding marketing & distribution budget and guarantees is submitted with the application”, which must “aim to reach an optimal audience through a theatrical and non-theatrical release”. Lastly, the NFF requires a lapse of 6 months for documentaries (and 18 months for feature films and long animated films) between theatrical and non-theatrical release on the one hand, and 24 months before television release in the open network.<sup>2094</sup> However, in practice, exemptions are regularly granted, as common release windows tend to be shorter.

With regard to international distribution, Article 16 (2) requires that “[t]he film production must go into theatrical release in the relevant country with at least 5 (DCP) copies, the exception being documentaries, for which a minimum of three (DCP) copies applies”.

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<sup>2092</sup> Detailed in Articles 13 to 22 of the Development Sub-Regulation.

<sup>2093</sup> Paragraph 4.1. of the Regulations.

<sup>2094</sup> Article 11, point c of the Distribution Sub-regulations.



### 7.22.5.2. Theatrical performance and performance at festivals, events and awards

As a general principle, there should be a relevant theatrical and non-theatrical release in the Netherlands. Moreover, the NFF provides additional support for works selected by a leading international film festival through the following schemes:

- The International Festival Selection scheme, which can cover the costs of international travel and other costs “for the main producer if the film production is created with a realisation contribution from the Fund.”<sup>2095</sup>
- The International Distribution scheme, which will support the eligible costs related to the international distribution (outside the Benelux) of the selected film.<sup>2096</sup>

### 7.22.5.3. Budget

Up until the end of 2018, there were limitations to the production budget of an eligible project.<sup>2097</sup> However, since 2019, these rules no longer apply, which means that all films which have received selective support from the Fund and which have had a theatrical release in the Netherlands are eligible for a distribution grant.

### 7.22.5.4. Awarded amount

For national distribution, the NFF contributes a maximum of EUR 25 000 if the film has been supported with regular production support (EUR 40 000 for a children’s film) and a maximum of EUR 10 000 if the film has been supported with minority co-production support. The maximum grantable amount for international distribution is EUR 35 000 and EUR 1 250 for international festival selection.<sup>2098</sup>

Furthermore, in the case of national distribution, part of the budgeted costs for marketing, prints and advertising must be demonstrably financed by the applicant,<sup>2099</sup> and regarding the international distribution of a Dutch film, the foreign distributor concerned must match a minimum of 50% of the total costs for dubbing or 50% of the costs for prints and advertising.<sup>2100</sup>

Furthermore, the amount awarded is repayable from income obtained from the exploitation of the film for international distribution only.<sup>2101</sup> Support is awarded

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<sup>2095</sup> Article 13 of the Distribution Sub-regulations.

<sup>2096</sup> Article 15 of the Distribution Sub-regulations.

<sup>2097</sup> In the case of international distribution, not more than EUR 3 million (for feature films) and EUR 600 000 (for documentaries); Article 17 of the Distribution Sub-regulations.

<sup>2098</sup> See Chapter 2(IV) of the Financial & Production Protocol.

<sup>2099</sup> Article 11 (d) of the Distribution Sub-regulations.

<sup>2100</sup> Article 16 of the Distribution Sub-regulations.

<sup>2101</sup> Article 7 of the Distribution Sub-regulations. For National distribution and International festival selection, the support is not repayable and the subsidy contribution will lower the cost price in relation to the total costs that are part of any agreements on the distribution of revenue from exploitation.



selectively by the NFF board of directors. With regard to eligible costs, the following applies:

- For national distribution: the eligible costs are those related to the costs for marketing, promotion, prints and advertising, as included in the list of grantable costs for marketing, prints & advertising and set out in the Financial & Production Protocol.<sup>2102</sup>
- For international festival selection: they mainly correspond to the costs for the producer in connection with the selection of the film at leading international festivals, as included in the list of international film festivals in the applicable Financial & Production Protocol. They are limited to a contribution towards the travel and accommodation costs incurred by the producer, including the flight or train journey and associated overnight costs abroad.<sup>2103</sup>
- For international distribution: they correspond to the maximum percentage of the costs for dubbing and/or prints and advertising abroad set out in the Financial & Production Protocol.<sup>2104</sup>

#### 7.22.5.5. Language and diversity

There are no particular requirements regarding the language of the film or linked to ethnic or linguistic minorities and gender.

#### 7.22.6. Data compilation

This factsheet was produced based on data compiled by Joris van Wijk, Entertainment Lawyer at JCVW Consultancy in Amsterdam.

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<sup>2102</sup> Article 8 of the Distribution Sub-regulations.

<sup>2103</sup> Article 13 of the Distribution Sub-regulations.

<sup>2104</sup> Article 15 of the Distribution Sub-regulations.



## 7.23. PL – Poland – National Summary<sup>2105</sup>

### 7.23.1. Summary

At national level, the main fund operating in the country is the Polish Film Institute (*Polski Instytut Sztuki Filmowej*, PISF), which was established in 2005. It is the national institution responsible for providing comprehensive and modern support for the Polish film industry, which includes film pre-production, production, education, promotion, distribution and the circulation of Polish and European films. The Minister of Culture is the institute's supervisor and the Director of the Institute is appointed once every 5 years as a result of a competition procedure. Moreover, the PISF is fulfilling its task with a total budget of PLN 144.6 million, which comprises PLN 102.1 million dedicated to production and pre-production and PLN 7 million for the promotion of Polish films abroad.

At regional level, there are 12 regional film funds.<sup>2106</sup> The creation of these regional funds is the result of the Regional Audiovisual Initiative (RIA), which was launched in 2007 by the Polish Film Institute and the Polish Audiovisual Producers Chamber of Commerce (KIPA), the latter taking charge of its operational component. Local authorities that have established a regional fund can benefit from support under the RIA programme (which includes legal and financial advice, along with strategy consulting). The following regional funds are currently in place in Poland: the Gdynia Film Fund<sup>2107</sup>, the Lower Silesia Film Fund,<sup>2108</sup> the Lublin Film Fund,<sup>2109</sup> the Lodz Film Fund,<sup>2110</sup> the Krakow Regional Film Fund,<sup>2111</sup> the Mazovia Warsaw Film Fund,<sup>2112</sup> the Podkarpackie Film fund,<sup>2113</sup> the Poznan Film Fund,<sup>2114</sup> the Silesian Film Fund,<sup>2115</sup> the Warmia-Masuria Film Fund<sup>2116</sup> and the Western Pomeranian Film Fund.<sup>2117</sup>

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<sup>2105</sup> The factsheet on Poland incorporates the feedback received from Robert Baliński (PISF) during the checking round with the national film and audiovisual funds.

<sup>2106</sup> But only 11 are currently operating, as the Bialystok Film Fund was closed this year (2018) with no clear answer as to whether it will operate in 2019, [www.bialystok.pl](http://www.bialystok.pl).

<sup>2107</sup> [www.ckgdynia.pl](http://www.ckgdynia.pl).

<sup>2108</sup> [www.odrafilm.pl](http://www.odrafilm.pl).

<sup>2109</sup> [www.film.lublin.eu](http://www.film.lublin.eu).

<sup>2110</sup> [www.lodzfilmcommission.com](http://www.lodzfilmcommission.com).

<sup>2111</sup> [www.film-commission.pl](http://www.film-commission.pl).

<sup>2112</sup> [www.mff.mazovia.pl](http://www.mff.mazovia.pl).

<sup>2113</sup> [www.podkarpackiefilm.pl](http://www.podkarpackiefilm.pl).

<sup>2114</sup> [www.poznanfilmcommission.pl](http://www.poznanfilmcommission.pl).

<sup>2115</sup> [www.silesiafilm.com](http://www.silesiafilm.com).

<sup>2116</sup> [www.funduszfilmowy.warmia.mazury.pl](http://www.funduszfilmowy.warmia.mazury.pl).

<sup>2117</sup> [www.pomeraniafilm.pl](http://www.pomeraniafilm.pl).



## 7.23.2. General framework

### 7.23.2.1. Overview of the film and audiovisual funding policy and legislation

The main legal framework for the public funding of the film and audiovisual sector in Poland was set by the Act on Cinematography (2005), hereinafter “the Cinema Act”, which established the Polish Film Institute. The Cinema Act was supplemented by the Regulation of the Minister of Culture of 27 October 2005 on the co-financing of cinematography undertakings by the Polish Film Institute<sup>2118</sup> (hereinafter, the “Regulation on the co-financing of cinematography”) and the Regulation of the Minister of Culture of 24 November 2005<sup>2119</sup> on the means of audit of entities with reference to the use of additional project funding.<sup>2120</sup>

Moreover, every year, the Polish Film Institute announces its so-called Operational Programmes (*Programy Operacyjne*)<sup>2121</sup>, which describe in detail how the fund operates and how the financing is to be granted. Each year, the Ministry of Culture chooses a group of experts who evaluate whether the projects are in compliance with the 2018 Operational Programmes within the different schemes of the institute; these consist of 11 different schemes devoted to the production, pre-production, dissemination and promotion of Polish culture.

**Table 35. Main funds in Poland**

Funding institution	Geographical level	Legislation / Guidelines
Polish Film Institute <sup>2122</sup>	National	The Act on Cinematography (2005) <sup>2123</sup>
		2018 Operational Programs <sup>2124</sup>

<sup>2118</sup> *Rozporządzenie Ministra Kultury z dnia 27 października 2005 r. w sprawie udzielania przez Polski Instytut Sztuki Filmowej dofinansowania przedsięwzięć z zakresu kinematografii* (Regulation of the Minister of Culture of 27 October 2005 on the co-financing of cinematography undertakings by the Polish Film Institute), [https://www.pisf.pl/files/dokumenty/informacje\\_prawne/rozporzadzenie\\_mk\\_dofinansowanie\\_d20051870.pdf](https://www.pisf.pl/files/dokumenty/informacje_prawne/rozporzadzenie_mk_dofinansowanie_d20051870.pdf), for English version, see: [http://en.pisf.pl/files/dokumenty/regulation\\_of\\_the\\_minister\\_of\\_culture\\_on\\_the\\_co-financing\\_cinematography\\_undertakings.pdf](http://en.pisf.pl/files/dokumenty/regulation_of_the_minister_of_culture_on_the_co-financing_cinematography_undertakings.pdf).

<sup>2119</sup> *Rozporządzenie Ministra Kultury i Dziedzictwa Narodowego z dnia 24 listopada 2005 r. w sprawie szczegółowego trybu i sposobu przeprowadzania kontroli podmiotów otrzymujących dofinansowanie z Polskiego Instytutu Sztuki Filmowej* (Regulation of the Minister of Culture dated 24 November 2005 on the mode and method of audit with reference to the use of additional project funding), [https://www.pisf.pl/files/dokumenty/informacje\\_prawne/rozporzadzenie\\_mkidn\\_kontrola.pdf](https://www.pisf.pl/files/dokumenty/informacje_prawne/rozporzadzenie_mkidn_kontrola.pdf).

<sup>2120</sup> A list of all of applicable text is available here: <https://www.pisf.pl/instytut/informacje-prawne>.

<sup>2121</sup> The 2018 Operational programmes is available here: <https://www.pisf.pl/pl/dotacje/programy-operacyjne/po-2018>; for English version, see: <http://en.pisf.pl/funding/operational-programmes>.

<sup>2122</sup> [www.pisf.pl/](http://www.pisf.pl/).

<sup>2123</sup> *Ustawa z dnia 30 czerwca 2005 r. o kinematografii* (the Act on Cinematography, 2005), <http://prawo.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20051321111>; for English version, see: [http://en.pisf.pl/files/dokumenty/act\\_of\\_30\\_june\\_2005\\_on\\_cinematography.pdf](http://en.pisf.pl/files/dokumenty/act_of_30_june_2005_on_cinematography.pdf).



Funding institution	Geographical level	Legislation / Guidelines
Mazovia Warsaw Film Fund <sup>2125</sup>	Regional	Regulations <sup>2126</sup>
Lodz Film Fund <sup>2127</sup>	Regional	Regulations <sup>2128</sup>
Krakow Regional Film Fund <sup>2129</sup>	Regional	Regulations <sup>2130</sup>

Source: Response to the European Audiovisual Observatory standardised questionnaire

### 7.23.2.2. Definition of cultural criteria

As per Article 3 of the Cinema Act, one of the objectives of the PISF is to support “*the production and promotion of films, disseminating film culture, and protecting the cultural heritage in the area of film*”. In line with this, as per Article 22 of the same act and chapter 1, paragraph 4 of the Regulation on the co-financing of cinematography, in addition to the artistic, cognitive and ethical quality of the project, support will be granted on criteria such as:

“2) Significance for national culture and the strengthening of the Polish traditions and mother tongue, including:

- a) drawing on the Polish cultural heritage;
- b) taking up important historical themes;
- c) strengthening the national identity and popularising patriotic subjects, especially in works addressed to children and young people;
- d) depicting the richness and variety of regions;
- e) protecting and preserving the Polish cultural heritage in the area of film;

3) Enrichment of European cultural variety, including:

- a) realising joint international projects;
- b) promoting the European cultural heritage;
- c) strengthening the common values of European culture.”

The definition of Polish film does not affect the funding by PISF and that it only concerns actions related to the protection of cultural heritage.

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<sup>2124</sup> *Programy Operacyjne Polskiego Instytutu Sztuki Filmowej Na Rok 2018* (2018 Operational Programs Polish Film Institute), [https://www.pisf.pl/files/dokumenty/po\\_2018/Programy\\_Operacyjne\\_PISF\\_2018.pdf](https://www.pisf.pl/files/dokumenty/po_2018/Programy_Operacyjne_PISF_2018.pdf).

<sup>2125</sup> [www.mff.mazovia.pl](http://www.mff.mazovia.pl).

<sup>2126</sup> Regulations of the 8th edition of the Mazowiecky competition and the Warsaw film fund, <http://www.mff.mazovia.pl/wp-content/uploads/2018/01/REGULAMIN-8.-EDYCJI-KONKURSU-MAZOWIECKIEGO-I-WARSZAWSKIEGO-FUNDUSZU-FILMOWEGO.pdf>.

<sup>2127</sup> [www.lodzfilmcommission.com](http://www.lodzfilmcommission.com).

<sup>2128</sup> Regulations, [https://ec1lodz.pl/system/files/ec1\\_medialib/2018/01/lff-nabor2018.zip](https://ec1lodz.pl/system/files/ec1_medialib/2018/01/lff-nabor2018.zip).

<sup>2129</sup> [www.film-commission.pl](http://www.film-commission.pl).

<sup>2130</sup> Regulations - Competition for Film Production Support run by the Krakow Festival Office, <http://film-commission.pl/content/uploads/2018/01/Regulamin-RFF-2018.pdf>.



### 7.23.2.3. Nationality of the applicant

According to the Cinema Act,<sup>2131</sup> the applicant is eligible if it is a company based in the European Union, Switzerland or one of the EFTA countries, and is engaged in the cinema business. Furthermore, the project will be considered as a Polish film if the producer or co-producer is “an entity with headquarters on the territory of the Republic of Poland”, and at least one of the following conditions is fulfilled:<sup>2132</sup>

- The author of the screenplay or adapted literary work, the director or the executor of one of the leading roles is a Polish citizen; the share of the producer’s financial resources, whose headquarters is on Polish territory, constitutes 100% of the film production costs, and in addition to this, these resources, up to a level of 80% of the film production costs, have to be spent on Polish territory; and what is more, the master copy must be produced in the Polish language:
- The author of the screenplay or adapted literary work, the director or the performer of one of the leading roles is a Polish citizen; the share of the co-producer’s financial resources, with its headquarters on Polish territory, constitutes at least 20% of the film production costs in respect of a film which is a bilateral co-production, and at least 10% in respect of a film which is a multilateral co-production, and these resources, up to a level of 80% of the film production costs, have to be spent on Polish territory; and what is more, the principal language version must be performed in Polish.

## 7.23.3. Funding criteria applicable to production support

### 7.23.3.1. Theatrical release, broadcasting and visibility on VOD

First, the Cinema Act requires films<sup>2133</sup> of unspecified length to be “intended for screening in the cinema as the first field of exploitation”<sup>2134</sup> in order to be eligible for support. Afterwards, it can be distributed on other windows. In the case of full-length films, compliance with this requirement obliges the producer to attach a letter of intent from the theatrical distributor when applying to the Polish Film Institute for funding, and the distribution agreement when signing the agreement with the institute.<sup>2135 2136</sup> In addition, when submitting the application, the producer is obliged to sign a declaration stating that

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<sup>2131</sup> Article 22 of the Cinema Act.

<sup>2132</sup> Article 4 of the Cinema Act.

<sup>2133</sup> With the exception of documentary and animated films.

<sup>2134</sup> Article 4, paragraph 1 of the Cinema Act.

<sup>2135</sup> Paragraph 2.20, page 68 of the 2018 Operational Programmes.

<sup>2136</sup> A letter of intent is not required for a director’s debut or second film, or for difficult films. In the case of minority co-productions, a letter of intent from the Polish distributor will be required.



he will provide wide access to the work throughout the distribution of the film in theatres.<sup>2137</sup>

In the case of documentaries or animated films, the works will have to be intended for a wide audience also on windows other than cinema theatres.<sup>2138</sup> Compliance with this requirement will be ensured by attaching a letter from the broadcaster, VOD provider or whoever is ensuring the distribution of the work.<sup>2139</sup>

There is no release window schedule to be respected.

### 7.23.3.2. Theatrical performance and performance at festivals, events and awards

As a general rule, there are no requirements regarding the performance of a work in terms of theatrical attendance at home or abroad. The only exception would be the new scheme introduced in 2018 entitled “Support of Genre Films”,<sup>2140</sup> which is reserved for films with a foreseen exploitation reach of at least 300 000 admissions.<sup>2141</sup> Regardless of this, reference to the potential performance of the work is used as a defining criteria for a category of projects supported within Priority I “Screenwriting scholarships for feature films, documentaries and animations”, Priority III “Production of feature films” and Priority V “Production of animated films” of the 2018 Operational Programmes. These three priorities provide support for films with “a significant attendance potential”, for which a maximum amount of support is capped.<sup>2142</sup>

References to the potential performance of the work are included in the assessment criteria; for instance, the success of the previous works of the producer or director,<sup>2143</sup> or the international potential of the film in terms of distribution and festival circulation would be considered in order to assess the eligibility of the project.<sup>2144</sup>

When it comes to performance in the form of awards or festival attendance, it is worth mentioning that the producer or director of the awarded film can request the Director of the PISF to increase the funding for their next film.<sup>2145</sup> Lastly, when applying for PISF support, the producer of the feature film or documentary is required to attach the promotion and distribution plan, which includes, among other things, the plan for festival

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<sup>2137</sup> Paragraph 1.13, p.28 of the 2018 Operational Programmes.

<sup>2138</sup> Chapter 1, paragraph 3.2 of the Regulation On The Co-Financing Of Cinematography.

<sup>2139</sup> Paragraph 1.7, page 27 of the 2018 Operational Programmes.

<sup>2140</sup> A genre film is a film belonging to a specific genre, such as comedy, crime films, sensational films, horror films, thrillers, musicals, melodrama etc. The basis for distinguishing genres within a feature film is usually a set of repeating plot and iconographic patterns (as per the definition provided in page 141 of the 2018 Operational Programmes).

<sup>2141</sup> Paragraph 2, page 24 of the 2018 Operational Programmes.

<sup>2142</sup> These specific amounts can be found respectively on pages 13, 19 and 20 of the 2018 Operational Programmes. It should be mentioned that films considered as “historical films” benefit from a higher maximum amount.

<sup>2143</sup> Paragraph 2.6, page 65 of the 2018 Operational Programmes.

<sup>2144</sup> Page 29 of the 2018 Operational Programmes.

<sup>2145</sup> There is no specification on how much more the amount can be increased, however, the final amount granted cannot exceed the aid intensity rules. For more information, see paragraph 3 page 29 of the 2018 Operational Programmes.



circulation.<sup>2146</sup> Such an attachment will be verified as part of the selection process. More specifically, in the case of financial support for genre films, the producer must attach the sales and marketing strategy.<sup>2147</sup>

### 7.23.3.3. Budget

The budget for an eligible project is not subject to any minimum threshold or maximum cap, except in the case of the micro budget “First Film” scheme category, where the maximum budget is PLN 700 000<sup>2148</sup>, and the Polish-German Fund, where the maximum budget is EUR 750 000.<sup>2149</sup> Moreover, the applicant is required to contribute his own financial resources to a level of at least 5% of the subsidy.<sup>2150</sup>

### 7.23.3.4. Awarded amount

In principle, the aid intensity rules are described in the 2018 Operational Programmes<sup>2151</sup> as follows:

- Limited to 50% of the budget in general,
- Up to 70% for “difficult” films (debuts, second films, artistic films),
- Up to 85% for the micro-budget “First Film” scheme.

More specifically, the 2018 Operational Programmes<sup>2152</sup> also provide for the maximum amounts applied per scheme and the type of work concerned: PLN 4 000 000 in general; PLN 6 000 000 for films on historical subjects; and PLN 3 000 000 for films with a high distribution potential. As to difficult films: PLN 2 000 000 in general and PLN 3 000 000 for difficult films on historical subjects.

Moreover, additional rules can apply when it comes to the maximum amounts of support for low-budget films,<sup>2153</sup> or regarding the production of animated TV series, where the following additional aid intensity rules apply:<sup>2154</sup>

- First season – up to 50% of the budget,
- Second season – up to 40% of the budget,
- Third season – up to 35% of the budget,
- Fourth season – up to 30% of the budget.

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<sup>2146</sup> Pages 65 and 72 of the 2018 Operational Programmes, *Op. cit.*

<sup>2147</sup> P. 90-91 of the 2018 Operational Programmes, *Op. cit.*

<sup>2148</sup> P.84-89 of the 2018 Operational Programmes, *Op. cit.*

<sup>2149</sup> Paragraph 2.5, p.25 of the 2018 Operational Programmes, *Op. cit.* But in justified cases, the budget of the film can be higher.

<sup>2150</sup> Paragraph d, p.69 of the 2018 Operational Programmes, *Op. cit.*

<sup>2151</sup> P.19-25 of the 2018 Operational Programmes, *Op. cit.*

<sup>2152</sup> P.18, 19 for feature films, p.19 for the Young Audience Scheme.

<sup>2153</sup> Chapter 1 paragraph 7.2 of the Regulation On The Co-Financing Of Cinematography , *Op. cit.*

<sup>2154</sup> Page 19 of the 2018 Operational Programmes, *Op. cit.*



Support can be awarded in the form of a subsidy, but will be repayable if the project makes a profit, in which case “the entities which have received project co-financing have to return the amounts of project co-financing on the terms and conditions specified in the regulations on public finance.”<sup>2155</sup> <sup>2156</sup> This reimbursement is based on the profit in proportion to the subsidy obtained.<sup>2157</sup> In addition, support can also be awarded in the form of loans.<sup>2158</sup>

Regarding eligible costs, these are defined in the 2018 Operational Programmes.<sup>2159</sup> Costs are eligible if they comply with the following criteria:

- Have been/will be incurred during the production period,
- Are for the intended projects - they have been/will be incurred in connection with the production of the film for which the co-financing has been granted,
- They are reliably documented and verifiable,
- They were incurred in an economical manner,
- They comply with the applicable law.

Lastly, the amount is awarded selectively by a group of 3-5 experts for each scheme<sup>2160</sup> who are responsible for selecting the project and referring it to the Director of the Institute, who will make the final decision.<sup>2161</sup> The grant awarded takes the form of a civil law agreement, concluded on behalf of the director, after he has consulted the relevant experts.<sup>2162</sup>

#### 7.23.3.5. Spending and shooting criteria

In order to qualify as a Polish Film and, consequently, be eligible for support, Article 4 (2) of the Cinema Act stipulates that at least 80% of the budget must be spent in Poland – 80% of the amount granted when it comes to minority co-productions, unless the nature of the project does not allow it.<sup>2163</sup> There are no specific requirements related to the shooting of the film in the country or the region.

#### 7.23.3.6. Talent, cast, crew, underlying copyright

The nationality of the talent, cast and crew of the film, or the way in which the underlying copyright is linked to the country, are taken into account for the qualification of the

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<sup>2155</sup> Regulation on the co-financing of cinematography.

<sup>2156</sup> Article 23 of the Cinema Act.

<sup>2157</sup> Chapter 2, paragraph 17.1 of the Regulation on the co-financing of cinematography.

<sup>2158</sup> Chapter 3 of the Regulation on the co-financing of cinematography and page 92 of the 2018 operational programmes.

<sup>2159</sup> Pages 92-95 of the 2018 Operational Programmes.

<sup>2160</sup> 9 for micro budget films.

<sup>2161</sup> Article 24 of the Cinema Act.

<sup>2162</sup> Article 23 (3) of the Cinema Act.

<sup>2163</sup> In practice, the PISF requires the 80% spending rule for minority co-productions, but allows other spending proportions for majority and national projects on a case by case basis.



project as a Polish Film, according to Article 4 (2) of the Cinema Act, as described in section 7.23.2.3.

#### 7.23.3.7. Shooting language and diversity

There are no specific requirements regarding the shooting language, ethnic or linguistic minorities, or gender. However, it should be mentioned that the film copy distributed should have a Polish language version.<sup>2164</sup> Furthermore, the Bechdel test<sup>2165</sup> is one of the required documents to be submitted during the application process; however, this does not affect the evaluation of the application and is only used for information purposes.

### 7.23.4. Funding criteria applicable to pre-production support

#### 7.23.4.1. Budget

The budget of an eligible project is not subject to any minimum threshold or maximum cap. Moreover, as in the case of production support, the applicant is required to contribute his own financial resources to a level of at least 5% of the film budget.<sup>2166</sup>

#### 7.23.4.2. Awarded amount

In principle, the aid intensity is limited to 50% of the budget, or 70% for a difficult film.<sup>2167</sup> In terms of maximum amounts, these are detailed in the Operational Programmes.<sup>2168</sup> For example, for feature film scripts, the following caps apply:

- Up to PLN 250 000 for historical feature films
- Up to PLN 200 000 for “normal” feature films
- Up to PLN 400 000 for the support of the feature films slate (3 films)

The amount is repayable if receiving production support (it will be deducted from this support when awarded)<sup>2169</sup> or, in the case of the scholarship scheme, once the scriptwriter has sold the script.<sup>2170</sup> Regarding eligible costs, these must comply with the same criteria

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<sup>2164</sup> Article 4 of the Cinema Act.

<sup>2165</sup> The Bechdel test is a method of assessing the representation and portrayal of women on screen, based on the satisfaction of three criteria: 1. The film has at least two (named) women in it; 2. Who talk to each other; 3. About something besides a man. For more information, see: <https://bechdeltest.com/>.

<sup>2166</sup> Paragraph 2.7, page 61 of the 2018 Operational Programmes, *Op. cit.* Except for scriptwriters' support, where no minimum contribution is required.

<sup>2167</sup> Page 15 of the 2018 Operational Programmes.

<sup>2168</sup> Page 15 of the 2018 Operational Programmes.

<sup>2169</sup> Page 17 of the 2018 Operational Programmes.

<sup>2170</sup> Page 13 of the 2018 Operational Programmes.



as for production support, described in section 7.23.3.4.<sup>2171</sup> Lastly, pre-production support is awarded selectively, according to the same selection procedure described in section 7.23.3.4. for production support.

#### 7.23.4.3. Underlying copyright

The underlying copyright, and how it is linked to the country, might be taken into account for the qualification of the project as a Polish Film, according to Article 4 (2) of the Cinema Act, as described in section 7.23.2.3

#### 7.23.4.4. Script language and diversity

Although not explicitly stated, in principle, the language of the script has to be Polish. Apart from that, there are no specific requirements regarding ethnic or linguistic minorities or gender. However, as in the case of production support, the Bechdel test is part of the application process for information purposes.

### 7.23.5. Funding criteria applicable to distribution and promotion support

#### 7.23.5.1. Theatrical release, broadcasting and visibility on VOD

There are no specific requirements for distribution or promotion support regarding theatrical release, performance and visibility on VOD, or the release window schedule.

#### 7.23.5.2. Theatrical performance and performance at festivals, events and awards

As a general principle, there are no quantitative requirements regarding the performance of a work in terms of theatrical attendance at home or abroad. Nonetheless, the circulation of the work is considered as one of the aspects upon which the project is evaluated. Although it is not stated *expressis verbis*, points 4 and 5 of Article 22 (3) of the Cinema Act refer to it: “Project co-financing shall be granted based on the following criteria: [...]”

- The expected effects of the planned project;
- The business and financial terms of completion of the project.”

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<sup>2171</sup> Chapter 3 of the Regulation on the co-financing of cinematography and p.92 of the 2018 operational programmes.



Furthermore, the potential or actual performance at festivals or awards is taken into account in the following situations:

- A circulation strategy for international festivals is part of the application for the Promotion of Polish Films Abroad scheme.<sup>2172</sup> This plan will therefore be considered when awarding the amount and can even lead to aid intensity being increased to 90% if the film is presented at one of the A-list festivals or at a prestigious film awards ceremony.<sup>2173</sup>
- As explained in the production section, after receiving an important prize, the producer and the director of the awarded film may ask for a higher awarded amount for their next project.<sup>2174</sup>

### 7.23.5.3. Budget

The budget of an eligible project is not subject to any minimum threshold or maximum cap. Furthermore, the applicant is required to contribute his own financial resources to a level of at least 10% of the distribution budget<sup>2175</sup> or promotion budget.<sup>2176</sup>

### 7.23.5.4. Awarded amount

Distribution support is awarded after a selective process<sup>2177</sup> similar to that of production and pre-production support<sup>2178</sup> and is repayable only if the production makes a profit.<sup>2179</sup> When it comes to aid intensity, the following rules apply:

- For the Promotion of Polish Films Abroad scheme,<sup>2180</sup> up to 90% of the budget for films presented at major film festivals (the so-called FIAPF A-list) as well as those of Amsterdam, Annecy and Toronto, and running for Oscars, Golden Globes and European Film Awards; up to 70% of the total budget for the presentation of Polish films at various events abroad; and up to 50% of the total budget for participation at international markets, organising workshops or searching for distributors.
- For the Film Initiative scheme,<sup>2181</sup> up to 50% in general; up to 70% when the film qualifies as “difficult”;<sup>2182</sup> and up to 90% in special cases.<sup>2183</sup>

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<sup>2172</sup> Page 49 of the 2018 Operational Programmes.

<sup>2173</sup> Page 48 of the 2018 Operational Programmes.

<sup>2174</sup> Page 26 of the 2018 Operational Programmes.

<sup>2175</sup> Paragraph 5.2 page 38 of the 2018 Operational Programmes.

<sup>2176</sup> Paragraph 5.2 page 50 of the 2018 Operational Programmes.

<sup>2177</sup> For Film Initiative, page 107 of the 2018 Operational Programmes.

<sup>2178</sup> Except that “internal” experts are hired for the evaluation of the promotional scheme. They are experts working at the Institute and appointed by the Minister of Culture.

<sup>2179</sup> As per Article 23 of the Cinema Act.

<sup>2180</sup> Paragraph 4.1, page 49 of the 2018 Operational Programmes.

<sup>2181</sup> Paragraph 4, page 37 of the 2018 Operational Programmes.



The amount is awarded selectively after a similar procedure to the one described for production support.<sup>2184</sup> Lastly, eligible costs are defined as per the conditions applied to production support.<sup>2185</sup>

#### 7.23.5.5. Language and diversity

There are no particular requirements regarding the language of the film or linked to ethnic or linguistic minorities and gender.

### 7.23.6. Data compilation

This factsheet was produced based on data compiled by Izabela Kiszka-Hoflik, the owner of IKH Pictures Promotion in Warsaw.

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<sup>2182</sup> The project has a local or regional character, a limited audience or because a low commercial value it could not take place without co-financing from the Institute, provided that the principle of the necessity and proportionality of state aid is respected.

<sup>2183</sup> Determined on a case-by-case basis, when the Director of the Polish Film Institute decides to increase the PIFS' share in the budget.

<sup>2184</sup> Page 107 of the 2018 Operational Programmes.

<sup>2185</sup> Pages 107-108 and 129 of the 2018 Operational Programmes.



## 7.24. PT – Portugal – National Summary<sup>2186</sup>

### 7.24.1. Summary

The national fund operating in the country is the Film & Audiovisual Institute - *Instituto do Cinema e do Audiovisual* (hereinafter, “ICA”). The ICA, established by Decree-Law No. 95/2007 of 29 March, is the legal successor of the Portuguese Film Institute, originally established in 1971 by Law No. 7/71 of 7 of December.<sup>2187</sup> The ICA is the national film agency providing economic support for the development of the Portuguese film and audiovisual sectors. The ICA runs a wide range of funding mechanisms, with a total budget of EUR 17 890 000 for 23 support programmes’ calls for projects in 2018 (EUR 19 600 000 for 26 calls in 2019). They comprise: a Support programme for new talent and first works; a Cinema support programme; a Programme to support audiovisual and multimedia sectors; a Programme to support audiences development; and an Internationalization support programme. The ICA supports other film-related activities such as the exhibition of cinema in festivals and the circuits of exhibition in municipal halls, cinema clubs and cultural associations to promote cinematographic culture. The ICA also promotes the National Cinema Plan, to introduce film diversity to school audiences and, along with the tourism authority, oversees the granting of the Incentive Scheme for Cinema and Audiovisual Production,<sup>2188</sup> which, since 2018, refunds (cash-rebate) up to 30% of the production costs borne in Portugal.<sup>2189</sup>

### 7.24.2. General framework

#### 7.24.2.1. Overview of the film and audiovisual funding policy and legislation

The main legal framework for state action regarding film and audiovisual support in Portugal is established in Law No. 55/2012 of 6 September 2012 (hereinafter, the “Cinema Law”), further regulated by Decree-Law No. 25/2018 of 24 April 2018 (hereinafter, the “Law-Decree of 2018”). On this legal basis, the ICA General Regulation on Financial Support Programs 2018 (hereinafter, “the Regulation”) sets down common rules for the ICA calls for projects in 2018 and, in its annexes, specific rules for each call for projects.

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<sup>2186</sup> The factsheet on Portugal incorporates the feedback received from Nuno Fonseca (ICA) during the checking round with the national film and audiovisual funds.

<sup>2187</sup> *Lei n.º 55/2012 de 7 de Dezembro* (Law No. 7/71 of 7 December 1971); <https://dre.pt/web/guest/pesquisa/-/search/632010/details/normal?q=LEI+7%2F71>.

<sup>2188</sup> ICA, Incentives and coproduction, <http://www.ica-ip.pt/en/incentives-and-coproduction/>.

<sup>2189</sup> As fiscal incentives are beyond the scope of our study, this Incentive Scheme will not be further analysed.



Every year, a new general regulation is approved for the respective year's support programmes' calls, so those for 2019 will follow similar rules.

In 2017, a tax credit scheme for film production was established, soon to be replaced by a cash rebate scheme for film and TV/OTT production, under a new Support Fund for Tourism and Film, operated by the ICA and the Portuguese Tourism Board (Turismo de Portugal, I.P.)<sup>2190</sup>

**Table 36. Main funds in Portugal**

Funding institution	Geographical level	Legislation / Guidelines
Film & Audiovisual Institute <sup>2191</sup>	National	Law 55/2012 of 6 September 2012 (Cinema Law) <sup>2192</sup>
		Law-decree 25/2018 of 24 April <sup>2193</sup>
		ICA General Regulation on Financial Support Programs 2018 <sup>2194</sup>

Source: Response to European Audiovisual Observatory standardised questionnaire

#### 7.24.2.2. Definition of cultural criteria

Portuguese law does not have a proper definition of cultural criteria in place. However, culture is mentioned in the context of the objectives pursued by the state in respect of its support policies for the cinema and the audiovisual sector. First, Article 3 (1) of the Cinema Law<sup>2195</sup> states that the state should be guided by several principles, including:

- Support for the creation, production, distribution, exhibition, diffusion and promotion of cinematographic and audiovisual works as instruments of expression of cultural diversity; the affirmation of national identity; the promotion of the language; and the appreciation of Portugal's image in the world, especially with regard to the deepening of relations with Portuguese-speaking countries;
- The adoption of measures and support programmes to promote the development of the business community and the market for cinematographic and audiovisual

<sup>2190</sup> Fiscal incentives are beyond the scope of analysis of this report and therefore, this will not be further analysed. The incentive was established by Decree-Law No. 45/2018 of 19 June, and its specific rules are set down in Ministerial Ordinance ("Portaria") No. 490/2018 of 28 September.

<sup>2191</sup> <http://ica-ip.pt/pt/>.

<sup>2192</sup> *Lei n.º 55/2012 de 6 de Setembro* (Law No. 55/2012 of 6 September 2012), <https://data.dre.pt/eli/lei/55/2012/p/cons/20141231/pt/html>.

<sup>2193</sup> *Decreto-Lei n.º 25/2018 de 24 de Abril* (Law-Decree No. 25/2018 of 24 April 2018), <https://dre.pt/home/-/dre/115172414/details/maximized>, for a summary in English, see: [https://dre.pt/web/guest/pesquisa/-/search/115172414/details/maximized?p\\_p\\_auth=laSd00Kn&res=en](https://dre.pt/web/guest/pesquisa/-/search/115172414/details/maximized?p_p_auth=laSd00Kn&res=en).

<sup>2194</sup> Regulamento n.º 347/2018 Geral Relativo aos Programas de Apoios Financeiros – 2018 (General Regulation on Financial Support Programmes 2018), [http://www.ica-ip.pt/fotos/concursos/info/regulamento\\_geral\\_2018\\_30145b1a5efc7bf66.pdf](http://www.ica-ip.pt/fotos/concursos/info/regulamento_geral_2018_30145b1a5efc7bf66.pdf).

<sup>2195</sup> *Op. cit.*



works, with due respect for the principles of transparency and impartiality, competition, freedom of creation and freedom of expression and cultural diversity.

In addition, Article 3 (2) enumerates the following objectives that the state must pursue, which include:

- Encourage the quality, cultural diversity, artistic uniqueness and economic viability of cinematographic and audiovisual works, in particular in the allocation of support, with a view to their widespread dissemination and enjoyment of their value by creators;
- Promote Portuguese language and culture;
- Encourage international co-production, through the conclusion of bilateral reciprocity agreements and international conventions;
- Deepen cooperation with Portuguese-speaking countries;
- Contribute to the formation of audiences, in particular through the support of film festivals, cinemas, exhibition circuits in municipal cinemas and cultural associations promoting cinematographic activity, and in particular through the promotion of cinema literacy in schools;
- Promote the conservation of the national cinematographic and audiovisual heritage, valorizing and guaranteeing its permanent public fruition;

With regard to the specific use of cultural criteria in the selection of projects, there is a cultural test for projects supported under the ICA automatic programme. Specifically, in the case of the Cinema support scheme (automatic support), Article 8 (1), paragraph d) of Annex 9 of the Regulation<sup>2196</sup> provides that the work must meet at least three of the following requirements:

- In the script, the action takes place essentially in Portugal, or in another member state of the European Union or the European Economic Area;
- More than two-thirds of the dialogues are in Portuguese or in basic Creole languages;
- At least one of the protagonists has a strong connection with the Portuguese culture or language;
- The original script is in Portuguese;
- The script is an adaptation of an original Portuguese literary work;
- The main theme of the work is the arts or one or more artists of any artistic discipline;
- The work is essentially about characters or historical events or events;
- The work deals mainly with themes relevant in cultural or societal terms, including current issues, or cultural, social or political aspects;
- The work contributes to enhancing the Portuguese or European audiovisual heritage.

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<sup>2196</sup> Article 8 of Annex 9 of the Regulation, [http://www.ica-ip.pt/fotos/downloads/9\\_anexo\\_ix-apoio\\_automatico\\_2018\\_166015b0ebcc97e2fe.pdf](http://www.ica-ip.pt/fotos/downloads/9_anexo_ix-apoio_automatico_2018_166015b0ebcc97e2fe.pdf).



Except for the aforementioned automatic support, all ICA calls for application are selective, with juries made up of external experts, ensuring the cultural nature and quality of the supported projects.<sup>2197</sup>

### 7.24.2.3. Nationality of the applicant

The Regulation does not explicitly require that the applicant be of Portuguese nationality or have their company established in the country. However, Article 2 of the Regulation provides that the applicant should comply with the following provisions:

- Entities registered as a cinematographic and/or audiovisual company in the ICA's Register of Cinematographic and Audiovisual Enterprises may apply for the programmes and financial support measures to be granted under this Regulation.
- In the cases expressly provided for, natural or legal persons not constituted as a cinematographic and/or audiovisual company, such as filmmakers, screenwriters, associations and educational establishments, may apply for registration by completing the relevant form on the ICA website.

In order to be registered in the ICA's Register of Cinematographic and Audiovisual Enterprises, the applicant must comply with Article 1 of the Regulation on the Registration of Cinematographic and Audiovisual Companies and Other Entities,<sup>2198</sup> namely, have their activity in Portugal or in any other member state of the European Union or of the European Economic Area.

## 7.24.3. Funding criteria applicable to production support

### 7.24.3.1. Theatrical release, broadcasting and visibility on VoD

There are no mandatory quantitative requirements regarding visibility or performance in terms of theatrical release on any of the different release windows. Nonetheless, the previous success of the applicant or the potential performance of the project is taken into consideration by the evaluating panel of the different funding schemes, as follows:

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<sup>2197</sup> Article 5 of Annex 1 of the Regulation, [http://www.ica-ip.pt/fotos/downloads/1\\_anexo\\_i-primeiras\\_obras\\_2018\\_314715b0ebbe30a095.pdf](http://www.ica-ip.pt/fotos/downloads/1_anexo_i-primeiras_obras_2018_314715b0ebbe30a095.pdf); Article 5 of Annex 3 of the Regulation, [http://www.ica-ip.pt/fotos/downloads/3\\_anexo\\_iii-producao\\_lm\\_2018\\_274965b0ebc00e4319.pdf](http://www.ica-ip.pt/fotos/downloads/3_anexo_iii-producao_lm_2018_274965b0ebc00e4319.pdf); Article 5 of Annex 4 of the Regulation, [http://www.ica-ip.pt/fotos/downloads/4\\_anexo\\_iv-cm\\_ficcao\\_2018\\_39635b11108dbdfb6.pdf](http://www.ica-ip.pt/fotos/downloads/4_anexo_iv-cm_ficcao_2018_39635b11108dbdfb6.pdf); Article 5 of Annex 7 of the Regulation, [http://www.ica-ip.pt/fotos/downloads/7\\_anexo\\_vii-complementar\\_2018\\_178265b0ebc2d943b1.pdf](http://www.ica-ip.pt/fotos/downloads/7_anexo_vii-complementar_2018_178265b0ebc2d943b1.pdf).

<sup>2198</sup> *Regulamento n.º183/2016 do Registo das Empresas Cinematográficas e Audiovisuais e de Outras Entidades*, published in *Diário da República – 2ª Série – N.º37 – 23 de Fevereiro de 2016* (Regulation on the Registration of Cinematographic and Audiovisual Companies and Other Entities), <https://dre.pt/application/file/73665772>.



- For the Support programme for new talent and first works and the Film support sub-programmes for the production of theatrical feature films and short films:<sup>2199</sup> when assessing the artistic and cultural quality and potential of the project and the curriculum of the filmmaker and the production company, criteria such as “the potential performance of the work, in terms of national and international circulation (in cinema, festivals and others)”, and “the national and international results of cinematographic works previously produced by the applicant company” are taken into account.
- For the Audiovisual and Multimedia support programme, one of the assessment criteria is the project’s potential in terms of international diffusion (on free channels, cable and/or on the Internet) and the adequacy of the project’s characteristics to the potential audience.<sup>2200</sup> In addition, the applicant is required to “enter into a contract with a national television operator in which it undertakes to broadcast the work”.<sup>2201</sup>
- For the Film support sub-programme, designed for more experienced candidates<sup>2202</sup> (with at least six feature films or one animation film with commercial release), the previous box office results of the applicant, and/or the festival attendance and awards won are taken into account. Applications can include proof of previous results obtained by the applicant in VOD services made available by Portuguese TV subscription operators.<sup>2203</sup>

Lastly, Article 27 of the Decree-Law of 2018 provides that automatic support can be granted to independent producers as a result of box office performance, which must be used for the production of new works within a period of two years. The specific conditions for the attribution of this support are published in Article 4.1 of Annex 9 of the Regulation,<sup>2204</sup> as follows:

- Be a national work, duly recognized by the ICA;
- Be a work of independent production, duly recognized by the ICA;
- To have commercial release as of January 1, 2016 (2 years prior to the annual support programme competition);
- To have obtained a minimum attendance of 20 000 admissions in cinema theatres in Portugal within a period of 12 consecutive months from the date of its respective commercial debut.

To prove compliance with these conditions, the ICA accepts as certified data the following:<sup>2205</sup>

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<sup>2199</sup> Article 5.1 of Annex 1 of the Regulation, Annex 3 of the Regulation, Annex 4 of the Regulation, *Op. cit.*

<sup>2200</sup> Article 6.1 of Annex 16 of the Regulation, [http://www.ica-ip.pt/fotos/downloads/16\\_anexo\\_xvi-producao\\_audiovisual\\_2018\\_198735b0ebf1645756.pdf](http://www.ica-ip.pt/fotos/downloads/16_anexo_xvi-producao_audiovisual_2018_198735b0ebf1645756.pdf).

<sup>2201</sup> Article 3.3 of Annex 16 of the Regulation.

<sup>2202</sup> Annex 7 of the Regulation.

<sup>2203</sup> Article 4.4 of Annex 7 of the Regulation.

<sup>2204</sup> Annex 9 of the Regulation.

<sup>2205</sup> Article 5.2 of Annex 9 of the Regulation.



- Box office results in Portugal<sup>2206</sup>;
- Foreign box office results: information issued by ICA's equivalent official institutions in the countries concerned;
- Results of the work in VOD subscription services in Portugal.

#### 7.24.3.2. Theatrical performance and performance at festivals, events and awards

There are no mandatory quantitative requirements related to the expected or actual theatrical performance in the home market or abroad as such. This indicator is, however, taken into account by the evaluating panel when assessing the potential performance of the project or the performance of previous projects of the applicant. Moreover, the previous performance at festivals, events and awards is also considered during the assessment as follows:

- For the Support programme for new talent and first works and the Film support sub-programmes for the production of theatrical feature films and short films: the participation in festivals at the official selections, prizes and especially relevant mentions obtained at film festivals by the works of the director or of the producer are taken into account,<sup>2207</sup> especially if the festival is included in the list of the ICA's priority festivals.<sup>2208</sup>
- For the Film support programme for more experienced candidates,<sup>2209</sup> the national or international performance of previous works by the director or the producer, as well as "the potential of national and international circulation of the projected work in festivals" are taken into account.

Furthermore, Article 27 of the Decree-Law of 2018 also establishes automatic support for works rewarded at international festivals, to be invested in the production of new works within a period of two years. The calculation of the maximum amount of support will be determined by the performance of the reference work as follows:<sup>2210</sup>

- 30% of gross box office in Portugal;
- EUR 0.8 per ticket sold abroad;
- In the case of international co-productions, the amounts in point (b) will be calculated in proportion to the share of the Portuguese stake in the film;
- EUR 0.8 per VOD rental.

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<sup>2206</sup> Based on the ICA's computerised system of ticket management, under the terms of Decree-Law No. 125/2003 of June 20.

<sup>2207</sup> Article 5.1 of Annex 1 of the Regulation, Annex 3 of the Regulation, Annex 4 of the Regulation.

<sup>2208</sup> Listed in Article 20 of the Regulation.

<sup>2209</sup> Article 5 of Annex 7 of the Regulation.

<sup>2210</sup> Article 6 of Annex 9 of the Regulation.



### 7.24.3.3. Budget

To qualify as a low-budget film, the film's budget must be below EUR 2 000 000, in accordance with Article 7 of the Decree-Law of 2018. Apart from this, the budget of an eligible project is not subject to any minimum threshold or maximum cap, nor is anything stipulated regarding a minimum contribution from the applicant or part of the budget secured before the application, except in the case of support for the production of audiovisual and multimedia works, where the applicant is required to have secured at least 20% of the budget.<sup>2211</sup>

### 7.24.3.4. Awarded amount

Following what is established in Article 7 of the Decree-Law of 2018, the public aid intensity cannot exceed 80% of the total cost of any project.<sup>2212</sup> <sup>2213</sup> Regarding cinematographic production support, the cumulative amount of public support for a project cannot be higher than 50%, 60% in the case of international co-productions, or 80% for difficult or low-budget works. The law decree considers "difficult or low-budget" the following types of works:

- First works of any kind;
- Cinematographic short films;
- Film documentaries;
- Works carried out in co-production with beneficiary countries on the OECD list of countries in need of international aid;
- Works carried out in co-production within the framework of bilateral or multilateral agreements in which the national co-producer has a minority interest and whose director belongs to a country with reduced production capacity or is integrated in a restricted linguistic area;
- Cinematographic works with a budget below EUR 2 000 000;
- Cinematographic works with a budget above EUR 2 000 000 which fulfil the following conditions (in the case of co-productions, at least in relation to the Portuguese share):
  - It is not expected that the work will generate a commercial revenue likely to cover the production costs necessary for the achievement of its artistic and cultural purpose;
  - The project, by its nature, presents manifest financing difficulties, justifying public support higher than 50% of the budget.

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<sup>2211</sup> Article 3.3 of Annex 16 of the Regulation; Article 33 of the Law-Decree of 2018, *Op. cit.*

<sup>2212</sup> Meaning that a project cannot cover more than 80% of its costs with public funding (including funding from the ICA or accumulating with other national or municipal authorities' funding). At least 20% of the project's costs must be paid through the producer's own means or other private funds/sponsors.

<sup>2213</sup> These aid intensity rules do not apply to automatic support, where the amount of support is calculated based on the performance of the reference work (as described in section 7.24.3.2).



Specific additional rules on aid intensity are established according to the type of programme or sub-programme concerned, as detailed below:

- For the scheme to support the finalisation of production:<sup>2214</sup> support for the completion of cinematographic works may not exceed 80% of the cost of completion of the work as long as that value is not higher than 25% of the total amount of support allocated to that production,<sup>2215</sup>
- For the audiovisual and multimedia production support scheme, the aid intensity rules of 50% and 60% increase if the work has a cost of less than EUR 2 000 000 and up to an overall maximum of 80%.<sup>2216</sup>

Regarding the maximum amount awarded, every year, the ICA updates the maximum financial support per awarded project:<sup>2217</sup>

- First feature films (first and second film) production scheme: EUR 500 000;
- Feature film production: EUR 600 000;
- First feature documentary: EUR 90 000;
- Finalisation of production: EUR 100 000 (feature animation); EUR 75 000 (feature fiction); EUR 24 000 (short animation); EUR 22 500 (feature documentary); EUR 8 000 (short documentary); EUR 8 000 (short fiction);
- Automatic production support: EUR 350 000<sup>2218</sup> ;
- Audiovisual and multimedia production: EUR 500 000 (fiction or documentary series); EUR 100 000 (TV films); EUR 80 000 (documentary works); EUR 300 000 (animation - series); EUR 100 000 (animation).

The amount awarded is not repayable and eligible costs are calculated in accordance with the Eligible Expenses Regulation,<sup>2219</sup> and its supporting Annexes,<sup>2220</sup> which aim to develop the necessary mechanisms to implement Article 19 of the Decree-Law of 2018 (related to the identification of eligible expenses). Furthermore, the eligible costs are the expenses actually paid which directly and justifiably contributed to the implementation of the project (namely those in the model approved by the ICA)<sup>2221</sup> and which were incurred after the date of submission of the application for the assigned support.<sup>2222</sup> Overheads might be considered eligible up to a maximum of 15% of the overall support.

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<sup>2214</sup> This would fall under post-production support, as the film needs to have been shot in its majority and a provisional edited version is available. Films receiving selective support from the ICA are not eligible.

<sup>2215</sup> Article 7 point 4 of the Decree-Law of 2018.

<sup>2216</sup> Article 7 point 5 of the Decree-Law of 2018.

<sup>2217</sup> [http://www.ica-ip.pt/fotos/concursos/info/declaracao\\_de\\_prioridades\\_ica\\_2018\\_190785b0ed47e94c66.pdf](http://www.ica-ip.pt/fotos/concursos/info/declaracao_de_prioridades_ica_2018_190785b0ed47e94c66.pdf).

<sup>2218</sup> Article 6.4 of Annex 9 of the Regulation.

<sup>2219</sup> *Regulamento Relativo às Despesas Elegíveis e à Prestação De Contas* (Regulation On Eligible Expenditure And Accountability),

[http://www.ica-ip.pt/fotos/concursos/info/regulamento\\_relativo\\_as\\_despesas\\_elegiveis\\_2018\\_13235b0ec1ebee83b.pdf](http://www.ica-ip.pt/fotos/concursos/info/regulamento_relativo_as_despesas_elegiveis_2018_13235b0ec1ebee83b.pdf)

<sup>2220</sup> <http://www.ica-ip.pt/pt/apoios/prestacao-de-contas/>.

<sup>2221</sup> Ibid.

<sup>2222</sup> Exceptionally, expenditure may be considered to be eligible up until 180 days prior to the date of the application, provided that it is substantiated in the need for the project's development.



The support is awarded selectively by expert panels, based on the series of assessment criteria detailed in each Annex of the Regulation,<sup>2223</sup> except in the case of automatic support, where it is awarded automatically upon the fulfilment of a series of requisites.<sup>2224</sup> The functioning of the panel of experts is detailed in Regulation 378/2018.<sup>2225</sup> Article 3 of this regulation specifies that the ICA constitutes a list of panels for every scheme, which is then approved by the Ministry of Culture. Panels are composed of a minimum of three and a maximum of five members.

#### 7.24.3.5. Spending and shooting criteria

Beneficiaries of production support have the obligation to spend the total amount of support granted by the ICA in Portugal, however, the criteria allow for exceptions to this rule for reasons related to the screenplay, technical conditions or the co-production structure.<sup>2226</sup>

#### 7.24.3.6. Talent, cast, crew, underlying copyright

In general, there are no specific mandatory requirements regarding the nationality of the talent, cast and crew or related to the underlying copyrights (and how they are linked to the country), beyond the national works criteria set down in Law No. 55/2012. However, it is worth noting that the cultural test for automatic support includes as one of its several qualifying criteria the case when “the story is an adaptation of an original Portuguese literary work”, as described in section 7.24.2.2.

#### 7.24.3.7. Shooting language and diversity

Article 3 of the Law of 2012 establishes the objective of promoting Portuguese language and culture. Apart from this, there are no concrete requirements regarding the shooting language, ethnic or linguistic minorities and gender. In addition, the existence of an original version in Portuguese is one of the cumulative conditions to qualify as “national

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<sup>2223</sup> Which generally include the Artistic and cultural quality and potential of the project, Director’s curriculum, the Producing entity or producer’s Curriculum, as per Article 5 of Annexes 1, 3, 4 and 7. For the Audiovisual and Multimedia Support Programme, the assessment criteria rely on the quality of the project, the argument and other creative and technical valences; the investment of the operators in acquiring rights or co-production; the economic viability of the project and the adequacy of the budget; the international diffusion potential of the project; and the adequacy of the characteristics of the project to the audience potential, as per Article 6 of Annex 16.

<sup>2224</sup> This series of requisites rely on the performance of the work in terms of theatrical attendance and release (described in section 7.24.3.1), the qualification as a national work and an independent production, and compliance with the cultural test (described in section 7.24.2.2), as per Articles 2, 4, 7 and 8 of Annex 9.

<sup>2225</sup> *Regulamento 378/2018 de Funcionamento dos Júris dos Concursos de Concessão de Apoio Financeiro Promovidos pelo ICA* (Regulation No. 378/2018 for the Functioning of Juries of the Competitive Granting Grants Promoted by ICA),

[http://ica-ip.pt/fotos/downloads/regulamento\\_378\\_2018\\_funcionamento\\_dos\\_juris\\_45935b28d6918500f.pdf](http://ica-ip.pt/fotos/downloads/regulamento_378_2018_funcionamento_dos_juris_45935b28d6918500f.pdf).

<sup>2226</sup> Article 18, paragraph 4 of Decree-Law nr. 25/2018.



works”, with some exceptions allowed.<sup>2227</sup> Moreover, the cultural test for automatic support includes several criteria such as “more than two-thirds of the dialogues are in Portuguese or in Portuguese Creole languages” or “at least one of the protagonists has a strong connection with the Portuguese culture or language”, as described in section 7.24.2.2.

## 7.24.4. Funding criteria applicable to pre-production support

### 7.24.4.1. Budget

The budget of an eligible project is not subject to any minimum threshold or maximum cap, nor is anything stipulated regarding a minimum contribution from the applicant or part of the budget secured before the application.

### 7.24.4.2. Awarded amount

Pre-production support is awarded selectively by expert panels according to a similar procedure as that described in section 7.24.3.4, and upon the assessment criteria detailed in Article 8 of Annex 2 of the Regulation (Cinema support)<sup>2228</sup> and Article 8 of Annex 14 of the Regulation (Audiovisual and multimedia),<sup>2229</sup> which include the Artistic potential and cultural relevance of projects; the Consistency and financial sustainability of the development plan and of the set of activities; and the Production potential and viability of independent producer projects candidates.

When it comes to aid intensity, this is, in principle, limited to 80% of the overall budget, according to Article 7 of the Decree-Law of 2018. Regarding the maximum amount awarded, as for production support, these are available in the list published annually by the ICA.<sup>2230</sup> Without mentioning them all, the different maximum amounts awarded per supported work are as follows:

- Cinema Support Programme - Writing and Development - Screenwriters and Directors: EUR 30 000 (feature films); EUR 25 000 (documentary works); EUR 30 000 (animation – feature films); EUR 20 000 (animation – short); EUR 50 000 (feature fiction with a pilot);

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<sup>2227</sup> Article 2, paragraph I) of the Cinema Law.

<sup>2228</sup> Annex 2 of the Regulation,  
[http://www.ica-ip.pt/fotos/downloads/2\\_anexo\\_ii-escrita\\_e\\_desenvolvimento\\_de\\_obras\\_cinematograficas\\_2018\\_237645b0ebbd2123d7.pdf](http://www.ica-ip.pt/fotos/downloads/2_anexo_ii-escrita_e_desenvolvimento_de_obras_cinematograficas_2018_237645b0ebbd2123d7.pdf).

<sup>2229</sup> Annex 14 of the Regulation,  
[http://ica-ip.pt/fotos/downloads/14\\_anexo\\_xiv-escrita\\_e\\_desenvolvimento\\_audiovisual\\_2018\\_322125b17f7196c2e5.pdf](http://ica-ip.pt/fotos/downloads/14_anexo_xiv-escrita_e_desenvolvimento_audiovisual_2018_322125b17f7196c2e5.pdf).

<sup>2230</sup> Available here : [http://www.ica-ip.pt/fotos/concursos/info/declaracao\\_de\\_prioridades\\_ica\\_2018\\_190785b0ed47e94c66.pdf](http://www.ica-ip.pt/fotos/concursos/info/declaracao_de_prioridades_ica_2018_190785b0ed47e94c66.pdf).



- Audiovisual and Multimedia Support Programme - Writing and Development - Production companies (TV series): EUR 30 000 (fiction – series); EUR 80 000 (fiction – series with a pilot); EUR 30 000 (documentary works – series); EUR 80 000 (documentary – series with a pilot); EUR 30 000 (animation – series); EUR 80 000 (animation – series with a pilot); EUR 20 000 (TV film – single); EUR 15 000 (documentary works – single); EUR 20 000 (animation – single).

The financial support awarded is not repayable, but it must be justified in line with the Eligible Expenses Regulation. Moreover, according to Article 21 of the Decree-Law of 2018, if the project is not concluded as agreed with the ICA, the applicant must reimburse the ICA with the full amount of the grant plus interest at legal rates. Regarding eligible costs, the same general rules apply to the different support activities, including pre-production support, and are therefore calculated in accordance with the Eligible Expenses Regulation and its supporting Annexes.<sup>2231</sup>

#### 7.24.4.3. Underlying copyright

There are no requirements regarding the underlying copyright (and how this is linked to the country).

#### 7.24.4.4. Script language and diversity

There are no requirements regarding the language of the script, ethnic or linguistic minorities. However, it is worth recalling that Article 3 of the Cinema Law mentions the protection of the Portuguese language and culture as an objective. In addition, possessing the original version in Portuguese is one of the cumulative conditions to qualify as “national works”, with some exceptions allowed.<sup>2232</sup> With regard to gender, Article 11 of Annex 2 and Annex 14 provide that the maximum amount awarded can be increased by 10% when there is more than 50% of authorship by women in relation to the total number of authors of the plan.

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<sup>2231</sup> *Op. cit.*

<sup>2232</sup> Article 2, paragraph I) of the Cinema Law.



## 7.24.5. Funding criteria applicable to distribution and promotion support

### 7.24.5.1. Theatrical release, broadcasting and visibility on VoD

The ICA supports the distribution on the national territory of national works, European works or works of other countries whose distribution in Portugal represents less than 5% of the market share, in the three following schemes:

- Distribution of national works in Portugal: A distribution plan is part of the documentation to be presented in the application.<sup>2233</sup> Furthermore, although there is not a minimum theatrical release required, the support provided by the ICA is calculated based on the theatrical release of the work in terms of the number of theatres where the work is displayed and the geographical scope of the distribution plan.<sup>2234</sup>
- Distribution in Portugal of national, European and third countries' works: in order to be eligible for support, the distribution plan must be comprised of at least five feature films, and fulfil the following cumulative conditions:
  - European national works or having the nationality of other countries whose distribution in Portugal is less than 5% of the market share, relative to the number of spectators, verified in the year prior to the opening of the competition;
  - Each film is on display in two districts for a period of not less than seven days, followed by at least one session in six different municipalities, excluding those belonging to the districts of Lisbon and Porto, provided that the exhibition spaces have a system for issuing and transmitting ticket data.

The application will then be evaluated on the basis of the following criteria: the quality and artistic and cultural merit of the films to be distributed; the distributor's name; and the distribution and promotion plan for each film as well as the diversity of its origin and type as a contribution to the diversity of the cinematographic offer, including geographical.<sup>2235</sup> Distribution of lesser known works of cultural interest:<sup>2236</sup> there are no specific requirements for distribution support applicants regarding theatrical release, performance and visibility on VOD. However, it is worth noting that a distribution and promotion plan is part of the documentation to be presented in the application,<sup>2237</sup> and

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<sup>2233</sup> Article 4 of Annex 12 of the Regulation, [http://www.ica-ip.pt/fotos/downloads/anexo\\_xii-distribuicao\\_2018\\_66055b0eaaf59c25e.pdf](http://www.ica-ip.pt/fotos/downloads/anexo_xii-distribuicao_2018_66055b0eaaf59c25e.pdf).

<sup>2234</sup> Article 6 of Annex 12 of the Regulation.

<sup>2235</sup> Article 13 of Annex 12 of the Regulation.

<sup>2236</sup> Lesser known cinematographic works are European national works or from other countries whose distribution in Portugal is less than 5% of the number of spectators, verified the year preceding the opening of the competition. Article 21.2 of Annex 12 of the Regulation.

<sup>2237</sup> Article 22 of Annex 12 of the Regulation.



that the scope of this scheme includes distribution on VOD and SVOD, as well as on other platforms.<sup>2238</sup>

In addition, the ICA also supports the distribution of national works abroad, through the scheme “Internationalization Support Programme - International distribution of national works”. In order to be eligible for support, the applicant must submit a contract for the distribution of the works in the foreign territory, as well as a distribution plan.<sup>2239</sup> Apart from this, there are no further requirements related to the performance of the work in terms of theatrical release or visibility on VOD.

#### 7.24.5.2. Theatrical performance and performance at festivals, events and awards

There are no requirements regarding the performance of a work in terms of theatrical attendance at home or abroad as such. However, the success of the previous works, the potential performance of the project, or the performance at festivals, events and awards can be taken into account for some schemes, as follows

- Distribution in Portugal of national, European and third countries' works: the success of previous works or the potential performance are taken into account during the assessment of the application, in particular the results of the previous works of the filmmaker as well as any official selections or prizes obtained in festivals.<sup>2240</sup>
- Distribution of lesser known works of cultural interest: the curriculum of the director of the work (indicating official selections, and the prizes and mentions obtained at festivals) must be submitted with the application,<sup>2241</sup> and will be assessed by the jury under the criteria “Quality and artistic and cultural merit of the project”.<sup>2242</sup>
- International promotion of national works: this scheme is devoted to supporting the promotion and participation of national works in international festivals,<sup>2243</sup> and the festival in which the project is participating will determine the support awarded.
- International distribution of national works: this scheme is devoted to the distribution of the work abroad, and the applicant must submit a contract for the distribution of the work in the foreign territory together with the application.

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<sup>2238</sup> Article 21 of Annex 12 of the Regulation.

<sup>2239</sup> Article 5 of Annex 18 of the Regulation, [http://www.ica-ip.pt/fotos/downloads/18\\_anexo\\_xvii-distribuicao\\_fora\\_de\\_portugal\\_2018\\_3775b0ebf75d2996.pdf](http://www.ica-ip.pt/fotos/downloads/18_anexo_xvii-distribuicao_fora_de_portugal_2018_3775b0ebf75d2996.pdf).

<sup>2240</sup> Article 13 of Annex 12 of the Regulation.

<sup>2241</sup> Article 22.2 of Annex 12 of the Regulation.

<sup>2242</sup> Article 23 of Annex 12 of the Regulation.

<sup>2243</sup> Article 1 of Annex 17 of the Regulation, [http://ica-ip.pt/fotos/downloads/17\\_anexo\\_xvii-promocao\\_2018\\_final\\_51605b0ebf5c588ad.pdf](http://ica-ip.pt/fotos/downloads/17_anexo_xvii-promocao_2018_final_51605b0ebf5c588ad.pdf).



### 7.24.5.3. Budget

The budget of an eligible project is not subject to any minimum threshold or maximum cap for any of the schemes, nor is anything stipulated regarding a minimum contribution from the applicant or part of the budget secured before the application.

### 7.24.5.4. Awarded amount

The amount awarded is not repayable for any of the schemes, but it must be justified in line with the Eligible Expenses Regulation. Nonetheless, according to Article 21 of the Decree-Law of 2018, if the project is not concluded as agreed with the ICA, the applicant must reimburse the ICA with the full amount of the grant plus interest at legal rates. Regarding eligible costs, the same general rules apply to the different support activities, including distribution support, and are therefore calculated in accordance with the Eligible Expenses Regulation and its supporting Annexes.<sup>2244</sup> In terms of aid intensity and selection procedure, they apply the following requirements:

- Distribution of national works in Portugal: support is limited to 50% of the total costs of the project<sup>2245</sup>, and the maximum amount is limited to EUR 44 000 per project<sup>2246</sup> and calculated based on the theatrical release of the work, as described in section 7.24.5.1. The support is awarded automatically upon fulfilment of a series of requisites, which include: the registration of the cinematographic work with the CIA; the distribution agreements (if applicable); the distribution plan according to the model approved by the ICA (indicating the commercial debut); the budget; any other elements considered relevant by the applicant; and a declaration of honour commitment.<sup>2247</sup>
- Distribution in Portugal of national, European and third countries' works: support is limited to 50% of the total costs, and may not exceed EUR 7 500 for each eligible work included in the plan (with a cap at EUR 60 000 per beneficiary).<sup>2248</sup> The support is awarded selectively by a jury set for this purpose based on a series of assessment criteria as described in section 7.24.5.1.<sup>2249</sup>
- Distribution of lesser known works of cultural interest: support is limited to 80% of the total costs of the project, and to EUR 3 750 per unitary project and EUR 15 000 per package (of a maximum of 4 projects).<sup>2250</sup> It is awarded selectively by a jury set up for this purpose based on a series of assessment criteria which include the “Quality and artistic and cultural merit of the project” and the “Contribution to the innovation and promotion of the distribution activity of films,

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<sup>2244</sup> *Op. cit.*

<sup>2245</sup> Article 3 of Annex 12 of the Regulation.

<sup>2246</sup> [http://www.ica-ip.pt/fotos/concursos/info/declaracao\\_de\\_prioridades\\_ica\\_2018\\_190785b0ed47e94c66.pdf](http://www.ica-ip.pt/fotos/concursos/info/declaracao_de_prioridades_ica_2018_190785b0ed47e94c66.pdf).

<sup>2247</sup> Article 5 of Annex 12 of the Regulation.

<sup>2248</sup> Articles 1.3 and 10 of Annex 12 of the Regulation.

<sup>2249</sup> Articles 12 and 13 of Annex 12 of the Regulation.

<sup>2250</sup> Articles 1.4 and 20 of Annex 12 of the regulation.



and the diversity of the offer, depending on the originality of the project presented”.<sup>2251</sup>

- International promotion of national works: support is limited to 80% of the costs borne by the beneficiary related to the participation and promotion of selected works for international festivals,<sup>2252</sup> and the maximum amount is determined based on the festival in which the film is participating; this can vary from EUR 400 to EUR 40 000.<sup>2253</sup> The support is awarded automatically upon decision of the ICA.<sup>2254</sup>
- International distribution of national works: support is limited to 80% of the total costs of the project and up to a maximum of EUR 7 500.<sup>2255</sup> The support is awarded automatically upon decision of the ICA.<sup>2256</sup>

#### 7.24.5.5. Language and diversity

There are no particular requirements regarding the language of the film or linked to ethnic or linguistic minorities and gender. However, it is worth recalling that Article 3 of the Cinema Law mentions the protection of the Portuguese language and culture as an objective. In addition, possessing the original version in Portuguese is one of the cumulative conditions to qualify as “national works”, with some exceptions allowed.<sup>2257</sup>

### 7.24.6. Data compilation

This factsheet was produced based on data compiled by Helena Sousa, Dean of the Social Sciences School of the University of Minho, and Luís António Santos, Vice-director of the Communication and Society Research Centre of the University of Minho.

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<sup>2251</sup> Articles 22 and 23 of Annex 12 of the Regulation.

<sup>2252</sup> Article 4 of Annex 17 of the Regulation.

<sup>2253</sup> List of Festivals - Disclosure And International Promotion Of Works National – 2018 – annex 17 of the Regulation.

<sup>2254</sup> Article 6 of Annex 17 of the Regulation.

<sup>2255</sup> Article 4 of Annex 18 of the Regulation.

<sup>2256</sup> Article 7 of Annex 18 of the Regulation.

<sup>2257</sup> Article 2 paragraph l) of the Cinema Law.



## 7.25. RO – Romania – National Summary<sup>2258</sup>

### 7.25.1. Summary

The main operating fund in the country is the Romanian Film Centre “*Centrul National al Cinematografiei*” (hereinafter, “the CNC”), which functions as a specialised body of the central public administration subordinated to the Ministry of Culture and National Identity. The support provided includes 10 years’ worth of reimbursable credits with no interest for the development of feature-length films and the production of Romanian films and films with Romanian participation; grants allocated to support the organisation of festivals and workshops; distribution support for Romanian films or for participating in film festivals; and automatic support in the case of commercial success or the artistic quality of the work.<sup>2259</sup> More precisely, the CNC is responsible for the following tasks:

- Developing the film industry in Romania;
- Establishing the strategy for the development of the national film industry;
- Protecting, developing and capitalizing on the national film heritage;
- Promoting cinema culture and education;
- Encouraging private initiative in the fields of the production, distribution and exploitation of Romanian films;
- Promoting an open competition system for access to the mechanisms and modalities of financing certain activities of the Film Fund;
- Affirming the national cultural identity and the identity of the national minorities in Romania by creating and promoting Romanian films in the world circuit of values;
- Developing European and international cooperation;
- Supporting professional training.

In addition, still at national level, the National Commission for Strategy and Prognosis (hereinafter, the “CNP”), which is a specialised body of the central public administration subordinated to the General Secretariat of the Government, provides production support under the recently approved 2018 Cash Rebate State Aid scheme. The maximum budget of the scheme is 698 million Romanian lei (RON) (the equivalent of about EUR 150 million until 2020). In particular, the Cash Rebate scheme was implemented in order to achieve the following objectives:

- Develop European cinematographic and international cooperation;
- Increase and attract foreign productions to Romania

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<sup>2258</sup> The factsheet on Romania incorporates the feedback received from Alex Traila (CNC) during the checking round with the national film and audiovisual funds.

<sup>2259</sup> The graphs describing the different schemes are available here: [http://cnc.gov.ro/?page\\_id=52953](http://cnc.gov.ro/?page_id=52953).



- Support filmmakers in order to increase the domestic production of film;
- Create new jobs in the creative industries and related costs;
- Promote national cultural identity and heritage through screen tourism;

## 7.25.2. General framework

### 7.25.2.1. Overview of the film and audiovisual funding policy and legislation

The main legal framework for the public film and audiovisual funding in Romania was set by Government Ordinance No. 39 of 14 July 2005 on Cinematography (hereinafter the “Cinema Ordinance”) as modified by Law No. 328/2006<sup>2260</sup> and, more recently, amended by Law No. 15/2018 on the approval of the Government Emergency Ordinance No. 67/2017 on Cinematography.<sup>2261</sup> It provides the general framework in which the CNC operates and provides support for development, production, distribution and promotion. Moreover, this legal framework can be completed with the Regulation on the selection of cinematographic projects for the award of direct financial credits for the development, production and distribution of films (hereinafter, the “Regulation of the CNC”).<sup>2262</sup>

Regarding the CNP, it mainly operates within the framework of Order No.166 of 4 July 2018 for the enforcement of Government Decision No. 421/2018 for the establishment of a State aid scheme to support the cinematographic industry.<sup>2263</sup>

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<sup>2260</sup> *Legea Nr. 328 din 14 iulie 2006* (Law no. 328 of July 14, 2006), <http://legislatie.just.ro/Public/DetaliiDocumentAfis/73800>.

<sup>2261</sup> *Legea Nr.15 din 12.01.2018 privind aprobarea Ordonanței de urgență a Guvernului nr. 67/2017* (Law no. 15/2018 on the approval of the Government Emergency Decree No. 67/2017 on Cinematography), <http://www.legex.ro/Legea-15-2018-157761.aspx>.

<sup>2262</sup> *Regulament din 14 august 2006 privind concursul de selecție a proiectelor cinematografice în vederea acordării de credite financiare directe pentru dezvoltare de proiecte, producție și distribuire de filme* (Regulation on the selection of cinematographic projects for the award of direct financial credits for the development, production and distribution of films), <http://legislatie.just.ro/Public/DetaliiDocumentAfis/194351>.

<sup>2263</sup> Government Decision no. 421 of 13 June 2018 on the establishment of a State Aid Scheme for Supporting the Cinematographic Industry, [http://www.cnp.ro/user/repository/schema\\_ajutor\\_de\\_stat/Ordin\\_nr\\_232\\_din\\_04\\_10\\_2018\\_en.pdf](http://www.cnp.ro/user/repository/schema_ajutor_de_stat/Ordin_nr_232_din_04_10_2018_en.pdf).

**Table 37. Main funds in Romania**

Funding institution	Geographical level	Legislation / Guidelines
National Centre for Cinema <sup>2264</sup>	National	Government Ordinance No. 39 of 14 July 2005 on Cinematography <sup>2265</sup>
National Commission for Strategy and gnosis <sup>2266</sup>	National	Order No. 166 of 4 July 2018 for the enforcement of Decision No. 421/2018 for the establishment of a State aid scheme to support the cinematographic industry <sup>2267</sup>

Source: Response to European Audiovisual Observatory standardised questionnaire

### 7.25.2.2. Definition of cultural criteria

With regard to the CNC, Annex 2 to the Cinema Ordinance provides the cultural test which establishes whether a production is Romanian or has Romanian participation independently of the financing structure.<sup>2268</sup>

In the case of the CNP, Article 6 (3) of the State Aid Decision provides that: “To be eligible, projects must meet the following cumulative conditions: a) fall within the category of “cultural product [...]”. This takes the form of a cultural test to which the project must obtain at least 18 out of 35 points related to cultural content, cultural contribution and the participation of domestic or EU talent, cast and crew members to be considered as a cultural product.<sup>2269</sup>

### 7.25.2.3. Nationality of the applicant

Neither the CNC nor the CNP explicitly require that the applicant be of Romanian nationality or have their company established in the country, except in the case of the *de minimis* scheme for distribution support when the applicant is required to be legally established in Romania and operating in Romania.<sup>2270</sup> The CNC requires applicants to be “Romanian natural and legal persons as well as those in the Member States of the

<sup>2264</sup> <http://cnc.gov.ro>.

<sup>2265</sup> *Ordonanță nr. 39 din 14 iulie 2005 privind cinematografia* (Ordinance no. 39 of July 14, 2005 on cinematography), <http://legislatie.just.ro/Public/DetaliiDocument/63969>, for English version, see: <http://cncold.gov.ro/wp-content/themes/cnc/pdf/fls-1184.pdf>.

<sup>2266</sup> [www.cnp.ro/en/schema\\_ajutor\\_de\\_stat](http://www.cnp.ro/en/schema_ajutor_de_stat).

<sup>2267</sup> [http://www.cnp.ro/user/repository/schema\\_ajutor\\_de\\_stat/Ordin\\_nr\\_232\\_din\\_04\\_10\\_2018.pdf](http://www.cnp.ro/user/repository/schema_ajutor_de_stat/Ordin_nr_232_din_04_10_2018.pdf).

<sup>2268</sup> <http://legislatie.just.ro/Public/DetaliiDocument/63969>.

<sup>2269</sup> Order 166/2018 laying down the criteria for the classification as a “cultural product” of projects eligible for state aid, Annex “Eligibility test”, [http://www.cnp.ro/user/repository/schema\\_ajutor\\_de\\_stat/Ordin\\_nr\\_166\\_din\\_16\\_08\\_2018.pdf](http://www.cnp.ro/user/repository/schema_ajutor_de_stat/Ordin_nr_166_din_16_08_2018.pdf)

<sup>2270</sup> Article 8 (3) of the *de minimis* aid scheme for the distribution and exploitation of Romanian film and / or Romanian participation, <http://cnc.gov.ro/wp-content/uploads/2018/03/Schema-de-ajutor-de-minimis-pentru-distribuirea-si-exploatarea-filmelor-romanesti-de-toate-genurile.pdf>.



European Union, authorized as such, in compliance with the principles of freedom of residence or residence, free movement of goods and services, and non-discrimination on reason of nationality”.<sup>2271</sup>

As for the CNP, applicants must be “Romanian or foreign enterprises registered and operating in accordance with the applicable legislation in Romania or in the country of origin, as the case may be, fulfilling cumulatively the following conditions irrespective of the national or international character of the eligible project:

- a) the main activity domain is of cinematographic production and, in the case of Romanian companies, they are registered in the Cinematography Register;  
[...]
- d) in the case of foreign producers, a co-production or service agreement must be signed with a Romanian producer.”<sup>2272</sup>

### 7.25.3. Funding criteria applicable to production support

#### 7.25.3.1. Theatrical release, broadcasting and visibility on VOD

Regarding the CNC, there is the requirement for the first release to be theatrical, however there are no provisions regarding broadcasting and visibility on VOD, pre-existing TV-distribution deals, SVOD and TVOD, nor about the release window schedule of the funded projects.

However, it is worth noting that the potential performance of the work, or the previous success of the work of the director or producer are taken into account during the selection procedure by the selection committees. Indeed, according to Article 41 of the Cinema Ordinance, “the selection committees evaluate and select the cinematographic projects that fulfilled the eligibility conditions and competition results determined based on the quality of the scrip, the quality of the director and the quality of the producer.”

The quality of the director or of the producer is determined by a test based on the best film made during his/her career cumulated with the assessment of the last film directed, as laid down in the annexes of the Regulation of the CNC.<sup>2273</sup> The assessment is based on several criteria, such as the number of countries in which the film was released or the acquisition of the film by an international VOD online platform and its festival circuit success.

Regarding the CNP, there are no specific provisions with regard to theatrical release, broadcasting and visibility on VOD, pre-existing TV-distribution deals, SVOD and TVOD, nor about the release window schedule of the funded projects.

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<sup>2271</sup> Article 1 (2) of the Cinema Ordinance.

<sup>2272</sup> Article 6 of the State Aid Decision.

<sup>2273</sup> See annexes 11, 11b) and 11c) for the determination of a quality director, an annex 12 for the determination of a quality producer, of the Regulation of CNC.



### 7.25.3.2. Theatrical performance and performance at festivals, events and awards

Regarding the CNC, first, as explained in the previous section, the previous success of the work of the director or producer is taken into account in accordance with Article 41 of the Cinema Ordinance. The annexes assessing the quality of the director or the producer include assessment criteria such as commercial success in terms of the number of spectators registered in Romania, or selection in recognized festivals or awards received.

In addition, the CNC foresees the possibility of automatic non-reimbursable credit granted for public success or for the artistic quality of the film. In the first case, Article 27 of the Cinema Ordinance provides that automatic credit can be granted to the producers and directors of a Romanian film or co-produced with Romanian participation which has performed in cinemas or in other auditoriums to a viewing audience larger than the relevant reference threshold. The method for calculating the reference threshold and the amount of the automatic credit are laid down in the Regulation of CNC.<sup>2274</sup> In principle, the amount would be calculated for each cumulative film for the first two calendar years of exploitation by multiplying the number of spectators that exceeded the relevant reference threshold established for that year by the weighted average fare entry recorded during the same period. For instance, the thresholds for 2017, applicable in 2018, are as follows: for the premieres, 9 745 film viewers (with a cap of RON 516 250, or approximately EUR 111 000); for the rest of the screened films, 559 film viewers (with a cap of RON 74 118, or approximately EUR 16 000).

Regarding the automatic direct credit for artistic quality, according to Article 28 of the Cinema Ordinance, it is granted “to producers and directors of a film that have been selected or awarded at the Oscar Awards, the European Film Academy (EFA) at the international film festivals accredited by the International Federation of Film Producers' Associations (FIAPF) as well as other international festivals agreed by the National Centre for Cinematography.” The amount of support awarded is “equivalent to the automatic direct credit for success for the public that may be granted in that year”.

Regarding the CNP, there are no specific provisions related to the theatrical attendance of the work at home or abroad, or in festivals, events and award.

### 7.25.3.3. Budget

Regarding the support provided by the CNC, the budget of an eligible project is not subject to any minimum threshold while the maximum cap is established for each funding call in relation to the session's overall budget. However, Article 21 of the Cinema Ordinance requires the applicant to contribute to at least 6% of the total budget of the film (or of the participation of the Romanian party in the case of co-production) in cash, in services or in kind.

As for CNP, according to Article 6 (3), point b of the State Aid Decision, in order to be eligible, the “total eligible expenditure in connection with the implementation of the

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<sup>2274</sup> Article 59 and 60 of the Regulation of CNC.



project is at least 20% of the total budget but not less of EUR 100 000". Apart from that, the legal provisions mention that this part of the budget has to be secured (by the applicant's resources or other sources) in order to apply.

#### 7.25.3.4. Awarded amount

##### a) Romanian Film Centre (CNC)

According to Article 20 of the Cinema Ordinance, the aid intensity is in principle limited to 50% of the total cost of the production expenditure budget, but it can go up to 60% of the Romanian contribution in the case of international co-production according to Article 24 (g), or 80% in the case of difficult and low-budget films according to article 23. Regarding the maximum amounts awarded, these are communicated by the CNC before each session of a competition.<sup>2275</sup> In 2018, the maximum amounts awarded to a project per category are the following:<sup>2276</sup>

- Long fiction: RON 3 000 000 (approximately EUR 645 160; 1 euro = RON 4.65);
- Directorial debut: RON 1 500 000 - (approximately EUR 322 580);
- Fiction short film: RON 150 000 (approximately EUR 32 260);
- Long and short fiction: RON 1 500 000 (approximately EUR 322 580);
- Documentary works: RON 500 000 – documentary (approximately EUR 107 520);
- Animation: RON 900 000 – animation (approximately EUR 193 550);

In the case of difficult or low-budget films, the following caps apply:

- Long fiction: RON 3 500 000 (approximately EUR 752 700);
- Debut directing: RON 1 750 000 (approximately EUR 376 350);
- Short fiction: RON 175 000 (approximately EUR 37 650);
- Long and short fiction: RON 1 800 000 (approximately EUR 387 100);
- Documentary: RON 600 000 (approximately EUR 129 000);
- Animation: RON 1 000 000 (approximately EUR 215 000).

Overall, the maximum amount of direct credit a producer can obtain is RON 3 500 000 (approximately EUR 752 700).

When it comes to production or development support, the amount awarded is repayable to the CNC within 10 years "from the proceeds obtained by the beneficiary of the credit, exclusively by making use of the film made with this credit", in accordance with the procedure laid down in Article 55 of the Cinema Ordinance. The amount is not repayable in the case of automatic credit granted for the public success or artistic quality of the work.

Regarding eligible costs, these correspond to "the expenses incurred, registered, evidenced and justified on the basis of the prescribed accounting documents, drafted and

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<sup>2275</sup> Article 45 of the Cinema Ordinance.

<sup>2276</sup> As per Decision of the CNC Board of Administration no. 167/24.05.2018.



issued according to the law; the way of recording in the accounting is done according to the law and the regulation.”<sup>2277</sup> Lastly, the grant is awarded after a selective process (except in the case of automatic credit for public success or artistic quality of the work).

#### **b) National Commission for Strategy and Prognosis (CNP)**

In terms of aid intensity, according to Articles 3 and 4 of the State Aid Decision, it is limited to 50% of the eligible expenses for film production performed on the territory of Romania, and consists of:

“a) non-reimbursable financial allocations to the amount of 35% of the total eligible expenses with the acquisition, rental, manufacture of goods and/or services occasioned by the development of film and film production projects in Romania, as well as with the fees, salaries and other payments to persons involved in the physical implementation of the project;

b) non-reimbursable financial allocations to the amount of 10% above the basic allocation, provided that a geographical area, a city or Romania is promoted within the same audiovisual work.”

In terms of the maximum amount, this cannot exceed EUR 10 million for each project financed under this scheme. This maximum amount consists, as explained above, of a reimbursement by the CNP to the applicant of the eligible costs incurred for the film production, in accordance with the procedure laid down in Articles 9 and 11 of the State Aid Decision.

Regarding eligible costs, according to Article 8 of the State Aid Decision, these correspond to the expenditure incurred for the supply of goods and the provision of services directly related to the implementation of an eligible project. The amounts are granted through an automatic process.

#### **7.25.3.5. Spending and shooting criteria**

Regarding the CNC, according to Article 21 (2) of the Cinema Ordinance, the applicant must spend at least 80% of the budget of the eligible project on the territory of Romania, and the remaining 20% can be spent on the territory of the member states of the European Union or signatories of the Central European Free Trade Agreement. Regarding film shooting in Romania, it is used as one of the criteria for qualifying a Romanian film in Annex 2 of the Regulation of the CNC, which is described in further detail in the following section. Lastly, the CNC does not set different requirements regarding the spending obligation when it comes to co-production. It simply requires, in accordance with Article 3 (d) of the Cinema Ordinance, that the Romanian participation in a co-production and in terms of total production costs cannot be less than 20% for bilateral co-production and 10% for multilateral co-productions.

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<sup>2277</sup> Article 19 of the Cinema Ordinance.



When it comes to the CNP, according to Article 4 (2) of the State Aid Decision, the reimbursement provided by the state aid is granted only if “at least 20% of the total budget of the project is carried out on the territory of Romania, but not less than EUR 100 000”. Concerning the film shooting Romania, in the case of the CNC, it is considered as one of the criteria of the “Eligibility Test Order 166” (described in section 7.25.2.2) which includes “the shooting location or one of the studios are on the territory of Romania” and allocates up to 6 points depending on the number of shooting days in Romania.

#### 7.25.3.6. Talent, cast, crew, underlying copyright

In general, there are no concrete requirements related to the nationality of the talent, cast and crew or related to the underlying copyrights (and how they are linked to the country) in the provisions regulating the CNC’s support or the CNP’s support. However, there are objectives and non-mandatory criteria related to these concepts used by these two funds.

Regarding the support provided by CNC, it is worth mentioning that the pre-production and production schemes are aimed at Romanian films or films with Romanian participation. Romanian films or Romanian minority participation are films made with mainly Romanian artistic and technical participation in accordance with the criteria set out in Annex 2 of the Cinema Ordinance, which comprise of, *inter alia*, the nationality of the director, writer, producer, artistic and the technical team as well as the shooting location.

As for the CNP, the “Eligibility Test Order 166” (described in section 7.25.2.2) contains specific criteria such as:

- “The subject/material underlying the film scenario is based on an event(s) relating to culture/history/mythology/religions in Romania or Europe”
- “The involvement in the film of Romanian or EEA citizens (director, producer, actors, or any other citizens part of the crew)”

#### 7.25.3.7. Shooting language and diversity

In general, there are no concrete requirements related to the shooting language or linked to ethnic or linguistic minorities as well as to gender in the provisions regulating the CNC’s support or the CNP’s support. However, there are objectives or non-mandatory criteria related to these concepts used by these funds.

For example, one of the general objectives pursued by the CNC is “asserting the national cultural identity and national minorities in Romania by making cinematographic films and promoting them in the world value chain”<sup>2278</sup>. In addition, Annex 2 of the Cinema Ordinance defines “Romanian original film” as a film meeting one of the following conditions:

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<sup>2278</sup> Article 2 point c of the Cinema Ordinance.



- The original work will be presented in the Romanian language;
- The original work will be presented in two or more languages, but the time spoken in Romanian exceeds the others;
- The original work was made in the language of a minority living in Romania, if the subject relates to the traditions and culture of that minority.

With regard to the CNP, the exact same objective as the CNC in terms of “national cultural identity” and “national minorities” is stated in Article 1 (4) d) of the State Aid Decision. In line with this, Article 60 (3) of the State Aid Decision specifies that “cinematographic films or videograms can be exploited by public projection only if they are translated or duplicated in Romanian, except when the public projection is carried out in the same period, both in Romanian and in the language of national minorities”. Moreover, the “Eligibility Test” (described in section 7.25.2.2) contains specific criteria related to diversity such as “The film/subject of the film promotes Romanian or European ethno-cultural identity” or “The film reflects important Romanian or European values such as diversity/solidarity, equality/the protection of minorities or human rights/ tolerance /environmental protection/respect for cultural or family traditions”.

## 7.25.4. Funding criteria applicable to development support

### 7.25.4.1. Budget

Only the Romanian Film Centre provides development support. For requirements related to the budget, the same general rules apply to production and pre-production (described in section 7.25.3.3).

### 7.25.4.2. Awarded amount

With regard to the aid intensity rules, the reimbursement of the grant, the eligible costs or the awarding procedure, the same general rules (described in section 7.25.3.4) apply to production and pre-production. The only specifications that apply only to pre-production are defined in Articles 21 and 22 of the Cinema Ordinance as follows:

- Article 22 (7): “the project development credit may not exceed the amount of 3% of the average production credit amount of a fiction, documentary or animation film, as the case may be, made in the previous year”.
- Article 21 (6): “In the case of winning projects, the amount granted as development credit shall be cumulated with the production credit granted to the project and shall be granted under the conditions provided for in Article 20 (3) and (4).”



#### 7.25.4.3. Underlying copyright

The same general rules (described in section 7.25.3.6) apply to the production and pre-production.

#### 7.25.4.4. Script language and diversity

The same general rules (described in section 7.25.3.7) apply to the production and pre-production.

### 7.25.5. Funding criteria applicable to distribution and promotion support

#### 7.25.5.1. Theatrical release, broadcasting and visibility on VOD

Only the CNC provides distribution and promotion support. There are no specific requirements for distribution or promotion support applicants regarding theatrical release, performance and visibility on VOD or the release window schedule.

#### 7.25.5.2. Theatrical performance and performance at festivals, events and awards

As a general principle, there are no requirements regarding the performance of a work in terms of theatrical attendance at home or abroad or regarding the performance at festivals, events and awards.

#### 7.25.5.3. Budget

The budget of an eligible project is not subject to any minimum threshold or maximum cap, however the applicant is required to contribute a minimum of 6% of the general estimated costs of the project (in cash or services)<sup>2279</sup> and is required to have “a share capital of RON 10 000 (approximately EUR 2 150) or more, in the case of distributors and exploiters, legal persons, or to submit a letter of bank guarantee to the equivalent amount, issued in favour of the National Centre for Cinematography, for individuals”.<sup>2280</sup>

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<sup>2279</sup> Article 29 (1) c of the Cinema Ordinance.

<sup>2280</sup> Article 29 (1) b of the Cinema Ordinance.



#### 7.25.5.4. Awarded amount

There are no specific provisions in terms of aid intensity or maximum amounts when it comes to distribution support. The support awarded is a non-reimbursable grant allocated on the basis of a contract concluded with the Romanian Film Centre<sup>2281</sup> after a selective process conducted by the Council.<sup>2282</sup>

#### 7.25.5.5. Language and diversity

There are no particular requirements regarding the language of the film or linked to ethnic or linguistic minorities and gender. However we can mention the general objectives pursued by the CNC of “asserting the national cultural identity and national minorities in Romania by making cinematographic films and promoting them in the world value chain”<sup>2283</sup> or the fact that “The cinematographic films or videograms can be exploited by public projection only if they are translated or duplicated in Romanian, except when the public projection is carried out in the same period, both in Romanian and in the language of national minorities”.<sup>2284</sup>

### 7.25.6. Data compilation

This factsheet was produced based on data compiled by Eugen Cojocariu, Head of Radio Romania International in Bucharest.

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<sup>2281</sup> Article 31 of the Cinema Ordinance.

<sup>2282</sup> Article 67 of the Regulation of the CNC.

<sup>2283</sup> Article 2 point c of the Cinema Ordinance.

<sup>2284</sup> Article 60 of the Cinema Ordinance.



## 7.26. SE – Sweden – National Summary<sup>2285</sup>

### 7.26.1. Summary

At national level, the main fund operating in Sweden is the Swedish Film Institute (*Svenska Filminstitutet*, hereinafter “SFI”), which was founded in 1963 by the Swedish State and the various professional bodies of the film industry, and which is financed by state funding.<sup>2286</sup> It has established funding schemes supporting the development, production and distribution of Swedish films, as well as promoting film heritage and other film cultural activities throughout the country.

Still at national level, the Swedish Arts Grants Committee “*Konstnärsnämnden*” awards a number of different grants and allowances to individual artists within various areas, including film. This support can take the form of project grants for the production and pre-production of difficult films, or promotion support for films selected for presentation at festivals.

In parallel, regional structures to support the film industry have developed since the mid-1990s. There are nineteen regional resource centres for films, whose activities include film education for children and young people, efforts to promote film distribution and viewing, and supporting the production of short and documentary films. The significant efforts made at regional level to support film production and the production of drama series are also worth mentioning: *Film i Väst* i (Film in the West) in Trollhättan, Filmpool Nord in Luleå, Film in Skåne in Ystad and Filmregion Stockholm Mälardalen in Solna. The regions’ share of the financing of Swedish feature film has increased from one percent in the mid-1990s to about 10 percent over the 2010s. Today, there are few feature films produced without funding from the Film Institute, a television company or a regional fund.

### 7.26.2. General framework

#### 7.26.2.1. Overview of the film and audiovisual funding policy and legislation

The main legal framework for the public film and audiovisual funding in Sweden is the Regulation (2016: 989) on State Film Contribution (hereinafter, “Regulation on film support”). It highlights the scope of the activities of the Swedish Film Institute; the

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<sup>2285</sup> The factsheet on Sweden incorporates the feedback received from Jonas Vilhelmsson (SFI) during the checking round with the national film and audiovisual funds.

<sup>2286</sup> <https://www.filminstitutet.se/en/about-us/swedish-film-institute/mission-and-organisation/>



different lines of support; the application, decision-making and appeal procedures; the payment and refunding of grants; as well as the criteria and features to be taken into account while carrying out the assessment of applications. The state film policy is further laid down in Proposal 2015/16:132<sup>2287</sup> which superseded the Ministerial Policy Paper Ds 2015:31.<sup>2288</sup> These two documents provide an assessment of the Swedish film and audiovisual industries, both from a cultural and economic perspective; the objectives to be attained; and the measures intended to achieve them, including the missions and responsibilities of the SFI. The latter also contains brief references to public support policies in other countries.

Regarding the Swedish Arts Grants Committee, the conditions governing the granting of the aid proposed by this fund can be found on the Committee's webpage.<sup>2289</sup>

At regional level, the regional support for film cultural activities is financed by either the state, or the municipality or region. State support for cinematographic cultural activities at regional level is regulated by Law (2010: 1919) on the distribution of certain state grants to regional cultural activities and Regulation (2010: 2012) on the allocation of certain state grants to regional cultural activities. The conditions for granting production or pre-production support are specified directly on each regional fund's webpages.

**Table 38. Main funds in Sweden**

Funding institution	Geographical level	Legislation / Guidelines
Swedish Film Institute <sup>2290</sup>	National	Regulation (2016: 989) on State Film Contribution <sup>2291</sup>
Swedish Arts Grants Committee <sup>2292</sup>	National	Grants and contributions <sup>2293</sup>
Film Capital Stockholm <sup>2294</sup>	Regional	Law (2010: 1919) on the distribution of certain

<sup>2287</sup> *Regeringens proposition 2015/16:132 Mer film till fler – en sammanhållen filmpolitik*, <https://data.riksdagen.se/fil/3D3CB884-9833-4B65-A813-57AE83E33CD9>.

<sup>2288</sup> *Framtidens filmpolitik* (Future film policy), [https://www.regeringen.se/49b742/contentassets/7e111809096e45bfb096ed555ce39dc2/ds-2015\\_31-inL\\_web-2.pdf](https://www.regeringen.se/49b742/contentassets/7e111809096e45bfb096ed555ce39dc2/ds-2015_31-inL_web-2.pdf).

<sup>2289</sup> Swedish Arts Grants Committee – Project Grant – Film, <https://www.konstnarsnamnden.se/default.aspx?id=11702>.

<sup>2290</sup> [www.filminstitutet.se/sv/](http://www.filminstitutet.se/sv/).

<sup>2291</sup> *Förordning 2016:989 om statsbidrag till film* (Regulation (2016: 989) on State Film Contribution), [https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/forordning-2016989-om-statsbidrag-till-film\\_sfs-2016-989](https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/forordning-2016989-om-statsbidrag-till-film_sfs-2016-989).

<sup>2292</sup> [www.konstnarsnamnden.se](http://www.konstnarsnamnden.se).

<sup>2293</sup> <http://www.konstnarsnamnden.se/stipendier-och-bidrag/film>.

<sup>2294</sup> <https://filmcapitalstockholm.se/>.



Funding institution	Geographical level	Legislation / Guidelines
Filmpool Nord (FPN) <sup>2297</sup>	Regional	State grants to regional cultural activities <sup>2295</sup>
Film in Skåne <sup>2298</sup>	Regional	Regulation (2010: 2012) on the allocation of certain state grants to regional cultural activities <sup>2296</sup>
Film i Väst <sup>2299</sup>	Regional	

Source: Response to European Audiovisual Observatory standardised questionnaire

### 7.26.2.2. Definition of cultural criteria

Swedish law does not have a proper definition of cultural criteria in place. However, culture is alluded to in paragraph 4 of the Regulation on film support, which states that the overall purpose of state subsidies is to contribute to the development, production, distribution and exhibition of Swedish films and to promote film heritage and other cinematographic cultural activities throughout the country.

Point 9.2.2 of the Ministerial Policy Paper Ds 2015:31 recommends that the quality of a film be evaluated on the basis of societal concern (or relevance), craftsmanship and originality, as defined in the 1963 Film Agreement. It also indicates that, in practice, it is up to the SFI to determine the quality criteria. In 2014, the SFI indicated that these three elements should be the guiding elements of their quality assessment of films. The concepts are, according to the institute, well-rooted in the industry and work well to give greater substance to the discussion of a concept as difficult as quality. These concepts are used by the SFI to assess applications for both pre-production and production support.

### 7.26.2.3. Nationality of the applicant

There are no requirements related to the nationality of the applicant as such, however the applicant is required to be established in Sweden. Indeed, the SFI's support is reserved for Swedish film,<sup>2300</sup> which is defined as per paragraph 5 of the Regulation as "film that has a Swedish producer and where the Swedish artist's work is of considerable significance or, if the film does not have a Swedish producer, it meets the requirements of the European Convention of 2 October 1992 for the co-production of cinematographic works". The

<sup>2297</sup> [www.filmpoolnord.se/](http://www.filmpoolnord.se/).

<sup>2295</sup> *Lag (2010:1919) om fördelning av vissa statsbidrag till regional kulturverksamhet* (Law (2010: 1919) on the distribution of certain state grants to regional cultural activities), [https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-20101919-om-fordelning-av-vissa\\_sfs-2010-1919](https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-20101919-om-fordelning-av-vissa_sfs-2010-1919).

<sup>2296</sup> *Förordning (2010:2012) om fördelning av vissa statsbidrag till regional kulturverksamhet* (Regulation (2010:2012) on the allocation of certain State aid to regional cultural activities), [https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/forordning-20102012-om-fordelning-av-vissa\\_sfs-2010-2012](https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/forordning-20102012-om-fordelning-av-vissa_sfs-2010-2012).

<sup>2298</sup> [www.ansokningsportalen.se/](http://www.ansokningsportalen.se/).

<sup>2299</sup> <https://filmivast.se/>.

<sup>2300</sup> Paragraphs 6, 9 and 12 of the Regulation.



definition of a Swedish producer corresponds to a physical person with a permanent residence in Sweden or a legal person with a foreign branch of a company registered with the competent authority in Sweden.

To receive a grant from the Swedish Arts Grants Committee, the applicant must be a permanent resident of Sweden and/or have its main artistic activity in Sweden. It is not possible to receive a grant if the applicant is undergoing training, for example at an art college.<sup>2301</sup> However, there are no explicit requirements on nationality for obtaining a project grant or qualifying for an international promotion scheme.

The regional funds do not normally require the applicant to be of a specific nationality but as a general rule, they all require the production, the film or the script to have a connection to the region in order to benefit from support. With regard to the applicant's establishment, it is sometimes necessary for the applicant to be established in the region:

- Film Capital Stockholm: it is only required when the project is a documentary, in the event of the film not being recorded in the region,<sup>2302</sup>
- Filmpool Nord: there is no explicit mention related to the nationality or establishment of the applicant in the guidelines,
- Film in Skåne: for short films and series, the authors of the project must be active and resident in the region. Production companies or authors who only wish to shoot in the region, but who are registered and resident outside the region, are not eligible for support.<sup>2303</sup> For documentary works, only applicants based in southern Sweden can apply.<sup>2304</sup> For features and TV series, the authors and companies must be based in Skåne.<sup>2305</sup>
- Film i Väst: in the case of feature films, applications from production companies established in the European Union are accepted, provided that the production involves a co-producer in Sweden.<sup>2306</sup> In the case of a TV drama project, the production must at least involve a Swedish production company with proven experience in TV drama/feature film production in West Bengal as a partner.<sup>2307</sup> Regarding documentaries, the applicant must be established in the region.<sup>2308</sup> For short films, the applicant must have a registered office in the region.<sup>2309</sup>

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<sup>2301</sup> Swedish Arts Grants Committee – Grants and contributions – Film, <https://www.konstnarsnamnden.se/stipendier-och-bidrag/film>.

<sup>2302</sup> Film Capital Stockholm – Financing Guidelines, <https://filmcapitalstockholm.se/vad-vi-gor/finansiering/>

<sup>2303</sup> *Film in Skåne* (Short film and series), <https://www.ansokningsportalen.se/sv/projektstod-projektinsatser/fiktion>.

<sup>2304</sup> *Film in Skåne* (Documentary), <https://www.ansokningsportalen.se/sv/projektstod-projektinsatser/dokumentar>.

<sup>2305</sup> *Film in Skåne* (Feature film/TV series), <https://www.ansokningsportalen.se/sv/projektstod-projektinsatser/langfilm-tv-serie>.

<sup>2306</sup> Article 3.6 of *Film i Väst* (Co-production - Feature film), <https://filmivast.se/regelverk-for-film-i-vasts-samproduktioner/>.

<sup>2307</sup> *Film i Väst* (TV drama), <https://filmivast.se/tv-drama-ansokan-beslut-och-genomforande/>.

<sup>2308</sup> *Film i Väst* (Documentary), <https://filmivast.se/film-vast-om-dokumentarfilm/>.

<sup>2309</sup> *Film i Väst* (Short film), <https://filmivast.se/kortfilm/>.



## 7.26.3. Funding criteria applicable to production support

### 7.26.3.1. Theatrical release, broadcasting and visibility on VOD

At national level, only the SFI sets requirements related to the visibility and performance of the supported work. A distribution plan for Sweden, scheduled and confirmed with a LOI, is required for all production funding schemes.<sup>2310</sup> In the case of the reference funding scheme Audience Related Support (*Publikrelaterat Stöd*, PRS), a contract for theatrical distribution should be submitted with the application. In addition, for the Moving Sweden scheme (devoted to low-budget films), Swedish Television (SVT) will show the feature film four months after its premiere at a festival and/or in the cinema. After that, release in other windows in Sweden should be as follows:<sup>2311</sup>

- TVOD after 1 month
- SVOD and Pay TV after 8 months

Market support<sup>2312</sup> can be applied for only for feature films that are expected to attract a large audience in Sweden. In this line, a distribution and launch plan must be attached to the application; the plan should reflect a solid and comprehensive launch of the film on all platforms, not just in cinemas. Moreover, there are requirements on the producer having in place a certain level of financing from a distributor, broadcaster or VOD service provider:

- Feature film: at least SEK 3 million (EUR 285 000) should be invested in the form of a minimum guarantee by a film distributor in Sweden. The feature film should also have at least SEK 2 million (EUR 190 000) or 10% of the budget invested by a broadcaster or a VOD service provider in Sweden.

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<sup>2310</sup> Market Support,

<https://www.filminstitutet.se/sv/sok-stod/filminstitutets-stod/produktionsstod/automatstod2>,

Low-budget- Moving Sweden – production,

<https://www.filminstitutet.se/sv/sok-stod/filminstitutets-stod/produktionsstod/nya-moving-sweden-produktionsstod>,

International co-production,

<http://www.filminstitutet.se/sv/sok-stod/filminstitutets-stod/produktionsstod/riktlinjer-for-stod-till-internationella-samproduktioner>,

Long feature films – Production,

<http://www.filminstitutet.se/sv/sok-stod/filminstitutets-stod/produktionsstod/produktionsstod34>,

Short film – Production,

<http://www.filminstitutet.se/sv/sok-stod/filminstitutets-stod/produktionsstod/produktionsstod32>,

Documentary – production,

<http://www.filminstitutet.se/sv/sok-stod/filminstitutets-stod/produktionsstod/produktionsstod33/>,

Audience related support (PRS),

<https://www.filminstitutet.se/sv/sok-stod/filminstitutets-stod/produktionsstod/publikrelaterat-stod-prs22/>.

<sup>2311</sup> Low-budget- Moving Sweden – production.

<sup>2312</sup> Market support, *Op. cit.*



- Documentary: at least SEK 100 000 (EUR 14 200) should be invested in the form of a minimum guarantee by a film distributor in Sweden and the level of financing for a broadcaster or a VOD service provider is set at 10% of the budget.

At regional level, most funds do not require any specific release or visibility, but distribution is often a criterion that will improve the chances of receiving support and a distribution plan is required in the application in almost all cases. The following regional funds set specific requirements:

- Film i Väst: The applicant is required to have secured distribution for the co-production of feature films.<sup>2313</sup> In addition, the applicant must organise a special premiere in the region.<sup>2314</sup> In the case of a TV drama project, at least one broadcaster is required to participate in the financing and production of the project.<sup>2315</sup>
- Film Capital Stockholm: an agreement with a well-established distributor is required.<sup>2316</sup>
- Norrköping Film Fund: production supported by the fund must have a special presentation in the region.<sup>2317</sup>

#### 7.26.3.2. Theatrical performance and performance at festivals, events and awards

First, section 11 of the Regulation provides that the applicant/producer shall report a plan for making the film available to the public in the long term as well as for persons with disabilities. Moreover, several criteria related to the expected performance of the work are taken into consideration when assessing the application, such as “the film’s ability to reach an audience across the country” or “the ability to reach an international audience”.<sup>2318</sup> In concrete terms, two of the SFI’s funding schemes set specific requirements related to the performance of the film in terms of theatrical attendance.

- For Market Support: a minimum theatrical attendance of 200 000 admissions for fiction films and 75 000 admissions for documentaries is required.<sup>2319</sup>
- For the Audience Related Support (PRS): this support is reserved for Swedish feature films that have reached at least SEK 3.5 million in box office receipts – SEK 1 million for children’s films and SEK 500 000 for documentaries.

Moreover, the film’s potential for festival participation is one of the assessment criteria used by Moving Sweden.<sup>2320</sup>

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<sup>2313</sup> Article 4.1.2 of Film i Väst (Co-production - Feature film).

<sup>2314</sup> Articles 4.1.2 and 4.7.1 of the Film i Väst guidelines for feature films.

<sup>2315</sup> *Film i Väst* (TV drama).

<sup>2316</sup> Film Capital Stockholm – Financing Guidelines.

<sup>2317</sup> Norrköping Film Fund - Conditions for support,

<https://www.norrkoping.se/organisation/ekonomi/norrkopings-filmfond.html?step=4>.

<sup>2318</sup> Market Support, Low-budget- Moving Sweden – production, International co-production, Long feature films – Production, Short film – Production, Documentary – production.

<sup>2319</sup> Market Support.



For the Swedish Arts Grants Committee or the regional funds, there are no specific requirements laid down.

### 7.26.3.3. Budget

There are no specific budget requirements for the general support schemes on a national level. At national or regional level, only one SFI support scheme sets specific budget requirements: to be eligible for Market Support funding,<sup>2321</sup> the project must have a minimum budget of SEK 20 million (EUR 1.9 million) for feature films or SEK 6 million (EUR 570 000) for documentaries. In addition, the following conditions apply:

- 70% of the film's total budget must be in place (proven with letters of commitment).
- At least SEK 3 million (for feature films) and at least SEK 100 000 (for documentaries) shall be invested or contributed as a minimum warranty by the film distributor in Sweden.
- At least SEK 2 million or 10% of the budget must be invested through a TV-channel licence fee or by a VOD service operator in Sweden. In the case of documentaries, only the rule of 10% applies.
- A maximum of 50% of the film's budget shall be financed by a TV channel or VOD service operator based in Sweden.

### 7.26.3.4. Awarded amount

The following SFI schemes have specific aid intensity rules:

- Market Support: the support may amount to 30% of a film's budget or a maximum of SEK 8 million (which also includes development support),<sup>2322</sup>
- Moving Sweden: the minimum amount awarded is SEK 500 000 and the maximum amount is SEK 6 million,<sup>2323</sup>
- International co-production: the support cannot exceed 80% of the Swedish funding.<sup>2324</sup>
- Audience Related Support (PRS): up to 65% of the producer's own financial investment, capped at SEK 9 million.<sup>2325</sup>

Except in the case of Moving Sweden, all SFI production support awarded is repayable and the SFI is entitled to a share of the producer's revenues from all windows worldwide once these revenues reach 135% of his/her preapproved private equity and 100% of the value of licences sold and minimum guarantees. This share corresponds to the granted

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<sup>2320</sup> Low-budget- Moving Sweden – production.

<sup>2321</sup> Market Support.

<sup>2322</sup> Market Support.

<sup>2323</sup> Low-budget- Moving Sweden – production.

<sup>2324</sup> International co-production.

<sup>2325</sup> Audience Related Support (PRS).



amount to overall costs ratio. The repayment obligation ends when the support has been repaid, but no later than five years after the film's premiere.<sup>2326</sup> There are no specific requirements with regard to eligible costs. Lastly, the support is awarded selectively after an assessment carried out by an SFI film commissioner, who presents his/her recommendations to the Director of the SFI for a decision.<sup>2327</sup>

In the case of the Swedish Arts Grants Committee, the support is not repayable and is awarded selectively. The amount of support usually ranges from SEK 50 000 to SEK 200 000.<sup>2328</sup>

At regional level, the following requirements are laid down:

- Film i Värmland: maximum amount of SEK 300 000, limited to 50% of the total film budget.<sup>2329</sup>
- Film Capital Stockholm: support is awarded selectively and takes the form of an investment whereby the fund becomes a co-producer. Nothing is stipulated regarding the eligible costs or the aid intensity rules.
- Filmpool Nord: support is awarded selectively and takes the form of an investment whereby the FPN becomes a co-producer of the film. In the event of the project not being completed, the applicant will have to reimburse the aid. In any case, the support is limited to a maximum of 20% of the production budget for feature films and TV drama, and 30% for short fiction. No aid intensity is stipulated for documentary works.<sup>2330</sup>
- Film in Skåne: the fund does not award support but acts as a co-producer in the production, with requirements for rights and returns. The investment ranges from SEK 50 000 to SEK 100 000 for short films and series, and the aid intensity is limited to 30% of the film's budget for all types of works (except feature films and TV series).<sup>2331</sup>
- Film i Väst: the fund acts as a co-producer; the investment is non-repayable provided that the applicant ensures that at least 100% of the investment is spent in the region.<sup>2332</sup> With regard to short films, the guidelines specify that the Fund can invest up to a maximum of 25% of the film's budget.<sup>2333</sup>

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<sup>2326</sup> Market Support, Low-budget- Moving Sweden – production, International co-production, Long feature films – Production, Short film – Production, Documentary – production, Audience Related Support (PRS).

<sup>2327</sup> P.5 of Provisions 2017.

<sup>2328</sup> Swedish Arts Grants Committee – Project Grant – Film, *Op. cit.*

<sup>2329</sup> *Film i Värmland*, [https://www.regionvarmland.se/globalassets/global/kultur/kulturutveckling/film/regelverk\\_samproduktionsmedel\\_film\\_jn.pdf](https://www.regionvarmland.se/globalassets/global/kultur/kulturutveckling/film/regelverk_samproduktionsmedel_film_jn.pdf)

<sup>2330</sup> Filmpool Nord.

<sup>2331</sup> Film in Skåne (Short film and series).

<sup>2332</sup> Article 2.2 of Film i Väst Guidelines for Feature Film Project.

<sup>2333</sup> *Film i Väst* (Short films).



### 7.26.3.5. Spending and shooting criteria

At national level, there are no specific requirements related to the amount spent in the region, nor to shooting in the country.

At regional level, all funding bodies require the project to be linked in one way or another to the region. Only Film i Väst sets a specific requirement regarding spending in the region for their feature film scheme, whereby the producer must ensure that at least 100% of the funding must be spent in the region.<sup>2334</sup> The other funds have no quantified obligations related to spending in the region, and establish the following criteria for shooting in the region:

- Film Capital Stockholm: the project must be produced in whole or in part in any one of of Stockholm's municipalities.<sup>2335</sup>
- Film i Värmland: the guidelines state that the fund “participates only in exceptional cases as a co-producer in short films that place less than half of the recording days in the region”.<sup>2336</sup>
- Film pool Nord: all or part of the production must take place in the region or alternatively, the creators must live and/or work in the region. The shooting can take place outside the region, but the amount of aid will be reduced.<sup>2337</sup>
- Film in Skåne: shooting may take place outside the region, but the applicant is required to use a minimum of resources in the region and the Fund gives priority to projects with high expenditure in Skåne.<sup>2338</sup>

### 7.26.3.6. Talent, cast, crew, underlying copyright

There are no specific requirements regarding the nationality of the talent, cast and crew or related to the underlying copyrights (and how they are linked to the country). Nevertheless, as mentioned above in section 7.26.2.3, the SFI's support is reserved for Swedish films. In the case of international co-production, the proportion of Swedish participation in the production is assessed.<sup>2339</sup>

### 7.26.3.7. Shooting language and diversity

There are no requirements for the SFI funding schemes regarding the shooting language, or linguistic minorities. The SFI will assess whether a project in a language other than Swedish, including one of Sweden's minority languages (Yiddish, Romany Chib, Sami,

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<sup>2334</sup> Article 2.2 of the Film i Väst Guidelines for Feature Film Project.

<sup>2335</sup> Film Capital Stockholm.

<sup>2336</sup> Film i Värmland, <https://www.regionvarmland.se/kultur/kulturutveckling/film/produktionsstod-film/>.

<sup>2337</sup> Film pool Nord guidelines.

<sup>2338</sup> Film in Skåne (Short films and series), Film in Skåne (Documentary), Film in Skåne (Feature film/TV series),

<sup>2339</sup> International co-production.



Finnish and Meänkieli),<sup>2340</sup> has the potential to reach out to a Swedish audience. In some cases, the SFI may require an English translation.<sup>2341</sup>

In accordance with the government's national film policy objective, as defined in Proposal 2015/16:132, the film sector should be characterised by gender equality and diversity. Promoting diversity means that support should be granted to stories with different perspectives and expressions as well as a variety of societal voices, both in front of and behind the camera. The objective also means that national film support shall be disbursed evenly between women and men. Applicants for SFI production support are required to submit a list of the gender distribution of the key roles (producer, scriptwriter and director) along with their application.<sup>2342</sup>

Diversity is one of the assessment criteria for the Swedish Arts Grants Committee, taking into account age, ethnic and cultural background, gender and place of establishment.

At regional level, some funds include gender or diversity issues in their overall objectives or project evaluation criteria as follows:

- Film pool Nord: in their core values, the fund states “the FPN’s operations assume equal value, regardless of sex, gender identity or expression, ethnicity, religion or other beliefs, disability, sexual orientation or age. Work on equality, inclusion and diversity will be consistently taken into account in the company’s operations”.<sup>2343</sup>
- Film i Väst: the fund considers cultural diversity and gender equality among their evaluation criteria, with the goal of a 50/50 allocation among writers, directors and producers in their schemes for short films<sup>2344</sup> and documentaries,<sup>2345</sup> as well as feature film projects.<sup>2346</sup>
- Film i Halland: one of the strategic development goals is to “create meeting places available to everyone - with a focus on both children and young people and on increased attractiveness for adults - and who invite people to create, express themselves and to experience the different expressions of culture. This means that culture will come to be shared in Halland. It also means a gender, intercultural, disability, accessibility, and LGBT perspective will be strengthened in all activities”.<sup>2347</sup>

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<sup>2340</sup> <https://www.government.se/49b72e/contentassets/bb53f1cff8504c5db61fb96168e728be/national-minorities-and-minority-languages>.

<sup>2341</sup> Market Support, Low-budget- Moving Sweden – production, International co-production, Long feature films – Production, Short film – Production, Documentary – production.

<sup>2342</sup> P. 5 of Provisions 2017.

<sup>2343</sup> Film pool Nord Guidelines.

<sup>2344</sup> Film i Väst (Short film).

<sup>2345</sup> Film i Väst (Documentary).

<sup>2346</sup> Article 3.4 of Film i Väst (Co-production - Feature film).

<sup>2347</sup> Film i Halland - P.1 of the Guidelines for Regional Cultural Support, <http://www.regionhalland.se/PageFiles/109034/utdrag-ur-riktlinjer-for-regionalt-kulturstod-som-galler-fran-2016.pdf>.



- Film i Örebro län: one of their general objectives states “we strive for an even distribution of gender and ethnicity among the distributed grants and scholarships”.<sup>2348</sup>
- Film in Skåne: the fund considers “efforts to reflect society’s composition regarding gender and cultural diversity” in their decision-making.<sup>2349</sup>

## 7.26.4. Funding criteria applicable to pre-production support

### 7.26.4.1. Budget

At national level, the budget of an eligible project is not subject to any minimum threshold or maximum cap, nor is anything stipulated regarding a minimum contribution from the applicant. Of all the regional funds, only Film i Jönköpings län sets requirements related to the development budget, stipulating that it must be at least SEK 50 000 in order to be eligible.<sup>2350</sup>

### 7.26.4.2. Awarded amount

The aid intensity rules, in terms of the maximum amount per application, are as follows:<sup>2351</sup>

- For feature film script development: up to SEK 80 000 for treatment; up to SEK 150 000 for the first script version; up to SEK 100 000 for the second script version,
- For feature film project development: up to SEK 500 000 (excluding script development) for features films; between SEK 50 000 and SEK 500 000 for documentary works; between SEK 10 000 and SEK 200 000 for short films; up to SEK 200 000 for slate development,
- For the project development Wild Card scheme: a maximum of SEK 400 000 in support can be granted to recent graduates in filmmaking,
- For the low-budget project development Moving Sweden scheme:

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<sup>2348</sup> Film i Örebro län, <https://www.regionorebrolan.se/sv/Regional-utveckling/Kultur/Film-i-Orebro-lan/Filmproduktion/filmstod/>.

<sup>2349</sup> Film in Skåne (Short film and series), Film in Skåne (Documentary), Film in Skåne (Feature film/TV series).

<sup>2350</sup> Film i Jönköpings län, <https://utveckling.rjl.se/bidrag-och-finansiering/utvecklingsbidrag-film-manus--och-forproduktionsstod/>.

<sup>2351</sup> Development of film projects - Wild Card, <http://www.filminstitutet.se/sv/sok-stod/filminstitutets-stod/produktionsstod/stod-till-utveckling-av-filmprojekt---wild-card/>, project development - Moving Sweden, <https://www.filminstitutet.se/sv/sok-stod/filminstitutets-stod/produktionsstod/nya-moving-sweden/>, Project development – short film, <http://www.filminstitutet.se/sv/sok-stod/filminstitutets-stod/produktionsstod/utvecklingsstod2/>, documentary, <https://www.filminstitutet.se/sv/sok-stod/filminstitutets-stod/produktionsstod/utvecklingsstod3/>, feature film, <http://www.filminstitutet.se/sv/sok-stod/filminstitutets-stod/produktionsstod/utvecklingsstod4/>.



- Research, script and concept development and visual work - in the range of SEK 50 000 to SEK 100 000. It can be awarded without a producer attached to the project,
- Pre-production, scriptwriting and visual work - in the range of SEK 100 000 to SEK 500 000.

In general, support is not repayable and is awarded selectively. More precisely, film commissioners have the right to independently decide on development support of up to SEK 500 000. Financial support over SEK 500 000 must be approved by the Head of Production Support, while support over SEK 1 million should be approved by SFI's CEO.<sup>2352</sup> The Regulation or the guidelines don't stipulate anything about eligible costs with regard to pre-production.

At regional level, financial support is often repayable and there are no requirements on eligible costs or aid intensity rules, with the exception of:

- Film in Skåne: for short films and series, the investment can go up to SEK 100 000 and the aid intensity is limited to 30% of the film's budget.<sup>2353</sup> For features and TV series, up to SEK 50 000 is awarded (additional funding can be received if other stakeholders contribute to the project).<sup>2354</sup> The fund does not award support but acts as a co-producer in the production, with requirements for rights and returns.
- Film pa Gotland: financial support can go up to SEK 10 000 for feature film script development, up to SEK 50 000 for development support<sup>2355</sup> and up to SEK 20 000 for short films and documentary works. It covers script development, idea and concept development, research, planning, etc.<sup>2356</sup>

#### 7.26.4.3. Underlying copyright

At national and regional level, there are no requirements regarding the underlying copyrights (and how they are linked to the country).

#### 7.26.4.4. Script language and diversity

As in the case of production support, the SFI will assess scripts in one of Sweden's minority languages as well as other languages if it has the potential to reach out to a Swedish audience.<sup>2357</sup> As for gender equality, as mentioned in section 7.26.3.7, there are

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<sup>2353</sup> *Film in Skåne* Short film and series, Documentary, Feature film/TV series schemes.

<sup>2354</sup> *Film in Skåne* (Feature film/TV series).

<sup>2355</sup> *Film pa Gotland* (Feature film and TV), <http://filmpagotland.se/langfilm-tv/>

<sup>2356</sup> *Film pa Gotland* (Short and documentary), <http://filmpagotland.se/filmproduktion/kort-och-dokumentarfilm/>.

<sup>2357</sup> Development of film projects - Wild Card, Development of film projects - low-budget campaign - Moving Sweden, Development of film projects - Short film, Development of film projects - Documentary, Development of film projects - Feature film.



no specific requirements. However, the SFI implemented a policy aiming to evenly distribute support between genders over time. In addition, the pre-production schemes' guidelines stipulate that support should take into account diversity in the sense of different perspectives and expressions.

At regional level, the following funds set requirements related to diversity and gender equality:

- Film i Jönköpings län: one of the assessment criteria of their development support scheme is “the opportunity to fight discrimination”.<sup>2358</sup>
- Norrköping Film Fund establishes that “equality and diversity should be considered” in the granting of funding.<sup>2359</sup>
- Film in Skåne: the fund takes into account “efforts to reflect society’s composition regarding gender and cultural diversity” in their decision-making.<sup>2360</sup>

## 7.26.5. Funding criteria applicable to distribution and promotion support

### 7.26.5.1. Theatrical release, broadcasting and visibility on VOD

The SFI offers several funding programmes for the promotion and distribution of Swedish films, both domestically and internationally. When it comes to distribution support, there are no specific requirements for applicants regarding theatrical release, performance, and visibility on VOD, nor is there any release window schedule to be respected. However, several assessment criteria of the various funding schemes include criteria such as whether the project is of national interest, whether the support significantly increases the film’s chances of reaching its audience, whether the distribution plan is closely linked to the film and the intended target groups, etc.<sup>2361</sup> Moreover, in the case of international distribution support, the distribution plan and budget and the marketing plan must be

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<sup>2358</sup> Film i Jönköpings län.

<sup>2359</sup> Norrköping Film Fund, <https://www.norrkoping.se/organisation/ekonomi/norrkopings-filmfond.html?step=3>.

<sup>2360</sup> Film in Skåne (Short film and series and Documentary).

<sup>2361</sup> Support for the distribution and exhibition of individual projects, imported quality films and versioning of imported children’s films, <https://www.filminstitutet.se/sv/sok-stod/filminstitutets-stod/distributionsstod/stod-till-distribution-och-visning-enskilt-projekt-och-titel2>; Support for the launch of Swedish films, <https://www.filminstitutet.se/sv/sok-stod/filminstitutets-stod/distributionsstod/stod-till-lansering-av-svensk-langfilm2>; International distribution support - Swedish feature length fiction and documentary films (hereinafter, “International distribution support”), <https://www.filminstitutet.se/sv/sok-stod/filminstitutets-stod/stod-till-internationell-lansering/stod-till-internationell-lansering-av-film>, Support for the promotion of Swedish short films, <https://www.filminstitutet.se/sv/sok-stod/filminstitutets-stod/distributionsstod/stod-till-spridning-av-svensk-kortfilm>.



submitted along with the application.<sup>2362</sup> At regional level, only Film i Västernorrland<sup>2363</sup> and Film in Skåne<sup>2364</sup> provide distribution support.

#### 7.26.5.2. Theatrical performance and performance at festivals, events and awards

There are no requirements regarding the performance of a work in terms of theatrical attendance at home or abroad. In terms of performance at festivals and award, the SFI offers funding for:

- The launch of a Swedish film at an international festival,<sup>2365</sup>
- The film selected as a candidate to represent the country at the Oscars (Best Foreign Language Film, Best Feature Documentary or Best Short Film).<sup>2366</sup>

The Swedish Arts Grants Committee offers support to cover expenses related to participation in a film festival abroad through its scheme Contribution to International Cultural Exchange.<sup>2367</sup> At regional level, Film i Västernorrland and Film in Skåne provide support to cover expenses related to the selection or participation of a film in a festival.

#### 7.26.5.3. Budget

The budget of an eligible project is not subject to any minimum threshold or maximum cap. Moreover, for the majority of the distribution and promotion funding schemes, the applicant's financial contribution is required to be at least equal to the amount granted.

Furthermore, the Swedish Arts Grants Committee or the regional funds do not establish specific requirements regarding the budget of the film supported.

#### 7.26.5.4. Awarded amount

The amounts awarded and aid intensity rules for SFI schemes are as follows:<sup>2368</sup>

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<sup>2362</sup> Internatioanl distribution support.

<sup>2363</sup> Film i Västernorrland – Distribution support, <http://filmvasternorrland.se/evenemang/distributionsstod/>.

<sup>2364</sup> Film in Skåne - Travel effort (participation in festivals), <https://www.ansokningsportalen.se/sv/projektstod-projektinsatser/reseinsatser>.

<sup>2365</sup> With reference to the list of eligible festivals: for feature films:

[https://www.filminstitutet.se/globalassets/1.-sok-stod/filminstitutets-stod/riktlinjer/stodberattigade-festivaler---lang-spelfilm\\_1.pdf](https://www.filminstitutet.se/globalassets/1.-sok-stod/filminstitutets-stod/riktlinjer/stodberattigade-festivaler---lang-spelfilm_1.pdf); for documentaries: <https://www.filminstitutet.se/globalassets/1.-sok-stod/filminstitutets-stod/riktlinjer/stodberattigade-festivaler---dokumentarfilm.pdf>, for short films: <https://www.filminstitutet.se/globalassets/1.-sok-stod/filminstitutets-stod/riktlinjer/stodberattigade-festivaler---kortfilm.pdf>.

<sup>2366</sup> Support for the American Academy Awards, <https://www.filminstitutet.se/sv/sok-stod/filminstitutets-stod/stod-till-internationell-lansering/stod-till-internationell-lansering-av-film/>.

<sup>2367</sup> Bidrag till internationellt kulturutbyte inom film (Contributions to international cultural exchange in film), <http://www.konstnarsnamnden.se/default.aspx?id=11725>.

<sup>2368</sup> Support for the launch of Swedish films; support for the distribution and exhibition of individual projects, imported quality films and the versioning of imported children's films; support for the launch of Swedish films



- Support for the launch of Swedish films: this is possible at two stages: first, at an early stage of the launch strategy, up to a maximum of SEK 100 000, then just before the launch of the film, where no maximum amount is stipulated. The distributor's contribution must at least match the awarded amount, with the exception of films released over the period April-July, when the support can go up to two thirds of the distribution costs.
- Support for the distribution and exhibition of individual projects, imported quality films and the versioning of imported children's films: up to SEK 150 000 for the distribution of foreign films or other projects and viewing arrangements, including individual film titles in various distribution windows; SEK 250 000 for the versioning of foreign children's films,
- International distribution support: up to SEK 250 000 per film and country,
- Support for the launch of Swedish films at international festivals: this includes the design and printing of posters for up to SEK 20 000; the production of EPK (Electronic Press Kit) for up to SEK 10 000; the design and printing of a press book for up to SEK 20 000; the design and production of advertising material and the purchase of advertising space; and the fees of an international press agent or international publicist. The fund can also provide support for the travel and accommodation of the protagonist or other important members of the cast or talent,
- Support for a film selected as Sweden's contribution to the American Academy Awards in the category Best Foreign Language Film or Best documentary: the SFI offers support of up to SEK 350 000 for advertising and marketing. If a film is nominated, the SFI contributes an additional sum of up to SEK 250 000.

All these distribution schemes are non-repayable and are awarded selectively. There are no precise requirements regarding eligible costs for distribution support.

For the Swedish Arts Grants Committee, the amount awarded ranges from SEK 5 000 to SEK 40 000. The support mainly covers travel and accommodation costs. At regional level, Film in Skåne can provide support of up to SEK 5 000 to cover travel costs and festival entry fees.

#### 7.26.5.5. Language and diversity

There are no mandatory requirements linked to ethnic minorities and gender. However, Section 12 of the SFI Regulation provides that the grants for distribution and promotion are allocated in order to, *inter alia*:

- Increase accessibility to films in the national minority languages,

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at international festivals for feature fiction, documentaries and short films; international distribution support; support for the American Academy Awards, *Op. cit.* Support to increase accessibility to film, <https://www.filminstitutet.se/sv/sok-stod/filminstitutets-stod/distributionsstod/stod-till-okad-tillganglighet-inom-distribution-och-visning2/>.



- Subtitle Swedish film in languages spoken by larger groups of newly-arrived immigrants.

Moreover, support to increase accessibility to films is provided for the subtitling of films with dialogues in Swedish, audio description and spoken text in the Swedish language to Swedish and foreign films in the various distribution windows.

## 7.26.6. Data collection

This factsheet was produced based on data compiled by Helene Hillerström Miksche, Attorney, Com Advokatbyrå HB.



## 7.27. SI – Slovenia – National Summary<sup>2369</sup>

### 7.27.1. Summary

The main operating fund in the country is the Slovenian Film Centre (Slovenski Filmski Center), hereinafter “the SFC”, a public agency of the Republic of Slovenia, launched in January 2011 (as a successor of the Slovenian Film Fund). Among its various tasks, the SFC is responsible for “taking care of the high-quality growth of film and audiovisual activities, encouraging creativity and production in the film and audiovisual field, and ensuring the suitable presentation of the achievements in its field of work”, “deciding on the selection of projects in the field of film and audiovisual activities, financed by the Agency’s funds, and concluding financing contracts with the selected applicants of these projects” and “monitoring and supervising the work and the use of public resources by the providers of cultural projects in the field of film and audiovisual activities in the Republic of Slovenia”.<sup>2370</sup>

Support is also provided at national level by the public broadcaster Radio Television Slovenia, which is obliged to publish an annual public call for the co-financing (co-producing) of cinematographic works corresponding to a total of 2% of the income from TV subscriptions in the previous year. Apart from these funding bodies, there are no other national or regional funds in the country.

### 7.27.2. General framework

#### 7.27.2.1. Overview of the film and audiovisual funding policy and legislation

The main legislation for film funding in Slovenia is the Law on the Slovenian Film Center (hereinafter, the “Law on the SFC”). Based on this, the Act establishing the Slovenian Film Centre<sup>2371</sup> was accepted by the government. The different rules regulating the selective schemes are laid down in the Rules and Regulations for the Procedures<sup>2372</sup> as accepted by

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<sup>2369</sup> The factsheet on Slovenia incorporates the feedback received from Nataša Bučar (SFC) during the checking round with the national film and audiovisual funds.

<sup>2370</sup> A detailed list of the SFC’s tasks is available here: <https://www.film-center.si/en/about/>.

<sup>2371</sup> *Sklep o preoblikovanju Filmskega sklada Republike Slovenije v Slovenski filmski center, javna agencija Republike Slovenije* (the Act establishing the Slovenian Film Centre), [https://www.film-center.si/media/cms/attachments/2017/01/26/sklep\\_o\\_preoblikovanju\\_rR523oT.pdf](https://www.film-center.si/media/cms/attachments/2017/01/26/sklep_o_preoblikovanju_rR523oT.pdf)

<sup>2372</sup> *Pravilnik o izvedbi postopka izbire projektov in programov, pogojev in merilih za izbor projektov in programov ter postopku sklepanja pogodb, vsebine pogodb in načinu nadzora nad izvajanjem pogodb Slovenskega filmskega centra, javne agencije Republike Slovenije* (Rules on the implementation of the procedure for the selection of projects and programs, conditions and criteria for the selection of projects and programs and the procedure



the Board of Slovenian Film Centre (hereinafter, the “SFC Regulation”). Regarding the automatic scheme for foreign production (cash rebate), it is regulated by Rules on the promotion of investment in audiovisual production.<sup>2373</sup> Types and eligibility of costs are defined in the Act on eligible costs<sup>2374</sup> accepted by the Board of Agency. Lastly, the scheme of Radio Television Slovenia is also regulated by the Law on the SFC.<sup>2375</sup>

**Table 39. Main funds in Slovenia**

Funding institution	Geographical level	Legislation / Guidelines
Slovenian Film Centre <sup>2376</sup>	National	Law on the Slovenian Film Centre <sup>2377</sup>
Radio Television Slovenia <sup>2378</sup>	National	

Source: Response to European Audiovisual Observatory standardised questionnaire

### 7.27.2.2. Definition of cultural criteria

Slovenian law does not have a proper definition of cultural criteria in place.<sup>2379</sup> However, culture is very briefly alluded to in the goals of the SFC<sup>2380</sup> as follows: The “[p]urpose of establishment of the agency is to support creativity in the film and audiovisual field in the Republic of Slovenia, the creation of proper conditions for film, audiovisual and cinematographic activities, development and education connected with film and audiovisual activities in the Republic of Slovenia and other activities, defined within the National programme for culture and this law”. Moreover, one of the assessment criteria used during the point-based selection process for all schemes is “the expected attraction of the film for the Slovene and European or international cultural space”.<sup>2381</sup>

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for concluding contracts, the content of contracts and the manner of supervision over the implementation of contracts of the Slovenian Film Center, the public agency of the Republic of Slovenia, hereinafter, the “SFC Regulation”), [https://www.film-center.si/media/cms/attachments/2017/08/24/Pravilnik\\_2017-01-2184.pdf](https://www.film-center.si/media/cms/attachments/2017/08/24/Pravilnik_2017-01-2184.pdf).

<sup>2373</sup> *Pravilnik o spodbujanju vlaganj v avdiovizualno produkcijo* (Rules on the promotion of investment in audiovisual production),

[https://www.film-center.si/media/cms/attachments/2017/03/17/PRAVILNIK\\_o\\_spodbujanju\\_vlaganj.pdf](https://www.film-center.si/media/cms/attachments/2017/03/17/PRAVILNIK_o_spodbujanju_vlaganj.pdf).

<sup>2374</sup> *Pravilnik Slovenskega filmskega centra, javne agencije Republike Slovenije o upravičenih stroških sofinanciranih projektov* (Act about eligible costs),

[https://www.film-center.si/media/cms/attachments/2015/01/12/pravilnik\\_upravi%C4%8Deni\\_stro%C5%A1ki.pdf](https://www.film-center.si/media/cms/attachments/2015/01/12/pravilnik_upravi%C4%8Deni_stro%C5%A1ki.pdf).

<sup>2375</sup> Article 17 of the Law on SFC.

<sup>2376</sup> [www.film-center.si/sl/](http://www.film-center.si/sl/).

<sup>2377</sup> *Zakon o Slovenskem filmskem centru, javni agenciji RS* (Law on Slovenian Film Centre, public agency of Republic of Slovenia), [https://www.film-center.si/media/cms/attachments/2017/01/26/zakon\\_o\\_SFC.pdf](https://www.film-center.si/media/cms/attachments/2017/01/26/zakon_o_SFC.pdf)

<sup>2378</sup> [www.rtv slo.si/english](http://www.rtv slo.si/english).

<sup>2379</sup> Except when it comes to the cash rebate scheme, which is not part of our study but does have a cultural test in place; see Annex 1 of the Rules on the promotion of investment in audiovisual production.

<sup>2380</sup> Article 3 of the Law on SFC.

<sup>2381</sup> Articles 8, 9, 10, 13, 14, 15, 18, 19, 20, 21, 24 of SFC Regulation.



### 7.27.2.3. Nationality of the applicant

There are no requirements regarding the establishment of the applicant in Slovenia. To be eligible for production support, only companies registered for the production of films, video films and TV shows (in compliance with the NACE classification J59.110) can apply;<sup>2382</sup> however, for script development, physical persons can also apply for funding.<sup>2383</sup> In addition, to be eligible for distribution and promotion support, only recipients of production funding can apply.

Conversely, applicants will be required to be established in the country in the case of student films and student television works, where only higher education institutions in the field of arts, film and TV with a registered seat in the Republic of Slovenia can apply.<sup>2384</sup>

## 7.27.3. Funding criteria applicable to production support

### 7.27.3.1. Theatrical release, broadcasting and visibility on VOD

There are no concrete requirements regarding the performance of a work in terms of theatrical release, broadcasting and visibility on VOD in the SFC's calls. However, a letter of intent from distributors or broadcasters is welcome in each public call for cinematographic work production support or audiovisual work production support. Apart from this, no release window schedule is officially defined, but usually the public TV broadcasting of a work can be done one year from the theatrical distribution premiere.<sup>2385</sup>

### 7.27.3.2. Theatrical performance and performance at festivals, events and awards

In general, Slovenian law does not set concrete requirements for a production project related to expected or actual theatrical performance in the home market or abroad as such. Nevertheless, the references (filmography) of both the production company and the director (and in the case of animation films, also the main animator) are taken into account and form part of the total score in all public calls. For example, in the case of film direction, the references of the production company can be evaluated between 0 and 10 points, and the references of the director between 0 and 20 points; together on the scale of 100 points.<sup>2386</sup>

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<sup>2382</sup> Article 17 of the SFC Regulation.

<sup>2383</sup> Article 7 paragraph 2 of SFC Regulation.

<sup>2384</sup> Article 26 of SFC Regulation.

<sup>2385</sup> It is a sort of unwritten agreement between producers and broadcasters.

<sup>2386</sup> Article 4.1 of the Regular annual call for tenders for co-financing the realization of Slovenian feature film projects for 2018 (*Redni letni javni razpis za sofinanciranje realizacije slovenskih celovečernih filmskih projektov za leto 2018*), [https://www.film-center.si/media/tenders/2018/03/23/besedilo\\_realizacija\\_18\\_CF\\_vGqaGxa.pdf](https://www.film-center.si/media/tenders/2018/03/23/besedilo_realizacija_18_CF_vGqaGxa.pdf).



Apart from that, the performance or success of previous films or selection in A-list festivals does not officially affect success in the public calls, but it most likely has some influence on the members of the selection committee and the management of the fund.

### 7.27.3.3. Budget

The budget of an eligible project is not subject to any minimum threshold or maximum cap. Moreover, there are no concrete requirements on the part of the budget that needs to be secured in order to apply, but the percentage criterion of the budget already secured is prescribed from 0 to 5 points out of a total score of 100 points for public calls.<sup>2387</sup>In the case of minority co-productions, at least 50% of the budget in the country of the foreign co-producer has to be secured.<sup>2388</sup>

### 7.27.3.4. Awarded amount

Following what is established in the Cinema Communication, in the case of production support for short-, medium- and feature-length films, the aid intensity is limited to 50% of eligible costs, 60% of eligible costs in the case of international co-productions, and 80% of all costs in the case of low-budget, difficult films and children and youth films.<sup>2389</sup> It is worth mentioning that the majority of the films are treated in this category in practice.<sup>2390</sup>

In terms of the maximum total amount granted, the following amounts were in place for the public calls in 2018 and 2017 for the SFC and in 2017 for RTV Slovenia:

- Documentary feature-length films (70+ min.): maximum EUR 100 000 (EUR 120 000 in RTV Slovenia's 2017 call).<sup>2391</sup>
- Fiction and animation feature-length films (70+ min.): maximum EUR 800 000 (EUR 500 000 in RTV Slovenia's 2017 call).
- Debut fiction feature-length films (70+ min.): maximum EUR 300 000<sup>2392</sup> (EUR 500 000 in RTV Slovenia's 2017 call).
- Short fiction or documentary films (max. 45 min.): maximum EUR 50 000<sup>2393</sup> (EUR 50 000 in RTV Slovenia's 2017 call).
- Short animation films (max. 45 min.): maximum EUR 65 000<sup>2394</sup> (EUR 50 000 in RTV Slovenia's 2017 call)

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<sup>2387</sup> Articles 18 to 20 of SFC Regulation.

<sup>2388</sup> Proof of the financing from the country of origin of delegate producer is demanded in the each public call

<sup>2389</sup> Article 32 of the Act establishing the National Film Centre.

<sup>2390</sup> Chapter 5, p.4 of Regular annual call for tenders for co-financing the realization of Slovenian feature film projects for 2018.

<sup>2391</sup> *Javni razpis za izdelavo filmov neodvisnih producentov za javno kinematografsko prikazovanje 2017*, [http://www.rtv slo.si/files/razpisi\\_natecaji/2017/2017\\_12\\_22\\_3-besedilo\\_razpisa.pdf](http://www.rtv slo.si/files/razpisi_natecaji/2017/2017_12_22_3-besedilo_razpisa.pdf).

<sup>2392</sup> *Redni letni javni razpis za sofinanciranje realizacije projektov slovenskih celovečernih prvencev za leto 2018*, [https://www.film-center.si/media/tenders/2018/03/23/besedilo\\_razpisa\\_-\\_prvenci\\_18.pdf](https://www.film-center.si/media/tenders/2018/03/23/besedilo_razpisa_-_prvenci_18.pdf).

<sup>2393</sup> *Redni letni javni razpis za sofinanciranje realizacije slovenskih kratkometražnih filmskih projektov za leto 2018*, [https://www.film-center.si/media/tenders/2018/05/11/Besedilo\\_razpisa.pdf](https://www.film-center.si/media/tenders/2018/05/11/Besedilo_razpisa.pdf).

<sup>2394</sup> Ibid.



- Minority co-productions (2017): maximum EUR 60 000<sup>2395</sup>.

Both schemes (SFC and RTV) can be cumulated since the RTV scheme is not treated as state aid support. In addition, it is worth mentioning that, depending on the amount applied for, applicants will be required to spend a minimum share of this amount for distribution and promotion costs. For example, in the call for the realisation of feature-length films in 2018<sup>2396</sup>, the minimum amounts to be spent on the distribution and promotion of the supported work were the following:

- If the applied amount is lower than EUR 100 000, the minimum amount for distribution is EUR 4 000, and EUR 1 000 for promotion (fiction, animation and documentaries)
- If the applied amount is between EUR 100 000 and EUR 450 000, the minimum amount for distribution is EUR 8 000, and EUR 2 000 for promotion (fiction and animation)
- If the applied amount is between EUR 450 000 and EUR 800 000, the minimum amount for distribution is EUR 16 000, and EUR 4 000 for promotion (fiction and animation)
- Minimum amount for debut films with a maximum financing of EUR 300 000: the minimum amount for distribution is EUR 8 000, and EUR 2 000 for promotion.

Moreover, the amount awarded is non-repayable in the case of the SFC.<sup>2397</sup> As for RTV Slovenia, it is treated as a co-production investment.<sup>2398 2399</sup> As for eligible costs, these are defined in the Act on eligible costs.<sup>2400</sup> Usually, overheads are limited to 5% of the agency's financial support and have to be proved with invoices, and the costs of the producer's fees are also limited (7% of the approved financing). Some costs are ineligible, like VAT, the purchase of equipment, appreciation, penalties, legal costs, or costs that are financed from other public sources.

Lastly, support is selective and based on a 100-point system, evaluated and proposed by 3 members of the selection committee and decided by the managing director of the agency, who has the right to change the committee's proposal; however, prior to

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<sup>2395</sup> [https://www.film-center.si/media/tenders/2017/09/01/besedilo\\_jr\\_manj%C5%A1inske\\_koprodukcije\\_2017.pdf](https://www.film-center.si/media/tenders/2017/09/01/besedilo_jr_manj%C5%A1inske_koprodukcije_2017.pdf).

<sup>2396</sup> Chapter 5 of the Regular annual call for tenders for co-financing the realization of Slovenian feature film projects for 2018.

<sup>2397</sup> Article 20 point 2 of the Law about SFC.

<sup>2398</sup> RTV Slovenia acts on this call as co-producer at the production of films and will be publicly presented in theatres and in medias of RTV Slovenia as defined in co-production agreement. RTV Slovenia participate on the call with financial coproduction share, which which can be covered all phases of production. These costs are also part of co-production share of RTV Slovenia.

<sup>2399</sup> Article 4 of Rules and regulations of RTV Slovenia to publish public calls, [http://www.rtvlo.si/files/razpisi\\_natecaji/2017/2017\\_12\\_22\\_3-pravilnik\\_o\\_postopku\\_jr\\_rtv\\_slo\\_za\\_izdelavo\\_filmov\\_neodvisnih\\_producentov\\_za\\_javnokinetografsko\\_prikazovanje\\_in\\_upraviceni\\_stroski.pdf](http://www.rtvlo.si/files/razpisi_natecaji/2017/2017_12_22_3-pravilnik_o_postopku_jr_rtv_slo_za_izdelavo_filmov_neodvisnih_producentov_za_javnokinetografsko_prikazovanje_in_upraviceni_stroski.pdf)

<sup>2400</sup> Ibid.



this decision, he/she needs to inform the board of the agency and elaborate on his/her decision (very rare in practice).<sup>2401</sup>

#### 7.27.3.5. Spending and shooting criteria

Article 32 of the Act establishing the Slovenian Film Centre provides that “at least 20% of the overall production budget of the film can be spent in another EU member state”. Apart from this, there are no concrete requirements regarding shooting in the country. However, when it comes to minority co-productions, the ARRP provides that “each 2 shooting days on the territory of Slovenia gives you one additional point, up to a maximum of 10 points if the total is 20 or more shooting days; the post-production of sound and picture are awarded 2.5 points each, which makes a total maximum of 5 points, both on the evaluation scale of 100-point total”.<sup>2402</sup>

#### 7.27.3.6. Talent, cast, crew, underlying copyright

There are no requirements regarding the nationality of the talent, cast and crew or related to the underlying copyrights (and how they are linked to the country).

#### 7.27.3.7. Shooting language and diversity

The shooting language in the public calls is expected to be Slovenian or, in the case of works which deal with Italian or Hungarian minorities, also in these two languages.<sup>2403</sup> This rule is not strictly imposed when the story requires the use of other languages or even dialects; nonetheless, for the purposes of theatrical distribution or broadcasting, subtitles in Slovenian are mandatory.<sup>2404</sup> Moreover, in the case of minority production, the rule about the shooting language is not applied, but one of the sub-criteria of the script is the presence of Slovenia, Slovenians, the Slovenian language or Slovenian or European culture in the script.<sup>2405</sup>

On top of that, linguistic minorities as well as ethnic minorities are usually taken into account (for example, by using the languages of the ex-Yugoslavia or Roma people).

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<sup>2401</sup> Article 11 of the Law about SFC.

<sup>2402</sup> Article 21 of SFC Regulation.

<sup>2403</sup> Article 31 of SFC Regulation.

<sup>2404</sup> Article 5 of Zakon o medijih (ZMed) (the Law on Media), <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO1608>.

<sup>2405</sup> Article 21 of the SFC Regulation. This awards the project with up to 10 points out of the 100-point scale. However, this prescription is very tricky as evaluation of the script is worth in total maximum 30 points and if script is not evaluated with more than 20 points, selection committee cannot propose the project to the managing director of the agency for the financing.



Lastly, there are no gender equality regulations established, but it is worth mentioning that a recent report on gender and film support was published by the SFC.<sup>2406</sup>

## 7.27.4. Funding criteria applicable to pre-production support

### 7.27.4.1. Budget

The budget of an eligible project is not subject to any minimum threshold or maximum cap. Moreover, there are no concrete requirements on the part of the budget that needs to be secured in order to apply. For minority co-productions, at least 50% of the budget in the country of the foreign co-producer has to be secured.<sup>2407</sup>

### 7.27.4.2. Awarded amount

Pre-production support is awarded selectively through public calls and evaluated by a three-member selection committee.<sup>2408</sup> The amount awarded is not repayable.<sup>2409</sup> When it comes to aid intensity, the support provided can go up to 100% of the eligible costs.<sup>2410</sup> In addition, potential co-financing should be included in the production budget in case of application for production financing and should not exceed the cumulation of allowed state aids.

In terms of the maximum amount awarded, the caps are described in the public calls. The following caps were established for 2018:

- For the script development scheme: EUR 7 000 per project. Only feature-length fiction and documentary projects can apply, as well as animation projects of all lengths.<sup>2411</sup>
- For the project development scheme: EUR 25 000 per project.<sup>2412</sup>

Lastly, regarding eligible costs, these are defined in the Act on eligible costs<sup>2413</sup> in Articles 26 (for script development) and 27 (for project development), including, *inter alia*, the acquisition of rights, the scriptwriter's fees, travel and accommodation fees and overheads.

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<sup>2406</sup> Facts & Figures: Gender equality,

[https://issuu.com/sfilmc/docs/sfc\\_2018\\_facts\\_figures\\_gender\\_equ\\_27512fe95c5704](https://issuu.com/sfilmc/docs/sfc_2018_facts_figures_gender_equ_27512fe95c5704).

<sup>2407</sup> Proof of the financing from the country of origin of delegate producer is demanded in each public call

<sup>2408</sup> Articles 7 to 16 of SFC Regulation.

<sup>2409</sup> Article 20 point 2 of the Law about SFC.

<sup>2410</sup> Chapter 5 of (Regular annual call for tenders for co-financing the realization of Slovenian feature film projects for 2018.

<sup>2411</sup> Article 7 of Regular annual call for tenders for co-financing the realization of Slovenian feature film projects for 2018.

<sup>2412</sup> [https://www.film-center.si/media/tenders/2018/02/05/rezultati-razvoj\\_projekta\\_17.pdf](https://www.film-center.si/media/tenders/2018/02/05/rezultati-razvoj_projekta_17.pdf)

<sup>2413</sup> Ibid.



### 7.27.4.3. Underlying copyright

There are no requirements regarding the underlying copyrights (and how they are linked to the country).

### 7.27.4.4. Script language and diversity

The script is required to be presented in Slovenian.<sup>2414</sup> Moreover, projects in Italian and Hungarian (national minorities in Slovenia) are considered as “Slovenian film projects”, as they show the cultural diversity of the country.<sup>2415</sup> Apart from that, there are no special requirements regarding gender equality in Slovenia.

## 7.27.5. Funding criteria applicable to distribution and promotion support

### 7.27.5.1. Theatrical release, broadcasting and visibility on VOD

There are no specific requirements for distribution support applicants regarding theatrical release, performance and visibility on VOD or the release window schedule. However, as explained in section 7.27.3.1, usually, the public TV broadcasting of a work can be done one year from the theatrical distribution premiere.

### 7.27.5.2. Theatrical performance and performance at festivals, events and awards

There are no concrete requirements regarding the performance of a work in terms of theatrical attendance at home or abroad. However, if the selection committee (which assesses the distribution potential) concludes that the film has a greater potential for admission, it can propose to the director of the agency more support for distribution and promotion. In addition, if the film reaches more than 25 000 theatrical admissions in Slovenia, the maximum amount awarded can be increased from EUR 25 000 to EUR 37 500.<sup>2416</sup>

### 7.27.5.3. Budget

The budget of an eligible project is not subject to any minimum threshold or maximum cap, nor is anything stipulated regarding a minimum contribution from the applicant.

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<sup>2414</sup> Defined in each public call for script development.

<sup>2415</sup> Article 2 point 31 of SFC Regulation.

<sup>2416</sup> Article 22 of the Act about eligible costs.



#### 7.27.5.4. Awarded amount

The amount is awarded selectively by the selection committee<sup>2417</sup> and is not repayable.<sup>2418</sup> When it comes to aid intensity, the same rules for production support are applied to distribution and promotion support (a maximum of 50% as a general rule, a maximum of 60% for international co-productions and a maximum of 80% for low-budget, youth and children's films and difficult films).<sup>2419</sup> Moreover, as explained in section 7.27.5.2, the maximum amount of support is up to EUR 25 000, and can be increased to EUR 37 500 if the film reaches more than 25 000 theatrical admissions in Slovenia.

In addition, eligible costs are defined in the Act on eligible costs.<sup>2420</sup> For example, the SFC can cover the costs of the promotion of the film at festivals, covering the costs of travel expenses (up to 3 people), accommodation, subtitling and DCP fabrication at selected film festivals.<sup>2421</sup> All financed films for production are eligible for support and from the 2018 call onwards, the minimal costs for domestic distribution and promotion have to be included in the budget – see chapter 2.4.4.a. Costs for international promotion based on festival success are defined from project to project in consultation with the head of the promotion department at the Slovenian Film Centre.

#### 7.27.5.5. Language and diversity

In general, there are no requirements regarding the language of the work or the nationality of the cast and crew, but if the film is not in Slovenian, the distribution copy must be subtitled for theatrical distribution.<sup>2422</sup> Moreover, linguistic minorities as well as ethnic minorities are treated positively (usage of the languages of ex-Yugoslavia or Roma people for example). No gender-related regulations are established.

### 7.27.6. Data compilation

This factsheet was produced based on data compiled by JožkoRutar, CEO and producer at SPOK Films.

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<sup>2417</sup> Article 48 of the SFC Regulation.

<sup>2418</sup> Article 20 point 2 of the Law about SFC.

<sup>2419</sup> Chapter 5, p.4 of Regular annual call for tenders for co-financing the realization of Slovenian feature film projects for 2018.

<sup>2420</sup> Article 22 of the Act about eligible costs.

<sup>2421</sup> The list of eligible festivals can be found in the Annex of the Act about eligible costs, *Op. cit.*

<sup>2422</sup> Article 5 of the Law on Media (*Zakon o medijih - ZMed*), <http://pisrs.si/Pis.web/prehledPredpisa?id=ZAKO1608>.



## 7.28. SK – Slovakia – National Summary<sup>2423</sup>

### 7.28.1. Summary

The main operating fund in the country is the Slovak Audiovisual Fund (*Audiovizuálny Fond*, hereinafter, “the SAF”), which was established in 2010, replacing the former “Audiovision” grant system of the Ministry of Culture of the Slovak Republic. The fund is a self-governing public institution managed by professional administrative bodies which pursues the following essential goals:

- Increase financing in the audiovisual culture and industry;
- Provide flexible financial support and ensure its effective use;
- Render the beneficiaries of support accountable;
- Extend forms of support (grants, loans and stipends are available);
- Support every element in the film value chain, including pre-production, production, distribution, promotion and sales, festivals and other events, cinemas, research, education, publishing, workshops, the development of the Slovak audiovisual industry and its infrastructure, etc.;
- Ensure transparent and professional decision making.

In 2019, the preliminary SAF budget is EUR 13 million (EUR 8 million for the direct support of audiovisual culture, EUR 4.7 million for the cash rebate system, and EUR 0.8 million for the Film Commission and the functioning of the SAF), which is mostly a combination of public finance (state budget subsidies) and the contributions by public or private entities using audiovisual works as part of their business. There are also other possible income sources, such as the fund’s own income, donations, loan repayments and, in some cases, grant repayments, etc. The fund must use at least 95% of its income for support activities (and at most 5% its operational costs). The funds are divided between the following programmes:

- 75% for Programme 1: divided into 5 sub-programmes devoted to the development, creation and production of film and audiovisual works – feature works, documentary works, TV series, animation, school films, experimental works, etc. (including minority co-productions);
- 17% for Programme 2: distribution, promotion, international presentations, festivals and other events;
- 3% for Programme 3: education, training, research, publishing;
- 5% for Programme 4: the digitisation and modernisation of cinemas and the development of audiovisual technologies;

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<sup>2423</sup> The factsheet on Slovakia incorporates the feedback received from Michal Hradický (SAF) during the checking round with the national film and audiovisual funds.



- Programme 5: support for the audiovisual industry in Slovakia (cash rebates as production support for cinematographic works, TV films/series and documentary or animation series);<sup>2424</sup>
- Slovak Film Commission: the presentation and promotion of the Slovak film industry, its professionals and infrastructure, and the possibilities and conditions of filmmaking in Slovakia.

In addition, film support can also be provided at national level by the Literary Fund,<sup>2425</sup> through two support programmes:

- ALFA Support Programme: primarily intended to support the literary treatment of dramatic, animated and documentary films,<sup>2426</sup>
- ALFA PLUS Programme:<sup>2427</sup> designed to provide overall support for creative activities in the context of film and audiovisual works, from their inception to their production, including scriptwriting. It supports the filmmaking of dramatic works as well animation and documentaries.

## 7.28.2. General framework

### 7.28.2.1. Overview of the film and audiovisual funding policy and legislation

The basic legislation for the public film and audiovisual funding in Slovakia is Act 40/2015 on Audiovisual Content and Amending Certain Acts, as amended by Act 278/2015, which became effective on 1 July 2015. This act regulates, *inter alia*, the rights and obligations of persons working in the audiovisual sector – professionals in the film and audiovisual sector as well as independent producers – and the registers of Slovak audiovisual works. Moreover, it establishes the status and scope of the activities of the Slovak Film Institute.<sup>2428</sup>

Furthermore, the Law on the SAF defines in more detail the scope of the fund's activities, the rules relating to its internal organisation and the composition of its governing bodies, as well as the general conditions governing the allocation of funding. The current terms and conditions of the funding schemes provided by the SAF are

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<sup>2424</sup> The support from Program 5 is a cash rebate provided by a special contribution from the state budget whose amount is calculated annually according to the new provision of §29 (1) b) of the Law about the SAF, *Op. cit.* Over the last three years EUR 911 318 have been granted through this scheme. Since fiscal incentives are beyond the scope of analysis of the mapping, this scheme will not be further covered.

<sup>2425</sup> A national cultural public institution, which provides support for creative activities with special emphasis on original fiction, scientific and professional literature, journalism and journalistic photography, theatre, radio and entertainment art, film television and video-productions, [www.litfond.sk](http://www.litfond.sk).

<sup>2426</sup> [http://litfond.sk/index.php/ceny/program\\_ALFA](http://litfond.sk/index.php/ceny/program_ALFA).

<sup>2427</sup> [http://litfond.sk/index.php/ceny/program\\_ALFA\\_PLUS](http://litfond.sk/index.php/ceny/program_ALFA_PLUS).

<sup>2428</sup> Which is a state subsidized organisation who is in charge among other to protect and promote the cultural heritage of the Slovak Republic with the aim of preserving audiovisual works as forms of cultural expression. <http://www.sfu.sk/en/about-us/slovensky-filmovy-ustav>.



published in the Business Journal (Obchodnývestník), on the website of the SAF,<sup>2429</sup> as well as in the SAF Guidelines.<sup>2430</sup> This legal framework is supplemented by the Ministerial Decree of 165/2014 on film projects which defines more details for audiovisual industry support based on a 20% cash rebate system.

**Table 40. Main funds in Slovakia**

Funding institution	Geographical level	Legislation / Guidelines
Slovak Audiovisual Fund <sup>2431</sup>	National	Slovak Audiovisual Law <sup>2432</sup>
		Law on the SAF <sup>2433</sup>
		Film Decree <sup>2434</sup>
Literary Fund <sup>2435</sup>	National	Guidelines - Creative Activities in the Field of Television, Film and Video Production <sup>2436</sup>

Source: Response to European Audiovisual Observatory standardised questionnaire

### 7.28.2.2. Definition of cultural criteria

In the case of Programmes 1 and 2, applications are assessed according to the following groups of criteria:<sup>2437</sup>

<sup>2429</sup> <http://www.avf.sk/support/structure2019.aspx>. A description of the programmes and granting criteria is also available in *Štruktúra podpornej činnosti Audiovizuálneho fondu na rok 2019* (Structure of Support Activities of the Audiovisual Fund for 2019, hereinafter, "SAF Structures"),

[http://www.avf.sk/Libraries/Struktury/Struktura\\_podpornej\\_cinnosti\\_2019.sflb.ashx](http://www.avf.sk/Libraries/Struktury/Struktura_podpornej_cinnosti_2019.sflb.ashx).

<sup>2430</sup> *Zásady poskytovania finančných prostriedkov z Audiovizuálneho fondu* (SAF Guidelines),

[http://www.avf.sk/Libraries/Z%C3%A1kony\\_a\\_predpisy/VP\\_AVF\\_4\\_2018\\_Zasady\\_poskytovania.sflb.ashx](http://www.avf.sk/Libraries/Z%C3%A1kony_a_predpisy/VP_AVF_4_2018_Zasady_poskytovania.sflb.ashx).

<sup>2431</sup> [www.avf.sk/home.aspx](http://www.avf.sk/home.aspx).

<sup>2432</sup> *Zákon z 3. februára 2015 o audiovizíi a o zmene a doplnení niektorých zákonov* (Law of 3 February 2015 on Audiovisual Media and Amendments to Certain Acts, hereinafter, the "Slovak Audiovisual Law"),

[http://www.sfu.sk/uploads/ckeditor/attachments/339/audiovizu\\_lny\\_zakon2015.pdf](http://www.sfu.sk/uploads/ckeditor/attachments/339/audiovizu_lny_zakon2015.pdf).

<sup>2433</sup> *Zákon č. 516/2008 Z. z. o Audiovizuálnom fonde a o zmene a doplnení niektorých zákonov* (Act no. 516/2008 Coll. on the Audiovisual Fund and on the Amendment of Certain Laws, hereinafter the "Law on the SAF"),

[http://www.avf.sk/Libraries/Z%C3%A1kony\\_a\\_predpisy/AVF\\_zakon\\_516\\_2008\\_znenie\\_01\\_01\\_2019.sflb.ashx](http://www.avf.sk/Libraries/Z%C3%A1kony_a_predpisy/AVF_zakon_516_2008_znenie_01_01_2019.sflb.ashx).

<sup>2434</sup> *Vyhláška č. 165/2014 Ministerstva kultúry Slovenskej republiky o filmovom projekte* (Decree No. 165/2014 of the Ministry of Culture of the Slovak on a film project, hereinafter, the "Film Decree"),

[http://www.avf.sk/Libraries/Zákony\\_a\\_predpisy/Vyhlaska\\_MK\\_SR\\_165\\_2014\\_o\\_filmovom\\_diele.sflb.ashx](http://www.avf.sk/Libraries/Zákony_a_predpisy/Vyhlaska_MK_SR_165_2014_o_filmovom_diele.sflb.ashx).

<sup>2435</sup> [www.litfond.sk](http://www.litfond.sk).

<sup>2436</sup> *Vykonávacie smernice k Zásadám podpornej činnosti LF Výbor Sekcie pre tvorivú činnosť v oblasti televízie, filmu a videotvorby* (Guidelines to the Principles of Supporting Activities of the LF Committee on Creative Activities in the Field of Television, Film and Video Production),

[http://litfond.sk/index.php/kategoria/artikel/formy\\_podpornej\\_cinnosti/](http://litfond.sk/index.php/kategoria/artikel/formy_podpornej_cinnosti/).

<sup>2437</sup> Articles 3.6, 3.7 and 3.8 of the 2019 SAF Guidelines,

[http://www.avf.sk/Libraries/Z%C3%A1kony\\_a\\_predpisy/VP\\_AVF\\_3\\_2018\\_Zasady\\_sposob\\_a\\_kriteria\\_hodnotenia\\_15\\_01\\_2019.sflb.ashx](http://www.avf.sk/Libraries/Z%C3%A1kony_a_predpisy/VP_AVF_3_2018_Zasady_sposob_a_kriteria_hodnotenia_15_01_2019.sflb.ashx).



- The content of the project and its creative elements: content of the project (up to 35 points) and the creative and implementation team (up to 15 points).
- The budget of the project, and production and finance provisions (up to 40 points).
- The applicant's credit (up to 10 points).

This means that 50% of the score refers to content-related and cultural criteria. Moreover, in order to be eligible, a project must score at least 70% of the maximum amount of points in sections I a) and I b).<sup>2438</sup>

For instance, in the case of Programme 1, section I a) includes the following assessment criteria:

- The artistic and creative potential of the project, expressed mainly by the quality and originality of the subject, and the quality of the script or content of the project;
- The way in which the creative content is processed, including gender and genre profiling; the emphasis on cultural and societal values; the development of the cinematographic language; and the depiction of reality;
- The audience and/or artistic potential of the project and its intended use in the slovak audiovisual environment;
- The international potential of the project.

Furthermore, the following criteria are assessed in I b):

- The key talent, cast and crew;
- The experience of the participating creators, including previous awards and participation in award-winning works;
- The share of Slovak professionals' participation (creative and technical) in the project.

There is also a cultural test for the cash rebate (Programme 5).<sup>2439</sup>

### 7.28.2.3. Nationality of the applicant

The Slovak Audiovisual Fund does not have any restrictions regarding the nationality of the applicants. However, as per Article 2 of the SAF Guidelines, only natural persons with a place of business in the Slovak Republic or legal entities based in the Slovak Republic or with their branch office in the Slovak Republic are eligible for support.

A breakdown of the eligible types of applicants per programme is stipulated in section 5 of the SAF Structures and paragraphs 19 and 22 of the Law on the SAF, as detailed below:

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<sup>2438</sup> Article 4.7 of the 2019 SAF Guidelines.

<sup>2439</sup> Paragraph 2 of the Film Decree.



- For Programme 1: independent producers in the audiovisual industry registered according to a special regulation,<sup>2440</sup> producers of Slovak audiovisual works, authors and co-authors of Slovak audiovisual works, persons promoting and supporting the dissemination of audiovisual works;
- For Programme 2: producers of Slovak audiovisual works, distributors of audiovisual works, persons promoting and supporting the dissemination of audiovisual works.

Specifically, the definition of “Slovak audiovisual work”<sup>2441</sup> implies an audiovisual work produced or co-produced by a producer who, at least at the time of the first release, “has a permanent residence, place of business or registered office in the territory of the Slovak Republic”.

## 7.28.3. Funding criteria applicable to production support

### 7.28.3.1. Theatrical release, broadcasting and visibility on VOD

There are no requirements regarding visibility and performance on any of the different release windows, nor is there a release window schedule to be respected. However, under Programme 1, and in the case of the production of audiovisual works intended for television, the applicant is required to provide evidence of distributor interest (theatrical release) or the co-production contribution from the broadcaster (TV works).<sup>2442</sup>

### 7.28.3.2. Theatrical performance and performance at festivals, events and awards

There are no concrete requirements related to expected or actual theatrical performance on the home market or abroad, or at festivals, events and awards. However, there is a clause in the contract with the producer receiving support which stipulates that he must deliver a finished work – including confirmation of a theatrical release (for cinematographic works) or confirmation of the TV exploitation of the work (for TV works). At the same time, it should be noted that the performance of the past works and of the applicant on these platforms is evaluated in an automatic points system for the evaluation of the applicant’s credit (positive points for performance in three categories: the production of audiovisual works, acknowledgments of the quality of the productions and production/distribution results) that is used for assessing the applicant’s track record. Moreover, the expected distribution in one of the EU member states” is one of the elements assessed under the “Production” criteria of the cultural test described in section 7.28.2.2.

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<sup>2440</sup> See paragraphs 8-11 of Slovak Audiovisual Law.

<sup>2441</sup> Paragraph 2 (13) of Slovak Audiovisual Law.

<sup>2442</sup> Section 7 of SAF Structures.



### 7.28.3.3. Budget

The budget of an eligible project is not subject to any minimum threshold or maximum cap, except in the case of production support provided under Programme 5 (support for cinematographic works, TV films/TV series and documentary or animation series). Section 3 of the SAF Structures, pursuant to, and in conjunction with paragraph 3 of the Film Decree, stipulates that the minimum amount of eligible expenditure spent in connection with the creation of a film project must be at least:

- EUR 150 000 in the case of a project consisting of one audiovisual work with a minimum length of 70 minutes; or consisting of a multi-part documentary or animated audiovisual work including not more than 13 parts of at least five minutes each,
- EUR 300 000 in the case of a project consisting of two or three separate audiovisual works with a minimum length of 70 minutes each; or consisting of a multi-part fiction audiovisual work primarily intended for television with a range of not more than 13 parts of at least 40 minutes.

This minimum amount of eligible expenditure may not exceed 50% of the total budget of the film project, and the amount of eligible expenditure invoiced may not exceed 80% of the total budget of the film project.

Moreover, section 7 of the SAF Structures states the minimum percentages of mandatory co-financing which must be demonstrated at the time of application, from the applicant's own resources or from other sources. For production support provided under Programme 1, this percentage is up to:

- 10% for sub-programmes 1.1 to 1.4 (namely: theatrical feature films, documentaries, animated or educational films with a Slovak majority production share); for the production support of TV works it is 20%;
- 50% for sub-programme 1.5 (Slovak minority co-productions): the applicant shall demonstrate co-financing arrangements worth at least 50% of its contribution, while the majority co-producers must prove at least 60% of their contribution to the co-production.

### 7.28.3.4. Awarded amount

As per Article 5 of the SAF Guidelines, production support in programme 1 is awarded selectively upon a decision made by the SAF Director on the basis of an evaluation by the relevant expert committee. There are eight expert committees in the Audiovisual Fund, one for each sub-programme,<sup>2443</sup> and their composition is specified by section 6 of the SAF Structures.

In the case of Programme 1, as per section 3 of the SAF Structures, the maximum amount of subsidy granted in the sub-programmes for feature films, documentaries and

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<sup>2443</sup> Pursuant to paragraphs 22a-22f of the Law about SAF, there is no expert committee for program 5.



animation with a Slovak majority participation, is EUR 2 million for the production of one audiovisual work (with the possibility of receiving support twice cumulatively, not exceeding the maximum amount); this is decreased to EUR 300 000 in the case of Slovak minority co-productions. In addition, paragraph 18 (8) of the Law on the SAF specifies that the amount granted must not exceed the aid intensity rules provided for in Commission Regulation (EU) No. 651/2014 of 17 June 2014,<sup>2444</sup> namely: 50% of the eligible costs, 60% in the case of cross-border production financed by more than one member state of the EU involving producers from more than one member state; or 100% for difficult audiovisual works and co-productions involving countries from the OECD/DAC.<sup>2445</sup>

Support within Programme 1 can consist of a combination of a grant and a loan or just a grant, as per Section 4 of the SAF Structures. Section 3 specifies that if the amount of the grant is higher than EUR 30 000, it is repayable upon completion and release of the film. As for loans, these are repayable up to a maximum period of 5 years, as specified in paragraph 18 (3) of the Law on the SAF. This type of support was accorded to the 2018 SAF Yearly report<sup>2446</sup>, until now it has mostly been used for the digitisation of cinemas, and only three loans were awarded in the case of production (and the loans can, for the time being, only be granted in combination with grant support). The fund will recoup from the grant recipient's proceeds exceeding the amount of EUR 30 000 and, in any event, the total repaid amount may not exceed 90% of the grant. Lastly, regarding eligible costs, these are broadly defined in Articles 7.4 to 7.10 of the SAF Guidelines and mainly include the overall cost of script development, project development, and the production of audiovisual works, including the costs for the improvement of access for disabled people, and the costs of the distribution and promotion of the audiovisual work.

#### 7.28.3.5. Spending and shooting criteria

Sub-programme 1.5 for Slovak minority co-productions imposes obligations regarding spending in the country: as per section 3 of the SAF Structures, one of the specific priorities of this sub-programme is “demonstrating the creative, technical and financial participation of the Slovak party in the production of a work with a binding share of eligible expenditures realized in the territory of the Slovak Republic of at least 80% of the subsidy granted and with the exclusive right of the Slovak co-producer to use the work in the territory of the Slovak Republic”.

With regard to shooting, there is no minimum number of days of shooting required in the country.

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<sup>2444</sup> Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L\\_.2014.187.01.0001.01.ENG](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2014.187.01.0001.01.ENG).

<sup>2445</sup> Article 54 (7) of Commission Regulation (EU) No 651/2014 of 17 June 2014.

<sup>2446</sup> <http://www.avf.sk/aboutus/annualreports.aspx>.



#### 7.28.3.6. Talent, cast, crew, underlying copyright

There are no mandatory requirements regarding the nationality of the talent, cast and crew or related to the underlying copyrights (and how they are linked to the country). Some of these criteria are part of the cultural test, but do not constitute mandatory requirements.

#### 7.28.3.7. Shooting language and diversity

There are no mandatory requirements regarding the shooting language, ethnic or linguistic minorities and gender. Some of these criteria are indirectly taken into account in the content and cultural assessment, but do not constitute mandatory requirements.

### 7.28.4. Funding criteria applicable to pre-production support

#### 7.28.4.1. Budget

The budget of an eligible project is not subject to any minimum threshold or maximum cap. Moreover, as explained in section 7.28.3.3, section 7 of the SAF Structures states the minimum percentages of mandatory collateral co-financing required. For pre-production support provided under Programme 1, this percentage is at least 10 %, increased to at least 20% for the development of audiovisual works primarily intended for television broadcasting (in this case, it is also necessary to prove the interest of the broadcaster for the project).

#### 7.28.4.2. Awarded amount

Regarding the aid intensity, the same general rules apply to the different support activities, including pre-production (described in 7.28.3.4). Moreover, the amount of the support granted is limited to EUR 30 000 for the development of the audiovisual work in sub-programmes, as per section 3 of the SAF Structures. The amount is awarded selectively and is non-repayable.

#### 7.28.4.3. Underlying copyright

There are no requirements regarding the underlying copyright (and how this is linked to the country).

#### 7.28.4.4. Script language and diversity

There are no requirements regarding the language of the script, ethnic or linguistic minorities and gender.



## 7.28.5. Funding criteria applicable to distribution and promotion support

### 7.28.5.1. Theatrical release, broadcasting and visibility on VOD

There are no specific requirements regarding theatrical release, performance and visibility on VOD or the release window schedule.

### 7.28.5.2. Theatrical performance and performance at festivals, events and awards

As a general principle, there are no quantitative requirements regarding the performance of a work in terms of theatrical attendance at home or abroad, except in the case of sub-programme 2.3 “Improvement of admissions for Slovak cinematographic works”. For this programme,<sup>2447</sup> support is calculated based on the number of tickets sold for a given period for the screening of the Slovak cinematographic work, which is as follows:

- EUR 1 per ticket sold up to an attendance of 100 000 admissions.
- EUR 0.5 per ticket sold beyond an attendance of 100 000 admissions.

For the other sub-programmes, there are no requirements related to the performance of the work as such.

### 7.28.5.3. Budget

The budget of an eligible project is not subject to any minimum threshold or maximum cap. Moreover, as explained in section 7.28.3.3, section 7 of the SAF Structures states the minimum percentages of mandatory co-financing required to be demonstrated at the time of application, from the applicant’s own resources or from other sources. In the case of distribution and promotion support provided under Programme 2, this percentage is:

- 10% for sub-programme 2.1 (distribution and promotion of audiovisual works) and sub-programme 2.3 (support for distribution of Slovak cinematographic works);
- 20% for sub-programme 2.2 (Participation of Slovak audiovisual works in events in the Slovak Republic).

### 7.28.5.4. Awarded amount

Regarding the aid intensity, the same general rules apply to the different support activities, including pre-production (described in 7.28.3.4). As per section 3 of the SAF Structures, the maximum amounts granted under Programme 2 are:

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<sup>2447</sup> Section 3 of SAF Structures.



- In sub-programme 2.1.1 (distribution of Slovak audiovisual works): EUR 25 000;
- In sub-programme 2.1.2 (distribution of foreign audiovisual works in Slovakia): EUR 10 000;
- In sub-programme 2.1.3 (public presentation of Slovak audiovisual culture, annual awards, the participation of Slovak audiovisual works at events abroad): EUR 50 000;
- In sub-programme 2.2 (public events with the participation of audiovisual works in the Slovak Republic): EUR 300 000;
- In sub-programme 2.3 (improvement of admissions for Slovak cinematographic work): calculated based on theatrical performance, as explained in section 7.28.5.2.

The amount is awarded selectively (partially with the exception of sub-programme 2.3 – improvement of admissions for Slovak cinematographic work – where the support is semi-automatic when the application fulfills the set criteria), according to the same procedure as described for production support (section 7.28.3.4), as well as eligible costs. The amounts are repayable; the applicant must prove the use of the subsidy with a final report and invoices.

Furthermore, support provided within Programme 2.1.1 for the distribution of Slovak audiovisual works can consist of a combination of a grant and a loan or just a grant, as per Section 4 of the SAF Structures. Section 3 thereof specifies that the granted amount is repayable depending on the theatrical performance of the film in the Slovak Republic as follows:

- 0% for films with less than 20 000 admissions;
- 25% for films with an audience of between 20 000 and 60 000 admissions;
- 50% for films with an audience of between 60 000 and 100 000 admissions;
- 90% for films with an attendance of more than 100 000 admissions;

#### 7.28.5.5. Language and diversity

There are no particular requirements regarding the language of the film or linked to ethnic or linguistic minorities and gender.

### 7.28.6. Data compilation

This factsheet was produced based on data compiled by Marketa Hodouskova, freelance consultant and managing director of Film New Europe Association.



## 8. Glossary

Note: Underlined terms in the definition appear also defined in this glossary.

**Aid intensity:** Is the level of economic support a project can received expressed either as a maximum share of the budget or eligible costs, or as a maximum amount of money. As a general rule, when it comes to theatrical production, Article 52.2 of the Communication from the Commission on State aid for films and other audiovisual works<sup>2448</sup> (Cinema Communication) establishes that the aid intensity must in principle be limited to 50 % of the production budget, 60 % of the production budget when it comes to cross-border productions. Difficult audiovisual works are excluded from these requirements. In turn there are no limits to the funding of pre-production (Art. 52.3) and distributing and promoting audiovisual works may be supported with the same aid intensity as they were or could have been for their production (Art. 52.4).

**(Film) circulation:** Also known as film export, it is the distribution of a film beyond the borders of the production country/-ies.

**Day-and-date release** takes place when a film is released simultaneously in several release windows; for instance, when a theatrical production is released in theatres and VoD on the same day.

**Distribution deal:** A distribution deal is an agreement between a producer and a distributor for the theatrical distribution of a film theatrically in a country. The deal usually includes some minimum requirements as to the release of the film (minimum number of copies, cities and/or theatres). The schemes of some funds require there is such a deal in place so as to guarantee the final work has a theatrical distribution potential.

**Eligible costs:** Spending categories which will be taken into account to calculate the final awarded amount in a scheme. They may exclude a series of elements which vary from scheme to scheme and that the fund considers that cannot be funded or whose funding should have a ceiling; for instance, the guidelines of a scheme may consider ineligible certain legal fees, travel costs or cast and producer's fees (or put a cap on them).

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<sup>2448</sup> [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52013XC1115\(01\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52013XC1115(01)&from=EN)



**Film and audiovisual fund:** An institution mainly devoted to the (financial) support of the film and audiovisual industry in a country or region.

**Performance** is the accomplishment of a series of pre-established tasks or goals measured against preset standard indicators. Performance also refers to the fulfillment of a series of preset obligations.

**Pre-production** includes all steps before starting principal photography. It may include the acquisition of copyrights (of a pre-existing work such as a novel, a cartoon, a song, etc, which will be used in the development of a new project), script development, project development, legal fees, completion bond, insurances, financing costs, etc).

**Pre-acquisition:** This refers to the acquisition of broadcasting rights at the pre-production stage of a film or audiovisual work. The schemes of some funds require there is such a deal in place so as to guarantee the final work has broadcasting potential.

**Principal photography** is the phase of production in which a film or audiovisual work is shot, filmed or recorded.

**Production:** For the purpose of this analysis, production comprises any tasks and activities around the shooting (filming or recording) and post-production of a film or audiovisual work

**Promotion:** Making a film or audiovisual work available to a festival audience or helping to promote the export of a given film.

**Region:** For the purpose of this analysis, the term region refers to the first layer of sub-national administrative entities within a country. Each country may have a different way to refer to this sub-national divisions; i.e. nations in the UK or autonomous communities in Spain. The term is not used here to refer to groups of countries.

**Release windows** are the different ways of distribution of a film (theatrical window, VoD, pay-TV, Free TV, home video, the Internet, etc). Some countries, funds and rightsholders may require that a given release window schedule is respected in order not to jeopardize the possible earnings from one window before the film is released in the next one.

**Scheme:** Each of the individual lines of support within a fund. A fund can have one or more schemes devoted to a same type of activity (for instance, the same fund can have



three schemes devoted to feature film production: one for debut films, another for low-budget films and a third one for all other cases).

**SVoD (Subscription Video on Demand)** is a video on demand service that requires users to pay a monthly fee to access the catalogue.

**Theatrical distribution** comprises the different phases since the completion of a film until this is delivered to the cinema theatres for exhibition; it includes the so called P&A (prints and advertising), which comprises the production of digital prints and of advertisement material, as well as publicity campaigns and transportation.

**Theatrical performance** can be measured in two different ways: by number of admissions sold for a given film or by Gross Box Office (GBO) revenues, that is, total gross revenues (before taxes) of a film.

**TVoD (Transactional Video on Demand)** is a video on demand service where the user makes a payment for particular choice of video or small combination of videos.

**Type of activity:** For the purpose of this report we have restricted our analysis to the following types of activities: pre-production, production and theatrical distribution and promotion.

**Underlying copyrights:** Existing copyrighted materials used to produce new material for a project; for example, a novel used to produce the script of a film.

**VoD (Video on demand)** is a system allowing viewers to order and see a programme at the exact time the viewer specifies. VOD can be offered through streaming of the content through a set-top box, a computer or other device, allowing viewing in real time, or by download to a device such as a computer, for viewing at any time.



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