

Producing in CEE

A guide to film, television
and interactive digital media
incentive programs

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Why produce in CEE?

Europe is the homeland of cinema, with the Lumière brothers being pioneers in the art of moving pictures. The new invention spread swiftly across the continent, with the first cinemas appearing in Central and Eastern Europe (CEE) at the end of the 19th century. Central Europeans became quickly fascinated with the new invention. Harry and Albert Warner, born in today's Poland, first discovered the Lumière brothers' invention before sailing off to America to set up Warner Bros. studio.

Though often overlooked, CEE has a rich history of film making, and it continues to produce award-winning films, which are enjoyed by growing audiences. The works of Andrzej Wajda, Ján Kadár, Roman Polanski, Pawel Pawlikowski and Milos Forman have been screened in cinemas around the globe.

CEE has also become a popular film production destination thanks to its experienced film crews, a variety of diverse filming locations in close proximity to each other, and much lower production costs when compared to the US or Western European countries.

Many big-budget productions such as *Spider-Man: Far From Home* (2019), *Mission: Impossible – Ghost Protocol* (2011), *Robin Hood* (2018), *Terminator: Dark Fate* (2019) were shot in CEE. During the last decade, Hungary became the second most popular European filming destination after the United Kingdom.

Producing in CEE — our comprehensive legal guide to CEE film, television and interactive digital media incentive programs — provides an overview of the available financial incentives for audiovisual production in the Czech Republic, Hungary, Poland, Romania and Slovakia and the criteria that must be satisfied to qualify for them.

After introducing attractive financial incentives schemes, CEE countries continue to adjust the requirements to demands and make them more competitive. In CEE countries, governments compete

by increasing the cash rebate and other financial incentives for television and movie productions filmed in their countries in a bid to attract regional and international film crews. Government-based production grant systems in these countries are eligible for both local and international producers, provided that they work with local partners – acting both as majority and minority co-producers or under a works-for-hire system¹. The systems are operated by public institutions such as the Hungarian Film Institute and Film Office, the Polish Film Institute, the Slovak Audiovisual Fund and the Czech Film Fund. Production grants and financial incentives are separate schemes. For example, in Poland and in Hungary, producers can take advantage of both types of support for one project.

Stable financial support systems boost production in CEE. In 2019, 62 feature films were produced in the Czech Republic, 44 in Slovakia, 45 in Poland, 29 in Romania and 20 in Hungary². As a filming destination, Hungary is the standout in the region when it comes to the works-for-hire system for international productions. As reported by the country's National Film Fund³, records were broken in film production in Hungary in 2019, with the amount directly spent on film production reaching US\$565.6 million (HUF 164.4 billion), which represents an increase of approximately 50% over the preceding year; 94% of the entire amount came from international productions.

¹ It means that the end product, i.e. the movie, will not be a majority or minority co-production (meaning the rights are split between the co-producers); instead the studio will obtain all rights and the actual producers will just provide production services, i.e. works for hire.

² www.cineuropa.org, www.filmneweurope.com, www.filmcenter.cz, National Film Office

³ <https://nfi.hu/en/news/film-and-tv-production-resume-in-hungary-record-breaking-spend-in-2019>

Box office collections

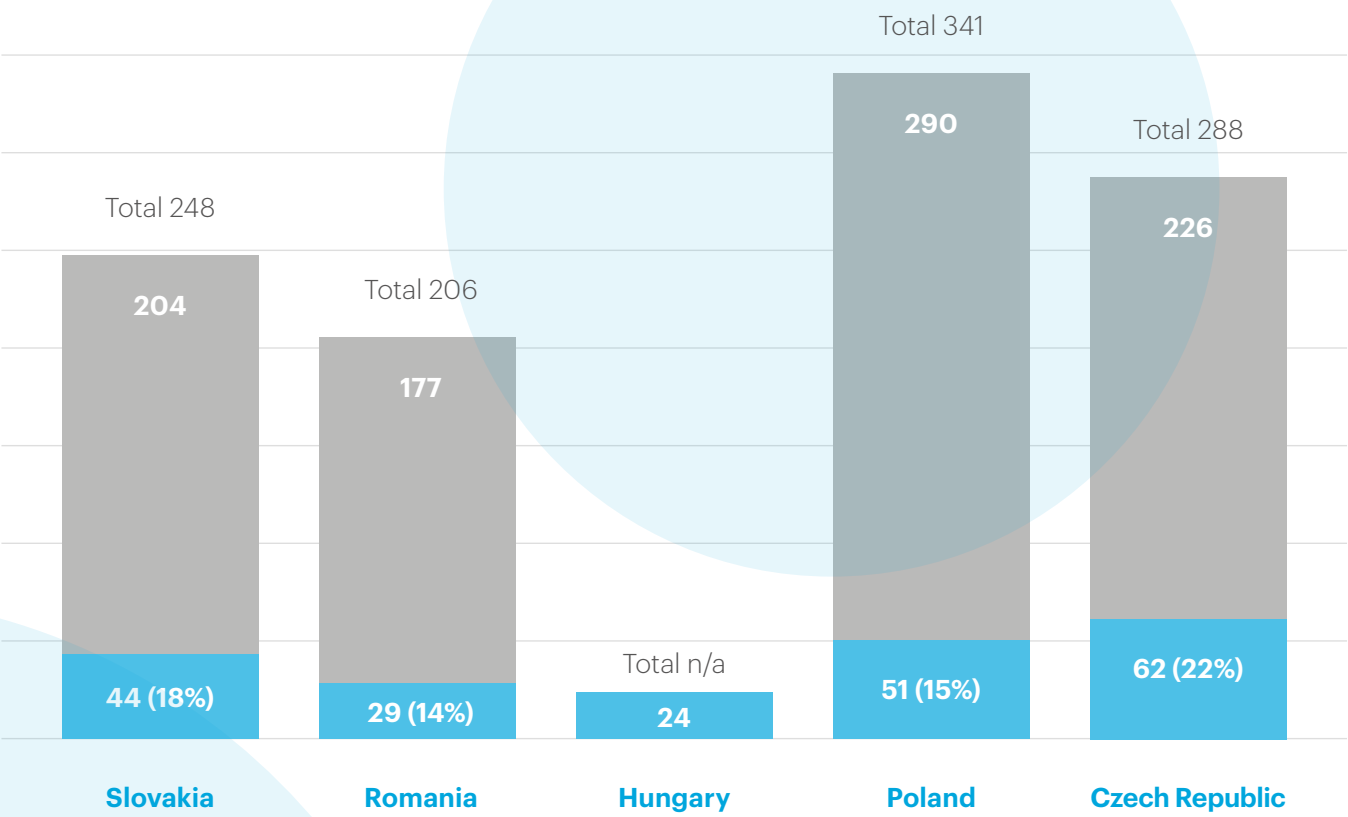
The CEE region has historically had a strong domestic film consumption and the local film production industry has been heavily reliant on box office collections.

Local box office collections have been growing in CEE year on year, apart from 2020 due to the pandemic. For example, in 2019, Poland had 60.9 million admissions compared to 59.7 in 2018, 56.6 in 2017, 52.1 in 2016, 44.7 in 2015, and it landed 17th spot in the list of TOP 20 International Box Office Markets prepared by the Motion Picture Association of America¹. Other countries that have a smaller population than Poland have also recorded growth in recent years.

2019 ²	Czech Republic	Hungary	Poland	Romania	Slovakia
Population (in million)	10.7	9.7	38.3	19.3	5.4
Admissions (in million)	18.3	15.1	60.9	13.1	6.5
Local film premieres	62	24	51	29	44

1 http://filmcommissionpoland.pl/assets/Zalaczniki/PG_2020_5_web.pdf
2 Czech Republic: https://www.filmcenter.cz/files/editor/files/Facts%20and%20figures%202019_WEB.pdf; <http://www.filmneweurope.com/countries/czech-profile>; Hungary: <http://abouthungary.hu/news-in-brief/hungarys-film-industry-attracted-a-record-breaking-huf-1644-billion-spend-last-year/>; National Film Office; Poland: <http://www.filmneweurope.com/countries/poland-profile>; Romania: <https://cineuropa.org/en/cfocusprofile/1965/83327/>; Slovakia: <https://cineuropa.org/en/cfocusprofile/1663/62876/>

Feature film premiered in 2019: national vs international²



Obviously, due to the COVID-19 pandemic restrictions, there has been a significant change in the film industry’s production model: more producers are now looking for video-on-demand (VOD) platforms as their distribution partners. That shift will not be enough to cover losses resulting from a drastic decrease in film consumption in cinemas. For example, according to forecasts, Slovakia’s audiovisual industry (which is the smallest market out of the countries covered in this guide) could experience a nearly €60 million decline in 2020, including an estimated drop of €43 million in production and over €15 million in film distribution¹.

This decrease in film consumption in cinemas has pushed governments to increase public funding to support local cinematography and this spending puts pressure on the governments to find appropriate financial models.

Gross 2018 box office collections (US\$ million) ²	
Slovakia	39
Romania	66.8
Hungary	78.3
Czech Republic	101
Poland	312.3

Funding options

Each country has different requirements or application forms and may support several stages of production, provided that a local partner is involved in the process. In most countries a so-called cultural test – verifying the connection between the production and country providing financial support – applies. Other requirements include the length of the

audiovisual work or a minimum spend in the country where the application of support is being submitted. The limits of support apply and vary depending on the country. For example, Poland has caps per project and applicants, while in the Czech Republic eligible expenditures are capped at 80% of the total budget.

Rebates¹

	Czech Republic	Hungary	Poland	Romania	Slovakia
Maximum amount of support	20% of eligible costs. In addition, 66% rebate on withholding tax paid in the Czech Republic by international cast and crew.	30% The rebate can reach 37.5% through the addition of qualifying non-Hungarian costs.	30%	35% Additionally, productions explicitly promoting Romania, with a minimum local spend of 20% of the total budget of the production, can also apply for a rebate of 10%.	33% (since 2020)
Planned annual budget	€29m (CZK800m)	€90m (HUF33bn)	€47.1m (PLN216m)	€250m (RON1.2bn) until end of 2023	-
Cap per project	Eligible costs cannot exceed 80% of the total project costs.	-	€3.3m (PLN15m)	-	-

1 <https://kafkadesk.org/2020/05/07/slovak-film-industry-facing-multi-million-economic-fallout-due-to-pandemic/>
2 World Film Market Trends - European Audiovisual Observatory
Source: <https://rm.coe.int/focus-2019/1680994a74>

1 <https://nfi.hu/en/news/film-and-tv-production-resume-in-hungary-record-breaking-spend-in-2019>, Global Incentives Index 2020 (<https://www.o-spi.co.uk/wp-content/uploads/2020/06/Olsberg-SPI-Global-Incentives-Index-June-2020.pdf?fbclid=IwAR3msFTmaxpy9sYA9YCW->), <http://www.filmneweurope.com/news/romania-news/item/120456-romania-resumes-cash-rebate-scheme>

Financial incentives are not the only source of the financial support for foreign crews in the CEE region. Each country has a well-established system of production grants eligible for majority and minority co-productions, with an obligatory local partner on board.

For example, in Poland the maximum subsidy for a contemporary full-length feature film is set at no more than 50% of the total budget and at PLN 4 million (ca. €940,000) or PLN 6 million (ca. €1,408,000) for historic films. There are different numbers for films with limited commercial value, directed by new or unknown directors or low budget. In Slovakia, as of October 2020, 50% of the estimated total budget funding from third-party financial resources (either through direct funding or through the sale of preferential rights) must be provided and feature or animated projects can apply for up to 12.5% of the production budget (with a limit of €500,000). Creative documentaries can apply for support up to 20% of the production budget (with a limit of €300,000)¹.

In addition, each country has regional grants available for supporting cinematography in this particular part of the country.

On top of this, each of the countries of the CEE region is eligible to apply for the grants from European bodies, including Creative Europe and Eurimage.

Working in the New Dynamic

During the pandemic, the landscape of television and film production in CEE and the rest of the world is changing as the industry tries to adapt to the new dynamic. In this framework, both the government and private sector players (i.e. associations, digital platforms, unions etc.) are making an effort to support the continuation of production with adequate health and safety measures. Since the situation is changing and evolving on an almost daily basis, we recommend reviewing the rules applicable to the jurisdiction you will be producing in.

Please visit Dentons' COVID-19 (Coronavirus) hub for more information and legal resources relating to COVID-19: <https://www.dentons.com/en/issues-and-opportunities/covid-19-coronavirus-hub>

To find out more about CEE film, television and interactive digital media incentive programs, or structuring productions, **please contact one of the lawyers listed at the end of this document.**

¹ <http://www.cedslovakia.eu/clanky/podpora-uvadzania-europskych-audiovizualnych-diel-v-televiznych-programoch>

Government film incentives



Czech Republic

The Czech Republic has always been a film country and is considered by producers from across the world as one of the most interesting and amazing filming destinations. Over the past 20 years, many foreign film studios as well as independent production companies have had the opportunity to appreciate stunning locations, highly professional film crews and quality post-production services, which put the Czech Republic among the world's most attractive filming locations.

The first peak of the Czech film production came between 1996 and 2006, when blockbusters like *Mission: Impossible* (1996), *The Bourne Identity* (2002), *Blade II* (2002), *Hart's War* (2002), *The League of Extraordinary Gentlemen* (2003), *Hellboy* (2004) and *Casino Royale* (2006) were produced. The second peak of the production was connected to the introduction of a proper film incentives scheme in 2010. This new stimulus set the stage for another wave of production represented by shoots such as *Mission: Impossible – Ghost Protocol* (2011), *A Royal Affair* (2012), *Child 44* (2015), *Spider-Man: Far From Home* (2019), Oscar-winning masterpiece *Jojo Rabbit* (2019) and TV series *Borgia*, *Crossing Lines* and *Carnival Row*.

Nearly 80 films and series were shot in the Czech Republic in 2019, bringing €363 million to the Czech economy.¹

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¹ Film New Europe, 20 February 2020, accessible from [here](#)

Czech film support schemes

In the Czech Republic, there are currently two official nationwide schemes supporting cinematography.

Firstly, activities related to Czech cinematography are supported by the so-called **support for cinematography** (in Czech *podpora kinematografie*), which may be, however, partially drawn also by foreign co-producers under the conditions described below. During 2020, more than CZK 370 million have been allocated under this support.

Secondly, from 2010 the Czech Republic also offers an **incentives scheme** for film and television production irrespective of whether it comes from the Czech Republic or abroad (in Czech: *filmové pobídky*), which aims to further support the film industry and increase the competitiveness of Czech cinematography. Since the introduction of the scheme, more than 185 film and TV projects have been supported and approximately CZK 2.5 billion (approx. €90 million) has been paid out in support for domestic and foreign projects. Even though at the end of 2019 the Czech Film Fund suspended new applications to the incentives scheme, referring to a lack of financial resources, it seems that the incentives scheme is up and running again and registering new applications in 2020.



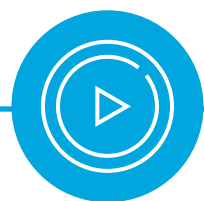
In 2019, the Czech Film Fund paid a total of CZK 1.2 billion (US\$52.4 million / €48.3 million) in incentives to 71 projects.³

Both of the abovementioned schemes and subsidies provided on their basis by the **Czech Film Fund** (in Czech: *Státní fond kinematografie*; the “**Fund**”) are governed by the Audiovisual Act and the Statute of the Fund (the “**Statute**”).¹ Provision of subsidies must also respect the requirements of European legislation.²

¹ Act No. 496/2012 Coll., on Audiovisual Works and Promotion of Cinematography and on Amendments to Certain Acts (Audiovisual Act) and Statute of the Czech Film Fund dated 3 May 2017.

² 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 (GBER).

³ <https://www.filmneueurope.com/press-releases/item/119565-film-incentives-in-the-czech-republic-in-2019-attracted-almost-czk-9-billion-usd-393-million-eur-363-million-in-expenditures-interest-in-filming-continues-to-rise>



Support for cinematography

The purpose of the support for cinematography is to support Czech cinematographic projects.

The condition for drawing this kind of subsidy is meeting the requirement that at least 10% of the overall costs of the project are borne by a Czech producer. A full range of cinematographic activities, ranging from drafting of the first version of a script, all the way to distribution, financing cinema digitization, support for education or organizing a film festival, is supported under this program.

Additionally, since the support does not exclude projects made in cooperation with foreign co-producers, the funds may be drawn also for projects produced by multiple (even foreign) co-producers, under the condition that one of the co-producers is based in the Czech Republic and the cinematographic project complies with the rules of international conventions on co-producing, such as the European Convention on Cinematographic Co-Production (both types of projects outlined above will be hereafter referred to as “**Czech Cinematographic Work**”).

Top co-production partners of the Czech film industry:

Slovakia, Poland, Slovenia, Romania, Lithuania, Hungary, Germany, Switzerland, the Netherlands and Russia.¹

Support for cinematography may be granted for several explicitly stated purposes and activities in the motion picture industry, in particular for: (i) development, producing or promoting Czech Cinematographic Work, (ii) distribution of any cinematographic work, (iii) organizing a film festival or exhibition, or (iv) technical innovation and modernization of cinematography. The support is provided either as a **grant** or as a **profit-sharing grant** establishing the right of the Fund to receive a certain share of the profits gained from the supported cinematographic work in the future.

The beneficiary from the support for cinematography must meet the following eligibility criteria: (i) having a clean criminal record; (ii) not being in liquidation or bankruptcy proceedings; and (iii) having no debts whatsoever towards the Tax Office, Customs Office, on social security payments and contributions to public health insurance. All the criteria must be met both in the Czech Republic and potentially abroad.

Value of the support

The maximum amount of the support for cinematography depends upon the type of the project (cinematographic work). It ranges from CZK 5 million for the distribution of a cinematographic work, to CZK 40 million in the case of producing Czech Cinematographic Work. Other notable capped amounts are: (i) CZK 5 million for promotion of Czech Cinematographic Work, (ii) CZK 8 million for organizing a film festival or exhibition on cinematography, and (iii) CZK 10 million for projects focused on technical innovation and modernization of cinematography.

Procedure

The support for cinematography is provided based on an individual application following a call for applications announced by the Fund. The calls are announced for each type of project separately and always specify the conditions of the support, including the project type and its focus, the deadline for applications and their mandatory contents and attachments, the sum of allocated financial support, and other potential conditions and circumstances of the support. Calls are announced at least four times a year.

Applications are submitted online via the Fund's website and website app. Submission of the application is connected with payment of an administrative fee of CZK 5,000 or CZK 10,000 depending on the type of the project.

Each application is assessed and decided on by the Fund's committee based on an expert opinion. The committee must decide on the application within 90 days from the deadline for applications as declared in the respective call. No remedies or appeals are admitted against the decision.

Providing the support for cinematography is completely in the Fund's discretion. Support must be used solely in relation to the funded project.

¹ <http://www.filmneweurope.com/countries/czech-profile>

Incentive scheme

The second type of state support is the incentives scheme, which applies both to films intended for distribution in cinemas as well as certain types of television productions, regardless of whether they are Czech or foreign projects, including all post-production work. The incentives scheme offers filmmakers cash rebates on qualifying Czech and international spend.

Those rebates are provided from the so-called eligible costs, which are capped at 80% of the total project budget. Eligible costs are divided into two categories:

- **Czech eligible costs** – Payments for goods and services provided by companies or individuals with their registered seat, residency or place of business in the Czech Republic, and tax registered in the Czech Republic.
- **Foreign eligible costs** – International costs paid to foreign cast and crew who pay withholding tax in the Czech Republic.

In order for the costs to be eligible, they must be incurred after the date of the submission of the application for registration but before the date of submission of the application for payment of the incentive (see below). Furthermore, eligible costs must be paid from a separate project account (except for cash payments), which shall be used solely for the financing of the project.

Some costs are explicitly excluded. These costs include, for example: interest on loans and borrowings; bank charges; value added tax; the purchase price of real estate; operating expenses not associated solely with the incentivized project; costs related to the use of own producing capacity of the applicant; in-kind performance provided by a co-producer free of any charge etc.

Eligibility

In order to qualify for the incentives scheme, the following conditions must be satisfied:

Production in the Czech Republic

The project must be produced at least partially in the Czech Republic, which means that at least part of the preparatory works, filming (or animations) or finalization of the work must take place in the Czech Republic.

Limits for length

The project must meet the minimum length requirements set as follows: (i) 70 minutes in case of feature, animation, TV or documentary films, (ii) 30 minutes in case of fictional TV series, and (iii) five minutes in case of animated TV series (both per episode).

Content restrictions

The project needs to pass the cultural test (i.e. test for European cultural and production criteria) by scoring a minimum of 4 points from cultural criteria, and receive a minimum of 23 points overall, out of a possible total of 46 points.

The test examines whether the project meets particular European cultural (e.g. story is based on events that are part of European culture; work has cultural importance; reflects European values etc.) and production criteria (e.g. final version is in any language of the EEA; shooting, production or post-production takes place in the Czech Republic etc.)

The cultural test forms part of the initial application for the registration of the project (see below)¹ and results are reviewed and inspected by the Fund during the application procedure.

In this regard, the support cannot be granted with respect to projects with violent, pornographic or dishonest content.

Minimum eligible costs

As the rebates are calculated on the basis of the eligible costs of the project, there is a prescribed minimum amount of the eligible costs related to the project necessary for falling within the incentive scheme.

The minimum eligible costs (excl. VAT) must be at least: (i) CZK 15 million in case of feature, animation and TV films, (ii) CZK 2 million in case of documentary films, (iii) CZK 8 million in case of fictional TV series and (iv) CZK 1 million in case of animated TV series (both per episode).

The maximum amount of eligible costs from which the rebates are calculated cannot exceed 80% of the total budget of the project. Otherwise, the rebates are calculated only with respect to such 80% of the total budget.

Other criteria

The applicant for the subsidies: (i) must have a clean criminal record; (ii) must have no debts whatsoever towards the Tax Office, Customs Office, on social security payments and contributions to the public health insurance; (iii) cannot be in liquidation or bankruptcy proceedings; and (iv) shall not be affected by enforcement of a court decision.

¹ Form for the test is available together with the application for the registration of the project from the Fund's websites and is submitted together with the application.



Value of incentives

The incentive scheme offers a refund of a certain percentage of both Czech and foreign eligible costs directly related to the realization of the project (rebates). The support is paid directly to the applicant after the production work on the project are completed (rebates).

Czech eligible costs

As regards the Czech eligible costs, rebates may be granted up to 20% of all such costs.

Foreign eligible costs

As regards the foreign eligible costs, rebates may be granted up to 66% of the amount of withholding tax paid in the Czech Republic.

Limitation of overall subsidy

The aggregate amount of the subsidy cannot exceed 50% of the overall budget of the project. However, there is no cap on the pecuniary amount of the support.

Maintaining evidence of the expenditures

The applicant must be prepared to prove the eligible costs with respect to which the rebates are drawn either (i) by the particular schedule to the application for the incentive; (ii) by its accounting records; or (iii) upon a request of the Fund by the statement of a bank account established for the project in question or by contractual documentation.

Procedure

The procedure for granting the support under the incentives scheme is divided into three separate parts.

First is the **registration proceedings**, started by an application for registration of the project. Applying for the registration can be done throughout the whole year (i.e. is not limited or connected to particular calls).

The applicant for the registration must be tax resident in the Czech Republic or in any other member state of the European Union or the European Economic Area. In addition, the applicant must have a permanent establishment in the Czech Republic and be the producer or co-producer of the audiovisual work in question or must be producing the work based on an order of the producer.

Applicants submit their applications for project registration along with the cultural test, a synopsis and a Czech version of the script.

The date of the submission of the application is crucial, as it determines the day after which the costs incurred qualify as eligible for the support.

Submission of the application is connected with a payment of an administrative fee of CZK 30,000.

If the application for registration meets all prescribed requirements and the project is eligible for support, the Fund issues a decision on registration of the project within 30 days. The decision lays down conditions and requirements for production of the project, including the number of shooting days etc.

The applicant which received the decision on registration of the project is entitled to continue to the second part of the procedure, which is **listing proceedings**. Applicants must submit the application for listing of the project within three years from receiving the decision on registration. The purpose of the listing proceedings is allocation of the rebates (support) to the particular projects.

Applications may be submitted anytime (within the three-year deadline), however at least 10 shooting days in the Czech Republic must be completed (the deadline for a Eurimage project is nine months) within four months from the submission of the application for listing.

Together with the application for listing of the project, the project's budget must be filed as well as the shooting schedule.

Based on the application and provided information, the Fund decides on listing of the project and allocates estimated funds (rebates) to the project.

Finally, after the decision on listing, the applicant may submit the application for payment of the incentive and initiate the **proceedings on payment of the incentive**.

Applications can be submitted anytime within four years after the delivery of the decision on registration of the project to the applicant. A maximum of two applications for payment of the incentive is allowed.

Applicants must submit a statement of account, financing plan, audited statements demonstrating the eligible costs incurred, co-production or service agreements, and other financial information together with the application for payment.

Incentives (rebates) are transferred to the applicant within 30 days from the issuance date of the decision on payment of the incentive.

All of the abovementioned applications shall be submitted to the Fund by electronic means via the Fund's website application.¹

Co-productions and Eurimages

The Czech Republic is a signatory to the European Convention on Cinematographic Co-production. Within the framework of the Council of Europe, funding for the production of films is also encouraged by the Convention on Cinematographic Co-production, which has been in force since 1994 and has been ratified by 43 signatories. Co-production enables projects of foreign co-producers to be eligible for the support for the cinematography as described above.

The Czech Republic is also a party to Eurimages, which is the cultural support fund of the Council of Europe. It has a total annual budget of €26 million. Eurimages promotes independent filmmaking by providing financial support to feature-length films, animation and documentary films. In doing so, it encourages co-operation between professionals established in different countries. It has four support schemes:

- **Cinema co-productions** – Eurimages financially supports European co-productions in the form of full-length feature films, animations or documentaries of a minimum length of 70 minutes.
- **Theatrical distribution** – Eurimages contributes to the marketing and publicity costs of films and supports certain measures for fostering awareness of European cinema.
- **Exhibition** – Eurimages supports the programming and promotion of European films in general and especially in theaters in those of its member states that have no access to the media program of the European Union.
- **Digital equipment for cinema theaters** – Eurimages finances the purchase and installation of digital projectors, servers and other related equipment.

¹ The website for application (only in Czech) is accessible from [here](#) and all forms are available from [here](#).

Prague Film Fund

Beside the nationwide support schemes operated and administrated by the Fund, many municipalities and other institutions have established support funds and incentive schemes on their own. As the most prominent filming location in the country, Prague is one on them.

Prague is the traditional center of the Czech film industry and a favourite destination for international productions. The Prague Film Fund is intended to actively support the positive presentation of the Czech capital abroad, through film and television productions.

Prague Film Fund provides grants to feature films for international distribution in cinemas as well as for TV films and series to be broadcast on foreign television stations. The essential condition is that the project portrays Prague as Prague and not as a stand-in for another city. The fund generally aims at supporting a positive presentation of the city of Prague abroad via film and television, attracting film and television projects with marketing potential for the promotion of Prague, and profiling the city as a film-friendly destination which is aware of the benefits of audiovisual production.

Grants are awarded solely on the basis of selection from applications submitted to the grant proceedings that are regularly announced by the administrative board of the Fund and commenced by publication of a call for submission of applications. Proceedings are governed by the statute of the Prague Film Fund.

Applications for a project which (i) is pornographic in nature, (ii) condones violence and openly offends human dignity or (iii) breaches the legal regulations valid in the Czech Republic shall be excluded from grant proceedings.

When evaluating an application, the Fund takes into account, in particular, the benefits for the presentation of Prague abroad in terms of the topic and role of Prague in the audiovisual project. The following criteria are essential: (i) the importance of Prague and the way of depicting the city in the work, (ii) the number of shooting days at locations in Prague and (iii) the value of the motifs/specific sites (in terms of tourism, culture, history, architecture). Of importance is also the scale of distribution outside of the Czech Republic and the marketing potential of the project in terms of the tourism industry.

In 2019, the Prague Film Fund allocated support in the overall amount of CZK 12 million.

Labor issues – young crew member

During film production, it is evident that in many cases some positions (mostly acting roles) would need to be held by youngsters, including children under 15 or 16 years of age.

In case such a young crew member should be a producer's employee, then he/she must be at least 15 years old and must have completed primary school. Employees younger than 18 years are furthermore prohibited from working at night (between 10 pm and 6 am), unless they are at least 16 years old, night work immediately follows their usual working hours and will not last for more than one hour.

Beside the employment relationship, youth and children may also participate in artistic parts of the film production as independent contractors. Although this alternative has no minimum age limit (i.e. even actors younger than 15 years are permitted), with regard to limited legal capacity of underage children it is necessary to obtain consent of their parents for their involvement in the project. In addition, consent of the Labor Office is required for participation of children under 15 years of age.

Finally, youngsters may cooperate on the project also as independent entrepreneurs. This would apply mostly in cases where youngsters perform other production activities than acting, i.e. working on the animation or providing other forms of supplies or services. Underage entrepreneurs must have their parent's consent, with their business activities approved by a court.

COVID-19 context

Similarly to many other areas of business activities, the film industry is also affected by the current COVID-19 pandemic. Both Czech as well as foreign productions decided to postpone or even completely terminate their planned or started projects or movie premiers. It is estimated that the Czech film industry could suffer a decrease of up to 75% in the volume of film production in 2020 in comparison with 2019.

On the other hand, even in these times the Fund is still functioning normally and both support schemes under its administration are running. The Fund has confirmed that all currently awarded supports and incentives will still be paid without any restrictions. According to the Fund, calls for the cinematography scheme are going to be announced as usual and

producers may also apply for incentives (rebates) and register or list their projects. There should be no specific COVID-19 pause in the evaluation and assessment processes of the Fund or any other Fund-administrated proceedings.

In this regard, the Fund moreover plans to motivate future applicants and help them acquire subsidies by adapting the general conditions of support schemes to reflect the current extraordinary situation and troubles related to film shooting and producing. Furthermore, the Fund offers individual consultations and settlements to those current applicants who are negatively affected by the COVID-19 outbreak and/or related measures and therefore cannot fulfil their obligations and commitments (for example a number of performed shooting days) laid down by respective decisions on registration or listing of the project.

In addition, on May 13, 2020, the Fund allocated the extraordinary amount of CZK 92,000,000 to support Czech cinematography during the COVID-19 pandemic. These resources were allocated within three extraordinary calls of the Fund directed to support reopening of cinemas, production of audiovisual works and distribution of movies.

Finally, on October 15, 2020, the Ministry of Culture announced that it intends to propose to the Czech government a specific financial COVID-19-related support of CZK 100 million to be distributed within the audiovisual industry by means of the Fund. The exact terms of the proposal are not publicly available yet.

Hungary

Hungary ranks as Europe's second most popular filming destination after the United Kingdom.¹ Recent shoots include *Robin Hood* starring Jamie Foxx, Will Smith's thriller *Gemini Man* and the latest *Terminator* movie, starring Arnold Schwarzenegger. In 2019, the Hungarian film industry broke records with an increase of 50% – the amount registered as direct spend on film production grew to \$565.6 million. Hungary's film industry has highly experienced and educated film crews, a variety of exciting and diverse filming locations in close proximity to each other, and the employment and production costs are much lower than for example in the USA. But there is at least one more decisive factor that has attracted Hollywood filmmakers' attention: the **Hungarian film support scheme**. The aim of this chapter is to describe these incentives in detail.

Hungary ranks as Europe's second most popular filming destination after the UK.

The Hungarian film support scheme

The support scheme of the motion picture industry is regulated by the Hungarian Motion Picture Act¹ which was designed to make the Hungarian film industry internationally competitive and to preserve the country's strong position in the European film industry. It consists of (i) support offered by Hungarian corporate taxpayers that is set out in the Hungarian Corporate Tax Act², and support provided via the Hungarian tax authority ("**indirect support**"); and (ii) budget support granted from the central budget and support granted by municipal governments and national minority self-governments from their own budget, as well as the training contribution to the motion picture industry³ ("**direct support**").

Support may be granted for several purposes and activities of the motion picture industry: (i) film plan development; (ii) preparation of film production; (iii) film production; (iv) film distribution and marketing activities designed to facilitate film distribution and film sales; (v) film copy renovation and archiving; (vi) research and training in the motion picture industry; (vii) organization of events for the motion picture industry, and participation in events and film festivals; (viii) preparation and dissemination of publications for the motion picture industry; (ix) infrastructure developments.

Value of incentives

Since June 2018, the **tax allowance** is **30% of the direct production cost**. The basis for calculating the indirect support for cinematographic works is 100% of the direct film production cost if at least 80% of the film's direct production costs qualify as direct Hungarian film production cost. For cinematographic works not reaching this ratio, the basis for indirect support is the direct Hungarian film production cost multiplied by 1.25.

The amount of support under the Hungarian Motion Picture Act may range up to **50% of the film's production budget** for any cinematographic work, and 50% of the Hungarian contribution for international co-production films. In case of an international co-production film, besides the Hungarian film producer, if at least one film producer from a member state of the European Economic Area ("EEA Member State") participates, the amount of support under may be up to **60% of the Hungarian contribution**.

The amount of support for a Hungarian film produced for presentation in cinema in the genres of (i) feature film; (ii) full-length feature documentary; (iii) popular science and (iv) animation, may be up to **100% of the film's production budget**, and of the Hungarian contribution for international co-production films, if the film's production budget does not exceed HUF 237 million for a Hungarian film and HUF 467 million Hungarian Forints for an international co-production film. This limit is determined every year by the Hungarian Budget Act⁴.

The amount of support for a Hungarian film may be up to **100% of the film's production budget**, and of the Hungarian contribution for international co-

¹ According to Variety online: <https://variety.com/2018/film/news/hungary-production-incentive-1202876509/>

¹ Act II of 2004 on Motion Pictures

² Act LXXXI of 1996 on Corporate Tax and Dividend Tax

³ Any film producer or film production company receiving indirect support under the Hungarian Motion Picture Act is obliged to pay 0.5% of the direct film production cost as set out in the decision made by the Film Office on eligibility, not exceeding HUF 15 million per film as a motion picture training contribution to the Hungarian National Film Institute Public-Benefit Non-Profit Private Limited Company, by way of the means specified in the Hungarian Motion Picture Act.

⁴ Currently Act LXXI of 2019 on the Central Budget of Hungary for the year 2020.

production films, if the film is originally produced in the Hungarian language, and it is likely that the film's production budget will not be recovered through all revenues coming from all forms of distribution. If the film's production budget is recovered during distribution, any amount exceeding the production budget must be repaid to the sponsor.

The amount of support for a Hungarian film may be up to **100% of the film's production budget**, and of the Hungarian contribution for international co-production films, if an international co-production film is produced, in addition to the Hungarian film producer, with the participation of at least one film producer from a country listed by the Development Assistance Committee of the Organization for Economic Cooperation and Development.

The amount of support for a Hungarian film in the genres of (i) documentary; (ii) animation; (iii) scientific documentary; (iv) experimental film or (v) short film may be up to **100% of the film's production budget**, and of the Hungarian contribution for international co-production films, if the resources required to produce the film contributing to cultural diversity cannot be provided otherwise. This rule is not applicable to feature films produced to be presented in cinema.

Eligibility requirements

No support may be granted to activities aimed at the production, distribution, and archiving of films that may seriously impair the physical, mental or moral development of minors, particularly those that involve pornography or extreme violence. Moreover, no support may be granted to certain television programs that, based on their genre, do not **qualify** as cinematographic works of **cultural value** (e.g. reality shows, scripted reality).

Support may only be granted in connection with cinematographic works that **meet the cultural requirements** as follows: for film production, a cinematographic work is considered to comply with cultural requirements if it scores at least 16 out of 32 points based on the cultural criteria set out in the Hungarian Motion Picture Act, and (i) qualifies as a European co-production film provided that it is produced with Hungarian participation, or (ii) fulfils at least two of the specified cultural criteria.

At least 60% of direct support provided for film production purposes must be used for covering the direct Hungarian costs of film production. The sponsor may prescribe a higher ratio, however, it **may not exceed 80%** of the support provided. If the script of the cinematographic works makes shooting on original sites necessary, the sponsor may give consent for using up to 60% of the support provided for non-direct Hungarian costs of film production.

The Film Office, which is a separate organizational unit of the Cabinet Office of the Prime Minister ("**Film Office**"), **establishes eligibility for support** upon request of the film producer or film production company, or the distributor. The following documents need to be enclosed with the application: (i) the complete script of the film in Hungarian or a copy of the film suitable for viewing; (ii) the statements from the film producer or film production company or film distributor on compliance with the cultural requirements; and (iii) proof of the payment of administration fees.

Procedure

Indirect support: Indirect support is granted based on the direct cost of production of the cinematographic work and with the direct Hungarian film production cost, as certified by the Film Office upon request of the applicant. First, the Film Office verifies the eligibility of the project for support and determines the amount that the project is entitled to according to its budget and the sources of funding. Then, once the film production is completed, the Film Office determines the actual amount of support that can be received by the production base on the actual spend.

Direct support: Direct support may only be awarded to Hungarian films and films with Hungarian participation and is provided on the basis of a tender or an individual application. It depends on the characteristics of the cinematographic work, in particular its script, budget, artistic value, the identity of the authors, producers, and actors of the film, or the nature of any other purpose or objective worthy of support. Direct support may be awarded either in the form of **repayable support** or **non-repayable support**. In case of repayable support, the sponsors determine the method and amount of repayment.

Direct support may be granted only after a contract is concluded between the beneficiary and the sponsor. If the supported objective is not achieved due to a breach of contract by the beneficiary, the beneficiary must repay the support to the sponsor. Direct support may not be awarded to an officer of the sponsor vested with responsibility to decide on the award of support, and to his/her close relatives and to any applicant entity where the above person holds an executive office with authorization to sign for that entity, or holds a share embodying majority control.

Direct support may be disbursed for the purposes of film productions where the sponsor established that the film producer applying for support possesses:

(i) a production and budget plan at an appropriate level of completion, which is required for starting the production; (ii) sufficient funds covering the film's production budget, calculated excluding the amount of support applied for; and (iii) the consent from holders of copyrights and related rights for film adaptation and for the distribution of the film, and/or the contracts on these subjects. Direct support may be allocated for the production of an international co-production film only if the Hungarian film producer has title of ownership to the first original negative or an original copy suitable for reproduction of the cinematographic works and/or is entitled to make a copy thereof that is suitable for presentation.

Upon the film producer's request, the Film Office classifies films for establishing eligibility for support in the following categories: (i) Hungarian film; (ii) film with Hungarian participation; (iii) other film with Hungarian participation; or (iv) other film. Direct support grants are conditional upon the classification of film according to the Hungarian participation ratios.

Common rules of direct and indirect support:

Only persons and entities registered by the motion picture authority¹, being the Film Office, are eligible to receive direct and indirect support. In practice, this means that a local project company needs to be established in Hungary with respect to the contemplated film project.

¹ Any Hungarian citizen and persons holding the right to free movement and residence, legal entities established in the territory of Hungary or in any EEA Member State may apply for registration if they intend to apply for support. The registration procedure for motion picture organizations and natural persons is initiated exclusively upon request. Granting support is conditional upon registration. Registration is not a condition for granting support in the case of economic operators and institutions that perform film distribution activities only for the purposes of their education, library, or public collection tasks, except for public collections explicitly related to the motion picture industry.

No support may be awarded:

- if the beneficiary is not registered, or has been deregistered by the motion picture authority;
- if the beneficiary has any overdue tax, contribution or other public dues owed to the state;
- if the beneficiary failed to comply with its obligation to provide a mandatory copy for archiving under the relevant legislation;
- if the beneficiary failed to give account of the use of support granted by the sponsor, his statement of account has not been accepted by the sponsor, or has overdue unpaid liabilities to the sponsors;
- to an entity that has any executive officer or owner who has been the executive officer of any entity during the three years preceding the date of submission of the application for support that failed to give account of the use of a support granted by the sponsor, whose statement of account has not been accepted by the sponsor;
- to any entity the owners of which include an entity that failed to give account of the use of direct support granted by the sponsor used during three years preceding the submission of the application for support, or whose statement of account has not been accepted by the sponsor;
- to a beneficiary undergoing bankruptcy, liquidation or dissolution proceedings;
- to a beneficiary who fails to comply with the requirements of orderly labor relations (including equal treatment, notification of employees to the tax authority, work permits, employment of minors, etc.);
- to a legal entity established in an EEA Member State without an establishment in Hungary by the disbursement date of any support at the latest.

Public broadcaster's media funds

The Media Service Support and Asset Management Fund ("Fund") (in Hungarian: *Médiaszolgáltatás-támogató és Vagyonkezelő Alap*) is responsible for the production and support of public service programs not qualifying as cinematographic works.

Linear audiovisual media service providers with significant powers of influence are obliged to allocate 2.5% of their annual advertising revenues to supporting new Hungarian cinematographic works. This obligation may be satisfied either by paying the relevant amount to the Fund in cash, or by allocating funds to a new cinematographic work to be designated in an agreement by and between the Fund and the media service provider. The media service provider may deduct any amount thus paid up or contributed from its corporate tax base.

National Film Institute Public-Benefit Nonprofit Private Limited Company ("NFI"): As of 1 January 2020, the NFI is responsible for allocating the resources earmarked to motion picture industry objectives. The revenue of the NFI comprises the central budget subsidy and other revenues generated during its operation. The tasks of the NFI shall, in particular, cover the following:

- operation of the support scheme for the motion picture industry through the allocation of subsidies;
- development of principles for applications;
- continuous monitoring and control of the completion of cinematographic works and the achievement of other supported objectives, as well as the use of subsidies, and promoting the international distribution of cinematographic works and their enrolment to film festivals, starting from the award of the subsidy.

The NFI determines the rules applicable to tenders and subsidy awards in its statutes and/or its Support Policy.

Media Council: Support for public service programs not qualifying as cinematographic works, and for community media service shall be provided by the Media Council through public tender procedures. In order to ensure transparency, non-discrimination and guaranteed predictability, the Media Council shall define the Standard Tender Conditions for the tender procedures, laying down the rules for the management and evaluation of tenders.

Value of incentives

The Sponsorship Fund grants a financial, non-repayable, direct support. When establishing the amount of support, the Sponsorship Fund takes into consideration the normal market conditions of the motion picture industry, in the course of which it examines and compares the cost items of a cinematographic work. The maximum amount of support in a tender procedure is HUF 300 million in the case of cinematographic works and HUF 100 million per episode in the case of film series. The Television Film College may increase the maximum amount of support in specific cases – i.e. if the cinematographic work is of significant importance from a nation strategy point of view and the increase is clearly justified.

Eligibility requirements

Eligibility requirements are specified in the Standard Tender Conditions.

Procedure

Support for public service programs not qualifying as cinematographic works and for community media services is provided for by way of public tender procedures. In the course of the tender procedure, fundamental principles must apply, such as equal opportunity, objectivity, transparency, equal treatment and the principles of non-discriminatory procedures. The Sponsorship Fund and the Television Film College may not unjustifiably differentiate between the beneficiaries. Support may only be granted after a grant agreement is concluded between the Sponsorship Fund and the beneficiary.



Co-productions

Hungary is a signatory to the European Convention on Cinematographic Co-production. Within the framework of the Council of Europe, the securing of funding for the production of films is furthermore encouraged by the Convention on Cinematographic Co-production. It is in force since 1994 and ratified by 43 signatories. Further, Hungary has also signed bilateral treaties (e.g. with Canada) on beneficial treatment of co-productions involving the signatory countries.

For the purposes of the film support scheme, a co-production film means a cinematographic work jointly produced by a Hungarian film producer where the rights and obligations of each film producer are set out in a co-production agreement. An international co-production film means any cinematographic work produced by film producers established in different states, which is classified as such by a bilateral or multilateral international agreement or the laws of the states concerned. Other international co-production film means any cinematographic work produced by film producers established in different states not subject to any bilateral or multilateral international agreement, where the rights and obligations of each film producer are set out in a co-production agreement and in Hungary the film benefits from indirect support only. The value of incentives for co-production films is specified above under the direct support of government film incentives.

Hungary is also a party to Eurimages. Eurimages is the cultural support fund of the Council of Europe. Established in 1989, it numbers 38 of the 47 member states of the Strasbourg-based organization, plus Canada as associate member. It has a total annual budget of €26 million. Eurimages promotes independent filmmaking by providing financial support to feature-length films, animation and documentary films. In doing so, it encourages co-operation between professionals established in different countries. It has four support schemes:

- Cinema co-productions: Eurimages financially supports European co-productions in the form of full-length feature films, animations or documentaries of a minimum length of 70 minutes.
- Theatrical distribution: Eurimages contributes to the marketing and publicity costs of films and supports certain measures for fostering awareness of European cinema.
- Exhibition: Eurimages supports the programming and promotion of European films in general and especially in theatres in those of its member states, which have no access to the media programme of the European Union.
- Digital equipment for cinema theatres: Eurimages finances the purchase and installation of digital projectors, servers and other related equipment.

Employment issues – young employees

Employment of a children under the age of 16 years of age in a film production is subject to prior notification to the guardian authority.

If shooting the film is not possible to be scheduled for another time due to objective reasons, a young employee may be ordered to work at night at the set as per the following: (i) night work for a young employee under the age of 16 may be ordered until 23:00 hours at the latest, and only if night work is performed in not more than two days inside a period of seven consecutive days, and the guardian authority is of the opinion that such night work is presumed to pose no risk to the young employee's health and development; (ii) night work for a young employee over the age of 16 may be ordered until 24:00 hours at the latest, and only if night work is performed in not more than three days inside a period of seven consecutive days.

The daily rest period allocated to employees after night work must be at least 16 hours. Young employees must be supervised at all times during their employment for the purpose of compliance with occupational safety and health requirements.

A young employee receiving full-time school education may perform night work only on days preceding rest days, public holidays when there is no school, on working days preceding days when there is no school, and/or during school holidays.

Personal income tax related issues

The Hungarian National Tax and Customs Administration (in Hungarian: "Nemzeti Adó-és Vámhivatal", hereinafter: "**NAV**") is the authority responsible for the enforcement and collection of income taxes levied under the Personal Income Tax Act.

In general, according to the Personal Income Tax Act, any and all income of a private individual is subject to taxation. This means that the **Hungarian-sourced income** of foreign performers can be subject to taxation. It is worth mentioning that in order to avoid double taxation, Hungary has concluded **tax conventions** with over 80 countries, including USA, Canada, Australia and EU member states.

Non-resident performers may choose a **simplified taxation method** to avoid administrative burdens. In this case, they are subject to 15% income tax on their revenue (here, revenue excludes the value received in the form of accommodation and travel). The precondition for choosing the simplified taxation method is for the non-resident performer to have a temporary residence in Hungary (meaning that the performer enters Hungary for an intended stay of no more than 183 days within any 12-month period). In case of cinematographic works, if the time period required for production (including preparations) exceeds 183 days, the stay is considered to be temporary nonetheless. The above rule also applies to non-resident private individuals who are not performers (i.e. such as other crew members, composers etc).

Non-resident performers may be exempted from and will not be subject to Hungarian taxes if the amount of the revenue acquired in any twelve-month period does not exceed HUF 200,000.

Conclusion

The Hungarian motion picture support scheme aimed to position the Hungarian film industry to the centre of the of the international film productions. Naturally, however, this support scheme for the film industry is not in place purely for Hollywood filmmakers. Films such as the Oscar-winner *Son of Saul* and Oscar nominee *On Body and Soul* are both indicative of Hungary's prospering local film industry.

Poland

Each year Poland produces on average around 50 full length narrative films, 20-25 international co-productions (both majority and minority). €1.2 million is an average budget of a full-length feature film in Poland.¹

Poland has a great cinematographic tradition. It is also known for its film school in Łódź, one of the oldest of its type. Over the years, Polish filmmakers have repeatedly set extraordinarily high standards in this branch of art. Today, the Polish film industry seems to be in full swing. Polish films are constantly screened at all major and prestigious international film festivals.

The latest Polish Oscar winner was Paweł Pawlikowski's *Ida*, followed in 2018 by his next film *Cold War*, a major contender for an Oscar. In 2019, Jan Komasa's *Corpus Christi* was nominated for an Oscar. Poland figures as co-producer in Steven Spielberg's Oscar-winning *Schindler's List* and Roman Polanski's *The Pianist*. Furthermore, Poland offers modern facilities and filmmaking infrastructure along with versatile filmmaking crews that are widely recognized for their skills by foreign producers.

The Polish landscape and architecture add to Poland's attraction as a location, viz. the backdrop to *Inland Empire* by David Lynch, *Bridge of Spies* by Steven Spielberg or *The Chronicles of Narnia: The Lion, the Witch and the Wardrobe* by Andrew Adamson, for example.

The production and co-production market in Poland is growing, so is the local box office – in 2019 Poland had 60.9 million admissions (compared to 59.7 in 2018, 56.6 in 2017, 52.1 in 2016, 44.7 in 2015). Polish films had close to a 28% market share in 2019. In 2018, Poland landed 17th spot in the TOP 20 International Box Office Markets, prepared by the Motion Picture Association of America.¹

¹ http://filmcommissionpoland.pl/assets/Zalaczniki/PG_2020_5_web.pdf

The Polish film support scheme

Poland has two major legal acts for the film industry: the Act on Cinematography of 2005¹ and the Act on Financial Support of Audiovisual Production of 2018². The first of these established a support scheme based on the selective model to finance various motion picture projects, with the aim to support mainly Polish films and Polish co-productions with artistic value. It also sets up the **Polish Film Institute** (Polski Instytut Sztuki Filmowej, PISF) – a state cultural institution responsible for the development of Polish cinematography. Support under the Act on Cinematography is given in the form of subsidies, loans and suretyships. In 2020, PISF disbursed PLN 97.65 million (€21.82 million) in support of film production projects.

The Act on Financial Support of Audiovisual Production introduced an automatic cash rebate funding system to support Polish and international productions, with a detailed local spend qualifying system. The benefit mechanism is based on reimbursement of 30% of Polish eligible costs. In its announcement for 2019, PISF disclosed it subsidized 30 audiovisual projects with over PLN 57 million (€12.74 million) in total. The subsidized projects included:

- i. foreign productions, e.g.: Netflix's *The Woods*, the German series *Sløborn* and *The Turncoat*;
- ii. international co-productions, e.g. Małgorzata Szumowska's *The Masseur* co-production with Germany, the adaptation of Dorota Małowska's novel *Other People* co-produced with Warner Brothers;
- iii. Polish film productions by directors of the calibre of Wojciech Smarzowski or Władysław Pasikowski.

The budget allocated to support audiovisual productions in 2020 is a maximum of PLN 216 million (€47.1 million).

¹ Act of 2005 on Cinematography of 2005, Dz.U. nr 132 poz. 1111

² Act of 2018 on Financial Support of Audiovisual Production, Dz.U. 2019 poz. 50

Act on Cinematography

The support scheme

As a general rule, support may be granted under the Act on Cinematography for Polish films and Polish co-productions only. This Act defines a Polish film as one where the producer or co-producer is a Polish entity, domiciled in Poland and at least one of the following conditions is fulfilled:

- A screenwriter or author of the adopted work, a film director and at least one of the leading actors are Polish citizens and 100% of the production costs are sustained by the Polish producer; moreover, these funds, up to 80% of the film production costs, must be expended in Poland and film's master copy must be in Polish.
- A screenwriter or author of the adopted work or a film director or one of its leading actors is a Polish citizen and at least 20% of the production costs are sustained by the Polish co-producer when the film is a bilateral co-production, and at least 10% when the film is a multilateral co-production; moreover these funds, up to 80% of the film production costs, must be expended in Poland and film's master copy must be in Polish.

The following activities may be subsidized under the Act on Cinematography: i) development of projects, ii) film production iii) film distribution, iv) film dissemination, v) promotion of the Polish film heritage.

PISF is the main subsidy body and provides the support in the framework of six operational programmes published by PISF. This publication establishes the level of support for each type of project and catalogues specified terms and conditions. Moreover, each kind of project is divided into smaller groups of priorities. Finally, specific sub-groups are distilled from these priorities. A budget is then set for each sub-group.

Support can be granted in the form of: i) a subsidy, ii) loan or iii) suretyship. Loans and suretyships are reserved only for project development and film productions.

If a project supported by a subsidy generates a profit, the beneficiary is obliged to refund the subsidy proportionally to the profit received. A film production subsidy contract must specify the term based on which profit is to be calculated. This term cannot be longer than 72 months from the end of the fiscal year, and for feature films, it shall be the year of its cinema premiere, while for documentary and animated films it is the end of the year of production. A beneficiary with a refund track record qualifies for priority treatment when applying for a new subsidy and is entitled to be processed before other applicants.

Support in the form of loan is granted for up to five years on an interest-free basis. The PISF director may grant partial or total remission of a loan in justified cases.

A suretyship application must specify in detail the personal data of the party to the suretyship agreement and disclose detailed information about its activity.

Value of incentives

The amount of support under the Act on Cinematography cannot exceed: i) 50% of the film's budget or ii) 90% of the film's budget in the event of ambitious films of limited commercial potential, film debuts and low-budget films. PISF devotes at least 60% of its disposable funds to film production. Rights relating to the degree of support that is given remain with the producer and revenues derived from these rights are settled with PISF in the form of a subsidy refund.

A film production support cannot exceed 50% of the film's budget in addition to the following caps¹:

- PLN 4 million – feature films – above 70 minutes
- PLN 6 million – feature historic films - above 70 minutes
- PLN 500 000 – documentary film
- PLN 2 million – documentary film – above 70 minutes
- PLN 500 000 – animation film
- PLN 3 million – animation film which is displayed in cinemas – above 70 minutes

Support for a minority interest (challenging) film production or low-budget film cannot exceed 90% of the total film budget and at the same time:

- 50% of the above mentioned amounts in case of minority interest (challenging) films
- 40% of the abovementioned amounts in case of low-budget films

In justified cases the PISF director may grant a support in excess of the established limits but no higher than 50% of these amounts and without prejudice to the percentage limits. In case of international co-productions, the PISF director might grant a higher support, although it cannot exceed 35% of the limit as specified in the previous sentence and subject to established percentage limits.

Financing film project preparations, film distributions and the dissemination and promotion of Polish films cannot exceed 50% of a total project budget. The maximum project support cannot exceed PLN 20 million and in justified cases PLN 30 million. In the case of minority interest (challenging) films and low-budget films, the support cannot exceed 90% of the total project budget. If the promotion of Polish films has got a local dimension, a limited audience or low commercial potential, PISF can grant a support of up to 90% of a total project costs.

1 Regulation of the Ministry of Culture of 2005 on Granting Financial Support by PISF to the Cinematography

Eligibility requirements

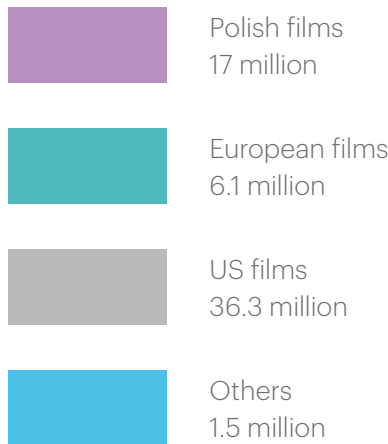
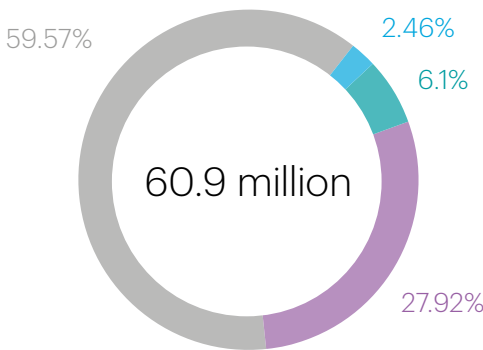
The condition for obtaining support for film projects preparation, film production or film distribution, is that this film must be designated for screening in cinemas. An exception is made for documentary films and animated films of artistic value. Moreover, the PISF's decision on granting support is based on its available funds and expected project funding revenues.

Support cannot be granted for audiovisual recordings of: i) musical, textual, and textual and musical works performances; ii) events related to politics, social, cultural, religious, business or sporting events; iii) private life; iv) productions made for internal use only for purposes of science, teaching, advertisement, promotion, information, instruction;; v) productions made for internal use only for churches and religious associations.

Any Polish or EU/EFTA entity conducting business in film industry can apply for support. However, PISF recommends having a Polish co-producer on board in case of EU/EEA producers.

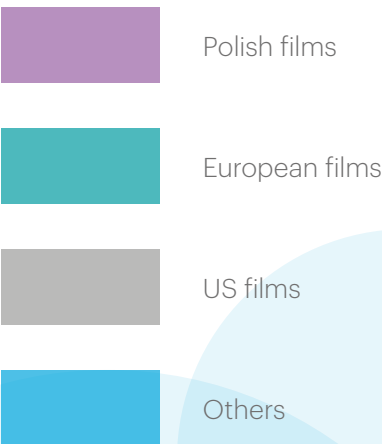
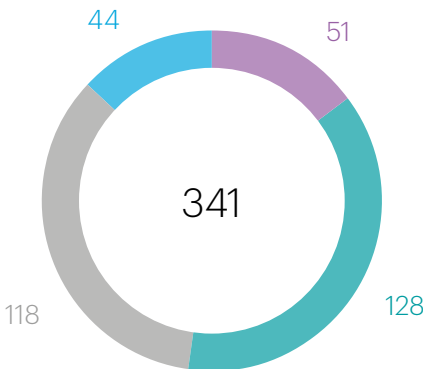
An entity cannot apply for a support if: i) it is a natural person sentenced by final judgement for the types of crimes specified in legal acts, in particular those relating to business activity, bribery and fiscal crimes; the same applies to management board members or partners in legal persons; ii) it is in arrears or default with statutory public levies; iii) is subject to liquidation, insolvency or restructuring proceedings; iv) in the three years before filing a subsidy application it was guilty of a serious breach of contract with PISF.

Market share – admissions in 2019

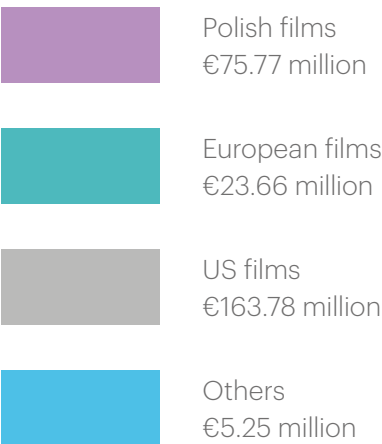
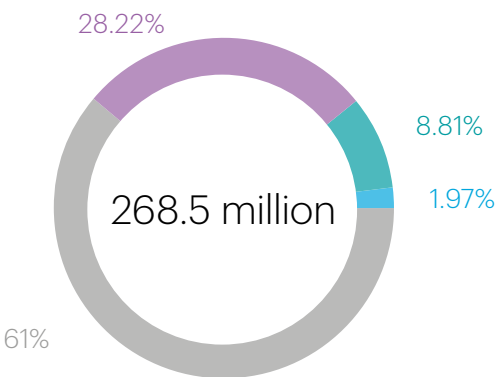


Source: http://filmcommissionpoland.pl/assets/Zalaczniki_PG_2020_5_web.pdf

Number of premiers in 2019



Total box office in 2019





Procedure

Support is provided on the basis of an application submitted to PISF. The document Operational Programs – gives a detailed description of the application procedure and sets out all the terms and conditions for each type of project. The periods for submission of applications are for the most part specified. The decision on whether to accept or reject an application is made by the PISF director within 90 days of the application's receipt. The director makes a decision on the basis of recommendations from experts as appointed by the Ministry of Culture. To ensure impartiality, the director cannot engage in any other activity related to cinematographic industry, nor can any of the experts be associated with the applicant. Subsidies are based on civil contracts concluded between PISF and the beneficiary.

The beneficiary is obliged to spend the grant proceeds in accordance with the terms of the contract. PISF is obligated to audit compliance with the terms and conditions of the support, specifically the project's revenue and costs, its progress and the rate at which the subsidy is utilised. PISF can rescind a contract if its purpose is subverted in terms of purpose or time schedules.

The Act on Financial Support for Audiovisual Production

The support scheme

Support under the Act on Financial Support for Audiovisual Productions is available to Polish productions and international co-productions with Polish component.

Support is available for audiovisual productions and services provided to foreign audiovisual productions and is granted in the form of reimbursement of production costs incurred in Poland in the amount of 30% of Polish eligible costs. Eligible costs, covered by cash rebate, are justified and necessary costs of audiovisual production such as costs related to preparations for production, production process, scenography, costumes, travel and accommodation, rights and licenses, costs associated with income taxes and social insurance contributions, preparation of special formats, etc. Eligible costs of production do not extend to VAT and costs of businesses of producers or co-producers not directly associated with production or providing services for audiovisual works.

The scheme is financed from the state budget and is available throughout the year until funds are depleted. PISF is the nominated authority to disburse these funds. Subsidies are to be paid out upon verification of the beneficiary's final report on work covered by the support.

Value of incentives

A producer is entitled to a support of up to PLN 20 million per calendar year, while the limit for one audiovisual project is PLN 15 million. At least 10% of the annual cash rebate budget is designed for animation projects. Polish eligible costs, which are the basis for calculating the admissible financial support, cannot exceed 80% of the total budget for the given audiovisual work.

Only one support per audiovisual work is admissible and it cannot be supplemented later on.

The maximum contribution of public aid together with the granted amount of cash rebate cannot exceed 50% of the total costs of the given audiovisual work. There are some exceptions. The maximum contribution of public aid together with the granted amount of cash rebate cannot exceed: i) 60% of all costs of an international audiovisual co-production where one of the producers or co-producers is from Poland and other producers or co-producers are from EU or EFTA member states, ii) 70% of all costs of a challenging audiovisual work production, with limited commercial value, produced for children up to 12 years old, iv) 70% of all costs of a challenging audiovisual work production, with limited commercial value, promoting Polish heritage or cultural, and at the same time its Polish eligible costs exceed double the minimum eligible costs that entitle applying for a cash rebate.

Eligibility requirements

The cash rebate system is accessible for: i) feature films, ii) animated films, iii) documentary films, iv) TV series (feature, animated, documentary). Moreover, obtaining a support depends on the type of audiovisual work, its minimum runtime and its minimum Polish eligible costs: i) within the audiovisual work's budget in case of support for audiovisual production, or ii) of service in case of support for services provided for audiovisual productions. The requirements are as follows¹:

- Feature films: minimum runtime 70 minutes, Polish eligible costs must exceed PLN 4 million (in 2020 – PLN 3 million) of the budget or PLN 1 million for services;
- Documentary films: minimum runtime 40 minutes, Polish eligible costs must exceed PLN 300, 000 of the budget or PLN 300,000 for services;
- Animated film: minimum runtime 60 minutes, Polish eligible costs must exceed PLN 1 million of the budget or PLN 500,000 for services;
- TV feature series: minimum runtime of each episode 40 minutes, the average Polish eligible costs must exceed PLN 1 million of the budget for one episode or PLN 1 million for services for one season;
- TV documentaries: minimum runtime in one season is 150 minutes, Polish eligible costs must exceed PLN 1 million of the budget for one season or PLN 300,000 for services for one season;

- Animated TV series: minimum runtime of one season 50 minutes, minimum number of episodes – 10, Polish eligible costs must exceed PLN 1 million of the budget for one season or PLN 500,000 for services for one season.

Support cannot be granted for: i) advertisements; ii) audiovisual work for scientific, teaching, advertisement, promotion, information and instruction purposes; iii) audiovisual work for churches and religious associations use; and iv) audiovisual recordings of: musical, textual, and textual and musical work performances, political, social, cultural, religious, business or sporting events or private life.

Support may be granted to a producer or co-producer of an audiovisual work or to a services provider for an audiovisual production provided that such entity: i) has its registered office in Poland; ii) meets eligibility criteria for state aid; iii) was a producer, co-producer or provided services for an audiovisual work which was distributed in cinemas, broadcast publicly or screened at least once at an international film festival accredited by International Film Producers' Association, or hires persons responsible for the management of that entrepreneur or responsible for audiovisual productions with such appropriate experience; iv) has concluded a contract for the co-production of an audiovisual work in Poland or an agreement for the provision of audiovisual production services in Poland before submitting an application for financial support.

¹ Regulation of the Ministry of Culture and National Heritage of 2019 on List of Eligible Costs, Parameters of Audiovisual Works and Documents Related to Granting Financial Support by PISF

Financial support may also be granted to a producer or co-producer of an audiovisual work, who is established in an EU or EFTA member state under the following conditions: i) the entrepreneur has a branch in Poland, ii) the audiovisual work is produced by this branch, iii) the branch meets the requirements established for Polish entrepreneurs as listed above.

Financial support may be granted to an audiovisual production services provider when the producer or co-producer of the eligible work is not established in Poland.

At the moment of filing an application for financial support, at least 75% of the costs of the work to be covered by that support must be documented.

The Act on Financial Support for Audiovisual Production excludes media services providers (and those who disseminate programmes by satellite radio or television transmission) from financial support; in addition, entrepreneurs cannot apply for support if, among other things: i) they have been sentenced by final judgement for certain types of crimes specified in legal acts, in particular ones related to business activity, bribery and fiscal crimes; ii) they have arrears/defaults in public levy settlements; iii) they are subject to liquidation, insolvency or restructuring proceedings; iv) in the past three years before filing an application for a support, they did not submit a final report on their subsidized work.

Procedure

To obtain a cash rebate an application must be submitted together with the required attachments. This application must be submitted before the start of work covered by the support but not earlier than 12 months before the start of the work. One of the attachments to the application is a qualification test that verifies if the audiovisual work in question relates to Polish or European heritage, is located and produced in Poland, uses Polish film infrastructure and ensures the participation of Polish workers, co-workers and services providers for its audiovisual production.

PISF examines applications within 28 days in order of receipt till the exhaustion of funds for the given year. A contract between PISF and applicant should be concluded within 28 days of the date of notifying an applicant on being granted financial support. PISF transfers allocated funds to an escrow account, opened for that purpose by the beneficiary. PISF might rescind a funding contract if the contracted works are not initiated within three months of the specified commencement date.

While performing a supported project, the beneficiary might be audited by PISF. The PISF director issues recommendations to eliminate irregularities or obliges beneficiaries to give explanations. Upon project completion, a beneficiary must submit a final report on the production. Upon positive verification of the report, PISF will release the funds on the escrow account.

A beneficiary may apply for certificates confirming its eligibility to receive a cash rebate before the end of the production process. Such a certificate is not obligatory and it does not guarantee a refund of eligible costs.

To apply for a certificate, the applicant must submit an estimate of support sought, the script and detailed information on the planned audiovisual production. Moreover, to attain a certificate, the beneficiary must achieve at least 51% in the qualification test. The certificate is valid for 4 years.

PISF keeps a register of all data regarding certificates of entitlement to apply for support, filed applications for support, actual levels of support received in given calendar years. The register is public.

Regional funds

Apart from the above, regional funds of various levels exist. Each fund sets its own terms and conditions for subsidizing film projects. The main support is that its beneficiary promotes the grant-giving region or city by his work product. Therefore specified percentages of subsidies must be utilized in the home territory of the funding institution. The local inhabitants of given localities do not have priority rights over outsiders to local funds. Furthermore, one project may receive subsidies from a variety of local funds if it fulfils set requirements. Usually, subsidy application submission 'windows' are open in a set period once a year.

The value and form of funding might be significantly different in each fund. Depending on the fund, financing might be given to one or many more projects annually. Most funds have a cap of 50% of total production costs for film project subsidies. Feature film subsidies usually fluctuate around the several hundred thousand zlotys mark. The Mazovia Film Fund (Mazowiecki i Warszawski Fundusz Filmowy) is one of the most important funds in Poland. It encompasses the Mazovia region with Warsaw where the greatest number of films are produced each year. Other major funds are the Krakow Regional Film Fund, the Łódź Film Fund and the Poznań Regional Film Fund.

International agreements on co-production

Council of Europe Convention on Cinematographic Co-production (revised)

The Council of Europe Convention on Cinematographic Co-production¹ (Convention) came into force in Poland in 2019 and replaced the European Convention on Film Co-production of 1992². The revised Convention applies only to co-productions involving at least three co-producers, each of them having to be established in a different state that is party to the Convention. In such multilateral co-productions, the contribution of co-producers is set at 5% to 80% of the total production costs. Exceptionally, the Convention also applies to co-productions involving at least three co-producers from states that are parties to the Convention and one or more co-producers who are not established therein. However the contribution of foreign co-producers cannot exceed 30% of the total production costs. The Convention regulates bilateral co-production relations between parties thereto only in the absence of any agreement governing bilateral co-production relations between states. Contribution limits for bilateral co-productions are set at 10% to 90% of total production costs. Furthermore the contribution of each co-producer must consist of effective technical and artistic contributions which must be proportional to their financial contribution.

The provisions of this Convention will apply only to co-producers who, one month before shooting commences at the latest, apply for provisional co-production status. In Poland, PISF is a competent body to grant that status.

Bilateral agreements on co-production

Poland is party to bilateral co-production agreements with France³, Canada⁴, Israel⁵, New Zealand⁶ and India⁷. Under these agreements the co-producer’s contribution cannot be less than 20% or more than 80% of total production costs. Under each bilateral agreement, the artistic and technical contribution must be proportional to the co-producer’s total contribution to his project’s budget. In agreements between Canada, India and Israel, there is no specification of “the interested field of exploitation” of a co-produced film. Whilst cinemas are the first fields of exploitation for all types of Polish-French co-productions. An application for bilateral co-production status under each bilateral agreement must be submitted to the Ministry of Culture and National Heritage (not the Polish Film Institute).

France is the only state which is also party to the Convention. Thus the Convention does not apply to Polish-French co-productions. This agreement also provides for the contribution limit to be decreased down to 10% of the total production costs in justified cases.

Employment issues – young employees

The Labor Code¹ defines an adolescent as a person of over 15 but under 18 years of age. It is legally allowed to employ such a person, however an adolescent employee is obliged to continue his education till the age of 18. Therefore an employer must enable him to participate in classes or training in continuation of his education. These periods of education count towards working time, regardless of whether education is received during work hours or not. Furthermore, the work time of employees

- i) under the age of 16 cannot exceed six hours a day,
- ii) over the age of 16 cannot exceed eight hours – in a 24-hour period.

Any form of overtime or night work is prohibited for adolescents. Night time for the purposes of this prohibition runs from 10 pm to 6 am and rest periods for night shift workers must last at least 14 hours without interruptions. Moreover, an adolescent employee is entitled to a minimum uninterrupted rest period of 48 hours per week, including Sunday.

Children under the age of 16 might be allowed to perform work or other paid activities only in relation to cultural, artistic, sports or advertising activities, this includes film. To do so the prior consent of the child’s legal representative or guardian and the competent labor inspector is required. Firstly, the employee must obtain the written consent of the child’s representative or guardian, the opinion of a psychologist, a medical certificate confirming the child’s ability to perform the envisaged activities, and the opinion of the principal of the child’s school. Secondly, the employer must submit an application to the labor inspector. The labor inspector’s consent must specify in particular the maximum daily work

hours. During work on a film set, the child must remain under the care of its guardian or other duly authorized adult.

A child’s performance in a film shall be considered to be an extraordinary activity which is why, under the Family and Guardianship Code², parents are obliged to decide jointly on such important matters. However, the issue might be resolved by the court of protection if they fail to reach an understanding.

Major institutions for the film industry

The Polish Film Institute, the Ministry of Culture and National Heritage, the National Broadcasting Council, the National Film Archive – Audiovisual Institution, the European Film Commission Network (Film Commission Poland and Regional Film Commissions), the Association of Film Commissioners International, the European Film Academy, the Eurimages Fund, the Polish – German Fund, Creative Desk Poland, the Polish Filmmakers Association, the Polish Animation Producers, Directors Guild Poland, the Polish Producers Alliance, the Producers Guild of Poland, the Polish Documentary Directors Guild, the Polish Society of Cinematographers.

1 Council of Europe Convention of 2017 on Cinematographic Co-Production (revised), Rotterdam, CETS No.220
2 European Convention of 1992 on Cinematographic Co-Production, Strasbourg, ETS No.147

3 Co-production Treaty of 2012 between the Government of the Republic of Poland and the Government of the Republic of France
4 Co-production Treaty of 1996 between the Government of the Republic of Poland and the Government of Canada
5 Co-production Treaty of 2004 between the Government of the Republic of Poland and the Government of Israel
6 Co-production Treaty of 2015 between the Government of the Republic of Poland and the Government of New Zealand
7 Co-production Treaty of 2012 between the Government of the Republic of Poland and the Government of the Republic of India

1 Act of 1974 Labor Code, Dz. U. 1974 Nr 24 poz. 141

2 Act of 1964 Family and Guardianship Code, Dz.U. 1964 nr 9 poz. 59

Romania

Romania has been an emerging market in the film industry in recent years.

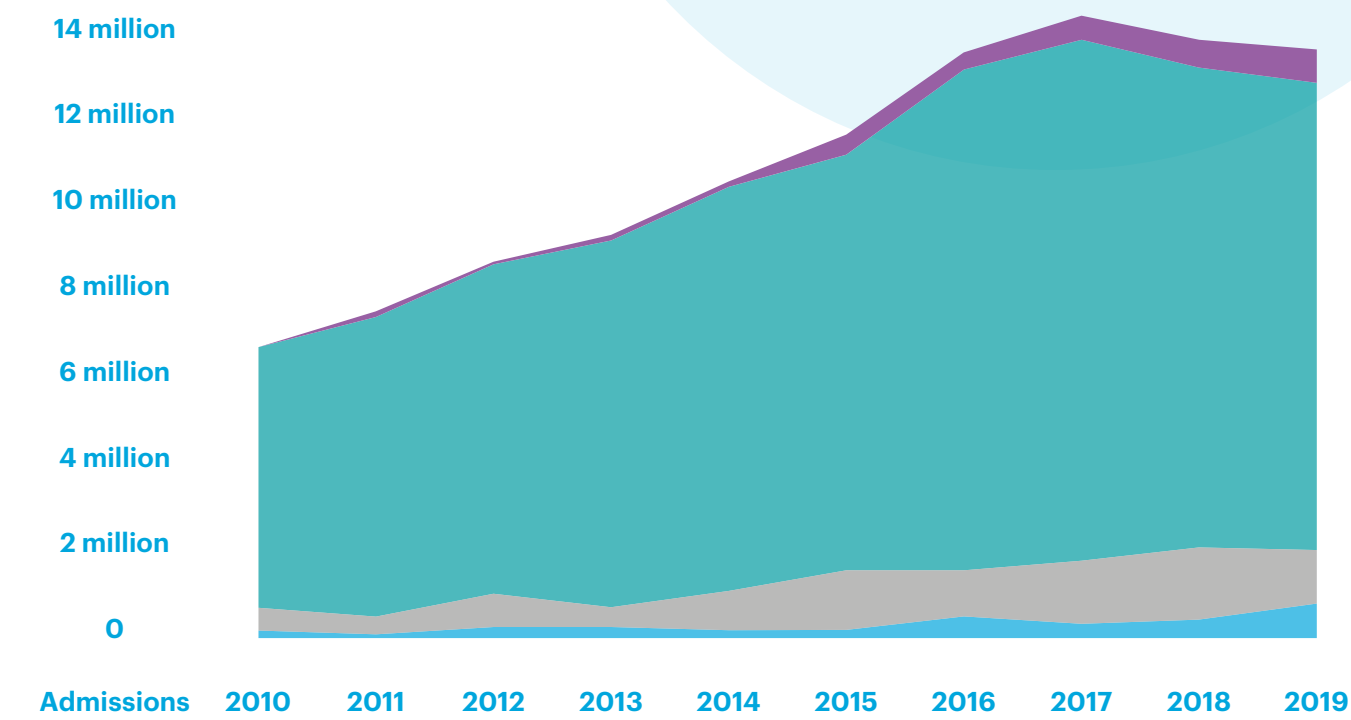
Over the years, some important productions have been shot in Romania, including *Cold Mountain* (2003) (starring Nicole Kidman), *Modigliani* (2004) (starring Andy Garcia), *Transporter 3* (2008) (starring Jason Statham), and *Assassination Games* (2011) (starring Arnold Schwarzenegger). Recent shootings include Amazon Productions' *Comrade Detective* (2017) (starring Channing Tatum) and Netflix Productions' *A Christmas Prince* trilogy (2017-2019) and *What Happened to Monday* (2017).

In relation to other European countries, the number of productions is rather low. This has led Romania to introduce a program to support the industry by attracting international television and film production.

The Romanian government enacted a film support scheme in 2018 ("**the Romanian Film Support Scheme**"), granting incentives for Romanian and foreign productions shot in Romania.¹ At the time of its enactment, the government announced that this scheme was the most attractive in Europe.²

The purpose of this chapter is to describe the Romanian Film Support Scheme in detail.

Admissions of Feature Films by Country of Origin (2010-2019)



Overview

The program is intended to increase the number of television and film productions in Romania and to aid the local film industry to grow and make it internationally competitive.

The Film Support Scheme takes the form of state aid granted, with an annual budget of approximately €50 million.

The Romanian Film Support Scheme was initially enacted for a period of three years (2018-2020).

The scheme was implemented by the Ministry of Culture in 2018 and 2019. Starting with January 2020, the program was transferred to the Ministry of Economy (Tourism Department), which established a working group to supervise the program.

¹ Government Decision no. 421/2018 establishing a state aid scheme for supporting the cinematography industry ("**Government Decision no. 421**").

² https://www.hollywoodreporter.com/news/romania-unveils-europes-generous-film-incentives-1158922?fbclid=IwAR3qC_IHU0a5Pjc3QqEDmHDLIEj1_oQTeC9aaV34gbdr3vuFZ-XcmGGFLxl

Source: <https://culturadatainteractiv.ro/cinema-network-and-film-market-in-romania/films-distribution/>

In August 2020, after several months of inactivity of the program, the Romanian government officially opened the 2020 session and extended the Film Support Scheme for three more years (2020-2023).

As a general rule, the procedure entails that the applicant first be declared eligible in order to be reimbursed certain expenses incurred under the scheme upon finalization of the production. Currently, such a process can last up to two years.

The Romanian Film Support Scheme is established based on the following objectives:

- i. Development of cooperation in the field of European and international cinematography;
- ii. Supporting film producers by increasing local film production;
- iii. Creating new jobs;
- iv. Promotion of national cultural identity and national minorities in Romania;
- v. Supporting professional training in the film industry.

Incentives

The Romanian Film Support Scheme consists of:

- i. Non-reimbursable financial allocations amounting to 35% of the total eligible expenses, consisting of the acquisition, rental, manufacture of goods/ services in connection with the development of film and film production projects in Romania, as well as the fees, salaries and other payments to persons involved in the implementation of the project (the **“Main Financial Support”**); and
- ii. An additional non-reimbursable financial allocation amounting to 10% of eligible expenses, with the condition that a geographical area, city or Romania is promoted by the same cinematographic production (the **“Additional Support”**).

Therefore, the scheme provides up to 45% financial support if Romania is promoted in the production.

For eligibility for the Main Financial Support, an additional condition was introduced in 2019, imposing the obligation that a minimum of 20% of the total budget is spent in Romania. The eligibility requirements are detailed below.

Eligibility requirements

In order to benefit from the Romanian Film Support Scheme, both the applicant and the project itself must comply with the eligibility requirements, as described below.

The following conditions must be met by the applicant:

- i. Its main activity is film production (if the entities are Romanian, they have to be registered with the Cinematography Registry);
- ii. It has the capacity of producer, co-producer and/ or provider of production services, and produces short, medium or long films, fiction, miniseries, animation or artistic documentaries, television films or series, partially or fully in Romania;
- iii. As producer/co-producer, it owns the intellectual property rights to the work that will be produced or, in case it provides services for a foreign production company, the foreign production company has acquired the rights in order to carry out the production;
- iv. In case of foreign producers, a co-production agreement must be signed or there must be a services agreements in place with a Romanian producer;
- v. The production budget must include information pertaining to the expenses incurred in Romania for which the state aid is requested;

- vi. It must provide proof that it does not owe any money to the Romanian state;
- vii. With respect to producers, they must provide proof of their own financial contribution or the contribution of their co-financers to the financing of the project; with respect to service providers, they must provide proof of the contribution made by the foreign producer. The financial contribution must cover at least the total budget of the production (VAT excluded) minus the state aid requested under the scheme.

The following conditions must be met by the project:

- i. The project can be included in the “cultural product category” (the criteria for this inclusion is established by the working group);
- ii. The value of the total eligible costs for the implementation of the project is at least €100,000.

In case of co-productions, a single entity must represent the production and be the applicant for the aid.

Eligible expenses

The following expenses are eligible:

- i. Fees, salaries and other payments to individuals in connection with their activity that are directly related to the implementation of the project, so long as the income is taxable under the Romanian and international tax rules;
- ii. Costs of goods or services provided by legal entities, if such goods/services are directly related to the implementation of the project, so long as: the legal entity providing the goods or is headquartered in Romania; the legal person is a tax resident in Romania; and the goods or services are provided in Romania (regardless of origin).

Certain expenses are not considered eligible:

- i. Expenses incurred prior to the date of registration of the application;
- ii. Expenses incurred for the financing of the project;
- iii. Bank guarantees related to the realization of the project;
- iv. Expenses for gifts and flowers;
- v. Expenses related to the acquisition of assets, the purchase of which was made with another public aid source;
- vi. Any other expenses that are not relevant for the development of the project;
- vii. Bank fees, interest and any other commissions related to credits;
- viii. Fines, penalties and judiciary fees;
- ix. Contributions in kind;
- x. Collateral expenses arising from leasing contracts;
- xi. Any other expenses which occur after the movie is delivered and are not relevant for the production of the project;
- xii. Expenses for the infrastructure of the filming studios;
- xiii. Marketing expenses;
- xiv. Value Added Tax;
- xv. Expenses for preparing the audit report.



Value of incentives, financing and period of state aid

Under the current provisions of Government Decision no. 421, the maximum annual budget of the Romanian film support scheme is approximately €50 million.

The maximum value of the state aid cannot exceed €10 million for each project financed by this scheme.

The state aid is paid out during the period 2018-2025.

The financing of the eligible projects are made on an annual and multi-year basis.

Procedure and current status

In order to apply under the Romanian Film Support Scheme, a request must be sent to the working group established at the level of the Ministry of Economy (Tourism Department).

The application should include:

- i. Official application document (indicating the name of the company, description of the planned production, including beginning and end dates, as well as shooting locations);
- ii. All documents attesting that the eligibility criteria are met;
- iii. An affidavit related to any state aid previously received in order to finance the same costs.

The application must be submitted before the project begins, meaning that an irrevocable binding commitment regarding filming activities has been made by the applicant. Under the scheme, research of the filming site, as well as other preliminary activities (obtaining permits, performing various studies) are not considered binding commitments.

The working group established at the ministry level selects eligible applicants, following which a financial agreement is signed with the applicant.

After the project completion, but no later than two years from the date of the financing agreement, the applicant should submit a payment request, along with an audit report certifying the amount of eligible expenses claimed.

As indicated above, the Romanian Film Support Scheme was transferred from the Ministry of Culture to the Ministry of Economy at the beginning of 2020. The transfer effectively resulted in a suspension of the program for several months in 2020.

In August 2020, the Romanian government officially started the 2020 session and decided the following:

- The period of the Romanian Film Support Scheme has been extended until **December 31, 2023**, and can be further prolonged.
- The budget has been supplemented up to a total amount of **€250 million**.

As a result, Government Decision no. 421/2018 suffered slight changes, in order to reflect the above.

The 2020 session still requires the implementing norms to be officially enacted and issued to the public. Such norms will provide details for the actual application procedure (e.g. content of the actual application form, additional documents to be provided) and might bring further clarifications regarding the eligibility criteria presented above, including the ones for the “cultural product category”.

The Romanian film support scheme is a very important step for the film industry.

Several dozen projects have already gotten the green light for this scheme and expectations are growing as the program has proven its success.

Slovak Republic

The Slovak film industry has seen significant growth in recent years. Many foreign films have been filmed in Slovakia, as it is a country with many interesting sights and places, which makes it an attractive filming destination even to some Hollywood filmmakers.

The following pictures that have been filmed in Slovakia are worth mentioning: Red Sparrow (2018), Dragonheart (1996), Frankenstein (2004) and Peacemaker (1997). Films are also becoming more popular among Slovaks, with 6,692,871 cinema visits in 2017 alone (which accounts for 1.2 cinema visits per person). Only 21.37% of the films in Slovak cinemas were domestic.

However, according to the forecasts, due to COVID-19, Slovakia's audiovisual industry could experience a nearly €60 million decline in 2020, including an estimated fallout of €43 million in production and over €15 million in film distribution.¹

Film support schemes in Slovakia

The Slovak Audiovisual Fund (the "Fund") was established by Act No. 516/2008 Coll., as amended. Its main objective is to support the entire film value chain – development, production, distribution and promotion of audiovisual works, cinemas, festivals, research, training activities, innovations and technologies.

The Fund grants subsidies to authors and producers of Slovak audiovisual works, persons working in the distribution of Slovak audiovisual works, persons organizing public cultural events etc.

A total of 30 projects registered for the 20% cash rebate at the Slovak Audiovisual Fund in 2019, compared to 30 in 2018 and 12 in 2017.

Subsidy for eligible expenditures

The Slovak Film Commission (a part of the Fund) is entitled to grant a subsidy for eligible expenditures (cash rebate) up to the amount of 33% (20% before January 1, 2020).

Minimum expenses required for a cash rebate: (i) €300,000 for TV features (or series), slates of films (max. three films per slate) spent in the Slovak Republic over a period of three years after project registration, (ii) €150,000 for individual feature films, documentary films and animated films, spent in the Slovak Republic over a period of three years after project registration.

The following expenses are deemed eligible: actual incurred and paid costs, including royalties and fees paid to cast and crew registered to pay taxes in Slovakia; costs directly related to the realization of the registered project; costs paid to an entity with a tax domicile in the Slovak Republic, or costs where tax was deducted and paid in the Slovak Republic.

In order for the project to be eligible for a cash rebate, it must be registered with the Fund. In the application the applicant must provide an estimated budget, a production schedule, together with a completed application form and other required documents. The project must pass the so-called "Culture Test" set out by the Ministry of Culture of the Slovak Republic (the "Ministry").

One of the requirements for a cash rebate is the length of the film project in question. For a project consisting of one, two or three individual audiovisual works, each of them must have a running time of at least 70 minutes. A film project consisting of more than three cinematographic works and intended for television broadcasting, consisting of no more than 13 parts, each of these parts must run for at least 40 minutes, and lastly, a film project of a documentary or animated audiovisual work consisting of no more than 13 parts, the running time of each of the episodes must run for at least five minutes.

Upon completion of the production, the applicant needs to conduct an independent audit demonstrating the eligible costs incurred, and include co-production or service agreements and other documents. The Fund checks the completeness of the cash rebate application within 30 days from its submission. If no deficiencies are discovered, the Fund will provide a draft of the cash rebate contract. Otherwise, the Fund will request additional documentation or information and give an additional 30 days for the completion of the application.

Audiovisual art support scheme

As stated above, one of the main objectives of the Fund is to provide support to the film chain.

The Fund provides financial aid to support the audiovisual industry, or more specifically: (i) creation, development and production of Slovak audiovisual works; (ii) creation, development and production of played, documentary and animated Slovak cinematographic works; (iii) post-production and distribution of Slovak audiovisual works and distribution of audiovisual works; (iv) production and distribution of co-produced cinematographic works in which a Slovak producer has a co-production share; (v) festivals, screenings and other cultural activities of organizations working in audiovisual art and cinematography; (vi) publishing and distribution

¹ <https://www.filmneweurope.com/countries/slovakia-profile>

of publications from the area of audiovisual art and cinematography; (vii) technical development in audiovisual art; (viii) education and research in audiovisual art and film production.

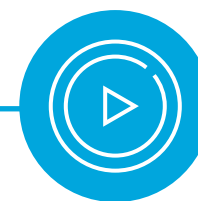
The Fund helps audiovisual projects, mainly but not limited to a plot or other verbal work used to create an audiovisual work, a Slovak audiovisual work, a Slovak cinematography work, organizing an audiovisual festival or an exhibition, promotion of Slovak audiovisual works etc.

A Slovak audiovisual work is (i) a work produced by a producer residing in or having its registered seat in Slovakia; (ii) a work co-produced (either financially, artistically or technically) by a person domiciled in Slovakia, provided that at least 20% of all costs have been born this person in case of a bilateral coproduction, or at least 10% of all costs in case of a multilateral co-production; (iii) a work released in Slovakia for the first time or released in Slovakia within 30 days of its first release; or (iv) work created with the use of public funds (with the exception of funds of the EU) that account for at least 10% of total production costs.

An administrative fee is to be paid for applying to get financial support from the Fund. The amount of such fee is 0.1% of the requested amount or at least €20.

Value of the support

The maximum amount of support that can be provided by the Fund is set out in Commission Regulation (EU) 651/2014 on declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union. According to Article 54(6), "the aid intensity for the production of audiovisual works shall not exceed 50% of the eligible costs". This rule is, however, not absolute and a few exceptions exist. If cross-border productions are funded by more than one member state and involving producers from more than one member state, the maximum amount of aid is 60% of eligible costs or 100% of eligible costs for difficult audiovisual works and co-productions involving countries from the Development Assistance Committee (DAC) List of the OECD. Where a member state makes the aid subject to territorial spending obligations, aid schemes for the production of audiovisual works may either: (a) require that up to 160% of the aid granted to the production of an audiovisual work is spent in the member state granting the aid; or (b) calculate the aid granted to the production of an audiovisual work as a percentage of the production expenses in the granting member state, typically in case of aid schemes in the form of tax incentives.



2019 saw a total of 248 film premieres in Slovakia, 44 of which were feature-length titles and were from domestic production companies (and 20 of these were minority co-productions). The Slovak Audiovisual Fund supported domestic productions with a total sum of €10.9 million.

Procedure

The Fund provides financial support based on a request that needs to be filed with the Fund. The Fund publishes calls for applications a couple of times per year, based on which the applicant requests the Fund to provide it with financial support for their project. Both individuals and legal entities may ask the Fund for support. The money itself is provided to the applicant based on an agreement concluded between them and the Fund. The applicant must send a report on the use of financial support provided by the Fund after the project is finished.

The call for application can only be targeted to specific audiovisual works (for instance documentary or animated films) but this rarely happens and in most cases, the Fund publishes calls for all audiovisual works.

Co-productions and Eurimages

The Slovak Republic is a signatory to the European Convention on Cinematographic Co-production. Within the framework of the Council of Europe, the securing of funding for the production of films is furthermore encouraged by the Convention on Cinematographic Co-production. It is in force since 1994 and ratified by 43 signatories. Co-production enables even projects of foreign co-producers to be eligible for the support for the cinematography as described above.

Eurimages' main aim is to facilitate co-producing films between the Council of Europe member states. It provides both soft loans (for co-production) and incentives (for distribution of films). Four times a year calls for applications are published. All projects submitted must have at least two co-producers from different member states of the Fund. For multilateral co-productions the participation of the majority co-producer must not exceed 70% of the total co-production budget and the participation of the minority co-producers must not be lower than 10%.

Labour issues – young crew member

During the process of film production, in many cases there are children involved, which gives rise to a few labour law issues that need to be addressed.

Pursuant to the Labour Code, an underage child can enter into an employment¹ relationship only after having reached 15 years of age and after having finished primary education. Until the child in question acquires full legal capacity, there are still a few rules the employer must comply with. The maximum working time must not exceed 30 hours per week if the employee is 16 years or younger or 37.5 hours for an underage employee older than 16 years of age (even in a case when the employee works for more than one employer). On top of that, underage employees are prohibited from working at night (between 10 pm and 6 am), unless they are at least 16 years old, night work immediately follows their usual working hours and will not last for more than one hour and is a part of a preparation for future occupation.

The Slovak Labour Code also has an exception from the rules described above. Even a person younger than 15 years of age can enter into an employment relationship provided that they will carry out one of the so-called easy tasks. These include (i) starring or co-starring in cultural events, (ii) sports, and (iii) advertisements. Prior consents of the Labour Inspectorate and Public Health Authority are needed.

¹ Act No. 311/2001 Coll. the Labour Code

About us

The media and entertainment industries are constantly evolving. With the continuing change in the way that content is delivered and viewed, media and entertainment companies require advice in many areas of the law — often in multiple jurisdictions.

At Dentons, we understand your media and entertainment business, whether in film, television, animation or games. Our lawyers have extensive experience in the industry, including in regulatory issues, M&A transactions and copyright management. We can work with you to produce, finance and ultimately release your products via the growing array of media.



Increasingly, film and television production requires integration of financing and production elements from multiple jurisdictions. Whether it is a treaty-based co-production, a complicated tax-driven structure, a matter of maximizing local tax credits or negotiating a complex distribution agreement, Dentons has the unique breadth and depth needed to get your production made and commercialized.

Intellectual property is more crucial than ever. Dentons has the resources to secure and maximize the value of what you create. We can help you navigate the complex terrain of global intellectual property law with assurance.

You can count on our experience and commitment as confirmed by our clients as well as by independent legal rankings, in which we are recommended in every year. Our services include any and all legal issues important from the point of view of entities operating in the media sector, such as:

- Obtaining concessions for broadcasting of TV programs and delocalization of satellite broadcasters.
- Performing obligations towards regulatory bodies.
- Drafting and negotiating contracts in the media sector, including agreements between broadcasters and cable and satellite operators, agreements concerning sending signals to satellite stations and using capacities of satellite transponders, agreements for the use of film portfolios, as well as contracts with advertising agencies and distributors.
- Preparing comprehensive structures for media transactions, including the comprehensive legal structure of film and TV productions.
- Advising on regulations in the media sector, including those related to advertising, sponsorship and product placement.
- Advising you on every aspect of the law relating to copyright, as well as the protection and exploitation of your valuable work.

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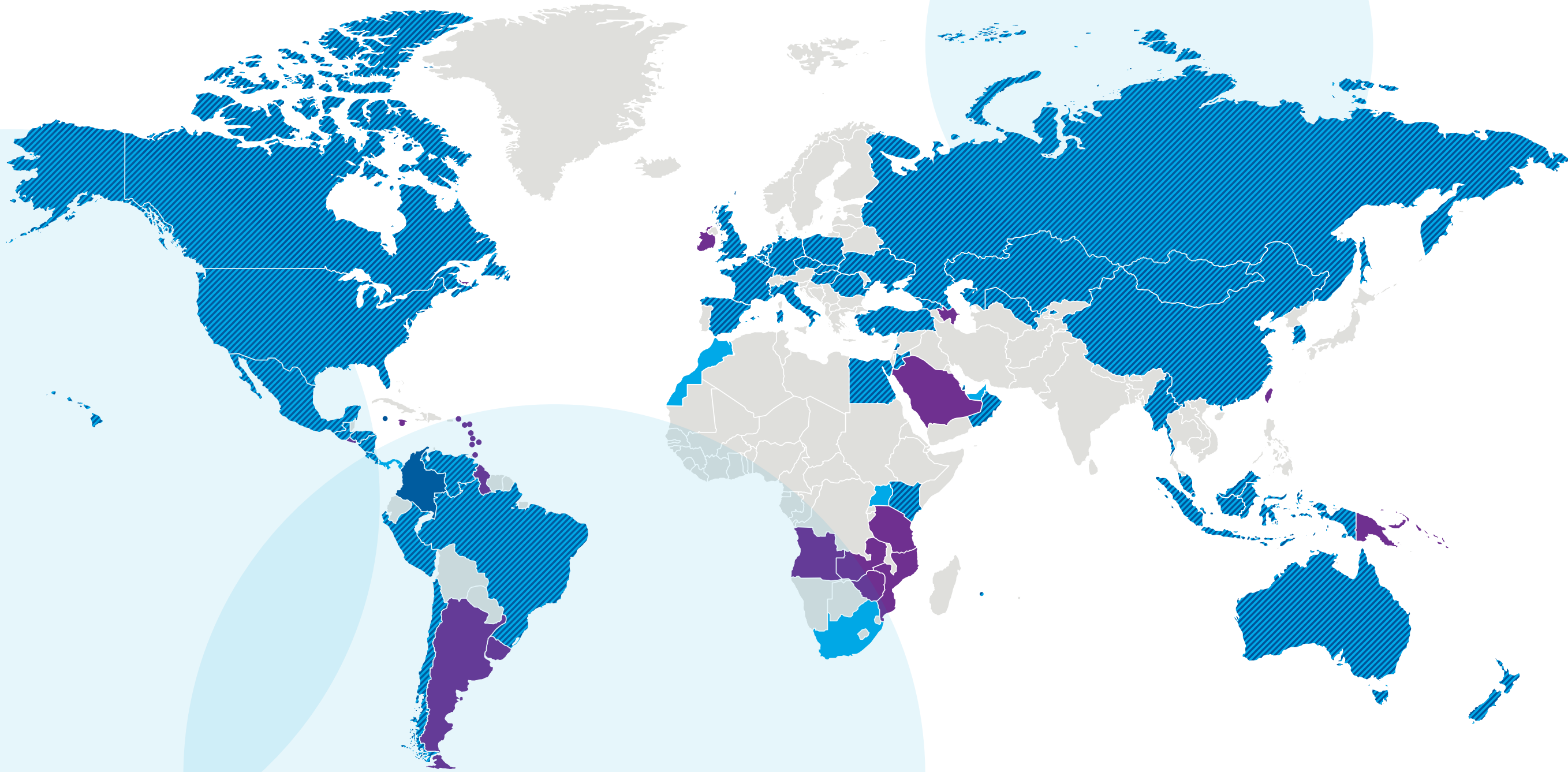
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Our media and film industry experience



- Other Dentons Offices
- Film industry experience only
- Media industry experience only
- Both Media and Film industry experience

ABOUT DENTONS

Dentons is the world's largest law firm, connecting talent to the world's challenges and opportunities in more than 75 countries. Dentons' legal and business solutions benefit from deep roots in our communities and award-winning advancements in client service, including Nextlaw, Dentons' innovation and strategic advisory services. Dentons' polycentric and purpose-driven approach, commitment to inclusion and diversity, and world-class talent challenge the status quo to advance client and community interests in the New Dynamic.

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