

Pursuant to Article 39 a, Paragraph 6 of the Act on Audiovisual Activities (Official Gazette 76/07 and 90/11), the Minister of Culture, on the advice of the Croatian Audiovisual Centre and with the approval of the Minister of Finance, hereby issues the

REGULATIONS

TO ENCOURAGE INVESTMENT IN THE PRODUCTION OF AUDIOVISUAL WORKS

Contents of Regulations

Article 1.

These Regulations lay down the terms, requirements, criteria and other conditions for exercising the right to a financial incentive for the production of audiovisual works. Furthermore, they outline the conditions regarding the mentioned State aid programme in accordance with the regulations governing State aid in the Republic of Croatia.

State Aid Programme for the Production of Audiovisual Works

Article 2.

- (1) The provider of the State aid pursuant to the provisions of these Regulations is the Croatian Audiovisual Centre (hereinafter: the Centre).
- (2) The financial incentive from these Regulations qualifies as State aid in accordance with the regulations governing State aid in the Republic of Croatia.
- (3) The validity of the State aid programme from these Regulations is subject to the duration period approved by the European Commission.
- (4) The State aid fund administered by the Centre is financed from the Government Budget of the Republic of Croatia and committed to the competent Ministry.

Criteria and Conditions for Obtaining a Financial Incentive

Article 3.

- (1) A financial incentive constitutes a 20% refund of total qualifying costs incurred in the Republic of Croatia for the purpose of producing feature films, animated and documentary films, television films and television series that are produced entirely or partially in the Republic of Croatia, and that are intended for public exhibition and meet criteria set out in the

Law on Audiovisual Activities and these Regulations, regardless of whether they are being financed from domestic or international sources. The overall production costs incurred in the Republic of Croatia that form the basis for calculating the financial incentive must not exceed 80% of the total production budget of the audiovisual work.

(2) The financial incentive from Paragraph 1 of this Article for an individual audiovisual work cannot exceed HRK 4,000,000.00 except when otherwise stipulated by these Regulations.

(3) The total amount of State aid from the Republic of Croatia and other Member States of the European Economic Area, including the amount of the financial incentive from these Regulations and any accorded de minimis State aid, as well as any other sources of financing that are considered State aid regardless of the level of the provider, shall not amount to more than 50% of the total production budget of the subject audiovisual work. The aid intensity for cross-border co-productions funded by a minimum of two Member States and involving producers from at least two Member States may amount to 60% of the total production budget.

(4) In accordance with the State aid regulations in force, the 50% limit from the preceding Paragraph of this Article does not apply to difficult or low budget audiovisual works, providing that the cumulative effect of State aid (including de minimis aid) does not exceed the 80% of the entire production budget of the audiovisual work.

(5) Where the Applicant can prove that the projected production costs to be incurred in the Republic of Croatia will exceed the amount of HRK 20,000,000.00 it has the right to submit an application to the Centre for exercising the right to a financial incentive (hereinafter: the Application) for the work in question in the amount exceeding HRK 4,000,000.00. The amount of the incentive as well as additional obligations of the Applicant shall be determined by the Centre in proportion to the available funds, pursuant to these Regulations.

(6) In order to obtain a financial incentive, the submitted work must score a minimum number of points in the Qualification Test from Annexe 1 of these Regulations.

Eligibility Criteria for the Applicant

Article 4.

(1) The Applicant must be a legal entity registered in the Republic of Croatia for the purposes of producing audiovisual works, and must meet the following criteria:

1. That, in the capacity of a producer, co-producer and/or a production service provider of a foreign work (production service company), it is producing a feature film, animation or documentary, television film or a television series from Article 3. Paragraph 1 of these Regulations, entirely or partially in the Republic of Croatia,
2. That it has acquired the rights to the script for the purpose of producing the subject audiovisual work or that it is the production service provider that has been contracted by a foreign legal entity which has acquired the rights to the script for the purpose of producing the subject foreign work,

3. That it has, in the three year period prior to submitting the Application produced at least one audiovisual work (feature film, documentary, animation, television film or television series) which has been publicly exhibited in at least one of the following ways: commercially distributed in theatres and/or broadcast on television and/or screened at minimally one international festival,
4. That it has at its disposal comprehensive data regarding the total budget of the audiovisual work for which the incentive is sought (in the case of a domestic production, a cross-border or international co-production in which a Croatian legal entity is a co-producer) or has at its disposal data regarding the amount of the total budget of the audiovisual work for which the incentive is sought (in the case of a foreign work).

(2) A legal entity registered in the Republic of Croatia can also be a foreign company duly registered in accordance with the regulations of its domicile country outside of the Republic of Croatia provided that, in accordance with the regulations in force, it establishes a subsidiary in the Republic of Croatia. If the subsidiary is established by a foreign company whose domicile office is not in the European Union or another European Economic Area contracting state, it must have been commercially registered in its domicile country for at least two years and submit to the Centre proof of such registration.

(3) The production service provider of a foreign work (production service company) from Paragraph 1 Subparagraph 1 of this Article is a legal entity registered in the Republic of Croatia for the purposes of producing audiovisual works that is contracted by a foreign legal entity to provide production services for the foreign work in the Republic of Croatia and submits the Application according to these Regulations.

(4) As an exception from Paragraph 1 Subparagraph 3 of this Article, the Applicant can be a legal entity which has not produced at least one audiovisual work in the three years prior to the Application, but whose founder or director has been a producer, co-producer, executive producer or line producer of at least one audiovisual work which meets the public exhibition requirements from Paragraph 1 Subparagraph 3 of this Article in the three year period prior to the Application, for which he/she submits written evidence of his/her production credit on the audiovisual work produced.

(5) The Applicant cannot be an entity from Paragraph 1 of this Article:

- That is an entrepreneur in difficulties,
- That is in the process of bankruptcy, litigation, and/ or liquidation,
- That has been ordered to reimburse unlawful State aid or is in the process of reimbursement of State aid,
- That has unpaid outstanding liabilities to the State.

Any application submitted by an Applicant who has unpaid and/or outstanding liabilities to the State will be dismissed.

(6) In case of a *domestic co-production* in which all co-producers are legal entities registered in the Republic of Croatia for purposes of producing audiovisual works, the co-producers shall, between themselves, designate one co-producer as the Applicant who shall participate in the procedure regarding the financial incentive stipulated by these Regulations.

(7) In case of an *international co-production* in which one co-producer is a legal entity registered in the Republic of Croatia for the purposes of producing audiovisual works, the Croatian co-producer shall be the designated Applicant in the procedure regarding the financial incentive stipulated by these Regulations.

(8) In case of a *foreign production*, regardless of the number of producers and countries of origin, where none of the producers is a legal entity registered in the Republic of Croatia for the purposes of producing audiovisual works, a delegate producer is required to employ a domestic production service company for the production of a foreign work who shall be the designated Applicant in the procedure regarding the financial incentive stipulated by these Regulations.

Article 5.

As an exception from Article 4. Subparagraph 1 (3) of these Regulations, the Applicant can be a legal entity that has not produced at least one audiovisual work in the three years prior to submitting the Application, but who has been the production service provider for an audiovisual work that has been publicly exhibited in at least one of the following ways: commercially distributed in theatres and/or broadcast on television and/or shown in at least one international festival.

Article 6.

As an exception from Article 4. Subparagraph 1 (3) of these Regulations, the Applicant can be a legal entity that has not produced at least one audiovisual work in the three years prior to submitting the Application, but who has provided production services for audiovisual commercials that have been publicly exhibited in at least one of the following ways: commercially distributed in theatres and/or broadcast on television insofar as he/she engages a producer who has operational experience in the production of the same type of audiovisual work that is being submitted.

Criteria the Audiovisual Work Must Meet in Order to Apply for a Financial Incentive

Article 7.

(1) Audiovisual works eligible for a financial incentive are:

- Feature films, documentaries, animations, television films or television series,
- Works that are being produced entirely or partially in the Republic of Croatia,
- Works that are intended for public exhibition, and
- Works that have scored a minimum required number of points in the Qualification Test from Annexe 1 of these Regulations.

(2) A financial incentive from these Regulations may also be requested for a foreign audiovisual work, respectively for a feature film, animation, or documentary, as well as a television film and television series from Paragraph 1 of this Article, for which a foreign legal entity registered for the purposes of producing audiovisual works outside of the Republic of Croatia or the European Economic Area has regulated the rights to the script.

(3) The Qualification Test from Paragraph 1 of this Article is a test completed by the Applicant for the purpose of evaluating, through a points system, the cultural content of the submitted audiovisual work, the contribution of human resources, and the exploitation of production capacities of the Republic of Croatia and other Member States of the European Economic Area. The Application that scores a higher number of points in the Qualification Test than other Applications shall not be entitled to any privileges regarding its processing order or reservation of funds.

(4) Apart from the conditions set in the Paragraph 1 of this Article, in order to obtain a financial incentive, the audiovisual work must also meet the following criteria:

1. The amount of total expenditure incurred in the Republic of Croatia associated with the production of the work from Paragraph 1 of this Article, without value added tax, has to amount to a minimum of HRK 2,000,000.00 for a feature film, HRK 300,000.00 for a documentary, HRK 500,000.00 for an animation, HRK 1,000,000.00 for a television film, and a minimum of HRK 750,000.00 for one episode of a television series,
2. At least 50% of cast and crew employed in the Republic of Croatia for the production of the work from Paragraph 1 of this Article must be Croatian citizens or Citizens of the EEA when the work is being entirely produced in the Republic of Croatia or
3. At least 30% of cast and crew employed in the Republic of Croatia for the production of the work from Paragraph 1 of this Article must be Croatian citizens or Citizens of the EEA when the work is being partially produced in the Republic of Croatia, and partially in other country/countries, and
4. When the financial incentive is greater than HRK 4,000,000.00, in addition to meeting the afore-mentioned conditions, the Applicant must engage at least 1 (one) trainee who is a Croatian citizen or a tax resident of the Republic of Croatia in each of the main production departments (Art, Production, Camera, Costume, Directing, Hair and Makeup, Stunts);

(5) The works for which the Applicant cannot acquire a financial incentive are:

- Promotional audiovisual works and/or commercials
- Works that advocate violence, racism, hate speech and/or has pornographic content and similar,
- Works that promote behaviour contrary to interests of public health, protection of human rights, public safety, and similar,

- Daytime drama (“soap opera”),
- Situation comedy (“sitcom”).

(6) The Applicant acquires the right to a financial incentive for the work from Paragraph 1 and 2 of this Article on condition that on the day the Application is submitted, among other things, it has secured at least 70% of financing needed to cover the cost of production in the Republic of Croatia.

Eligible Costs

Article 8.

(1) Costs relating to goods and services sourced and purchased in the Republic of Croatia within the scope of producing the work from Article 3. of these Regulations are considered eligible for State aid.

(2) Eligible costs are specified in Annexe 2 that constitutes an integral part of these Regulations.

The Centre’s Committee for the Encouragement of Investment in the Production of Audiovisual Works

Article 9.

(1) The Centre’s Committee for the Encouragement of Investment in the Production of Audiovisual Works (hereinafter: The Committee) has five members: one member from the Ministry of Culture, two members from the Croatian Producers’ Association, one member from the Ministry of Finance and one member from the Croatian Audiovisual Centre. Members of the Committee have substitutes who stand in for an individual member in case he/she is prevented, for whatever reason, from participating in the work of the Committee.

(2) Members of the Committee and their substitutes are appointed and relieved by the Minister of Culture upon the recommendation of the body from which they originate for a period of two years. Members of the Committee and their substitutes can be reappointed.

(3) For the duration of his/her term, a member of the Committee cannot participate in the assessment of Applications:

- For audiovisual works which he/she is a producer, co-producer or contributor of,
- Submitted by a legal entity in which ownership structure and/or management structure he/she sits, or in which he/she is employed.

(4) A Member of the Committee who has a potential conflict of interest as set out in Paragraph 3 of this Article is required to promptly inform the Centre about such conflict and excuse himself/herself from assessing the Application. In such cases, the member of the Committee shall be substituted by his/her substitute.

(5) The Committee meets at least once every three months, at the premises of the Centre, for the purposes of evaluating Applications and assessing whether the conditions for obtaining the financial incentive set out in these Regulations are met, upon which it issues a recommendation for a decision.

(6) The work and decision-making process of the Committee are set out in its Rules of Procedure.

(7) Members of the Committee and their substitutes are entitled to remuneration for their work. The amount of the remuneration is determined by the Ministry of Culture in accordance with the Decision of the Government of the Republic of Croatia regarding the amount of remuneration to the members of commissions, committees, councils, working groups and other similar bodies.

Application for Exercising the Right to a Financial Incentive

Article 10.

(1) The Applicant is required to submit to the Committee, at least thirty days prior to the first day of principal photography (or principal animation) of the work from Article 3. of these Regulations, in the Republic of Croatia:

1. A completed Application available on the Centre's webpage,
2. A certificate from the competent authority that all obligations to the State have been fulfilled, which is not older than 30 days,
3. Proof of public exhibition of a work which it produced during the last three years:
 - For a feature film – the distributor's/exhibitor's confirmation and a newspaper clipping as proof of regular cinema distribution or a certificate from a broadcaster confirming the broadcast of the work in question,
 - For an animation, short fiction film or documentary – evidence of screening in a programme of at least one international film festival,
4. The script and short outline (synopsis) of the work from Article 3. of these Regulations for which a financial incentive is sought,
5. The total long-format budget of the work for which the incentive is sought, in the case of a domestic production or co-production, and an international or cross-border co-production in which a Croatian legal entity is a co-producer; or information regarding the amount of the total budget of the audiovisual work for which the incentive is sought, in case of an international service production,
6. The financing plan for the entire work, in which all sources of financing are clearly indicated (both domestic and foreign), together with the exact amount of State aid from the Republic of Croatia and other member states of the European Economic Area, as well as the contribution percentage of each and every source of financing in the total production budget of the work,

7. A list of all planned expenditure for the production of the work in the Republic of Croatia (local budget),
 8. A list of all artistic and technical crew engaged in the production of the audiovisual work in the Republic of Croatia (cast and crew list), which also indicates the nationality and domicile or place of business relevant for tax purposes;
 9. A production schedule for the Republic of Croatia,
 10. A complete production schedule with the final completion date,
 11. The cash flow for the production in the Republic of Croatia,
 12. Proof that at least 70% of financing required to cover the cost of production of the work from Article 3. of these Regulations in the Republic of Croatia has been secured (e.g. contracts, deal-memos, letters of intent with amounts, bank guarantees, etc.),
 13. Proof of compliance with the terms set out in Article 4. Paragraph 3 of these Regulations,
 14. A completed Qualification Test from Annexe 1 of these Regulations,
 15. A signed Producer's Statement.
- (2) For an international or cross-border co-production, the domestic producer shall to enclose a notarized copy of the coproduction deal-memo or contract together with the Application.
- (3) For a foreign production, the production service provider is required to enclose a notarized copy of the production service agreement together with the Application.
- (4) All documents from Paragraph 1 of this Article must be submitted in the Croatian language, and deal-memos/contracts from Paragraph 2 and 3 of this Article in a certified translation in Croatian.

Exercising the Right to a Financial Incentive

Article 11.

- (1) Upon the recommendation of the Committee, the Centre shall issue a provisional certificate guaranteeing the Applicant the right to a financial incentive in the amount determined on the basis of the planned production budget and the documentation defined by these Regulations. The amount will be disbursed upon completion of production of the audiovisual work in the Republic of Croatia within the framework of the funds secured the financial incentive scheme.
- (2) In the event that the foreign company that has met the conditions for obtaining a provisional certificate has failed to submit proof of establishment of its subsidiary in

accordance with the regulations of the Republic of Croatia in force and the stipulations of these Regulations, the Centre will issue the Applicant a letter of notification specifying a reasonable period, which may not be shorter than 15 (fifteen) days, during which it must fulfill the required obligation. In the event that the Applicant fails to submit proof of compliance with the required obligation within the specified period, the Application shall be rejected as incomplete.

(3) The provisional certificates guaranteeing the exercise of rights from Paragraph 1 of this Article are issued on a first come first served basis, based on the order in which applications are received.

(4) Claims from the provisional certificate from Paragraph 1 of this Article cannot be transferred to a third party and any such transfer shall not be enforceable by law.

Obligations of the Legal Entity to Which the Provisional Certificate Was Issued

Article 12.

(1) Upon completion of the production of the work in the Republic of Croatia, the legal entity which received the provisional certificate from Article 11. of these Regulations is required to submit to the Centre, within a timeframe determined by the certificate, the following documentation:

- The final accounts for the production of the work from Article 3. of these Regulations in the Republic of Croatia, certified by a chartered auditor registered in the Republic of Croatia whose expenses are paid for by the Applicant,
- Copies of proof that all obligations regarding payments related to the production of the audiovisual work in the Republic of Croatia are duly executed, including obligations towards the State, all this confirmed by a certified auditor registered in the Republic of Croatia whose expenses are paid for by the Applicant.

(2) The Committee shall determine the conformity of evidence from Paragraph 1 of this Article with the list of planned expenditure for the production of the work carried out in the Republic of Croatia and with the remaining documentation on the basis of which the Applicant has been issued the provisional certificate from Article 11. of these Regulations.

(3) The legal entity to which the provisional certificate from Article 11. of these Regulations has been issued is obliged to promptly notify the Centre in cases where, after the issuance of the certificate there has been:

- A change in the scheduled date of principal photography or animation (in case of an animation work) of more than thirty days,
- A change in the submitted financing plan for the entire production that contains all the sources of financing by more or less than 10%
- An essential change in legal and/or factual circumstances.

Payment of the Financial Incentive

Article 13.

(1) The funds for the financial incentives are planned in the annual State Budget of the Republic of Croatia and are allocated to the Centre from the budget line of the Ministry of Culture upon entry into force of the Provisional Certificate. Any funds that have remained unused during the fiscal year in which originally committed by way of Provisional Certificates may be re-committed to projects that have applied to a financial incentive in the previous year and which have not been issued a Provisional Certificate in the same year. The Centre shall return all remaining unused funds it has received in the previous year to the State Budget by June 30 of the current year.

(2) The Centre carries out the payment of the financial incentive specified in the certificate from Article 11. of these Regulations to an account of the Applicant with the business bank in the Republic of Croatia, under the condition that the Applicant has fulfilled its obligations from the Article 12. of these Regulations and that the budget funds for the financial incentive have been transferred to the account of the Centre.

(3) Regardless of the type of production, and under the condition from Paragraph 2 of this Article, the Centre carries out the payment of the financial incentive specified in the certificate from Article 11. of these Regulations to a dedicated bank account that the Applicant has opened with a business bank in the Republic of Croatia, specifically for the purpose of producing the subject audiovisual work.

(4) If, during the period between the issuance of the certificate and the end of production of the work from Article 3. of these Regulations in the Republic of Croatia, a change in expenses has occurred, which has resulted in the actual costs of production in the Republic of Croatia being lower than the costs approved by the certificate, the Centre will adjust the amount of the final financial incentive in proportion to the decrease of the actual costs incurred.

Article 14.

(1) The provider of the State aid from these Regulations is obligated to publish the entire text of the approved support scheme through its webpages, as well as its implementation regulations, the name of the grant recipient, the name of the Applicant and the project that received the grant, the amount of State aid received and the intensity of State aid expressed as a percentage of the total production cost of the project that is the recipient of the State Aid.

(2) The provider of the State Aid is obligated to keep the afore-mentioned information for a minimum of 10 years and make it publically available in accordance with regulations governing the freedom of information in force.

Article 15.

The Qualification Test (A Cultural contents, B Contribution of human resources, C Exploitation of production potential of the Republic of Croatia) and the List of eligible costs are Annexes 1 and 2 and are an integral part of these Regulations.

Final provisions

Article 16.

The entry into force of these Regulations shall supersede the Regulations to Encourage Investment in the Production of Audiovisual Works (Official Gazette number 86/12, 104/12, 105/13 and 83/14).

Article 17.

These Regulations shall enter into force on the first day after the day of its publication in the Official Gazette.

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Zagreb, 30th of December 2014

The Minister

Prof.Ph.D. Andrea Zlatar Viočić