

Based on Article 39 paragraph 3 Cinematography ("Official Gazette of Montenegro", number 42/15), the Government of Montenegro, at its session of _____ 2017, adopted the

DECREE

On more detailed criteria, manner and procedure for exercising the right to a refund of part of the funds spent on the production of a cinematographic work

Subject of the Decree

Article 1

This Decree prescribes more detailed criteria, method and procedure for exercising the right to a refund of part of the funds spent in Montenegro for the production of a cinematographic work (hereinafter: refund of funds).

Gender Equality

Article 2

The terms used in this Decree for natural persons in masculine gender shall mean the same terms in feminine gender.

Fostering investment

Article 3

A Producer who meets the requirements referred to in Articles 38 and 39 of the Law on Cinematography (hereinafter: the Law) and criteria prescribed by this Decree, may acquire the right to refund the funds for cinematographic work produced by the producer, co-producer or for which he performs the production service.

Criteria for determining the refund proposal

Article 4

Criteria for determining the refund proposal are:

- 1) previous experience of the applicant in the production of cinematographic works;
- 2) cultural content of the cinematographic work;
- 3) contribution of human resources from Montenegro to the production of a cinematographic work;
- 4) use of production potentials of Montenegro in the production of a cinematographic work;
- 5) reality of the total budget intended for the production of a cinematographic work in Montenegro.

Responsibility for the return of funds and their provision

Article 5

The procedure of return of the funds is carried out by the Public institution Film Center of Montenegro (hereinafter: the Center), in accordance with the Law and this Decree.

Funds for reimbursement of funds are provided in the budget of the state administration body responsible for finance affairs.

Request for Refund

Article 6

The procedure for reimbursement is initiated by a request for refund (hereinafter: the request) which the producer submits to the Center no later than 30 days before the start of the recording of the cinematographic work in Montenegro.

Request is submitted by 1 October of the current year.

Request submitted after 1 October of the current year, shall be considered a request for the next budget year.

The request contains data on the applicant and cinematographic work which is produced in Montenegro, financial data, qualification test and list of mandatory attachments that are submitted with the request.

The form of the request is given the Annex 1 which makes an integral part of this Decree.

Qualification test

Article 7

Qualification test referred to in Article 6 paragraph 4 of this Decree is test which is filled in by the applicant and which consists of three categories which are scored – cultural content of the cinematographic work, contribution of human potentials and use of production capacities of Montenegro.

The applicant must obtain in total at least 15 points at the Qualification test referred to in paragraph 1 of this Article, so that the cinematographic work would be qualified for reimbursement of funds.

Mandatory attachments to the request

Article 8

The request shall be accompanied by:

- 1) power of attorney for submitting a request, verified by a notary;
- 2) co-production contract or production service contract for the realization of a cinematographic work certified by a notary;
- 3) scenario and synopsis of a cinematographic work, with proof of regulated copyright;
- 4) presentation of the budget of a cinematographic work and planned qualifying expenses, according to the specifications of all costs with and without accrued taxes;
- 5) evidence of sources of funding for a cinematographic work;
- 6) a list of the crew of a cinematographic work, with the indication of the members who are citizens of Montenegro;

- 7) plan of realization of the cinematographic work, with dates of realization of activities in Montenegro;
- 8) evidence of the applicant's previous experience in the production of cinematographic works;
- 9) contract with an auditor authorized to work in Montenegro (hereinafter: certified auditor).

The request and the supporting documents referred to in paragraph 1 of this Article shall be delivered in the Montenegrin language or in a foreign language with a certified translation into the Montenegrin language.

The request and supporting documents from paragraph 1 of this Article may also be submitted electronically.

For the Applicant, the Center ex officio shall obtain:

- 1) An excerpt from the Central Registry of Business Entities on Performing Cinematographic Activity,
- production of films;
- 2) confirmation from the competent authorities that all tax obligations prescribed by the Law have been settled.

Authorized producers for application for co-productions

Article 9

Applicant for domestic and international co-productions, in which several domestic producers participate, is a producer from Montenegro, who, with the consent of all co-producers, has been granted the power to file a request and participate in the procedure for the reimbursement of funds. For full foreign productions, regardless of the number of producers and the countries from which they come, the foreign producer who is the project owner is obligated to hire a film producer from Montenegro, who will start and participate in the proceedings regarding the return of funds as a production service.

Commission for the determination of a proposal for a refund

Article 10

The Center establishes the Commission for the determination of the proposal for a refund (hereinafter: the Commission).

The Commission has a president and four members, and it consists of one representative of:

- 1) producers, at the suggestion of the Minister of Culture;
- 2) state administration body competent for cultural affairs;
- 3) state administration body competent for finance affairs;
- 4) state administration body competent for tourism affairs;
- 5) employees of the Center, on the proposal of the Director of the Center.

The President of the Commission is elected from the ranks of its members.

The term of office of the members of the Commission shall be two years and the same person may be reappointed.

Professional and administrative tasks for the needs of the Commission are performed by the Center.

The manner of work and decision-making of the Commission is regulated by the Rules of Procedure.

Tasks of the Commission

Article 11

Tasks of the Commission are to:

- 1) review and consider the submitted requests;
- 2) appreciates the fulfillment of the conditions and criteria of the Law and this Regulation and makes a proposal to the Center Director to conclude a contract on the reimbursement of funds with the producer or to reject the application;
- 3) appreciate the fulfillment of the contract on the return of funds after the completion of the stage of production of the cinematographic work in Montenegro and gives an opinion to the Center's director on the payment of funds or on the refusal of payment;
- 4) perform other tasks of importance for the adequate implementation of the procedure for the refund.

The Commission is obliged to consider the submitted request within seven days from the date of receipt of the request.

Prevention of Conflict of Interests

Article 12

A member of the commission cannot participate in the consideration of the application which relates to a cinematographic work in which it is embodied in any way.

The President and members of the Commission are obliged to notify the Center without delay in writing if circumstances arise that may lead to conflict of interests.

Business Secret

Article 13

Members of the Commission and persons involved in the reimbursement of funds shall be obliged to keep the information they receive in accordance with the regulations governing the protection of data representing official or business secrets.

Contract on Reimbursement of Funds

Article 14

The Center, on the basis of a proposal from the Commission, concludes a contract on the reimbursement of funds with the applicant (hereinafter: the contract), within 30 days from the date of submission of the application.

The contract is concluded within the intended funds provided in the budget of Montenegro on the basis of the right to reimbursement in the current year.

The contract defines the project implementation plan, the total budget of the project, the amount of planned costs in Montenegro, the amount of the number of weeks, the obligation to emphasize financial support, as well as other elements of importance for the realization of the project and execution of the contract.

Obligation to inform about the course of production of the cinematographic work

Article 15

The Applicant is obliged to notify the Center if the following occurs:

- 1) deviation from the attached plan of realization of the cinematographic work;
- 2) changes in the sources of financing of the cinematographic work;
- 3) significant changes in the part of the film crew; and
- 4) change of other data submitted in the application and mandatory attachments.

The notification referred to in paragraph 1 of this Article shall be submitted within seven days from the date of the change.

Starting a procedure for payment of funds

Article 16

The applicant submits to the Center a report of the certified auditor and evidence confirming the amount of eligible costs for the return of funds (invoices, contracts, bank statement with an indication of the payment made, etc.) within 45 days from the date of completion of the production of a cinematographic work in Montenegro.

Based on the documentation from the paragraph 1 of this Article, the Commission gives an opinion on the report of the certified auditor and determines the fulfillment of the conditions and criteria on the basis of which the contract was concluded.

Qualified expenses

Article 17

Qualified expenses for the return of funds shall be considered costs incurred from the date of submission of the application, which are related to the realization of a cinematographic work in Montenegro, incurred or paid to legal entities and individuals in the territory of Montenegro, based on services or purchased goods, using locations, payments of fees to the members of the team who are citizens of Montenegro or foreigners staying in Montenegro for at least a year under the temporary residence and work permit, in accordance with special regulations.

Subsequent changes in the amount and type of individual eligible costs referred to in paragraph 1 of this Article are permitted within the total amount that must be spent in Montenegro, in accordance with the Law.

Expenses that are not recognized as eligible costs are the purchase of real estate, the distribution of the cinematographic works and the Value Added Tax.

The list of eligible costs referred to in paragraph 1 of this Article is given in Annex 2 which forms an integral part of this Regulation.

Denial of Refunds

Article 18

The Center shall refuse the refund provided for in the contract, if the Commission finds that:

- 1) The report of the certified auditor, irregularity has been established in the work of the producer during the realization of the cinematographic work;
- 2) The producer has violated the provisions of the contract;
- 3) The producer has not informed the Center in accordance with Article 15 of this Decree.

The obligation to emphasize financial support

Article 19

Producer who has exercised the right to recover funds for the production of a cinematographic works, he is obliged to point out the information that the Center financially supported the realization of this cinema, in an appropriate visible place, in all versions, copies, all promotional materials and when presented in different markets.

Entry into force

Article 20

This Decree shall enter into force on the eighth day from the day of publication in the "Official Gazette of Montenegro"

Number:

Podgorica, _____2017

Government of Montenegro

**President,
Duško Marković**

