



Montenegro
Ministry of Culture

LAW
ON CINEMATOGRAPHY

Cetinje, 2015

**LAW
ON CINEMATOGRAPHY**

I GENERAL PROVISIONS

Subject

Article 1

This Law regulates the conditions and manner of cinematographic activity.

Cinematographic activities

Article 2

Cinematographic activities (hereinafter referred to as cinematography) include production, marketing, distribution, public screening, data collection, protection and preservation of cinematographic works, the development of complementary activities and other activities in accordance with this law.

Cinematographic work is fiction, documentary, experimental, animation and other film of any length, in any format and in any medium, which is intended for public viewing or other form of economic exploitation.

The use of gender-sensitive language

Article 3

The terms used in this Law referring to the male gender include the same terms in the feminine gender.

The public interest

Article 4

Cinematographic activity is in the public interest.

Public interest in the cinematography is:

- 1) encouraging domestic production of cinematographic works of importance for the development of culture and the improvement of conditions for the co-production collaboration;
- 2) international promotion of Montenegrin cinematographic creativity and participation in major international events;
- 3) the protection, conservation, restoration, research, presentation and promotion of the value of domestic and foreign cinematographic heritage and its digitization;
- 4) implementation of measures to protect children and young people in accordance with this law;
- 5) affirmation of the values protected by international standards of human rights and freedoms and combating discrimination on grounds of sexual orientation and gender identity;
- 6) increase the availability of cinematographic works for persons with disabilities;
- 7) to combat all forms of unauthorized use of cinematographic works;
- 8) creating conditions to support young and talented artists, as well as deficient staff in cinematography;

- 9) the introduction of incentives for improving donations and sponsorships, as well as public-private partnerships;
- 10) the introduction of digital technology and the restoration, maintenance and standardization of cinema network and encouraging the development of the technical basis of cinematography;
- 11) to support the development of complementary activities, and
- 12) other activities of public interest, in accordance with the law.

The realization of public interest shall be provided by state and local governments.

National cinematography development programme

Article 5

In the public interest under Article 4 of this Law, the Government of Montenegro (hereinafter: the Government), at the proposal of the state government in charge of cultural affairs (hereinafter: the Ministry) shall pass the National Cinematography Development Programme (hereinafter referred to as the National Programme), for a period of five years.

National programme shall determine the priorities, measures, activities, executors, dynamics and resources necessary for the improvement and development of cinematography.

Based on the National Programme the Ministry determines the annual cinematography programmes.

Development and evaluation of the National Programme

Article 6

The Ministry shall, in preparing the National Programme, include representatives of local governments, non-governmental organizations, professional associations and other organizations that are registered for cinematographic activities, as well as prominent artists in the field.

The Ministry shall annually submit to the Government a report on the implementation of the National Programme.

Principles of Development

Article 7

The development of cinematography shall be achieved under the following principles:

- 1) the rights of authors to freedom of expression;
- 2) protection of copyright and related rights;
- 3) the commitment of state and municipalities to promote and assist the development of cinematography;
- 4) respect of the rights of cultural diversity;
- 5) protection of children and young people, gender equality and minority nations and other minority national communities;
- 6) construction and improvement of the cinematographic sector in line with international standards, in particular the European Union standards.

Domestic cinematographic work

Article 8

Domestic cinematographic work is a work which meets at least three of the following conditions:

- 1) that it was recorded in the Montenegrin language or one of the official languages in Montenegro;
- 2) that the director, writer or most of the creative team are from Montenegro;
- 3) that the work as a whole or partially is filmed in Montenegro;
- 4) that the work has the theme from the cultural area of Montenegro;
- 5) that it is produced by a domestic producer or in conjunction with one or more foreign co-producers;
- 6) that the majority of the members of the film crew are from Montenegro;
- 7) that it is produced in co-production with foreign producers in accordance with the provisions of the European Convention on Cinematographic Co-production.

Co-production cinematographic work

Article 9

Cinematographic co-production work is a work co-financed, in addition to a producer from Montenegro, by one or more partners from other countries.

Cinematographic co-production work can be the majority (bilateral or multilateral) and minority (bilateral and multilateral).

The majority co-production cinematographic work, in addition to the conditions referred to in paragraph 1 of this Article, shall meet the following requirements:

- 1) In the case of bilateral co-production cinematographic work - share of the majority partner must not exceed 80 % of the total cost of production of a cinematographic work;
- 2) In the case of multilateral coproduction cinematographic work - the majority partner accounts for 30-70 % of the total cost of production of cinematographic work.

The minority co-production cinematographic work, in addition to the conditions referred to in paragraph 1 of this Article, shall meet the following requirements:

- 1) In the case of bilateral coproduction cinematographic work, participation of minority partner cannot be less than 20 % of the total cost of production of a cinematographic work;
- 2) In the case of multilateral coproduction cinematographic work - share of minority partner cannot be less than 10% of the total cost of production of cinematographic work.

Foreign cinematographic work

Article 10

Foreign cinematographic work, in terms of this Law, is a cinematographic work that is not eligible for the status of domestic cinematographic work referred to in Article 8 of this Law, or it does not meet the requirements for status of coproduction cinematographic work referred to in Article 9 of this law, and which is for the account of foreign legal entities or natural persons (foreign producer or domestic co-producer) partly or wholly produced in Montenegro by foreign legal entities or natural persons.

Limitations

Article 11

The provisions of this Law shall not apply to cinematographic works produced, rented or displayed by legal entities, entrepreneurs and individuals for their own purposes or non-commercial use.

Definition of Terms

Article 12

Certain terms used herein shall have the following meanings:

- 1) *Production of a cinematographic work* includes collecting screenplay material, writing, preparation for shooting, shooting, editing, laboratory processing and post-production of a cinematographic work;
- 2) *Producer* (domestic or foreign) is a natural or legal person registered for production of cinematographic works, which initiates the process of production of a cinematographic work, so that it independently and largely organizes and finances its production and is responsible for its creative, organizational and financial implementation;
- 3) *Co-producer* is a natural or legal person registered for the production of cinematographic work, which together with the producer participates in the organization and financing of the production of a cinematographic work;
- 4) *Distribution* is authorized distribution, commercial copying and renting of cinematographic works for the purpose of screening, selling or leasing the rights of broadcasting, video tapes, CD and DVD, as well as import and export of a cinematographic work, including the distribution by use of telecommunication networks and systems;
- 5) *The distributor* is a natural or legal person registered for distribution of cinematographic works and registered in the register of distributors;
- 6) *Renting a cinematographic work* is authorized renting of copies of a cinematographic work to a specific period and for a fee, at all manners of trade, current and future, in all media, in all formats and languages, including, without limitation, all forms of television, video, non-cinema and on-line operation;
- 7) *Commercial reproduction of a cinematographic work* is authorized recording of cinematographic work from the existing carriers on any other carrier, for placement on the market;
- 8) *Circulation of cinematographic works* includes the purchase, sale or rental of cinematographic works for commercial purposes;
- 9) *Screening activity* is an authorized viewing of a cinematographic work from any existing or future medium of sound or images;
- 10) *The public screening* is authorized presentation of cinematographic work in cinemas;
- 11) *Presenter* is a natural or legal person performing public screening of cinematographic works;
- 12) *The author or co-author* of a cinematographic work is the person or persons who acquired that status in accordance with the law governing copyright and related rights;
- 13) *Cinematographic material* includes cinematographic works, as well as the overall screenplay, music, artistic, financial and publishing materials relating to cinematographic works;
- 14) *Complementary activities* are activities that directly or indirectly contribute to the development of cinematographic activities (film and television festivals and events, developing a cinematic culture activities, programs to promote and sell Montenegrin cinematographic works, international cooperation, research and critical evaluation of cinematography, publishing in the field of cinematography, professional development programmes, activities of organizations and associations in the field, etc.);
- 15) *Videogram* is a snapshot of a cinematographic work or a sequence of moving images accompanied by sound or with no sound;

16) *License* is an authorization for the marketing, sale, commercial reproduction and public screening of a cinematographic work.

II ACHIEVEMENT OF THE PUBLIC INTEREST

The way to achieve the public interest

Article 13

The public interest shall be provided in accordance with the law governing the field of culture, National cinematography development programme and this law.

Film Centre of Montenegro

Article 14

The state shall contribute to the improvement and development of cinematography through public institution Film Center of Montenegro (hereinafter referred to as the Centre), as follows:

- 1) by providing conditions for film production and co-production collaboration;
- 2) by creating the conditions for promotion, presentation and integration of contemporary filmmaking in regional and international developments;
- 3) by creating favourable conditions for increasing the number and scope of international shooting in Montenegro;
- 4) by initiating legislation and the creation of conditions for stimulating business environment and development of cinematography;
- 5) by participation in EU and CE programmes in the field of cinematography, as well as the implementation of activities arising from membership in the European and international associations;
- 6) by ensuring collection of earmarked funds to finance cinematography by film fund;
- 7) by combating illegal trade and use of cinematographic works;
- 8) by improvement of measures and actions to protect children and young people, gender equality and respect for diversity of minority nations and other minority national communities;
- 9) by the implementation of activities for the promotion of complementary activities;
- 10) by establishing and managing statistical data bases in the field of cinematography and
- 11) by performing other tasks arising from the determination of the public interest in cinematography, in accordance with this law.

Center is a public institution established by the Government in accordance with law.

Collection of cinematographic works and materials

Article 15

Montenegrin Film Archive (hereinafter Cinematheque) shall collect and permanently preserve domestic cinematographic works and material that applies to them, as well as co-production cinematographic works, regardless of the type and quality of the substrate on which they are taken or recorded.

The collection of works referred to in paragraph 1 of this Article shall be made by collecting the required copies of cinematographic works, purchase, exchange, gift, or otherwise in accordance with law.

The works and material referred to in paragraph 1 of this Article shall be subject to the regulations on the protection of cultural property.

Works and material referred to in paragraph 1 of this article may not be reproduced and used for commercial purposes.

Storage and protection of cinematographic works and materials

Article 16

Cinematheque is required to store and protect cinematographic works and material related to them, provide their technical and technological protection, restauration, conservation and documentation processing and systematization in the appropriate collections, in accordance with the law and international and national standards.

Detailed conditions of storage and protection of works and materials specified in paragraph 1 of this Article shall be prescribed by the Ministry.

The use of cinematographic works and materials

Article 17

Cinematheque is obliged to provide promotion and the use of cinematographic works and material that applies to them in the cultural, scientific, educational and other non-commercial purposes in a manner that will not cause damage or impairment.

Terms and method of use of the work and materials referred to in paragraph 1 of this Article shall be determined by agreement between the Cinematheque and the holder of copyright or related rights.

Obligatory copy submission

Article 18

Domestic producer is required to provide a copy of the cinematographic work and material that relates to it to, to the Cinematheque, within six months after the end of the post-production works.

Foreign producer shall file a copy of a cinematographic work recorded on the territory of Montenegro to the Cinematheque no later than 12 months after the filming, and six months after completion of post-production.

A copy of cinematographic works referred to in paragraphs 1 and 2 of this Article shall be submitted at the quality picture and sound carriers, according to the standards and characteristics prescribed by the Cinematheque.

Obligatory filing of a copy of a cinematographic work that is co-financed from the state budget is determined by the agreement on co-financing.

Privatization of cinematographic works

Article 19

Cinematographic works and material that relates to them, possessed by domestic producers and presenters in state ownership may not be subject to privatization.

The persons referred to in paragraph 1 of this Article shall, prior to the completion of privatization, submit the cinematographic works and material to the Cinematheque.

III CINEMATOGRAPHIC ACTIVITIES

Production of cinematographic works

Article 20

Production of cinematographic works shall be performed by the producer.

The producer is required to enroll in a Cinematographic register.

Domestic producer may produce a cinematographic work independently or in cooperation with one or more domestic or foreign co-producers on the basis of a cooperation agreement, or co-production agreement.

Domestic producer may, in cooperation with the author or co-authors, for the production of a cinematographic work, engage part of the foreign artistic or technical staff.

Shooting in Montenegro

Article 21

Foreign producer can shoot a cinematographic work in the territory of Montenegro, independently or in cooperation with local and foreign co-producer, with the prior approval of the Ministry.

For authorization referred to in paragraph 1 of this Article, the foreign producer shall submit application to the Ministry.

The Ministry shall suspend shooting of the cinematographic work if the foreign producer fails to comply with the conditions of the authorization referred to in paragraph 1 of this Article.

The Ministry shall submit a copy of the authorization for shooting referred to in paragraph 1 of this Article, to the Centre and the Cinematheque.

Application for foreign shooting

Article 22

The application for authorization pursuant to Article 21 paragraph 1 of this Law contains:

- 1) the subject of the application;
- 2) the name of the foreign producer;
- 3) name of cinematographic works and information about the authorship team;
- 4) the location and time of shooting;
- 5) information on the involvement of domestic artistic or professional personnel, equipment and cooperation agreement;

With the application referred to in paragraph 1 of this Article, foreign producer shall submit:

- 1) complete scenario of a cinematographic work, or designated parts of the text of the scenario which will be recorded in Montenegro;
- 2) cooperation agreement with the domestic co-producer, in the case of paragraph 1 item 5 of this Article;
- 3) a statement of the foreign producer or domestic co-producer, committing to deliver mandatory copy of the film to the Cinematheque, in accordance with Article 18, paragraph 2 of this Law.

Special permit

Article 23

If the shooting of cinematographic work in a particular location requires special permits, foreign producer or domestic producer on his behalf, are required to obtain such permit by the authorities or organizations designated by special regulations, prior to shooting.

The temporary import of equipment for shooting

Article 24

Foreign producer may, for recording of cinematographic work in the territory of Montenegro, after obtaining the approval of the Ministry, temporarily import equipment necessary for shooting, without the payment of customs duties and taxes.

Circulation of cinematographic works

Article 25

Circulation of cinematographic works may be performed by a distributor.

The distributor shall be entered in the Cinematographic register.

Distributor referred to in paragraph 1 of this Article shall have a license for any cinematographic work put into circulation.

Commercial reproduction of cinematographic works

Article 26

Commercial reproduction of cinematographic works may be performed by a natural or legal person who holds a permit to operate issued by the competent authority and a license for any cinematographic work reproduced.

The person referred to in paragraph 1 of this Article shall be entered in the Cinematographic register.

The person referred to in paragraph 1 of this Article is also required to keep records and store samples of each reproduced cinematographic work, as well as the medium from which were copied, over a period of five years.

Public screening of cinematographic works

Article 27

Public screening of cinematographic works in cinema can be performed by presenter which meets the relevant requirements in terms of space, equipment and skilled personnel, as prescribed by the Ministry.

The presenter referred to in paragraph 1 of this Article shall be entered into the Cinematography register.

The Presenter is also required works to possess a license issued by the copyright and license rights holders for any public screening of cinematographic.

The fulfilment of the conditions referred to in paragraph 1 of this Article shall be established by the Ministry's decision.

Before, during and after the public screening of cinematographic work it is not allowed to advertise products and services for which advertising is prohibited by special legislation.

Categorization of cinematographic works

Article 28

If the contents of the cinematographic work may harm the physical or mental development of minors, distributor and presenter shall make categorization of cinematographic works and in its distribution or public screening label the work as not recommended to persons under the age of seven, 12, 14, 16, or 18 years, depending on the category of the work established in accordance with this Law.

Criteria and methods for determining the category, layout and content of the label and obligations of distributors and presenters in terms of application of the category and their labels, shall be prescribed by the Ministry.

Distributor and presenter shall submit a notice to the Centre on the category of a cinematographic work, at least seven days prior to the first public screening and distribution of this work.

The Centre has the right to request a change of the assigned category, if it is not determined in accordance with the act referred to in paragraph 2 of this Article.

Protection of minors

Article 29

The distribution, sale and rental of videograms to minors whose category is not appropriate for their age, shall be prohibited.

The prohibition in paragraph 1 of this Article shall also apply to sales by all kinds of orders, or other similar method.

The public advertising of cinematographic works referred to in paragraph 1 of this Article shall be prohibited, outside watershed established by special regulations governing media services.

Cinema network

Article 30

Cinemas in Montenegro, which meet the requirements for work, may, to coordinate the work and to create the unique professional approach in performing activities, be organized in the cinema network.

Cinema ticket

Article 31

Cinema ticket is standardized.

Ticket sales may be made electronically.

Data on sold tickets shall be submitted to the Centre.

The content of cinema ticket, pursuant to paragraph 1 of this Article, data and way of providing data on sold tickets, shall be prescribed by the Ministry.

License

Article 32

License to approve another to distribute, copy or publicly screen the cinematographic work shall be given by a person who under the law governing copyright and related rights has such authority.

License to put in circulation cinematographic work shall contain a number of copies to be placed on the market and the type of carrier in which the cinematographic work is stored.

License to copy cinematographic works contains a number of copies allowed for reproducing cinematographic work and indicia of the carrier from which copying of cinematographic work is carried.

The license for public screening of cinematographic work contains the manner of public screening of cinematographic work.

The license shall be accompanied by the original or a copy of the original document on the scope and content of the rights of the person who issued the license for the cinematographic work.

Complementary activities

Article 33

Complementary activities are carried out in accordance with the regulations governing activities where they belong.

Cinematographic registry

Article 34

Register of producers, broadcasters, distributors and persons performing commercial reproduction of cinematographic works shall be obliged to notify the Center for entry into the Cinematographic register.

Cinematographic register shall be maintained by the Centre.

The content and method of keeping the Cinematographic register and the application form for registration shall be prescribed by the Ministry.

IV CINEMATOGRAPHY FUNDING

Sources of financing

Article 35

Cinematography is funded by:

- 1) Budget of Montenegro;
- 2) The local government budgets;
- 3) Film Fund;
- 4) producers;
- 5) donations, participation, etc.;
- 6) international funds and
- 7) from other sources, in accordance with the law.

Film Fund

Article 36

Those obliged to allocate funds for Film Fund are legal and natural persons engaged in the activities of circulation, distribution, exhibition, renting, cable, satellite and internet transmission and distribution of cinematographic works, as well as other aspects of the use of cinematographic work.

In accordance with paragraph 1 of this Article, those bond to allocate funds for the Film Fund are:

- 1) public service - 5 % of the annual revenue generated from marketing;
- 2) commercial broadcasters with national coverage - 0.8 % of annual income;
- 3) operators of cable, satellite and Internet distribution of radio and television program (CATV/ MMDS/ IPTV/DTH platform), which is their main activity - 2% of annual income;
- 4) cinema presenters - 3 % of each cinema ticket sold, of which 1.5 % is charged to the presenter, and 1.5% charged to distributors of cinematographic works;

5) operators of public communications networks, including operators of Internet access – 0,9 % of the annual revenue generated from Internet services, distribution of TV programs and rental of cinematographic works (ADSL, mobile internet, IPTV);

6) providers of services of rental of cinematographic works on demand ("video on demand") , with this being their main activity - 3% of annual income.

Funds generated based on the fees referred to in paragraph 2 of this Article shall be used for the implementation of the National Programme in accordance with regulations on state aid .

Collection and use of funds

Article 37

Those obliged to pay compensation under Article 36, shall, not later than the end of April each year, submit to the Centre data on realized annual income, which is the basis for the allocation of funds to the Film Fund, for the previous calendar year.

Based on the data submitted under paragraph 1 of this Article, the Centre shall issue a decision on the payment of funds by applying the rate prescribed in Article 36, paragraph 2.

The Centre shall have a right to check data submitted under paragraph 1 of this article, through the competent public authorities and public financial reports.

V INCENTIVES FOR PRODUCERS

Encouraging investment in the production of cinematographic works

Article 38

The producer registered in Montenegro for the production of a cinematographic work, has a right to return part of the funds spent in Montenegro for the production of cinematographic works, as the incentives.

Entitlement to a refund under paragraph 1 of this Article may be granted to the producer of the cinematographic work which he is making as the producer, co-producer or for which he performed a production service, provided that:

1) the funds spent for the implementation of a cinematographic work in Montenegro are not provided from the Budget of Montenegro and the Centre, in an amount not less than 100,000 €,

2) it previously settled all taxes, contributions and other legal obligations in Montenegro;

3) he is not under bankruptcy or liquidation proceedings;

4) as producer or co-producer has at least one feature film publicly screened.

Funds for this purpose from paragraph 1 of this Article shall be provided by the state budget and do not have the character of refund in terms of tax legislation and are determined in accordance with the regulations of state aid.

The right to a refund

Article 39

The right to a refund of part of the funds spent can be vested in a producer for the production of feature films, documentaries and animated films, television movies and television series, which are wholly or partly produced in Montenegro and are intended for public viewing.

The right to a refund is carried out after the completion of the production phase of a cinematographic work in Montenegro.

Detailed requirements on the criteria, conditions and procedure for exercising the right to refund shall be stipulated by the Government.

The rate and the base for the calculation of return of funds

Article 40

The producer may be eligible for a refund of 20 % of the total cost of production of a cinematographic work in Montenegro, without value added tax.

VI CONTROL

Administrative and inspection control

Article 41

Administrative supervision over the implementation of this Law shall be performed by the Ministry.

Inspection control over the implementation of this Law shall be performed by the administrative authority in charge of the inspection.

VII PENALTIES

Offenses

Article 42

A fine of 1,000 euros to 5,000 euros shall be imposed on a legal person, if:

- 1) it fails to submit a copy of the cinematographic works and material relates to them to the Cinematheque not later than six months after completion of the post-production of the work (Article 18 paragraph 1);
- 2) prior to the completion of privatization fails to submit to the Cinematheque cinematographic works which it owns (Article 19 , paragraph 2);
- 3) as a foreign producer, it recorded a cinematographic work in the territory of Montenegro without the prior approval of the Ministry (Article 21 paragraph 1);
- 4) it recorded a cinematographic work in a particular location, and before the shooting it did not obtain a special permit (Article 23);
- 5) it has no license for all cinematographic works put into circulation (Article 25, paragraph 3);
- 6) it has no permit to operate issued by the competent authority and has no license for any cinematographic work multiplied for commercial purposes (Article 26 , paragraph 1);
- 7) it fails to keep records and store samples of each copied cinematographic work, as well as the carrier from which the copying was done over a period of five years (Article 26, paragraph 3);
- 8) it is not licensed for public screening of a cinematographic work issued by the copyright and license rights holder (Article 27, paragraph 3);
- 9) he fails to make the categorization of cinematographic works whose content can harm the physical or mental development of minors and in marketing and public screening of cinematographic works fails to display a sign that the work is not recommended to persons under the age of seven, 12, 14, 16 or 18 years (Article 28, paragraph 1);
- 10) he fails to submit to the Centre notification on the categorization of a cinematographic work, no later than seven days before the first public presentation and circulation (Article 28, paragraph 3);

- 11) disseminating, selling, and renting to minors videograms whose categorization is not appropriate for their age (Article 29 , paragraph 1);
- 12) it fails to submit an application for registration into the Cinematographic register to the Center (Article 34 , paragraph 1);
- 13) until the end of April each year it fails to submit to the Center information on the annual income generated in the previous year for calculation of compensation under Article 36 of this Law (Article 37, paragraph 1).

For the offense referred to in paragraph 1 of this Article, the responsible person of the legal entity or natural person shall be fined with 500 euros to 1,500 euros.

VIII TRANSITIONAL AND FINAL PROVISIONS

By-laws

Article 43

By-laws for the implementation of this Law shall be passed within six months from the date of its entry into force.

Until the passing of the regulations referred to in Article 34 paragraph 3 of this Law, the Rulebook on the Content and Manner of Keeping the_Cinematographic Registry shall apply. ("Official Gazette of Montenegro", no. 64/12)

Deadline for the establishment of the Centre

Article 44

Legislation for the establishment of the Centre shall be passed within six months from the date of the entry into force of this Law.

Delayed implementation

Article 45

The provisions of the articles 36 to 40 and paragraph 1 item 13 of Article 42 of this Law shall apply from 1 January 2016.

Repealing

Article 46

With the entry into force of this Law, the Law on Cinematography ("Official Gazette of Montenegro", no . 14/ 08 and 40/10) and Article 35 of the Law on Changes and Amendments to the Law, which stipulated fines for violations ("Official Gazette of Montenegro" no. 40/11) shall cease to be valid.

Entry into force

Article 47

This Law shall enter into force on the day of its publication in the "Official Gazette of Montenegro".