

**Regulation of the Minister of Culture
dated 27 October 2005**

on the co-financing of cinematography undertakings by the Polish Film Institute

Pursuant to Art. 23 (6) of the Cinematography Act of 30 June 2005 (*Journal of Laws* No. 132, item 1111) the following shall be decreed:

**Chapter 1
General Provisions**

1. The Regulation sets out:

1) detailed terms and procedures for granting co-financing by the Polish Film Institute, hereinafter referred to as “the Institute”, for undertakings in the following areas:

- a) preparation of film projects;
 - b) film production;
 - c) film distribution and dissemination;
 - d) promotion of Polish film creativity;
 - e) popularising film culture;
- 2) significant components of an application for co-financing;
- 3) significant components of co-financing agreements.

§ 2. The Institute shall allocate at least 60% of the funds designated for statutory activities in a given year for co-financing of the undertakings referred to in § 1.1.b.

§ 3. 1. The co-financing for the undertakings referred to in § 1.1.a-c shall be granted only if they relate to films intended first of all for public screening in cinemas.

2. The co-financing for the undertakings referred to in § 1.1.a-c that are related to animations or documentaries shall also be permitted if the films are artistic in form and are intended first of all for public dissemination in ways other than public screenings in cinemas, especially if intended for broadcasting on television, dissemination on magnetic or optic carriers, or dissemination in such a way that everyone has access to them at any chosen time and place.

§ 4. The co-financing shall be granted on the basis of the following criteria, depending on the nature of the undertaking.

1) artistic, cognitive and ethical qualities, including:

- a) precision of the dramatic construction, the psychological depth of the characters and the quality of dialogues;
 - b) application of innovative forms of expression;
 - c) identification of new theme areas and up-to-date social problems;
 - d) promotion of ethical and educational values, including among children and young people;
- 2) significance for the national culture and strengthening of the Polish tradition and mother tongue, including:

- a) drawing on the Polish cultural heritage;
- b) taking up of important historic themes;
- c) strengthening of the national identity and popularising patriotic subjects, especially in works addressed to children and young people;
- d) depicting the richness and variety of regions;
- e) protection and preservation of the Polish cultural heritage in the area of film;

3) enriching European cultural variety, including:

- a) realisation of joint international projects;
- b) promoting the European cultural heritage;
- c) strengthening the common values of European culture;
- 4) anticipated effects of the planned undertaking, including:

- a) development and application of modern technologies in the sphere of film recording and screening;
 - b) international scope of the undertaking;
 - c) diversification of the recipient or participant structure;¹²
 - d) geographical reach of the project;
 - e) development of independent film production and small and medium-sized enterprises;
 - f) execution of the horizontal policies of the European Union;
- 5) economic and financial terms of execution, including:

¹ The Minister of Culture is in charge of the government administration department for cultural affairs and protection of the national heritage pursuant to § 1.2 of the Regulation of the Chairman of the Council of Ministers dated 11 June 2004 on the detailed scope of activities for the Minister of Culture (*Journal of Laws* No. 134, item 1430).

- a) participation of non-public funds in the budget of the undertaking;
- b) involvement of international funds;
- c) expected economic effect of the undertaking;
- d) oeuvre of the film producer and director.

§ 5. In the case of undertakings referred to in § 1.1.b, the co-financing granted by the Institute constitutes the producer's income. The rights due to the producer, appropriate to the value of the co-financing received, shall remain with the producer, and the related income shall be subject to settlements with the Institute, pursuant to § 17.1 and 2.

§ 6. 1. The Director shall make the decision on granting co-financing based on a written application from the interested entity, after obtaining an expert opinion.

2. An agreement between the Institute, represented by the Director, and the entity receiving the co-financing shall constitute the basis for granting the co-financing.

§ 7. 1. The co-financing for an undertaking referred to in § 1.1.b shall not exceed 50% of the film budget and the following amount:

1) in the case of a feature film (above 70 minutes) intended first of all for public screening in cinemas – PLN 4,000,000;

2) in the case of a documentary – PLN 500,000;

3) in the case of a feature-length documentary (above 70 min.) intended first of all for public screening in cinemas – PLN 2,000,000;

4) in the case of an animation – PLN 500,000;

5) in the case of a feature-length animation (above 70 min.) intended first of all for public screening in cinemas – PLN 3,000,000;

2. The co-financing for an undertaking referred to in item 1, in the case of a difficult or low-budget film, shall not exceed 90% of the film budget, and:

1) 50% of the amounts referred to in item 1, in the case of a difficult film;

2) 40% of the amounts referred to in item 1, in the case of a low-budget film.

3. In particularly justified cases, after obtaining additional expert opinions, the Director may grant matching funding which is higher than the amounts referred to in items 1 and 2; not more, however, than 50% of these amounts and in compliance with the percentage limits for co-financing specified in these provisions.

4. In the case of international co-productions, the Director, after obtaining additional expert opinions, may approve matching funding which is higher than that specified in item 3; not more, however, than by 35% and in compliance with the percentage limits for co-financing specified in items 1 and 2.

§ 8. 1. Co-financing for an undertaking referred to in § 1.1.a and c-e shall not exceed 90% of the film budget of the undertaking, and in the case of entrepreneurs, 50% of the budget.

2. The maximum additional financing referred to in item 1 shall not exceed PLN 2,000,000, and in particularly justified cases, after the Director has obtained additional expert opinions, shall not exceed PLN 3,000,000.

§ 9. The limits for co-financing for undertakings, specified in percentage terms in § 7.1 and 2 and in § 8.1, shall apply accordingly to the share of subsidies in the budgets of these undertakings coming from any public sources, excluding the funds coming from European Community programmes which, pursuant to separate regulations or decisions of the appropriate authorities of the European Union, may be combined with public funds.

§ 10. 1. An entity receiving co-financing for an undertaking may avail itself of funds obtained in any EU Member State or in another country that is a party to the Agreement on the European Economic Zone.

2. In the co-financing agreement, the entity receiving the co-financing may be obliged to spend up to 80% of the funds obtained from the Institute on the territory of the Republic of Poland, unless due to the subject of the undertaking, this would prove impossible, impracticable or unjustified.

§ 11.1. The application for co-financing, in compliance with § 22, should contain in particular:

1) the name and surname or business name of the applicant and the address of the applicant's residence or main office;

2) the address for correspondence;

3) a description of the planned undertaking;

4) a specification of the amount and form of co-financing applied for;

5) the budget of the undertaking, indicating the sources of financing, including the amount and sources of own financial contribution and the amount and sources of financial contribution coming from public resources;

6) deadline for realisation of the undertaking;

7) justification of the undertaking in terms of the criteria referred to in art. 22 (3) of the Cinematography Act of 30 June 2005;

8) statement of compliance with the conditions for obtaining co-financing, as specified in the Act and the Regulation;

9) in the case of an undertaking in the area of film production – the plan for the distribution and dissemination of the film;

10) agreements based on which the undertaking shall be financed by entities other than the Institute; in the case of applying for a promise of financing, the applicant may present the relevant letters of intent;

11) other information and documents necessary for investigating the application, including those specified in the operating programmes referred to in the Institute's Memorandum of Association.

2. The Director shall examine an application within 90 days from the date a complete application is submitted.

3. Applications failing to meet the formal requirements shall not be examined.

§ 12.1. Each application for granting co-financing of an undertaking shall be subject to an expert opinion.

2. Experts may be engaged separately for feature films, animations and documentaries, as well as for individual types of undertakings referred to in § 1.1.

3. The experts to evaluate a specific undertaking shall be appointed by a draw.

4. The number of experts evaluating a specific undertaking shall be specified each time by the Director, bearing in mind the nature and the complexity of an undertaking, and the amount of co-financing requested.

5. In the event of the expiry of a term of office, an expert evaluating a specific undertaking shall perform his/her activities until the evaluation of the undertaking has been completed.

§ 13. The Institute shall grant co-financing taking into account the funds available and the expected inflows of the Institute in the period during which the co-financed undertaking is being realised.

§ 14. 1. In the case of an application for co-financing for an undertaking referred to in § 1.1.b, the Director, after obtaining an expert opinion, may – due to the nature of the undertaking – grant a promise of financing, which shall remain valid for six months.

2. The term of validity of the promise referred to in item 1 may be prolonged; however, not more than by another six months.

3. After the applicant has complied with the terms of the promise, the Director shall execute an agreement with him/her for the co-financing.

§ 15. In the event of a refusal to grant co-financing, the Director may, in the light of new circumstances which are significant to the evaluation of the application, send the application to experts for a new opinion to be issued. The decision regarding the co-financing issued after these opinions have been obtained shall be final.

Chapter 2

Granting co-financing for undertakings in the form of subsidies

§ 16. 1. An agreement on granting subsidies shall specify the following:

1) the scope of the planned work and the deadline for its execution;

2) the amount of the subsidy granted and the deadline and manner of payment;

3) the procedure for monitoring the execution of the agreement;

4) the deadline and method for settlement of the subsidy;

5) the procedure and deadline for reimbursing the subsidy in the event of a profit being earned on the undertaking;

6) the procedure and deadline for reimbursing the subsidy in the event the full amount of the subsidy is not used, or the subsidy fails to be used for the intended purpose.

2. The agreement referred to in item 1 may contain additional elements which, in the opinion of the Director, may turn out to be useful for increasing the effectiveness of the co-financing granted, its fair use and settlement.

§ 17. 1. The entity that has received a subsidy shall be obliged to reimburse it from the profit earned on the undertaking, in proportion to the subsidy obtained.

2. In the agreement for co-financing of an enterprise referred to in § 1.1.b, the period shall be specified for which the profit shall be settled. The period shall not be longer than 36 months from the end of the settlement year in which the film premiere took place, or, in the case of a film other than a feature film – until the completion of production.

3. An entity that has reimbursed a subsidy from the profit earned on the undertaking referred to in item 2, in the case of submitting an application for co-financing for a new undertaking, after obtaining an expert opinion, shall have precedence to receive co-financing.

§ 18. The Institute shall maintain documentation of the subsidies granted. The documentation shall comprise the following:

1) an application for co-financing for an undertaking;

2) an expert opinion;

3) an agreement on co-financing for an undertaking;

4) documentation relating to the settlement of the subsidy.

Chapter 3

Granting co-financing of undertakings in the form of a loan

§ 19. A loan shall be granted for a period not exceeding five years and shall be interest-free.

§ 20. 1. The agreement on granting co-financing in the form of a loan shall specify:

- 1) the purpose of the loan;
- 2) the amount of the loan;
- 3) terms and deadline for launching the loan;
- 4) terms and deadline for the loan repayment;
- 5) cases in which the loan shall be repayable before the repayment deadline;
- 6) the procedure for monitoring the execution of the agreement;
- 7) terms for termination of the agreement;
- 8) method of securing the loan.

2. The agreement referred to in item 1 may contain additional elements which, in the opinion of the Director, may turn out to be useful for increasing the effectiveness of the co-financing granted, its fair use and settlement.

§ 21. In recognition of the provisions of the Act specifying the maximum amount of co-financing, in particularly justified cases, the Director may make a decision to forgive the total amount of the loan or a part thereof.

Chapter 4

Granting co-financing of undertakings in the form of a pledge

§ 22. An application for granting co-financing of an undertaking in the form of a pledge should indicate the entity with which the Institute is to sign the pledge agreement, especially his/her name and surname, business name and the residential address or head office address, and include detailed information on the activities of the entity.

§ 23. 1. An agreement on granting a pledge shall specify the following:

- 1) the object of the commitment;
- 2) the entity with which the pledge agreement is to be signed;
- 3) the responsibility of the Institute as a guarantor;
- 4) the pledge amount and period;
- 5) terms for termination of the agreement;
- 6) pledge security.

2. The agreement referred to in item 1 may contain additional elements which, in the opinion of the Director, may turn out to be useful for increasing the effectiveness of the co-financing granted, its fair use and settlement.

Chapter 5

Transitional and final provisions

§ 24.1. The provisions of this Regulation shall apply to proceedings related to granting co-financing for undertakings in the scope of cinematography, which had been commenced by 18 August 2005 by the Screenplay Agency, the Promotion Agency – *Film Polski* and by the Film Production Agency.

2. The expert opinions issued during the proceedings referred to in item 1 shall remain valid.

§ 25. 1. The rights and responsibilities of the Agency referred to in § 24.1, arising from the agreements for co-financing of cinematography undertakings signed by 18 August 2005, may be taken over by the Institute based on appropriate agreements between the Institute and the Agencies.

2. The Director may make the signing of the agreements referred to in item 1 conditional, depending on whether the entity receiving co-financing meets additional conditions, in particular including the submission of up-to-date information on the budget of the undertaking, sources of financing, scope of work to be performed and expenditure incurred.

3. Co-financing granted by the Institute for cinematography undertakings, pursuant to the agreements referred to in item 1, shall not exceed the percentage and quota limits of co-financing, as specified in the Regulation, including the limit resulting from the participation of subsidies coming from any public sources in the budget of the undertaking.

§ 26. The Regulation shall come into force on the date of its announcement.