

# STATUTE OF THE STATE CINEMATOGRAPHY FUND

## I. General Provisions

- 1) *The State Cinematography Fund (the "Fund") is a legal entity with registered office in Prague.*
- 2) *The Fund was established by Act No. 496/2012 on Audiovisual Works and Support for Cinematography and on Amendment to Certain Acts (the "Act"). The Fund is the successor in title to the Czech Republic State Fund for Support and Development of Czech Cinematography.*
- 3) *Within the meaning of Section 9(3) of the Act, this Statute of the Fund (this "Statute") specifies the details of the activities of the Fund, its internal organisation and financial management, the provision by the Fund of support for cinematography, the provision by the Fund of film incentives, and matters referred to in the Act as being addressed herein.*
- 4) *The terms defined in the Act have the same meaning in this Statute.*

## II. The Activities of the Fund

- 2.1 The Fund shall manage audiovisual fees, charges for broadcast advertising and administrative fees related to the applications submitted to the Fund in accordance with the Act.
- 2.2 The Fund shall maintain registers in the audiovisual sector in accordance with Section 30 of the Act.
- 2.3 The Fund shall provide support for cinematography.
- 2.4 The Fund shall provide film incentives.
- 2.5 The Fund shall grant co-production status under the European Convention on Cinematographic Co-production (the "Convention") or any other international film co-production agreement.
- 2.6 The Fund shall exercise the copyright owner's rights inherited or to be inherited by the State, or devolved or to be devolved upon the State, these rights with respect to audiovisual works being so exercised in accordance with Act No. 121/2000 on copyright and rights related to copyright and on amendment to certain acts (the Copyright Act), as amended.
- 2.7 The Fund shall exercise audiovisual work producers' copyright rights as well as other rights based on legal obligation relationships that passed to its predecessor in title through merger with two state-owned organisations (the Barrandov Film Studio – Copyright and Zlín Film Studio – Copyright) in accordance with Section 14 of Act No. 273/1993 on Certain Conditions of the Production, Distribution and Archiving of Audiovisual Works and Amending Certain Acts and Certain Other Regulations, as amended, and shall also exercise the audiovisual recording producers' rights, pertaining to it in accordance with Section 106(4) of the Copyright Act.

## III. Internal Organisation of the Fund

### 3.1 Director of the Fund

- 3.1.1 The Director of the Fund (the "Director") shall be appointed and dismissed by the Minister. The term of office of the Director shall be six years. The Minister shall launch a public competitive selection procedure for the position of Director no later than six months before the end of the term of the previous Director or within two weeks after termination of the Director's service for any reason other than the expiry of the term of office. To select a Director for the first term following the entry into force of this Statute, the Minister shall launch the selection procedure no later than within six months following the entry into force hereof. In a competitive selection procedure, the Minister shall be advised by a 5-member commission comprised of the Chairperson of the National Film Archive, Chairperson of the Council, President of the Film and TV Faculty of the Academy of Performing Arts and another two persons to be chosen by the Minister from among long-experienced Czech cinematography professionals; the selection procedure shall include a personal interview between the commission and the director candidates, unless there are more than ten candidates, in which case the selection procedure shall include a personal interview with at least the last five finalists picked by the panel after elimination of all other candidates. Should the Director's service terminate for any reason other than the expiry of the term of office, the Minister shall appoint a new Director without a competitive selection procedure. Such a person shall meet at least the requirements specified in Clause 2.1.2(a), (b) and (d); the provisions of the second sentence of this Clause shall not apply to him, and his term of office shall terminate with the appointment of the new Director as a result of the competitive selection procedure.
- 3.1.2 To be appointed Director, a person shall:
  - a) have unlimited legal capacity;

- b) possess integrity; to be regarded as possessing integrity for the purposes hereof, a person must not have been convicted with finality of a premeditated offence, unless he is regarded as not having been convicted;
  - c) be an experienced and respected person in the field of cinematography;
  - d) be a university graduate with a Master degree;
  - e) have at least 5-year experience in the management of a film institution or a similar cultural institution;
  - f) know the English, German, French or Spanish language at least at the B2 level; language proficiency is evaluated according to Council of Europe's Common European Framework of Reference (CEFR) and certified by a general proficiency certificate (certificate of passing a state language examination) or a CEFR-recognised certificate of a similar exam passed outside the Czech Republic, or verified by examining the candidate during the competitive selection procedure where the proficiency level is checked by a person or institution authorised under Czech legislation to carry out state language examinations.
- 3.1.3 The position of the Director is incompatible with the office of the President of the Republic, Member of the Chamber of Deputies, Senator, Member or Deputy Member of the Government, Head or Deputy Head of a central body of state administration, President of the Supreme Audit Office or Member of the Advisory Board to the Supreme Audit Office, Member of the Council of the Czech Telecommunication Office, Member of the Council of the Czech National Bank, Member of the Council for Radio and Television Broadcasting and Member of the Czech Television Council. During the term of his or her office, the Director shall not carry out any business activities in the audiovisual sector or in cinematography or in the film industry; this shall be without prejudice to his freedom to pursue scientific, teaching, journalistic and art work and the management of his own assets.
- 3.1.4 Directorship shall terminate:
- a) with the expiry of the term of office;
  - b) on the date of submission to the Minister of a written letter of resignation to the Office of Director;
  - c) on the date of delivery to the Director of the Minister's decision to remove the Director;
  - d) on the date of finality of a court decision divesting the Director of legal capacity;
  - e) on the date of finality of a court decision convicting the Director of a premeditated offence;
  - f) with the Director's death.
- 3.1.5 The Director of the Fund may be removed, in particular, if he:
- a) commits an act that endangers confidence in his independence and impartiality in his duties;
  - b) grossly violates the dignity of his office; or
  - c) repeatedly fails to perform properly his duties under the Act, this Statute or other legal regulations.
- 3.1.6 The Minister shall remove the Director of the Fund if the Director begins, while executing his office, to perform an activity or office that is incompatible according to Clause 3.1.3 above, or if it is found that the Director performed such an activity or function already at the time when he was appointed Director of the Fund.
- 3.1.7 The Director of the Fund shall be the head of the Fund and its governing body, and shall perform the following functions:
- a) supervise the operation and financial management of the Fund, including bookkeeping;
  - b) the Fund's employees shall report to him and he shall determine the number of employees with respect to the Fund's budget, allocate the activities, define the organisational structure and the workload for each employee, and perform all labour-law acts in relation to the Fund's employees on behalf of the Fund;
  - c) carry out the decisions of the Council on support for cinematography and monitor through the Fund's office how the conditions of cinematography support are being met by the recipients;
  - d) issue decisions in proceedings concerning the granting of film incentives;
  - e) issue decisions on the granting of co-production status;
  - f) represent the Czech Republic in international organisations operating in the audiovisual sector, in cinematography and the film industry, for example the European Film Agency Directors (EFAD) and the European Film Agency Research Network (EFARN);
  - g) issue the Fund's by-laws within the scope of law; where the by-laws relate to the provision of support for cinematography, he must do so upon discussion with the Council;
  - h) inform the Council and the Committee on the financial situation of the Fund at least once in a calendar quarter and whenever so requested by the Chairperson of the Council or the Chairperson of the Committee;
  - i) prepare a draft annual report on the Fund's activities and the Fund's annual financial statements in accordance with legal regulations and, after discussing them in the Council and after examination of the annual financial statements by the auditor, submit the Annual Report and the financial statements to the Minister within the period specified in Section 9(7) of the Act, in order for them to be discussed by the Government and approved by the Chamber of Deputies;

- j) make decisions on matters not reserved for other bodies of the Fund.
- 3.1.8 An employee of the Fund authorised in writing by the Director, or the Chairman, Deputy Chairman or Member of the Council authorised by the Director for specific purposes, shall substitute for the Director when the Director is absent.

## **3.2 The Council of the Fund**

### **3.2.1 Proposing Candidates for Membership in the Council**

- 3.2.1.1 Professional organisations may propose Council membership candidates to the Minister through the Fund. To invite professional organisations to propose Council membership candidates, the Director shall post an invitation on the Fund's website at [www.fondkinematografie.cz](http://www.fondkinematografie.cz) (the "Website"). The invitation must indicate the period within which the candidates can be proposed. The Director shall post the invitation on the Website no later than three months before the end of the term of office of the Council Member(s) (not extended under the second sentence of Section 14(3) of the Act) or without undue delay after a premature termination of the Council Member(s)' service.
- 3.2.1.2 A proposal for a candidate for Council membership shall contain:
- a) the candidate's name and surname, date of birth, permanent residence address, contact address, e-mail and telephone number;
  - b) the candidate's detailed professional cinematography CV;
  - c) the candidate's written consent with Council membership, signed by the candidate, with a statutory declaration of meeting Council membership conditions in accordance with the Act;
  - d) the candidate's conception specifying his proposals for the activities of the Council and the Fund;
  - e) the name, registered office, identification number and contact information (telephone, e-mail address) of the professional organisation proposing the candidate, and the name and surname, title and signature of the person acting on behalf of the professional organisation;
  - f) substantiation of the proposal by the professional organisation.
- 3.2.1.3 No later than within two weeks after the end of the proposal submission period, the Director shall deliver to the Minister the received proposals and the information about how many Council Members are to be appointed and at what date, and which Council Members whose membership has terminated or will terminate are to be replaced by them; at the same time, the Director shall indicate which proposals do not comply with law, i.e. proposals from persons other than professional organisations. When proposing the candidates to the Chamber of Deputies, the Minister shall see to it that representatives of multiple film professions and multiple sectors of the audio/video business are evenly represented, as far as possible, in the Council.

### **3.2.2 Election of the Chairperson and Vice-chairperson of the Council**

- 3.2.2.1 The Council shall elect its Chairperson and Vice-chairperson from among its Members. The election of the Council Chairperson and Vice-chairperson shall always be held as set out in Section 14(4) of the Act or without delay after the termination of the Council Chairperson's or Vice-chairperson's service as Council Members or after their removal from the position of Council Chairperson or Vice-chairperson upon the Council's decision. The Council may only elect or remove its Chairperson or Vice-chairperson if the agenda of the meeting is distributed to the Council Members sufficient time ahead and contains the election or removal of the Chairperson or Vice-chairperson; otherwise only in the case that all Council Members are present at the given meeting. The restriction specified in the preceding sentence shall not apply to the election of the Chairperson or Vice-chairperson held in accordance with Section 14(4) of the Act.
- 3.2.2.2 The right to propose candidates to the positions of Council Chairperson or Vice-chairperson from among Council Members pertains to all Council Members, the Director and the Minister; each candidate must give his or her consent to the nomination either in person during the meeting at which the election takes place or in writing before such a meeting if the candidate cannot attend it.
- 3.2.2.3 The election shall be by secret ballot. The Chairperson and Vice-chairperson shall be elected separately. The candidate who wins a majority of votes of the Council Members present at the meeting shall be elected. Should none of the candidates win a majority of votes, the election with the same candidates may be re-run twice at the maximum. If even then none of the candidates wins a majority of votes, a new election shall be held in which the Council shall elect its Chairperson or Vice-chairperson from between the two candidates that won the highest number of votes in the first voting of the preceding election. If there are more than one candidate that ranked second with the same number of votes, then the first ranking candidate and all second-ranking candidates shall stand for the new election.

### 3.2.3 The Rights and Duties of Council Members

#### 3.2.3.1 Each Council Member shall:

- a) attend the meetings of the Council and of the Working Groups to which he was appointed by the Council; each Member shall take part in the deliberations and decision-making in person and may not be represented by any other person;
- b) take active part in the work of the Council and fulfil the tasks following from the Council's decisions;
- c) inform the Director of having lost, or being about to lose, a qualifying prerequisite for Council membership under Section 15 of the Act, or of the existence of a reason for termination of Council membership under Section 16(1)(b) to (f) of the Act, and do so immediately after learning thereof;
- d) apologise in advance for absence from a Council meeting if there is any obstacle to his presence, and do so immediately after learning of the existence of such an obstacle.

#### 3.2.3.2 Each Council Member may:

- a) submit proposals to be considered by the Council;
- b) take part in any meeting of any working group, including those to which he was not appointed by the Council;
- c) send to the Council through the Fund's Office his opinions in respect of matters to be considered by the Council at a meeting he is unable to attend;
- d) inspect any materials of the Fund concerning the provision of support for cinematography.

### 3.2.4 Motion to Remove a Council Member

3.2.4.1 Anybody may file a motion with the Fund to remove a Council Member from his position, if there is a well-founded suspicion of the existence of a reason to remove a Council Member from his position under Section 16 of the Act. The motion must contain, without being limited to, the name and surname of the Council Member, the name and surname, date of birth and permanent residence address of the individual, or the name, identification number (if any) and address of the registered office of the legal entity filing the motion, the date and signature, and detailed substantiation of the motion.

3.2.4.2 Immediately after delivery of the motion to the Fund, the Director shall request the Council Member concerned to submit his opinion in respect of the motion and shall give him a period in which to respond.

3.2.4.3 Any motion, together with the opinion of the Council Member concerned, shall be submitted by the Director to the Minister no later than within 14 days from the date of his receipt of the Council Member's opinion, and shall attach to it his recommendation whether to grant or reject the motion, unless the motion has been submitted by the Director himself. At the same time, the Director shall inform the Council Chairperson about the motion, unless the Chairperson is the Council Member to whom the motion concerns. The Minister, if he decides that the motion is well-grounded, shall submit it to the Chamber of Deputies to decide whether to remove the Council Member concerned.

3.2.4.4 The Director shall immediately inform the Minister about the occurrence of any reason to remove a Council Member under Section 16(2)(e) of the Act and the Minister shall submit any such motion to the Chamber of Deputies to decide whether to remove the Council Member concerned.

### 3.2.5 Council Meetings and Decision-making

3.2.5.1 Council meetings shall be convened as needed, as a rule twelve times in a calendar year, but not less than eight times per calendar year, by the Council's Chairperson or by the Council's Vice-chairperson in the Chairperson's absence, by means of a written letter of invitation containing the date, time and venue of the meeting and the agenda of the meeting and sent by e-mail, through a data box, or by registered letter sent to the contact addresses of the Council Members at least 7 days in advance. A next meeting may also be scheduled during a previous meeting of the Council. The Council's Chairperson, or the Vice-chairperson in the Chairperson's absence, shall convene a Council meeting if so requested by at least five Council Members or the Director, and shall do so no later than within 14 days from receiving the request; such a Council meeting shall take place no later than a month from the receipt of the request.

3.2.5.2 If the Council is not quorate or it becomes obvious, taking into account the letters of excuse received by the Fund, that the Council will not be quorate, the convener of the meeting shall cancel the meeting and the Council Chairperson or Vice-chairperson shall call a new meeting of the Council without delay.

3.2.5.3 Materials for the meeting shall be provided by the Fund to the Council Members in writing or by electronic means, including the possibility of remote access to stored information, no later than seven days before the planned date of the meeting; this shall be without prejudice to the provision of other information at a later date, if it was not available earlier.

- 3.2.5.4 The deliberations of the Council shall not be open to public and shall be presided over by the Council's Chairperson or by the Vice-chairperson in the Chairperson's absence. Meeting participants shall be listed on the attendance list. The Director, the Minister or a person authorised by him may attend a Council meeting and must be allowed to speak at the meeting if he so requests. A Council meeting may be attended by any other person as a guest with the Council's consent. A Council meeting may be attended to a defined extent by applicants for support for cinematography in order to present their projects in accordance with Clause VII of this Statute.
- 3.2.5.5 Minutes shall be taken of the Council meetings. The minutes must be signed by the Council Chairperson or Vice-chairperson who presided over the meeting and by another two Council Members as verifiers of the minutes. The minutes must contain the date and venue of the Council meeting, a list of Council Members present and of any other persons attending the meeting, the approved agenda of the meeting with a brief summary of the discussion on each point, the decisions adopted by the Council and the results of voting, and the opinions of Council Members, if they so request. The minutes shall be drawn up and signed within 7 days from the Council meeting and shall then be sent to Council Members, the Director and the Members of the Committee. Each Council Member who attended the meeting of which the minutes were taken may have comments on the minutes and propose an amendment thereto. The signed minutes of the meeting shall also be posted on the Website upon removal of all data to which the Personal Data Protection Act applies or the data that, as required by the Act or other legal regulations, may not be in the public domain.
- 3.2.5.6 Administrative tasks related to the deliberations of the Council shall be carried out by an employee of the Fund authorised by the Director (the "Council Secretary"), responsible in particular for organising the Council meetings and preparing the information and documents for the meetings, for taking and verifying the minutes of the meetings, the distribution (sending) of the minutes and the posting thereof on the Website. The Council Secretary shall take part in the meetings of the Council and all its working groups.
- 3.2.5.7 Voting at the Council meetings shall be by show of hands, unless otherwise decided by the Council in a specific case and unless otherwise required by this Statute. A draft decision of the Council shall be submitted by the Council Chairperson or Vice-chairperson presiding over the meeting, who shall do so with respect to the agenda of the meeting and to the preceding discussion concerning the relevant matters. Each Council Member may propose amendments to the draft decision before it is put to the vote. A Council Member who does not agree with a decision of the Council, and has voted against it, may exercise his right to have his different opinion recorded in the minutes. This right must be exercised during the Council meeting at which the given decision was adopted, and the text of the adverse opinion must be included in the Minutes of the meeting.
- 3.2.6 Activities of the Council
- 3.2.6.1 The main responsibilities of the Council include, but are not limited to, the determination of the conception and strategy of support for cinematography, the criteria to evaluate projects in the process of providing support to cinematography, and decision-making on providing support to cinematography with respect to expert analyses in accordance with the Act and with Clause VII of this Statute.
- 3.2.6.2 The Council shall consider the annual report on the Fund's activities, proposed by the Director, and the annual financial statements.
- 3.2.6.3 The Council shall elect representatives from among its Members to attend the drawing of lots to select experts in accordance with Section 22(1) of the Act, or representatives to fulfil the specific tasks ordered by the Council. The Council shall establish working groups from among its Members especially for the purpose of preparing materials for the deliberations of the Council and for its subsequent decisions. Experts who are not Members of the Council may also be members of the working groups, if the Council so decides with respect to the issues to be addressed by the working group. The Council shall approve the objectives of the working groups and set the time frame within which these objectives are to be achieved. When authorising the rapporteurs and forming the working groups, the Council shall ensure that the workloads are evenly distributed among all its Members.
- 3.2.6.4 The Council is entitled to request collaboration of specialists who are not Members of the Council and who may either attend a Council meeting or submit a written expert opinion.
- 3.2.6.5 The costs of the paid collaboration of specialists based on Clauses 3.2.6.3 and 3.2.6.4 above shall be financed from the Fund's budget heading intended for the costs related with the Council's activities. The legal steps to order the assistance of specialists shall be taken by the Fund.
- 3.2.7 Conflict of Interest

- 3.2.7.1 A Council Member shall be excluded from the decision-making process on support for cinematography (hereinafter also referred to as only "support") in those cases where there are reasons to assume that with respect to his relationship to the matter or to the participants in the proceedings or their representatives he may be interested in the result of the proceedings due to which his impartiality might be questioned, and in those cases where personal benefit may be gained by him or a person close to him, related to the implementation of the project for which support is requested. If so excluded from decision-making on support, a Council Member shall be excluded from decision-making on support with respect to all applications for support responding to one call in accordance with Clause 7.3 of this Statute.
- 3.2.7.2 The cases in which a Council Member shall be excluded from decision-making on support include, but are not limited to, the following:
- a) the applicant for support is a Council Member, a person close to him, an employer of a Council Member, a legal entity in which a Council Member or a person close to him is a governing body or member of a governing or supervisory body or in which an ownership interest is held by a Council Member, a person close to him or a person in whose business a Council Member or a person close to him is involved by holding an interest (directly or through other person(s)) or by being a governing body or member of a governing or statutory body;
  - b) a Council Member, a person close to him or any of the persons referred to under a) above takes part in a project for which support is requested and personal benefit may be gained by him or a person close to him from the provision of support.
- 3.2.7.3 Any breach of the obligations of Council Members under Section 14(7) of the Act or under Section 14(3) of Act No. 500/2004 – Rules of Administrative Procedure, as amended, shall be regarded as action that endangers confidence in a Council Member's independence and impartiality in his duties.

### **3.3 The Committee**

#### **3.3.1 Proposing Candidates for Membership in the Committee**

- 3.3.1.1 Committee membership candidates may be proposed to the Minister through the Fund. The Director shall invite through the Website the payers of administrative fees and advertising fees to propose Committee membership candidates. The proposals may only be filed by persons with no arrears balance with the Fund. The invitation must indicate the period within which the candidates can be proposed. The Director shall publish the invitation no later than three months before the end of the term of office of the Committee Member(s) or without undue delay after a premature termination of the Committee Member(s)' service.
- 3.3.1.2 A proposal for a candidate for Committee membership shall contain:
- a) the candidate's name and surname, date of birth, permanent residence address, contact address, e-mail and telephone number;
  - b) the candidate's detailed professional CV in the audiovisual area;
  - c) the candidate's written consent with Committee membership, signed by the candidate, with a statutory declaration of meeting Committee membership conditions in accordance with the Act;
  - d) specification of the candidate's legal relationship to the person/entity proposing his candidacy;
  - e) the candidate's conception specifying his proposals for the activities of the Committee;
  - f) the name, registered office and identification number (IČ), or the name and surname, permanent residence address and date of birth, of the legal entity or the individual making the proposal, and the name and surname, title and signature of the person acting on behalf of such a legal entity, and the contact information on the legal entity or individual making the proposal (telephone number, e-mail address);
  - g) substantiation of the proposal by the submitter.
- 3.3.1.3 No later than within two weeks after the end of the proposal submission period, the Director shall deliver to the Minister the received proposals and the information about how many Committee Members are to be appointed and at what date, and which Committee Members whose membership has terminated or will terminate are to be replaced by them; at the same time, the Director shall indicate which proposals do not comply with law, including, but not limited to, proposals from persons other than entitled persons. When appointing the Committee Members from among the proposed candidates, the Minister shall see to it that, as far as possible, representatives of the payers of different types of fees are evenly represented in the Commission.

#### **3.3.2 Election of the Chairperson and Vice-chairperson of the Committee**

- 3.3.2.1 The Committee shall elect its Chairperson and Vice-chairperson from among its Members. The election of the Chairperson and Vice-chairperson shall always be held at the first meeting of the Committee after appointment by the Minister of one-third of the Committee Members in accordance with Section

18(3) of the Act or without delay after the termination of the Committee Chairperson's or Vice-chairperson's service as Committee Members or after their removal from the position of Committee Chairperson or Vice-chairperson upon the Committee's resolution.

3.3.2.2 Provisions of Clauses 3.2.2.2 and 3.2.2.3 of this Statute shall be applied *mutatis mutandis*.

### 3.3.3 Rights and Obligations of the Members of the Committee

3.3.3.1 Each Member of the Committee shall:

- a) take part in the Committee meetings; each Member shall take part in the deliberations and decision-making of the Committee in person and may not be represented by any other person;
- b) take active part in the work of the Committee and fulfil the tasks following for the Committee from the Act, this Statute and the resolutions of the Committee;
- c) inform the Director that an impediment has arisen or will arise, preventing him from exercising his position as Committee Member, or that he has lost or will lose a qualifying prerequisite for Council membership under Section 19 of the Act, or that a reason has occurred for terminating his Committee membership under Section 20(1)(b) to (g) of the Act, and do so immediately after learning thereof;
- d) apologise in advance for absence from a Committee meeting if there is any obstacle to his presence, and do so immediately after learning of the existence of such an obstacle.

3.3.3.2 Each Member of the Committee shall be entitled to:

- a) submit proposals to be considered by the Committee;
- b) send to the Committee through the Fund's Office his opinions in respect of matters to be considered by the Committee at a meeting he is unable to attend;
- c) in accordance with the audit action plan under 3.3.6.1 hereof and on the basis of the Committee's resolution on inspecting a specific project, inspect any documents and other evidence held by the Fund, concerning exclusively the utilisation of the cinematography support funds by the cinematography support recipient, and do so after completion, and settling the accounts, of the project for whose implementation the support was provided. Documents and other evidence containing the support recipient's business secret shall not be made available to Committee Members for inspection, for example, contracts concluded in respect of the financing and implementation of the project to which cinematography support was provided.

### 3.3.4 Motion to Remove a Committee Member

3.3.4.1 If there is any suspicion of the existence of a reason for removing a Committee Member from his position under the Act, the procedure shall be as set out in Clauses 3.2.4.1 to 3.2.4.3 of this Statute, the only difference being that the Minister himself shall decide on the removal of the Committee Member on the basis of the motions received from the Director.

3.3.4.2 The Director shall immediately inform the Minister about the occurrence of any reason to remove a Committee Member under Section 20(2)(e) of the Act.

### 3.3.5 Committee Meetings and Decision-making

3.3.5.1 Provisions of Clause 3.2.5 of this Statute shall apply, *mutatis mutandis*, to the meetings of the Committee, with the following differences:

- a) meetings of the Committee are as a rule held 6 times, and not less than 3 times, in a calendar year;
- b) the Chairperson of the Committee, or Vice-chairperson of the Committee if the Chairperson is absent, shall also call a meeting of the Committee if the Chairperson of the Council so requests;
- c) administrative tasks shall not be performed by the Council Secretary but shall be performed by an employee of the Fund charged to support the Committee's activities (the "Committee Secretary");
- d) the last sentence of Clause 3.2.5.4 above shall not apply;
- e) the Chairperson or Vice-chairperson of the Council or any other Council Member authorised by the Council may attend a Committee meeting and must be allowed to speak at the meeting if he so requests;
- f) Minutes of Committee meetings shall be sent to Committee Members, to the Director and to the Council Members.

### 3.3.6 Activities of the Committee

3.3.6.1 For each calendar year, the Committee shall approve its audit action plan on the basis of completed projects for whose implementation the cinematography support was provided. The Committee shall approve each audit action plan by the end of the preceding calendar year. In the audit action plan, the Committee shall specify the types of the projects to be audited and the audit parameters, as well as the audit implementation schedule. The audit action plan shall be published on the Website immediately after its adoption. The Committee shall draw up an audit activity report for each calendar

year no later than by 31 January of the subsequent year and this report shall be a part of the annual report on the Fund's activities.

- 3.3.6.2 The Committee shall monitor whether the funds provided as support for cinematography are used in compliance with the purpose, such purpose being to implement a project in accordance with a decision to provide support. For this, the Committee shall be satisfied, upon settling the support accounts with the recipient, that the cinematography support funds were not used for any other purpose, i.e., were not used inappropriately. Audit may be instigated by any Member of the Committee in accordance with the audit action plan or by a Member of the Council, or by the Director; the Committee's decision to commence an audit of a specific project, and to what extent the project is to be audited, shall be made by the Committee's resolution. The Committee Secretary shall ensure that the documents requested by the Committee are available for inspection under Clause 3.3.3.2 c) above in the registered office of the Fund within 14 days from the delivery to the Committee Secretary of the Committee's resolution to commence the audit.
- 3.3.6.3 A protocol of each audit performed by the Committee shall be written no later than within two weeks from the last audit action. The protocol shall contain, but is not limited to, the determination of the audit content, identification of the project and the recipient of the support that was audited, the time course of the audit, description of the individual audit actions, and the audit findings. If it is found or reasonably suspected as a result of the audit that the support funds were not used in compliance with the purpose for which they had been provided, or were used uneconomically, or the conditions under which such funds had been provided were breached, the protocol shall contain a description of the specific aspects from which the Committee derived such a finding or suspicion, and the conditions that were breached according to the audit finding must be precisely determined. The audit protocol approved by the Committee shall be delivered by the Committee Secretary to all Members of the Council and to the Director. Uneconomical use of support funds shall mean spending the funds on the purchase of goods or services at an excessively high price, evidently uncommon in the sector concerned, without there being any reasons worth special attention.
- 3.3.6.4 If it is found during an audit and indicated in the audit protocol that the conditions under which the support had been provided to the recipient were violated as well as if there is any suspicion to that effect, the Director shall request the opinion of the support recipient concerned. If the Director, having considered the audit finding and the support recipient's opinion, arrives at the conclusion that the conditions under which the support had been provided were violated, the Director shall propose the relevant tax administrator to commence proceedings on breach of budgetary discipline.
- 3.3.6.5 The Committee shall examine the performance of other tasks and activities of the Fund in the preceding calendar year, including compliance with the deadlines, relevant legal regulations, this Statute and the Fund's by-laws, resulting from the short-term conception adopted by the Council.
- 3.3.6.6 The Committee's activities shall not include internal audit activities under Act No. on Financial Control in Public Administration and on Amendment to Certain Acts, as Amended.

### **3.4 The Office of the Fund**

- 3.4.1 The Office of the Fund consists of the Fund's employees. Its organisation structure and its range of activities shall be determined by the Director.
- 3.4.2 The Fund's Office shall, in particular:
- a) ensure the organisational, administrative, economic and technical activities of the Fund;
  - b) prepare and publish calls for applications for support for cinematography;
  - c) carry out the administrative activities related to the provision of support by the Fund on the basis of the Council's decision, including any activities regarding experts and expert analyses;
  - d) monitor compliance with the conditions under which support was provided by the Fund;
  - e) carry out the administrative activities related to the granting of the co-production status;
  - f) ensure the organisational, administrative, economic and technical aspects of the work of the Commission, Council and the Committee, including, but not limited to, the preparation of the materials for their meetings and decision-making processes;
  - g) carry out the decisions and resolutions of the Fund's bodies and publish information through the Website in accordance with the Act, other legal regulations, this Statute, the Fund's by-laws and decisions of the Council, Committee, Commission or Director of the Fund;
  - h) maintain registers in the audiovisual area in accordance with Section 30 of the Act;
  - i) maintain registers of the payers of audiovisual fees and payers of administrative fees and advertising fees;
  - j) ensure the operation of the Fund's internet presentation as well as the applications operated on the Website platform;



- k) ensure the training of applicants as to how to submit applications under the Act, how to settle accounts regarding support and how to address other issues related to the Fund's activities.

#### **IV. The Fund's Financial Management**

- 4.1. For each budgetary year, the Fund shall prepare a draft budget and submit it no later than by 31 March of the preceding calendar year to the Ministry, which shall submit it to the Government under Section 9(5) of the Act. The Director, who is responsible for preparing the draft budget, shall discuss the draft budget before it is submitted to the Ministry. The Council shall attach to the draft budget its comments and notes, if any, either on the draft budget as a whole or on its specific chapters or items; the Director shall submit these comments and notes to the Ministry together with the draft budget.
- 4.2. For each budgetary year, the Fund shall prepare its annual financial statements and annual report on its activities. The Director, who is responsible for preparing the annual financial statements and annual report, shall submit these documents by the end of February of the preceding calendar year to the Council for consideration and, once the annual financial statements are audited by an auditor, the Director shall submit them by the end of March through the Minister to the Government for consideration and then to the Chamber of Deputies for approval. The annual report on the Fund's activities shall include an evaluation of compliance with the long- and short-term strategy of the provision of support by the Fund and an evaluation of the Committee's audit work.
- 4.3. The Fund's budget is broken down, on its income side, according to the individual financial resources enumerated in Section 24(1) of the Act and Section 11(4) of the Act, and on its expenditure side it is broken down into areas where the funds are intended to:
  - a) provide support for cinematography;
  - b) provide film incentives;
  - c) remunerate Council Members;
  - d) remunerate Commission Members;
  - e) defray the costs incurred in the operation of the Fund's Office and the staff costs of the Fund's employees;
  - f) defray the costs incurred in the work of the Council;
  - g) defray the costs incurred in the work of the Commission;
  - h) defray the costs incurred in the work of the Committee;
  - i) pay taxes and insurance and defray the costs of accounting, legal, audit and other outsourced services;
  - j) pay fees to the holders of copyright and rights related to copyright and pay for the services provided by agencies or sales representatives in connection with activities under Clause X of this Statute;
  - k) defray the costs incurred in restoring or digitising work in accordance with Clause 10.2(c) of this Statute.
- 4.4. Within the meaning of Section 24 of the Act, the Fund shall manage separately funds for the following areas:
  - a) provision of support for cinematography and defrayment of other expenses, including the costs of the operation of the Fund's Office and the staff costs of the Fund's employees to the extent beyond the subsidies under Section 11(1) of the Act, and the costs of remuneration for Council Members and Commission Members;
  - b) provision of film incentives from the specific subsidy from the national budget under Section 24(1)(o) of the Act.
- 4.5. The Fund shall ensure that the funds are expended with due care in compliance with the budget. Any purchases and leases shall be limited to what is essential for the Fund's work. The annual expenditures of the Fund, except for expenditures under Clause 4.3 a), b), j) and k) above, shall not exceed CZK 25,000,000 (excl. of VAT). Real property purchase costs and motor vehicle purchase, rent and operative lease costs shall not be paid from the budget.

#### **V. Audiovisual Fees, Advertising Fees and Administrative Fees**

- 5.1. The form and structure of the fee declarations in respect of audiovisual fees and advertising fees shall be published by the Fund through the Website.
- 5.2. Any additional fee in addition to the advertising fee under Section 32(g) of Act No. 231/2001 on Radio and Television Broadcasting Operation and on amendment to other Acts, as amended, shall be determined by the Fund upon assessing the advertising fee for all payers, and the Fund shall send the decision to each payer.
- 5.3. Audiovisual fees, the advertising fee and administrative fees shall be paid by bank transfer to an account opened by the Fund with the Czech National Bank. The number of the account shall be published on the Website. The applicant's VAT number or tax registration number (DIČ), if any, shall be entered as the variable code; in the remaining cases the applicant shall indicate his name and

surname, or company name, and the reference designation of the application with which the fee is paid.

#### **VI. Registers in the Audiovisual Sector and Publishing under Section 38 of the Act**

- 6.1 The Fund shall maintain records concerning the applicants for support, the applications and the supports provided. These records shall be made public on the Website and the following information shall therefore be published in respect of each applicant:
- a) business name, company name, or first name and surname;
  - b) address of the registered office or place of business;
  - c) identification number (IČ) and VAT number or tax registration number (DIČ), if any;
  - d) applications for support to the extent as set out in Section 34(3) of the Act; and
  - e) the amount of the support provided on the basis of the Council's decision and in accordance with other related Council decisions, if any, amending the conditions of such a decision.
- 6.2 The records published on the Website shall include, for each applicant, materials specified in Section 38(1) of the Act. The Fund shall publish such materials, as well as information under Clause 6.1(d) and (e) above, without undue delay after issuance of the decision on support; the materials and data related to the application for an amendment to the conditions set out in the decision on support shall be published without undue delay after issuance of the decision made on such an application.
- 6.3 The results of the drawing of lots under Section 22 of the Act shall be published by the Fund on the Website without undue delay after the Council's meeting at which the decision was made on the applications for support to which the document applies where the results of the drawing of experts is contained.

#### **VII. Provision of Support to Cinematography**

##### **7.1 Conception of Providing Support**

- 7.1.1 The Council shall prepare a long-term conception of the provision of support with a six calendar year outlook and, on this basis, a short-term conception of the provision of support for each calendar year.
- 7.1.2 The short-term conception for a calendar year shall be determined by 31 January of the calendar year concerned. For this purpose, the Director of the Fund shall notify the Council of the amount expected to be available for the provision of support in the given calendar year, and shall do so without undue delay after obtaining the relevant information in connection with the draft National Budget Act and after estimating the Fund's financial sources. Upon the Council's request, the Director shall provide the Council without undue delay with updates of the information referred to in the preceding sentence. The long-term conception shall be determined by the Council no later than by 30 September of the calendar year preceding the first calendar year of the period to which the long-term conception applies. Compliance with the short-term conception shall be evaluated by the Council for each year by 28 February of the subsequent year, and interim compliance with the long-term conception shall be evaluated as at the same date; the evaluation is included in the Fund's annual report. The long-term conception shall be updated by the Council every year no later than as at 30 June on the basis of the latest evaluation of interim compliance. The main purpose of the update of the long-term conception shall be to respond to the development of the current situation in cinematography with respect to the defined objectives of the conception and the interim compliance therewith, and to the evaluation or determination of new objectives, and to respond to changes, if any, in the initial conditions of the conception. The current versions of the short-term conception and long-term conception are published on the Website.
- 7.1.3 In creating and updating the conceptions, the Council shall cooperate with the professional public primarily through consultations held at least once in a calendar year and through participation of professional public representatives in the expert groups that prepare background materials for the Council to develop and update the conceptions. For this, the Council provides the professional public with information, including, but not limited to, materials for preparing and updating the conceptions, and uses other suitable forms to inform the professional community about the preparation and updating of, and compliance with, the short- and long-term conceptions.
- 7.1.4 The long-term conception shall contain:
- a) analysis of the current state of cinematography and the film industry in the Czech Republic, including:
    - i) key developmental trends in the preceding period and the evaluation thereof;
    - ii) analysis of the strengths, weaknesses, opportunities and threats (SWOT); and
    - iii) evaluation of the effectiveness of the existing support programmes;
  - b) proposals of specific measures in the context of the provision of support, including:
    - i) determination of objectives, including prioritisation;
    - ii) quantification of the requirements for financial resources;

- iii) time schedule of the implementation of the measures;
- iv) expected outcomes of the implementation of the conception and measures in the individual years of the period to which the long-term conception applies, determined both qualitatively and quantitatively, as far as possible; and
- v) proposals of legislative and other measures to implement the conception.

7.1.5 The short-term conception shall contain:

- a) priorities in the provision of support;
- b) expected distribution of the Fund's budgeted support provision amounts among the grant areas (grant headings) and among individual calls in each grant area, and the substantiation thereof; and
- c) the expected number of calls in each grant area and their tentative dates, as well as the expected narrow focus of the calls in each grant area.

## 7.2 General Information on the Provision of Support

7.2.1 Support is provided under the following ten grant areas:

- a) **Development of a Czech cinematographic work;** development of a Czech cinematographic work means primarily activities aimed at creating literary and other works (including, but not limited to, screenplays), which provide a basis on which a cinematographic work is to be created and its recording is to be produced, and activities aimed at obtaining the authorisation for the use of such works, including pre-existing works, if any, as well as activities aimed at providing sources for the funding of the production of a cinematographic work and at creating possible co-production structures, and activities aimed at preparing the production of a cinematographic work, such as the cast of the roles and/or the composition of the crew, technological tests, location scouting and other such activities that must be done before the production of a cinematographic work is started;
- b) **Production of a Czech cinematographic work;** production of a Czech cinematographic work means activities involving the preparation of filming, the filming itself, and finishing work (audio, video, special effects etc.); in the event that the Fund did not provide support to a project of a cinematographic work under the heading referred to under a) above, the activities considered as development of a cinematographic work can be included under the production of a cinematographic work;
- c) **Distribution of a cinematographic work;** distribution of a cinematographic work means activities aimed at making a cinematographic work accessible to the public, regardless of the forms and technologies of such disclosure, including the technological work, promotion and public relations;
- d) **Project in the field of technical development and innovation in cinematography;** project in the field of technical development and innovation of cinematography means primarily activities aimed at the development, acquisition, installation, launching and operation of technological equipment or other cinematographic equipment, or activities aimed at developing and applying the procedures that ensure compliance with technological standards;
- e) **Promotion of a Czech cinematographic work;** promotion of a Czech cinematographic work means primarily activities aimed at promoting a Czech cinematographic work or works, including, but not limited to, making them accessible to the public and supporting their publicity and the awareness of Czech cinematography among the public in the Czech Republic and abroad;
- f) **Publishing activities in the field of cinematography and activities in film science;** publishing activities in the field of cinematography and activities in film science means primarily activities aimed at preparing, publishing and distributing periodical or non-periodical publications and activities related to scientific research in the field of film science and to presentation of its outcomes;
- g) **Preserving the national film heritage and making it accessible to the public;** preserving the national film heritage and making it accessible to the public means primarily activities aimed at digital re-mastering, restoration and long-term preservation of the national film heritage, and finally at making it accessible to the general public, including its promotion;
- h) **Education and training in the field of cinematography;** education and training in the field of cinematography means primarily activities aimed at developing conceptual, methodological and promotional materials and activities intended for the implementation of educational and training projects in the cinematography field;
- i) **Film festival and show in the field of cinematography;** film festival and show in the field of cinematography means activities aimed at organising a festival or show, including its dramaturgical preparation, acquisition of licences, technological and organisational backup, and publicity;
- j) **Protection of the rights related to cinematographic works and the recordings thereof;** protection of the rights related to cinematographic works and the recordings thereof means primarily activities related to research, development, production and promotion of projects aimed at education, enlightenment, promotion and other activities in the area of the protection of copyright and rights related to copyright, including data collection and activities aimed at implementing projects intended to curb down the adverse developments associated with piracy.

- 7.2.2 Support is provided in the form of subsidies, or profit-sharing subsidies, depending on the conditions contained in the relevant call and in the decision on the provision of support. As a rule, profit-sharing subsidies will only be provided by the Fund under the headings referred to under Clause 7.2.1 b), c) and f), which is without prejudice to the possibility to provide subsidies without profit sharing under those headings. If it is possible under the relevant call to provide both forms of support, the applicant shall indicate in the application for support which form of support he prefers and/or which of the offered forms of support he is not interested in. If two options of support forms are offered and the applicant marks one of them as an option he is not at all interested in, then support cannot be provided to the applicant in that form. The amount of the profit share and the conditions of payment thereof to the Fund by the recipient of the support shall be as indicated in this Statute and in the relevant decision on the provision of support.
- 7.2.3 The Fund shall provide support up to the following maximum amounts, which is without prejudice to other limitations on the amount of support based on the Act, other legal regulations or this Statute:
- Development of a Czech cinematographic work: CZK 6,000,000;
  - Production of a Czech cinematographic work: CZK 40,000,000;
  - Distribution of a cinematographic work: CZK 5,000,000;
  - Project in the field of technical development and innovation of cinematography: CZK 10,000,000;
  - Promotion of a Czech cinematographic work: CZK 6,000,000;
  - Publishing activities in the field of cinematography and activities in film science: CZK 6,000,000;
  - Preserving the national film heritage and making it accessible to the public: CZK 30,000,000;
  - Education and training in the field of cinematography: CZK 8,000,000;
  - Film festival and show in the field of cinematography: CZK 8,000,000;
  - Protection of the rights related to cinematographic works and the recordings thereof: CZK 6,000,000.
- 7.2.4 The aggregate sum of the support amounts to be decided on by the Council in a calendar year shall not exceed CZK 500,000,000, and for the individual grant areas it shall not exceed the amounts shown below and the indicated percentages of the total amount intended for the provision of support in the given calendar year within the budget of the Fund:

Heading	Maximum % proportion	Maximum amount
Development of a Czech cinematographic work	10%	CZK 50,000,000
Production of a Czech cinematographic work	90%	CZK 450,000,000
Distribution of a cinematographic work	10%	CZK 50,000,000
Project in the field of technical development and innovation of cinematography	20%	CZK 100,000,000
Promotion of a Czech cinematographic work	10%	CZK 50,000,000
Publishing activities in the field of cinematography and activities in film science	10%	CZK 50,000,000
Preserving the national film heritage and making it accessible to the public	20%	CZK 100,000,000
Education and training in the field of cinematography	10%	CZK 50,000,000
Film festival and show in the field of cinematography	10%	CZK 50,000,000
Protection of the rights related to cinematographic works and the recordings thereof	10%	CZK 50,000,000

- 7.2.5 Decisions shall be issued by the Fund as to the provision of support. If the support provision conditions are breached, the support recipient shall be held accountable for breaching budgetary discipline.

### 7.3 Calls for Applications for Support

- 7.3.1 The Fund shall announce calls for submission of applications for support for cinematography in accordance with its short-term conception for the given calendar year and publish them on the Website. Each call shall as a rule apply to a specific grant area. For some of the grant areas the Fund shall announce calls several times a year, for others once a year, and for some even less frequently, based on the long-term and short-term conception.
- 7.3.2 Each call shall contain the purpose of the call, the grant title, the start and end dates of the period for submission of applications for support, which shall not be shorter than one month, the time schedule of the assessment of the applications submitted in response to the call, and the indication of the maximum total volume of support to be provided in the aggregate to applicants under the given call. The conditions set up in the call may also include, without being limited to:

- a) limiting the details of the projects for which the support can be applied for within the grant area, e.g. by defining the artistic, technological, financial, manufacturing, time and other parameters, as well as by limiting the range of eligible costs for which the support can be used;
- b) determining the form of support, if only one type of support is to be provided to applicants under the call in accordance with Clause 7.2.2 above;
- c) determining whether the applicants will be given the possibility during the Council's deliberation on the applications to make an oral presentation of their project, and defining the extent and form of such a presentation.

7.3.3 In determining the amounts to be provided as support under the individual calls, the Fund and the Council shall respect the approved budget of the Fund.

#### **7.4 Application for Support**

7.4.1 Applicants may submit applications for support for cinematography in response to a call and in compliance with its content. To be accepted by the Fund, applications must be delivered within the period determined in the call. Applications for support shall be submitted via the Application. To be regarded as having been delivered in time, an application must be sent via the Application no later than on the last day of the period determined in the call. Technical rules shall be determined by the Fund for the submission of applications via the Application. Depending on the decision of the Fund, the Application may also be used in relation to the applicant for support and the support recipient, within the scope of his user account, as a tool for the administration of applications, decisions and deadlines concerning the supported projects and for other purposes connected with the provided support.

7.4.2 An application for support shall include annexes specified below in Clause 7.4.3 for each relevant grant area, and/or other annexes defined in the call, plus the following schedules:

- a) detailed description of the project;
- b) budget, containing an itemised breakdown of the planned costs of the project under clearly structured headings; for each item the budget shall indicate the method of calculation (unit price, number of units, total) and a commentary explaining the amount of the costs;
- c) financial plan with indication of the sources expected to be available to cover the project costs and with identification of the sources to be received from foreign participants involved in the implementation of the relevant project; for each source of financing, this information shall be structured as follows: indication of the source of funding, amount of funds to be provided, the per cent proportion of such funding in the total costs of the project, the form of relation/document confirming funding from such a source (agreement, decision etc.) and the stage of securing the commitment to provide such funding for the implementation of the project;
- d) time schedule of the implementation of the project and the planned date of its completion;
- e) copy of the document proving that the administrative fee was paid, such a document being in a form corresponding to the form of payment;
- f) statutory declaration (using the form published on the Website together with the call, unless such a statutory declaration is already part of the Application) to the effect that the applicant meets all requirements under Section 39(1)(b) to (g) of the Act, and possibly also the documents referred to in Section 39(3) and (4) of the Act;
- g) the applicant's statutory declaration on facts for which any Council Member or any Fund employee known to the applicant, or any person on the list of experts for the relevant grant area, should be excluded from making decisions on the application and from making acts related to the application;
- h) copy of an agreement on the applicant's bank account or a bank certificate to the effect that the applicant's account is maintained with the bank;
- i) presentation of the applicant's activities up to now in cinematography and the film industry.

7.4.3 For each grant area, the application shall also include the following mandatory annexes:

- a) Development of a Czech cinematographic work:
  - story, treatment, synopsis and/or other suitable form of presentation of the literary theme of the cinematographic work; in the case of cartoon films, also the basic graphic designs;
  - agreements proving that the applicant has obtained, at least for the entire project implementation period, authorisations for the use of existing literary works he intends to use to develop a cinematographic work (theme, story, synopsis, graphic design etc.), or that he has agreed with third parties on their obligation to provide the applicant with such authorisations upon his request, or that he has agreed with third parties on any other form of binding and enforceable reservation of such authorisations at least for a period that shall not be shorter than the development project implementation period (the option);
  - instead of the documents and evidence referred to in the preceding indent: statutory declaration of authorship or co-authorship of the works, if the applicant as a natural person is the author or a co-author;

- professional CVs of the persons who are to take part in the creative activities within the development project;
  - any other annexes as may be specified in the call.
- b) Production of a Czech cinematographic work:
- screenplay, or, in the case of a documentary film, the story;
  - director's explication of the creative intent;
  - producer's explication of producer's intent, the implementation conditions and distribution strategy;
  - agreements proving that the applicant has obtained authorisations for the use of existing literary works he intends to use to produce a cinematographic work (screenplay, including all pre-existing work, or the theme of a documentary film) according to the definition of the project;
  - instead of the documents and evidence referred to in the preceding indent: statutory declaration of authorship or co-authorship of the works, if the applicant as a natural person is the author or a co-author;
  - professional CVs of the persons who are to take part in the main creative activities during the production of the cinematographic work (director, screenwriter, author of the music, director of photography, costume designer, art director etc.);
  - any other annexes/schedules as may be specified in the call.
- c) Other grant areas:
- annexes specified in the relevant call.

7.4.4 The Fund shall reject applications for support delivered after the deadline indicated in the call. If an application for support is delivered on time but contains formal defects, i.e. if it fails to include all details or annexes required by the Act or this Statute, the Fund shall invite the applicant to amend the application and rectify the defects in accordance with the Rules of Administrative Procedure. Should the applicant fail to rectify the defects in the application within the allowed grace period, the Fund shall stop the proceedings.

## 7.5 Experts

7.5.1 The Fund shall maintain a list of experts to prepare expert analyses of the applications for support. Each application for support shall be analysed in terms of content and finance, the content analysis being made by a content expert specialising in the content quality of projects within the relevant grant area and the financial analysis being made by an economic expert specialising in the financial quality of projects within the relevant grant area. The Fund shall maintain separate lists of content experts and economic experts for each grant area, which shall be without prejudice to any individual's being listed as an expert for more than one grant area and/or as both a content and economic expert. An expert appointed for a specific grant area may be assigned to a more narrowly defined (in artistic, technological or other terms) category of projects within the given grant area, if experts with a narrower specialisation in such a narrowly defined project category are needed in the event that a separate call is announced in respect of such a category. Lists of experts are available on the Website.

### 7.5.2 Proposing Candidate Experts and Appointment of Experts

7.5.2.1 For the purposes of appointing experts, the Fund shall invite professional organisations through the Website to submit proposals to nominate candidate experts in the areas of content and finance for the individual grant areas. The invitation referred to in the preceding sentence must indicate the period within which professional organisations can propose such nominations. The Fund shall publish the invitation at any time, whenever it appears necessary to appoint new experts; the invitation may be limited only to proposing candidate content experts or candidate economic experts or even only for certain grant areas.

7.5.2.2 A proposal for a candidate expert shall contain:

- a) the candidate's name and surname, date of birth, permanent residence address, contact address, e-mail and telephone number;
- b) the candidate's detailed professional CV in the audiovisual area;
- c) the candidate's written consent with appointment as expert, including a statutory declaration, signed by the candidate, that he meets the requirements for experts in accordance with the Act;
- d) specification of the grant area for which the candidate is proposed to be a content expert or economic expert, and possibly also specification of the candidate's narrower specialisation within the grant area;
- e) the name, registered office, identification number and contact information (telephone number, e-mail address) of the professional organisation making the proposal, and the name and surname, title and signature of the individual acting on behalf of the professional organisation;
- f) substantiation of the proposal by the professional organisation.

- 7.5.2.3 No later than within one month from the end of the proposal submission period, the Fund's office shall reject the proposals for candidates who clearly fail to meet the requirements for appointment as expert under the Act, as well as the proposals submitted by persons not authorised to propose candidates; the remaining proposals shall be delivered by the Fund's office to the Members of the Council within the same period and the Council shall adopt a resolution as to which of the proposed candidates should be recommended to the Minister for appointment. No later than within seven days from adoption of such a resolution, the Fund's office shall deliver to the Minister all proposals for candidates received by the Council, together with the Council's recommendation and with the Council's request as to how many experts, of what type, and for which grant area should be appointed to ensure effective preparation of analyses of the applications for support. On the basis of these proposals, the Minister shall select the suitable candidates recommended by the Council and appoint them as experts.
- 7.5.2.4 Immediately after appointment, each expert shall notify the Fund of his long-term relationship to any entity operating in the audiovisual sector, including a relationship of employment or relationship similar to employment, a relationship of membership or any other similar relationship that disqualifies him under relevant legal regulations from evaluating, in the form of expert analysis, such an entity's application for support. Each expert shall also notify the Fund's Director of the occurrence of any reason for which his service as expert terminates in accordance with Section 22(2) of the Act.
- 7.5.3 Motion to Remove an Expert
- 7.5.3.1 Anybody may file a motion with the Fund to remove an expert from his position, if there is a well-founded suspicion of the existence of a reason for such removal under Section 22(3) of the Act. The motion must contain the name and surname of the expert, the name and surname, date of birth and permanent residence address of the individual filing the motion, or the name, identification number (IČ), if any, and address of the registered office of the legal entity filing the motion, and the date and signature, and detailed substantiation of the motion.
- 7.5.3.2 Immediately after delivery of the motion to the Fund, the Director shall request the expert concerned to submit his opinion in respect of the motion and shall give him a period in which to respond.
- 7.5.3.3 Any motion, together with the opinion of the expert concerned, shall be submitted by the Director to the Council no later than within 14 days from the date of his receipt of the opinion of the expert. At its nearest meeting, the Council shall decide, and issue a resolution to that effect, whether to recommend that the expert be removed. The motion to remove the expert, which the Council has recommended to be granted, shall then be delivered by the Director to the Minister for the purpose of removing the expert from office.
- 7.5.4 Drawing lots to Select Experts. Expert Analyses
- 7.5.4.1 For each application for support that was not rejected, one content expert and one economic expert shall be selected by drawing lots. The drawing, done by an authorised employee of the Fund, shall take place no later than within 14 days from the last day of the period for submission of applications for support in accordance with the relevant call, or within 14 days from the delivery of the application for support, if there is a continuous deadline for the submission of proposals in the relevant grant area. However, lots may also be drawn on a running basis, depending on how applications for support are delivered to the Fund, in order that the time available for preparing expert analyses is used effectively. The Council Secretary shall be responsible for how the drawing of lots is prepared and performed. Lots shall be drawn separately for applications submitted in response to one call and for each grant area, and separately for content experts and economic experts. Slips of paper, not recognisable from each other, with the names of all experts for the relevant grant area and relevant specialisation shall be put into the ballot box, where they are shuffled and an expert is then drawn for each application for support. The slip with the name that has been drawn shall not be returned to the box. If it is clear immediately during the drawing that conflict of interest disqualifies the person from doing the analysis, the drawing shall be repeated and the slip with the name that has been drawn first shall be returned to the box after the repeated drawing. If the box becomes empty during the drawing of lots for one grant area and one specialisation, all slips with the names of experts on the list for the relevant grant area and specialisation shall be returned to the box and the drawing shall go on. It is possible that an application for support may be analysed by one person both as a content expert and economic expert, provided that he was appointed for a grant area as expert in both categories. A written record is made of the drawing and its results. The record shall be signed by the Council Secretary and two Council Members, who shall certify the regular course of the drawing. If a call in a grant area is limited to a more narrowly defined category of projects, the experts to evaluate the applications for support shall be selected by drawing lots only from among those whose specialisation qualifies them for evaluating applications in such a narrowly defined category within the meaning of the penultimate sentence of Clause 7.5.1 above.

- 7.5.4.2 The Fund's office shall send each selected expert the information and material necessary for drawing up an expert analysis, including the application for support and all relevant annexes. Within five days after obtaining such information and material, the expert shall inform the Fund about being aware of any factors that disqualify him from doing the analysis under the Rules of Administrative Procedure (otherwise it is supposed that he is not aware of any such factors); within the same period of time, the expert shall inform the Fund that he is hindered from doing the analysis by *force majeure* or any other serious obstacle (otherwise it is supposed that there is no such obstacle). In the cases referred to in the preceding sentence, the Fund's Secretary shall immediately organise a new draw of lots for the project concerned, proceeding in accordance with Clause 7.5.4.1. If an expert prepares an analysis of an application for support for which he is disqualified and it cannot be assumed that he was not aware of the existence of the disqualifying factors, such conduct shall be regarded as weakening the confidence in his independence and impartiality in discharging his duties.
- 7.5.4.3 An expert who is not aware of any factors that disqualify him from doing the analysis and is not hindered from carrying out the analysis by any obstacle under Clause 7.5.4.2 above, shall within 21 days from receiving the relevant information and material draw up a written expert analysis (in terms of content or finance) of the given application for support, using the form issued by the Fund, and shall recommend it to the Fund within that period.
- 7.5.4.4 Each expert analysis shall contain the name and number of the project, the designation of the applicant, definition of the grant area, date when prepared, and the name, surname and signature of the expert. The content of the analysis shall be split into two parts. In the first part the expert shall indicate the general evaluation of the application with his recommendation as to the provision of support and the proposed point rating of the individual criteria as referred to in Clause 7.6.5 below (the content expert shall propose point rating for criteria in the category of "project quality and creative support" and the a economic expert shall propose point rating for criteria in the category of "organisational support and funding available for the project and the applicant's credibility"); in doing this, the expert shall ensure that this part of the expert analysis does not contain any data that may not be published by the Fund under Section 38(2) of the Act. In the second part, the expert shall develop in detail the evaluation from the first part, using the data that may not be contained in the first part of the analysis, as set out in the preceding sentence.
- 7.5.4.5 Experts must respect the confidentiality of all and any information they may learn in connection with discharging their duties, including the content of the applications for support they have evaluated, as well as the very fact that they have evaluated any specific applications for support.
- 7.5.4.6 In justified cases, the Council may request a new content analysis and/or financial analysis of any application for support, the procedure being the same, to the necessary extent, as described in the preceding Clauses.
- 7.5.4.7 Copies of the expert analyses of an application for support shall be delivered by the Fund to the relevant applicant without delay after receiving the analyses from the experts.
- 7.5.4.8 If no expert is available for a grant area, including due to the factors that disqualify some experts from evaluating the applications for support, or if the number of experts is so small that they are unable, in terms of time, to prepare a greater number of analyses of the submitted applications for support and thus to enable timely decisions to be made on all applications for support within the period set up in the Act, and if – with respect to the deadline within which the Council must decide on a submitted application for support – additional experts cannot be expected to be successfully recruited by the standard procedure of proposing and appointing candidate experts, the Council may decide, instead of having an expert analysis done by an appointed expert, to hire an outside expert to perform a professional analysis (to the extent of the expert analysis) of certain applications for support on the basis of a special one-time authorisation by the Council at the expense of the Fund in compliance with the Fund's budget; provisions of the Act and of this Statute concerning the appointed experts shall in such a case apply to the experts authorised in this manner, unless it contravenes law. In exceptional cases the Council may decide that owing to a lack of experts and persons eligible for one-time authorisation according to the preceding sentence, the Council will evaluate all applications for support within a grant area (applications submitted in response to one call) without expert analyses in the event that otherwise the statutory deadline to decide on applications for support would be missed.
- 7.5.5 An expert shall be entitled to remuneration for expert analyses. The fee for each content expert analysis is CZK 2000 [except grant areas referred to in Clause 7.2.1. c), e) and i) above, where the fee is CZK 1000], and CZK 1000 for each financial expert analysis. Experts are not the Fund's employees and they prepare expert analyses on the basis of a *locatio operis* contract or similar agreement. These amounts, as indicated here, are exclusive of the VAT.

## 7.6 Evaluation of the Application for Support



- 7.6.1 The Council shall evaluate the applications for support and shall decide whom (which applicant) to provide support, and in what amount. Support may only be provided up to the amount specified in the application for support, in the Act, in this Statute, and in the call. The amount requested in the application shall not be binding on the Council. In its decision on the provision of support, the Council shall set up the conditions under which support can be provided, including, in particular, the conditions based on the Act and this Statute. In making its decisions, the Council shall take into account the expert analyses prepared for the purposes of evaluation of applications for support by the experts selected by drawing lots, or other analyses prepared in accordance with Clause 7.5.4.7 above; however, the analyses are not binding on the Council. In the event that applicants are to be given the opportunity upon request to make a personal presentation of the project during a Council meeting, each applicant shall be invited to make an oral presentation of the project at a date and venue indicated in a letter of invitation to be sent at least one week in advance. In the oral presentation, the applicant may be represented by a proxy. The applicant is not obliged to appear before the Council to make an oral presentation of the project. A protocol of the oral presentation shall be made.
- 7.6.2 If the form of support is not mandatorily specified in the call, the Council shall not be bound to respect the form of support preferred by the applicant, unless the applicant indicates in the application in accordance with Clause 7.2.2 that he is not at all interested in one of two forms of support: in such a case such a form of support shall be out of question.
- 7.6.3 In evaluating the applications for support, the Council shall consider the criteria specified in Section 35(2) of the Act and shall proceed in accordance with the following provisions of this Clause. Before starting to examine the applications for support under each call, the Council shall consider whether any of its Members are disqualified from evaluating the applications, doing so on the basis of the Council Members' notifications or on the basis of applicants' protests. If it is found after completion of an expert analysis that the analysis was made by an expert who had been disqualified on the basis of relevant legal regulations, the Council shall put off the evaluation of the applications submitted under the relevant call to a time when an expert analysis made by a substitute expert, duly selected by drawing lots, is available or, if there is a danger of delay, the Council shall make its decision on the application for support without taking into account the expert analysis prepared by the disqualified expert.
- 7.6.4 The Council shall evaluate the applications at its meeting if it is quorate. Evaluation in accordance with this and the subsequent Clauses shall be made only by the Council Members present at the meeting, except those disqualified from the deliberations. To evaluate the applications for support, the Council shall use point ratings in two basic categories (1. project quality and creative support – max. 60 points; 2. organisational support and funding available for the project and the applicant's credibility – max. 40 points), subdivided according to the individual scored criteria, as described in Clause 7.6.5 below. Each Council Member shall assign his point score to each application for support and shall write this score in an anonymous form received from the Council Secretary so as to ensure that each Council Member present at the meeting returns only one point score form in respect of the projects being evaluated. There is a cap on the number of points for each criterion and, consequently, the smallest possible number of points to be assigned to an application is zero and the highest is at the level of the cap; if a Council Member gives an application more points than the cap for the relevant criterion, the cap level, specified in Clause 7.6.5 below, shall be used. The scoring rule says that the more points a Council Member assigns to an application, the better the project meets the criterion being scored. After assigning a point score for each category and each criterion, the sum of the point scores shall be divided by the number of the Council Members who assigned the points, thus determining the average point rating of the application for support, which shall then be entered in the point scoring protocol; the average point rating of each category is indicated in the file maintained for the application concerned. Applications for support that receive an average of less than 60 points shall be rejected by the Council. Applications for support that receive 60 points or more shall advance to the second round of evaluation where the provisions of Clause 7.6.6 shall be followed.
- 7.6.5 For the individual grant areas, the criteria specified below shall be reflected in the point scoring and the following maximum point ratings can be assigned to those criteria. The Council may define in more detail the individual criteria of project evaluation for each grant area according to Section 13(1)(b) of the Act and in compliance with this Statute:
- 7.6.5.1 Development of a Czech cinematographic work:
- A. project quality and creative support
- 1) artistic quality of the project: originality and the societal worth of the story, its theme, the structure of the narration, the genre, form and style (30 points)
  - 2) staff available for the project: author, script editor, director, producer and other possible professions (15 points)

- 3) benefit and importance for Czech and world cinematography: contribution to the cultural importance and identity of Czech cinematography and to the development and diversity of film culture in the Czech Republic and Europe (15 points)
- B. organisational support and funding available for the project and the applicant's credibility
- 1) application: completeness and comprehensibility of the required data (5 points)
  - 2) budget and financial plan: reasonability of planned costs and the justification thereof, calculation of all individual items, adequacy of the support requested and its proportion in the total costs of the project, possible availability of multiple sources of funding (10 points)
  - 3) implementation strategy: method of project implementation, detailed elaboration of the implementation plan, adequacy of the time schedule, likelihood of realisation, target audience group (15 points)
  - 4) applicant's credibility: his current and previous activities, their outcomes, awards won, if any, experience in the given field (10 points)
- 7.6.5.2 Production of a Czech cinematographic work:
- A. project quality and creative support
- 1) artistic quality of the project: originality and the societal worth of the story or script, its theme, the structure of the narration, the genre, form and style (30 points)
  - 2) staff available for the project: author, director, director of photography, cast, the producer and other professions, if any (15 points)
  - 3) benefit and importance for Czech and world cinematography: contribution to the cultural importance and identity of Czech cinematography and to the development and diversity of film culture in the Czech Republic and Europe (15 points)
- B. organisational support and funding available for the project and the applicant's credibility
- 1) application: completeness and comprehensibility of the required data (5 points)
  - 2) budget and financial plan: reasonability of planned costs and the justification thereof, calculation of all individual items, adequacy of the support requested and its proportion in the total costs of the project, possible availability of multiple sources of funding, co-production potential (10 points)
  - 3) producer strategy: method of project implementation, detailed elaboration of the implementation plan, adequacy of the time schedule, likelihood of realisation, target audience group (15 points)
  - 4) applicant's credibility: his current and previous activities, their outcomes, awards won, if any, experience in the given field (10 points)
- 7.6.5.3 Distribution of a cinematographic work:
- A. project quality and creative support
- 1) artistic, dramaturgical and/or programme quality of the project, originality and the societal worth of the work/project, dramaturgical conception and programme intent, added values – cultural, educational etc., the target audience group (30 points)
  - 2) staff available for the project: implementation team – dramaturgical, production (15 points)
  - 3) benefit and importance for Czech and world cinematography: contribution to the cultural importance and identity of Czech cinematography and to the development and diversity of film culture in the Czech Republic and Europe (15 points)
- B. organisational support and funding available for the project and the applicant's credibility
- 1) application: completeness and comprehensibility of the required data (5 points)
  - 2) budget and financial plan: reasonability of planned costs and the justification thereof, calculation of all individual items, adequacy of the support requested and its proportion in the total costs of the project, possible availability of multiple sources of funding (10 points)
  - 3) distribution and marketing strategy: method of project implementation, detailed elaboration of the implementation plan, adequacy of the time schedule (15 points)
  - 4) applicant's credibility: his current and previous activities, their outcomes, awards won, if any, experience in the given field (10 points)
- 7.6.5.4 Project in the field of technical development and innovation of cinematography:
- A. project quality and creative support
- 1) technical specification of the project: detailed technical specification of requirements, technical solution (30 points)
  - 2) staff available for the project: implementation team (5 points)
  - 3) benefits of the project: method and extent of the use of new technology and other outcomes of the project – impact on the applicant's activities and plans, target audience group (25 points)
- B. organisational support and funding available for the project and the applicant's credibility
- 1) application: completeness and comprehensibility of the required data (5 points)

- 2) budget and financial plan: reasonability of planned costs and the justification thereof, calculation of all individual items, adequacy of the support requested and its proportion in the total costs of the project, possible availability of multiple sources of funding (20 points)
  - 3) implementation strategy: method of project implementation, detailed elaboration of the implementation plan, adequacy of the time schedule (10 points)
  - 4) applicant's credibility: his current and previous activities, their outcomes, awards won, if any, experience in the given field (5 points)
- 7.6.5.5 Promotion of a Czech cinematographic work:
- A. project quality and creative support
- 1) value and importance of the work or project: its potential to promote and represent Czech cinematography, culture and society both inside the country and abroad (30 points)
  - 2) staff available for the work or project: creative representation or implementation team – dramaturgical, production (15 points)
  - 3) benefit and importance for Czech and world cinematography: contribution to the cultural importance and identity of Czech cinematography and to the development and diversity of film culture in the Czech Republic and Europe (15 points)
- B. organisational support and funding available for the project and the applicant's credibility
- 1) application: completeness and comprehensibility of the required data (5 points)
  - 2) budget and financial plan: reasonability of planned costs and the justification thereof, calculation of all individual items, adequacy of the support requested and its proportion in the total costs of the project, possible availability of multiple sources of funding (10 points)
  - 3) implementation strategy: method of project implementation, detailed elaboration of the implementation plan, adequacy of the time schedule, target audience group (15 points)
  - 4) applicant's credibility: his current and previous activities, their outcomes, awards won, if any, experience in the given field (10 points)
- 7.6.5.6 Publishing activities in the field of cinematography and activities in film science:
- A. project quality and creative support
- 1) professional and/or programme quality of the project: relevance of the theme and methodological solution, academic standard of implementation, national importance and international overlap (30 points)
  - 2) staff available for the project: author, editors, publisher, research team, organisers team (15 points)
  - 3) benefit and importance for Czech and world cinematography and film science (15 points)
- B. organisational support and funding available for the project and the applicant's credibility
- 1) application: completeness and comprehensibility of the required data (5 points)
  - 2) budget and financial plan: reasonability of planned costs and the justification thereof, calculation of all individual items, adequacy of the support requested and its proportion in the total costs of the project, possible availability of multiple sources of funding (10 points)
  - 3) implementation strategy: method of project implementation, detailed elaboration of the implementation plan, adequacy of the time schedule, likelihood of realisation (15 points)
  - 4) applicant's credibility: his current and previous activities, their outcomes, awards won, if any, experience in the given field (10 points)
- 7.6.5.7 Preserving the national film heritage and making it accessible to the public:
- A. project quality and creative support
- 1) artistic value and historical importance of the work: artistic quality, characteristic relevance and/or uniqueness from the viewpoint of the history of film (15 points)
  - 2) degree of preservation of national film heritage: professional quality of the preservation methods, method of storage and the potential for preserving the work for future generations and/or for restoring it and maintaining the specific characteristics of the original work (15 points)
  - 3) degree of accessibility of national film heritage: size of the target audience group, potential of distributional channels, added values of the project (educational and other), national/international cinema distribution etc. (15 points)
  - 4) staff and technical support for the project: implementation team, technological equipment of the workplace, methodological relevance and contemporary relevance of the technological procedure, availability of professional resources for the project (15 points)
- B. organisational support and funding available for the project and the applicant's credibility
- 1) application: completeness and comprehensibility of the required data (5 points)
  - 2) budget and financial plan: reasonability of planned costs and the justification thereof, calculation of all individual items, adequacy of the requested support in relation to the total costs of the project, possible availability of multiple sources of funding (10 points)
  - 3) implementation strategy: method of project implementation, detailed elaboration of the implementation plan, adequacy of the time schedule (15 points)

- 4) applicant's credibility: his current and previous activities, their outcomes, awards won, if any, experience in the given field (10 points)
- 7.6.5.8 Education and training in the field of cinematography
- A. project quality and creative support
- 1) educational quality of the project: professional quality of the educational programme for film professionals or technical and pedagogical quality of the educational programme for schools and the general public, programme outline and methodology; definition of target groups and the justification thereof (30 points)
  - 2) staff available for the project: author, implementation team (15 points)
  - 3) benefits and relevance for the film industry: improved professionalism and international competitiveness, or contribution and importance for film and audiovisual education in the Czech Republic: strengthening and improving the competencies in the field of film, audiovisual and media communication and cultural values of cinematography (15 points)
- B. organisational support and funding available for the project and the applicant's credibility
- 1) application: completeness and comprehensibility of the required data (5 points)
  - 2) budget and financial plan: reasonability of planned costs and the justification thereof, calculation of all individual items, adequacy of the support requested and its proportion in the total costs of the project, possible availability of multiple sources of funding (10 points)
  - 3) implementation strategy: method of project implementation, detailed elaboration of the implementation plan, adequacy of the time schedule (15 points)
  - 4) applicant's credibility: his current and previous activities, their outcomes, awards won, if any, experience in the given field (10 points)
- 7.6.5.9 Film festival and show in the field of cinematography:
- A. project quality and creative support
- 1) dramaturgical and programme quality of the project: dramaturgical conception and programme intent, uniqueness and added values – cultural, educational etc., the distribution and marketing strategy, target audience group, proportions of Czech and foreign works (30 points)
  - 2) staff available for the project: implementation team – dramaturgical, production (15 points)
  - 3) benefit and importance for Czech and world cinematography: contribution to the cultural importance and identity of Czech cinematography and to the development and diversity of film culture in the Czech Republic and Europe (15 points)
- B. organisational support and funding available for the project and the applicant's credibility
- 1) application: completeness and comprehensibility of the required data (5 points)
  - 2) budget and financial plan: reasonability of planned costs and the justification thereof, calculation of all individual items, adequacy of the support requested and its proportion in the total costs of the project, possible availability of multiple sources of funding (10 points)
  - 3) implementation strategy: method of project implementation, detailed elaboration of the implementation plan, adequacy of the time schedule (15 points)
  - 4) applicant's credibility: his current and previous activities, their outcomes, awards won, if any, experience in the given field (10 points)
- 7.6.5.10 Protection of the rights related to cinematographic works and the recordings thereof:
- A. project quality and creative support
- 1) professional quality of the project: use of a contemporary methodology, knowledge of international context etc. (20 points)
  - 2) effectiveness of the use of financial support (15 points)
  - 3) impact of the project on Czech cinematography and the general public (15 points)
  - 4) staff and technical support for the project: technological equipment and staff in the workplace, professional reputation of the project workers, methodological relevance and contemporary relevance of the technological procedure, availability of professional resources for the project (10 points)
- B. organisational support and funding available for the project and the applicant's credibility
- 1) application: completeness and comprehensibility of the required data (5 points)
  - 2) budget and financial plan: reasonability of planned costs and the justification thereof, calculation of all individual items, adequacy of the support requested and its proportion in the total costs of the project, possible availability of multiple sources of funding (10 points)
  - 3) implementation strategy: method of project implementation, detailed elaboration of the implementation plan, adequacy of the time schedule (15 points)
  - 4) applicant's credibility: his current and previous activities, their outcomes, awards won, if any, experience in the given field (10 points)
- 7.6.6 In the second round, the amount of support being provided shall be assigned by the Council to each application, taking into account the point scoring results from the first round, the ranking of applications

after the first round, the amount of support requested by the applicant and the amount of funds available to the Council for the provision of support in the given grant area with respect to the call concerned; support may not necessarily be provided to all applications in the second round. The Council may decide to provide a smaller amount of support than requested. In deciding on applications submitted in response to a call the Council may not exhaust all the funds available under the call. The Council shall reject the applications for support to which it did not allocate support in the second round.

- 7.6.7 The Council shall issue a decision on the provision of support, which shall be signed by the Chairperson of the Council or by the Council Vice-chairperson in the Chairperson's absence. In its decision on the provision of support to an applicant, the Council shall determine the conditions under which the support is being provided, including, but not limited to, conditions specified in Clauses 7.6.8 to 7.6.10 and Clauses 7.8 and 7.9 below. In its decision, the Council may also specify conditions that are less serious or whose breach would be regarded as less serious.
- 7.6.8 The recipient of support for the production of a Czech cinematographic work shall also ensure that the cinematographic work, when completed, will be shown in the Czech Republic in at least ten cinematographic performances within one year following the completion of the project. To prove that this condition has been met, the support recipient shall submit to the Fund a statutory declaration, using the form to be available on the Website, or using the Application, and shall do so no later than within one month after the end of the period indicated in the preceding sentence, or sooner, as soon as the condition is met. The recipient of support for the production of a Czech cinematographic work shall also notify the Fund about the awards won by the cinematographic work, the festivals or film shows where it has been presented, the extent to which it has been distributed and, possibly, sold abroad, and shall do so within 12 months following the date on which the cinematographic work was publicly released. The notification referred to in the preceding sentence shall be provided by the support recipient to the Fund within one month after the end of the period referred to in the preceding sentence.
- 7.6.9 A recipient of support for a project of technical development and innovation in cinematography provided in the form of installation of digital cinema equipment shall ensure that for a period of five years following the end of the project the cinema concerned will show in each calendar year cinematographic works regarded as national films in at least one member state of the Council of Europe and that the screenings of such works will represent at least 20% of the total number of film showings in the cinema. To prove that this condition has been met, the support recipient shall submit to the Fund a statutory declaration, using the form to be available on the Website, or using the Application, and shall do so no later than within one month after the end of each calendar year within the period indicated in the preceding sentence.
- 7.6.10 In connection with the implementation of a project for which support was provided, the support recipient shall present the Fund as support provider, identifying the Fund by presenting its logo and a text informing that the project was carried out with support from the Fund, the form and appearance of such identification being as determined in the decision on the provision of support.

## **7.7 Amendment to the Decision on Support**

- 7.7.1 Upon request of an applicant to whom support has been provided on the basis of the Council's decision, the Council may decide to change the conditions set up in the decision. The form of such a decision may be, without being limited to, as shown below:
- a) decision to change the amount of support;
  - b) decision to change the deadline for the completion of the project and submission of documents under Section 40 of the Act;
  - c) decision to change the conditions regarding intensity of public support; or
  - d) decision to change other conditions of the provision of support.
- Any request to change a decision must contain the identification and description of the changed circumstances that lead the applicant to request a change, otherwise the Council shall reject the request.
- 7.7.2 The request for change shall be submitted by the applicant in writing, using the form to be available for that purpose on the Website. The request shall be submitted together with a document proving that the administrative fee has been paid, as set out in Clause 7.4.2 e) above. If a change referred to in Clause 7.7.1 a) above is requested, the amount by which the applicant requests the support to be increased may be determined by indicating the minimum and maximum amount requested, and such a range of support requested shall then be binding on the Council in accordance with Section 36(1) of the Act.
- 7.7.3 The Council shall issue a decision on the request for change of decision. Such an issued decision shall be signed by the Council's Chairperson or by the Council's Vice-chairperson in the Chairperson's absence.

## **7.8 Rate of Public Support and the Fund's Share of Profit to be Generated from the Project**

- 7.8.1 The total volume of public support provided to a project, including support for cinematography and also incentives (in the case of a project of the production of a cinematographic work) and all and any public support sources provided for project implementation to the applicant and/or co-producers or project co-organisers, shall not exceed 50% of the total project costs. The 50% limit referred to in the preceding sentence shall be increased to 60% without any further conditions in the cases where a cinematographic work is being developed or produced under a project in co-production between the support recipient and one or two other co-producers with registered offices in the member states of the Convention, and where the contribution of co-producers from other countries to the financing of the production of a cinematographic work must be in compliance with the Convention. The 50% or 60% limit referred to in the preceding sentences may be increased up to 90% if a culturally sophisticated cinematographic work is being developed or produced under a project or if the project itself is culturally sophisticated. The highest admissible rate of public support shall be set by the Council in its decision as a precondition for the provision of support on the basis of the data indicated in the application for support. Rate of public support amounting to 90% of the total project costs may be permitted only exceptionally.
- 7.8.2 For the purposes of this Statute, a culturally sophisticated cinematographic work/project means a work/project whose chances of economic success are limited because of its experimental nature, sophisticated artistic or technical solutions or artistically sophisticated nature; the production or creation of such a work or project is, nevertheless, desirable due to its cultural value, even though it is difficult to secure funding for such a work from other sources because of its cultural sophistication. Because of difficult financing such works are as a rule low-budget works. A low-budget cinematographic work means a work whose implementation costs do not exceed the average costs of the production of a Czech cinematographic work in the given year, as determined by the Council.
- 7.8.3 If, after project account settlement, the total public support of a project, not including support from the Fund, exceeds the limit indicated in Clause 7.8.1 above, such a situation shall be deemed a breach of a condition under which the support was provided and, thereby, a breach of budgetary discipline. If the situation described in the preceding sentence does not occur but the total public support of a project together with support from the Fund exceeds, after project account settlement, the limit indicated in Clause 7.8.1 above, the support can be paid to the recipient in a reduced amount to ensure that it does not exceed, in combination with other public support sources provided for the implementation of the project, the limit indicated in Clause 7.8.1; if the applicant has already drawn an amount of public support exceeding this limit, such a situation shall be deemed a breach of a condition under which the support was provided and, thereby, a breach of budgetary discipline. In evaluating the rate of support, the Fund shall base its considerations on the project financing sources indicated in the project account settlement as referred to in Clause 7.9 below. If, in addition to support, the project financing sources within the grant area of production of a Czech cinematographic work include a film incentive under Clause VIII of this Statute, whose provision has not yet been decided on under Section 49(2) of the Act, such a film incentive shall not be taken into account as public support during the procedure based on the preceding two sentences, and the rate of public support shall be taken into account during the calculation of the film incentive before is payment in accordance with Clause 8.8.3 below.
- 7.8.4 If support is provided in the form of subsidy with a share of profit from the project, the amount of such a share, and the basis for its calculation, shall be determined in the decision on the provision of support, unless otherwise determined in the following sentence. In the decision on the provision of support in the grant area of production of a Czech cinematographic work, the Council shall include the following determination of the Fund's share of profit from the project: The base from which the Fund's share of profit from the project is to be calculated, using the per cent rate shown below, shall be the revenue of the support recipient (if an accounting entity) or the income of the support recipient (if not an accounting entity) from providing authorisation to use the cinematographic work to third parties, exceeding the amount corresponding to the difference between the total costs of project implementation (according to the final settlement of accounts under Clause 7.9.1 below) and the aggregate sum of all the project financing sources having the nature of public support (including support for cinematography and incentives), with the exception of those sources that must be returned (though on a contingent basis) to the support provider by the support recipient or another co-producer of the cinematographic work who is a recipient of such sources, this exception not applying to support for cinematography provided by the Fund. The Fund's share of profit shall be calculated from the base described in the preceding sentence, using the per cent rate expressing the proportion of the provided support in the total costs of the project.
- 7.8.5 If the Fund provides support to more phases of the realisation of one film (e.g., development – production – distribution), such phases shall be deemed to be separate projects, in which neither the costs, nor the revenues are added up, unless otherwise provided. In the case of production, this shall

be without prejudice to reflecting in the budgets under submitted contracts (but not in the project costs according to the production project budget) also the costs accounted for earlier under a development project and applied as part of the applicant's co-production contribution in relation to the applicant's co-producers; however, such costs cannot remain part of the production project. If the Fund provides support to the production of a film where it has not provided support to its development, the development costs may be included in the costs of production. However, the provisions of this Clause shall be without prejudice to the fact that for the assessment of the rate of public support under Clause 7.8.1 above the costs as well as the public support related to the development of a cinematographic work and to its production shall be added up where one and the same person is the recipient of support in both grant areas.

7.8.6 Assessment of the rate of public support under this Statute shall be in compliance with the European Commission's decision on the notification by the Fund of the provision of support and incentives: Decision ref. No. SA.36106 (2013/N) of 2 August 2013.

## **7.9 Accounting and the Eligible Costs**

7.9.1 Within the period indicated in the Fund's decision, the support recipient shall submit to the Fund the final settlement of accounts of the funds provided, using the form made available on the Website. The account settlement shall contain an itemised overview of all project costs. The data on the costs covered from support for cinematography shall be accompanied by identification of the recipient of the payment (name and surname, business name or company name, address of registered office, place of business or permanent residence, identification number (IČ) and VAT number or tax registration number (DIČ); in the case of an individual not having an IČ, the date of birth shall be indicated), and it is also necessary to indicate the object of payment (definition of the services or goods provided), the date and form of payment and the number of the accounting document under which the document is maintained in the support recipient's files or accounts. The auditor's report shall be attached to the final settlement of accounts of the costs covered from the support for cinematography in cases under Section 40(3) of the Act. Also attached shall be an overview of all project financing sources to be used for evaluating the rate of public support to the project under Clause 7.8 above, and the support recipient's statutory declaration that the information indicated by him is true and corresponds to reality and the support recipient's accounts.

7.9.2 Eligible costs for the purposes of settling the accounts of the support provided shall be only those that were incurred by the support recipient in the acquisition of goods and services between the date of submission of the application for support and the date of completion of the project specified in the decision on the provision of support, and were so incurred in compliance with its purpose, i.e., the implementation of the project for which the Fund provided its support. The costs eligible as project costs for the purposes of account settlement of the support provided shall also include the support funds retained by the recipient (if a natural person) as his fee or remuneration for his services in compliance with the budget, which was attached to the application for support. The costs eligible as project costs for the purposes of account settlement of the support provided shall also include the support funds retained by the recipient to cover his overhead costs, such a retained amount not being higher than 7% of the support provided and not being higher than the amount of the overhead costs indicated in the budget attached to the application for support.

7.9.3 The following costs shall not be eligible for the purposes of account settlement of the support provided:

- a) costs of supply provided to the support recipient by a third party which itself is a recipient of supply from the support recipient in relation to the project, this being so to an extent not exceeding the price of the supply provided by the support recipient to such a third party;
- b) in-kind contribution provided for project implementation by a third party who is a co-producer or co-organiser of the project, where the support recipient does not pay the price of such in-kind contribution;
- c) in-kind contribution provided for project implementation by the support recipient, including, but not limited to, the use of the supply recipient's own production facilities (without prejudice to the provisions of Clause 7.9.2 above);
- d) provisions for losses or for possible future liabilities;
- e) interest on loans;
- f) costs of the purchase of receivables;
- g) bank charges;
- h) value added tax (VAT) to the extent to which the support recipient as a VAT payer has claimed VAT deduction;
- i) contractual fines, late payment interest, arrears charges, compensations, indemnities;

- j) costs of auditors' services, unless the support recipient is obliged to submit to the Fund an auditor's report in accordance with the Act;
  - k) purchase price of real estate;
  - l) income tax, road tax, real estate tax, gift tax, inheritance tax, property transfer tax, customs duty;
  - m) costs of disputes in connection with the project, including court fees and costs of legal representation;
  - n) non-mandatory costs related to employees (pension fund scheme contributions, life insurance, jubilee gifts, contributions for recreation etc.);
  - o) leasing instalments;
  - p) scholarships and grants, or similar payments;
  - q) prizes, medals, awards, diplomas, souvenirs for winners and participants of contests;
  - r) donor SMS and MMS and public transport tickets;
  - s) alcoholic beverages, tobacco products, unless they represent materials necessary for the implementation of the project;
  - t) costs of processing the application for support;
  - u) support recipient's expenses for advertising and promotion not directly associated with the project (presentation items, brand promotion, company website etc.);
  - v) fees for the support recipient's membership in civic associations or other organisations;
  - w) emoluments paid to the governing body or members of the governing or supervisory body of the legal entity, which is a recipient of support.
- 7.9.4 In its decision on the provision of support, the Council may define other or additional criteria for the determination of eligible costs, and may do so either positively by determining the type of costs that can be covered from the support, or negatively by determining the type of costs that cannot be covered from the support.
- 7.9.5 If support is provided within the grant area of development or production of a Czech cinematographic work, the applicant shall spend at least 50% of the support on the provision of services or goods for persons that have a place of business, address of permanent residence or registered office in the Czech Republic and that are registered in the Czech Republic with the relevant tax authority for the payment of income tax. The limit under the preceding sentence may be reduced in the case of developing or producing a work whose artistic or technical demands require the purchase of services outside the Czech Republic, as the applicant indicates and justifies in the application for support. The Council shall include the conditions referred to in the preceding sentence in the decision on support.
- 7.9.6 In the event that the total project costs are reduced during project implementation to less than 70% of the total planned costs of the project indicated in the application for support, the support provided by the Fund shall not exceed an amount whose proportion in the total project costs corresponds to the proportion of the amount of support stated in the Council's decision corresponding to 70% of the aggregate planned costs indicated in the application for support. The proportion of support out of the actual costs of the project shall be evaluated according to the final account settlement of the costs of project implementation. The condition referred to in the preceding sentences shall be included by the Council among the conditions for the provision of support, as indicated in the decision on support.
- 7.9.7 The Council shall include in its decision on the provision of support the conditions under which the support recipient will be obliged to:
- a) return any received support to the Fund without undue delay after learning or deciding that the supported project will not be carried out, but not later than by the end of the project completion period;
  - b) submit to the Fund a written report on project implementation within the project completion period.

## **VIII. Provision of Film Incentives**

### **8.1 Film Incentive Commission**

- 8.1.1 The Commission shall evaluate the applications for registration of incentive projects in accordance with the Act. The Commission shall consider whether the incentive project (hereinafter in this Clause referred to as the "Project") complies with the provisions of Section 42(1)(c) of the Act.
- 8.1.2 Professional organisations may propose Commission membership candidates to the Minister through the Fund. To invite professional organisations to propose Commission membership candidates, the Director shall post an invitation on the Website. The invitation must indicate the period within which professional organisations may propose the candidates. The Director shall publish the invitation no later than three months before the end of the term of office of the Commission Member(s) or without undue delay after a premature termination of the Commission Member(s)' service
- 8.1.3 The proposal for a Commission membership candidate shall contain:
- a) the candidate's name and surname, date of birth, permanent residence address, contact address, e-mail and telephone number;
  - b) the candidate's detailed professional CV in the audiovisual area;



- c) the candidate's written consent with Commission membership, signed by the candidate, with a statutory declaration of meeting Commission membership conditions in accordance with the Act;
- d) the name, registered office and identification number (IČ) of the professional organisation proposing the candidate, and the name and surname, title and signature of the person acting on behalf of the professional organisation.
- 8.1.4 No later than within two weeks after the end of the proposal submission period, the Director shall deliver to the Minister the received proposals and the information about how many Commission Members are to be appointed and at what date, and which hitherto Members of the Commission whose membership has terminated or will terminate are to be replaced by them; at the same time, the Director shall indicate which proposals do not comply with law, i.e. proposals from persons other than professional organisations. When proposing candidates to the Chamber of Deputies, the Minister shall see to it that representatives of multiple film professions and multiple sectors of the audio/video business are evenly represented, as far as possible, in the Commission.
- 8.1.5 Commission Members shall take part in Commission meetings and actively contribute to the Commission's activities in compliance with the Act and this Statute. If there is any *force majeure* impediment preventing a Commission Member from taking part in a Commission meeting, such a Commission Member shall send a letter of excuse without undue delay after learning about such an impediment. Each Commission Member shall take part in Commission meetings in person and may not be represented by any other person. Each Commission Member shall inform the Director without undue delay of any circumstances suggesting that an impediment has arisen or will arise preventing him from exercising his position as Commission Member under Section 52(1) to (4) of the Act.
- 8.1.6 The Director shall convene a meeting of the Commission by a written invitation sent by e-mail, through a data box, or by a registered letter to the Commission Members' contact addresses at least three working days in advance. In convening a Commission meeting, the Director shall ensure that the Commission's opinion in respect of each application for project registration is available in time as a source of information for deciding on applications for project registration within the period set out in Section 45(3) or (5) of the Act. If the Commission is not quorate, or if it is obvious, taking into account the letters of excuse received, that it will not be quorate, the convener of the meeting shall cancel the meeting and the Director shall call a new meeting of the Commission without delay. The meetings of the Commission shall as a rule be held in the Fund's registered office.
- 8.1.7 The Commission shall elect its Chairperson and Vice-chairperson from among its Members at its first quorate meeting. The Chairperson's and Vice-chairperson's term of office shall continue until the end or termination of the term of office of the Commission Member who is Chairperson or Vice-chairperson, or until the Chairperson or Vice-chairperson is removed from office upon the Commission's resolution. The Commission shall then elect its Chairperson or Vice-chairperson at its nearest meeting following the end or termination of office of the current Chairperson or Vice-chairperson. Provisions of Clauses 3.2.2.2 and 3.2.2.3 shall apply *mutatis mutandis*.
- 8.1.8 The Fund shall provide Commission Members with documents and materials for the Commission's meeting, doing so in writing, by e-mail or through an electronic application enabling remote access.
- 8.1.9 The deliberations of the Commission shall not be open to public. Meeting participants shall put their signatures on the attendance list. Commission meetings shall be presided over by the Committee's Chairperson or by the Vice-chairperson in the Chairperson's absence, or by another Commission Member present at the meeting if both the Chairperson and Vice-chairperson are absent. The Chairperson of the Fund's Council, the Director, the Minister or a person authorised by them may attend a Commission meeting if they are interested, and must be allowed to speak at the meeting if they so request. A Council meeting shall be attended by the Commission's Secretary. The costs incurred in the organisation of the Commission shall be borne by the Fund. Any Member of the Commission shall notify the Commission without undue delay of his being excluded from the decision-making process concerning a specific application for project registration within the meaning of Section 51(3) of the Act and shall not take part in the deliberations on such an application.
- 8.1.10 The Commission shall make its decisions in the form of common opinions on applications for project registration, and shall decide, in this context, whether the project meets the content requirements under Section 42(1)(c) of the Act. The Commission's activities shall include evaluation of the cultural test in respect of each project, whereby the project receives a certain number of points for each criterion of the test. To meet the requirements of Section 42(1)(c)(1) of the Act, the project must receive at least 23 points out of the possible total of 46 points.
- 8.1.11 The Director of the Fund shall appoint the Commission Secretary from among the employees of the Fund. The Commission Secretary shall carry out the organisational and administrative tasks related to the activities of the Commission. The Commission Secretary shall take part in the meetings of the Commission and shall take minutes of the meetings. The minutes shall be signed by the Commission Secretary and the person that presided over the meeting under Clause 8.1.9 above. The Commission Secretary shall be

responsible for the administrative preparation of each meeting of the Commission, including the provision of the documents and material to the Commission Members under Clause 8.1.8 above.

- 8.1.12 In addition to evaluating the applications for project registration under Section 42(1)(c) of the Act, The Commission and its Members also act as an advisory body to the Fund's Director and the Fund's Office in evaluating project listing applications and film incentive applications, as far as there is no hindrance under Section 51(3) of the Act.

## **8.2 Funds Available for Incentives and a List of Projects**

- 8.2.1 The Director shall announce through the Website the amount of funds available for the provision of film incentives (hereinafter referred to as "incentives" and "available funds"). The Director shall thus announce at the beginning of each calendar year or at the end of the preceding calendar year the amount obtained by the Fund from the national budget as a special-purpose grant for the provision of incentives for the given calendar year under Section 24(1)(o) of the Act in compliance with the current-year National Budget Act of the Czech Republic (hereinafter referred to as the "annual announcement").
- 8.2.2 An amount corresponding to the incentive level expected according to the project listing certificate shall be deducted from the available funds with the issuance of each project listing certificate. The current amount of available funds after deduction of the amounts indicated in the issued project listing certificates shall be published through the Website. Any funds obtained by the Fund, regardless of whether as extraordinary available funds under Clause 8.2.3 below or as special-purpose grant from the national budget, shall only become available for the purposes of this Statute from the date when they are published through the Website together with a regular or extraordinary announcement; if additional available funds are not announced by an extraordinary announcement they shall be announced by the next annual announcement.
- 8.2.3 If at any time between two annual announcements the Fund obtains additional funds for incentive purposes, regardless of whether the special-purpose grant from the national budget is increased or an amount becomes available as a result of cancellation of a project listing certificate, or an applicant has missed the deadline for the submission of his application for a film incentive allocated to him by the project listing certificate, or for any other reason, the Director shall announce through the Website the volume of such additional funds (hereinafter referred to as the "extraordinary announcement"); however, the Director shall ensure that extraordinary announcements are not issued in respect of minor amounts of additional available funds, i.e., they are only issued when a more significant additional amount accrues, available to meet the expected number of applications for project registration that may be submitted under Section 46(2) of the Act (hereinafter referred to as "applications for additional funding") in connection with an extraordinary announcement.
- 8.2.4 The Fund shall maintain a list of projects for which it has issued a certificate of registration and shall publish it on the Website. The list of projects shall contain the following information:
- a) name of the project and its file number allocated by the Fund;
  - b) business name, company name, or the applicant's first name and surname, and the VAT number (DIČ);
  - c) date of delivery to the Fund of the application for project registration;
  - d) date of issuance of the certificate of project registration and its delivery to the applicant;
  - e) date of delivery to the Fund of the project listing application;
  - f) date of issuance of the project listing certificate and its delivery to the applicant, including the expected amount of the incentive, or date of issuance of a decision to reject the project listing application and its delivery to the applicant;
  - g) amendments to the project listing certificate, including changes, if any, in the expected incentive amount;
  - h) cancellation of the project listing certificate;
  - i) date of delivery to the fund of the application for film incentive;
  - j) date of issuance to the applicant of the decision on the application for film incentive;
  - k) final amount of the film incentive and the date of payment of the incentive to the recipient.
- A project for which the applicant has failed to submit in time a project listing application after delivery of the certificate of project registration as well as a project for which the applicant has failed to submit in time an application for film incentive after delivery of the certificate of project listing certificate shall be erased from the list of projects.
- 8.2.5 Regardless of any other provisions of this Statute, the volume of funds allocated on the basis of project listing certificates to applicants for project listing shall not exceed CZK 800,000,000 in the aggregate for all project listing certificates issued within a calendar year. If the Fund possesses any amount beyond this limit, such an excess amount shall not be regarded as available for the given calendar year and shall be transferred within the Fund's budget to be available for the provision of incentives in the following year.

## **8.3 Project Registration**

- 8.3.1 Alongside with the annual announcement, the Director shall invite through the Website those who are interested in film incentives to submit applications for project registration and shall determine the period during which the Fund will accept such applications (hereinafter referred to as the “registration period”), and at the same time, as a rule, the Director will announce the date of the planned Commission meeting at which all the applications for project registration, delivered in time, are to be considered. The Director may decide to only determine in the invitation referred to in the preceding sentence the date of commencement of the registration period and leave the determination of the end of the period for a later date, when he will issue another announcement through the Website, the date of the end of the registration period not being earlier than 5 days after such an announcement. When determining the registration periods, the Director shall in particular see to it that, as far as possible, applications for registration are not submitted when it is obvious that the subsequent project listing applications submitted within statutory period for their submission would be so submitted at a time when the Fund has no available funds. Applications for project registration delivered to the Fund outside the registration period defined by the Director shall be regarded (only for purposes related to the course of the period during which the decisions on such applications are to be made and for the purposes referred to in Clause 8.3.4 below) as delivered on the first day of the next registration period to be determined by the Director in accordance with this clause. In exceptional cases, the invitation for submission of applications for registration may be issued by the Director in a manner other than concurrently with the annual announcement, such other manner of issuance being between two annual announcements, if a significant amount of funds becomes available as referred to in Clause 8.2.3 above and if it is obvious that this amount will be sufficient to satisfy the expected applications for additional funding, as a rule associated with a subsequent extraordinary announcement.
- 8.3.2 An application for project registration shall be submitted to the Fund in writing, using a form to be available on the Website, and the following annexes shall be attached thereto:
- a) completed cultural test, including substantiation of the individual criteria and detailed source information for evaluation of each criterion (**Annex** to this Statute);
  - b) screenplay of the audiovisual work in printed form and, at the same time, synopsis or treatment of the audiovisual work (one to three pages in size); if the project is a series of a number of episodic segments within the meaning of Section 42(1)(b)(4) of the Act, it will suffice to submit the screenplay and synopsis of only one episode and the synopses of the remaining episodes;
  - c) statutory declaration in respect of the application for project registration, using a form to be available on the Website, with authenticated signature(s) of the person(s) authorized to act on the applicant’s behalf; if the statutory declaration is signed by a representative of the applicant, his signature must be authenticated and a written letter of attorney must be attached, which must contain the authenticated signature(s) of the person(s) authorized to act on behalf of the applicant as principal;
  - d) copy of the document proving that the administrative fee was paid, such a document being in a form corresponding to the form of payment;
  - e) a CD or DVD containing annexes under clauses (a) and (b) above in data form, pdf format.
- 8.3.3 If an applicant submits multiple applications for project registration at the same time, the applicant shall indicate the name of the project in the message for the recipient of the payment when making the payment of the administrative fee.
- 8.3.4 The Fund shall issue a certificate of project registration to the applicant and shall at the same time enter the project on the list of projects. The Fund shall ensure that all applications for project registration delivered to the Fund within one registration period are evaluated at each Commission meeting. The Fund shall also ensure that each applicant, for whom the Commission issued an opinion on his application at one Commission meeting, is sent on the same day the certificate of project registration or decision to reject the application for registration.
- 8.3.5 If the Fund decides to reject project registration under Section 4(1)(c) of the Act, the decision must contain substantiation of the Commission’s opinion in respect of why the project does not meet the content conditions for the provision of incentive under Section 42(1)(c) of the Act, including the evaluation of the results of the cultural test, in the event that the project fails to reach the minimum number of points according to Clause 8.1.10 above. If an applicant submits a new application for the registration of the same project, he must indicate and explain the differences from the initial project that are relevant for a new evaluation of the project by the Commission. If the Fund issues a certificate of project registration and the applicant then does not submit in time a project listing application (e.g., because the Fund does not have sufficient available funds) or the applicant’s project listing certificate is cancelled and as a result the applicant loses the opportunity to apply for an incentive, the applicant shall be entitled to submit repeatedly (with no limit as to the number of repetitions) its applications for registration of the same project for the purpose of launching repeated incentive proceedings.

8.3.6 A project of creating a series of episodic segments under Section 42(1)(b)(4) of the Act, whose previous, or otherwise defined, distinct episodes have been or are the subject of another application for project registration, shall be regarded as a different and separate project.

8.3.7 The costs incurred in a project during the time for which the registration procedure is suspended shall not be regarded as eligible for the purposes of the incentive calculation.

#### **8.4 Project Listing**

8.4.1 A project listing application may be submitted by an applicant to whom a certificate of project registration has been delivered, and shall be so submitted within the period specified in Section 46(4) of the Act; the period for the submission of applications for additional funding under Section 46(4)(b) of the Act shall be counted from the date on which the Director published through the Website an extraordinary announcement or regular announcement.

8.4.2 The project listing application shall be submitted to the Fund in writing, using the form to be available on the Website, and the following annexes shall be attached thereto:

- a) statutory declaration in respect of the project listing application, using a form to be available on the Website, with authenticated signature(s) of the person(s) authorised to act on the applicant's behalf; if the statutory declaration is signed by a representative of the applicant, his signature must be authenticated and a written letter of attorney must be attached, which must contain the authenticated signature(s) of the person(s) authorised to act on behalf of the applicant as principal;
- b) preliminary time schedule of project implementation and a list of all the already known members of the crew and the service providers in the Czech Republic;
- c) the latest version of the planned project cost budget and the latest version of the detailed eligible cost budget, making distinction between two categories of eligible costs under Section 43(4) of the Act, defining the costs to be covered by in-kind supply and specifying who is providing the in-kind supply; the budget tables attached to the project listing application may be in the English language, the planned cost budget may be in a foreign currency and its amount shall be converted to the Czech currency for the purposes of the incentive proceedings using the exchange rate published by the Czech National Bank as at the date of delivery of the project listing application; however, the eligible cost budget shall be in the Czech currency (CZK);
- d) co-production agreement, if the applicant is a co-producer of an audiovisual work realised under a project and if, at the same time, at least one more co-producer the audiovisual work has its registered office of place of business outside the Czech Republic;
- e) the latest version of the financial plan containing the expected sources of project financing and the amount of funds from each of the sources, including the specification of the co-producers having their registered address or place of business in the Czech Republic as well as abroad, their co-production contributions and (parts of) co-production contributions of in-kind nature, and including also a clear indication of the financing sources having the nature of public support;
- f) copies of the documents proving the availability of financing sources to cover at least 75% of the total project costs in compliance with the budget under clause c) above and with the financial plan under Clause e) above; the in-kind contribution provided by the applicant or any other party for the implementation of the project will be taken into account as proof of the availability of funds to an extent not exceeding 50% of the remaining documented financing sources. These documents shall be as follows:
  - co-production agreement, if the source of financing is a co-production contribution from another co-producer, including in-kind contribution;
  - distribution agreement or licence agreement or any other similar agreement, if the source of financing is a minimum distribution guarantee or sale guarantee, or the fee for granting authorisations to use the audiovisual work created under the project, or any other form of financing related to the future exploitation of the audiovisual work;
  - the applicant's account statement, if the applicant's own funds are the source of financing;
  - the applicant's statutory declaration concerning the commitment of his own funds in the form of in-kind contribution;
  - decision on the provision of any form of support from public sources for the implementation of the project, e.g., support from the Fund, from the EURIMAGES fund, from an outside (foreign) party providing support to the creation of audiovisual works etc.;
  - any other agreement by which a third party agrees to provide the applicant with funds to carry out the project, e.g. in the form of commercial partnership or a loan;
  - relevant documents proving commitment to provide financing sources in other cases;
- g) CD or DVD containing the annexes referred to under clauses b) to f) above in data form, pdf format.

8.4.3 The Fund may request the applicant in justified cases to provide more information on the financing sources documented in accordance with the first, second, sixth or seventh indent of Clause 8.4.2(f) by submitting an account statement of the third party that agrees to provide the applicant with funds for the

- implementation of the project in order to prove that this third party possesses sufficient funds; the account statement may be replaced by a bank confirmation or another such document. In the request referred to in the preceding sentence, the Fund shall specify the reasons behind the request; the relevant reasons shall include, without being limited to, the Fund's doubts about such a third party's solvency and credibility. If the applicant fails to meet the Fund's request referred in the first sentence within two weeks (if a Czech entity) or four weeks (if a foreign entity) from the delivery of the Fund's request, the project listing application shall be deemed incomplete and the Fund shall stay the proceedings.
- 8.4.4 An application for additional funding is not required to contain annexes under Clause 8.4.2(b) to (f) above, provided that the applicant attaches to it a statutory declaration that the data contained in those annexes have not changed from the preceding application for the listing of the same project.
- 8.4.5 The Fund shall make its decisions on the project listing applications (including applications for additional funding) on a one-by-one chronological basis, as they are delivered to the Fund; the expected incentive amount shall be committed for each project in the project listing certificates issued on an ongoing basis, depending on whether the necessary funds are available at that time; in doing this, the Fund shall respect the priority right referred to in Clause 8.4.7 below. All project listing applications related to the projects for which the Fund issued certificates of registration in connection with one Commission meeting shall be regarded (in order only to consider the sequence of their delivery when issuing the project listing certificates) as delivered to the Fund after expiry of one week from the date on which the Fund sent the certificate of project registration to the relevant applicants in accordance with the last sentence of Clause 8.3.4, provided that they were delivered at least on the last day of the period so defined. The Fund shall reject a project listing application in accordance with Section 47(5) of the Act in the event that it does not have available funds as at the date of submission of the project listing application, as well as in the event that, although it had such funds as at the date of submission of the project listing application, it does not have them at the time of making the decision on the project listing application, having allocated them to the applications on which it made its decision sooner. The Fund shall also reject a project listing application if it is suggested by the information following from the application that the project fails to meet the conditions for the provision of incentives under the Act and this Statute.
- 8.4.6 If a decision on an application for additional funding was made in accordance with Section 47(5)(6) or (7) of the Act, the applicant shall be re-authorised to submit an application for additional funding, using the procedure based on Section 46(2) and (3) of the Act.
- 8.4.7 Making its decisions on project listing applications (including applications for additional funding) submitted upon the annual announcement or extraordinary announcement, the Fund shall first decide on the applications for additional funding, doing so on a chronological basis according to the dates of their submission, and if they were submitted on the same date, the sequence of the decisions shall be based on the dates of submission of the previous project listing applications in respect of the same projects on which the Fund made its decision in accordance with Section 47(5), (6) or (7) of the Act, and if even those applications were submitted on the same date, the decisions shall be made as described in Section 47(7) of the Act. Afterwards the Fund shall decide on other project listing applications on a chronological basis according to the dates of their submission, which shall be without prejudice to the second sentence of Clause 8.4.5 above. All applications for additional funding, as well as other project listing applications delivered to the Fund on the date of extraordinary announcement and within one week afterwards, shall be regarded (in order only to consider the sequence of their delivery when issuing the project listing certificates) as delivered as at the last day of the one-week period referred to above. All applications for additional funding delivered to the Fund on the date of the Director's annual announcement and afterwards, but not later than by the date of termination of the period specified in the second sentence of Clause 8.4.5 above relating to the projects in respect of which the applications for registration were addressed at the first Commission meeting following the relevant annual announcement, shall be regarded as delivered as at the last day of the period specified in the second sentence of Clause 8.4.5 above. The priority right referred to in the first sentence of this Clause shall only apply to applications for additional funding delivered to the Fund within 14 days from the date of public presentation of the annual announcement or an extraordinary announcement, and the priority right referred to in the second sentence of this Clause shall only apply to project listing applications delivered to the Fund within 14 days from the date of public presentation of an extraordinary announcement or, if they were delivered in response to the annual announcement, the priority right shall apply to them if they were so delivered within 14 days after the date on which the Fund sent certificates of project registration to relevant applicants in accordance with the last sentence of Clause 8.3.4; otherwise the sequence of how the Fund decides on applications under the first, second and third sentences shall be the same as that in which the applications were delivered to the Fund and shall comply with Section 47(6) and (7) of the Act.

- 8.4.8 Only one project listing application may be submitted in respect of any project for which a certificate of registration has been issued. This shall be without prejudice to the procedure of submission of applications for additional funding under Section 46(2) of the Act.
- 8.4.9 The provisions of the second sentence of Clause 8.4.5 above and the third and fourth sentences of Clause 8.4.7 above, which are intended to ensure that applications are submitted (and decided on) effectively at the time when the Fund has at its disposal the funds for incentives, shall only be used for the determination of the sequence in which the Fund will address the applications and for the determination of the date of commencement of the period within which the Fund is to decide on each application in accordance with the Act, which shall be without prejudice to the actual date of delivery of the submission to the Fund in accordance with the Rules of Administrative Procedure.

## **8.5 Information Duty**

- 8.5.1 Changes made to a project, which shall be notified by the Applicant to the Fund under Section 47(11)(e) of the Act, are limited only to changes that lead to:
- a) reduction of eligible costs or increase in public support or other facts leading to a reduction of the incentive by more than 10% of the expected incentive amount indicated in the project listing certificate (or in related multiple listing certificates concerning the same project), or by more than CZK 1,000,000, whichever amount is smaller;
  - b) cancellation of the project;
  - c) change in the project implementation conditions leading to non-application of the conditions of the Act and/or this Statute, which determine how support is drawn by the applicant, e.g., decrease in eligible project costs under the statutory limit, or changes in the implementation schedule making it impossible to meet the deadline for submitting the application for film incentive etc.

## **8.6 Eligible Costs**

- 8.6.1 In-kind supply or contribution means the production capacity made available by the applicant from his own resources for the purposes of the production of an audiovisual work under a project or made available by another co-producer of the audiovisual work under the project, i.e., the services not paid for by the applicant; a delivery of goods and supply considered as non-eligible under Clause 8.6.7 below shall not be regarded as in-kind supply. In the project cost budget, the value of in-kind supply must be stated at its normal level, itemised by the facilities (capacities) being made available as in-kind supply.
- 8.6.2 For assessing the eligible cost limit under Section 42(1)(e) of the Act and evaluating how the obligation under Section 47(13) of the Act is met, eligible costs shall include the in-kind supply provided for the implementation of the project by the applicant or by co-producers with a registered office or place of business in the Czech Republic; no other in-kind supply shall be included. In-kind supply shall not be included in eligible costs for the calculation of incentives under Section 42(4) of the Act.
- 8.6.3 The minimum limit of eligible costs under Section 42(1)(e)(3) of the Act shall apply to an individual episode of a series, and if the project is a series of a number of episodic segments, the minimum limit of eligible costs for the project shall be the product (multiple) of the amount indicated in Section 42(1)(e)(3) of the Act and the number of episodes of the series within the project, without having to distinguish the costs of the individual episodes of the series under the project.
- 8.6.4 To be considered eligible within the meaning of Section 42(1) of the Act, the costs must be incurred by the applicant in project implementation in the period from the date of actual submission of the application for project registration (the fourth sentence of Clause 8.3.1 above not applying to this case) to the time of submission of the application for film incentive; in-kind supply may only be included in eligible costs in accordance with Clause 8.6.3 above if it was provided within the period defined in this manner.
- 8.6.5 The amount of eligible costs to be used for calculating the incentive under Section 42(4) of the Act shall not exceed 80% of the total costs of the project; in the reverse case the amount of eligible costs to be used for calculating the incentive under Section 42(4) of the Act shall be reduced to 80% of the total costs of the project by first reducing the eligible costs under Section 42(4)(b) of the Act, and if they are thus reduced to zero, the eligible costs under Section 42(4)(a) of the Act shall then be reduced. However, eligible costs shall not be reduced according to the preceding sentence when the limit of eligible costs under Section 42(1)(e) of the Act and compliance with the obligation under Section 47(13) of the Act are to be evaluated.
- 8.6.6 There are no limits on the costs to be incurred by the Applicant and other co-producers in project implementation also outside the Czech Republic; to be considered eligible, the costs must be incurred (while also meeting other conditions of this Statute) in accordance with Section 42(4) of the Act.
- 8.6.7 The following costs shall not be eligible:
- a) Depreciation/amortisation of tangible and intangible fixed assets;

- b) Purchase of tangible and intangible fixed assets;
- c) Costs of project development, to the extent of the funds available for project financing;
- d) Applicant's operating costs not relating exclusively to the project;
- e) Provisions for expenses beyond budget;
- f) Costs of distribution, sales and marketing;
- g) The crew's and actors' travel allowances when shooting outside the Czech Republic;
- h) Customs duty;
- i) Value added tax.

8.6.8 Eligible costs shall be documented by account settlement and the auditor's report attached to the application for film incentive.

## **8.7 Interim Auditor's Report**

8.7.1 The period, within which an applicant to whom a project listing certificate has been delivered is obliged under the first sentence of Section 47(13) to spend at least 70% of the minimum amount of eligible costs under Section 42(1)(e) of the Act, shall commence on the date of submission of the application for project registration and terminate on the date of expiry of 12 months from the date of delivery of the project listing certificate (the first in the sequence, if there are more than one such certificate).

8.7.2 To prove before the Fund that he meets this obligation, the applicant shall submit an auditor's report on the audit of the costs incurred in the creation of an audiovisual work under the project in the territory of the Czech Republic, and must do so within one month from the expiry of the period referred to in the preceding Clause. The report shall also include the amount of in-kind supply already drawn down and its specification; an authenticated copy of the insurance policy of the auditor who prepared the report shall also be attached to the report, as required by Section 47(14)(b) of the Act.

## **8.8 Application for Film Incentive and the Disbursement of Film Incentive**

8.8.1 An applicant to whom a project listing certificate was delivered and was not subsequently cancelled shall be entitled to submit an application for film incentive within the period indicated in Section 48(1) of the Act, which shall commence on the date of delivery of the first project listing certificate; any subsequent project listing applications submitted under Section 46(2) in respect of the same project, and any decisions thereon, shall be without effect on the period.

8.8.2 To submit an application for film incentive to the Fund, the applicant shall use the form to be available on the Website, and the following annexes shall be attached thereto:

- a) detailed account settlement of the eligible project costs with indication of the date of payment and specification of the recipient of each payment, including their name, company name, registered office, place of business or permanent residence address, tax domicile (if outside the Czech Republic), the identification number (IČ), if any, and the VAT number or tax registration number (DIČ), if any. The account settlement shall contain an identification of in-kind supply with indication of who (which entity) provided it for the implementation of the project;
- b) statutory declaration in respect of the application for film incentive, using a form to be available on the Website, with authenticated signature(s) of the person(s) authorised to act on the applicant's behalf; if the statutory declaration is signed by a representative of the applicant, his signature must be authenticated and a written letter of attorney must be attached, which must contain the authenticated signature(s) of the person(s) authorised to act on behalf of the applicant as principal;
- c) audit of the amount of the eligible costs of project implementation in accordance with the Act and this Statute by an auditor meeting the conditions specified in Section 47(14) of the Act. The auditor's opinion in the auditor's report must, in particular, clearly state that the financial statements give a true and fair view of the state of affairs in compliance with applicable legal regulations and accounting standards and of the amount of eligible costs under Section 42(4) of the Act (separately for each of the two types of eligible costs), the amount of in-kind supply within the eligible costs, and the amount of the incentive, calculated according to the amount of eligible costs in compliance with the Act and this Statute, which, however, shall not be higher than the amount of incentive stated in the project listing certificate;
- d) listing of the resultant project costs and project financing sources with quantification of all sources of public support; if it is not possible with respect to the phase of production as at the date of submission of the application for incentive to state the final amount of total project costs, sources of financing and/or sources of public support, the applicant shall indicate the costs already incurred in the implementation of the project and the sources used to cover these costs, including public support sources – in the calculation of the incentive, the amounts so presented shall be used instead of final figures for the assessment of the limits under this Statute (especially Clauses 8.6.5, 8.8.3 and 8.8.4).

- e) statutory declaration that the information provided in the cultural test with the submission of the application for project registration is still valid;
  - f) an authenticated copy of the insurance policy of the auditor who prepared the report referred to under Clause c) above, as required by Section 47(14)(b) of the Act.
- 8.8.3 The total volume of public support provided to a project (comprising, in addition to the incentive, also support for cinematography in the case of a project of the production of a Czech cinematographic work) and all and any public support sources provided for project implementation to the applicant and/or co-producers, shall not exceed 50% of the total project costs. The 50% limit referred to in the preceding sentence shall be increased to 60% without any further conditions in the cases where, on the basis of the Council's decision, support to the project was also provided in the grant area of production of a Czech cinematographic work and where a cinematographic work is at the same time being produced in co-production between the applicant for support and one or two other co-producers with registered offices in the member states of the Convention, and where the contribution, if any, of co-producers from other countries to the financing of the production of the work must be in compliance with the Convention. The 50% or 60% limit referred to in the preceding sentences may be increased up to 90% if a culturally sophisticated audiovisual work is being produced under a project (based on the criteria indicated in Clause 7.8.2 above). The Fund shall set the highest admissible rate of public support in its decision on film incentive as a precondition for the provision of support on the basis of the data indicated in the application for support; in doing so, the Fund shall ensure that the rate of public support is determined in the same manner by which it was already determined for the same project in the decision of the Council. A rate of public support amounting to 90% of the total project costs may be permitted only exceptionally.
- 8.8.4 If the total public support of a project, not including the incentive, exceeds – as will be indicated by the information provided to the Fund in accordance with Clause 8.8.2 d) above – the limit indicated in Clause 8.8.3 above, it will be impossible to disburse the incentive and the application for film incentive shall be rejected. If the situation described in the preceding sentence does not occur but the total public support of the project together with the incentive in the amount indicated in the application for film incentive exceeds, according to the provided information, the limit indicated in Clause 8.8.3 above, the Fund shall decide in its decision on the film incentive that the support be paid to the recipient in a reduced amount which, in combination with other public support sources provided for the implementation of the project, does not exceed the limit indicated in Clause 8.8.3.
- 8.8.5 For each project, an application for film incentive may be submitted only once; however, if the application was rejected or the proceedings were stayed, it can be submitted again, unless the statutory period for its application has elapsed. For the purposes of the preceding sentence, the identity of the project is considered to be the identity of the audiovisual work being created under the project.
- 8.8.6 The entitlement to apply for film incentive is not transferable and may only be exercised by the same person/entity to whom a project listing certificate as well as a certificate of project registration have been delivered. The provisions of the preceding sentence shall be without prejudice to the universal legal succession, including, but not limited to, transformations of legal persons or sale of a company or a part thereof.
- 8.8.7 The Fund reserves the right to request the applicant on the basis of the delivered application for film incentive to provide additional documents, explanations or other similar assistance for the purpose of checking the eligibility of the costs and their direct connection with the project in compliance with the Act and with this Statute. Should the applicant fail to meet the request within 15 days after its delivery from the Fund, the Fund shall reject the applicant's application for film incentive.
- 8.8.8 The applicant shall ensure that the Fund as provider of the film incentive is thanked in the film credits of the audiovisual work created under a project supported by the incentive, and that the credits will present the Fund's logo and the following text: "The production of this film was supported by the Czech Republic through the State Cinematography Fund under the Film Incentives Programme" or an equivalent text in the language of the credits of the audiovisual work.

## **8.9 Transitional Provisions Related to the Film Industry Support Programme**

- 8.9.1 In accordance with Section 62 of the Act, the Fund shall take over the projects specified below, which initially applied for a subsidy from the Ministry under the Film Industry Support Programme launched by the Resolution of the Czech Government No. 1304/2009 of 19 October 2009 (hereinafter referred to as the "Programme").
- 8.9.2 This Clause 8.9 applies to the projects (hereinafter referred to as "continued projects") for which the applicants received under the Programme a certificate of project registration and at the same time at least one project listing certificate from the Ministry before 31 December 2012, and for which they already drew part of the grant under the Programme before 31 December 2012, the condition being



that the applicants submitted to the Fund a project listing application related to the same project by 18 January 2013. With respect to continued projects, the applicants and the Fund shall continue to proceed according to the Programme, unless otherwise provided in this Clause 8.9; instead of grants from the Ministry, continued projects will draw on incentives from the Fund. Applicants may submit only one project listing application under Clause 8.9.4 in relation to continued projects.

- 8.9.3 The applicant behind each continued project shall prove before the Fund that the continued project reached the minimum limit of eligible costs under Article 5 Paragraph 5.2 of the Programme by 31 December 2013; the applicant shall do so by 31 January 2014, using the procedure described in Section 47(13) of the Act in compliance with Clause 8.7 of this Statute. If the applicant fails to meet this obligation or the continued project fails to reach within the defined period the minimum limit of eligible costs under Article 5 Paragraph 5.2 of the Programme, the applicant shall lose his entitlement to the subsidy and the incentives, and the parts of the subsidy that have already been paid to him shall be returned to the Ministry by 31 January 2014. The obligation referred to in the first sentence shall not apply to projects where the attainment of the minimum limit of eligible costs can be found from the application for film incentive submitted to the Fund in accordance with Clause 8.9.5 below no later than by 31 January 2014 or from the previous applications for subsidy payment submitted to the Ministry according to the Programme. The obligation referred to in the first sentence shall also not apply to projects with which the applicants have no further possibility to submit a project listing application under Clause 8.9.4.
- 8.9.4 With each continued project, an applicant shall now be entitled to submit only one project listing application (unless otherwise stipulated below) in response to the 2014 annual announcement, unless three years have elapsed from the first project listing certificate issued to the applicant in respect of the relevant project under the Programme, the priorities in deciding on such applications being as determined in the first sentence of Clause 8.4.7 above (i.e., such decisions are made together with those concerning the applications for additional funding submitted in respect of the projects whose project listing applications were decided on by the Fund in 2013, using the procedure under Section 47(5), (6) or (7) of the Act), provided that such applications were delivered to the Fund within 14 days from the date of publishing the 2014 annual announcement; the Fund shall make its decisions on the project listing applications under this sentence on a chronological basis according to the dates of delivery, the applications delivered to the Fund within one week from the date of the 2014 annual announcement being, for this purpose, regarded as delivered as at the last day of the one-week period. If three years from the first project listing certificate issued to the applicant for the relevant project under the Programme have elapsed after submission of the application under the preceding sentence, but before one month has elapsed from the date on which the Fund issued a project listing certificate upon such an application, then the period for submission of an application for incentive under the first sentence of Clause 8.9.5 below shall be extended to terminate at the end of a one-month period from the issuance of the project listing certificate. In content terms, any project listing application submitted in accordance with the preceding sentence must comply with Clause 8.4.2 above and must show the costs not indicated in the previous project listing certificates for the same project. If a project listing application under this Clause is rejected for lack of available funds, or if a project listing certificate is issued for a smaller amount of expected incentive, compared to that indicated in the application, the applicant shall remain entitled to submit one more project listing application in response to the 2015 annual announcement until he submits an application for film incentive under Clause 8.9.5, the procedure being, *mutatis mutandis*, as specified in the first, second and third sentences of this Clause.
- 8.9.5 For each continued project, an applicant may submit a one-time application for film incentive no later than within three years from the date on which the Project received its first project listing certificate under the Programme in relation to the eligible costs, the amount so applied for being as indicated in the project listing certificate issued by the Fund in response to a project listing application submitted to the Fund in January 2013 and in the project listing certificate issued by the Fund in response to a project listing application under Clause 8.9.4, if submitted. However, for continued projects where the first project listing certificate under the Programme was issued sooner than on 1 January 2011, an applicant may submit a one-time application for film incentive no later than by 31 December 2013, and may do so in relation to eligible costs in the amount indicated in the project listing certificate issued by the Fund in response to a project listing application submitted in January 2013. In terms of content, the applications for film incentive submitted in accordance with this Clause must comply with Clause 8.8.2 of this Statute, including the required annexes. An applicant who fails to submit an application for film incentive within the period specified in the first or second sentence above shall lose his right to apply for a film incentive, this being without prejudice to his entitlement to any subsidy already paid by the Ministry under the Programme before or on 31 December 2012, unless a

situation described in Clause 8.9.6 below occurs. Provisions of Clauses 8.8.3 to 8.8.7 above shall apply, *mutatis mutandis*, to decision-making on film incentives on the basis of this Clause 8.9.5.

- 8.9.6 If it follows from an application for film incentive submitted under Clause 8.9.5 above (if submitted on time), and from previous applications for subsidy payments under the Programme, that a continued project fails to reach, in the aggregate, the minimum limit of eligible costs under Article 5 Paragraph 5.2 of the Programme, the applicant shall not be entitled to use the incentive and will have to return to the Ministry the parts of the subsidy already paid to him.

#### **IX. Co-production Status**

- 9.1 An application for the granting of the co-production status shall be submitted within the period set out in the Act, using the form published on the Website, and shall indicate whether it is an application for the granting of the co-production status on the basis of the Convention or on the basis of any other relevant international agreement on film co-production binding on the Czech Republic. Annexes required by the Act shall be attached to the application.

#### **X. Other Activities of the Fund**

- 10.1 Within its activities under Clause 2.6 of this Statute, the Fund shall, in particular:
- a) grant licences to use audiovisual works either directly or through a collective administrator or any other third party, and collect licence fees;
  - b) keep records of authors and their works, in respect of which it exercises copyright owner's rights, as well as records of licence agreements;
  - c) register authorial works in the records under Clause b) above in respect of collective administrators for the purposes of collecting the fees from mandatory collective administration, and collect these fees.
- 10.2 Within its activities under Clause 2.7 of this Statute, the Fund shall, in particular:
- a) grant authorisations to use authorial works, audio/video recordings and other items subject to intellectual property rights, and collect fees for the authorisations so granted;
  - b) fulfil its obligations in relation to the holders of copyright and rights related to copyright, transferred to the Fund under Section 14 of the Audio/Video Act, including, but not limited to, payment of fees for the use of the items subject copyright and rights related to copyright to the extent of the authorisations provided by the Fund or its predecessor in title; keep records of audiovisual works in respect of which the Fund exercises the copyright rights of the producer, and records of the authors of such works and authors of the works used audiovisually in such works, as well as audiovisually used artistic performances and other items subject to intellectual property rights;
  - c) take care of the archive of audiovisual works in relation to which the Fund exercises producer's copyright (unless such care is the responsibility of the National Film Archive), including digitisation and restoration.

#### **XI. Transitional Provisions**

- 11.1 A Director appointed by the Minister outside a competitive selection procedure, to whom the second sentence of Clause 3.1.1 of this Statute shall not apply, shall serve as the Director of the Fund until the appointment of the Director to be selected in the first competitive selection procedure after the entry into effect of this Statute.
- 11.2 The Chairperson and Vice-chairperson of the Council, whose composition is determined by the provisions of Section 59(1) of the Act, shall exercise their office for the term of the Council in accordance with the provisions of the first sentence of Section 59(1) of the Act, unless a new election of the Chairperson and/or Vice-chairperson is to be held on the proposal of the majority of Council Members; in such a case the procedure shall be as described in Clause 3.2.2 of the Statute.
- 11.3 The Council shall prepare its first short- and long-term conception by 31 December 2013. If the short- and/or long-term conception have already been published before the adoption of this Statute, the Council shall ensure by 31 December 2013 that they comply with this Statute.
- 11.4 Before the Application is launched, applications for support for cinematography shall only be submitted to the Fund in writing, using the form available on the Website, although some of the annexes to the submitted applications shall also be provided electronically on the data carrier attached to the form, if so provided in the relevant call.
- 11.5 In order that the Experts and Committee Members who were appointed before the adoption of this Statute can be considered as duly appointed, the procedure of their appointment must have complied with the Act, although it is not required that the procedure must have complied with this Statute.

- 11.6 As to projects where an application for support was submitted by the applicant after adoption of this Statute, but not later than by 31 December 2013, the date of commencement of the period of eligibility of the costs within the meaning of the first sentence of Clause 7.9.2 above shall be the 1<sup>st</sup> of January 2013 instead of the date of submission of the application for support.
- 11.7 As to projects registered in accordance with Clause VIII for the first time under this Statute during the first registration period referred to in Clause 8.3.1 above, the eligible costs shall be those expended from 1 January 2013, irrespective of the date of submission of the application for project registration, provided that the remaining cost eligibility conditions are met. In the case of projects referred to in the preceding sentence, the period indicated in Clause 8.7.1 of this Statute shall also start running from 1 January 2013.

## **XII. Common and Final Provisions**

- 12.1 The Fund shall publish this Statute on the Website.
- 12.2 All forms for the submission of applications, statutory declarations, account settlements and other submissions under this Statute shall be published by the Fund at its Website (or through the Application, where the Application is involved in the submission process), and shall be kept up to date. Changes in the forms may be permitted by the Director, except the forms concerning the provision of support to cinematography, where changes may be permitted by the Council. Any such changes shall become effective when published on the Website.
- 12.3 Annexes to applications referred to in Clauses VII. and VIII of this Statute prepared in a language other than Czech shall be accompanied by a translation into Czech. Such translations are not required to be certified. A translation is not required for documents under Clause 8.4.2 c), which may be submitted in English.
- 12.4 Any amendment to this Statute shall be approved by the government of the Czech Republic.
- 12.5 This Statute shall repeal the Statute of the State Cinematography Fund, approved by the government of the Czech Republic on 27 February 2013.