

# Funding for films and audio-visual works in Central and Eastern Europe

Bulgaria, Czech Republic, Hungary, Poland, Romania,  
Slovakia, Ukraine and Croatia.

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# Introduction

The Central and Eastern European region has truly become a hub for film production in recent years and we expect this trend to continue.

Low production costs, state of the art infrastructure and a skilled workforce have all contributed towards this and, in addition, governments are highly supportive and aim to encourage investors willing to make their movies in CEE. We have seen some well-known films produced in CEE, including Blade Runner 2049, Red Sparrow, Inferno and Atomic Blonde to name just a few.

CMS is a full service law firm with sizeable offices in all of the countries covered by this guide. We have advised many investors over the past few years and so we decided to create this quick guide to provide some basic information on the funds available in CEE.

We cover seven CEE jurisdictions: Bulgaria, Czech Republic, Hungary, Poland, Romania, Slovakia and the Ukraine and provide answers to key questions such as:

- What kind of incentives are available: cash rebates, subsidies, tax credit or others?
- What are the main rules for receiving support?
- What is the procedure?

We hope you find the guide useful. Contact details of our experts are available at the end of this publication. Please do not hesitate to contact us with any questions you may have.



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# Bulgaria

Bulgarian Film Industry Act amended to implement new state aid schemes for production costs recovery and TV series production funding.

## State funding for audiovisual works

State funding for audio-visual works in Bulgaria is provided through state aid schemes for: (i) film and TV series production; (ii) production costs compensation for film and TV series; (iii) film distribution; and (v) the promotion and theatrical distribution of films. The National Film Centre Executive Agency ("NFC") to the Minister of Culture administers the state aid. An amendment of the Film Industry Act ("FIA") of 2 March 2021 introduces a production cost compensation scheme that will be available for films and TV series, and a TV series production state aid scheme. The introduction of the new schemes for state funding is a long-awaited change. They are expected to lead to higher financial inflows from foreign productions and co-productions, and have a positive impact on the competitive environment and film industry growth. The new schemes will allow Bulgaria to catch-up with other competing countries and take advantage of the national specifics such as: landscape; locations; high-class production and post-production services; highly experienced crews; and competitive local prices.

The amount of the state aid available is set forth in the State Budget Act for each respective Budget year:

## Direct state subsidy for film and TV series

### – Film production

State subsidies are available for: (i) Bulgarian feature, documentary, animation and debut films; (ii) co-productions with countries that are party to the Convention on Cinematographic Co-production ("CCC") and other countries with which Bulgaria has concluded bilateral co-production treaties; (ii) films under co-production terms with Bulgarian National Television or other national TV operators; (iii) script writing; and (iv) other film production activities.

### – Film co-production

State subsidies are provided following an administrative procedure for the ranking and selection of the best film projects. Up to 20% of the funding dedicated for film production can be allocated to co-productions. It is the Bulgarian producer who applies for financing from the NFC. Foreign co-producers must satisfy a number of conditions to receive funding, and if they are successful, the maximum funding for cross-border productions is 60% of the eligible costs relating to the Bulgarian aspects of the project. At least 75% of the funding must be spent in Bulgaria. NFC could require a higher

percentage of up to 160% of the the funding. The local spending requirement cannot exceed 80% of the total film budget.

### – TV series production

State subsidies are available for: (i) Bulgarian TV series and animated series produced by independent producers; and (ii) cross-border TV series and animated series, produced by independent producers or co-produced with countries which are party to the CCC and other countries with which Bulgaria has concluded bilateral co-production treaties. Cross-border productions can receive subsidies equating to up to 50% of eligible costs, provided that they satisfy certain criteria (e.g. for TV series criteria relating to episode duration and number), at least 75% of which must be spent in Bulgaria.

### – Cultural value assessment for film and TV series productions for the direct subsidy

Cultural value is assessed by the National Arts Commission to the NFC and is based on a number of criteria, including: the artistic value of the script; audience potential; and the economic feasibility of the proposed budget, finance and production plan.

The state subsidy is granted following a competitive process initiated by an order of the executive director of the NFC.

### – Cost recovery for film and TV series production

State aid is available for film and TV series productions provided that they satisfy certain criteria (e.g. relating to film or TV series episode duration and number). Producers can recover costs of up to 25% of all eligible production costs for goods and services supplied in Bulgaria, provided that the eligible production costs do not exceed 80% of the total production budget.

Producers that have acquired IP rights in the script, as well as film production service providers that have agreements with those producers, may apply to recover their costs. In the five years leading up to the application, the producer or film production service provider must show that their project(s): have been subject to theatrical distribution; have been broadcast or made available in the catalogue of an on-demand service; or have been shown in at least one international festival.

### – Cultural value assessment for Film and TV Series production for cost recovery

As with the direct subsidy, projects are also subjected to a cultural value assessment to qualify for cost recovery. Productions may not be eligible for cost recovery where, for example: the production damages the reputation of

Bulgaria; the production contains elements of a pornographic nature; or where the production falls into a certain category (e.g. daily dramas, situation comedies and sport programmes).

### Direct state subsidy for film distribution and exhibition:

#### – Film distribution

Distribution means: commercial theatrical distribution; TV distribution; home video distribution; online platform distribution; selling; renting and lending.

The subsidy is available to: (i) Bulgarian films; (ii) films created in co-production with countries that are parties to the CCC and other countries with which Bulgaria has concluded bilateral co-production treaties; and (iii) European films. The European films are defined based on (i) number of European elements as per Appendix 2 to the FIA (for example nationality of the copyright holders and the production crew, language, locations, production services, etc.); or (ii) if the film is produced mainly by one or more producers from countries which are party to the CCC. Bulgarian films and co-productions can receive a maximum amount of 50% of eligible costs, while European films may receive up to 25% of eligible costs.

The state subsidy is provided following a competitive process, initiated by an order of the executive director of the NFC, which is assisted in their assessment by the National Commission for Films Distribution.

#### – Cultural value assessment

The cultural value assessment is based on: (i) the film's aesthetic and emotional impact, including how it engages the audience, quality of the plot, performance, directing, shooting and screen set; (ii) the film's distribution and marketing plan; (iii) the professional experience of the producer, director and distributor; and (iv) how it presents national and European values.

#### – Theatrical distribution financing

Theatrical distribution financing is available for: (i) Bulgarian films; (ii) films created in co-production with countries which are parties to the CCC and other countries with which Bulgaria has concluded bilateral co-production treaties; and (ii) European films.

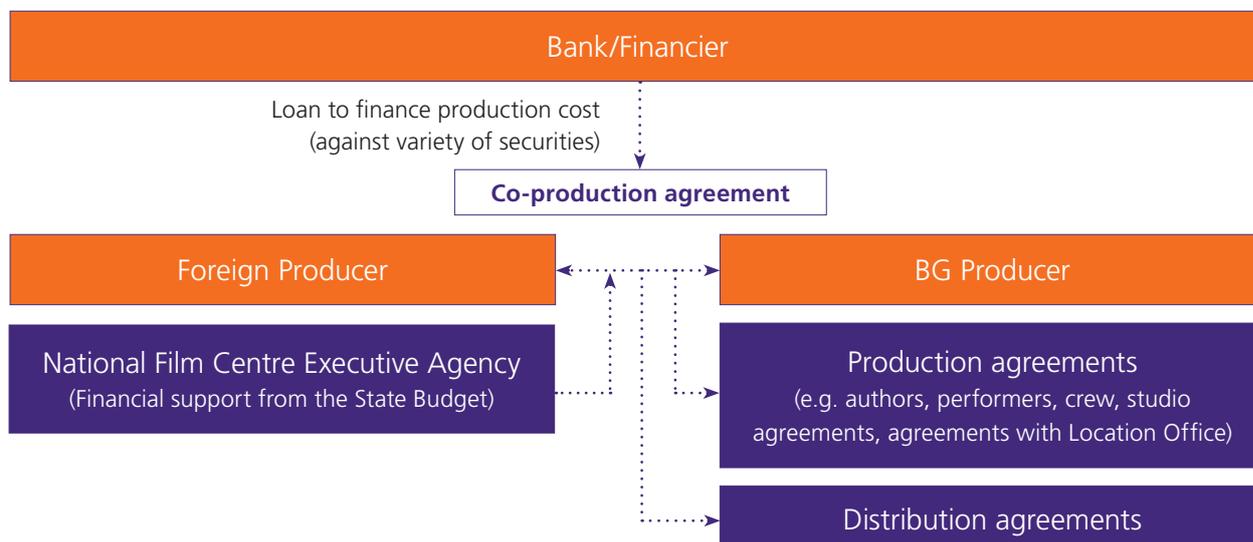
Cinemas holding at least 150 indoor commercial showings or 30 outdoor commercial showings for the previous 6 months may apply for the subsidy. Each application may include up to 10 films. The amount of the subsidy depends on: the average income per showing of the cinema for the last 6 months; the number of showings per film for the period; and the income of the tickets sold for the period.

A detailed procedure on the State subsidies and cost recovery is included in Implementation Regulation. An amendment of the Implementation Regulation was published on 28 May 2021 by the Council of Ministers for a one-month consultation period. The amendments of the state aid schemes shall apply after the adoption of the amendments of the Implementation Regulation by the Council of Ministers.

- The audio-visual production sector provides: highly experienced and professional crews; and studios and equipment of the highest standards. Many foreign film productions, series, music videos and commercials have been shot in Bulgaria over the last 12 years.
- State subsidy is granted directly to the beneficiary, so it may not be assigned. The receivable can be pledged.
- Only persons registered in the public register of the agency can apply for state subsidy.
- Bulgarian law does not forbid double dipping.
- Anticipated incentive amount is auditable.



## The procedure



# Czech Republic

The Czech Republic has historically embraced cinematography. It has many well educated and experienced workers ensuring excellent craftsmanship and production of high quality films. Available funds could reach an all-time high this year (that is, in 2023).

## Cash rebates

To benefit from a cash rebate: (i) the film has to meet certain cultural requirements; (ii) the applicant has to be either a Czech, European or EEA tax resident with a place of business in the area of the Czech Republic; and (iii) the applicant must be the producer or co-producer of the film, or they must produce the film or a part of it for the producer or coproducer of the film.

An applicant wishing to benefit from the cash rebate system must apply for registration of their film via an application system with the Czech Film Fund, which confirms whether the film is eligible for a cash rebate. Post production, detailed records regarding production costs are audited by the Czech Film Fund. Based on the audit, the Czech Film Fund decides whether to grant the cash rebate.

The maximum amount of cash rebate that a film can receive varies from 20% to 80% of the total production costs and cannot exceed CZK 150m (circa EUR 6m). The Czech Film Fund transfers the cash rebate to the bank account of the applicant within 30 days of its decision.

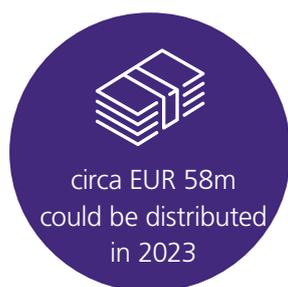
## Direct state subsidy

The Czech Film Fund provides financial support to productions meeting specific cultural criteria. The applicants can be both Czech and foreign entities.

The Czech Film Fund calls for invitations for applications for state subsidies based on the conception strategy of its Council. The invitation includes a time period for the submission of applications (no shorter than 1 month) and a range of themes that can be applied for.

The state subsidy cannot exceed 50-60% of the total budget of the project; however, it can be increased to up to 90% for culturally demanding projects, or if the projects involve the development, production, distribution or promotion of culturally demanding audio-visual works. The decision of whether the state subsidy will be granted for a project is based on an analysis conducted by chosen experts who evaluate the applications.

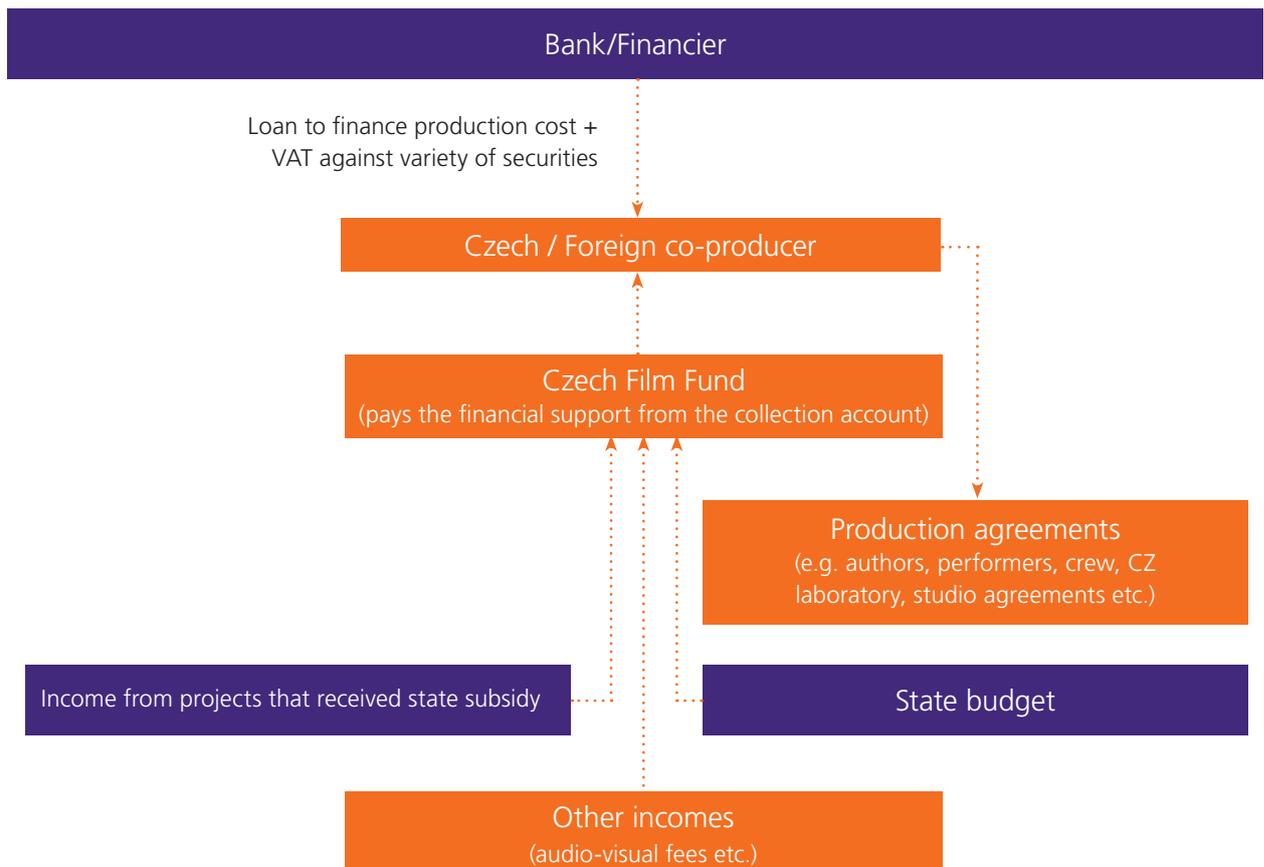
The applicant is obliged to present a final account of costs regarding the provided state subsidies.



- The funding system of cinematography is easy to understand. The main advantages of the Czech Republic are: (i) its recognised historical track record with respect to the quality of its cinematography; (ii) existence of the Czech Film Fund organizing all aspects of the support of cinematography; (iii) highly qualified staff; and (iv) studios and equipment of the highest standard, including Barrandov ateliers.
- Any cash rebate is always paid to the applicant. State aid is considered to be a subsidy and therefore cannot be assigned or pledged. Nevertheless, as state aid is paid into a bank account designated by the applicant, the bank account receivables can be subject to right of lien.
- The applicant for a cash rebate must have its place of business in the territory of the Czech Republic and must be a tax resident in the Czech Republic, EU or EEA.
- Czech law does not prohibit double dipping.
- Anticipated incentive amount is auditable; however, such audit is unofficial and is not binding for the Czech Film Fund. Actual entitlement will be based on actual spending audited after the production.



## The procedure



# Hungary

Hungary operates a successful film financing system which has managed to attract several major film projects to Hungary and serves as a model for other CEE countries. In order to further enhance this system, cash rebates have recently been increased to 30% (from 25%) of production costs spent in Hungary.

## Tax credits

Hungarian corporate taxpayers may benefit from a tax credit if they: (i) offer direct support for; or (ii) redirect part of their corporate tax payments to support movies. The amounts offered this way represent the funds that producers can benefit from in the form of cash rebates.

Hungarian corporate taxpayers may transfer their support to the collection account of the Hungarian National Film Institute (Option 1), provide direct support to the Hungarian Film Producer (Option 2), or redirect up to 80% of their corporate income tax liability to the collection account of the Hungarian National Film Institute or to the Hungarian Producer with respect to a specific film (Option 3). In exchange, based on the approved production costs spent for the film, they can receive a tax certificate entitling them to a tax credit. Direct support or support through the collection fund can result in a net saving of 2.25% while redirecting corporate income tax may result in up to 7.5% net saving for the taxpayer.

## Direct state subsidy

The Hungarian National Film Institute provides financial and professional support to productions meeting specific cultural criteria. Foreign projects are only eligible to apply through Hungarian production companies registered with the National Film Office.

Applications can be submitted continuously and are open for the support of: (a) script and film project development; (b) pre-production; (c) film production; and (d) distribution and marketing and promotion thereof; (e) film print restoration and archiving, (f) cinematographic research, (g) training in cinematographic works, (h) organising events and participation in events and film festivals, (i) producing and publishing publications on cinematographic works, (j) infrastructure development.

The applicants must have proper references. A support agreement for pre-production and film production can only be concluded if a project company is established in Hungary solely for the purpose of the production of the supported film. In the case of international co-productions, the applicant can be exempted from the establishment of the project company, if the Hungarian contribution to the budget is less than 50% and the support for film production is less than EUR 200,000. A board of film professionals evaluates the applications and decides if support will be granted.

## Cash rebate

Films that meet certain cultural requirements and either qualify as a European co-production with Hungarian participation or meet further cultural requirements regarding content are eligible for a cash rebate.

Film producers wishing to benefit from the cash rebate system should register their film with the Hungarian National Film Office, which confirms whether the particular film is eligible for a cash rebate. Post production and detailed records regarding the production costs are audited by the Hungarian National Film Office. Based on this audit, the Hungarian National Film Office issues a certificate on the maximum amount of cash rebate that the film may receive. Currently, the maximum amount of cash rebate that a film can receive is 30% of 125% of the Hungarian production costs (but no more than 30% of the entire production costs). The cash rebate may be channelled directly from a corporate taxpayer, through a centralised account or via the tax authority.



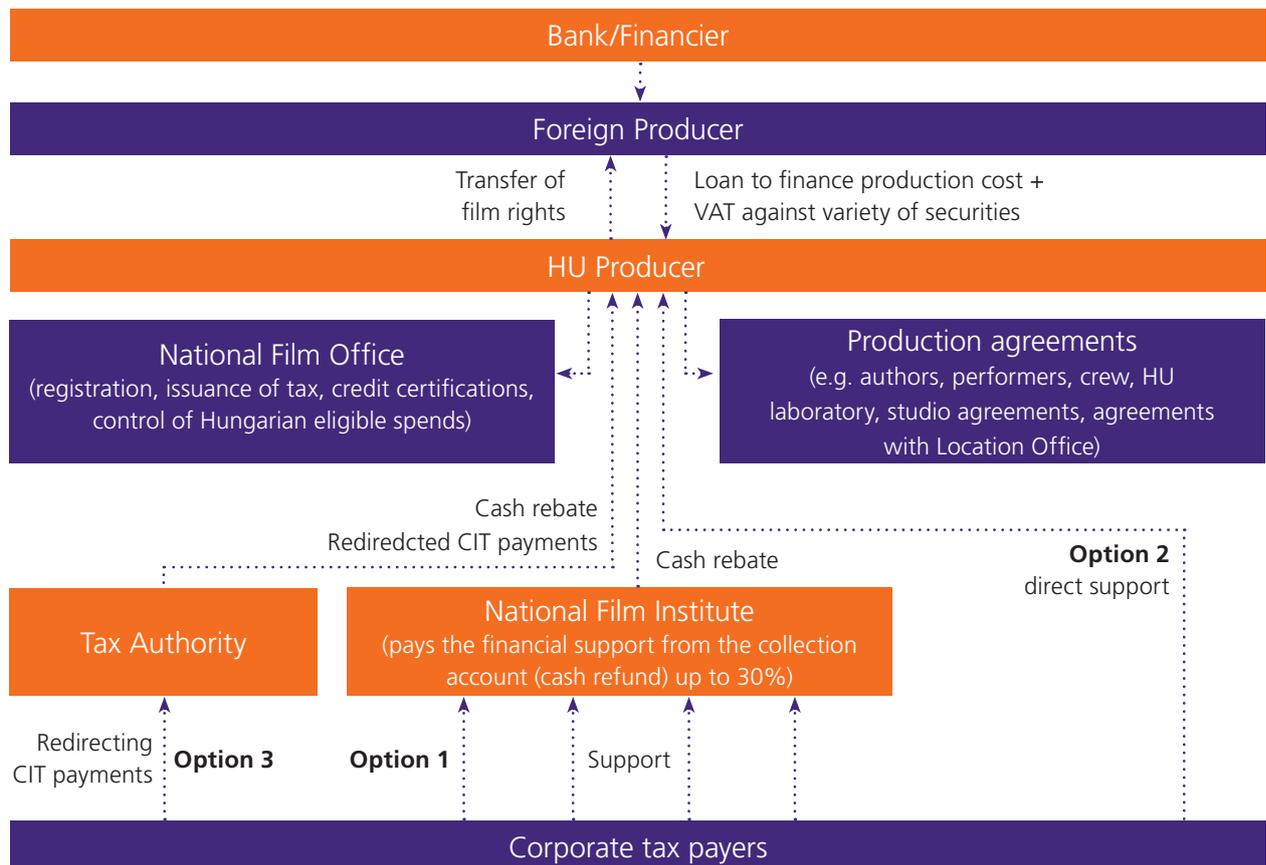
## Other

Some banks provide loans for film financing but financing through tax credits still dominates the market. Given the attractive tax regime, certain investment banks decided to provide professional intermediary services between producers and corporate tax payers.

- Hungary has a well-established system, which has operated successfully over the last few years, strengthened by: (i) the establishment of the Location Office, a central body to centralize and coordinate permits to shoot in public locations all over Hungary (fees have also been unified); (ii) highly educated and experienced film crews; and (iii) studios and equipment of the highest standard.
- Hungarian law does not forbid double dipping.
- Anticipated incentive amount is auditable, but the actual entitlement will be based on actual audited spending.
- The Film Office does not accept assignments of the cash rebate (direct debit authorisations or account pledge may be an alternative).
- Film production can be structured in two ways: productions made by (i) a foreign filmmaker using a Hungarian production service company; or (ii) a Hungarian film production company alone or in co-production.



## The procedure



# Poland

The cash rebate introduced into Polish law in 2019 has strengthened the cinematographic industry and is available for international producers too.

## Cash rebates

On 11 February 2019, the act concerning the financing of audio-visual production in Poland (the "Act") came into force. The Act introduced a 30% cash rebate on qualifying film production expenses (e.g. general costs of preparations for production, costs of set designs and costumes, obtaining technical equipment for audio-visual production, travel and accommodation costs, post-production costs) to be administered by the Polish Film Institute ('PFI').

The amount of financial support that may be granted per audiovisual work may not exceed PLN 15,000,000 (approximately £1,778,000). The total amount of financial support granted to one entrepreneur in a calendar year may not exceed PLN 20,000,000 (approximately £3,703,000).

The following categories of producers are entitled to request the above cash rebate: (i) producers having a registered establishment in Poland; (ii) foreign producers who have entered into co-production agreements with Polish producers; and (iii) foreign producers having a branch in Poland where the work for which the rebate is being provided is produced by that branch (in this case no co-production agreement is needed). To qualify for the cash rebate, the producer will need to comply with certain cumulative conditions, regardless of whether the eligible project has a national or international nature (please see below).

Film producers wishing to benefit from the cash rebate system shall apply for the certificate confirming that the 'qualification test criteria' are met. In particular, whether the film incorporates Polish or European cultural heritage, the action is set in the territory of Poland, the project hires Polish employees and whether the project uses Polish film infrastructure. Submissions for cash rebates will be evaluated within 28 days of application to the PFI, which makes Poland a competitive player in the international market.

The PFI pays a cash rebate to a fiduciary bank account run by the Polish State Bank (*Bank Gospodarstwa Krajowego*). The cash rebate will be paid following the conclusion of the contract for financial support between the applicant and the PFI.

## Direct state subsidy

The PFI provides refundable subsidies, working to operational programmes and the objectives set out within them. In practice, Polish, EU and EEA producers are eligible to apply for the financial support offered by the PFI. However, it is strongly recommended that EU/EEA producers have a Polish co-producer on board or a branch in Poland as it simplifies the application process.

As a rule, a subsidy granted by the PFI for features, documentaries and animated films may not exceed 50% of the budget. The exception to this is a so-called "difficult film project", which may receive a subsidy of up to as much as 70% of the production costs. The grant must be reimbursed if a film generates a profit within the first six years following its premiere.

The PFI supports the production of film projects involving foreign producers. The production must meet numerous conditions including promoting Polish or European cultural diversity. By way of example, for international co-productions, the minimum contribution from the Polish side must constitute at least 10% (in the case of bilateral co-productions) or at least 5% (in the case of multilateral co-productions). The PFI funding for a project of this nature, which is a minority co-production, carries with it the absolute requirement of expending up to 80% of the funding in Poland, as it is in the case of a domestic production. A minimum artistic contribution is also provided for.

In the case of a minority co-production, it is essential that:

1. a feature film engages at least one Polish artist from the following fields: production designer, cinematographer, editor or composer.
2. a documentary film makes use of at least one of the following elements: material from Polish film archives, a Polish central character or a Polish cinematographer, Polish composer or Polish editor.
3. an animated film engages at least one Polish artist from the following fields: director of animation, storyboard writer or a visual designer or composer. A significant part of the animation must also be produced in Poland.



circa EUR 44m  
distributed in 2017



circa EUR 34m  
available for 2018

## Other

Funding and production support is also available from regional film funds ('RFFs'). Currently, there are twelve such operating funds e.g. in Lower Silesia, Łódź, Małopolska, Masovia and Poznań. The RFFs differ in terms of the budgets they manage, the form of support they provide and the sums which must be expended in the city, town or region during the production of the film.

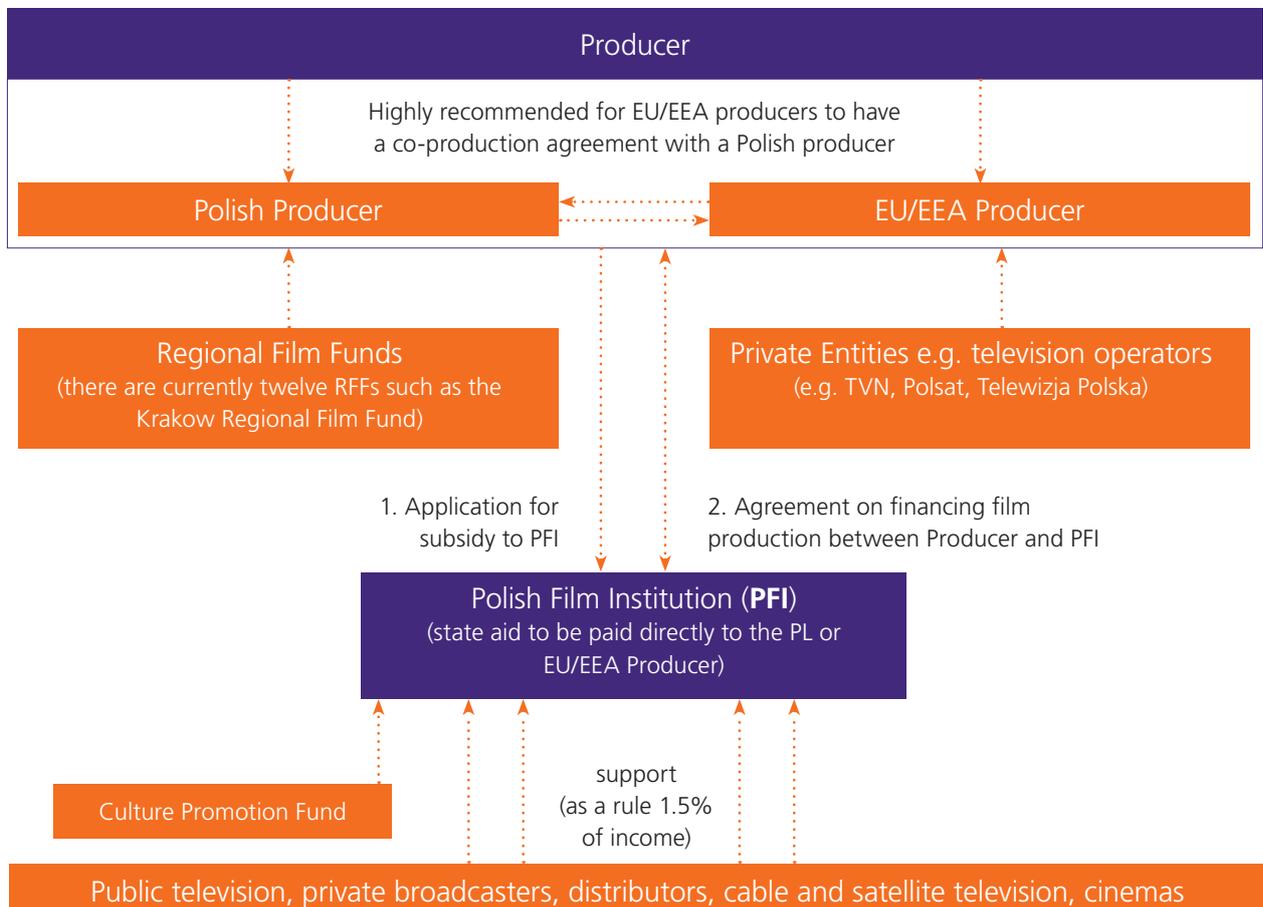
The RFFs provide support of up to 50% of the film's budget. Sometimes the inclusion of various Polish landmarks (of specific regions to which the products apply for) is a requirement for regional financial support.

It is also feasible to apply for funds from private businesses in Poland (e.g. television operators such as TVN, Polsat or Telewizja Polska).

- The beneficiaries of the state aid scheme need to be either a Polish or foreign company established in the EU or an EEA company that complies with several cumulative conditions, regardless of whether the eligible project has a national or international nature.
- The Polish state aid amount is not assignable and it should be paid directly to the producer applying for financial support (it cannot be pledged).
- Polish law does not forbid double dipping and is at least feasible in the case of countries with which Poland has bilateral co-production agreements (France, Canada, Israel and India) and the countries which signed up to the European Convention on Cinematographic Co-production.
- Anticipated incentive amount is auditable. However, as to the actual amounts that may be obtained by the producer, these are dependent on the final decision of granting subsidies by the Director of the PFI.
- All application documents for direct state subsidy granted by PFI need to be provided in Polish. In relation to applications, foreign producers might be required to appear at meetings in Poland.



## The procedure



# Romania

A state aid incentive is available for the 2018-2023 period, covering up to 45% of eligible expenses.

## Cash rebate

In 2018, Romania passed legislation to create a state aid scheme to incentivise the cinematographic industry. The state aid incentive is currently available until 31 December 2023 and covers up to 45% of the eligible expenses for film production carried out in Romania (35% as main allocation and 10% top-up, as detailed below). The maximum amount of aid available per project is EUR 10m. The yearly budget allocated to this scheme is EUR 50m. The beneficiary of the state aid scheme can be either a Romanian or a foreign company that complies with several cumulative conditions, regardless of whether the eligible project has a national or international nature.

Each year, the Ministry of Economy, Entrepreneurship and Tourism publishes an invitation for interested companies to submit requests to obtain this type of state aid for the next year.

The application for receiving the state aid consists of submitting a dossier, which mainly includes: (i) the request for the state aid; (ii) all the documents that demonstrate that the scheme's eligibility criteria are met; and (iii) a declaration related to any state aid previously received in order to finance the same eligible costs.

If the Film Commission approves the request, an applicant certificate and an approval decision are issued. This is followed by the signing of a financing agreement between the Ministry of Economy, Entrepreneurship and Tourism and the beneficiary.

The state aid incentive applies to feature, medium-length and short fiction films, television series, films for video and internet distribution or any other support, artistic documentation and animation films.

The incentive covers: (i) non-reimbursable financial allocations in the amount of up to 35% of the total eligible expenses incurred with the acquisition, rental, manufacture of goods/services occasioned by the development of film and film production projects in Romania, as well as, the fees, salaries and other payments to persons involved in the project implementation (the 'main allocation'); and (ii) non-reimbursable financial allocations in the amount of up to 10% on top of the main allocation, subject to the condition that a geographical area or city in Romania, Romanian destinations, tourist sites and traditions, or

Romania itself are promoted within the same cinematographic production and be visually explicit.

The main conditions that must be met by the applicant company are that: (i) its main activity is film production (and for Romanian companies only – to be registered in the cinematographic register); (ii) it is a producer, co-producer and/or provider of production services and produces feature, medium-length and short fiction films, video or internet distribution or any other support, animation or documentary, television films or television series partially or fully in Romania; (iii) as producer/ co producer it owns the intellectual property rights in the work that will be produced or, where it provides services for a foreign production company, the foreign production company has acquired the rights in order to carry out the production; (iv) in the case of foreign producers, a co-production or a service provision agreement must be concluded with a Romanian producer (the law is not drafted perfectly, but, in practice, we work on the basis that they meant to say the Romanian service provider and not producer); (v) it presents information related to the total production budget for which the state aid is requested (for productions entirely, or partially, carried out in Romania, it must present information related to the budget pertaining to the expenses incurred in Romania, for which the state aid is requested); (vi) it proves that it does not have any debts to the Romanian general consolidated budget; and (vii) where the application concerns a producer/co-producer, it must evidence the financial contribution(s) of each co-financier, and where the application concerns a services provider, it must evidence the foreign producer's own financial contribution (which must cover at least the total budget of the production, excluding VAT and minus the state aid requested under this Romanian scheme).

Romanian law specifically states that in order to receive the Romanian state aid, at least 20% of the overall budget of the project must be realised in Romania.

The actual entitlement will be based on audited spending, based on the audit report issued by a reputable audit company. The audit report is submitted by the applicant (together with the payment request, the daily filming reports, a post-production agreement and a statement on own responsibility on postproduction funding) after the film project is finalised and the respective budget is spent, to the financing authority (currently, the Ministry of Economy, Entrepreneurship and Tourism) in order to receive payment of the state aid amount. This can be submitted

no later than 2 years after the signing of the financing agreement. Within five years of submitting their application for state aid, the beneficiary must electronically submit a record of the final cultural product to the authorities.

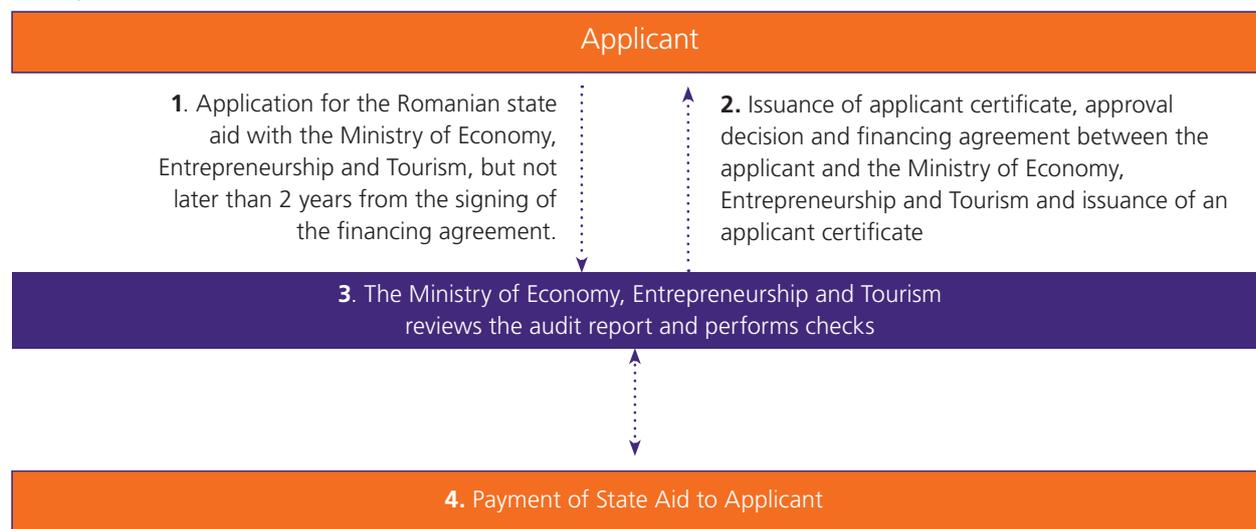
The state aid amount is not assignable, but the legislation is quite untested. Therefore, it could be interpreted that the bank/financier may take a security interest over the state aid receipts to be paid to the beneficiary.



- The Romanian film industry is internationally recognised and film directors have received numerous prestigious awards. Production in Romania is recognised by film producers for: (i) highly educated and experienced film crews; (ii) studios and equipment of the highest standard; (iii) attractive costs for services; and (iv) unique scenery.
- Romanian law does not forbid double-dipping, subject to compliance with the applicable Romanian and European legislation and limits.
- Anticipated incentive amount is auditable.
- Both Romanian and foreign companies may benefit from state aid for film projects (but in the case of foreign companies, a co-production or service provision agreement with a Romanian company is required).



## The procedure



# Slovakia

Slovakia is a very attractive venue that aims to strengthen its cinematographic industry in the upcoming years.

## Cash rebates

Films that meet general, cultural and realisation criteria and minimum threshold of the eligible costs (at least EUR 50,000 for films and EUR 300,000 for TV series), where these costs have to be spent in line with the Slovak regulation on film projects (i.e. to be spent on services/goods in the Slovak Republic ) are eligible for a cash rebate..

Film producers wishing to benefit from the cash rebate system shall register their film with the Slovak Audiovisual Fund, or shall conclude a written agreement with a legal entity (a producer/co-producer of the film) that already has a registration certificate. Afterwards, the film producers may submit an application for the support. The auditor's report verifying the creation, accounting and payment of eligible costs shall be attached to the application form. The Slovak Audiovisual Fund will verify whether the application was submitted by an eligible person and with all necessary annexes, and may request copies of accounting documents proving the creation, accounting and payment of eligible costs. The Slovak Audiovisual Fund will calculate the amount of support within the 30 days from the receipt of complete application or from the receipt of copies of the accounting documents. Currently, the maximum amount of cash rebate is 33% of the eligible costs.

The film producer might submit the application for the cash rebate either: (a) once for the entire project and all eligible costs; or (b) continuously, as in quarterly, for the first time in the end of the calendar quarter, where the 'eligible costs threshold' (EUR 50,000 for certain films; and EUR 300,000 for the TV series) was met for the first time.

## Direct state subsidy

In addition to the cash rebate, producers may apply for support in the form of cash subsidy, loan, or a combination of the two, while there is no explicit provision prohibiting foreign investors to apply for such direct support. Foreign applicants typically apply through Slovak production companies or the Slovak co-producer. It is necessary to have a presence (e.g. be established or have a branch) in the Slovak Republic at the time of receiving any support.

In order to receive direct state subsidy (in the form of cash subsidy, loan, or a combination of the two), the applicant has to go through the selection process of the evaluation committee, which may give a recommendation to the director of the Slovak Audiovisual Fund. The director will decide on the financial contribution. On the basis of the director's decision, the Slovak Audiovisual Fund will prepare a written agreement of support for the applicant. The beneficiary of the support shall accept the draft proposal of the written agreement within 30 days from receipt. If the beneficiary wants to accept the proposal with amendments or limitations, then such acceptance will be regarded as a new proposal. The committee will decide on acceptance/rejection of such new proposal within 30 days from receipt.

Applications can be submitted continuously and are open for the support of the: (a) creation, development, preparation of realisation, production, post-production and distribution of Slovak audiovisual works (including films and scripted projects); and (b) realisation or distribution of co-production cinematographic works, where the Slovak producer has a co-production share.

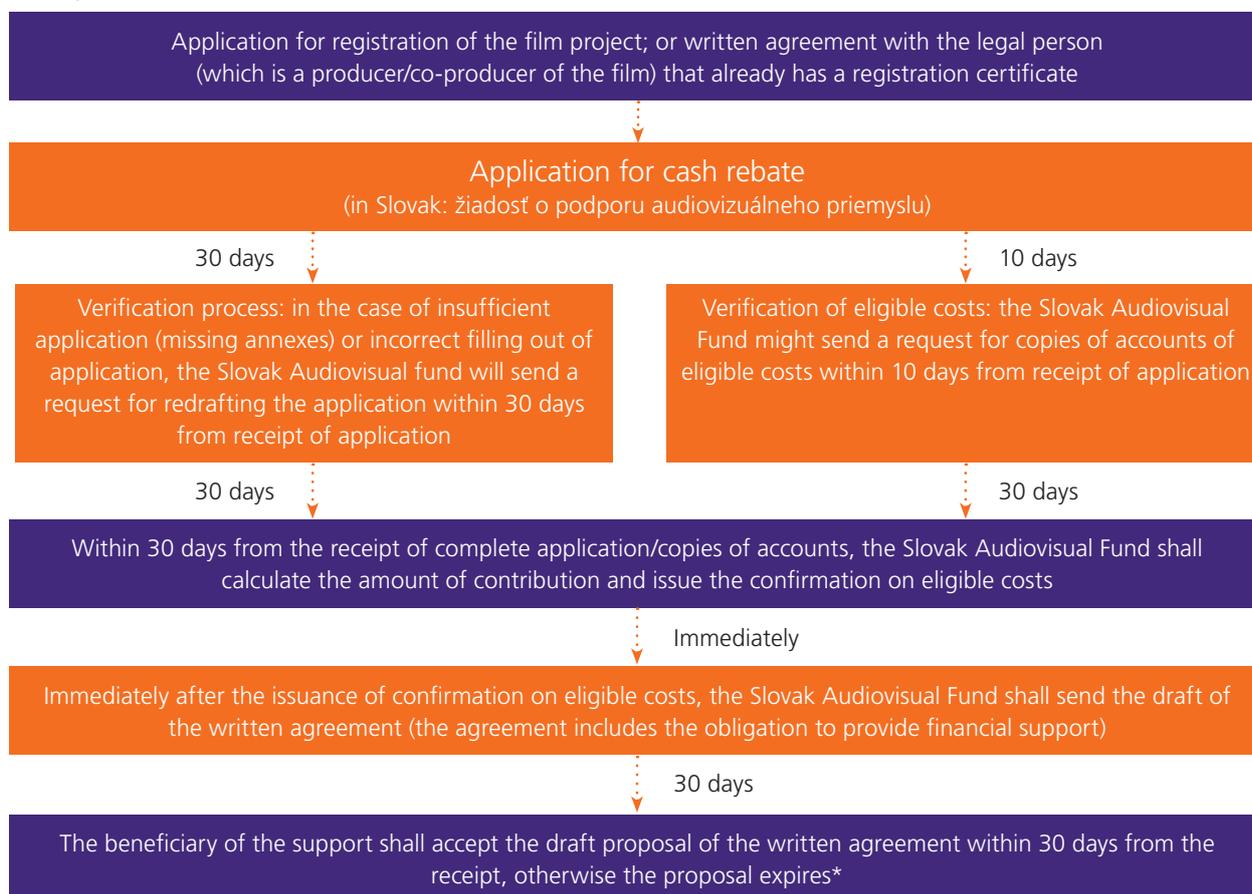


\*We are not aware of the available support for 2019-2022.

- The Slovak film industry is developing, with documentary movies already internationally recognised.
- Very transparent environment where all the relevant documents might be found online.
- Cash rebate as well as direct cash subsidies and loans are available, subject to EU state aid rules.
- Slovak law does not forbid double dipping.
- Anticipated incentive amount is auditable.
- The incentive is not assignable and will be provided to the only applicant. The account cannot be pledged.
- Only entities established, or with a branch in, the Slovak Republic and registered with relevant tax administrator may receive support from the Slovak Audiovisual Fund.



## The procedure



\*The Slovak Audiovisual Fund will provide cash rebate only to the applicant which: (a) has a seat or branch in the Slovak Republic; and (b) is registered with the relevant tax administrator. Therefore, the foreign investor will have to establish its seat or branch in the Slovak Republic and register with the relevant tax administrator.

# Ukraine

## Cash rebate

The cash rebate is an incentive available to foreign producers through a Ukrainian producer (that is a producer operating in the cinematographic industry and registered for VAT in an amount between 4.5% and 30% of qualified expenses. This could include, for example, expenses directly related to the production of a film, e.g. employees' salaries, actors' fees, payments for works, services, etc. (except for salaries and any other fees paid to actors and crew who are not Ukrainian residents and being taxed outside of Ukraine), depending on certain criteria and type of expenses (a Ukrainian producer holds the IP rights for a film in full and may transfer those to a foreign producer under a production agreement)). The launch of the cash rebate incentive has finally been scheduled for 2022, but it has been postponed due to the full-scale military aggression by Russian Federation against Ukraine, and there are no precedents of cash rebate allocation yet. The potential launch of the incentive in 2023 is now under consideration of the Ukrainian State Film Agency.

Generally, there are two available types of cash rebate in Ukraine:

- a. 25% rebate of the total amount of incurred qualified expenses plus a 5% additional rebate if a film satisfies additional 'national' criteria, such as launching a production based on a Ukrainian literary work; and
- b. 10% rebate of the total amount of expenses on salaries and other fees paid to actors and crew who are not Ukrainian residents if taxes on such fees are paid into the local budget of the cities of Kyiv and Sevastopol (4.5% rebate applies, if taxes on such fees are paid in the remaining territory of Ukraine, i.e. into the local budgets of other cities/communities outside of Kyiv and Sevastopol).

In order to qualify for the cash rebate incentive, there is a set of requirements to be met, the main of which are as follows:

- a. there should be no Ukrainian tax residents among owners/participants/shareholders/UBOs/officers of the foreign producer, as well as no tax residents of an aggressor country (e.g. Russian tax residents, as long as Russian Federation is recognised as the aggressor country under Ukrainian legislation) and the foreign producer may not be a tax resident of the aggressor country either;
- b. expenses are fully or partially incurred in favour of a legal entity or individual entrepreneur registered in Ukraine;

- c. a film qualifies under a cultural test, where:
  - the test consists of cultural and production criteria;
  - in order to qualify, the film should get at least 2 cultural points (out of 16) and 18 production points (out of 26); and
  - the test is considered passed if the works/services of the production (e.g. production, animation, editing, computer graphics, etc.) are performed in Ukraine and at least 50% of the individuals involved in such performance are citizens of Ukraine;
- d. the foreign producer has entered into an agreement for the production of a film (or its part) with the Ukrainian producer; and
- e. the film complies with certain requirements with respect to its duration and total amount of incurred qualified expenses for such film.

## Direct state subsidy

Other incentives, aside from the cash rebate, can be utilised only in relation to a "national film" and/or only by Ukrainian companies listed in the publicly available State register of film producers, distributors and exhibitors. A national film allows the involvement of foreign investors, but must meet a minimum threshold of Ukrainian elements being involved in the project to qualify for state aid law benefits.

The main levels of state subsidies that may be of interest to producers, among others, include:

1. public procurement of goods, works and services, necessary for production of specific types of films (e.g. documentary, animation films, educational, etc.) in the amount of up to 100% of the film production costs (proprietary IP rights transferred to the Ukrainian State Film Agency in full);
2. subsidies in the amount of up to 80% of film (including fiction and animation) production costs (Ukrainian producer retains the proprietary IP rights in full, but is obliged to pay 50% of income from the film to the Ukrainian state budget (in total, no more than 50% of the received government support) within such duration of the IP rights); and
3. subsidies in the amount of up to 50% of the TV film or TV series production costs (the same conditions as in item (2) above apply); and
4. reimbursement of interest paid on a bank loan utilised to build infrastructure objects to be used in the production.

Direct state subsidies are granted to Ukrainian companies operating in the cinematography industry that are *inter alia*: (i) producers of documentary, educational, animation, independent, children and debut films; (ii) producers of films and TV companies who possess or otherwise legally operate production facilities and equipment; or (iii) companies who distribute and/or show films. In the case of subsidies that cover only part of the budget, the receiver of the state aid has to demonstrate that it has sufficient funds to cover the remaining production costs.

To benefit fully from state incentives, a foreign investor may consider: (i) providing a foreign currency loan to a local company entitled to Ukrainian state aid; or (ii) creating/purchasing a Ukrainian SPV that will be registered in the State register of film producers, distributors and exhibitors (foreign currency loans and repatriation of foreign investments abroad are subject to currency control restrictions).

### Other

Until 1 January 2025, it is currently envisaged that there will be a temporary exemption from Ukrainian VAT for, *inter alia*: the supply and production of national films; distribution within Ukraine of national films and foreign films duplicated in Ukrainian language; supply of certain services related to film production (e.g. duplication of foreign films into Ukrainian language).

For the purposes of the VAT exemption, the term 'national film' includes films of which the production took place fully or partially in Ukraine with at least 90% share of Ukrainian or Crimean Tatar language and which qualifies under specific criteria.

In addition, the amounts of cash rebates/other State aid received by Ukrainian producers (including cash rebates further repaid by Ukrainian producer to foreign producer) are exempted from income taxation in Ukraine.

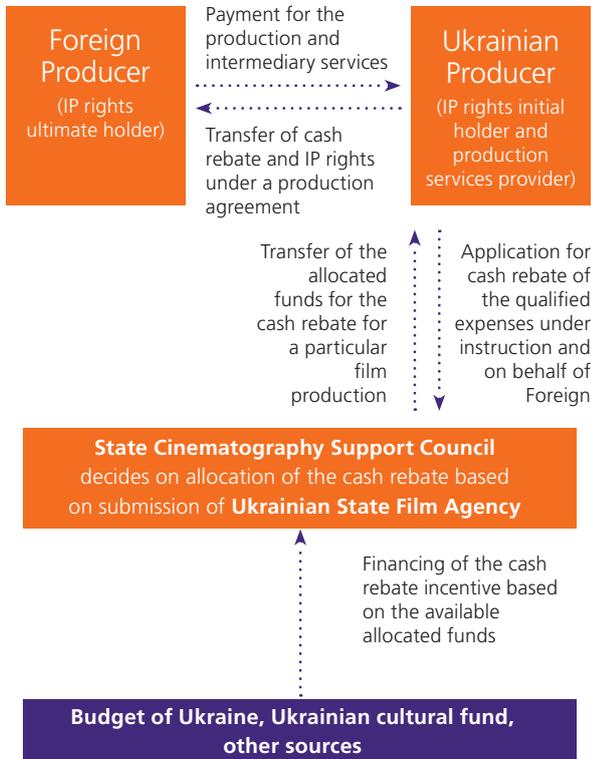
- Cash rebates, direct state subsidies and VAT exemption are available;
- Generally, double dipping is not forbidden;
- The incentive amount may be audited in advance;
- An SPV can be fully owned by a non-Ukrainian company, however, an entity will not be eligible for the government support if the entity itself, its owners/participants/shareholders/UBOs/officers are tax residents of an aggressor country; and
- The government support may not be provided to films where participants are natural persons being under Ukrainian sanctions and/or on the List of persons threatening the national security of Ukraine.



# The procedure

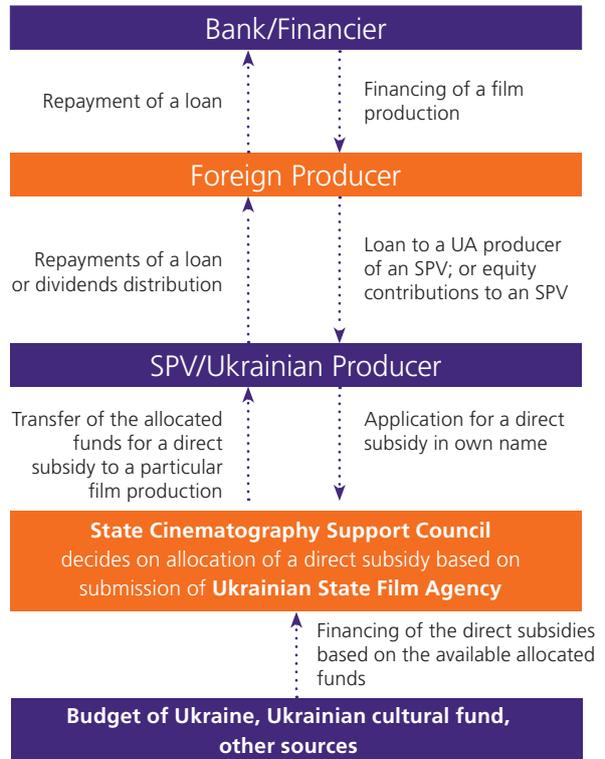
## Option 1

(cash rebate of the qualified expenses)



## Option 2

(direct subsidies through an SPV/loan to Ukrainian producer)





# Croatia

Croatia grants financial incentive for film and TV productions shooting in Croatia to international and local filmmakers.

The incentive relates to feature, animated and documentary films, television films and television series, financed from national or international sources, which are produced entirely or partially in Croatia. Eligible audio-visual works must be intended for public exhibition and meet other prescribed criteria.

Financial incentive applies also to a foreign work for which a foreign legal entity has acquired the copyrights to the script, and an international or cross-border co-production, in which one of the co-producers is a Croatian legal entity with majority or minority financial participation.

The incentive does not apply to commercials, reality TV, game shows and soaps.

## Cash rebates

Financial incentive is granted in the form of a rebate (refund) of 25% on qualifying Croatian spending. An additional 5% is approved for productions filming in regions with below average development.

The rebate is calculated on the total qualifying expenditure, excluding the value added tax, and is paid directly to the applicant's Croatian bank account. Qualified spend consists of the costs of goods and services purchased in Croatia and wages paid to Croatian tax residents (both cast and crew) for services carried out in Croatia.

## Incentive eligibility

Incentive is available to Croatian legal persons registered for production of audio-visual works, who meet the prescribed criteria:

- they produce a feature, animation or documentary film, television film or television series, entirely or partially in Croatia in the capacity of producer, co-producer and/or provider of service of foreign work production ("production service company"),
- they have acquired the copyright to the script for producing the respective audio-visual work or it is the production service provider that has been contracted by a foreign legal entity (which has acquired the copyrights to the script for producing the respective foreign work),
- there are further conditions relating to previous productions of audio-visual works and data on the total budget for the respective audio-visual work.

Incentive is also available to foreign company with the branch office registered in Croatia, but in case of a non-EU or non-EEA country, the foreign company must prove that it has been registered in the respective country for at least two years.

In the case of an international or cross-border co-production in which one of the co-producers is a Croatian legal entity with majority or minority financial participation, the Croatian co-producer should act as the applicant for the financial incentive.

In the case of a foreign production, irrespective of the number of producers and countries of their origin, where none of the producers is a Croatian legal entity, a producer – project leader must engage a domestic production service company for the production of a foreign work, who should be the designated applicant in the procedures relating to the financial incentive.

## Incentive limitations

The incentive cannot exceed TEUR 663 for an individual audio-visual work (certain exceptions are available). There are some further limitations, exceptions and requirements:

- The overall production costs incurred in Croatia, which form the basis for calculating the refund, must not exceed 80% of the total production budget of the audio-visual work.
- The sum of state aid funds must not exceed 50% of the total production budget of the respective audio-visual work. The relevant state aid includes any state aid from Croatia and other EEA Member states, including the financial incentive for production of audio-visual works and any de minimis aid, as well as other sources of financing considered as state aid irrespective of the provider.
- The aid intensity for cross-border co-productions funded by a minimum of two member states and involving producers from at least two member states may amount up to 60% of the total budget for film production (with exception of difficult audio-visual works, including works for which de minimis aid has been granted, where the cumulative effect of state aid should not exceed 80% of the entire production budget of the audio-visual work).
- In case that the projected production costs in Croatia exceed TEUR 2.654, it is possible to apply for the financial incentive in the amount higher than TEUR 663. However, when the financial incentive exceeds this amount, the applicant must employ at least one trainee who is a Croatian citizen or a tax resident of the Croatia in each of the main production departments represented in the production of the respective audio-visual work (Art, Production, Camera, Costume, Directing, Hair and Makeup, Stunts, VFX/SFX).

- At least 50% of cast and crew employed in Croatia for the production of the work must be Croatian or EEA member states citizens when the work is being entirely produced in Croatia, and Croatian citizens or tax residents of Croatia when the work is a co-production.
- At least 30% of cast and crew employed in Croatia for the production of the work must be Croatian or EEA member states citizens when the work is being partially produced in Croatia, and Croatian citizens or tax residents of Croatia when the work is a co-production.

### Procedure

The Incentive programme is administered by Croatian Audiovisual Centre, a government-backed national agency, on a first-come, first-served basis. An application for the incentive and supporting documentation is filed to the Centre no later than 8 days before the start of production in Croatia. Supporting documentation includes a plan of inflows and outflows of funds for the production in the Croatia and a proof that at least 70% of funding needed to cover the cost of production has been secured (e.g. contract, pre-contract, letter of intent with the exact amount, bank guarantee). For an international or cross-border co-production, the Croatian or EEA co-producer must provide a co-production deal-memo or a contract. For a foreign production, the production service provider must provide a cooperation deal-memo or a production service agreement.

Service productions and co-productions should pass the cultural / qualifying test, which comprises three categories: cultural content, creative collaboration, and the use of Croatian production capacities, such as studios or locations. No preference is given to projects scoring higher on the cultural test.

The incentive is paid upon completion of production, filing of audited accounts and proofs that all requirements have been met.

Following the filed application, the Centre issues a "Resolution on guaranteed financial incentive" in the amount based on the planned production budget and the supporting documentation.

The Resolution on the incentive places the applicant under an active obligation to communicate any change relating to the shooting, finances, legal and factual circumstances.

After completion of the production of audiovisual work in Croatia, the applicant has further documentation filing obligations towards the Centre (audited final calculation of actual costs of the production of the audiovisual work in Croatia, etc.)

"Resolution on payment" is issued by CAC upon completion of production of the audiovisual work in Croatia and based on the calculation of the actually incurred production costs in Croatia and supporting documentation. This resolution determines the final amount of the financial incentive to be paid to the applicant.

Claims based on the Resolution on guaranteed financial incentive and Resolution on payment cannot be transferred to a third party and any such transfer will not produce legal effects.

### State aid rules

Incentive programme for production of audio-visual works in Croatia is subject to state aid rules. The incentive is compatible with funding from Croatian public sources and other sources of EU Member States, but total funds received must comply with the limitations set in the state aid rules.

### Other

Croatia is a signatory to the European Convention on Cinematographic Co-production and has bilateral co-production agreements with Canada, France, Germany and Italy. It is a member of the European Co-production Fund Eurimages and the EU Creative Europe Programme/MEDIA sub-programme.



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## Ukraine



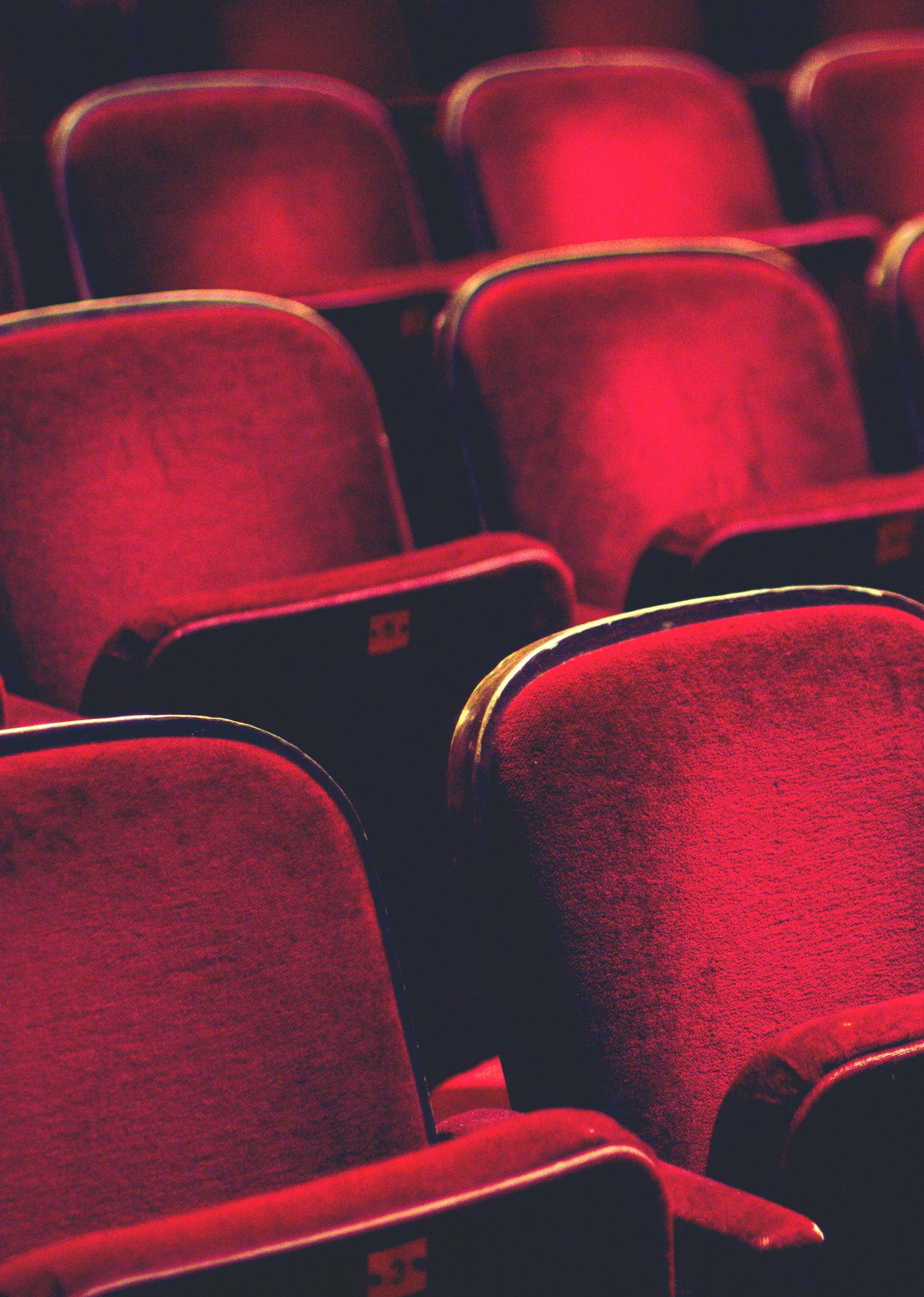
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Our film experts in Central and Eastern Europe has in depth experience in advising foreign investors, film producers, bankers and aggregator on a wide range of legal matters relating to film production lifecycle.

## Range of services

- advice on co-production agreements and production services agreements;
- advice on optimal financing structures and representation of borrowers from the film industry on various financings;
- advice on the legal structure and legal compliance of the applications for subsidy submitted to national and international funding bodies;
- preparation of film and television contracts and performers' contracts;
- review of corporate structures and due diligence of the local production company;
- advice on the available tax benefits, including the tax credit/cash rebate, and optimal structuring of the project in order to maximize tax benefits;
- advice on personal income tax and social security issues of foreign actors, director and other participants;
- tax advice on any issues related to the production agreements, contracts with third parties etc.;
- advice on all aspects of a convergent media: online content to on demand distribution models; and
- advice on transferability of IP rights created in Hungary.

## Relevant experience

### The Association of Bulgarian Radio and TV Broadcasters

In relation to the amendment of the Film Industry Act and its implementation (drafting the Association position, representing the TV broadcasters before the Parliamentary Committees).

### Showtime Inc.

Concerning the financing and security documents package granted by the co-producers (Canadian, Irish and Hungarian) of a TV series (series I. and II.) and related tax credits ("The Borgias").

### Civilian Content Plc.

In relation to the movie entitled the "Best Man", including establishing the optimal financing structure, negotiating financing with HVB Bank Hungary and advising on the Hungarian system of tax benefits for supporting film production.

### A UK film producer

Establishing the most effective structure for maximizing the tax benefit available.

### By alternative

In relation to the production of a Mylene Farmer video clip in Hungary, including review of agreements relating to transfer of copyrights and advising on the Hungarian system of tax benefits for film production.

### Mirage Film Studio

Concerning all commercial and other industry specific legal issues relating to various projects, including films of Mr. Szabolcs Hajdu, film director.

### 20th Century Fox

Legal study in relation to the international copyright rules affecting the relationship between Hungary and the United States for the purpose.

### AMC Networks

In relation to the legal aspects of collective management of the rights to motion pictures in Poland.

### Fundacja Krystyny Jandy na rzecz Kultury

The revision of contracts with actors, directors, scenographers and other entities creating a play (including copyright transfer contracts and licence agreements), daily advising on any aspects of intellectual property law including among others usage and reproduction of image, usage of third parties artworks, relations between Foundation and the Polish Collecting Societies and tax advisory.

### An international consortium

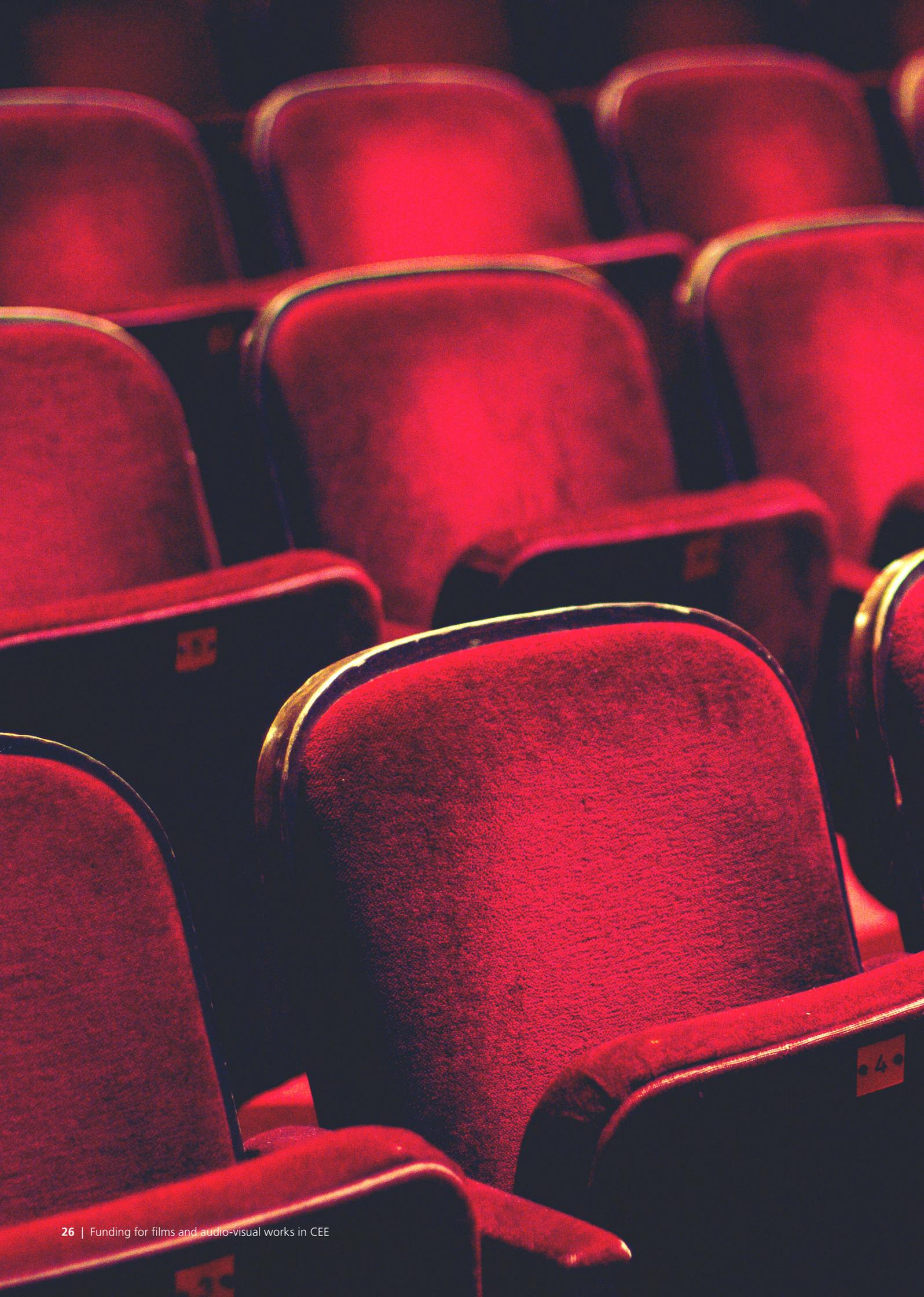
Concerning the sale of a Romanian TV channel (TVKlumea) to a major multilateral broadcasting company operating in Romania (SBS).

### An American technology and media services provider and production company

In relation to procedures, requirements and the contents of cash rebates granted to foreign film producers in Ukraine in the context of shooting a new series in Ukraine, as well as on the VAT treatment of production services, taxation of foreign cast and crew, etc.

### A US Producer

Legal assistance in relation to an agreement on the provision of VFX post-production services, and on the related financing.





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