[IT] New Provisions on Entertainment Matters Introduced

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Further to the adoption of a Legislative Decree (D. Lgs n. 28, 22 January 2004) establishing new provisions in the field of cinematographic works, ten Ministerial Decrees were adopted in order to implement these provisions.

These Ministerial Decrees were aimed among others at establishing: 1) the rules for the institution of information lists on which Italian film companies (or companies from other EU Member States having a branch or an agency in Italy) must be registered as a condition for obtaining financial benefits; 2) the indicators and value system for the classification of the film companies as belonging to the first or second category defined in these lists; 3) the very first information list of film companies, of first and second category, that might apply for financial benefits; 4) the technical modalities for the management and monitoring of the employment of the resources allocated to the promotion of cinematographic activities; 5) the technical modalities for supporting film productions and theatrical distribution; 6) the terms within which the applications for obtaining the financial benefits shall be made; 7) the indicators for the acknowledgment of a cinematographic work as having cultural interest; 8) the composition, the organizational structure and the operating of the Cinematographic Commission for the acknowledgement of a cinematographic work as having cultural interest. The requests for this acknowledgement shall be made by 30 November, 28 February, 31 May and 31 August of each year and the Commission will issue its decision by 1 March, 31 May, 30 September and 30 November respectively.

The regional authorities of Emilia Romagna and Tuscany, in separate claims filed before the Constitutional Court on 5 April 2005, contested various provisions of the Legislative Decree 2004, no. 28, raising substantially similar constitutional questions mainly based on the assumption that matters concerning cinematographic activities and the entertainment industry fall within the regional authorities' competence.

On 19 July 2005, the Constitutional Court (Ruling n. 285) stated that certain provisions of the Legislative Decree 22 January 2004, no. 28, and in particular those concerning the support and financing system of the cinematographic activities, belong to the promotion and organization of cultural activities and as such they fall within the concurrent legislation of the State and the Regions.

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Therefore, all those provisions have been declared unconstitutional insofar as they do not provide for a concerted procedure between the State and the Regions. As a consequence, the majority of Ministerial Decrees mentioned above were declared inapplicable as they were adopted either without the agreement or without the mandatory advice (whichever was called for) of the State-Regions Conference.

By a Governmental Decree of 17 August 2005 (n. 164, entitled " Urgent provisions in favour of cinematographic activities") some urgent provisions were adopted in order to make the Legislative Decree 2004, n. 28 conform with the constitutional decision. Unfortunately this decree was not passed into law and therefore the movies of acknowledged cultural interest risked being denied the financial benefits allocated for the year 2005.

It is for this reason that a law proposal was quickly drafted and on 15 November 2005 the "Provisions on entertainment matters" Act was adopted.

Art.1 of this Act provides that all the acts, the effects deriving from, the rights accrued and legal relationships based on the 164/2005 Decree are valid. Furthermore it provides that all the pending proceedings concerning financial benefits shall be considered as valid and with effect. Furthermore, this Act ensures that the different Ministerial Decrees provided for by the 28/2004 Act shall be adopted on a case by case basis with the agreement or with the advice of the State-Regions Conference.

As a consequence of the Act adopted on 15 November 2005, the decisions taken by the Commission for cinematography of 14 and 26 September 2005 - concerning the acknowledgement of cultural interest of a work and related funds - and the proceedings still pending further to applications presented by 31 July and 31 August 2005 have all been upheld.

D. M. 28 ottobre 2004 "Decreto del Ministro per i beni e le attività culturali recante modalità tecniche di gestione e monitoraggio dell'impiego delle risorse destinate alla promozione delle attività cinematografiche";

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D. M. 27 settembre 2004 "Modalità tecniche per il sostegno alla produzione ed alla distribuzione cinematografica";

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D. M. 27 settembre 2004 "Definizione degli indicatori, e dei rispettivi valori, per l'iscrizione delle imprese di produzione cinematografica nell'elenco di cui all'art. 3, comma 1, del D. lgs. 22 gennaio 2004, n. 28, e successive modificazioni";

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D.M. 27 settembre 2004 "Definizione degli indicatori del criterio per il riconoscimento dell'interesse culturale dell'opera filmica di cui all'art. 8, comma 2, lettera d), del D. lgs. 22 gennaio 2004, n. 28, e successive modificazioni, nonché la composizione e le modalità di organizzazione e di funzionamento della Commissione per la cinematografia";

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D.M. 27 agosto 2004 "Determinazione dell'ammontare dei premi di qualità ai lungometraggi riconosciuti di nazionalità italiana e delle relative quote percentuali di ripartizione";

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D.M. 30 luglio 2004 "Modalità tecniche di attuazione del collocamento pianificato di marchi e prodotti nelle scene di un'opera cinematografica product placement'";

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D.M. 16 luglio 2004 "Modalità tecniche di erogazione e monitoraggio dei contributi percentuali sugli incassi realizzati in sala dalle opere cinematografiche";

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D.M. 10 giugno 2004 "Organizzazione della Consulta territoriale per le attività cinematografiche";

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D.M. 10 giugno 2004 "Modalità tecniche per il sostegno all'esercizio ed alle industrie tecniche cinematografiche";

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D.M. 10 giugno 2004 "Criteri per la concessione di premi alle sale d'essai ed alle sale delle comunità ecclesiali e religiose"

http://www.cinema.beniculturali.it/cinema.html

Ministerial and Legislative decrees detailing and providing for support to cinematographic activities

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