

[BG] Legislative proposals for promoting the local film industry, including 25% cash rebates for eligible costs for production aid

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On 18 November 2020, *Министерски съвет* (the Bulgarian Council of Ministers, also referred to as the Government) adopted a decision concerning the approval of *Законопроект за изменение и допълнение на Закона за филмовата индустрия* (Bill to amend and supplement the Film Industry Act – FIA). The Bill envisages various incentives for the promotion of the local film industry, including a new cash rebate aid scheme for the production of audiovisual works, in accordance with Regulation (EU) No. 651/2014. The Government is also expected to propose secondary legislation following the final adoption of the Bill.

The Government's reasoning behind the amendments is that the current provisions of the FIA were adopted way back in 2003, and since then, the audiovisual sector and landscape have changed significantly. The Government has acknowledged that many processes have been digitalised, production volume has increased, and a whole new set of business and cultural models has been introduced within the film industry (for example, some of the largest platforms and producers of films and series have since emerged, such as Disney+, Amazon Prime, HBO GO, and Netflix). Furthermore, trends in the European film industry over the past few years have marked a substantially higher level of public funding for film production and the distribution of audiovisual works, as well as significant progress in terms of accessibility and increased audiences. At the same time, the existing legal framework has not reflected these developments, and the Government is seeking to adapt the Bulgarian film industry to the current state of the market.

Among other things, the proposed changes provide for an increase in the budget for national film production, film distribution, festivals, cultural events, promotion and display: BGN 10 million per year over a three-year period. The proposed increase in the subsidy for national film production is to be implemented through three components: 1) an increase in the number of films; 2) the implementation of a new methodology for calculating the average budget; and 3) the provision of additional funding of 15% required for distribution, display, promotion, festivals and cultural events.

In order to eliminate the discrepancies established in the past in the process for determining the subsidy, it is proposed that the subsidy be formed as a sum of the funds necessary for the production of Bulgarian films, calculated on the basis of the previous year's average budget for the production of 12 feature films, 24 documentaries and 250 minutes of cartoons. An additional 15% is added to cover the costs of distribution, display, promotion, festivals and cultural events; these funds are to be included in a separate budget item. Separate state aid schemes are envisioned for the latter activities.

Another proposal in the Bill envisions a new state aid scheme for cash rebates of up to 25% of all eligible costs incurred for the production of audiovisual works (as per Article 54 (5), point (a) of Regulation (EU) No. 651/2014) in relation to the delivery of goods and services provided in the Republic of Bulgaria (additional conditions are stipulated in the Bill). The eligible costs should not exceed 80% of the overall production budget, and only works that meet a "culture test" would be able to qualify for cash rebates. Other requirements are also envisaged in the draft text – works should be established in whole or in part on the territory of the Republic of Bulgaria and should be intended for public display and/or broadcasting.

In addition, works that qualify for cash rebates include:

- (a) feature-length films lasting more than 70 minutes;
- (b) documentary films of more than 70 minutes in length or a documentary series of more than 40 minutes in each episode;
- (c) animated films or animated series (that is, cartoons) of a total duration exceeding 24 minutes;
- (d) television films of more than 70 minutes in length or a television series of more than 40 minutes in each episode.

Cash rebates are specifically excluded for some categories of audiovisual works (non-exhaustive): sports events; talk shows; reality shows; live events; television series such as sitcoms; audiovisual works of an advertising/promotional nature; projects which include pornography; political or religious propaganda; works that may undermine the authority of the Republic of Bulgaria or the Bulgarian nation; works directed against the rule of law or constitutional principles; works that incite war, racism, manifestations of nationalism, religious hatred and national separatism, etc.

In relation to the above-mentioned categories, for the first time in Bulgaria, special definitions have been proposed for some specific terms. These include definitions for "feature-length film", "difficult film", "sitcom", "daily drama", "talk

show", "short film", "television series", "television film", "platform for the distribution of audiovisual works" (it should be noted here that the latter does not seem to be coordinated with the definition of video-sharing platform services as per the AVMSD), and many others.

The Bill was submitted to parliament on 27 November 2020, where it shall be put to the vote in two hearings and then promulgated in the State Gazette, before entering into force. In any case, the Bill seems to have the support of the Government and all stakeholders in the media sector, so it is expected to be adopted soon.

Решение на Министерски съвет за одобряване на Законопроект за изменение и допълнение на Закона за филмовата индустрия

<https://www.gov.bg/bg/prestsentar/zasedaniya-na-ms/dneven-red-na-zasedanie-na-ministerskiya-savet-na-18-11-2020-g>

Decision of the Council of Ministers on the approval of the Bill amending the Film Industry Act

Законопроект за изменение и допълнение на Закона за филмовата индустрия

<https://www.parliament.bg/bg/bills/ID/163441>

Bill amending and supplementing the Film Industry Act

