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LU-Luxembourg: New Grand-Ducal Regulation on the film fund for audiovisual production

Accompanying the adoption of the new Act on the Luxembourgish support scheme for the audiovisual sector (see this IRIS issue), a Grand-Ducal regulation was adopted, on 4 November 2014, which entered into force on 5 December 2014. The Grand-Ducal regulation on the execution of the Act of 22 September 2014 on the national fund for the support of audiovisual production (Règlement grand-ducal portant execution de la loi du 22 septembre 2014 relative au Fonds national de soutien à la production audiovisuelle) - hereinafter the regulation - lays down the conditions, criteria and modalities for receiving contributions from the film fund, as indicated in the law in question. It thus offers greater substance in particular to Articles 9, 10, 12 and 13 of the law. This Grand-Ducal regulation replaces the one of 16 March 1999, which was adopted in view of the reform of the film fund in 1998 (see IRIS 1999-2/15). The regulation of 2014 is a lot more detailed (especially with respect to the selection criteria) than its predecessor, even if the basic approach remains the same.

In general, the types of programmes supported encompass cinematographic or audiovisual works of fiction, animation, experimentation or documentation, provided that they are not employed for promotional ends (Article 1 of the regulation). Luxembourgish production companies with a manifest interest in the realisation of an audiovisual or cinematographic project, as well as those projects subject to public tender, potentially benefit from the scheme (Article 2(1) of the regulation). In addition, co-productions in which Luxembourgish production companies participate may receive an aid under certain conditions applied cumulatively (compare with Article 2(2) of the regulation). Accordingly, the share of expenses incurred by the (Luxembourgish) company receiving the aid must be at least 10 percent of the total production costs and, at the same time, this is also the minimum share of expenses that the potential foreign company in the co-production must have incurred. Furthermore, the property rights of the originals from which the film can be reproduced have to be in common ownership of the co-producers. In addition, the division of the right to exploitation between the production companies concerned must reflect at least the amount of the share of investment in the production of the audiovisual or cinematographic work. Finally, the artistic and technical participation of the (Luxembourgish) company receiving the aid in the production of the work must be real.

Production companies, which are eligible for funding may address their request to the film fund. In case of co-productions, the request is to be submitted by the company bearing the largest investment (Article 3 of the regulation). The application must include, in particular, information on the screenplay and the concept of the audiovisual or cinematographic work, an overview of the budget and a financing plan, as well as artistic and technical information (Article 4 of the regulation). In addition, applicants must disclose information about their company structure, their organs, management and shareholders, potential economic beneficiaries (of the aid) and internal compliance and control procedures (Article 4 of the regulation). After admissibility of the application is verified, it is subsequently transferred to the selection committee ("Comité de selection") for assessment in line with several criteria set out in Article 5 regulation.

This provision differentiates between four kinds of selection criteria: first, artistic, cultural and technical criteria, secondly, criteria concerning the production and the impact on the growth of the sector, thirdly, criteria regarding distribution, dissemination and exploitation and fourthly, criteria related to the promotion of the Grand Duchy of Luxembourg. Each criterion is further specified in Article 5 regulation.

The cultural and artistic value is, for instance, evaluated with a view to the history of the topic presented in the work, its genre, originality, narrative, dialogues and style (e.g. the atmosphere of the work and vision of producers).

Moreover, the amount of the aid is calculated by reference to the total costs outlined in the application, taking into account the actual financial participation of the recipient of the grant (Article 6 of the regulation). The regulation also stipulates in detail what expenses are effectively included in the calculation of the aid and the manner in which the aid is paid (Article 7-9 of the regulation). A convention is concluded between the recipient of the aid and the film fund (Article 10 regulation). In principle, the aid granted by the film fund is completely repayable, but the latter may modify the amount to be repaid. The exact conditions for the repayment are outlined in Article 11 of the regulation.

• *Règlement grand-ducal du 4 novembre 2014 portant exécution de la loi du 22 septembre 2014 relative au Fonds national de soutien à la production audiovisuelle et modifiant 1) la loi modifiée du 22 juin 1963 fixant le régime des traitements des fonctionnaires de l'Etat 2) la loi modifiée du 13 décembre 1988 instaurant un régime fiscal temporaire spécial pour les certificats d'investissement audiovisuel, et portant fixation des indemnités*

revenant aux membres du conseil d'administration et du comité de sélection du Fonds national de soutien à la production audiovisuelle (Mém. A -222 du 05 décembre 2015, p. 4274) (Grand-Ducal regulation of 4 November 2014 on the execution of the Law of 22 September 2014 on the national fund for the support of audiovisual production and modifying 1) the law modified on 22 June 1963 establishing the system of remuneration for civil servants 2) the law modified on 13 December 1988 establishing a special fiscal regime for audiovisual investment certificates and establishing the amount of allowances for members of the management board and the selection committee of the national fund for the support of audiovisual production)

<http://merlin.obs.coe.int/redirect.php?id=17494>

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