



ROMÂNIA

CONSILIUL CONCURENȚEI



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FORMAL OPINION

On the State aid scheme enclosed by the *General terms and conditions for the State aid scheme designed to support Romanian cinematography*

By analysing:

The *Draft of Government Decree no. 39/2005 on cinematography*, approved by the *Law no. 328/2006*, with the subsequent amendments and completions,

The *Draft of Decision for applying the State aid scheme established by the General terms and conditions for the State aid scheme designed to support Romanian cinematography*

And the standard notification form for the State aid scheme enclosed by the *General terms and conditions for the State aid scheme designed to support Romanian cinematography* (hereby named *General terms*), submitted by the National Centre of Cinema by the address no. 2569/08.06.2010, registered at the Competition Council with no. RG /4.017/08.06.2010, in order to receive a formal opinion,

and ascertaining that:

1. By the draft of *General terms* is established a State aid scheme designated to support the to promote cinematographic culture and preserve cinematographic cultural heritage, as well as to support the production of films. The State aid scheme is elaborated in accordance with the *Communication from the Commission concerning the State aid assessment criteria of the Commission communication on certain legal aspects relating to cinematographic and other audiovisual works of 26 September 2001*¹.

2. The general objective of the present scheme is to support the production of films by encouraging private initiative in the areas of creation, financing, production, and distribution of Romanian films or films made with Romanian participation. The scheme's secondary objectives are supporting professional training in the film industry, promoting national and ethnic minorities' cultural identity by making cinematographic films and promoting them on international level, as well as developing European and international cooperation in the field of cinematography.

3. The State aids granted within the scheme will have the following forms:

¹ Published in the Official Journal of the European Union no. C 43/16.2.2002, prolonged in 2004 (OJ C 123/2004), 2007 (OJ C 134/2007) and 2009 (OJ C 31/2009) .

- reimbursable financial loans, interest-free (*direct credit*) for the production of Romanian films or films made with Romanian participation;

- non-reimbursable grants (*indirect financial support*).

4. Beneficiaries of the present scheme are Romanian legal bodies, as well as those from the EU Member States registered with the Cinematographic Register (have branch offices or subsidiaries in Romania). As far as the *direct credit* is concerned, the approximate number of beneficiaries is of 250, and for the *indirect financial support* it is estimated a number of 500 beneficiaries.

5. State aid shall not be granted for the following:

- projects which encourage the defamation of the country, the nation, the rule of law or constitutional principles, which incite war, national, racial, class or religious hatred, discrimination on grounds of ethnicity, religion, gender or sexual orientation, or promote territorial separatism;

- film projects which contain, in images or language, elements of a pornographic or obscene nature;

- cinematographic projects which prejudice a person's dignity, honour or private life;

- projects which directly or indirectly incite violence;

- cinematographic projects that contain electoral, political or religious propaganda.

6. The State aid scheme enclosed by the General terms is elaborated in accordance with the provisions of the *Commission communication on certain legal aspects relating to cinematographic and other audiovisual works*, namely it:

a) Fulfills the **general legal principle** – the beneficiaries are Romanian legal bodies, as well as those from the EU Member States registered with the Cinematographic Register (have branch offices or subsidiaries in Romania), which respect the principles of non-discrimination on grounds of nationality, freedom of establishment and the free movement of goods and services;

b) Meets the **territoriality criterion** - the beneficiary of State aid within the scheme may spend at least 20% of the budget for the film in other EU Member States or signatory states of the Central European Free Trade Agreement.

c) Within the scheme, State aid shall be granted only to those cinematographical productions proved to be **cultural products**, as follows:

- benefit of State aid in the form of *direct credits* only to cinematographic projects that are included at least in “films with Romanian participation” category, having accumulated a minimum of 35 points under Annex no. 1 to the scheme. In order to ensure aid is granted to projects with real cultural potential, only these projects will be evaluated using a scoring grid within the *Competitions for the selection of cinematographic projects*.

- benefit of State aid under the form of *indirect support* the cinematographic productions falling under the definition of cultural product, in accordance with Annex

no.7; exempted are those which have previously benefited of *direct credit*, having a cultural character already proven;

d) the **eligible costs** cover all direct costs related to the production of a film, defined as being the total of all costs incurred, registered, documented and justified on the basis of the accounting documents provided for, drawn up and issued according to law;

d) **the maximum intensity of State aid** to be granted under the present scheme is 50% of the production budget, with the exception of cinematographic projects with “low budget” and “difficult films”. In these cases, the intensity of State aid will not exceed 80% of the production budget;

f) **Supplementary aid cannot be granted** for additional post-production costs.

7. The State aid scheme shall be implemented until 31.12.2014.

8. The scheme’s budget for the *direct credit* is of 330,000,000 RON, and for the *indirect support* amounts 17,000,000 RON. The maximum amount of State aid that may be granted based on the scheme, under the form of *direct credit* and/or *indirect support* is of 16,000,000 RON/cinematographic project.

9. The notification is completed in accordance with the standard forms enclosed in the Annex I to the Regulation (EC) no. 794/2004 implementing Council Regulation (EC) no. 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty, with the subsequent amendments and completions.

COMPETITION COUNCIL

Based on the *Competition Law no. 21/1996, republished* and on art. 8 recital (1) of the *Government Emergency Ordinance no. 117/2006 on the national procedures in the State aid field, approved with modifications and completions by the Law no. 137/2007,*

ISSUES FORMAL OPINION

On the Draft of *Decision for applying the State aid scheme established by the General terms and conditions for the State aid scheme designed to support Romanian cinematography.*