

Act II of 2004

on motion picture¹

In order to enhance and preserve the values of the Hungarian motion picture culture, to develop the Hungarian film industry and to make it internationally competitive, to create a support system that promotes the efficient use of resources that serve to develop the culture of films and to establish a legal background that serves this purpose and is aligned to the regulations of the European Union, the Parliament of the Republic of Hungary drafts the following act:

Chapter I General provisions

Title 1 Scope of the Act

Section 1

(1) This Act shall cover the production, distribution and archiving of Hungarian films and films produced with Hungarian participation as well as the distribution of films in Hungary.

(2) The scope of this Act shall not cover the audiovisual works produced by business and other organisations as well as government bodies for the purpose of performing their tasks, exclusively for their internal use, as well as television broadcasting purposes defined in a separate law, as well as multimedia works marketed for the purpose of being played as games.

(3) Chapter I titles 1 and 4 of Chapter II of this Act must be applied to subsidies that serve the purpose of implementing objectives of the film industry if the source of these subsidies is an appropriation determined in the central budget or the budget of local authority or minority self-governments and/or if the subsidy is granted by the government, a central budget agency, a non-profit company or foundation with majority ownership by a local authority or minority self-government, and to subsidies granted by the National Cultural Basic Programme for the motion picture industry.

Title 2 Definitions of terms

Section 2

For the purposes of this Act:

1. ***motion picture industry***: the total of activities that are in the scope of motion picture culture and motion picture industry as well as all persons pursuing such activities.
2. ***film***: a work created by any technical procedure, which consists of a series of motion pictures set in a defined order without audio or connected by audio and is deemed to be an author's work under Act LXXVI of 1999 on author's rights.

¹ Approved by the Parliament in its session held on 22 December 2003.

3. **film authors:** authors of literary and music works produced for the purpose of the film, the director of the film and all persons who have contributed creatively to developing the entire film, as well as authors of other works used in the film.
4. **film producer:** a legal person or business company without legal personality who or which proposes and organises the realisation of the film in his own name, ensuring the financial and other conditions for this.
5. **Hungarian film producer:** a film producer who is a legal entity or a business company without legal personality with its registered office in Hungary and most of whose leading officials are citizens of a Member State of the European Union or a country that is a signatory to the European Convention on Transfrontier Television and in which citizens or legal persons of such countries have an influence that ensures majority control.
6. **co-production film:** a film produced by film producers who are subject to the jurisdiction of different states, which is qualified to be a co-production film by a bilateral or multilateral international agreement or the laws of the countries concerned.
7. **a) Hungarian film:** a film in which Hungarian participation reaches at least 75 points based on the table set out in Section 3.
b) co-production film with Hungarian participation: a co-production film in which Hungarian participation reaches at least 30 points based on the table set out in Section 3 and the share of the film's budget to be borne by the Hungarian film producer reaches twenty per cent bilateral co-production or ten per cent in the case of multilateral co-production unless otherwise provided by a bilateral or multilateral international agreement.
c) other film with Hungarian participation: a film in which Hungarian participation reaches at least 15 points based on the table set out in Section 3 and is not deemed to be a co-production film with Hungarian participation.
8. **film originally produced in the Hungarian language:** a film that belongs to any of the following categories:
 - a) its original version has been presented in the Hungarian language,
 - b) it has originally been presented in two or more languages but in terms of its duration, its part in which the original language is Hungarian is longer than any other part in any other language,
 - c) it has originally been produced in the language of a minority living in Hungary, if the subject is related to the life or culture of that given minority of Hungary.
9. **direct subsidy:** financial allowance granted by the bodies defined in para (3), Section 1 of this Act for motion picture industry purposes, including the support granted by the Motion Picture Public Foundation of Hungary.
10. **indirect subsidy:** tax and investment benefits specified in a separate law, which serve the achievement of objectives of the motion picture industry, particularly the motion picture sector as defined in this Act.

11. **normative subsidy:** subsidy that is due to a film producer or film distributor if they meet the conditions specified in this Act or announced by the supporting body, and which may be used by film distributors for distributing the film and by film producers to produce their film.
12. **selective subsidy:** subsidy that is due to the film producer, film distributor or any other applicants under this Act based on the decision of the supporting body made by way of applications or by evaluating and individual request subject to the characteristics of the film (in particular script, budget, artistic value, the identity of the authors, producers, and actors of the film) or the nature of another objective to be supported.
13. **structural subsidy:** subsidy granted to applicants by the supporting body on a continuous basis, by assuming an obligation for several budget years for motion picture industry objectives implemented throughout several years or in the same manner every year in accordance with this Act, provided that the applicant complies with the conditions specified by the Act and/or the support body throughout the entire duration of support.
14. **supporting body:** the organisational institution that provides support to motion picture industry objectives as defined in para (3), Section 1.
15. **film distribution:** making accessible the original or reproduced copies of a film for the public
 - a) by marketing, or offer films for marketing,
 - b) by operating cinemas,
 - c) by publishing, selling, renting or renting in usufruct films on any media, particularly on video and DVD,
 - d) importing films into Hungary for commercial purposes,
 - e) possession for commercial purposes.
16. **cinema:** premises installed and used for the public presentation of films against and entrance fee, equipped with any visual display equipment.
17. **cinema operation:** business activity aimed at presenting films to the public in cinemas.
18. **film distributor:** business company or any other organisation engaged in the distribution of films in a business like manner.
19. **film plan development:** the total of research, production, planning and organisation work aimed at the creation, merchantability and sale, and feasibility and later realisation of film plans and scripts.
20. **film productions:** the total of author's, organisation, economic and technical activities leading from starting to record the film up to producing the first original copy of the film.
21. **preparation of film production:** author's and organisational activities aimed at ensuring the material, technical and organisational conditions for film production, preceding the start of producing films.
22. **workshop:** an author's community established for the development of film plans and scripts members of which shall co-operate closely within the framework of the business

form selected by them explicitly for the purpose of developing film plans and film plan packages and to produce films.

23. **film produced on order:** a film deemed to be any other film with Hungarian participation or other film that may not be granted direct subsidies under this Act and in the case of which a Hungarian undertaking participating in the production of that film is a legal person or a business company without legal personality having its registered office in Hungary, registered in accordance with Section 27 and engaged in film production activities, which is not deemed to be a film producer in respect of the given film by way of its activities.
24. **film not produced on order:** all films in the production of which an undertaking deemed to be a Hungarian film producer for the purposes of the given film participates and/or for the production of which a Hungarian undertaking or natural person gives support in exchange for which it/he acquired a right of property nature related to the film.
25. **direct cost of film production:** payment included in the budget of the given film financially settled by the producer of the film and confirmed by a receipt. The margin charged by the film producer shall not be deemed to be a direct cost of film production.
26. **national film assets:** the total of author's pecuniary rights due to the state under para (3), Section 41 of Act III of 1969 on author's rights as repealed, rights of used due to the state under section 64 of Act LXXVI of 1999 on author's rights, and rights due to the state as holder of neighbouring rights under section 82 of Act LXXVI of 1999 on author's rights, which shall be deemed to form a part of treasury assets.

Title 3
Classification of films

Section 3

(1) Fiction films shall be classified into one of the categories named Hungarian film, co-production film with Hungarian participation, and films with other Hungarian participation according to the score achieved based on the following table:

Hungarian element	Maximum score
<i>1. Authors:</i>	
Director	10
Script writer	7
Composer	3
Total	20
<i>2. Producer</i>	15
<i>3. Production originally in the Hungarian language</i>	15
<i>4. Actors (appearing in picture or sound):</i>	
Leading actors (in at least half of schemes)	10
Supporting actors	5
Total	15
<i>5. Artistic and technical staff:</i>	

Photographer and crew	4
Sound engineer	2
Film editor	2
Decoration	1
Costumes	1
Make-up	1
Specialist staff	2
Workers	2
Total	15
<i>6. Shooting and post-production:</i>	
a) Location of making the film	
Shooting locations(in at least half of schemes)	3
Master laboratory	2
b) Technology used for shooting purposes	
Picture	2
Lighting	2
Technical structures	1
c) Sound post-production (mixing)	
d) Laboratory work (special effects, lighting) and electronic post-production editing	5
Total	20

(2) Animated films must be classified into one of the categories of Hungarian films, co-production films with Hungarian participation, and other films with Hungarian participation in accordance with the score attained based on the following table:

Hungarian element	Maximum score
<i>1. Authors:</i>	
Author of literary book	6
Character designer	4
Storyboard writer	7
Director	10
Composer	3
Total	30
<i>2. Producer</i>	
<i>3. Production originally in the Hungarian language</i>	
<i>4. Characters (voices of characters)</i>	
<i>5. Artistic and technical staff:</i>	
Picture designer and senior picture designer	10
Background designer	4
Animators	10
Painters	7
Composite designer	3
Total	34
<i>6. Post-production</i>	

Editor	4
Sound engineer	4
Total	8

(3) The table set out in paragraph (1) shall apply to documentary films, information films, experimental films, and other styles not regulated in this Act with the following derogations: if the highest score that can be achieved by the film to be classified – based on actual participation by authors and conditions that can be evaluated based on the table – is less than 100 points, taking the score that may be achieved as 100 %, the condition for classification into one of the categories set out in sub-paragraph 7 of Section 2 shall be for the given film to achieve 15, 30, or 75 %, respectively.

The purpose and principles of the Act

Section 4

The purpose of this Act is:

- a) to ensure wide-range access to the values of Hungarian motion picture culture and to increase the number of viewers;
- b) to preserve and enhance the values of Hungarian motion picture culture by supporting the creation of films and artistic, scientific and education activities related to motion pictures;
- c) to provide an appropriate legal background and financial resources for Hungarian film production to be successful in the international and, in particular, in the European audio-visual market;
- d) to create a professional structure that is able to ensure the production and distribution of high-standard domestic audio-visual works and the development of the Hungarian motion picture industry infrastructure by efficiently using the budgetary and other resources available;
- e) to determine the statutory and other state tasks required for the functioning of the domestic motion picture industry;
- f) to determine the institutional framework for preserving and utilising national film assets, and in connection with this, to set a uniform framework for settling the rights of property value that belong to the state;
- g) to assist and promote the establishment of international and in particular European relations in the motion picture industry.

Section 5

(1) In order to achieve the objectives determined in this Act it defines the method for providing the budgetary resources and resources outside of the budget that are required for the Hungarian motion picture culture and motion picture industry to play its domestic and international role.

(2) In the course of applying this Act procedures shall be conducted in a way so that the professional and artistic independence of the resource distribution and institutional system of the Hungarian motion picture industry defined in the Act should not be infringed.

(3) In the course of operating the state support system defined in this Act efforts must be made to use public funds efficiently and effectively, and procedures must be such that they shall ensure that the use of state subsidies is transparent and controllable.

(4) For the purposes of applying this Act and operating the state support system defined by the Act procedures must be such that they promote the creation of equal opportunities for those who belong to different minorities of society and people living with disabilities within society.

Chapter II

Support for motion picture culture and motion picture industry

Title 1

Principles of the support system

Section 6

The purpose of this chapter is to determine the framework for a comprehensive support system that promotes the stability of the Hungarian motion picture industry, makes the utilisation of public funds more efficient and controllable by ensuring predictability, and specifies consolidated basic conditions for films and organisations of motion picture industry that receives state support. Accordingly, in the course of operating the support system, particularly the following objectives and principles must be applied:

- a) increasing the number of Hungarian films and films produced with Hungarian participation,
- b) making the production and financing of films easier to plan,
- c) ensuring that films are completed and reach the audience,
- d) creating an appropriate proportion of normative and selective subsidy components,
- e) mobilisation of own resources found in the industry and promoting investments into the motion picture industry,
- f) preserving the existing values of Hungarian film culture beyond the borders and supporting the creation of new values.

Section 7

The sources of the support system shall consist of direct and indirect state subsidies set out in this Act.

Title 2

Motion Picture Public Foundation of Hungary

Section 8

(1) The Motion Picture Public Foundation of Hungary (hereinafter: Public Foundation) as an organisation established by the Government and organisations of the motion picture industry

shall allocate the resources defined in the state budget according to the principles defined in this Act.

(2) The provisions of this Act shall apply also to the allocation of other revenues generated in the course of the Public Foundation's operation.

(3) In the course of performing its tasks, the Public Foundation must pay attention to serving different needs of society and ensuring the diversity of the Hungarian motion picture industry. Thus, it must particularly provide opportunities for the presentation of different generations of film producers, workshops, and trends to the broadest public possible, on the basis of equal opportunities, and for realising their creative objectives. Therefore, in the course of developing the distribution system, it shall determine the proportions of each partial area, create a balance between the perspectives of authors, film producers, distributors, and viewers as well as artistic and economic interests.

(4) The tasks of the Public Foundation shall be in particular:

- a) to operate the system for distributing state budget resources provided to the Public Foundation and revenue from other sources,
- b) to elaborate principles for applications, with particular regard to the equality of opportunities for applicants, the clarity, transparency and comparability of applications, and to the items listed below:
 - ensuring the continuous presence of the Hungarian film art and industry in the domestic and the European film market as well as markets outside of Europe,
 - promoting the distribution of Hungarian and universal film culture in Hungary,
 - supporting the preservation and protection of films,
 - supporting training and scientific activities within the film industry.
- c) to continuously monitor and control the completion of films and the achievement of other supported objectives starting from the awarding of support,
- d) international representation for the film industry and maintaining international relations,
- e) supporting Hungarian motion picture art beyond the borders and promoting its continuous presence in the domestic and European film markets as well as the markets outside of Europe.

(5) The Public Foundation shall determine the rules that ensure the application of the principles and conditions for applications and support defined by this Act in its deed of foundation and/or its support regulation. The general conditions for applications and support set by the Public Foundation and the support regulation, which shall determine the mechanism for distributing subsidies, shall be approved by the Minister for National Cultural Heritage (hereinafter: Minister) and shall publish them in "Kulturális Közlöny" (Official Cultural Gazette).

(6) By 28 February of each year, the Public Foundation shall publish "Kulturális Közlöny" and publish in any other necessary manner

a) its plan for applications for the given year, determining the objectives of the motion picture industry it wishes to support during the given year together with the limit amounts for each objectives,

b) the system of conditions for normative subsidies set out in Sections 16-17, in accordance with para (5), Section 16.

In the course of announcing application procedures the Public Foundation must proceed in accordance with the contents of the announcements and/or to inform the public about any changes that may become necessary, together with the reasons for such changes, in due time.

(7) The Public Foundation must prepare an evaluation for the Minister about the utilisation of subsidies granted during the previous year by 31 March of each year.

(8) The issues to be regulated by the rules of organisation and operation, the support regulation, and the asset management regulation must be determined in the Public Foundation's deed of foundation. The deed of foundation, the rules of organisation and operation, the support regulation, and the asset management regulation of the Public Foundation as well as other documents regulating its operation must comply with the provisions of this Act.

Section 9

(1) The executive body of the Public Foundation shall be the Board of Trustees, which shall manage the Public Foundation's assets with exclusive powers, and shall decide on the use of assets in accordance with and in the interest of the Public Foundation's purposes.

(2) The chairman and members of the Board of Trustees shall be appointed by the Founders and nominated by the Founders and appointed by the Minister, with the Government's approval. The Board of Trustees shall be appointed for a term of 3 years. The chairman and members of the Board of Trustees may be nominated again.

Title 3

Motion Picture Co-ordination Council

Section 10

(1) In order to co-ordinate the utilisation of resources of the state that serve to support the motion picture industry and those that may be used from the audio-visual industry, the Minister shall establish the Motion Picture Co-ordination Council (hereinafter: Council).

(2) The Council shall be a consultation body convened by the Minister, to which the following institutions and organisations will be entitled to delegate a representative:

- a) Ministry of National Cultural Heritage,
- b) Ministry of Children, Youth and Sports,
- c) Ministry of Education,
- d) Ministry of Informatics and Communication,
- e) Ministry of Environmental Protection and Water Management,
- f) Motion Picture Public Foundation of Hungary,
- g) Hungarian Historical Motion Picture Foundation,
- h) National Radio and Television Board,
- i) National Cultural Basic Programme,
- j) National Film Office,
- k) Media Desk,
- l) public television broadcasters,
- m) national television broadcasters with terrestrial broadcasting
- n) professional organisation of the motion picture industry.

(3) The broadcasters defined in sub-paragraphs l)-m) of para (2) may delegate one member each, and the professional organisations set out in sub-paragraph n) may delegate altogether three members to the Council in a way so that one delegate represents each of the authors, film producers and film distributors.

Section 11

(1) The following shall belong to the Council's powers:

- a) co-ordination of applications that provide subsidies for the motion picture industry,
- b) preparation of the calendar for applications of the motion picture industry,
- c) organising joint applications of organisations participating in the Council,
- d) promoting the involvement in the international application system of the motion picture industry,
- e) preparation of concepts concerning the further development of the system of state subsidies for the motion picture industry.

(2) The Council shall make decisions in the form of agreements between members and recommendations.

(3) Administrative tasks related to the operation of the Council shall be performed by the National Film Office, otherwise the Council shall determine its own rules of procedure and publish these in the "Kulturális Közlöny". The founding required for the Council's operation must be provided in the budget of the National Film Office.

Title 4

The rules of allocating subsidies

Section 12

(1) Types of direct subsidies to the motion picture industry:

- a) selective subsidy,
- b) normative subsidy,
- c) structural subsidy.

(2) Within the subsidy types defined in section (1), bodies that provide subsidies may grant refundable or non-refundable subsidies. For refundable subsidies, the supporting bodies shall determine the method and rate of such refund.

(3) Based on this Act, subsidies may be granted for the purposes of the following activities of the film industry:

- a) film plan development,
- b) preparation of film production,
- c) film production,
- d) film distribution,
- e) film copy renovation and archiving,
- f) research and training in the motion picture industry,
- g) organising and attending events for the motion picture industry,
- h) preparation and publications for the motion picture industry,
- i) infrastructure development.

(4) The Public Foundation grants subsidies for all of the activities defined in para (3). Other supporting bodies may support activities of the motion picture industry at their discretion.

(5) The Public Foundation must spend the majority of direct subsidies provided by it on supporting the production of full-length feature, documentary, popular scientific, and animated films.

(6) In order to ensure widespread access to the values of the Hungarian motion picture culture and to ensure an increase in the number of viewers, the Public Foundation shall pay special attention to supporting film distribution.

(7) No subsidy under this Act may be granted to activities that are aimed at the production, distribution, and archiving of commercials subject to Act LVIII of 1997 on business advertising activities and films to be classified in category V according to Section 21.

Section 13

(1) The rate of direct subsidy may be 80% of the production budget of the film for Hungarian film and 80% of the share to be borne by the Hungarian film producer out of the budget of a co-production film with Hungarian participation.

(2) The supporting body shall be entitled to award 100% of the production cost of the film or the budget share to be borne by the Hungarian film producer as subsidy if the applicant confirms to the supporting body's satisfaction that the funds required for producing the film supported cannot be provided otherwise, the subsidy as especially justified for the purposes of the Hungarian culture and language, and the production cost of the film or share of the production cost to be borne by the Hungarian film producer does not exceed the limit of the subsidy amount that may be granted by the supporting body for the production of one film.

(3) Based on this Act, direct subsidy may be granted to Hungarian films and co-production films with Hungarian participation as well as other films with Hungarian participation, which include a minority financial contribution by the Hungarian film producer and may be deemed to be European co-production based on an international agreement. When determining the rate of subsidy described in this section, the supporting body shall take into account the proportion of Hungarian participation in the supported film, to be calculated on the basis of the tables set out in Section 3. The rate of direct subsidy granted to a film that contains the minority financial contribution of a Hungarian film producer and may be deemed to be a European co-production based on an international agreement may not exceed the proportion of the maximum support amount that may be granted by the supporting body corresponding to the proportion of Hungarian participation to be calculated in accordance with Section 3.

(4) The supporting body may require that the supported party must spend no more than 80 % of the subsidy granted in Hungary.

(5) Unless otherwise provided by law, the Hungarian film producer of a co-production film with Hungarian participation shall be entitled to the same rights and have the same obligations as the producers of a Hungarian film.

Section 14

(1) Persons and organisations defined in Section 27 and registered by the National Film Office may receive direct and indirect subsidy defined by this Act if they comply with the provisions of the Act and the conditions defined by the supporting body.

(2) For activities as in sub-paragraphs b)-c), para (3), Section 12, direct subsidies may be granted only to film producers, while for activities described in sub-paragraph d), only to the film distributor.

(3) No direct or indirect subsidy may be granted to:

- a) any party who has not been registered or has been deleted from the register described in Section 27 by the National Film Office,
- b) who have debts outstanding to the state for taxes, contributions or other public burdens,
- c) who have not satisfied their obligation to provide a mandatory copy for archiving according to the relevant legislation,
- d) who have not settled for the use of a subsidy granted by the supporting body, whose settlement has not been accepted by the supporting body, or who have overdue unpaid liabilities to the supporting body,
- e) organisations the leading officials or owners of which include a person who has been the leading official of an organisation during the three years that preceded the date of submitting the request for subsidy, which has not accounted for the use of direct subsidies during the term of his service as leading official to the supporting body or its account has not been accepted by the supporting body,
- f) an organisation the owners of which include an organisation that has not accounted for direct support used in the three years preceding the date of submitting the support request with the supporting body or such account has not been accepted by the supporting body,
- g) against whom bankruptcy, liquidation or winding-up proceedings are in progress.

(4) The supporting body may grant an exemption from the condition for exclusion specified in sub-paragraph d), para (3) not earlier than three years having elapsed after the expiry of the reporting deadline. No such exemption may be granted in the case of overdue payment obligations that have not been performed until they are performed.

(5) No direct or indirect subsidy may be granted to officers of the supporting body who decide on subsidies and to relatives of such persons as listed in sub-paragraph b), Section 685 of the Hungarian Civil Code; furthermore, no subsidy may be granted to an organisation with which the above persons have membership or employment relations or any other legal relationship aimed at performing work or in which they have participations, unless any other conflict of interest rule is defined for the given supporting body by law or by any other legislation based on an authorisation granted by law.

(6) Direct subsidies may be granted only after a contract is concluded between the supported and supporting body. If the objective supported is not attained pursuant to a breach of contract by the supported body, it must repay the subsidy amount to the supporting body.

Section 15

(1) Selective subsidies may be granted by way of applications in the case of activities defined in sub-paragraphs a)-e), para (3), section 12. Unless otherwise provided by law, a supporting body may grant individual subsidies to the extent and subject to the conditions as specified in its support regulation if the realisation of objectives selected earlier by application cannot be ensured otherwise.

- (2) Selective subsidies for the purpose of producing films may be disbursed only if the supporting body has established that the film producer who requests subsidy has
- a) a production plan and budget at an appropriate level of completion, which is required for starting production,
 - b) cover for the budget for producing the film (calculated without the amount of subsidy requested),
 - c) consent from holders of author's and neighbouring rights for film dramatisation and the distribution of the film, and/or the contracts on this.

(3) In addition to the conditions defined in sub-paragraphs a) and b) of para (2), selective subsidies may be disbursed for the production of co-production films with Hungarian participation only if the Hungarian film producer has title of ownership to the first original negative or an original copy suitable for reproduction of the film and/or is entitled to make a copy thereof that is suitable for presentation. For co-production films with Hungarian participation, the condition defined in sub-paragraph c), para (2) has to be met in respect of one of the producer of the film.

(4) The supporting body shall make its decisions in possession of accurate information on the works supported and/or the applications, by carefully considering all circumstances. The supporting body must continuously monitor and control the realisation of the aim supported and to take all measures aligned to this Act that ensure completion of the production of the films supported.

Section 16

(1) A producer shall be entitled to normative subsidy if the film produced by the producer or directed by a director employed by the film producer reaches the number of cinema viewers defined by the supporting body or is invited to or nominated at or receives an award in film festivals defined by the supporting body.

(2) Film producers will become entitled to normative subsidy at the time of producing their new films. If the producer of the film that serves as the basis of normative subsidy (reference film) employs the director of the reference film also for producing its next film the producer will be entitled to the total normative subsidy, which must be spent on producing the new film. If the producer of the reference film does not employ the director of the reference film for producing its new film the producer of the reference film and the producer of the new film directed by that director shall be entitled to the normative subsidy at a proportion of 50% each, which they both must spend on producing their new films.

(3) Film producers may use normative subsidies only once, for producing one film after each reference film unless the total amount of the subsidy has not been used for producing the new film, in which case they will become entitled to the remaining balance at the time of producing the next film or films, provided that the conditions for eligibility set out in para (2) prevail. The supporting body shall be entitled to make the rate of normative subsidy conditional on the proportion of Hungarian participation realised in the film that forms the subject matter of support, which shall be calculated based on the tables set out in Section 3.

(4) Film producers shall be entitled to normative subsidy due on the basis of meeting certain defined production conditions if the film producer fulfils the conditions defined by the supporting body defined in respect of the production budget of the film.

(5) The supporting body shall publish the rate and limit amount of normative subsidies that may be requested by film producers in the given year as well as the proportion of such rate to the framework amount, the system of production conditions, cinema viewer numbers and film festivals that serve as the basis of subsidies, determining the conditions for eligibility for each festival.

Section 17

(1) Film distributors shall be entitled to normative subsidies for the distribution of Hungarian film and co-production films with Hungarian participation and of films classified as “art”, and for the operation of cinemas classified as „art”.

(2) The supporting body shall publish the rate of normative subsidies that may be requested by film distributors during the given year on an annual basis, determining the conditions for eligibility.

(3) In addition to those set out in Sections 16-17, the supporting body may grant normative subsidies to other activities defined in para (3), Section 12 according to the conditions published by it earlier, with regard to all type of films. The Public Foundation grants subsidies in all forms of normative subsidies defined in Sections 16-17, while other supporting bodies may apply these forms of subsidies in their own discretion.

Chapter III

National Film Office

Title 1

Legal status and tasks of the National Film Office

Section 18

(1) The National Film Office (hereinafter: Office) shall perform public administration tasks related to the functioning of the motion picture industry, in the course of which it shall perform statutory, control, and service provision activities as defined in this Act.

(2) The Office shall be a central administration agency established by the minister, the budget of which shall be determined within the budget chapter of the Ministry of National Cultural Heritage (hereinafter: Ministry).

(3) The Office shall be headed by the director, who shall be appointed in an application procedure and released by the minister. The duration of the appointment shall be five years. The provisions of Act XXIII of 1992 on the legal status of civil servants shall apply to the legal status of the director and employees of the Office. The rules applicable to the organisation, operation, and procedures of the Office shall be determined by the minister in a decree.

Section 19

(1) The Office shall perform the following tasks:

- a) classify films in accordance with this act in order to protect minors,
- b) classify films of their artistic value or of worthy of support due to their cultural significance as well as the cinemas distributing such films in accordance with this Act,

- c) maintain public records about organisations of the motion picture industry and films that require support under this Act, as well as of the films to be distributed,
- d) classify films for the production of which subsidy according to this Act is requested into the categories entitled Hungarian film, co-production film with Hungarian participation, or film with other Hungarian participation,
- e) certify eligibility for using subsidies,
- f) perform statistical and data provision activities concerning the motion picture industry,
- g) perform administrative tasks related to the operation of the Motion Picture Coordination Council,
- h) perform other tasks concerning the motion picture industry as defined by this Act or in other legislation based on the authorisation granted in this Act.

(2) The provisions of Act IV of 1957 on the general rules of public administration proceedings shall apply to procedures set out in sub-paragraphs a)-e), para (1) with the proviso that appeals may lie against the resolutions passed by the Office during the proceedings at the Minister for National Cultural Heritage.

(3) No administrative service fees defined by separate law shall be paid for registration and classification activities performed by the Office under this act.

Title 2

Classification of films in order to protect minors

Section 20

(1) In order to ensure the healthy intellectual and spiritual development of minors, films to be marketed in Hungary must be classified into the categories defined in Section 21 and this classification must be published in accordance with the provisions of this Act.

(2) The provisions of para (1) shall not apply to films presented nationwide on the occasion of film days (film weeks), film festivals organised by inter-state agreements or professional organisations and for no more than ten times over one year, which will not enter the distribution network.

Section 21

Classification categories for films shall be as follows:

- a) Films that may be viewed without regard to age limits shall be classified into category I.
- b) Films that may awake fear in viewers of less than twelve years of age or that cannot be understood or may be misunderstood by viewers of less than twelve years of age due to their age shall be classified into category II. The rating of such films shall be: viewers of less than twelve years of age shall be subject to parental guidance.
- c) Films that are suitable for unfavourably influencing the physical, intellectual or moral development of children below the age of sixteen particularly by indirectly alluding to violence or sexuality, or the dominant component of the topic of which is a conflict resolved violently shall be classified into category III. The rating of such films shall be: not recommended for those below the age of sixteen.

d) Films that are suitable for unfavourably influencing the physical, intellectual or moral development of minors, particularly by having a direct and natural depiction of violence or sexuality as a dominant component, shall be classified into category IV. The rating of such films shall be: not recommended for those below the age of eighteen.

e) Films that are suitable for exerting a seriously unfavourable influence on the physical, intellectual or moral development of minors particularly by containing pornography or extreme or unjustified violence shall be classified into category V. The rating of such films shall be: recommended only for adults.

The Age Limit Committee

Section 22

The Office shall establish and operate the Age Limit Committee, which will make recommendations to the Office for the classification of films into categories and controlling the age limit defined is displayed as appropriate.

Section 23

(1) The composition of the Age Limit Committee, which shall consist of five members, shall be as follows:

- a) two persons with feature qualification having professional experience in the field of film distribution or motion picture education,
- b) two persons with physiologist qualification having professional experience in the impact of the media on the development of children,
- c) one representative of film distributors.

(2) A delegate from each of the Ministry for Children's Affairs, Children, Youth and Sports, the Ministry of Education, the Ministry of Health, Social and Family Affairs, the Ministry of National Cultural Heritage and the National Radio and Television Board with experience in the field of protecting children and young people may attend the meetings of the Age Limit Committee as an expert.

(3) The Office shall elect the members specified in sub-paragraphs a) and b) of para (1) in the course of an open tendering procedure, while the member specified in sub-paragraph c) shall be delegated by film distributors to the Age Limit Committee. Members shall be appointed for a period of three years.

Publication of films

Section 24

(1) Film distributors must display the marking corresponding to the category determined by the Office on all data media and/or the packaging of any data media marketed by them as well as in all communications and advertisements related to the film in accordance with the provisions of separate law, in a conspicuous manner.

(2) If, despite the Office's decision the age limit marking is not displayed or falsely displayed the Office shall bind the film distributor and/or the personal organisation responsible for the emergence of the illegal situation to pay a fine, which shall be used for purposes of the motion picture industry. The amount of the fine may be no more than an amount equivalent to double the revenue realised by the film distributor by the distribution that violated the law, or if this

cannot be determined or if it is not the film distributor who is responsible for the violation of law, it may be between HUF 10,000 and 3 million. Fines that remain unpaid shall be deemed to be public debt, which may be collected as taxes.

Title 3.

Classification of film in order to support the distribution of films

Section 25

(1) In order to promote the distribution of films of an artistic value or worthy of support due to their cultural significance the Office may grant a classification as “art” to films on the request of the film producer or distributor.

(2) The Office shall grant a classification as “art” cinema to any cinema the operator of which agrees to comply with the conditions defined in separate law on the operator’s request. For cinemas with more than one hall the „art” classification may be awarded to the hall of the cinema if the operator agrees to comply with the conditions applicable to „art” cinemas in respect of that given hall.

Section 26

(1) A Film Committee, set up by the Office with five members, shall make proposals for classifying films as „art” films. The Office’s director shall appoint members of the Film Committee following an open tendering procedure. Committee members must have qualification or practice in the field of film art, motion picture science or motion picture teaching. Members shall be appointed for a terms of three years.

(2) The Office shall classify as „art” all films to be distributed,

- a) which contribute to the development as well as diversity of the Hungarian, the European or universal audiovisual culture by its artistic value, or
- b) which earned an award in an internationally renowned film festival, or
- c) which the Film Committee considers to be significant in artistic, education, or other cultural terms.

(3) The Office shall continuously control cinemas classified as „art” cinemas for purposes of complying with the conditions of „art” classification set out in law. The Office shall revoke the classification if conditions are not met.

Title 4

Registration and classification of organisations and works of the motion picture industry

Section 27

(1) In order to ensure that eligibility to direct or indirect state subsidy may be determined, the Office shall keep records of

- a) film producers, film distributors, workshops, and other organisations of the motion picture industry that request subsidies, and natural persons who request subsidy,
- b) films in the process of preparation or production that have been granted subsidies, as well as films to be distributed.

(2) Registration shall not be a condition for granting subsidies in the case of organisations and institutions that perform film distribution activities only for education, library, or public collection tasks, except for public collections of an on a topic related explicitly to the motion

picture industry. When requesting subsidies, such organisations must declare that the conditions for exclusion set out in para (7) Section 28 do not exist in respect of them.

Section 28

(1) Any natural person who is a Hungarian citizen, any individual entrepreneur who is a resident for the purposes of Act CXVII of 1995 on personal income tax, any legal person or business company without legal personality having its registered office in Hungary may request to be registered if they wish to receive direct or indirect state subsidy.

(2) If the subsidy is requested by an organisation, the register must contain the name, registered office, company registration number or court registration number, and tax registration number of the entity requesting subsidy together with the name and address of its representative.

(3) If subsidy is requested by a natural person, the register must contain the name, address, place and date of birth, tax number or identification number of the person requesting the subsidy.

(4) The data listed in paragraphs (2) and (3) shall be reported to the Office by the party requesting the subsidy together with the application for registration, and the Office shall register applicants if the data defined by law are provided.

(5) The register must include the following for all parties requesting subsidies:

- a) the activity for which the applicant requests subsidy,
- b) the amount of direct state subsidy used by the applicant, indicating the activity and/or film supported,
- c) whether the applicant has accounted for and settled the proper use of direct state subsidy used by the applicant by the deadline and according to the conditions defined by the supporting body, or in the absence of this, the amount of the applicant's liability outstanding to the supporting body.

(6) The data listed in paragraph (5) and changes in such data shall be reported to the Office by the organisation that provides state subsidies.

(7) Applicants who have not settled with the proper use of direct state subsidy used by them by the deadline and according to the conditions defined by the supporting body, whose settlement has not been accepted by the supporting body or who have overdue liabilities outstanding to the supporting body may not be registered or must be deleted from the register until they settle their payment obligations to the supporting body. In such cases, registration may be repeated no earlier than after three years have elapsed after the expiry of the deadline for settlement or payment, unless the applicant has already paid its liability to the supporting body in the meantime.

(8) Registration of other data necessary for the achievement of the objectives defined by the act for the purposes of this section may be required by separate law.

Section 29

(1) The Office shall register all films for the preparation or production of which state subsidies have been used.

(2) The register referred to in para (1) must include the planned title of the film that is being prepared or produced, the name of the party producing the film, the result of the qualification specified in the procedure specified in Section 31 as well as other data required for achieving the objectives specified by law as defined by separate regulation.

(3) In addition to those set out in para (1), the Office shall register all films to be distributed, except for films referred to in para (2), Section 20.

(4) The register referred to in para (3) must include the title of the film to be distributed, the names of the producer and distributor of the film, the classifications determined based on the classification procedures defined in Sections 20 and 25 as well as other data required for achieving the objectives defined by law as specified in separate regulation.

Section 30

(1) Data in the Office's register shall be deemed to be data of public interest and shall be public, except for the birth data and tax identifiers of natural persons registered and representatives of organisations registered, which are personal data and shall be public only if the person or organisation concerned has given prior written approval for publication. In this case these data may be used only by organisations that decide on state subsidies and only for purposes necessary for performing their tasks, for three years calculated from the date when the party concerned gave the respective consent.

(2) At the time of data provision, the Office must bring the provisions of para (1) to the attention of the personal organisation concerned and request consent for managing personal data.

Section 31

(1) The Office shall classify all films for the production of which direct or indirect state subsidies are requested to one of the following categories based on the Act, on the film producer's request:

- a) Hungarian film,
- b) co-production film with Hungarian participation,
- c) other film with Hungarian participation.

(2) The Office shall perform classification according to para (1) based on the official documents submitted by the film producer to the Office as listed in separate law.

(3) On the request of film producers, the Office shall investigate and confirm the amount of direct film production costs in the production budget of the film, and this certificate shall be the basic accounting document for using indirect subsidy.

(4) On the request of the party concerned or based on an inquiry from another public administration body, the Office shall issue a certificate about the data included in its register in respect of film producers, film distributors, and organisations of the motion picture industry included in its register.

Section 32

(1) The Office shall perform the data collection and data management tasks necessary for operating the information system for the motion picture industry of the National Statistical Data Collection Programme.

(2) The Office shall combine its registers specified in this act into a database that can be managed electronically, and shall elaborate the regulation for handling the database and publish it in “Kulturális Közlöny”.

(3) On the request of organisations providing subsidies for the motion picture industry, the Office shall certify settlements of direct state subsidies based on data provided by supporting bodies according to Section 28 paragraphs (5)-(6) in respect of film producers, film distributor and organisations of the motion picture industry included in its registers.

Section 33

(1) The Office shall provide legal assistance and advice to natural persons and organisations who contact the Office concerning issues related to film production, and shall provide comments on filming and other agreements related to film productions submitted to it.

(2) The Office shall assist film producers, film distributors and the organisations of the motion picture industry in establishing international co-production relations, and shall make proposals to the Minister for the conclusion and contents of international co-production agreements.

(3) The Office shall provide professional proposals to the Minister for developing the government policy related to the domestic and international strategic issues of the motion picture industry and Hungarian participation in the European Union’s audiovisual programmes.

Chapter IV

Protection of national film assets

Hungarian National Film Archive

Section 34

(1) The Hungarian National Film Archive (hereinafter: Film Archive) shall be an independent budgetary agency directed by the Ministry, which shall function as a public collection.

(2) The basic task of the Film Archive is to perform tasks related to the collection, processing and preservation of the tangible, written and other documents of Hungarian as well as universal film culture, to contribute to the development of Hungarian culture by professional services and research activities, and to assist education related to motion picture culture.

(3) The Film Archive shall maintain the films and video documentaries provided to it based on Government Decree No. 60/1998. (III. 27.) on the provision and utilisation of mandatory archived copies of press products.

(4) The director of the Film Archive shall be appointed and released by the Minister, and the rules of organisation and operation shall be approved by the Minister.

Section 35

(1) The asset trustee’s right concerning national film assets shall be vested in the Film Archive.

(2) The Film Archive may not sell, transfer or encumber any or all of the national film assets.

(3) The original negatives, or in the absence of these, at least one copy of films that form a part of the national film assets – unless otherwise provided by legislation on the provision of mandatory copy for archiving – shall be the property of the Film Archive.

(4) The detailed rules for the efficient distribution of films that form a part of the national film assets on several channels as well as the method for distributing the revenue collected from distribution shall be determined by the Minister in a decree. This shall not affect the enforcement of rights due to right-holders under the Copyright Act.

(5) The Film Archive may use films received in custody or integrated into its collection in the framework of the service of providing mandatory copies for archiving or otherwise only in accordance with the provisions of the Copyright Act.

Chapter V

Final provisions

Section 36

(1) This Act shall come into force on 1 April 2004. Para 15 e), Section 2 shall come into force on the date when the international agreement on accession to the European Union is promulgated.

(2) On the date of promulgating the international agreement on accession to the European Union, paragraph 15 d), Section 2 shall be replaced by the following provision:
„d) importing films into the territory of the European Union for commercial purposes,”

(3) Films that are already distributed at the time when this act comes into force need not be reclassified according to the provisions of this act in respect of age limits and the „art” classification and they may continue to apply the earlier age limit indications and “art” classifications recognised by the Motion Picture Public Foundation of Hungary.

Section 37

(1) The Minister for National Cultural Heritage and the Minister of Finance are authorised to determine the details rules of the organisation, operation and procedures of the National Film Office as well as the rate of the administrative service fee defined in para (3), Section 19 in a joint decree.

(2) The Minister for National Cultural Heritage is authorised to determine the following in a decree:

- a) the conditions for classification as “art” cinema according to para (2), Section 25 and the conditions for the accessibility of cinemas for people with disabilities,
- b) the detailed rules for the efficient distribution of films that form a part of national film assets through several channels as well as the method for distributing revenue collected out of distribution.

(3) The Minister for National Cultural Heritage is authorised to establish the National Film Office in accordance with the provisions of Act XXXVIII of 1992 on public finances until the date when this act comes into force, and to determine the deed of foundation of the Office in agreement with the Minister of Finance.

Section 38

(1) Founders of the Motion Picture Public Foundation of Hungary must harmonise the deed of foundation of the public foundation with the provisions of this Act within 90 days on the date when this act comes into force.

(2) By derogation from provisions of para (6), Section 8, the Motion Picture Public Foundation of Hungary must publish its plan for applications for the year 2004 until 10 April 2004.

Chapter VI

Legislation to be amended

Section 39

At the time when this act comes into force, para (5), Section 59, Act CXL of 1997 on museum institutions, supply of public libraries and public education shall be amended as follows:

„(5) The minister shall operate the “Neumann János” Multimedia Centre and Digital Library, which shall be the national service centre for multimedia and electronic documents. The Minister for Informatics and Communication shall operate the National Audiovisual Archive (hereinafter: NAVA) in accordance with provisions set out in separate law. Professional supervision over the NAVA shall be exercised jointly by the Minister for Informatics and communication and the Minister for National Cultural Heritage.”

Section 40

(1) At the time when this Act comes into force, the following paragraphs 36 and 37 shall be added to Section 4 of Act LXXXI of 1996 on corporate tax and dividend tax (hereinafter: CDT Act):

[Section 4 for the purposes of this act]

“36. *Subsidy certificate issued by the film office:* a document issued by the National Film Office (hereinafter: Film Office) for supporters of a film produced on order according to para 23, Section 2 of Act II of 2003 on motion picture (hereinafter: Motion Picture Act), which shall contain the name, registered office and tax number of the tax payer who granted the subsidy as well as the amount of subsidy that grants entitlement to the benefit. The value of subsidy certificates issued by the Film Office for films produced on order, which grant entitlement to the benefit, may not exceed 20 per cent of the direct costs of producing the film incurred in Hungary approved by the Film Office in accordance with para 25, Section 2 of the Motion Picture Act, in respect of the given film, with the proviso that no certificate may be issued if the film has to be classified into category V according to Section 21 of the Motion Picture Act.

37. *Investment certificate issued by the Film Office:* an official document issued by the Film Office for the investor who becomes the owner of a right in case a film not produced on order according to para 24, Section 2 of the Motion Picture Act, and which contains the name, registered office and tax number of the tax payer who becomes the owner of a right together with the amount of the investment that entitles to the benefit, which results in the acquisition of a right. The value of subsidy certificates issued by the Film Office for films not produced

on order, which grant entitlement to the benefit, may not exceed 20 per cent of the direct costs of producing the film incurred in Hungary approved by the Film Office in accordance with para 25, Section 2 of the Motion Picture Act, in respect of the given film, with the proviso that no certificate may be issued if the film has to be classified into category V according to Section 21 of the Motion Picture Act.”

(2) The following paragraph q) shall be added to para (1), Section 7 of the CDT Act:

[Section 7 (1) Profit before tax shall be reduced by:]

“q) 50% of the amount of the investment resulting in the acquisition of a right, as set out in the investment certificate issued by the Film Office to the tax payer, provided that the film does not have to be classified into category V according to Section 21 of the Motion Picture Act.”

(3) The following sub-section nf) shall be added to sub-paragraph n), para (1), Section 8 of the CDT Act:

[Section 8 (1) Profit before tax shall be increased by:

n) the book value of subsidies, remuneration granted without a repayment obligation, liquid assets provided for final and assets transferred free of charge, value added tax not refunded by the recipient during the tax year, and the amount of liabilities assumed by the tax payer deducted from the profit before tax for the tax year, the purchase cost of services provided free of charge during the tax year, with regard to the items set out in para (4), except if]

“nf) the tax payer has provided the subsidy to the client who ordered a film up to the amount set out in the subsidy certificate issued by the Film Office for the tax payer, provided that the film does not have to be classified into category V according to Section 21 of the Motion Picture Act.”

(4) The following paragraphs (1)-(3) shall be added to Section 22 of the CDT Act:

“(1) Tax payers may apply a tax relief up to the amount included in the subsidy certificate issued to the tax payer according to para 36, Section 4 – at the taxpayer’s discretion – from the tax for the tax year of granting the subsidy and the tax of the three subsequent tax years.

(2) Tax payers may apply a tax relief up to the amount included in the investment certificate issued to the tax payer according to para 37, Section 4 – at the taxpayer’s discretion – from the tax for the tax year of granting the subsidy and the tax of the three subsequent tax years.

(3) The tax relief set out in paragraphs (1)-(2) may not be applied if the film has to be classified into category V according to Section 21 of the Motion Picture Act.”

Ferenc Mádl
President of the Republic

Katalin Szili
Chairperson of the Parliament