

of 5 November 2008

on the Audiovisual Fund and the amendment of certain acts

The National Council of the Slovak Republic has adopted the following act:

Amendment: Act No. 532/2010

Article I

**Section 1
The Audiovisual Fund**

(1) The Audiovisual Fund (hereinafter only “the Fund”) is hereby established as a public institution that supports and aids the development of audiovisual culture and the audiovisual industry.

(2) The Fund is a legal entity with the seat in Bratislava.

**Section 2
Activity of the Fund**

The Fund carries out the following activities:

- a) manages the contributions pursuant to sections 24 to 29 and controls the contributions collected pursuant to sections 24 to 28,
- b) grants the co-production status pursuant to international treaties and agreements by which the Slovak Republic is bound,¹
- c) provides the financing to the authors of Slovak audiovisual works and the producers of Slovak audiovisual works,
- d) creates the material conditions for the development of audiovisual culture and the audiovisual industry in the Slovak Republic through the provision of financing for the restoration and development of technological infrastructure for the production and distribution of audiovisual works and for the organisation of public cultural events in the area of audiovisual culture,
- e) provides the financing to the persons for the distribution and presentation of audiovisual works,
- f) provides the stipends for individuals whose creative activity or research contributes to the development of audiovisual culture and the audiovisual industry in the Slovak Republic,
- g) realises the research activities focussing primarily on support systems in the area of audiovisual culture, the creation and use in support of the Fund’s activities of databases on the creation, production and distribution of audiovisual works,
- h) keeps the records on Slovak audiovisual works and persons to whom financing is provided,

¹ For example, the European Convention on Cinematographic Co-production (Notice of the Ministry of Foreign Affairs of the Slovak Republic, No. 106/2007 Coll.).

- i) provides the information on financing provided from the Fund for the purposes of acquisition activity² and information on the granting of co-production status for the purposes of the application of depositing obligations³ and for the purposes of the performance of supervision of these obligations to the Slovak Film Institute,
- j) cooperates with the state administrative bodies, local government bodies, public institutions and persons in the interest of the development of audiovisual culture and the audiovisual industry in the Slovak Republic,
- k) participates in the activities of international organizations that support the creation, production and distribution of audiovisual works,
- l) cooperates with the international organizations and foreign institutions that support the creation, production and distribution of audiovisual works,
- m) controls and enforces the compliance with contractual obligations arising from agreements concluded with recipients of financing.

Section 3 Bodies of the Fund

The bodies of the Fund are:

- a) the board,
- b) the supervisory commission,
- c) the director.

Section 4 The Board

(1) The board is the statutory body of the Fund and acts on its behalf. The board decides on all matters relating to the Fund unless they are reserved for the competence of the director or the supervisory commission by this act. The chairman and vice-chairman are entitled to act on the Fund's behalf independently.

(2) As the supreme body of the Fund, the board

- a) approves the statute of the Fund,
- b) approves the rules, the methodology and the criteria for the assessment of applications for grants, loans or stipends from the Fund (hereinafter only "applications"),
- c) approves the rules for the provision of financing from the Fund,
- d) approves, at the proposal of the director and based on the opinion of the supervisory commission, the budget of the Fund for the relevant budgetary period, and the changes of the budget during the relevant budgetary period,
- e) approves, at the proposal of the director and based on the opinion of the supervisory commission, the annual report of the Fund and the financial statements of the Fund,
- f) discusses the strategic objectives and long term development conceptions of audiovisual culture and the audiovisual industry in the Slovak Republic and submits them to the ministry for approval,
- g) approves, based on the strategic objectives and long term development conceptions specified in letter f), medium term and short term objectives for the Fund and the rules and

² Section 36 of Act No. 343/2007 Coll. on the conditions of registration, public distribution and preservation of audiovisual works, multimedia works and sound recordings of artistic performances and the amendment of certain acts (the Audiovisual Act).

³ Section 34 of Act No. 343/2007 Coll.

- priorities of support activities of the Fund for a specific period and evaluates its performance,
- h) takes note of information on the allocation of financing from the Fund, which the director submits before the conclusion of the contract with an applicant; the board may pass a resolution requesting the director to submit a report on the application together with the application and its evaluation pursuant to section 17 (7) for the purpose of assessing compliance with the rules and priorities for the support activity of the Fund,
 - i) grants approval, at the proposal of the director, for use of the Fund's assets pursuant to special regulations,⁴
 - j) adopts decisions on proposals and opinions of the supervisory commission,
 - k) appoints among its members a chairman of the board and a vice-chairman of the board for a term of office of two years,
 - l) recalls the chairman and vice-chairman of the board,
 - m) appoints and recalls the director,
 - n) appoints and recalls two members of the supervisory commission,
 - o) decides on a proposal of the director to write off receivables of the Fund or to end measures to recover receivables of the Fund permanently,
 - p) approves the standing orders of the board,
 - q) appoints and recalls members of expert commissions,
 - r) approves the organisational regulations and rules of procedure of the expert commissions, which govern the details of the activity of the expert commissions,
 - s) approves the organisational regulations of the office, which govern the details of the activity of the office,
 - t) decides on a new draft of the contract pursuant to section 22 (5),
 - u) authorises the director to make decisions on granting of the financing by the Fund pursuant to the section 18 (11),
 - v) authorises the director to make decisions on granting of the co-production status pursuant to the section 32.

§ 5

Assembling of the board and membership in the board

- (1) The board has nine members. Board members are appointed and recalled by the minister of culture of the Slovak Republic (hereinafter only "the Minister") at the proposal of persons working in the area of audiovisual culture in the Slovak Republic such that the assembling of the board is as follows
- a) two board members from the area of the creation of Slovak audiovisual works,
 - b) two board members from the area of independent producers in the audiovisual industry,⁵
 - c) one board member from the area of the distribution of audiovisual works or of the area of the operation of the audiovisual technical devices,
 - d) one board member from the area of public service television broadcasting,⁶
 - e) one board member from the area of licensed television broadcasting,
 - f) one board member from the area of retransmission,

⁴ Act No. 176/2004 Coll. on the disposal of the property of public institutions and the amendment of Act No. 259/1993 Coll. on the Slovak Forestry Chamber as amended by Act No. 464/2002 Coll. and Act No. 581/2004 Coll.

⁵ Section 37 of Act No. 343/2007 Coll.

⁶ Section 2 (1) (a) of Act No. 308/2000 Coll. on broadcasting and retransmission and the amendment of Act No. 195/2000 Coll. on telecommunications as amended.

Act no. 532/2010 Z.z. on Radio and Television Slovakia and on the amendment of certain acts.

g) one board member appointed by the Minister.

(2) Board members must be individuals who

- a) have permanent residence in the territory of the Slovak Republic,
- b) have Slovak nationality,
- c) are fully competent to carry out legal acts,
- d) are of blameless reputation; for the purposes of this act a person of blameless reputation is defined as a person who has not been finally convicted for an intentional crime,
- e) have completed at least the second level of university education,
- f) have at least three years of professional experience in the relevant area pursuant to subsection 1.

(3) The person nominated for the member of the board shall submit

- a) an extract from the criminal records no older than three months,
- b) certificate of the highest level of education completed and
- c) curriculum vitae.

(4) If persons entitled to submit the nominations under subsection 1 do not submit a nomination for the board member in the numbers specified in subsection 1, the minister shall appoint members of the board without nomination.

(5) The function of a board member is incompatible with the function of

- a) president of the Slovak Republic,
- b) member of the National Council of the Slovak Republic,
- c) member of the government of the Slovak Republic,
- d) state secretary,
- e) head of a ministerial service office,
- f) president of another central state administrative body or his deputy,
- g) president of a self-governing region,
- h) mayor,
- i) prosecutor,
- j) judge,
- k) member of the Council for Broadcasting and Retransmission,⁷
- l) member of the elected bodies of Slovak Radio,⁸
- m) member of the elected bodies of Slovak Television⁹ and
- n) member of the bodies of the arts funds.¹⁰

(6) Board members must not hold a function in the bodies of political parties or political movements, make statements in their name or act for their benefit.

(7) A board member must inform the chairman of the board and the Minister without delay of any change in their status in relation to subsections 5 and 6.

(8) The function of board member is incompatible with the function of director, member of the supervisory commission or membership of an expert commission.

⁷Section 7 of Act No. 308/2000 Coll. as amended.

⁸Section 10 of Act No. 619/2003 Coll. on Slovak Radio as amended.

⁹Section 10 of Act No. 16/2004 Coll. as amended.

¹⁰Section 4 of Act of the National Council of the Slovak Republic No. 13/1993 Coll. on art funds as amended by Act No. 283/1997 Coll.

(9) Board members must act impartially in the performance of their function and refrain from actions that would prioritise a personal interest above the public interest.

(10) Membership in the board cannot be deputised.

(11) Members of the board are entitled to monthly remuneration for the performance of their function. The amount of such remuneration shall be equal to two thirds of the average monthly wage in the economy of the Slovak Republic for the previous calendar year.

(12) Board members are entitled to reimbursement of travel costs pursuant to special regulations.¹¹

(13) Performance of the function of chairman of the board entitles the function holder to a bonus equal to one half of the remuneration specified in subsection 11.

§ 6

Term of office of the board member

(1) The term of office of the board member is six years. The same person may be appointed as the board member for at most two consecutive terms of office.

(2) The term of office of the member starts from the day following the expiry of the mandate of the board member to whose position the new member is appointed, though not earlier than the date of his or her appointment.

§ 7

Termination of membership in the board

(1) Membership of the board terminates

- a) at the end of a term of office,
- b) on resignation from the function; membership shall end on the date of delivery of a resignation letter from the function to the Minister,
- c) on recall from the function,
- d) by death or declaration as dead.

(2) The Minister shall recall a board member if he or she

- a) is finally convicted for the intentional crime or for the crime for which a suspended sentence was not handed down,
- b) is deprived of his or her competence to perform legal acts or his or her ability to perform legal acts was limited by a final court judgement,
- c) is the statutory body or a member of a management or control body of a legal entity which does not fulfilled its obligations pursuant to sections 24 to 28 and 30,
- d) performs a function or activity that is incompatible with the function of board member pursuant to section 5 (5), (6) and (8) or
- e) does not perform the function of a board member for at least three consecutive months.

¹¹ Act No. 283/2002 Coll. on travel expenses, as amended.

(3) The Minister may recall a board member at the proposal of the persons who nominated the board member pursuant to section 5 (1), if the board member demonstrably contravenes section 5 (9) in the performance of his or her function.

§ 8 Meetings of the board

(1) The board is quorate if more than half of all the members of the board are present.

(2) The adoption of a resolution by the board requires the agreement of more than half of all board members.

(3) Meetings of the board shall be convened by the chairman of the board or, in his or her absence, by the vice-chairman of the board at least once a month; the chairman of the board or, in his or her absence, the vice-chairman of the board must convene a meeting of the board if it is requested by at least three board members or the director. In the absence of the chairman of the board, the vice-chairman of the board shall deputise. Meetings of the board are chaired by the chairman of the board or, in his or her absence, by the vice-chairman.

(4) Meetings of the board are open to the public except where they relate to the cases specified in section 4 letters h), t) and u). Minutes shall be taken of every meeting of the board. The minutes of the meeting of the board shall be published within five days of the end of the meeting of the board. Materials from the meetings of the board shall be made available to the public through the Fund's website.

§ 9 The Supervisory Commission

(1) The supervisory commission

- a) supervises compliance with the Fund's obligations pursuant to this act, other generally binding legal regulations¹² and the internal regulations of the Fund,
- b) controls the correct and appropriate management of the Fund, appropriate distribution of financing from the Fund and use of the Fund's assets,
- c) expresses its opinion on the proposed budget, the financial statements and the annual report of the Fund; it presents its opinions to the board,
- d) expresses its opinion on proposals of the director to dispose of the assets of the Fund,
- e) expresses its opinion on proposals of the director to write off receivables of the Fund or to end measures to recover receivables of the Fund permanently,
- f) informs the board of the results of its activities and its findings,
- g) submits proposals for the remedies for the identified insufficiencies to the board,
- h) elects the chairman of the supervisory commission for a term of office of two years,
- i) approves the rules of procedure of the supervisory commission.

(2) The members of the supervisory commission are entitled to examine all accounting, economic, financial and other documents relating to the management and disposal of assets of the Fund. The director must provide such documents without undue delay.

§ 10

¹² For example, Act No. 176/2004 Coll. as amended by Act No. 581/2004 Coll., Act No. 231/1999 Coll. on state aid as amended.

Assembly of the supervisory commission and membership in the supervisory commission

(1) The supervisory commission has three members. The board appoints and recalls two member of the supervisory commission in a secret ballot. The Minister appoints and recalls one member of the supervisory commission.

(2) Members of the supervisory commission must be individuals who

- a) have permanent residence in the territory of the Slovak Republic,
- b) have Slovak nationality,
- c) have completed at least the second level of university education in the field of economics, management or law,
- d) have at least five years of professional experience in the stated fields,
- e) are fully competent to carry out legal acts and
- f) are of blameless reputation as defined in section 5 (2) (d).

(3) Incompatibility of function for members of the supervisory commission are as specified in section 5 (5) and (6). The function of member of the supervisory commission is incompatible with the membership in the board or in the expert commission or with the function of director.

(4) In the case of any change in the particulars specified in subsections 2 and 3 member of the supervisory commission must give written notice without undue delay to the body that appointed or elected him or her.

(5) Members of the supervisory commission must act impartially in the performance of their function and refrain from actions that would prioritise a personal interest above the public interest.

(6) Membership of the supervisory commission cannot be deputised.

(7) Members of the supervisory commission are entitled to monthly remuneration for the performance of their function. The amount of such remuneration shall be equal to one half of the average monthly wage in the economy of the Slovak Republic for the previous calendar year.

(8) Members of the supervisory commission are entitled to reimbursement of travel costs pursuant to special regulations.¹¹

§ 11

Term of office of the member of the supervisory commission

(1) The term of office of the member of the supervisory commission is four years. The same person may be appointed as the member of the supervisory commission for at most two consecutive terms of office.

(2) The term of office of the member of the supervisory commission starts on the date following the expiry of the mandate of the member of the supervisory commission to whose position the new member of the supervisory commission was appointed, though not earlier than the date of his or her appointment.

§ 12

Termination of membership in the supervisory commission

- (1) Membership of the supervisory commission terminates
 - a) at the end of a term of office,
 - b) by resignation from the function; membership ends on the date of delivery of a letter of resignation from the function to the body that appointed or elected the member of the supervisory commission,
 - c) by recall,
 - d) by death or declaration as dead.

- (2) The board or the Minister shall recall a member of the supervisory commission if he or she
 - a) is finally convicted for the intentional crime or for the crime for which a suspended sentence was not handed down,
 - b) is deprived of his or her competence to perform legal acts or his or her ability to perform legal acts was limited by a final court judgement,
 - c) performs a function or activity that is incompatible with the function of member of the supervisory commission pursuant to section 10 (3),
 - d) does not perform his or her function for at least three consecutive months or
 - e) does not perform his or her function in accordance with the conditions specified in section 10 (5).

§ 13

The Director

- (1) The director is the executive body of the Fund, who directs its activity and acts on its behalf within the mandate granted by the board. In his or her absence, the director shall be deputised in the extent of his or her powers and responsibilities by a deputy selected by the director.

- (2) The director decides on all matters relating to the Fund that are not reserved to the sole competence of the board or the supervisory commission by this act and performs the additional tasks, particularly
 - a) decides on the allocation of financing from the Fund pursuant to section 18 (11),
 - b) submits proposals to the board to write off receivables of the Fund or to end measures to recover receivables of the Fund permanently,
 - c) manages the organisational and administrative-technical activities of the Fund and manages the activity of the office of the Fund,
 - d) manages the implementation of the strategic objectives and development conceptions of the Fund in accordance with decisions of the board,
 - e) submits to the board draft rules and priorities for the support activity of the Fund for a specific period,
 - f) submits to the board for approval the proposed budget of the Fund and the annual report of the Fund; the annual report shall include an evaluation of performance of the strategic objectives and development conceptions of the Fund in the relevant period,
 - g) submits to the board the proposals for the appointment and recall of members of the expert commissions of the Fund,
 - h) submits to the board for approval the proposed organisational regulations of the office with the detailed regulation of the activities of the office,

- i) submits to the board for approval the proposed organisational regulations and rules of procedure of the expert commissions,
- j) submits to board for approval the proposals to dispose of assets of the Fund,
- k) submits to the board the information on the allocation of financing from the Fund before the conclusion of the contract with the applicant,
- l) decides on the granting of co-production status pursuant to section 32.

(3) The director has the right to take part in meetings of the board and in urgent cases he or she may initiate the convening of its meeting. The director shall not take part in deciding on the election or recall of the director.

(4) Incompatibility of the function of the director is specified as in section 5 (5) and (6). The function of director is incompatible with membership in the board, the supervisory commission or in the expert commission.

(5) The conditions of employment of the director are governed by special regulations.¹³

(6) If no director is elected or if his or her term of office ends and a new director has not yet been elected, the powers of the director specified in subsection 2 pass to the chairman of the board.

§ 14

Assumptions for the function of director

- (1) For the function of the director can be elected an individual who
- a) has applied as a candidate for the function of director (hereinafter only “the candidate”) in response to a call published by the board; the candidate may not be a member of the board or a member of the supervisory commission,
 - b) has Slovak nationality,
 - c) has completed at least the second level of university education,
 - d) has at least three years of professional experience in the area of management,
 - e) has at least five years of professional experience in the area of audiovisual culture,
 - f) does not perform a function specified in section 5 (5) and (6) or an activity pursuant to special regulations¹⁴, or submits a sworn statement as specified in subsection 2 (g) stating that he or she will cease to perform such a function or activity within 30 days of his or her election.
- (2) The candidate includes the following with the application
- a) project of the management and development of the Fund; the board shall publish the basic scope and content of the project of the management and development of the Fund in the call specified in subsection 1 (a),
 - b) extract from the criminal records no older than three months,
 - c) curriculum vitae,
 - d) certificate of the highest level of education completed,
 - e) sworn statement of full competence to perform legal acts,
 - f) sworn statement of compliance with the requirements of professional experience in the area of management and in the area of audiovisual culture, stating the person for whom such activity was performed,

¹³ Act No. 552/2003 Coll. on the performance of work in the public interest as amended.

¹⁴Section 9 of Act No. 552/2003 Coll. as amended.

- g) sworn statement that he or she does not perform any of the functions specified in section 5
- h) (5) and (6) or activity pursuant to special regulations¹³) or a sworn statement that he or she will cease to perform such a function or activity within 30 days of election.

(3) The term of office of the director begins from the date of his or her election by the board and lasts for five years.

§ 15

Termination of the function of director

- (1) Performance of the function of director terminates
 - a) at the end of a term of office,
 - b) by resignation from the function; the performance of function is terminated on the date of delivery of a letter of resignation from the function to the chairman of the board,
 - c) by recall from the function,
 - d) by death or declaration as dead.
- (2) The board recalls the director if he or she
 - a) is finally convicted for the intentional crime or of the crime for which a suspended sentence was not handed down,
 - b) is deprived of his or her competence to perform legal acts or his or her ability to perform legal acts was limited by a final court judgement,
 - c) breached the provisions of this act or
 - d) performs the function or activity that is incompatible with the function of director pursuant to section 14 (1) (f).
- (3) The board may recall the director if he or she does not perform the function for at least three consecutive calendar months.

§ 16

The Office

- (1) The office carries out tasks relating to the organisational, personnel, administrative and technical requirements for the performance of the activities of the Fund.
- (2) The office checks the completeness of submitted applications for financing from the Fund and forwards applications that are complete to the expert commissions for assessment.
- (3) The office administrates the applications for granting of the co-production status pursuant to section 32 and submits them to the director for decision.

§ 17

Expert commissions

- (1) The Fund establishes the expert commissions to assess applications.
- (2) Members of the expert commissions are appointed and recalled by the board for a period of two years. Membership in the expert commission cannot be deputised.

(3) Member of the expert commission must not be applicant for financing from the Fund, member of the management, control or supervisory bodies of an applicant that is a legal entity or the statutory body of an applicant that is a legal entity.

(4) The expert commission has to be assembled at least from five members. The expert commission must always have an odd number of members.

(5) The conditions of employment of the members of expert commissions are governed by sections 223 to 228a of the Labour Code.

(6) The expert commissions evaluate every application for financing from the Fund in accordance with the rules and priorities approved by board in terms of

- a) artistic and creative potential,
- b) overall contribution to audiovisual culture in the Slovak Republic,
- c) justification and appropriateness of the requested financing.

(7) The expert commissions present their evaluation to the director in written form. The evaluation shall state whether the expert commission recommends or does not recommend provision of financing from the Fund and the proposed amount of financing in accordance with the approved budget of the Fund and the basic timetable for the provision and use of financing.

(8) Evaluations produced by the expert commissions must be in accordance with this act and the internal regulations of the Fund.

§ 18

Provision of financing

(1) The Fund provides financing to support audiovisual production as follows

- a) the creation, development, preparation for production and production of Slovak audiovisual works,
- b) the creation, development, preparation for production and production of moving pictures, documentary and animated Slovak cinematographic works,¹⁵
- c) postproduction and distribution of Slovak audiovisual works and the distribution of audiovisual works,
- d) the production and distribution of cinematographic co-productions in which a Slovak producer has a co-production share,
- e) festivals, screenings and other cultural activities of the subjects operating in the area of audiovisual culture and cinematography in the Slovak Republic and the presentation and promotion of Slovak audiovisual works,
- f) the publication and distribution of the periodical and non-periodical publications on audiovisual culture and cinematography,
- g) the development of technology for the production, distribution, communication to the public and storage of audiovisual works in the Slovak Republic,
- h) the development of education and special research in the area of audiovisual culture and the cinematographic arts.

¹⁵ Section 2 (3) of Act No. 343/2007 Coll.

(2) The Fund provides financing for the implementation of a project, which for the purposes of this act is defined particularly as the script or other verbal work used to create the audiovisual work, the Slovak audiovisual work, the Slovak cinematographic work, the organisation of a festival or screening in the area of audiovisual creation in the Slovak Republic, the organisation of the presentation and promotion of Slovak audiovisual works, publications in the area of audiovisual culture and cinematography, education and research in the area of audiovisual culture in the Slovak Republic, or the development of technology for the production, distribution, communication to the public and storage of audiovisual works (hereinafter only “the project”).

(3) The Fund provides financing in the following forms

- a) grants,
- b) loans¹⁶ with a repayment period no more than 5 years or
- c) stipends.

(4) The Fund may define the special conditions of the share of the Fund from the commercial valuation of the project up to the sum of granted financing in the contract. The rules for setting these conditions are part of the rules for the provision of financing from the Fund, which are approved by the board.

(5) The Fund provides financing in the form of stipends only to individuals for the purpose of developing creativity, education and special research in the area of audiovisual culture and film arts. A stipend is non-refundable financial support linked to a specific purpose which the Fund pays once or repeatedly during a precisely specified time period in accordance with the contract concluded pursuant to section 22.

(6) There is no legal claim to financing from the Fund.

(7) The Fund cannot provide financing to cover loss resulting from a person’s activities.

(8) Grant for the production of the audiovisual work can be granted in the amount no higher than 50 % of the audiovisual work production budget; this does not apply for the grant granted for the production of the audiovisual work that is low budget production or for the production of the difficult audiovisual work which could be financed up to 90 % of the production budget of such an audiovisual work.

(9) Low budget audiovisual work is audiovisual work with the production budget no higher than the average expenses for the production of the Slovak audiovisual work. The amount of the average expenses shall be set by the board concerning the statistics in the field of audiovisual culture. The difficult audiovisual work is audiovisual work that is not primarily produced for the economic valuation and which possible economic valuation can not have the effect on the revenues in the relevant market, especially pursuant to its artistic or experimental character, in accordance with its content or its technical adaptation. The criteria of the difficulty shall be set by the board and its fulfilment is evaluated by the director according to the assessment of the expert commission.

(10) The Fund shall provide a grant to the applicant for financing who provides written proof of co-financing of the project for which financing is requested from own or other sources. The

¹⁶Sections 657 and 658 of the Civil Code.

amount of co-financing shall be set by the Fund in the rules and priorities of support activity of the Fund for the relevant period as approved by the board.

(11) The director shall decide on the provision of financing from the Fund within 60 days of the date of delivery of the complete application. The director shall decide to grant financing based on the evaluation of the expert commissions only if the expert commissions recommend the application for financing and if it is in accordance with the rules for the provision of state aid specified in special regulations.¹⁷

(12) The Fund shall publish decisions of the director pursuant to subsection 11 on its website. There is no appeal against such decisions.

(13) The Fund prepares and delivers to the applicant a draft contract based on the decision pursuant to subsection 11.

§ 19 **Applicants for financing**

(1) Individuals who are fully competent to perform legal acts and legal entities (hereinafter only “applicants”) may apply for financing. If an applicant operates as a business and requests financing in the form of the grant or the loan, they must be eligible to carry out the business activity for which financing is requested from the Fund. The applicant may be the person who initiated the project or a person who is responsible either independently or in cooperation with other persons for the implementation of the project.

(2) The Fund may provide financing to

- a) independent producers in the audiovisual industry who are registered pursuant to special regulation,¹⁸
- b) producers of Slovak audiovisual works,¹⁹
- c) authors and co-authors of Slovak audiovisual works,
- d) distributors of audiovisual works,²⁰
- e) persons engaging in the restoration and development of technical infrastructure for the production of audiovisual works and their communication to the public in the territory of the Slovak Republic,
- f) persons engaging in promotion and support of the distribution of audiovisual works,
- g) individuals engaging in the development of education and special research in the area of audiovisual culture and the film arts,
- h) operators of audiovisual technical devices²¹ in the territory of the Slovak Republic to restore and develop the technology of such devices.

(3) The Fund cannot provide financing to an applicant

- a) who is in bankruptcy²² or liquidation²³,

¹⁷Articles 87 to 89 of the Treaty Establishing the European Community in valid version (Official Journal of the European Communities C 325. 24.12.2002).

Act No. 231/1999 Coll. as amended

¹⁸ Sections 37 to 41 of Act No. 343/2007 Coll.

¹⁹Section 2 (1) of act No. 343/2007 Coll.

²⁰Section 2 (17) of act No. 343/2007 Coll.

²¹Section 2 (14) of act No. 343/2007 Coll.

²² Act No. 7/2005 Coll. on bankruptcy and restructuring and the amendment of certain acts as amended.

²³Section 70 to 75a of the Commercial Code.

- b) against whom execution procedures are in progress,²⁴
- c) whose financial relations with the state budget or with the Fund are not fully settled,
- d) who is a business undertaking or consortium of business undertakings²⁵ that has breached the prohibition of illegal employment pursuant to special regulation,²⁶
- e) who has not submitted accounts for financing from the Fund.

(4) Applicant must not be member of the board, member of the supervisory commission, member of the expert commission, the director, or a person with a close relationship to the director.²⁷

§ 20

Submission of applications for financing from the Fund

(1) The Fund may provide financing based on the written application. The Fund shall publish sample forms on its website. In their applications, applicants shall state what form of financing and what amount they request.

(2) The application have to be attached by the following annexes

- a) description of the project,
- b) overall budget of the project including cost calculations,
- c) certificate of the legal personality of the applicant, if the applicant is a legal entity,
- d) documentation of eligibility to carry on a trade or other documentation of eligibility for business activity, if the applicant is natural business person,
- e) sworn statement that the applicant has not breached the prohibition of illegal employment, if the applicant is a business undertaking or consortium of business undertakings,
- f) proof that the applicant has opened the account in a bank or branch of a foreign bank to which the applicant wishes financing to be paid,
- g) documentation pursuant to section 18 (10),
- h) certificate of payment of the administration fee for processing of the application pursuant to section 21,
- i) sworn statement that the applicant is not in bankruptcy or liquidation and that no execution procedure is in progress against the applicant,
- j) sworn statement that the applicant has settled all obligations to the state budget,
- k) sworn statement of the applicant that in the last three calendar years he has properly submitted accounts for financing from the Fund if he was required to do so,
- l) sworn statement of the applicant that he cooperates in state statistical surveys in the area of culture in accordance with special regulation,²⁸
- m) sworn statement of the applicant who is required to provide information specified by law pursuant to special regulation²⁹, that he has complied with this obligation,
- n) other documents necessary for the assessment of the application that the Fund specifies for the given time period in the call for the submission of applications.

²⁴Act No. 233/1995 Coll. on court executors and execution (the Code of Execution Procedure) and the amendment of certain acts as amended.

Act No. 511/1992 Coll. on the administration of taxes and fees and changes in the system of local financial authorities as amended.

²⁵Sections 20f and 20j of the Civil Code.

²⁶Act No. 82/2005 Coll. on illegal work and illegal employment and the amendment of certain acts as amended by Act No. 125/2006 Coll.

²⁷Sections 116 to 117 of the Civil Code.

²⁸Act No. 540/2001 Coll. as amended on state statistics as amended

²⁹ Section 11 of Act No. 343/2007 Coll.

(3) Applicants must submit the annexes specified in subsection 2 (c) and (d) as an original or as a notarised copy no older than three months; otherwise the submitted annex shall not be taken into consideration.

(4) If the annexes specified in subsection 2 are submitted in a language other than the state language, the applicant must also submit a translation of them in the state language of the Slovak Republic.

(5) Applications shall be submitted by deadlines set by the Fund, which the Fund shall specify for the given time period in the call for the submission of applications.

(6) If more persons participate in the implementation of a single project, only one person authorised for this purpose in writing by the other participating persons may submit the application.

(7) Applications for provision of a stipend shall be accompanied by the annexes specified in subsection 2 (a), (f), (j) and (k).

(8) After delivery of an application to the Fund, the office shall check whether the application was submitted by an eligible applicant as specified in section 19 and whether the submitted application is completed correctly and contains the annexes specified in subsection 2. The office shall also check the completeness of the budget and compliance of the application with the rules for the provision of financing from the Fund approved by the board.

(9) If the application is not completed correctly or does not contain the annexes specified in subsection 2, the Fund shall request the applicant in writing to complete the application by a deadline which may not be less than 10 days from the date of delivery of the request.

(10) If an application is submitted by an ineligible applicant or does not contain the annexes specified in subsection 2 and the applicant does not submit them within the additional period pursuant to subsection 9, the office shall exclude it from the decision process and notify the applicant of this without undue delay. The office shall proceed likewise if it finds from the submitted budget that the application does not comply with the rules for the provision of financing from the Fund approved by the board.

(11) The office shall forward applications that are complete to the expert commissions for assessment. The expert commissions shall submit the application together with its written evaluation to the director, who shall decide on the application.

§ 21

Administrative fee for the processing of an application for grant or loan

(1) Applicant must pay the administrative fee for the processing of the application for the provision of the grant or the loan to the account of the Fund.

(2) The administrative fee is 0.1 % of the requested financing, at least EUR 20 and at most EUR 300.

(3) If the applicant has paid the administrative fee and the office excludes the application pursuant to section 20 (10), the Fund shall return the amount of the paid administrative fee reduced of EUR 3.

§ 22

Contract on financing

(1) The Fund shall provide financing pursuant to section 18 (3) based on a written contract concluded with the applicant.

(2) Under the contract, the Fund undertakes to provide financing to the applicant for a set purpose subject to the conditions laid down by this act and the Fund and the applicant undertakes to use the financing in accordance with the given purpose and conditions and to provide authentic documentation of the use of financing in accordance with the contract to the Fund.

(3) The contract shall state

- a) purpose for which financing is provided,
- b) content of the project and its name,
- c) amount of financing provided,
- d) conditions under which financing is provided and under which it may be used,
- e) conditions for accounting in relation to the provided financing,
- f) penalties for breach of the contractual conditions specified in subsection 7 (b),
- g) other agreed matters relating to the provision of financing.

(4) The Fund shall send the applicant a draft contract within 30 days of the issuing of a decision of the director on the provision of financing pursuant to section 18 (11). If the applicant does not accept the draft contract within 30 days of the delivery of the draft contract, the draft contract shall expire.

(5) If the applicant accepts the draft contract with amendments, reservations, limitations or other changes, such acceptance shall be considered a new draft contract. The director shall submit the new draft contract and his or her opinion thereon for decision to the board without undue delay. The board shall decide whether to accept or reject the new draft within 30 days of its submission. The new draft agreement must not contain amendments, reservations, limitations or other changes relating to the contractual particulars specified in subsection 3 (a) and (c).

(6) On entering into the contract the applicant becomes a recipient of financing.

(7) A recipient of financing may use the financing only for the purpose specified in the contract. If financing from the Fund is used for a purpose other than that stated in the contract, the recipient of financing must

- a) return all illegitimately used financing and
- b) pay the Fund a fine amounting to 0.05 % of the illegitimately used financing for each day or part thereof of illegitimate use of financing from the date of the illegitimate use until its return to the Fund.

(8) The recipient of the financing shall attach the following to the accounts for the financing provided under the contract

- a) report on the implementation of the project describing in detail all stages of the implementation of the project,
- b) information on the achievement of the expected outcomes that the applicant presented in the application for financing,
- c) applicant's own assessment of the benefit of the project after its implementation.

§ 23

Financing and management of the Fund

(1) The income of the Fund comprises of

- a) contributions to the Fund pursuant to sections 24 to 28,
- b) contribution from the state budget,
- c) interests on deposits in banks or branches of foreign banks,
- d) interests on loans provided using resources from the Fund,
- e) contractual penalties for ineligible use or withholding of financing,
- f) administrative fees collected pursuant to section 21.

(2) The financial resources of the Fund shall be kept in accounts in a bank or a branch of a foreign bank.³⁰

(3) The financial resources managed by the Fund can only be used for the purposes laid down in this act. The Fund must ensure that its financial resources are used economically and effectively. Neither the financial resources nor other assets of the Fund may be used for the benefit of a political party or political movement or for the benefit of a candidate for election to a political office.

(4) The Fund must use 95 % of its income for support activity pursuant to this act.

(5) The Fund may use at most 5 % of its total income for its own operation.

(6) The Fund shall keep accounts in accordance with special regulation.³¹ The financial statements and the correspondence of the annual report with the financial statements must be audited³² and these must be published after approval by the board no later than on the end of the fourth month of the following accounting year.

(7) The annual report contains

- a) summary and evaluation of the performance of the activities of the Fund laid down by this act, in particular activities pursuant to section 2 (b) to (f),
- b) summary of financing provided to applicants,
- c) financial statements and the assessment of the basic data that they contain,
- d) opinion of the supervisory commission on the financial statement and the economic result achieved by the Fund,
- e) other information at the discretion of the board.

(8) Control of the economic management of the Fund is carried out by the Supreme Audit Office of the Slovak Republic and other authorities pursuant to special regulations.³³

³⁰Act No. 483/2001 Coll. on banks and the amendment of certain acts as amended.

³¹Section 9 (1) of Act No. 431/2002 Coll. on accounting as amended.

³²Act No. 540/2007 Coll. on auditors, audits and supervision of the performance of audits and the amendment of Act No. 431/2002 Coll. on accounting as amended.

(9) Disposal of the assets of the Fund is governed by special regulation⁴) unless this act stipulates otherwise.

Contributions to the Fund

§ 24

Contribution of a broadcaster established by law

(1) A broadcaster established by law⁶ shall be obliged to pay a contribution to the fund.

(2) The base for the contribution pursuant to subsection 1 shall be the total income of the broadcaster established by law from advertising and teleshopping shown for a charge in television broadcasts in the last calendar year.

(3) The contribution of the broadcaster established by law shall be 5% of the base defined in subsection 2.

§ 25

Contribution of the licensed television broadcaster

(1) The television broadcaster authorised to broadcast under a licence granted pursuant to special regulations³⁴, whose programme service comprises audiovisual works more than in 15 % and whose broadcasting has national or multi-regional coverage³⁵, other than a broadcaster whose programme service is used only for the broadcaster's own promotion, must pay the contribution to the Fund.

(2) The base for the calculation of the contribution pursuant to subsection 1 is the total revenue of the licensed television broadcaster from advertising and teleshopping broadcast for payment pursuant to a special regulation³⁶ in the last calendar year.

(3) The contribution of a licensed television broadcaster is 2 % of the base defined in subsection 2.

§ 26

Contribution of the operator of the audiovisual technical device

(1) The operator of the audiovisual technical device²¹ must pay the contribution to the Fund.

(2) The contribution of the audiovisual technical device is EUR 0.03 for each ticket sold for an audiovisual performance in the last calendar year.

³³For example, Act No. 39/1993 Coll. on the Supreme Audit Office of the Slovak Republic as amended, Act No. 440/2000 Coll. on Financial Control Administration as amended.

³⁴Section 2 (1) (b) of Act No. 308/2000 Coll. as amended.

Act No. 220/2007 Coll. on the digital broadcasting of programme services and the provision of other content services by digital means and the amendment of certain acts (the Digital Broadcasting Act) as amended by Act No. 654/2007 Coll.

³⁵Section 3 (m) and (n) of Act No. 308/2002 Coll. as amended.

³⁶Sections 32 to 39 of Act No. 308/2000 Coll. as amended.

§ 27

Contribution of the retransmission provider

- (1) The retransmission provider³⁷ must pay the contribution to the Fund.
- (2) The base for the calculation of the contribution pursuant to subsection 1 is the total revenue of the retransmission provider for the provision of retransmission as a content service to end customers in the last calendar year.
- (3) The contribution of the retransmission provider is 1 % of the base defined in subsection 2.

§ 28

Contribution of the distributor of audiovisual works

- (1) The distributor of audiovisual works²⁰ must pay the contribution to the Fund.
- (2) The base for the calculation of the contribution pursuant to subsection 1 is the total revenue of the distributor of audiovisual works from the distribution of audiovisual works in the territory of the Slovak Republic in the last calendar year, except the revenues for audiovisual performance.
- (3) The contribution of the distributor audiovisual works is 1 % of the base defined in subsection 2.

§ 29

Contribution from the state budget

A contribution from the state budget to the Fund shall be provided within the approved limits of the Ministry for the relevant budgetary period pursuant to the Act on the State Budget, the strategic objectives and long term development conceptions of audiovisual culture and the audiovisual industry in the Slovak Republic approved by the Ministry. The contribution must not be lower than the overall sum of the contributions of the persons pursuant to the sections 24 to 28 for the last calendar year.

Joint provisions on the payment of contributions

§ 30

- (1) Persons who pay the contribution to the Fund pursuant to sections 24 to 28 must transfer this contribution in cashless form to the account of the Fund for each year no later than 31 July of the following calendar year and submit to the Fund a statement of the contribution paid stating particularly the base used for the calculation of the contribution for the given period and the amount of the contribution paid.
- (2) Persons obliged to pay the contribution to the Fund pursuant to sections 24 to 28 must, in response to a written request and for the purposes of controlling, allow the Fund access to accounting documents kept pursuant to special regulations³⁸ which are used to determine the

³⁷Section 3 (b) of Act No. 308/2002 Coll. as amended.

³⁸Sections 31 to 37 of Act No. 431/2002 Coll. as amended.

base for the calculation of the contribution and the payment of the contribution no later than 10 days from the delivery of such a request.

(3) The base used to calculate the contribution pursuant to sections 24, 25, 27 and 28 shall not include value added tax. The base for the calculation of the contribution shall be rounded to a full euro upwards. Contributions pursuant to section 24, 25, 27 and 28 shall be rounded to a full euro upwards.

(4) No contribution to the Fund pursuant to sections 24 to 28 shall be paid if the amount of the contribution for the relevant calendar year is less than EUR 50. This shall not affect the obligation to submit a statement on the contribution pursuant to subsection 1.

§ 31

(1) If a person who pays the contribution to the Fund pursuant to sections 24 to 28 does not pay the contribution by the deadline laid down in section 30 (1), the Fund has the right to sue for the setting of the amount of the contribution or the payment of the amount owed in court.

(2) In addition to the claim pursuant to subsection 1, the Fund may sue for the payment of default interest on the unpaid amount at a rate 10 % higher than the base rate of the European Central Bank in force before the first calendar day of the calendar half year in which payment became overdue. The base interest rate of the European Central Bank in force on the first calendar day of the calendar half year shall be used for the whole of the given half year.

§ 32

Co-production status

(1) The Fund shall grant co-production status to Slovak audiovisual works that are European cinematographic works³⁹ and that comply with the conditions laid down in the European Convention on Cinematographic Co-production (hereinafter only “the Convention”) and this act. The co-production status for the European cinematographic work may be granted if

- a) European cinematographic work will be produced in a co-production by at least three co-producers with permanent residence or seat in at least three different states that are parties to the Convention or in a co-production by at least three co-producers with permanent residence or seat in three different states that are parties to the Convention and one or more co-producers who have permanent residence or seat in states that are not parties to the Convention whereby the total investment of co-producers who do not have permanent residence or seat in states that are parties to the Convention may not exceed 30 % of total production costs; co-production status may also be granted to European cinematographic works produced in a co-production by two co-producers with permanent residence or seat in two different states that are parties to the Convention unless there is no agreement on bilateral co-production relations between the two states and neither state has made a reservation pursuant to the Convention,⁴⁰
- b) co-producers are deemed to possess adequate technical and financial means and sufficient professional qualifications,
- c) the proportion of contributions to the co-production is set as follows:

³⁹Article 3 (c) of the European Convention on Cinematographic Co-production (Notice of the Ministry of the foreign Affairs of the Slovak Republic no. 106/2007 Coll.).

⁴⁰Article 20 of the European Convention on Cinematographic Co-production (Notice of the Ministry of the foreign Affairs of the Slovak Republic no. 106/2007 Coll.).

1. in the case of multilateral co-production, the minimum contribution of a co-producer may not be less than 10 % and the maximum contribution of a co-producer may not exceed 70 % of total production costs of the European cinematographic work,
 2. in the case of bilateral co-production, the minimum contribution of a co-producer may not be less than 20 % and the maximum contribution of a co-producer may not exceed 80 % of total production costs of the European cinematographic work,
- d) the contribution of each of the co-producers includes effective technical and artistic participation; the contribution of the co-producers relating to creative personnel, technical crew, actors, interprets and equipment must be proportional to their investment in overall production costs whereby, except to the international obligations of the states and to the demands of the screenplay, the technical and production crew must be made up of nationals of the states which are partners in the co-production, and post-production must be basically carried out in those states.

(2) The co-production status pursuant to this act may be also granted to solely financial co-productions if they

- a) include one minority contribution or multiple minority contributions of co-producers which may be solely financial, in accordance with the co-production contract, provided that each national share is neither less than 10 % nor more than 25 % of the total production cost for the work,
- b) include a majority co-producer who makes an effective technical and artistic contribution and satisfies the conditions set for the European cinematographic work to be recognised as a national work in his country,
- c) help to promote a European identity and
- d) are embodied in co-production contracts which include provision for the distribution of revenues.

(3) The Fund shall grant co-production status after receiving notification of consent granted in each individual case by the competent authorities in the states that are party to the Convention, taking into account the provisions of the Convention.

(4) Co-production status shall not be granted to the projects of a blatantly pornographic nature or those that advocate violence or openly offend human dignity.

(5) Co-producing countries must be alleged in co-produced European cinematographic works. The names of the countries must be clearly mentioned in the opening or closing titles of the European cinematographic work, in publicity for the European cinematographic work and promotional materials for the European cinematographic work and at public screenings of the work.

(6) The Fund shall grant co-production status based on a request submitted by a co-producer with permanent residence or seat in the territory of the Slovak Republic. The request for the granting of co-production status must be submitted in writing to the Fund no later than two months before the start of shooting of the work to which the request relates.

(7) The following documents must be attached to the request

- a) copy of the licence agreement for use of the work or granting consent for the exercise of economic rights by the co-authors of the work,
- b) screenplay of the European cinematographic work,
- c) list of the technical and artistic contributions of each of the countries involved,

- d) estimated budget and a detailed financial plan of the European cinematographic work,
- e) production schedule of the European cinematographic work,
- f) co-production contract agreed between the co-producers, the contract must include clauses providing the distribution of revenues or markets between the co-producers.

(8) The applicant shall submit the request and other documents specified in subsection 7 (a), (c) to (f) in the Slovak language or in a language satisfying the requirement of basic comprehensibility in relation to the state language of the Slovak Republic.

(9) The applicant shall submit the request and the documents to the Fund no later than two months before the planned start of shooting of the European cinematographic work. The request and the other documents shall be submitted in sufficient number to allow distribution of the documents to the competent authorities of the other states from which co-producers are participating in the given co-production. If the applicant submits an incomplete request, the Fund will send a written request for additional information without undue delay.

(10) The Fund shall not grant co-production status to the co-producer with a minority financial participation who has permanent residence or seat in the territory of the Slovak Republic until the Fund received the opinion of the competent authorities of the states of the co-producers with the majority financial participation.

(11) The Fund shall grant co-production status to a co-producer with a majority financial participation who has permanent residence or seat in the territory of the Slovak Republic within 30 days of the delivery of a complete request.

(12) Further details of the submission of requests for co-production status shall be specified in the statute of the Fund.

§ 33

General and transitional provisions

(1) General regulations⁴¹ on administrative proceeding shall not apply to proceedings pursuant to this act, except this act stipulates otherwise.

(2) For the purpose of delivery of the documents according to this act, the regulations of general regulation⁴² on administrative proceeding shall be applied accordingly.

(3) Applications pursuant to section 20 shall be submitted to the Fund from 30 November 2009.

(4) The obliged subjects shall pay the first contributions pursuant to sections 24 to 28 by 31 July 2010.

(5) In 2009 the Fund is entitled to use all its income for its own operations.

(6) The Minister shall appoint the members of the board by 31 March 2009 and convene the first meeting of the board by 15 April 2009.

⁴¹Act no. 71/1967 Coll. on administrative proceedings (the Code of Administrative Procedure) as amended.

⁴²Section 24 and 25 of the Act. No. 71/1967 Coll. as amended.

(7) At its first meeting the board shall decide on inviting applications for the function of director.

(8) The board shall approve the statute of the Fund no later than 31 May 2009.

(9) The board shall elect two members of the supervisory commission and the Minister shall appoint one member of the supervisory commission by 31 August 2009.

Article II

Act no. 13/1993 Coll. on art funds as amended by Act no. 283/1997 Coll. shall be amended as follows:

1. The letter f) in the section 20 is omitted.

The current letters g) to i) shall be remarked as letters f) to i).

2. In the section 21 (1) (b) the wording “letter g)” is replaced by the wording “letter f)”.

Article III

Act no. 308/2000 Coll. on broadcasting and retransmission and the amendment of act no. 195/2000 Coll. on telecommunications, as amended by Act no. 147/2004 Coll., Act no. 206/2002 Coll., Act no. 289/2005 Coll., Act no. 95/2006 Coll., Act no. 121/2006 Coll., Act no. 13/2007 Coll., Act no. 220/2007 Coll., Act no. 343/2007 Coll., Act no. 654/2007 Coll., Act no. 167/2008 Coll. And Act no. 287/2008 Coll. shall be amended as follows:

1. Section 36 (2) shall be:

“(2) Advertising time in a television programme service broadcast by a public service broadcaster must not exceed 0.5 % of daily broadcasting time. This time shall be allowed to rise to 2.5 % of daily broadcasting time through time reserved for teleshopping spots. The limitation given in the first sentence shall not apply to the broadcasting of advertising in direct combination with the broadcast of sporting or cultural events, the broadcasting of advertising during which is an essential condition for the acquisition of rights to the television broadcast of the sporting or cultural event. The broadcasting of advertising in direct combination with the broadcast of a sporting or cultural event pursuant to the previous sentence may not exceed 15 % of the daily broadcasting time of all the television programme services of the public service broadcaster.”

2. After section 76da, section 76db shall be inserted as follows:

“§ 76db

Transitional provisions on changes effective from 1 January 2009

(1) Advertising time in a television programme service broadcast by a public service broadcaster must not exceed 2.5 % of daily broadcasting time in the period from 1.1.2009 to 31.12.2009. This time shall be allowed to rise to 15 % of daily broadcasting time through time reserved for teleshopping spots.

(2) Advertising time in a television programme service broadcast by a public service broadcaster must not exceed 1.5 % of daily broadcasting time in the period from 1.1.2010 to 31.12.2010. This time shall be allowed to rise to 10 % of daily broadcasting time through time reserved for teleshopping spots.

(3) Advertising time in a television programme service broadcast by a public service broadcaster must not exceed 1 % of daily broadcasting time in the period from 1.1.2011 to 31.12.2011. This time shall be allowed to rise to 5 % of daily broadcasting time through time reserved for teleshopping spots.”

Article IV

Act no. 16/2004 Coll. on Slovak Television as amended by Act no. 588/2006 Coll., Act no. 220/2007 Coll., Act no. 343/2007 Coll., Act no. 68/1008 Coll. and Act no. 70/2008 Coll., shall be amended as follows:

In the section 21 after subsection 4 a new subsection 5 shall be inserted as follows:

“(5) Slovak Television pays a contribution to the Audiovisual Fund pursuant to a special regulation.40a)”.

The current subsection 5 shall be renumbered as subsection 6. 25

Footnote 40a shall read:

“40a) Act no. 516/2008 Coll. on the Audiovisual Fund and the amendment of certain acts.”.

Article V

This act shall be effective from 1 January 2009 except for the provisions of section 32, which shall be effective from 1 January 2010.