

VERGABEORDNUNG

NB:

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Funding Regulations

1. General principles

1.1 Funding objective

Through its Film Funding division MFG supports the development, production, and distribution of film and television productions which have circulation or broadcasting potential in film theaters, on television, for sales distribution, and at festivals, or other events. In cooperation with its Media Development division, it also supports new media applications.

The primary funding objective is to develop, foster, and promote film culture. This necessarily also involves developing and strengthening the film industry in Baden-Württemberg, as well as showcasing Baden-Württemberg both nationally and internationally as a cultural and film industry location and acquiring international co-productions of high cultural value. The funding should also help promote the audiovisual sector in Europe.

The following projects shall have funding priority:

- films in diverse genres that make an important contribution to film culture
- film productions that make an important contribution to advancing the film industry in Baden-Württemberg
- high-quality television productions.

In order to advance the film industry in Baden-Württemberg, an amount equivalent to at least 120% of the total financial support awarded for that year should be spent here within the state.

When awarding support to companies in which television broadcasters are majority associates or have a majority interest, MFG shall seek to ensure that other companies based in Baden-Württemberg will also be involved in the production of these film projects.

1.2 Areas eligible for support

The following areas are eligible for support:

- script development
- pre-production
- production of feature films and television productions
- post-production, PR activities, promotion
- distribution and sales
- screenings and presentations

- new media applications
- further initiatives.

Financial support is subject to availability. Applicants are not automatically entitled by law to receive support.

2. General conditions of support

2.1 The conditions of support are:

- the cultural quality of the project and a cultural or other connection to Baden-Württemberg or
- the cultural quality of the project and its economic interest to Baden-Württemberg.

An economic interest exists if an amount equivalent to at least 120% of the financial support awarded is spent in Baden-Württemberg. This Baden-Württemberg effect is to be achieved by the project costs which are to be primarily spent in areas relevant for the film industry.

A cultural or other connection to Baden-Württemberg exists if:

1. the content of the project is closely tied to Baden-Württemberg, or
2. the producer/applicant is a resident of Baden-Württemberg, or
3. the project has already received support from another German film fund and, in addition, SWR or ZDF and/or ARTE hold the television rights.

Only projects that fulfill the funding objective will be awarded support. Projects that are in violation of the constitution or the law or violate the right to privacy or are injurious to moral or religious feeling cannot be awarded any assistance.

- 2.2 It must be stated both in the main and closing credits of the film and in all publicity material that the film was made with the support of Medien und Filmgesellschaft Baden-Württemberg mbH–Filmförderung. Should the support provided by MFG be higher than that from any other German state fund involved, the cinematic premiere shall take place in a film theater in Baden-Württemberg. Festival screenings are exempted from this rule.
- 2.3 The amount awarded is payable only after clearance of the necessary rights and confirmation of full funding. Details are defined in the respective funding agreements.
- 2.4 Support from MFG and support from other film funding programs can complement one another. Should German or European laws stipulate upper limits on the amount of state funding support

that can be accumulated, then such limits must also be complied with when accessing support according to these funding regulations.

2.5

The degree of all financial assistance granted to a project is strictly limited to 50% of its total costs. In the case of cross-border projects that are financed by more than one member state of the European Union and in which producers from more than one member state participate, the degree of financial assistance may amount to 60% of the total costs. Exempted from these limitations are difficult audio-visual projects (such as short films, directors' first and second films, documentaries, low budget productions, or otherwise commercially difficult projects) as well as co-productions with the participation of countries on the list of the OECD's development assistance committee. Films the single original version of which was made in the official language of a European country with a small national territory, a sparse population, or a small language area can be treated as difficult audio-visual projects. With regard to the support for projects covered under sections 3.1 and/or 3.2 of these funding regulations, there are no maximum limits to the amount of financial assistance that can be awarded.

Funding that comes directly from EU programs like Creative Europe, without the involvement of member states of the European Union in the selection process, are not considered state funding to be included in the above maximum limits.

- 2.6 Irrespective of the minimum requirements for achieving the Baden-Württemberg effects, MFG reserves the right to consider information provided by applicants in their application submission that extends above and beyond these requirements as binding in the event that funding is awarded.
- 2.7 Upon receiving support, the funding recipient is required by sections 4., 5., and 7. to provide MFG with a free, technically perfect copy of the film in its original production format for permanent archiving and protection of film heritage. In addition, the recipient must grant MFG an indefinite, general right of use for internal, archival (including research, etc. by third parties) and (self-) promotional purposes, as well as for purposes of public documentation of the promotional activities of MFG and/or the activities of the state of Baden-Württemberg, and/or one or all organizations connected to the film industry in Baden-Württemberg (Film Commissions, Location offices, etc.). MFG is entitled to completely or partially confer these accorded rights to the House of Documentaries, Stuttgart (charged with the archiving of film which hold particular importance for the state of Baden-Württemberg) or to one or all organizations connected to the film industry in

Baden-Württemberg (Film Commissions, Location offices, etc.) or otherwise mentioned third parties.

MFG can waive the need to store a copy in the original production format if one has already been turned over to another German institution with archival facilities.

3. Material and project development support

3.1 Script support

3.1.1 Script development is eligible for a loan that is repayable, contingent on success. As a rule, the loan awarded is to be used for costs incurred in Baden-Württemberg.

3.1.2 To allow for the differing backgrounds of the applicants, there are four support categories:

- a) Newcomers
- b) Graduates of a film school or self-educated individuals with advanced continuing education in seminars or courses
- c) Experienced scriptwriters
- d) Producers with scriptwriters

3.1.3 Authors alone are eligible to apply for support under sections 3.1.2 a) to c), while producers may apply under section 3.1.2 d).

Applications for script support are to refer specifically to one of the aforementioned support categories; MFG Filmförderung expressly reserves the right to assign an application to a different support category than the one named.

A treatment with a prepared dialogue scene and/or a project outline at minimum must be included with the application.

3.1.4 The following shall apply to all support categories:

MFG Filmförderung reserves the right to actively monitor the development of the script and/or the preparation/revision of a project outline.

The support will be provided in installments corresponding to the different phases in script development and/or preparation/revision of a project outline.

Each phase shall require the approval of MFG Filmförderung, if necessary with the involvement of external experts.

In individual cases, MFG reserves the right to impose conditions in each phase (involvement of a script doctor, co-author, etc.)

After each phase, MFG has the right to terminate support for the respective project with a corresponding reduction in the support provided.

3.1.5 In addition, the following conditions shall apply for the individual support categories:

a) Newcomers:

It is a standard condition that the author is generally required to take part in a recognized script workshop or a comparable qualification event. The revision of the submitted treatment is a requirement and must take place jointly with a dramatist proposed by MFG Filmförderung. Further script development must also take place with this or with another dramatist proposed by MFG Filmförderung.

b) Graduates of a film school or self-taught individuals with advanced continuing education in seminars or courses:

MFG Filmförderung may at its discretion demand the revision of the submitted treatment, if necessary jointly with a dramatist proposed by MFG Filmförderung. The monitoring of further script development shall be performed by a dramatist proposed by MFG Filmförderung.

c) Experienced scriptwriters:

Until completion of the first script version, the author may work together with a dramatist of his choice but who must be approved by MFG Filmförderung. If the first script version fails to attract a producer to make the film, the development of further versions of the script shall take place together with a dramatist proposed by MFG. If a producer becomes involved, the support hitherto provided for this script shall be due for repayment or the producer may apply for support to be continued as described below in d).

d) Producers with scriptwriters:

Support in this category is conditional on the presentation of a qualified contract with the participating author according to the Step Deal model. This agreement must ensure the contractual rights of MFG, particularly the measures mentioned under section 3.1.4. and including possible replacement of the participating authors. The necessary dramaturgical monitoring of the script development may be performed by the producer (if suitably

qualified) or through an external source commissioned by him, in which case the choice is subject to the approval of MFG Filmförderung.

- 3.1.6 As a rule, the loan shall not exceed 60,000 Euro within the support categories as per sections 3.1.2. a) and b), or 45,000 Euro within the support categories as per sections 3.1.2. c) and d). Furthermore, within the support category as per section 3.1.2. d) the loan shall not exceed the contribution to be made by the producer.
- 3.1.7 As a rule, the loan shall be paid out in installments after approval of each individual phase of script development.
- 3.1.8 As a rule, the loan is to be repaid when filming begins, or when the rights to the supported script are exploited in any other way (q.v. section 3.1.5. c). In the case of renewed application by producers as per section 3.1.2. d) repayment may be proportionately offset against the newly granted loan.
- 3.1.9 Script support does not legally entitle the applicant to further support.
- 3.1.10 If the supported script is not utilized within 36 months after payment of the last installment, MFG can request that all rights to the script that were acquired using the support provided be transferred to MFG. The loan recipient can request that the rights to the script be transferred back to him/her upon repaying the support awarded.
- 3.1.11 Details are regulated by the respective funding agreements.

3.2 Pre-production provisions

Support may be granted for the preparation for production of cinema or television productions. Producers who have residence in Germany and/or producers who intend to implement their project in Baden-Württemberg are eligible to apply.

- 3.2.1 As a rule, the support is granted in the form of a conditionally repayable loan. The loan may, as a rule, not exceed 80 % of the calculated project development costs incurred to the applicant or, as a rule, 150,000 Euro.

- 3.2.2 A script or another project-appropriate description as well as a budget, a financing plan and a detailed list of the amounts to be spent in Baden-Württemberg must be included with the application.
- 3.2.3 As a rule, the loan is to be repaid when shooting begins, or when the rights to the supported project are exploited in any other way.
- 3.2.4 In exceptional cases project development support may be granted for the development of more than one cinema and/or television project and/or for applications/competitions for TV contract productions (incentive funding). Producers, particularly newcomers from Baden-Württemberg, are eligible to apply. The application must include more than one project outline, a financing plan and a business development plan.

4. Production support

4.1 General criteria

- 4.1.1 Producers are eligible to apply.

In exceptional and justified cases and in cases where Baden-Württemberg has a special interest, support for feature length films or international television productions that are completely animated or where there are plans to carry out a high proportion of virtual and/or digital image processing/VFX in Baden-Württemberg, can also be applied for by the line producer responsible for this area.

- 4.1.2 As a rule, the support is a share of the financing in the form of a conditionally repayable loan towards the total production costs. In the case of international co-productions this will be based on the German share of the total production budget instead of the total production costs. This also applies to the provisions below as far as these refer to the total production costs.

In the case of an application by a line producer, the portion of the total production costs for which he is responsible is to be stated in the application instead of the total production costs or the German share of the financing; this applies to the following rules as well, insofar as they refer to the total production costs.

As a rule, the decision to support a film ceases to be valid after 12 months from the date of the award of funding, if full financing is not confirmed by then.

- 4.1.3 The applicant is expected to contribute a commensurate amount of his/her own investment, that, as a rule, may not be less than 5% of the total production costs, even if the project in question is small. In this case his/her own investment is to be at least 2% of the total production costs. Exceptions to these requirements concerning the producer's own share or investment can be made, particularly in the case of newcomer projects.

The calculation of the producer's own share and/or investment is to be based on the total production costs, taking into account possible financial contributions by TV stations.

- 4.1.4 The share or investments of an additional German co-producer have the same rank as that of the applicant, unless this is a TV station.
- 4.1.5 In the application, the Baden-Württemberg effect must be specified (itemizing the relevant positions in the budget).
- 4.1.6 The applicant shall provide adequate film training opportunities in Baden-Württemberg during production.

4.2 Feature films with total production costs over 500,000 Euro

- 4.2.1 A feature film will only be considered for support if it is an ambitious project that will contribute to successful, quality programming, both in film theaters as well as on television.
- 4.2.2 Support, which as a rule is awarded in the form of a conditionally repayable loan, should not exceed 50% of the total production costs nor be higher than 1 million Euro. In exceptional and justified cases, support may be awarded as a subsidy which should not generally exceed 30% of the total production costs. Generally, the subsidy is limited to a maximum of 600,000 Euro in individual cases. The accumulation of subsidies and conditionally repayable loans from MFG is prohibited.
- 4.2.3 A full-length feature film awarded support may not be evaluated before expiration of the binding windows defined in the funding agreement. Any exceptions to the rule shall be decided on by the management. Should the FFA consent to the theatrical window being shortened, MFG will endorse the decision.

4.2.4 As a rule, the producer is obliged to repay the amount awarded with 50% of his/her receipts from the supported film. If other German funding institutions are involved in the financing of the film, proportional repayment can be agreed to accordingly. This obligation first comes into effect after the financing components, as recognized by MFG and given recoupment priority in the funding agreement, are covered. Further details are regulated by the respective funding agreements. It ends with the full repayment of the amount awarded. The obligation to repay based on the producer's share of receipts expires, at the latest, 8 years following the film's theatrical release and/or start of utilization in Germany.

4.2.5 Within a certain period of time stipulated in the provisions of the original funding agreement, the producer may apply for the repaid sum as funding based on the reference principle to be used in the development or production of a new project. After review and approval by the management of the Film Funding division, the decision on the awarding of the funding based on the reference principle is made in accordance with these funding regulations and its supplementary provisions.

Should the producer not meet his/her contractual obligations vis-à-vis MFG or should the funding based on the reference principle not be approved, no application for the funds can be submitted.

4.2.6 As a rule, the producer holds all rights to cinematographic or audiovisual works produced with assistance from MFG. In case of co-productions with television broadcasters, the broadcaster's financial participation – apart from MFG's support – must exceed the equitable price of a broadcasting license. Only the amount exceeding the price of a broadcasting license qualifies as a co-production share. The television co-producer's total net contribution is to be equally divided into a broadcasting license and a co-production share. If the broadcaster acquires a license for a single transmission or for a limited period, the license fee may be of a lesser amount than the co-production share. In the respective agreements with broadcasters, it must be specified that the television rights revert to the producer after a reasonable period of time.

4.3 Feature films with total production costs up to 500,000 Euro (regulations differing from 4.2)

4.3.1 Producers and filmmakers, especially young film professionals, are eligible to apply. Preference will be given to productions by young authors and/or graduates in film and media studies from an educational institution located in Baden-Württemberg.

4.3.2 Support, which as a rule is awarded in the form of a conditionally repayable loan, should not exceed 70% of the total production costs. In exceptional and justified cases, support may be awarded as a subsidy which, as a rule, should not exceed 50% of the total production costs. Generally, the subsidy is limited to a maximum of 250,000 Euro in individual cases. The accumulation of subsidies and conditionally repayable loans from MFG is prohibited.

4.3.3 In addition, the rules in 4.2 apply.

4.4 Television productions (regulations differing from 4.2)

4.4.1 Support for television film productions is only possible for ambitious projects which contribute towards successful, high-quality programming. In this case, a large portion of valuable utilization rights are to be held by the producer. As a rule, support is awarded in the form of a conditionally repayable loan and generally should not exceed 30% of the total production costs. In exceptional and justified cases, support may be awarded as a subsidy which, as a rule, should not exceed 20% of the total production costs. Generally, the subsidy is limited to a maximum of 150,000 Euro in individual cases. The accumulation of subsidies and conditionally repayable loans from MFG is prohibited.

4.4.2 In the case of projects which particularly serve to assist young film professionals, the loan may amount to up to a maximum of 70 % of the total production costs.

4.4.3 In addition, the rules of 4.2 apply.

4.5 Post-production, PR activities, promotion

4.5.1 In exceptional and justified cases, post-production of a production not yet supported by any national funding institution and not co-financed by any national TV broadcasters may be awarded support.

The application can only be submitted after shooting has been completed.
The producer must submit viewing material of the film when filing the application.

4.5.2 In exceptional and justified cases, feature films supported by MFG are eligible to receive financial assistance for festival presentations, for regional premiers, and/or other PR/promotional initiatives.

4.5.3 Financial assistance may also be granted towards the financing of festival prints.4.5.4

The amount of support awarded for the above-mentioned initiatives should be spent in Baden-Württemberg, where possible.

As a rule, support is awarded as a conditionally repayable loan and in exceptional cases as a subsidy.

Management of the Film Funding division is able to freely dispose of an amount up to 250,000 Euro for this purpose.

5. Distribution and sales support

5.1 Distribution and sales measures for films and for special secondary measures in the area of distribution and sales are eligible for support if

- they are of special cultural and/or economic interest to the film industry in Baden-Württemberg
- they were awarded production support by MFG.

5.2 Distribution and sales companies, as well as producers in individual cases, are eligible to apply.

5.3 Support will be awarded in the form of a conditionally repayable loan which, as a rule, is of up to 50% of the distribution or sales costs, but which must not exceed 150,000 Euro. As a rule, the loan is repayable from all receipts after deduction and/or refinancing of the items recognized by the respective funding agreement. If other German funding institutions are involved in the financing of the film, correspondingly proportionate repayment may be agreed to.

5.4 The distribution/sales companies can apply within a certain period for the sum repaid by them to be made available as funding based on the reference principle towards the distribution or sales of a new project. The decision as to the awarding of the funding based on the reference principle shall take place in accordance with these funding regulations and their supplementary provisions after review and approval by management.

- 5.5 In order to expand existing markets and/or open new ones, distribution/sales companies with relevant projects may be awarded subsidies of up to 150,000 Euro per initiative – especially for program-filling feature-length films which were supported in Baden-Württemberg.

6. Support for cinemas

6.1 Support for municipal cinemas

Support for municipal cinemas is an institutional support of up to 250,000 Euro annually in individual cases. The following criteria must be met:

- a) The municipal cinema must have been in existence for at least two years.
- b) The municipal cinema must be an independent, non-profit institution, with its non-profit status proven.
- c) There must be a real need for financial subsidy, as substantiated in a budget comparing expenditures and income.
- d) The subsidy should equal 50% of the subsidy from the community/administrative district, the amount of which needs to be confirmed in writing.
- e) Submitted projects must offer high-quality film programs presenting a reasonable proportion of films from Europe, Germany, Baden-Württemberg or films supported by MFG.
- f) In addition to screening films, municipal cinemas awarded subsidies should also offer supplementary events such as educational seminars, discussions, and talks by authors.
- g) As far as possible, subsidized municipal cinemas should also seek contact with other organizations such as adult education centers, art associations, churches, etc.
- h) Rental costs must correspond with the local rent scale (if the community/ administrative district is the direct or indirect renter/leaser, this should be in the form of a confirmation from the locally responsible property authorities).

6.2 Support for commercial cinemas

Culturally justified support, as in accordance with the scheme for municipal cinemas as regulated in sections 6.1.1, c) to h), can only be awarded in exceptional cases.

- 6.3 Support, as per sections 6.1 and 6.2, can only be awarded up to the total amount of annual funding available for this scheme.

6.4 Prints of important repertory films

In order for theatrical and municipal cinemas to access, distribute, and integrate important repertory films into their programs, the manufacture of prints of important repertory films is eligible for support.

Representatives of cinema associations who have residence in Baden-Württemberg are eligible to propose films. Cinemas in Baden-Württemberg are given preference to new prints under uniform terms for a period of 18 months.

6.5 Innovation support for commercial cinemas

6.5.1 Commercial cinemas are eligible for innovation support in order to improve technical and other equipment, for building alterations, as well as for service facilities. Support is in the form of an interest-free loan of up to 50,000 Euro. Support can be awarded only up to the total amount of annual funding available for this scheme. The loan is intended for investment purposes and must be repaid within 10 years at the latest.

6.5.2 Commercial cinemas must have been in existence for at least two years and are only eligible for a loan if they meet the following cultural qualification: the cinemas must either submit an annual program of high quality, or have already received a programming award or a certificate from Baden-Württemberg, MFG, or the federal government. The repayable loan can be reduced by screening films that have been supported by Baden-Württemberg or MFG, or by carrying out specific promotional campaigns for such films, according to the following rates:

- 150 Euro for supported feature films/documentaries
- 50 Euro for supported shorts
- up to 350 Euro with proof of expenses for inviting a director/actor to a supported film or to an opening premiere (including publicity costs)

The above-mentioned sums are valid per exhibition week of the film in question. An exhibition week is defined as a minimum of 3 days within a calendar week with a minimum of one screening per day (to be verified by corresponding distribution invoices). The management of MFG reserves the right to verify efficiency as well as the number of screenings and therefore also to define the reduction amounts in individual cases. The number of annual screenings that can be calculated is limited to the total amount due to be repaid that year.

7. Support for new media applications with interactive content (Digital Content Funding)

- 7.1. Support for high-quality media applications with film-related interactive content (including high-quality, educationally, and culturally valuable computer and/or videogames and/or other interactive products) is only possible for ambitious projects. Sections 1-5 in these regulations apply to such projects only. Companies active in the audiovisual and/or multimedia branch are eligible to apply.
- 7.2 A script or another equivalent project description, suitable visualization aids, together with a budget and a financing plan for the project submitted must be included with the application; further details can be found in the MFG application forms.
- 7.3 Applications can be submitted to the MFG Film Funding or Media Development divisions. A separate allocation committee covering the various business areas decides on the applications.

8. Other initiatives eligible for support

Management can award support for other initiatives that maintain and promote the media sector in Baden-Württemberg, after the board of directors has determined the terms of support.

9. Exceptions to the regulations

Within the bounds of their responsibility, the allocation committees or management of the Film Funding division can, in special cases, allow for exceptions to these funding regulations.

These funding regulations enter into effect on October 13 2014.

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