

Funding Regulations

1. General principles

1.1 Funding objectives

The MFG film fund programme supports the development, production and distribution of film, television and video productions with circulation or broadcasting potential in film theatres, on television, for sales distribution, at festivals or other events. In addition, interactive products with audio-visual elements are supported in co-operation with the Media Funding programme.

Its main objectives are to develop, sustain and promote film culture, to accordingly develop and advance the film industry in Baden-Wurttemberg, and to present the film production services and opportunities in Baden-Wurttemberg both nationally and internationally.

The following will have funding priority:

- culturally significant films of diverse genres
- film productions that significantly contribute to advancing the film industry in Baden-Wurttemberg
- culturally significant television and video productions.

In order to advance the film industry in Baden-Wurttemberg, at least 120% of the total financial support awarded annually should be spent in Baden-Wurttemberg.

When awarding support to companies in which television broadcasters are majority associates or have a majority interest, the MFG will attach importance to other companies based in Baden-Wurttemberg also being involved in the production of film projects funded by the MFG.

1.2 The nature of support

The following areas are eligible for support:

- script development
- project development and pre-production
- production of feature films, television and video productions
- post-production
- distribution and sales
- screenings and presentations
- other related 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 general conditions of support are:

- the quality of the project and a cultural or other connection to Baden-Wurttemberg

or

- the quality of the project and its being of economic interest to Baden-Württemberg.

An economic interest exists if at least 120% of the financial support awarded is spent in Baden-Württemberg in the form of documented project costs.

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

- the content of the project is closely tied to Baden-Württemberg, **or**
- the producer/applicant is resident in Baden-Württemberg, **or**
- the project has already received support from another German film fund
- **and** SWR or ZDF/ARTE or ARTE also holds the television rights.

Only projects that fulfil the funding objectives will be awarded support.

Projects that contravene 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 mentioned in the main or closing credits of the film as well as in all publicity material for the film that the film was made with the support of the Medien- und Filmgesellschaft Baden-Württemberg – Filmförderung.

Should the MFG's support be higher than that from any other German state fund involved, the theatrical premiere is to take place in a film theatre in Baden-Württemberg. Festival screenings are exempted from this rule.

2.3 The amount awarded is payable only after clearance of the necessary rights as well as complete financing have been confirmed. Further terms of payment are defined in the respective Award Agreements.

2.4 Support from the MFG and support from other film funding programmes 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. Subject to fulfilling the other funding requirements, the beneficiary is at liberty to spend 20% or more of the respective total budget in other countries. For high-budget commercial feature films without a particular cultural objective, the accumulated support should not exceed 50%.

Script Support from 1 April 2004

3. Script and Project Development Support

3.1 Script Support

3.1.1 Script development or the preparation/revision of a project description in the case of documentaries 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 In order to do justice to the differing backgrounds of the applicants a categorisation is made according to the following four support models

a) Newcomers:

b) Graduates of a film school or autodidacts having participated in relevant seminars or courses:

c) Experienced scriptwriters:

- d) Producers with scriptwriters:
- 3.1.3 Eligible to apply for the support models pursuant to Clauses 3.1.2 a) to c) are authors alone, for the support model pursuant to Clause 3.1.2 d) producers. Applications for script support are to refer specifically to one of the aforementioned support models; MFG-Filmförderung expressly reserves the right to class an application in a support model different to the one named. Applications are to be accompanied by at least a treatment with a prepared dialogue scene and/or a project outline.
- 3.1.4 The following shall apply to all support models:
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 divided into phases corresponding to the steps of the script development and/or the 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 the support of the respective project with the consequence that the support sum will be reduced accordingly.
- 3.1.5 In addition, the following conditions shall apply for the individual support models:
- a) Newcomers:
As a standard condition, the author is, as a rule, required to take part in a recognised script workshop or a comparable qualification event. The revision of the submitted treatment is a requirement and must take place jointly with a dramatist to be proposed by MFG-Filmförderung. The further script development must also take place with this or with another dramatist proposed by MFG-Filmförderung.
- b) Graduate of a film school or autodidact having participated in relevant 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 the 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 who requires the approval of MFG-Filmförderung. If the first script version fails to interest a producer in making 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 expended for this script shall be due for repayment or the producer may apply for a continuation of the support as described in the following under d).
- d) Producers with scriptwriters:
Prerequisite for support according to this model is 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 also the measures mentioned under Clause 3.1.4. and including a possible exchange of the participating authors. The necessary dramaturgical monitoring of the script development may be performed by the producer (if suitably qualified) or an external commissioned by him; this choice being subject to the approval of

MFG-Filmförderung.

- 3.1.6 As a rule, the loan shall not exceed 60,000 euros in the support models pursuant to Clauses 3.1.2. a) and b), or 45,000 euros in the support models pursuant to Clauses 3.1.2. c) and d). Furthermore, in the support model pursuant to Clause 3.1.2. d) the loan is limited to the amount of the equal financial contribution to be made by the producer
- 3.1.7 The loan shall be paid out as a rule in instalments after approval of each individual phase of the script development:
- 3.1.8 The loan is to be repaid as a rule at the start of photography or in case of other exploitation of rights to the supported script (q.v. Clause 3.1.5. c): In the case of renewed application by producers pursuant to Clause 3.1.2. d) the repayment may be offset against the newly granted loan proportionately.
- 3.1.9 Script support does not legally entitle the applicant to further support.
- 3.1.10 If the supported script is not exploited within 36 months after payment of the last instalment, MFG can request that all rights to the script that were acquired using the support 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 support contracts.

3. Production support

4.1 General criteria

4.1.1 Producers are eligible to apply.

4.1.2 As a rule, the support is a share of the financing in the form of a conditionally repayable loan towards the applicant's share of the production budget. As a rule, the validity of the decision to support a film expires after 12 months from the date of being granted, if total 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 his/her share of the production budget, even if the project in question is small.

4.1.4 The applicant's own investment includes liquid assets from the applicant as well as from other sources, if these are in the form of an unconditionally repayable loan, as well as distribution/sales guarantees, if these are cash amounts used to finance production.

The applicant's own financial share includes: own investment, own services, deferrals, pre-sales, and in the event of television co-productions the market value of broadcast licences (50% of the broadcaster's total net contribution).

The producer's own services, which will be given recoupment priority, will be acknowledged up to a maximum of 10% of the producer's share of the production budget.

4.1.5 In the application, the regional spend in Baden-Wurtemberg must be particularised (itemising the relevant positions in the budget).

4.1.6 In the event of international feature film co-productions, the criteria according to

clauses 4.2 or 4.3, including the sub-clauses, apply to the sum of the German production costs (higher than 500,000 Euros or up to 500,000 Euros).

4.1.7 The applicant shall provide adequate film training opportunities in Baden-Wurttemberg during production.

4.1.8 The producer is obliged to supply the MFG with an archive print of the film or a magnetic tape of the electronic production as well as a DVD or video copy at his/her own expense. It is not necessary to submit an archive print to the MFG if another German institution with storage facilities has already been given one. A second DVD or video copy for the *Landesarchiv* (State Archive)/*Haus des Dokumentarfilms* must also be submitted at the beneficiary's expense.

3.2 Feature films with budgets higher than 500,000 Euros

3.2.1 A feature film will only be considered for support if it is an ambitious project that will contribute to successful, quality programming both theatrically as well as for television.

3.2.2 As a rule, the loan will not exceed 50% of the applicant's share of the budget, up to a maximum of 1 mill. Euros.

3.2.3 A feature film awarded support must have a theatrical window of at least 6 months in length following its theatrical premiere. A national television broadcast may not take place within 24 months following the theatrical premiere. Special arrangements will be made for pay TV and other similar broadcasting formats. Any exceptions to the rule shall be decided on by the management. Should the FFA consent to the theatrical window being shortened, the MFG will endorse the decision.

3.2.4 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 accordingly be agreed to. This obligation first comes into effect after the producer's own share, as recognised by the MFG and given recoupment priority in the funding agreement, is covered. Further details are regulated by the respective Award Agreements. The obligation to repay the amount awarded from the producer's share of receipts expires 8 years at the latest following the film's theatrical release.

3.2.5 The repaid sum shall be made available to the producer as automatic funding towards the development or production of a new project.

After review and approval by the management, automatic funding is awarded within a period of time to be specified by the MFG and in accordance with the valid regulations.

Should the producer not meet his/her contractual obligations or should the automatic funding not be approved, the funds revert to the MFG. These funds are available to the producer for a maximum of 3 years following full repayment of the loan.

3.2.6 In principle, the producer holds all rights to film works produced with assistance from the MFG. Co-productions with television broadcasters are possible: however, the broadcaster's financial participation – apart from the MFG's support – must exceed the equitable price of a broadcasting licence. Only the amount exceeding the price of a broadcasting licence qualifies as a co-production share. The television co-producer's total net contribution is to be equally divided into a broadcasting licence and a co-production share. If the broadcaster acquires a licence for one single transmission or for a limited period, the licence 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, as a rule not exceeding 7 years.

3.3 Feature films with budgets up to 500,000 Euros

(regulations differing from 4.2)

- 3.3.1 Producers and filmmakers, especially young film professionals, are eligible to apply. Preference is given to productions by young authors and/or graduates in film and media studies from an educational institution located in Baden-Wurtemberg.
- 3.3.2 Support is in the form of a conditionally repayable loan and should not exceed 70% of the applicant's share of the total budget.
- 3.3.3 The amount awarded will be determined according to the format of the submitted project (for e.g. shorts or full-length feature films).
- 3.3.4 Preference will be accorded to animation and children's film projects, if they meet the above regulations.

3.4 Television productions

(regulations differing from 4.2)

- 3.4.1 Television film productions of outstanding quality and outstanding cultural significance for Baden-Wurtemberg are eligible for support, if the majority of exploitation rights are held by the producer. As a rule, the loan should not exceed 30% of the applicant's share of the budget (otherwise the regulations in 4.2 apply).
- 3.4.2 In exceptional cases, productions made solely for television are eligible for support, if they particularly serve to assist young film professionals. Here the regulations in 4.3 concerning feature film support can be applied.

3.5 Video Productions

- 3.5.1 The production of outstanding, culturally significant video and other audio-visual productions is eligible for support.
- 3.5.2 Producers are eligible to apply.

3.5.3 A marketing concept for the project must be submitted.

3.5.4 Support will be awarded in the form of a conditionally repayable, interest-free loan of up to 30% of the applicant's share of the budget, up to a maximum of 250,000 Euros (otherwise the regulations in 4.2 apply accordingly).

3.6 Post-Production

3.6.1 In justified exceptional cases, post-production of a production not otherwise supported by the MFG may be awarded support, as a rule in the form of a conditionally repayable loan, if it will enable the theatrical release of a film. The application can only be submitted after the last day of shooting. The producer must submit viewing material of the film, together with the application documents required for production support. It is necessary to justify why the measures applied for would improve the end product and, more importantly, improve commercial exploitation of the film.

3.6.2 In justified exceptional cases, feature films awarded support by the MFG are eligible to receive a conditionally repayable loan of a commensurate amount in order to present the film at a festival. It is necessary to justify why the measures applied for would improve the exploitation potential of the film.

4.6.3 In exceptional cases, a subsidy can be awarded towards the financing of festival prints.

4.6.4 The amount of support designated for post-production should, if possible, be spent in Baden-Württemberg. Management is able to freely dispose of an amount up to 125,000 Euros 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 Baden-Württemberg
- they were awarded production support by the 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 as a rule of up to 50% of the distribution or sales costs, up to a maximum however of up to 125,000 Euros. In justified exceptional cases, distribution or sales guarantees can be acknowledged as distribution or sales costs that are eligible for funding.

At the very least, the amount of the loan awarded must be applied towards costs incurred in Baden-Württemberg.

As a rule, the loan is proportionately repayable from the balance of receipts, less distribution/sales expenses, after the distribution/sales guarantees and the

beneficiary's own share of preliminary costs, which are acknowledged and have recoupment priority according to the loan agreement, are covered. Repayment obligations expire 8 years at the latest after the supported measure begins. The loan is repayable at a rate proportionate to the MFG's percentage of financial participation and expires 8 years at the latest after the supported measure begins. Further details are regulated by the respective Award Agreements.

- 5.4 The repaid sum shall be made available to the distribution/sales company as automatic funding towards the distribution or sales of a new project. After review and approval by management, automatic funding is awarded within a period of time to be specified by the MFG and in accordance with the valid regulations. Should the distribution/sales company not meet its contractual obligations, or should the automatic funding not be approved, the funds revert to the MFG. These funds are available to the distribution/sales company for a maximum of 3 years following full repayment of the loan.
- 5.5 The specific sales distribution problems facing children's and teenagers' films, shorts, documentaries and experimental films will be taken into account.
- 5.6 Distribution/sales companies with plans to expand existing markets or open new ones, especially for full-length feature films supported in Baden-Wurtemberg, are eligible for subsidies.
- 5.7 The applicant's liability is limited to the exploitation receipts from the film awarded support. 6 months after the measure has started, the beneficiary is obliged to supply the MFG with an revenue statement, publicity material and a DVD or video copy/film print. A second DVD or video copy for the *Landesarchiv* (State Archive)/*Haus des Dokumentarfilms* must also be submitted to the MFG at the beneficiary's expense.

6 Support for cinemas

6.1 Support for municipal cinemas

- 6.1.1 Support for municipal cinemas is an institutional support of up to 250,000 Euros 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, whereas its non-profit status must be proven.
 - c) There must be a real need for financial subsidy, as substantiated in a budget comparing expenditure 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 programmes presenting a reasonable percentage of films from Europe, Germany, Baden-Wurtemberg or films supported by the MFG.
 - f) In addition to screening films, municipal cinemas awarded subsidies should also offer supplementary events such as educational seminars, discussions, and readings by authors.
 - g) To a certain extent, subsidised municipal cinemas should also seek contact with

other organisations such as adult education centres, art associations, churches, etc.

- h) Rental costs must correspond with the local scale of rent (confirmation from local property authorities).

6.2 Support for commercial cinemas

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

6.3 Support as according to clauses 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

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

Representatives of cinema associations, who are resident in Baden-Württemberg, are eligible to propose films. The new prints are primarily available to cinemas in Baden-Württemberg under uniform terms for a period of 18 months.

6.5 Support for renovations of commercial cinemas

6.5.1 Commercial cinemas are eligible for renovation 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 Euros. Support can only be awarded 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 with the following cultural qualification: The cinemas must either submit an annual programme of high quality or have already received a programming award or a certificate from Baden-Württemberg, the MFG or the federal government. The repayable loan can be reduced by screening films that have been supported by Baden-Württemberg or the MFG, or by carrying out specific promotional campaigns for such films, according to the following rates:

- 150 Euros for supported feature films/documentaries
- 50 Euros for supported shorts
- up to 350 Euros 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 a corresponding distribution statement). Management of the MFG reserves the right to verify efficiency as well as the number of screenings. The number of annual screenings

that can be calculated is limited to the total amount due to be repaid that year.

7 Support for film-related productions with interactive contact (Digital Content Funding)

7.1. Support for film-related productions with interactive content is subject to clauses 1-5 in these regulations. Companies active in the audiovisual and/or multimedia branch are eligible to apply.

7.2 A script or another equivalent project description together with a budget for the project submitted must be included with the application.

7.3 Applications can be made to the MFG programmes Film Funding and Media Development. A separate allocation committee decides on the applications.

8 Other initiatives eligible for support

Management can subsidise other initiatives that promote the media services and opportunities in Baden-Wurttemberg, after the board of directors has determined the terms of support.

9 Exceptions to the regulations

Within the bounds of their responsibility (procedure regulations) the allocation committee or management can allow for exceptions to these funding regulations in special cases.

These regulations go into effect as of 1 April, 2004.

**In case of dispute, the original German-language version of these regulations is legally binding.