



ATTRACTING FOREIGN INVESTMENTS AND INCENTIVES  
TO INVESTORS FOR PRODUCTION OF AUDIOVISUAL WORKS  
IN THE REPUBLIC OF SERBIA

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Despite being already recognized as one of the leading European countries regarding foreign investments, the Republic of Serbia continues its active policy of attracting foreign investors. The direct consequence of the substantial increase in investments in a plethora of different fields is the fact that there are even more and more foreign natural and legal persons willing to invest in producing audiovisual works on the territory of the Republic of Serbia.

The Republic of Serbia recognized this trend and took measures to improve the environment for investing in audiovisual works within the so-called creative industries (e.g. films, short films, TV shows, documentaries, animated films, etc. “**Industry**”).

The first step forward was made when Serbian Government adopted Regulation on incentives to investors to produce audiovisual works in the Republic of Serbia (“**Audiovisual Regulation**”) in 2015 providing the whole legal background for granting and allocating the incentives for producers of audiovisual works.

This legal framework included required conditions, procedures, entities/persons entitled to request incentives, etc. Audiovisual Regulation is subject to amendments annually and the one adopted in 2022 is currently in force - Audiovisual Regulation “Official Gazette of RS”, no. 132/2021 and 57/2022, and it prescribes conditions for realizing right to be granted with incentives before commission compiled of experts appointed by the Government of Republic of Serbia (“**Commission**”).

Required conditions are differentiated based upon the category of respective Industry’s part. General rule is that the incentives are granted in amount of 25% of qualified costs accepted on auditors’ report and if investment is above EUR 5.000.000,00, the amount of incentives for granting is 30% of qualified costs.

Specific conditions are set within each category, and for feature film and TV film to be granted with incentives, qualified costs under the budget need to be above EUR 300.000,00, and, as an example, for the TV Show amount of EUR 150,000.00 of qualified costs per episode needs to be surpassed within the budget.

Other rules are provided under Audiovisual Regulation, and in particular, such as that production needs to be carried out under the schedule defined (production calendar) and if any deviations arise, the Commission needs to be notified in 7 following days.

Any request not meeting the requirements of public funds shall be deemed as granted in following budgetary year whereas the Republic of Serbia serves as a guarantor for incentives’ funding. Audiovisual Regulation provides detailed procedure which is commenced with a request for granting incentives submitted before the Commission through Centar Film Serbia on ground of previous public announcement (public call) carried out by the Ministry of Culture and Information (“**Ministry**”).

Upon the request, the Commission is issuing decision on granting incentives, proposing the conclusion of the agreement to Ministry whereafter the agreement between the submitter and Ministry is concluded. Article 13 of Audiovisual Regulation regulates the agreement and by Paragraph 2 of said Article is prescribed that the deadlines, rights and obligations are regulated in more detail under the agreement. Upon the conclusion of the agreement the submitter requests payment of granted incentives and Commission is issuing decision if conditions are met for payment and thereafter the incentive funds are paid to the special-purpose account held at Treasury Administration on grounds of Ministry's decision. The submitter who holds the account may transfer the received incentive funds to investor in following 10 business days.

When addressing the request for granting the incentives, submitter must take into account provisions set under the Rulebook on types and content of explanation of qualified and non-qualified costs and form of request for allocation and payment of incentive funds to the investor to produce audiovisual works in the republic of Serbia ("**Audiovisual Rulebook**").

In order to determine whether the submitter is authorized to request incentives, one must assess the provisions regarding qualified costs. Qualified costs, pursuant to Audiovisual Rulebook, are costs accepted as eligible costs for production of the audiovisual work, incurred and paid in republic of Serbia, formed on basis of authorized auditors' statement. When compiling the proper budget for production of the audiovisual work in Serbia, it is required to take into consideration the very purpose and meaning of qualified costs. Audiovisual Rulebook stipulates that following costs would be considered as qualified:

- costs related to the production of audiovisual works incurred and paid to legal or natural persons in the territory of the Republic of Serbia, which are related to the purchased goods and services, use of locations, payment of fees to members of the author's, acting and technical team who are citizens of the Republic of Serbia or foreigners who have a stay of at least one year in the territory of the Republic of Serbia, in accordance with the applicable regulation;
- costs incurred in connection with the use of goods, i.e. renting movable and immovable property may be recognized only if the goods (or movable and immovable property), owned by legal or natural persons from the territory of the Republic of Serbia.

Furthermore, Article 3 of Audiovisual Rulebook stipulates that the qualified costs are, in particular:

1. **fees and salaries for team** (and accompanied tax);
2. **costs related to renting** apartments or hotels for foreign team members during their stay in the Republic of Serbia (and accompanied tax);
3. **per diems or allowances for expenses** for food, accommodation and work and stay in the field or unforeseen expenses paid to local team members, as well as foreigners - team members during their work in the Republic of Serbia, up to a maximum of 100 euros per day, provided that their per diems and allowances were paid in the Republic of Serbia with all related taxes;
4. **costs of purchasing copyrights** from residents or legal entities from the Republic of Serbia, provided that the request confirming the purchase of rights is attached to the request;
5. **costs of procurement of goods** (Audiovisual Rulebook regulates in details);
6. **all insurance premiums if provided by a Serbian legal entity-insurer; general operating costs** incurred during the realization of the audiovisual work in the Republic of Serbia, in accordance with the production calendar and recording plan;
7. **business expenses** of a Serbian producer or co-producer, if invoiced for production for specific purposes, provided that they are in the function of audiovisual work production, and at market prices.

On the other hand, Audiovisual Rulebook under the Article 6 defines “partially qualified costs” and provides in detail what costs shall not be considered as qualified (*such as interest and commission financing costs; fees of foreign producers; deferred payments, profit sharing, remaining payments; etc*).

This means that when drafting the budget prior to commencing production of the audiovisual work, the producer(s) need to assess both legally and economically the issue of qualified costs, since the very detailed definitions provided under the Audiovisual Regulation and Audiovisual Rulebook shall determine the amount of incentives which should be granted, or, whether the incentives will be granted at all. Therefore, it is of great importance that producers enter into projects well prepared and with duly professional, both legal and accounting support of engaged persons in order to realize their rights and accomplish goals in a best way possible.

It was certainly a clear intention of the Serbian legislation to provide more suitable environment for producers of audiovisual work especially having in mind the provisions set by Audiovisual Regulation and Rulebook, but also with the provisions of the Law on Investments which created starting point when it comes to state-aid and incentives. Moreover, the affection of the Serbian law towards the foreign investments and audiovisual production may come at sight when assessing the provisions of Law on employment of foreign citizens ("LEFC").

In particular, LEFC regulate the conditions and procedures for the employment of foreign citizens in the Republic of Serbia and other issues of concern to the employment of foreign citizens thereto. However, under the Article 3 paragraph 2 item 9) of LEFC is stipulated that the **conditions for the employment of a foreign citizen established by this Law shall not apply to the employment of a foreign citizen who is a member of a crew of authors or actors that are producing an audiovisual work in the territory of the republic of Serbia, in compliance with law.** Therefore, these provisions serve the purpose of allowing far better and efficient surroundings for foreign producers to come to Serbia and produce audiovisual works with all accompanied stimulation and improvements with the state as a guarantor. Provisions as these very much facilitate otherwise hard and comprehensive process of production which, apart from existing stages in Industry (such as concept and idea generation, budgeting, idea development, screenwriting & scriptwriting, hiring, recruiting cast and crew, scouting locations & production design etc.) includes many different aspects of creative, management, accounting and legal issues which needs to be dealt with when pursuing the creative goals within the Industry.

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