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**197. LAW ON CINEMATOGRAPHY**

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Pursuant to Article 95 item 3 of the Constitution of Montenegro, I hereby issue the

**Decree Promulgating the Law on Cinematography  
(Official Gazette of Montenegro 14/08 of 29 February 2008)**

I hereby promulgate the Law on Cinematography passed by the Parliament of Montenegro at the sitting of the second extraordinary session in 2008 on 12 February 2008.

No 01-292/2

Podgorica, 21 February 2008

President of Montenegro

Filip Vujanovic

**LAW ON CINEMATOGRAPHY**

**I GENERAL PROVISIONS**

*Article 1*

This Law shall define the public interest in the field of cinematography and regulate performing, organisation and financing of cinematographic activities, support to development and presentation of Montenegrin cinematographic opus and complementary activities, as well as protection and preservation of cinematographic works.

*Article 2*

Cinematography shall encompass activities of production, circulation, copying for commercial purposes, public presentation, protection and preservation of cinematographic works.

*Article 3*

Provisions of this Law shall be applied in accordance with the principle of protection of the author's right to freedom of expression, as well as in accordance with the intellectual property rights protection in the field of cinematography.

*Article 4*

Provisions of this Law shall not be applied to cinematographic works produced by legal persons, entrepreneurs and natural persons for their own needs or in non-commercial purposes.

*Article 5*

Definitions used in this Law shall have the following meanings:

- cinematographic work (film and television work) is an original creation of an author, representing a sequence of motion pictures, recorded on a recording medium, with or without sound, intended for public presentation or other form of commercial use;
- production of a cinematographic work includes collection of screenplay material, screenplay writing, preparation for filming, filming, editing, laboratory processing and post-production;

- post-production is a final technological and marketing processing of a cinematographic work and its preparation for public presentation;
- producer is a person registered for production of cinematographic works, who individually or predominantly organises and finances the production of a cinematographic work;
- co-producer is a person registered for production of cinematographic works, who participates to a lesser extent in organisation and financing of production of a cinematographic work;
- author or co-author of a cinematographic work is a person(s) who acquired that status in accordance with the law governing copyright and related rights;
- circulation of a cinematographic work includes buying, import, export, selling and renting of the cinematographic work;
- distribution is an activity of authorised putting into circulation of a cinematographic work;
- distributor is a person authorised for putting cinematographic works into circulation;
- licence is an authorisation for putting into circulation, copying for commercial purposes or public presentation of a cinematographic work;
- licensed premises are premises specified in the work permit i.e. operating licence;
- public presentation of a cinematographic work is a projection of the cinematographic work in a public place (cinema, catering establishments, means of public transport, etc.) from any existing or future recording medium of sound or motion picture; broadcasting of cinematographic works by means of wire or wireless transmission of electromagnetic, electric and other signals over a distance (radio and television broadcasting, cable broadcasting, internet, fixed and mobile telephony, etc.) and presentation of the cinematographic work simultaneously broadcasted by means of TV signals;
- presenter is a person delivering public presentation of cinematographic works;
- renting implies conferring a copy of cinematographic work to use for a specified period for an appropriate compensation;
- copying of a cinematographic work for commercial purposes is an activity of re-recording of the cinematographic work from an existing recording medium to any other recording medium with a view of putting it into circulation;
- cinematography development implies provision of material, technical, organisational and any other conditions for implementation and modernisation of cinematographic activities;
- cinemafication is systematic management of reconstruction, technical equipping and maintenance of cinemas in the territory of Montenegro;
- cinematographic material includes cinematographic works, as well as overall screenplay, music, visual art, financial and publishing material related to cinematographic works;
- complementary activities are activities that directly or indirectly contribute to realisation and development of cinematography (film and television festivals and manifestations, programmes for promotion and selling of Montenegrin cinematographic works, studying and critical evaluation of cinematographic activities, publishing industry in the field of cinematography, activities of cinematographic associations, etc.);
- person registered for performing activities is a legal or natural person registered for performing cinematographic activities in the Central Register of the Commercial Court.

## **II PUBLIC INTEREST IN THE FIELD OF CINEMATOGRAPHY**

### *Article 6*

The following cinematographic activities shall be of public interest to Montenegro:

- production of Montenegrin cinematographic works;
- production of the cinematographic works recognising the identity of Montenegro;
- promotion of international cinematographic cooperation and integration of national cinematography into the European and global development programmes;
- prevention of all forms of unauthorised use of cinematographic works;
- public presentation of films in cinemas;
- cinemafication;

- presentation and promotion of Montenegrin cinematographic works;
- protection and popularisation of the Montenegrin cinematographic material;
- provision of modern technical and technological conditions for performing cinematographic activities.

*Article 7*

Montenegro shall promote and support realisation of public interest in cinematography and its development as well as provide conditions for protection and permanent preservation of cinematographic works and cinematographic material.

Local self-government authorities shall provide conditions for presentation and public projection of cinematographic works in cinemas.

*Article 8*

With a view to realising the public interest referred to in Article 6 of this Law, the Government of Montenegro (hereinafter referred to as the "Government") shall pass the National Cinematography Development Programme (hereinafter referred to as the "National Programme").

The National Programme shall cover the four-year period.

*Article 9*

The National Programme shall define:

- the scope of and method for stimulating and supporting development of the Montenegrin cinematographic opus and cinematographic activities;
- activities for integration of the Montenegrin cinematography in programmes of the European Union and other international organisations;
- activities for presentation and promotion of Montenegrin cinematographic works at the national and international level;
- support to realisation of domestic debutant cinematographic works;
- activities for involvement of domestic artists and experts in filming foreign films;
- activities and measures for support to development of complementary activities;
- development and implementation of cinematheque activities;
- other activities and measures of importance for development of cinematographic activities as well as presentation and promotion of cinematographic opus.

*Article 10*

The state administration body competent for culture matters (hereinafter referred to as the "competent body") shall involve non-governmental and other organisation dealing with cinematography related issues in preparation of the National Programme.

*Article 11*

On the basis of the National Programme, the competent body shall prepare annual cinematography development programmes.

*Article 12*

The Montenegrin cinematographic work is a work:

- produced by a domestic producer independently or in cooperation with one or more foreign co-producers;
- whose director or screenwriter or majority of the rest of author team are Montenegrin citizens;

- produced in co-production with a foreign producer in accordance with provisions of the European Convention on Cinematographic Co-Production.

### **III CINEMATOGRAPHIC ACTIVITIES**

#### *Article 13*

Cinematographic activities may be performed by legal and natural persons, in the manner and under conditions stipulated herein.

Authorisation for circulation, copying for commercial purpose and public presentation of cinematographic works in cinemas shall be issued by the competent body.

#### **1. Production of cinematographic works**

##### *Article 14*

A cinematographic work shall be produced by a producer.

##### *Article 15*

A domestic producer may produce a cinematographic work independently or in cooperation with one or more domestic or foreign co-producers.

The domestic producer may, in cooperation with author or co-authors, engage foreign artistic and technical personnel for production of the cinematographic work.

##### *Article 16*

A foreign producer may film a cinematographic work in the territory of Montenegro independently or in cooperation with domestic producer or co-producer, subject to prior approval of the competent body.

The approval referred to in paragraph 1 of this Article shall be issued upon the written request submitted by the foreign producer or domestic co-producer.

The request referred to in paragraph 2 of this Article shall contain the location and time of filming the cinematographic work, as well as stated need of the foreign producer to engage domestic artistic and professional personnel.

The request shall be accompanied by the screenplay with marked segments of the text planned to be filmed in the territory of Montenegro.

##### *Article 17*

The competent body shall suspend filming of the cinematographic work if the foreign producer does not abide by the conditions stated in the approval issued in accordance with Article 16 of this Law.

##### *Article 18*

If filming of the cinematographic work in a particular location is subject to a special authorisation, the producer shall be obliged to obtain such authorisation from the body or organisation defined by the special law prior to the beginning of filming.

##### *Article 19*

With a view to filming the cinematographic work in the territory of Montenegro, the foreign producer may, upon obtaining the authorisation of the competent body, temporarily import the equipment required for filming, with no obligation of paying customs duties and taxes.

## **2. Circulation of cinematographic works**

### *Article 20*

Circulation of a cinematographic work shall be performed by a distributor having an operating licence issued by the competent body.

### *Article 21*

The distributor shall be obliged to possess a licence for each cinematographic work putting into circulation.

### *Article 22*

Selling and renting of cinematographic works may be done by the distributor having adequate premises and equipment for lodging, storing and presenting the cinematographic work from an appropriate recording medium.

Detailed conditions in terms of premises and equipment referred to in paragraph 1 of this Article shall be stipulated by the competent body.

Fulfilment of conditions referred to in paragraph 2 of this Article shall be determined by the competent body in the decision approving the selling and renting of cinematographic works.

Selling and renting of cinematographic works shall not be permitted out of the licensed premises.

## **3. Copying of cinematographic works for commercial purposes**

### *Article 23*

Any legal and natural person performing the activity of copying cinematographic works for commercial purposes shall be obliged:

- to have adequate premises and equipment for work;
- to present the operating licence in all licensed premises, in a visible place;
- to possess the licence, issued by the authorised person, for each copying of cinematographic work;
- to put the "copy" label on the recording medium and cover of each copied cinematographic work;
- to keep records and preserve samples of copied cinematographic works, as well as the recording medium from which the cinematographic works were copied, for the five-year period.

Copying of cinematographic works for commercial purposes shall not be permitted out of the licensed premises.

The competent body shall stipulate the contents of and method of keeping the records referred to in paragraph 1, indent 5 of this Article.

## **4. Public presentation of cinematographic works**

### *Article 24*

The presenter shall be obliged to possess a licence for each public presentation of cinematographic works.

*Article 25*

Cinematographic works may be presented in a cinema fulfilling defined conditions in terms of premises, equipment and professional personnel.

The cinema may be indoor or outdoor.

Detailed conditions for the cinema's work in terms of premises, equipment and professional personnel shall be stipulated by the competent body.

Fulfilment of conditions referred to in paragraph 3 of this Article shall be determined by the competent body in the decision approving the presentation of cinematographic works in the cinema.

**5. Licence**

*Article 26*

The licence shall be issued by the person who, according to the law governing copyright and related rights, has the authority to license other persons for: putting into circulation or renting cinematographic works, copying cinematographic works to any recording medium and public presentation of cinematographic works.

The licence for putting the cinematographic work into circulation shall contain the number of copies to be put into circulation and the type of recording medium on which the cinematographic work is to be recorded.

The licence for copying the cinematographic work for commercial purposes shall contain the number of copies to be made and identification labels of the recording medium from which the cinematographic work is to be copied.

The licence for public presentation of the cinematographic work shall contain the mode of public presentation of the cinematographic work.

The licence for public presentation in catering establishments and means of public transport shall be issued by the organisation dealing with collective protection and exercise of rights of authors of cinematographic works.

*Article 27*

The licence shall be accompanied by the original or copy of the authentic act on the scope and contents of rights of the person who issued the licence for the cinematographic work, as well as translation of that act into Montenegrin language by an authorised translator.

**6. Operating licence**

*Article 28*

The operating licence for performing activities referred to in Article 13, paragraph 2 of this Law shall be issued in the form of a decision, upon the written request of the interested person.

The request referred to in paragraph 1 of this Article shall be accompanied by:

- certificate from the Central Register of the Commercial Court on registration of the activity for which the operating licence is requested;
- evidence about responsible persons (personal data, home address);
- evidence about premises in which the activity is to be performed (address, area covered, basis for utilisation);

- description of installed equipment and devices;
- statement made by the submitter of the request that they, their manager or other authorised person, in the period of three years prior to submission of the request, have not been convicted to a final judgement for a criminal offence violating intellectual property rights, that no criminal proceedings are conducted against them for any of the mentioned offences, as well as that there is no measure in force prohibiting operations for which the operating licence is requested.

*Article 29*

The holder of the operating licence shall be obliged to inform the competent body without delay, not later than within 30 day, on any changes of importance for issuing the operating licence.

*Article 30*

The competent body shall abolish the decision containing the operating licence if the holder of the licence no longer fulfils any of the conditions referred to in Article 28 of this Law.

**7. Protection of children and young people**

*Article 31*

If the contents of the cinematographic work may harm physical or mental development of minors, the distributor and presenter shall make categorisation of the cinematographic work as well as, when putting into circulation or public presentation, put the label that the particular cinematographic work is not recommended to persons under the age of seven, fourteen and eighteen years respectively, depending on the category of that work determined in accordance with this Law.

The competent body shall define categories of suitability of cinematographic works for minors as well as criteria for and manner of defining the categories, outline and contents of the category label, and obligations of distributors and presenters in terms of application of categories and their labels.

*Article 32*

The distributor and presenter shall submit the notification on the category of particular cinematographic work to the competent body, not later than 8 days prior to putting that work into circulation or its public presentation.

The competent body shall have the right to require change of category of the cinematographic work, if it is not defined in accordance with this Law and with the act referred to in Article 31, paragraph 2 of this Law.

*Article 33*

Selling or renting of the cinematographic work to a minor shall be prohibited if its category is not suitable to their age.

The prohibition referred to in paragraph 1 of this Article shall also apply to selling and renting via mail orders or in a similar manner.

*Article 34*

Public advertising referred to in Article 31, paragraph 1 of this Law shall be prohibited.

**8. Cinema network**



*Article 35*

Cinemas in the territory of Montenegro meeting the defined working condition may be organised in the cinema network, with a view to coordinating their work and single professional approach to operations.

Cinemas involved in the cinema network shall give proposals and suggestions for the cinemafication programmes.

*Article 36*

Privatisation of cinemas under state ownership shall be conducted under conditions defined in a separate privatisation plan.

**9. Complementary activities**

*Article 37*

Complementary activities shall be performed in accordance with regulations governing the field that those activities belong to.

The competent body shall support performance and development of complementary activities in accordance with objectives defined in the National Programme.

*Article 38*

Organiser of a film or TV festival or some other cinematographic manifestation shall form permanent or temporary bodies for programme preparation and execution.

**10. Cinematographic register**

*Article 39*

The competent body shall keep the cinematographic register of natural and legal persons performing cinematographic activities.

Domestic producers, distributors, except those referred in Article 22 of this Law, and presenters, except those referred to in Article 25, shall submit an application for entry into the cinematographic register to the competent body prior to beginning of performing cinematographic activities.

The competent body shall stipulate the contents and manner of keeping the cinematographic register as well as the application form for entry into the register.

**IV FILING OF CINEMATOGRAPHIC WORKS AND MATERIAL**

*Article 40*

Montenegrin cinematographic works and related cinematographic material as well as foreign cinematographic works on Montenegro or those filmed in the territory of Montenegro shall be permanently preserved in the Montenegrin Cinematheque.

Regulations on protection of cultural goods and archive material shall apply to cinematographic works and cinematographic material referred to in paragraph 1 of this Article being of historic, cultural, educational or scientific importance for Montenegro.

*Article 41*

The Montenegrin Cinematheque shall collect and preserve domestic and foreign cinematographic works and cinematographic material, regardless of the type and quality of the recording medium on which they are filmed or recorded.

*Article 42*

Preservation of cinematographic works shall imply technical and technological protection, restoration, conservation and documentation processing, systematisation into appropriate collections, popularisation as well as use for scientific, educational and other purposes to the extent and in a manner that may not cause its damage or reduction of its cinematographic value.

*Article 43*

Cinematographic works and cinematographic material filed in the Montenegrin Cinematheque shall not be in circulation.

By way of derogation from paragraph 1 of this Article, duplicates of cinematographic works and cinematographic material may be exchanged with other cinematheques, with the consent of the competent body.

*Article 44*

Cinematographic works and cinematographic material stored in the Montenegrin Cinematheque may be temporarily exported to abroad, with the approval of the competent body, for the purpose of restoration and conservation protection or presentation in international manifestation.

*Article 45*

Cinematographic works and cinematographic material stored in the Montenegrin Cinematheque may not be copied for commercial purposes.

*Article 46*

Cinematographic works and cinematographic material possessed by domestic producers and presenters under state ownership may not be subject to privatisation.

Persons referred to in paragraph 1 of this Article shall deliver cinematographic works and cinematographic material to the Montenegrin Cinematheque prior to completion of privatisation.

*Article 47*

Domestic producer shall deliver one copy of the cinematographic work with accompanying cinematographic material to the Montenegrin Cinematheque, not later than six months after the post-production of that work is completed.

Foreign producer shall deliver one copy of the cinematographic work filmed in the territory of Montenegro to the Montenegrin Cinematheque, not later than twelve months after the filming is completed or six months after the post-production is completed.

## **V FINANCING CINEMATOGRAPHIC ACTIVITIES**

*Article 48*

Cinematographic activities shall be financed from the following sources:

- budget of Montenegro;
- budgets of local self-governments;
- cinematographic fees;
- producers;
- donations, participations, etc.;

- international funds;
- other sources in accordance with the Law.

*Article 49*

Funds from the Budget of Montenegro and funds collected from the cinematographic fees shall be used exclusively for implementation of the National Programme and annual cinematography development programmes.

Funds from the budgets of local self-governments shall be used for providing conditions for presentation and public projections of cinematographic works in cinemas.

*Article 50*

The cinematographic fee shall be the compensation paid for economic use of cinematographic works.

The cinematographic fee shall be determined and paid in a percentage of the annual revenues of natural and legal persons generated through circulation, copying for commercial purposes or public presentation of cinematographic works, or in a percentage of the total annual revenues of a person generated through use of cinematographic works.

*Article 51*

Cinematographic fees shall be paid by:

- 1) distributors – 1% of the total annual revenues generated through selling or renting cinematographic works;
- 2) persons copying cinematographic works for commercial purposes – 1% of the total annual revenues generated from copying of cinematographic works;
- 3) presenters of cinematographic works in cinemas – 0.5% of the total annual revenue generated from tickets;
- 4) public TV services – 1% of the total annual revenues generated from broadcasting of cinematographic works;
- 5) commercial televisions – 1.5% of the total annual revenues generated from broadcasting of cinematographic works;
- 6) operators in immobile and mobile telecommunication networks – 1.5% of the total annual revenues generated from broadcasting of cinematographic works;
- 7) cable TV operators – 1.5% of the total annual revenues;
- 8) providers of services of access to cinematographic works via internet – 1.5% of the total annual revenues;
- 9) presenters of cinematographic works in catering establishments and in means of public transport – 0.1% of the total annual revenues.

It shall be deemed that persons obliged to paying the cinematographic fee referred to in paragraph 1, items 4 and 5 of this Article have generated revenues from broadcasting of cinematographic works as a part of the total annual revenues, proportionally to the share of cinematographic works in their programme repertory.

A catering establishment and a mean of public transport shall be presenter in terms of paragraph 1, item 9 of this Article if they have installed the equipment required for presentation of cinematographic works.

Persons obliged to paying the cinematographic fee referred to in paragraph 1, items 1, 2, 3 and 6 of this Article shall keep special records on revenues generated from cinematographic works.

*Article 52*

The competent body shall submit the list of person obliged to paying the cinematographic fee to the state administration body competent for collection of taxes, not later than 15 January of the current year for the previous year.

*Article 53*

The cinematographic fee shall be paid to the Budget of Montenegro within 30 days from the expiry of the deadline for submission of the final account.

The state administration body competent for finances shall keep the register of funds collected through cinematographic fees.

*Article 54*

The competent body shall allocate funds referred to in Article 49, paragraph 1 of this Law by means of the open competition.

*Article 55*

Criteria for allocation of funds, method of and conditions for transfer and use of funds shall be stipulated by the special act of the competent body.

*Article 56*

The law governing the taxation procedure shall apply to the relations that do not fall within the scope of this Law but they do refer to paying of the cinematographic fee.

Control over calculation and payment of the cinematographic fee shall be conducted by the state administration body competent for collection of taxes.

## **VI MONITORING**

*Article 57*

Monitoring of implementation of this Law shall be conducted by:

- 1) the competent body with regard to: filming the cinematographic works in the territory of Montenegro by foreign producers; submission of applications for entry into the cinematographic register; fulfilment of conditions for circulation, copying for commercial purposes and public presentation of cinematographic works; and delivery of copies of cinematographic works and cinematographic material to the Montenegrin Cinematheque for preservation;
- 2) the state administration body competent for trade matters with regard to circulation and copying for commercial purposes of cinematographic works.

## **VII PENALTY PROVISIONS**

*Article 58*

A legal person or an entrepreneur shall be liable to a fine ranging from 10 to 300 minimum wages in Montenegro if:

- 1) as foreign producer, they film a cinematographic work in the territory of Montenegro without prior approval of the competent body (Article 16, paragraph 1);
- 2) they do not possess the licence for the cinematographic work put into circulation (Article 21);
- 3) they sell or rent cinematographic works out of the licensed premises (Article 22, paragraph 4);
- 4) they do not possess the licence for copying cinematographic works for commercial purposes (Article 23, paragraph 1, indent 3);
- 5) they copy cinematographic works for commercial purposes out of the licensed premises (Article 23, paragraph 2);

- 6) they do not possess the licence for the cinematographic work being publicly presented by them (Article 24);
- 7) when putting into circulation or public presentation of a cinematographic work the contents of which may harm physical or mental development of minors, they fail to put the label that the particular cinematographic work is not recommended to minors (Article 31, paragraph 1);
- 8) they fail to submit the notification on the category of a cinematographic work to the competent body within the defined deadline (Article 32, paragraph 1);
- 9) they sell or rent cinematographic works to minors, if the category of those works is not suitable to their age (Article 33);
- 10) they publicly advertise cinematographic works the contents of which may harm physical or mental development of minors (Article 34);
- 11) they fail to submit application for entry into the cinematographic register (Article 39, paragraph 2);
- 12) they fail to deliver cinematographic works and cinematographic material to the Montenegrin Cinematheques prior to completion of privatisation (Article 46, paragraph 2);
- 13) they fail to deliver a copy of the cinematographic work with accompanying cinematographic material to the Montenegrin Cinematheque within the defined deadline (Article 47);
- 14) they fail to keep special records on revenues generated from cinematographic works (Article 51, paragraph 4);
- 15) they fail to paid the cinematographic fee within the defined deadline (Article 53, paragraph 1).

For the violation referred to in paragraph 1 of this Article, a natural person and a responsible person in the legal person shall be liable to a fine ranging from 2 to 20 minimum wages in Montenegro.

## VIII TRANSITIONAL AND FINAL PROVISIONS

### *Article 59*

The National Programme shall be passed within six months from the day of entry into force of this Law.

### *Article 60*

Bylaws necessary for implementation of this Law shall be passed within three months from the day of entry into force of this Law.

### *Article 61*

The existing producers, distributors, presenters and persons copying cinematographic works for commercial purposes shall submit an application for entry into the cinematographic register and a request for issuing the operating licence to the competent body, within four months from the day of entry into force of this Law.

### *Article 62*

The Law on Cinematography (Official Gazette of the Republic of Montenegro 45/93, 73/06) shall be repealed on the day of entry into force of this Law.

### *Article 63*

This Law shall enter into force on the eighth day following that of its publication in the Official Gazette of Montenegro.

