

Guidelines for Institutions Serving Social and Cultural Purposes (“SKE”)¹

of VdFS - Verwertungsgesellschaft der Filmschaffenden registrierte Genossenschaft mit beschränkter Haftung - Collecting Society of Audiovisual Authors and Actors with limited liability.

Preamble

As VdFS asserts claims on „storage media remuneration“ pursuant to Section 42b (1) UrhG (Austrian Copyright Act), it is obligated to create institutions serving social and cultural purposes (SKE in short) for their beneficiaries and allocate 50% of the total revenue from these payments, less the administrative costs, to these institutions, pursuant to Section 33 VerwGesG 2016 (Collecting Societies Act) 2016.

Furthermore, a share of other VdFS licensing revenue can also be assigned to these institutions. In accordance with the relevant international practices, this share of revenue should not exceed 10% in each case.

According to the explanatory notes regarding the amendments of the UrhGNov 1980 (Austrian Copyright Act Amendment 1980), in connection with the findings of the Judiciary Committee on the Collecting Societies Act 2006

“social purpose” “are to be understood as the support of individuals suffering material hardship and the support of all or significant shares of the beneficiaries in matters of common interest. The classic cases of hardship, i.e. pensions, widow - and orphan benefits and health insurance as well as help in cases of special hardship , f. ex. following illness and accidents as well as financing legal advice, have first priority in this context “cultural purposes” include any kind of youth development, f. ex. Scholarships, sponsorship awards, the opportunity for public performances ...“

¹ Resolution Board of Directors 09/09/2021 and Supervisory Board 14/09/2021

VdFS Board of Directors has drawn up the following guidelines for allocations from SKE pursuant to Section 33 (4) VerwGesG 2016 (Collecting Societies Act 2016) and Section 46 (2) of VdFS Constitution. These guidelines have been approved by the Supervisory Board (Section 22 of VdFS Constitution).

1. General Provisions

1.1. Contractual relationship

The payments shall be provided in accordance with the statutory obligations from the transactions under private law between VdFS and its beneficiaries.

1.2. Legal claims

There shall be no claims for SKE services that are enforceable in the ordinary courts, in an administrative procedure or otherwise. There shall also be no claim to payments, as regards to both the grounds as well as the amount, if they are repeatedly or continuously granted. Payments can be discontinued entirely, reduced or changed in some other way at any time by VdFS without the consent of the recipient.

1.3. Non-binding nature

All terms used in these guidelines in the description of payments shall be regarded as non-binding within the meaning of this section.

1.4. Activity reports

Pursuant to Section 45 (6) VerwGesG2016 (Collecting Societies Act 2016), for each financial year, VdFS shall create an activity report as part of the transparency report, on the revenue allocated to social and cultural institutions. The annual reports shall be sent to the supervisory authority for collecting societies, pursuant to Section 70 (2) clause 10 VerwGesG 2016 (Collecting Societies Act 2016), which must monitor the application of funds by SKE, provided there is a legal obligation to the assignment.

The report on the deductions for social and cultural institutions shall contain the amounts deducted in each financial year for social and cultural institutions, itemised by intended use and for each individual

intended use, then itemised according to category of the rights exercised and types of use. Furthermore, this report shall include a commentary on the usage of these amounts, itemised according to purpose, including the costs of the administration of the deductions in favour of the social and cultural institutions, and of the separate amounts used for social and cultural institutions.

1.5. **Fiscal treatment**

The recipient of benefits must ensure the proper taxation of grants.

2. **Administration of SKE**

2.1. **Allocation of funds**

The award shall take place on the basis of the existing funds.

2.2. **SKE guidelines**

The administration of SKE, particularly the allocation of funds, shall take place according to fixed rules, which are drawn up by VdFS Board of Directors and approved by the Supervisory Board. They must be made publically available to the beneficiaries, pursuant to Section 44 clause 9 VerwGesG 2016 (Collecting Societies Act 2016), on VdFS homepage.

The guidelines can only be modified by unanimous decisions of the Board of Directors with the approval of the Supervisory Board.

2.3. **Decision-making power**

2.3.1. **Board of Directors**

The decision on the allocation of funds rest in principle with the Board of Directors. To prepare its decision, the Board of Directors can set up a committee ("SKE committee"), which can make proposals with regard to the completion of the application. The final decision rests with the Board of Directors.

Resolutions on this shall in principle be passed in board meetings. Circular resolutions, which are permissible in accordance with the rules of procedure of the Board of Directors, is only possible in urgent and immediate emergencies; in this case, a unanimous vote is required.

2.4. Accounting

The SKE funds shall be managed in a separate accounting entity within VdFS. They shall be reported separately in a special item on the balance sheet “liabilities from the dedication for social and cultural purposes”.

The funds that are not used in a year must be recorded in the balance sheet item “liabilities from the dedication for social and cultural purposes” and used entirely and appropriately in the following years for social and cultural purposes in terms of these guidelines.

2.5. Administrative costs

The administrative costs shall be calculated in the same way and to the same extent as the royalty distribution.

3. Assignment of funds

3.1. Storage media remuneration

VdFS annually allocates 50% of the revenue from the storage media remuneration to SKE, pursuant to Section 42b (1) UrhG (Austrian Copyright Act).

3.2. Other assignments

Further funding from other sources shall be determined by the board of directors - without legal obligation - in a demand- and goal-oriented manner for the respective financial year. A deduction of 10% is currently made and allocated to SKE from the other income (e.g. cable fees, public lending rights, public reproduction in schools and universities, etc.).

3.3. Use of funds/ priority of social purposes

The SKE funds must be used in accordance with the following provisions for social and cultural purposes. In cases of lacking funds, allocations towards social purposes have priority.

3.4. Conditions/requirements

The provision of payments can be made conditional upon conditions or the fulfilment of obligations; in case of non-compliance, the confirmation can be entirely or partly withdrawn.

3.5. Acquisition by false pretences

This also applies if false statements are made to obtain the payments. VdFS can reclaim payments in such a way.

3.6. Right of examination

VdFS is authorised to check the appropriate use of funds and request appropriate evidence for this purpose.

3.7. Application

A reasoned, written application is a prerequisite for assessment by the Board of Directors. Wherever possible, all documents which are necessary for the assessment must be attached to the application. VdFS excludes any liability for the submitted documents. If information or documents, which are important for the decision-making process are missing from the application, the application shall not be deemed as submitted until the point of completion. The applications must be submitted no later than two weeks prior to the Board of Directors meeting, in which it is to be decided upon.

3.8. Eligible persons

Eligible for applications pursuant to Point 4.1. (one-off support payments to beneficiaries in difficulties), 4.3. (Grants for legal costs and tax advice) and 5.3.4. (Training and further education) are physical persons, who concluded a membership contract with VdFS at least one year before the application.

Furthermore, the applicant shall present proof of at least three works which are registered with VdFS and that can be offset within the meaning of point II.6.) of the distribution conditions. This number shall increase to at least 5 registered works and works that can be offset after 10 years of membership.

The Board of Directors may ignore the one-year period and/or the minimum number of registered works and works that can be offset, by a unanimous resolution if this seems appropriate on the basis of extreme hardship in an individual case or on the basis of the significance of a sample procedure for the entirety of the beneficiaries.

3.9. Beginning of the execution of the project

When executing a project, where an application relating to the grant is pending, the applicant must not begin before a decision has been made on the application. If the project is, however, executed before the resolution on the grant has been passed on the grant; VdFS cannot impose any kind of obligations.

3.10. Extent of the assignments

The Board of Directors shall determine the amount of the payments based on the submitted documents.

3.11. Agreement on the assignment/justification of rejection

The applicant shall be informed in writing. In case of rejection, justification is required.

4. Payments serving social purposes

4.1. Unique support payments to beneficiaries in difficulties

4.1.1. Conditions for granting the payments

The condition for the grant of a one-off payment per calendar year to provide support in case of hardship or extraordinary burdens is that due to these emergencies or burdens, the applicant's economic livelihood is compromised at the time the application is submitted.

Furthermore, the income of the applicant may not exceed two and a half times the amount of the standard rate of the equalisation supplement pursuant to Section 293 (1) ASVG (Austrian General Social Insurance Act) (12x annually) during the calendar year in which the support was utilised (EUR 38,290.-). If the applicant has alimony obligations this limit shall be increased by EUR 8,170,- (support per child until completion of its the 25th year) or EUR 16,500.- (support for partner) per calendar year (standard values 2022).

If the aforementioned income limits were exceeded by the applicant in the calendar year in which the funds were utilised, he or she shall repay the entire amount of the assistance back to VdFS. The audit shall take place retrospectively, based on the applicant's legally valid income tax assessment notice for the calendar year in question. The applicant undertakes to submit the legally valid income tax declaration or other documents, which display the annual income (pension notification, etc.) to VdFS immediately upon receipt. Repayment to VdFS shall take place within a period of 3 months after determining that the income limits have been exceeded and VdFS has requested payment. If the applicant does not repay the support funds after a written request and one warning by VdFS, he or she shall be excluded from submitting further applications for 3 years from the calendar year of the application.

4.1.2. Hardship

A situation is considered as hardship when the applicant cannot afford the daily costs of living within his or her own means or when fixed monthly costs exceed monthly income over a longer period of time. The receipt of social benefits (Public Employment Service Austria) or the minimum pension are examples of indicators of hardship within the meaning of this provision.

4.1.3. Extraordinary burdens

Physical handicaps, medical treatment, need for care, occupational disability, funeral costs and similar expenses are considered examples of extraordinary burdens.

In particular, the following specific cases are considered extraordinary burdens:

- increased need for medicine
- permanent, medically indicated diet
- outside help for daily activities, if the need for care has been proven but there is not a claim for care allowance
- the purchase and maintenance of necessities (e.g. heating, washing, cooking and cooling equipment; sanitary facilities; connections for electricity, water and sewer)
- the purchase and maintenance of therapeutic measures and aids
- renovation or change of accommodation due to disability and
- the purchase and maintenance of mobility aids (e.g. converted vehicles, lifts)
- fixed dental replacements in medically indicated cases, if no subsidy payment by the responsible health insurance carrier, and no payments from the support fund have been made, and there is no existing claim for such payments.

Furthermore, it can be considered an extraordinary burden within the meaning of the provisions listed, if the applicant can no longer afford to purchase or renovate necessary household items such as refrigerators, stoves, heating fuel, ovens, beds, etc., on his or her own.

4.1.4. Application

The person soliciting the support must make an application, in which the extraordinary burdens must be explained and documented.

4.1.5. Amount of grant

In individual cases, the amount of the grant shall be determined individually, however as of 2014, the maximum amount shall be EUR 4,500,- per calendar year. This upper limit shall be determined annually by resolution of the Board of Directors.

4.2. Old age allowance

- 4.2.1.** VdFS shall pay an old age allowance to ordinary members. The old age allowance shall be granted from the first of the month following the attainment of the legal pension age (currently 60 years female) / 65 years male), while observing the legal looping-in rules and with a minimum membership of at least five years.
- 4.2.2.** This grant serves to ease the financial situation, which is typically characterised by limited employment opportunities and increased burdens (illness, etc.) in old age.
- 4.2.3.** The grant shall be paid regardless of the specific circumstances of the affected parties. There is also still the possibility to receive grants towards living costs in the case of special need, regardless of whether the conditions for the old age allowance are met or not.
- 4.2.4.** The income of an applicant (foreign and domestic income, pensions, other come and other income out of employments or independent work) may not exceed EUR 28,747.66 per year (EUR 2,053.40 per month, 14 times per year) (Rate for 2022). The income limit will be adjusted every year in accordance with the consumer price index 2015 of the Statistik Austria on the basis of the respective October value.
- 4.2.5.** Every year the recipients of the old age allowance and new applicants thereof have to prove to VdFS the total income received from pensions and other domestic and foreign earnings with documents such as pension notification, income tax assessment notice and any other possibly related documents. These shall be signed by the applicant while at the same time confirming the completeness and accuracy of the information about the applicant's income (self-disclosure by the applicant).
- 4.2.6.** VdFS may demand repayment of funds that were acquired by the applicant under false pretences. VdFS also reserves the right to verify the information provided by the applicant, and in case of subreption of payments, to bar the applicant temporarily or permanently from further receipt of the old age allowance.
- 4.2.7.** The old age allowance is obtained from the deductions from the social and cultural allocations (SKE) according to requirements, up to a

maximum of 25%. The amount of an individual old age allowance varies according to the funds available.

- 4.2.8.** The Board of Directors shall decide on the guidelines for the granting of the old age allowance, and these shall be approved by the Supervisory Board.
- 4.2.9.** Receipt of the old age allowance is subject to the member's ordinary membership with VdFS for at least 5 years, and the attainment of the legal pension age according to point 1. The old age allowance shall be granted from the first of the month after which the applicant has reached the legal pension age.
- 4.2.10.** The amount of the old age allowance shall be determined each year, based on the available funds and the number of recipients. The annual adjustment is carried out in line with the consumer price index 2015 of Austria statistics, based on reference month October. In the year 2022 the old age allowance is EUR 411.00 per month and it is to be paid out 12 times per year. The old age allowance can neither be assigned, pledged nor can they be bequeathed.
- 4.2.11.** It is a condition of receipt of the allowance, that the member provides his or her written consent to these terms.
- 4.2.12.** The old age allowance can be partially or totally revoked by the Board of Directors, especially if the resources listed in 4.2.7. do not provide sufficient cover or a new system of old age provision is introduced. There is no legal claim to the old age allowance.
- 4.2.13.** Each recipient must ensure the taxation, billing and any social deductions from their earnings themselves and exempt VdFS from any such claims.

4.3. Grants for legal costs and tax advice

Beneficiaries can file applications for legal cost grants through VdFS for advice in legal and tax matters. These are subject to an objective connection with their professional activity as a filmmaker or film actor/actress. General services e.g. general accounting or payroll accounting services, yearly tax filing or preliminary turnover tax return filing, as well as similar standard services cannot be not subject to any grants. The grant for legal costs and tax advice can only be given once a year. The amount of the grant shall be generally and uniformly determined by the Board of Directors (as of 2018: a maximum of EUR 2,000.- per calendar year). Any further costs shall be borne by the beneficiary himself or herself after consultation with a lawyer or tax advisor. The payment of the grant is made by the full-time managing director in the course of the ongoing business.

5. **Payments for cultural purposes**

5.1. **General measures for improving the situation of the beneficiaries**

Furthermore, the costs of other measures for improving the situation of beneficiaries and which are of assistance and generally suitable for improving the position of the beneficiaries, can be borne by SKE funds.

5.2. **General purposes of funding**

Funding can be awarded, amongst others, for the following reasons:

- Reports and investigations
- Public relations work
- Fundamental research
- Creation of material collections
- Conducting test cases
- Conducting market surveys

5.3. **Special purposes of funding**

5.3.1 **Funding of festivals and events**

SKE funds may be assigned as grants for film festivals and other similar events.

In particular, supported are film festivals and outdoor summer screenings as locally limited events with several screenings ("satellite-events" are possible and welcome), that

- take place at least on 3 immediately consecutive screening days
- on one or more location(s) and
- offer subject-specific and cinematic-cultural exchange

Moreover, the following requirements have to be fulfilled in considerable extent:

Autonomy and professionalism of the organisation

- Performing of continuous work as independent institution in Austria

- Statutory autonomy of institutions of the public sector, public corporations, municipalities, confessions or parties
- Professional management and proper and regular business conduct.

Professional implementation of the appearance

- Professional projections
- Cinema-fitting and accompanied screening situation and -formats
- Professional public appearance
- Clear and neatly arranged website
- Detailed programmes and movie descriptions including film credits (online or print).

Quality and coherency of the programmes

- Transparent and comprehensible alignment of a clear programmatic line with strong actuality
- Showing profile and attitude
- Strong curatorial thumbprint
- Contextualisation of the screenings (more than simply stringing movies)
- Special attention should be directed to the interaction between movies, screenings, locations and reruns.

Inclusion of other protagonists and co-operations

- Providing opportunities for subject-specific, cinematic-cultural exchange (e.g. by screening talks, lectures, panels, workshops attended by film makers)
- Presence of movie- & expert-guests for specific exchange.

Other requirements

- Contribution to movie culture
- Contribution to the movie sector (industry)
- Legally conformant registering of employees at the public social insurance and paying minimum wages

The considerable meeting of the above requirements is to be proved by the applicant by transmitting according documents.

The application itself has to include general information on the format (festival, outdoor summer-screening), name, profile, year of establishment, edition and periodicity as well as statistic figures (number of

screening days, number of screening locations, main screening location(s), number of movies/thereof movies > 45 min, number of screenings and accompanying events, total number of visitors, total number of film- & expert-guests as well as accredited persons), all in relation to the last edition.

Furthermore, the approval of a grant is subject to the submission of an overall calculation and a finance plan, including a list of other institutions where an application for sponsoring has been made and/or has been approved. Additionally, a preview on the planned event (film festival / outdoor summer-screening) as well as a yearly report, press review and organisational time schedule are to be included.

After the festival or event, the applicant shall submit an account with the actual costs of the festival or event. Furthermore, original receipts and invoices in the amount of the grant awarded by VdFS shall be provided, and these shall be validated by VdFS and returned immediately to the applicant. An evaluation of the festival or event (number of guests, press reviews, etc.) shall be enclosed with the account.

The Board of Directors reserves the right to require provision of a certain number of accreditations before awarding the grant.

5.3.2.

Funding of Associations

Organisations, associations, institutions which serve to promote the economic, social and artistic interests of VdFS beneficiaries or groups of VdFS beneficiaries, can be supported by SKE.

In their application organisations, associations and institutions shall submit an activity report on the activities of the previous year as well as an annual budget for the current year (personnel costs, infrastructure, planned projects, etc.).

The level of funding for associations shall be determined annually by resolution of the Board of Directors and is fixed in general with a yearly amount of EUR 11,000.- per year and per organisation, association or institution beginning with 2018.

5.3.3. Special cultural projects

SKE may also support (infra-) structural or other measures. These include, for example, one-off or ongoing services for structural measures that benefit the entirety of filmmakers and performers in the audiovisual sector.

The approval of support is subject to the submission of an overall calculation and a finance plan, inclusive of a list of other institutions where an application for support has been made and/or approved. The applicant must enclose the above-listed documentation when submitting the application.

After the project is completed, appropriate financial statements on the actual costs shall be provided to VdFS.

5.3.4. Training and further education

SKE funds may be allocated for the training and further education of beneficiaries in so far as these are directly connected to the professional activities of the applicant as a filmmaker or performing artist in the audiovisual sector.

5.3.4.1. Events

A grant of up to EUR 3,000.- per calendar year and up to a maximum total duration of 3 years (in the case of annually recurring events building up on a course-by-course basis) can be applied for participation in events (presence and online) for further education (courses, seminars, coaching sessions, training courses, master classes etc.) if it can be assumed that the applicant can be expected to make professional progress as a result of the grant.

The grant may cover participation fees as well as travel and accommodation costs of the applicant. However, travel costs are limited annually to EUR 500.- per year within the EU and EUR 1,500.- per year outside the EU. Travel expenses are defined as costs for travelling by train (2nd class) or plane (economy class).

To guarantee the quality of education and training offers to support the professional advancement of the applicant and to ensure sufficient

quality criteria, VdFS has to consult the several professional associations represented in the Austrian Filmmakers Association. These recommendations have to be taken into account for decisions of the board of directors but do not have binding character.

The purchase of teaching materials (scripts, professional books, teaching videos, etc.) for the purpose of training and further education is not eligible for funding.

5.3.4.2. Participation in an artistic competition

For participation in an artistic competition (e.g. within the framework of a film festival) a grant of up to EUR 3,000.- per calendar year can be applied for if it can be assumed that the applicant can be expected to make professional progress through the grant.

The grant may cover participation fees as well as travel and accommodation costs of the applicant. However, travel costs are limited annually to EUR 500.- per year within the EU and EUR 1,500.- per year outside the EU. Travel expenses will be reimbursed in the form of rail travel (2nd class) or air travel (economy class).

When submitting the application, the applicant must plausibly prove that the travel costs have not already been covered by the organisation of the event or film festival.

5.3.4.3. Visiting festivals for the purpose of education and training

Travelling to European and international film festivals (without participation of the applicant in an artistic competition according to point 5.3.4.2.) is eligible for a grant of up to EUR 3,000.- per calendar year, provided that it also serves the purpose of education and training which the applicant must justify and substantiate when submitting the application.

The grant may cover participation fees as well as travel and accommodation costs of the applicant. However, travel costs are covered annually by EUR 500.- within the EU and EUR 1,500.- outside the EU per application. Travel expenses are defined as costs for travelling by train (2nd class) or plane (economy class).

Travelling to festivals in Austria and to the following festivals is generally not eligible:

Berlin International Film Festival (Germany), Cannes International Film Festival (France) and Venice Film Festival (Italy).

5.3.4.4. Professional association activities

Also, the different professional associations represented by the Austrian Filmmakers Association can apply for grants for education or training programmes they are offering for their own members of their organisations, additionally to the fundings mentioned in point 5.3.2.

5.3.4.5. Evaluation and evidence

After claiming the VdFS funding measures mentioned at 5.3.4.1. - 5.3.4.3., the applicant must submit a statement of account and original receipts (seminar fee, travel expenses, hotel bill, etc.) in the amount of the grant awarded by VdFS, which must be stamped by VdFS and returned immediately to the applicant.

In accordance with point 5.3.4.4. the funded professional associations must send a corresponding statement of the actual costs incurred to VdFS after they have carried out their own training and further education measures for the members of their association.

5.3.5. Support of junior talents

Allocations from SKE may be provided for the support of young filmmakers (filmmakers or performers in the audiovisual field up to the age of 40 who belong to a professional group represented by VdFS) and for the acquisition of new VdFS beneficiaries. For this purpose, the requirements according to point 3.8. that would otherwise be prescribed for individual grants do not have to be fulfilled.

5.3.5.1. Participation in an artistic competition

Students at public and private universities can apply for a grant of up to EUR 3,000.- per calendar year for participation in an artistic competition (e.g. as part of a film festival) if it can be assumed that the applicant can be expected to make professional progress as a result of the grant.

The grant may cover participation fees as well as travel and accommodation costs of the applicant. However, travel costs are covered annually by EUR 500.- within the EU and EUR 1,500.- outside the EU per application. Travel expenses are defined as costs for travelling by train (2nd class) or plane (economy class).

When submitting the application, the applicant must plausibly prove that the travel costs have not already been covered by the organisation of the event or film festival.

5.3.5.2.

Invitations to national festivals

Determined by a resolution of the Board of Directors each year VdFS may invite a number of students from film training institutions (public and private schools, universities of applied sciences and universities; no commercial providers or operators) to film festivals in Austria in order to support them in taking their first steps in the film industry and in networking with other filmmakers on site.

VdFS covers travel costs (2nd class train journey) and accommodation costs up to a maximum of EUR 400.- per student and calendar year.

Students are invited autonomously by VdFS in cooperation with the respective film training institutions; the invitation is not applicable.

5.3.5.3.

Evaluation and evidence

The applicant, pursuant to 5.3.5.1., and the sponsored student, pursuant to 5.3.5.2., must submit a statement of account and original receipts (seminar fee, travel expenses, hotel bill, etc.) in the same amount as the grant awarded by VdFS after appropriation of the funding measures. VdFS must stamp the receipts and return them immediately to the applicant or the sponsored student.

5.3.6. **Promotion of legal literature in the field of copyright law and collecting society law**

SKE may provide grants for the promotion, production and distribution of professional literature in the field of copyright and collecting society law.

6. **Acknowledgement of the guidelines**

All grants and funding shall only be paid on the explicit condition that these guidelines are acknowledged by the person / the organisation applying for the grant or funding. This circumstance is explicitly to be referred on in each single VdFS notification on the awarding of grants and funding.

The applicant must confirm the acknowledgement of these guidelines in in written form. Categorically, no payments can be made prior to receipt of this written confirmation.

Date: September 2021