

# Polish Film Institute: Legal Status, Organisation and Tasks

The paper contains an analysis of legal matters concerning the Polish Film Institute. In analysing the Institute's legal status, the authors have focused primarily on the provisions of the Constitution of the Republic of Poland, the Public Finance Act, the Cinematography Act and the Institute's Statute. The Institute, being a state legal person, is a unit of the public finance sector. The authors examine issues relating to the organisation of the Institute and the tasks it performs.

**KEYWORDS:** unit of the public finance sector, state legal person, Polish Film Institute, culture, national heritage

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## 1 | Introduction

Article 5 of the Constitution of the Republic of Poland of 2 April 1997<sup>[1]</sup> stipulates, inter alia, state protection of its national heritage. In turn, Article 6 refers to the state creating conditions for the dissemination of and equal access to cultural heritage, which is the source of the identity of the Polish nation, its duration and development<sup>[2]</sup>. The preservation and dissemination of cultural heritage is a complex issue of major importance for the

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<sup>1</sup> Journal of Laws 1997, No. 78, item 483, as amended.

<sup>2</sup> On the content of Articles 5 and 6 of the Polish Constitution, in the context of national heritage and cultural goods, see Anna Frankiewicz, „Znaczenie prawne

future of the nation; hence, it is necessary to define the principles of state action in this field at the level of constitutional regulation<sup>[3]</sup>.

Tangible and intangible cultural heritage is an important factor in shaping human identity. The term „cultural heritage” covers a range of cultural phenomena consisting of language, customs, rituals, everyday objects, artistic artefacts, architecture and all aspects of human activity<sup>[4]</sup>.

Kamil Zeidler pointed out that ‘among the six most important constitutional values that should be protected by the state in the first place, we find „guarding the national heritage”. At the same time, the principle of guarding the national heritage requires a certain corrective interpretation, as its linguistic interpretation leads *ad absurdum* (it is literally mandatory to guard the national heritage; whatever definition of a nation we adopt – political, ethnic, etc. – there is a *contrario* no obligation to guard heritage that is not national heritage). Thus, it should be recognised that the principle that I call the principle of protection of cultural heritage finds its interpretative basis in Article 5 of the Constitution; however, its content requires correction in the process of interpreting the law, taking into account the content of other provisions of the Constitution, as well as a broader systemic approach’<sup>[5]</sup>. It should be noted that in relation to the protection of cultural heritage, a number of general principles characterising the whole system of Polish law (principles derived from the Constitution itself), as well as principles specific to its individual branches, such as the Code of the Administrative Procedure, are applicable. They must then be interpreted in the context specific to the law on the protection of cultural heritage<sup>[6]</sup>.

Caring for the development of culture and the preservation of cultural heritage is an important task for the state to perform. It is carried out by maintaining public cultural institutions, subsidising cultural initiatives of

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regulacji dziedzictwa narodowego i dóbr kultury w rozdziale I Konstytucji RP” *Przegląd Prawa i Administracji*, No. 88 (2012): 9-22.

<sup>3</sup> Wiesław Skrzydło, „Konstytucja Rzeczypospolitej Polskiej. Komentarz (Warszawa: Wolters Kluwer, 2009), 16.

<sup>4</sup> Anna Musiał-Gąsiorowska, „Prawne i organizacyjne aspekty popularyzacji dziedzictwa kulturowego – pryncypia” *Przegląd Prawa Publicznego*, No. 3 (2019): 27.

<sup>5</sup> Kamil Zeidler, „Zasady prawa ochrony dziedzictwa kulturowego – propozycja katalogu” *Ruch Prawniczy, Socjologiczny i Ekonomiczny*, No. 4 (2018): 150.

<sup>6</sup> Małgorzata Joanna Węgrzak, Kamil Zeidler, „The Principles of Cultural Heritage Law Based on the Polish Law as an Example” *Brazilian Journal of International Law*, No. 3 (2020): 296, DOI: 10.5102/rdi.v17i3.7028.

private entities, covering the costs of historical preservation and providing financial incentives for cultural productions, publishers or creators<sup>[7]</sup>.

Cinematographic activity is part of the cultural heritage and national culture. Pursuant to Article 3(1) of the Cinematography Act of 30 June 2005<sup>[8]</sup>, the state exercises patronage over cinematographic activities, in particular by supporting the production and promotion of films, the dissemination of film culture and the protection of cultural heritage in the field of film. Cinematography encompasses film creation, production, services, distribution and dissemination, including the operation of cinemas, dissemination of film culture, promotion of Polish film creation and the collection, protection and dissemination of film art resources (Article 3(2) of the Cinematography Act).

One of the key concepts in the field of cinematography is „film”. Pursuant to Article 4(1) of the Cinematography Act, a film is a work of any length, including a documentary or animated work, consisting of a series of consecutive images with or without sound recorded on any medium enabling repeated reproduction, giving the impression of movement and forming an original whole, expressing the action (content) in an individual form, and furthermore, with the exception of documentary and animated works, intended to be shown in cinemas as the first field of exploitation within the meaning of the provisions on copyright and related rights. A film is also a work that has not been shown in cinemas due to circumstances beyond its control.

A specific type of film is a Polish film<sup>[9]</sup>. According to Article 4(2) of the Cinematography Act, a film is considered to be a Polish film if its producer or co-producer is an entity based in the territory of the Republic of Poland and at least one of the following conditions is met:

1. the author of the screenplay or of the adapted literary work, the director and the actor in one of the main roles are Polish citizens, he share of the financial resources of the producer established on the territory of the Republic of Poland in the production costs of the film is 100%,

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<sup>7</sup> Małgorzata Cilak, „Problem stosowania przepisów o pomocy publicznej do działalności kulturalnej” *Studia Prawnicze KUL*, No. 3 (2021): 68.

<sup>8</sup> Consolidated text: Journal of Laws 2022, item 1066, as amended.

<sup>9</sup> The introduction of the concept of ‘Polish film’ and the criteria defining it into the law were modelled on solutions operating in other European countries such as France, and they met with approval; see Rafał Golań, *Podstawy prawa kultury* (Poznań: Wydawnictwo Poznańskie, 2006), 208.

these resources, up to 80% of the production costs of the film, are spent on the territory of the Republic of Poland and, moreover, the master copy is made in Polish;

2. the author of the screenplay or of the adapted literary work, or the director or the actor in one of the main roles are Polish citizens, the share of financial resources of the co-producer based in the territory of the Republic of Poland in the film production costs is at least 20% in the case of a film being a bilateral co-production or at least 10% in the case of a film being a multilateral co-production, these resources, up to the amount of 80% of the film production costs, are spent in the territory of the Republic of Poland and, moreover, the main language version is in Polish.

To support the development of cinematography, the Polish Film Institute was established on the basis of Article 7(1) of the Cinematography Act<sup>[10]</sup>. Although this entity has been in operation for several years, there are still few scientific studies devoted to it. The aim of this study is to examine the legal status of the Institute and to analyse its organisation and tasks. In it, the authors use a research method characteristic of legal science, namely the dogmatic-legal method, based on an analysis of legal acts.

## 2 | Legal status of the Polish Film Institute

Article 7(1) of the Cinematography Act states that the Polish Film Institute is a state legal person, and its seat is in Warsaw (Article 7(2)). It is clear from Article 7(1) that the Institute is an entity functioning at the state level and not at the local government level. In turn, the granting of legal personality to the Institute indicates the independence of the entity in legal transactions—it is not an internal (organisational) unit of the state; rather, it is a separate entity. In turn, it follows from Article 8 of the Cinematography Act that the tasks performed by the Institute are of a public nature. All this allows for the thesis that the Polish Film Institute is an entity of the

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<sup>10</sup> Hereinafter also referred to as the „Institute”.

public finance sector as defined in Article 9, point 14 of the Public Finance Act of 27 August 2009<sup>[11]</sup>.

Pursuant to Article 9(14) of the Public Finance Act, the public finance sector consists, inter alia, of ‘other state or local government legal persons established on the basis of separate acts in order to perform public tasks, excluding enterprises, research institutes, banks and commercial law companies’. The public finance sector comprises entities with a diverse legal form and different objects of activity and applies to a different extent the principles of financial management specified in the Public Finance Act<sup>[12]</sup>. The entities listed in Article 9(14) are not created (as e.g. budget units or local government budget establishments) according to the principles set out in the Public Finance Act. State and local government legal persons are created on the basis of separate acts, and the Public Finance Act qualifies them only as units of the public finance sector<sup>[13]</sup>. The activity of state legal persons is based on state property, thanks to which they can be fully responsible for their liabilities<sup>[14]</sup>.

The fact that the Polish Film Institute is a state legal person established and operating on the basis of the provisions of the Cinematography Act means that it is not a state cultural institution within the meaning of the Act of 25 October 1991 on the Organisation and Conduct of Cultural Activities (state and local government cultural institutions are also units of the public finance sector listed in Article 9(13) of the Act). In this context, the assignment of the Polish Film Institute to the category of ‘specialised national cultural institutions’, which can be found in the literature<sup>[15]</sup>, is of a functional nature and cannot be referred to the organisational and

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<sup>11</sup> Consolidated text: Journal of Laws 2022, item 1634.

<sup>12</sup> Małgorzata Cilak, „Komentarz do art. 9”, [in:] *Ustawa o finansach publicznych. Komentarz*, ed. Zbigniew Ofiarski (Warszawa: Wolters Kluwer, 2019), 130.

<sup>13</sup> For analyses of state and local government legal persons as units of the public finance sector, see Jacek Wantoch-Rekowski, Małgorzata Cilak, Tomasz Brzezicki, Maciej Serowaniec, Martyna Wilmanowicz-Słupczewska, *Public Finance Sector Entities in Poland* (Toruń: TNOiK, 2021), 169-174.

<sup>14</sup> Małgorzata Wróblewska, „Komentarz do art. 9”, [in:] *Ustawa o finansach publicznych. Komentarz prawno-finansowy*, ed. Henryk Dzwonkowski, Grzegorz Gołębiowski (Warszawa: Wydawnictwo Sejmowe, 2014), SIP Lex, <https://sip.lex.pl>.

<sup>15</sup> Katarzyna Jagodzińska, „Charakterystyka działalności kulturalnej w Polsce po transformacji ustrojowej”, [in:] *Kultura a rozwój*, ed. Jerzy Hausner, Anna Karwińska, Jacek Purchla (Warszawa: Narodowe Centrum Kultury, 2013), 128.

legal form in which this entity functions<sup>[16]</sup>. The exclusion of the Institute from the scope of application of the Act on the Organisation and Conduct of Cultural Activities means that the principles of its functioning, including its financial management, may be regulated by the legislator in a different manner from that of state cultural institutions.

The financial plans of state legal entities, including the Polish Film Institute, are an element of the annual Budget Act. In the Budget Act for 2022 of 17 December 2021<sup>[17]</sup>, Article 33 indicates that the financial plans of state legal persons referred to in Article 9 point 14 of the Public Finance Act of 27 August 2009 are established in accordance with Annex No. 14. The Polish Film Institute is listed in item 11, and its financial plan in Annex No. 14 is included in Table No. 11.

The definition of a state legal entity is contained in Article 3 of the Act of 16 December 2016 on the Principles of State Property Management<sup>[18]</sup>. Article 3(1)(1) indicates that a state legal person is an organisational unit with legal personality established by or pursuant to a law or in the execution of a law by a government administrative body to perform public tasks, in which,

1. provided for in the provisions of the law governing the organisation of that legal person, the right to confer and amend the Statutes shall be vested in a government administrative body, or those provisions shall provide that the right to participate in the constituent body of the legal person, including the right to amend the Statutes, shall be vested entirely in the State Treasury, and
2. provided for in the statutory provisions governing the constitution of that legal person, the right to the surplus between the income and the expenses of that legal person, if disposable, shall vest in full in

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<sup>16</sup> However, the existence of film institutions that are state or local government cultural institutions is provided for in the Act on the Organisation and Conduct of Cultural Activities itself, placing them in an exemplary catalogue of these entities in Article 2. The example may be used here of local government film institutions established under the Cinematography Act of 16 July 1987 (original text: Journal of Laws No. 22, item 127), which, under Article 38 of the 2005 Cinematography Act, became self-governmental cultural institutions within the meaning of the Act of October 25 1991 on the organisation and pursuit of cultural activity.

<sup>17</sup> Journal of Laws 2022, item 270.

<sup>18</sup> Consolidated text: Journal of Laws 2021, item 1933, as amended.

- the State Treasury unless those provisions provide for a method of disposing of it other than the right to the surplus, and
3. in the event of the dissolution or other loss of legal existence of that legal person, the rights to its assets, including the right to dispose of those assets, shall vest exclusively in the State Treasury.

In the following paragraphs of Article 3, state legal persons are „named”, including in para. 6 the Polish Film Institute.

The Act on the Principles of State Property Management provides, as the title of the Act indicates, the principles of management of state property, unless specific provisions provide otherwise. Thus, the Polish Film Institute operates on the basis of the provisions of the Cinematography Act, and in matters not regulated concerning state property, it operates on the basis of the Act on Principles of State Property Management.

As indicated in Article 11(1) of the Cinematography Act, the Institute operates on the basis of this Act and its Statute. The Statute is granted to the Institute by the competent minister by means of an ordinance, which specifies the following in particular:

1. the detailed scope of the Institute’s activities,
2. the Institute’s internal organisation,
3. the specific tasks of the Institute’s bodies and their *modus operandi*.

Statute of the Institute was granted by the Ordinance of the Minister of Culture of 2 September 2005 on Granting the Statute of the Polish Film Institute<sup>[19]</sup>. The Statute is annexed to the Ordinance and regulates in detail the tasks of the Institute, the Institute’s bodies and their powers, as well as the internal organisation of the Institute and its financial management.

As a legal person, the Institute is not only independent but also subject to supervisory procedures. Pursuant to Article 10 of the Cinematography Act, the Minister responsible for culture and national heritage protection supervises the Institute’s activities. Within the scope of his supervision, the Minister:

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<sup>19</sup> Official Journal of the Republic of Poland (*Monitor Polski*) of 2005, No. 52, item 722, as amended. Amendments to the statutes may be made by the Minister on his own initiative with the consent of the Council, at the request of the Director with the consent of the Council or at the request of the Council itself.

1. shall, within 30 days, examine the resolutions adopted by the Council of the Institute with regard to their legality and sent to it without delay by that body and shall declare the resolution wholly or partly invalid if it infringes the law or poses the risk of a negative financial result,
2. approves the annual activity plan and the Institute's draft annual financial plan and forwards the latter to the minister responsible for public finance in accordance with the procedure laid down in the provisions on work on the draft of Budget Law,
3. considers and approves the Institute's annual activity report and annual accounts,
4. identifies the auditor to audit the annual accounts.

As a consequence of its legal personality, the Institute has the right to manage its property independently and to operate independently within the limits of its resources, subject to the principle of their efficient use. A certain restriction on the Institute's independence is the prohibition in Article 9(2) on the exercise of economic activity by the Institute. This solution is correct, as the Institute carries out tasks of state policy in the field of cinematography. Conducting economic activities could interfere with the proper course of the tasks carried out, which are important from the perspective of the state<sup>[20]</sup>.

### 3 | Organisational issues of the Polish Film Institute

According to Article 12 of the Cinematography Act the Institute has two bodies, namely the Director and the Council of the Institute.

The Director heads the Institute and represents it externally. The tasks of the Director are set out by way of example (construction: „in particular”) in Article 13(2) and are as follows:

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<sup>20</sup> In this respect, see more broadly three opinions on the consequences of the Polish Film Institute conducting full or partial business activity or not conducting this activity at all, as well as the organisational and legal form of the Polish Film Institute allowing for the full realisation of the tasks ascribed to this Institute by draft acts constituting Sejm prints 2055 and 2598, Parliamentary Research Bureau (Biuro Analiz Sejmowych), Works of the Sejm of 4th cadence, <https://orka.sejm.gov.pl/rexdomk4.nsf/Opdodr?OpenPage&nr=2598> [accessed: 7.11.2022].



1. drawing up an annual activity plan and a draft annual financial plan for the Institute, as well as making proposals to the Minister on the amount of subsidies for the implementation of the Institute's tasks;
2. drawing up an annual report on the Institute's activities and annual accounts;
3. co-financing of undertakings in the field of preparation of film projects, production, distribution and dissemination and the promotion of filmmaking and dissemination of film culture after consultation with experts designated by the Minister from among the representatives of film circles;
4. managing the Institute's assets;
5. managing the Institute's finances.

The statutory catalogue of the tasks of the Director of the Institute is further specified in § 15 of the Statute, which stipulates that the Director's tasks include the following in particular: publishing operational and multi-annual programmes in the form of an ordinance and seeking their approval by the Council; adopting internal regulations and instructions, including the experts' work regulations<sup>[21]</sup>; cooperating with governmental and local administration units and other entities in all matters concerning the Institute and cinematography; performing any other tasks necessary for the Institute's functioning.

To perform legal acts on behalf of the Institute, the Director may grant general and special powers of attorney.

In practice, a problem has arisen as to whether the Director of the Institute is the competent authority to issue a written interpretation of the provision of Article 19(6) of the Cinematography Act (this provision is currently inapplicable, as it has been repealed, but a similar regulation to that in the earlier paragraph 6 appears in paragraph 6a added to the Act). There is no doubt that the Supreme Administrative Court made a correct statement in this regard in its judgment of 10 May 2012<sup>[22]</sup>, according to which the Director of the Institute, on the basis of the Act of 6 March 2018 – the Entrepreneurs' Law<sup>[23]</sup> – is obliged to issue an individual interpretation

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<sup>21</sup> The use of the phrase „enacting” in relation to a monocratic body such as the Director should be considered inaccurate, as this activity, understood as ‘deciding something as a result of a deliberation of a competent assembly’ (see *Słownik języka polskiego*, ed. Witold Doroszewski. <https://sjp.pwn.pl/slowniki/uchwalanie.html>. [accessed: 7.11.2022], is appropriate for collegial bodies.

<sup>22</sup> II GSK 542/11, LEX No. 1451915.

<sup>23</sup> Consolidated text: Journal of Laws 2021, item 162 as amended.

with regard to the payments regulated in Article 19 of the Cinematography Act. Indeed, in accordance with Article 34(1) of the Act (Entrepreneurs' Law), an entrepreneur may submit an application to a competent authority or state organisational unit for an explanation as to the scope and manner of application of the provisions from which the entrepreneur's obligation to pay public tribute or social or health insurance contributions arises in his/her individual case (individual interpretation). Currently, the Director of the Institute issues interpretations with regard to the application of the provisions of the Cinematography Act concerning payments to the Polish Film Institute<sup>[24]</sup>.

The Director is appointed by the Minister following a competition. The Competition Commission is appointed by the Minister from candidates specifically proposed by the film world, including film creators and producers, and from trade unions active in cinematography. The Director's term of office lasts five years, and its function may be held for no more than two terms. The Director is assisted in the performance of his or her duties by the Deputy Director, who is appointed and dismissed by the Minister on the recommendation of the Director. Therefore, in the case of the Deputy Director, there is no competitive procedure for his or her appointment. The Director and the Deputy Director are employed by appointment.

The method of the announcement, organisation and procedure of the competition, as well as the composition, method of appointment and tasks of the selection board, taking into account in particular the need for the efficient conduct of the competition and a comprehensive assessment of the candidates' qualifications, must be determined by the competent minister by regulation.

While directing the Institute, the Director may not engage in any other activity related to cinematography, and in particular may not be employed by, hold shares in or be a member of the organs of cultural institutions or bodies engaged in the business of film production and film distribution.

The Minister may dismiss the Director, after consulting the Council, before the expiry of the Director's term of office in the following strictly defined cases:

1. acting in breach of the law,
2. relinquishment of his or her functions,

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<sup>24</sup> See, for example, Decision No. 1/2022 of the Director of the Polish Film Institute of 19 February 2022.

3. illness preventing him or her from exercising his or her functions,
4. conviction by a final judgment for an intentional crime or an intentional fiscal crime,
5. failure to approve the Institute's annual accounts,
6. negative opinion of the Council.

The existence of the legal possibility for the Minister to dismiss the Director is not in doubt. The Minister's appointment of the Director, on the basis of the provisions of the Cinematography Act, results in an employment relationship for the term of office. It has been pointed out in case law that

Both the act of appointing the Director of the Institute and the act of dismissing him, although they come from an administrative body, which undoubtedly is the Minister of Culture and National Heritage, do not constitute administrative decisions within the meaning of the Code of Administrative Procedure. Therefore, a letter dismissing the Director from a position does not have to contain a factual justification characteristic of an administrative decision. According to the Labour Code, it is sufficient here to cite the legal basis for the dismissal<sup>[25]</sup>.

The second body of the Institute is the Institute Council, which, according to Article 15 of the Cinematography Act, consists of 11 members appointed for a period of three years by the Minister. The Minister appoints the following members of the Council: three members proposed by filmmakers, one member proposed by film producers, one member proposed by trade unions operating in the sphere of cinematography, five members proposed by the entities referred to in Article 19(1) to (5) and one member representing the Minister.

No remuneration is payable for serving as a Council member, who may not serve more than two consecutive terms of office. The work of the Council will be directed by a chairperson elected by the Council from among its members by secret ballot by simple majority in the presence of at least six members. The Council may, during its term of office, change its chairperson by following the same procedure.

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<sup>25</sup> Decision of the WSA in Warsaw of 25 April 2018, II SA/Wa 2046/17, LEX No. 2746547; the cassation appeal against the decision of the WSA was dismissed by the decision of the NSA of 28 September 2018, I OSK 2558/18, LEX No. 2562221.

The Minister may dismiss a member of the Council before the end of the term of office in the event of his or her resignation from the function, illness making him or her impossible to perform the function or conviction by a final sentence for an intentional crime, including an intentional fiscal crime. If a Council member is dismissed before the end of the term of office, the Minister will appoint a new Council member for the period until the end of that term of office.

The tasks of the Council of the Institute are indicated by way of example (construction: „in particular”) in Article 17 of the Cinematography Act. According to this provision, the Council’s tasks include the following, in particular:

1. setting the direction of the Institute’s activities,
2. providing its opinion on the Institute’s annual activity plan and draft annual financial plan,
3. providing an opinion on the Institute’s annual activity report and accounts,
4. providing an opinion on amendments to the Statutes.

In addition, the Council may submit positions, opinions or proposals to the Minister, other public administration bodies and the Director on all matters concerning the Institute and cinematography.

The details of the functioning of the Council of the Institute are regulated in the Institute’s Statute. That stipulate, among other things, that the Council performs its activities collectively (§ 7(1)) and that Council meetings are held as necessary, at least quarterly (§ 9(1)).

The Institute’s Council makes decisions at its meetings in the form of resolutions (§ 10(1)), which are passed by a simple majority of votes in the presence of at least half of the Council. In the event of a tie, the Chairperson of the Council has the casting vote (§ 10(2)). In accordance with § 11 para. 1 of the Statute, voting is open.

The Statute of the Institute regulate in detail the internal organisation of the Institute, which is headed by the Director with the assistance of his or her Deputy. The Institute, in light of § 17(2), comprises the following:

1. Literary section,
2. Film Production and Project Development Department,
3. Film Dissemination and Promotion Department,
4. International Cooperation Department,

5. Media Communications Department,
6. Legal Department,
7. Development Department,
8. Finance and Accounting Department,
9. Administration and Economic Department,
10. Chief Accountant,
11. Independent HR post,
12. Independent audit post.

There is no doubt that the internal structure of the Institute is very extensive. The detailed organisation and working procedures of the Institute and the scope of tasks of the organisational units comprising it, pursuant to § 17(4) of the Statute, are defined by the Director in the organisational regulations.

## 4 | Tasks of the Polish Film Institute

The Institute's tasks are specified in Article 8 of the Cinematography Act and § 2 of the Institute's Statute. The provisions of the Act and the Statute are identical; the Statute do not specify the tasks set out in the Act. The Institute performs tasks within the scope of state policy in the field of cinematography—this is stipulated both by Article 8(1) of the Cinematography Act and §2 of the Statute. This is a very general formulation, which is why the Act (and the Statute) indicate how the tasks are to be carried out. The catalogue contained in the Act and the Statute is exemplary, as the construction 'in particular' is used.

In accordance with the aforementioned provisions, the Institute carries out tasks of state policy in the field of cinematography, in particular by the following:

1. creating conditions for the development of Polish film production and film co-production;
2. inspiring and supporting the development of all genres of Polish filmmaking, in particular art films, including the preparation of film projects, production and dissemination;

3. supporting activities aiming to create conditions for universal access to the achievements of Polish, European and world cinematography;
4. supporting film debuts and the artistic development of young filmmakers;
5. promoting Polish filmmaking;
6. co-financing projects concerning the preparation of film projects, production, distribution and dissemination and the promotion of Polish filmmaking and the dissemination of film culture, including the production of films undertaken by Polish communities;
7. providing expert services to public administrations;
8. supporting the maintenance of film archives;
9. supporting the development of Poland's independent film industry's potential, in particular small- and medium-sized film entrepreneurs;
10. supporting audio-visual production under the terms of the Act of 9 November 2018 on Financial Support for Audio-Visual Production;
11. giving each film screened in a cinema an individual identifier published in the Public Information Bulletin on the Institute's website;
12. supporting solutions that make it easier for people with visual and hearing disabilities to enjoy cinematographic heritage;
13. preparing, for its own needs and those of the public administration, in particular for the Minister, annual reports on the field covered by the Institute's activities (the subject matter and scope of the annual reports are to be agreed with the Minister);
14. initiating and carrying out research projects, preparing and commissioning analyses and expert opinions for diagnosing and forecasting the development of the Institute's field of activity.

The full and proper performance of the Institute's tasks is not possible without cooperation with other entities. Article 8(2) explicitly indicates that the Institute, in fulfilling its tasks, cooperates with government administration bodies and local government units.

## 5 | Completion

Pursuant to Article 6(1) of the Constitution of the Republic of Poland, the state creates conditions for the dissemination of and equal access to cultural goods, which are the source of the identity of the Polish nation, its continuity and its development. This value is directly referred to, both by the content of the explanatory memorandum to the Cinematography Act and by the provisions of this Act itself, which in Article 3(1) states that the state exercises patronage over cinematographic activity as part of national culture, consisting in particular of supporting and promoting film, disseminating film culture and protecting the cultural heritage in the field of film<sup>[26]</sup>.

The main entity within the scope regulated by the Cinematography Act is the Polish Film Institute, which is a state legal person. The establishment of the Institute constituted a significant system change in terms of supporting Polish film art<sup>[27]</sup>. The Institute's legal status derives mainly from the Cinematography Act and its Statute, which were granted by the minister competent for culture and national heritage protection. As a legal person, the Institute is a fully autonomous entity, and its independence is not limited by the fact that the minister competent for culture and national heritage protection supervises it.

An analysis of the Institute's legal status makes it possible to conclude that it is a unit of the public finance sector and that its financial plan is part of one of the annexes to the Budget Act.

The Institute has an elaborate organisational structure that is governed by the Statute, while the detailed organisation and working procedures of the Institute and the scope of tasks of the organisational units that comprise it are defined by the Director in the organisational regulations. The Institute's bodies are the Director and the Council.

The Institute performs tasks within the framework of state policy in the field of cinematography. The detailed scope of its activities is set out in the Act and the Statute. The Polish Film Institute indicates on its website that „The aim of the Institute is to restore the importance and position of Polish film in the world by creating conditions similar to those of internationally

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<sup>26</sup> Thus, in the judgment of the WSA in Warsaw of 4 April 2007, III SA/Wa 17/07, Lex No. 337041.

<sup>27</sup> Golat, „Podstawy prawa kultury”, 208.

successful cinematographers”<sup>[28]</sup>. Such a goal is very ambitious, but this does not mean that it is not achievable.

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