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of the draft of a decree

establishing a circus policy

1762 (2018-2019) – No. 1: Draft of decree
 \– No. 2: Amendments
 \– No. 3: Minutes of the hearing
 \– No. 4: Report

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Chapter 1. General provisions

Article 1. The present Decree governs a Community matter.

Art. 2. The present Decree shall be referred to as the Circus Decree of [...]

Art. 3. For the purpose of the due application of the present Decree, the following concepts shall be understood in the manner as specified:

- 1: circus art: the art form in which primarily (aerial) acrobatics, balancing skills, object manipulation, clowning, magic, equestrian skills or circus theatre is practised;
- 2: circus art production: a public-oriented offer in which the practice of circus art takes central position;
- 3: circus artist: the practitioner of circus arts;
- 4: administration: the department of the Government of Flanders competent for circus policy;
- 5: circus creation space: the organisation that has circus creation, circus presentation, circus development and circus participation as its core task;
- 6: youth circus: the organisation that has circus education as its core task;
- 7: participants' hours: the duration in hours of circus educational activities, multiplied by the number of participants present;
- 8: festival: the organisation that has circus presentation as its core task;
- 9: policy period: a period of five years for which an organisation can receive a subsidy;
- 10: project subsidy: a subsidy that is awarded to support specific costs arising from an activity in the Dutch-speaking area or in the bilingual Brussels Capital region. This activity can be circumscribed in terms of its design or objective as well as in terms of time.
- 11: Regulation (EU) no: 651/2014; Commission Regulation (EU) no. 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market pursuant to articles 107 and 108 of the Treaty;
- 12: operating subsidy: a subsidy that is awarded to support employee- and operating costs arising from a structural activity in the Dutch-speaking area or in the bilingual Brussels Capital region. This activity has a continuous and permanent character;
- 13: grant: a subsidy to a circus artist to enable exceptional efforts in the field of circus arts or to offer the circus artist opportunities for personal initiative in the field of their professional career;
- 14: Assessment Committee: a committee as referred to in article 10.

Art. 4. The appropriations included in the annual decree on the general expenditure budget of the Flemish Community determine the maximum amount that can be used in the year in question for the implementation of this decree. The notification thresholds for investment and operating aid for culture set out in Regulation (EU) No 651/2014 are respected.

Chapter 2. Objective and organisation

Section 1. Objective

Art. 5. This decree aims to stimulate, support and offer opportunities for further development, fulfilment and growth, thereby increasing the quality of circus art and reaching a more diverse audience.

Art. 6. To this end, this decree provides for the following instruments:

- 1: structural support for circus creation spaces;
- 2: structural support for youth circuses;
- 3: structural support for a circus centre;
- 4: project subsidies for creations;
- 5: project subsidies for festivals;
- 6: development-driven grants for individual circus artists;
- 7: subsidies for international travel costs;
- 8: structural support of circus companies.

Art. 7. Any aid allocated under this Decree will be granted within the limits and under the conditions laid down in Regulation (EU) No 651/2014.

If the individual notification thresholds laid down in article 4 of the Regulation are exceeded, the European Commission shall be notified in advance about the proposed aid.

The instruments referred to in Article 6 shall be applied with due regard for the following conditions set out in Regulation (EU) No 651/2014:

- 1: cases of subsidy recipients against whom a recovery order is outstanding pursuant to a previous decision of the European Commission declaring the aid unlawful and incompatible with the internal market are excluded;
- 2: cases of subsidy recipients who meet the definition of a company in difficulty, as stated in Article 2, sub. 18 of the General Group Exemption Regulation are excluded;
- 3: cases which, if the subsidy were granted would lead to a violation of Union law as referred to in Article 1, par.5 of the General Block Exemption Regulation, are excluded;
- 4: for the calculation of the level of aid and the eligible costs, all amounts used are the amounts before deduction of taxes or other levies. Eligible costs shall be supported by clearly specified and up-to-date supporting documents;
- 5: if aid is awarded in a form other than a subsidy, the aid amount is the gross subsidy equivalent of the aid;
- 6: aid paid in several instalments shall be discounted to its value at the time the aid is granted. The eligible costs shall be discounted to their value at the time the aid is granted.

The level of aid per beneficiary is in accordance with article 53, para. 6 to 9 of the aforementioned regulation.

The obligations for publication and the information referred to in Article 9 of that Regulation shall be complied with. If a grant recipient receives an individual grant of more than EUR 500,000.00, the information listed in Appendix III of the above Regulation will be published on the transparency website developed by the European Commission.

The reporting and monitoring obligations shall be complied with, pursuant to articles 11 and 12 of Regulation (EU) No 651/2014.

Section 2. Organisation of the quality assessment

Art. 8. The administration shall examine whether the grant applications submitted pursuant to articles 11 to 17 and articles 20 and 21 meet each of the following admissibility conditions:

- 1: the application file has been submitted on time;
- 2: the application file is composed entirely of the information and documents stipulated by the Government of Flanders;
- 3: the grant application is submitted by a legal entity with a non-commercial character with its registered office in the Dutch-speaking region or in the bilingual Brussels-Capital region.

In derogation hereof, the following regulation applies:

- a) grant applications as referred to in Article 14 may also be submitted by natural persons;
- b) grant applications as referred to in article 20 may only be submitted by natural persons;
- 4: the application file is drawn up in Dutch;
- 5: the application file meets the formal requirements stipulated by the Government of Flanders.

In order to become and remain subsidised, the applicant must apply the European Convention on Human Rights and animal welfare regulations in its operations.

Art. 9. The administration shall decide whether the conditions for admissibility referred to in Article 8 are fulfilled.

The administration shall inform the applicant digitally of its decision on admissibility.

Art. 10. §1. With a view to advising on the award of grants to the organisations, as stated in articles 11 to 15, the Government of Flanders shall convene an Assessment Committee with persons who have the necessary expertise in the circus arts.

The Government of Flanders shall appoint the Assessment Committee for a period of five years. An assessor can hold no more than two consecutive terms of office.

§2 The Government of Flanders shall convene a separate Assessment Committee for the organisation, as stated in article 16, of each assessment round to advise on the application. An assessor may serve on that committee for a maximum of two consecutive terms of office.

§3 Assessors shall receive compensation for their work and travel. The Government of Flanders shall determine the amount of this remuneration and shall provide, within the limits of the appropriations approved by the Flemish Parliament, an amount which can be used to compensate the activities of the Assessment Committees.

The Government of Flanders shall lay down further rules for the composition of the assessment commissions, the conflicts of interests that apply to the assessors and to the functioning of the commission.

The secretariat of the Assessment Committees shall be provided by the administration.

§4. Each applicant for an operating grant as referred to in Articles 11 to 13 shall be heard by the Assessment Committee regarding the submitted application file, with the purpose of clarifying elements of the application file.

The assessment Committee may take account of the elements raised during the hearing.

Chapter 3. Structural support

Section 1. Funding circus creation spaces

Art. 11. §1. The Government of Flanders can fund circus creation spaces.

To receive a subsidy as a circus creation space, the organisation shall submit an application consisting of a five-year policy plan. The policy plan is made up of: 1: a contents section for the next policy period;
2: a business section for the next policy period.

Organisations receiving grants as referred to in articles 12 to 16, are not eligible for grants for circus creation spaces pursuant to this article.

§2 The policy plan, referred to in paragraph 1, shall be assessed against the following quality criteria:

- 1: the profile, position and image of the applicant, both nationally and internationally;
- 2: the long-term vision;
- 3: the way in which the applicant targets both professional and non-professional circus artists;
- 4: the artistic quality;
- 5: cooperation and networking with the national and international circus and art sector;
- 6: the feasibility and concrete elaboration of the subsidy application, in the area of financing, timing and practical organisation.

§2 The administration shall submit the subsidy applications to the Assessment Committee. The Assessment Committee shall formulate a preliminary opinion, which shall be given to the organisation. The organisation can formulate a response to this. That written response may not contain any new elements of content or business and may only relate to factual inaccuracies in the formulated pre-consultation opinion. Once this has been studied, a final opinion shall be formulated. The administration shall formulate a draft decision based on the opinion of the Assessment Committee.

§3 The Government of Flanders shall lay down the further conditions for the submission and the time limits for dealing with the written response referred to in paragraph 3.

Section 2. Funding youth circuses

Art. 12. §1. The Government of Flanders can fund youth circuses.

In order to be eligible for a subsidy as a youth circus, the organisation shall submit a subsidy application in which it demonstrates that in the year preceding the application it has realised a minimum of 10,000 participant hours in which circus education has taken a central place. In addition, the organisation shall submit a policy plan in which it sets out its contents and business policy for five years.

The policy plan, referred to in the second paragraph, consists of:

- 1: a contents section for the next policy period;
- 2: a business section for the next policy period.

The organisations receiving grants as referred to in articles 11, 13, 14, 15 and 16, are not eligible for grants for youth circuses pursuant to this article.

§2 The policy plan, referred to in paragraph 1, shall be assessed against the following quality criteria.

- 1: the profile and positioning of the youth circus;
- 2: the long-term vision;
- 3: the quality of the educational offer;
- 4: the ability to reach a broad and diverse public;
- 5: the feasibility and concrete elaboration of the subsidy application, in the area of financing, timing and practical organisation.

§2 Youth circuses are not eligible for subsidies on the basis of articles 9 to 11 of the Decree of 20 January 2012 on a renewed youth and children's rights policy.

§3 The administration shall submit the subsidy applications to the Assessment Committee. The Assessment Committee shall formulate a preliminary opinion, which shall be given to the organisation. The organisation can formulate a response to this. That written response may not contain any new elements of content or business and may only relate to factual inaccuracies in the formulated pre-consultation opinion. Once this has been studied, a final opinion shall be formulated. The administration shall formulate a draft decision based on the opinion of the Assessment Committee.

§4 The Government of Flanders shall lay down the further conditions for the submission and the time limits for dealing with the written response referred to in paragraph 4.

Section 3. Funding circus companies

Art. 13. §1. In this article, a circus company is deemed to mean: an organisation that has the creation and distribution of circus art productions as its core task.

The Government of Flanders can fund circus companies.

The organisations receiving grants as referred to in articles 11, 12, 15 and 16, are not eligible for grants for youth circuses pursuant to this article.

To receive a subsidy as a circus company, the organisation shall submit an application consisting of a five-year policy plan. The policy plan is made up of: 1: a contents section for the next policy period;
2: a business section for the next policy period.

§2. The policy plan, referred to in paragraph 1, shall be assessed against the following quality criteria.

- 1: the profile, position and image of the applicant, both nationally and internationally;
- 2: the long-term vision;
- 3: the artistic quality of the company, demonstrated on the basis of a description of an operation of at least two years immediately preceding the application, and the proposed operation as described in the policy plan;
- 4: prospects for distribution, both nationally and internationally;

5: the feasibility and concrete elaboration of the subsidy application, in the area of funding, timing and practical organisation.

§3 The administration shall submit the subsidy applications to the Assessment Committee. The Assessment Committee shall formulate a preliminary opinion, which shall be given to the organisation. The organisation can formulate a response to this. That written response may not contain any new elements of content or business and may only relate to factual inaccuracies in the formulated pre-consultation opinion. Once this has been studied, a final opinion shall be formulated. The administration shall formulate a draft decision based on the opinion of the Assessment Committee.

§4 The Government of Flanders shall lay down the further conditions for the submission and the time limits for dealing with the written response referred to in paragraph 3.

Chapter 4. Project subsidies for the creation and distribution of circus art productions and for festivals

Section 1. Funding of creation and distribution of circus art productions

Art. 14. The Government of Flanders can fund the creation of circus art productions. The same production may be funded under this article for a maximum of three consecutive years,

The organisations receiving grants as referred to in articles 11, 12, 13, 15 and 16, are not eligible for grants for creation and distribution pursuant to this article.

In order to be funded for the creation of a circus art production, the organisation or the artist shall submit an application for a subsidy. This application shall be assessed against the following quality criteria:

- 1: the profile and positioning of the organisation or the artist within the circus sector;
- 2: the artistic quality of the production;
- 3: the ability to reach a broad and diverse public;
- 4: prospects for distribution of the project submitted;
- 5: the feasibility and concrete elaboration of the subsidy application, in the area of financing, timing and practical organisation.

The administration shall submit the subsidy applications to the Assessment Committee. The administration shall formulate a draft decision based on the opinion of the Assessment Committee.

Section 2. Funding of festivals

Art. 15. The Government of Flanders can fund festivals where the presentation of circus art productions is the central focus. An organisation may apply for grants for a festival for a maximum of three consecutive years. At the end of the grant period, a new application may be submitted.

Organisations receiving grants as referred to in articles 11, 12, 13, 14 and 16, are not eligible for grants for festivals pursuant to this article.

In order to receive funding for a festival, the organisation shall submit an application. That application shall be assessed against the following quality criteria.

- 1: the profile and positioning of the festival;
- 2: the artistic quality and the extent to which the circus arts are included in the festival programme;

- 3: the ability to reach a broad and diverse public;
- 4: the Flemish and international character of the festival programme, in particular through the presence of mainly Flemish and internationally renowned circus art productions;
- 5: the feasibility and concrete elaboration of the subsidy application, in the area of funding, timing, practical organisation, communication and promotion.

The administration shall submit the subsidy applications to the Assessment Committee. The administration shall formulate a draft decision based on the opinion of the Assessment Committee.

Chapter 5. Funding of a Circus Centre

Art. 16. The Government of Flanders can allocate an operating subsidy to an organisation aiming to support the circus sector.

An organisation as referred to in the first paragraph has the following core tasks:

- 1: practical support: the organisation provides an active service in response to practical questions with a view to promoting expertise, improving quality, and spurring relevant social and sector-specific evolutions, innovation, professionalisation and the sustainable development of a professional sector. The organisation assists individuals and organisations in the development of their circus practice;
- 2: practical development: the organisation contributes to the continuous development of the sector, based on assessment, research and knowledge development. Upon request, the organisation also makes its field knowledge and specific expertise available to the administration with a view to policy preparation, policy development and policy assessment. Both the preparation of a research agenda and the outsourcing of the required research are formalised in a coordinated Research Agreement Framework, in consultation with the administration;
- 3: public perception and promotion: the organisation organises and coordinates sectoral activities that promote knowledge about the field, that bring relevant sectoral themes to people's attention and that strengthen and promote the practice community, both within Flanders and internationally;
- 4: platform: the organisation functions as a hub between the various actors in the sector and actively facilitates meetings, dialogues, network opportunities and collaboration. The organisation may also take on a role in relation to thematic and territorial issues, but in consultation with relevant thematic or territorial centres of expertise.

The organisation carries out its core tasks within a network of circus art organisations and in coordination with other relevant actors in Flanders and internationally.

The Government of Flanders shall establish the core tasks of the organisation, as specified in the first paragraph. The Government of Flanders may further determine what a Research Agreement Framework entails, as well as the duration of its validity, the elements it should contain, how and with whom the Research Agreement Framework is drawn up and when and how it will be publicised.

An appointment as a member of the board of directors or general meeting of the organisation is incompatible with:

- 1: a position as staff member of a representative for a cultural sector or discipline;
- 2: a position as a member of the board of directors of a representative for a cultural sector or discipline;

- 3: a position as a staff member employed by the Government of Flanders, who is involved in that position in the implementation of this decree;
- 4: a membership of the Council for Culture, Youth, Sport and Media as established by the decree of 30 November 2007, establishing the Council for Culture, Youth, Sport and Media.

Art. 17. An application for an operating grant as referred to in article 16, first paragraph, shall be submitted for the entire policy period.

The following assessment criteria apply to the award and determination of the amount of subsidy:

- 1: the quality of the expertise present;
- 2: the way in which the objective stated in Article 16, first paragraph, and the core tasks, stated in article 16, second paragraph, are incorporated;
- 3: the degree to which the operation responds to the needs of the circus art and its stakeholders in the circus field;
- 4: the scale and the national scope of the operation;
- 5: the cooperation and networking, both within Flanders and internationally;
- 6: the way in which support is offered to the objective stated in article 5;
- 7: the extent to which the needs of target organisations and stakeholders have been mapped via a sector-wide survey and answered in the policy document and activities of the organisation;
- 8: the quality of business management and the feasibility and reality of the budget. The need for the amount of subsidy shall be demonstrated in the budget, taking into account the revenue accrued from its own operation.

Art. 18. The Government of Flanders shall conclude a management agreement with the organisation.

A management agreement as referred to in the first paragraph has a duration of five working years and commences at the start of a policy period as defined in article 3, sub. 9.

A management agreement as referred to in the first paragraph contains at least provisions regarding:

- 1: the mission;
- 2: the implementation of the core tasks;
- 3: any additional contracts given by the Government of Flanders;
- 4: cooperation, depending on the need for content, with other organisations within or outside the field of circus arts;
- 5: the conditions for the use of the infrastructure of the Flemish Community, if that is applicable;
- 6: the amount of subsidy awarded per working year.

Art. 19. The Government of Flanders shall conclude a management agreement as referred to in article 18 before the start of a policy period.

If the Government of Flanders fails to conclude a management agreement on time, the current management agreement shall remain in force.

If the Government of Flanders fails to conclude a management agreement on time, and there is no current management agreement, the subsidy of the Circus Centre, with a similar operation and contract, shall be equal to the subsidy allocated on the basis of the general expenditure budget of the Flemish Community for the previous policy period.

Chapter 6. Development-driven grants for individual circus artists

Art. 20. §1. The Government of Flanders can subsidise development-driven grants for individual circus artists. Programmes that belong within the regular education circuit are not eligible for subsidies for development-driven grants pursuant to this article.

An application for a development-driven grant for circus artists shall be assessed against the following quality criteria:

- 1: the motivation submitted;
- 2: the growth potential of the circus artist;
- 3: the contribution to the development of the circus artist's career path.

§2 A circus artist may receive a maximum of one grant per year.

The allowance amounts to a maximum of 80% of the accommodation and study costs and of the international travel expenses.

§2 The development-driven grant can be granted for a maximum of one year.

The administration formulates an opinion on the applications.

Chapter 7. Funding for international travel expenses

Art. 21. The Government of Flanders can fund the international travel expenses of circus art productions. Only circus art productions that take part in a festival abroad or an event with an international reputation are eligible for this subsidy.

The organisations receiving grants as referred to in articles 12, 13, 15 and 16, are not eligible for grants for international travel expenses pursuant to this article.

In order to receive funding for international travel expenses of a circus art production, the organisation must submit a grant application. That application shall be assessed against the following quality criteria.

- 1: the importance of participation in the foreign festival or event for the applicant or the contribution that the participation affords to the international image of the Flemish circus arts;
- 2: the international reputation of the foreign festival or event;
- 3: the feasibility and concrete elaboration of the subsidy application, in the area of financing, timing and practical organisation of the participation.

The administration formulates an opinion on the applications.

Chapter 8. Award, payment and supervision

Art. 22. From the moment the beneficiary receives a promise of a grant, he must include the logo of the Flemish Community on all information media relating to the initiatives subsidised under this decree.

Art. 23. §1. The project grants, referred to in articles 14, 15, 20 and 21 are made available each year as follows:

- 1: an advance of 80% of the grant is paid after the signing of the decision granting the subsidy.

2°: the balance of a maximum of 20% shall be paid once the administration has established that the conditions have been fulfilled under which the subsidy was awarded and that the subsidy was used for the purposes for which it was granted. This shall be clear from the financial and content report.

The organisation shall send a financial and content report to the administration for each year in which the project grant is awarded.

Only costs incurred during the lifetime of the project are eligible. If the net costs, i.e. the proven costs less the income generated by the realisation of the project or product, are less than the amount received in funding, the difference shall be recuperated.

The Government of Flanders can stipulate further rules regarding the form, the deadlines and the method for submitting the financial and content report.

§2 The operating grants, referred to in articles 11, 12, 13 and 16 shall be paid each year as follows:

- 1: an advance of 45% of the annual subsidy amount shall be paid from 1 February;
- 2: an advance of 45% of the annual subsidy amount shall be paid from 1 July;
- 3: a balance of a maximum of 10% shall be paid in the year following the working year funded, after review of the annual financial report and operating report. A report by a company auditor who is a member of the Institute of Company Auditors who does not perform any other duties for the organisation, shall be submitted to the administration together with the financial report.

The Government of Flanders shall stipulate the date of submission for the reports as referred to in the first paragraph, point 3.

The grant consists of the funding of a core of staff members and the annual award of a basic allowance for operating and funding based on the activities actually performed.

§2 The Government of Flanders may annually adjust the operating subsidies referred to in articles 11, 12, 13 and 16, within the limits of the credit approved by the Flemish Parliament, to the price index calculated and stated for the application of article 2, para. 1, of the Royal Decree of 24 December 1993 implementing the Act of 6 January 1989 on the protection of the country's competitive ability.

For the part of the operating costs of the subsidy amount referred to in the first paragraph, the price index figure shall be limited to 75%, unless the Government of Flanders determines a different percentage.

Art. 24. Grant applications for structural operating grants as referred to in Articles 11, 12, 13 and 16 shall be submitted to the administration no later than 1 May of the year preceding the period for which the grant is requested. The administration shall provide the preliminary opinion, if applicable, to the organisation in question by 1 July of the same year and shall provide the final opinion to the Government of Flanders by 1 September at the latest. The Government of Flanders shall decide by 1 October of the same year at the latest.

Grant applications for project grants as referred to in Articles 14 and 15 shall be submitted to the administration no later than 1 March of the year preceding the period for which the grant is requested. The administration provides the

opinion to the Government of Flanders on 1 May of the same year at the latest. The Government of Flanders shall decide by 1 July of the same year at the latest.

Art. 25. §1. The organisations referred to in articles 1§1, 12, 13 and 16, can, using the funding allocated based on this decree, create a reserve in accordance with article 16 of the Decree of 8 July 2011 on arrangements for the budget, bookkeeping, the award of subsidies and monitoring the use thereof, and the audits by the Court of Audit.

§2. For the subsidies referred to in Articles 20 and 21, the Government of Flanders may specify how and when an application file is submitted and how and when decisions are taken and published.

The Government of Flanders may establish the rules governing the way in which the assessments of the files are to be made.

The Government of Flanders may specify further rules on the supervision of the funding and the monitoring and assessment of the subsidised organisations.

Chapter 9. Final provisions

Article 26 The Circus Decree of 21 November 2008, amended by the decree of 20 December 2013, is repealed.

Art. 27. The grants referred to in articles 11 to 16, 20 and 21 shall be awarded for the first time in the year 2021.

Operating grants can only be applied for every five years. The applications for the first policy period shall be submitted no later than 1 May 2020.

Art. 28. Multi-year agreements ending on 31 December 2019 which were concluded on the basis of article 10 of the Circus Decree of 21 November 2008, which were in force *before* the entry into force of this decree shall be extended until 31 December 2020.

Art. 29. The management agreement with the Circus Centre, concluded on the basis of article 21 of the Circus Decree of 21 November 2008, as in force *before* the entry into force of this decree, shall be extended until 31 December 2020.

Art. 30. As of 1 January 2019, *Cirkus in Beweging*, *Circusplaneet*, *Circus Zonder Handen* and *Circolito* are no longer subsidised pursuant to article 11 of the decree of 20 January 2012 on a renewed policy for youth and children's rights.

The following organisations are granted funding for 2019 and 2020:

- 1: non-profit organisation Cirkus in Beweging 128,943.77 Euros;
- 2: non-profit organisation Circusplaneet 131,006.53 Euros;
- 3: non-profit organisation Circus Zonder Handen 81,006.53 Euros;
- 4: non-profit organisation Circolito 81,006.53 Euros;
- 5: non-profit organisation Woesh 100,000 Euros.

Art. 31. The Circus Decree of 21 November 2008, as in force *before* the entry into force of this decree, remains applicable for the monitoring of subsidies granted on the basis of the aforementioned decree.

Art. 32. Article 26 enters into force on 1 January 2021.