

Law no.2/99 of 13 January

Approves the Press Law

Under the terms of article 161 paragraph c), of the constitution, to serve as a general law of the Republic, parliament does duly decree as follows:

CHAPTER I Press Freedom

Article 1 Guaranteeing the Freedom of the Press

- 1 - The freedom of the press shall be guaranteed under the terms of the constitution and the law.
- 2 — The freedom of the press encompasses the right to inform and to be informed without any impediment nor discrimination.
- 3 — The exercising of these rights cannot be impeded or limited by any type or form of censorship.

Article 2 Content

- 1 — Freedom of the press entails:
 - a) Recognition of the fundamental rights and freedoms of journalists, namely those referred to in article 22 of this law;
 - b) The right to found newspapers and any other publications, regardless of any prior administrative authorisation, bond or qualification;
 - c) The right to freely print and circulate publications, without anyone being able to object to this by any means not foreseen by law
- 2 — The right of citizens to be informed is guaranteed, namely by way of:
 - a) Measures which prevent concentration levels that are harmful to the pluralism of information;
 - b) The publication of the editorial statute for news' publications;
 - c) The recognition of the right to reply and correction;
 - d) The identification and truthfulness of advertising;
 - e) Access to the Alta Autoridade para a Comunicação Social (Higher Media Authority) to safeguard news impartiality and thoroughness;
 - f) Respect for ethical regulations during the carrying out of journalistic activity.

Article 3 Limits

The sole limits to the freedom of the press are those deriving from the constitution and the law in such a way as to safeguard the thoroughness and objectivity of

information, to ensure the rights to a good reputation, to privacy, image and the right of citizens to free speech and to defend the public interest and the democratic order.

Article 4

Public interest of the press

1 — With a view to ensuring the possibility of expression and comparison of the various streams of opinion, the state shall organise a non-discriminatory incentives' system to support the press, based on general and objective criteria, to be determined in a specific law.

2 — Any acquisitions by press or news enterprises of stakes in counterpart entities are subject to notification to the Alta Autoridade para a Comunicação Social.

3 — Press or news enterprises are subject to the general regime on the defence and promotion of competition, namely as regards forbidden practices, in particular the abuse of dominant position and company concentration.

4 — Horizontal concentration operations of those entities referred to in the previous number, subject to the intervention of the Competition Council are notified by the latter to the Alta Autoridade para a Comunicação Social which shall issue a prior binding opinion and which shall only be negative when free expression and the comparison of the various streams of opinion can be proven to be at stake.

CHAPTER II

Entrepreneurial freedom

Article 5

Entrepreneurial freedom

1 — The formation of press, editorial or news enterprises is unrestricted, if it complies with the requirements of this law.

2 — The state ensures the existence of prior, mandatory registration and the public access of:

- a) National periodic publications;
- b) National press enterprises, indicating the holders of the respective share capital;
- c) National news' enterprises.

3 — The registrations referred to in the previous number are subject to the terms to be defined in a regulatory decree.

Article 6

Ownership of the publications

Publications subject to the provisions of this law may be owned by any individual or corporate body.

Article 7

Classification of publication proprietary enterprises

Publication proprietary enterprises are press or editorial enterprises, depending on whether their main activity is the editing of periodic publications or non-periodic publications.

Article 8
News enterprises

1 — News enterprises are those whose main purpose is the collection and distribution of news, comments or images.

2 — News enterprises are subject to the legal regime for press enterprises.

CHAPTER III
The press in particular

SECTION I
Definition and Classification

Article 9
Definition

1 — For the purposes of this law, the press concept encompasses all printed reproductions of texts or images available to the public, whatever the printing and reproduction processes and the form of distribution deployed.

2 — It excludes company newsletters, reports, statistics, lists, catalogues, maps, advertising leaflets, posters, flyers, programmes, adverts, notices, official forms and those habitually used in social and business dealings.

Article 10
Classification

The printed reproductions referred to in the previous article, called publications, are classified as:

- a) Periodic and non-periodic;
- b) Portuguese and foreign;
- c) Pertaining to a specific doctrine and informative and the latter in general information and specialised publications;
- d) National, regional and aimed at the Portuguese communities abroad.

Article 11
Periodic and non-periodic publications

1 — Publications published in a continuous series are periodic, without any defined time limit, under the same title and encompassing certain time periods.

2 — Publications published on just one occasion in volumes or instalments, with content which is usually homogeneous, are non-periodic.

Article 12
Portuguese and foreign publications

1 — Portuguese publications are those published anywhere in Portuguese territory, irrespective of the language in which they are written, under the brand and responsibility of the Portuguese publisher or with the nationality of any EU member state, provided that it has its registered offices or any form of representation in Portugal.

2 — Foreign publications are those published in other countries or in Portugal under the brand and responsibility of an official foreign company or body which fails to meet the requirements foreseen in the previous number.

3 — Foreign publications disseminated in Portugal are subject to the precepts of this law, with the exception of those which, by their very nature, are not applicable to them.

Article 13
News publications and publications specific to a certain doctrine

1 — Publications specific to a certain doctrine are those which, owing to their content or approach, predominantly seek to disseminate any ideology or religious belief.

2 — News publications are those which predominantly seek to disseminate information or news.

3 — General information publications are those whose predominant object is the dissemination of news or information of a non-specialised nature.

4 — Specialised information publications are those which predominantly deal with one subject matter, be it scientific, literary, artistic or sports related.

Article 14
National and regional publications and those aimed at the Portuguese communities abroad

1 — National publications are those which, dealing predominantly with themes of national or international interest, are intended to be put on sale in most of the national territory.

2 — Regional publications are those which, by dint of their content and distribution, are predominantly aimed at regional and local communities.

3 — Publications aimed at Portuguese communities abroad are those which, being Portuguese under the terms of article 12, predominantly deal with those themes pertaining to them.

SECTION II
Requirements of the publications, editorial statute and legal deposit

Article 15
Requirements

1 — Periodical publications must contain, on the first page of each issue, the title, date, time period to which they relate, the name of the director and the price per unit or reference to the fact that it is free-of-charge.

2 — Periodic publications must also contain, on a page predominantly completed by information materials, the registration number of the title, the name, the company name or business name of the owner, the corporate body registration number, the names of the members of the board of directors or of similar posts and of the holders of 10% or more of company capital, the address or registered offices of the publisher, printer and the editors as well as the print run.

3 — Non-periodic publications must contain a reference to the author, the publisher, the number of copies of the respective issue, the address or registered offices of the printer as well as the print date.

4 — Periodical publications which take the form of a magazine do not need to mention the name of the director on the first page.

Article 16

Transparency of ownership

1 — In press enterprises which own periodic publications incorporated as a limited liability company all shares must be registered.

2 — The list of shareholders in press enterprises, their itemisation, as well as an indication of the publications which belong to them, or to other entities with which they have a group relationship, must be published every April in all periodical publications that the enterprises own, under the terms referred to in no.2 of the previous article and sent to the Alta Autoridade para a Comunicação Social.

3 — Press enterprises are required to insert in the periodic publication owned by them which has the highest print run, by the end of the 1st half-yearly period of each year, the annual report and accounts and the net P&L account, setting out the source of the financial movements deriving from own equity and third-party capital.

Article 17

Editorial statute

1 — Periodic news publications must adopt an editorial statute which clearly defines their orientation and their aims and including an undertaking to ensure respect for ethical principles and the professional ethics of journalists, as well as for the good faith of the readers.

2 — The editorial statute is drawn up by the director and, subject to an opinion by the editorial office, it is submitted to the ratification of the proprietary body, having to be inserted on the first page of the first issue of the publication and sent within the next 10 days to the Alta Autoridade para a Comunicação Social.

3 — Notwithstanding the provisions of the previous number, the editorial statute is published every calendar year, along with the annual report and accounts of the proprietary body.

4 — Any alterations made to the editorial statute are subject to the prior opinion of the editorial office, having to be reproduced in the first issue subsequent to its

ratification by the proprietary body and sent, within 10 days, to the Alta Autoridade para a Comunicação Social.

Article 18
Legal deposit

1 — The legal deposit regime shall be included in a regulatory decree which shall specify the entities to which copies of the publications must be sent, the number of them and the sending timeframe.

2 — Irrespective of the provisions of the previous number, the Instituto da Comunicação Social (Media Institute) shall be sent a copy of each issue of all the publications that benefit from the state incentives' system to the press.

CHAPTER IV
Organisation of press enterprises

Article 19
Director of periodic publications

1 — There must be a director for periodical publications.

2 — The designation and dismissal of the director are the competence of the proprietary body of the publication, having heard the editorial office.

3 — The editorial office issues a duly founded opinion, to be notified to the proprietary body within five days as from receipt of the respective issuance request.

4 — The prior hearing of the editorial council is dispensed with as regards the appointment of the first director of the publication and in publications related with doctrine.

Article 20
Director statute

1 — It is incumbent upon the director:

- a) To guide, supervise and determine the content of the publication;
- b) To draw up the editorial statute under the terms of article 17 no.2;
- c) To designate the journalists with management and coordination duties;
- d) To chair the editorial board;
- e) To represent the periodical before any authorities as regards anything related with those matters of their competence and the duties inherent in his post.

2 — The director is entitled to:

- a) Be heard by the proprietary body with regard to anything related with human resource management in the journalistic field, as well as the encumbering or disposal of any properties where the editing services he or she runs operate;
- b) Be informed about the economic and financial situation of the proprietary body and about its strategy in editorial terms.

Article 21
Deputy directors and assistant directors

1 — In publications with more than five journalists the director may be assisted by one or more deputy directors or assistant directors who shall replace him or her when he/she is absent or impeded.

2 — The deputy directors or assistant directors are subject to the precepts of article 19 with the necessary adaptations.

Article 22
Journalists' Rights

The following constitute the fundamental rights of the journalists, with the content and extent defined in the constitution and in the Journalists' Statute:

- a) Freedom of expression and creation;
- b) The freedom of access to sources of information, including the right to access public places and the respective protection;
- c) The right to professional confidentiality;
- d) The guarantee of independence and the conscience clause;
- e) The right to participation in the orientation of the respective information body.

Article 23
Editorial council and right to participation of journalists

1 — In periodical publications with more than five journalists, the latter select an editorial council by way of a secret ballot and according to a regulation approved by them.

2 — It is incumbent upon the editorial board:

- a) To make its opinion known, under the terms of articles 19 and 21, about the designation or dismissal, by the proprietary body, of the director, the deputy director or the assistant director of the publication;
- b) To give its opinion about the drawing up and alterations to the editorial statute under the terms of article 17 nos.2 and 4;
- c) To make its opinion known, at the request of the director, about the compliance of advertising images or documents with the editorial orientation of the publication;
- d) To cooperate with the management on the exercising of the competences foreseen in article 20, no.1, paragraphs a), b) and e);
- e) To make its opinion known about all the sectors of the life and organic structure of the publication which are related with the exercising of journalist activity in accordance with the respective statute and code of ethics;
- f) To make its opinion known about the admission and disciplinary responsibility of professional journalists, namely when assessing fair grounds for dismissal within five days after the date on which the process has been presented.

CHAPTER V
Rights to information

SECTION I
Rights to reply and correction

Article 24
Assumptions of the rights to reply and correction

1 — Any individual or corporate body, organisation, service or public body, as well as the owner of any party or body responsible for a public establishment, who has been subject to references, even if indirect, which may affect their reputation and good name, has the right to reply in periodical publications.

2 — The entities referred to in the previous number are entitled to correction in periodical publications whenever untrue or erroneous de facto references have been made related with them.

3 — The right to reply or correction may be exercised both with regard to texts and images.

4 — The right to reply or correction are prejudiced if, with the agreement of the party concerned, the periodical has corrected or clarified the text or image in question or has been provided with some other means of setting out its position.

5 — The right to reply or correction are independent of any criminal procedure owing to publication, as well as the right to compensation for any damages caused thereby.

Article 25
Exercising of the rights to reply and correction

1 — The right to reply and correction must be exercised by the actual holder, by his legal representative or by the heirs within 30 days, if it is a daily or weekly paper, and 60 days in the event of a publication published less frequently, as from the insertion of the document or image.

2 — The timeframes of the previous number are suspended when, on the grounds of force majeure, the people referred to therein are prevented from enforcing the right in question.

3 — The text of the reply or correction, where applicable, accompanied by an image, must be submitted, with the signature and identification of the author and by means of a procedure which proves its receipt, to the director of the publication in question, specifically invoking the right to reply or correction or the competent legal provisions.

4 — The content of the reply or correction is limited by the direct and useful relationship with the document or image replied to, and its extension may not exceed 300 words or that of the part of the document which brought it about, if greater, discounting the identification, the signature and stylistic formulas, nor containing any disproportionately imperfect expressions or which involve criminal liability which, in this case, as well as any possible third-party liability, can only be required of the author of the reply or correction.

Article 26

Publication of the reply or correction

1 — If the reply exceeds the limits foreseen in no.4 of the previous article, the remaining part is published, by specific referral, in a place appropriate for the pagination of the periodical and by means of payment equivalent to that of the commercial advertising calculated, as set out in the tables of the periodical, which shall be carried out in advance or having ensured the amount deemed sufficient has been sent.

2 — The reply or the correction must be published:

- a) Within two days after receipt, if the publication is daily;
- b) In the first issue printed after the second day subsequent to receipt, in the event of a weekly publication;
- c) In the first issue distributed after the 7th day subsequent to receipt in the event of other periodical publications.

3 — Publication is free-of-charge and carried out in the same section, with the same relief and presentation of the document or image that has led to the reply or correction, on just one occasion, without any interpolations or interruptions, having to be preceded by the indication that it is a right to reply or correction.

4 — When the reply refers to text or an image published on the first page, taking up less than half its surface area, it may be inserted on an interior odd-numbered page, having observed the other requirements of the preceding number provided that the insertion occurs on the first page at the place of publication of the text or image that led to the reply, a call to attention, with the due highlight, advertising the publication of the reply and its author, as well as the respective page.

5 — The correction referring to text or an image published on the first page may, in any case, having complied with the other requirements of no.3, be inserted on an interior odd page.

6 — In the same issue in which the reply or correction is published, it is only allowed for the management of the periodical to insert a short annotation thereunto, written by it, with the strict purpose of pointing out any inaccuracy or error of fact contained in the reply or in the correction which may bring about a new reply or correction under the terms of article 24 nos.1 and 2.

7 — When the reply or correction are untimely, derive from someone without legitimacy, manifestly lack any grounds or run counter to the provisions of no.4 of the previous article, the director of the periodical, or whosoever replaces him or her, having heard the editorial council, may refuse to publish it, informing the party concerned, in writing, about the refusal and its justification, in the 3 or 10 days subsequent to receipt of the reply or correction, when involving daily or weekly publications or with greater frequency, respectively.

8 — In the event that, owing to a final court sentence, the falseness is proven of the reply or correction and the truthfulness of the document which gave rise thereunto, the author of the reply or correction shall pay for the space occupied thereby for the price equal to triple the advertising table of the periodical in question, irrespective of the third-party liability involved.

Article 27

Coercive implementation of the right to reply and correction

1 — In the event of the right to reply or correction not having been satisfied or having been unjustifiably refused, the party concerned may, within 10 days, appeal to the court of the area of its registered offices for it to order the publication and to the Alta Autoridade para a Comunicação Social under the terms of the specifically applicable legislation.

2 — Having requested the judicial notification of the director of the periodical who has not satisfied the right of reply or correction, he or she is notified forthwith by post to answer within two days after which the decision shall be given in the same timeframe which may be subject to a merely suspensive appeal.

3 — Documentary evidence is only allowed when all the documents have been attached to the initial request and the reply.

4 — In the substance of the application, the periodical in question publishes the reply or correction within the timeframes of article 26 no.2, accompanied by the mention that the publication is made owing to a judicial decision or a decision by Alta Autoridade para a Comunicação Social.

SECTION II

Advertising

Article 28

Advertising

1 — The publication of advertising materials through the press is subject to the provisions of this law and any other applicable legislation.

2 - All text-based advertising or image-based advertising, that is not immediately identifiable as such, shall be identified by the word “Publicidade” [Advertising] or the capital letters 'PUB' [AD], at the start of the advertisement. It shall also contain the name of the advertiser when this is not evident.

3 — Text-based advertising and image-based advertising is deemed to be any text or image whose insertion has been paid for even if not complying with the advertising table of the respective periodical.

CHAPTER VI

Forms of liability

Article 29

Third-party liability

1 — When determining the forms of putting the third-party liability arising out of facts committed by the press into practice, the general principles are observed.

2 — In the event of a document or image inserted in a periodical publication with the knowledge, and without the opposition, of the director or his legal replacement, the

press enterprises are jointly and severally liable with the author for any damages they have caused.

Article 30

Crimes committed through the press

1 — The publication of texts or images via the press which violates criminally protected legal assets is punished under the general terms, notwithstanding the provisions of this law, with its appreciation being the competence of the courts.

2 — Whenever the law does not stipulate any other exacerbation, owing to commission, the crimes committed through the press are punished by the penalties foreseen in the respective incriminatory rules, plus a third at their minimum and maximum limits.

Article 31

Perpetration and proportional contribution

1 — Notwithstanding the provisions of the criminal law, the perpetration of the crimes committed through the press is incumbent upon whosoever created the text or image whose publication constitutes an infringement of the legal assets protected by the incriminating provisions.

2 — In cases of non-consented publication, the perpetrator of the crime is the party who committed it.

3 — The director, the deputy, the assistant director or whosoever specifically replaces them, as well as the publisher, in the event of non-periodical publications, who does not object, though the appropriate action, to the commission of the crime through the press, being able to do so, is subject to the penalties set out in the attendant legal rules, reducing its limits by a third.

4 — In the event of correctly reproduced declarations, provided by duly identified people, only the latter may be liable unless their content constitutes instigation to the practising of a crime.

5 — The regime foreseen in the previous number also applies with regard to opinion articles, provided that the author has been duly identified.

6 — Everyone who, during the course of their profession, has merely technical, subordinated or routine involvement in the process to draw up or disseminate a publication containing a controversial image or document is exempt from any criminal liability.

Article 32

Qualified disobedience

The following constitute crimes of qualified disobedience:

- a) Non-acceptance, by the director of the periodical or his or her replacement, of a judicial decision or decision by Alta Autoridade para a Comunicação Social which orders the publication of a reply or correction under the provisions of article 27;
- b) Refusal thereby of the publication of the decisions referred to by article 34;

c) The publication, distribution or sale of publications suspended or seized by judicial decision.

Article 33

Infringement of the Freedom of the Press

1 — Anyone who, except for those cases foreseen by law and with a view to infringing the freedom of the press is subject to a prison sentence of 3 months to 2 years or a fine of 25 to 100 days:

- a) Preventing or disrupting the composition, printing, distribution and free circulation of publications;
- b) Impounding any publications;
- c) Impounding or damaging any materials required to exercise journalistic activity.

2 — If the infringing party is an agent of the state or a state-owned corporate body and acts in this capacity, he or she shall be subject to imprisonment of 3 months to 3 years or a fine of 30 to 150 days, unless he or she is subject to some more serious penalty under criminal law.

Article 34

Publication of the decisions

1 — Sentencing for crimes committed through the press are, when the offended party so requires, within five days after final sentencing, published in the periodical itself, by way of an extract, which must only state the proven facts pertaining to the infringement committed, the identity of the injured parties and those sentenced, the sanctions applied and the compensation amounts set.

2 — The publication takes place within three days after judicial notification when they are daily publications, and in one of the two first following issues, when the frequency is greater, applying the provisions of article 26 no.3.

3 — If the publication in question has ceased to be published, the sentencing decision is inserted, at the expense of the liable parties, in one of the periodical publications with the highest circulation in the town/city, or of the nearest place if there is no other periodical publication in that area.

4 — The provisions of the previous numbers apply, with the necessary adaptations, to the sentences set out in the actions putting the third-party liability into effect.

Article 35

Administrative offences

1 — The following constitutes an administrative offence, subject to an administrative fine:

- a) From 100,000 to 500,000 Escudos, failure to observe article 15, nos. 2 and 3, article 16, article 18, no.2, article 19 nos. 2 and 3 and article 26 no.1;

- b) From 200,000 to 1,000,000 Escudos, the failure to observe article 5, no. 3, article 26 nos. 2 to 6 and article 28 no.2, as well as the wording, printing or dissemination of publications that do not contain the requirements laid down by article 15 no.1;
- c) From 500,000 to 1,000,000 Escudos, the failure to observe the provisions of article 17;
- d) From 500,000 to 3,000,000 Escudos, failure to satisfy or refusal without due reasons of the right to reply or correction, as well as a breach of article 27 no.4 and article 34

2 — In the event of individuals, the maximum and minimum amounts of the previous number above are reduced by half.

3 — Any publications which do not contain the requirements laid down by article 15, no.1 may be subject to a precautionary seizure measure under the terms of article 48-A of Decree-Law no.433/82 of 27 October in the wording afforded to it by Decree-law no.244/95 of 14 September.

4 — By dint of the administrative offences foreseen in this law, the proprietary bodies are liable for the publications which gave rise to the infringement.

5 — In the case foreseen in the final part of paragraph *b)* of no.1, and as it is not possible to determine the proprietary body, the liable party shall be whosoever is involved in the drafting, printing or dissemination of the publications.

6 — Any attempted infringement and negligence are subject to punishment.

7 — In the event of negligent behaviour, the minimum and maximum limits of the administrative fines applicable are cut by half.

Article 36

Processing of administrative infringements and application of administrative fines

1 — The processing of administrative infringements lies with the entity liable for their application.

2 — The application of administrative fines foreseen in this law lies with the Alta Autoridade para a Comunicação Social, except for those pertaining to any breach of the provisions of article 5, no.2, article 15 and article 18, no.2 which lies with the Instituto da Comunicação Social.

3 — 40% of any revenue from the administrative fines referred to in the second part of the previous number revert to the Instituto da Comunicação Social and 60% to the State.

CHAPTER VII

Special provisions of the proceedings

Article 37

Form of the proceedings

The proceedings pertaining to press crimes are subject to the provisions of the Code of Criminal Procedure and complementary legislation as regards everything not especially foreseen in this law.

Article 38
Territorial competence

1 — The court of the district of the corporate body which owns the publication is competent to hear the press crimes.

2 — If the publication is owned by an individual, the court of the district where it has its head offices is competent.

3 — If it is an imported foreign publication, the competent court is that of the registered offices or address of the importing entity or that of its representative in Portugal.

4 — In the event of publications that fail to comply with the requirements demanded by article 15 no.1, and if the element defining competence under the terms of the previous numbers above is not known, the court of the district where they are located is competent.

5 — To hear the crimes of defamation or offences, the court of the district of the registered offices of the offended party is competent.

Article 39
Identification of the author of the document

1 — Having instigated the criminal procedure, if the author of the document or image is unknown, the Public Prosecutor shall order the notification of the director to declare in the inquiry the identity of the author of the document or image within five days.

2 — If the notified party fails to reply, it is guilty of the crime of qualified disobedience and, if it declares falsely that it is unaware of the identity or indicates as the author of the document or image is someone who proves not to be so, it is guilty of the penalties foreseen in article 360, no.1 of the Criminal Code, notwithstanding proceedings owing to a slanderous notification.

Article 40
Repealing regulation

The following regulations are repealed:

- a) Decree-Law no.85-C/75 of 26 February;
- b) Decree-Law no.181/76 of 9 March;
- c) Decree-Law no. 645/76 of 30 July;
- d) Decree-Law no. 377/88 of 24 October;
- e) Law no.15/95 of 25 May;
- f) Law no.8/96 of 14 March;

Approved on 17 December 1998.

The Speaker of Parliament, *António de Almeida Santos*.

Enacted on 5 January 1999.

Let this be duly published.

The President of the Republic, JORGE SAMPAIO.

Countersigned on 6 January 1999.

The Prime Minister: *António Manuel de Oliveira Guterres*.