

## **Statute of Journalists**

(Law 1/99 of 13<sup>th</sup> January )

The Assembly of the Republic decrees, under subparagraph c) of Article 161 of the Constitution, to serve as general law of the Republic, the following:

:: CHAPTER I

:: Of the journalists

### **:: 1st Article**

:: Definition of a journalist

1 – Are considered as journalists who have as main occupation, permanent, paid, acting for the research, collection, sorting and treatment of facts, news or opinions through text, image or sound information for dissemination by the media, by news agencies, radio, television or other form of electronic dissemination.

2 - It is not the exercise of journalistic activities referred to in the preceding functions performed when the publications are mostly promotional, or whose exclusive purpose is to promote, advertise or otherwise make known institutions, companies, products or services, according criteria for industrial or commercial opportunity.

### **:: 2<sup>nd</sup> Article**

:: Capacity

Citizens can be journalists over 18 years in the full enjoyment of their civil rights.

### **:: 3<sup>rd</sup> Article**

:: Incompatibilities

1 - The profession of journalist is incompatible with the performance of:

- a) The functions of fundraising, design or presentation of advertising messages;
- b) Functions of paid marketing, public relations, media relations and communications consulting or image, as well as guidance and execution of business strategies;
- c) functions in any organism or police force;
- d) military service;
- e) member functions of the Government of the Republic or regional governments;
- f) the role of mayor or councilman, on a permanent, full time or part-time in local government body.

2 - It is also considered advertising activities incompatible with the exercise of journalism receiving gifts or benefits that are not clearly identified as concrete sponsors of acts of journalism, with the goal of disseminate products, services or companies through the journalist's reputation, whether it make an explicit mention to the products, services or companies.

3 - The journalist covered by any of the incompatibilities of the preceding paragraphs is prevented from exercising their activities, must deposit in Commission of Professional Journalist Title his qualification certificate, which will be returned at the request of the interested party, when they cease to situation which led to incompatibility.

4 - In the case of an advertising provided for in paragraph a) of paragraph 1 of this Article, the incompatibility is in effect for a minimum period of six months and only stopped with an evidence that the contractual relationship of transfer of image, voice or name of the reporter to the promoter entity or beneficiary of the advertising is terminated.

#### **:: 4<sup>th</sup> Article**

:: Professional title

1 - A prerequisite for the profession of journalist qualification with the title, which is issued by a Commission of Professional Journalist Title, with the composition and powers prescribed by law.

2 - No company active in the field of media may admit or retain in his service as a professional journalist, that does not show individual authorized under the preceding paragraph, unless you have the required qualification certificate and you are waiting for a decision.

#### **:: 5<sup>th</sup> Article**

:: Access

1 - The profession of journalism starts with a compulsory training to complete successfully, with a duration of 24 months, being reduced to 18 months in case of qualification with a university degree, or 12 months in case of degree in the area of media's license or equivalent course recognized by the Commission of Professional Journalist Title.

2 - The regime of the internship, including monitoring and assessment of the trainee, shall be governed by joint decree of the Cabinet members responsible for the areas of employment and social communication.

:: CHAPTER II

:: Rights and duties

#### **:: 6<sup>th</sup> Article**

:: Rights

Are fundamental rights of journalists:

- a) freedom of expression and creation;
- b) Freedom of access to information sources;
- c) The guarantee of confidentiality;

- d) the guarantee of independence;
- e) participation in the orientation of the respective media.

## **:: 7<sup>th</sup> Article**

:: Freedom of expression and creativity

1 - Freedom of expression and creativity for journalists is not subject to impediments, or subject to discrimination or any form of censorship.

2 - Journalists have the right to sign or to identify with their registered business name of the Commission of Professional Journalist Title, his individual works or the ones in which he has cooperated.

3 - Journalists have the right to protection of texts, images, sounds or drawings resulting from the exercise of freedom of expression and creation, in accordance with applicable legal provisions.

## **:: 8<sup>th</sup> Article**

:: Right of access to official information sources

1 - The right of access to sources of information is ensured to journalists:

- a) by public administration bodies listed in number 2 of 2<sup>nd</sup> Article of the Code of Administrative Procedure;
- b) the total business capital or a majority of public companies controlled by the State, public utilities companies or private use or exploitation of public domain and also for any private entities that exercise public powers or pursue public interests, when the desired access to activities regulated by administrative law.

2 - The interest of journalists access to sources of information is always considered legitimate for the purpose of exercising the right provided in 61st to 63rd Articles of the Code of Administrative Procedure.

3 - The right of access to sources of information does not cover the process in justice secret, classified documents or protected under specific legislation, personal data that are not public in documents of the name relating to third parties, the documents reveal trade or industrial secrets or related to the literary, artistic or scientific property, as well as the documents which support the legislative decision-preparatory acts or instruments of a contractual nature.

4 - The refusal of access to sources of information by any of the agencies or entities referred to in paragraph 1 must be justified under 125<sup>th</sup> Article of the Code of Administrative Procedure and against it can be used for administrative or legal means fit in the case.

5 - The complaints by journalists to the Commission on Access to Administrative Documents against administrative decisions to refuse access to public documents under Law No. 65/93 of 26<sup>th</sup> August, enjoy a matter of urgency.

## **:: 9<sup>th</sup> Article**

:: Right of access to public places

1 - Journalists have the right to access to open places to the public since for purposes of coverage.

2 - The preceding paragraph is extended to places that, although not available to the public, are open to the general media.

3 - In the shows or other events with tickets paid in the anticipated influx of spectators justify the imposition of access constraints may be introduced accreditation of journalists by media.

4 - The system established in the preceding paragraphs is provided on terms of equality by those who control such access.

## **:: 10<sup>th</sup> Article**

:: Exercise of the right of access

1 - The journalists cannot be prevented from entering or staying in the places mentioned in the previous article when their presence is required by the exercise of their profession, without limitations other than those arising from the law.

2 - To give effect to the exercise of the right of the preceding paragraph, the media are entitled to use the technical and human resources necessary for the performance of their business.

3 - In shows with paid entries with insufficient media places, the priority is given to the media at the national level and to the local media of the municipality where the event takes place.

4 - In case of disagreement between the organizers of the show and the media, in effect to the rights provided in the preceding paragraphs, any interested parties may request the intervention of the High Authority for Social Communication<sup>1</sup>, and the decision of this entity binding and commits an offense of disobedience those who do not comply.

5 - The journalists are entitled to a special arrangement that allows the movement and parking of vehicles used in carrying out their functions under the joint order established by members of the Government responsible for internal administration and the media.

## **:: 11<sup>th</sup> Article**

:: Professional secrecy

1 - Without prejudice to criminal procedural law, journalists are not obliged to reveal their sources, their silence is not subject to any penalty, direct or indirect.

2 - The heads of the information of the media and administrators or managers of their

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<sup>1</sup> High Authority for Social Communication (Alta Autoridade para a Comunicação Social) has been replaced in its functions by the Entidade Reguladora para a Comunicação Social (ERC), since 2006.

own bodies and any person performing functions in them, cannot, except with the written permission of the journalist involved, to disclose their sources of information, including press files of text, sound or image of the companies or any documents that might disclose it.

3 - Journalists cannot be dispossessed of the material used or required to display the information gathered in the profession, except by court order and in other cases provided by law.

4 - The preceding paragraph is extended to companies that have in his possession materials or parts therein.

## **:: 12<sup>th</sup> Article**

:: Independence of journalists and conscience clause

1 - The journalists cannot be compelled to express opinions or subscribe or to perform duties which are contrary to their conscience, or be subject to disciplinary action because of such refusal.

2 - In case of profound change in the guideline or the nature of media organization, confirmed by the High Authority for Social Communication at the request of the journalist, made within 60 days, it may terminate the employment relationship with just concerned and their right to compensation in accordance with applicable labor legislation.

3 - The right to termination of employment contract to the preceding paragraph shall be exercised, under penalty of forfeiture, within 30 days of notification of the decision of the High Authority for Social Communication, which must be taken within 30 days after the request of the journalist.

4 - Journalists may refuse any orders or instructions of service with a focus on editorial issued by a person not entitled to the professional title or equivalent.

## **:: 13<sup>th</sup> Article**

:: Right to participate

1 - The journalists are entitled to participate in the editorial guidance of the media organization where they are employees, except when they have doctrinal or denominational nature, as well as decide on all aspects relating to their work and cannot be disciplinary punished for exercising such rights.

2 - In the media with more than five journalists, they have the right to appoint an editorial board, by secret ballot and according to rules approved by them.

3 - The powers of the editorial board are exercised by all the journalists in existing media company, when in less than five.

4 - The editorial board should:

- a) cooperate with management in the exercise of its editorial functions;
- b) Give its opinion on the appointment or dismissal, the ownership entity, the Director and the Deputy Director and Deputy Director, if any, responsible for the information of the respective media organization;
- c) Advising on the development and changes to the editorial statute;
- d) Give its opinion on the compliance of advertising images or written with editorial guidance from the media organization;
- e) To give opinion on journalists by the invocation of the right referred to in paragraph 1 of 12<sup>th</sup> Article;
- f) To advise it on ethical or other matters concerning the editorial work;
- g) Express its opinion on the disciplinary responsibility of professional journalists, particularly the assessment of just cause for dismissal within five days from the date on which the file is handed to him.

## **:: 14<sup>th</sup> Article**

### **:: Duties**

Notwithstanding the provisions in its code of ethics, are fundamental duties of journalists:

- a) To carry out activities with respect for professional ethics, reporting with accuracy and impartiality;
- b) Comply with the guidance and objectives defined in the editorial statute of the media to work;
- c) Refrain from making accusations without evidence and respect the presumption of innocence;
- d) Not identify, directly or indirectly, victims of crimes against freedom and sexual self-determination, as well as minors who have been subject to punitive sanctions;
- e) Not discriminatory to treat people, in particular because of color, race, religion, nationality or sex;
- f) Refrain from statements or collect images that reach the dignity of persons;
- g) Respect the privacy according to the nature of the case and condition of the people;
- h) Do not fake or staged situations with the intention of abusing the good faith of the public;
- i) No collecting images and sounds with the use of an unauthorized unless there is a state of necessity for the safety of the people involved and the public interest so requires.

## **:: CHAPTER III**

### **:: Of the information directors, correspondents and collaborators**

## **::15<sup>th</sup> Article**

### **:: Information Directors**

1 - For the purpose of ensuring access to information, subject to ethical standards of the profession and incompatibilities are the equivalent of journalists who, while not fulfilling the requirements laid down in 1st article, exercise, however, effectively and permanently, editorial functions in the sector of information on the media enterprise.

2 - Directors equivalent of journalists are required to possess a specific identity card, issued pursuant to the Commission of Professional Journalist Title rules.

**:: 16<sup>th</sup> Article**

:: Correspondents and collaborators

The corresponding local employees and employees of the specialized information area of the media regional or local, regularly engaged in journalistic activity without this constitutes their main occupation, permanent and paid, are linked to the ethical duties of journalists and are entitled an identification document issued by the Commission of Professional Journalist Title, for purposes of access to information.

**:: 17<sup>th</sup> Article**

:: Foreign Correspondents

The correspondents of foreign media in Portugal are linked to the ethical duties of journalists and are entitled to an identification card issued by the Commission of Professional Journalist Title, which standardize their activities and ensure their access to sources of information.

**:: 18<sup>th</sup> Article**

:: Employees in Portuguese communities

Citizens doing journalism in the media for the Portuguese communities abroad and there based is assigned a title identification, as defined by joint decree of the Cabinet members responsible for the areas of community and media.

**:: CHAPTER IV**

:: Forms of liability

**:: 19<sup>th</sup> Article**

:: Attack on freedom of information

1 - Who, with the purpose of attacking freedom of information, seize or damage any materials necessary for the exercise of journalistic activity by the holders of professional titles or prevent entry into or stay in public places for purposes of news coverage in terms of the 9<sup>th</sup> article and in paragraphs 1, 2 and 3 of 10<sup>th</sup> article, shall be punished with imprisonment up to one year or a fine up to 120 days.

2 - If the perpetrator is an agent or employee of the State or public legal person and acting in that capacity, shall be punished with imprisonment up to two years or a fine up to 240 days, if more severe punishment will not fit under the criminal law.

**:: 20<sup>th</sup> Article**

:: Breaches

1 - It is an infraction, punishable with fines:

- a) 100,000 \$ 00-1000000 \$ 00, the breach of 3<sup>rd</sup> article.
- b) 200,000\$ 00-1000000 \$ 00, the breach of paragraph 1 of 4<sup>th</sup> article and disrespect of paragraph 1 of 8<sup>th</sup> Article, when unjustified;
- c) 500,000 \$ 00-3000000 \$ 00, the breach of paragraph 2 of 4<sup>th</sup> article.

2 - The breach of 3<sup>rd</sup> article shall be subject to the penalty of disqualification from practicing their profession for a maximum period of 12 months, taking into account the severity and culpability of the offender.

3 - Negligence is punishable.

4 - The preparation of cases of breaches and enforcement of fines for violations of 3<sup>rd</sup> and 4<sup>th</sup> articles of this law is the responsibility of the Commission of Professional Journalist Title.

5 - The preparation of cases of breaches and enforcement of fines for violation of 8<sup>th</sup> Article of this law is the responsibility of the High Authority for Social Communication.

6 - The proceeds of fines paid reverses in full for the State.

## :: 21<sup>st</sup> Article

:: Transitory and final provision

The legal definition of copyright protection of journalists under 7<sup>th</sup> article, paragraph 3, shall be adopted within 120 days preceding the hearing of the representative associations of journalists and media companies interested.

*Approved on 17<sup>th</sup> December, 1998.*

*The President of the Assembly of the Republic, António de Almeida Santos.*

*Promulgated on 5<sup>th</sup> January, 1999.*

*To be published.*

*The President of the Republic, JORGE SAMPAIO.*

*Approved on 6th January, 1999.*

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