

The Legislative Framework for the Media in Luxembourg

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Law on freedom of expression in the Media

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Law of 8 June 2004 on the Freedom of Expression in the Media

Consolidated version dated 30 April 2010

Chapter I. Purpose

Article 1.

This law is intended to ensure the freedom of expression in the media.

Article 2.

Pursuant to article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950 and approved by the Law of 29 August 1953, every restriction or interference in this area must be prescribed by law and be necessary in a democratic society; that is, they must respond to a social imperative and be proportionate to their legitimate purpose.

Chapter II. Definitions

Article 3.

For the purposes of this law, the following terms shall have the following meanings:

1. Collaborator: professional journalist¹ and other person who, acting for or on behalf of a publisher, are involved in the collection, analysis, comment or editing of information;
2. Distributor: anyone acting on his/her own behalf or on behalf of another person who disseminates or distributes a publication in any form whatsoever. Distributors shall include agents within the meaning of articles 60-62 of the Amended Law of 14 August 2000 on Electronic Trading;
3. Publisher: any individual or legal entity whose primary or regular activity is the design and structure of a publication, that edits it or decides to make it available to the public in general or to portions of the public via any of the media and to this end orders its reproduction or multiplication;
4. Information: any presentation of facts, any opinion or idea expressed in any form whatsoever;
5. Information Identifying a Source: any information likely to identify the source of a professional journalist² and in particular the name, personal data, voice and image of a source, the actual

¹ Term as amended by the Law of 11 April 2010.

² Term as amended by the Law of 11 April 2010.

circumstances in which the professional journalist³ obtained the information from his/her source, the unpublished portion of the information obtained by the professional journalist⁴ and the notes and personal documents of the professional journalist⁵ that relates to his/her professional work;

6. (*Law of 11 April 2010*) "Professional journalist: anyone whose regular source of professional income (as employee or freelance worker) is the work he/she does for a publisher and that involves the collection, analysis, comment and editing of information, so long as that person also fulfils the following conditions. He/she must:

1) be a journalist, as defined in the present law,

2) be of age,

3) not, in the Grand Duchy of Luxembourg, have been stripped of all or any of the civil rights listed in article 11 Criminal Code, and outside the Grand Duchy of Luxembourg must not have been convicted of any offence that within the Grand Duchy of Luxembourg would have caused him/her to be stripped of all or any such rights,

4) not engage in any trade or activity involving publicity";

7. Editorial Policy: the general principles set by the publisher for the editing of cultural, economic, ideological, moral, political or social information;

8. Media: all physical and intangible technical methods of publication;

9. Publication: a set of information made available to the public or particular groups of persons by a publisher using any media

10. Physical Publication: publication on a physical Medium;

11. Periodical Publication: publication in a comparable format at regular or irregular intervals throughout a calendar year;

12. Source: anyone who provides information to a professional journalist⁶.

Chapter III. Rights of professional journalists in their dealings with publishers

Article 4.

Professional journalists⁷ may refuse to allow information to be published under their own names if substantial changes have been made to it without their consent.

Refusal by a professional journalist⁸ to allow publication on the above grounds shall not constitute a real or serious ground for dismissal within the meaning of the Law of 24 April 1989

³ Term as amended by the Law of 11 April 2010.

⁴ Term as amended by the Law of 11 April 2010.

⁵ Term as amended by the Law of 11 April 2010.

⁶ Term as amended by the Law of 11 April 2010.

⁷ Term as amended by the Law of 11 April 2010.

on Employment Contracts as amended and may not be used as grounds for the imposition of any penalty whatsoever.

Article 5.

In the event of fundamental change in editorial policy, professional journalists⁹ whose convictions or personal consciences do not allow them to accept the new editorial policy may terminate their contract of employment with the publisher without notice. Such termination of contract may not be asserted against a professional journalist¹⁰ with the aim of depriving him/her of full unemployment benefit under article 14(1)(a) of the Amended Law of 30 June 1976 that 1. creates an employment fund, and 2. regulates the grant of full unemployment indemnities.

Chapter IV. Rights attaching to the freedom of expression

Section 1. The right to seek and comment information

Article 6.

(1) The freedom of expression referred to in Article 1 above includes the right to receive and seek information, to decide how to communicate it to the public using a freely selected form and method and to comment and criticise it.

(2) The public must be able to distinguish between the fact itself and the comment made on it.

Section 2. Protection of sources

Article 7.

(1) Professional journalists¹¹ called to give evidence before an administrative or judicial authority during administrative or legal proceedings have the right to refuse to divulge information identifying a source or the content of information they have obtained or collected.

(2) In addition, publishers and other persons who have obtained information identifying a source through the collection, editing or dissemination of said information during their professional dealings with a professional journalist¹² may assert the right enshrined in sub-section (1) of this Article.

⁸ Term as amended by the Law of 11 April 2010.

⁹ Term as amended by the Law of 11 April 2010.

¹⁰ Term as amended by the Law of 11 April 2010.

¹¹ Term as amended by the Law of 11 April 2010.

¹² Term as amended by the Law of 11 April 2010.

(3) Police, judicial and administrative authorities may not give orders or undertake measures to circumvent the above right and in particular may not themselves carry out or have carried out any searches of, or confiscations from, the workplace or home of the professional journalist¹³ concerned or of the persons referred to in sub-section (2) of this Article.

(4) Where information identifying a source has been properly obtained using any of the actions described in sub-section (3) of this Article and so long as the aim or purpose of the action was not to identify a source, such information may not be used as evidence in further legal action unless its disclosure is justified under Article 8 below.

Article 8.

Notwithstanding the previous Article, in the event action undertaken by the police, judicial or administrative authorities concerns the prevention, pursuit or repression of crimes against persons, drugs trafficking, money laundering, terrorism or attacks on the security of the State, neither professional journalists¹⁴ nor the persons referred to in Article 7(2) may assert the right created under Article 7(1) above, and the measures referred to in Article 7(3) may be ordered.

Section 3. Copyright

Article 9.

Works of journalism are subject to copyright provisions in the same way as literary works and works of art.

Authorship of, and copyright for, works of journalism are governed by copyright law, related rights and databases.

Chapter V. Duties flowing from the freedom of expression

Section 1. Duty of accuracy and truth

Article 10.

Collaborators have a duty to ensure the accuracy and truth of the facts they communicate.

They shall check the truth, content and origin of those facts before communicating them, so far as this is reasonable in the light of their resources and the circumstances concerned.

Article 11.

¹³ Term as amended by the Law of 11 April 2010.

¹⁴ Term as amended by the Law of 11 April 2010.

Any inaccuracy in the facts presented in a publication shall be corrected spontaneously as soon as it is established or comes to the attention of the collaborator concerned or the publisher.

The publisher of the publication in which the inaccurate fact appeared shall publish the correction without prejudice to any compensation that may be sought for the harm caused.

Section 2. Presumption of innocence

Article 12.

(1) Everyone shall be presumed innocent until proven guilty.

(2) Subject to Article 13, in the event a person is publicly presented as being guilty of something that is still under investigation or enquiry by the courts and for which no final judgment has yet been made, the courts may, even when acting on an urgent application and without prejudice to any compensation that may be sought for harm suffered, order steps to be taken, such as publication of a correction or issue of a statement, if necessary subject to a penalty pursuant to Articles 2059-2066 Civil Code, to end the violation of the presumption of innocence. Such steps shall be taken at the expense of the person liable for the violation.

Article 13.

However, the persons responsible for the publication of information representing another person as guilty of facts that are still under investigation or enquiry by the courts shall have no liability within the meaning of Article 21 if:

1. the publication was authorised by the person concerned;
2. the publication was made at the request of the judicial authorities for the purposes or as part of a judicial investigation or enquiry;
3. the publication was part of a direct communication to the public, so long as:
 - a) all due care was been taken to prevent violation of the presumption of innocence, and
 - b) the author of the allegations quoted is identified in the information communicated;
4. the information is a faithful quotation of a third party, so long as:
 - a) the quotation is clearly identified as such, and
 - b) the quoted third party is identified in the information communicated, and
 - c) publication of the quotation is justified on the grounds that it is overwhelmingly in the public interest.

Section 3. Protection of private life

Article 14.

(1) Everyone has a right to respect for his private life.

(2) Subject to Article 15 below, in the event information concerning a person's private life is communicated to the public, the courts may, even when acting on an urgent application, and without prejudice to any compensation that may be sought for harm suffered, order steps to be taken, such as publication of a correction or statement, if necessary subject to a penalty payment pursuant to Articles 2059-2066 Civil Code, to end the violation of private life. Such steps shall be taken at the expense of the person liable for the violation.

Article 15.

However, the persons responsible for the publication of information concerning another person's private life shall have no liability within the meaning of Article 21 below if:

1. the publication was authorised by the person concerned;
2. the publication was made at the request of the judicial authorities for the purposes or as part of a judicial investigation or enquiry;
3. the publication directly concerns the public life of the person in question;
4. the publication was part of a direct communication to the public, so long as:
 - a) all due care was taken to prevent violation of private life, and
 - b) the author of the allegations quoted is identified in the information communicated;
5. the information is a faithful quotation of a third party, so long as:
 - a) the quotation is clearly identified as such, and
 - b) the quoted third party is identified in the information communicated, and
 - c) publication of the quotation is justified on the grounds that it is overwhelmingly in the public interest.

Section 4. Protection of reputation and honour

Article 16.

(1) Everyone has a right to respect for his honour and reputation.

(2) Subject to Article 17, in the event information damaging a person's honour or reputation is published, the courts may, even when acting on an urgent application, and without prejudice to any compensation that may be sought for harm suffered, order steps to be taken, such as

publication or issue of a correction or statement, if necessary subject to a penalty payment pursuant to articles 2059-2066 Civil Code, to end damage to honour or reputation. Such steps being taken at the expense of the person liable for the damage.

Article 17.

However, persons responsible for the publication of information that is damaging to another person's honour or reputation shall have no liability within the meaning of Article 21 below if:

1. in cases where the law allows legal proof of the facts:

a) such proof is provided, or

b) no such proof is provided but the person liable within the meaning of Article 21 below, subject to all due care having been taken to prevent damage to the other person's reputation or honour, is able to prove using any legal method that he/she had sufficient reason to believe that the facts represented were true and that it was overwhelmingly in the public interest for the information to be published;

2. the information is a direct communication to the public so long as:

a) all due care was taken to prevent any damage to the reputation and honour of the person concerned, and

b) the identity of the person at the origin of the allegations is also identified in the Information;

3. the Information is a faithful quotation of a third party, so long as:

a) the quotation is clearly identified as such, and

b) the quoted third party is identified in the information communicated, and

c) publication of the quotation is justified on the grounds that it is overwhelmingly in the public interest.

Section 5. Protection of minors

Article 18.

It is prohibited to publish using any information media identifying or enabling the identification of:

- minors who have left their parents, guardians or the persons or institutions responsible for their care or to whom/which they were entrusted;

- minors who have been abandoned in the manner specified in articles 354ff. Criminal Code;

- minors who have committed suicide;

- minors who are the victims of a crime.

Article 19.

However, persons responsible for publication of the information referred to in Article 18 above shall have no liability within the meaning of Article 21 below if:

1. the publication is made in the interest of the minor concerned and at the request of the persons responsible for his/her care;
2. the publication is made at the request of the administrative or judicial authorities;
3. it is a direct communication to the public so long as:
 - a) all due care was taken to prevent any failure in the protection of the minor, and
 - b) the author of the allegations is identified in the information communicated;
4. the information is a faithful quotation of a third party, so long as:
 - a) the quotation is clearly identified as such, and
 - b) the quoted third party is identified in the information communicated, and
 - c) publication of the quotation is justified on the grounds that it is overwhelmingly in the public interest.

Section 6. Common provisions

Article 20.

(1) The duty of due diligence requires that before publication is made, the checks specified under Article 10 above are carried out.

(2) Overwhelmingly in the public interest means that the value of the information communicated must be useful to the forming of public opinion.

Chapter VI. Liability

Article 21.

The collaborator if known, or otherwise the publisher, or otherwise the distributor shall be liable in civil or criminal law for all violations committed by means of any media.

Article 22.

Notwithstanding article 66 Criminal Code and in all cases not specified by the Code, persons who - by making speeches at meetings or in public places, publicly displaying signs or posters, by using printed or other writings or any other method to transmit the spoken word, sounds, images or writing to the public that are sold, put on sale, broadcast, distributed or made available to the public in any way whatsoever, including via any media or by display or

performance in public places or at public meetings - have directly incited the commission of a crime or offence shall be punished as accomplices of that crime or offence.

This provision shall also apply if the incitement has led only to an attempted crime or offence within the meaning of articles 51-53 Criminal Code.

Where the incitement has had no effect or where the attempted offence that was incited is not a criminal offence, the inciter shall pay a fine of between 500 and 5000 euro and/or shall be imprisoned for between eight days and one year. The penalty applied may not exceed the penalty applying to the offence itself.

Chapter VII. Press Council

Section 1. Duties

Article 23.

(1) (Law of 11 April 2010) "A Press Council is hereby created with a civil personality. The Press Council has the authority to issue and withdraw the press cards referred to in article 31."

(2) The Press Council is also responsible for:

1. producing an ethical code setting out the rights and duties of professional journalists and publishers "including those relating to the processing of personal data"¹⁵ and shall ensure the code is published;
2. establishing a Complaints Committee to receive and deal with complaints from individuals about information in publications disseminated via any information media "including complaints concerning the respect for personal rights and freedoms as regards personal data processing", without prejudice to the powers reserved to the *Commission nationale pour la protection des données* (National Data Protection Committee) created by the current law on personal data protection;
3. examining all matters concerning the freedom of expression in the media that are put before it by the Government or that it considers it must itself examine.

(3) The Press Council may also issue recommendations and directives on the work of professional journalists¹⁶ and publishers and organise professional training courses for professional journalists¹⁷ and publishers.

Section 2. Members of the Press Council

Article 24.

¹⁵ Added by the Law of 27 July 2007.

¹⁶ Term as amended by the Law of 11 April 2010.

¹⁷ Term as amended by the Law of 11 April 2010.

The Press Council shall have at least 14 members, half of whom shall represent publishers while the other half shall represent professional journalists¹⁸.

Article 25.

The members of the Press Council shall be appointed by Grand Ducal order at the recommendation of the professions concerned.

Section 3. Chair

Article 26.

The Press Council shall be chaired on a revolving two-year basis first by a representative of the publishers and then by a representative of the professional journalists¹⁹.

The rules for electing the Chair and governing eligibility for the position shall be decided by the Press Council.

The Press Council shall have a set of internal rules regulating procedures that may be brought before it and operation.

Throughout his/her term of office, the Chair of the Press Council shall also chair the Press Accreditation Committee referred to in Article 27 below.

(Law of 11 April 2010)

"The Press Council shall be represented before the law and in all other situations by its Chair."

Section 4. Press Accreditation Committee

Article 27.

A Press Accreditation Committee is hereby instituted within the Press Council with the duties specified in Article 23(1) above.

Article 28.

The Press Accreditation Committee shall have "six"²⁰ members, one of whom shall be the Chair of the Press Council. The publishers and professional journalists shall each appoint either two or three members depending on whether the Chair of the Press Council currently represents the publishers or professional journalists²¹.

Members' term of office shall be two years and shall be renewable.

¹⁸ Term as amended by the Law of 11 April 2010.

¹⁹ Term as amended by the Law of 11 April 2010.

²⁰ Term as amended by the Law of 11 April 2010.

²¹ Term as amended by the Law of 11 April 2010.

The Press Council shall decide the method for appointing members to the Press Accreditation Committee and eligibility criteria.

The Press Council shall regulate the procedure to be followed before the Press Accreditation Committee.

Article 29.

(Law of 11 April 2010)

"Appeals may be made against Press Accreditation Committee decisions to the Press Accreditation Appeals Committee.

The Press Accreditation Appeals Committee shall have five members: one lawyer, two members representing publishers and two members representing journalists.

Members' term of office shall be two years and shall be renewable.

The member who is a lawyer shall be appointed by grand-ducal regulation at the recommendation of the Press Council. He/she shall chair the Press Accreditation Appeals Committee.

The Press Council shall decide the method for appointing members to the Press Accreditation Appeal Committee and eligibility criteria.

The Press Council shall regulate the procedure to be followed before the Press Accreditation Appeals Committee.

Appeals against Press Accreditation Committee decisions must be made to the Press Council secretariat by registered letter within forty days of service of the Press Accreditation Committee decision on the parties concerned."

Article 30.

The methods for preparing documents and forms of identification issued by the Press Council shall be set by grand-ducal regulation.

Section 5. Press cards

Article 31.

(Law of 11 April 2010)

"Press cards accrediting professional journalists shall be issued to persons fulfilling the conditions set out in article 3(6)."

Section 6. Complaints Committee

Article 32.

A Complaints Committee is hereby instituted within the Press Council, with the duties specified in Article 23(2)2.

Article 33.

(1) The Committee shall have five members: two representing the publishers and two representing the professional journalists²².

(2) The fifth member, representing the public, shall chair the Complaints Committee. He/she shall be neutral and impartial and for this reason may not be involved in publishing in any capacity whatsoever.

He/she shall be a lawyer and shall be appointed by Grand Ducal order at the recommendation of the Press Council.

(3) The Chair of the Press Council may not sit on the Complaints Committee.

Article 34.

The Press Council shall decide the method by which matters are put before the Complaints Committee, the admissibility criteria for complaints and the procedure that will apply. The Press Council shall also decide how all members of the Complaints Committee except the public representative are appointed, and eligibility criteria for membership of the Complaints Committee.

Article 35.

The Complaints Committee may reject or uphold complaints. Decisions to uphold complaints may be accompanied by a recommendation to the liable person(s) and/or a public or non-public reprimand to be communicated by the publisher as the Complaints Committee shall decide.

Chapter VIII. Right of reply

Section 1. Conditions

Article 36.

Without prejudice to other forms of remedy, individuals and legal entities, *de facto* associations and constituted bodies that are specifically named or implicitly designated in a periodical publication have the right to demand free publication of a reply.

²² Term as amended by the Law of 11 April 2010.

Section 2. Procedure

Article 37.

Requests shall be sent by registered letter to the publisher within ninety days of the publication or broadcast date.

Article 38.

If the person concerned is a minor, his/her legal representative shall exercise the right of reply without prejudice to article 12 of the Convention on the Rights of the Child.

Article 39.

If the person concerned is deceased, the right of reply shall reside with all his/her relatives in the first degree or spouse, or if he/she has no such relatives or a spouse, with his/her closest relatives. The right of reply may be exercised one time only and by the first of such persons to take action. Should the limitation period specified in Article 37 have already commenced when the person concerned dies, his/her beneficiaries must exercise the right of reply by the original deadline.

Article 40.

Requests for publication or broadcast may be rejected unless they specify all texts, references and quotations to which the right of reply pertains, and also the text of the reply that is to be published or broadcast. Requests must be signed and include the full identity of the requester: family name, first name and address (individuals); company name, legal form, address of registered office and position of signatory (legal entities); or name, main office and position of signatory (*de facto* associations).

Article 41.

Requests for publication or broadcast of replies may be refused if they:

- a) are abusive or in violation of the law or morality;
- b) unnecessarily implicate a third party;
- c) are drafted in a language other than that of the defamation;

d) have no immediate relationship with the defamation or defamatory images.

Article 42.

Excluding address, salutations, usual formulae and signature, replies may be as long as the information to which they refer. They may be up to one thousand written letters long.

Article 43.

If the reply relates to a written publication, it shall be included in full in the editorial content without interjection, preferably in the place where the text giving rise to the request was originally placed and in the basic script used for editorial content. If the reply relates to a non-written publication, the reply shall be broadcast at the closest possible time to that in which the defamation or defamatory images were originally broadcast.

All replies may be accompanied by a correction or comment as described above that may not be more than one-third longer than the reply.

Article 44.

In the case of publications that appear at least five times per week, the response must be published in the first issue or in the first delivery of the same type or series made three days, excluding Sundays and public holidays, after receipt by the addressee of the request. In the case of periodical publications that appear at longer intervals or if the first delivery of the same type or series occurs at longer intervals and so long as the request was received at least fifteen days before the next publication, the reply must appear in the first number or first delivery of the same type or series published after receipt of the request.

Article 45.

The reply shall be read by the person designated by the publisher, who shall not be either the author of the defamatory information or the requester exercising the right of reply.

Section 3. Redress

Article 46.

Without prejudice to other remedies, in particular compensation actions on the merits, in the event no reply has been published or broadcast by the deadline stated in Article 44 above or has not been published or broadcast in the manner requested, or has been judged unsatisfactory or insufficient, the President of the *Tribunal d'arrondissement* may at the application of the requester order a reply to be published or broadcast in the publication concerned by a date and in the manner he shall specify.

The right to publication or broadcast of a reply shall be lost unless the application is made within three months of the date on which the reply ought to have been published or broadcast or on which the unsatisfactory reply was published or broadcast.

Article 47.

Applications shall be made and decided on an urgent basis.

The President of the *Tribunal d'arrondissement* shall issue an order on the merits and in accordance with the urgent applications procedure set out in articles 934-940 New Code of Civil Procedure. However, notwithstanding article 939(2) New Code of Civil Procedure, orders made in response to urgent applications shall not be subject to appeal.

Article 48.

Orders by the President of the *Tribunal d'arrondissement* shall be made within ten days of the hearing for which the writ was served.

Article 49.

Decisions ordering a reply to be published or broadcast by a specific deadline may also include a requirement that the publisher is to pay the requester a penalty payment of no more than 1250 euro per day's delay as of the end of the deadline.

The publisher may also be ordered to publish or broadcast the order made by the President of the *Tribunal d'arrondissement* in full or in part or only the operative part thereof.

Article 50.

Appeals against orders made by the President of the *Tribunal d'arrondissement* must be made within fifteen days of notification.

Notices of appeals shall specify fixed-date proceedings. Appeals shall be brought before the *Cour d'appel* and heard on an urgent basis using the first instance procedure.

Chapter IX. Right to follow-up information

Section 1. Conditions

Article 51.

Without prejudice to other remedies, persons who have been acquitted or discharged by the courts shall have the right to demand free publication or broadcast of information that wrongful charges were brought against them.

Section 2. Procedure

Article 52.

Requests must be sent by registered letter to the publisher within ninety days of the date on which the discharge or acquittal becomes *res judicata*.

Article 53.

If the person concerned is a minor, his/her legal representative shall exercise the right of reply without prejudice to article 12 of the Convention on the Rights of the Child.

Article 54.

If the person concerned dies after acquittal or discharge becomes *res judicata*, the right of reply shall lie with all his/her relatives in the first degree or spouse or if he/she has no such relatives or a spouse, with his/her closest relatives. The right of reply may be exercised one time only and by the first of such persons to take action. Should the limitation period specified in Article 52 have already commenced when the person concerned dies, his/her beneficiaries must exercise the right of reply by the original deadline.

Article 55.

Requests for publication or broadcast may be rejected unless they specify the words or images containing the information to which the right pertains. Requests must be signed and include the full identity of the requester: family name, first name and address. To the request must be attached the text of the follow-up information, the acquittal or discharge judgment and a certificate from the competent judicial authority stating that the decision is not under appeal and is *res judicata*.

Article 56.

Follow-up information shall be given in the same language as the information that gave rise to the request and shall contain the following details only:

- a) name of publisher;
- b) reference to the information referred to in Article 51 creating the right to follow-up information;
- c) the acquittal or discharge judgment in favour of the requester;
- d) the date of the judgment;
- e) the fact that the judgment is not subject to appeal or challenge at any level;
- f) the name of the court that issued the judgment.

Article 57.

If the follow-up information refers to a written publication, it shall be included in full in the editorial content without interjection, preferably in the place where the text giving rise to the request was originally placed and in the basic script used for editorial content. If the follow-up information relates to a non-written periodical publication, it shall be broadcast at the closest possible time to that in which the defamation or defamatory images to which the follow-up information refers was/were originally broadcast.

Follow-up information may be accompanied by a correction or comment in the form described above that may not be more than one-third longer than the reply.

Article 58.

In the case of publications that appear at least five times per week, the follow-up information must be published or broadcast in the first issue or in the first delivery of the same type or series three days, excluding Sundays and public holidays, after receipt by the publisher of the request. In the case of periodical publications that appear at longer intervals or if the first delivery of the same type or series occurs at longer intervals and so long as the request was received at least fifteen days before the next publication, the follow-up information must appear in the first number or first delivery of the same type or series published or broadcast after receipt of the request.

Article 59.

The follow-up information shall be read by the person designated by the publisher, who shall not be either the author of the defamatory information or the requester exercising the right of reply.

*Section 3. Redress***Article 60.**

Without prejudice to other remedies, particularly compensation actions on the merits, if follow-up information has not been published or broadcast by the deadline set in Article 58 above, or if it has not been published as requested or, in the case of spontaneous information, has been judged unsatisfactory or insufficient by the requester, the latter may seek the redress specified in Articles 46-50 above.

Such action must be commenced within three months of the date when the follow-up information ought to have been published or broadcast or of the date when the spontaneous information judged unsatisfactory was published or broadcast.

Chapter X. Provisions common to the right of reply and to the right to follow-up information

Article 61.

Persons wishing to exercise their right of reply or right to follow-up information in a periodical publication pursuant to the Law of 27 July 1991 on Electronic Media as amended, may do so by sending a registered letter to the beneficiary of the concession or licence within the mandatory period for keeping recordings specified in article 6 of the Law of 27 July 1991, stating that they wish to exercise their right to consult the recording of the part of the programme concerned in order to judge whether they can, or wish to, exercise a right to reply or right to follow-up information. Consultation of the recordings shall either be allowed free of charge on the beneficiary's premises or else the requester shall receive a free copy of the recording on an appropriate medium within seven days of his/her request. Recordings shall be kept until the expiry of the limitation period for requesting from the publisher publication or broadcast of a reply or follow-up information.

Chapter XI. Publications

Article 62.

Non-periodical publications shall state the name and address of their author or publisher, place of printing or production and the place where they are made available to the public.

If the author or publisher is a legal entity, its name and the address of its registered office must be stated.

If the author or publisher is not a legal entity, the name(s) and address(es) of the person(s) acting as author or publisher must be stated.

The date the publication was first made available to the public must also be stated.

Article 63.

In the case of periodical publications, the name and business address of the publisher, the names and business addresses of the editors and the place they are made available and the date they were first made available to the public must be stated.

If the publisher is a legal entity, its name and the address of its registered office and the name of its statutory representative must be stated.

If the publisher is not a legal entity, the name(s) and address(es) of the person(s) acting as publisher must be stated.

Article 64.

The publisher may publish the editorial policy of a periodical publication.

Article 65.

Periodical publications containing an index shall indicate where the information specified in Articles 63, 64, 66 and 67 of the present law is published.

Article 66.

Publications published by legal entities shall once a year in the first number published or in the first delivery of the year:

- identify all shareholders with a more than 25 percent direct or indirect stake in the legal entity concerned;
- identify all members of the administration and management bodies and all persons responsible for the general and daily management of the company;
- if several legal entities are superimposed on each other, the above details shall be provided in a manner that ensures that the public knows the family names, first names, professions and countries of residence of all individuals who control the legal entity publishing the publication through the above several legal entities if they hold over 25 percent of the share capital, if they sit on the administration or management bodies of any of the above several legal entities or if they are responsible for the daily running of any of the above several legal entities.

Article 67.

Where a person identified in Article 66 above also sits on an administration or management body of a legal entity that owns or publishes another publication, or directly or indirectly owns more than 25 percent of the share capital of another publication, the name of that publication, the name of the publisher, its legal form, commercial or corporate purpose and registered or head office address must also be stated.

Article 68.

Articles 62-67 and 69 shall not apply to small print runs made for sales or business relations purposes, such as forms, labels, price lists, voting cards or visiting cards.

Article 69.

This Section does not apply to publications holding a concession or permit under the Law of 27 July 1991 on Electronic Media as amended.

Holders of such concessions and permits shall however ensure that the information referred to in Articles 62-67 above and the list of all publications they have published are available to the public at all times.

Chapter XII. Procedure

Section 1. Limitation

Article 70.

Criminal proceedings resulting from an offence committed via any media, and claims for damages in civil proceedings resulting from an offence or negligent tort committed via any media that are brought before the criminal courts at the same time as the criminal proceedings themselves, are both subject to a three-month limitation period commencing on the date availability to the public begins.

Article 71.

Offences are deemed committed when the defamation is first communicated or published or made available to the public. In the case of on-line publications, publication or broadcast shall occur when the defamation becomes accessible by the public.

Article 72.

Unless proved to the contrary, the date a publication is first made available to the public is the date indicated in the publication.

Where no such date is given, the burden of proving the date a publication is first made available to the public shall lie with the person alleging that the criminal or civil action is time-debarred.

Article 73.

The limitation period shall be interrupted by investigative measures and steps in criminal proceedings. Where limitation periods are interrupted before the stated deadline, the new limitation period shall be one year.

Section 2. Publication of judgments and court orders.

Article 74.

Civil and criminal courts deciding on the merits of cases on the basis of the present law may, within the deadlines and in the manner herein specified, order communication to the public in

the publication concerned of all or any part of the judgment against the person found guilty or liable within the meaning of Article 21 above.

Such orders may also require the publisher to pay a fine to the victim of no more than 1250 euro per day's delay, pursuant to articles 2059-2066 Civil Code.

Section 3. Seizure of a publication

Article 75.

(1) During criminal proceedings concerning offences committed via any media, the courts may order all or any part of any publication containing a criminal offence to be seized, without prejudice to articles 31 and 66 Code of Criminal Procedure, so long as the measure ordered is not disproportionate to the legitimate purpose pursued, which is to protect the rights of the victim, and so long as that protection cannot be obtained by any other means, such as publication or broadcast of a reply, follow-up information or a correction.

(2) In the case of offences committed via any media, the measure referred to in sub-section (1) may be ordered in investigations of persons unknown if the person liable within the meaning of Article 21 above cannot be identified.

Article 76.

Seizures shall not include individual copies of publications that are in the hands of persons who do not make them available to the public.

Chapter XIII. "Criminal provision"²³

Article 77.

(Law of 11 April 2010)

"Anyone acting as a professional journalist who does not meet the conditions set out in article 3(6) shall be subject to a fine of 500-25 000 euro. The fine shall be doubled in the event of repeated offences."

Article 78. (...) *(deleted following the Law of 11 April 2010)*

Article 79. (...) *(deleted following the Law of 11 April 2010)*

Article 80. (...) *(deleted following the Law of 11 April 2010)*

Article 81. (...) *(deleted following the Law of 11 April 2010)*

²³Title amended by virtue of the Law of 11 April 2010.

Article 82. (...) *(deleted following the Law of 11 April 2010)*

Article 83. (...) *(deleted following the Law of 11 April 2010)*

Chapter XIV. Transitional provisions

Article 84.

The Amended Law of 20 December 1979 on the Recognition and Protection of Professional Journalist Status is hereby repealed.

Article 2 of said law shall nevertheless continue to form the legal basis for relevant decisions.

Chapter XV. Repeals

Article 85.

The Amended Law of 20 July 1869 is hereby repealed.

Article 86.

Articles 36 and 37 of the Amended Law of 27 July 1991 on Electronic Media are hereby repealed.