

***Very rough machine translation by La'ó Hamutuk***

**V CONSTITUTIONAL GOVERNMENT OF RDTL**

**PROPOSED LAW No. / 2013**

**Of \_\_\_\_\_ of \_\_\_\_\_**

**Media Law**

Whereas the right to information, freedom of speech and of the press are fundamental for the consolidation of democracy, the Timorese State prepares to strengthen the media sector.

In this context, the present law, the first of free and independent Timor-Leste, on the defense of press freedom and regulation of the media, defends the right of the citizen to full exercise of freedom of thought and expression and allows the information professional the guarantee of professional secrecy and safeguards their independence.

It is therefore important to delineate by law to regulate the exercise of such freedoms, ensuring their implementation.

The provision of rules on the exercise of the right to information and freedom of expression and the press becomes vital, not only to comply with the relevant constitutional requirements laid down in Articles 40 and 41 of the Constitution, but also, ultimately to ensure the construction of a democratic state under rule of law.

This Act aims to ensure freedom of the press, promoting the necessary balance between the exercise of this fundamental freedom and other constitutionally protected rights and values.

The eight chapters of this law seek to regulate the exercise of journalistic activity on national territory for journalists and media.

Fundamentally, it is intended that properly prepared and ethically responsible professionals can inform the public in an objective and impartial manner, stimulating the exercise of active and informed citizenship by the population.

It is intended by this law to create mechanisms to regulate and resolve conflicts arising from the relationship of the media with citizens and society.

An independent administrative entity, to be created by Decree-Law under the name of Press Council ensures compliance with this Act, including the observation of the rights and duties of journalists, as well as compliance with ethical principles of journalistic activity.

Finally, are certain sanctions against any acts that undermine the right to information.

Thus,

The Government presents to the National Parliament, under Article 97.1(c) and Article 115.2(a) of the Constitution of the Republic, as an urgent priority request - the following bill:

**CHAPTER I  
GENERAL PROVISIONS**

**Article 1  
Subject**

This Act is to guarantee, protect and regulate journalistic activities in Timor-Leste, run by journalists and media organizations.

## **Article 2 Definitions**

For the purposes of this Act:

- a) "Media" means the dissemination of information through sound, text and images available to the public regardless of their form of reproduction and dissemination;
- b) "media organ", collective, private or public person who operates the journalistic activity, encompassing any means of communication;
- c) "means of social communication", which allows the vehicle to regulate disclosure of journalistic activities, in printed or electronic form;
- d) "news agency" specializing in broadcast news for the media company;
- e) "journalistic activity" means activity of research, collecting, sorting, processing and dissemination of information in the form of text, sound or image, to the public through disclosure in the media;
- f) "Journalist", the professional whose main business journalism as provided in paragraph d);
- g) "means of social communication doctrinal or denominational nature," the means of communication that is aimed at divulging any political ideology or religious creed;
- h) "Community Radio", the means of social communication of sound diffusion, with a view to receiving the community of a particular geographical area, licensed in the name of a media organization constituted as an association representing that same community;
- i) "Organization of journalists", usually set up in the form of association, whose purpose is to defend the rights and strengthening of professional duties and values inherent in journalism;
- j) "Censorship", the forced removal of information to be published or transmitted, including their attempt, and the imposition of content to the media;
- k) "right of reply", the right of every natural or legal person to see posted or transmitted in response to a content offensive to disclose facts of his honor, good name, reputation or image;
- l) "right of correction", the right of every natural or legal person to see corrected to publish or broadcast news that inaccurate facts about him;
- m) "Code of Ethics for Journalists", a compilation of ethical rules applicable to the profession.

## **CHAPTER II FUNDAMENTAL PRINCIPLES**

### **Article 3 Right to information**

1. All citizens have the right to inform, inform and be informed, with the ultimate purpose of achieving a free, developed, just and democratic society.
2. The right to information for citizens should be provided with objectivity and impartiality, by clearly distinguishing between facts and opinions, and respect for diversity of opinion trends.

### **Article 4 Freedom of the press**

Under the previous article, the right of journalists to report shall be exercised based on its press freedom and creation, which comprises the following privileges:

- a) The right of access to all sources of information, except as provided for by law;
- b) The protection of the independence and professional secrecy;
- c) The editorial freedom;
- d) The right to create media.

### **Article 5**

#### **Limits**

Freedom of the press does not accept any form of censorship, obeying only the constitutional limits imposed by the right to honor and privacy, the right to the presumption of innocence and secrecy.

## **CHAPTER III**

### **JOURNALISTS**

#### **Article 6**

#### **Capacity**

Can be journalists Timorese citizens whose education and qualifications are recognized by the Press Council and engaged in journalistic activity with a media organ.

#### **Article 7**

#### **Exercise**

1. The journalist started his career by performing an internship, lasting six months, in their media organization.
2. During the internship, the national media should seek to deepen the technical and language skills of the trainee as well as make them aware of the rights and duties, legal and ethical nature, resulting from the exercise of the profession.
3. It is for the national media to issue a certificate of completion stage successfully.
4. The certificate referred to above is essential for the issuance by the Press Council of title identifying himself as a journalist condition.

#### **Article 8**

#### **Incompatibilities**

1. The profession of journalism cannot be performed concurrently with the following functions:
  - a) Government Employee;
  - b) Owner of charge in a sovereign body, the local authorities or community leadership;
  - c) Leader of a political party;
  - d) public relations or press officer, and image;
  - e) Any activity aimed at promoting goods or services in the form of advertising.
2. The provisions of paragraph a) above shall not apply to public officials to perform the duties of a journalist in the media state.
3. While performing the duties specified in paragraph 1, the professional must return the title identifying the Press Council, being prevented from exercising journalistic activity.
4. Ceases as soon as the impediment cease the situation that gave rise to it, the journalist may again exercise his duties as a journalist, if re- integrate any media organization.

#### **Article 9**

#### **Affiliation**

Journalists have the right to affiliate with organizations of journalists of their choice.

### **Article 10 Rights**

1. The journalist has the right to identify with their name any work of authorship or in which he or she has collaborated.
2. The properly identified journalist has the right of access to official sources of information, taking into account administrative procedures.
3. The provisions of the preceding paragraph is subject to the exceptions provided in the law.
4. The properly identified journalist has the right of access to all events open to the public, within the performance of their duties as well as those who, although restricted access, are or may be open to all the media.
5. The journalist has the right to professional secrecy, and therefore cannot be forced to disclose their sources of information, except when so ordered by the court under the criminal procedure law.
6. The journalist cannot be compelled to express opinions or to subscribe contrary to their conscience or the Code of Ethics of Journalists, professional tasks cannot be sanctioned because of this refusal.

### **Article 11 Duties**

It is the duty of the journalist:

- a) Contribute to a free and democratic society, combating any restriction on freedom of expression, freedom of the press or any other form of restriction of the right to information for citizens;
- b) Contribute to the development of society by informing citizens in an educational, honest and responsible manner in order to promote the creation of enlightened public opinion;
- c) To defend the pluralism of opinions, ensuring the ability of expression of the different currents of opinion and respect for cultural, religious and ethnic diversity among citizens;
- d) Exercise their profession independently and exemption without other major interests beyond the right of public understanding;
- e) Always keep the personal rights of citizens, including protecting their honor, dignity and privacy, except when you are concerned, the obvious and unequivocal defense of the public interest;
- f) Respect the presumption of innocence of those targeted in legal processes until the final judgment of the courts;
- g) Carry out their activity with respect for ethical principles of the profession, complying with the rules contained in the Code of Ethics of Journalists.

### **Article 12 Code of Ethics**

Journalists and their professional organizations are responsible for the creation of a Code of Ethics, which shall lay down the rules of conduct which bind all professionals in the exercise of the activity.

## **CHAPTER IV Media**

**Article 13**  
**Media Businesses**

1. The role of media is to inform, educate and entertain contributing to an informed society and a diverse public.
2. Any Timorese citizen has freedom to be a media organization, in the form of commercial company under the law.
3. The state has the right to create media public service under the law.
4. Community radio stations have to be established by the local community through a community association in accordance with their nature and governed by law.
5. The State and its citizens are free to create news agencies for the dissemination of information at national and international level.
6. Political parties cannot create media.
7. The participation of foreign legal and natural persons in the social capital of a media organization respects the provisions on immigration.
8. The bodies of foreign media wishing to place or highlight a correspondent in Timor-Leste must request authorization from the responsible Ministry.

**Article 14**  
**Licensing**

The bodies of radio and television media operate only under license frequency, to be allocated by the National Communications Authority, with the ultimate aim of ensuring proper management of the radio spectrum.

**Article 15**  
**Formal Requirements**

1. The media must disclose its registered name and address of its registered office.
2. The organs of printed media must also contain, in the first page, the publication title, date, schedule to respect and its price as well as in any interior page of the owner, the board members, the editorial responsibility and the name and address of the registered office of the printer body.
3. The radio or television programs should refer to the identification of the authors and the editorial and technical experts.
4. The media have an obligation to preserve a copy of audiovisual materials for six months after its publication.

**Article 16**  
**Advertising**

1. The dissemination of advertising materials must respect the constitutionally enshrined values , principles and institutions.
2. Any advertising written or graphic advertising, in the form of text or image whose inclusion has been paid, shall be identified by the letters "PUB".
3. The insertion of advertising material in the media cannot undermine its editorial independence.

**CHAPTER V**  
**RIGHT OF REPLY AND CORRECTION**

**Article 17**  
**Applicable Conditions**

1. The right of reply or correction shall be exercised by the owner or legal representative within fifteen days from the date of publication or broadcast of the target response or rectification content.
2. The right of reply or correction is accomplished in the meantime, with the consent of the owner or his representative, the media outlet has corrected or clarified the content in question.
3. The text of reply or correction, properly identified, should be directed to the head of the organ of communication.
4. The reply text may not, under penalty of refusal:
  - a) exceed the scope of the references that provoked it;
  - b) spill over the boundaries of space or time the content that gave rise to it;
  - c) Contain offensive or uncivil expressions to any of the persons or entities involved.
5. The refusal must be justified by the editorial responsibility of the organ of communication and must be made known to the copyright holder the day following the day the reply text was received.
6. The text of reply or correction shall be published or broadcast in following the date of receipt edition, following the same criteria of visibility of the content that gave rise to it.
7. The refusal baseless exercise a right of reply constitutes an offense under Article 21.1(f).

**CHAPTER VI**  
**FORMS OF LIABILITY**

**Article 18**  
**Forms of liability**

By acts detrimental to the interests and values protected by law, committed through the press, the authors respond, civilly and criminally.

**Article 19**  
**Civil Liability**

1. Are jointly and severally liable for the damages they have caused in cases of publication of text, sound or image in a media organization, the author, the Director or his legal substitute and the company or media organization;
2. The right to compensation for damage caused by media lapses if their action is not brought within three years from the date on which the publication or broadcast occurred, as provided in Article 432 of the Civil Code.

**Article 20**  
**Breaches**

1. Violations of the provisions of this law that does not entail the criminal liability, and for which the Press Council has exhausted its mediation mechanisms, will be punished by the competent authority with the following fines:
  - a) \$250 to \$ 1000 USD for breach of Article 8.1;
  - b) \$ 250 to \$500 USD for breach of the provisions of Article 9;
  - c) \$ 500 to \$1500 USD compliance with the provisions of Article 11;
  - d) \$ 1000 to \$2500 USD compliance with the provisions of paragraphs 2 and 4 of Article 15;
  - e) \$ 5000 to \$25,000 for breach of the provisions of Article 16;
  - f) \$ 2500 to \$10,000 for breach of Article 17.7.

2. The allocation of revenues from the fines referred to in the preceding paragraph shall be determined in joint diploma of the Ministry of Finance and the Ministry that oversees the area of Social Communication.

### **Article 21**

#### **Attack on freedom of information**

1. Is punished with imprisonment up to two years or fine those who impede the exercise of journalistic activity.
2. The public official or agent of the State who commits assault on freedom of the press shall be punished with imprisonment up to three years or a fine.
3. An attempt is punishable.
4. The criminal liability of the offender does not affect the right to compensation under the general liability regime.

### **CHAPTER VII**

#### **PRESS COUNCIL**

### **Article 22**

#### **Composition and powers**

1. The Press Council is an independent administrative authority whose mission is the defense of the right to information and freedom of expression, defining their activities without being subject to any guidelines or directions of political power, in strict compliance with the Constitution.
2. The Press Council consists of seven members, appointed as follows:
  - a) Three journalists chosen by journalists' organizations legally established in Timor -Leste;
  - b) Two representatives of the owners of the media, chosen by them;
  - c) Two public figures of recognized merit related to the development of the media, whose career guaranteeing his tenure with the spirit of protection of press freedom, chosen by journalists and owners of media organizations.
3. The seven members of the Press Council shall elect among themselves the President.
4. The term of each member of the Press Council has a duration of four years, with possible renewal only once.
5. The Press Council has the following functions:
  - a) protecting press freedom from any influences of individuals, groups or political and economic interests;
  - b) Recognize and oversee compliance with the Code of Ethics by all journalists and media;
  - c) to maintain a database of media companies, journalists' organizations and journalists in the exercise;
  - d) recognize the professional status of journalists indicated by the media under Article 7;
  - e) To arbitrate, mediate and resolve disputes arising from the exercise of journalistic activity, the relationship between citizens, organizations, state bodies and the media;
  - f) issue opinions where the Court considers it necessary to expert opinion of the Press Council with a view to settling disputes arising out of journalistic activity;
  - g) To promote communication between the activity of media, society and state organs;

- h) Supporting organizations of journalists in the development of professional, technical and intellectual skills of journalists by conducting two aptitude tests per year.
6. The financial burden of the Press Council are assured, without prejudice to raising own revenues, for allocation to the State Budget.
7. The form of budget allocation should not affect the independence of the Press Council.

## **CHAPTER VIII TRANSITIONAL AND FINAL PROVISIONS**

### **Article 23 Prior Rights**

1. For journalists engaged in the media in Timor-Leste for longer than six years, the criteria set out in Articles 6 and 7 do not apply.
2. Under the preceding paragraph, the media must ensure the delivery of their own way of identifying every journalist, not subject to a period of apprenticeship.

### **Article 24 Transitional regime**

1. The media that do not comply with paragraphs 2 and 4 of Article 13 to the date of entry into force of this Act shall have a period of one year from that date to complete the process of regularizing their situation before the competent public authorities.
2. The media that does not comply with Article 14, the date of entry into force of this Act shall have a period of one year from this date to make a request for regularization.
3. The media that does not comply with Article 15 to the date of entry into force of this Act shall have a period of ninety days after that date to comply with the formal requirements set out.
4. Until the entry into force of the ordinance referred to in the following article and start of operation of the Press Council and the State Government with the responsibility of Social Communication temporarily perform the duties assigned to him.

### **Article 25 Regulation**

1. The Statute of the Press Council must be approved by Decree -Law, within ninety days of the entry into force of this Act.
2. The Statute of the Press Council shall determine the form of recognition of capable journalists organizations to participate in the appointment of three members who will join its Board.
3. The remaining regulations of this law will be approved by Government Decree.

### **Article 26 Entry into force**

This Law shall enter into force thirty days after its publication.

Approved by the Council of Ministers on August 6, 2013.

The Prime Minister,

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Kay Rala Xanana Gusmão