Assembleia da República (Assembly of the Republic)

Law

Approves the Radio Law, repealing Law number 4/2001, of 23 February

Pursuant to point c) of article 161 of the Constitution, the Assembleia da República (Assembly of the Republic) hereby decrees as follows:

CHAPTER I
General provisions

Article 1
Subject-matter

This law governs access to and pursuit of the radio broadcasting activity on national territory.

Article 2
Definitions

1 - For the purposes hereof the following definitions shall apply:

a) «Radio broadcasting activity» shall mean the activity pursued by legal persons consisting in the organization and supply, on a continuing basis, of radio programme services, for the purpose of their broadcast to the general public;

b) «Control» shall mean the relationship between a natural or legal person and an undertaking where, regardless of whether the permanent address or registered place of business is situated in Portugal or abroad, the former holds a dominant influence on the latter, either directly or indirectly, and in any event control shall be taken to occur where a natural or legal person:

i. holds a majority of the undertaking’s capital or of votes;

ii. controls a majority of the votes according to the shareholders’ agreement or;

iii. is entitled to appoint or dismiss a majority of the members of administrative or supervisory bodies;

c) «Chain broadcasting» shall mean the simultaneous or deferred broadcasting, either full or partial, of programmes of the same programme service by more than one operator holding a license or authorisation for the pursuit of the radio broadcasting activity;

d) «Qualification» shall mean the certificate required to pursue the radio broadcasting activity, conferred by law, license, authorization or concession;

e) «Radio operator» shall mean the entity responsible for the organization and supply of radio programme services, on a continuing basis, holding a legal qualification for the pursuit of the radio broadcasting activity;

f) «Sponsorship» shall mean the contribution granted by natural or legal persons, either public or private, other than radio operators or producers of radio works, to finance radio programme services, or their programmes, for the purpose of promoting their name, brand, image, activities or products;

g) «Own programmes» shall mean programmes composed by items selected, organized and broadcasted autonomously by the radio operator in charge of the respective programme
service, of relevance to the audience of the corresponding geographical coverage area, namely at a social, economic, scientific and cultural level;

h) «Radio» shall mean the unilateral broadcasting of audio communications, through an electronic communications network, intended for simultaneous reception by the general public;

i) «Programme service» shall mean the sequential and uniform set of programming items provided by a radio operator.

2 - Point h) of the preceding paragraph shall not apply:

a) To one-off audio communication broadcasts, through technical devices set up close to places where events they are related to are held, that are targeted at the public gathered there;

b) To broadcasts of audio communications within buildings or other enclosed areas, insofar as the use of terrestrial spectrum intended for radio broadcasting is not involved, as provided for in the Quadro Nacional de Atribuição de Frequências (National Frequency Allocation Plan);

3 - Point g) of paragraph 1 shall not apply to advertising or merely repetitive broadcasts.

Article 3

Transparency of ownership and management

1 - Shares representing the capital of radio operators constituted in the form of a public limited company shall be registered.

2 - The list of shareholders, the composition of administrative and management bodies and the person in charge of providing guidance to and monitoring broadcast contents shall be publicly disclosed in the respective media website, and updated within seven days from the occurrence of an event where:

a) A shareholder reaches or exceeds 5%, 10%, 20%, 30%, 40% or 50% of the share capital or of votes;

b) A shareholder reduces its shareholding to an amount lower than each percentage indicated in the preceding point;

c) The control held on a radio operator is subject to a change;

d) A change occurs in the composition of administrative and management bodies or in the structure in charge of providing guidance to and monitoring broadcast contents.

3 - The list referred to in the preceding paragraph shall include and duly update:

a) Shareholding percentages broken down by shareholders;

b) Identification of the full chain of entities holding at least 5% shares in operators under consideration;

c) Shares held by shareholders in other media bodies.

4 - In the absence of a website, the radio operator in charge shall notify the information and updates referred to in paragraphs 2 and 3 by way of complement to the Entidade Reguladora para a Comunicação Social, ERC (Regulatory Authority for the Media), which shall provide such data in its public access website.
5 - Paragraphs 2, 3 and 4 shall apply, duly adapted, to legal persons other than companies that pursue the radio broadcasting activity, namely associations, cooperatives or foundations.

Article 4
Competition, non-concentration and pluralism

1 - The general scheme of protection and promotion of competition shall apply to radio operators.

2 - Concentration operations between radio operators subject to the intervention of the regulatory authority for competition shall be submitted to a prior opinion of ERC, which shall be binding were grounded on a risk to free expression and exchange of different views.

3 - Natural or legal persons shall not hold, either directly or indirectly, namely though a relationship of control, a number of licenses for radio programme services on a local level exceeding 10% of all licenses granted on national territory.

4 - Natural or legal persons of private or cooperative sectors shall not hold, either directly or indirectly, namely though a relationship of control, a number of frequency modulated radio programme services on a national level equal to or exceeding 50% of programme services qualified for the same coverage area and for the same frequency band.

5 - Natural or legal persons shall not hold in the same district, metropolitan area, municipality, or, in the autonomous regions, in the same island, either directly or indirectly, namely though a relationship of control, a number of licenses for radio programme service on a local level exceeding 50% of programme services of the same scope qualified for each of the referred territorial areas.

6 - Any change in the relationship of control of operators pursuing a licensed radio broadcasting activity may only take place three years after the original license is issued, two years after the approved project is altered or one year after the last renewal, being subject to an authorization by ERC.

7 - ERC shall take a decision on the application for authorization referred to in the preceding paragraph after hearing the parties concerned, within 30 working days, following the assessment and weighing of the initial conditions based on which the qualification was granted and the interests of the potential audience of programme services provided, safeguarding the conditions that permitted the original project or subsequent alterations to be decided on.

8 - The preceding paragraphs shall apply, duly adapted, to legal persons other than companies that pursue the radio broadcasting activity, namely associations, cooperatives or foundations, being incumbent on ERC, insofar as the conditions for the operation are satisfied, to promote the respective amendments to the qualification certificate required to pursue the activity.

9 - The transfer of programme services on a local level and respective licenses or authorizations shall be permitted, according to the procedures laid down for the alteration of operator control, where it can be proved that this will promote the safeguard of the licensed or authorized project, insofar as all the property, rights and obligations, including those which are labour-related, exclusively concerned with the programme service under consideration are transferred.

10 - Without prejudice to powers granted to the national communications regulatory authority according to the regime applicable to electronic communications networks and services and to radiocommunications, the transfer referred to in the preceding paragraph is dependent on an authorization by ERC, which shall take its decision within 60 days from the application.
Article 5
Public service

The State shall guarantee the existence and operation of a public radio service, under a concessionary regime, according to chapter IV.

Article 6
Principle of cooperation

1 - The State, the public service concessionaire and other radio operators shall collaborate in the pursuit of the values of human dignity, the rule of law, democratic society and national cohesion, and in the promotion of the Portuguese language and culture.

2 - ERC shall promote and encourage the adoption of co-regulation, self-regulation and cooperation mechanisms between the various radio operators to achieve the objectives referred to in the preceding paragraph.

Article 7
Coverage areas

1 - Coverage by radio programme services may be on an international, national, regional or local level, according to whether they are intended to cover, respectively:

   a) Predominantly the territory of other countries;

   b) The national territory in general;

   c) A district or a group of neighbouring districts or a metropolitan area in the mainland, or a group of islands, in the Autonomous Regions;

   d) A municipality or a group of neighbouring municipalities and any adjacent areas, according to the technical coverage requirements, in the mainland, or an island with several municipalities, in the Autonomous Regions.

2 - The geographic area allocated to each programme service on a national level shall be covered by the same programme and recommended signal, unless otherwise authorized by determination of ERC, without prejudice to the use of additional coverage resources, where duly authorized.

3 - The determination referred to in the preceding paragraph shall establish the hourly limit of broadcast interruptions up to the maximum of two hours per day, which may be extended up to six hours per day in exceptional and duly substantiated situations.

4 - The rating of programme services as far as the coverage area is concerned shall be incumbent upon ERC and established in the license or authorization document, without prejudice to the subsequent amendment of the latter, under article 26 hereof.

Article 8
Types of radio programme services

1 - Programme services may be general or thematic, being rated in this case according to the programme’s predominant feature or to the target section of the public.

2 - General programme services are deemed to be those that present a varied programming aimed at the general public, including an informative component.
3 - Thematic programme services shall be deemed to be those that present a programming model focusing predominantly on specific radio matters or fields, such as music, information or other, or that are intended for specific sections of the public.

4 - The rating of programme services as far as programming contents are concerned shall be incumbent upon ERC and established in the license or authorization document, without prejudice to the subsequent amendment of the latter at the request of interested parties, under article 26 hereof.

Article 9
Academic programme services

1 - Frequencies reserved in the National Frequency Allocation Plan for the pursuit of the radio broadcasting activity on a local level may be used for the provision of programme services focussed on higher educational populations, by means of a joint order of members of the Government responsible for the media, communications and higher education areas.

2 - The order referred to in the preceding paragraph shall open a public tender, to which may apply bodies participated by higher educational institutes and student associations of the geographic area corresponding to the frequencies to be allocated, and shall include the respective regulation.

3 - In case it is necessary to select applications submitted to tender, ERC shall take into account, for application ranking purposes, the diversity and creativity of the project, the promotion of experimentalism and emergence of new values, the capacity to contribute towards the discussion of ideas and knowledge, as well as to encourage closer relations between academic life and local population, and also the institutional cooperation achieved between the bodies signing the project.

4 - Programme services referred to in this article shall not include any form of advertising or sponsorship, however institutional advertising related to bodies pursuing interests in the areas of education, investigation and higher education shall be permitted.

5 - Programme services licensed under this article shall not be covered by article 38 and shall only broadcast their own programmes, and for all other purposes provisions in this law governing thematic programme services on a local level shall apply thereto.

Article 10
Association of programme services

1 - Thematic programme services of the same type and specific model, where broadcasted from different districts or non-neighbouring municipalities, may join for a shared production and simultaneous broadcasting of programmes.

2 - The chain broadcasting provided for in the preceding paragraph shall not exceed six programme services in the mainland, to which two in the Autonomous Regions may be added.

3 - The association of programme services established pursuant to this article shall be identified on the air under the same name.

Article 11
Partnerships of programme services

1 - Programme services on a local or regional level may chain-broadcast programmes of other programme services of the same type.

2 - Programme services on a local level integrating a chain under the preceding paragraph shall broadcast at least eight hours of their own programmes, which may be divided into 6
broadcasting blocks at the most, between 7 a.m. and 12 a.m., according to paragraph 3 of article 32.

3 - To partnerships provided for in this article shall apply paragraph 3 of the preceding paragraph, without prejudice to compliance with point g) of paragraph 2 of article 32 during the time when the services’ own programmes are broadcasted.

**Article 12**

**Purposes of the radio broadcasting activity**

1 - The following shall be deemed as purposes of the radio broadcasting activity, according to the nature, subject-matter and coverage area of the radio programme services provided:

a) To contribute towards public information, education and entertainment;

b) To promote the right to inform and to be informed accurately and independently, without impediments or discrimination;

c) To promote citizenship and democratic participation as well as to respect political, social and cultural pluralism;

d) To spread and promote the Portuguese culture and language, as well as values that express national identity;

e) To contribute towards the production and broadcasting of programmes, including information ones, aimed to the audience of the respective coverage area.

**Article 13**

**Public incentives**

1 - The State shall organize a system of incentives to the radio broadcasting activity on a local level, which shall be provided for in a specific law, in order to ensure the possibility of expression and exchange of the different currents of public opinion.

2 - The allocation of incentives and support provided for in the preceding paragraph shall abide by the principles of publicity, objectivity, non-discrimination and proportionality, otherwise it shall not be deemed to be valid.

**Article 14**

**Technical standards**

1 - The technical conditions under which the radio broadcasting activity may be pursued and fees for the allocation of broadcasting rights or use of broadcasting resources shall be provided for in rules governing electronic communications.

2 - Rules referred to in the preceding paragraph shall set out the procedures according to which, where improvement of the technical coverage quality of licensed programme services is required, it is possible to request the use of relay stations and the location of the respective broadcasting station outside municipalities concerning which a license is held.

**CHAPTER II**

**Access to the activity**

**Article 15**

**Requirements for operators**
1 - The radio broadcasting activity consisting in the organization of general or thematic information programme services on an international, national or regional level shall only be pursued, under this law, by legal bodies whose main purpose is to perform such activity.

2 - The radio broadcasting activity consisting in the organization of general or thematic information programme services on a local level shall only be pursued, under this law, by legal bodies whose main purpose is to perform media activities.

3 - The preceding paragraphs shall not apply to associations or foundations pursuing humanitarian, educational, cultural, scientific or teaching goals, where the respective programme services significantly contribute to enhancing such activities.

4 - Longwave and shortwave radio broadcasting activity shall only be pursued by the public radio service concessionaire, without prejudice to pursue of such activity by other operators legally qualified for the purpose at the date this law takes effect.

**Article 16**

**Restrictions**

1 - The radio broadcasting activity shall not be pursued or financed, either directly or indirectly, by political parties or associations, trade unions, employer or professional organisations, or public professional associations, unless such activity is exclusively performed through the Internet and consists of the organization of doctrinarian, institutional or scientific programme services.

2 - Without prejudice to article 5, the radio broadcasting activity shall not be pursued by the State, Autonomous Regions, local authorities or their associations, either directly or through public institutes, public state or regional companies, municipal, inter-municipal or metropolitan companies, unless such activity is exclusively performed through the Internet and consists of the organization of institutional or scientific programme services.

**Article 17**

**Types of access**

1 - Access to the radio broadcasting activity shall be conditional upon issue of a licence, by means of public tender, or of an authorization, according to whether programme services to be provided use or not the terrestrial broadcast spectrum, under the National Frequency Allocation Plan, safeguarded the rights previously acquired by duly qualified operators.

2 - Broadcast licenses or authorizations shall be granted on an individual basis, according to the number of programme services to be provided by each operator.

3 - The radio broadcasting activity consisting in the broadcast of programme services exclusively through the Internet does not require prior qualification, being subject only to registration, pursuant to article 24.

4 - The broadcast of new programme services by the public service concessionaire shall be authorized by order of the member of the Government in charge of the media area or, where the terrestrial broadcast spectrum is used, under the National Frequency Allocation Plan, by joint order of such member and the member of the Government in charge of the communications area.

**Article 18**

**Frequency planning**

The planning of the radio spectrum for pursue of the radio broadcasting activity shall be incumbent on the national communications regulatory authority, having heard the views of ERC.
Article 19
Public tender

1 - The public tender for licensing the radio broadcasting activity and for allocation of the corresponding rights of use for frequencies shall be launched by a joint administrative rule of members of the Government in charge of the media and communications areas, which shall include the respective subject-matter and regulation.

2 - The regulation shall identify the conditions under which applications are eligible, as well as documents to be attached, to allow the assessment of compliance of applicants and projects with legal and regulatory requirements, namely:

   a) Requirements for operators and restrictions to the pursuit of the activity;

   b) Rules on pluralism and non-concentration of media ownership;

   c) Correspondence between projects and the scope of the tender;

   d) Economic and financial feasibility of projects;

   e) Coverage obligations and respective scheduling;

   f) Sufficiency of human and technical resources to be assigned;

   g) Evidence of compliance with tax and social security obligations, unless exemption from this requirement is granted pursuant to Decree-Law number 114/2007, of 19 April.

3 - Where general radio programme services are concerned, applications submitted to tender shall be ranked according to the following criteria:

   a) The contribution of each project towards the improvement of the radio offer in the area to be covered, which shall be weighed according to the guarantees of protection of pluralism, non-concentration and independence from political and economic powers, to the emphasis on information and to the safeguard of rights granted in the Constitution to journalists;

   b) The contribution of each project towards the diversification of the radio offer in the area to be covered, which shall be weighed according to its originality, enhancement of innovation and creativity;

   c) The contribution of each project towards the dissemination and promotion of Portuguese culture, language and music;

   d) The investment in professional training and qualification;

   e) The quality and technical efficiency of the project, which shall be weighed according to the proposed coverage index, to how fast the network is set up and how it is scheduled, to its reliability and to how broadcasting stations are interconnected.

4 - Where thematic programme services are concerned, applications submitted to tender shall be ranked according to criteria laid down in the preceding paragraph, where appropriate.

5 - The criteria provided for in point e) of paragraph 3 shall not apply, for ranking purposes, to the public tender for licensing the radio broadcasting activity on a local level.

6 - The regulation shall develop criteria for the ranking of tender applications and assign a relative weight thereto.
7 - Applications to the public tender for radio programme services on a national and regional level shall be assessed by regulatory bodies according to the respective powers.

8 - Applications to the public tender for radio programme services on a local level shall be assessed by ERC.

9 - The regulation shall lay down the security amount and the respective release scheme according to principles of appropriateness and proportionality relatively to the compliance with obligations aimed to be safeguarded, taking into account the type and coverage area of programme services to be licensed.

10 - The specifications shall define the conditions for pursuing the activity, and shall be available from the date the administrative rule referred to in paragraph 1 is published until the date and time the corresponding public act is opened, under the terms defined therein.

11 - ERC and the national communications regulatory authority must provide a previous opinion on the tender's subject-matter, regulation and specifications, within 20 working days from reception thereof.

12 - After the expiry of the deadline referred to in the preceding paragraph, the draft administrative rule shall be submitted to public comment, for a 30-day period, being published for this purpose in websites of the incumbent government offices.

Article 20

Public tender via digital platforms

The conditions for licensing the radio broadcasting activity via digital platforms where various programme services are supported on the same radio signal shall be governed by specific legislation.

Article 21

Authorizations

Applications for authorization to pursue the radio broadcasting activity shall be addressed to ERC attaching the following particulars:

a) Instrument of constitution or bylaws of the applicant and code of access to the tenderer's permanent certificate or an up-to-date extract from the trade register;

b) Name, type and description of the programme service to be authorized;

c) Editorial status;

d) Description of human and technical resources to be assigned to the project;

e) Evidence of applicant's compliance with tax and social security obligations, or permission granted to ERC to consult its tax and social security situation, as provided for in the law.

Article 22

Examination of tenders

1 - License allocation applications referred to in paragraph 7 of article 19 shall be examined by ERC, which shall submit them to the national communications regulatory authority for a decision on the eligibility and tender ranking conditions for which the latter is competent.

2 - License or authorisation allocation applications referred to in paragraph 8 of article 19 and article 21 shall be examined by ERC, which shall obtain for this purpose an opinion from the national communications regulatory authority on the technical conditions of tenders.
3 - The opinion referred to in the preceding paragraph has a binding nature and shall be issued within 15 days.

4 - ERC shall notify tenderers of any insufficiencies observed in the respective applications, which shall be corrected within the following 15 days.

5 - License allocation applications which fail to meet the eligibility conditions provided for in the administrative rule opening the tender and in the respective regulation shall be rejected by the competent regulatory bodies, by means of a reasoned decision.

6 - Applications deemed to be eligible shall be the object of a decision on whether to grant the requested qualifying documents within 90 days, where a license allocation procedure is concerned, or 15 days, where an authorization allocation procedure is concerned.

7 - Applications on transfer of licenses referred to in paragraph 9 of article 4 shall be examined by ERC, which shall submit them to the national communications regulatory authority for a decision on the transfer of the respective rights of use for frequencies, according to the regime applicable to electronic communications networks and services and to radiocommunications.

8 - Applications referred to in the preceding paragraph shall be the object of a reasoned decision by the competent regulatory bodies, which in ERC's case shall be issued within 45 days from notification of the decision taken by the national communications regulatory authority.

Article 23
Granting of licenses or authorizations

1 - It is incumbent upon ERC to grant, renew, alter or repeal licenses or authorizations to pursue the radio broadcasting activity.

2 - The decisions on whether to grant licenses or authorizations shall be duly reasoned by reference to the fulfilment of eligibility conditions and each of the ranking criteria, as well as to issues raised in a hearing of parties concerned.

3 - The decision to grant an authorization may only be rejected by ERC, in a substantiated decision, where the following issues are at stake:

   a) Compliance of operators and respective projects with applicable legal obligations;

   b) Technical reliability of the project submitted;

   c) Compliance of the applicant with its tax and social security obligations.

4 - The decisions to grant licenses or authorizations shall also specify the binding purposes, obligations and conditions that fall on licensed or authorized operators and respective programme services, being notified to parties concerned and made available at ERC's website.

5 - The radio broadcasting activity qualifying documents shall include the holder's identification and its registered office location, the ranking and name of the respective programme services and the coverage area.

6 - The model of qualifying documents referred to in the preceding paragraph shall be approved by ERC.

7 - It is incumbent upon the national communications regulatory authority to grant, renew, alter or repeal the qualifying document conferring rights of use for frequencies for the provision of radio programme services, pursuant to Law no. 5/2004, of 10 February, as

Article 24
Operator registration

1 - It is incumbent upon ERC to organize the registration of radio operators as well as of the respective programme services, in order to make their ownership, organization, operation and obligations public, as well as to protect their name.

2 - ERC shall carry out of its own motion the registration and endorsements that result from its licensing and authorization activity.

3 - Radio operators must provide ERC with all particulars necessary for registration purposes, as well as update them, as defined in Regulatory Decree number 8/99, of 9 June, as amended by Regulatory Decrees number 7/2008 of 27 February and 2/2009, of 27 January.

4 - The monitoring of legal compliance with registration particulars is governed by procedures provided for in ERC's Statutes, approved by Law number 53/2005, of 8 November.

Article 25
Start of broadcasts

1 - Radio operators shall start broadcasting licensed or authorized programme services within six months from the date of the final decision granting the corresponding qualifying documents.

2 - As regards the tender referred to in article 19, and where programme services on a national or regional level are concerned, the coverage obligations and respective schedule shall be set out in the tender regulation.

Article 26
Compliance with the licensed or authorized project

1 - The radio operator must comply with the conditions and terms of the licensed or authorized programme service.

2 - Any alteration to the project shall be subject to the express approval by ERC and may only take place:

a) One year after the authorization has been granted or the respective programme service has been transferred;

b) Two years after the licence has been granted or the respective programme service has been transferred, or after the approval of the previous alteration.

3 - The request for alteration shall be justified, taking into account, more specifically, the market technological development and the implications for the potential listeners of the programme service under consideration.

4 - ERC shall decide within 60 days from the date of the application for alteration, taking into account its impact on the radio offer diversity and pluralism in the respective geographic area of coverage and the safeguard of local news.

5 - The alteration of licensed or authorized projects may cover the change in the respective programme contents ranking.
6 - Radio operators with authorized programme services may also request the alteration of the respective coverage area ranking, pursuant to the preceding paragraphs.

**Article 27**

**Term of licences or authorizations**

1 - Licences or authorizations to pursue the radio broadcasting activity shall be issued for a 15-year-term, subsequently renewable for similar periods of time.

2 - The application for renewal of licenses or authorizations shall be submitted to ERC 240 to 180 days prior to the expiry of the respective term.

3 - ERC shall decide on the renewal of licenses or authorizations up to 90 days prior to the expiry of the respective term.

4 - The renewal of licenses or authorizations shall be granted where ERC, in the scope of its continuous regulatory and monitoring activity, acknowledges compliance of radio operators and respective programme services with their legal obligations, namely tax and social security obligations.

**Article 28**

**Extinction and suspension of licenses or authorizations**

1 - Licences or authorizations shall cease to exist on expiry of their term or where they are repealed, under the law.

2 - Licences and authorizations may be suspended in the situations and for the purposes of article 70 and repealed according to article 73.

3 - The repeal and suspension of licenses or authorizations are incumbent on ERC.

**CHAPTER III**

**Programming**

**SECTION I**

**Programming and information freedom**

**Article 29**

**Autonomy of operators**

1 - The freedom of expression of opinion through the radio broadcasting activity integrates the fundamental right of citizens to free and pluralistic information, essential to democracy and to the social and economic development of the country.

2 - Save for cases provided for herein, the radio broadcasting activity is based on programming freedom and neither the Public Administration nor any sovereign body, with the exception of the courts of law, shall prevent, limit or impose the broadcast of any programmes.

**Article 30**

**Restrictions to the programming freedom**

1 - Radio programmes shall respect the dignity of the human being as well as fundamental rights, freedoms ad guarantees.

2 - Radio programme services shall not incite, through broadcasted programme elements, hatred on grounds of a racial, religious or politic nature, or based on colour, ethnic or national origin, sex or sexual orientation.
3 - Radio operators shall not allow political propaganda airtime in any way, without prejudice to provisions in this law on the right to airtime.

**Article 31**

**Right to information**

1 - Access for reporting purposes to premises open to the public shall be governed by the Statute of the Journalist, approved by Law Number 1/99 of 13 January, as amended by Law number 64/2007 of 6 November.

2 - Radio reports of any events shall be subject to legal provisions on copyright and related rights, including provisions on the free use of protected works or subject-matter.

3 - Holders of rights arising from the organisation of shows or other public events shall not oppose to the radio broadcasting of brief extracts for the purpose of providing information on the essential contents of events under consideration.

4 - The exercise of the right to information on sports, namely through radio reports or comments, shall not be limited or constrained by requirements for financial compensation, except for those merely intended to bear the costs arising from the provision of technical and human resources specifically requested for the purpose by the operator.

5 - The provision on the preceding paragraph shall apply to non-Community operators, insofar as national operators receive equal treatment by legislation or authorities to which the former are subject, in sports events of a similar nature.

6 - Conflicts arising from paragraphs 3 and 4 hereof shall be settled on an urgent basis by ERC, whose decision shall be binding.

**SECTION II**

**Operators' obligations**

**Article 32**

**General obligations of radio operators**

1 - All radio operators shall guarantee in their programming, namely by means of self-regulatory practices, the respect for broadcasting ethics, particularly with regard to respect for the human dignity, fundamental rights and other constitutional values, specially the development of personality of children and adolescents.

2 - The following shall be deemed to be general obligations for all radio operators in each of their programme services:

a) To ensure the broadcasting of a diversified programming, including regular information slots;

b) To guarantee programming and information that are independent from political and economic powers;

c) To guarantee information that observes pluralism, accurateness and independence;

d) To guarantee the right of reply and of rectification as provided for in the Constitution and in the law;

e) To ensure the right to airtime during electoral periods, as provided for in the Constitution and in the law;
f) To guarantee the broadcasting of programmes that promote Portuguese culture, language and music;


g) To guarantee the identification on the air of programme services.

3 - General or thematic information programme services on a local level shall also broadcast programmes, including information programmes, of relevance to listeners of the corresponding geographical coverage area, namely at a social, economic, scientific and cultural level.

4 - Points a), c) and e) of paragraph 2, where applied to thematic programmes, shall take into account their specific programming model.

Article 33
Editorial responsibility and autonomy

1 - Every programme service shall have a person responsible for guiding and monitoring broadcast contents.

2 - Every programme service which includes information programming shall have a head of information.

3 - The appointment and dismissal of the head of information shall be incumbent on the radio operator, having heard the editorial board.

4 - The prior hearing of the editorial board may be waived as regards the appointment of the first head of information for each programme service and for programme services of a doctrinal or religious nature.

5 - The position of head of information shall be occupied with editorial autonomy, the radio operator being prevented from interfering in the production of information contents, as well as in the manner such contents are reported.

6 - Guidance provided with the sole intent of pursuing compliance with legal provisions, non-compliance with which determines the criminal or administrative liability of the radio operator, shall be excepted from the preceding paragraph.

Article 34
Editorial statute

1 - Every programme service shall adopt an editorial statute that shall define clearly and in detail its orientation and objectives, including the commitment to respect the rights of listeners, professional ethics, as well as the deontological principles of journalists, where appropriate.

2 - The editorial statute shall be drawn up by the persons in charge referred to in the preceding article, having heard the editorial board, where appropriate, subject to the approval of the owner, and shall be submitted to ERC no more than 60 days after the date of the first broadcast.

3 - The procedure laid down in the preceding paragraph shall apply to any amendments to the editorial statute.

4 - As regards programme services which have already stated broadcasting without submitting to ERC their editorial statute, the period referred to in paragraph 2 shall run from the date this law takes effect.

5 - The editorial statute of radio programme services shall be made publicly available by any appropriate means, especially in the respective websites.
Article 35
News services

Radio operators that provide general or thematic information programme services shall produce and broadcast at least three news services on a regular and daily basis, between 7 a.m. and 12 a.m.

Article 36
Professional qualification

1 - Managerial, coordination and editorial duties, as well as news services, must be guaranteed by journalists or alike.

2 - As regards programme services on a local level, editorial duties as well as news services may also be guaranteed by information staff duly accredited pursuant to the Statute of the Journalist, approved by Law Number 1/99 of 13 January, as amended by Law number 64/2007 of 6 November, and to Decree-Law number 70/2008, of 15 April, insofar as the work produced by the latter does not exceed half the daily information airtime.

Article 37
Own programmes

1 - Radio programme services shall be provided with their own programmes, except where specifically provided for otherwise in this law.

2 - Programme services shall indicate their name and broadcasting frequency at least once every hour and wherever a segment of their own programmes restarts.

Article 38
Number of broadcasting hours

Terrestrial programme services shall broadcast 24 hours a day.

Article 39
Recording and registration of broadcasts

1 - Broadcasts shall be recorded and stored for at least 30 days, if a longer period is not determined by law or court decision.

2 - Radio operators shall submit to bodies representing authors, producers, artists and performers, where requested sufficiently in advance by the latter, the monthly list of works and phonograms broadcasted in the respective programme services, specifically indicating the title of the work, the performer and where appropriate, the respective producer and date of broadcasting.

Article 40
Advertising and sponsorship

1 - Radio advertising shall be governed by provisions of the Advertising Code, in accordance with the particulars set out in the following paragraphs.

2 - The inclusion of advertising shall not affect the integrity of programmes, and shall take account of its breaks, duration and nature.

3 - The broadcasting of advertising material shall not exceed 20% of the total licensed programme services airtime.
4 - Sponsored programme slots must make explicit reference to this fact at the beginning of the programme.

5 - The contents and programming of a sponsored broadcast shall not be influenced by the sponsor in any way, so as to affect the responsibility and editorial independence of the radio operator or respective heads.

6 - Contents of sponsored programmes shall not instigate the purchase or lease of goods or services from the sponsors or third parties, namely by making specific advertising references to such goods or services.

7 - News services and current affairs programmes shall not be sponsored.

SECTION III
Portuguese music

Article 41
Broadcast of Portuguese music

1 - The music programming of radio programme services must include Portuguese music with a minimum quota ranging from 25% to 40%.

2 - For the purposes hereof, the following music compositions are deemed to be Portuguese music:

a) Compositions in Portuguese or that reflect the Portuguese cultural heritage, namely drawing inspiration from its typical traditions, environments or sonorities, whatever the nationality of their authors or performers; or

b) Compositions that, despite not in Portuguese for reasons attached to the nature of the music genres performed, represent a contribution to the Portuguese culture.

Article 42
Public service broadcasting quotas

Portuguese music quotas by which public radio broadcasting service must abide shall be established in the respective concession contract, the broadcasting percentage for the first programme service not being lower than 60% of the total music broadcasted therein.

Article 43
Music in Portuguese

The quota of Portuguese music established pursuant to paragraph 1 of article 41 must include at least 60% of music composed or performed in Portuguese by citizens of Member States of the European Union.

Article 44
Recent music

1 - The quota of Portuguese music established pursuant to paragraph 1 of article 41 must include at least 35% of music the 1st phonographic edition or public broadcast of which occurred within the previous 12 months.

2 - The preceding paragraph shall not apply to programme service exclusively dedicated to the broadcasting of phonograms published for more than one year.
3 - For the purpose of monitoring compliance with paragraph 1 hereof, authors, publishing houses or other bodies must notify ERC, on the date Portuguese music works are publicly made available, of this fact.

**Article 45**

**Exceptions**

1 - The regime established in this section does not apply to thematic music programme services the specific programming model of which is based on the broadcasting of music genres insufficiently produced in Portugal.

2 - The specification of programme services comprised by paragraph 1 is incumbent upon ERC, which shall make publicly available the criteria governing the respective qualification.

**Article 46**

**Regulations**

It is incumbent upon the Government, having heard the representative bodies of sectors involved and taking into consideration available indicators on matters concerning the demand for Portuguese music in the national recording industry, to establish by means of an administrative rule, for one-year periods, the broadcasting quotas provided for in paragraph 1 of article 41.

**Article 47**

**Calculation of percentages**

1 - For monitoring purposes, percentages provided for in this section shall be calculated on a monthly basis, taking into account the number of compositions broadcasted by each programme service in the previous month.

2 - Percentages referred to in the present section shall be similarly complied with in programmes broadcasted between 7 a.m. and 8 p.m.

**CHAPTER IV**

**Public service**

**Article 48**

**Principles**

1 - The structure and operation of the public radio service operator shall safeguard its independence from the Government, Public Administration and other public authorities, as well as ensure the expression and discussion of various strands of opinion.

2 - The public radio service shall uphold the principles of universality and national cohesion, diversification, programming excellence and indivisibility, pluralism and accuracy, information independence, as well as the principle of innovation.

**Article 49**

**Specific obligations of the public radio service concessionaire**

1 - The public radio service concessionaire shall present, according to the principles laid down in the preceding article, programmes that promote the cultural and civic education of listeners, ensuring that all persons have access to information, education and quality entertainment.

2 - In particular, the concessionaire is responsible for:
a) Providing varied and comprehensive programmes aimed for and accessible to all members of the population, that promote cultural diversity and take into account the interests of minority groups;

b) Promoting and disclosing national artistic creation and awareness of the Portuguese historic and cultural heritage, ensuring public access to national cultural events and the appropriate information coverage thereof;

c) Providing independent, accurate, pluralist and context-related information, that ensures news coverage of the main national and international events;

d) Ensuring the production and broadcasting of educational and entertainment programmes intended for young people and children, contributing to their education;

e) Ensuring the broadcasting of cultural, educational and information programmes for specific target groups, including those of the different immigrant communities in Portugal;

f) Taking part in media educational activities, namely ensuring the broadcasting of programmes targeted at this objective;

g) Promoting the broadcasting of Portuguese music, of various genres, taking into consideration assignments of its programme services;

h) Broadcasting regular programmes focused on the spread of the Portuguese language and culture, intended especially for Portuguese people resident outside Portugal and for nationals of other Portuguese-speaking countries;

i) Guaranteeing the right to airtime time, of reply and of political response, under the Constitution and the law;

j) Ensuring the broadcasting of messages as requested by the President of the Republic, the President of the Assembly of the Republic or the Prime Minister, and as regards regional broadcasts especially intended for the Autonomous Regions of the Azores and Madeira, by the presidents of the respective Legislative Assemblies and Regional Governments;

l) Allowing airtime to the Public Administration, for the disclosure of information of general interest, particularly in matters of public health, civil protection and public safety;

m) Keeping and updating audio recordings;

n) Ensuring that a collection representing the evolution of the radio environment is kept, updated and made publicly available, according to applicable museum-related principles and standards, under the concession contract;

o) Developing cooperation with radio operators of Portuguese-speaking countries;

p) Providing for the establishment of exchanges and cooperation relationships with radio broadcasting international organizations and foreign bodies.

Article 50
Concession of the public radio service

1 - The public radio service shall be provided through broadcasting means and technologies that best ensure full coverage of the territory and fulfilment of citizens' information, educational, cultural and entertainment needs.

2 - The concession of the public radio service shall be granted to Rádio e Televisão de Portugal for a 15-year period, under the terms of the concession contract to be concluded between the State and the concessionaire.
3 - The concession contract shall establish, according with this chapter, the rights and obligations of parties, defining the objectives to be pursued and qualitative and quantitative criteria to achieve them, as well as forms of assessment.

4 - The concession contract shall define the programme services and additional means required to pursue the public service, as well as the respective assignments, ensuring an innovative and quality programming, that takes into account the public at large and its various segments, among which the young public, paying specific attention to information, culture, classical music and knowledge.

5 - The concession contract shall also establish commercial advertising restrictions applicable to the public radio service.

6 - The objective of international broadcasts shall be, taking into account national interests as regards the connection to Portuguese communities throughout the world or the cooperation with Portuguese-speaking countries, the affirmation, enhancement and protection of the Portuguese language and of Portugal's image in the world.

7 - Broadcasts on a regional level especially intended for the Autonomous Regions of the Azores and Madeira shall take due account of the respective social and cultural realities and encourage regional production.

8 - The concession contract shall be subject to ERC's opinion, under the respective Statutes, approved by Law number 53/2005, of 8 November.

9 - The concession contracts shall be reviewed every four years, without prejudice to any amendments deemed necessary in the meantime.

10 - The review process referred to in the preceding paragraph shall take into consideration the assessment of compliance with the public service and weight the need for a public consultation on the targets and reference criteria for the following four-year period.

**Article 51**

**Performance financing and monitoring**

1 - The State shall ensure the financing of the public radio service and shall safeguard the appropriate implementation thereof, pursuant to Law number 30/2003, of 22 August, as amended by Decree-Laws number 169-A/2005, of 3 October, 230/2007, of 14 June, and 107/2010, of 13 October, which approves the financing model of the public television and radio service.

2 - Public financing shall abide by the principles of proportionality and transparency.

3 - The concession contract shall establish a control system for assessing compliance with public service assignments, and transparency and proportionality of associated financial flows.

4 - The public radio service concessionaire shall be subject to an annual audit promoted by ERC, which shall assess the proper performance of the concession contract.

**CHAPTER V**

**Rights to airtime, of political response, of reply, and of rectification**

**SECTION I**

**General provision**

**Article 52**

**Airtime counting**
Radio operators shall ensure the counting of airtime, of political response time, of reply time and of rectification time for the purposes of this chapter, making the respective results available to interested parties.

SECTION II
Right to airtime

Article 53
Access to the right to airtime

1 - Political parties, trade unions, professional organisations and bodies representing economic activities, environmental and consumer protection associations, as well as non-governmental organizations promoting equality of opportunity and non-discrimination, shall be guaranteed the right to airtime on the public radio service.

2 - Airtime shall mean a programme slot for which the right holder is responsible, a fact that shall be explicitly mentioned at the beginning and at the end of each programme.

3 - Entities referred to in paragraph 1 shall be entitled on an annual basis to the following free airtime:

   a) Ten minutes per party represented in the Assembly of the Republic, or in Legislative Assemblies of the Autonomous Regions, plus fifteen seconds per elected member;

   b) Five minutes per party not represented in the Assembly of the Republic, or in Legislative Assemblies of the Autonomous Regions, that participated in the most recent national elections, plus fifteen seconds for each 15,000 votes obtained in the elections;

   c) Sixty minutes, per category, for trade unions, professional organisations and bodies representing economic activities, and sixty minutes for other bodies indicated in paragraph 1, to be divided according to their representation;

   d) Ten minutes for other bodies entitled by law to airtime.

4 - As regards the Autonomous Regions, the right to airtime referred to in the preceding paragraph shall be exercised by parties that participated in Legislative Assembly elections in programme services specially intended for the respective Region.

5 - Each right holder may not exercise the right to airtime more than once every 15 days, nor in programmes that last more than five minutes or less than two minutes, unless their overall airtime is lower.

6 - Persons in charge of programmes shall organise general plans for the use of the right to airtime, in collaboration with holders thereof and in compliance with this law.

7 - In the irremediable absence of an agreement on the plans referred to in the preceding paragraph, and at the request of parties concerned, ERC shall arbitrate.

Article 54
Limitation of the right to airtime

1 - The right to airtime shall not be exercised on Saturdays, Sundays and national public holidays, and shall also be suspended a month before the date established for the beginning of an electoral or referendum campaign, under the respective legislation.

2 - The right to airtime is non-transferable.
Article 55
Broadcast and reservation of the right to airtime

1 - Airtimes shall be broadcasted in national programme services with a major audience between 10.00 p.m. and 8.00 p.m.

2 - Holders of the right to airtime may request the reservation of the airtime to which they are entitled up to 48 hours prior to the broadcast, and the respective recording should be carried out or pre-recorded materials should be submitted up to 24 hours prior to the broadcast of the programme.

3 - Holders of the right to airtime shall be provided, on absolutely equal terms, with the indispensable technical means required for the production of their respective programmes.

Article 56
Forfeit of the right to airtime

Failure to comply with time-limits provided for in the preceding article shall result in the forfeit of the right, unless it is due to a fact for which the right holder is not responsible, in which case the unused airtime may be added to the next program scheduled to take place after the removal of the cause of non-compliance with the time limit.

Article 57
Right to airtime during election-time

During election-time, the use of the right to airtime shall be governed by electoral law.

SECTION III
Right of political response

Article 58
Right of political response of opposition parties

1 - Parties represented in the Assembly of the Republic that are not part of the Government are entitled to respond, in the public radio service and in the same program service, to political statements made by the Government directly aimed at them.

2 - The duration and emphasis granted to exercise the right mentioned in the preceding paragraph shall be the same as for the original statements that gave rise to the response.

3 - Where more than one party has requested to exercise the right, through the respective representative, the time shall be divided in equal parts among the various right holders, each participant being entitled to at least one minute.

4 - The procedures provided for in the present law for the exercise of the right of reply shall apply to the right of political response, duly adapted.

5 - For the purposes of this article, only declarations on general or sector policies made by the Government in its name and identified as such shall be considered, and thus statements made by members of the Government on matters relating to the management of their respective offices do not fall within this scope.

6 - Provisions of the preceding paragraphs shall apply, in the scope of programme services especially intended for the Autonomous Regions, to the right of political response of parties represented in Regional Legislative Assemblies that are not part of the respective Regional Governments.
SECTION IV
Rights of reply and of rectification

Article 59
Premises of the rights of reply and of rectification

1 - Any natural or legal person, organisation, public service or body that has been referred to, even indirectly, in radio programme services in such a way as to affect its reputation or good name, is entitled to reply therein.

2 - Entities mentioned in the preceding paragraph are entitled to make rectifications in radio programme services where untrue or wrong references concerning them have been made therein.

3 - Where the programme where references mentioned in the preceding paragraph has been used in a chain broadcast, the rights of reply and of rectification may be exercised before the body responsible for that broadcast or any operator that broadcasted it.

4 - The right of reply and of rectification shall be prejudiced where the person responsible for the respective programme service has corrected or clarified the text under consideration with the explicit agreement of the interested party, or has provided thereto another means of effectively outlining its views.

5 - The rights of reply and of rectification shall be without prejudice to the possibility of taking criminal action, as well as to the right to compensation for damages suffered.

Article 60
Right to hear the broadcast

1 - The holder of the rights of reply and of rectification, or his legitimate representative pursuant to paragraph 1 of the following article, may demand to hear the broadcast record or a copy thereof, in order to exercise his right, paying for the respective medium costs, which must be provided thereto at the most within a 24-hour or 48-hour period, depending on whether the request is made on a working day.

2 - The request for hearing suspends the deadline for the exercise of the right, which shall restart 24 hours after the provision of the broadcast recording.

Article 61
Exercise of the rights of reply and of rectification

1 - The rights of reply and of rectification shall be exercised by the holder thereof, his legal representative or his heirs, within 20 days following the broadcast.

2 - The time-limit in the preceding paragraph shall be suspended where, for reasons of force majeure, the persons referred to therein are prevented from exercising the right under consideration.

3 - The reply or rectification text must be submitted to those in charge of the broadcast, bearing the signature and identification of its author, against proof of receipt, expressly invoking the right of reply and of rectification or the relevant legal provisions.

4 - The contents of the reply or rectification shall be limited by the direct and useful relation to the references that gave rise to them, and shall not exceed 300 words, or the number of words of the intervention that gave rise to them, if higher.

5 - The reply or rectification shall not include any words that are disproportionately uncivil or that involve criminal or civil liability, for which only the author of the reply or rectification shall be accountable.
Article 62
Decision on the broadcast of the reply or rectification

1 - Where the reply or rectification are ill-timed, are provided by a person who is not entitled to it, are clearly unjustified or fail to comply with the provisions of paragraphs 4 and 5 of the preceding article, the person in charge of the programme service concerned may refuse its broadcast, and shall inform in writing the interested party of the refusal and respective grounds, within 24 hours from reception of the reply or rectification.

2 - Where the reply or rectification fail to comply with the provisions of paragraphs 4 and 5 of the preceding article, the person in charge shall request the interested party, within the time-limit set out in the preceding paragraph, to remove the parts or words under consideration within 48 hours, failing which the person in charge shall be entitled to refuse the broadcast of the whole text.

3 - Where the right of reply or of rectification have not been fulfilled or have been unjustifiably refused, the interested party may bring the matter to the judicial court in the area of his residence, within 10 days from refusal or expiry of the legal deadline for the fulfilment of the right, or to ERC, under provisions that apply specifically hereto.

4 - Following the request for legal notification of the person in charge of the programming who has not fulfilled the right of reply or of rectification, that person shall be immediately notified by post to challenge the claim within a period of two working days, following which a decision shall be issued within the same period, which may be subject to appeal with a simple devolutive effect.

5 - Only documentary evidence shall be allowed, and all documents shall be attached to the initial claim and challenge.

6 - Where the claim is upheld, the programme service shall broadcast the reply or rectification within the time-limit laid down in paragraph 1 of the following article, along with the mention that the broadcast is being carried out following a court decision or a decision taken by ERC.

Article 63
Broadcast of the reply or rectification

1 - The broadcast of the reply or rectification shall take place within 24 hours from reception of the respective text by the person in charge of the programme service concerned, except as provided for in paragraphs 1 and 2 of the preceding article.

2 - The reply or rectification shall be broadcasted for free in the same programme or, where this is not possible, during an equivalent airtime.

3 - The reply or rectification shall be broadcasted as often as the programmes containing the reference that gave rise to them.

4 - The reply or rectification shall read by a news reader of the programme service in a format that ensures it is easily understood and may include other audio components where the reference that gave rise to them used similar techniques.

5 - The broadcast of the reply or rectification may not be preceded nor followed by any comments whatsoever, except for those necessary to indicate any factual inaccuracy or error, which may give rise to a new reply or rectification, under paragraphs 1 and 2 of article 59.

CHAPTER VI
Penal provisions
SECTION I
Forms of liability

Article 64
Civil liability

1 - The general regime shall govern the determination of conditions under which civil liability resulting from facts committed through the radio broadcasting activity may be incurred.

2 - Radio operators shall be jointly liable with those responsible for the broadcasting of previously recorded materials, except for those broadcasted under the right to airtime, of political response, of reply or of rectification, or in the course of interviews or debates in which persons that are not contractually related to the operator participate.

Article 65
Criminal liability

1 - Acts or behaviours perpetrated through radio broadcasting adversely affecting legally-protected interests shall be liable under penal law and provisions of this law.

2 - Persons in charge referred to in article 33 shall be criminally liable where they do not oppose, if this is possible, the perpetration of crimes referred to in paragraph 1, by means of an appropriate action to avoid them, in which case penalties stipulated in corresponding legal categories shall apply with the respective limits reduced by a third.

3 - Liability for properly reproduced statements or opinions provided by duly identified persons shall fall solely on the latter, except where the respective contents represent an incitement to hatred on grounds of a racial nature, religion, politics, skin colour, ethnic or national origin, sex or sexual orientation, or to the perpetration of a crime, and the respective broadcasting may not be justified by journalistic criteria.

4 - Where unauthorized broadcasts are concerned, the person responsible for ordering the respective broadcast shall be held liable.

5 - The technical staff working for radio operators shall not be liable for the broadcasts to which they have provided their professional services, where they are not required to be aware of the criminal nature of their act.

Article 66
Illegal radio broadcasting activity

1 - Whoever pursues the radio broadcasting activity failing to hold the corresponding qualification shall be liable to a term of imprisonment of up to 3 years or a fine up to 320 days.

2 - All assets used in illegal radio broadcasting activity shall be forfeited to the State, without prejudice to the rights of third parties who acted in good faith.

3 - Paragraph 1 shall apply specifically in the following situations:

a) Pursue of the activity by an entity other than a license or authorization holder;

b) Failure to comply with the decision to revoke a licence.

Article 67
Qualified disobedience
1 - The person in charge for the programming, or whoever replaces him, shall be liable for the crime of qualified disobedience where:

a) A court decision ordering the broadcast of a reply or rectification, pursuant to paragraph 6 of article 62, is not complied with;

b) The broadcast of court decisions in the precise terms referred to in article 82 is not promoted;

c) The determinations of ERC regarding the exercise of the right to airtime, of political response, of reply or of rectification are not complied with.

**Article 68**

**Undermining programming and information freedom**

1 - Whoever prevents or disturbs the broadcast of radio programme services or seizes or damages the material required to pursue the radio broadcasting activity, save as provided for by law, with the purpose of undermining the programming and information freedom, shall be liable to a term of imprisonment of up to 2 years or a fine up to 240 days, where a heavier penalty has not been provided for under penal law.

2 - The application of the penalty provided for in the preceding paragraph shall be without prejudice to civil liability for damages caused to the radio operator.

3 - Where the perpetrator is an agent or official of the State or of a public legal person, and in the pursuit of his or her duties commits the acts described in paragraph 1, he or she shall be liable to a term of imprisonment of up to 3 years or a fine up to 320 days, where a heavier penalty has not been provided for under penal law.

**Article 69**

**Breaches**

1 - A breach is committed, punishable by a fine:

a) From (Euro) 1 250 to (Euro) 12 500, in the event of failure to comply with paragraph 4 of article 9, paragraph 3 of article 24, point g) of paragraph 2 of article 32, paragraph 1 of article 82, non-compliance with the first part of paragraph 1 of article 54, failure to observe the time-limit and omission of the mention referred to in paragraph 6 of article 62;

b) From (Euro) 3 000 to (Euro) 30 000, in the event of failure to comply with paragraph 1 of article 41, articles 42 and 43, and paragraph 2 of article 47;

c) From (Euro) 3 750 to (Euro) 25 000, in the event of failure to comply with paragraphs 2 and 3 of article 7, paragraphs 2 and 4 of article 33, article 34, paragraph 2 of article 37, articles 38 and 39, paragraphs 2 to 7 of article 40, paragraph 5 of article 53, paragraph 1 of article 55, paragraphs 1 to 3 of article 58 and article 63, of the pursuit of the radio broadcasting activity prior to paying fees referred to in paragraph 1 of article 14, as well as of violations of the second part of paragraph 1 and of paragraph 2 of article 54, and of the time-limit set out in paragraph 1 of article 60;

d) From (Euro) 10 000 to (Euro) 100 000, in the event of failure to comply with article 3, paragraphs 3 to 6 of article 4, articles 10 and 11, articles 15, 16 and 25, paragraphs 1 and 2 of article 26, paragraphs 2 and 3 of article 30, paragraph 1 of article 31, articles 35 and 36, paragraph 1 of article 37, paragraph 3 of article 76, of transfer of programme services which does not meet requirements set out in paragraphs 9 and 10 of article 4, denial of the right provided for in paragraph 1 of article 60, as well as the permission, by the license or authorization holder, for operation of the service by third parties.
2 - As regards programme services of a local coverage, maximum and minimum limits of fines provided for in the preceding paragraph shall be reduced by a third.

3 - Negligence shall be punishable, in which case the maximum and minimum limits of fines provided for in the preceding paragraphs shall be reduced by half.

**Article 70**

**Accompanying sanctions**

1 - Breaches provided for in paragraph 1 b) and d) of the preceding article may give rise, according to the seriousness of the infringement and to the agent's fault, to the accompanying sanction of suspension of the license or authorization of the programme service in which the offence was committed, for a period not exceeding 30 days.

2 - Failure to comply with paragraphs 2 and 3 of article 30, punished according to paragraph 1 d) of the preceding article, may give rise, according to the seriousness of the infringement and to the agent's fault, to the accompanying sanction of suspension of broadcasts of the programme service in which the offence was committed, for a period not exceeding 30 days, except where advertising slots are concerned, in which case the accompanying sanctions and interim measures provided for in the Advertising Code shall apply.

3 - Failure to comply with paragraphs 2 and 3 of article 30, where committed in the exercise of the right to airtime, and with paragraph 2 of article 54, punished according to paragraph 1 c) of the preceding article, may give rise, according to the seriousness of the infringement and to the agent's fault, to the accompanying sanction of suspension of the right to exercise that right for a period between 3 to 12 months, with a minimum 6-month penalty in the event of a repeated offence, without prejudice to other penalties provided for in the law.

4 - To the penalty applied for failure to comply with articles 10 and 11, paragraphs 1 and 2 of article 26, paragraphs 2 and 3 of article 30, and articles 35 and 37, may be added the accompanying sanction of criminal conviction disclosure, under the terms set out by the competent body.

5 - Committing a breach provided for in paragraph 1 d) of the preceding article in a programme service whose license or authorization has been suspended twice in the three years preceding the breach gives rise to the revocation of the license or authorization.

6 - Appeals lodged against the application of accompanying sanctions shall have suspensive effect until the respective decision has become definitive.

**Article 71**

**Special mitigation and exemption from the suspension and fine**

1 - Where circumstances are such as to allow the special penalty mitigation, under general law:

a) In the case of a breach provided for in paragraph 1 a) to c) of article 69, the provision of paragraph 3 of article 18 of the General Administrative Offence Regime shall apply;

b) In the case of a breach provided for in paragraph 1 d) of article 69, the limits of the penalty shall be reduced by a third, and the programme service license or authorization suspension may not be ordered.

c) In the case of a breach provided for in paragraph 1 a) of article 69, the offender may be exempted from the penalty where circumstances are such as to allow a penalty exemption, under the Criminal Code.

**Article 72**

**Liability**
The radio operator in whose programme service the infringement was committed shall be liable for breaches provided for in article 69, save for the violation of paragraph 2 of article 54, for which the holder of the right to airtime shall be liable.

**Article 73**

**Licence and authorization revocation**

1 - The revocation of licenses or authorizations may be determined by ERC in case:

a) License programme services do not start within the time-limit set out in paragraph 1 of article 25, or in the absence of broadcasts for a period exceeding two months, except in case of a duly substantiated authorization, unforeseeable circumstances or force majeure;

b) The programme service is operated by a body other than the legitimate license or authorization holder;

c) Of the radio operator's insolvency.

2 - ERC shall also be entitled to determine the revocation of licenses or authorizations where the radio operator is convicted for the third time in three years, in the scope of the same programme service, for a breach provided for in paragraph 1 d) of article 69.

**Article 74**

**Enforcement suspension**

1 - The enforcement of the programme service license or authorization suspension may be suspended for a period from three months to a year, where the operator has not been convicted for a breach for at least a year and ERC may reasonably expect the license or authorization suspension purposes to be achieved through the suspension.

2 - The enforcement suspension may be subject to the payment of a security for good conduct, to be set between (Euro) 1 000 and (Euro) 15 000, depending on the duration of the suspension and the scope of coverage of the programme service concerned.

3 - The enforcement suspension shall be revoked at all times where, in the course of the respective period, the offender commits a breach provided for in paragraph 1 d) of article 69.

4 - The revocation will determine the suspension, the enforcement of which had been suspended, and the loss of the security.

**Article 75**

**Abbreviated proceedings**

1 - In the case of infringement of paragraph 3 of article 40 and in any other situation where ERC is provided with a recording or any other automated record of facts that constitute the infringement, as soon as the news of the infringement has been received, the operator shall be notified of:

a) Facts that constitute the infringement;

b) Legal provisions infringed;

b) Applicable penalties;

d) Time-limit granted to submit a defence.

2 - The defendant may, within 10 days from the notification, submit his defence, in writing, providing any means of evidence deemed to be necessary.
Article 76
Enforcement and monitoring

1 - Enforcement of provisions in this law shall be incumbent on ERC.

2 - It shall be incumbent upon the national communications regulatory authority to monitor facilities of broadcasting and relay stations, the technical conditions under which broadcasts are made and the protection of radio reception, in the framework of applicable rules.

3 - Radio operators shall allow access of enforcement and monitoring officials to all facilities, equipment, documents and other elements required for the pursuit of their activity.

Article 77
Sanctioning powers and proceedings

1 - It shall be incumbent upon ERC to examine breach proceedings provided for in this law and upon its chairman to apply the corresponding fines and accompanying penalties.

2 - Breach proceedings shall be governed by the General Administrative Offence Regime and, in the alternative, by provisions of the Criminal Procedure Code, save for special rules provided for herein.

Article 78
Proceeds from fines

Fine amounts shall revert at:

a) 60% to the State;

b) 40% to ERC.

SECTION II
Special provisions on proceedings

Article 79
Form of proceedings

Proceedings for criminal offences committed through the radio broadcasting activity shall be governed by the provisions of the Criminal Procedure Code and complementary legislation, with the specificities resulting from this law.

Article 80
Territorial jurisdiction

1 - The judicial court of the area where the operator’s head office or permanent representation is located shall have jurisdiction over crimes provided for herein.

2 - From the preceding paragraph shall be exempted crimes against good name and reputation, the protection of private life or other personal values, for which the judicial court of the area of the injured party’s residence shall have jurisdiction.

3 - In the case of radio broadcasts by an entity not legally qualified for the purpose, and where the element defining jurisdiction under paragraph 1 is unknown, the Judicial Court of Lisbon shall have jurisdiction.

Article 81
Regime of evidence
1 - In order to prove premises for the exercise of the rights of reply or of rectification, and without prejudice to other means of evidence provided for by law, the interested party may request, pursuant to article 528 of the Civil Procedure Code, that the radio operator be notified to present the recordings of the broadcast concerned, within the challenge time-limit.

2 - In addition to the means of evidence referred to in the preceding paragraph, only documentary evidence attached to the initial claim or to the challenge shall be allowed.

**Article 82**

**Broadcast of decisions**

1 - At the request of the Public Prosecutor's Office or of the injured party, the operative part of final judgments on crimes committed though the radio broadcasting activity, as well as the identification of parties, shall be broadcasted in the programme service in which the infringement was committed, following a judicial decision which shall establish the time and date for this purpose.

2 - The indicted party in crime proceedings reported on the radio and subsequently acquitted in a final judgement may request the court that the contents of the judgement be also reported by the radio operator, in the same programme service, at an equivalent time and with the corresponding time slot and focus.

3 - The disclosure of the operative part of final judgments mentioned in preceding paragraphs shall safeguard the rights of third parties.

**CHAPTER VII**

**Radio heritage conservation**

**Article 83**

**Records of public interest**

1 - Radio operators of a national and regional scope shall organize audio and musical archives for the purpose of conservation of public interest records.

2 - The lease and use of records referred to in the preceding paragraph shall be governed by a joint Administrative Rule of the members of the Government responsible for the cultural and the media areas, having regard to their historic, educational and cultural value to the community, the requesting entity being liable to pay for copyright.

**CHAPTER VIII**

**Additional, final and transitory provisions**

**Article 84**

**Exercise of the activity through the Internet**

To the exercise of the radio broadcasting activity exclusively through the Internet shall only apply, either directly or duly adapted, articles 2 and 16, paragraph 4 of article 17, articles 24, 29 to 34, 39, 40, 52, 59 to 65, 67 to 72 and 74 to 81.

**Article 85**

**Terrestrial digital radio**

Licenses held by analogue radio operators shall be deemed to be sufficient qualification for the exercise of the respective terrestrial digital activity, under provisions to be defined in specific legislation.
Article 86
Regularising qualifications

1 - The exercise of the radio broadcasting activity on a local level by bodies to which such right was granted by express administrative act without a public tender shall be governed by provisions in this law, the respective qualification’s period of validity running as from the date of the respective entry into force.

2 - The use of frequencies allocated by express administrative act without a public tender for radio programme services on a local level is subject to the regime laid down in Law number 5/2004, of 10 February, as amended by Decree-Law number 176/2007, of 8 May, by Law number 35/2008, of 28 July, and by Decree-Laws number 123/2009, of 21 May, and 258/2009, of 25 September, the respective qualification’s period of validity running as from the date this law enters into force.

3 - The period of validity of licenses or authorizations provided for in paragraph 1 of article 27 shall apply to qualifications granted or renewed after 1 January 2008, being incumbent on ERC to promote any due endorsements on its own initiative, other qualifications being applied the period of validity already determined by law or legally binding at the time they were granted or renewed.

Article 87
Situations properly established

Paragraphs 4 and 5 of article 4 and paragraph 2 of article 16 shall not apply to situations properly established at the date this law takes effect.

Article 88
Repealing provision


Approved on 29 October 2010.

The President of the Assembly of the Republic, Jaime Gama.

Promulgated on 12 December, 2010.

Let it be published.

The President of the Republic, ANÍBAL CAVACO SILVA.

Countersigned on 13 December 2010.

The Prime Minister, José Sócrates Carvalho Pinto de Sousa.