

LAW ON RADIO AND TELEVISION BROADCASTING

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CHAPTER I

GENERAL PROVISIONS

Article 1

- (1) The free expression of ideas and opinions and the free communication of information by means of radio and television are warranted by law, in the spirit of the constitutional rights and liberties.
- (2) The public and private means of audio-visual information shall compulsorily ensure the correct information of public opinion.
- (3) Censorship of any kind is prohibited.
- (4) The selection, in good faith, of audio-visual information by persons bearing the responsibility for its contents shall not constitute censorship, and it may be exercised under the conditions of the present law.

Article 2

- (1) The freedom of audio-visual expression shall not be prejudicial to the dignity, honor, and private life of a person, nor to the right to one's own image.
- (2) Defamation of the Country and of the Nation, instigation to war of aggression, national, racial, class, or religious hatred, incitement to discrimination, territorial separatism, or public violence are prohibited by law.
- (3) The broadcasting of information which, according to the law, has a secret character, or may cause prejudices to the national security shall be prohibited.
- (4) The programming and broadcasting of obscene manifestations contrary to morals shall likewise be prohibited.
- (5) The civil responsibility for the contents of information broadcast by the means of audio-visual communication by which material or moral damages were caused devolves upon the producer, author, holder of the broadcasting licence, or owner of the radio-electric station through which the communication was made, as the case may be, in accordance with the law.

* The Law no. 48 / May 21, 1992 - Law on Radio and Television Broadcasting - was published in the "Monitorul Oficial" (Official Journal of Romania), no. 104, May 25, 1992.

LAW ON RADIO AND TELEVISION BROADCASTING

Law no. 48 / May 21, 1992

Article 2

(1) The Romanian TV broadcasters, legal persons, shall progressively, where practicable and by appropriate means, reserve a majority percentage of their transmission time to European works until January 1, 2003, excluding the air time appointed to news, sports events, games, advertising and teletext services.

(2) Within the meaning of the present law, "European works" means the works originating from the Member States of the Council of Europe, as well as works created entirely or in majority proportion by producers, authors, workers established in one or more Member States of the Council of Europe.

(3) At least 40% of the European works broadcast shall be of Romanian origin.

(4) Within the meaning of the present law, "Romanian works" means works originating in Romania or which producers, authors and workers residing in Romania create entirely or in a majority proportion.

(5) Television broadcasters, legal Romanian persons, shall reserve, under the conditions mentioned by the previous paragraphs, 10% of their broadcasting time to works created by independent producers.

(6) The provisions of the paragraphs (1) and (5) shall be gradually applied, on the basis of the compulsory norms, elaborated by the National Council of Radio and Television.

Article 3

Sound and television broadcasting of advertising shall be conceived so as to be readily distinguishable as such from other programmes.

Article 4

(1) A person considering itself injured in one of its moral or material rights or legitimate interests through an audio-visual communication shall be entitled to request the necessary rectification, and in case this is refused, it shall be entitled to retort. The rectification or retort shall be broadcast under the same conditions in which its right or interest was damaged.

(2) The responsibility for the broadcasting of the rectification, or for ensuring the right to retort shall devolve upon the holder of the broadcasting licence of the station through which the damage was produced.

Article 5

(1) Legal persons from the domain of radio and television broadcasting which conceive, produce, and transmit programmes are public or private.

(2) Public legal persons shall be State institutions, self-managed public companies, or Romanian trading companies with wholly State capital.

(3) Private legal persons shall be Romanian trading companies with Romanian or foreign, wholly or partly private capital.

(4) Public or private legal persons shall have the right to lease radio-electric audio-visual communication networks owned by self-managed public companies or trading companies with majority State capital. They may, likewise, have in property broadcasting stations, and lines for the transmission of programmes.

Programme 1 of the public television as well as the Romanian programmes broadcast by radio broadcasting at the date of the publication of this law shall be "excepted from leasing or privatisation.

Article 6

(1) No public or private, natural or legal person shall be a direct or indirect majority investor or shareholder in more than one audio-visual communication company, and it shall not hold more than twenty per cent of the registered capital in other similar companies.

(2) The shares representing the registered capital of companies holding a licence for the exploitation of an audio-visual communication service shall be nominative only.

(3) "Public legal persons provided under Article 41 shall be excepted from the provisions of paragraph (1) above.

(4) No broadcasting licence shall be granted to political parties or other political formations, nor to public authorities.

Article 7

Cable distribution networks of audio-visual communications shall be the property of Romanian public or private legal persons.

Article 8

(1) Audio-visual communication in the domain of radio and television shall be performed on the basis of a broadcasting licence and of a decision of authorization issued under the conditions of the present law.

(2) The broadcasting of programmes through public networks owned by self-managed public companies in the domain of telecommunications or through other technically authorized broadcasting stations shall be performed only on the basis of a broadcasting licence stating precisely the respective networks or stations.

(3) The broadcasting licences for the public legal persons provided under Article 41 shall be issued without competition and free of charge.

Article 9

The self-managed public services provided under Article 41 shall be compelled to broadcast with precedence and free of charge official statements and messages of public interest received from the Parliament, from the Presidency of Romania, or from the Government.

Article 10

Legal persons functioning on the basis of the present law shall be compelled to inform the public with regard to:

- (a) the name of head office, name of the lawful representative and of three of the main partners or of members of the Administration Board;
- (b) the audio-visual communication services which they provide;
- (c) the name of the producer of programmes or broadcasts.

Article 11

The National Council of Radio and Television shall be established as a self-managed public authority which shall exercise its powers according to the provisions of the present law.

CHAPTER II

AUDIO-VISUAL COMMUNICATION BY RADIO-ELECTRIC MEANS

Section I

Broadcasting Licence

Article 12

- (1) The broadcasting licence shall specify the classes of information that may constitute the object of broadcasting in public, depending on their nature.
- (2) The licence shall be granted by the National Council of Radio and Television, following upon a competition in which applicants having received the preliminary technical advisory opinion of the Ministry of Communications may participate. The advisory opinion shall be given within thirty days at the most from the date of the application.
- (3) The conditions for participating in the competition, and the concrete criteria for deciding among the participants shall be made known publicly by the National Council of Radio and Television at least forty-five days before the date at which the competition is to take place.
- (4) The criteria for deciding between the participants for obtaining the broadcasting licence must ensure the pluralism of opinions, equality of the participants treatment, the quality and diversification of the programmes, the promotion of competitive freedom, of creation and of the national audio-visual production, illustration of the national culture, independence and impartiality of the programmes broadcast by public legal persons.
- (5) The access of social and cultural organizations, political, religious, and of other applicants to audio-visual programmes shall be allowed, observing the provisions of paragraph (4) above, under the conditions established by the broadcasting licence.

Article 13

- (1) The number of broadcasting licences for which the competition is organized shall be approved by the National Council of Radio and Television, with the advisory opinion of the Ministry of Communications.
- (2) In establishing the number of licences, the observance of the technical conditions for ensuring the quality of the broadcast, and of the international agreements in the domain of radio-communications shall be compulsory.

Article 14

- (1) The broadcasting licence in the domain of radio shall be granted for five-year term, and in that of television, for seven-year term. The term shall be running as from the date when the decision of authorisation shall have been obtained.
- (2) The broadcasting licence is not transmissible, and its modification can be made only by the National Council of Radio and Television under the terms provided under Article 12.
- (3) At the expiration of the period, a new competition shall compulsorily be organized.

Article 15

Except cases provided under Article 8 paragraph (2), the right resulted from the broadcasting licence is extinguished if the holder of the licence fails to apply for the operating technical authorization within thirty days at the most, or if he exceeds the term of issue of this authorization from his own fault as well as on expiration of the period for which the licence was issued.

Section 2

Decision of Authorization

Article 16

(1) The decision of authorization shall be granted by the National Council of Radio and Television on the basis of the broadcasting licence and of the operating technical authorization issued by the Ministry of Communications.

(2) The decision shall be issued within five days from the presentation by the applicant of the operating technical authorization, The decision of authorization or the broadcasting licence, in the cases provided under Article 8 paragraph (3), shall be Published in the "Monitorul Oficial" of Romania.

(3) The refusal to issue the decision shall be notified within the term provided under paragraph (2) above, and it must be motivated.

(4) Litigations resulted from the refusal to issue the decision of authorization shall be settled according to the Law on the administrative actions.

Article 17

(1) The operating technical authorization provided under Article 16 shall contain the technical parameters of the equipment, the attestation that the equipment is conformable to these parameters, and the tariffs that have to be paid. In view of granting the authorization, the Ministry of Communications together with the applicant shall establish the details and stages of achievement of the broadcasting stations.

(2) The authorization shall be issued within fifteen days from the date when the technical parameters of the station are measured. The station must be achieved within eighteen months at the most from the date of the application for the authorization.

(3) The validity period of the operating technical authorization is provided under. Article 14 paragraph (1).

Article 18

(1) The Ministry of Communications may, for technical reasons, alter the frequency provided in the decision of authorization, without interrupting the service and while ensuring a reception of equivalent quality as well as other technical characteristics involved.

(2) The alteration shall be notified to the holder of the authorization and to the National Council of Radio and Television thirty days before its coming into force.

Section 3

The Authorization of the Reception of Audio-Visual Programmes Transmitted via Satellite

Article 19

(1) The reception of audio-visual programmes transmitted via satellite shall be made either with community equipment ensuring distribution for commercial purposes, or with individual equipment.

(2) For community reception equipment the decision of authorization shall be issued by the Ministry of Communications on the basis of the access licence granted by the owners of the satellites, or by the owners of the afferent transmission capacities.

(3) For individual reception, only an equipment which has a type authorization issued by the Ministry of Communications may be produced, put on sale and used.

Article 20

The redistribution by cable for commercial purposes, or the retransmission by terrestrial radio-electric means of programmes received by holders of individual receiving equipment shall be prohibited.

CHAPTER III

THE AUTHORIZATION OF AUDIO-VISUAL COMMUNICATIONS DISTRIBUTED BY CABLE

Article 21

The audio-visual communications services distributed by cable shall include, separately or cumulatively:

- (a) retransmission of programmes broadcast by radio-electric and terrestrial means or via satellite;
- (b) retransmission of audio-visual productions recorded by various means;
- (c) broadcast of self-conceived programmes.

Article 22

(1) The broadcasting licence for radio or television transmitted by cable shall be issued by the National Council of Radio and Television, and it shall include the irature of the programmes which are to be distributed, according to Article 21, with observance of the provisions of Article 12 paragraph (4).

(2) The licence, shall be issued within fifteen days from the date of the application, accompanied by the application of the community to which the distribution is to be realized, that shall be attested by the mayor.

The right resulted from the broadcasting licence shall be extinguished if the holder of the licence fails to apply for the delivery of the preliminary technical advisory opinion within one year at the most from its issue, or if he fails to ensure the achievement of the technical conditions for the issue of the decision of authorization on schedule, and at expiration of its validity term.

Article 23

(1) The authorization regarding the operation of the cable distribution network shall involve two stages:

- (a) from the technical point of view, the preliminary technical advisory opinion shall be issued by the Ministry of Communications within fifteen days, on the basis of the broadcasting licence and of the-law no. 48 May 21, 1992 project of network, carried out by an authorized unit; the preliminary technical advisory opinion shall also include the term agreed for the completion of the works;
- (b) the decision of authorization shall be issued within thirty days from the date of application, on the basis of the technical check of the equipment installed.

(2) The decision of authorization shall also specify the duration of its validity, which shall not exceed ten years; the validity of the decision can be extended at the holder's request.

Article 24

Audio-visual communication by cable, belonging to the Ministry of National Defense and to the Ministry of the Interior shall be performed under the conditions established by the respective ministries.

CHAPTER IV

THE NATIONAL COUNCIL OF RADIO AND TELEVISION

Article 25

(1) The National Council of Radio and Television shall consist of eleven members, appointed by:

- (a) the President of Romania - two members;
- (b) the Parliament of Romania - the Senate and the Chamber of Deputies - three members each;
- (c) the Government, of Romania - three members, of which one specialist in the domain of telecommunications, one specialist in the domain of broadcasting by radio and one specialist in the domain of television.

(2) The members of the Council shall be warrantors of the public interest in the audio-visual domain of radio and television, and they shall not represent the authority by which they had been appointed.

(3) The term of office shall be of four years.

(4) The appointment of the members of the National Council of Radio and Television shall be carried out in echelons, every two years, for one half of their number.

(5) At the constitution of the first Council, five of its members shall be appointed for a duration of two years, as follows:

- (a) the President of Romania - one member;
- (b) the Senate and the Chamber of Deputies - one member each;
- (c) the Government - two members.

(6) In case that one seat in the Council shall become vacant or in case of indisponibility of a member for a period of more than forty-five consecutive days, the appointing authority shall designate a new member for the remaining unexpired duration.

(7) The members of the National Council of Radio and Television shall be revoked by the appointing authority in case of infringement of the present law, or of commitment of criminal offences.

Article 26

(1) The President of the Council shall be elected every four years and only for a single mandate, by secret ballot of the majority of its members.

(2) If the election of the president is not possible at the first ballot by the majority provided under paragraph (1) above, the voting shall be repeated between those members that have obtained the greatest number of votes, until a majority of at least six votes shall be reached.

(3) In the absence of the president over a period greater than four days, or in case of force majeure, his attributions shall by rights be taken over by the oldest member of the Council.

(4) If the office of president becomes vacant, an interim president shall be elected, according to paragraphs (1) and (2); on expiration of his mandate, the interim president can be elected as president.

Article 27

The members of the Council shall be remunerated at a level equivalent to that of an under secretary of State, and the president, at an equivalent to that of a secretary of State.

Article 28

(1) The status of member of the National Council of Radio and Television is incompatible with other public or private functions, except academic ones in university education.

(2) The members of the Council and of the technical personnel cannot be members of political parties or of other political formations.

Article 29

The Council shall deliberate in the presence of at least nine of its members, and decisions shall be adopted if they get the vote of at least six members.

Article 30

The National Council of Radio and Television shall have a budget of revenue and expenditure as an integrating part of the State Budget.

Article 31

In view of exercising the attributions provided by law, the Council shall draw up its organizing and functioning regulations, and it shall constitute a technical personnel.

Article 32

(1) The National Council of Radio and Television shall establish compulsory norms regarding: the transmission of information referring to calamities and cases of state necessity, advertising, programming, and granting of the right to retort, sponsorship, the mode of settling disputes, as well as norms referring to other aspects connected with the application of the present law.

(2) The Council shall establish the durations and conditions of presentation of the programmes destined for electoral campaigns.

(3) Debates concerning the assignment of broadcasting licences shall be public, and the decisions adopted, together with their motivation, shall be published in the "Monitorul Oficial" of Romania.

(4) The frequencies available for public radio and television broadcasts shall also be published.

Article 33

(1) At the end of each year, the National Council of Radio and Television shall draw up a report concerning its activity and the way in which the holders of authorizations comply with the obligations provided in the present law.

(2) The report shall be presented to the Parliament.

Article 34

The National Council of Radio and Television shall exercise its attributions under the control of the Parliament.

CHAPTER V

RESPONSIBILITIES

Article 35

(1) The National Council of Radio and Television shall supervise the observance of the obligations incumbent upon holders of broadcasting licences, and the Ministry of Communications, the observance of the technical conditions provided in the decision of authorization.

(2) In case of infringement of these obligations, the National Council of Radio and Television or the Ministry of Communications, as the case may be, shall reproach publicly the Administration Board of the respective company, bidding them to abide by the law.

(3) The National Council of Radio and Television or the Ministry of Communication, as the case may be, shall designate one of its members to explain to the Administration Board of the respective company the content of these observations in order jointly to decide on the measures required for ceasing the infringement; the measures shall be applied according to a schedule established by a decision of the National Council of Radio and Television or of the Ministry of Communications, as the case may be.

Article 36

(1) At the first infringement of the provisions of the present law, the holder of the authorization shall be summoned immediately.

(2) The summoning shall be made public by transmitted through mass-media.

Article 37

(1) In case that the holder of a broadcasting authorization or licence fails to fulfil his obligations and to comply with the summons received, the National Council of Radio and Television or the Ministry of Communications, as the case may be, shall apply one of the following administrative sanctions, depending on the gravity of the act:

- a) a fine from two to five per cent of the total turnover of the previous year; in case the holder is in his first year of activity, the turnover taken into consideration shall be that existing at the moment when the sanction is applied;
- (b) suspension of the authorization for a period from one to three months;
- (c) reduction by up to one half of the total duration of the authorization or licence;
- (d) withdrawal of the decision of authorization or of the broadcasting licence; the withdrawal shall be compulsory in case the holder of the authorization ceases broadcasting, observing the regularity and duration provides in the decision, for other reasons than those of technical breakdown.

(2) Against application of a sanction, the person sanctioned may lodge a complaint to the Court dealing with administrative actions in whose territorial jurisdiction the act was committed, within fifteen days from the date of notification.

Article 38

(1) The following acts shall constitute offences, and shall be punished with imprisonment from six months to two years or with a fine from 200,000 lei to 800,000 lei:

- (a) broadcasting or retransmission of programmes without authorization, or without broadcasting licence, or while these are suspended;
- (b) broadcasting on another frequency or with a greater beaming power or from places different from those established in the decision of authorization if the offender fails to comply immediately with the summon of the Ministry of Communications.

(2) The summons can be made by any means of communication and by broadcasting by the owners of Public radio systems and television networks. The summons shall be broadcast free of charge within, thirty minutes from the moment of the request.

(3) In case the offence under letter (a) has been committed, the court may also order the confiscation of the technical equipment.

Article 39

The programming and beaming of broadcasts infringing the provisions of Article 2 paragraphs (1) to (4) shall constitute offences, and they shall be punished with imprisonment:

- (a) from six months to, five years, in the case of paragraph (1);
- (b) from two years to seven years, in the case of paragraph (2);
- (c) from three years to ten years, in the case of paragraph (3);

(d) from three months to two years, or a fine, in the case of paragraph (4).

Article 40

(1) In case that the acts provided under Article 38 and Article 39 shall be found to have been committed, the National Council of Radio and Television or the Ministry of Communications, as the case may be, shall notify the criminal prosecution bodies, and shall suspend the decision of authorization until the final settlement of the cause.

(2) At the request of the organ which has made the notification, the prosecutor may order the technical equipment to be unavailable.

CHAPTER VI

TRANSITORY AND FINAL PROVISIONS

Article 41

The Romanian Radio and Television shall be reorganized by an organic law in separate, self-managed public services of radio and television broadcasting.

Article 42

Taxes provided by law shall be collected for the activities performed by the National Council of Radio and Television and by the Ministry of Communications, with a view to issue a decision of authorization.

Article 43

(1) Public legal persons, other than those provided under Article 41, and the self-managed public companies from the domain of telecommunications as well as private companies which, at the date of coming into force of the present law, shall be functioning on the basis of an authorization, shall be permitted to continue their activity for a period of five months.

(2) After the expiration of the term provided under paragraph (1), the activity shall be continued only on the basis of the authorizations provided by the present law.

Article 44

(1) The National Council of Radio and Television shall be constituted within thirty days from the coming into force of the present law.

(2) The organizing and functioning expenditure of the National Council of Radio and Television for the year 1992 shall be supplied by the Government from the budgetary reserve.

Article 45

On the date of coming into force of the present law, any contrary provisions shall be abrogated.

Government Urgent Decree issued for the modification and completion of the Audiovisual Law no.48/1992.

Published by the Official Gazette no. 173, dated April 23rd 1999.

In keeping with the provisions of art. 114, par. (4) in the Constitution of Romania, The Government of Romania issues the following **Urgent Decree**:

Article I

The **Audio-visual Law no. 48/1992**, published by the Official Gazette of Romania, Part I, no. 104 dated May 25th 1992, with further modifications and completions, shall be modified and completed as follows:

1) Article 14 shall have the following contents:

" Article 14

(1) The broadcasting licence in the domain of radio shall be granted for a seven - year term and for a nine-year period in that of the television. The term shall be running as from the date when the decision of authorisation shall have been obtained.

(2) The broadcasting licence is not transmissible, and its modification can be made only by the National Audio-visual Council under the terms provided under Article 12.

(3) At the expiration of the period, a new competition shall compulsorily be organised.

(4) Should the situation arise, when due to period expiration, a new licence is granted upon competition, for the same place and under the same technical conditions, to another legal person, different from the previous licence holder, the latter shall be able to continue broadcasting its program no later than the term when the new licence holder is to start operating the station, without surpassing the legal terms for the new station to start broadcasting."

2) Article 15 shall have the following contents:

"Article15

The right resulted from the broadcasting licence is extinguished, if the licence holder fails to apply for the operating technical authorisation within thirty days at the most from the National Agency for Communication and Information Technology since the written notification of licence granting issued by the National Audio-visual Council. This right shall also be extinguished if he exceeds the term from his own fault as well on the expiration of the period for which the licence was issued, also in the following cases stipulated by :

a) art. 8 par. (2)

b) art. 14 par. (4) when the validity of broadcasting licence and implicitly when the operating technical authorisation and the decision of authorisation shall be extended for the maximum period of the legal terms when the new broadcasting stations are supposed to start transmitting."

3) Article 18 shall have the following contents:

"Article 18

(1) The National Agency for Communication and Information Technology may, for technical reasons of electromagnetic compatibility, propose to the National Audio-visual Council, to alter the frequency provided in the broadcasting licence, without interrupting the service and while ensuring a reception of equivalent quality as well as other technical characteristics involved.

(2) The alteration shall be notified to the holder of the licence, thirty days before its coming into force.

(3) The National Agency for Communication and Information Technology shall provide upon request and within the limits of technical capacity, the National Audio-visual Council with the list of the 87,5-108 Mhz frequencies, with a view to replacing the 66-73 MHz, for the radio stations that operate within this frequency and only for those places where the respective stations do not have broadcasting licence for the 87,5 - 108 MHz. These frequencies shall be transmitted to the National Audio-visual Council within 60 days since the application has been made. Within 30 days since it has received the new frequencies The National Audio-visual Council shall carry out the necessary changes within the broadcasting licence, also abiding by terms stipulated in art. 14, par. (1).

The licence holders shall forward the modified licences to the National Agency for Communications and Information Technology, in view of being granted a new operating technical authorisation, required by the modification of the Decision of Authorisation."

4) Article 43 shall have the following contents:

"Article 43

(1) The term of the broadcasting licence and that of the Decision of authorisation, issued by The National Audio-visual Council, as well as the term of the operating technical authorisation issued by the National Agency for Communications and Information Agency, for the broadcasting stations operating in the 66-73 MHz frequency band, shall be extended upon request till December 31st 2001, if there is no technical possibility to replace them according to the provisions of art. 18, par. (3).

(2) Within 30 days since the notification made by the National Agency for Communications and Information Technology concerning the frequencies list, the National Audiovisual Council shall carry out the necessary changes on the extension of the term for the broadcasting license, and the license holders shall present the modified licenses to the National Agency for Communications and Information Technology, in view of extending the term of the operating technical authorization for the same amount of time, followed by the modification of Decision of Authorization to be carried out by the NATIONAL Audiovisual Council."

Article II

The term of the broadcasting licenses, that had not expired at the time the present Government Decree came into force, shall be extended until the expiration of the terms stipulated by art. 14 par (1) in the Audiovisual Law no. 48/ 1992.

Article III

Within the text of the Audiovisual Law no. 48/1992 the name of the Ministry of Communications shall be replaced by the one of the National Agency for Communications and Informatics.

Signed by,

Radu Vasile, Prime Minister

Sergiu Iliescu, President of the National Agency for Communications and Information Technology

Bucharest April 21st, 1999