[LU] Act on Freedom of Expression in the Media

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Marc Thewes
Thewes and Reuter, Luxembourg

On 8 June 2004 the Grand Duchy of Luxembourg adopted new legislation on the press, repealing the Act of 20 July 1869 on the press and other means of publication, an Act that many commentators considered outdated. The Act of 20 December 1979 on the recognition and protection of the professional title of journalists has also been replaced.

By emphasising the guarantee of freedom of expression, the new legislation is closer to the spirit of Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

The new legislation reinforces the rights of journalists as regards both freedom of expression (Articles 6 to 9) and their relations with their editors (Articles 4 and 5).

More specifically, the new Act upholds journalists' rights to seek out information and to decide on communicating such information to the public. It also upholds the principle of the protection of journalists' sources, although there is provision for waiving the rule laid down.

The new text also reiterates that a journalist's work is protected by copyright.

Alongside these rights, a series of obligations is imposed on journalists and other collaborators working in the media (Articles 10 to 20). These obligations cover the journalist's and/or collaborator's duty to be accurate and truthful in the facts communicated. In addition, the journalist and/or collaborator must ensure that their work does not infringe the presumption of innocence or the entitlement to personal privacy, honour and reputation. Nor should their work include the communication of elements that make it possible to identify minors.

The system of criminal and civil responsibilities is also laid down in the new Act in respect of any deliberate fault committed through the media (Articles 21 and 22).

The Act now lays down the procedure to be followed in exercising the rights of reply (Articles 36 to 50) and of subsequent information (Articles 51 to 59). These two rights enable a person who has been cited either by name or implicitly (right of reply) or who has been accused wrongfully (right of subsequent information) to claim the inclusion, free of charge, of a reply or information correcting the false information given originally.

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The new Act reorganises the scheme of statutory deposit and gives details of the indications that every publication, whether issued on a regular basis or otherwise, must contain to allow identification of the author or editor (Articles 62 to 69).

Lastly, the new text amends a number of the provisions of the Criminal Code, more specifically those concerning libel and slander (definition of what constitutes cases of libel and slander in the media), insurrection and rebellion, and infringements involving indecency (Articles 77 to 83).

Loi du 8 juin 2004 sur la liberté d'expression dans les médias

http://www.legilux.public.lu/leg/a/archives/2004/0850806/0850806.pdf

Act of 8 June 2004 on freedom of expression in the media

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