

Courtesy translation only. Original French version is binding.

Law of 12 August 2022 on the organisation of the public establishment 'Public Service Media 100,7' and amending the amended Law of 27 July 1991 on electronic media

Article 1. Legal status and independence

The public service media 100,7, hereinafter referred to as 'the establishment', is an independent public body with legal personality and with financial and administrative autonomy.

Article 2. Registered office

The registered office of the establishment shall be determined by means of a Grand-Ducal Regulation.

Article 3. Mission and related activities

(1) The mission of the establishment is to provide the public broadcasting service of the Grand Duchy of Luxembourg.

In carrying out its tasks, the establishment shall:

- 1) conceive and broadcast a general news, culture and entertainment broadcasting service, broadcast twenty-four hours a day, seven days a week;
- 2) focus on developing new offers via online communication services with the aim to extend, improve or supplement its offer of broadcast programmes;
- 3) act as an impartial and independent reference for information, opinions and comments, complying with ethical and quality standards corresponding to the values of public service media;
- 4) provide the entire population of the Grand Duchy of Luxembourg with general information on national, European and international political developments, and disseminate different types of information and content regarding politics, the economy, culture and sports, as well as regional and local news;
- 5) highlight and support culture and artistic creativity in the Grand Duchy of Luxembourg;
- 6) contribute to social cohesion by reflecting diverse ideas and opinions while promoting democratic, social and cultural participation;
- 7) offer entertainment reflecting the values of public service media.

(2) The State shall conclude a multiannual agreement, hereinafter referred to as 'the Agreement', with the establishment which shall determine the manner in which its public service mission is to be carried out.

(3) The establishment may also perform any other service directly or indirectly linked to its mission or intended to promote the achievement of said task, provided that it respects the principle of separation of accounts between its public service mission and any other activity.

Article 4. Broadcasting permissions and frequencies

- (1) The establishment is granted permission for a high-power transmitter radio service without any call for applications, in accordance with Article 13 of the amended Electronic Media Law of 27 July 1991, and may obtain further permissions.
- (2) The establishment shall operate one or more radio frequencies with a high-power transmitter.
- (3) The establishment shall be allowed to disseminate its programmes and content through other communication technologies.
- (4) In order to enable it to perform its public service mission, the Government shall give priority to the establishment when granting permissions for radio services broadcast on multiplexes in digital mode.
- (5) As long as it is required by law to fulfil its public service mandate, the establishment may not renounce its permission for a high-power transmitter radio service.

Article 5. Principles of governance

The establishment shall be organised in such a way as to ensure:

- 1) its autonomy and independence from the State and social, economic and political entities with regard to editorial decisions;
- 2) compliance with the highest standards of professionalism;
- 3) efficient management in line with the financial resources allocated;
- 4) the consideration of the demographic circumstances present in the Grand Duchy of Luxembourg;
- 5) the separation of editorial and all commercial activities from activities generating revenue from advertising or sponsorship.

Article 6. Editorial independence

- (1) The establishment shall freely organise and be responsible for its programmes and ensure full editorial control. Complete editorial independence shall be applied.
- (2) The Chief Executive Officer shall act as the guarantor of the radio station's editorial independence and shall be responsible for its editorial direction.
- (3) The rules and principles governing the principle of independence and the day-to-day implementation of the public service mission shall be laid down in editorial statutes approved by the Board of Directors on a joint proposal from the Chief Executive Officer and the editor-in-chief.

The said editorial statutes shall regulate the internal relations and the rights and duties of the journalists, define the relationship between the management and the journalists, and establish the competences of the editor-in-chief.

In the event of differences between the Chief Executive Officer and the editor-in-chief concerning the drafting, amendment and interpretation of the editorial statutes, either of the two may call upon the Board of Directors.

The editorial statutes shall be public.

- (4) Information broadcasts shall be carried out in a spirit of impartiality and independence from any public or

private authority. No one may require the dissemination of specific productions or information, save in the exceptions provided for in Article 17. The establishment shall ensure the objectivity and independence of information and shall provide a balanced, impartial and independent representation of political, economic, social and cultural developments.

- (5) In order to carry out its tasks, the establishment shall be allowed to conclude contracts with natural or legal persons and associate itself with public or private sector partners, natural or legal persons. Such contracts shall not affect the editorial independence of the establishment and may not relate to information programmes, with the exception of technical assistance contracts.
- (6) The Board of Directors shall, within the context of its responsibilities, ensure that the editorial independence of the establishment is respected.

Article 7. Relations with the public

The establishment shall set up a Board of the Public composed of members of the public and enabling a dialogue with the public. The establishment shall consult said Board at least twice a year on matters relating to the programme, its evaluation, or new projects.

The establishment shall also set up a permanent internal mechanism to deal with any feedback from the public on its programming and content.

Article 8. Powers of the Board of Directors

- (1) The establishment shall be administered by a Board of Directors which will exercise the powers provided for in paragraphs 2 to 4 of the present Article.
- (2) The Board of Directors shall ensure that the establishment's tasks are carried out in accordance with Article 5. To this effect, the Board of Directors shall:
 - 1) determine the strategic policy of the establishment in accordance with the present Law, the terms of reference attached to the broadcasting permission, and the Agreement;
 - 2) approve the programmes' general approach and the programming schedule on a proposal from the Chief Executive Officer;
 - 3) approve the editorial statutes referred to in Article 6;
 - 4) approve the mechanism for dealing with any feedback by the public on its programming and content, as provided for in Article 7;
 - 5) maintain relations with the Luxembourg Independent Authority for Audiovisual Media, hereinafter referred to as 'ALIA', on any matter relating to surveillance, as well as define the action to be taken in response to any notifications or penalties addressed to the establishment pursuant to Article 35e of the amended Law of 27 July 1991 on electronic media.
- (3) The Board of Directors shall ensure the effective administrative management of the establishment. To this effect, the Board of Directors shall:
 - 1) hire and dismiss the Chief Executive Officer;
 - 2) ensure an effective organisational structure and a coherent wage policy;
 - 3) validate the organisation chart on a proposal from the Chief Executive Officer;
 - 4) on a proposal from the Chief Executive Officer, hire and dismiss employees holding strategic positions of

- responsibility, as laid down in the rules of procedure;
- 5) decide on legal actions;
 - 6) lay down the signature requirements.
- (4) The Board of Directors shall ensure the balanced financial management of the establishment. To this effect, the Board of Directors shall:
- 1) approve the balance sheet, annual accounts and annual financial report;
 - 2) propose the appointment of company auditors to the Government;
 - 3) approve the operating and investment budgets;
 - 4) decide on loans to be contracted;
 - 5) decide whether to accept or refuse donations and bequests;
 - 6) decide on the acquisition, disposal and exchange of buildings and their use, as well as on construction works and major repairs;
 - 7) approve agreements to be concluded.

Article 9. Composition of the Board of Directors

- (1) The Board of Directors shall be composed of 9 members appointed and dismissed by means of Grand-Ducal decree, namely 3 members representing the State and 6 independent members proposed by the Board of Directors and chosen from among persons representing social and cultural life and demonstrating the skills necessary for the effective performance of their mandate. A balanced representation of women and men in the composition of the Board of Directors shall be ensured.
- (2) Members shall be appointed for a term of 5 years, renewable once.
- (3) The term of office as a member of the Board of Directors shall be incompatible with the status of member of the Government or Parliament, any role or employment at ALIA, employment at another publisher's in the Grand Duchy of Luxembourg or employment as a member of staff of the establishment.
- (4) The establishment may call upon the public for the appointment of an independent director.
- (5) In the event of a vacancy for a member's seat, within maximum 2 months, said position shall be filled by means of the appointment of a new member who shall complete the term of office of the departed member.
- (6) In the event of misconduct or gross negligence in the performance of duties or in the event of any act or conduct incompatible with the exercise of his/her mandate by any given member of the Board of Directors, the member of the Board of Directors concerned may be dismissed by means of a Grand-Ducal decree on the basis of a reasoned request from the Board of Directors.
- (7) The Directors shall elect their Chairperson from among the members of the Board of Directors in accordance with arrangements to be laid down in the rules of procedure.

Article 10. Organisation of the Board of Directors

- (1) The Board of Directors shall adopt rules of procedure and a code of ethics which shall be subject to the approval of the Government.
- (2) The Chairperson shall chair the Board of Directors, convene meetings and represent the establishment in legal proceedings and in private and public acts.

- (3) The Board of Directors shall be organised freely and meet at least once every 3 months. It must be convened at the request of 3 of its members.
- (4) The Board of Directors may take a decision only if a majority of the members are present or represented. Directors attending the Board meeting by videoconference or by other means of telecommunication shall be deemed present if they can be identified. A member of the Board of Directors may represent only one other member at a time. The power of attorney granted shall be valid for one sitting only.
- (5) Decisions shall be taken by a simple majority. In case of a draw, the Chairperson shall hold the casting vote. A two-thirds majority of the votes shall be required for the appointment and dismissal of the Chief Executive Officer and the Chairperson.
- (6) At any time, the Board of Directors may ask the Chief Executive Officer for explanations or information and carry out any checks it considers necessary concerning the exercise of the Chief Executive Officer's mandate.
- (7) Directors and all persons called upon to attend meetings of the Board of Directors shall be bound by secrecy concerning the proceedings and may not disclose information obtained in the performance of their duties to third parties, except where permitted or required by law.
- (8) The amount of allowances and fees for attendance by members and participants in meetings of the Board of Directors shall be determined by means of a Grand-Ducal regulation. The establishment shall cover those pertaining to the members of the Board of Directors and the State shall be responsible for covering those of the Government Commissioner.

Article 11. Chief Executive Officer and staff

- (1) The Chief Executive Officer shall implement the decisions of the Board of Directors and shall be responsible for the day-to-day management of the establishment as well as for managing the programming, under the supervision of the Board of Directors and in accordance with the powers delegated to said Chief Executive Officer by the Board of Directors.
- (2) The Chief Executive Officer shall participate in the meetings of the Board of Directors in an advisory and proposal capacity, unless otherwise dictated by the agenda.
- (3) The Chief Executive Officer shall be responsible for dealing with all matters not specifically assigned to the Board of Directors.
- (4) The Chief Executive Officer shall be responsible for the broadcast programme within the framework of the general programme guidelines adopted by the Board of Directors.
- (5) The position of Chief Executive Officer is incompatible with that of editor-in-chief.
- (6) The Chief Executive Officer shall be the hierarchical head of staff and shall be the only person authorised to submit proposals for the recruitment and dismissal of staff to the Board of Directors.
- (7) The relationship between the establishment and its Chief Executive Officer or its staff, whether employed or not and whether for a fixed period or task or not, shall be governed by private law contracts.

Article 12. Government Commissioner

The Government shall appoint a Government Commissioner responsible for supervising the establishment's

activities.

The Government Commissioner shall attend the meetings of the Board of Directors in an advisory capacity and shall enjoy the right to information and control regarding the establishment's activities and the establishment's administrative and financial management, with the exception of the establishment's programmes. The Government Commissioner may suspend decisions of the Board of Directors in financial and administrative matters where he/she considers that they infringe laws, regulations, the Agreement or specifications. In that case, it is for the Minister responsible for the media to adjudicate within one month of the suspension of the decision concerned.

Article 13. Funding

- (1) The establishment shall receive an annual allocation from the State budget.
- (2) The amount of the allocation shall be laid down in the Agreement concluded between the State and the establishment and must enable it to carry out its mission.
- (3) The Agreement shall be concluded for a renewable period of minimum 5 years and maximum 10 years.
- (4) At least 12 months before the expiry of the Agreement in force, the establishment shall announce its needs to the Government for the next Agreement. On the basis of the establishment's declarations, the financing needs of the public broadcasting service shall be analysed and determined in accordance with the principles of economy and efficiency, also taking into account the possibilities for rationalisation in order to prevent overcompensation.
- (5) Should no new Agreement be concluded upon the expiry of the Agreement in force, the latter shall be extended automatically for one year.
- (6) The use of public service reserves within the meaning of the European Commission Communication of 27 October 2009 on the application of State aid rules for public service broadcasting shall be governed by the Agreement.
- (7) The establishment may also have the following resources:
 - 1) revenue from provided services;
 - 2) revenue from sponsored programmes;
 - 3) revenue from the organisation of events in connection with the mission of Media 100,7;
 - 4) financial contributions from the State budget to reimburse broadcasting costs and for technical equipment necessary for the establishment's tasks;
 - 5) any other financial contributions charged to the State budget;
 - 6) donations and bequests in cash and in kind;
 - 7) income from the management of the establishment's assets;
 - 8) revenue of any kind compatible with the establishment's purpose.

Article 14. Annual accounts

- (1) The accounts of the establishment shall be kept in accordance with the principles and procedures of commercial accounting and the financial year shall correspond to the calendar year.

At the close of each financial year, the Chief Executive Officer shall draw up a draft balance sheet and a draft profit and loss account.

(2) An approved company auditor, appointed by the Government cabinet, shall be responsible for auditing the establishment's accounts, the compliance of its transactions, and entries in the accounts in accordance with the international auditing standards applied in Luxembourg under the amended Law of 23 July 2016 on the audit profession.

Said auditor's renewable term of office shall be 3 years. The establishment shall pay his/her fees. The auditor shall submit his/her report to the Board of Directors by 1 April of the year following the audited financial year. The auditor may be mandated by the Board of Directors to carry out specific checks.

(3) By 1 May at the latest, the Board of Directors shall submit the annual accounts to the Government accompanied by a detailed report on the situation and operation of the establishment, as well as the approved company auditor's report.

The Government is called upon to decide on the discharge to be given to the bodies of the establishment.

(4) Before 1 November of each year, the Board of Directors shall adopt the budget for the following year.

(5) The financial management of the establishment shall be subject to audit by the Court of Auditors.

Article 15. Advertising

(1) There shall be no advertising on the programmes broadcast and in the contents published online.

(2) The establishment may accept legal persons as sponsors and allow them to contribute to the financing of its programmes to promote their image, activities or achievements, provided that the establishment retains full control over the scheduling of said programmes.

(3) The sponsorship of children's programmes is prohibited.

(4) The restrictive rules on sponsorship laid down in Article 27a (6) of the amended Law of 27 July 1991 on electronic media also apply.

(5) The establishment shall assume editorial responsibility for the sponsorship announcements broadcast.

Article 16. Monitoring the content of the programmes

The monitoring of the content of the programmes shall fall within the remit of the ALIA, in accordance with Article 35(2) (g) of the amended Law of 27 July 1991 on electronic media.

Article 17. Broadcasting obligation

The establishment shall make its facilities available free of charge to the State and local authorities in case of the need to disseminate information relating to the safety of human life and police demands. Said facilities shall be made available at the request of and under the responsibility of the Government, whose broadcasting requirements shall have priority over other programmes.

Article 18. Tax provisions

(1) The establishment shall be exempt from all taxes and charges for the benefit of the State and municipalities, with the exception of value added tax and remunerative taxes.

(2) Acts made in the name of and in favour of the establishment are exempt from stamp, registration, mortgage

or inheritance duties, except for the fees relating to mortgages.

Article 19. Amending provisions

The amended Law of 27 July 1991 on electronic media is amended as follows:

- 1) at the end of Article 3(2), the words 'and in the Law of 12 August 2022 on the organisation of the public establishment 'Public Service Media 100,7'' shall be added.
- 2) Article 14 is repealed.

Article 20. Transitional provisions

The establishment shall continue to have the legal personality, staff and legal commitments of the sociocultural broadcasting establishment as created by the amended Electronic Media Law of 27 July 1991.

The term of office of the members of the Board of Directors appointed before the entry into force of the present Law shall be calculated from the date of appointment of their term of office following the entry into force of the present Law.

The term of office of the Commissioner appointed before the entry into force of the present Law shall not be affected.

Article 21. Name of the establishment

In all legislation and regulations, any reference to the sociocultural broadcasting establishment shall be understood as referring to the 'Public Service Media 100,7'.

Article 22. Quoting the Law

Any reference to the present Law may be made in an abbreviated form using the following wording: 'Law of 12 August 2022 on the organisation of the public establishment 'Public Service Media 100,7'.