

Courtesy translation only. Original French version is binding.

Law of 30 July 2021 on an aid scheme in favour of professional journalism.

We, Henri, Grand Duke of Luxembourg, Duke of Nassau,
Having heard our Council of State;
With the assent of the Chamber of Deputies;
Having regard to the decision of the Chamber of Deputies of 8 July 2021 and that of the Council of State of 16 July 2021 to the effect that no second vote is necessary;

Have ordered and do order as follows:

Chapter 1 – Purpose and scope

Article 1.

An aid scheme is hereby established in favour of the professional press in the form of an annual financial aid charged to the State budget with a view to maintaining and promoting press plurality in Luxembourg.

The aid shall be allocated by decision of the Minister in charge of Media, hereinafter the “Minister”, on the advice of the “Press Aid” Committee provided for in Article 14, hereinafter referred to as the “Committee”. If the Committee has not issued its opinion within a period of six months, the Minister shall adopt his decision without an available opinion of the Committee.

Excluded from the scope of this Law shall be any publisher which:

- 1 ° is entrusted with a public service or public-interest mission;
- 2 ° benefits from direct or indirect State aid from another country;
- 3 ° broadcasts a Luxembourg service, within the meaning of Article 2(24) of the amended Law of 27 July 1991 on electronic media.

Chapter 2 – Definitions

Article 2.

For the application of the present Law, the following definitions shall apply:

- 1 ° “publisher”: a publisher as defined in Article 3(3) of the amended Law of 8 June 2004 on freedom of expression in the media;
- 2 ° “press group”: a single undertaking as defined in Article 2(2) of the Law of 20 December 2019 of which the purpose is to establish a minimum aid scheme;
- 3 ° “professional journalist”: any person recognised by the Luxembourg Press Council as having the status of professional journalist, in accordance with Article 3(6) of the amended Law of 8 June 2004 on freedom of expression in the media;
- 4 ° “editorial line”: an editorial line as defined in Article 3(7) of the amended Law of 8 June 2004 on freedom of expression in the media;
- 5 ° “press publication”: a collection composed mainly of literary works of a journalistic nature benefiting from the protection granted by copyright, but which may also include other protected items or works, and which:
 - a) constitutes a unit of periodical or regularly updated publications under a single or similar title;

- b) has the purpose to provide the general public with information related to news and other subjects;
 - c) is published in any media under the initiative and under the responsibility of a publisher.
- Periodicals, magazines or internet sites that are thematically specialised, and also periodicals published for scientific or university purposes, shall not be press publications for the purposes of the present Law.
- 6 ° “media”: media as defined in Article 3(8) of the amended Law of 8 June 2004 on freedom of expression in the media;
 - 7 ° “publication”: publication as defined in Article 3(9) of the amended Law of 8 June 2004 on freedom of expression in the media;
 - 8 ° “online press publication”: a press publication published exclusively on the internet, comprising on average at least two contributions benefiting from the protection granted by copyright each day and at least six days a week, except in cases of *force majeure*;
 - 9 ° “weekly press publication”: a printed press publication issued at least once a week and thus appearing at least fifty weeks out of fifty-two, except in cases of *force majeure*;
 - 10 ° “monthly press publication”: a printed press publication appearing at least once each month and so appearing at least eleven months out of twelve, except in cases of *force majeure*;
 - 11 ° “daily press publication”: a printed press publication appearing at least four times a week and so appearing at least fifty weeks out of fifty-two, except in cases of *force majeure*.

Chapter 3 – Maintaining pluralism

Article 3.

(1) A publisher which fulfils the following criteria shall be considered to be a publisher eligible for the aid provided for in Article 4:

- 1 ° it has an business permit issued pursuant to the amended Law of 2 September 2011 governing access to the professions of craftworker, trader or industrialist and also certain liberal professions and pursues the corporate object of trade in information;
- 2 ° it has a training plan for professional journalists;
- 3 ° it publishes in its annual report the women-men ratio within the newsrooms, its editorial line, the actions taken to promote media literacy, the training programmes followed by professional journalists and the measures adopted to improve access to its content for people with disabilities.

(2) In order to benefit from the aid provided for in Article 4, the press publication of an eligible publisher must, from at least one year before the date of the application, fulfil the following criteria:

- 1 ° provides general information intended principally for the whole or a significant part of the public residing in the Grand Duchy of Luxembourg, contributes to the pluralism of opinions and produces content relating at least to political, economic, social and cultural matters, both nationally and internationally;
- 2 ° publishes either a daily publication, a weekly publication, a monthly publication or an online publication;
- 3 ° has an editorial team comprising a number of professional journalists equivalent to at least five full-time posts, working under a permanent employment contract;
- 4 ° is publicly accessible to the entire population, whether free of charge or in return for payment;
- 5 ° employs one or more languages used by at least 15 % of the population according to the official statistics recorded in the most recent general census of the population at the time of filing of the application;
- 6 ° does not constitute a promotional tool or an accessory to any industrial or commercial activity;
- 7 ° devote the majority of the total surface of the press publication to editorial content;
- 8 ° ensure that any content published in return for remuneration is easily identifiable and easily distinguishable from journalistic content emanating from the newsroom;
- 9 ° deploy appropriate mechanisms to preclude the insertion of unlawful content in the areas reserved for personal contributions by internet users.

Article 4.

- (1) The aid shall comprise two parts, a proportional part called “aid for editorial activity” and a fixed part.
- (2) The Minister shall allocate aid for editorial activity of an annual amount of 30,000 euros per equivalent full-time professional journalist employed by the publisher under a contract of indeterminate duration.

That amount is based on the value of 834.76 representing the rate at which the sliding salary scale is applied and shall vary according to the evolution of the scale. The expiry of an index tranche during the current budgetary period will give rise to a corresponding adjustment of the aid for the following budgetary period.

The Minister shall allocate, within the available budgetary limits, aid of a fixed annual amount of 200,000 euros to each eligible publisher whose press publication complies with the criteria laid down in Article 3(2). That amount is based on the value of 834.76 representing the rate at which the sliding salary scale is applied and shall vary according to the evolution of the scale. The expiry of an index tranche during the current budgetary period will give rise to a corresponding adjustment of the aid for the following budgetary period.

Article 5.

- (1) A duly reasoned application for aid shall be sent to the Minister in writing, accompanied by supporting documents.

A Grand-Ducal Regulation may determine the supporting documents required to check the criteria.

- (2) Aid for editorial activity shall be payable by quarterly instalments and shall be calculated on the basis of the full-time equivalents of professional journalists working under a contract during the quarter preceding the application.

- (3) The fixed aid shall be payable annually and shall be calculated on a pro rata basis for the period between the date of the application and the end of the year.

- (4) The aid for editorial activity and the fixed aid shall be allocated to expenses directly linked to publishing, self-promotion or innovation of the press publication.

- (5) The payment of any subsequent fixed aid shall be conditional upon presentation in advance of a statement recording the use made of the aid received previously.

Chapter 4 – Promotion of pluralism

Article 6.

- (1) A publisher which meets the following criteria shall be regarded as an emerging publisher:

1 ° have a business permit issued pursuant to the amended Law of 2 September 2011 governing access to the professions of craftworker, trader, industrialist and also certain liberal professions and pursues the corporate object of trade in information;

2 ° publish its editorial line.

- (2) In order to be able to benefit from the aid provided for in Article 7, the press publication of an emerging publisher must, from at least six months prior to the date of the application, meet the following criteria:

1 ° fulfil the eligibility criteria listed in Article 3(2), with the exception of subparagraph 3;

2 ° have an editorial team comprising a number of professional journalists equivalent to at least two full-time posts, working under an employment contract.

3 ° not be part of a press group;

4 ° have incurred expenses relating to press publication of at least 200,000 euros.

In the event that threshold is not reached, the aid shall be decreased in proportion to the difference.

Article 7.

(1) The Minister shall award annual aid of 100,000 euros to each emerging publisher whose press publication conforms to the criteria laid down in Article 6(2).

That amount is based on the value of 834.76 representing the rate at which the sliding salary scale is applied and shall vary according to the evolution of the scale. The expiry of an index tranche during the current budgetary period will give rise to a corresponding adjustment of the aid for the following budgetary period.

(2) The allocation of the aid shall be limited to three consecutive years.

Article 8.

(1) A duly reasoned request for aid shall be sent to the Minister in writing, accompanied by supporting documents, and containing at least the following elements:

- 1 ° information facilitating assessment of the economic viability of the press publication, including a provisional budget covering at least two years;
- 2 ° a description of the emerging publisher and of the press publication, describing their contribution to pluralism in the journalistic landscape of Luxembourg.

A Grand-Ducal Regulation may determine the supporting documents required to check the criteria.

(2) The aid shall be allocated to expenses directly linked to the publishing, self-promotion or innovation of the press publication.

(3) The payment of any subsequent aid shall be conditional upon prior presentation of a statement recording the use made of the aid received previously.

Chapter 5 – Media literacy and citizenship education

Article 9.

A publisher which, for at least one year before the date of the application, has fulfilled the following criteria shall be regarded as a citizen publisher:

- 1 ° is established as a not-profit association or foundation, in accordance with the amended Law of 21 April 1928 on not-profit associations and foundations;
- 2 ° has recourse to the voluntary participation of citizens in editorial activity;
- 3 ° contributes to media education, integration and social cohesion;
- 4 ° has diverse financial resources;
- 5 ° is not part of a press group;
- 6 ° provide content primarily intended for the whole or a significant part of the public residing in the Grand Duchy of Luxembourg;
- 7 ° has a team comprising a number of employees equivalent to at least two full-time posts, including at least one professional journalist;
- 8 ° does not constitute a promotional tool or an accessory to any industrial or commercial activity.

Article 10.

The Minister shall grant annual aid of a maximum amount of 100,000 euros to a citizen publisher on the basis of the following criteria:

- 1 ° the participation of volunteers in collective actions relating to content;
- 2 ° action undertaken in favour of media education, integration, the promotion of citizenship and the fight against discrimination;
- 3 ° the portion of original content produced by the citizen media within the publication;
- 4 ° the scope of the cultural, social and educational actions organised;

- 5 ° the vocational training measures taken in favour of employees and the consolidation of jobs within their service;
- 6 ° the extent of the technical and operating expenses.

That amount is based on the value of 834.76 representing the rate at which the sliding salary scale is applied and shall vary according to the evolution of the scale. The expiry of an index tranche during the current budgetary period will give rise to a corresponding adjustment of the aid for the following budgetary period. An agreement shall determine the amount and, in respect of the editorial independence of the media, define the commitments of the citizen publisher and the arrangements for payment.

Article 11.

A duly reasoned application for a grant shall be submitted to the Minister in writing, accompanied by supporting documents.

Chapter 6 – Monitoring of aid

Article 12.

- (1) The documentation relating to the aid granted under the present Law shall be retained by the Minister for ten years following the date of the application.
- (2) The total aid granted shall be published annually by the Minister.

Chapter 7 – Limit of aid

Article 13

- (1) In order to benefit from the aid provided for in Article 4, an eligible publisher must generate annually, for each press publication, own income of at least 50 % of the aid to be granted.

Calculations shall be based on the annual accounts for the year preceding the aid application.

- (2) The maximum annual amount paid to a publisher by type of press publication shall be limited to:

- 1 ° 1,600,000 euros for a daily publication;
- 2 ° 800,000 euros for a weekly publication;
- 3 ° 650,000 euros for a monthly publication;
- 4 ° 550,000 euros for an online publication.

- (3) The maximum annual amount paid to a press group shall be limited to 2,500,000 euros.

Chapter 8 – “Press Aid” Committee

Article 14.

- (1) A Committee, reporting to the Minister, shall be established with the task of giving an opinion on:

- 1 ° fulfilment by applications of the eligibility criteria;
- 2 ° loss of the benefit of the aid and its restitution;
- 3 ° viability with regards to the development prospects of aid applications submitted by emerging publishers;
- 4 ° any other matter referred to it by the Minister.

(2) The Committee shall comprise ten effective members and ten alternate members appointed by the Minister. Their term of office shall be five years, renewable.

In the event of early termination of the mandate of an effective member, the new member appointed in accordance with the present article shall complete the term of office of the member he replaces.

(3) The alternate member shall replace the effective member if the latter is unable to attend.

Members related to the applicant publisher may not take part in deliberations concerning that application.

(4) The composition of the Committee shall be as follows:

- 1 ° two members representing the Department of Media, Connectivity and Digital Policy;
- 2 ° one member representing the Minister responsible for Finance;
- 3 ° a member representing the Information and Press Service;
- 4 ° the Commissioner for copyright and related rights;
- 5 ° four members appointed on the proposal from the Press Council, including two members representing the professional journalists' group and two members representing the publishers' group;
- 6 ° one member representing the academia, qualified by virtue of his knowledge in the field of media.

(5) The Minister shall appoint the chairperson from among the representatives of the Department of Media, Connectivity and Digital Policy.

(6) The chairperson shall convene the Committee, determine the timetable and the agenda for the meetings and oversee the discussions.

(7) The Committee shall be assisted in its tasks by agents of the Department of Media, Connectivity and Digital Policy.

(8) The Committee may adopt an opinion only if the majority of its members are present. Opinions shall be adopted by a majority of the votes of the members present. In the event of a tie, the vote of the chairperson shall prevail.

(9) The Committee may, where it considers it appropriate to do so, hear a representative of the publisher requesting aid. The publisher requesting aid shall also be entitled to be heard, at his request, by the Committee.

(10) The Secretariat shall prepare a report of the deliberations, which shall be submitted for approval to the Committee and published.

(11) The members and secretaries of the Committee shall be bound to the secrecy of the deliberations and may not disclose to any third party any information obtained in the performance of their duties.

(12) The Committee may verify fulfilment of the criteria by all means, be assisted by experts, require additional documents and propose audits.

Chapter 9 – Restitution

Article 15.

(1) Whenever a publisher benefiting from aid no longer meets any of the eligibility criteria or ceases business, it shall give the Minister notice thereof without delay.

(2) In the cases referred to in paragraph 1, the publisher shall partially or totally reimburse the aid granted to it. The same shall apply to any publisher which has knowingly provided inaccurate or incomplete information.

(3) The Minister, relying on the opinion of the Committee, shall establish the facts resulting in the loss of the benefit of aid. The same shall apply to determination of the amounts to be reimbursed by any defaulting publisher.

Chapter 10 – Suspension of the grant of aid

Article 16.

No aid provided for by the present Law may be granted before the final decision of the European Commission declaring the aid scheme established by the present Law to be compatible with the internal market. The Minister responsible for Media shall publish in the *Official Journal of the Grand Duchy of Luxembourg* a notice providing details of the European Commission's decision and indicating the reference for its publication in the *Official Journal of the European Union*.

Chapter 11 – Financial provisions

Article 17.

The granting of the aid provided for in Article 4(3) and Article 10 shall be confined within the credits provided for by the annual budget Law and may be adjusted retain proportion to the available budgetary credits.

Chapter 12 – Criminal-law provision

Article 18.

Any persons who have obtained aid under the present Law on the basis of information known to them to be incorrect shall be liable to the penalties provided for in Article 496 of the Penal Code.

Chapter 13 – Repealing provision

Article 19.

The amended Law of 3 August 1998 on promotion of the written press is repealed.

Chapter 14 – Transitional provision

Article 20.

(1) Publishers who, under the rules of the amended Law of 3 August 1998 on the promotion of the written press, obtained, in 2019, a total amount higher than the total amount resulting from the application of Article 4, shall, for five years, be granted, upon request and for the same type of press publication, annual compensation equivalent to the difference between those two amounts.

The benefit of this transitional regime shall be linked to the condition of maintaining the employment of professional journalists by comparison with the average workforce in 2019, without any decrease, except in cases of *force majeure* or duly proven exceptional circumstances.

(2) The annual compensation shall be allocated to expenses directly linked to the publishing, self-promotion or innovation of the press publication.

We direct and order that the present Law be published in the *Official Journal of the Grand Duchy of Luxembourg* in order to be enforced and observed by all persons concerned.

*For the Minister for Communications
and Media,
The Minister for Small and Medium-
Sized Enterprises,*
Lex Delles

Cabasson, 30 July 2021.
Henri

Parliamentary document 7631; ordinary session 2019-2020 and 2020-2021.
