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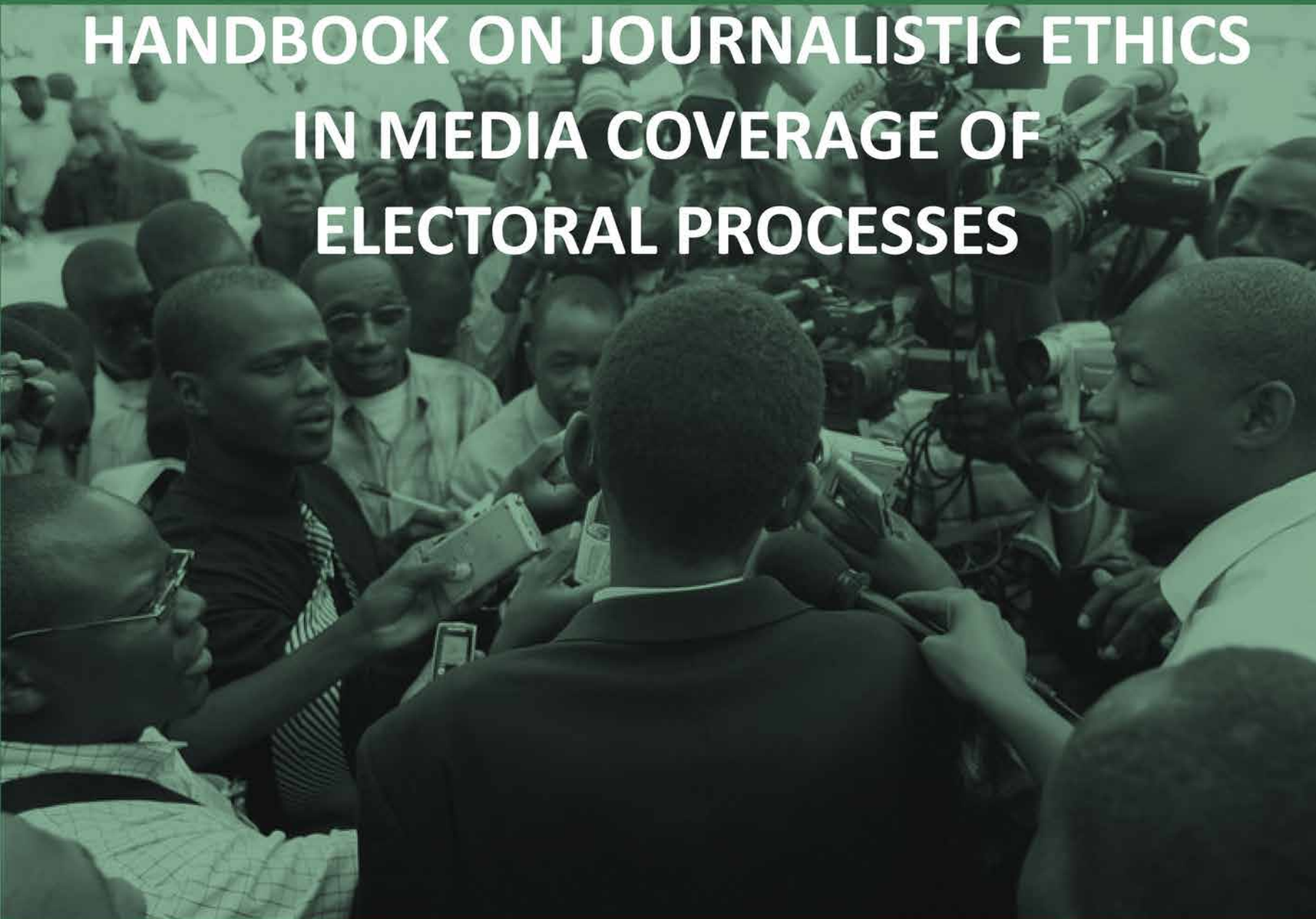


Projecto de Apoio aos Ciclos Eleitorais nos Países Africanos de Língua Oficial Portuguesa e Timor-Leste



Analysis of 4 African Portuguese-Speaking Countries (PALOP) Case Studies

# HANDBOOK ON JOURNALISTIC ETHICS IN MEDIA COVERAGE OF ELECTORAL PROCESSES



“The views expressed in this publication are those of the author(s) and do not necessarily represent those of the European Union, the United Nations, including UNDP, or their Member States.”

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# ACRONYMS

- AEC** Australian Electoral Commission
- AFIS** Automated Fingerprint Identification System
- ANP** National Popular Assembly
- ANS** Service Level Agreement
- ANSI** American National Standards Institute
- BCP** Business Continuity Planning
- BDRE** Voter Registration Database
- BGAN** Broadband Global Area Network
- BRIDGE** Building Resources in Democracy, Governance and Elections
- CD** Compact disc
- CD-ROM** Compact disc read-only memory
- CEN** National Elections Commission
- CNE** National Electoral Commission
- COBIT** Control Objectives for Information and related Technology
- CPD** Data Processing Centre
- CPLP** Community of Portuguese-Speaking Countries
- CRE** Regional Elections Commission
- DGAPE** Directorate-General for Support of the Electoral Process
- EISA** Electoral Institute for the Sustainability of Democracy in Africa
- EMB** Electoral Management Body
- FAQ** Frequently Asked Questions
- FRS** Facial Recognition System
- FTP** File Transfer Protocol
- GPECS** UNDP Global Programme for Electoral Cycle Support
- GTAPE** Technical Bureau for Support of the Electoral Process

<b>GTE</b>	Technical Bureau for Elections
<b>HDD</b>	Hard disk drive
<b>ID</b>	Identification document
<b>IDEA</b>	International Institute for Democracy and Electoral Assistance
<b>HDI</b>	Human Development Index
<b>IFES</b>	International Foundation for Electoral Systems
<b>IEC</b>	International Electro technical Commission
<b>INCITS</b>	International Committee for Information Technology Standards
<b>INE</b>	National Institute for Statistics
<b>IP</b>	Internet Protocol
<b>IPAD</b>	Portuguese Institute for Development Assistance
<b>ISACA</b>	Information Systems Audit and Control Association
<b>ISO</b>	International Organization for Standardization
<b>JTF</b>	EC-UNDP Joint Task Force on Electoral Assistance
<b>LAN</b>	Local Area Network
<b>MOE</b>	European Union Elections Observation Mission
<b>MS SQL</b>	Microsoft Structured Query Language
<b>PALOP</b>	African Portuguese-Speaking Countries
<b>PDA</b>	Personal Digital Assistant
<b>SLA</b>	Service Level Agreement
<b>SMS</b>	Short Message Service
<b>STAE</b>	Technical Secretariat for Electoral Administration
<b>IT</b>	Information Technology
<b>ICT</b>	Information and Communication Technologies
<b>EU</b>	European Union
<b>UNDP</b>	United Nations Development Programme
<b>UNEST</b>	United Nations Electoral Support Team
<b>UNMIT</b>	United Nations Integrated Mission in Timor-Leste
<b>UNTL</b>	Timor Lorassa'e University
<b>UNV</b>	United Nations Volunteers
<b>UPS</b>	Uninterruptible Power Supply
<b>USAID</b>	United States Agency for International Development
<b>VLAN</b>	Virtual Area Network
<b>VHF</b>	Very High Frequency
<b>VPN</b>	Virtual Private Network
<b>WAN</b>	Wide Area Network

## PREFACE

“Journalistic ethics and deontology codes of conduct in media coverage of electoral processes – analysis of four African Portuguese-Speaking Countries (PALOP) case studies” results from the research, collection and analysis of information on the Media outlook aiming at developing mechanisms of self-regulation, based on journalistic ethics and deontology in all five African Portuguese-Speaking Countries (Angola, Cape Verde, Guinea-Bissau, Mozambique and Sao Tome and Principe) and East Timor.

The Support to Electoral Cycles 2010 – 2012 in the and East Timor project provides assistance to the Media aiming at enhancing professionalism by building capacity of relevant stakeholders particularly in terms of electoral process coverage, through the study and development of ethical standards and the voluntary creation, improvement and application of codes of conduct in accordance with good international practice.

The handbook consolidates knowledge based on the analysis of four case studies – Guinea-Bissau, Sao Tome and Principe, Cape Verde and Mozambique – the Media outlook, legal framework, mechanisms of self-regulation and existing good practice in terms of ethics and deontology, voluntary use and application of codes of conduct set for elections are some of the themes approached.

The handbook also reflects the results of the support provided in the PRO PALOP / TL initiative between February 13 and May 2, 2011. The support provided entailed the research, collection and analysis of information leading to identification of practices and existing mechanisms and their development or production of new documents of self-regulation based on ethics and deontology for subsequent dissemination.

This activity was conducted in partnership with trade unions, associations and other socio-professional organizations of journalists in a consultative and participatory process. The process involved key stakeholders namely journalists but also Media regulators and electoral management bodies.

In Cape Verde, the PRO PALOP/ET initiative, in close collaboration with the Association of Journalists of Cape Verde (AJOC), adjusted Media activities to AJOC's priorities and carried out the Journalist Code of Ethics reformulation adopted unanimously by the journalists in Cape Verde on May 14 and 16 2011. The existing Code of Conduct for Electoral Processes that had been approved on 2010 during a workshop on the electoral process organized by AJOC and the National Electoral Commission was attached to the Journalist Code of Ethics.

In Sao Tome and Principe, PRO PALOP/ET, in collaboration with the Sao Tome and Principe Union of Journalists (SJS), prepared an Electoral Code of Conduct for Journalists and the Media publicly and collectively adopted on May 26 2011, in a session chaired by the President of SJS. The document has developed into a reference self-regulation document guiding Media activity during elections in Sao Tome and Principe.

In Guinea-Bissau, the Union of Journalists and Media Technicians (SINJOTECS) and the House of Press, with the support and collaboration of PRO PALOP/ET, organized a Workshop where debates on Journalistic ethics were held as well as a presentation and discussion of the Electoral Code of Conduct for Journalists and the Media preliminary draft. During the workshop recommendations for better exercise journalism in Guinea-Bissau were made. A final proposal taking into account inputs from journalists and other parties was presented to SINJOTECS and the House of Press aiming at the adoption of an Electoral Code of Conduct for Journalists and the Media with the support of the PRO PALOP/ET and before municipal elections (the latter should be held between the third quarter of 2011 and second quarter of 2012). The National Network of Community Radios of Guinea-Bissau (RENARC), INFORMORAC (Mobile Training for Community Radios Initiative), the Media National Council (CNCS)

also participated in the mentioned debate that counted as well with the contribution of electoral management bodies, namely the National Elections' Commission (CNE).

In Mozambique, the activity of PRO PALOP/ET focused on enhancing synergies through exchange of experiences, drawing on good practices undertaken in the country namely the "Code of Conduct for Election Coverage" adopted in 2008 under the aegis of the National Union of Journalists (SNJ) and MISA – Mozambique. To this end, a workshop was organized in partnership with the SNJ, the collaboration of the Technical Secretariat for Electoral Administration (STAE) and the National Elections' Commission (CNE) and the presence of the Media Supreme Council. Journalistic ethics and deontology was debated as well as its adjustment to electoral periods and possible changes and improvements to the preliminary draft of the electoral Code of Conduct for Journalists and the Media as a reference tool for all PALOP and East Timor. The debate main conclusion was the importance of setting standards and principles that guide media coverage during elections, translated in a reference code of conduct written in Portuguese that reveal a common ethics accepted and applicable in all PALOP and East Timor.

This Handbook on "Journalistic Ethics and deontology codes of conduct in Media Coverage of Electoral Processes – analysis of four African Portuguese-Speaking Countries (PALOP) case studies" intends, therefore, to guide as a reference document, the PALOP and East Timor on the Media development with regard to the use of self-regulation based on ethics and deontology and the application of codes of conduct for elections processes.

The expected outcome of the PRO PALOP/ET media support activity is to contribute to a more effective role of the latter during electoral processes based on international standards of freedom of speech and press promotion.



# 1. INTRODUCTION



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## 1. PRO PALOP/ET MEDIA SUPPORT ACTIVITY



The PRO PALOP/ET Media support activity is based on the fact that freedom of the press is essential to the full and effective exercise of freedom of expression – which implies the right to speak, right to an opinion, right to criticize the State and its Institutions – and is an indispensable tool for the functioning of democracy. It is through the exercise of freedom of the press by journalists that the citizens exercise their right to seek and receive information so when it is time to express their electoral choices the same citizens dispose of as much of the best information possible to enabling an informed exercise of their right to vote.

The media can thus contribute to the strengthening of the democratic process and for greater public participation in elections. For this purpose a free, independent and diverse Media is fundamental to maintain the electorate informed in an impartial and rigorous matter.

The media plays a role in the monitoring, supervision and scrutiny of government and public authorities performance; awareness on how the exercise of democratic rights; political parties electoral campaign coverage and contestation of electoral results; granting political parties a platform for discussion and for communicating political messages to the electorate; monitoring votes counting and announcement of results, as well as oversight of the electoral process and assessment of its equity, efficiency and probity. The role of the media is therefore recognized as increasingly important for free and transparent elections.

Currently journalists are guided by principles and standards of professional conduct, centered

*“Freedom of expression is a fundamental and international human right and a basic component of a civil society based on democratic principles. Independent and diverse Media is crucial for a free and open society and for government accountability.”*  
*Joint Declaration on International Mechanisms for Promoting of Freedom of Speech, 1999, the UN Special Rapporteur on Freedom of Opinion and Expression, Special Rapporteur on Freedom of Expression of the OAS and the OSCE Rapporteur*

in observance of impartiality, independence, objectivity and responsibility. The biggest test of professionalism for a journalist happens during election periods, when the pressures on media professionals tend to be stronger due to a context of intense national political debate and higher risk of manipulation and interference by candidates and political parties. Thus, journalists and the media activity require further consideration and reflection during the electoral process in order to announce events with rigor and balance, favoring the maintenance of peace and tranquility, simultaneously contributing to the transparency and integrity of the electoral process and hence contributing to a trustworthy process.

The International Federation of Journalists (IFJ) encourages journalists to recognize, for professional purposes, the jurisdiction of his colleagues, encouraging them to take and to respect commitments to the values and principles of ethics and deontology of the profession, translated into self-regulation mechanisms such as ethical codes or conduct, that should be honored by journalists in all aspects of their work.

Aiming at contributing to a more effective role of the Media during the electoral process the PRO PALOP/ET took into account the findings and recommendations of the workshop on Support to Media in Electoral Processes, held under the auspices of *International IDEA and the BBC World Service Trust* in London, March 2010. The mentioned workshop identified the needs and functions of the media during the electoral process.

The role of the media in promoting or reducing incidents of electoral violence was discussed in the mentioned debate. It is recognized that the

**MAPUTO DECLARATION ON THE PROMOTION OF FREEDOM OF EXPRESSION, ACCESS TO INFORMATION AND EMPOWERMENT OF PEOPLE, UNESCO, MAY 3, 2008, PROMPTS FOR:**

- The commitments made in the Millennium Declaration, 2000, about the importance of communication that fosters dialogue and enables citizens and communities to express their aspirations and concerns and participate in decisions relating to their development
- The contribution of a free, independent and pluralistic media for sustainable human development, poverty eradication, good governance, peace and reconciliation, respect for human rights;
- Technological advances and the ability of those to contribute to better and more pluralistic information flows, within and across borders;
- The need of low-cost access to the Internet and information and communication technologies, fostering an environment in which communication and new technologies reduce digital and knowledge exclusion in developing countries and provide a plurality of media and access to information;

- The need to promote media literacy emphasizing the public service contribution, and commercial and community media contribution to the diversity of the media outlook and the role of community broadcasting in the promotion of underrepresented or marginalized groups and people's access to information and participation in decision-making processes.

media can have a prominent role in conflict and electoral violence prevention perpetrated by extremist political, ethnic, religious or other forces. Conclusions call for the need to support those involved in the media to develop a regulatory framework that contributes to minimize tension and violence during elections. The regulation should focus on sanctioning of inflammatory hatred language either through independent regulatory bodies or through self-regulatory initiatives.

Disclosure of incorrect information on election results can lead to increased tensions that

may culminate in acts of electoral violence. It is, therefore, necessary to set standards for responsible and accurate disclosure of election results.

Monitoring of the media during the election campaign, when pursued by independent organizations and entities was recognized as a specific mechanism that may contribute to the reduction of tensions by assessing the degree of impartiality, balance and equal coverage of electoral events.

On the other hand, there is a need to take into account the increasing fragmentation and polarization of the media resulting from the development and proliferation of information and communication technologies and “new media”, ie the use of mobile phone, Internet and social networking platforms. The latter rendered easier and cheaper for citizens to access and propagate information without filter or quality control, precision or accuracy.

The results of PRO PALOP/ET media support activity are already visible in the sense that it contributed to trigger mechanisms of self-regulation aiming at increasing media professionalism in line with international standards and best practices in the countries under study, particularly in Cape Verde, Guinea-Bissau and Sao Tome and Principe. After the public adoption these mechanisms become guiding documents for reporting and news coverage, particularly during elections, expressing a set of ethical and professional conduct principles to which journalists and media committed to.

These mechanisms of self-regulation ultimately aim at protecting and promoting freedom of expression and freedom of the press and allow journalists to carry out their activities with greater dignity, security and autonomy, independent and free from interference, coercion or pressure.

## 2. FRAMING PRO PALOP/ET: EC – UNDP ELECTORAL ASSISTANCE PARTNERSHIP

The Project of Support to PALOP and East Timor Electoral Cycles 2010 – 2012, hereinafter referred to by the acronym, PRO PALOP/ET, spanning five African Portuguese-Speaking Countries (Angola, Cape Verde, Guinea-Bissau, Mozambique and São Tome and Principe) and East Timor, fits in the existing partnership for electoral assistance between the European Commission (EC) and the United Nations Program for Development (UNDP).

The EC and UNDP have acquired a long experience in the field of electoral assistance, are responsible for most of the funds made available in this field and are at the forefront of the development and conceptualization of strategy for effective electoral assistance.

This partnership streamlines interventions in the area and renders the formulation, implementation and evaluation of projects timely and more effective in accordance with the concepts of coordination between donors advocated in the Paris Declaration of 2005 and the 2008 Accra Declaration on Aid Effectiveness. The resulting projects are therefore more homogeneous, effective and harmonized with the general objectives of the European Union (EU) and the United Nations (UN), providing better results to the requesting country.

The partnership EC – UNDP has proven to be useful and valuable to better understand and operate in the context of interactions between services of the EC and UNDP with the Electoral Management Bodies (EMBs); the third bodies electoral assistance providers; agencies; multilateral devel-

### “GOVERNANCE INITIATIVE”

The “Governance Initiative” funded a number of projects through the National Indicative Programmes (NIPs) of each PALOP and East Timor under the 10th EDF. The EDF (European Development Fund) is the main Community aid instrument for development cooperation in the ACP. The 10th EDF covers the period between 2008 and 2013 and has 33, 1 million Euros, or about 4% of the PIN each PALOP and East Timor.

### CYCLICAL APPROACH OF ELECTORAL ASSISTANCE

The electoral cycle approach to electoral assistance addresses the electoral process continuously in time instead of channeling substantial resources and technical support exclusively for a specific electoral event.

In this approach, the electoral cycle is divided into three phases: pre-election, election and post-election.

In 2007, the UN General Assembly endorsed this approach, recommending that “... *The entire length of time of the electoral cycle, including before and after the elections, as appropriate, based on a needs assessment, the United Nations continues to provide technical and other assistance to countries or electoral institutions in order to help them strengthen their democratic processes.*”

opment and bilateral agencies; governments; civil society organizations; political parties and service providers. The enhancement of sensitivity and good management of these relationships is a fundamental aspect for the provision of effective electoral assistance and requires the development of specific capabilities that go far beyond technical advice on electoral matters.

This approach and EC-UNDP partnership for electoral assistance form the basis of the new framework for cooperation in supporting the electoral cycles of African Portuguese-Speaking Countries, Caribbean and Pacific (ACP).

PALOP and East Timor signed a Memorandum of Understanding with the EC on the continuation of their cooperation. The focus of future work will be on democratic governance as a key to poverty reduction, including, particularly, political governance, government effectiveness, economic and social governance integrated in the “Governance Initiative” an approach that covers several countries and which will identify common solutions to common problems, allow exchange of knowledge and experiences and disseminate good practices.

It is in this context that the EC-UNDP Partnership was requested to formulate a project to support PALOP and East Timor election cycles 2010 – 2012, in the field of electoral assistance and in the broader context of democratic governance, to be funded under the 10th EDF.

### 3. SUPPORT TO PALOP AND EAST TIMOR ELECTORAL CYCLES 2010-2012 PROJECT

#### 1.1. Overall Objective

The overall objective of the PRO PALOP/ET is to contribute to PALOP and East Timor democratic processes, through specific support targeting electoral processes, parliaments and elected parliamentarians and the media.

#### 1.2. Specific Objectives

The PRO PALOP / ET has as specific objectives: (1) Improve the capacity of electoral management bodies EMBs, (2) To consolidate the Lusophone Electoral Management Bodies within the ACE Electoral Knowledge Network and disseminate electoral management tools and methodologies in Portuguese, adapting them to the needs and specificities of the PALOP and East Timor, and (3) increase the participation of women and youth , and improving the capacity of parliaments and the media in fulfilling its role, particularly in regarding the electoral process .

The third goal fits the activity aimed at enhancing professionalism in the media, the development of ethical standards, and the promotion of codes of conduct implementation set for elections.

#### 1.3. Project Strategy

The PRO PALOP/ET's strategy is to use a cyclical approach to electoral assistance supporting

#### PRO PALOP / ET AS AN EXAMPLE OF COORDINATION AND HARMONIZATION

The project is a good example of coordination and harmonization and is in line with the principles of the Paris Declaration and Accra on Aid Effectiveness, in the sense that:

- Is clearly driven by the demand / needs;
- Was conceived as a result of a wide consultation with relevant stakeholders;
- Involves strong coordination among its stakeholders;
- Resources for project implementation are used to finance at regional level harmonized in line with the strategy of multi-country project;
- Aims to support capacity building of national and support, based on national legislation, institutions and procedures of partner countries;
- Should also complement and strengthen existing efforts in different sectors, avoid duplication and streamline activities.



the Electoral Management Bodies (EMBs) capacity building over the election cycles; make accessible and available in Portuguese, a set of existing international electoral knowledge and sources, adapting them to the contexts of the PALOP and East Timor, and incorporate activities of electoral assistance within broader framework democratic governance by strengthening

legislatures (parliaments and parliamentarians, particularly women) and promote more efficient relations between the media, parliaments, and domestic election observation.

Project activities can be grouped into two basic categories; a set of cross-cutting activities for all beneficiary countries, addressing common needs; and another set of activities that come in response to the specificities of each PALOP and East Timor. The first is built on the synergies to be developed through the exchange of experiences, translated existing electoral knowledge adapted to the contexts of the PALOP and East Timor. The second set of activities comes in response to specific needs identified in the PALOP and East Timor, in an effort to provide on-demand support to these countries, in line with the electoral events through the approach to support the electoral cycle.

#### 1.4. Stakeholders and Beneficiaries

The stakeholders and project beneficiaries include a variety of entities of the system of governance such as the EMBs, Parliament and the courts, and civil society organizations, including the local election observation groups, women groups and the media. PALOP and East Timor citizens are also beneficiaries and benefit from the strengthening of democratic governance and accountability and from the opportunity to engage in the electoral process.

#### 1.5. Financing

For this set of three main activities, the PRO PALOP /ET project provides a total budget of 6.1 million euros for a period of three years, entirely funded by the European Commission. The implementation is the responsibility of UNDP.



# CHAPTER I

## MEDIA AND DEMOCRACY

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## 1. LEGAL FRAMEWORK: INTERNATIONAL AND REGIONAL STANDARDS



### INTERNATIONAL AND REGIONAL STANDARDS

The fundamental rights of citizens to freedom of expression and freedom of information are safeguarded in reference international and regional standards:

- In the universal terms, documents validated within the United Nations (UN), as well as the reports and statements of the UN Special Rapporteur on Freedom of Opinion and Expression (established by resolution of the UN Commission on Human Rights in 1993), are an important source of international norms and standards on freedom of expression and right to information.
- At regional level, the African Union (AU) adopted the African Charter on Human and Peoples' Rights and the Declaration of Principles on Freedom of Expression and Freedom of Information in Africa, 2002;

### 1.1. Freedom of Speech and Press

Press freedom exercised by journalists, is the exercise of freedom of expression and information, which are fundamental rights of citizens and essential to the consolidation and development of democracy. These rights shall be exercised by journalists as representatives of citizens seeking and disseminating information needed for people to participate in social and political life, in the public interest and scrutiny and oversight of public authorities and politicians.

Article 19 on freedom of information refers that people cannot make the right choices in every area of their lives, if they are not well informed. This is, without access to appropriate and accurate information it is not possible to fully exercise their rights and freedoms. It is in this sense that freedom of information is basic and fundamental: without information, none of the other human rights is complete.

This is the principle on which one of the first resolutions adopted by the General Assembly of the United Nations in 1946 that says, “Free-

dom of information is a fundamental human right and the touchstone of all the freedoms to which the United Nations is committed to.”

In 1948, Article 19 of the Universal Declaration of Human Rights (UDHR) establishes the right to freedom of opinion and expression and defined freedom of information as a right to seek, receive and impart information: “ Everyone has the right to freedom of opinion and expression, which implies the right not to be disquieted for their opinions and to seek, receive and impart, regardless of frontiers, information and ideas through any means of expression.”

In 1966, Article 19<sup>th</sup> of the International Covenant on Civil and Political Rights (ICCPR), established a broad definition of the concept of freedom of expression and states that the exercise of this right carries with it duties and responsibilities, which means it can be subject to restrictions:

1. Everyone has the right to hold opinions without interference.
2. Everyone has the right to freedom of expression, the right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally or in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be implemented as required by law and when deemed necessary:

- The Organization of American States (OAS) adopted the American Declaration of the Rights and Duties of Man, 1948, and the Convention on Human Rights, 1969.
- SADC (Southern African Community for Development) established the Protocol on Culture, Information and Sport, 2000, and the Information Statement and Information Technology, 2001.
- The declarations of the United Nations Educational, Scientific and Cultural Organization (UNESCO) adopted at regional level, the Windhoek Declaration on Promoting an Independent and pluralistic African Press, 1991 (Africa), the Declaration of Alma ati 1995 (Asia); Declaration of Santiago, 1995 (America) and the Declaration of Sana, 1997 (Arab world);
- The statements and the recommendations of the OSCE (Organization for Security and Cooperation in Europe) Special Rapporteur for Freedom of the Media and the recommendations of the Council of Europe and the European Court of Human Rights.

- A. For respect of the rights or reputations of others;
- B. For the protection of national security or public order, or of public health or morals.

In short, freedom of the press is essential to the full and effective exercise of freedom of expression – which implies the right to speak, right to an opinion, right to criticize the State and its institutions – and is an indispensable tool for the functioning of democracy and it is through the exercise of the freedom of press that citizens exercise their right to receive, impart and seek information.

## RIGHT TO INFORMATION

The right to information or freedom of information, includes the right to inform, be informed, and also the right of access to information. On the right to seek and receive information and the right of access to information, the Report on the Promotion and Protection of the Right to Freedom of Opinion and Expression, 1998 the Special Rapporteur on Freedom of Opinion and Expression, the UN states that:

*“The right to seek, receive and impart information imposes a positive obligation on States to ensure access to information, particularly in relation to information held by governments in all forms of storage and retrieval systems.”*

In 2004 the three Rapporteurs on Freedom of Opinion and Expression (UN, OAS and OSCE) had a second Joint Declaration, which stipulates the right of access to information held by public authorities as a fundamental human right, which should be effective at the national level through legislation.

## 2. MEDIA AND ELECTIONS

### 2.1. The Media's Role

The Media has an increasingly important role towards truly free and democratic elections. Throughout the electoral period the media plays a key role in ensuring the dissemination of information thus helping voters to make an informed and democratic free choice and contributing to greater citizen participation in elections, namely through:

- the process of a free and independent monitoring of public officials and politicians' performance; their failures and successes analysis; rendering them accountable for the promises made during the election campaigns. The media can inform the public about the effectiveness of their representatives and help the electorate make an informed choice;
- the voter education on how to exercise their democratic rights;
- electoral campaign coverage;
- a platform for political parties and candidates to communicate their message to the electorate and debate among themselves;
- follow up of vote counting and reporting the results;
- the oversight of the electoral process, to assess its fairness, efficiency and probity .



“To exercise democratic power on behalf of the citizens from the legitimacy by voting implies an attitude of transparency and accountability whose permanent surveillance in modern societies is largely transmitted to the media: is its function of “watchdog “, monitoring, scrutiny and oversight that allows citizens time to express their views and translate them on electoral choices, to dispose of more and better information as possible to reward or penalize government and its actors. In this sense the general requirement of ‘accountability’ is written in the broader context of ‘good governance’.”

*Joaquim Fidalgo, Place Of Ethics and Self-Regulation in professional identity*

In order to ensure greatest possible media freedom and independence to reach the electorate, the United Nations Special Rapporteur on Freedom of Opinion and Expression recommended in its 1999 annual report that a series of conditions must be ensured, including:

- pluralism of the media, so as to allow for diversity of opinions and viewpoints exposing the public to a wider variety of information sources. To this end it is essential to avoid the concentration and monopolization of ownership of the media by the state or by an individual or group of individuals;
- favoritism or discrimination in election coverage is not acceptable;
- the censorship of election programs must be rejected;
- media must be free from liability for insulting or provocative statements and the right to respond should be preserved;
- there should be a clear distinction between news coverage of the functions of a particular individual as a member of the government and as a candidate of a party;
- airtime and advertising to the media should be fair and non-discriminatory;
- shows that offer the opportunity for candidates to discuss among themselves and provide journalists the opportunity to question them should be held;
- media should engage in voter education;
- right of access to public media should be ensured to parties and candidates in the opposition.

### THREE FUNDAMENTAL RIGHTS

**Media** – the right to inform and express views  
**Voters** – the right to be informed and make an informed choice  
**Candidates and Political Parties** – the right to disclose their political messages

Therefore, the media can indeed contribute to the strengthening of the democratic process. To accomplish so a free, independent and pluralistic media is needed so there is an informed electorate, a platform for public discussion and democratic dialogue, an independent government and responsible oversight of the electoral process made by journalists.



## 2.2. Responsibilities and Duties

Given the importance and power of influence of the media in society and in the electoral process in particular, is important that the responsibilities and obligations of journalists, both to the general public as to individuals who establish professional relationships, are not overlooked.

The idea that the journalist has a social responsibility results from the notion that journalistic activity is also an exercise of the right to freedom of expression, the journalist acts as representative of the citizens seeking and disseminating information necessary to participate in social and political life, in the public interest and scrutiny of powers.

This social responsibility, which results from the activity to ensure and realize the right of everyone to information, should be subject to an evaluation process in accordance with the standards required by the obligations and shall be governed by the requirement that journalists and the media are accountable to citizens for whom and on whose behalf they exercise their work.

Media accountability aims to ensure:

- impunity will not cause damage or harm to the fundamental rights of others;
- that media bring to society the benefits they rightfully expect, and are inseparable from the development of citizenship policy and the deepening of democracy.

## MEDIA ACCOUNTABILITY SYSTEMS

*The law and regulation:* the media is made accountable by the State or by the courts based on the law or other regulatory documents of the sector. Sanctions are material and concrete, are required by law or arising from legal proceedings following a complaint or claim.

*The market:* the mechanisms of accountability are determined by the audience and the circulation numbers, mechanisms are identical to the law of supply and demand in a free market. In theory, penalizes the poor and benefits the producers of good journalism. The penalty arises when the client fails to consume the good or service provided, and thus the success or failure of the company.

*Public accountability,* the media is made accountable by the public on behalf of the journalists who work while their representatives and demand disclosure of information essential to their participation in the political life, in the public interest and scrutiny of powers. Sanctions are a breach of trust by the public and erosion of credibility and prestige.

*The professional liability,* regulation is based on ethics the requirement of accountability stems from commitments self-assigned and assumed by journalists as professionals, including self-regulation, codes of practice and ethical codes and conduct.

“As per independent press, we mean to be a press independent from governmental control either political or economic and of materials and infrastructure control essential for the production and dissemination of newspapers, magazines and journals. “By pluralistic press, we understand the end of monopolies of any kind and the existence of the greatest possible number of newspapers, magazines and periodicals reflecting the widest possible range of opinion within the community.”

*Windhoek Declaration, 1991*

## MECHANISMS OF SELF-REGULATION:

*Those relating to the Company or media organization:*

- The Editorial Board
- The Style Book
- Press Statutes or Editorials Statutes or Codes Internal

*Those guiding the professional class:*

- Codes of Deontology, Codes of Ethics and Professional Conduct

*Those articulating the media organization with the public:*

- Mail Readers, Readers Ombudsman, Listeners, Ombudsman.

## 2.3. Professionalism, Independence and Impartiality

Journalists' current activities are guided by principles and standards of professional conduct focused on observance of impartiality, independence, objectivity and responsibility. But the biggest test of professionalism for journalists occurs during elections, in which the pressure on media tends to be stronger in terms of attempted manipulation and control of information on the part of candidates and political parties. The elections represent a challenge for the class. The exercise of voting rights motivates national political debate. It is in this atmosphere of intense democratic dialogue that the media has to be alert and take responsibility to ensure the electorate right to be fully informed on facts, opinions and ideas and to receive a fair and balanced presentation of the different candidates and political parties manifestos and agendas, these, in turn, also have the right to disclose these same messages through the media.

For journalists and the media the activity during election periods requires further consideration and reflection, so electoral events coverage is fair and balanced, favoring the maintenance of peace and tranquility and simultaneously contributing to the transparency and integrity of the electoral process and thus preserving voter confidence in the process.

***How to face all these challenges while maintaining a high level of professionalism?***

The International Federation of Journalists (IFJ) urges journalists to organize themselves into associations and unions and to defend their rights, in order to, firstly, ensure the professional conditions that allow them to be free of influence or intimidation and thus can play independently its role in strengthening democracy. On the other hand, the IFJ notes that professionalism in journalism entails obligations and moral ethics that journalists have a duty to honor, not just at election time, but in all aspects of their work. The IFJ encourages journalists to recognize, for professional purposes, the jurisdiction of his colleagues, encouraging them to take and to respect commitments to the values and principles of ethics and deontology of the profession, translated into mechanisms of self-regulation, such as codes of ethics or professional conduct.

#### 2.4. Self-regulation: Developing a Code of Electoral Conduct

Committing to values and principles often translated into codes of conduct or other instruments that, while not having legal force, are a moral compass is a statement of professionalism. Codes of Conduct are a set of standards that show self-assigned rules of conduct with which journalists wish to publicly commit to.

The acceptance and commitment to a code of conduct generally results from the voluntary agreement between different stakeholders. Membership is voluntary and not a legally binding force, but serves as a moral compass.

The immediate affect and quickness of response; flexibility and ability to adapt to different circumstances; complementarity with

### UNIVERSAL AND REGIONAL SELF-REGULATION SOURCES

Several international organizations have adopted the principles of ethics and deontology, which are sources of self-regulation that can be incorporated in the national codes of ethics and deontology: the Declaration of Principles on the Conduct of Journalists from the International Federation of Journalists (IFJ) 1954, revised in 1986; the International Principles of Professional Ethics in Journalism UNESCO, 1983; the Charter of Journalists UJAO (Union of Journalists in West Africa), 1989; the Code of Ethics of the Arab Federation of Arab Journalists, 1972; the Code of Ethics of Journalists ASEAN (Association of Southeast Asian Nations), 1989; the Islamic Charter for Social Communication, Jakarta, 1980.

### ETHICS AND DEONTOLOGY

The Journalistic Ethics is a set of ethical rules and procedures governing the activities of journalism and refers to the desirable conduct expected of professional; thus journalistic ethics is related to all the duties and refers to a series of obligations that govern this profession. Although not generally institutionalized by the state, these standards are consolidated into codes of ethics or deontology that vary according to each country.

*Codes of Conduct express a set of values and ethical and professional principles to which journalists and professionals related to the activity of the media decide to join, and is also a set of guidelines for the journalist's own activity.*

*Giovanna Maiola – Assessment of Legal Framework and Media Landscape, International Standards, Best Practices and Instruments, 2006*

other accountability mechanisms; democratic since, in general it comes from the journalists themselves; more efficient taking into account the ability to influence and operate when other means of accountability prove to be inefficient namely in countries where the justice system is fallible and where there is a history of journalism with professional gaps; these are some of the advantages of setting a code of conduct. Moreover, these mechanisms of self-regulation are in line with the principles upheld by the code of the International Federation of Journalists (IFJ), 1954, which stipulate that journalists should recognize, for professional purposes, the jurisdiction exercised by their peers whom the authority to enforce the rules and standards of conduct established by the journalists themselves is recognized.

## 2.5. Elements of an electoral code of conduct

Most professional and ethical challenges faced by journalists during election periods are not very different from those encountered in their day-to-day activity. However, there are aspects to which journalists should be vigilant, so that they can help to ensure that elections are fair, free and transparent and avoid political discord.

### Most common principles found in Codes of Deontology:

AN ANALYSIS BY TIINA LAITILA (1995) TO 31 CODES OF ETHICS REPRESENTING 29 EUROPEAN COUNTRIES FOUND THAT THE THREE MAIN RESPONSIBILITIES ARE ACCOUNTABILITY TO THE PUBLIC IN GENERAL, TO THE SOURCES AND PERSONS NAMED AND TO THE PROTECTION AND INTEGRITY OF JOURNALISTS. THE COMMON PRINCIPLES ARE THE FOLLOWING:

- THE TRUTH, HONESTY AND ACCURACY OF INFORMATION;
- THE NEED FOR ERROR CORRECTION;
- THE PROHIBITION OF DISCRIMINATION BASED ON RACE, ETHNICITY AND RELIGION, SEX AND SOCIAL CLASS;
- RESPECT FOR PRIVACY;
- THE PROHIBITION OF ACCEPTING BRIBES OR OTHER BENEFITS;
- THE USE OF HONEST MEANS OF GATHERING INFORMATION;
- THE REFUSE TO;
- FREEDOM OF EXPRESSION, REVIEW AND CRITIQUE;
- PROFESSIONAL SECRECY

*Tiina Laitila, Journalistic Codes of Ethics in Europe, 1995*

### Electoral Code of Conduct reinforces the principles related to:

THE RESPONSIBILITIES COVERED BY THE ELECTORAL CODES OF CONDUCT INCLUDE PRINCIPLES THAT AIM TO ENSURE A FREE AND RESPONSIBLE ACTIVITY, RELATING TO THE PROTECTION OF THE INTEGRITY OF JOURNALISTS, AS WELL AS PROVISIONS THAT ENSURE THAT JOURNALISTS ARE ACCOUNTABLE FOR THE PROCEDURES, THE PUBLISHED MATERIALS AND RELATED CONSEQUENCES:

- THE DUTY OF INDEPENDENCE AND IMPARTIALITY;
- THE PROHIBITION OF ACCEPTING BRIBES OR INDUCEMENTS BY A CANDIDATE OR POLITICAL PARTY;
- THE DUTY TO REJECT PRESSURES, INFLUENCES AND MANIPULATION ATTEMPTS;
- THE DUTY TO AVOID THE USE OF LANGUAGE THAT MAY INCITE HATRED OR PROMOTE VIOLENCE OR DISCRIMINATION;
- THE DUTY OF EQUAL TREATMENT IN THE COVERAGE OF THE ELECTION CAMPAIGN;
- THE DUTY TO RESPECT THE RULES PRESCRIBED FOR THE PUBLICATION OF THE ELECTION RESULTS.

## 3. MEDIA MONITORING

### 3.1. The Importance of Monitoring

The media can play an important role during election periods to enable the electorate to participate in a conscious and informed process. In the process of informing the public, the media is not the only source of information. However, in today's world, the media dominates the so called mass communication and determines increasingly political agendas.

Therefore, monitoring of the degree of access to the media, as well as the level of equal treatment and opportunities that are offered to the different candidates during the campaign coverage by the media is an increasingly important indicator to assess whether the elections were free, fair and transparent. It is increasingly common to conduct monitoring of the media during elections, using a set of quantitative and qualitative methodologies and statistical analysis techniques.

There are essentially three areas of media coverage during election periods and in which monitoring finds its focus:

- Editorial Coverage: relates to all information of public interest, that being news, articles or opinion. It is an area of exclusive responsibility of journalists and the media. In this field, the government and administration in general should ensure the freedom of the press and facilitate the operations of the media. Only the publication of electoral polls and the announcement of election results may eventually be subject to regulation.
- Direct access or political propaganda and publicity (right to airtime, which consists in the right of candidates to use public service broadcasting and television during the election campaign for free, in order to publicize their messages). The political parties and candidates are responsible for these content generally subject to regulation;

- Civic and voter education: in addition to reporting on the candidates and the electoral process, the media can also report on “how to vote” and “the importance of voting”, aspects that are sometimes subject to regulation in order to ensure impartiality. This information can be produced by the electoral management bodies or by the media.

### 3.2. Monitoring the Election Campaign Coverage

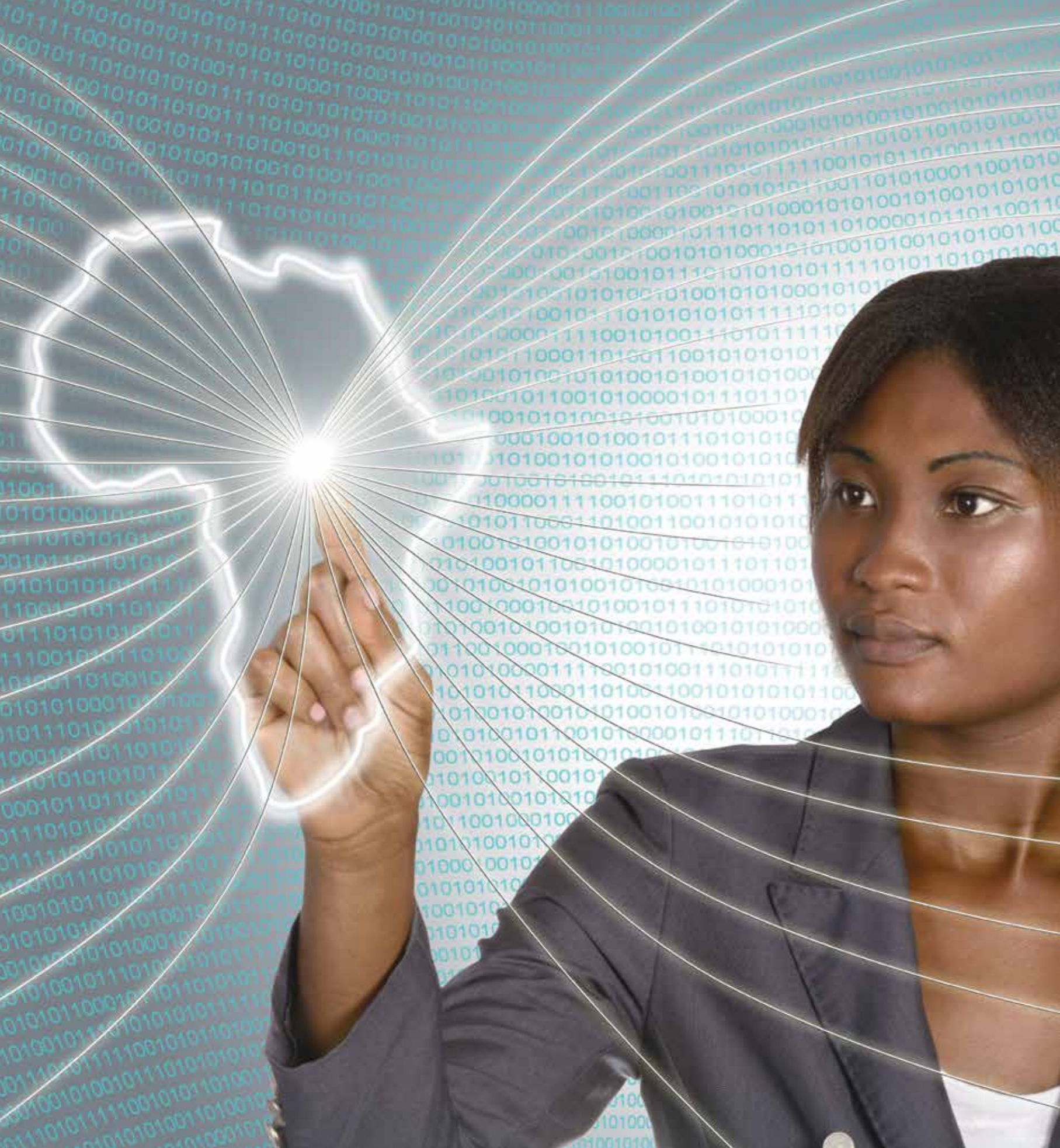
The electoral process and the political campaign media coverage are monitored based on principles such as the right of the candidates or political parties to access the media and equal treatment, in particular by giving the same time and space to each candidate or political party.

In the context of the Electoral Observation Missions of the European Union (EU EOM), the monitoring unit observes media coverage during the election period in order to assess the access of political parties and independent candidates to the media; evaluates if the coverage of candidates is fair and equal; verifies that applicants are treated equally and impartially, and analyzes the tone in which the media are covering applications.

Monitoring should include a representative and varied sample of electronic or audiovisual (radio and television) and print media. The audiovisual media should be monitored daily during times of high audience. The press should also be monitored daily.

### 3.3. Methodology

There are two EU EOM possible approaches used for media monitoring: quantitative and qualitative. The quantitative method analyses a representative sample of media content. The radio, television and newspapers should be monitored daily. The radio and television should be monitored during the peaks of the audience, and should include the monitoring of all programs broadcast during a particular time period. The shows are timed by teams of monitors, previously trained for that activity, in order to measure the time that each candidate or political party had access in each of the radio stations or television. Additionally, one must also evaluate balance and tone such cover based on a scale ranging between negative, neutral and positive. The papers should also be monitored daily to assess the coverage of candidates and parties contesting the elections. As in the case of electronic media, the tone of the news, the space granted and media coverage should be evaluated during the monitoring process.



# CHAPTER II THE EMERGENCE OF INFORMATION AND COMMUNICATION TECHNOLOGIES

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## 1. INTERNET AND OTHER TECHNOLOGIES: IMPACT ON STRENGTHENING THE RIGHT TO FREEDOM OF EXPRESSION



### 1.1. The Citizen Journalist and the Blogosphere

The proliferation of information and communication technologies is having a strong impact and lead to changes in the current media outlook. The internet, social networks, blogs, mobile phones are some of the new tools – the “new media”, according to the expression used by the UN Secretary General , Ban Ki -Moon World Press Freedom Day – being used creatively by citizens to expose corruption and injustice

and promote changes in societies. These new technologies are empowering individuals and increasing the amount of information available and allowing business, governmental and industrial related information once hidden to become public.

*“The Internet has become an essential tool for exercising the right to freedom of expression,”* a topic that has been addressed by the UN Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression , Frank La Rue, May 3<sup>rd</sup> 2011, on the occasion of World Press Freedom Day.

The social networking platforms such as Facebook, Twitter and YouTube have tear down borders and offer individuals the means to share and disseminate information in “real time.” Photos, news, messages and videos created a continent away are instantly

“On this World Press Freedom Day I would like to remind all States that the strongest governments are those that allow the democratic participation of citizens and the openly expression of their diverse opinions (...) Therefore, I call on all governments to choose reform instead of repression, to embrace divergent opinions, to listen to the people, and build a strong society based on the will of the people, whose freedom of opinion and expression should be encouraged. “

*UN Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, Frank La Rue, World Press Freedom Day May 3, 2011*

released in another part of the world. Ideas are shared, myths are deconstructed, convictions are debated, and causes are born, social movements become significant and result into huge impacts. These technologies are enabling the overthrow of obstacles to information, whatever the distance might be and are offering an opportunity for ordinary citizens to become “citizen journalists” making real-time reports of facts and events that are going on in areas where professional journalists were prevented from entering or being present.

However, authoritarian governments have also been using technology to create new barriers and strengthen mechanisms for blocking information. Governments in these countries generally hold the monopoly of the telecommunications services and use this dominant position to exert control over users, blocking internet access or access to specific sites preventing people from connecting or cutting access to information outside the traditional system of control and censorship.

In the case of mobile telecommunications its access or usage can be controlled. Acts of censorship and repression of those who exercise their right to freedom of opinion, expression and the press, as well as the persecution of journalists, bloggers and activists are an issue of concern addressed by the UN Special Rapporteur on World Press Freedom Day- anniversary marked by the backdrop of the events in North Africa and the Middle East – who called on governments to allow citizen participation and free expression of opinions (see box).

The rapid development and dissemination of technologies is having an impact, also in sub-Saharan Africa, where the mobile phone, for example, has contributed to reduce the isolation of rural areas, with positive implications for the development of communities. The penetration of the Internet, however, is still very low compared with the impact of the radio or the television. It is a region of the world where most of the population does not have access to basic needs such as clean water, health care and education; these shortcomings associated with computer illiteracy make Internet access a necessity of little relevance in the African rural context.

However, in urban areas, more and more access points to the internet become available. And although the technology is still at an early stage in terms of accessibility, is already proving to be a valuable tool



for citizen participation in the democratic process. This participation is visible by increased activity in the blogosphere, especially in the PALOP where cyberspace has come to provide citizens with a space to discuss issues affecting their communities and their countries. Also in these countries, there is an emergence of digital newspapers, available only on the Internet as a cheaper alternative compared to the hard copy version. Cyberspace thus appears as an important alternative to media sustainability, when the equipment and financial resources are scarce. The

expansion of blogs and informative digital formats raises, however, issues related in particular to the low reliability of the sources, usually associated with a lower accuracy and professionalism.

## 2. THE ROLE OF “NEW MEDIA” IN ELECTORAL PROCESSES

The proliferation of new technologies such as the mobile phones and the internet and the development of social networking also have an impact in the electoral process.

The report of the joint conference on Support to Media in Electoral Processes, held under the auspices of International IDEA and the BBC World Service Trust, London, March 2010 points out several issues related to technological change and its impact in the media and in elections:

- increased access to the Internet and mobile phone network, especially in Africa and decrease of the gap between urban and rural areas, as a result of this growth;
- the tendency to a movement of consultation and dissemination of news via online sources and the so-called “citizen journalists”;
- the reduction of editorial filters , i.e. there are fewer professional journalists to treat the information reaching the public; consumers gained greater control over the selection of information it deems relevant – at the risk of having lower rates of information verification and increased difficulty in finding reliable sources of information;
- new opportunities for citizen involvement, for public debate and scrutiny of the electoral process, but also increasingly challenging to monitor the content of the new media (how to identify critical issues given the difficulties of tracking all results search on the internet).

### THE MEDIA AND “NEW MEDIA” AND ITS ROLE IN REDUCING THE POTENTIAL FOR ELECTION VIOLENCE

The media and “new media” have also an important role in monitoring the vote count and the correct election results, contributing to the reduction of tensions and potential violence that can emerge in more competitive elections. To this end, it is recommended to ensure that the media is adequately prepared in terms of skills and knowledge in order to report the results accurately and responsibly.

Together, these challenges require new approaches to train, prepare and assist EMBs, journalists and citizens to adjust to the rapid changes that are happening as a result of technological developments. The recommendations of the International IDEA and the BBC World Service Trust focus on, namely:

- the need of EMBs to be at the forefront of new technologies, establishing themselves as reliable and proactive sources of electoral information, also using new technologies to monitor, respond to and fix problems, and even prevent potential crises caused by incorrect information;
- with regard to the citizen journalists it becomes necessary to develop new forms of journalism training through e- mail, online support or using social networking sites;
- draw codes of conduct for citizen journalists, trainers and specific opinion leaders/bloggers;
- Develop the understanding and strategies for dealing with the increasing fragmentation and polarization of the media as it becomes easier and cheaper to propagate uncontrolled and potentially incorrect information;
- Using the information and communications technology to verify the election results and involve citizens in monitoring.





## CHAPTER III CASE STUDIES

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## 1. GUINEA-BISSAU



### 1.1. Media Overview

The constitutional transition started in the Republic of Guinea-Bissau in 1991, towards the adoption of the principles of representative democracy, from a rule of law to the market economy and implementation of a multiparty political system, initiated a process of change leading to greater pluralism of ideas and opinions and to and to enabling conditions for exercising the right to freedom of speech and press. Until then, during the one-party system period, the media had been under exclusive monopoly of the State. The one-party system was installed after independence, recognized by Portugal September 10, 1974 – about a year after the unilateral declaration of independence by the African Party for the Independence of Guinea and Cape Verde (PAIGC), on September 24, 1973.

The Law of Press of 1991 (Law No. 4/91, 3 October) was created in the spirit of pluralism introduced in the early 90s; enshrined freedom of the press and established the freedom to establish companies and journalistic news and instituted a legal framework to enable the citizen to full exercise of freedom of expression and thought. This Law also ensured the confidentiality of journalists and the safeguard of their independence based on the recognition of the media role as vehicles of pluralism of ideas and opinions.

With the liberalization of the media sector in the early 90s private initiatives began to emerge, particularly press and broadcasting. On the other hand audiovisual failed to diversify since the sole operator is the State owned Television of Guinea-Bissau (TGB), with a service market by the regular suspension of emissions due to technical deficiencies, resulting in part from a lack of investment by the state.

In terms of the rights to freedom of expression and of the press, Guinea-Bissau has been described as the countries with one of the most plural environments in the region. The Press Freedom Index published by “Reporters without Borders”- non-governmental organization that defend press freedom and combats censorship with consultative status at the UN and whose ranking reflects the violations occurred between September 1<sup>st</sup>, 2009 and September 1<sup>st</sup>, 2010 placed Guinea-Bissau in a much better position compared to the previous year, climbing 25 places into the 67th position among 178 countries. Also the Bissau Guinean Human Rights’ League (LGDH) “Report on the Human Rights Situation in Guinea-Bissau 2008/2009” noted that there is freedom of the press and therefore free expression of ideas and opinions.

However, the exercise of these freedoms remains vulnerable, either by the precarious technical, financial and material situation of the sector, whether public or private, or by occasional episodes of intimidation against journalists and interference by the government. The most alarming episodes of attacks on press freedom occurred between 2002 and 2003, during the government of PRS (Party for Social Renovation) and President Kumba Yala, who repressed journalists and media for releasing news coverage of parties and politicians in the opposition. At the time, it was decreed the suspension of a journalist through the National Broadcasting Station (RDN), for sheltering opposition leader Francisco Fadul from PUSD (Party of Social Democratic Union) upon his return and after an exile, consequence of disagreements with the president Kumba Yala. The private radio station Radio Bombolom was also closed after being classified by Kumba as the “voice of opposition”. Portuguese Radio and Television of Africa (RTP Africa) was also suspended. The mentioned actions were considered serious attacks against the right to freedom of speech and press.

There have been improvements in the exercise of press freedom in the years that followed. However, the same LGDH report states that abuse of power by political and military leaders continue to happen. Censorship and intimidation subsists and are considered a serious limitation of press freedom and the right to information. News released on alleged trafficking and smuggling of narcotics and involvement in this illegal business; news related to the murders of March and June

2009, which killed the president João Bernardo “Nino” Vieira and the Chief General Staff of the Armed Forces, Tagme Na Waye; as well as the killings of presidential candidates Baciro Dabo and Mr. Helder Proenca, have generated situations of intimidation against journalists and threats to suspend operation and /or definitive licensing cancellation. One of the most recent cases of interference by the government happened in April 2011 with the threat of suspension of the private newspaper “Última Hora », following an article about the death of former President Joao Bernardo «Nino» Vieira, an act considered by «Reporters without Borders» as a form of intimidation that undermines freedom of the press and independence of journalists. The intention to suspend the publication was condemned by the National Union of Journalists and Media Technicians, (SINJOTECS). At the same time, the government accused other newspapers and private radio stations of publicizing news that convey a distorted image of Guinea-Bissau, discredit the government and destabilize the country.

The lack of financial resources and materials as well as the constant power outages continue to be a major obstacle to greater pluralism and free exercise of press freedom and the establishment of an independent and dynamic media. The scarcity of resources and the poor working conditions undermine the exemption and impartiality of journalists, whose degree of compliance with rules of ethics and deontology is fragile due to the high dependence on material and logistical support provided by third parties in exchange for news coverage. This is a particularly worrying during election periods. Associated with the precarious level of professionalism there is the low level of training due to the lack of credible institutions of education and training of media professionals.

## 1.2. Media in Guinea-Bissau

Radio is the most important Media with wide spread and considered the main source of information and news. The state radio National Broadcasting Station (RDN) is the only radio station with effective national coverage. Bombolom and Galaxia de Pindjiguiti private stations have a

more limited scope but gained credibility and popularity over the years and since its creation in the 90s. The Catholic Church station – Sol Mansi has a broad regional coverage; Radio Nossa from the Protestant Church (Universal Kingdom of God), created in 2004, has been growing in terms of geographical reach.

In rural areas people rely mainly on community radio stations. There is a growing number of community radio stations across the country broadcasting in Portuguese, Creole and local languages. The network of community radio was launched in 1994 by the Non-Governmental Organization (NGO) Local Action for Development (AD). Most community radio stations were established later by the action of local and international NGOs in order to help promote local development projects and are generally financed by international donors. Currently, there are 28 community radio stations and three community televisions, members of the National Network of Community Radios of Guinea-Bissau (RENARC). The network is associated with INFORMORAC (Mobile Training for Community Radios Initiative), which aims at building capacity and providing technical training to community radio stations, and is present in West African six countries.

The written press is equally diverse with seven newspapers available mostly privately owned (di Bantaba Nobas, Diario de Bissau, Gazeta de Notícias, Kansaré and Última Hora) being two of them state owned No Pintcha, founded in 1975 and the Defender from the Ministry of Defense. No Pintcha is published on a weekly basis, while private newspapers tend to be published more sporadically due to financial constraints. Distribution is limited mainly to the capital, Bissau, although the state newspaper No Pintcha has distribution points in key regional cities.

Additionally to the Television of Guinea-Bissau, the State also administers the News Agency of Guinea-Bissau (ANG). Both face serious technical and financial difficulties. ANG, despite maintaining a newspaper and a group of journalists, lost its importance as a source of information due to the expansion of private and community radio stations. The latter are locally based and provide a network of local correspondents who report events directly from the field. Some of ANG's journalists are currently working with international organizations or established their own newspapers.

### 1.3. Access to the “New Media”: The Internet and Mobile Phone

Internet access is unrestricted. According to the statistics available in internetworldstats there are about 37,100 users in Guinea-Bissau, which corresponds to a penetration rate (i.e., a percentage of the total estimated

population in 2010 – 1,565,126 million) of 2.4 percent. Internet access is still out of reach for the vast majority of Bissau-Guineans who live in rural areas and even in urban areas. Access is hampered by the restricted number of access points and by frequent power cuts.

Some of the newspapers also provide an electronic version online, including No Pintcha. The activity in the blogosphere is quite dynamic, and some of these blogs are important sources of information, especially for the Bissau-Guinean diaspora. Among the most popular blogs is the “Dictatorship of Consensus/Ditadura do Consenso” created by the journalist António Aly Silva.

#### ON THE DUTIES OF EMPLOYERS AND LABOR RIGHTS OF JOURNALISTS

The Union of Journalists and Media Technicians of Guinea-Bissau (SINJOTECS) joined the ECOWAS – UJAO Collective Agreement for Media, a tripartite framework for consultation (ECOWAS, employers, media workers). The initiative supported by members of professional organizations UJAO and press proprietaries, in a meeting in Dakar, Senegal, from 8 to 10 November 2004, organized by UJAO, the Economic Community of West African States (ECOWAS) and the Intergovernmental Agency of the Francophonie (AIF), defined the conditions of employment, labor and social safeguards requirements, which should be the basis for labor relations in media companies. This Convention is awaiting approval in the National Assembly in order to be transferred into national law. This convention provides, in general terms, the duties of the employer towards the journalist, as well as the rights of the latter in terms of working conditions, serving as a reference for the media companies in West Africa.

### 1.4. Analysis of the Legal Framework

The rights and responsibilities of the media are defined in the legislation of Guinea, the latter reflects the universal principles of press freedom. The Bissau-Guinean media is regulated by the instruments available in the constitution of the Republic of Guinea-Bissau (the constitution is of 1984 and was subject to several amendments, most recently in 1996); the Law of Press (Law No. 4/91, 3 October); approved along with the Journalist Statutes (law No. 5/91); the law establishing the National Council for social Communications (law No. 6/91) and the law on Access of Political Parties to the Media

(law No. 7 / 91); as well as the Electoral Law for the President and the National Assembly (Law 3/98 of 23 April); and specific recommendations for the coverage of elections published by the regulator of the media – the Media National Council (CNCS).

Article 56<sup>th</sup> of the constitution guarantees freedom of the press, and determines that the state must guarantee a service of press, radio and television, regardless of the economic and political interests, which ensures the expression and confrontation of different streams of opinion. To ensure the provision of the preceding and the respect for ideological pluralism, the constitution stipulates the creation of the National Council for Social Communications, an independent body whose composition and functioning are defined in the relevant law. Article 57<sup>th</sup> of the Constitution establishes the right of political parties to broadcasting time on radio and television, in terms of the law.

The Law of Press, 1991 (Law No. 4/91) guarantees freedom of the press and freedom of expression, ensures the freedom of establishment of media and news enterprises, and states independence and pluralism of media information from the state. The Press Law also contains provisions for the protection of journalists, including the prohibition of any form of censorship, the right of access to official sources of information and the right to protect sources or right to secrecy regarding the source of information. Access to official information sources (Article 9, paragraph 2) is not allowed in cases of legal secrecy, when the facts and documents are classified as military or government secret; information confidential by law; and those which relate to the proven preservation of the life of citizens.

The Law of Press foresees sanctions to perpetrators whom acts committed through the media are subject of civil, criminal or disciplinary liability. Paragraph 1 of Article 39 considers crimes of the press all acts or conduct injurious to the interests or values protected by criminal; number 2 of the same article states that the diffusion of false or unfounded rumors that jeopardize the public interest and democratic order; the dissemination of writings or pictures containing incitement to disobedience or defiance of authority or disrespect for military duties; as well as the dissemination of information that violates military secrecy or the protective rules of secrecy; and the dissemination of information which may be classified as illegal are considered crimes of the press.

Article 44 of the Law of the Press states that these crimes are punishable with imprisonment up to two years and a fine equal if not entitled to a more severe penalty under the Bissau-Guinean Criminal Code (Decree Law No. 4/93 of 13 October). The author of the alleged offense will be exempt from punishment if proof of the alleged offenses is made (Article 40 of the Law of Press), however, is not an admissible evidence when the insult or slander lies in the person of the Head of State.

Law No. 6/91 sets out the powers of the media regulator, the Media National Council (CNCS). The CNCS is an independent body that works with the National Assembly and was established to ensure the exercise of the right to information and freedom of the press, ensuring the independence of the media before the political and economic powers and the respect for media pluralism, guarantee the right of access, for free, of candidates and parties to airtime in the media and issue opinions before the licensing decision of the media by the government, through the Office of Communications of Guinea-Bissau (ICGB).

The main role of the CNCS is to arbitrate disputes and issue opinions on matters within their jurisdiction. The CNCS decisions are non-binding with the exception of decisions related to the access of broadcasting rights, the right of reply and political response, ruling on complaints submitted over the mentioned issues and on conflicts arising between airtime holders.

The scarcity of material and technical and human resources has affected and limited the action of CNCS. However, efforts have been made towards the development of opinions, particularly during elections, with recommendations to the media, especially as regards the publication of the election results, advising journalists not to comment on interim results posted at the polling stations, taking into account that the law does not expressly prohibit the mentioned. Against the advice of the CNCS, the media has chosen to comply with the recommendations.

#### 1.4.1. Media Rights and Duties during Elections

The rights and duties of the media during election periods are set out in the Electoral Act. Article 37<sup>th</sup> establishes the right of Presidential

candidates and political parties, airtime in the media, radio and television during the campaign period.

Equal treatment for the different candidates is guaranteed in Article 39 of the electoral law, while Article 45 prohibits political advertising through the means of commercial advertising during the election campaign. Article 33 prohibits the dissemination of results of opinion polls or surveys concerning the attitude of voters towards the candidates during the campaign period and until the day after the election, and Article 34 prohibits the use of expressions which may constitute a defamation crime, libel or slander, appeals to disorder or insurrection or incitement to hatred, violence or war.

### 1.5. Ethics and Deontology and the Mechanisms of Self-Regulation

Establishing mechanisms for self-regulation is referred to in the Law of Press (Article 19), which determines that it is the Media directors competency to define the guidelines and preparation of editorial statute and foresees the creation of Editorial Committees with at least five journalists (Article 20). The Editorial committees are directly elected by journalists and form the professional representatives close to the editorial board and the enterprise. The Editorial committees have the following competencies: assist the director of the media organization in defining and guiding the mentioned journalistic body; issue opinion on the appointment of the Director and Editor, rule regarding the admission of journalists and sanctions and/or dismissals in disciplinary cases; issue opinion regarding the structure and functioning of the media organization that are relevant to the

#### OBSERVATORY OF THE FREEDOM OF THE PRESS AND JOURNALISTIC ETHICS OF GUINEA-BISSAU

A committee was established with the objective to create an Observatory of Press Freedom and Journalism Ethics in Guinea-Bissau (OLIEJ) and discuss the statutes of the Observatory. The goal for such observatory is to make an assessment of the situation of press freedom in Guinea-Bissau and ensuring freedom of the press, as well as the independence and pluralism of the Media. The Observatory should be composed by representatives of civil society, members of the Syndicate of Journalists and Media Technicians of Guinea-Bissau (SINJOTECS) and representatives of the media. The Commission, however, was suspended before coming to a consensus on the statutory provisions for the implementation of the observatory

exercise of journalistic activity. The Law of the Journalist Statute regulates the conditions of access to and pursuit of journalistic activities, determines the rights and duties of journalists, establishes the right of conscience clause, which can be invoked when journalists feel compelled to express opinion or practice professional acts contrary to their conscience and the editorial statute of the organ in which they exercise their functions.

The Statute of Journalists also determines the incompatibilities within the profession such as: fundraising activities; drafting and presentation of advertising materials; public relations activity and performance of functions for State bodies or any other organizations or institution related to the military or police force. The Journalist Statute also defines the Journalist Professional License, a document that identifies its holder and certifies the qualification of the same for the exercise of the journalistic activity and stipulates that it is the professional association of journalists to issue the corresponding professional title. In the absence of an entity that issues the professional license according to the journalist statute law, and since the Union of Journalists and the Media Technicians (SINJOTECS) did not assume the role of issuing a journalist professional licensing, it is the journalists responsibility, under SINJOTECS to appoint an agency with responsibilities for the allocation, maintenance, suspension or termination of the Journalist Professional License.

The severe financial and material constraints affecting the activity of SINJOTECS have not allowed, however, to create the conditions for the issuance of licensing towards effective professionalization of journalism. The assignment of a professional card could help better identify professional journalists, distinguishing them from other professions, such as speakers, entertainers, publicists, assistants, technicians and DJs, allowing them to render the licensee accountable for any breaches of their duties, as provided for in the Statute of Journalists, or possible violations of standards of ethics and deontology.

Guinea-Bissau established a Code of Journalistic Ethics, under SINJOTECS, based on the example of the Portuguese Journalist's Code of Ethics, 1993. However this document requires the approval and dissemination within the class.

### 1.5.1. Codes of Conduct and Monitoring of Electoral Media

Guinea-Bissau, through SINJOTECS, has joined to global and regional self – regulating sources such as the Declaration of Principles on the Conduct of Journalists FIJ, UJAO Journalists’ Letter (Union of Journalists in West Africa), 1989 developed based on the conviction that the respect for freedom of the press and the right to information is the basis for the exercise of journalism and technical media.

UJAO Journalists’ Letter establishes a set of rights and duties of the journalists members of the organization that are embodied in a Code of Professional Conduct, to which the UJAO invites national socio-professional organizations in the sector of information and communication and members of the organization to comply to as a reference framework for the obligations and rights of journalists in West Africa. Guinea-Bissau is also part of the Federation of Portuguese-Speaking Journalists (FJLP), SINJOTECS being responsible for the secretariat of the General Meeting and the Vice Chair of the Board.

Guinea-Bissau has some experience in terms of adoption of codes of conduct for electoral periods at national level, particularly in the framework of UN-OGHBIS (The United Nations Peacebuilding Support Office in Guinea -Bissau) initiative “Strengthening the Role of the Media in Elections in Guinea-Bissau”, for the legislative elections of November 16, 2008 , which sought to provide journalists with financial and material resources so that they could pursue the media coverage of elections in a fair and equitable matter. Under the same initiative, journalists and media in Guinea-Bissau adopted a “Code of Conduct for Elections of November 16, 2008 for objective and unbiased news coverage.” This document was created in a context of great political emotionalism, when situations of electoral violence were highly likely, and thus the code noted appealed the media to avoid publishing or issuing subjects likely to promote or incite racial hatred, tribal or regional prejudice or disorder; promote or cause public disorder or constitutes a threat to the security of the nation.

The project included the monitoring of media coverage from a sample of the media in 2008. This monitoring was conducted by a panel four members of UNOGBIS, CNCS, the SINJOTECS and Civil Society (Bissau Guinean Human Rights’ League – LGDH).

The European Union election observation missions to Guinea Bissau (2005, 2008 and 2009) also monitored coverage of the election campaign.

### 1.6. Activity PRO PALOP / ET

The Electoral Code of Conduct for Journalists and the Media in Guinea-Bissau preliminary draft was a consultative and participatory process, with the contribution of various parties and under the leadership of SINJOTECS and the House of the Press representing journalists from Guinea-Bissau. Journalists and representatives of the Union, House of the Press, CNCS, Electoral Management Bodies (National Electoral Commission), the RENARC and INFORMORAC were consulted regularly between 13 and 26 February 2011. The consultative process aimed at gathering information on existing legislation, procedures and codes of ethics or electoral conduct in place or in disuse in Guinea-Bissau and proceed to the analysis of existing proposals in the country that could be accepted as good practice examples of election code of conduct.

After consultation with the various parties involved, the need to create a new more comprehensive Electoral Code of Conduct was identified with the participation and contributions of the different stakeholders. On February 22, 2011 SINJOTECS and the House of Press, with the support and collaboration of PRO PALOP / ET, organized a Workshop to debate on journalistic ethics and deontology; present and discuss the preliminary Code of Electoral Conduct for Journalists and the Media draft and to draw recommendations to better exercise journalism in Guinea-Bissau. This session was followed by the release of the preliminary draft in order to collect contributions and proposals for amendments. The final proposal, which took due account of the different proposals and contributions, was presented to SINJOTECS and the House of Press aiming at the adoption of the Electoral Code of Conduct for Journalists and the Media with the support of PRO PALOP /ET before the local elections (scheduled for between the third quarter of 2011 and second quarter of 2012).



## 2. SÃO TOME AND PRINCIPE



### FREEDOM OF THE PRESS

Freedom of expression is constitutionally guaranteed and has been generally respected. However, recently there was a specific case of government interference in the exercise of press freedom, considered by non-governmental organization, “Reporters Without Borders” – that defends press freedom and fighting censorship and has consultative status at the UN – as an arbitrary act that challenged constitutionally established democratic principles in Sao Tome and Principe. There are no recent data on the country in “Reporters without Borders” Press Freedom Index. This organization sent, however, a letter dated 25 January 2011 addressed to the Prime Minister and the Director of the national television station, TVS (Television Santomense), to condemn and to request an explanation of the alleged non-renewal of the contract of journalist Maria da Conceição de Deus Lima,

### 2.1. Media Overview

The constitution and law of press in force in the Democratic Republic of Sao Tome and Principe guarantee fundamental rights and establish the conditions for greater media pluralism. Freedom of expression and press freedom are constitutionally guaranteed, as well as the right of access by the various political parties to state media. Furthermore, there is no provision in the legislation that prevents the creation of private media companies.

Despite the legal framework favorable to pluralism, the landscape of media in Sao Tome and Principe is quite precarious. The widespread and recurrent lack of financial and technical resources affecting both the public and private media, is a reality that undermines the plurality of the media, in terms of quantity, quality and diversity. Conditions in terms of regulation and self-regulation can be created to enhance the level of professionalism and the free and independent exercise of profession. It is necessary to increase the training and qualification of journalists, as well as the dignity of the profession improving the working conditions of professionals.



The Union of Journalists and Technical Media of Sao Tome and Principe or the Sao Tome Journalists Union (SJS) with the support of the PRO PALOP / ET, adopted the Electoral Code of Conduct for Journalists and Media May 26, 2011, an act which constitutes an important step towards the promotion of press freedom, as well as to enhancing professionalism and protection of journalists

## 2.2. Media in Sao Tome and Principe

The television activity is exercised by the State through the media that are assigned to public service or it can be exercised by private operators subject to licensing and permits granted by the government, through the Media Directorate, and upon prior opinion of the High Council of the Press as stipulated in the Law No. 1/2001 of June 22 that regulates access and exercise of television activity in the country.

The state also ensures the existence and operation of a public television service under concession and assigns the award of public service television to the Sao Tome Television (SVT) a company mainly public-owned aiming at ensuring pluralism, accuracy and objectivity of information as well as its independence from the government, public administration and other powers. There are no registered private broadcasters.

The National broadcasting activity is regulated by Law no 2/2001 of June 22 and it defines activity of broadcasting by public or private entities. The broadcasting activity is exercised by the State through the media, namely the National Radio of Sao Tome and Principe (RNSTP) to which a concession of public service is awarded.

The RNSTP was institutionalized July 11, 1975, as a consequence of Sao Tome and Principe Regional Broadcaster extinction. The RNSTP covers

host of the TVS's interview and debate "Em Directo" and calling for respect for press freedom. The dismissal and suspension of the program have occurred, allegedly under government orders, following an article written by the journalist in the electronic journal "Non Téla" where the latter describes as an act of censorship the unexpected cancellation of an interview with former Cape Verdean Prime Minister and leader of the largest opposition party in Cape Verde, the Movement for Democracy (MPD), Carlos Veiga. The Union of Journalists (SJS) announced solidarity with the journalist and reacted to the suspension of the show "Em Directo", considering the act a matter of freedom of expression and a matter of strict responsibility of the Superior Council of the Press.

more than 80 percent of the national territory, sending a generalist and uninterrupted programming, reaching some countries in West and Central Africa, namely Gabon, Equatorial Guinea and Angola but also in Europe and America.

STV News Agency Press News Agency was also granted public service concession.

The remaining media registered in Sao Tome and Principe is private owned.

In terms of broadcasting stations the following are registered: Rádio Maná Viva, da Igreja Maná; Rádio Jubilar Católica, da Igreja Católica, e Rádio Tropicana. In terms of written press the following can be named: "Correio da Semana" an independent newspaper launched in is on its 6<sup>th</sup> year of periodical publications and the weekly newspaper "O País", founded in 1998. The newspaper "O Parvo/The Fool", printed on A4 is also distributed on paper. A greater number and diversity of media can be found online such as "Tela Non", "Jornal Transparência", "Diário Vitrina", "Jornal Tropical" and "Jornal de São Tomé e Príncipe". Despite the name "diary", these electronic publications tend to have sporadic content updates. The electronic newspaper "Visão de Sabado" is an online publication of the main topics discussed in each edition of the show "Visão de Sabado", from the National Radio of Sao Tome and Principe.

## 2.3. Analysis of the Legal Framework

With the proclamation of independence on July 12, 1975 a one-party political system was established and remained until 1990 when enacted the first democratic constitution creating the conditions for the participation of other political forces. The first multiparty elections were held in 1991. The 1990 constitution established that the democratic process in Sao Tome and Principe should have as one of its fundamental principles the freedom of expression of thought through the media, a standard that is enshrined in the constitution currently in force adopted in December 2002 and promulgated on January 25, 2003. The constitutional law confirms the Democratic Republic of Sao Tome and Principe

as a democratic rule of law, founded on respect for the fundamental rights of the human person; provides for freedom of expression and information, stating that everyone has the right to freely express and disseminate his thought by words, images or by any other means ( Article 29), and guarantees freedom of the press in the Democratic Republic of Sao Tome and Principe and a public press independent from economic and political groups (Article 30).

The Law of the Press (Law No. 2/93 of 8 April), was introduced in order to define the legal statutory regulator of press freedom and guarantees the free exercise thereof in accordance with universally principles established. In Article 1 on the Right to Information, stipulates that freedom of expression of thought through the media integrates the fundamental right of citizens to free and exempt information and is one of the fundamental principles of democratic practice, social peace and progress in Sao Tome and Principe. It also establishes that the right to inform and the right to be informed is intrinsically linked to the right to information; and the right to inform includes, besides the freedom of expression of thought, the freedom of access to information sources; professional secrecy, the journalist is not obliged to disclose their sources of information; as well as the guarantee of the independence of the journalist and of his participation in the Media Editorial guidance.

The Law of the Press enables greater media pluralism by instituting the freedom of establishment of enterprises and its operations and by ensuring the right of citizens to be informed through the adoption of anti-monopoly measures and prohibiting centralization of media. The Law of Press also requires the publication of the media editorial statute, advertising identification and recognition of the right of reply as measures to ensure the right of citizens to be informed.

In Article 6, the Law of Press defines freedom of press as freedom of speech through the media and without any kind of censorship, the only limits to the free exercise of press freedom being provisions of law aimed at preventing abuses of press freedom and to safeguard the moral integrity of citizens, ensure the objectivity and accuracy of the information, defend the public interest and the moral and democratic order.

The law grants the right to airtime (Article 48) to political parties,

unions and professional organizations, professional entities and religious confessions in official media. Political parties without parliamentary seat will only be granted airtime during periods of election campaigns. With regards to airtime usage, the law prohibits the payment of space for electoral propaganda, either on the radio or on television (Article 50).

The need to review the law of press was identified on an inclusive and consultative process. The law would be updated aligned with the current media outlook in the Democratic Republic of Sao Tome and Principe, and taking into account the emergent new formats and means of dissemination (Internet).

The media regulator in Sao Tome and Principe is the Supreme Council of the Press (CSI). CSI was established by Law No. 4/96 of 20 June as the high authority for the promotion of press freedom, pluralism and independence in media. The law established the CSI as an independent body, working with the National Assembly, composed by seven members, chaired by a judge, and comprising a representative of the president, two representatives appointed by the National Assembly who must belong to different political parties or be independent, a government official, a journalist assigned by the organization representing journalists and one member of the public. The CSI is appointed by the National Assembly and its members are sworn in by the President of the National Assembly.

The CSI is the body responsible for ensuring the exercise of the right to information and freedom of the press, vouching for media independence, safeguarding freedom of expression and confrontation of ideas, providing the exemption and accuracy of information, assuring the rights of airtime, response and repl. To carry out this assignment CSI has the skills to develop generic guidelines and recommendations, which shall only be binding when it comes to assessing the conditions for entitlement of airtime, response and reply; to issue opinion on complaints; to mediate conflicts between claimants on radio and television and to deliberate on appeals in case of refusal to exercise the right of reply. The CSI also has responsibilities in the issuance of a prior opinion on licensing decisions for private television channels by the government and on permits for the activity of broadcasting and,

furthermore, the sanctioning of institutions and journalists who commit disciplinary offenses according to the law and fining legal as well as administrative offenses.

The performance of the CSI has been challenged either by journalists and media companies, for its alleged failure to act. The poor performance and lack of public visibility of the CSI appears to reflect negatively on their credibility, competence and on their independence and autonomy.

### 2.3.1. Rights and Duties of the Media during elections

The Electoral Law of the Democratic Republic of Sao Tome and Principe (Law No 11/90 of 26 November) establishes the following rights and duties of journalists in times of elections:

- In terms of the access to specific media: usage of informative publications, emissions from public broadcasters and private radio and television stations, and buildings or public places (Article 85) is allowed when in compliance with the law;
- Freedom of the press states that during electoral campaigns period penalties for acts relating to the campaign cannot be applied to journalists or to media operating firms, without prejudice to the responsibility entailed, which can only be enforced after the election day (Article 87);
- Article 91 ensures equal treatment of candidates, stating that the “informative publications owned or dependent of public authorities publish the variety of matters concerning the campaign and ensure equal treatment of different candidates.” Publications from private-owned enterprises on the electoral campaign are obliged to give equal journalistic treatment to the different candidates (Article 92);
- All radio and television stations are required to give equal treatment to different candidates; candidates and tenderers have the right to broadcast on radio and television (Article 94). During the campaign period, the airtime reserved for radio and television are shared equally by all candidates (Article 95);

- Limits to the right to broadcast: the law states that during the exercise of the right to airtime the use of expressions or images that may constitute libel or slander, insult to democratic institutions, appeal to the disorder or insurrection or incitement to hatred, violence or war, and commercial advertising are prohibited (Article 97);
- Professional media in the coverage of polling stations are prohibited from taking pictures and being close to voting chambers so as to avoid compromising the secrecy of the vote; obtain other reporting elements within or outside (up to 50 meters) the polling station otherwise also compromising the secrecy of the vote; or by any other means (artigo131);
- Dissemination and publication of news and reports: news, images or other elements gathered from polling stations, including the results of the counting process, can only be disseminated or published after closing (Article 132).

On political advertising forbids the broadcasters’ provision of advertising space policy, without prejudice to the right of airtime, reply and political response, as provided in Articles 24 and 47 of Law No. 1/2001 of 22 June, which regulates access to television activity and exercise in the National Territory. Law No. 2/2001 of 22 June, also regulates the activity of National broadcasting, Article 17 stipulates restrictions on advertising of political parties or associations and trade unions, professional or employers.

### 2.4. Access to the “New Media”: The Internet and Mobile Phone

The existence of newspapers and electronic logbooks demonstrates that the internet is the available and especially economic alternative that offers the chance for journalists and communication professionals to exercise freedom of expression and right to information in Sao Tome and Principe notwithstanding the irregularity of publication, the volatility of its own existence – few are the online newspapers that resist long enough to professionalize – and the low level of quality in terms of

journalistic practice and news content. These electronic publications serve primarily the population living in the diaspora.

According to statistics of the internetworldstats there are about 26,700 Internet users in Sao Tome and Principe, which corresponds to a penetration rate- i.e. a percentage of the total population (estimated in 2010 at about 175 808 people)- of 15.2 percent.

In terms of access to mobile phone network, CST (São Tomé Telecommunications Company), is the only company operating in the country. In 2010 the company exceeded the 100,000 customers in the mobile network reaching a penetration rate of 60 %, as mentioned in the electronic edition of the “Jornal de Sao Tome and Principe.”

## 2.5. Ethics and Deontology and the Mechanisms of Self-Regulation

The law provides that the media establish mechanisms for self-regulation, such as an editorial board and the right to participation of journalists in these organisms. The director of the media is responsible for drafting the editorial statute defining the orientation and objectives and including a commitment to respect the ethical principles and professional ethics of journalists.

The RNSTP publishes the objectives of the radio via their website. However, most of electronic publications do not publish this information on the respective websites, an aspect which reduces the perceived degree of professionalism of these publications. Despite the conditions created in terms of juridical-legal framework ensuring the freedom of the press, the conditions in terms of regulation and self-regulation for effective professionalization of journalism are not yet set. This would enable media professionals to exercise their activity in dignity and safety, free and independent of any interference or external pressures from authorities and political and military power or economic or religious groups; or from their own internal hierarchies of media or community related.

It is necessary to increasing training and qualification of journalists, as well as the dignity of the profession and the improvement of the working conditions.

Journalists and the Union of Journalists STP (SJS), are aware of the need to create a legal framework legal eventually leading to a law of the Journalist Statute. The law would stipulate the conditions of access to and pursuit of the activity, the rights and duties of journalists, existing incompatibilities, and terms for professional licensing. The implementation of these mechanisms could also contribute enhanced compliance with standards established as well as with established deontology being penalized otherwise.

Another gap identified relates to the lack of a Journalist’s Code of Ethics bringing together a set of ethical standards that guide the daily activities of journalists. Journalists from Sao Tome shall define and approve the text of the Code of Ethics of Journalists supported by the Union of Journalists (SJS).

### 2.5.1. Codes of Conduct and Monitoring of Electoral Media

Sao Tome and Principe has complied to some of the universal and regional instruments relating to the right to freedom of expression and right to information, particularly in the framework of the UN Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights and the AU’s African Commission on Human and Peoples African Charter on Human and Peoples’ Rights.

The Union of Journalists of Sao Tome and Principe (SJS) is not mentioned on the International Federation of Journalists (IFJ) website as member. SJS is, however a member of the Federation of Portuguese Language Journalists. SJS is the vice president of the FJLP Board of the General Secretariat and the Audit Committee.

There is relevant experience with to self-regulation during election periods. A group of journalists led by the Director of National Radio of Sao Tome and Principe established a “Code of Professional Conduct of the State-owned Media” for the election period that was adopted during past elections.

This code represents a commitment of the state owned professional media organs with: the impartiality and equal treatment of political parties respecting the principles of objectivity, impartiality, accuracy and

pluralism of coverage in all actions relating to the electoral process; scrupulous compliance to the state-owned bodies' Editorial, respect for ethical and moral principles, and avoidance of any attitude or behavior that undermines the image and credibility, as well as the independent spirit of the class and its members.

The Code provides a set of measures to be taken by the media in order to ensure compliance by the journalists, namely: journalists are required to share their financial, technical and material and displacement resources information; to define each organ's schedule of coverage of campaign activities, respecting the principle of equal treatment of competing political forces; compliance to the legal provisions related to journalist activity and the electoral procedures (vote counting, reporting and confirmation of results); maintaining the team spirit and the practice of solidarity; and strengthening security in the state-owned Media bodies.

This code, however, is restricted to State journalists and media. With the support of the PRO PALOP / ET a comprehensive document in terms of scope and ethical principles to be considered during the coverage of elections.

## 2.6. PRO PALOP / ET Activity

The activity of PRO PALOP / ET in Sao Tome and Principe held between the 3<sup>rd</sup> and 11<sup>th</sup> March 2011 was based on existing experience in the adoption of rules of ethics applicable during coverage of elections.

After a consultative and participatory process, so as to collect contributions from journalists, representatives of the Union of Journalists of Sao Tome and Principe (SJS), the Supreme Council of the Press (CSI) and the National Elections' Commission (CNE), the SJS, with the support of PALOP PRO / ET organized a workshop for the presentation and discussion of the Electoral Code of Conduct for Journalists and the Media preliminary, organized in March 10, in the City of Sao Tome. The aim was to obtain inputs on the preliminary draft and reach a consensus among the various parties involved, namely, the Union, representatives of CSI and public and private media representatives.

The result was a success. The Electoral Code of Conduct for Journalists and the Media was collectively adopted on May 26, 2011, in a session chaired by the President of SJS. This document is now a reference document for the orientation of journalistic activity during election periods. Taking into account that there is no Code of Practice used as a reference mechanism of self-regulation the mentioned code and given its scope can be used as a source of self-regulation for the daily activity of journalists in Sao Tome e Principe.



## 3. MOZAMBIQUE



### 3.1. Media Overview

Mozambique has seen tremendous progress in terms of media pluralism and freedom of expression and of the press and right to information since the publication of Law of Press (Law No. 18/1991, 10 August) still in force.

This law paved the way for the creation of private Media and established the principles for the exercise of freedom of speech and press, and the right to information, envisaged in the Constitution of the Republic of Mozambique, 1990. The new democratic constitution was elaborated during the one-party system introducing the precepts of a democratic rule of law and enabling an environment of transition that led the country to the first multiparty elections in 1994.

The existence of a favorable legal framework, coupled with the historical context – peace negotiations between FRELIMO, government and RENAMO, the opposition force that resulted in the ceasefire ending 16 years of civil war and the signing of the General Peace Agreement in 1992. The first multiparty general elections were held in 1994 – provided the conditions for the expansion of the media overlook which grew in number and diversity of resources; and a better exercise of the freedoms of expression and press.

The Constitution of the Republic of Mozambique, approved in November 2004 and into force in January 2005, came to consolidate and extend the range of freedoms that had already been secured in 1990. Currently, the favorable environment in terms of the legal framework for the exercise of freedom of speech and press prevails. However, journalists are struggling to access sources of information especially official

sources. In 2010, Mozambique fell to the 98th position of Press Freedom Index (published by “Reporters without Borders”: The index analyses the violations of press freedom occurred in 178 countries in the World between 1 September and 2009 and 1 September 2010) compared to the previous year 83th position.

On the other hand, journalists, the organization of the sector, as well as the media regulator recognize that there is a need to improve the exercise of journalism in order to enhance professionalism by strengthening academic, technical and vocational training; improving the working conditions and approving legal and self-regulatory mechanisms.

### 3.2. Description of the Media in Mozambique

The broadcasting system has the greatest reach in the country, reaching the 10 provinces and with national scope. 70 percent of the population resides in rural areas. Radio Mozambique (RM) is the state-owned radio officially created in 1975 shortly after independence (June 25, 1975) through the nationalization of the former Radio Clube de Moçambique, whose foundation dates back to 1933. RM is the station with larger scope featuring emission centers in all provinces, broadcasting in Portuguese and local languages. In addition to the MR there are about eight commercial radio stations, most of which are based in Maputo, and two radio stations that belong to the two major political parties of the country, the Rádio Indico (FRE-LIMO) and Radio Terra Verde (RENAMO).

There is also a growing sector of community broadcasting with around 60 radio and television stations located throughout the country. One of the radios is overseen by the Media Institute (ICS) a state-funded institution created



in 1977 to promote rural development. ICS opened the first community radio in 1984 and later with the support of UNICEF and UNFPA extended the community radios network. UNESCO and the Danish organization IBIS contributed to the establishment of another share of the radio stations as part of a development project that aimed at the strengthening of media pluralism in the country. The Catholic Church and some community and civil society organizations helped establish the remaining radio stations, all of these, currently grouped in the private NGO National Forum of Community Radios (FORCOM).

The Mozambique Television (TVM), a state enterprise that receives government subsidies, broadcasts in Mozambique since 1981. Although its nationwide scope, audience is much less significant than that of RM. There are three other television stations operating in the private sector: television Miramar, owned by the Universal Church of God; STV, property of the Society of Independent Communication (SOICO), launched in 2002, and covering eight provinces the country; and the Independent Television of Mozambique (TIM), created in 2006 by Mozambican entrepreneurs present in half of the provinces.

In terms of written media over a hundred of publications are registered in the Information office (GABINFO) but only 30 have a regular edition.

There are three daily newspapers in Mozambique: “Notícias”, “O País” and “O Diário de Moçambique”. The News, the oldest newspaper founded in 1926 is distributed nationally and to the “Sociedade de Notícias, SA”, a company with state and private shareholders. “Domingo” and the sports magazine “Desafio” are published weekly and also belong to Sociedade de Notícias. The “Diário de Moçambique” is privately owned and is published by the Sociedade Comercial de Notícias da Beira S.A.R.L. “O País” is a private and independent publication, owned by the group SOICO. “O País” with a circulation of 30,000 copies is the second largest publication after the weekly “@Verdade” with a circulation of 50 000 copies.

A particular innovation that marked the dynamism of the press in Mozambique since the 90s was the creation of newspapers printed in A4 format and faxed to subscribers in order to reduce the costs of printing and distribution. Among the best known include the “Mediafax “ and “ Metical “ whose foundation dates back to the early 90s. This type of publication was described at the time by the American newspaper “New

York Times” as the “vanguard” of the press in Africa. New publications in fax format continue to emerge, now evolving into publications with electronic distribution. There are also seven private weekly newspapers with regular publication similarly to the “Domingo” and “Desafio”, namely: “Savana”, the “ Zambeze”, “Magazine Independente”, “Publico”, “Canal de Moçambique”, “Escorpião” e “ @Verdade”. The latter was also an innovation in media Mozambican market when it was launched in 2008, as a free distribution newspaper. Its advertising slogan is as follows: “the first and only weekly Mozambican publication where Truth is priceless!”. The newspaper has been featured on CNN U.S. which considered the concept of free distribution in Africa quite revolutionary.

The Mozambique News Agency (AIM) is the official news agency of the country and responds to the Government Information Office (GABI-NFO). There are also publications borned outside the capital with modest circulation. Numerous electronic newspapers are available.

### 3.3. Access to the “New Media”: The Internet and Mobile Phone

Access to the “new media”, including the internet and mobile phones, is growing in Mozambique, although access is limited to a small portion of the population residing mainly in urban areas.

The introduction of the mobile phone in 1997 had a strong impact on people’s access to telecommunications services and now competes with landline phone. According to the publication “Public Broadcasting in Africa: Mozambique Report – 2010”, from the Media Foundation of the Open Society Institute in 2008, 21% of the population in Mozambique was a signer of the mobile phone network and 111 of the total 128 districts country (district capitals) had mobile network coverage.

According to statistics of the internetworldstats there are about 612,500 Internet users in Mozambique, which corresponds to a penetration rate, i.e. a percentage of the total population (estimated in 2010 at about 22,061,451 million) of 2.8 percent. This means that internet access is still limited to a small circle of users. Access is very limited in rural areas, where the largest percentage of the Mozambican population resides and where the broadcasting system has greater range and hence has wider audience.

The internet is an important platform for the free exercise of the right to freedom of expression and opinion in Mozambique. The activity in the blogosphere is quite dynamic where journalists, academics, researchers, sociologists, environmentalists, human rights and communities advocates and elements of the emerging intellectual class expose criticisms and opinions on a regular basis.

### 3.4. Analysis of the Legal Framework

The universal principles regarding the right to freedom of the press are clearly expressed in the legislation of the Republic of Mozambique. The

constitution of the Republic of Mozambique, in force since 2005, in Article 48, guarantees the right to freedom of expression, press freedom and the right to information. It stipulates that freedom of the press includes freedom of expression and creativity for journalists, access to sources of information, protection of independence and professional confidentiality and the right to create newspapers, publications and other media . The constitution also provides for the State to ensure the exemption of social media in the public sector, as well as the independence of journalists from the government, the public administration and other political powers.

The Law of Press (Law No. 18/1991, of 10 August) was created during the new democratic constitution of 1990 and it was considered at the time of its publication an innovative and progressive document recognizing the importance of the role of the media in the realization of the rights to freedom of expression, press freedom and the right to information and established the principles that were

#### DUTIES OF JOURNALISTS

- Respect the rights and freedoms of citizens;
- To produce a full and objective information;
- To exercise his professional experience with rigor and objectivity;
- To rectify the false or inaccurate information that has been published;
- To refrain from making direct or indirect apology of hatred, racism, bigotry, crime and violence;
- Repudiate plagiarism, libel, slander, lies, accusation without proof, injury, addiction and documents;
- Refrain from the use of the moral prestige of the profession for personal or material interests.

*Republic of Mozambique, Press Law, art. 28th*



to mark the beginning of a new era in the country's media landscape, recognizing the Mozambican property rights of media and news organizations. This same law provides for freedom of the press (Article 2), defines (Article 3) the right to information as the freedom of each citizen to inform and be informed of the facts and relevant opinions, and the right of each citizen to disseminate information, opinions and ideas through the media. It also establishes the rights and duties of Mozambican journalists (Article 27 and 28) and contains provisions for the protection of journalists, such as the right of access to official sources of information and the right to protect sources or right to professional secrecy regarding the source of information.

The law establishes penalties for those who commit crimes against press freedom including crimes of slander, libel, threaten, insult or provocation and crimes of qualified disobedience. Articles 42 and 47 of the Law of Press address these offenses described as abuse of press freedom. According article 42, No 1: "are considered crimes of abuse of press freedom facts or willful acts injurious of legal interests protected by penalty accompli by the publication of texts or broadcast radio or television programs or image through the press." It states in paragraph 2 that the ordinary criminal law is applicable to crimes of the press (the common criminal law mentioned on the Law of Press corresponds to the Penal Code, promulgated in September 1886 by the colonial government, at the time, the Portuguese law).

In respect of the crime of defamation (Article 47) the offender may be punished as a slanderer and sentenced to imprisonment for up to two years. Sanction may include monetary compensation for damages. In the case of an offense to the person of the President or of a foreign head of state or his representative, proof of the truth of facts is not allowed. Other prescribed penalties may include suspension of the publication in question (Article 48). The report on "Public broadcasting in Africa: Mozambique Report – 2010", from the Open Society Institute's Media Foundation, recommends that legal provisions enshrining special protection to public figures are not appropriate to a democratic society and should therefore be eliminated. In fact, it is a universal standard of journalistic ethics that a journalist must respect the rights to honor and esteem of the people, the right to a good

name, image and intimacy of personal and family life, except when considering the public interest or when the individual's conduct contradicts the values and principles that he publicly advocates.

The Law of Press established the Higher Council for Media (CSCS), as regulator whereby the State guarantees the independence of the media, freedom of press and the right to information, as well as the rights of airtime and response. The deliberations of the CSCS are indicative only binding when related to the regulation of the professional conduct; to the decision on public complaints on the sector performance or related to complaints concerning the conditions of access to the right of airtime and response. However, the performance of the CSCS has been challenged either by journalists and the media companies for their alleged lack of impartiality based on the fact that most of its deliberations in response to complaints of alleged defamation have resulted against the press.

The Law of Press also ensures that, during election periods, political parties competing in the elections have the right to equal and regular airtime on radio and national television, under the Regulation of free airtime. The opposition is guaranteed the right of reply to political statements made by the Government over radio and television broadcasting that may impact negatively their political positions.

The media are subject to registration in the Government Information Office (GABINFO). GABINFO replaced the Ministry of Information and is responsible for: the dissemination of information and activities of the Government; proposal of initiatives to support public sector organizations, private or cooperative media; and for the supervision of the state-owned Media. The Director shall be appointed by the Prime Minister to whom he responds to. The Law of Press stipulates that heads of public sector companies or institutions shall also be appointed by the government i.e. the Chairman of the Board of Radio Mozambique (RM) and the Chairman of the Board of the Television of Mozambique (TVM) shall be appointed by the Prime Minister. Despite being designated as "public sector institutions" these are in fact state-owned media bodies, as opposed to the concept of a media public agency characterized by an autonomous administration an independently managed board.

The Law of Press is currently being revised in order to adjust it to the current reality and align it with the constitution of 2004. The proposal is in the power of the Council of Ministers and will be forward to the National Assembly after being discussed. The initiative of the revision of the Law of Press came from the government. Associations of journalists, including the National Union of Journalists (SNJ), the Mozambican Media Institute of Southern Africa (MISA – Mozambique), EDITMOZ-Publishers Association of Mozambique and the Association Journalistic Enterprises participated in the process and presented concrete proposals for amendments that have been incorporated.

A Law on Radio and Television is also being prepared aimed at establishing a legal framework to regulate the specific activity .

Since 1991 legal instruments were introduced in addition to those from before the 1990 democratic constitution or that had been inherited from the civil and criminal codes of the colonial era. Some of these laws, markedly anachronistic, ought to be revised. However, others remain in place such as the Law No 12/79 of 12 December, which defines the legal protection of state secrecy, designed for the protection of a one-party state whose definition of state secrecy is vague and susceptible to ambiguous interpretations by public authorities. This Law imposes restrictions on the freedom of information blocking access to official documents and data containing information of public interest. The unauthorized disclosure of information, subject to legal protection, is punishable with imprisonment up to two years, in case of “confidential” information; up to eight years in case of “secret” information and up to 12 years if the information revealed is classified as “state secret”.

### **RIGHTS AND RESPONSIBILITIES OF THE MEDIA DURING ELECTION PERIODS:**

set out in the Electoral Laws (Laws Nos. 7, 8, 9, 26 February, 10 from June 5 and 18 from July 18, 2007) which stipulates the principle of equal treatment and opportunities to candidates and political parties; enshrines freedom of expression and information during the election campaign; prohibits the dissemination of opinion polls or surveys on voter opinion regarding the candidates, since the beginning of the campaign until the election results declared by the National Elections’ Commission (CNE); stipulates the right of candidates and political parties to use public service broadcasting and television (airtime) during the elections campaign, under the regulation of the CNE; and prohibits electioneering within 48 hours preceding the elections and during the negotiations.

The mentioned is taken by the Law of Press Article 29, paragraph 2, which prohibits access to sources of information on “processes in legal secrecy; facts and documents considered by the competent military state forces as secret, considered so by legal provisions as well as those related to the private lives of citizens”. Organizations such as the National Union of Journalists (SNJ) and MISA – Mozambique have remained active in promoting the rights of freedom of expression and communication of violations. Civil society organizations, such as the Center for Public Integrity (CIP) and the League of Human Rights have also played an important role in reporting the violation of these rights and providing legal aid to victims.

#### **3.4.1. Law on Access to Information**

In order to bridge the gap that exists in terms of statutory regime on the right of access to information or the right to seek and receive information, a draft law on the Right to Information was submitted by MISA – Mozambique in late November 2005. The Law is still waiting for a plenary debate and Parliament approval.

The SNJ and a group of civil society organizations, led by MISA – Mozambique, are conducting joint efforts. The collaboration was formalized in 2010 as a national alliance to develop a coordinated advocacy to alert the Parliament about the importance of the mentioned legal provision that should clearly stipulate the procedures for access to information.

These joint efforts are aimed at accelerating the process of the bill approval. This will result in the fulfillment of the commitments made under the Constitution of 2005, the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights which state that the right to freedom of expression includes not only the freedom to “disseminate information”, but also the freedom to seek and receive information regardless of frontiers and by any legal means.

### 3.5. Ethics and Deontology and the Mechanisms of Self-Regulation

The Law of Press (Article 8) requires that each information agency has its editorial statute defining its orientation and objectives and states the principles of media ethics and deontology compliance. The Mozambican media are thus obliged to publish its editorial statute.

A good portion of the media made their statute available for consultation online contributing to a reasonable degree of professionalism and transparency. Despite the stated a portion of the media fails to clearly communicate their editorial position or internal code of conduct. This associated with a poor level of education leads to a tendency for the absence of compliance with the principles of journalistic ethics and deontology.

The Law of Press (Article 10) also defines the media Editorial Boards activities. The Editorial Boards composition and powers should be defined by their respective statutes. These self-regulatory organizations translate the right granted to professionals to participate and intervene in the editorial guidance of the respective bodies of communication.

In terms of socio-professional organizations Mozambican journalists have accumulated a long experience. The National Organization of Journalists was created on April 11, 1978 and was then transformed into the National Union of Journalists (SNJ) in 1996. In 1998, the SNJ proposed a Deontology code for Journalists in Mozambique preliminary draft. Recently, in November 2010, and in order to fill a gap in terms of juridical-legal framework that enshrines the conditions of access to and exercise of journalism in Mozambique, setting the rules and terms of career progression, the SNJ other bodies representing the class, such as MISA – Mozambique, EDITMOZ – Publishers Association of Mozambique, and the Association of Journalistic Enterprises, approved by consensus the Statute of Journalists, the Deontology and Ethics Code and the Regulation of Journalists' Licensing. The SNJ predicts that these three instruments provide mechanisms for the sector professionalization consequently improving the working conditions and the level of ethics and professionalism of journalism in Mozambique. The documents shall be forwarded to the National Assembly to be approved as a law and thus acquiring a binding and mandatory effect after approval by the journalists in the next SNJ National Conference, to be held in 2011.

#### 3.5.1. Codes of Conduct and Monitoring of Electoral Media

Mozambique through the SNJ adhered to universal sources of self-regulation, such as the Declaration of Principles on the Conduct of Journalists IFJ, which the SNJ is a member. In terms of international standards on freedom of expression, Mozambique petitioned several universal and regional right to freedom of expression and right to information instruments namely, the United Nations Universal Declaration of Human Rights, the International Covenant Civil and Political Rights, the Windhoek Declaration on Promoting an Independent and pluralistic African Press; the AU African Commission on Human and Peoples' rights' Declaration of Principles on Freedom of Expression in Africa, and the African Charter on Democracy, Elections and Governance. Finally, in the context of the Southern African Community for Development (SADC), the Protocol on Culture, Information and Sport, 2000, and the SADC Declaration on Information and Information Technology, 2001. The SNJ is also a member of the Federation of Portuguese Language Journalists, and Secretary General Chairman of the General Assembly of the Federation.

Mozambican journalists have very relevant experience in terms of good practices in the creation of mechanisms of self-regulation adjusted to elections coverage with the adoption of codes of professional conduct and ethics in journalism. The monitoring of media coverage during election periods has been performed either by MISA – Mozambique, in consultation with the SNJ or the Higher Council for Media (CSCS).

The Mozambican professionals have adopted, freely and voluntarily the “Code of Conduct for Election Coverage” under the aegis of SNJ and MISA – Mozambique, on October 25 2008 in the presence of editors of various media bodies, both public and private, in the city of Beira, Sofala province. The code includes a set of standards that guide journalists and national media during the election. The code was appropriated and applied in the 2008 municipal elections and the 2009 general elections. Previously to the mentioned Mozambican journalists had taken steps to adopt mechanisms for self-regulation particularly in 1998, prior to the first municipal elections in Mozambique. Then the national network of community networks, through the Center for Coordination of Community

radios developed a Code of Conduct: the ten Rules for Coverage of Elections. The Code was adopted after debates within the district and province and signed by all stakeholders – including radios overseen by the Media Institute (ICS). The code exhorted journalists from community radio to reject payments or bonuses and avoid becoming involved personally in the election campaign and recommended that the coverage should be limited to the transmission of news and facts without any comments.

On the eve of the 2003 municipal elections and the 2004 general election, 17 editors representing the majority of the media signed a Code of Conduct for Election Coverage. The code called for “fair and balanced” coverage in the electoral process and exhorted journalists to not accept bribes and refrain from act as spokesperson for candidates or political parties.

In terms of organizations with the knowledge and expertise to monitor the extent of accuracy, fairness and equality of media coverage during elections present in the country MISA – Mozambique can be highlighted. The latter, in consultation with SNJ, held the Municipal elections coverage in 2008 (report is available at the MISA – Mozambique) as well as the Presidential and Legislative Election and the elections for the Provincial Assemblies in 2009.

CSCS which has the competence to monitor media activity; to ensure the exercise of the right to information; to ensure the independence and impartiality of the organs of public sector information; to ensure the accuracy and objectivity in the exercise of journalism as well as to act in the public interest, also held the monitoring of media coverage during 2009 campaign for general elections. The corresponding report is published and available in the premises of the CSCS in Maputo.

The election observation missions of the European Union to Mozambique (2003, 2004 and 2009) also monitored the coverage of the election campaign by the Mozambican media.

### 3.6. PRO PALOP / ET activity

The activity of PRO PALOP / ET in Mozambique, implemented between March 14 and 30 2011, focused on the improvement of synergies through the exchange of experience resulting from the adoption standards of ethics previously applied on Mozambique.

A Workshop was held on March 29 with the objective of discussing on ethics and deontology and on possible improvements and changes on the Electoral Code of Conduct for Journalists and the Media preliminary draft as a reference tool for all PALOP and East Timor. The event was attended by journalists and representatives of the Media, the National Union of Journalists (SNJ), the Higher Council for the Media (CSCS), MISA – Mozambique, the Information Office (GABINFO), the National Forum for Community Radio (FORCOM), the Media Institute (ICS), the national Elections’ Commission (CNE) and the Technical Secretariat for Electoral Administration (STAE).



## 4. CAPE VERDE



### 4.1. Panorama of Social Communication

The freedoms of expression and press are enshrined in the constitution and laws of the Republic of Cape Verde and are respected in general. In 2010, Cape Verde ranked second best among the African countries in terms of respect for press freedom, according to the “Reporters without Borders” Press Freedom Index (the Index is based on the analysis of violations of press freedom that occur in 178 countries worldwide) in 26th position, ahead of countries such as South Africa (38<sup>th</sup>), Portugal (40<sup>th</sup>) and Brazil (58<sup>th</sup>).

The state-owned Media has the highest level of audience however the private press has shown great dynamism, especially in written media. Audiovisual media has been expanding with the introduction of private television stations. A significant portion of the newspapers are available online aiming at reaching the Cape Verdean population in the diaspora (around 600 to 800,000 Cape Verdeans higher whereas inhabitants from the islands add up to 516 000 Cape Verdeans).

Cape Verdeans journalists created on April 28 and 29, 2011 an union upon approval of the statutes by the journalists’ general meeting. Such approval allowed the transition from a socio-professional organization created in the 90s – Association of Journalists of Cape Verde (AJOC) – to an union with the same acronym. In May 2011, the new Code of Ethics of Journalists of Cape Verde was unanimously adopted as a reference document in the process of self-regulation of the profession. The document was created with the support and collaboration of the PRO PALOP/ET and includes a set of standards and principles of ethics and deontology adjusted to elections’ news coverage.

## 4.2. The Media in Cape Verde

The RTC (Radiotelevisão Cape Verde) is the company that provides the radio and television public service funded by the fees charged from broadcasting, grants from the public service provided and from advertising revenues and. The RTC was created by the state in 1997, as a public company with two units: the Radio of Cape Verde (RCV) and the television of Cape Verde (TCV). RTC is headquartered in Praia with offices in São Vicente, Sal, Fogo and Santa Catarina in Santiago.

The Radio of Cape Verde (RCV) is considered the main source of information in the country, with a strong presence and wide scope throughout the archipelago. Its foundation dates back to 1945, with the creation of the «Radio Club de Cabo Verde», called «Rádio Praia». After the independence of the country, the radio was renamed to «Rádio Nacional de Cabo Verde». Another historical station is Radio Clube Mindelo established in 1946. In 1955 Radio Barlavento was funded and in 1974 the station was occupied and transformed into Radio Voz de São Vicente, which would then be integrated into the Radio Nacional de Cabo Verde similarly to Rádio Praia .

After the independence and until mid-1992, Cape Verde had a single radio station broadcasting nationwide. The following year and after political overture a Christian broadcaster «Radio Nova» headquartered in Mindelo was created. In 1997 a number of stations were created: the private broadcaster «Radio Comercial» as well as a number of other local and community radios. Currently, the website of the Media General Directorate has three state broadcasters (RCV, RCV+ and Rádio Educativa), twelve private stations and 10 community radio stations registered.

TCV, the Experimental Television of Cape Verde, first broadcasted in 1984. From 1990 the station assumes the status of national television station and is named National Television of Cape Verde and Television of Cape Verde in 1997. There are two private stations in Cape Verde TV Record Cabo Verde and TIVER. TIVER (Independent Television of Cape Verde) was the first private television station of Cape Verde. Record TV Cabo Verde is a Brazilian channel from Rede Record.

Inforpress is the only News' Agency of Cape Verde and started as Cabopress in 1988. The agency was part of a group that owned the weekly newspaper «Horizonte», created in 1998 and after «Voz di Povo» 1988 and «Novo Jornal de Cabo-Verde» 1993, all of which are now extinct. In 1998 the agency was restructured following the introduction of the Law of Media, which opened space for the free establishment of private media. The internet is now the News' Agency main form of information dissemination. Inforpress is presently owned by the «News' Agency» and has transitioned from a public company status to a public limited company. It remains a public service agency, similarly to other state-owned media, lying bound by duty to inform and educate the society in general, as stipulated in the constitution. It is an agency based in Praia and has representations in the various islands.

With regard to written press, the Media Directorate General has about 80 periodical publications registered however several of them are currently extinct. There are three private edition weekly newspapers printed in tabloid format and with an electronic version available: «A Semana», created in 1991, is the oldest independent and private-owned weekly newspaper and continues to be published regularly in Cape Verde; «Expresso das Ilhas», from Media Company, SA and established in 2001; and the weekly newspaper «A Nação» which is one of the most recent independent private-owned newspaper in. Created in 2007, «A Nação» belongs to Alfa Communications that besides the weekly newspaper publishes nine other publications in magazine format.

Several other written media are available in electronic form only such as the «Liberal», released in 2005.

## 4.3. Access to the “New Media”: Internet and Mobile Phone

Cape Verde the PALOP country the best placed in terms of Internet access and number of mobile phone subscribers.

The government of Cape Verde has taken various steps to popularize the new technologies of information and communication and to

increase access to the internet by installing “telecentres” in the various islands of the archipelago; providing training initiatives for students and teachers in the use these technologies; as well as by distributing computers to students and teachers. The government’s goal was that all students and teachers come to possess a personal computer with internet connection.

Other measures have been taken in order to create the conditions that facilitate the free access to internet, with the provision of access points for wireless internet in various parts of the urban areas, especially the capital, Praia.

According to statistics from internetworldstats, there are 150,000 Internet users in Cape Verde, which corresponds to a penetration rate (i.e., a percentage of the estimated population, 508,659 inhabitants in 2010) of 29.5 percent.

In terms of mobile phone usage and according to statistics from the National Communications Agency (ANAC) of Cape Verde the penetration rate amounted to 55.56 percent in 2008 corresponding to about 499,760 Cape Verdeans, i.e. more than half the population was subscribed to mobile phone network.

#### 4.4. Analysis of the Legal Framework

The political system adopted in Cape Verde after the proclamation of independence on 5 July 1975 has followed the principles of the one-party system. Policy overtone was announced in 1990 with the partial revision of the constitution allowing the establishment of the principle of pluralism and multiparty system and creating the institutional conditions for the first parliamentary and presidential elections in 1991. The constitution in force revised in 1995, 1999 and 2010, enshrines the democratic rule of law based on the principles of popular sovereignty, pluralism of expression and democratic political organization and respect for fundamental rights and freedoms of citizens.

Article 48 of the constitution enshrines freedom of expression and information and the right to information. The latter stipulates that everyone has the freedom to express and disseminate their ideas

through words, images or by any other means; are protected from being disquieted because of their political, philosophical, religious or other views and that everyone has the freedom to inform and to be informed, seeking, receiving and disseminating information and ideas, in any form, without limitation, discrimination or hindrance. The constitution forbids any type or form of censorship and establishes as the only restrictions on the freedoms of expression and information the right to honor and esteem of the people; the right to a good name, image and intimacy of personal and family life; as well as the duty of protection of children and youth. Prohibits promoting violence, pedophilia, racism, xenophobia and all forms of discrimination, particularly of women; and ensures the right of reply and response, as well as the right to compensation for damages resulting from the exercise of freedom of expression and information.

Press freedom is also guaranteed in the constitution (Article 60), which ensures the independence of Media from political and economic power and its immunity from censorship of any kind; the expression and exchange of ideas of different streams of opinion in the public media; the state guaranteed of public media exemption; as well as the independence of journalists before the Government, public administration and other public authorities.

The approval and amendment of a legislative package in 2010 has created the legal framework to improve the effectiveness of media regulation by the state. The proposals under review addressed the gaps identified in the previous legislation framework. The following can be highlighted: Law No. 70/VII/2010 amending Law No. 56/V/98 establishing the legal framework that regulates the media (Law of Media); Law No. 71/VII/2010 amending Legislative Decree No. 10/93, which regulates the Activity of Broadcasting in Cape Verde; Law No.72/VII/2010 approving the Statute of Journalists; Law No.73/VII/2010 that approves the Law of Written Press and News’ Agency; Law No.74/VII/2010 amending Law No. 57/V/98, the Television Act.

With regard to the Broadcasting Act, a significant change was applied over the public service concession, no longer limited to Radio Cabo Verde and assigned to any legal person of public or private capital. The Television Act also enshrines the principle of openness of

public service to private stations. In addition, the legislation simplifies licensing procedures by granting radio spectrum usage through government approval rather than by tender.

The Law of Media reaffirms the right to freedom of expression and of thought and the right to information; prohibits censorship and sets restrictions on freedom of information and expression according to the constitution. The Law also establishes the right of access to sources of information and the right to confidentiality, guaranteeing the right of reply or response and introduces the free enterprise (Article 27), which stipulates freedom of creation and founding of media companies, without tying authorization, deposit or prior qualifications.

The Journalist Statute has introduced measures that have direct implications for the performance of the main actors of the media –the journalists- and aim to contribute to greater compliance of ethics and deontology and increase the level of professionalism (see “Ethics and deontology and mechanisms of self -regulation”).

According to the Cape Verdian journalistic class one of the vulnerabilities of the legal framework for media and journalistic practice is the absence of a regulator, a watchdog with real powers. To bridge this gap, and until a specific regulatory body for the media is created, the revised Law of Media renders a more active role to the Media Council (CCS) that becomes empowered of sanctioning rather than an issuer of non-binding opinions. CCS becomes entitled to instruct proceedings and application of fines due in respect of offenses provided for in the law, a responsibility previously taken by the General Labour Inspection under the previous legal framework.

The creation of an independent administrative authority of the media is enshrined in both the Constitution (Article 60) and Law of Media (Article 30). In 1990 Law 91/III/90 was published resulting in the creation of the Media Council (CCS), an independent body working with the National Assembly and with a composition chosen by the latter. The Media Council has the competency of issuing recommendations of binding nature. The Media Council competencies include: ensuring the right to information and freedom of the press; guarantee the expression and confrontation of different

opinions through the media; protect exemption, rigor and objectivity of information; as well as the independence and pluralism of the state-owned media. CCS opinions are also of binding nature when issued over complaints on the conditions of access to airtime and reply and the arbitration of disputes arising between holders of the right to radio and television airtime.

The composition and organization of the Media Council as stipulated in the law is considered one of the reasons for its failure. Any disagreement between the main parties represented in the National Assembly affects the election of CCS members. The CCS consists of a magistrate appointed by the Supreme Judicial Council chairing; three members appointed by the National Assembly, according to the method laid down by the same body; two members appointed by the government; two journalists nominated by their social organization; and a representative of the media. CCS members elect the corresponding vice president.

Currently, the Media General Directorate is the only active authority. This state-owned entity is the central body that supports the government in the preparation, planning and implementation of policies for the media sector. It responds to the government and executes the following duties: monitor publishing of periodical publications, companies commercializing, advertising agencies, audiovisual and documentary as well as specialized news, photos and images production agencies; implement measures relating to the implementation of state incentive systems to the private press; undertake press registration; organize radio and television licensing process and the launch of tenders; ensure the enforcement of the law in the exercise of the publishing of periodicals and radio and television broadcasting; and propose measures towards meeting the requirements established by current legislation for the sector.

#### 4.4.1. Rights and Duties of the Media during elections

The rights and duties of the media during election periods are governed by the 2010 electoral law (“Electoral Code”), which states:



- Public-owned periodical publications are required to include electoral coverage materials in every issue published during the elections while complying with criteria of impartiality and rigor and avoiding discrimination in the journalistic treatment and volume space provided (articles 114 and 115). As per CNE private publications can optionally insert information on elections provided that conditions to ensure equal treatment of all candidates are respected;
- radio and television are required to give equal treatment to the various candidates, offering equal opportunities (Article 116);
- electoral propaganda is not allowed in the media (Article 106, No.1);
- apology and violent processes to subvert democratic regime are prohibited; prejudices against race, gender, religion or social origin or regional incitement to attack people and goods; inciting disobedience collective, lack of compliance to the law and public disorder as well as to libel, slander or defame are prohibited;
- From the sixtieth day prior to the date set for the elections and until the closing of votes, among other provisions and under Article 105, paragraph 2, point c) disseminating political propaganda or opinion favorable or unfavorable to municipal and sovereignty organs, or its members, and candidate, party or coalition list, is prohibited as well as and according to point e) distribute any program allusion or criticism of the candidate, party or coalition list, even if covertly, except in the case of political debates or on the elections.

Article 105 specifically the number 2, c) and e) addressing the freedom of the press, generated controversy in the legislative elections of February 6, 2011. In the opinion of Cape Verdeans journalists and lawyers, this article restricts the right to freedom of expression and right to information enshrined in the constitution and the law of media and that therefore it would be advisable to revise the article in order to safeguard the exercise of the mentioned rights.

#### 4.5. Ethics and Deontology and the Mechanisms of Self-Regulation

The Media Law stipulates that the media should have an Editorial Board (Article 25) and that all media should adopt an editorial statute that clearly defines its orientation and objectives and includes a commitment to respect the principles of ethics and professional ethics, as well as the good faith of the public (Article 30).

In general, the Cape Verdean media fulfills this obligation by providing their editorial statute on each one's respective websites. Under the law, the statute drafted by the editorial director, after issued opinion of the Editorial Board and subject to ratification by the proprietor, should be inserted in the first edition of the publication or the first broadcast and sent within the ten days following to the independent administrative authority of the media, and released at the beginning of each calendar year to inform the public of its maintenance.

The proposed new Statute of Journalists (Law No. 72/VII/2010) aimed to overcome weaknesses and introduce greater conformity with other legislation in order to increase the autonomy and independence of journalists and, at the same time, establish ethical standards and guidelines for behavior to prevent abuses or discrimination. The Statute introduces requirements for access and exercise of the practice and establishes the licensing as the enabling document to practice journalism. The license is issued and renewed by a Professional Licensing Committee (Article 6). The granting and issuance of Journalist License (Article 23) as well as its validity, suspension and revocation are the competence of the Journalist Licensing Commission (CCPJ). CCPJ assumes the role of guardian of good practice in the profession with sanctioning powers. Their duties and composition are determined by the Rules of Licensing (Law No. 52/2004, which approves the Regulation of Journalist Licensing and creates the Licensing Commission).

Qualifying for the practice of journalism should impose a more scrupulous compliance with legally established rules and observance of ethical rules, under penalty of incurring sanctions that may include permanent impediment to the practice of the profession. The Statute

strengthens also the section of the incompatibilities with the performance and inhibitions of the profession. Stresses the incompatibility between the activity of journalism and the exercise of functions in organs of sovereignty and political power, the judiciary, local government, police force, military or paramilitary and public administration in general, as well as activities of advertising, public relations, marketing and communications consulting and image or press office. On the other hand, reinforces the inhibitions in terms of acceptance of gratuities in exchange for the publication or dissemination of information or use of information obtained in the exercise of profession for its own benefit.

Some of the rules on access to the profession were, however, considered by the class rather restrictive. On the ability to practice the profession (Article 5), the Statute stipulates that only citizens of age, in full enjoyment of their civil rights holding an undergraduate degree or equivalent and grants (Article 2) a five years term to media business professionals and the who are in office no less than 10 years may be considered for admission. After five years, if the requirements to access are not met -university degrees – the journalist has the right to withdraw from or be reclassified according to his vocational or academic training. The Association of Journalists of Cape Verde (AJOC) proposes that in the future access to licensing is only granted to licensees. Journalists in office for less than 10 years and without a degree should be subjected to an examination assessment and those with more than 20 years of practice ought to maintain their status.

One of the widespread criticisms against the Statute of Journalists concerns the fact that by strengthening the system of incompatibilities the Statute establishes the conditions to ensure the independence of the activity from political and economic interests. But on the other hand, the conditions imposed may result in the curtailment of freedoms and the conditioning of rights, particularly with regard to access to sources.

The new legislative proposal contains solutions which can increase the degree of difficulty in accessing the information needed to practice. In fact, the Statute's No. 2 of Article 12, on the right of access to information sources, provides that the right of access to sources of information doesn't includes, among other situations, access to the

documents supporting the preparatory acts of legislative decisions or contractual instruments.

Cape Verdeans Journalists classified such provision as a step backwards in relation to the legal framework that existed. AJOC reacted considering the mentioned provision as a "very serious limitation" of freedom of information. By considering the preparatory acts of laws and contracts as a state secret, the new law is injuring the public interest in that it is denying citizens in whose name these acts are being discussed, the right to be informed before publication of such laws and contracts and therefore limiting them to a *fait accompli*. Hence, the AJOC considered the standard in question a serious decline in freedom of information

#### 4.5.1. Codes of Conduct and Monitoring of Electoral Media

Cape Verde, through AJOC, adhered to universal sources of self-regulation, such as the Declaration of Principles on the Conduct of Journalists IFJ, 1954, subject to a review in 1986; as well as the Charter of Journalists UJAO (Union of Journalists in West Africa), 1989 to which AJOC is a member. The AJOC is also one of the driving forces of the Federation of Portuguese Language Journalists.

In terms of international standards on freedom of expression, Cape Verde is a signatory to several universal and regional instruments relating to the right to freedom of expression and right to information, particularly in the UN Universal Declaration of Human Rights and the International Covenant Civil and Political Rights; the AU African Commission on Human and Peoples' rights Declaration of Principles on Freedom of Expression in Africa, and the African Charter on Democracy, Elections and Governance.

In May 2011, the new Code of Ethics of Journalists of Cape Verde was unanimously adopted as a reference document in the process of self-regulation of the profession. The code was created with the support and collaboration of PRO PALOP / ET. The document also includes a set of standards and principles of ethics and deontology adjusted to the news coverage of elections.

The reformulation of the Code of Ethics of Journalists, whose first version predates the Law of Media and the Journalist Statute, both from 1998, with changes made in 2010, aimed at aligning the code to the current reality, marked by the impact of technology information and communication.

The maturity of the Cape Verdean journalistic class is demonstrated at various levels, including through the creation of the class association, a trajectory formally initiated in 1991, which explains that the class should establish its own mechanisms of self-regulation. It is in this context that the AJOC determined as a priority the reformulation of the Journalist Code of Ethics in order to meet the needs of the profession.

The Code of Ethics includes as an annex the Code of Conduct for Electoral Processes, approved in 2010 as part of a training workshop on the electoral process organized by AJOC and the National Elections' Commission (CNE).

#### 4.6. PRO PALOP / ET Activity

The activity of the PRO PALOP / ET project in Cape Verde was developed between April 14 and May 2, 2011. The priority was to readjust the actions planned to the needs of the journalistic class in Cape Verde and the activity guided towards taking advantage of the practices in terms of ethical standards for election coverage.

It was in this context that the PRO PALOP / ET, in close collaboration with AJOC, executed the review of the Code of Ethics of Journalists. The Code of Conduct for Electoral Processes, approved in 2010 was attached to the code of deontology during the training workshop on the electoral process organized by AJOC and the National Elections' Commission (CNE). The relevance of this document justifies its presence in the Code of Ethics of Journalists of Cape Verde. The document contains a set of rules and principles of ethics and deontology adjusted to the news coverage of elections in accordance with international best practices guiding the activity of journalists during elections.



# CONCLUSIONS





## REGULATION AND SELF-REGULATION: ETHICS AND DEONTOLOGY AND THE USE OF CODES OF CONDUCT IN ELECTORAL PROCESSES COVERAGE – ANALYSIS 4 PALOP CASE STUDIES



The group of African Portuguese-Speaking Countries (PALOP) – Angola, Cape Verde, Guinea-Bissau, Mozambique and Sao Tome and Principe – share a linguistic and cultural identity, a judicial system, public administration and governance, and long tradition of contacts and exchanges between them. With East Timor joining ACP countries (Africa, Caribbean and Pacific) in 2005, the Portuguese Speaking Countries from ACP expanded from Africa to the Asia-Pacific region. The PALOP achieved national independence against Portugal at the same time, between 1973 – the year of the unilateral declaration of independence of Guinea-Bissau by the African Party for the Independence of Guinea and Cape Verde (PAIGC) – and 1975. Initially, these countries adopted one-party political systems a Marxist-Leninist trend and in alignment with the communist Eastern bloc led by the Soviet Union, as opposed to the Western capitalist bloc, led by the United States of America. The Cold War characterized the international political situation at the time. Following the fall of the Berlin Wall in 1989 the collapse of the former Soviet Union resulted in a wave of democratization in the former communist world including the African Portuguese-Speaking Countries. Since 1989, various PALOP suffered changes towards political liberalization and the introduction of multiparty political systems. The first democratic elections in the PALOP had place between 1991 and 1994. The principles of the democratic rule of law and respect for fundamental rights are introduced, including freedom of expression and information and freedom of the press and media and the right to broadcast, response and political reply.

## FEDERATION OF PORTUGUESE-SPEAKING JOURNALISTS (FJLP)

In December 2009 the Constitutive Assembly of the Federation of Portuguese-Speaking Journalists was held, and the organs were elected to his first term from 2010 to 2012. The FJLP assembles the Association of Economic Journalists of Angola; the Union of Professional Journalists of S. Paulo (Brazil); the Union of Professional Journalists of the State of Bahia (Brazil); Journalists Association of Cape Verde; Union of Journalists and Media Technicians of Guinea-Bissau; the National Union of Journalists (Mozambique); the Union of Journalists (Portugal) and the Union of Journalists and Media Technicians of Sao Tomé and Príncipe. FJLP objectives are:

- Striving for the unity of journalists and the defense of their rights, promoting the intellectual, professional and deepening of his conquests in the countries whose official language is Portuguese;
- Establishing itself in the permanent space of dialogue, exchange, cooperation and interaction between journalists and the various organizations of their representation;
- Contribute to the sharing of knowledge on the socio-cultural realities of each Member State;
- To promote the appreciation of the Portuguese language;
- to promote the defense of freedom of expression, pluralism of information, freedom of press and the right of access to information;
- To promote the dissemination of ethical values and ethics of journalism;
- To cooperate in the promotion of professional training of journalists;
- To edit the publications , periodic or not , as well as maintaining a web portal for dissemination of their activities and those of its members;
- To perform international meetings , and in particular Congress;
- To promote the exchanges with other international organizations whose work and / or mission relate to FJLP goals and interests;
- to promote the interests of the organizations of Portuguese-speaking journalists within the International Federation of Journalists.

The countries in the study, despite their similarities, have a quite different level of development in terms of Media. All PALOP are emerging multiparty democracies with democratic constitutions some of which were subject to revisions in recent years. The freedom of speech and press are constitutionally guaranteed in line with international standards on freedom of expression and press.

Following the political opening, laws to the press were passed. These laws recognize the role of the media in the realization of fundamental rights upheld by the constitutional texts and introduce the essential aspects for the exercise of journalism, including freedom of establishment of newspapers and news companies – an area previously under the monopoly of the state. Thus creating the legal framework for the expansion and strengthening of the pluralism of the media in these countries.

Generally, laws to the press constitute as general laws of media, covering the entire sector, both public and private, press and broadcasting. Sometimes these laws cover also the cinema and other forms of audiovisual communication aimed at public dissemination. The law of press defines the principles governing the activities of the media and establishes the rights and duties of journalists. In general, these laws do not mention the community radio or other forms of community media. One of the reasons for this non-inclusion may be due to the fact that the installation of community radio networks occurred after the publication of the law.

From the beginning of the 90s to date, all the PALOP achieved significant gains in building democratic systems of governance and respect for fundamental rights such as freedom of speech and press, as well as access to information by citizens, a fundamental part of a true democracy, respect for human rights, community development, as well as for free and fair elections.

Notwithstanding the existence of a legal framework conducive to media pluralism and despite the great achievements in the field of freedom of expression and freedom of the press, there are still gaps, needs and vulnerabilities to overcome. Access to sources of information, especially official, is still a challenge, particularly in Mozambique. In addition, journalists are struggling with occasional interference from the government or political and military authorities, specifically in Guinea-Bissau, the

country where these incidents have occurred with greater frequency, but also in São Tomé and Príncipe, where there was a recent case of government interference in the exercise of press freedom.

On the other hand, and common to all countries in the study, there is a need to improve the exercise of journalism in order to enhance professionalism. This improvement can be achieved through the access to academic and/ r technical- professional training and the improvement of working conditions. It is also necessary to review and updating of existing legislation as well as the adoption of legal instruments regulating the activity and establish mechanisms for an effective professionalization of the class. With the recent support from the PRO PALOP/ET in updating or creating instruments of self -regulation with recourse to ethics and deontology, an improvement of the practice of journalism is expected, especially during election periods.

Associated to poor working conditions and low level of education are financial and materials constraints, as well as constant power shortages, which continue to be a major obstacle to greater pluralism and free exercise of press freedom and the establishment of independent and dynamic media, especially in countries such as Guinea-Bissau and Sao Tome and Principe. These aspects affect also the exemption and impartiality of journalists, as well as the compliance to ethics and deontology, in that the professionals, due to the lack of material resources, are more vulnerable to accept financial and logistical support, a particularly disturbing during election periods.

Relevant experiences were identified in terms of best practices: adoption of ethical standards expressed in codes of ethics and conduct, applicable on the current activity of journalists; codes adjusted to coverage of electoral processes; coordination between the media and the electoral management bodies, whether in conducting training workshops for journalists on electoral law applicable to the media during elections (Cape Verde); election information dissemination and civic education directed at voters and election law compliance and recommendations regarding the rules on election results (observed in all countries under study).

However, the practical application of those codes of ethics or conduct revealed some weaknesses due to the fact that the documents are not comprehensive, poorly known or have not been properly undertaken and appropriated by key stakeholders. The low level of appropriation may be a

result from an inefficient disclosure or because those same codes do not result from an initiative of the journalists or representative organizations, such as trade unions and associations of journalists. In some cases these documents are outdated given the developments that took place in the media as well as in the field of information technologies.

Cape Verde is one step ahead in terms of the legal framework. The approval and amendment, in 2010, of a legislative package to the media has created a legal framework for a more effective State regulation of the sector. In 2011, with the support of the PRO PALOP / ET, and in close collaboration with the Association of Journalists of Cape Verde (AJOC), the Code of Ethics of Journalists was revised and collectively adopted. To Code of Conduct for Electoral Processes, approved in 2010 was attached to the Code of Ethics during the training workshop on the electoral process organized by AJOC and the National Elections' Commission (CNE).

Cape Verde is the best placed among the PALOP in terms of number of subscribers of mobile phone network and Internet access, a fact to which government policies have contributed by popularizing new technologies, especially in among students.

But further actions are needed to improve people's access to new technologies in the other countries studied.

In Mozambique, the National Union of Journalists (SNJ) and other organizations representing the class, such as MISA – Mozambique, EDITMOZ – Publishers Association of Mozambique, and the Association Journalism Enterprises, approved in 2010 the Statute of Journalists, the Code of ethics and deontology and the Regulation of Journalist's Licensing. The SNJ predicts that these three instruments will contribute to the professionalization of the class and the improvement of working conditions and the level of ethics and professionalism of journalism in Mozambique. The set of documents ought to be forwarded to the National Assembly to its adoption in the form of law and consequently the acquirement of a binding nature. The first step prior to NA approval is to achieve the journalists' approval in the SNJ National Conference, to be held in 2011. In the meanwhile the Law on radio and television broadcasting and the Law of Press is currently being revised in order to adjust it to the current reality and align it with the constitution of 2005. The draft law on the Right to Information submitted by MISA – Mozambique in late

November 2005 is still awaiting for plenary debate and approval in Parliament. In terms of good practice in media coverage of elections, Mozambican journalists have relevant experience, dating back to 1998. In 2008 a “Code of Conduct for Election Coverage” was adopted under the aegis of SNJ and MISA – Mozambique. The code includes a set of standards that guide journalists and national media during the elections, appropriated and applied in the 2008 municipal elections and in the 2009 general elections.

In Sao Tome and Principe, PRO PALOP / ET, in collaboration with the Union of Journalists (SJS), prepared an Electoral Code of Conduct for Journalists and the Media, which was publicly and collectively adopted on May 26, 2011. This document is accepted as a self-regulation reference guiding journalists during election periods in Sao Tome and Principe.

In Guinea-Bissau, the Union of Journalists and the Media Technicians (SINJOTECS) and the House of Press, with the support and collaboration of PRO PALOP/ET, created an Electoral Code of Conduct for Journalists and the Media, which ought to be forwarded so it can be adopted before local elections (scheduled for the third quarter of 2011 and second quarter of 2012).

The juridical-legal framework regulating the media in all the PALOP is quite similar, as it is generally inspired by the Portuguese legislation. One of the vulnerabilities identified in the legal system is with respect to the body that regulates the media and ensures the independence of the media, freedom of press and the right to information, whose role should be reviewed and its replacement by a media regulator should be envisaged. The nature, operational and organizational structure and composition of such regulator shall allow effective action, with autonomy and independence, and shall have full powers to sanction and issue binding recommendations. The law generally provides for the establishment of a regulatory body of the media with the competences to issue opinions, draw up general guidelines and recommendations, considered binding only with respect to specific tasks, in particular, assessing the conditions of to the right of airtime and response, ruling on complaints submitted, arbitrate disputes arising between the holders of airtime and decide on appeals in case of refusal to the exercise the right of reply.

In the case of Mozambique, the deliberations of the Higher Council for Media (CSCS) are of binding nature to a broader set of decisions,

regulating professional conduct of the media and ruling on public complaints against the performance of the sector. In Cape Verde, the revision of the Law of Media provides a more active role for the Media Council (CCS) with the sanctioning powers while a specific regulatory body for the media is not created.

The political nature of the constitution of these bodies has led to the lack of understanding between political parties represented in the National Assembly and the Parliament affecting the election of its members resulting in the ineffectiveness of the regulatory body. These entities generally operate close to the Parliament whose members are inducted by the Parliament President. The entity is constituted by representatives of journalists elected by their socio-professional organizations and media companies and the trustees appointed by the presidency of the republic, the government, the parliament and the Judiciary. The representatives appointed by the state are in the majority. In the case of Mozambique the President of the Media Superior Council is appointed by the President, in other countries the president is a judge appointed by the judiciary.

For these reasons, the performance of this regulator of the media, with the structure, composition and functioning as envisaged in the legislation, has been challenged either by journalists or the media companies for their alleged poor performance and lack of public visibility that reflects negatively on their credibility and the image of independence and autonomy. This is the case of the Supreme Council of the Press (CSI) in Sao Tome and Principe. In Cape Verde the composition and organization of the Media Council (CCS) is considered one of the reasons for its ineffectiveness, to the extent that, any disagreement between the main parties represented in the National Assembly affects the election of members of the CCS designated by the Parliament. In Mozambique the performance of the Higher Council for Media (CSCS) has been questioned due to the alleged lack of impartiality based on the fact that most deliberations in response to complaints for alleged defamation have resulted against the press. In Guinea-Bissau, the performance of the Media National Council (CNCS) has been limited by the lack of technical and human resources. However, the media tends to follow the recommendations issued by CNCS especially during election periods (with regards to publication of provisional election results, an announcement the law does not expressly prohibits).



Since the beginning of the democratization in 1989, legal instruments applicable to the media were introduced adding to other legal mechanisms that existed since before the democratic constitutions or had been inherited from the civil and criminal codes of colonial era. These instruments refer the so-called press offenses to the criminal law. The crime of defamation under the law in force can be punished with imprisonment up to two years, including a fine or corresponding compensation. Other prescribed penalties may include suspension of the publication in question, if a more severe penalty is not provided under criminal law.

Some of these laws, markedly anachronistic, are in the process of being revised but others remain in force, countering the spirit of international standards, including the Windhoek Declaration on Promoting an Independent and pluralistic African press, 1991 and the Declaration of Principles on Freedom of Expression and Freedom of Information in Africa, 2002. These legal instruments in force including laws to the press also provide for special protection to public figures, not considered appropriate to a democratic society and should therefore be eliminated. It is a standard of universal journalistic ethics to respect the rights to honor and esteem of the people, the right to a good name, image and intimacy of personal and family life, except in cases of public interest or when the individual's conduct contradicts the values and principles that the same publicly advocates. The existence of legal provisions that define the legal protection of state secrecy should be revised. Those currently in force were generally designed to protect a one-party state, have in vague and unclear definitions and are susceptible to ambiguous interpretations by public authorities, imposing restrictions on the freedom of information to block access to official documents and data containing information of public interest.

In some cases the electoral law in force is restrictive and affects the activity of journalists and media in general during election periods (in the case of Article 105 of the Electoral Code of 2010 in Cape Verde).

Good practices of media monitoring can be identified. Monitoring aims to assess the degree of impartiality, balance and equal coverage of electoral events and can help relieve stress and reduce the risk of electoral violence. In Mozambique there are organizations with technical capacity

for monitoring the degree of accuracy, fairness and equality of media coverage during elections. MISA – Mozambique, in collaboration with the SNJ, monitored the media coverage of the Municipal Electoral Process in 2008 (the report is available at the MISA – Mozambique) and the Presidential, Legislative and Provincial Assemblies election in 2009. The Media Superior Council as it is its competency, has also taken an active role in monitoring the media continually and during elections. However, monitoring has been restricted in terms of sample size and the period in analysis due to lack of resources and technical difficulties faced by these organizations.

In Guinea-Bissau under the UNOGBIS' initiative (The United Nations Peacebuilding Support Office in Guinea -Bissau) "Strengthening the Role of the Media in Elections in Guinea-Bissau", during the legislative elections of November 16, 2008, journalists and media adopted a "Code of Conduct for Elections of November 16, 2008 for an objective and unbiased news coverage", which offered the criteria for monitoring media coverage.

The PALOP still have a journey ahead towards the decriminalization of freedom of speech and press and greater and freer exercise of the right to inform, be informed and to seek and receive information as well as application of good practices with recourse to ethics and deontology and application of techniques for monitoring the media. The journalists under the aegis of the respective trade unions and other organizations or socio-professional associations must assume their responsibilities in order to keep the debate alive, mobilizing civil society and political powers to carry out the necessary updates and revisions of the legislation.

The maturity of the journalistic class in different countries under study, proved at various levels, including through the activism of their socio-professional organizations and associations, has justified the initiatives of self-regulation, particularly in the field of the electoral processes coverage, facts that have been identified and shown in this handbook on "Journalistic Ethics and Deontology and the use of codes of conduct in Media Coverage of electoral Processes – Analysis of four African Portuguese-Speaking Countries (PALOP) case studies."

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