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TELECOMMUNICATIONS BASIC LAW

DECREE No. 03-99

The current law translates government policy in telecommunications,

With a view to:

- Promote the development of telecommunications in Guinea-Bissau through the definition of an adequate legal framework in accordance with globalization demands;
- Promote and emphasize the role of telecommunications as a fundamental instrument in economic and social development:
- Create conditions favorable to the emergence and development of competition in the telecommunications sector in order to facilitate access to users of new services at the best prices;
- Develop and improve telecommunications services of public use aiming at a better coverage nationwide in terms of universal access to telecommunications;
- Government decrees under the terms of paragraph (f) Article 10 of the Pact of Political Transition, the following:

Contact: Joaquim Albino
Chairman of Administrative Board
ICGB

Email icgb@mail.bissau.net

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CHAPTER 1

GENERAL DISPOSITIONS

Article 1 - **Object and scope**

The current law has as its object the definition of broad bases that will govern the establishment, management and exploration of telecommunications networks and services within Guinea-Bissau territory.

The current law is not applicable to telecommunications broadcasting services.

Article 2 - **Definitions**

For the purposes of the current law, the following definitions apply:

- A. Administration: the body in charge of regulations in the telecommunication sector of Guinea-Bissau
- B. Universal access: the minimal set of services, of a specified quality, accessible to all users, irrespective of their geographical location, according to specific national conditions, at an accessible price;
- C. Communications: the service through which the transport or transmission of messages or information is carried out with help of adequate technical means. The concept of messages and information is used in broad terms, encompassing namely texts, symbols, signals, pictures and sounds;
- D. Terminal equipment: equipment meant to be connected to the telecommunications network, both directly to a terminal point within the network, both and to interact with the latter through this direct or indirect connection, utilizing in both cases metallic wire, radio-electrical means, optical systems or any other electromagnetic system to send, process or receive information;
- E. Telecommunications infrastructure: the set of links, connections and equipment defined under article 4;
- F. Compatibility of terminal equipment: the capacity of that equipment to operate both with the system and other terminal equipment that allow access to the same service;
- G. Interconnection: physical and logical connection of telecommunications networks utilized by the same organization or by a different organization to enable users of an organization to communicate with users of the same organization or of another organization or to have access to services provided by other organization. Parties involved or third parties with access to the network may provide those services;
- H. Open-network supply; the set of technical, supply and utilization conditions underlying efficient access to a telecommunications network;
- I. Telecommunications operator; any entity active in telecommunications;
- J. Terminal points; points of physical connection that meet technical specifications necessary for access to a telecommunications network and an effective communication through those points. The following are integral parts of the network

When a telecommunications network is connected to a foreign network connection points to the latter are deemed as being terminal points;

If a telecommunications network is meant to transmit signals through broadcasting installations, connection points to those installations are deemed as being terminal points;

- K. Telecommunications network: transmission systems, and if that is the case, commutation and other resources that allow the transportation of signals between terminal points defined by wires, hertzian beams, optical means or other electromagnetic means.
- L. Mobile public telephone network: the telephone network in which the terminal points are not set in fixed places;
- M. Essential requisites: necessary demands to guarantee general interest namely safety of both users and staff involved in exploration of telecommunications, networks protection of networks and, more specifically, the correct use of the radio-electrical spectrum;
- N. Basic services: category of services defined under paragraph (a) article14;
- O. New services: category of services defined under paragraph (a) article14;
- P. Hired circuit services: supply of basic network's transmission capacity, in a transparent way, on a temporary or permanent basis, which allows telecommunications between two points, in accordance with pertinent ITU (International Telecommunication Union) recommendations;
- Q. Telex services: service to telegraph subscribers that enables users to communicate directly between themselves through teleprinters connected to their respective network.
- R. Value added service: service that does not require their own telecommunications infrastructure and are differentiable with regard to their own supporting service.
- S. Commuted fixed service of data transmission: supply of addressed transportation of data, originating from and destined to the fixed system of access to subscribers, allowing any user to utilize the equipment connected to his/her terminal point to communicate with another terminal point;
- T. Fixed telephone system or vocal telephony: supply of addressed transportation of voice, in real time, originating from and destined terminal points at the basic telecommunications network, allowing any user to utilize the equipment connected to his/her terminal point to communicate with another terminal point;
- U. Supporting services: a service of simple data transportation whose objective is solely to transmit and channel signals between a system's terminal points, without submitting those signals to treatments other than the necessary one to its transmittal or channeling and control of those functions;
- V. Telecommunications services: all services that include transmission or channeling of signals or a mix of those functions through telecommunications processes;
- W. Mobile public telephone services: the telephone service whose supply consists, as a whole or in part, of the establishing of radio-communications with a mobile user, utilizing, totally or partially, a public mobile telephone network;
- X. Telecommunications: the transmittal, reception or broadcasting of signals, symbols, writing, pictures, sounds or information of any nature, through wires, radio-electrical means, optical or other electromagnetic systems;
- Y. Users: persons, including consumers, or entities, that utilize or request telecommunications services accessible to the public.

Article 3 - **Classifications**

1. Telecommunications are classified as follows:
 - A. Public-use telecommunications: services meant for use of the public at large
 - B. Private telecommunications: services meant for own use or to a restricted number of users.
2. Public-use telecommunications and private communications are subdivided into:
 - A. Addressed telecommunications: those telecommunications in which information is only sent to one or more predestined recipients:
 - B. Broadcasting telecommunications: those telecommunications that are carried out in one way only, simultaneously, to various reception points and without prior addressing.
3. According to recipient, telecommunications services are classified into:
 - A. Public-use telecommunications services: those services meant for the public at large
 - B. Private telecommunications: those services meant for own use or to a restricted number of users.
4. Public-sector telecommunications and private telecommunications are subdivided into:
 - A. Addressed telecommunications services: those that imply prior addressing;
 - B. Broadcasting telecommunications services: those in which communication takes place in one way only, simultaneously, to various reception points and without prior addressing.
5. Telecommunications networks are classified as follows:
 - A. Public telecommunications networks: those that support, as a whole or in part, public-use telecommunications services;
 - B. Private telecommunications networks: those that support solely private telecommunications services.

Article 4 - **Telecommunications infrastructures**

Telecommunications infrastructures are defined as the set of links, connections and equipment that allow the interconnection between two or more points for the telecommunication between themselves, comprising namely:

- A. Concentration, commutation and processing links.
- B. Tracks, cables or sets of aerial, underground, sub-fluvial or submarine wires and other transmission systems;
- C. Submarine cable stations.
- D. Radio-electrical centers;
- E. Satellite-communication systems;
- F. Hertzian beams.

Article 5 - Secrecy of telecommunications services

Bearing in mind their nature and their aims, privacy and secrecy of public-use telecommunications services is guaranteed under the law.

Article 6 - Coordination of telecommunications in emergency situations

It is the state's duty to ensure, in accordance with the law, adequate coordination of telecommunications networks and services in emergency, crisis or war situations.

CHAPTER II

TELECOMMUNICATIONS LEGAL FRAMEWORK

Section I

Telecommunications Networks

Article 7 - Public telecommunications networks

1. The establishment, management, exploration and utilization of public telecommunications networks are free.

The establishment, management and utilization of public telecommunications networks may only be conditioned by limitations relating to the radio-electrical spectrum, availability of sufficient numbers or security and public order reasons.

Article 8 - Basic telecommunications network

1. It is the State's duty to ensure the existence, availability and quality of a public addressed-telecommunications network, denominated basic network, that covers communications needs of citizens and economic activities nationwide and ensures international connections, taking into consideration demands arising from a harmonious and balanced economic cum social development.
2. The basic telecommunications network is made up of the fixed system of access to subscribers, the transmission network and the concentration, commutation or processing links, when they deal with the delivery of fixed-telephone or telex services.
3. Regarding dispositions under the preceding paragraph, the following definitions apply:
 - A. Fixed system of access to subscribers: the whole set of transmission means located between a fixed point, involving physical connection to the subscriber's terminal equipment and another point located at the level of the physical connection at the first concentration, commutation or processing link;
 - B. Transmission network: the whole set of physical or radio-electrical means that establish connections for transportation of information between concentration, commutation or processing links;

- C. Concentration, commutation or processing links: the whole mechanism or a system that channels or processes information originating from or destined to the subscriber's access system.
- 4. The basic telecommunications network will operate as an open network, with a supporting role in the transmittal of services in general. Its utilization should be assured by all telecommunications operators under free and fair competition.
- 5. The basic telecommunications network constitutes a public good and it may, under the law, be granted to operators of public telecommunications services.

Article 9 - Private telecommunications networks

- 1. Conditions governing the setting and utilization of private telecommunications networks are defined under a bill arising from this law.
- 2. Private networks belonging to the armed forces, security services and emergency obey specific legislation.

Article 10 - Interconnection

- 1. Interconnection is guaranteed through the basic telecommunications law.
- 2. Interconnection is also guaranteed through operator networks with significant market shares, following criteria to be defined under the bill described under 4.
- 3. Interconnection agreements between operators of public telecommunications networks and/or suppliers of addressed public-use telecommunications services.
- 4. Interconnections rights and duties relating to centers and some categories of telex operators or service providers are set out under a bill arising from this law.

Section 2

Telecommunications Services

Article 11 - Public-use telecommunications services

The principle of telecommunications liberalization is established and is to be practiced in accordance with the applicable legislation.

Article 12 - Universal access to telecommunications

- 1. It is State's duty to ensure the existence and availability of universal access to telecommunications.
- 2. Regarding dispositions under the preceding paragraph, the provision of fixed-telephone services is guaranteed. These services may be explored by:
 - A. The State;
 - B. A public collective entity;
 - C. A private collective entity.

3. Universal access may further include other telecommunications services of public use declared by government.

Article 13 - Universal access costs

Operators of public telecommunications networks for transportation of voice bear, under terms to be set out in bills arising from this law, costs derived from universal access.

Article 14 - Basic services and new services

With regard to the current law and ensuing bills, public-use telecommunications services are classified according to their nature in:

- A. Basic services: made up of fixed-telephone and telex services;
- B. New services: value-added services and all remaining services that are not included in the 'basic services' category.

Article 15 - General principles for setting tariffs and prices

1. The principle of liberalization of tariffs and prices related to telecommunications services are established by law.
2. Without detriment to the former, the price regime concerning universal access to telecommunications is subject to specific legislation.

Article 16 - Numbering

1. It is guaranteed the existence, under the terms of a bill arising from the current law, of a national numbering plan that ensures full inter-operation of public telecommunications networks of public use as well as the gradual implementation of portability of client's number
2. Processes for granting numbers or series of numbers to clients follow transparency, equity and efficacy principles.

Article 17 - Right of access to public-use telecommunications services

Everybody has the right of access to public-use telecommunications services through payment of corresponding tariffs and fees, provided applicable legal dispositions and regulations are followed.

Section 3

Competition

Article 18 - Upholding of competition

1. It is forbidden to network operators and telecommunications services suppliers any practice that runs against free and fair competition or that translates into abuse of a dominant position.
2. Universal-access operators should ensure utilization of their networks to all network operators and telecommunications-services suppliers.

Section 4

Terminal equipment

Article 19 - Certification

1. Terminal equipment is provided free of charge.
2. Without detriment to the preceding paragraph, terminal equipment to be connected to a network open to the public require certification by management in accordance with the applicable law.
3. The certification mentioned under the previous paragraph is always requested for radio-electrical installations, regardless if they are meant for a public network or not.
4. Certification of terminal equipment aims to ensure compliance with essential requisites and ascertain that the equipment is in line with technical norms and specifications in effect in Guinea-Bissau.

Article 20 - Conditions for connection to the network's terminal links

It is management's tasks to set:

- A. Procedures for certification, and namely the special conditions under which that certification is carried out for radio-electrical installations meant to be granted to networks described under article 9.
- B. Conditions regarding publication of technical specifications for installations and equipment subject to certification as well as conditions for connection of terminal points to public networks.
- C. Criteria and procedures for the registering of persons called upon to connect, operate and repair these equipment and installations.

Section 5

Radio-communications

Article 21 - Public radio-electrical domain

The space within which radio-electrical waves can propagate constitutes public domain. Its management, administration and supervision fall under the state and follows special legislation, with respect to dispositions under applicable international treaties and agreements.

Section 6

Protection of telecommunications infrastructure

Article 22 - Execution of works on public telecommunications networks

Public communications networks operators may carry out, without any counterpart, any work necessary, be it in the air, on the ground or underground of public ways, necessary for the

constitution and maintenance of telecommunications lines, in conformity with applicable laws in force.

Article 23 - Expropriations

Expropriation and constitution of administrative services indispensable for the construction and radio-electrical protection of installations necessary to supervision of the radio-electrical spectrum as well as the installation, protection and conservation of public telecommunications networks infrastructures are allowed under the law.

Section 7

Application of legal regime

Article 24 - Work activities

Work activities by an operator of a public telecommunications network and a telecommunications services provider require a license or registration, under conditions set out by a bill arising from the current law.

Article 25 - Concession contract of public-service telecommunications

1. Without detriment to dispositions under article 24, rights for the setting up, management and exploration of a basic telecommunications network by a private collective body under the terms of paragraph 2.c) of article 12 are guaranteed through a concession contract signed with the State.
2. The concession contract described under the preceding paragraph will include the following items:
 - A. Nature of service and characteristics of service coverage;
 - B. Norms and specifications concerning the network and the service;
 - C. Contribution to research, training and normalization in the telecommunications field.
 - D. Agreements to be established with Guinea-Bissau Telecommunications Institute on
 - (i) Basic network's development objectives;
 - (ii) Objectives for minimal supply of services relating to technical characteristics and application of new technologies;
 - (iii) Standards and indicators of quality of services provided as well as methods and new techniques for their respective determination.
 - E. Development plan;
 - F. Concession supervision;
 - G. Accounting system
 - H. Concession fees to be paid to the State.
 - I. Licensing and registration conditions set out in the bill that govern access to the activity of public telecommunications operator and of provider of public-use telecommunications services;

- J. Other conditions agreed by the signatories.
- 3. The signing of the contract falls under the Council of Ministers.
- 4. The two signatories agree upon the duration of the contract.

CHAPTER III

AUTHORITIES IN CHARGE OF EXECUTION OF THE PRESENT BILL

Article 26 - Telecommunications supervision

- 1. It is the State's duty to define strategic lines and general policies, the approval of legislation applicable to the sector, the superintendence and supervision of telecommunications and activities of telecommunications operators.
- 2. The Minister in charge of telecommunications represents Government in this sector.

Article 27 - Planning and coordination of the national telecommunications network

- 1. The infrastructure network of the various civilian telecommunications networks, including broadcasting ones, will follow an adequate coordination, aiming at bringing out the best of those systems with a view to properly meet needs relating to socioeconomic development, national defense, internal security and civil protection.
- 2. The development and modernization of the basic telecommunications network and public networks that operate broadcasting systems will meet conditions set out in a master plan of telecommunications infrastructures, articulated with the territory ordnance survey.

Article 28 - Government's consultative body for telecommunications

- 1. The Higher Council on Telecommunications is thereby created and is placed under supervision of the Prime Minister.
- 2. The Higher Council on Telecommunications is government's consultative body regarding coordination of different civilian, armed forces and security services telecommunications systems, without detriment of specific functions of ministers in charge of national defense, internal security, civil emergency planning and civil protection.
- 3. The composition, scope of action and operation of the Higher Council on Telecommunications will be part of its organic statute.

Article 27 - Telecommunications regulatory body

- 1. The Guinea-Bissau Telecommunications Institute is hereby set up and is empowered with legal status and administrative and financial autonomy as well as its own patrimony. It operates under supervision of the Minister in charge of telecommunications.
- 2. The Guinea-Bissau Telecommunications Institute aims at assisting government in the coordination, supervision and planning of the public-use telecommunications sector as well as in the representation and regulation of this sector and management of the radio-electrical spectrum.

3. The functions, organization and operation of the Guinea-Bissau Telecommunications Institute will be defined in its respective organic statute.

CHAPTER IV

MISCELLANEOUS DISPOSITIONS

Article 30 - Supervision and sanctions regime

Dispositions relating to supervision and carrying out of lawsuits regarding non-compliance and sanctions are part of bills arising from the current law.

CHAPTER V

FINAL AND TRANSITORY DISPOSITIONS

Article 31 - Direct international interconnection

Until June 30, 2000, the direct international connection of public-use telecommunications services to networks and mobile and fixed services will continue to be delivered solely by the basic network's concession holder.

Article 32 - Rules and entry into effect

1. Government will promote the development and regulation of the current bill and adapt it to the Concession Contract of Guiné Telecom, to the principles hereby defined.
2. The publishing of regulations related to telecommunications services will be carried out gradually, in accordance with market requirements.
3. The current legal framework remains valid until the entering in force of the following bills:
 - A. The decree that governs accession to activity as an operator of public telecommunications networks and provider of public-use telecommunications services.
 - B. Statutes of the Guinea-Bissau Telecommunications Institute

Article 33 - Revoked legislation

The preceding dispositions that counter the current bill are revoked. They are as follows:

- (a) Decree no. 15190, of May 18, 1928;
- (b) Decree no. 492, of October 4, 1974.

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Francisco José Fadul

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Prime Minister —
Eng. Carlos Schwartz Silva
Minister of Social Equipment —

Promulgated on August 25, 1999

To publish

The President of the Republic, *ad interim*

Malam Bacai Sanhá
