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ARTICLE 19

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Brazil: Supreme Court Strikes Down Press Law

On 30 April 2009, the Brazilian Supreme Court held that the 1967 Press Law, adopted by a military government, was void as it breached the constitutional guarantee of freedom of expression. This important victory should be followed up by the adoption of legislation on privacy and defamation which respects constitutional and international guarantees of freedom of expression.

The Press Law was originally passed in 1967, during a period of dictatorship, and it was historically used to silence and manipulate the press. The Law authorised a number of abusive measures against journalists and media outlets, such as the seizure of newspapers without a judicial order, the banning of newspapers and magazines, and censorship.

The Press Law also regulated civil defamation and the right of reply. The Criminal Code and electoral legislation continue to provide for criminal defamation, but there is no longer a specific legal framework for civil defamation and the right of reply. Research by ARTICLE 19 suggests that this legal gap is likely to create serious legal insecurity, in particular since no clear standards apply to the question of damages for defamation, which will be now at the sole discretion of individual judges.

ARTICLE 19 participated in the Supreme Court challenge by filing an *amicus curiae* with the Court. In its brief, ARTICLE 19 argued that the Press Law criminalised the exercise of a fundamental constitutional right. Our brief demonstrated that criminal defamation rules were applied abusively to convict journalists and human rights defenders, including when reporting on human rights violations and corruption.

ARTICLE 19 welcomes the revocation of the outdated and repressive Press Law. At the same time, we call for social consultations leading to the adoption of new laws on defamation and privacy which are consistent with international and constitutional guarantees of freedom of expression, as well as other rights. In particular, we call for defamation to be addressed exclusively as a civil matter. We also call on the judiciary to ensure that their decisions are consistent with international and constitutional standards, particularly in the absence of a clear legal framework in these areas.

NOTES TO EDITORS:

- For more information: please contact Paula Martins, paula@article19.org, +55 11 3057 0042
- ARTICLE 19 is an independent human rights organisation that works around the world to protect and promote the right to freedom of expression. It takes its name from Article 19 of the Universal Declaration of Human Rights, which guarantees free speech.