



**Organization for Security and Co-operation in Europe  
The Representative on Freedom of the Media**

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## **Comments on the draft Law on the media of the Republic of Croatia**

2<sup>nd</sup> working version 30 July 2003

**by**

**Dr Jorge Pegado Liz**

**and**

**Mr Gavin Millar QC**



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1. The texts of the 1<sup>st</sup> working version (21 July 2003) and the 2<sup>nd</sup> working version (30 July 2003) are excellent efforts to improve the draft Law on the media initially presented for our comments.
2. In the following we will comment only upon the 2<sup>nd</sup> working version.
3. We would like to congratulate the drafters of this version for having redrafted it so as to make it much more understandable, with several provisions following some of our basic comments.
4. This is so for:
  - the content of the law (art. 1);
  - the definitions (art. 2);
  - the accessibility to public information (art. 6) (subject to the comment made below);
  - media publisher (art. 8) where the deletion of (2) (3) and (4) is welcome;
  - information on the publisher of importance to the public (now art. 12);
  - some parts of the programme basis provision at art. 13 (subject to the comment below);
  - new article 18 on non pecuniary damages;
  - publishing of necessary information (article 20);
  - new article 21 on advertising in print media;
  - editor-in-chief (arts. 22 and 23);
  - new articles 24 and 28.
5. In addition the more precise article 3 reflects our basic advice about the scope for acceptable limitation of freedom of the press, and so we welcome the new draft of this most important article.
6. As indicated above article 6 is a valuable redraft. However there should be provision for disclosure of the information identified in (5) where there is a competing public interest in its disclosure. It should be made clear that the Administrative Court may overrule the decision to withhold, even if the information falls within these categories. See the second indented comment on art. 6 at p.10 of our earlier comments. We are not sure this point has been fully understood. To take an extreme example. If Croatia decided to allow nuclear installations/weapons on its territory, the detail of the policy may represent a state secret. But if the decision involved legitimate concerns about public safety/Croatian involvement in military conflict, there may be strong public interest grounds for disclosure of some of the detail to enable a proper debate to take place.
7. We also welcome:
  - the new (3) of article 7 on protection of privacy, which is in line with the very recent orientations of the Council of Europe;
  - the new draft of article 30 (the media statute) excluding (through a deletion) any involvement of the “*competent minister*”.

8. We also note and welcome the careful refining, in (4), (5), (6) and (7) of article 34, of the principles for the protection of sources of journalistic information. These appear to us to broadly reflect ECHR article 10 principles.

9. Finally we welcome the amendments in the chapter on corrections and responses, namely article 36 (2), 37 (5), 55 (2), 50 (2) and 51 (4), which respond to and reflect our earlier comments.

10. However, we still do not feel comfortable with certain provisions, such as:

- article 1 and 5 on the “*programme contents of interest to the Republic of Croatia*”;
- article 9 (special requirements for the registration of foreign publishers);
- the reference to the “*competent ministry*”, instead of an administrative independent body, in article 11;
- the legal regulation of journalistic activity (even by reference to journalistic codes) (now article 16; see our suggestion for deletion of the original art. 15);
- the generalised reference to causing damage in art 17(1).

In these cases we refer to our previous comments and we would ask the authorities in Croatia either to redraft/delete the provisions concerned in accordance with our suggestions, or to explain the meaning and effect of these provisions in the context of the overall scope of the Law.

11. We also remain a little confused as to the justification for the “programme basis”/disclosure provisions in arts 12(1) and 13(2). See our comments as to the original arts 8 and 10 at p.11. We would have thought that the “programme basis” and “editorial orientation” would be apparent from the publication itself. Moreover it may differ according to subject matter. It may be impossible, or at any rate unduly onerous, for an independent journalistic publisher to “provide comprehensive information” as to these matters each year.

12. As a final appreciation we would like to conclude by saying that this 2<sup>nd</sup> version of the draft on the Law on the Media is a very balanced text, which has gained coherence, cohesion and consistency, achieving a reasonable balance between the different interests concerned, and representing overall an important step towards compatibility with the basic principles of the European Convention.

Lisbon and London; 12 August 2003

## **Appendix**

### **THE LAW ON THE MEDIA**

**(Draft – working version)**

#### **I. GENERAL PROVISIONS**

##### **Content of the Law**

##### **Article 1**

This Law shall regulate preconditions for the exercise of principles of the freedom of the media, rights of journalists and other participants in public informing to the freedom of reporting and accessibility to public information, rights and obligations of publishers, publicity of ownership, exercise of the right to a correction and response, the manner of distribution of print media, the manner of protection of market competition, the rights and obligations of other legal and natural persons acting in the sphere of public informing.

##### **Definition of terms**

##### **Article 2**

(1) Certain terms shall have the following meanings in the sense of this Law:

The media shall be the following public outlets: daily newspapers and magazines, radio and television programmes, programmes of newspaper agencies, electronic publications, teletext and other forms of daily or periodical publishing of editorial programme contents through the transmission of recording, voice, tone or picture.

Media shall not comprise books, school books, bulletins, catalogues or other holders of information publishing intended exclusively for educational, scientific and cultural process, advertising, business communication, internal operations of trade companies, institutes and institutions, associations, political parties, religious and other organizations, school papers, the Official Gazette of the Republic of Croatia, official papers of local and regional self-government units and other official releases, posters, leaflets, brochures, banners and video sites without a live picture (free information), unless otherwise stipulated by this Law.

Public informing in the sense of this Law shall be the informing which is exercised through the media.

Programme contents of the media (hereinafter: programme contents) shall be information of all kinds (news, opinions, notifications, messages and other information) and other authors' works published through the media with the intention of informing and satisfying cultural, scientific, educational and other needs of the public.

General-information media shall be the one which publishes mostly programme contents intended for informing the public on the social, especially political, economic, social-welfare, cultural life and other current events in Croatia and around the world.

Media publisher shall be every natural or legal person who publishes its programme contents through the media and participate in public informing, regardless of technical means with which its editorial programme contents are published, transmitted or are accessible to the public.

Newspaper publisher shall be a natural or legal person who publishes programme contents through the press.

Journalist shall be a person who is involved in collecting, processing, designing or classification of information for publishing through the media and is employed with the media publisher or performs journalist activities as an independent profession or on contractual basis.

Editor in Chief shall be a journalist authorized to edit the media, appointed by the media publisher in a manner stipulated by the Law.

The press shall be newspapers and other periodicals published at least once every six months, in the circulation of more than 500 copies.

Print work, which is published occasionally in the circulation of less than 500 copies, shall be considered press if intended for distribution.

Information shall be data, text, photograph, sketch, cartoon, movie, verbal report or other report published in the media.

Public information shall be every data in the possession of a state administration body, body of local and regional self-government, judicial bodies, public institutes and companies, as well as other legal and natural persons which perform public service or duty, which [data] pertains to their work and activities.

Interview shall be a conversation and statement in written or verbal form, intended for publishing in the media.

Authorization shall be a confirmation of authenticity of a statement or conversation intended for publishing and consent for publishing, provided in written form or verbally, if there is a sound recording on verbal authorization.

Privacy shall include personal and family life, and primarily the right to life according to one's own choice and option, physical and moral integrity, dignity, honour and reputation.

Competent ministry shall be the ministry which performs administrative and professional tasks in the sphere of public informing.

## **II. GENERAL PRINCIPLES**

### **Freedom of the media**

#### **Article 3**

The freedom of expression and freedom of the media shall be guaranteed.

Freedom of the media shall especially comprise: freedom of the expression of opinion, freedom and independence of the media; freedom to collect, research, publish and distribute information for the purpose of public informing; pluralism and diversity of the media, free flow of information and openness of the media for different opinions, beliefs and for various contents; accessibility to public information; appreciation of protection of human personality, privacy and dignity; freedom of establishing legal persons for the performance of activities in public informing, printing and distribution of press and other media from the country and abroad, production and publishing of radio and television programme, as well as other electronic media; freedom and independence of the media; autonomy of editors in chief, journalists and other authors of programme contents in compliance with the rules of profession.



Limitation of the freedom of the media shall be permitted only when it is necessary and to the extent necessary in a democratic society in the interest of national security, territorial integrity or public peace and order, prevention of disorder or criminal acts, protection of health and morality, protection of reputation or rights of others, prevention of revealing confidential information or due to the preservation of authority and impartiality of the judiciary in a manner stipulated by the Law.

### **Prohibition of limiting the freedom of the media**

#### **Article 4**

Nobody shall have the right to influence the programme content of the media by use of pressure or misuse of their position, or in any other manner illegally limit the freedom of the media.

The court shall decide on the violations of the freedom of expression and freedom of the media.  
Promotion of pluralism and diversity of the media

#### **Article 5**

(1) The Republic of Croatia shall promote and protect pluralism and diversity of the media in the manner stipulated by the law.

(2) The production and publishing of programme contents which pertain to the following shall be promoted:

- exercise of the right to public informing and well-informed state of all citizens of the Republic of Croatia, members of Croatian national minorities and communities abroad and the exercise of rights of national minorities in the Republic of Croatia;
- exercise of human and political rights of citizens and regulation of legal and social state;
- preservation of Croatian national and cultural identity;
- promotion of cultural and artistic creativity;
- culture of public dialogue;
- development of education, science and arts
- protection of nature, environment and human health.
- starting of new print media, especially local and non-profit media, and the media of non-governmental associations

### **Accessibility to public information**

#### **Article 6**

With the aim of publishing information through the media, bodies of state administration, local and regional self-government, bodies of the judiciary, public institutions and public companies, as well as other legal and natural persons who perform public service and/or duty, shall be obliged to provide true, complete and timely information on the issues from their scope of activities.

Information held by persons as per Paragraph 1 of this Article, shall be accessible to journalists under equal conditions.

The head of a body or a legal person as per Paragraph 1 of this Article shall be obliged pursuant to the law, to regulate the manner of providing information to the public and determine a person who ensures the accessibility of public information in compliance with this and a special law.

The head of a body or a legal person as per Paragraph 3 of this Article and a natural person as per Paragraph of this Article shall be obliged to provide journalists with the requested information within an adequate deadline and shall be accountable for the accuracy and truthfulness of provided information.

- (5) The person as per Paragraph 4 of this Article may withhold the provision of information when:
- the requested information are defined in the stipulated manner as state or military secret for the purpose of protection of public interest;
  - the publishing would represent the violation of secrecy of personal data in compliance with the law, unless its publication may prevent the conduct of a severe criminal act or prevent an immediate danger to the life of people and their property;
  - an investigative or court proceeding is on-going.

In the case as per Paragraph 5 of this Article, the responsible person shall explain the reasons why the information was withheld, in writing or verbally, within three working days from the day the information was requested in writing.

In case of withholding of a public information, a journalist shall have the right to file a complaint with the Administrative Court. The Administrative Court shall decide on the complaint in the emergency procedure.

### **Protection of privacy**

#### **Article 7**

Every person shall have the right to the protection of privacy, dignity, reputation and honour.

A person performing public service or duty shall have the right to the protection of privacy except in cases related to public service or duty that he performs.

A person who draws public attention by his/her statements, behaviour and other acts in relation to his/her personal or family life may not request the same level of protection of privacy as other citizens.

## **III. RIGHTS AND OBLIGATIONS OF MEDIA PUBLISHERS**

### **Media publisher**

#### **Article 8**

Media publisher (hereinafter: the publisher) shall perform activities in the sphere of public informing in compliance with the provisions of this Law and special laws.

While performing his activity, the publisher may create or produce programme contents for another publisher or technical transmitter of programme contents, as well.

### **Special conditions for the establishment and entering of print media publishers into the court register**

#### **Article 9**

(1) The print media publisher may be established in the Republic of Croatia and entered into the court register as a legal or natural person if in addition to general conditions it fulfils the following special conditions:

- has a seat, that is, permanent residence in the Republic of Croatia;

- that the editor's office seat is in the Republic of Croatia.

(2) The provisions of the Law on Companies shall apply to natural persons performing the activity of a publisher, in compliance with the law.

### **Prohibition of operation**

#### **Article 10**

(1) A publisher who is not entered into the court register may not transmit programme contents through the media.

### **Registration of the press**

#### **Article 11**

A newspaper publisher entered into the court register shall report the publishing of the press in the Register kept by the competent ministry.

The registration as per Paragraph 1 of this Article shall contain the following data:

- company and seat, that is, the name, family name and permanent residence of the publisher,
- name of the newspaper or another print media
- content particularities (politics, economy, culture, sport, etc.)
- language, script and frequency of publishing,
- planned average printing run,
- company and seat, that is, the name, family name and permanent residence of the printer,
- name, family name and permanent residence of the editor in chief,
- data on the ownership structure of the media in compliance with this Law

The excerpt from the court register for the publisher shall be enclosed to the registration as per Paragraph 1 of this Article.

The competent ministry may not refuse the issuance of the certificate on registration of the print media if the registration contains all data as per Paragraph 2 of this Article.

The competent ministry shall be obliged to issue the certificate as per Paragraph 4 of this Article within three days from the day the registration form was received, if the registration form contains all data as per Paragraph 2 of this Article or invite the publisher within the same deadline to supplement the registration.

If the competent ministry does not act in compliance with Paragraph 5 of this Article, it shall be considered that the certificate on registration of the print media is issued.

The publisher shall be obliged to report in the Register any change of data stated in the registration form. The publisher shall be obliged to inform the competent ministry about the decision on the cessation of publishing on the day of cessation of publishing of the press, at the latest.

If the publisher does not publish a new issue within a period longer than six months from the day of the registration form submission that is from the day of publishing the last issue, it shall be considered that he gave up the publishing of that print media.

The obligations of the publisher as per this Article shall also adequately apply to the programmes of newspaper agencies.

## **1. Information on the publisher and media of importance to the public**

### **Article 12**

(1) The public shall have the right to be informed about the publisher's operations and programme basis of the media.

(2) The right of the public as per Paragraph 1 of this Article shall be restricted by the publication of information about the publisher and the media stipulated by this or by a special law.

### **Programme basis**

### **Article 13**

The publisher shall independently determine the programme basis of the media, in compliance with this and a special law.

The publisher shall provide comprehensive information to the public through the media, at least once every calendar year, about the programme basis and editorial orientation, ownership structure, business results, average circulation, that is, the average popularity among listeners and viewers.

Prior to basic change or important supplement to the programme basis, the publisher shall be obliged to obtain opinion of the editor's office.

The programme basis shall be an integral part of the employment contract between the publisher and the editors in chief and between the publisher and journalists. Special rights of the editors in chief and journalists which occur as a result of significant changes in the ownership structure of the media or the change of programme orientation shall be determined by collective agreement, general acts or individual contract.

### **Nameplate**

### **Article 14**

The media publisher shall be obliged to ensure the publishing of the following data at the visible place of every individual holder of programme content (for example, a copy of press, television show):

- company and seat, that is, the name and family name and permanent residence of the publisher;
- name and family name of the editor in chief, that is, the responsible editors and names and family names of editors of individual programme groups when this is in compliance with the internal organization of the editor's office;
- name and family name, that is, the company and the seat of the printing house and the date of print or re-print and the number of printed copies when related to the print media;
- date of production (month and year), when related to radio and television programme.

The obligation as per Paragraph 1 of this Article shall also pertain to publishers of electronic media in such a manner that data is published at the beginning and the end of radio and television programmes, that is, from midnight until one o'clock, if the programme is broadcast uninterruptedly, and also in an appropriate manner in case of electronic publications which have been edited.

The provision of Paragraph 1 of this Article shall not apply to holders of programme contents which are designed or multiplied in the Republic of Croatia for a foreign ordering party and are intended for broadcasting outside the territory of the Republic of Croatia.

The title, that is, the trade mark (logotype) of radio and television programme shall be published at least once during every hour of programme broadcast.

### **Obligatory publishing of other data**

#### **Article 15**

The media publisher shall be obliged to provide for the publishing of the following data, in appropriate sections of each individual programme content holder:

- name and family name of the author of published reports, unless an individual author decides otherwise;
- name and family name of a person or a company, the holder of copyrights pertaining to the published programme contents, except for print media and radio programmes;
- name of a legal or name and family name of a natural person who keeps the used cultural goods, archival material or appropriate reproduction;
- name of the media from which the programme report or an excerpt from the programme report was taken over, unless otherwise stipulated by a mutual agreement.

## **2. Media principles and obligations**

### **Publishing of information**

#### **Article 16**

The media shall adhere to the rules of the journalists' profession and ethics in the publishing of programme contents, respecting the right of the public to be accurately, fully and timely informed about events, occurrences, persons, subjects or activities.

The media shall be obliged to respect privacy, dignity, reputation and honour of citizens, especially of children, youth and families.

The rules as per Paragraph 1 of this Article, as well as other self-regulating acts determining professional and other rules of behaviour or regulating relations in media activities, shall be independently determined by publishers, journalists and their associations.

### **Responsibility of the publisher for damage compensation**

#### **Article 17**

(1) The publisher who causes damage to another person by an information published in the media shall be obliged to compensate for that damage.

(2) The regulations on obligations shall apply to the procedure for determining responsibility for damage compensation.

(3) The publisher shall not be held responsible for the damage if the information which caused the damage is:

- an accurate report from a discussion during the session of a legislative, executive or judicial authority or at a public gathering or if it was transmitted from an act of a body of legislative, executive or judicial authority, without changing its meaning by editorial processing,
- based on truthful facts or facts for which the author had a justified reason to believe that they were truthful and he undertook all necessary measures to verify their truthfulness, while there was a justified interest on the part of the public for the publishing of that information, and if the activity was undertaken in good faith,

- a photograph of the affected party taken in public or a photograph of the affected party taken with his knowledge and consent for the publishing, whereby the affected party failed to prohibit the publication, or restrict the right of the author of the photograph to use the work,
- truthful, while it ensues from the circumstances of the case that the journalist was able to determine with certainty that the affected party agrees with the publication thereof,
- ensuing from author's value judgments, and the publication of [information] was in public interest and if this information was provided in good faith.

(4) Paragraph 3 of this Article shall not pertain to personal data the secrecy of which is stipulated by law, information on minors and information collected in an illegal manner.

(5) The existence of preconditions of responsibility for damage shall be proven by the plaintiff, while the existence of preconditions for the release from responsibility for damage as per Paragraph 3 of this Article shall be proven by the defendant.

(6) If the information has been authorized, and certain parts thereof contain evident insults or libels, the authorization shall not exclude solidary responsibility of both the publisher and editor-in-chief, if they failed to act in good faith.

### **Article 18**

Non-pecuniary damage shall be compensated, as a rule, by the correction of a false information, by publishing the correction of the information and with the publisher's apology.

A person who previously requested from the publisher that a correction of the disputable information is published shall have the right to a complaint for the compensation of non-pecuniary damage in compliance with general regulations of the law on obligations.

### **Indication of the source of information which is being transmitted**

### **Article 19**

Along with the information transmitted from other domestic and foreign media, the media from which the information is being transmitted shall be indicated.

Publishing of necessary information

### **Article 20**

(1) In case of war or immediate danger to the independence and unity of the Republic of Croatia and [in case of] large natural disasters, the publisher shall be obliged to publish, free of charge and upon the request of the competent state body, proclamations and official announcements of the competent state bodies.

(2) In case of technical and technological accidents and ecological accidents and epidemics, when there is a danger to life and health of people, security of the state and public peace and order, the publisher shall be obliged to publish, free of charge and upon the request of the competent state body, proclamations and official announcements of the competent state bodies.

(3) The request as per Paragraphs 1 and 2 of this Article shall be submitted in a written form and it shall contain data which prove its authenticity and legal well-foundedness.

## **Advertising in print media**

### **Article 21**

(1) An advertisement shall be a paid information the publishing of which is ordered by a legal or natural person with the intention of improving legal traffic of products, services, real-estate, rights or obligations, to win over business partners or achieve reputation or good name in the public. Advertising shall be conducted with financial or other type of compensation or with the aim of self-promotion. Free advertising shall be marked separately.

(2) The following shall not be considered advertising:

- statements of the media publisher in relation to its programme contents and secondary products stemming from the programme;
- free announcements of performance of public works and services and charity activities;
- free presentation of art works.

(3) An advertisement shall be clearly marked as such and visibly separated from other programme contents. The advertiser shall be exclusively responsible for the content of advertising messages.

(4) Concealed and fraudulent advertising shall not be permitted.

(5) Advertising of weapons and ammunition, tobacco and tobacco products, medicine and medical procedures which are accessible only upon doctor's prescription, as well as narcotics, alcohol and alcohol beverages shall not be permitted unless otherwise stipulated by a special law.

## **Editor-in-chief**

### **Article 22**

(1) Newspapers and other periodicals, radio and television stations and news agency programmes shall have an editor-in-chief, who shall be appointed and relieved of duty by the publisher, in compliance with the law and its statute. Prior to the appointment or relief of duty of the editor-in-chief, the publisher shall obtain the opinion of the editorial board, unless otherwise stipulated by the statute of the media.

(2) The editor-in-chief shall be responsible for each published piece of information, unless otherwise stipulated by this Law. Responsibility of the editor-in-chief shall also pertain to the editorial processing of published information (the choice of title, subtitle, the text under a photograph etc.).

### **Article 23**

(1) A person who fulfils general conditions stipulated by the law and the statute of the media may be appointed editor-in-chief.

(2) A person who enjoys immunity from criminal responsibility may not be appointed editor-in-chief.

## **VI. PUBLICITY OF OWNERSHIP**

### **Article 24**

(1) Stocks or shares in a legal person performing the activity of a publisher in the sphere of public informing shall be made out to a name.

**Article 25**

(1) Media publishers shall be obliged to forward data on the company and its seat by 31 January of each calendar year, or first and last names and permanent residences of all legal and natural persons who have direct or indirect ownership of stocks or shares in that legal person, with the information on the percentage of stocks or share.

(2) The competent ministry shall forward a written warning, stating possible sanctions for non-compliance with the obligation, to a legal person who fails to perform the obligation as per Paragraph 1 of this Article.

(3) The publisher shall be obliged to publish data as per Paragraph 1 of this Article through the media, as well as in the Official Gazette.

**Shares of foreign persons****Article 26**

The legally established provisions on the limitation of ownership shall also apply to foreign legal and natural persons, regardless of the country of their seat or permanent residence, unless otherwise stipulated by law.

**Forwarding of reports on media business operations****Article 27**

(1) By 30 April each year, media publishers shall be obliged to forward to the competent ministry a report on the commercial operations for the previous year, an assessment on the realized share at the market, data on advertisers or marketing agencies through which more than 10% of the media publisher's annual marketing profits were realized.

(2) Media distribution companies shall be obliged to forward data on the contracts with publishers and appropriate data on the general conditions of business operations pertaining to the distribution of electronic media programmes and general information press, the sold circulation of which exceeds three thousand copies, if this press is being sold at the market of a number of towns or counties, or exceeding a thousand copies, if it involves local market press.

**Limitation of concentration****Article 28**

(1) Impermissible concentration in the sphere of print media shall be considered when the publisher of one or more printed news and current affairs daily papers or newsweeklies achieves the dominant position on the market in such a manner that the number of its sold daily papers or weeklies exceeded 40% of all sold issues of news and current affairs daily papers or newsweeklies in the Republic of Croatia.

(2) The publisher with the impermissible concentration as per Paragraph 1 of this Article may not be the owner nor acquire shares in the ownership of another print media.



## **Protection of market competition**

### **Article 29**

(1) The regulations on the protection of market competition shall be applied to media publishers, legal persons performing the tasks of distribution of the media, as well as other legal persons performing tasks related to public informing.

(2) The competent ministry, media publishers, as well as other legal persons performing tasks related to public informing shall have the right to submit a request for the initiation of proceedings for the assessment of disruption of free market competition and of violation of legal provisions, to the body competent for the protection of market competition.

(3) The body competent for the protection of market competition in proceedings relating to the concentration of ownership by persons as per Paragraph 1 of this Article shall co-operate with the competent ministry.

(4) The body competent for the protection of market competition shall conduct the procedure *ex officio* in cases of violation of Article 53 of this Law.

## **V. RIGHTS AND OBLIGATIONS OF JOURNALISTS**

### **The media statute**

#### **Article 30**

(1) Relationships between the publisher, editor-in-chief and journalists, as well as their mutual rights and obligations, shall be determined by the media statute.

(2) The statute of the media shall be a self-regulatory act which especially determines the manner of journalists' participation in the procedure of appointment and dismissal of the editor-in-chief, the freedom of work and journalists' responsibility, as well as the conditions and procedure pursuant to which the editor-in-chief, editors and journalists have the right to a resignation, along with a fair severance pay, in cases of such change in the ownership or management structure of the media which leads to a significant change in the programme basis or programme content of that media (the so-called "conscience clause").

(3) The statute shall be adopted by the publisher and a journalists' representative, with the prior consent from the majority of a total number of journalists from the media. Journalists shall elect their representative by a majority vote.

(4) If the publisher and the journalists' representative fail to adopt the statute within six months from the beginning of operation of the media, the statute shall be passed, upon the request of the publisher or journalists' representative, within three months from the day of receipt of the request, by an arbitration composed of an equal number of representatives of the associations of publishers and of the associations of the journalists' society.

### **Journalists' right to express standpoints**

#### **Article 31**

(1) A journalist shall have the right to express a standpoint with regard to all events, occurrences, persons, subjects and activities.

(2) A journalist's working contract may not be terminated, his salary decreased or his position on the editorial board altered, that is, his agreed compensation or a part thereof may not be decreased or suspended from payment because of the expression of standpoints.

(3) If, in case of a dispute, a journalist presents facts which justify suspicion that the termination of a working contract, decrease of salary or altered position in the editorial board, that is, decrease or suspension from payment of agreed compensation is a consequence of expression of standpoints as per Paragraph 1 of this Article, the publisher shall bear the burden of proof.

### **Journalists' right to refuse to act upon an order**

#### **Article 32**

(1) A journalist shall have the right to refuse to write, prepare or participate in the drafting of a report, the content of which is contrary to the rules of the journalists' profession and ethics.

(2) If a journalist refuses to act upon an order because, by doing so, he would break the rules of the journalists' profession, the employer may not terminate his working contract, decrease his salary or alter his position on the editorial board.

(3) If in case of a dispute a journalist presents the facts which justify suspicion that the termination of a working contract, decrease of salary or altered position on the editorial board are the consequence of a refusal to act upon an order as per Paragraph 1 of this Article, the publisher shall bear the burden of proof.

### **Protection of author's reputation**

#### **Article 33**

(1) The programme content in which the meaning was altered in the procedure of editorial processing, may not be published under the name of the author without his consent.

(2) The editor-in-chief shall be held responsible for the programme content published contrary to Paragraph 1 of this Article.

(3) If the programme content, published contrary to Paragraph 1 of this Article, damaged the reputation of the author, the author may request compensation of damage.

### **Protection of the source of information**

#### **Article 34**

(1) A journalist shall not be obliged to provide data about the source of published information or the information he intends to publish.

(2) The right of a journalist as per Paragraph 1 of this Article also pertains to editors, printers, authors of books and authors of published reports who are not journalists.

(3) Prior to the publication, a journalist shall be obliged to disclose to the editor-in-chief data about the non-specified source of information as per Paragraph 1 of this Article in the manner stipulated by the statute of the media. In that case, all provisions pertaining to the protection of the source of information shall be applied to the editor in chief as well.

(4) A person, state administration or judicial body which has a law-based interest, may submit a request with the competent court to order a journalist to present data on the source of published information or the information he intends to publish.

(5) The law-based interest for the limitation of protection of the source of information shall exist when that limitation is necessary due to the interests mentioned in Article 3, Paragraph 3 of this Law.

(6) The court shall order a journalist to present data on the source of published information or the information he intends to publish, if that is necessary for the protection of public interest and it involves extremely significant and serious circumstances, whereby it is indisputably estimated:

- that there is no reasonable alternative measure to the disclosure of data on the source of information or that a person or body as per Paragraph 4 of this Article, which seeks the publishing of data on the source of information, already used that measure and
- that the law-based public interest for the disclosure of data on the source of information clearly prevails over the protection of public interest of protection of the source of information.

(7) Having assessed the circumstances of the case, the court shall exclude the public in the course of the procedure of presentation of data and warn present persons that it is their obligation to keep everything they have learned in the procedure as a secret, as well as about the consequences of disclosing a secret.

## **VI. PUBLISHING OF CORRECTIONS AND RESPONSES**

### **The right to the correction of published information**

#### **Article 35**

(1) Everyone shall have the right to request from the editor-in-chief to publish, without compensation, the correction of published information which violated their rights or interests. Legal persons and other organizations and bodies shall also be entitled to the right to a correction, if the information violated their rights and interests.

(2) The publication of a correction may be requested within thirty (30) days from the publication of the information, that is, from the day when the interested person learned about the publication, if, due to objective reasons, he was not able to learn about it within the provided deadline.

(3) The term correction shall not only refer to the correction in narrow sense, that is, a correction of wrongful statements or untruthful claims in the published information, but also to the disclosure of facts and circumstances by which the affected party refutes, or, with the intention to refute, significantly supplements the statements in the published text.

#### **Article 36**

(1) A correction must be published without changes and supplements in the same or equivalent place within the programme area, in the same or equivalent manner in which the information, to which the correction pertains, was published. A correction may not be disproportionately longer than the information, or a part thereof, to which it pertains.

(2) In radio and television programmes, the correction shall be provided in writing and published by reading in the same programme and time period in which the information, to which the correction pertains, was published, or in the same kind of programme with similar ratings.

(3) The Council for Electronic Media shall stipulate the rules for the exercise of the right to a correction in radio and television programmes, in a manner which is adequate to the nature of those media, but in such a manner that the provision of Paragraph 1 of this Article is respected as much as possible, as well as all other provisions pertaining to the right to a correction and response stipulated by this Law.

### **Article 37**

(1) A person who requests the publication of a correction shall state the information to which the correction pertains and the date of its publication.

(2) A correction shall be published in the first edition or, if it has arrived too late, in the second edition or programme content of the media following the receipt of the correction. During the pre-electoral campaign, a correction must be published in the first edition or programme content of the media following the receipt of the correction.

(3) A commentary to a correction or a reply to a correction may not be published together with the correction in the same edition or programme content of the media. The provisions of this Law, pertaining to the right to correction or reply, shall apply to the commentary of a correction or reply to a correction.

(4) The editor-in-chief shall be obliged to publish a correction, except in case:

- if the requested correction does not pertain to the information which the interested person invokes;
- if the requested correction does not contain facts or circumstances related to the statements about the information;
- if the publication of the correction would be contrary to the law;
- if the request for publication of the correction was not signed by the competent person from the state body or legal person;
- if the requested correction is disproportionately longer than the information which contains statements, due to which the correction is being requested, or the part thereof to which it directly pertains, unless the correction pertains to libels or offensive statements;
- if the publishing of the correction would make the publisher responsible for damage;
- if the request for the correction of information was submitted after the expiry of the deadline as per Article 35, Paragraph 2 of this Law;
- the case involves scientific and artistic criticism, except for corrections of false statements or offensive statements;
- if the request for publication of the correction has the same content as the request for the correction, on the occasion of which court proceedings are being conducted due to the rejection or inappropriate manner of its publication.

(5) In the case as per Paragraph 4 of this Article, the editor-in-chief shall be obliged to notify the requesting party in writing about the reasons for non-publication of the correction.

### **Article 38**

(1) The editor-in-chief shall be obliged to keep records of all published programme contents for a period of at least sixty (60) days from the day of their publication and to provide an interested person, at his expense, with an appropriate copy of a particular record within three (3) days from the receipt of a written request from the interested person, at the latest.

(2) A copy as per Paragraph 1 of this Article shall be forwarded to the interested person for personal use, exclusively. No reproduction or publication of the copy without consent of the publisher shall be allowed, except within the framework of a court proceeding.

(3) In case the publisher failed to keep the recording as per Paragraph 1 of this Article, it shall be considered that he published the information, of which the correction was requested.

### **Article 39**

If an interested person informs in writing, within eight (8) days from the publication of the information, that he will request the publication of a correction, the editor-in-chief shall be obliged to keep a copy of the information to which the request for correction pertains as long as the requested correction has not been published, that is, the court proceeding, which is conducted in relation to the publication of the disputable information, has not been completed, that is, until legally stipulated deadlines for the exercise of the right to correction or court protection have expired.

### **Article 40**

The publication of a correction may also be requested when the information was published by way of the media which ceased to operate. The submitter of the request for correction may request from the former publisher or from his legal successor to provide for the publication of a correction, at his own expense, in another media which is comparable to the first one by its scope and quality of transmission of programme contents.

### **Article 41**

(1) If the editor-in-chief fails to publish a correction within the deadline and in the manner stipulated by law, the submitter of the request for correction shall have the right to file a lawsuit against the editor-in-chief before a court competent in civil disputes in the area in which the seat or permanent residence of the publisher of the media, which published the information to which the corrections pertains, is located.

(2) The lawsuit may be filed within a maximum of thirty (30) days from the expiry of the deadline for the publication of a correction, or from the day when the correction was published in a manner which was not in compliance with the Law.

### **Article 42**

(1) Court proceedings on the publication of a correction shall be resolved in an emergency procedure.

(2) The first hearing of the main trial in proceedings for the publication of a correction shall take place within 5 days from the submission of the lawsuit before the court.

(3) The defendant shall be obliged to reply to the lawsuit at the main hearing, at the latest.

(4) In the summons for a hearing, the court shall warn the plaintiff that the lawsuit shall be considered withdrawn should he fail to appear at the first hearing. It shall warn the defendant that a verdict may be passed even in case of his absence.

### **Article 43**

(1) Discussion on a lawsuit for the publication of a correction shall be limited to discussion and presentation of facts related to the defendant's duty to publish the correction.

(2) As the reason for non-publishing of the correction, the defendant shall be allowed to prove the truthfulness of facts from the published information, except if:

- the disputable information violated the right to privacy, protected in the manner set forth by this Law,
- the disputable information invokes facts encompassed by amnesty, court rehabilitation or review of the verdict.

(3) In disputes for the publication of a correction, the court shall reject the claim if it determines that the plaintiff's right or interest was not violated or if it determines that there is another circumstance due to which, according to the Law, there is no obligation to publish a correction.

#### **Article 44**

(1) The proceeding for the publication of a correction shall not be suspended by the initiation of a criminal proceeding for an act caused by the publication of the information to which the correction pertains.

(2) Every person whose name was mentioned in the media on the occasion of initiation of an investigative or criminal proceeding shall have the right to the publication of a correction within three months from the day of passing a final decision on the cessation of the proceeding or final acquittal.

#### **Article 45**

In case the editor in chief of the media is replaced after the filing of charges, the prosecutor may alter the claim by the end of the main hearing and sue the new editor in chief instead of the original defendant. It shall not be necessary to obtain the agreement of the original defendant or the new editor in chief for such an alteration of the claim.

#### **Article 46**

(1) The court shall be obliged to pass a verdict immediately after the conclusion of the main hearing.

(2) The court shall forward a verified copy of the verdict to the parties within a maximum of three (3) days from the day of passing the verdict.

(3) Should the court accept the claim, it shall pass a verdict imposing an obligation upon the defendant to publish a correction within the deadline and in the manner stipulated by the law.

(4) In the publication of the correction, the editor in chief shall be obliged to state that it is a statement based on the verdict and to cite the enacting clause of the verdict.

#### **Article 47**

(1) Parties may lodge an appeal before a higher court against the verdict of a court of first instance within three (3) days from the day of receipt of the verdict.

(2) An appeal shall not be forwarded for response to the opposing party. The court shall forward a timely and admissible appeal with all documents to an appellate court within two days from lodging the appeal.

(3) The appellate court shall be obliged to decide on the appeal within three (3) days from the day of receipt of the appeal.

(4) A revision shall be allowed against a verdict of the appellate court.

**Article 48**

The court shall immediately forward to the editor in chief of the media through which a correction needs to be published, a verified copy of the effective court verdict ordering the publication of the correction.

**Article 49**

In case the editor in chief of the media is replaced after the verdict ordering the publication of a correction has become effective, the obligation for publishing a correction, determined by the verdict, shall be transferred onto the new editor in chief.

**The right of response to published information****Article 50**

(1) An interested natural or legal person shall have the right to request from the editor in chief to publish, free of charge, his response to the published information mentioning his name or relating to him directly in some other manner.

(2) The response as per Paragraph 1 of this Article shall refer to a text or message of identical nature and length as the published information.

(3) By way of allegations appropriate for demonstration of evidence, the response shall in essence deny or significantly supplement the disputable allegations of facts and data contained in the published information.

**Article 51**

(1) A response shall be published without alterations or supplements, with the exception of spelling errors.

(2) Prior to the publication, the editor in chief shall have the right to request from the author to shorten the response.

(3) The provisions of Article 37 of this Law shall apply to the response, and the editor in chief may refuse to publish responses which are equal in terms of contents, after he has already published the same [response].

(4) The editor in chief may also refuse to publish a response in case the response contains obviously false data or claims and other allegations indisputably inappropriate for demonstration of evidence.

(5) If only some data or claims are false or inappropriate for demonstration of evidence according to the opinion of the editor in chief, the editor in chief may not refuse the publicizing without prior appeal to the author to exclude those data and claims from the response.

**Article 52**

The provisions of this Law in connection with the procedure for the exercise of the right to correction shall be applied in the procedure of court protection with regard to the exercise of the right to response.

## **VII. DISTRIBUTION OF PRINT MEDIA**

### **Obligations and limitations of the performance of distribution of local media**

#### **Article 53**

(1) Publishers with the majority share in a press distribution company, or possessing their own press distribution company, may not refuse to take over into distribution the informative press of another publisher who requests it, with the application of the same conditions and service costs as applied to other publishers, or for the purpose of distribution of one's own editions.

(2) Distributor of print media shall have the right to reject distribution of the media lacking nameplate. By taking over distribution of the media which lacks nameplate, the distributor, along with the publisher of that media, shall take over responsibility for the information published in that media.

(3) Distributors-newsvendors in the street may sell only press. Other conditions for sale through news-vendors, such as the time and location of newsvendors' sale of the press, shall be stipulated by the town or municipal council, in compliance with the law.

### **Prohibition of exhibition of pornographic publications**

#### **Article 54**

(1) Public exhibiting of publications with the front page containing pornographic material shall be prohibited. This prohibition shall not pertain to the sale of pornographic publications in special shops.

(2) A publication with pornographic material shall have a visible warning that it contains pornography, as well as a warning that its distribution is prohibited to underage persons.

## **VIII. OFFENCE PROVISIONS**

#### **Article 55**

- (1) A legal person shall be punished for an offence with a fine of up to 1,000,000.00 HRK which:
- performs the activity of publishing programme contents although it is not registered as a publisher in the court registry;
  - fails to inform the public within a calendar year about the programme basis and editorial orientation in compliance with Article 13 of this Law;
  - fails to publish a statement as per Article 20 of this Law upon the request of a state administration body, without compensation;
  - performs advertising [activities] contrary to the provision of Article 21 of this Law;
  - acts contrary to Article 24 of this Law;
  - fails to forward to the competent ministry data as per Article 25, Paragraph 1 of this Law even after 15 days from the day of receipt of a warning as per Article 25, Paragraph 2 of this Article;
  - fails to forward reports and data to the competent ministry until 30 April of each year, in compliance with Article 27 of this Law;
  - acquires impermissible concentration contrary to Article 28 of this Law;
  - refuses to take over distribution of general-information press or performs distribution contrary to Article 53, Paragraph 1 of this Law.

(2) The responsible person in the legal person shall be punished for an offence as per Paragraph 1 of this Article with a fine of up to 100,000.00 HRK.



**Article 56**

- (1) The following shall be punished for an offence with a fine of up to 100,000.00 HRK:
- newspaper publisher who fails to print the nameplate on each copy of the newspapers or other publication;
  - the editor in chief who, on the basis of a final verdict, fails to publish a correction of information or fails to publish it in the stipulated manner;
  - the editor in chief who fails to keep records of all published programme contents within the stipulated deadline;
  - the publisher who cancels journalist's working contract, decreases his salary or alters his position in the editorial board contrary to Articles 31 and 32 of this Law;
  - a legal person who organizes distribution of the press by way of newsvendors contrary to Article 53 of this Law;
  - a legal person who acts contrary to Article 54 of this Law.

(2) The responsible person in the legal person shall be punished for an offence as per Paragraph 1 of this Article with a fine of up to 20,000.00 HRK.

**Article 57**

(1) The following shall be punished for an offence with a fine of up to 50,000.00 HRK:  
 the authorized person in a body or another person who withholds an information from the scope of activities of that body from a journalist contrary to Article 6 of this Law,  
 the media publisher who fails to report the newspaper or another publication to the competent ministry,  
 the editor in chief, if he significantly alters the contents or meaning of an information published in a public outlet by way of editing the text, and especially by the title.

(2) The responsible person in the legal person shall be punished for an offence as per Paragraph 1 of this Article with a fine of up to 8,000.00 HRK.

**Article 58**

The following shall be punished for an offence with a fine of up to 30,000.00 HRK:

- the media publisher who fails to indicate the source of information taken over from other domestic and foreign media,
- the newspaper publisher who fails to report to the competent ministry the change of data stated in the registration of the newspaper within eight days from the day of occurrence of the change,
- the editor in chief who fails to inform in writing the submitter of the request about the reasons for non-publication of the correction.

The responsible person in the legal person shall be punished for an offence as per Paragraph 1 of this Article with a fine of up to 3,000.00 HRK.

**IX. INTERIM AND FINAL PROVISIONS****Article 59**

The provisions of this Law shall be adequately applied to the programmes of foreign newspaper agencies unless otherwise stipulated by a special law.

**Article 60**

The media shall be obliged, within six months from the day of coming into force of this Law, to conform their activities, operations and general acts with the provisions of this Law, and submit, within the same deadline, an application to the competent ministry along with forwarding the report on business transactions for the previous year in compliance with the Law.

**Article 61**

Until the state administration body competent for public informing affairs has been established by a special regulation, the Ministry of Culture shall be considered the competent ministry pursuant to this Law.

**Article 62**

The Council for Electronic Media shall be obliged to pass regulations as per Article 38, Paragraph 4 of this Article within 90 days from the day of coming into force of this Law.

**Article 63**

The Ministry of Foreign Affairs shall keep the registry and perform all activities related to the registration, or erasure of registration of foreign correspondent's offices, permanent foreign correspondents and permanent employees of foreign correspondent's offices, stipulated by a special law.

**Article 64**

The provisions of this Law on responsibility of the publisher for damage and on the publishing of a correction and response shall be also applied to cases in which a final verdict has not been passed until the day of coming into force of this Law.

**Article 65**

The Law on Public Information ("Official Gazette", No. 83/96, 143/98 and 96/01) shall cease to be valid on the day of coming into force of this Law.

**Article 66**

This Law shall come into force on the eighth day from the day of its publication in the "Official Gazette"