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**PETER SEMNEBY, HEAD OF THE OSCE MISSION TO CROATIA, ABOUT
NEW LEGISLATIVE ATTACKS ON THE FREEDOM OF THE MEDIA**

**CROATIAN GOVERNMENT MADE A STEP IN THE WRONG
DIRECTION**

By Toni Gabric

During the last days you made several objections related to the freedom of the media in Croatia. Could you explain what this is all about?

This is primarily a matter of individual legal solutions. The Ministry of European Integration and the Ministry of Culture definitely invest enough efforts to adopt a modern Law on the Media, but there are issues within the Law which raise concern. Together with the representatives of the Council of Europe and the Stability Pact, we studied the draft of that Law and we presented our comments to the Government. The conclusion of our experts is that the draft Law is a good starting point with a series of positive steps such as the commitment of publishing information on the ownership structure of the media. However, it also contains very restrictive provisions in relation to the freedom of the media. This primarily pertains to access to information, where it is necessary to accomplish a balance between the secrecy of information and the desire of the public to publish them. Likewise, the balance between the privacy of individuals and the freedom of expression needs to be accomplished as well. The most controversial issue related to that draft Law is the establishment of responsibility of editors-in-chief. We are concerned because of the solution based on which the responsibility for publishing certain news would be transferred from the owner to the editor-in-chief, whereby very severe penalties were proposed. In some parts of the draft Law there is a danger of broadening the possibility of political influence and interference of politics into the work of the media.

Which parts do you refer to?

For example, the commitment of publishing truthful, complete and timely information is introduced and it is not in compliance with international standards. We will enable our experts to also comment on the revised version of the Law which we were provided by the Ministry of Culture after they received our first comment on the Law. We hope that our key principles will be incorporated into the version of the Law presented to the Parliament. They are primarily based on the European Convention on Human Rights and other conventions and declarations passed by the Council of Europe.

What were the reactions of responsible people whom you contacted in relation to that Law?

We have very good relations with both ministries and we share common vision that laws, which are to be adopted, have to be in conformity with international norms. I expect the final version of the Law on the Media to take into consideration joint recommendations of the OSCE and the Council of Europe.

Your interventions are also directed at the issue of libel and how this is resolved with the amendments to the Criminal Law

The OSCE Representative for the freedom of the media sent a letter to the Government a month ago in which he expressed concern with regard to the amendments to the Criminal Law. As you know, those amendments eliminated the protection mechanism by which in case of charges for libel, it was necessary to prove the intention of endangering someone's honor or reputation. The elimination of that protection mechanism is a step back and something to feel sorry about. It is the standpoint of the OSCE Representative that libel should be decriminalized, that is, that libel cases should be conducted before the court in a civil procedure. We offered to the Government the drafting of an expert report in relation to the libel issue and it will be presented to it very soon.

In your opinion, what prompted the Government of the RC to make such restrictive moves related to the media? We have ten years of experience with repression against the freedom of expression which was conducted during the HDZ time, and this Government was promising reforms in this regard.

I would like to believe that the case of elimination of the protective mechanism for journalists within the Criminal Law was only a misfortunate event. The Government and responsible persons who suggested and accepted such solution should be clear that this is a matter of very noticeable step in the wrong direction. With regard to the Law on the Media, we are only discussing its first version. I expect that things we are discussing will be changed.

How do you see the development of events with regard to public media in Croatia in the last three years?

There is a diverse and vivid scene of print media in Croatia, which opens the space for different viewpoints and Croatia has made quite a progress with that regard. Still, ownership structure has not been presented as clearly as possible, and that is why a new Law on the Media will represent a significant step forward. With regard to electronic media, the reasons for concern lie in the fact that the HTV is a dominant source of information for the majority of population. That leads to two conclusions: it is necessary to adopt measures to ensure diversity of electronic media, whereby the privatization of the third HTV programme would be a significant step. And secondly, HRT duties, as a public information service, should be taken very seriously. That includes political balance in the informative programme, but also in the choice of subjects which the HRT covers. It is necessary to thwart direct political interference in daily performance of tasks on the Television. In principle, we welcomed the Law on HRT which was recently adopted, but we are still concerned about the process of the election of members of the HRTV Council, which is for the time being suspended by the Parliament.

Apart from the media issues, you presented these days a series of objections related to the process of return of refugees of Serb ethnicity. How is that process going on?

We can still not say with certainty that all refugees wishing to return can indeed do that. A strong political engagement, willingness and courage on the part of the authorities are necessary, as well as on the part of the entire political establishment, for the purpose of creating a climate which will be conducive to the return of refugees. It also involves a

political obligation towards the implementation of different programmes pertaining to housing accommodation of refugees and returnees. With that respect, one has to especially bear in mind programmes pertaining to return of refugees who used to have occupancy/tenancy rights. We have not yet seen the implementation of a programme for the holders of occupancy/tenancy rights in the areas of special state concern, which was adopted last year. We are also still awaiting Government directives for the implementation of programmes pertaining to territory outside the areas of special state concern, which was adopted at the beginning of June.

Do you see that “strong political willingness and courage to change the climate” with the current authorities?

The sheer fact that the Government recognized that the issue of occupancy/tenancy rights represents a problem that needs to be resolved is a step forward. We also welcomed Racan’s invitation to refugees to return to Croatia. However, additional efforts need to be invested into the implementation of the mentioned programmes. It is simply not enough to have them written on paper. There are still a lot of cases of people facing huge difficulties upon the attempt to return. Those difficulties are an obstacle for return, even more so, their purpose is to discourage the return. When refugees still living outside the country see what their relatives are going through in Croatia, they question their own wish to return to their homes. There are also tragedies caused by the slow repossession of property, the impossibility of enforcement of court orders for eviction and the slowness of court proceedings. Throughout Croatia there are still many people living in stales, while their houses are occupied by temporary users – even in cases when owners have court decisions on the eviction of temporary users, they are not in a position to repossess their own property.