



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

Introduction

1. Since becoming an independent state, Croatia has committed itself to establish and uphold democratic standards regarding the freedom of media, information and expression, and also regarding public service broadcasting. These standards are specified in international conventions and agreements which Croatia has signed. They are also partly reflected in domestic legislation.

2. Among relevant international conventions and agreements, mention should be made of the European Convention for the Protection of Human Rights and Fundamental Freedoms, the International Covenant on Civil and Political Rights, the Declaration on the Freedom of Expression and Information as adopted by the Committee of Ministers of the Council of Europe (April 1982), the Resolutions of the Fourth European Ministerial Conference on Mass Media Policy (December 1994), and Recommendation no. R of the Committee of Ministers of the Council of Europe on guaranteeing the independence of public service broadcasting (September 1996). The Dayton Peace Agreement (1995) also contains provisions that Croatia has, as a signatory and guarantor of the Agreement, accepted as commitments.

3. In view of these commitments, the Government has also undertaken to introduce specific reforms. Some of these are contained in Opinion no. 195 (1996) of the Parliamentary Assembly of the Council of Europe: "to implement the recommendations of Council of Europe experts on legislation relating to the media", and "to comply, well before the next elections, with the recommendations made by the election observers of the Council of Europe and other international organisations [...] with regard to [...] the need to increase the independence of the state broadcasting corporation (HRT)". In view of the above, the following recommendation by the OSCE/ODIHR Observation Mission to Croatia in June 1997 has the status of an obligation upon the Government: "The Croatian authorities should consider taking immediate steps to ensure that the governing board of HRT [i.e. the HRT Council] becomes a truly depoliticised and independent body, in order to prevent future abuses of access to the state media." Much remains to be done if these commitments and obligations are to be fulfilled.

4. The period since 1997 has seen certain changes in the situation and performance of the mass media. These changes do not point in only one direction. For example, the volume of 'hate speech' in the main media has certainly reduced. Yet, recent months have brought a resurgence of hate speech in the news programming of Croatia's most significant medium: the state-controlled broadcaster, Croatian Television (Hrvatska televizija, HTV, which forms part of Croatian Radio-Television, Hrvatska radio-televizija, HRT). Likewise, the reappearance of several 'banned' journalists on HTV is a positive development; yet some of these journalists' programmes have been subject to blatant political censorship. Another positive development was the appearance of a new, independently owned daily newspaper in April 1998; yet, at time of writing (March 1999), the difficulties facing independent newspapers - as also for independent broadcasters - are formidable.

Broadcasting: HTV

5. HTV is the biggest and most influential mass medium in Croatia. Broadcasting on all three of Croatia's ITU-allotted television channels, HTV forms Croatia's only television network and the only television at the state (national) level. Surveys show that around half the adult population regularly watches the 19.30 evening news bulletin. Other news and

current affairs programmes shown at prime-time slots also attract audiences that are beyond the reach of any other medium.

6. During 1998, several improvements were introduced in these programmes. For example, the programme *Hrvatski spomenar*, shown before the 19.30 news bulletin each weekday, had added to the sense of insecurity in war-affected parts of the country. Under pressure from the United Nations and the OSCE, this programme's concept was eventually amended in March 1998, removing most of the controversial content. Later in the year, the quality and variety of several other political programmes was improved. These changes can be partly attributed to the launch in autumn 1997 of a lobby group, 'Forum 21', comprising journalists who argued for democratic reform of electronic media. They are also the result of efforts by Mr Ivica Vrkić, who became HRT's director in August 1998.

7. However, as already mentioned, political censorship is sometimes imposed by the HRT leadership, allegedly acting on direct instruction from high-level officials. For example, the results of an opinion-poll survey were banned from a programme on 21 December - reportedly because the results favoured the SDP and its leader, Mr Ivica Račan. Another programme in this series was bowdlerised on 1 March 1999. In February 1999, the presenter of HTV's highly popular farming programme, Mr Ivo Lončar, was removed for political reasons: the ruling party resented his criticism of agricultural policy. On 10 February, Mr Mirko Galić resigned as Vrkić's assistant. Galić, widely regarded as the leading reformist at HRT, stated that his resignation was a response to biased reporting, interventions in programming, and Lončar's removal. He added that the political atmosphere at HRT was unfavourable to free and creative work as well as to standards of public television and objective journalism.

8. Nor has aggressive propaganda been eliminated from the screen; on 17 February 1999, HTV broadcast at prime time a documentary programme that incited hatred against Bosniaks (Bosnian Muslims). This film depicted individual Bosniak victims of the Croat-Bosniak conflict as if they were Croat victims of Bosniak forces. On 16 December 1998, HTV broadcast a programme in a regular series that was replete with hate speech ("...In our corner, a select group has grown close to Soros. The disgusting Serb-Jewish lobby which always re-emerges so that Croatia can be battered down. These are prudent masons, many of whom are sexually peculiar. They are corrupted foreigners and Croats who have been fed so luxuriously by Skadarlija [i.e. Belgrade]", etc. etc.). Croatia's Jewish community has announced a legal action against the author of this programme.

9. The 19.30 news bulletin remains essentially unaffected by the limited improvements noted above. Government or ruling party officials are still granted virtually unlimited access to the bulletin. Far from questioning these officials, the journalists either make no comment or endorse the officials' arguments and assessments. Opposition politicians are rarely given an opportunity to comment directly on these officials' statements. Information and views which reflect poorly on the Government or ruling party are often distorted or omitted. The bulletin continues to include editorial commentaries which have no place in public service broadcasting. One such commentary, on 7 January 1999, accused the US ambassador to Croatia of hypocrisy; another commentary in the same bulletin accused the international war crimes tribunal in The Hague (ICTY) of "superficiality". Reporters, too, openly take sides; on 30 January 1999, a reporter covering the aftermath of a traffic accident apparently caused by a SFOR vehicle observed that "the arrogance of UNPROFOR [sic] has draped this area in black. ... For these people, this is an example of brutality by individuals in SFOR which is turning Croatian roads into an execution ground".

10. In light of these practices, the OSCE Mission to Croatia expressed the view, in its 26 January 1999 report on Croatia's progress in meeting international commitments, that HRT's compliance with its legal obligation "to inform the public truthfully, objectively and promptly about political, economic ... and other events" (Law on HRT, Art. 6) is seriously in question.

11. Particular mention should be made of HTV's refusal to provide coverage of efforts to encourage reconciliation among Croatian citizens. Such coverage is not merely desirable in a context where communities remain deeply divided by recent conflict; it is an explicit commitment in the Government's Programme on Establishment of Trust (October 1997).

Despite this commitment, HTV's masters do nothing to encourage a "general climate of tolerance and security" or "the establishment of trust between all citizens". Opportunities to report on positive, trust-building initiatives are rarely taken. Indeed, HTV's output reflects antagonism or at best indifference to the return of refugees and displaced persons to their homes - unless these persons happen to be ethnic Croats.

12. It is important to point out the connection between the HTV programming on one hand, and the legislation that governs HRT on the other hand. The key legislation is the Law on HRT. Since its original adoption in 1992, this law has twice been amended. The first set of amendments (1996) served to tighten the ruling party's control in HRT, for example by raising the number of members of Parliament on the HRT Council - the network's nearest equivalent to a governing body - to an absolute majority. The second set of amendments (1998) was relatively progressive, though without threatening the capacity of the ruling party to dominate HRT. The fact that the latter amendments ignored a number of concrete suggestions for reform provided by the Council of Europe in March 1998, caused particular concern both to the international community and to the activists in 'Forum 21'. In short, the Law on HRT ensures that HRT cannot attain the level of institutional autonomy which is a precondition of public service broadcasting. The credibility of the Government's stated intention to convert HRT from a state to a public service broadcaster was further harmed in February 1999 when Mr Zlatko Canjuga, a deputy president of the ruling HDZ party, was appointed as head of the new HRT Council.

13. Before leaving the topic of HRT, mention must be made of another highly controversial aspect of its operations: namely, its activity in the neighbouring state of Bosnia and Hercegovina (BiH). During the armed conflict, Croat forces seized a number of transmitter facilities belonging to RTVBiH, the state broadcaster. These facilities, together with others imported for the purpose, are used for the illegal re-broadcasting of all three HTV channels inside the neighbouring country. This activity provides the HDZ-BiH, the dominant party of Croats in BiH - which happens also to be an offshoot of the ruling party in Croatia - with an invaluable propaganda tool. It also obstructs in the most literal sense the restructuring of RTVBiH in line with public service norms, as envisioned by the international community. Lastly, this activity amounts to a form of double theft: firstly, theft from the foreign production companies whose programmes are purchased by HRT for showing in Croatia, not in BiH; and secondly, from Croatian citizens whose monthly subscription payments to HRT are used to subsidise HTV's operations in the neighbouring state. The Office of the High Representative and the Independent Media Commission are currently leading international efforts in Sarajevo to regulate and legalise HTV's presence in BiH. These efforts are fiercely resisted in Zagreb as well as in the Bosnian Croat stronghold of western Mostar.

Broadcasting: independent

14. The 1998 amendments to the Law on HRT confirmed that HRT retains occupation of Croatia's three state television and radio frequencies. The subsequent opening of a tender for a fourth (actually non-existent) television channel, in November 1998, was revealed as a somewhat cynical gesture when a Government official admitted that start-up costs for such a channel would include DEM 20 to 25 million to construct a network of 120 transmitters. It is indicative that Mr Ninoslav Pavic, who is widely regarded as Croatia's only media entrepreneur with the resources to establish a fourth channel, has stated that the terms of the tender are "absolutely unacceptable" (Jutarnji list, 02 December 1998). In sum, there is little prospect that a fourth channel will broadcast within the next few years, and no guarantee that when it starts, it will provide a real alternative in terms of news and information.

15. By law, concessions for private television and radio stations may be awarded to each of Croatia's 20 counties and 121 cities. The licensing procedure is overseen by the Telecommunications Council, established under the Law on Telecommunications (1994). Five of its nine members, nominated by the Government and appointed by Parliament, are senior figures in HDZ, including two vice presidents of the party who serve as advisors to President Tudjman. To date, the Council has dispensed 110 radio concessions, including three at state (national) level, and 11 television concessions, including four at county level. Since the closure of the news-room at TV Mreza in autumn 1998, only one of these

broadcasters, Zagreb's Radio 101, provides a serious alternative to HRT's news programming. The licensing procedure has on occasion been manipulated to the advantage of the ruling party, especially in areas where the party has not gained power through elections. The costs of applying, purchasing and retaining a broadcast licence are extremely high. Payments are scheduled arbitrarily, with little or no room for negotiation. Notwithstanding the discouraging economic situation in Croatia, the legal and political conditions for independent broadcasters are unfairly restrictive.

Printed media: distribution

16. The daily and weekly newspapers provide a wide range of political information and views. The most welcome recent addition is Jutarnji list, a daily newspaper launched in April 1998. This paper has set a quite consistently high standard in covering sensitive political issues. It is not too much to say that Jutarnji list is Croatia's first 'normal' newspaper, reflecting (for the most part) actual news values rather than a political agenda. One corollary is that the highest-selling daily paper, Vecernji list, has been obliged to improve somewhat the quality of its own political coverage, if not the objectivity of its editorial commentaries. However, it has been estimated that less than half the adult population now reads newspapers. Circulation figures have fallen in recent years, due above all to impoverishment. The objective reporting and commentary provided by a few newspapers does not compensate for the one-sidedness and sensationalism of others, let alone for the HRT news programming.

17. At present, newspaper publishers face a grave problem with distribution. The printed media distribution market is dominated by the 'Tisak' company, which may control as much as 75 per cent of the market. In autumn 1998, the withholding of sales revenue by Tisak forced certain privately-owned newspapers to the brink of closure. One newspaper, the weekly Nacional, claimed to receive 85 per cent of its revenue through Tisak. Early in 1999, Tisak itself verged on collapse, unable to pay its creditors. With debts amounting to US\$ 1.6 million by mid January, Tisak's crisis threatened the existence of all but the largest publishing groups. At the same time, Hrvatska Tiskara (HT), Croatia's principal newspaper printer, which is itself, state-controlled, warned that it would stop servicing publishers who did not settle their debts.

18. Newspaper publishers demanded payment of outstanding sums, and appealed to Prime Minister Matesa not to ignore the problem. In late January 1999, Matesa met with the newspaper publishers and promised to assist in finding an equitable and speedy solution. It was decided to give control over Tisak to a number of creditor banks, and to exclude foreign investment. The publishers agreed to a repayment schedule. The new arrangement was announced as being in place on 22 February. On 26 February, the publishers wrote again to Matesa, warning that - despite some initial disbursements to creditors in late January - Tisak's undertaking to pay half its debts for newspaper sales during November and December 1998 within ten days, and the balance within 20 days, had not been fulfilled. By early March, Tisak's total debt to publishers was estimated at over DEM 26 million. The future of Tisak remains uncertain. Moreover, even if the restructuring plan can be successfully implemented, and state-controlled banks control Tisak, the potential for political manipulation will remain.

19. Although Tisak has denied any political dimension to its non-payment of debts, it is the smaller and more editorially independent publishers who suffer most. Besides, Tisak's difficulties are the direct and entirely avoidable consequence of politically motivated corruption. Tisak, whose cash income from newspaper and tobacco sales had placed it among Croatia's 10 biggest companies, is yet another victim of a dubious privatisation process in which sound businesses were taken over by politically-favoured tycoons and exploited as 'cash cows'. Documents obtained by Feral Tribune indicate that Tisak's main shareholder, Mr Miroslav Kutle, may have siphoned as much as DEM 150 million from Tisak during 1998 alone (Feral Tribune, 8 March 1999). Nevertheless, the authorities reconfirmed Kutle in his position at Tisak as late as November 1998. During the same month, Kutle relinquished his control of Croatia's second-largest newspaper distributor, Slobodna Dalmacija, to the state. (Kutle had acquired the profitable Slobodna Dalmacija by highly questionable privatisation in 1993; by autumn 1998 he had apparently bankrupted the company.) As a consequence, an independent newspaper such as Feral

Tribune is currently unable to obtain sales revenue from either Tisak, which owes Feral more than DEM 340,000, or from Slobodna Dalmacija, which owes Feral almost DEM 700,000. As a result, Feral Tribune is deeply indebted to its printer, Novi List, which itself publishes an independent daily newspaper. The outline here of a vicious circle, narrowing around the necks of independent publishers, is plain to see.

20. Tisak's failure has added to the difficulties facing the formerly profitable Hrvatska Tiskara (HT). In February 1999, HT's failure to pay value-added tax to the tune of more than DEM 500,000 led to its accounts being blocked by the Ministry of Finance. According to HT's director, the company had already warned the Government that it would not be able to pay VAT unless publishers paid off their own debts to HT. On 6 March 1999, the authorities arranged a merger between HT and the Vjesnik Group, under the overall control of the pension fund. The original intention behind this merger was, presumably, to offset the sizeable losses incurred by the ruling party's preferred daily newspaper, Vjesnik, with profits from HT - a design that may backfire if HT should fall victim to the insolvency crisis.

21. Another source of pressure on journalists in the independent press is created by litigation initiated by Government or ruling party officials. Civil and criminal laws provide broad scope for public figures to prosecute journalists for insult and defamation. According to official statistics, over 700 defamation suits were filed between 1994 and 1997. Many of these suits were and continue to be brought by officials. Particular concern has focused on a 1996 amendment to the criminal code, which obliges the public prosecutor to start proceedings against anyone suspected of offending or slandering any of five state officials (the president, the prime minister, the speaker of parliament, the presidents of the supreme and constitutional courts). The amendment carries a maximum prison sentence of three years. So far, no suits brought by the public prosecutor under this amendment have been successful. It is clear, however, that it has facilitated the criminal prosecution of journalists. In civil cases, many prosecutions have succeeded, leading to the award of substantial damages that drain the financial resources of media - the very media which, being independent, usually do not have access to state or party coffers. Whether this situation has a directly chilling effect on the independent press is, however, hard to say with any certainty. The leading independent newspapers remain boldly outspoken in their criticism of the authorities.

Elections

22. International and domestic monitoring of the Croatian media during the campaigns before successive elections since 1995 have confirmed that the main media, both electronic and printed, have displayed a strong bias in favour of the ruling party. According to the European Institute of the Media, during the final phase of campaigning for the June 1997 presidential elections, HRT gave eight to 12 times more coverage to President Tudjman than to the other two candidates. The OSCE / ODIHR Observation Mission concluded that "the process leading up to the elections was fundamentally flawed, and did not meet the minimum standards for a meaningful and democratic election in line with OSCE standards", in part because of the "overwhelming coverage" given to Tudjman by HRT. Without urgent reform of election legislation and of the regulations governing HRT's pre-election coverage, this pattern will surely be repeated in the next elections, due to take place by January 2000.

Conclusions

23. Government officials often complain that the actual and legal situation of the media in Croatia is no worse than in other transitional countries which, moreover, have not passed through a war. Yet, these officials say, Croatia is singled out for international censure and pressure on this issue. This line of response overlooks two crucial considerations. Firstly, Croatia falls far short of implementing its own commitments regarding media freedom. Secondly, Croatia exists in a specific regional context, a post-conflict context where hundreds of thousands of people are still unable to take elementary decisions about where they will live. Croatia has obligations to many of these people, whether they are its

citizens, refugees on its territory, or citizens of neighbouring countries. The fulfilment of these obligations requires thoroughgoing reform of HRT's output.

24. No account of the media in Croatia would be complete without reference to the extremely politicised climate that is fostered by the state authorities at the highest level. Over the years, President Tudjman has frequently lent his unique authority and prestige to denouncing Croatia's independent or pro-opposition journalists and criticising international pressure for media reform. Speaking to a party committee last December, for example, he said that whenever governments change in democratic countries, the media personnel change with it - "from the doorman to the editor in chief". By such statements, the head of state has encouraged obstruction of media reform at lower levels of authority, including among the ranks of the party which he leads.

Recommendations

25. As a matter of urgency, the political authorities should:

reform the Law on HRT and the Law on Telecommunications in line with the March 1998 "Recommendations by the Council of Europe experts for the further democratisation of the broadcasting sector in Croatia"

reform electoral legislation to ensure that electoral coverage is independent and balanced in quantity and neutral in tone

desist from seeking to influence the leadership of HRT, including the HRT Council and the director's office, and also over the Telecommunications Council

ensure that complete and accurate information concerning the ownership of media and distribution companies is in the public domain