

## Background information report

Media policies and regulatory practices in a selected set of European countries, the EU and the Council of Europe: The case of Croatia

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October 2010

## **Project profile**

MEDIADEM is a European research project which seeks to understand and explain the factors that promote or conversely prevent the development of policies supporting free and independent media. The project combines a country-based study in Belgium, Bulgaria, Croatia, Denmark, Estonia, Finland, Germany, Greece, Italy, Romania, Slovakia, Spain, Turkey and the UK with a comparative analysis across media sectors and various types of media services. It will investigate the configuration of media policies in the aforementioned countries and will examine the opportunities and challenges generated by new media services for media freedom and independence. Moreover, external pressures on the design and implementation of state media policies, stemming from the European Union and the Council of Europe, will be thoroughly discussed and analysed.

Project title: European Media Policies Revisited: Valuing and Reclaiming Free and Independent Media in Contemporary Democratic Systems

Project duration: April 2010 - March 2013

EU funding: approx. 2.65 million Euro

Grant agreement: FP7-SSH-2009-A no. 244365

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## The case of Croatia

*Helena Popović, Paško Bilić, Tomislav Jelić and Nada Švob-Đokić*

### 1. Introduction

In its recent history Croatia has experienced most of the problems that post-socialist states have faced regarding the media, that is “slow technological change; weak news competition; crisis of public service broadcasting; persisting political pressure on the media; weak professional performance of journalists; problematic minority access to the media; hate and nationalist speech; inadequate press and media markets; Europeanisation of media regulation”.<sup>1</sup> The differences between socialist and communist practices and political systems in eastern, south-eastern and central Europe, as well as the historical and cultural specificities have added to the transitional complexity, and have resulted in different ways in which the system has been challenged and in which institution building has been processed.

Croatia gained independence through the breakdown of Yugoslavia, which had serious repercussions for the democratisation processes that were delayed due to the war (1991-1995). In the beginning of the 1990s, the nationalist movement led by the Croatian Democratic Union (the winners of the first parliamentary elections in Croatia in 1990) mobilised dissident groups of the previous system, but also gained the support of the masses, triggered by the beginning of the war in 1991. The media system has been seriously affected by such developments.

The reorganisation of the Croatian media landscape began in the early nineties, with the transformation of the socialist system into a democratic political system introducing a liberal market economy. Transition from the state controlled and publicly owned media to a system in which the media were to become public institutions and services or private enterprises did not go smoothly.<sup>2</sup> At the beginning of the nineties, the new parliament enforced new media regulations that led to initial democratic changes. Submitted to regulation were the institutions and areas like the news agency HINA in 1990, the national radio television HRT in 1991, 1992, 1993 and 1996, the telecommunication area in 1994, and public information regulation in 1996.<sup>3</sup> The privatisation processes which enabled the emergence of commercial media started. However, the first liberalisation results incited worries about the loss of control over the media and these processes were suspended. In the nineties, the media were still seen as a means for reinforcing the power of the political establishment. The newly established regime controlled the media through various methods, for example by appointing people loyal to the regime to supervisory regulatory bodies through which control was exercised (e.g. the Programme Council of the Croatian Radio Television - HRT), or through the distribution of concessions. Pressure was particularly put on national television, whereas

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<sup>1</sup> See: M. Sükösd, P. Bajomi-Lázár (eds), *Reinventing media: Media policy reform in East Central Europe* (2003), at p.15.

<sup>2</sup> See: Z. Perusko, *Televizija u Europi: zakonodavstvo, javne politike i neovisnost – Hrvatska [Television across Europe: regulation, policy and independence - Croatia]* (2005).

<sup>3</sup> See: N. Zgrabljic Rotar, “Hrvatska medijska politika i javni mediji” [Croatian media policy and public media], 9(1) *Medijska istraživanja* (2003) 59.

the press was not of primary concern to the authorities, though those that openly criticised the regime - such as the weekly *Feral Tribune* - were submitted to various forms of oppression, for example through legal provisions, attempts to stop its distribution or tax impositions that did not apply to other printed media.<sup>4</sup> Civil society activities were viewed as dangerous when not in accordance with state politics. Civil society organisations and media supported from abroad, such as human rights organisations or organisations that dealt with democratisation (e.g. the Open Society Institute, Croatian Helsinki Committee, etc.) were under direct political pressure. In the second half of the nineties, particularly in 1996, civil society started to express its dissatisfaction with political pressures being exercised. An indicator of this was the formation of the civil society group *Forum 21* that claimed the right to independent and free media. In the same year the *Radio 101* protest took place in which 100,000 citizens of Zagreb fought the decision to deny *Radio 101* its concession.<sup>5</sup> Regardless of these initial actions, it was only with the death of Franjo Tuđman (1999), and the new elections in 2000, that concrete steps to democratisation were taken.

In 2000, when the left coalition came to power, a new set of media regulations was passed. It aimed to create a framework for the development of public media and a more favourable environment for the introduction of commercial media. While the press market opened up at the end of the nineties,<sup>6</sup> in 2000 the entrance of foreign owned commercial television into the market marked the first steps towards a pluralistic media system. This period was particularly characterised by the attempts to implement regulations and procedures that would enable independent and free media performances. De-linking the state from the media was the primary task, while competition introduced by the commercial media was seen as positive.<sup>7</sup> The emergence of commercial media was in that period viewed as a support to pluralism and independence from the state-controlled media. However, this optimism was soon replaced by a new worry, linked to the obvious profit-oriented logic that proved to be the driving force of the commercial media, which regarded their public attributes as secondary. The awareness of such media orientations was connected to the third phase in Croatian media policy, which emerged with the acceptance of the Croatian application for membership of the EU and the candidate country status awarded in 2004. In this period the focus slowly transferred from a national to a European and global context.<sup>8</sup> Parallel to the adjustment to European regulations the Croatian media system is still struggling with internal problems linked to issues associated with the transition from one political and economic system to another. At the same time, new challenges have emerged - such as fast technological changes, convergence, audience fragmentation, hyper-commercialisation, the spread of tabloid

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<sup>4</sup> See: M. Thompson, *Kovanje rata: mediji u Srbiji, Hrvatskoj i Bosni i Hercegovini* [*Forging war: media in Serbia, Croatia and Bosnia and Herzegovina*] (1995), p. 185.

<sup>5</sup> See: S. Malović and G. W. Selnow, *The people, press and politics of Croatia* (2001).

<sup>6</sup> The first concession to Nova TV was granted in 1999, while the RTL entered the market in 2003.

<sup>7</sup> See: Z. Peruško, "Medijska koncentracija: izazov pluralizmu medija u Srednjoj i Istočnoj Europi [Media concentration: a challenge to media pluralism in Central and Eastern Europe]", 9(1) *Medijska istraživanja* (2003), at p. 40.

<sup>8</sup> See: Z. Peruško and H. Popović, "Media concentration trends in central and eastern Europe", in K. Jakubowicz and M. Sükösd (eds), *Finding the right place on the map: Central and Eastern European media change in a global perspective* (2008) 165.

media and sensationalism – that force the actors involved in the media landscape to simultaneously “juggle” multiple problems on various levels.

## **2. The media landscape in Croatia**

The diversity of the media landscape in Croatia is manifested in a large number of different information sources as well as in the fast changes of their structural, technological and content characteristics. However, due to concentration trends it is not always clear whether these numerous sources reflect diverse opinions and critical views or just differ in the mode and area of their expression. This is seen in the oscillating number of printed media that also show signs of frequent content changes. Reliable figures on sold copies and generated income are hard to obtain. Competition is high but there are also trends of growing concentration. In this respect the printed media market is at the same time dynamic and not easily surveyed. Radio is regionally structured and with strong regional competition. National radio public channels have a very small audience share. Television, on the other hand, is the most widespread medium with two public service broadcasters (PSB) and two commercial channels dominating the national audience share. Internet Protocol Television is increasingly diversifying the number of channels and the governmental strategy of implementation of Digital Television Broadcasting is currently under way. The number of Internet users is rising steadily and the competition between Internet portals is also increasing. Social media are among the most popular websites and Internet users favour them as information sources over television or newspapers. There are also several news agencies with diverging political orientations. According to the information by the Croatian Journalists' Association (CJA) the majority of journalists are highly educated.

### **2.1 The media market**

#### *The press*

The number of newspapers, magazines, free press and other printed media has multiplied in the last twenty years or so and has also proved unstable, showing a tendency to frequent change. According to different sources the overall number of printed media currently oscillates between 850 and 2,525.

The daily with the highest circulation, *24 sata* (Twenty four hours) is a pure tabloid launched in 2005. It has a new, small format and brief news, and is sold at the lowest price of only 4,00 Croatian kuna, while the other dailies costs 7,00. *Večernji list* (Evening paper) is a conservative daily with a long tradition (founded in 1959), while *Jutarnji list* (Morning paper), founded in 1998 was initiated as its left centre alternative. Today it is difficult to identify its political leaning. *Slobodna Dalmacija* is a daily most popular in the Dalmatian region, and *Novi list* is similar in the Istria region. *Vjesnik* is a broadsheet still owned by the state with a very small circulation and with clear support for the government. In an attempt to categorise the dailies along the tabloid-broadsheet continuum, only two papers can be clearly classified: *24 sata* as a tabloid and *Vjesnik* as a broadsheet. *Novi list* can also be categorised as a newspaper with broadsheet elements,

while the other dailies - *Večernji list*, *Jutarnji list*, *Slobodna Dalmacija* - are all hybrids. *Sportske novosti* is the only daily specialising in sport.

In 2009, the planned editions for the most popular daily newspapers were: *24 sata* – 215,000; *Jutarnji list* – 103,919; *Večernji list* – 142,000; *Slobodna Dalmacija* – 67,000; *Sportske novosti* – 41,148; *Novi list* – 47,000.

Data on sold copies and generated income is not easily accessible. The website of the *Styria Group*<sup>9</sup> publishes data on its outlets, according to which *24 sata* sells 181,396 copies while 80,000 copies are distributed as a free afternoon edition; *Večernji list* sells 96,806 copies. However, this has to be taken with some reservation, since data from the media outlets are often geared to attracting advertisers. Similar data is not available on other websites of media outlets, nor are they accessible on the website of the Croatian Chamber of Economy (CCE).

The audience share for 2009, as visible from the research agency Puls, shows that the daily *24 sata* has the highest percentage of average issue readership (AIR)<sup>10</sup> (31%), followed by *Jutarnji list* (13.6%), *Večernji list* (13.4%), *Slobodna Dalmacija* (6.8%), *Sportske novosti* (4.4%) and *Novi list* (3.9%). In addition, the average reach<sup>11</sup> of *24 sata* (60.7%) is followed by *Jutarnji list* (31.9%), *Večernji list* (30.4%), *Slobodna Dalmacija* (12.2%), *Sportske novosti* (11.1%) and *Novi list* (6.8%). According to the same source 44.7% of the sample does not read any final edition newspaper (AIR), while the average reach shows that 13.8% do not read any daily newspaper.

The AIR for weeklies in 2008 shows that the women's magazine *Gloria* is the most popular with 7.8% followed by the celebrity magazine *Story* (4.8%), the political weekly *Globus* (3.7%) and the other political weekly *Nacional* (3.1%). The average reach of these weeklies is: *Gloria* – 19.8%; *Story* – 12.0%; *Globus* – 9.1%; *Nacional* – 7.8%.

Nearly all major newspapers have a website that is free of charge. The only exception is *Novi list*.

The Austrian company *Styria Media International AG* owns the daily *24 sata*, *Večernji list*, and, since 2009, *Poslovni dnevnik* - a daily specialising in business and politics with a small number of printed copies.<sup>12</sup> Westdeutsche Allgemeine Zeitung Medien Gruppe (WAZ) is the biggest shareholder of Europapress Holding (EPH): it holds 50% of the shares and controls the largest part of the Croatian print market. The media tycoon and board director of EPH, Ninoslav Pavić, owns a large part; however the real ownership structure is not transparent, neither are their business activities. An example is the sale contract of *Slobodna Dalmacija*, previously owned by the state and sold in 2005 under dubious circumstances. The sale contract has been proclaimed

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<sup>9</sup> Available at: <http://www.styria-international.com/en/firma.php?tochter=3> (last visited on 21/10/2010).

<sup>10</sup> AIR – average issue readership, the percentage of respondents from the whole sample or target group that read the last issue of a certain daily newspaper. MEDIApuls, “Media report, dailies 2009”, unpublished commissioned research study.

<sup>11</sup> Average reach – the percentage of respondents from a whole sample or target group that read at least one issue of a certain daily newspaper over a longer period (last fourteen issues).

<sup>12</sup> According to the *Styria Group* website, it is 12,000, but according to the data on planned copies, collected by the CCE, it is 4,860 copies.

confidential, even though there is frequent public pressure to reveal it. EPH owns *Jutarnji list*, *Slobodna Dalmacija*, *Sportske novosti* and the popular weeklies *Globus* and *Gloria*. EPH also has many Internet portals, a news agency (EPEHA) and a photo agency (CROPIX).

Notwithstanding the low transparency of the ownership shares it is evident that these foreign companies and their local subsidiaries dominate the Croatian print market. They have also transferred their competition and development strategies into the local market.

Due to the high number of print outlets, competition is high. The market of daily newspapers is regionally structured, while the magazines are nationally structured. However, there is a growing concentration of media ownership control by a small number of media companies. The estimation is that EPH holds around 60% of the total share in Croatia.

### *Radio*

The total number of registered radio stations in Croatia is approximately 165 (more than 100 of them have Internet streaming). There are six radio stations with national reach; the public service broadcasting (PSB) stations - Croatian Radio 1, Croatian Radio 2, Croatian Radio 3; and three commercial stations - Croatian Catholic Radio (100% owned by the Croatian Bishops' Conference), Otvoreni Radio (owned by Adrimex (25%) and Media-Plan (75%)), and Narodni Radio (owned by Miroslav Drljača (20%), Juraj Hrvačić (60%) and Marko Perković (20%)). Seven PSB radio stations operate at a regional level in addition to 22 commercial regional stations. The rest are local.

According to the research agency Puls, data from 2009 show that Narodni Radio (a radio station predominantly playing folk music) has the highest average daily reach<sup>13</sup> (10%), followed by Antena Zagreb (8.7%), Otvoreni Radio (6.1%), and the PSB Croatian Radio 1 (5%).

According to a study conducted in 2006 on the media market in Croatia, the radio market is regionally structured (the study on media markets in Croatia identified twenty one regional markets). Based on the Croatian average, local stations hold 47% of radio audiences, regional hold 18%, while national commercial stations hold 24%. Three national public channels have a joint share of 10% of the audiences. On average, in each region there are two or more strong radio competitors.<sup>14</sup>

### *Television*

The terrestrial television broadcasters operating at the national level in Croatia include the PSB Croatian Radio-Television (HRT) with two channels, HTV 1 and HTV 2, and

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<sup>13</sup> Radio daily reach is the percentage of the sample or target population that listens to the radio station for at least five minutes daily.

<sup>14</sup> See: Z. Peruško and K. Jurlin "The Croatian media market: regulation and concentration trends", unpublished study for the Media Division of the Council of Europe (2006).

two commercial television broadcasters: RTL Television and Nova TV. In addition there are 13 local and 8 regional television broadcasters.

Nova TV entered the Croatian market in 2000. It is owned by the *Central European Media Enterprises* (CME). RTL Television, launched in 2004, has the following ownership structure: RTL Group (74%), Agrokor (13%) and Atlantic Grupa (13%).<sup>15</sup>

The television market in Croatia is national and highly concentrated. In 2005, the average audience share of the first three television channels in Croatia was 92.22%, while all the regional and local television companies together had a share below 8%. In 2005, the public service broadcaster HRT had 53.97% of the audience share (HRT 1 – 38.18% and HRT 2 – 15.79%), while the commercial Nova TV had 13.48 % and RTL 24.77%.

Data from 2008 show a changing trend with a decrease of the audience share of the PSB (46.62%) and an increase in that of the commercial television companies: Nova TV (19.48%) and RTL (22.88%). It also shows that the regional and local televisions' audience share is increasing and is now around 11%.<sup>16</sup>

If the three television companies are compared in terms of genre coverage, the PSB HRT – in accordance with its public service role - has most broadcasting time devoted to news programmes (even though this percentage is low compared to other European PSBs), educational programmes, sports events, art and culture, religious programmes, history and other content that is considered to be of public interest. Nova TV focuses its output on movies, series and soaps, while RTL specialises in comedy, drama and light entertainment.

A research study<sup>17</sup> on primetime news bulletins that included all three television companies in a comparative perspective (for 2005 and 2007/2008) showed that international news (de-linked from Croatia in any way) were lacking. In 2007/2008 the PSB news had 13.30% of their total number of clips devoted to international news, whereas Nova TV had 15.24% and RTL 17.79%, which was clearly insufficient. The same research confirmed a trend in the PSB that showed it was changing and adjusting to the commercial media in the battle for audiences and advertisers. In the period from 2005 till 2008, the number of crime stories has increased in all three television companies. In 2007/2008, the PSB had 9.90% of clips devoted to crime; Nova TV had 21% and RTL 18.4%.

The PSB is financed through the licence fee. Owners of radio and television receivers are obliged to pay an amount of 1.5% of the average monthly net salary of the employees in the Republic of Croatia, on the basis of the statistical data for the previous year. Other means of financing for the PSB are advertising, production of audiovisual and other services (web pages, teletext, on demand services, production of music, concerts etc.).

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<sup>15</sup> Electronic Media Council, "Televizijski nakladnici" [Television publishers], available at: [http://www.e-mediji.hr/nakladnici/televizijski\\_nakladnici.php](http://www.e-mediji.hr/nakladnici/televizijski_nakladnici.php) (last visited on 21/10/2010).

<sup>16</sup> According to AGB Nielsen's annual average audience share for television stations.

<sup>17</sup> See: T. Perišin, "Televizijske vijesti: u potrazi za vrijednostima" [TV news: a quest for values] 14(2) *Medijska istraživanja* (2008) 63.

The PSB is currently faced with a multiple crisis: a financial crisis (due to dubious spending); an excessive number of employees (around 3,700); forms of censorship;<sup>18</sup> and crises in the managerial structure (e.g. procedural problems in appointing the new General Manager).

The multi-channel environment is developing in Croatia. There are services such as Internet streaming and the services provided in cooperation with telecommunications companies, such as Video on Demand and Internet Protocol Television (IPTV), offered by T-Com, the leading telecommunications provider, through their MaxTV HD service. Both the IPTV and digital terrestrial television (DTT) platforms are further developing to include new channels and services: the national television broadcasters plan to introduce linear services (including new specialised television channels) and non-linear services (including Internet video portals, programmes for mobile phones etc.). PSB HRT plans to launch three specialised programmes (most probably a news and current affairs channel, a sports channel and an educational channel) in addition to the two channels it already has, while the commercial television company Nova TV has plans for a movie channel and RTL TV plans to develop a children's television channel. The only new specialised channel that has so far been awarded a national concession to begin experimental Digital Video Broadcasting – Terrestrial (DVB-T) is Kapital Network, the first business channel focusing on the economy and entrepreneurship in Croatia and the south-eastern European region. The tender issued by the Council for Electronic Media aimed at three specialised channels. However, due to the incompleteness and poor quality of the proposals, only Kapital Network received a concession.<sup>19</sup>

### *Digitalisation of the electronic media*

The preparations for the digitalisation process in Croatia began in 2002 with a pilot DVB-T transmission. The DVB forum was initiated by the Croatian Telecommunication Agency (CTA), with the aim to create a national strategy in the transition from analogue to digital television and, more specifically, to prepare institutions and citizens in Croatia for the implementation of DVB technology, based on the trends in the EU. In 2003 the CTA started to prepare for the coming trends by monitoring new technologies and planning frequencies for the new platform. The frequency plan for digital television has been created and CTA has worked on its compatibility with the neighbouring countries.

In 2008, the Croatian Government passed the Strategy of Transfer from Analogue to Digital Television Broadcasting, which opened the way for its gradual implementation. The analogue switch-off started at the beginning of 2010, and is planned to be accomplished by 1 January, 2011. To ease the transition to digital transmission the government has developed a subsidy system through which all users receive a voucher

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<sup>18</sup> See: "Ravnatelj HRTa Vanja Sutlić opet prekoračio ovlasti (Kadija te tuži, kadija ti sudi ili Sutlić mimo odluka Etičkog povjerenstva)"[CRT Director Vanja Sutlić again oversteps his authorities (The judge accuses, the judge prosecutes or Sutlić oversteps decisions of the Ethic Board)], Politika.com, available at: <http://politika.com/ravnatelj-hrt-a-vanja-sutlic-opet-prekoracio-ovlasti-kadija-te-tuzi-kadija-ti-sudi-ili-sutlic-mimo-odluka-etickog-povjerenstva> (last visited on 21/10/2010).

<sup>19</sup> See DVB, "Croatia", available at: [http://www.dvb.org/%28RoxenUserID=c03a046ae9180f0766c19ab67836ceb5%29/about\\_dvb/dvb\\_worldwide/croatia/index.xml](http://www.dvb.org/%28RoxenUserID=c03a046ae9180f0766c19ab67836ceb5%29/about_dvb/dvb_worldwide/croatia/index.xml) (last visited on 21/10/2010).

towards purchasing a receiver for all digital terrestrial television signals (terrestrial, cable or satellite).<sup>20</sup>

### *New online media services*

The number of Internet users is growing in Croatia. The research conducted by GfK<sup>21</sup> in December 2009, showed that 66% of the households (approximately 951,000) have a computer, while 57% of households have an Internet connection (the highest percentage of users, 61%, are located in the capital Zagreb and the surrounding area).

Cable connection is the most popular, used by 40% of the respondents; wireless connection is used by 29%, analogue dial-up by 19%, cable Internet by 5%, ISDN modem by 5%, mobile phone by 3%, and other connections by 5%. The dominant service providers are T-Com (72%), Optima, Optinet and B-Net (around 6% each), Iskon Internet and CARNET (around 5% each). The most frequent modes of Internet usage are search engines, information seeking, email usage and usage of social networks. The Internet is more used by men than women (51% versus 49%) and by the younger population.

The weekly reach<sup>22</sup> of portals in 2009 shows that the website of the tabloid daily newspaper *24 sata* ([www.24sata.hr](http://www.24sata.hr)) is the most popular with 14.4% of users; followed by NET – 12.4% ([www.net.hr](http://www.net.hr)); INDEX – 11.8% ([www.index.hr](http://www.index.hr)); T-portal – 10.9% ([www.tportal.hr](http://www.tportal.hr)); NJUSKALO – 9.1% ([www.njuskalo.hr](http://www.njuskalo.hr)); *Jutarnji list* – 8% ([www.jutarnji.hr](http://www.jutarnji.hr)); *Večernji list* – 7.9% ([www.vecernji.hr](http://www.vecernji.hr)); and *Moj posao* – 6.8% ([www.moj-posao.net](http://www.moj-posao.net)). The most preferred web portal is NET (5.5%), followed by INDEX (3.9%) and T-portal (2.7%).

### *Social media online*

According to the GfK research,<sup>23</sup> approximately 850,000 citizens use social network sites (SNS). Some 19% of Internet users use the Internet because of SNS. However, SNS are but one aspect of social media and other types are largely unaddressed for research in social science or market research in Croatia. Some data is available through specific international web services. Alexa<sup>24</sup> places SNS Facebook ([facebook.com](http://facebook.com)) second on the “top sites” list in Croatia which confirms the aforementioned usage statistics. Video sharing service YouTube ([youtube.com](http://youtube.com)) comes in fourth and Wikipedia, the collaborative

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<sup>20</sup> See e-Croatia, “The second digital region in Croatia”, available at: <http://www.e-hrvatska.hr/sdu/en/e-hrv/vijest.html?h=en/e-hrv/contentParagraph/01111111111111111111111116&c=en/DigitalTelevision/Strategy-Implementation> (last visited on 21/10/2010).

<sup>21</sup> See GfK Croatia, “Gdje smo danas u informatičkoj pismenosti?” [Where are we today in ICT literacy?], available at: [http://www.gfk.hr/public\\_relations/press/press\\_articles/005364/index.hr.html](http://www.gfk.hr/public_relations/press/press_articles/005364/index.hr.html) (last visited on 21/10/2010).

<sup>22</sup> Defined as the percentage of respondents from the whole sample or target group, that visited certain web portal in the last seven days.

<sup>23</sup> GfK Croatia, “Gdje smo danas u informatičkoj pismenosti?” for 2009. Based on a representative sample of citizens older than 15 years (n=1000).

<sup>24</sup> “Top sites in Croatia”, available at: <http://www.alexa.com/topsites/countries/HR> (last visited on 21/10/2010).

web-based encyclopaedia project (wikipedia.org), is in ninth place. The weblog publishing tool Blogger (blogger.com) has the fifteenth place and SNS and micro-blogging service Twitter (twitter.com) is number twenty one. According to the latest research, Internet users place the highest trust on Wikipedia as an information source (61%) followed by television (53%) and newspapers (49%).<sup>25</sup>

There is also a noticeable trend of other websites using Facebook as part of their marketing strategy to improve Google search results. As an example, the *Jutarnji list* news web portal (jutarnji.hr) may be mentioned, since this portal has been one of the first to introduce direct commenting on its articles through Facebook.

### *News agencies*

HINA<sup>26</sup> was the first Croatian news agency established by the Croatian News Agency Act (OG 96/01) in 1990. The new Act on HINA passed in 2001 enabled its transformation from state to public status. The funds of the agency are mainly ensured by agreements with the state and other users of its services. The agency offers multimedia services, a photo and audio service, and an electronic data base (EVA). It employs 160 people, of whom 130 are journalists and editors, with around 60 foreign correspondents. The position of journalists is further regulated through the statute and the collective agreement. HINA is a member of the European Alliance of News Agencies.

STINA<sup>27</sup> is a news agency based in Split, founded in 1991 with the aim of providing an alternative to the nationalistic and state discourse that prevailed at the beginning of the 1990s. It mainly focuses on the region and eastern and central Europe. It has a network of fifty correspondents, and has developed projects linked to information and educational topics.

IKA<sup>28</sup> is a Catholic news agency, founded in 1993, owned by the Croatian Bishops' Conference. It gathers and distributes information linked to religious matters. It has a correspondence with Catholic agencies worldwide.

EPEHA (news agency) and CROPIX (photo agency) were founded within the EPH Group and supply their own outlets with information.

## **2.2 Media literacy and media status in society**

Media consumption in Croatia is clearly marked by the domination of electronic media, particularly television, and by the decline of the influence of printed media. Electronic media and media online are ever more easily accessed, but the involvement of the citizens in online content production is low.

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<sup>25</sup> "Hrvata na Facebooku više od Slovenaca i Austrijanaca" [More Croats on the Facebook than Slovenians and Austrians], *vecernji.hr*, 01/09/2010, available at: <http://www.vecernji.hr/vijesti/hrvata-facebooku-vise-slovenaca-austrijanaca-clanak-185913> (last visited on 21/10/2010).

<sup>26</sup> See HINA, official website, available at: <http://webserv2.hina.hr/hina/web/index.action> (last visited on 21/10/2010).

<sup>27</sup> See STINA, official website, available at: [http://stina.hr/index\\_en.htm](http://stina.hr/index_en.htm) (last visited on 21/10/2010).

<sup>28</sup> See IKA, official website, available at: [www.ika.hr](http://www.ika.hr) (last visited on 21/10/2010).

Croatia is a country of about 4,435 million inhabitants. Age structure according to the 30 June 2008 estimate is the following: 0-14 years – 15.4%, 15-64 years – 67.3% and 65 and over 17.3%. According to the 2001 census the illiteracy rate was 1.8%, or 0.7% of the male population and 2.8% of the female population.<sup>29</sup>

According to the research (N=1000) conducted by the research agency Media Meter and the Faculty of Political Science (University of Zagreb) at the end of 2009 (“Croatian Journalists and Media in the Eyes of the Citizens: Credibility, Trustworthiness, and Impact”)<sup>30</sup>, the most credible sources of information are the Internet (45%), radio (39%), television (35%), magazines (30%) and weeklies (31%), and finally dailies (24%). Citizens are more inclined to trust foreign media while, in the national context, they are more inclined to trust local media than the national ones. Of 19 social institutions the citizens trust the Church most (3.44 on a 1-5 scale), followed by scientists (3.36), educational institutions (3.32) and the army (3.25). Journalists occupy the eighth place with (3.27) while political institutions are the least trusted (2.21).<sup>31</sup>

### 2.3 Journalists’ background and education

The only data available on journalists’ background and education is from the CJA regarding their membership. In 2009, the CJA had 3,185 members, of which 3,047 are full members (1,725 employed, 714 freelancers, 527 retired, and 81 journalists with an inactive status). There are 1,326 female and 1,859 male members in the CJA. According to the level of education members are distributed in the following categories: 19 members have a PhD, 44 have a master’s degree, 1,691 have a bachelor’s, 173 have other forms of higher education, 1,233 have accomplished secondary school, and 25 have no adequate education. Around 60% have accomplished higher education.

Media-related studies are developed within two institutions at the University of Zagreb: the Faculty of Political Science - Journalism Studies, and University of Zagreb Croatian Studies - Communication Studies. The University of Dubrovnik (founded in 2003) has the Department of Communication Studies. In addition to these public institutions there are private higher education institutions that are oriented towards journalism practice, such as the Journalist School, formed within the NCL Group (owner of the political weekly *Nacional*) in which education lasts for three years. There are also short programmes for journalist training, for example those of the International Centre for the Education of Journalists (ICEJ).

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<sup>29</sup> Central Bureau of Statistics, “Statistical yearbook 2009”, available at: [www.dzs.hr](http://www.dzs.hr) (last visited on 21/10/2010).

<sup>30</sup> See: “Hrvati vjeruju internetu i radiju, novinama i televiziji ne” [The Croatians trust internet and radio, not newspapers and television], JutarnjiLIST, JutarnjiLIST, 05/11/2009, available at: <http://www.jutarnji.hr/gradani--novinari-su-pismeni--no-skloni-manipulaciji-i-senzacionalizmu/334731/> (last visited on 21/10/2010).

<sup>31</sup> See “Istraživanja: Hrvati, većinom kseno i homofobi, najviše vjeruju Crkvi i Internetu” [Research: The Croatians, mostly xeno and homophobes, trust mostly the Church and Internet], Manjgura, available at: <http://manjgura.hr/mediji/istrazivanja-hrvati-vecinom-kseno-i-homofobi-najvise-vjeruju-crkvi-i-internetu/> (last visited on 21/10/2010).

### 3. Media policy in Croatia

A national media policy has never been elaborated. Most media policies are developed and implemented through the mandates and activities of the state bodies and organs involved in media regulation or through media companies present in the media market. The communication and cooperation among these actors is rare and occasional while the eventual impacts of their interactions on media policies are not quite clear.

The main state and non-state actors involved in the media policy processes are presented in the following text, as well as the key legal provisions and acts that define and regulate freedom of expression and information. Some inadequacies of the legal acts are emphasised so that this sub-section is concluded with an assessment of access to information and freedom of the press. Structural regulations are examined in the sub-section that follows. Requirements and concessions for the establishment of media service providers are evaluated as well as transparency of the ownership structure, concentration restrictions and market competition. Considerations on content regulations follow to show that although considered adequate for electronic media, these regulations fail to address printed media. Quota rules and advertising regulations are presented, as well as defamation and libel rules. New provisions for electronic publications are discussed in line with adequate legal acts. Access to information and protection of journalists are also examined. The chapter concludes with the overview of media policy tools not mentioned previously, but which influence the overall media policy in Croatia.

#### 3.1 Actors of media regulation and policy

The Croatian Parliament, the Croatian Government, the Ministry of Culture, the Ministry of Sea, Transport and Infrastructure as well as specialised agencies and councils are involved in media regulation and policy.

The *Ministry of Culture* is the central state administrative body which has responsibility for creating the legislative framework in the media field. Pursuant to Article 15 of the Central State Administrative Bodies Act,<sup>32</sup> the Ministry of Culture deals with administrative affairs in the area of public information. These affairs include various activities such as drafting of media acts and giving legal opinions and interpretations of provisions of the media acts. These duties are discharged by the Media Department of the Ministry of Culture. However, the Ministry of Culture is not in the position to influence the independence and functioning of the media organisations and companies directly, but its indirect influence is nevertheless rather strong. Its task is to provide for the clear and effective legal framework which has to be practically implemented. The Croatian media legislation was assessed as fully harmonised with the European media standards and the *acquis communautaire*.

The *Electronic Media Council* (EMC) is a body of the Electronic Media Agency which is responsible for regulatory tasks. The EMC is established by the new Electronic Media Act (EMA)<sup>33</sup> as an independent regulatory body in the field of electronic media. The EMC has seven members (including the president) appointed by the Parliament,

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<sup>32</sup> OG 199/03, 30/04, 136/04, 22/05, 44/06, 5/08, 27/08 and 77/09.

<sup>33</sup> OG 153/09, available at: [http://www.e-mediji.hr/propisi/zakonski\\_akti.php](http://www.e-mediji.hr/propisi/zakonski_akti.php) (last visited on 21/10/2010).

upon recommendation from the Government, with a mandate of five years. It is financed with 0.5% of the total annual gross income gained in the previous year by all media service providers offering and engaging in audio and audiovisual media services. The tasks of the Council are to conduct the procedures for granting concessions and licences; implement provisions relating to the protection of pluralism and diversity; ensure the supervision of implementation of provisions on programme principles and obligations; consider the complaints of citizens on the media service providers' behaviour; cooperate with regulatory bodies of other states and the European Commission. The EMC has an important and powerful role in media regulation, especially in the regulation of commercial television. It has at its disposal an administrative service mandated to monitor programmes of electronic media. However, the work of this service is not transparent enough and it is sometimes inadequate. Infringements of EMA are clearly visible, but there are no repercussions for the media organisations that do not respect its provisions.

The *Ministry of Sea, Transport and Infrastructure* (MSTI)<sup>34</sup> is responsible for electronic communications. The MSTI creates strategies for the technological development of electronic communication in Croatia and monitors its implementation. The national regulatory body is the Croatian Post and Electronic Communications Agency (CPECA), a public agency in charge of sustainable competitive conditions in the market, the monitoring and regulation of prices and the general business requirements in the electronic communication market. The Agency is also in charge of market analysis; it defines the rights and obligations of telecommunication operators and decides on the allocation, transfer and withdrawal of licences. It also creates the radio frequencies plan, manages the technical maintenance of the radiofrequency spectrum, monitors the implementation of ECA and cooperates with the EU regulatory bodies and other legal entities. The CPECA reports its annual activity to the Croatian Parliament and to the Government. Funds for carrying out these tasks are secured from various fees (for the use of addresses and numbers, the use of radio-frequency spectrum etc.) and from a percentage of the total annual gross revenue earned by operators in the previous calendar year through providing electronic communication networks and services in the market.

The *Parliamentary Committee on Information, Computerisation and the Media* (PCICM)<sup>35</sup> of the Croatian Parliament participates in the enactment of legislation in the field of media, and monitors the implementation of media policy.

The regulatory body for market competition is the *Agency for Market Competition Protection* (AMCP) and the *Council for Market Competition Protection* (CMCP) that operates within the agency. The CMCP consists of five members appointed by the Croatian Parliament upon recommendation from the Government.

The area of audiovisual activities is within the purview of the Ministry of Culture. The public regulatory body is the *Croatian Audiovisual Centre* (CAC),<sup>36</sup> financed

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<sup>34</sup> See Ministry of Sea, Transport and Infrastructure, official website, available at: [www.mmpi.hr](http://www.mmpi.hr) (last visited on 21/10/2010).

<sup>35</sup> See Croatian parliament, page of the Parliamentary Committee on Information, Computerisation and the Media, available at: <http://www.sabor.hr/Default.aspx?sec=2665> (last visited on 21/10/2010).

<sup>36</sup> Croatian Audiovisual Centre, official website, available at: [http://www.havc.hr/index\\_eng.php?menu\\_id=9](http://www.havc.hr/index_eng.php?menu_id=9) (last visited on 21/10/2010).

through the state budget and its own activities. Among other tasks, the CAC issues public calls for applications for funding of audiovisual production.

The *National Programme for the Promotion of Audiovisual Activity* adopted by the Minister of Culture for a four-year period, aims to define a framework for the stimulation of audiovisual activities. It is funded through the state budget and a part of the annual gross income derived from the exercise of audiovisual activities by: Croatian Radio-Television (2%); broadcasters of television programmes at the national level (0.8%); broadcasters of television programmes at the regional level (0.5%); operators of cable distribution systems (0.5%); operators in fixed and mobile telecommunications networks and Internet providers (1%); and individuals who display audiovisual work in public (0.1%).

The *Croatian Journalists' Association* (CJA) is a professional association of journalists which has over three thousand members. It is a member of the International Federation of Journalists (IFJ). The main goals of the CJA are as follows: fulfilling of the professional interests, ethical standards and ensuring the freedom of public expression; promoting the constitutional right of the public to be informed on all events in the society and the right of any person to the freedom of expression, opinion and accessibility to the public media; protection of the honour and dignity of the profession; protection of journalists against the self-will of publishers and preventing monopoly; material and social protection of journalists. This Association has an Assembly as the main administrative body, which elects a President, Executive Board, Supervisory Board, Council of Honour and some members of the Administrative Board of the Solidarity Fund. The CJA has a significant influence in the media policy formulation and implementation due to the activities of its members, as well as due to the participation in drafting of past and current media legislation. Its assessments of particular issues related to the media freedom are crucial in shaping of public opinion and initiating necessary steps for legislative changes. Its Council of Honour has a significant role in maintaining high ethical standards in the journalists' profession.

The *Croatian Journalist Union* (CJU),<sup>37</sup> founded in 1990, has more than 3,000 members. Its activities include the free provision of legal advice in labour disputes between media owners and journalists. The CJU also negotiates collective work agreements for journalists and media workers with the state and media owners at the national level, in order to protect all workers, especially those working in small local media and part-time media associates. This association has raised issues regarding the worsening of the position of journalists in Croatia, as they have been increasingly subjected to precarious work, with short-term contracts, which keeps them in a constant position of insecurity. At the same time, media owners profit by avoiding paying social benefits (which is a backlash not only to journalists, but to the state's taxation system as well). This has serious repercussions on the quality of journalists' work and media performance in general.

The *Croatian Helsinki Committee*, established in 1993, has played a role in the monitoring of the freedom of information and expression.

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<sup>37</sup> See Croatian Journalist Union, official website, available at: <http://www.snh.hr/> (last visited on 21/10/2010).

The *Centre for Media and Communication Research*, established in 2007 at the Faculty of Political Science of the University of Zagreb is the university centre for the study of media and communication. It collects analyses and evaluates information on media.

## **3.2 The media regulatory framework**

### **3.2.1 Freedom of expression and information**

The Constitution of the Republic of Croatia<sup>38</sup> guarantees freedom of speech and is thought in accordance with Article 19 of the Universal Declaration of Human Rights<sup>39</sup> (UDHR) and Article 10 of the European Convention on Human Rights (ECHR).<sup>40</sup> The Constitution (Article 38) defines the freedom of expression in its full complexity guaranteeing its main components: freedom of the press and other media communication, freedom of speech and public expression as well as the right of free establishment of all institutions of public communication. This constitutional provision forbids any form of censorship. It also guarantees the right of correction to anyone whose constitutional and legal rights have been violated by public information. In Article 39 of the Constitution, incitement to war, violence, national, race or religious hatred, and any other type of intolerance is prohibited. These constitutional provisions lay down the legal basis which is further elaborated in the media legislation.

In the spirit of the above mentioned constitutional provision, Article 3 of the Media Act (MA)<sup>41</sup> states that the freedom of expression and freedom of media shall be guaranteed. This article even further deepens the meaning of the freedom of media stating that the freedom of media is particularly based on: freedom of the expression of opinion, independence of media, freedom of collecting, researching, publishing and disseminating information for the purpose of informing the public; pluralism and diversity of media, free flow of information and openness of the media for different opinions, beliefs and for various contents, accessibility to public information, respecting the protection of human personality, privacy and dignity, freedom of establishing legal persons for the performance of all media, printing and distribution of press and other media from the country and abroad, production and publishing of radio, television and other electronic media, autonomy of editors-in-chief, journalists and other authors of programme contents in compliance with professional codex. The limitation of the freedom of media shall be permitted only when and as 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 the reputation or rights of others, prevention of disclosing confidential information or for preservation of the authority and impartiality of the judiciary exclusively in the manner stipulated by this Law.

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<sup>38</sup> OG 56/90, 135/97, 113/00, 28/01 and 55/01- corrigendum.

<sup>39</sup> United Nations, "The universal declaration of human rights", available at: <http://www.un.org/en/documents/udhr/> (last visited on 21/10/2010).

<sup>40</sup> See Human Rights Education Associates, "Convention for the protection of human rights and fundamental freedoms as amended by Protocol No. 11", available at: <http://www.hrea.org/erc/Library/hrdocs/coe/echr.html> (last visited on 21/10/2010).

<sup>41</sup> OG 163/03, 59/04, available at: <http://narodne-novine.nn.hr/clanci/sluzbeni/306926.html> (last visited on 21/10/2010).

This declaratory provision covers all aspects of freedom of expression, but it lacks its full elaboration in the MA. From the observations of the public and experts it can be concluded that the improper regulation of issues such as respecting the protection of human personality, privacy and dignity could be stated as the main shortcoming of this Act.

The protection of interests such as human personality, privacy and dignity often compete with freedom of expression. Yet these interests should not always triumph over freedom of expression. However, the lack of journalists' and editors' professionalism in treating very delicate private matters has often been the stumbling block to the implementation of the formally correct legal norms which need to be backed by further elaboration of the rules for their enforcement. This points out to another very serious problem: the lack of any sanctions for the breach of the guaranties defined by this Act.

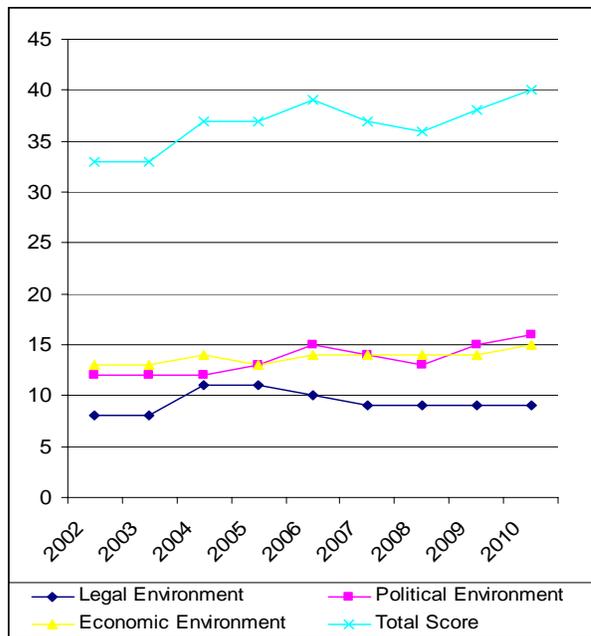
Under the pressure of some international organisations that monitored the drafting of the MA and which were concerned with political influence on the media, a provision was incorporated in Article 1(2) of the MA, according to which the provisions of this Act shall be applied and interpreted in line with the ECHR. According to Article 10 of that Convention the right of freedom of expression includes freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. However, the MA cannot provide for the full implementation of this provision since it lacks the needed application rules and measures as well as criteria of media freedoms. The Act does not even prescribe the obligation for the media publishers to publish truthful, complete and timely information respecting the right of the public to be informed about events, phenomena, persons, things and activities as well as the rules of journalists' profession and ethics. The issues of the truthful and complete information as well as obeying the rules of journalists' profession and ethics regularly arise as the unsolvable problems in the implementation of this Act.

The same importance to the Convention is attached in the wording of Article 2(4) of the Electronic Media Act (EMA)<sup>42</sup> which states that the ECHR shall apply to the relations governed by that Act. Article 3 of the EMA states that the freedom of expression as well as the freedom of full programmes of electronic media shall be guaranteed. Article 8 stipulates that the Republic of Croatia shall ensure the freedom of transmission and reception of audio and audiovisual media services from the EU Member States and other European states party to the European Convention on Transfrontier Television of the Council of Europe and that it may, in particular cases, restrict the freedom of broadcasting of those services only in compliance with international agreements and this Act. EMA incorporates the provisions of the Audiovisual Media Services Directive and formally guarantees to the media service providers the right to design programmes independently. It also envisages their liability for the programme. Their eventual exposure to indirect interference of their owners or co-owners e.g. local and regional units of self-government, cannot exclude them from legal responsibility.

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<sup>42</sup> OG 122/03, 79/07, 32/08, 153/09, available at: [http://www.e-mediji.hr/propisi/zakonski\\_akti.php](http://www.e-mediji.hr/propisi/zakonski_akti.php) (last visited on 21/10/2010).

The Republic of Croatia is a party to the European Convention on Transfrontier Television which in Article 4 regulates that the Parties shall ensure freedom of expression and information in accordance with Article 10 of the ECHR and that they shall guarantee freedom of reception and shall not restrict the retransmission on their territories of



programme services which comply with the terms of this Convention. There have been no cases of restricting the freedom of reception and retransmission of programme services in the Republic of Croatia.

Even though the legal framework ensures freedom of expression, political pressures are still occasionally present. Criticism of the establishment still has repercussions. Powerful media moguls and entrepreneurs guard the mediated sphere and diminish the space for critique. This is particularly problematic for small media outlets that are critical and focus on investigative journalism.<sup>43</sup> Needless to say, this

reduces media diversity.

Another problem is access to information. Public institutions retain a closed position towards the public, regardless of the regulatory provisions in the Access to Information Act (AIA)<sup>44</sup> that guarantees access to public sources. This creates difficulties in journalists' work. The pilot research, ordered by the CJA and the Association for Independent Media Culture, showed that most of the journalists were denied access to information (73%), by ministries and public institutions (schools, hospitals, faculties, social institutions). The denial of access was usually not explained but was brushed aside with the excuse of "not having the information". The average period of waiting for an answer was around two weeks. However, even though most of the journalists stated that they are familiar with the AIA, they never used it as an argument for their enquiry.<sup>45</sup> The Freedom House analysis for 2010<sup>46</sup> puts Croatia on the 85<sup>th</sup> place in the global press freedom rankings (196 states), and gives it a "partly free" status. This low ranking is

<sup>43</sup> The *Feral Tribune* - a critical weekly - did not manage to attract advertisers because they could not afford to be associated with the paper; they were threatened by large players that were often the target of criticism in the *Feral Tribune*.

<sup>44</sup> OG 172/03, available at: <http://narodne-novine.nn.hr/clanci/sluzbeni/307079.html> (last visited on 21/10/2010).

<sup>45</sup> The research was conducted by the sociologist Snjezana Beros. See H-Alter, "Kokoši na tri noge" [Three-legged chicken], available at: <http://www.h-alter.org/vijesti/mediji/kokosi-na-tri-noge> (last visited 22/10/2010).

<sup>46</sup> Freedom House, Freedom of the press 2010, "Table of global press freedom rankings", available at: <http://freedomhouse.org/images/File/fop/2010/FOTP2010Global&RegionalTables.pdf> (last visited on 21/10/2010).

partially a result of the killing of two journalists in October 2009. However, the “partly free” status seems to be relatively stable with a slight tendency to worsening. The above chart clearly demonstrates such a tendency by showing the scores for legal, political and economic environment for Croatia in the period from 2002 until 2010.<sup>47</sup> The legal environment tends to be most stable which can lead to the conclusion that the implementation is the main problem.

### **3.2.2 Structural regulation**

In the Republic of Croatia any natural or legal person may establish a newspaper publisher or other media services provider. According to Article 11 of the Media Act (MA) and Article 2 of the Electronic Media Act (EMA) a newspaper publisher, radio and television broadcaster and other media service providers may be established and entered into a court or other register as a legal or natural person, provided that the legally stipulated conditions have been met and that they have a seat, i.e. a permanent residence and the editor’s office seat in the Republic of Croatia. The press registration is required. A newspaper publisher is obliged to report the publishing of the press in the Register kept by the Croatian Chamber of Economy. This model of establishing newspaper publishers and other media services providers meets all democratic standards and corresponds to the right of establishment criteria in the EU. Governmental bodies do not have any role in establishment of publishers and broadcasters.

According to Article 22 paragraph 1 of the EMA, providing television and/or radio media services may be performed by legal and natural persons (television and/or radio broadcasters) entered in the court register or other register prescribed in the Republic of Croatia in accordance with this Act and separate regulation. Operators must have obtained a concession and concluded a concession contract in accordance with the EMA and the Concessions Act (CA).<sup>48</sup> The Electronic Media Council (EMC) as an independent regulatory body conducts the procedure of granting concessions in compliance with the EMA, the CA and the ordinance referred to in Article 73(3) of the EMA. The EMC enters into a concession contract with the most advantageous tendered pursuant to the EMA. Also the EMC conducts the procedure of granting licences for providing audio and/or audiovisual media services on demand and satellite, Internet and cable transfer of audiovisual and/or radio programmes. This procedure of granting the concessions and licences, clearly prescribed by the EMA, satisfies the necessary criterion of transparency.

The protection of pluralism and diversity in the media finds its realisation through a number of measures prescribed by the media legislation. Since the application of general competition rules are not sufficient to guarantee the observance of demands concerning cultural and media diversity and the pluralistic expressions of ideas and opinions, the most important measures for the protection of these values prescribed by the

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<sup>47</sup> For yearly analyses see Freedom House, Freedom of the press, available at: <http://www.freedomhouse.org/template.cfm?page=16> (last visited on 21/10/2010).

<sup>48</sup> OG 125/08, available at: <http://narodne-novine.nn.hr/clanci/sluzbeni/306318.html> (last visited on 21/10/2010).

media legislation are the transparency of ownership structure and prohibition of the impermissible concentration.

The media legislation guarantees transparency of ownership structure by imposing the obligation of publishing in the official gazette data on stock holders and share holders every year. According to Article 37 of the MA an impermissible concentration of enterprises in the market of general information daily newspapers or general information weekly magazines shall be considered to exist if the market share of participants in that particular enterprises' concentration exceeds 40% of all sold copies. This restriction imposed to the newspaper publishers was at the time of the adoption of this law criticised as an inappropriate threshold in a rather small Croatian print market. However, there were no proposals for its removal or imposition of a harsher measure that would eventually allow for an increase of the sold copies.

The EMA (Article 54) regulates impermissible concentration taking into account the horizontal integration phenomena as well as vertical integration phenomena. Article 54 precisely regulates the impermissible concentration in the areas of TV and radio broadcasting and print media.<sup>49</sup>

According to Article 60(1) of the EMA a legal person whose activity is collection, shaping and mediation in advertising, as well as a natural or legal person, or a group of connected persons, that has more than 10% of the ownership share in the capital of an advertising company, i.e. property of that sort, or has more than 10% of management or voters' rights, may not be a television and/or radio broadcaster and/or founder of radio and/or television broadcaster, nor can it have ownership of stocks or shares in the capital of the television and/or radio broadcaster. According to Article 61 of the EMA an operator who performs the activity of audiovisual and/or radio programme transmission may not be the television and/or radio broadcaster as well as the media service provider who has the licence for satellite, Internet and cable transmission of the audiovisual and/or radio programme or other permissible ways of transmission. The mentioned provisions on ownership and concentration also apply to foreign legal and natural persons, regardless of the state in which they have their seats, i.e. permanent residence.

The regulations on the protection of competition, through the Market Competition Protection Act (MCPA)<sup>50</sup>, also apply to publishers, legal persons engaged in media distribution, and other legal persons performing tasks related to public informing as well as to media service providers. This Act generally regulates the abuse of dominant

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<sup>49</sup> It regulates concentration for TV and/or radio broadcasters with a concession on state level in relation to other broadcasters on the regional, county, city or municipality level; in relation to publishers of daily newspapers; in relation to a legal persons who perform the activity of a newspaper agency; the television and/or radio broadcaster with a concession on state level which simultaneously publishes daily newspapers; television and/or radio broadcaster with concession at the local or regional level in relation to other broadcasters at the local or regional level; television and/or radio broadcaster with concession at the local or regional level who simultaneously publish daily newspapers; the media service provider who has the licence for satellite, Internet and cable transmission and who simultaneously publishes daily newspapers; the media service provider who has the licence for satellite, Internet and cable transmission and who has a certain share of the capital of a publisher who publishes daily newspapers.

<sup>50</sup> OG 48/95, 52/97, 89/98, 122/03, 79/09, available at:

[http://narodne-novine.nn.hr/clanci/sluzbeni/2009\\_07\\_79\\_1877.html](http://narodne-novine.nn.hr/clanci/sluzbeni/2009_07_79_1877.html) (last visited on 21/10/2010).

position and incompatible concentration and represents the additional tool for the protection of plurality and diversity in the media sector.

However, some of these provisions have been criticised by the Croatian Chamber of Economy (CCE), engaged in the collection of data. The CCE argues that there is no official classification of relevant markets, which results in figures on market shares being calculated in an arbitrary manner. Furthermore, the monitoring of the provision according to which media owners have to make their data public is not regulated and nobody knows whether this is implemented or not. The overall evaluation of the MA is that it is outdated and needs to be written in accordance with new developments in the media sphere.

### **3.2.3 Content regulation**

Regarding general content requirements designed to satisfy citizens' information needs and ensure equal media access for diverse points of view, the Croatian media legislation regulates these questions in a satisfactory manner, especially in relation to the commercial electronic media. However, there is a lacuna in the Media Act (MA) in relation to the obligation of the printed media since this Act does not prescribe the obligation for the media publishers to publish truthful, complete and timely information respecting the right of the public to be informed about events, phenomena, persons, things and activities.

This Act does not regulate the printed media principles and obligations regarding the citizens' information needs and the equal media access for diverse points of view.<sup>51</sup> In spite of the fact that it provides for the journalists' right to express their standpoints regarding all events, occurrences, persons, subjects and activities, it fails to ensure the adoption of self-regulatory media statutes that should enable journalists to exercise these rights by regulating relationships between the publisher, editor-in-chief and journalist as well as their mutual rights and obligations. The media statutes should be defined within the first six months of the media organisation's establishment and operation. If this is not the case, it should be defined through an arbitration procedure requested by the journalists' representative. However, it is suspected that almost none of the media organisations have followed this regulation, and this is a problem that has been raised by the CJU.

The publishers in the Republic of Croatia are free to establish the programme basis of the media independently. Prior to a change or important supplement to the programme basis, the publisher is obliged to obtain the opinion of the editorial board (MA, Article 14). According to Article 7(1) of the Electronic Media Act (EMA), media service providers, in compliance with this Act, independently form the programme basis of the media and are liable for the programme provision.

The question of the codes of conduct, ethics codes and codes on editorial freedom is generally regulated by the MA. A journalist has the right to refuse to prepare, write or participate in the drafting of a report, the content of which is contrary to the rules of the journalist profession and ethics, about which he will inform the editor-in-chief in writing.

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<sup>51</sup> In light of the freedom of expression guarantees, the state refrains from intervening in the regulation of contents.

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 in the editorial board. If in case of a dispute journalists express facts which justify the doubt that the termination of the working contract, decrease of salary or altered position in the editorial board is the consequence of refusing to act upon order, the burden of proof falls on the publisher (MA, Article 28). The ethics code has been established by the Croatian Journalists' Association, but it has been regularly breached since this organisation has not a clout to actively enforce the ethics rules among its members.

Regarding quota rules and obligations to invest in content production, the EMA imposes on the broadcasters the obligation to ensure broadcasting a prescribed portion of own production, European works and audiovisual works of independent producers. According to the Draft Proposal of the Croatian Radio Television Act (CRTA), the Croatian Radio Television will have a significantly higher quota and obligations regarding the mentioned works than the commercial broadcasters. These rules are generally observed except the quota for the own production which has been breached in prime time by commercial broadcasters. The new EMA has lowered this quota in order to accommodate economic potential of the broadcasters.

The current CRTA (2003) emphasises the importance of balanced broadcasting of information, culture, education and entertainment. The content has to be of interest to the public, defined as political, economic, social, health, cultural, educational, scientific, religious, ecological, sport and other events that facilitate an open and free debate. CRTA stresses that attention has to be given to specific groups such as the Croatian diaspora, national minorities, children and youth, and people with disabilities. More than 55% of the programme has to be produced in the Croatian language (particularly movies, documentaries, cartoons and entertainment), while 50% of the remaining programme has to be in a European language or of European production. (Article 10) A minimum of 10% of the television programme has to be produced by independent producers (exceptions are news, sports events, games and advertisements) (Article 11).

Radio and television broadcasters operating at regional and local levels have to devote 10% of their total weekly programme to news. National operators have to include 30 minutes of news programme daily, with one news bulletin at least 20 minutes in length (EMA, Article 36). The television broadcaster has to devote 20% of its daily programme to its own production, while the similar quota for radio broadcasters is 30% of their daily programme. Radio broadcasters also have to play 20% of Croatian music daily (EMA, Article 39).

European audiovisual works (which includes Croatian audiovisual works and own production) need to comprise the majority of broadcasting time. In order to fulfil this requirement, the broadcasters annually have to increase it by 20%, compared to the previous year. (EMA, Articles 40, 41, 42). This does not include news, sports, games, advertisements, teletext and telemarketing. Independent production has to comprise 10% of annual broadcasting time (EMA, Article 44).

A new draft of the CRTA has been prepared and was a matter for public debate in April 2010. The main reason for change is harmonisation with EU regulations,

particularly concerning the protection of market competition which aims to ensure that public services are clearly separated from the commercial activities of the PSB. In this respect the law has to be harmonised with the Rules on State Subsidies for Public Broadcasting Services<sup>52</sup> through which the public function of the PSB has to be more precisely defined.

The act needs to be changed in respect to technological innovations that enable diversification of services through different platforms of distribution. New regulations are needed that would be in accordance with the new EMA. The proposed draft introduces a five-year contract between the CRT and the Croatian Government that would define the financial assets needed to fulfil the contractual programme-related units. Funds gained through state subsidies (licence fees) can only be used for the costs of maintaining the public service. The envisaged changes diminish the role of the Programme Council, particularly to the domain of programme monitoring and the appointment of editors, while the Supervisory Board takes over the appointment of the general manager and financial supervision. So far the consensus on the draft act proposal and the way the PBS should operate in future has not been reached.

Advertising is regulated in the MA (Article 20) and relates to all media. It is also regulated in the EMA (for all electronic media) and the CRTA<sup>53</sup> for public service broadcasting. Regulation is in line with the current European standards and the EU legislation. The essential change is expected as regards the Croatian Radio Television since the draft proposal of the CRTA significantly shortens the duration of commercials in each of the HRT programmes in television programme channels, especially in prime time which will undoubtedly improve the market position of the commercial broadcasters and their ability to invest more in their programme.

The Illegal Advertising Act (IAA)<sup>54</sup> applies to advertising rules linked to fair competition. The EMA (Article 16) prohibits covert audiovisual commercial communication and subliminal techniques. The overall duration of advertising and teleshopping for television broadcasters shall not exceed 12 minutes per hour. These can be inserted between and within a programme, but in such a way that the integrity and value of the programme and authors' rights are not violated. For non-profit media the overall time of advertising cannot exceed three minutes per hour (EMA, Article 48).

In respect to defamation and libel rules, in the light of the present legal provisions on the criminal offences of libel and defamation in Article 199, 200 and 203 of the Penal Code,<sup>55</sup> it is an accepted view that the criminal offences mentioned may be considered decriminalised since the current provisions prescribe a fine for the defamation as well as for press libel. However, the Penal Code expressly stipulates that there is no criminal action if a defamation or libellous content has been rendered in the journalist job with the

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<sup>52</sup> OG 31/10, available at: [http://narodne-novine.nn.hr/clanci/sluzbeni/2010\\_03\\_31\\_726.html](http://narodne-novine.nn.hr/clanci/sluzbeni/2010_03_31_726.html) (last visited on 21/10/2010).

<sup>53</sup> OG 25/03, available at: [http://narodne-novine.nn.hr/clanci/sluzbeni/2003\\_02\\_25\\_362.html](http://narodne-novine.nn.hr/clanci/sluzbeni/2003_02_25_362.html) (last visited on 21/10/2010).

<sup>54</sup> OG 43/09, available at: [http://narodne-novine.nn.hr/clanci/sluzbeni/2009\\_04\\_43\\_984.html](http://narodne-novine.nn.hr/clanci/sluzbeni/2009_04_43_984.html) (last visited on 21/10/2010).

<sup>55</sup> OG 110/97, 27/98, 50/00, 129/00, 51/01, 111/03, 190/03, 105/04, 84/05, 71/06, 110/07 and 152/08 (last visited on 21/10/2010).

exception of the behaviour that is only aimed at harming one's honour and reputation which can be clearly concluded from the way of expressing and other circumstances.

Also, according to Article 21(1) and (7) of the MA, the publisher who by publishing information in the media causes damage to another person shall be obliged to pay compensation, except in cases stipulated by that Act. If the information has been authorised, and certain parts thereof contain evident insults or libels, the authorisation shall not exclude joint liability of both the publisher and the editor in chief, if they failed to act in good faith.

According to Article 7 of the MA 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 by his statements, behaviour and other acts relating to his personal or family life himself draws attention of the public cannot request the same level of the protection of privacy as other citizens. There shall be no violation of the right to the protection of privacy if in relation to the published information a justified interest of the public prevails over the protection of privacy with regard to journalist profession or information (Article 8). It is assumed that the protection of privacy is the weakest part of the Act because there is a widespread opinion that the media trespassing on someone's privacy happens too often without any responsibility on the part of the media.

According to Article 16 of the MA, the media shall be obliged to respect privacy, dignity, reputation and honour of citizens, especially of children, youth and the family. The publishing of information that discloses identity (e.g. of a child, of a witness) shall be prohibited. This provision is also regularly breached on the detriment of the children and young people without any consequence on the part of the media.

Concerning the rules for private websites, blogs, news groups and civic journalism, the EMA regulates *electronic publications* i.e. edited websites and/or portals containing electronic versions of printed press and/or media information thus being available to general public regardless of their volume. The Act forbids the hatred speech in the electronic publications as well as the contents which offend human dignity and contain immoral and pornographic content or might seriously impair the physical, mental or moral development of minors. The Croatian media legislation does not regulate private websites and blogs, although the rule that the hatred speech is not allowed on the private websites and blogs applies as a general rule deriving from other legislation.

The MA contains the rules regarding information gathering processes. Article 6 of the MA states as follows: "With the aim of publishing information through the media, bodies of executive, legislative and judiciary power and bodies of local and regional self-government units, as well as other legal and natural persons who perform public service and/or duty, shall be obliged to provide accurate, complete and timely information on issues from their scope of activity. Information held by the mentioned persons shall be accessible to journalists under equal condition" (MA, Article 6(1)-(2)). This issue is also regulated by the Access to Information Act (AIA). Generally speaking, these legal provisions regulating the access to information have not been fully observed so far by the private and public (state bodies, bodies of local and regional self-government) legal

persons, which has added to the partial obstruction of the fulfilling of the media's mission to inform citizens truthfully, completely and timely about the events, phenomena, persons, things and activities. This problem has been spotted as very significant so that amending of the AIA is under way.

The protection of journalists' sources is also addressed by the MA in the way that it gives guarantees against the disclosure of the published information. In the specified cases which relate to interest of national security, territorial integrity and protection of the health the court may order the journalist to disclose data on the source of the published information or information he intends to publish. Although this provision was seen as an intrusion on the journalists' freedom there has never been a request for its enforcement before the court. Furthermore, the courts have no means to enforce it since there is no fine prescribed in the law in case of the breach of such a court order.

By virtue of Article 3 of the MA limitation to the freedom of the media may be permitted only when and to the extent necessary in a democratic society in the interest of national security. This situation has never occurred in the Republic of Croatia even during the war in the 1990s. The same applies for the provision of the EMA that openly forbids the audio and/or audiovisual services jeopardising the constitutional order and national security [but this situation also has never happened].

### **3.3 Other media policy tools**

*The Fund for Promotion of Pluralism and Diversity of Electronic Media* which is the Fund of the Croatian Electronic Media Agency (EMA, Articles 63 and 64) has a significant impact on the democratic functions of the media. The Fund's means (3% from the CRT fee) are regularly used for stimulating the production and broadcasting of audiovisual and radio programmes of television and/or radio broadcasters at the local and regional levels which are of public interest and audiovisual and radio programmes of non-profit television and/or radio broadcasters (community television /radio). The financing from the Fund includes particularly programmes important for the exercise of citizens' right to public information, promotion of cultural creativity and fostering of cultural heritage, development of upbringing, education, science and arts, promotion of works in dialects of the Croatian language, promotion of special programmes in areas of special state concern, national minorities in the Republic of Croatia, encouragement of the development of the awareness of gender equality, and promotion of programmes for children and youth aiming at enhancing their well being.

The Fund is also used for stimulating employment of highly qualified skilled employees in television and/or radio broadcasters at the local and regional levels and non-profit television and/or radio broadcasters. Notably, it is the only financier to a number of local broadcasters since they would not be able to operate without financial means earmarked for their programmes. The role of the Fund is especially essential for the national minorities' media which broadcast in their languages. Grants are distributed once a year based on the public tender and prescribed criteria.

#### 4. Media policy and democratic politics: an assessment

The deregulation in the media sector took place during the 1990s and started with the adoption of the *Act on Public Information* (1996) liberalising domestic media ownership. This Act did not contain any restrictions on the printed and electronic media ownership, which triggered the establishment of many new printed media. The media ownership restrictions for the printed media were imposed by the *Media Act (MA)* in 2003, in the form which is effective today. Two foreign TV companies entered the media market in 2000 and 2003, but the deregulation of the electronic media started in 2003 when the *Croatian Radio Television Act (CRTA)* prescribed the privatisation of the third channel of the Croatian Radio Television (CRT) which was allocated to the private company established by the foreign capital. In addition to the CRT, 24 television and 155 radio concessionaries are active in the Republic of Croatia today, while the number of electronic publishers has not been established. The number of printed media oscillates between 2,525 in 2008 and about 850 in 2010.

All political forces as well as the proponents of foreign investment supported deregulation in the media sector predicting a fast development and benefits for both the citizens and the media. However, the first results of liberalisation warned about the consequences of uncontrolled privatisation for the overall media landscape and the unrestricted concentration of cross-media was stopped. The *Electronic Media Act (EMA)* adopted in 2003 set forth the rules for the diagonal integration which was positively accepted by the public.

The transition to democracy significantly influenced the media and media policy in the 1990s. At that time the state influence on the media was evident especially as regards the CRT and the state owned newspaper *Vjesnik*. The local media owned by the local self-government units were also under the political aegis of local politicians. In 2003 the *CRTA* was adopted transforming the CRT from the state run television into the public television. Since then the political influence on the media has been losing its leverage and it has been slowly superseded by the pressure of different commercial interests. In the transitional context the links between the (foreign) commercial investors and the local political elites were at that time strong and functional. They were well harmonised in transferring the control over media to commercial interests which contributed to the establishment of the media market where the positions of new owners were privileged and in many respects favoured by the state. Today the forms of state intervention and control of media are not visible in the operation of the private media companies. Limited political influence can be exerted through the procedure of appointing the members of the governing bodies which can eventually promote certain political interests. The state retains its founding rights in the CRT, the Croatian Information and News Agency (HINA) and the newspaper *Vjesnik*. It financially supports the activities of *Vjesnik* and of HINA although the agency operates on the contractual basis with users of its services, while the CRT is financed through the radio-television fees and advertising. Political intervention is more visible on local levels where the local self-government units own and co-own a number of local media. The commercial interests are also entrenched in the media companies which depend on their advertising revenues and are compelled to modify their standpoints accordingly.

Although the current media legislation protects pluralism and diversity of the

media the fact that the media outlets earn their income in the market makes them vulnerable to the interests of commercial groups. Article 28 of the EMA expressly forbids state bodies and their representatives, as well as labour unions and various interest groups, to exert influence over television and/or radio broadcasters regarding the creation of audiovisual or radio programme. However, the current economic crisis induces some media to restore links with the state and political powers and to try to enter the Government programme for the economic recovery, which may have the worst possible impact on the media independence and functioning. The media is trying to survive through harsh conditions imposed by the recession. A number of media companies are running debts due to the current situation in the market. This adverse situation also has a negative impact on the work of journalists and their determination to work in line with the best professional and ethics practices.

The public service broadcaster, the CRT, is at the moment in the middle of the financial, organisational and editorial crises. The present situation in the public service may illustrate the adverse economic and legal developments. The CRT is currently indebted trying to cut its operational expenses. At the same time the public television is undergoing a crisis in terms of its leadership and editorship exposed to harsh inner tensions provoked by different interest groups. The Programme Council has not managed to appoint the director general of the CRT since December 2009 when the director general and other members of the CRT Management Board resigned under the pressure of the Programme Council. The company is currently run by the acting director general and acting members of the CRT Management Board. The Programme Council is also in the disarray whereas some of its members have submitted resignations to the Croatian Parliament. Now the CRT, which is a PBS, functions without supervision of the Programme Council, representing and protecting public interests, as well as without the regularly appointed Management Board.

At the same time the public television was to adjust its functioning and financing to the Communication from the Commission on the Application of State Aid Rules to Public Services Broadcasting (2009/C257/01). This adjustment demanded an additional effort to be invested in restructuring processes of the CRT, which prompted the Government to start the procedure of amending the CRTA. The Government has been drafting a new CRTA to be submitted to the Parliament for the second reading in the fall this year. The first draft was publicly debated in April 2010. It contained some controversial provisions, including the one stipulating that the Management Board should be appointed by a supervisory board nominated by the Croatian Parliament and proposed by the Government. In July 2010, during the first reading, a changed version envisaged that the civil society organisations and institutions should establish a programme council which would participate in appointing the management board together with the supervisory board. During the Parliament debate both position and opposition did not fully support the proposed concept, although they favoured the civil society participation in nomination of the programme council and management board. The new version of the CRTA is to be sent to the second reading with the intention to preserve the organisational and editorial independence of the public television, which would be a key democratic achievement in regulating its functions.

In parallel the Croatian Parliament received the Act on Amendments to the current CRTA proposing the cut of radio-television fee for 20%. This was interpreted as the political pressure on the public television. Following the public reaction the Government partly modified its proposal after negotiations with the CRT acting Management Board and agreed to postpone the deadline in which the Act should come into effect. The acting Management Board has undertaken to prepare a plan for the reorganisation and financial consolidation of CRT. This measure was perceived as a positive step towards improvement of the functioning of the public television.

Concerning a possible government control of the media regulatory body, i.e. of the Croatian Electronic Media Council, it is important to note that the president and other members of the Council are appointed by the Croatian Parliament upon the proposal of the Government. The Government announces a public invitation to nominate candidates for Council members every four years. This procedure has been criticised on the grounds that involvement of civil society is low and inadequate. In 2008 the public debate, held in line with recommendations of the European Commission, resulted in the conclusion that the involvement of civil society in the appointment of the Council members was appropriate. However, it was obvious that the appointed members of the Council represent only some of different groups of civil society. In some cases they lacked professional capacity to accomplish their job.

The new Electronic Media Act (EMA) intends therefore to support an increase of administrative capacities through the Electronic Media Agency that has been added to the Council as a professional service. The Council works independently and professionally in handling its most important duties prescribed by the EMA, which include allocation of the concessions and licences. The Electronic Media Agency should be further strengthened in the near future since the Proposal of the new CRTA envisages a number of tasks for this body.

The efforts, whether fruitful or not, that the Government has invested in the redrafting and amending of the CRTA reflect the problems that occur in the process of state regulation of the public broadcasting services. They also illustrate wider problems of implementation and enforcement of the media regulation, particularly visible in the area of freedom of expression.

The Croatian legal system has incorporated all necessary legal instruments to underscore the importance of freedom of expression coping at the same time with the protection of other concurrent rights and values such as privacy, personal dignity, family and professional life. There are views among legal experts that citizens are exposed to media violence and that the media cannot be stopped in deceiving and detrimental writing about someone's personal and family life. Unfortunately, the lack of respect for the basic human rights is usually accompanied by the disrespect of the journalist ethics and in some cases caused by the pressure from the publisher itself to get a better position in the media market.

In the legal sense these phenomena are to be corrected following the provisions of the Media Act (MA), regulating the right to correction of published information and the right of response to published information. The concerned natural or legal person has the right to request from the editor-in-chief to publish, free of charge, his/her correction or

reply to the published information. However, these rules are in many cases breached or circumvented by the publishers and the cases end before courts that usually take decisions when the published information is no longer relevant. Thus the legal institution does not help much to remedy the detrimental behaviour of media. This requires amending of the MA which is already under way.

Some other legal norms are not implemented fully. For example, the Republic of Croatia has a legal obligation to stimulate and protect pluralism and diversity of media by the financial means from the state budget (MA, Article 5). Since 2005 it was due to stimulate the programs of local and regional media as well as media intended to inform persons with special needs. It should have established new printed media, especially local and non-profit media, and media of non-governmental organisations. Unfortunately the state failed to carry out this obligation due to the lack of financial means, as well as due to the rather marginal public interest in such media. This state obligation is partly compensated by the Fund for Promotion of Pluralism and Diversity of Electronic Media that is financed by the apportionment of 3% of the CRT fee in line with the CRTA.

Media regulation and policy promote citizenship participation and democracy in the Republic of Croatia. The publishers and especially the public television, the CRT, are obliged to respect and encourage pluralism of political, religious, philosophical and other ideas and enable the public to be informed about them. In the realisation of their programming they are obliged to contribute to the respect and promotion of fundamental human rights and freedoms, democratic values and institutions, as well as to the development of the culture of public dialogue. The new EMA stipulates that the audiovisual or radio programs shall particularly promote understanding of international surroundings and the public's sense of justice, defend democratic freedoms, and promote equal treatment of national minorities.

In the Republic of Croatia the freedom of expression is guaranteed by the fundamental legal act, the Constitution of the Republic of Croatia as well as by a number of laws regulating the media sector. However, there is ample room for the implementation of these regulations, especially regarding the status and professional work of journalists.

The protection of pluralism and diversity in the media is realised through a number of measures prescribed by the media legislation. Since the application of general competition rules are not sufficient to guarantee the observance of demands concerning cultural and media diversity and the pluralistic expressions of ideas and opinions, the most important measures for the protection of these values prescribed by the media legislation are the transparency of ownership structure and prohibition of the impermissible concentration, which are at present difficult to observe in Croatia.

As regards general content requirements designed to satisfy citizens' information needs and ensure equal media access to diverse points of view, the Croatian media legislation regulates these questions in relation to the commercial electronic media. There is a lacuna in the MA in relation to the printed media since this Act does not prescribe obligations of the media publishers to publish truthful, complete and timely information respecting the right of the public to be informed about the events, phenomena, persons, things and activities

A significant impact on the democratic functions of the media exercises the Fund for Promotion of Pluralism and Diversity of Electronic Media established by the Croatian Electronic Media Agency. The Fund's means are regularly used for stimulating the production and broadcasting of audiovisual radio and TV programmes and/or radio broadcaster at the local and regional levels.

The codes of conduct, ethics codes and codes on editorial freedom are generally regulated by the MA. The ethics code has been established by the CJA, but it has been regularly breached since this organisation has not a clout to actively enforce the ethics rules among its members. The idea is that a new regulatory body should be installed to monitor implementation of these rules.

Taking it altogether the Croatian media legislation is in line with the European media standards and criteria. The updated media regulations are in accordance with European provisions and have taken into consideration contemporary technological changes and new media services. Media regulation and policy are designed to promote citizenship participation and democracy in the Republic of Croatia. However, the provisions are not always clearly stated nor fully enforced. Although publishers and especially the public television are obliged to respect and encourage pluralism of political, religious, philosophical and other ideas and enable the public to be informed about them, such obligations may be overshadowed by professional insufficiencies, ideological standpoints or market interests. In this respect there is a room for the improvement of regulations and legal provisions.

In such a context the media policies can hardly perform the role of public policies intended to regulate the development and functioning of activities having general social significance. In Croatia they are developed through fragmentary reactions to the market or state challenges, and are not quite able to express the public interest which itself is hard to define in a country in transition.

## **5. Conclusion**

During the last twenty years or so the media landscape in Croatia has almost constantly been upset by the radical changes in the social and political status of the media clearly reflected in the establishment of the media market, withdrawal of the state control of contents and difficulties in the media regulation and functioning. This is clearly reflected in precarious positions of journalists, occasional political pressures on the media and journalists and the domination of a few big media moguls. Independent media, which have had an important role in the democratisation processes in Croatia, and which have contributed to the diversity of the Croatian media landscape, have a hard time coping with the pressures of the market rules and the revived political and state interests in the media, prompted by the present economic crisis. The advertising industry, which is fuel for the media industry, unavoidably influences the type of content. The political and economic crisis also incites the political elites to strengthen their interests in the media, and the media to rely more on public sources and funds. In this context independent, alternative and critical discourses are hard to maintain.

The path from a state-controlled media system to a democratic one remains at the same time uneven and dynamic. The main aim of the proposed and partly implemented changes is harmonisation with the EU media environment, which is itself extremely complex. In this respect, interventions in the Croatian media system appear to be spiral: political and state interventions resurge from time to time, as well as public democratic moves and developments. Therefore it seems accurate to depict the processes of change as multi-directional. They are much more complicated than presented in the proclaimed aims and regulations. The media system is submitted to occasional and restricted changes mostly introduced under the pressure from the EU or from markets, but it is not systematically restructured. The changes are not rooted in coherent media policy strategies, but reflect a fastly changing interplay of different influences and interests. In such a situation it is difficult to define the roles that politics, the state, private media or civil society may play, particularly because their mandates or areas of competence are not précised.

It is therefore no wonder that the media policies are not transparently elaborated. To a certain degree such policies are defined through the legal regulations of media. However, since the legal provisions are not fully enforced, it is difficult to analyse the policies that they intend to promote. There are also different levels of policy elaboration: the state, the local political actors, private media owners and public media services all develop some policy aspects or particular approaches which are not coordinated or systematised on the country level. The absence of a systematic interlinking among them reflects the political and economic systemic insufficiencies.

The dominant forces that shape the contemporary media landscape in Croatia slide between different types of “dependencies” (public or private) of the media. How do political forces ensure a framework for independent media in this context? What emerges as a field within which alternatives might be vivified is civil society, an area within which participatory democracy might promote public interests often marginalised by the state or private sector. However, this area is to a large extent limited to online media and smaller audiences. Moreover, the possible democratic impacts of the online media still remain to be tested. It is unknown to which extent they may represent commercial interests that expand very quickly through the application of new technologies, and whether and how they could stand for public interests and democratisation.

The Croatian media reflect struggles with challenges that are linked to the transformation of the political and economic system and those dominating media systems in “old” democracies such as commercialisation, tabloidisation, infotainment, a rise of celebrity culture and forms of covert censorship and self-censorship. Most media actors react to such challenges by drafting new regulations, which may orientate the issuing media policies to treat these problems separately. Such an approach neglects a wider development context and social backgrounds of new types of communication that are contextualising media policies.

This is reflected as a discrepancy between regulatory provisions and their practical implementation. Rather frequent and fast regulatory changes in Croatia during the last about fifteen years have often created confusion as to which provision to follow and how to interpret them. The most serious consequence is that the rules are not even expected to be followed, which leads to distrust in the functioning of public institutions

and the legal system. In this respect there is a room for the enforcement of regulations and improvement of legal provisions in the future.

The clearly visible improvements in the contemporary media landscape are seen in technological innovations, in the establishment of new media services and in an evident plurality of media. Although delayed and fragmented, the media policies are developed to rationalise and eventually organise all such changes which influence the local situations in a specific way that is at the moment hardly followed or analysed. However, the innovative new media services prompt more open and fast communication and thus support public interest in general democratisation of the society and in media democratisation in particular. The development of media policies is a part of such processes and expected to rationalise and improve media functioning.



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