

## The media act

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### I. GENERAL PROVISIONS

#### Article 1

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

(2) The provisions of this Act shall be applied and interpreted in line with the European Convention on the Protection of Human Rights and Fundamental Freedoms.

#### Article 1a (OG, No. 81/13)

This Act contains provisions pursuant to the Directive 2006/123/EC of the European Parliament and the Council of 12 December 2006 on services in the internal market (OJ L 376, 27. 12. 2006).

#### Article 2

For the purposes of this Act, terms have the following meanings:

The media means newspapers and other print media, radio and television programmes, programmes of newspaper agencies, electronic publications, teletext and other forms of daily or periodical publishing of editorial programme contents through the transmission of recording, voice, tone or picture. Media shall not comprise books; school books; bulletins; catalogues or other holders of information publishing intended exclusively for educational, scientific and cultural process, advertising, business communication, internal operations of trade companies, institutes and institutions, associations, political parties, religious and other organizations; school papers; the "Official Gazette" of the Republic of Croatia; official papers of local and regional self-government units and other official releases, posters, leaflets, brochures, banners and video sites without a live picture and other free information, unless otherwise stipulated by this Act.

Public informing means informing exercised through the media.

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

Programme basis of the media means the selected programme contents (general or specialized) which are determined and published by the publisher when establishing the media.

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

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

Journalist means a natural person who is involved in collecting, processing, designing or classifying information for publishing through the media and is employed with the media publisher on the basis of a work contract, or performs journalist activities as an independent profession, in accordance with law.

Editor in Chief means a journalist authorised to edit the media and appointed by the media publisher in a manner stipulated by law. The Programme Director shall be considered the Editor in Chief in the electronic media if the Editor in Chief has not been appointed.

Self-regulating acts means the rules of the journalist profession and ethics, media statutes and other acts that determine professional and other rules of behaviour or regulate relations in the media profession, and that are independently established by publishers, journalists and their associations.

The press means newspapers and other periodicals published at least once every six months, in a circulation of more than 500 copies. Printed work in the circulation of less than 500 copies and published occasionally shall be considered press if intended for distribution.

General-information press means the press which jointly publishes programme contents intended for continuous informing of the public on current social, especially political, economic, social, cultural life and other events in Croatia and the world.

Information means data, text, photograph, sketch, cartoon, movie, verbal report, value judgement or other report published in the media.

Public information means any information held by bodies of executive, legislative or judicial power, bodies of local and regional self-government units, as well as by other legal and natural persons performing public service or duty, and which pertains to their work and activities.

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

Authorisation means a certification of the authenticity of a statement or conversation intended for publishing, provided in written or verbal form, if there is a sound recording on verbal authorization.

Privacy means personal and family life, and above all, the right to life according to one's own choice and option.

Competent ministry means the Ministry of Culture.

## II. GENERAL PRINCIPLES

### 1. Freedom of the media

#### Article 3

(1) The freedom of expression and freedom of the media shall be guaranteed.

(2) Freedom of the media shall comprise in particular: freedom of the expression of opinion, independence of the media; freedom to collect, research, publish and disseminate information for the purpose of public informing; pluralism and diversity of media, free flow of information and

openness of the media to different opinions, beliefs and various contents, accessibility to public information; respect for the protection of human personality, privacy and dignity; freedom to establish legal persons for the performance of activities in public informing, printing and distribution of press and other media from the country and abroad, production and publishing of radio and television programme, as well as other electronic media; autonomy of editors in chief, journalists and other authors of programme contents in compliance with the professional codex.

(3) Limitations to the freedom of the media shall be permitted only when and to the extent necessary in a democratic society in the interest of national security, territorial integrity or public peace and order, prevention of disorder or criminal acts, protection of health and morality, protection of the reputation or rights of others, prevention of disclosing confidential information or for the purpose of preserving the authority and impartiality of the judiciary solely in a manner stipulated by law.

(4) It shall be prohibited to transmit programme contents in the media which incite or glorify ethnic, racial, religious, gender or other inequality or inequality on the basis of sexual orientation, as well as ideological and state creations on the basis of such foundations, and to provoke ethnic, racial, religious, gender or other animosity or intolerance, animosity or intolerance on the basis of sexual orientation, to incite violence and war.

#### Article 4

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

(2) The court shall decide on violations of the freedom of expression and freedom of the media.

### 2. Obligations of the state to promote pluralism and diversity of the media

#### Article 5

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

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

- exercise of the right to public informing and having all the citizens of the Republic of Croatia well informed,
- exercise of the right to public informing and having all Croats outside the borders of the Republic of Croatia well informed,
- exercise of the right to public informing and having the national minorities in the Republic of Croatia well informed,
- informing of the public on national minorities and issues related to the exercise of minority rights in the Republic of Croatia, and promoting tolerance and culture of dialogue,
- exercise of human rights of citizens, regulation of the rule of law and social state, and promotion of public awareness on equality of women and men;
- preservation of Croatian national and cultural identity;
- promotion of cultural and artistic creativity;
- development of education, science and arts
- protection of nature, environment and human health
- media intended for informing persons with special needs
- establishment of new printed media, especially local and non-profit media, and media of non-governmental organizations.

(3) Decisions on state subsidies for the realisation of tasks referred to in paragraph 1 of this Article shall be public and shall be passed in compliance with a special regulation. The minister of the competent Ministry shall stipulate by means of an Ordinance the conditions, criteria and procedure of conducting a regular annual public competition for allocating state subsidies from the state budget funds.

### 3. Accesibility to public information

#### Article 6

(1) 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.

(2) Information held by persons referred to in paragraph 1 of this Article shall be accessible to journalists under equal conditions.

(3) The head of the body or a legal person referred to in paragraph 1 of this Article shall be obliged, in compliance with the law, to regulate the manner of providing information to the public and determine a person who shall ensure access to public information in compliance with this Act and other special laws.

(4) The head of the body or legal person referred to in paragraph 1 of this Article and the person referred to in paragraph 3 of this Article shall be obliged to provide journalists with the requested information in an appropriate time framework, and shall be accountable for the accuracy of the information provided.

(5) The person referred to in paragraph 3 of this Article may withhold the provision of information when:

- the requested information have been defined, in the proper manner and for the purpose of protecting the public interest, as a state or military secret;
- the publishing would represent a violation of the confidentiality of personal data in compliance with the law, unless their publication may prevent the execution of a severe criminal acts or immediate danger to the life of people and their property;

(6) In the case referred to in paragraph 5 of this Article, a responsible person shall be obliged to explain in writing the reasons for withholding information within three working days from the day on which the written request for information was received.

(7) In case of withholding of public information, a journalist shall have the right to file a complaint due to the illegal act with the competent court. The competent court shall decide on the complaint under a special law in the emergency procedure, during which it shall examine the reasons for withholding of public information. Should the Court establish that no reason for withholding of information exists as stipulated by this Act, it shall abolish the decision on withholding of information and order the provision of requested information.

### 4. Protection of privacy

#### Article 7

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

(2) 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 or she performs.

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

#### Article 8

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 the journalist profession or information.

### III. RIGHTS AND OBLIGATIONS OF PUBLISHERS

#### 1. Publisher

##### Article 9

(1) A media publisher shall perform activities in the sphere of public informing in compliance with the provisions of this Act and special acts.

(2) While performing his activity, the publisher may also create or produce programme contents for another publisher or technical transmitter of programme contents.

##### Article 10 (OG, No. 81/13)

Erased.

##### Article 11 (OG, No. 81/13)

(1) A newspaper publisher may be established in the Republic of Croatia and entered into a court or other register as a legal or natural person, provided that, in addition to the legally stipulated conditions, its seat and the editor's office seat are situated in the Republic of Croatia.

(2) By way of derogation from the provision of paragraph 1 of this Article, a newspaper publisher with a seat in another Member State of the European Union or in another contracting country of the Agreement of the European Economic Area may permanently perform the newspaper publishing activity in the Republic of Croatia provided that it enters into a court or other appropriate register and has the editor's office seat in the Republic of Croatia.

(3) A newspaper publisher with a seat in another Member State of the European Union or in another contracting country of the Agreement of the European Economic Area may perform the newspaper publishing activity in the Republic of Croatia on a temporary or occasional basis pursuant to the provisions of the Services Act.

#### 2. Press registration

##### Article 12

(1) A newspaper publisher shall report the publishing of the press in the Register kept by the Croatian Chamber of Economy.

- (2) The registration form referred to in paragraph 1 of this Article shall contain the following data:
- company and seat, that is, the name, surname and permanent residence of the publisher, and the name and surname of the responsible person of the publisher,
  - name of the newspaper or other press
  - language, script and frequency of publishing,
  - planned average circulation,
  - company and seat, that is, the name, surname and permanent residence of the printer,
  - name, surname and permanent residence of the editor in chief,
  - data on the ownership structure of the media in compliance with this Act
- (3) The excerpt from the court or other register shall be enclosed to the registration form defined in paragraph 1 of this Article, while legal and natural persons performing a non-profit publishing activity shall also enclose the legal act stipulating that fact.
- (4) Legal persons performing the activity of press distribution shall also enter the Register referred to in paragraph 1 of this Article. The registration form shall contain the name of company and seat of the legal person and the name and surname of the responsible person. An excerpt from the court register and Terms and Conditions for press distribution referred to in Article 38 of this Act shall also be enclosed.
- (5) The Croatian Chamber of Economy may not refuse to issue the certificate of registration if the registration form contains all data referred to in paragraphs 2, 3 and/or 4 of this Article.
- (6) The Croatian Chamber of Economy shall be obliged to issue the certificate referred to in paragraph 5 of this Article within three working days from the day on which the registration form was received, if the registration form contains all data referred to in paragraph 2 and/or 4 of this Article, or invite the publisher within the same period to supplement the registration form.
- (7) If the Croatian Chamber of Economy fails to act in compliance with paragraph 6 of this Article, it shall be considered that the certificate of press registration has been issued.
- (8) The publisher shall be obliged to report any change of data stated in the registration form to the Register. The publisher shall be obliged to inform the Croatian Chamber of Economy about the decision on the cessation of press publishing on the day of publishing the last press edition (number) at the latest.
- (9) If the publisher fails to publish a new issue within a period longer than six months from the day of submitting the registration form, that is, from the day of publishing the last issue, it shall be considered that he gave up the publishing of that printed media.
- (10) The obligations of the publisher referred to in this Article shall also adequately apply to the programmes of newspaper agencies.

### 3. Information on the publisher and media of interest to the public

#### Article 13

- (1) The public has the right to information on the business operation of the publisher.
- (2) The right of the public referred to in paragraph 1 of this Article shall be limited as to publishing information on the publisher and the media prescribed by law.

#### Article 14

- (1) The publisher shall establish the programme basis of the media independently.
- (2) The publisher shall be obliged to inform the public through the media at least once per calendar year about the ownership structure, business results, average circulation, that is, average radio or television ratings.
- (3) Prior to a change or important supplement to the programme basis, the publisher shall be obliged to obtain the opinion of the editorial board.

#### Article 15

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

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

(2) The obligation referred to in paragraph 1 of this Article shall also pertain to broadcasters of electronic media in such a way that the data shall be announced at the beginning and at the end of radio and television programmes, that is, from midnight to one a.m. if the programme runs continuously, and in an appropriate way in electronic publications designed by editors.

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

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

### 4. Media principles and obligations

#### Article 16

(1) The media shall be obliged to respect privacy, dignity, reputation and honour of citizens, especially of children, youth and family, irrespective of gender and sexual orientation. The publishing of information that disclose the identity of a child if such information jeopardizes the wellbeing of a child shall be prohibited.

(2) The media shall be obliged to respect the right to the protection of the identity of witnesses and parties affected by criminal acts and may not disclose their identity without their knowledge and consent.

#### Article 17

The media publisher shall publish the following data, in appropriate sections of each programme content:

- name and surname of the author of published reports, unless an individual author decides otherwise:

- name and surname of a person or company, the holder of copyrights in respect to the published programme contents, except for printed media and radio programmes;
- name of a legal person, and name and surname of a natural person who safeguards the used cultural goods, archives or appropriate reproduction;
- name of the media from which the programme report or an excerpt from the programme report was taken over, unless otherwise stipulated by a mutual agreement.

#### Article 18

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

#### Article 19

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

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

(3) The request referred to in paragraphs 1 and 2 of this Article shall be submitted in written form and contain data which prove its authenticity and legal well-foundedness.

### 5. Advertising

#### Article 20

(1) An advertisement means a paid information the publication of which is ordered by a legal or natural person with the intention to promote the legal trade of a product, service, real estate, rights or obligations, to attract business partners or to create a reputation or good name in the public. Advertising shall be performed with financial or other compensation or for the purpose of self-promotion. An advertisement shall be clearly marked as such and visibly separated from other programme contents. An advertisement cannot be such as to create an impression with the viewers, listeners or readers that it is about the programme contents of the media.

(2) The following shall not be considered as advertising:

- statements given by the publisher in relation to its programme contents and side products resulting from the programme;
- free announcements about the performance of public works, services and charity activities;
- free presentation of art works.

(3) Free advertising shall have a special marking.

(4) Concealed and misleading advertising shall not be permitted. Concealed advertising shall be every form of journalism (written text, photograph, picture, drawing, etc.) which is paid in any manner but not clearly marked as advertising.

(5) Sponsored programme contents in the broadcast have to be clearly marked as such with the name of the sponsor or his sign.

- (6) The content of the advertisement shall be the exclusive responsibility of the advertiser.
- (7) The advertising of weapons and ammunition, tobacco and tobacco products, medicine and medical procedures accessible only with a prescription, alcohol and alcohol beverages, shall not be permitted unless otherwise stipulated by a special law.
- (8) Advertising in which women and men are depicted in an insulting or humiliating manner with respect to gender or sexual orientation shall be prohibited.

## 6. Liability of the publisher for damage

### Article 21

- (1) 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 this Act.
- (2) Damage means the reduction of someone's property or prevention of its increase (pecuniary damage) and causing physical or mental pain, as well as fear (non-pecuniary damage) to another person.
- (3) Regulations on obligatory relations shall be applied to the establishment of liability for damage, unless otherwise stipulated by this Act.
- (4) The publisher shall not be liable for the damage if the information which caused the damage is:
- an accurate report from a discussion during the session of bodies of legislative, executive or judicial power and bodies of local and regional self-government units, or at a public gathering, or if it was transmitted from a legal act of bodies of legislative, executive or judicial power or bodies of local and regional self-government units, without changing its meaning by editorial processing,
  - published within an authorized interview,
  - based on truthful facts or facts for which the author had justified reason to believe that they were truthful and he undertook all necessary measures to verify their truthfulness, while there was a justified interest on the part of the public for the publishing of that information, and if the activity was undertaken in good faith,
  - a photograph of the affected party taken in public or a photograph of the affected party taken with his knowledge and consent for publishing purposes, whereby the affected party failed to prohibit the publication, that is, to restrict the right of the author of the photograph to use the work,
  - truthful and the circumstances of the case indicate that the journalist was able to determine in good faith that the affected party agreed with the publication thereof,
  - based on the author's value judgements the publication of which was in the public interest and provided in good faith.
- (5) Paragraph 4 of this Article shall not pertain to personal data the confidentiality of which is stipulated by law, to information on minors and information collected in an illegal manner.
- (6) The existence of liability shall be proven by the plaintiff, while the existence of preconditions for the release from liability for damage referred to in paragraph 4 of this Article shall be proven by the defendant.
- (7) If the information has been authorized, and certain parts thereof contain evident insults or libels, the authorization shall not exclude joint liability of both the publisher and the editor in chief, if they failed to act in good faith.

## Article 22

(1) Non-pecuniary damage shall be compensated, as a rule, by publishing a correction of the information and with the publisher's apology and with the payment of compensation pursuant to the general regulations of the law on obligations.

(2) A person who previously requested from the publisher that a correction of the disputable information is published, that is, the publisher's apology when the correction is not possible, shall have the right to file a claim for the compensation of non-pecuniary damage in compliance with general regulations of the law on obligations.

## Article 23

A compensation claim may be filed not later than within three months from the day of learning about the publication of the information which caused the damage.

## 7. Editor in chief

### Article 24

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

(2) The editor in chief shall be responsible, in compliance with the law, for each published piece of information. The responsibility of the editor in chief shall also pertain to the editorial processing of published information (the choice of title, subtitle, the text under a photograph etc.).

### Article 25

(1) A person may be appointed editor in chief if s/he fulfils the Terms and Conditions stipulated by the law and the statute of the media.

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

## IV. RIGHTS AND OBLIGATIONS OF JOURNALISTS

### 1. The media statute

#### Article 26

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

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

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

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

(5) The publisher shall be obliged to conclude an agreement with every person s/he orders a journalist contribution from prior to ordering, in compliance with the regulations and media statute. The contract shall also regulate copyrights related to the journalist contribution.

(6) A journalists' contribution referred to in paragraph 5 of this Article shall be a published written, verbal, image or on-line: report, information, comment (notice or comment, social chronicle, article, review), criticism, cartoon, essay, interview, reportage (travelogue, sketch, feature), as well as titles and announcements. A journalist contribution shall also be specialist works and genres, such as editing, photography, photo-news, photo-reportage, photo-editing and photo-cartoon.

(7) The publisher shall be obliged to keep a separate record of contracts referred to in paragraph 5 of this Article.

## 2. Journalists' right to express standpoints

### Article 27

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

(2) A journalist's work contract may not be terminated, his salary decreased or his position on the editorial board altered, the contracted income or part thereof decreased or suspended, because of an expressed standpoint.

(3) If in case of a dispute a journalist expresses facts which justify the doubt that the termination of the work contract, decrease of salary or altered position on the editorial board, or decrease or suspension of the contracted income is the consequence of expressing a standpoint from paragraph 1 of this Article, the burden of proof falls on the publisher.

## 3. Journalists' right to refuse to act upon order

### Article 28

(1) A journalist shall have 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.

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

(3) If in case of a dispute the journalist expresses facts which justify the doubt that the termination of the work contract, decrease of salary or altered position on the editorial board is the consequence of refusing to act upon order from paragraph 1 of this Article, the burden of proof falls on the publisher.

#### 4. Protection of author's reputation

##### Article 29

- (1) The programme contents the meaning of which has been altered in the procedure of editorial processing may not be published under the name of the author without his consent.
- (2) The editor in chief shall be held responsible for the programme contents published contrary to paragraph 1 of this Article.
- (3) If the programme contents published contrary to paragraph 1 of this Article have damaged the reputation of the author, the author may request compensation of damage.

#### 5. Protection of the source of information

##### Article 30

- (1) A journalist shall not be obliged to provide data about the source of published information or the information he intends to publish.
- (2) The right of a journalist referred to in paragraph 1 of this Article shall also pertain to editor in chief, editors and authors of published reports who are not journalists.
- (3) Prior to publication, the journalist shall be obliged to inform the editor in chief of the fact that the information is from an unidentified source in the manner stipulated in the media statute. In that case all the provisions on the protection of the source of information shall also apply to the editor in chief.
- (4) The State Attorney's Office, when such limitations are required in the interest of national security, territorial integrity and protection of health, may lodge a request with the competent court to order the journalist to disclose data on the source of the published information or information he intends to publish.
- (5) The court may order the journalist to disclose data on the source of the published information or information he intends to publish, if so required for the protection of public interest and if it concerns particularly important and serious circumstances and the following has been indisputably established:
  - that a reasonable alternative measure for disclosing data on the source of information does not exist or that the person or body from paragraph 4 of this Article seeking the disclosure of the source of information has already used that measure,
  - that legal public interest for disclosing data on the source of information clearly prevails over the interest for protecting the source of information.
- (6) When assessing the circumstances of the case, the court shall exclude the public in the course of the procedure of disclosing information and warn the persons present that they are obliged to keep confidential everything they have found out in the procedure as well as of the consequences of disclosing confidential information.

#### V. PUBLICITY OF OWNERSHIP

##### 1. Transparency of ownership structure

##### Article 31

Stocks and shares in a publisher who engages in the activity of public informing shall be made out to a name.

## Article 32

(1) The publisher shall be obliged to forward to the Croatian Chamber of Economy, by January 31 of each calendar year, data on the company and its seat, that is, names, surnames and permanent residence of all legal and natural persons who have direct or indirect ownership of stocks or shares in that legal person, with the information on the percentage of stocks or shares.

(2) By the deadline referred to in paragraph 1 of this Article, each publisher shall be obliged to forward to the Croatian Chamber of Economy the verified copies of the deeds of acquisition for the stocks or shares acquired in that publisher in the course of the preceding year. The deeds of acquisition of the stocks or shares up to 1% of the capital value shall not be forwarded.

(3) For persons referred to in paragraph 1 of this Article, publishers shall be obliged to forward data if those persons hold stocks/shares for themselves or other persons in enterprises to which this Act applies, and data if these persons are members of management, supervisory boards or management councils in such enterprises.

(4) The Croatian Chamber of Economy shall forward a written warning to a publisher which fails to perform the obligation referred to in paragraphs 1, 2 and 3 of this Article with the explanation of possible sanctions for the non-fulfilment of the obligation.

(5) The publisher shall be obliged to publish data referred to in paragraph 1 of this Article in the "Official Gazette" by 28<sup>th</sup> February of each calendar year. Data on stock holders and share holders up to 1% of the value of the capital shall be published collectively.

(6) The concealing of the ownership structure of the publisher or the acquirer's ownership of the stocks or shares in the publisher on the basis of any legal act shall be prohibited. The legal acts concealing the ownership structure of the publisher or the acquirer's ownership of the stocks or shares in the publisher shall be null and void.

## 2. Shares of foreign persons

## Article 33

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

## 3. Forwarding of reports on media business operations

## Article 34

(1) By 30<sup>th</sup> April of each year publishers shall be obliged to submit to the Croatian Chamber of Economy a report on their financial transactions for the previous year, containing data on the income and market share realised in the market of readers and/or viewers and/or listeners, data on the income and market share realised in the advertising market, as well as data on advertisers or marketing agencies through which more than 10% of the publisher's annual marketing income was realized.

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

(3) The publisher shall be obliged to publish data on the realised total income and average sold printing run, that is, average listening/viewing ratings in the previous year, in his media by 30<sup>th</sup> April of each calendar year.

#### 4. Protection of competition

##### Article 35

Regulations on the protection of competition shall apply to publishers, legal persons engaged in media distribution, and other legal persons performing tasks related to public informing.

##### Article 36

(1) Publishers participating in a concentration of undertakings shall be obliged to submit an application on their intent to conduct concentration in the form and manner stipulated by regulations on the protection of competition.

(2) The obligation of submitting an application shall emerge regardless whether the conditions referred to in Article 22, paragraph 4 of the Competition Act, were fulfilled in that particular case.

(3) The application referred to in paragraph 1 of this Article shall be submitted with the Croatian Competition Agency.

(4) The concentration of undertakings, registered in compliance with the provisions of this Article, shall be evaluated by the Croatian Competition Agency in compliance with the regulations on the protection of competition.

##### Article 37

(1) 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 after its implementation exceeds 40% of all the sold copies of general information daily newspapers or weekly magazines at a relevant market.

(2) A publisher with an impermissible concentration referred to in paragraph 1 of this Article may not own or acquire stocks or shares of other general information press.

#### 5. Press distribution

##### Article 38

(1) Press distributors shall be obliged to determine and publish in a customary way the Terms and Conditions for press distribution and they may not refuse to distribute the press of another publisher who requests it and announces that he accepts the published Terms and Conditions.

(2) The press distributor shall have the right to refuse the distribution of the press without an imprint. By taking over for distribution media without an imprint the distributor along with the publisher of that media assumes responsibility for information published in that media.

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

(4) Press distributors shall be obliged to forward to the Croatian Chamber of Economy by 30<sup>th</sup> April of each calendar year a report on the financial operations realized through press distribution for the previous year, as well as data on the number of sold copies of specific press editions through their distribution network or retail contract.

#### Article 39

(1) It shall be prohibited to publicly display and advertise press with pornography on the front page. This prohibition shall not apply to the sale of pornographic press in specialized shops.

(2) Pornographic press shall have a visible warning that it contains pornographic content as well as a warning that its distribution to minors is prohibited.

### VI. PUBLISHING OF CORRECTIONS AND RESPONSES

#### 1. The right to a correction of published information

#### Article 40

(1) Everyone shall have the right to request from the editor in chief to publish without compensation a correction of published information which has violated their rights or interests. Legal persons and other organizations and bodies shall also be entitled to a correction if the information is in violation of their rights and interests. The purpose of the correction is to correct untruthful or incomplete information.

(2) The publication of a correction may be requested within 30 days from the publication of the information.

(3) The request for a correction shall be submitted to the editor in chief in written form. The request shall contain an explanation and be signed by the submitter as well as contain all necessary data on the submitter and his address.

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

(5) A scientific or artistic review shall not imply the right to a correction unless it corrects an incorrect or insulting statement.

(6) A correction may not be requested if the media itself has already published a correction of the same information by the day of submission of the request for a correction. If the submitter of the request for a correction considers that the media has not published the correction in an appropriate manner, he may request the realization of his right in compliance with this Act.

(7) If the person to whom the information refers is deceased, the children, adopted children, spouse, parents, adoptive parents, brothers and sisters of that person shall have the right to publish a correction or to a response, or a legal person if the information relates to an activity of the deceased with regard to that legal person.

## Article 41

(1) A correction shall be published without change and addition in the same or equivalent place within the programme area, in the same or equivalent manner in which the information to which the correction pertains was published. A correction may not be disproportionately longer than the information or part thereof to which it pertains. A correction may be published in changed form only if the submitter of the request agrees thereto. The correction shall be published in such a way that it can be seen clearly from the heading that it is a correction. Without the consent of the submitter of the request, the correction may not be published among readers' comments or letters, that is, of television or radio audiences.

(2) In radio and television programmes the correction shall be given in written form and broadcasted by reading in the same programme and at same time in which the information to which the correction pertains was broadcasted or in the same type of programme with the same rating.

(3) The Council for Electronic Media shall stipulate the rules for the exercise of the right to a correction in radio and television programmes, in the manner corresponding to the nature of those media, but in such a manner that the provisions pertaining to the right to a correction and response stipulated by this Act shall be respected as much as possible.

(4) In electronic publications the correction and information it pertains to shall be marked and linked.

## Article 42

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

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

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

(4) The editor in chief shall be obliged to publish a correction, except in the following cases:

- if the requested correction does not relate to the information which the interested person invokes;
- if the requested correction does not contain facts or circumstances related to the statements about the information,
- if the publication of the correction would be contrary to the law and good practices,
- if the request for the publication of the correction was not signed by the submitter of the request, that is, the competent person from a state body or legal person,
- if the requested correction is disproportionately longer than the information which contains statements because of which the correction is requested, or part thereof to which it directly pertains, except if the correction pertains to libels or insults,
- if the publication of the correction would invoke liability of the publisher for compensation of damage,
- if the correction is written in a language that is not identical to the language in which the contested information was published,
- if the request for a correction of information was submitted after the deadline stipulated in Article 40, paragraph 2 of this Act,

- if it concerns a scientific or artistic review, except for the correction of incorrect facts or insults,
- if another authorized person has previously submitted a correction of the same content in relation to the same information,
- if the request for the publication of a correction has the same content as the request for a correction in relation to which court proceedings are being conducted due to the rejection or inappropriate manner of its publication.

(5) The editor in chief shall be obliged in the case referred to in paragraph 4 of this Article to inform in writing the person in question of the reasons for not publishing the correction within the deadline stipulated for publishing the correction.

#### Article 43

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

(2) The copy mentioned in paragraph 1 of this Article shall be forwarded to the interested person exclusively for personal use. No reproduction or publication of the copy without consent of the publisher shall be permitted, except within the framework of a court proceeding.

(3) In case the publisher has not kept the records referred to in paragraph 1 of this Article, it shall be considered that he has published the information in respect of which a correction is requested.

#### Article 44

Should an interested party send a written notification within eight days from the publication of the information that he will request the publication of a correction, the editor in chief shall be obliged to keep a copy of the information to which the request for a correction pertains until the requested correction has been published, the court proceeding concerning the information in question completed, or the legally stipulated deadlines for exercising the right to a correction or court protection have passed.

#### Article 45

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

#### Article 46

(1) If the editor in chief fails to publish a correction within the deadline and in the manner stipulated by the law, the person requesting the publication of the correction shall have the right to file a lawsuit against the editor in chief before a municipal court in the area in which the seat or permanent residence of the publisher of the media which published the information to which the correction pertains is located.

(2) The lawsuit may be filed within a maximum of thirty days after the expiry of the deadline for the publication of a correction, or from the day when the correction was published in a manner contrary to the law.

#### Article 47

- (1) Court proceedings on the publication of a correction shall be resolved in an emergency procedure.
- (2) The first hearing of the main trial in proceedings for the publication of a correction shall take place within 8 days from the submission of the lawsuit before the court.
- (3) The defendant shall be obliged to reply to the lawsuit at the main hearing at the latest.
- (4) In the summons the court shall warn the plaintiff that the lawsuit shall be considered withdrawn should he fail to appear at the first hearing. It shall warn the defendant that a verdict may be passed even in case of his absence.

#### Article 48

- (1) The discussion on a lawsuit for the publication of a correction shall be limited to the discussion and proving of facts related to the defendant's duty to publish the correction.
- (2) The defendant shall be permitted to prove the correctness of the facts from the published information as a reason for not publishing a correction if the contested information has violated the right to privacy protected in line with the law or if the contested information refers to facts covered by amnesty, court rehabilitation or revision of the verdict.
- (3) In disputes for the publication of a correction, the court shall reject the claim if it determines that the plaintiff's right or interest was not denied or if it determines the existence of another circumstance due to which, according to the law, there is no obligation to publish a correction.

#### Article 49

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

#### Article 50

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

#### Article 51

- (1) The Court shall be obliged to pass a verdict immediately after the conclusion of the main hearing.
- (2) The court shall forward a verified copy of the verdict to the parties within a maximum of three days from the day of passing the verdict.
- (3) Should the court accept the claim, it shall pass a verdict imposing an obligation upon the defendant to publish a correction within the deadline and in the manner stipulated by this Act.
- (4) When publishing the correction, the editor in chief shall be obliged to state that it is a statement based on the verdict and to quote the enacting clause of the verdict.

#### Article 52

- (1) Parties may file an appeal before a competent county court against the verdict of a court of first instance within three (3) days from the day of receipt of the verdict.
- (2) An appeal shall not be forwarded for response to the opposing party. The court of first instance shall forward a timely and admissible appeal with all documents to a county court within two days from lodging the appeal.
- (3) The county court shall be obliged to decide on the appeal within three (3) days from the day of receipt of the appeal.
- (4) A revision shall be allowed against a verdict of the county court.

#### Article 53

The court shall immediately forward a verified copy of the legally valid court verdict ordering the publication of the correction to the editor in chief of the media in which the correction is to be published.

#### Article 54

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

#### Article 55

Every person mentioned in the media with regard to a criminal complaint, investigation request or the launching of investigation or penal proceedings shall have the right within three months after a decision has been made to dismiss the criminal complaint or to reject the investigation request, that is, after a legally valid decision has been made to halt the proceedings or a legally valid acquitting sentence has been made, to request from the publisher to publish information thereof.

#### 2. The right of response to published information

#### Article 56

- (1) The concerned natural or legal person shall have the right to request from the editor in chief to publish, free of charge, his response to published information mentioning his name or relating to him directly in some other manner.
- (2) The response referred to in paragraph 1 of this Article shall refer to a text or message of identical nature as the published information.
- (3) By way of allegations appropriate for demonstration of evidence, the response shall in essence deny or significantly supplement the allegations of facts and data contained in the published information.

#### Article 57

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

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

(3) The provisions of Article 42 of this Act shall apply to the response, and the editor in chief may refuse to publish responses which are equal in terms of content, after he has already published the same response.

(4) The editor in chief may also refuse to publish a response if the response contains false data, claims or allegations inadequate for demonstration of evidence.

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

## Article 58

The provisions of this Act pertaining to the procedure for exercising the right to a correction shall be applied in the procedure of court protection with regard to the exercise of the right to a response.

## VII. PENAL CLAUSES

### Article 59 (OG, No. 81/13)

(1) A fine in the amount of up to HRK 1,000,000.00 shall be imposed upon a legal person who:

1. performs the activity of publisher but has not been registered in the court or other corresponding register pursuant to Article 11, paragraphs 1 and 2, of this Act,
2. has not informed the public on the programme basis in the calendar year in line with Article 14, paragraph 2, of this Act,
3. fails to publish free of charge information referred to in Article 19, paragraphs 1 and 2, of this Act at the request of the state administration bodies.
4. advertises contrary to the provision of Article 20, paragraphs 1, 3, 4, 5, 7 and 8, of this Act,
5. issues stocks which are not made out to a name contrary to Article 31 of this Act,
6. fails to forward to the Croatian Chamber of Economy, even after 15 days from receiving of the warning from Article 32, paragraph 4 of this Act, the data from Article 32, paragraph 1, 2 and 3 of this Act,
7. does not publish the data referred to in Article 32, paragraph 5 of this Act in the Official Gazette,
8. conceal the ownership structure of the publisher or the acquirer's ownership of the stocks or shares in the publisher contrary to the prohibition referred to in Article 32, paragraph 6 of this Act,
9. fails to forward to the Croatian Chamber of Economy by 30<sup>th</sup> April of each year the report and data in compliance with Article 34, paragraph 1 and 2 of this Act, or to publish by 30<sup>th</sup> April of each calendar year data on his media pursuant to Article 34 paragraph 3 of this Act,
10. fails to submit the application of the intended enterprises' concentration referred to in Article 36, paragraph 1, of this Act,
11. acquires stocks or shares in the publisher of the general-information daily or weekly press, respectively, contrary to Article 37, paragraph 2, of this Act,
12. does not establish and publish Terms and Conditions for press distribution or refuses to take over press distribution contrary to Article 38 paragraph 1 of this Act,
13. a publisher who by publishing programme contents violates the right of children and youth referred to in Article 16 paragraph 1 of this Act,

(2) For violations referred to in paragraph 1 of this Article the responsible person in the legal person shall be fined with a fine in the amount of HRK 10,000.00 to 100,000.00.

(3) In case that the violation referred to in paragraph 1 of this Article was done by a natural person individual tradesman or vendor, that person shall be fined with a fine in the amount of HRK 20,000.00 to 100,000.00.

(4) In case that the violation referred to in paragraph 1 of this Article was done by a natural person, that person shall be fined with a fine in the amount of HRK 10,000.00 to 50,000.00.

#### Article 60 (OG, No. 81/13)

(1) A fine in the amount of HRK 10,000.00 to 100,000.00 shall be imposed upon a legal person:

1. a press publisher who fails to place an imprint on every copy of the newspaper or other printed materials, pursuant to Article 15, paragraph 1, of this Act,
2. a publisher who fails to conclude a contract with the person he orders a journalist contribution from, in line with Article 26, paragraph 5, of this Act,
3. a publisher who cancels the work contract of a journalist, decreases his salary or a contracted income or alters his position in the editorial board contrary to Article 27, paragraph 2, and Article 28, paragraph 2, of this Act,
4. a legal person that organizes press distribution through newsvendors contrary to Article 38, paragraph 3, of this Act,
5. a legal person that publicly displays and advertises press with pornography contrary to Article 39, paragraphs 1 and 2, of this Act,
6. a publisher who fails to keep records of all published programme contents during the prescribed period, in line with Article 43, paragraph 1, of this Act.

(2) The responsible person in the legal person shall also be fined with the amount of HRK 5,000.00 to 20,000.00 for violations referred to in paragraph 1 of this Article.

(3) In case that the violation referred to in paragraph 1 of this Article was done by a natural person tradesman or vendor, that person shall be fined with a fine in the amount of HRK 10,000.00 to 50,000.00.

#### Article 61 (OG, No. 81/13)

(1) A fine in the amount of HRK 5,000.00 to 60,000.00 shall be imposed upon a legal person:

1. a press publisher who fails to report the publishing the newspaper or other press in the Register kept by the Croatian Chamber of Economy, pursuant to Article 12, paragraph 1, of this Act,
2. a press distributor who fails to submit the registration form referred to in Article 12, paragraph 4, of this Act or to enclose with it the required attachments,
3. a publisher or press distributor who fails to report to the Croatian Chamber of Economy the change of data stated in the registration form of a newspaper within eight days from the day of the occurrence of change, pursuant to Article 12, paragraph 8, of this Act,
4. a publisher who fails to indicate the source of information taken over from other domestic or foreign media, in line with Article 18 of this Act.

(2) The responsible person in the legal person shall also be fined with the amount of HRK 2,000.00 to 8,000.00 for violations referred to in paragraph 1 of this Article.

(3) In case that the violation referred to in paragraph 1 of this Article was done by a natural person tradesman or vendor, that person shall be fined with a fine in the amount of HRK 5,000.00 to 30,000.00.

## Article 62 (OG, No. 81/13)

(1) A fine in the amount of HRK 2,000.00 to 40,000.00 shall be imposed upon a natural person:

1. the authorized person in a body or legal person who denies a journalist information from the scope of activities of that body contrary to Article 6, paragraphs 2 and 4, of this Act,
2. an editor in chief who permits the publication of data that can disclose the identity of a witness or person affected by a criminal act, contrary to Article 16, paragraphs 1 and 2, of this Act,
3. an editor in chief, if he significantly alters the contents or meaning of a piece of information published in the press by way of editing the text, contrary to Article 24, paragraph 2, of this Act,
4. an editor in chief who fails to inform in writing the person concerned of the reasons for not having published a correction, in line with Article 42, paragraph 5, of this Act,
5. a person who copies or makes public a copy contrary to the prohibition referred to in Article 43, paragraph 2, of this Act without the consent of the publisher,
6. an editor in chief who on the basis of a legally valid verdict fails to publish a correction or does to publish it in an appropriate manner, in line with Article 51, paragraph 4, of this Act.

## VIII. TRANSITIONAL AND FINAL PROVISIONS

### Article 63

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

### Article 64

Within six months from the day of the entry into force of this Act publishers shall be obliged to adjust their work, business operations and general acts to the provisions of this Act.

### Article 65

Within 90 days from the entry into force of this Act the Council for Electronic Media shall be obliged to adopt rules referred to in Article 41 paragraph 3 of this Act.

### Article 66

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

### Article 67

(1) The minister shall be obliged to adopt the Ordinance referred to in Article 5 paragraph 3 of this Act within 6 days from the entry into force of this Act.

(2) Funds for promoting pluralism and diversity of the media for obligations referred to in Article 5 of this Act shall be ensured in the state budget.

#### Article 68

(1) The competent ministry shall submit the Register of press registration to the Croatian Chamber of Economy within 30 days from the entry into force of this Act.

(2) Until the Register referred to in paragraph 1 of this Article has been submitted, the competent ministry shall be obliged to receive and decide about press registration.

#### Article 69

Upon the entry into force of this Act the Public Information Act ("Official Gazette" Nos. 83/96, 105/97, 143/98, 20/00 and 96/01) shall cease to be valid.

#### Article 70

This Act shall enter into force on the eighth day from the day of its publication in the "Official Gazette."