

## Background information

### CAMPAIGN I'D LIKE TO WATCH THAT - HRT SAYS – NYET!

- Clips include excerpts of 34 successful Croatian documentaries, the entire line-up of recent Croatian independent documentary production.

[https://www.youtube.com/watch?v=FcSNFEaV\\_W8&feature=youtu.be](https://www.youtube.com/watch?v=FcSNFEaV_W8&feature=youtu.be)

<https://www.youtube.com/watch?v=OEt8s0tLWpo&feature=youtu.be>

- They were recently rejected by HRT in the context of an Open Call for the acquisition of broadcasting rights of Documentaries and Series, (open from 15 March 2019 to 15 April 2019) despite their creative value, reputation based on festivals selection, awards and reviews, or topical importance. The wording of rejection letter was uncharacteristically offensive (challenging the professionalism of filmmaking and production) and politically motivated.

Translated samples of above mentioned rejection letters: [http://www.filmdirectors.eu/wp-content/uploads/2019/11/HRT\\_rejection-letters-translation\\_Nov-22-2019.pdf](http://www.filmdirectors.eu/wp-content/uploads/2019/11/HRT_rejection-letters-translation_Nov-22-2019.pdf)

### REFERENCE TO KEY LEGISLATIONS

- **Audiovisual Media Services Directive (2010/13/EU<sup>1</sup>)**
- AVMS requires broadcasters to reserve a majority proportion of their transmission time, excluding the time appointed to news, sports events, games, advertising, teletext services and teleshopping, for European works (article 16).
- Article 17 requires broadcasters to reserve a minimum proportion (at least 10%) of their transmission time, excluding the time appointed to news, sports events, games, advertising, teletext services and teleshopping, for European works created by independent producers. Alternatively, Member States may require broadcasters to allocate at least 10% of their programme budget to independent productions. An adequate proportion of works by independent producers should be recent, i.e. less than five years old.
- Some flexibility is allowed for the implementation of Articles 13, 16 and 17 since Member States must ensure the promotion of European and independent works "where practicable".
- For broadcasting services, the Commission has to report every two years [on the application of the provisions concerning European works<sup>2</sup>](#) and independent productions on the basis of statistical data provided by the Member States. Yet the latest reports available online date back to 2011 and 2012.
- The AVMSD revision in 2018 included increased obligations to promote European works for on-demand services who need to have at least a 30% share of European content in their catalogue and to ensure the prominence of this content.
- As guardian of the Treaty, the [Commission ensures that the provisions of the Directive are properly implemented by the Member States<sup>3</sup>](#) and complied with by audiovisual media service providers established in the European Union.

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<sup>1</sup> <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex:32010L0013>

<sup>2</sup> <https://ec.europa.eu/digital-single-market/en/avmsd-reports-european-works>

- **Croatian Electronic Media Act transposing the AVMS Directive**

- Croatia's Electronic Media Act revised in 2011 accordingly earmarks a majority proportion of Croatian broadcasters' transmission time for European works, including Croatian audiovisual works and a sub-quota for independent productions (10 %), of which half must have been produced in the previous 5 years.

- **Croatian Radio-Television Act setting out the legal framework of public service broadcaster HRT**

- Article 7 (1): HRT is required to respect the criteria of excellence, expertise, cultural value and professional competence in terms of the achieved national and European standards in creative processes, to encourage media-creative innovation and inventiveness and to guarantee the engagement of the best creative creators, experts and authors.
- Article 9: emphasizes HRT obligations regarding development, production, co-production, with a specific focus on works produced by independent producers, taking into account international standards of high quality such as international sales and participation to international festivals.
- Article 10 (1): HRT should provide that European works represent the major share of its overall Broadcasting time.
- Article 10 (2): at least 40% of European works referred to in paragraph 1 should be original Croatian Language works (i.e. at least 20% of overall broadcasting time).
- Article 11 (1): HRT is obliged to provide at least 15% of its annual program budget for the procurement of European works produced by third parties (i.e. independent producers), half of which must be earmarked for works produced originally in the Croatian language.
- The process of HRT reporting on these obligations is reportedly unclear. Several issues affecting a meaningful implementation of AVMSD as a landmark legislation promoting cultural diversity throughout the EU should be looked into, such as the exclusion of the time appointed to news, sports events, games, advertising, teletext services and teleshopping from the majority of transmission time, and the definition of the annual program budget.

## DHFR DATA ON BROADCASTING OF EUROPEAN AUDIOVISUAL WORKS

### Broadcasting Audiovisual Works – HRT Channels – by percentage

Year	Foreign AV works	Domestic AV works	European AV works <sup>4</sup>	Co-productions (EU, Canada, Latin America, Asia)	In total
2016	54,27%	4,25%	40,27%	1,21%	100,00%
2017	63,34%	5,54%	24,16%	6,96%	100,00%
2018	64,58%	6,07%	24,81%	4,54%	100,00%

*Source: ZAMP (DHFR technical service)*

- This data was collected by Croatian Collective Rights Management Organization DHFR<sup>5</sup> as part of its mission to collect and re-distribute royalties to its members.

<sup>3</sup> <https://ec.europa.eu/digital-single-market/en/avmsd-application-and-implementation>

<sup>4</sup> See Article 1 of 2010/13/EU

<sup>5</sup> <https://dhfr.hr/en/copyright/>

- As such, it includes only works that generate authors' rights and not TV programmes excluded of the AVMSD obligations regarding the promotion of European Audiovisual works (i.e. news, sports events, games, advertising, teletext services and teleshopping).
- This figures clearly show:
  - (i) the lack of exploitation of national audiovisual works despite HRT's legal obligation set out in the 20% of overall broadcasting time earmarked by the Croatian Radio-Television Act despite a minor increase,
  - (ii) a sharp decrease in the broadcasting of European AV works, well below its obligation to give them the major share of its overall Broadcasting time i.e. 50+%,
  - (iii) the corresponding sharp increase in non-European AV works on HRT's channels.
- Under the Croatian Radio-Television Act, the HRT Programming Council is responsible for monitoring the implementation of the programming principles and obligations stipulated by legislation. However, it has reportedly not been operational over the last 9 months due to long-overdue nominations.

## CONTEXT

In 2016, the newly appointed Conservative Government publicly opposed Croatian audiovisual authors and their works, reportedly criticizing their "liberalism" and "cosmopolitanism". From this point on, the Croatian audiovisual industry cooperation with public service broadcaster HRT deteriorated, with a negative impact on the level of co-productions and pre-sales.

In a low-production capacity country, such a stance by national authorities significantly undermines the economic and social position of filmmakers – resulting in self-censorship, an atmosphere of fear and an increasing young filmmaking talent drain to other countries.

While the current Government reportedly assumes a progressive approach to various economic or social issues (such as gender equality and education), issues within public service broadcasting have not been dealt with to date, including a severe conflict between journalists and HRT touching to freedom of speech, harassment, and alleged unfair dismissal.

More about the situation here:

- "Croatia: we call on HRT to withdraw claims targeting journalists' representatives" statement by the European Federation of Journalists, referring to the recent [EU report on Media pluralism in Croatia](https://europeanjournalists.org/blog/2019/01/22/croatia-we-call-on-hrt-to-withdraw-claims-targeting-journalists-representatives/)<sup>6</sup> describing HRT's serious management crisis related to systematic political interference <https://europeanjournalists.org/blog/2019/01/22/croatia-we-call-on-hrt-to-withdraw-claims-targeting-journalists-representatives/>
- "Croatia's media and the problem with historical revisionism" opinion piece by Sven Milekic <https://www.rte.ie/brainstorm/2019/0115/1023355-croatias-media-and-the-problem-with-historical-revisionism/>

Urgent action is needed by the Croatian authorities to address a situation which has constantly degraded over the last few years and reached a critical point in terms of freedom of speech, media freedom, artistic freedom and cultural diversity – all of which are cornerstones of a well-functioning democracy.

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<sup>6</sup> [https://cmpf.eui.eu/wp-content/uploads/2018/11/Croatia\\_MPM2017\\_country-report.pdf](https://cmpf.eui.eu/wp-content/uploads/2018/11/Croatia_MPM2017_country-report.pdf)