



FEDERAZIONE ITALIANA EDITORI GIORNALI



EUROPEAN NEWSPAPER PUBLISHERS' ASSOCIATION



Lena Adelsohn Liljeroth, Minister for Culture
Culture Ministry
Government Offices of Sweden
SE-103 33 Stockholm

Brussels, July 9, 2009

Dear Minister Liljeroth,

ENPA – the European Newspaper Publishers' Association would like to thank you again for your participation in its General Assembly Dinner in Stockholm on 4 May 2009, where you met ENPA President Mr. Valdo Lehari Jr., co-signatory to this letter.

ENPA contacts you urgently as part of its act of solidarity with two of its member associations: in Italy – namely FIEG – The Italian Federation of Newspaper and Periodical Publishers (www.fieg.it) and in the Czech Republic, namely the Czech Publishers' Association (www.uvdt.cz), on a topic which we are extremely concerned could have deeper resonance in other countries: the issue of press freedom and media access to certain information such as police wiretapping, which could have grave consequences for journalism and in particular investigative journalism.

Following recent events which have sparked our highest concern over the last few months in both of the aforementioned countries, related specifically to restrictions on the media's access to police wiretapping documents, in our view it is now appropriate to address you and your colleagues at the beginning of the Swedish Presidency of the EU with a warning about the emerging threats to press freedom that are manifesting themselves because we are afraid of other steps against freedom of press any government could come up with in this way. We are severely concerned that we might soon face very similar problems across Europe because a country could set an example for other countries.

Therefore we are calling upon you or any other relevant Minister in your government to consider three action points that are explained later in this letter.

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We briefly explain the situation in both Czech Republic and Italy, as we see it:

Czech Republic:

An unprecedented law limiting freedom of speech and press has been recently passed in the Czech Republic and entered into force on 1 April, 2009. The law establishes a heavy punishment (up to 5 years imprisonment and 5 million Czech Crowns fine for the offending journalist and newspaper publisher) for those who publish information coming from police wiretapping – even if the information is in public interest. This means that a person can be prosecuted over publishing a police wiretap confirming dubious contacts between a politician and a businessman.

Under the threat of the same heavy punishment – according to the law - it is banned to name any crime victims without his or her prior approval. The ban is again general and disregards a possible public interest. This can eventually lead to an absurd situation that the media are not allowed to publish that – for instance - there has been an assassination attempt on the Czech Republic’s President because the journalist is unable to receive the President’s approval.

The law – specifically *ACT 52 dated February 5, 2009 which amends Act no. 141/1961 Coll., on criminal court proceedings (Criminal Code), as amended by the later prescriptions, and certain other acts* – has been already nicknamed as the Czech “muzzle law”. It was pushed through by the government and the opposition together; by the main right-centre and left-centre parties despite strong protests from Czech media organizations, international journalist and publisher associations including ENPA.

The good news is that a high number of Czech Senators have filed a constitutional complaint against the law in June – and it is now proceeding to the Constitutional Court. However, it is not clear when the Court could start hearing. Some cases take a very long time to be resolved (it may be months or even years). Thus, the law is still in force, and a journalist could still be charged over publishing information on politics, business or organized crime which the public has a right to know.

You can also find more information on www.prisonforjournalists.com which is the official Czech media organizations’ protest website.

Italy:

The Italian Government introduced a draft law earlier this year regarding wiretapping and data protection of telephone conversations that has proved a matter of serious concern not only for press publishers but also for journalists and magistrates which amounts to a serious threat to press freedom and for the newspapers’ right/duty to inform public opinion. To ENPA’s great regret, the draft law was approved in first reading of the lower house (Camera dei Deputati) and it is about to be voted by the Upper House (Italian Senate).

Pursuant to the reform law:

1) It will be **forbidden to publish any wiretapped news related to criminal investigations (even partially or in a summary form)** until the end of the preliminary investigations' period (6-18 months) or the end of the first stage of trial (not less than 2 years). Anyone who publishes a wiretapping news item will be punished with a jail term of between 6 months and 3 years.

2) **Judicial news** other than that from wiretapped sources is allowed to be published but **only in a summary version and only after its prior disclosure in favor of "the accused" and his defence counsel**. Anyone who violates this ban will be punished with either imprisonment (up to 30 days) or a monetary sanction (from 1000 Euros to 5000 Euros).

3) It has been proposed that the publishing of such news and information should be subject to abnormal **monetary sanctions for publishers** (from Euro 64.500 to Euro 465.000 for each single violation): this could lead to a **dangerous interference in the roles of editor and publisher** in the editorial offices.

In conclusion, as you yourself will likely appreciate in light of your journalistic background, the publishing of information from what national authorities consider "secret" sources needs strict attention. The need for journalists to be able to publish in the public interest should be better protected in Europe.

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We therefore call upon you as the Swedish Presidency of the EU representative responsible for such related topics to:

- Consider raising this serious issue which threatens the development for press freedom as part of **Council discussions** as early as possible during your Presidency term in 2009 by putting this issue as an item on the agenda for relevant Council sessions;
- Demand **explanation** on behalf of the Council from the **Czech and Italian governments** why the laws have been passed with such a lack of disrespect for press freedom.
- Consider whether the Swedish EU Presidency would be able to initiate **mechanisms under Article 7 of the EU Treaties** against the aforementioned countries, or if this is not attainable, adopt an **official statement** which warns EU Member States against adopting similar measures which threaten freedom of the press. This could involve considering a statement generally defending freedom of press naming particularly the Czech law in force and the Italian draft law.

We count on your support in these times of great challenge for the freedoms cherished by our sector. Newspapers are the cornerstones of democracy in Europe in extensively covering matters of concern in politics. A healthy newspaper industry is to the benefit of democracy and for a lively, developing and successful Europe.

We would be delighted to discuss this matter with you further during a meeting and we remain at your disposal for any further information that you may require.

ENPA sends you its very best wishes for your EU Presidency term-in-office, in particular on behalf of ENPA President Mr. Valdo Lehari Jr., who conveys his special greetings to you following your discussions at ENPA's General Assembly dinner in Stockholm. We hope to see you soon.

Yours sincerely,

Valdo Lehari Jr.
President
ENPA

Jaromir Skopalik
President
Czech Publishers' Association

Carlo Malinconico Castriota Scanderbeg
President
FIEG

For any further information from ENPA, please contact:

Mr. Valtteri Niiranen
Executive Director
ENPA - European Newspaper Publishers' Association
Square du Bastion 1A, Bte 3
1050 Brussels
BELGIUM
Phone : +32 2 551 01 90
Fax : +32 2 551 01 99
E-mail: valtteri.niiranen@enpa.be

For any further information from Czech Publishers' Association, please contact:

Mr. Jozef Sabla
Director
Czech Publishers Association/Unie vydavatelů
Na Porici 30
110 00 Praha 1
CZECH REPUBLIC
Phone: +420 221 733 527
Fax: +420 222 322 961
E-mail: sabla@unievydavatelu.cz

For any further information from FIEG, please contact:

Alessandro Brignone
Executive Director
Italian Federation Newspapers and Periodicals' Publishers
Via Piemonte, 64
00161 – Roma
ITALY
Phone: +39 06 46201432
Fax: + 39 06 4871109
E-mail: direzione@fiegi.it