

Wanted! Real action for media freedom in Europe



Annual Report
by the partner organisations
to the Council of Europe Platform
to Promote the Protection of Journalism
and Safety of Journalists

2021

**safety of
journalists
platform**



COUNCIL OF EUROPE



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Illustrations:
Cartooning for Peace

The association Cartooning for Peace has been created in 2006 at the initiative of Kofi Annan, Nobel Peace Prize and former General Secretary of the United Nations, and press cartoonist Plantu. Now chaired by the French press cartoonist Kak, Cartooning for Peace is an international network of cartoonists committed to the promotion of freedom of expression, Human Rights and mutual respect among people upholding different cultures and beliefs, using the universal language of press cartoons.

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Partner Organisations of the Platform to Promote the Protection of Journalism and Safety of Journalists



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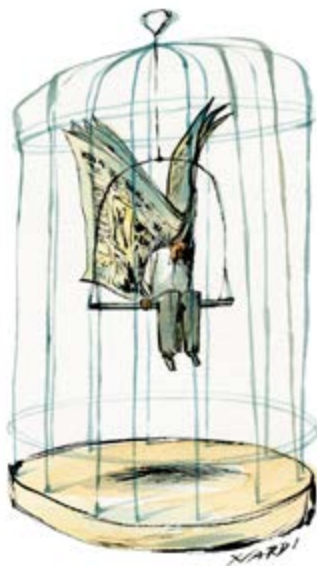


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Introduction



Nardi (Italy) / Cartooning for Peace

■ In 2020, extraordinary damage was inflicted on the practice of free and independent journalism. Major areas and issues of concern are highlighted in this annual report by the partner organisations of the Council of Europe’s Platform to promote the protection of journalism and the safety of journalists (the Platform).¹

■ The report draws on the alerts raised on the Platform and related evidence to highlight key areas of law, policy and practice where partner organisations consider that actions are urgently required. We also acknowledge the adoption of good practices and constructive reforms by states that promote effective protection and redress for violations under Article 10 of the European Convention on Human Rights (ETS No. 5, the Convention).

¹ The 14 partner organisations participating in the work of the Platform have jointly written this annual report. The various sections have been contributed by different organisations. Each partner organisation reserves the right to make its own assessment of any issue or case.

■ The partner organisations put forward concrete recommendations for actions that we believe need to be taken by member states and relevant bodies of the Council of Europe to meet their obligations. We call on governments to translate their public commitments on the protection of journalism and the safety of journalists into working realities backed up by effective safeguards. For this purpose, independent oversight mechanisms must be established and maintained against violent attacks, arbitrary arrests, legal harassment and other forms of interference and reprisals against the legitimate work of journalists.

Overview of alerts and sources of major concern in 2020

■ Governments across Europe adopted emergency laws and regulations in response to the Covid-19 pandemic that also imposed extraordinary restrictions on journalists' activities. Severe infringements of Convention rights under Article 10 sprang from laws punishing the alleged dissemination of false information – under which journalists have faced the risk of severe criminal penalties for their reports – as well as the systematic denial of access to public information on the pandemic, including access to healthcare workers and facilities.

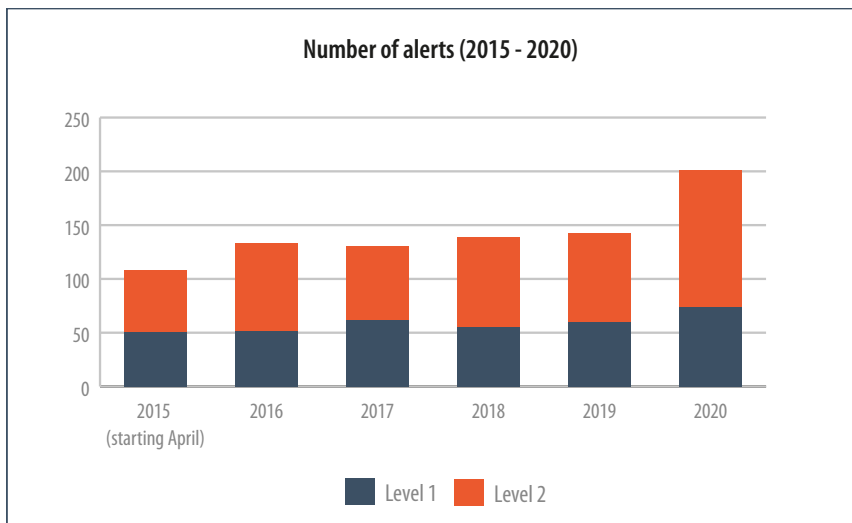
■ These and other measures – whether implemented deliberately or out of neglect for the media's crucial role in times of crisis – represent arbitrary interferences in the legitimate work of journalists and news organisations. Consequently, excessive limitations have also been placed on the fundamental rights of people across Europe to enjoy access to uncensored information freely and from diverse sources.

■ In July 2020, the Secretary General of the Council of Europe addressed member states saying that the Covid-19 crisis “should not be used as a pretext for restricting the public's access to information. Neither should states introduce any restrictions on media freedom beyond the limitations allowed by Article 10 of the European Convention on Human Rights”²

■ Despite such appeals, many European governments enacted sweeping emergency laws, often with scant parliamentary scrutiny, and took other extraordinary measures to penalise critical voices and restrict media scrutiny of government actions, without taking due account of the potentially harmful impact of those actions on the legal guarantees of protection for freedom of expression, or the obligation of member states under Article 15 of the Convention related to derogations at times of emergency. In some cases the new limitations were retained in permanent legislation.

2 Council of Europe's Secretary General, “The impact of the sanitary crisis on freedom of expression and media freedom” at: <https://rm.coe.int/16809ef1c7>.

■ A total of 201 media freedom alerts were published on the Platform in 2020. That is the highest annual total so far recorded and is almost 40% more than in 2019. A record number of alerts concerned physical attacks (52 reported cases), and harassment or intimidation (70 cases). Albanian media owner Kastriot Reçi was shot dead outside his own home, while the editor-in-chief of the Russian Federation’s Koza.Press news portal, Irina Slavina, died by self-immolation after making appeals for protection against sustained official harassment.



■ During the past year the culture of impunity grew more entrenched in parts of Europe. A third year passed without authorities in Malta prosecuting and convicting those responsible for the assassination of Daphne Caruana Galizia in October 2017.³ In Slovakia, three men have been sentenced to prison for their role in the killing in 2018 of investigative journalist Ján Kuciak and his fiancée Martina Kušnírová. But the instigators remain unpunished, following a court case in which a well-known business figure and his associate were acquitted owing to what the court said was a lack of evidence.

■ Impunity has deadly consequences by signalling that the perpetrators of serious crimes can escape unpunished. It can encourage further acts of violence against journalists. The Platform partners call on all member states to align their laws and practices with the Council of Europe guidelines and

3 One man was sentenced in early 2021 after confessing to his part in the killing and implicating others.

protocols for providing effective protections and ensuring effective investigations into attacks and abuses against journalists and other media actors. Those provisions were unanimously approved by the adoption of the Committee of Ministers Recommendation on the safety of journalists in 2016, but in many member states very little, if any, improvement has been evident in the five years since then.⁴

■ The chilling effect of multiple threats and acts of violence and other forms of harassment was widely felt by both media outlets and individual journalists. Journalists were assaulted or blocked by police from reporting on public protests and other events. Newsgathering activities by online and offline publications and media scrutiny of state authorities' actions were inhibited by means including the blocking of websites, administrative and criminal investigations targeting critical media outlets, and the closure of independent media or their exclusion from public events. Access to official information was unduly restricted; attempts by news organisations to assess and question government policies in the public interest were penalised; and in numerous cases politicians attacked or vilified independent journalists with hostile words or actions, including smear campaigns aimed at discrediting their reputations.

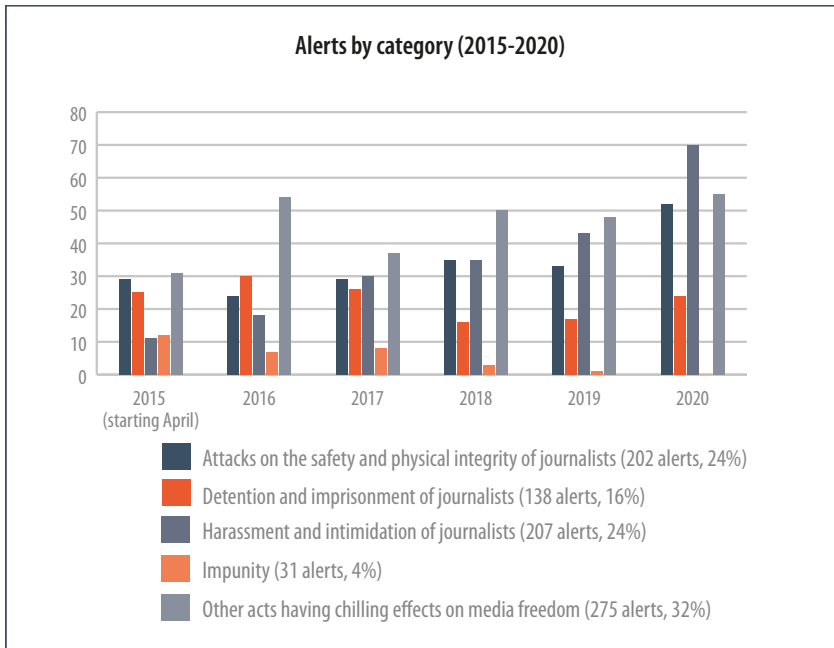
■ The Platform recorded patterns of intrusive surveillance, arbitrary arrest and detention; judicial harassment through vexatious legal threats (SLAPPs) and criminal prosecutions of journalists on spurious charges of terrorism or treason. In many cases the demands of state authorities' actions to combat Covid-19 were invoked as a pretext for restrictive measures.⁵

■ The impact of the emergency, especially on independent media outlets, was aggravated by acts such as official "blacklisting" and discrimination in favour of government-friendly media and against critical outlets in the allocation of public funds and access to official sources of information. In several member states where media capture by political forces has seriously distorted the media market, governments sought to further tighten their domination of news narratives through ownership or control of influential media and the misuse of media regulation. Such forms of political interference are not acceptable in a democracy. The commitment of states to establish favourable environments for free, independent and plural media must be upheld with

4 Committee of Ministers, Recommendation CM/Rec(2016)4 to member states on the protection of journalism and safety of journalists and other media actors, 13 April 2016, at: https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016806415d9#_ftn1.

5 Peter Noorlander, "Covid and free speech: the impact of Covid-19 and ensuing measures on freedom of expression in Council of Europe member states", Background paper, Ministerial conference, Cyprus 2020, Strasbourg 2020, at: <https://rm.coe.int/covid-and-free-speech-en/1680a03f3a>.

rigour and transparency, with the active and full engagement of media and civil society representatives.



Overview of key developments

Covid-19

State authorities' responses to Covid-19 led to serious challenges to press freedom. Across Europe, governments implemented an array of measures that restricted journalists' ability to cover the public health situation freely. While in some cases measures were proportionate or quickly corrected, others took advantage of the public health emergency to intensify hostile pressure on critical and independent media. New "fake news" laws put media at risk of fines or criminal penalties and access to information was tightened. Meanwhile, journalists faced violence while covering anti-lockdown protests.



Dario (Mexico) / Cartooning for Peace

Physical attacks, harassment and intimidation

■ A record number of alerts in 2020 concerned physical attacks, as well as harassment and intimidation. Incidents during rallies and demonstrations were reported in France, Greece, Italy, Poland, the Russian Federation, Serbia, Spain, Turkey and the United Kingdom. Reported alerts show a high incidence of verbal attacks in some member states, made by representatives of public authorities, including by serving ministers and heads of government.

Media capture

■ State-led media capture as a method to undermine independent journalism and media pluralism continued to grow in several Council of Europe countries, where governments exploited economic, regulatory and legislative competencies to discriminate against independent media and weaken their market position. These developments were particularly acute in Hungary, whose media regulator revoked the licence of independent broadcaster Klubrádió, and in Poland, where the leading publisher of regional newspapers was purchased by a state-controlled oil company. Concentration of media ownership in either state or private hands remains a severe or crippling impediment to media freedom and diversity in Azerbaijan, Bulgaria, Hungary, the Russian Federation, Serbia and Turkey, and a major obstacle to the operations and sustainability of independent media in many other European states.

Impunity

■ In the past six years since the Platform was launched, 30 journalists have been listed on the Platform as killed in the Council of Europe area. The lack of progress in bringing to justice the perpetrators, instigators or masterminds of murders of journalists is alarming. Twenty-four cases of impunity for murder of 38 journalists are listed on the Platform as active. The lack of punishment for those who instigated or organised the murders of Daphne Caruana Galizia, Jamal Khashoggi, Ján Kuciak, Anna Politkovskaya or Pavel Sheremet has become emblematic of the vulnerability of journalists' personal safety and media freedom in Europe.

Public service media

■ Covid-19 amplified the challenges facing public service media (PSM), which had to navigate difficult working conditions and respond to demands for fast and credible information in a moment of crisis. Political pressures – and in some cases overt government interference – in PSM grew in 2020, partly due to the pandemic, while looming funding cuts posed a further threat to independence. A worrying trend of hostility and violence has been registered towards PSM journalists by both politicians and members of the public.

Online harassment

■ A surge in online abuse and threats against journalists was seen in 2020, in several instances fuelled by politicians. Female journalists were especially targeted, facing gender-based insults and threats of a sexual nature. Both

internet platforms and the authorities were slow in securing accountability for online attacks, even when formal complaints were filed.

Surveillance

■ Surveillance increased as part of public health measures to contain Covid-19. These measures are at serious risk of abuse and may jeopardise journalists' right to work privately and protect their sources. In a few cases, individual journalists were the targets of surveillance, including phone tapping or the hacking of electronic devices.

Online content moderation

■ Content moderation measures taken by states may increasingly pose a threat to freedom of expression and press freedom by outsourcing censorship to tech platforms. These measures now have a wide-reaching impact on the online space for journalism, including the access of important source material. In countries, like the Russian Federation or Turkey, online platforms provide an opening for free expression amid a state-led takeover of the mainstream press.

■ As tech companies now develop their roles and responsibilities, and Council of Europe member states assess their compliance with the Recommendation on the roles and responsibilities of internet intermediaries,⁶ Platform partners will seek to monitor content moderation policies and processes to determine if measures are legal, necessary and proportionate and provide safeguards for both privacy and freedom of expression, and remedy for individuals whose content has been removed, with a particular focus on the work of journalists.

SLAPPs, criminalisation of journalism, judicial harassment, misuse of law/defamation

■ Journalists and media workers continue to be the target of abusive legal proceedings aimed at inhibiting critical reporting, including through strategic lawsuits against public participation (SLAPPs). Lawsuits were brought by powerful individuals or companies that had little legal merit and were designed to intimidate and harass journalists by introducing burdensome legal costs. Criminal defamation and insult laws remain widespread in Europe. Journalists

6 Committee of Ministers, Recommendation CM/Rec(2018)2 to member states on the roles and responsibilities of internet intermediaries, 7 March 2018, at: https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=0900001680790e14.

were subject to judicial harassment, imprisoned or detained because of their work and European Court decisions were not implemented in some cases.

Governments must show robust political leadership to safeguard the role of a free press in Europe

■ The shared objectives between the Council of Europe and the Platform partners consist not only of the “documenting and reporting instances of violence against journalists and other concerns about media freedoms”, but also of “action to promote media freedom and pluralism in order to preserve the vital role of the media in democracy and democratic processes”.⁷ Already in 2016 Council of Europe member states collectively declared that the scale and severity of attacks on journalists and media freedom in Europe had become “alarming and unacceptable”.⁸ Yet in 2020 only three out of 201 alerts were “resolved” by the end of the year. And 85 alerts (42%) received replies from states – a significant drop compared with 50% in 2019.

Respect for the Convention during emergency measures

■ The exceptional situation of a pandemic may require emergency measures to combat the spread of Covid-19 and ensure public safety. However, when derogations are made, the measures taken must be kept under review and limited to those that are strictly required by the exigencies of the situation. They must not serve as a pretext for limiting freedom of political debate. The European Court is empowered to rule on whether the state has gone beyond what is strictly required.⁹ Most member states failed to honour their obligation under Article 15 of the Convention to notify the Secretary General of the Council of Europe of their intention to make a derogation from the Convention. Only 10 member states¹⁰ did so. None notified a derogation from Article 10

7 Article 5 of the Memorandum of Understanding on the setting-up of an Internet-based Freedom of Expression Platform to promote the protection of journalism and safety of journalists, Paris, 4 December 2014, at: <https://rm.coe.int/1680479b43>.

8 Committee of Ministers, Recommendation CM/Rec(2016)4 to member states on the protection of journalism and safety of journalists and other media actors, 13 April 2016, at: https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016806415d9#_ftn1.

9 European Court of Human Rights, “Guide on Article 10 of the European Convention on Human Rights: freedom of expression”, Strasbourg, 31 March 2020, page 8, at: www.echr.coe.int/Pages/home.aspx?p=caselaw/analysis/guides&c=.

10 Albania, Armenia, Estonia, Georgia, Latvia, North Macedonia, Republic of Moldova, Romania, San Marino, Serbia; see Treaty Office, “Notifications under Article 15 of the Convention in the context of the COVID-19 pandemic”, 9 February 2021, at: www.coe.int/en/web/conventions/full-list/-/conventions/webContent/62111354.

(freedom of expression), despite the far-reaching impact of certain emergency laws on free speech and media freedom.

■ The partner organisations reaffirm their commitment to co-operating with the member states within the Platform. They welcome the fact that the Platform’s operational model has inspired a similar mechanism in Africa.¹¹ In that context it is concerning that states’ official responses to alerts on the Platform is disappointingly poor. More importantly, the proportion of cases that have been effectively and promptly resolved through judicial or remedial government actions and reforms falls short of expectations.

■ This record casts doubt on some countries’ commitments. The partners call for the strengthening of the “upstream dialogue” with member states that was foreseen in the agreement between them and the Council of Europe which established the Platform in December 2014. The common goal must be to act with determination so that the broad scope of protections for freedom of expression and freedom of the press under the Convention is not merely theoretical, but practical and effective.

■ The partners welcome the launch during the past two years of significant global initiatives, in the name of the international community and groups of willing states, aimed at strengthening protections for journalists worldwide through more effective implementation of international legal norms and standards.¹² Council of Europe member states have a special responsibility to demonstrate leadership in defence of media freedom and journalists’ safety. Their most urgent task must be to set Europe’s own house in order.

11 UN Educational Scientific and Cultural Organization, “UNESCO supports continent-wide digital platform on the safety of journalists in Africa”, 5 February 2021, at: <https://en.unesco.org/news/unesco-supports-continent-wide-digital-platform-safety-journalists-africa>.

12 See, for example, High Level Panel of Legal Experts on Media Freedom, established 10 July 2019, at: www.ibanet.org/IBAHRIsecretariat.aspx.

Council of Europe leadership and support of global mobilisation for media freedom

■ African media stakeholders recently announced the launch of a platform for media freedom, inspired by the Council of Europe's Platform, to improve the protection of journalists on the continent.

■ The High-Level Panel of Legal Experts on Media Freedom has proposed a Charter of journalists' rights as a basis for ensuring national and international actions for journalists.

■ The Global Media Freedom Coalition has pledged to take concerted action on landmark and urgent cases and achieve a reversal of the retreat of media freedom and protection for journalists at risk.

■ The UN Sustainable Development Goals foresee mechanisms for monitoring and reporting on arbitrary detentions, killings and other attacks on journalists and human rights defenders.

■ UNESCO looked to create free and safe environments for journalists through the UN Plan of Action on the Safety of Journalists and the Observatory of Killed Journalists helped to challenge impunity by following up on judicial enquiries in affected states.

■ The Council of Europe should devise and implement coherent and dynamic policies related to these important initiatives and demonstrate leadership in active support of them and for the defence of free and independent journalism and the safety of journalists worldwide.

Summary of the recommendations

1. Platform partner organisations call for concerted efforts **to improve the number and quality of state replies** and urge member states to establish response systems across relevant governmental departments to consider alerts, reply to them, and initiate remedial actions.
2. The partners urge the Committee of Ministers and the member states **to engage in an action-oriented dialogue**, including:
 - ▶ use of Platform findings as a reference to identify areas of concern and strategies to strengthen protections of media freedom and journalists' safety;
 - ▶ regular exchanges about high-priority targets for addressing serious threats or barriers to media freedom and effective means for achieving them.
3. To promote **effective implementation of Recommendation CM/Rec(2016)4**,¹³ member states should facilitate reforms of laws and practices, including national security, defamation and access to information provisions, ensuring full participation by independent media, journalists' organisations and civil society stakeholders.
4. Member states should apply best practice regarding police **protection of journalists' safety at public events**, legal provisions against obstruction of media workers, de-escalation mechanisms, and effective complaints procedures so that abuses are prosecuted or lead to disciplinary actions.
5. Member states must enact laws and institutional safeguards to **prosecute and deter online abuse against journalists**; taking particular care to counter targeted abuse against female media workers.
6. The **criminalisation of journalism and abuse of the criminal law by state actors must be ended**, including by ensuring strict judicial independence and oversight of law enforcement.
7. The Council of Europe is urged to take **action against abusive legal actions**, or strategic litigation against public participation (SLAPPs), by adopting a new Committee of Ministers recommendation on the protection of the right to freedom of expression and unfettered public participation from the threat of abusive and vexatious legal proceedings.

13 Committee of Ministers, Recommendation CM/Rec(2016)4 to member states on the protection of journalism and safety of journalists and other media actors, 13 April 2016, at: https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016806415d9#_ftn1.

8. The Committee of Ministers must ensure member states' **compliance with judgments of the European Court** in particular after the Court has ordered the release of a wrongly detained journalist. Member states are called on to take action when states defy the Court's rulings in cases concerning media freedom and journalists' safety.

9. The partners call on all member states to prioritise actions to secure judicial independence and **end impunity in cases involving attacks** and abuses against journalists. The protocols against impunity set out in CM/Rec(2016)4 should be adopted urgently.

10. The partners call on the Committee of Ministers to include **Belarus** and **Kosovo*** in the remit of the Platform.

* All references to Kosovo, whether the territory, institutions or population, in this text shall be understood in full compliance with United Nations' Security Council Resolution 1244 and without prejudice to the status of Kosovo.



Boligán (Mexico) / Cartooning for Peace

Thematic sections

Physical attacks, harassment and intimidation

■ A total of 201 media freedom alerts were published on the Platform in 2020 – the highest annual number recorded on the Platform since its launch in 2015. A record number of alerts concerned physical attacks (52 cases), and harassment and intimidation (70 cases).

■ The Platform has recorded two deaths of journalists and media workers possibly in connection to their work. On 2 October 2020, the editor-in-chief of Koza.Press online portal, Irina Slavina, set herself on fire outside the police headquarters in Nizhny Novgorod, the Russian Federation. Slavina had been repeatedly prosecuted and fined by the courts for her activities and the Russian Union of Journalists and Media Workers requested a thorough investigation into the responsibilities of anyone who may have pushed Slavina to commit suicide. In January 2020, Kastriot Reçi, the owner of Media Plus TV in Albania, was killed in unexplained circumstances.

■ The highest numbers of attacks on the physical integrity of journalists were reported in the Russian Federation, Italy and the United Kingdom, while France, Poland, Turkey and Ukraine saw a high number of cases of intimidation and harassment of journalists.

Attacks on journalists in connection with the coverage of public events

■ For the second year in a row, a high number of physical attacks on journalists both from state and non-state actors were reported during protests and rallies. Assaults on journalists during protests were reported in France, Greece, Italy, Poland, the Russian Federation, Serbia, Spain, Turkey and the United Kingdom, in several cases in connection with the Covid-19 pandemic¹⁴ (see more in the following Covid-19 section).

¹⁴ Alerts “Photojournalist Wojciech Atys taken to court after reporting on a protest”, posted 7 May 2020; “Spanish Journalist physically assaulted while reporting on protests in Madrid”, posted 5 June 2020; “Several journalists attacked while covering protests in Novi Sad and Nis”, posted 15 July 2020; “Journalists attacked and injured while covering protests in Slovenia”, posted 9 November 2020.

■ Alerts reveal insults, threats, destruction of equipment or interventions that point at ways of policing public events that show disregard or inadequate care for the obligation to protect media workers and their equipment.¹⁵ As a result, the reporting of public events is increasingly risky, costly and unpredictable. A few alerts refer to the obstruction of the coverage of public events by law enforcement, with acts including physical assaults, intimidation, arrest and detention, as well as orders to stop filming and access bans.

■ Denial of essential workers' status, summonses for police questioning, arrest and custody impede the reporting of public events, even when they are of short duration. The fact that reporters wear distinctive "press" gear or show their press card has not prevented such incidents from happening.

■ Two alerts report physical assault in police detention.¹⁶ Law-enforcement officers exercise a public mandate and are entrusted with extensive authority, such as the power to arrest and detain. Those powers must be applied proportionately, with discernment and with restraint. Too many alerts point to a misuse of power, breeding distrust in law enforcement.

■ Under European Court case law, journalists must be allowed access to report on public events,¹⁷ and given that the way public order is maintained is a matter of public interest in itself, the filming of such operations should be allowed.¹⁸ Whether the source of the threat is a private actor or a public body, all attacks on media workers and other obstruction must be investigated, and the perpetrators brought to justice. Instances in which investigations are flawed or do not take place at all subvert justice and allow impunity to become the new "normal"¹⁹.

15 See, for example, "How to protect journalists and other media actors?", Implementation Guide to selected topics under the Protection and Prosecution pillars of the Guidelines of Recommendation CM/Rec(2016)4 on the protection of journalism and safety of journalists and other media actors, DGI(2020)11, Strasbourg, June 2020, at: <https://rm.coe.int/safety-implementation-guide-en-16-june-2020/16809ebc7c>.

16 Alerts "Russian journalists Aleksandr Dorogov and Yan Katelevskiy imprisoned, beaten during arrests and detention", posted 27 August 2020; "Bulgarian freelance journalist Dimitar Kenarov beaten and detained by police while covering protest", posted 4 September 2020.

17 European Court of Human Rights, *Gsell v. Switzerland*, 12675/05, judgment of 8 October 2009, sections 49 and 61.

18 See, European Court of Human Rights, "Guide on Article 10 of the European Convention on Human Rights: Freedom of expression", Strasbourg, 31 March 2020, pages 51 et seq., at: <https://echr.coe.int/Pages/home.aspx?p=caselaw/analysis/guides&c=#>.

19 Alerts "Russian journalist Dmitriy Nizovtsev beaten by unidentified men", posted 27 July 2020; "At least 5 journalists attacked, beaten in run-up to parliamentary elections", posted 7 October 2020.

Physical assaults

■ The 2020 alerts document frequent cases of assault,²⁰ often premeditated and intended to injure, threaten or intimidate journalists. These acts point to a decline in respect for media workers and their reporting activities. Attacks increased during electoral periods.²¹

Administrative harassment

■ The 2020 alerts point at business disruption, the dismissal of critical editors and journalists, discriminatory public funding, administrative policing measures, the issuing of editorial instructions to public media or the blacklisting of critical media by government agencies from daily press briefings on Covid-19.

Threats and intimidation

■ Most reported threats against journalists in 2020 were directed at the life, health or physical integrity of the victim, either by individuals or representatives of public authorities.²² Alerts also document threats to life, health or physical integrity such as arson or bomb attacks, bullets sent by post, legislation to keep detained journalists in prison despite the increased risk of infection during the Covid-19 pandemic,²³ as well as violations of privacy. Some of these attacks were perpetrated by public officials.²⁴ Though alerts on the issue predominantly concern Bosnia and Herzegovina, Italy, the Russian Federation, Serbia, Turkey, Ukraine and the United Kingdom, these acts point to a general decline in respect for media workers and their reporting activities across Europe.

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- 20 Alerts “Novaya Gazeta journalist assaulted in Chechnya”, posted 11 February 2020; “Chechen blogger Tumso Abdurakhmanov assaulted”, posted 6 March 2020; “Bulgarian newspaper editor Slavi Angelov severely beaten in attack by masked men in central Sofia”, posted 19 March 2020; “TV journalist Sinan Gluhić attacked by politician”, posted 10 June 2020; “Russian journalist Dmitriy Nizovtsev beaten by unidentified men”, posted 27 July 2020; “Two media workers injured in knife attack”, posted 28 September 2020; “Journalist Sergey Plotnikov abducted, questioned, beaten, then released in Russia’s far east”, posted 21 October 2020.
- 21 Alerts “Journalist Sasa Mikic reporting on Serbian election assaulted outside polling station”, posted 25 June 2020; “Attack on Russian journalist David Frenkel covering constitutional election”, posted 2 July 2020.
- 22 Alerts “Head of the Russian Republic of Chuvashia says critical journalists should be ‘wiped out’”, posted 24 January 2020 (resolved); “Chechen president threatens journalist Elena Milashina with death”, posted 22 April 2020.
- 23 Alert “Turkish Government to exclude imprisoned journalists from plans to release prisoners amid Covid-19 pandemic”, posted 27 March 2020.
- 24 Alert “Russia: government official threatens Italian journalist over coronavirus reports”, posted 15 April 2020.

Smears, insults and denigration

■ The 2020 alerts show that smears and hateful, violent and gratuitous speech against journalists were communicated as much offline as online.²⁵ Two alerts document open hate speech.²⁶ Several cases report insults during protests and demonstrations. Alerts show a high number of verbal attacks in some member states – North Macedonia, Serbia, Slovenia and Turkey – being made by representatives of public authorities, including by ministers and heads of government.

Good practice

■ Several countries took initiatives to promote a safer environment for journalists, either through partnerships with media organisations, capacity building or financial and security support.

■ In the Netherlands, the police and the public prosecutor's office give priority to incidents concerning journalists. Following an agreement reached back in July 2018, between the national police, the public prosecutor's office, the Dutch Association of Journalists and the Dutch Society of Chief Editors, concrete guidelines and training have been offered to law-enforcement services to better respond to threats against the media. The Dutch authorities also issued a booklet containing advice for mayors and their staff, which specifies that journalists should only be forbidden to enter dangerous areas in crisis situations if this complies with the principles of proportionality and subsidiarity. In the case of emergency situations, journalists should be enabled to enter these dangerous areas, where possible under police escort. In addition, a hotline enabling journalists to report acts of aggression and violence has been set up.

■ The United Kingdom Government has adopted a national action plan to protect journalists from abuse and harassment. Every police force is to deal with a designated journalist safety liaison officer, and at national level a senior police officer will take responsibility for crime against journalists at national level.²⁷

■ In Sweden, within the national action plan on "Defending free speech – measures to protect journalists, elected representatives and artists from exposure to threats and hatred", the government has commissioned the Swedish Crime Victim Compensation and Support Authority to produce a training and

25 Alert "Slovenian prime minister attacks Radiotelevizija Slovenija on social media", posted 26 March 2020; "Prime Minister Janez Janša denigrates journalists", posted 18 May 2020.

26 Alert "Flyers inciting hatred against journalists in French police stations", posted 1 December 2020.

27 Society of Editors, "Government sets out action plan for safety of journalists", 9 March 2021, at: www.societyofeditors.org/soe_news/government-set-outs-action-plan-for-safety-of-journalists/.

information resource on support for journalists who are exposed to threats and hatred. The resource is intended for government agencies and organisations that need better tools to support these categories of victims, but also for private individuals who are exposed to threats and hatred in the public debate. The government has also commissioned Linnæus University to build a knowledge centre and a service offering advice and support to journalists and editorial offices, including freelancers, small offices and smaller production companies.

■ Countries introduced measures to de-escalate violence during protests. In Austria, the police initiated media contact persons to resolve operational issues during policing of public events. Similar measures have been proposed by the French Defender of Rights following the wave of “yellow vests” protests in 2019.

Recommendations

■ The Council of Europe should declare among its highest priorities that of systematically promoting implementation of the provisions of CM/Rec(2016)4 to counter violence and threats to the life, well-being and liberty of journalists and other media actors.

■ Member states should respond systematically to acts, threats, reprisals and restrictions, and actively promote the conduct of wide-ranging legislative reviews and revisions, where possible through national action plans, with the full and active participation of representative professional and civil society groups.

■ The partner organisations urge member states to share and adopt good practices including structured consultations and independent oversight mechanisms to pre-empt tensions between police and members of the media in policing of public events and to de-escalate violence if it occurs during protests. Member states should enact legal and administrative penalties for obstructing the activities of media workers, impose aggravated penalties for the arbitrary or excessive use of force and improve the criminal and/or disciplinary prosecution of alleged malpractice in the policing of public events.

USUAL SUSPECTS 2020



Le Hic (Algeria) / Cartooning for Peace

Effects of Covid-19 and lockdown measures on press freedom

■ In 2020 media freedom in Europe faced a unique set of challenges. As governments moved to respond to the health crisis by imposing sweeping lockdowns and implementing states of emergency, journalists across Europe had to adapt to an array of new restrictions and changes to daily reporting habits. During this time, the need for high-quality, accurate and up-to-date information on the spread of the virus was more essential than ever. In some countries, government measures which affected the press were proportionate and limited, while in others Covid-19 was used as an opportunity to deepen existing pressure on critical and independent media.

■ Unsurprisingly, many violations came from within states with already chequered media freedom records. In Hungary, the government passed an emergency bill in April 2020 criminalising the spread of false or distorted information about the pandemic with penalties of up to five years in prison. The law was still in effect at the end of 2020 due to the country's second lockdown, with chilling effects on journalists reporting on the spread of the virus.²⁸ Similar emergency initiatives were attempted in Bosnia and Herzegovina, Bulgaria and Romania, but were quickly reversed or blocked.

■ A new law was passed in the Russian Federation, where President Vladimir Putin enacted legislation imposing harsh new penalties on media organisations and individuals for spreading “knowingly false information” related to natural or man-made emergencies, as a response to Covid-19.²⁹ Using the new rules, police questioned Tatyana Voltskaya, a reporter with Radio Free Europe/Radio Liberty, over a report that alleged hospitals lacked the supplies to respond to the Covid-19 pandemic. Authorities alleged she was “spreading false news”³⁰ The same month, a court fined the Echo of Moscow radio station 260 000 roubles (€3 300) for “knowingly spreading false news that posed a threat to human health”. The editor-in-chief of the station's website, Vitaly Ruvinsky, was fined 60 000 roubles (€770). The accusations stem from an interview with a political analyst who cast doubt on the reliability of the Russian Government's official Covid-19 statistics.³¹

■ In Bulgaria, the government used the state of emergency decree to amend the penal code and introduce prison sentences for spreading what it deemed “fake news” about the outbreak with up to three years in prison or

28 Alert “Hungary seeks power to jail journalists over ‘false information’ in Covid-19 coverage”, posted 23 March 2020.

29 Alert “Russian Federation: new legislation imposes penalties and prison sentences for spreading ‘false information’ on coronavirus”, posted 15 April 2020.

30 Alert “Russian journalists investigated, fined over Covid-19 reporting”, posted 19 June 2020.

31 Alert “Echo of Moscow radio station fined over Covid-19 interview”, posted 1 July 2020.

a fine of up to €5 000. However, that part of the emergency bill was vetoed by the president under pressure from civil society groups and the proposal was scrapped.³²

■ Elsewhere, other journalists and media outlets faced fines or arrest for reporting on the effects of the Covid-19 pandemic. In Turkey, the Radio and Television High Council (RTÜK) issued broadcast bans against Fox TV over anchor Fatih Portakal's critical comments while reporting the state's Covid-19 policies.³³ On 3 April, former Halk TV executive and journalist Hakan Aygün was arrested for "incitement to hatred" after criticising President Erdoğan's campaign to collect public donations in the fight against the virus.³⁴ In Serbia, Nova.rs journalist Ana Lalić was detained for "causing panic and disorder" in an article about the lack of personal protective equipment and poor working conditions at a local hospital. She was detained on the first day of the application of a new regulation penalising anyone releasing information about the coronavirus outbreak that was not "authorised" by the Prime Minister's Office or the Crisis Management Taskforce. After international condemnation, Lalić was released and the decree was reversed.³⁵ In Armenia, after the government declared a state of emergency, police confirmed that more than 20 media outlets had had to amend or delete information deemed by officials to spread public "panic" over a week-long period in March.³⁶

■ Rules about mask wearing and social distancing were misused by police and law enforcement to fine or intimidate the media. In Poland, Angelika Pitoń, a journalist with the daily *Gazeta Wyborcza*, was presented with two separate charges by police after she covered a protest as part of the nationwide Women's March on 6 November. One of the charges was that she was not wearing a mask. The accusation was rejected by *Gazeta Wyborcza* as undue pressure and intimidation and the charges were later dropped.³⁷

■ Elsewhere, governments took advantage of financial support packages to media and public health campaigns about Covid-19 to reward loyal publications

32 Reuters, "Bulgarian parliament amends state of emergency law after president's veto", 23 March 2020, at: www.reuters.com/article/us-health-coronavirus-bulgaria-idUSKBN21A2MN.

33 Alert "Fox TV banned from broadcast, anchor Fatih Portakal faces three-year imprisonment", posted 11 May 2020.

34 Alert "Turkish journalists summoned by police over Covid-19 coverage", posted 15 April 2020.

35 Alert Journalist Ana Lalic detained overnight after reporting on conditions in hospital, posted 1 April 2020.

36 Alert "Emergency restrictions force media to suppress independent information on Covid-19", posted 25 March 2020.

37 Alert "Gazeta Wyborcza journalist Angelika Pitoń faces two charges in Poland", posted 25 November 2020 (resolved).

while punishing critical media. Greek media critical of the government, for example, were sidelined from a €20 million financial support scheme. Many outlets perceived as “opposition” media received disproportionately lower levels of advertising revenue from the public health awareness campaign compared to more government-friendly media, even though many had higher circulation and readership. Documento, a weekly investigative newspaper, was excluded entirely from state funding. Its editor and publisher alleged this was in clear retaliation for its critical coverage and recent investigations.³⁸

■ As press conferences and briefings moved online, some journalists faced challenges in gaining accreditation and accessing information. In the Czech Republic, a publication critical of the government, Forum 24, has been denied accreditation to the government’s press conferences since March 2020.³⁹ Repeated appeals for accreditation have been ignored. In the UK, openDemocracy reporter James Cusick was barred from asking questions at the government’s daily Covid-19 briefings, despite being a member of the parliamentary lobby.⁴⁰

■ Beginning in March 2020, a handful of governments either extended or suspended deadlines by which public bodies were required to respond to freedom of information (FOI) requests. Bulgaria, Serbia and Romania doubled the maximum response time, while Hungary trebled it from 30 to 90 days. Other states such as Italy, Spain and Slovenia suspended FOI deadlines altogether.⁴¹ The new rules seriously undermined the ability of journalists to receive information about the fast-changing health crisis. Some journalists reported that it appeared the new rules were being used to ignore legitimate FOI requests from critical and independent media, shutting down a key source of health data. In a positive example, in Scotland, parliament’s Covid-19 committee rejected⁴² attempts by the Scottish Government to treble the current 20-day deadline for public bodies in responding to FOI requests. The deadline extension had initially been introduced as part of the Coronavirus (Scotland) Bill.

■ In 2020, the Platform observed a rise in violent assaults against journalists, when covering anti-lockdown demonstrations or reporting breaches of

38 Alert “Critical Greek media excluded or side-lined from state funding package during Covid-19”, posted 23 July 2020.

39 IPI, “Czech critical media denied access to online press conferences during Covid-19”, 14 October 2020, at: <https://ipi.media/critical-media-denied-access-to-online-press-conferences-during-covid-19/>.

40 Alert “openDemocracy journalist banned from asking questions at UK government’s daily press briefings”, posted 28 May 2020.

41 IPI, “Access Denied: FOI deadlines extended or suspended across Europe” 2 June 2020, at: <https://ipi.media/access-denied-foi-deadlines-extended-or-suspended-across-europe/>.

42 www.holdthefrontpage.co.uk/2020/news/newspaper-chiefs-welcome-axing-of-60-day-foi-deadline/

lockdown measures. Over a period of two weeks in October, the Platform documented several incidents involving threats, violence and intimidation of Italian journalists covering anti-lockdown protests across Italy. A group of protesters attacked and chased Paolo Fratter, a reporter for Italian news channel Sky TG24, and his camera operator while they were covering a demonstration against the Covid-19 lockdown in Naples.⁴³ Saverio Tommasi, a Fanpage.it journalist, was insulted and threatened by anti-mask protesters as he was reporting from a similar demonstration in Rome.⁴⁴

■ In Serbia, the Platform documented several violations against the media by police officers during protests in July over the government's reimposition of lockdown. Beta news agency journalist Žikica Stevanović was beaten with batons by police despite showing a journalistic ID. Stevanović was taken to hospital with injuries and cuts to his head and eyes. Two cameramen for the same agency, Luka Pređa and Relja Pekić, were also slightly injured. Nova.rs journalist Marko Radonjić was beaten by the police despite having told them several times that he was a journalist on assignment.⁴⁵

■ Other journalists faced threats for reporting on adherence to Covid-19 rules or other sensitive matters related to the pandemic. On 1 December, journalists from the news portal Zadarski.hr in Croatia were threatened by a man who entered the office in Zadar and threatened he would kill and "slaughter" the journalists over a report about a wedding held in violation of Covid-19 rules.⁴⁶ In Ukraine, TV channel NewsOne journalist Tetiana Sivokon was attacked by a shop owner while shooting a story in the Khmelnytsky region about the sale of protective masks.⁴⁷

Recommendations

■ Any state measures in response to the Covid-19 pandemic that infringe fundamental rights must be proportionate, temporary and limited to solving the immediate health crisis. Emergency measures must not be used as a pretext to restrict the rights of journalists.

43 Alert "Sky TG24 crew covering anti-lockdown demonstration attacked and chased in Naples", posted 3 November 2020.

44 Alert "Italian journalist Saverio Tommasi insulted and threatened by anti-face mask protesters in Rome", posted 14 October 2020 (resolved).

45 Alert "Journalists and media workers attacked and obstructed while covering Belgrade protests", posted 15 July 2020.

46 Alert "Death threats against Croatian journalists after man storms into Zadarski.hr editorial offices", posted 3 December 2020.

47 Alert "Journalist Tetiana Sivokon attacked while reporting on sale of protective masks", posted 31 March 2020.

■ Efforts to counter disinformation must not be abused in order to censor unwanted reporting around the pandemic. Journalists must be granted prompt and equal access to publicly held information related to the pandemic. States must not restrict access of journalists to government officials or healthcare workers.

■ Measures to track infections, monitor public health developments or grant greater freedom of movement to vaccinated individuals must not be used as a backdoor surveillance opportunity that infringes journalists' right to privacy and their ability to protect their sources.

■ Authorities must investigate all attacks on journalists and provide sufficient protection to journalists covering demonstrations.

SLAPPs, criminalisation of journalism, judicial harassment, misuse of law and defamation



Darío (Mexico) / Cartooning for Peace

Abusive legal proceedings

Journalists and media workers continue to be the target of abusive legal proceedings aimed at inhibiting critical reporting. These can take a variety of forms, including strategic lawsuits against public participation (SLAPPs). SLAPPs refer to (typically civil) lawsuits brought by powerful individuals or companies that have little legal merit and are designed to intimidate and harass the target – especially through the prospect of burdensome legal costs – and not to be won in court. In 2020, there was a notable increase of SLAPP-related alerts over the previous year, both in numbers of alerts and jurisdictions concerned.

Abuse of the civil law

In some cases, the desired chilling effect is pursued by the mere threat of a lawsuit, including through legal letters sent by powerful law firms. For example,

in May and June 2020 the Times of Malta, MaltaToday, Malta Independent, Lovin Malta and The Shift News received letters from UK-based law firm Atkins Thomson and US-based law firm Lambert Worldwide on behalf of Turab Musayev, a British-Azerbaijani entrepreneur, demanding the removal of articles and threatening legal action.⁴⁸

■ SLAPP claims frequently target the publisher as well as the editor or individual journalists. In Poland, clothing apparel company LPP sought damages of nearly €1 million against the publisher of Newsweek Poland weekly, the magazine's editor-in-chief and the two authors of an article.⁴⁹

■ In some cases, the claimant appears to specifically target the individual journalists who authored the critical report, which arguably enhances the intimidatory effect of the litigation, thereby isolating individuals who are likely to have fewer resources at their disposal for defending themselves. In Estonia, two journalists, Mihkel Kärmas and Anna Pihl, and national broadcaster ERR were sued by Finnish businessman Arto Autio and investment firm Brave Capital. Autio also sent letters to the Estonian Parliament's Culture Commission, the Finance Ministry, the ERR's governing body and the State Audit Office, questioning whether the ERR should cover Kärmas' and Pihl's legal fees.⁵⁰

■ SLAPPs can coincide with forum shopping, the practice of strategically selecting a forum in which the law or other aspects of the litigation, such as high legal fees, favour the claimant. For instance, Swedish business and finance outlet Realtid, its editor-in-chief Camilla Jonsson and two reporters, Per Agerman and Annelie Östlund, were served with a lawsuit by the Swedish businessman Svante Kumlin. Even though all of the actors in the case are Swedish, the claim was filed before the High Court in London.⁵¹ In another case, Maltese blogger Manuel Delia and newspaper Times of Malta were sued in Bulgaria by Christo Georgiev, the Bulgarian co-owner of the Maltese Satabank.⁵²

■ In a case of good practice, a court in Luxembourg dismissed a SLAPP action brought against the EUobserver by British public relations company

48 Alert "British-Azerbaijani businessman threatens defamation actions against five media outlets", posted 15 July 2020.

49 Alert "Polish clothing company LLP files lawsuit against two Polish journalists for Newsweek Poland article", posted 20 April 2020.

50 Alert "Results of investigation remain offline amid ongoing lawsuit against Estonian public broadcaster and journalists Mihkel Kärmas and Anna Pihl", posted 10 December 2020.

51 Alert "Lawsuit against Swedish outlet Realtid filed in London", posted 9 December 2020.

52 Alert "Satabank co-owner files SLAPPs against Maltese blogger Manuel Delia and Times of Malta in Bulgaria", posted 9 March 2020.

Chelgate. The plaintiff threatened to sue in Belgium, but no further proceedings have been filed.⁵³

■ In some cases, through injunctions and other proceedings for interim relief, the claimants are able to impose de facto censorship before the courts consider the merit of the claim. For instance in July 2019, in the context of a defamation claim, a Romanian court imposed a fine on the Romanian Centre for Investigative Journalism of €200 for each day their “Football leaks” stories remain online, so far accruing fines of more than €60 000.⁵⁴ In Hungary, the owners of Hell Energy company obtained preliminary injunctions preventing Magyar Narancs and Forbes Hungary from publishing their reporting. This case is notable furthermore because the claims are based not on domestic law, but on the EU General Data Protection Regulation (GDPR), which governs how companies are to protect personal data.⁵⁵ This has led to concerns that the law, which was established to protect the data privacy of EU citizens, is open to abuse to curtail the press.

■ In Belgium, news website Apache was forced to take down an article following a court decision upon a claim brought by unilateral application under a fast-track procedure, which denies the journalist any right of defence.⁵⁶

■ Two cases were initiated by civil society actors. In Ireland, activist Ben Gilroy threatened to file a lawsuit against Dublin Inquirer co-founder Sam Trantum and reporter Laoise Neylon. He falsely claimed that the Dublin Inquirer made no effort to contact him in advance of the publication of the article in which he was mentioned.⁵⁷ In Croatia, Kristijan Curavić, the executive director of the NGO Ocean Alliance, demanded that the online news portal The Shift deposit €300 000 into a bank account in compensation for damages he claims to have suffered.⁵⁸

53 Alert “EUobserver under threat of legal action in Belgium after complaint was dismissed in Luxembourg”, posted 25 June 2020.

54 Alert “Lawsuits filed against the Romanian Centre for Investigative Journalism”, posted 7 June 2020.

55 Alerts “Court orders recall of Forbes Hungary following GDPR complaint”, posted 4 February 2020; “Civil court gags investigative report under EU data privacy rules”, posted 22 October 2020.

56 Alert “News website Apache ordered by court to take down an article”, posted 24 September 2020.

57 Alert “Lawsuit filed against the ‘Dublin Inquirer’”, posted 8 September 2020.

58 Alert “Croatian businessman requests The Shift to deposit €300,000 in damages”, posted 16 April 2020.



Ares (Cuba) / Cartooning for Peace

Abuse of the criminal law by private actors

■ The chilling effect of abusive legal proceedings is exacerbated when private actors initiate criminal proceedings.

■ Criminal defamation and insult laws remain widespread in Europe despite international recommendations that defamation should be decriminalised.⁵⁹ In Slovenia, three journalists from the online outlet *Necenzurirano.si* are facing 13 criminal defamation suits each over a series of articles reporting on the business dealings and connections of Rok Snežič, a friend and tax policy adviser to Prime Minister Janez Janša.⁶⁰ In France, freelancer Inès Léraud faced defamation charges initiated by business tycoon Jean Chéritel, who dropped his complaint a few days before the trial, which is a commonly used strategy

59 OSCE Representative on Freedom of the Media, “Defamation and insult laws in the OSCE region: a comparative study”, Vienna, March 2017, at: www.osce.org/fom/303181.

60 Alert “39 lawsuits against journalists from *Necenzurirano*”, posted 30 September 2020.

of judicial harassment – long judicial proceedings, costing time, money and anxiety to the journalists, abandoned at the last minute.⁶¹

■ In Serbia, a local hospital filed a complaint against journalist Ana Lalić for defamation and upsetting the public, following her reporting on the lack of basic protective equipment and poor working conditions during the Covid-19 pandemic. Lalić was briefly detained for “causing panic and unrest”. In Hungary, politician László Toroczkai announced his plans to sue cartoonist Gábor Pápai for alleged blasphemy, leading to a campaign of threats and intimidation against Pápai.⁶² In Turkey, journalist Metin Uca was sentenced to 14 months and 17 days in prison for insulting a public officer on duty, following complaints by the state-owned Anadolu News Agency director Şenol Kazancı and deputy director Mustafa Özkaya about a tweet.⁶³

Abuse of the criminal law by the state

■ Criminal investigations, prosecutions and convictions against journalists by state actors were recorded in several countries, including Azerbaijan, the Russian Federation and Turkey.

■ In Turkey and Azerbaijan, journalists were sentenced for a range of offences, including insulting a public official, violating quarantine rules, disclosing confidential information, violating bail requirements and membership of a terrorist organisation.⁶⁴ In Azerbaijan, the Russian Federation and Turkey, numerous alerts documented instances where pre-trial custody was ordered, often in combination with questionable charges of theft, extortion, treason, espionage or terrorism.⁶⁵ In many instances, such as in Turkey, indictments against journalists on these charges do not meet the necessary legal standard. In the UK, despite a ruling preventing

61 Alert “Subject to repeated intimidation, journalist Inès Léraud faces new defamation charges”, posted 15 June 2020.

62 Alert “Threats of legal action against cartoonist Gábor Pápai”, posted 11 May 2020.

63 Alert “Journalist Metin Uca sentenced to 14 months for tweeting suspiciously accurate election forecast by state-run news agency”, posted 9 June 2020.

64 Alerts “Odatv executives and journalists detained over an article”, posted 9 March 2020; “Turkish journalist Ayşegül Doğan sentenced to 6 years, 3 months in prison”, posted 8 December 2020; “Journalist Afgan Sadikhov detained and charged with extortion”, posted 18 June 2020.

65 Alerts “Azerbaijani reporter Elchin Mammad detained”, posted 15 May 2020; “Two journalists, Müyesser Yıldız and İsmail Dükel, detained by police for ‘military espionage’; Yıldız arrested”, posted 12 June 2020; “Journalist Afgan Sadikhov detained and charged with extortion”, posted 18 June 2020; “Russian journalist Ivan Safronov arrested over charges of treason; journalists detained at protests for his release”, posted 10 July 2020; “Turkish journalists Rawin Sterk and Selman Keleş on trial over alleged membership in terrorist organisations”, posted 11 September 2020; “Turkish news agency office raided and four journalists detained”, posted 13 October 2020; “Turkish police raid Mezopotamya news agency, detain journalist Dindar Karataş”, posted 25 November 2020.

his extradition to the United States where he would face charges of espionage, Julian Assange remained in detention.⁶⁶

■ Journalists and media workers were harassed with summonses for police questioning while reporting on protests and other public events, in the Russian Federation and Turkey, but also in Albania, France, Greece, Poland and Serbia.⁶⁷ Even where this is not the precursor to further criminal proceedings, this practice clearly interferes with reporting.

■ In Slovakia, the authorities brought criminal defamation charges against a newspaper opinion writer accused of offending religious believers, under a blasphemy law that is not in line with Council of Europe standards.⁶⁸

■ Lastly, journalists and media workers also faced restrictions to liberty including travel bans and the discriminatory exclusion from a prisoner release-policy in Turkey because of increased risk to personal health during the Covid-19 pandemic.⁶⁹

Judicial independence

■ Judicial independence is an essential condition for press freedom and the ability of journalists to defend their constitutional rights. The European Court plays a critical oversight role in guaranteeing the rights of journalists are upheld. However, the non-implementation of Court decisions in jurisdictions such as Turkey is a challenge to the European human rights framework. Political attacks on the independence of the Constitutional Court in Turkey is further compromising the rule of law in the country. Journalists face an ongoing campaign of judicial harassment, driven by the authorities' intention to thwart critical reporting, which is exacerbated by the context of a lack of prosecutorial and judicial independence and impartiality.

66 Alert "Continued detention of WikiLeaks founder and publisher Julian Assange", posted 7 January 2020.

67 Alerts "Journalist Anđela Đikanović charged with 'causing panic and disorder'", posted 7 January 2020; "Journalist Taha Bouhafs taken into custody", posted 20 January 2020; "Journalist Elvis Hila obstructed and detained by police in Albania", posted 23 June 2020; "Journalist Alexandre Reza Kokabi arrested and taken into custody", posted 30 June 2020; "Five journalists held in police custody", posted 8 October 2020; "Police detain, Interrogate journalist Yana Toporkova, raid her home", posted 30 October 2020; "Police arrest journalists covering protests in Khabarovsk, Anton Kurdiymov, Andrey Solomakhin and Dmitry Khetagurov remain in detention", posted 18 November 2020.

68 Alert "Slovak columnist charged with criminal defamation for criticism of priest", posted 11 February 2020.

69 Alert "Turkish government to exclude imprisoned journalists from plans to release prisoners amid Covid-19 pandemic", posted 27 March 2020.

Recommendations

Actions against misuse of law and criminalisation of journalism

■ Abuse of the criminal law by member states must be publicly condemned by the Council of Europe.

■ The partners recommend that Azerbaijan and the Russian Federation stop all criminal investigations, prosecutions and convictions against journalists linked to their journalistic work; and co-operate closely with the Council of Europe to undertake the legislative, judicial and other reforms required to ensure legal certainty for journalists consistent with Council of Europe standards, and to guarantee the legal protections for free speech.

■ In Turkey, authorities must cease all actions aimed at blocking or criminalising independent reporting and take steps, with the guidance of the Council of Europe, to restore prosecutorial and judicial independence and impartiality, and to ensure the country's legal framework regarding free expression complies with international standards.

■ The Platform partners call on Council of Europe member states to repeal criminal defamation laws in line with international standards, repeal laws providing for prison sentences for defamation and end the practice of imposing excessive fines and costs in civil cases.

■ The partners note that in Italy, the Constitutional Court in 2020 ruled that legislative reform is “urgently necessary in light of the ECtHR’s case law” to abolish prison sentences for criminal defamation in relation to journalists and media workers. The partners urge the Italian authorities to act without further delay to adopt the necessary legislation to enact this much-needed reform.⁷⁰

Actions against legal and judicial harassment

■ The Council of Europe is urged to take urgent action against abusive legal actions, also known as strategic lawsuits against public participation (SLAPPs), by:

■ Drafting and adopting as soon as possible a self-standing recommendation on the protection of the right to freedom of expression and unfettered public participation from the threat of abusive and vexatious legal proceedings. The recommendation should provide guidance on:

70 Alert “Government signals reversal of commitments to end jail penalties for journalists in defamation law”, posted 5 May 2020.

- ▶ measures to prevent and discourage SLAPPs in domestic law;
- ▶ domestic procedures to ensure that SLAPP-type suits that fail to meet minimum standards of evidence or public interest are dismissed at the earliest possible stage;
- ▶ making available full financial and legal support to defendants;
- ▶ preventing the use of forum shopping in relation to SLAPPs;
- ▶ putting in place a system of sanctions for those who bring SLAPPs.

■ The partner organisations call on the United Kingdom to take the necessary actions and measures to end the disruptive and harmful practice by which legal firms based in the UK send numerous vexatious threats of legal action directed at journalists and media organisations in various countries. The UK has been identified as the foremost country of origin of such vexatious actions, and this practice threatens to bring the UK and its legal profession into disrepute in the eyes of the world. Such communications disrupt the work and stifle the journalistic activities of recipients and represent a serious impediment to the watchdog function of the media.

Legislative changes to protect reporting on national security and other sensitive areas

■ Member states should fulfil their commitments by amending domestic legislation that is overly broad, imprecise or otherwise open to abuse; and by bringing defamation, terrorism and blasphemy laws, among others, into conformity with international human rights standards, adhering to the guidelines set out in CM/Rec(2016)4 on the protection of journalism and the safety of journalists and other media actors.

■ Member states should release all journalists and other media workers who are detained or jailed in connection with their professional activities.⁷¹ Those member states are called on to enable urgent judicial reviews, in close co-operation with appropriate Council of Europe bodies and independently of political or government influence, in order to ensure the maintenance of Council of Europe standards of due legal process and access to justice.

71 Journalists in detention at the beginning of 2021 included at least 60 in Turkey, 10 in the Russian Federation, 4 in Azerbaijan and 1 in the United Kingdom.

Impunity



Rapé (Mexico) / Cartooning for Peace

■ Impunity for crimes against journalists refers to the failure of states to identify, prosecute and punish anyone – including the assailants and masterminds – involved in committing a crime against a journalist. As stated in the report, *A mission to inform: journalists at risk speak out*, which was published in September 2020, “[c]ultures of impunity contribute to self-censorship by making journalists more vulnerable to pressures out of fear of reprisals or harm. Impunity undermines public trust in the system of justice and the rule of law.”⁷²

■ By the end of 2020, 33 alerts on impunity had been filed with the Platform. Of the 33 cases, 24 alerts concerned impunity for the murders of journalists in Azerbaijan, Malta, Montenegro, the Russian Federation, Serbia, Slovakia, Turkey, Ukraine and the United Kingdom (see the list of cases at the end of this section). The Russian Federation, Turkey and Ukraine account for two-thirds of the alerts in this category. Two cases – those of Ján Kuciak⁷³ from Slovakia, murdered in 2018, and Jamal Khashoggi,⁷⁴ murdered in the Saudi Arabian consulate in Istanbul in 2018 – were added to the impunity category in the course

72 Marilyn Clark and William Horsley (2020), *A mission to inform: journalists at risk speak out*, Strasbourg, at: <https://book.coe.int/en/human-rights-and-democracy/8492-a-mission-to-inform-journalists-at-risk-speak-out.html>.

73 Alert “Slovak investigative journalist Ján Kuciak at home”, posted 26 February 2018.

74 Alert “Saudi journalist disappears during visit to Saudi Consulate in Turkey”, posted 5 October 2018.

of the year as more than two years had passed since the killings. No progress was reported in most of the cases in 2020 and no impunity case was closed.

■ The pervasive culture of impunity for crimes against journalists in the Russian Federation is of significant concern to the Platform partners, who urge the authorities to undertake investigations thoroughly and transparently into such crimes. The perpetrators of these crimes are being allowed to act with impunity, resulting in journalists facing high risk of violent threats and assaults. Since March 2000, 37 journalists have been killed in connection with their work in the Russian Federation with most of these killings going unpunished. This includes renowned investigative reporter Anna Politkovskaya. The year 2021 marks the 15th anniversary of her murder.

■ The Platform partners welcome Turkey's efforts to bring those responsible for the murder of Jamal Khashoggi to justice. Several Saudi suspects are currently on trial in the country in absentia for the murder. We call on the Turkish authorities to make similar efforts to ensure that those behind the killings of all other journalists killed on Turkish soil are brought to justice. Turkey has not yet identified, convicted and punished all of those behind the killings of Rohat Aktaş, Hrant Dink, Naji Jerf and Saeed Karimian.

■ The partner organisations welcome the fact that Ukraine's Office of the Prosecutor General is conducting a reinvestigation of the case of Georgiy Gongadze, following the Committee of Ministers' decision on the implementation of the European Court judgment in December 2020.⁷⁵ We urge the authorities to ensure that the investigation is thorough and independent so that it can effectively identify and prosecute those behind his killing. We call for exhaustive investigations to take place into the killing of Vadym Komarov, which looks set to become yet another case of impunity.⁷⁶ Finally, in light of new evidence of the Belarusian KGB's possible involvement in the murder of Pavel Sheremet, we urge the Ukrainian authorities to undertake a fresh investigation into the circumstances surrounding his murder.⁷⁷

■ The partners welcome the progress of the ongoing public inquiry into Daphne Caruana Galizia's assassination in Malta, which has so far uncovered significant state failures to protect her life. However, we express our concern at the government's attempted interference in the inquiry and remind the authorities that the inquiry board must be permitted to independently fulfil

75 Alert "Continuing impunity in the killing of the Ukrainian investigative journalist Georgiy Gongadze", posted 16 November 2016.

76 Alert "Ukrainian journalist Vadym Komarov in coma following assault", posted 9 May 2019.

77 Charter '97%, "A former head of the KGB of Belarus Zaitsau discusses the murder of Sheremet: let's place something... so they will find neither hands not legs", 4 January 2021, at: <https://charter97.org/en/news/2021/1/4/406389/>.

the terms of reference, with a view to bringing everyone behind her killing to justice.

■ The fight for justice in the murder of investigative journalist Ján Kuciak and his fiancée Martina Kušnírová suffered a major setback in 2020 as a court acquitted the suspected mastermind and an associate, ruling that the evidence was not strong enough for a conviction. The Platform partners call on the authorities to promptly open a new investigation aimed at ensuring that everyone behind the journalist's murder is brought to justice.

■ The Platform partners commend the United Kingdom's launch of a National Action Plan for the Safety of Journalists. We remind the authorities that the impunity in the murder of Northern Ireland journalist Martin O'Hagan remains a significant obstacle to journalists' safety.⁷⁸ The Platform partners call on the British and Irish Governments to appoint a panel of independent international experts to carry out an investigation into his murder and the subsequent failed police investigation. As evidenced by four alerts filed in 2020, journalists in Northern Ireland continue to face violent threats on a recurring basis.⁷⁹

Recommendations

■ The lack of progress in bringing to justice the instigators or masterminds of recent murders of journalists is alarming. We fear that a climate of impunity is becoming pervasive in the Council of Europe area, as evidenced by some member states' dismal record of investigating crimes against journalists.

■ The Platform partners urge the Council of Europe to adopt consistent and co-ordinated actions to implement the provisions, recommendations and protocols set out in CM/Rec(2016)4⁸⁰ for impartial and effective investigations and prosecutions of serious crimes against journalists and introduce aggravated penalties for public officials found to have abused their authority and trust.

■ The protocols against impunity set out in CM/Rec(2016)4 should now be adopted with the highest priority.

■ We urge the Committee of Ministers, the Secretary General, the Parliamentary Assembly and the Commissioner for Human Rights of the

78 Alert "Continued impunity for murder of journalist Martin O'Hagan in 2001", posted 26 August 2019.

79 Alerts "Graffiti threatens safety of Northern Ireland journalist Leona O'Neill", posted 6 February 2020; "Suspected plot to attack an 'Irish News' journalist", posted 9 April 2020; "Loyalist threats against journalists in Northern Ireland", posted 11 May 2020.

80 Committee of Ministers, Recommendation CM/Rec(2016)4 to member states on the protection of journalism and safety of journalists and other media actors, 13 April 2016, at: https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016806415d9#_ftn1.

Council of Europe to continue to pressure member states to address impunity and to consistently denounce systemic and persistent failures of judicial process that create the conditions for the egregious cases of impunity; and to use political persuasion to expedite justice in every case involving the killing or serious abuse of media workers.

■ The partner organisations renew their appeal for justice and remind all Council of Europe member states that the completion of transparent, credible and effective investigations and prosecutions leading to the punishment of all those responsible for crimes against journalists is essential if public trust in states' commitment to media freedom and rule of law is to be restored.

Cases on the Platform regarding impunity for murder of journalists⁸¹

Ján KUCIAK – Slovak Republic – 2018
Jamal KHASHOGGI – Saudi Arabia Consulate in Turkey – 2018
Daphne CARUANA GALIZIA – Malta – 2017
Saaed KARIMIAN – Turkey – 2017
Pavel SHEREMET – Ukraine – 2016
Rohat AKTAŞ – Turkey – 2016
Naji JERF – Turkey – 2015
Timur KUASHEV – Russian Federation – 2014
Andrea ROCCELLI and Andrei MIRONOV – Ukraine – 2014
Viacheslav VEREMII – Ukraine – 2014
Oleksandr KUCHYNSK – Ukraine – 2014
Mikhail BEKETOV – Russian Federation – 2013
Akhmednabi AKHMEDNABIYEV – Russian Federation – 2013
Nikolai POTAPOV – Russian Federation – 2013
Rafiq TAGI – Azerbaijan – 2011
Gadzhimurad KAMALOV – Russian Federation – 2011
Hrant DINK – Turkey – 2007
Anna POLITKOVSKAYA – Russian Federation – 2006
Elmar HUSEYNOV – Azerbaijan – 2005
Dusko JOVANOVIĆ – Montenegro – 2004
Martin O'HAGAN – United Kingdom – 2001
Georgiy GONGADZE – Ukraine – 2000
Dada VUJASINOVIĆ – Serbia – 1994

Impunity for the killings, kidnappings and disappearances of 14 Serbian and Albanian journalists in Kosovo* between 1998 and 2005:

Bardhyl AJETI (2005), Bekim KASTRATI (2001), Xhemajl MUSTAFA (2000), Shefki POPOVA (2000), Marian MELONAŠI (2000), Momir STOKUĆA (1999), Krist GEGAJ (1999), Aleksandar SIMOVIĆ (1999), Milo BULJEVIĆ (1999), Ljubomir KNEŽEVIĆ (1999), Enver MALOKU (1999), Afrim MALIQI (1998), Duro SLAVUJ and Ranko PERENIĆ (1998)

81 Council of Europe, "24 Cases of impunity for murders of journalists", 2 November 2020, at: www.coe.int/en/web/human-rights-channel/end-impunity-for-crimes-against-journalists.

Surveillance, intelligence, state monitoring, independent safeguards and oversights



Lars Refn (Denmark) / Cartooning for Peace

■ Several alerts in 2020 reported on the surveillance of the press. Journalists must enjoy a right to privacy in order to protect their sources and to carry out their work without state oversight.

■ Covid-19 led to an acceleration in already latent efforts to track citizens. Many of the measures taken to combat the pandemic, such as contact-tracing tools, have potentially serious repercussions on journalists' privacy and ability to communicate with their sources. In Bulgaria, authorities can request personal user data without a prior judicial authorisation. In Austria and Germany,

the governments have permission to analyse anonymised data.⁸² The Russian Federation's efforts to dramatically expand biometric surveillance, including facial recognition, raises serious concerns about privacy, including that of journalists.⁸³ The OHCHR has underscored that "journalistic sources and other freedoms [must] be rigorously protected".⁸⁴

■ Several alerts shed light on the surveillance of individual journalists and violations of their privacy. Alerts on Ukraine⁸⁵ relate to cases where journalists or other media actors have been targeted by covert surveillance, phone tapping or interrogation. In one instance, judges illegally tried to gain access to a journalist's telephone. In Cyprus,⁸⁶ an investigative journalist found evidence in his home of surveillance and hacking of his personal communications and electronic devices which span the last three years. In Serbia,⁸⁷ the Finance Ministry demanded access to bank records of journalists and NGOs. In Hungary,⁸⁸ the Ministry of Foreign Affairs requested travel information from Hungarian embassies within the EU to list journalists' trips abroad.

■ One alert highlighted a surveillance-related issue in the Netherlands.⁸⁹ The alert concerns the drafting of a new law that will require Dutch citizens, including journalists, travelling to areas "controlled by terrorist groups" to gain permission from the Ministry of Justice. Failure to obtain permission could result in up to two years in prison. The law received significant criticism and backlash from critics and civil society, calling on the Dutch Senate to make an exception for journalists and follow the examples of Australia and the United

82 See Reporters Without Borders, "Coronavirus: state measures must not allow surveillance of journalists and their sources", 10 April 2020, at: <https://rsf.org/en/news/coronavirus-state-measures-must-not-allow-surveillance-journalists-and-their-sources>.

83 Radio Free Europe/Radio Liberty, "We see you! How Russia has expanded its video-surveillance system", 19 January 2021, at: www.rferl.org/a/russia-video-surveillance/31052482.html.

84 UN Special Rapporteur on the promotion and protection of freedom of opinion and expression/ Inter-American Commission for Human Rights Special Rapporteur for Freedom of Expression/ OSCE Representative on Freedom of the Media, "Covid-19: governments must promote and protect access to and free flow of information during pandemic", 19 March 2020, at: www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25729&LangID=E.

85 Alerts "Judges illegally tried to gain access to a Ukrainian journalist telephone", posted 4 August 2020; "Ukrainian investigative journalist Mykhailo Tkach finds traces of surveillance devices at his home", posted 12 August 2020.

86 See Organized Crime and Corruption Reporting Project, "Cypriot journalist says he is being spied on and fears for his life", 25 June 2020, at: www.occrp.org/en/daily/12631-cypriot-journalist-says-he-is-being-spied-on-and-fears-for-his-life.

87 Alert "Serbia: Finance Ministry demands access to bank records of journalists and NGOs", posted 3 August 2020.

88 Alert "Hungarian Ministry of Foreign Affairs to list journalists' trips abroad", posted 21 September 2020.

89 Alert "The Dutch travel restriction law threatens media freedom", posted 15 October 2019.

Kingdom, both of which do have such a general exception. As of now no such exception has been provided.

■ An important victory was also seen in 2020. Germany's Federal Constitutional Court declared the mass surveillance of global internet traffic,⁹⁰ and thereby that of foreign journalists and their sources, by Germany's foreign intelligence as unconstitutional. It follows an institutional complaint against the German Act on Signal Intelligence of Foreigners Abroad from 2016, which legalised practices of international mass surveillance. The Constitutional Court found that the practice violated the fundamental right to privacy of telecommunications of, among others, international media workers and their sources. Under the revised law, the confidential communication of journalists must now be legally protected from mass surveillance practices. The ruling is one of the most far-reaching in the field of press freedom.⁹¹

Recommendations

■ States must ensure that the right to journalistic source protection is safeguarded, particularly in relation to intelligence laws. Illegal surveillance of journalists by the state or private parties must be swiftly investigated and appropriately redressed.

■ Covid-19 has led to a dramatic expansion of state surveillance capabilities and implementation. Such measures – including infection-tracking mechanisms and vaccine certificates – must be time-limited, proportionate, strictly necessary to the public health aims pursued, and subject to scrutiny and control by independent data protection authorities. They must also provide effective exemptions to protect the rights of journalists and must be subject to strict judicial scrutiny. The pandemic must not be used as an excuse to usher in dangerous forms of surveillance, including biometric surveillance, that affect journalists' ability to work free from constant oversight by the state and private entities.

■ Lawmakers at both the European and national level must exercise their powers of oversight and restraint to ensure that governments do not abuse surveillance instruments or implement them beyond the narrowest of scopes necessary for combating Covid-19.

90 Alert "New proposed law set to increase the power to surveil foreign journalists", posted 8 July 2016.

91 Reporters Without Borders, "Worldwide mass surveillance by Germany's intelligence service declared unconstitutional in landmark ruling on press freedom in the digital age", 19 May 2020, at: <https://rsf.org/en/news/worldwide-mass-surveillance-germanys-intelligence-service-declared-unconstitutional-landmark-ruling>.

Media capture



Ares (Cuba) / Cartooning for Peace

■ In 2020, state-led media capture continued to spread in the Council of Europe region as a method of repressing media freedom and independent journalism. State-led media capture involves the exploitation of state economic, regulatory and legislative competencies to assume effective control over nominally private media or otherwise manipulate the media landscape in a way that discriminates against independent media and undermines their reach and sustainability. Through these mechanisms the state can co-opt the media landscape to serve its aims. Media capture is an appealing model to authoritarian-minded states as it avoids the types of developments – for example, the jailing of journalists, physical attacks on the press or overt censorship – that typically attract international scrutiny and condemnation.

■ The Russian Federation represents an extreme example of media capture by forces linked to state power. Throughout recent years the top 10 Russian television channels (the most influential source of news) have remained under the control of the Kremlin or its affiliated businessmen.⁹²

92 M. Ordzhonikidze, "Barriers and threats facing media in Russia", University of Sheffield Centre for Freedom of the Media 2019, pp. 4-5, at: www.cfom.org.uk/2020/04/19/barriers-and-threats-facing-media-in-russia-powerpoint-presentation/.

■ The government in Hungary has employed media capture tactics to dismantle media freedom and media pluralism to an unprecedented degree in the European Union. Using regulatory and financial levers, the prime minister and his allies facilitated the transfer of numerous once-independent media into government-friendly hands, establishing a pro-government media empire in the country. In 2020, these efforts were compounded after staff at Index.hu, Hungary's largest independent online news site, resigned en masse after saying the site's independence could no longer be guaranteed. Months before, a pro-Orbán businessman acquired a controlling stake in the company that managed Index.hu's advertising.⁹³

■ Two months later, the Hungarian Media Council announced that it would not extend the licence of Klubrádió, the last remaining independent radio station in Hungary.⁹⁴ The decision of the Media Council, which is dominated by representatives of the ruling party, follows a pattern of politicised decisions by the regulator that have undermined the independent media in Hungary while allowing pro-government media to establish an effective monopoly in certain media sectors. The decision followed a decade-long effort to force the station off the airwaves. Klubrádió's appeal against the decision was denied by a court in Budapest in early February 2021, with the broadcaster scheduled to lose its frequency and be relegated to the internet. Klubrádió's application for the new licence tender was denied by the Media Council shortly thereafter.⁹⁵

■ Concerns around media capture also grew with respect to Poland. The government renewed discussions around the so-called "repolonisation" and "deconcentration" of the Polish media landscape, concepts which are Trojan horses for expanding the influence of the governing party, PiS, over the press. Unable to accomplish this goal so far by legislative means, PiS has increasingly turned to the media capture model to bring elements of Poland's still-vibrant media landscape to heel. At the end of 2020, the Polish state-controlled petrochemical company PKN Orlen announced the takeover of Polska Press from the German company Verlagsgruppe Passau. The deal, which gives PKN Orlen control over 20 of Poland's 24 regional dailies, in addition to 120 weekly magazines and 500 online portals, vastly expands PiS's sway over Polish media in a manner reminiscent of Hungary.⁹⁶ A mission to Poland in November

93 Alert "Dismissal of Index News website editor further constricts media independence", posted 31 July 2020.

94 Alert "Hungary's last independent radio station has license extension rejected by media council", posted 11 September 2020.

95 International Press Institute, "Hungary: Fidesz-captured media regulator blocks latest attempt by Klubrádió to return to airwaves", 11 March 2021, at: <https://ipi.media/hungary-fidesz-captured-media-regulator-blocks-latest-attempt-by-klubradio-to-return-to-airwaves/>.

96 Alert "Orlen's takeover of Polska Press exposes media pluralism", posted 23 December 2020.

2020 carried out by several Platform partners found that PiS was “waging a coordinated and concerted campaign of administrative pressure against [independent media] outlets aimed at destabilising and undermining their businesses” as part of its import of media capture practices from Hungary.⁹⁷

■ In Turkey, most of the mainstream media is under the control of government allies. The country’s media regulators have been instrumentalised to pressure what remains of independent media in the country. The country’s television and radio regulator, RTÜK, nominally independent but in practice controlled by the ruling coalition, stepped up its threats to independent broadcasters. Numerous stations faced fines and the threat of having their licence suspended over critical content. In April 2020, RTÜK issued a broadcast ban against Fox TV over an anchor’s critical comments about Turkey’s Covid-19 policies.⁹⁸ Halk TV was hit with a five-day ban in May after hosting the Istanbul chair of the opposition CHP party.⁹⁹ Both stations risk losing their licences in the case of further bans. The report of the joint international press freedom to Turkey, which included several Platform partner organisations, highlighted captured media regulatory bodies as a top threat to press freedom.¹⁰⁰

■ Governments exploited state funding for the media to punish critical media and reward friendly ones. In Turkey, independent newspapers such as Evrensel and BirGün faced state advertising bans in 2020.¹⁰¹ In Poland, the distribution of advertising of state-owned companies has been shown not to correspond with market logic, with critical media receiving disproportionately low amounts.¹⁰² Added to this were serious discrepancies in the allocation of state Covid-19-related advertising revenue; the daily Gazeta Wyborcza, critical

97 Media Freedom Rapid Response/International Press Institute, “Democracy declining: erosion of media freedom in Poland, Press Freedom Mission to Poland (November-December 2020) report”, Vienna, 11 February 2021, at: https://ipi.media/wp-content/uploads/2021/02/20210211_Poland_PF_Mission_Report_ENG_final.pdf.

98 Alert “Fox TV banned from broadcast, anchor Fatih Portakal faces three-year Imprisonment”, posted 11 May 2020.

99 Alert “Radio Television High Council bans Halk TV after interview with opposition politician”, posted 11 May 2020.

100 International Press Institute, “Turkey’s journalists on the ropes: joint international press freedom mission to Turkey (6-9 October 2020), mission report”, Vienna 2020, at: https://freeturkeyjournalists.ipi.media/wp-content/uploads/2020/11/20201125_Turkey_PF_Mission_Report_ENG.pdf.

101 Alert “Public advertising ban on Turkey’s independent newspapers”, posted 7 February 2020.

102 Media Freedom Rapid Response, “Democracy declining: erosion of media freedom in Poland, Press Freedom Mission to Poland (November-December 2020) report”, Vienna, 11 February 2021, at: https://ipi.media/wp-content/uploads/2021/02/20210211_Poland_PF_Mission_Report_ENG_final.pdf; Tadeusz Kowalski, “Advertising expenses’ analysis of state-owned companies (SOC) in the years 2015-2019”, March 2020, at: www.researchgate.net/publication/339800569_Advertising_expenses'_analysis_of_state-owned_companies_SOC_in_the_years_2015-2019.

of the current government, was excluded from government health notices to the public in the spring. The European Commission has declined to address an official complaint alleging that Hungary's allocation of state advertising, which severely discriminates against independent media, constitutes unlawful state aid.¹⁰³ State funding was also the subject of a Platform alert involving Greece, after Greek media critical of the government were excluded or sidelined from a €20 million financial support scheme during the Covid-19 pandemic.¹⁰⁴

■ Media capture and conflicts of interest remain a top concern in Bulgaria. Although the symbol of this phenomenon, MP Delyan Peevski, has recently sold some of his media holdings, his influence on the media market remains problematic for media pluralism in the country.

Recommendations

■ Media capture by political or economic forces that distorts media markets and inhibits plurality is a clear breach of Council of Europe standards. Member states have a positive obligation to ensure an enabling environment for media pluralism, including an effective legislative and administrative framework.¹⁰⁵ This includes ensuring that conditions are in place to prevent media capture, ownership concentration and political interference in public and private media.

■ States must end all discrimination in the allotment of state-funded advertising.

■ States must provide guarantees for the independence of media regulatory bodies, including bodies that oversee mergers and competition in the media sector. Criteria that are applied in licensing processes must provide sufficient guarantees against arbitrariness, including requiring proper reasoning by the licensing authority of its decisions on licences and other regulatory matters.

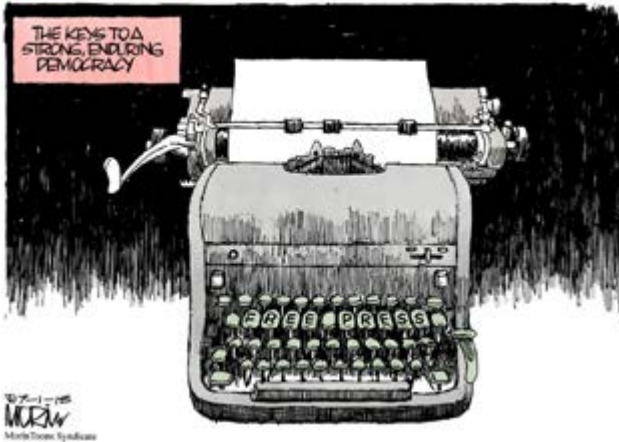
■ In Hungary, the Platform partners urge fundamental reforms of the Media Council, including the appointment process to the Council, to provide for independence, political balance, and an effective defence of media pluralism in Hungary, as well as compliance with all relevant EU legislation.

103 International Press Institute, "EU must act on Hungary market distortion", 2 September 2020, at: <https://ipi.media/eu-must-act-on-hungary-media-market-distortion/>.

104 Alert "Critical Greek media excluded or side-lined from state funding package during Covid-19", posted 23 July 2020.

105 Safety of Journalists Platform, "Freedom of expression and the broadcasting media", Thematic fact-sheet, June 2018, at: <https://rm.coe.int/factsheet-on-broadcasting-june2018-docx/16808b3dd6>.

Public service media



Morin (United States) / Cartooning for Peace

■ The Platform partners recognise the contribution that public service media can provide in upholding freedom of expression. Public service media should be a source of unbiased information, supporting diverse political opinions, and can contribute “to the reinforcement of democracy and social cohesion, and promoting intercultural dialogue and mutual understanding.”¹⁰⁶

■ However, public service media are under pressure or constrained in some member states, lacking sufficient independence from authorities who wield disproportionate influence, including through funding.

■ Covid-19 has amplified the challenges that PSMs face. Amid repeated lockdowns and short-term rule changes, PSMs had to navigate difficult working conditions and respond to increased and sometimes new needs and expectations. As the public health crisis continued, journalists at PSM, like their colleagues at other news organisations, questioned the merits of decisions made by their governments. Political pressure grew, and some governments tried to use the crisis to pass controversial legislation that would result in a weakening of the role of independent PSM.¹⁰⁷

106 Committee of Ministers, Recommendation CM/Rec(2012)1 to member states on public service media governance, 15 February 2012, at: https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805cb4b4.

107 European Broadcasting Union, “Fast forward: public sector journalism in the viral age”, Geneva, 19 November 2020, at: <https://knowledgehub.ebu.ch/trust/news-report-fast-forward-public-service-journalism-in-the-viral-age>.

■ In Poland, an OSCE election observer mission found that during the 2020 presidential election won by ruling-party candidate Andrzej Duda, the public broadcaster had “failed to ensure balanced and impartial coverage and rather served as a campaign tool for the incumbent”.¹⁰⁸ According to the 2020 EU Media Pluralism Monitor, the independence of PSM governance and funding in Europe were at high risk mainly due to the “appointment of politically dependent management”, including in Bulgaria (97% risk), Romania (97%), Turkey (92%), and Cyprus, Italy, Malta and Poland (all at 83%).¹⁰⁹

■ At the same time, the looming threat of funding cuts contributes to pressure on independence. In the EBU area, 79% of PSM reported having their funding reduced during the crisis, sometimes as a result of arbitrary decisions. This followed a steady erosion of PSM financial resources from 2009 to 2019 and longer-term impacts expected from the economic slump. In addition, PSM operate in an increasingly competitive environment. Internet and tech giants’ revenues have skyrocketed during the Covid-19 crisis and – their subscription revenues increased by 37%; while online video advertising was up 7% last year. The top-10 non-European commercial media groups’ revenues have grown by 34% in the past five years.¹¹⁰

■ What is more, PSM have been reporting an increasing amount of hostility and even violence levelled against their staff. NOS in the Netherlands have been forced to remove all the branding from their satellite trucks, as they were encountering threats and intimidation with people jumping onto the vehicles and cutting cables. The security costs of Sweden’s public broadcaster SVT have increased fourfold in the last five years – much of which is for personal protection. On average the Swedish broadcaster is handling 35 security issues per day – including harassment, acts of violence and threats, both physical and online. RTE in Ireland has seen Covid-19-related protests outside their building in recent months with staff being prevented from entering or leaving the offices.

■ PSM from across the continent have been receiving threatening correspondence – often sent to home addresses. Many broadcasters, such as DR in

108 Organization for Security and Co-operation in Europe, “ODIHR Special Election Assessment Mission findings and conclusions”, 28 June 2020, at: www.osce.org/files/f/documents/4/9/455728.pdf.

109 See, Centre for Media Pluralism and Media Freedom, “Monitoring media pluralism in the digital era: Media Pluralism Monitor Report 2020”, San Domenico di Fiesole, July 2020, at: <https://cmpf.eui.eu/mpm2020-results/>.

110 European Broadcasting Union, “Public service media’s competitive environment”, Geneva, 4 February 2021, at: www.ebu.ch/publications/research/members_only/report/psms-competitive-environment.

Denmark, make journalists' email addresses freely available for accountability but they are often abused by people sending malicious content.

■ Journalists and executives at Slovenia's public broadcaster RTV Slovenija have been the target of online smears and abuse, not only by members of the public, but by right-wing media outlets and, on some occasions, prominent politicians.

■ Public service media are expected to play a critical role by providing the public with trusted news and information, which has been powerfully demonstrated during the pandemic. But the conditions have to be right: they need sustainable funding, must have the flexibility to innovate, must be free from political interference, and national authorities have to protect their staff from violence and harassment. Situations where "a powerful economic or political group is permitted to obtain a position of dominance over the audio-visual media and thereby exercise pressure on broadcasters and eventually curtail their editorial freedom undermines the fundamental role of freedom of expression in a democratic society".¹¹¹

Recommendations

■ In the countries where a high risk of political influence on public service media exists, governments must implement reforms to provide safeguards against such risks, as relates to both funding models as well as procedures for nominating members of the governing bodies of PSM.

■ Poland should undertake immediate and sweeping reforms to the governance and management structures of its public TV and radio stations, and related editorial appointments, in a manner which ends and strictly prohibits habitually partisan coverage of political matters, especially elections, in favour of the ruling Law and Justice/PiS party, in accordance with the findings and recommendations of the 2020 ODIHR Election Observer mission.¹¹²

■ The Platform partners are alarmed by plans by the Slovenian Government to enact legislative changes that would defund the public broadcaster RTV Slovenija, as well as the suspension of financing of the Slovenian Press Agency (STA). Slovenia's Government should cease all efforts to damage the independence and credibility of Slovenia's public media.

111 Safety of Journalists Platform, "Freedom of expression and the broadcasting media", Thematic fact-sheet, June 2018, at: <https://rm.coe.int/factsheet-on-broadcasting-june2018-docx/16808b3dd6>.

112 Organization for Security and Co-operation in Europe, "ODIHR Special Election Assessment Mission, Final report", Warsaw, 23 September 2020, at: www.osce.org/odihr/elections/poland/464601.

Online harassment: a growing threat to journalists



Ares (Cuba) / Cartooning for Peace

Online harassment and attacks have been a long-standing issue for the security of journalists, but in the last two years these threats have seen a dramatic surge. Online threats can cause significant psychological harm and may also risk the physical security of journalists in some cases. As a result, journalists may turn to self-censorship to avoid being targeted. The figures on the Platform confirm this trend. In 2020, 16 alerts were posted on the Platform concerning online harassment, smear campaigns and threats against journalists, twice as many as last year. Among these alerts, 12 concerned female journalists, indicating how women are particularly targeted by online threats and abuse. A recent survey,¹¹³ conducted by UNESCO and the International Center for Journalists, showed that 73% of women journalists had experienced online harassment and abuse and that most of these attacks remained unreported.

Women journalists have been the target of gender-based insults and threats of a sexual nature. Tanja Milevska, a Brussels correspondent for the North Macedonia news agency MIA faced online harassment, including verbal abuse and death and rape threats on social networks. This was after she asked on Twitter whether Hungary's Prime Minister Viktor Orbán and the European People's Party in the European Parliament would recognise the 2019 constitutional change of the country's official name to North Macedonia.¹¹⁴ In North

113 UNESCO (2020), "Online violence against women journalists: a global snapshot of incidence and impact", at: <https://unesdoc.unesco.org/ark:/48223/pf0000375136>.

114 Alert "MIA Brussels correspondent Tanja Milevska receives death and rape threats", posted 15 July 2020.

Macedonia, Meri Jordanovska, editor at A1on.mk, and Iskra Koroveshovska, editor at TV Alfa, received threats and gender-based insults.¹¹⁵ In Serbia, two days after the Independent Journalists Association of Serbia issued a public statement condemning the attack and the sexist insults directed against TV N1 journalist Žakline Tatalović on a prime time talk show hosted on a nationally broadcast television station, she received new threats and insults.¹¹⁶

Journalists reporting on sensitive topics have also been targeted. In France, TF1 correspondent Liseron Boudoul received dozens of insulting messages on social media after broadcasting a report on the situation in Nagorno-Karabakh. TF1 was harassed with e-mails, phone calls and messages on social media with one Facebook comment saying that: “It is possible that with a few beheadings of senior TF1 staff, they will think better and more clearly.”¹¹⁷ In Belgium, journalist Florence Hainaut has been the target of an online harassment campaign following the publication of an opinion piece about the wearing of the Islamic headscarf on the website of *Le Soir* newspaper. Dozens of insulting and defamatory comments targeting the journalist were posted on Facebook and Twitter.¹¹⁸ In Sweden, cartoonist Mahmoud Abbas received thousands of tweets and comments on social networks, including insults, abuse and death threats towards him and his family, after publishing a cartoon about the collapse of oil prices which quickly went viral on Twitter in Saudi Arabia. Personal information about his family and his location in Sweden were also shared.¹¹⁹

In Italy, the president of Federazione Nazionale Stampa Italiana, Beppe Giulietti, has been the target of harassment and intimidation on social networks, fuelled by extreme right-wing accounts. Angela Caponnetto of Rai News 24 and Nello Scavo of the newspaper *Avvenire*, were the target of threats and insults, after they exposed incorrect information about migrants in Lampedusa.¹²⁰ In the case of French journalist Julie Hainaut, who was the victim of an online harassment campaign on social networks for months, an individual, who was found guilty of participating in the hate campaign in the first instance, was cleared on appeal after the court found that the case was time-barred. The mishandling of her complaint by the police and prosecution led to this result.¹²¹

115 Alert “Threats and insults against female journalists Meri Jordanovska and Iskra Koroveshovska”, posted 22 January 2020.

116 Alert “New threats to TV N1 journalist Zaklina Tatalovic”, posted 20 November 2020.

117 Alert “TF1 and journalist Liseron Boudoul targeted by hate campaign”, posted 3 November 2020.

118 Alert “Journalist Florence Hainaut targeted by harassment campaign”, posted 24 July 2020.

119 Alert “Cartoonist Mahmoud Abbas threatened with death”, posted 11 May 2020.

120 Alert “Online threats against the President of Federazione Nazionale Stampa Italiana”, posted 26 August 2020.

121 Alert “Police Failure to Respond to the Serious Threats a Journalist Received Online”, posted 25 June 2018 (resolved).

■ In Bosnia and Herzegovina, Vanja Stokić, editor-in-chief of the E-trafika news portal, received a message threatening to “decapitate” migrants and people who welcome them following the publication of a photograph depicting her with two migrants on her profile. Stokić was covering a story on migration. Additional threats and harassment messages were sent to Stokić and her friends.¹²²

■ Several alerts highlight harassment campaigns fuelled by politicians. In Slovenia, investigative journalist Blaž Zgaga has been the target of a smear and hate campaign. He received death threats from far-right groups after the government retweeted a claim that the journalist is a “psychiatric patient who escaped quarantine”.¹²³ In Turkey, Interior Minister Süleyman Soylu used Twitter to denigrate journalist Müyesser Yıldız, a columnist for Oda TV, accusing her of having “terrorist” sympathies. The journalist fears for her physical security amid a campaign of online abuse sparked by Soylu’s criticism.¹²⁴

■ The magnitude and the violence of these attacks often leads journalists to shut down their social media accounts to protect themselves. In Azerbaijan, journalist Arzu Geybullayeva was targeted in an online harassment campaign on Instagram, Twitter and Facebook, following the publication of an opinion article she published on the conflict between Azerbaijan and Armenia. The journalist had to deactivate her Instagram account, after receiving dozens of messages warning her that she would “pay the price” for her “disrespect and treason”.¹²⁵ In Bosnia and Herzegovina, Nikola Vučić, a journalist at N1 television, received death threats after posting a sarcastic comment on Twitter in reaction to the self-declared “corona-free zone” in West Herzegovina Canton. Vučić closed his Twitter account after some media reported details of his personal life.¹²⁶

■ As a result of online abuse, death threats and doxing,¹²⁷ journalists have been forced to go into hiding. In Ukraine, Katerina Sergatskova, the chief editor of the news site Zaborona, went into hiding because she feared for her life and the lives of her husband and children, after a local journalist posted personal information about her on Facebook and subsequent threats of death and violence.¹²⁸ In the United Kingdom, Amy Fenton, chief reporter for The Mail in Barrow-in-Furness, received more than 100 death threats and threats of violence following the publication of a report about a young woman from the

122 Alert “Journalist Vanja Stokić received death threat”, posted 19 May 2020.

123 Alert “Slovenian journalist Blaž Zgaga targeted by a defamation and hate campaign led by the new government”, posted 19 March 2020.

124 Alert “Interior minister denigrates Oda TV journalist Müyesser Yıldız”, posted 20 May 2020.

125 Alert “Journalist Arzu Geybullayeva targeted by harassment campaign”, posted 10 December 2020.

126 Alert “Death threats against N1 journalist Nikola Vučić”, posted 3 June 2020.

127 Doxing is the disclosure of a person’s private and personal information online with intent to cause harm.

128 Alert “Ukrainian journalist Katerina Sergatskova in hiding amid threats”, posted 24 July 2020.

town who had been charged with lying about having been abused. The attacks were reported to the police but a day later Fenton and her daughter had to leave their home to be placed in a secret location under police protection.¹²⁹

■ Digital threats are increasingly spilling into the physical world with potentially grave consequences. In Slovenia, Eugenija Carl, a reporter for the public broadcaster RTV Slovenija, who had previously received threats, insults and harassment on social media by Prime Minister Janez Janša's supporters, received an envelope mailed to her work address containing a threatening letter and white powder.¹³⁰

■ Individuals threatening and attacking journalists online are rarely held accountable for their attacks even when journalists file formal complaints. Journalist Patricia Devlin, who reports on organised crime and paramilitary activity in Northern Ireland for the Sunday World, has faced abuse and threats including disclosure of her personal details in online forums. One year after filing a formal complaint to the Police Service of Northern Ireland after receiving a threatening message via Facebook, no suspect has been brought to justice despite the continued threats and two formal police notifications that her safety was at risk.¹³¹

Recommendations

■ Member states should undertake to investigate and prosecute online threats and abuse against journalists in line with existing laws. Member state action to deal with the phenomenon of online harassment must strictly uphold international standards on freedom of expression.

■ Legal obligations placed on online platforms to moderate speech must be subject to scrutiny to ensure that these obligations comply with international free expression standards and promote transparency and an independent appeals process.

■ Politicians and officials must cease verbal attacks on journalists that can be seen to fuel further online harassment and intimidation of journalists, and they should condemn such online attacks on journalists when they occur.

129 Alert "Journalist Amy Fenton put under police protection due to threats following coverage of a criminal case", posted 3 June 2020.

130 Alert "Reporter Eugenija Carl receives threatening letter with white powder", posted 22 June 2020.

131 Alert "Journalist Patricia Devlin subject to threats and intimidation despite police complaint", posted 19 October 2020.

Partners' assessment and recommendations on EU policy and practice



Dario (Mexico) / Cartooning for Peace

Following commitments made after the 2019 elections, the European Commission put in place several new measures to strengthen and protect media freedom and pluralism in EU member states. In 2020, the European Commission introduced a series of policy and legislative reforms that could bring material benefits for the practice of free and independent journalism in the medium to long term. Other measures, including legislation relating to content moderation, or the lack of application of EU competition law following complaints to the Commission, were seen as posing possible risks or obstacles to press freedom.

The European Commission cited many of the Platform alerts in its assessments, and it used the Council of Europe's standards as benchmarks for the European Democracy Action Plan (EDAP), which identified safeguarding media pluralism and journalists' safety as two of the most important goals. EDAP seeks to counter physical and online threats and attacks against journalists through a Commission-led recommendation on journalist safety and a "structured

dialogue” with member states, civil society, journalists’ organisations and the Council of Europe¹³². It also addresses the abusive use of strategic lawsuits against public participation (SLAPPs); provides sustainable funding for legal and practical safety assistance to journalists; and strengthens transparency of media ownership and state advertising. It also committed the EU to actively promote and support journalists’ safety in its “external actions and policies”, but did not clarify what additional measures might be taken to strengthen diplomatic interventions and support by the European External Action Service in countries outside the EU.

■ The Rule of Law Mechanism now provides a process for an informed dialogue between EU institutions and member states on press freedom. The Rule of Law Report issued in September 2020 sought to identify signs of backsliding in the rule of law in member states. Media pluralism and press freedom was one of four areas assessed, together with justice systems, anti-corruption frameworks, and institutional issues related to checks and balances. The report, part of the overall European Rule of Law Mechanism, provides for an annual dialogue between the Commission, the Council and the European Parliament together with member states as well as national parliaments, civil society and other stakeholders. The Commission has stated that journalists should use the report for debate at national level as well as within the EU institutions. However, the extent to which this took place remains unclear.

■ Civil society contributed to the 2020 report and to the country consultations led by the Commission, but some national press freedom groups were concerned that the process fell short of addressing the full range of media freedom issues (for example, public service media regulation), or the gravity of relevant national concerns, and that the language was too diplomatically worded in some instances. Report chapters included information on the Platform alerts, and the response levels of member states, providing the Platform with increased recognition within the Commission.

■ The Commission should develop its assessment of the long-term effectiveness of the process, disseminate widely and publicly its communications and outreach strategies for member states, and consider introducing specific recommendations to the country chapters which would allow civil society to assess long-term progress or regression in each member state.

132 See section 3.1 “Safety of journalists” in: European Commission, “Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the European democracy action plan”, COM(2020)790 final, Brussels, 3 December 2020, at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2020%3A790%3AFIN&qid=1607079662423>.

■ The Commission recognised the economic crisis affecting the media sector, fuelled in part by the diversion of advertising revenues to online platforms. It introduced measures to address the effects that Covid-19 played on the dire economic conditions facing journalists in the bloc. Driven by this recognition, the European Commission established the Media and Audiovisual Action Plan, whose objectives include helping the media sector recover by facilitating wider access to finance, transforming investment structures and building financial resilience.

■ The Digital Services Act and the Digital Markets Act, issued at the end of 2020, made proposals for regulating digital services and digital markets. The Digital Services Act proposed a regulation (a binding legislative act for all EU member states) to include more targeted and restrictive compliance responsibilities for big tech, including on the question of content removal. The Digital Markets Act (also a regulation) is looking to address the powerful role of big tech as the gateway between consumers and businesses. Both could have a significant impact on the digital and economic landscape in which journalists operate, including improving media pluralism, and press freedom advocates continue to follow the elaboration of both texts.

■ Certain pieces of draft EU legislation continue to raise concern among journalists' and media organisations, and press freedom and digital rights activists. At the time of writing, both the Terrorist Content Online Regulation (TERREG) and the E-Evidence Regulation were in the final stages of adoption. The "E-Evidence" Regulation¹³³ allows for law enforcement cross-border access to electronic data but lacks sufficient safeguards for journalists, including appropriate judicial oversight of any attempts to access information about journalists and identify their sources. Despite inserted language exempting journalists, the text of TERREG included a one-hour rule to remove online content – potentially threatening the removal of journalist source material and even content – which also risks a bypassing of appropriate judicial oversight.

■ The European Union should make more extensive use of its competencies in the field of competition law and the provision of state-aid law to push back against member states' distortions of the media market and discrimination against independent media. The European Commission has failed to act on two crucial state-aid complaints, one regarding the misuse of state advertising in Hungary to starve independent media and another regarding funding to the Hungarian public service broadcaster, which in practice acts as a government mouthpiece.

133 European Commission, "Proposal for a Regulation of the European Parliament and of the Council on European Production and Preservation Orders for electronic evidence in criminal matters", COM/2018/225final, 17 April 2018, at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1524129181403&uri=COM:2018:225:FIN>.

A coalition of 16 freedom of expression and journalists' organisations urged Competition Commissioner and Commission Vice-President Margrethe Vestager in a September 2020 letter to give priority to these complaints, which were brought by a civil society coalition led by the Mérték Media Monitor. However, the Commission has not yet announced further action. The failure to enforce competition law, including state-aid law, emboldens other governments to follow this same path. A new report on media freedom in Poland confirms that the Polish Government is adopting many of the same tactics as Hungary, including the discriminatory application of state-funded advertising.

Recommendations

■ The partners call on the European Commission to ensure that the European Democracy Action Plan's recommendations on media pluralism, independence of media regulators and journalists' safety lead to demonstrable improvements to the lives and work of journalists on the ground. EU member states should provide their full support, where necessary, for its successful implementation.

■ To ensure the credibility and full independence of the Rule of Law Mechanism, the European Commission should ensure a robust assessment of the effectiveness of the Rule of Law Mechanism, disseminate its communications and outreach strategies of the national consultations in member states widely to civil society, and introduce recommendations to the country chapters in order to allow civil society and journalist organisations to assess long-term progress or deterioration in particular states.

■ EU institutions should ensure the Digital Services Act and Digital Markets Act support media pluralism and help to establish more favourable digital and economic environments for the practice of journalism.

■ The European Commission should uphold competition law in the media sector, including state-aid law. This must include fully investigating complaints from civil society alleging competition law breaches, such as the two complaints brought against Hungary by Mérték Media Monitor, former MEP Benedek Jávor and Klubrádió. Where necessary, the Commission should assess possible flaws of existing EU competition law, with a view to making necessary legislative revisions.

Special focus

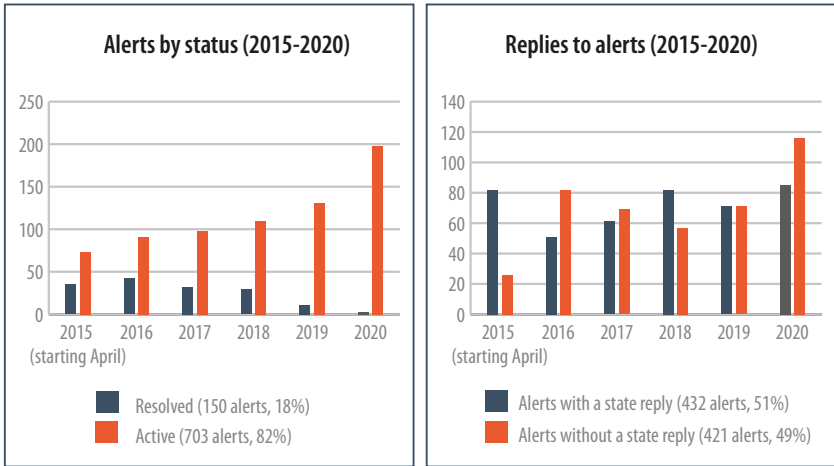


Ares (Cuba) / Cartooning for Peace

Member states responses

■ The Council of Europe's Platform to promote the protection of journalism and safety of journalists serves as an early warning and rapid response system to identify and seek remedies for serious threats to media freedom. It is a ground-breaking mechanism for meaningful dialogue between international organisations working on freedom of expression and press freedom and the member states of the Council of Europe. The Platform alerts – over 900 in six years – represent an important resource for state accountability which is of value for other international bodies, including the European Union, the OSCE and UN bodies.

Yet after six years of the Platform's operations, the tangible results in terms of effective protections fall significantly short of their potential. The Platform partners call for a dramatic improvement in the rate and quality of states' written responses to alerts. Each alert requires the prompt attention of public officials in the relevant parts of the government concerned. The low response rate points in many cases to a lack of serious consideration, or a reluctance to acknowledge evidence of a failure of protection.



Need for an enhanced dialogue with the Committee of Ministers

Considering the evidence of backsliding and some systemic failings in states' provision of real-life protections to journalists, the Platform partners seek increased political engagement from the Committee of Ministers to secure the long-term success of the Platform's work.

We urge the Committee of Ministers to engage in an enhanced and action-oriented dialogue with the partner organisations, aimed at delivering effective remedies for persistent failings in law and policy, and giving genuine protection to the watchdog role of the free media, as interpreted through the rulings of the European Court of Human Rights.

The Council of Europe should draw on the partner organisations' findings and recommendations as references in setting and adjusting Council

of Europe priorities, to promote effective follow-up actions in the member states. Where appropriate, Council of Europe bodies should take account of partners' concerns and proposals, in projects and activities in pursuit of effective solutions, including through regular and structured dialogues with the Committee of Ministers, information exchanges with the Assembly, and events such as the 2021 Conference of Ministers responsible for media and information society issues.

Guidance on state responses

■ The partners recommend that the Secretary General of the Council of Europe provide guidance to member states on how to effectively manage and co-ordinate responses to the alerts on the Platform, taking account of the following:

- ▶ Member states must fully investigate the reported threat, attack or abuse, and the fullest possible information about the progress of the investigation should be made public on the Platform (taking due account of any legal restrictions and respect for relevant privacy rights) to enable open assessment and meaningful dialogue. State responses which contest the findings of the alerts should provide full and complete explanations of the grounds on which the assessment has been made.
- ▶ Member states are asked to consider setting up internal mechanisms to manage alerts, with the authority to liaise with all relevant governmental, judicial and security institutions or bodies. Such mechanisms should have adequate mandate to achieve effective and timely co-ordination of alerts and ensure informed consideration of the alerts by the appropriate governmental departments or other bodies.
- ▶ Member states are asked to designate points of contact for facilitating dialogue, as may be necessary, between the authorities of the member state and the Platform partners.

■ Platform partners will fulfil their commitment to review state replies and follow-up measures without unnecessary delay, so that alerts can be updated to make clear when "Progress" has been made and alerts are marked as "Resolved" when the threat to media freedom has been resolved.

Good practices and reforms

■ Member states' positive actions, including establishment of national safety plans, and other reforms of law and practice as set out in Recommendation CM/Rec(2016)4 of the Committee of Ministers to member states on the protection

of journalism and safety of journalists and other media actors, should be actively promoted within member states and with the active support of the Council of Europe.

National structures for handling alerts

■ France established an inter-ministerial working group to co-ordinate responses, composed of representatives of the Permanent Representation of France to the Council of Europe and the Ministries of Interior, Justice and of Culture. Ukraine's Ministry of Culture and Information Policy has also put in place a system to co-ordinate responses to alerts, and several other countries have signalled their intention to follow suit. Such moves are an important step towards better transparency and accountability for handling Platform alerts. The Platform partners would welcome the Committee of Ministers' encouragement of similar arrangements in other member states, taking account of the experiences of France and Ukraine.

■ To be effective, such information-sharing should span all relevant governmental, security and law-enforcement institutions and be followed by consideration of remedial policy measures at an appropriately senior level.

Non-engagement by some member states

■ Azerbaijan, the Russian Federation and Turkey have declined to reply to alerts and engage with the work of the Platform. The partners remind all the member states of their obligations under the European Convention on Human Rights. They urge all 47 member states to reply to the alerts that are communicated to them in good faith, and to undertake the necessary follow-up actions to remedy the suspected violations identified in the alerts.

Nagorno-Karabakh conflict

■ Violent clashes broke out between Armenian and Azerbaijani forces over the Nagorno-Karabakh region on 27 September 2020. Safety conditions for reporters covering the conflict steadily deteriorated and serious restrictions on journalists' freedom of movement and difficulties in obtaining reliable information were reported. The work of journalists was also made more complicated by the declaration of martial law in both Armenia and Azerbaijan at the end of September.

■ In a joint statement on 28 October, the Platform partners expressed concern about the physical safety of journalists covering the conflict and

warned that arbitrary state restrictions unduly interfered with the right of the press to inform the public through free and independent reporting.

■ At least seven journalists were injured on the ground while covering the conflict. On 1 October, four journalists were injured in a shelling attack in the town of Khojavend/Martuni, including reporters from *Le Monde*, 24 News and Armenia TV. All of the journalists and their vehicles were clearly identified and bore the word “Press”. On 8 October, two Russian journalists were injured by shelling in Shusha/Shushi. On 19 October, Azerbaijani reporter Hasanov Anar was injured and his car damaged after armed forces fired in Aghdam region.

■ On 27 October, a group of journalists¹³⁴ working for the UK, US and Armenian media wearing bulletproof vests clearly marked with the word “Press” were deliberately targeted after being spotted by drones when leaving Khojavend/Martuni. There were no military objectives in the area.

Reporting restrictions in Armenia

■ In Armenia, a decree signed on 8 October banned the publishing of information critical of the government, civil servants and local administrations. Media faced the possibility of fines, freezing of assets and removal of online content.

■ The same day, the Armenian foreign ministry rescinded the accreditation of *Novaya Gazeta* correspondent Ilya Azar, who had recently published an article with comments from Armenian volunteer soldiers criticising the authorities.

■ On 10 November, a group of around 40 people attempted to break into the Yerevan office of Azatutyun, the Armenian service of Radio Free Europe/Radio Liberty, seeking to destroy the station’s servers to prevent it from going on air.

■ On 10 February 2021, Armenian border troops announced that journalists seeking to work in the southern Syunik province should seek authorisation, claiming that the restrictions were needed for safety reasons.

Reporting restrictions in Azerbaijan

■ Widespread social media restrictions were imposed in Azerbaijan during the conflict. Facebook, Twitter, WhatsApp, YouTube and other social media were repeatedly blocked during this period by the Ministry of Transport, Communications and Technology.

134 Reporters Without Borders, “Covering Nagorno-Karabakh war is getting increasingly dangerous and complex for reporters”, 6 November 2020, at <https://rsf.org/en/news/covering-nagorno-karabakh-war-getting-increasingly-dangerous-and-complex-reporters>.

■ Several foreign journalists were blocked from entering the country. Some who received accreditation said they were not able to move freely, including France 24 special correspondent Katherine Norris-Trent. Reporters who entered Nagorno-Karabakh faced blacklisting by Azerbaijani authorities. The Ministry of Foreign Affairs even called on journalists not to cover the conflict. Officials said Baku bore no responsibility for the safety of journalists who entered Nagorno-Karabakh without permission.

Recommendations

■ Azerbaijan and Armenia must uphold their obligations under international law regarding civilians. Attacks on journalists constitute war crimes. States engaged in armed conflict must instruct their military and police forces to give necessary and reasonable assistance to journalists when requested. They should remove administrative barriers and facilitate the access of journalists, including visa facilitation and their equipment to the territory concerned by providing the necessary documentation and permissions. They should refrain from taking any restrictive measures against journalists, such as denial, withdrawal of accreditation or expulsion, on account of their exercise of their duties or the content of their reports. States should apply these provisions in a non-discriminatory, non-arbitrary manner in their dealings with journalists, whether foreign or local.

Belarus

■ Belarus remains outside the Platform's alert system. However, given the escalation of the crackdown on media freedom in the country, following the August 2020 presidential election and the mass protests that followed, the partner organisations of the Platform have decided to include Belarus in the annual report, urging forceful action from the international community to stop the repression of journalists by the Belarusian authorities.

■ At the time of the writing of this report, 12 journalists were detained in Belarus: Katsiaryna Borisevich (TUT.BY), Katsiaryna Andreyeva (Belsat), Daria Chultsova (Belsat), Julia Slutskaia (founder of the Press Club), Sergei Olshevsky (director of the Press Club), Alla Sharko (programme director of the Press Club), Piotr Slutsky (employee of the Press Club), Ksenia Lutskina (former journalist of Belarus 2), Andrei Alexandrov (journalist and media manager), Denis Ivashin (journalist with the weekly newspaper *Novy Chas*), Yasep Palubiatka (*Gazeta Slonimskaya* correspondent in Masty) and Sergei Gordievich (Pergiy Region Drogichinsky correspondent, under house arrest).

■ On 18 February 2021, two Belsat journalists, Daria Chultsova and Katsiaryna Andreyeva, were sentenced to two years' imprisonment after they live-streamed from a rally against the death of a protester in November 2020. Other media workers are expecting trials.

■ On 16 February 2021, the police sealed the premises of the Belarusian Association of Journalists (BAJ) and seized the list of members.

■ On 2 March 2021, the Moskovsky District Court of Minsk sentenced TUT.BY journalist Katsiaryna Borisevich to six months in prison for divulging medical secrets, after she had contradicted official statements about the death of a protester who the authorities suggested was drunk at the time.

■ Police forces carried out dozens of raids on the homes and offices of Belarusian journalists, as part of "investigation of mass anti-government protests". BAJ has registered over 500 violations of journalists' rights since August 2020. Journalists have been detained for days following protests, beaten while in custody and had their equipment destroyed or confiscated.

■ During the 10 August 2020 protests, Natalia Lubneuskaya, a correspondent of the *Nasha Niva* newspaper, was shot at by law enforcement while wearing a press vest and spent 38 days in hospital after sustaining the gunshot wound. To add insult to the injury, the newspaper was threatened with a fine for "failing to report to the authorities in a timely manner" the injury of the correspondent.

■ The biggest independent Belarusian news site, TUT.BY, has been stripped of its media outlet status, while one of its journalists has been in pre-trial detention since November 2020.

■ In October 2020, the Ministry of Foreign Affairs of Belarus cancelled all the accreditations of journalists working for foreign media, denying renewals to most of the foreign media outlets except for a few Russian companies. Staff of the national broadcaster BTRC went on strike in disagreement with the editorial policy of the broadcaster, accusing it of spreading propaganda.

■ Authorities blocked access to over 100 news sites, while new draft legislation is under preparation which targets any criticism of the government as "extremist behaviour". This could lead to severe penalties, including the loss of citizenship.

■ The Belarusian public broadcaster BTRC (National State Teleradiocompany of the Republic of Belarus), which is still a member of the European Broadcasting Union (EBU), is a propaganda machine at the service of the regime. On 18 February 2021, Belarus opposition leader Sviatlana Tsikhanouskaya supported the Belarusian Culture Solidarity Foundation's call to exclude BTRC from the EBU.

■ In 2020, BAJ reported 477 cases of detention of journalists, 62 journalists who experienced violence from security forces, and 97 journalists condemned to administrative arrests (they spent 1 200 days behind bars).¹³⁵

■ All these actions highlight the magnitude of the crackdown in Belarus. They cannot, under any circumstances, be reasonably considered as responses to the disruption of public order.

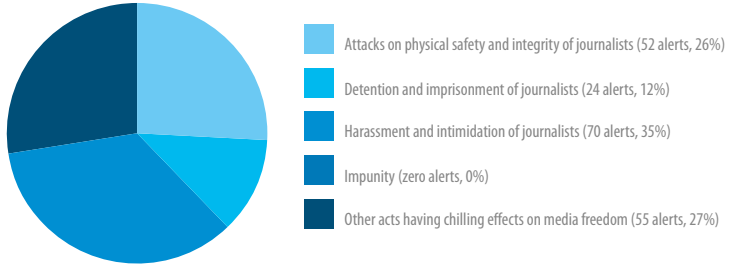
Recommendations

■ The Platform partners urge all the Council of Europe member states to put geopolitical considerations aside and take an unambiguous stance regarding this unprecedented wave of attacks on independent journalism in a country in the middle of Europe. The Platform partners also urge the Council of Europe's Committee of Ministers to include Belarus in the remit of the Platform.

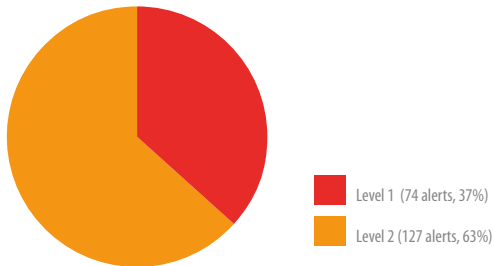
135 Belarussian Association of Journalists, "Repressions against journalists in Belarus, 2020 (chart)", 31 December 2020, at: <https://baj.by/en/analytics/repressions-against-journalists-belarus-2020-chart>.

Statistical breakdown

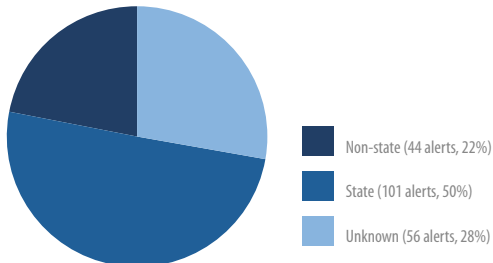
2020 alerts by category



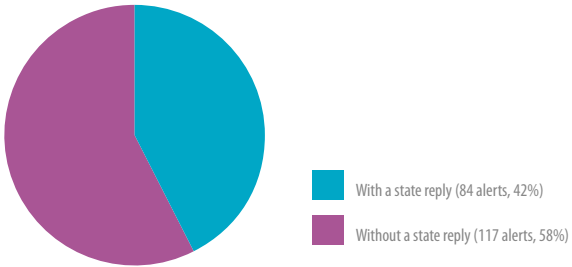
2020 alerts by level



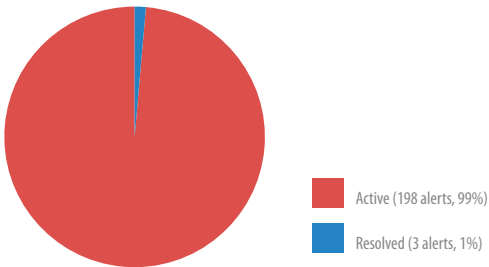
2020 alerts by source



Replies to 2020 alerts



2020 alerts by status





Rodríguez (Mexico) / Cartooning for Peace

Visit the Platform website:
www.coe.int/fom

This publication presents the annual assessment of threats to media freedom in the Council of Europe's member states in 2020, by the partner organisations to the Safety of Journalists Platform.

The Platform was set up by the Council of Europe in 2015, in co-operation with prominent international NGOs active in the field of the freedom of expression and associations of journalists, to facilitate the collection and dissemination of information on serious threats to media freedom and safety of journalists in the Council of Europe's member states. The Platform enables the Council of Europe to be alerted in a timely and systematic way to these threats and to take co-ordinated and prompt action when necessary. Its objective is to improve the protection of journalists, better address threats and violence against media professionals and enhance the response capacity within the Council of Europe.

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The Council of Europe is the continent's leading human rights organisation. It comprises 47 member states, including all members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.

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