

JOURNALISTS UNDER PRESSURE

Unwarranted interference, fear
and self-censorship in Europe



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COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

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Foreword

The last decade has seen a significant increase in different forms of violence and abuse against journalists, as well as against whistle-blowers and public watchdogs. From physical attacks to intimidation and harassment, targeted surveillance and cyberbullying, across Europe we now see a range of tactics deployed to silence critical voices and stifle free speech.

This study sheds new light on the impact on journalists' behaviour. Many in the profession are deeply committed to reporting in the public interest, in spite of constraints on their work. It is clear, however, that many equally feel fearful for their own welfare, including, in some cases, their personal safety and that of their families and friends. Out of almost 1 000 journalists and other news providers questioned for the survey, over a third believe that there are no effective means by which they can report threats or interference.

It should therefore come as no surprise that the survey found high levels of self-censorship among journalists. A high proportion of respondents say that they feel pressured to present their reports in ways which are more amenable to their employers, withholding information when necessary. Many are compelled to tone down controversial stories, or abandon them altogether. Such constraints clearly conflict with the desire to report fully and factually, a desire which motivates many in the profession.

Despite the negative trends uncovered by this report, however, a significant number of respondents told us of their determination to resist censorship, whether it be from outside forces or self-imposed. Their resolve is laudable. The ability of the media to scrutinise elites and hold power to account is essential for the healthy functioning of any democracy. Freedom of expression, as enshrined in the European Convention on Human Rights, guarantees that everyone has the right "to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers".

The obligation to create an environment in which journalists can work free from fear of violence and intimidation rests primarily with national authorities. They alone have the power to enact journalist-friendly legislation, to establish the conditions for a pluralist media landscape and to investigate and prosecute instances of unwarranted interference.

This study therefore calls on Council of Europe member states to fully implement Recommendation CM/Rec(2016)4 on the protection of journalism and safety of journalists and other media actors, which proposes a range of concrete measures to protect them from attacks and to create a climate of open debate and free speech. Furthermore, it calls for a more regular and in-depth stocktaking of the state of freedom of expression across Europe, along with greater awareness raising of these vital issues. It is an important study with meaningful recommendations and I hope that all member states will give it their full support.

Thorbjørn Jagland
Secretary General of the Council of Europe

Executive summary

BACKGROUND

Freedom of expression is one of the basic conditions for the progress of society. Without safeguards for the safety of journalists there can be no free media. The safety of journalists and the issue of impunity are among the top priorities of the work of the Council of Europe. In the 2015 annual report by the Secretary General of the Council of Europe, the right to freedom of expression enshrined in Article 10 of the European Convention on Human Rights (hereinafter “the Convention”) is discussed. Article 10 touches various aspects of freedom of expression and imposes upon member states an obligation to protect individuals’ rights to freely express themselves without interference, either from state actors or private individuals. The reality, however, is that journalism can be a dangerous profession and journalists may experience unwarranted interference from a number of sources. This report presents data on the prevalence of unwarranted interference, fear and self-censorship among a sample of 940 journalists reporting from 47 Council of Europe member states and Belarus.¹

WORKING DEFINITIONS

The following working definitions were adopted for the study.

Journalist – A person who is regularly engaged in collecting or disseminating information to the public with a journalistic (public interest) purpose.

Unwarranted interference – Acts and/or threats to a journalist’s physical and/or moral integrity that interfere with journalistic activities. These may take the form of actual violence or any form of undue pressure (physical, psychological, economic or legal) and may emanate from state or public officials, other powerful figures, advertisers, owners, editors or others.

Fear – The perception of likelihood or anticipation of unwarranted interference including the emotional response to possible unwarranted interference.

Self-censorship – The control of what one says or does in order to avoid annoying or offending others but without being told officially that such control is necessary.

1. All reference in this publication to the sample of journalists surveyed from Council of Europe member states should also assume the inclusion of responses from journalists in Belarus, not currently one of the 47 member states of the Organisation.

PROJECT PURPOSE AND DESIGN

The study had the following key objectives.

- ▶ To measure the prevalence of unwarranted interference among a sample of active journalists in Council of Europe member states.
- ▶ To document the perceptions of likelihood/fear of unwarranted interference among active journalists in Council of Europe member states.
- ▶ To investigate the relationship between experiences of unwarranted interference, perceptions of likelihood/fear of unwarranted interference and self-censorship among journalists in Council of Europe member states.
- ▶ To explore how unwarranted interference and perceptions of likelihood/fear of unwarranted interference are influenced by occupational contingencies (for example, the length of journalistic career), specific media platforms (for example, print, digital or broadcast media), the type of contract (if any), employment conditions, professional affiliations and/or several structural variables such as gender and the region where journalistic work is being carried out.

The study used an anonymous self-reporting questionnaire available in five languages: English, French, Russian, Serbian and Turkish.

THE SAMPLE

The sample consisted of a non-probability sample (convenience sample) of journalists reporting from Council of Europe member states recruited mainly from members of the following five major journalists' and freedom of expression organisations.

- ▶ Association of European Journalists
- ▶ European Federation of Journalists
- ▶ Index on Censorship
- ▶ International News Safety Institute
- ▶ Reporters without Borders

RESULTS

The results of the study show how the work of journalists may indeed be dangerous and that experiences and fear of unwarranted interference may affect freedom of expression.

Experiences of unwarranted interference

With reference to the last three years, a number of different experiences of unwarranted interference were reported, with 40% of respondents claiming that the interference was bad enough to affect their personal lives. The most common type of unwarranted interference was psychological violence – such as humiliation, belittlement, intimidation, various threats, slandering and smear campaigning

– reported by 69% of the sample. The second most reported experience of unwarranted interference was cyberbullying – in the form of accusations of being partisan, personal attacks, public defamation and smear campaigns – reported by 53% of the sample. In order of the frequency in which they were experienced, other types of unwarranted interference reported included: intimidation by interest groups (50%); threats with force (46%); intimidation by political groups (43%); targeted surveillance (39%); intimidation by the police (35%); physical assault (31%); robbery, confiscation or destruction of property (21%); non-contact personal theft (19%); and sexual harassment or violence (13%). Twenty-three per cent of survey respondents claimed to have experienced arrest, investigation, threat of prosecution and actual prosecution under a number of laws.

Male journalists were more likely to be threatened with force, intimidated by police and experience physical assault, whereas female journalists were more likely to experience sexual harassment or violence.

In terms of regional differences, experiences of physical assault were highest in the South Caucasus region, closely followed by Turkey, but presented high prevalence in the other regions as well, including in EU and non-EU Western European countries (25.1%). The experience of threats with force was highest in Turkey (69.2%), very closely followed by South Caucasus (66%) and Eastern Europe (60%). The experience of sexual harassment was highest in Turkey (18.3%) and in EU and non-EU Western European countries (15.2%). The experience of robbery and/or confiscation or destruction of property was highest in the Eastern European countries and South-East European countries. Non-contact personal thefts were lowest in Turkey (12.6%) and highest in South-East European countries (26.6%).

The experience of psychological violence was high in all regions. Journalists in Turkey reported the highest percentages in relation to being subjected to targeted surveillance (86.7%) but this was generally high across all five regions with the lowest in EU and non-EU Western European countries at 47.4%. Cyberbullying was highest in Turkey (71%), followed by South-East Europe (59%) and EU and non-EU Western European countries (56.1%). The experiences of intimidation (from various sources) were also quite high, with Turkey reporting a percentage of 64.5 in relation to intimidation by political groups. The lowest was in the South Caucasus with 34.8% of journalists in the sample from that region reporting such occurrences. Interference from interest groups was highest in the South-East European region (63%) and lowest in the South Caucasus.

Despite this high rate of unwarranted interference, 35% of respondents did not feel that they had mechanisms at their disposal for reporting such interference. Of those who had experienced unwarranted interference, 28% did not report the unwarranted interference to the company for which they worked. Fifty-seven per cent did not report it to the police and of those who did report it, 23% were not satisfied with the police's response.

Among those who belonged to a union, 40% did not report it to their union. Some 48% felt that their ability to protect their sources was currently compromised and 28% did not feel that they were adequately supported.

Perceived likelihood/fear of victimisation

The fear of becoming a victim of unwarranted interference in the future was reasonably high, especially with regard to psychological violence, cyberbullying and intimidation by individuals and interest groups. A third of respondents reported concern about their personal safety and the safety of their significant others. The perceived fear of future victimisation was significantly positively correlated with having experienced unwarranted interference during the last three years.

Consequences of unwarranted interference

The psychological impact of unwarranted interference was high and included increased stress and anxiety levels, paranoia, changes in sleeping patterns and feelings of depression and helplessness. On an interpersonal level the impact included increased preoccupation about significant others, neglect of private-life duties, conflicts with partners and family members and termination of romantic relationships. The impact of the unwarranted interference in the way journalists went about their work was also notable. Significant percentages reported toning down or abandoning sensitive, critical stories, reporting content in a less controversial manner, being selective about what items to report, framing content as acceptable discussion, withholding information and shaping stories to suit company's/editor's interests. However, 36% also stated that the experience made them more committed to not engage in self-censorship.

RECOMMENDATIONS

The findings above lend themselves to further research, most notably a qualitative study allowing for an in-depth understanding of unwarranted interference by identifying the strategies journalists use to negotiate such interference, as well as the impact on their personal and work activities.

Introduction

JOURNALISM AS A PREREQUISITE FOR DEMOCRACY

“Journalism informs society about itself” (Harcup 2009:3)

At the centre of the supreme value of democracy and human rights is the right of everyone to receive and impart information. Freedom of expression is one of the basic conditions for the progress of society and for the development of every person (European Court of Human Rights in *Handyside v. the United Kingdom*). That applies in particular to the practice of imparting information and ideas of general interest. Journalism provides that information in its most essential sense. Accordingly, the public is entitled to receive that information.

Journalists enable public debate, act as public watchdogs, inform on matters of public interest and consequently hold those high in the power structures to account, thus ensuring citizens' access to the process of governance. In order for journalists to be able to fulfil these functions, they must be able to exercise their task of examining the power structures in society without being interfered with or intimidated, and without fearing violence, being threatened, being detained without due reason and being imprisoned. In short, without safeguards for the safety of journalists there is no free media.

The Council of Europe provides for the protection of media freedom and journalists' rights through the European Convention on Human Rights (the Convention), the case law of the European Court of Human Rights (the Court) and its standard setting by the Committee of Ministers. In all their activities, the organs of the Council of Europe aim to pay the utmost attention to the importance of removing the fear of sanctions and not discouraging the media, as well as the general public, from participating in the public debate on issues of general interest and voicing their opinions.

The 2016 annual report by the Secretary General of the Council of Europe, “State of democracy, human rights and the rule of law: a security imperative for Europe” (the third annual report of the Secretary General), stresses that:

Without genuine freedom of expression and without genuinely free and independent media, there can be no effective safeguards against incompetence and misuse or abuse of power (p. 33)

Furthermore, the right to freedom of expression enshrined in Article 10 of the Convention is described as being:

not only a fundamental right on its own, but is also necessary for the realisation of other human rights, including the right to freedom of thought, conscience and religion, the right to freedom of assembly and association, the right to vote and the right to education. It is a central means by which power is held to account and a necessary condition for tolerance, cultural diversity and living together (p. 33).

As such, Article 10 of the Convention has a vast scope and touches on various aspects of freedom of expression. Among other things, it imposes upon the member states an obligation to protect individuals' right to freely express themselves against attack, either by state actors or private individuals. This entails but is not limited to providing a robust legal framework for that purpose, ensuring effective investigation and prosecution of crimes committed to silence free expression, and, in certain cases, taking concrete protective measures.

The reality is that journalism can be a dangerous profession and journalists may experience unwarranted interference from a number of sources. Consequently, they may have high levels of fear (Chappell and Di Martino, 2006). Their working conditions and the issues they are compelled to deal with may expose them to physical, economic, judicial and psychological intimidation. This worrying element is referred to in the preamble to Recommendation CM/Rec(2016)4 of 13 April 2016 (Council of Europe 2016a) on the protection of journalism and safety of journalists and other media actors, which states bluntly that:

It is alarming and unacceptable that journalists and other media actors in Europe are increasingly being threatened, harassed, subjected to surveillance, intimidated, arbitrarily deprived of their liberty, physically attacked, tortured and even killed because of their investigative work, opinions or reporting, particularly when their work focuses on the misuse of power, corruption, human rights violations, criminal activities, terrorism and fundamentalism.

The importance of ensuring a free and safe environment for the work of journalists and other media actors is also reflected in the activities of other international organisations. In this regard, the United Nations (UN) Plan of Action on the Safety of Journalists and the Issue of Impunity provides for a number of concrete measures aimed at improving the safety of journalists and combating impunity. Likewise, the work of the Representative on Freedom of the Media of the Organization for Security and Co-operation in Europe (OSCE) is based on the recognition of the crucial role that journalists play in any democratic society and the dangers faced by journalists today (OSCE 2015).

THE COUNCIL OF EUROPE'S WORK AND STANDARDS ON THE SAFETY OF JOURNALISTS

The safety of journalists and the issue of impunity are among the priorities of the work of the Council of Europe. For many years, the Council of Europe has been

regularly providing its 47 member states with recommendations, guidelines and other instruments regarding various aspects of the protection of journalists and other media actors.

This collection has made important contributions to the public debate and is intended to enable people to make effective use of their right to information. The standard-setting activities of the Council of Europe relating to media freedom are inspired by the Convention, as interpreted in the case law of the Court. Deciding on individual cases, the latter has, over decades, developed a number of principles, norms and standards related to freedom of expression and the safety of journalists. In turn, the soft-law instruments of the Council of Europe are incorporated into the case law of the Court, providing it with a more detailed policy framework or guidelines for its decision making. Among many Committee of Ministers' documents on this topic, the following can be mentioned as providing the most relevant guidelines regarding reinforcing and safeguarding the role of journalists, their rights and freedoms.

- ▶ Recommendation CM/Rec(2016)4 on the protection of journalism and safety of journalists and other media actors
- ▶ Recommendation CM/Rec(2014)7 on the protection of whistleblowers
- ▶ Recommendation CM/Rec(2013)1 on gender equality and media
- ▶ Recommendation CM/Rec(2011)7 on a new notion of media
- ▶ Recommendation CM/Rec(2007)15 on measures concerning media coverage of election campaigns
- ▶ Recommendation Rec(2004)16 on the right of reply in the new media environment
- ▶ Recommendation Rec(2003)13 on the provision of information through the media in relation to criminal proceedings
- ▶ Recommendation Rec(2002)2 on access to official documents
- ▶ Recommendation No. R (2000) 7 on the right of journalists not to disclose their sources of information
- ▶ Recommendation No. R (97) 19 on the portrayal of violence in the electronic media
- ▶ Recommendation No. R (96) 10 on the guarantee of the independence of public service broadcasting
- ▶ Recommendation No. R (96) 4 on the protection of journalists in situations of conflict and tension
- ▶ Recommendation No. R (94) 13 on measures to promote media transparency
- ▶ Declaration on the protection of journalism and safety of journalists and other media actors
- ▶ Declaration on the desirability of international standards dealing with forum shopping in respect of defamation, "libel tourism", to ensure freedom of expression
- ▶ Declaration Decl-26.09.2007 by the Committee of Ministers on the protection and promotion of investigative journalism
- ▶ Declaration Decl-27.09.2006 of the Committee of Ministers on the guarantee of the independence of public service broadcasting in the member states

- ▶ Declaration on freedom of expression and information in the media in the context of the fight against terrorism
- ▶ Declaration on the protection of journalists in situations of conflict and tension
- ▶ Guidelines on eradicating impunity for serious human rights violations (30 March 2011)
- ▶ Guidelines of the Committee of Ministers of the Council of Europe on protecting freedom of expression and information in times of crisis (26 September 2007).

The recommendation on the protection of journalism and safety of journalists and other media actors reflects the most recent case law of the Court, in accordance with the Court's contention that the Convention is a living instrument which is to be interpreted in light of present-day conditions. It is focused on the protection of journalists and other media actors (including political bloggers and whistle-blowers), whereby those actors are understood in a broad and inclusive manner. According to the recommendation, the principle of freedom of expression, as well as the concept of media and journalism, should be understood in the light of current modes of communication. New developments in communication technologies have enabled a broad and diverse range of people and organisations to participate in public debate. Individuals, civil society organisations, whistle-blowers and academics, in addition to professional journalists, can all make valuable contributions to the public debate, thereby playing a role similar or equivalent to that traditionally played by the institutionalised media and professional journalists. This consideration was upheld as the general concept of the recommendation.²

The recommendation provides the most comprehensive, but not exhaustive, list of principles related to the protection of journalism and the safety of journalists, as well as guidance concerning measures for states to fulfil their obligations. Strong wording is used to condemn the increasing trend for journalists and other media actors in Europe to be subjected to various threats and interference, including physical violence, intimidation, arbitrary deprivation of their liberty, torture and killings because of their investigative work, opinions or reporting, particularly when their work focuses on the misuse of power, corruption, human rights violations, criminal activities, terrorism and fundamentalism. However, the scope of the recommendation is not limited to physical harm, threats or deprivation of liberty but extends to a full range of positive obligations, reinforcements and remedies.

The recommendation recalls the principles developed by the Court's case law, in particular the positive obligations of states in this regard. The principles are gathered under the following themes:

- ▶ freedom of expression (general principles);
- ▶ enabling environment (principles regarding the diverse set of factors contributing to creating conditions in which freedom of expression and information can thrive, including, *inter alia*, measures needed to deal with gender-related dangers faced by female journalists and other female media actors);

2. When adopting the recommendation, the Government of the Russian Federation reserved the right to comply or not with the recommendation, in so far as it referred to other media actors.