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A MISSION TO INFORM

Journalists at risk speak out



Marilyn Clark
William Horsley

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

A MISSION TO INFORM

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William Horsley

Edited by
Elena Brodeală

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*To Daphne Caruana Galizia and all journalists
who have lost their lives
in the exercise of their profession*

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Foreword

Journalists are constantly at risk of undue pressures and intimidation from those who feel threatened by their work. All across Council of Europe member states they may encounter police intimidation and legal harassment; smear campaigns and bullying offline, but more recently predominantly online; pressures from political actors and editors; and economic pressures exerted by media owners and sponsors. Journalists also face detention, threats and physical violence. As underlined by the Committee of Ministers of the Council of Europe at its 129th session in Helsinki on 17 May 2019, strong action is required to reverse this deterioration of freedom of expression in Europe, at domestic and international level.

The Committee of Ministers emphasised the importance of the freedom of expression, online and offline, as a cornerstone of a democratic and pluralistic society, and agreed to reinforce the Organisation's work in this field and to enhance co-operation as regards the protection of journalism and the safety of journalists. The protection of journalists is thus an important objective – and at the same time a responsibility – of the Council of Europe and its member states.

The Council of Europe has adopted key documents intended to help member states ensure that journalists can fulfil their role as public watchdogs, such as 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. The recommendation urges member states to take immediate measures to prevent violence and any kind of pressure against journalists, protect them, prosecute perpetrators, end impunity and promote information, education and awareness raising about the safety challenges journalists face in their work. In 2015, the Council of Europe also established the Platform to Promote the Protection of Journalism and Safety of Journalists to improve the responses of member states concerning threats to media freedom. Since then the platform has recorded over 750 alerts concerning different attacks on the freedom of expression.

The Council of Europe has striven to better understand what kinds of pressure journalists at risk are facing in order to identify more appropriate means to protect their safety. In 2017, the Council of Europe commissioned the quantitative study *Journalists under pressure – Unwanted interference, fear and self-censorship in Europe*. The study was carried out by one of the authors of this book, Marilyn Clark, along with Anna Grech. Surveying almost 1 000 journalists from all Council of Europe member states and Belarus, the study revealed a troubling picture of interference with free and impartial journalism. It became clear that this situation needed to be understood in greater depth, which led to the commissioning of this publication.

The present study brings together a unique collection of open testimonies from 20 journalists working in different member states of the Council of Europe. Each of these journalists spoke about the risks and pressures they perceived and experienced in exercising their profession, as well as their strategies to build resilience and carry

on in their “mission to inform”. At times, the price these women and men have had to pay for standing by their obligation to inform the public in an impartial and complete way was enormous, ranging from intrusions and limitations on private and family life, to putting their lives at risk. This was, for example, the case of Daphne Caruana Galizia, who reported fearlessly on sensitive issues, notably corruption, and who was murdered just 10 days after giving a powerful interview for this book. This was the last interview Daphne Caruana Galizia ever gave.

A sample of 20 interviews cannot be representative of the situation in the Council of Europe member states. The merit of these interviews is to further exemplify different forms of interference with press freedom already identified in the 2017 study, as well as journalists’ perceptions regarding the dangers of the profession and the strategies they employ to persevere in their work. Such an in-depth exploration should contribute to a better understanding of the situation on the ground. Through its analyses and findings, this study can be an important tool for stakeholders committed to improving the safety of journalists throughout the Council of Europe member states.

Christos Giakoumopoulos

Director General of Human Rights and Rule of Law of the Council of Europe

Executive summary

The freedom of the media to report without censorship or fear of reprisals is a pre-condition of democracy. Violence and harassment against journalists – often leading to the suppression of information and self-censorship – have become commonplace in many parts of Europe. This book is a unique exploration of the intimidation of journalists across Council of Europe member states and it provides an invaluable resource to everyone concerned with the protection of journalists, including government authorities and media practitioners.

The book is based on in-depth interviews with 20 journalists from 18 different countries.¹ The journalists were selected for their experience and skill in reporting in the public interest and exposing injustice and abuses. Each of these journalists shared their insights into the realities of doing cutting-edge journalism to bring the truth to light; they spoke about their first-hand experience of threats, hostility and intimidation, surveillance and cyberattacks, and about self-censorship, resilience and coping strategies, as well as about what they portray as routine failures by state authorities to give journalists the protection they need to fulfil their public watchdog role.

Each of the book's five chapters provides insights for understanding and putting in place essential safeguards in law and practice for journalists to fulfil their mission to inform.

Chapter I investigates the pressures experienced by the participating journalists in their work. The chapter identifies and analyses four types of threat and pressure: physical, psychological, judicial or legal, and economic. Those pressures are the result of actions by state actors such as politicians and public figures, as well as powerful vested interests, media owners and managers, internet trolls and others. In some cases, journalists identified networks of power-holders who conspire to silence critical voices.

Chapter II discovers how this group of journalists was affected by sustained intimidation and hostility, and the chilling effect of such intimidation on freedom of expression. The chapter reveals the high price journalists often pay for their commitment in terms of the psychological and other negative impacts on their personal lives. The journalists speak about the powerful sense of purpose that motivates them to risk reprisals by persisting in their reporting work in the face of threats and personal dangers. They also vehemently condemn the corrosive consequences of self-censorship.

Chapter III explores how the legal, political, economic and cultural contexts of their particular environments shape the experiences of journalists in terms of the obstacles and pressures that hinder their work. The chapter illuminates the ways in

1. Azerbaijan, Bosnia and Herzegovina, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Malta, Portugal, Romania, the Russian Federation, Serbia, Spain, Turkey, Ukraine and the United Kingdom.

which laws, practices and socio-cultural norms in different parts of Europe affect their ability to practise free and inquiring journalism. Council of Europe standards require that member states should maintain a favourable environment for freedom of expression and media freedom by fulfilling a range of obligations.

Chapter IV discusses how the interviewed journalists develop resilience to continue their work despite the often hostile environments in which they operate. This resilience is needed for journalists to perform their vital function of holding the powerful to account and countering the spread of corruption and abuses of power. The chapter examines the personal characteristics and social circumstances that affect the capacity of journalists to maintain optimal functioning. Often that calls for remarkable personal courage. The chapter concludes that the sense of mission to pursue these goals through independent and rigorous journalism is the spur that motivates these journalists to overcome the daunting challenges they face.

Chapter V takes stock of the lessons to be learned from these revealing testimonies and observations by journalists at the front line of their profession. It relates this first-hand data to the urgent efforts to encourage member states to implement guidelines set out in Council of Europe recommendations. The study calls for effective measures to protect the safety of journalists at risk, prosecute the perpetrators of attacks and create genuinely favourable environments for free, independent and diverse media. The forward-looking measures outlined include legal and regulatory reforms; effective measures of protection; improved oversight and reporting mechanisms to guard against threats; public media literacy programmes; and additional support through professional training and psychosocial support where needed.

Authors and acknowledgements

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William Horsley

William Horsley is international director of the Centre for Freedom of the Media (CFOM) at the University of Sheffield. After many years as a BBC foreign correspondent, he now leads CFOM's projects to strengthen protection for journalists' safety in co-operation with organisations including the Council of Europe and UNESCO. He is also the Media Freedom Representative of the Association of European Journalists, which co-founded the first ever continent-wide online early warning system for threats to media freedom, the Council of Europe's Platform to Promote the Protection of Journalism and Safety of Journalists. The Platform continuously registers alerts on attacks on journalists and the media to seek effective remedies. He writes and broadcasts on issues related to media and democracy for CFOM and international media. He is the author of the *Safety of journalists – Guidebook* published by the Organization for Security and Co-operation in Europe (OSCE).

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Dunja Mijatović, until her election as the Council of Europe's Commissioner for Human Rights

Lambrini Papadopoulou, Aristotle University of Thessaloniki, School of Journalism and Mass Communications

Glossary of terms

For the purposes of this publication, some terms are defined in the same manner as in the Council of Europe’s 2017 study *Journalists under pressure – Unwanted interference, fear and self-censorship in Europe* by Marilyn Clark and Anna Grech.

Journalist – “A person who is regularly engaged in collecting or disseminating information to the public with a journalistic (public interest) purpose. The Council of Europe’s Committee of Ministers in 2000 defined a journalist as ‘any natural or legal person who is regularly or professionally engaged in the collection and dissemination of information to the public via any means of mass communication’ (Appendix to Recommendation No. R (2000) 7 on the right of journalists not to disclose their sources of information). Recommendation CM/Rec(2011)7 on a new notion of media recognised that the new media created by both technological and social change has seen the entry onto the scene of a new breed of reporters: bloggers, citizen journalists and others who create user-generated content. The adoption of this new notion of media necessitates the recognition that ‘the scope of media actors has enlarged as a result of new forms of media in the digital age.’”²

Unwarranted interference – “Acts and/or threats to a journalist’s physical and/or moral integrity in the exercise of journalistic activities. This may take the form of actual violence or any form of undue pressure (physical, psychological, economic or legal) on journalists. Unwarranted interference may emanate from state or public officials, other powerful figures, advertisers, owners, editors or others.”³

Self-censorship – The curtailment of what one says or writes in order to avoid likely reprisals, even without being explicitly told to do so.

Fear – “Feelings aroused by the anticipation of a threat of danger, harm or hostile interference.”⁴

Cyberbullying – The online harassment or intimidation of journalists that can have serious psychological repercussions.

Media capture – “A situation where most or all of the news media institutions are operating as part of a government-business cartel that controls and manipulates the flow of information”.⁵

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2. Council of Europe Declaration of the Committee of Ministers on the protection of journalism and safety of journalists and other media actors, adopted by the Committee of Ministers on 30 April 2014 at the 1198th meeting of the Ministers’ Deputies, paragraph 2: https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016805c5e9d, accessed 30 June 2020.
 3. <https://rm.coe.int/journalists-under-pressure-fa-en-/168097e9e1>.
 4. <https://rm.coe.int/journalists-under-pressure-fa-en-/168097e9e1>.
 5. <https://cmds.ceu.edu/article/2019-05-27/media-capture-europe-mdif-publishes-new-report-dragmir>.

Abbreviations

CM – Committee of Ministers of the Council of Europe

CPJ – Committee to Protect Journalists

“The Convention” – The European Convention on Human Rights

“The Court” – European Court of Human Rights

EU – European Union

NATO – North Atlantic Treaty Organization

NGO – non-governmental organisation

OSCE – Organization for Security and Co-operation in Europe

PACE – Parliamentary Assembly of the Council of Europe

“The 2017 Study” – M. Clark and A. Grech (2017), *Journalists under pressure – Unwarranted interference, fear and self-censorship in Europe*

“The Platform” – The Council of Europe’s Platform to Promote the Protection of Journalism and Safety of Journalists

UK – United Kingdom

UN – United Nations

UNESCO – The United Nations Educational, Scientific and Cultural Organization

US/USA – United States of America

Introduction

MEDIA FREEDOM IN EUROPE – A WORSENING CLIMATE FOR FREEDOM OF SPEECH

Media freedom means above all that journalists can do their job without experiencing interference and fear. However, in everyday reality, media freedom is often restricted or curtailed in various ways. Pressures and threats targeting journalists take different forms, including physical, psychological, economic and judicial intimidation. They emanate from a wide range of actors such as public authorities including the police and security agencies, business and special interest groups or criminal organisations, or they may come at any time from individuals, ranging from politicians and public figures, aggressive members of the public and hostile interviewees, to social media activists and internet trolls. The preamble of the 2016 Council of Europe Recommendation CM/Rec(2016)4 (Council of Europe 2016), a crucial document aiming to safeguard the protection of journalism and safety of journalists and other media actors, points to the harsh reality 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.

Ultimately, improper and threatening pressures exerted on journalists are aimed at silencing critical voices and free speech. In countries lacking strong democratic traditions the state is often the main source of pressure, with the result that critical sources of information are delegitimised or sidelined, the provision of news is distorted and the traditional watchdog role of the press is thwarted. Even in states which are categorised as established democracies, certain media actors face serious pressures through attacks on their credibility, marginalisation or discriminatory treatment, insulting or demeaning language, and direct or indirect editorial censorship.

In practice therefore free speech is often limited in some way. The most direct limitation is through censorship, which in journalism may be of two types:

- ▶ censorship or suppression of public information that are directly enforced by state authorities or by private parties who have the power to do so; or

- ▶ self-censorship by journalists themselves and others who self-publish or otherwise perform a journalistic function.⁶ Self-censorship in journalism occurs when a journalist suppresses information of public interest in the absence of formal hindrances being often motivated by a wish to avoid penalties or reprisals. This most often occurs within a context or general climate of intimidation.

To understand the precise situation of journalists and risk, during 2016 the Council of Europe commissioned a quantitative study which explored the prevalence of self-reported intimidation experienced by journalists and its connection to self-censorship: *Journalists under pressure – Unwarranted interference, fear and self-censorship in Europe* (Clark and Grech 2017; henceforth “the 2017 study”). This study was based on a survey among 940 journalists from 47 Council of Europe member states and Belarus. It explored journalists’ own perceptions and accounts of pressures encountered in their work, using a self-reporting questionnaire. Since many incidents of intimidation of journalists regularly go unreported, and consequently are not documented in official and police data, self-reporting studies can shed light on such invisible experiences. At the same time, such studies also constitute a unique source of information to understand and measure the obstacles to independent reporting experienced by media actors.⁷ The 2017 study uncovered the extent of pressures exerted against the journalists who had responded to the survey. The questionnaire was responded to anonymously by a convenience sample⁸ recruited through five main journalists’ and freedom of expression organisations.

The results were telling. They indicate that there were high levels of perceived interference, including bullying behaviour and threats of violence, among journalists working in the Council of Europe member states. Psychological violence was the most common interference (recorded by 69% of respondents). This was closely followed by cyberbullying (53%) and intimidation by interest groups (50%). Closer analysis of psychological violence showed that this was accounted for by belittlement and/or humiliation (48%), intimidation (56%) and being slandered or targeted by smear campaigns (43%). These forms of hostile or threatening behaviour were most often perpetrated by public authorities. A significant percentage also reported belittlement (24%) and intimidation (19%) by their management and threats made by interviewees (19%). Thirty-nine per cent reported having experienced targeted surveillance, and 76% did not feel sufficiently protected against it. Thirty-five per cent

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6. In Council of Europe’s Recommendation CM/Rec(2011)7 of the Committee of Ministers to member States on a new notion of media, the Committee of Ministers recommended that member states “adopt a new, broad notion of media which encompasses all actors involved in the production and dissemination, to potentially large numbers of people, of content (for example information, analysis, comment, opinion, education, culture, art and entertainment in text, audio, visual, audiovisual or other form) and applications which are designed to facilitate interactive mass communication (for example social networks) or other content-based large-scale interactive experiences (for example online games), while retaining (in all these cases) editorial control or oversight of the contents ...”
 7. The authors acknowledge that there are also shortcomings to self-reporting studies, where individuals self-assess their experience of some phenomenon. Such studies may contain an inherent response bias with respondents either over- or under-reporting.
 8. Convenience sampling, also known as “availability sampling” does not allow generalisation to the entire population. This is so because the sampling collects data from individuals who are conveniently able to take part in the study rather than being randomly selected.

reported having experienced intimidation by police, 43% by politically motivated groups and 50% by interest groups.

With advances in technology, it appears that the forms that such intimidation takes are also changing. Cyberbullying, defined as the online harassment of journalists that can have serious psychological repercussions and can result in self-censorship, is a common form of intimidation in current times (UNESCO 2017). Participants in the survey stressed that cyberattacks were often highly personal in nature and included negative comments about journalists' "appearance and presentation", as well as more extreme forms of personal abuse. Some journalists received messages telling them to "kill themselves". Female journalists were particularly vulnerable to "aggressive" abuse, including online threats of sexual violence such as rape. In one reported case of public defamation, photographs of a journalist were digitally manipulated into compromising images and then widely circulated on the internet. The data also demonstrated how smear campaigns and "belittlement at a professional level" aimed at damaging a journalist's professional credibility can have the effect of undermining and demoralising the person targeted.

Complaints of harassment by police and other law-enforcement agencies were also commonly mentioned in the survey. Twenty-three per cent of respondents reported experiencing arrest, investigation, threat of prosecution or actual prosecution under a number of laws (either civil or criminal), most notably defamation laws. In this regard, it is widely acknowledged that overly protective defamation laws that are accompanied by excessive sanctions can have a substantial chilling effect on free speech.⁹

The 2017 study also explored the extent to which journalists subjectively experience fear, defined as feeling a likelihood or anticipation of a threat of danger, harm or hostile interference. A high proportion of respondents feared or anticipated becoming victims of physical (41%) or psychological (60%) violence. Fifty-seven per cent

9. For example, in the landmark case *Cumpăna and Mazare v. Romania* [GC], Application No. 33348/96, 17 December 2004, the Grand Chamber of the European Court of Human Rights acknowledged that "[i]nvestigative journalists are liable to be inhibited from reporting on matters of general public interest ... if they run the risk, as one of the standard sanctions imposable for unjustified attacks on the reputation of private individuals, of being sentenced to imprisonment or to a prohibition on the exercise of their profession", paragraph 113. Then the Court added that "[t]he chilling effect that the fear of such sanctions has on the exercise of journalistic freedom of expression is evident ... This effect, which works to the detriment of society as a whole, is likewise a factor which goes to ... the justification of the sanctions imposed ...", paragraph 114. Other organs of the Council of Europe have also condemned disproportionate sanctions for defamation. See for example the Council of Europe's Declaration on freedom of political debate in the media, adopted by the Committee of Ministers on 12 February 2004. For more on the position of the Council of Europe on defamation see *Defamation – Brief overview of the Council of Europe guidelines and activities addressing the issue of defamation in relation to freedom of expression*: <https://rm.coe.int/leaflet-defamation-en/168079ceca>, accessed 30 June 2020. Concerns about disproportionate sanctions against journalists in cases of defamation were also expressed at UN level. For example, in Resolution 39/6 adopted by the UN Human Rights Council on 27 September 2018, states were called upon "to ensure that defamation and libel laws are not misused, in particular through excessive criminal sanctions, to illegitimately or arbitrarily censor journalists and interfere with their mission of informing the public, and where necessary to revise and repeal such laws, in compliance with States' obligations under international human rights law".

were anxious about being subjected to cyberbullying. The fear of interference from various actors was experienced by respondents to the survey as follows: 33% feared intimidation by police; 45% by groups with a vested interest; 42% by political groups; 37% by media owners; 33% by criminals; and 51% by various other individuals, ranging from angry interviewees to hostile members of the public. Thirty-eight per cent of the journalists taking the survey reported worrying about their own safety and 37% worried about the safety of friends and families.

The chilling effect of interference may come about because of the impact of psychological stress arising from having suffered violence in some form, or from the fear of experiencing violence in the future.¹⁰ A significant percentage of respondents (67%) reported that intimidation, or the fear of it, affected them psychologically in a number of ways. A high proportion of respondents reported experiencing an increase in stress and anxiety levels. Others reported feelings of depression and low self-esteem. Overall, the impact of these various forms of unwarranted interference was so severe that 40% claimed that their personal life was affected.

Over one third of the participating journalists reported that unwarranted interference had impacted their working lives. Fear, a universal human emotion when faced with an event or a situation that threatens one's security and safety, motivates a person to seek protection. Fear is thus a very important basic survival mechanism. However, when fear is experienced pervasively to the point that it overwhelms one's ability to cope, it is likely to cause severe stress. Consequently, the emotion of fear may translate into behaviours that may lead one to avoid the situations perceived as threatening (Öhman 2010). Thirty-one per cent of participating journalists said they had "toned down sensitive, critical stories" and 15% reported having abandoned stories altogether. Thirty per cent spoke of having reported content in a "less controversial" manner and 33% said they were "selective" about what items to report. Twenty per cent said they had framed content so as to be "acceptable" to their managers and 23% had "withheld information". Nineteen per cent acknowledged shaping their stories to meet the political or business interests of their company or editor.

Self-censorship – to one degree or another – was thus a prevailing feature of responses when journalists were asked to describe the impact that unwarranted interferences had on their work. One respondent reported "nervousness about doing more reporting on the same theme". Another admitted that they had "changed the lead and focus of a story". Self-censorship was exemplified also in the words used by one journalist: "I double-checked my science and left some data out". Another respondent claimed to be a "little bit reserved with other 'powerful' stories", and "not being able to report all the facts at hand".

10. This echoes the Court's finding that the violation of journalists' freedom of speech through different forms of pressure and intimidation can have a "chilling effect" on the activities of the media and is detrimental to society that might not be (fully or adequately) informed about matters of public interest. See, for example, *Cumpăna and Mazare v. Romania*, paragraph 114.

From these and other citations, and from the statistics collected in the quantitative survey, it is safe to conclude that unwarranted interference – or the fear of it – had a chilling effect on the journalists responding to the survey.

The picture that emerges is one of journalistic freedom being compromised because of a wide spectrum of unwarranted interferences, including from the journalists' own organisations – in other words their employers. Other individual journalists reported – in their own words – being “more afraid of covering protest marches” and feeling they “cannot tell the truth in published news stories”. Such testimonies point to the far-reaching repercussions of intimidation directed against journalists due to their work. One respondent spoke plainly about the chilling effect that he felt: “I stopped working as a correspondent; I do work which does not satisfy me any longer but is safer” (Clark and Grech 2017: 28).

As one would expect, the impact of unwarranted interference on the daily work of journalists was most prominent in the responses by those who reported experiencing the most severe forms of interference, especially physical assault, threats and psychological violence or intimidation. Those who had experienced psychological violence were significantly more likely to worry about their personal safety and that of those closest to them. These journalists also worried more that they would be threatened with violence, become actual victims of physical assault, or experience sexual harassment, robbery, theft, cyberbullying or intimidation – either by the police, or by different interest groups or political forces.

The issue of self-censorship in the journalistic community is particularly difficult to explore because it is often invisible, and journalists may find it shameful to admit that fear of retribution is interfering with their ethical responsibility to report the news impartially in all circumstances. The issue of shame around self-censorship needs to be explored more extensively given its stark implications. On a personal level, self-censorship may bring shame and feelings of loss of integrity. On a group level, it may result in distrust and suspicion on the part of the public, threatening the foundations of healthy group and community relations such as dialogue, open discussion, tolerance and acceptance of diversity. On a wider societal level, self-censorship results in significant barriers to recounting the truth and providing the public with reliable information on which to base important decisions about their lives (Bar-Tal 2017). This in turn contributes to the wider phenomenon of decreasing public trust in democratic institutions including the media, and an increased consumption of news through social media bubbles with overall negative consequences for the quality of democracy. Robustly independent and sustainable media are necessary to safeguard against this, and journalists need to be empowered to build up their resilience against self-censorship.

SEEKING A DEEPER UNDERSTANDING: RATIONALE AND RESEARCH AGENDA

In the foreword to the 2017 study, the Council of Europe Secretary General called for a more “in-depth stocktaking of the state of freedom of expression across Europe” (Clark and Grech 2017: 10). A deeper understanding of journalists' personal experiences

of interferences with this freedom, drawing out the nuances of what it is like to be working as a journalist in a context of fear, can only be achieved by an analysis of in-depth narratives of such experiences.

The Council of Europe therefore sponsored the current in-depth qualitative study, with the following objectives:

- ▶ to understand the nature of the pressures faced by journalists in Europe;
- ▶ to investigate the impact of intimidation and pressure on journalists, such as self-censorship;
- ▶ to understand what meanings journalists attach to their experiences of intimidation and explain how journalists negotiate the risks inherent in their profession;
- ▶ to explore how the legal, political, economic and cultural factors and/or contexts influence the experiences of journalists in terms of pressures and intimidation hindering their work;
- ▶ to explore how journalists build resilience to continue their work;
- ▶ to reflect on ways to address pressures and intimidation meant to silence journalists.

The present volume was conceptualised in the context of the stark findings of the 2017 quantitative study. The reader will certainly benefit from a review of the 2017 study to be able to put the narratives recounted here in a broader context. The current publication makes reference to it on several occasions.

METHODOLOGY

Research approach

The research questions in this study lend themselves to a qualitative enquiry based on narratives regarding the intimidation of journalists and focusing on the strategies that journalists employed to make sense of and cope with pressures and other attacks related to their work. While in-depth qualitative research is not readily generalisable due to its focus on individual cases and small sample size, it does offer useful and in-depth explanations of the issues under investigation (Glaser and Strauss 1967; Strauss and Corbin 1998).

The aim of this qualitative research project is to develop an in-depth socio-psychological interpretation of the complexity of journalists' experiences of facing high levels of obstruction, intimidation or threat. This is done by exploring their subjective worlds and their feelings, motivations, perceptions and action strategies. The research approach is inductive and involves the analysis and interpretation of narratives. To remain as faithful as possible to the experiences of the journalists interviewed for this study, we chose to use journalists' own words as often as possible. The frankness of the interviewees made their narratives extremely revealing and rich. Their voices are a powerful testimony to the interferences meant to silence journalists in the exercise of their work. This is precisely the reason why their voices in the form of direct quotations from interviews are at the core of this text.

Our commentaries and analysis are meant to contextualise the excerpts of the interviews used and draw the lessons to be learned from the experiences of the journalists.

DATA COLLECTION STRATEGY

The data were collected through 20 in-depth interviews (see Appendix A). The interviewing tool adopted was SQUIN (single question used in inducing narrative – Wengraf 2006) (see Appendix B: Interview guide). This research tool structured the interview into three separate sub-sections.

- ▶ The first sub-section uses a single question to elicit a narrative and is interviewee-led. The interviewer intervenes only minimally and engages mainly in active listening.
- ▶ Sub-section 2 allows the interviewee a more active role by encouraging further elaboration on the issues discussed in sub-section 1.
- ▶ Sub-section 3 is theoretically driven and the interviewer may ask the interviewee to explore issues that were not explored in sub-sections 1 and 2 but that are deemed to be thematically relevant to the issues of improper constraints on journalism.

During each interview attention was given to ensuring that the journalist participants felt comfortable and secure enough to share details of their experience in the agreed interview format. The interviews were all conducted in English except for one that was done in Italian. All interviews were audio recorded and transcribed for analysis.

The sample: process and eligibility

In line with the research objectives and criteria developed in academic literature, the journalists selected for this study were principally those who were known to have had experienced significant intimidation and pressures and could provide in-depth narratives about these. As can be inferred from the biographies presented below, special attention was given to including a range of different experiences of targeted intimidation, emanating from a variety of sources.

Thus, while the sample is homogeneous in the sense of being based on a shared experience of pressure and intimidation, it is also diverse in that the harassment, threats and, in some cases, violence were manifested in different ways and in a variety of contexts. A list of 50 potential participants was drawn up by the experts in the working group¹¹ set up for the purposes of this project. Of those 50 journalists, 20 agreed to participate.

The sampling was also influenced by several other considerations. A gender balance was sought and 7 of the 20 final participants are women. A geographical distribution

11. A working group was set up to achieve the objectives for this project. The group contributed to the development of the research agenda; helped identify potential interviewees and acted as gatekeepers; contributed to the development of the conceptual categories emergent from the data; and contributed to the planning of the structure of the text.

was also sought and the sample includes participants from Azerbaijan, Bosnia and Herzegovina, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Malta, Portugal, Romania, the Russian Federation, Serbia, Spain, Turkey, Ukraine and the United Kingdom.

The sampling strategy also sought to include different types of journalistic careers. The final sample includes investigative journalists, freelance journalists, video journalists, bloggers, journalists working in radio and TV and print journalists.

Data analysis strategy

The data analysis followed a number of steps:

- ▶ transcription of the audio-recorded interviews to create a text for coding;
- ▶ coding (the process of labelling properties in the data);
- ▶ developing propositions from the codes and formulating these into an explanation about the phenomena described.

The data analysis process used a systematic coding strategy designed to identify and classify elements and concepts that emerge from the interview data. This rigorous process of analysis protects against researcher bias while attaining detail and consistency.

Credibility is crucial to establishing trustworthiness in qualitative research through a faithful representation of the data. A few credibility strategies were therefore adopted. The first concerned the use of skilled and experienced interviewers. Secondly, the interview transcripts were sent back to the participants who were given the opportunity to amend as required. Following this a systematic set of procedures to analyse the transcript data was handled as documented above. The process was also subjected to expert review through regular exchanges and consultations where the transcripts, along with the emerging codes, were discussed in detail. In the final instance, research participants were sent the completed text to ensure that they are in agreement with how the authors have interpreted their experiences. This validation process increases the rigour of the findings of the study and strengthens the trustworthiness, accuracy and validity of the results by confirming the participants' intended meanings.

Informed consent, confidentiality and anonymity

The participants were informed in advance about the detailed purpose and aims of the research, as well as what would be expected from them. This was presented to them in writing, through a recruitment letter. Voluntary participation in the project was guaranteed and the journalists could withdraw from the research at any stage. Participants were given the option of having their data anonymised or attributable.

All of the participants expressed the wish to have their data attributed to them in the final text. Ethical clearance was sought and given by the University of Malta's Research Ethics Committee.

Following the conclusion of the interview all participants were debriefed (Appendix C).

Limitations

The 20 interviews conducted yielded rich data. However, it is recognised that theoretical saturation was not reached, meaning that if further interviews had been conducted additional relevant themes would likely have been identified. Qualitative research is labour-intensive to conduct and the volume of data makes analysis and interpretation extremely time-consuming. This, combined with the limitations of effective capacity available, led to the decision to restrict the number of interview participants to 20. The consequence of this sampling limitation is that the findings drawn from this research cannot with confidence form the basis of generalised conclusions concerning the larger population of journalists in the Council of Europe member states as a whole. As was made clear above, the main objective of this ideographic exercise was not in any case to arrive at definitive conclusions about the conditions faced by journalists in general across Europe, but rather to present the fullest and most faithful account possible of the experiences of a selected group of journalists. The sampling strategy sought to engage journalists working in a variety of different settings, countries and types of journalism. Even so, the data cannot claim to represent the perspectives of all journalists.

In qualitative research – particularly when dealing, as here, with issues which may be seen as emotive and politically sensitive – extra care is required to ensure that scientific rigour and objectivity are safeguarded and maintained. This introductory chapter explains the strategies used to ensure the highest standards and credibility of the research. The key researcher in this project is a Professor of Psychology with extensive experience in conducting qualitative research projects of this nature. The subjectivity of the researcher's interpretation during the data collection, data analysis and coding process may be considered an inherent factor in qualitative research due to the possibility that another researcher might interpret the same data somewhat differently. This methodological concern was addressed by convening a four-person working group of experts to oversee and advise on the project, and provide their informed interpretations of the data.

Biographies of the interviewees



Jessikka Aro¹² is an awarded investigative reporter with the Finnish Broadcasting Company. Aro specialises in Russia, extremism and information warfare. In 2014 she started to investigate the pro-Kremlin social media trolls' techniques and influence on public debates outside Russia's borders, and nowadays her reports are widely quoted and used in troll investigations internationally. Due to her investigations, she became the target of a severe and still ongoing international propaganda and hate speech campaign. In 2019 Aro published a best-selling investigative book about the Kremlin's information warfare in Finnish, and the book is translated into several languages. She trains reporters

and the general public to recognise and counter online disinformation. Aro is also lobbying for better legislation to counter hybrid threats and protect citizens from state-sponsored online security threats, and she has testified in the US Congress. In 2019 the US State Department awarded her the International Women of Courage Award, but the award was rescinded by President Donald Trump's administration allegedly due to her social media criticism of President Trump.



Sofia Branco lives in Lisbon and is the current President of the Portuguese Union of Journalists (since 2015). She is also currently a member of the International Federation of Journalists Executive Committee and Gender Council. She has been a journalist for 20 years and has won several journalism prizes, notably for her work on gender issues (among which the Lorenzo Natali Journalism Prize for Europe and the Portuguese Parliament Gold Medal). She has a Master's in Human Rights and Democratisation and currently works at Lusa, the Portuguese news agency, having previously worked for several years

12. Biographies appear in alphabetical order.

at *Público*, a leading national daily newspaper. She is also an activist on feminism and gender equality. She is the author of two books, *As mulheres e a guerra colonial* [Women and the colonial war], which tells the story of Portugal's experience as a colonial power seen through the eyes of women, and *Cicatrices de mulher* [Women scars], on female genital mutilation.

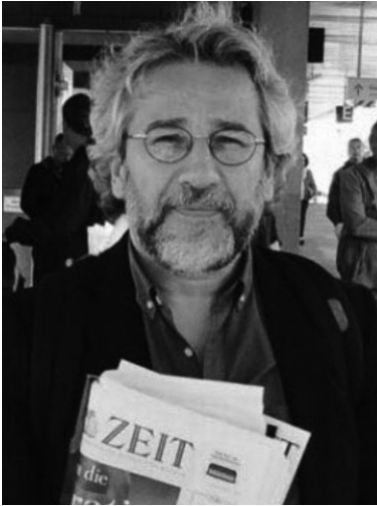


Daphne Caruana Galizia was a Maltese journalist, writer, investigative reporter and blogger. On the 16th of October 2017 she was killed in a targeted car bomb attack close to her home in Bidnija, Malta. She is survived by her husband and three children. At the time of publication, her murder remains unresolved. Her reporting focused primarily on the political elite in Malta with a particular focus on corruption, nepotism, patronage, money laundering and organised crime. Daphne Caruana Galizia built a national and international reputation as Malta's most notable journalist, with her blog "Running Commentary" having very extensive readership. She was also a regular columnist with *The Sunday Times of Malta*

and later *The Malta Independent*. Over a period of several years before her death, she was exposed to a series of acts of intimidation and violence and faced more than 40 libel and defamation lawsuits.



Stevan Dojčinović is a leading Serbian investigative journalist who is mostly based in Belgrade. He is currently the editor-in-chief of KRIK, the Serbian Crime and Corruption Reporting Network, and regional editor for the Organized Crime and Corruption Reporting Project (OCCRP). His reporting is largely focused on organised crime and corruption, privatisation scandals, money laundering and gambling. Stevan Dojčinović has written a book documenting the involvement of the Balkan Mafia in international cocaine smuggling. His contribution to investigative journalism has been recognised through a number of awards such as the prestigious Knight International Journalism Award. Stevan Dojčinović also contributes to journalists' education and training in Serbia.



Can Dündar is a prominent Turkish journalist and editor who has been living in exile in Germany since 2016. Over the past 40 years he worked for several national newspapers, magazines and television stations in Turkey, ending up as editor-in-chief of the daily *Cumhuriyet*, Turkey's oldest and largest newspaper. He stepped down from the post after he had been arrested and tried on charges of spying and aiding a terrorist organisation for his reporting in 2015 that the Turkish intelligence service had secretly sought to deliver military materiel to combatants in the Syrian war. He was held in custody for three months before the Constitutional Court overturned the decision to arrest him and he was released

in February 2016. In May of that year he was convicted and sentenced to more than five years in prison, pending an appeal. On the last day of the trial he was shot at by a gunman outside the courthouse but was unhurt. While the legal process was still ongoing, he took a writer's residency in Spain and, after the military coup attempt in the summer of 2016, he decided to stay in Europe (Germany). He became a columnist for the German weekly *Die Zeit* and a regular commentator on television. While in exile he founded the news website #Özgürüz. He has written several books and made many documentaries. He has received numerous awards for his journalistic work, including POMED 2019 Leaders for Democracy Award.



Arman Fazlić has worked as a journalist and communications specialist in Bosnia and Herzegovina and the wider Balkan region since 2010. He first worked as a journalist in a local radio station in Sarajevo and has reported for a variety of online media outlets in Bosnia and Herzegovina and across Europe. He is actively engaged in the promotion of freedom of expression and journalists' rights in the Western Balkans region. During 2017 and 2018, he was the editor of the online bilingual professional bulletin *E-Journalist* (*E-novinar*) published by Bosnia and Herzegovina's Journalists Association. Currently, he works at the International Republican Institute.



Khadija Ismayilova is a leading Azerbaijani investigative journalist who has worked for Radio Free Europe/Radio Liberty and is currently working with Organized Crime and Corruption Reporting Project (OCCRP). She has won several journalistic awards including the 2016 UNESCO/Guillermo Cano World Press Freedom Prize. She is known for her in-depth investigations into corruption at the highest levels of government. Between 2010 and 2014 she investigated and reported on alleged corruption implicating the President of Azerbaijan and members of his family. In December 2014 she was detained for 18 months on charges that were widely seen as politically motivated. After her release

she continued her investigative work on the Aliyev family. Ismayilova was also the target of a massive smear campaign which included covert video recordings taken in her home and the release of intimate images of her on the internet. The European Court of Human Rights upheld her complaints, finding Azerbaijan in flagrant breach of Ismayilova's rights to privacy and freedom of expression. The Court also found that the state authorities had violated her rights to liberty and imprisoned her to silence and punish her for her work as a journalist.



Jóhann Páll Jóhannsson is an Icelandic journalist who has written for the newspapers *DV* and *Stundin* and covered several recent cases of abuse of political power in Iceland. In 2014, Jóhannsson and a colleague jointly won the Union of Icelandic Journalists' Investigative Journalists of the Year Award for their coverage of the treatment of asylum seekers in Iceland. In 2015, they won the same award for their revelations concerning a political scandal which led to the resignation of the Minister of Interior and the criminal conviction of her political assistant. In 2018, Jóhannsson and the *Stundin* editorial team were again chosen Investigative Journalists of the Year for their coverage of how the state reinstated the honour of convicted paedophiles and how the authorities illegally withheld information about it from the public. The resulting controversy brought down Iceland's ruling coalition. Jóhannsson holds a Bachelor's degree in Philosophy from the University of Iceland and a Master's in History from the University of Edinburgh. He now lives in London and is studying European Political Economy at the London School of Economics.



Elena Kostyuchenko works for the independent Russian newspaper *Novaya Gazeta*. She is also a gay rights activist. She has written extensively about the punk protest band Pussy Riot and the Zhanaozen massacre which took place in Kazakhstan's Western Mangystau Region in December 2011. At least 14 protestors were killed by police in the oil town of Zhanaozen as they clashed with police on the country's Independence Day. Her special reports or exclusives include exposing the presence of Russian fighters in the so-called "republics" of Donetsk and Luhansk in Eastern Ukraine, and coverage of the major protests against the building of a highway through the Khimki Forest outside

Moscow. She has spoken about having experienced police violence and arrest on several occasions in the course of her work.



Ukrainian journalist **Andriy Kulykov** has almost 40 years of experience in journalism and broadcasting. In 1979 he started his career in a Soviet-era propagandist English-language newspaper *The News From Ukraine*. After 1986, he was among those who reshaped the weekly into a paper reporting news and current affairs without political bias. He participated actively in Ukraine's independence movement. For several years he worked in London at the BBC Ukrainian Service, and then back in Ukraine as an editor and presenter for various television news services and talk shows. He also contributed to a European Union-funded project to reform journalism education in Ukraine.

In 2013, with some colleagues, Kulykov co-founded Hromadske Radio, a leading independent radio station where he is now a presenter and reporter and Chair of the Board. Kulykov teaches journalism at the Mariupol State University and delivers journalism workshops at universities around Ukraine.



Bastian Obermayer is a Pulitzer prize-winning reporter and co-head of the investigative team of *Süddeutsche Zeitung* (SZ) which is based in Munich. He is also a member of the International Consortium of Investigative Journalists (ICIJ). Together with his colleague Frederik Obermaier he initiated in 2015 the international collaboration on the Panama Papers, which started after the two German reporters had received a leak of 11.5 million secret documents from the financial world. The massive trove of documents revealed the widespread secret use of offshore accounts by a multitude of public figures, mostly through “shell companies” which could provide cover for a range of

unlawful activities, including fraud, tax evasion and evading international sanctions. Obermayer and Obermaier wrote a best-selling account about the Panama Papers and shared the Pulitzer Prize for Explanatory Reporting in 2017. Bastian Obermayer has also worked on several other major collaborative investigations, including Offshore Leaks, Luxembourg Leaks, China Leaks, China Cables, the Strache Video and Swiss Leaks. He has been given a number of prestigious national and international awards, including the European Press Prize, the George Polk Award and the Investigative Reporters and Editors (IRE) Award. In 2016 he was awarded the Knight-Wallace Fellowship from the University of Michigan.



Erol Önderoğlu is the representative of Reporters Without Borders (Reporters Sans Frontières, RSF) in Turkey and the editor of *Bianet*, a Turkish website that covers political, social and cultural affairs with special attention to human rights and freedoms. He was arrested and detained for 10 days in 2016 after participating with other prominent figures in a campaign of solidarity with the Kurdish opposition newspaper, *Özgür Gündem*, by symbolically becoming its “editor for a day”. *Özgür Gündem* was an Istanbul-based daily newspaper that reported extensively on the Kurdish-Turkish conflict and was accused of propaganda for the Kurdistan Workers’ Party (PKK). Its editors and staff

were frequently arrested and tried. Erol Önderoğlu is a well-known figure in the world of journalism and human rights in Turkey, having worked tirelessly for some 25 years to defend journalists against arbitrary harassment, exclusion and criminal prosecution for their work. On 17 July 2019, the final hearing in the case of Erol

Önderoğlu, Ahmet Nesin and Şebnem Korur Fincancı was held in Istanbul. Erol was acquitted of charges that could have resulted in a prison sentence of up to 14 years; but the prosecutor appealed against the acquittal and a regional appeal court was expected to hear the case again at a later date. Önderoğlu was awarded the 2018 Roosevelt Four Freedoms Award for Freedom of Speech, the 2016 Dr Erhard Busek SEEMO Award for Better Understanding in South, East and Central Europe, and the Journalists Association of Turkey (TGC) 2014 Press Freedom Award.



Jason Parkinson is a British freelance video journalist who makes news and feature documentary videos in the UK and across Europe. During the past 15 years he has worked as far afield as Russia, Egypt, Mexico and the USA. He studied at the London School of Journalism from 2001 to 2004. Starting his career in print journalism, he has written for a range of newspapers and magazines including *The Guardian*. In 2005 he moved into video journalism when he covered the G8 protests in Scotland. Jason has extensive experience of reporting on civil unrest, including far-right and extremist groups and a range of national and international social

and environmental movements. He has made documentary films about migration, the lives of refugees and issues of civil rights and press freedom. Parkinson was shortlisted for the Rory Peck Award for his coverage of the Egyptian uprising in 2011 and the London riots in 2012. In November 2014, together with five other journalists, he started a legal challenge against the Metropolitan Police in the UK over their overt and covert surveillance of his journalistic activities. In June 2020, the case was still pending.



Edouard Perrin is a French investigative journalist who works with *Premières Lignes*, a French television press agency. As a member of the consortium, he collaborated in ground-breaking investigations by the International Consortium of Investigative Journalists (ICIJ). In 2014, Perrin was a key protagonist of the “Lux Leaks” publications. This series of investigative reports was based on leaked documents first revealed by Edouard Perrin in 2012. They proved the extensive tax avoidance schemes used by many large corporations through Luxembourg. He was prosecuted twice by the Grand Duchy of

Luxembourg for aiding the disclosure of confidential documents but was acquitted on both instances. In 2015 Perrin received a Knight-Wallace Fellowship at the University of Michigan. He participated in the “Panama Papers” project, which was awarded the Pulitzer Prize. He also took part in the “Paradise Papers” and the “Implant Files”. In 2016, Politico Europe chose him as “the dogged reporter” to represent France on its Politico 28 Class of 2016 list. In 2017 he was awarded the French “Grand Prix du journalisme” for his multiple investigations. Since 2017, he has been presiding over “Informer n’est pas un délit” (To inform is not a crime), an association defending journalism against threats. He is also the President of the “Freedom Voices Network”, the non-profit parent organisation of the “Forbidden Stories” platform dedicated to continuing the investigations of killed or jailed journalists.



Daniele Piervincenzi is a freelance Italian journalist who is based in Rome and reports on political and social issues. He has investigated the Mafia for the television Channel RAI 2, and presented a programme on bullying and victimisation. He studied Communications Science at La Sapienza University in Rome and originally started his career in sports journalism.



Paul Radu (@IDashboard) is a director and co-founder of the Organized Crime and Corruption Reporting Project (OCCRP), a co-creator of the “investigative dashboard” concept (www.investigativedashboard.org), a visualisation software tool creating “visual investigative scenarios”, and a co-founder of the RISE Project, a platform for investigative reporters and hackers in Romania. He has held a number of fellowships, including the Alfred Friendly Press Fellowship in 2001, the Milena Jesenská Press Fellowship in 2002, the Rosalynn Carter Fellowship for Mental Health Journalism in 2007, the 2008 Knight Fellowship with the International Center for Journalists, and a 2009-2010 John S. Knight

Journalism Fellowship at Stanford University. He is the recipient of numerous awards including, in 2004, the Knight International Journalism Award and the Investigative Reporters and Editors Award, in 2007, the Global Shining Light Award and the Investigative Reporters and Editors Tom Renner Award, the 2011 Daniel Pearl Award for Outstanding International Investigative Reporting and a 2015 European Press Prize. Paul is a board member with the Global Investigative Journalism Network and a juror for several global prizes including the Data Journalism Awards. He worked on the Panama Papers and the Russian, Azerbaijani and Troika Laundromat investigations.



Gregory Shvedov is a Russian journalist and human rights activist based in Moscow who mainly reports about the Caucasus region. He is the editor-in-chief of *Caucasian Knot*, a leading online media outlet published in English and Russian which focuses primarily on human rights violations and the ongoing violence in the Caucasus. His work has been recognised through the award of the Dutch “Geuzenpenning” prize for democracy and human rights. In the past, Gregory Shvedov worked for Memorial, an international NGO that reports on human rights violations and distortions of history. He still serves as a board member at Memorial and is also the director of the MEMO.RU Information Agency.



Gemma Terés Arilla is a Spanish freelance journalist and producer for Spanish-speaking and Catalan media who has been based in Berlin since 2004. She is also an analyst for German television and appears as a regular commentator on the political situation in Spain and in eastern Europe. Her main focus is on Germany, central Europe, Ukraine, Moldova and Belarus. She holds a Master of Arts in East European Studies. Following her Journalism Studies at the Autonomous University of Barcelona, she worked as a television journalist at the Catalan public broadcaster TV3, and from 2014 to 2017 she was a producer for the international news agency Ruptly TV,

based in Berlin. She has also been a press officer for the delegation of the Catalan government in Germany.



Kostas Vaxevánis started his career in 1988, with the newspaper *Rizospastis*. Since 1991 he has covered international conflicts and crises as a correspondent for the MEGA TV channel and for NET, the news channel of the Greek national television. Kostas Vaxevánis has conducted interviews with many controversial political leaders and fugitive figures, including Abdullah Öcalan, Abdul Haq, leader of the mujahideen during the war against the Soviets, Markus Wolf, the East German Stasi's head of foreign intelligence, and Radovan Karadžić, the Serbian war crimes suspect who for years was wanted by NATO. He is now the publisher of *Hot Doc*

magazine, which in 2012 exposed the so-called "Lagarde List" of thousands of potential tax evaders, leading to his arrest and trial on charges of breaching privacy laws. Following a trial and appeal that lasted nearly a year he was acquitted. In 2013 he received the Index on Censorship Freedom of Expression Award for Journalism. Since November 2016, he has also been the publisher of the newspaper *Documento*.



Zsuzsanna Wirth is a Hungarian journalist at the non-profit investigative journalism centre Direkt36 in Hungary. The mission of the centre is to expose wrongdoings and abuses of power. Wirth provides Hungarian and international audiences with critical reporting and in-depth investigations. Because Direkt36 does not engage in daily news gathering and distribution it can focus on in-depth reporting following systematic investigations. The stories are also published in English because of their international implications. Wirth has received a number of prestigious awards for her journalistic work, including a special investigative journalism prize from the Gőbölös József "Soma" Foundation in 2013 for a series of articles about a UK-based Hungarian human trafficking ring.

articles about a UK-based Hungarian human trafficking ring.

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Chapter I

Narratives of intimidation

THE GENERAL PICTURE

Can Dündar: I'm afraid I have received all kinds of intimidation you mentioned.

The 20 journalists interviewed for this study have experienced various forms of intimidation in the course of their journalistic careers. These pressures, often involving the threat or use of violence, came from a variety of sources. The Council of Europe's 2017 study described these pressures as "unwarranted interference".¹³

In practice, since incidents of pressure or attacks against journalists often contain common elements, the boundaries between different types of interference and harassment overlap. However, for a more thorough analysis they will be discussed separately drawing on the first-hand experiences recounted by the 20 journalists interviewed. We identify common features between the experiences which the journalists recounted, although they have been working in very different contexts.

The process of interpretative coding yielded four main categories of intimidation:

- ▶ physical;
- ▶ psychological;
- ▶ judicial/legal; and
- ▶ economic.

These emanated from a diverse range of sources, including the state and the police; political forces; interest groups; editors and media owners; and individuals ranging from angry interviewees to internet trolls.

Many cases, as narrated by the journalists, are analysed below under the above categories and are illustrated with quotes from their interviews.

PHYSICAL VIOLENCE AND COERCION

The number of incidents of violence, including physical attacks, in which journalists have been targeted because of their work, has reached a level described by the Committee of Ministers of the Council of Europe as "unacceptable".¹⁴ The 2017 study found that almost one third of the 940 participating journalists reported experiencing physical assault during a three-year period. As a comparison, the Council of Europe's online Platform to Promote the Protection of Journalism and Safety of Journalists

13. See definition in the glossary.

14. See Recommendation CM/Rec(2016)4 (Council of Europe 2016).

("the Platform")¹⁵ records that at the time of writing (April 2020), 23% of the over 700 alerts reported since 2015 have concerned "attacks on the physical safety and integrity of journalists".¹⁶ Many more go unreported.

In the interviews conducted for this study many of the journalists made very clear that violence and coercion were an ever-present and acutely problematic fact of life for them. A common feature was being physically intimidated or threatened several times in connection with their journalistic activities.

Elena Kostyuchenko spoke of several occasions when she had been assaulted in the course of her work. In 2016 she was in Beslan, North Ossetia, covering the 12th anniversary of the hostage crisis that led to the death of 334 people. During a protest by mothers who had lost children, journalists were told to turn off their cameras but Kostyuchenko continued to record the events. Local police seized her mobile phone and detained her for a few hours before giving her back the phone. Two days later, as Elena Kostyuchenko recalled, the police again seized her phone and reporting notes, and a man suddenly threw a bright green liquid over her. It was Zelyonka, a Soviet-era disinfectant which is known to have been used habitually by Russian nationalist activists or provocateurs to ambush and humiliate critical journalists and opposition figures. Several hours later, another assailant beat her so brutally that she required six months of medical treatment. No one was ever charged with the attacks.

Elena Kostyuchenko: This guy is going after us, [yelling] "you whores!". He's this super strong, super big guy and he grabs ... [another female journalist] and me and starts dragging us; [I was] falling but he continued dragging me. After 10 metres, he just pushes us to the ground and he starts beating us. He beat me in my temple, and he beat ... [the other female journalist] in her back and in her stomach. You know how he did it? He held my head with one hand and he did like that [raising her fists up and down to mimic how he hit her]. I screamed, and thought let's go from here. I stood up and you know I'm green [she had been sprayed with a green liquid] with no phone, no notebook, I just got my second ... head trauma ... And afterwards no investigation happened, actually ... no investigation or criminal case, nothing at all.

15. "This platform is a public space to facilitate the compilation, processing and dissemination of information on serious concerns about media freedom and safety of journalists in Council of Europe member States, as guaranteed by Art. 10 of the European Convention on Human Rights. The platform collects and disseminates information on the most serious concerns about media freedom and safety of journalists in Council of Europe member States, in collaboration with a number of partner organisations. It sends daily alerts on physical attacks, detention and imprisonment of journalists, harassment and intimidation, impunity and other acts which have a chilling effect on media.

The platform aims to improve the protection of journalists, better address threats and violence against media professionals and foster early warning mechanisms and response capacity within the Council of Europe. The platform enables the Council of Europe to be alerted on time, in a more systematic way and to take timely and coordinated action when necessary. It helps the Organisation identify trends and propose adequate policy responses in the field of media freedom". See more at: www.coe.int/en/web/media-freedom/the-platform, accessed 30 April 2020.

16. See Platform to Promote the Protection of Journalism and Safety of Journalists: www.coe.int/en/web/media-freedom/all-charts, accessed 30 April 2020.

Physical violence may be inflicted on journalists by various groups whose goal is to assert and publicise the ideas they claim to stand for. The participants told of how they faced violence from anti-immigrant groups, criminal networks such as the Mafia and far-right groups. The attacks on Daphne Caruana Galizia are an example of this. In 2006, Caruana Galizia's house was set on fire. She interpreted the attack as an attempt to stop her from reporting on migration and she was adamant that it should be seen as attempted murder of her and her family. The authorities limited the investigation to suspected arson.

Daphne Caruana Galizia: They set fire to the house at about 3 a.m ... They put truck tyres packed with bottles of petrol and jerry cans full of petrol against a glass door ... They wanted to blow in the glass doors. Behind the doors were rugs and so their intention was to set the whole house on fire. We were lucky; just five days before we had changed the doors to security doors so they were fireproof and the glass stayed in place.

This was at the very least an attempt to injure Daphne Caruana Galizia. Following that attack, threats of violence taking different forms became common for her.¹⁷ One incident happened in a hospital car park when a man tried to corner and intimidate her. However, Daphne Caruana Galizia spoke of how instead of protecting her and investigating the incident, the police charged her for damaging the assailant's vehicle following a report lodged against her by the owner of the car. She says that in this way she was effectively intimidated twice: the first time by being scared by the man's threatening behaviour in the car park, and then once again when her assailant conspired with the police to have her charged.

Daphne Caruana Galizia: The car park was practically empty. It was after visiting hours and I was trying to reverse out of my parking bay, and I see this big car behind me. And obviously, a dark car park at night, a car blocking you ... My face had just been up on billboards all around the island, along with the Prime Minister and senior politicians. I had become instantly recognisable. And there was this car blocking me. It was a really intense situation. I reversed out and this guy started shouting and blowing the horn, and he went to file a report saying that I reversed into him. The police then took me to court; there were headlines in all the papers. I mean it was awful. The magistrate eventually let me off, but meanwhile I had been put through the wringer with the headlines and everything.

Many threats followed, culminating in her shocking murder on 16 October 2017 by means of a remotely detonated bomb placed on the underside of her car outside her home in Bidnija. During her 25-year career as an investigative journalist and self-styled "scourge" of corruption, Daphne Caruana Galizia experienced a long catalogue of cases of physical intimidation and threats of violence, as well as dozens of lawsuits aimed at silencing her overt criticism of powerful political and business figures in

17. Serious threats to Daphne Caruana Galizia's life and physical integrity began much earlier. As her son Matthew Caruana Galizia recalls, the first major incident took place in 1995 or 1996 when Daphne was investigating a cocaine trafficking affair. Matthew, who at that time was living at his mother's house, remembers how someone set fire to the front door, "which in Malta and Sicily is interpreted as a death threat" (personal communication (e-mail) with Matthew Caruana Galizia on 5 June 2020).

Malta. At the time of writing (April 2020), which is more than two years after her death, the identity of the person or persons who ordered her killing remains unknown.

In some parts of Europe, organised crime groups are believed to be the main perpetrators of violence against journalists. In recent years, journalists who write about organised crime have faced an alarming increase in acts of hostility.¹⁸

When journalists are killed because of their work, national and international newspapers often publish resounding condemnations and call for states to live up to their commitments to protect journalists' lives. Yet the great majority of perpetrators are never punished. The harsh reality is that most acts of violence against journalists, including those that result in physical injuries, are carried out with effective impunity. Even in cases where those suspected of having perpetrated the violence are arrested, those who order the violence most often go unpunished.¹⁹ The data on the Council of Europe's Platform to Promote the Protection of Journalism and Safety of Journalists document the large number of cases of violent assaults that remain unsolved. The widespread failure of member states to provide adequate protection for journalists, and to successfully prosecute those responsible for attacks, has been deplored in the 2017 and 2018 annual reports of the Council of Europe's Secretary General on the state of democracy, human rights and the rule of law in Europe. The persistently high rate of impunity is a major source of alarm. Inevitably, it also has a serious chilling effect on other media actors and on society at large.

Justice was done, however, in a particular case involving Daniele Piervincenzi and his cameraman. In November 2017 they were brutally attacked by a member of the Ostia clan (part of the Italian Mafia) while on assignment. Piervincenzi was questioning a man about his alleged affiliation with a far-right group when the perpetrator head-butted him, breaking his nose, and beat his cameraman with a stick. The perpetrator received a six-year jail term for the attack. The court recognised that the use of Mafia methods was an aggravating factor in the assault.²⁰ Covering organised crime in Italy routinely exposes reporters to potentially deadly dangers, a fact that has been recognised by the Italian authorities following significant lobbying efforts and campaigns for better protections for freedom of expression by journalists' associations and NGOs. In December 2018 as many as 21 journalists in Italy were reportedly living under close police protection because of death threats from organised crime syndicates, with a further 167 media workers under less stringent protection regimes.²¹ In addition, in 2019 Italy had the highest number of alerts posted on the Platform (Council of Europe 2020: 38). For Daniele

18. See Recommendation CM/Rec(2016)4 (Council of Europe 2016). See also Council of Europe (2020), "Hands off press freedom: Attacks on media in Europe must not become a new normal".

19. As reported, for example, by the European Federation of Journalists: "There can be no press freedom where journalists work in fear, end impunity!", 31 October 2017: <https://europeanjournalists.org/blog/2017/10/31/there-can-be-no-press-freedom-where-journalists-work-in-fear-end-impunity/>, accessed 30 June 2020.

20. See details on the Council of Europe Platform to Promote the Protection of Journalism and Safety of Journalists: www.coe.int/en/web/media-freedom/all-alerts, accessed 30 June 2020.

21. See the report of the fact-finding mission of the European Centre for Press and Media Freedom (2019), p. 4.

Piervincenzi, the much-publicised headbutting incident was far from his only experience of physical attack and intimidation related to his work as a journalist. His experiences reflect the menacing climate of violence that journalists who investigate criminal groups work in.

Daniele Piervincenzi: When we told a story about how the Neapolitan Mafia controls cocaine, they came after us with guns.

Many other journalists have – reportedly – experienced threats of violence or physical violence from extreme right-wing groups. The well-publicised rise of nationalism across Europe in recent years has been accompanied by a growth of anti-establishment protest movements inspired by far-right ideologies (Ford and Goodwin 2010). Journalists covering these protests and marches have often found themselves facing serious aggression or violence at the hands of right-wing extremists.

Jason Parkinson: These are Nazi saluting psychos who come at you with barbed clubs on the protest ... I've got footage of this one guy, I don't know what he is holding, it's some kind of medieval mace he's got in his hand. Others come with all sorts of weapons.

While the journalists' narratives often framed episodes of violence and coercion in terms of hostility towards them from particular individuals, the data from the interviews indicate a common underlying pattern: the frequent harassment they suffer often follows after they have been scapegoated by persons in positions of power. This context makes the climate of intimidation hard to escape or contend with.

Daphne Caruana Galizia: In fact, all of the problems I encounter stem from an exact parallel with what in psychology is known as scapegoating. When you look at my story, it's a classic, classic case of scapegoating on a national, nationwide scale.

Stevan Dojčinović: These tabloids are publishing these bad things about you, and you cannot defend yourself. They will always reach audiences that are six times bigger than yours. You cannot defend yourself [against it]. So this remains an issue. It's clear that politicians' statements in these tabloids create this [hostile] atmosphere, and then some people will just attack you on the street and nobody will be held responsible.

The scapegoating of the critic, a tactic as old as political power itself, is frequently used as a tool in the perpetuation of political, economic and social privilege. Scapegoating incites feelings of prejudice and the scapegoat may be blamed for the problems of society. When journalists are depicted as the "enemy", they often find themselves the targets of threats and harassment. History contains numerous examples of political figures who have used the scapegoating of individuals to unite people against an outsider group or individual (Glick 2002). The data from the interviews strongly support the belief that journalists are commonly subjected to scapegoating, leading to their persecution.

Can Dündar: I was attacked on the day of my trial verdict, just in front of the court house [in Istanbul]. I was attacked by a gunman and I survived, thanks to the bravery of my wife. Somehow the attacker was inspired by the government, at least so he said. We [journalists at Cumhuriyet] were made out to be a target by the government and by the president. They were calling us traitors and the attacker was calling me a traitor during the attack.

Zsuzsanna Wirth: This does not protect me from being made out to be a mercenary of George Soros ... This creates a [hostile] environment. ... [I was on] a list of enemies of the state basically.

Scapegoating also occurs when an individual or a group is singled out for condemnation for creating conflict or tension on sensitive matters. A theme throughout some of the interviews was that the journalists saw themselves in some cases as being held responsible for bringing to light things which are in the shadows or hard for people to acknowledge. They are all too easily scapegoated for raising issues that are sensitive or off-limits, and once they are branded as troublemakers or “enemies” by figures in positions of authority, it will be easy for others to justify or condone physical attacks against them.

Daphne Caruana Galizia: It’s medieval. Look at what they call me most, “the witch from Bidnija”. I mean, when were women called witches? Pre-the age of enlightenment. And very openly. Witch! I am not the same as other people. I am “evil”.

Kóstas Vaxevánis: They will make you seem like the criminal – the guilty one.

Jessikka Aro: The whole point of this operation is to have people physically harass me and, in some ways, it has succeeded. Some people, for example in the centre of Helsinki, notice me, they know me from the website, MV Lehti, where there has been an ongoing campaign to discredit me for many years. They know my face and they start yelling, for example.

For journalists who are frequently subjected to such denigration or attempts to discredit them, the hostility or social isolation takes a toll on their well-being. Naturally, the impact on the individuals affected is likely to be most acute when there is also physical aggression and violence.

Daphne Caruana Galizia: This has become a massive, massive problem and I have had cases, especially when the incitement is really high at times of political tension, where I have had problems even with people in the street.

According to the journalists interviewed, politicians and others in positions of public authority constitute the main drivers of systematic vilification and stigmatisation they experienced. The effects of this aggression can be felt directly as well as indirectly, and the resulting climate of hostility and fear constitutes a significant impediment to media freedom.

Several journalists said that to live under the constant threat of being attacked and harmed caused them high levels of anxiety and imminent fear for their safety.

Stevan Dojčinović: In August, four years ago [2016], we reported two threats. Bold threats, clear threats. One guy said: “I will come to your office and line you up and shoot you all”. It’s not like we need to discuss whether that’s a threat or not.

While many people would not hesitate to go to the police immediately to report a serious threat of violence, the 2017 study indicated that many journalists would not do so because their confidence in the police is low. Despite the overall high incidence of intimidation among journalists, 35% of respondents said they just did not feel that they had the right means to report such pressures. Of those who said they had

been on the receiving end of undue pressures for their journalistic work, 57% did not report it to the police; and of those who did, 23% expressed their dissatisfaction with the police's response. These figures demonstrate a real lack of confidence in the law-enforcement authorities and point to systemic shortcomings in the role of the police to protect journalists.

Online harassment and abuse are often cited as a major factor in the multiple pressures journalists are now subjected to. This should not be underestimated. In fact, online insults and threats can very quickly translate into threats and harassment in the real world. The journalists we interviewed made it clear that they were acutely conscious of this risk.

Jessikka Aro: The biggest risk is that some person physically harms me after becoming agitated and mobilised by the fake news hate sites.

Physical intimidation is a common experience among people in detention since prisons are well known to be violent places (Camp et al. 2003). Unfortunately, the number of journalists imprisoned because of their work has increased markedly in recent years. The 2017 Annual Report of the Secretary General of the Council of Europe documented that the number of journalists detained or imprisoned in Europe had reached a record high. According to data on the Platform in March 2020, 118 journalists were in prison across Council of Europe member states.²²

In Khadija Ismayilova's opinion, the harsh treatment she suffered during her imprisonment may well have been instigated by the authorities in an attempt to intimidate her. This included inciting other inmates against her.

Khadija Ismayilova: In the prison there were a couple of incidents when other inmates threatened to beat me up. That didn't happen on their own initiative. It was more controlled. The prison authorities told all the prisoners that I was writing petitions to cancel their extra phone calls – which was not true. But about 70 prisoners then promised that they were going to beat me up.

The 2017 study provided stark quantitative evidence that police intimidation and violence against journalists is widespread in many Council of Europe member states. More than a third (35%) of the 940 journalists who responded to the survey said they had experienced intimidation by police. Some of the journalists who took part in this interview-based study provided personal insights into the scale and nature of physical intimidation and violence inflicted by the police, especially during protests and demonstrations.

Jason Parkinson: There's some kind of real targeted menace here. The number of times I have been knocked around or shoved about or hit with a baton or something like that. My partner, she got a random punch in the face one day for no reason at all. In the middle of a protest, a cop just turned around and lamped her straight in the face.

Arman Fazlić: I took pictures of people who were protesting and I turned my camera to the other side to picture the government building. Two cars stopped, and maybe

22. See "Detention and imprisonment of journalists": www.coe.int/en/web/media-freedom/all-alerts, 15 March 2020.

10 people came out, without uniforms and nametags but all wearing black, looking very much like body builders. I think they were some kind of special police unit. First they took my camera and they asked who I was and what I was doing. I had my passport and all my documents, my press card, so I just co-operated with the police. They interrogated me: Who was I? What was I doing? They looked at my international press card and, looking at the signature of the president of the International Federation of Journalists, asked, who is this? Where are you from? What are you doing here? Are you intending to write something about it?

While no physical harm came to Fazlić, his interrogation by such a formidable contingent of special police officers was felt by the journalist to be physically and psychologically intimidating.

PSYCHOLOGICAL PRESSURE

In the 2017 study as many as 69% of the respondents reported experiencing “psychological violence”. Their experiences consisted primarily of denigration or humiliation by public authorities (48%); intimidation by public authorities (56%); threats of harm (41%); and suffering smear and defamation campaigns, either at the hands of public officials (43%) or by fellow journalists (28%). Smaller, but still high numbers reported bullying (“belittlement”) by their own management (24%); undue interference by managers (19%); and threats made by other, unnamed parties (42%). In the current study, the issue of psychological violence emerged again as a recurring problem.

In their extended interviews the journalists voiced concerns about psychological interference in a variety of guises, including defamation (attacks on professional activity or private life), intimidation and threats against physical safety and professional employment; threats to expose deeply personal aspects of their private lives (such as details of medical conditions and of journalists’ sex lives); accusations of “ulterior motives” or “secret agendas”; and refusals to accept their status as journalists. Attacks were also directed against journalists’ relatives and friends.

Based on the data gleaned from the interviews, psychological bullying or pressures were categorised according to the various ways in which they manifested themselves. Among the most commonly cited were smear campaigns waged by pro-government media (and in some cases, by politicians themselves), public attacks deriding and discrediting journalists as enemies of the state, accusations of fabrication and “fake news”, cyberbullying, surveillance and blackmail. These insidious forms of pressure were exerted by a variety of agents, including both public officials and private persons. Pressures were often applied subtly and would increase in number over time; the cumulative impact of this had serious consequences. Several journalists described psychological violence as a persistent feature of their lives: “It is with me constantly and it is absolutely terrible”, Daphne Caruana Galizia said. Pointing to the effect of such violence, she then added:

Daphne Caruana Galizia: There have been periods where I would literally feel like, “oh my god, I’m going to get a stomach ulcer”. Those churning, churning nerves all the time. Because you’re living under it constantly.

Smear campaigns: undermining by discrediting

A smear campaign may be defined as a purposeful and premeditated attempt to damage an individual or a group's reputation and credibility. According to Emler (1990: 171), reputation is a social construct that refers to a "set of judgments a community makes about the personal qualities of one of its members". As was gradually recognised by the European Court of Human Rights, reputation is a very important aspect of individuals' private lives.²³ Research shows that we assiduously monitor other people's reputations and strictly seek to manage our own (Zinko et al. 2007). Reputations link individuals to specific social identities which are carefully nurtured and negotiated.

It is generally assumed that a positive reputation facilitates career advancement (Ferris et al. 2007). This is particularly important for journalists because of the close connection between reputation and credibility. Being portrayed as a "dishonest" or unscrupulous journalist can be very damaging. If the journalist can be portrayed as flawed, the public will be less likely to respect what he or she says. According to Emler: "[r]eputations may include estimates of persons in terms of generalised virtues, such as honesty, reliability or generosity, but they will also include judgments about the degree to which individuals exemplify the virtues of those particular social categories which they appear, or claim, to occupy. One is not simply a Greek warrior, husband, farmer, scholar or socialist [or journalist²⁴], but a good or poor exemplar of the prototype" (1990: 181).

At a time when there is much confusion and uncertainty about which news sources are to be trusted, reputation and credibility are of paramount importance for journalists and for journalism as a profession. Interviewees often stressed that credibility can quite easily be undermined through unscrupulous tactics by those who seek to stifle inquiring journalism, such as figures in positions of high authority and public office.

The data gathered for this book indicate that journalists in Council of Europe member states are often subjected to smear tactics aimed at damaging their credibility. Smear tactics differ from other forms of public discourse in that typically they do not relate directly to particular questions of fact, but instead seek to denigrate or discredit certain individuals by spreading rumours, distorted information, half-truths or lies about them.

23. As Spielmann and Cariolou (2011: 571-572, footnotes omitted) have explained, "in contrast to other international human-rights law instruments, the European Convention on Human Rights does not expressly guarantee a right to protection of reputation [compare to Article 17 of the International Covenant on Civil and Political Rights and Article 12 of the Universal Declaration on Human Rights]. Protection of reputation is only directly referred to in Article 10 of the Convention as a possible ground for restricting the right to freedom of expression. Nevertheless, in some cases the European Court of Human Rights has relied on a right to protection of reputation to find a violation of Article 8 of the Convention, which guarantees the right to respect for 'private life'. Over time, protection of reputation has grown to be regarded as a right capable of falling within the scope of that provision. This was primarily established by the Court's case law relating to libel proceedings in which it became standard practice to refer to competition between the Article 10 right of an author or publisher and the claims under Article 8 of the individual referred to in a given publication".

24. Authors' insertion.

Smear campaigns are often extremely hard to counter or disprove. Even when a smear campaign is shown to be unfounded, the tactic remains effective because the target's reputation is damaged before the real facts can be established. This can have serious implications for the journalists' well-being and career prospects. It also feeds into a wider climate of societal cynicism and mistrust of the media. Moreover, attacking journalists' credibility has proven to be an effective way to avoid addressing real issues of public interest – whether that is the exposure of corruption or other serious allegations made by journalists. In many countries smear campaigns have therefore become a common tool to silence critical voices.²⁵ Attacking the credibility of journalists is a way to avoid addressing what they write about, and the arguments or allegations they make. This feeds into a wider climate of societal cynicism and media mistrust.

A number of the journalists interviewed for this study have experienced the full force of public stigmatisation or derision as a result of smear campaigns orchestrated by pro-government media or other powerful political or economic groups and designed to destroy their reputations.

Kóstas Vaxevánis: When I began publishing my magazine – Hot Doc – we wrote about how [certain] bankers were creating offshore companies and then stealing money from the banks. When we wrote about that, they [spread a rumour] that I was taking money from the secret services and that I was €50 000 behind in office rent. They [the bankers] tried to give me a bad reputation ... It was a systematic effort at character assassination ... They wanted to smear me and other journalists who were also writing about the banks.

Edouard Perrin, who reported on extremely complicated and shady financial mechanisms, feared that the documents he received from sources might be intentionally fake, so that if he published them he could be framed as an untrustworthy journalist.

Edouard Perrin: I really feared that there was some kind of targeted operation to smear and destroy my credibility. Sending fake documents – it wouldn't have been the first time.

Smear campaigns are a form of bullying characterised by an imbalance of power and intention to harm (Olweus 1993). Many journalists in this study spoke of this imbalance and how little real power they feel they have in the face of organised propaganda.

Daphne Caruana Galizia: That's the worst aspect for me. You know, it's constant propaganda against me. It's just terrible and unequal because they have a whole broadcasting machine and a political party, [against] me, one woman with a blog.

An often-used tactic in smear campaigns is to discredit a journalist's competence and authenticity by alleging an association with some discredited body or organisation. Jessikka Aro reports how exposing "web brigades" of internet trolls linked to the Russian government drew vicious retaliation. In the course of a crowd-sourced investigation, she discovered articles about herself on Russian online media attacking

25. See Human Rights Council Resolution 39/6, 27 September 2018: http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/39/6, accessed 30 June 2020; report by Reporters Without Borders (2019); report by Freedom House (2019).

her journalistic integrity and describing her as “some kind of agent” rather than a journalist. Similar allegations were made on social media.

Jessikka Aro: There were smear articles about me on Russian online media. I was being labelled as not a journalist at all, but some kind of suspicious assistant for NATO and the US and Baltic countries’ security services. I was being framed as some kind of agent, a foreign spy who was tasked to collect and gather an illegal database of Russian people who support Putin in Finland. In these fake news articles, it was said that I would give this database to America.

Aro has suffered intense intimidation. She was sent abusive emails, was labelled as a drug dealer on social media and in a YouTube video, and was mocked as a would-be super-heroine and Bond girl. In a rare development, three of her harassers were prosecuted and found guilty of various charges including aggravated defamation. Her main tormentor, the operator of the anti-immigrant, Eurosceptic and pro-Russian website MV Lehti, was sentenced to 22-months imprisonment, and all were ordered to pay compensation.

When journalists investigate wrongdoings by the state, they sometimes risk being labelled as “traitors”, a term that has come to be used by some public figures to demonise their critics and incite the public against them. The interviews provide ample evidence that many among this cohort of journalists were keenly aware of the danger of being portrayed as enemies of the state. The attempt by a gunman on Can Dündar’s life followed just such accusations and threats against him from the highest political level.

Other journalists were also labelled traitors and/or accused of being in the service of foreign governments.

Stevan Dojčinović: For example, last week a reporter of ... a TV station [strongly disliked at the highest state level] was working in the street and people started swearing at him and saying “You’re CIA! American spy, get out of Serbia!”. They threatened him. Generally, journalists [that criticise the government] are portrayed as traitors. This is what they said to me, that I am a traitor.

Erol Önderoğlu: In the view of the government, journalists should stand together with it, not criticise it. They should be patriotic. If you do criticise the government that means that you are a traitor, you are a spy, you are at the service of foreign interests.

Elena Kostyuchenko: People write to me, saying you’re going to die, you should burn in hell, you’re a traitor, you’re an agent of US, you’re an agent of Israel, you’re an agent of Europe, you are the shame of the Russian nation.

The journalists interviewed for this study clearly pointed to public authorities as the main instigators of smear campaigns, and identified state-run or pro-government media as the platforms on which they are delivered. The campaigns typically involve disparagement, ridicule, slander and humiliation.

Khadija Ismayilova: They use their army of pro-government journalists to put dirt on us. They publish nasty stories all the time. Sometimes they write that I’m an opposition donor; at other times, they write that I’m a whore who doesn’t deserve respect ... They change the story all the time. They put fantastical stuff out there, nasty things, made-up accusations.

Zsuzsanna Wirth: [When I reported about irregularities in a prominent politician's wealth declarations], his reaction was basically that I'm a forger, a paid provocateur and things like that. There were a lot of personal attacks from him. In an e-mail, in several public interviews, these things were made publicly, he said that I was lying and that the whole story was a whole forgery, that he is being attacked by provocateurs and that I'm one of them.

Some of the journalists interviewed described how attempts at "character assassination" sought to discredit their professional competence as well as their personal character.

Stevan Dojčinović: The political party of the Minister of Defence published more than 10 press releases in which they said that they know that I'm a drug addict and junky. That I shoot up with dope and then write a story.

The journalists interviewed also complained about calculated disclosures of intimate information on aspects of their private life. Cases where deeply personal information or recordings had been obtained and published – especially when that information concerned their current or past intimate relationships – were especially hurtful. For example, in 2012 Khadija Ismayilova, while working for Radio Free Europe, received a package in the mail with stills from a video containing scenes of intimacy between her and her then partner. At the time she received the package she was well known for exposing government corruption. In particular she had been working on the "Panama Papers" – the massive data leak which showed among other things how Azerbaijan's ruling family had built a hidden worldwide empire of properties and investment.²⁶ She was threatened with the publication of the video if she continued with her journalistic investigations. Khadija Ismayilova did not succumb to the threats but instead made them public and a link to the video was later published by two newspapers seen as allied to the Azeri Government. Khadija Ismayilova eventually took a complaint to the European Court of Human Rights. The Court found in her favour and emphasised that "the acts complained of were grave and an affront to human dignity"²⁷ and "a serious, flagrant and extraordinarily intense invasion of her private life".²⁸ The Court was also convinced that "there was a plausible link between her professional activity and the aforementioned intrusions, whose purpose was to silence her".²⁹

Jessikka Aro recalled a similar experience.

Jessikka Aro: One of the most disgusting things was the pro-Russian activist who was trolling me [and] went through old court files in the city where I was born and raised. They found that I had received a minor fine for drug use in 2002. They took that information from the court ... used it in a horrible smear campaign, conducted in

26. As she recalled it, the video camera was installed "by the Special Security Services" in her bedroom "three days after the publication of the Panama [Papers] investigation".

27. *Khadija Ismayilova v. Azerbaijan*, Application Nos. 65286/1365286/13 and 57270/1457270/14, 10 January 2019, paragraph 116.

28. *Ibid.*

29. *Ibid.*

Finnish and in English, saying that I was a drug addict and I had written these reports under the influence of drugs.

Stevan Dojčinović reflected on the fact that smear campaigns can cause severe distress.

Stevan Dojčinović: The secret service monitors independent journalists and [through pro-government media] they publish things from your private life. They orchestrate smear campaigns, put your face on the front pages and make a disaster of your life. You end up reading the transcripts of your phone conversations with your girlfriend in the newspaper. It's brutal.

The surveillance of journalists resulting in the publication of aspects of their private life (a practice known as “doxxing”) highlights the intrusive nature of this form of psychological aggression. The concept of privacy has become a defining feature of democratic societies. Today the challenges posed to privacy by technical developments are unprecedented. Solove (2008: 1092) highlights how new technologies give rise to many threats to privacy and proposes six dimensions of privacy that should be protected through regulation: “(1) the right to be left alone, (2) the ability to limit access to self by others, (3) secrecy or concealment of certain matters, (4) the ability to control information about oneself, (5) the protection of one’s personhood, individuality and dignity, and (6) control over one’s intimate relationships or aspects of life”.

Council of Europe standards require the legal protection of rights to individual and group privacy everywhere.³⁰ It is argued that enforcement of those protections is especially necessary to protect certain vulnerable categories who are more likely to suffer invasions of privacy (Solove 2008). Intrusions into an individual’s privacy can lead to stress and potential psychological dysfunction, such as anxiety and the onset of paranoia. A person whose privacy has been invaded may feel insecure and vulnerable (Smith 1992).

Cyberbullying

Can Dündar: Social media, of course. I have to talk about social media ... It's a s***storm.

With the proliferation of online media and audience interactivity, journalists are now more publicly visible and exposed than they were before the digital age (Hedman and Djerf-Pierre 2013). Online media actively invite their audiences to comment and voice their ideas and opinions. Sometimes comment sections are filtered, sometimes not. Audiences may also engage with journalists via Twitter, Facebook and in other ways. They frequently do so anonymously, with comments that are personalised, negative

30. The Council of Europe is the initiator of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, known as Convention 108. Convention 108 is the only legally binding international instrument on data protection that has a worldwide scope of application and is open for signature to any state, regardless of its membership status in the Council of Europe. For more on the standards of privacy and data protection at the Council of Europe see: www.coe.int/en/web/portal/personal-data-protection-and-privacy, accessed 1 July 2020. See also European Court of Human Rights Factsheet on Personal Data Protection, February 2020, available at: www.echr.coe.int/Documents/FS_Data_ENG.pdf, accessed 1 July 2020, and European Court of Human Rights Guide on Article 8 of the European Convention on Human Rights, 31 August 2019: www.echr.coe.int/Documents/Guide_Art_8_ENG.pdf, accessed 1 July 2020.

and insulting. This has led, as is amply demonstrated by research (Searles, Spencer and Duru 2018), to increased risks of personal attacks on journalists. Online smear campaigns are particularly troublesome because they can spread far and fast and, unless deleted, allegations and smears might remain available online indefinitely.

Cyberbullying has been defined in different ways in various studies. A common feature used in most research into cyberbullying is that it is an “aggressive, hostile, or harmful act that is perpetrated by a bully through an unspecified type of electronic device” (Tokunaga 2010: 270). Other features may include repetition of the bullying behaviour and exploitation of what is typically a power imbalance between the bully and the victim (Smith, del Barrio and Tokunaga 2013). Cyberbullying is generally defined as the use of information and communication technology to intimidate. Devices and means vary and include e-mail, social network sites, blogs and mobile phones, among others.

The implications of cyberbullying can be at least as serious as those of physical bullying. The consequences for victims are multiple. In the 2017 study, 53% of journalists surveyed reported having experienced cyberbullying, with 10% of them claiming that they had experienced it 10 times or more in the last three years. The journalists interviewed for this study provided first-hand evidence that cyberbullying is very common. The malicious dissemination of false or distorted information about a journalist can have pernicious effects.

Jessikka Aro: People who had been reading fake news stories about me believed in them, they wanted to act on them and act hatefully against me. First, I am targeted by fake news and then people get agitated. My name is constantly on this network of conspiracy theories and fake news sites, and then people who are stupid and crazy enough to believe this ... become agitated by it.

Power inequality between the aggressor and the victim is a crucial aspect of bullying. Olweus’s revised bullying definition focuses on the hurtful behaviour that is (1) deliberate, (2) repeated and (3) difficult for the target to defend him or herself against (due to the imbalance of power) (Olweus 2010). In the case of journalists, an imbalance of power is evident when cyberbullying is done or orchestrated by a political group or powerful public figure.

Jóhann Páll Jóhannsson: There is this right-wing outlet that is edited by the spouse of a government minister. When I was covering a story about how the Prime Minister of this government had, along with his close relatives, sold substantial assets in one of the Icelandic banks on the eve of the financial crisis in 2008, this outlet published an article about me referencing comments I had made in 2012 or 2013, when I was about 20 years old, on what I felt about the political party, using an old picture of me. Then, they paid for it [sponsored] to feature on Facebook. This personal attack was their way of trying to discredit the story we were telling.

Nocentini et al. (2010) suggest that “anonymity” and “publicity” be included along with intention, repetition and power imbalance, as criteria to conceptualise cyberbullying in order to distinguish it from non-digital traditional bullying. Online harassment often emanates from anonymous users such as trolls. The bullying takes place in the public sphere and is therefore very difficult for the journalist to avoid. Research highlights the damaging and rapidly increasing incidence of cyberbullying and

threats (Hoff and Mitchell 2009). Cyberbullying victims often report stronger feelings of powerlessness and fear since the identity of the perpetrator is not always known.

Jessikka Aro experienced such persistent cyberbullying which continued for a number of years without let-up.

Jessikka Aro: This has been going on over three years now; this is the fourth year. This is how propaganda works. When you repeat the same lie enough times, it becomes the truth in the minds of some people. It was a planned attempt to make me feel miserable or make me feel threatened or make me feel scared so that I will never touch this topic again.

She was not alone in this.

Daphne Caruana Galizia: It's systematic. In one year there were three hundred and 80 posts about me on a single blog. More than one a day. You know? With photos ... I can understand that they take a photo of me doing something obscene or something illegal or whatever, but this was actually harassment ... It was just harassment, to say, "Look, wherever you go, people are taking photos of you!"

Daphne Caruana Galizia remarked that she had not been to the beach for four years, following an incident in which a group had followed her, uploading photos of her to Facebook in real time. Facing this kind of hostile attention is bound to affect a journalist's freedom to move around without being harassed. It may also impose limitations on their freedom to carry out their reporting activities.

Research indicates that women are more likely than men to be subjected to cyberbullying (Martinez-Pecino and Durán 2019). Researchers have discovered stark gender differences in online harassment. Due to patriarchal social attitudes – that is, attitudes or assumptions that evaluate women based on their looks and men based on their intelligence and skills – harassment directed at women is more likely to be sexualised. Men are most commonly attacked for the content of their writing and it is their opinions that are disparaged. Women are more likely to be attacked on the basis of their gender and their physical appearance (Landsverk Hagen and Drange 2015). The issue of gender is discussed in further detail in Chapter III.

Jessikka Aro: Being a female, I am subjected to horrible harassment concerning how I look, and how sexually wanted or not wanted I am. [Some trolls say they] want to rape me or how much they appreciate or don't appreciate the size of my breasts. And all this is tied to horrible Soviet Union style online propaganda. It's a really big issue. ... There is research on this, hate speech against women is much heavier, much more aggressive and specialised on sexual stuff.

Gemma Terés Arilla: After appearing on television [to comment on the Catalan referendum], people found out my telephone number and I was receiving SMS messages from guys inviting me to go have sex with them, people saying how beautiful I am and how hot. It really freaked me out, much more than whatever kind of political pressure.

Cyberbullying becomes particularly threatening when it incites actual physical violence, as was the case with Jason Parkinson.

Jason Parkinson: [There is] this new far-right group called "The Football Lads Alliance". Their second protest in London was coming. During the week leading up to it, I started seeing threats (on social media). A friend of mine said, "Have you seen this Twitter feed?"

And they were saying, “if Jason Parkinson turns up, let’s get him”. And lots of people posting comments like, “yeah, let’s!” I still went, but it was, it was, it was not a good day of filming, put it that way. I did not feel safe.

Online threats and abuse can have damaging and far-reaching consequences in terms of emotional distress and fears for personal safety. It is also costly and difficult for journalists to protect themselves in view of the intrinsically public nature of their work.

Political threats and editorial pressure

It is all too common for politicians to apply psychological pressure to influence the way a journalist reports a news story. Sofia Branco described how she was pressured to change her reporting on a conflict between the government and a trade union.

Sofia Branco: This guy [from the government] calls me and says, very agitated: “You can write that the government has reached an agreement with the unions. You can write this”. And I replied, “I think there’s a mistake here. I am not a typist. I’m a journalist. You don’t tell me what to write”.

Jóhann Páll Jóhannsson discussed how he was threatened by a politician when his newspaper disclosed information about a case where Iceland’s Ministry of Interior had been leaking highly sensitive information about two asylum seekers.

Jóhann Páll Jóhannsson: He actually warned me that what we had done would kill our newspaper and we should think very carefully about it ... Yeah, that is what he said: “The consequences of what you have done. This will kill DV”.

Journalists can experience similar pressures within media outlets that have a particularly strong political leaning. In this case, the pressure comes from an editor or from the owner. Gemma Terés Arilla experienced this when working for a video news agency owned by Russia Today.

Gemma Terés Arilla: When we report about Ukraine, the Ukrainian Government had to be presented as a right-oriented government or an undemocratic government, or a puppet from the EU or the US. So, if [Ukrainian President] Poroshenko is giving a press conference or if Poroshenko is visiting, we will focus on the demonstration against him rather than on what he said. That’s the way we were asked to cover the events. So, you are being pressured, being oriented.

She also spoke about experiencing political pressures when reporting in Spain.

Gemma Terés Arilla: You have no choice, if you want to continue working for them you have to do it. Because as I said, this unit will tell you “No, that’s not the way we describe the Spanish Prime Minister or the Catalan President or Catalonia as a nation”. So, either you write it, or you go.

POLICE INTIMIDATION, LEGAL HARASSMENT AND JUDICIAL PRACTICES AGAINST JOURNALISTS

The interview data from this study indicates that a significant number of journalists have experienced targeted judicial intimidation, harassment by law-enforcement officials and other forms of abuse of the law.

In the 2017 study 23% of all the survey respondents said they had experienced judicial intimidation under a variety of laws. Of those who had experienced judicial intimidation, most cited the use of defamation laws to try to silence them. But the interviews showed that other laws are also commonly misused to silence journalists and restrict their ability to report on matters of public interest: laws governing finance, tax and companies, as well as national security laws which were abused in several ways, including putting journalists under surveillance.

Defamation laws

Defamation laws serve the reasonable purpose of protecting the reputation of individuals and companies against unjustified attacks. Article 8 of the European Convention on Human Rights³¹ provides protection against serious attacks of defamation,³² and states are obliged to enact laws against defamation. However, any such laws must also respect the right to freedom of expression, protected under Article 10³³ of the European Convention.³⁴ The European Court of Human Rights has emphasised the importance of freedom of expression in democracy as well as the role of the media in

31. This reads as follows:

- “1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others”.

32. See, for example, the European Court of Human Rights’ judgment in *A. v. Norway*, Application No. 28070/06, 9 April 2009, paragraph 64.

33. Article 10 reads:

- “1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary”.

34. In *Axel Springer AG v. Germany* [GC], Application No. 39954/08, 7 February 2012, paragraphs 83-84, the Court reiterated that: “the right to protection of reputation is a right which is protected by Article 8 of the Convention as part of the right to respect for private life ... The concept of “private life” is a broad term not susceptible to exhaustive definition ... It covers personal information which individuals can legitimately expect should not be published without their consent ... In order for Article 8 to come into play, however, an attack on a person’s reputation must attain a certain level of seriousness ... When examining the necessity of an interference in a democratic society in the interests of the “protection of the reputation or rights of others”, the Court may be required to verify whether the domestic authorities struck a fair balance when protecting two values guaranteed by the Convention which may come into conflict with each other in certain cases, namely, on the one hand, freedom of expression protected by Article 10 and, on the other, the right to respect for private life enshrined in Article 8 ...”.

reporting on matters of public interest. This important role must not be undermined by defamation laws that are excessively protective of reputation.³⁵

The potential for the abuse of defamation laws against journalists is large. In some jurisdictions all that a plaintiff needs to do in a defamation case is to bring a lawsuit and state that a particular allegation made against them is false, and the burden then shifts to the journalist who made the allegation to prove that what they published was true (McGonagle 2016: 48). This requires journalists to invest significant amounts of time, energy, money and other resources in countering the allegations made. In addition, when defamation laws provide for criminal sanctions, journalists might be intimidated and censure themselves in the first place. This is not to say that reputation should not be legally protected or that journalists should be exempted from showing that their work is not defamatory. However, there should be safeguards to protect journalists from intimidation and/or investing unnecessary resources in litigation aimed at hindering their work and watchdog role in democratic societies.

The European Court of Human Rights has found that the reversal of the burden of proof on the defendant in defamation cases could result in a violation of freedom of expression protected under Article 10 if it is exceedingly difficult for journalists or other concerned persons to prove the truthfulness of facts.³⁶ Equally, the Court has been very critical when national authorities required journalists to prove the truthfulness of value statements as opposed to facts (McGonagle 2016: 27-30, 49).³⁷ In addition, the Court has been critical of defamation laws that allow for imprisonment,³⁸ and it

35. The Court is particularly critical of defamation laws imposing disproportionate sanctions. In *Cumpana and Mazare v. Romania*, paragraph 111, the Court explained that “[t]he nature and severity of the penalties imposed [by defamation laws] are factors to be taken into account when assessing the proportionality of an interference with the freedom of expression guaranteed by Article 10”.

36. McGonagle (2016: 48-49) offers some good examples. While the Court found that it was reasonable to request a journalist to prove allegations made in a newspaper article (*McVicar v. the United Kingdom*, Application No. 46311/99, 7 May 2020, paragraph 87), the Court found it unreasonable to require two campaigners who distributed leaflets to prove the truthfulness of the facts stated in these leaflets as long as this implied excessive burdens (*Steel and Morris v. the United Kingdom*, Application No. 68416/01, 15 February 2005, paragraph 95). Likewise, while “a requirement for defendants in defamation proceedings to prove to a reasonable standard that the allegations made by them were substantially true does not, as such, contravene the Convention” (*Rumyana Ivanova v. Bulgaria*, Application No. 36207/03, 14 February 2008, paragraph 39), the Court underlined that the presumption of falsity could breach a journalist’s rights when courts do not accept the type of evidence the journalists used in her/his work (*Kasabova v. Bulgaria*, Application No. 22385/03, 19 April 2011, paragraph 61).

37. The Court found that it “would be unacceptable for a journalist to be debarred from expressing critical value judgments unless he or she could prove their truth”, *Dalban v. Romania*, Application No. 28114/95, 28 September 1999, paragraph 49.

38. The Court, however, does not always find criminal sanctions or imprisonment contrary to the Convention. In the case *Radio France and Others v. France*, Application No. 53984/00, 30 March 2004, paragraph 40, the Court noted that “[i]n view of the margin of appreciation left to Contracting States by Article 10 of the Convention, a criminal measure as a response to defamation cannot, as such, be considered disproportionate to the aim pursued”; further in *Cumpana and Mazare v. Romania*, paragraph 115, the Court explained that “the imposition of a prison sentence for a press offence will be compatible with journalists’ freedom of expression as guaranteed by Article 10 of the Convention only in exceptional circumstances, notably where other fundamental rights have been seriously impaired, as, for example, in the case of hate speech or incitement to violence”.

has ruled that disproportionate punishments – including jail and excessive fines or awards of damages – violate the right to freedom of expression (McGonagle 2016). It also found fault with lengthy procedures that keep lawsuits hanging over journalists' heads over an excessive period of time (McGonagle 2016). The Parliamentary Assembly of the Council of Europe went even further and has called on all states to abolish their criminal defamation laws, and to bring civil defamation laws in line with the case law of the Court.³⁹

Daphne Caruana Galizia's experience illustrates how defamation cases are brought against journalists as a form of harassment. At the time of her death, she was reportedly facing over 40 defamation cases. She told how she was sued 19 times by the same individual over a single article, requiring her to spend €7 000 in legal fees.

Daphne Caruana Galizia: I have 19 cases filed against me by a single individual. Luckily, the magistrate is reasonable and, probably for his own sanity as well, is hearing them all together, so I don't have to go 19 times, but this is another form of abuse.

Other journalists experienced similar situations.

Kóstas Vaxevánis: The aim is to create a very oppressive situation both for me and the newspaper. During the course of a year I have five libel cases that cost more or less €2 000 for each of them.

Bastian Obermayer: The biggest problem for our work is the threat of being sued and dragged to court. Just a while ago a business man sued *Süddeutsche Zeitung* for 78 million euros. This person claimed that a false article has caused him to lose 78 million euros in a certain deal. We did not think it was justified, but we had to defend ourselves, and had to spend a lot of time and work to do so. Luckily, we won.

The financial pressures caused by these lawsuits can compound the economic difficulties that journalists and media outlets across Europe are already experiencing. Further reforms of civil defamation laws are called for in order to protect freedom of expression, including by limiting maximum compensation amounts that courts can award.⁴⁰

The continuing existence and use of criminal defamation laws in a number of European countries exerts a chilling effect on journalists. The threat of criminal sanctions constitutes a very powerful form of pressure which is often used by powerful elites to silence critical voices. The existence of that threat can lead in effect to the criminalisation of investigative journalism. This impacts not only the journalists who fall victim to this intimidation, but all of society, because the consequence is that journalists are unable to fulfil their role of being the watchdogs of democratic society and informing the public. Kóstas Vaxevánis spoke tellingly of having been subjected to intimidating and humiliating rituals of "criminalisation".

39. Parliamentary Assembly of the Council of Europe, Resolution 1577 (2007), "Towards decriminalisation of defamation", adopted by the Assembly on 4 October 2007 (34th Sitting) and Recommendation 1814 (2007), "Towards decriminalisation of defamation" adopted by the Assembly on 4 October 2007 (34th Sitting).

40. See Parliamentary Assembly of the Council of Europe, Resolution 2035 (2015), "Protection of the safety of journalists and of media freedom in Europe", 29 January 2015, paragraph 11.

Kóstas Vaxevánis: If you live here and you go to the police and say that I [the journalist] have written something that is defamatory to someone, whether it is or not, then the police must come in the next 48 hours and handcuff me. Yes, they will use handcuffs. They will take my prints and pictures as if I am some kind of criminal and they will take me to the court, to trial. Those in power avoid responding to the revelations made against them and use the justice system to hold journalists hostage.

National security offences

Sometimes the verbal abuse of being called a “traitor” and “spy” develops into actual criminal charges. The data from the 2017 study suggest that public order, national security and anti-terror laws are widely misused to silence journalists. Can Dündar’s case is emblematic. He faced charges of espionage because of his reporting on the alleged involvement of the Turkish secret service (Millî İstihbarat Teşkilâtı, MİT) in arms trafficking to Syria. The newspaper of which he was editor-in-chief, *Cumhuriyet*, had released footage showing crates of ammunition and weapons in the backs of trucks destined for Syria, alleging that MİT was behind the shipment. Dündar was arrested in November 2015 on charges of espionage and aiding a terrorist organisation. He was released in February 2016 following a Constitutional Court ruling that his pre-trial detention breached his rights, but was later convicted and sentenced to imprisonment. He appealed against the verdict and fled to Germany, where he has lived effectively in exile since June 2016. In April 2018, he recalls, an Istanbul court issued a warrant for his arrest and asked Interpol to issue a “red notice” for him, which would make him liable to arrest worldwide. (It is not known whether Interpol granted the request; most “red notices” are secret.) Interviewed in Germany, Dündar spoke about what it was like to be a journalist when the threat of criminal charges like this are hanging over your head.

Can Dündar: If you are a journalist in Turkey, or in a country like Turkey, you know what sentence can be dangerous, what word – even words! – can take you into prison. You must be prepared for everything. When I was young, they used to ask me if I am talented enough to be a journalist. Nowadays, I have been asking people: are you brave enough to be a journalist?

Surveillance

The era we live in is characterised by an increasing surveillance of our activities connected to a heightened worldwide preoccupation with security. The expansion of both mass surveillance and targeted surveillance has reached unprecedented proportions, and journalists are increasingly subject to lawful as well as unlawful surveillance. Journalists, and especially investigative journalists, have found themselves routinely treated by law-enforcement authorities as if they pose a threat to security because of their work (Mills and Sarikakis 2016).

Foucault’s exploration of surveillance sheds light on the understanding of self-censorship, in that when people know they are being monitored they react by disciplining themselves (Foucault 1977), and they consciously limit their behaviour, including what they say and write. Surveillance makes journalists’ “watchdog role” increasingly difficult and risky to exercise. Mills and Sarikakis write that “while the

surveillance of journalists predates the modern surveillance era, the already-existing zealous willingness of State actors, coupled with an unprecedented technological ability to gather and analyse huge amounts of digital information, or Big Data, represents an unparalleled threat to watchdog journalists and their confidential sources, including whistle-blowers, even in Western democracies” (2016: 1).

The interviews with journalists are testament to the concerns they have about surveillance. Dragnet and metadata surveillance, coupled with increasingly sophisticated and intrusive technologies, as well as analytical capabilities, can easily track the movements of journalists and reveal their sources. They have to resort to creative ways to evade that risk.

Edouard Perrin: How do you manage to protect your sources? How do you protect your communications? Very early on I was really attentive to that issue, to the point where I used snail mail [i.e. traditional post]. Nobody bothers opening a letter and checking that. I asked my second source to open what is called a digital dead box. A dead box is an old spycraft tactic where you put a piece of paper or message somewhere and the correspondent who will take it will not even know you or know who put it there. Basically, a digital dead box is the same, only you create an e-mail address. You both have the password for access to this address. You are never going to send an e-mail, but you write a draft and save it. The other person then sees what is written in there or takes the documents that are in there and then deletes the draft. So the message never gets sent.

Surveillance can be used not only to acquire information about the topics journalists are covering, but also to collect data on their personal life and activities that can then be used to blackmail and silence them. In addition, surveillance might be coupled with other methods of intimidation to heighten the pressure put on journalists.⁴¹ This may be regarded as an extreme form of harassment.

In some societies, security and law-enforcement agencies, including the police, widely use surveillance to control or constrain the activities of journalists. Lyon and Bauman (2013) argue that the widespread use of surveillance and invasions of privacy in the name of security constitutes a threat to human rights. Security is often prioritised as an overriding concern.

The experiences recounted by Jason Parkinson confirm this. As a video journalist who was a target of police surveillance in the UK, he has been stopped and searched numerous times and also placed on a list of extremists. He was sure that on many of the occasions when stop and search powers were used to detain him the sole purpose of the search was to keep him from doing his work.

Jason Parkinson: At one particular protest, two officers came up and said “Can we ask you what you’re doing?” and detained me. They said, “Right, we’re going to have to stop and search you”. I questioned that and said, “Well, you know who I am!” They replied, “No, we don’t”. And I said, “You just called me by my name as I walked up the street and stopped me, saying ‘Jason can we have a word, please?’” And then they tried to deny that, [saying] that they didn’t know me and they didn’t know that I was a journalist. They

41. For example, for Khadija Ismayilova surveillance was only one of a whole range of open as well as covert methods state authorities used against her, as recognised by the Court. *Khadija Ismayilova v. Azerbaijan*, Application Nos. 65286/13 and 57270/14, 10 January 2019.

detained me there. I wanted a record of the stop and search obviously, so I asked for the form and they said, "Oh well, we're going to have to get that from a van and that's going to take time so if you want this written record, you'll have to wait with us". I asked, "How long is that going to take?" "Oh, about 30 minutes." Well, that was not going to happen because I had a job to do. I had to go and start reporting. They detained me and the person I was with for about 20 minutes anyway. That happened a lot.

Parkinson came to realise that he was under a regime of surveillance that was very intrusive. It was also sustained over a lengthy period of time and involved not only his journalistic activities but his ordinary day-to-day activities as well. Police had not only kept him under surveillance, but they had also run criminal record checks on his partner and placed her information on his file. He was listed as "extreme left wing" and tabs were kept on all his movements.

Jason Parkinson: Once I started looking through the file, 12 pages long, it actually started to become quite sinister. I was absolutely horrified when I read [the detailed information they had gathered on me] and I actually started to feel quite sick. I realised that this wasn't just silly officers getting above their station. There was some kind of real targeted menace here.

Parkinson noted that the surveillance become more covert with the introduction by the police of ever more sophisticated technology.

Jason Parkinson: I noticed the intelligence units were no longer just filming; they were live streaming straight back to Scotland Yard. Everything was going back to the Central Operations desk where they were watching it on their screens in real time. They did not even need to be out in the street. Therefore, with that advance in technology, you are not going to see overt surveillance as much, or officers coming up to speak to you.

The surveillance laws adopted in various European countries over the last several years have ignited fresh concerns over the sensitive balance between human rights, especially the rights to privacy and freedom of expression and information, and considerations of national security. Tapping into modern technologies of surveillance as tools to prevent and pre-empt terrorism, violent extremism and radicalisation, those laws gave state authorities powers to monitor phones and other communication devices, in some cases without proper judicial oversight or under expedited authorisation procedures. In the light of his own experience, Jason Parkinson is highly sceptical of the authorities' claim that such powers are always used in the fight against serious crime and terrorism. He has been engaged in a six-year long complaint together with several colleagues against the police.

Jason Parkinson: The police have been caught spying on journalists which is what they said they weren't going to use this for. They said, "We need this to combat terrorists". But why are they spying on two journalists then? It's not a good start to something that they claim they need to combat terrorism.

Parkinson is strongly concerned that these threats to journalists have serious wider implications. In his interview, he concluded that when journalists are no longer able to expose wrongdoing, "democracy starts to crumble".

Bakir (2015) discusses how mass surveillance affects democracy and points to a loss of the media's watchdog role. He maintains that the use of technologically advanced and virtually untraceable surveillance technology, in the absence of effective democratic elements such as judicial oversight, increases the chilling effect of that surveillance for journalists and their sources. Not all journalists are as determined – or able – to persist in their reporting under the stress of continuous surveillance as Jason Parkinson.

Other kinds of legislation

Journalists find themselves charged or prosecuted under a variety of other laws – sometimes with only a tenuous connection to their journalistic work. Several journalists in this study told how they were prosecuted for theft, violating commercial secrecy and privacy, and under tax and company laws.

Edouard Perrin worked with the International Consortium of Investigative Journalists on a series of reports based on documents leaked from PricewaterhouseCoopers that revealed widespread tax avoidance by several global companies, a story that became known as “Lux Leaks”. He was prosecuted on five charges.

Edouard Perrin: The indictment was on five counts: theft, complicity in theft, breach of professional secrecy, breach of trade secrets and [handling stolen goods]. The public prosecution said that I was commandeering the whole operation, that basically I ordered, or I coerced, or that I was able to direct Raphaël Halet [one of the whistle-blowers at PwC] into taking documents.

Edouard Perrin was eventually acquitted by courts in Luxembourg. However, he had to undergo lengthy proceedings. He recalls how the authorities in Luxembourg appealed the acquittal verdict of the court of first instance which to him looked rather like a means to “retaliate”. The two whistle-blowers were found guilty, although one escaped sentencing since the court handing down the final decision recognised that he had acted in the public interest. The second whistle-blower was sentenced to a fine and suspended imprisonment, and lodged an application to the European Court of Human Rights complaining of a breach of Article 10 of the European Convention on Human Rights on freedom of expression.⁴² In addition, in March 2019, the European Commission announced that it had opened an investigation into one of the tax deals that Perrin had reported on.⁴³

Journalists in other countries who have reported on suspected tax evasion have been subjected to similar prosecutions. Kóstas Vaxevánis described how he was prosecuted after he published the so-called “Lagarde List”, a list of the names of nearly 2 000 suspected tax evaders from Greece who held undeclared bank accounts in Switzerland. The list included public officials, business leaders and a former minister, and had

42. *Raphaël Halet v. Luxembourg*, Application No. 21884/18, pending, communicated on 27 November 2018.

43. Press release: “State aid: Commission opens in-depth investigation into tax treatment of Huhtamäki in Luxembourg”, Brussels, 7 March 2019, available at: http://europa.eu/rapid/press-release_IP-19-1591_en.htm, accessed 1 July 2020.

been handed to the Greek authorities by the head of the International Monetary Fund, Christine Lagarde, but no action had been taken. Kóstas Vaxevánis decided to publish the list and was prosecuted for violating the privacy of the suspected tax evaders. He was acquitted but the prosecution appealed; at the retrial, he was again acquitted. In the interview, Kóstas Vaxevánis reflected on what happened.

Kóstas Vaxevánis: I was just doing my duty. Instead of arresting the tax evaders and the ministers who had the list, they are trying to arrest the truth and freedom of the press. Our leaders should pay more attention to investigating crimes and less attention to harassing the media. Instead of chasing tax evaders they are chasing me.

When Khadija Ismayilova was reporting on corruption at the highest levels of government in Azerbaijan she faced prosecution on various charges, many of them – as she stated – trumped up or fabricated. In December 2014, she was arrested on charges of incitement to suicide, which were dropped when the person whom she allegedly incited denied this had happened. In 2015, she was prosecuted on charges of tax evasion and embezzlement and sentenced to seven and a half years in prison, reduced by the Supreme Court to a three and a half year suspended sentence, as well as a travel ban and a ban on professional activity (a sentence clearly aimed, in her view, at stopping her from working as a journalist and lobbying the Council of Europe, where she had been a vocal proponent for media freedom). She reflected on what she sees as the manipulation of the legal system against her.

Khadija Ismayilova: The current situation is that I'm convicted for illegal entrepreneurship for working for foreign media without accreditation from the foreign ministry, which is impossible to get. It means I can get published, but if I'm paid then they can put me in jail for up to three years. It is totally absurd. The laws don't say this, but they just twisted the law to make up a new thing.

ECONOMIC INTERFERENCE

The media's economic sustainability and independence are vulnerable to pressure of various kinds from the state, as well as public bodies and private interests. If the media is to fulfil its role as an essential element of democratic society, the state must refrain from improper economic pressure or attempts at coercion or "blackmail" through the partisan allocation of public financing and marketing such as paid advertising. Likewise, media outlets should ensure that private sources of financing and various pressure groups do not exert influence over content, especially through a high level of transparency and openness about the sources of content.

That said, powerful political and economic groups and individuals who seek to influence public opinion can assume ownership control to exploit media outlets for their own advantage with little or no regard for ethical considerations or journalistic standards. The era of digitisation and ensuing media convergence have accelerated a trend towards cross-media concentration and largely transformed media markets. A number of quasi monopolies have been established, with the result that content with similar messages is reproduced across many platforms thanks to very high concentrations of media ownership or control. This has reduced the overall diversity

of media content and impoverished media pluralism, especially in parts of central and eastern Europe. Furthermore, in practice owners do in many cases exert influence or control over content and require journalists and editors to produce content supportive of their commercial or political interests. While this cannot be entirely avoided, it is of utmost importance that rules are put in place to make sure that media outlets disclose the identity of their true, or “beneficial” owners and their important sources of financing. This is all the more important given that in certain media markets advertising, sponsored content and product placement have increasingly appeared masquerading as news stories.

In reality, financial and ownership control of media in much of Europe today is used more or less overtly to ensure favourable and partisan reporting by those media titles on behalf of those who pay the salaries of its staff.

In many cases these developments have resulted in serious over-concentration of media ownership and even the creation of effective monopolies in some media markets. Research studies show a close correlation between the emergence of overly dominant media players (or “media capture”) and a marked increase in the practice of self-censorship by media workers. For example, a study commissioned by the World Association of Newspapers (WAN-IFRA 2014) on Serbia and Hungary concluded that “soft censorship” practices are quickly gaining ground, with governments providing state advertising to reward friendly media, to the detriment of critical news organisations.

While political interference often results in censorship or self-censorship in favour of governments or other political forces, commercial obstacles created by media owners and pressures from advertisers are now widely acknowledged to limit the ability of journalists to report without fear or favour. A number of countries in Europe have experienced a transition from media that are politically controlled to media that are commercially controlled, although this commercial interference often comes with political backing (Stetka 2012). According to Stetka (2012), commercial and business interests are increasingly interlinked with political ones, leading to more intense pressures on media actors. In a study published in the framework of the project Safety Net for European Journalists – A Transnational Support Network for Media Freedom in Italy and South-East Europe, Sapieri (2015: 24) discusses how the entanglement between commerce and politics takes many forms: “[p]oliticians own media or publishers become politicians, or politicians enter into business partnerships with conglomerates that also have media concerns. Additionally, media owners with parallel business interests can bid for government tenders knowing that if they have been supportive of the government they may be privileged”.

Our interviews attest to the adverse consequences that media can suffer when they challenge dominant interest groups. Bastian Obermayer, whose own paper, the *Süddeutsche Zeitung*, is large enough to maintain its independence, expressed his concern about the pressures that local media face from advertisers.

Bastian Obermayer: There’s economic intimidation by big local companies, where journalists self-censor before they even start to do the work because they say, “if we are writing bad things about this company they won’t advertise with us any more”. And then we are done. I think this happens a lot.

Stevan Dojčinović: The government is still the leading advertiser and that is basically the tool that they use. If you're loyal you get money, if you're not, you don't get anything.

Sometimes businesses are simply afraid to place advertisements with a newspaper for fear of reprisals from state authorities, even if that involves a loss of revenue or is contrary to its own commercial logic.

Daphne Caruana Galizia: I encounter situations where people are afraid [to place ads on my website]. They recognise that it's a fantastic audience for them and it reaches their potential customers, but they are afraid to advertise because they think they would get retribution from the government, or that supporters of the government would boycott their product or their shop. It makes life a real struggle.

The issue of media ownership was raised as a major preoccupation for journalists. The core issue is that over the past 20 years or so, interested parties – both political and economic – have hastened to take ownership of media companies as a highly effective way to advance their private interests, and often to criticise and denigrate rivals and opponents. Jóhann Páll Jóhannsson discusses the 2014-15 hostile takeover of the Icelandic newspaper he wrote for, *DV*.

Jóhann Páll Jóhannsson: Our editor told us that there were some people trying to buy up *DV*, pressuring the shareholders and trying to get a majority. A few weeks later it became clear that this was indeed the case. The paper was bought out, and the guy who eventually took over the paper was a close friend of the Prime Minister at the time, and a former politician himself for the Prime Minister's party. The paper was turned into a joke.

Claims of abuses of authority by governments or state agencies also featured heavily in the interviews on this theme. The journalists variously expressed dismay and anger because, they said, the authorities had misused legislation, or arbitrarily instructed various agencies to target them by seeking to harm their financial security or economic interests. For example, in the case of Khadija Ismayilova, the authorities froze her personal bank accounts.

Khadija Ismayilova: I won several international awards. Some of them come with money, but I was not able to get this because, first, the bank delayed the transaction, and then, 10 days later, the tax ministry started a criminal case and froze my bank account.

Stevan Dojčinović: They block bank accounts of big companies with hundreds of employees in this huge media system. On the website of the national bank you can see that they don't have any debt. But still official persons blocked their accounts and they almost went bankrupt. Then they suddenly stopped criticising the government, and their accounts were unblocked. This is the best case to see how these things work.

Dojčinović also discussed a case where he says the authorities made use of financial or tax investigations to bring a media outlet under state control.

Stevan Dojčinović: They would find some small details ... really random charges. There is no actual justice, the government basically just orders inspection of the media who are not under their control.

The interviews revealed how, as a result of various economic sanctions, journalists have been prevented from taking part in conferences and training sessions related

to media freedom organised by the Council of Europe. They have also been barred from working with foreign media or receiving foreign funding, as well as many other restrictions.

Khadija Ismayilova: They bar us from working legally and from travelling abroad. I'm under a ban and I'm not the only one, more than a dozen other journalists are.

On the other hand, state authorities regularly show favour to loyal media, or support them directly in a variety of ways including lavish funding.

Stevan Dojčinović: In Belgrade they give the money to one TV station which is under the state authorities' control, to use for smear campaigns. [Serbia] was under pressure from Europe to privatise all the media. And some state-owned media, they were privatised and they became even worse. [They were] bought by people controlled by the leading party. So [they are] "private" but controlled by these guys, and it became worse. [They had] that good idea "let's give some money from the budget to support good projects" ... and then these tabloids get the money.

The removal of licences and imposition of heavy fines are yet more means of state economic control of critical journalism. Andriy Kulykov, who has worked in the Ukraine since the Soviet era, commented:

Andriy Kulykov: One of the most effective things is depriving you of a licence, or different fines or warnings issued by the National Council for Television and Radio Broadcasting.

Attempts to bribe journalists are also not uncommon.

Andriy Kulykov: A couple of times I was offered money for inviting someone to the studio. This is a form of economic pressure.

In the sort of environments portrayed in these interviews it is only to be expected that fear of loss of employment has become a serious worry for journalists who seek to resist powerful editorial and commercial pressures to distort the news or report in a partisan way.

Sofia Branco: The day after [an incident where she resisted instructions from a government official to write a story in a particular way], the Director called me, and he dismissed me from the editing department. They told me that I was going to the cultural section.

Andriy Kulykov: The morning [after I ignored instructions and broadcast a news item featuring a leading opposition politician], I was no longer Director of the News. Three months later I was reappointed because they failed to find anyone better. I lasted for seven days. Not very long because there was another story that caused dissatisfaction. We reported it and the next morning, again, I was no longer Director.

CONCLUSION

This chapter is testament to the multiple and intense pressures on journalists in present-day Europe. It is safe to say that the environment in which many journalists operate is a difficult one, in which their physical and psychological well-being is constantly being threatened.

A notable feature is how pressures of different kinds often co-exist and accumulate in the lives of journalists on a day-to-day basis, and how they spring from a wide variety of quarters in and around the worlds of politics, business, law enforcement and criminality. The fact that the threats are often veiled or that the source can often not be clearly identified or addressed compounds the pressure. Journalists under pressure find it very difficult if not impossible to enjoy effective protection from legal and other measures that exist in theory but not in practice. They are often forced to continue working without support in what may be described as a veritable minefield of obstacles and dangers.

Overall, this chapter has cast light on the multiple ways in which intimidation is used to try to silence or restrain investigative journalists in many parts of Europe. Targeted intimidation and harassment represent a major obstacle to journalists' work; despite this, it is always the task of free and independent journalism to pursue the truth and bring it to light. The following chapter will examine more closely the extent to which intimidation has the effect of censoring the work of journalists and to what extent they are able to resist these pressures.

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Chapter II

A chilling effect: the consequences of a hostile environment

A “CLIMATE OF FEAR”

Kóstas Vaxevánis: We are living in a time of crisis. There is not enough of the right kind of information because people are scared to do it. The public does not hear anything from the media. For example, about the poverty in Greece. The Greek people have to read in the foreign media what is happening in their own country.

Daphne Caruana Galizia: Doing journalism in a climate of fear is very, very difficult. Although routine tick-the-box studies on the number of newspapers seem to show a free society, in reality, people are self-censoring all the time. It's a climate of fear. People are afraid of consequences. For example, even when people send me information, they say, “Keep me anonymous”. I say, “Keep you anonymous? All you've done is sent me a photo from Facebook!”

The findings of the 2017 study, as well as those from the Council of Europe's Platform to Promote the Protection of Journalism and Safety of Journalists and this present research all substantiate the conclusion that free and independent journalism now faces hostility and powerful pressures in every part of Europe, even in many countries with strong democratic traditions. Independent professional media and other sources of information have to a large extent lost their former unquestioned status as “gatekeepers” of news and moderators of public debate. Political forces and other vested interests often seek to delegitimise critical journalists through hostile and derogatory comments, personalised abuse, and direct or indirect editorial pressure. More authoritarian governments and political leaders, and their allies, have resorted to unscrupulous and severe methods to stop the media from holding the powerful to account.⁴⁴ The previous chapter

44. See for example the situation in Hungary where in 2010 the authorities attempted to adopt legislation to gain control over media by, among others, curtailing the political independence of the media regulatory agency. Such legislation was strongly criticised by specialised NGOs and by international actors, including the European Commission for Democracy through Law (Venice Commission). See Opinion on Media Legislation (ACT CLXXXV on Media Services and on the Mass Media, Act CIV on the Freedom of the Press, and the Legislation on Taxation of Advertisement Revenues of Mass Media) of Hungary, adopted by the Venice Commission at its 103rd Plenary Session (Venice, 19-20 June 2015), CDL-AD(2015)015-e, paragraphs 6-10, [www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2015\)015-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2015)015-e), accessed 3 July 2020.

showed plainly how journalists all across Europe have been prosecuted, harassed in physical and economic ways, and sometimes even killed. This is a troubling and sobering reality, as the governments of the 47 Council of Europe member states have publicly acknowledged in a number of statements and recommendations for strengthening the protection of journalists.

In his report to the Council of Europe ministerial session in Helsinki in May 2019, the Secretary General of the Council of Europe at the time underlined that “[c]onsecutive assessments of the state of the freedom of expression in Europe over the past five years have shown that it is under heightened threat across the continent” (Jagland 2019: 16). Indeed, this is contributing to a chilling effect emanating from a climate of fear.

Political leaders who brand journalists as “the enemy of the people” are contributing to the creation of this “climate of fear” (Bajomi-Làzàr 2015). Such demonising and hostile language challenges the fundamental role of the media in a democratic society. The Council of Europe Platform, which acts as an early warning system, has become a valuable database detailing hundreds of cases of intimidation as well as legal, economic and personal harassment directed towards journalists and/or media outlets. Such patterns of behaviour are observed almost everywhere, including in European Union countries which pride themselves on their formal commitment to the rule of law and free speech and their democratic traditions. The perspectives of the 20 journalists interviewed sheds new light on the extent to which those who threaten and harass journalists are able, in these conditions, to achieve their aim of muzzling journalism.

This chapter explores the chilling effect on media freedom brought about by the intimidation of journalists and other media actors. It aims to provide a fuller understanding of the perception and reaction to intimidation and pressure of investigative journalists whose work brings them into conflictual situations with powerful forces and individuals.

The chapter explores the following themes:

- ▶ the psychological impact that intimidation has on individual journalists and others who are witness to it;
- ▶ the high price journalists sometimes have to pay in their personal lives for exercising their profession; and
- ▶ the complex issue of why and how journalists sometimes feel they have to self-censor – or, alternatively, how they rationalise a choice to risk reprisals by refusing to compromise in the face of hostility and threats to their safety or that of those close to them.

While the focus of this chapter is on the journalists’ own experiences, it is important to emphasise that it is the state’s responsibility to secure their human rights, including the right to freedom of expression, and an environment which is favourable and conducive to media freedom. For example, the European Court of Human Rights has repeatedly said that states are under a “positive obligation” to protect journalists who face credible threats and to enable them to fulfil their role as public watchdogs. These obligations on states include putting in place effective means of protection for journalists who are threatened and creating a legal framework that enables journalists

to conduct their activities without fear. They also have a duty in law to effectively investigate any criminal actions directed against journalists in relation to their work.⁴⁵

PSYCHOLOGICAL IMPACT OF INTIMIDATION

To be statistically meaningful, the 2017 study was conducted with a large sample of journalist respondents (940) from Council of Europe member states and Belarus. Among the questions of the study one aimed to measure the psychological impact of intimidation targeting journalists. Two thirds of the respondents reported that unwarranted interference or the fear of it had affected them psychologically in several ways. A high percentage reported experiencing an increase in stress and anxiety, and disruptions in sleeping patterns. Smaller but still significant percentages reported feelings of depression and low self-esteem. Respondents who said that their personal life or private activities had been affected by unwarranted interference (or the fear of it) referred to negative effects on personal relationships, stress, fear and in some cases feelings of paranoia. This is in line with and illustrates Janoff-Bulman's (1992) cognitive trauma theory according to which individuals subjected to psychological intimidation exhibit different reactions, such as anxiety, depression and loss of confidence.

The dangers associated with the journalistic profession were tragically demonstrated by the murder in 2017 of Daphne Caruana Galizia, who was beyond doubt the most widely read journalist in Malta. Daphne Caruana Galizia was the first of the journalists in this current study to be interviewed; she was murdered just 10 days after the interview was recorded. It has already been documented how she had been exposed to sustained intimidation over a number of years. Studies have shown that when people are exposed to regular intimidation of various kinds they are liable to experience psychological trauma, which has been conceptualised as an extreme emotional reaction in response to unavoidable and negative occurrences. In such situations individuals may feel that they are unable to cope (Scicluna and Clark 2018). When exposed to repeated unavoidable negative events, the individual's attitude and perception of safety ("schemata") may be unsettled (Koss et al. 2002).

Living with intimidation and fear

In the present study a number of interviewees spoke of experiencing specific negative psychological repercussions. A common theme was stress and exhaustion.

Daphne Caruana Galizia: There's been a lot of stress. I can't actually pinpoint one thing. After three decades I am still here, being targeted by the same machine. That is exhausting, it wears you down. There's constant propaganda against me.

Stevan Dojčinović: I mean this is the problem. And of course, right, it's not nice when they publish this about you, your family gets concerned, your friends, your girlfriend. Then they pressure you with their concerns and of course it exhausts you ... So like, you kind of get frustrated and exhausted.

45. See thematic factsheet by the Platform "Positive obligations of member States to protect journalists and the freedom of expression" (Council of Europe 2018).

Living with intimidation may take its toll on both the physical and mental well-being of the journalists concerned. Several of the interviewees spoke frankly about the hard reality of being forced to live in fear because they had been subjected to direct physical intimidation, or feared that they were likely to be; or else that they had worked in dangerous contexts that self-evidently put their personal safety at risk.

Kóstas Vaxevánis: It is a nightmare. When you believe that you might become a victim, or that you might even be killed, you are living in a nightmare. You end up living in fear and you cannot do what you want to do.

Another interviewee spoke of experiencing anxiety because of worries about personal safety. When asked by the interviewer if he was not afraid to carry out his risky job, Daniele Piervincenzi replied:

Daniele Piervincenzi: Yes, sometimes, in certain places. I was in Bari on a street where everything is controlled by the Mafia. Just before doing the interview, when you are looking for someone, when you are about to pose the first question, to explore the goings on in such a dark place then yes, I feel fear.

Zsuzsanna Wirth explains the different level of anxiety created by political threats when compared to threats to one's physical safety.

Zsuzsanna Wirth: I went [to England to investigate a human trafficking story]. I was quite scared to go there, and in the end I did not contact the alleged perpetrators in one of the cities in England; I was told by my editor that it might be dangerous. For a few weeks after we published the story I was quite anxious about whether somebody would knock on my door or what would happen to me. I really felt fear in doing my work, and I think that this fear was a little more realistic than being scared of angry politicians.

It is easy to comprehend that being placed in physical danger gives rise to a fearful response. However, many of the journalists were exposed to more insidious and manipulative forms of intimidation (as documented in the previous chapter) such as smear campaigns and attacks on reputation. These were experienced as feelings of emotional stress and loss of confidence.

Zsuzsanna Wirth: [Following a smear campaign], yes, I felt anxious, I felt stressed.

Jason Parkinson: [The surveillance] just kind of confuses you and makes you doubt yourself all the time. And then you start to lose confidence.

Acknowledging fear

Rachman (1990) explained that fear springs from the biological law of self-preservation and is therefore a universal and useful emotion, necessary for the preservation of the species. Every rational being's behaviour is influenced by fear of consequences. Gregory Shvedov illustrated the survival value of fear for a journalist and spoke about how incidents of violence had made him more careful.

Gregory Shvedov: Yes, certainly, I think fear is quite a natural feeling. I don't think it's good to hide it and I don't trust any people who say, "I never feel fear". I think bravery

is not in not feeling fear, bravery is doing wisely what you want to do. For example, I don't recognise it as a brave action if a journalist who is threatened many times does the same work in the same way ... It is important to do the same work but maybe not in the same way. I believe a person who was threatened should keep doing his or her work, but they should change the way [they work] in order to protect himself or herself.

The data from this study indicate that feelings of fear, although experienced, were often difficult to acknowledge. This may be interpreted as a form of identity construction that is an essential part of socialisation into the journalistic profession. Since journalism is inherently a potentially risky occupation, journalists may need to adapt by constructing a sense of self that is necessary to match the requirements of the work. Jessikka Aro claimed categorically in the interview that if someone is going to be afraid to do proper journalism then those persons should find another occupation. Socialisation into this culture may most probably teach the journalist to hide the fear; if it is disclosed, fear may come to be associated with shame, as Khadija Ismayilova acknowledged.

Khadija Ismayilova: Living with the feeling that you are scared is a shameful thing ... Yes, I was ashamed to be scared. I didn't want to feel fear.

In some cases, the psychological issues caused by intimidation are not only overlooked or minimised, but admitting fear is even treated with contempt. Because of those negative connotations and peer pressure some journalists conceal or play down the fear element. This is likely to be exacerbated when police are unwilling to provide protection or neglect their obligation to do so in the face of known and credible threats to life. What is clear is that in many cases raised in the interviews the journalists clearly blamed law-enforcement authorities themselves for creating an environment of fear. In other words, public officials or "the state" are actually the aggressor. This complex and multi-layered situation makes fear a difficult thing for journalists to acknowledge. Despite positive efforts by some media employers and organisations specialising in addressing problems of trauma among journalists, this remains a sensitive subject. Nevertheless, some of the participants in this study did speak directly about the fear issue.

Jason Parkinson: There was a particularly dark time when I first started getting threats from the [extreme right-wing] English Defence League. I was coming out of a shop and I saw three guys in EDL T-shirts outside my flat. They didn't see me, so I ducked into a pub and phoned some colleagues. They had clearly come to find the house where I was. That really scared me.

Talking about the intimidation experienced and associated feelings of fear may also be difficult because of the possibility that one may not be believed or taken seriously. The often-disguised nature of intimidation also emerged in the 2017 study. Journalists are sometimes uncertain whether to call what has happened to them a violation of their rights, so they find it difficult to acknowledge or articulate the distress they feel. In one case, Jessikka Aro's pursuers left dead animals at the door to her office, a tactic that left her, she says, doubting her own sanity. Yet when she spoke about it with colleagues she was met with no sympathy or understanding.

Jessikka Aro: This is the kind of stuff that, if you report it you sound like you are crazy. I said to my colleagues, “Look. Why are these here? Two weeks earlier, another animal was left in the same place. How probable do you think this is?” And they would look at me [like I was going mad], so I stopped talking about it.

The experience of fear, whether it is acknowledged or not, needs to be factored into an understanding of the challenges that journalists face in their struggle to retain a critical voice in society. The insidious nature of some forms of targeted intimidation against journalists compounds matters further. Such malicious behaviour, together with the representation of journalists as “public enemies”, is a blatant interference in the legitimate activities of journalists, which needs to be counteracted and prevented by effective measures. It has been shown to cause stress and in some cases it may contribute to burnout and the silencing of critical media voices.

A PERSONAL PRICE TO PAY

Can Dündar: In Turkey, everything is free as long as you’re ready to pay the price. Of course, it is a painful and very high price.

A core theme that emerged from the interviews was the heavy personal price which many of the journalists in this study had paid for their work in terms of their personal lives as well as their careers. In the interviews the subjects gave a series of insights into the extent and variety of ways in which their journalism involved them in real risks – including risks to reputation, privacy, personal relationships and family life.

Privacy and reputation

Some interviewees voiced concerns about the loss of their reputation on account of their work exposing corruption and political deception. Jessikka Aro was worried that her friends and acquaintances might believe certain unfounded allegations of heavy drug use that were made against her as part of a four-year long smear campaign.

Jessikka Aro: [Among] the people who believe this stuff ... are ... some of my former friends, from my teenage years. I noticed a Facebook comment from a former friend who said, “I used to know Aro. She used to be a normal person, I do not know how she became like this”.

When journalists’ lives are thrust into the public domain as a result of smear campaigns it is not just their reputation that suffers; some may also experience a drastic loss of privacy. This was illustrated by Stevan Dojčinović when he reflected on how one might “end up reading the transcripts of phone conversation to ... [one’s] girlfriend in the newspaper”(Chapter I).

For other journalists, the fact that they need round the clock police protection meant an inevitable loss of privacy.

Can Dündar: At least I can go out, but you know what? Until last month, I had five bodyguards, and I could not go anywhere without them.

The journalists also spoke about how the stress caused by harassment and intimidation affected their interpersonal relationships, leading in some cases to constant anxiety, doubts and suspicions. Such high levels of stress can sometimes result in a state of hypervigilance or isolation.

Khadija Ismayilova: I have become suspicious. There were cases when people were questioned by the special services because they've been seen to frequent my company. They were told to continue the relationship and inform on me.

Hypervigilance is a state of increased sensitivity where the individual feels under threat and engages in behaviours to ward off that threat which may be real or imagined. Individuals who have experienced trauma become hypertuned to the possibility of danger as their attitude and perception of safety are challenged. They are consequently anxious and "on guard" (Kimble et al. 2014), which negatively impacts the development of interpersonal relationships in several of their life domains.

Family life

Family life is also impacted. Edouard Perrin talked about how not being able to discuss his work with his partner contributed to the breakdown of his marriage.

Edouard Perrin: At the time [that the legal action against me started] I was married. I am a father of three. I am no longer married, or in the process of no longer being married. I am not going to blame all of this on my job, but it definitely had something to do with not only the kind of stories you cover but the way you cover them. I was trying to compartmentalise a lot of things in order to protect the family and my relationship. You end up building walls that are too high, and when you can no longer cope with things everything crumbles. That's basically what happened. Because you tend to be secretive.

In retrospect, Edouard Perrin reflected on how he would have done things differently.

Edouard Perrin: Share much more what you are going through with your close relationships. That would be one main thing regarding how to preserve your relationships. Then I was indicted, I was working on the Panama Papers. I couldn't tell anyone about this! And people who don't know what you are really doing ask, "Why do you spend hours on the computer? What for?" You know, [investigative journalism] can turn into autistic behaviour that is definitely damaging to your relationships.

While in exile in Germany, Can Dündar spoke about the separation from his family (interview recorded in July 2018).

Can Dündar: My wife doesn't have a passport, it was confiscated and so she can't leave the country. They are keeping her as a hostage. Meanwhile, [the person who shot me] in front of the court house spent five months in prison and now he is free, with his passport in his pocket. My whole family is separated. We haven't seen each other for two years. We only Skype. Together with the police of course, they are intercepting all our communications – they are "part of the family". It is sad. When I was in prison my wife used to come to see me once a month. We could only talk from behind a window. It's the same now, on Skype. She's there and there is a glass between us and we are trying to communicate. I feel like I am in prison.

Safety of family and friends

The 2017 study found that 38% of the journalists in the survey said they feared for the safety of their family and friends. In the present study, several journalists echoed the same concern and acknowledged the risks of their profession for those close to them.

Daphne Caruana Galizia: [My children] don't live here anymore ... But at the time, yes, I was [fearful]. One of the things I used to worry about most was that [the individuals who were harassing me] used to phone home, blaspheming, saying all kinds of things. The children used to answer the phone and hear this stream of blasphemy.

Andriy Kulykov: Of course, sometimes there is fear, a fear about my daughter and her husband and my four grandchildren.

Zsuzsanna Wirth: I had an existential fear that as a family, we would be intimidated because of my profession.

Daniele Piervincenzi also voiced concern about his daughter's safety. He said that police protection made him feel significantly more secure.

Daniele Piervincenzi: I have a six-year-old daughter. It's just me and her, so obviously I think about her.

The journalists who took part in this study were fully aware of the costs of doing investigative journalism to themselves and potentially those close to them, but they continued despite this.

Their first-hand accounts indicate that they typically acknowledge feelings of fear, while simultaneously trying to suppress that fear. Edouard Perrin addressed the issue from his own experience.

Edouard Perrin: One night somebody set a rubbish bin on fire and put it between mine and my neighbour's car. My neighbour, who is a policeman, put out the fire and we wondered, "Whose car was targeted?". He used to go after drug dealers and drug gangs, but I remember him saying, "I would rather fight my drug gangs than your Luxembourg lawyers". That sounded as a joke at the time, but it was more than a joke. It was a warning: "Watch what you do".

SELF-CENSORSHIP OR RESISTANCE?

Obstructing or suppressing the free flow of information and opinions is extremely harmful to society at large as well as to the individuals being censored. Censorship usually originates from an external agency which enforces the censorship by formal means, as was often the case for media workers in state media under communist rule. Today, journalists are often liable to be asked by their own editors or employers to amend or suppress significant information in their reports in ways which conflict with the ethical codes of journalism, which require that reporting should be done "without fear or favour". The threat of reprisals or negative repercussions for non-compliance, which may consist of demotion or dismissal, may be communicated either explicitly or implicitly.

Often, as numerous episodes recounted in this study testify, journalists in contemporary Europe work in environments where they are routinely expected to breach the ethical codes of journalism by distorting their reports to meet the improper or corrupt demands of their editors or managers. When journalists and other media actors succumb to those pressures by complying with such practices it is called self-censorship. Self-censorship inevitably has the effect of limiting the nature, diversity and completeness of information that would otherwise be made available. Recent research by the Reuters Institute for the Study of Journalism has documented the extensive spread of pressures for journalists to self-censor exerted by media bosses in the countries of central and eastern Europe, especially in the context of the phenomenon of “media capture” by pro-government media owners in that region (Selva 2020).⁴⁶

Some degree of self-censorship may be considered discretionary or conventional, because as social beings we all depend on the ability to maintain a range of social relationships and avoid unnecessary confrontations. However, while a degree of self-restraint may be exercised out of respect for other people’s beliefs or a desire not to hurt their feelings (Cook and Heilmann 2013), it is quite a different matter when it results from fear of retaliation. Journalists are liable to self-censor when they believe that they or others may suffer as a result of their reporting. Self-censorship of this kind comes at a heavy cost both to the journalist and to society. It can be a difficult and delicate issue to discuss with journalists because they may feel that it tarnishes their integrity as well as their self-esteem.

There is abundant evidence that the growth of self-censorship among European media is linked to media conditions in which both public officials and media owners pressure journalists in ways that may compromise their ethical and professional codes. The interviewees in this study displayed sensitivity about discussing the phenomenon as it applied to their own experience, although in several cases they identified it as a problematic issue affecting other journalists. Some of the journalists whom we interviewed expressed a belief that other journalists were self-censoring to avoid the sort of reprisals and threats that they themselves had experienced and which in some cases had been widely publicised.

Can Dündar: Yes, it’s a lesson for them. [The way they treated me] is a message to the others: “This is the kind of life you can expect if you’re a journalist in Turkey. Are you prepared for this? Prison, insults, exile?”

Daphne Caruana Galizia, who at the time of her death was defending a large number of defamation cases and was frequently receiving threats, emphasised the chilling effect on others of the often vicious treatment that she suffered.

Daphne Caruana Galizia: My biggest concern is that because people see what happened to me, they don’t want to do it. People are scared because they see me under constant attack.

46. This is not to say, however, that pressures to self-censor are characteristic only of central and eastern Europe.

Gregory Shvedov acknowledged the insidious reality of self-censorship in the journalistic community.

Gregory Shvedov: In many cases, journalists don't see any censorship but they are being conditioned. They don't pick up sensitive topics, would never be critical. It is their understanding of the unwritten contract. Journalists very often know that the reality they see is not to be described. They remain blind. It's more than self-censorship; they just don't recognise realities.

Kóstas Vaxevánis believes that fear, as an instinct of self-defence, is the primary reason for self-censorship. In his interview he discussed how a climate of fear contributes to widespread self-censorship and what this means for freedom of expression.

Kóstas Vaxevánis: Being a journalist in Greece at this time is very difficult. I belong to a category of journalists who think or have the belief that indeed there's not a lot of freedom in Europe and in Greece, specifically. [Press] freedom is when all the journalists have the opportunity to write the way they want to write without feeling any kind of pressure, self-censorship or any kind of fear.

In the 2017 study, over one third of the participating journalists stated that unwarranted interference impacted on their work lives. In that anonymous study, self-censorship was a prominent factor when journalists were asked about the impact that intimidation had on their work. Respondents indicated that when they did make a compromise in risky or threatening situations that compromise often caused them to feel less satisfied in their jobs.

The act of self-censorship is indeed a serious matter in the eyes of those committed to the goal of seeking out the truth. In the present study many of the journalists interviewed said that they had experienced severe levels of unwarranted interference but that they had resisted the pressure and had not engaged in self-censorship. Many of the journalists interviewed were at pains to stress their commitment to exposing crime and corruption despite the various types of harassment and intimidation they had experienced. Indeed, several of the journalists insisted that those pressures aimed at silencing them had actually had the opposite effect: it had reinforced their determination to reveal the truth. This was the response of Icelandic journalist, Jóhann Páll Jóhannsson.

Jóhann Páll Jóhannsson: It [a politician's threat that his publication would be shut down] felt unreal somehow. And because it felt unreal, I wasn't stressed or afraid. I just felt that it underlined how politically sensitive all this was.

The very real dangers to journalists who carry out persistent investigative reporting into the activities of powerful elites are beyond doubt: Daphne Caruana Galizia was murdered after years of reporting on the activities of the rich and powerful in Malta; and Khadija Ismayilova, who earned an exceptional reputation for fearless reporting into the affairs of Azerbaijan's presidential family which has ruled the country since 1993, has been imprisoned and subjected to vicious smear campaigns and a travel ban.

Khadija Ismayilova: When I published the first Panama story, the editor-in-chief called and said, "Are you sure that you want your name on it?". And I said, "Yes, I definitely want my name on it". I thought about it: "Is this the right thing to do?" "Yes, it is". Why wouldn't

I do that? You find the story and you feel that it's the people's right to know it, so why wouldn't I do it? If I would be scared I wouldn't do it, but being scared is shameful for me.

These journalists accept that reprisals, threats and arbitrary punishment may be the price they have to pay to report the truth, especially with regard to corruption and crime. The interviews with them capture the extraordinary sense of commitment that drives journalists to persist despite the radically deteriorating climate for media freedom that they work in. They have faced all kinds of adversity to fulfil their role as public watchdogs and refused to be silenced or restrained.

Stevan Dojčinović: If you don't report on important cases of corruption they will never be recorded in history and they will never ever be solved. The only way to have it solved one day is to report it now.

Daniele Piervincenzi: I got head-butted [when reporting on Mafia activity] but that head butt was well worth it.

Paul Radu was physically attacked early on in his career and left with a facial scar, but he says that this did not make him "bitter" and he "just kept on working".

Furthermore, through the interviews we conducted we gained insights into the subjective experiences of journalists whose investigations put them into challenging situations. In the case of Jessikka Aro, for example, the threats, hostility and smear campaigns that she was subjected to made her realise the seriousness of the trolling that she suffered and impelled her to report on it more.

Jessikka Aro: Immediately after I started to notice that there was a Russian propaganda campaign being waged against me, I realised that this whole trolling issue was a much more important topic and it wasn't being investigated. So, I realised that, when these guys want to smear and silence me, I should write more stories [on this] than I had planned to ... In the end, I published a series of articles.

Nevertheless, findings (Clark and Grech 2017) that self-censorship is commonplace in today's European news media were confirmed by comments made by several of the interviewees.

Gregory Shvedov: I need to admit that self-censorship exists. It's also a question of definition. Unconsciously motivated actions exist in our life, and quite often people censor themselves and their work. We, as editors, are also in a way unconsciously not picking up some topics.

Indeed, the findings from the Council of Europe's 2017 questionnaire echoed another survey published in the year 2000 among nearly 300 journalists and news executives in the US by the Pew Research Center and the Columbia Journalism Review (Pew Research Centre 2000).⁴⁷ This latter study found that 41% of journalists in the US had by their own admission either purposely avoided newsworthy stories or softened the tone of stories to suit the interests of their news organisations (see also Clark and Grech 2017: 23).

47. See www.people-press.org/2000/04/30/self-censorship-how-often-and-why/, accessed 3 July 2020.

The interviewees in the current study shared their own insights into the conflict between idealism and pragmatism in the ways in which detailed editorial decisions are actually made, depending on the severity of the environment. Can Dündar stressed that it can be foolhardy for an editor not to consider the consequences of those judgments.

Can Dündar: We use this word instead of that, or this picture instead of the other one. I'm sure that after the Charlie Hebdo attack, people are no longer as brave as they used to be to draw a caricature of Muhammad. Every one of us has learned a lot of lessons. We consider the risks, of course, and it's not only about us. It's about some of our families. Of course I self-censor. I have to. I don't want my colleagues to be targeted. Sometimes my wife calls me and asks, "Do you want a divorce?" So, then I change something. She is [in Turkey], in hands of the government.⁴⁸

Zsuzsanna Wirth, working in Hungary, shared her thoughts on the tensions that can be played out in the mind of a journalist, especially in a hostile environment, between the mission to inform the public and the urge to play it safe in the way a story is reported.

Zsuzsanna Wirth: Yes, these thoughts [of self-censorship] come to your mind. I was thinking about it: "Do I need this at all? Do I have to carry on with this work or should I go and work [somewhere else]?" But you cannot start to self-censor, so you have to fight these thoughts. I always try to resist this.

Pressures (or orders) on journalists to compromise or even censor sometimes come from a journalist's own senior editors or managers for reasons of expediency or to keep advertisers happy. Paul Radu is adamant that in such circumstances no compromise is possible.

Paul Radu: So, I'd be the head of the investigative section and my guys would work really hard and we would have all these investigations prepared to go out, but they will never see the pages of the newspaper. And in the meantime we saw the newspaper getting advertising from those companies mentioned. I confronted the owner of the newspaper and I just left. I resigned from the newspaper with my section, with these guys that were working with me and that was it. We just didn't want to work in that environment.

Sofia Branco recalled an occasion when she refused a demand from her editor on grounds of conscience and her career suffered as a result. She invoked the "conscience clause" that exists in Portuguese law to protect journalists who refuse to write something that goes against their conscience and the ethics of journalism.

Sofia Branco: The Director called me, and he said, "you have to publish". And I said "no, no, no. That won't happen". And he said "But you have to, because of this, because of that, it makes no sense, if he's telling you that it's true, you can trust him". Even if I trusted him, this is not the way of doing [journalism], because this is not true. This is actually not happening. And I alleged one thing that we have in the law which is the conscience clause. For us [Portuguese] it is in the law. I can contradict a direct order,

48. The interview was recorded in June 2018. After making recourse to all the legal, political and diplomatic means, Can Dündar's wife managed to join him in Germany in June 2019.

saying that it violates my conscience because of my code of ethics. And I did that ... And he got furious. And he said, "I don't believe you are making me do this". It was a Friday. "I'm all ready for the weekend. I don't have my computer. You will force me to go to the agency, to write it [myself]". And I said, "you will do whatever you want. I am not doing it. And nobody on my duty is doing it, because I'm not editing it".

Sofia Branco was removed from her position and suffered a reduction in salary but this did not stop her from sticking to her principles. The fact that the law protected her was very helpful, she says.

Sofia Branco: Yes, it's very rare that journalists know it is in the law, how to use it, and dare to use it. Because, as you see there are consequences. So, I lost not only the position, but I also lost 1 000 euros a month, more or less.

It is evident from Sofia Branco's strong reaction – "I don't f***ing care who is the Director. Okay. I don't give a s**t ... My compromise is not to him ... It's never to him. Of course, it's to the citizens" – that some journalists are indeed able to resist pressures to distort what they write for partisan reasons.

Bastian Obermayer works for a leading German newspaper, the *Süddeutsche Zeitung*. He highlighted an occasion when the paper's management came under pressure from an influential advertiser. He says his editor-in-chief resisted firmly and gave his full support to his journalists.

Bastian Obermayer: There's the economic intimidation of big local companies where journalists self-censor themselves before they even start to do the work because they say, "if we are writing bad things about this company they won't advertise any more. And then we are done". So, this is ... I think this is happening a lot. I don't think we have this a lot [in *Süddeutsche Zeitung*]. I think they know *Süddeutsche Zeitung* is ... not a local newspaper, we are a nationwide newspaper and we have a reputation of not giving way to things like that and they probably know what would happen. We wrote about a company that does really advertise a lot with us and we were not saying really nice things about them and they came to our editor-in-chief and they said that this was bad journalism and they were treated unfairly and our editor-in-chief said, "Listen, I don't see your point. I think it was fair and it was accurate".

As these instances show, many different factors can lie behind the empirical evidence now available showing that pressures on journalists to self-censor have grown more intense in Europe in recent years. Clearly, the variables must include the character of individual journalists and the strength of a country's tradition of media independence as well as in questions of social and economic capital, editorial support and other cultural, social and political factors. These issues are explored further in Chapter III.

In addition to the fear of reprisals, another important factor behind the phenomenon of self-censorship is economic advantage and the struggle for survival in a fiercely competitive media marketplace. The very survival of a newspaper or magazine may be at stake, as well as an advertising contract or a personal promotion. Privately owned media, particularly those that rely heavily on state or public advertising, may in some cases condone or consciously direct their reporters to self-censor in order to secure revenues or influence in the political sphere. Journalists' conditions of employment also affect the quality of the information that is published and

broadcast. By contrast with past generations, many more journalists today work as freelancers who do not have regular or long-term employment contracts so they are more vulnerable to such pressures.⁴⁹

Daniele Piervincenzi: An important consideration is precariousness. We are all in a precarious position, journalists my age. It is hard for us to be full-time journalists in the way that it was when my dad was working.

What is certain based on the interviews conducted for this study is that self-censorship impedes and corrodes the essential principles of journalism concerning accuracy, integrity and media ethics. It leads to partisanship, the suppression of information that exposes wrongdoing and holds the powerful to account, and an abdication of journalism's role in enabling populations to be well-informed on matters of public interest.

JOURNALISM AS VOCATION: WHERE WOULD WE BE WITHOUT THE FOURTH ESTATE?

The data from the interviews point to several broadly shared conclusions or perspectives which can be summarised as follows:

- ▶ Firstly, most of the journalists in this study acknowledge that self-censorship exists, while also condemning it and recognising its corrosive effects.
- ▶ Secondly, the journalists' personal narratives, elaborated in our interviews, demonstrate that they have experienced targeted intimidation and harassment but still continue to carry out their watchdog function with determination. They do so despite high risks and sometimes heavy cost to themselves. In the case of Daphne Caruana Galizia, her work eventually cost her life.
- ▶ Thirdly, the first-hand experiences and insights provided by this group of prominent journalists represent a body of data that can be of value to assist stakeholders – including governments and the Council of Europe and other inter-governmental organisations – in their task of establishing practical and effective protections for free and independent journalism.

It must again be stressed that this study consciously reached out to a very particular sample of 20 journalists, so the findings cannot simply be generalised to the entire population of journalists in Europe. However, the strong commitment of these individuals to their own work and to the wider public has important lessons.

49. In 2017, the PACE Committee on Culture, Science, Education and Media of the Council of Europe drew up a resolution in which it acknowledged the position of vulnerability of journalists not working full time or on stable contracts. The committee noted that “[a] drop in the revenue of most media, the casting around of publishers for new business models and the virtually systematic outsourcing of work have all substantially contributed to the boom in the number of freelance journalists. The latter are confronted with a lack of professional recognition: although working in the same conditions as journalists employed on full-time contracts, they do not have the same rights and, in several countries, cannot be represented by trade unions and negotiate their rates”, see paragraph 3 of Parliamentary Assembly Resolution 2213 (2018) on “The status of journalists in Europe”: <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=24735&lang=en>, accessed 4 July 2020. On precarity in journalism see: Örnebring (2018).

A number of interviewees made it clear that they regard their profession not as simply a career or a job, but rather as a mission. Journalists of this kind have a deep commitment to revealing the truth and exposing injustice despite the high personal price that they may have to pay. Their perceptions can have particular authority and value, and to their minds the weakness of others around them who succumb to pressures or inducements compromises and damages the integrity of journalism. This self-definition as a committed seeker after truth may therefore be an important indicator of a journalist's determination to resist any pressure or temptation to self-censor. Above, Khadija Ismayilova spoke about a sense of shame related to feelings of fear in the face of hostility and threats. Bastian Obermayer gets to the heart of the matter when he muses about the ultimate purpose and meaning of the work of the investigative journalist, and his drive to get the story out despite the personal dangers he faces.

Bastian Obermayer: I'm convinced that we have to do this work. For me, it's what I do. It's very interesting and fulfilling, and you can see that you are actually changing things. That's a very rare chance to have. Most people in our business are really committed. I want to see where our societies are not just, where they are not fair, and then I want to do what's in my power to point to this problem, so people can change that. To make for a fairer and more just society. We have to explain what's the truth, to speak up and say when we think something is wrong. We should not miss this opportunity.

Bastian Obermayer's explicit sense that journalism should have a mission to expose injustice and to help create the basis of a fair and open society is widely shared among the 20 participating journalists. They generally spoke about journalism as a calling and as something they felt they "had to do". That essential pursuit of the truth and the role of journalism in giving a voice to the voiceless had to be maintained even in hostile or threatening environments. Taken together, the detailed narratives of these individual journalists provide compelling evidence for the importance of ethical investigative journalism to maintaining the proper functioning of democratic societies.

Jason Parkinson: Hundreds if not thousands of journalists will probably give you the same answer. If we feel that we're not reporting on something because we are scared of the consequences, well that is a story in itself. That in itself does push you on.

Sofia Branco: Because for me journalism is not a profession, it's a mission. It has many hazards associated with it, and the pressure comes with that. So, I think the pressure is normal.

Good journalism depends on much more than technical proficiency. In their own way each of the interviewees indicated that the pressures, stress and hostility they had experienced were compensated for by their sense of mission and responsibility to tell the truth. As Sofia Branco suggested above, their real commitment is first and foremost to the people. They fiercely defend the tenets of the fourth estate and journalism's place in a functioning democracy where state power and other dominant forces are held to public account. This commitment allows them to put up with long hours of work, precarious working conditions and uncertain pay because they believe that their work can make a difference.

It is also amply evident that these journalists are prepared to take enormous risks. In order to continue to do journalism sustainably and to avoid burnout and the other negative repercussions that are documented in this chapter, an enabling and

favourable environment for journalists is essential. States have a positive obligation to create and actively maintain such a favourable environment for journalists.

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Chapter III

The impact of context

INTRODUCTION

Journalists operate in multiple environments, also known in the social sciences as ecological systems (Bronfenbrenner 1979). All individuals live within a number of such ecosystems, from the most intimate environment of their home to the larger occupational or “work” setting, and the broadest of these ecologies, which is the larger society and culture. Each of these inevitably interacts with and influences the others in every aspect of the life of a journalist. By using this reference framework we may come to better understand the causes and effects of the hostility or intimidation which is increasingly experienced by investigative journalists and other media workers.

Changing economic models of journalism – mostly caused by the digital advances of our age – as well as shifting political values and legal frameworks, naturally impact on the ways in which journalists approach and carry out their work. In this sense, the 2020 annual report by the partner organisations of the Council of Europe’s Platform to Promote the Protection of Journalism and Safety of Journalists describes a generally worsening environment for media freedom and independence across the whole of Europe (Council of Europe 2020: 7).

The journalists’ experiences documented in the present text are intensely personal in nature. While it is not within the scope of this study to seek to draw sweeping or definitive conclusions on the basis of these individual experiences, this chapter will consider the importance of the wider social context and particular ecosystems within which these 20 journalists have been working. It will consider four specific contexts that necessarily influence their experience of news gathering in the face of opposition and antagonism:

1. the legal context;
2. the political context;
3. the economic context;
4. the cultural context, in particular that of gender discrimination.

The overall goal of this chapter is to determine the ways in which specific contexts described by the interviewed journalists represent a favourable or unfavourable environment for journalism in the terms understood by Council of Europe norms and standards.

Given the non-representative sample of interviewees, the analysis that follows does not seek to emulate other types of analytical survey, namely by describing characteristic features of the media freedom landscape of Europe in depth country by country. Instead this chapter will seek to relate the individual experiences cited to the particular legal, political and cultural contexts in which they occur, as seen through the eyes of the investigative journalists.

LEGAL ENVIRONMENT

Legal and judicial measures brought to bear against journalists reflect long-standing political, cultural and social traditions in the countries in which journalists perform their work. These constitute at the same time the formal framework of laws, regulations and practices within which journalists must work.

Judicial harassment was one of the most pervasive themes that emerged from the interviews. The interviewees from various states in the Council of Europe pointed to the effects of restrictive legislation that they have experienced as a hindrance to their work as journalists. That applies variously to legislation that permits criminal sanctions for defamation – which is still present in a majority of the 47 countries in the Council of Europe – as well as national security legislation that has increasingly been used in ways that may actually criminalise a journalist's work. In particular, in an age of increased digital surveillance (Waters 2018), many journalists spoke about the chilling effect of such surveillance on themselves, on other journalists and on journalistic sources. Such surveillance has also impinged on the interviewees' private lives, frequently creating a climate of unease and fear.

In some countries, journalists face real risks of imprisonment. Chapter I has already documented how two participants among the sample interviewed – Khadija Ismayilova and Can Dündar – spent time in prison. Another participant, Erol Önderoğlu, spent three years facing terrorism-related charges which carry the threat of a long prison sentence. He was acquitted on 17 July 2019 but prosecutors appealed his acquittal, meaning that his case related to that set of charges was due to be reheard in a regional court.⁵⁰

Investigative journalists often uncover activities that powerful individuals, including public officials, may wish to keep hidden. It is therefore no surprise that most of the journalists recognised the ever-present risk of being prosecuted under defamation legislation whose purpose is to protect reputational interests. Not only was this acknowledged as an everyday reality and an occupational hazard, but for some journalists it has had an extremely severe impact on their work. Daphne Caruana Galizia's blunt remark that "the law allows it" – speaking of the multiple simultaneous libel lawsuits she was obliged to defend herself against – stands as a reproach to the reality that the law in some other European states is seen to be overly protective of reputation at the expense of freedom of expression and the accountability of public officials.

50. A separate trial against Erol Önderoğlu was due to start on 7 November 2019 for "making terrorist propaganda". However, on 24 September, during an *ex officio* hearing, the court ruled to acquit Erol Önderoğlu of all the charges brought against him in that case, see: <https://freeturkeyjournalists.ipi.media/trials-calendar/erol-onderoglu/>, accessed 4 July 2020.

The aggravated harm of combined legal and economic harassment was also a common feature of the interviews, with the burden of legal costs falling squarely on the individual journalists or their media houses, which in some instances feared they were unable to cope. The freezing of Daphne Caruana Galizia's assets brought international condemnation but those expressions of outrage had no effect when it was most needed.

The crucially important role of the case law of the European Court of Human Rights in determining the legal rights of journalists was emphasised by interviewees. The Court has stated that defamation proceedings by themselves can have a chilling effect on freedom of expression⁵¹ and that damages and fines in such cases must be proportional "to the injury to reputation suffered".⁵² The Court also noted that fines imposed on media outlets could have a chilling effect and "discourage ... open discussion of matters of public concern ... by silencing a dissenting voice altogether".⁵³

Another cardinal theme to emerge from the interviews is that some jurisdictions have established better institutional safeguards against judicial intimidation and the arbitrary exercise of police powers than others. The case of Jason Parkinson described in Chapter I illustrates this. In the UK context, Jason Parkinson was able to rely on the Freedom of Information Act and existing institutional actors (the Information Commissioner) to access the information that he sought about the alleged violation of his privacy rights by being clandestinely kept under surveillance for a number of years. Jason Parkinson recounts:

Jason Parkinson: It took seven months of being in contact and phoning them and emailing them and then finally, on the seventh month, on advice from one of the other people who had already got his file – he said, "Threaten them with the Information Commissioner". I emailed and wrote those words out and seven days later the file landed on the doorstep.

Parkinson notes at the same time that while the methods of the UK police to stop journalists from covering events of public interest may be a lot more restrained than those he has encountered in other contexts (for example, in Egypt where he was detained) the effects may still be serious.

Jason Parkinson: We were captured by the police in Egypt and, you know, pretty badly roughed up. They seized our material, or they thought they'd seized our material. What they actually took was empty cards. So we've operated in that [environment]. What goes on in the UK, you can't compare it ... It is different. But there is [still] an interference.

In some instances, judicial harassment and intimidation has been described as manifold and systematic, such as in the cases of Daphne Caruana Galizia, Khadija Ismayilova and Can Dündar, who all faced multiple legal battles in the course of their work.

51. *Reznik v. Russia*, Application No. 4977/05, 4 April 2013, paragraph 50.

52. *Tolstoy Miloslavsky v. the United Kingdom*, Application No. 18139/91, 13 July 1995, paragraph 49.

53. *Timpul Info-Magazin and Anghel v. Moldova*, Application No. 42864/05, 27 November 2007, paragraph 39.

By contrast Jessikka Aro, the Finnish journalist, expresses firm faith in the merits of democratic processes that are rooted in the rule of law in Finland – and should be in other countries, too, she says.

Jessikka Aro: This is why I said people should be aware. How can ... [you] work as a journalist if you don't know the law. Because all societies, at least Western good societies, are based in laws. Seriously!

Andriy Kulykov, the interviewee in Ukraine, has worked for long periods both in the UK, with the public broadcaster, the BBC, and in television and radio in Ukraine. He reflected on the different journalistic climates and consequently the different pressures on journalists in the two countries.

Andriy Kulykov: I would say that if we can use the notion of “civilised pressure” then in the UK it is mostly civilised. In this country [Ukraine] unfortunately, it is still not civilised. Stress and intimidation, and physical pressure are much more spread in my country. One of the matters is that the media field in the UK is very much regulated. Some people may think that this is a restriction on the freedom of press. [But] I think that this is another guarantee on the freedom of press. Because you know how to deal within the legal framework ... with those who put the pressure on you. In our [Ukraine's] case, many issues are still not regulated and although there are laws on many, many things, they are not used. We still do not have enough experience of working within the legal framework.

Two important elements may be extrapolated from this example. The first is the importance of putting in place a secure legal framework to help develop a favourable environment for freedom of expression that would otherwise not flourish. The second is the comparison made by Andriy Kulykov between the two environments he knows: one, which he identifies as arising from a long Western tradition, where legal guarantees for press freedom can be practical and effective, and the other the Ukrainian one that recently emerged from one-party communist rule. There, in his view, the legal framework still gives rise to insecurity because laws to protect the work of journalists are either missing or outdated, and where those laws exist they are often arbitrarily applied.

In several cases, journalists listed a range of legal and administrative constraints or interferences they had to contend with, as for example in Azerbaijan, where Khadija Ismayilova has had to endure very severe restrictions on her movement and activities even after she was released from jail.

Khadija Ismayilova: They bar us from working legally and from travelling abroad ... I'm under a [travel] ban and I'm not the only one. More than a dozen other journalists are.

The detailed analysis of the interview data enables us to discern and describe the existence of different degrees of favourable and unfavourable legal environments. Some respondents listed an array of different legal obstacles to their work. Others described their working environment as broadly free and secure.

One of the key elements to be taken into account in making this kind of determination is the manner in which individual jurisdictions deal with the tension between privacy rights on the one hand and the rights to freedom of expression as exercised

by media on the other. In those contexts where priority is consistently given to privacy rights (in particular those of public figures) and their infringement attracts harsh criminal sanctions up to and including imprisonment, the approach may be judged to represent a disproportionate restriction on freedom of the press.

The European Court of Human Rights, while it has not called for a blanket prohibition of criminal provisions for defamation, has repeatedly warned against all but the most limited application of criminal provisions, and the Court has stressed that the mere fact that a sanction is of criminal nature is liable to have a chilling effect.⁵⁴ The Court has furthermore stated that “although sentencing is in principle a matter for the national courts, the imposition of a prison sentence for a press offence will be compatible with journalists’ freedom of expression as guaranteed by Article 10 of the Convention only in exceptional circumstances, notably where other fundamental rights have been seriously impaired, as, for example, in cases of hate speech or incitement to violence”.⁵⁵

POLITICAL ENVIRONMENT

According to Galston (2018), “[t]he rise of populism, mostly right-leaning, is the most important European political development of the 21st century” and is perhaps also the biggest threat to liberal democracy in Europe. In various ways populist parties across Europe – some of which have held power in national governments – have challenged or displaced older political parties and in some cases have openly worked to weaken core liberal institutions such as a free and diverse press, independence of the judiciary and critical civil society voices (Galston 2018). For example, in Italy, a surge in the number of alerts registered on the Platform to Promote the Protection of Journalism and Safety of Journalists was recorded in 2018 following the formation of a new coalition government on 1 June. Politicians within the Italian Government have frequently spoken in public and in social media using hostile or inflammatory rhetoric towards the media and individual journalists.⁵⁶ Elsewhere, too, attacks on journalists have been seen to increase in contexts where political leaders fail to speak out against such attacks and persistently fail to enforce laws that are necessary to provide journalists’ protection against potential threats and other extraneous pressures on their editorial integrity. Such patterns of behaviour can lead to “normalisation” of verbal attacks against the media and a wider climate of hostility, leading in turn to an increase in acts of intimidation and violence targeting journalists.⁵⁷

54. *Cumpăna and Mazăre v. Romania*, Application No. 33348/96, 17 December 2004, paragraph 114; *Azevedo v. Portugal*, Application No. 20620/04, 27 March 2008, paragraph 33; *Altug Taner Akcam v. Turkey*, Application No. 27520/07, 25 October 2001, paragraphs 75 and 82; see also *Belpietro v. Italy*, Application No. 43612/10, 24 September 2013, paragraph 61.

55. *Mahmudov and Agazade v. Azerbaijan*, Application No. 35877/04, 18 December 2008, paragraph 50.

56. See “Protests across Italy over government attacks on press freedom”, *The Local*, 13 November 2018: www.thelocal.it/20181113/protests-across-italy-over-government-attacks-on-freedom-of-the-press, accessed 4 July 2020.

57. See “Media capture in Italy by violence and intimidation”, by Alberto Spampinato, President of Ossigeno per l’Informazione, 22 July 2019: www.cfom.org.uk/2019/07/22/media-capture-in-italy-by-violence-and-intimidation/, accessed 4 July 2020.

As stressed by numerous authoritative sources,⁵⁸ when public figures denigrate journalists, verbally attack them as public enemies or traitors, or seek to undermine or deny their status, their example is likely to encourage others to show hostility to journalists by words or actions.

As has been discussed elsewhere in this text, the interviewees often expressed alarm and dismay about the formation of self-protecting networks of political, business and other elites which collectively control important levers of power and misuse this influence to portray journalists and other civil society voices as enemies of the state. Such patterns of behaviour contribute to the creation of an environment permissive to violence against journalists; it can also seriously undermine public confidence in the impartiality of state authorities and of the media and journalists themselves. Ultimately, such an environment, with its lack of reaction to persistent failures of the authorities to bring to justice all those responsible for violent attacks and abuses against journalists, also fosters impunity because it protects public officials from media or public scrutiny.

Many of the journalists in this study also discussed attempts by persons in authority to “frame” them as being guilty of disreputable or criminal behaviour. Kóstas Vaxevánis spoke angrily about detecting a conspiracy to make it look like he was taking money from the secret service. Khadija Ismayilova also alleged, as already mentioned above in the study, that while she was in custody, prison staff had spread false accusations that she had wanted the telephone privileges of other prisoners to be reduced. That malicious and unfounded rumour led, she said, to hostility and even violence being used against her by some other prisoners.

At the same time, as several interviewees said, journalists who showed compliance with official demands would routinely receive significant favours from the state. Both Khadija Ismayilova and Can Dündar spoke out from their own experience about this kind of “carrot and stick” approach used by governments to reward compliant media and punish critical ones.

Khadija Ismayilova: It’s the politicians that make our job risky ... so the idea is that those who are not “controlled” by the government [independent media] should starve ... The President gives out apartments to journalists ... Those apartments are not for free. Those who get the apartment are forced to demonstrate their loyalty, and demonstrating loyalty means attacking people like me or opposition people, or independent thinkers. So they [the government] have to be instrumental in silencing critical voices. So that’s why apartments are given to journalists.

Can Dündar: Erdogan has been using Interpol as an instrument to keep his power over us. ... A colleague was arrested in Granada, Spain, because he was on the “red list” [of people searched by Interpol]. And I’m afraid I am on the “red list” now ... So Interpol, without knowing anything about this issue, I’m afraid, is putting us [on the] “red list” ... So okay, it won’t work in Germany because they know my case. But if I go to Spain for a holiday...

58. See, *inter alia*, the resolution adopted by the Human Rights Council on 27 September 2018 on the safety of journalists: https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/39/6, accessed 4 July 2020.

Khadija Ismayilova and Can Dündar's experience in Azerbaijan and Turkey respectively contrasts sharply with that of journalist Jessikka Aro working in her native Finland. Media outlets in Finland generally describe themselves as free from political pressure or other kinds of interference, and harassment or threats against journalists are extremely rare. Ilkka Nousiainen, the chairperson of the Finnish branch of Reporters without Borders, commenting on Finland's top rating in the World Press Freedom Index in 2016, claimed that journalists in Finland enjoy high levels of freedom in their day-to-day activities.

Our journalists can write freely without interference from media owners or the government ... We also have very effective laws and institutions in place to help guarantee press freedom.⁵⁹

Bastian Obermayer, who works in Germany, was also broadly positive about the safe environment for journalists in his country too. However, he saw ominous signs that the situation may be changing for the worse.

Bastian Obermayer: When we did the Panama Papers [in 2016] I said in many interviews that as a journalist, as an investigative journalist in the European Union, you don't have to be afraid; you can work freely, and you don't have to fear anything, really. Then Daphne Caruana got killed and [Slovakian journalist] Jàn Kuciak got killed and we worked with both of them in the Panama Papers. I'm pretty sure they were not killed because of the Panama Papers but they just did a lot of important work ... So now the situation is new, and we still have to get used to that because it [the risk] is so close now.

Bastian Obermayer's observation about a perceived link between politically motivated attacks directed against journalists and the increased likelihood of physical attacks found an echo in many of the interviews. The murders of Daphne Caruana Galizia and Jàn Kuciak both appear to be consistent with that reflection, as both those journalists had been repeatedly threatened and harassed for many months before they were murdered in what appear to have been carefully planned contract killings.

The general increase in targeted violence and threats of violence has also become an issue of increasingly urgent concern for the Council of Europe and its member states over recent years. In 2015, in response to an outcry of civil society and to a proposal by the Parliamentary Assembly (PACE), the already mentioned Council of Europe's Platform to Promote the Protection of Journalism and Safety of Journalists was launched. Its declared aim was to function as an "early warning system" regarding threats to journalists' safety and media freedom to assist the Council of Europe to respond better to proven needs.

Another important step forward was taken in April 2016, when the Council of Europe's Committee of Ministers adopted its 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 (Council of Europe 2016). In the adopted text the ministers' representatives for the first time described the level of threats to journalists and media actors in Europe as "alarming and unacceptable". The recommendation, although not a legally binding instrument, has political importance as

59. Quoted in an article by Fran Weaver (2016).

a commitment taken by Council of Europe member states to address this situation. It explicitly urges member states to respond to the situation by reviewing their domestic laws and practices so as to ensure that they are consistent with applicable Council of Europe standards and the case law of the European Court of Human Rights.

The document clearly sets out member states' positive obligations under the Convention. It provides detailed and concrete guidelines to member states on how to act in the areas of prevention of attacks, protection against known threats to life and effective prosecution of targeted crimes against journalists for their work. It also calls for steps to promote information, education and awareness of these issues among public officials and societies as a whole. "Member states are required to put in place comprehensive legislative frameworks for the protection of the physical safety and moral integrity of journalists and other media actors. Appropriate criminal law provisions should be adopted to deter the commission of offences, and all crimes against journalists should be effectively investigated to prevent impunity".⁶⁰ Protection of confidential sources, of news and information-gathering processes and editorial autonomy are key requirements of an environment that is favourable to the exercise of freedom of expression and to the unhindered practice of free and independent journalism. Moreover, "state officials and public figures should not undermine or attack the integrity of journalists and other media actors", and they ... should publicly and unequivocally condemn all instances of threats and violence against journalists and other media actors, irrespective of the source of those threats and acts of violence" (Council of Europe 2016).

Likewise, the UN Human Rights Council in a wide-ranging resolution on the safety of journalists adopted in September 2016,⁶¹ called on all UN member states to take extensive measures to protect the safety of journalists and ensure that those responsible for attacks on journalists are brought to justice. In a similar resolution, adopted in 2018, it "[u]rges political leaders, public officials and/or authorities to refrain from denigrating, intimidating or threatening the media, including individual journalists, and thereby undermining trust in the credibility of journalists as well as respect for the importance of independent journalism".⁶²

British video journalist Jason Parkinson spoke from his long first-hand experience to confirm that he sees a close and sometimes dangerous link between anti-media language and actual violence deliberately directed at journalists because of their work.

Jason Parkinson: Seeing this rhetoric now, this kind of populist rising – and it's not just in this country [UK], it's in a lot of countries ... I think this is actually going to start

60. Council of Europe leaflet on "Safety of journalists": <https://rm.coe.int/leaflet-safety-of-journalists-en/1680735c28>, accessed 4 July 2020.

61. Resolution on the safety of journalists adopted by the UN Human Rights Council on 29 September 2016, A/HRC/RES/33/2, point 4: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/226/24/PDF/G1622624.pdf?OpenElement>. Also see "UN HRC: Resolution on safety of journalists breaks new ground", Article 19: www.article19.org/resources/un-hrc-resolution-on-safety-of-journalists-breaks-new-ground/, accessed 4 July 2020.

62. Resolution on the safety of journalists adopted by the UN Human Rights Council on 27 September 2018, A/HRC/RES/39/6, point 8: https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/39/6, accessed 4 July 2020.

getting quite dangerous for us in the positions that we're in, with certain elements in authority already deeming us a problem. It does feel a lot more threatening these days.

Despite what is generally taken to be a more favourable environment for media freedom in western Europe, Jason Parkinson's remark reflects a consciousness among every one of the journalists interviewed that their working environments have become more pressured and sometimes also more dangerous. That sense is shared by those who work in their own countries which have been functioning democracies for many decades. Barriers and pressures arising from perceived political interference in the media environment were identified in all the interviews for this study.

In the countries of the Western Balkans, for example, including the constituent parts of the former Yugoslavia, intrusive political influences are a pervasive characteristic of the media environment. That influence often deeply affects media regulatory authorities and media outlets themselves, and it is severely exacerbated by very high concentrations of media ownership in the hands of oligarchic figures, as well as weaknesses in terms of transparency and legal certainty and judicial independence.⁶³ Stevan Dojčinović says that in Serbia the government exerts its influence forcefully as the most important source of media advertising to make sure that its own message is dominant.

Stevan Dojčinović: This was one of the measures used to control the media ... The state is still – till today – one of the leading advertisers.

In Greece, too – the land where the concept of democracy was born in ancient times – journalist Kóstas Vaxevánis believes that political interference in the media is so pervasive that it is crippling the media's potential to act as a watchdog or check on the government and other vested interests.

Kóstas Vaxevánis: Being a journalist in Greece at this time is very difficult. This kind of "fourth power" as we call it, is not something that is able to function [towards] the rest of the powers. Instead it actually functions for the other powers as well. It's not something that is able to work as a watchdog. Journalism is working in the service of the powerful.

One central conclusion that can safely be drawn from the narratives of most of the journalists interviewed is that in their view the dramatic intensification of political pressure has increasingly hindered and obstructed journalists from performing their core watchdog function. Kóstas Vaxevánis graphically described what he sees as the effective takeover of the fourth estate by powerful elites. This, he believes, is a key element in the wider failure of democratic politics. He argues that the mainstream media have abdicated their watchdog role and become "complicit" in their own decline.

Kóstas Vaxevánis: The Greek press is dead, not quiet. It does not write anything important. Clearly democracy is unable to function if journalists are silenced so much. The problem with democracy in Greece? Democracy is right now the victim of what I call "the triangle of corruption". One angle of this triangle is the business elite, so they

63. Nikola Burazer, "Penninckx: Threats to media freedom persist in Western Balkan countries", *European Western Balkans*, 3 April 2019: <https://europeanwesternbalkans.com/2019/04/03/ewb-interview-penninckx-threats-media-freedom-persist-western-balkan-countries/>, accessed 5 July 2020.

are doing whatever they want in Greece, they are stealing, they bankrupt business and they send the money through offshore accounts in foreign countries. The second angle is the political elite, they are in cahoots, so if someone traces down the unlawful things that the business elite are doing then the political elite will find a law, something to cover it up. The third angle in this triangle is the press, that is actually again, a member of the business elite. It's complicit.

A common form of 21st century political pressure on the media involves public authorities imposing their own arbitrary formal or informal rules concerning what should be reported and the language that must be used to report. One such example comes from Russia, a country with a large array of media outlets but where the population has limited access to critical or independent coverage and diverse political viewpoints.⁶⁴ According to PEN International, in Russia the media are strongly pressured to obey the authorities' guidelines, which require the use of only specific approved language and terminology when writing on issues like Russia's occupation of Crimea and military intervention in Syria.⁶⁵ Taking a critical stance on these topics can result in the blocking of websites or even arrest and prosecution.⁶⁶ In addition, Gregory Shvedov says that self-censorship is rife because threatened or restricted journalists have little effective recourse to the law. For him the heart of the matter is that the authorities display a lax or even ambiguous attitude to threats and attacks against journalists, making them more vulnerable and often cowed.

Gregory Shvedov: Clearly the courts should act, in case of threats of life and health, investigators [and the] prosecutor's office should act by Russian law. There is a special article in the Criminal Code which requires Russian executive level prosecutors' offices to investigate any threats towards journalists. And it's seen as a criminal offence ... But it is not being done. Not only, I think, because [the] state does not want to recognise it as an important issue, but also because journalists themselves are too passive. Many of them [are] just fear[ful] to respond to threats in [any] other way than running away.

The two Turkish journalists interviewed, Can Dündar and Erol Önderoğlu, spoke out passionately about how they had seen press freedom and freedom of expression progressively stifled by waves of repression, including arbitrary closures of media outlets and criminal prosecutions of journalists. Following the failed coup in July 2016 the state exercised the powers it assumed under a "state of emergency" to shut down hundreds of media outlets accused of offences including being linked to the coup.⁶⁷

64. See Russia, Freedom in the World 2019, <https://freedomhouse.org/country/russia/freedom-world/2019> accessed on 29 July 2020; US Department of State (2018) "Russia 2018 Human Rights Report": www.state.gov/wp-content/uploads/2019/03/RUSSIA-2018-HUMAN-RIGHTS-REPORT.pdf, accessed 5 July 2020, pp. 17-20.

65. Pen International, "Resolution on the Russian Federation": <https://pen-international.org/app/uploads/Resolution-on-the-Russian-Federation.pdf>, accessed 5 July 2020.

66. Freedom House (2017), "Freedom of the Press 2017 – Russia", 1 November 2017, available at: www.refworld.org/docid/59fc67c5a.html, accessed 8 August 2019.

67. See European Commission for Democracy through Law (Venice Commission), "Turkey – Opinion on the measures provided in the recent emergency decree laws with respect to freedom of the media", adopted by the Venice Commission at its 110th Plenary Session (Venice, 10-11 March 2017) CDL-AD(2017)007-e: [www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2017\)007-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2017)007-e), accessed 5 July 2020.

By early 2018 over 200 journalists had reportedly been arrested or detained on account of their publications.⁶⁸ Many have been held in pre-trial detention and sentenced to lengthy prison terms. The majority have faced charges of membership in, or making propaganda for, groups that are deemed to be terrorist organisations under Turkish law. Arrests and dismissals of journalists and other media actors have continued sporadically over the succeeding years, while a number of detained journalists have been released. In January 2020, 84 journalists or media workers were still reportedly in prison in Turkey.⁶⁹

Can Dündar: Turkey has the biggest jail for journalists, now, in the world. What can I say more? Turkey has never been a paradise for journalists, to be honest. But not that bad ever ... So, I'm just describing journalism in Turkey like, you know, you are digging your grave with your pen. Every sentence you write you're just digging more.

Erol Önderoğlu recalled the period in the early 2000s when there was a real impetus towards liberalising reforms in Turkey, spurred largely by the prospect of the country joining the EU. He identified the absence of a proper regulatory framework and political interference in the justice system as two of the major aspects of the much more repressive period for the media that has followed.

Erol Önderoğlu: As [representative for] Reporters without Borders or individually, in the past we complained a lot: the lack of recognition of rule of law in Turkey, media freedom standards in Turkey. We saluted improvement, reform, EU reform. We tried to accompany the government and all the time to facilitate in case of good doings ... between 2000 and 2010, it was quite – let's say – a kind of liberal period where we were on one hand covering media freedom violations, but on the other hand having an eye on the reform process and trying to observe, monitor the process and say what is still a problem on the ground ... [The] real problem on the ground, basically, was the lack of regulation of the Turkish media market and on the other hand, political interference into judiciary ... The simple judge is abusing his power, is arresting, is launching a search in an editorial house, is seizing copies of the newspaper, is banning website content.

Erol Önderoğlu also identifies what he sees as Turkey's self-isolation from the international community as a factor in the country's retreat from its commitments to respect media freedom.

Erol Önderoğlu: Turkey, after the state of emergency, has adopted a policy of isolation. So, [it] close[d] itself to all kind of external reactions, because one of the challenges, one of the projects, one of the goals of the government is to challenge all kinds of international commitments in terms of human rights: at the level of UN, at the level of OSCE, at the level of Council of Europe ... Turkey is not welcoming international human rights advocacy groups ... It is a bit distressing to witness that all these reform processes have ended so suddenly and that now there is a much more hostile environment ... If you still have a reason to write, to criticise the government it mean[s] that "you are traitor, you are spy, you are at the service of foreign interest". They have destroyed the

68. See 2019 Annual Report by the partner organisations to the Council of Europe Platform to Promote the Protection of Journalism and Safety of Journalists, p. 19: www.coe.int/en/web/media-freedom/annual-report-2019.

69. Journalists' Union of Turkey (TGS) (2020): <https://tgs.org.tr/cezaevindeki-gazeteciler/>, accessed 5 March 2020.

positive vision that might illustrate [a] critical journalist, cartoonist or an artist ... You should not denounce human rights violations committed in Kurdish provinces during military operations, for example.

At the same time, Erol Önderoğlu expressed disappointment with what he identified as the inadequate reactions and interventions from the international community in the light of a dramatic worsening of conditions for journalists in Turkey. The journalistic community in the country has lost thousands of active members on account of mass summary dismissals and large numbers of prosecutions and jailing of journalists. After the July 2016 failed coup attempt the government swiftly assumed sweeping emergency powers, and those extraordinary powers were largely taken over by the sole figure of the country's president himself under subsequent constitutional changes. This series of events and the drastic changes in the legal order, and especially the severe restrictions on free speech and media freedom, have been criticised in trenchant terms by the Council of Europe's Venice Commission and UN experts.⁷⁰

Yet such strong criticism proved not to be sufficient to curb the extreme discretionary measures being taken against journalists in Turkey. Erol Önderoğlu describes how local journalists, writers and many others who voice criticism or dissent have suffered from the effective removal of the most basic safeguards of due legal process against arbitrary punishment; he also expressed his disappointment at what he saw as the lack of rapid and timely reaction to these measures at national but also at European level.

Erol Önderoğlu: After witnessing that international political institutions kept silent [on the necessity to implement] human rights standards, [and] media freedom in Turkey in the state of emergency, I'm very tired of hoping ... For me it was unexpected that [the] Turkish Constitutional Court kept silent for one year and a half; that [the] European Court of Human Rights kept silent and does not intervene in a country exposed to a state of emergency for so long a time.⁷¹

70. The Council of Europe's Commission for Democracy through Law (Venice Commission) had expressed serious worries about cracking down on freedom of the press in Turkey. In its 2017 opinion on Turkey, the Venice Commission expressed deep concern over the "intensification of criminal prosecutions of journalists based on their writings, under the heading of 'membership' of terrorist organisations", and called on the Turkish authorities to "ensure that the journalists are not prosecuted under the heading of 'membership' of terrorist organisations (and alike), where the charges against them are essentially based on their writings". Furthermore, the Venice Commission added that "in the current situation, the Turkish media cannot effectively exercise their public watchdog role ...". See Venice Commission, "Turkey – Opinion on the measures provided in the recent emergency decree laws with respect to freedom of the media", CDL-AD(2017)007, adopted by the Venice Commission at its 110th Plenary Session (Venice, 10-11 March 2017), paragraphs 92 and 93.

71. The interview with Erol Önderoğlu was conducted on 9 January 2018. About two months later, the European Court of Human Rights found violations of the European Convention on Human Rights in several cases involving the detention of Turkish journalists after the coup, including in the case of one of the journalists mentioned by the interviewee. See, e.g., *Mehmet Hasan Altan v. Turkey*, Application No. 13237/17, 20 March 2018 and *Şahin Alpay v. Turkey*, Application No. 16538/17, 20 March 2018. See also Human Rights Watch (2018) "European Court: Rulings to free 2 Turkish journalists", 23 March 2018: www.hrw.org/news/2018/03/23/european-court-rulings-free-2-turkish-journalists, accessed 5 July 2020.

Can Dündar also said that European institutions are important and should offer journalists in Turkey (more) support in the face of a fundamental challenge to democracy and the rule of law in a Council of Europe member state.

Can Dündar: This game is a tug of war and we are the weaker side, so we have to be strong[er]. And Europe is important, I must say. We are defending press freedom, freedom of expression, democracy, secularism, equality for men and women, rule of law, separation of powers. Those are Western values, right? ... We are trying to make those values survive, and what we expect is [that] Europe should be on our side.

As he explained, Can Dündar spent three months in detention from the time of his arrest in November 2015. He was convicted on “terrorism” charges in May 2016 but was released after about three weeks pending his appeal. He survived an attempt on his life by a gunman who fired two shots at him outside the courtroom (the man was later acquitted). Later he fled for safety to Germany, where he was granted police protection and remains in self-imposed exile. He expressed his disillusionment with what he believes is the failure of European institutions to protect Turkish critical journalists who had long sought to expose corruption and human rights. Delay and failure to implement Court judgments puts freedom of expression at risk.

Journalists from other countries showed solidarity with their Turkish colleagues, calling on the international community to adopt measures with real teeth to assist Can Dündar and others and to end arbitrary reprisals and prosecutions against journalists who were the victims of arbitrary treatment and groundless accusations. Independent Russian journalist Elena Kostyuchenko thought that in cases like Turkey or when “someone was murdered, beaten, arrested or jailed”, European institutions should take more concrete and effective measures against the government concerned, and not limit their action to “adopting a resolution”. Stevan Dojčinović expressed a similar opinion.

Stevan Dojčinović: From Europe they give some kind of statement but it’s always kind of trying to not make the government mad ... In a way, when they give some kind of public support [to journalists], it’s not the strong support they really should give.

In the interview Stevan Dojčinović also noted that in his view European organisations at times failed to concentrate their assistance on the beleaguered sections of the media which most needed encouragement and financial support to report on corruption and hold the powerful to account. Further criticism of international organisations came from the Azerbaijani journalist Khadija Ismayilova, who expressed exasperation that training sessions on media ethics conducted in her country by international actors were organised with pro-government journalists who, she protested, were co-opted by the government to assist it in “attacking people like me” and silencing other critical voices.

ECONOMIC ENVIRONMENT: MEDIA OWNERSHIP, FINANCIAL PRESSURES AND PRECARIETY

As outlined briefly at the start of this chapter, the transformation of media markets through the rise of giant internet platforms and the capture of the commanding heights of some media landscapes by oligarchic figures for political or self-promotional

reasons has drastically reduced the market value of genuine journalism. Almost everywhere in Europe journalists struggle to make a livelihood from journalism alone. News consumers and the general public are unwilling to pay for content as they did in the 20th century and many media owners seek to use their media enterprises to advance their interests and denigrate or attack their rivals.

In such conditions, many independent and critical media outlets struggle to survive. It has also become commonplace, in particular in some of the so-called new democracies, for state authorities and other powerful vested interests to use economic pressures, through the allocation of public advertising and subsidies,⁷² to secure dominant market positions, controlling large swathes of a country's print, broadcast and digital media industries. In Serbia, as Stevan Dojčinović remarked, the state is a dominant source of advertising revenues for print media, a situation the government can exploit to seek to dominate the national media narrative. Media houses often also find themselves pressured to change their content or even their editorial line by the need to keep commercial or public sources of financing.

The interviewees also flagged their acute concern about large-scale corporate takeovers of media outlets by business figures close to the state and interest groups. The journalists discussed their fears (or actual experiences) of loss of income if they sought to resist this trend. The data from the interviews also highlight how judicial intimidation can often amount at the same time to economic intimidation because of the heavy costs of legal fees and possible loss of employment.

In certain countries, Gregory Shvedov believes, interference in the journalists' work has become so widespread that independent journalism has largely been replaced by partisan material written by those who are paid to act as mouthpieces for the state or other powerful forces.

Gregory Shvedov: In Russia we have maybe hundreds of thousands of journalists and those who call themselves journalists are not always [working as] a journalist[s], but actually are doing commercial work in the interest of someone ... I don't even call this journalism. Those who are being paid for writing specific stories and not critical stories, they are not usually a target ... Those who are writing negative content, they might be attacked ... We do have a lot of journalists who are writing for the state ...; professional journalism is quite often a crime in Russia.

Elena Kostyuchenko has come to the same troubling conclusion.

Elena Kostyuchenko: Most of the people who call themselves journalists in Russia, they don't do journalism. They do information services for their parties or for business.

The problem is aggravated further when, as Elena Kostyuchenko remarked with reference to Russia, the national journalists' union is also seen (by her and others)

72. See Venice Commission (2015), "Opinion on media legislation (Act CLXXXV on media services and on the mass media, Act CIV on the freedom of the press, and the legislation on taxation of advertisement revenues of mass media) of Hungary"; adopted by the Venice Commission at its 103rd Plenary Session (Venice, 19-20 June 2015), CDL-AD(2015)015-e, paragraph 93: [www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2015\)015-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2015)015-e), accessed 5 July 2020.

to have lost its reputation for speaking up for press freedom with a genuinely independent voice.

Elena Kostyuchenko: The Russian Union of Journalists is totally under control.

The massive and rapid changes described in this chapter often put journalists – especially freelancers with no fixed contracts – in a precarious position, making them more vulnerable to financial and other outside pressures. In the past decades the decline of advertising in printed magazines and newspapers, together with the takeover by the giant technology companies of the lion's share of online advertising income, has severely undermined the print industry's traditional business model. Journalists have borne the brunt of the crisis, facing mass lay-offs and inferior or unattractive working conditions.

CULTURAL FACTORS: THE CONTEXT OF GENDER DISCRIMINATION

The gender factor and the working lives of women journalists

The persistent inequality of power between men and women can have the effect of normalising an effective separation of the workforce into two categories based on gender. Women have historically been excluded for the most part from the public sphere and were socially and legally subordinated to men. Some academic studies suggest that in large parts of Europe journalism has always been and remains essentially a “gendered” profession (meaning one in which roles are divided by gender), so it can only be understood in the context of a theory of gender power. Indeed, it has been argued that “[g]ender is present in the processes, practices, images and ideologies of journalism – and its power distributions” (Ruoho and Torkkola 2018: 67).

While attitudes to gender categories vary greatly across cultures it is generally accepted that women journalists face a particular set of challenges and forms of violence associated with their gender (Figaro 2018). A study by the International Women's Media Foundation and International News Safety Institute (Barton and Storm 2014) that used a sample of over 1 000 female journalists from around the world discovered high rates of harassment and violence against female journalists aged 18 to 34. Of these, 64.8% reported that they had experienced acts of “intimidation, threats and abuse” while performing their job and that these were perpetrated by male bosses, supervisors, colleagues, interviewees, government officials and police; 21.6% claimed to have experienced physical violence in the execution of their work; 14.3% said they had suffered sexual violence; and 47.9% had suffered sexual harassment at work.

The Council of Europe and other leading human rights organisations have acknowledged that gender makes female journalists especially vulnerable to certain forms of violence and discrimination. In Recommendation CM/Rec(2016)4, the Committee of Ministers of the Council of Europe admitted that “[i]n the course of their work, journalists and other media actors often face specific risks, dangers and discrimination on grounds of their gender ...” (Council of Europe 2016: paragraph 16) and that “[f]emale journalists and other female media actors face specific gender-related

dangers, including sexist, misogynist and degrading abuse; threats; intimidation; harassment and sexual aggression and violence” (Council of Europe 2016: paragraph 2). The Committee of Ministers further pointed to the fact that “these dangers are often compounded by various factors, such as under-reporting, under-documentation, lack of access to justice, social barriers and constraints concerning gender-based violence, including stigmatisation, lack of recognition of the seriousness of the problem and discriminatory attitudes ...”(Council of Europe 2016: paragraph 17).

The particular risks women journalists face when compared with their male colleagues need to be understood in relation to the overall gender imbalances that remain prevalent in European countries, albeit to widely varying extents. Despite improvement, gender inequalities continue to exist across Europe.⁷³ Culture, societal conditions and political factors often create gender inequalities. A continued manifestation of such inequality is gender-based violence expressed as violence directed against a woman *because* she is a woman. Worldwide gender-based violence is fuelled not only by social attitudes but also by legal frameworks that discriminate against women and fail to punish perpetrators (International Commission of Jurists 2016). Women journalists are vulnerable to specific forms of violence and harassment. However, gender is one among a number of social categories associated with discrimination and targeted oppression. It intersects with a number of other factors such as sexual orientation, age, race, ethnicity and socio-economic status.

Seven of the 20 journalists interviewed for the purposes of the present study are women. The female interviewees discussed the gendered nature of the violence directed against them and other forms of discrimination suffered for being women.

Gender-based violence and other forms of discrimination against female journalists

Gender-based violence affects women disproportionately. It takes different forms and often includes physical and verbal abuse. In the case of the female journalists interviewed for this study a recurrent form of violence was harassment through abusive language.

Jessikka Aro offered a frank first-hand description of how female journalists think about their experience of being the subject of unwanted remarks alluding to their sexuality or their physical appearance (as opposed to intellectual capacity in the case of men). She says that she has often had to face menacing remarks or actual threats referring to sexual violence, including rape, that would not be part of the vocabulary of insults or threats in the case of male journalists.

Jessikka Aro: Harassment is often very gendered. So, if you were a man, you know, they would harass you using different language ... or certainly they wouldn't talk about the size of your boobs. Umm, you know, but women, the sort of harassment that's directed towards them, it's very sexualised as well ... which can be quite intimidating ... Very few males become targets of such [verbal abuse] ... hate speech against women is much

73. See, e.g., European Institute for Gender Equality (EIGE) “Gender Equality Index”: <http://eige.europa.eu/content/gender-equality-index>, accessed 5 July 2020.

heavier, much more aggressive and focused on sexual stuff ... [For] [b]eing a female ... [I am expected] to like horrible harassment concerning how I look, like how sexually wanted or not wanted I am, or how much some trolls want to rape me ... is really [a] big issue, because women cannot choose their response to hate speech. So this can and might end up in really serious consequences with some female journalists who become targets. And that is why women need special care.

Daphne Caruana Galizia spoke of being frequently harassed with negative comments on her physical appearance.

Daphne Caruana Galizia: In Malta the form of harassment is really, really primitive. It's always what you look like, how fat you are, how overweight you are and whatever ... So, they used to insult me because I was skinny. Now they insult me because I'm overweight.

Daphne Caruana Galizia explained how other forms of abusive language used against her as a female journalist were based on negative gender stereotypes. More precisely, she recounted how she was routinely demonised through the stereotype of a witch on a broomstick, a stereotype that has historically been used maliciously against women who in some way sought to resist the dominant patriarchal rules of the society.

Daphne Caruana Galizia: It's medieval. Look at what they call me most, a witch. I mean, when were women called witches? Pre-the age of enlightenment, you know? That's all, woman – witch, you know? And very openly. Witch! You know? Literally, witch!

Other female journalists, like Khadija Ismayilova, were harassed with insults and threats to disgrace her by revealing things about her private life, including behaviour that “good women” should not engage in, such as having intimate relations with a man one is not married to. Azerbaijani society is still considered to be a highly conservative society where sex outside marriage is generally condemned and seen as shameful, especially for women (Committee to Protect Journalists 2016). It was in this context that Khadija Ismayilova's enemies tried – unsuccessfully – to blackmail her with a video secretly recorded in her bedroom while she was with her male partner.

The female journalists also spoke about other forms of discrimination, such as access to the world of journalism that is still male-dominated, the gender pay gap, and the gendered division of tasks within their workplace.

Daphne Caruana Galizia working in Malta, one of the countries with the largest gap between male and female overall labour market participation in the EU,⁷⁴ explains how challenging it was to break into the male-dominated world of journalism.

Daphne Caruana Galizia: It was so bad in those days, I mean my dreams of becoming a journalist in an environment where the only newspaper on the island was not allowed, not allowed to employ women. “No, we can't give you a job because we can't send women to cover mass meetings and these dangerous situations”.

74. European Commission (2017), “European semester thematic factsheet. Women in the labour market”: https://ec.europa.eu/info/sites/info/files/european-semester_thematic-factsheet_labour-force-participation-women_en_0.pdf, accessed 5 July 2020.

When she finally made it in, her presence as a young woman in the profession was perceived as a shock and people mocked her just because of her gender.

Daphne Caruana Galizia: Malta got its first named newspaper columnist and it was a 25 year-old woman. And this thing was a double shock. And I used to have people actually telling me, “But does your husband write them for you? Does your father? Does your brother? Do you have a brother?” ... Yes, the gender dimension was horrific. Because women were not allowed to have opinions. I'm sure you're well aware. “My god, a newspaper column, an opinion column and it's written by, not only a woman but 25 years old. Absolutely not allowed!” So, this was such a disturbance ... Because you look back and you say, “But nothing I write was that exceptional. So why did it create all this commotion?” And that created the commotion, the fact ... who was writing.

Based on her own experiences, another female journalist – Sofia Branco – also expressed dissatisfaction about the systemic discrimination against women journalists. Her complaint concerned in particular the gender pay gap:

Sofia Branco: There's a general pay gap in journalism in Portugal (around 80 euros less for women, according to a 2017 inquiry). Even in public media this inequality exists, and it's much bigger when it comes to management and leadership positions.

CONCLUSION

This chapter has documented how different contextual dimensions (legal, political, economic and cultural) affect and shape the way in which this group of 20 journalists have experienced targeted hostility and intimidation because of their work and social standing as journalists.

The close analysis of the lived experience of these 20 journalists illuminates and reinforces our understanding of the range and scale of obstacles and dangers that have become commonplace in modern Europe. They include overt and more subtle forms of political censorship, surveillance and controls affecting media workers, fierce commercial pressures and inducements, and difficult or hostile environments for journalists because of the spread of disinformation, misuse of terrorism and other laws, and the everyday reality of targeted threats of harm or injury directed against journalists.

This qualitative study aims to deliver useful insights into the numerous barriers that exist in the way of the journalists who are dedicated to fulfilling their role. These impediments present themselves generally in harsher and more conspicuous forms in the “new” democracies which emerged from communism some 30 years ago; however, similar obstacles and policy issues are plainly evident in various forms, too, in those countries which have long been members of institutions that embrace democratic principles, including the Council of Europe and the European Union.

It is hoped that the perceptions and narratives of the journalists cited here will help to inform stakeholders in all the member states of the Council of Europe, and assist in the common task of establishing and maintaining a genuinely favourable environment for all journalists to work safely and without fear.

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Chapter IV

Resilience in the context of journalism

INTRODUCTION

A common theme arising from the personal narratives of the 20 interviewees is the resilience that journalists are capable of displaying in the face of outside pressures meant to hinder or prevent their work. The narratives provided important insights into the practical methods and strategies these journalists have used to persevere in their role of public watchdogs.

In the course of our interviews the journalists consistently expressed their individual concerns about a distinctive and formative feature of our times: the perceived politicisation of the media environment, especially with regard to the increased instrumentalisation of media ownership to oblige editors, journalists and other employees to advance a partisan political line, sometimes in aggressive ways. In extreme cases this phenomenon has been called “media capture” (Schiffrin 2018). In numerous instances the journalists criticised media managers or editors who were seen to direct their employees to report in ways that are incompatible with the ethics of journalism. We have noted how this pattern of behaviour, driven by hostile pressures from state authorities and powerful private actors, has undermined the independence and integrity of major sections of the media.

Thus the data from the interviews tell us that independent and inquiring journalists in parts of Europe now face both an “external” threat from violence and misuse of law as well as what may be called an “internal” threat to their traditional watchdog role, because many journalists have effectively been co-opted or coerced into working for media outlets whose purpose is to protect the partisan interests of the powerful and in some cases also to assist in the delegitimisation of genuinely free and independent media. Several wide-ranging surveys of media workers in Europe have confirmed the extent of the politicisation of the media world and the increase in the practice of self-censorship. In these circumstances some journalists find themselves confronting an unpalatable choice: either to compromise the ethics of their profession or to suffer serious consequences.

This perceived deterioration in the underlying environment for journalism challenges the capacity of journalists to muster the resilience to go on, and not to succumb to pressures or seek other forms of work to escape from the risks and dangers of reporting. Journalists are generally considered to be at a higher risk of work-related stress than most other civilian occupations, but in-depth research on the issue of resilience

and successful adaptation to adverse conditions in the journalistic community is rather limited (Newman and Drevo 2015). Existing research has largely focused on the resilience of journalists who cover extreme events, such as Feinstein's excellent analysis of the psychological hazards of covering war (Feinstein 2006). The analysis presented here hopes to contribute to redressing the gap in empirical evidence about resilience among journalists who mostly operate outside zones of conflict. It has been established that nowadays the personal safety of journalists who work in hostile environments reporting on politics, crime and corruption is as much at risk as that of journalists who work in war zones. In this context, this study seeks to provide insights into the resilience and endurance of the journalists we interviewed.

This chapter will explore how resilience operates by discussing the personal characteristics and social circumstances that affect the capacity to maintain optimal functioning and motivation. It explores what strategies journalists use to mitigate the risks encountered in their work and identifies specific coping strategies. Finally, it discusses how resilience contributes to the consolidation of their journalistic identity and to maintaining a high level of motivation despite adverse circumstances and many challenges.

FACILITATING FACTORS OF RESILIENCE AMONG JOURNALISTS

Garmezy identifies "functional adequacy (the maintenance of competent functioning despite an interfering emotionality)" as "a benchmark of resilient behaviour under stress" (1991: 459). A resilient person is one who exhibits successful adjustment in difficult and stressful circumstances (Masten and Coatsworth 1998). Psychologists (Connor and Davidson 2003; Semmer 2007) have identified several factors that contribute to resilience, including a positive attitude, optimism, the ability to regulate emotions, a positive self-view, confidence in one's strengths and abilities, communication and problem-solving skills.

The interview data provide ample evidence of resilience among the journalists interviewed. Yet resilience is not invulnerability. Emotional distress and negative or depressed feelings are common responses for people who have experienced major adversity in their lives, but psychological and behavioural adjustments are also a natural response. Daphne Caruana Galizia spoke plainly about how she responded in a resilient way to the intimidation that she experienced over the years.

Daphne Caruana Galizia: Experience hardens you and it just becomes your way of life. I literally know no other way of life. I got used to it, like a scar forms around a wound.

According to some researchers, especially resilient individuals feel that they are in control of the ways their lives turn out (in scientific terms, they are "agentic"⁷⁵). Resilient individuals are generally high in self-efficacy and are flexible, both emotionally and cognitively (Garmezy, Masten, and Tellegen 1984). Therefore, it is claimed that some

75. "Agency" refers to a person's perception of his/her ability to control goals and actions. When individuals perceive themselves to be able to effectively manage their lives, they are "agentic" and experience self-efficacy which is empirically known to lead to more success in attaining one's goals (Bandura 1982).

individuals may simply do better than others across a number of eventualities, due to their personality traits (Block and Block 1980). Other researchers suggest that resilience is not a fixed personality characteristic and is influenced by life circumstances (Rutter 2006). Both approaches can be helpful to understand how individuals react to different circumstances. Even from a “trait” perspective⁷⁶ it is not suggested that resilience is an all or nothing phenomenon. These perspectives – personality traits, on the one hand, and life circumstances, on the other, as determining factors for resilience – are explored here in relation to the experience of journalists through their own words.

Personal factors facilitating resilience

It is very clear from the interviews that some journalists in this study saw themselves as having certain specific personality traits that allowed them to persist with their journalistic work in the face of significant adversity. Personality attributes such as hardiness may be important for the development of resilience (Bonanno 2004), especially in the context of journalism. Daphne Caruana Galizia identified that trait in herself.

Daphne Caruana Galizia: I, not as a journalist but as a person, I bring to bear a lot of the traits and attributes, factors that would equip me to cope. That’s a personality trait.

Another common theme that emerged was that journalists may interpret intimidation as an “occupational hazard” that comes with the job and therefore requires a tough skin in order to deal with the pressures. They rationalised their continued participation in journalism in that light.

Jessikka Aro: You can look at it professionally [and say to yourself]: “OK, you should not be a journalist or work on difficult issues if you are easily scared, if you are on the verge of having a nervous breakdown if some crazy person approaches you. You’re not in the right business then”. And also, when you become a journalist you know that every year journalists are killed, every year they are hospitalised, every year they are sent to jail. It kind of comes with the job.

Edouard Perrin: As we say in French: “*les risques du métier*”. It comes with the job. If you are a policeman you can get shot; if you are a cook you can get burnt. [As a journalist], you are not going to complain about having rocks thrown at you when you are covering a demonstration, or being threatened or shot at if people are shooting at places, buildings and people. It is part of the job.

Elena Kostyuchenko: It’s part of the job. Let’s be realistic, there are some professions [that are] much more risky than journalism, like [being a] fireman or a policeman; it’s not like you go to the fireman [and ask], “How do you do that?”

Resilient people are also characterised by possessing a strong sense of meaning and purpose. They are deemed to possess agency, that is, a belief that they have control over their lives and can make decisions that effectively direct their lives.

76. “Trait theory” posits that individuals have particular “traits” or characteristic ways of acting that are relatively stable across time and situations. These traits are believed to “cause” individuals to respond to life situations in a relatively predictable manner.

When people are “agentic”, they actively and more effectively pursue a goal-directed behaviour. The data collected for this study indicate that purpose becomes pivotal to the journalist’s identity and behaviour. It may motivate the journalist to dedicate resources towards the challenging task of holding those in power to account, despite encountering numerous obstacles already described. Purpose has a positive impact on life satisfaction more generally and provides a buffer against stress. It also helps to offset deficits in well-being brought about by difficult life circumstances (McKnight and Kashdan 2009). The data from the interviews indicate that when journalists engage in purpose-driven behaviour they reinterpret immediate challenges as being directly relevant to their longer-term goals. A journalist who consciously reflects on the purpose of his or her work may find the stressors that come with the job to be less menacing.

Kóstas Vaxevánis: I do believe that if you are a journalist, you have the specific role of public watchdog. This is why I do it. I am also trying to convince my colleagues that we have to turn the page, and that we have to have social impact.

Can DüNDAR: It is more than journalism. We are fighting for our country, but we are losing our country, our future, everything we have got so far. It is a big responsibility. I have a son, 23 years old, I’m fighting for his future.

It is obvious from the words of Can DüNDAR that to him journalism is much more than just a job. His continued involvement in journalism despite the “high price” gives him purpose and allows him to make sense of the harsh reality that he and his family have endured. Possessing clear goals motivates people to exert the effort necessary to meet demands and to persist over adversity for lengthy periods of time.

Elena Kostyuchenko: If comfort was my priority, I would definitely choose another profession. I’ll do some office job. [As a journalist], life is just uncomfortable. You’re [always] travelling, you don’t have much money, you’re forced to stay in s****y hotels or rooms ... It’s not that cool. But at the same time, we have amazing readers.

For Elena Kostyuchenko, then, the purpose of informing the public, and the satisfaction a journalist derives from that, can to some extent counteract concerns for her personal safety and well-being.

Zimmerman (2013) has put forward the idea that self-confidence – the realistic appraisal of one’s own abilities – is another important aspect of resilience. Together with a strong purpose and conviction, it protects against risk and promotes well-being.

Daphne Caruana Galizia: [When I started], the situation was desperate. There were no magazines [and only two] really dry, turgid newspapers. You would get a lot of news from people talking, but I would open the newspaper and there would be nothing about it. So, I said, “OK, I’m going to write a column”. And I wrote a column, I sent it to the editor of *The Sunday Times* and he rang up and he said, “Can you do me one every Sunday and I’ll pay you?” [That confirmation] that your thinking is the correct one, that gives you a lot of strength.

Curiosity is a powerful mental characteristic that enhances resilience. Psychologists have researched this trait and found it to be associated with heightened involvement with the world, leading to increased exploration, meaning-making and other

adaptive behaviours (Panksepp 2011). Narayanan (2008) found that the resilient person is not hasty, rash or easily excitable, but is instead inquiring, curious and inquisitive. These personality traits are well suited to investigative journalism and it is no surprise that several of the interviewees in this study described themselves as “curious”.

The trait of self-efficacy was also clearly evident. A persistent theme in the narratives was that the respondents were confident in their abilities to achieve their goals. This sense of self-efficacy contributes towards control over one’s environment. The concept of self-efficacy is related to that of resilience in that people who believe that they can attain their goals exert more effort towards their attainment and persist in the face of obstacles. Thus these journalists did not give up when they experienced intimidation. For example, Daphne Caruana Galizia said bluntly that she “really hate[d] to give up”.

Given the degree of intimidation described in the first chapter of this study, it seems reasonable to hypothesise that self-efficacy – the belief that “yes I can do this” – is an essential character trait for journalists, or at least for those who engage in the kind of investigative and public interest journalism described in this study.

The data from the current study might thus allow one to infer that there is an association between journalists’ personality and their ability to cope with the demanding nature of their work. In the present study several journalists said of themselves that they were not easily frightened into submission.

Kóstas Vaxevánis: The thing is that it [the judicial intimidation received] is not actually a very good way to make me feel afraid.

Social factors facilitating resilience

The Organisation for Economic Co-operation and Development (OECD) defines social capital as “networks together with shared norms, values and understandings that facilitate cooperation within or among groups” (OECD 2001: 41). People with social capital are able to operate effectively in a community because they have access to social resources. These social resources include personal relationships, that is, people one knows. For a journalist this is important in terms of sources of information. It also refers to support – material, practical, financial or professional – that one is able to receive, as well as how trusted one is in the community.

For journalists, their social capital is an important protective factor that allows them to continue to work and seek out information. Daphne Caruana Galizia explained how she felt that her special (although controversial) profile in Maltese society protected her from attempts at ostracism from those who were hostile to her reporting. Social capital is especially important in close-knit communities like those found in Maltese society.

Daphne Caruana Galizia: I don’t have a social inferiority complex. So, I don’t come at it, I’m not impressed by politicians who think they’re better than me, you know what I mean? So, I don’t feel like I have to worship them or whatever. I’m not impressed at all and I don’t feel I’m being attacked by a more socially important person, you know?

Thus individual social capital may be a protective factor that contributes to journalists' perseverance to ensure that their voice is heard. According to the "spiral of silence theory" (Noelle-Neumann 1974), an influential theoretical perspective concerning the phenomenon of self-censorship, people's fear of separation or isolation from those around them may cause them to keep their attitudes to themselves when they think they are in the minority and will be socially ostracised if they speak out. Applied to journalism, the spiral of silence theory predicts that journalists may be liable to self-censor if they think that their views are shared only among a small number of people so they may fear becoming socially isolated.

Having strong social networks and supports is therefore judged to be an important protective factor.

Zsuzsanna Wirth: Throughout my career I have been very lucky to work at places where I was properly supported in my journalistic work. I really do not know what I would do if I worked in another news outlet where it is important to not anger certain businessmen or politicians. If you have this supportive background, then you can resist self-censorship. If you don't, I'm not sure.

Edouard Perrin: [When the court case against me was going on] there was a massive show of support. People were demonstrating in front of the court. This was of course a relief.

In this context reputation can indeed be seen as a form of social capital. The importance of reputation, and the damage that can be done by smear campaigns, was discussed in Chapter 1 of this study. The interview data indicate that having a positive journalistic reputation is an important asset which helps build social capital and therefore resilience in the face of intimidation.

Jóhann Páll Jóhannsson: We won two awards from the journalists' association in Iceland which earned us some respect. It's different now; people don't try much to interfere with my reporting. They know they can't.

Bastian Obermayer: Because of the Panama Papers, people now listen to [my colleague] Frederik Obermaier and me. No ... [other journalist] in Germany had ever won a Pulitzer Prize before us, so that was a big thing. So now, when we speak up publicly more people listen than would have listened before ... This is especially true when colleagues get killed: then we have to speak up and say that we can't tolerate this. [The two of us] are in a special position and we have to take advantage of that for the sake of all of us.

Reputation may help mitigate some of the risks that come with the job.

Zsuzsanna Wirth: If you have a reputation among your colleagues, your audience, and maybe among your sources or politicians as well, then there is less of a risk of getting an unpleasant reaction.

While social capital provides influence based on networks and social support, economic capital consists of access to resources in the form of money, property and other assets, including financial support or alternative sources of professional income that can provide financial security. Having economic capital may enable a journalist to take greater risks and equip them to withstand intimidation better. This is particularly apparent in relation to judicial harassment and intimidation, which requires access to often expensive lawyers.

Daphne Caruana Galizia: I'm maybe a bit more secure now but, can you imagine what would have happened to me earlier this year when I discovered that [names a prominent public figure] could file a precautionary warrant [and freeze my bank accounts]. Suppose that had happened to me when I was 25, or 30, you know? I wouldn't have had the resources to cope.

Some interviewees observed that they felt they could take risks because, if needed, they could engage in alternative forms of employment.

Andriy Kulykov: And of course, for instance I have a second profession or even a third profession. I can risk my journalism. Many people who are younger, they have only this to make their living.

Financial security and support are one factor that may assist a journalist to persist despite multiple pressures. Some journalists also spoke about the importance of the financial support for legal defence they had received from their employers and others.

Edouard Perrin: I must say that I didn't pay a cent for my defence. Both the media outlets I worked for paid for it. A lot of money was thrown into this.

In contrast, journalists who work in precarious economic conditions may be more easily thwarted or silenced. Developments in the journalistic world appear to have made these economic factors more problematic than they were in past decades. Örnebring (2018) reports that there have been mass lay-offs of journalists in the last decade, resulting in fewer opportunities for paid work. Similarly, Bakker (2012) explains how journalists are increasingly less able to make a living from journalism and may be forced to take on other work to supplement their income. The trends identified in Reuters Institute Digital News Report 2019 forecast even more mass lay-offs (Newman 2019; Newman et al. 2019). This precarious situation and the lack of job security that is increasingly a characteristic of contemporary journalism may have the effect of making journalists less able to withstand intimidation.⁷⁷

MITIGATING THE RISK

The journalists who took part in this study have experienced significant harassment, intimidation and even imprisonment in the course of their work so they showed keen awareness of the need to protect themselves and deal with the risks of their profession. They spoke about the strategies they used to manage the difficulties and the dangers they encountered on a daily basis. These included a

77. The issue of precarity is acknowledged as problematic in Resolution 2213 (2018) of the Council of Europe Parliamentary Assembly on the status of journalists in Europe, in paragraph 2: "Professional journalists have a mission to provide the public with information on general or specialist topics of interest as responsibly and as objectively as possible. Accordingly, the Assembly is concerned to observe a gradual slide into precarity of the profession of journalist, directly linked to the collapse of the traditional financing model used for many media following technological change and the development of online media, with their impact sometimes exacerbated by political factors related to growing tendencies driven by populism, authoritarianism or the favouring of private interests. Some media have thus seen their editorial independence undermined while others have had to lay off staff."

constant awareness of the risks that they were under and a continuous updating and adapting of their risk assessments.

Paul Radu: You have got to evaluate the risk at all times, with every story, and you've got to keep in the back of your mind the previous stories and how those might impact you for the future. For instance, when I started working undercover, I reported on human trafficking. They were jailed for three, four, five years, and I had to be mindful that these guys will be out in three years from now. [Over time] you make so many enemies that you won't be able to fight them all. So, it's like you have to live with a level of danger at all times. It is really important to evaluate risk and to try to take measures that are [perhaps a little over-protective]. Never undervalue risk in any way. If you overvalue the risk, that's fine.

Physical safety

For the majority of the journalists their physical safety was a paramount concern that requires constant vigilance for themselves as well as careful efforts to be properly equipped and backed up with the necessary headgear, clothing, technology and safety routines.

Jason Parkinson: If [we expect trouble] we generally take precautions. For example, if you think there's going to be things thrown about then you have a helmet, so you don't have to worry if something hits you in the head. It's things like that. At the height of the [threats against me by the extreme right-wing] English Defence League, I was wearing a stab-vest; the person who had threatened me had done time for stabbing two Manchester United fans and had nearly killed someone. Also, always have an exit strategy. Know the way if you get separated from other people, have a place that you're going to meet up, and, obviously, stay in communication. Since the Brexit referendum, we're now more careful than ever. Even just when we're out. You could just be going to the shop and there may well be somebody ... If I was going to get an underground train, I made sure that no one was standing behind me, so I couldn't get pushed onto the train track.

Jessikka Aro: [When the threats against me began,] I started to feel that I had to secure all my stuff. I started to put everything behind locked doors, I started to take really good care.

Some of the journalists interviewed received police protection. While this was disruptive to their work, they appreciated that it provides an essential reassurance.

Daniele Piervincenzi: This kind of protection makes you feel less alone.

Can Dündar: Until last month, I had five bodyguards and I could not go anywhere without them. It is disruptive. Can you imagine, as a journalist, to interview people with five bodyguards around? But [the German authorities] told me they got information about a possible attack. So, they said, "You have to", and I said, "Okay".

Institutional safety protocols

Several speakers raised the importance of having safety protocols in place at an institutional level, including training in order to maintain all the relevant skills to protect their files, data and recordings, whether in physical or digital form.

Paul Radu: Security is really important. My main task as head of the Organized Crime and Corruption Reporting Project is to make sure that [all the journalists] are safe and that we have safety protocols. We have a safety manual that includes cyber security measures, such as using encryption and [secure mobile phone systems such as] Signal, as well as physical security measures. We also train our people in counter surveillance techniques, how to watch over their shoulder. Journalists will never have complete safety, but the idea is to minimise [the risks] as much as possible.

Bastian Obermayer: We try to be digitally as cautious as possible. For example, my laptop [only works with] a [security] card and a password. All the files are encrypted, and we have a special network that we can only access with special laptops. We also have a special room in the newspaper offices which only some of our colleagues have access to – not the cleaners, not our bosses, only us.

Protection from legal harassment

In the same way that journalists take precautions to mitigate physical risks against themselves, their equipment and their data, they must also do all they can to minimise the risk of being sued and suffering other forms of judicial harassment and intimidation. The consensus among interviewees was that the key to mitigating this risk was by being professional and acting in accordance with the principles of ethical journalism. Due diligence, fact-checking and access to lawyers to advise prior to publication were all mentioned as important parts of a journalist's toolkit.

Paul Radu: Everything we do is fact checked. Legal security is very important. The text [of our reports] should be libel proof. It is fact checked and read by a lawyer before publication. Our journalists need to understand that even when they exchange messages amongst themselves, they should not [refer to the subject of a report as] this “A-hole” or whatever. They must always be polite even if they don't like the people they are writing about.

Edouard Perrin: [When we received the leaked documents,] the issue was first of all having 100% certainty that the documents were legit. I did this especially for the second batch that I obtained because I feared that there was some kind of a targeted operation to destroy my credibility by sending fake documents. That would have been quite easy to do. So, I had to go to great lengths to make sure that the documents I was seeing were proper documents.

The consequences of getting it wrong can be disastrous, in particular in financial terms, for the individual journalist as well as for the concerned news organisation. This is another risk inherent to the journalistic profession and a motivating factor for adhering to high professional and ethical standards.

Bastian Obermayer: If we would make a mistake and the subject of our report would sue us, we would lose. If they can prove that because of our mistake they lost a lot of money then we are in deep trouble. When we publish internationally the pressure is really high because it can end our newspaper. If we lose a court case in the US or a court case in London then we are done ... The problem is that it's possible to sue for huge amounts of money.

Adherence to journalistic ethics

The European Court of Human Rights has established an authoritative body of case law to protect public interest journalism as well as broader freedom of expression rights, including the general requirement that states have an obligation to create a “favourable environment” for media freedom. Nonetheless, the Court also makes clear that the exercise of media freedom involves certain “duties and responsibilities”. The increased protections extended under the European Convention on Human Rights to safeguard the role played by journalists in a democratic society are subject to the provision that they act in good faith to provide “accurate and reliable information in accordance with the ethics of journalism”⁷⁸.

In practice, journalists often have to work in a world of uncertain, unverified and contradictory information. In many cases government authorities and their press offices, as well as business and lobbying organisations, may be highly selective or outright secretive in the way they make information available to the news media. The internet’s “age of plenty” in terms of people’s information sources and the casual dissemination of unproven stories, images and rumours mean that hoaxes can spread at lightning speed, sparking angry backlashes and reprisals. In pursuit of a story journalists must spend a lot of time and resources systematically examining resources and materials to determine the validity or authenticity of information. Sometimes, inevitably, they fall prey to misinformation or make mistakes. This is in part because of the inbuilt vulnerabilities of the profession, including “the pressure to be first; the pull of stories imbued with the news value oddity; the tendency toward sensationalism; the obsession with ratings, metrics and analytics, and, these days, the inescapable dependence on social media” (Chua 2017: 94).

Many of the journalists who participated in this study acknowledged these risks and emphasised that the best way to minimise them was to respect time-honoured principles of journalistic practice and ethics: checking and cross-checking sources and information, keeping information secure, staying within the law, not making gratuitous personal attacks, seeking a response from the subject of an article whenever possible, and exercising fairness and due diligence to the best of their ability.

Zsuzsanna Wirth: [The people we write about] have their rights. This includes the right to know that there will be an article about them, and the right to react. I ask them careful and very detailed questions and I give them appropriate time to respond. If they do, I include their reaction in my article.

Sofia Branco: For me, the journalistic code of conduct is more important than the constitution. Of course, I respect the constitution, but as a journalist, the code guides the profession I’ve chosen.

Paul Radu: I never touch on the families of the subjects of my reports. I often find out a lot of information about them that is compromising, but I never publish that because that is not in the public interest. It is never personal.

78. Declaration of the Committee of Ministers on the protection of journalism and safety of journalists and other media actors, adopted by the Committee of Ministers on 30 April 2014 at the 1198th meeting of the Ministers’ Deputies, paragraph 6.

Protecting sources

Protection of the identity of journalistic sources is identified in the case law of the European Court of Human Rights as one of the basic conditions of press freedom. This goes to the heart of the Court's determination that press freedom should be accorded the "widest scope of protection", because "without source protection ... the vital public-watchdog role of the press may be undermined".

The Court's reasoning is worth citing in full.

Protection of journalistic sources is one of the basic conditions for press freedom. ... Without such protection, sources may be deterred from assisting the press in informing the public on matters of public interest. As a result the vital public-watchdog role of the press may be undermined, and the ability of the press to provide accurate and reliable information be adversely affected. ... [A]n order of source disclosure ... cannot be compatible with Article 10 of the Convention unless it is justified by an overriding requirement in the public interest.⁷⁹

The maintenance of press freedom and real media independence therefore faces a key test whenever state authorities demand that journalists hand over information or materials that may reveal the identity of their sources – who are usually public officials or others in possession of privileged or confidential information, in other words whistle-blowers. The increased scope of legislation and punitive sanctions associated with state secrets, national security and terrorism-related charges has led to many confrontations between media outlets and law enforcement. Meanwhile the vast expansion of state surveillance practices – including both targeted surveillance and "dragnet" searches and retention of communications data – have made it harder than ever for journalists to maintain digital security and keep the identity of sources from the prying eyes of the state and private companies (Posetti 2017).

In the 2017 survey-based study (Clark and Grech 2017), 48% of respondents said they were worried that they could not effectively protect their sources, and 25% said they had actually experienced their sources being exposed or compromised. In the current study, this also emerged as a key concern and consideration. According to Aidan White (2015) "Good sources are the lifeblood of journalism ... Protection of sources is the essential benchmark for ethical journalism; it is critical to creating an environment for watchdog reporting".

The journalists confirmed that source protection was a paramount concern and an ever-present challenge for them in their investigative work.

Paul Radu: When we ask people for information, we offer them a secured system to give us this information. That's also part of the security. The concern is for sources, for the public and for everybody working in the network.

Bastian Obermayer: [When we were working on the Panama Papers,] we had a source to protect. We had to make sure that no one could come to our offices and take away our stuff to try to identify who gave it to us.

79. *Goodwin v. the United Kingdom*, Application No. 17488/90.27 March 1996, paragraph 39.

The power of collaboration

As we have heard, an increasing proportion of journalists in Europe now work as freelancers or part-time, and it has been argued that fewer journalists than in past decades are really engaged in gathering first-hand and original information (Downie and Schudson 2009). Even among the largest and long-established media houses the resources available for long-term complex investigations as well as regional and local reporting have been much depleted. However, a countervailing trend has been the emergence in the 21st century of large-scale collaborations among well-resourced media houses and teams of investigative journalists in many different countries, as was seen in the case of Wikileaks, the Panama Papers and other massive leaks of potentially sensitive material. The international repercussions have often been very extensive. The recent major leaks of international document and data troves have required journalists to develop complex and sophisticated new methods of co-operation to carry out investigative journalism securely and effectively.

The pooling of skills and resources among respected media titles and specialist investigative journalists organisations can also be said to have helped the collaborating partners to sift and report complex findings using due diligence with respect to privacy and state security matters.

Journalists have formed many collaborations across borders and across media organisations to deal with the immense scale and complexity of the materials. This has involved sensitive decisions about allocating responsibilities for in-depth analysis or investigations on specific issues, drawing on technical expertise and, once the research and analysis was done, co-ordinating publication to ensure maximum impact. This went against the traditional grain in the media industry which emphasised exclusivity and the importance of “getting the scoop”.

Several of the journalists interviewed have worked in such collaborative models. Their reports have helped to expose hypocrisy and hold suspected fraudsters to account, so helping to restore public trust in journalism. In effect, while unsurprisingly attracting controversy and precipitating a number of legal actions, this co-operative way of working is seen as having bolstered the collective resilience and influence of journalism to hold great power to account. In their interviews the journalists who had experience of such collaborative efforts were in no doubt that working in a team was a key part of the success of their projects and had helped media organisations to devise more secure systems of protecting their data communications and storage.

Paul Radu: At all times we try to mitigate this risk [of unwarranted interference]. When we confront the subjects of our reports, we make it clear to them that the information we have is held across our networks. This is one way to deal with the danger. We share the information so that [we are protected]. Lone wolf journalism is really the most dangerous kind of journalism.

Bastian Obermayer: The turning point was when we realised the power of collaborative work in this field. We saw how we could help each other; in the globalised world there are [almost no] stories that play out in only one country. You need the help of colleagues in other countries. We knew how well this had worked with Offshore Leaks, Luxembourg Leaks and Swiss Leaks. With the Panama Papers we did this in a way that

had never been done before. It changed the way we worked, and I think it changed the way how many of my colleagues worked all over the world. We see more collaborative work now than ever. The whole world took notice [of] this and many decided to do the same. Now, even when something is not a huge story, we always try to collaborate with others when it seems promising. It makes sense: it helps you and it always leaves you with more knowledge.

PSYCHOLOGICAL HARM – COPING STRATEGIES

The journalists interviewed for this study demonstrated a clear awareness of the risk of psychological harm arising from situations where they faced sustained antagonism and in many cases risks of physical assault and civil or criminal legal actions. They spoke about their various psychological coping strategies, and how those strategies could help to sustain their resilience, so they could maintain a positive outlook despite the intrusive emotional effects of physical and psychological pressure.

Several of the interviews provided insights, too, into the journalists' search for meaning while they were forced to endure the unpleasant and oppressive experience of intimidation. Victor Frankl is a psychiatrist of Jewish origin whose theories about the search for meaning are inspired by his experience during the Holocaust. He writes: "In some ways suffering ceases to be suffering at the moment it finds a meaning, such as the meaning of a sacrifice" (Frankl 1946: 135).

Frankl also explains how one's attitude in face of adversity is crucial and how humans always have control over their attitude: "Everything can be taken from a man but one thing: the last of the human freedoms – to choose one's attitude in any given set of circumstances, to choose one's own way" (Frankl 1946: 86).

Can Dündar's adaptation to judicial intimidation, detention in solitary confinement and exile away from his family, friends and country seems to echo Frankl's analysis. He spoke with feeling about finding hope and meaning in the midst of hardship and distress, and he takes pride in continuing to stand his ground. According to Frankl, meaning can be found by changing one's attitude when faced with an unchangeable situation or circumstance (Frankl 1946).

Can Dündar: Ways to survive? Meaning? If you are not prepared for prison, it can be a dungeon for your soul. But if you are prepared, and I was, then it can be a period of time in which you can do something special, such as write a book, or read books. You can make it a paradise for your work! For me, it was fruitful, it was very productive. Psychologically, I was feeling good and powerful. Prison for me was like a PR office. I was writing articles for all the world media. Of course, I was in prison for only three months; if it had been years I don't know what would happen.

Some researchers (e.g. Schäfer et al. 2015; Thoern et al. 2016) have identified specific cognitive processing styles that facilitate optimal outcomes despite adversity. The interview data show how journalists can in some cases use cognitive processes to rationalise negative situations and integrate them in their work and life, for example by reinterpreting a negative event as a positive one. Encouraging such thought processes might be useful in therapeutic interventions with journalists who have experienced trauma. There is a large body of research documenting

how the “restorying” of traumatising events can be an effective tool for treating post-traumatic stress disorder (Merscham 2000).

Khadija Ismayilova: My motto is that I take the stones thrown at me and I use them to build a house. I also used to think that, whenever I was attacked for my journalism, “this means that I’m doing the right thing”. If what I do makes crooks unhappy, then I’m doing the right thing.

Harnessing anger when faced with intimidation is a cognitive response which involves using dissatisfaction with what happened to direct one’s energy towards something positive. Anger can be used to motivate all sorts of purposeful work. When Kóstas Vaxevánis was arrested for the publication of the “Lagarde List”, he was extremely angry at the fact that the authorities went after him for exposing this, rather than going after the 2 000 or so potential tax evaders with undeclared accounts. However, he has not allowed this “judicial intimidation” and his negative emotion of anger to detract him from his purpose. Rather he seems to have utilised this psychic energy to motivate him in his continued investigative work.

Kóstas Vaxevánis: I don’t know if what’s happening right now can be explained with a political or psychological terminology. So, I used to be driven by anger for what was happening.

Journalists can also attempt to rationalise their fear, transforming an emotion that could be debilitating into a sense of purpose and using it to channel their energy towards their journalistic objectives.

Kóstas Vaxevánis: I’m trying to face [the intimidation] in a philosophical way. I have two choices: either I will be afraid or they will be afraid. I have lived in fear for myself for many years, but now it is their turn to feel fear.

Edouard Perrin: So, when I finally ended up in [the judge’s office in Luxembourg, only a few months after the shooting at the Charlie Hebdo office which was on the same floor and in the same building as our office, and I had been among the first responders to have gone in], I asked him, “You want to indict me for doing my job?” After what had happened I felt that somehow, I was much stronger. I looked at them like, “Okay, that’s it? That’s all you have?” I didn’t feel aggrieved. It felt odd and quite ironic, to be frank. During the interview with the judge, I systematically repeated the same sentence: I said, “I don’t talk about my journalistic sources and alleged relationships”.

Other interviewed journalists also referenced their own refusal to be intimidated when confronted with threats of criminal prosecution and penalties under the law. Several of them spoke instead of feeling a sense that their professional work was being vindicated when the moment came for them to answer to the authorities for their reporting.

Edouard Perrin: I felt that I should stand my ground and not be intimidated by [the judicial pressures]. It was not bravado, but I just thought, “Bring it on. If you want to do this, okay, then let’s do this”. I had not picked this fight but I had to play along.

Despite his potentially crushing experience of being prosecuted, jailed and fleeing into exile for his personal safety, Can Dündar said that he has felt empowered by his

own contribution to exposing what he sees as injustices and untruths. He speaks of having gone beyond the scope of journalism to activism.

Can Dündar: I have turned into an activist. This is a subject of debate nowadays in Germany: they hate activist journalism [because it is seen as not objective]. I try to explain, “All can understand that in an ideal world, journalists should be neutral and objective, but when there is a fire in my house I have to run there and do something to stop it”. I can’t think about the ethics [of neutrality] at this moment. How can I ask the nation’s intelligence services if they are transferring arms to Syria? I did, in fact, but in a country like Turkey you never get a proper answer.

For the journalists who shared their subjective experiences and reflections for this, the search for “truth” and the duty to reveal it is regularly described as a motivator that gives them the strength to go on despite adversities and obstacles.

Can Dündar: Our main concern should be revealing the truth. This is our responsibility, our obligation. If not us journalists, then who? And if not now, then when? So that’s why [we keep going].

Bastian Obermayer: We have to do this work. Most people in our business are really committed to it, it’s an idealistic way to look at things. I want to investigate where our societies are not just, not fair, and do what is in my power to point to this problem, so people can change that. Things like the 1%, the rich and the super-rich, not paying their fair share, that is a big problem. If ordinary people feel that there is one set of rules for ordinary people and another set of rules for the rich, this will cause them to disconnect from our country. This will give rise to extreme [political] parties who will look for scapegoats. This is what’s happening right now with refugees.

Resilience can empower individuals to shape their own environment, even in what may look like a dismal or hopeless situation. This was evident in the way that Can Dündar adjusted to the prison environment. In the same way, even in exile he has come to feel fulfilled in new ways, as an active journalist and commentator with a substantial following.

Can Dündar: To be honest, it’s funny but thanks to this aggression from my government, I’m now doing this interview with you, I’m writing for Die Zeit, I’m commenting for WDR [German television channel]. I am living in Berlin. I’m just trying to see the better side. It is painful and a very high price to pay, but I had always dreamed of living in Europe and writing for foreign media.

MOTIVATION AND IDENTITY

It is abundantly clear from the first-hand accounts of these 20 journalists that their individual resilience is very closely tied to their strong sense of journalistic identity and their dedication to the ideals of journalism. That journalistic identity provides focus and helps the journalists to create meaning and value out of the events they have experienced.

Khadija Ismayilova: This is my life, this is what I do. What can I do otherwise?

Jason Parkinson: Frankly, if I didn’t do journalism, I’d be unemployed. What else am I going to do?

A recurring theme in many of the accounts was that the journalists were often inclined to identify their journalistic work explicitly as promoting the cause of social justice.

Kóstas Vaxevánis: If you are a journalist, you have a specific role as a public watchdog. This is what makes me feel that I must fight against injustice. Free speech is indispensable in society. When journalists cannot exercise their profession, citizens are also denied their rights. It becomes impossible for the people to communicate with those in power and hold those elected to account. In Greece today this fundamental human right is threatened. We must try to turn things around and resist with freedom of speech. I think the pressure and the risks must be overcome. It is my job to unveil these injustices.

Sofia Branco: I always say, I'm a feminist journalist and an activist, and an activist journalist too.

Zsuzsanna Wirth: I have a very strong sense of justice. I don't want to exaggerate but it's very important to me that wrongdoings are uncovered. Everybody has the right to know and read stories [uncovering wrongdoing], because they are important.

Khadija Ismayilova was even more explicit on this point, seeing her role as a journalist and as a fighter against injustice as two sides of the same coin.

Khadija Ismayilova: At the end of the day, I'm a human rights defender.

This identification with the vulnerable and oppressed, and a desire to bring oppressors to justice, has led many of the journalists interviewed to take outspoken and even polemical positions on social and political matters. This might be described as "journalism with a conscience", or in some cases a "crusading" type of journalism.

Sofia Branco: What do I stand for? For me, journalists should look for social transformation.

CONCLUSION

This chapter has documented how the 20 journalists interviewed demonstrated resilience despite persistent exposure to various kinds of harassment and intimidation, ranging from smear campaigns and public demonisation to violent assault, prison and self-exile. They exhibited a number of traits that psychologists describe as being linked to resilience and they used diverse strategies to help themselves cope more effectively.

The journalists' resilience was powerfully motivated by a sense of responsibility to discover, record and document events of public importance, overcoming many obstacles for the sake of truth-telling and social justice. The interviews are testament to the integrity and commitment of the participants to the journalistic ideals of challenging abuses of power and injustice, and informing the public.

An individual's social and economic capital can be significant factors assisting journalists to be resilient and to remain committed to their role as public watchdogs while being accountable to their public for their professionalism and commitment to accuracy and fairness. Faithfulness to established ethical and professional journalistic standards is essential so that they may continue practising free and independent journalism to enable their readers and audiences to make informed judgments about the world around them.

It is hoped that the coping and risk mitigation strategies identified in this chapter may inform the development of policies and practices for training and counselling, as well as for state authorities and other stakeholders to put in place effective measures of protection and other practical kinds of support.

As we have seen, investigative and original reporting – especially covering corruption, organised crime and high political tensions – involves inherent risks and dangers, both physical and psychological. In such pressurised contexts it is also apparent that journalistic cultures typically tend to discourage openness about feelings of fear and other negative emotional states. In recent years it has happened fairly often that “frontline” and investigative journalists have admitted suffering “burnout” at some stage in their careers. That is another aspect of the work of investigative journalists that calls for more systematic and practical responses. Those responsible for the safety of journalists have the obligation to do everything possible to create an enabling environment for journalists – including the boldest and most questioning of them – to do their work in safety.

The next chapter presents some forward-looking reflections arising from the narratives we have studied closely, so as to help lay the groundwork for the necessary policies, practices and initiatives for achieving that hoped-for goal.

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Chapter V

Urgent and resolute responses: the way ahead

INTRODUCTION

This study presents first-hand insights from 20 interviewed journalists about the dangers, pressures and barriers experienced in the course of their work in different countries across Europe. Daphne Caruana Galizia, interviewed for this book in Malta on 6 October 2017, was murdered only 10 days later in a remotely activated car bomb explosion. Previously, she had been speaking out about the growth of a “climate of fear” in her surroundings. Other interviewees spoke about their experiences of suffering violence, threats, online abuse, imprisonment, criminal prosecution and unlawful surveillance.

The journalists expressed a powerful commitment to truth-telling and to exposing corruption, abuses of power and injustice. Some accounts reveal the frustration of journalists constrained to work in environments where political and other vested interests increasingly seek to control the content of media output, and where the resources and powers of the state can be mobilised to denigrate or exclude critical and independent voices. In some cases it is alleged or implied that public officials are complicit in the persecution of critics and in shielding those responsible from facing justice under the law.

Journalists and other media actors who face targeted threats and harassment because of their role as “public watchdogs” have grown increasingly vocal as they call for their rights to be protected not only in theory but effectively in practice. This book points to the reality that journalists in some parts of Europe have lost confidence in the impartiality and integrity of the state authorities and justice systems in their own country. A clear message from these narratives taken together is that many independent journalists feel impelled to speak out about what they see as the failure of national authorities and international institutions to protect their physical safety and their ability to perform their work unhindered:

Daphne Caruana Galizia: It’s a climate of fear.⁸⁰

Can Dündar: I don’t feel that Europe is brave enough to defend the principles, and they are not determined enough ... Europe should stick to the principles.

80. See sub-section “A ‘climate of fear’” in Chapter II.

The personal testimonies and analysis in the previous chapters can provide a spur to state authorities and policy makers to review their laws and policies to protect media freedom and the safety of journalists in accordance with Council of Europe norms and standards and the authoritative case law of the European Court of Human Rights. This final chapter reviews what these 20 journalists have identified as the main obstacles to their work as well as weaknesses and gaps in the framework of protection. Drawing on their insights and other sources the chapter includes recommendations for concerted actions to be taken by national governments and public bodies, as well as the media, journalists' organisations and others, to secure a safe and enabling environment for journalists.⁸¹

A significant step forward was taken in 2016 when the Committee of Ministers of the Council of Europe, the organisation's executive decision-making body, adopted an important advisory or "soft law" text in which the ministers acknowledged that the increasing scale of threats and attacks against journalists and other media actors was "alarming and unacceptable".⁸² The ministers also accepted the need for urgent, resolute and systemic responses, and called for more effective and rigorous implementation by states of existing international and regional standards to strengthen the protections for journalists and to eradicate impunity. While not legally binding on member states the document is a politically and legally authoritative text which serves as a valuable point of reference for the Court when it rules on particular cases.

Despite the public commitments made in the Committee of Ministers' recommendation, in practice the intimidation and harassment of journalists has not improved.⁸³ In 2019, the outgoing Secretary General Thorbjørn Jagland suggested that the Council of Europe "must become more proactive on member states' compliance with their obligations and take urgent action if a member state veers clearly off track" (Jagland 2019: 9). In May 2020 the incoming Secretary General, Marija Pejčinović Burić, said: "Unfortunately, the worrying trend of violence and intimidation against journalists observed in recent years continues. Too many journalists are in prison and there are too many cases of impunity for the killing of journalists".⁸⁴ She acknowledged that governments faced unprecedented challenges during the Covid-19 public health emergency crisis but declared that the crisis must not be used "to silence or hinder journalists".⁸⁵

81. See also "How to protect journalists and other media actors? Implementation Guide to selected topics under the Protection and Prosecution pillars of the Guidelines of Recommendation CMRec(2016)4 on the protection of journalism and safety of journalists and other media actors", DG1(2020)11, Council of Europe <https://rm.coe.int/safety-implementation-guide-en-16-june-2020/16809ebc7c>, accessed on 28 July 2020.

82. 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.

83. The 2020 Annual Report by the partner organisations of the Council of Europe's Platform for the safety of journalists concluded on the basis of 142 serious recorded threats to media freedom in 2019 that "political attempts to 'capture' the media and failures by many states to maintain a credible framework of protections for media freedom have become systemic" (Council of Europe 2020: 10).

84. See "End impunity for crimes against journalists": www.coe.int/en/web/human-rights-channel/end-impunity-for-crimes-against-journalists, accessed 8 July 2020.

85. Council of Europe Directorate of Communications (2020), "Secretary General: Governments must protect the essential role of journalists in democracy, especially in times of crisis", Strasbourg 30 April 2020: https://search.coe.int/directorate_of_communications/Pages/result_details.aspx?ObjectId=09000016809e44b5, accessed 8 July 2020.

ENHANCING PROTECTION AGAINST VIOLENT ATTACKS

Threats and acts of violence have become a harsh reality in the lives of many journalists in Europe, especially those who report on corruption, crime and abuses of power. Daphne Caruana Galizia had experienced attacks on her home in Malta before she was murdered. Can Dündar was shot at by a gunman outside an Istanbul courthouse. Elena Kostyuchenko was brutally beaten up while on an assignment in Beslan in the Russian North Caucasus. Many of the interviewed journalists spoke about facing threats of violence, criminal prosecution, hate campaigns or other types of harm because of their work.

Rulings by the European Court of Human Rights state unequivocally that state authorities have a legal obligation to put in place effective means of protection for journalists and writers who are known to face threats to their life or physical integrity.⁸⁶ That generally means providing police protection or removal of the individual threatened – with their consent – to a place of safety.⁸⁷

Many of the assaults against media workers in Europe are, however, carried out by police or other security personnel, especially during public street protests and other public events.⁸⁸ Independent police oversight mechanisms are essential. Law-enforcement officers should be trained to refrain from assaulting media workers and to respect their right to report.⁸⁹

In this context, this study recommends that **member states take preventive operational measures in cases of real and immediate risk to the life or physical security of journalists, including by providing police protection or voluntary evacuation to a safe place. Adequate training and independent law-enforcement oversight mechanisms are of fundamental importance.**

ENDING VERBAL THREATS, INSULTS AND SMEAR CAMPAIGNS

Edouard Perrin: I really feared that there was some kind of targeted operation to smear and destroy my credibility.⁹⁰

The journalists interviewed for this study recalled many examples of being subjected to verbal intimidation, insults or threatening rhetoric by influential figures including

86. *Gongadze v. Ukraine*, Application No. 34056/02, 8 November 2005, paragraph 175.

87. CM/Rec(2016)4, “Guidelines”, paragraph 9.

88. “Increase in violence against journalists covering protests across Europe”, International Press Institute, 11 May 2020: <https://ipi.media/increase-in-violence-against-journalists-covering-protests-across-europe/>, accessed 8 July 2020.

89. Italy, France and Germany are among the countries which have provided close police protection to journalists who face threats of violence from organised crime syndicates. In the Netherlands, specialist crime reporters who are liable to become the targets of violent attacks can have recourse to an early warning and protection mechanism thanks to a co-operative agreement with police made in 2018. For a model of such a mechanism agreed between police and specialist crime reporters in the Netherlands see European Federation of Journalists, 5 December 2018, “Dutch journalists sign agreement to improve safety of journalists”: <https://europeanjournalists.org/blog/2018/12/05/dutch-journalists-sign-agreement-to-improve-safety-of-journalists/>, accessed 8 July 2020.

90. See sub-section “Smear campaigns: undermining by discrediting” in Chapter I.

elected politicians or public officials. A flood of cases in which elected politicians or other public figures vilify or demonise journalists and media actors (whether in public statements or online) has become a source of increasing concern for media freedom and journalists' safety (Council of Europe 2020: 12). Verbal attacks create a climate in which physical violence against journalists is more likely. Moreover, when such verbal aggression and demonisation of members of the media goes unchallenged by those in authority, it has an extremely damaging "chilling effect" on the work of journalists and on the wider society. The Committee of Ministers has said that **politicians, state officials and public figures should not require, coerce or pressurise journalists to deviate from professional journalistic ethics, either by violence or financial penalties or inducements.**⁹¹

Political leaders and state authorities are urged to publicly condemn and deter verbal threats and insults against journalists, and attempts to denigrate or stigmatise them.

ADDRESSING GENDER-SPECIFIC AND OTHER IDENTITY-RELATED THREATS

Khadija Ismayilova: In another point I'm just "a whore nobody ought to respect".

The particular challenges faced by female journalists were discussed in Chapter III. International experts have also identified a variety of risks associated with "gender-specific attacks, online harassment, inequality within the media and general discrimination against women in society, which creates barriers to working as a journalist".⁹²

Council of Europe standards, as well as all recent United Nations Resolutions,⁹³ call for measures of protection to counter risks and discrimination affecting journalists on account of their gender, ethnic identity, religion and other characteristics. The Committee of Ministers 2016 recommendation calls for particular consideration to be given to protections for female journalists and other media actors, who "face specific gender-related dangers, including sexist, misogynist and degrading abuse; threats; intimidation; harassment and sexual aggression and violence".⁹⁴

In this context, it is very important that state authorities and media employers ensure effective safeguards against risks of harm and discrimination affecting women journalists on account of their gender.

91. CM/Rec(2016)4, "Guidelines", paragraph 15.

92. See the "Joint Declaration on media independence and diversity in the digital age" by the United Nations (UN) Special Rapporteur on Freedom of Opinion and Expression, the Organisation for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples' Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information: www.oas.org/en/iachr/expression/showarticle.asp?artID=1100&IID=1, accessed 8 July 2020.

93. See 2019 United Nations General Assembly Resolution on the safety of journalists and the issue of impunity, p. 4: <https://undocs.org/en/A/RES/74/157>, accessed 9 July 2020.

94. CM/Rec(2016)4, paragraph 2.

IMPROVING LEGISLATION

The case law of the European Court of Human Rights and Council of Europe standards have determined that member states are under a legal obligation to establish an overall “favourable environment” for the exercise of the right to freedom of expression which requires the fulfilment of a range of responsibilities by all branches and layers of government. The Council of Europe has made it a high priority for member states to establish a favourable environment for media freedom and journalist safety through an effective legislative framework backed by a thorough review of laws and practices effecting Article 10 rights. Labour and employment laws should provide protection from “arbitrary dismissal [and unsatisfactory working conditions as well as] reprisals and undue pressures” (Noorlander 2020: 14).

Recognising the scale and severity of attacks against journalists, member states have agreed to commit themselves to enabling wide-ranging independent reviews of their domestic laws and practices related to the protection of journalism and safety of journalists and other media actors, with a view to revising them as necessary to conform with states’ obligations.⁹⁵

Defamation legislation

The testimonies of the journalists reflect the widely held conviction among journalists that defamation and insult laws are often overly protective of reputational interests, and are frequently misused to intimidate media workers and deter them from reporting in the public interest on criminality, corruption and political matters.

The case law of the European Court of Human Rights makes clear that “defamation laws or proceedings cannot be justified if their purpose or effect is to prevent legitimate criticism of public officials or the exposure of official wrongdoing or corruption”;⁹⁶ or if measures or sanctions imposed by the national authority may discourage the participation of the press in debates over matters of legitimate public concern.⁹⁷ The Court has ruled in many cases that speech offences should not carry disproportionate

95. CM/Rec(2016)4, “Guidelines”, paragraph 3. In paragraph 4, the recommendation states: “The reviews may be carried out by one or more appropriate new or existing independent bodies that have authoritative mandates and are supported by sufficient resources. National authorities are urged to establish favourable conditions in which such reviews may take place, allowing for detailed public scrutiny and the drawing up of recommendations by organisations and experts acting independently of governmental, political, religious, commercial and other partisan influences. The reviewing body or bodies could be a national human rights commission, ombudsperson and/or another independent body established for the specific purposes described above. It is recommended that the reviewing body or bodies have an explicit mandate to collect, receive and use information from any source and be granted optimal access to documents and officials across all branches of State authorities. The review process should be transparent and include public hearings, facilitating the full and active participation of civil society, including representatives of journalist organisations, the media and other stakeholders”.

96. *Cihan Öztürk v. Turkey*, Application No. 17095/03, paragraph 32.

97. *Ibid.*, paragraph 27.

sentences and that a penalty of imprisonment cannot be justified except in cases which involve incitement to hatred or violence.⁹⁸

According to Council of Europe standards, public figures and other persons in authority should not have “a higher level of protection against criticism and insult than ordinary people” (Council of Europe 2019: 6). The Court has ruled that “the limits of acceptable criticism” of such figures are “wider ... than as regards a private individual”.⁹⁹ Moreover, as also recommended by the Council of Europe, states should enforce safeguards to halt vexatious and malicious libel lawsuits from proceeding (Noorlander 2020: 15, 19).

Hence, the recommendation of this study is that **defamation laws should be reformed and brought into line with Council of Europe standards, with strictly proportionate penalties and no enhanced protections for public figures.**

Protection of journalistic sources

Bastian Obermayer: I think that if we can't protect whistle-blowers then they won't come anymore when we need them most.

Protection of sources is one of the basic conditions of press freedom. The Court has ruled that the right of journalists not to disclose their sources:

is part and parcel of the right to information, to be treated with the utmost caution. Without an effective protection, sources may be deterred from assisting the press in informing the public on matters of public interest. As a result, the vital “public watchdog” role of the press may be undermined and the ability of the press to provide accurate and reliable information to the public may be adversely affected.¹⁰⁰

Because of intrusive surveillance and data-gathering it has become increasingly difficult for journalists to protect the secrecy of their sources of information, including whistle-blowers who reveal injustices or abuses of power. Without confidentiality they may be unwilling to disclose what they know for fear of extreme reprisals, including jail sentences.

The Court, however, has ruled that orders requiring disclosure of journalists' sources can only be “justified by an overriding requirement in the public interest”.¹⁰¹ Moreover, “the Court has previously emphasised that a chilling effect will arise wherever journalists are seen to assist in the identification of anonymous sources”.¹⁰² Pulitzer prize

98. As McGonagle (2016: 57) explained “[w]hile the Court is reluctant to find substantive rules of defamation to violate Article 10 of the Convention, it has been particularly forthright in applying ‘strict scrutiny’, ‘most careful scrutiny’ and ‘utmost caution’ to sanctions imposed for defamation. On a number of occasions, the Court had even found there to be no justification whatsoever for states having imposed prison sentences in ‘classic’ cases of defamation on matters of public interest”.

99. *Lingens v. Austria*, Application No. 9815/82, 8 July 1986, paragraph 42. On similar cases see the Court factsheet on “Protection of reputation”, May 2020, www.echr.coe.int/Documents/FS_Reputation_ENG.pdf, accessed May 2020.

100. *Goodwin v. the United Kingdom*, Application No. 17488/90, paragraph 39.

101. *Ibid.*, paragraph 39.

102. *Becker v. Norway*, Application No. 21272/12, paragraph 82.

winning Bastian Obermayer of the *Süddeutsche Zeitung* suggested in his interview that whistle-blowers should be protected by a Europe-wide law granting them immunity for their actions. There are debates at the Council of Europe about drafting a convention on the protection of whistle-blowers,¹⁰³ while the EU has also adopted a directive in this regard.¹⁰⁴

We recommend that the protection of journalists' sources should be secured in all states by appropriate laws that are consistent with Council of Europe standards and that are efficiently enforced.

National security legislation and surveillance

The modern "age of surveillance" has given rise to extreme concerns about its negative effects on investigative journalism, the security of journalists and, more generally, the capacity of the media to expose and counter high-level corruption and serious human rights abuses in an environment where every online communication and exchange of data is liable to be intercepted and recorded.

In 2018, the Council of Europe's Commissioner for Human Rights, Dunja Mijatović, acknowledged that "the misuse of anti-terrorism legislation has become one of the most widespread threats to the freedom of expression and media in Europe" (Jagland 2019: 16).¹⁰⁵

This research has highlighted a number of cases where journalists have faced prosecution and imprisonment on the basis of laws purportedly protecting public order or national security.¹⁰⁶ While protecting the public from terrorist acts is an essential responsibility of states and a matter of pressing public concern, vague or overly broad national security legislation, especially when arbitrarily applied, can lead to serious misuses of law to criminalise the legitimate activities of journalists.

As required by international standards, relevant national laws must be formulated with sufficient precision to enable media actors reasonably to foresee the consequences

103. See Parliamentary Assembly of the Council of Europe Recommendation 2162 (2019) and Resolution 2300 (2019) on improving the protection of whistle-blowers all over Europe.

104. See the Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law: <https://eur-lex.europa.eu>, accessed 9 July 2020; see also "New EU Directive enhancing the protection of whistleblowers": www.lexology.com/library/detail.aspx?g=bf77eced-04c0-41be-93e9-dcf799ff4d7c, accessed 9 July 2020. There are many similarities between the Court case law and the directive. See Vigiļjencia Abazi and Flutura Kusari, "Comparing the proposed EU Directive on protection of whistleblowers with the principles of the European Court of Human Rights", Strasbourg Observers Blog, 22 October 2019, <https://strasbourgobservers.com/2018/10/22/comparing-the-proposed-eu-directive-on-protection-of-whistleblowers-with-the-principles-of-the-european-court-of-human-rights/>, accessed 9 July 2020.

105. See also the Human Rights Commissioner's Comment of 4 December 2018, "Misuse of anti-terror legislation threatens freedom of expression": www.coe.int/en/web/commissioner/-/misuse-of-anti-terror-legislation-threatens-freedom-of-expression, accessed 9 July 2020.

106. For a list of similar cases adjudicated by the European Court of Human Rights see Platform to Promote the Protection of Journalism and the Safety of Journalists, "Detention and imprisonment of journalists", thematic factsheet, June 2018: <https://rm.coe.int/factsheet-on-detention-and-imprisonment-of-journalists-14june2018-docx/16808b352c>, accessed 9 July 2020.

which a given action may entail.¹⁰⁷ At the same time, “domestic authorities in Member States must refrain from adopting measures equating media reporting on terrorism with support for terrorism”.¹⁰⁸

State surveillance and data privacy is a source of acute concern for media workers. Jason Parkinson was secretly under surveillance by police in the UK until, through a freedom of information request, he obtained police files that showed the surveillance had been unlawful. Can Dündar exercised caution when speaking to his wife on Skype for fear of being monitored. Stevan Dojčinović spoke of his shock at reading transcripts of his conversations with his girlfriend printed in a Serbian newspaper, and Daphne Caruana Galizia sharply criticised what she said was the government’s practice of amassing private information about her and her family.

The Court has determined that states must adopt appropriate safeguards against the surveillance of journalists, especially when the surveillance is meant to discover and unveil their confidential sources of information.¹⁰⁹ Recommendation CM/Rec(2016)4 urges Council of Europe member states to “ensure the effective operation of oversight mechanisms for state surveillance of communications, to ensure transparency and accountability for the scope and nature of such practices”,¹¹⁰ then adds that “[a] range of stakeholders should be represented on such oversight bodies, including journalists and their organisations and legal and technical experts”.¹¹¹

This study recommends that **states ensure anti-terrorism and national security legislation are not misused against journalists and put in place strong safeguards against the misuse of surveillance by state or private entities.**

Legislation to facilitate access to information

The journalists’ narratives reveal the extent of the obstacles to access to information for the purpose of investigating and reporting on matters of public interest, including corruption, criminality and cover-ups of wrongdoing.

As the European Court of Human Rights has noted:

[t]he gathering of information is an essential preparatory step in journalism and is an inherent, protected part of press freedom ... It reiterates that obstacles created to hinder access to information which is of public interest may discourage those working in the media, or related fields, from pursuing such matters. As a result, they may no longer be able to play their vital role as “public watchdogs” and their ability to provide accurate and reliable information may be adversely affected.¹¹²

107. *Altuğ Taner Akçam v. Turkey*, Application No. 27520/07, 25 October 2011, paragraph 87.

108. Platform to Promote the Protection of Journalism and the Safety of Journalists, “Freedom of expression and terrorism”, thematic factsheet, June 2018: <https://rm.coe.int/factsheet-on-anti-terror-legislation-june2018-docx/16808b3dd7>, accessed 9 July 2020.

109. *Telegraaf Media Nederland Landelijke Media B.V. and Others v. the Netherlands*, Application No. 39315/06, 22 November 2012, paragraph 102.

110. “Guidelines”, paragraph 7.

111. *Ibid.*

112. *Guseva v. Bulgaria*, Application No. 6987/07, paragraph 37.

The same message was echoed by the Committee of Ministers of the Council of Europe.

Journalists and others who perform public watchdog functions through the media are often in a vulnerable position vis-à-vis the public authorities or powerful interest groups ... Obstacles created in order to hinder access to information of public interest may not only discourage journalists and other media actors from fulfilling their public watchdog role, but may also have negative effects on their safety and security.¹¹³

The study considers that **it is essential for states to adopt strong legislation on access to information to facilitate media's mission to provide accurate information to the public and avoid an information monopoly by state authorities and/or interest groups.**

Legal guarantees and safeguards for the independence of the judiciary in cases involving journalists

Erol Önderoğlu: The real problem was the lack of regulation in the media market and on the other hand political interference in the judiciary.¹¹⁴

The journalists voiced strong and persistent concerns about alleged political influence over some judicial and regulatory systems. Such interference leads to a lack of safeguards to protect journalists against arbitrary arrest, imprisonment, or other penalties and restrictions on their work. It denies journalists not only protection from criminal acts but also their access to justice and to “effective remedy” as guaranteed by Article 13 of the European Convention on Human Rights.¹¹⁵

To cite an example discussed earlier in this study, Turkish journalist Can Dündar questioned the legal and judicial processes under which he was arrested, charged, prosecuted and held in pre-trial detention after publishing reports about alleged secret shipments of arms to militant groups inside Syria. Furthermore, the Venice Commission, the Council of Europe's advisory body on legal and constitutional matters, characterised the emergency laws adopted after the failed coup attempt in Turkey in July 2016 and used to silence critical voices as “unacceptable by international human rights standards”.¹¹⁶

113. Declaration of the Committee of Ministers on the protection of journalism and safety of journalists and other media actors, adopted by the Committee of Ministers on 30 April 2014 at the 1198th meeting of the Ministers' Deputies, point 4: https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016805c5e9d, accessed 9 July 2020.

114. See sub-section “Political environment” in Chapter III.

115. Article 13 of the Convention on the right to an effective remedy reads: “Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.”

116. “The Venice Commission acknowledges that certain extraordinary measures may have been required in the immediate aftermath of the failed coup of 15 July 2016. However, such measures as mass liquidations of media outlets on the basis of the emergency decree laws, without individualized decisions, and without the possibility of timely judicial review, are unacceptable in light of the demands of international human rights law, and extremely dangerous. The same concerns the intensification of criminal prosecutions of journalists based on their writings, under the heading of ‘membership’ of terrorist organisations, and their arrests without relevant and sufficient reasons. Instead of restoring democracy those measures may further undermine it”. Draft Opinion on the measures provided in the recent emergency decree laws with respect to freedom of the media, 24 February 2017, p. 22: [www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL\(2017\)006-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL(2017)006-e), accessed 9 July 2020.

Leading NGOs have also deplored Turkey's failure to amend its anti-terrorism and other laws which have been used to prosecute and detain over 100 journalists, even after the European Court of Human Rights ruled that they violate the country's obligations under the Convention.¹¹⁷

Examples of the misuse of law and obstruction of justice in domestic jurisdictions can no longer be described as rare exceptions. The 2018 report on the "State of democracy, human rights and the rule of law" by the Secretary General of the Council of Europe (Council of Europe 2018a) concluded that the situation regarding the safety of journalists was "deteriorating" in 17 states and "fully unsatisfactory" in another three.

Council of Europe standards regarding the fairness of criminal proceedings against representatives of the media say that they have the right to a fair hearing by an independent and impartial tribunal and to due process in law. Moreover, as stated in the Court case law, prison sentences "for a press offence can only be compatible with journalists' freedom of expression ... only in exceptional circumstances, notably where other fundamental rights have been seriously impaired, as, for example, in the case of hate speech or incitement to violence".¹¹⁸ Other media actors including bloggers, non-governmental organisations and others who contribute to public debate are entitled to similar protections as those afforded to the press when they exercise a role or function as a public watchdog.

In this context, this study urges **state authorities to ensure the highest standards of legal protection for journalists and an independent judiciary to effectively protect them.**

REPORTING MECHANISMS

Kóstas Vaxevánis: I have actually gained a lot of support with the Platform of the Council of Europe when I reported a violation.

Greek journalist and publisher Kóstas Vaxevánis acknowledged the merit of the Council of Europe's Platform as an early warning and rapid-response system. Since its launch in 2015, the Platform has made member states more aware of the need for effective systems of protection for journalism and the safety of journalists, and it has established a new dialogue to hasten remedies when alerts are registered on the Platform.¹¹⁹

117. "Free expression organisations intervene on cases of detained Turkish journalists before the European Court of Human Rights", Article 19: www.article19.org/resources/free-expression-organisations-intervene-cases-detained-turkish-journalists-european-court-human-rights/, accessed 9 July 2020.

118. *Cumpănă and Mazăre v. Romania*, paragraph 115.

119. At the start of 2020, the 14 Platform partner organisations were Article 19, the Association of European Journalists, the Committee to Protect Journalists, the European Broadcasting Union, the European Centre for Press and Media Freedom, the European Federation of Journalists, Free Press Unlimited, Index on Censorship, the International Federation of Journalists, the International News Safety Institute, the International Press Institute, PEN International, Reporters Without Borders and the Rory Peck Trust.

The Council of Europe has called upon member states to establish national reporting mechanisms as part of comprehensive national action plans for the protection of journalists and media actors (Council of Europe 2018b). To be effective, such reporting and rapid-response mechanisms must be transparent and enjoy a high level of confidence among journalists and other media actors (Noorlander 2020: 9). The United Nations' 2030 Sustainable Development Goals call for the collection and reporting of all cases of killing, abduction, forced disappearance, torture or arbitrary detention of journalists.¹²⁰

Hence, this study urges **member states to enable the establishment of transparent reporting mechanisms to monitor and respond to attacks on journalists and the media.**

PROSECUTION AND IMPUNITY

Stevan Dojčinović: Some people will just attack you in the street and nobody will be held responsible.

In most of the cases described in this text, journalists targeted with harassment or violence received no protection from the state, and the perpetrators or instigators of those crimes have not been brought to justice. Jessikka Aro, who experienced an orchestrated campaign of intimidation after she exposed the activities of a “troll factory” in Russia, later saw justice done when those responsible were convicted in a Finnish court. However, some time afterwards, she complained that she continued to be harassed, and at the time of writing (June 2020) her request for a restraining order had not been granted.

When those responsible for killings, attacks or ill-treatment of journalists are not brought to justice, a culture of impunity will arise.¹²¹ Cultures 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. Council of Europe Secretary General Marija Pejčinović Burić said: “Fighting impunity is at the heart of what the Council of Europe stands for”. Speaking on the occasion of the United Nations' International Day to End Impunity for Crimes against Journalists in November 2019 she declared her major concern that “[j]ournalists who investigate and report on corruption, abuse of power and human rights violations are still being killed in Europe today. Too often these crimes go unpunished.”¹²²

120. See Sustainable Development Goals Indicator 16.10.1 <https://sdgdata.gov.uk/16-10-1>.

121. CM/Rec(2016)4.

122. “Fighting impunity is at the heart of what the Council of Europe stands for”, statement by the Council of Europe Secretary General, 2 November 2019: www.coe.int/en/web/media-freedom/-/sg, accessed 10 July 2020.

The Secretary General stressed the far-reaching damage of impunity to democratic life:

Each case tells a story of horror and injustice. It shows ineffective criminal investigations and prosecutions. It points at negligence, inadequate legal frameworks or corruption. It reveals flawed human rights protection, defective rule of law and mistrusted democracy.¹²³

Marija Pejčinović Burić directly addressed the member states regarding their obligations to uphold justice and the rule of law:

By ratifying the European Convention on Human Rights, member states have undertaken to bring criminals to justice, to conduct prompt and effective investigations. They have also agreed to ensure that journalists can exercise their profession without fear.¹²⁴

The Secretary General then “call[ed] upon member states to carry out investigations and prosecutions that bring the murderers of journalists to justice” and promised to “work with member states, journalists and civil society to bring domestic laws and practices in compliance with obligations under the Convention”.¹²⁵

At the end of 2019 the perpetrators of at least 22 murders of journalists in Europe were being shielded from justice in cases categorised as demonstrating impunity (Council of Europe 2020: 25). They included the case of the murder of Daphne Caruana Galizia in October 2017. On the second anniversary of her death, the Council of Europe’s Commissioner for Human Rights and other international high officials issued a statement saying that the accountability of public officials and effective safeguards against complicity by any figure in authority are at the core of the fight against impunity.¹²⁶

The Committee of Ministers has called for member states to apply a strict set of rules “to prevent any appearance of collusion in or tolerance of unlawful acts”¹²⁷ and ensure the accountability of state agents or bodies.¹²⁸ Investigations must establish if there is a connection between the attack against a journalist and the individual’s journalistic activities. In accord with the 2016 recommendation of the Council of

123. Ibid.

124. Ibid.

125. Ibid.

126. “[E]nding impunity requires holding accountable not only those who carried out the murder, but everyone complicit in it, including the masterminds behind it. Those masterminds remain unaccountable for now”. Those words were published on 16 October 2019, two years after the murder in Malta of Daphne Caruana Galizia, in a joint statement by Dunja Mijatović, Council of Europe Commissioner for Human Rights, Harlem Désir, OSCE Representative on Freedom of the Media, David Kaye, UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and Agnes Callamard, UN Special Rapporteur on extrajudicial, summary or arbitrary executions, “Malta must establish accountability for the murder of Daphne Caruana Galizia”. The statement continued: “Two years have passed. No convictions, no trials of ringleaders and masterminds. On the contrary, posthumous libel suits continue to target the family of Daphne Caruana Galizia and makeshift memorials of her are frequently removed. This only adds to the sorrow and pain of her family and loved ones”: www.coe.int/en/web/commissioner/-/malta-must-establish-accountability-for-the-murder-of-daphne-caruana-galizia, accessed 10 July 2020.

127. *Al-Skeini and Others v. the United Kingdom*, Application No. 55721/07, paragraph 167.

128. Ibid.

Europe, we call for aggravated penalties for public officials who obstruct the course of justice in such cases. Any person with a personal interest in a case, or who may be implicated in it in any way, must be excluded from any role in investigating it. Elected politicians should not exercise any role or have any influence over the conduct of an investigation. Hence we recommend that **strict protocols should be followed to ensure thorough, prompt, impartial and independent investigations into killings, attacks and ill-treatment of journalists.**

EDUCATION, TRAINING AND AWARENESS RAISING

Journalists in this study voiced concern at the lack of the dynamic and effective public awareness and support that their work requires. In some cases they spoke of attempts by public figures to stigmatise them and using populist rhetoric to brand them as traitors, wrong-doers or criminals, so inhibiting critical voices and open debate.

It has been said that democracy dies in darkness. Making the general public more keenly aware of the consequences of pressures and acts of violence against journalists is necessary to establish safe environments and to deter anti-media violence and abuses.

Training should also be given to law-enforcement authorities, prosecutors and judges, and other public officials to ensure that they have a thorough understanding of applicable international norms and standards, in order to strengthen the legal and administrative protection of journalists and end impunity (Council of Europe 2018b).

The curricula in journalism schools and on-the-job training programmes for media workers should provide essential information on the issues addressed in this study to equip media workers for the challenges of newsgathering and reporting in the modern world. Journalists must be equipped with the skills to use access to information laws and procedures effectively, and must be well trained in IT, data and online security skills.

Public concerns about “fake news”, hate speech and online trolling, data harvesting, and the problem of distinguishing between fact-based news and disinformation and misinformation indicate a pressing need for improved public media literacy. The Media Pluralism Monitor has found that poor levels of media literacy are associated with high risks of political interference in the ownership and output of media, as well as risks to media pluralism.¹²⁹

In this context, **states should raise the awareness of public officials about journalists’ rights, encourage best practice in training journalists on access to information frameworks and online security matters, and promote media literacy.**

129. The Media Pluralism Monitor is a tool developed by the Centre for Media Pluralism and Media Freedom to assess the risks for media pluralism in a given country. See Brogi et al. (2018: 67).

ENSURING MEDIA INDEPENDENCE

Elena Kostyuchenko: Most of the people who call themselves journalists, they don't do journalism. They do information services for their parties or for business.¹³⁰

Kóstas Vaxevánis: In Greece, journalism is working in the service of the powerful.¹³¹

Elena Kostyuchenko and Kóstas Vaxevánis outspokenly criticised what they described as the takeover of large segments of the media in Russia and Greece, respectively, by owners who mobilise their own employees to report in ways that are designed to serve partisan interests. Khadija Ismayilova urged Western institutions to cease co-operation with the pro-government media and media councils which she blamed for promoting “false accusations” against her.

These examples illustrate serious concerns in many parts of Europe that outlets in all categories of traditional and online media are at risk of being turned into “propaganda megaphones for those in power”¹³² and the super-rich. In some cases, the media have been acquired and instrumentalised by state or private owners and managers who seek to avoid scrutiny of their own actions, instead using the influence of captive media to attack rivals and critics.

The manipulation of the media for political or commercial purposes often leads to unlawful and unethical journalism. Dishonest journalism and journalists taking bribes or disseminating falsehoods and propaganda have contributed to a loss of public trust in media. Faced with these unwelcome realities, journalists and their professional associations are called on to uphold their ethical codes of practice. They must not allow themselves to become the instruments of partisan or private interests.

The case law of the European Court of Human Rights states that “the safeguard afforded by Article 10 to journalists is subject to the proviso that they are acting in good faith in order to provide accurate and reliable information in accordance with the ethics of journalism”.¹³³

Independent media councils, self-regulatory bodies, journalists’ organisations and the publishers of media outlets should provide oversight of published content to ensure that professional and ethical standards are maintained.¹³⁴

Media diversity, pluralism and independence must be effectively protected to enable the media to perform its watchdog function. This is especially important in times of

130. See sub-section “Economic environment: media ownership, financial pressures and precarity”, in Chapter III.

131. See sub-section “Political environment”, in Chapter III.

132. Council of Europe Commissioner for Human Rights, “Ethical Journalism: self-regulation protects the independence of media”: www.coe.int/en/web/commissioner/blog/-/asset_publisher/xZ32OPE-oxOkq/content/ethical-journalism-self-regulation-protects-the-independence-of-med-1/pop_up, accessed 10 July 2020.

133. *Cumpana and Mazare v. Romania*.

134. OSCE, “Recommendations following the expert meeting Propaganda for War and Hatred and Freedom of the Media”, Vienna, 1 March 2016, p. 3, point 5: www.osce.org/fom/225351, accessed 10 July 2020.

crisis and elections, when excessive limitations on fundamental rights and freedoms and/or electoral irregularities may be expected to occur.

Fair and transparent rules for regulating the media and robust mechanisms to prevent over-concentration and transparency of media ownership are pre-conditions for media independence and pluralism.

State ownership and effective editorial controls over broadcasting and other media are not consistent with Council of Europe standards. Propaganda for war is explicitly banned under international law, as are all forms of incitement to discrimination, hatred or violence.¹³⁵

Public-service media should play a vitally important role by fulfilling their mandate of inclusiveness, accuracy, editorial independence and due impartiality. The requirements of political independence for their supervisory bodies must be strictly upheld to prevent political and other kinds of bias.

Hence, this study recommends that **governments establish effective protections in law and practice to ensure and promote media independence and pluralism.**

THE MEDIA'S ROLE IN SECURING JOURNALISTS' SAFETY, PROFESSIONALISM AND WELL-BEING

While state authorities have legally binding obligations to protect journalists' safety and establish favourable conditions for free, independent and plural media, media and journalists' organisations themselves are called on to promote professionalism to protect the safety of media workers and secure the future of high-quality journalism.

The concerns voiced by the interviewed journalists reflect clear documented evidence that journalists who report on issues such as crime or corruption face risks of injury or even death, in extreme cases, at least as serious as those deployed to a conflict zone.¹³⁶

The International News Safety Institute (INSI) safety code is a recognised industry standard which sets out key action safety strategies for media houses and their employers.¹³⁷ These should always consider "safety before competitive advantage", undertake thorough risk assessments prior to assignments, and provide journalists with adequate hostile environment and risk-awareness training.¹³⁸

Media employers have a duty of care for all their employees. They should ensure adequate insurance cover for staff and freelance journalists who undertake difficult or dangerous assignments. Evidence from this study points to an unsatisfied need for those journalists to be provided with confidential access to professional social-psychological support services.

135. See International Covenant on Civil and Political Rights, Article 20.

136. See the Committee to Protect Journalists (CPJ), "Global Impunity Index 2019": <https://cpj.org/x/7fa2>, accessed 10 July 2020.

137. "The INSI Safety Code": <https://newssafety.org/about-insi/insi-safety-code/>, accessed 10 July 2020.

138. Ibid.

Russian journalist Elena Kostyuchenko works for *Novaya Gazeta*, the same newspaper as the investigative journalist Anna Politkovskaya who was murdered in 2006. Since then, five more employees of *Novaya Gazeta* have also been killed.¹³⁹ Elena Kostyuchenko spoke out strongly for a proper network of centres to provide refuge and psychological support to meet the actual needs of journalists who work under conditions of personal risk and who may suffer traumatic stress. The characteristic “internal culture” of newsrooms, which itself appears to have little sensitivity to mental health, has been a serious obstacle to enlightened attitudes to mental health and well-being.¹⁴⁰ In recent times some prominent individual reporters have spoken publicly about their vulnerability to post-traumatic stress disorder.¹⁴¹ The International News Safety Institute (INSI) code recommends that employers should make available free confidential counselling and train managers to recognise traumatic stress.¹⁴²

This study therefore recommends that **media organisations have robust strategies in place to ensure journalists’ safety and well-being.**

PROMOTING AND SUPPORTING INVESTIGATIVE JOURNALISM

Strong investigative journalism plays a critically important part in holding those in positions of power to account. But in some cases national governments have penalised independent media which receive funding from foreign sources by labelling them as “foreign agents” and imposing other burdens and restrictions. Regional and international associations of investigative journalists have consolidated their capacity to investigate important stories through close collaboration across borders.

Khadija Ismayilova, who was awarded the UNESCO/Guillermo Cano World Press Freedom Prize in 2016, says journalistic investigations to expose corruption and official abuses are at the core of the mission of journalism. In her view governments habitually misuse the powers they have to silence journalists because they “find it effective” – in other words, because they think they will get away with it without serious repercussions. Her words represent a loud challenge to all those who believe in the vital role of press freedom for free and open societies.

The need to sustain investigative journalism is now increasingly recognised by European governments. The European Union has recently made funding available for investigative journalism projects as well as initiatives for media freedom, and improved

139. Nadezhda Azhgikhina, “Novaya Gazeta’ continues to be the watchdog of Russian democracy”, *The Nation*, 10 April 2018: www.thenation.com/article/archive/novaya-gazeta-continues-to-be-the-watchdog-of-russian-democracy/, accessed 10 July 2020.

140. Former BBC news editor Richard Sambrook wrote that in past years “the myth of the hard-bitten hack who shrugs off the troubling scenes they witness had a firm grip on the profession”, but later journalists and managers came to recognise that “reporters are no more immune to the effects of what they witness than anyone else”. See Cottle, Sambrook and Mosdell (2016: 178, 180).

141. Jukes S. and Fowler-Watt K. (2020), “Fergal Keane: hopes that BBC reporter’s courage will help remove stigma of PTSD in journalists”, *The Conversation*: <http://theconversation.com/fergal-keane-hopes-that-bbc-reporters-courage-will-help-remove-stigma-of-ptsd-in-journalists-130657>, accessed 10 July 2020.

142. “INSI Safety Code”: <https://newssafety.org/about-insi/insi-safety-code/>, accessed 10 July 2020.

journalists' safety.¹⁴³ Can Dündar spoke enthusiastically about the “Forbidden Stories” project, in which journalists from several countries collaborate to continue important investigations that are interrupted because another journalist has been killed or forced to stop, as a promising formula for the future of investigative journalism.

Given this background, we urge **all stakeholders, media outlets and journalists' associations to protect and support investigative journalism in its mission to inform.**

JOURNALISTS AT RISK SPEAK OUT: WHO WILL LISTEN?

The cautionary messages from the interviews with these 20 journalists are striking and insightful. Their accounts demonstrate in human and practical ways how the safety, security and independence of journalists are essential in every society to ensure that everyone can enjoy the freedom to express themselves and to receive information and opinions freely without interference. They show, too, why the standards to which member states have committed themselves, in terms of respect for Article 10 rights and other rights guaranteed by the Convention, must be made “practical and effective” – and not merely “theoretical and illusory”¹⁴⁴ – by being supported by appropriate safeguarding and compliance mechanisms.

The 2016 Committee of Ministers recommendation on the protection of journalism and the safety of journalists and other actors has already set out comprehensive guidelines for member states organised around the four pillars of protection, prevention, prosecution and impunity, as well as the promotion of information and awareness raising. Crucially, the recommendation urges member states as a matter of urgency to review domestic laws and practice and revise them as necessary to conform with their obligations under the Convention.

Against this background, the Council of Europe has reached out to this group of prominent journalists whose personal experience sheds light on the realities of their working lives, so that national governments, law makers and concerned stakeholders can better strengthen the effective protections for journalism and media freedom. Their life stories and often passionate appeals for protection show that enhanced political responses are urgently needed in the form of proactive steps by member states to ensure the implementation of the letter and spirit of what was agreed in the ministerial recommendation and the case law of the European Court of Human Rights.

Journalists at risk of violent assaults and legal or judicial harassment require effective safeguards and reforms to ensure the independence of judicial systems, independent oversight of police and security agencies, and genuine respect for the rule of law. Cultures of impunity which protect the perpetrators of crimes must not be allowed to flourish.

The protection of free, independent and diverse media calls for concerted action and far-reaching measures. All branches and levels of state authorities are legally bound by their obligations as state parties to the Convention. Other stakeholders,

¹⁴³ See <https://ec.europa.eu/digital-single-market/en/media-freedom-projects>, accessed 29 July 2020.

¹⁴⁴ *Airey v. Ireland*, Application No. 6289/73, 9 October 1979, paragraph 24.

including employers, journalists' associations and civil society organisations also have essential parts to play and should be consulted when reviews of domestic laws and practices are carried out.

For the Convention system to function well to protect human rights, member states must fulfil their responsibility to ensure that domestic laws and courts generally provide remedies to complainants when violations occur. The European Court of Human Rights is a genuine beacon of hope for many individual journalists and other media actors who face reprisals or sanctions for their work but who have been denied justice in domestic courts. Europe's institutions that have mandates to safeguard the safety and rights of journalists must undertake urgent and assertive steps to ensure that those responsible for serious attacks and abuses against journalists are duly sanctioned, and establish a safe and enabling environment for journalists and other media actors across Europe.

The European Court of Human Rights has been called "the conscience of Europe". State authorities hold a monopoly on making and enforcing domestic laws, but the Court has recognised the vital role of a free media in holding the powerful to account in the public interest. The 20 journalists cited here have exercised their right of freedom of expression by articulating their personal and professional judgments about what it means to be a journalist in Europe today. Their words deserve to enter the conscience of everyone.

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Appendices

APPENDIX A: LIST OF INTERVIEWS (ORDERED BY DATE)

	Name	Date	Location of interview
1	Daphne Caruana Galizia	6 October 2017	Msida, Malta
2	Erol Önderoğlu	9 January 2018	Istanbul, Turkey
3	Khadija Ismayilova	11 January 2018	Baku, Azerbaijan
4	Kóstas Vaxevánis	25 January 2018	Athens, Greece
5	Jessikka Aro	5 February 2018	Zurich, Switzerland
6	Stevan Dojčinović	6 February 2018	Belgrade, Serbia
7	Sofia Branco	15 February 2018	Gdansk, Poland
8	Arman Fazlić	16 February 2018	Gdansk, Poland
9	Jason Parkinson	28 February 2018	London, United Kingdom
10	Andriy Kulykov	4 March 2018	Kiev, Ukraine
11	Gregory Shvedov	7 March 2018	Moscow, Russia
12	Gemma Terés Arilla	21 March 2018	Berlin, Germany
13	Daniele Piervincenzi	11 April 2018	Rome, Italy
14	Jóhann Páll Jóhannsson	30 April 2018	Cambridge, United Kingdom
15	Paul Radu	22 May 2018	Bucharest, Romania
16	Zsuzsanna Wirth	3 June 2018	Budapest, Hungary
17	Edouard Perrin	14 June 2018	Paris, France
18	Can Dündar	20 July 2018	Berlin, Germany
19	Elena Kostyuchenko	4 August 2018	Berlin, Germany
20	Bastian Obermayer	6 August 2018	Munich, Germany

APPENDIX B: INTERVIEW GUIDE

QUALITATIVE STUDY ON EXPERIENCES OF UNWARRANTED INTERFERENCE ON JOURNALISTS

Three sub-session structure of interviews

SUB-SESSION I

Initial single question aimed at inducing narrative and initial response/account

“Can you please tell me your story with regards to your experiences of unwarranted interference during the exercise of your profession/work as a journalist. Please recount all the experiences and the events which were important for you, personally, up to now. For the purpose of this interview unwarranted interference should be taken to mean:

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.

Start wherever you like.

Please take the time you need.

I’ll listen first, I won’t interrupt.

I’ll just take some notes in case I have any further questions for after you’ve finished telling me about it all.”

Interviewer instructions:

- ▶ facilitation but no direction or interruption;
- ▶ unspecified narrative questions if necessary (e.g. tell me more about that ...);
- ▶ note taking on topics for sub-session II.

SUB-SESSION II

Narrative questions on mentioned topics only

Interviewer instructions:

- ▶ only topics raised in sub-session I;
- ▶ only in the order of their raising;
- ▶ only using the words used by the narrator.

SUB-SESSION III

All further questions relevant to the interests and theories of the researcher

- ▶ some topics may arise from I or II;
- ▶ guided questions.

Potential guided questions:

1. Ask interviewee to discuss in turn (if they have not done so spontaneously in the course of sub-section I and II):
 - ▶ experience of physical assault;
 - ▶ experience of sexual harassment;
 - ▶ experience of seizure/confiscation/destruction of property;
 - ▶ experience of non-contact personal thefts;
 - ▶ experience of psychological violence;
 - ▶ experience of targeted surveillance;
 - ▶ experience of cyberbullying;
 - ▶ experience of intimidation by police/political groups/interest groups;
 - ▶ experience of economic pressures;
 - ▶ experience of judicial intimidation;
 - ▶ experience of threats to journalistic sources;
 - ▶ experience of being threatened with violence.
2. What it is like to be doing journalism under pressure?
3. What strategies do you use to deal with/navigate the risks inherent in your work?
4. Can we talk about your possible experience of prejudice on the basis of gender/sexuality, ethnicity, language and religion?
5. Can you talk about the “high points”, “low points” and “turning points” that you have encountered in your career?
6. Does the wider political/cultural context impact on your work? How?
7. What do you think are the most salient consequences these pressures/strategies brought into play?

CONCLUDING QUESTION

1. What do you think should be done to make the work of journalists safer? What was most effective for you personally?

DEMOGRAPHIC DATA (to be collected either at the start or at the end (preferable) of the interview)

Age

Nationality

Country/ies reporting from

Main journalistic activity

Main media used

Main topic reported on

Employment status

Member of union/association

PSYCHOLOGICAL DEBRIEFING – see Debriefing form

APPENDIX C: DEBRIEFING FORM

Debriefing form

Thank you for participating as a research participant in the present study concerning your experiences of unwarranted interference in the course of your journalistic activities. The present study explores what it is like to be doing journalism in a context of fear and has documented how journalists create meaning from experiences by portraying themselves as protagonists in stories where they serve the role of public watchdogs. It also aimed to elicit a deeper understanding of the “high points”, “low points” and “turning points” that you encounter in your journalistic activities and how you negotiate the risks inherent in your profession. It will certainly contribute to the identification of a number of remedies and explore how national, European and international institutions may contribute to the successful implementation of such remedies.

Again, we thank you for your participation in this study. If you know of any friends or acquaintances that are eligible to participate in this study, we request that you not discuss it with them until after they have had the opportunity to participate. Prior knowledge of questions asked during the study can invalidate the results.

We greatly appreciate your co-operation.

If you have any questions regarding this study, please feel free to ask the researcher at this time or Professor Marilyn Clark (e-mail: ...; telephone: ...).

In the event that you feel psychologically distressed by participation in this study, we encourage you to call the Dart Center for Journalism and Trauma: <https://dartcenter.org/>, or the Rory Peck Trust: <https://rorypecktrust.org/>.

Thanks again for your participation.

Professor Marilyn Clark
Department of Psychology
University of Malta

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The murder of investigative journalist Daphne Caruana Galizia in October 2017 sent shock waves through Europe. Violence and acts of harassment against journalists have become alarmingly frequent, as was laid bare in the Council of Europe's 2017 survey of 940 journalists across the continent.

This follow-up study is about the human cost to journalists who seek to hold the powerful to account. It is based on in-depth interviews with 20 journalists who use their reporting skills to expose corruption, injustice and abuses, often putting their safety at risk. They share their insights into the realities of practising cutting-edge journalism while facing aggression, intimidation and vicious cyber-attacks. Too often the necessary protections fail and crimes against journalists go unpunished.

The freedom of the media to report without censorship or fear of reprisals is an essential pre-condition of democratic societies. This study represents a call for action to the 47 member states of the Council of Europe, with practical and forward-looking recommendations for ways to establish effective protection for journalists to enable them to safely fulfil their vital public watchdog role.

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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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