

Protection of Journalists and Journalistic Sources in Europe



By Judith Pies

Project Brief

This publication is within the project entitled "**Media Reform to Enhance Freedom of Expression in Lebanon**", implemented by Maharat Foundation, Legal Agenda and the Media and Journalism Research Center (MJRC) with the support of the Delegation of the European Union to Lebanon.

The project aims at enhancing Freedom of Expression in Lebanon through the promotion of media law reform as a priority on the national agenda and improvement of the environment for media coverage on the transparency and accountability of elections process.

The project supports the publication of background papers produced by Maharat Foundation on the local Lebanese context and by MJRC on the European standards and best fit recommendations for Lebanon.

The papers cover 6 main themes:
Protection of journalists and their sources, Associations of journalists, Decriminalization, Incentives, Innovation, and Regulation, co-regulation and self-regulation opportunities for the media.



Funded by the European Union
بتمويل من الاتحاد الأوروبي

Disclaimer:

This publication was funded by the European Union. Its contents are the sole responsibility of Media and Journalism Research Center (MJRC) and do not necessarily reflect the views of the European Union.

Author

Judith Pies

Judith Pies holds a PhD in communication science from the University of Erfurt. She has been working as a professor of digital and international journalism at the Hochschule der Medien Stuttgart, the University of Dortmund and the Bundeswehr University Munich since 2015. Pies has long-standing experience in academic research, teaching, journalism and management of international media projects. In 2018, she founded the organization Media | Competence | International, which offers international media consultancy and training in media literacy.

Editors: Marius Dragomir and Judit Szakács

Published by

Media and Journalism Research Center (MJRC)

[MJRC](#) is an independent media research and policy think tank that seeks to improve the quality of media policymaking and the state of independent media and journalism through research, knowledge sharing and financial support. The center's main areas of research are regulation and policy, media ownership and funding, and the links between tech companies, politics and journalism.

Maharat Foundation

[Maharat Foundation](#) is a women-led freedom of expression organization based in Beirut dedicated to campaigns grounded in research and strengthening connections between journalists, academics, and policy makers. It advances and enables freedom of expression, quality information debate and advocates for information integrity online and offline. Maharat promotes innovation and engages the journalistic community and change agents within Lebanon and the wider, MENA region to promote inclusive narratives and debates and to counter misinformation, disinformation, and harmful content.

Table of contents

1. Executive summary	Page 1
2. Overview of attacks on journalists in the European Union	Page 2
2.1 Attacks on physical safety and integrity	Page 6
2.2 Detention and imprisonment	Page 7
2.3 Harassment and intimidation	Page 10
2.4 Impunity	Page 10
3. Legal recommendations on the protection of journalists	Page 12
3.1 International recommendations and provisions	Page 12
3.2 Recommendations and provisions on the protection of journalists in the EU	Page 14
4. Overview of legal debates on protection of journalistic sources	Page 17
4.1 Right to refuse to give evidence	Page 17
4.2 Whistleblower protection	Page 19
4.3 Provisions prohibiting spying on journalists	Page 20
5. Conclusions and recommendations	Page 21

1. Executive summary

This research paper refers to four forms of risks against which the protection of journalists and their sources in Europe is essential for press freedom: physical, psychological, digital, and financial. It uses data from the Safety of Journalists Platform, which collects alerts on attacks on journalists' safety in member states of the Council of Europe, to identify recent developments and fields of concerns. The number of alerts increased in the EU from 2019 until 2021 in all categories and has stagnated on a high level after the end of COVID-19 pandemic restrictions. While the number of journalists killed and cases of impunity is comparably low, the number of attacks on journalists during protests and demonstrations went up. The same is true for harassment and intimidation, with so-called Strategic Lawsuits against Public Participation (SLAPP cases) becoming more and more relevant.

Coming from this analysis of the status quo, the paper proposes several legal provisions and recommendations from international and EU institutions to enhance the safety of journalists. Among them are:

- the UN Human Rights Council Resolution on the Safety of Journalists, which encourages states to create a safe environment for journalists, refrain from intimidating media, and establish mechanisms for data collection on threats and attacks against journalists.
- the Council of Europe Campaign for the Safety of Journalists, which aims to raise awareness and stimulate action on safety issues, urging governments to protect journalists by setting up national remedies and action plans.
- the European Media Freedom Act (EMFA), proposing rules to protect media pluralism and independence, including among others a ban on the use of spyware against journalists and a prohibition to force journalists to disclose sources or confidential communications.
- the EU Directive on Strategic Lawsuits Against Public Participation (SLAPP), which recommends that member states should implement anti-SLAPP laws for expedited dismissal of abusive lawsuits.
- the Whistleblower Protection Directive, which establishes a framework to protect individuals reporting breaches of EU law, with provisions for confidentiality, prohibition of retaliation, and establishment of reporting channels.

The research concludes that the protection of journalists and their sources in Europe is a complex issue, with a range of factors at play. It emphasizes the importance of freedom of expression, as enshrined in Article 11 of the EU Charter of Fundamental Rights, and the need for robust legal frameworks to live up to this fundamental right.

2. Overview of attacks on journalists in the European Union

At the core of journalists' rights in the EU is the fundamental principle of freedom of expression, enshrined in Article 11 of the EU Charter of Fundamental Rights.[1] This provision guarantees the right to freedom of expression and information, including freedom of the press and other media. Press freedom, also mentioned by the UN under Article 19 of the Universal Declaration of Human Rights[2], is an essential component of democratic societies in Europe, ensuring the availability of diverse and independent media voices.

Journalists in the EU have all rights that every citizen in the EU enjoys. This includes under Article 3 of the EU Charter of Fundamental Rights the right to physical and mental integrity. Due to their professional role of watching persons and institutions in power, of revealing information that is meant to stay opaque and their professional public exposure, journalists face specific risks. Slavtcheva-Petkova and colleagues define situations as (highly) risky “if journalists face (existential) threats to themselves as individuals and institutional actors and to the viability and sustainability of journalism as an institution making a meaningful and vital contribution to social life.”[3] Hence they distinguish four forms of risks: physical, psychological, digital and financial.[4]

A number of organizations all over the globe monitor such (high) risk situations and reveal attacks on journalists and media organizations. They include Reporters Without Borders (RSF)[5], the Committee to Protect Journalists (CPJ)[6] or UNESCO, which observes, among other things, the killing of journalists worldwide. [7] In Lebanon, SKeys collects and publishes information about violations of press freedom in the region.[8]

[1] Article 11 of the EU Charter of Fundamental Rights states: 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. 2. The freedom and pluralism of the media shall be respected. (cf. Charter of Fundamental Rights of the European Union ((2000/C 364/01). https://www.europarl.europa.eu/charter/pdf/text_en.pdf)

[2] Article 19 of the Universal Declaration of Human Rights states: Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers. <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

[3] Vera Slavtcheva-Petkova, Jyotika Ramaprasad, Nina Springer, Sallie Hughes, Thomas Hanitzsch, Basyouni Hamada, Abit Hoxha, & Nina Steindl. (2023). Conceptualizing Journalists' Safety around the Globe. *Digital Journalism*, 11(7), 1211-1229, DOI: 10.1080/21670811.2022.2162429

[4] Slavtcheva-Petkova et al. (2023). *Conceptualizing Journalists' Safety...*, cit.

[5] Reporters Without Borders (RSF) monitors press freedom and publishes an annual report on the situation of press freedom worldwide. To evaluate the status, several criteria are used, among them “safety” including bodily harm (including murder, violence, arrest, detention and abduction); psychological or emotional distress that could result from intimidation, coercion, harassment, surveillance, doxing (publication of personal information with malicious intent), degrading or hateful speech, smears and other threats targeting journalists or their loved-ones; professional harm resulting from, for example, the loss of one's job, the confiscation or professional equipment, or the ransacking of installations. See Reporters Without Borders. (2022). *Methodology*. <https://rsf.org/en/index-methodologie-2022>.

[6] The CPJ documents attacks on the press worldwide and advocates for press freedom particularly to ensure that justice prevails when journalists are imprisoned or killed. CPJ also provides safety and security information and rapid response assistance. See Committee to Protect Journalists.(n.d.) *What We Do*. <https://cpj.org/about/>

[7] UNESCO. (n.d.). *Observatory of Killed Journalists*. <https://www.unesco.org/en/safety-journalists/observatory?hub=687>

[8] SKeys is part of the Samir Kassir Foundation and, among other activities, monitors press freedom attacks in the Levant, provides legal support to journalists and intellectuals facing prosecution, and financial and moral support to jailed journalists and intellectuals. See SKeys Center for Media and Cultural Freedom. (n.d.). <https://www.skeyesmedia.org/en/Home>

For Europe, the Council of Europe's Safety of Journalists Platform compiles and disseminates 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." [9] The platform publishes alerts that cooperating organizations and associations of journalists in the member states as well as international NGOs report to them. It started its work in 2015 as a background information and early warning provider for the Council of Europe. It categorizes its alerts as follows:

- **Attacks on the physical safety and integrity of journalists:** Killings; abductions; threats and acts of violence against the physical integrity of journalists, their family members and other media actors; attacks against journalists' sources because of their cooperation with journalists or media.
- **Detention and imprisonment of journalists:** Arbitrary, unwarranted or politically motivated arrests, detention and imprisonment of journalists and other media actors.
- **Harassment and intimidation of journalists:**
 - **Harassment** of journalists and other media institutions or actors; violence or interference causing damage or destruction of journalists' equipment or other property; punitive or vindictive exercise of investigatory tax or administrative powers; arbitrary denial of access for journalistic coverage; threats to journalists' privacy, threats to employment status, psychological abuse, bullying, online harassment and cyber-bullying;
 - **Judicial intimidation:** Opportunistic, arbitrary or vexatious use of legislation, including defamation, anti-terrorism, national security, hooliganism or anti-extremism laws; issuing bogus or fabricated charges;
 - **Political intimidation:** Including hate speech and use by public figures of abusive or demeaning language against journalists or media outlets;
 - **Other forms of intimidation and harassment.**
- **Impunity:** Failures to promptly, independently and effectively investigate and seek to prosecute crimes and offenses against journalists and other media institutions or actors.
- **Other acts having chilling effects on media freedom:** Acts having chilling effects on media freedom including restrictive legislation encroaching on media freedom. [10]

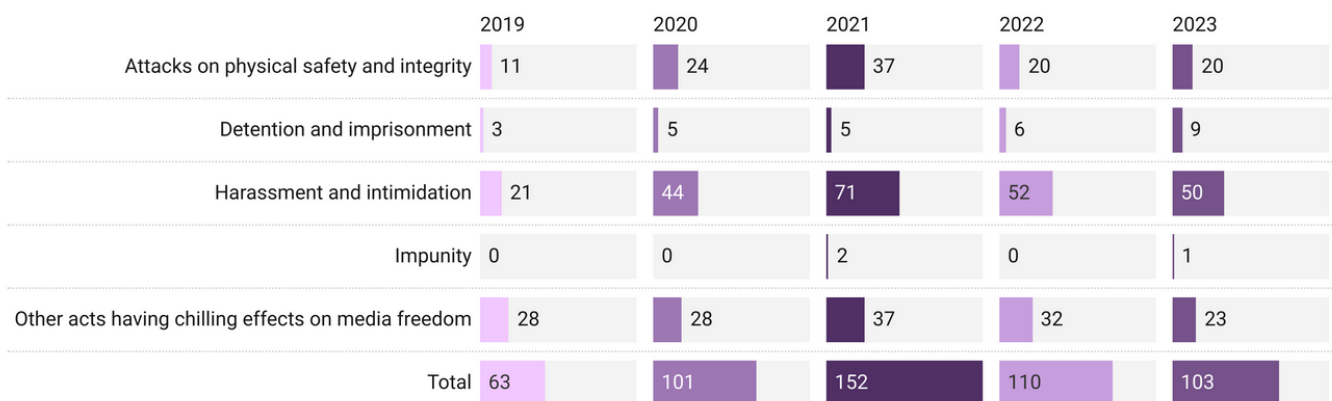
As the Safety of Journalists Platform has collected alerts in an individually searchable database since 2015, it is a good source to draw a picture of the situation of journalists' safety in Europe. For the following analysis, the author created a quantitative data set, in which alerts on the platform in EU member states in the years 2019-2023 are displayed. In addition, alerts from individual countries in particular areas of concern were chosen for an in-depth analysis.

[9] Safety of Journalists-Platform. (n. d.): Who we are. <https://fom.coe.int/en/apropos>. Apart from collecting alerts, the platform highlights the work carried out by the Council of Europe in the field of media, such as texts prepared by the Parliamentary Assembly, standards adopted by the Committee of Ministers, and the relevant case law of the European Court of Human Rights.

[10] See Safety of Journalists-Platform: alerts <https://fom.coe.int/en/alerte>.

The following chart gives an overview of the situation in European Union member states in the last five years (2019-2023). It shows that the number of alerts increased from 2019 until 2021 in all categories. Harassment and intimidation, attacks on physical safety and integrity as well as other forms of acts having a chilling effect on media freedom went up during the COVID-19 pandemic years 2020 and 2021. Since then, they have been decreasing again, but are still higher than before the pandemic in 2019. Compared to European countries outside the EU like Turkey, the Russian Federation or Azerbaijan, the number of detained or imprisoned journalists is still low, although detention and imprisonment went up from 3 in 2019 to 9 in 2023. The number of alerts referring to impunity is very low and mentioned only sporadically, two cases in 2021 and one in 2023.

Figure 1. Number of alerts in different categories in EU member states per year



Source: Own elaboration from data retrieved from Safety of Journalists Platform • Created with Datawrapper

Figure 2 displays the number of attacks on journalists' safety in each EU member state categorizing the form of attack according to the Safety of Journalists Platform's classification. More than 30 alerts between 2019 and 2023 were reported for Spain, Poland, Italy, Greece and France; between 20 and 30 for the Netherlands, Germany, Croatia, Bulgaria and Belgium. It is worth noting that the data are collected from collaborating organizations. In some countries, such organizations are more active than in others. Furthermore, the number of alerts on attacks on the safety of journalists is only one aspect in measuring press freedom in Europe. Hence, the ranking here does not necessarily correspond with overall press freedom rankings like the one from Reporters Without Borders.[11]

[11] As mentioned above, Reporters Without Borders uses a variety of criteria. Safety is only one among others.

Figure 2. Number of different forms of attacks on journalists' safety in EU countries

	Attacks on physical safety and integrity	Detention and imprisonment	Harassment and intimidation	Impunity	Other acts having chilling effects on media freedom	Total
Austria	3	0	7	0	0	10
Belgium	2	2	13	0	8	25
Bulgaria	7	0	17	0	6	30
Croatia	2	0	17	0	4	23
Cyprus	1	0	3	1	0	5
Czech Republic	0	0	3	0	7	10
Denmark	0	0	2	0	0	2
Estonia	0	0	1	0	3	4
Finland	0	1	3	0	2	6
France	28	5	35	0	28	96
Germany	9	1	6	0	4	20
Greece	15	6	14	2	13	50
Hungary	0	0	5	0	14	19
Ireland	0	0	3	0	1	4
Italy	18	0	27	0	10	55
Latvia	0	0	0	0	3	3
Lithuania	0	0	0	0	0	0
Luxembourg	0	0	1	0	0	1
Malta	0	0	7	0	6	13
Netherlands	7	3	6	0	4	20
Poland	3	5	26	0	12	46
Portugal	1	0	3	0	1	5
Romania	2	0	9	0	1	12
Slovak Republic	1	0	7	0	6	14
Slovenia	1	0	10	0	5	16
Spain	9	4	9	0	9	31
Sweden	3	1	3	0	1	8
Total	112	28	237	3	148	528

Source: Own elaboration from data retrieved from Safety of Journalists Platform • Created with Datawrapper

2.1 Attacks on physical safety and integrity

In the last five years, three journalists were killed in EU member states due to their work as journalists: Lyra McKee in 2019 while covering a riot in Northern Ireland (at that time still part of the EU), Peter de Vries 2021 in the Netherlands and Giorgos Karaivaz 2021 in Greece.[12] While Peter de Vries' murderers have been prosecuted, the investigation into Karaivaz' murder is still ongoing at the time of writing in January 2024. The two cases represent positive and negative examples of how judiciary and security forces act to hold perpetrators accountable.

Peter De Vries was gunned down on an Amsterdam street on July 6, 2021, shortly after leaving a TV studio where he had appeared as a guest on a program. The 64-year-old died in hospital nine days after he was shot.[13] De Vries was a crime reporter who had covered high-profile criminal investigations, and had received death threats in 2019 over his coverage of the killing of a teenager in Rotterdam. Seven days after de Vries died in hospital, the police arrested two men. They have been charged with de Vries' murder, and prosecutors are seeking a life sentence for them. The trial against nine other suspects in the murder of de Vries started on January 23, 2024, with the court expected to deliver its verdict in June 2024.[14] In the case of de Vries it is noteworthy that all witnesses and the prosecutor stay anonymous.[15] This is one of the recommendations of the Council of Europe to protect the safety of judges, prosecutors, lawyers and witnesses when working on cases of journalists' murders.[16]

[12] Two well-known cases, the assassinations of Daphne Caruana Galizia in 2017 in Malta and Jan Kuciak in 2018 in Slovakia, happened before the period analyzed.

[13] Agence France-Presse in the Hague. Nine men to be tried for murder of Dutch crime reporter Peter R de Vries. 30 November 2023. The Guardian. <https://www.theguardian.com/world/2023/nov/30/nine-men-to-be-tried-for-of-dutch-reporter-peter-r-de-vries>; Caitlin Danaher, & Rose Roobeek. Group suspected of killing Dutch crime reporter also wanted to kidnap PM Mark Rutte, witness says. 19 January 2024. CNN World. <https://edition.cnn.com/2024/01/19/europe/mark-rutte-peter-de-vries-intl/index.html>

[14] Agence France-Presse in the Hague. Nine men..., cit.

[15] Prozessbeginn im Mordfall Peter R. de Vries - Alle 88 Zeugen bleiben anonym, die Namen der Staatsanwälte dürfen nicht genannt werden (Trial begins in the murder case of Peter R. de Vries - All 88 witnesses remain anonymous, the names of the prosecutors cannot be mentioned). Der Spiegel. <https://www.spiegel.de/panorama/justiz/niederlande-prozessbeginn-im-mordfall-peter-r-de-vries-ich-war-nur-der-fahrer-a-f6526673-be8b-495b-92c5-1484c5188b71>.

[16] Other indicators for an effective investigation to avoid impunity are: "adequacy; independence; thoroughness; promptness; openness to public scrutiny/accessibility to the victims or their families. Practical/operational requirements to stem impunity are put in place: specialised investigation units with expertise in international human rights are established; independence and impartiality of the judiciary is ensured; the safety of judges, prosecutors, lawyers and witnesses is safeguarded; legislation is reviewed with a view to introduce aggravated penalties, removal of limitation periods for the prosecution of and limiting amnesties and pardons for crimes involving ill treatment by state agents, crimes against freedom of expression and for obstruction of justice. Where investigations and prosecutions do not result in bringing to justice the perpetrators, special judicial or non-judicial inquiries / inquiries by independent specialised bodies are carried out. For more details and practical implications." Council of Europe Campaign for the Safety of Journalists. (n.d.). Effective investigation. Stemming impunity. <https://www.coe.int/en/web/freedom-expression/effective-investigation-stemming-impunity#%2272490634%22>.

[2],%2272490649%22:[1]

While in the case of De Vries, judiciary and security forces played a constructive role in holding perpetrators accountable, the judiciary and security forces in Greece have been criticized for their slow progress in the case of the killing of Giorgos Karaivaz. He was known for his coverage of organized crime and corrupt police officers, and he had received death threats prior to his assassination. He was gunned down by two men on a scooter outside his home in Athens on 9 April 2021.[17] Despite the Greek government's assertion that it is doing everything to shed light on the case, little progress has been made in the investigation two years after the incident.[18] In April 2023, the Greek authorities announced the arrests of two suspects in connection with the murder of Karaivaz. However, Human Rights Watch and Reporters Without Borders critically noted that full accountability for the murder requires that *all* those responsible be brought to justice.[19] The Greek judiciary and security forces' handling of the case has been part of broader concerns about the rule of law, media freedom, and government surveillance in Greece.[20]

Apart from deadly attacks, public events such as rallies and protests, in particular demonstrations against measures to combat the COVID-19 pandemic, were the backdrop for most of the recorded physical attacks on journalists during 2019- 2023. Incidents of violence on reporters and media crew members were reported involving protesters in Croatia, France, Germany, Greece, Italy, Spain, the Netherlands, and also involving police and security forces. This is because many media workers stopped displaying their company logo/press identification while reporting in the field to avoid attacks from protesters, which made it more difficult for security forces to identify them as press.[21]

2.2 Detention and imprisonment

In the period 2019-2023, no journalist was imprisoned in any EU member state, but 28 were detained or held in custody: in Belgium (2), Finland (1), France (5), Germany (1), Greece (6), the Netherlands (3), Poland (5), Spain (4), and Sweden (1).[22] Spanish journalist Pablo González as of July, 2023 had been in pre-trial detention in Poland without any evidence of the allegations against him being made public since February 2022. He was arrested by Polish authorities and charged with espionage. In most of the cases, custody lasted only for a few hours, occasionally for days.

[17] Greece: First arrests made over 2021 murder of journalist Giorgos Karaivaz. 3 May 2023. International Press Institute (IPI). <https://ipi.media/greece-first-arrests-made-over-2021-murder-of-journalist-giorgos-karaivaz/>

[18] Liam Scott. As Elections Loom in Greece, Press Freedom on Back Burner. 19 May 2023. Voice of America. <https://www.voanews.com/a/as-elections-loom-in-greece-press-freedom-on-back-burner-/7100841.html>

[19] Human Rights Watch. (2023). Greece: Events of 2023. <https://www.hrw.org/world-report/2024/country-chapters/greece>

[20] European Parliament Committee on Civil Liberties, Justice and Home Affairs. (2023). Draft Report on the Commission's 2023 Rule of Law report (2023/2113(INI)). Rapporteur: Sophia in 't Veld. https://www.europarl.europa.eu/doceo/document/LIBE-PR-754695_EN.pdf

[21] Analysis of alerts on attacks on physical safety and integrity in EU member states in 2019-2023 drawn from the database of alerts by the Safety of Journalists Plattform. <https://fom.coe.int/en/alerte>

[22] A note on terminology: imprisonment is the long-term confinement after a conviction; detention is a temporary measure used when someone is suspected of illegal activity; custody involves restriction of movement, often as part of the arrest process.

Three countries stand out when it comes to detentions: Greece, Poland and France. Many incidents in which journalists were arrested were investigations at borders, for example investigating pushbacks at the Greece border or the border police's action at the Polish-Belarus border. In addition to borders, demonstrations and protests are places where journalists in the EU have been arrested, leading to Council of Europe alerts on detention and imprisonment. In many cases security forces claimed that journalists had had no press card or signs of identifying them as press or that they just had not recognized them as journalists. This is why, security forces said, they suspected the journalists of being part of illegal forms of protests, such as blocking trafficways or entering premises without permission. In most cases, video or audio material later revealed that journalists could have been identified as journalists. In some cases, to justify the journalists' detention, the police subsequently accused journalists of allegedly ignoring their orders, violating the bodily integrity of police officers or assaulting police officers. In all cases, our analysis shows that these allegations were found unjustified by police internal investigations.

Even though journalists were not detained for a long period and allegations were ultimately found unjustified, these arrests undermine the freedom to inform and be informed as this freedom requires the presence of journalists, with or without the press card, in demonstrations or protests, for example. This is why article 5 of the European Convention on Human Rights, as interpreted by the European Court of Human Rights, obliges states not only to avoid violating the right to liberty and security, but also to take proactive measures to protect individuals from unlawful deprivation of liberty. This article aims to prevent arbitrary or unjust detentions, and thus requires domestic laws to align with the Convention's principles, such as the rule of law, legal certainty, proportionality, and protection from arbitrariness. For deprivation of liberty to be lawful, it must be clearly defined in domestic law, which should be predictable in its application, allowing individuals to foresee the consequences of their actions with reasonable accuracy. Upon arrest, "individuals must be promptly informed in a language [they] understand about the reasons for their arrest and any charges against [them]."[23] They must also be brought before a judge quickly, be entitled to a timely trial or release pending trial, and have the right to challenge the lawfulness of their detention in court. If someone is detained in violation of Article 5, they are entitled to compensation.[24]

[23] Council of Europe Safety of Journalists Platform. (2020). Thematic Factsheet: Custody, Detention and Imprisonment of Journalists. <https://rm.coe.int/fiche-thematique-detention-15september-2021/1680a3dc40>

[24] Find more detailed recommended standards as well as case law of the European Court of Human Rights in the Council of Europe Safety of Journalists Platform. (2020). Thematic factsheet..., cit.

Figure 3. Overview detentions

	Detention and imprisonment 2019-2023	2019	2020	2021	2022	2023
Austria	0	0	0	0	0	0
Belgium	2	1	0	0	1	0
Bulgaria	0	0	0	0	0	0
Croatia	0	0	0	0	0	0
Cyprus	0	0	0	0	0	0
Czech Republic	0	0	0	0	0	0
Denmark	0	0	0	0	0	0
Estonia	0	0	0	0	0	0
Finland	1	0	0	0	0	1
France	5	0	3	0	0	2
Germany	1	0	0	1	0	0
Greece	6	0	1	1	2	2
Hungary	0	0	0	0	0	0
Ireland	0	0	0	0	0	0
Italy	0	0	0	0	0	0
Latvia	0	0	0	0	0	0
Lithuania	0	0	0	0	0	0
Luxembourg	0	0	0	0	0	0
Malta	0	0	0	0	0	0
Netherlands	3	1	0	1	0	1
Poland	5	0	1	2	1	1
Portugal	0	0	0	0	0	0
Romania	0	0	0	0	0	0
Slovak Republic	0	0	0	0	0	0
Slovenia	0	0	0	0	0	0
Spain	4	1	0	1	0	2
Sweden	1	0	0	0	1	0
Total	28	3	5	6	5	9

Source: Own elaboration from data retrieved from Safety of Journalists Platform • Created with Datawrapper

2.3 Harassment and intimidation

Threats of legal actions or (online) harassment were among the incidents that triggered many alerts on the Safety of Journalists' Platform in the years 2019-2023. The peak was in 2021, when 71 cases of harassment and intimidation were reported. Although the number sank to 50 in 2023, it is still high, and certain forms of harassment and intimidation that emerged in the years before are still prevalent. The most striking forms as highlighted in press freedom reports are strategic lawsuits against public participation (SLAPP), smear campaigns and (online) harassment.[25] All can have a “chilling effect on journalists and media workers. They can cause significant psychological harm and may also represent a risk to the physical security of the victims, who may turn to self-censorship to avoid being targeted.”[26] In addition, SLAPP cases aim to discourage media and journalists from reporting on topics interesting to the public and are designed to “intimidate and harass the target, especially through the prospect of burdensome legal costs. Even if they are not won in court, these judicial proceedings may have already reached their objective, which is to intimidate and to financially cripple and emotionally exhaust journalists.”[27]

Gazeta Wyborcza in Poland and Index.hr in Croatia each faced around 65 active defamation lawsuits in 2021. This is why media organizations, journalists' associations and NGOs have been alarmed. Lobbying to put the issue on the political agenda in member states and on the EU level, they formed the Coalition against SLAPPs in Europe (CASE). This coalition collects cases, advocates for addressing the issue legally, lists the most notorious figures using SLAPP in their gallery of shame, [28] and offers information on where to get help.[29]

2.4 Impunity

Impunity in reference to killings of journalists triggered three alerts in the analyzed period 2019-2023. One case refers to Kutlu Adalı, a Turkish Cypriot journalist killed in 1996, the second to journalist and broadcaster Sokratis Giolias killed in Greece in 2010 and the third to the television reporter Giorgos Karaivaz killed in Greece in 2021.

[25] Council of Europe Safety of Journalists' Platform. (2022). Defending Press Freedom in Times of Tension and Conflict. Annual Report by the partner organisations to the Council of Europe Platform to Promote the Protection of Journalism and Safety of Journalists. Brussels: Council of Europe. <https://rm.coe.int/platform-protection-of-journalists-annual-report-2022/1680a64fel>; Council of Europe Safety of Journalists Platform. (2023). Thematic Factsheet: Media Coverage of Protests and Demonstrations. <https://rm.coe.int/factsheet-media-coverage-of-protests-and-demonstrations/1680acc392>

[26] Council of Europe Safety of Journalists' Platform. (2022). Defending..., cit.

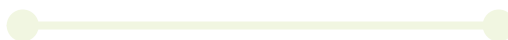
[27] Council of Europe Safety of Journalists' Platform. (2022). Defending..., cit.

[28] Coalition against SLAPPs in Europe (CASE). (n.d.) Gallery of Shame. <https://www.the-case.eu/gallery-of-shame/>

[29] Coalition against SLAPPs in Europe (CASE).(n.d.) Get Help. <https://www.the-case.eu/get-help/>

There are two more infamous cases of impunity in EU member states that date back to the years 2018 and 2017, when the Slovak journalist Ján Kuciak and the Maltese journalist Daphne Caruana Galizia were killed. Until the time of writing in January 2024, none or not all persons allegedly involved in their murder have been convicted.[30]

These cases are similar in that high-ranking politicians have been suspected to be involved in the murders or in the investigations the journalists had been working on. In other cases of killing journalists, such as the murder of Peter de Vries in the Netherlands in 2021, judiciary and security forces “promptly, independently and effectively investigated and sought to prosecute crimes and offences.” This satisfies the recommendations spelled out in the Council of Europe’s Recommendations for “Effective investigation. Stemming impunity.”[31]



[30] Media Freedom Rapid Response. (2023). Greece: Impunity continues two years after murder of journalist Giorgos Karaivaz. <https://www.mfrr.eu/greece-impunity-continues-two-years-after-murder-of-journalist-giorgos-karaivaz/>

[31] Council of Europe Campaign for the Safety of Journalists. (n.d.). Effective..., cit.

3. Legal recommendations on the protection of journalists

3.1 International recommendations and provisions

The safety of journalists has been a serious concern for the profession in many regions of the world, for many decades.[32] In 2012, the UN proposed an Action plan on the Safety of journalists. The plan sets principles for cooperation and practical actions for the safety of journalists, and calls on states to set up mechanisms for the prevention and punishment of attacks on journalists.[33] It informed resolution A/HRC/RES/39/6, adopted by the Human Rights Council on 27 September 2018 urging:

- political leaders and authorities to refrain from intimidating or threatening the media, which undermines trust in journalism (Point 8)
- states to prevent violence against journalists by creating a safe environment for them to work independently, condemning violence against them, and establishing mechanisms for collecting data on threats and attacks against journalists (Point 9)
- states to ensure their laws do not limit the ability of journalists to work independently and without undue interference (Point 10)
- states to ensure measures to combat terrorism and preserve national security do not arbitrarily hinder the work and safety of journalists (Point 11)
- states to protect the confidentiality of journalists' sources, including whistleblowers (Point 13)
- states to tackle gender-based discrimination against women journalists, both online and offline (Point 15)

Additionally, the resolution

- emphasizes the importance of encryption and anonymity tools for journalists in the digital age (Point 14)
- encourages states to use the International Day to End Impunity for Crimes against Journalists to raise awareness about the safety of journalists (Point 16)
- recognizes media organizations for their role in providing safety training and guidance to journalists (Point 17)
- stresses the need for better international cooperation to ensure the safety of journalists and invites states to share information on the status of investigations into attacks against journalists (Points 19, 21)[34]

[32] See the reports by Reporters Without Borders since 1998.

[33] UNESCO. (2012). UN Plan of Action on the Safety of Journalists and the Issue of Impunity. <https://en.unesco.org/un-plan-action-safety-journalists>

[34] United Nations General Assembly. (2018). Resolution A/HRC/RES/39/6, adopted by the Human Rights Council on 27 September 2018 (in Arabic). <https://digitallibrary.un.org/record/1649998?ln=ar>

As the analysis of alerts on the Safety of Journalists Platform demonstrates, the COVID-19 pandemic has once again underlined the importance of safety of journalists in Europe. The increase of killings of journalists in recent years and the war in Ukraine have further increased public recognition of the issue.

Only recently, in October 2023 did the Council of Europe start its own Campaign for the Safety of Journalists. It aims to raise awareness, stimulate effective action on pressing issues, and ultimately increase the safety of journalists and other media actors in the countries of the Council of Europe. In order to reach this goal, it encourages governments to protect journalists by setting up effective remedies at the national level to address threats to journalists and to enact and implement national action plans.[35] Recommendations by the Council of Europe emphasize the state's obligations to protect the safety and security of journalists and other media actors, ensuring their ability to exercise their fundamental rights without fear of violence or intimidation, for example. They include the following provisions:

- The State must guarantee the safety and physical integrity of everyone within its jurisdiction, including the positive obligation to take appropriate steps to safeguard lives (20).
- The State should put in place effective criminal law provisions and law enforcement machinery to secure the right to life and prevent criminal acts, with attention to the vulnerable position of journalists (21).
- Unregulated and arbitrary action by State agents is incompatible with effective respect for human rights, requiring policing operations to be sufficiently regulated and defined by a legal and administrative framework (22).
- The procedural dimension involves a positive obligation on the State to carry out effective, independent, and prompt investigations into alleged unlawful killings or ill-treatment, with a view to prosecuting the perpetrators and bringing them to justice (23).
- The absence of effective measures leads to a culture of impunity, tolerating abuses and crimes against journalists and other media actors (24).
- The State has an obligation to guarantee the substantive liberty of everyone within its jurisdiction, ensuring that journalists and other media actors are not subjected to arbitrary arrest, unlawful detention, or enforced disappearance (25).
- The State should not unduly restrict the free movement of journalists and other media actors, including cross-border movement and access to particular areas, as such mobility and access are important for news and information-gathering purposes (26).
- The effectiveness of a system of protection may be influenced by contextual factors, but relevant State obligations apply in crisis or conflict situations, subject to international human rights law (27).
- Ensuring the safety and security of journalists and other media actors is a precondition for their effective participation in public debate, requiring States to protect them against intimidation, threats, and violence irrespective of their source (28).[36]

[35] Council of Europe Campaign for the Safety of Journalists. (n.d.). Journalists Matter : Council of Europe Campaign for the Safety of Journalists. <https://www.coe.int/en/web/freedom-expression/safety-of-journalists-campaign>

[36] Council of Europe. (2016). Recommendations of the Committee of Ministers to member States on the protection of journalism and safety of journalists and other media actors. Adopted by the Committee of Ministers on 13 April 2016 at the 1253rd meeting of the Ministers' Deputies. https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016806415d9#_ftnl

3.2 Recommendations and provisions on the protection of journalists in the EU

There are different ways of dealing with the problem of attacks on journalists depending on the type of attack. EU institutions provide directives or recommendations. National governments are responsible for implementing EU directives and regulations and for transposing them into national law. If national law seems to disrespect the European Convention on Human Rights, cases can be brought to the European Court of Human Rights. Examples in which national courts ruled against journalists, but were taken up by judgment of the European Court of Human Rights can be found in the court's database^[37] and on the Council of Europe's website.^[38] The following paragraphs will give an overview of some of the most relevant EU provisions and recommendations to foster the safety of journalists.

The European Media Freedom Act (EMFA) builds on the Commission's rule of law reports^[39] and the revised Audiovisual Media Services Directive^[40], which provides for EU-wide coordination of national legislation for audiovisual media. Additionally, it refers to the Digital Services Act (DSA) and the Digital Markets Act (DMA)^[41], as well as the 2022 Code of Practice on Disinformation.^[42] It is a proposed set of rules aimed at protecting media pluralism and independence in the EU in a more general way.^[43] It focuses on regulating government funding of media outlets, preventing domestic political pressure on journalists, and imposing pluralism tests and transparent state advertising, for example. The European Media Freedom Act contains several provisions aimed at ensuring the safety of journalists.

[37] HUDOC Database on case-law by the European Court on Human Rights. <http://hudoc.echr.coe.int/eng#%7B%22documentcollectionid%22:%5B%22GRANDCHAMBER%22,%22CHAMBER%22%5D%7D>

[38] The Council of Europe publishes a selection of cases with reference to freedom of expression and press freedom. See Council of Europe. (n.d.). Impact of the European Convention on Human Rights. Freedom of expression. <https://www.coe.int/en/web/impact-convention-human-rights/freedom-of-speech>

[39] The Rule of law report annually monitors significant developments relating to the rule of law in all EU Member States. See European Commission. (n.d.). Rule of law mechanism. https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/upholding-rule-law/rule-law/rule-law-mechanism_en

[40] European Commission. (2024). Revision of the Audiovisual Media Services Directive (AVMSD). <https://digital-strategy.ec.europa.eu/en/policies/revision-avmsd>

[41] European Commission. (2024). The Digital services Act package. <https://digital-strategy.ec.europa.eu/en/policies/digital-services-act-package>

[42] European Commission. (2022). The 2022 Code of Practice on Disinformation. <https://digital-strategy.ec.europa.eu/en/policies/code-practice-disinformation>

[43] For more information on the EMFA, see Krisztina Rozgonyi. (2024). How to Modernize Media Laws to Cope With Digital Change. Tallinn/London/Santiago de Compostela: Media and Journalism Research Center (MJRC). <https://journalismresearch.org/2024/01/how-to-modernize-media-laws-to-cope-with-digital-change/>

These provisions include:

- Protection against interference: Member states are required to protect media from political, economic, or private interference. This includes interference in the editorial decisions of media outlets.
- Ban on the use of spyware: The Act prohibits the use of spyware against journalists. This provision is aimed at preventing unauthorized access to encrypted content on their devices or forcing them to disclose their sources.
- Protection of sources: Member states are prohibited from forcing journalists to disclose their sources or confidential communications.
- Safeguards against surveillance: The Act includes safeguards against government surveillance. This includes the need to obtain prior authorization from an independent judicial authority before any sanction, search and seizure, access to encrypted data, or use of surveillance technologies.
- Transparency about media ownership: The Act requires all media to be transparent about their ownership. This provision is aimed at ensuring the independence of the media.[44]

The European Parliament passed the legislation in March 2024 before the European Parliamentary Elections in June 2024,[45] after which it will be enforceable in EU courts, with the potential for heavy fines on governments that infringe on press freedom. The Act is seen as long overdue, but there are concerns about the national implementations and the need for more binding rules to achieve its objectives.

In addition to the EMFA, members of the European Parliament have discussed a series of resolutions since 2018 calling for EU action against legal harassment of journalists, media outlets and activists, particularly strategic lawsuits against public participation (SLAPP). The European Commission drafted the Directive on Strategic Lawsuits Against Public Participation, on which finally in late 2023 a political agreement was reached. Among the recommendations for the member states are:

- Implement anti-SLAPP laws that allow for the expedited dismissal of lawsuits that target individuals or groups for their public participation.
- Legal cost shifting: Establish measures to shift the legal costs to the party bringing the abusive lawsuit if the lawsuit is dismissed under anti-SLAPP laws.
- Early dismissal mechanisms: Introduce mechanisms for the early dismissal of lawsuits that are deemed to be manifestly unfounded or abusive, preventing prolonged legal proceedings and financial burden on the defendants.
- Sanctions for abusive litigants: Impose sanctions on individuals or entities found to be engaging in abusive litigation, deterring them from using the legal system to silence public participation.
- Public interest defense: Strengthen the legal recognition of the public interest defense, allowing individuals and organizations to defend themselves against abusive lawsuits by demonstrating that their actions were in the public interest. [46]

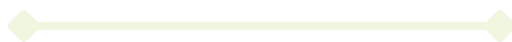
[44] The German media outlet Netzpolitik.org has published the post-Trilogue meeting version of the EMFA as of December 15th, 2023. See Leonhard Pitz. European Media Freedom Act. EU einigt sich beim Hacken von Journalist:innen (European Media Freedom Act. EU agreed on hacking journalists). 12 December 2023. Netzpolitik. <https://netzpolitik.org/2023/european-media-freedom-act-eu-einigt-sich-beim-hacken-von-journalistinnen/>

[45] See the Legislative Train Schedule at <https://www.europarl.europa.eu/legislative-train/theme-a-new-push-for-europeandemocracy/file-european-media-freedom-act>

[46] European Commission. (2022). Proposal for a Directive of the European Parliament and of the Council on protecting persons who engage in public participation from manifestly unfounded or abusive court proceedings ("Strategic lawsuits against public participation") COM/2022/177 final. <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52022PC0177>

In some EU countries, including Italy, Sweden and the Netherlands, National Action Plans for the Safety of Journalists have been already initiated. Sweden has set up national contact points and allocated additional human and financial resources to support journalists and better investigate hate crimes. In the Netherlands, the 'PersVeilig' protocol, aimed at reducing threats, violence and aggression against journalists, was concluded between the public prosecution service, the police, the Society of Editors-in-Chief and the Association of Journalists. Only recently, its funding and capacity were increased. Additionally, a new law to criminalize doxing was passed. In Italy, a Coordination Centre dealing with acts against journalists was set up.

Legal provisions need to be placed into a wider context. In the EU, the protection of journalists involves a combination of legal frameworks, media organizations' commitment, and civil society engagement. Media organizations, both public and private, play a role in fostering safety of journalists. Furthermore, journalism associations and civil society organizations actively advocate for the protection of journalists and their rights. They provide legal assistance, monitor and report on violations, and contribute to the development of policies that enhance the safety of journalists. To elaborate on that would go beyond the scope of this report.



4. Overview of legal debates on protection of journalistic sources

The legal debates on the protection of journalistic sources focus mainly on three topics: the right to refuse to give evidence, the protection of whistleblowers and the prohibition of spying on journalists. All three have been an issue of concern in EU countries in recent years. In France, in 2023 several journalists had their homes or computers searched by security forces to get access to information on their sources.[47] In Greece and Hungary, it was revealed in 2022 that the state had used Pegasus and other surveillance spyware to spy on journalists' work.[48] Such practices undermine the trust in confidentiality potential sources and whistleblowers have if they talk to journalists.

4.1 Right to refuse to give evidence

The right to refuse to give evidence for journalists in EU countries is not an absolute right and varies across jurisdictions. In general, witnesses, including journalists, are obliged to testify when summoned to court. However, under certain circumstances, journalists can invoke the right to refuse to give evidence, particularly when it comes to protecting their sources. This source protection arises from the European Convention on Human Rights. The implementation of this right varies from country to country in the EU. It is generally balanced against the social importance of establishing the truth in legal proceedings, with certain protections in place for journalistic sources.

[47] Reporters Without Borders demands the overhaul of France's law on confidentiality of journalists' sources because of these incidents. French laws include a clause for "overriding requirements in the public interest," a concept that is extremely vague and allows investigators to abuse their investigative powers in order to identify journalists' sources or prevent journalists from revealing information in the public interest. See Reporters Without Borders. (2023). RSF demands overhaul of France's law on confidentiality of journalists' sources. <https://rsf.org/en/rsf-demands-overhaul-frances-law-confidentiality-journalists-sources>

[48] European Parliament. (2022). Report of the European Parliament of the investigation of alleged contraventions and maladministration in the application of Union law in relation to the use of Pegasus and equivalent surveillance spyware. https://www.europarl.europa.eu/doceo/document/A-9-2023-0189_EN.html

According to the Guide on Article 10 of the European Convention on Human Rights by the European Court of Human Rights, the two legitimate aims most frequently relied on to justify interference with the protection of sources are “national security” and “to prevent the disclosure of information received in confidence.” “The prevention of disorder,” “the prevention of crime” and “protection of the rights of others” have also been relied on in several cases.[49] In cases concerning the protection of journalistic sources, the Court frequently refers to Recommendation No. R (2000) 7 on the right of journalists not to disclose their sources of information, adopted by the Committee of Ministers of the Council of Europe on 8 March 2000. [50] Recommendations are spelled out in seven Principles (for details, please refer to the original document):

1. Right of non-disclosure of journalists: Domestic laws should provide clear protection for journalists' right not to disclose information identifying a source. This is in accordance with Article 10 of the European Convention on Human Rights..
2. Right of non-disclosure of other persons: Other individuals who acquire knowledge of information identifying a source through their professional relations with journalists should also be protected.
3. Limits to the right of non-disclosure: The right of journalists not to disclose information identifying a source should not be subject to other restrictions than those mentioned in Article 10, paragraph 2 of the Convention. Disclosure should only be ordered if there is an overriding requirement in the public interest and if circumstances are of a sufficiently vital and serious nature.
4. Alternative evidence to journalists' sources: In legal proceedings against a journalist on grounds of an alleged infringement of the honor or reputation of a person, authorities should consider all available evidence and may not require the disclosure of information identifying a source by the journalist.
5. Conditions concerning disclosures: Only persons or public authorities with a direct legitimate interest in the disclosure should introduce a motion or request for initiating any action aimed at the disclosure of information identifying a source. Journalists should be informed of their right not to disclose information identifying a source as well as the limits of this right before a disclosure is requested.
6. Interception of communication, surveillance, and judicial search and seizure: Measures such as interception orders or actions concerning communication or correspondence of journalists or their employers, surveillance orders or actions concerning journalists, their contacts or their employers, or search or seizure orders or actions concerning the private or business premises, belongings or correspondence of journalists or their employers or personal data related to their professional work should not be applied if their purpose is to circumvent the right of journalists not to disclose information identifying a source.
7. Protection against self-incrimination: The principles established in the document should not limit national laws on the protection against self-incrimination in criminal proceedings. Journalists should enjoy such protection with regard to the disclosure of information identifying a source.[51]

[49] The European Court of Human Rights. (2022). Guide on Article 10 of the European Convention on Human Rights. Freedom of Expression. <https://rm.coe.int/guide-on-article-10-freedom-of-expression-eng/native/1680ad61d6>

[50] For a detailed overview on Court rulings that refer to the ECHR Guide on Article 10 see The European Court of Human Rights. (2022). Guide on Article 10 of the European Convention on Human Rights. Freedom of Expression. <https://rm.coe.int/guide-on-article-10-freedom-of-expression-eng/native/1680ad61d6>, particularly paragraphs 6-8.

[51] Committee of Ministers of the Council of Europe. (2000). Recommendation No. R (2000) 7 on the right of journalists not to disclose their sources of information, adopted on 8 March 2000. <https://rm.coe.int/16805e2fd2>

4.2 Whistleblower protection

Even though in recent years, journalists in Europe have become victims themselves while investigating corruption, those who reveal and expose information (sources) also face high risks of retaliation, ranging from being demoted to being brought to court, losing their jobs and economic stability and having their good names sullied. Therefore, the protection of journalistic sources is crucial for investigative journalism and maintaining confidentiality is necessary for sources to come forward without fear of reprisal. This fear of suffering retaliation has a chilling effect on potential whistleblowers and hence limits journalists to report in environments where pressure is put on potential sources.

Recognizing their significance, the EU has developed the Whistleblower Protection Directive, which provides comprehensive protections for whistleblowers, including those in journalistic activities. This directive aims to safeguard whistleblowers from retaliation and provide avenues for reporting violations of EU law, further enhancing the ability of journalists to uncover and report on matters of public interest.

The EU Whistleblower Directive (2019/1937) is a legal framework established by the European Union to protect individuals who report breaches of Union law. The directive was adopted on October 23, 2019 and member states had until December 17, 2021 to transpose it into their national laws.

Key provisions of the directive include:

1. Establishment of reporting channels: The directive mandates the creation of easily accessible reporting channels within organizations.
2. Confidentiality and prohibition of retaliation: The directive emphasizes the obligation to maintain the confidentiality of whistleblowers and prohibits retaliation against individuals who report breaches.
3. Expanded scope of whistleblowers: The directive significantly extends the protection to a wider range of individuals. A whistleblower is a person “who reports (within the organization concerned or to an outside authority) or discloses (to the public) information on a wrongdoing obtained in a work-related context, helps prevent damage and detect threat or harm to the public interest that may otherwise remain hidden.”^[52]

[52] European Commission. (n.d.). Protection for whistleblowers. European Commission initiatives on the protection of persons reporting on breaches of Union law. https://commission.europa.eu/aid-development-cooperation-fundamental-rights/your-rights-eu/protection-whistleblowers_en

4. Internal reporting provisions: The directive encourages whistleblowers to report breaches internally, provided they believe their report will be handled appropriately. Legal entities within the private and public sector with 50 or more employees must establish internal reporting channels.
5. Protection for facilitators: The directive also applies to facilitators, defined as third parties who are connected with the reporting persons and who could suffer retaliation, as well as legal entities that the reporting persons own.
6. Sanctions: The directive includes details on sanctions for companies that obstruct the reporting of concerns or attempt to obstruct them, fail to keep the identity of the whistleblower confidential, or take retaliatory measures against whistleblowers.[53]

4.3 Provisions prohibiting spying on journalists

Another issue concerning the protection of journalistic sources is the spying on journalists particularly through digital means. There have been concerns about some EU member states seeking to legalize spying on journalists, which has been strongly condemned by organizations such as the European Federation of Journalists.[54]

The European Media Freedom Act (EMFA) mentioned above, also includes provisions aimed at protecting journalists from the use of spyware. The Act bans the use of spyware against journalists, except in strictly defined cases. These exceptions are permitted on a case-by-case basis for overriding reasons of public interest, subject to authorization by a judicial authority. To use intrusive surveillance software against journalists, it must be justified for investigations of serious crimes punishable by a custodial sentence. Even in these cases, surveillance measures must be regularly reviewed by the judiciary. The use of spyware may only be justified as a ‘last resort’ measure, and if ordered by an independent authority. However, the Act has faced resistance from some EU member states, which have requested a “national security” exemption to justify the use of spyware. Journalism associations and civil society organizations have criticized that.[55] For the final version, negotiators settled on saying, “Member States’ responsibilities as laid down in the Treaty on European Union and the Treaty on the Functioning of the European Union are respected.” These treaties state that the EU respects the general functions of the state and the national security interests.[56]

[53] 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/legal-content/EN/TXT/?uri=celex%3A32019L1937>

[54] European Federation of Journalists. EMFA: seven EU member states want to legalize spying on journalists. 13 December 2023. <https://europeanjournalists.org/blog/2023/12/12/emfa-seven-eu-member-states-want-to-legalise-spying-on-journalists/>

[55] Committee to Protect Journalists. (2023). CPJ to EU: The time to act on spyware is now. <https://cpj.org/2023/12/eu-the-time-to-act-on-spyware-is-now/>

[56] Leonhard Pitz. European Media Freedom Act..., cit. <https://netzpolitik.org/2023/european-media-freedom-act-eu-einigt-sich-beim-hacken-von-journalistinnen/>

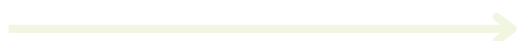
5. Conclusions and recommendations

The overview of developments concerning the safety of journalists in the EU has demonstrated that recent legal debates within the EU are inevitable. Protecting journalists from risks like being attacked, detained, harassed or intimidated is part of the right to free expression as enshrined in Article 11 of the EU Charter of Fundamental Rights.

A number of recommendations already exist internationally, proposing provisions and legal requirements to protect journalists and their sources. They all emphasize the state's obligation to protect journalists and prevent impunity. To guarantee that on the ground, a detailed and cohesive set of laws and – particularly with respect to avoid impunity - strong rule of law are needed. Such provisions are not restricted to media laws alone, but they fall back on more general laws like the right to assemble, police laws or data protection.

On the supra-national level, the EU has initiated several legal provisions to guarantee journalists protection from physical, psychological, financial and digital risk situations. The most far reaching is the European Media Freedom Act (EMFA) that proposes rules to protect media pluralism and independence, including provisions for the safety of journalists. In addition to the EMFA, the Directive on Strategic Lawsuits Against Public Participation (SLAPP) is of high importance, which recommends member states to implement anti-SLAPP laws for expedited dismissal of abusive lawsuits.

The debate on protecting journalistic sources focuses on the right to refuse to give evidence, the protection of whistleblowers and the prohibition of spying on journalists. While the EMFA includes provisions against the use of spyware on journalists and the right to refuse to reveal sources, the Whistleblower directive focuses on the sources themselves. The Whistleblower Protection Directive establishes a framework to protect individuals reporting breaches of EU law, with provisions for confidentiality, prohibition of retaliation, and establishment of reporting channels.



For contexts outside the EU, the described recommendations and provisions provide an overview and give the ability to dig deeper, where deemed to be necessary. The following resources might help when focusing on a specific risk:

The website of the UN Action Plan provides further material on international legal standards on safety of journalists or guidelines for prosecutors on cases of crimes against journalists, for example. Many more materials can be accessed from here: <https://www.unesco.org/en/safety-journalists/un-plan-action>

The website Safety of Journalists publishes practical and legal tools to protect the safety of journalists focusing on online harassment:
<https://safetyofjournalists.trust.org/>

Recommendations for “Effective investigation. Stemming impunity” by the Council of Europe Campaign for the Safety of Journalists can be found here:
[https://www.coe.int/en/web/freedom-expression/effective-investigation-stemming-impunity#%2272490634%22:\[2\],%2272490649%22:\[1\]}](https://www.coe.int/en/web/freedom-expression/effective-investigation-stemming-impunity#%2272490634%22:[2],%2272490649%22:[1]})

A toolkit for judicial actors among others concerning safety of journalists available in Arabic, too, can be found here:
<https://unesdoc.unesco.org/ark:/48223/pf0000378755> (English)
<https://unesdoc.unesco.org/ark:/48223/pf0000381313> (Arabic)

The Safety of Journalists Platform provides thematic fact sheets, including one on Media Coverage of Protests and Demonstrations here:
<https://rm.coe.int/factsheet-media-coverage-of-protests-and-demonstrations/1680acc392>

Media and Journalism Research Center

Legal address

Tartu mnt 67/1-13b, 10115,
Tallinn, Harju Maakond, Estonia

Postal address

6 South Molton St, London,
W1K 5QF, United Kingdom

Academic affiliation

Universidade de Santiago de Compostela (USC)
Colexio de San Xerome, Praza do Obradoiro s/n,
CP 15782 de Santiago de Compostela.

Contact

www.journalismresearch.org
mjrc@journalismresearch.org

Cover photo: Canva Pro

