# 3rd International Press Freedom Seminar:
Off/online Intimidation of Journalists

5 November 2019, Ghent, Belgium

REPORT

The annual International Press Freedom was, for the third time, organised by the Faculty of Law and Criminology and the Faculty of Political and Social Sciences of Ghent University, Belgium. The seminar gathered speakers from different backgrounds: journalists, academics, and civil society organisations supporting and monitoring the protection of journalists, who shared their insights into practices of intimidation of journalists and mechanisms that offer (legal) protection against such practices.
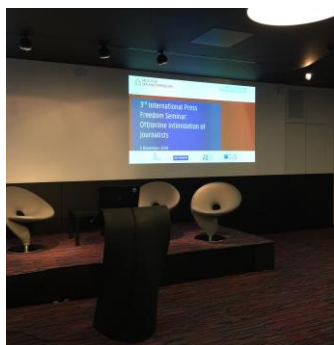
The seminar was opened by professor **Eva Lievens** (Law & Technology, Ghent University), stressing that intimidating practices still do occur in many countries around the world – including in Europe. These practices take on various shapes and forms, happen on different fora – such as social networks, and often target particular categories of journalists. Aside from extremely worrying events including the recent murders of journalists in two member states of the EU - Daphne Caruana Galizia in Malta and Ján Kuciak with his fiancée in Slovakia, there is increasing evidence on more subtle – often unseen and unreported – forms of intimidation.

Earlier in 2019, research in the Netherlands showed that 50 percent of female journalists have encountered threats, intimidation or violence in the context of their professional activities. 18% reported not to write about certain topics anymore, 14% adapts the reporting out of fear of being threatened. 70% of respondents thought that intimidation is a real and actual danger to press freedom.

Professor **Dirk Voorhoof** (Human Rights Centre, Ghent University, Legal Human Academy) gave a keynote speech focusing on the protection of journalists against intimidation, harassment and violence under Article 10 of European Convention on Human Rights (ECHR). Prof. Voorhoof reminded the audience that the 2nd of November commemorates the International Day to End Impunity for Crimes against Journalists to raise awareness about the need to stop assassination, violent attacks, intimidation, blackmailing, threats, unlawful detention and harassment of journalists, obstructing of newsgathering and media coverage and, more generally, creating the atmosphere of fear and 'chilling effect' – which often constitute a violation of Article 10 ECHR. In that regard, the Council of Europe (CoE) has established a Platform to promote the protection of journalism and safety of journalists, through which organisations promoting media freedom inform the CoE about serious concerns regarding the safety of journalists and alleged attacks to media freedom.[1]

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[1] Please also see the Recommendation CM/Rec(2016)4[1] of the Committee of Ministers to member States on the protection of journalism and safety of journalists and other media actors.

The protection of journalists and press freedom depends on the *effective* enforcement of international human rights, as well as constitutional rights and freedoms. Currently, a gap between the provisions in (international) human rights law and its application on the domestic level exists. In the CoE, the European Court of Human Rights (ECtHR) is the ultimate 'watchdog' ensuring that member states implement the requirements of the ECHR. In this respect, professor Dirk Voorhoof raised two specific questions which were addressed through his keynote: (1) How has the ECtHR interpreted and applied the ECHR in order to compel the national authorities to end impunity in crimes against journalists and media workers and (2) How has the ECtHR contributed to a better protection of journalists against violence, intimidation and harassment?

Professor Voorhoof noted that CoE member states have *a 'duty of abstention'* from interference by state authorities with freedom of expression, information and press freedom, as well as a *positive obligation* to protect freedom of expression and to secure an enabling environment for press freedom and to investigate crimes against journalists effectively and adequately. In addition to Article 10 ECHR providing for the protection of freedom of expression, other provisions of the ECHR are also relevant in cases of intimidation of journalists – such as the right to life (Article 2), prohibition of inhuman treatment (Article 3), right to liberty and security (Article 5), right to a fair trial (Article 6), right to privacy (Article 8) and right to an effective remedy (Article 13). In this context, Dirk Voorhoof focused on five specific issues associated with the safety and protection of journalists and provided extensive guidance on the ECtHR judgments and reasoning with regard to:

Assassination	*Gongadze v Ukraine, 2005; Dink v Turkey, 2010; Huseynova v Azerbaijan, 2017; Mazepa and others v Russia, 2018*
Acts of violence	*Özgür Gündem v Turkey, 2000; Uzeyir Jafarov v Azerbaijan, 2015; Emin Huseynov v Azerbaijan, 2015*
Harassment and intimidation	*Khadija Ismayilova v Azerbaijan, 2019; Fatullayev v. Azerbaijan, 2010*
Breach of source protection	*Tillack v Belgium, 2007; Görmüş and others v Turkey, 2016; Big Brother Watch and others v UK, 2018; Becker v Norway, 2017*
Obstruction of newsgathering	*Butkevich v Russia, 2018; Szurovecz v Hungary, 2019*

Unfortunately, the list of serious incidents does not stop here. Numerous cases deal with journalists being arrested, prosecuted, convicted and jailed in breach of Article 10 ECHR. In addition to that, the Court has also dealt with the abuse of defamation law, antiterrorism law, law on extremism, public order, protection of secrecy or classified information and other issues. These cases demonstrate the urgent need for protection of journalists against unlawful detention and vexatious litigation, both by state and non-state actors, as well as the adoption of anti-SLAPP regulation (Strategic Lawsuits Against Public Participation). Urgent, resolute and systemic responses are needed now.

Dr. **Sara De Vuyst** (Centre for Journalism Studies, Ghent University) presented her research on online harassment of journalists from an intersectional perspective. The availability of new digital tools has brought along changes in the way journalists operate and interact with their audience. As the audience is provided with more opportunities for interaction with journalists, their relationship is expected to be more open and democratic. In terms of gender issues, optimism was initially expressed with regard to online spaces offering additional opportunities for women to open up more as well as share their experiences online. A relevant example which both created alternative narratives in the online media and had an impact in the offline world is the recent #MeToo movement, which constitutes a good example of how social media may become an ally of feminism.

Dr. Sarah De Vuyst noted that both male and female journalists are equally impacted by online harassment in the form of cyber-stalking, doxxing, trolling, cyber-bullying, hate speech, public shaming, intimidation or threats. A number of disinformation tactics are often adopted against journalists; journalists are intentionally misled, misinformed and endangered, cyberattacks are launched with the aim of breaching their privacy or uncovering their sources, bots are engaged for the spreading of false information and Artificial Intelligence is used to harm them (for instance, through deep fake videos, troll factories and disinformation campaigns).

The harassment of journalists can be scrutinised through the prism of intersectionality, and may be, more precisely, linked to one's *race*, *disability*, *sexual orientation*, *nationality*, and *gender identity*. Online harassment carries a very strong *gender dimension*, in the sense that female journalists face different forms of violence in comparison to their male colleagues. The feedback received by females is very often sexualised, refers to their appearance or even constitutes rape threats while male journalists are more often criticised with regard to the content of their statements and arguments. At the same time harassment is also connected to *ageism*, it is often the case that female journalists are attacked because they are too young (and thus allegedly lack experience) or too old (and thus allegedly are not 'up to date' anymore). Moreover, young journalists constitute a high-risk category for *burn outs*. As Sarah De Vuyst pointed out, *homophobia* goes hand in hand with *sexism*, while *racism* makes the environment for journalists even worse.

Whilst it is acknowledged that journalists face threats and intimidation, there is a danger of such behaviour being *normalised* in the eyes of both the public and journalists themselves. In fact, it is often stated by the latter that intimidation and threats are part and parcel of their job. Similarly, *minimisation* and *victim blaming* are also gradually becoming a problematic response to the online harassment of journalists, as such behaviour is often perceived to be a normal consequence of choosing to report on controversial topics. Lastly, instances of both online and offline harassment of journalists are *underreported*, as it is often considered the journalist's own responsibility to make a case out of the attack he or she has suffered. As a result, journalists suffer 'real life' consequences, such as psychological harm, trauma, or burn out which can lead to the change of profession or abstaining from their presence on social media. It is also often the case that *resistance* is voiced and individual journalists speak up about the endured harassment; in this regard, [Trollbusters](#) is a platform created to offer 'Online Pest Control for Journalists'. Sarah De Vuyst concluded that there is a strong parallel between offline and online harassment. Women journalists' progress is not linear and is sensitive to structural transitions. They are still underrepresented and often pushed out of the profession due to these new challenges.

There are, however, a number of *strategies* newsrooms could adopt in order to assist and protect journalists from being harassed online as it is essential that they become allies rather than remain mere bystanders in the fight against intimidation and harassment. *In practice*, newsrooms could adopt a 'zero tolerance' approach to threats and intimidation, provide physical security measures and safety training for threatened journalists, offer support strategies for individual journalists who are more likely to be targeted for abuse, conduct gender-sensitive risk assessments and anticipate the likelihood of abusive responses when commissioning stories on particular topics, provide editorial resources, and help report threats and intimidation early on.

Dr. **Flutura Kusari** (legal advisor at the European Centre for Press and Media Freedom (ECPMF)) gave a talk entitled 'Deaths and threats: an account of recent attack on journalists and subsequent investigations'. Dr Kusari has been closely following the domestic level investigations into the murders of Daphne Caruana Galizia in Malta and Ján Kuciak and his fiancée Martina Kušnírová in Slovakia and shed light on the remaining questions and possible legal issues concerning their murder investigations. In addition, Flutura Kusari also monitors the press freedom developments in Albania which were also discussed. According to Flutura Kusari, the recent developments in Europe, and especially in cases where journalists are assassinated, should not be regarded as individual events but rather as organised ones. The focal point of this talk was the need for political as well as legal state responsibility when journalists are intimidated.

Both investigative journalists – Daphne Caruana Galizia and Ján Kuciak – received threats before they were murdered. Daphne Caruana Galizia died after a bomb installed under the seat of her car exploded while Ján Kuciak and his fiancée were shot dead in their home. Before her assassination, Daphne Caruana Galizia's family home was set on fire twice, three of her dogs were killed, and she was threatened many times. In addition, numerous (defamation) lawsuits were initiated against her, presumably to distract her from her investigative anti-corruption work which is the goal of many SLAPP cases. Around 20 of these lawsuits are still active today. The criminal investigation into her death has led to the identification of three suspect hitmen but the legal procedures are being delayed and the case might collapse due to statutory limitations in Malta. Beyond the criminal investigations, member states of the CoE are obliged, under Articles 2 and 10 ECHR, to conduct an effective investigation into the circumstances that led to the journalist's death. That is why the Council of Europe has urged the Maltese government to launch a public inquiry into her death in order to assess the extent of the Maltese state responsibility. This inquiry has not been initiated so far.

Ján Kuciak and his fiancée were 27 years old when they were shot dead in their home. Their killing triggered mass public protests, political resignations and the downfall of the Prime Minister of Slovakia. Just like Daphne Caruana Galizia, Ján Kuciak was threatened and intimidated before he was gunned down – he reported the threats to the police, as well as to the public, but the case was closed as the actions did not qualify as a threat under the Slovak law. However, questions remain with regard to the required state action to protect the journalist and prevent his killing. Currently, a suspect has been detained and is awaiting trial. The two cases very clearly showcase the need not only to investigate who is responsible for the planning and the execution of the murders, but also to find out whether there was anything that the states could have done to protect the journalists from being killed in the first place. In such cases, reacting as early as possible to address intimidation and threats against journalists is one of the solutions. This reaction could be a combination of fact-finding missions, advocacy, court monitoring and press work, especially online.

In Albania, a candidate for accession to the EU, journalists face intimidation, threats and impunity for crimes against them. In that context, an international freedom of expression mission to Albania has been carried out in June 2019 by the ECPMF and partner institutions advocating for the protection and safety of journalists. The mission found that press freedom in Albania is deteriorating. The number of defamation cases initiated by politicians against journalists is rising while defamation and insult are still criminalised in Albania. Various cases

of physical attacks and serious threats, as well as smear campaigns by public officials against journalists occur. The public administration in Albania is not transparent towards the media and recently proposed new media legislation does not meet international human rights standards. Currently, exposing these practices is the main goal and hope remains that international pressure will bring change and effective protection of journalists.

The last part of the international seminar was a **panel discussion** on journalists' perspectives on and experiences with intimidation. The panel was moderated by professor **Sarah Van Leuven** (Centre for Journalism Studies, Ghent University).

Charlotte Michils is a legal advisor at the Flemish Association of Journalists (VVJ). After taking into consideration concerns expressed by journalists about the increasing occurrence of online harassment and intimidation, the Flemish Association of Journalists set up a platform to monitor abusive behaviours towards journalists and allow them to report their experiences. The platform was established in the beginning of 2019 and has a threefold aim; to create additional visibility around the intimidation of journalists, to identify certain trends in the online harassment of journalists and to formulate adequate policy responses. As Charlotte Michils explained, the VVJ has an international agenda and aims to submit journalists' reports on abuse to other platforms with which they closely cooperate. The VVJ addresses all reported incidents on a case-by-case basis and has thus far identified 4 categories of sources of abuse. According to the cases they have handled, abuse comes from those in power (politicians, spokespeople or police), from enterprises, from citizens (acting alone or in a coordinated manner) or from a mix of actors (citizens, interview subjects and their managers, …). So-called SLAPP cases are among the incidents submitted to the platform. In light of a relevant gap in adequate legislative protection in Belgium, the VVJ is advocating in favour of anti-SLAPP legislation. With regard to the chilling effect of online harassment of women, Charlotte Michils noted that, according to findings at an international level, 40 percent of female journalists self-censor as a response to harassment and intimidation they have suffered.

Stavros Kelepouris is a journalist working at De Morgen. He highlighted that a distinction should be made between online intimidation and negative or insulting comments a journalist might receive. To some extent receiving aggressive online feedback may be part of a journalist's job and thus sometimes the threshold for intimidation is quite high. He acknowledged that public scrutiny is to some extent welcome, yet it should not reach the level of harassment. According to his personal experience, Stavros Kelepouris believes that Belgian police do consider cases of online harassment and intimidation of journalists to be important. With regard to the trend of politicians blaming newsrooms of disseminating fake news, which has certainly increased since the start of the Trump presidency and has recently also become traceable in Belgium, he argued that only the scale on which such a tactic occurs, rather than the tactic itself, could be considered new in our society.

The increasing distrust towards media outlets in Belgium partly results from politicians regularly complaining about the (quality of) news broadcasted in the media, regardless of whether the given news-item is truthful or not. Lastly, Stavros Kelepouris emphasised that anti-SLAPP law is in practice difficult to implement. From a practical perspective, the limited availability of (some of) a journalist's contact details could contribute to his or her better protection: having your personal phone number on your social media profiles makes it easier for people to harass you.

Gie Goris is the editor-in-chief of [MO* Magazine](). He noted that most of the journalistic work carried out is received without abuse, however, emotive issues attract more emotive responses. He too agreed that, to a certain extent, responses to journalists are part of the public debate, rather than constitute intimidation. Nonetheless, there is a thin line between acceptable and abusive or threatening responses towards journalists; responses from readers tend to fall more easily under the former category, whereas such reactions coming from people in power should not be equally tolerated. In addition, there is a distinctive difference between individuals' abusive remarks (made, for instance, by a single troll) and systematic abuse. Organised abuse often occurs in the form of campaigns launched by people with political or economic power. In this case, the campaigns target journalism, freedom of expression and press freedom at a conceptual level, rather than individual journalists or news-items. Such schemes are wake-up calls, urging us to react, both in time and collectively. In contrast to isolated incidents of politicians blaming journalists of spreading inaccurate information, when such accusations are made in a systematic way, it amounts to attacking journalism. The online intimidation of journalists has become an evident problem worldwide. When bombarded by negative comments by both politicians and the public about delivering inaccurate and biased news, journalists either feel intimidated or become immune to the attacks (which is also problematic). Similarly, it is also possible that journalists are in some cases strengthened by the accusations, as they contrastingly signal the importance of their journalistic work. The threshold, however, between intimidation and acceptable criticism is defined with difficulty. Gie Goris concluded by underlining that a more structured approach, rather than individual battles against trolling, is much needed. The existing international trend of delegitimising journalists is part of a larger tendency of attacking civil society. To that end, monitoring intimidation and harassment as well as launching a structural response against online abuse, before it becomes physical, are both key to safeguard press freedom.

Dr. **Inger Høedt-Rasmussen** ([Legal Human Academy](), Copenhagen University) formulated concluding remarks. Intimidation does not occur only within the journalistic profession, she observed, and has led to the establishment of a 'law of fears'. Harassment and intimidation incidents – reportedly instigated not only by individuals but also by institutions – signal that democracy as whole is under threat. The response should be twofold; namely, both top-down and bottom-up. Since guidelines and frameworks are in place and institutions seem to be aware of the situation and are in some cases eager to take responsibility, Inger Høedt-Rasmussen steers the focus towards the latter approach. She called for collective action and emphasised our common responsibility to stop abuse and intimidation against professionals at an earlier stage.

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Organisers: prof. dr. Eva Lievens ([Law & Technology, Ghent University]()) and prof. dr. Sarah Van Leuven ([Centre for Journalism Studies](), Ghent University).