

Universal Periodic Review: The Netherlands

Free Press unlimited welcomes the opportunity to contribute to the third cycle of the Universal Periodic Review (UPR) of the Kingdom of the Netherlands. This submission assesses the Kingdom of the Netherlands' compliance with its international human rights obligations, in particular relating to the right to freedom of expression and information. It focuses on:

- The safety of journalists
- Source protection
- Media pluralism

The Netherlands has been doing comparatively well when it comes to press freedom. Having consistently been in the top 10 of the World Press Freedom Index, it is currently ranked sixth overall. However, with attacks against journalists increasing, the public broadcaster NOS removing its logos from vans to protect its employees, and the murder of investigative crime journalist Peter R. de Vries in broad daylight, the state of press freedom in the Netherlands is receiving more and more international attention.

Safety of journalists

In response to the rising threats against journalists, a safety mechanism called *PersVeilig* was launched in 2019. *PersVeilig* (PressSafe) is a project and joint effort of the Dutch National Association for Journalists, the Dutch Society of Chief-Editors (*Nederlands Genootschap van Hoofdredacteuren*), the police and the public prosecutor. The safety mechanism aims to reduce the harm done against journalists.

Albeit these laudable efforts, threats against journalists in the Netherlands are on the rise. Research from 2021 shows an increase in threats and violence against journalists: more than eight out of ten journalists experienced some form of aggression or threats (as opposed to six out of ten in 2017). The frequency of aggression is also increasing: three out of ten journalists are faced with monthly incidents, whereas this was only the case for 18 percent in 2017. In 2021, the Dutch safety mechanism *PersVeilig* received 270 notifications, which is more than twice the total of notifications received in 2020. 93% of journalists see aggression as an emerging threat to press freedom. According to the above-mentioned research, 25% of journalists feel their employers do not do enough to tackle this violence. Especially freelancers (36%), a group that is particularly vulnerable in terms of limited employee protection, are unsatisfied with their employers' protection measures.

In April 2021, a photojournalist was purposely pushed into a ditch with his car after covering a car-fire. In August 2021, a molotov cocktail was thrown into the house of Willem Groeneveld after his critical reporting for a local news website. In October 2020, the national public broadcaster NOS announced that it removed its logos from the vans, because the safety of the staff could not be guaranteed anymore.

Besides laudable efforts of *PersVeilig*, there are not many concrete mechanisms and policies in place to improve the safety of journalists. Currently, the Ministry of Justice and Security has requested the national Research and Documentation Center (WODC) to write a report on the motives that people hold to harass and attack journalists. However, although it was announced that the WODC report would be published in the summer of 2022, the publication has been postponed to the first quarter of 2023. For the research to take this long seems to point to a lack of urgency on the government's side.

Recommendation: clear and targeted policies should be developed to prevent aggression and harassment against journalists. An integral policy from the Ministry of Education, Culture and Science and the Ministry of Justice and Security is recommended to not only improve ways in which journalists learn to cope with attacks, but also to strengthen their position in society.

Research into the motives aggressors of journalists hold to use violence is needed. The WODC report is a welcome step in this beginning phase.

Recommendation: The PersVeilig mechanism has a central role in the country's policy approach regarding the safety of journalists. But it needs to be better equipped, with more staff and capacity.

Safety of women journalists

Women journalists face more harassment based on their gender, while male journalists are usually targeted for their publications. In particular in the online sphere, sexism and also racism are frequent. This is no different in the Netherlands. According to [a survey](#) conducted in 2019 by Dr. Marjolein Odekerken, half of women journalists in the Netherlands had faced threats, intimidation or attacks.

Over the past years, the Netherlands has seen a public discussion about the online harassment of women politicians, academics and journalists. The discussion was sparked by several striking cases such as in 2018, when journalist Clarice Gargard received over 7,600 comments while she was live reporting on a Kick Out Black Pete demonstration. 24 people were sentenced to community service and fines, most for inciting violence and some for encouraging discrimination.

However, few numbers are available that give insight into (online) violence against women journalists not necessarily because it does not happen, but because the data is missing or scarce. PersVeilig does not monitor the gender aspect of violence against journalists, and there is no other mechanism in place to monitor the threats. This lack of monitoring may have implications for the understanding of the safety problems that women journalists face and on developing solutions to address them.

Recommendation: The Netherlands must do more to register and monitor gender based violence against journalists. The government has currently no reporting mechanisms or monitoring tools in place to get an overview of the threats women journalists face.

Recommendation: The Netherlands must explore the possibility of developing safety policies specifically designed for women journalists, taking into account the double burden that women journalists may face, receiving threats both for being a woman and for their work as a journalist.

Protection of journalists against organized crime

On 6 July 2021, Dutch investigative crime journalist Peter R. de Vries was fatally shot in Amsterdam. This was believed to be in relation to his role as a key advisor to the key witness in the Marengo trial, an extensive criminal trial against leading members of a notorious drug trafficking organisation. However, De Vries' murder greatly impacted the (perception of) safety of journalists in the Netherlands. De Vries was under police protection long before he took on this role in the Marengo trial, as his journalistic work led to sincere threats to his physical safety.

The attack comes at a time when Dutch media is under increasing pressure: journalists are reporting an increase in violence and threats against them, and a narrative of distrust in the media seems to be on the rise. These trends have triggered widespread public and political attention to the murder of Peter R. de Vries, as well as the subject of safety of journalists in general. The Dutch Safety Board (OVV) was instructed to investigate the circumstances surrounding the killing of Peter R de Vries. Upon his family's request, the scope of this investigation was expanded to include the cases of all three actors in the Marengo Trial who were murdered: the brother of the key witness and his former lawyer Wiersum. The results of the investigation are expected in the course of 2022.

Recommendation: the Netherlands must take organized crime more seriously. In the past years, the threats emanating from organized crime have increased. Dutch national policies must address this.

Recommendation: the Netherlands must seriously consider the option of tailor-made personal protection for journalists. Specific attention must be paid to the possibility of source protection

when personal protection requires sharing personal agendas with the authorities.

Doxxing

Many Dutch journalists work as freelancers, which means that they often have no other (work) address to register at the Dutch Chamber of Commerce other than their private living address. These addresses are easily obtainable from the Chamber of Commerce registry. This not only raises privacy concerns but also imposes severe risks for their safety. In August 2021 - supposedly as a result of his publications - Dutch journalist Willem Groeneveld was attacked with a fire bomb at his house. His personal address had been publicly disclosed on social media. This attack illustrates the need for better privacy measures to protect journalists' safety.

Although since 1 January 2022 the Chamber of Commerce shields all private addresses in their registry, registration addresses are still accessible. This poses a serious threat to freelance journalists. The only exception is made for cases where a probable threat exists. The Dutch Data Protection Authority (Autoriteit Persoonsgegevens) and a majority vote in Parliament advised to enable the shielding of registration addresses that are also private addresses of journalists to prevent attacks and threats. Currently, the NVJ offers freelance journalists fearing threats the possibility to use its office as their work address. Hopefully, the current law is expected to be amended on July 1st 2022, enabling all journalists to shield their addresses because of a general "probable threat" due to their profession.

Relatedly, on the legislative side a bill to criminalize doxxing is currently being drafted. This would make it illegal to post personal details of journalists and others online. It is hoped that this legislative change will help to adequately address this problem for the freelance journalistic community.

Through these changes and amendments, the Netherlands is making certain steps towards improvement of the recommendations raised in the UPR before. When the Netherlands was reviewed on 31 May 2017, multiple recommendations were made regarding online hate speech. Recommendations 131.74 t/m 131.79 all call on the Netherlands to counter (online) hate speech (A/HRC/36/15/Add.1).

Recommendation: the Netherlands should give the opportunity to all freelance journalists (and other professionals) to request to shield off their home and office addresses. A prior indication of a threat should never be a requisite for shielding off private information.

Journalists and the police

In the Netherlands, demonstrations can be an area of tension between journalists and the police, despite the existence of a clear intention for cooperation between police and media workers as part of PersVeilig. There is for instance agreement to prioritise the detection and prosecution of attacks and harassment of journalists. However, the relationship between journalists and the police has proved fragile sometimes, especially during demonstrations. In 2021, three journalists were arrested within 3 days. On 11 October 2021, Volkskrant journalist Mac van Dinther was arrested during an Extinction Rebellion (XR) protest in The Hague. Two days later, on 13 October 2021, reporter Hans Nijenhuis and photographer Marco de Swart were arrested while covering another XR protest. Their equipment was confiscated. Although one of the arrested journalists did allegedly not carry an official press card with him at the time of his arrest, the other two journalists did.

This suggests a potentially flawed relationship between independent media and the police in the Netherlands. Although there are strong guidelines and agreements in place between the police and the journalistic community, when it comes to implementation some improvement could be made

Recommendation: more capacity is needed for the police, in order for the police officers to be able to meet international Council of Europe and European Commission standards.

Recommendation: journalists rights should be respected while reporting. In case of a public order warrant, if a journalist is arrested, they must be let go of as soon as possible.

Legal intimidation and SLAPPs

There is no official data from the Dutch government on SLAPPs in the Netherlands. However, human rights organisations are noticing an increase, for example through a spike in requests for assistance. A 2021 study on violence against journalists indicated that 20% of the Dutch journalists experienced legal threats or SLAPPs at least once in the past 12 months. However, this data is still mainly anecdotal and thorough monitoring is needed.

Despite concerns in Parliament, there are no indications that the government is currently considering anti-SLAPP-measures due to a lack of data on the nature and scale of SLAPPs that is necessary to assess the need for legislation. The Ministry of Justice was supposed to start an investigation into this in 2019, but we are not aware of conclusions of this research.

Recommendation: the Dutch authorities should collect information regarding the issue of legal intimidation and harassment in the Netherlands.

Intelligence law threatening source protection

Under the Intelligence and Security Services Act (Wet Inlichtingen en Veiligheidsdiensten, WIV), the national secret services were given powers to collect data from millions of citizens that they do not investigate. It is not without reason that the law has encountered a lot of opposition, including from the journalistic community. As a result, the Dutch population voted down this law in a referendum. Nevertheless, the law was passed, with a number of commitments and concessions.

Recently, the secret services have been working on a new legislative proposal introducing more competencies for the intelligence services, with less oversight. Although the proposal is still secret, parts of it were leaked to national newspapers. In the proposal, the cabinet gives the secret services considerably more powers. The trend seems to be towards making it easier to collect and process more data. A good example of this is the so-called 'direction requirement'. This has been emphatically included in the law following the result of the referendum. This requirement obliges the secret services to use their powers as specifically as possible and to ensure that the collection of data takes place as specifically as possible. So with as little by-catch as possible. It is now proposed to remove that requirement from the law again.

The recent developments make the UPR recommendation of 10 May 2017 very relevant. 131.121 recommended the Netherlands to take necessary measures to ensure that the collection and maintenance of data for criminal purposes do not entail massive surveillance of innocent persons (A/HRC/36/15/Add.1). However, the alleged new bill does not seem to improve the massive surveillance of innocent people, but rather to deteriorate it.

Recommendation: the Netherlands must immediately stop the introduction of the new intelligence law. The proposed law allegedly fails to meet international protection standards and contrasts with the democratically elected voting result of the referendum in 2017.

Media pluralism

The Dutch media landscape is characterised by a high concentration of (foreign) media ownership. In June 2021, RTL Group announced its intention to take over Talpa Network, which is currently being reviewed by the Dutch Consumers & Market Authority. The approval of this takeover would severely affect the pluriformity of the Dutch audiovisual media sector, as only two major commercial broadcasters would be dominating the field (compared to six in 2018). The Dutch Media Authority has stressed the importance of a futureproof public broadcasting system to respond to this shrinkage. After the 2020 takeover of Sanoma by Belgian-owned DPG Media, the NOS, one of the biggest news media outlets, is currently the only top 12 online news service that is

not under foreign ownership.

Recommendation: ensure structural investment in (local and regional) independent media, to ensure better financial viability of independent media houses.