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## COMMITTEE ON CULTURE, SCIENCE, EDUCATION AND MEDIA

### The status of journalists in Europe

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#### Expert report

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#### 1. Introduction

1. Questions concerning the definition of the tasks and the status of journalists are repeatedly raised not only within the profession but also in the political and legal debate as their status is not only linked to the nature of the work they do but also to the rights and responsibilities of those who exercise this profession and ultimately to the public service provided by news media.

2. In a traditional media environment, the question of the definition, and by extension that of the status, of journalists did not in itself pose a problem: the different national approaches were all based on a lower common denominator, i.e. that journalists were people whose main activity was to work for a news media. However, since the emergence of blogs, social networks, interaction with users and the exchange of information in real time, the difference between journalists, experts or mere citizens sets the question of their status in sharper relief for legal, political and economic reasons.

3. Their status varies widely from one country to the next to such a degree that one might wonder whether it is possible or really necessary and desirable to determine who is a journalist. The ontological question with regard to journalism also raises the question of changes in the profession: not only strictly technological changes resulting from the fact that everything has gone digital but also economic developments with the complete upheaval of media funding and of societal models with the breakdown of traditional roles between “producers” and “consumers” of content.

4. As the ultimate aim of the report is to consider the status of journalists prior to issuing recommendations, the present document will approach the issue in three steps:

- 4.1. Definition of/access to the profession of journalist: legal framework and overview of the situation;
- 4.2. Impact of the new media environment on the professional status of journalists;
- 4.3. Role of the trade unions and professional organisations.

5. The last part of the document briefly presents a number of “good practices” and contains preliminary proposals for operational recommendations to various stakeholders.

#### 2. Definition of and access to the profession of journalist: an overview of the situation in Europe

6. Journalist’s activities, like the activities of the media in general, are regulated in a wide range of manners in Europe and include self-regulation, co-regulation and state regulation<sup>2</sup>. Compared to state regulation, there are two major advantages to self-regulation: it is more responsive, more flexible and

<sup>1</sup> All opinions expressed in this text are those of the author and do not necessarily reflect the views of the Council of Europe.

<sup>2</sup> With regard to self-regulation, see the OSCE guide: <http://www.osce.org/fr/fom/31498?download=true>

can adapt to the changing circumstances of the media, and above all it avoids any kind of direct political interference. But it also requires a substantial degree of organisation and compliance with decisions by all of those concerned (professional organisations, employers' associations, civil society and individual journalists).

7. A number of European or international bodies have found it necessary to give a definition of journalist in the context of their activities, for example in Recommendation 2000(7)<sup>3</sup> on the right of journalists not to disclose their sources of information: *"the term "journalist" means any natural or legal person who is regularly or professionally engaged in the collection and dissemination of information to the public via any means of mass communication"*.

8. This general definition fortunately does not include any further criteria concerning access to the profession, determined on a national basis. The following is an overview of the situation in a number of European countries.

### **2.1. Germany**

9. In Germany there is no legal definition of the status of journalist. The profession of journalist derives directly from Article 5 of the Constitution, which safeguards freedom of thought, of expression and of the press and prohibits censorship<sup>4</sup>. Unlike countries where the profession is defined by law, journalists do not have to meet any specific requirements. The profession is open to everyone, with no training or selection requirements.

10. German journalists and their professional organisations have always been opposed to a restrictive or binding legal definition out of fear that parliament or the political authorities in general would restrict their freedoms.

11. A press card, *Presseausweis*<sup>5</sup>, does, of course, exist. It is issued by the professional organisations representing journalists. There is also a self-regulation body, the *Presserat*.

#### *Presseausweis*

12. The absence of state regulation leaves the way open for self-regulation in accordance with criteria that are acknowledged by the profession. For example, on its membership form, the German Association of Journalists (Deutscher Journalisten-Verband, DJV), which acts both as a trade union and as a professional organisation, defines a journalist as a person *"whose main occupation is journalism or who is involved in journalism for most of his or her working time. Voluntary work as a journalist is not enough"*. The activity as such is defined as: *"being involved in the development and dissemination of news, opinions and entertainment via the media by means of written articles and reports, pictures, or sounds or a combination of these means of production"*.<sup>6</sup>

13. The vast majority of German journalists have a *Presseausweis*, issued by one of the five professional organisations representing journalists<sup>7</sup>, i.e. three journalists' organisations and two employers' associations. For several years now, commercial organisations have been selling forged or "alternative" press cards without verifying the professional qualifications of the buyers, which is a cause for concern for the "legitimate" organisations. The official press card is currently issued on a regional basis in each "Land" but as from 2018 it will be issued on a federal basis, without any change to the criteria for its attribution. Those who claim to be working as journalists are required to present their employment contract, if they are employees, or invoices or other proof of income, if they are freelancers.

14. The press card is therefore not compulsory but it is a useful means of identification and recognised as such, particularly by the police or judicial authorities and by the organisers of public events. Given that in Germany people who are not active journalists (students, retired persons, press officers, and so on) may also be members of a journalists' trade union and the fact that the statistics of the national employment agency take journalists, publishers and "publicists" (those responsible for

<sup>3</sup> [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=09000016805e300c](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016805e300c)

<sup>4</sup> *"Every person shall have the right freely to express and disseminate his opinions in speech, writing, and pictures and to inform himself without hindrance from generally accessible sources. Freedom of the press and freedom of reporting by means of broadcasts and films shall be guaranteed. There shall be no censorship"*.

<sup>5</sup> <http://www.presseausweis.org>

<sup>6</sup> <https://www.djv.de/startseite/profil/mitglied-werden/aufnahmerichtlinien.html?type=500>

<sup>7</sup> DJV, DJU in ver.di Verband Deutscher Sportjournalisten (VDS, sports journalists) for the trade unions, and the Verband Deutscher Zeitungsverleger (BDZV), Verband Deutscher Zeitschriftenverleger (VDZ) for employers.

commercial communications) into account, the available figures concerning the profession vary, but the DJV estimates the total number of professional journalists in Germany at some 73 000<sup>8</sup>.

### Presserat

15. The German Press Council (*Presserat*), a self-regulating body which receives and assesses complaints concerning the content published by journalists in the press and online, is responsible for ensuring compliance with the rules of professional conduct. The GPC, which is modelled on the *British Press Council*, was set up in 1956 by the professional organisations themselves following the rejection of a draft law submitted in 1952, proposing the creation of a public law body. The *Presserat* has a Bureau (*Gremium*) comprising two representatives of each of its constituent organisations, i.e. two journalists' organisations and two publishers' organisations<sup>9</sup>, in other words 8 persons who head the Council. Complaints are dealt with by a more wide-ranging body (*Plenum*), which examines complaints in accordance with the "*Pressekodex*"<sup>10</sup>, the first version of which dates back to 1973. It should be noted that over the past few years the Kodex has taken account of the consequences of media digitalisation. The penalties issued by the *Presserat* are: admissibility without consequences, the warning (*Hinweise*), the official disapproval (*Missbilligung*) and finally the reprimand (*Rüge*) published by the media concerned. For example, in 2016, 728 complaints were received, 297 of which were admissible and resulted in 151 warnings, 64 official disapprovals and 33 published reprimands<sup>11</sup>.

## **2.2. France**

16. In France, unlike in Germany, there is a legal definition of the profession of journalist. The profession is therefore subject to state regulation. Article L7111-3 of the Labour Code states that a professional journalist can be "*anyone whose main, regular and paid occupation is the exercise of their profession in one or several media outlets, daily or periodical publications, or press agencies and who earns most of their income in this way*"<sup>12</sup>. In 1982<sup>13</sup> this definition was extended to include the employees of audio-visual communications companies (until 1982 the audio-visual sector was exclusively public and had a specific legal status). Furthermore, Article L 7111-4 states that the profession of journalist is incompatible with that of "advertising agents", i.e. persons who, even occasionally, receive advertising commissions, and a decree issued by the Minister of Information in 1968 declared that the positions of public relations officer and press officer, even if occupied on a subsidiary basis, were completely incompatible with the status of professional journalist. In May 1986, a decree issued by the State Council also prohibited all public officials or temporary public employees from holding this status.

### National Press Card Commission and press cards

17. Press cards are issued by the "Press Card Commission"<sup>14</sup>, made up of sixteen full members (eight representing the trade unions and eight the employers, including press agencies and the public audio-visual sector), who are elected or appointed for three years. The representatives of the trade unions are elected from among the six trade unions representing the profession (*see below*). In addition to these full members, there are 38 regional correspondents representing the 19 regions outside Paris.

18. One particular feature of the French system is the Cressard Law of 4 July 1974, which grants the full status of journalist<sup>15</sup> to not only employees but also freelancers. For this reason, the status of a French freelance journalist differs substantially from that of freelancers in other countries, who are generally excluded from collective agreements and from the system of social protection for employees (sick or parental leave, unemployment insurance, pension system, etc.).

19. Online journalists can secure a press card by proving that they are covered by the collective agreement (it is therefore the employment contract which determines their journalistic status) and that

<sup>8</sup> <https://www.djv.de/startseite/info/themen-wissen/aus-und-weiterbildung/arbeitsmarkt-und-berufschancen.html>

<sup>9</sup> <http://www.presserat.de/presserat/aufgaben-organisation/>

<sup>10</sup> <http://www.presserat.de/pressekodex/pressekodex/>

<sup>11</sup> See <http://www.presserat.de/beschwerde/statistiken/> for all of the statistics

<sup>12</sup> Occasional contributors are not entitled to the status of journalist: "*only those who make a permanent academic contribution to a periodical publication with a view to informing its readers shall be considered to be journalists*" (Cass. soc. 28 May 1986, No.1306; Cass. soc. 1 April 1992).

<sup>13</sup> Law of 29 July 1982 (No. 82-652)

<sup>14</sup> <http://www.ccijp.net/>

<sup>15</sup> "Any agreement by which a media outlet secures the paid services of a professional journalist" is considered to be a contract of employment.

their employer's mission is to provide the public with news. Freelancers must have an average monthly income of at least 50% above the minimum wage (SMIC). In addition to the case of persons who work in other sectors at the same time, most questions concern the audio-visual sector where the situation of companies producing talk-shows or entertainment programmes is ambiguous. Exactly 35 238 press cards were issued in 2016<sup>16</sup>, which is the lowest number in the past 10 years (the highest was 37 390 in 2009).

20. In concrete terms, the Commission verifies:
  - whether journalism is in fact the main, regular occupation (3 consecutive months in the case of the first application) of the person concerned,
  - whether journalism provides the applicant with the majority of his or her income (over 50%. If the person's income from journalism is higher than 75%, a press card is automatically issued),
  - If the applicant's activities are clearly carried out in the context of the profession (activity, media outlet)
21. Three things should be noted with regard to France:
  - Just as the law defines what constitutes a journalist, it also penalises forgery or abuse<sup>17</sup>;
  - These rules raised the question of freelancers in precarious positions, who may be irregularly employed with the result that they do not earn the minimum income or work the minimum hours required by law;
  - The press card is not compulsory as people can work as journalists without such a card: it is the employment contract which testifies to the fact that the person is a journalist and the fact of holding a press card does not change the contractual relationship between journalists and their employers. However, the collective agreement prohibits that press enterprises which have signed the agreement employ journalists who have no press card for more than three months. Nor is it a press card which determines the allocation of "employment expenses" provided for in French tax returns.

### **2.3. Belgium**

#### The title of "professional journalist"

22. The Belgian law of 30 December 1963 does not define what journalism is but it defines what a professional journalist is: a person who has made journalism "*his or her main professional occupation for at least two years and who performs such work on behalf of a general news media*". The Belgian status makes a distinction between generalist professional journalists and those who work for specialist media. The latter have the title of "journalist for the periodical press".

23. In the case of freelance journalists who do not have a permanent contract of employment, their official declaration of income serves to determine the nature of their work. Although the financial criteria are less stringent than in France, journalists are required to have worked for a relatively high number of hours, which does not facilitate matters for freelance, occasional or precarious journalists or those who are starting out in the profession. For that reason, there is also the title of "trainee journalist", which applies to any person who can provide proof of professional activity lasting more than three months. After two years working as a journalist, trainees may apply to be certified as professional journalists.

24. The title of "professional journalist" is granted by an official Certification Commission<sup>18</sup>, made up of an equal number of professional journalists<sup>19</sup> and media executives, and which, as one would expect, comprises a French-speaking section and Dutch-speaking section. If both full members and their substitutes are taken into account, a total of 70 persons, all voluntary, are involved in the Certification Commission after being officially appointed by royal decree. It should be noted that there is a commission of 1<sup>st</sup> instance and an appeals commission, with whom appeals may be lodged in the

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<sup>16</sup> <http://www.ccijp.net/article-33-cartes-attribuees-en.html>

<sup>17</sup> Article L7114-1 of the Labour Code: "The following offences are punishable by two years' imprisonment and a 3 750 euro fine: 1) knowingly misrepresenting a fact with a view to securing a journalist's identity card or the identity card of an honorary professional journalist; 2) using a card which was fraudulently obtained with a view to benefiting from the advantages offered by such cards; and 3) knowingly providing false certificates with a view to obtaining such a card. The same penalties are applicable to those who make, distribute or use a card which resembles one of these cards or the documents issued to journalists by the administrative authorities in such a manner as to be misleading".

<sup>18</sup> <http://www.ajp.be/commissions-agreation/>

<sup>19</sup> The journalists are representatives of the Association of Professional Journalists of Belgium, which also acts as a trade union.

event of an initial refusal. Finally the case of foreign journalists, of whom there are many in Brussels, is examined by an “advisory section”, set up for that purpose and whose members are, quite rightly, foreign journalists.

25. As in France, journalists in Belgium are not required to hold an official press card in order to have the right to work. The title serves to identify those who are professional journalists and to give them a specific social status, in particular where their pension rights are concerned. The press card includes a car windscreen “sticker”, making it easy to identify professional journalists and give them access to certain institutions or events.

#### The Journalists Ethics Council

26. Although the criteria for the allocation of a press card and the status of journalist in Belgium is similar to those in France (with the noteworthy exception of the status of freelancer), in 2009 Belgium set up a Journalists Ethics Council (CDJ). This body is composed of 20 full members and 20 substitutes representing journalists, chief editors, publishers and civil society experts. The purpose of the CDJ is to issue opinions, express own-initiative opinions, as requested or in response to complaints, on the way in which news is dealt with in all of the media. It therefore operates along the same lines as the German *Presserat* or the “Press Councils” which exist in other countries (see below). In 2016 the CDJ issued 40 opinions. The media concerned by complaints are obliged to publish the text addressed to them by the CDJ without any modifications and accompanied by a hyperlink to the opinion on the CDJ website.

27. Apart from complaints and “requests to mediate without a complaint”, the CDJ also replies to requests for information on widely varying subjects: the use of photos found on Facebook, limits to “immersion journalism”, return to journalism after holding political office, the privacy of children of celebrities, advertising a company belonging to the same media group, etc.

#### **2.4. Other countries**

28. Although this appraisal does not concern all Council of Europe member states, it is nevertheless useful to mention a number of other noteworthy or interesting situations.

##### United Kingdom

29. In one of the birthplaces of journalism and freedom of the press, the status of journalists is historically based on self-regulation and a press card is allocated by the “*Press card authority*”<sup>20</sup>, which comprises the main professional organisations representing journalists, in particular the National Union of Journalists (NUJ), the trade union which issues over half of the press cards in the UK. There are a total of 18 organisations (trade unions, publishers, press agencies), which are authorised to issue press cards. It should be noted that the requirements for obtaining a press card mention the person’s professional activity as a “media worker” and not solely as a journalist. As in Germany, a *Press council* was set up (in 1953) as a self-regulating body, and was replaced in 1991 by the *Press Complaint Committee*, which was in turn replaced in 2014 by the Independent Press Standards Organisation<sup>21</sup>.

##### Nordic countries (Denmark, Finland, Norway, and Sweden)

30. Freedom of expression has been enshrined in the Swedish Constitution since 1766. In the Nordic countries, professional journalists are represented by a single national trade union, which issues press cards. The status of journalists is therefore defined mainly by membership of the trade union.

##### Italy

31. The situation in Italy is unique in Europe, if not in the entire world, as the profession of journalist is governed by the Italian Order of Journalists (*Ordine dei Giornalisti*<sup>22</sup>), comprising a National council and regional branches, which issue press cards, and a disciplinary board. The law requires that journalists must be registered with the ODG as *professionals*, a status which itself sets requirements with regard to age, length of practise and training.

<sup>20</sup> <http://www.presscard.uk.com/>

<sup>21</sup> L’IPSO est fortement critiqué par le NUJ car étant trop axé sur les intérêts patronaux et la non-reconnaissance de la clause de conscience pour les journalistes. Un autre régulateur est en cours de discussion.

<sup>22</sup> <http://www.odg.it/>

32. Finally, it should be noted that all holders of a national press card and all members of a trade union which is a member of the International Federation of Journalists can obtain an international press card<sup>23</sup>, which is recognised by international organisations and at borders.

### 3. Impact of the new media environment

33. What is most important is not the medium but the content: the media environment has constantly changed since the first known newspaper, the *Relation aller Fürnemmen und gedenckwürdigen Historien*, was printed in Strasbourg in 1605. In addition to newspapers we now have electronic media, which are often subject to stricter regulations on account of technical requirements and their political scope (the end of a state-controlled and closely supervised audio-visual service only came about after 1991 in all of the eastern part of Europe).

34. The current nature of the media environment results from the changeover, from the beginning of the first decade of the 21<sup>st</sup> century, to “all-digital” methods of journalistic production and dissemination. Even newspapers are produced by journalists in a digital manner in newsrooms whose methods of operation have radically changed over the past 20 years. This development has led to profound changes in the daily lives of journalists and has led to some confusion between professionals and other “media contributors”.

#### 3.1. The same status but a new technological environment

35. The official status of journalists has remained the same despite the multitude of technologies since professional journalism is still the same in essence. However new forms of production and new sources of information have emerged even in the “traditional” media.

36. Whereas traditionally sources were identified (agencies, press releases, and investigative work), information now also comes from non-professional sources (bloggers, “you-tubeurs”, content generated by the users, etc.). The question of the “user-generated content” or the generic terms “citizen journalism” concerns this expertise in a relatively limited manner since by definition non-professionals do not have any particular status. No country in Europe grants the status of journalist to persons who do not meet the necessary requirements, i.e. that their main occupation is the processing of information and that this is how they earn their living, which does not, of course, apply to amateur bloggers. In theory, for example, bloggers in Germany may obtain a *Presseausweis* provided they meet the afore-mentioned requirements for its allocation. However, as a result of the media economy single individuals who do not sell their articles to press organisations simply cannot make journalism their main activity and source of revenue.

37. Although some more analytical platforms such as *Les Crises*<sup>24</sup> publish bloggers’ contributions, the latter are not paid for their contributions and the website clearly states that such contributions do not constitute “information”. At present, bloggers who are successful are either journalists who blog in addition to their normal work, or other professionals (legal and scientific experts) who do not necessarily claim to be journalists. The debate in Germany currently concerns these *Gelegenheitsbloggers*, bloggers whose main occupation is not blogging but who nevertheless want their status to be acknowledged because they produce quality content<sup>25</sup>. For them the *Presseausweis* is not an end in itself but this category of bloggers cannot necessarily claim rights such as the protection of sources. In the event of libel and slander, the criteria applied by the courts in the case of disputes will be the same as for professional journalists since these rights are enshrined in the Constitution.

38. Indeed, the development of “citizen content” means that it is not so much the status of journalists that poses questions but rather that of its impact on professional journalism, i.e. verification of information, decrease in quality and above all radical changes in economic models.

39. As soon as technologies made it possible (as from 2008), the traditional media took advantage of the situation to have recourse to non-professionals not only to diversify their sources and offer a wider range of content but also to make savings in terms of salaries:

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<sup>23</sup> <http://www.ifj.org/press-card/>

<sup>24</sup> Par exemple <https://www.les-crises.fr/>

<sup>25</sup> <http://www.taz.de/!5350135/>

- For example *The Blog Paper*<sup>26</sup> in Great Britain planned to gather articles from bloggers and to publish them in the form of a hardcopy magazine for which payment would be required. However the project collapsed.
- The same year, in France, the free daily newspaper *Metro* drew up an agreement with the photography agency *Citizenside*, which “pays” non-professional photographers from 10€ upwards.
- For many years, the German magazine *Bild* has had a “Leser Reporter” column<sup>27</sup> based on photos and short texts sent in by readers.

40. Recourse may be had to non-professional journalists for other reasons: the *Bondy Blog*<sup>28</sup> was set up in 2005 in the Paris suburb of Bondy by journalists of the Swiss magazine *L’Hebdo* to mitigate the lack of information during the “riots” in a number of Paris outer-city areas and by giving a voice to young people, who otherwise had difficulty in making their voice heard. The blog subsequently set up a series of partnerships with the “traditional” media, schools of journalism and sponsors and currently publishes articles by some fifty contributors.

41. These examples are cited as initial experiences but recourse to non-journalistic content has since become very widespread if not the norm. Sometimes citizens’ contributions help to improve news coverage and make it more immediate, for example when tweets bear witness to police violence during protest marches or in conflict areas.

42. There is nothing new about having recourse to non-professionals as witnesses of news that could not otherwise have been obtained (accidents or exceptional events) but making this part of the daily functioning of the media economy and making it the norm is a much more recent development.

43. Finally, a further addition has been content generated by robots: since 2010 sectors such as sport (sports results) and finance (stock exchange developments throughout the world) have been affected by widespread recourse to “robot journalism”. In sport, for example, robots are currently capable of creating a short video using photos and a text comprising three paragraphs, which was itself created by a robot<sup>29</sup>.

44. Other innovations are to be expected in the coming years, for example the Internet of objects and the recognition of pictures, which will make it necessary to reconsider how things are represented and conversational interaction, which give the public the opportunity to ask a robot questions on the content of an article, the mixed reality, which combines journalism and the immersive environment, etc. These innovations will be not only technological but also professional because they will have to be designed, programmed and, hopefully, controlled by human beings.

### 3.2. How journalists’ daily lives are changing

45. Journalists need to be active on social networks (Facebook, Twitter, Instagram, etc.)<sup>30</sup>. In the United Kingdom, over 80 000 tweets are posted every year by professional journalists in the context of their work. Since 2013, Guardian’s Twitter account has had over a million subscribers and has now just gone over the 6 million mark. In Germany 30% of journalists believe that social networks are “important or very important” for their work<sup>31</sup>. The development of media content on the social networks has brought with it new job profiles (in particular “community managers”).

46. These new tasks and new skills logically raise the question of training and professional norms. Many “community managers” have no in-depth knowledge of professional journalistic norms whereas their work entails responsibilities with regard to content and vis-à-vis the public, which may pose problems in terms of quality and professional conduct. Moderating online comments is also an extremely important issue since a ECHR judgment handed down in 2015<sup>32</sup> confirmed that an online news portal was responsible for comments made by its readers entailing “hate speech and speech that directly advocated acts of violence”. The director of an information publication was also instructed to “police” online comments.

<sup>26</sup> <http://www.theblogpaper.co.uk/>

<sup>27</sup> <http://www.bild.de/news/leserreporter/leserreporter/home-15682146.bild.html>

<sup>28</sup> <http://www.bondyblog.fr/>

<sup>29</sup> <https://www.journalism.co.uk/news/report-robot-journalism-s-limitations-not-halting-its-onward-march/s2/a700429/>

<sup>30</sup> <https://www.journalism.co.uk>

<sup>31</sup> <https://de.statista.com/statistik/daten/studie/305052/umfrage/bedeutung-sozialer-netzwerke-fuer-die-recherche-von-journalistn/>

<sup>32</sup> Delfi AS. v. Estonia: <http://merlin.obs.coe.int/iris/2015/7/article1.fr.html>

### 3.3. *The increasing job insecurity of journalists and the explosion in the number of freelancers*

47. Humans form the basis of journalism even if since the nineteen nineties staff expenditure has often been considered to be an adjustment variable by press groups, which are increasingly concentrated and dependent on financial markets. Contrary to common belief, the “press crisis” did not begin in the nineteen nineties but much earlier when media ownership changed hands from family groups to financialised and heavily concentrated economic structures with either a “vertical” form (as is the case with regard to the regional daily press in France which is in the hands of a small number of groups) or a “horizontal” concentration (when the media are amalgamated into an often multinational company and active both in journalism, fiction, telecoms, etc.). There were spectacular developments in the “consolidation” of the media in the nineteen nineties in Central and Eastern Europe with the increasing role of free-market economics, thereby providing the opportunity for West European groups to get their hands on almost all private media<sup>33</sup>. On grounds of national responsibility for this area, the European authorities did not prevent the concentration of ownership, sometimes with the ulterior motive of facilitating the emergence of “media giants” capable of competing with American groups.

48. Media ownership is not the theme of this report but journalists’ job insecurity is directly linked to economic pressure and the collapse of the traditional model of financing (based until recently on approximately 50% of sales revenue and subscriptions and 50% from advertising). Income from distribution remains but advertising revenue has dropped substantially, in particular as a result of the rise in power of GAFA (Google-Apple-Facebook-Amazon). Online advertising, although Internet users sometimes find it intrusive, remains relatively marginal in terms of income. If we refer to the very well documented American market, the advertising income of the press dropped from 65 billion dollars in 1999 to 20 billion in 2013, and only some 3 billion came from online advertising. Newspaper revenue dropped from 0.8% of GNP in 1990 to 0.2% in 2016<sup>34</sup>. The decline in the printed press in the United States is such that the Newspaper Association of America dropped the term “newspapers” from its name in 2016 to become the *News Media Alliance*. In Europe, newspaper circulation dropped by 21% between 2010 and 2015 and advertising revenue by 23% over the same period while advertising on digital media represents no more than 20% of revenue<sup>35</sup>.

49. This economic upheaval is one of the main factors that has led to job insecurity for journalists: the decline in revenue of the majority of the media, publishers’ casting around for new financial models (free access, “paywall” or “pay-per-view”, increasing the sales price, or doing away with the printed version) and the quasi-automatic recourse to the outsourcing of work contracts have largely contributed to journalists’ job insecurity.

50. This job insecurity is however above all the result of the explosion in the number of so-called “freelance” journalists, although recourse to atypical work relations covers a wide variety of statuses: freelance journalist, *auto-entrepreneur*, short-term or part-time contracts and sometimes even agency work. Generally speaking there is a “grey area” where the status of non-employees is concerned<sup>36</sup>. The common characteristic of these statuses is that most of them are imposed by employers, with the result that their title does not mean what it says since instead of being *freelancers*, such persons are *forcedancers* or *fakelancers*, who work under the same conditions as full-time employees, the difference being that they do not have the same rights. Even in France where the status of freelancer is defined by law, the trade unions are opposed to the status of *auto-entrepreneur* as it does not entail the same social security and tax obligations. There is also a tendency towards “personalising” journalism by inciting freelance journalists to do marketing in connection with their individual “company”, thereby leaving them less time for basic journalistic tasks.

51. The number of freelancers varies according to the country: in Germany the number of trade unionists who are freelancers is 26 000 out of some 43 000 employees<sup>37</sup>. In France, where the statistics gathered by the Press Card Commission are very accurate, there are some 6 600 freelancers among the 33 700 persons who renew their press cards, but it should be noted that of the 1 500 first applications in 2016, 1 080 were freelancers, i.e. two-thirds<sup>38</sup>. This situation shows that

<sup>33</sup> Eastern Empires: Foreign media ownership in CEE : [http://subsol.c3.hu/subsol\\_2/contributors3/efjtext.html](http://subsol.c3.hu/subsol_2/contributors3/efjtext.html)

<sup>34</sup> Newspapers Association of America, since 2016 called News Media Alliance <https://www.newsmediaalliance.org/>

<sup>35</sup> <http://www.digitalnewsreport.org/>

<sup>36</sup> Voir p. 40 : [http://europeanjournalists.org/wp-content/uploads/2016/10/EFJ\\_handbook\\_RRJ\\_2016\\_FR1.pdf](http://europeanjournalists.org/wp-content/uploads/2016/10/EFJ_handbook_RRJ_2016_FR1.pdf)

<sup>37</sup> <https://www.djv.de/startseite/info/themen-wissen/aus-und-weiterbildung/arbeitsmarkt-und-berufschancen.html>

<sup>38</sup> <http://www.ccijp.net/article-33-cartes-attribuees-en.html>



what was “atypical” has become “typical”. In Great Britain too, the figures highlight this trend: 18 000 freelancers in 2015 and 34 000 in 2016<sup>39</sup> !

52. The question of freelancers also raises that of the fixing of rates: while trade unions can negotiate salary scales for employees in collective conventions, it is sometimes not only difficult but also illegal for the “self-employed” to claim minimum rates as that would be contrary to legislation on free competition. That was the case in the Netherlands until the EU Court of Justice upheld the right of freelancers in 2014<sup>40</sup>.

53. This increasing job insecurity mechanically entails a decrease or a stagnation in salaries:

- According to a Spanish study, chief editors experienced a 24% decrease in salary between 2010 and 2015, editors a 20% decrease and the median salary in the press dropped 17%.
- Contrary to common belief, German journalists are not financially “privileged”. In Germany the average income<sup>41</sup> of freelancers is approximately €2 000 per month (but scarcely more €1 000 in some Länder such as Sachsen-Anhalt), and the national average is 1 750€ for those under 30 years of age.
- In the United Kingdom, a survey carried out in 2016 and involving 310 freelance journalists showed that a third earned less than €12 000 per year whereas the average annual salary of an editor is some €36 000. A third of British freelancers earn so little that they receive welfare benefits<sup>42</sup> and a third of them have a second job to earn enough money.

### 3.4. Gender inequality

54. The feminisation of the profession (more women than men are currently taking up the profession) has contributed to this “impoverishment” in accordance with the vicious circle of women’s professions paying less and therefore attracting fewer men. In terms of the pay gap, women journalists earn 16% less than men in the European Union and the difference is even as much as 24% in Belgium<sup>43</sup>. Women are also less often employed full time, which increases job insecurity<sup>44</sup>.

### 3.5. Job losses, a problem in itself

55. At the same time as job insecurity, problems of funding and technological changes have resulted in job losses. Although Europe is not as devastated as the United States, where jobs in the press declined from 55 000 in 1990 to just over 30 000 in 2015<sup>45</sup> and the number of newspapers dropped from 2 700 to 2 000, there have been severe job losses in some European countries. In Spain, a country which has been badly affected by the economic crisis and austerity, over 12 000 jobs were destroyed in journalism between 2008 and 2015<sup>46</sup>, over 4 000 of which were in the television sector, mainly due to the reorganisation of public audio-visual services. In France, there have been a number of redundancy plans over the last few years, the most recent at *L’Obs* and *La Voix du Nord*, where over 200 posts have been cut. One concrete, verifiable example in Belgium is the daily newspaper “Le Soir” where the number of journalists dropped from 152 in 2 000 to 90 in 2016. In Germany, where the press sector, particularly the regional press, remains vibrant, it is mainly mergers which have led to job losses, for example 400 job losses at *Grüner + Jahr* in 2014<sup>47</sup> and 200 at the *WAZ* in 2013<sup>48</sup>. Despite the decrease in staff, the amount of work to be done has increased as, in addition to daily articles, the journalists are expected to produce news bulletins and updates for the online version.

### 3.6. The deterioration of working conditions: trends and risks

56. Journalists have observed a deterioration in their working conditions and the trade unions have been condemning this trend for years now. Sometimes these changes can be quantified. Studies

<sup>39</sup> <http://www.pressgazette.co.uk/one-in-three-freelance-journalists-in-the-uk-are-on-state-benefits/?page=2>

<sup>40</sup> <http://europeanlawblog.eu/tag/c-41313-fnv-kunsten-informatie-en-media/>

<sup>41</sup> <https://de.statista.com/themen/729/journalismus/> which mentions the DJV

<sup>42</sup> <http://www.pressgazette.co.uk/one-in-three-freelance-journalists-in-the-uk-are-on-state-benefits/?page=2>

<sup>43</sup> 2012 FIJ report :

[http://www.ifj.org/fileadmin/images/Gender/Gender\\_documents/Gender\\_Pay\\_Gap\\_in\\_Journalism.pdf](http://www.ifj.org/fileadmin/images/Gender/Gender_documents/Gender_Pay_Gap_in_Journalism.pdf)

<sup>44</sup> *Ibid.*

<sup>45</sup> Source: <http://asne.org/>

<sup>46</sup> Source: <http://www.apmadrid.es/publicaciones/informe-anual-de-la-profesion/>

<sup>47</sup> <http://medien-kunst-industrie.verdi.de/presse/pressemitteilungen/++co++5bff68f0-2dec-11e4-83e2-525400a933ef>

<sup>48</sup> <https://www.welt.de/regionales/duesseldorf/article114635446/WAZ-Mediengruppe-streicht-200-Stellen-in-NRW.html>

carried out in various European countries or in the United States have, for example, revealed the following:

- Longer working hours: the Association of Bavarian Journalists (BJV) is regularly informed of members working up to 55 hours a week<sup>49</sup>.
- Increase in tasks (“multiskilling”): a British study shows that 64% of the journalists questioned said that they were under pressure to provide more content within the same working hours. Whereas in the nineteen eighties a television documentary required an editor, a camera man, a sound technician and then a post-production editor, a large amount of audio-visual content is now produced by “Shiva journalists”, who are responsible for performing a multitude of tasks, including following up their work on the social networks. One person currently does the equivalent of what 3 persons did in the nineteen eighties.
- Lack of clear dividing lines between professions. Generally speaking, technological developments and the multiplication of tasks mean that the division of work that previously existed in newsrooms is no longer clear-cut, thereby increasing journalists’ technical workload to the detriment of their basic work (research, verification, and creation), with the result that there is a “deskilling” of certain professions<sup>50</sup>.
- Pressure on journalists to meet performance targets of course has an impact on their ability to carry out research and enquiries. Armchair journalism, in other words seeking information via standard and unverified press releases or on the social networks, has taken over from investigation and the diversity of sources. It has become commonplace to find the same article “copied and pasted” in several newspapers or on several websites simply because they use the text of a press release with any further alteration, whereas one of the principles of professional journalism is to check information and use a variety of sources (in terms of not only opinion but also genre and social or ethnic origin). Working conditions therefore have a direct influence on pluralism and the quality of content.
- Stress and burn-out among journalists has increased over the past few years<sup>51</sup>. There are many reasons for this: heavy workload, increased competition owing to the immediacy of the exchange of information, impossibility to “switch off” in the digital environment out of fear of losing one’s job, concern about the quality and consequences of the work done under pressure without being able to comply with all professional standards, lack of solidarity between colleagues, lack of counselling services in companies.
- Women journalists, particularly young women, are subjected to pressure with regard to their work-life balance<sup>52</sup>. There is therefore not only gender inequality with regard to pay but also with regard to stress and burn-out. Women are for example more likely to give up working as journalists.
- Lack of training or insufficient training: many media companies do not invest enough in training. Given the drastic increase in the number of freelancers, training is a crucial issue since in the absence of offers of training from employers, freelance journalists do not have the opportunity of the time to undertake training.
- Freelancers often lack preparation or insurance for working in risk or conflict areas (protest marches, public events, armed conflicts), which places them in physical danger or encourages them to take disproportionate risks.

#### 4. Role of the trade unions and/or professional organisations

57. As we said above, in Europe the professional status of journalist follows a wide variety of traditions and norms. This applies also to trade unions in the journalistic sector. The differences between France and Germany are quite striking: whereas in France – just as in Belgium - only recognised professional journalists can become members of a trade union, in Germany the two main trade unions (DJV and dju in ver.di) also include students in journalism, retired persons and categories of persons who do not have the status de journalist: presenters, bloggers, web designers, content managers and persons in charge of information intended for the public (press relations officers of public institutions and those in charge of external communications in the private sector) in the case of the DJV if they provide a ‘journalistic service’<sup>53</sup> or in the case of dju in ver.di if they are already members of another trade union<sup>54</sup>. These two trade unions have some 60 000 members.

<sup>49</sup> Source: European Federation of Journalists

<sup>50</sup> See in respect of the United Kingdom: <http://www.nemode.ac.uk/wp-content/uploads/2014/04/Antcliff-Case-study-of-television-news.pdf>

<sup>51</sup> <http://www.sciencedirect.com/science/article/pii/S2213058615300103>

<sup>52</sup> <https://news.ku.edu/2015/03/23/study-shows-journalism-burnout-affecting-women-more-men>

<sup>53</sup> <https://www.djv.de/startseite/profil/mitglied-werden/aufnahmerichtlinien.html>

<sup>54</sup> <https://dju.verdi.de/ueber-uns/anschlussmitgliedschaft>

58. Germany and France therefore have two very different examples of trade union representation: whereas the two German trade unions represent almost the entire profession and together negotiate collective agreements, only 9 403 votes in total were cast for all six unions that make up the Press Card Commission in France<sup>55</sup> and the total number of journalist members is approximately 4 000, signifying trade union representation of under 10%<sup>56</sup>. The reasons are linked first and foremost to labour law since in France the trade unions can negotiate collective agreements per branch provided that one of them secures more than 8% of the votes at elections per branch. There is a national collective agreement for each press publication.

59. The case of Belgium is simpler as there is only one trade union organisation, the AGJPB, which represents 80% of the profession.

60. It should be noted that in the Anglo-Saxon system there are no branch agreements and that the possibility for trade unions to negotiate collective agreements at company level are linked to very high requirements of representation (over half of a company's employees must be members of a trade union – as we know a growing number of persons working in journalism are freelancers and consequently not “employed” according to the law). The NUJ currently has 27 500 members.

61. Generally speaking, journalists' trade unions in Europe mainly represent full-time journalists, self-employed journalists and photographers but also graphic designers, certain technicians, students and public relations officers<sup>57</sup>. Finally, recent studies show that members of trade unions are confronted with the problem of the ageing of their members and low renewal rates<sup>58</sup>.

62. Employers are, for their part, also grouped together in national organisations<sup>59</sup>. Although they sometimes offer training and invest in human resources, the economic situation of the past 20 years has led them to focus their efforts on problems of survival, in other words on their sources of revenue, how to decrease expenditure (particularly staff expenditure), success or failure in adjusting to the digital environment and competition with news aggregators, search engines and social media.

63. Apart from the very survival of the media, the only genuine points of convergence between trade unions and employers' organisations are generally the defence of freedom of the press and the principle of protecting intellectual ownership (although, in reality, on this last point the principle leaves room for opposition between the creator's copyright and the surrendering of such rights to employers).

64. There are many types of journalists' trade unions in Europe and they operate in very different professional and political environments: there is no real east-west or north-south dichotomy since the distinctions are between strong collective rights (France) or weak collective rights (the United Kingdom), strong representation (Nordic countries) or weak representation (France), legal recognition or social dialogue (France, Italy, Belgium and Germany) and the quasi-absence of social partners (Central Europe), etc. Finally, the professional landscape is strongly influenced by the general political climate between “open” societies and authoritarian regimes or those which are hostile to media freedom (Turkey, the Russian Federation, Azerbaijan, and “the former Yugoslav Republic of Macedonia”) and conflict zones (Ukraine, Turkey, and Nagorno-Karabakh).

## 5. Good practices and recommendations

### 5.1. Good practices

65. Alternative economic models:

- Media based on donations, such as <https://www.propublica.org/> in the United States, or <https://www.mediacites.fr/> in France.
- In Germany, the <https://krautreporter.de/> website succeeded in gathering almost a million euros in six weeks to support 28 journalists who wanted to launch an online magazine without any advertising. Sponsors agreed to pay 60 euros' subscription per year for journalistic content that is also accessible to the public - the sponsors had the additional possibility of talking directly to journalists, to make direct suggestions on subjects and research.

<sup>55</sup> In order of their representativity: SNJ, SNJ-CGT, CDFT, CFTC, FO et CGC

<sup>56</sup> In 2016, fewer than 4000 French journalists were members of a trade union (approximately 2 300 in the SNJ, 1 000 SNJ-CGT and 560 CFDT)

<sup>57</sup> <http://europeanjournalists.org/fr/2017/02/05/droits-et-emploi-dans-le-journalism-le-manuel-disponible-en-francais/>

<sup>58</sup> *Ibid.*

<sup>59</sup> Germany : BDZV, VDZ . France: SPQR, SPQN, SPQD, SPHR, FNPS, Spiil, SEPM, FFAP. Belgium: Belgian News Media, LaPresse.be, The Ppress, UPP, FTL

- At international level, the <https://hostwriter.org/> website is based on the exchange of different types of support (research, hosting, local networks etc.) in a manner that is collaborative and shows solidarity.
66. Addressing societal changes:
- The status of journalist can periodically be adjusted: the key point is the tasks involved and not the legal definition. In Great Britain and in Nordic countries, press cards are allocated according to the occupation and not according to a work contract or collective agreement.
  - The *Ethical Journalism Network* has drawn up ethical rules for journalists on the conduct to be adopted with regard to non-professional sources<sup>60</sup>.
67. Respond to job insecurity and support journalists:
- In Germany, in Belgium and in other countries, press councils issue opinions and recommendations aimed at journalists on topical issues
  - The International Federation of Journalists (IFJ) has put in place an insurance system for freelancers<sup>61</sup>.
  - In Belgium, the AJP has launched a campaign entitled *Pigiste pas pigeon*<sup>62</sup> to defend the rights of freelancers.
  - Also in Belgium, the AJP has drawn up a list of experts from different backgrounds so as to diversify information sources and give more visibility to persons who are not habitually in contact with the media<sup>63</sup>.
  - In Germany the ver.di trade union has launched *mediafon*, an initiative to help freelancers and “micro-enterprises” develop networks on professional, fiscal and legal matters.
68. Strengthening professional organisations and meeting the needs of journalists:
- In Germany, the trade unions have succeeded in negotiating Article 12A of the *Tarifvertragsgesetz*<sup>64</sup>, making it possible to include freelancers in collective agreements under certain conditions (for example if over 50% of their income comes from a single client).
  - In Denmark, 40% of the members of the DJ trade union are not journalists but public relations workers, graphic designers, etc. Its recruitment officer believes that “the more members we represent the more influence we have”.
  - In the Netherlands, the NVJ trade union offers free membership for students, which is a way of initiating and retaining potential paying members.
  - In Austria, the GPA-djp trade union has for many years targeted workers in the digital press and those who do not necessarily consider themselves “journalists”. One tangible result is a collective agreement for online workers of the ORF public broadcasting network and the inclusion of other online workers in the general collective agreement.
  - In Norway, the NJ trade union has created a “freelance calculator”, which helps to calculate how much a salaried employee would be paid for the same work.

## 5.2. Recommendations

69. to the national authorities:
- Explore avenues of alternative funding in a new media ecosystem: redistribution of advertising revenue generated by search engines or social media<sup>65</sup> and fiscal or legal status (limitation on the public financialisation of media companies)<sup>66</sup>.
  - Explore new forms of legal status for media companies, for example “non-profit-making media companies”<sup>67</sup> for financing that is both viable and independent (in addition to public service media).
  - Include freelancers within the scope of labour legislation in terms of minimum pay and not consider regular freelancers from the perspective of competition laws.

<sup>60</sup> <http://ethicaljournalismnetwork.org/resources/publications/ethics-in-the-news/handling-sources>

<sup>61</sup> <https://insuranceforjournalists.com/ifj/>

<sup>62</sup> <http://www.ajp.be/pigiste-pas-pigeon/>

<sup>63</sup> <http://www.expertalia.be/>

<sup>64</sup> <http://www.juraforum.de/gesetze/tvg/12a-arbeitnehmeraehnliche-personen>

<sup>65</sup> See for ex. <https://rohanjay.com/2017/02/23/facebook-dont-give-journalism-money-share-profits/>

<sup>66</sup> See <http://www.niemanlab.org/2016/04/from-nieman-reports-do-we-need-a-new-kind-of-nonprofit-structure-to-support-news-as-a-public-good/>

<sup>67</sup> <https://questionsdecommunication.revues.org/10247>

- Authorise and encourage the involvement of representative social partners in the media sector to promote dialogue between trade unions and employers.
  - Respect the norms and rights of the media, in particular with regard to the impunity of attacks against journalists, the protection of sources and freedom of expression.
70. To journalists' trade unions and organisations:
- Promote membership, particularly of young people and women;
  - Provide members with a wider range of services (online networks, legal assistance, handbook for freelancers, etc.);
  - Diversify themes and fields of training: marketing, self-promotion, digital rights, etc.
  - Continue to defend collective agreements by including, if possible, freelancers who work on a permanent basis ("bogus freelancers"). Include and defend the rights of freelancers and temporary workers in the workplace but also social rights in general;
  - "Open up to others", not only to professional journalists but also to other content suppliers or managers who are currently excluded from many trade unions. It should not be absolutely necessary to hold a press card to become a member of a journalists' trade union;
  - Encourage dialogue between professional journalists and other professions who provide content on matters concerning quality, professional standards and responsibility.
71. To the media and employers' organisations:
- Allow journalists, including freelancers, to be represented on management committees.
  - Explore new sources of funding, in particular through the redistribution of advertising revenue generated by search engines or social media (see also the "recommendation to national authorities").
  - Apply wage parity to women and men and foster the representation of minorities in newsrooms.
  - Ensure that journalists sent to risk areas are prepared and insured, in particular by providing training and guaranteeing their safety.