

# Towards a safer haven: Advancing safety of journalists amidst rising threats in the Netherlands



## **MEDIA FREEDOM RAPID RESPONSE (MFRR) MISSION TO ASSESS THE SAFETY OF JOURNALISTS IN THE NETHERLANDS**

(February 2022)

### **MISSION REPORT**

A fact-finding mission led by Free Press Unlimited together with the European Center for Press and Media Freedom and the International Press Institute

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# Executive Summary

**The report *Towards a safer haven: Advancing safety of journalists amidst rising threats in the Netherlands* outlines the findings of the Media Freedom Rapid Response (MFRR) online fact-finding mission to the Netherlands, which took place from 4 to 17 February 2022. Free Press Unlimited (FPU) led the mission, together with the European Centre for Press and Media Freedom (ECPMF) and the International Press Institute (IPI). They were joined by MFRR partners ARTICLE 19, the European Federation of Journalists (EFJ) and the Osservatorio Balcani e Caucaso Transeuropa (OBCT), and representatives of the Committee to Protect Journalists (CPJ) and Reporters Without Borders (RSF).**

The Netherlands remains a relative safe haven for independent journalism. Overall, the Dutch policy approach scores well; a mechanism to protect journalists and media workers is in place and those who attack or threaten journalists are prosecuted. Nevertheless, the mission and this report put the spotlight on two important challenges for journalists' safety in the country: the increasingly hostile climate for reporters due to intensified polarisation in society; and, threats emanating from organised crime, which constitute a considerable risk for those reporting on it. The MFRR delegation concludes that the Dutch policy needs to be strengthened in certain aspects in order to strengthen journalists' safety in the country amid rising threats.

The findings from discussions with numerous key local stakeholders have been assessed against regional standards, in particular the European Commission's Recommendation on journalists' safety of 2021 and the 2016 Council of Europe Recommendation on the same topic. One of the main conclusions of the mission is that PersVeilig is a key actor when it comes to ensuring and advancing journalists' safety. The pioneering mechanism constitutes a laudable example of a constructive cooperation and dialogue between the journalistic community and state authorities. Nevertheless, despite an overwhelmingly positive assessment, there is room for improvement in a number of areas, such as the need to ensure consistent implementation of the agreed protocol by the police. For instance there have been several incidents where press cards were not (immediately) acknowledged, in some instances leading to arrests.

Moreover, **aggression against journalists is increasing**, amidst a hardening of the public debate and increased polarisation within society. In 2021, 272 alerts of harassment, intimidation and violence against journalists were recorded by PersVeilig, as opposed to 121 in 2020. The results of the I&O Research survey published in June 2021, conducted among almost 700 NVJ members, confirm this trend and paint a bleak picture with more than 8 out of 10 respondents reporting that they experienced violence or threats at some point in the course of their work. This represents a notable increase compared with four years ago, when the survey was first conducted.

As in other European Union member states, **demonstrations are a particularly prominent context in which media freedom violations and attacks on journalists take place.**

An important finding is that the MFRR is **concerned about the lack of a gender lense in the Dutch approach** to advance the safety of journalists. Women journalists are affected more frequently by threats and harassment online. However, there is currently no mechanism in place to gather data on the safety of women journalists in the Netherlands. Furthermore, not all social media platforms engage equally with their responsibility to create and maintain a safe online space.



With a view to addressing these challenges, the MFRR issued a series of recommendations to the authorities of the Netherlands, law enforcement, the journalistic community, PersVeilig and social media platforms. Some of the key recommendations include that the Netherlands must:

- Consider looking into policy making specifically to **improve the safety of women journalists**.
- Moreover, regarding the government, the MFRR mission concludes that **more action could be taken to prevent violence against journalists**. Currently, the Dutch policy is predominantly focused on improving protection methods for journalists in the case of aggression, and ensuring prosecution of those harassing journalists. However, the MFRR concludes that more needs to be done to prevent violence, for instance through means of education by involving the Ministry of Education, Culture and Science. The WODC report regarding motives people hold to harass journalists can serve as a good starting point. However, the fact that the report has been postponed suggests that it is not taken up with priority, which the MFRR regrets.
- Consider **expanding the human resources of PersVeilig**, both for continuity purposes as well as to broaden the scope of the mechanism with e.g. more gender specific and prevention efforts.
- Despite high willingness to cooperate between the journalistic community and law enforcement, the need remains to ensure a **better understanding of the role of the press during protests**, changes to operational procedures in particular are needed concerning the recognition of press cards.
- Finally, in the Netherlands reporters covering organised crime are exposed to particular risks. While it is too soon to draw any conclusions about the prosecution for the murder of Peter R. de Vries and the investigation into the circumstances surrounding this heinous crime, it is clear **there is a need to study the creation of tailored protection packages for journalists who receive threats from organised crime**, and to look into the options to improve protection for journalists who cover high-profile criminal trials.



# Introduction

**The Netherlands is considered a safe haven for independent journalism, ranking 6th in Reporters Without Borders' World Press Freedom Index. The country's pioneering PersVeilig mechanism is regularly cited as a best practice example for improving the safety of journalists, also by the Media Freedom Rapid Response (MFRR). And yet, despite these generally favourable conditions, the MFRR's ongoing monitoring since the project's start in March 2020 has put the spotlight on two important challenges for journalists' safety. On the one hand, increased polarisation in society has created a more hostile environment for reporters, which manifests itself during protests and online, among others. On the other hand, threats emanating from organised crime constitute a considerable risk for those reporting on it.**

To deepen the understanding of these challenges and contribute to their resolution, the MFRR organised a fact-finding mission, which took place online from February 4th to February 17th 2022. The mission was led by Free Press Unlimited (FPU) together with the European Centre for Press and Media Freedom (ECPMF) and the International Press Institute (IPI). They were joined by MFRR partners ARTICLE 19, the European Federation of Journalists (EFJ) and the Osservatorio Balcani e Caucaso Transeuropa (OBCT). Representatives of Reporters Without Borders (RSF) and the Committee to Protect Journalists (CPJ) also joined some of the meetings.

During the mission, the delegation met with Pim van Strien, Jacco van Giessen, Sandrina Hadderingh, Margo Smit, Britta Behrendt, Stephanie van den Berg, Molly Quell, Antoine Mouteau, Imane Rachidi, Léonie de Jonge, Paul Vugts, Peter Schouten, Bart Brouwers, Peter ter Velde, Wim Hoonhout, Edo Haveman, Asha Phillips, Tineke Meijerman, Thomas Bruning, Vera van Vliet, Pieter van Koetsveld, Marcel Gelauff, and Pieter Omtzigt. Written input was received from Dr. Marjolein Odekerken. The MFRR is grateful to all those who met with its delegation.

This report reflects the findings of the interviews conducted during the online mission, analysis of the MFRR's ongoing monitoring and background desk research. Throughout the report, these findings are assessed against European standards on the safety of journalists, in particular the Recommendations by the Council of Europe (2016) and by the European Commission (2021). Particular focus is given to those areas where the Netherlands does not (yet) meet these international standards. As also reflected in the report, the MFRR recognises however that in many fields, the situation in the Netherlands does satisfy the requirements set out in these guidelines or that, at least, the Dutch authorities have advanced further in their diligent implementation than many other European Union and Council of Europe Member States.



# 1. PersVeilig

**In November 2019, the Netherlands piloted the PersVeilig-mechanism: a protocol agreed between the Dutch National Association of Journalists (Nederlandse Vereniging van Journalisten, NVJ), the Dutch Society of Editors-in-Chief (Nederlands Genootschap van Hoofdredacteuren), the police and the public prosecution service that supports the safety of journalists. The protocol aims to strengthen the position of journalists in the face of violence and harassment in the streets, on social media and through legal threats. PersVeilig has an advisory and supporting role: media workers' employers/clients are and remain primarily responsible for the safety of their employees.**

The protocol consists of a number of **preventive protection measures** to increase journalists' resilience, including:

- A hotline where journalists can report physical, verbal, sexual and other threats and receive information on what to do. PersVeilig follows up on each alert, Peter ter Velde (PersVeilig project manager) told the delegation;
- A security plan for employers and journalists containing practical details about prevention and training, but also clear procedures about what measures must be taken after an incident, including with regard to providing public statements and after-care;
- A collectively agreed standard that sets out which aggressive and intimidating behaviour is considered unacceptable, determining the cases in which a journalist can file an alert with PersVeilig and potentially file a complaint with the police;
- Safety trainings for media workers, including journalists, social media moderators, and editors-in-chief and CEOs. According to Peter ter Velde around 700 journalists have been trained and if students are also included, up to 1500 individuals have been reached.

PersVeilig also includes **investigation and prosecution agreements** to which the Police and Public Prosecution Service have committed, including:

- Standardised registration (using a national code) by the police and the public prosecution service of alerts and reports filed by journalists;
- High priority is accorded to the investigation and prosecution of attacks and harassment of journalists by the police and public prosecution service (including immediate follow-up);
- A "tit-for-tat" (zero-tolerance) approach or (super) rapid criminal procedure (snelrecht) is applied as much as possible;
- The Public Prosecution Service increases its demands for punishment in case of attacks and harassment of journalists by 200%, and any damage is recovered from the perpetrator as much as this is possible;
- A "Stop Conversation": persons who harass journalists online can be visited at their homes by the police and confronted with the impact of their actions. This can include cases where the threshold of criminal liability has not been reached;



- Victims and the employer are optimally informed about their position and possibilities in the criminal proceedings and the settlement of criminal charges.

In addition to these measures by PersVeilig, there is also the **Flexible Protection Package Freelancers** (implemented by PersVeilig) for freelancers, including free provision of vests and helmets to report on demonstrations (implemented by the NVJ). Moreover, part of PersVeilig is the **Press Freedom Bar**, a desk that offers legal support to journalists.

## Mission findings

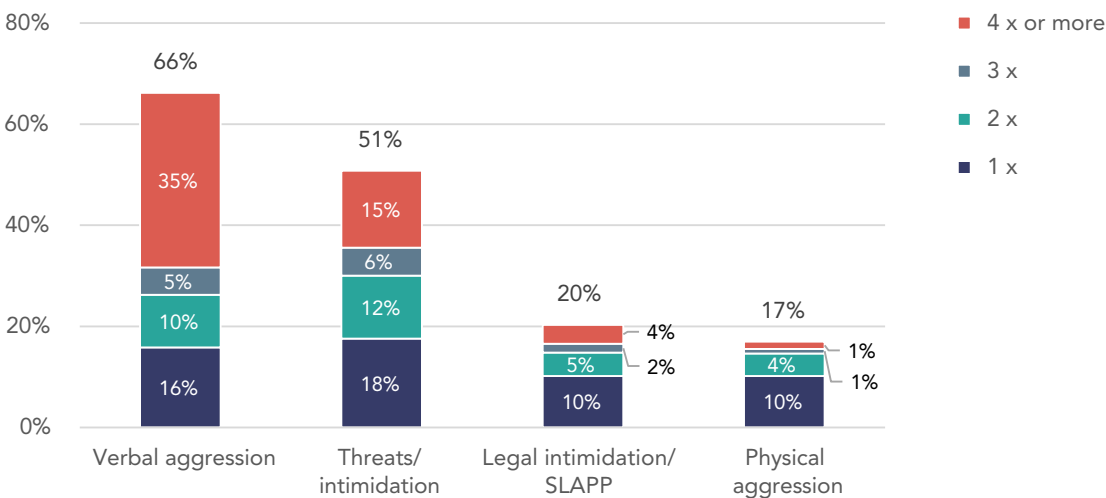
During the mission, PersVeilig’s position at the core of the Dutch safety approach was repeatedly confirmed. Interlocutors from the journalistic community, academia, and the Ministry of Education, Culture & Science (Onderwijs, Cultuur en Wetenschap, OCW) all attached great importance to the protocol and the government uses data gathered through the programme to inform policy making. Most interlocutors identified PersVeilig as the central, key actor when it comes to journalists’ safety in the Netherlands. The trust in the success of PersVeilig sometimes reached such a degree that in the MFRR’s view, there is a risk that this reliance, especially on the part of the authorities, could veer into overdependence.

Generally, the MFRR’s interlocutors applauded the PersVeilig initiative and were very positive about its functioning. The mechanism enjoys wide support among journalists and editors-in-chief, many of whom perceived the symbolic value of PersVeilig as a strong asset, saying it sends a strong signal that violence and harassment of journalists will not be tolerated. Several interlocutors praised the safety trainings for newsroom staff, and while some considered they had no need for it themselves, the provision of such training was generally seen as good practice. The advisory role that PersVeilig can play in creating crisis protocols for media outlets was also appreciated, in particular by the editors-in-chief with whom our delegation met.

The number of alerts filed at PersVeilig is on the rise. In 2021, 272 alerts were recorded at PersVeilig, as opposed to 121 in 2020. This increase could be an indication of an increase of physical attacks and harassment. However, it could also be linked to the growing awareness of PersVeilig and the willingness among the journalistic community to report. According to Thomas Bruning, general secretary of the NVJ, more than 80% of journalists know about PersVeilig.

**SOURCE: I&O research commissioned by PersVeilig:**

Aggression and threats towards journalists 2021





The MFRR shares its interlocutors' enthusiasm about PersVeilig as a pioneering best practice example of how the journalistic community and government authorities can collaborate to improve journalists' safety. Nevertheless, the fact-finding mission revealed a number of limitations and risks that need to be addressed to ensure and expand its effectiveness both currently and in the long term.

Several interviewees, including Peter ter Velde, indicated there is room for improvement when it comes to the consistent implementation of the protocol. For instance, we heard that despite the agreement, police do not follow up on all incidents and do not always accord the highest priority in starting a police investigation into cases of intimidation of journalists. Interlocutors linked this to a lack of police capacity. According to our Police interlocutor, when an official report is filed, detection indicators are weighted according to feasibility (provability) of result opportunities: *"Police capacity is about daily scarcity distribution, which may require painful choices"* (Dutch: *"politiecapaciteit is ook elke dag schaarsteverdeling, dat vraagt soms om pijnlijke keuzes"*). He argued that attacks on a journalist are always followed up upon. Another example that was given is that due to shortages in staff, the training to become a police officer has been shortened from three to two years, with increased reliance on on-the-job training. In this process, there is no room for a specific training about press freedom.

As concerns PersVeilig's approach to online harassment, the mission heard varying opinions about the "stop conversation", a mechanism that is unique to PersVeilig. In cases of online harassment, police officers can visit the alleged harasser at their home to confront them about the real-world effect of their online behaviour. Several interlocutors (including representatives of the NVJ, police and PersVeilig) emphasised the powerful impact of such visits, as often the harasser does not realise the impact of their actions. Moreover, it can help to build a police file. For example, NVJ Secretary Thomas Bruning said: *"I think it is definitely effective. There is a big difference between being heroic behind your laptop and being confronted with the person themself. If people realise what they are doing, it is already enough to give them a new realisation of the impact of their intimidating behaviour"*. If the affected journalist prefers, a criminal complaint can still be filed after a stop conversation. However, one interlocutor argued that while the mechanism may have symbolic value, such soft measures will not stop attacks. They consider more effective action should be taken to address online harassment.

In this regard, it is regrettable that PersVeilig's attempt to establish good contacts with social media platforms has not in all instances been successful. Whereas the relationship with Meta is good and the NVJ can call the company to request they take down online threats on Facebook or Instagram, this is not the case for Twitter. Bruning said that *"you would think through PersVeilig you have a good entrance to platforms. But with Twitter, we still don't have a good entrance. It's sad, it's a very serious, big company. We don't have a phone number. They don't take it seriously. I have an email address. Already five times I asked for a conversation."*

Furthermore, throughout the mission it became clear that there is room for improvement when it comes to gender sensitivity in the PersVeilig mechanism. For example, when filing an alert of a press freedom violation with PersVeilig, the affected journalist is not asked to fill in their gender. This would help to provide insight into the gender aspect of violence. In the MFRR's view, this blindspot is particularly problematic where PersVeilig's practice and data informs policy development. Not registering gender data may affect the perception of gendered threats, which can also affect the policies and protection mechanisms in place specifically for women journalists.

As concerns inclusivity of the PersVeilig mechanism, the Foreign Press Association, which represents around 100 journalists working for foreign media in the Netherlands, told the MFRR that while also the large community of foreign correspondents find the PersVeilig protocol helpful, it can be difficult for them to use the services considering the language barrier. They said it would be helpful if more were translated into English.





Importantly, the capacity of PersVeilig is limited. Although the Society of Editors-in-Chief has committed to pay for a part of the protocol, currently the Ministry of OCW and Justice still provide for a large part of the funding. The plan is that by the end of 2024, PersVeilig should be financially independent from the State, without any reliance on subsidies. Interlocutors told the delegation that this path to financial independence will require more efforts. Additionally, some interlocutors expressed unease about the fact that PersVeilig is heavily reliant on the endeavours and efforts of one person - the project coordinator. This raises concerns about the continuity of the programme in case of personnel changes.

Generally speaking, the PersVeilig approach seems focused on the protection of journalists and media workers and adequate prosecution of those who attack or harass them. The MFRR considers the Dutch response, and likewise the PersVeilig mechanism, could give more attention to the effective prevention of threats. In this regard, the former Minister of Justice and Security Grapperhaus listed several “preventative measures” under the PersVeilig protocol in his Parliamentary letter of 19 November 2021<sup>1</sup> such as the hotline, the safety plan for employers and the collective norm-setting. Such measures, however, are considered by the MFRR delegation to be put in place rather to reduce the impact of offences and enhance the punishment for offenders, than to actually prevent threats and harassment against journalists from happening.

The MFRR believes that PersVeilig could play a role in a more preventative approach as well. In order to enhance the preventative aspect of PersVeilig, first more research needs to be done to establish the motives behind aggression against journalists. The MFRR delegation welcomes the fact that currently a WODC (Wetenschappelijk Onderzoek- en Documentatiecentrum) investigation is being conducted about violence and aggression against journalists. This is an independent investigation commissioned by the Government, which looks into motives behind aggression against journalists. The report has been requested at the WODC and was expected in the summer of 2022. However, our delegation regrets that at the time of writing this MFRR report, the WODC has not started the research yet. The WODC report is now expected in the first quarter of 2023. Our delegation recommends that the WODC report is advanced with high priority. Based on this report, more policy plans to prevent threats against journalists could be developed, including concrete plans for PersVeilig.

## The role of **PersVeilig** in the implementation of EU and Council of Europe recommendations regarding the safety of journalists

The PersVeilig protocol is often praised as an example of good practice in Europe. In the MFRR's view too, the innovative programme helps to ensure the implementation of many of the recommendations set out in the Council of Europe Recommendation CM/Rec(2016)4 on the protection of journalism and safety of journalists and other media actors and the European Commission's Recommendation (EU) 2021/1534 on ensuring the protection, safety and empowerment of journalists and other media professionals in the European Union.

These prominently include the recommendation that Member States set up protocols of cooperation between representatives of the authorities and the media and foster continuous dialogue between law enforcement and the journalistic community (EU Rec. 6). Furthermore, “Member States, in cooperation with journalists’ representatives, should support establishing specialist services - rapid response mechanisms - providing legal advice, psychological support and shelters for journalists and other media professionals facing threats. These specialist services should also act as contact points and emergency helplines” (EU Rec. 8). Moreover, the European Commission recommends that “Member States ... promote the continued development of competences and skills in all professions relevant for the protection of journalists and other media professionals. In particular, Member States should develop and provide training modules for law enforcement authorities, judges and

<sup>1</sup> Parliamentary Letter “Agressie en geweld tegen journalisten” (English: “Aggression and violence against journalists”), Minister F.B.J. Grapperhaus, Minister of Justice & Security, 19 November 2021, [https://www.tweedekamer.nl/kamerstukken/brieven\\_regering/detail?id=2021Z20991&did=2021D44693](https://www.tweedekamer.nl/kamerstukken/brieven_regering/detail?id=2021Z20991&did=2021D44693)



*prosecutors, as well as for all relevant authorities involved in digital safety” (EU Rec. 15). They should also “promote and support the provision of tailored in-house training by media companies for journalists and other media professionals”, which should in particular “give journalists and other media professionals clear instructions to follow in critical situations” (EU Rec. 17).*

In the MFRR’s assessment, PersVeilig is exemplary of constructive cooperation and dialogue between the journalistic community and state authorities. The positive perception of the mechanism from the mission’s interlocutors across the board confirms the importance of PersVeilig and its central role in improving various aspects of journalists’ safety in the Netherlands.

Nevertheless, as also noted above, there is room for improvement in a number of areas, which are explored further in the course of this report.



## 2. Threats against journalists

Throughout the fact-finding mission, a general consensus and concern emerged about the rising aggression against journalists and media workers. This confirms the findings of the study carried out by I&O Research for PersVeilig, published on 5 June 2021. The results of the survey, conducted among almost 700 NVJ members, paint a bleak picture with more than 8 out of 10 respondents reporting that they experienced violence or threats at some point in the course of their work. This represents a notable increase compared with four years ago, when the survey was first conducted. At that time, 61 per cent said to have been confronted with such a situation. Looking at the different forms of attacks or threats, journalists were mainly confronted with verbal abuse (two thirds), threats or intimidation (half), legal threats or abusive lawsuits (one fifth) and physical violence (17%). Of all journalists, camera operators and photojournalists are the most frequently affected and fear physical violence even more as their equipment makes them more visible. It should be noted that these results are not necessarily representative, given the low response rate (700 out of 8000 NVJ members).

Several of the mission's interlocutors argued that the aggression against journalists is not completely new in the Netherlands. According to Prof. Brouwers, anger and unease against journalists from persons who are a subject to the journalist's investigation and/or reporting is not new. Journalists have always reported on matters that some want to remain uncovered. However, *"it was much easier in the last millennium to ignore it, than it is now"*. Others including PersVeilig coordinator Peter ter Velde argued that in the past 20 years, the climate towards journalists and media has changed. He said that since the rise of populist politics, starting with Pim Fortuyn in the early 2000s, journalists had to be protected for the first time. The difference is, arguably, that harassment against journalists now takes place amidst general hardening of the debate. The threat is 'more real'. This was underlined by Thomas Bruning of the NVJ, who stated that the seriousness of the threats has risen. Due to the polarising political climate in the Netherlands, threats and intimidation are more reason for serious concern.

One interviewed journalist argued that the rapid increase in the number of media, and what is considered as 'media', has had an effect too. Thirty years ago, the group of media was much smaller. Now, there are a lot of semi-professionals and bloggers active. It was argued that these actors do not always follow the journalistic ethical guidelines and code. Many people reflect their distrust of such media also on the professional and more traditional media.

One of the mission's central questions was what motivates people to harass, intimidate and attack journalists. Although explanations varied amongst interlocutors, the majority pointed at rising polarisation since the Covid-19 pandemic. A mix of increasing polarisation, populist politics, fraying trust in mainstream news sources and conspiracy theories about the role of the media during the pandemic contributes to growing anti-press sentiment stewing in far-right corners on social media networks, leading to threats against journalists both online and on the streets. Also the influence of former US President Donald Trump was mentioned, and his reference to "the mainstream media" spreading lies and fake news.

Several interlocutors mentioned the inflammatory role that political rhetorics can play. Several right-wing politicians have publicly condemned "the mainstream media", in particular public service broadcaster NOS, for allegedly publishing fake news and sharing lies. The increasing fragmentation of the Dutch political system, with currently 20 political parties represented in Parliament, was also listed as a reason: politicians want to "score" with extreme statements that are consecutively posted on their social media channels. This dynamic favors polarising statements, rather than constructive debates about underlying causes and issues.



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One academic interlocutor linked the rising aggression against media to the fact that journalism is losing ground on the local level. They argued that the weakness of local outlets degrades people’s trust in the media. Many local newspapers have been acquired by two Belgian companies, DPG Media and Mediahuis, which now own a large share of the Dutch newspapers, increasing ownership concentration and arguably reducing media pluralism in the country. These outlets have grown bigger, often operating on a regional rather than a local level. *“At this moment, the way people are informed on a local level could be so much better”*, according to Bart Brouwers.

One editor-in-chief with whom the MFRR delegation met, advanced the argument that the media have not had enough attention for contrary voices, thus fueling distrust. Several other interlocutors however objected to this position that independent media do not sufficiently provide a platform for unheard and societally marginalised voices and fail to represent their opinions. The editor-in-chief of the NOS said that in his view, the public broadcaster had perhaps given too much attention to extremist opinions and not enough to the opinions of the “silent majority”. This reading, that the fringes of society have been given a large platform (especially during the pandemic), was underlined by the Ombudsperson and an academic interlocutor.

It became clear to the MFRR delegation that various opinions and analyses exist of the motives and reasons behind aggression against journalists. Several interlocutors argued that there is a role to play for education in strengthening the position of journalists in society. Such measures should be initiated from the policy side. The Ministries of Education Culture and Science, Justice and Security, Interior Affairs and Foreign Affairs work together on the combating of violence against journalists. The government could, for instance, next to current projects focusing on disinformation, reinvigorate efforts to change public perceptions and attitudes about the role of freedom of expression and the role of the media in educational programmes. This could be part of the media literacy campaigning (championed by the Ministry of Education). The role of education was emphasised by several interlocutors, ranging from political to academic actors.



Finally, the fact that anti-media rhetoric has entered the Dutch Parliament has also led to stronger support, it was argued, as increasing polarisation in some quarters also creates opportunities for other political parties to speak up in favour of free media. For instance, the aggressive rhetoric of Geert Wilders (party leader of Partij Voor de Vrijheid), whose tweet that *“all journalists are generally scum bags - with some exceptions (Dutch: Journalisten zijn - uitzonderingen daargelaten - gewoon tuig van de richel)”* was retweeted by Thierry Baudet (party leader of Forum voor Democratie) saying *“True that (Dutch: Is zo)”*, caused wide concern among other politicians. The subject received a lot of political attention, leading to public support statements for the free press across many political parties. A plenary debate was held regarding the safety of journalists. This support was strongly appreciated by our interlocutors in the journalistic community.

## Public service media

The MFRR consortium spoke with the editor-in-chief of the largest public broadcaster in the Netherlands, the NOS, and the National Ombudsperson for Public Service Media. In October 2020, the NOS decided to remove the logos from its Satellite News Gathering (SNG) trucks and radio cars. The decision was taken after the NOS technical staff serving the buses indicated that they felt unsafe and uncomfortable. The NOS personnel faced verbal harassment, “brake checks” on the highway, kicking and urinating against the buses, knocking on the vehicles, and more. The decision was not taken easily or lightly and was described as painful. Internal discussion was held among the NOS staff. Although not all colleagues agreed with the decision, as it was considered as “bowing” to the pressure, editor-in-chief Marcel Gelauff said he could no longer bear the responsibility for safety of the colleagues driving the vans. He described needing to take this step feeling *“as if you lose the competition. We have nothing to hide. We are a public broadcaster to be visible, to be transparent”*.

In addition to removing logos, the NOS took several other measures to protect its staff. The broadcaster asked them to follow safety trainings previously only used for foreign reporting from conflict zones. Sometimes, demonstrations are filmed from a distance because it is too unsafe for camera operators to get closer. Regularly, safety personnel are hired to accompany the reporters, especially at demonstrations. Freelancers hired by NOS (which according to Marcel Gelauff is around 10%) receive the same levels of protection as NOS staff.

At the same time, both the ombudsperson and the NOS’s editor-in-chief stressed that staff of local public broadcasters are even more vulnerable to attacks and harassment. Reporters living in small communities are particularly easy to trace. As one respondent put it: they go to the same supermarkets and bring their children to the same schools as their offenders.

As to the question why the NOS suffers from so many attacks, on the one hand, we heard repeatedly that for part of the public, “NOS = Fake News”. Nonetheless, the NOS enjoys a high amount of trust from the public: the Digital News Report 2020 showed that Dutch news consumers awarded the NOS Journaal 7.4 points (out of 10) on average, making NOS the news brand enjoying the highest number of trust and reaching the largest audience in the Netherlands. The argument that certain vocal critics are not sufficiently represented was strongly contradicted by both interlocutors. The NOS has given them airtime. Even more, the editor-in-chief indicated that perhaps, the NOS has neglected what he called “the silent majority” in the Netherlands in the past years at the expense of louder but more fringe opinions.

The latest developments give some reason for optimism: since the decision to remove the logos, attacks and harassment of NOS staff has decreased, especially when the vans are on the road. At the same time, this trend can also be linked to the decrease in demonstrations taking place in the Netherlands since the Covid measures are increasingly removed. It was during these demonstrations where a large part of the aggression against media workers took place.



In order to further improve the safety of public service media staff in the Netherlands, the MFRR partners think more critical reflection would be helpful about the role of politicians who espouse hostility towards journalists in the deteriorating conditions for press freedom and freedom of expression and how to frame reporting on their inflammatory messages, which appear designed to catch the attention in the news cycle. It will be imperative to identify concrete next steps to ensure that statements that may be detrimental to the general safety of media outlets, individual journalists, and other media professionals are investigated and sanctioned. Moreover, in order to strengthen policies in place to address the safety of public service media personnel, in the expected WODC report specific attention must be paid to motives for aggression against the public broadcaster, hopefully to inform a preventative policy plan as well.

## **Freelance** journalists

According to the General Secretary of the NVJ, around 50% of the Dutch journalists work as freelancers. Working as a freelance journalist or reporter brings additional safety threats. This also became clear in the PersVeilig survey of 2021. While three-quarters of the respondents believe that their employer takes sufficient measures to guarantee their safety, freelancers are less positive with 36% saying they are dissatisfied with their clients' approach.

In particular for the freelancers reporting on the streets, camera operators and photographers, safety is a concern. Many do not have sufficient funding to invest in their own protection or training. Currently, they can receive the PersVeilig trainings for free. However, the coordinator of PersVeilig explained that nevertheless only few freelancers participate, because joining a training entails they lose a day of income. Hence, according to the NVJ, better wages for freelance journalists will be an important step towards better safety. This is one of the advocacy priorities of the union.

Another specific threat for freelance journalists that was highlighted during the mission is the heightened risk of doxxing - the act of publicly revealing private information about someone, usually via the internet, such as home addresses. In order to work legally, Dutch freelancers have to register at the Chamber of Commerce (Kamer van Koophandel). To fulfill their registration, they must provide a private home address and an office address, which for many freelancers is their home. Subsequently, these addresses are easily obtainable for the public from the public Chamber of Commerce registry. This not only raises privacy concerns, but also entails severe risks for their safety. In August 2021 - seemingly as a result of his publications - the home of Dutch journalist Willem Groeneveld was attacked with a fire bomb. His personal address had circulated on social media. Another example, although from a different line of work, is the 2019 murder of Dutch lawyer Derk Wiersum, counsellor to the key witness in the Marengo trial (see chapter 4 below) in his house after his murderers obtained his private address from the Chamber of Commerce registry.

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 who are 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. The MFRR delegation welcomes such a general exemption ground for journalists, as the public sharing of addresses of journalists may seriously hamper their safety. Even if there is no probable threat at stake, the fact that one's address can be found online may have a self-censoring effect.



## Women journalists

Throughout the mission, several interlocutors underlined the trend that in general 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. 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 Sigrid Kaag, party leader of the second-biggest national political party D66, receiving thousands of sexist and threatening comments on social media. In 2018, journalist Clarice Gargard received over 7,600 comments while she was live reporting on a Kick Out Black Pete demonstration. In this case, 24 people were sentenced to community service and fines, most for inciting violence and some for encouraging discrimination.

However, although there are some public examples, during the mission it proved difficult to get an accurate overview of the scope and intensity of (online) harassment that women journalists face. Few numbers are available that give insight into violence against women journalists in particular, not necessarily because it does not happen, but because the data is missing or scarce. During the fact-finding mission it was confirmed that currently there is no monitoring system in place that specifically tracks violence against women journalists. As noted in the previous chapter, also PersVeilig does not monitor the gender aspect of violence against journalists, and there is no other mechanism in place to monitor the threats. The MFRR is concerned about the implications that this lack of monitoring may have on the understanding of the safety problems that women journalists face and on developing solutions to address them. For some interlocutors, we were concerned to hear this blindspot in data-gathering led to the presumptuous conclusion that there is no particular safety issue for women journalists in the Netherlands. The MFRR is concerned that the lack of data available may impact the policies in place to address the safety of women journalists.

The European Commission's Recommendation includes a number of specific standards that aim to empower women journalists and those belonging to minority groups or reporting on equality. Among other things, "Member States are encouraged to take measures to improve transparency in reporting and data collection on attacks and discrimination against female journalists" (Rec. 28). In light of the mission's findings, the MFRR considers specific gender-based policies are needed. Their development should start from a more proactive approach by the Dutch government to research the scope of attacks and harassment of women journalists, to ensure that any policy solutions adequately address the specific challenges at hand. One possible approach in this regard could be to take gender into consideration in PersVeilig's data-collection when reports are filed.

Another safety issue that may be extra challenging for women media workers is the issue of sexual harassment in the workplace. During the course of the mission, a sexual harassment scandal broke regarding the television entertainment show "The Voice". It put the spotlight on the fact that sexual intimidation, harassment and violence remain a prevalent problem on the work floor also in the Netherlands. Dr. Odekerken shared with the delegation that women journalists may experience the work floor as an unsafe environment. She explained this as partially the consequence of the idea that threats are 'part of the job' and the lack of a support system for women journalists, which feeds the perception that it is "not done" to speak out about these issues.

Therefore, the MFRR delegation is concerned that only very few cases of sexual misconduct on the work floor are reported externally. Sexual intimidation happens across all genders and sexes. However, women journalists most prominently fall victim to offenses of such nature. In particular for freelancers, it may be difficult to flag abuses, given the sometimes precarious nature of their employment. In light of these findings, the MFRR considers that also regarding the issue of sexual misconduct in the professional context, more needs to be done to ensure the adequate implementation of the European Commission's Recommendations, which provide that "*Member States should promote and support action to foster equality and inclusion in the media industry and in newsrooms*" (Rec. 29).



## Threats coming from abroad

During the mission's meeting with foreign correspondents working in the Netherlands, as well as a Dutch journalist working for a foreign media, it became clear that threats coming from abroad are not always adequately handled by the police. A foreign correspondent living and working in the Netherlands received multiple death threats on online platforms. The threats were expressed in Spanish and seemed to come from within Spain. When she went to file a report with the Dutch police, she was told to file a complaint with the Spanish police instead, as the threat emanated from that country. When she insisted that she wanted to file a report in the Netherlands, the police officer told her to write down what happened, but not on an official form, the affected journalist told our delegation. When she subsequently tried to file a complaint with the Spanish police, they told her this is impossible, as she received the threats in the Netherlands.

Spokesperson for Police Midden Nederland Wim Hoonhout emphasised during the interview with the MFRR that in no case should individuals be discouraged from filing a police report.

## Online threats and harassment and the role of social media platforms

Violence and harassment of journalists frequently occurs online, and in that context, generally affects more women journalists than men. Its nefarious impact is heightened even further by the fact that globally, online violence is increasingly spilling over to physical violence. However, not all interlocutors recognised this trend as pertinent for the Netherlands. As explained, in the MFRR's view, this lack of recognition stems not necessarily from the fact that it does not happen, but rather from a lack of data that underlines such increased online violence against women journalists.

It is important that online attacks and threats against journalists are taken seriously and adequately addressed. Social media platforms host the infrastructure where such online harassment takes place. Subsequently, they have a responsibility to create and maintain a safe online space. During the mission, however, it became clear that levels of engagement of the platforms vary strongly. The MFRR regrets that Twitter did not agree to meet with its delegation. Three representatives of Meta, the parent company of Facebook and Instagram, did accept the delegation's invitation. Mirroring the MFRR's experience, and as noted above in chapter 1, the General Secretary of the NVJ indicated to the delegation that when a journalist is threatened online, the NVJ can call Meta to request that they take down the threat, but a constructive relationship with Twitter remains to be established, despite the union's efforts.

According to Meta, the company has a service in several countries, including the Netherlands, that allows users to register as journalists (both staff and freelancers). This allows them to shield their Facebook and Instagram accounts, gives them access to blue shield notifications, and more. Meta does not allow sharing of information about personal addresses of journalists. However, when raising the recent example that Sigrid Kaag's home address was publically available on Facebook for 8 months, Meta pointed towards these fact checkers. It seems there is a certain fragmentation of responsibility that in practice can lead to situations where Sigrid Kaag was doxxed for such a long period of time.

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. The law is expected to make it easier for the Police to take action in case of doxxing, as well as to clarify the responsibility platforms have when it comes to doxxing. It is hoped that this legislative change will help to adequately address this problem for the freelance journalistic community. In February 2022, Minister Yesilgoz of Justice and Security sent a legislative proposal to the Council of State for advice, after which it will be presented to the Parliament.





If passed, this law could have a guiding role in the platform's response to doxxing. The Meta interlocutor admitted that Facebook needs more narrowed down policies regarding doxxing. Facebook has moderators and fact-checkers who moderate content in line with a global set of rules. The company did not share the amount of moderators it hired with our delegation. Furthermore, the moderators ensure that a contextualised policy is followed where also cultural sensitivities are taken into account, in the Netherlands for example in relation to "Black Pete". The moderators are also responsible for judging whether reported posts are violating the platform's guidelines. During the meeting with Meta, the interlocutors pointed out several Facebook projects for the protection of journalists, such as a digital training, a Women's Safety Hub, and an e-learning course for journalists.

The lack of response from some social media platforms is only part of the problem. The editor-in-chief of Omroep Gelderland argued that often, threats are expressed by anonymous accounts, which makes it difficult to take action. Moreover, several interlocutors said that often, online harassers of journalists know exactly what is allowed within the law, enabling them to intimidate, threaten and harass journalists without risking prosecution. Impunity for such attacks is still a major issue, highlighting the need for stronger accountability mechanisms both from platforms and government.

## Consequences

During the mission, it became clear to the delegates that the rising aggression against journalists in the Netherlands has taken a toll, although not all reporters or outlets are affected to the same extent and individual responses vary. According to the NOS, for instance, their reporters sometimes cover demonstrations from a distance, instead of mixing in with the crowd. Even more impactfully, the editor-in-chief of a regional media outlet said that sometimes they decide not to post about controversial topics such as farmers and refugees on social media. Specifically regarding women journalists, Dr. Odekerken's survey pointed out that self-censorship can be a consequence of threats. Around 20% of the women journalists of her survey avoided certain topics, events or crowds.

Throughout the mission a couple of interlocutors indicated that the issue of intimidation and aggression against journalists, and the consequences thereof, are not always openly discussed within the journalistic community. Some interlocutors indicated to the delegation that they do not experience psycho social consequences following threats they receive, but that they do have concerns about their colleagues in the field. It seems to the delegation that there is a barrier sometimes for journalists to openly speak about the psychological impact that harassment may have. The Ombudsperson that the delegation spoke with, indicated that it would be good if persons with a strong position in the journalism field would speak out about the impact of harassment. The MFRR delegation underlines that in order to reduce the mental impact of threats and to further strengthen solidarity, it would be good if trust discussions would be facilitated, for instance by the chief-editors or by PersVeilig.

### 3. Reporting on protests: the relationship between journalists and the police

**Across Europe, demonstrations can lead to media freedom violations, a finding that is confirmed by MFRR's monitoring platform. Also 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 noted in the chapter on PersVeilig above, there is for instance agreement to prioritise the detection and prosecution of attacks and harassment of journalists.**

Nevertheless, during the course of the fact-finding mission several interlocutors said that the police and the media do not always recognise the importance of each other's professional role, which can lead to clashes and misunderstandings. A member of the BPV illustrated the negative evolution in this regard, comparing the relationship between police and media between 2004 and now:

**"I think it was in 2004. There was a big thing at the International Court of Justice. There was a colleague from France. The photographer and videographer arrived with protective measures and gas masks. We were laughing at them, we said that the police are not going to be aggressive. But now [...] it changed from a relationship of allies, of 'let's talk this out', and neutral, to [...] not competitive, not an enemy, but not neutral anymore. [...] Everyone feels really besieged now. That was really different in the Netherlands before."**

#### Mission findings

Despite the high willingness for cooperation, many journalists and media representatives told the MFRR delegation that they believed tension between the Police and the media has increased in recent years. According to journalist Mac van Dinther, this could be attributed to the growing number of demonstrations. *"When there are more protests in society, there will also be tension between journalists and the Police",* he said.

In the course of 2021, the MFRR registered three arrests of journalists during a demonstration. 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. Explaining the circumstances of his arrest, Van Dinther told the MFRR delegation that he approached a police officer who was arresting a protester to get a closer look. When the Police ordered Van Dinther to step back, he refused, after which the journalist was arrested. Despite carrying an NVJ-issued press card, Van Dinther was detained in a police van for six hours, during which he was interrogated twice. He was allowed a phone call with his editor-in-chief, but had limited access to water and was denied use of the sanitary facilities. The two complaints against Van Dinther, of insult and hindrance (belediging en belemmering), have been dismissed. Until today, no dialogue has been established between Van Dinther and the Police, the journalist told us.

Reflecting on the arrests, police spokesperson Hoonhout said that when public order requires it, policemen can order all persons present to leave a specific area - including journalists. Journalists have a right to report, Hoonhout said, but they also have a duty to obey police orders. When a journalist allegedly refuses to do so, in extreme cases, he said arrests of journalists can be justified. Additionally, Hoonhout underscored the difficulty of verifying whether someone is really a journalist during hectic demonstrations. This is exacerbated by the Police's struggle with a lack of capacity, especially during demonstrations. As Hoonhout indicated in [an interview](#) in the Dutch newspaper NRC and confirmed during the interview with the MFRR delegation, the number of fake press cards has increased, especially since the rise of anti-Covid demonstrations in the Netherlands, which makes the identification process "much more complex". In the case of Nijenhuis, the situation was different, according to Hoonhout: he allegedly did not show the police an official press card at the time of his arrest, but a personal business card.

Relatedly, indeed multiple journalists have experienced problems with the acceptance of their journalistic credentials during demonstrations. Official press cards, including a 'normal' NVJ press card, are not always accepted as valid by the police during protests, according to multiple interlocutors. This raises concerns with the MFRR. In the Netherlands there are various different press cards. The police press card, which is issued together with a more visible "riot card" that journalists can carry around their neck, gives journalists access to report from incidents such as accidents or protests where the area has been cordoned off by the police. The card issued by the Stichting Landelijke Politieperskaart, an initiative of the NVJ, the Dutch Association of Photojournalists (NVF), the BPV and the Dutch Society of Editors-in-Chief and costs 45 euros for NVJ-members and 60 for non-members. This can pose a barrier in particular for freelance journalists who may not have the means, as one interviewee pointed out.

During the fact-finding mission, the MFRR heard in particular that the BPV-issued press card for foreign journalists and press cards issued in other countries led to difficulties. For instance, in late 2021 a German photographer was detained whilst reporting on a demonstration in Amsterdam. Despite repeatedly showing his BPV press card, the



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photographer was not released until the end of the protest. This obstructed his journalistic work. In other cases, the Police would take a long time to check whether a press card is true or fake, which hindered journalists from reporting.

When confronted with these concerns of the MFRR delegation, police spokesperson Hoonhout suggested that to avoid problems with press cards, journalists on duty should identify themselves as journalists before reporting on a demonstration, to avoid problems when the situation gets heated unexpectedly. Sandrina Hadderingh, the editor-in-chief of regional broadcaster Omroep Gelderland, said that her newsroom already employs this method, but did not see a difference in the treatment of journalists by the Police.

Next to verifying a journalist's identity during demonstrations, which NVJ's Bruning acknowledged to be a complex matter, a journalist must never be held in detention for long. According to Bruning "it is a matter of googling" whether a person is, in fact, part of a media organisation. It should therefore not be necessary to detain journalists for multiple hours, such as in the case of Van Dinther and the foreign journalist. Bruning believed it would be helpful instructing police officers on the rights of journalists and the role of the press card, but also saw a role for the NVJ in addressing the problem, by putting more effort into training for journalists who use the police press card, including the 'riot card', to understand the rights and duties related to the press card, and working to increase the number of journalists acquiring one.

## **Assessment** against regional standards

The Recommendations by the Council of Europe and by the European Commission both address the protection and safety of journalists during protests and demonstrations. In light of the mission's findings, the MFRR considers these are partially implemented in the Netherlands.

As evidenced by PersVeilig and the Agreement of the Steering Group on Aggression and violence against journalists, there is a high level of willingness from journalists and police alike to engage in dialogue and collaborate to improve journalists' safety during demonstrations (EU Rec. 23 and CoE Guideline 14). Most of the MFRR's interlocutors expressed the view that the police consider the media important and generally recognises the importance of a free press. Nevertheless, according to some interlocutors including arrested journalist Mac van Dinther, there is room for a stronger and more continuous dialogue between reporters and journalists on the ground.

The MFRR acknowledges that the arrest of journalists during demonstrations is a sensitive matter. The journalists' right to freedom of expression and the society's right to receive information can sometimes clash with the Police's right to send orders at times of emergency. We concur with the position advanced by police spokesperson Hoonhout that journalists should follow legitimate police orders. However, our delegation also notes that the European Commission stresses that Member States should improve law enforcement's capacity "to guarantee public security while at the same time protecting journalists and not inhibiting their ability to report" (EU Rec. 19, emphasis added). Accordingly, in light of the mission's findings and the incidents documented on Mapping Media Freedom, the MFRR considers there is a need for more training and capacity-building to ensure all police officers working during protests adequately understand the role of the press during such events and take this into account in the way they maintain public order. Both the European Commission (Rec. 19 and 20) and the Council of Europe (Guideline 12) underscore the importance of developing protocols and training programmes for State authorities who are responsible for fulfilling State obligations concerning the protection of journalists and other media actors, police officers included. As noted in chapter 1, it is regrettable that the shortened police education, from three to two years, does not include specific training regarding the relationship between the press and law enforcement. A consequence of this may be the fact that in some instances, official press cards are not immediately recognised by the police.



When arrests of journalists do occur, unlawful detention and ill-treatment must be prevented through the provision of adequate procedural safeguards (CoE Guideline 11). In the MFRR's view, while none of the incidents discussed during the fact-finding mission reached the threshold of ill-treatment or unlawful detention, the three journalists who were arrested during protests in the course of 2021 should not have been detained for as long as they were. We appreciate that processing arrests takes time and police capacity during protests can be limited, however higher priority ought to be accorded to ensuring that journalists' work is not obstructed in the process. The confiscation of De Swart's camera is also problematic and falls short of the Council of Europe's standards (CoE Principle 30).

With regard to the recognition of press cards, the Council of Europe recommends that *"press or union cards, relevant accreditation and journalistic insignia should be accepted by State authorities as journalistic credentials, and where it is not possible for journalists or other media actors to produce professional documentation, every possible effort should be made by State authorities to ascertain their status"* (CoE Guideline 14). The European Commission in this regard states that *"Member States should work together with representatives of journalists and media self-regulatory bodies on effective and appropriate methods for the identification of journalists during protests and demonstrations"* (EU Rec. 22). In light of the challenges that came to light during the fact-finding mission, the MFRR considers more needs to be done to ensure these guidelines are fully implemented.

We emphasise that not having a police card must never be a *"carte blanche"* for police officers to interfere with reporting. Instead, the Police should accept all official press cards during demonstrations, including the NVJ-issued press cards, the BPV press card and press cards for foreign countries. All these cards are issued by legitimate organisations and are valid identification methods for journalists. In short, law enforcement and the Police should collectively develop a way that allows police officers to quickly verify journalists' identity close to areas from which they are reporting, with a view to minimising interference with journalistic activity. There must be clear guidance under which conditions it is appropriate to implement additional checks (i.e., when is it legitimate to question the veracity of documentation shown by journalists such as a press card). We suggest that an information session or training for police officers, organized by the journalistic and law enforcement together, could strengthen the Police's understanding of press cards, and could give the Police tools to verify the journalists' identity as quickly as possible in case of doubt.

## 4. Threats emanating from organised crime

**On 6 July 2021, investigative crime journalist Peter R. de Vries was fatally shot in Amsterdam. At the time, De Vries had taken up a role as advisor and confidant to the key witness in the Marengo trial, an extensive criminal trial against leading members of a notorious drug trafficking organisation. Importantly, all the MFRR's interlocutors agreed that De Vries' murder was likely linked not to his journalistic work directly, but rather to his function as a key advisor. Nevertheless, his assassination greatly impacted the (perception of) safety of journalists in the Netherlands.**

De Vries is not the first reporter who was killed in the Netherlands. In 2016, crime blogger Martin Kok was murdered. He had a criminal past, but at the time he was killed, he worked as a blogger reporting on crime. The video footage of a previous assassination attempt on Kok was showed during the Marengo trial, as gang leader Ridouan Taghi is suspected of involvement in the killing. In 2018, a van drove into the press building of the Dutch newspaper de Telegraaf. Although it could not be formally proved, the Prosecution Office has stated that it is suspected that the attack was linked to the newspaper's writing about organised crime. Currently, two Dutch crime journalists are in hiding and under the highest level of personal protection, provided by the Dienst Koninklijke en Diplomatieke Beveiliging (DKDB), subsequent to threats stemming from their reporting.

### Investigation and trial of the murder of Peter R. de Vries

Within hours after the assassination of De Vries, two suspects of the shooting were arrested. The criminal trial started on October 18th 2021. At the time of writing, two pro forma hearings had been held. The trial is expected to be resumed on 7 and 15 June 2022 and a verdict is expected on 7 July.

After the shooting, Minister of Justice and Security Grapperhaus announced an investigation into the broader circumstances leading to the death of De Vries. Under Article 2 of the European Convention on Human Rights (ECHR), protection of the right to life, States have a host of obligations, including to prevent circumstances leading to death. Moreover, States are obliged to independently investigate killings. With this investigation, the Minister wrote to Parliament, the Netherlands aims to meet these obligations. Tjibbe Joustra, former head of the National Coordinator Counter-Terrorism and Security (NCTV) was appointed as chairperson of this broader investigation into the circumstances surrounding the assassination. However, this led to criticism from amongst others Peter Schouten, one of the MFRR's interlocutors during this fact-finding mission. Schouten is the lawyer of the key witness and formally hired De Vries at his law firm for him to be able to serve as a key advisor to the client. Moreover, De Vries and Schouten had a friendship. Joustra's independence was questioned because of his previous role as the head of the NCTV.

After widespread criticism and parliamentary questions, the Dutch Safety Board (Onderzoeksraad voor Veiligheid, 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. Member of Parliament Pieter Omtzigt asked the government if with this OVV investigation, all obligations as prescribed by the ECHR have been met. The response from the minister indicated that in his view, this is indeed the case. The results of the investigation are expected in the course of 2022.



## Personal protection

De Vries had previously been under police protection, long before he took on this role in the Marengo trial. His journalistic work led to sincere threats to his physical safety. Since his killing, the issue of police protection for individuals at risk has been hotly debated. At the time of the shooting, De Vries was not under DKDB protection. The DKDB provides personal protection for individuals and is coordinated nationally. The service provides the highest level of protection and protects for instance members of the royal family, politician Geert Wilders, and another Dutch crime journalist.

According to the Police, De Vries refused the highest level of protection as he did not want to curb his personal freedoms. Peter Schouten explained to the delegation that from the moment of the press conference where he and De Vries announced their involvement in the Marengo trial, he had requested protection from the NCTV. They sent police cars to protect the area.

According to Peter Schouten, the NCTV rejected the request to protect De Vries under the national protection procedure. Other actors involved in the trial, such as the lawyer of the key witness Schouten himself, did receive this national form of protection. However, because De Vries was not involved as an official trial party in the trial, he fell under a different protection scheme, organised and implemented on the local level.

De Vries had made clear that he did not want to receive the highest level of personal protection with bodyguards, as this would impede on his freedom too much and it would mean that he would have to share his agenda with the authorities. The severe impact of living under this highest level was confirmed by two MFRR interlocutors who both currently or in the past were protected under this scheme. In particular the fact that the authorities can track your contacts including, particularly important for crime reporters, your secret sources, was brought up by these two interlocutors.

According to Schouten, however, the Terrorism coordinator was *“not very forthcoming”* as they *“didn’t want to offer a tailored solution”*. He said that tailor-made protection would have been possible if De Vries was protected under the national protection scheme. However, he was protected under the local scheme. The difference, according to Schouten, is that under the national regime, the communication between different departments is better coordinated. In his opinion, in hindsight it became clear that *“they fooled us at the table there by saying that he could not be protected on national level because he had no role as a trial party. Because there is an instruction saying that people who are of importance to the public and the safety and public order can also be admitted to that national security level.”*

The MFRR’s interlocutors made clear that not all journalists who face similar serious threats from organised crime want or need the same format of protection. The delegation was told that there are on-going discussions to create more tailored protection packages on the policy level. This is crucial for journalists, as they must have the opportunity to protect their sources. Additionally, one interlocutor also noted that the relationship between a journalist and the government can be fragile. Under those circumstances, negotiating with the state about your protection while critically controlling its actions as a watchdog is an odd balancing act.

## Protection of journalists against organised crime

The issue of protection reaches further. Throughout the mission, it became clear that many perceive the Dutch protection mechanisms in place for crime journalists as unsuitable. The word *“childish”* was used several times. The sentiment that the impact of organised crime in the Netherlands is underestimated and the approach should be lifted to a higher level, recurred several times. *“You would expect the highest level of urgency. They don’t act. They still don’t feel the sense of urgency now”* - Paul Vugts. Vugts and Schouten both expressed their dissatisfaction with the fact that until October 2021 suspected gang leader Taghi was able to communicate with the outside world through his cousin, who acted as his lawyer. It was described as *“childish”* and *“naive”*.



The lack of protection for journalists covering the Marengo trial was also cited as an example of this naivete. One interlocutor told the delegation that during the proceedings, which take place in “de Bunker” (the most highly protected courtroom in the Netherlands), the protection of journalists reporting on the trial is inadequate. Although judges, prosecutors, lawyers, witnesses and family members of the victims all receive the highest level of security, trial journalists do not. In practice, this means they have to travel to the court hall in their own vehicles and queue outside until all other participants have passed the security checkpoint, putting them in a potentially vulnerable position. The delegation was told that after 1,5 year of the trial journalists repeatedly asking for a hotline for them to contact in case of emergency, the Prosecution Office eventually provided them with 10 email addresses, which one interlocutor characterised as “embarrassing”.

Police spokesperson Hoonhout told the delegation that he was aware of the criticism. Before his death, De Vries had also raised concerns about the fact that he as a key advisor had to pass the same security gates at the court as the suspects and their family and lawyers. De Vries argued that it made him feel like a criminal. Hoonhout shared that he understood the discomfort of De Vries and trial reporters, but explained that the provision of protection is limited by capacity constraints. The MFRR recommends the Dutch authorities to promote better protection for journalists working in and around the courtrooms, beginning with making available more capacity to follow existing rules and guidelines, for instance.

## **Assessment** against regional standards

The European Commission and the Council of Europe have set out a number of standards concerning the investigation and prosecution of killings of journalists and media workers which, in a nutshell, must be effective and hence meet *“the essential requirements of adequacy, thoroughness, impartiality and independence, promptness and public scrutiny”* (CoE Guideline 18). Investigations and prosecution *“should consider all of the different - actual and potential - roles in these crimes, such as authors, instigators, perpetrators and accomplices, and the criminal liability that arises from each of these roles”* (CoE Guideline 21). States must guarantee the safety and physical integrity of everyone within its jurisdiction, which entails not only the negative obligation to refrain from unlawful taking of life, but also the positive obligation to take appropriate steps to safeguard the lives of those within its jurisdiction. The substantive dimension of this latter obligation *“also extends, in appropriate circumstances, to a positive obligation on the authorities to take preventive operational measures to protect individuals whose lives are at risk from the criminal acts of another individual”* (CoE Principles 20-21). The procedural dimension entails the duty to effectively investigate possible violations of the substantive obligations. Furthermore, the European Commission recommends that *“Member States should swiftly provide personal protection measures to investigative journalists and journalists working on corruption, organised crime or terrorism who have reported threats to police”* (EU Rec. 7).

In light of the fact that the criminal investigations and prosecutions and the OW investigation into the circumstances around the murder of Peter R de Vries remain ongoing at the time of writing, the MFRR considers it is too soon and inappropriate to formulate conclusions concerning the extent to which these meet the requirements formulated under regional human rights law at this time. We do note the critical remarks we heard during the mission from several interlocutors concerning the need for tailor-made protection for crime journalists and increased protection for trial reporters. We welcome the modifications made after criticism around the independence of the investigation into the circumstances. The MFRR hopes the ongoing investigations will adequately address these matters and we will continue to follow the situation closely.





# Conclusions and recommendations

**The Netherlands generally remains a safe haven for journalists and media workers. The PersVeilig mechanism is a key actor when it comes to ensuring and advancing journalists' safety and is a noteworthy example of constructive cooperation and dialogue between the journalism community and state authorities, both symbolically and at a practical level, PersVeilig makes it clear that attacks and harassment of journalists and media workers are a) not tolerated, and b) addressed collectively.**

Even if the general assessment of PersVeilig is overwhelmingly positive, among the MFRR's partner organisations as well as its interlocutors during the fact-finding mission, room for improvement remains in a number of areas. For one, it is vital that the agreed protocol is consistently implemented by the police, which is currently not the case due to a lack of police capacity. Furthermore, the MFRR mission also heard concerns about the continuity of the project, which has limited capacity and is very reliant on the remarkable efforts of one person. The project could be made more inclusive for foreign correspondents by translating some of the materials, which are currently only available in Dutch. From the MFRR's perspective, the government's enthusiasm about the project constitutes a risk, too: it must be ensured that its trust in the mechanism does not devolve into an abdication of the State authorities' own responsibilities.

Despite relatively favourable conditions for press freedom and the existence of a pioneering mechanism to advance journalists' safety, the MFRR fact-finding mission confirmed the existing consensus that aggression against journalists is on the rise, amidst a general hardening of public debate and increased polarisation within society. It is highly problematic that in this context, the national public service broadcaster had to take the drastic step of removing logos from its vans in order to minimise aggression and harassment of its staff members.

Certain categories of journalists and media workers suffer specific threats. For one, freelancers often do not have sufficient funds to invest in their own protection or training. They are also exposed to a heightened risk of doxing, subsequent to the Chamber of Commerce's registration requirements. As concerns women journalists, it proved difficult to get an accurate overview of the scope and intensity of the harassment they face, given the scarcity of quality data. Furthermore, the MFRR mission also heard how threats from abroad are not always adequately handled by the police.

Moreover, throughout the mission it became clear that the Dutch approach to the safety of journalists lacks a gender lense: there are currently no monitoring programmes in place to measure the problems women journalists face. This is worrying, in particular when (non-existing) data serves as a precursor for policy making.

Threats and harassment of journalists frequently occur online, affecting more women journalists than men. Not all social media platforms engage equally with their responsibility to create and maintain a safe space online.

The Netherlands are no exception to the Europe-wide trend, where demonstrations are a particularly prominent context in which media freedom violations and attacks on journalists take place. Despite a high willingness for cooperation, many journalists and media representatives shared the view that tension between the police and media has increased in recent years. The MFRR found that there is a need to ensure better understanding of the role of the press during protests across the police command chain, to ensure the latter is able to maintain order during demonstrations in a manner that does not inhibit the former's ability to report. Recognition of press cards during protests came up as a particularly useful suggestion to adopt.



During the mission, it became clear that rising aggression against journalists in the Netherlands has taken a toll, although not all reporters and outlets are affected equally. For instance, some journalists now avoid mixing in with the crowd when reporting on protests. Media outlets or journalists sometimes decide not to write or post on social media about controversial topics.

The Dutch (policy) approach scores relatively well when it comes to putting mechanisms in place to protect journalists. In terms of prosecution, several measures have been taken to improve the justice process and elevate the costs for violating press freedom. However, there is room for improvement when it comes to prevention of harassment and violence. The delegation has come across scarce initiatives to prevent harassment against journalists. In order to formulate such policies the WODC report may act as a guide.

The murder of Peter R de Vries, although likely not linked to his journalistic activity directly but rather to his role as key advisor to the crown witness, nevertheless greatly impacted the public debate on safety of journalists in the Netherlands. The investigation and prosecution of the murder, as well as the investigation into the circumstances surrounding it, are ongoing at the time of writing therefore it is too early to draw any conclusions in this regard. Regardless, from the conversations throughout the course of the mission, it became clear that there is a need on the one hand to study the creation of tailored protection packages for journalists who receive threats from organised crime, and on the other, to look into the possibility of improving protection for journalists who cover high-profile criminal trials.

In light of these findings, the MFRR issues the following recommendations:

**The authorities of the Netherlands are advised to:**

- Increase prevention efforts to improve the safety of journalists in the Netherlands, starting with a swift publication of the WODC report. One way to increase prevention efforts would be to strengthen efforts to change public perceptions and attitudes about the role of the media in educational programmes, including by developing a cohesive policy regarding media literacy that besides making citizens more resilient to disinformation and misinformation aimed at discrediting journalists, also raises awareness of the pivotal role journalists play in democratic societies.
- Strengthen the monitoring and evaluation of aggression, violence and other forms of harassment that women journalists face in the Netherlands. Consider looking into policy making specifically to improve the safety of women journalists.
- Increase and strengthen the efforts to track and monitor the level of legal harassment that journalists face in the Netherlands, including *Strategic Lawsuits Against Public Participation*. Accordingly, develop policies to address this if necessary.
- Ensure the protocols and national codes agreed in the PersVeilig mechanism are consistently implemented by law enforcement authorities: guarantee recognition and protection of the role of journalists is built into law enforcement's operational procedures and guidelines across the board, from the police officer in the street to their immediate supervisors as well as those who plan operations. This may require increasing the capacity of the police on a structural level.
- Advance and accelerate the development of tailor-made protection solutions for journalists who receive threats from organised crime.
- Improve protection in and around courtrooms for journalists who cover high-profile criminal trials during the proceedings.
- The Chamber of Commerce should ensure that journalists can register as freelancers while shielding their home address from exposure.



- Ensure that the currently drafted bill that criminalises doxxing is effective. Specifically, in addition to taking down private information about journalists, it should also demand more transparency from platforms regarding their actions in this regard.

#### **To law enforcement is advised to:**

- To minimise interference with journalistic activity, the police should develop a process to quickly verify journalists' identity when they are reporting. When there are doubts about the validity of a press card, there must be clear guidance under which conditions it is appropriate to implement additional checks (i.e., when is it legitimate to question the veracity of documentation shown by journalists such as a press card).
- At all times the police should prioritise verifying the identity of arrested journalists as quickly as possible, to avoid unnecessary detention.
- Improve the police's understanding of the role of journalists during demonstrations and law enforcement's role in enabling reporters to do their job, by investing in capacity building during initial police education and continuous training. The police should accept all official press cards during demonstrations, including the NVJ-issued press cards, the BPV press card and press cards for foreign countries. All these cards are issued by legitimate organisations and are valid identification methods for journalists.
- Ensure that all police officers have knowledge of the different official press cards and acknowledge them as such, even during chaotic demonstrations and other events where journalistic freedoms must not be compromised. The police should accept all official press cards during demonstrations, including the NVJ-issued press cards, the BPV press card and international press cards for foreign countries. All these cards are issued by legitimate organisations and are valid identification methods for journalists.
- Explore options to remove the financial barrier to obtain the police press card, which especially can discourage freelancers from acquiring this press card.

#### **To the journalistic community is advised to:**

- Media outlets and houses should install external persons of trust that are approachable for staff, for instance to alert on threats to safety in the workplace, or to speak about mental consequences of harassment.
- Create mental support groups for journalists who are in need of psychosocial support due to the rising aggression and threats coming with their job.
- Journalists themselves must at all times comply with the national code and guidelines compiled under PersVeilig, for instance, they must always have an official press card to identify themselves to the authorities.

#### **To PersVeilig is advised to:**

- Consider taking gender into account in data-collection when reports are filed, with a view to ensuring that gender-specific challenges and threats are considered, both when it comes to the further development of the PersVeilig mechanism itself and when its data feeds into policy development by the government.
- Ensure the continuity of the mechanism and consider expanding its human resources, both for continuity purposes as well as to broaden the scope of the mechanism with e.g. more gender specific and prevention efforts.
- Examine how PersVeilig's preventative function can be further developed, for instance by working more closely with the Ministry of Education, Culture and Science on developing educational programmes emphasising the essential role that journalists play in the Dutch democracy.
- Consider translation of (some of) the PersVeilig materials to make them more accessible for foreign journalists active in the Netherlands.



**To social media platforms is advised to:**

- Be more responsive to requests from the journalistic community to improve online safety.
- Engage more with the responsibility the social media platforms have to create safe online environments for journalists.
- Ensure that addresses and other private information of journalists that are shared online and put them at danger are immediately taken down.

The Media Freedom Rapid Response (MFRR) is a Europe-wide mechanism, which tracks, monitors and reacts to violations of press and media freedom in EU Member States and Candidate Countries. This project provides legal support, public advocacy and information to protect journalists and media workers. This report reflects the author's view and the Commission is not responsible for any use that may be made of the information it contains.



## MEDIA FREEDOM RAPID RESPONSE

