



## Justice for Journalists

Foundation for International  
Investigations of Crime against Media

4 October 2021

### **Stakeholder Submission to the UN Human Rights Committee Review of Ukraine (133rd Session, 11 October 2021 - 5 November 2021)**

Justice for Journalists Foundation and National Union of Journalists of Ukraine are pleased to offer this submission to the Human Rights Committee ahead of the consideration of Ukraine's report at its 133<sup>rd</sup> Session.

**Justice for Journalists Foundation (JFJ)** is a British non-governmental organisation created in 2018. JFJ has been monitoring, analysing, and publicising attacks against media workers<sup>1</sup> that took place since 2017 in 12 post-Soviet states, including Ukraine. The monitoring is based on content analysis of open sources in English, Russian and Ukrainian. In addition, expert interviews with media workers are used to monitor cases that have not been publicly reported. All information is verified using at least three independent sources. JFJ also funds journalistic investigations into violent crimes against media workers and helps professional and citizen journalists to mitigate their risks.

**National Union of Journalists of Ukraine (NUJU)** is a Ukrainian non-governmental organisation uniting journalists and other media workers since 1959. NUJU, among other directions of its work, conducts conferences and public hearings on the freedom of expression and the safety of journalists, participates in the preparation of legislative amendments, and provides legal support to journalists.

The focus of this submission is the **situation of media workers and media outlets since the consideration of Ukraine's seventh periodic report in July 2013** and Ukraine's compliance with its obligations enshrined in **Article 19 of the International Covenant on Civil and Political Rights (ICCPR)**.

We refer to Ukraine's eighth periodic report (CCPR/C/UKR/8, Paragraphs 161-167), list of issues (CCPR/C/UKR/Q/8, Paragraphs 21-22) and Ukraine's replies to the list of issues (CCPR/C/UKR/RQ/8, Paragraphs 94-99).

Section I contains brief information about the environment and the main risks for media workers and media outlets. For additional details and examples, please see reports on

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<sup>1</sup> In this submission, the term "media workers" refers to journalists, camerapersons, photojournalists, and other employees and managers of traditional and digital media, as well as bloggers and online activists.

JFJ’s website.<sup>2</sup> Sections II-IV outline relevant Concluding Observations of the Human Rights Committee, Universal Periodic Review (UPR) recommendations, and recent concerns of the Special Procedures. Finally, in Section V, we propose key recommendations.

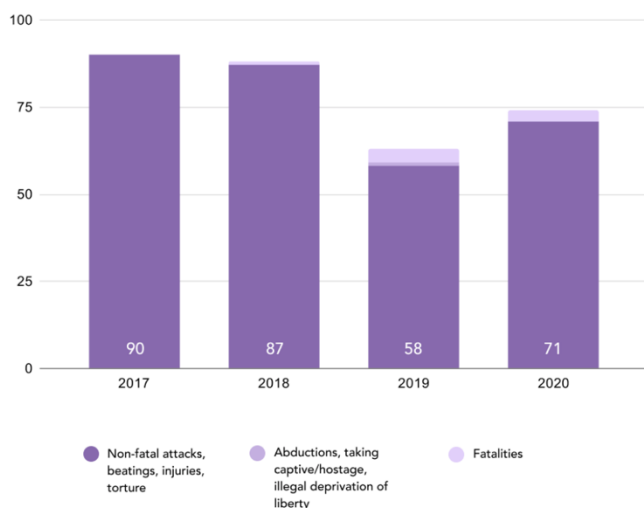
## I. Situation of media workers and media outlets (Article 19)

Since consideration of Ukraine’s previous periodic report in 2013, the environment for journalism has generally improved. The country has gained 29 positions in Reporters Without Borders’ World Press Freedom Index and ranks 97 out of 180 countries (“problematic situation”).<sup>3</sup> Freedom House’s Internet Freedom Score for Ukraine has remained the same as in 2016, when it was first measured, equalling 62 (“partly free”), despite some fluctuations in between.<sup>4</sup>

In 2017-2020, Justice for Journalists Foundation documented 1 290 cases of pressure on media workers and media outlets in Ukraine. Three hundred fifteen of them were physical attacks and threats, 705 – non-physical attacks and threats online and offline, and in 270 instances, judicial and economic means were used to exert pressure. In a significant number of cases (about 41%), the perpetrators were representatives of the authorities.

The graphs below illustrate the distribution of cases over the years and the most widely used types of pressure within each category:

### a) Physical attacks and threats

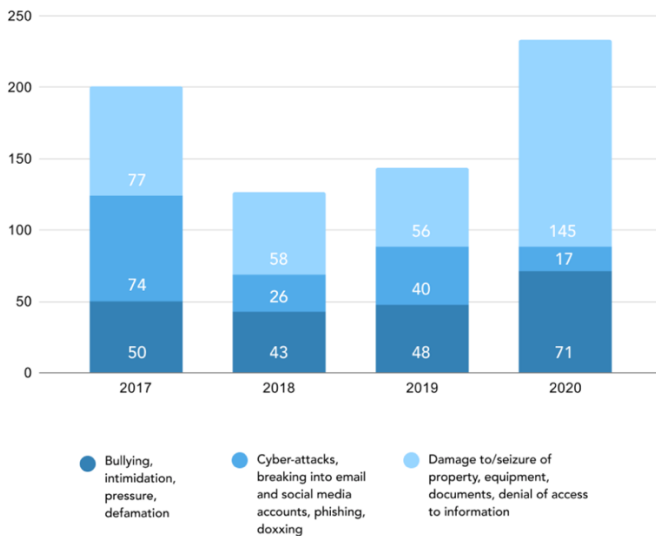


<sup>2</sup> [https://jfi.fund/report-2020\\_3/#ukr](https://jfi.fund/report-2020_3/#ukr), <https://jfi.fund/attacks-on-journalists-bloggers-and-media-workers-in-belarus-russia-and-ukraine-2017-2019/#ukraine>

<sup>3</sup> <https://rsf.org/en/ranking/2013>, <https://rsf.org/en/ranking/2021>

<sup>4</sup> <https://freedomhouse.org/country/ukraine/freedom-net/2016>, <https://freedomhouse.org/country/ukraine/freedom-net/2021>

## b) Non-physical attacks and threats online and offline



## c) Use of judicial and economic measures



Furthermore, in at least 81 documented cases in 2020, the pressure on media workers and media outlets had a “hybrid” nature, i.e. it was carried out using two or more categories described above. The majority of such “hybrid” cases (45 cases) targeted the same ten journalists. This shows deliberate and systematic attempts to silence particularly critical voices.

In 2021, at least 46 physical attacks and threats, 129 non-physical attacks and threats online and offline, and 29 instances of judicial and economic attacks have been documented as of 29 September 2021.

Some of the significant recent developments included:

### 1) Big number of physical attacks and threats

Physical attacks and threats against media workers and media outlets remain widespread and usually occur in situations of conflict between media workers and people they write about. In 2017-2020, about 23% of them were committed by the representatives of the authorities.

While the investigation of attacks and threats against media workers and media outlets still has significant room for improvement, it is essential to note several positive developments. In 2020, the National Union of Journalists of Ukraine managed to establish effective communication with law-enforcement agencies. Police are generally reacting more swiftly to complaints from journalists, and the effectiveness of investigations is improving. A special department has been created in the National Police of Ukraine, which, *inter alia*, investigates crimes against journalists; and a centralised hotline has been launched. Moreover, there is a trend for many conflicts involving media workers and media outlets to be resolved through legal means and the number of respective court cases is increasing.

### 2) Banning the country entry for foreign journalists

Ukrainian authorities regularly use the mechanism of banning entry into the country to foreign journalists (predominantly Russian media) and forcibly deporting them. In 2017-2020, we documented at least 48 such instances. In some cases, journalists are denied entry because they cannot confirm the purpose of their visit; in others – because of violations of procedures for visiting the territories of Donetsk, Luhansk and Crimea.

In the context of the armed conflict in eastern Ukraine and occupation of Crimea by the Russian Federation, Ukraine is legitimately concerned about the effects of Russian propaganda. However, it is important to ensure that any restrictions on the exercise of freedom of expression should comply with the strict requirements of article 19, paragraph 3, of the ICCPR.

### 3) COVID-19 restrictions

In 2020, Ukraine introduced quarantine restrictions to counter the spread of COVID-19.<sup>5</sup>

These restrictions have resulted in additional pressure on Ukrainian media workers. At least 51 instances of pressure were documented during the COVID-19 pandemic of

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<sup>5</sup> <https://www.icnl.org/covid19tracker/?location=131&issue=&date=&type=>

2020. Thirty-one of them were non-physical attacks and threats online and offline (mostly impediments to journalistic activity and denial of access to information), 13 were physical attacks and threats, and 7 – the use of judicial and economic measures against media workers and media outlets (all of which were refusal of accreditation).

## **II. Relevant Concluding Observations of the Human Rights Committee**

In its 2013 Concluding Observations (CCPR/C/UKR/CO/7), the Human Rights Committee expressed concern at “reports of threats, assaults, harassment and intimidation of journalists and human rights defenders in connection with their professional activities and the expression of critical views” (Paragraph 20).

In this connection, the Committee recommended that Ukraine should “ensure that journalists, human rights defenders and individuals are able to freely exercise their right to freedom of expression, in accordance with article 19 of the Covenant and the Committee’s general comment No. 34 (2011) on the freedoms of opinion and expression. Any restrictions on the exercise of freedom of expression should comply with the strict requirements of article 19, paragraph 3, of the Covenant. Furthermore, the State party should ensure that acts of aggression, threats and intimidation against journalists are investigated, prosecuted and punished and victims provided with appropriate remedies.” (Ibid).

## **III. Relevant UPR Recommendations**

Recommendations made during the third cycle of the UPR of Ukraine in November 2017 included the following:

- 116.61 Support efforts to prevent human rights abuses in Crimea and Donbas by facilitating access for monitors, human rights defenders, journalists, and lawyers, and investigate thoroughly any credible allegations of abuses by Ukrainian forces, and use all appropriate methods to promote accountability for abuses (United States of America) (Supported; A/HRC/37/16/Add.1);
- 116.80 Guarantee the right to freedom of opinion and expression in all its territory, as well as active participation of society and media in public affairs (Mexico) (Supported; A/HRC/37/16/Add.1);
- 116.82 Ensure a greater involvement of public powers to guarantee the free exercise of freedom of expression and of the media, as these freedoms contribute to accountability in cases of human rights violations (Spain) (Supported; A/HRC/37/16/Add.1);
- 116.83 Coordinate with international experts to conduct a review of recent legislation and decrees concerning the media and civil society, to determine whether these

measures are consistent with Ukraine's international obligations (United States of America) (Supported; A/HRC/37/16/Add.1);

- 116.85 Further strengthen the protection of journalists, human rights defenders and individuals to ensure their rights to freedom of opinion and expression. It is crucial that crimes against media professionals do not go unpunished (Netherlands) (Supported; A/HRC/37/16/Add.1);

- 116.86 Further strengthen the legislative environment for journalists and media outlets, take additional measures for their safety, and tackle impunity for attacks on journalists (Greece) (Supported; A/HRC/37/16/Add.1);

- 116.87 Ensure respect for freedom of expression, in particular with regard to journalists, associations and non-governmental organisations defending fundamental rights, including the rights of lesbian, gay, bisexual, transgender and intersex persons (France) (Supported; A/HRC/37/16/Add.1);

- 116.88 Strengthen the protection of journalists and investigate those responsible for spreading personal data of journalists and inciting attacks against them. Investigate and prosecute as a matter of priority killings of journalists, such as that of Pavel Sheremet (Czechia) (Supported; A/HRC/37/16/Add.1);

- 116.89 Continue to improve the respect of the freedom of expression and the protection of journalists, within the framework of the media legislation, which is hampering freedom of expression through the inclusion of broadcasting thresholds in languages belonging to national minorities (Romania) (Supported; A/HRC/37/16/Add.1);

- 116.90 Ensure the safety of journalists and civil society activists by protecting them against unlawful interference and threats (Republic of Korea) (Supported; A/HRC/37/16/Add.1);

- 116.91 Guarantee the safety of human rights defenders and journalists and ensure they can freely exercise their activities (Italy) (Supported; A/HRC/37/16/Add.1);

- 116.104 Ensure progress in the investigations into the murders committed during the Maidan revolution in Odessa in May 2014, and into the murder of journalist Pavel Sheremet on 20 July 2016 (France) (Supported; A/HRC/37/16/Add.1); and

- 116.81 Review the repressive governmental policy designed to suppress the functioning of independent media, journalists and bloggers (Russian Federation) (Noted; A/HRC/37/16/Add.1).

#### **IV. Relevant Concerns of the Special Procedures**

Since the consideration of the previous periodic report, the persecution of media workers has been the focus of communications sent by the Special Procedures to Ukraine concerning the allegations of:

- excessive use of force against journalists in the context of mass protests in Kyiv (UA UKR 4/2013, dated 10 December 2013);
- excessive use of force against, killings, injuries, enforced disappearances of, and arbitrary arrests and detention of journalists in the context of Euromaidan protests (UA UKR 1/2014, dated 20 February 2014);
- presidential decree banning 41 international journalists and bloggers from Ukraine (AL UKR 6/2015, dated 16 November 2015);
- excessive use of force against journalists and obstruction of journalists' activity during the mass protest in Kyiv (AL UKR 1/2018, dated 8 June 2018);
- acts of intimidation and harassment against the editor of the Union of Orthodox Journalists news agency (UA UKR 4/2018, dated 30 October 2018);
- risk of journalist's extradition to Kazakhstan (UA UKR 1/2020, dated 24 January 2020); and
- personal sanctions against the owner of three opposition TV channels, which as a result were forced to cease their broadcasting (AL UKR 4/2021, dated 21 June 2021).

## **V. Recommendations**

We encourage the Human Rights Committee to urge the government to:

- Ensure prompt, effective, independent and impartial investigations into the reports of attacks on, or threats against, all media workers, bring those responsible to justice, including those with direct and supervisory responsibility, and ensure the victims appropriate forms of redress; and
- Ensure that any restrictions on entry to Ukraine for journalists comply with international human rights norms and standards.