

Rights and Jobs in Journalism



**Building
Stronger
Unions
in Europe**



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In the past years, the media industry has undergone drastic changes due to the emergence of new technologies in the way news are produced and consumed as well as the structural changes driven by the economic crisis. The emergence of online journalists, social media journalists, multi-media journalists, entrepreneurial journalists and many other forms of doing journalism has not only challenged the traditional notion of being a journalist, it has also led to demands for jobs, new skills, trainings and protections of their professional rights.

But one thing remains the same - ***rights and jobs in journalism go hand in hand together; without decent pay and equal rights for journalists, quality in journalism cannot be guaranteed.*** Journalists' organisations play a key role to defend the rights of journalists and equip them to rise to the challenge of the changing labour market.





Journalists' organisations themselves also undergo changes to renew their commitment and strategies to counter new challenges. This handbook is the result of a two-year project, *Rights and Jobs in Journalism – Building stronger unions*, launched by the European Federation of Journalists (EFJ) to address these challenges. It contains inspiring examples from EFJ members, including :

- recruitment and organising strategies to reach out to young and other types of journalists;
- development of new services and training opportunities catering for the need of different members;
- continue to defend the labour rights of journalists through collective bargaining and innovative campaigns;
- advocate the protection of the professional and social rights of all journalists, in particularly those of freelance and precarious workers, through national and European legislation.
- lobby for strong authors' rights protection for journalists and fair contacts

It is hoped that the handbook will inspire further exchanges of good practices among EFJ members and provide themselves with tools and ideas to take further action.

We would like to thank all EFJ members who have contributed to the drafting of the handbook. We also gratefully acknowledge the financial support of the European Commission (DG Employment) for this project.

Mogens Blicher Bjerregård, President
European Federation of Journalists

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CHAPTER 1

**Let's organise, invest
in youth and services**

What strategies do unions and associations use to increase and retain their members? How do unions and associations adapt recruitment strategies to the changing media labour market and remain relevant?

They are key questions concerning the future of journalists' organisations and were addressed by the EFJ workshop on "*Let's organise, invest in youth and services*" in May 2015 attended by 30 union leaders and recruitment officers in Copenhagen. Thus, this chapter aims to give an overview of the recruitment strategies of EFJ members. It is based on the results of a survey launched in May 2015 by the EFJ, to collect best practices among its members on recruitment. Analysis from this chapter is based on these responses and experiences shared by participants in the workshop.

The survey and discussion for the Copenhagen workshop revealed that although recruitment is the subject of an increasing interest among EFJ membership, recruiting young members is not yet a priority. A certain number of journalists' organisations continue to keep their doors close for students and trainees. Only a few of them provide services tailored for their youth members. Nevertheless, advances have been made in the membership criteria to allow broader membership. **A majority of the professional associations and trade unions are changing their membership criteria to accept journalists engaging in new forms of journalism.**

40 organisations from 32 countries have responded to the online questionnaire. This equates to a response rate of 65%. Individual union officers who represent their organisations provided the replies. Among them, 42.5% are female. The study has a balanced regional representation covering all the European sub-regions.

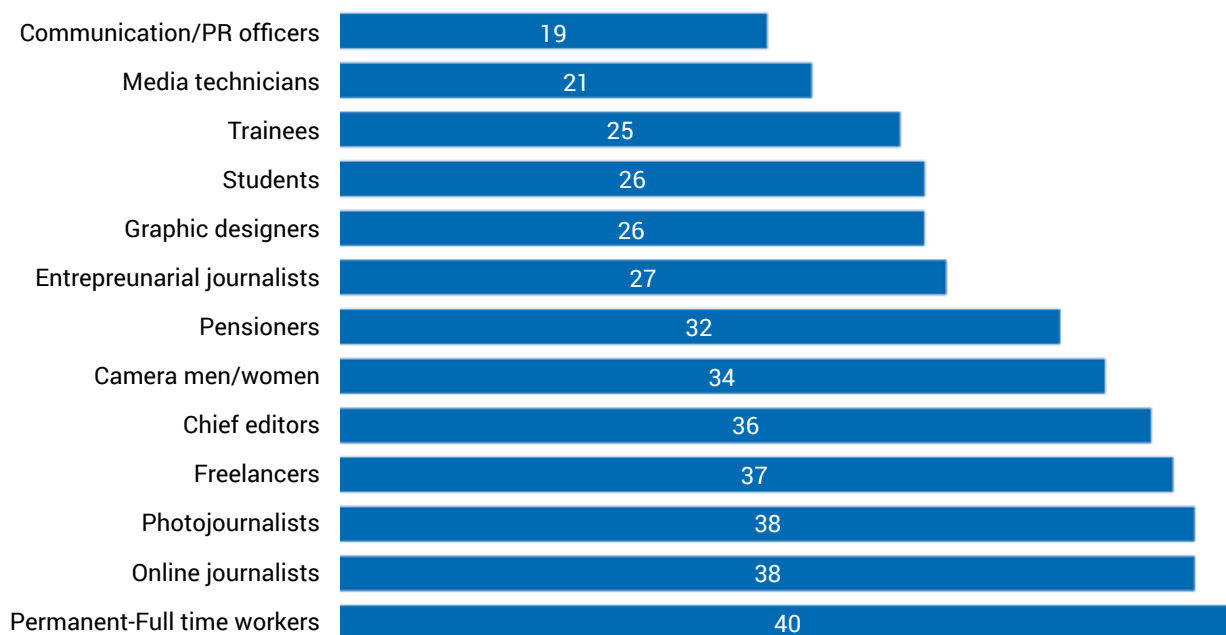
Considering the limited number and depth of the collected answers, this study cannot claim to represent all EFJ members. It should also be noted that a number of inconsistencies have been identified and then corrected as far as possible. These are mainly due to a lack of precision within the questionnaire and a problem in the language interpretation.

Membership criteria: Who can join a journalists' organisation?

It must be highlighted that across the EFJ membership, each organisation has its own organisational tradition, structure, statutes and legal conditions that differs from each other. Nevertheless, they share some significant criteria to determine their membership.

Below are some common trends:

Membership criteria (40 respondents)



- The majority of the surveyed trade unions and professional associations took into account the changing media environment: they have opened their doors to **online (95%) and entrepreneurial (70%) journalists**.
- EFJ members unionise a range of membership types who engage in media-related activities including **photojournalists (98%), chief editors (90%), camera men/women (85%), media technicians (52,5%) and/or non-press workers: communication and public relations officers (47,5%)**. On this last point, it has to be highlighted that others have specifically mentioned that communication was incompatible with journalism (SNJ, France). Sometimes, the membership's range is not an opened policy's indicator: the Belarus Association of Journalists (BAJ) accepts a wide range of workers (freelance, online, entrepreneurial journalists, media technicians, and so on) but all of these have to be recommended by at least two members.
- Some journalists' organisations require that journalism be the main occupation of their members. They will use various indicators to determine their membership, such as the percentage of income earned from journalism, the threshold of publications or the period they worked. These organisations do not necessarily restrict their membership to journalists only.

- Several professional associations and trade unions have specifically commented that the economic crisis and the deteriorating media environment negatively impacted their membership. This leads to one major problem facing journalists' organisations – journalists facing job losses and precarious working conditions cannot afford to pay their membership fees, resulting in a loss of membership (cfr. See below reasons why members leave their trade unions and professional associations).
- **Future strategies:** Just over half of the responded organisations (55%) foresee to change their membership criteria in order to increase the number of certain members. These categories include freelance, online, entrepreneurial journalists, as well as journalism students and trainees.

Workers and non-workers: the access to voting rights and services

All EFJ members cover permanent journalists and they enjoy the rights to **vote and stand for elections in all union's ballots**¹. They can profit from all services provided by their unions. But there are other categories of membership that enjoy different degree of rights and services.

Freelancers are wide accepted in the majority of the surveyed organisations except for: the Journalists' Union of Macedonia and Thrace Daily Newspapers (ESIEMTH) due to the union policy set out in the statutes, the National Union of Journalists of Ukraine (NUJU) due to union rules and the Türkiye Gazeteciler Sendikası (TGS) because the Turkish law forbids freelance workers to join a union. **Freelance journalists widely enjoy the same rights staff journalists**².

Among the “non-workers”, pensioners are the most popular category of membership (32 organisations has this category). Most of them have equal voting rights (except for 6 organisations³) and can profit from all services (75%).

Students and trainees are the second most popular category of membership among “non-workers”. The majority of organisations that have students as their members also accept trainees. However, there are exceptions: the Syndicat National des Journalistes (SNJ) in France and the Journalists' Union of Azerbaijan (JuHI) in Azerbaijan accept students as members but trainees are not allowed, while the Sindicato Dos Journalistas (SDJ) in Portugal does not accept students but accepts trainees. **Only half of these organisations grant voting**

¹ The voting rights' frequency and scope vary between the investigated surveyed organisations. Only the Macedonian SSNM said that their voting rights are limited to their specific branch.

² The JuHi in Azerbaijan say that they don't confer them any voting rights. In Croatia (TUCJ), these are limited to their specific branch. Two organisations (EAJ in Estonia and BI Iceland) limit their access to services. It has to be noted that three organisations have not answered to this question.

³ The Belgian AJP, TUCJ in Croatia, the Finland SJ, the French SNJ CGT, the Russian Union of Journalists and the Swedish Union of Journalists don't allow them to stand for elections.

and election rights to students (12) and trainees (14). **Five organisations limit these rights to their specific branch.** Students and trainees can profit from all services (about 75%)⁴.

- Temporary workers (who conduct journalistic activities irregularly) and asylum seekers are not included in the graph below due to a lower response rate (29 and 32 respondents, respectively). Within these organisations, **temporary workers are not admitted in 75 % of cases and in 70% of cases for asylum seekers.**

Where are the youth in journalists' organisations?

The age pyramid

While some organisations (the Association of Professional Journalists of Albania, the Journalists' Trade Union of Azerbaijan, the Journalists Union of Turkey) indicate a very high rate of young members (70%, 60%, 51%, respectively), others have a very low percentage. For instance, only 3% of the Estonian Association of Journalists' has members aged or below 35 years (82% are above 55 years). In the Portuguese Union of Journalists, they are only 5% and in the Croatian Journalist's Association, 6%.

If comparing the number of members aged or below 35 years to the number of members above 55, it appears that a small majority of organisations (24 or 65% of responding organisations) include more members older than 55 years old.

Youth in decision-making

15 responding organisations have less than 10% of youth representatives in their board. Among them, 8 organisations have none youth representative. Without surprise, it appears that these organisations conduct a "closed-door policy" to students and trainees: only 2 give them full voting rights.

Despite this, there are some positive cases. The Journalists Union of Turkey and the Cyprus Press Workers Union have the highest rates of young members in their board (83% and 66%, respectively) but neither of them have students and trainees as members.



© Anne Pedersen / DJ

⁴ This is the same number and percentage for students and trainees.

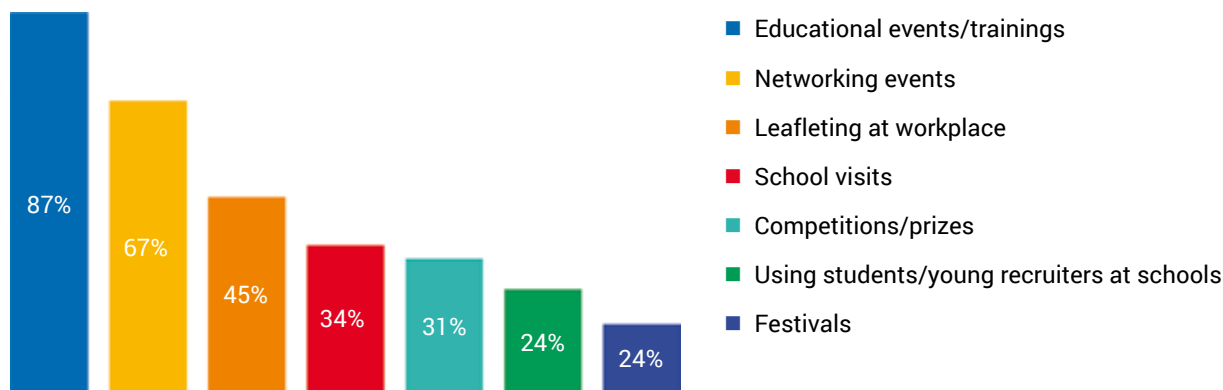
Nearly a quarter (24%) of the responding organisations has set up a special council or committee for young journalists⁵.

Recruitment strategies

While many journalists' organisations believe that recruitment is important, not many of them have developed a comprehensive recruitment strategy (engaging recruitment officer, young recruiters at schools, targeting specific members, creating attractive services for youth). Most organisations have conducted some sort of recruitment activities, others (only four organisations⁶) simply do not do anything (notably due to economic reasons). And some others are in a development phase re-thinking their strategies and developing services.

A quarter of surveyed organisations have a designated position responsible for recruitment, either paid or voluntary. Five organisations employ a **recruitment officer**, **six work with a recruitment officer and/or a marketing officer** on a voluntary basis⁷. Several participants (notably NUJ – UK & Ireland, DJV – Germany, RUJ – Russian) have specified that **this task is shared between the board members**.

Recruitment activities (38 respondents)



⁵ Bulgaria (Union of Bulgarian Journalists), Croatia (TUCJ), Denmark (the DJ), Finland (the SJ), Germany (DJV), Netherlands (NVJ), Norway (NUJ), Russia (RUJ), Spain (Ccoo). It has to be noted that two organisations have not answered to the question.

⁶ The Union of Bulgarian Journalists, the Cyprus Journalist Union, the Estonian Association of Journalists and the Polish Journalists Association said they do not conduct any recruitment activities.

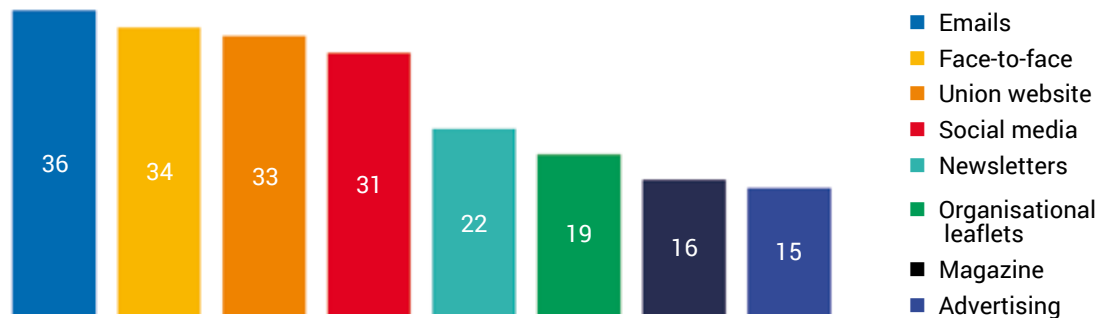
⁷ The Danish DJ, the Macedonian SSNM, the Swedish SJF and the two Spanish respondents (FeSP, FAPE) said that they employ a recruitment officer. The Croatian Journalists Association, the Cyprus Press Workers Union, The Macedonian AJM and the Spanish FAPE work with a non-paid recruitment officer. The JuHi (Azerbaijan) and the AJM (Macedonia) work with a non-paid marketing officer.

The most common activity organised by the surveyed unions and professional association is the educational events. These trainings can focus on various topics: journalistic skills (50%), -digital skills (40%), Multimedia skills (40%), entrepreneurial skills (25%), coaching (25%), dealing with stress (30%), etc.

Communication tools

- All respondents use emails to communicate to their members (two organisations have not answered to this question).
- Face-to-face meeting are the second channel used when it comes to recruitment.
- Slightly less than half of the responding affiliates have union magazine.

Number of organisations



Top of the reasons why members join the union (38 respondents):

- 1) Have a press card (31)
- 2) Need legal advices (31)
- 3) Defend labour rights (30)
- 4) Solidarity (30)
- 5) Recommended by existing union members (28)
- 6) Benefit from collective bargaining (21)
- 7) Networking events (16)
- 8) Union benefits (16)
- 9) Professional development (15)

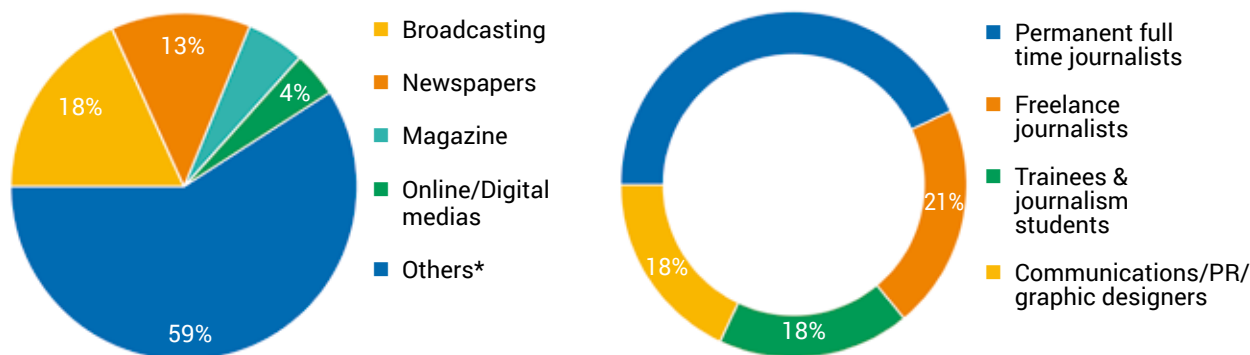
Top reasons why members leave the union (38 respondents):

- 1) Change job or sector (29)
- 2) Retired (20)
- 3) Job dismissed (19)
- 4) Political reason (13)
- 5) Little value (12)
- 6) Too expensive (11)
- 7) Travel abroad (11)
- 8) Unsatisfied (9)
- 9) For another union (5)

DENMARK

The **Danish Union of Journalists** (DJ) represents 17,600 journalists and media workers. The organisation gathers a wide variety of members: *permanent, freelance journalists, photojournalists, graphic designers, media technicians, camera men/woman, communication/public relations' officers, trainees, journalism students and pensioners.*

DJ membership types by sectors and type of employment



One-fifth (18%) of DJ members work in the broadcasting sector while the same number work in the print media (13% for newspapers, 5% for magazines). Only 4% exclusively work in digital media. However, it should be noted that those working for print media also work for digital media because many print media in Denmark also developed digital versions. Around 50% of the full-time journalists working for the print media also work for digital media.

The membership diversity explains why 59% of the DJ members are indicated as “others” in the chart (above). This category also includes journalists working in several media or in cross media.

The majority of DJ members (43%) are full-time permanent journalists, 21% work as freelancers, 18% work as communications or PR professionals and 18% are journalism students. This last proportion is reflected in the high rate of young members in the organisation: 6,000 (35%) members aged or under 35 years old while 4,000 (23%) members are above 50.

Voting rights

The DJ conducts an open policy when it comes to the rights of membership: all their members, including freelancers, students, trainees, asylum journalists, honorary and pensioner members, have equal rights. They can stand for elections and vote in all union ballots. They have full access to services and can be part of collective agreements.

Leadership

The DJ executive board counts fifteen members. Among them, four are aged or under 35 years and one is responsible for membership recruitment. A specific Committee for Youth has been set up to service the youth. 6 local organisations are set up at schools and universities to recruit journalism and communications students.

Recruitment activities & Communication tools

The DJ organised networking events, competitions/prizes, school visits and educational events/trainings to reach out to new members, especially young members. The recruitment officer also focuses on this task with recruiting students. Various tools such as the union website, social media, newsletters, organisational leaflets, face-to-face events and emails are used to communicate with members and potential members.

Apart from recruitment activities, the DJ also conducts membership satisfactory survey to get an insight as to why new members join the union and why members leave.

Top the reasons why members join the union:

1. Recommended by existing union members
2. Get a press card
3. Get professional development services
4. Need legal advice
5. Networking opportunities

Top reasons why members leave the union:

1. Too expensive
2. Leaving for another union
3. Change job/sector

DJ's Recruitment Strategy

“Even if your organisation has built a strong core of loyal members, new and younger members ensure your sustainability.” **How to find new members in an economical and time-efficient way?** In September 2014, DJ decided to rethink its recruitment strategy targeting at young members. After only one year, the new strategy paid off: the average age has significantly declined and their total membership has increased.

Their **strategy in 9 steps** described by **Louise Theil**, DJ recruitment manager and team leader:

1) Define your challenge - First, one has to find out why we need more members and their value to the union. We look at our membership and identify particular target groups.

2) Implement your recruitment strategy at political and management levels - We estimated necessary resources in **people, time, money and focus**. We decided to employ a full-time recruitment officer.

3) Go where potential members are – We projected to divide the year: the first semester dedicated on students' recruitment and the second on professionals' recruitment.

We created anchors in our target environments by engaging stewards at workplaces and hiring students. We prepared and adapted promotional gifts. For instance, laptop bags for students. If you engage recruitment officers, make sure to give them **skills and merchandise**. Members need to know officials and officials need to know members.

4) Investigate the market and your competitors - We asked ourselves: what do we have, that they (competitors) don't? And what do they have that we don't?

5) Ask members – We investigated the needs of young members in our database to attract others. We offer cheap home insurance for students; organise 40 free events (only with professional input) and our big Media Festival each year. Our union gives **the democratic (equal voting right for union elections) rights** to journalism students. Among our 15 elected leaders, 4 are aged less than 35 years. We also created a Youth Committee and 6 local student organisations. Our experience has shown that having young members in the board is the best way to reach out young journalists.

6) Identify the challenges and tackle the them – We “**walked through the crime scene**”: we analyzed the flow into and out of the organisation to localize our touch-points with members and coordinate with them. **Make it simple to join the union, avoid long administrative procedures and use the recruitment pack!**

7) Collect feedback - We systematically collect information on why people join or drop out the Union. This helped us to adapt our strategy in the future.

Danish recruitment strategy results:

- 5-8 years reduction in the members' average age
- Growth increased by 3% (17,000 members)

How?

- 9 steps guide for recruitment

WALK THROUGH THE CRIME SCENE:

Meets a representative at school => Receive a goodie bag => Fill out a contact form (maybe) => Send a text message (maybe) => Call the Union (maybe) => Receive a standard message email => Fill out the enrollment form (maybe) => Receive a welcome letter => Become union members

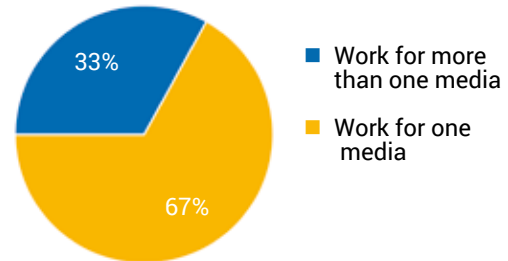
8) Make recruitment a public property - Everyone in the union can contribute. We got all levels of the organisation to think and act on recruitment. We invited them to put forwards ideas and delegate tasks to them. Don't forget: existing members are existing resources.

9) Self- evaluation - Where did we succeed or failed? Analyze your results and **go back to step 1**.

MACEDONIA

The **Association of Journalists of Macedonia (AJM)** represents 360 journalists and media workers.

The AJM accepts permanent and freelance journalists, online and social media journalists, camera men/women, chief editors, trainees, journalism students and pensioners.



Voting rights

Staff workers, freelancers, pensioners, honorary and temporary members can stand for elections and vote in all union ballots. Trainees and journalism students don't yet have these rights but they benefit fully from the services provided to members. None of them can take part in collective agreements.

Leadership

The AJM executive board counts 35 members. Among them, 10 are aged or under 35 years. 2 volunteers, 1 recruitment officer and 1 marketing officer, are in charge of the organisation's membership and recruitment strategy.

Reasons why members join the association:

1. Free legal litigation
2. Legal advice
3. Recommended by existing union members
4. Get a press card
5. Get professional development services

Reasons why members leave the association:

1. Unsatisfied with union services
2. Leaving for another union
3. Change job/sector,
4. Travel abroad,
5. Political reason

Recruitment activities & Communication tools

The AJM organised networking events, competitions/prizes, school visits, educational events/trainings to reach out new members. They also use students/young recruiters at schools. Their main communication tools are their union website, social media, newsletters, organisational leaflets, face-to-face events and emails.

**Membership's growth of 20% in 3 months
How? Better services = Better recruitment**

AJM's Recruitment Strategy

“Improving services not only keeps members involved, it can also attract new ones.” In 2014, the AJM negotiated free parking in the capital city, Skopje, for their affiliates. Only three months after, they achieved a membership's growth of 20% largely due to this benefit. Dragan Sekulovski, AJM's Executive Director, said.

Why such keen interest?

The bottom-up approach. This idea came from our members. In Skopje, many citizens use their cars due to poor provision of public transport. Car parks are a challenge, even more, for those who have mobile work. Our members complained about difficulties they had in finding parking spaces and paying for it. For instance, TV crews cover dozens of press conferences per day and have to pay the parking costs from their personal income.

How did you negotiate this deal?

We submitted a written request to the Public company “Parking Lots of Centar Municipality”. We presented our arguments to its director and the Municipal Council of Centar, the main town of Skopje. One month later, the Municipal Council approved our request. We reached this agreement after local elections where the opposition won. That gives us the impression that it was also a political strategy.

What exactly was the deal?

The decision allows our members to park free for up to two hours in all parking areas and parking- garage under the jurisdiction of the public entity.

How much does it cost?

It doesn't cost anything for the association. Members only have to pay 5 € to the public company for their plastic ID cards.

Have your membership fees increased?

No. In our action plan, we still have to obtain 20 new advantages for our members, as private health care or free parking in others municipalities, before going forward. Then, we will conduct a survey to determine how much we can increase.

What other services do appeal most to new affiliates?

Free legal advice and litigation assistance are the second most popular service. We also offer different discounts in various firms that attract new members.

MACEDONIA

The Trade Union of Macedonian Journalists and Media Workers (SSNM) represents 350 journalists and media workers. The organisation gathers a wide variety of members: *permanent journalists, freelance journalists, online journalists, entrepreneurial journalists, social media journalists, chief editors, photojournalists, graphic designers, media technicians, camera men/woman, trainees, journalism students and pensioners.*

Voting rights

Staff workers, freelancers, trainees, journalism students, pensioners and honorary members can stand for elections and vote in all union ballots. All the members can benefit fully from the services provided by the union. In Macedonia, there is no collective agreement yet.

Leadership

The SSNM executive board counts 12 members. Among them, three are aged or under 35 years. Every position in the union, from president to assistant including members of executive board, is on voluntary basis.

Recruitment activities & Communication tools

The SSNM organises leafleting at workplace and educational events to reach out new members. These trainings mainly focused on dealing with stress, harassment and discrimination at work. The main communication tools are face-to-face events, organisational leaflets, social media, emails and union website.

Reasons why members join SSNM:

1. Solidarity
2. Defend labour rights
3. Need legal advice
4. Get professional development services
5. Get a press card

Reasons why members leave SSNM:

1. Political reason
2. Go on further education
3. Lost job/Dismissed
4. Retired

In Macedonia, journalists are particularly vulnerable: they have low salaries, poor working conditions, insecurity but also editorial pressure, threats (both physical and legal attacks) for doing their jobs. Tamara Causidis, SSNM President, explains why increasing membership is one of the main strategic goals of the union, notably for **strengthening solidarity**.

“Our recruitment focuses on field work with colleagues, discussions and promotion of the **values and ideas of unionism**. We want to raise the awareness of journalists and media workers of the importance role union plays through public events, leaflets, pamphlets, “guerrilla action”, etc. “



“We have so far organised many **fundraising events** where journalists and media workers raise funds for their colleagues in need. We raised fund for Tomislav Kezarovski and his family when he was in prison; for a cameraman when he lost his house in a fire; for another journalist who is ill and needs medical treatment. SSNM organises fundraising events to fill in the Solidarity Fund from which members can request a one-off assistance when they need it.

The union also provides other **benefits** for its members, such as interest-free loans (in cooperation with Capital Banka, SSNM members can borrow loans without interest), discounts in shops (e.g. sportswear, glasses), free press parking, discounts for vehicle registration, etc.

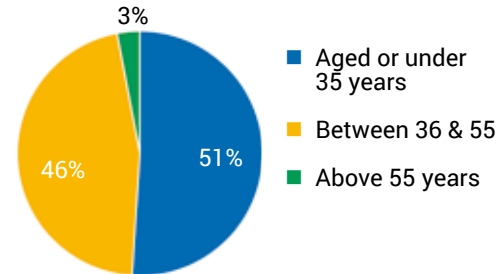
What is especially important for our members is the **free legal aid and assistance**, including court representation. The SSNM focused on improving the legal regulation in the field of working relations and rights of journalists and media workers and its appropriate implementation. In that context, we are working on: decreasing atypical employment, representation and lobbying for consistent implementation of the legal regulation, creative methods of workers' fight through direct action.”

TURKEY

The **Journalists Union of Turkey** (TGS) represents 1,050 journalists and media workers.

The TGS has in its membership journalists, photojournalists, digital workers, graphic designers, camera men/women, media technicians and chief editors who are staff members. In Turkey, the public labour authorities require that any worker who wants to join a trade union must be an employee.

Thus, the membership will automatically be cancelled if a staff journalist is fired or if he/she changes his/hers status to freelance.



Recently, the TGS established a new membership category that offers the opportunity for freelance journalists to join the organisation and enjoy the same benefits (although they are not included on the official list).

Voting rights

Only staff members can stand for elections, vote in all union ballots and take part in collective agreements. Freelance journalists have full access to services. Trainees, journalism students and pensioners can't be integrated in the union.

Leadership

The TGS executive board counts 6 members. Among them, 5 are aged or under 35 years. Although no specific officer is responsible of the recruitment strategy, the organisation develops a lot of activities to reach out to new members.

Recruitment activities & communication tools

The main activities used by the TGS to get known by a larger audience are networking events, school visits, educational events/trainings, advertising online and on print media. The organisation communicates with members and potential members via its website, social media, newsletters, organisational leaflets, face-to-face events and emails.

TGS' Recruitment Strategy

In Turkey, only 1.5% of the 95,000 media workers are trade union' members. This density level, lower when compared to the overall membership (10%), can be explained by many sociological and economical reasons. For instance, the high rate of unemployment (31% of journalists) and low salaries of the profession are reasons why media workers have not been unionised. However, the TGS decided to challenge its own nature and image. In a period of one year of review, the organisation have achieved a 25% membership growth, concluded four new collective agreements and set up a freelancers' section.

Reasons why members join the union:

1. Defend press freedom
2. Recommended by existing union members
3. Get a press card
4. Benefit from collective agreements
5. Solidarity

Reasons why members leave the union:

1. Retired
2. Change job/sector
3. Lost job/dismissed

Mustafa Kuleli, General Secretary Journalists Union of Turkey (TGS)

Make trade union a cool and modern organisation!

“When we talked to our members and young journalists, they told us that they see trade unions as something from the 70’s, they consider the unions as old-fashioned, not appealing, an occupational organisation for the retired people and totally living under nostalgic ideas,” said Mustafa Kuleli, TGS General Secretary.



© TGS

This observation impelled them to analyze and change their visibility both at the level of their communication and also their activities. A responsive and user- friendly website with social media tools embedded, new features, sections and contents was launched. Leaflets and brochures were created. The Media Monitor Barometer has been set up. “Press shirts” were offered. The union also published a global and positive bimonthly magazine called “*Journo*” and distributed it to all members by post.

These actions have been proven successful: they managed to increase membership with the majority of their new members aged under 30.

Take stock of your situation and change it!

The TGS previously represented journalists working mainly in the public sector. Their members came from state-controlled media such as “Anadolu Agency” or big private newspapers. Subsequently, the union was able to develop actions based on stable membership fees.

“But TGS lost all of them due to political and economic circumstances,” explains Gokhan Durmus, head of TGS Istanbul branch. “Our strategic shift concerns also the nature of our organisation. Today, we are more and more active in the private media industry.” But they are not the only ones: five others trade unions intend to attract the same target groups. Based on the analysis of participation sharing, the TGS decided to focus on print media workers.

One year ago, the TGS managed to pass the minimum 1% threshold to sign collective agreements, they have already signed four of such agreements. Recruitment positively impacted their social policy. *“TGS is changing but change is always a difficult process that takes time. We still have some difficulties to get enough means, to employ professional staff, to get recruitment officers, to train trade union leaders about the importance and tactics of recruitment. If we do the necessities in the coming months, we will be able to recruit and organise journalists working for big private media outlets”.*

What do the recruitment experts say?

Eva Werner, Education Officer and Deputy Spokesperson German Federation of Journalists (DJV)



© DJV

“For the DJV, the main challenges are to develop strategies halting the continuing slight decline in membership. This is no easy task since the main reason for the decrease is the on-going reduction of work for journalists in Germany in general.

Many newspapers have ceased to exist. Every year, there are fewer and fewer permanent journalists. It was inspiring to talk about trade unions' recruitment strategies and how to reach out to the young journalists.

I agreed with the other participants that apart from pointing out the actual advantages of a membership, we must ensure that members who are active and contribute to the union also get to have fun.

Another important point I made in Copenhagen is to increase the confidence of young journalists. Because of their circumstances, their self-esteem is often not as high as it should be. So, it must be our task to strengthen their belief in their skills. I informed the audience that our Facebook and Twitter accounts are managed by young members. This would be one example of how they can gain confidence and create a new community.”

After the EFJ workshop on recruitment, the Dutch Association of Journalists (NVJ) invited Louise Theil, the recruitment manager and team leader of the Danish Union of Journalists (see below).

Stijntje A. Hallink, Business Director Nederlandse Vereniging van Journalisten (NVJ)

“The speech of Louise was very inspiring and I thought that the entire staff should hear it, especially the board. So, we proposed her to come to the NVJ. She organised a workshop with the whole association and discussed several options and possibilities with our marketing consultant. From Louise it was taken over that we would start working with students in order to get new members. But it was not working out for us: we did not gain new member in this way. Nevertheless, our staff felt involved and inspired by her speech.

More generally, we have taken a lot of actions, even before the visit of Louise, and our membership has increased. We set up a new subscription system with only four types of membership subscription. We built a professional marketing back bone. We made the membership for students free and recruited participants of events who were not a member of the NVJ yet.”



© NVJ

Louise Theil, Recruitment Manager Danish Union of Journalists (DJ)

‘In the DJ, we want more members for two main reasons. The first is the internal use: the support of our vision and mission. The more members we represent, the more impact and influence we can have. We strive to target influence on different levels: on the individual level about salary and working conditions; on the industry level to improve the profession and on the societal level, to defend freedom of expression.

The second is to create a positive career development for members working and studying in the media and communication industry. And this is why we work with our members.

These two reasons must be connected in order to secure meaning and coherence in our recruitment strategy.”



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CHAPTER 2

Labour rights for journalists

Defending labour rights for journalists in changing industrial relations

The media industry has undergone drastic changes in the past few years with new ways of doing journalism; new jobs emerged while some diminished. The norm of a standard form of employment is increasingly replaced by non-standard contractual relations and outsourcing. Trade unions and professional associations of journalists in Europe are facing many challenges including the fragmentation of workforce and the division among workers (freelances vs employees) regarding their rights. This chapter will focus on some best practices among EFJ members to defend the labour rights of journalists and speak in a collective voice.

Decline of professional and social standards

In October 2015, a study carried out by the French National Union of Journalists (SNJ) and the evaluation and prevention of occupational risks office “Technologia” revealed that among the 1.135 journalists surveyed, more than a third (34%) said they would leave the profession. However, a majority still feel the passion for the profession: 80% expressed that they are satisfied with their jobs. This paradoxical situation has also been observed by a Belgian university study (Fion, 2008).

Is journalism still a viable job? In the last few years, various European studies, as well as surveys among EFJ members¹, have observed some prevalent trends in journalism that suggest a decline in the profession. The reasons are notably:

- **Decline in professional income** (stagnating incomes/fees, dumping wages, fewer benefits, unpaid overtime);
- **Deteriorating working conditions** (increase of the workload, pace of work and skill requirements, lay-offs, flexibility, blurring editorial policies);
- **Emergence of new forms of employment relationships** (irregular, unpredictable and short-term employment arrangements such as outsourcing, short-term contracts, temporary agency contracts, etc.) and **unclear contracts** (broad job descriptions, merging journalistic and technical activities).

¹ Carta E., Dorenburg J., Duchemin C., Finlay L., Muriel R., Weber T., (January 2016), *Analysis of the EU audiovisual sector labour market and of changing forms of employment and work arrangements*, London, ICF Consulting Services. The EURO-MEI/UNI Europa, FIA, FIM, EFJ, EBU and CEPI as part of the EU co-funded project have commissioned the synthesis report. Bittner A. (2014), *Confronting austerity, Financial and Employment Models in Journalism* (Bittner A., 2014), Brussels, European Federation of Journalists. Bittner A. (2011), *Managing Change in Journalism Innovation and Trade Union in the News Industry*, Brussels, European Federation of Journalists.

These factors not only can have a negative impact on the quality of journalism but also on the personal well-being of journalists working for the same company. Concerning the last point, some trade unions and professional associations have noted on several occasions that older workers tend to be more resistant towards changes².

In the surveys launched by the EFJ, a number of respondents had emphasised that these challenges particularly concerned the print sector. A study published in 2016 on the labour market situation in the EU audiovisual sector³ has identified all the factors mentioned above and some of them previously specific to certain regions, as the roles and jobs of journalists are changing, were present in all studied countries⁴.

This study also shows that the audiovisual sector is increasingly characterised by atypical contractual arrangements including self-employment, part-time, casual and fixed-term contracts, as well as temporary agency work. It highlights that such arrangement has negative effects on the acquisition of benefit from legislative provisions on social security, notably the security of post-work pension⁵. Furthermore, **workers engaged in atypical contractual arrangements are treated unequally** – they generally have **lower pay and less rights**, their working hours and holidays are not clearly defined.

For instance, a recent survey conducted by the British website “Journalism.co.uk” on 310 self-employed journalists showed that a third of journalists earned less than 10,000£ (or 11,890€) from their work in 2015. Yet journalism is the sole or primary source of income for 70% of the respondents. By comparison, the median UK salary for “journalists, newspaper and periodical editors” is 31,294 £ (36,889 €) according to the British Office of National Statistics. *“This correlates with NUJ research published in 2015, in which more than half of freelance journalists said they had suffered financial hardship, and almost 90% said their rates had not increased in the past year”*. The result is very telling and it would be interesting to replicate the study in a broader scale.

It is worth noting that some countries have taken positive measures to address the precariousness of atypical working . For instance, in the **Netherlands**, since July 2015, employers are subject to stricter regulations when it comes to fixed-term contracts⁶. *“The new regulations no longer allow employers to employ a worker for a period longer than two years on a fixed-term contract. After this period, employers have to provide a permanent contract or wait for six months to rehire the employee”*⁷.

² Bittner A. (2011), *Managing Change in Journalism Innovation and Trade Union in the News Industry*, Brussels, European Federation of Journalists.

³ Carta E., Dorenburg J., Duchemin C., Finlay L., Muriel R. (January 2016), *Analysis of the EU audiovisual sector labour market and of changing forms of employment and work arrangements*, London, ICF Consulting Services. EURO-MEI/UNI Europa, FIA, FIM, EFJ, EBU and CEPI as part of the EU co-funded project have commissioned the synthesis report.

⁴ Czech Republic, Denmark, France, Germany, Italy, Netherlands, Poland, Romania, Spain and United Kingdom

⁵ Dorenburg J., Duchemin C., Finlay L., Muriel R. (January 2016), *Analysis of the EU audiovisual sector labour market and of changing forms of employment and work arrangements*, London, ICF Consulting Services, P.29-45.

⁶ Ibidem.

⁷ Ibidem.

In **Germany**, changes of the social security legislation in 2008 allowed individuals employed under short-term contractual arrangements to request unemployment benefits⁸.

“With the introduction of labour market reforms (“Hartz IV”), the German government aimed to further promote entrepreneurship, supplying unemployed individuals with a transition benefit and a start-up grant in order to encourage self-employment. (...) In addition, the minimum wage increase has had a positive impact on wage standards for employees in low paid jobs, which holds particular relevance for the AV [audiovisual] sector”⁹.

The change in the employment relationship requires trade unions and professional association to develop strategies to protect the social rights of journalists. The study on the labour market situation in the EU audiovisual sector emphasises the important role of partners play in adapting the framework of the existing national industrial relations. Without collective action and social dialogues, the working conditions and the quality of journalism cannot be guaranteed.

The EFJ has already noted positive advances notably concerning the development of services for membership. Some years ago, the digital “threat” to existing business models was recognised to a great extent but it was not reflected enough in the programmes of EFJ members. Today, member-oriented activities and legal advice devoted to new career policies seem to be more widespread.

Who are the precarious workers in journalism?

Self-employed journalists

In November 2015, the EFJ launched a study “Mapping freelance journalists” and analysed results from 33 EFJ members in 28 countries.

This survey shows that the situation of self-employed varies widely from one country to another. For instance, while some journalists’ organisations indicated a very high rate of freelancers’ affiliation (around 70% of members for the German DJV and the Polish Association of Journalists), others don’t accommodate them due to national law or union rules/policy (see detailed explanation in Chapter 3)¹⁰.

⁸ Ibidem.

⁹ Ibidem.

¹⁰ See also Chapter 1.

The EFJ was also surprised to observe that only little more than half of participants (54%) said their organisation deals with this issue in a specific branch (31% in national branch, 23% in local branch), given the following elements:

- Freelance journalists generally have worse working conditions compared to permanent staff (see above).
- In numerous EFJ member countries, self-employed workers cannot be included in collective agreements.
- The trend will continue: in another EFJ study¹¹, the view that the number self-employed and freelance journalists will increase was unanimous.

Young journalists

Entering the profession has become increasingly difficult, especially for young journalism graduates. For instance, a few years ago, in the French-speaking part of Belgium, 400 journalism graduates competed for 40 jobs. Even if they get the job, their working conditions are precarious¹².

In Romania, the Research Institute of the University of Bucharest (ICUB) published two studies focused on Romanian magazine and digital journalists under 30 years old¹³. The results showed that the journalists are usually over-qualified, over-exploited and under-paid. These journalists are unwilling to join professional organisations or trade unions. This lack of interest for trade-unionism is explained by the widespread of individualistic approach towards their work and the limited membership advantages offered by the journalists' organisations.

More generally in Europe, journalists' organisations observed that new workers don't wish to be involved in collective actions while their older colleagues would tend to preserve their vested advantages¹⁴. These tendencies could pose serious danger to the profession's division in the future and the trade union movement.

Another major issue is **unpaid work and the failure for media organisation to pay workers**, particularly in the context of "internships". For example, in the UK, **unpaid internship remains a common practice**.

According to a report published in 2013 by the National Council for the Training of Journalists, **82% of journalism**

¹¹ Bittner A. (2011), *Managing Change in Journalism Innovation and Trade Union in the News Industry*, Brussels, European Federation of Journalists, P. 17

¹² Bittner A. (2011), *Managing Change in Journalism Innovation and Trade Union in the News Industry*, Brussels, European Federation of Journalists, P. 3.

¹³ Surugiu R. (2013), *Labor Conditions of Young Journalists in Romania: a Qualitative Research*, Procedia - Social and Behavioral Sciences, 157-161. Surugiu R. (2012), *Working for Glossies. A case study on young magazine journalists in Romania*, Journal of Media Research, Vol. 5, No. 3, 21-28.

¹⁴ Bittner A. (2011), *Managing Change in Journalism Innovation and Trade Union in the News Industry*, Brussels, European Federation of Journalists, P. 10-16

or media graduates entering into the profession have done an internship but only 8% of them have received remuneration. The National Union of Journalists has taken this problem seriously and launched a campaign against the practice (see below case studies). **Students and/or interns are often not in a position to claim their rights:** they are not admitted in a lot of trade unions and professional associations (see Chapter 1). However, they value the training opportunities as a kick-start for a good career.

Female journalists

Female journalists are not only the one who receive less rights, they are bullied at work. In December 2015, the Serbian Minister of Defense, Bratislav Gasic, was replaced following an offensive remark he made on a women journalist. During a visit to a factory, the journalist knelt down in front of him to avoid being in the way of cameras and he commented: *“I like these female journalists who kneel down so easily.”* Sadly, this despicable act is not the only one of its kind.

In 2014, an international study *“Violence and Harassment against Women in the News Media: A Global Picture”* launched by the International News Safety Institute (INSI) and the International Women’s Media Foundation (IWMF) showed that almost half (48% or 327/683) of interviewed female journalists said they have been victims of sexual harassment¹⁵. Only a third did report at least one incident. In most cases, these acts took place in the office.

But that’s not all. Female journalists encounter other obstacles to advance their careers. To name a few: glass ceiling, under-representation, under-paid, part-time contracts, and so on. Media outlets are often asked especially by journalists’ organisations to implement gender equality policy that allow female journalists to be treated the same as male journalists.

Case studies

Below are five examples of labour rights’ campaigns launched by EFJ members. These case studies show what can be achieved and where the help may be obtained.

15 Barton A., Storm H. (2014), *Violence and Harassment against Women in the News Media: A Global Picture*, International News Safety Institute & International Women’s Media Foundation, The survey’s respondents come from Africa (11,26%), Arab States (4,81%), Asia and Pacific (26,51%), Europe (18,53%), Commonwealth of Independent States (1,64%), South America (10,64%), North America (27,84%).

CAMPAIGN FOR LABOUR RIGHTS

ALBANIA

Association of Professional Journalists of Albania (APJA)

Challenges: In Albania, the existing employment contracts for journalists do not define clearly the rights of journalists compared to those of media outlets' owners. When journalists face labour dispute with their employers, they rarely exercise their rights or resort the matter to legal action. It is easier for them to find a new job than spending time in a lawsuit when the outcome cannot be guaranteed. For this reason, a lot of journalists prefer verbal deals or contracts regarding their salary and working conditions. Such an arrangement is considered as a "win/win situation": if the journalist wants to leave his/her job for a better opportunity, he/she can do it immediately; and if his employers want to fire him/her without a good reason, they can do it.

Actions: We support the continuous effort and the lobbying campaign of the Union of Albanian Journalists, an organisation which has for years worked on the need for journalists to work under a proper employment contract. We have involved the Ministry of Labour, Social Welfare and Youth. Last year, the Minister proposed some amendments in the Labour Code concerning employment contracts, temporary/part-time work and teleworking. They came into force at the end of June 2016. According to these new amendments, **a working contract is mandatory for a person who works at least 7 days for an employer (before, it was a month)**. There is a willingness to force employers to make contracts. That means employers should prepare contracts even for the "old" employees who have never had one.

Unfortunately, some examples show that the law is yet to be implemented widely across media organisation. Recently, the director of news in a TV station has been fired because she investigated the Municipality of Tirana. The Mayor should put the pressure on the owner of the TV station. The journalist wants to sue her employers for interrupting the working relationship with a pretext but she did not have an employment contract. We publicly support the journalist. We have to continue our pressure on the Minister. Nevertheless, there is a law that requires employers to provide a working contract for journalists. And we will make sure it is implemented in reality.

Mimoza Kociu

Association of Professional Journalists of Albania (APJA)



CAMPAIGN FOR COLLECTIVE AGREEMENTS

SWITZERLAND

Impressum (Swiss Professional Association of Journalists) Syndicom (Trade Union of Media and Communications)

Challenges: Swiss Employment Law is designed liberally and the protection of employees is quite weak compared to other countries. In Switzerland, due to the different legal frameworks in each language area, the working conditions in the media industry vary from one area to another. While a collective agreement for journalists does exist in the French-speaking part of Switzerland, journalists in the German- and Italian-speaking parts have been working without one since 2004 and are therefore their situations are precarious.

In September 2015, the publishers' organisation (VSM) decided to include a dialogue about collective bargaining in its annual objectives. At the annual assembly of the VSM, supporters of a collective agreement were insistent enough that the VSM could not again reject the demands for negotiations. The two Swiss EFJ members, Impressum and Syndicom, represented their journalists during the negotiations with employers. Unfortunately the publishers delay the dialogue and the negotiations and won't express themselves before the upcoming annual assembly in September 2016.

Actions: To prepare for the negotiations, the trade union and the professional association have launched a huge lobbying campaign named "*Medien-GAV jetzt!*" in German and "*CCL-Media subito!*" in Italian (in English: "Media-CCT now!"). To better represent journalists' interests, the trade union and the professional association have decided to launch an online questionnaire. This survey permits an examination of the working conditions and the requests (on various topics such as the starting wage, wage developments, minimum fee for freelance journalists) of Swiss journalists. More than four hundred replies have been registered.

They have also created a website and social networking pages where written and video testimonies of journalists, politicians and publishers who explain why the media industry in the German- and Italian-speaking parts of Switzerland needs collective agreements are shared. The website also provides all the information about events and publishes latest news about the negotiations.

This campaigns show that the joint effort by the two Swiss journalists' organisations are useful in putting pressure on the publisher and that building alliance is key to defend the common interests and rights of journalists.

Die Schweizer Journalistinnen | I giornalisti svizzeri
impressum Les journalistes suisses

syndicom
SINDACATO DEI MEDIA E DELLA COMUNICAZIONE
SINDACATO DEI MEDIA E DELLA COMUNICAZIONE
SINDACAT DE LA MEDIAS E DE LA COMMUNICATION

CAMPAIGN FOR ACCESS TO TRAINING AND EDUCATION

THE NETHERLANDS The Dutch Association of Journalists (NVJ)

Training has been one of the key services developed by the NVJ over the years. Since 2014, journalists can attend trainings for free. This is partly due to the subsidies provided by the government.

As part of a plan launched by the Minister of Social Affairs and Employment, public subsidies were allocated to the publishing (6 million) and broadcasting (1 million) sectors. These public subsidies have been allocated in a co-financing form: employers or educational funds (part of the collective labour agreement) finance the deployment and will be refunded 45-50% in subsidies.

But employers refuse to pay freelance workers' costs for training except for magazine publishers. The magazine publishers are desperately looking for new skills, journalists have to master various skills to be able to do their jobs across different platforms – such as online, print and broadcasting. The chief editors have persuaded the publishers to also pay the costs for the freelance journalists in order to obtain the quality of training they need. Together with the employers, we made 100.000 euros available from the education fund, which is managed on the basis of equal representation, for the further training of 100 freelance journalists. So, freelancers receive a “cheque” which entitles them to two-day training. Such developments are important for freelance journalists. Because self-employed workers tend to have poorer access to further training and education and they often lose out in the job market and professional development.

The courses offered by the NVJ cover entrepreneurship and skills for the converging sector. Other services offered to members by different cultural unions are: public liability insurances, legal assistance tax guide for freelancers and other benefits. Such services are more labour intensive than the traditional collective bargaining, which of course continues to be a major work of the unions.

Yvonne Dankfort

Dutch Journalists Association



CAMPAIGN FOR DIGITAL JOURNALISTS

AUSTRIA The Austrian Union of journalists (GPA-djp)

The GPA-djp launched various actions to improve the labour and working conditions of digital journalists in Austria. They have negotiated a new collective agreement from scratch for online workers of the public broadcaster, ORF. Being the digital branch of the company, a subsidiary of the ORF (105 workers), they managed to raise the salary of almost half of the workers. The new agreement will guarantee a salary raise for workers every two to three years. The workers agreed to organize annual negotiations about the raise (also to compensate inflation). For the working time, the rules are straightforward: to comply with the law. The company has to compensate for extra working hours during weekends.

The union also managed to integrate more than 200 online-journalists in print media into the renewed collective agreement for print-journalists, more than 100 freelancers who were not covered by any agreement, are now covered.

Nadja Idgler
Austrian Union of journalists (GPA-djp)



CAMPAIGN AGAINST UNPAID INTERNSHIP – CASH BACK FOR INTERNS

UNITED KINGDOM & IRELAND The National Union of Journalists (NUJ)

Challenges: In 2011, the National Union of Journalists (NUJ) initiated a lawsuit against TPG Web Publishing Ltd over the unpaid internship of a member, Keri Hudson. It was the first victory for the NUJ on behalf of journalism interns. In the court decision, the Central London Employment Tribunal recognised the right of Hudson to claim payment for work carried out over several weeks for TPG Web Publishing Ltd late in 2010.

*The tribunal heard that “despite the fact that she worked each day from 10am to 6pm and had been personally responsible for a team of writers, providing training and delegating tasks, collecting briefs, scheduling articles and even for hiring new interns, the company had decided that she was not eligible for any pay because they considered her as an intern. **The tribunal found she was a worker in law even though she didn’t have a written contract and was therefore entitled to be paid at least the National Minimum Wage and holiday pay**”.* (2011, NUJ wins first victory for intern).

However, the fight for unpaid interns is not finished. The NUJ continues to campaign as well as offer advice, support and assistance about work experience and internships.

Actions: The NUJ has launched the campaign “Cashback for Interns” to appeal to current and former interns to take legal action for unpaid wages. A web tool was created for reporting employers suspected of not paying the minimum wage to interns to the tax office (HMRC). Together with other organisations, the NUJ encouraged employers to pledge to pay at least the minimum wage to interns. For instance, the union negotiated wage rate for interns working for the Financial Times.

The union has also achieved success when it was able to negotiate the London living wage rate for interns working for the British Science Association. Three-month internships had originally been advertised at the statutory minimum wage of £6.08 per hour and the Association has now agreed to pay the London living wage rate of £8.30.

Internships have become commonplace in the media industry in the UK and the union campaigns against them for being exploitative. The union has raised the issue with politicians and briefed organisations including the UK Low Pay Commission. The national strategy has been to raise awareness, challenge exploitative employers and provide advice and assistance. The NUJ has also teamed up with other organisations including the Trade Union Congress (the umbrella organisation for all trade unions in the UK) as well as working alongside the National Union of Students. The union has also published guidelines about work experience, available on the NUJ website <https://www.nuj.org.uk/documents/nuj-work-experience-guidelines/>.

Sarah Kavanagh
The National Union of Journalists



CHAPTER 3

Collective bargaining for all

Freelance journalists often perform the same activities as staff workers but they do not enjoy the same rights. During the course of the project “Rights and Jobs in Journalism”, the EFJ has conducted two surveys (“Mapping Freelance journalists in Europe”¹ and “Lets organise, invest in youth and services”²) to collect updated database regarding the social status of freelance journalists and their representation in trade unions and professional associations in Europe.

The two surveys reveal, without surprise, great disparities between levels of protection for freelances, in particular, their rights to organise and to take part in collective bargaining. This chapter will focus on these two fundamental rights protected under international and European legislations and ways to enforce these rights.

The lack of protection for freelances does not only concern journalists and media workers. The entire cultural sector faces these challenges. Since two years, the EFJ participated in an EU funded project with the International Federation of Actors (FIA), the International Federation of Musicians (FIM) and UNI MEI (Global Union for the Media and Entertainment Sector) to tackle these issues³.

1 The EFJ has launched the survey “Mapping freelance journalists” in March 2015. Thirty-three organisations from 28 countries have responded to the online questionnaire. This equates to a response rate of 54%.

2 The EFJ has launched the survey “Lets organise, invest in youth and services” in May 2015. Forty organisations from 32 countries have answered to the online questionnaire. This equates to a response rate of 65%. For more information, see the first chapter.

3 The four partner organisations have prepared the handbook “*The Future of Work in the Media, Arts & Entertainment Sector: Meeting the Challenge of Atypical Working*”(September 2016) written by Pascale Charhon (Project Consultant, Charhon Consultants) and Dearbhal Murphy (Deputy General of the International Federation of Actors).

The freedom of association and the right to bargain collectively: Rights of every worker?

The case of freelance journalists

Employed journalists enjoy the rights to freedom of association and collective bargaining (note that in some European countries, as Azerbaijan, Belarus, Bulgaria, Macedonia, Montenegro, Poland, permanent journalists cannot conclude collective agreements either), but these rights are not universally applied to freelance journalists. Freelance journalists remain vulnerable because of the lack of social and labour protection. Their situations vary from one country to another depending on national definitions of freelances or self-employed.

Self-employment: a broad category

Within the European Union, there is currently no commonly agreed definition between Member States of what constitutes **self-employment**⁴. In 2010, the European Foundation for the Improvement of Living and Working Conditions (Eurofound) noted that the prevalent definition refers to the traditional classification of employment relationships based on the *legal subordination* and the *dependent/independent worker duality*⁵. This corresponds to the classifications used by the International Labour Organisation (ILO) and the Organisation for Economic Cooperation and Development (OECD). *“In practice, the focus of such classification is the subordinate employment relationship, while self-employment is defined almost in a residual way, comprising all contractual relationships that do not fall within the boundaries of ‘paid employment’⁶.”*

The Eurofound highlighted that the dichotomous structure between self-employed and dependent employees often does not seem to be the most appropriate solution to cope with new types of employment that often fall into the widening **“grey area”**. It presented four dimensions to distinguish new forms of the broad category of self-employed workers: investment of own capital; autonomy in the labour market; responsibility for and control of own work and the presence of employees⁷.

⁴ Draft of the handbook *“The Future of Work in the Media, Arts and Entertainment Sector: Meeting the Challenge of Atypical working”* written by Pascale Charhon and Dearbhal Murphy with the support of the FIA, the FIM, the UNI MEI and the EFJ.

⁵ Self-employed workers: industrial relations and working conditions, Roberto Pedersini and Diego Coletto, University of Milan, comparative study carried out jointly by EIRO and EWCO of Eurofound, 2010, P.13-15.

⁶ Ibidem.

⁷ Ibidem.

THE GREY ZONE

Some European countries have dealt with the difficulties in assessing dependent forms of self-employment in different ways. In Germany, Italy, the Netherlands and Portugal, a hybrid legal category has been introduced in order to facilitate outsourcing activities whilst covering dependent self-employed workers with some legal rights that would not exist under the legal status of self-employment.

In Germany, a legal exception in the law on collective contracts (*Tarifvertragsgesetz*) means that freelance journalists are considered “comparable to dependent workers” if at least 50% of their salary comes from a single employer/client (for workers, who do artistic, creative or journalistic work, even a third of the salary is sufficient). In this case, these “comparable workers” are exempted from any competition regulations preventing the conclusion of collective agreements on common fees and prices. There is yet another exemption in the German law on copyright (*Urhebervertragsgesetz*) which states that there may be collective agreements concerning authors’ rights on behalf of anybody who is considered to be a holder of copyrights. These collective contracts are also exempted from any competition regulation.

In Italy, the labour reforms have extended basic protections to all workers, but with specific protections for specific categories. They define the category of *economically dependent workers* (called *parasubordinati*) as those who perform a “continuous, coordinated and mainly personal” form of collaboration with the same employer (Art 409 N.3, Codice di Procedura Civile). The legislation provides levels of social protection similar to those guaranteed to dependent workers and trade unions can represent them in collective bargaining.

Other countries have maintained the strict dichotomy between employed and self-employed and have tried other approaches to capture the growing reality of the dependent self-employed. These have included: presumptions that these are employees and fall within the scope of employment protection legislation (France, Greece, Luxembourg); reversal of the burden of proving employee status (Belgium); listing criteria that enable identification of workers as either employees or self-employed (Austria, Belgium, Germany, Ireland); extending protection to specified categories, even though they are not presumed to be employees (Denmark, France, Germany, Greece, Italy). In certain countries where the dependent employment was not defined or where the legal definition was general (Ireland, Norway, Sweden and the UK), case law has played an important role.

© *This information comes from the draft of the handbook “The Future of Work in the Media, Arts and Entertainment Sector: Meeting the Challenge of Atypical working” written by Pascale Charhon and Dearbhla Murphy with the support of the FIA, the FIM, the UNI MEI and the EFJ. For clarity purpose, the initial wording have been shortened and rephrased.*

EFJ GLOSSARY: FREELANCE, FAKELANCE, RETAINER, PIGISTE OR ENTREPRENEUR?

A freelance journalist is someone who is self-employed, and sells his/her services and/or work to a variety of employers without a long-term commitment to any of them. There are different names used for this type of worker including stringers and correspondents. They are not legally in a position of subordination to the employer's authority. However, in reality, many freelance journalists are in a subordinating position. This element of subordination is the deciding criterion which distinguishes freelancers from employees. According to ILO, the term "freelancers" should not be understood as synonymous with "self-employed" although many freelancers in the media industry have self-employed status.⁸ Their exact legal status is a complex issue and varies from country to country.

A Fake (or false) freelance journalist is someone who works almost exclusively for one client, from the client's premises, with set hours and control over his/her work. The pay will usually be net salary (because the employers' aim is to avoid fiscal and legislative obligations associated to employment status and to reduce labour costs).

A retainer is a freelance journalist who works on a contract that is not a contract of employment. However, this contract will provide a monthly fee in return for specified work. During the week, a self-employed journalist can combine several arrangements.

A pigiste is a journalist who is remunerated according to the work she/he produced (for example, according to the number of letters or pages, the duration in audiovisual media or the number of images for photographers). In France, the Cressard Law (1974, obtained from the advocacy of the journalists' unions) gives the same rights to pigiste as staff workers. They can work for several media.

An entrepreneurial journalist is a freelance who is genuinely in business on his/her own account, having a number of clients. This could be a sole trader or via a limited company.

© EFJ FREG, 2010

⁸ *Employment relationships in the media and culture industries*, Issues paper for the Global Dialogue Forum on employment relationships in the media and culture sector, (Geneva, 14 and 15 May 2014), page 11-17.

The right to freedom of association

Among the EFJ members, only a minority do not admit self-employed journalists. Only one EFJ member cannot unionise freelance journalists due to national law: the Journalists' Union of Turkey (despite the fact that Turkey is a member state of the Council of Europe and has the status of candidate country for EU membership which implies a submission to the two legal standards that protect unions' rights)⁹.

Three other EFJ members do not admit self-employed journalists due to their union's statutes/policy: two Greek organisations (the ESIEMTH and the JUADN) and the Ukrainian NUJU. In Greece, only one union accepts freelance journalists (ESPIT) and it covers the periodical and electronic press. Nevertheless, the others Greek unions are likely to admit freelance journalists in the near future: at the moment, members of the Greek journalists' unions have access to a special Health and Additional Pension Fund where only permanent staff journalists contribute with a small percentage of their salaries (3%). The new social security system that will apply for all workers in Greece will initiate changes to the unions' rules. The EFJ advocates that **every freelance should have the right to organise in a trade union or in a professional association and enjoy the right to collective bargaining**.

The right to collective bargaining

The EFJ study "Lets organise, invest in youth and services" (May 2015) reveals a mixed picture of the recognition of freelance journalists' right to bargain collectively. Among the 40 surveyed trade unions and professional associations from 32 countries, around 55% of the respondents (or 22 organisations) note that it's challenging to include freelance journalists in collective agreements. Indeed, the protection of workers' rights through labour law, regulations and collective agreements continues largely to refer to the existence of an employment relationship between an employer and an employee.¹⁰ Moreover, some national legislation excludes collective bargaining from the scope of competition law. In certain EU countries, competition authorities have accused freelances or their trade unions of price-fixing and thus violating competition rules (Article 101 of the Treaty on the Functioning of the European Union on free competition).

The collision between competition law and labour rights

In some EU countries, collective agreements concluded by unions representing freelances (notably concerning fix prices for the sale of their services) have been judged illegal under Article 101 of the Treaty on the Functioning of the European Union on free competition (Ex-Article 81 of EC Treaty).

⁹ This information has been taken from the two EFJ survey previously mentioned.

¹⁰ For more detailed information, consult the draft of the handbook "The Future of Work in the Media, Arts and Entertainment Sector. Meeting the Challenge of Atypical working" written by Pascale Charhon and Dearbhal Murphy with the support of the FIA, the FIM, the UNI MEI and the EFJ.

In the case of freelance, they or their representatives are considered as “undertakings” within the framework of competition law. The concept of “undertakings” is not defined in the Treaty. However, according a repeated case-law of the Court of Justice of the European Union, it “encompasses every entity engaged in an economic activity, regardless of the legal status of the entity and the way in which it is financed”.

In 1999, the EU Court has recognised in *Albany (C-67/96)* that Competition Law could not be permitted to render collective bargaining unlawful, so denying the right for **employees** to be collectively bargained for. One year later, in the ruling *Pavel Pavlov and Others v. Stichting Pensioenfonds Medische Specialisten*, the Court of Justice of the European Union (CJEU) has affirmed that self-employed medical specialists who were contributing to their own supplementary pension schemes were “undertakings”¹¹.

However, the meaning of self-employed worker was given a new interpretation. In 2014, the case on *FNV Kunsten Informatie en Media v Staat der Nederlanden (C-413/13)* extended the right to collective bargaining for the self-employed. The ruling by the ECJ clarified that if the “employer” engaged the self-employed in question on the same activity as employees, he/she will have the same status as employee. (see more information below).

WHAT DOES THE EXPERT SAY?

John Hendy, the Queen’s Counsellor and a barrister specialised in the protection of trade union and workers’ rights and professor at the faculty of laws at the University College of London (UCL), notes:

*“Whilst it may be accepted that competition law should apply to individuals (as well as corporations, partnerships, co-operatives and other groupings) conducting genuine businesses, it is clear that EU law must be changed so as to exclude from the prohibition individuals who are not business on their own account. **Apart from anything else, millions of workers across Europe are falsely classified as ‘self-employed’ in order that their employers escape the costs and burdens of employing them.***

*The legal distinction is easy to make in EU law by permitting collective bargaining for all those who fall within the definition of ‘worker’ – a definition established in a multitude of CJEU cases (such as in *Lawrie-Blum C-66/85*, *allonby C-256/01*). But there are other definitions which are possible. One such would be to recognise the right of collective bargaining to all workers unless the employer or the Competition Authority could establish that the worker was in reality a business on its own account. Unless self-employed workers are granted exemption from EU (and EU derived) competition law, those States in the EU which choose to implement the ruling *Pavlov* which judged that self-employed workers are undertakings (and some turn a blind eye) will be in breach of their obligations under **Article 11 of the European Convention on Human Rights, Article 6 of the European Social Charter and ILO Convention 98**. Indeed, they also appear to be in breach of **Article 28 of the Charter of Fundamental Rights of the EU**. Legally this is an intolerable state of affairs.”*

¹¹ Case C-180-184/98 *Pavel Pavlov and Others v Stichting Pensioenfonds Medische Specialisten* [2000] ECR I-6451.

IRELAND CASE

In 2004, the Irish Competition Authority (No.E/04/002 of 2004) determined that a collective agreement concluded between the actors' trade union EQUITY/SIPTU and the Institute of Advertising Practitioners (employers' association representing advertising agencies), concerning the conditions under which advertising agencies would hire actors, infringed competition laws.

In its decision, the Irish Competition Authority made a distinction between freelancers or "self-employed independent contractors" and employees. "Self-employed independent contractors" were considered to be "undertakings". This decision has affected other trade unions representing self-employed workers in Ireland, notably, the **National Union of Journalists** in the UK and Ireland (NUJ) and the general union, SIPTU, which represents self-employed actors and musicians.

In 2011, the Irish Congress of Trade Unions addressed a formal complaint to the International Labour Organisation, considering that Ireland repeatedly failed to give effect to ILO Collective Bargaining Convention. In June 2016, this complaint has been judged justified. The ILO Assembly decided to challenge Ireland's failure to treat freelance workers in accordance with the rights enshrined in the organisation's convention. The Irish Government faces questions at the ILO Assembly in Geneva. **The Irish government must respond in November 2016.**

Interesting to note, the upper house of the Irish Parliament unanimously backed a Labour motion requiring the new Irish government to bring forward a suite of labour law reforms, including legislation to restore collective bargaining right for freelance workers while the government has indicated that it will table amendments to the proposed new legislation at the next stage. The Irish government has consistently stated that reform of domestic or national competition law would be in breach of European competition law.

DANISH CASE

In 1997, The Danish Competition Authority launched legal proceedings against the **Danish Union of Journalists**. The Authority accused DJ of “price-fixing” by recommending a minimum rate to its freelance members in a leaflet entitled “Recommended Terms for Freelance Journalists”. It ruled that all freelancers were to be considered self-employed, and consequently, that the recommended price lists for freelancers were illegal under the **Danish Competition Act** and should be withdrawn.

The DJ made an appeal against this decision, and the Competition Council then ruled in 2002 that freelance journalists who do casual work equivalent to the work done by employees must be regarded as employees and so fall outside the rules of competition law. Conversely, freelancers who work on a more independent basis cannot be included in collective agreements or issue recommended price list.

FNV KIEM /NETHERLANDS CASE

In the case “*FNV Kunsten Informatie en Media v. Staat der Nederlanden*” of December 2014, the CJEU ruled that the EU law on competition does not prohibit collective agreement allowing minimum fees for **false self-employed**, that is to say, “*service providers in a situation comparable to that of employees*” (§31-41). This preliminary ruling was referred to the CJEU by the Hague Court of Appeal following a complaint by the Dutch union FNV KIEM.

The FNV KIEM negotiated with orchestras employers the insertion of a paragraph in the collective agreement which guaranteed self-employed musicians a minimum rate of pay and pension contribution when the Dutch national competition authority opposed the negotiated collective agreement claiming it went against the rules of competition law. The union engaged in court proceedings. The Hague court of appeal subsequently initiated a request for a preliminary ruling to the CJEU.

Finally, the Hague Court of Appeal gave its ruling on 1 September 2015, following analysis of the CJEU response to its prejudicial questions. The Court judged that freelance musicians were bogus self-employed insofar as their work relationship reflected a link of subordination. ***The Court was nevertheless careful and pointed out that its analysis was limited to the case in question and did not cover the situation of self-employed workers in other sectors of activity.*** In other words, FNV KIEM reminds the principle of a general exception for self-employed workers.

International instruments and treaties

Major international human rights treaties protect the freedom of association and the right to bargain collectively¹². These documents apply to “everyone” or to “workers”. They highlight that all associations, including trade unions, are crucial elements of a democratic state.

THE INTERNATIONAL LABOUR ORGANISATION (ILO)

The freedom of association and the protection of the right to bargain collectively have been developed in several conventions and recommendations adopted by the International Labour Conference, mainly *Convention No. 87* concerning Freedom of Association and Protection of the Right to Organise, of 1948, and *Convention No. 98* on the Right to Organise and to Bargain Collectively, of 1949.



The right to collective bargaining is guaranteed by **Article 4 of the ILO Right to Organise and Collective Bargaining Convention** which imposes an obligation to adopt measures to promote the full development and utilisation of collective bargaining. The ILO Collective Bargaining Convention defines the term “collective bargaining” as “*all negotiations which take place between an employer, a group of employers or one or more employers’ organisations, on the one hand, and one or more workers’ organisations, on the other, for: (a) determining working conditions and terms of employment; (b) regulating relations between employers and workers; (c) regulating relations between employers or their organisations and a workers’ organisation or workers’ organisations*”.

The ILO’s Committee of Experts has dealt with the situation of self-employed workers and collective bargaining in an observation concerning the application of Convention No. 98 in the Netherlands¹³. The Committee of Experts has highlighted that Article 4 of Convention No. 98 establishes the principle of “*free and voluntary collective bargaining and the autonomy of the bargaining parties*”¹⁴. **If implemented in accordance with ILO Standards, union rights would be restored to all workers.**

¹² The freedom of association is guaranteed under the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. The right to bargain collectively is also guaranteed by the International Covenant on Economic, Social and Cultural Rights.

¹³ We failed to find the initial document. This information comes from the draft of the handbook “*The Future of Work in the Media, Arts and Entertainment Sector: Meeting the Challenge of Atypical working*” written by Pascale Charhon and Dearbhla Murphy with the support of the FIA, the FIM, the UNI MEI and the EFJ.

¹⁴ Ibidem.

THE COUNCIL OF EUROPE

Within the Council of Europe legal order, the rights to form and join trade union and to bargain collectively are guaranteed under the European Convention on Human Rights and the European Social Charter.



Article 11 of the **European Convention of Human Rights** states that *everyone has the right to form and to join trade unions for the protection of his interests*, this being a specific part of the general right of freedom of association. The freedom of association has been recognised by the European Court of Human Rights' case law as a right covering individuals but also the association itself. Certain restrictions only permissible in strictly limited circumstances are stated by the second paragraph of Article 11¹⁵. According to the ECHR, Member States have the positive obligation to “*secure the effective enjoyment of the right to freedom of association*”¹⁶.

In the **European Social Charter**, **Article 5** lays down the right of workers – and employers – to form and to join organisations for the protection of their economic and social interests *without any de facto or de jure* impediments of this freedom due to such national law.

Although the right to bargain collectively is not expressly mentioned in the European Convention of Human Rights, the jurisprudence of the **European Court of Human Rights** has recognised that it was an essential element of the right to form and join trade unions established by Article 11 of the ECHR (Demir and Baykara v. Turkey, 2008, Application no. 34503/97). **Article 6 of European Social Charter** sets out the right “to bargain collectively” and encourages States parties to take positive measures. It lists the actions that they can undertake in order to ensure the “effective exercise” of this right including active promotion of joint consultation between “workers” and “employers”.

THE EUROPEAN UNION

Since the entry into force of the Lisbon Treaty amending the Treaty on European Union (December 2009), the **Charter of Fundamental Rights of the European Union** is legally binding and has the same legal value as the UE Treaties (Article 6 of the TEU).

The Charter of Fundamental Rights of the European Union recognises the freedom of association and the right to collective bargaining and collective action.

¹⁵ Article 11&2: “No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others.” According the European Court of Human Rights, these exceptions are to be construed strictly: only convincing and compelling reasons can justify restrictions (Refah Partisi and Others v. Turkey, judgment of 12 February 2003, §100).

¹⁶ Ouranio Toxo and Others v. Greece, judgement of 20 October 2005, §37.

Article 12 of the Charter protects the “*right of everyone to form and to join trade unions for the protection of his and here interests*”. The limits for the exercise of this freedom are not mentioned in the article. Nevertheless, the explanations relating to this right highlight that “*the meaning of the provisions of paragraph 1 is the same as that of the ECHR, but their scope is wider since they apply at all levels including European level. In accordance with Article 52(3) of the Charter, limitations on that right may not exceed those considered legitimate by virtue of Article 11(2) of the ECHR.* 2.¹⁷”

The right to collective bargaining and collective action is stated by **Article 28** of the Charter of Fundamental Rights according to which “*workers and employers, or their respective organisations, have, in accordance with Community law and national laws and practices, the right to negotiate and conclude collective agreements at the appropriate levels and, in cases of conflicts of interest, to take collective action to defend their interests, including strike action*”. The article does not contain more information concerning the procedure and the extent of the contractual relationships.

Article 53 of the EU Charter of Fundamental Rights stipulates that nothing shall be interpreted as restricting or adversely affecting human rights and fundamental freedoms as recognised notably **by international agreements**. In this regard, the freedom of association and the right of collective bargaining have to be interpreted in line with the respective ILO Conventions ratified by all EU Member States.

The promotion of dialogue between social partners (representatives of management and labour) is recognised as a common objective of the EU and the Member States under number of directives and on the Treaty on the Functioning of the European Union (**Articles 151-155**).

Recent developments

EUROPEAN PARLIAMENT

The European Parliament has adopted two resolutions on the 14th of January 2014, the first on social protection for all, including self-employed workers (**2013/2111(INI)**) and the second on effective labour inspections (2013/2112(INI)). In the first resolution, the European Parliament calls, among other things, on the European Commission, Member States and social partners “*to place issues linked to the labour rights and social protection of self-employed workers on the agenda, in order to introduce adequate social protection framework provisions for the self-employed, based on reciprocity and the principle of non-discrimination, and analyse if and how self-employed workers should be included in collective bargaining, including specific strategies on how to include the concerns of self-employed workers in cases where national law does not allow for trade union representation of self-employed workers.*”



¹⁷ As noted in the comments, these explanations were originally prepared under the authority of the Praesidium of the Convention which drafted the Charter of Fundamental Rights of the European Union. Although they do not as such have the status of law, they are a valuable tool of interpretation intended to clarify the provisions of the Charter.

In the second resolution, the European Parliament recognised that there is a growing trend towards bogus self-employment, outsourcing and subcontracting, which may lead to an increase in precarious jobs and low levels of protection for workers. It further points out that all categories of workers, employed or self-employed, come under the responsibility of the national inspection authorities and must enjoy the same degree of protection.

EUROPEAN COMMISSION

In March, the European Commission has launched a public consultation on the **European Pillar of Social Rights** to gather views and feedback from other European institutions, national authorities and parliaments, social partners, stakeholders, civil society, experts from academia and citizens. This initiative is targeted at the euro area. The online consultation will run until the end of 2016. The EFJ will participate in the consultation, and equal treatment for all workers independent of their employment relationship will be a key point, as well as a legal basis, protection of collective bargaining in particular vis-à-vis the competition authorities.



From January to April, the European Commission has evaluated the Directive 91/533/EEC adopted on 14 October 1991 relating to the employer's obligation to inform employees of the conditions applicable to the contract or employment relationship (also called "written statement"). This evaluation will examine whether the new forms of employment relationships (notably fixed-term and part-time contracts, telework, temporary agency work, freelance contracts, on-call contracts or zero-hours contracts) should be considered as falling within or outside the scope of application.

EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

In May, the European Economic and Social Committee, a consultative body of the European Union, has published an exploratory opinion on the changing nature of employment relationships and its impact on maintaining a living wage. It recommends, inter-alia, that the question of collective bargaining coverage should be addressed.



"The EESC is concerned that where workers are regarded as self-employed, their right to associate freely may be in question if their association could be regarded as forming a cartel, running a risk of being put in conflict with EU rules on anti-competitive practices. These concerns, which could undermine this fundamental right, need to be addressed and remedied. Guidance is needed around the application of competition rules to self-employed workers in an employee-like situation. In this context, the use of the ILO understanding of "worker" rather than the more narrowly defined "employee", could be helpful to better understand how fundamental principles and rights at work apply, the enjoyment of which EU competition rules should not impede."

Best practices

Some EFJ members have launched actions to better protect the rights of freelance/self-employed/entrepreneurial journalists.

FREELANCE CALCULATOR

In 2010, the **Norwegian Journalists' Union** has developed a freelance fees calculator. The strategy was to make freelance rates equate to staff wages in order to achieve equality in pay. The calculator allows self-employed journalists to calculate the hourly rate a publisher would pay for an employee for the same job in the same sector (i.e. daily press, news magazine, local television stations, private radio and TVs, public broadcasting) for a worker with similar experience (i.e. beginner, 10 years of experience, 20 years of experience). This tool has inspired other EFJ members.



Anette S. Andresen, head of the Norwegian Union's freelance section and member of the EFJ Freelance Expert Group (FREG), highlights that this tool is part of an overall strategy.

"I strongly believe that collective bargaining is the right way to tackle the difficulties facing freelances. The experience has shown us that a freelance bargaining along with international media houses is possible: the freelance simply has too little bargaining power."

"We have experienced a breakthrough this year. The union has made freelance rights to bargain collectively as one of its priorities. There was a widespread understanding among staff journalists that it was necessary to focus on the rights of freelances. We have achieved this understanding from staff journalists because we have worked closely with the other parts for the union, and also because the leadership of the union has taken the problems facing freelance seriously."

"Another main reason is that the newspapers are downsizing and many journalists have now seen colleagues having to leave their jobs while freelances are filling the gap. So staff journalists are now beginning to see and feel the consequences of having underpaid freelances because they are now becoming the precarious freelances. So it is in everyone's interest to raise the pay of freelances."

The Freelance Calculator proved to be very useful and since then it has been adopted by other EFJ members. In March 2015, the **Belgian French-speaking Association of Journalists (AJP)** created a fees calculator based on the Norwegian model. It includes a new platform offering services for freelance journalists in order to better commercialise their work and list freelance journalists with their expertise. Apart from the calculator, the AJP also provides a platform of exchange for journalists.



At the beginning of 2014, **the Swedish Union of Journalists** (SJF) created its proper fees calculator.



Natasha Lopez, SJF-representative in the Freelance Expert Group (FREG) notes: *“It was an answer to a problem that many of our members experienced - that the flat freelance recommendation we have had for years is no longer relevant. It’s important to point out that some freelances did and still do use the freelance recommendation and don’t have any problems demanding this fee (which we still use side by side with the calculator). But for many, the recommendation was much higher than their customers were willing to pay. The freelances also felt that they didn’t need such a high fee. The calculator, in contrary to the freelance recommendation, takes many different things into account, such as how much the costs in your company are and how much your overhead is (that is the time you put into developing ideas). The calculator also makes it easier for freelances to understand what costs their fees have to cover.”*

AUSTRIA – CAMPAIGNING FOR FREELANCES

1. Petition

In April 2015, the Austrian Union of Journalists GPA-djp launched a petition demanding better fees for freelance journalists. It followed a conflict with the Austrian Publishers Association (VÖZ).



During the last bargaining round, it had been agreed that freelances would receive an increase of fees per line (the fee was 34, 50 Euro for 1000 characters and the union requested an increase to 36, 50€). But the employers refuse to respect such a small increase.

The GPA-djp president, Franz Bauer, has expressed the importance of the increase for freelances. Unfair remuneration endangers the existence of many staff journalists. “Has any employer considered how one can live with such a small contributions? The employers should guarantee an adequate remuneration to freelances in our sector so that quality of journalism can be guaranteed,” argued Bauer.

The petition has made staff and freelance journalists come together to sign the petition in order to demand fairer pay for freelances.

The union also published a newspaper advertisement (see below) and specifically published it on the newspaper of the chief negotiator of the newspaper association. This strategy helped them to gain an edge in their negotiations.

More information: www.gpa-djp.at/cms/A03/A03_0.a/1342556726798/home/journalistengewerkschaft-in-der-gpa-djp-unternehmer-wollen-journalisten-aushungern

2. #FREItag2016

Developing services for freelance journalists

The GPA-djp organised a series of workshops for freelance journalists to better their journalism skills and knowledge on social protection. These workshops include subjects on cross-media Storytelling, Photography, fees calculation, social security, contracts, etc.

BELARUS: A WORRYING CASE

In Belarus, working as freelance journalists can be considered as a crime. In 2015, the Belarusian authority filed 28 cases against freelance journalists and imposed fines on them. According to the Belarusian Association of Journalists (BAJ), the total sum of the fines imposed amounted to 146.78 million Belarusian rubles (over 8,000 EUR).



In all the cases, journalists were accused of violating article 22.9 of Belarusian Code on Administrative Offence for “Illegal production and distribution of mass media products”. The law only recognises employed journalists working for state-registered media organisations and anyone who is falling outside of this category will be considered illegal.

The EFJ and the BAJ have repeatedly protested against the existence and application of this ridiculous media law. Last year, the organisations wrote to the Minister of Information demanding the recognition of freelance journalists. However, the government has not made any response, nor changes to this law so far.

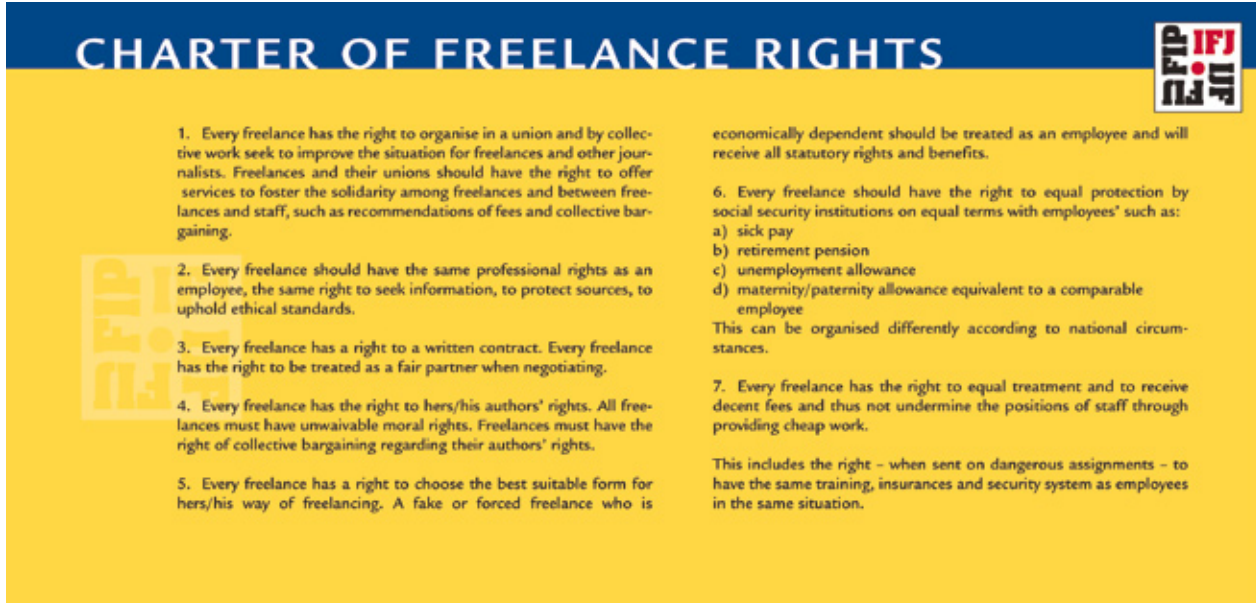
A. Bastunets, BAJ Chairperson: *“The legal prosecution of Belarusian freelance journalists for cooperation with foreign media without press accreditations violates the Belarusian law and international legal obligations of Belarus.*

*“As for the Belarusian legislation, **none of responsibility** for journalist activity without press credentials is **stipulated** in article 22.9, part 2 of Belarusian Code on Administrative Offence, which is used for imposing fines on the Belarusian freelance reporters. The article is aimed at prosecution for **illegal production and/or distribution of mass media products**. However, the mass media production is produced by media houses and distributed by media distributors. Journalists do not produce mass media production. They prepare their materials and reports for editorials.*

The prosecution of journalists on the grounds of article 22.9, part 2 of Belarusian Code on Administrative Offence violates the norms of article 34 of Constitution of Belarus and article 18 of International Pact on Civil and Political Rights. The prosecution is based on the reasons for restricting the freedom of expression, which are not stipulated by the above-mentioned legal documents. The contest of these materials is not taken into consideration.”

New fines have not been imposed on freelance journalists since April 2016. However, the period of silence may be explained by the current Parliamentary election campaign in the country. A similar break has been observed on the eve of the Presidential election in 2015. Unfortunately, a new wave of oppression in relation to freelance journalists took place after the election.

EFJ CHARTER OF FREELANCE RIGHTS



CHARTER OF FREELANCE RIGHTS

EFJ

1. Every freelance has the right to organise in a union and by collective work seek to improve the situation for freelances and other journalists. Freelances and their unions should have the right to offer services to foster the solidarity among freelances and between freelances and staff, such as recommendations of fees and collective bargaining.
2. Every freelance should have the same professional rights as an employee, the same right to seek information, to protect sources, to uphold ethical standards.
3. Every freelance has a right to a written contract. Every freelance has the right to be treated as a fair partner when negotiating.
4. Every freelance has the right to hers/his authors' rights. All freelances must have unwaivable moral rights. Freelances must have the right of collective bargaining regarding their authors' rights.
5. Every freelance has a right to choose the best suitable form for hers/his way of freelancing. A fake or forced freelance who is economically dependent should be treated as an employee and will receive all statutory rights and benefits.
6. Every freelance should have the right to equal protection by social security institutions on equal terms with employees' such as:
 - a) sick pay
 - b) retirement pension
 - c) unemployment allowance
 - d) maternity/paternity allowance equivalent to a comparable employee
 This can be organised differently according to national circumstances.
7. Every freelance has the right to equal treatment and to receive decent fees and thus not undermine the positions of staff through providing cheap work.

This includes the right – when sent on dangerous assignments – to have the same training, insurances and security system as employees in the same situation.



CHAPTER 4

Fair Contract for Quality Journalism

What are authors' rights?

The law governing authors' rights (and copyright) is the legal foundation for journalists to be able to make a living from independent, professional work. At once, we must clarify two senses in which journalists use "authors' rights".

Fundamentally, "**authors' rights laws**" are the laws that give authors of all kinds two essential sets of rights.

One of these sets of rights gives authors control over who can copy their work and make it available to the public (the "economic right"). The other includes the right to demand that they are credited for that work and that its integrity is respected (the "moral rights").

Economic rights allow journalists to be remunerated

It is the right to control the distribution of their work that makes it possible for journalists to demand to be paid. If journalists did not have that right, anyone could take their work and sell access to it, wherever it first appeared. This is especially clear for freelance journalists – and for photographers, who can often make more money from selling publishers licences to use pictures that have already appeared once than they do from that first use.

Additional authors' rights payments support sound journalism

Authors' rights laws provide that journalists should get a share of payments for "secondary uses" of their work – such as the money schools and universities pay for the right to copy articles from books and newspapers. These "**authors' rights payments**" are distributed through collecting societies (see below). They provide an essential supplement to salaries and payments for the primary uses of work, helping make it possible for journalists to make a living as professionals independent of sponsors and lobbyists.

Moral right protect the integrity of a journalistic work

There is another way in which authors' rights law supports ethical journalism: through those rights to be identified – to be credited – and to defend the integrity of their work. These rights are known in English as "moral rights".

These moral rights exist independently of the "economic right" to copy the work and make it available. Whoever has licensed the work, the author – that is, the reporter or photographer – has the right to a credit whenever is it used (except in the UK and Ireland – see below). This is important to make a living – how else will future clients and employers know the quality of the work unless they have seen it with the journalist's name? It is also important

to the practice of ethical journalism, because it means the writer or photographer *takes responsibility* for work that appears with their name on it.

The right of integrity allows a journalist or a photographer to oppose distortion of their work, or its use in a context would harm their reputation.

And (again, in most countries) journalists have the right to sue anyone who mutilates or distorts their work. This right is essential to upholding standards of ethical reporting.

The roles of journalists' unions

In some countries it is possible for journalists' unions to carry out **collective bargaining** of contracts, terms and conditions governing their members' authors' rights.

Almost always, authors' rights laws are enforced through journalists, like other authors, having the right to sue for cash damages. (There are criminal offences, but in the experience of the EFJ, they are hardly ever relevant to journalists' enforcement of their rights.) Only the journalist in person can take a case to court: so their trade unions have an essential right in **supporting them in going to court, including offering representation**.

Before journalists can thus enforce their rights, they must of course know what they are. So, in all countries, probably the biggest role for journalists' trade unions is **educating members** about authors' rights.

Increasingly, authors' rights laws are under attack – from individuals who would prefer not to pay for any work of authorship, generously supported by corporations that make fortunes taking others' works and selling advertising alongside them. Journalists' unions therefore have a vital role in **campaigning and lobbying** nationally – and internationally through the EFJ – to defend and extend those rights.

This should include campaigning to raise public awareness of the importance of authors' rights to individual citizens, both in ensuring that they have access to high-quality independent works of authorship and, increasingly, because they need the right to be treated fairly when their work distributed online.

Campaigning should also include lobbying for more safeguards in copyright laws that would prevent media companies from imposing unfair contractual clauses, for example those that deprive journalists of any further earning for reuse of their works.

Where it is possible for journalists' trade unions to enter into **collective bargaining** with publishers and broadcasters, this may be their most important role. This may cover the level of authors' rights payments. In Germany, in theory, it covers minimum levels of remuneration for freelance journalists (see below).

Lastly, but not least, unions have a role to play in **protecting authors' rights payments**. In a few countries (such as Denmark) they are directly involved in distributing these. They need to be involved in making sure that journalists' interests are protected by the policies of collecting societies, by being involved in collecting societies' democratic structures.

Changes coming...

In the autumn of 2016, the European Commission published proposals to change the law of authors' rights in its Member States. Such changes will not take effect for several years. The information that the EFJ has in October 2016 is that the changes, if passed, would not change the advice given in this chapter. The issues raised by the Commission's proposals are important, and the EFJ will be vigorously lobbying to make sure the results are as favourable to journalists as possible. This chapter, though, is of finite length and will not go into the level of detail they involve.

What rights journalists have

Journalists produce words or pictures that can easily be copied. That was true in the age of steam-powered printing presses and is even more true in the age of powerful hand-held computers. The economic value of their work is therefore underpinned by laws against people copying them without permission.

When journalists give permission – in exchange for money – they make a contract with the publisher or broadcaster, which is often called a “licence” to use their work.

Authors' rights are not complicated – at least, not in the way they affect journalists every day.

0. What you create, you own. A photograph, a news story, a radio feature, a cartoon commenting on the news... if you made it, it's yours. The important exception is that in some countries – including the UK, Ireland, the Netherlands, Poland, the Czech Republic and Hungary – journalists' work done while covered by a contract of employment belongs to their employer. In countries such as Slovenia and Lithuania the employer is presumed to have the economic rights for a limited period.

1. Authors' rights do not need to be registered (except in the USA). What an author creates is theirs simply by virtue of them having created it. The © symbol is not necessary, but does no harm.

2. Authors' rights protect the actual arrangement of words in the article, or objects and people in the photo – the “expression”, in the jargon. Authors' rights do not apply to facts or to ideas. If an editor or producer commissions someone to produce work based on a particular idea, in law this has no effect on the ownership of the work.

3. Standard practice is that what a freelance journalist sells to an editor or producer is a *licence* to a piece of work, once, in one territory, in one medium. What an employed journalist sells in exchange for their salary is the right to print or broadcast all the work they produce at work.

Generally, if a publisher or broadcaster wants to use work again or in a different context – for example to put a newspaper article on the web – they should pay more.

Journalists may choose to agree a fee that includes (limited) web use. In France, a monthly magazine has the right to put articles on the web for a month, and a daily newspaper for a day – and after that, they pay more (under the “HADOPI law”). A committee composed equally of media employers and unions’ representative decides in case of disagreements over the uses.

4. Publishers and broadcasters are vigorously trying to get journalists to grant them the widest possible use for the least possible money. Those with smarter lawyers may “offer” contracts that say how generous they are for allowing journalists to keep their authors’ rights, then demand a licence to do anything with it, anywhere, forever.

In the UK, Ireland and Malta it is legally possible for publishers and broadcasters to demand that journalists “assign” all rights to them – often, for no extra money. “Assign” is jargon for “sell outright” – they become, in law, the author. So they want to own the work outright, for the price of a month’s rent. The EFJ advises journalists to resist this.

Under authors’ rights law – it is not possible to “assign” authors’ rights, though some publishers and broadcasters apply pressure to grant very broad licences. In Germany, the right to equitable remuneration is guaranteed by national law. Journalists can demand equitable payment for any use of their works which is not foreseen at the time of the signing of the agreement.

5. Some journalists, perhaps particularly younger ones, ask why they should not hand over rights in the reviews they write for the fictitious British *What Fridge?* Magazine – will they be worth anything in a couple of months’ time? If these rights are not worth anything, why is the publisher going to all this trouble to get the right to re-use them for free? Those who license only first use rights can get extra money – perhaps from granting a translation licence to *Quel réfrigérateur?*

6. Journalists negotiate with publishers and broadcasters to grant licences for words and pictures to be published in newspapers, magazines, online media, television and radio shows – these are “primary uses” of the work. It is not possible for journalists to negotiate individual licences for each “secondary use” of their work, such as a business or a library user photocopying newspaper and magazine articles, or a cable television channel re-transmitting broadcast programmes. So these are dealt with by “collective licensing”. Journalists need to register with the appropriate “collecting society” in their country to receive their share of the money paid for such uses.

The EFJ strongly recommends that its member unions become part of the collective management process and seek seats on collecting societies’ boards. This is an important step to secure their members’ remuneration for secondary uses.

7. A licence can be agreed in a phone call: that is, people can make a legal contract verbally, but everywhere they will have problems if they need to *prove* what was agreed. So advise members to put what they agree in writing. The EFJ offers a model contract useful in the *Authors' rights handbook for journalists* and recommendations on contracts on its authors' rights page.

8. The parts of authors' rights that are essential to ensuring that journalists can support themselves as independent professionals are the right to authorise someone else to copy their work – or not, if they do not offer enough money to compensate them for your skill and work – and the right to collect further payment for further use.

Journalists also need to protect their reputations, and that means protecting their work. So the law gives them personal authors' rights. These are:

- The right to be identified as author – for example with a credit or by-line.
- The right to defend the integrity of the work – the right to sue anyone who uses or alters it in a way “contrary to your honour or reputation”, in the words used in the international law of the Berne Convention.

These rights are severely restricted in the law of the UK and Ireland: see below.

9. An “**exception**” to authors' rights is a kind of use that can be made of an author's work without their permission. Though the legal details vary from country to country, anyone can, for example, use a reasonable extract from the text of a news story for the purposes of reporting the news. Professional ethics say the person using the extract *should* give credit to the author of what they quote; in many countries the law says they *must*. Another example of an “exception” that is useful to journalists is “incidental use”. There is, for example, *generally* no problem using a photograph that contains a painting or a building in the background *for news reporting*. There *is* a problem if someone makes and sells a t-shirt of that photo, for example, without getting and paying for the permission of both the photographer and the artist.

It is always permitted to write the facts in a news story in new words. Again, authors' rights protect the journalist's “expression”, not the facts and ideas that are expressed.

10. Everywhere in Europe authors' rights and copyright last until the end of the 70th year after the death of the author. After that date anyone can copy the work freely.

Contracts are the key

The important issue in journalists getting paid fairly for use and re-use of their work is the contract they sign with the publisher or broadcaster. Almost always, the journalist is in a much weaker bargaining position. **The EFJ is campaigning for regulation to stop the imposition of unfair contracts.** An interesting – though by no means perfect – solution has been achieved in Germany – see below.

For more detail of the law in each European country see EFJ publication *The Right Thing – an Authors' rights handbook for journalists* available to download in both English and French from bit.ly/RightsHandbook

Case studies

Here we present some examples of how journalists' trades unions are currently supporting their members.

THE FREELANCE FEES GUIDE

London Freelance Branch of the National Union of Journalists (NUJ UK & Ireland) offers advice on reasonable rates, contract terms and much more at www.londonfreelance.org/feesguide.

This is available to members and non-members alike, on the theory that one of the main forces tending to drive down rates paid to professional freelance journalists is the existence of large numbers of amateurs who would press for reasonable rates for themselves if they only knew what these were.

Almost every other authors' and performers' organisation in the UK has been warned by the competition authorities that they believe that recommending rates is illegal. Several have had to shut down services they provided to their members.

A key feature of the NUJ's *Freelance Fees Guide* is that the rates it suggests as fair are based on a survey, open to non-members alike. The survey results are published in full at www.londonfreelance.org/rates – which ensures that it reflects open market conditions.

The NUJ also organises journalists in the Republic of Ireland, where it was forced to close down the *Irish Freelance Fees Guide* following a finding by the Irish competition authority that a similar guide produced by its sister union SIPTU fell foul of Irish competition law. On 20 January 2016 Senator Ivana Bacik tabled a Competition Bill in Ireland's parliament to correct this unjust situation.

For details see www.londonfreelance.org/fl/1607prez3.html and Chapter 3 of the handbook.

1. Getting paid
2. Getting advice
3. Copyright
4. Press Card
5. Training
6. Insurance
7. Getting Work
8. Press freedom
9. An interational voice
10. Communication



COALITION CAMPAIGNING

SOME SUCCESSES OF THE INITIATIVE URHEBERRECHT

In Germany the *Initiative Urheberrecht* is an Authors' Rights campaign that unites 40 organisations representing authors and performers.

Both journalists' unions – the *Deutscher JournalistenVerband* (DJV) and (dju) in ver.di – are members, alongside film directors', translators', musicians' and other organisations: see www.urheber.info

The campaign succeeded in getting a law to counter unfair authors' rights contracts – the *Urhebervertragsrecht* – passed in 2002. This gives authors and performers, including journalists, the right to fair pay – “equitable remuneration”. The effect of this grabs most attention is **the right to “windfall payments” when the commercial value of a piece of work turns out to be much more than was envisaged when the author first licensed it.**

More important day-to-day, however, is **the right to challenge unfair contracts in court.** DJV and (dju) in ver.di have brought numerous cases, and won almost all of them. A serious problem is that journalists have to bring cases in their own names – and they are naturally afraid that publishers and broadcasters will refuse to give them work if they do that. Several of the cases that have been won were brought by journalists who were about to retire, so had nothing to lose.

The *Initiative Urheberrecht* therefore campaigned for a new law that, among other things, allowed trades unions to bring cases themselves. Germany's Ministry of Justice published a proposed law in October 2015. But after powerful lobbying by publishers and broadcasters, this was watered down in the Spring of 2016.

For example, journalists were excluded from proposals to give authors and performers a right to know how their work is used and re-used (though this came back on the table with the draft EU Directive published in September 2016). The *Initiative Urheberrecht* condemned the watered-down draft and continues to campaign and lobby for a stronger law guaranteeing fair contracts.

The 2002 *Urhebervertragsrecht* also encourages collective bargaining of “common remuneration standards”. It took until 2010 to achieve an agreement with the newspaper publishers -- and it will take more court cases to push newspapers actually to pay the agreed rates. Talks with the magazine publishers' association continue, very slowly.

The *Initiative Urheberrecht* is a good example of a principle discussed at the 2015 EFJ seminar on authors' rights: that campaigning does not consist (only) of issuing position statements or even drafting new laws. Possibly **the most important part of campaigning is making news.** Important though trade unions' general secretaries are, it is easy for newspapers to ignore them. A statement by a National Treasure like Günter Grass is *news*.

INFORMATION TO UNION MEMBERS IN THE UK

The NUJ in the UK and Ireland periodically sends all its freelance members a guide to everything they need to know day-to-day about their own copyright – in one side of A4: www.londonfreelance.org/c-basics.html

The other side explains everything about quoting or “lifting” other people’s reporting: www.londonfreelance.org/lifting.html

Supported by the UK collecting society for writers (www.alcs.co.uk) the NUJ is also producing a more complete guide for all UK members in the form of an e-book.

This sets out, at more length, the rights that journalists have and the help that the union can offer, including case studies of members getting compensation for unauthorised use of their work. In response to a campaign led by the NUJ, in 2012 the UK government set up a specific Small Claims Court to deal with copyright claims. This is proving very useful to many members. The member has to bring the case in their own name: the NUJ can assist members with preparing the case in the proper form to have the best chance of success against an infringer.

The e-book of course points out the benefits to journalists of registering with a collecting society to get their share of money paid by libraries and cuttings agencies for copying newspaper and magazine articles.

It also has to explain that in the UK and Ireland, journalists do *not* have either right in work which appears in newspapers or magazines, nor in work which reports “current events” anywhere. In these countries and publishers can demand that you “waive” – give up – moral rights anyway, maybe in case the law changes later. Journalists in these countries must remember that they still *own* everything they produce as a freelance, even if they do not have moral rights. That is, they are separate from the economic rights.

The NUJ of course argues strongly that the moral rights are, if anything, more important to society and democracy when they apply to journalism than in any other field. It has not yet managed to change UK law.

About EFJ

The European Federation of Journalists (EFJ) is the largest organisation of journalists in Europe, representing over 320,000 journalists in 71 journalists' organisations across 43 countries.

We fight for the social and professional rights of journalists working in all sectors of the media across Europe through strong trade unions and associations.

We are recognised by the European Union, the Council of Europe, and the European Trade Union Confederation as the representative voice of journalists in Europe.

www.europeanjournalists.org

**Rights and Jobs in Journalism:
Building Stronger Unions in Europe**

European Federations of Journalists - October 2016

