



Investigating online harassment against women journalists in Spain



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Institute



ARTICLE 19 Europe works for a region where all people everywhere can freely express themselves and actively engage in public life without fear of discrimination. We do this by working on The Freedom to Speak and The Freedom to Know. ARTICLE 19 Europe speaks with one voice, through courts of law, through global and regional organisations, and through civil society wherever we are present.

La Plataforma por la Libertad de Información (PLI) is a coalition of institutions and individuals, including journalists, lawyers and activists, who work to defend freedom of Information and press freedom in Spain. The Platform fulfils its mission through monitoring and advocacy, research, networking and legal and training support.

The International Press Institute (IPI) is a global network of editors, journalists and media executives who share a common dedication to quality, independent journalism. Together, we promote the conditions that allow journalism to fulfil its public function, and journalists' ability to operate free from interference and without fear of retaliation.

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ARTICLE 19 Europe's research is part of the Media Freedom Rapid Response (MFRR), which tracks, monitors, and responds to violations of press and media freedom in EU Member States and Candidate Countries. This project provides legal and practical support, public advocacy, and information to protect journalists and media workers. The MFRR is organised by a consortium led by the European Centre for Press and Media Freedom (ECPMF) including ARTICLE 19 Europe, the European Federation of Journalists (EFJ), Free Press Unlimited (FPU), International Press Institute (IPI), and CCI/Osservatorio Balcani Caucaso Transeuropa (OBCT). The project is co-funded by the European Commission. www.mfr.eu



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Introduction

Online harassment and abuse against women journalists is a worrying trend in [Spain](#) and across [Europe](#). Evidence indicates that various forms of harassment, resulting from women's journalistic activities, escalate and manifest in the real world or offline spheres. However, little attention has been put on and research carried out about the failure of the authorities to investigate and guarantee effective remedies for those targeted by these serious attacks. For this reason, ARTICLE 19 published a [policy brief on investigations of online harassment and abuse against women journalists](#) aimed at outlining the scope of State obligations to address this phenomenon and to conduct an effective investigation into serious forms of online harassment and abuse. The exercise of the right to freedom of expression and the ability of women journalists to engage in journalistic activities is ineffective in an environment in which there is impunity for harassment, intimidation or threats of violence – online and offline - directed against them.

In April 2022, ARTICLE 19 Europe, alongside the International Press Institute (IPI) and Plataforma por la Libertad de Información (PLI), co-hosted a multi-stakeholder roundtable aimed at identifying key obstacles, good practices, opportunities and key recommendations to address the lack of investigations and the ineffective responses to serious forms of online harassment against women journalists in Spain. The roundtable was convened under the Media Freedom Rapid Response (MFRR) project, a European Commission funded project which tracks, monitors and reacts to violations of press and media freedom in EU Member States and Candidate Countries. IPI has worked on [protocols about online harassment in newsrooms](#) across Europe and Plataforma por la Libertad de Información (PLI) monitors the [situation of women journalists and freedom of expression in Spain](#).

Participants included women journalists in Spain facing severe harassment, legal practitioners and representatives of the Public Prosecutor Office on Violence Against Women, the Cybercrime Unit of the National Police, the Government Delegation for Gender-based violence and the judiciary. Twitter, Facebook-Meta and Google were invited to the dialogue but they did not attend and forwarded their policies on content moderation.

Recommendations and conclusions

This brief aims to provide five key conclusions and recommendations arising from the multi-stakeholder dialogue. It does not cover all of the issues and proposals which were discussed. Rather, we identify those areas that can serve as the basis to continue further developing a policy approach to advance the prevention, protection

and remedy for attacks against women journalists. The conclusions and recommendations are the following:

1. Legal and policy responses to address online harassment and abuse against women journalists in Spain should look beyond the Criminal Code

Various participants emphasised the underutilisation of legal and policy frameworks other than the Criminal Code and the need to look at existing civil, non-discrimination, data protection and other administrative legal frameworks to address different types of online harassment. The basis of this approach is that policy responses to harassment and abuse against women journalists should be comprehensive and multidisciplinary, and include attention to the impacts on women journalists' human rights.

Evidence indicates that very few women journalists in Spain file criminal complaints on cases of online harassment. Existing cases rely on [Article 173 on attacks against the moral integrity of the person](#) and more concretely the crime of cyberattack under Article 172 sub clause (*Ter*) 1, but most cases are unlikely to meet the criminal threshold under the Criminal Code - the criteria of an offence-.Restraining orders have been issued against identified perpetrators. The few existing investigations and convictions under said offence fail to consider the risks and seriousness of various manifestations of online harassment faced by women journalists. Convictions and restraining orders have proven to be ineffective to prevent further harassment. Often, identified perpetrators are easily acquitted and keep harassing women journalists.

2. Spanish law enforcement authorities and the police are ill-equipped to respond to online gender-based harassment and abuse against women journalists. State authorities should be extensively trained on freedom of expression and non-discrimination standards

The few women journalists who do file criminal complaints to the police find several obstacles to proceeding with the process. The authorities often disregard the cases and instead recommend women journalists to have lower profiles on social media or to get used to the harassment dynamics existing online.

According to the cybercrime unit of the National Police, they receive various reports of online harassment and abuse on a daily basis. However, they find difficulties in requesting for information from social media companies or have little guidance on how to proceed under the existing legal framework. With regard to the Spanish Prosecutor's Office, very few cases involving women journalists have been reviewed

by the Special Prosecutor's Office on Violence against Women because they did not fall under its competence under Article 1 of the Organic Law 1/2004 Law on Integral Protection Measures against Gender Violence. Mainly because the perpetrators of the attack are not partners or former partners of the victims. The Public Prosecutor on Violence against Women offered to develop a detection protocol in collaboration with the participants of the dialogue, given its gender component in line with the 2011 Istanbul Convention.

3. Major social media companies should be consistent and more transparent on how they cooperate with governments towards addressing investigations of serious attacks against journalists, including online threats, harassment and intimidation

he police face challenges in requiring information from companies regarding an ongoing investigation of online harassment. Companies require an explanation of the reasons why a specific conduct is a crime in the country where the criminal behaviour is under investigation. They also argue that they cannot provide information insofar as the conduct under investigation is not a crime in their country of location. When information orders proceed, companies often respond that the information is no longer available on their servers.

Cooperation between companies and law enforcement concerning ongoing criminal investigations of harassment against women journalists, as well as the investigation process itself, should be more transparent, victim rights' centred and conform with international human rights standards. States are not exempt from discharging their obligations to investigate attacks against journalists on the basis that the offence is difficult to investigate or prosecute due to extraterritoriality or other reasons. In cases when the level of severity reaches the possibility of criminal sanctions, law enforcement authorities should make the maximum effort to identify perpetrators (in some cases, the identity can be established without major difficulties) and/or initiate legal processes to do so, in compliance with international human rights standards.

4. Qualitative and quantitative studies should be undertaken to inform a comprehensive and multidisciplinary response to online harassment and abuse against women journalists

The Spanish national authorities' studies on online harassment and abuse are limited to the 'intimate' sphere of young women and girls. They fail to focus on the impacts

on women in their public life, in particular, there are no *ad hoc* studies on both the characteristics and impact of the attacks that women face in relation to their journalistic activities. Therefore, the Spanish government and the national human rights institutions should carry out statistical, comprehensive, impact and human rights-based studies on the issue of online harassment and abuse against women journalists. Quantitative and qualitative evidence gathered in these areas, including the violations to various human rights, should inform comprehensive and multidisciplinary policy responses to address online harassment and abuse against women journalists in Spain. The development of these studies should be carried out in close collaboration with and through meaningful participation of women journalists, journalists' associations, civil society, freedom of expression and non-discrimination experts and practitioners.

These studies and the results of the collaboration between different stakeholders should explore the opportunities and conditions needed for creating a national working group on the Safety of Journalists in Spain. This mechanism should respond to the risks and needs of all journalists with a freedom of expression, gender and non-discrimination perspective.

5. Media outlets and journalists' associations should develop policies to support women journalists facing harassment

Women journalists often face online harassment and abuse resulting from their journalistic work without adequate support from their colleagues and employers. They disregard the attacks women journalists experience online or fail to offer support to follow any legal or judicial process. This situation can converge with existing harassment in their workplaces that is often unaddressed or overlooked by colleagues and the leading roles of media outlets.

Media outlets should develop comprehensive policies on safety of journalists that include a gender, non-discrimination and equality perspective, including policies to tackle sexual harassment. They should monitor attacks against journalists and develop response mechanisms considering women journalists' needs and impacts.