

Country Report: Germany 2024

1. Summary

The state of press freedom in Germany has not changed fundamentally compared to the previous year. The number of physical attacks on journalists has gone down as a result of the marked decrease in the number of Covid-related and far-right demonstrations. However, at 41 it is still more than three times as high as in 2019 (13).

Public debate in 2023 focused on disputes surrounding the legal basis for freedom of information, both in Germany and at the EU level. The most important reform projects at EU level (European Media Freedom Act and Digital Services Act) have now been adopted and must be implemented in Germany. The controversial issues here are government use of spyware, which undermines the protection of journalistic sources, and conflicting interests in regulations that aim to prevent disinformation and defamation on internet platforms on the one hand and protect the right to anonymity of users, whistleblowers and journalists on the other.

Germany is playing a pioneering role in the enforcement and expansion of international criminal justice: in the world's first criminal proceedings for crimes against humanity committed in The Gambia, a former soldier living in Germany was sentenced to life in prison. The German government is currently working on measures to improve the legal situation for co-plaintiffs and foreign observers in future trials.

In its political work, RSF campaigns intensively for improved legal conditions for journalists. In a new lawsuit before the Federal Constitutional Court it is seeking further restrictions on the use of "state trojans" (government spyware) for monitoring journalists' communications.

The dispute over the financing of the public service broadcasters was a major topic of debate in the media throughout 2023. The impending increase in the broadcasting fee (*Rundfunkbeitrag*) to keep up with inflation has met with resistance from the governments of several federal states. The parliaments of all 16 states must approve the increase, but many minister-presidents are instead calling for far-reaching structural reforms and the downsizing of public broadcasters ARD and ZDF.

2. Violence against journalists and media outlets

Reporters Without Borders (RSF) documented and verified 41 attacks against journalists and editorial offices in 2023. This is a significant decrease compared to the preceding years: 103 attacks in 2022 and 80 in 2021 (see diagram).

Nevertheless, even if the numbers are going down they remain relatively high compared to the pre-pandemic years: 22 journalists were victims of violence in 2018 and only 13 in 2019. This fluctuation reflects the general mood towards journalists in these years. A stable reversal of the negative trend is not yet apparent.

In addition, the dark figure for such attacks is very high. Reporters Without Borders documented far more cases of violence against journalists in 2023 than the 41 verified attacks, but these incidents could not be corroborated – mostly due to a lack of witnesses. Even a count based on careful research cannot fulfil strict technical or legal criteria, since in many cases there are descriptions of the incident in question, but no investigations or court proceedings. Nevertheless, through extensive research and verification efforts RSF aims to provide an overview that sheds as much light as possible on the dark figures of violence against media workers.

The most common form of violence in 2023 was kicks and blows, including with objects such as burning torches or drumsticks. These incidents were classified as an attack if physical contact was made with the journalists' bodies or equipment. There were also instances of equipment being snatched from journalists and of journalists being dragged to the ground, pelted with sand and stones or smeared with faeces.

In February 2024, a new and particularly worrying form of attack on press freedom emerged. [RSF documented five instances](#) in five different cities of entrances to press distribution centres and printing plants being blocked by tractors or other means in night-time protest actions aimed at preventing newspaper deliveries. The newspaper distribution centre in Hamburg, the *Allgäuer Zeitung*, the *Schwarzwälder Bote*, the *Nordsee-Zeitung* and the Springer printing plant in Ahrensburg were all affected by these actions. In the most recent incident on 29 February, [farmers blocked a printing centre near Villingen-Schwenningen](#) in Baden-Württemberg with tractors and piles of dumped manure. The reason given for these actions at public protests was dissatisfaction with press coverage of previous protests.

A judgment handed down by the Tiergarten district court in Berlin on 8 January 2024 sent a strong signal against the prevailing impunity for violent attacks on media workers. On 1 May 2020, a group of around twenty individuals wearing masks attacked a team of reporters from public broadcaster *ZDF's heute-show* which was covering a demonstration against Covid restrictions by the

Querdenker (lateral thinkers) protest movement near Berlin's Alexanderplatz, beating them with metal bars and kicking them. Two of the victims were beaten unconscious. Three men and one woman have now been sentenced by the Tiergarten district court to two years' prison on probation and ordered to pay a fine of 5,000 euros each in compensation to the injured reporters and security staff. The police were not able to identify other participants in the attack.

The conspiracy theorist and far-right context

A significant proportion of the attacks against journalists in 2023 – 18 out of 41 verified cases – occurred at events connected to the conspiracy theorist or far-right milieus, which have merged since the pandemic transformed Germany's protest culture. The two groups share, among other things, a hatred of what they call the “lying press” and are both critical of democratic processes. Out of a total of 103 attacks in 2022, Reporters Without Borders recorded 87 from this milieu. In view of the fact that most of the attacks in both 2022 and 2023 occurred at political gatherings, the lower figures for 2023 clearly also reflect the general decrease in the number of protest demonstrations.

The threat of violence often reaches into the private sphere, as the vandalism attacks on the homes of journalists [Hubert Jakob Denk](#) and [David Janzen](#) demonstrate. At the beginning of March 2023, attackers threw eggs and dirt at the walls of Denk's house. Denk, a local reporter based in Passau, had been critical in his coverage of protests against Covid restrictions, among other things. At the end of March 2023, Janzen, who has been reporting on the far-right scene for years, found [graffiti on his front door](#) and a candle with the far-right hate cipher 1488 scrawled on it. There was also a cross with his name on it and several chunks of meat had been stuffed into his letterbox. Janzen and his family have been [receiving threats](#) from neo-Nazis for years.

At political rallies in particular, journalists face high levels of aggression from members of the far-right scene and the Querdenker milieu. Reporters Without Borders documented and verified eight attacks in the state of Saxony, where the [Between The Lines](#) initiative is active. This initiative organises volunteers to escort and protect media workers reporting on rallies in the region. Many of the victims and their witnesses were only willing to describe their cases to RSF on condition of anonymity because they fear being targeted by violent groups. One thing RSF has heard repeatedly from reporters is that right-wing extremists and conspiracy theory activists have become very bold and assertive. They see the press as an enemy to be fought against, and the willingness to use violence has increased significantly since the pandemic. Volunteers from the *Between The Lines* security initiative have had to fend off several attacks at rallies where the police were overwhelmed by the escalating violence.

The level of aggression at rallies intensifies when the speakers standing at the podium deliberately fuel hatred and mistrust of journalists. At a rally in Cottbus,

Hans-Christoph Bernd, leader of the AfD parliamentary group and opposition leader in the Brandenburg state parliament, “marked” two reporters and their escorts while delivering a speech. The term “*markieren*” (to mark) refers to speakers pointing reporters out at political gatherings, shouting out their names and warning that they pose “a threat”. In the case described above, the politician called the journalists “Antifa” – a term used to refer to far-left, autonomous, militant groups and individuals who describe themselves as anti-fascist – and urged those present to report them to the police on the grounds that they were taking unauthorised photos of people attending the rally.

At an AfD event in the municipality of Plothen, Thuringia, on 18 November 2023, a reporter from the [Ostthüringer Zeitung](#) was harassed, pushed around and hit. When he tried to leave the event, he found the tyres of his car had been punctured. Reporters are already anxious ahead of the state elections due to take place this autumn in Saxony, Thuringia and Brandenburg: a tense atmosphere and high levels of aggression from far-right groups are expected.

Numerous attacks at the beginning of 2024

The beginning of 2024 saw an escalation in incidents of violence against journalists. RSF is currently investigating nine reports from January alone. The most brutal attack occurred on 24 January in Leipzig. After a pro-Palestine demonstration, three unidentified men beat up a [video journalist and his companion](#). The attack was so vicious that the reporter had to be taken to hospital with bruising and injuries to his head. The attackers had continued to kick the journalist, who was reporting for the private broadcaster *Sachsen Fernsehen*, even as he was lying on the ground. The police are investigating the incident as a case of grievous bodily harm.

Three other documented attacks were committed by individuals from the far-right milieu. On 13 January, participants at a neo-Nazi event in Biskirchen, Hesse, harassed journalists from the *Recherche Nord* network. The leader of the Hessian branch of the youth organisation Junge Nationalisten, [Thassilo Hantusch, was filmed as he kicked and hit out at the journalists and their equipment](#).

On 21 January, a group of [men wearing masks attacked a blogger](#) from Dortmund who had been reporting on the right-wing extremist scene in his neighbourhood for years. The police arrested 13 suspects.

At the start of 2024, as in 2023, there were several attacks on media workers at pro-Palestine demonstrations. On 17 January a participant hit a reporter's mobile phone with his flagpole at an event outside the Rote Rathaus in Berlin. At a demonstration at the Brandenburg Gate on 21 January a participant hit the camera lens of a press photographer, likewise with a flagpole.

Journalists were also attacked at other events, for example at a farmers' protest in southern Brandenburg on 8 January: [demonstrators hit against the broadcasting van](#) of an *rbb24* camera crew. On 15 January, an [angry car driver](#) hit a local reporter who was covering a Last Generation protest action in Halle. On 23 January, in Flieth-Stegelitzer in the Uckermark, a local resident [dragged the cameraman of an rbb news team](#) to the ground.

Following the revelations by the investigative newsroom *Correctiv* about the participation of AfD politicians in a meeting in Potsdam at which the expulsion of “undesirables”, referred to as “remigration”, was discussed, members of the AfD publicly agitated against *Correctiv* journalists, also making threats against them. A *Correctiv* reporter received an anonymous phone call on 18 January 2024 in which he was asked whether he had police protection. The caller repeated the sentence and then hung up.

In view of the threatening situation which has persisted for years, in 2021 RSF compiled a safety guide together with other organisations to help protect reporters and sets out practical measures for media companies. *Die Zeit*, *Der Spiegel*, *dpa* and the *Funke Mediengruppe*, among others, are already implementing the protective measures outlined in the [safety guide](#).

Court judgements can also be important in sending a signal to groups prone to violence. In April 2018, two neo-Nazis from the NPD (renamed in 2023 to Die Heimat) first chased two reporters around the village of Fretterode in Thuringia in their car and then attacked and injured them with a knife and a large spanner. The Mühlhausen district court where the case was heard found no political motive and gave the attackers a mild sentence of 200 hours of social work and a 12-month suspended sentence. The judgment was overturned by the Federal Court of Justice in March 2024 and referred to another chamber of the district court for a retrial.

The most dangerous place for journalists: political gatherings

Of the 41 attacks verified for the year 2023 (two hacker attacks could not be assigned to a specific geographic location), the largest number occurred in Saxony (12), followed by Bavaria (6), Berlin (5), North Rhine-Westphalia (5), Lower Saxony (4), Hamburg (2), Hesse (2), Rhineland-Palatinate (1), Thuringia (1) and Schleswig-Holstein (1).

The most dangerous place for journalists in 2023 was once again political gatherings such as party events, demonstrations and protest actions. Of the 41 verified attacks, 32 occurred at such events.

At the [#Muenchenstehtauf libertarian demonstration on 18 February](#), a participant knocked over a reporter from behind and pinned him to the ground. Several people who were with the attacker then filmed and harassed the reporter. The latter pressed charges and says the case went to trial, but the

victim reported to RSF that the local court in Munich dropped it after imposing a fine of 1,000 euros.

On [29 May](#), a journalist was attacked during a torchlight march organised by the Coburger Convent, an association of student fraternities. A participant thrust his burning torch at the journalist and hit his camera lens. Just a few minutes before another participant had tried to hit the journalist's head with two torches, but he was able to dodge them just in time. It is not uncommon for participants of far-right citizens' initiatives to try to ban reporters and photographers from filming at these events.

This was the case in Braunfels, Hesse, on 14 December 2023, where a participant in a citizens' initiative twice hit the lens of *hessencam* reporter **Joachim Schaefer's** camera and snatched the camera away from him. In an incident without any recognisable political context, a pedestrian punched a *Tag24* photographer in the face on 3 May in Chemnitz because he thought he was being photographed. The incident occurred during a routine photo shoot of a city councillor. The public prosecutor's office has applied for a penal order, but it has not yet been issued due to doubts regarding the criminal responsibility of the perpetrator.

At a rally held by the left-wing initiative Migrantifa Mainz on Nakba Day, a Palestinian day of remembrance marked on [13 May](#), a speaker referred to the reporters covering the event as "right-wing scum" and participants blocked their camera lenses with flags and posters. A security person also hit the camera of a video journalist. At another Nakba demonstration in Berlin on 20 May, the same journalist was pelted with sand and stones and a participant hit the camera lens of another press photographer. The Hamas terrorist attack on Israel on 7 October and the ensuing offensive by the Israeli army in Gaza triggered another wave of pro-Palestine demonstrations: on 13 October in Hamburg, a participant kicked reporter **Elias M. Bartl** between the legs and insulted him. The police arrested the attacker. At a pro-Palestine demonstration at the Brandenburg Gate in Berlin on 17 October, unknown persons [attacked a video reporter for the rbb news programme Kontraste](#). They repeatedly tried to snatch his camera away from him, damaging it in the process.

There was also violence at climate protests in 2023. On 14 January, a *dpa* photographer was slapped by a participant during protests against the demolition of the village of Lützerath, which is being cleared to make way for a coal mine. On the same day a [camera crew sent by Dutch media company PowNed](#) was attacked by a group of demonstrators carrying an Antifa flag. The assailants hit and kicked the journalists. One of the video reporters suffered a hand injury and a camera was damaged. A team of reporters for public broadcaster [WDR was attacked by a person wearing a mask in Hambach Forest](#) on 24 February while filming the self-built huts in which a group of climate activists have been living since the protests against the

clearing of the area a few years ago. The team had gone there to report on the state of the forest now that lignite is no longer mined there. The masked person hit and damaged a camera with a wooden club.

The police: between protection and aggression

Journalists have often felt let down by the police when reporting on protests against Covid-19 restrictions in the last few years. Even at registered demonstrations, the police were often unable to ensure the safety of journalists and photographers. RSF has therefore had several discussions with the authorities about the protection of media workers.

RSF systematically asked the victims about their experiences with the police for the second time. In 25 out of 41 cases the victims stated that there were no police officers within sight at the time of the attack. Many reporters would like to see a larger police presence at far-right demonstrations in particular – to offer them more protection against violent attacks and the obstruction of their reporting. In four cases, victims stated that they received no help from the police even though the attacks took place within the field of vision of police officers, or they had specifically called on the police to intervene.

In eight cases reporters said the police response after they were attacked was satisfactory. Police officers had, for example, helped them to get up again, spoke to them in a friendly manner, written a report on the incident or arrested suspects.

In four cases in 2023, however, RSF was able to verify that it was actually members of the police who attacked media workers. There were six such cases in 2022.

The case of two reporters who work for the *Nordstadtblogger*, *Ruhrnachrichten*, *WDR* and other outlets and who were wrongfully arrested on 22 August 2023 was particularly bizarre. After cars parked near a refugee centre in Dortmund had been set on fire three nights in a row, the two reporters decided to go out with their cameras and see whether the series of arson attacks would continue that night. As it turned out, several vehicles were set on fire again, and the two reporters, who were in the area investigating, were suddenly [thrown to the ground and handcuffed](#) by plainclothes police officers. The journalists said they tried to tell the officers that they were reporters, but were ignored. On 1 September an 18-year-old woman from Dortmund was taken into custody in connection with the arson attacks. In the meantime, the public prosecutor's office has dropped the charges of arson it had brought against the two journalists.

On the fringes of the [#FreeLina demonstrations by far-left activists](#) and during reporting on a Last Generation protest action on 31 May in Cologne, police used painful grips – a martial arts technique involving nerve pressure which is

legal police practice – on reporters. One reporter was also pushed out of the way so roughly that he injured himself.

3. Surveillance and legislation in the EU and Germany

The two most important EU legislative projects in the area of media regulation are still in the final stages or awaiting implementation in Germany. As regards the European Media Freedom Act (EMFA), after lengthy negotiations between the Council of Ministers, the EU Parliament and the European Commission (the “trialogue”), a joint compromise text was agreed on, which has already been adopted by the EU Parliament by a large majority. The Digital Services Act (DSA) has been in force since November 2022 and takes full effect in all EU member states as of 17 February 2024. By this point, all the national coordination centres are supposed to have commenced their activities, but in Germany this is unlikely to happen before Mai because the law for the implementation of the DSA in Germany – the *Digitale-Dienste-Gesetz (DDG)* – was not passed by the Bundestag until 21 March 2024. The draft is currently before the Bundesrat.

The European Media Freedom Act

The [EMFA](#) will establish a common legal framework for media services in the EU internal market and introduce regulations aimed at strengthening editorial independence, protecting journalists and media providers from political and economic interference and limiting the risks of media concentration. The EMFA also contains advances in the protection of journalistic sources and restrictions on the surveillance of journalists, which is of vital importance in the many member states where there are currently no regulations in this area.

RSF particularly welcomes the new provisions for safeguarding the right of EU citizens to access a variety of independent media, for enhancing the transparency of media ownership and for protecting editorial independence. Improved coordination among national media supervisory authorities and protection against arbitrary moderation decisions by digital platforms are also welcome measures. However, much will depend on how the new European Board for Media Services (the body coordinating the national media authorities) works in practice, and whether it can agree on joint positions to be presented to the EU Commission. RSF hopes that in the future the German media authorities will also draw on the expertise of journalists and journalist associations in the performance of their tasks.

A regulation protecting journalists and their sources from surveillance by spyware which has sparked intense debate recently was watered down during the negotiations, and now leaves it to the member states to decide whether such surveillance is permitted in exceptional cases due to national security

concerns. Nevertheless, the text still contains important restrictions on the use of surveillance technology against journalists.

The new regulations also aim to protect the media and the citizens of EU member states where, as in Hungary and Poland, governments have brought independent media under their direct control.

In 2023, the EU Parliament's PEGA Committee of Inquiry to investigate the use of Pegasus and equivalent governmental surveillance spyware (known as *staatstrojaner* or “state trojans” in Germany) presented its final report. The report calls for concrete steps by the EU Commission and certain EU member states, for example Greece, where the government is still obstructing the investigation into the “Predatorgate” scandal involving the surveillance of 13 journalists. However, neither the EU Commission nor the member states appear willing to follow the Committee’s recommendations. It therefore seems likely that the lack of effective controls on exports of dual-use goods such as surveillance software in the EU will continue.

The Digital Services Act (DSA) and Germany’s *Digitale-Dienste-Gesetz*

The EU's [Digital Services Act \(DSA\)](#) aims to ensure quicker removal of illegal content from online platforms, more comprehensive protection of the fundamental rights of internet users and more efficient supervision of digital platforms in the fulfilment of their due diligence obligations.

So far, digital platforms have for the most part regulated themselves. In future, independent national coordination centres will take over the task of monitoring compliance with the DSA, in cooperation with the European Commission. The draft of the **German Digital Services Act (*Digitale-Dienste-Gesetz*)** which has been approved by the Federal Government designates the Federal Network Agency (*Bundesnetzagentur*) as the central coordinating authority. It will be responsible for monitoring compliance with the DSA rules by smaller platforms in Germany and also function as a complaints office for all internet users. In cases of censorship of posts, the blocking of accounts or digital attacks, those affected are to receive swift and competent support in their respective country.

Overall, RSF sees the new version of the act [as a success](#). The creation of a central complaints office is a particularly positive development. In addition, the number of seats for experts from civil society on the planned advisory board will increase, whereas the companies subject to monitoring will no longer be represented on the board.

RSF will continue to campaign for certain demands that were not met:

Recommendations for implementing the German Digital Services Act

- The handling of complaints should be monitored and assessed according to specific quality criteria (e.g. deadlines for feedback, various contact options for affected journalists, language options).
- Although the passing on of data by platforms to the Federal Criminal Police Office (Bundeskriminalamt) is linked to the condition that criminal acts that pose a “threat to the life or safety of one or more persons” are involved, it remains unclear how this is to be defined in practice, particularly since the platforms are under no obligation to conduct an investigation into criminal acts.

Law against digital violence

Physical attacks on journalists are often prepared in advance in the digital space and continued afterwards in digital form. Forms of digital violence include cyberstalking, the publication of personal data such as home addresses, real names and photos online (“doxing”), hate speech, defamation, incitement to hatred, threats of violence, concentrated and systematic online attacks (shitstorms).

Journalists who cover topics such as the Querdenker movement, migration, right-wing extremism, corruption and sexism experience hostility and threats which often reach into their private lives. Because there is no systematic documentation of digital violence against reporters, it can be assumed that a large number of cases go unreported.

In April 2023, the Federal Ministry of Justice presented the [key points for a law against digital violence](#), but the draft has not yet been approved by the government. RSF, together with the organisation Neue Deutsche Medienmacher*innen, has praised the proposed legislation, but has also called for improvements.

Requirements for a law against digital violence:

- Journalists should be explicitly named as a protected professional group so they have a legal basis to defend themselves against digital violence.
- The definition of digital violence should clearly specify the various forms of digital violence and how they are interconnected. In many cases, hate is not only directed against a journalist’s published content, but also against their actual or perceived origins, gender or skin colour.
- There is also room for improvement in the area of ensuring anonymity on the internet and in cases where accounts are blocked by court order. On the one hand, the identification of perpetrators must be made easier; on the other, their targets must be protected.

Whistleblower Protection Act in force

The Whistleblower Protection Act (*Hinweisgeberschutzgesetz*) passed by the Bundestag in December 2022 came into force on 2 July 2023 after it was initially blocked in the Bundesrat by the states governed by the CDU/CSU.

Under the new law, any reprisals or retaliation against whistleblowers are prohibited. It also introduces a reversal of the burden of proof: in future, it will be up to the employer to prove that any measures taken against employees are not related to their whistleblowing. Companies with 50 or more employees must set up a confidential internal reporting office for whistleblowers.

RSF welcomes the law but criticises certain restrictions in the version that finally came into force. The law stipulates that whistleblowers must first approach non-public internal or external reporting bodies with information of public interest. So-called “public whistleblowing” is only allowed in exceptional circumstances. Whistleblowers may contact the media only if they have reason to fear that reporting their concerns to internal or external reporting channels will trigger reprisals, or if all the deadlines for action in response to a non-public report have expired and the reported problem is deemed to pose a “threat to the public interest”.

RSF observes the use of strategic lawsuits (SLAPP)

Across Europe, powerful players, generally well-financed companies, are bringing civil lawsuits against individual journalists or media companies to intimidate them and dissuade them from publishing material that they do not want made public. This practice is known as Strategic Lawsuits Against Public Participation, or SLAPP for short. Freelance journalists and small publishers or web portals without financial reserves are particularly at risk.

Civil actions are an abuse of the legal system when they are unfounded in terms of content and, for example, focus on alleged or real formal errors without questioning the basic journalistic content, but nonetheless discourage publication of that content because of potentially high litigation costs and in some cases claims for damages.

In Germany, too, attempts are made to prevent publication of content by employing specialised media lawyers and threatening letters. There is a grey area here between legitimate use of the press law and abuse of the law.

In principle, Germany has a system of judicial review across several instances. The courts’ decisions can be scrutinised by the Federal Constitutional Court, whose case law has given great weight to freedom of the press and free speech.

The fact that so far there have been relatively few SLAPPs against journalists and media in Germany compared to other countries is, among other things, due to the lack of a standardised definition of SLAPPs, which makes it difficult to

clearly identify a lawsuit as such. In addition, the EU directive on SLAPPs explicitly refers only to civil proceedings (including on the right to free speech), even though at the international level there are also cases of intimidation of journalists in the sphere of criminal law.

In many cases that have been discussed in Germany it is unclear whether they should be classified as a SLAPP. What is clear is that they have had an intimidating effect on the journalists in question. Determining whether a lawsuit is “abusive” or “manifestly unfounded” requires close scrutiny of each individual case.

The drastic legal action taken by Georg Friedrich Prinz von Preussen against several publications due to their coverage of the dispute over the restitution of expropriated property and the former imperial family's involvement with National Socialism was widely reported in the media.

The MeToo case involving singer Till Lindemann, whose legal representatives took vigorous action against alleged "inadmissible reporting and false accusations in the media and on social networks", is more complicated. In this case not all media outlets observed the strict rules for reporting on suspected offences (*Verdachtsberichterstattung*), according to which any prejudgement of the accused is to be avoided. Nonetheless, it is indisputable that the reporting on the suspicions was legally admissible in view of the legitimate public interest in the behaviour of a very prominent person.

Mathias Döpfner, CEO of the media group *Axel Springer SE*, had his lawyers send web portal *Medieninsider* a cease-and-desist letter after it published an article reporting on the celebrations for his 60th birthday, which he argued were a private matter. *Medieninsider* ended up modifying the article in question to avoid the risk of an expensive lawsuit.

An initiative by the EU Commission led to a proposal for an anti-SLAPP directive in 2022. In November 2023, negotiators from the EU Parliament and the Council of Ministers reached an agreement on the key points. After the text was rubber-stamped by the Parliament's Legal Affairs Committee in January 2024, the final approval of the legislation by the Council and Parliament is considered a mere formality.

In RSF's view, the directive represents an important milestone. RSF has formulated requirements for its transposition into German law.

Requirements for transposing the anti-SLAPP directive into German law:

- The German law should go beyond the minimum standards of the directive.
- It should protect victims more clearly against claims for damages.

- It should clearly define at what point a lawsuit aimed at intimidation is so manifestly abusive that it can be dismissed by a court at an early stage.
- A special contact point should be established to offer legal advice and support to SLAPP victims, which has mostly only been available at high cost from media lawyers to date.
- SLAPPs should be a topic in training programmes for lawyers.

RSF's strategic lawsuits

In recent years, RSF has focused its work in the political arena on strategic litigation. The aim is to enforce human rights claims by means of civil lawsuits or criminal proceedings.

RSF's greatest legal victory to date was its successful complaint before Germany's Federal Constitutional Court against the BND Act in 2020, when the constitutional judges in Karlsruhe ruled that non-German journalists and media professionals can also assert the fundamental rights enshrined in Germany's Basic Law, such as the right to confidential communication. Following this ruling the BND Act was amended, but it still offered inadequate protection. RSF consequently lodged another constitutional complaint at the beginning of 2023. While the case is still pending, the current BND Act remains in force. The legislators should correct the unconstitutional components of the act in the course of the upcoming reform of the intelligence service laws this year.

RSF's demands vis- à-vis the politicians :

- Protection against surveillance must extend to all information and data associated with journalistic activities. This includes personal data as well as research material and email addresses.
- There should be no "second-class" journalists. Protection from surveillance for non-EU journalists is particularly weak.
- Mass surveillance must be restricted. Only specific, well-founded indications of a potential threat to the state can justify the violation of relationships based on confidentiality.
- There should be tighter restrictions on both the number of wiretapped communication networks and the search terms used by the BND, and these must be checked in terms of fitness for purpose.
- Supervision and oversight of the German intelligence services should be strengthened, and oversight bodies should be equipped with the necessary powers and resources to do their job.

RSF warns of the threat posed by state trojans

Using government spyware known as "state trojans", Germany's foreign intelligence agency, the BND (*Bundesnachrichtendienst*), can infiltrate the smartphones and computers of a target person and even intercept encrypted communications. The legal basis for such measures is the Act on Restrictions

on the Secrecy of Mail, Post and Telecommunications, also known as the G-10 Act. On 25 January 2023, the Federal Administrative Court rejected an appeal by RSF against the new version of the law – on the grounds that the organisation had not sufficiently proven that it itself was affected by such surveillance measures. Since furnishing such proof is practically impossible due to the secretive manner in which government spyware is deployed, RSF lodged a constitutional complaint on 13 May 2023. RSF communicates with foreign journalists and government agencies on a regular basis, and is therefore in all likelihood affected by such surveillance.

This means that RSF potentially puts the people it communicates with at risk of being monitored. Anyone who conducts research in extremist circles can be put under surveillance by the BND and has no real possibility to protect themselves against this through legal action.

Investigative journalists who are located outside Germany and are in contact with BND surveillance targets are also at risk of unsuspectingly being targeted by the foreign intelligence agency's surveillance.

The Federal Office of Justice publishes data on telecommunications surveillance on a regular basis, which means that official figures on the use of state trojans are now available. According to these figures, there were 32 cases of computers being hacked by intelligence services in 2021 – mostly in connection with drug-related crimes. The German Federal Police (BKA) has had the [FinSpy spyware made by software company FinFisher](#) since 2013. In addition, since 2019 the BKA and the BND have also owned and used the [NSO Group's Pegasus spyware](#), as the EU Parliament's Pegasus Committee of Inquiry established.

In February 2023, **Galina Timchenko**, an exiled Russian journalist and editor of independent news website *Meduza*, was hacked using Pegasus during a stay in Berlin. The hacking was exposed by two organisations that campaign for digital civil rights, Access Now and Citizen Lab, after they inspected her smartphone.

According to their report, Timchenko's smartphone was infected at some point around 10 February 2023, when she was in Berlin for talks with colleagues. During this period, RSF organised several meetings with exiled Russian journalists where sensitive issues were discussed. The German government did not respond when RSF asked at a hearing of the Bundestag's Digital Committee whether German intelligence agencies were involved in the hacking.

Pursuant to a clause in the German government's coalition agreement, the Federal Ministry of Justice presented a draft law in July 2023 stipulating tighter criteria for the use of spyware. However, a cabinet decision has not yet been reached on this matter.

Together with other NGOs, RSF filed a criminal complaint against FinFisher for violating Germany's Foreign Trade and Payments Act by exporting spyware to

non-EU countries, in particular Turkey. In 2020, the Munich public prosecutor's office arranged for the company's premises to be searched in response to the complaint. On 3 May 2023, charges were brought against four of the company's managers for deliberately violating the authorisation requirements for dual-use goods by selling surveillance software to non-EU countries. However, the company itself, which human rights organisations have been criticising for years, had already filed for insolvency in 2022.

4. International criminal law proceedings concerning journalists

Journalists are frequent targets of crimes that fall under international criminal law, because reporting on wars, civil wars and authoritarian states is often the only way to make the suffering of the civilian population known to the international community. However, trials for these crimes against humanity are seldom held in the countries where they are perpetrated. The German judiciary is thus adopting a pioneering role by conducting criminal proceedings based on the principle of “universal jurisdiction” in cases in which the victims or defendants are not German nationals or the offence was not committed in Germany.

On 30 November 2023, in the world's first trial for crimes against humanity in The Gambia, former soldier Bai L., who was living in Germany after leaving Gambia, was sentenced to life in prison by a court in the town of Celle in northern Germany. As a member of a special unit acting on the orders of then Gambian president Yahya Jammeh, he was involved in the murder of the Gambian journalist **Deyda Hydara**, who was also a correspondent for RSF in Gambia. Hydara was gunned down in his car on 16 December 2004. Shortly before his assassination he had sharply criticised new repressive press laws introduced by the country's dictatorship. The hit squad pursued the journalist in cars that had been repainted to look like taxis. Bai L., who has now been convicted, was driving one of the cars and ran the car Deyda Hydara was driving off the road. One of his passengers then fired the fatal shots. The killing was the culmination of years of suppression of free press in The Gambia by means of restrictive laws, intimidation and arrests. The court in Celle did not prosecute the killing as an isolated incident but as part of a far-reaching systematic attack on the civilian population and thus a “crime against humanity”.

The German government has also proposed a draft law titled “Continued development of international criminal law” (“*Fortentwicklung des Völkerstrafrechts*”). The aim is to close gaps in criminal liability, strengthen victims' rights and increase the international visibility of international criminal law proceedings conducted in Germany. The draft law had its first reading in the Bundestag in December 2023.

The draft makes explicit reference to the importance of press freedom in the area of international criminal law and states its aim to strengthen both. It foresees the use of interpreters to facilitate international media coverage of the main proceedings. The fight against “enforced disappearances” will also be made easier. In future, explicit enquiries into the whereabouts of a specific person will no longer be a prerequisite for the crime “enforced disappearance” to be classified as a crime against humanity.

RSF’s recommendations for international criminal proceedings:

- Reporting on international criminal proceedings should be made as easy as possible for journalists from the countries concerned.
- Having access to court-ordered interpreters should therefore be defined as a right for journalists.
- The court should publish important information regarding the proceedings (such as scheduling and accreditation) together with translations before and during the main trial.
- Hearings that have led to a verdict should be documented for posterity in audio and video recordings, and easy access to these recordings should be guaranteed.

5. Media diversity continues to shrink

Media users being able to obtain information from different sources is a key requirement for functioning press freedom. With its network of national, regional and local newspapers and its dual system of public and private radio and television broadcasters, Germany has traditionally enjoyed a high level of media diversity by international standards. However, as a result of digitalisation and changing user habits, for a number of years now its media diversity, and especially the diversity in the local newspaper landscape, have been in decline. All forecasts indicate that this trend will continue and pose an ever-greater threat to press freedom.

On 1 May 2023, Funke Mediengruppe discontinued deliveries of the *Ostthüringer Zeitung* to around 300 subscribers in the Thuringian district of Greiz. The publisher said that the additional costs resulting from the long distances between villages and households coupled with the increase in the minimum wage had turned the deliveries into a loss-making business. Large areas of rural Germany are likely to face the same fate in the coming years. At the same time local newsrooms are being closed down in many areas, and the newsrooms of newspapers that used to compete with each other are being merged.

From the publishers' point of view, such moves are necessary not only because of the rising costs for printing and distribution, but also because of the declining revenues from newspaper sales. However, even more decisive is the shrinking advertising market for print media, since it is mainly the big social media platforms rather than the online editions of print media that are benefiting from the migration of advertising to digital media.

In 2022, the consulting company of the German Institute for Economic Research (DIW Econ) conducted a survey commissioned by the Federal Government Commissioner for Culture and the Media on the “situation of the local press” in Germany. The report corroborated previous observations. In a survey of publishing companies, 45 percent of the publishers of print media reported a decrease in the number of editorial staff members working for them in the five years up to 2022, with only 26 percent reporting an increase. No less than 62 percent said they expected the number of editorial employees to continue to drop in the near future.

According to the report, this trend is also a result of the growing prevalence of business models in which collaborations between publishers and the use of the same articles by different media are reducing the diversity of content, particularly at the regional and local levels. The report warns of a creeping negative trend which in the US has already led to the complete disappearance of local journalism in some regions. And this, in turn, has contributed to a decline in democratic participation in local politics.

In the German electronic media sector, diversity is traditionally guaranteed by the “dual system”, referring to the coexisting private and public broadcasters. However, the continued stability of the public broadcasters is now in question.

The public broadcasters *ARD*, *ZDF* and *Deutschlandradio* depend on the monthly broadcasting fee paid by all households in Germany being adjusted to keep pace with rising costs every four years. However, this increase always requires unanimous approval by all 16 state parliaments, and the minister-presidents of several German states are currently rejecting even a nominal increase below the inflation rate and demanding that the broadcasters make significant cutbacks in their budgets instead.

Rationalisation and restructuring measures are unlikely to produce the required massive reductions in costs in these cases. The *ARD* public broadcasters are therefore warning of the detrimental impact of programming cuts on diversity of opinion, especially if there are major cutbacks in regional reporting from the federal states.

Two projects aimed at strengthening the press landscape and counteracting the decline in diversity are currently stalled. Although Germany's coalition government had announced financial support for the press to fund nationwide newspaper deliveries in its coalition agreement, due to the necessary massive

cuts to the federal budget for 2024 the project was not included in the final draft presented in November.

At the same time an initiative aimed at securing tax incentives for non-profit journalism has also come to a standstill. Non-profit projects run by media organisations that are supported by community foundations could, for example, partially compensate for the deficits in local journalism. The current coalition agreement provides for the introduction of tax exemptions for donations to non-profit journalism initiatives. However, the federal government has not been able to reach an agreement on the issue to date. The main opponents of tax incentives are the major publishing companies, which argue that these incentives would distort competition. The Forum for Non-Profit Journalism, which includes NGOs, private foundations and media initiatives such as *Correctiv*, counters that promoting non-profit journalism in this way would be “the smallest possible intervention in a non-functioning market” – it would not create competition for publishers but rather supplement their journalism to maintain media diversity. Donations make projects possible that would not exist otherwise. For this reason, RSF is also campaigning for non-profit journalism to be classified as a charitable activity in the tax code.

6. Against Russian disinformation: independent exile journalism via satellite

Even after the ban on Russian TV channel *RT Deutschland*, the dissemination of Russian propaganda continues unabated. Influencing public opinion abroad has long been an official goal of Russian foreign policy.

After German broadcaster *ZDF* and *t-online* uncovered a network of thousands of Facebook accounts that redirected to fake news sites of reputable media outlets including the *Süddeutsche Zeitung* in the summer of 2022, Facebook deleted the accounts. However, according to an investigation by *Correctiv.factcheck* in June 2023, the Russian campaign was soon relaunched. New anonymous Facebook accounts placed paid advertisements featuring pro-Russian content. They led to fake websites, for example a bogus Federal Ministry of the Interior website, and promoted the content of AfD politicians. These fake sites are dedicated to disinformation, particularly on the topics of the war in Ukraine and migration.

In January 2024, an investigation by the Federal Foreign Office which was first cited by *DER SPIEGEL* uncovered a vast Russian disinformation campaign in which over 50,000 fake accounts on the social media platform X were used to post more than a million German-language tweets. According to the report, digital forensic experts from the Federal Foreign Office had spent two months scouring X content using specialised software.

On 5 March 2024, RSF's **satellite-based broadcasting package Svoboda** (Russian for "freedom") officially began broadcasting with an event in the European Parliament.

The package brings together 25 channels which broadcast the content of independent Russian exiled media and international channels like Deutsche Welle in Russian. Svoboda is broadcast by French satellite operator Eutelsat, which uses the same frequencies on which Russian state channels were broadcast until the end of 2022, when they were switched off following a successful complaint by RSF before the highest French administrative court.

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