

## OSSIGENO/5

### Agenda

#### Journalists, public opinion, Parliament: things to do

«The number of threatened journalists in Italy has increased considerably over the years», said the President of the Italian Order of Journalists, Enzo Iacopino, on 21 January 2011 during the Information Day which took place at Italy's Presidential Palace in front of the President of the Republic Giorgio Napolitano.

«A fact – Iacopino added – that is confirmed by the work of Ossigeno per l'informazione, the centre on threatened journalists, created by the Order of Journalists and by FNSI. The number of threatened journalists is alarmingly high. This fact forces us to look at the picture of the real Italy. The journalists who witness the truth are always inconvenient, because they are enemies of crime and corrupted business. The attempts to condition journalists' freedom are frequent and continuous. Apart from those represented by proposed laws quite similar to norms recently approved in Hungary and immediately criticised by the European Union, there are other attempts. The most devious attempt is temporary employment».

Iacopino raised the issue again on 29 December 2011, during the year-end press conference of Prime Minister Mario Monti, asking him, with Ossigeno's data in hand, to focus the government's attention on threatened journalists.

On 22 June 2011, in front of the growing number of cases of intimidation, the FNSI National Council, prompted by the repeated death threats against the reporter Michele Mignogna from Larino (in the province of Campobasso), expressed its “concern” over the high number of journalists threatened in Italy. By a unanimous vote, the national trade union of journalists approved a resolution urging the Minister of the Interior to adopt the appropriate protection measures for each member of the union. It asked the Parliament and the Government to adopt «norms more suitable for a situation in which the right to inform is increasingly hindered by means of violence and by legal manipulations, such as lawsuits used as an excuse or unreasonable claims for compensation”. Michele Mignogna's name, as written in the FNSI document, «is the last of a very long list of reporters seriously threatened or intimidated in Italy. According to Ossigeno's data, since 1 January 2011, 23 episodes were added to that list. Mignogna was repeatedly threatened after writing reports of specific episodes of mafia infiltration, of corrupted politicians, of the waste of public funds; these articles led to judicial investigations».

Two days after the FNSI appeal, reporter of the *Corriere di Caserta* Tina Palomba received threats. The FNSI secretary Franco Siddi, interpreting the will of the National Council, raised the issue. «Crimes against journalists, especially in the South, still are» – he said – «the object of a permanent social and union initiative, also through future extraordinary campaigns». Moreover, the FNSI Secretary brought the question before the Ministry of Internal Affairs and the bureau of the General Director for Public Security.

«The serious threats against Tina Palomba» – Siddi stated – «are a disturbing attempt against individual freedom and the freedom of all those who believe in the importance of proper and detailed information as a public resource». The firebomb that a few nights ago destroyed her car, in Caserta, is the last of a series of episodes of intimidation, which become every day more frighteningly intense. The measures taken so far, like a soft protection program, are not enough anymore. Spreading terror among journalists is a serious and intolerable attempt to weaken the power of

information. The FNSI is sending a clear message to organised crime: «You won't make it! You're doomed the very day you commit – as you did – such a dangerous and hateful attack. The trade union is ready to expose itself to deliver news about organised crime and its activities, which must be fought with every means. In Caserta, as in other southern areas, the spiral of violence must be stopped. Nobody will be left alone. It is not only a matter for the police, but also a matter that requires an intense activity at the cultural level. The free circulation of news is essential».

Sadly, up until now, the dramatic appeals of OSCE, CPJ, the IPI, Article 19, FNSI and the Order of Journalists, seem to have fallen on deaf ears. The Italian authorities simply ignored them. No feedback came from the politicians, Parliament or the institutions. And many Italian newspapers kept ignoring both the appeals and the steady trickle of threats, attacks and abuses. This carelessness, sadly, is not new and it's part of the problem.

It is apparent that the disregard and the denial of the problem have been justified so far because of the lack of data, the victims' fear and, more generally, the question of threatened journalists in Italy being a taboo. It is hard to talk about their tragedy just as – until short time ago – it was hard to talk about miscarriage, rape and usury.

### *Finally, a little space*

But something is changing. There is increased attention. That is proved by the growing space given to the phenomenon by the press and the television media. The disregard is doomed to disappear in short time, because the situation is alarming and it is now difficult to deny that the use of harassment and intimidation is one of the main problems of information in Italy, a problem that goes beyond that “Indian reservation” where the mafia reporters live. It is one of the daily problems all journalists must face when dealing with inconvenient news. It is one of the problems that prevent the citizens from knowing everything that actually happens and could influence them when they read the news.

Ossigeno claims the credit for this change of behaviour. With its work, the Centre offered an objective picture of the situation, measured the extent of the phenomenon, introduced the nature and the implications of intimidation, and reported who was actually targeted and why. It did not allow the problem to be denied. Denial is no longer possible, and the first effects of awareness are beginning to be seen.

Attention to the problem has increased, and maybe the missing answers will start to emerge, too. This is possible also thanks to the end of a self-serving political season. We are confident that our questions will soon be answered.

Ossigeno will keep on doing its part, giving voice to voiceless journalists, making visible the threatened journalists that criminals would like to silence and make disappear. It will continue to give a face and a voice to a tragedy that affects hundreds of reporters and dozens of newspapers every year. Ossigeno will continue to report what it is that prevents the citizens from knowing the news of relevant public interest. But Ossigeno also wants to take a step further. After closing the first part of its mission with this and the two previous Reports, which proved that in Italy “the problem that isn't there” does exist and has a very specific dimension, nature and characteristics, the Centre will more actively urge the institutions to do what is needed in order to confront the problem.

## *Agenda*

As the OSCE requested, it is necessary to break the spiral of ever-intensifying violence and abuses of power to condition the press and prevent inconvenient news from being published.

It is necessary to break the widespread climate of intolerance towards journalism and any form of critical information. A climate that becomes more and more restrictive for those who observe the facts, collect information, for those who do not stop in front of the partial versions, to the “regime” news, the official statements.

To break the spiral, it is necessary to support and encourage the victims of intolerance, who are mainly local reporters, journalists, photographers, TV cameramen of small, local media outlets, freelancers and bloggers who report the crimes and injustices that happen in little towns and in mafia territories. These are the journalists who are in the midst of the events, who care more for the implications of the events, who gather direct evidence, who push themselves further. They need to be supported, rewarded, encouraged and recognized as examples. That is necessary to give oxygen to the entire information system, to reject a resigned, bureaucratic, accommodating concept of journalism, which is verging on propaganda and advertising, two forms of unilateral communication in which the reader is not the subject but the “target”.

The measures needed to improve the safety of Italian journalists are well known. Some of them were presented in the previous Ossigeno Reports. Hereby we present a larger list, at the end indicating the legislative reforms submitted to the attention of the Italian Parliament.

### *Police protection*

The most exposed journalists must be provided with police protection and other measures, proportionate to their true needs, finding solutions that satisfy the growing need for protection, while saving personnel and means of public safety. Law enforcement agencies, judicial authorities, and provincial committees for order and public security are growing increasingly more sensitive to this problem. In many cases, their investigations have revealed useful information to thwart attempts or to punish the perpetrators and offer suitable protection services for the victims. We must be thankful to these public organs but we must also urge them to be more systematic in their actions, in order to encourage the journalists who resist these criminals and to discourage those who assume impunity.

### *Media guard*

The media is finally realising the seriousness of the problem. But it must make a greater commitment to action. It must carry out concrete and effective forms of support. In the case of threats, it must set up a “media guard”, composed of the newspapers and journalists that stand at the victims’ side, to demonstrate that the targeted journalists are not alone, to prove that attempting to hide inconvenient news by threatening the journalists is useless and counterproductive. And the press can do that by publishing and spreading that news in various publications, making it public knowledge.

### *Statements of solidarity*

Active solidarity prevents the victims from being isolated. This form of protection is more effective than any armour. Receiving solidarity gives strength to the weak and allows them to triumph. That is why statements of solidarity are necessary, the more the better. Journalists, newspaper committees, associations, public figures and institutions must be encouraged to write statements of support each time they are needed. But they must be clear and neat stances, real testimonies of solidarity. When read carefully, some statements of solidarity seem to affirm the exact opposite. It is necessary to look at what is stated, beyond all the rhetoric and ritual. It is necessary to react against cold and generic statements, which, in fact, attest isolation. The position of those who explicitly deny solidarity must be stigmatised, because each threatened journalist or individual is a victim and needs support, regardless of what that person thinks or writes. It is necessary to read and analyse the motives of those who publicly deny solidarity, and thus increase the effects of isolation.

### *Teamwork*

After a threat, but also before, for prevention, the newspaper staff must study and adopt suitable measures to increase the personal safety of the most exposed journalists, that is, those who work on the most inconvenient news. The simplest instrument, used by many publications, is teamwork: it is useful and effective because it depersonalises the risk. When a journalist becomes a victim of intimidation because of a news item, the newspaper must visibly take his or her side. The news must be by-lined by other journalists, in order to keep on working on the same subject. The editor and the rest of the staff must clearly show to the readers that the threatened journalist is not alone, and they must build up solidarity outside the newspaper. Everybody knows that teamwork is essential, but it does not always happen.

### *Personal commitment*

The most dedicated journalists must commit to help their newspaper to do what is fair and necessary, every time. Besides being necessary, it is also right to be personally committed, to help others overcome moments of hesitation. Personal commitment counts. Each one of us is called to raise awareness and prevent the process of isolation from becoming unstoppable. What can be done concretely? Some things are apparent, expectable and we must do them. Other things can be done in special cases, so along with commitment, we need imagination, too.

### *Stand up for people, stand up for freedom*

In general, every time we stand up for an intimidated journalist we must declare our aim to defend, at the same time, freedom of the press and expression and its actual execution. It is essential because this aim demands the attention of not only the media world, but also civil society, politics, and institutions. We must involve all these groups, suggest common initiatives and find the means, instruments and effective initiatives to protect, along with freedom of the press, the right of each citizen to be informed. This goal cannot be accused of being corporative or partial, and it can allow mobilization on a larger scale.

### *Let the news spread*

In 2010, especially thanks to the monitoring and promotion activities of Ossigeno, media visibility of threatened journalists has significantly increased, but the matter still does not have the attention it deserves. It is essential for the news on threatened journalists to be published as soon as it happens, to circulate beyond the local areas and not only by the newspaper where the involved journalist works.

It is important that every item of news about a threatened journalist be given the proper context, that the history and the scope of the phenomenon be reported, according to the data in the Ossigeno tally, constantly updated and available on our website: [www.ossigenoinformazione.it](http://www.ossigenoinformazione.it).

Spreading the news and giving visibility to the victims helps to break their isolation and makes them safer. Showing that the threats are not sporadic helps to bring the question to the attention of state institutions. It is up to each and every journalist, whatever his or her role within the newspaper, to call attention to this matter. Anyone affected by the plight of a threatened journalist has the responsibility to raise the issue that other people do not see.

### *The most urgent reforms*

The majority of the threats are made possible by four circumstances:

- impunity of the perpetrators;
- exploitation of defamation law;
- civil actions with excessive claims for damages;
- only partial acknowledgment of professional secrecy.

To solve these problems, we require urgent legislative reforms, which have been the object of discussion for many years.

### *Decriminalisation of press defamation*

In Italy, unlike most Western countries and in spite of the recommendations of the UN Committee for Human Rights, as well as the UN special Rapporteur on promotion and protection of the right to freedom of opinion and expression and the European directives, press defamation is still a criminal offence, punishable with imprisonment from one to three years. Only in authoritarian countries this kind of violation is still considered a criminal offence and sanctioned with imprisonment.

The possibility for an Italian journalist to be imprisoned is not remote, also because sometimes the sentence is imposed without granting parole. It has happened many times. The most famous cases are the sentences of Stefano Surace in 2001, Lino Lannuzzo in 2002, Massimiliano Melliti in 2004 and Walter Nerone and Claudio Lattanzio in 2011.

Melliti's sentence brought a reaction by FNSI and international organisations like OSCE and Reporters San Frontières, which appealed to the Minister of Justice stating: «Although those who consider themselves defamed apparently have the right to be compensated, it is unthinkable that a journalist is sent to jail for writing an article in a country that is a founding member of the EU», as declared by the international organisation for the protection of the freedom of the press.

In 2011, after Nerone and Lattanzio's sentences, Article 19, the eminent London NGO, signalled to the presidents of Italy's two legislative chambers that the presence in the Italian criminal code of sanctions for libel «is not compliant with the basic principles of democracy and with the international rules for the freedom of the press, providing that people's reputation must be protected from all injustices, but cannot be compensated sending journalists to jail».

### *Stop to the misuse of complaints*

Currently, Italian law allows anyone to sue for libel or to claim damages, from both journalists and newspapers, also without factual assumptions. Those who exploit and take advantage of this situation get away with it, even when – years later – the judge rules that they acted recklessly or in bad faith.

Sanctions should be provided for those who summon a journalist and claim damages that the judge considers groundless and based on false assumptions. Making them pay the legal fees is not enough. It is necessary to apply Article 96 of the Civil Code, which provides equal compensation for those who were summoned without fair reason. Recently, a paragraph that opens this perspective was added to the article, but it is still difficult to apply.

### *Coverage of legal fees*

Coverage of legal expenses for journalists must be added to the formal list of publishers' commitments, when they request public funding, and to the clauses of the collective labour agreement of workers. Awaiting the formal introduction of the reform, publishers, trade unions and social organisations must find a rapid way to provide the journalists hit by unreasonable and unfair lawsuits with legal assistance and the coverage of legal fees. If we want to protect free information we must find the tools, the means and the resources suitable for providing legal assistance for journalists on a larger scale.

### *Correction and limitation of compensation*

Another subject that needs to be regulated, together with the reform of defamation law, is the right of correction and the amount of pecuniary compensations. Today in Italy anyone who feels damaged by an article can sue a journalist for libel or for damages, even without having requested the publication of a correction or clarification. Today, anyone who feels damaged by an article can sue a journalist or the newspaper, can claim material or immaterial damages as he or she has calculated, establishing the amount as he or she sees fit. The judge is not expected to perform an evaluation on the degree of reasonability or the amount of the damages claimed, and the trial can last from three to ten years. The indiscriminate exercise of this right has become the principle source of a number of abuses to silence inconvenient journalists. Powerful politicians, public administrators and rich businessmen are those who particularly employ these tactics and, under the current legislation, by simply presenting these claims they can heavily influence the journalists' lives and the newspapers' lines for many years. The newspaper that has been sued must immediately add to its expense budget a tenth of the claimed amount. The excessive claims and the long length of the trial can financially cripple the weakest newspapers.

The journalists who have been sued have to contend with many years of high legal fees, often beyond their means. Only a few journalists, as we mentioned, can count on their employer to cover legal fees. The attempts to cover those costs with civil responsibility insurance will be useless until the amount of damages is limited or fixed according to objective criteria.

It is apparent that there is an exploitation of legal means to silence inconvenient journalists. The legal proceedings should come only after the refusal to publish a correction and the evaluation of the reasonability of the claim. The exploitation of claims for damages should be prevented when the immediate correction of the news is published.

### *Strengthening professional secrecy*

Another weakness of Italian journalism is the controversial law on professional secrecy, regulated by Article 200 of the Penal Code. This law states that, in certain circumstances, the judge has the option to obligate the journalist to reveal his or her sources in order to avoid the accusation of aiding and abetting or other more serious offences. It is also necessary to extend professional secrecy to non-professional journalists, who are currently excluded, and to insert this change into the Order of Journalists' reform project and linking it to the path to reach the profession.

### *Aggravating circumstances and unregulated crimes*

In Italy there still is not a full awareness of the citizens' universal right to be informed without omission and unwelcome interferences, that is why civic participation against the frequent and numerous violations of this right is low, very low.

The right to be informed is almost unknown and it is rare that it is invoked and exercised. Thus, people tend to consider threats against journalists only a matter that affects journalists.

A great number of cases of intimidation against journalists are not identified as specific offences. There are intimidating acts that are very hard to prove. There are ambiguous cases of abuse. Censorship and gags are imposed by bending laws and procedures... It is possible but difficult to fight all this, since the abuses carried out to minimise information and silence a newspaper and its journalists violate principles that, while universally recognised, are not protected by law. Thus, those who breach those principles do not break the law and remain unpunished. There is no law saying «Whoever hinders the freedom of the press and information will be sanctioned». If there was one, if sanctions were imposed in case of abuses, if there was an aggravating circumstance for criminal offences against public information, many serious attacks against journalism could be averted, stopped, prosecuted and punished with fair severity and the press would be freer. It would be an important deterrent. Lawmakers are thus called to fill in the legislative gap that allows such a glaring violation of fundamental human rights.