

Reporting on corruption: journalists and parliamentarians investigating together

Report of the hearing

organised by the Committee on Culture, Science, Education and Media and the Committee on Rules of Procedure, Immunities and Institutional Affairs (Strasbourg, 26 June 2014)

Ms Vučković, Chair of the Committee on Rules of Procedure, Immunities and Institutional Affairs, opened the hearing at 9 a.m., and was pleased to see the growing interest shown by many parliamentarians in combating corruption and mentioned the setting up of the PACE anti-corruption platform. She thanked the experts for accepting this invitation and gave the floor to Mr Claudio Fava.

Mr Fava, pointing out that he was both a journalist and a member of the Italian parliament, stressed the need for collaboration between journalists and parliamentarians. He spoke of his experience at the European Parliament as rapporteur of the temporary committee of inquiry on the extraordinary renditions of the CIA: in that context, a hundred or so parliamentary hearings had taken place, including with journalists whose testimony had been both valuable and courageous, given their governments' desire to cover up the affair.

In the case of Italy (the anti-mafia parliamentary committee, of which he was vice-chair, looked into cases where there were links between the mafia, information and corruption), he noted that the phenomenon of corruption was linked to organised crime in his country. Journalists were targets for mafia violence: 3 000 cases had been recorded of journalists being threatened or victims of violence or abusive judicial proceedings. On the latter point, he emphasised that instruments of justice could be misused to discourage journalists, for example through abusive accusations which, despite being unfounded, were aimed at paralysing the efforts of journalists and making them feel uneasy. But there were other means of forcing journalists into complacency too, in particular by exploiting their precarious contractual status and financial vulnerability. This could lead to self-censorship.

Italy held the dubious record of 13 journalists having been killed in the last twenty years, nine of them for investigating corruption and the mafia: four had been freelance journalists, three had been editors of small (financially vulnerable) newspapers and only two of them had had a stable professional situation. This pointed to the fact that the mafia targeted journalists in a weakened situation who were not adequately protected and more easily eliminated.

There was also the problem of the "grey area" where journalists or publishers ultimately defended vested interests. Also of note was the tendency to abandon investigative journalism and "delegate the task" to the justice system: the findings of the judiciary were reported, but there was no longer a desire to lead the way.

Mr Bodoky, as a journalist investigating on corruption and organised crime, often experienced huge political pressure by his former employers and major national actors. He then created an NGO not connected to oligarchs and politicians, where independent journalists were finally able to work in a freer environment. This NGO, Atlatzho.hu, set up in 2011, operated in a transparent way and on a strictly non-profit basis. Its budget was funded through donations (20%) and grants from international organisations and the open society foundation (80%).

This, however, did not impede the Hungarian government from exercising significant pressure on investigative journalists. Mr Bodoky cited as an example the government's recent huge investigation into donations of the Norwegian civil fund, which was strongly supporting NGOs located in Hungary.

He then underlined that Hungary had a very good legislation regarding freedom of information, but its implementation was very poor. He quoted also a law approved in 2011, under which in case of criminal investigations the police could force journalists to reveal their sources. In several occasions many journalists, included himself, refused to testify, risking in this way to face arrestment and prison. Referring to the impossibility to improve the legal framework and freedom of the media law implementation through a successful collaboration with the parliament and/or the government, Mr Bodoky stated that certain improvements had only been possible thanks to the Constitutional Court which, for example, concluded that the law forcing journalists to reveal their sources was unconstitutional.

In order to guarantee a greater protection to journalists' sources his NGO created a wiki platform, similar to WikiLeaks, whose software made it possible for people who wanted to reveal sensitive information to remain anonymous. This was a clear best practice on the protection of the sources. Another project recently launched concerned an information request generator where any person could send legal information requests and get legal support. All requests were visible on the internet.

Mrs Battaini-Dragoni stressed that – as outlined by the report of the Secretary General on the state of democracy, human rights and the rule of law – corruption was one of the most serious challenges in many Council of Europe member States. Criminal investigations were primarily the responsibility of the judiciary; however media and investigative journalism as well as parliaments had, as “watchdogs”, a very valuable role in the fight against corruption.

According to the experience of the Council of Europe Group of States against Corruption (GRECO), the media had often been instrumental in revealing cases of corruption, abuse of office and illicit enrichment. Unfortunately, over recent years some trends had been witnessed which seemed to impede the active role of the media, including:

- the consolidation of press and audio-visual businesses into larger groups, the ownership of which might lack of transparency and where economic and political interests had become abnormally intertwined;
- the presence of political figures who played an excessive role and exercise pressure, including on the editorial line;
- excessive politicisation which negatively affected the effectiveness and objectivity of journalists when reporting on sensitive matters;
- the difficult financial situation of the traditional mass media in many countries, which made it difficult to finance lengthy and expensive investigative journalism or increased its vulnerability to the influence of those who bought advertising space.

Journalists were under threat in several member States as soon as they touched upon certain major interests or senior State figures. They were not the only category of activists more expose to such risks, but they were probably the first and easiest target for those who wanted to eliminate democratic debate and opposition. Threats to freedom of journalists were threats to democracy and the Council of Europe was currently working on how to reinforce its capacity to deal with these threats through the establishment of an early warning mechanism.

In GRECO's experience, parliaments had also played a role in reporting on corruption, and Mr Fava's presentation had confirmed how important it was that parliaments took a clear stance against this scourge. However, if parliaments were to investigate corruption, they needed to ensure the highest level of integrity among their own members and make a credible effort to restore citizens' trust. It was crucial to this regard to have the right policies on parliamentary integrity. For these reasons, GRECO had issued recommendations on transparency of political funding as well as on the need to put in place adequate rules and practices concerning the lifting of immunity in case parliamentarians are suspected of serious misbehaviour, including corruption. GRECO was also currently looking at mechanisms for the prevention of corruption in respect of members of parliament, judges and prosecutors, i.e. codes of conduct, rules on gifts and other benefits, management of conflicts of interest, declarations of assets

and interests, principles for MPs' relations with lobbyists and other persons seeking to influence parliamentary activity or internal supervision.

To conclude her intervention, Ms Battaini-Dragoni mentioned the support and recognition to whistle-blowers as an area where journalists and parliaments could do more together and she referred to the Recommendation on the protection of whistle-blowers which had been recently adopted by the Committee of Ministers.

Ms Guțu, Chair of the Committee on Culture, Science, Education and Media, opened the debate.

Mrs Zohrabyan congratulated the experts for the excellent presentations. As a former journalist, she experienced at first-hand political pressure because of her investigations. She then asked Mr Fava if during his mandate at the European Parliament he had examined the so-called "caviar diplomacy" Azerbaijani scandal.

Mr Fava replied that he did not have enough information on this case to state an opinion. His general point of view was that parliamentarians must not manipulate the truth on the pretext of this being in their country's interest.

Mr Corsini said that several Italian parliamentarians had criticised a certain type of journalism driven by "those in power" in the past. He mentioned the particular situation of Mr Berlusconi, who headed a media empire, and the so-called "Bulgarian edict" [a statement made in April 2002 by Mr Berlusconi – then Italy's Prime Minister – against journalists working for the RAI public broadcasting service, who had heavily criticised him in a programme]. Mr Corsini agreed that there was a serious problem of self-censorship by journalists and criticised legislative activities which had weakened the instruments for combating corruption (such as the repeal of the offence of "tax fraud") and provided no solution for issues regarding conflicts of interest and abuse of public office. Finally, he referred to the matter of restrictions on the use of phone-tapping within the framework of combating corruption.

Mr Kox asked Mr Fava whether it would be convenient to have a PACE report on the killings of investigative journalists. He then noted that Mr Bodoky's presentation focused mainly on public institutions obstructing the work of investigative journalists. He asked him if he had ever experienced a positive collaboration with such institutions. Referring to the Deputy Secretary General's comment on the protection of whistle-blowers, he drew the attention to the video hearing with Snowden and to the fact that for the Council of Europe it had not been possible to arrange his presence in Strasbourg.

Mr Connarty asked two questions: which level of "intrusion" in the private sphere could be acceptable in the name of media freedom? And which level of immunity should be guaranteed to parliamentarians who were involved in criminal procedures?

Mr Fava, in reply to various questions, said that he believed that a PACE report on attacks on investigative journalism would be useful. He stressed the chronic situation in Italy and mentioned the work of the "*Ossigeno*" association which gathered and regularly published data on threats to the safety of journalists, some of whom required bodyguards; furthermore, this was a problem not only for famous journalists – such as Mr Saviano – but also for lesser known journalists, who had no professional security protection and were very exposed. Lastly, he condemned abuses of parliamentary privilege, which was there to safeguard parliamentarians' freedom of opinion but was being turned into an instrument to guarantee impunity.

Mr Bodoky affirmed that he unfortunately never had a positive experience in working together with parliaments, but underlined that there was room for cooperation. In this regard, parliamentarians could take action and adopt more effective laws on the protection of journalist sources and whistle-blowers.

Ms Guțu, on behalf of both committees, thanked Mr Fava, Mr Bodoky and Ms Battaini-Dragoni. Both committees would reflect on concrete follow-up to this debate, which she then closed.