

The Importance of a Free Media in the Fight against Corruption

22-23 October, 2003

Radisson SAS Grand Hotel, Sofia

Summary of Discussion

“In countries like Bulgaria, where the disparity between declared income and actual assets is apparent, asset forfeiture should be applied to property of unproven origin”, said at a seminar in Sofia Judge Eva Joly, famous for investigating the misappropriation of tens of thousand USD in France.

The seminar focusing on the role of media in curtailing corruption and co-organized by *Coalition 2000* and the Royal Embassy of Norway in Sofia was held on October 22-23, 2003. It featured investigative journalists and media experts from Norway and Bulgaria discussing the way investigative journalism could further the divulgement of serious corruption and the right to access information.

In her opening remarks **Judge Eva Joly** outlined the widening implications of the spread of transnational crime and related corruption. New, more radical policies and alliances are needed to combat these. One of the key institutions involved in this process are the media. Their crucial impact is primarily in generating public intolerance towards high level corruption and in bringing pressure to bear on government to tackle large scale fraud among senior executives. Judge Joly focused on the difficulties faced by investigative journalism, including the increasing costs of conducting investigations. The media could have an ambivalent role in combating corruption, not the least through bribery risks in its own ranks.

Ambassador Ralf Baltzersen welcomed the participants and outlined the broader cooperation between Bulgaria and Norway and the key role of the projects implemented by the Center for the Study of Democracy.

Mr. Konstantin Palikarski presented the latest developments in the work of the government Anti-Corruption Commission, chaired by the Minister of Justice, including a variety of innovative policies of public outreach by the Commission.

Professor Rune Ottosen, of the Oslo University College, Norway, focused on how journalism can play a role in fighting corruption and reveal other "diseases" in a society. The question was put in general terms but the answer was given according to specific analyses where several factors work together. Professor Ottosen outlined the major corruption scandal exposed in the Norwegian oil company Statoil/Tp as an example of good quality journalism. The scandal was disclosed by the financial newspaper Dagens Naeringsliv.

One of Rune Ottosen's key points was that democracy and an open society with freedom of the press is an advantage but it will not automatically remove corruption. A transparent society will always make it easier to reveal fraud, but human greed will always cause a danger for abuse of positions by public officials. Among the key issues in the media's anti-corruption role is ownership. It's a fact that media moguls like Robert Murdoch and Silvio Berlusconi use their control/power over the media to serve their own interest rather than the interest of

the public, democracy and freedom of the press. On a global scale we see the big conglomerates growing bigger and swallowing smaller media.

As regards the *legal framework* for making investigative journalism possible, it should include: 1. Anti-corruption legislation and 2. Freedom of information acts. In Norway there is a formal right to insight into municipal and state bureaucracy existing since 1970. Despite some weakness, this law has on several occasions made it possible for Norwegian journalist to disclose corruption and power abuse among civil servants. Libel laws are crucial to the efficiency of journalism but they are the most used and misused weapon to stop investigative reporting besides physical threats. In general libel law is one of the limitations to freedom of speech. The combination of libel-laws that can be misused and a corrupt legal system is the most dangerous combination.

There are at least three levels of *ethical dilemmas* in dealing with journalism and corruption: 1. in government 2. in business and 3. in journalism. First of all, the need for one set of ethical code and a body to make it work on an efficient basis should be underlined. Ethical issues should be taken into consideration in all forms of investigative journalism. Some of the key issues include: protection of sources; that the media should not judge anybody before the case has been tried before the courts; the fight against corruption within journalism itself.

Mr. Krasimir Dobrev, an investigative journalist at *Sega* daily, dwelled on the impediments to journalistic investigations, stressing that “investigative journalism in Bulgaria bears certain similarities to law enforcement, but the police and prosecution are in possession of greater powers. Journalism, nonetheless, is much more efficient than law enactment, for instance”. Mr. Dobrev quoted a number of specific reasons for the weaknesses of investigative journalism in Bulgaria, among them: the media environment and legislation; the sources of information; insult and libel laws; the obstacles to investigative journalists in the various parts of the country.

“We have not yet stricken a balance between the right of respect to people’s reputation and freedom of speech”, said **Mr. Yassen Boyadzhiev**, Info Radio’s program director. He compared current investigative journalism in Bulgaria and several other countries. **Mr. Boyadzhiev** also underlined the pressing need of abolishing penal provisions for insult and libel and of offenders being subject to civil liability only. Penalties should correspond to the damage as is the case with libel laws all over the world. Libel law should not shield public or civil servants, i.e. immunity should be removed. In conclusion **Mr. Boyadzhiev** said “The media should adopt a self-regulating behavior and build a sense of responsibility not only because they owe it to their audience, but also as a defense mechanism”.

Bulgarian Lawyers for Human Rights representative **Vassil Vassilev** listed several features of Bulgarian investigative and non-investigative journalism. He foregrounded the general environment for investigative journalism and the missing link with the police and prosecution where each investigation should be handed over. “The police and prosecution only feign anti-corruption activities”, Mr. Vassilev argued. “Lawsuits prompted by publications in the press are usually resolved by acquittal. Thus, no enforcement body is capable of countering corruption in the judiciary “.

Another of Mr. Vassilev’s premises was that no financially independent media could exist in Bulgaria. Therefore, investigative journalists should consciously associate and advocate the introduction of rules protecting them from their own employers.

During the seminar session “How to survive as an investigative newspaper” panelist **Prof. Rune Ottosen** declared that lack of appropriate laws precluding market monopoly is the chief impediment to investigative media. He elaborated that the survival of media in a market economy is increasingly hard and that powerful Western corporations reigning in show business would rather invest in entertainment than in investigative journalism. The state, Mr. Ottosen asserted, should subsidize media to safeguard them against market changes.

24 *Chasa* daily’s investigative reporter **Stanimir Vuglenov** shared two of the basic conclusions drawn from his substantial press experience: 1) the clearer it is whom for and under what rules a journalist works, the safer and more successful their investigation is; 2) a journalist’s survival may be secured through articles not bringing the case to a close. In addition, Mr. Vuglenov demonstrated his investigative methods by presenting a case study from his recently published book.

President of the Association of Investigative Journalists **Ms. Zoya Dimitrova** stressed the occurrence of corruption within the media themselves, and that the latter are nonetheless the single means of divulging cases of corruption in Bulgaria. She placed primary importance on relations between journalists and their employers. In her opinion, the lack of a socially regulated market restricts Bulgarian reporters in conducting corruption investigations against their own employers. Articles are often held from publishing and there exists no mechanism (e.g. an association) that could influence print media policy so that truth can prevail over profit seeking. This is why journalists should not be incriminated through the Penal Code, added Ms. Dimitrova.

Ms. Rumyana Emanuilidu, a Radio Free Europe correspondent also working for the newspapers *Continent* and *Dnevnik*, deliberated on the peculiar obstacles to investigations in local markets (Bourgas). The number of paid articles in the countryside, she held, is much higher. She also recounted several cases when crime groups threatened her and her life was put in danger, in which the authorities not only didn’t help her, but they supported the criminal organization.

Mr. Georgi Apostolov rounded off the presentations by formulating the three conditions necessary for an investigative journalist to survive in Bulgaria:

- encouragement by the medium’s owner
- support by the police
- opportune assistance by authorities

In the discussion that followed, Ms. **Teodora Varbanova**, secretary of the *Coalition 2000* media task force, brought forward the question about the Internet as a vehicle to investigative journalism’s survival. She maintained that the web, being global, offers each reporter vast opportunities to publish articles barred from print media. **Ms. Eva Joly** particularized that Internet access was a vital means of bringing the truth to people in countries where there is no freedom of speech. She appealed that investigative journalists in Bulgaria establish an independent media of their own. **Mr. Boyko Todorov** next asked the panelists to discourse on legal protection mechanisms set forth in international conventions of which Bulgaria is a party. To this **Ms. Joly** replied that cases have been registered in which Bulgarian authorities have acted in breach of the OECD Convention, while **Ms. Milena Dimitrova**, a free-lance investigative reporter gave an account of a journalist sentenced despite the authenticity of information about violations published by him. **Prof. Milko Petrov** of the Faculty of Journalism and Mass Communications at Sofia University proposed that a special fund and professional organizations be established to engage in investigative journalists’ protection.

Ms. Kathrine Kjelland, a former radio reporter and present Head of Information at the Norwegian Ministry of Justice and the Police presented the position of state administration on the public's right to access information about the functioning of administration in Norway. She specified the problems concerning access to information, among them to documents containing internal or confidential information, the essentially informal e-communication, the demand for a higher level of secrecy in communications with foreign partners and the outsourcing of certain public services to private sector companies.

Ms. Kjelland pointed out that, apart from the passive right of access to information, there are requirements for an active provision of information to the public in Norway. She enumerated the particular principles that would heighten communication between the public sector and citizens. In summary, she said that "the right for public information is a trademark for sound public administration", and added that public servants should be continuously educated on the right of access to information as a fundamental democracy tool.

"The right to information should be constantly fulfilled, sustained and fought for", emphasized **Ms. Gergana Zhuleva**, Executive Director of the Access to Information Program Foundation. She described the program's basic guidelines and set apart access to information problems such as: the range of documents to be defined as containing public information, the subject entitled to access public information, the institutions which should secure access to such information, the persons authorized to decide on these issues and the legal constraints over access to information.

Philip van Niekerk, Consultant on Good Governance and Anti-Corruption and an investigative reporter who has worked for a number of international media, among them *Mail & Guardian*, *The Boston Globe*, *The Globe and Mail* (Toronto), *de Volkskrant* (Amsterdam) and *The Observer* (London), related several cases of large-scale corruption from his practice. "Corruption is a global threat", van Niekerk remarked "It is journalists who get into the black hole of information; they should cooperate, share information and investigation. Yet, issues such as money laundering and corruption cannot be tackled even by the biggest media". Journalists have a very important role to play in the fight against corruption by bringing out information on instances of massive malfeasance of funds. Finally, Mr. van Niekerk stated his belief based on experience that governments are accountable and have to answer at the end of the day for what they do.

During the closing session, **Ms. Anne Mette Dyrnes** from the Norwegian Ministry of Justice and the Police reviewed the main points from the two-day discussions, once again underscoring the crucial role of media in combating corruption. As an outsider from the journalism circles, Ms. Dyrnes stated that she had always considered journalists a genuine ally and partner to prosecutors in corruption-related matters since it is reporters who more often than not bring corruption to the spotlight. The important point is that the competent authorities should acknowledge the key role of the media.