

Undercover Investigative Journalism and Money-Laundering

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Presentation at the Transborder Corruption Conference in Prague, June 19-20, 2017

This contribution is a follow-up to the story *Can a “Lone wolf” quasi-investigative journalist substitute low functionality of the law enforcing system?*¹ This was the extraordinary story of the Italian journalist Tony Papaleo, who lived and worked at that time in Slovakia. Papaleo provided evidence to the Slovak and Hong Kong police proving that Slovak “businessman” and “journalist” Juraj Jariabka hired him for a money laundering operation to be routed through Hong Kong/Chinese banks in 2013. The story began in 2012 when Papaleo chose the cover identity of a morally bankrupt, corrupt, substance-abusing, quasi-journalist named “Tony Corleone”. In disguise, Papaleo frequented bars in Bratislava, Slovakia, for a year. Whether this was a year-long undercover journalistic investigation, or a patient and purposeful “lying-in-wait” period for a potential victim is unclear. It seemed he behaved more like a freelance detective than an investigative journalist. Be that as it may, Papaleo’s effort resulted in a prompt prison sentence for Jariabka in Hong Kong.

What can civil society learn from this study in order to prevent transborder money-laundering? Let us first start with discussion on broader features of investigative journalism in general, and undercover investigative journalism in particular.

Investigative journalism

Investigative journalism generally consists of four main characteristics: a) the report is based on the initiative and work of the journalist; b) the report is on matters of public interest; c) secrecy of derived information is sought by some people or institutions, and it has d) the potential to cause public outrage.² It is further characterized by lengthy preparation and research, combined with an analysis of social and legal issues. Key areas of interest for investigative journalists usually include crime, corporate wrongdoing, political corruption, and public policy. Interestingly, Global Investigative Journalism Network uses rather vague or imprecise definition(s) of investigative journalism.³

Metyková and Waschková Císařová⁴ reiterate that Eastern European journalists face changes and challenges related to the ‘proletarianization’ of journalistic work, commercial pressures, and ‘dumbing down’, as well as changing work practices related to new technologies. Therefore, it is no surprise that Štetka and Örnebring⁵ found investigative journalism to be weak across Eastern Europe in general, in terms of autonomy and effects, although more powerful and well-established in countries with more stable and richer media markets (notably Estonia, Poland, and the Czech Republic).

1 Školkay, A. (2016, fall). Can a “Lone wolf” quasi-investigative journalist substitute low functionality of the law enforcing system? *Central European Journal of Communication*, 9, 2 (17), 197-212

2 Školkay, A. (2001). Strážcovia cností a žurnalistika morálneho rozhorčenia. Investigatívna žurnalistika a jej základné prvky [Watchmen of virtues and journalism of moral outrage]. In Nagyová, I. & Nižňanský, E. (Eds.) *Korupcia na Slovensku a jej spracovanie v médiách* [Corruption in Slovakia and its Elaboration in the Media], 81-87, Bratislava: TIS and CIJ

3 gijn.org/resources/investigative-journalism-defining-the-craft/

4 Metyková, M. & Císařová Waschková, L. (2009). Changing journalistic practices in Eastern Europe. The cases of the Czech Republic, Hungary and Slovakia. *Journalism*, 10(5), 719-736.

5 Štetka, V. & Örnebring, H. (2013). Investigative Journalism in Central and Eastern Europe. Autonomy, Business Models, and Democratic Roles. *The International Journal of Press/Politics*, 18(4), 413-435

In Slovakia, many opportunities for investigative journalism exist due to the low ethics of the governance. Despite the need for journalists to “serve the readers“, the vested interests of politicians and media owners to fulfill personal or professional ambitions sometimes influence the published work.⁶ This is not to say that there is no investigative journalism in Slovakia.

The News Media in the country and their relation to investigative journalism

In early 2000s, investigative journalism could be found in the 30-minute weekly programme *Reportéri* (Reporters) on public TV. This programme is still being broadcast late in the evening.

In contrast, the weekly programme *Čierny Peter* (Black Peter) broadcast by news TV TA3 ended in 2008 (partly due to pressure from management, although it was seen by some as the best investigative programme), followed by the termination of a similar weekly, but more civic issues investigative programme *Črepiny* (Broken Bits) broadcast by TV JOJ until 2009, and finally, the weekly 15-minute investigative programme *Paľba* (Under Focus) on private TV Markíza was terminated in 2010 as well (due to the high cost of legal cases, but also due to decline of viewership ratings).

TV Markíza also terminated the weekly 30-minute programme *Lampáreň* (Public Voice) in late 2013. However, this programme dealt almost exclusively with conflicts among common people or with authorities. There used to be a small investigative team on public radio in the period 2009-2012.⁷

In the print sector, a few investigative stories - of which at least one was related to broadly understood corruption - have been published each week for more than two decades by *Plus 7 dní* (Plus 7 Days). More serious investigative stories can still be found in the business-economic weekly *Trend*.

Some investigative, especially corruption-related stories appear in the weekly *.týždeň* (A Week). The short-lived (2002-2005) quality news and current affairs weekly *Formát* published many special investigative stories, mostly written by Vladimír Bačišin. Similarly, *Čas* (Time), a quality news and current affairs weekly that covered some corruption stories stopped its publishing in 2002.

In the daily press, most investigative stories have been published in the newspaper *Sme*, followed by *Hospodárske noviny* and *Pravda* and tabloid newspapers *Plus Jeden Deň* and *Nový Čas*.⁸

⁶ Piško, M. (2016, February 10). TA3 a Pravda podržali vládu aj pri štrajku učiteľov (TA3 and Pravda hold the government line even during the teachers' strike), www.transparency.sk/sk/ta3-a-pravda-podrzali-vladu-aj-pri-strajku-ucitelov/, Clos, M. (2016, January 3). *Moderná propaganda Eurofondov cez Dobré správy* (Modern Propaganda Through Good News), <http://komerce.eu/moderna-propaganda-eurofondov-cez-dobre-spravy/>, Šipoš, G. (2015, June 29). *TASR robí za štátne volebnú kampaň SNS* (TASR Does promote through State Money SNS Party Election Campaign), <http://www.transparency.sk/sk/tasr-robi-za-statne-volebnu-kampan-sns/>, Šipoš, Gabriel (2013, May 10). *Viva, TA3 a Pravda zarobili na príchode Fica II.* (Viva, Ta3 and Pravda made Profit After Fico's Second Government), *Trend*, blog.etrend.sk/transparencyblog/viva-ta3-a-pravda-zarobili-na-prichode-fica-ii-3.html or www.transparency.sk/sk/viva-ta3-a-pravda-zarobili-na-prichode-fica-ii/

⁷ Turoňová, R. (2014, February 24). *Zmizne investigatíva zo slovenských médií?* (Will investigative journalism disappear from the Slovak media?), <https://www.newtonmedia.cz/cs/mediainfo-cz/svet/zmizne-investigativa-zo-slovenskych-medii/detail>

⁸ Školka, A. (2016). *Human Assisted Content Analysis of the print press coverage of corruption in Slovakia*, anticorr.eu/publications/human-assisted-content-analysis-of-the-print-press-coverage-of-corruption-in-slovakia/, Školka, A. (2016). *Computer Assisted Content Analysis of the print press coverage of corruption in Slovakia*, <http://anticorr.eu/publications/computer-assisted-content-analysis-of-the-print-press-coverage-of-corruption-in-slovakia/>

Trends in investigative journalism and revealing corruption

We can observe some contradictory trends in investigative journalism in particular, and in revealing corruption in general in Slovakia. We have chosen corruption topic instead of money laundering due to its broader meaning. On the one hand, while in the early 2000s (and as mentioned, still today) the majority of investigative reports was the result of leaks⁹, since approximately 2010 investigative journalists are increasingly more successful in discovering their own stories. This is the result of availability of online information, including many public databases. Yet corrupt people and companies are increasingly using off-shore companies and third-person legal representatives to hide their corrupt activities and sources. This was well-documented by Panama Papers Scandal, a giant leak of financial and legal records, hidden by secretive offshore companies.¹⁰ Interestingly in our case, the Panama Papers exposed Hong Kong as a major manufacturer of offshore structures that companies can abuse to hide assets and evade taxes.¹¹

On the other hand, as mentioned above, while private TV stations especially have abandoned their investigative programmes, the webportal *aktuality.sk* established its own investigative team of journalists in October 2015.¹² It should be noted here that another news portal, *aktualne.sk* is under control of Penta. Penta considered to support investigative journalism too. Moreover, *Denník N* (Daily N), a new newspaper (since 2015), which is an offshoot of the *Sme* daily puts a heavy focus on longer investigative articles and especially corruption. Most recently (since 2016), some anti-corruption stories and commentaries produced under the umbrella Foundation Let us Stop Corruption have appeared in two weeklies, *Trend* and *.tyždeň*. Some bloggers seem to be a useful source of tips pointing toward possible corruption and, indirectly, to money-laundering. There also is a blogger M.Daňp who is seen as a rather controversial activist - investigative journalists (even among journalists themselves).

In summary, original investigative stories can be found mainly in some quality weeklies and daily newspapers, in a late-night programme in public service television and in online news portals. Especially public service television uses hidden cameras. There are no reports available about using long-term undercover investigative practices. Maybe this is due to high costs and possible controversies they can cause, as can be seen in the following discussion. In this context, Papaleo's work can be seen as a unique achievement.

The Ethical Aspects of Undercover Investigative Journalism

There are controversies about ethical aspects of undercover investigative journalism among media experts and journalists alike. Some see it as highly contested approach, others demand more undercover investigative journalism to be done.

The former opinion is supported by Marx¹³: „Undercover reporting can be a powerful tool, but it's one to be used cautiously: against only the most important targets, and even then only when accompanied by solid traditional reporting.“ This caution has to do with following ethical conundrum: „If the reporter has forfeited the high ground of transparency and honesty, how can his conclusions be trusted by the public?“ Similarly, Hunter¹⁴ believes that: „undercover work is easily misused by lazy reporters or neophytes.“

9 <http://www.oldweb.rozhlas.sk/inetportal/web/index.php?lang=1&stationID=0&page=showNews&id=23102>

10 <https://panamapapers.icij.org/>

11 <https://www.breakingviews.com/considered-view/hong-kongs-money-laundering-fight-is-a-fig-leaf/>

12 <https://medialne.etrend.sk/tlac/marek-vagovic-keby-ma-zazalovali-vsetci-dnes-som-bezdomovec.html>

13 Marx, G. (2010, February 4). The Ethics of Undercover Journalism, *Columbia Journalism Review*, archives.cjr.org/campaign_desk/the_ethics_of_undercover_journalism.php

14 Hunter, L.M. (2016, February 9). Why David Daleiden Is Not An Investigative Reporter, Global Investigative Journalism Network, gijn.org/2016/02/09/whos-an-investigative-journalist-not-david-daleiden/

However, others argue in opposite direction. For example, Ken Silverstein, Washington editor of Harper's Magazine, wrote: „because the press so rarely goes undercover, it is too soft, too cozy, too jaded to root out corruption.“¹⁵ Similarly, Kroeger¹⁶ argues that much of the valuable journalism in the past 150 years has emerged from undercover investigations or those that employ various forms of subterfuge and deception to expose wrongdoing. Kroeger also rallies for a reconsideration of the oft-maligned journalistic practices such as undercover reporting.

In general, comparative studies show further regional ethical-professional differences with respect to controversial journalistic practices. As noted by Epp Lauk, although the non-tolerable practices are the same in both groups of journalists, the Nordic journalists are much more unanimous in their attitudes towards controversial practices. The Central East European (CEE) journalists are far less unanimous in assessing the unethical practices. This may reflect difference in professional cultures and the role of accountability mechanisms. Following the codes of ethics is a strong convention in the Nordic countries, but it is not so in the CEE countries.¹⁷ This findings may suggest that undercover investigative journalism may be more popular but also more controversial in CEE countries.

The current Code of Ethics of a Journalist¹⁸ does allow the use of undercover journalistic practices, although the Code of Ethics of a Journalist does not consider possibility that there may be an independent journalist acting according to this exception. The Code of Ethics of a Journalist requires previous approval of such undertaking by the highest editorial body. In the case of Antiona Papaleo, there was not such body available. Anyway, the Code of Ethics of a Journalist is binding only for those who sign it publicly. Yet, paradoxically, the Press Council of Slovakia works on assumption that the Code of Ethics of a Journalist is binding for everyone regardless of whether it was signed or not by a natural or a legal person.¹⁹

In general, the Code of Ethics of a Journalist by and large allows the use of undercover investigative journalism under similar conditions as stated by Steele²⁰ i.e. when the information to be obtained is of profound importance and of vital public interest, such as revealing great “system failure” at the top levels, or it must prevent profound harm to individuals. In addition, all other alternatives for obtaining the same information must have been exhausted. Steele mentions other conditions as well, but these may be seen as perhaps too general or too demanding.

Perhaps more importantly, the issue of doing undercover investigative journalism is blurred with the fact that it is not always clear who is and who is not a journalist in Slovakia. There is no condition to work as an investigative journalist being a member of a journalistic organisation to work as a journalist. Moreover, there is no condition of having a specific education to work as a journalist. Yet, as it is clear from Papaleo case, these conditions actually helped or at least did not prevent Papaleo from doing his undercover investigative work.

The Legal Aspects of Undercover Investigative Journalism

The Slovak Press Act (167/2008) deals only with rights and duties of publishers and the news agency as well as with the rights and duties of those natural and legal persons who feel to be covered unfairly by the work of the press or news agency.

15 Lisheron, M. (2007, October- November). Lying to Get the Truth. *American Journalism Review*, <http://ajrarchive.org/Article.asp?id=4403>

16 [Kroeger, B.](#) (2012). *Undercover Reporting: The Truth About Deception*. Northwestern University Press

17 Zankova, B. and Školkay, A. (2017). *Je slovenský generálny prokurátor posledný bojovník za slobodu slova v Európe?* (Is Slovenian prosecutor general the last and the utmost freedom of speech fighter in Europe?), <https://dennikn.sk/blog/je-slovensky-generalny-prokurator-posledny-bojovnik-za-slobodu-slova-v-europe/>

18 <http://www.vydavatelja.sk/eticky-kodex-novinara-snn>

19 trs.sk/dokumenty/

20 Steele, B. (2002, July 5). *Deception/Hidden Cameras Checklist*, www.poynter.org/2002/deceptionhidden-cameras-checklist/744/

The European Court of Human Rights (ECtHR) has found in the Case of Haldimann and others v. Switzerland (Application no. [21830/09](#), 2015), after carefully checking and ballancing various competing rights and duties, that secretly recorded meetings between customers and brokers, using a hidden camera, to provide evidence of the brokers' inadequate advice, was done in line with the European Convention. The journalistic report was prompted by the annual reports of the Private Insurance Ombudsman for the Canton of Zürich and by letters which the programme's editors had received from viewers expressing their dissatisfaction with insurance brokers. The journalists decided that the meetings would be recorded in a private flat and that an insurance expert would then be asked to comment on them.

In short, although much depends on circumstances, there is no reason to argue that undercover investigative journalism is illegal or forbidden in Slovakia and/or in Europe.

History of Undercover Investigative Journalism

Indeed, undercover investigative journalism has a long tradition. One of the first and most famous undercover journalism investigations was done by Elizabeth Jane Cochran writing under the pseudonym Nellie Bly for the New York World. She pretended to be mentally ill and spent 10 days at a women's insane asylum in New York to expose the abuse of patients in 1887.²¹ Since Bly's report, undercover investigations have become an established method of investigative journalism in the USA.²²

In Europe, one of the most famous undercover journalists was Günter Wallraff. Wallraff is known, among other contributions to justice and fairness, for his book *Ganz unten* ("The lowest of the low"), on exposing the oppressive conditions faced by the immigrant workforce in Germany.²³

There are many other historical or current cases of more or less known or even renown undercover investigative journalists.²⁴

What we have learned from the story of „A Lone Wolf“

In spite of all social value and personal credit attached to undercover (or any other) investigative journalism, there may be an important difference between what the undercover journalists or investigators claim and what is actually the truth.

In the case of „A Lone Wolf“ case study, the undercover investigative journalist claimed²⁵ that there were political reasons why the Slovak police argued that submitted evidence was not sufficient to claim an attempt at money-laundering. However, further scientific investigation clearly dismissed this claim – at least as it was presented by Papaleo. The local police just – ironically - strictly followed the two local legal acts related to anti-money-laundering measures.

It should be also mentioned that both the Slovak and Czech police closely cooperated on the case.

21 ICFJ Anywhere (2012, June 27). *Basic strategies for undercover investigative reporting*, <http://ijn.net.org/en/blog/basic-strategies-undercover-investigative-reporting>

22 Aucoin, J. (2007). *The Evolution of American Investigative Journalism*. University of Missouri Press, p.30.

23 Eriksson, E. (2012). *The Legendary Journalist Günter Wallraff: an Outsider who has Become an Insider in Mainstream German Media*, Acta Academiae Stromstadiensis

24 Appin, C. (2011, January 7). *The 5 Ballsiest Acts of Undercover Journalism Ever*, www.cracked.com/article_18946_the-5-ballsiest-acts-undercover-journalism-ever.html.

McArthur, Y. (2012, November 9). *10 Most Courageous Undercover Journalists*, <http://www.careernewsinsider.com/10-most-courageous-undercover-journalists/>. Kelly, D. (2015, June 5). *10 Journalists Who Went Undercover Into Horrifying Situations*, listverse.com/2015/06/05/10-journalists-who-went-undercover-into-horrifying-situations/. Kuumar, O. (2015, June 29). *19 Undercover Journalists Who Risked Their Lives To Get Their Story*, <https://www.scoopwhoop.com/world/bravest-undercover-journalists/#.rjdmdbxb1>

25 Papaleo, A. and Holcová, P. (2016, February 29). *Chceme si pronajmout tvoji identitu, zn. levně* (*We would like to use your identity. Cheaply*), <https://www.investigace.cz/chceme-si-pronajmout-tvoji-identitu-zn-levne/>

As a result, not only the Hong Kong police and judiciary acted, but also the Czech law enforcement brought 20 (!) suspected local criminals involved in this crime to justice in early 2017²⁶.

Moreover, it became clear that the supervision by the Czech National Bank was clearly not sufficient, and it was the Czech Ministry of Finance that reported further suspicious financial transactions that were noticed by a local bank already in 2013²⁷. Yet the financial experts argued that it is almost impossible to prevent stealing of the money from the bank when the whole bank management gets involved in the process²⁸.

Finally, Hong Kong really seemed to be the key to the whole money-laundering criminal plan. Yet there were other proxies that helped in money-laundering than just Jariabka identified by Papaleo²⁹. Clearly, Hong Kong was one of the favourite money-laundering destinations until recently. For example, it was used for money-laundering in a very primitive way by Ferdinand Marcos in the 1970s.³⁰ The most recent money-laundering allegations refer to money from Russia and to a period between 2010 and 2014.³¹ On the one hand, Deloitte³² reported that there has been a decrease in number of prosecutions for money-laundering in Hong Kong since 2010. On the other hand, amount of money laundered were some of the largest seen in Hong Kong. Since 2015, some major financial institutions have moved swiftly to strengthen their anti-money laundering and counter-terrorism financing efforts.³³ In 2018, Hong Kong's anti-money-laundering regime should be subject to mutual evaluation with those of other members of the Financial Action Task Force (FATF).³⁴ Others argue that Hong Kong appears to be aiming to meet the letter not the spirit of the global crackdown on anti-money laundering efforts.³⁵ Be that as it may, and in conclusion, Papaleo's role in changing Hong Kong's legislation and efforts towards more efficient anti-money laundering mechanisms was only a very marginal part of the overall long-term pressure on Hong Kong.

Recommendations for practical action / further steps

Based on the above discussion and previous research, I would recommend following specific step to be taken by civil society - nationally and internationally in order to tackle cross-border money-laundering – first, to **provide (or to continue to provide) financial incentives and financial as well as legal help to freelance investigative journalists**. It is true that there are quite many independent national, regional and international organisations³⁶ that support freelance journalists in various ways.³⁷ There are, for example, some large international conferences and seminars that emphasize skills and training.³⁸ There are available know-how publications too.³⁹ There also are quite many grants and fellowships for journalists in general and for investigative journalists in

26 <https://www.novinky.cz/krimi/429856-soud-zacal-resit-miliardovou-zproneveru-z-metropolitniho-sporitelniho-druzstva.html>

27 <https://www.novinky.cz/krimi/429856-soud-zacal-resit-miliardovou-zproneveru-z-metropolitniho-sporitelniho-druzstva.html>

28 <https://www.novinky.cz/ekonomika/352994-kontrola-kampelicek-nebyla-dostatecna-priznal-guverner-cnb-singer.html>

29 <https://zpravy.aktualne.cz/domaci/trinact-bilych-konu-soud-zacal-resit-vytunelovani-miliardy-z/r-87366b18f75211e694440025900fea04/>

30 Coronel, Sh. (2013, April 5). *ICIJ's Offshore Exposé: Bigger than Wikileaks' 'Cablegate'*, gijn.org/2013/04/05/icijs-offshore-expose-bigger-than-wikileaks-cablegate/

31 www.scmp.com/business/money/article/2080864/hong-kongs-currency-issuing-processed-money-laundered-russian

32 Deloitte (2013). *Has Hong Kong become a garden for money-launderers?* <https://www2.deloitte.com/.../deloitte-cn-fas-has-hk-become-gard...>

33 <https://www.biv.com/article/2016/11/hong-kong-money-laundering-and-terrorism-financing/>

34 www.lexology.com/library/detail.aspx?g=c0b85a08-7135-4193-9823-a864a0c65391

35 <https://www.thecompliancegrid.com/blog/2017/03/hong-kongs-money-laundering-fight-is-a-fig-leaf>

36 gijn.org/resources/investigative-journalism-organizations/

37 <http://gijn.org/resources/freelancer-services/>

38 <http://gijn.org/2015/07/04/investigative-journalists-share-tools-tips-in-brazil-germany-uk/>

39 https://www.icjf.org/.../10_Steps_Investigative_Reporting_0.pdf <http://gijn.org/resources/>

particular⁴⁰. There also are global⁴¹, regional⁴², national or local awards for achievements in investigative journalism. Yet what is usually the most important part of any help, it is the financial support for independent investigative work of „a lone wolf“ type. In this respect, there seems to be emerging a relatively recent trend that can be seen as closely connected to the role of civil society. The Pew Research Center report highlights that while contributions to **crowdfunding journalism** in Kickstarter are modest compared with other categories, it is indeed a growing trend.⁴³ Moreover, the largest crowdfunded campaigns for journalism projects to date have not been on Kickstarter but on their own independent or local platforms.⁴⁴ Although the media organizations get crowdfunding, individuals produce largest share of funded journalism projects. The total number of projects funded grew tenfold over time, from a total of just 17 that received full funding in 2009 to 173 in 2015.

It would also be fair if freelance investigative journalists would **get some share (either fixed amount or flexible amount - percentage)** from the money that they prevented criminals to launder.

Second, **undercover investigative journalism should be supported** especially in countries that have questionable approach to anti-money laundering measures and whistleblowing as well as with inefficient freedom of information laws.

Third, civil society could help investigative journalists dealing with transborder corruption in general, and money-laundering in particular, **through social media**. The aim is to use social media as a platform to bring in information and at the same time make media more interactive.⁴⁵ The social media could help in providing secure tips to undercover or in general to investigative journalists in all countries that threaten and/or punish whistleblowers.

40 <http://gijn.org/resources/grants-and-fellowships/>

41 https://www.transparency.org/news/feature/corruption_reporting_award_honouring_investigative_journalism

42 <http://www.cei.int/content/cei-seemo-award-outstanding-merits-investigative-journalism-call-2017-launched-deadline-31-m>

43 [Klassman, S. \(2016, February 26\). Crowdfunded Journalism: 10 Takeaways from the Pew Study, http://gijn.org/2016/01/25/crowdfunded-journalism-10-takeaways-from-the-pew-study/](http://gijn.org/2016/01/25/crowdfunded-journalism-10-takeaways-from-the-pew-study/)

44 See various crowdfunding platforms at gijn.org/resources/crowdfunding-for-journalists-2/

45 Nazakat, S. (2012, August 15). *Social Media and Investigative Journalism*, <https://www.icij.org/resources/social-media-and-investigative-journalism>

