

4

---



# UNCOVERING CORRUPTION

---

## CONFRONTING HIDDEN MONEY & POWER

---

FREDERIK OBERMAIER &  
BASTIAN OBERMAYER  
PELIN ÜNKER · SIMONA LEVI  
CHRISTOPH TRAUTVETTER



**THE CASES** of the Panama Papers in 2016 and the following Paradise Papers have revealed the inner mechanisms of the financial system and the crime, corruption and wrongdoing hidden by secretive offshore companies. This section interconnects the development and current results of these giant leaks of financial and legal records with related acts of whistleblowing as well as investigations to denounce financial corruption. *Süddeutsche Zeitung* investigative journalists Frederik Obermaier and Bastian Obermayer reflect on the effect of the Panama Papers leaks and their impact, as well as on the crucial role of whistleblowers to spark investigations and the need to protect them. Investigative journalist Pelin Ünker tells the story of her reporting in the context of the Paradise Papers, which revealed business interests of the former Turkish Prime Minister's family in tax havens in Malta.

She was the only journalist involved in the Paradise Papers' story having to face a prison sentence for that. In the line of exposing corruption and wrongdoing at the governmental level, activist and founder of Xnet, Simona Levi, describes how the groups Xnet and 15MPARATO denounced through digital whistleblowing the responsibility of the bank Caja Madrid (now called Bankia) for the millions of euros that went missing in the Spanish economy. The Bankia Case resulted in sending the potential Prime Minister of Spain to jail for corruption, and many other politicians and bankers got sentenced. Finally, Christoph Trautvetter's investigation into real estate ownership structures in Berlin in Germany exposes how large real estate owners have managed to stay anonymous, sketching how these findings might contribute to change.



## FREDERIK OBERMAIER & BASTIAN OBERMAYER

Frederik Obermaier and Bastian Obermayer are Pulitzer Prize-winning investigative journalists and bestselling authors living in Munich, Germany. They are heading the investigative unit of the German broadsheet *Süddeutsche Zeitung*. In 2019, Obermayer and Obermaier were part of the investigative team which revealed the existence of a video showing the head of Austria's far-right FPÖ party, Heinz-Christian Strache, promising government contracts to a woman claiming to be a Russian millionaire. The reporting led to the resignation of Austria's vice chancellor. Together, Obermaier and Obermayer initiated and coordinated the Panama Papers revelations, after an anonymous source provided them with 2.6 terabytes of internal data from the dubious Panamanian law firm Mossack Fonseca. As part of the Panama Papers team, they won the 2017 Pulitzer Prize in the category "Explanatory Reporting". The journalists have received numerous honours for their work, including the renowned Wächterpreis and, together with their colleagues, the Scripps Howard Awards, the George Polk Award for Business Reporting, the Barlett & Steele Award, and the Investigative Reporters and Editors-Award (IRE-Award). Obermaier has also been awarded the CNN-Award and Otto-Brenner-Preis; Obermayer has received the European Press Prize and German Reporterpreis. In 2017, Obermaier was awarded the Murrey Marder Fellowship in Watchdog Journalism at the Nieman Foundation at Harvard University. Obermayer is co-founding director of the Forbidden Stories Network, of which Obermaier is a member, and Obermaier is co-founder of the Anti-Corruption Data Collective. Both are members of Netzwerk Recherche and the International Consortium of Investigative Journalists.

Photo by Stephanie Füssenich/Kiepenheuer & Witsch

FREDERIK OBERMAIER &  
BASTIAN OBERMAYER

# HOW THE RICH AND THE POWERFUL HIDE THEIR MONEY

INTERVIEW BY TATIANA BAZZICHELLI

**"IN THIS SYSTEM** —our system—the slaves are unaware both of their status and of their masters, who exist in a world apart where the intangible shackles are carefully hidden amongst reams of unreachable legalese. The horrific magnitude of detriment to the world should shock us all awake. But when it takes a whistleblower to sound the alarm, it is cause for even greater concern. It signals that democracy's checks and balances have all failed, that the breakdown is systemic, and that severe instability could be just around the corner. So now is the time for real action, and that starts with asking questions".

John Doe, "John Doe's Manifesto"

The case of the Panama Papers began in 2014 with a cryptic message from an anonymous whistleblower: "Hello, this is John Doe", the source wrote. "Interested in data?"

In the months that followed, the confidential source transferred emails, client data and scanned letters, from Mossack Fonseca, a notorious Panamanian law firm that has not only helped prime ministers, kings and presidents hide their money, but has also provided services to dictators, drug cartels, Mafia clans, fraudsters, weapons dealers, and regimes like North Korea or Iran. After the revelation in 2016, several heads of governments had to step down, thousands of investigations were launched, and approximately one billion dollars were recouped. The Panama Papers proved that there is a parallel world offshore in which the rich and powerful enjoy the freedom to avoid not just taxes but all kinds of laws they find inconvenient.

The interview, conducted on March 26, 2021, addresses what we have learnt from the Panama Papers about political and economic power, the progress that has been made against tax and dark havens, and how the Papers have changed the way that journalists think about and analyse tax havens.

**Tatiana Bazzichelli:** This anthology aims to reflect on the impact of whistleblowing in culture, politics, and society. You don't know the identity of John Doe, the whistleblower who contacted you in 2014 and provided you with 2.6 TB of leaked data, the so-called Panama Papers. However, you became very close to them. Could you tell us why, from your own understanding, they decided to blow the whistle and what they wanted to achieve?

**Bastian Obermayer:** What we know and what we can say from a year long conversation, and also from the manifesto that John Doe wrote after the publication of the Panama Papers, is that it was about inequality in our societies. The offshore industry is still a big part of it, as the rich and the powerful have the chance to hide their money and not pay their fair share. They can escape their duties and their taxes: that's been one motivation our source has told us. The other motivation that we have been given is that the person who called himself John Doe thought that there were crimes going on inside Mossack Fonseca, which is the Panamanian law firm that was the holder of all the secrets behind the Panama Papers. It was the urgent need that there had to be something done because Mossack Fonseca was helping a lot of corrupt people and politicians and enabling all kinds of financial crimes. The whistleblower somehow got insights into how Mossack Fonseca worked and how they dealt with problematic clients. John Doe wanted to stop this and have a big organisation like *Süddeutsche Zeitung* investigate Mossack Fonseca, and he or she wanted help in handing over the data and their insights.

**Frederik Obermaier:** What strikes me most is that at the time when John Doe approached *Süddeutsche Zeitung*, there were already news stories about tax havens, about corruption, about a lack of transparency: this was not breaking news. There were news about individuals hiding their money, with the help of providers or financial service providers like Mossack Fonseca, with the help of governments of tax havens, like the Caymans and the British Virgin Islands. Yet, the reporting put the spotlight only on singular cases, on singular tax havens, on singular firms. This changed with the data we received from John Doe as it gave insight into the machine room of this industry. We did not see only one spot, we saw everything: we saw the mechanism, the tricks that financial service providers like Mossack Fonseca used: nominee directors, bearer shares, fake names and so on. We also saw how firms like Mossack Fonseca internally discussed their dubious and often criminal customers, how they were well aware of breaches of law, breaches of

sanctions, and still proceeded with their activities. What John Doe enabled the world to learn was to understand the offshore system and discover the parallel world of offshore, and to see the individual cases: like the Icelandic Prime Minister, like one of the best friends of Vladimir Putin, like the role of the banks, the enablers, and also the bigger picture: continents like Africa being literally plundered with the help of secrecy jurisdiction, wars, like the one in Syria, being secretly financed. The offshore world also leads to all of us paying the price for this whole problem, because if we have countries where governments and authorities are unable to provide affordable housing, healthcare, schools and universities, that is down to individuals who with the help of firms like Mossack Fonseca evade taxes, and thereby steal money: money that is desperately needed, especially in the times we are now living in. When John Doe approached us, we had already covered numerous investigations on corruption, on illicit money flows and on tax havens. It had started with the Offshore-Leaks investigation in 2013, where the International Consortium of Investigative Journalists invited us to take part, and then afterwards we also reported on Swiss Leaks: an investigation on the secret customers of HSBC. We also reported on the so called “Lux-Leaks”, which showed how consultancy firms like EY, KPMG and PwC help multinational firms to avoid taxes in Europe and beyond.

**TB:** Secretive offshore tax havens are not just a technical matter concerning financial experts, accountants, and bankers, but are the node of a global network of financial institutions, systems of law, governments and corporations. What did you learn from the Panama Papers’ investigation, and what do we still need to achieve to make a real change?

**BO:** What we learnt with the Panama Papers is that without the help of the banks, these networks would not work. They need to wire money, and most need the US dollar. If the big banks were not helpers in this system, if they had been committed to fighting tax evasion and money laundering and other financial crimes, it would not have happened. What we saw in the Panama Papers was that a huge number of national and international banks were customers of Mossack Fonseca: actually, in most cases, Mossack Fonseca did not have real contact with the final clients, the people who evaded taxes, they had contact with a client manager at Deutsche Bank, Switzerland, for example, or at UBS or Credit Swiss. The banks are the ones that steered most of the system, and they were completely free from any second thoughts like, “this isn’t allowed” or “maybe we shouldn’t do this” or “this could be illegal”. They just cared about the money and the earnings of the banks and the riches of the customers. Of course, that’s a big problem, because when we do see financial crises, we see that the big banks get bailed out. The same banks don’t care in the slightest about society, they only care for money. We saw this repeat itself in investigations before, and we saw it later in the FinCEN files: that the banks are the most important players in this market. A lot of wealth man-

agers and family offices, who have very rich clients, also use the offshore system for the advancement of these people's fortunes. That makes it a bit more complicated because they are not really regulated. In this sector, there is way more work to be done. The banks are now pretty much in the defence; I don't think that very cheap tax evasion works anymore with the big banks. But the private part, where you have exclusive lawyers and wealth managers working together to get a bullet-proof system of how a high-net worth individual does not have to pay taxes, that's still pretty much in place.

**FO:** If we speak about what we need to achieve to make a real change, transparency is key. We don't yet have global transparency when it comes to the ownership of companies. It would be a huge blow for tax evaders, crooks and autocrats if there were ultimate beneficial ownership registers in place around the world, because what tax havens or secrecy jurisdictions are basically selling is secrecy. They sell the promise: if you set up a company in my jurisdiction, no one will find out who is behind that company name. Since the Panama Papers, however, we have seen a growing movement and an increasing force pushing for change in this field. We have seen the European Union demanding search registries for its members and member countries. We even saw the United States recently with their Corporate Transparency Act, asking and forcing companies to reveal their ultimate beneficial owner. The big problem, however, is that in many countries—and the United States is one of them—these registries are not yet open to the public. In the meantime, I have lost faith in the authorities over the past years when it comes to investigating corruption. In many cases, civil society, journalists and NGOs have proven to be far better and more thorough at following the money. Or as US congressman Tom Malinowski put it recently: “We have groups of investigative journalists arguably doing more cutting-edge work on this than US intelligence agencies with their enormous budgets”. If we want to really fight illicit money flows, corruption and kleptocracy, we need those registries open to the public all around the world.

**TB:** It would have taken more than 30 years for the two of you to work alone on the massive amount of data leaks you received from John Doe. You decided to share the documents with an international team of journalists and media outlets (the International Consortium of Investigative Journalists). Could you tell us more how this method of sharing worked, what the challenges were and why you preferred to work with a team of experts rather than opening the data up to the public?

**FO:** We decided to share the Panama Papers with hundreds of journalists all around the world because we realised early on that it was too large a data leak for the two of us, or even for our newspaper, *Süddeutsche Zeitung*. We also realised that the data covered so many countries and scandals all around the world. *Süddeutsche Zeitung* would not have been able to cover all of them. A scandal that might be huge

in Paraguay, or might be huge in France, might only be a small article on our web page. We recognised that society needed to know about the findings of the scandals, and that we would be able to do better and more thorough investigations if we involved experts and journalists from those countries in our team. They had the knowledge; for them, it was much easier to help us with their context and information. We were not experts, for example, on Iceland, on Icelandic politics, nor on Icelandic economy. But Iceland was an important issue and topic in the Panama Papers because we saw the prime minister in the data, hiding company ownership from the public. We therefore saw it as our duty to enable a thorough investigation by sharing the data. There was also the security aspect. When we started, Bastian and I sitting there through day and night, scrolling through the data, seeing mafia bosses, organised crime figures and the cousins of Bashar Al Assad in Syria in the data, we also realised that at that point in time, someone could have stopped us. If one criminal had learned about us investigating him, there was at least a chance that the investigation could have been stopped by doing harm to us. By sharing the data with 400 journalists around the world, we made sure that no one could stop the investigation. If you harmed one of those journalists, the other 399 would pick up that work, and even investigate it more thoroughly and cover it widely. So, it was protection, better investigation and more publicity for the issue of in-transparency, inequality and corruption.

**BO:** We still had, of course, many challenges. Starting with people in our own newsroom, who thought that it was not a good idea to give away a scoop like this and to share exclusive information instead of being the only ones in the world writing about it. We had to convince everyone that this was the right decision. We were working with more than 400 journalists. Many of us knew a lot about what we were doing, but we had to give everybody rules, and we had to stick to the rules, and no one was allowed to speak about the investigation. We all needed to find one common date for publishing, a day where we all could publish. A day when it wasn't a national holiday in Morocco, or a big election in Spain, for example—so there were many obstacles, if only from the organisational part of it. We also had to find ways to share the information that we had received; we had to find a way to let everyone in the team research the Panama Papers, which the ICIJ, the International Consortium of Investigative Journalists, worked on us with. They set up a research platform where we could all search the data from wherever we were. And then a forum, which was kind of a Facebook for Investigative Journalists, where we could make posts and comment on posts and upload things and even like posts, so that we had a way of forming smaller sub-groups on certain topics and a way of informing everyone else. It was like, “look, we found the best friend of Vladimir Putin, maybe that's a story that we should tackle!”. This wasn't an easy task because everyone needed to learn how to encrypt the emails and how to work with messengers and how to work with a two-factor authentication in the forum. But

at the same time, it was such a great experience to see all of those fabulous minds at work, and to see how many contacts we had altogether and how great it was to have someone on the ground—like in Iceland or in Pakistan, or wherever—to understand what the data really meant in their countries. We would not have had a 10th of the stories had we not decided to share it. We worked for more than a year on the data—the process was that we kept receiving data from the whistleblower, we collected it and transferred it to the ICIJ, and they put it online for everyone to search and sent out alerts about the arrival of new data.

**FO:** We strongly believe in the power of transparent data and transparent working methods. But in this case, we had several challenges. The most important challenge for us was to protect our source. We have seen many investigations in the past, where data was made public, but later whistleblowers have been blown: they were sent to prison or at least indicted or lost their jobs. We wanted to protect the source of the Panama Papers by all means, and to protect John Doe and not waste his or her life. We all have to keep in mind that we owe a lot to whistleblowers. There are so many things we have learned in the past through whistleblowers; at the same time, many whistleblowers have paid a huge price for this. We didn't want John Doe to be one of them. Another aspect was the German law; in Germany, we have very strict privacy rules and legislation, so we would not have been able to publish all of the data and make it unredacted to the public. To redact everything in 2.6 terabytes of data that is not in the public interest would be at least a decade's work. Also, as we didn't know the identity of John Doe, how could we redact traces in the data that could lead to John Doe—that was an impossible task. So, we decided to only publish parts of the data that were relevant for a story, where we had the capacities to go through it step by step to make sure there was no hint to whatever person in there that may lead to a source, and also that the only data published was of huge public interest.

**BO:** The Panama Papers are millions of emails, and only a few thousand are probably relevant for their respective cases. The rest of the emails are people who are, in many cases, not doing anything criminal: maybe an intern at the bank or someone who needed the work as a nominee director in Panama. They were not bad people—they were speaking in the emails about their private lives and about their kids and sending pictures. That's all data that's not supposed to be in the public sphere. As journalists, we wanted to make a very clear distinction between data that should be public—and that is all the data that the ICIJ has published on the website about the Panama Papers—and data that does not belong in the public sphere, which is private data or private citizens. We think we need more transparency for politicians, but we don't think that we need more transparency for ordinary people.

**TB:** After the release of the Panama Papers investigation in April 2016, many social and political consequences followed: the Prime Minister of Iceland,

Sigmundur Davíð Gunnlaugsson, resigned after massive demonstrations in the country. Public protests followed in Pakistan, London, Malta and El Salvador. Could you describe in more detail what happened after April 4, and what the impact of the investigation was?

**FO:** After April 4, we saw massive demonstrations in several countries that were affected by the reporting. In Iceland, we saw the biggest protests in Icelandic history; we saw thousands of people gathering in the streets also in Argentina, in London, in Malta. This showed that the Panama Papers addressed a need to learn more about corruption and to fight corruption. We also saw hundreds, if not thousands, of investigations launched all around the world. Governments and authorities, globally, have recouped more than \$1 billion due to the Panama Papers. We saw Prime Ministers not only in Iceland, but also in Pakistan, stepping back. Even a representative from Transparency International stepped back because he was involved in the Panama Papers. I think what is far more important than those individual cases, however, is that we saw a public debate that hundreds of thousands of people around the world spoke about tax havens and the high price that we pay for these untransparent, secretive jurisdictions. We have seen laws around the world changed. In Germany, a new law forces companies to reveal their beneficial owner. We saw change in Panama, in the US, all around the world. We saw lawmakers adopt new laws asking for greater transparency. Still, in these days, not one week passes without an investigation published somewhere around the world with at least some of the Panama Papers in there. For us as journalists, it is a treasure trove. I am sure that even in ten years, we will dig into the Panama Papers and still find leads in there.

**BO:** One of the big results of the Panama Papers is also the fact that we have seen more and more journalistic collaborations over the last few years than we have ever seen before. So many of our colleagues noticed the success of the Panama Papers—although it seemed so unlikely to work as a project (and we were really desperate many times in the middle of the process...). While not every story is suited for this kind of investigation, there are so many cross-border stories—stories that no one can investigate alone in their respective country. The huge attention that the Panama Papers received has shown whistleblowers and colleagues around the world that it's healthy to think about collaboration. You don't have to stop at the border, you should consider if there's someone on the other side who can help you or who may have the context that you don't have in other countries. The sheer amount of reporters can also be a factor. If we hadn't had 400 colleagues, we couldn't have had more than 5,000 stories. I think that this has given the world of journalism a huge boost in the direction towards collaborations. If we look back at the last five years, we have seen so many journalistic collaborations, especially in the investigative area. It really makes me happy, because when you speak to people who are part of those networks, so many say that the Panama Papers inspired them to found their

own network. I think that's a good direction, because it helps to uncover more truth. It's not a day-to-day work anymore, but we still have the Panama Papers, of course, on our secure servers. Whenever we start a topic or see interesting names, we throw them into the system, and many times we still find stories. Perhaps not the biggest names, but maybe the missing puzzle piece of the story is in the Panama Papers, or something that's somehow related, but maybe can be interesting. People working in the field of money—money crimes and financial crimes, in the mafia field, like the OCCRP—are still publishing five new Panama Papers stories throughout the year; really good stories and really important stories.

**TB:** The disclosure of these secretive offshore systems provides evidence of speculation, corruption and a lack of transparency. Tax havens are robbing us of public services and the industry is very opaque. How much do we know, and how much it still to be done at a legal, financial, and social level?

**FO:** In the past years, through the Panama Papers, we have learned a lot about how secrecy in this field works; how enablers like banks and financial service providers, lawyers and consultants help to hide money from the authorities. At the same time, we have to be realistic. We have only got an impression of what is going on. We also have to be aware that whenever laws have been introduced in the past, whenever investigations have been launched, we have seen that the industry adapts to those investigations and adapts to new laws, by creating new bypasses and by using other loopholes. So, the Panama Papers have demonstrated the extent of the problem, but they have not completely solved it. Indeed, they cannot because this is something lawmakers and investigators have to do. Journalism and civil society can only push; can lay out the facts, then society and voters can vote for politicians who fight for more transparency. Then, we have to hope that lawmakers act, and that investigators act. When it comes to the price that we as society have to pay, we have learned a lot in the past years because increasing numbers of academics have looked into this issue. They analyse the price of tax havens, of financial secrecy, and they tell us in long lists how much taxes are lost by each country, each year, due to tax havens. These are shocking figures. Billions of euros are hidden in tax havens. According to the economist Gabriel Zucman the equivalent of 10 percent of global GDP is held offshore—most of the time hidden behind shell corporations, foundations and trusts. To see the amounts of money and to imagine how this money could be spent; how this could be spent to fight poverty, for example, to create a better health system, better schooling systems. That is shocking to me, because this shows us that there's so much to be done in this field.

**TB:** As you mentioned at the Disruption Network Lab, 17% of the tracked countries have seen a backlash against journalists who covered the Panama Papers or worked on them. They experience threats, mobbing, isolation, persecution, and also death, as in the case of Daphne Caruana Galizia in Malta and Ján Kuciak in

Slovakia. How can we better defend the work of investigative journalists and help to uncover these stories?

**BO:** Ján Kuciak was a member of the Panama Papers team. He was one of the people who actually worked on the files. Daphne Caruana Galizia was someone who had very early knowledge of wrongdoings in Malta that the Panama Papers would reveal, and she was publishing it even before we published. Although she wasn't part of the team, she was a relentless reporter on the Panama Papers issue. It's a huge tragedy to see both gone and murdered. It is also a huge cause of grief and anger for us, and of desperation. It came as a complete shock. When we published the Panama Papers, we didn't really think about security because we thought in the middle of Europe, you should be safe as an investigative reporter, doing work in the financial sector, as we did. It turns out, not at all. I still think that in Germany and in Western Europe journalists are mostly safe. One of the biggest problems here is that the public attitude appears to be increasingly against journalism. You see that in the framing of people like Donald Trump and Boris Johnson and others, who speak about "fake news" —and Donald Trump even on the "enemy of the people" —this is a big problem, because if journalists are only seen as liars, and part of the "other side" and "part of the enemy", then it's absolutely logical that they would be attacked as a next step. Because what do you do with the enemies? You fight them. We see this happening increasingly in Germany, especially from the right wing. We have to educate younger people, and we have to educate our neighbours and our friends when they start saying "all journalists lie". Especially, we have to challenge politicians who are going down the very easy populist path of accusing the news media of lying and fabricating stories; we have to stand up every single time when they put out this lie and say, "no, this is not the truth, this is not what's happening". That's part of what's important in the privileged countries. In many other countries, there needs to be real tactics to defend journalists: they need money, they need help, they need bodyguards, they need safe houses. There are many organizations doing good work there. If anyone is concerned about that, consider donating money. The moment that there's no free press in a country, you'll see that democracy dies next. Whenever we witness a country like Hungary or Poland, where the free press is really under attack, we all have to unite and fight it. In countries like Russia, and China, you need dedicated organisations. I don't think it's by chance that in Malta, and in Slovakia, where the murders of Ján Kuciak and Daphne Caruana Galizia happened, the political language has been terrible. Politicians were accusing journalists of being liars and even giving them names of animals and saying Daphne was a witch and the like. This has to be fought. It's the first step.

**FO:** Journalism is not only under pressure from people who want to do harm to journalists and who want to stop critical reporting. It's under pressure by financial restrictions; more and more journalists are unemployed. More and more me-

dia outlets are laying off journalists. This means there's less and less staff to investigate corruption or to investigate wrongdoings by the powerful. Journalism costs money because it costs time, and it costs workforce. A small step that every one of us can do is subscribing to a newspaper or donating to non-profit newsrooms, and thereby helping those journalists with their work. We also need more protection for whistleblowers. Unfortunately, there is still a huge risk for whistleblowers to blow the whistle on public interest topics to journalists; they have to fear repercussions, they have to fear for their jobs, and in many countries also for their lives.

**TB:** John Doe wrote: "Legitimate Whistleblowers who expose unquestionable wrongdoing, whether insiders or outsiders, deserve immunity from government retribution, full stop". In Germany, as in many other countries, a correct translation of "whistleblower" does not exist. This says a lot about the stigma around the act of blowing the whistle. What are your thoughts on this and how could we better defend the rights of whistleblowers, including John Doe?

**BO:** I think the obvious solution would be a whistleblower legislation that really owns the name. We have seen steps happen in the European Union, but we have also seen a lot of problems with that. I know that especially in Germany, the whistleblower law says that whistleblowers first have to deal with it inside the company. If you are working in a company where you really don't trust the people and you even suspect they might try to destroy you if you try to blow the whistle, I think you should have the guaranteed right to go to the press and speak to someone outside of the company. For now, however, you can not only lose your job over this, but also become the subject of a lawsuit. That's a terrible situation for anyone who might think about blowing the whistle. As journalists, it's still the case in Germany that in many cases we should—or we have to think about—telling a whistleblower not to blow the whistle, because they are endangering themselves in a way that we cannot advocate for. There needs to be a possibility for whistleblowers to do the right thing, and still not give away their future and their chance to provide a living for themselves and their families. If you have to take into consideration going to jail, this is not a situation we should have in a democratic country. I can understand those who do not dare to blow the whistle, because most of the famous whistleblowers are famous because they are in jail or they are in Moscow—in places you don't want to end up in. In this respect, the Panama Papers are kind of a best case scenario. The whistleblower enacted real and lasting change, and is still somewhere in the dark, and hopefully still safe. That's one of the best things about the whole Panama Papers affair.

**FO:** As we realised John Doe was running such a high risk, we had to take a lot of precautions, starting with only communicating via encrypted ways of communication. We even had to protect the computers in our offices. We had a special alarm system and we even put nail polish on the back of our computers to see if anyone was manipulating our workstations. Most importantly, we kept the secret.

For a long time, even within the newsroom, we only spoke with our editors. We invented a cover story on what we were doing, not to tell our colleagues. These were only small steps that everyone could expect and should expect from journalists—the most important precaution was taken by John Doe, him or herself. By not revealing their identity to us, this person made sure that we could never make the mistake to reveal their identity. I am sure, many other whistleblowers have learned from John Doe, learned from Snowden, from Manning, and John Doe has also shown to the world and to potential whistleblowers out there that there is a way of keeping your secret and keeping your life after blowing the whistle.

**TB:** You said at the Disruption Network Lab that the secretive offshore financial system, which is also legitimated legally, is undermining our democracy. How can we question such a business model? How could we imagine a more equitable and transparent future of this industry?

**FO:** My personal opinion is that we need tougher fines, tougher investigations and more consequences for those financial service providers. Many of them are still hiding under the disguise that they are lawyers, only doing their job. Society should not let them get away with this excuse. What is even more important is that we do see big consultancy companies being very active and helping their clients to hide their money from the authorities. Let's only look at the big four companies: EY, Deloitte, KPMG and PWC—whenever you see a scandal that is about hiding money and avoiding taxes, you can bet that at least one of them is somehow involved. At the same time, these are companies that get regular public contracts by authorities and parliaments. If the wrongdoing of such companies is proven in court, in my opinion they should be banned from public contracts for at least a certain time, and this time should be several years. Otherwise, it is not a big punishment for them.

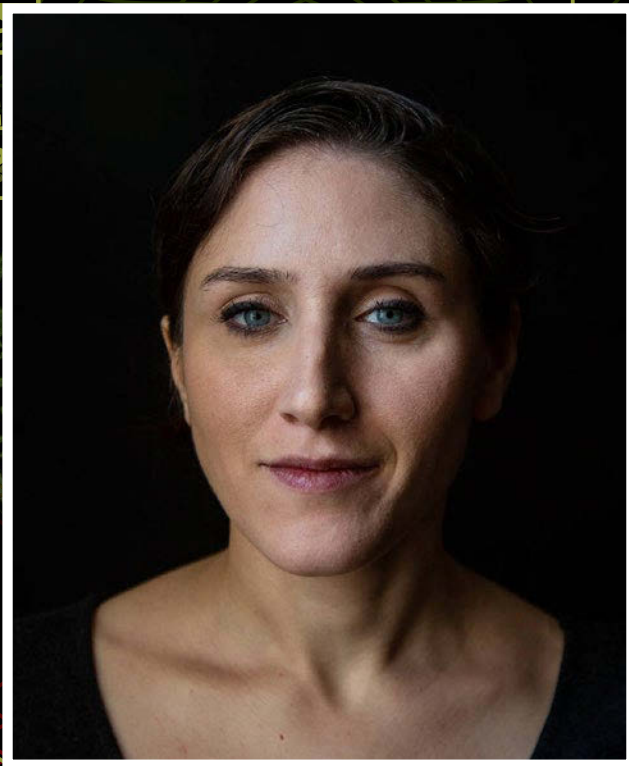
**BO:** I think we should question the very existence of offshore centres, of tax havens. As Stiglitz said, there is no need for tax havens, there's no economic or other need for them to exist. No one said that there are certain islands or big states that need to help rich individuals have lower taxes. We could go even further and think about sanctioning them. One of our neighbours is Switzerland, and they are still a tax haven. In the long run, the European Union should really think about putting some economic sanctions on Switzerland and on other countries. It may sound strict, and I know that it's not doable right now when we still have tax havens inside the European Union, but I think in the end we should not tolerate states who are so deep into this race to the bottom of taxes.

**TB:** The Panama Papers opened up a debate around the fiscal costs to citizens after the 2008-2009 financial crisis. We are now experiencing another financial crisis with COVID-19 and the effects that will become evident in the future. What would you suggest to potential whistleblowers who would like to denounce abuses and wrongdoing at the moment? How can we help to uncover important stories?

**FO:** We are living in one of the most severe global crises since World War II, and there are billions of dollars and euros being spent on COVID-19 to fight the pandemic. There are huge amounts of money spent on masks, for example. Of course, there are huge possibilities for crooks and for corrupt practices in this field. Already in Europe, in many countries including Germany, we have seen politicians using their influence to profit from the state effort to help society to recover. There is a strong need for whistleblowers in this field, especially in these times. Politicians are currently not yet speaking much about the cost of fighting the pandemic, but it's a huge cost. We need more transparent acting of lawmakers, and a transparent flow of money. I can only address whistleblowers out there: if you want to blow the whistle, now is indeed the time. As the laws I would wish for are still not in place, I would recommend approaching journalists anonymously. Do not reveal your identity in the first contact, although you can do so later if you feel safe and if the journalist does not see any reason to prohibit you, or prevent you from revealing your identity, but don't do so on your first point of contact. If you do so, your identity is out there, and you cannot rewind.

**BO:** We're seeing a lot of scandals right now in Germany, with politicians making massive amounts of money from COVID-19, because they consulted companies who sold masks, and they got their share of it; and the share was sometimes as large as a million euros. Some politicians have already had to step back because of this. In the last year, governments around the world gave out lots of help, and lots of money was sent to corporations to help them survive. Many groups misused the COVID-19 money and used the opportunity to rob the government, and many politicians allowed people who wanted to earn money to bribe them. If you witnessed any of this, this needs to be uncovered to gain back the truth of the people out there who are really suffering. This is a really important time.





## PELIN ÜNKER

Photo by Bradley Secker

Pelin Ünker is an investigative journalist, working for *Deutsche Welle* as a correspondent in Istanbul. She worked at *Cumhuriyet* newspaper for ten years as an economics correspondent and finance editor. Her stories are now published by *Deutsche Welle*, *taz*, *die tageszeitung*, and some Turkish websites. She has worked on ICIJ's Panama Papers, Bahamas Leaks, Implant Files, Paradise Papers and FinCEN Files investigations. Her work has included investigations on macroeconomic data on the state of the Turkish economy. She has also investigated corruption, tax avoidance and evasion, privatisations, public contracts, and other subjects. Her work has been honoured with the Ugur Mumcu Investigative Journalism Award by Progressive Journalists Association in 2016, the Research-Investigation Journalism award by Progressive Journalists Association in 2017, the Transparency Award by Transparency International Turkey in 2017, the Don Bolles Medal by IRE and NICAR in 2019. She is a doctoral student in economics at Istanbul University and is writing a dissertation about the impact of fiscal policy on poverty and income inequality in Turkey.

PELIN ÜNKER

# THE PARADISE PAPERS EFFECT IN TURKEY

## NO RESIGNATION, NO PROSECUTION, BUT PUNISHMENT FOR JOURNALISM

**“THE WEST IS JEALOUS** of us!” These words are from Turkish President Recep Tayyip Erdogan’s speech. In May 2016, while talking to the public in Artvin, a city in the north of Turkey, he stated: “Why is the West jealous of us? Because of dams like this (referring to Yusufeli Dam), Yavuz Sultan Selim Bridge (the third Bosphorus bridge), the Bosphorus underwater tunnel and the Marmaray Subway line”, he claimed.<sup>1</sup>

Since then, it is the one of the most helpful propaganda tools that the government has used on their voters. So much so that whenever the government is being criticized, it is frequently expressed by the Turkish government and partisan media that the West makes such criticisms because it is jealous of the government’s success.

Whether or not the West really envies us is another debate. But as a Turkish journalist who collaborates with The International Consortium of Investigative Journalists (ICIJ), I would say I always envy my colleagues in the West. ICIJ has a lot of members and partners from all over the world. But when we’re working on a project together, I know that especially the colleagues from Europe don’t worry about the potential legal problems of their work as long as they abide by the principles of journalism. However, as Turkish journalists, we know from the start that when we write about critical issues, accusations of defamation will be levelled at us. At this point I should state that it doesn’t matter whether what we wrote is uncontested fact or not. That’s what happened to me when I wrote the Paradise Papers stories. I’m the only journalist who risked being sent to jail for the Paradise Papers stories.

When the BBC wrote that Britain’s Queen Elizabeth II had invested millions in offshore accounts,<sup>2</sup> no one said that they smeared their ancestors. Or the Canadian Prime Minister, who was mentioned in the Paradise Papers,<sup>3</sup> did not s’e

journalists for defamation. However, this tool is often used in court cases in Turkey. In the last two and a half years, at least 40 journalists have been convicted of insulting public officials.

ICIJ's Panama Papers<sup>4</sup> and Paradise Papers investigations, with about 400 journalists working on each revealed secrets of the World's elites, of global businesses, and of politicians. But these projects had only been the subject of litigation in Turkey. After initially conceding that the companies did exist, the state later filed a lawsuit and got the journalist who wrote about those companies convicted; this was probably the first example of its kind.

And of course, motions by opposition parties demanding an investigation into Turkish politicians' accounts in tax havens, as revealed by the Paradise Papers, were rejected by AKP votes.

ICIJ and partners have been involved in publications concerning the financial off-shore sector since 2013. In 2017, the Consortium won the Pulitzer Prize for the stories on the Panama Papers.<sup>5</sup> After reporting on the Panama Papers in April 2016, the team published stories on the Paradise Papers, a set of 13.4 million confidential electronic documents relating to offshore documents. The leaked documents originate from the legal firm Appleby, the corporate services provider Asiatic Trust, and 19 corporate registries maintained by jurisdictions. They contain the names of more than 120,000 individuals and companies, including more than 120 politicians worldwide.<sup>6</sup> Turkey stories revealed the offshore connections of two politicians, as well as business people and sportspeople. The purpose of the articles was to re-discuss the legitimacy of tax havens. They were leaked to Bastian Obermayer and Frederik Obermaier from the German newspaper *Süddeutsche Zeitung*, who then shared the documents with the International Consortium of Investigative Journalists and a network of more than 380 journalists from 95 global media partners.<sup>7</sup>

According to ICIJ, the research showed that corporations like Nike, Apple, Facebook or Glencore reduce their taxes to meagre rates; they also showed how the political elites use the secret world of tax havens, including in Turkey.

The Paradise Papers provide an insight to the offshore industry, "a sprawling behemoth so secretive its very size can only be guessed and yet understood to be so large as to distort the global economy".<sup>8</sup> Since the publication of the Paradise Papers in November 2017, authorities have opened tax investigations in numerous countries, including Vietnam, Lithuania, Indonesia, Ireland, Greece, the Netherlands, New Zealand, Australia, Nigeria and Pakistan.

And the leaks showed that Erkam and Bülent Yıldırım, the sons of the former prime minister of Turkey, Binali Yıldırım, owned five companies in Malta, where doors were open to those who would like to avoid taxes in their own countries. At the time, Yıldırım was the Speaker of the Parliament. The documents revealed the Yıldırım's sons were shareholders of companies called Black Eagle Marine Co

Ltd, Hawke Bay Marine Co Ltd, South Seas Shipping NV, Nova Warrior Limited and Dertel Shipping Limited. They were all shipping companies that were used to minimize taxes.

It is not illegal for Turkish citizens to own or run a Maltese company. Companies pass profits on to their Maltese subsidiaries, which pretend they are doing business on the Mediterranean island. But in fact, they just pay fewer taxes there. As a result, the countries in which the profits were made lose billions every year.

After the publication, Binali Yıldırım spoke to the press at the Ankara Esenboga Airport before his US trip on November 7, 2017. Yıldırım conceded to the existence of the companies and said it is normal for a global business. “I have immunity, but my children don’t. Therefore, I especially wish for an investigation to be launched. Shipping is a global business. There are companies and contact points in all parts of the world. There is no secret or concealed business here”,<sup>9</sup> he claimed.

International Maritime Organization records further showed that one of these Maltese companies was linked to a Turkish company which had taken a big contract from the state. We discovered that Nova Warrior is connected with Oras Denizcilik, a company that got a tender from the General Directorate of Mineral Research and Exploration that amounts to 7 million dollars. Binali Yıldırım was also in the shipping business before he entered politics. His business partner was Salih Zeki Çakır. Oras Denizcilik is also owned by Salih Zeki Çakır.

The Yıldırım family, whom I contacted through lawyers before publishing the stories, did not respond to the detailed questions about any of the companies, including Nova Warrior’s connection with Oras Denizcilik. The news stories did not claim that offshore companies were illegal businesses; they said they avoided paying taxes through loopholes in the legislation. The news stories did not say this was a crime; they questioned how ethical it was.

However, before a week had passed, Yıldırım and his sons opened a compensation case against me and the *Cumhuriyet* newspaper at the Anadolu 24th Civil Court of First Instance. They had been seeking a total of TL 500,000 in non-pecuniary damages in the lawsuit, claiming that two news stories about the “Paradise Papers” leaks that were published in the *Cumhuriyet* daily “violated their personal rights”. Non-material damages of 250,000 lira were claimed for Binali Yıldırım, 125,000 lira for Erkam Yıldırım and 125,000 lira for Bülent Yıldırım. The stories also mentioned Binali Yıldırım’s uncle and nephew, although no complaints were filed concerning these people. The lawsuit petition asserted that the reports, “were put together with intent to insult and vilify by employing special emphasis”. But this was not the only case.

They also filed a separate criminal case at the 2nd Criminal Court of First Instance of Istanbul. The trial took place from September 2018 to January 2019. The fact that the judiciary, which was entirely under the control of political power, sentenced me to imprisonment was not a surprise.

The court sentenced me to one year and 45 days in prison for “defamation and insult” and fined me for TL 8,660 in non-pecuniary damages in January 2019.<sup>10</sup> The judge opted not to defer the sentence on the grounds that I might commit the “same crime”. But for the court, the crime was reporting uncontested facts and the possibility that I might publish other investigative journalism reports.

Nearly one month after this decision, the compensation case ended. The Anadolu 24th Civil Court of First Instance verdict was to pay Yıldırım’s a sum of TL 30,000 in compensation. The court found me, the *Cumhuriyet* newspaper and its former holder, journalist Orhan Erinç, guilty.

In May 2019, the Istanbul Criminal Chamber of the Regional Court of Justice (Appellate Court) dropped the charges against me on the grounds of the statute of limitations.<sup>11</sup> The news story in question had been published in November 2017 and the investigation had been launched in the same month. But the indictment had been submitted on August 31, 2018. The court said the prosecution unlawfully proceeded. Therefore, the complaint was barred by the four-month statute of limitations for pressing charges as per Article 26/1 of Turkey’s press law. Aside from that, the appellate court upheld the legal fine that was given to me on the charge of “insulting a public official” under Article 125 of the Turkish Penal Code (TCK). However, the court ruled that I was to pay TL 7,080 instead of TL 8,660.

The data of the Paradise Papers showed that economy, politics and family ties in Turkey are closely related to each other. According to the Financial Crimes Investigation Board from Turkey (MASAK), offshore companies are being used in Turkey not only for tax evasion or tax avoidance, but also to launder dirty money through front companies. More than a decade ago, MASAK stated that there are tax havens in the world where the Turkish tycoons transfer their money and requested that the government pass a law to tax the transactions to the tax heavens. But nothing happened.

Another problem is that the origin of the money brought from abroad is not questioned in accordance with the regulations. Those who bring assets from abroad are not subjected to tax investigation. At the moment of the writing of this text at the end of June 2021, there is still zero tax for people who bring their money to Turkey. This reminds me of all the names from the Panama and Paradise Papers. They are business people close to President Erdogan, ex-president Binali Yıldırım’s sons and the Albayrak brothers.

The Paradise Papers leaks also revealed that the Minister of Finance and Treasury of Turkey, Berat Albayrak, who is married to President Erdogan’s daughter, and his brother Serhat Albayrak concealed offshore companies linked to the Turkish conglomerate Calik Holding which two Albayraks ran. The files showed that Serhat Albayrak was listed as a director of a Maltese company named Frocks International Trading Ltd. Berat Albayrak was the CEO of Calik Holding for a part of

that period. This company used nominees, which allowed it to conceal the identity of real shareholders and potentially to hide money offshore and avoid tax.

I faced another criminal case for covering this. Berat-Serhat Albayrak and Calik Holding filed a criminal complaint against me for “defamation through media”. Although the claims are not disputed, the judge blamed me for painting tax havens as a financial crime. According to the judge’s decision, people’s sense about tax heavens is that it is a crime and although I always highlighted ‘it is not a crime in Turkey’ in the article series, I had made people feel that it is a crime. This was the reason for this punishment.

But this case was also dismissed due to violation of the four-month statute of limitations. At the last hearing of the case, the Presiding Judge was heard to say, “Unfortunately, I have detected that the statute of limitations has been violated”.<sup>12</sup>

Calik Holding’s 10 thousand TL action for their claimed damages was also dismissed in the last months.<sup>13</sup> But the case is now at Appellate Court.

On the other hand, blocking access to specific news reports is a growing problem that mounts up to censorship. According to Turkish law, precautionary access blocking can be imposed on websites that contain content that violates personal rights. This content can be removed from the Internet.

According to data compiled by the Freedom of Expression Association (İFÖD), access to some 130,000 URLs, 7,000 Twitter accounts, 40,000 tweets, 10,000 YouTube videos and 6,200 pieces of content on Facebook was blocked in Turkey by the end of 2019. İFOD also reported that a total of 1,484 Twitter accounts were blocked by Turkish Criminal Judgeships of Peace in 2019, making Turkey the top country in the number of withholding requests sent to Twitter.<sup>14</sup>

What happened in the Paradise Papers summarizes the state of journalism in Turkey. First, they blocked access to the Paradise Papers stories. The news channels covered this access-blocking on their web sites. Then those stories were blocked by the government as well.

When I won the court cases, of course it was all over the media. So they blocked those stories as well. Then the press covered stories about this access-blocking. But finally, they blocked access to those stories and tweets as well. These are textbook examples of how the government takes the media under direct or indirect control, how the rule of law is under severe strain and how Turkey’s judiciary is no longer independent.

It must be noted that 90 percent of Turkish media outlets were bought by friendly business conglomerates such as Calik Holding. It led to a situation in which many topics cannot be freely reported on. In fact, many topics can only be covered within the framework laid out by the government. The current people in power don’t want to see any journalism, unless it praises them. Turkey is one of the world’s biggest prisons for journalists; there are more than 40 journalists in Turkey’s prisons now. Besides that, the non-governmental organization Press

In Arrest's database shows that since 2018 more than 350 journalists are being trialled. These cases function not only as a way to pressure and intimidate the journalists, but also as a tool to keep them busy with legal procedures to perform their job. Everybody knows that the journalists are not guilty, including the judges and the politicians.

The Turkish example proves that the impact of whistleblowing and truth-telling can be different for different societies and cultures. And this also shows why collaboration is so important, especially for journalists from imperfect democracies like Turkey. They can block access to news stories, but stories don't disappear in this way. They can try to silence journalists by putting them in prison with false charges, but solidarity can protect our colleagues.

The rule of law is eroding by the day, and corruption is increasing at the same time. And that is why journalism is under pressure. They want to silence the journalists sometimes by killing them, sometimes by sending them to prison. Actually, they want to silence the news stories.

So people need free journalists, people need to hear the reality. We need to understand—if one journalist is silenced, it means that a society will be silenced. So we have to strengthen solidarity and collaboration to withstand the pressure. When we are together, our voice will be stronger.

## Notes

1. Türkiye Cumhuriyeti Cumhurbaşkanlığı, May 21, 2016, video,11:02-11:33, <https://www.tcgb.gov.tr/yurt-ici-ziyaretler/354/44044/artvin>.
2. BBC Panorama, "Paradise Papers: Queen's private estate invested £10m in offshore funds", *BBC*, November 6, 2017. <https://www.bbc.com/news/uk-41878305>.
3. Oved, C. Marco, Alex Boutilier, Robert Cribb, "Liberal fundraisers held family millions in offshore trust, leaked documents reveal", *Toronto Star*, November 5, 2017, <https://www.thestar.com/news/paradise-papers/2017/11/05/trudeau-bronfman-kolber-offshore-trust-taxes.html>.
4. "The Panama Papers: Exposing the Rogue Offshore Finance Industry", *ICIJ*, <https://www.icij.org/investigations/panama-papers>.
5. "The 2017 Pulitzer Prize Winner in Explanatory Report, *The Pulitzer Prizes*, <https://www.pulitzer.org/winners/international-consortium-investigative-journalists-mcclatchy-and-miami-herald>.
6. "Offshore Trove Exposes Trump-Russia links and Piggy Banks of the Wealthiest 1 Percent", *ICIJ*, November 5, 2017, <https://www.icij.org/investigations/paradise-papers/paradise-papers-exposes-donald-trump-russia-links-and-piggy-banks-of-the-wealthiest-1-percent>.
7. "Paradise Papers: Media partners", *ICIJ*, November 5, 2017, <https://www.icij.org/investigations/paradise-papers/paradise-papers-media-partners>.
8. Fitzgibbon Will, Dean Starkman, "The 'Paradise Papers' and the Long Twilight Struggle Against Offshore Secrecy", December 27, 2017, <https://www.icij.org/investigations/paradise-papers/paradise-papers-long-twilight-struggle-offshore-secrecy>.

9. "500,000 lira in damages sought for our Paradise Papers report", *Cumhuriyet*, November 11, 2017, <https://www.cumhuriyet.com.tr/haber/500000-lira-in-damages-sought-for-our-paradise-papers-report-864228>
10. "Ünker given prison sentence for "Paradise Papers" reports", *Platform for Independent Journalism*, January 9, 2017, <http://platform24.org/en/articles/714/unker-given-prison-sentence-for--paradise-papers--reports>.
11. Fitzgibbon, Will, "Turkish journalist spared jail for Paradise Papers investigation", *ICIJ*, May 6, 2019, <https://www.icij.org/investigations/paradise-papers/turkish-journalist-spared-jail-for-paradise-papers-investigation>.
12. "Paradise Papers Case Against Journalist Ünker Dismissed Due to Statute of Limitations", *Bianet.org*, March 28, 2019, <https://m.bianet.org/english/freedom-of-expression/206860-paradise-papers-case-against-journalist-unker-dismissed-due-to-statute-of-limitation>.
13. Court dismisses case against journalist Pelin Ünker over 'Paradise Papers' reports", *Bianet.org*, December, 22, 2020, <https://m.bianet.org/english/media/236419-court-dismisses-case-against-journalist-pelin-unker-over-paradise-papers-reports>.
14. Akdeniz Yaman, Ozan Güven, *An Iceberg of Unseen Internet Censorship In Turkey*, 2019, [https://ifade.org.tr/reports/EngelliWeb\\_2019\\_Eng.pdf](https://ifade.org.tr/reports/EngelliWeb_2019_Eng.pdf).



## SIMONA LEVI

Photo by Albert Salamé

In 2017, Rolling Stone magazine named Simona Levi as one of 25 people who are “shaping the future.” Since 2017, she has designed and directed the postgraduate course, “Technopolitics and Rights in the Digital Era”. Levi is a theatre director, playwright, technopolitical strategist and researcher. She is a founder and spokesperson of the project 15MPARATO, which led to the imprisonment of the former Minister of Economy and IMF President, along with 15 other bankers, and Xnet, a leading Spanish activist project related to digital rights, democracy, freedom of expression and citizens’ control of power and institutions. She is the co-author of several books, including: *#FakeYou: Fake News and Disinformation* (Rayo Verde, 2019); *Vote and Charge: Impunity as a Form of Government* (Capitán Swing, 2017); *Technopolitics, the Internet and R-evolutions* and *Free Digital Culture: Basic Notions for Defending What Belongs to Everyone* (Icaria, 2012). Her shows have been performed in theatres and festivals throughout Europe, and she has created high-impact festivals like OXcars and InnMotion.

SIMONA LEVI

# IMPROVING DEMOCRACY THROUGH DIGITAL WHISTLEBLOWING

## OPEN-SOURCE DEVICE FOR JAILING POLITICIANS

This text is an adaptation by Simona Levi of Shreya Tewari and Nani Jansen Reventlow's interview for the Catalysts for Collaboration project on her group, 15MPARATO.<sup>1</sup>

---

**“ONE OF THE BIGGEST** *strengths of our campaign was that it was not centred around a single person. It was built as a citizen's device where the victory would also belong to the people.”*

A member of 15MPARATO

### Background

In one of Spain's most high-profile cases, a group of activists successfully sent Rodrigo Rato, the ex-Minister of Economy, former President of Bankia and potential Prime Minister of Spain, to jail for corruption. Alongside him, 64 bankers and politicians were sentenced to varying terms: 14 of them imprisonment.

The convictions were the result of a lawsuit filed by an anonymous collective called 15MPARATO against the executives of Caja Madrid, Spain's oldest savings bank, which later merged with six other savings banks to form Bankia.<sup>2</sup>

During the proceedings, popularly known as the 'Bankia Case', evidence surfaced as a result of collaborative digital tools created for 15MPARATO by the activist platform Xnet.<sup>3</sup> Most crucial of these were over 8,000 emails from the ex-chairman of Caja Madrid, Miguel Blesa, which shed light on malpractice and

tax evasion by bankers and politicians amounting to over 15.5 million euros. As a result, in 2017, Spain's High Court found Rato and 64 other executives guilty. They were all members of various political parties and unions, from the conservative Partido Popular to which Rato belonged; to the social democratic Partido Socialista; to Izquierda Unida, the left-wing party now merged with Podemos; and the two main "left" unions. But this was not all: with the evidence that 15MPARATO brought to the case, unprecedentedly, the small savers who had been forced to invest were all able to recover the money they had lost in the scam: over 2 billion euros.

## Formation of 15MPARATO

Spain was heavily hit by the financial crisis in 2008 which led to a recession, mass unemployment and the collapse of Spain's property market. The effects of this crisis were felt for many years, with large companies facing bankruptcy, and unemployment reaching a record rate of 32%. The devastating effects of the financial crisis led to massive protests in 2011. These protests were first staged on May 15 and later came to be known as the 15M or the Indignados movement. This movement saw Spaniards assembling in towns and city squares across Spain to display their distrust in the government and its handling of the financial crisis.

15MPARATO was created in May 2012, on the one-year anniversary of 15M. The group was driven by Xnet, a non-profit activist organisation active in the field of democracy in the digital era. Its objective was to put an end to economic and political impunity and corruption. The Bankia case was chosen because it summarized the key ingredients of unfair governance: all parties involved, revolving doors between the public and private sector, lack of transparency, privileges and a large part of the population affected.

15MPARATO was a witty wordplay, with 15M standing for the Indignados movement, and Rato holding the dual meaning of Rato, the last name of Rodrigo Rato, also translating as "for a while" in Spanish. The name made both intentions of the campaign clear: that the 15M movement was coming for Rato and others like him, and that the 15M movement would continue to question the establishment for a long while.

## Facts Leading up to the Lawsuit

In 2010, Rodrigo Rato joined Caja Madrid as its chairman. Prior to this, he held other high-level positions, including Director of the International Monetary Fund, Minister of Economy, and Vice President of one of Spain's major political parties,

the People's Party. The latter had set him up as a potential Prime Minister of Spain. At Caja Madrid, he succeeded Miquel Blesa, who had held the position for 13 years.

Shortly after Rato joined, Caja Madrid became the largest of seven regional banks that consolidated to form 'Bankia', and he became the President of Bankia. In 2011, Bankia listed itself on the stock exchange and carried out an Initial Public Offering (IPO). The advertisement to sell shares targeted the poor and middle class, offering shares for only 1,000 euros. Over 300,000 small saver shareholders invested in Bankia for 3.75 euros per share and, consequently, the conglomerate raised 3.2 billion euros.

In May 2012, Rato announced that Bankia had recorded profits upward of 300 million euros. Shortly after making this claim, Rato resigned from his post amid rumours regarding Bankia's insolvency and, in June 2012, José Ignacio Gorgolzarri took over as the new President of Bankia.

In November 2012, within seven months of Rato's profit rates announcement, Bankia announced that it was suffering a loss of 14 billion euros and was in urgent need of a bail-out. Share prices crashed to an all-time low of 0.01 euros. Bankia was considered key to the nation's banking sector since it was the fourth-largest bank in Spain and held ten percent of Spanish citizens' total bank deposits. To avoid a collapse of the entire banking sector, the government stepped in and bailed out Bankia by partially nationalising it. The 19 billion euros raised for this was part of a larger debt that Spain had acquired from the European Union.

Xnet analysed the first bailout plan and realised that half of the amount was being used to rescue Bankia, a bank that was claiming profits of over 300 million euros only seven months ago. As collateral damage, Bankia's 300,000 shareholders—mostly unemployed, elderly and families—had collectively lost over two billion euros due to Bankia's sudden downfall. It was clear to the activists that the bailout from the government and the steep fall of the share prices were extremely implausible unless there was maladministration and misrepresentation by the executive running Bankia. This led to the formation of 15MPARATO and the launching of the lawsuit.

Even though the campaign was not against one banker specifically, Rato represented a *modus operandi* that occurs repeatedly in Spanish politics: a potential Prime Minister who, after holding the position of Minister of Economy and then Director of the International Monetary Fund during the crisis, became a private banker with executives from across the political spectrum. The positions he held in government and the banking sector over the past decades clearly symbolised the revolving door culture of the establishment.

In May 2012, 15MPARATO launched a campaign seeking people who had lost their money in the Bankia crash, and also for individuals with any information that might help them to hold Rato to account. Within two weeks, they had found 44 people wanting to hold Rato liable for financial fraud. The collection of evidence

began. In order to enable secure and anonymous evidence gathering, Xnet created a digital tool in 2013, called Xnet Leaks. The tool was inspired by WikiLeaks, where any citizen could anonymously submit information about systemic corruption. Later on, it was improved by installing the GlobaLeaks system.

The next obstacle was to overcome the financial burden of initiating the case. 15MPARATO saw this as an opportunity to host the first political crowdfunding campaign in Spain: over 11,000 people tried to donate money within the first hour of the platform going live, leading to a system shutdown. 130% of the 15,000 euros required was gathered in less than a day.

This is how journalist Pau Llop reported the digital fundraising on the day of the crowdfunding:

[...] thousands of tweets since 9 o'clock this morning refer to a crowdfunding campaign that is destined to mark a before and after, not only in the history of this type of economic collectivism, but also, if it goes well, in Spanish judicial history.

At the time of writing, 357 Spaniards have already raised 7,345 euros to sue Rodrigo Rato and the entire Board of Directors of Bankia, the fourth largest financial institution in the country. And in just four hours. At 1,800 euros per hour. And despite the fact that Goteo.org, the website hosting the collection of the money, has been down for a good part of this morning, without service, due to the saturation caused by thousands of people trying to get information and donate.

A member of this website tells us that this campaign had received 11,500 visits in the first hour (9-10 a.m.) when the usual was until then 7,800 in 24 hours. Nobody remembers a campaign with a similar start [...]. "This is an action by all for all", explains a spokeswoman for 15MPARATO, the group behind this unusual and already successful initiative.

Looking at the wall of donors, there are dozens of donations of 5, 10, 15 and 20 euros. But there are also people who have already donated 500 in one go... This has only just begun. From now on, crowdfunding is no longer just for projects that are difficult to fit into the traditional mass market. In the time it has taken to write this post, 1,000 euros more have been raised to force the justice system to investigate something that neither the government, nor the current board of Bankia want to be investigated. The people accuse. And pay.<sup>4</sup>

After years of financial abuse and humiliation, 15MPARATO provided a way for the population to regain some dignity. The initiative was so popular that the mass media were forced to announce that a group of un-identifiable "freaks" had collected enough evidence and money to sue the potential prime minister. 15MPAR-

ATO shared spending accounts of the money received on its website. This created trust and transparency between the public and 15MPARATO. It was also a reliable way to refute claims of money-making and other allegations made against them by the press.

In June 2012, 15MPARATO filed a lawsuit in Spain's High Court against Rato and 32 other bankers on behalf of 14 aggrieved shareholders. This direct action was possible as the Spanish judicial system allows victims to be part of a trial, and 15MPARATO was representing the victims (a group that grew to 44). The main allegations made in the lawsuit related to negligent administration, financial mis-information, fraud and forgery.

Information submitted through Xnet led to some ground-breaking revelations in the Bankia Case, such as the Black Card Scandal and Blesa's emails, revealing the systematic corruption across the banking and political sectors and eventually leading to two additional lawsuits and the devolution of the money. As 15MPARATO promised from the beginning, "We don't need any bail out; we simply need our stolen money back."<sup>5</sup>

## The Preferred Shares Scam: How We Got the Money Back

Important evidence was leaked to Xnet by Bankia's own employees. It concerned an internal document about selling a product called "Preferred Shares". It showed that 98% of shares sold to small savers and families were complex, high-risk shares. It was clear to 15MPARATO that the products were not put on the public market, but were sold only to specific, fragile targets. According to the document, employees were asked to keep shareholders under the false belief that the shares sold to them were fixed-income security shares, a less complex and more secure type of shareholding.

The leaked document encouraged the sale of these shares to small savers and families lacking financial knowledge, with each page of the sales pitch stating: "This information should not be visible to customers." Based on this evidence, 15MPARATO provided a path for those who had lost money to litigate and claim their money back directly from the bank. Their campaign quipped: "Suing your bank is the best product in the financial market: you get your money back plus 4%"; the percentage added when the litigation was won. The court case grew exponentially as, for the first time, the scammed were winning. It got so big that in 2016 the High Tribunal stated that all the small savers had to be refunded: over 4 billion euros were returned, with a plus of 4%. One of the first goals of 15MPARATO was achieved: people got their stolen money back.

## The Black Card Scandal

In December 2013, Xnet received an anonymous submission containing over 8,000 email exchanges from Blesa, the former chairman of Caja Madrid. They included details of how executives of the bank and other influential political figures had access to a Visa Black Credit Card, which was paid off using Bankia's savings account. Not only were Bankia's funds being used for personal expenses up to 50,000 euros, but these expenditures were made without the knowledge of the tax agencies. This had led to over 15.5 million euros in tax evasion. Blesa's emails were representative of Caja Madrid's corrupt administration. Due to the complexity and scale of the Black Card Scandal, the investigating magistrate Judge Andreu opened an adjoining lawsuit against 65 bankers and politicians on charges of embezzlement and tax evasion. Rato and Blesa put up personal property amounting to 19 million euros in their bail.

## Outcome

In February 2017, Spain's High Court sentenced Rato to four and a half years of imprisonment and Blesa to six years of imprisonment on account of embezzlement in the Black Card Scandal. 63 other bankers and politicians were also sentenced for varying terms, 15 of them to prison. Blesa committed suicide few months after the ruling. Rato appealed the judgment, but the Supreme Court upheld Rato's conviction. In October 2018, Rato and 13 others began their prison sentences.

15MPARATO's initial case, against Bankia executives over the IPO scam and allegations of fraud, forgery and administrative malpractices, remained pending in Spain's High Court until 2020. By then, many things had changed—including the spirit of the movement, heavily smashed by the co-optation of Podemos, a political party that falsely claimed to represent them. This modified public perceptions of the movement. 15MPARATO was one of the few groups from the Indignados Movement that was not seduced by Unidas Podemos, despite the party trying to infiltrate both the group and the trial several times.<sup>6</sup>

Another contribution in the changing situation was the COVID-19 pandemic: an exhausted population had little energy to say anything when, in September 2020, the tribunal found the accused not guilty of any malpractice. This was a contradiction of the Spanish High Court statement in 2016, that the information provided by the bankers was “heavily inaccurate”; this is how the system operates.

## The People Did It

From the moment 15MPARATO called upon the public for any information that could potentially imprison Rato, the narrative of the movement was clear: this was a movement by the people and for the people. Now the second case has been lost, they have changed the name of their social network to the hashtag #LaCiudadania LoHizo—“the people did it.”

15MPARATO began with an anonymous message on the internet, reading:

“We will be catalyts. Countless small, surgical groups to free up living spaces... We are not one, we are not ten, we are not a thousand or a million. We are countless because we are everywhere. The change is unstoppable, the change has already happened... We have the power of the multitude, organised in connected and inexpressible catalyts. If we cannot go for the bank because it is too big to fall, let's go for the Bankers.”<sup>7</sup>

The internal group remained anonymous for the majority of the campaign, and used only their collective name, 15MPARATO. This was for three reasons. Firstly, they didn't want the government to identify and obstruct individual members. Secondly, they didn't want the government to be able to assess the number of people involved in the movement. As a member of 15MPARATO recalled, “We didn't want the establishment to know whether we were one or one thousand in number.” Since the group comprised of majority female and LGBTQ members, “we couldn't come out in public because we would perhaps not be taken as seriously as male, hetero, White individuals from the capital.” Some group members did disclose their names, however, to take credit for the movement amid the ongoing trials. Because of this, the whole group eventually shared their names with the press.

The external group, which comprised of the wider population, was created by 15MPARATO using digital tools such as social media platforms and mailing lists. These platforms were created so that Spanish people could interact and engage with the movement. The internet was, and remains, the best place for collaboration; if we wanted to check the accountability of a bank, or if we couldn't find a certain legal article, we would go on Twitter and ask for help. Hundreds of thousands of citizens were mobilised at different stages of the case for both crowdfunding and evidence gathering.

The Xnet Leaks tool was a by-product of this digital collaboration: an online portal that allowed citizens to anonymously submit evidence against Bankia, which led to breakthroughs such as the leaked Blesa emails. Maddalena Falzoni, the founder of MaadiX, a free platform for secure tools, was the technologist behind the creation of Xnet Leaks—based on GlobaLeaks—and other digital tools in the campaign.<sup>8</sup> As an activist group, Xnet was concerned about citizens' privacy and security and decided to set up Xnet Leaks, which was a free and secure chan-

nel for anonymous communication. The group didn't want to know their sources; this was the best way to protect their identities.

15MPARATO put all relevant evidence of the Bankia case on their website to enable other aggrieved parties to file separate lawsuits. Even today, Xnet Leaks continues to be a platform where evidence of corruption can be submitted. If a person submitting evidence is willing to create a device themselves, Xnet will help.

Collaboration happens in phases and often activists are only together for a short time; it is difficult to expect people to participate at the same level for a sustained period. Even so, there is much pride in the fact that 12 of the original 20 members who started 15MPARATO continue to work together on similar campaigns. Ultimately, they discovered something that they did not expect; putting dozens of bankers and politicians in the dock is not as difficult as letting the public know that it is within everyone's reach.

Furthermore, through gathering first-hand information, they saw that what reached the public was something completely different. For every ten journalists who collaborated with 15MPARATO, there were ten media outlets that ignored the truth. This was obvious when Rato's wife was one of the directors of the economic section of *El País*, a leading national daily newspaper in Spain, but even more painful when other outlets selling themselves as "on-the-left" failed to hold truth to power. For every genuinely civic or popular contribution that has helped and supported the movement, a political party has made it sadly clear: "Either you join our ranks and carry our brand, or we wipe you off the map as a potential competitor."

That is why the 15MPARATO decided to explain their story themselves with a theatre play, *Hazte Banquero* ("Become a Banker"), seen by more than 10,000 people in its first few months, and a book, *Votar y Cobrar*, written and directed by Simona Levi.<sup>9</sup> An important element of 15MPARATO was to prove that the public sector and citizens must collaborate and organise to create a healthy democracy. To quote a line from *Hazte Banquero*:

"This is the story of how government elites plundered the county. But it is also the story of how citizens got together and brought to light the truth. And how normal, ordinary people, joining forces, learning and explaining how things really happened, are changing the usual ending."<sup>10</sup>

## Notes

1. <https://catalystsforcollaboration.org>.
2. <https://15mparato.wordpress.com>.
3. <https://xnet-x.net/en>.
4. Pau Llop, “#15mpaRato: yo (el pueblo) acuso”, *El Diario.es*, June 5, 2012, [https://www.eldiario.es/opinion/zona-critica/pueblo-acuso\\_129\\_5366734.html](https://www.eldiario.es/opinion/zona-critica/pueblo-acuso_129_5366734.html).
5. Simona Levi and Sergio Salgado, *Votary Cobrar*, (Madrid: Capitán Swing, 2017).
6. Ibid.
7. Ibid.
8. <https://maadix.net/en>.
9. <https://xnet-x.net/en/become-a-banker>.
10. Simona Levi and Sergio Salgado, *Hazte Banquero, Barcelona: A Conservas and Minoria Absoluta Production*, July 5, 2016, <https://youtu.be/PGZqKRjhf3o>.



## CHRISTOPH TRAUTVETTER

Photo courtesy of the author

Christoph Trautvetter holds a master's degree of Public Policy from the Hertie School of Governance. He currently works with the Netzwerk Steuergerechtigkeit—a network of German NGOs campaigning for tax justice and against financial secrecy—and as an external project coordinator for the Rosa Luxemburg Stiftung project, “Who Owns Our Cities?” In the past he has worked as a forensic analyst for KPMG and on public budgets and budgetary control in the European Parliament, Germany and Zambia. His personal goal is to mobilise the majority of honest citizens and businesses, tenants, and those without hidden wealth against the unfair and destabilising impact of illicit financial flows benefitting the small minority.

CHRISTOPH TRAUTVETTER

# WHO OWNS OUR CITIES?

## EXPOSING DIRTY MONEY AND UNDEMOCRATIC WEALTH IN BERLIN REAL ESTATE

**WHO OWNS** our cities? Who owns Berlin? As short and simple as these questions might appear, they are difficult to answer. This is for two reasons. First, ownership structures are not transparent. Answering these questions requires us to draw from the work of activists, tenants, artists and researchers dedicating thousands of hours to understanding what is happening to their homes, collecting evidence about their landlords and acting as whistleblowers. It also builds on the work of data analysts and investigative journalists with leaks from Luxembourg, Panama and other secrecy jurisdictions helping to connect the individual stories to the global corporate structures and owners behind them. Second, the existing lack of transparency helps to hide both dirty money flowing into Germany from around the world and the undemocratic concentration of wealth. Consequently, abusive practices such as money-laundering, tax evasion and speculation remain hidden, and lobby groups continue to foster the myth of the friendly small-scale owner to counter political regulation.

Asking and answering the ownership question therefore has the potential to change the way that our societies work, and real estate plays a central role. This chapter will take you through the efforts of two projects exposing real estate ownership structures in Berlin, Germany. It explains why and how large real estate owners have managed to stay anonymous so far, presenting the unequal distribution of ownership as well as examples of these landlords and, finally, sketching how the findings might contribute to change.

The first is a crowd-based journalism project launched by journalists from *Correctiv* and *Tagesspiegel*, which enabled thousands of tenants to provide information on their landlords and to tell their stories. The second is a data-driven research project supported by the Rosa-Luxemburg-Stiftung that systematically connects information provided by tenants with data from company registers, official statistics and commercial market information.

## Why So Many Landlords Manage to Remain Anonymous

In the century of artificial intelligence and the exploitation of big data, data protection and privacy are important values under attack from multiple sides. But in the realm of German real estate, this protection takes grotesque forms. With the birthdate and name of a person, anyone can find their residential address in an online register.<sup>1</sup> In contrast, the information on the legal owner of that address—even if it is a company with more than 100,000 apartments—is protected by the highest courts with recourse to data privacy.<sup>2</sup>

In Germany, ownership of real estate is registered in local real estate registers (“Grundbuch”). These registers contain information on the legal owner—i.e. the individual or legal entity that owns the house or apartment—and are only accessible with a legitimate interest. The information is provided mainly to those who want to buy real estate and the administration regulating real estate transfers. Tenants and journalists can also access the register, but only for individual entries and with an appropriate justification. Even for the city’s administration this justification seems difficult: a very popular referendum—*Deutsche Wohnen & Co Enteignen*—currently calls for the expropriation of landlords with more than 3,000 apartments in the city. Tasked with evaluating the costs of such a referendum, however, the city administration rejected a more systematic analysis of information from the real estate register, arguing that such an analysis was not possible due to time constraints and a missing legal mandate.<sup>3</sup> Combining thousands of information requests made by tenants and journalists, therefore, has so far been the only way to get reliable information on the owners of residential real estate in Berlin.

As difficult as this is, accessing the real estate register and the legal owners is often just the first step. This is because only a part of the houses are directly owned and registered in the name of a natural person. For the majority of the city’s two million apartments, the real estate register contains the name of legal entities. In many cases, their owners can be identified from official company registers from around the world and commercial databases such as Orbis, combing information from those registers. In some cases, the new beneficial ownership registers, publicly accessible in Germany and other countries in the EU and beyond as of 2020, helps to fill gaps. But for about one in ten houses, the owners behind the companies remain anonymous despite those registers. An analysis of 433 companies identified as Berlin real estate owners by its tenants, shows why.<sup>4</sup>

## Example 1: The Anonymous Heirs of a Real Estate Empire

Until recently, the Berlin real estate market had never heard of the UK's Pears brothers. They were not listed among the owners of the more than 3,000 apartments in the Berlin Senate's cost analysis in connection to the Deutsche Wohnen & Co Enteignung referendum. The estimated 6,000 apartments they own are, according to the Grundbuch, the property of almost 50 different companies from Luxembourg. These companies ultimately belong to the three Pears; one third each, via further companies and foundations in Cyprus, the British Virgin Islands and the UK. Thanks to Luxembourg's beneficial ownership register, tenants can now identify their ultimate owners behind companies such as Marie Luise S.à.r.l online, with a few clicks and for free—provided they know where to look. Finding out how many apartments these companies actually own and what they do with them, remains difficult because neither the companies in Cyprus or the BVI nor the foundations that ultimately own them publish financial accounts.

As the analysis shows, more than four in five of the 433 companies that own Berlin real estate were registered in Berlin (269) or within Germany (88), and only five were registered in non-EU secrecy jurisdictions including Jersey, Gibraltar, the Isle of Man and Liechtenstein. Compared to London this seems few. Following a freedom of information request, the UK land register published a complete list of land titles held by overseas companies with 91% of a total of 44,022 London land titles held through secrecy jurisdictions.<sup>5</sup> Part of the reason for this difference might be that our sample did not cover the apartments that are usually connected to anonymous dirty money in London—namely, expensive houses owned for private use or investment rather than for the rental market.

Perhaps more importantly, a registration in Germany does not automatically lead to transparency. The shareholders of the most commonly used German companies are registered in the German “Handelsregister”. For a fee of 1,5 euros this information can be accessed online, and commercial providers such as Orbis offer electronic access. For legal entities that don't have to register owners in the company register, the new “Transparenzregister” provides information of the beneficial ownership for a fee of 1,98 euros and has been publicly accessible since the beginning of 2020.

In 223 of these 357 German companies, this information leads to a natural person who is registered with their name, birthdate and address. For most of the others, however, the shareholders listed in the German company register are legal entities from outside Germany and—often in violation of the law—are not registered as a beneficial owner in Germany.

Special-purpose vehicle located in:	Ultimate Owner ascertained via:			Total
	German Register	Other Register	Not Ascertainable	
Berlin	163	34	72	269
Germany	60	3	25	88
EU	0	37	33	70
Non-EU	0	1	5	6
Total	223	75	135	433

Anonymity Of Real-Estate Owners In Berlin. Source: Henn and Trautvetter (2020).

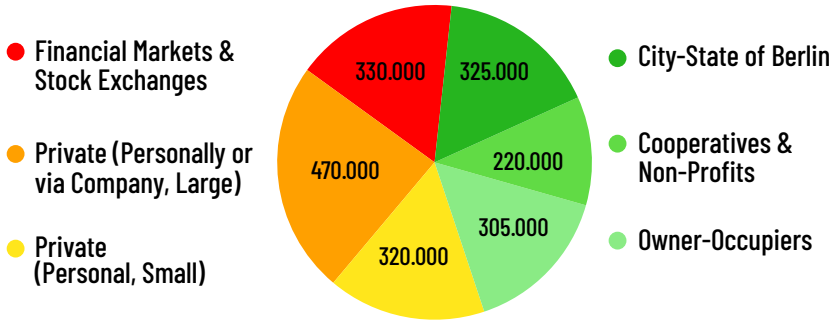
Overall, the natural person(s) ultimately benefitting from the rental income could not be identified in 135 of the 433 companies analysed. Among those companies, secrecy jurisdictions played an important role—notable among them, Cyprus, Luxembourg, and the Netherlands. According to our estimates, in 49 cases a properly implemented beneficial ownership registry in the EU could most likely help to address the problem. But an even bigger problem are listed companies and investment funds that allow investors to invest hundreds of millions of euros into real estate around the world, hiding behind their asset managers and remaining below the 25% reporting thresholds in the beneficial ownership registers.

## What We Know About the Owners So Far

With its cost-benefit ratios, outcome and impact evaluations, modern policy making aims and claims to be evidence-based. But for regulating the housing market as much as for fighting tax evasion and money-laundering, the evidence base is thin. For the census, the statistical offices collect information on all houses and their owners—the so-called “Gebäude und Wohnungszählung”. Unlike in Switzerland, for example, where this is done through an automatic analysis of existing registers every year, in Germany this is done by writing letters to all known owners or administrators. This happens every ten years, with the last time in 2011. In addition, a sample-based micro census collects information on houses and their owners from the tenants every four years; the last time being in 2018.

Because the census and the micro census use different sources and different classifications for owners, the results diverge widely. The 2018 micro census classified 373,400 as being owned and rented by private individuals. In contrast, the 2011 census put this number at 571,192—without any sign that ownership structures have radically changed. Instead, this shows that a large share of private owners hide from their tenants behind corporate shells. To better understand private owners, the Federal Institute for Research on Building, Urban Affairs and

## Who Owns Berlin?



Owners of Berlin Real Estate, 2019

Spatial Development (BBSR) conducted an additional sample-based survey in 2015—but this only reported the number of apartments according to three categories: “owned” (one, one to five, more than five), the “value of the apartments” and the “profit earned from them”.<sup>6</sup>

Finally, the Socio-Economic Panel (SOEP) and the Income and Wealth Survey (EVS) that regularly ask for the value of real assets held and income produced, do not ask for the number of apartments, nor do they differentiate between German and foreign real assets which significantly under-samples the very wealthy. Unlike in Sweden, for example, a survey that regularly compares rental practices, rents and profits across the different ownership groups does not exist.

Despite their limitations, the statistics can tell us two things for definite. First, Germany is a country of tenants, with about every second person living for rent—in Europe, this is higher only in Switzerland. Berlin is a tenant’s capital, with about 85 per cent of apartments rented. The central district of Friedrichshain-Kreuzberg is the tenant’s stronghold, with only slightly more than five per cent of houses individually owned by those who live in them. Second, residential real estate has replaced farmland as the main source of wealth in Europe. Real estate wealth is slightly more equally and less violently distributed than farmland used to be in feudal Europe, and tenants have significantly more protection than the serfs who used to work the land for the noblemen. Nevertheless, half of the population continues without any wealth and live from increasingly precarious jobs while one per cent own nearly half of all homes.

Beyond the distributive statistics, the documentation of ownership and business practices varies depending on the type of owners. For the cooperatives and public housing companies that own one quarter of the city’s houses, they are rather well documented. As a unique feature in comparison to other large cities, Berlin has five big publicly listed companies that own 200,000 apartments between them,

and they publish detailed annual reports. Deutsche Wohnen, the company that gave the name to the expropriation campaign, is the biggest among them, owning more than half. Vonovia is the second largest, owning nearly a quarter. Together, institutional investors and investment funds own another 130,000 apartments; they are less transparent, but information is usually accessible to those who know where to look and have access to the commercial databases that collect information on them. Most prominent, but nonetheless largely unknown to the Berlin senate and the Berlin public until recently, is Blackstone, the US private equity company owning more than 3,000 apartments in Berlin through its opaque structures in the Cayman Islands and Luxembourg. This leaves more than half of the city's two million apartments "in the dark". It also begs the question whether the majority of these privately-held apartments are in the hand of responsible long-term investors and nice small-scale owners, as the lobby would have it, or the ruthless financial market, focused on short-term profits and a few extremely wealthy and sometimes dubious owners.

Why this obscurity is a problem and the shapes it takes is best explained with a few examples from the research project.

## **Example 2: The Lebanon Connection— Money-Laundered in and Out of Germany?**

It all started with a call from the Drug Enforcement Administration (DEA). The DEA had tapped a conversation between a cocaine cartel and their money-laundering expert somewhere in South America, discussing operations in Europe. Based on this information, police in France and Germany began operations which, ultimately, ended with the arrest several people, mainly from Lebanese origin. These individuals had converted the cash from cocaine sales into expensive watches, exported them to Lebanon—apparently with the friendly help of the Head of Security at Hariri Airport—converted them back into cash and transferred that money through a bureau de change in the heartland of Hezbollah back to South America—sometimes via Asia to blur the trace. According to journalists who have analysed this case in depth, this one money-laundering ring laundered at least 20 million euros using expensive German watches and used cars, exported to Benin in West Africa.

German police have apparently uncovered at least seven similar Lebanese money-laundering rings in the last ten years—even though they only find much less than one percent of the money laundered through Germany.<sup>7</sup> Without suggesting guilt by association, there seems to be good reason for special caution with money coming from Lebanon. One case raises particular question marks. In 2019, a tenant sought to discover the owners behind her landlord, a company

called Beryt Cedar Immobilien GmbH. Some research in the Berlin company register exposed a whole network of companies owning several buildings around Berlin, including one housing the tax agency, managed by two investment managers from Lebanon. These managers provided detailed information on their—totally legitimate—investment business on their website. When it came to their investors, however, they provided much less transparency. For one of their investment vehicles, they set up a company in the British Virgin Island with Mossack Fonseca, the infamous Panamanian law firm behind the Panama Papers. This company was in turn owned by 73 individuals and legal entities including managers and business people from Lebanon, a private banking client from HSBC and some very obscure entities like Invest & Interest Corp (owning 0,71 percent of the whole investment). Let's assume for a second—without having any proof or indication in that direction—that the dirty money from European cocaine business or from the weed produced in Lebanon for the European markets ended up in a Lebanese bank account and was invested through that company in German real estate. Would the Lebanese bank and the Lebanese investment manager be willing and able to identify this suspicious transaction and trace it back to Europe? Would the oversight bodies in Lebanon check? Would the German actors involved in selling the real estate, or their oversight bodies, or the German police chasing drug dealers care and check? The answer to these questions appears to be “no”.

### **Example 3: The Indonesian Billionaire— Tax Evasion Made in Germany?**

Even though it's not about Berlin—and not even about residential real estate—but about a fancy office building in the center of Munich, the following case is a perfect illustration of another important problem with real estate investors. In this case, the building was bought by a letter box company in Luxembourg for 350 million euros, set up purely for this purpose by local accountants. The Luxembourg company was in turn owned by a Singaporean family office and, as the new beneficial ownership register of Luxembourg exposed, indirectly controlled through various vehicles in the Cayman Islands by Mr. Tanoto, an Indonesian billionaire who reportedly made his money from palm oil and ruthless deforestation. Tanoto had been sanctioned for tax evasion and accused of violating human rights in the past. Questioned about the background of the deal, the German investment manager who arranged it passed the buck to the accountants in Luxembourg (who were unavailable for a press statement). Because no one in Europe apparently asked questions about the source of the funds or forwarded them to Indonesia, the Indonesia's Financial Transactions Reports and Analysis Centre was reportedly unaware

of the deal. Whether the income from the German tenants is then properly taxed in Indonesia becomes increasingly unlikely with every additional layer of secrecy.

### **Example 4: The One-Billion Dollar Inheritance— No Tax Justice in Sight?**

In the current discussions about expropriations, this company is not on the list, but with 2,884 apartments and a swathe of commercial buildings, their property in Berlin is worth more than one billion euros. This impressive portfolio is professionally managed and owned through a holding company in Zossen, an inner-German tax haven a short drive from Berlin. In turn, this company is owned by a family foundation that, according to the German register, is beneficially owned by the joint heirs and adoptive children of the founders; according to an unofficial source, about 30 third-generation descendants of the architect Georg B. and the bank director Günter K. who began amassing the fortune after the second World War and put it into the family foundations in 1962. Why their heirs should continue to benefit from operational surpluses of about 30 million euros a year, and why Berlin tenants should pay for this, should be at least debated openly.

### **Example 5: The Friendly Real Estate Agent and His Obscure Business—The Healthy Rays of Transparency!**

Mr. Ziegert has made his own fortune as a real estate agent and is not shy of publicity. He has named his company after himself and has given extensive press interviews. He is also the founder of a charitable—and tax-exempted—foundation with the goal, among others, of promoting home ownership. What has been unknown to the public, and at least to some of his company's clients, is that a second part of his business seems to contradict the goals of his foundation. Using several companies such as Lebensgut and Assoziation Bankum, like the family foundation Becker & Kries registered in the tax haven of Zossen, he bought Altbau buildings mainly in and around Kreuzberg, renovated them, and legally split them up into individual apartments. He then sold these apartments to individuals, in some cases without the knowledge of his clients, acting as both the owner and the agent. Instead of faraway secrecy jurisdictions, he used a simple German vehicle—the so-called “Aktiengesellschaft”—not requiring the registration of shareholders, and using a lawyer from a company service provider to serve as the official owner in the beneficial ownership register. Thanks to the persistent efforts of the tenants from the houses, the threat of being bought by Lebensgut and the confrontation of these findings after over a year of extensive research by a journalist from



Disruption Network Lab's *Berlin City Tour: Visiting the Invisible* with Christoph Trautvetter, in partnership with Rosa Luxemburg Stiftung, August 30, 2020. Photo by Maria Silvano.

*Berliner Zeitung*, Mr. Ziegert was exposed. He claimed a right to anonymity and held that he was trying to avoid a competitive disadvantage that would have otherwise forced him to pay higher prices given his reputation. He also claimed that the wrong entry in the beneficial ownership register was simply a lapse that would be (and was) corrected.<sup>8</sup>

## How Exposing Ownership Structures Can Lead to Change

Germany is a democracy and prides itself on its strong rule of law tradition. Democratically approved and evenly implemented laws should create healthy societies—at least in theory. But this theory does not work when laws can be circumvented through anonymous secrecy jurisdictions, money can buy influence over decision-making and a lack of information hinders a well-informed public and political debate. Healthy societies crack when the promise that everyone can earn their share and place in society through effort and work falls short, and when normal salaries are not enough to buy a house or even pay rent in the place that people live or chose to live in. With the threat to the homes and livelihoods of the urban

middle-classes comes pressure for change. By making these threats visible and tangible—individual tenants telling their stories, artists turning them into “art as evidence”, as well as research and technology making structural information accessible—we can disrupt the mechanisms that, ultimately, endanger democracy. In Berlin and around the world, countless examples and projects have shown the power and potential of bringing information about real estate ownership and wealth distribution into the light. Now the structural changes need to follow.

First, registers of real estate, companies and beneficial ownership need to become open and open-data to allow for more structural and scientific analysis. Berlin is working on both a local solution for a so-called “Mietenkataster” and has proposed changes to the availability of information at a federal level through an open “Immobilienregister”. In the meantime, Berlin tenants can find and report information about their landlords at [www.wemgehoertdiestadt.de](http://www.wemgehoertdiestadt.de), and an extension of the project to other cities and countries is in the making. Second, and most importantly, laws have to change based on newly acquired information. Taxes on inheritance, wealth and value gains need to ensure that work and effort matter more than birth and choosing the right investment manager. The regulation of construction and maintenance, rents and rental contracts and, last but not least, transactions need to ensure that buildings are managed responsibly and that the interests of tenants and landlords are balanced and aligned. If all that does not help, well targeted corrective measures such as expropriation need to be applied. Without the work of whistleblowers, abusive business models and modes of tax evasion and money-laundering will continue to evolve faster than the regulation made to prevent them. Without good data, evidence-driven and democratically legitimised laws will remain an illusion, and the necessary disruptive change will only happen when whistleblowers and good data come together with activists, artists and politicians to draw on them. Answering the question of “who owns our cities” is a significant step in that direction.

## Notes

1. The so-called “Melderegister” can be accessed online for a fee of five euros at <https://service.berlin.de/dienstleistung/120732/>. Simple extracts (i.e. first and second name, current address) are provided without any justification. With legitimate interest, more complex requests can be made. Individuals can request protection of their information but the burden to justify such a request is high.
2. In 2020, the Federal Court of Justice rejected a request by parliamentarians from the Berlin parliament to the real estate register for information about the houses owned by Deutsche Wohnen in the city. The justification analyses the limitations of the right to parliamentary oversight but also notes that the right to access the real estate register is limited due to data privacy reasons (compare <https://openjur.de/u/2198733.html>, III. 2. (2) aa).

3. Cost analysis is a normal requirement of a referendum and was provided by the Senate on March 1, 2019. For more detail: <https://www.dwenteignen.de/2019/03/enteignung-kann-haushaltsneutral-sein/>.
4. Due to lack of access to data, the 433 companies are not the result of a random sample but (with some exceptions, like the missing coverage of individual and expensive flats intentionally left empty and possibly bought through offshore companies), they seem to be a good representation of the ownership structure. For more details compare Henn and Trautvetter (2020): <https://www.rosalux.de/publikation/id/42141>.
5. For more detail: <https://www.transparency.org.uk/publications/faulty-towers-understanding-the-impact-of-overseas-corruption-on-the-london-property-market>. The complete and regularly updated data for England and Wales can be accessed via <https://www.gov.uk/guidance/hm-land-registry-overseas-companies-that-own-property-in-england-and-wales#access-the-data> and also covers owners from the UK.
6. Available at: <https://www.bbsr.bund.de/BBSR/DE/veroeffentlichungen/bbsr-online/2015/ON022015.html>.
7. The people involved were arrested and convicted at the end of 2018. The case draws on court documents from France and Germany. The watch sellers are still under investigation and the Head of Security at Hariri airport still seems to be working in his old job. More information: <https://www.ndr.de/nachrichten/info/podcasts/Die-Libanon-Connection-Geldwaesche-fuer-die-Kokain-Kartelle,organisiertesverbrechem00.html> (in German).
8. The article can be found here: <https://www.berliner-zeitung.de/wirtschaft-verantwortung/der-geheime-eigentuemer-li.79219> (in German) and the reactions here: <https://www.berliner-zeitung.de/mensch-metropole/harsche-kritik-an-ziegerts-undurchsichtigem-konstrukt-li.79347> (in German).