

## Defamation trial: Bern court dismisses Kolmar Group AG's claims

The Regional Court of Bern-Mittelland has acquitted the authors of a report published by Public Eye and TRIAL International of the charges of "defamation and slander", following a criminal complaint filed by Kolmar Group AG. Their investigation exposed the Zug-based trader's involvement in the trade of gasoil from Libya between 2014 and 2015, when the country was in the midst of armed conflict. However, the legal tug-of-war continues: in a civil action in Zug, the company is claiming the unprecedented sum of \$1.8 million in damages. These proceedings are emblematic of the growing pressure that journalists and NGOs investigating issues that are of public interest are facing in Switzerland

In its ruling made today, the Bern court underlined the solidity and credibility of the investigative journalistic work undertaken by the three authors of the report "Libyan fuel smuggling: a Swiss trader sailing through troubled waters", published in March 2020 by Public Eye and TRIAL International. The court found that they had fully met their journalistic obligations, relying on numerous sources, documents and experts. It also emphasized that the investigation conducted by the accused, which was done as part of their work for the two NGOs, was in the public interest. Both NGOs and the acquitted individuals welcome this important verdict. It confirms that investigating and exposing the truth is not an offence, but a pillar of our democracy. We remain determined to defend this principle, whatever the obstacles.

The result of over a year long investigation conducted in Switzerland, Malta and Sicily, the report documented the involvement of the Zug-based Kolmar Group AG in the trade of Libyan gasoil between 2014 and 2015, when the country was in the midst of a civil war. In particular, the investigators were able to trace the routes of three oil tankers from the Libyan coast that unloaded their cargo, on twenty-two occasions, into storage tanks rented by the Zug-based trader in Malta. According to documents obtained, these petroleum products were sold by a transnational gasoil smuggling network that misappropriated Libyan gasoil from a refinery controlled by an armed group involved in human rights violations. The subsidized fuel, intended for the local population was transported by Libyan fishing boats to oil tankers in that traveled to Malta.

In May 2020, TRIAL International filed a criminal complaint ("dénonciation pénale") with the Office of the Attorney General (OAG), followed shortly thereafter by a communication from the Money Laundering Reporting Office Switzerland (MROS) referring to "an identical context", [according to the OAG](#). A criminal investigation against unknown persons for "suspicion of war crimes by plundering" (art. [264g](#), para. 1 let. c of the Criminal Code) was opened in November 2020 in connection with these facts. This investigation is still ongoing, as the OAG has recently confirmed. Kolmar Group AG, which had never responded to the NGOs' repeated questions and requests for a position statement prior to publication of the report, has since been much more reactive in the legal arena. In September 2023, the trader [also filed](#) a civil action for alleged violation of personality against Public Eye and TRIAL International, as well as the authors of the report, with the Zug Cantonal Court, thus massively increasing the pressure. The civil proceedings will continue in 2024 and 2025.

Such proceedings illustrate how, in Switzerland too, the courts are increasingly called upon to judge cases in which plaintiffs seek to have publications on subjects of public interest withdrawn. Other emblematic cases are likely to come before the courts, such as the

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forthcoming trial between SWISSAID and the Ticino gold refiner Valcambi. It is in response to this trend that [the Swiss Alliance against SLAPPs](#) was created, to raise awareness of the negative impact of these practices, which are extremely dangerous for freedom of expression and democracy.

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