

Chair of the Petitions Committee

EUROPEAN PARLIAMENT

Attn. Dolors Montserrat

60 rue Wiertz / Wiertzstraat 60

B-1047 Brussels

Vienna, Oct 15th, 2019

Re: EU Petition for efficient and effective methods in the prevention, prosecution and restitution of financial cybercrime attacks on consumers in Europe

EU`s promises to its citizens are not kept up right now

In regard to the Treaty establishing the European Community, and in particular Article 61(c) and the second paragraph of Article 67(5), the European Union has set the objective of maintaining and developing an area of freedom, security and justice, etc., by facilitating access to justice, as well as the objective of ensuring a high level of consumer protection for its citizens¹.

Although several initiatives have been set up by the European authorities to meet these targets², up until now, these initiatives have not yielded any modicum of success.

Combatting the ever-growing threat of cybercrime and ensuring a secure financial environment for consumers, in particular, should remain a priority.

On a daily basis, European consumers are at risk of losing their life savings to extremely organized and largely unprosecuted, massive online investment scams, and fraud, involving massive money laundering and terrorism activities, operated by transnational organised criminal networks in co-operation with European banks, Fintechs and crypto exchanges.

The sad reality for the victims is that these crimes, and criminals, seem to be becoming more brazen with much larger losses sustained by unsuspecting consumers. There seems to be little to no prosecution, or restitution of any kind regarding these financial crimes in Europe. Financial damage due to cybercrime and the numbers of cases are rising rapidly.

¹ DIRECTIVE 2008/52/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 21 May 2008

² Compare EMPACT: <https://www.europol.europa.eu/empact>.

We understand that cybercrime and money laundering pose serious and substantial issues to encrusted government structures, with cyber-criminals showing an overwhelming dynamic and outpacing the given prosecution procedures by far.

We further understand that the virtual world is a domain that transcends national borders – as the international nature of financial cybercrime means this realm is only conquerable and controllable with cross-jurisdictional measures and actions.

Nevertheless, given the evident and inherent inability of consumers/victims to protect themselves from such professional attackers, the European authorities must act urgently, seriously, and efficiently to address the issue by **prevention, prosecution** and ultimately **restitution of the funds stolen**.

Therefore, we ask for the following actions to be initiated by the EUROPEAN PARLIAMENT:

Prevention:

With social channels such as Facebook and YouTube being the main marketing channels for the cyber criminals for investment scams:

- Public awareness and education campaigns have to be established and launched on a Europe-wide level to draw attention to this type of crime.
- Legitimate trading websites should be forced to display warnings about the risks of the investment scams on a regular basis.
- European law for seductive advertising and fraudulent advertisement activities has to be adapted to address responsibilities of social media channels in this respect.
- Providing services to cyber criminals must be challenged and all parties involved in these criminal activities should be threatened to be charged as co-conspirators. Such European service providers that facilitate advertising, provide trustee services, provide domain-hosting services, facilitate and/or provide payment processing services, etc. are complicit. It must be made clear that the burden of restitution will lie with all these parties (probably the only possibility to stop this kind of fraud).

Prosecution:

Co-operation and co-ordination between national authorities Europe-wide is essential if this type of crime is to be at least prevented, and at best prosecuted. In this spirit, we request the setting up of:

- An independent and decentralised prosecution office within the European Union for such cybercrime fraud of transnational organised criminal organizations with the competence (authority) to investigate, prosecute and bring to judgment crimes against European consumers/retail investors.

- An independent and decentralised prosecution office within the European Union for the co-ordination and supervision of strict anti-money laundering prosecution in Europe.
- Criminal law has to be amended and modernized on a Europe-wide level with respect to the criminal liability of corporations and the sentencing guidelines of corporations.
- European Member States such as Bulgaria and EU accession-candidates, such as Serbia and Montenegro, enabling the fraudulent cybercrime industry in their respective countries must carry a higher accountability (which must be implemented urgently). Specifically:
 - Negligent financial market supervisory authorities allowing “facilitated” access to “pseudo” licences (Cyprus, Malta, Estonia and Lithuania, etc) must be held responsible for their activities.
 - There should be a way that crimes facilitated by an organized network of companies working from the UK, while it was in the Euro Zone, could be found guilty by the European law and Eurojust even after detaching from the Euro Zone.

Restitution of funds:

The ultimate goal in fighting this kind of cybercrime is not only to prosecute the offenders, but also to confiscate the proceeds of their crimes, as well as to set heavy fines and jail time if convicted.

To this end, timely tracing of assets in different jurisdictions and the effective co-ordination at a transnational level are crucial. The seizure and freezing of assets in a transnational setting is lacking in efficacy, thus preventing the recovery of stolen assets.

Criminally acquired assets not only feed corruption and organised crime, but also constitute a reliable source of financing for terrorism. Therefore, we request:

- The establishment of effective confiscation regimes that include a reversal of the burden of proof for cases of organised crime, or similar legal constructions aiming to simplify the confiscation of criminal assets.
- Support and communicate the approach that each co-conspirator of a fraud is liable for refunds, so the payment service providers and other service providers, having supported the crime, can be held liable for the full refund to the victims (probably the only possibility to stop this kind of fraud).
- The establishment of a Authorised Push Payment Scam Voluntary Code as shown by some British PSPs effective since May 2019, for all PSPs in Europe and for all cross-border authorised Push Payments within the European Union.

Up to now, there has not been any consistent and coherent framework for collective redress in the EU. Recent cross-border consumer cases, such as the ‘Dieselgate’ scandal that affected

consumers all over the EU, confirm that European consumer law must be strengthened to enable consumers to get refunds efficiently.

- To finally push the decision on Collective Redress for Consumers damaged in Europe, thereby strengthening the right of access to justice by allowing consumers to join forces across borders and jointly request unlawful practices to be stopped or prevented, or to obtain compensation for the damage.

Enclosed please find a full summary of victims registered with EFRI with the total amounts of lost funds (Enclosure 1).

Sincerely

Elfriede Sixt, CPA

Cofounder der EFRI Initiative www.efri.io

October 15, 2019