

EU Commission

President Ursula von der Leyen

Commissioner Didier Reynders

Rue de la Loi 200

1049 Bruxelles, Belgium

Vienna, 26 April 2021

Subject: Request to start infringement proceedings against Germany, Austria, Sweden, Denmark, Greece, Finland, Poland, Hungary, Czech Republic, Belgium, the Netherlands for failure to transpose the Victims' Rights Directive (Directive 2012/29/EU of the European Parliament and of the Council),

Dear Madam President Ms.von der Leyen, Dear Commissioner Reynders,

1. The European Funds Recovery Initiative (EFRI) was launched in 2018 and now represents 988 European consumers who have been robbed by international cybercriminal organisations through so-called boilerroom scams (also known as investment scams).¹

¹ Investment scams are a form of investment fraud. With the most aggressive advertising ads on social media, consumers get lured to online- (Crypto) trading websites and get subsequently cheated and robbed off through Call Center employees. The extent of the damage is around EUR 1 billion per month in Europe. This type of fraud affects thousands and thousands of EU citizens. The number of unreported cases is gigantic.

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2. In 2016, 2017, 2018, 2019 and 2020, these 988 victims transferred a total of more than 55.8 million EUR to the operators of fraudulent websites through various European banks/financial service providers.
3. All these 988 victims acted, and were subsequently defrauded of their assets, in the confidence that the European digital space would guarantee them freedom, security and justice.
4. These EU citizens and victims are mostly elderly people who have lost their lifetime savings as a result of violent cybercrime. These people are financially at risk of old-age poverty and experience massive psychological and mental stress every day as the aftermath of the crime.
5. EFRI's activities aim to educate and support victims of this type of violent crime, to protect them from further victimisation and to open up ways of refunding the damage.

Experiences of EU citizens in requesting assistance from the European authorities

6. In the course of our work, we have had countless discussions with the victims from various European countries.
7. All 988 victims report a disrespectful and disinterested treatment of their crime by the European authorities.
8. The experience of the 988 victims with the European authorities in the investigation of the violent crime can be summarized as follows:
 - Many of the victims were turned away by the local police authorities at first contact, on the grounds that they themselves were to blame for the loss and that the case had no chance of success due to the international component and the unknown perpetrators.
 - When the criminal complaint is recorded, prosecutors often stop the criminal proceedings soon after, citing again "unknown perpetrators" and "non-traceability because foreign countries" do not open criminal proceedings. (example enclosed).
 - All the victims who appealed to the closing of the criminal complaint received a negative decision on their appeals.

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- A victim from Denmark, who, as a basis for objecting² to the rejection of the Danish Public Prosecutor's Office, reported the relevant Europol case number. The victim was asked to contact Europol to ensure that Europol contacts the Danish prosecutor. The appeal was rejected and the criminal proceedings got finally closed.
- If a case has not been closed and the victims ask the authorities about the status of the procedure, this is often perceived as harassment and there is no reaction or anger.
- The majority of victims have not been informed in any way about their rights as victims (with reference to legal provisions) or of the possibility of participating in criminal proceedings, often it seems that they are perceived as a "disturbing factor".
- Victims are either not informed or sometimes denied the possibility of accessing the criminal act, and there is no possibility of reviewing the negative arguments put forward by the authorities.
- In the case of initial contact between the victim and the police authority, there was no information on the nature and consequences of the crime (e.g.: that a further victimization is to be expected, since the customer lists are sold to so-called recovery companies) and thus no protection against further damage by the scammers.
- No information to the victims about the progress of the criminal proceedings.
- The recovery of the lost money is not at all the focus for the public prosecutors in Europe.
- There is no indication of any possible victim compensation or legal aid.
- None of the victims we represent have received an offer from the authorities for any mental or psychological support.
- There were no indications or offers to victims' organisations or specialised support services.

² She became aware of another victim's investigating authorities.

- No information about possibilities of refunds, no reference to refund/recovery organisations, no support for refund-organisations.
- Long-running procedures for the reimbursement of confiscated funds without any consideration for the needs of the victims are the usual procedure, again, in many countries there is no way of speeding up the procedure.

The Victims' Rights Directive

9. The experience of our victims described above is evidently at odds with the decision to create an open and secure European Union at the service and protection of citizens, which was adopted by the European Council on 10 October and 11. December 2009.
10. In order to implement the above Decision of the European Council, DIRECTIVE 2012/29/EU of the European Parliament and Council was adopted as of 25 October 2012.
11. The Directive defines extensive rights of victims of crime with the obvious and comprehensible objective of treating victims of crime with respect, empathy and professionalism (Art. 9).
12. The directive aims to protect victims from secondary and repeated victimisation, intimidation and retaliation. (Art. 12)
13. Victims of crime should be given the necessary support to deal with the financial, mental and psychological consequences and adequate access to justice (Art. 8- Art. 9, Art. 13- 16).
14. By 16/11/2015, at least the minimum standards for the protection of victims of Directive 2012/29/EU of the European Parliament had to be transposed into national law (Article 27).
15. As of 16/11/2017 and every three years thereafter, the article requires EU Member States to provide data to demonstrate to what extent victims of crime have gained access to their rights (Article 28).
16. The 988 victims, we represent, did not receive adequate information, adequate support and adequate protection as a crime victim, nor did they receive the respectful, empathetic, individual treatment provided for in Article 1 of the Directive in the Member States.

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17. It appears that the transposition of Directive 2012/20/EU into the national law of the Member States of the European Union has not taken place to date.
18. It should be noted that even if the Directive is partially transposed into national law, the relevant national authorities do not seem to provide victims with information on the existing victims' rights in their country, which means that there are obvious implementation problems in the national administrations.

Consequences of the non-implementation of the Victims' Rights Directive

19. The consequences of this non-implementation of the Victims' Rights Directive to date are drastic and can be summarised as follows:
 - The victims have lost faith in the justice of Europe.
 - Due to the experience that no support from law enforcement is expected anyway, many victims do not report the crimes, which in turn contributes to the increase in crime.
 - Victims feel stigmatized and traumatized by the crime, but also by the subsequent experienced disrespect and disinterest of the authorities.
 - The emotional and psychological pressure of suffering increases in to the immeasurable.
 - Victims of cybercrime avoid using digital business processes in the future. Digitalization in Europe without consumer trust will not work.
 - The damage to those affected is not only financially, but also psychologically and healthily.
 - The lack of support in the financial and mental management of the crime results in massive mental, social and material disadvantages for the victims of crime and subsequently also for the whole of society.
 - The lack of information by the criminal authorities results in repeated victimization, on the one hand through disrespectful and disinterested treatment by the authorities, on the other hand, also through repeated fraud by the fraudsters.

Request

19. We therefore call on the EU Commission to initiate infringement proceedings against Germany, Austria, Sweden, Denmark, Greece, Finland, Poland, Hungary,

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the Czech Republic, Belgium and the Netherlands for failure to transpose the Directive on Victims' Rights (Directive 2012/29/EU of the European Parliament and of the Council) by 30 June 2021 at the latest.

Best Regards

Elfriede Sixt Nigel Kimberly

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