

## Another Victims Petition for European Cybercrime Justice

### OPEN LETTER

To the EU Commission

Attn : Jean-Claude Juncker

Rue de la Loi / Wetstraat 170

B-1049 Bruxelles/Brussel

Belgique/België

Vienna, October 28th, 2019

**Re: The positive EU Commission's report on the status of the Cooperation and Verification Monitoring programme (CVM) for Bulgaria dated Oct 21, 2019**

When Romania and Bulgaria joined the EU on 1 January 2007, these countries still had to make fundamental progress in the fields of judicial reform, corruption and organised crime (Bulgaria). With Decision 2006/929/EC of 13 December 2006, a **mechanism for cooperation and verification of progress**<sup>1</sup> in Bulgaria and Romania was accordingly established to address specific benchmarks in these areas (C(2006) 6570).

The Commission issued its first progress report on the cooperation and verification monitoring programme on 27 June 2007. The reports contained the Commission's assessment and recommendations to the Bulgarian and Romanian authorities, and were complemented by a staff working document which set out the Commission's detailed analysis against each of the benchmarks of the CVM. During the subsequent years, the Commission has reported on the progress on a regular basis.

Each Commission report, with its methodology and conclusions, has always been subsequently discussed and endorsed in the conclusions by the Council of Ministers. In January 2017, ten years after the CVM began, the Commission set out the remaining steps needed to achieve the objectives. The Commission provided concrete recommendations to both Member States, which would allow them to fulfil the benchmarks and close the CVM process under the Commission's mandate – if completed, and unless developments clearly reversed the course of progress. Since then, the Commission has carried out two assessments of progress on the implementation of the recommendations in November 2017 and November 2018.

In its annual report dated 22 October 2019, the Commission considers that Bulgaria's efforts since its accession are sufficient to meet the commitments it made on accession. *The implementation of judicial reform and progress in the fight against corruption and the fight against organised crime should*

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*continue to be monitored internally in Bulgaria, via a newly established post-monitoring council which will be co-chaired by a deputy Prime Minister in charge of judicial reform and the representative of the Supreme Judicial Council.*

Consequently, the EU Commission intends to lift the Cooperation and Verification Monitoring programme for Bulgaria.

**The European Funds Recovery Initiative (EFRI) acting on behalf of more than 650 defrauded European retail investors, who have been robbed by investment scams with numerous boiler rooms and beneficial owners located in Bulgaria, does not agree with the conclusions of the CVM report as of 22 Oct 2019.**

More or less in each investment scam investigated by EFRI/Fintelegam ([www.fintelegam.com](http://www.fintelegam.com)), Bulgarian registered companies or organizations are involved. It is open knowledge that, since Israel outlawed binary options in 2017, a major part of this fraudulent industry moved to Bulgaria. In Bulgaria, the criminal organizations enjoy the freedom of the European financial industry on the one hand, and on the other hand corruption allows them to go undiscovered and unprosecuted and to continue defrauding thousands of unsuspecting European retail investors.

On checking the conclusions of other independent organizations on the corruption status of Bulgaria's public sector, we do not see any material improvement:

According to the results of the [Corruption Perceptions Index](#) from Transparency International, Bulgaria is still considered the most corrupt Member State of the [European Union](#). In 2018, Bulgaria scored 42 points out of 100 on the 2018 Corruption Perceptions Index reported by Transparency International, not a material change from the all-time high of 43 Points in 2014, and even dropping one point since 2017. The Corruption Perceptions Index ranks countries and territories based on how corrupt their public sector is perceived to be. A country or territory's score indicates the perceived level of public sector corruption on a scale of 0 (highly corrupt) to 100 (very clean). Fourteen of the top 20 countries on this year's Corruption Perceptions Index (CPI) are from Western Europe and the European Union (EU).

In addition, the [IMF published a Key Governance challenges paper on Bulgaria](#) on 22 March 2019. The identified issues relate to the fight against corruption, the judiciary, fiscal governance including public procurement and state-owned enterprises' (SOE) governance, and anti-money laundering and combating the financing of terrorism (AML/CFT). The paper found that, despite many reforms since EU accession, public perception of weak judicial independence and widespread corruption have changed little. According to experience-based indicators, corruption appears to have improved throughout the course of EU accession and shortly after, yet deteriorated after 2010 and remained high.

Furthermore, the recent scandals in Bulgaria like the one with **Plamen Georgiev**, the head of Bulgaria's anti-corruption commission, who had to resign following a scandal over purchases of luxury properties at favourable prices, provide stark evidence of corruption that has already forced some senior ruling party politicians to quit only in July 2019.

"Bulgaria will need to continue working consistently on translating the commitments specified in this report into concrete legislation and on continued implementation. The monitoring of the continued implementation of the reforms put in place by Bulgaria will need to be ensured by the post-monitoring council, and that will feed into the future dialogue with the Commission in the framework of the comprehensive rule of law mechanism".

This decision comes as somewhat surprising for EFRI – acting on behalf of 650 victims of fraudulent schemes, with most of them having a very close relationship to Bulgaria – we definitely cannot agree with this decision of the EU Commission.

Since January 8, 2019 an EU arrest order exists for GAL BARAK, an Israeli resident in Bulgaria, who has been operating boiler rooms in Sofia for several years, and who is probably one of the main actors responsible for defrauding thousands of European retail investors. Since February, the Austrian authorities have been requesting the extradition of GAL BARAK to Austria to face criminal proceedings and to give justice to the thousands of robbed European customers. The hearings for the decision on this extradition have been adjourned several times and postponed for more than eight months now.

We know that the CVM can be lifted by means of a decision of the Commission. For that purpose, according to the Acts of Accession, which are the legal bases for the CVM decisions, the *"Commission shall inform the Council in good time before revoking the safeguard measures [the CVM], and it shall duly take into account any observations of the Council in this respect"*.

Therefore, we ask the representatives of the different countries to speak up for the victims in their respective countries and to refuse this proposed revocation of the CVM for Bulgaria.

As long as the investment scam industry is located in Bulgaria and is allowed to operate with impunity, the CMV may not be levied.

Sincerely

Elfriede Sixt

Co-founder of EFRI (European Funds Recovery Initiative)