

Financial magic, blackmail and high-level conflicts of interest in the EU with links to (Russian) mobsters: Two whistleblowers who demonstrate the ineffectiveness of current whistleblower protections in the EU

Introduction

Whistleblowers fulfill an essential role for any system to function in the long run, exposing frauds and conflicts of interest that hamper progress. Not least do they shed light on the shadow economy, as the [Panama Papers](#), [Pandora Papers](#) and [other offshore leaks](#) have shown. It is therefore reasonable that legal updates have been made, both within Member States and at the EU-level, in an attempt to provide adequate protection against those who come forward about wrongdoings, whether at local or systemic level. At least that is the case... on paper. But practice is different ...

Directive 2019/1937: a written ambition to be realised yet

Whistleblower protections have been in place in the EU for some time. For example, [EU Regulation 596/2014](#) on Market Abuse and Insider Trading recognized a role for whistleblowers as described in §74, when used to expose offences of either of the two categories. Likewise, the [EU Trade Secrets Directive](#) (Directive 2016/943) was an important step in setting common standards in this regard, as [Vanderkerckhove](#) points out. That Directive protects commercial and trade secrets for the sake of R&D and innovation, yet does not apply to revelations of illegal activities or misconduct, according to §20. Fast forward three years, [Directive 2019/1937](#) came into existence on 23 October 2019, providing an obligation to set up internal reporting channels within organizations described in Article 8 and 9, external channels in Articles 10-14, and last but not least: protection against retaliation, as set out in Article 21. State-secrets are exempted (§23-25 of the introduction).

So far, nine countries have adopted this Directive, meaning that laws have been made in accordance with the directive: Croatia, Cyprus, Denmark, France, Latvia, Lithuania, Malta, Portugal and Sweden, according to <https://www.whistleblowingmonitor.eu>. However, two whistleblowers below demonstrate systemic shortcomings, and the window-dressing that comes with it.

I. John Christmas

John Christmas is an American-born banker, who studied in Chicago before moving to Latvia to work at Parex Banka. [He was appointed head of international relations](#). During his time at Parex, John discovered that [part of the assets on its balance sheet were fraudulent loans, which the bank was making purposefully](#). Moreover, he found out that some loans [were handed out to figures within the Russian Mafia and other shady figures with links to the Kremlin](#). As early as 2004, John reported these frauds to the Latvian authorities. Instead of recognizing Christmas' findings and providing adequate protection, the exact opposite occurred: From that moment onwards, John Christmas would become the most vilified person in Latvia.

After Parex collapsed, it was split up into Citadele and Reverta, [with Citadele being the good bank and Reverta the bad one](#) (Eurostat EDP dialogue visit to Latvia 7-9 June 2017, p. 29. How bad? Well at least, Citadele is the good bank on paper. The problem is that the agreement of the EBRD to 'invest' in Citadele was subject to an illegal, secret put-option, which suggests that the assets were not as good as genuine investors could be convinced of. In fact, it was a [state-secret](#).

Eurostat itself has denoted the reversal of this secret put option as a "(deficit increasing guarantee call)", ironically written between brackets on p. 31. The person who approved the fraudulent bail-out of Parex and Citadele, was [then PM Valdis Dombrovskis](#) (see page 11 and 12 of the restructuring report). In 2014, he was promoted to [EU Commissioner](#), and is now responsible for 'An Economy that works for people'. But which people? A closer look at his portfolio reveals that he is currently responsible for managing relations with the EBRD and the European Investment Bank. In light of the Parex scandal, it is an incredible conflict of interest.

Article 6 MAR exempts certain institutions from market abuse prohibitions. Precisely the institutions in this situation are covered, as can be seen below, marked in orange, or in red if

Article 6

Exemption for monetary and public debt management activities and climate policy activities

1. This Regulation does not apply to transactions, orders or behaviour, in pursuit of monetary, exchange rate or public debt management policy by:
 - (a) a Member State;
 - (b) the members of the ESCB;
 - (c) a ministry, agency or special purpose vehicle of one or several Member States, or by a person acting on its behalf;
 - (d) in the case of a Member State that is a federal state, a member making up the federation.
2. This Regulation does not apply to transactions, orders or behaviour carried out by the Commission or any other officially designated body or by any person acting on its behalf, in pursuit of public debt management policy.

This Regulation does not apply to such transactions, orders or behaviour carried out by:

 - (a) the Union;
 - (b) a special purpose vehicle of one or several Member States;
 - (c) the European Investment Bank;
 - (d) the European Financial Stability Facility;
 - (e) the European Stability Mechanism;
 - (f) an international financial institution established by two or more Member States which has the purpose to mobilise funding and provide financial assistance to the benefit of its members that are experiencing or threatened by severe financing problems.
3. This Regulation does not apply to the activity of a Member State, the Commission or any other officially designated body, or of any person acting on their behalf, which concerns emission allowances and which is undertaken in pursuit of the Union's climate policy in accordance with Directive 2003/87/EC.

particularly relevant in this case. These exemptions make it all the more difficult to scrutinise the dealings, even though fraud has been thoroughly confirmed. In fact, the portfolio of EU Commissioner Valdis Dombrovskis, almost entirely overlaps with that article.

II. Maria Efimova

Maria Efimova, a 39-year old whistleblower of Russian descent, worked at Pilatus Bank when she discovered a network of fraudulent off-shore companies, linked to several political elites. Founded in Malta in 2014 by [Ali Sadr from Iran](#), the bank was known for its secrecy and usage of off-shore accounts. One of the beneficiaries was alleged to receive corrupt money flows from the ruling family of Azerbaijan, with Michelle Muscat allegedly being the Ultimate Beneficiary Owner of an off-shore company called Egrant. Maria is [willing to hand over proof of the official documents naming the UBO of Egrant](#), provided she is granted whistleblower status. As Efimova discovered the corrupt dealings at Pilatus, [she was fired](#), while the bank still owed her 6,000 euros. Instead of paying her the remainder of her salary, she was sued for alleged embezzlement of 2,000 euros.

A 2018 post by Manuel Delia mentions that Pilatus Bank [has reversed its stance, effectively admitting their false narrative](#). Moreover, a libel suit by Joseph Muscat is pending against her, in which [he defendant \[Maria Efimova\] requested to testify through video link](#). Earlier on, Efimova has repeatedly expressed fear for her safety. This is not surprising, since [she and her family have received death threats](#). The only Maltese journalist who reported on her findings, Daphne Galizia, was assassinated shortly after. The company through which payments were channeled in preparation of her assassination, connects the story of John and Maria: [ABL.V](#).

Conclusion and potential implications

We have covered two whistleblowers whose lives are in danger, involving countries that have adopted Directive 2019/1937. Above findings demonstrate how these jurisdictions repress whistleblowers that forward information that the general public deserves to know. Moreover, it sheds light on the dealings of the European Commission under Article 6 MAR, dealings for which whistleblower protections are not guaranteed, as state-secret law is used to cover-up commercial frauds. EU countries have a long way to go in protecting whistleblowers, and it is a matter of effort, before all Member States have reached that objective.