



Tough sanctions needed for market abuse

Committees: Committee on Civil Liberties, Justice and Home Affairs

Insider dealing and market manipulation, referred to together as "market abuse", must be clearly defined and punished with the same dissuasive criminal sanctions in all member states, says the civil liberties committee.

Emine Bozkurt (S&D, NL) the leading MEP, said: "Today, we got a clear majority in support of my proposal. The support of the public is deteriorating in institutions, in the markets. We send out a signal that we do not want our citizens to pay for the criminal behaviours of market abusers. We want tough European sanctions for all forms of market abuse. The Commission was reluctant to concretize the sanctions. We did it and call on the Commission and the Council to endorse my proposals."

The persistent effects of the financial crisis have clearly shown that market manipulation has the potential to damage individuals, institutions and states. Sanctions for market abuse have so far proved weak and insufficiently dissuasive. Market abuse can easily be carried out across borders and divergences between definitions of the offences and between the penalties imposed for them undermine the internal market and damage investors' confidence in the financial markets and in the integrity of their activities.

Harmonisation of sanctions

One of the main aims of the proposed legislation, apart from establishing criminal sanctions which will have a greater deterrent effect, is to harmonise the maximum penalties across the EU for at least two or five years. Today, the minimum length of a sentence for insider dealing varies from 15 days (in Slovenia) to three years (in Slovakia) while the maximum length of detention ranges from 30 days (in Estonia) to 12 years (in Italy and Slovakia). Minimum penalties for market manipulation vary from 15 days (Slovenia) to two years (Italy), while the maximum length of a prison sentence varies between 30 days (Estonia) to 15 years (Slovakia), giving perpetrators scope for forum shopping (operating where the penalties are the least severe).

Important principles

MEPs say important principles must be protected in imposing tougher criminal sanctions. Legal certainty must be ensured, with precise definitions of the elements of offences so that individuals understand clearly what actions are criminally liable. Member states should fully protect the rights of the accused in criminal proceedings. To ensure that they have a deterrent effect, the sanctions imposed for market abuse should be made known to the public.

Effective enforcement

National supervisors currently complain that their pursuit of market abuse usually ends at the border but it is a crime that usually crosses borders and should be prosecuted accordingly. Member states should be able to prosecute offences that are committed in part on their territory, even when the person and legal entity are registered in another member state. The authorities will also need sufficient resources to fight the crime.

Next steps

Press release

The civil liberties and economic and monetary affairs committees share responsibility for legislation on market abuse. The economic and monetary affairs committee which is in favour of tougher sanctions will probably vote in September.

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