

Money laundering is not my thing

About Commerzbank and cancelled Wirecard credit lines

#Wirecard #Munich

Hearing of the witnesses Dr. Marcus Chromik and Jana Eib on June 27, 2024.

The facts listed here do not guarantee a complete record of the hearing, they serve to provide a detailed insight into the questioning of Wirecard witnesses. Due to the complex and sometimes verbally rapid questions and witness statements, minor errors may have crept in. Please contact us at news@sun24.news if you have any improvements or can suggest important additions.

The former Chief Risk Officer of Commerzbank, Marcus Chromik, is soon questioned about the facts surrounding the money laundering allegations against Wirecard from 2019. Did he know about it, the judge asks? Yes, says Chromik, he had learned of an "artificial inflation in Singapore after previous notices" (!), the conspicuous transactions were actually discovered by Ms. Eib, who will later testify as a witness. Large SPIs had been discovered after indications that the companies involved were all using exactly the same company address.

Chromik goes on to explain that after a number of first conspicuous transactions, 10 to 15 more such suspected money laundering transactions were found, and Commerzbank's compliance department was quickly called in to determine whether there was a predicate offense and whether more money laundering was involved. It was a "critical situation". For this reason, there were also discussions at Commerzbank board level with Mr. Reuter, according to the witness. Commerzbank's compliance department sent inquiries to customers and also to Wirecard; the reactions were "unsatisfactory", which is why the SAR's were independently investigated, around 1,000 money laundering transactions were identified, according to Chromik.

A large number of these money laundering transactions were transmitted to Wirecard's headquarters in Aschheim, all of which had to be kept secret due to the ban on reporting. Commerzbank's Board of Managing Directors immediately decided they wanted terminate the business relationship with Wirecard and planned a so-called "soft exit". The judge asked whether they had spoken to Wirecard's CEO Dr. Braun about this. The witness stated that there had been a meeting and discussion with Dr. Braun and Mr. von Knoop with the witness and Commerzbank board member Reuter. It was explained there that they wanted to receive "answers to the questions" from Commerzbank "quickly". According to the witness, these answers were "unsatisfactory".

The witness pointed out that Commerzbank's compliance department did not communicate with Wirecard's compliance department, but with their treasury department instead. When asked later by the judge whether Chromik knew that there was only a proper compliance department at Wirecard Bank and not at the corporation, the witness answered in the negative. It quickly became clear to Chromik that "the customer relationship with Wirecard should be terminated" when they left the board meeting.

Chromik went on to explain that "at this point, Wirecard's audit certificate for 2018 had been issued, and in mid-2019, BaFin's short-selling ban was also in place." There were criminal charges against press articles by the FT, and there had never been a situation of "an exit of a DAX company by Commerzbank". Chromik explains that "we therefore didn't know whether we were completely wrong or right" with the decision to end the customer relationship with Wirecard, "we didn't want to be the fools", which is why there was no hard end to the relationship. The judge asks whether Chromik was confronted with the actual financial transaction data, were there 1000 or only 344 such transactions? Chromik says no, he did not see them in detail.

The judge throws a document dated March 25, 2021 onto the projector, a presentation by Commerzbank for the Munich Public Prosecutor Buehring, which states that 344 transactions have been found. Chromik now informs the court in an essential but rather brief manner that "on February 26, 2019, a total of 344 transactions were found, later more were added", probably around 1000 in total, the witness "no longer knows the exact number". The judge now points out that several criminal charges have been filed because of these transactions, was this due to insufficient compliance at Wirecard?

Chromik reported that in 2018, there had been news from Commerzbank's compliance that the compliance at Wirecard had improved and would continue to improve. However, this had "not been delivered", "the wrong people at Wirecar had contacted Commerzbank regarding the money laundering inquiries", for him there was no compliance at Wirecard. The judge now asks whether Commerzbank's intended "soft exit" was due to a lack of compliance at the AG or at the bank? Chromik avoids the question and gives a somewhat ambiguous answer. This becomes even clearer when the judge asks whether Chromik knew that Wirecard Bank had a money laundering department with corresponding processes in place. Again, the witness is evasive and does not answer clearly, saying that he "cannot say anything about that, he was not part of the compliance department of Commerzbank", he stated.

Did Chromik know that Wirecard had liquidity problems? The witness replied: "No, not that I recall". The judge asks further if there had been no third-party business and no trust accounts, would Commerzbank not have approved the loans? Chromik answers immediately, clearly and unequivocally: "Of course not", this would have accounted for between 50% and 70% of Wirecard's business. The judge then explains that, according to his information, a total of 910 million euros in loans had been made available to Wirecard by 2018. Was this the case? Chromik answers in the affirmative, explaining that the continuation of the 1.75 billion euro credit line for Wirecard ultimately resulted in a loss of around 200 million euros.

The judge also asked whether there were any payments to Commerzbank after the collapse of Wirecard. Chromik said that he was "no longer in charge" at the time, that "specialists had taken over". The loan claims were written off in full, and the insolvency proceedings are still ongoing, according to the witness. Did the witness ever meet Mr. von Erffa? Chromik: "No". The questioning of the judge is now finished, the defense of Mr. von Erffa takes over and asks whether Chromik had dealt with an article in Manager Magazin entitled "**Das 250 Millionen Euro Rätsel des Börsenwunders Wirecard**" (The 250 Million Euro Mystery of the Stock Market Wonder Wirecard) from 2017, in which a balance sheet problem with the third-party partners and the trust accounts was described in detail already a good two years before the money laundering transactions were indentified.

The witness denied, he was not really familiar with the article, "the specialists had dealt with the matter, certainly also with the trust accounts". He would "rely on an audited balance sheet in terms of credit" and not investigate the individual cash items, how and from where they did assemble. Chromik states that he "would not look into the accounts to see if there is cash available there or not, that's what the auditors are there for". Von Erffa's defence lawyer also asks whether and to what extent the witness knew about the criminal complaints filed with Munich's Public Prosecutor's Office and the report to BaFin regarding the money laundering transactions. Chromik states he was aware of the reports to the FIU and BaFin, but nothing more. He specifically denies any knowledge about the criminal complaint filed with the public prosecutor's office.

Von Erffa's lawyer does not let up and continues to ask whether Chromik had received any reaction from BaFin, or knows about any. Chromik now is visibly nervous for a brief moment, he turns his chair away from facing von Erffa's lawyer, who is sitting behind him, and back to the row of the judges facing, them now: "***Not me, money laundering is not my thing, you'll have to look into it yourself***". Finally, von Erffa's lawyer asks whether Chromik was satisfied with BaFin's response. Chromik replies that he "has

no idea". Dr. Braun then asks personally whether Chromik was aware of a message from the Wirecard digital manager dated March 11, 2019, in which she addressed the AML department regarding the 344 laundering transactions. Chromik denies, he had "not been operationally responsible", but that the time frame would somehow makes sense.

Before the lunch break, Dr. Braun's defense lawyer reads a request for evidence concerning Wirecard's former PR employee Schlesiger. The lawyer states that Schlesiger had forwarded press inquiries to Jan Marsalek, mostly circumventing Dr. Braun, and that some of the finished press releases had been confirmed by Dr. Braun by email only after publication. Emails with Ms. Stöckl, Schneider, Franke from mostly 2019 are requested be read out to the court. Dr. Braun had not been in charge of inquiries according the the defence; Jan Marsalek had largely taken over this role, in particular in response to the FT reports. Dr. Braun had also advised Ms. Schlesiger to take some time off when she considered resigning, and had suggested that a new position be found for her at Wirecard after a vacation break. Chromik was then excused from the hearing.

After the lunch break, Jana Eib is called as a witness. She has been with Commerzbank since 2001, where she got to know the credit business. From 2003, she worked in the so-called "Intensive Care" department, where she took care of bad-performing loans and their customers. In 2016, she moved to Commerzbank's Fraud Department. This department investigates credit fraud and suspicious customers also on the basis of whistleblowings. In 2019, she became head of the entire team there, and since March 2021, she is now head of the Credit Risk Management department, where she mainly oversees mostly smaller companies.

As part of her work, she received an inquiry concerning Wirecard in March 2018. A Mr. Zander was the head of her department back then. Commerzbank's revolving credit facility had considered increasing Wirecard's credit line to a whopping EUR 1.75 billion, she was asked to take a closer look at Wirecard's entire business environment. Thus, there had already been loans or a credit line from Commerzbank for Wirecard before 2018. The judge asked what exactly she had investigated.

Witness Eib states that her process involved three broad categories of activities. First, she looked at the corporate structure and its interrelationships, which individuals and shareholders were involved, whether there were negative reports about individuals and related companies. Second, she analysed disclosures, what financial data were available, financial statements, figures. Thirdly, an analysis of payment transactions was carried out, in particular important accounts at Commerzbank and conspicuous payments in connection with them.

The judge asks whether these issues were dealt with by Commerzbank itself or whether external consultants were also hired. The witness says that everything was done internally and that they worked with a credit agency to get information. The judge asked how one would envision that, would one google and find out from Facebook and others websites in which political party one was listed? Eib replied that everything possible was done, including requesting information from credit agencies, from special software tools, links to the trade registers, classic internet research, offshore databases, Panama Papers, research into whether people were listed there.

The judge asks which persons have been investigated in connection with Wirecard. Eib explains that she

had investigated Dr. Braun and Jan Marsalek, for example, as well as others. She had conducted a linkage analysis, which had revealed hardly any anomalies with regard to the persons involved. The situation was different however, when she investigated the companies involved. This was especially the case with regard to the Hermes-EMIF-India deal of Wirecard from 2015 - 2016, the Project Peacock.

In the case of Project Peacock, Jana Eib had taken a well-researched analysis by an investigative foundation, which produced an additional report in 2018. It turned out that Hermes Tickets, as the main player, had been offered at a much lower price a year earlier. Wirecard announced a major deal worth EUR 340 million, and as Commerzbank had been commissioned with the bridge financing, the financing of the deal was closely scrutinized. As a result, it became clear that the banks had drawn down significantly more credit and the suspicion arose that parts of Wirecard were benefiting directly in connection with the EMIF fund operating in the background. The question arose as to the value of the assets; the booking of the business and the companies had flushed 265 million into Wirecard's balance sheet.

The judge asked what this was based on. Eib stated that she had "tried to understand and reproduce the allegations in the FT-Alphaville report". The annual accounts of GI Retail, which was sold to EMIF and Hermes, showed a turnover of 35 million euros after conversion into Indian rupees. "I found this price increase extraordinary," the witness stated. She had assembled various questions and sent them to the companies involved, but "the answers were not convincing". There was a suspicion that Wirecard was involved, but no concrete evidence. The witness also found Wirecard's statements in this regard unconvincing.

The judge asked what exactly Wirecard had said in response to these questions. The witness testified

that there had been a conference call on May 14, 2018, in which Mr. von Knoop, Mr. Holten and Mr. Koletzki had participated. Her questions were prepared in advance, and the Wirecard representatives stated that they did not know about the previous sale price of the Hermes cards to EMIF. They had discussed the purchase of the company with the fund and had no knowledge of the previous purchase price. Later, Dr. Braun is said to have expressed a similar opinion, according to the witness.

The question now is whether the affected Wirecard employees felt deceived in any way at the time. Eib says she was a "silent listener" in the May 14 conference call, she did not have that impression. From her perspective, the Wirecard representatives did not feel cheated, this in anticipation of entering the large and potentially very profitable Indian market, it "was considered okay at the time". The judge recalled that witness Marcus Chromik had already indicated yesterday that he thought the acquisition was too expensive and that a "spin-off" might justify a higher price, whether the witness saw it that way or not.

Eib explained that she learned of this after a Commerzbank management meeting on September 28. On May 28, Chromik had asked the witness to investigate further whether a separation would make sense. The witness states that this was a somehow conclusive demand for her at the time, she was also able to find out that EMIF held shares in a company called "Orbit Travel", after a reorganization certain costs could be transferred. The Peacock project was defined, it was necessary to find out what assets it contained, at what price the companies went to EMIF and then to Wirecard. The travel industry concerning Orbit at the time did not justify this, the witness did not "get it together".

The judge asks further. Eib explains that Hermes Tickets had made a sale, there had been a concentration of the payment part of the deal at Hermes, Wirecard and Orbit, she could "hardly perceive any transparency". Especially related to Orbit Travel, there was hardly any information about which

costs had been transferred, she mostly could not rationally recreate the deal (note: Orbit Travel was managed at the time by Marsalek's friend A. Vucak, whose company had also rented the famous apartment at Prinzregentenstrasse 61). The judge reminds that Dr. Chromik found all this conclusive, the judge has doubts. However, the judge avoids going into further detail about the people behind Orbit Travel at the time, he clearly drifts off now and suddenly asks the witness about a fraud score of 83 for Wirecard.

The witness explains that this score was generated by mathematical models that included machine learning algorithms. These were regularly triggered to value portfolios of companies, with the highest value being 100. She had regularly looked at such portfolios where the algorithms indicated a score of 97, 98, 99. There was a specific order from Commerzbank's credit risk unit to do so. A score of 83 was "elevated, but not particularly so"; she relied on the analytics to a certain extent. The score was an indication of where she needed to check on a regular basis. She further states that Chromik regularly considered a correspondent bank to have an elevated score.

The judge now asks, quote, "third point: MB Holding company loan". Eib explains that she learned in 2017 that 50 million euros were involved, which came from Deutsche Bank and was transferred on the same day to an account of Jan Marsalek, which was linked to a certain ecommerce retail company. She had discussed the transaction with her contact person, telephone calls were immediately arranged with Dr. Braun and Mr. Koletzki, there were also email conversations with Sylvia and Marlies Braun.

According to the witness, this was a private project that Marsalek wanted to pursue outside of Wirecard, it had "something to do with e-commerce and retail". She was assured that due diligence was underway, the investment was to be secured in a trust account, she was told. She did not expect the money to return in full, she later checked and found that 5 million were transferred back, according to the witness.

The judge states Dr. Chromik mentioned that the loan agreement was presented to the witness by Dr. Braun for review. The witness stated that she received it later. Chromik had contacted Dr. Braun, he wanted it immediately, but she did not receive it immediately, according to the witness. She stated that she had learned about it from a report in the Handelsblatt in 2020, that she had filed it away at that time, and that she had not further examined its contents.

Regarding her third category of fraud analysis, she now explains that she focused on the numerical reports that she could verify herself. She looked at the financial statements, but found nothing significant. The creditworthiness was not questioned, "nothing was in doubt, the total turnover seemed plausible, Wirecard's answers to questions were satisfactory". The trust accounts were not analyzed, this was not part of the fraud prevention. The judge intervened and states now that that 4 billion in the cash register or in trust accounts for security purposes would make a difference, why she did not look into that.

The witness explains that she had not checked the segregation of money in the cash register and the trust accounts, she relied on the auditors, Fraud Prevention's task was not to check this. The judge asks what the analysis of the payment transactions showed. Eib states that she focused on the main bank accounts of the Wirecard AG, of the Wirecard Bank and those of the MB Beteiligungsgesellschaft. In particular, potentially conspicuous payments before or after the balance sheet date were investigated. "I didn't notice anything here, except for the 50 million", the witness stated.

The witness was temporarily relieved of her duties, but resumed her work around 2019. She had carried out new analyses of Wirecard Bank's links and their payments to or from other companies. She had

initially noticed a certain 'Inventures' and a 'Matrimonial Global' company, there were many smaller transactions that were conspicuous. Numerous companies were directly linked to an account held by PTE Limited in Singapore. What made the witness concerned was that the smaller companies all had a legal form with a low liability, this was a pattern. She had obtained information on dozens of companies, as well as the individuals involved, and found that a total of 19 companies had the exact same business address at "111 North Bridge Road" in Singapore.

In addition, there were unusual findings about the people, managers and secretaries involved: their functions in all kinds of companies were simply swapped, like in a network of shell companies. In addition, there were quite large payment transactions of up to 50 million euros, which also involved offshore locations. Wirecard was involved as a beneficiary, many from the gambling and adult entertainment sector. She had forwarded all this information to Commerzbank's compliance department. There, further transactions dating all the way back to 2013 were identified. The witness stated that a money laundering report was forwarded to the FIU "quite quickly in February 2019," involving approximately 350 million euros. According to the witness, this central report was followed by others, also to the FIU.

The judge asks what happened to these money laundering reports. The witness explained that she had contacted Commerzbank's compliance department later about this, but there had been little response. On February 20, 2019, a report was drawn up with her findings, and on April 3, 2019, these findings were presented to three members of the board of Commerzbank - Mr. Chromik, Mr. Reuter and Ms. Orlopp. It was decided that the cooperation with Wirecard should be terminated due to the accounts in question. The judge asked whether this was the so-called "soft exit" where they did not want to extend the credit management any further? The witness explains that this "only happened later in May", she was not involved directly. There was no further report from her after that.

The judge asked if the third-party business had been an issue for her? Eib explains no, she only became aware of it through the FT reports. Dr. Braun's legal defense now asks whether the list of suspicious companies in connection with the one business address in Singapore was forwarded to Wirecard. The witness explains that several RFIs (Requests For Information) had been sent to Wirecard Bank in particular, but that the answers had been "not good". Mr. Holten and Mr. Kohlpainter had mostly responded to the RFIs from Commerzbank on the Wirecard side. She had never met Oliver Bellenhaus.

Von Erffa's defense asks whether the witness had found out the purpose of the transfer of funds to offshore accounts. Eib stated that she did not know. She was also asked if she had asked the FIU again about their reactions after the initial report. She had asked them once. The Munich public prosecutor's office had sent her a "request for information after the Wirecard crash". In January 2020, months before the crash, she had been in contact with BaFin. The BaFin had already been informed about the results of the fraud prevention and compliance at Commerzbank at that time. The questioning of the witness then ends.

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