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An Evaluation of the Functions of the Economic and Financial Crimes Commission in Correlation to the Enforcement of Section 21 of the Central Bank Act, 2007

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Abstract
This research critically examines the role of the Economic and Financial Crimes Commission (EFCC) in relation to the enforcement of Section 21 of the Central Bank Act, 2007, amid concerns over the devaluation and continuous abuse of the Nigerian Naira. Recent high-profile arrests of celebrities by the EFCC for allegedly abusing naira notes have sparked debate about the legal authority of the EFCC to address such offenses. The study explores whether the EFCC's mandate, defined by its enabling statutes and case law, extends to the enforcement of Section 21, which deals with the tampering and defacing of Naira notes. A comprehensive study of the EFCC Act reveals that the Commission's functions are specifically confined to economic and financial crimes, such as fraud, money laundering, and embezzlement, which are non-violent illicit activities aimed at wealth accumulation, and are distinct from the currency-related offenses outlined in Section 21 of the Central Bank Act. The research highlights that tampering with or defacing currency does not fall within the statutory definition of economic and financial crimes as per the EFCC Act. Consequently, the EFCC's intervention in such matters, including the arrest and prosecution of individuals for abuse of the naira, appears to exceed its statutory authority and may be considered as overstepping its legal boundaries and can be best termed as an act by meddlesome interlopers. The study concludes that the EFCC's recent actions in prosecuting cases related to currency abuse are ultra vires, rendering these interventions as meddlesome interferences rather than legitimate enforcement actions within its defined scope.

Keywords: Economic, Financial, Crimes, Central, Bank, Act

1. Introduction

The abuse of the naira notes by Nigerians is an eye sore. Research has shown that the Nigerian naira notes have been devalued globally because Nigerian citizens abuse the naira and have no regards for it. That is why the recent arrest of celebrities by the officers of the Economic and Financial Crimes Commission was viewed as a welcome development and applauded by most Nigerians amidst the devaluation of naira against the dollar. Just as it seems that some Nigerians are happy with the recent clampdown by the members of the Commission on celebrities who are in constant abuse of naira notes on social media, there are agitations by members of the public on whether or not the officers of the Commission have the powers to investigate and prosecute offences under section 21 of the Central Bank of Nigeria Act, 2007.

Jimoh,[1] in his article, relying on the provisions of section 1(2) (c), 6, 7, and section 46 of the Economic and Financial Crimes Commission Act[2] argues that a comprehensive reading of these sections grants the Commission limitless powers to investigate and prosecute every form of financial crimes in Nigeria, including those governed by the Criminal Codes in Nigeria. In contraposition to the postulation of

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[1] M A Jimoh, 'The Power of the EFCC to Investigate and Prosecute Offences under the CBN Act, including: Naira Abuse, Spraying of Naira Notes, Etc. Have no doubt' <hhtps://www.google.com/amp/s/lawpavilion.com/blog/the-powers-of-the-effcc-to-investigate-and-prosecute-offences-under-the-cbn-act-including-naira-abuse-spraying-of-notes-etc-have-no-doubt-/amp/ > accessed 14 April, 2024.

[2] EFCC Act, 2004.

Jimoh, Okpodiele[3] is of the view that the Commission has no powers under the Act establishing the Commission to arrest or prosecute anyone in Nigeria for spraying or abusing the naira notes, an offence now referred to as naira abuse. Relying on section 46 of the EFCC Act he argued that the Commission is empowered to prosecute issues bordering on economic and financial crimes and any action done by the Commission ultra vires the provisions of section 46 is void abinitio, meaning the arrest and prosecution of Nigerians for spraying the Naira at public events, is an illegal act by the EFCC because the Commission has no powers to prosecute offenders of section 21 of the Central Bank Act[4]

These arguments for and against the powers of the Commission to arrest and prosecute persons for spraying and mutilating the naira notes, which is an offence provided for under section 21 of the Central Bank Act, is coming on the heels of recent arrest of celebrities as Bobrisky, whose real name is Idris Okunneye, Cubana Chief Priest, whose real name is Pascal Okechukwu and other celebrities whom the Commission is trailing. This has led persons in the public space to scrutinize as to whether or not the functions of the Commission have extended to the enforcement of Section 21 of the Central Bank's Act. Commendable as the actions of the EFCC are towards ensuring that the naira regains its value not only in Nigeria, but globally, their actions and inactions must be in accordance with the extant Law establishing the Commission. In view of the aforementioned, there is need to evaluate the functions of the Commission in the light of the provision of section 21 of the Central Bank of Nigeria, Act 2007, so as to ascertain whether or not the Commission has the powers to arrest, detain and prosecute for the violation of offences provided under Section 21 of the Central Bank of Nigeria Act, 2007.

2. Conceptual Clarification

Enforcement: it is defined as the process of making people obey a law, rule or making a particular situation happen or be accepted.[5] Enforcement is when someone in a position of power makes sure you follow the rules, whether it's a Police officer policy over a speedy car.[6] Enforcement is the action of compelling a party to comply with a judgment where it has not been complied with voluntarily and the time ordered for compliance has expired[7]. To make (a law, rule, etc) active or effective : to make sure that people do what is required by (a law/rule etc)[8] Enforcement is the act or process of compelling compliance with a law, mandate, command, decree, or agreement.[9]

Financial Crime: Financial crime refers to all crime committed by an individual or a group of individuals that involve taking money or other property that belongs to someone else to obtain a financial or professional gain.[10] Financial crime is any activity that allows an individual or group to unlawfully gain financial assets (including money, securities, or other properties). It typically involves directly stealing from a person or institution, or else illegally changing or obscuring who owns an asset.[11]
Financial crime is any kind of criminal conduct relating to financial services or markets, including any offence involving (a) fraud or dishonesty or (b) misconduct in, or misuse of information relating to a financial market, or (c) handily the proceeds of crime, or (d) the financing of terrorism.[12]

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[3] C Okpodiele, Naira Abuse: EFCC has no Powers to Prosecute Offenders <https://www.google.com/amp/s/ww.vanguardngr.com/2024/04/naira-abuse-effcc-has-no-powers-to-prosecute-offenders > accessed 15 April, 2024.
[4] CBN Act, 2007.
[5] Cambridge Dictionary <https://dictionary.combridge.org/dictionary/english/enforcement > accessed 24 May, 2024.
[6] <https://vocabulary.com/dictionary/enforcement > accessed 24 May, 2024.
[7]< https://exisnesis.co.uk/legal/glossary/enforcement > accessed 25 May, 2024.
[8] < https://britanica.comdictionary/enforce> accessed 25 May, 2024.
[9] B A Garner, Black *Law Dictionary* (9th Ed. West 2009).
[10] D Jones, 'What is financial Crime?' <https://www.dowjone.com/professional/risk/glossary/financial-crime/> accessed 25 May 2024.
[11] Unit 12, 'Understanding Financial crimes: Insights for professionals' < https://www.unit21.ai/fraud-and-dictionary/financial-crimes > accessed 24 May, 2024.
[12]<https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://www.managementsolutions.com/sites/default/files/minisite/static/7805cb71-d48b-407e-9c40-9353639337c7/fincrime/pdf/financial-crime-en-03.pdf&ved=2ahUKE wiMgcu_3Z6GAxVLWkEAHb-5Ciw4ChAWegQIBxAB&usg=AOvVaw3W8I57lyozg7ZnSmHGA57T > accessed 24 May, 2024.

Economic Crime: Economic crime, also known as financial crime, refers to illegal acts committed by an individual or a group of individuals to obtain a financial or professional advantage. The principal motive in such crimes is economic gain.[13] Economic crime covers a wide range of offences, including swindling and fraud, money laundering, corruption, intellectual property crime and environmental crime.[14] Economic crime means the non-violent criminal and illicit activity committed with the objectives of gaining wealth illegally .either individually or in a group or organized manner thereby violating existing legislation governing the economic activities of government and it's administration and includes any form of fraud, narcotic drug trafficking, money laundering, embezzlement, bribery, looting and any form of corrupt practices, illegal arms deals, smuggling, human trafficking and child labour, oil bunkering, tax invasion, foreign exchange, malpractices including counterfeiting of currency, theft of intellectual property and piracy, open market abuse, dumping of toxic wastes and prohibited goods, etc.[15]

3. The Legal Framework on the Functions of Economic and Financial Crimes Commissions

From the website of the Economic and Financial Crimes Commission,[16] the Commission has reeled out the following as the functions of the EFCC to include the following:

i. The investigation of all financial crimes including advance fee fraud, money laundering, counterfeiting, illegal fund transfers, futures market fraud, contract scam etc.;
ii. The coordination and enforcement of all economic and financial crimes laws.
iii. Adoption of measures to identify, trace, freeze, confiscate or seize proceeds derived from terrorist activities
iv. The adoption of methods to eradicate the commission of economic and financial crimes
v. Collaborating with government bodies both within and outside Nigeria to ensure the eradication of economic and financial crimes
vi. Engaging in education and enlightenment campaign against the evil of economic and financial crimes within and outside Nigeria.

However, Section 6 of Economic and Financial Crimes Commission Act, 2004 elaborately provides for the functions of the Commission, and for the purposes of clarity, there is need to reproduce the provisions of section 6 of the EFCC Act. The Commission shall be responsible for the following functions:

(a) the enforcement and the due administration of the provisions of this Act;
(b) the investigation of all financial crimes including advance fee fraud, money laundering, counterfeiting, illegal charge transfers, futures market fraud, fraudulent encashment of negotiable instruments, computer credit card fraud, contract scam, etc.;
(c) the co-ordination and enforcement of all economic and financial crimes laws and enforcement functions conferred on any other person or authority;
(d) the adoption of measures to identify, trace, freeze, confiscate or seize proceeds derived from terrorist activities, economic and financial crimes related offences or the properties the value of which corresponds to such proceeds;
(e) the adoption of measures to eradicate the commission of economic and financial crimes;
(f) the adoption of measures which includes coordinated preventive and regulatory actions, introduction and maintenance of investigative and control techniques on the prevention of economic and financial related crimes;
(g) the facilitation of rapid exchange of scientific and technical information and the conduct of joint operations geared towards the eradication of economic and financial crimes;

[13] Economic crime: < https://www.europol.eu/crime-areas/economic-crime > accessed 24 May, 2024.
[14] European Union Agency for Criminal Justice Cooperation, "Economic Crimes" <https://www.lexpractise/criminal-law/economic-crime> 24 May, 2024.
[15] Law insider, "Economic Crime definition" < https://www.lawinsider.com/dictionary/economic-crime > accessed 24 May, 2024.
[16]<https://www.efcc.gov.ng/efcc/images/pdfs/F_A_Q_ABOUT_THE_ECONOMIC_AND_FINANCIAL_CRIMES_COMMISSION_EFCC.pdf> accessed 6 June, 2024.

(h) the examination and investigation of all reported cases of economic and financial crimes with a view to identifying individuals, corporate bodies or groups involved;
(i) the determination of the extent of financial loss and such other losses by government, private individuals or organizations;
(j) collaborating with government bodies both within and outside Nigeria carrying on functions wholly or in part analogous with those of the Commission concerning –
(i) the identification, determination, of the whereabouts and activities of persons suspected of being involved in economic and financial crimes,
(ii) the movement of proceeds or properties derived from the commission of economic and financial and other related crimes;
(iii) the exchange of personnel or other experts,
(iv) the establishment and maintenance of a system for monitoring international economic and financial crimes in order to identify suspicious transactions and persons involved,
(v) maintaining data, statistics, records and reports on person, organizations, proceeds, properties, documents or other items or assets involved in economic and financial crimes;
(vi) undertaking research and similar works with a view to determining the manifestation, extent, magnitude, and effects of economic and financial crimes and advising government on appropriate intervention measures for combating same
(k) dealing with matters connected with the extradition, deportation and mutual legal or other assistance between Nigeria and any other country involving Economic and Financial Crimes;
(l) The collection of all reports relating suspicious financial transactions, analyse and disseminate to all relevant Government agencies;
(m) taking charge of, supervising, controlling, coordinating all the responsibilities, functions and activities relating to the current investigation and prosecution of all offenses connected with or relating to economic and financial crimes;
(n) the coordination of all existing economic and financial crimes, investigating units in Nigeria;
(o) maintaining a liaison with office of the Attorney-General of the Federation, the Nigerian Customs Service, the Immigration and Prison Service Board, the Central Bank of Nigeria, the Nigeria Deposit Insurance Corporation, the National Drug Law Enforcement Agency, all government security and law enforcement agencies and such other financial supervisory institutions in the eradication of economic and financial crimes;
(p) carrying out and sustaining rigorous public and enlightenment campaign against economic and financial crimes within and outside Nigeria and;
(q) carrying out such other activities as are necessary or expedient for the full discharge of all or any of the functions conferred on it under this Act.

Critical and literal reading of the provisions of section 6 of the Economic and Financial Crimes Commission Act, it is crystal clear that the function of the Commission revolves around matter relating to the enforcement of the EFCC Act, the investigation of all financial crimes, co-ordinating and enforcement of all economic and financial crimes, adoption of measures to identify and seize proceeds derived from terrorist activities and economic and financial crime related offences , to eradicate economic and financial crime, adopting of measures to investigate and prevent economic and financial crimes, exchange of scientific and technical information geared towards the eradication of economic and financial crime, to examine and investigate all reported cases of economic and financial crimes with the view to identify individuals, corporate bodies involved in economic and financial crimes.[17]

From the aforementioned functions[18] of the Commission, from the provisions of the Act establishing the Commission, it is saddled with the sole responsibility to enforce the provisions of the EFCC Act as it borders action and inactions on matters related to economic and financial crime. Where there are issues bordering of economic and financial crime in Nigeria, it is the sole responsibility of the Commission to

[17]EFCC Act, section 6(a) to (i).
[18] Ibid.

investigate, enforce all economic and financial crime laws and to ensure that the individual, corporate body or organisation brought to book.[19]

The Commission in carrying out its functions is empowered under the Act to collaborate with government agencies within Nigeria and outside of Nigeria in carrying out function similar with those of the Commission for the purpose of identifying, determining the whereabouts and activities of persons suspected of being involved in economic and financial crimes, the movement of the proceeds or properties derived from crimes relating to economic and financial crimes, the exchange of personnel or other experts, for the purposes of monitoring international economic and financial crimes in order to identify suspicious transaction and person involved, maintain data, statistics, records and reports on persons, organisation, proceeds, properties, documents or other items or assets involved in economic and financial crimes. They also undertake research to determine the manifestation, extent, magnitude and effects of economic and financial crimes and advising government on appropriate intervention measures for combating same.[20]

The EFCC, in carrying out its collaborative functions as empowered by the EFCC Act, within Nigeria and outside Nigeria with government agencies carrying out functions or empowered by law to carryout functions analogous to that of the Commission, the Commission can only collaborate with such agency within or outside Nigeria on matters relating to economic and financial crimes. The aim of the collaboration is for the purpose of identifying persons in economic and financial crimes, their location, movement proceeds and properties derived from economic and financial crime. The Commission is not empowered by the provisions of the EFCC Act to collaborate with any government agency within or outside Nigeria on matters not related to economic and financial crimes.

The Commission is empowered by the EFCC Act to collect all reports relating to suspicious financial transaction, analyse and disseminate to all relevant government agencies. The Commission is charged with the responsibility of investigating and prosecuting all offences relating to economic and financial crimes as well as co-ordinates all existing economic and financial crimes investigation unit in Nigeria. Furthermore, the EFCC Act empowers the Commission to maintain a liaison office with the office of the Attorney General of the Federation, the Nigeria Custom Service, the Immigration and Prisons Service Board, the Central Bank of Nigeria, the Nigeria Deposit Insurance Corporation, the National Drug Law Enforcement Agency, all government security and law enforcement agencies and such other financial supervisory institutions involved in the eradication of economic and financial crimes.[21]

The Commission is empowered under the EFCC Act to collect reports on matters relating to suspicious financial transactions, to investigate and prosecute all offences connected to economic and financial crimes and to co-ordinate all existing economic and financial crimes investigating unit in Nigeria. The Act further empowers the Commission to maintain liaison with all government agencies including the Central Bank of Nigeria and the sole purpose is to eradicate economic and financial crimes.

Further on the functions of the Commission, section 7 of the EFCC Act provides for special powers of the Commission to include the following:

(1) The Commission has the powers to:
  (a) Cause investigations to be conducted as to whether any person, corporate body or organization has committed any offence under this Act or other law relating to economic and financial crimes
  (b) Cause investigations to be conducted into the properties of any person if it appears to the commission that the person's lifestyle and extent of the properties are not justified by his source of income;
(2) In addition to the powers conferred on the Commission by this Act, the Commission shall be the –co-ordinating agency for the enforcement of the provisions of-

[19] Ibid.
[20] Ibid, section 6(j).
[21] Ibid, Section 6 (i) to (o).

(a) the Money Laundering Act 2003; 2003 No.7 1995 N0. 13
(b) the Advance Fee Fraud and Other Fraud Related Offences Act 1995;
(c) the Failed Banks (Recovery of Debts) and Financial Malpractices in Banks Act 1994, as amended;
(d) The Banks and other Financial Institutions Act 1991, as amended; and
(e) Miscellaneous Offences Act

3.1 Judicial Pronouncements on the Function of the Economic and Financial Crimes Commission

The Supreme Court has also lent its voice on the functions of the Economic and Financial Crimes Commission in the case of *Nwaoboshi v FRN & Ors,* [22] where Per AGIM, J.S.C, held thus:

> *...The EFCC initiated this criminal process against the appellant and others in contemptuous disregard of the law that is settled by a long line of the decisions of this Court that the powers vested on the EFCC by the Economic & Financial Crimes Commission Act to prevent, control, investigate and prosecute financial crimes including money laundering does not extend to the investigation, resolution and prosecution contractual disputes and disputes arising from other civil transactions. See for example EFCC v Diamond Bank Plc & Ors (2018) LPELR-44217(SC) in which this Court Per Bage JSC held thusly - "It is important for me to pause and say here that the powers conferred on the Appellant, i.e the EFCC to receive complaints and prevent and/or fight the commission of financial crimes in Nigeria pursuant to Section 6(b) of the EFCC Act (Supra) does not extend to the investigation and/or resolution of disputes arising or resulting from simple contracts or civil transactions as in this case. The EFCC has an inherent duty to scrutinize all complaints that it receives carefully crafted by the complaining party, and be bold enough to counsel such complaints to seek appropriate/lawful mean to* resolve their disputes. Alas! The EFCC is not a debt recovery agency and should refrain from being used as such ...

The Supreme Court in the case of *Nwobike v FRN*[23] Per Aboki, JSC took his time to elucidate on the functions of the Commission when he held thus:

> *The question then to answer is whether this case is one that relates to economic and financial crimes which falls under the purview of the EFCC's powers pursuant to its enabling act. The power of the EFCC as it relates to economic and financial crimes has been established by numerous cases. These cases have held that the EFCC only has the power to investigate cases that deal with Economic and Financial crimes. Economic and financial crimes pursuant to Section 46 of the EFCC Act is defined as: The non-violent criminal and illicit activity committed with the objectives of earning wealth illegally either individual or in a group or organized manner thereby violating existing legislation governing the economic activities of government and its administration and includes any form of fraud, narcotic drug trafficking, money laundering, embezzlement, bribery, looting and any form of corrupt malpractices, illegal arms deal, smuggling, human trafficking and child labour, illegal oil bunkering and illegal mining, tax evasion, foreign exchange malpractices including counterfeiting of currency, theft of intellectual property and piracy, open market abuse, dumping of toxic wastes and prohibited goods, etc. In the case of KALAU V. FRN & ORS (2016) LPELR- 40108(SC) this Court held thus: "Sections 6 (m) and 46 of the Economic and Financial Crimes Commission (Establishment) Act vest in EFCC the function and duty of investigating and prosecuting persons reasonably suspected to have committed economic and financial crimes...*

[22] (2023) LPELR-606998 (Pp. 30-32 paras. E-E).
[23] (2021) LPELR -56670 at Pp. 86-88 paras. B, see also the cases of: *Kurma vs Sauwa* (2018) LPELR 46317 SC; *Yardua & Ors v Yandoma & Ors* (2014) LPELR-24217 SC."

Per Galadima, J.S.C in the case of *Kalu v FRN & Ors*, [24] juxtaposing the provisions of sections 6(m) and section 46 of the Economic and Financial Crimes Commission Act held thus:

> *Sections 6 (m) and 46 of the Economic and Financial Crimes Commission (Establishment) Act vest in EFCC the function and duty of investigating and prosecuting persons reasonably suspected to have committed economic and financial crimes. For a person to rush to Court to place a clog or shield against criminal investigation and prosecution is a clear interference with the powers given by law and the Constitution to EFCC in the conduct of criminal investigation and prosecution. It is clearly an abuse of due process of the law. See ABACHA V. FRN. (2014) 6 NWLR (Pt.1402) 43 at 112, DARIYE V. FRN. (2015) 2 SCM P.46 at 68. ATTORNEY-GENERAL OF ANAMBRA V. UBA (2005) 15 NWLR (Pt.947) 44 at 67.*

Per Abubakar J.S.C in the case of *Nwobike v FRN,*[25] in a combine reading of section 6(b); 7(1)(a), (2)(f) and section 13(2) of the EFCC Act, 2004 is of the view that it leaves no doubt that the EFCC has the power to investigate, enforce and prosecute offenders for any offence, whether under the Act or any other statute, in so far as the offence relates to Commission of Economic and Financial Crimes. Per Ogunwumiju, J.S.C, in the same case of Nwobike v FRN[26] held thus:

> *It is conceded by all sides that the EFCC has wide powers in initiating, prosecuting and coordinating the various offences and agencies where the offences relate to economic crimes. Section 46 of the EFCC Act states as follows: Economic and Financial Crimes means the non-violent criminal and illicit activity committed with the objective of earning wealth illegally either individually or in a group or organized manner thereby violating existing legislation governing the economic activities of government and its administration n and includes any form of fraud, narcotic drug trafficking, money laundering, embezzlement, bribery, looting and any form of corrupt malpractices, illegal arms deal, smuggling, human trafficking and child labour, illegal oil bunkering and illegal mining, tax evasion, foreign exchange malpractice including counterfeiting of currency, theft of intellectual property and piracy, open market abuse, dumping of toxic wastes and prohibited goods, e.t.c. From the opening paragraph of Section 46, it is clear that every economic and financial crime must be intended to acquire illicit wealth to the detriment of another or the government. There is no doubt also that the investigative and prosecutorial powers of the commission as derived from Section 6, Section 7 and Section 14-18 of the EFCC Act extends to and are not limited to offences created by the Act alone, but to any other Federal or State Law relating to financial and economic crimes.*

A careful reading of the decision of the Supreme Court aforementioned on the function of the Economic and Financial Crimes Commission shows that there is no doubt that the function of the Commission is to investigate and prosecute offences that relates to economic and financial crimes. The decision of Supreme Court is based on a combine reading of sections 6, 7, 14 -18 and 46 of the Economic and Financial Crimes Commission Act, and came to the conclusion that the investigation, prosecuting of economic and financial crimes are the responsibility of the Commission and the offences are not limited to those provided under the EFCC Act, but any other Federal or State Law that provides for offences relating to economic and financial crimes.

4. Section 21 Offences: Do They Fall under EFCC's Jurisdiction?

The Commission has the special power under the EFCC Act to investigate any person, corporate body or organisation suspected to have committed any offence relating to economic and financial crimes, [27] and in addition to such powers, the Commission serves as co-ordinating agency for the enforcement of

[24] (2016) LPELR-40108(SC) at PP. 15-16 Paras. D.
[25] (N, 32) at Pp. 22-23 Paras. F.
[26] Ibid, at Pp. 64-66 Paras. E.
[27] (N, 3) Section 7 (1) (a).

the provisions of; the Money Laundering Act[28] the Advance Fee Fraud and Other Fraud Related Offences Act,[29] the Failed Banks (Recovery of Debts) and Financial Malpractices in Banks Act,[30] the Banks and other Financial Institutions Act,[31] Miscellaneous Offences Act. The key question to address is whether Section 7 of the EFCC Act contemplates the provisions of the Central Bank Act.

The provisions of the Act establish the Commission as Nigeria's designated Financial Intelligence Unit,[32] which is charged with the responsibility of co-ordinating the various institutions involved in the fight against money laundering and enforcement of all the laws dealing with economic and financial crimes in Nigeria. From the provision of Section 1(2)(c) of the EFCC Act, the Commission is responsible to co-ordinate all the institutions involved in the fight against money laundering and the enforcement of all laws dealing with economic and financial crimes in Nigeria.

The questions that begs for answers are: whether the Central Bank of Nigeria is one of the institution contemplated by the provision of Section 1(2) (c) and whether the offences under section 21 of the Central Bank Act are offences bordering on economic and financial crime to bring it within the contemplation of Section 1(2)(c) of the EFCC Act to enable the Commission to enforce the infraction of the Section? To answer the questions raised, there is need to look at the provision of Section 21 of the Central Bank Act[33] and reproduce same, to analyse the provisions, so as to know whether offences under the said section can be termed as economic and financial crimes to empower the Commission as co-ordinating force, for the investigation and prosecution of crimes bordering on economic and financial crimes to have the power to enforce the provision of the said Section.[34]

Section 21 of the EFCC Act is under the heading tampering with or trading in notes and coins and it provides thus:

(1) A person who tampers with a coin or note issued by the Bank is guilty of an offence and shall on conviction be liable to imprisonment for a term not less than six months or a fine not less than ₦ 50,000.00 or to both such fine imprisonment.
(2) A coin or note shall be deemed to have been tampered with if the coin or note has been impaired, diminished or lightened otherwise than by fair wear and tear or has been defaced by stumping, engraving, mutilating, piercing, stapling, writing tearing, soiling, squeezing or any other form deliberate and wilful abuse whether coin or note has or has not been thereby diminished or lightened.
(3) For the avoidance of doubt, spraying of, dancing or matching on the Naira or any note issued by the bank during social occasion or otherwise howsoever shall constitute an abuse and defacing of the Naira or such note and shall be punishable under Sub-section(1) of this section.
(4) It shall also be an offence punishable under Sub-section(1) of this section for any person to hawk, sell or otherwise trade in Naira notes, coins or any other note issued by the Bank.
(5) In this section-
(i). *"Matching*" includes spreading, scattering or littering of any surface with my Naira notes or coins and stepping thereon, regardless of the value, volume, occasion or intent.
(ii) *"Spraying"* includes adorning, decorating or spraying anything or any person or any part of any person or the person of another with Naira Notes or coins or sprinkling or sticking of the Naira notes or coins in a similar manner regardless of the amount, occasion or the intent.

From the aforementioned provision of Section 21 of the Central Bank Act, the offences mentioned therein cannot be termed as economic and financial crimes and cannot be enforced by the Commission using its special powers provided under Section 7 of the EFCC Act because the offences are tampering

[28] 2003, 2003 No. 7 1995 No.13.
[29] 1995.
[30] 1994 as amended.
[31] 1991 as amended.
[32] EfCC Act, Section 1(2)(c).
[33]Central Bank Act, 2007.
[34] Section 21, Ibid.

of a coin or note,[35] and tempering of the coin or note is defined in Subsection 2 of the Central Bank Act to mean when the coin or note has been impaired, diminished or lightened and the offence of abuse and defacing of the naira notes which has to do with spraying, dancing or matching on naira note and the offences are not economic and financial crimes to empower the Commission to enforce the provisions.[36] Careful perusal of the provisions of Section 46 of the EFCC Act which is the interpretation section, economic and financial crimes are defined to mean:

> *The non-violent criminal and illicit activity committed with the objective of earning wealth illegally either individually or in group or organised manner there by violating existing legislation governing the economic activities of government and its administration and includes any form of fraud, narcotic drug trafficking, money laundering, embezzlement, bribery, looting and any form of corrupt malpractices, illegal arm deal, smuggling, human trafficking and child labour, illegal oil bunkering and illegal mining, tax evasion, foreign exchange malpractices including counterfeiting of currency, theft of intellectual property and piracy, open market abuse, dumping of toxic wastes and prohibited goods, etc.*

From the definition of economic and financial crimes by the EFCC Act,[37] the tampering with coins or notes and the abuse and defacing of the Naira notes, was not mentioned nor stated as acts that constitute the offences of economic and financial crimes to warrant Commission to enforce the provisions.[38] The Commission cannot even come under its special powers provided under Section 7 of the EFCC Act to enforce the provisions of Section 21 of the Central Bank Act. The Commission cannot enforce the provision of Section 21 of the Act[39], even when they come under the provisions of Section 6(1), (o) of the EFCC Act which mandates the Commission, in exercising its functions to maintain a liaison with other agencies of government including Board, the Central Bank of Nigeria, etc. because the Commission by maintaining a liaison office in the Central Bank of Nigeria is to enforce and investigate offences relating to economic and financial crimes, but not to enforce offences under Section 21 of the CBN Act, which are offences that do not fall under economic and financial crimes.

5. Conclusion

The mandate of the Economic and Financial Crimes Commission is to only enforce offences that are related to economic and financial crimes and no other offences, except where it correlates with economic and financial crimes. From the definitions of economic crimes aforementioned, are crimes that cover ranges of offences including swindling, money laundering, corruption, and intellectual property theft. These are offences that are non-violent crimes or illicit activity committed with the objective of gaining wealth illegally either individually or in group thereby violating existing legislation governing economic activities of government. Financial crime, on the other hand, is any kind of criminal conduct relating to financial services or markets, including any offence involving (a) fraud or dishonesty or (b) misconduct in, or misuse of information relating to a financial market, or (c) handily the proceeds of crime, or (d) the financing of terrorism.

Section 46 of the EFCC Act defines Economic and Financial Crimes as the non-violent criminal and illicit activity committed with the objective of earning wealth illegally either individually or in a group or organized manner thereby violating existing legislation governing the economic activities of government and its administration and includes any form of fraud, narcotic, drug trafficking, money laundering, embezzlement, bribery, looting and any form of corrupt malpractices, illegal arms deal, smuggling, human trafficking and child labour, illegal oil bunkering and illegal mining, tax evasion, foreign exchange malpractice including counterfeiting of currency, theft of intellectual property and piracy, open market abuse, dumping of toxic wastes and prohibited goods.

[35]CBN Act, Section 21(1).
[36] Ibid, Section 21(3).
[37] EFCC Act, Section 46.
[38] CBN Act, Section 21.
[39] Ibid.

From the definition of financial crimes, it is evident that the functions of the Economic and Financial Crimes Commission are specifically limited to crimes of an economic and financial nature. Section 6 of the EFCC Act aligns with this definition, as it explicitly restricts the Commission's functions to such offenses.

Moreover, the Supreme Court had in several cases decided that the functions of the EFCC are limited by the Economic & Financial Crimes Commission Act to prevent, control, investigate and prosecute financial crimes, including money laundering but does not extend to the investigation, resolution and prosecution of contractual disputes and disputes arising from other civil transactions. The EFCC is to receive complaints and prevent and/or fight financial crimes in Nigeria pursuant to Section 6(b) of the EFCC Act and it does not extend to the investigation and/or resolution of disputes arising or resulting from simple contracts or civil transactions as in this case.[40] The EFCC only has the power to investigate cases that deal with Economic and Financial crimes.

Offences under the provisions of Section 21 of the Central Bank Act are offences that have to do with tampering with a coin or note issued by the Central Bank of Nigeria.[41] The spraying of, dancing or matching on the naira or any note issued by the Central Bank of Nigeria during social occasion or otherwise constitute an abuse and defacement of the Naira. Additionally, the hawking, selling or otherwise trading of Naira notes, coins or any other note issued by the Central Bank of Nigeria are offences under the Central Bank Act. However, these offences under the Central Bank Act do not fall within the purview of the Economic and Financial Crimes Commission, as the offences are not economic and financial crimes. Based on the definition of economic and financial crimes, as well as the provisions of Section 6 of the EFCC Act which provides for the functions of the EFCC and section 7 which provides for the special powers of the EFCC, the offences under Section 21 of the Central Bank of Nigeria Act, were never contemplated by the framers of the EFCC Act to form part of the functions of the EFCC to enable the Commission to either investigate or prosecute such offences.

The intention of the framers of the EFCC Act can be deciphered from the definition of economic and financial crimes in Section 46 of the EFCC Act. The definition of economic and financial crimes as provided in Section 46 of the EFCC Act, do not contemplate the offences that have to do with tampering with a coin or note issued by the Central Bank of Nigeria. Additionally, the spraying of, dancing or matching on the naira or any note issued by the Central Bank of Nigeria during social occasion or otherwise howsoever shall constitute an abuse and defacing of the Naira, which are offences under Section 21 of the Central Bank Act, 2007.

Therefore, from the definition of economic and financial crimes aforementioned and definition of economic and financial crime under Section 46 of EFCC Act, tampering and mutilation of the Naira note to including spraying, engraving or any acts that deface the naira note are not economic and financial crimes and the EFCC has no power to investigate, enforce and prosecute offences under Section 21 of the Central Bank Act, 2007. The functions of the of the EFCC under Section 6 of the EFCC Act, and the special powers of the EFCC under Section 7, empowers the EFCC to enforce, investigate and prosecute offences of economic and financial crimes, which the offences under Section 21 of the Central Bank of Nigeria are not. By a critical analysis and evaluation of the provisions of Sections 6, 7 and 46 of the Economic and Financial Crimes Commission Act, the provisions of Section 21 of the Central Bank, Act and the decisions of the Supreme Court of Nigeria as to the functions, powers of the EFCC and the definition of Economic and Financial Crimes, it is safe to conclude that the arrest, detention and prosecution of Idris Okunneye (Bobrisky) and Paskal Okechukwu and other celebrities by the Economic and Financial Crimes Commission for the offences of spraying and mutilating the naira notes its ultra vires its functions and powers as provided under the EFCC Act and can be best termed as meddlesome interlopers.

[40] (N, 31) Per Agim, J.S.C, in the case of *NWAOBOSHI V. FRN & ORS.*
[41] the tempering of a coin or note has to with stumping, engraving, mutilating, piercing, stapling, writing tearing, soiling, squeezing or any other form deliberate and wilful abuse.