

**SPECIAL COMMITTEE ON FINANCIAL CRIMES,
TAX EVASION AND TAX AVOIDANCE (TAX3)
MONDAY 15 OCTOBER 2018**

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PUBLIC HEARING

**“GOLDEN VISAS AND OTHER NATIONAL SCHEMES PROVIDING
TAX PRIVILEGES (FREE PORTS, SPECIAL ECONOMIC ZONES)”**

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PANEL I: Risks in the area of money laundering linked to the practice of golden visas

Philip Kerfs, Head of International Cooperation Unit, Centre for Tax Policy and
Administration, OECD

Rachel Owens, Head of EU Advocacy, Global Witness

Despina Vassiliadou, Deputy Head of Financial Crime Unit, DG JUSTICE, European
Commission

Monika Mosshammer, Deputy Head of Unit Citizenship rights and Free Movement, DG
JUSTICE, European Commission

PANEL II: Freeports, special economic zones: risks and benefits for the EU

Sergio Piazzardi, DG DEVCO, European Commission

Charles Carr, Financial intelligence expert

Fabien Grasser, Editor-in-Chief, Le Quotidien, Luxembourg

Philip Kermode, Head of Directorate A - Customs, DG TAXUD, European Commission

1-002-0000

IN THE CHAIR: PETR JEŽEK
*Chair of the Special Committee on Financial Crimes,
Tax Evasion and Tax Avoidance*

(The meeting opened at 15.08)

Panel I: Risks in the area of money laundering linked to the practice of golden visas

1-004-0000

Chair. – Good afternoon, colleagues, guests, audience. Welcome to the meeting of the TAX3 Committee. I would like to start today’s hearing with the following. Tomorrow will be one year since Daphne Caruana Galizia, a brave Maltese journalist, was murdered. Members of the previous PANA Committee had the opportunity to meet her personally, and I would like to hold a minute’s silence in tribute to her and all investigative journalists who were killed, most recently, Viktoria Marinova, in Bulgaria.

(The House rose and observed a minute’s silence)

Today’s meeting will consist of a hearing on ‘Golden Visas and Other National Schemes providing Tax Privileges’. We would like to learn more about the risks of money laundering, tax evasion and tax avoidance, which is related to these programmes. We will then speak about free economic zones, particularly those functioning as permanent storage for high value goods generally known as freeports.

The hearing will be structured in two panels. The first panel will deal with ‘golden visas’, the second on ‘Freeports and Special Economic Zones’.

For the first panel on Golden Visas, we have invited representatives from the OECD and the NGO Global Witness. We have with us Commission representatives from DG JUST who will be able to answer possible questions directed to them.

We had also invited the director of the Portuguese Immigration and Borders Service (SEF), who is in charge at administrative level of the Portuguese golden visa scheme. Unfortunately, he declined our invitation so we will not have the possibility to hear the view of the Portuguese Government, which could possibly justify the scheme or answer questions from Members.

All Members have received the written answers collected from some of our panellists to the questionnaires sent to them ahead of this meeting. These answers, as always, will also be available on our committee’s website after the meeting.

Let us now start the first panel: Risks in the area of money laundering linked to the practice of Golden Visas. Let me introduce our speakers of the first panel: Mr Philip Kerfs, who is the head of the International Co-operation Unit of the OECD. Welcome. And Ms Rachel Owens, Head of the EU Advocacy for Global Witness. Welcome.

I would like also to welcome Ms Despina Vassiliadou, Deputy Head of Financial Crime Unit, from DG JUSTICE. Welcome. And Ms Monika Mosshammer, Deputy Head of Unit Citizenship rights and Free Movement, also from DG JUSTICE. Welcome.

You know that the OECD has carried out a consultation on ‘Preventing the abuse of residence by investment schemes to circumvent the Common Reporting Standards’. We would like also

to hear from Mr Kerfs about the findings of this consultation, even if at this stage they are probably only provisional, and (also) about possible recommendations.

When it comes to Global Witness, it has very recently produced a study on risks attached to golden visa programmes and we will obviously be interested to hear about the study.

The working method as usual will be the following. Each speaker will have a maximum of 10 minutes for introductory remarks and presentations, and then we open the discussion with Members.

I would now like to ask Mr Philip Kerfs for his speech of up to 10 minutes.

1-005-0000

Philip Kerfs, *Head of International Cooperation Unit, Centre for Tax Policy and Administration, OECD*. – Thank you very much, Chair and thank you for inviting the OECD to give you a presentation of the work that we are doing in this area.

Residence-by-investment schemes and citizenship-by-investment schemes are not work that we are doing as part of a holistic project at the OECD. We actually came across these schemes in a rather accidental manner as part of the work that we have been doing over the past few years in the area of the automatic exchange of financial account information. As most of you may know, the OECD adopted, further to a Group of 20 (G20) mandate in 2014, the Standard for Automatic Exchange of Financial Account Information. Further to that Standard, countries are collecting information from financial institutions about their non-resident account holders and they share that with the country of residence of these account holders.

This programme is very advanced. One hundred and two jurisdictions have committed to the Automatic Exchange Standard. In September 2017, the first half of the jurisdictions, including the EU Member States, started the first exchanges under that standard, and the remaining ones, who committed for first exchanges in 2018, started exchanging last month. As a whole, I think this is a very successful programme, but, at the same time, as part of the ‘after-sales service’ at the OECD, we are also looking at areas where the standard is at risk. As part of that, we have a loophole strategy where we systematically collect information about ways in which the Common Reporting Standard (CRS) could be circumvented. As part of that loophole strategy, we have a disclosure facility where people can, on an anonymous basis, disclose ways in which and schemes through which the CRS is being circumvented. It was as part of that work that we came across the residence-by-investment schemes. That triggered us to organise a consultation at the beginning of this year about this phenomenon and we have been working with jurisdictions to establish to what extent these schemes can be used, or misused, to circumvent the automatic exchange of information.

At a technical level, we have agreed a number of criteria on the basis of which residence-by-investment schemes can be considered to present a high risk for circumventing the Common Reporting Standard. There are two key criteria that we apply. One of the features is that the scheme should only stipulate minimal physical presence requirements to obtain residency rights or citizenship rights. The other gateway criterion is that for the relevant person who applies for residence or citizenship, it should lead to low or no taxation on his foreign passive investments. That low or no taxation can be the result of the fact that the jurisdiction in question has no taxation, or it could be because the jurisdiction, even though it has a standard taxation regime, also has a territorial tax system so that foreign source income received by resident individuals is only taxed if it is remitted to the jurisdiction, or it can be low tax or no tax because there is a specific tax regime organised for the benefit of successful applicants under these residence-by-investment schemes.

These are the two key criteria that we have adhered to. We have also investigated whether there could be mitigating measures and we have identified two of those. One would be where the country in question organises a spontaneous exchange of information with the original country of residence of the applicant. Another risk-mitigating factor we have identified is where the documentation that can be obtained by the person who obtains the residence permit is such that it can be identified from the documentation that the person has obtained residence through an investment programme.

It is against those criteria that in the Secretariat we did an analysis of approximately 100 schemes. That does not yet cover the entire world. We started our work with the 102 jurisdictions that are committed to the Automatic Exchange Standard and, from those 102 jurisdictions, we identified approximately 100 schemes. It looks as though approximately 20 of them will be identified as posing a high risk of misuse for the purposes of the Common Reporting Standard. The intention of the work going forward is that we will make these high-risk schemes public, not in a manner to stigmatise the countries organising the schemes, but rather as a tool for the financial institutions that need to apply the Common Reporting Standard so that it raises awareness for them when an account holder may present a high risk. We will also produce guidance for the financial institutions regarding additional due diligence or questions that they may ask if they are confronted with an account holder where, given the new information that we have about his residence-by-investment schemes, they have reason to know that there is a risk that the person in question is not resident for tax purposes in the country or not resident for tax purposes only in that country because, under the Standard, the intention is that all tax residence jurisdictions are communicated and reported to the financial institution so that the information can be exchanged with all the countries of residence of a taxpayer.

In the course of that work, we have also established that a number of jurisdictions are committed to starting a spontaneous exchange of information with the country of residence of the applicants, which is a good development because we think that will reduce the risk from the perspective of misuse of the schemes for CRS purposes.

That is, in a nutshell, where we are now. We intend to bring this work out quite soon and we will also continue the work to start analysing those countries outside the 102 that we have already looked into. That's, in a nutshell, the work we have done so far.

1-006-0000

Rachel Owens, *Head of EU Advocacy, Global Witness*. – Thank you, Chair, and thank you very much to the TAX3 Committee for inviting me to talk today, in particular about the corruption risks associated with golden visa schemes. I won't present on the link with tax evasion as this is not our area of expertise.

I head up the EU office of Global Witness, an international NGO, which has spent over 25 years exposing and campaigning on corruption. At the beginning, we exposed how the profits from natural resources in countries like Cambodia and Angola were being diverted into private pockets, but as time went on, we became aware of a distinctive, systemic pattern of corrupt behaviour. We call this the 'corruption lifecycle' and we break it down into three parts: steal, stash, and spend.

First, the corrupt people need to find out what they want to steal: a pristine rainforest, community-owned land, oil, gold ... or they just go straight for cash. Then they need to stash that cash, for example, by laundering it through major banks and holding it in offshore jurisdictions, and then they need to spend it. In most cases, election buying and patronage are must-haves to maintain power. After that, they can turn their attention to luxury goods and property, and particularly a plan B for if things go sour. This is where so-called 'golden visas' become very attractive for the corrupt and criminal.

Buying citizenship and residency in another country via golden visa schemes is expensive, but it is an investment because it gives the corrupt and their families permanent security. In addition, their new passport can help them go under the radar and avoid having red flags against their name and nationality when crossing borders, opening bank accounts or setting up new business structures. Unfortunately, we weren't surprised when last year, *The Guardian* newspaper, together with a consortium of journalists, exposed how golden visa schemes across Europe are at risk of abuse. Their investigation showed how business executives implicated in the controversial Brazilian 'Operation Car Wash' scandal, relatives of an Angolan politician accused of bribery, and billionaire Russian oligarchs and Ukrainian elites accused of corruption have acquired EU citizenship through Portugal and Cyprus.

Last week, Transparency International and Global Witness launched a report which outlines our concerns that golden visas sold in the EU risk becoming a fixture in this spend part of the corruption lifecycle, potentially enabling the corrupt to continue their criminal activities by giving them a safe haven in the EU.

Our research shows that lax, opaque and mismanaged schemes have exposed the EU to a myriad of corruption risks. Insufficient due diligence, wide discretionary powers and conflicts of interest can conspire to open Europe's doors to the corrupt. For example, we found that in all appearances, Cyprus and Portugal do not seem to assess an applicant's source of funds or wealth when analysing applications, and although there is a four-tier due diligence process in place in Malta, government officials enjoy wide discretion when deciding on an applicant's eligibility for the programme. Applicants who have criminal records or are subject to criminal investigation may still be considered due to special circumstances. Beyond these external risks of the corrupt and criminal making their way into Europe, our analysis reveals that poor accountability and limited transparency can give rise to corruption within EU Member States themselves, and that is because there are high levels of discretion and low levels of scrutiny.

Our recommendations to tackle these risks are twofold. Firstly, we believe that these schemes need to be tightened up. All applicants must be subject to the sharpest of due diligence checks, and we must ensure that there is no conflict of interest. The legitimacy of an applicant's investment must be verified and his or her background must be thoroughly checked. Secondly, European citizens need to be confident that schemes themselves operate to the highest levels of integrity, and governments must be scrutinised to ensure that their risk appetite is acceptable to citizens. Here, transparency and accountability are key. It is also critical that governments which choose to sell residency and citizenship and programmes initiate open dialogue with the European public and their citizens about what kind of risk appetite we as a Union and individual Member States have, and what we find acceptable. Member States should put their rationale for these schemes out in the open and have a clear public debate around the so-called benefits of these schemes.

We believe it is critical for the safety of every Member State and the integrity of the EU that countries offering golden visa schemes are not so dazzled by the potential for profit that they neglect to subject applicants to thorough due diligence, or having conducted that due diligence, disregard the risk altogether.

These risks are particularly concerning in the EU after all, because we have freedom of movement rules, which mean that decisions taken in one Member State not only impact the lives of the people within that country, but also have vast consequences for the rest of the Union. After all, the EU is a major selling point for these schemes despite them being set up at a Member State level. Why get one passport when you can get 27 passports? This effectively means that Member States offering these schemes are free-riding on an asset that the rest of the Union is paying for and Member States who don't have these schemes are paying a price for

the actions of those who do have them whilst reaping none of the so-called rewards. Beyond freedom of movement, the lack of harmonisation of standards and practices at EU level add yet another layer of risk by encouraging Member States to enter into a race to the bottom, weakening their due diligence and integrity requirements to make their programmes more attractive and competitive to the wealthy elite.

What can the EU do? As I said, one of the most attractive things about a golden visa is the fact that it offers unfettered access to the EU, and this cross-border effect of naturalisation and citizenship means that it is brought within the scope of EU law and therefore justifies, in our opinion, action at an EU level. We very much welcome the leadership of European Commissioner for Justice, Věra Jourová, who in August argued that the EU must not become a safe haven for criminals, corruption and dirty money, and that Member States must do more to ensure that citizenship is not awarded to criminals. What we now need is concrete action at an EU level.

Today, I would urge the EU to do a number of things. Firstly, through the upcoming European Commission guidance, it should set EU-wide standards on enhanced due diligence, operational integrity and transparency to prevent the abuse of these schemes by the corrupt and the criminal and to ensure that all EU citizens are aware of the risks and so-called benefits posed by these schemes. It should establish a mechanism that regularly assesses these risks and puts in place mitigation measures. For example, this could be part of the supranational risk assessment that the Commission produces every two years. Thirdly, it should broaden EU anti-money laundering requirements to ensure that all those involved in the golden visa industry, including, for example, approved agents, have to abide by the same rules as financial institutions. Fourthly, it should set up mechanisms for Member States to share information on rejected applicants and thus prevent jurisdiction hopping. Finally, it should consider bringing infringement procedures against Member States offering golden visa schemes if they are deemed to undermine the principle of sincere cooperation and jeopardise EU values and objectives. I am very happy to answer any questions.

1-007-0000

Chair. – We shall now open up the discussion with Members. Again, questions will be asked in slots of five minutes: one minute for the question and four minutes for the answer. As I said, it is possible to ask or direct questions towards the European Commission. We have four speakers here, but I would ask Members to limit the number of questions and possibly also those who will respond, because four minutes is a limited period of time. We shall start with our co-rapporteurs. First, EPP co-rapporteur, Luděk Niedermayer.

1-008-0000

Luděk Niedermayer (PPE). – I would like to thank the guest speakers for coming here today. Frankly, I will probably fail to address the question specifically, but still I hope that someone will answer. We have learned that more than half of the Member States are providing schemes like that. We have also learned from Transparency International that some of them don't care very much about the money-laundering components of the money that is coming in, but to my mind there are two pressing issues.

One is a little bit abstract – it has something to do with values. This is the question: what can money buy? I thought that Europe was based on some values, and values are not normally for sale, so I wonder if money should make a difference. Maybe there is someone who is less rich and wants to come to Europe to set up a business here who, in the end, will generate tremendous added value, while someone who came and paid the price will actually just create costs for the economy. I am quite puzzled here.

Perhaps my more specific question is: to what extent are people looking at the economic side of that? So let's put more on that side. I guess in the 21st century we are living in an economy

where there is no scarcity of money. We have over-liquidity in the system, money everywhere. Nor are we missing investments in general terms. What we are missing are investments with high added value. Investments that are generating growth, that are generating jobs, that are generating prosperity for society, and I guess these components are completely missing in those schemes. The fact is that someone could be buying very expensive luxury property, which may create a little bit of added value for a developer, who could be a foreign entity and moving their profit elsewhere, but otherwise it just creates costs for the economy. There is no added value, there is just the rise in prices for the housing market, and I wonder what the positive implications are for the economy. I wonder whether the logic of someone who is coming here with money and saying ‘give me residency and I will invest here’ is enough, whether it is the logic of the middle of the 20th century and is no longer valid in the 21st century.

1-009-0000

Rachel Owens, *Head of EU Advocacy, Global Witness*. – Thank you very much for your questions, and I think you make two excellent points. From our perspective, there are many different Members of this Parliament, for example, who would argue that these schemes should not even exist. From our perspective, we are most interested in the corruption risk. We see this as a huge issue for the EU and a huge issue for those Member States in question which are allowing these individuals into their country.

One can make many arguments on all sides of the issue. This is a global industry, it is a multi-billion dollar industry and it is bringing money into Member States, but the key point is that we don’t know how much money is being brought in. There is a complete lack of transparency around these schemes and around when the money actually comes into Member States, where it goes, and what it is being used for. So there is also a distortion effect that is happening – you’ve got very small Member States who after the financial crisis were looking for revenue streams. What we are worried about is what I talked about earlier, this race to the bottom – that being dazzled by profit means that you’re actually closing your eyes to what these individuals are bringing in terms of their risks to the EU. On the economics, I think this is something that this committee is actually looking into: what are the so-called socio-economic benefits of these schemes and are there any? At the moment, there is such a lack of transparency. We spent four months writing this report and there was a complete lack of information in the public domain, so it is actually very difficult to make an assessment about whether these schemes are good for the EU or for the Member States in question. That is my answer.

1-010-0000

Philip Kerfs, *Head of International Cooperation Unit, Centre for Tax Policy and Administration, OECD*. – I could just add, very concretely, that at OECD level, we have not looked into these aspects of these schemes and, as far as I know, we have not looked into the AML (anti-money-laundering) risks. We are not looking into the moral part of this phenomenon, and also, as far as I know, we have not looked into the exact rationale for countries to do this and whether these programmes achieve in the long term what they are intended to achieve. This is not work that has been going on. I would not exclude that this may happen at some point in time, but it is not within my remit to do so.

1-011-0000

Chair. – The OECD clearly has experience of how countries do many irrational things.

1-012-0000

Jeppe Kofod (S&D). – I would like to thank our panel for appearing before us today. Allow me to repeat some stunning figures from Transparency International and Global Witness. Over the past 10 years, as I understand, 100 000 residence permits and 6 000 passports have been issued under the golden visa schemes in Europe, thereby giving those who are wealthy enough full access – something which you also alluded to, Ms Owens – not only to one EU country, but to the whole EU. I also saw the figure racing around of EUR 25 billion in foreign direct investment, and only two Member States published records of new citizens and residents. The rest we don’t know about, we don’t know who they are, the information is not public.

With this in mind, I have some very simple questions for the panel, especially with your knowledge of these golden visa schemes. First of all, are you convinced that these programmes are in fact based on real investment and contribution to the economy in the hosting Member State? That is the first question. To the OECD: did you look into this, or do you have any examples where applicants have relocated resources into the two jurisdictions? What kind of personal or economic reasons do they have for choosing this golden visa?

Secondly, can you name even a single one of these schemes which you, in your professional capacity, feel is entirely safe and certain that it has not been abused for money laundering or by other criminal agents? Can you mention one of these schemes? That would be interesting.

Thirdly and finally, are you aware of any examples where an applicant is protected under one or perhaps more of these golden visa schemes and is subsequently being approved in another country? Do you have examples of that?

1-013-0000

Philip Kerfs, *Head of International Cooperation Unit, Centre for Tax Policy and Administration, OECD*. – We have looked into this only from quite a narrow angle. Through that work, we have learned that there is an enormous variety in the features of these schemes, going from, at one extreme of the spectrum, schemes that only really require payment of a fee, where there is not an element of real investment in the country, to schemes which are more about attracting entrepreneurial activities in the country. There is a lot between these two extremes. The ones that we have particularly looked at are the ones on the side of the very passive investments, but again that is only because we have been looking at it only from the perspective of misuse by circumventing the CRS. If you were only to look at that criterion – and I admit that there are other considerations that need to be taken into account – I believe there are a number of these schemes that are not at all at risk. If you want to use a residence-by-investment scheme to pretend to be a resident of Belgium – Belgium is a high tax country in a way and there is no special tax treatment for foreign source passive income – and if you therefore want to pass yourself off as a resident of a country that has an ordinary taxation system, you will not be able to circumvent the CRS because you will get into trouble with the tax administration of that country, which will be receiving information about you as a resident for tax purposes in the country. However, the circumvention of CRS is only one aspect of this.

1-014-0000

Rachel Owens, *Head of EU Advocacy, Global Witness*. – I will answer your second question first. Certainly, my organisation would not stand by any of the schemes simply because that is not my job. My job is to campaign for the corruption issue to be addressed and I don't think I am the right person to ask about that. What I would ask is – and I think you make an excellent point – is this real investment? I am sure Ms Gomes will talk about the situation in Portugal, where we have huge amounts of money flowing into real estate and distorting the local property market, which then has a knock-on effect for those citizens within that particular capital, whether it is Limassol or Lisbon, and no real knock-on benefit that they can see. As there is a lack of transparency about the money coming in and how that money is being spent by governments, it is very difficult to get a picture about whether this is beneficial to those Member States in question, not to mention the rest of the EU. I would just make that point.

The second point is that this is a completely unregulated industry in the EU at the moment, given that every other sector in the EU, arguably, is regulated, and this is a billion dollar business. You yourself quoted the figures in our report.

I want to refer to another point and use a Hungarian case as an example, as this was very recently terminated and based on real concerns about the integrity of the scheme. We had a situation in Hungary where the state was losing out from this scheme because the interest rate that was set

for the government bonds that these applicants had to buy in order to get a residency permit was higher than the interest rate of average savers in Hungary. This meant that the state was actually losing money to these schemes and so, therefore, it blows out the window the whole argument that this is actually beneficial to Member States and brings in cash, not to mention that there were allegations around the integrity of those schemes, as I said.

We also had a situation in Bulgaria where the Bulgarian First Investment Bank was allegedly giving loans to visa applicants, so again, is that money being brought into the country, or just money from the country being given to an external individual and then brought back in? As I said, there are some real issues around the particular price at which property is set and that being linked to visa schemes and therefore distorting the market.

1-015-0000

Ana Gomes (S&D). – When the Committee of Inquiry into money laundering, tax avoidance and tax evasion (PANA Committee) went to my country, Portugal, we asked a lot of questions and we found out that very little – if any – client due diligence (CDD) was carried out with regard to golden visa applicants and even less on the provenance of the capital they were bringing in. At it stands, in Portugal, since October 2012, more than 6 000 golden visas have been granted and more than 11 000 people have managed to come in as reunification families, where no CDD is even claimed to be performed. It's interesting to see the coincidence of the countries of the applicants. In the case of Portugal, the majority come from China despite the fact that in China, it is forbidden to take out more than USD 50 000 a year. To buy a flat in Portugal, you now need an investment of at least EUR 350 000. It's also interesting to see the coincidence with countries where there are lines of importation of organised crime into the EU, not to mention corruption.

It is quite weird that the OECD hasn't taken an interest in that because what is at stake is not just the race to the bottom among Member States in a very unhealthy competition that could probably be considered EU state aid to organised crime, actually, but also the sheer security risks. In some countries like Malta and Cyprus, citizenship of those countries that advertise Schengen access, as the golden visas are advertised all over, is sold. As an Interpol director pointed out to me recently, that means that people with European citizenship should not be extradited if they were found to be criminals.

My question is to Ms Owens. What do you think about the companies that have been getting contracts with Member States to organise these schemes, so-called investor programme schemes or golden visa schemes? In the case of Malta, we have seen that one particular company, Henley & Partners, has been playing a very nasty role in all aspects. I would just mention that since we are now commemorating the first anniversary of the assassination of Daphne Caruana Galizia: they sued Daphne Caruana Galizia because of her exposure of them, and all that she had said about them was true.

There are other groups. There is the Arton Group with which Mr Barroso, former President of the Commission, had no qualms in being present to advertise the group, doing exactly the same thing, and is now working with countries like Montenegro and others. The 'Big Four' are apparently also instrumental in similar schemes. The security angle is being systematically played down or ignored by European Union institutions, not just the Member States that were allowed to develop these nasty schemes.

1-016-0000

Rachel Owens, Head of EU Advocacy, Global Witness. – Thank you very much for the question. I think it comes back to my previous point: this is a highly lucrative industry that is currently unregulated. One of our recommendations that I mentioned before is that this industry should be covered by the EU anti-money laundering rules. These companies are often playing a role which is basically processing and involves huge sums of cash and money coming into

the EU, and yet they are completely unregulated, both from an anti-money laundering perspective and in a more general sense.

Ms Gomes makes an excellent point: the CEO of Henley & Partners has been called the ‘passport king’ and has certainly celebrated this role of making passports and residency rights a luxury good in the EU. When I have spoken to friends and family about this, a lot of them are quite appalled that we, as the EU, are selling off our passports to the highest bidder without any proper checks. Obviously, the industry has a role to play there, and that is why we are arguing for it to be better regulated.

There is some concern around conflict of interest, as Ms Gomes mentioned, in the Maltese case. Henley & Partners not only solicited applicants, but they also conducted the due diligence, so where’s the Chinese Wall? How were they able to make sure that applicants were coming in, but also then do the checks?

The other issue is around commission for getting successful applicants. If a company is actually getting more money the more applications it can get through the system, there is a perverse incentive for those companies to increase the number of applicants and, arguably, close their eyes to potential corruption and risks around the schemes. As Ms Gomes said, this is a huge industry. If you arrive in Cyprus as I did on holiday in May this year, there is a huge stall advertising these schemes to people arriving in the Cypriot airport, so there is a lot of evidence and information out there about what these companies are offering. I think it is for the EU institutions to really have a look in more detail at what those businesses and that industry is doing, and at what kind of risks it could pose to the EU.

1-017-0000

Philip Kerfs, *Head of International Cooperation Unit, Centre for Tax Policy and Administration, OECD*. – You mentioned the two big players in this sphere and there are also a lot of smaller players. We have had some discussions with some of those and, even within that sector, there is a kind of ‘sympathy’ for more regulation. I don’t know what the incentive of that is, whether that is to kill competition or for good reasons, but it’s clear that working on regulating this business has a number of benefits if you are not too concerned about legitimising the concept of residence by investment itself. In a way that is what, in my view, you would do by regulating the activities of these intermediaries. It would certainly lead to better and more robust due diligence processes, which have benefits in all areas, including in the area that concerns me in terms of taxation. A spontaneous exchange of information also needs to be based on solid due diligence procedures so that the agency that deals with the application can identify the real country of residence of the applicant. There are certainly benefits there.

1-018-0000

Monika Mosshammer, *Deputy Head of Unit Citizenship rights and Free Movement, Directorate-General for Justice and Consumers - European Commission*. – Thank you very much. I just wanted to give you a bit of background information on what the Commission is also doing. At the specific call of the Parliament, we are working on a report to assess the citizenship schemes, both for citizenship for investment as well as for residence for investment. We always like to draw a distinction between the two. Sometimes they are all put together in one pot as golden visas, but we will have a look at the citizenship for investment as well as for the residence for investments. We have worked with an external contractor on analysing the legal situation. We had also hoped to have a bit more information on their economic impact, but it is a bit difficult to get the information. We are still working on it, so I cannot present the final assessment to you, but can already give a caveat that this is difficult.

We are obviously also working on the report, so I cannot tell you right now about the precise guidance that will follow up on that report, but I think the points that have been raised here – like security checks on the applicant, possible terrorist threats, corruption, money laundering

and tax evasion – are points of attention that have been raised. We are very happy that we have the opportunity to be here and also to work with the OECD. We participated in the report by Transparency International and Global Witness because all this information will feed into our report. We intend to present the report before the end of the year.

1-019-0000

Wolf Klinz (ALDE). – Due to Brexit, there is currently a sharp increase in British citizens seeking to become citizens of the EU27 and vice versa. People living and working in the UK are taking up UK citizenship. Do you have any indication whether this is being used to launder some money or transform deposits that had been hidden offshore, to neutralise them and make them an official deposit in official banks, so to speak? That's the first question.

The second is as follows. As long as you have an administration that honours the law and tries to implement whatever resolutions and directives exist in the EU, we are making progress, but there are indications that, in some jurisdictions, we have strong collusion between government officials or administration officials and criminals. What is the situation there? Do you have any information as to where we stand and whether we are making progress towards eliminating those?

The last question concerns investment in real estate. This has been touched upon already. I live in Berlin in Germany and in that city, over the last four or five years, real estate prices have skyrocketed and investment has come from countries where you wouldn't believe that you would have rich investors: Greece, Portugal, Italy, et cetera. So it's very likely that a lot – not necessarily 100%, but a certain percentage – of those investments were made with the objective of laundering money. You could avoid this very simply by exchanging information between the tax authorities in the sense that the German tax authority in Berlin collects the real estate purchase tax, which does exist, and simply informs the tax authority of the investor, but to my knowledge this is not being done. In other words, somebody who sends money from Athens to Berlin to buy a luxury apartment can be sure that Athens is not being notified of his purchase.

1-020-0000

Rachel Owens, Head of EU Advocacy, Global Witness. – I'll answer the questions that we are equipped to answer. I'll answer your last one on real estate first.

Global Witness, together with partners including Transparency International, has been campaigning for a long time to have more transparency over the property sector. We're seeing this, for example, in the UK, where there is a commitment to bring in legislation and to open up the kind of companies and the real owners behind property. After the EU anti-money laundering rules came in, which was a huge step forward in terms of public registers for the real owners of companies, we started looking at the property sector and saw that property was being bought up by companies and we didn't know who the real owners were. I would say that part of the solution is more transparency around the ownership of properties and whether you wanted to have that on a European level.

On the issue of Brexit, we haven't done an analysis because I think it's very dependent on what kind of deal there is post-Brexit. What we are saying – and what many NGOs, particularly based in the UK but also across Europe – have been saying is that the UK needs to uphold the same regulations and laws which they currently do on EU anti-money laundering and a whole raft of different legislation, whether it's to do with automatic exchange of tax information or something else. On the Fifth EU Anti-Money Laundering Directive that was passed, it's incredibly important that the UK Government is held to account to implement that legislation, which requires the real owners of companies to be disclosed, but also trusts, according to legitimate interest. What we don't want after a Brexit deal is for those kind of regulations not to be implemented by the UK. At the moment, we are not seeing signs of that. The UK

Government has said that it will continue to honour these rules, but I think that's one thing for the EU to watch in future.

1-021-0000

Eva Joly (Verts/ALE). – I want to follow up on what Mr Niedermayer said: is citizenship a commodity that can be sold, or is it a value which we are discussing how to regulate? Maybe we should try only to forbid it – it should not be possible to sell citizenship. I should like to have your opinion on that. That would be the easiest thing to do. We have a lot of information on how this scheme has been misused, how we have laundered money and how we have admitted criminals into Europe. Why do we accept that? We can forbid it, in my opinion.

You have information on intra-EU fraud. Do you have examples of French people, or Italian people having bought Maltese citizenship, or Bulgarian or Romanian, or even Austrian or Cypriot citizenship, in order to hide behind their citizenship because they do not exchange information with other countries? The Greens released a report today on loopholes in the exchange of information on the Directive on Administrative Cooperation 2 (DAC2) and DAC3. We think they need to be changed. Do you have examples of this? Intellectually, it looks easy to do. You open bank accounts offshore with the fake citizenship that you have bought.

I also saw from the report here that they now have information from France. I should like to know whether you have information on how important this business is in France, even informal information. I was happy to hear that the Commission is working on the regulation, but maybe we should not make a regulation, but forbid it.

1-022-0000

Philip Kerfs, Head of International Cooperation Unit, Centre for Tax Policy and Administration, OECD. – On your second question, asking if we have examples, I don't have evidence, but, as I mentioned, as part of our loophole strategy, we are in contact with a number of stakeholders, including NGOs and also people in the field, including lawyers. We have been approached by lawyers who say that these schemes are being promoted. I have an example where a scheme in a European jurisdiction was promoted in Mexico to Mexican citizens with the specific purpose of circumventing the Common Reporting Standard (CRS). I don't know how big this is. I don't know whether it is big in Europe. It's very hard to come up with concrete figures. What we have is more anecdotal evidence.

1-023-0000

Rachel Owens, Head of EU Advocacy, Global Witness. – Unfortunately, I also have the same answer. As the Commission said, it is very difficult to get information on intra-EU flows and that wasn't the objective of our report, but I definitely agree with you that it's something which the EU in general and the institutions should look into.

Again, on France, it was the same situation. Our sense is that it's not one of the worst schemes in terms of lack of integrity around the schemes, lack of transparency, et cetera, but it was still very difficult to get information. Any work that Ms Joly can do within her Member State to get more transparency would be very helpful.

Just to come back to your first question, I completely agree with you. One of the purposes of Global Witness and Transparency International in setting up this campaign was actually to provoke this kind of debate. We haven't actually landed on whether we think they should be banned or not because it's incredibly difficult to land on that unless you actually have some more information. As I said, we spent four months with a number of different researchers, trying to put together a picture of the industry, and yet we still really don't know how it operates. I definitely think that it's a very important question that, ahead of the European elections, MEPs and Member State governments should be asking their citizens. Do we want to be selling our residency rights and our passports, and do we think this is acceptable? Without the transparency and the accountability, it's very difficult to have that kind of debate.

1-024-0000

Luděk Niedermayer (PPE). – Just let me follow up on the economic question related to golden visas and citizenship. It seems that governments don't have any kind of clear economic policy behind that because, frankly speaking, from the fact that someone has bought a few thousand euros' worth of government bonds, it has no benefit to the country in the 21st century. It is a similar thing if you buy luxury real estate, or even if you invest in some kind of company that can have hundreds of different shareholders. So, to your knowledge, is there no deep, comprehensive and high-quality economic analysis behind those decisions? Is this just some kind of carry-over from the past?

1-025-0000

Chair. – Thank you. So is the economy stupid?

1-026-0000

Philip Kerfs, Head of International Cooperation Unit, Centre for Tax Policy and Administration, OECD. – There are many differences in the schemes. You have these small island jurisdictions – not in Europe, but outside Europe – where there is probably not much strategy behind it other than that they need the revenue, and they only make money from tourism and so on. I am not talking about European jurisdictions. For them it is just one other source of revenue other than the one that they have now. Then you have large countries with schemes where they try to attract investors in real businesses in the country. These are totally different situations, but I think it would be interesting to have a closer look at both of these types of situation and to see, even for countries where the intention is to attract real investments in active companies and active businesses, whether they achieve what they aim to achieve. This is a bit outside my area of competence, but I think it would be an interesting thing to look into.

1-027-0000

Rachel Owens, Head of EU Advocacy, Global Witness. – I'm actually very happy to hear so many questions around this issue because my organisation and I feel that this is something which is not really understood or known. What are the so-called socio-economic benefits of these schemes? The figures are clear: it brings money into countries. We sometimes have figures for countries and we can kind of put that together and work out what that means for the EU but, as I said, the big issue is: where does that money go?

There is a lack of integrity around the schemes. Firstly, there is an issue about whether that money is going into the pocket of an official in that Member State, for example, and not actually going to benefit anyone else, and then whether it is going into a fund. For example, in Malta, there is a social development fund which the money is supposedly going into, but we've heard anecdotally that some of that money is being used to buy shares in banks. Is that something which is beneficial to the citizens of Malta or to European citizens? That's a question to be asked.

Just picking up on the point about non-EU states and how it relates to this discussion, there are a number of Caribbean states that at the moment offer visa-free access to the EU. This is another dimension to this question. Not only do we have Member States within the EU selling these schemes, whether it's residency or citizenship, but we also have a number of different Caribbean states where, because they have visa-free access to the EU through waiver schemes that have been agreed with the EU, this is another way that, potentially, the corrupting criminal can get access to the EU. I think it is really interesting because they are quite small, island Member States and it's only in Antigua and Barbuda that you have to have any kind of residency and you only have to be there for five days in order to get this. You get a passport from, say, Antigua, but then you can also travel throughout the EU with that. At the moment, it's arguably quite a loophole. With some schemes, you don't even need to be resident or pick up the passport yourself, so companies can actually do the whole process for you. They give you a passport and then you are able to get access to the EU through these visa waiver schemes. That's another thing that the EU should look at, because if we start to regulate and cut down the risks within

the EU, there is also this further loophole regarding non-EU countries that have access to the EU.

1-028-0000

Pervenche Berès (S&D). – Je voudrais d’abord poser une question à Rachel Owens. Dans le rapport que vous avez copublié avec *Transparency International*, vous émettez d’une certaine manière une réserve ou une critique à l’égard de la cinquième directive antiblanchiment, par laquelle nous avons fait des banques et des autres intermédiaires les entités obligées, responsables de l’évaluation des risques portés par les candidats à ces visas. Nous mesurons bien la difficulté de sous-traiter une fonction d’utilité publique à des entités privées, et l’on voit bien le paradoxe du législateur et l’équation face à laquelle nous étions. Je comprends que c’est un aspect qui vous préoccupe. Avez-vous d’autres propositions opérationnelles efficaces qui permettraient de résoudre ce problème? Je ne dis pas qu’on pourrait accrocher de telles propositions au paquet qui est sur la table – que j’ai très à cœur de faire aboutir –, mais puisque nous évoquons cette situation, pourriez-vous nous donner des orientations?

Ma seconde question s’adresse à Philip Kerfs pour l’OCDE. Je crois comprendre que vous avez indiqué, dans l’une de vos réponses, qu’il y avait 20 pays à problème, sans pouvoir les citer. Pouvez-vous nous indiquer, sans les citer, si certains d’entre eux relèvent de l’Union européenne à 28 ou à 27, ou de la zone euro?

1-029-0000

Philip Kerfs, chef de la division de la coopération internationale, Centre de politique et d’administration fiscales, OCDE. – La seule raison pour laquelle je n’ai pas communiqué la liste, c’est que les travaux ne sont pas encore tout à fait finalisés, mais je peux vous dire que, dans la liste des schémas à risque, il y en a certains qui font partie de l’Union européenne. Il ne s’agit donc pas uniquement d’îles des Caraïbes, il y a aussi des membres de l’OCDE ainsi que des États membres de l’Union européenne et, pour répondre à Madame Berès, je pense que de la zone euro également.

1-030-0000

Rachel Owens, Head of EU Advocacy, Global Witness. – Thank you very much for your question. As you know, Global Witness and Transparency International worked very closely with Members of this Parliament, together with the Commission, to campaign for a strong Fifth Anti-Money Laundering Directive, which is where we landed in the end. What was really good about that debate was that the link between golden visas and money laundering was actually put together for the first time. Many of the Members of this Parliament, including yourselves, were part of making sure that political discussion was had, but, as we know, there were so many things to agree on in that Directive. What we really appreciate was the fact that that political discussion started and now this is why we have recommendations – which I’ll get to in a minute – on what we think should be improved.

Our critique is that, while we think it’s a good thing that the Fifth Anti-Money Laundering Directive made a reference to the risk of golden visa schemes, we are concerned about the fact that, if the banks are in charge of asking the question, ‘Are you a visa applicant?’, firstly, you have got a visa anyway, so it’s not going to stop people getting visas, but also how do you actually ensure that the information is being transferred from the financial institution, the banks et cetera, to the relevant authority in that Member State? How do you ensure that that exchange of information is happening? Whose responsibility actually is it to make sure that these applicants don’t pose a money laundering risk? So we are recommending that, if there should be a sixth anti-money laundering directive or the rules were revised, the golden visa industry and the relevant actors in that industry should be covered by those rules as well.

1-031-0000

Despina Vassiliadou, Deputy Head of Financial Crime Unit, from DG JUSTICE. – Thank you. The Anti-Money Laundering Directive has been mentioned a few times and I now take the occasion of Mrs Berès’ intervention to say a few words.

We need to remember the purpose of the Anti-Money Laundering Directive. It's a preventative regime to prevent money laundering from taking place. It puts obligations on private entities. If they see a risk of money laundering in a particular transaction – not a general risk – coming from a certain client, they should report certain suspicious transactions to the Financial Intelligence Unit, which then does some checks. With the Fifth Anti-Money Laundering Directive, through the initiative of the Parliament – it was actually Ms Gomes who tabled the amendment – we made the link with golden visas. We said that if somebody goes to the bank to make a transaction and is identified as a person who will seek a visa, then there will need to be enhanced due diligence – so more checks – and if there is something suspicious about the transaction, it should be reported.

Rachel said that sometimes it will be post factum, so after the visa or the citizenship have been given. This is not always the case. Sometimes the investment is carried out before, so in those cases the information will come in before. I also heard Rachel say that the entities that run the investment schemes should become obliged entities. Through our analysis, we are not entirely sure that this would be appropriate just because the Anti-Money Laundering Directive is made to look at specific transactions. Unless the specific transaction through which a person is seeking to become a citizen raises a suspicion, it's not really a suitable instrument to look at it. In some cases, people will seek to make investments and gain citizenship through money that is entirely clean and there, no suspicion will be raised. So we're not entirely sure that this would be a suitable instrument. Of course, as Commissioner Jourová has very often said, some type of due diligence is needed. In some cases, it will look similar to what we have in the Anti-Money Laundering Directive, but maybe the Anti-Money Laundering Directive is not the proper vehicle for this.

We have been speaking about banks a lot, but as all of you here know, the Anti-Money Laundering Directive is not only about banks. If a person tries to buy property, real estate agents are obliged entities and they have to look into whether there is anything suspicious about this. A big role has also been allocated to lawyers and accountants who often advise people seeking citizenship. These people are also obliged to provide information under the Directive, so there is quite a comprehensive framework for money laundering purposes and for specific transactions, but we shouldn't mix it with asking whether a person looks like somebody who might engage in money laundering and therefore shouldn't be granted citizenship because that's not the purpose of the directive. That is all I wanted to say about this.

1-032-0000

Catch-the-eye procedure

1-033-0000

Ana Gomes (S&D). – I would like to recall one connection that is worth taking into consideration by Mr Kerfs but also by the Commission. Mr Ali Sadr Hasheminejad, an Iranian citizen who owned Pilatus Bank, a Maltese bank, was arrested in the US. He was arrested for busting sanctions and for money laundering for Venezuela and Iran. He was able to obtain a licence to operate in Malta in 2014 with his Saint Kitts and Nevis passport, and his Saint Kitts and Nevis passport was procured for him, through Henley & Partners Saint Kitts and Nevis, the same alien partners who now run the citizenship-selling operation in the so-called investor programme in Malta. My question is actually to the Commission: when is your report going to be out, as it was promised in November this year?

I fully agree with my colleague Eva Joly that the sale of citizenship and golden visas should be forbidden. Full stop. There is no question of attracting money or attracting talent. How much talent is sinking in the Mediterranean these days? They don't care because it is poor people with talent, but if they were rich then no problem. The very minimum would be to demand publicity of Member States. Some Member States like Malta and Cyprus give publicity to the people

who are applicants; Cyprus in advance, the applicants, Malta, mixed with people that have been naturalised, they put the people that got citizenship this way. Other countries do not publicise and one of them is my own country, Portugal. I am absolutely sure that the only reason why they don't publicise – they don't even give the information to me, despite my requests – is because they are pretty sure that I will find a lot of extremely questionable, not to mention criminal PEPs (politically exposed persons).

1-034-0000

Monika Mosshammer, *Deputy Head of Unit Citizenship rights and Free Movement, Directorate-General for Justice and Consumers - European Commission*. – On the timing, certainly before the end of the year. We have tried to be as quick as possible, so it might still be November but definitely before the end of the year.

As far as the request to completely forbid granting citizenship is concerned, we need to be aware that the granting of citizenship is the competence of a Member State, so we need to carefully analyse the competences. We do have the Rottmann case which says ‘with due regard to EU law’. We also have an international ruling in the Nottebohm case, which required a general link. Nevertheless, it is the responsibility of the Member States, so we need to look at these aspects carefully, but I fully agree with you that transparency is certainly an important element in this whole running of such a scheme.

1-035-0000

Maite Pagazaurtundúa Ruiz (ALDE). – Bueno, es muy, muy interesante. Estamos escuchando que la banca privada en algunos de los lugares más prestigiosos está dando en estos momentos rentabilidad negativa por los depósitos, por lo que invertir en grandes propiedades es un elemento de posible rentabilización. Esto plantea, por una parte, la cuestión de las grandes fortunas y sus operaciones inmobiliarias y, por otra, la cuestión de Schengen, esto es, la entrada o no —aparte de lo que lo que es el blanqueo y la elusión—, de personas libremente a todo nuestro espacio. De hecho, Daphne Caruana había denunciado y había investigado las irregularidades con respecto a lo que estaba ocurriendo en Malta, con la venta de este tipo de pasaporte maltés y con una serie de irregularidades, y fue asesinada.

Cuando nosotros nos pusimos en contacto con la Comisión, la Comisión nos indicó que iban a hacer este estudio que —según nos han dicho— va a salir antes de fin de año, en el que suponemos que aparecerán los criterios que se recomendarán a los Estados miembros de comprobación de la seguridad, de comprobación de operaciones de elusión y de blanqueo, de estándares mínimos de tiempo para poder hacer las comprobaciones bancarias o de intercambios de datos.

Pero, en los temas sobre los que han estado ustedes hablando hoy, además se introduce otra variable que es el programa de exención de visados. Es como si de repente hubiera una carambola posible también para que haya personas que puedan circular libremente por la Unión Europea.

Yo pregunto si esta vulnerabilidad de nuestro sistema, que se refiere al programa de exención de visados, va a ser también tratada en los estudios que está realizando la Comisión Europea, por una parte. Y luego, por otra parte, la cuestión inmobiliaria, el intento de rentabilización de patrimonios, que no tiene por qué estar ligado necesariamente a la delincuencia, aunque en las prácticas que, por lo menos, Daphne Caruana investigaba en Malta, sí que parece que había elementos de irregularidad, de mafia, de corrupción, y de blanqueo y elusión.

Les agradecería que nos pudieran decir un poco más acerca de estas dos cuestiones.

1-036-0000

Monika Mosshammer, *Deputy Head of Unit Citizenship rights and Free Movement, Directorate-General for Justice and Consumers - European Commission*. – I referred to a fact-finding study in my first intervention and in that fact-finding study we only analysed the

Member States, we did not extend our analysis to possible visa-free countries. We are obviously aware of the situation where visa-exempt third-country nationals can travel within the Schengen area and consequently have easier access to the Union, so we may consider taking that up in the report.

1-037-0000

Werner Langen (PPE). – Herr Vorsitzender! Wir diskutieren ja schon über zwei Jahre im Untersuchungsausschuss und auch hier über das Thema. Eigentlich müsste die Kommission längst einen Vorschlag gemacht haben, damit die Mitgliedstaaten sich an Mindestbedingungen für die Erteilung von Visa, für die Zugangsbedingungen etc. halten und dass darüber hinaus Regelungen mit Drittstaaten angestrebt werden. Es ist unstrittig, wie die Kommissionsvertreterin gesagt hat, dass die Verleihung der Staatsbürgerschaft ein nationales Recht der Mitgliedstaaten ist. Daran werden wir nicht rütteln können. Deshalb ist eine übernationale Vereinbarung notwendig, unter welchen Bedingungen man die Staatsbürgerschaft verleihen kann. Und da vermisse ich eigentlich nach wie vor einen vernünftigen Vorschlag der Kommission. Das Thema ist seit langem bekannt. Etwa die Frage der Mindestaufenthaltsdauer wäre ein solcher Punkt oder die jährliche Anwesenheit oder eine Art Staatsbürgerschaftstest oder von mir aus auch dauerhafte Investitionen. Das muss allerdings kontrolliert und unter einheitlichem Rahmen verabschiedet werden. Dazu gehört nach meiner auch Meinung das Verbot der aggressiven Werbung, so wie es der Regierungschef von Malta in Hongkong gemacht hat. Das sind alles Dinge, wo die Kommission einen vernünftigen Vorschlag machen kann, ohne das grundsätzliche Recht der Mitgliedstaaten in Frage zu stellen. Am besten wäre es, wenn eine solche Verordnung im Mitentscheidungsverfahren zwischen Parlament und Rat und nicht nach den Regeln der Steuergesetzgebung verabschiedet würde, weil dort die Einstimmigkeit notwendig ist.

Ich will mal ein Beispiel nennen: In Steuerfragen zum Beispiel muss man in Deutschland – wenn man das deutsche Steuerrecht oder auch das Schweizer nutzen will – trotz Doppelbesteuerungsabkommen mindestens die Hälfte des Jahres und einen Tag in Deutschland anwesend sein. Ist man das nicht, werden die Einkünfte, die etwa in der Schweiz anfallen, zusätzlich besteuert. Solche Regeln, die ins Steuerrecht greifen, sind ebenfalls wichtig. Meine Frage an die Kommission und an die Sachverständigen ist: Haben Sie schon ein grobes Schema im Kopf, wie man das regeln könnte? Denn die Zeit läuft ja weg. Wenn wir das noch mehrere Jahre machen, dann brauchen wir darüber nicht mehr zu diskutieren.

1-038-0000

Monika Mosshammer, Deputy Head of Unit Citizenship rights and Free Movement, Directorate-General for Justice and Consumers - European Commission. – As mentioned at the beginning, the Commission will present a report with guidance, as it committed to doing in the Citizenship Report 2017. You will certainly understand that the whole Commission is still working on this report and I cannot now pre-empt the outcome of it, but definitely the points that have been raised here and also on other occasions are very important points that will need to be taken into account.

1-039-0000

Rachel Owens, Head of EU Advocacy, Global Witness. – I just wanted to say as well that I think it is an election issue – we are months before a European election, and it is for Members of this Parliament also to start a debate with their citizens in their constituencies across Europe around these schemes. I think that will also help in terms of the political will. We will have a new Commission next year and I think it is very important for this House and this Parliament to be involved in that discussion, and then to create that kind of political momentum for change. Already we've seen such a shift from 2014 when this House first started talking about this issue, so I would say it is for the Members of this House as well to put pressure.

I think we've gone beyond the question about whether this is an EU issue or not. It's very clearly an EU issue, so now it is about how the Member States and the EU institutions are going to come together to find the relevant solutions.

1-040-0000

Chair. – I would like to thank all the speakers. It is clear that this issue is very pressing and topical, and although there has been analysis, it still poses more questions than answers, due to its opaque character. We look forward to what the Commission will come forward with, and this committee and this Parliament will follow the issue closely.

Panel II: Freeports, special economic zones: risks and benefits for the EU

1-042-0000

Chair. – We shall now start the second panel on Freeports, Special Economic Zones: risks and benefits for the EU.

Let me introduce and welcome the speakers of the second panel: Mr Sergio Piazzardi, from Commission DG DEVCO, Mr Charles Carr, who is a financial crime expert, Mr Fabien Grasser, Journalist and Editor of *Le Quotidien*, and Mr Philip Kermode, Director at DG TAXUD, who will be ready to take questions as was the case in the previous panel.

The working methods will be the same as in the first panel: the three speakers will each have 10 minutes for their introductory remarks, and then the discussion will start. I now give the floor to Mr Sergio Piazzardi for his introductory remarks.

1-043-0000

Sergio Piazzardi, DG DEVCO. – Thank you. I would like first of all to thank the Committee for the opportunity it has given us to present a study that the Commission has financed together with the ACP group of states and the governments of Switzerland, Austria and Norway. The study is part of the 'Competitive Industries and Innovation Program', which basically means a series of analytical work done both at country level or at knowledge level to boost or revamp industrialisation in developing countries and emerging markets.

At the moment, today, we have collected about 36 country operational studies and six knowledge products. One of the knowledge products is the 'Special economic zones: an operational review of their impacts'. I forgot to say that this programme is implemented through a trust fund by the World Bank, and indeed this study on special economic zones is an assessment of what it has worked on over the last 20 years in World Bank projects and programmes, specifically developing special economic zones.

First, we start with a definition: when we talk about special economic zones, we basically make reference to include traditional and hybrid export processing zones – that means for export and the domestic market, freeports, special economic zones and enterprise zones. We are not talking about free trade, free enterprise or about technological and science parks.

Just to give you some figures, we see that – due to globalisation and also following the recovery of the market after '89 – we have in the world today about 3500 special economic zones, subdivided into more than 120 – if I am not wrong, 137 – countries with special economic zones. We have seen that we have had a very rapid increase following globalisation. This is one of the first data that came out of this study. The conceptual framework, the scope of the study by the World Bank, was exactly what has worked, what has not worked and what we have to consider. Very soon, we see that to set up a special economic zone, there is first a sort of incentive package – fiscal and non-fiscal. This means that the investor needs somehow to be attracted.

Then, of course, we have some methods of requirement: investment requirement, ownership requirement, and then we enter a situation concerning governance, which is the independence of a regulator – sometimes they prefer that the authority regulating this special economic zone should be independent. And then, of course, there are the time the programme has been established and how long it will take.

Regarding the characteristics, we have maturity, size, the operation, the location, industry focus, infrastructure and the service offered. When we talk about infrastructure, we have to see it in broader terms today: not only on the matter of access to the port or to the road, but we also have to look to energy and digital services, etc.; we have to look to infrastructure in the broader sense. Then we have the contextual factors, which are linked to the area where the special economic zone is being put, and then we have institutional quality, the rule of law, access, proximity to market, income level, human capital – whether we have a qualified human workforce or not – and population density.

The next step will be to see which of these elements are actually strategic when a special economic zone has been set up. Here, we have the analysis that has been done about 207 special economic zones in 17 countries. The result of five more will be added in the near future. First of all, we have a public, private or mixed type of structure. From the database, we found that the private sector is most common in Latin America and the Caribbean, while public involvement is more in Asia and Sub-Saharan Africa. We still found a mostly private sector in Central Asia. Then we have the matter of the land in hectares. We can see that the average size is usually very big in Sub-Saharan Africa, less in Latin America and the Caribbean, and somehow even more in Central Asia. In southern Asia, which means India, they need fewer hectares. That is basically what came out of the study.

Corporate tax exemptions are important. I think this goes very much in line with the scope of your work. We see that normally we have more than 10 years, but as we come closer to Europe, we gained less than 10 years of tax exemption, and even four years. Then we also see whether the zone regulator is an authority which is completely independent from the government or not, etc. We see that in Africa we have a mixed situation, whilst in Asia it is much more independent.

Performance is very difficult to analyse, and we are still looking at empirical data – the so-called ‘nightlights’. During the night they photograph the light of the expansion of the special economic zone and see the variation from one year to the next. We have some growing, a certain number were stable, but we also have some cases of shrinking. Then we have a situation where, even if there is a growth in five years – 2007 to 2012 – of about 10%, the median growth (that value between 50% less and 50% more) is only 2.4%. We also see that there is a standard deviation of 20%, which means some uneven larger spread performance. This does not mean that making a special economic zone automatically means that it will work and be a success. Indeed, here we can see how it is shared. In Sub-Saharan Africa we still have 80% growing and 20% stable, but we have another area where it is actually shrinking.

I think this is what is important, namely those elements that have a positive impact, have a negative impact or have no correlation at the moment when an investment is made in this area. Surely corporate tax exemptions in a world region have a positive impact. Subsidised utilities – having access to subsidised energy – have surely a positive impact. Then we have a situation where a minimum investment requirement, level of foreign ownership required or a national one-stop shop actually do not have an impact on whether to make an investment or not.

Then we have two points that actually pay against the investment. One is the number of years in operation. This means that, if we are at the end of the period of the investment, this can have a negative impact on the performance of the special economic zone. Then the focus on high-tech, as high-tech is growing very fast and very often it may happen that it is outdated very

soon. Regarding contextual factors, proximity to a large market is certainly in favour, if there is also a pre-existing industrial base there. One point that does not play in favour...

(Speaker is interrupted by the Chair)

Obviously, if regional GDP per capita has already been reached, there is probably not much interest in having a special economic zone. The basic finding is that investors are looking for a cheap location, proximity to a large market is positive, growth is difficult to sustain over time, upgrading the technological components of value added is challenging, and utility subsidies and corporate tax breaks are to be considered.

I would like to say that this is not from the Commission; this came from a study presented by the World Bank.

1-044-0000

Charles Carr, *Financial intelligence expert*. – Good afternoon, thank you for inviting me. This is an important subject, as is the previous subject also. Risk and benefits to the economic union with freeports and free economic trade-free zones. Some benefits we have just heard. Some additional benefits that I see: obviously there's security and safety in these places, particularly the freeport in Luxembourg, and then the previous one, there was one in Geneva. There are a few freeports where high value product is kept, so there are some benefits to this because it's a secure location, it helps with foreign direct investment, it helps promote trade, it's good for efficiencies of tax, it breaks down barriers, and it also adds a layer of confidentiality, which is not always bad. But there are some risks to this and I would like to concentrate a little bit on the risks, because that is where I come from. I am a financial crime expert. I've studied financial crime for the last 25 years in and out of Europe and around the world, and economic zones and freeports, you have to conclude, are vulnerable locations for money laundering and financial crime.

The reason why I say this is because there is a lot of information that we don't know about freeports and economic zones. There's a lot of trade that goes on between the parties and the owners in these zones that we're not fully aware of. So if one buys a house in Berlin, you see the exchange, you can see on the public record that someone bought it, someone sold it. But in the freeports it is only private information which you do not see. The authorities under the EU Fourth and Third Directive have access to this information, but do they access it in the way that Global Witness or Transparency International would access it and interrogate the information, or the way journalists would interrogate the information? They don't. They don't have that sort of transparency on the trade that goes on in the freeports. There are barriers in protecting the customs coming in and out, the merchandise is X-rayed, so there is a lot of law and legislation over freeports, but does it really in reality make a difference? And the answer to that question is: we don't know! There have been a lot of studies over the years and not very many people know the answer to that question.

This isn't just a symptom of freeports. It's a symptom of money laundering *per se*. Money laundering is like water coming down a mountain. It's unstoppable, and it looks for the weak points in any system, so whether freeports and economic zones, or whether financial institutions or golden visas, these are weak points that are going to be exploited. According to the estimates of the IMF and the World Bank and FinCen in the United States, there are trillions of dollars per year passing undetected through the world's financial trade and service industries. And I highlight the words 'trade in services' because everybody studies the financial institutions. Not very many people study trade and service industries. There is a huge amount of money laundering going through trade and freeports are all about trade, so we start making logical conclusions to this.

The amount of lost tax revenues is unfathomable; the amount of money we're talking about is staggering. So if there's a trillion dollars moving through the world's systems, basically we are failing in prosecution. Collectively, as a global world, we are failing in the prosecution of money laundering. We are perhaps detecting half a per cent of that one trillion and prosecuting half a per cent of that one trillion, so it's a massive problem which we are not solving as a collective group in the EU and beyond. And legislation, I propose, is not the answer. There are plenty of good laws out there. The European Fifth Directive is a fantastic law, but that is not the problem: the enforcement and prosecutions are the problem. We are not making prosecutions of money laundering, because we are never going to stop this tidal wave of money laundering coming down this mountain.

So what can we do? We can divert, and quite often diversion moves it to another country, to another location, or we can act as deterrents. I strongly propose that we try to act in our laws and our enforcement of those laws as a deterrent. A criminal will be thinking twice about how he's going to move that money if he knows that there are severe deterrents.

I would also propose that it goes beyond just attacking the originator of this financial crime. It's also the gatekeepers: the banks, the lawyers and the accountants. Quite often I say to myself how come an accountancy firm, a very large accountancy firm, well resourced, missed that fraud. How did that happen? Why did the lawyers get away with passing this particular subject in its due diligence? And the same with financial situations. Financial institutions have staffed up massively in this area, but are they succeeding? They are still making billions of dollars of profits, but are they investing enough in their compliance regimes? I've seen first-hand the information that comes from banks to the Financial Intelligence Units (FIU) in the various European countries and beyond, and it's very variable, it's very variable indeed. They have enormous amounts of resources available to them – the banks – but they are not processing these suspicious transactions sufficiently. So I would suggest we push a lot down onto the banks themselves, but not only the banks but also the actual gatekeepers themselves.

So legislation is one thing, but if we are going to make a difference, we are going to have to provide better deterrents. I would propose, and I can answer lots of questions later, but the very summary of my points are: we need to better fund the FIUs across the countries, whether they be in Malta or Latvia or the United Kingdom. There is such a thing as an Egmont Group, they transfer data and so on, but it's very sporadic and there's a lot of political interest behind not passing data as well. So all of these need to be centralised in a way that it doesn't happen today. We need to force and expose the people who are reporting to these FIUs in a stronger and more forceful way.

I would propose an update to the Anti-Money Laundering and Counter Terrorist Financing EU Strategy, a complete refit, because we're looking at financial institutions but no one is looking at trade and no one is looking at services in such a coordinated fashion.

I propose also that the European Banking Authority (EBA), which has been reported in the media as potentially picking up some of the slack, is not the right institution. It is a supervisory institution. We need to enforce and we need to investigate. It needs focus beyond the very laws that we have today. So we need to incentivise law enforcement to act across the EU and to prosecute complex financial crime. That would be my view.

1-045-0000

Fabien Grasser, *rédacteur en chef, Le Quotidien*. – Je vous remercie de m'avoir invité. Je suis journaliste depuis une dizaine d'années au *Quotidien* du Luxembourg. Je précise que je suis français et non pas luxembourgeois, mais je connais le Luxembourg depuis environ 25 ans. Je travaille sur des sujets sensibles; j'ai commencé avec les affaires de blanchiment d'argent, concernant notamment des dirigeants africains, puis je suis passé à la fiscalité avec les dossiers

Lux Leaks et Panama Papers. En ce qui concerne le Freeport, je ne m'y suis pas intéressé d'emblée, j'ai consacré plusieurs articles à ce sujet depuis le début de cette année seulement.

Le Freeport est une structure qui a ouvert en 2014. Si je m'y suis intéressé, c'est un peu grâce à vous, puisque la commission PANA m'avait interrogé sur le sujet. Je n'avais pas beaucoup de réponses à l'époque, je n'en ai pas beaucoup plus aujourd'hui, et en cela je rejoins M. Carr: il s'agit de quelque chose de vraiment très secret.

Entre-temps, je me suis davantage intéressé aux actionnaires qu'aux clients du Freeport. Notamment parce que c'est plus simple, mais aussi parce qu'un groupe de députés de la commission PANA était venu en début d'année et ils avaient un tas de questions à poser aux responsables du Freeport, notamment à ceux de *Freeport Management*, la société qui gère les locaux. Ces questions sont restées sans réponse de la part de la direction, qui a renvoyé vers les douanes, vers le ministère des finances. Je crois que, depuis, les réponses sont arrivées, mais elles sont assez convenues et elles sont les mêmes qu'en règle générale au Luxembourg: c'est-à-dire que tout est légal, et tous les aspects éthiques ou moraux sont évacués par cette légalité: que cela soit choquant, voire pas très moral, n'entre pas en ligne de compte, l'important est que c'est légal.

Les responsables du gouvernement luxembourgeois et les dirigeants du Freeport disent qu'ils n'ont rien à voir avec la partie commerciale et qu'ils sont simplement un maillon de la chaîne logistique que le Luxembourg veut mettre en place pour diversifier une économie très dépendante d'un secteur financier qui représente environ 30 % du PIB.

On nous explique donc que tout est transparent, que tout est formidable, ce dont je doute un peu, pour deux raisons: d'abord parce qu'étant en contact avec la direction du Freeport, on m'a dit un certain nombre de choses qui se sont révélées fausses par la suite, en les vérifiant; ensuite parce qu'il y a une contradiction permanente entre une direction du Freeport qui prétend n'être qu'un simple loueur d'espaces et ne pas savoir ce qui s'y passe car ce sont les douanes qui contrôlent, mais qui dit en même temps que tout est transparent et fonctionne très bien. Il y a là une contradiction permanente. En général, un secret entoure les affaires au Luxembourg, dont le Freeport. C'est très particulier.

Une des questions posées est de savoir si des infractions ont déjà été constatées. On n'en sait rien, c'est le genre de choses sur lesquelles les autorités communiquent assez peu.

Cela fait une bonne vingtaine d'années que je travaille sur des dossiers un peu sensibles et celui-là est particulièrement sensible, vu la réaction des actionnaires et de la direction du Freeport: j'ai récolté une multitude de menaces téléphoniques ou par écrit, des insultes, des lettres d'insultes qui m'ont été envoyées y compris par avocats ou huissiers interposés. C'est quelque chose que je n'avais jamais vu et la moindre ligne sur le Freeport vaut des droits de réponse. Je dois dire que nous n'avons jamais passé le droit de réponse à la suite de ces articles.

Pourquoi est-ce si sensible? Je pense que vous connaissez tous le différend qui oppose Yves Bouvier, le principal actionnaire du Freeport, à Dimitri Rybolovlev, qui est un milliardaire russe. Tout cela fait de la très mauvaise publicité au Freeport, les affaires ne vont pas très bien; en regardant les comptes annuels, on voit qu'il y a des pertes qui ne cessent de se creuser, ce qui explique cette grande susceptibilité.

Maintenant, un mot sur la loi luxembourgeoise. Je pense que le Freeport est l'un des rares ports francs en Europe, sinon le seul, je crois, qui s'est déjà placé sous la directive antiblanchiment. C'est très bien, le Luxembourg a un tas de lois exemplaires, à la pointe dans la lutte contre le blanchiment et la fraude fiscale. Cependant, le problème – et je crois que M. Carr en a parlé dans une certaine mesure – est le suivant: vu la taille du Luxembourg, vu le nombre d'affaires

traitées, c'est bien d'avoir de belles lois, de bonnes lois, mais encore faut-il pouvoir les appliquer, c'est-à-dire être capable d'exercer un contrôle. Je crois que quand la commission PANA était venue en 2017 à Luxembourg, les membres de la commission de contrôle et de surveillance du secteur financier avaient expliqué qu'il n'y a que 16 personnes pour traiter 20 000 signalements par an. C'est un chiffre qui se passe de commentaires. La question peut être posée: le Freeport est exemplaire au niveau des lois qu'il a fait siennes, mais ces lois sont-elles réellement appliquées? Nous n'en savons rien.

Je tiens encore à dire, que beaucoup pensent que je suis un spécialiste de la finance et de la fiscalité, mais mon travail ne se résume pas à cela, il relève davantage du fait divers car quand j'enquête sur des histoires de blanchiment, je suis dans le fait divers, ce sont des histoires de gendarmes et de voleurs. Le problème, pour la presse au Luxembourg, c'est que souvent, il y a les voleurs, mais pas les gendarmes derrière. On peut sortir des choses très étayées, très factuelles, mais il n'y a pas de poursuites. Et à mon sens, c'est un des problèmes qui peut se poser avec le Freeport, pour peu qu'on ait des informations dessus, car c'est effectivement très secret.

1-046-0000

Luděk Niedermayer (PPE). – Thank you very much, and welcome to the European Parliament. I have a question relating to the presentation by Mr Carr. First of all, I appreciate very much your comments about the complexity of the issues relating to money laundering. We hear in the preparation of our report summarising what has happened that there is improvement in legislation in Europe – more international cooperation, we have automated the exchange of owners of accounts, we have certain limits on the shareholders and owners of the company – so I wonder what, in your view, are the most important missing points, because the system is only as robust as the weakest part.

The second question relates to your observation, to your remark, that the EBA is probably not best placed to play an important role in money laundering. This is very close to my view as I was a central banker and the central banks are very much involved in supervision, so I understand that supervision is prudential, while anti-money laundering is something very different. But we are facing two issues. The first is investigation of incidents, which is done by the FIUs, but then there must be someone who will look at the quality of the systems within the bank about compliance of the procedures with the law and so on, so I wonder, in your view, who is best suited to do the second part of the work?

1-047-0000

Charles Carr, *Financial intelligence expert.* – Huge strides have been made in all of these areas in terms of transparency, particularly ultimate beneficial ownership (UBO) documents in the drive across the world to clean up the shell companies, to clean up non-resident deposits within banks. There is a very, very large push to put transparency into the financial systems, and also reporting of such.

The biggest area where one could invest some good money and good time is the analysis of that data, because this is an enormous amount of data we're talking about. We're talking about immense amounts of data. But today we have an advantage because we have systems that can interrogate that data in a very, very quick and effective way. However, it's a highly skilled job, and unfortunately the banks are somewhat conflicted and the FIUs themselves, in my experience, are quite often under-resourced or overwhelmed, or both. Quite often they are overwhelmed, because – and I don't know the exact statistics – in the UK, for example, there are something like hundreds of thousands of suspicious transaction reports filed each year, and they don't have enough resources to analyse each one. And the banks themselves are playing a clever game because they know that if they send a suspicious transaction report they get off slightly, maybe. So there's a game going on there, but I think if one could invest some money

across Europe, skilling up the tasks within the financial units, which are on the front line of looking at these issues, that would be the first thing I would do.

In terms of the EBA, of course supervision is needed, but the EBA is looking at one aspect – it's not looking at trade. I mean trade in the over-pricing and under-pricing of value of trade or intercompany transfers or investments in equity, or taking out loans from hedge funds or art collections and so forth, this is all under the radar. I think the EBA can play an enormously important role in terms of supervising and seeing what is going on within the financial world, but money laundering, as I said, is like water. It will find the weakest link, and it will attack that weakest link. Nobody is looking at it, I think, in a collective way across the whole realm of problems that money laundering can expose. So the quality of investigation in that world needs coordinating as a collective unit. The United States has a central taskforce – I forget the name – but it has a central money laundering taskforce that looks across the realm of money laundering. Europe could do similarly.

1-048-0000

Luděk Niedermayer (PPE). – So just for clarification, are you talking about merging these two functions together?

1-049-0000

Charles Carr, *Financial intelligence expert.* – Well, one is enforcement and one is supervision. I think they are slightly different, but they do need to have a relationship. I'm an investigator by nature; I think we need to do more investigation into the data that we get, and I think the banks need to do a better job, or the freeports or whoever is required under the legislation to pass better data across, and then the interrogation of that data will lead to better prosecutions.

1-050-0000

Jeppe Kofod (S&D). – Thank you to the panel once again. With regard to these special economic zones and all of the data that you also provided, I think it is hard to justify that it really provides genuine economic growth in these special economic zones. I remember previously in our committee – not this committee, but a previous committee – with the special situation that they have in Portugal, we have these examples where we don't see any genuine economic growth in these areas, even though there was meant to be so. I am questioning the whole concept and I have seen an explosion of it over the years so it's really worrying that the EU is also part of what is shown on the slide here, what we call 'fiscal incentives', which could be anything in a way – corporate tax incentives, other incentives. I just want to clarify that.

But on freeports: first of all, is there any limit on what EU Member States can do? Maybe it is also a question to the Commission. How long can these freeports operate with the different items that they have? For example, we know that they have fine art paintings, jewellery, they have metals, they have gold bars; there are all kinds of things stored in these freeports. How is it registered, how long can they operate for, and how many times can items be sold and bought? Is there any limit on that because what we see here is a total parallel system that, as we know in this committee, can be used for illicit economic activities all the time.

Mr Carr, I want to put a question to you. You rightly said that we lack enforcement and also prosecution, but I would also guess detection of money laundering – you mentioned the numbers yourself. In practical terms, it is almost risk-free for most people to do money laundering. You mentioned EU FIUs but also other systems. Do we need something like an FBI for Europe when it comes to financial crimes? Because you are absolutely right: I've seen it many times over. We have scandals in banks where they can have the best compliance policies on paper, but if they don't apply them then it doesn't matter. So we need on-site control of these financial institutions, freeports and other things, to see whether they really follow the law or not, because only showing that they have the right policy has failed over and over again. We have seen many times also that we trust the institutions – private institutions – too much to be self-regulating; they fail over and over again. Do we not need some someone who can go on

the ground to do inspections? And to the Commission, is it something we could work for? I know the limits of course with national competences, but I think if we want to have a genuine common market here, isn't there a problem if we don't have controls that the legislation we do together is not implemented and enforced, and people are not prosecuted when they carry out illegal activities?

1-051-0000

Philip Kermode, *Head of Directorate A - Customs, DG TAXUD*. – Thank you very much. I will attempt to answer what I think are two questions: the first about the status of free zones themselves. Let me say 'free zone', because in the EU legislation, the Union Customs Code, we define it as a 'free zone'.

In the free zone, there is no time limit for the maintenance of goods in it. There was a complete reformulation of the customs legislation under the Union Customs Code, and in that you will find that the free zone concept is put together with customs warehousing as a form of storage. The concept behind it is that the goods come into the free zone, they may stay in there, but if they come out, they are treated as though they are being imported directly into the European Union and are subject to declarations, etc. Similarly, the standard process is that VAT and excise provisions piggyback – if I can put it like that – on the customs provisions but, in the case of VAT, the authorisation to exempt within a free zone is subject to a consultation of the VAT Committee and is subject to agreement. I hope that answers your first question.

As to the question of inspections, as it stands at the moment – and from the point of view that I see these things, as looking at customs – there are two particular areas you can look at. One is the inspection process carried out by our DG Budget, but that is linked to traditional own resources. The second, of course, are those investigations carried out by OLAF into particular frauds. But beyond that, I am not aware of any formal powers that we could use to check on the processes because, as far as I can see at this moment in time, the legislation is properly respected in terms of the provisions that apply, the obligation to ensure, for instance, that a free zone is enclosed and that it is subject to customs supervision *per se*.

1-052-0000

Charles Carr, *Financial intelligence expert*. – I couldn't agree with you more: detection is the cornerstone of fighting and combating such financial crime. The detection in today's world is a complex matter as I said before, because it requires very, very, deep analysis of so much information to be found, and it's really the responsibility of the gatekeepers as the first port to take charge of that and make them responsible for such.

You ask yourself the question how can Estonia or Latvia happen? In Estonia, USD 200 billion of Ukrainian/Russian money in flight capital moved through one branch. I mean, how can that possibly happen in terms of the systems not detecting that? How can the central bank not detect that and trigger various red flag systems? The front line detection is absolutely the... Whether there is need for an FBI of financial crimes in Europe, something has to change. The status quo cannot continue, and if we prioritise better resources both in the in the banks themselves or in the frontline gatekeepers to our own investigators, I think we are going to get better results.

1-053-0000

Werner Langen (PPE). – Herr Vorsitzender! Ich möchte aus den Erfahrungen des Untersuchungsausschusses in Luxemburg einige Anmerkungen machen. Wir waren ja dort und haben am Beispiel des Luxemburger Freihafens gesehen, dass das abgeschottet ist, dass es gesichert ist, dass der Zugang nicht für jeden möglich ist, dass relativ hohe Mieten von elf bis zwanzig Euro pro Quadratmeter Lagerfläche dort genommen werden. Wir haben gesehen – gerade im Hinblick auf das, was der Vertreter der Kommission gesagt hat –, dass es dort eine Zollbehörde gibt. Aber der gesamte große Freihafen – das ist wahrscheinlich alles nach Recht und Gesetz in Luxemburg klar – ist von drei Zollbeamten überwacht worden. Und da stand ein Riesenscanner, der wurde als Erfolg gefeiert. Dort kann man also größere Pakete, also so zwei

Meter mal zwei Meter, scannen. Aber im Grunde weiß niemand, was wirklich in diesem Zollhafen lagert. Das ist ähnlich wie früher bei den Bankschließfächern, wo ein Schlüssel von der Bank da war und ein Schlüssel vom Eigentümer, aber niemand kontrolliert hat, was im Bankschließfach war. Und hier gibt man vor, durch die Anwesenheit des Zolls gäbe es eine stärkere Form der Kontrolle, obwohl die Dimension weitaus größer ist, als sie im Bankschließfach überhaupt denkbar ist.

Ich finde, die Vorschläge, die gemacht wurden, dass man dort eine europäische Institution verantwortlich machen muss und nicht allein die nationalen Behörden, richtig. In Luxemburg haben wir bei den Panama-Papieren – das will ich noch mal in Erinnerung rufen – 403 Fälle: 103 von Banken, 300 von Anwälten, Steuerberatern und anderen. Bei den Banken gab es 67 Ermittlungsfälle, 13 Verurteilungen, bei den Steuerberatern gab es einen einzigen Ermittlungsfall ohne Verurteilung. 299 sind erst gar nicht wirklich geprüft worden. Das heißt, wenn man das in der Hand der Nationalstaaten belässt, dann wird das Schwarzgeldmodell Luxemburgs halt eben jetzt in den Freihafen verlagert. Den Verantwortlichen, die die Gebäude zur Verfügung stellen, kann man dabei überhaupt keinen Vorwurf machen. Sie sind frei durch die Tatsache, dass der Zoll das ja angeblich kontrolliert – was er nicht kann. Deshalb halte ich die Vorschläge, die hier gemacht wurden, dass man dort eine europäische Institution verantwortlich macht, für richtig. Ich hätte gerne die Meinung der Sachverständigen dazu gehört.

1-054-0000

Fabien Grasser, *rédacteur en chef, Le Quotidien*. – Je voudrais juste apporter une précision en ce qui concerne les douanes. Effectivement, nous avons trois douaniers. Que contrôlent-ils comme matières? Ils contrôlent des œuvres d'art, des antiquités, des voitures de collection, des cigares, des vins, de l'orfèvrerie, des bijoux et même des données informatiques. Se pose aussi, à un moment donné, la question de la formation de ces personnes. Ce sont des douaniers, ils ne sont donc pas docteurs en histoire de l'art... On peut se poser la question.

J'aimerais juste ajouter une précision qui répondra peut-être à votre question, Monsieur: les biens peuvent y être stockés indéfiniment; ils peuvent également être vendus à l'intérieur entre différents acteurs. Normalement, une déclaration est faite en douane – on peut dire qu'elle est faite – mais les choses peuvent rester indéfiniment dans un port franc.

En ce qui concerne les contrôles, une chose m'avait frappé. Le président d'une des sociétés (car il y a une ribambelle de sociétés qui contrôlent le port franc et ça aussi c'est un point complexe, car au niveau des données, on peut se retrouver très vite avec des milliers et des milliers de pages de documents qui décrivent qui est qui et qui fait quoi) qui dirige le Freeport mettait en en avant, au sujet des contrôles, le fait qu'il y a régulièrement des visites internationales de personnes qui les félicitent pour la sécurité du lieu (alors oui, on a vu que le lieu est très sûr: c'est un bunker, c'est Fort Knox!) et pour sa transparence. Il s'agit notamment l'Organisation mondiale des douanes mais aussi, à plusieurs reprises (et on me l'a même écrit dans un droit de réponse) d'une délégation des douanes françaises qui serait venue au port franc et aurait félicité ce dernier pour sa transparence. Vérification faite, il n'y a jamais eu de visite d'une délégation des douanes françaises. De toute façon, que pourraient-elles contrôler tant que les autorités luxembourgeoises ne leur fournissent pas les documents? Elles ne peuvent donc pas dire que c'est transparent.

Je crois que M. Dauvergne, directeur du port franc, était invité ici aujourd'hui. C'est un ancien haut fonctionnaire des douanes françaises. Ce que je sais, c'est qu'effectivement deux ou trois de ses amis, anciens douaniers, sont venus et lui ont dit que c'était très bien. Cela est devenu une caution pour le port franc qui avance qu'il a l'assentiment des douanes françaises. C'est faux: j'ai contacté le ministère de l'économie et des finances en France et c'est absolument faux.

Il y a autre chose et, Monsieur Langen, je vois que vous êtes encore là. Dans les échanges que j'ai eus avec eux, ils m'ont aussi expliqué que les membres de la commission PANA leur ont avoué qu'ils s'étaient lourdement trompés sur le port franc de Luxembourg et que tout était très bien. Je ne sais pas quel membre de votre commission est allé dire cela à M. Goebbels...

Il y a beaucoup de communication autour du port franc. Au Luxembourg, les médias sont régulièrement invités, on leur fait des démonstrations de restauration de tableaux, etc.

J'aimerais juste dire deux mots sur les autres actionnaires. Il y a Yves Bouvier, qui fait un peu la une des chroniques judiciaires depuis trois ans dans son contentieux avec Dimitri Rybolovlev au sujet de ventes de tableaux. C'est un contentieux qui porterait sur un montant compris entre 400 millions et un milliard d'euros. Un autre actionnaire français, Olivier Thomas, est aujourd'hui mis en examen pour des vols de tableaux de Picasso. C'est une histoire un peu compliquée liée à l'héritage. Enfin, un troisième actionnaire, Jean-Marc Peretti, apparaît régulièrement dans des documents, des articles et dans des documentaires en France comme une figure du grand banditisme corse. Pour l'avoir écrit, j'ai eu des menaces, des lettres d'insultes et tout un tas de choses, mais le fait est que cette personne gérait un cercle de jeu à Paris, le Cercle de l'industrie et du commerce, qui a été fermé en 2008 ou 2009. On retrouve en permanence son nom dans des articles en France liés au grand banditisme, notamment à un gang corse, le gang du Petit Bar. C'est le dernier article que j'ai pu lire sur lui. Il apparaît aussi dans des ouvrages sur la mafia du football, etc. Voilà ce que je sais des actionnaires.

1-055-0000

Werner Langen (PPE). – Herr Vorsitzender! Nach dem Besuch gab es ein Pressegespräch, das hatte der Freihafen arrangiert. Und da gab es Kontroversen. Ich war aber bei diesem Gespräch nicht dabei. Ich kann nicht bestätigen, dass es einen Freibrief gegeben hat.

1-056-0000

Fabien Grasser, rédacteur en chef, Le Quotidien. – Que plusieurs députés lui ont dit qu'ils s'étaient fourvoyés, il me l'a écrit, il me l'a également dit en tête-à-tête, ce n'était donc pas au cours de la conférence de presse.

Nous étions en quelque sorte dans une situation où quelqu'un nous disait: «tout est transparent, je peux vous assurer que le contrôle est parfait, mais je ne sais pas ce qui rentre, puisque cela ne me regarde pas, je suis seulement le loueur de l'espace». En fait, les douanes, le ministère des finances et l'administration du Freeport se renvoient la balle.

Ce que je constate, c'est que nous sommes face à des actionnaires qui ont des dizaines, voire des centaines, de sociétés dans le monde. Donc, très vite, en tant que journaliste, nous sommes confrontés à ce problème du traitement des données, c'est-à-dire que nous nous retrouvons avec des dizaines de milliers de pages et nous finissons par n'y plus rien comprendre. Là aussi, il me semble que c'est un problème, sachant que la plupart de ces sociétés sont sans substance, c'est-à-dire avec zéro salarié, qu'elles n'ont en fait aucune activité réelle.

1-057-0000

Chair. – Just to clarify what has been said, there was no official PANA mission or official statement on that issue.

1-058-0000

Sergio Piazzardi, DG DEVCO. – I just wanted to clarify a point, because it is looking that we will in the development field support the special economic zone, absolutely not.

I cannot say even if we are against; the point is that until they represented the result of a study of 20 years' of activities where there are some indicators, that can be useful for assessing in the future also according to the agenda of your committee how a special economic zone can work,

which I think that this type of work was not available before, was financed it was the World Bank in the last 20 years, not us. The first point.

The second point that I would like to say is that we should also be somehow pragmatic on the geographical point of view, a geographic space. When we look, for example, to a continent like Africa, we talk about poll of growth, we talk about a corridor of (*inaudible*), transport corridors, and then there are also port and special economic zones, so we cannot ignore this reality in the case of Ethiopia, for example. But in case we somehow support that it is utmost principle, it is governance, and indeed the one of the reference it is of Danny Kaufman, the Worldwide Governance Indicators and the ease of doing business indicators. So basically that is the point: we are not bargaining growth against the governance, that is something that is to be clear.

1-059-0000

Evelyn Regner (S&D). – Ich gehöre zu jenen, die bei der Delegation einiger Abgeordneter zum Freeport in Luxemburg dabei gewesen sind. Ich kann Ihnen versichern, ich habe mich ein bisschen gefühlt wie in einem James-Bond-Film. Es war wirklich sehr spannend, wie das funktioniert, da reinzukommen. Ich bedaure sehr, dass heute kein Vertreter des Freeports da ist und auch kein Vertreter der luxemburgischen Behörden, denn viele Fragen konzentrieren sich ja auch auf die Hintergründe, die wir da näher beleuchten würden. Mein Fazit nach der Mission zum Freeport war: Was dort gelagert wird, wissen nicht einmal – oder sie geben es zumindest uns Abgeordneten gegenüber vor – die Eigentümer des Freeports. Allein die wirtschaftlichen Eigentümer wissen letztendlich, was dort gebunkert werden kann. Und dann haben wir ein schwarzes Loch, sehr viel mangelnde Transparenz.

Daher meine Fragen, und ich ersuche Sie, so wie Sie in Ihren Funktionen jetzt hier sind, noch mehr dazu zu sagen, nämlich: Wissen Sie mittlerweile, was dort gelagert wird – wir haben nur gesehen, wie ein Bild restauriert wurde –, welchen Wert die Güter haben? Und schließlich: Warum hängen beispielsweise diese Picassos nicht in einem Museum oder in einer Luxusvilla all dieser reichen Menschen? Was ist letztlich die Motivation, die Wertgegenstände dort zu bunkern? Das kann ja letztlich nur eine Motivation des Versteckenwollens sein. Deshalb interessiert mich natürlich ganz besonders, ob materiell diese fünfte Antigeldwäscherichtlinie ausreicht, ob wir nur nachschärfen sollten, was Durchsetzung und mehr Personal betrifft, oder ob hier sehr wohl auch materiell noch etwas zu tun ist. Da würde ich Sie ersuchen, darauf einzugehen.

Und, Kollege Langen hat es schon angesprochen, die Intermediäre: Das, was wir dort gesehen haben, waren interessante Briefkastenfirmen – Priv'Art, Zilkens, Lux' Charity und so weiter. Sind das letztlich die einzigen, die diesen Kontakt herstellen zwischen den wirtschaftlichen Eigentümern und den Steuerbehörden? Sind das die einzigen? Mir scheint im Endeffekt: Egal, wo wir letztlich angedockt haben – kein Mensch hat gewusst, was für Gegenstände das sind. Im Endeffekt hat keiner irgendwas gewusst, und man hat sich gefühlt wie bei den drei Affen, und egal, wo man angedockt hat, man ist nicht weitergekommen. Daher meine Frage auch nochmals zu den Intermediären, ob die aufgrund ihrer gesetzlichen und sonstigen Verpflichtungen nicht noch mehr wissen müssten.

1-060-0000

Fabien Grasser, rédacteur en chef, Le Quotidien. – Juste quelques mots pour conclure; des questions se rejoignent un peu entre les deux députés. Les portes n'étaient pas très ouvertes avant, mais maintenant, depuis la visite, depuis les articles sur le Freeport, elles sont vraiment fermées et nous avons beaucoup de mal à y entrer.

Aujourd'hui, pourquoi certaines personnes entreposent-elles des œuvres d'art dans des lieux comme le Freeport? Il y a peut-être des choses à cacher mais je crois aussi que nous sommes face à une dérive du marché de l'art. L'art est devenu un objet purement spéculatif et, tout simplement, nous sommes confrontés à des gens qui se moquent que les tableaux soient dans

les musées, jusqu'au moment où ils veulent les vendre, alors, ils aiment bien les montrer pour faire un peu de publicité. C'est donc tout simplement parce que nous en sommes arrivés à un marché très spéculatif. Je pense aussi que les ports francs sont un endroit parfait pour échapper à un certain nombre de données d'imposition fiscale.

Une question qui se pose au niveau des ports francs, selon moi: beaucoup de choses ont été réalisées en ce qui concerne l'échange automatique dans l'Union européenne, au niveau de l'administration fiscale, mais je crois que, pour le moment, les ports francs y échappent. C'est-à-dire qu'un résident espagnol, par exemple, peut aller entreposer des biens au port franc du Luxembourg. Est-ce que le fisc espagnol le sait? Il me semble que ce n'est pas le cas aujourd'hui. Il y aurait peut-être aussi des actions à entreprendre à ce niveau-là.

1-061-0000

Wolf Klinz (ALDE). – Herr Vorsitzender! Dass wir hier mit finanziellen Verbrechen zu tun haben, ist ja nichts Neues. Ich bin allerdings entsetzt, wenn ich von der Größenordnung höre. Dass also hier Waren und Dienstleistungen in Billionenhöhe – englisch *trillions* – umgeschlagen werden, ist natürlich schon phänomenal.

Meine Frage ist ganz simpel. Wir wissen, dass diese Freihäfen für zwielichtige, illegale Geschäfte benutzt werden. Warum machen wir nicht das, was manche Jurisdiktionen mit *gambling* machen, das auch sehr stark mit Geldverschiebung und so weiter zu tun hat, mit krimineller Energie? Warum verbieten wir nicht einfach solche Sachen, zumindest in der Europäischen Union? Ich verstehe, dass es vielleicht in Äthiopien und in anderen Ländern so etwas geben muss, aber wir sollten es verbieten. Wir sollten noch zusätzlich zwei andere Sachen machen: Erstens: Die Gefahr von Kollusion zwischen Verwaltungs- und Regierungsmitgliedern und diesen Betreibern ist groß. Wir sehen ja, dass in Luxemburg ein ehemaliger Minister und ein ehemaliger Staatssekretär aktiv sind. Wir sollten also auch hier die Strafen für die Betreiber und die Gründer solcher Freeports und spezieller Wirtschaftszonen drastisch erhöhen, für den Fall, dass tatsächlich krumme Geschäfte aufgedeckt werden. Dann würde vielleicht das Interesse, so etwas zu lancieren, etwas zurückgehen.

Punkt zwei ist: Ich verstehe durchaus, was Charles Carr gesagt hat: Wir bräuchten ähnlich wie in den USA eine starke europäische Behörde, die sich dem Kampf gegen diese Geschäfte verschreibt. Allerdings wissen wir alle, dass es zeitaufwändig ist, eine solche Behörde in der Europäischen Union zu gründen. Das braucht einen großen Vorlauf. Es muss durch alle möglichen Gesetzgebungen durch, es muss beschlossen werden von Kommission, Rat, Parlament etc. – das dauert. In dieser Legislaturperiode, die *for all practical purposes* im April nächsten Jahres zu Ende geht, werden wir das nicht schaffen. Und deswegen meine Frage: Macht es Sinn, zumindest kurzfristig die EBA mit dieser Aufgabenstellung zu betrauen, damit wir wenigstens mal – wie man so schön auf Deutsch sagt – den Fuß in die Tür bekommen?

Und das Dritte ist: Wie ist es möglich, dass die *Financial Intelligence Units* in Europa in den einzelnen Ländern personell so unterbesetzt sind und dadurch auch so wenig effizient arbeiten? Kann man da nicht schnell Abhilfe schaffen?

1-062-0000

Charles Carr, Financial intelligence expert. – I'll try to answer some of those questions, starting with the third one first, on the FIUs, which I know a bit about. They depend on regional budgets or country budgets quite a lot, so they are picked from internal staffing from each country and have varying degrees of budget given to them by their respective governments. Therefore, it really depends on the country-by-country how effective they are. However, not to name names, if you take a smaller country which has less resources dedicated to these things and where an awful lot of money moves through, whether it is the Baltic States or island entities within Europe, they haven't got enough money to research these issues properly. Therefore, maybe a collective way could be found from the EU of orchestrating funding and skilled people

to assist the training and the development of FIU units in the more exposed areas. That would be one thing.

Regarding the EBA, something has of course got to be done in the sense of changing the status quo. We cannot have Estonia, Latvia, Malta and the next problem occurring all the time, because then nothing is done about it. So whether the EBA takes a supervisory role while these things get going, whatever makes a difference is the key driver. There is of course a lot of infrastructure already in place, but they aren't quite getting to the problem. I would again put back, if it can be done, more requirements on the gatekeepers of the money moving, i.e. whether it's the banking institutions, accountancy firms or anyone who is responsible under the EU directives for suspicious transaction reporting, to do a better job.

Just going back to the art market, this is something I know a little bit about as well. The art market is almost one of the perfect markets to move money in. What has changed in the last ten years or so is the investment into art and the freeports and the economic zones that store this art. They store it because it's a secure place to hide things and that is potentially a legitimate interest, but also it's a place where things can be bought and sold very quickly at values nobody understands, and that's the key. It's the transfer of the value of a painting, whether it's a Mona Lisa or a Picasso. How much is that worth? In a private sale, it could be anything and the customs officials and the various authorities that are looking at this have the very difficult task of keeping up with that. Whether it's a Hong Kong buyer buying a Picasso from Angola, he's using the freeport to do that and that's something that one could really look at, whether that requires on-site inspections or requires much more transparency over that sort of trade.

1-063-0000

Fabien Grasser, *rédacteur en chef, Le Quotidien*. – J'aimerais juste ajouter quelque chose sur le port franc, sur le contrôle. Le problème, c'est qu'il s'agit d'un service non financier, cela relève de la logistique. Cet endroit échappe donc totalement au contrôle financier traditionnel qui s'applique aux banques, aux fonds d'investissement, au fiduciaire, etc. On est dans le domaine de la logistique, légalement, le contrôle est donc très compliqué.

Quant au stockage des œuvres d'art, en effet, je crois qu'Yves Bouvier se vantait de stocker un million d'œuvres d'art au port franc de Genève: il est bien possible qu'une partie de ces œuvres soit partie à Luxembourg et une autre à Singapour.

1-064-0000

Ramón Jáuregui Atondo (S&D). – Yo tengo dos preguntas para ustedes.

En primer lugar, respecto de Le Freeport ¿puede usted, señor Gasser, informarnos de si ha logrado saber por sus investigaciones si hay una agencia en Luxemburgo que se encarga de obtener clientes para Le Freeport y si tiene sedes en otras ciudades o en otras capitales europeas. ¿Existe ya, por tanto, esa —dígamos— organización?

Y sobre lo que ha señalado el señor Carr de la lucha contra el blanqueo —usted hablaba de efecto disuasorio—, yo diría que los bancos, en Europa, han empezado a sentirse muy responsables de ese problema, porque estos últimos días hemos visto que el banco ING ha sido sancionado con 750 millones de euros —si yo recuerdo bien— y el banco danés en Letonia, también. Ha habido bancos que se han cerrado: el Banco de Andorra, el Banco de Madrid. ¿No existe ya en el sistema bancario, por así decirlo, un temor suficientemente disuasorio? Pero mi pregunta es ¿no tendría que ocurrir eso mismo con los grandes bufetes de abogados o las grandes consultoras o las agencias de financiación para que, efectivamente, el miedo —porque es de lo que usted hablaba— penetre al igual que está penetrando en los bancos, contra el blanqueo de dinero? Y, ¿qué habría que hacer y qué tendría que ocurrir para que eso fuera posible?

1-065-0000

Fabien Grasser, *rédacteur en chef, Le Quotidien*. – Pour répondre à la question portant sur la promotion du port franc, il est formé de quatre sociétés dont l'une, la *Luxembourg Management Company*, a pour rôle de rechercher des clients. Le marché de l'art est peu régulé voire dérégulé et les actionnaires de ce port franc sont des personnes qui sont présentes sur ce marché, qui ont beaucoup de relations, qui vont sur les foires d'art, qui travaillent avec de nombreux galeristes en Europe et qui démarchent les gens de cette façon.

Mais le fait est qu'aujourd'hui, le *Freeport Luxembourg* ne marche pas du tout. Cela est dû en grande partie à l'affaire Bouvier-Rybolovlev. Sur les neuf sociétés qui louent dans le Freeport, je crois qu'il y en a trois qui appartiennent à Yves Bouvier et qui sont dans la restauration de tableaux, la logistique, etc. – la logistique étant le métier de base de celui-ci. Tout cela se passe très discrètement. Il n'y a pas de publicité, ni à la télévision ni dans les journaux.

1-066-0000

Charles Carr, *Financial intelligence expert*. – In respect to your question of what else could be done in terms of the banks and spreading the fear, yes, of course, things have improved a hell of a lot since a few years ago. Obviously, the United States in its fining of institutions is fining much more heavily: billions of dollars are being fined. But smaller banks are closing down; in Latvia, some banks have closed down as a result of the damage from money laundering prosecutions and so forth, all of which has effect. But how can we go further? I think the simple answer is prosecutions. If you were to throw in jail the head of PwC or Ernst & Young – not that they've done anything wrong yet! – I think that would have a very, very big effect. Or a lawyer, or someone else other than a banker – maybe a banker as well, but, you know, throw them all in jail. A simple answer. That would have a very, very strong deterrent effect, I imagine.

1-067-0000

Jeppé Kofod (S&D). – Thank you, Chair, and thank you so much to our panel for these very clear and frank answers to us. I would not conclude a lot, but I think that it is clear to me that we have a lot of follow-up work to do on the issue of golden visas as we call it here, the hearing before, but also on this issue of on freeports, which we are discussing right now. It is really important that we look further into this, and also to me it is clear that if you have a parallel system of freeport, you might as Mr Carr is saying have a safe and secure place to store your valuables, but that these valuables can be there forever, in a way, and also it can change owners and buyers and so on without any sufficient control of what is going on. So it is a huge avenue for illicit trade and also illicit money to flow around, and I am still also struggling with what kind of benefit this whole system has for the real economy, if any. I don't believe that it has a huge value for the real economy. So therefore, I think, knowing the limits on how the Member States' competences are and vis-à-vis the European Union we have of course an issue here, but we should, as this Committee and me as the rapporteur, look very much into this and we need, as several have said, not only to be better on detection and supervision, but also on prosecution. We also need clear rules on an EU level as far as we can go within the competences of what we have, and also I think when you are in a union where we have an article saying that we need to have sincere and loyal cooperation with each other to, for example, fight money laundering, illicit finance, then this is an area where we haven't seen that yet. So to fulfil the Treaty itself as well, besides the different anti-money laundering directive, I think it is important we do a lot more, but I want to thank the panel for shedding some light on some of the issues that are here, and you should be sure that we are continuing this discussion, so thank you for my part.

1-068-0000

Chair. – Thank you, Jeppé. I think that wraps our panel up well. I would like to thank all the speakers: thank you very much for your contributions, which are highly appreciated.

I will ask the Members whether they have anything under ‘any other business’. That is not the case. The next meeting of the committee will take place on Thursday, 18 October 2018 at 14.00 in the form of a workshop.

(The meeting closed at 17.51)