EUROPEAN PARLIAMENT 2009 - 2014

Committee on Economic and Monetary Affairs

2012/0000(INI)

29.1.2013

DRAFT REPORT

on Fight against Tax Fraud, Tax Evasion and Tax Havens
(2012/0000(INI))

Committee on Economic and Monetary Affairs

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on Fight against Tax Fraud, Tax Evasion and Tax Havens

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The European Parliament,

– having regard to the Commission communication of 6 December 2012 on an Action plan to strengthen the fight against tax fraud and tax evasion (COM(2012)0722),

– having regard to the Commission recommendation of 6 December 2012 on aggressive tax planning (C(2012)8806),

– having regard to the Commission recommendation of 6 December 2012 regarding measures intended to encourage third countries to apply minimum standards of good governance in tax matters (C(2012)8805),

– having regard to the Commission recommendation of 27 June 2012 on concrete ways to reinforce the fight against tax fraud and tax evasion including in relation to third countries (COM(2012)0351),

– having regard to the Commission communication of 28 November 2012 on the Annual Growth Survey 2013 (COM(2012)0750),

– having regard to its resolution of 17 April 2012 on the call for concrete ways to combat tax fraud and tax evasion (2012/2599(RSP)),

– having regard to the report of 10 February 2012 by Richard Murphy FCA on 'Closing the European Tax Gap',

– having regard to the Council resolution of 1 December 1997 on a code of conduct for business taxation,

– having regard to the OECD Report 'Addressing Base Erosion and Profit Shifting' (2013),

– having regard to Rule 48 of its Rules of Procedure,

– having regard to the report of the Committee on Economic and Monetary Affairs and the opinion of the Committee on Budgetary Control (A7-0000/2013),

A. whereas an estimated and scandalous EUR 1 trillion is lost to tax fraud and tax avoidance every year in the EU;

B. whereas this loss of revenue raises the deficit and debt levels of Member States (MS), thereby reducing the funds available for fostering public investment, growth and employment;

C. whereas tax fraud and tax evasion constitute an illegal activity of evading tax liabilities, while, on the other hand, tax avoidance is the legal but improper utilisation of the tax regime to reduce or avoid tax liabilities;

D. whereas the persistence of distortions caused by non-transparent or harmful tax practices on the part of jurisdictions acting as tax havens can lead to artificial flows and negative effects within the EU internal market;

E. whereas unilateral national measures have proven ineffective, and this necessitates a coordinated and multi-pronged approach at national, EU and international level;

1. Welcomes the Commission's Action Plan and its recommendations urging MS to take immediate and coordinated action against tax havens and aggressive tax planning;

2. Urges Member States to follow up on their commitment, embrace the Commission's Action Plan, fully implement the two recommendations, and complete the procedures for all pending legislative proposals regarding issues of tax fraud, tax avoidance and tax havens;

3. Welcomes the Commission's initiative to establish a 'Platform for Tax Good Governance';

The EU's role in the international arena

4. Emphasises that the EU should lead the discussions and should assist non-EU countries in subscribing to the EU principles of transparency, exchange of information and abolition of harmful tax measures;

5. Considers it of paramount importance that the Commission deal with non-EU countries on behalf of the EU without leaving the initiative to MS to individually engage in bilateral agreements;

6. Proposes the introduction of requirements for unconditional cooperation with the EU on money laundering, tax fraud and tax avoidance issues for MS seeking financial assistance;

7. Calls on the Commission to prevent national, regional and local authorities, non-EU countries and companies that breach EU tax standards from receiving state aid and EU funding of all types;

Headline target - Addressing the tax gap

8. Calls on Member States to commit to an ambitious but realistic target of halving the tax gap by 2020, since this would gradually generate new tax revenue without raising tax rates;

9. Calls on the Commission to urgently develop a comprehensive strategy based on concrete legislative actions to close the EU tax gap;

10. Stresses that a strong commitment to reducing the tax gap would contribute to the necessary stabilisation of financial markets, help with fiscal consolidation while easing its

austerity effects, increase public investment resources, improve the efficiency and fairness of national tax systems, and raise general tax compliance levels;

11. Encourages the Commission and the Member States to enhance the use of the European semester by integrating the EU tax gap strategy into the annual national stability and growth programmes and national reform programmes;

Proposes the following actions to be at the forefront of the EU tax gap strategy:

On tax fraud and tax evasion

12. Urges Member States to allocate adequate resources to their national tax administrations and tax audit staff;

13. Calls on Member States to agree and implement a compulsory Common Consolidated Corporate Tax Base;

14. Calls on Member States to revoke the banking licenses of financial institutions if they actively assist in tax fraud by offering products or services to customers enabling them to evade taxes or refuse to cooperate with tax authorities;

15. Encourages the Commission to introduce proposals for a harmonised tackling of tax fraud under criminal law, in particular as regards crossborder and mutual investigations; believes that explicit mention of tax crimes as predicate offences to money laundering should be included in the review of the Third Anti-Money Laundering Directive;

16. Calls on Member States to remove all obstacles in national law that hinder cooperation and exchanges of tax information with the EU institutions, while also ensuring effective protection of taxpayers' data;

17. Encourages Member States to seek 'smoking gun' data on tax evasion from other government-maintained registers, such as databases on motor vehicles, land, yachts and other assets;

18. Stresses the importance of implementing new strategies and making better use of existing EU structures for improved combating of VAT fraud;

On tax avoidance and aggressive tax planning

19. Highlights the need to upgrade and extend the scope of the Savings Directive in order to end banking secrecy; considers it high time that Luxembourg and Austria abandon their opposition to an effective agreement with Switzerland;

20. Welcomes the progress made on country-by-country reporting under the Accounting and Transparency Directives; urges the Commission to introduce country-by-country reporting for crossborder companies in all sectors, requiring disclosure of information on the trading of a group as a whole in order to monitor respect for proper transfer pricing rules;

21. Calls on the Commission to take immediate action with regard to strengthening transparency and regulation in respect of company registries and registers of trusts and foundations;

22. Calls on Member States to improve the effectiveness of the Code of Conduct for business taxation by raising issues at Council level where political decisions are urgently needed; urges the Commission to intervene actively in cases where the Code of Conduct Group cannot agree on procedures to remove mismatches in national tax systems;

23. Calls on the Commission to prepare and promote a Code of Conduct for auditors and advisers;

24. Notes that proper identification of taxpayers is key to successful exchange of information between national tax administrations; calls on the Commission to speed up the creation of an EU tax identification number (TIN);

25. Calls for a review of the Parent-Subsidiary Directive and the Interests and Royalties Directive;

26. Urges Member States to swiftly implement the Commission's proposal for the introduction of a General Anti-Abuse Rule to counteract aggressive tax planning practices, and include a clause in their Double Taxation Conventions to prevent occurrences of double non-taxation;

On tax havens

27. Calls for a common EU approach towards tax havens;

28. Calls on the Commission to adopt a clear definition and common set of criteria to identify tax havens, as well as appropriate measures applying to identified jurisdictions;

29. Proposes that a tax haven be defined as a jurisdiction which has not effectively implemented the international standards for transparency and exchange of information as established by the Global Forum, or which operates tax measures that breach the principles and criteria of the Code of Conduct;

30. Urges the Commission to compile and create a European blacklist of tax havens; calls on Member States to suspend or terminate existing Double Tax Conventions with jurisdictions that are on the blacklist, and to initiate Double Tax Conventions with jurisdictions that cease to be tax havens;

31. Encourages Member States to offer cooperation and assistance to developing third countries which are not tax havens, helping them to effectively tackle tax fraud and tax avoidance;

32. Instructs its President to forward this resolution to the Council and Commission.

EXPLANATORY STATEMENT

A scandalous European tax gap

An estimated 1 trillion € in public money is lost due to tax fraud and tax avoidance every year in the EU. This alarming size of the tax gap represents a rough yearly cost of 2000 € for every European citizen. The average of the tax lost in Europe today exceeds the total amount that Member States spend on healthcare, and it amounts to more than four times the amount spent on education in the EU.

The current tax gap in Europe represents not only an alarming loss of public revenue but also a danger for the safeguarding of the EU social model based on quality public services available to all. It is a threat to the proper functioning of the Single Market and a dent to the efficiency and fairness of tax systems within the EU. The loss of revenues continues to increase the deficit and debt levels in the Member States right at the most crucial time of fighting the crisis. Due to tax fraud and tax avoidance, funds available to foster public investment, growth and employment are waning.

All of this in times of the biggest economic, financial and social crisis since decades, when the automatic stabilisers of the welfare state remain more relevant than ever to ensure growth and social cohesion. Let's also be reminded that effective and progressive taxation remains fundamentally important for public authorities in their task of fulfilling their obligations and meeting the needs and expectations of their citizens.

A large part of the non-taxed liquidity is feeding into financial trading activities rather than public consumption and investment. Moreover, the lack of coordination of tax policies in the EU leads to significant costs and administrative burdens for citizens and businesses operating cross-border within the EU, and may cause non-taxation or lead to tax fraud and tax avoidance. Today an increasing number of European businesses and individuals find themselves in a competitive disadvantage compared to those that find ways to avoid paying their fair share. Consequently, the scale of tax fraud and tax avoidance ends up undermining citizens' trust and confidence in the fairness and legitimacy of tax collection and the fiscal system as a whole.

Additionally, countries under assistance programmes have in the last years, after stepping up tax collection and eliminating privileges in line with Troika proposals, seen many of their larger companies leave in order to benefit from tax privileges offered by other countries. In the case of Greece the Commission has calculated that as much as €60 billion have escaped from Greece to Swiss banks since the beginning of 2012.

Tax fraud and tax avoidance, therefore, represent a serious, multi-facetted problem, requiring a coordinated approached, at national, EU and international level. With Member States holding competency over their fiscal systems, action on national level is important. But in today's globalized economy with the cross-border nature of tax fraud and tax avoidance along with Member States' drive to maintain competitiveness, solely unilateral national measures simply cannot deliver the desired effect. Therefore, all focus should be put towards establishing a cohesive, concrete and common European tax strategy, embraced and implemented by all Member States.

Headline target: Halving of tax gap by 2020

The Commission's Action Plan for a more effective EU response to tax evasion and avoidance as well as Recommendations aimed at encouraging Member States to take immediate and coordinated action against tax havens and aggressive tax planning are steps in the right direction. In order to get Member States to commit to an ambitious and realistic target of halving the tax gap by 2020, which would allow them to gradually generate new tax revenue without raising tax rates, at the level of several hundred billion Euros a year, the Commission however needs to take further steps and develop a comprehensive strategy to close the EU tax gap, based on concrete legislative actions.

Namely, a strong commitment to reduce the tax gap would contribute to the necessary stabilisation of financial markets by significantly reducing the liquidity available for financial trading that is unrelated to real economic activity. It would also increase available public revenue for fiscal consolidation measures while easing the austerity effects. Provision of the necessary resources to increase public investment geared towards the strengthening of the EU's international competitiveness and growth potential would be guaranteed. Furthermore, efficiency and fairness of national tax systems in the EU would be improved together with enhanced general tax compliance.

Member States have to follow up on their commitment to "recognise the importance of taking effective steps to fight tax evasion and fraud, also in times of budgetary constraints and of economic crisis" as stated in the conclusions of the Economic and Monetary affairs Council of 13 November 2012. A first step should be to engage in serious negotiations and bring to a closure all open legislative proposals regarding issues of tax fraud, tax avoidance and tax havens. Adoption of Commission's Recommendations and Action plan is necessary.

Proposals to achieve the headline target

An important way forward is to enhance the use of the European semester by integrating the EU tax gap strategy into the annual national stability and growth programmes and the national reform programmes.

When it comes to measures tackling **tax fraud or tax evasion** (an illegal activity where tax liabilities are evaded) Member States should allocate adequate resources to their national tax administrations and tax audit staff. Your Rapporteur also proposes that Member States revoke banking license to financial institutions if they actively assist in tax fraud by offering products and/or services to the customers enabling them to evade taxes or if they refuse to cooperate with fiscal authorities. Furthermore, your Rapporteur advocates for a compulsory CCCTB as well as development of new strategies for combating VAT fraud and stricter tackling of tax fraud by means of prosecution under criminal law, where the Commission should enhance its cooperation with other EU law enforcement bodies, in particular with authorities responsible for anti-money laundering, justice and social security. An explicit mention of tax crimes as predicate offences to money laundering should be included in the upcoming review of the Third Anti-Money Laundering Directive.

Tax avoidance represents the other side of the problem and is legal but improper utilization of the tax regime to one's own advantage to reduce or avoid tax liabilities and thus requires a different set of actions. It is closely linked with the concept of **aggressive tax planning,**

where large corporations undertake extensive tax planning, artificially shifting profits to minimise their effective tax rate and reduce their tax liabilities. Your Rapporteur would like to see the scope of the Savings Taxation Directive upgraded in order to effectively end banking secrecy and considers it high time that Luxembourg and Austria abandon their opposition to an effective agreement with Switzerland. Additionally, country-by-country reporting requirements for cross-border companies are essential for detecting corporate tax avoidance and your Rapporteur believes that the Commission should introduce country-by-country reporting for cross-border companies in all sectors, requiring disclosure of information on the trading of a group as a whole in order to monitor if proper transfer pricing rules are respected. Further action is also needed to improve identification of taxpayers, taxing of electronic commerce, efficiency of tax revenue-collecting mechanisms, increased transparency of company registries and registers of trust as well as improvements in the effectiveness of the Code of Conduct for business taxation and a new Code of conduct for auditors and advisers.

On the issue of **tax havens**, your Rapporteur calls for a common European approach, by all Member States, towards tax havens. Member States whose tax base has been negatively affected because of non-transparent or harmful tax measures of tax havens usually consider a variety of steps intended to prevent such negative incidences. A response from taxpayers in such cases then often includes routing of businesses or transactions through another State with a lower level of protection. Therefore in the EU the overall protection of Member State's tax revenues is only as effective as the weakest response of any one Member States. A way forward would therefore be in a common European approach. To ensure an efficiency of such approach, your Rapporteur calls on the Commission to include in its EU tax gap strategy a clear definition of tax havens, a common set of criteria to identify tax havens, as well as appropriate measures that should apply to identified jurisdictions. Going a step further, your Rapporteur proposes that a definition of tax havens be based on criteria of Global Forum and the Code of Conduct Group. Creation of European blacklist should, in your Rapporteur's view, end in suspension or termination of existing Double Tax Conventions that Member States have established with jurisdictions identified as tax havens and listed on the European blacklist. Finally, your Rapporteur would also like to see the Commission developing a system of incentives for jurisdictions, which initiate bilateral negotiations with the EU after being blacklisted and would ask Member States to remove third countries from a European blacklist if they cease being tax havens. It is important that effort is put towards preventive actions as well, where closer cooperation and assistance to developing third countries, which are not tax havens, would help them to effectively fight against tax fraud, tax avoidance and aggressive tax planning.