Dear reader,

The 5 year term is soon coming to an end which is an occasion to look back on what the various special committee on taxation have achieved, and what yet remains to be done in the term to come.

First and foremost, the report culminating after an intense year of work was adopted in Committee on 27 February. Over 1200 amendments were tabled, based on which hundreds of compromises were agreed on across the political spectrum. Our Committee has therefore sent a strong, unilateral political signal to European citizens. This will allow the new Parliament and the new College of Commissioners, together with Member States, to work together in the hope to close the tax gap and continue our fight against tax crimes and money laundering.

The committee held numerous public hearings and invited Ministers until the very end of our mandate. Ministers from Malta and Spain, together with representatives of prominent EU cities held fruitful exchanges with committee members. Investigative journalists with strong expertise in money laundering and criminal investigation provided us with extensive work and dedication through long hours of efforts, including the son of Ms Daphne Caruana Galizia who was assassinated in Malta in 2017. Russia also received ample coverage at our hearings but also during our visit in Denmark and Estonia where we received clear evidence that the €200 billion laundered via the Estonian branch of Danske Bank are closely linked to Russia. The deficiencies in the EU supervision of banks were also highlighted, in particular through the recent scandals involving Danske Bank and Deutsche bank.

Conclusions are clear: EU citizens demand a stronger and better coordinated anti-money laundering structure between Member States. In order to achieve this, EU Directives need to be properly implemented by Member States while the enforcement of rules accompanied by dissuasive sanctions, is of particular importance. The suggestion to create a ‘European financial police force’ to deal with financial crimes has been raised by several guests, suggestion which was retained in the final version of the report. White collars criminals need to face the appropriate sanctions in accordance to the crimes they commit.

The Committee’s focus during the last 3 months was more specifically focused on the fight against money laundering. Improving the EU tax system however also remained high on the political agenda, namely during the exchange of views with the Spanish State Secretary for Treasury, Ines Maria Bardon Rafael where the focus was put on making large digital companies pay their fair share of taxes. Large corporations indeed possess a wide range of tools to reduce their tax liability beyond the limits of what would be acceptable, while they enjoy the rule of law and premium infrastructures of our continent.

Dear reader, we hope this letter helps you grasp a better overview of the considerable work that has been achieved and that it will help you understand why it is crucial that the next elected Members of the European Parliament keep fighting against money laundering and tax malpractices.

Petr Ježek
Chair of the TAX3 Committee

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Commissioner for Justice, Consumers and Gender Equality Jourová stressed that the fight against money laundering is a high priority for the European Commission, adding that the Commission closely follows the investigations regarding Pilatus Bank, ABLV, Danske bank, ING, Deutsche Bank and others. This also includes maintaining contact with relevant authorities (EBA in particular) and Member States affected.

According to Commissioner Jourová, the best way to fight money laundering is to establish a more coordinated and closer cross-border cooperation, while making the EBA the institutional cornerstone of the fight against money laundering. She requested the Members’ support of the proposed modifications on the founding regulations of the European Supervisory Authorities. She also mentioned the legislative proposal on exchange of information between the FIUs and law enforcement authorities. She indicated that the 4th Anti-Money Laundering Directive is being implemented, with open infringement procedures against 21 Member States for non- or incomplete transposition, whilst the transposition of the 5th AMLD is due by 2020.

The Commissioner closed her presentation by mentioning the evolution of the assessment on the list of third countries with strategic deficiencies in their anti-money laundering framework. Out of 217 jurisdictions, 132 have fallen within the scope of the EU autonomous assessment, out of which 54 are a priority. MEPs asked on the specific countries, to which the Commissioner indicated that Switzerland was included in the list of sensitive countries in the first assessment period, particularly on the hiding of Ultimate Beneficial ownership schemes and lack of protection of whistle-blowers. As regards Russia, she pointed out that capital flows cannot be banned but that controls can be reinforced at all levels.

Further Information:
- Exchange of views with Commissioner Jourová


The Committee had a chance to learn about the current state of the fight against financial crimes, tax evasion and tax avoidance in Slovakia.

Mr Bardy, journalist and the editor-in-chief of aktuality.sk noted that there is a lack of funding for education, research and development, whilst the organised financial crime and fraud is flourishing in Slovakia. According to him, there are companies created for the sole purpose of taking money out of the state’s budget, which are subsequently dissolved. He mentioned that the issue of carousel VAT fraud is very concerning in Slovakia.

Mr Bardy stressed that it is essential to ensure press freedom in uncovering crimes when and if institutions fail to comply with their duties. The murderers of the journalist, Jan Kuciak have still not been found, however, this death seems to be linked to some investigations led by the journalist on allegedly illegal activities of a crook involved in carousel transactions and other financial crimes. Mr Bardy encouraged any support the European Institutions could provide.
Mr Hanniker, General Director and Mr Provaznik, Director of the Criminal Office, gave a thorough presentation of the work done by the Slovak tax authorities. The work is particularly focused on combating tax fraud and law enforcement. In order to do so, three different action plans have been defined and started being implemented.

Mr Zilinka, from the General Prosecutor’s Office, stated that significant resources are being invested into uncovering the murder of the journalist. Moreover, he indicated that 93 people were prosecuted for tax fraud in the last year and it has been estimated that every case has helped recover at least 6,5 million EUR. In addition, 77 people have been charged and prosecuted last year for offences going against the financial interests of the Union. These crimes are a result of constant misuse of the Union’s funds by the use of false documentation, supply of incorrect information and falsification of tax certificates. The agricultural sector has also been particularly abused in Slovakia. Mr Zilinka also pointed out the threats he had to live with as a result of doing his job correctly. He said that it was his choice to be a prosecutor but this choice has an impact on his family who also has to live with permanent threats from opaque sources.

Further Information:
- TAX3 public hearing on "Alleged financial crimes, tax evasion and tax avoidance in Slovakia"

Public hearing on "Evaluating the Tax Gap" - 24 January 2019

The hearing aimed at gaining a better understanding of the tax gap and the way it is calculated.

Mr Nicodeme, from DG TAXUD gave a thorough description of the methodology used by Member States to calculate the corporate tax gap (difference between the amount of tax that companies should pay and the amount of tax that is actually collected). There are two techniques, the bottom-up approach and the top-down one. The former takes audit research as a basis and extrapolates the results. The latter uses macroeconomic data to do estimations of corporate economic activity. Different tax administrations use different models and there is no consensus on which methodology should be used.

Ms Alstadsaeter, from the Norwegian University of Life Sciences described her work to estimate the tax gap caused by individuals in Nordic countries. She based her works on leaked documents, such as those revealed by the Panama Papers. She highlighted that there is a strong positive correlation between income level and tax evasion, with the richest households using offshore structures to hide their wealth. In addition, she regretted that tax administrations do not provide with sufficient data to do better research.

Mr Jansky, from the Charles University Prague, gave an estimation of the corporate tax gap, which is calculated in over €200 billion annually at the global level. According to him, there is large potential to reduce this gap. Public Country by Country Reporting could be an useful tool but the experience in the banking sector shows that it currently lacks uniformity between institutions, countries and data included in the public reports.

During the exchange, Members showed their interest in knowing whether the current EU policy is actually tackling the issue and whether the collaboration between tax administrations is good enough. The guests highlighted that the direction taken by the EU and OECD is good but further work has to be done on transfer pricing and administrative cooperation. On the lack of data, guests committed to send a list of data that would be needed for a better description of the tax gap. In this regards, it was mentioned that not all Member States participate the Fiscalis project to estimate their tax gap. Finally, they stressed the role of intermediaries in developing complex structures to facilitate tax evasion.

Further Information:
- Public hearing on "The evaluation of the Tax Gap"
The public hearing focused on the issue of money laundering cases involving Russian individuals.

**In the first panel**, Mr Aslund, Senior Fellow of the Atlantic Council stated that broad and deep financial transparency is needed to fight money laundering with Russian ties, further commenting that the EU is moving in the right direction with the adoption of the Fifth Anti-Money Laundering Directive in 2018.

Since the 1990s, Russia experiences a high level of large capital outflows, which is estimated to amount to 800 billion USD. The reasons for such flight of capital varies- unreliable banks, transfer pricing, tax evasion and escape from corporate raiding by the state. Russia does not have a developed rule of law, nor a settled judicial system, which makes property rights unreliable. According to Mr Aslund, top destination in Europe is Cyprus, because of the bilateral Soviet-Cypriot double taxation agreement of 1982, which was renewed in 1997. The intermediate destinations of the funds passing through Cyprus would be British Virgin Islands and then Cayman Islands, to finally reach the US or the UK. Most popular investment is through real estate.

Mr Aslund highlighted that the best way to generate a reaction from Russia, is to apply sanctions, whether personal or not.

Mr Kirschenbaum, Senior Fellow at the German Marshall Fund’s Alliance for Securing Democracy, said that the best way to tackle these issues is through introducing a centralised EU system, with a central authority focusing exclusively on AML. He also added that a stricter criminal prosecution of illicit facilitators and professional service providers would help fighting money laundering both nationally and internationally.

Mr Brooks, a journalist for the Private Eye and the Guardian, referred to the role of the United Kingdom, which hosts a large part of the financial sector, while also hosting shell companies, and providing an opportunity for wealthy individuals to remain anonymous when laundering money. Mr Brooks criticised the financial industry itself - lawyers, accountants, investment bankers, as they are the ones who facilitate and make the transactions possible.

During the second panel, the discussion focused on the Magnitsky Case. Mr Bill Browder, owner and CEO of the Hermitage Fund, gave a thorough description of the case, the people involved, mainly high-level Russian officials and their relatives, the scheme used to transfer the funds and the countries involved (Lithuania, Estonia, Moldova, Latvia, Cyprus).

Mr Browder gave concrete recommendations to the Committee:

- To set up a European system of instant information exchange for law enforcement bodies combating money laundering.
- To expand the statute of limitations to fight financial crimes which should be extended to 10 years and start when the crime has become known.
- The Dutch approach/ reverse burden of proof: Instead of law enforcement having to prove money laundering, the people who received suspicious money should prove its legitimacy.

Mr Schirmer, from the Council of Europe, explained in detail the investigations his institution carried out over time on the case of Magnitsky. The main conclusion of the Council of Europe’s report is the strong suggestion that Mr Magnitsky may have only discovered the tip of an “iceberg” of public money being diverted for personal corruption as well as political bribes, on the basis of the strong reaction of Russian public service.
**Consideration of the TAX3 amendments - 29 January 2019**

The second part of the 29 January meeting focused on the consideration of amendments.

The co-rapporteurs thanked the shadow rapporteurs for the very constructive spirit in the compromises' negotiations. They highlighted some issues that will be controversial (minimum effective tax rate, impact of tax fraud on society, naming and shaming EU MS which could be considered as tax havens) but they were very optimistic in finding broad support on their compromises.

This was confirmed by the shadows. Other issues that were also mentioned during the short debate were: the move towards qualified majority in taxation, digital taxation and how to continue the works of the TAX3 Committee in future.

**Further Information:**

- Public hearing on "Money laundering cases involving Russian individuals and their effect on the EU"

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**Public hearing on "Deutsche bank" - 4 February 2019**

The public hearing aimed to gain a better understanding of the German Financial Supervision framework, and have a better insight on money laundering and tax evasion cases published by media in which Deutsche Bank is involved.

Mr Furhoff, from the German Federal Financial Supervisory Authority (BaFin), stated that the role of BaFin is mainly preventive since it has no power to impose sanctions, but the information gathered could be handed over to the prosecutor office.
On the Cum Ex case, some MEPs asked BaFin about the actions taken before the scandal was made public and about the results. BaFin mentioned that, according to their information, until now, nobody is under public prosecution. Since 2011/2012 and 2013, BaFin has been aware of individual cases related to tax law, which have fallen under the keyword Cum-Ex. BaFin classified these under "disputed or unclear legal situation". For BaFin there is still a lack of legal clarification as to whether BaFin should intervene in terms of banking supervision. Regarding the reasons why BaFin did not give information to tax authorities on other Member States, Mr Furhoff indicated that until 2015 German law prevented BaFin from doing so.

Further Information:
- Public hearing on "Deutsche Bank"

Public hearing on “Impact of tax evasion and money laundering on local real estate markets, in particular in European cities” - 5 February 2019

Ms Sanz, vice-mayor of Barcelona, presented how the municipality of Barcelona is addressing the impact on prices and affordability of accommodation for citizens of investments by investment funds or banks and short-term letting through digital platforms such as Airbnb. She sees an interplay between price increase, speculation and gentrification. Ms Sanz also presented actions taken and explained which tools are still needed by cities to address the issue. She mentioned, in particular, better access to information and more resources for municipalities.

Ms Verkerk, from the City Council of Amsterdam, shared the experience of her city in the fight against illicit financial flows. She explained some schemes of money laundering and their effects they can have on the city, its citizens and local businesses. She indicated that a tool is required for the municipality to have the opportunity to screen the owner and origin of the funds.

Mr Trautvetter, from Netzwerk Steuergerechtigkeit in Germany, provided further examples of schemes used to launder money through real estate and the difficulties of tracking the origin of these transactions.

Mr Baruah from the OECD, advised that strengthening the availability of beneficial ownership information and enhancing transparency in the real estate sector can help tackle the problem of money laundering in real estate.

Mr Heywood, representing Transparency International, stressed that the main challenge is the limited implementation of anti-money laundering tools in real estate (oversight, inspection and sanctions). He also emphasised the importance of transparency within the real estate market, as public registers are considered as the easiest way to ensure access to beneficial owner information. In addition, he noted that the cost of transparency should be compared to the social cost of non-transparency.
From the 6th to the 8th of February a Delegation of TAX 3 Members visited Estonia and Denmark.

This mission was a follow up to the hearing held by the committee on 21 November 2018 on “Fighting money laundering in the EU banking system”. The purpose of this mission is to discuss with local stakeholders and to scrutinise the effective implementation and enforcement of Union law, in particular the Anti-Money Laundering legislation, in those two countries in light of the recent allegations of serious money laundering in the Estonian branch of Danske Bank.

During the mission, TAX3 members met with different stakeholders in order to receive the best possible information regarding the Danske Bank case in particular and the organisation and role of supervisory authorities in general. Hence, journalist and civil society activists were visited, together with Danske Bank managers, and both countries’ supervisory authorities, Ministries of Finance and respective Parliaments.

The exchange of views was held in order to gain a better understanding of Malta’s legal and anti-money laundering system.

Mr Bonicci highlighted that there has been a continuous reform of the Maltese legal system. Different pieces of legislation were mentioned such as the complete abolition of time-barring by prescription in respect of crimes of corruption committed by politicians; a law regulating political party financing; the enactment of a law on whistle-blower protection or the establishment of a Parliamentary screening committee for the appointment of headship positions in Regulatory Authorities.

He also emphasised that additional funding will be allocated to the Financial Intelligence Unit, allowing the enlargement of staff as well as the acquisition of technological equipment. It was noted that the financial sector accounts for over 10% of Malta’s employment.
Mr Bonicci also stated that "golden visa" programmes do not jeopardize EU security, as according to him, due diligence checks are more stringent than other ways in which other Member States grant nationality. Moreover, Malta publishes the list of names to whom citizenship is granted and supports further collaborations between member states. The Minister also said that Malta fully adheres to AML EU policies and is committed to tax transparency, as for instance it undertook the changes requested by the Code of Conduct Group.

Further Information:
- Exchange of views with Mr Bonicci, Minister of Justice of Malta

Public hearing on "Alleged Financial crimes, Tax evasion and Tax avoidance in Malta"
- 11 February 2019

This public hearing focused on the several recent alleged financial crime scandals in Malta and the assassination of the journalist Daphne Caruana Galizia, which is said to be linked to her investigation on these cases.

Mr Grey, investigative journalist, presented facts and findings on different cases of international corruption affecting Malta, such as the Pilatus Bank or the 17 Black cases. He concluded that it seems that the rules and institutions dramatically failed to comply with their duties and that there is no effective collaboration within the EU or with third states to fight against such issues, with the exception of the actions requested by the US Justice Department.

During the debate, some of the details of the Maltese judiciary system that may create obstacles for the prosecution of corruption as well as for the publication by journalists of corruption cases were highlighted. Foremost, he said that the current regulation defamation excessively burdens journalists. Moreover, a lack of cooperation between Maltese security institutions and the judiciary system were highlighted.

Matthew Caruana Galitzia, the son of the deceased journalist and journalist himself, concluded that a concerted EU effort to curb corruption is necessary and that the EU is in a situation in which inter-state crime cannot be properly prosecuted. He called for the creation of an EU sort of FBI.

Further information:
- Public hearing on "Alleged financial crimes, tax evasion and tax avoidance in Malta"

Joint meeting with ECON and National Parliaments - 18 February 2019

During the European Parliamentary Week 2019, in the context of the European Semester, an inter-parliamentary committee meeting organised jointly by the ECON committee and the Parliament of Romania took place.

Participants from the European Parliament and national parliaments of 28 Member State discussed the European Parliament's legislative and inquiry work in the area of tax and anti-money laundering and Taxation of the Digital Economy.
This session was an opportunity for the EP to discuss its legislative and inquiry work in the area of tax and AML with National MPs. The main topics for discussion were CC(C)TB, CBCR, digital taxation, qualified majority in the tax area, golden visa, AML supervision in the banking sector and VAT reforms.

Further information:
- ECON/TAX3 - Joint session with National Parliaments

Exchange of views with Commissioner for Competition Margrethe Vestager - 19 February 2019

Commissioner Margrethe Vestager focused on the EC activity in the field of taxation during the term.

Commissioner Vestager emphasised that it is essential to achieve fairness within the European Union, where citizens pay their share of taxes, whereas companies are not always doing the same. The society should be acquainted to everyone paying their fair share including big companies, which have unlimited resources devoted to find legal loopholes to avoid paying taxes.

She mentioned that fourteen pieces of legislation have been adopted by Council in the past five years, which is more than in the past two decades altogether. The Commissioner congratulated the TAX 3 co-rapporteurs for their draft report, stating that the report should be used as an indicative tool for future.

However, Ms Vestager pointed out that the real success is to put legislation into effect, not just adopting it. She highlighted that passing law is very difficult due to unanimity in the Council which prevents the European Parliament and the Commission to do more in the area.

The Commissioner mentioned the recently ECJ decision that considers the Belgian tax exemption (excess profit ruling) not being a State Aid. She indicated that the Commission was now assessing its options to react to the Court decision, including opening cases for each individual cases. Indeed, the reason invoked by the Court to annul the Commission’s decision is that the excess profit ruling cannot be considered as a general scheme as tax authorities had discretionary powers to grant tax advantages to multinationals. She also mentioned that the Commission had open investigations on Nike, IKEA, the tax exemption scheme in the Madeira Free Zone and the UK CFC rules.

The Commissioner noted that the co-operation between Member States is low, although there is framework to do so but it is not enforced. There should be a change in culture in order to encourage collaboration in a natural way.

Further information:
- Exchange of views with Commissioner Margrethe Vestager
Exchange of views with Ines Maria Bardon Rafael, State Secretary for the Treasury of the Government of Spain - 19 February 2019

This exchange of views was devoted to the potential creation of a digital tax by the Spanish government.

The Secretary of State highlighted that although current laws are a step behind the current reality, pushing the idea of a digital tax is being very difficult internationally both at EU or OECD and even G-20 levels. However, today doing business in a country without physical presence is not rare and the current tax rules may create a competitive advantage for multinationals to the detriment of local established firms. In addition, she regretted that some countries are not playing cooperatively, have adopted aggressive tax schemes, and block any initiative at the ECOFIN regarding this issue.

As regards the proposal for a tax on financial transactions, the Spanish government will boost it in the EU within the enhanced cooperation procedure. Its proposal is to establish a 0.2% tax on financial transactions affecting shares of companies with a market value of over 1 billion euros. The estimations indicate that additional 850 million euros will be raised.

Finally, the Secretary of State indicate that Spain is in favour of the CCCTB, with an effective minimum of 15% tax rate for companies with more than 20 million euro of year turnover. The target is both to deepen the internal market and to generate revenues for the public sector to finance policies focusing on social cohesion and prevention of populism.

Members engaged in a lively exchange with the Spanish Secretary of State. They expressed concerns regarding the potential international implications, inside and outside the EU of the digital taxation proposals. The Secretary of State indicated that the reform proposed is a short-term response, which is fully compatible with a long-term reform of the international taxation system, which must consider the new way of doing business and in no case would harm firms’ research and development.

Further information:
- Exchange of views with the Spanish State Secretary for Finance

Vote on the Report - 27 February 2019

At its meeting of 27 February 2019, the Special Committee on Financial Crimes, Tax Evasion and Tax Avoidance (TAX3) voted on the draft report that was adopted with a very broad majority: 34 +; 4- and 4 abstentions.

The main recommendations and findings of the report are:

- Commission to immediately work on a proposal for a European financial police force;
- An EU anti-money laundering watchdog should be set up;
- A global tax body should be established within the UN;
- Great concern about member states’ general lack of political will in Council to tackle tax evasion/avoidance and financial crime;
- Seven EU countries (Belgium, Cyprus, Hungary, Ireland, Luxembourg, Malta and The Netherlands) display traits of a tax haven and facilitate aggressive tax planning;
- Golden visas and passports are problematic and should be phased out;
- The cum-ex fraud scheme clearly shows that the complexity of tax systems results in legal loopholes and that multilateral, not bilateral, tax treaties are the way forward;
- Countermeasures should be envisaged against the US if it does not ensure FATCA’s reciprocity;
• The Council should properly assess the situation in Switzerland in order to ensure that no harmful tax regimes are introduced;
• ‘Tax good governance’ clauses should be systematically included in new EU agreements with non-EU countries;
• Whistleblowers and investigative journalists must be much better protected and the US reward system for whistleblowers could be replicated in the EU;

• Malta and Slovakia must do everything they can to identify the instigators behind the murders of two investigative journalists.
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