Promoting good governance in tax matters

2009/2174(INI) - 10/02/2010 - Text adopted by Parliament, single reading

The European Parliament adopted by 554 votes to 46, with 71 abstentions, a resolution on promoting good governance in tax matters.

Members consider good tax governance – understood to mean transparency, exchange of information at all levels, effective cross-border cooperation and fair tax competition – to be a key element in rebuilding the global economy after the 2008 financial collapse.

Against this background, Parliament **strongly condemns the role played by tax havens** in encouraging and profiteering from tax avoidance, tax evasion and capital flight. The European Union is called upon to step up its action and to take immediate concrete measures – such as sanctions – against tax havens, tax evasion and illicit capital flight.

Members recall the importance of putting an end to the use of artificial legal persons as a way to avoid taxation. They stress also that instead of bank secrecy, **automatic information exchange should take place in all circumstances**, including in all the Member States and dependent territories. They welcome in this respect the Commission's proposal on administrative cooperation in the field of taxation because, inter alia, it extends cooperation between the Member States to cover taxes of any kind, abolishes bank secrecy and establishes the automatic exchange of information as a general rule.

1) At EU level, the resolution recalls that Parliament delivered its position to the Council on amendments to Directive 2003/48/EC, asking, in particular: (i) that it end the temporary derogation that allows Austria, Belgium and Luxembourg to avoid exchanging information by applying a withholding tax; (ii) that the scope of Directive 2003/48/EC be extended substantially in particular to cover legal entities (especially private companies and trusts) and various forms of investment income.

Members also call for the provisions of Directive 2003/48/EC to be extended to Singapore, Hong Kong, Macao and other jurisdictions such as Dubai, New Zealand, Ghana and certain states of the United States, which are not bound by the Directive 2003/48/EC and are therefore a favoured location for tax evaders.

Parliament welcomes as a first step, in relation to EU savings taxation, the withdrawal by Austria, Belgium, Luxembourg and Switzerland of their reservations to Article 26 of the OECD Model Tax Convention, and the endorsement of the OECD standards by Andorra, Monaco, Liechtenstein and San Marino. It welcomes Belgium’s decision to switch from a system of withholding tax to one of automatic exchange of information from 1 January 2010.

Members consider that the **marketing in the EU of alternative funds domiciled in a third country must be conditional on that third country complying with good tax governance standards**. They emphasise that **more efficient implementation of existing EU and national tax legislation** would facilitate better recovery of taxes. It urges the Council to adopt the new directive on administrative cooperation in the field of taxation and to **fight fraud in the area of VAT**, taking due account of Parliament’s position.

2) At international level, the Parliament urges all parties concerned to accelerate the conclusion of the anti-fraud agreement with Liechtenstein. It urges the Council to agree on a mandate for the Commission to negotiate similar agreements with Andorra, Monaco, San Marino and Switzerland. It calls, in this respect, on the Member States to review their bilateral tax agreements with third countries.

Members call for increased cooperation, such as the automatic exchange of information between countries, with a view to facilitating the recovery of capital moved abroad via illegal activity to the detriment of the internal market.

The OECD and its Member States are invited to involve the Commission fully in the Global Forum peer review exercise, in particular as regards the **identification of non-cooperative jurisdictions**, the development of a process for evaluating compliance and the implementation of dissuasive counter-measures to promote adherence to the standards in question.

Furthermore, Parliament considers that the **OECD framework for combating tax havens is unsatisfactory**. It regrets, in this context, that the exchange of information takes place only on request rather than being a compulsory and binding requirement, and, furthermore, that the OECD allows governments to escape its blacklist merely by promising to comply with the information exchange principles, without ensuring that those principles are actually put into practice.

Parliament considers that there is a **need for consistency and for a genuine EU policy of good tax governance**. It believes that the European Union's credibility depends, inter alia, on its willingness to clamp down on tax havens on its own territory first as an example of good governance.

The Commission is invited to **estimate the number of cross-border tax claims** by the Member States to be recovered within the territory of the European Union and to introduce quantifiable indicators for measuring progress in cross-border recovery over time. The resolution recommends setting up an appropriate incentive system for the recovery of cross-border tax claims in order to increase the current low recovery rate of 5%.

Parliament considers that the EU should **actively promote the improvement of the OECD standards**, with the aim of making the automatic, multilateral exchange of information the global standard. It urges the EU to:

- adopt measures that prevent abuse of the 'residence principle' through artificial domicile and ownership schemes allowing holding companies with no activity or shell companies to shield beneficial owners from paying taxes in their country of domicile;

- adopt a common approach to the application of anti-abuse measures, which should be effective, fair and aligned with the concept of wholly artificial arrangements as established by the Court of Justice;

- implement a consistent approach to good tax governance in the context of the European Neighbourhood Policy, the enlargement policy and the development cooperation policy.

The resolution stresses the need to **revise current international accounting standards** with the aim of increasing transparency and emphasises the need for the Member States to coordinate their policies in order to enhance the implementation of anti-avoidance rules. It recalls that the introduction of a **common corporate consolidated tax base** would help to tackle – within the EU – double taxation and transfer price issues within consolidated groups.

The EU should also:

- examine a range of options for sanctions and incentives, such as for instance: (i) the setting up of a special levy on movements to or from non-cooperative jurisdictions; (ii) non-recognition within

the EU of the legal status of companies set up in non-cooperative jurisdictions and a prohibition on EU financial institutions establishing or maintaining subsidiaries and branches in non-cooperative jurisdictions;

- ensure **consistency in the implementation at EU and international level of standards** in the areas of prudential supervision, taxation and money laundering and counterterrorism.

The Commission is invited to report to Parliament annually on the implementation of the EU tax governance policy, starting in October 2010.