

Inquiry into money laundering, tax avoidance and tax evasion

2017/2013(INI) - 16/11/2017 - Committee report tabled for plenary, single reading

The Committee of Inquiry into the allegations contraventions and maladministration in the application of Union law in relation to money laundering, tax avoidance and tax evasion adopted by Jeppe KOFOED (S&D, DK) and Petr JEŽEK (ALDE, CZ) on the inquiry into money laundering, tax avoidance and tax evasion.

As a reminder, on 8 June 2016 Parliament set up a Committee of Inquiry to investigate alleged contraventions and maladministration in the application of Union law in relation to money laundering, tax avoidance and tax evasion (PANA).

This Committee was set up after the publication of the so-called '**Panama Papers**' which constitute the biggest leak of information on money laundering and tax avoidance and evasion to have happened to date.

Members welcomed the fact that the Council is aiming to establish **by the end of 2017 a 'common EU list of non-cooperative tax jurisdictions'**. They noted, however, that the screening process, as conducted and overseen by the Subgroup on Third Countries of the **Code of Conduct Group (Business Taxation)**, **is not fully transparent** and does not allow the Parliament to exercise its scrutiny powers.

The report regretted that a large number of stakeholders have refused to meet with PANA delegations, or refused to appear before the PANA Committee, or did not answer questions in a satisfactory manner.

Members also condemned the **assassination of the Maltese journalist Daphne Caruana Galizia** who had reported extensively on the Panama Papers and on 16 October 2017 was assassinated in a car bombing.

The main conclusions of the commission of inquiry are:

- more **political will, better regulation and stronger enforcement and monitoring of existing rules is needed** to counter the practices of minimising or not paying taxes, laundering money, both offshore and onshore;
- through shell corporations, tax havens and complex financial structures, some multinationals and wealthy individuals have succeeded in concealing their capital from the tax authorities and have thus benefited from a legal vacuum allowing them to withdraw their wealth and escape tax;
- **the absence of a common definition as to what constitutes an offshore financial centre (OFC)**, a tax haven, a secrecy haven, a non-cooperative tax jurisdiction or a high-risk country in terms of money laundering; the absence of single definitions constitutes one of the main factors preventing the adoption of adequate and effective legislation to counteract tax avoidance, tax evasion and money laundering;
- the **lack of cooperation and coordination** between and among the EU institutions and agencies, Member States and competent authorities on different pieces of legislation with regard to tax evasion, tax avoidance and money laundering is a systemic problem;
- **some Member States tend not to provide relevant information** in the desired quantity and quality and in general do not seem to exert genuine efforts to crack down on tax avoidance and tax evasion;

- **exchange of information, adequate enforcement** and continuously improving combating techniques are key in fighting tax evasion, tax avoidance and money laundering; public country-by-country reporting of tax information by all large companies is warranted;
- that proper identification of UBOs remains a key obstacle to eliminating illegal tax avoidance schemes; Members concluded that there has been a significant gradual improvement in terms of having a **register of UBOs** with accessibility based on legitimate interest;
- the creativity of tax avoiders is faster than the formulation of legislation, and that intermediaries and enablers tend to stay on the right side of the law through creative compliance;
- binding international rules and standards should be established in order to better regulate and define **wealth management profession**;
- a **common EU approach** to combat shell and letterbox companies in third countries and OCTs and ORs is needed, and to put an end once and for all to practices designed to avoid paying the fair amount of taxes in the EU, on the basis of transparency on the part of the ultimate beneficiaries;
- **the Commission is not sufficiently equipped** in terms of resources to ensure full enforcement of the EU legislation against money laundering, tax evasion and tax avoidance;
- **tax policy issues at Council level are often blocked by individual Member States**, in order to protect tax havens; Members called for the abolition of the principle of unanimity of the Member States in tax matters;
- Member State institutions in charge of implementing and enforcing rules as regards tax fraud and money laundering need to be **entirely independent** from political influence;
- **sanctions** are not always applied or sufficiently deterrent in relevant cases; Members deplored the fact, in this context, that Member States continue to oppose the imposition by the EU of sanctions on third countries whose tax systems are regarded as damaging to the Union.

Members concluded that on the basis of the PANA Committee's findings, **several cases of maladministration** with respect to EU legislation can be identified, namely regarding:

- the absence of **spontaneous communication of tax information** from the competent authority of one Member State to another Member State if it has reason to suppose that there may be a loss of tax revenue in the other Member State;
- the **failure of the Member State authorities to act** upon the evidence of a serious and persistent failure to identify the beneficial owners for the application of the customer due diligence requirements of the Third Anti-Money Laundering Directive and the failure of the Commission to ensure the effective application of this Directive;
- the Commission's failure to provide a **list of third countries** with strategic weaknesses in their anti-money laundering regimes;
- **failure of Member States' authorities to apply** administrative penalties and other administrative measures to institutions found liable regarding serious infringements of the national provisions adopted pursuant to the Third Anti-Money Laundering Directive;
- **the lack of sincere cooperation** by the Member States in the framework of the Code of Conduct (Business Taxation) group.

Given that a number of questions remain unanswered regarding the goal of fully ascertaining the scale of this issue, Members suggested the **continuation of the inquiry tasks within a permanent committee** or high-level working group within the European Parliament.