

Financial crimes, tax evasion and tax avoidance

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The Special Committee on financial crimes, tax evasion and tax avoidance adopted the report drafted by Jeppe KOFOED (S&D, DK) and Ludk NIEDERMAYER (EPP, CZ) on financial crimes, tax evasion and tax avoidance.

Following continued revelations over the last five years (Luxleaks, the Panama Papers, Football leaks and the Paradise papers), the European Parliament decided to establish a Special Committee on Financial Crimes, Tax Evasion and Tax Avoidance (TAX3), on 1 March 2018.

Urgent need for reform

The report noted that existing tax rules are often unable to keep up with the increasing speed of the economy. There is an urgent and continuous need for reform of the rules, so that international, EU and national tax systems are fit for the new economic, social and technological challenges of the 21st century.

Members welcomed the fact that during its current term the Commission has put forward 26 legislative proposals aimed at closing some of the loopholes, improving the fight against financial crimes and aggressive tax planning, and enhancing tax collection efficiency and tax fairness. They regretted, however, the lack of progress in the Council on major initiatives in relation to corporate tax reform that have not yet been finalised due to the lack of genuine political will.

They called for the swift adoption of the EU initiatives that have not yet been finalised and for careful monitoring of the implementation to ensure efficiency and proper enforcement, in order to keep pace with the versatility of tax fraud, tax evasion and aggressive tax planning.

Members called on the EU to adopt a broad strategy whereby the EU supports, with relevant policies, Member States in moving from their current detrimental tax systems to a tax system compatible with the EU's legal framework and the spirit of the EU Treaties.

Cash transactions

The report stressed that cash transactions remain a very high risk in terms of money laundering and tax evasion, including VAT fraud. While rules on cash controls at the EU external borders have been harmonised, rules among Member states concerning cash movements within the EU's borders vary. Fragmentation and the divergent nature of these measures have the potential to disrupt the proper functioning of the internal market. The Commission is called on to prepare a proposal on European restrictions on payments in cash, while maintaining cash as a means of payment. Noting that high-denomination euro notes present a higher risk in terms of money laundering, Members called on the European Central Bank (ECB) to draw up a timetable to phase out the ability to use EUR 500 notes.

Dividend stripping and coupon washing

Members noted that cum-ex transactions have been a known global problem since the 1990s, including in Europe, yet no coordinated counteraction has been taken. They deplored the tax fraud revealed by the so-called cum-ex files scandal which has led to publicly reported losses of Member States' tax revenue, amounting to as much as EUR 55.2 billion according to some media estimates. The complexity of tax systems can give rise to legal loopholes facilitating tax fraud schemes such as cum-ex.

The Commission is called on to assess whether EU action is needed in this regard, and to present a legislative proposal should the assessment demonstrate a need for such action.

European financial police force

Members called on the Commission to start working immediately on a proposal for a European financial police force within the framework of Europol with its own investigatory capabilities, as well as on a European framework for cross-border tax investigations and other cross-border financial crimes.

Letterbox companies

Members called for a clear definition of these companies and for the identities of the actual owners to be disclosed to tax authorities.

VAT

There is a need for harmonisation of VAT rules at EU level to the extent that it is necessary to ensure the establishment and the functioning of the internal market and to avoid distortion of competition. It is estimated that around EUR 50 billion – or EUR 100 per EU citizen each year – is lost to cross-border VAT fraud. The Commission and the Member States are urged to reinforce their cooperation to better fight against VAT fraud. The next Commission is called on to prioritise the introduction and implementation of the definitive VAT regime in order to improve it.

Better cooperation between the administrative, judicial and law-enforcement authorities within the EU is needed.

Phasing out of golden visas and passports

Members expressed concern that a majority of Member States have adopted citizenship by investment (CBI) or residency by investment (RBI) schemes, generally known as ‘golden visa and passports’ or investor programmes, by which citizenship or residence is granted to EU and non-EU citizens in exchange for financial investment.

At least 5 000 non-EU citizens have obtained EU citizenship through citizenship by investment schemes. Members deplored the fact that the opaqueness surrounding the origin of the money connected to CBI and RBI schemes has significantly increased the political, economic and security risks for European countries.

These schemes should be phased out according to Members.

Tax havens

Members recalled the importance of a common EU list of non-cooperative jurisdictions for tax purposes (‘the EU list’) based on comprehensive, transparent, robust, objectively verifiable and commonly accepted criteria that are regularly updated. They also stated that the Commission has criticised seven Member States – Belgium, Cyprus, Hungary, Ireland, Luxembourg, Malta and the Netherlands – for shortcomings in their tax systems that facilitate aggressive tax planning, arguing that they undermine the integrity of the European single market. Members took the view that these jurisdictions can also be regarded as facilitating aggressive tax planning globally. A review of the EU list is expected in the first quarter of 2019.

Countermeasures

Members renewed their call for the EU and its Member States to undertake effective and dissuasive countermeasures against non-cooperative jurisdictions with a view to incentivising good cooperation on tax matters. They deplored the fact that most countermeasures proposed by the Council are left to national discretion.

Member States should adopt a single set of strong countermeasures, such as withholding taxes, exclusion from calls for public procurement tenders, increased auditing requirements, etc.

These countermeasures should also be envisaged against the US if it does not ensure Foreign Account Tax Compliance Act's (FATCA) reciprocity.