

Financial crimes, tax evasion and tax avoidance

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The European Parliament adopted by 505 votes to 63, with 87 abstentions, a resolution on financial crimes, tax evasion and tax avoidance.

The recommendations were drawn up by the Special Commission on Financial Crime, Tax Evasion and Tax Fraud (TAX3) set up on 1 March 2018 following revelations by investigative journalists, such as LuxLeaks, Panama papers, Paradise papers and more recently Cum-Ex Files, as well as money laundering cases involving banks in Germany, Denmark, Estonia, Latvia, the Netherlands and the United Kingdom.

Urgent need for reform

Parliament stressed that 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. Current tax systems and accounting methods are not equipped to keep up with these developments and ensure that all market participants pay their fair share of taxes.

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

Parliament 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.

Anti-Money Laundering (AML)

Parliament noted with concern that the proceeds from criminal activity in the EU are estimated to amount to EUR 110 billion per year, corresponding to 1 % of the Union's total GDP. According to Commission estimates, in some Member States up to 70 % of money laundering cases have a cross-border dimension.

Members were outraged that systemic failures in the application of anti-money laundering requirements, combined with ineffective supervision, have recently led to several high-profile money laundering cases in European banks.

Parliament recalled that customer knowledge and customer due diligence obligations are essential, that they remain in force throughout the business relationship and that transactions carried out by customers must be constantly reviewed to detect any suspicious or unusual activities. It asked the Commission to use all available instruments to assist Member States in transposing and enforcing the Fifth Anti-Money Laundering Directive. It called for better cooperation between anti-money laundering and prudential supervision authorities in the European Union.

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 resolution stressed that the cum-ex fraud system clearly demonstrated the need to focus on multilateral and non-bilateral tax treaties in the future, which could complicate the already complex web of international rules, create new loopholes and contribute to a lack of transparency.

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.

VAT

The resolution stressed the 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

Parliament 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. It 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.

Lastly, Parliament stressed the need to protect the confidentiality of the sources of investigative journalism, including whistle-blowers, if the role of investigative journalism as a watchdog in democratic society is to be safeguarded.