Implementation of EU requirements for exchange of tax information: progress, lessons learnt and obstacles to overcome

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The Committee on Economic and Monetary Affairs adopted the report by Sven GIEGOLD (Greens/EFA, DE) on the implementation of the EU requirements for exchange of tax information: progress, lessons learnt and obstacles to overcome.

Scope of the report

The Directive on Administrative Cooperation (DAC) 2011/16/EU) was introduced to lay down the rules and procedures for cooperation between Member States on the exchange of information that is foreseeably relevant to the tax administration of the Member States.

In line with its responsibilities under Article 14 TFEU, the European Parliament sought to assess the enforcement and implementation of the DAC and its first three revisions (DAC 2-4).

However, Members expressed regret that all Member States – with the exception of Finland and Sweden – have refused to grant Parliament access to the relevant data to assess the implementation of DAC provisions. They deplored the fact that the Commission did not grant Parliament access to the relevant data in its possession and considered that Parliament is thereby in effect being hindered from exercising its political scrutiny function over the Commission. Therefore, this implementation report therefore has significant shortcomings.

This report assesses the implementation of the obligations of information exchange under Direction on Administrative Cooperation (DAC1) and its subsequent amendments, which aim to combat tax fraud, tax avoidance and tax evasion by facilitating the exchange of information related to taxation. The focus is on the initial directive (DAC1) and the first three amendments (DAC2-4), as later amendments have only recently entered into application (DAC5-6) or had not yet been adopted when the present report was prepared (DAC7-8).

Coverage and reporting requirements

Members welcomed the fact that the EU institutions have been continuously improving and widening the scope of the exchange of information in order to curb tax fraud, tax evasion and tax avoidance, including the recent proposal on DAC7, as well as the plans for DAC8. While the scope of the DAC framework has been steadily increased, too little attention was paid to improving data quality and completeness.

The report highlights that the exchange of information between tax administrations has **significantly improved at both global and EU level**.

Members noted, however, that certain types of income and assets remain excluded from the scope of application, which represent a risk of circumvention of tax obligations. Better implementation and enforcement of the rules by tax authorities is therefore needed to minimise the risk of non-declaration of income.

The Commission is therefore invited to assess the need to include information on the following beneficiaries, items of income and non-financial assets in the automatic exchange of information:

- the beneficial owners of immovable property and companies;

- capital gains related to immovable property and capital gains related to financial assets;

- non-custodial dividend income;

- non-financial assets such as cash, art, gold or other valuables held at free ports, customs warehouses or safe deposit boxes;

- ownership of yachts and private jets;

- accounts at larger peer-to-peer lending, crowdfunding and similar platforms.

Legal and practical challenges

Members noted that the Commission monitors the transposition of the DAC legislation in the Member States. However, they pointed out that it has so far neither taken direct and effective action to address the **lack of quality of the data** sent between Member States, nor carried out visits to Member States, and neither has it ensured the effectiveness of sanctions imposed by Member States for breaches of the DAC reporting provisions. The Commission is urged to step up its activities in this regard and to take direct and effective actions to address the lack of quality of data sent by Member States.

Members also noted with concern that the 2019 Commission evaluation highlighted that Member States often do not go beyond the minimum requirements of the DAC in exchanging information, and this contributed to the *cum-ex/cum-cum* tax fraud scandal.

Information exchanged on request

The report noted that information exchanged on request (EOIR) has often been found to be incomplete and required further clarifications. Regretting that there is no defined time limit for follow-up exchanges, Members called on the Commission to revise this provision, including for follow-up requests, to set a maximum time limit of three months. It is proposed that the Commission be granted the mandate to systematically assess the degree of cooperation of third countries.

Conclusions

Members called on the Member States to **cease refusing to share relevant documents** in line with Regulation 1049/200138 which applies directly, and to respect the principle of sincere cooperation in Article 13(2) of the TEU. They called on Parliament to use all legal means at its disposal to ensure that it receives all documents needed for a complete assessment of the implementation of the DAC.

The Commission is urged to come forward with a **comprehensive revision of the DAC framework** as soon as possible, based on Parliament’s proposals and a wide public consultation.

Members regretted the Council’s repeated adoption of decisions weakening the Commission’s proposals to strengthen the DAC framework.

Members deplored the Council’s position on consecutive DAC revisions, based on the repeated mitigation of Commission proposals and disregard of Parliament’s positions. The Council should review its attitude towards the Parliament on tax matters and, specifically, on DAC revisions.