Lessons learnt from the Pandora Papers and other revelations

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The European Parliament adopted with 465 votes, 5 against and 36 abstentions, a resolution on the lessons learned from the Pandora Papers and other revelations.

The Pandora Papers were a massive data leak, which the International Consortium of Investigative Journalists began publishing on 3 October 2021. The Pandora Papers revealed how wealthy individuals, including politically exposed persons, criminals, public officials and celebrities, rely on intermediaries such as banks, accountants and law firms to set up complex corporate structures registered in opaque jurisdictions or tax havens, in order to evade tax, penalties and other legal obligations on their income and wealth and to enable money laundering and terrorist financing.

General considerations

Recognising that **journalists and whistleblowers** play an important role in exposing potential breaches of tax law, corruption, organised crime and money laundering, Members believe it is necessary to further protect the confidentiality of investigative journalism sources and to defend the freedom of journalists to report on issues of public interest without facing the threat of costly legal action. Member States are urged to adopt anti-SLAPP legislation and to transpose the Whistleblowers Directive into national law as a matter of urgency.

Parliament stressed that the practices highlighted by the Pandora Papers revelations have a particularly serious impact on fiscal space and public spending, especially in developing countries. It called on the EU to help developing countries combat illicit financial flows and tax evasion by companies and multinationals, and to ensure that taxes are paid where profits are made and real economic value is created. The EU is invited to support the establishment of a **United Nations Framework Convention on Taxation**, with the aim of strengthening international cooperation and governance in relation to illicit financial flows of a fiscal and commercial nature.

The resolution deplored the fact that a number of high-level EU decision-makers have been featured in the Pandora Papers. Among the names mentioned are political leaders of developing countries that are heavily dependent on EU aid. Members believe that the unanimity rule laid down in the TFEU Treaty for the adoption of tax legislation in the EU allows high-level decision-makers accused of wrongdoing to wield greater power of influence, enabling them to block legislation to combat tax fraud or evasion. They stressed the importance of **preserving high standards of integrity, honesty and accountability** among EU and Member State public officials, as well as promoting an ethic of duty and personal integrity in this environment.

Role of intermediaries in facilitating tax evasion and avoidance

The resolution pointed out that, according to research carried out in 2018, the so-called **Big Four** major accountancy firms – PwC, EY, Deloitte and KPMG – accounted for 87 % of the global tax advisory market share. It called on the Commission to carry out a study on the tax advisory market in order to have up-to-date information on the market share of the major accountancy firms.

Members regretted the fact that, as exposed by the Pandora Papers, PwC, along with other major accountancy firms, had a central role in assisting **Russian oligarchs** with their investments in the West through their networks of offshore shell companies. They highlighted that, in view of Russia's aggression against Ukraine and its hybrid actions against EU countries, investigations into the assets and investments of Russian oligarchs should be a top priority, as they are strategically important for the EU's security.

Harmful practices in non-corporate tax regimes

The resolution drew attention to the impact of **new technologies** (e.g. crypto-assets) which create new challenges in the area of tax avoidance and money laundering and for which new, appropriate and targeted regulations may be needed. It stressed that base erosion is facilitated by the fact that **outbound dividends, royalties and interest** across borders are not subject to withholding tax and that there are no common rules and procedures ensuring the effective taxation of intra-EU flows. The Commission and the Member States are invited to coordinate a withholding tax framework that ensures that all dividends, interest and royalties are taxed at least once at an effective rate.

Members observed, in parallel, a trend for countries, including EU Member States, to adopt legal frameworks designed to attract high-net-worth individuals, foreign pensioners and highly skilled workers to invest or live in their territory, notably granting them generous tax benefits and exemptions which do not apply to nationals, in addition to **offering golden visas and selling citizenship** opportunities. They urged the Commission to provide detailed information on the progress made by Member States in repealing or withdrawing the citizenship or residence permits of Russian or Belarusian individuals who have obtained their status through investment.

Misuse of shell companies and opaque structures

Parliament noted that some jurisdictions, such as the United Kingdom, have in place a **control mechanism for unexplained wealth** aimed at detecting the proceeds of criminal activities. This mechanism consists of a court order requiring a person who is reasonably suspected of being involved in serious crime, or of being connected to a person involved in serious crime, to explain the nature and extent of their interest in a particular property and to explain how that property was obtained, where there are reasonable grounds to suspect that the respondent's known lawfully obtained income would be insufficient to enable the respondent to obtain that property. The Commission is invited to assess the effects and feasibility of such a measure at EU level.

Regretting the lack of transparency on the part of the Commission and the Member States regarding the progress made in **freezing and seizing the assets** of sanctioned persons, Parliament called on the Member States and the EU authorities to make substantial efforts to recover illegal money. It asked the Commission to publish a list of assets frozen or confiscated following Russia's invasion of Ukraine.

Members reiterated the importance of transparency regarding information on beneficial owners worldwide but deplored the delay in setting up the Beneficial Ownership Registers Interconnection System in the EU due to technical difficulties.

Parliament called on the Council to adopt without further delay the Commission proposal for a Council directive laying down rules to **prevent the abuse of shell entities for tax purposes**, taking account of Parliament's opinion. It reiterated its request to the Council to extend the mandate of the Code of Conduct Group (Business Taxation) to preferential personal income and capital tax regimes as well as personal income or wealth tax regimes which are considered to be harmful.

Lastly, the resolution pointed out that several Member States have maintained preferential corporate tax systems, which may have led in billions of euros in tax losses for other Member States. It called for greater transparency concerning preferential tax systems, as well as more tax solidarity among EU Member States.