

THE PANAMA PAPERS 2 YEARS ON:

What has been achieved
What remains to be done

CREDITS

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**A BRIEFING BY THE GREENS/EFA
GROUP IN THE EUROPEAN
PARLIAMENT**

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INTRODUCTION

On 3rd of April 2016, people learnt about what can probably be considered the biggest tax scandal of our times, the so-called Panama Papers. The numbers speak for themselves: a 2.6 terabyte trove of 11.5 million secret files was leaked to journalists with information on more than 210,000 offshore companies involving over 140 politicians from more than 50 countries, 21 tax havens, over 500 banks and many other intermediaries.

Nearly two years on, the Greens / EFA Group in the European Parliament has decided to reflect on the progress made at the European level since these revelations. What has been achieved? Equally, what remains to be done? Reforms aimed at cracking down on tax avoidance are currently being slowed down in the Council by some European Member States. The Greens however were the first political group to call for the creation of an inquiry committee within the European Parliament to assess potential breaches of EU law related to money laundering or taxation. This committee was created in June 2016¹ and conducted investigations for 18 months, eventually producing a final report with some strong conclusions and recommendations².

At the time of the scandal, we also launched an online petition³ that called for the issue of shell companies to be addressed urgently, and for sanctions for the banks and other intermediaries that had broken the law. More than 535,000 citizens signed this petition in just a few weeks, which we then delivered to European Commission Vice President Valdis Dombrovskis, the person responsible for Financial Stability, Financial Services and Capital Markets Union⁴. The European Commission promised a strong response to the Panama Papers and since April 2016 has presented several legislative proposals aimed at improving anti-money laundering and taxation policies in the European Union. While some of them have been adopted and will enter into law soon, others have been blocked or delayed by certain Member States.

The scale of the scandal has generated unprecedented anger amongst the public, and the work of whistleblowers, journalists, civil society organisations and some politicians has helped move the fight for tax justice further along. As this briefing demonstrates however, there is room to do more, should European Member States be willing to show more political will.

¹<http://www.europarl.europa.eu/committees/nl/pana/home.html>

²[http://www.europarl.europa.eu/cmsdata/135340/P8_TA-PROV\(2017\)0491_EN.pdf](http://www.europarl.europa.eu/cmsdata/135340/P8_TA-PROV(2017)0491_EN.pdf)

³ <https://www.change.org/p/david-cameron-mp-panamapapers-shut-down-shell-companies-sanction-the-banks>

⁴ <https://www.greens-efa.eu/en/article/news/greens-petition-on-panama-papers-handed-over-to-the-european-commission/>

I - WHISTLEBLOWER PROTECTION AND INVESTIGATIVE JOURNALISM

What the Panama Papers revealed would not have been possible were it not for the courageous decision taken by an anonymous whistleblower to reach out to journalists in the *Suddeutsche Zeitung*, offering them data that exposed the shady practices of a law firm in Panama called Mossack Fonseca. As is often the case in tax scandals, revelations come from citizens who decide to act in the public interest, often at a high personal cost. Antoine Deltour and Raphaël Halet, two whistleblowers in the Luxleaks scandal, have been prosecuted in Luxembourg after the accounting firm PriceWaterhouseCoopers pressed charges. In an ongoing case, they have spent years and significant amounts of money defending themselves right up to the highest court in Luxembourg⁵.

Very early on, the Greens/EFA Group in the European Parliament began advocating for comprehensive protection of whistleblowers across the European Union, to be implemented in the form of a horizontal directive⁶. Greens/EFA specifically called for⁷:

- Both public and private bodies should be obliged to protect whistleblowers;
- Protection for reporting wrongdoing and revealing information that is in the public interest: alerts should not be limited to purely illegal activities but should also cover other forms of misconduct or wrongdoing;
- The choice of reporting channels by whistleblowers: it should be possible for whistleblowers to

disclose information in various ways - internally within the workplace, and/or externally to the competent authorities, parliamentarians and oversight agencies, trade unions and employers' associations, and also to the public through the media or non-governmental organisations.

- A reversed burden of proof: whistleblowers should not have to prove that they acted in good faith. The only thing that matters is whether the information they revealed was in the public interest or whether it revealed wrongdoing or other misconduct.

These ideas were also recommended numerous times by the European Parliament, in standing reports⁸ as well as in the conclusions of the European Parliament's work on the Luxleaks⁹ and the Panama Papers¹⁰ scandals. It is disappointing that there has been no concrete action on this by the Commission, although it is due to announce some legislative measures on whistleblower protection in April 2018, which should cover health, taxation, environment and the financial interests of the Union. This would be a welcome move, although it has been two years since the Panama Papers.

Furthermore, the courage of investigative journalists in all of this needs to be recognised. In the last six months, two investigative journalists who worked on the Panama Papers have been murdered in the European Union - Daphne Caruana

⁵ <http://www.france24.com/en/20180111-luxembourg-court-overturns-verdict-luxleaks-whistleblower-deltour>

⁶ <https://www.greens-efa.eu/en/article/whistleblower-protection/>

⁷ <https://www.greens-efa.eu/en/article/news/principles-for-european-whistleblower-legislation/>

⁸ <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A8-2017-0295+0+DOC+PDF+V0//EN>

⁹ <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+TA+P8-TA-2016-0310+0+DOC+PDF+V0//EN>

¹⁰ [http://www.europarl.europa.eu/cmsdata/13534/0/P8_TA-PROV\(2017\)0491_EN.pdf](http://www.europarl.europa.eu/cmsdata/13534/0/P8_TA-PROV(2017)0491_EN.pdf)

Galizia in Malta and Ján Kuciak in Slovakia. We thus call on the European Commission and Member States to strengthen the protection for journalists and to actively promote investigative journalism in the EU.

Thanks to a Greens/EFA initiative, the European Parliament recently approved the proposal to create an annual Daphne Caruana Galizia Prize that will reward investigative journalism in Europe.

II - GREATER PUBLIC TRANSPARENCY FOR COMPANIES: MORE NEED TO BE DONE

Public Country by Country Reporting (CBCR) was one of the first measures presented by the European Commission, just days after the Panama Papers scandal erupted. The proposal is a long-standing request of the Greens/EFA and aims to make large companies operating in the European Union disclose financial information that can help ensure taxes are paid where the economic activity of these companies is being carried out (i.e. that profits declared match the location of employees and assets, in order to help detect profit shifting and tax avoidance).

We believe making such information public is necessary if European citizens are to make informed choices about the companies they want to buy from and if shareholders are to make informed decisions about who to invest into. Unfortunately, conservative forces in the European Parliament put together a majority in July 2017¹¹ and managed to insert some loopholes in the form of a safeguard clause. Nevertheless, the European Parliament still voted wholeheartedly in favour of greater public transparency, which represented a big victory for all those that have worked hard on tax justice¹².

Unfortunately, the same cannot be said for Member States, who almost two years after the Commission's proposal are not even close to an agreement on their position. Several Member States, including Sweden,

Germany, Luxembourg, Finland, Ireland, Hungary, Austria and Cyprus for example, have openly expressed their disagreement with the proposal, including its legal basis, arguing the European Parliament should have no say on this file. As a result, they are dragging their feet and the proposal has been stuck for months, and there unfortunately seems to be no political willingness from any Member State to achieve some sort of a breakthrough. At a time when companies themselves voluntarily commit to disclose country by country information (Vodafone being a recent example¹³) it is a shame that Member States do not hear the call for greater public transparency.

¹¹<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fNONSGML%2bREPORT%2bA8-2017-0227%2b0%2bDOC%2bPDF%2bV0%2f%2fEN>

¹² <https://www.greens-efa.eu/en/article/press/country-by-country-reporting-is-a-major-win-for-tax-justice/>

¹³http://www.vodafone.com/content/dam/sustainability/pdfs/vodafone_2017_tax.pdf

III - STRONGER ANTI-MONEY LAUNDERING RULES TO FIGHT FINANCIAL CRIMES

The Panama Papers were a wake-up call that showed tax havens are not only used by big companies and wealthy individuals trying to escape their tax obligations, but that they are also the destination for black money and criminal proceeds (e.g. terrorism financing, arms and drugs trafficking, tax evasion, corruption...) intended for money laundering. . In fact, instances of money laundering are increasing according to Eurojust, an agency which registered 724 cases on money laundering between 2012 and July 2015, rising from 193 cases in 2013 to 286 money laundering cases in 2015¹⁴.

When it presented its proposal in July 2016, the European Commission did take on board some of the concerns raised by the Panama Papers and suggested introducing public registries of beneficial owners of companies. This would mean that for each company registered in the European Union, the public would be able to know who owns more than 25% stake of each of them.

The European Parliament took this opportunity to adopt an ambitious proposal and revise entire chapters of the legislation, addressing well-known caveats unsolved by the Fourth Anti-Money Laundering Directive¹⁵. Negotiations (co-led by the Greens) with Member States were tough

and intense, as several Member States had no intention to increasing transparency measures or providing additional checks for situations presenting higher risks of money laundering, starting the Maltese Presidency itself, which negotiated on behalf of member States for the first half of 2017.

Ultimately, the final deal between the European Parliament and the Council included a series of important requests from the Greens for cracking down on money laundering¹⁶. The revised legislation guarantees the creation of ultimate beneficial ownership registers, both for companies (with public access) and for trusts (with access for anyone who has a legitimate interest in knowing such information). The agreement is a real step forward, and will deliver tangible benefits to EU citizens, as every year national governments lose billions to money laundering, with obvious consequences for public spending. Bringing out into the open the identities of the people who might be hiding behind the opaque structures of companies and trusts will make it much easier to identify and prevent criminal behaviour. We expect the final agreement to be rubber stamped by the European Parliament in mid-April and soon after by the Council, with it finally entering into force in 2020.

¹⁴ http://europa.eu/rapid/press-release_MEMO-16-4452_en.htm

¹⁵ <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A8-2017-0056+0+DOC+PDF+V0//EN> <https://www.greens-efa.eu/en/article/press/european-parliament-demands-hard-line-on-financial-crimes/>

¹⁶ <https://www.greens-efa.eu/en/article/press/new-legislation-will-deliver-real-benefits-for-citizens/>

IV - COMMON CONSOLIDATED CORPORATE TAX BASE: A REVOLUTIONARY IDEA, BUT A VICTIM OF THE UNANIMITY RULE IN THE COUNCIL

There are however some important reforms that even a massive tax scandal like the Panama Papers hasn't managed spur action on. The Common Consolidated Corporate Tax Base (CCCTB) is one such example. This reform predates the recent tax leaks and was first formally introduced by the European Commission in 2011 as a revolutionary way to tax multinationals operating in the European Union. Instead of considering each branch and subsidiary of a big company as a separate entity, they would all be considered part of one big group at the European level. Their profits would be taxed according to a formula apportionment (based on sales, assets and labour costs) on where the economic activity is taking place.

Given the need to reach a unanimous agreement among the 28 Member States, the 2011 proposal didn't progress far enough. Some of the smaller Member States such as Ireland, Luxembourg, Malta and Cyprus opposed what they considered to be an attack on their tax business model. A revised version of the proposal was launched in October 2016, a few months after the Panama Papers, with a clear emphasis on the need to fight corporate tax avoidance.

The European Parliament recently adopted its report on the CCCTB, which includes stronger anti-tax avoidance measures and

specific provisions to tackle the challenges of taxing the digital economy¹⁷. The European Parliament strongly recommended changing the definition of what defines a company's "taxable presence" in a given jurisdiction so as to adapt to the reality of digital services in the 21st century. Too many digital giants like Facebook, Apple, Google, Amazon and others have been caught practicing tax avoidance, all of which has convinced European citizens of the need for a quick response.

Unfortunately, Member States seem deaf to the complaints of their citizens and the renewed proposal for a CCCTB is likely to meet the same fate as the 2011 version. Negotiations are ongoing in the Council but some countries including Ireland¹⁸ and Luxembourg¹⁹, have already expressed serious concern and opposition to the idea. Some have floated the idea of a possible enhanced cooperation mechanism, a coalition of the willing, who would be able to go ahead regardless, especially on the consolidation aspect. Others such as the European Parliament argue that using Article 116 of the Lisbon Treaty²⁰ could be an option: this would give the European Parliament co-decision powers and allow a decision by the Member States on the proposal by qualified majority instead of unanimity.

¹⁷<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+TA+P8-TA-2018-0087+0+DOC+PDF+V0//EN>

¹⁸<https://www.irishtimes.com/news/politics/varadkar-willing-to-pay-more-to-eu-but-is-against-common-tax-rate-1.3403174>

¹⁹<https://www.reporter.lu/politique-europeenne-du-luxembourg-la-fin-de-la-doctrine-communautaire/>

²⁰<http://www.lisbon-treaty.org/wcm/the-lisbon-treaty/treaty-on-the-functioning-of-the-european-union-and-comments/part-3-union-policies-and-internal-actions/title-vii-common-rules-on-competition-taxation-and-approximation-of-laws/chapter-3-approximation-of-laws/384-article-116.html>

Article 116

“Where the Commission finds that a difference between the provisions laid down by law, regulation or administrative action in Member States is distorting the conditions of competition in the internal market and that the resultant distortion needs to be eliminated, it shall consult the Member States concerned.

If such consultation does not result in an agreement eliminating the distortion in question, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall issue the necessary directives. Any other appropriate measures provided for in the Treaties may be adopted.”

V - ANTI-TAX AVOIDANCE MEASURES: WATERED DOWN BUT ADOPTED

There is no doubt that the Panama Papers have provoked serious discussions on tax issues among Member States. Those eager to crack down on tax dodgers have also put words into action. The Anti-Tax Avoidance Directive is one piece of legislation that was on the table at the right time to ensure unanimous agreement in the Council. But the devil is in the detail. Although new anti-tax avoidance measures that will provide for minimum harmonisation across the 28 Member States have been adopted, a few important improvements were scrapped at the request of some Member States who had an interest in maintaining the status quo.

The Anti-Tax Avoidance Directive was presented in January 2016 by the European Commission and adopted in July of the same year by the Council (with a second part adopted a bit later in 2017). Entering into force in January 2019, this new legislation will provide a minimum framework of measures all Member States will have to introduce and which will help fight corporate tax avoidance, estimated to amount to between €50 to €70 billion a year in the Union²¹. This is considerable progress and an agreement was reached in about six months, a feat rarely seen on tax matters in the Council. All Member States will now have to adapt their legislation by 2020 to have a general anti-abuse clause,

common controlled foreign company rules, a provision on exit taxation (for certain cases where flows leave the European Union to a territory where it will be untaxed) as well as a limit to interest deduction for company loans.

Nevertheless, the original proposal by the European Commission was watered down because of requests by some Member States for exemptions or greater flexibility in the implementation of these provisions. Member States agreed²², for example, on the need to limit the deduction of interest in companies' tax bills on loans they contract. This is an important issue, as providing loans between subsidiaries of the same big companies are a common practice and one abused by some to indebt subsidiaries in high-tax countries in order to pay less tax. However, Member States also agreed on two major loopholes: loans contracted until December 2018 will not be affected; and Member States will still be allowed to apply their own national rule until 2024 if they so wish.

Member States also severely weakened a provision that would have ensured profits stashed in a company's subsidiaries in a tax haven are properly taxed. Adopting a lowest common denominator strategy, the Dutch Presidency agreed to drop one of the six solutions in the anti-tax avoidance

²¹[http://www.europarl.europa.eu/RegData/etudes/STUD/2015/558773/EPRS_STU\(2015\)558773_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2015/558773/EPRS_STU(2015)558773_EN.pdf)

²² <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017L0952&from=EN>

package, which would have ensured that funds entering the EU from tax havens were properly taxed before circulating

freely in the internal market. The UK led the charge to ensure this would not be included in the final text.

VI - AN EU “BLACKLIST”: TAX HAVENS DO NOT EXIST SOLELY OUTSIDE THE EUROPEAN UNION

Following Panama Papers, the EU’s ‘blacklist’ is probably the move that attracted most attention among the media and citizens. Although the project dates back to January 2016 (before the Panama Papers revelations), it took around two years to be finalised, when the Council formally adopted its EU list of non-cooperative jurisdictions for tax purposes on 5th December 2017²³.

After months of secretive discussions and assessment of third countries, the Member States adopted in December 2017 a ‘blacklist’ of 17 countries and a ‘greylist’ of 47 jurisdictions (these are judged non-compliant with EU criteria but committed to amending their legislation in the following 12 or 24 months). The current ‘blacklist’ now features only 9 countries, as several of them were moved to the ‘greylist’ after providing commitments that they would make changes to their tax structures.

The Greens/EFA group have been rather critical of the EU blacklisting process, not out of opposition to the idea itself, but rather because of the lack of transparency and accountability among Member States over the past 18 months²⁴. While we acknowledge that the black and grey lists are a good starting point, we deplore the lack of assessment of EU Member States as part of this process. We also regret that the Code of Conduct Group on Business Taxation (an informal working group

composed of representatives from all Member States) wasn’t more transparent as to how third countries were screened, what commitments were expected of them, and what final assessment justifying their inclusion or exclusion from the two lists consisted of. On 18th January 2018 we wrote a letter to the Chair of the Code of Conduct Group and the Bulgarian Presidency²⁵ to request that commitment letters from countries on the grey list are made publicly available on the Council’s website. The Commissioner for taxation, Pierre Moscovici, also made a similar request on the same day. While our letter has remained unanswered, the Council has finally decided to publish some information relating to the blacklisting process, including some commitment letters from third countries²⁶.

However, several documents relating to the assessment of third countries’ tax regimes and commitments are still not available. This is why the Greens/EFA Group has made an official request for access to documents concerning the EU list of non-cooperative jurisdictions, both towards the European Commission and the Council. The deadline for a response was extended by both institutions to mid-April 2018²⁷.

Thanks to the constant pressure from a wide range of actors, the Council has started to be slightly more transparent about its ranking of third country

²³<http://www.consilium.europa.eu/en/press/press-releases/2017/12/05/taxation-council-publishes-an-eu-list-of-non-cooperative-jurisdictions/>

²⁴<https://www.greens-efa.eu/en/article/press/greens-efa-group-demands-real-blacklist/>

²⁵ <http://extranet.greens-efa-service.eu/public/media/file/1/5446>

²⁶<http://data.consilium.europa.eu/doc/document/ST-6671-2018-INIT/en/pdf>

²⁷ <http://extranet.greens-efa-service.eu/public/media/file/1/5528>

jurisdictions. We hope to continue this pressure through the work of a new special committee on financial crimes, tax evasion and tax avoidance in the European Parliament²⁸, which was created in March 2018 and will work for 12 months. The committee has been specifically mandated to assess the methodology employed the third-country screening, the impact of the EU list of non-cooperative jurisdictions for tax purposes, and the sanctions adopted towards listed countries.

In addition, we welcome²⁹ the emphasis placed by the European Commission as part of the European Semester activities, on seven European countries whose tax

systems are deemed to facilitate aggressive tax planning and the erosion of other countries' tax bases³⁰. Belgium, Cyprus, Hungary, Ireland, Luxembourg, Malta and the Netherlands have all been identified as having problematic tax structures. The reports on Estonia and the United Kingdom also highlight some aggressive tax planning measures (although to a lesser extent compared to the aforementioned seven). We hope that country-specific recommendations, expected in May 2018 will take these concerns on board and will include specific recommendations for tax reform in these countries.

VII - STATE AID INVESTIGATIONS: A USEFUL TOOL IN THE FIGHT AGAINST TAX DODGING

In August 2016 the announcement by Commissioner for Competition Margrete Vestager that the European Commission had decided to fine Apple €13 billion because of unpaid taxes over the past 10 years made headlines³¹. This is one of the most well-known state aid cases investigated by the European Commission over the past four years, particularly because of the amount of money that must be recovered by Ireland from the company.

Commissioner Vestager has been very active over the past few years in investigating special tax deals large companies receive from certain Member States that may breach European state aid rules.

These investigations have often ended with large fines being issued, and examples include Starbucks in the Netherlands and Fiat in Luxembourg in October 2015³², the Belgian Excess Profit Ruling scheme in January 2017³³, and Amazon in October 2017³⁴. We are particularly proud that the European Commission opened a formal investigation against Inter Ikea in December 2017³⁵, a company that the Greens/EFA group investigated in 2016 revealing that it had managed to dodge around €1 billion in taxes between 2009 to 2014³⁶. We hope for a thorough analysis of the company's tax planning strategy and a for a recovery announcement by the European Commission addressed to the Netherlands.

²⁸ <http://www.europarl.europa.eu/committees/en/tax3/home.html>

²⁹ <https://www.greens-efa.eu/en/article/press/european-commission-finally-names-and-shames-member-states/>

³⁰ https://ec.europa.eu/info/publications/2018-european-semester-country-reports_en

³¹ <https://www.greens-efa.eu/en/article/news/apple-state-aid-case/>

³² http://europa.eu/rapid/press-release_IP-15-5880_en.htm

³³ http://europa.eu/rapid/press-release_IP-16-42_en.htm

³⁴ http://europa.eu/rapid/press-release_IP-17-3701_en.htm

³⁵ <https://www.greens-efa.eu/en/article/press/europa-zeigt-steuervermeidern-die-zaehne/>

³⁶ <https://www.greens-efa.eu/en/article/news/corporate-tax-avoidance-5963/>

VIII - REGULATING THE INTERMEDIARIES: EXPERT HELP TO SET UP TAX ARRANGEMENTS WILL BE SCRUTINISED

The Panama Papers made very clear that intermediaries (mostly banks, accountants and lawyers) play a key role in helping their clients create offshore structures for tax evasion, avoidance or money laundering purposes. At a hearing of the European Parliament's investigative committee on the Panama Papers, journalists from the ICIJ consortium explained for every person they identified in the Panama Papers, there was always an intermediary in the picture.

To investigate this matter further, the Greens / EFA Group published a report in January 2017 highlighting the diverse nature of intermediaries that have been involved in tax scandals (namely the Panama Papers, the Bahamas Leaks and the Offshore Leaks). Our report³⁷ showed that Hong Kong, the United Kingdom and the United States are the top 3 countries for hosting these middlemen.

This is why we welcomed³⁸ the European Commission proposal to oblige intermediaries to disclose to tax authorities information on potentially aggressive tax planning schemes they help their clients set up. Our call for Member States to speedily adopt these provisions has been answered, with political agreement

IX - IMPLICATIONS FOR EUROPEAN CITIZENS

Despite some progress and some legislative changes, the Panama Papers has had and still have a tremendous effect on European citizens' confidence into their leaders and into the European project to deliver for tax justice. Given the high number of high-political figures mentioned

reached by the Council on 13th of March 2018. This makes the EU a frontrunner in the implementation of Action 12 of the OECD Base Erosion and Profit Shifting action plan relating to disclosure requirements³⁹.

Indeed, last month, Member States reached unanimous agreement to oblige tax consultants, lawyers, bank advisors and financial service providers to inform their domestic tax offices of some tax saving schemes they offer clients if these schemes have a cross-border element. In addition, the financial authorities of the Member States will be obliged to exchange this data automatically. With this agreement, the European Union forces transparency on the most opaque actors in the tax sphere. However, it is regrettable that the Member States have postponed the start date for the reporting obligation by one and a half years (to mid-2020) and that a review of the criteria for tax saving schemes which are subject to reporting will not take place until mid-2022 at the earliest. With this delay, EU countries are doing honest taxpayers a disservice. The new rules should be implemented sooner rather than later.

in the revelations - including a Minister and the Chief of Staff of the Prime Minister in Malta, who are still in function - there is a high risk that some citizens lose faith in the capacity of their government to fight tax evasion and prosecute financial crimes such as money laundering. For Greens/EFA, there should be no tolerance

³⁷ <https://www.greens-efa.eu/en/article/news/who-are-the-middlemen-helping-to-dodge-tax-or-launders-dirty-money/>

³⁸ <https://www.greens-efa.eu/en/article/press/eu-must-tackle-aggressive-methods-of-tax-advisors-and-lawyers/>

³⁹ <http://www.oecd.org/tax/mandatory-disclosure-rules-action-12-2015-final-report-9789264241442-en.htm>

in the European Union for cross-border criminality and strong reaction by EU governments is expected, including stopping the double act of big speeches at home but undermining reforms in Brussels. Although there has been some progress and a number of legislative changes, the Panama Papers have had a detrimental effect on the European citizens' confidence in their leaders, and in the European project, to deliver on tax justice. Given the number of high-profile political figures mentioned in the papers (including a Minister and Chief of Staff of the Prime Minister in Malta who is still in office), there is a risk that citizens lose faith in the capacity of their governments to fight tax evasion and prosecute financial crimes such as money laundering. The Greens/EFA believe there should be zero tolerance for cross-border criminality and EU governments should respond accordingly. Member State governments should stop promising responses at home, while simultaneously undermining reforms on these issues in Brussels.

In addition, the European Union should show solidarity with developing countries, who are proportionally more affected by corporate tax avoidance and tax evasion than Member States and rely on these resources to achieve development targets⁴⁰. The European Commission and Member States should play a more active role within the United Nations to ensure an inclusive framework where international consensus on new tax rules can be agreed, the OECD not being the only forum for such discussions. Fighting illicit financial flows must be part of the Sustainable Development Goals, as a way to collect revenues to finance these objectives. The promotion of the UN Models Double Taxation Convention or the support for an intergovernmental Tax Body (under the auspices of the UN), as often requested by the European Parliament are key elements where Member States and the European Commission should express greater solidarity with our partners in developing countries.

X - CONCLUSIONS AND RECOMMENDATIONS

Two years have passed since the Panama Papers revelations and it's certainly fair to say that the scandal has been a game changer for European tax reform. Not so much because of what was revealed (the damage wrought by tax dodging and money laundering were already widely known) but rather because of the exposure of the scale of this industry and the outcry it generated among European citizens, which triggered enough pressure on EU political leaders to act.

Progress has been made and must be acknowledged. The European Commission has presented several legislative proposals while taxation and the fight against financial crimes became a high-profile issue for the European Parliament and the EU Presidencies during this legislature. Soon, new rules to prevent money laundering or to regulate tax advisers will exist at national level. However, too many files remain on hold because of Member States, especially the one on greater public transparency of multinationals' activities. This is despite the fact the Panama Papers clearly demonstrated the need for more public access to information, and this is precisely why the Greens/EFA group in the European Parliament reiterates its recommendations for concrete action on the unfinished business of tax justice.

⁴⁰ <http://www.taxjustice.net/wp-content/uploads/2017/11/Tax-dodging-the-scale-of-the-problem-TJN-Briefing.pdf>

WE CALL ON THE EUROPEAN COMMISSION TO:

1. **Present a comprehensive horizontal directive for EU-wide protection of whistleblowers**, based on the principles presented by the Greens/EFA group: protection for public and private sectors; reversed burden of proof in case of judicial litigation; protection for reporting wrongdoing or information in the public interest; freedom of choice of the reporting channels;
2. **Present proposals to address the protection of journalists and of freedom of expression in the European Union**, as well as projects to promote investigative journalism related to financial crimes, tax evasion and tax avoidance;
3. **Re-introduce its annual corruption report on the 28 Member States including the mechanisms needed to fight it**. Corruption remains a barrier to investment in some Member States and respect for the rule of law, and an independent judiciary and law enforcement authorities are necessary to ensure proper economic development;
4. **Analyse the EU anti-tax avoidance measures in light of the recent tax scandals** (including the Paradise Papers) and if appropriate to propose a legislative reform of the Anti-Tax Avoidance Directive. In addition, country-specific recommendations should be presented in May 2018 to Member States who are potentially facilitating aggressive tax planning;
5. **Map and investigate all schemes promoted by Member States which give privileged tax treatment to non-residents or to foreign income**, including the proliferation of programmes selling EU residency or citizenship under certain conditions;
6. **Investigate all state aid cases in the European Union** and to amend state aid guidelines to ensure that recovery amounts are allocated to the European Union budget;
7. **Support the creation of an Intergovernmental Tax Body** under the auspices of the United Nations, as requested by the European Parliament;
8. **Honour the promise of European Commission President Jean-Claude Juncker to introduce a legislative proposal under Article 116 of the Lisbon Treaty**, in order to overcome the hurdle of the unanimity principle in the Council on key legislative files;

WE CALL ON EUROPEAN MEMBER STATES TO:

1. **Stop blocking the public country-by-country reporting discussions and to reach an agreement on a general approach** in order to start final negotiations with the European Parliament as soon as possible;
2. **Speed up negotiations for a Common Consolidated Corporate Tax Base**, taking into account the recommendations of the European Parliament and of the European Commission to introduce the concept of digital permanent establishment in order to address the challenges of taxing the digital economy;
3. **Fully and thoroughly implement as soon as possible the Anti-Tax Avoidance Directive** in order to have a set of coordinated anti-abuse provisions to fight corporate tax avoidance in the European Union;

4. **Be fully transparent on the methodology and assessment of third countries in the framework of the European list of non-cooperative jurisdictions for tax purposes**, and to respond positively to the Greens/EFA request for access to documents relating to this issue;
5. **Reform the Code of Conduct Group on Business Taxation** to make it a formal working group within the Council, as well as its mandate to update the criteria for tax good governance in the European Union;
6. **Implement as soon as possible the latest revision of the Directive on Administrative Cooperation related to disclosure requirements for tax advisors**, and to go beyond the minimum obligations in this directive, as recommended by the European Parliament;
7. **Join, for Member States which haven't done it yet, the European Public Prosecutor's Office**, which will be in charge of investigating, prosecuting and bringing to justice the perpetrators of offences against the Union's financial interests, such as VAT fraud. While enhanced cooperation by 20 Member States is welcome, the participation of all European countries is required to effectively fight cross-border criminality;
8. **Support the creation of an Intergovernmental Tax Body** under the auspices of the United Nations, as requested by the European Parliament;
9. **For countries flagged in the European Semester process** (Belgium, Cyprus, Hungary, Ireland, Luxembourg, Malta and the Netherlands) **to take the Commission's warning seriously** and to conduct an assessment of their tax systems and how these can erode the tax bases of other jurisdictions, as well as to introduce legislative reforms to fight aggressive tax planning;
10. **For countries subject to ongoing state aid decisions to cooperate fully with the European Commission** and to recover state aid amounts promptly in order to enforce the Commission's decision smoothly;