



Европейски парламент Parlamento Europeo Evropský parlament Europa-Parlamentet Europäisches Parlament  
Euroopa Parlament Ευρωπαϊκό Κοινοβούλιο European Parliament Parlement européen Parlaimint na hEorpa  
Europski parlament Parlamento europeo Eiropas Parlaments Europos Parliamentas Európai Parlament  
Parlament Ewropew Europees Parlement Parlament Europejski Parlamento Europeu Parlamentul European  
Európsky parlament Evropski parlament Euroopan parlamentti Europaparlamentet

23/10/2018, Brussels

Dear Roberto,  
Dear colleagues,  
Dear fellow ECON coordinators,

The Cum-Ex-Files have demonstrated professional organized financial criminality on an unprecedented level in Europe. The consortium of European journalists has published evidence that the Cum-Ex and Cum-Cum trading practices continue and are now a European phenomenon. The damage to ordinary tax payers is estimated at a minimum of 55 bn Euros and is likely to be much higher. These trading practices are not organized by ordinary criminals but with the help of financial institutions, lawyers, accountants and tax advisers. The journalists speak of Europe's largest tax scandal. This scandal is so damaging as it seems to involve hundreds or even thousands of professionals in the financial sector even after all the wrongdoing before the outbreak of the financial crisis 2007/2008 and following. The tax scandal is even more damaging as again public institutions were unable or unwilling to stop the theft of tax payers' money after they failed to prevent all the wrongdoing before 2007/2008. Also our credibility in the European institutions is at stake.

Article 22 paragraph 4 of the ESA regulations foresees that the European Supervisory Authorities may "upon a request from one or more competent authorities, the European Parliament, the Council or the Commission, or on its own initiative, conduct an inquiry into a particular type of financial activity or type of product or type of conduct in order to assess potential threats to the integrity of financial markets or the stability of the financial system and make appropriate recommendations for action to the competent authorities concerned".

Dear colleagues, the Cum-Ex/Cum-Cum-scandal constitutes such a threat to the integrity of financial markets caused by a "financial activity or type of product or type of conduct". Therefore, I would like to suggest that we take the necessary steps in order for our Parliament to call on the ESAs to conduct such an inquiry. The call should be decided without any delay because of the exigent circumstances as the theft of taxpayers' money is ongoing.

The call for an inquiry should be worded in a way that it does not only look at those precise arrangements which have been published by the consortium of journalists. The call should rather analyse the use of complex financial products, instruments and/or practices for aggressive tax avoidance and evasion in a wider sense including all forms of "dividend arbitrage". Furthermore, the inquiry should analyse whether the powers of Art. 9 (5) in the ESAs' regulations should be used in combination with Art. 40 MIFIR to prohibit certain financial instruments, activities or practices.

Lastly, I believe that the sheer size of the damage to European tax payers and the reputational damage to the European financial system justifies the use the emergency powers in Article 18 of the ESAs' regulations. What else has to happen to constitute that a coordinated European response is needed to protect the integrity of the financial system? Only, by using strong intervention powers as foreseen in Article 18 a swift European response can be ensured to end the huge stealing of taxpayers' money. Unfortunately, Article 18 can only be triggered through a



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decision of the Council. However, the European Parliament and us as ECON could appeal to the Council to do so.

In order to discuss and decide on our options I would like to ask our President to invite to an extraordinary coordinators' meeting in Strasbourg. Citizens have a right to a swift reaction from our side and the next meeting in the end of November is clearly too late. I am looking forward to your support to our proposals.

Best regards,

Sven Giegold  
Greens ECON coordinator