



Special Committee on Tax Rulings and Other Measures Similar in Nature or Effect (TAXE 2)

31/05/2016

AMENDMENTS: 27

Jeppe Kofod, Michael Theurer

Report of the special committee on tax rulings and other measures similar in nature or effect (TAXE 2)

Motion for a resolution PE580.528 - 2016/2038(INI)

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Amendment 1

Ana Gomes

Motion for a resolution

Citation 12 a (new)

Motion for a resolution

Amendment

- **- having regard to the Directive 2015/849 of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing;**

Or. en

Amendment 2

Ana Gomes

Motion for a resolution

Recital A

Motion for a resolution

Amendment

A. whereas the ‘Panama Papers’ and ‘LuxLeaks’ scandals, as revealed by the International Consortium of Investigative Journalists (ICIJ), have shown the urgent need for the EU and its Member States to fight tax evasion and avoidance and act for increased cooperation and transparency in order to re-establish tax justice;

A. whereas the ‘Panama Papers’ and ‘LuxLeaks’ scandals, as revealed by the International Consortium of Investigative Journalists (ICIJ), have shown the urgent need for the EU and its Member States to fight tax evasion and avoidance and act for increased cooperation and transparency in order to re-establish tax justice, **prevent money laundering and combat organised crime, including terrorism;**

Or. en

Amendment 3

Ana Gomes

Motion for a resolution

Recital B

Motion for a resolution

B. whereas the scale of tax evasion and avoidance is estimated by the Commission to be EUR 1 trillion¹⁹ a year, while the OECD estimates²⁰ the revenue loss at global level to be between 4 % and 10 % of all corporate income tax revenue, representing between EUR 75 and EUR 180 billion annually, at 2014 levels; whereas these are only estimates and the actual figures might be even higher; whereas the costs to society of such practices are evident; whereas tax fraud, tax evasion and aggressive tax planning erode the tax base of Member States and thereby lead to loss of tax revenues;

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http://ec.europa.eu/taxation_customs/taxation/tax_fraud_evasion/a_huge_problem/index_en.htm, European Commission, 10 May 2016.

²⁰ Measuring and Monitoring BEPS, Action 11 - 2015 Final Report, OECD/G20 Base Erosion and Profit Shifting Project.

Amendment

B. whereas the scale of tax evasion and avoidance is estimated by the Commission to be EUR 1 trillion¹⁹ a year, while the OECD estimates²⁰ the revenue loss at global level to be between 4 % and 10 % of all corporate income tax revenue, representing between EUR 75 and EUR 180 billion annually, at 2014 levels; whereas these are only estimates and the actual figures might be even higher; whereas the costs to society of such practices are evident, ***seriously undermine good governance and trust in democracy***; whereas tax fraud, tax evasion and aggressive tax planning erode the tax base of Member States and thereby lead to loss of tax revenues;

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http://ec.europa.eu/taxation_customs/taxation/tax_fraud_evasion/a_huge_problem/index_en.htm, European Commission, 10 May 2016.

²⁰ Measuring and Monitoring BEPS, Action 11 - 2015 Final Report, OECD/G20 Base Erosion and Profit Shifting Project.

Or. en

Amendment 4 **Ana Gomes**

Motion for a resolution **Recital C**

Motion for a resolution

C. whereas small and medium-sized enterprises (SMEs) are the primary job creators in Europe, having created around 85 % of all new jobs in Europe²¹ during the last five years; whereas the Commission has stated that SMEs pay on average 30 %

Amendment

C. whereas small and medium-sized enterprises (SMEs) are the primary job creators in Europe, having created around 85 % of all new jobs in Europe²¹ during the last five years; whereas the Commission has stated that SMEs pay on average 30 %

more in tax than multinational enterprises (MNEs); whereas this seriously distorts competition, leads to loss of jobs in the Union and hinders sustainable growth;

²¹ <http://ec.europa.eu/growth/smes/>, European Commission, 10 May 2016.

more in tax than multinational enterprises (MNEs); whereas this seriously distorts competition, leads to loss of jobs in the Union, **fosters inequality** and hinders sustainable growth;

²¹ <http://ec.europa.eu/growth/smes/>, European Commission, 10 May 2016.

Or. en

Amendment 5

Ana Gomes

Motion for a resolution

Recital E

Motion for a resolution

E. whereas convergence of tax policies should also be accompanied by greater controls and more investigations of harmful tax practices; whereas the Commission has started new formal investigations regarding tax treatment of MNEs; whereas a number of investigations by the Commission in matters of state aid were still ongoing at the time of adoption of this report; whereas certain Member States have initiated recovery procedures against some MNEs;

Amendment

E. whereas convergence of tax policies should also be accompanied by greater controls and more investigations of harmful tax practices; whereas the Commission has started new formal investigations regarding tax treatment of MNEs; whereas a number of investigations by the Commission in matters of state aid **in connection with Member States tax practices** were still ongoing at the time of adoption of this report; whereas certain Member States have initiated recovery procedures against some MNEs;

Or. en

Amendment 6

Ana Gomes

Motion for a resolution

Recital G

Motion for a resolution

G. whereas the lack of transparency and, more generally, non-compliance with control requirements, deficient knowledge

Amendment

G. whereas the lack of transparency and, more generally, non-compliance with control requirements, deficient knowledge

of final beneficiaries and continued banking secrecy are obstacles to ending tax evasion and avoidance; whereas the opacity of such practices is used by some tax agents in the financial sector for aggressive tax practices; whereas there is no automatic exchange of information between countries, beyond the pre-existing bilateral tax conventions; whereas, without effective enforcement, the weaknesses of the systems will encourage tax evasion and avoidance;

of final beneficiaries and continued banking secrecy are obstacles to ending tax evasion and avoidance; whereas the opacity of such practices is used by some tax agents in the financial sector for aggressive tax practices; whereas there is no automatic exchange of information between countries, beyond the pre-existing bilateral tax conventions; whereas ***political interference and staff cuts, in addition to lack of adequate training, technical tools and investigative powers have seriously hampered tax administrations in some Member States to counter the depletion of tax revenues and address harmful tax practices***; whereas, without effective enforcement, the weaknesses of the systems will encourage tax evasion and avoidance;

Or. en

Amendment 7

Ana Gomes

Motion for a resolution

Recital I

Motion for a resolution

I. whereas the hearings organised with Andorra, Guernsey, Jersey, Liechtenstein and Monaco (see Annex 1) showed that the conditions for registration of offshore companies and the information to be provided in this regard vary from one jurisdiction to another; whereas full information on the final beneficiaries of trusts, foundations and companies by official tax authorities of some of these jurisdictions is not known to exist or is never made public; whereas Andorra, Liechtenstein, Monaco, San Marino and Switzerland have signed agreements with the EU; whereas the Channel Islands have signed agreements with the UK and have declared their readiness to enter into

Amendment

I. whereas the hearings organised with Andorra, Guernsey, Jersey, Liechtenstein and Monaco (see Annex 1) showed that the conditions for registration of offshore companies and the information to be provided in this regard vary from one jurisdiction to another; whereas full information on the final beneficiaries of trusts, foundations and companies by official tax authorities of some of these jurisdictions is not known to exist or is never made public; whereas ***Directive 2015/849 of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing still leaves a wide margin of discretion to***

similar agreements with other Member States; whereas the Cayman Islands have only appeared at a coordinators' meeting and not at a formal hearing of the Special Committee; whereas the Isle of Man declined to appear before the Special Committee but sent a written contribution instead;

Member States on the level of transparency and accessibility of beneficial owners of corporate entities;
whereas Andorra, Liechtenstein, Monaco, San Marino and Switzerland have signed agreements with the EU; whereas the Channel Islands have signed agreements with the UK and have declared their readiness to enter into similar agreements with other Member States; whereas the Cayman Islands have only appeared at a coordinators' meeting and not at a formal hearing of the Special Committee; whereas the Isle of Man declined to appear before the Special Committee but sent a written contribution instead;

Or. en

Amendment 8
Ana Gomes

Motion for a resolution
Recital Z a (new)

Motion for a resolution

Amendment

Z a. whereas global tax reforms and international tax cooperation within an intergovernmental UN body are key to strengthening the domestic collection of corporate income tax, especially from MNEs;

Or. en

Amendment 9
Ana Gomes

Motion for a resolution
Paragraph 2

Motion for a resolution

Amendment

2. Welcomes the Anti-tax Avoidance Package (ATAP) published by the Commission on 28 January 2016, as well

2. Welcomes the Anti-tax Avoidance Package (ATAP) published by the Commission on 28 January 2016, as well

as all legislative proposals and communications already undertaken afterwards; calls on the Council to reach a unanimous position on the ATAP and keep the Anti-Tax Avoidance Directive as one single directive; welcomes the initiative to create a common Union list of uncooperative jurisdictions in the External Strategy for Effective Taxation;

as all legislative proposals and communications already undertaken afterwards; calls on the Council to reach a unanimous position on the ATAP and keep the Anti-Tax Avoidance Directive as one single directive; welcomes the initiative to create a common Union list of uncooperative jurisdictions in the External Strategy for Effective Taxation; ***calls in particular on the Council to adopt strong and mechanical Controlled Foreign Company Rules which would effectively discourage profit shifting;***

Or. en

Amendment 10
Ana Gomes

Motion for a resolution
Paragraph 4

Motion for a resolution

4. Welcomes the Commission's adoption on 12 April 2016 of a proposal for a directive amending Directive 2013/34/EU as regards disclosure by companies, their subsidiaries and branches, of information relating to income tax and to increased transparency in company tax; regrets, however, that the proposed scope, criteria and thresholds are not in line with the previous positions adopted by Parliament;

Amendment

4. Welcomes the Commission's adoption on 12 April 2016 of a proposal for a directive amending Directive 2013/34/EU as regards disclosure by companies, their subsidiaries and branches, of information relating to income tax and to increased transparency in company tax; regrets, however, that the proposed scope, criteria and thresholds are not in line with the previous positions adopted by Parliament, ***leaving certain loopholes available for exploitation by MNEs, the maintenance of the status quo and even an adverse impact in the EU if the geographic scope is kept limited to Europe; notes that listed or unlisted multinational companies of all countries and sectors should publish as part of their annual reporting and on a country-by-country basis for each territory in which they operate, worldwide , the names of all subsidiaries and their respective financial performance, relevant tax information,***

assets and number of employees; recalls that, on numerous occasions, the European Parliament voted in favour of public country-by-country reporting and adopted at the time a coherent threshold of 40 million yearly turnover;

Or. en

Amendment 11
Ana Gomes

Motion for a resolution
Paragraph 13

Motion for a resolution

13. Calls on the Commission to come up as soon as possible with a common Union list of uncooperative jurisdictions (i.e. a 'blacklist of tax havens'), based on sound and objective criteria, including **full implementation of OECD recommendations, BEPS actions and Automatic Exchange of Information standards, and** welcomes the Commission's intention to reach an agreement on such a list within the next six months; calls on the Member States to endorse that agreement by the end of 2016;

Amendment

13. Calls on the Commission to come up as soon as possible with a common Union list of uncooperative jurisdictions (i.e. a 'blacklist of tax havens'), based on sound and objective criteria, including **significantly lower effective level of taxation, the existence of active harmful tax practices, advantages granted to non-resident individuals or legal entities, prevention of automatic exchange of information for tax purposes with other governments and non-disclosure of the corporate structure of legal entities (including trusts, charities, foundations etc.) or the ownership of assets or rights;** welcomes the Commission's intention to reach an agreement on such a list within the next six months; calls on the Member States to endorse that agreement by the end of 2016; **urges the EU and Member States to support a global process for listing uncooperative jurisdictions at the UN level;**

Or. en

Amendment 12
Ana Gomes

Motion for a resolution
Paragraph 14

Motion for a resolution

14. Calls for a concrete Union regulatory framework for sanctions against the blacklisted non-cooperative jurisdictions, including, but not limited to, the possibility of reviewing and, in the last resort, suspending free trade agreements and prohibiting access to Union funds; calls for the sanctions also to apply to companies, banks, and accountancy and law firms, and to tax advisers proven to be involved with those jurisdictions;

Amendment

14. Calls for a concrete Union regulatory framework for sanctions against the blacklisted non-cooperative jurisdictions, including, but not limited to, the possibility of reviewing and, in the last resort, suspending free trade agreements and prohibiting access to Union funds; calls for the sanctions also to apply to companies, banks, and accountancy and law firms, and to tax advisers proven to be involved with those jurisdictions ***or to have facilitated tax and corporate arrangements to other companies involving legal vehicles in those jurisdictions, including any schemes aiming at concealing the natural persons who are the ultimate beneficiary owners of any corporate structures; calls also for effective Union regulation and cooperation mechanisms with third countries to ensure swift confiscation, by Member States, of proceeds of crimes committed via blacklisted non cooperative jurisdictions, including those earned by enabling companies, banks, accountancy and law firms and tax advisers;***

Or. en

Amendment 13
Ana Gomes

Motion for a resolution
Paragraph 18

Motion for a resolution

18. ***Observes*** that so far, Member States, in particular within the framework of the Code of Conduct Group, have been neglecting this issue and have yet to come up with a proper time-frame to tackle it;

Amendment

18. ***Deplores*** that so far, Member States, in particular within the framework of the Code of Conduct Group, have been neglecting this issue and have yet to come up with a proper time-frame to tackle it

Amendment 14
Ana Gomes

Motion for a resolution
Paragraph 20

Motion for a resolution

20. Calls on the Member States to integrate a Minimum Effective Taxation (MET) clause in the Interests and Royalties Directive and to ensure that no exemptions are granted;

Amendment

20. Calls on the Member States to integrate a Minimum Effective Taxation (MET) clause in the Interests and Royalties Directive and to ensure that no exemptions are granted; ***takes the view that a minimum tax rate should be agreed around the current average tax rate of the EU;***

Or. en

Amendment 15
Ana Gomes

Motion for a resolution
Paragraph 21

Motion for a resolution

21. Observes that ***some*** banks, tax advisers, law and accounting firms and other intermediaries ***have played*** a key role in designing aggressive tax planning schemes for their clients;

Amendment

21. Observes that banks, tax advisers, law and accounting firms and other intermediaries ***play*** a key role in designing aggressive tax planning schemes for their clients; ***calls for Union regulation to ensure that professional secrecy cannot be invoked to assist professionals of any of these trades to engineer, cover up and refuse to disclose relevant information regarding any activity under investigation by tax or criminal authorities;***

Or. en

Amendment 16
Ana Gomes

Motion for a resolution
Paragraph 28

Motion for a resolution

28. Reiterates the crucial role of whistleblowers in revealing misconduct and illegal and wrongful practices; considers that such revelations, which shine a light on the magnitude of tax evasion and avoidance, are clearly in the public interest, as demonstrated in the recent 'Panama papers' leak;

Amendment

28. Reiterates the crucial role of whistleblowers in revealing misconduct and illegal and wrongful practices; considers that such revelations, which shine a light on the magnitude of tax evasion and avoidance, **corruption, money laundering and other financial crimes**, are clearly in the public interest, as demonstrated in the recent 'Panama papers' leak;

Or. en

Amendment 17
Ana Gomes

Motion for a resolution
Paragraph 29

Motion for a resolution

29. Observes that the Commission is limiting its action to monitoring developments in different areas of Union competences, without planning to take any concrete steps to tackle the issue; notes that this lack of ambition could endanger the publication of new revelations, thereby potentially leading to European tax authorities losing legitimate tax revenue; regrets that the Commission has not provided a satisfactory response to the demands contained in paragraphs 144 and 145 of Parliament's resolution of 25 November 2015;

Amendment

29. Observes that the Commission is limiting its action to monitoring developments in different areas of Union competences, without planning to take any concrete steps to tackle the issue; notes that this lack of ambition could endanger the publication of new revelations, thereby potentially leading to European tax authorities losing legitimate tax revenue, **besides the damage inflicted in public trust in the Union and in Member States' actual governance capacity**; regrets that the Commission has not provided a satisfactory response to the demands contained in paragraphs 144 and 145 of Parliament's resolution of 25 November 2015;

Or. en

Amendment 18
Ana Gomes

Motion for a resolution
Paragraph 32

Motion for a resolution

32. **Regrets** that the Commission, despite having provided some internal minutes of the meetings of the Code of Conduct Group, was unable to keep all records of the documents distributed; considers that it is the duty of the Commission to keep all traces and records of all information and documents circulated within the remit of the Code of Conduct Group, in order to assess the compliance of the Member States' measures pursuant to the Treaty; calls on the Commission to take urgent action to improve this situation by retrieving all the documents; calls on the Council and the Member States to cooperate with the Commission on this matter;

Amendment

32. **Deplores** that the Commission, despite having provided some internal minutes of the meetings of the Code of Conduct Group, was unable to keep all records of the documents distributed; considers that it is the duty of the Commission to keep all traces and records of all information and documents circulated within the remit of the Code of Conduct Group, in order to assess the compliance of the Member States' measures pursuant to the Treaty; calls on the Commission to take urgent action to improve this situation by retrieving all the documents; calls on the Council and the Member States to cooperate with the Commission on this matter;

Or. en

Amendment 19
Ana Gomes

Motion for a resolution
Paragraph 33

Motion for a resolution

33. **Notes** the continuing lack of transparency of the working methods of the Code of Conduct Group, which is preventing any concrete potential improvement in terms of tackling harmful tax practices;

Amendment

33. **Regrets** the continuing lack of transparency of the working methods of the Code of Conduct Group, which is preventing any concrete potential improvement in terms of tackling harmful tax practices;

Or. en

Amendment 20
Ana Gomes

Motion for a resolution
Paragraph 36

Motion for a resolution

36. Calls on the Commission to include in the framework of the European Semester reporting of what measures the Member States take towards effective taxation and to enhance efforts against harmful cross-border tax practices and tax evasion, including recommendations for strengthening national tax administrations;

Amendment

36. Calls on the Commission to include in the framework of the European Semester reporting of what measures the Member States take towards effective ***and fair*** taxation and to enhance efforts against harmful cross-border tax practices and tax evasion, ***including tax amnesties, tax exemptions or tax benefits granted to MNEs and any companies established in their own "free trade zones", preferred jurisdictions or "dependent territories "***, including recommendations for strengthening national tax administrations;

Or. en

Amendment 21
Ana Gomes

Motion for a resolution
Paragraph 39

Motion for a resolution

39. Welcomes the renewed focus at G8 and G20 level on tax issues, which should lead to new recommendations; calls on the Commission to maintain a coherent position on behalf of the Union at the upcoming G20 meetings and ad hoc symposia; requests the Commission to inform Parliament about all findings and possible consequences of G20 decisions on combating corporate tax base erosion ***and*** aggressive tax planning practices;

Amendment

39. Welcomes the renewed focus at G8 and G20 level on tax issues, which should lead to new recommendations; calls on the Commission to maintain a coherent position on behalf of the Union at the upcoming G20 meetings and ad hoc symposia; requests the Commission to inform Parliament about all findings and possible consequences of G20 decisions on combating corporate tax base erosion, aggressive tax planning practices ***and any illicit financial flows***;

Or. en

Amendment 22
Ana Gomes

Motion for a resolution
Paragraph 40

Motion for a resolution

40. Calls on the Union, the G20, the OECD and the UN to cooperate further to promote global guidelines that will also be beneficial to developing countries;

Amendment

40. Calls on the Union, the G20, the OECD and the UN to cooperate further to promote global guidelines that will also be beneficial to developing countries **and counter the illicit financial flows affecting them, namely by assisting them in recovering stolen resources; urges the EU and Member States to actively promote the creation of a United Nations intergovernmental tax body, with inclusive norm-setting capacity, adequate resources and universal relevance and participation, ensuring that all countries can participate on an equal footing in the formulation and reform of global tax policies; calls the EU and the Member States to start working on an ambitious global tax summit aiming at the creation of such intergovernmental body;**

Or. en

Amendment 23
Ana Gomes

Motion for a resolution
Paragraph 41

Motion for a resolution

41. Calls on the Commission to include in all trade and partnership agreements good governance clauses, including an effective and comprehensive implementation of **BEPS measures and** global automatic exchange of information standards;

Amendment

41. Calls on the Commission to include in all trade and partnership agreements good governance clauses, including an effective and comprehensive implementation of global automatic exchange of information standards;

Or. en

Amendment 24
Ana Gomes

Motion for a resolution
Paragraph 42

Motion for a resolution

42. Calls on the OECD to start work on an ambitious BEPS II, to be based primarily on minimum standards and concrete objectives for implementation;

Amendment

42. Calls on the OECD to start work on an ambitious BEPS II, to be based primarily on minimum standards and concrete **binding** objectives for implementation;

Or. en

Amendment 25
Ana Gomes

Motion for a resolution
Paragraph 44

Motion for a resolution

44. Calls for the establishment of a Union register of beneficial ownership, which would form the basis of a global initiative in this regard; stresses the vital role of institutions such as the OECD and the UN in this connection;

Amendment

44. Calls for the establishment of a **single** Union register of beneficial ownership **of all corporate entities established in Member States, including harmonised standards of access to beneficial ownership information and transparency**, which would form the basis of a global initiative in this regard; stresses the vital role of institutions such as the OECD and the UN in this connection;

Or. en

Amendment 26
Ana Gomes

Motion for a resolution
Paragraph 46

Motion for a resolution

46. Stresses the need for a comprehensive EU/US approach on the

Amendment

46. Stresses the need for a comprehensive EU/US approach on the

implementation of OECD standards and on beneficial ownership; stresses furthermore that good governance clauses and the full BEPS action plan should be included in the Transatlantic Trade Investment Partnership (TTIP) in order to ensure a level playing field, create more value for society as a whole and combat tax fraud and avoidance;

implementation of OECD standards and on beneficial ownership; stresses furthermore that good governance clauses and the full BEPS action plan should be included in the Transatlantic Trade Investment Partnership (TTIP) in order to ***become mandatory and ensure a level playing field, create more value for society as a whole and combat tax fraud and avoidance and secrecy jurisdictions worldwide; stresses that only in this way will the TTIP ever deliver in the ambition to influence global economic and political regulation and enable fair and effective governance in the transatlantic area;***

Or. en

Amendment 27 **Ana Gomes**

Motion for a resolution **Paragraph 49**

Motion for a resolution

49. Notes that the Panama Papers scandal has documented systematic use of shell companies by private citizens in order to conceal taxable assets, although this specific issue could not be dealt with sufficiently within the mandate or timeframe of the Special Committee; is of the firm conviction that this subject must be addressed swiftly by Parliament;

Amendment

49. Notes that the Panama Papers scandal has documented systematic use of shell ***and shell*** companies by private citizens in order to conceal taxable assets ***and the proceeds of corruption and organized crim*** , although this specific issue could not be dealt with sufficiently within the mandate or timeframe of the Special Committee; is of the firm conviction that this subject must be addressed swiftly by Parliament, ***namely in the context of the investigation on the Panama Papers;***

Or. en