Parliamentary Assembly
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Promoting an appropriate policy on tax havens

Parliamentary Assembly

1. Sound tax systems are the cornerstone of public finances: they underpin democratic governance, State authority, macroeconomic stability and social cohesion. This delicate balance relies on tax compliance by all taxpayers (individuals or enterprises). It is extremely worrying that certain activities by secrecy jurisdictions, tax havens and offshore financial centres facilitate massive tax avoidance, evasion and fraud which cause serious harm to the public interest of all Council of Europe member States, as well as many other countries, in particular the developing ones.

2. The Parliamentary Assembly is concerned about the extent of the offshore financial system, in particular tax havens, and its impact on public finances, the stability of financial markets and society at large. With all countries having surrendered some of their sovereignty to globalisation and the global economy, tackling global distortions due to harmful or predatory tax practices is both a moral duty and a common cause.

3. In response to growing public outcries, international co-operation has intensified, notably at the G20 level, to tackle the root problems concerning tax havens: bank secrecy, lack of transparency and effective public oversight, regulatory dumping, predatory tax arrangements and abusive accounting techniques within multinational companies (notably abusive transfer pricing). However, the situation is far from satisfactory and further progress is needed to close legal gaps and loopholes and to ensure more effective consolidated supervision of the offshore financial system and jurisdictions considered as tax havens.

4. The Assembly therefore calls on the Bank for International Settlements (BIS), the International Monetary Fund (IMF) and the Organisation for Economic Co-operation and Development (OECD) to step up their action – complementing each other's efforts whenever feasible – on measuring and analysing financial flows to and from the offshore financial centres and jurisdictions deemed tax havens, as well as their interaction with the mainstream economic activity of other States.

5. The Assembly also invites the IMF and the OECD to:

5.1. enhance surveillance of their member States' tax regimes and to stimulate improvements aimed at eliminating harmful tax practices;

5.2. study ways of strengthening corporate social responsibility and ethics and make proposals for defining more clearly the responsibilities of multinational enterprises towards society in all countries where they operate;

5.3. issue recommendations to their member States to introduce country-by-country reporting with a view to increased corporate tax accountability and disclosure of financial information (notably on costs, profits and taxes paid) concerning the activities of multinational companies in all countries in which they operate and across all business sectors, starting with the financial sector;

5.4. consider the possibility of setting minimum acceptable tax rates in tax havens to minimise national budgets' losses.

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1. Assembly debate on 27 April 2012 (18th Sitting) (see Doc. 12894, report of the Committee on Social Affairs, Health and Sustainable Development, rapporteur: Mr Van der Maelen). Text adopted by the Assembly on 27 April 2012 (18th Sitting).

6. In this context, the Assembly welcomes the entry into force in 2011 of the Protocol amending the Convention on Mutual Administrative Assistance in Tax Matters (CETS No. 208) after its launch in 2010. The Council of Europe and the OECD should vigorously promote this instrument, not only among their member States and their dependent territories, but also among their economic partners across the globe. Moreover, they could jointly assess the implementation of this convention in the near future.

7. The Assembly hails the outcome of the G20 Summit in Cannes (3-4 November 2011), where the leaders of the G20 countries committed to signing the Convention on Mutual Administrative Assistance in Tax Matters (ETS No. 127) and its amending protocol, strongly encouraged other jurisdictions to join the convention and undertook to "consider exchanging information automatically on a voluntary basis as appropriate and as provided for in the convention".

8. Moreover, the Assembly strongly supports steps taken by the European Union towards the gradual harmonisation of tax practices among its member States and, in particular, efforts to introduce automatic exchange of information for certain categories of income and capital as from 2015. It considers that this process could be accelerated and that similar efforts should be undertaken by non-European Union countries.

9. In the same spirit, the Assembly urges the European Union member States to support efforts to put in place country-by-country reporting obligations (notably on costs, profits and taxes paid) in respect of accounts of multinational enterprises that are registered or operate in the European Union. This practice should gradually be extended to all Council of Europe and OECD member States, as well as to G20 member countries.

10. With a view to holding governments to account in tax matters, the Assembly urges national parliaments to:

10.1. examine domestic tax standards, policies and collection procedures in order to spot artificial tax minimisation techniques which may be legal but are unethical, and propose legislative measures to remedy the distortions thus detected;

10.2. closely monitor the work of governments on the enforcement of national tax laws, the administration of tax collection and the respect of international commitments in tax matters;

10.3. ensure in-depth scrutiny and revision, if need be, of any draft bilateral tax agreements, in particular with secrecy jurisdictions and countries considered as tax havens, before their ratification;

10.4. adopt national legal provisions allowing legal entities registered in offshore territories to carry out business activities in the country only if they disclose their founding members and ultimate beneficiaries.

11. Convinced that tax compliance by all taxpayers and due diligence by all intermediaries in tax matters are essential to upholding good governance, justice and prosperity, the Assembly calls on the Council of Europe member States to:

11.1. step up pressure, particularly on those States that have direct influence over secrecy jurisdictions and tax havens identified in this report, with a view to enhancing their co-operation in tax matters and phasing out fiscal bank secrecy;

11.2. identify and eliminate legal provisions permitting the holding of anonymous accounts, off-balance-sheet bookkeeping and bearer shares;

11.3. ensure that all entities (notably trusts and funds) are properly registered and ultimate beneficial ownership publicly disclosed, in particular in respect of capital flows originating in or destined for European countries and their dependent territories;

11.4. ensure that all corporate registries provide a set of standard information on registered entities' shareholders, boards, directors and historical background and allow for online access to such data;

11.5. support efforts to harmonise European corporate tax policy, such as through the adoption of the common consolidated tax base as a first step towards taxing profits of multinational corporations on the basis of a formula that takes the genuine economic substance of their activities (namely, sales turnover, assets invested and employment) into account in the various countries where they operate;

11.6. move towards the automatic exchange of information in tax matters and ensure good use of safeguards for personal data protection, notably the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108) and its Additional Protocol regarding supervisory authorities and transborder data flows (ETS No. 181), including with their international economic partners;

11.7. broaden the scope of action of financial intelligence units beyond strategies for tracing money laundering in order to also help tackle tax evasion;

11.8. strengthen the capacity of national tax authorities – through expanded investigative powers, training and resources – to enable more effective controls, prosecution and repatriation of funds lost through tax evasion involving secrecy jurisdictions, tax havens and offshore financial centres;

11.9. seek enhanced corporate tax accountability and financial reporting by large domestic enterprises and multinational companies in every country in which they operate;

11.10. review their policies on transfer pricing in order to reduce opportunities for multinational businesses to manipulate reporting of profits and taxes due;

11.11. modify legal provisions that are used to circumvent their domestic rules, notably those on tax breaks, and to escape proper scrutiny or regulation in tax matters, both national and international;

11.12. join the Global Forum on Transparency and Exchange of Information for Tax Purposes, if they have not yet done so, and strengthen the process by shifting from peer review to expert review;

11.13. use the United Nations Committee of Experts on International Cooperation in Tax Matters as the appropriate forum for both setting standards and supporting developing countries in their efforts to counter abusive tax practices.

12. Finally, the Assembly invites the OECD and the European Commission to work together towards optimising the prevailing tax models, helping developing countries to counter abusive transfer pricing and maximising tax receipts in countries where multinationals carry out a substantial part of their activities.