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**(Final version)**

## **Lessons from the “Panama Papers” to ensure fiscal and social justice**

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## A. Draft Resolution

1. The so-called “Panama Papers” scandal exposed how shadow companies and secret accounts are used by many to hide taxable income and assets in tax havens. The revelations intensified public outrage which had been simmering for years: citizens no longer wish to tolerate legal systems which allow taxation to be easily avoided by major companies and very rich people as well as ill-gotten gains to be stashed away, while they pay taxes on stagnant or even falling incomes. The “Panama Papers” led to a fall in people’s trust in democratic, financial and tax systems as a whole, posing a threat to the fundamental values of European society – including fiscal and social justice.
2. The Parliamentary Assembly is very much concerned about the scope of tax avoidance and evasion in modern societies, now even demonstrably involving well-known companies and public personalities, who should be role models of ethical behaviour. The Assembly considers that a higher standard of ethics in politics and in the business world is essential to uphold our economic, social and democratic systems.
3. The right of access to information is a fundamental right applying to data held by government bodies and in certain circumstances by private bodies, as guaranteed by the Universal Declaration of Human Rights, and the European Convention on Human Rights (ETS No. 5). In this regard, the Assembly urges the investigators to make available all data, referred to as the “Panama Papers”, with a view to allowing the national law- enforcement bodies to launch their own national investigations and bring to justice those involved in illegal activities, including corruption and tax evasion.
4. The Assembly stresses the importance of “whistle-blowers”. Their protection is of paramount importance for

### **Amendment 8 Tabled by the Committee on Legal Affairs and Human Rights**

*In the draft resolution, paragraph 1, first sentence, replace the words "tax avoidance and evasion" with the following words: "tax avoidance, tax evasion, and even tax fraud".*

### **Amendment 9 Tabled by the Committee on Legal Affairs and Human Rights**

*In the draft resolution, paragraph 2, first sentence, after the words "and public personalities" insert the following words: "as well as politicians".*

### **Amendment 10 Tabled by the Committee on Legal Affairs and Human Rights**

*In the draft resolution, at the end of paragraph 2, add the following sentence: "The Assembly calls for measures to ensure transparency in the business activities of politicians, since opaque relationships between business and politics undermine the people’s trust in democratic structures."*

reinforcing the fight against corruption. The Assembly recalls its Resolution 1729 (2010) and Resolution 2060 (2015) on the protection of "whistle-blowers", and urges all Council of Europe member States to properly protect individuals who report any wrongdoing to the benefit of our societies.

5. The Assembly considers that the fight against tax evasion and tax avoidance does not necessarily require new legal or technical standards; what is lacking is the effective implementation of the existing ones. The Assembly, thus, recommends that the member States:

**Amendment 11**  
**Tabled by the Committee on Legal Affairs and Human Rights**

*In the draft resolution, paragraph 5, after the words "fight against" insert the following words: "tax fraud,".*

**Amendment 1**  
**Tabled by the Committee on Political Affairs and Democracy**

*In the draft resolution, paragraph 5, replace the words: "does not necessarily require new legal or technical standards; what is lacking" with the following words: "requires new legal or technical standards; what is urgent, however,".*

**Amendment 12**  
**Tabled by the Committee on Legal Affairs and Human Rights**

*In the draft resolution, paragraph 5, replace the words "does not necessarily require new legal or technical standards; what is lacking" with the following words: "requires new legal or technical standards; what is urgent, however,".*

- 5.1. ensure an effective follow-up to its Resolution 1881 (2012) on promoting an appropriate policy on tax havens;
- 5.2. join the Global Forum on Transparency and Exchange of Information for Tax Purposes of the Organisation for Economic Co-operation and Development (OECD), if they have not yet done so, and ensure a rapid and effective global implementation of the standard on Exchange of Information on Request and the Standard for Automatic Exchange of Financial Account Information in Tax Matters, which would allow for standardised tax reporting;

**Amendment 2**  
**Tabled by the Committee on Political Affairs and Democracy**

*In the draft resolution, paragraph 5.2, replace the words: "ensure a rapid and effective global implementation of the standard on Exchange of information on Request and the Standard for Automatic Exchange of Financial Account information in Tax Matters, which would allow for standardised tax reporting;" with the following words: "implement Automatic Exchange of Financial Account information in Tax Matters on a multilateral basis and via multilateral instead of bilateral agreements".*

- 5.3. provide sound, transparent and stable national tax systems, limiting "red-tape" bureaucracy and fighting corruption to encourage companies and individuals to keep their assets in their country of residence;
- 5.4. increase transparency by setting up a central register of ultimate beneficial owners of all companies, foundations and trusts, requiring changes to the beneficial ownership structure to be reflected in this register within a reasonable period of time, subject to dissuasive penalties for non-compliance;
- 5.5. maintain close co-operation with the International Monetary Fund, the OECD, the United Nations and the European Commission on improving the existing tax models and addressing emerging challenges;
- 5.6. commit more resources to financial investigation at national level and strengthen the training in modern financial investigative techniques of relevant police officers, prosecutors and judges;
- 5.7. increase the international exchange of information and good practices on financial investigative techniques;
- 5.8. consider the need for legislative amendments to harmonise access to financial information at sufficiently early stages of investigations into criminal proceeds.

**Amendment 3  
Tabled by the Committee on Political Affairs  
and Democracy**

*In the draft resolution, paragraph 5.3, replace the words "and stable" with the following words: ", stable and fair".*

**Amendment 4  
Tabled by the Committee on Political Affairs  
and Democracy**

*In the draft resolution, paragraph 5.4, after the words "setting up a", insert the following words: "publicly accessible".*

**Amendment 5  
Tabled by the Committee on Political Affairs  
and Democracy**

*In the draft resolution, after paragraph 5.8, insert the following paragraph:*

*"develop stronger sanctions for banks and legal entities that assist in tax fraud, including the temporary suspension or withdrawal of operating licenses as well as the freezing of accounts and assets;"*

**Amendment 6  
Tabled by the Committee on Political Affairs  
and Democracy**

*In the draft resolution, after paragraph 5.8, insert the following paragraph:*

*"make the OECD Base Erosion Profit Shifting (BEPS) Guidelines on tax challenges and tax standards, that have already been agreed by OECD countries and the G20, the new global norm;"*

**Amendment 7  
Tabled by the Committee on Political Affairs  
and Democracy**

*In the draft resolution, after paragraph 5.8, insert the following paragraph:*

*"encourage the OECD, together with the Council of Europe, to review their joint Convention on*

*Mutual Administrative Assistance in Tax Matters with the aim of facilitating the creation of an international tax coordinating body under the auspices of the OECD, capable of imposing sanctions."*

**Amendment 13**

**Tabled by the Committee on Legal Affairs and Human Rights**

*In the draft resolution, after paragraph 5.8, insert the following paragraph:*

*"encourage the OECD, together with the Council of Europe, to review their joint Convention on Mutual Administrative Assistance in Tax Matters with the aim of facilitating the creation of an international tax coordinating body under the auspices of the OECD, capable of imposing sanctions."*

**Amendment 14**

**Tabled by the Committee on Legal Affairs and Human Rights**

*In the draft resolution, after paragraph 5.8, insert the following paragraph:*

*"also develop new international rules jointly with the OECD to enable the direct taxation of the income and assets of tax haven companies, thus bypassing the individuals and companies that set them up and overruling existing legal impediments to such direct taxation, either by a new Convention or in the framework of the revision of the existing Convention on Mutual Administrative Assistance in Tax Matters."*

**Amendment 15**

**Tabled by the Committee on Legal Affairs and Human Rights**

*In the draft resolution, after paragraph 5.8, insert the following paragraph:*

*"sign and ratify the Convention on Mutual Administrative Assistance in Tax Matters (ETS No. 127) and its 2010 Amending Protocol (CETS No. 208) if they have not yet done so."*

6. With a view to effectively combating money laundering, the Assembly recommends that member States:
  - 6.1. ratify, if they have not yet done so, and ensure an effective implementation of the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS No. 198, "Warsaw Convention");
  - 6.2. ensure effective implementation and technical compliance with the existing anti-money laundering standards, such as the Recommendations adopted in 2012 by the Financial Action Task Force and Directive (EU) 2015/849

(the 4th European Directive) in the legal, law-enforcement and financial sectors;

- 6.3. pursue rigorously the process of anti-money laundering risk assessment and bring concerns about possible shortcomings to the attention of the relevant authorities;
- 6.4. ensure the existence of effective and independent national Financial Intelligence Units (FIUs), which are free of any political interference in their operational decision-making;
- 6.5. ensure that banks and other financial institutions apply the highest level of enhanced due diligence with regard to complex international business cases and potentially high-risk customers; the opinion of the Compliance Department should be decisive during the decision-making process;
- 6.6. acknowledge the importance of international co-operation and increase the amount of information that is spontaneously disclosed to foreign authorities without international co-operation requests.
7. The Assembly acknowledges the need to restore citizens' trust in the European democratic system, inter alia by preventing Politically Exposed Persons from using secrecy jurisdictions, and therefore calls on member States to:
  - 7.1. ensure that financial institutions and the Designated Non-Financial Business Professions take particular care to identify Politically Exposed Persons, their family members and close associates and that necessary enhanced measures are applied rigorously (including ascertainment of the sources of wealth);
  - 7.2. ensure that such accounts are continuously subject to enhanced monitoring, and are actively followed up by regulators in supervisory visits, while applying proportionate dissuasive sanctions where failures are identified;
  - 7.3. maintain Politically Exposed Persons transactions under enhanced surveillance for at least five years following the end of the duties justifying this status.