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Fighting fiscal injustice: the work of the OECD on taxation of digital economy

Committee Opinion¹

Committee on Social Affairs, Health and Sustainable Development

Rapporteur: Ms Selin SAYEK BÖKE, Turkey, Socialists, Democrats and Greens Group

A. Conclusions of the Committee

1. The Committee on Social Affairs, Health and Sustainable Development ("Committee on Social Affairs" hereafter) welcomes the report prepared by Mr Georgios Katrougkalos (Greece, UEL) for the Committee on Political Affairs and Democracy ("Political Affairs Committee" hereafter). It attaches great importance to tax justice as an essential driver of social justice, based on its earlier work regarding tax havens, a proposal for a European tax on financial transactions, a basic income and the platform economy. It therefore appreciates the continued emphasis by the Political Affairs Committee on taxation challenges for European countries in the global context through regular Enlarged Assembly's debates on the activities of the Organisation for Economic Co-operation and Development (OECD).

2. The Covid-19 pandemic has accelerated the digitalisation trends in the world economy, highlighted the interdependence of major stakeholders (States as regulators, and multinational enterprises as influential actors) and accentuated the demand for a fair and adequate taxation of digital enterprises. The OECD's wealth of expertise on taxation and fiscal policies has naturally made it a focal point for international negotiations on modernising the taxation of the digital economy. It is now essential that policy makers at national and international levels acknowledge the virtues of a multilaterally agreed taxation framework for the digital economy as proposed by the OECD, and validate their agreement by mid-2021, which would no doubt facilitate a more balanced and vigorous socio-economic recovery of national economies.

3. The Committee on Social Affairs supports the conclusions and proposals contained in the report prepared by Mr Katrougkalos. It welcomes progress accomplished by the international community on implementing the global tax transparency standards developed by the OECD and wishes to encourage further work towards better use of fiscal tools to advance sustainable development against the backdrop of an expanding digital economy. With this in mind, the Committee on Social Affairs proposes several amendments to reinforce the text.

B. Proposed amendments to the draft resolution

Amendment A (to the draft resolution)

At the end of paragraph 1, after the words "for democracy", add the following words:

"and social justice"

1. Reference to committee: [Doc. 14976](#), Reference 4477 of 29 November 2019. Reporting committee: committee on Political Affairs and Democracy. See [Doc. 15251](#). Opinion approved by the committee on 15 April 2021.



Amendment B (to the draft resolution)

At the end of paragraph 1, add the following sentence:

“The Enlarged Assembly welcomes the signing of an updated co-operation agreement (Memorandum of Understanding) between the Council of Europe and the OECD in December 2020, which confirms both Organisations’ mutual interest in promoting shared values and objectives, inter alia, in relation to sustainable development and tax matters.”

Amendment C (to the draft resolution)

After paragraph 5, insert the following paragraph:

“The Enlarged Assembly also supports the OECD’s work in promoting global standards for collecting value-added tax from online sales of goods, services and digital products, including as regards international exchanges through the platform economy. It furthermore welcomes the OECD’s guidance on taxing virtual currencies and crypto-assets aimed at developing a new tax reporting framework by the end of 2021.”

Amendment D (to the draft resolution)

At the end of paragraph 7.1., add the following words:

“and, if necessary, seal off the areas where a broad multilateral consensus has been reached by concluding an interim agreement by mid-2021;”

Amendment E (to the draft resolution)

At the beginning of paragraph 7.4., replace the word “adopt” by the following word:

“implement”

Amendment F (to the draft resolution)

At the end of paragraph 7.4., add the following words:

“push for public country-by-country reporting by enterprises;”

Amendment G (to the draft resolution)

After paragraph 7.6., insert the following paragraph:

“co-ordinate national fiscal policies and instruments for more effective carbon emissions pricing in support of action to curb climate change;”

Amendment H (to the draft resolution)

At the end of paragraph 7.8, add the following words:

“that is multilateral and at least as inclusive as the proposed Inclusive Framework”

C. Explanatory memorandum by Ms Selin Sayek Böke, rapporteur for opinion

1. As rapporteur for opinion on the activities of the Organisation for Economic Co-operation and Development (OECD) and rapporteur on socio-economic inequalities for the Committee on Social Affairs, I would like to thank Mr Georgios Katrougkalos for his constructive approach in preparing the report on the OECD’s work on digital taxation for the Political Affairs Committee and his highly valuable contribution to our hearing on overcoming the socio-economic consequences of the Covid-19 pandemic. I recall with great satisfaction our joint statement on the roadmap for post-Covid-19 economic recovery of May 2020 when the first wave of the pandemic was still unfolding.

2. The Covid-19 pandemic has shaken up the global economy and drained public budgets by reducing States’ tax revenues – while the needs for direct financing support to the vulnerable population and businesses have expanded dramatically. It has also significantly increased the speed of digitalisation of our

economies. All of these developments have not only made the existing socio-economic inequalities more visible, but also bear the risk of further deepening them unless comprehensive policy changes are undertaken rapidly. These existing socio-economic inequalities have led to public resentment against social and fiscal injustices. Indeed, our States can no longer tolerate tax avoidance by businesses – be it rent-seekers or digital enterprises – to the detriment of public budgets in so many countries. Digitalisation has facilitated tax avoidance, contributing to digital enterprises' business models to prosper at the expense of other "traditional" businesses. A similar wedge is also created as rent-seekers, who wish to dodge regulations to shift profits/rents geographically.

3. In this context, we must also recall that the global digital economy consumes over 12% of global electricity and is expanding further very fast with a huge carbon footprint which undermines action against climate change: as the OECD points out, "70% of all energy-related CO₂ emissions across G20 and OECD countries are completely untaxed".² It is high time to fix this aberration, and our States should heed the OECD's advice on co-ordinating fiscal instruments for carbon pricing (**Amendment G**). We should moreover welcome the signature of an updated co-operation agreement (Memorandum of Understanding) between the Council of Europe and the OECD in December 2020, which confirms both Organisations' mutual interest in promoting shared values and objectives, *inter alia*, in relation to sustainable development and taxation³(**Amendment B**).

4. The OECD's economic assessment⁴ shows that closing digital taxation loopholes through a multilateral and inclusive agreement (of 139 countries as of February 2021) "could increase global corporate income tax revenues by about USD 50-80 billion per year" or more (about USD 60-100 billion per year) when "taking into account the combined effect of [tax] reforms" and reduced harms from corporate tax competition among countries. Importantly, implementing the OECD proposals of the Inclusive Framework under Pillar One of the future agreement would allow to reallocate taxing rights on about USD 100 billion of profits of digital giants from a few beneficiary countries to a much broader circle of countries. Moreover, adapting the international tax system to the digital age would better ensure a level playing field between digitalised enterprises and other companies. We could call it digital tax justice.

5. As Mr Katrougkalos rightly notes in his report, much progress has been achieved in the multilateral negotiations, but many hard issues remain to be resolved. However, the negotiators' wish to have a blanket consensus on all outstanding issues by all 139 countries may lead to significant blockages and leave "low-hanging fruit" out of reach for years (as has been the case with the multilateral trade negotiations on the Doha Round in the World Trade Organization (WTO) framework). However, in order to avoid an unwarranted delay of the framework, several alternative ways of proceeding could be considered. Some argue that a possible solution to speed up the process is to decouple the two pillars, and that this is justified by the OECD's impact assessment which shows that there is not much interaction between the two pillars. Pillar two – defining the minimum tax – could provide a quick win, keeping the impetus for international tax reforms. It could also seem more reasonable to seal off the areas where a broad multilateral consensus has been reached by concluding an interim agreement on global digital taxation by mid-2021 within the alliance of the willing and ambitious countries, which would wield positive peer pressure on those lacking ambition or political will (**Amendment D**). In this context, we should welcome the recent statement by Janet Yellen, in her first major speech as US Treasury Secretary on 5 April 2021, calling for a global minimum corporate tax rate to "stop the race to the bottom".⁵

6. The Independent Commission for the Reform of International Corporate Taxation (ICRICT) proposes that, in case the OECD process is stalled, States should consider the following policy options: apply a higher corporate-tax rate to large corporations in oligopolistic sectors with excess rates of return; set a **minimum effective corporate-tax rate of 25%** worldwide to stop base erosion and profit shifting; introduce progressive digital-services taxes on the economic rents captured by multinational firms in this sector; require publication of country-by-country reports by all corporations benefiting from State support; and publish data on offshore wealth to enable all jurisdictions to adopt effective, progressive wealth taxes on their residents and prevent or reduce illicit financial flows. The ICRICT notes regarding these five steps that: "As long as wider reforms are blocked by leading OECD members, these measures will support governments in mobilising much-needed additional revenue. In addition, unilateral measures such as these serve to bring effective pressure to bear on

2. See the OECD Secretary General's Tax Report to G20 Finance Ministers and Central Bank Governors (February 2021) downloadable at www.oecd.org/g20/topics/international-taxation/

3. See www.coe.int/en/web/portal/-/new-cooperation-agreement-between-council-of-europe-and-oecd and <https://rm.coe.int/memorandum-of-understanding-with-organisation-of-economic-cooperation-/1680a0ba24>

4. OECD (2020), Addressing the Tax Challenges Arising from the Digitalisation of the Economy, October 2020

5. <https://twitter.com/cnnbrk/status/1379113300814929920?s=20>

the international community for genuinely fair, international tax reforms". Furthermore, trade unions argue that policy makers could consider guiding enterprises in the right direction while negotiations are ongoing, so that receiving bailout funds would be conditioned to the extent companies make use of tax havens.

7. However, any such piecemeal efforts should be designed with due care so that they do not replace an inclusive and global solution but rather push for it. The risk of multiple, idiosyncratic regional or national approaches bears the risk of undermining international co-operation and economic development. This risk should be minimised when designing any piecemeal alternative to a currently pending global solution. Any such effort by a regional or national agency should seek to support the ongoing work of the OECD.

8. In the absence of a global agreement in the near future, the risk of seeing unilateral, nationalistic tax measures adopted towards (foreign) digital enterprises is more than real – some countries like France have already done so, and several other European countries (including Italy, Spain, Austria and the United Kingdom) are ready to follow the suit. While this could cause a domino effect of retaliatory measures, this could also build pressure on the reticent superpower by demonstrating the virtues of multilateralism for all as opposed to unilateralism that serves the interest of just a few countries. Parliamentarians should therefore not stand by idly; they should actively contribute to building support for the multilateral agreement as far as possible based on a general consensus. However, if necessary, they should also support initiatives that could be stepping-stones towards a more ambitious outcome.

9. The report by Mr Katrougkalos also puts a finger on the link between tax justice and social justice by underlining that poorly co-ordinated action for the taxation of multinational enterprises undermines the funding of essential public services and may ultimately endanger the welfare of citizens. This link could be stressed more explicitly also in the draft resolution (**Amendment A**). The ongoing and intertwined global crises are a stark reminder of the need to revamp our systems of checks and balances and change our economic structures. This requires a revisiting of our fiscal policies, both spending and tax policies. The pandemic has reminded us of the need to increase the role of the public sector in rights-based areas such as health, education, care services and housing (universal basic services). The climate crisis is a constant reminder of the need to revisit our consumption and production patterns, pushing for a green transformation. The already existing and day-by-day deepening socio-economic inequalities require that all such transition be just and equitable. Indeed, all these phenomena point to a single direction: the need to revamp the welfare state focusing on redistributive spending and tax policies. Therefore, we need to change our fiscal policy frameworks aiming to achieve social and fiscal justice. We should aim to ensure universal public provision of basic services, progressive and fair tax systems, and narrowing of socio-economic inequalities by making better political fiscal choices.

10. Aggressive tax planning by multinational enterprises that allows syphoning off capital to tax havens has been widespread in the last decades while the wages' share of GDP has been eroding globally due to the erosion of wages, jobs, worker rights and social protection. Workers and consumers, as well as SMEs, pay the price. Jan De Loecker and Jan Eeckhout document the significant rise of mark-ups of multinational enterprises above their marginal costs from 10% in 1980's to 60% today.⁶ There are public calls for a unitary and formula-based taxing of these mark-ups, and many advocates emphasise that the Inclusive Framework of the OECD would serve such a purpose. While the speeding up of digitalisation has led to concentration of power in the hands of a few digital firms, the discussion must go beyond just the digital tax. It has to be about tax avoidance by MNEs, monopolies or rent seekers. This tax avoidance not only leads to loss of important revenues for many countries, but also shatters the sense of economic fairness and justice (**Amendment H**).

11. Tax transparency should be an integral part of the plan. It is one of the most effective means for identifying tax avoidance and fraud. Currently, member States' tax authorities know multinationals' detailed data on turnover, gross profits and taxes paid in other member States and non-European Union tax havens in which they operate. However, this information is not public. Making this information publicly accessible to citizens, journalists, researchers and policy makers would allow for increased public scrutiny, enhancing accountability. Such public scrutiny could push firms to internalise some of these social costs of fiscal dumping through profit shifting to tax havens. One such example is of the time when many global brands moved to save their reputation by changing their business practices upon the public outcry against child labour. This is one example where transparency worked as effectively as regulations and incentives. As such, public country-by-country reporting should be prioritised⁷ (**Amendment F**).

6. Jan De Loecker, Jan Eeckhout, Gabriel Unger, The Rise of Market Power and the Macroeconomic Implications, *The Quarterly Journal of Economics*, Volume 135, Issue 2, May 2020, Pages 561–644.

7. <https://mnetax.com/eu-public-country-by-country-reporting-final-call-42827>.

12. In addition to the OECD/G20 efforts to conclude the global agreement on the Inclusive Framework, we should highlight and support the OECD's work on some other important areas in helping States raise revenue from the digitalised value chains worldwide. One such area is the widening use of the OECD's standards for collecting value-added tax (VAT) from online sales of goods, services and digital products, including as regards international exchanges through the platform economy.⁸ Some 109 countries are already implementing these standards or are considering doing so in the near future. The application of these standards helps reduce distortions in competition between online traders and traditional businesses and yields considerable revenue. It appears that the European Union has recuperated € 14.8 billion of VAT revenues through these measures over the first four years of their use. Moreover, an extra € 107 billion of additional revenues for States have been identified thanks to voluntary information disclosure programmes and offshore investigations under the Global Forum⁹. Another area is the OECD's guidance on taxing virtual (crypto) currencies¹⁰: it provides an analytical overview of the taxation approaches and emerging tax challenges for over 50 countries.¹¹ The updating of the Common Reporting Standard for the automatic exchange of information and extending its coverage to crypto assets should be finalised in 2021. I believe it is important to acknowledge these aspects of the OECD's work on digital taxation in the Enlarged Assembly's resolution **(Amendments C and E)**.

13. In conclusion, I believe that the Enlarged Assembly should support the draft resolution put forward by the Political Affairs Committee and further strengthen the proposed text by incorporating amendments aimed at completing the overall picture as described above.

8. OECD (2020), Model Rules for Reporting by Platform Operators with respect to Sellers in the Sharing and Gig Economy, OECD, Paris. See www.oecd.org/tax/exchange-of-tax-information/model-rules-for-reporting-by-platform-operators-with-respect-to-sellers-in-the-sharing-and-gig-economy.htm.

9. The Global Forum on Transparency and Exchange of Information for Tax Purposes (Global Forum) covers 162 member countries and jurisdictions committed to implementing the automatic exchange of financial account information (AEOI) standard as part of efforts to combat offshore tax evasion.

10. According to the OECD Secretary General's report to G20 finance ministers and central bank governors in February 2021, "the overall market capitalisation of virtual currencies has reached over USD 1 trillion", quadrupling in just a few months; this virtual wealth – a kind of "virtual offshore" – should not escape from the corporate taxation framework.

11. OECD (2020), Taxing Virtual Currencies: An Overview of Tax Treatments and Emerging Tax Policy Issues. See www.oecd.org/tax/tax-policy/taxing-virtual-currencies-an-overview-of-tax-treatments-and-emerging-tax-policy-issues.htm.