

Combating tax evasion and tax avoidance

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Acknowledging that:

- The European Union loses approximately 170 Billion € annually to tax evasion¹.
- Tax evasion and avoidance is a large problem creating distrust of our economic system and a feeling of unfairness among EU citizens².
- There is a problem of profit shifting in the EU, where by various means tax profits are collected with lower margins to the disadvantage of public revenue in other member states³.
- There are past precedents, and a future possibility, of concrete tax measures and banking regulations⁵ of member states creating opportunities for companies to reduce their tax shares in a way that is not fair and does not promote competitiveness in EU common market.
- There is always a risk of a „race to the bottom“, a competition between tax jurisdictions to decrease their taxes in order to increase the value of collected tax to the expense of the entire amount of taxes collected in the EU⁶.
- Journalists investigating tax avoidance and evasion are subjected to various forms of harassment, especially SLAPP suits, but also various forms of attacks⁷.

Recognizing that:

- Fighting tax avoidance and evasion was of the interests of Spanish presidency of the Council and continues to remain in attention from EU structures.
- There is a special agency called the Code of Conduct Group which reviews different tax measures and their contribution to tax evasion and unfair tax reduction.⁸
- EU participates in the Common reporting standard (CRS) exchanging information between tax jurisdictions and their respective financial institutions with the goal to

¹ Sawulski, J. et al., "Tax unfairness in the European Union". (2020, p. 6) Polish Economic institute.

² Lenártová, G., "The Economic and Social Consequences of Tax Havens in the World". (2020, p. 5). SHS Web of Conferences: *Current Problems of the Corporate Sector 2020*.

³ Bisotto, E., "The Ongoing fight against tax avoidance in the perspective of the EU legal system: From ATAD I to the Proposal of an Unshell Directive". (2021-2022, pp. 63-64) University of Padova.

⁴ Sawulski, J. et al., "Tax unfairness in the European Union". (2020, p. 16) Polish Economic institute.

⁵ Ledernan, L., "Avoiding Scandals through Tax Ruling Transparency". In: *Florida State University Law Review*, n. 50, 2023, p. 223.

⁶ EU Tax Observatory: "Global Tax Evasion Report 2024". (2024, p. 55)

⁷ Crego, A. D. et Del Monte, M., "Strategic lawsuits against public participation (SLAPPs)". European Parliamentary Research Service, 2022.

⁸ Code of Conduct Group (Business Taxation) - Report to the Council. General Secretariat of the Council, 2 June 2023, Brussels.

create a transparent system where tax evasion is more difficult, but it still has loopholes and imperfections.

- The EU Tax observatory has done a great work in analysing tax evasion and avoidance and has become an analytic institution of high respect.
- As of 1st January 2024, to prevent profit shifting, EU participates in the Global Minimum Tax initiative of OECD, creating a global minimum corporate tax of 15% that would be enforced even when the home jurisdiction does not apply this measure⁹ while maintaining the right of countries to make their own tax rates for companies with economic substance in their respective tax jurisdiction.
- There exists a directive called Directive on Administrative Cooperation (DAC), that enforces the information exchange between tax jurisdictions and economic subjects, which is periodically updated and currently in the stage No. 8¹⁰
- The anti-SLAPP Directive has been adopted, but there are concerns that the directive has serious loopholes that will reduce her effectiveness¹¹.

YEPP calls on:

- The European Commission to improve the imperfections in the CRS with the long-term goal of decreasing amount of unacknowledged wealth.
- The Code of Conduct Group to further pursue the evaluation of tax measures and to continue the dialogue with tax jurisdictions, with the possibility of updating the List of Non-Cooperative Tax Jurisdictions.
- The Commission to proceed with negotiations with countries globally to ensure that CRS is properly applied and their respective banks comply to international regulations.
- The member states to continue the support of Global Minimum Tax Initiative and ensure that ongoing negotiations produce an agreement that would reduce tax avoidance and create a level-playing field for countries preventing a race to the bottom.
- European Commission to continue the development and deepening of the Directive on Administrative Cooperation.
- The European parliament to continue its focus on protection of investigative journalists and examine the possibility of amending existing laws.

⁹ Taxation and Customs Union. Minimum corporate tax rate." available at: https://taxation-customs.ec.europa.eu/taxation-1/corporate-taxation/minimum-corporate-taxation_en (accessed 26.1.2024)

¹⁰ Taxation and Customs Union. Enhanced administrative cooperation on (direct) taxation in the EU" available at: https://taxation-customs.ec.europa.eu/taxation-1/tax-co-operation-and-control/general-overview/enhanced-administrative-cooperation-field-direct-taxation_en (accessed 26.1. 2024)

¹¹ Open Letter: We Refuse to Let the Anti-SLAPP Directive be a missed opportunity. Available on: <https://crd.org/2023/11/14/open-letter-we-refuse-to-let-the-anti-slapp-directive-be-a-missed-opportunity/>