European Confederation of Independent Trade Unions (CESI)

Position

Collecting what is due:
For fair and effective tax systems in Europe

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Our current economic system faces three main challenges: climate change, rising inequalities and financial instability. The European Union has therefore been searching for solutions to restore *the well-being of its peoples,* as stipulated in Article 3 of the Treaty on European Union (TEU) – well-being which has been particularly hit by years of economic and social crisis.

Tax fraud and tax evasion have direct links with rising inequalities and financial instability. They are also in conflict with Article 3 TEU, which states that *the EU promotes the economic, social and territorial cohesion, and solidarity among Member States.*

Tax fraud and evasion, which we should consider naming tax offences instead, are detrimental to the financing of basic public services in the general interest. Tax offences do not only contribute to a lack of resources in public administrations, they also undermine the fair burden-sharing among tax-payers and prevent the necessary redistributive function of taxation, thus leading to a breakdown of the social contract that binds all citizens – both the wealthy and those who are in greater financial difficulty / or: rich and poor alike.

Moreover, since 2008, instead of investing in tax administrations with a view to enabling them to effectively collect all due taxes, many EU Member States have drastically cut down on their public services, reducing the number of staff and lowering the salaries of those remaining. CESI believes that austerity measures are counter-productive and that investing in tax administrations and, by extension, in the working conditions of tax administrators has positive impacts on the tax administrations' efficiency and hence on efforts to tackle tax fraud and evasion.

CESI began raising awareness concerning the challenges in the field of tax justice in a 2011 position paper,[1] and in 2012 the European Commission published an ambitious *Action plan to strengthen the fight against tax fraud and tax evasion*[2] which demonstrated a first commitment to engage in a coordinated fight against tax offences at the EU-level.

However, despite the growing recognition of the importance of the topic,[3] work at the EU-level has not progressed significantly during the last three years. Indeed, despite harmful effects for the internal market and the increasing Europeanisation of economic policies through the European Semester and the European economic governance framework that resulted from the recent economic and financial crisis, the European Union has, under the well-known pretext of lacking competencies, continued to refuse to clearly address the

[1] *Towards More Efficiency and Fairness in Taxation in Europe*, Romain Wolff, CESI, 2011.
[2] COM(2012) 722 final.
[3] E.g. through recent political developments such as the creation of a Platform for tax good governance, of a Special Committee on tax rulings and other measures similar in nature or effect in the European Parliament and the package of tax transparency measures presented this year by the European Commission.

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challenge of unfair tax competition. Meanwhile, the lead has been taken by the G20 and the OECD through its Base Erosion Profit Shifting (BEPS) project.

European countries share the same challenges – most of all the need for public funding, which should not be negatively affected at the expense of the tax-paying workers. In order to reduce national debts and ensure continued quality public services, the EU Member States and their tax administrations across the EU need to collect what is due.

Europeans want *tax justice*.

The action points below sketch out concrete recommendations to move forward in the fight against tax fraud and tax evasion at the EU-level.

1. Fight against tax fraud and evasion: political will is needed to implement concrete measures

a. Transparency

- Implementation of the **automatic exchange of information** which includes the disclosure of beneficial ownership as stated in the recently revised *Savings directive*.[4] To ensure such an exchange of information, necessary human resources need to be recruited without prejudice to other services (i.e. by not merely transferring personnel from one service to another).
- Extension of the **country-by-country reporting obligation** to all sectors and to major companies as the EU has done for banks[5] and lowering of the threshold for large companies which will be from 2016 at 750 million euros. This is a prerequisite to guarantee transparency. Such reporting would allow tax administrations to understand and control where economic activities are located, to tax them accordingly and to avoid illegitimate transfer pricings.
- Obligation of the EU Member States to be transparent and share information on **tax rulings**.
- Proper **distinction or separation between audits, accounting activities and tax advisory services**. The entity legally validating the accounts of a large company should not be providing tax advice for it at the same time.
- Creation of a **tax label** – such as an eco-label – for companies complying with their tax obligation.

[4] Council Directive 2014/48/EU of 24 March 2014 amending Directive 2003/48/EC on taxation of savings income in the form of interest payments.
[5] Capital requirements regulation and directive – CRR/CRD IV.

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b. Making declarations easier

- Simplification of **declarations at the EU-level** by means of a harmonization of templates while ensuring that tax administration have enough information for an efficient data mining.
- Creation of a **one-stop-shop** to submit formalities (to be implemented in 2015 for the digital economy).

c. Coordination and cooperation

- Unblocking of the **CCCTB directive**[6] in order to limit fiscal dumping that plays into the hands of big multinational companies. With a unique tax base, profit would be taxed once and the consolidated taxable profits of the group shared out to the individual companies.
- Following the EU recommendation for the creation of a **General Anti-Abuse Rule (GAAR)**[7]. This would counteract aggressive tax planning practices falling outside the scope of specific anti-avoidance rules and make the struggle against aggressive tax planning at the EU-level more consistent.
- Creation of **common criteria for the definition of 'fiscal residence'** so as to avoid false fiscal expatriations.
- Creation of **common criteria for the establishment of EU blacklists** to be used by the EU's financial institutions and especially the European Investment Bank when it allocates loans and funding. The criteria could be based on the Code of Conduct on Business Taxation, which relates to:
    - an effective level of taxation which is significantly lower than the general level of taxation in the country concerned;
    - tax benefits reserved for non-residents;
    - tax incentives for activities which are isolated from the domestic economy and therefore have no impact on the national tax base;
    - the granting of tax advantages even in the absence of any real economic activity;
    - the deviation of the basis of profit determination for companies in a multinational group from internationally accepted rules, in particular those approved by the OECD;

[6] Common Consolidated Corporate Tax Base, COM(2011) 121/4, 16 March 2011.
[7] COM (2012)8806 final.

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- a lack of transparency.

- Establishment of **common criteria for a harmonised list of tax havens**.

d. Control and sanctions

- Promotion of **real and uniform[8] physical controls by tax and customs administrations** as the best tool to detect and fight against fraud. Indeed, company compliance cannot be expected without appropriate controls and sanctions. Regular controls of both small and large companies would prevent tax administrations being considered as sanctioning bodies when they are originally only supervisory authorities.
- Possibility for tax and customs bodies to **access all relevant information** that they require to conduct their work while, of course, living up to high data protection requirements vis-à-vis the public.
- Recognition of **tax fraud and tax evasion as offences or crime** instead of whitewashing it by rebranding it as 'tax mitigation'.
- Extension of **prescription periods** in order to allow legal proceedings (statutes of limitation).
- Creation and enforcement of **uniforms sanctions** to enhance compliance from non-cooperative jurisdictions in third countries, such as withholding taxes**,** denials of deduction, reviews of tax treaty provisions, tax transparency as a pre-condition for aid, funds, loans, and, as a last resort, suspensions of financial relations.

2. VAT: greater cooperation at the EU-level is necessary

- Strengthen **a coordinated fight against VAT fraud, in particular against the carousel fraud**, for example by implementing the reverse charge mechanism.
- Reinforcement of **relations between tax administrations and contributing companies** (e.g. though a stakeholder forum).
- **Information-sharing on fraud at the EU-level** to make controls easier (e.g. by rating contributors after auditing). Eurofisc could be considered as a relevant implementation platform.

[8] The chance of being controlled and caught should be the same in all Members States to avoid the relocation based on this criterion.

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- Development of **better registration tools** in order to follow cash more effectively.
- Creation of a **Social Network Analysis (SNA)** to achieve a dynamic, automated and targeted exchange of information based on the Eurofisc risk information.

3. Customs

- **Implementation of uniform controls**, for example by ensuring the control of the same number of containers in all the Member States and ports as to prevent a race to the bottom.

4. Performance of tax administrations: improving working conditions helps reach greater efficiency

a. Capacities for action in tax administrations

- Increase of **investments in tax administrations** in terms of both human and material resources.
- Enhancement of **cooperation among administrations** both at the national and the EU-level (e.g. sharing good and bad practices).
- Development of **training schemes for tax administrations' employees** in order to allow them to understand other fiscal regimes and follow relevant legislative developments.
- Elimination of **outsourced operations** and promotion of their regular controls. Responsibility must always fall on public administrations.
- Exclusion of **political pressures on tax administrations' employees** through the creation of an appeal or mediation procedure allowing reporting any pressure.

b. Links between tax administrations and tax payers

- Where feasible simplification of **procedures for tax payers and tax officers** in public administrations with a view to helping eliminate possibilities for large multinational firms to exploit complexities and loopholes in taxation systems.
- Advocacy for **stable and continuous fiscal policies** in order to enhance trust on the side of the tax payers.

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c. Anticipation of change

- Anticipation of the upcoming **demographic transition** in tax administrations by setting up attractive recruitment procedures and intergenerational training schemes that make effective knowledge transfers possible without reducing the number of staff.
- Establishment of **adapted working time arrangements** that pay special attention to organised and concerted telework.

5. Tax justice: fair and acceptable solutions must be found for a new social contract

- Preventing a **race to the bottom due to unfair tax competition**. Moving towards a low corporate tax rate which favours companies' profits at the expense of public revenue is not acceptable.
- **Simplification of taxation systems** with a view to making them more transparent, easily understandable, and free from unnecessary exemptions and allowances. Such a simplification must never be done at the expense of the tax administrations by cutting employment.
- Making the financial sector contribute to the general **effort to restore public accounts**. Tax policies should evolve in the same way as the economy, firstly to regulate flows and secondly to provide a fairer tax system. Therefore, the **Financial Transaction Tax (FTT)** debate should be revived. Ensuring its adoption must be one of the Juncker Commission's priorities.
- **Taxation of speculative profits** (e.g. stock market).
- **Maintaining progressive taxation of revenues** rather than increasing indirect taxation.
- Revival of discussions on a **minimum fiscal coordination on corporate tax at the EU-level**, as for VAT. Such harmonisation cannot be achieved at the expense of financing public services.

In February 2015, the European Parliament decided to create a 'Special committee on tax rulings and other measures similar in nature or effect', which is mandated to examine tax ruling practices in the EU Member States since 1 January 1991.[9] As part of its agenda, the European Commission also presented a Tax Transparency Package on 18 March 2015,

[9] More information is available at: http://www.europarl.europa.eu/committees/en/taxe/home.html.

proposing, inter alia, the introduction of the automatic exchange of information between the EU Member States in their tax rulings and a review of the Code of Conduct on Business Taxation.[10] The two legislative proposals of this package will be submitted to the European Parliament for consultation and to the Council for adoption. The EU Member States are expected to agree on it by the end of 2015. Moreover, an Action Plan on Corporate Taxation is scheduled to be presented by the European Commission before summer this year.

While these are positive signals for the EU citizens and tax administrations, there is still a long way to go. CESI therefore calls for further measures to restore trust in tax justice and equity. Fair tax systems are part of the European social model based on a social contract among taxpayers. However, through tax fraud, the greatest hold-up of the century is done with "paper guns". Yet we are not all equal when it comes to tax fraud and tax evasion. Some are better armed than others and their weapons, not licensed, are not clearly identifiable. Thus, the sustainability of the social contract, with citizens who contribute fairly, is at stake.

CESI therefore invites all stakeholders involved in the adoption of fiscal policies at the EU-level to consider all practical recommendations included in this resolution. CESI affiliates, among which are representatives of tax administrations' employees, remain available to develop these proposals and exchange information and ideas.

[10] Combating corporate tax avoidance: Commission presents Tax Transparency Package, European Commission - Press release, 18 March 2015.

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