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Roadmap towards an EU Action Plan to fight tax evasion and make taxation simple and easy

Feedback statement to European Commission roadmap

The European Confederation of Independent Trade Unions (CESI) is a confederation of more than 40 national and European trade union organisations from 20 European countries, with a total of more than 5 million individual members.

Founded in 1990, CESI advocates improved employment conditions for workers in Europe and a strong social dimension in the EU. CESI's particular strength lies in the public sector but CESI also represents private-sector workers.

Most of CESI's affiliates are employed in the different fields of the public services and in the local, regional, national and European administrations and authorities.

As such, CESI also represents unions of tax administration personnel across Europe. At the EU level, CESI has been a member in the European Commission's advisory Platform for Tax Good Governance since 2014.

On the context of the action plan

The 'new' European Commission should continue the efforts of the 'previous' Commission, led by Jean-Claude Juncker, in the area of the fight against tax fraud, tax evasion and curbing aggressive tax planning during the last five years.

After the tax scandals published by the ICIJ, the European Commissioners Margrethe Vestager and Pierre Moscovici tried hard to work efficiently against unfair tax competition and launched very useful directives in the field of taxation. The fight against unfair tax behaviour with the aim to achieve a fairer taxation has to be continued by using the advantage of technological developments.

In this context, importantly, new initiatives to tackle tax evasion should not only aim, as an ultimate solution and a goal in itself, to just simplify tax systems and make compliance easier, for such initiatives often risk leading to minimum tax rates, flat tax and socially unfair taxation. Policy initiatives should follow the guiding principle that the objective of fairness should take precedence over mere simplification.

On the problem that the initiative aims to tackle

When polls indicate that 74% of EU citizens ask for more action against tax evasion at the EU level, as stated in the roadmap, they are right in the sense that they lament the loss of money for the Member States' social budgets and public services.

The European Commission should further support and assist the national tax authorities to deploy instruments of tax cooperation and transparency in Europe.

The European Commission should also encourage them to recruit a sufficient number of additional civil servants for tax authorities and facilitate special tax audit training and performant data infrastructure.

The data collection by digital platforms may ensure better tax compliance, but the "*massive amounts of new data*" are only useful when the tax authorities in the Member States have the appropriate and well-trained human resources to exploit them.

27 different tax systems the EU should not be a reason to force simplification, because simplification is often equivalent in to socially unfair.

Moreover a "*modern tax environment*" does not exist as it lacks conceptual clarity, and as such cannot be a serious aim for the European Commission and the Member States.

Unfortunately, the whistle-blower protection in the field of taxation is not mentioned in the roadmap even if this would be appropriate.

On the basis for EU intervention (legal basis and subsidiarity check)

On the base of the Articles 113 (VAT) and 115 (direct taxation) of the TFEU, EU tax policy can only act from the second line because of unanimity voting requirements in the Council the applicable subsidiarity principle. In the first line the Member States unilaterally that need to try to combat tax evasion.

However, their actions are not only very different but often also ineffective against adverse effects of free movement of goods, services and capital and against cross-border tax evasion.

A common EU approach based on an efficient and effective exchange of tax information between tax authorities should be implemented through majority voting by the Member States.

In a previous consultation contribution to the European Commission, CESI already advocated the deployment of a passerelle clause to move towards such majority voting in the Council.¹

¹ <https://www.cesi.org/wp-content/uploads/2014/02/CESI-Roadmap-response-on-QMV-and-COD-in-taxation-20190116-EN.pdf>

On what the initiative aims to tackle and how it intends to do so

Concerning the mentioned External Strategy 2020 it would be interesting to know what the concrete (new?) steps will be against tax evasion and fraud, and which existing (or new?) cooperation tools will be deployed. New digital tools granted to tax authorities to exchange information “*in real-time*” is only possible with adequate and skilled human resources in all Member States. Information on e-commerce should automatically be transferred by digital platforms to the national tax authorities.

Cross-border business generally makes tax evasion more likely than tax barriers. Disputes to enhance tax certainty should never exclude ex-post tax auditing made by the Member States tax authorities.

Procedures for withholding taxes on investment across borders should absolutely ban tax fraud like the Cum-ex scandal (Cum-ex Files) in number of Member States. “*Enhancing dialogue with taxpayers in the preparation of future legislation*” bears the danger to permit excessive lobbying in sovereign Member States’ tax matters.

Within the framework of the External Strategy 2020, it will be central to highlight the achievements of each initiative related to the original measures taken in 2016 and to prepare the next steps to face new developments in EU and international taxation.

Technical assistance to developing countries and agreements with third countries are necessary to ban existing tax avoidance loopholes, which are, surprisingly, currently even legalised by bilateral double taxation agreements.

The recommendation to authorise the European Commission to open negotiations for an agreement between the EU and major economic players (GAFA) on administrative cooperation, combating fraud, e-commerce and VAT claims is at least questionable: Strong taxation laws in the Member States based on EU Directives rather need strong enforcement instead of being replaced in a fragmented manner by different and diverse bilateral private-public agreements.

On the better regulation context of the action plan initiative

On planned consultations about the initiative: A high-level conference on the digital era is a useful initiative to further consult on the action plan. It will be important that the conference will be truly inclusive and that all interested parties are invited, not just the biggest or most powerful ones.

The planned consultation of the national tax authorities and of the public is also very much appropriate. The public consultation should give adequate consideration to trade unions representing tax authority personnel.

On the envisaged evidence base and data collection to feed into the initiative: It would be appropriate to state which “*international partners*” the European Commission is referring to as sources of data for EU taxation policies and measures under the action plan.