



*Fabio De Masi, Member of European Parliament
DIE LINKE – Gauche Unitaire Européenne/Nordic Green Left (GUE/NGL)*

Committee of Inquiry on Money Laundering, Tax Avoidance and Tax Evasion (Vice-Chair)
Committee on Economic and Monetary Affairs (Member) | Committee on Transport and Tourism (Substitute)
EU-South Africa Interparliamentary Delegation (Member) | EU-India Interparliamentary Delegation (Substitute)

Bratislava 17 October 2016

Key note speech by MEP Fabio De Masi (GUE/NGL) at the Interparliamentary Conference on Stability, Economic Coordination and Governance in the EU organised by the [Slovak Presidency](#) of the Council of the EU.

Dear Chair,
Dear Secretary of State Ms Meager,
Dear Honourable Members & Colleagues,

It is an honour and privilege to address the Interparliamentary Conference in my capacity as Vice-Chair of the European Parliament's Committee of Inquiry into money laundering, tax evasion and tax avoidance (PANA) which was set up after the Panama Papers scandal.

Tax Justice is not just about fairness.

Combatting money laundering, tax evasion and outright fraud is pivotal to lift the European economies out of depression, ensure democracy and also dry up the financing of terrorism.

Millions of EU citizens still suffer from the financial crisis and the austerity policies. In Southern European economies youth unemployment deprives a whole generation of their dreams and aspirations.

The greatest enemy of democracy is a divided society. If citizens have reasons to believe that laws do not apply to the wealthy, to big business and that our laws protect the crimes of the powerful then even institutions will crumble.

But we must remember that any financial crisis is the result of money chasing for returns on assets rather than real investment. The EU faces an investment gap of 700 billion euros a year depleting our capital stock despite ultra-low interest rates.

Public investment into housing, education, research and infrastructure is pivotal to lift the European economies out of depression, and, by the way, even crowd in private investment. This is especially important for countries such as Germany that have more fiscal space, rely too much on export surplus and need to integrate refugees successfully.

The investment gap can be closed. Not simply by borrowing but by fighting tax avoidance and tax evasion. The tax losses due to Base Erosion and Profit Shifting in the EU add up to hundreds of billion euros each year. Apple for instance just paid 50 Euros on each million of profits in the EU. No taxi driver in Bratislava enjoys such a privilege.

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So what is the problem in the EU? It is quite simple: we have an internal market where capital can move freely and corporations can exploit 28 different tax jurisdictions. There are principally three routes to greater tax justice:

One route: treating multinational corporations as what they are. A single entity no matter how many subsidiaries and letter box companies they set up. This would require some harmonization of corporate taxation with a consolidated common corporate tax base (CCCTB) and exit taxation to third countries where it does not matter anymore if Apple or McDonald's shift profits and losses across borders through letterbox companies, artificial loans or royalties. Ideally this would be combined either with treaty change or enhanced cooperation to establish floors of minimum tax rates that reflect the different economic development of member states to avoid shifting tax competition from the base to the rates.

The second route is restricting the freedom of capital within the EU and clarifying member states right to do so versus the European Court of Justice to employ source taxation if profits flow to EU and non-EU tax havens.

And thirdly, we have an option currently employed by the EU Commission: using competition law to uncover wrong or artificial transfer prices within multinational companies and collect some of the unpaid tax proceeds via the state-aid framework. This requires greater information exchange between tax authorities, transparency such as via public country-by-country reporting of companies and addressing the most obvious hybrid mismatches between tax jurisdictions. This is pretty much what the Commission is trying to do currently.

All three options will create some tensions with the world income principle by US authorities which claim that the foreign profits of US corporations will be taxed upon repatriation of profits to the US. Hence, to enable greater international tax cooperation it seems that we are forced to threaten the multinationals that we could move from double-non-taxation to double-taxation.

I am aware that we do not live in an ideal world. All options have shortcomings.

A harmonization of the tax base without consolidation and minimum taxes may even trigger a more narrow tax base. It could feed into fierce competition about rates and poor compliance via understaffed tax administrations. It could create some problems within member states with specific tax regimes such as the municipal Gewerbesteuer in Germany

A unilateral self-help regime with penalty taxation may lead to more fragmentation if not coordinated properly instead.

However, I believe that the current option of employing the state aid framework will simply not suffice to tackle the problem:

Most of international trade happens within single multinational companies with thousands of transactions. Even the most committed tax administrations are unable to overlook whether the arm's length principle is employed properly. This becomes increasingly difficult in a world of intangibles and where the value of trademarks such as the iPhone is disputed. The DG Competition at the EU Commission barely employs 20 people to that end.

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Further, Member States such as Luxembourg or Ireland challenge the state-aid rulings and there are no fines involved. The money simply goes back to the very same member states that granted illegal state aid. Tax advantages that are not selective – including effective taxation of below 1 per cent of profits – could remain unaffected.

While the Anti-Tax Avoidance Directive has addressed some obvious problems of mismatch such as via interest limitation rules, many loopholes remain in place. Patent boxes are still abusively used by member states despite the OECD's challenge to the claim that patent boxes would foster R&D. We still do not have limitation rules to royalties. Even transparency will not do the trick if for example corporate reporting for third country jurisdictions is limited to EU countries and those on a tax haven black list. Ideally, a tax haven black list must also involve sub-federal entities such as Delaware or Nevada in the US. Otherwise it may foster tax inversions.

Hence, I believe we must apply a mix of harmonization via enhanced cooperation overriding the veto players in the EU and of unilateral self-help. We must further close loopholes in the Anti-Money Laundering Directive and implement tough sanctions for banks via criminal corporate law to enable tax administrations and police to combat tax evasion and terrorist finance. For instance, banks controlled by the Islamic State in Iraq and Syria still do have access to the SWIFT system and may channel funds through EU banks.

However, even the current Commission proposal for a hopefully public company register falls short of what we need as companies can still name nominee directors as beneficial owners. The Financial Intelligence Unit in Germany complains they have no access to a central real estate and asset registry. Money is easily laundered via shares in supermarket buildings or invaluable art.

Let me conclude by thanking those who revealed the Luxemburg Leaks and the Panama Papers at Great risk. But it is not enough to thank Antoine Deltour, who earned the European Citizens Prize, or Raphael Halet, the journalist Edouard Perrin or the Panama whistleblower John Doe. It is our duty to implement a comprehensive whistleblower protection to defend those who protect our democracies.

Thank you very much!

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