<u>EP Plenary - Vote on Anti-Tax Avoidance Directive</u>

June 8 2016

On June 8, the European Parliament's plenary session ***adopted the report on the Anti-Tax Avoidance Directive with 486 votes in favour, 88 against and 103 abstentions****.*

The day before, the European Parliament's plenary session held a debate on the draft report. While MEPs agreed on the need to tackle tax avoidance and put an end to tax havens, some regarded certain elements of the proposal, such as the rules on interest limitation, as anti-business. Others emphasised the importance of healthy tax competition and warned against a possible move towards a harmonised European tax rate. Please find a summary of the debate below:

Hugues Bayet (S&D, BE) , the rapporteur, opened the debate by stressing that the European Parliament is the driving force for bringing back the fair taxation of multinationals. Recent financial scandals showed that they are engaged in tax avoidance and aggressive tax planning at a massive scale. This is not about ideology but about ensuring that everyone contributes in the same way to supporting jobs, youth, growth and housing. He explained that his report sets out the technical mechanisms required for filling the gaps in legislation. It is based on the premise that companies should pay taxes where they generate their profits and so seeks to stop companies making use of tax havens. Moreover, the rapporteur stressed the need for a strict, common blacklist of tax havens and low tax jurisdictions. There should be a common tax haven definition across the 28 EU Member States. His report furthermore seeks to clarify legislation on patents because many companies use patent boxes for the arbitrary reduction of profits, when their original aim was to give support to innovative companies. It is important to stop double non-taxation and practices allowing multinationals to mask their profits, as well as to tackle the issue of intra-company loans which companies use for reducing their tax burden rather than for investment. Concluding, he stressed that this report is exactly what European citizens expect from the EU.

Pierre Moscovici, Commissioner for Economic and Financial Affairs, Taxation and Customs , expressed his satisfaction about putting forward this proposal to bring an end to tax avoidance. It is simply unacceptable that certain companies avoid paying their fair share of taxes, he said, citing the recent Panama Papers scandal. People in Europe have had enough of this, and it is now time to act. The Commissioner emphasised the fact that since this Commission took office it has been working constantly to improve tax arrangements. He welcomed the progressive steps put forward in Mr Bayer's report, and was also keen to stress that the Commission largely agrees with the Parliament's amendments. However, he believed that the objectives underlying certain amendments could be dealt with better by using instruments or initiatives other than this directive. Likewise, he thought it was not desirable to deal directly with tax havens in this directive, although he completely agreed with the need for action in this area. The Commission is working on drawing up a list of tax havens, which does not yet exist, and they have the support of the Member States for this list. This summer they will start working with an initial group of countries to implement this list.

At the recent Ecofin Council meeting, the Commissioner explained that the Council was able to identify agreement on certain issues, and other areas where further work is required. On certain points the Council amended the proposal in line with the Parliament's wishes, for example, the withdrawal of public infrastructure projects from the limited interest proposals.

Outlining his own position, Mr Moscovici highlighted the need for a rapid agreement and to take advantage of the Dutch presidency's position and the shockwaves created by the Panama Papers scandal. It is of paramount importance to send a clear message to the Member States' Finance ministers and exert political pressure on them given that they have the power to block the legislation completely. Overall, he thought that the Commission and the Parliament were singing from the same hymn sheet in the whole tax avoidance debate.

Luděk Niedermayer (EPP, CZ) said that he would appreciate if the Council paid more attention to the Parliament's position, which could really improve the quality of the original proposal. He emphasised the importance of remaining sensitive to the fact that most firms pay taxes fairly and through employment are contributing to society. He underlined that this proposal is only the beginning, and that further measures will be needed. Some of the rules included in the directive should be extended, he thought. For example, rules on hybrid mismatches should be applicable outside of EU as well as internally. He concluded by expressing his hope that the directive would be approved very soon, although care should be taken that it does not become an anti-business directive.

Emmanuel Maurel (S&D, FR) said that this ambitious text was important at a time when people are questioning what the EU is all about. It is therefore proof that Europe can make progress and be ambitious. The reforms included in this directive represent major progress in terms of tax rules and better oversight of flows of profit inside and outside of Europe. The switchover clause means that foreign income will be taxed at a fair rate and, for flows exiting Europe, the provision on exit taxation completes the measures. The report really addresses the problem of non-double taxation and makes the relevant definitions, such as that of permanent establishment, clearer.

Sander Loones (ECR, BE) criticised the report for going against the Parliament's discussions last year about the importance of attracting private investment. He said that corporate tax rates in Europe are too high. He also claimed that the real problem was multinationals, who move their profits to lower tax countries, and that the rest of society, especially SMEs, must bear the burden as a result. He hoped that most of the contents of the report would be disregarded in the Council.

Enrique Calvet Chambon (ALDE, ES) underlined that civil society is fed up with the lack of ethics among certain businesses. He would like to send a strong message to the Commission and Council in favour of anything that can be done to make the economy more ethical in this respect. He said that Mr Bayet's report dealt with the technical matters very well. Tax avoidance by multinationals is not fair for SMEs who do not have the same resources to invest in lawyers or advisers in order to avoid taxes. Some say that the report is anti-business, but that is simply not true. It is about creating a fairer, more ethical and more efficient EU.

Fabio De Masi (GUE/NGL, DE) emphasised the need for tax justice. It is disappointing that the cleaners in the European Parliament, for example, are paying a higher proportion of their income on taxes than many multinationals. He considered it important for the EU to serve those people who work hard and play by the rules.

Eva Joly (Greens/EFA, FR) thought that any step backward from the Commission's proposal on the part of the Council would be a deliberate choice by national leaders to gain some benefit for their own countries. The Parliament's objective is to ensure money coming into Europe is subject to fair taxation. The Commission's position should only be the minimum. She explained that the Greens have included an additional proposal on patent boxes, a tool that companies use for reducing tax rates instead of investing in research and innovation. She believed that the Commission should come forward with a concrete legislative proposal on this issue.

Ms Joly accepted a blue card from **Lefteris Christoforou (EPP, CY).** He pointed out that his own country Cyprus had a competitive advantage through low tax rates and that this is a case of normal, healthy competition. He stressed that there is a difference, on the one hand, between differing tax rates and tax evasion and tax avoidanceand, on the other hand, between EU Member States and tax havens. Ms Joly replied that her group does not dispute the issue of tax competition, but is opposed to the rush forward with opaque interest rates, as seen in the individual tax rulings in Luxembourg.

Marco Valli (EFDD, IT) pointed out that SMEs are losing out, while big multinationals are getting away with not paying their taxes. He said that his group has worked hard on this file with other groups and found good participation from the Greens, for example, to make sure people who make money have to pay their taxes. Banks seem to have initiatives to help people to avoid taxes, and this needs to be tackled.

Bernard Monot (ENF, FR) said that multinationals who have built their business models on tax avoidance need to know that it is the end of the game. However, he questioned whether the EU is the legitimate player to tackle these issues and argued that taxation should remain a national competence.

Sotirios Zarianopoulos (NI, EL) thought that the directive only covers a small part of tax avoidance practices and that nothing was really being done to cut down tax relief for big capital. He argued that the capitalist system is rotten to its core and that the only alternative was for the people to take power into their own hands to fight the monopolies and the EU.

Pablo Zalba Bidegain (EPP, ES) emphasised the fact that tax avoidance by multinationals meant a loss of revenue for public investment and education in Europe. It is also damaging to SMEs who are the driving force for growth and job creation in Europe. He added that many countries have committed politically to adopting the conclusions of the OECD's BEPS programme. The BEPS should be implemented in EU law in a consistent way.

Peter Simon (S&D, DE) said that his group would like to have seen more courage with this proposal. The elected governments of the Member States seem to want to hold back where the Parliament wants to go further. He stressed the importance of putting the burden of proof on companies to prove, through tax forms, where they have made their money, just like regular people.

Bernd Lucke (ECR, DE) said that the Commission is going too far in terms of taking on the OECD guidelines and proposing the 30 per cent interest rate limitation rule. This affects all companies including those who are sincerely funding investment projects. He therefore argued that interests represent investments for projects and, if the deductibility of interest is limited, this effectively means moving to double taxation because the non-deductible interests are going to be taxed as profits for the companies or as income with the creditors. It is therefore wrong for the Parliament to try to exacerbate the limit, even to 20 per cent. Companies making honest investments need to be supported.

Cora van Nieuwenhuizen (ALDE, NL) suggested that the whole debate has made it clear that tax avoidance and tax evasion need to be dealt with at the global level. The OECD has done great work with the BEPS proposal, she thought. She explained that this report goes further and that the Parliament is guilty of gold plating, which could risk damaging the global level playing field and undermining negotiations with the United States.

Ms van Nieuwenhuizen accepted a blue card from **Molly Scott Cato (Greens/EFA, UK)** . Ms Cato pointed out that many American companies were not implicated in the Panama Papers for transferring their profits because they have their own internal tax havens, such as Nevada and Delaware, which the Greens published a report on. She asked the Dutch MEP if she would support a proposal to have a withholding tax on such transfers by companies when it is not clear why the transfer is being made and what its implications are in terms of tax. She responded by saying that the Greens had done a good job and her group agreed with them on certain aspects in the US which are subject to criticism. She concluded by stressing the importance of working together at the global level that the OECD is the ideal forum for that.

Philippe Lamberts (Greens/EFA, BE) considered it strange that, although the Parliament was preparing to adopt a fairly ambitious position, the Plenary chamber was almost empty. He added that the Council seems to be going over the heads of the Parliament as if it did not exist, and that the Member States have added a whole host of amendments to the Commission proposal which solely aim to reduce its impact. He argued that the Dutch presidency did not make any progress on the concept of minimum taxation, and that non-taxation indeed seemed to be its priority. He criticised the German Finance minister for his opposition to company by company reporting and thought he was being hypocritical in his stance towards Greece whilst there were doubts about the German companies funding his own political party.

Roger Helmer (EFDD, UK) expressed concern that the EU is trying move towards a uniform tax rate across Europe. The UK must leave an EU intent on harmonising taxes. He also argued that tax competition is a good thing.

Mr Helmer accepted a blue card from **Philippe Lamberts (Greens/EFA, BE)** . He said that tax competition might be a good thing, but for whom? Perhaps for the shareholders of big companies, but not for individuals and SMEs. He accused Mr Helmer of defending tax injustice. The British MEP responded by arguing that this was the sort of nonsense to be expected from the Left, and that if left to their own devices, politicians would increase taxation further and further and end up killing the economy. The key message to bear in mind is that raising tax rates does not increase revenues.

Anneliese Dodds (S&D, UK) explained that when she meets people in her constituency in the UK in the run-up to the EU referendum, they would like more information on the EU and what it does. She suggested that it was hard to think of a more compelling case where collective action or a collaborative approach among European countries is needed than tax avoidance. The UK is best placed to fight against it by staying in the EU.

Ashley Fox (ECR, UK) said that, while his group supports the fight against tax evasion and aggressive tax planning, they do not support the rapporteur's efforts to go beyond what the OECD is proposing. He seems more interested in looking at the rates at which economic activities are taxed, which is unwanted interference in national tax policies. Imposing far stricter rules in the EU than in the rest of the OECD will only impact on jobs and Europe's competitiveness in international markets.

Nils Torvalds (ALDE, FI) suggested that those people claiming that tax competition is a good way to move forward with tackling tax avoidance have their "hands in the cookie box".

Benedek Jávor (Greens/EFA, HU) emphasised the need to make tax arrangements across Europe more uniform because companies will always abuse national discrepancies. Moreover, some countries have set up their tax jurisdictions as incentives for big companies, with pieces of legislation tailored for certain multinationals.

Theodor Dumitru Stolojan (EPP, RO) considered this draft directive a step in the right direction. He drew attention to the convention of avoiding double taxation, arguing that in many cases this type of bilateral convention is simply about avoiding any kind of taxation. He cited the example of how an investor sold shares in a big bank in his country Romania, but it was not able to a tax one single euro of capital gains because the owner of the shares was a company based in Cyprus, where capital gains are not taxed. This kind of issue must be addressed.

Pirkko Ruohonen-Lerner (ECR, FI) expressed the hope that tax avoiding companies would be excluded from public tenders.

Izaskun Bilbao Barandica (ALDE, ES) insisted that the ability of institutions to adopt policies to promote the social model and industrial innovation requires measures to put an end to tax avoidance. She argued for a coordinated and harmonised approach when it comes to tax systems. It is not acceptable that certain companies are able to pick countries for tax à la carte, billions of euros are lost in this way.

Marisa Matias (GUE/NGL, PT) disagreed with the Commissioner's comment that the Dutch presidency had been doing a good job on this issue. He said that effective taxation was tax justice.

Paul Tang (S&D, NL) argued that this was all about fairness and that elementary fairness is something that everyone wants. He considered the Council's resistance to the proposal unacceptable. He also said he would like the Commission to provide a clear state of play concerning negotiations with Member States and their positions. Transparency is of upmost importance in this respect.

Matt Carthy (GUE/NGL, IE) criticised his home country Ireland for acting as an enabler of tax avoidance. He suggested that the BEPS measures would not be enough to tackle the problem and that the response needs to be truly international.

Elly Schlein (S&D, IT) thought that LuxLeaks and the Panama Papers might only be the tip of the iceberg. Today's package is a step forward but it cannot be the last. Rules on things such as interest deduction limits, double non-taxation and the transfer of wealth of CFCs are the least that can be done. While the Commission seems to have understood how important the problem is, there seems to be a lack of political will among the Member States to address tax avoidance.

Dariusz Rosati (EPP, PL) considered the document adopted in the ECON committee worse than the Commission proposal, arguing that it was an anti-business instrument. The general interest limitation rule goes against large investment projects, for example, which undermines everything the Parliament has been saying about the Juncker Plan. Although some Member States would like to support stricter thresholds, he is prepared to support a deductibility level of 20 per cent. He hoped that other anti-business initiatives included in the proposal would be removed or watered down in the final vote. Although the fight against tax avoidance is crucial, European companies should not be faced with excessive taxation.

Neena Gill (S&D, UK) welcomed the precise definition on what constitutes a tax haven. She criticised the anti-Europeans in the Parliament for misrepresenting the work it was doing. They claim the report alludes to personal taxation, but this is not what it is about.

Romana Tomc (EPP, SK) suggested that one condition for achieving Economic and Monetary Union (EMU) would be the harmonisation of taxation. Without that, we cannot expect the single market to work well. She thus emphasised the need for consolidated tax bases. The report needs to be balanced, however, because of the potential bureaucratic burdens on economic activity.

Tibor Szanyi (S&D, HU) said that Member States need to harmonise their tax systems because this is a requirement for the well-functioning of the single market.

Thomas Mann (EPP, DE) emphasised the fact that this package of measures was not about tax competition, or fully eliminating competition between different countries, but about having a set of common European solutions

Lefteris Christoforou (EPP, CY) stressed the importance of healthy tax competition and that care should be taken not to drive businesses away from Europe through one harmonised tax rate. He wished to remind everyone that Europe has the strictest rules in world with regard to tax systems and tax transparency.

Massimiliano Salini (EPP, IT) thought that the main problem is the transfer of taxable profits, rather than tax rates themselves. He thought the Parliament's report was excellent and warned that certain ideological obsessions could undermine its quality.

Seán Kelly (EPP, IE) did not think that tax harmonisation would be the best solution, arguing that taxation is a national competence. He criticised fellow Irish MEP Mr McCarthy for pointing the finger at his own country.

Pierre Moscovici said that the EU was indeed a legitimate player to tackle the problem of tax avoidance. No Member State can address it on its own, and it is important for Europe to take exemplary action.

Concerning the issues of competitiveness and sovereignty, he stressed that the Commission's proposals on taxation are balanced, and that the political will to fight aggressive tax planning is not antibusiness. He disagreed with the notion that there could be a conflict between competitiveness and transparency, as various people in the media seem to have claimed. Tax justice is profoundly in the interest of businesses, particularly SMEs. The Commissioner further underlined that the proposal's actions against tax avoidance, together with the Common Consolidated Corporate Tax Base (CCCTB), are not aimed at tax harmonisation. Moreover, there is no withholding mechanism or tax identification number included in the directive. The Commission respects tax sovereignty but it wants effective taxation. The practice of subsidiaries not paying taxes in the places where they are making profits is the issue that needs to be tackled.

On patent boxes, Mr Moscovici said that he would leave it up the Member States to act on their commitments, but if the situation is not satisfactory by the end of year the Commission would consider binding measures.

He stressed to the Parliament that its vote on the proposal would allow pressure to be exerted on the Council when it meets to vote on June 17. He believed that the proposal was timely and what public opinion wanted to see. Together, he said that the Commission and Parliament can send a strong message to the Member States to face their responsibilities in fighting against tax avoidance.

The rapporteur Hugues Bayet (S&D, BE) thanked the Commissioner as well as the political groups in the Parliament for their constructive work. He wished to remind everyone that the average corporate tax rate in Europe is 2.4 per cent, whereas in the United States it is 19 per cent. It is therefore not true that taxes are higher in Europe than elsewhere. Although excessive red tape should be avoided, it is vital to put an end to tax havens. He concluded saying that, if the Council does not adopt the proposal, they would be solely responsible for future tax scandals.