

CZU: 343.359.2:061.1EU

DOI: <https://doi.org/10.53486/icspm2023.49>

ACTIONS REGARDING FIGHTING FRAUD AND TAX EVASION AT THE LEVEL EUROPEAN UNION

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ABSTRACT. *Tax fraud and tax evasion limit the ability of countries to generate income and to carry out their economic policies. In a period of significant budgetary constraints, combating tax fraud and tax evasion is more than a matter of tax equity - it becomes an essential element for the social and political acceptability of fiscal consolidation.*

The European Council agreed to accelerate the work in terms of combating tax fraud, tax evasion and aggressive tax planning. In particular, progress will be made with priority in the promotion and widening of the scope of the automatic exchange of information at all levels

KEYWORDS: *tax evasion, state budget, income, tax policies, taxpayer*

JEL CLASSIFICATION: *G200*

INTRODUCTION

At the EU level, a comprehensive set of tools has been developed to improve the ability of member states to combat tax fraud and evasion. This set includes EU legislation (on improving transparency, information exchange and administrative cooperation), coordinated actions recommended to Member States (for example, those targeting aggressive tax planning and tax havens) and country-specific recommendations as part of the European Semester. Through the Fiscalis 2020 program, the EU will also grant financial support for cooperation between national tax authorities.

FIGHTING FRAUD AND TAX EVASION AT THE LEVEL EUROPEAN UNION

The EU system is based on the principle of automatic exchange of information. In this regard, the EU is a world leader. The automatic exchange of information between member states was conceived as early as 2003 and was implemented in 2005, through the Directive on the taxation of savings income. Thanks to this directive, Member States exchange information on the savings income of non-resident taxpayers, the value of which amounts to EUR 20 billion. In addition, the Administrative Cooperation Directive, which entered into force in January 2013, provides for the automatic exchange of information on a wide range of incomes. Recently, the United States also introduced this principle in the Foreign Account Tax Compliance Act (FATCA).

Working within the system established at EU level allows Member States to minimize additional burdens on tax administrations and financial institutions and to ensure rapid and consistent application across the EU.

The Commission has also developed electronic formats for information exchange and secure communication channels. The exchange of information is only possible with specialized IT support.

The Commission has already developed standard computerized formats for the automatic exchange of information and channels for the exchange of information under the Savings Taxation Directive. They will have to be continuously updated and extended to include other types of income, in line with the Administrative Cooperation Directive.

The set of tools of the European Union for the fight against tax fraud and tax evasion are:

- The EU Directive on the taxation of savings income (in force since 2005) establishes the principle of the automatic exchange of information.

The Commission proposed to remedy the gaps in the directive by extending it to investment funds, pensions, innovative financial instruments and payments made through trusts and foundations. The directive is under examination for adoption by the Council.

- The economic agreements concluded by the EU with Switzerland, Andorra, Monaco, Liechtenstein and San Marino (in force since 2005) aim to ensure fair competition conditions between the EU and its neighbours. In July 2011, the Commission asked the Council for a mandate to open negotiations with these five countries, with a view to adapting the scope of these agreements to the revised EU Savings Taxation Directive. The Council has not yet approved the granting of the mandate.

- The directive on administrative cooperation in the field of direct taxation provides for the automatic exchange of information in five new areas starting from 2015 (income from work, fees of members of boards of directors, life insurance products not covered by other EU instruments, pensions and resulting income from owning a real estate property) based on available information.

- The Regulation on administrative cooperation in VAT matters has been in force since 2012. The EU has a pioneering role in this area, regulating the way tax and customs offices in member states collect and exchange information with other member states regarding VAT. This regulation also strengthens the databases on taxable persons registered for VAT purposes and their intra-Community operations in order to detect and reduce tax fraud in this area.

- The directive on mutual assistance for tax recovery, in force since 2010, improves the ability of member states to collect taxes related to cross-border operations. This allows ensuring compliance in another member state and strengthening the possibility to take precautionary measures in another member state for the recovery of claims that have not been repaid on time by taxpayers.

- The rapid reaction mechanism to combat VAT fraud was proposed by the Commission in July 2012. Carousel fraud ("fraud based on the missing intra-Community link") is one of the most widespread types of cross-border VAT fraud.

The mechanism proposed by the Commission provides for an emergency procedure that would allow the Commission to authorize member states to apply an exception to the general rule regarding intra-community transactions within one month of the detection of a large-scale VAT fraud.

- The directive on the reverse charge of VAT was proposed by the Commission in 2009 and partially adopted in March 2010 (only related to CO2 emission certificates). The adoption of the remaining part of the directive allows Member States to apply the reverse charge mechanism in the case of supplies of several types of goods and services in respect of which it is already known that "carousel" type fraud affects several Member States.

- The Commission's action plan to further strengthen the fight against evasion and fraud (December 2012) includes over 30 measures relating to individuals, businesses and non-cooperative jurisdictions. As part of the action plan, the Commission launched a platform for good

fiscal governance, which brings together governments, NGOs and businesses to speed up the implementation of this action plan.

- The Commission adopted a legislative act to update the framework on money laundering and fund transfers (2013) in order to strengthen existing rules at EU level by expanding the scope and addressing new threats and vulnerable areas. Also, the proposal introduces clearer mechanisms for identifying the real beneficiaries, including those behind the entities.

The new EU rules regarding the capital requirements imposed on banks will ensure increased transparency regarding the operations of multinational banks. Financial institutions will have to communicate information on 6 new aspects, including turnover, profits and taxes from each EU member state and from each third country where they operate.

The EU legislation on managers of alternative investment funds also contains important conditions regarding compliance with fiscal rules and cooperation that must be met in order for a fund to be marketed in the EU.

- The recently agreed changes to EU accounting rules will introduce a country-by-country reporting system. It will include large private companies in the EU or listed companies in the EU that operate in the oil, natural gas, mining or forestry sectors. The reporting of taxes, royalties and premiums paid by a multinational company to a host government is an important step forward for fiscal transparency, as well as the fight against corruption and money laundering.

Although the existing tools have considerably improved the exchange of information, Member States are still not using them in an efficient and comprehensive way.

Some of the Commission's proposals are still being considered for adoption, despite having been presented for several years. Nor has the potential of many of the existing legal instruments and practical mechanisms been fully exploited by the tax administrations in the member states.

I believe that, at present, it is a priority for the Member States to make full use of this set of instruments and to implement in a careful and coordinated way what has been agreed. Member States have full sovereignty over the collection of their taxes, over the operation and coherence of their tax legislation and administrations, as well as over the fight against tax fraud.

In my opinion, the EU instruments can only be helpful if there is the political will and administrative capacity necessary to use them fully. Although the Commission supports the Member States in their efforts by providing them with practical means and instruments, the responsibility to engage in effective administrative cooperation rests with the Member States.

The question "What should be done at the EU level?" was thus formulated, concluding the following:

- The Council should adopt the proposal to revise the Directive on the taxation of savings income and give the Commission the mandates to negotiate improvements of the same nature within the framework of existing agreements with neighboring countries.

- Also, the Council should adopt the draft agreement on combating fraud and fiscal cooperation between the EU and Liechtenstein and the mandate to open negotiations with other EU neighboring countries.

- Measures to combat VAT fraud, in particular the rapid reaction mechanism, should also be adopted by the Council.

- In line with the Commission's action plan of December 2012 on strengthening the fight against tax fraud and tax evasion, Member States should prioritize concrete follow-up activities.

- The principle of automatic exchange of information in the EU should be extended to cover all relevant types of income. The European Commission will present a legislative proposal aimed at amending the EU Directive on administrative cooperation to extend the scope of the automatic exchange of information at EU level. The objective will be to ensure an automatic exchange of information on dividends, capital gains and other income from 2016, when automatic exchange will also become the EU norm for income from salaries, directors' fees, pensions, life insurance and income from real estate. Also, the proposal will address the current option according to which tax administrations are not obliged to report information that is not "available". In parallel and as an emergency, technical developments will be registered, by extending the current IT formats to

all relevant forms of income, as well as the secure communication channels used for information exchange.

CONCLUSION

Tax fraud and evasion remain a threat to the soundness of public finances.

The loss of revenue in the EU due to international tax evasion by individuals, covering personal income tax, capital gains tax and wealth and inheritance taxes, was estimated at €46 billion in 2016. The VAT collection gap (i.e. the difference between expected VAT revenue and actual VAT collection) was estimated at €137 billion in 2017, including cross-border VAT fraud of €50 billion. In 2018, the Commission presented a major overhaul of the VAT system for intra-EU trade.

The adoption of this proposal regarding the definitive value added tax regime would contribute, by removing the exemption for intra-community deliveries, to reducing this deficit, facilitating compliance with the rules. Also, according to several estimates, tax avoidance by businesses in the EU amounts to more than €35 billion per year.

These remarkable amounts of lost revenue are even more problematic given that the economic ramifications of COVID-19 will inevitably lead to significantly lower levels of tax revenue. In addition, VAT fraud is, in some cases, also linked to customs duty fraud. The loss of tax revenue undermines the fair distribution of obligations between taxpayers, as well as the fair national contribution to the EU budget. Almost 75% of Europeans request more measures at the EU level to combat tax evasion.

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