

Panama Papers investigation: obstruction and lack of cooperation hinder progress
Greens / EFA Group in the European Parliament – 07 June 2017

June 8th 2017 marks one year of the inquiry committee on money laundering, tax evasion and tax avoidance (PANA) in the European Parliament, which the Greens were the first political group to call for and for which we proposed a draft mandate. On this occasion, the Greens / EFA Group summarises the main findings of our investigation and provides insight into the lack of cooperation by other European institutions.

The PANA committee is tasked with investigating whether there has been any breach or maladministration cases of European law, especially the anti-money laundering directive, the directive on administrative cooperation, the accounting directive and the Treaty principle of sincere cooperation.

Main findings of our investigations

1. Obstruction to the parliamentary investigation by the Council

- The Council (representing Member States) has chosen an obstructing strategy with the European Parliament's Investigation. As far back as August 2016, it requested an opinion from its legal service on whether it had to cooperate, which the Council used to contest our right to inquiry on this matter.
- Since then, the Council has refused to submit any documents to the European Parliament, [despite repeated requests](#).
- In addition, the Chair of the Code of Conduct on Business Taxation [rejected our invitation](#) to a hearing, arguing the work of the Council informal working group does not fall within the PANA mandate. But the Code of Conduct group is the key place of discussion for member states to discuss harmful tax measures.
- Similarly, Mr Scicluna [declined our invitation as Maltese Presidency](#), alleging he has no role related to the mandate of the PANA committee.

2. Serious money laundering allegations in Malta, holder of the EU Presidency

- Several politically exposed persons in Malta, including Minister K. Mizzi and the Prime Minister's Chief of staff K. Schembri have been mentioned in the Panama Papers. Only a few weeks ago, there were also allegations of a shell company created for the Prime Minister's wife.
- The Financial intelligence Unit (FIU) in Malta investigated these matters last year but the Police Commissioner never formally opened an instruction to investigate further. Recently, the reports from the FIU were leaked to the press and these clearly show a breach of anti-

money laundering obligations. Among other issues, [the FIU warned that Mizzi's assets don't justify his financial set-up](#) and that his bank deposits don't tally with his declaration of assets.

- The social and democratic government in Malta has just been re-elected last week, but elections do not replace a proper investigation. The Maltese government cannot simply walk away from the allegations and pretend nothing has happened. This is why the European Parliament will follow-up on these serious allegations to make sure these practices cannot go on.
- Thanks to a Greens' initiative, Prime Minister Muscat will appear in the European Parliament plenary for a debate on tax scandals in Malta (Panama Papers and Malta Files) on Wednesday 14th of June. The [Greens alerted already in January this year](#) how Malta is behaving like a tax havens, acting as the Panama of Europe.

3. Unnecessary secrecy around information received in a secret reading room

- As already mentioned, the Council has not positively responded to PANA requests for documents, despite the duty of sincere cooperation between the EU institutions. But in addition, it is preventing the European Commission from giving us full access to documents. Several minutes made by the Commission about the Council's code of conduct negotiations have been provided almost entirely blackened, making their reading extremely difficult.
- In addition, a vast majority of the documents have been provided in a secure reading room, while the "confidentiality" of the information remains to be proven. Conditions to consult the documents are quite strict and some documents are also missing, as highlighted by the PANA Chair in [a letter to Commissioner Moscovici in March 2017](#).
- The interesting information received in the reading room cannot be used in the final PANA report (November 2017), meaning if we learn about Member States blocking tax progress, we are not allowed to inform European citizens.
- The documents provided under equally strict conditions during the TAXE 1 and TAXE 2 committees could equally not be used in order to enlighten the public. Therefore, until today Fabio de Masi and Sven Giegold cannot publish their common document which lists in detail 18 years of blocking tax cooperation in the Council. Until today the public is not allowed to learn which member state has blocked tax justice in Europe during which meeting and on which subject. The new inquiry committee is in danger to be blocked in the same way. The findings of the members of the committee will never be shared with the public. Therefore, it is critical that the Council and the Commission lift the veil of secrecy over these documents. European citizens have a right to learn what happens in Council and to hold their national governments accountable.

4. Lack of cooperation by stakeholders mentioned in the Panama Papers

- Some individuals mentioned in the Panama Papers have refused to appear in front of our committee or during fact-finding missions. For example, PANA [invited Mossack Fonseca](#) to appear but never received a response. See annex 1 for more details.
- Some need to be questioned again but do not want to re-appear. This is the case for example with Société Générale, the French bank which denied in an inquiry committee hearing being the beneficial owner of foundations in tax havens (to manage accounts for their clients) [despite ICIJ documents from the Panama Papers attesting otherwise](#). Similarly, the Luxembourg banking supervisor (CSSF) declined [a second invitation](#) to answer some unaddressed questions, arguing it would not be appropriate to appear in a public hearing although the rules for inquiry committees in the European Parliament foresee hearings to be public as a general rule.

5. Juncker has made commitments to PANA Members - he needs to deliver on his promises

- The PANA committee is also investigating the unfinished business of the Special Committees on Luxleaks (TAXE I & II) and therefore invited Commissioner Juncker on 30 May. Upon our request, he was invited as Commission President but also as former Prime Minister and Finance Minister of Luxembourg.
- Thanks to the Greens, Mr Juncker made several commitments which now need to be materialised:
 - Allocating more resources to the Commission's task force to prevent financial crimes, which currently only have 6 persons
 - Presenting a 'tax justice enforcement' proposal, to foster greater tax cooperation between Member States in order to chase tax evaders and
 - Presenting a tax reform under co-decision procedure between the European Parliament and Council, i.e. getting rid of the unanimity principle in the Council, which is currently blocking several reforms

In conclusion, the ongoing PANA investigation provides useful facts to show that we need more transparency of offshore business, to put an end to shell companies, and that we need stronger enforcement rules to make sure Member States implement their anti-money laundering and tax obligations. As the revision of the Anti-Money Laundering Directive is taking place in parallel of the PANA investigations, it is a pity to see that **the Council, represented by the Maltese Presidency is inflexible when it comes to greater tax transparency (refusing public registries of beneficial owners) or ensuring real enforcement of EU law at national level.**

ANNEX 1: KEY FACT & FIGURES

- 18 months investigation, started on 8 June 2016 until 8 December 2017 (PANA committee created for 12 months, extended twice for 3 months)
- 17 hearings since September 2017, including with journalists from the ICIJ consortium, Jean-Claude Juncker, Pr Stiglitz, Commissioners Moscovici and Jourova etc...
- 4 fact-finding missions: to the UK (February 2017), Malta (February 2017), Luxembourg (March 2017) and the US (March 2017) and 3 more to come: Portugal (22/23 June 2017), Cyprus (6/8 July) and Switzerland (14/15 September)
- [5 studies](#) on the role of intermediaries, recent findings on anti-money laundering and offshore activities and impact of money laundering on a sample of member states. And more to come on anti-money laundering framework in the 28 Member States and the role of overseas territories in the Panama Papers.
- Hundreds of documents received from the European Commission (DG Taxud, DG Justice and DG Fisma) but mostly in a secret reading room and many documents blackened, making their reading difficult. We haven't received any documents from the Council so far, despite several requests.

ANNEX 2: RE-INVITATIONS FOR PANA HEARING

Malta Mission	
Keith Schembri	Letters sent by the Chair. No reply received
Ninu Zammit	
Nexia BT	
Luxembourg Mission	
Pierre Gramegna, Minister of Finance	Reply <i>“due to an official mission to the United States, Minister Pierre Gramegna will unfortunately not be able to participate in the hearing..”</i>
Jean-Claude Fautsch	No reply received
Jean-Claude Limpach	No reply received
Claude Marx	Reply <i>“remain at the disposal of the Committee should there be more questions... we feel that it is no appropriate for the CSSF to appear in a public hearing of the Committee”</i>
Guy Arendt, Secretary of State for Culture and former Lawyer	Has accepted to participate as a former lawyer, and not as Secretary of State for Culture
Alain Steichen	No reply received
Carlos Zeyen	No reply received
Hearing on 6 March on Intermediaries (Part III)	
Patrick Suet, Chairman of Société Générale Bank & Trust	<p><u>Reply by email:</u> <i>“we could not accept for Societe Generale to be treated unfairly or singled out in any manner, even more so on account of the level of cooperation and openness we have shown.</i></p> <p><i>Accordingly, I am confident you will understand our legitimate motives when I say that Societe Generale cannot agree to another participation in a PANA committee Hearing.”</i></p>