

## **One year, after Luxleaks: what remains to be done for tax justice?**

After the Luxleaks investigation, EU Commission's president Jean-Claude Juncker promised to tackle tax injustice and dumping in the EU. Here is the state of play one year later:

### **1. No transparency of rulings, only exchange of information**

One of the key promises after the scandal was greater transparency on tax rulings. The Commission made a **proposal for automatic information of tax rulings between tax administrations** of the Member States only (March 2015). This proposal was further watered down by the Council and adopted at the ECOFIN council in October. This means, it is still up to Member States to exchange and investigate; an obligation they had already since the 1970ths.

**Pushed by the Greens/EFA group, the European Parliament adopted an amendment to the Shareholders Right Directive (July 2015) to call for the publication of all rulings**, in order for citizens to know which tax treatment is granted to big corporations. In its TAXE report, the Parliament called again for public rulings and urged the Member States to adopt this reform by the end of 2015.

### **2. Still waiting for public country by country reporting**

This is another long-awaited reform, which the Parliament has called for years. It reiterated its **position in favour of public country by country reporting in July 2015**. This would mean that big companies operating in Europe would have to disclose basic information per country such as how many people they employ, where they have subsidiaries, in which countries they declare their profits and where they pay taxes.

However, the **European Commission only announced an impact assessment** on whether we need country-by-country reporting. It launched a public consultation in June and we are waiting for the outcome of the assessment in 2016.

### **3. No progress on protection of whistleblowers**

Antoine Deltour, former employee at PwC and other whistleblowers decided to act in the public interest and made information public. Today, Antoine Deltour is prosecuted in Luxembourg and risks a maximum sentence of five years of jail, while most of the 350 companies involved in the Luxleaks scandal haven't been questioned at all.

The European Commission hasn't presented any proposal to protect whistleblowers acting in the public interest. In addition, the European Commission and the Council are pushing a [trade secret directive](#) aiming at protecting business secrets but with a very restrictive regime for whistleblowers, who would only be protected in case of denouncing illegal activities (which would not cover Antoine Deltour then because tax avoidance is considered 'legal').

The TAXE committee of the European Parliament, in its report adopted on 26th October, voted in favour of a [Green amendment to create a pan-European fund to protect whistleblowers](#) (Art. 100) and help them face the difficulties arising from their revelation (e.g. loss of their employment, lawsuit fees etc...).

#### 4. Investigations on illegal state aids are progressing, but we need more of them

The European Commission opened **in-depth investigations against three countries** (Luxembourg, the Netherlands and Ireland) in 2014 for the tax rulings they granted to several big multinationals (Apple, Starbucks, Fiat and Amazon).

Commissioner Vestager for competition announced on 21 October 2015 that the **rulings granted to Fiat (Luxembourg) and to Starbucks (the Netherlands) constituted illegal state aid** under EU competition law and called on the Member States to recover the money due (between €20 and €30 million over a few years).

This is a **first step** and we look forward to the outcome of the two other ongoing investigations. There are more than 350 companies in the Luxleaks scandal which should be investigated and the European Commission needs more resources to carry this task.

#### 5. European harmonisation of corporate tax is postponed... again

One way to ensure large companies do not shift their profits into countries where it is low-taxed (independently of their economic activities) is to look at companies' profits in a consolidated way, at the European level, and to apportion them in different countries according to where companies really do business. This is the **Common Consolidated Corporate Tax Base (CCCTB)** reform, which is on the table since 2011 and blocked by the Member States. The **European Parliament already voted in favour of this legislation in 2012 and supported its mandatory nature.**

The European Commission announced in June 2015 that it will **relaunch its own initiative (presented in 2011) but will water it down**, postponing the 'consolidation' aspect to a later stage, in order for member states to be able to accept the reform. Such proposal is expected for 2016 only.

#### 6. Urgent need for a review of the Code of Conduct Group on Business Taxation

The investigations of the TAXE committee uncovered that a lot of tax discussions in the Council take place in this informal group, having a mandate to monitor harmful tax regimes in the 28 member states and providing guidance on key tax matters, like tax rulings to prevent them in the future. While the group, created in 1998, had some successes at the beginning, it has clearly lost momentum in the 2000s and is largely based on Member States' political will, which is non-existent.

The Commission announced a reform of the Code of Conduct but we are still waiting for its details. The **Parliament is calling for an urgent reform, especially on transparency and accountability of the group towards the Parliament and the European citizens.**