

The inquiry committee has been established with a broad mandate on tax evasion, tax avoidance and money laundering. It should therefore in its investigations go beyond the Panama Papers revelations to tackle any breach or maladministration of EU law related to tax evasion, tax avoidance or money laundering.

The inquiry committee, as per its mandate, can make any recommendations deemed necessary, including regarding non-EU legislation (international standards, COM recommendations...) and shall therefore investigate the role of non-EU bodies (e.g. banks, intermediaries etc...) in order to provide adequate recommendations in its final report.

## **OBJECTIVES**

For the next twelve months, the inquiry committee should:

### **1. Identify the political responsibility and different breaches of EU legislation by Member States and the European Commission. This implies:**

- Investigating to what extent Member States have truly implemented and enforced European directives related to the mandate of this committee, especially the anti-money laundering directive for which we need to know whether all parties involved (COM, Member States, European Parliament) did their best to respond to the need for legislative changes and whether they supported the most adequate proposals to this extent;
- Investigating to what extent the European Commission has monitored the implementation and enforcement by Member States of these directives;
- Investigating which European politicians and heads of financial institutions (or their relatives) have been named in the Panama Papers and requesting them to testify in front of PANA.
- Investigating whether any Member States or the Commission knew about the Panama Papers revelations and failed to notify others which would be a clear breach of the obligation of sincere cooperation, as enshrined in the EU Treaty and inter-institutional agreements.
- Investigating if Member States have by any means or by omission facilitate the possibility for their tax payers to do tax evasion, tax avoidance or money laundering;

**2. Investigate all available tools and tactics for allowing tax evasion, tax avoidance and money laundering and identify the key loopholes which need closing.** With documents already published by ICIJ, as well as with other documents to be received during its upcoming investigations, this committee should provide clarity on all different technics used by Mossack Fonseca and other intermediaries to facilitate tax evasion, tax avoidance and money laundering. It should also categorise additional methods revealed through other scandals (Offshoreleaks, Swissleaks, Luxleaks...) in order to provide a complete and comprehensive picture of all tools and technics / loopholes available these days.

**3. Establish whether banks and other financial institutions failed to meet their obligations to fight tax evasion and money laundering.** The Panama Papers showed that more than 500 banks – including HSCB, UBS and Societe Generale – created more than 15,000 offshore companies for their customers through Mossack Fonseca. However, banks are legally obliged to verify the identity of the people behind banks accounts. This is to prevent people using shell companies to open bank accounts and move their money to tax havens.

**4. Identify who are the intermediaries (who and how many they are, as well as their market share) and establish their exact role in helping individuals and companies to dodge taxes or launder dirty money.** Mossack Fonseca is not even the number 1 tax advisor in Panama and they worked with more

than 14,000 banks alongside law firms, company incorporators and other middlemen to set up companies, foundations and trusts for customers. Those intermediaries are mostly based in countries like the UK, US or Luxembourg. We need to understand how European countries could have let this happen.

**5. Clarify the role played by some EU countries and/or British overseas territories / members of the Commonwealth in the Panama papers revelations.** Out of the 21 countries used by Mossack Fonseca to set up shell companies or other complex structures, more than half belong to the categories mentioned above. It is important to understand why Mossack Fonseca has chosen these jurisdictions in the first place, what are/were their 'added value' and what are the UK powers on these jurisdictions (e.g. whether the UK could have imposed some legislative changes to which jurisdictions).

**6. Finalise the Luxleaks investigation.** We believe that the European Parliament cannot jump from one scandal to another depending on what's in the press. There is unfinished business in our investigation of the Luxleaks scandal (which started in February 2015). We still haven't had access to all the documents we requested in order to see if Member States are truly acting to fight tax avoidance. And we haven't established who is responsible and should be held accountable for not taking action against tax avoidance over the past two decades or more. Any follow-up from TAX1 or TAX2 on issues falling into this mandate should be addressed by the inquiry committee.

**7. Monitor the new measures announced by Member States and the Commission in the aftermath of the Panama Papers revelations (as well as previous revelations such as OffshoreLeaks, Luxleaks and Swissleaks) and the ongoing implementation and enforcement of European legislation** falling into the mandate of the inquiry committee, such as the implementation of the fourth anti-money laundering directive, the accounting directive and the directive on administrative cooperation. Collaborate with European institutions and bodies such as EUROJUST or the European Banking Authority to analyse the impacts of the Panama Papers revelations.

**8. Investigate how Member States have blacklisted or abstained from blacklisting third country jurisdictions** and which criteria they are using to define tax havens, as well as if effective mechanisms / political process are in place to list or de-list countries.

**9. Investigate potential conflicts of interest for stakeholders mentioned in the Panama Papers** between their private activities connected with Mossack Fonseca and their public (or quasi-public) role, especially in the gambling sector (role of banks and supervisors).

**10. Draw all necessary recommendations** to allow for political changes and an adequate and efficient European legislative framework to fight tax evasion, tax avoidance and money laundering.

## ACTIVITIES

For that purpose, it is suggested that the inquiry committee will:

- **Liase with national authorities (in particular with national anti-money laundering supervisors), parliaments and especially inquiries started to investigate the Panama Papers revelations to understand the problems the authorities are facing and to learn what their proposals are to remedy these problems, including:**
  - Germany: investigation on the Cum Ex scandal
  - Belgium: investigation on the Panama Papers
  - Austria: inquiry committee in Vorarlberg (western region of Austria) investigating the Hypo Landesbank
  - The Netherlands: permanent inquiry type committee which will investigate the panama papers
  - Malta: investigation on Maltese banks named in the Panama Papers

- Pakistan: Prime Minister Nawaz Sharif announced that the country's corruption watchdog will open investigations (link with real estate properties owned in London through offshore companies in the Panama Papers).
- **Write letters to all EU Member States, to the European Commission and to all countries mentioned in the Panama Papers (either as countries where intermediaries operate or where tax structures are created)** to invite them to appear in front of the inquiry committee, to ask questions about their tax / money laundering policies and their enforcement and request relevant documents.
- **Ensure full access to the following documents:**
  - All files related to the revision of the third and fourth anti-money laundering directives, to be provided in the European Parliament premises, as well as all files related to the revision of the directive on administrative cooperation (DAC1 and DAC2);
  - Room documents, minutes and flash reports of the Code of Conduct group on business taxation meetings since its creation, as well as most recent documents every time there is a new meeting during the length of this investigation (from Commission, Council and Member States);
  - Room documents, minutes and flash reports of the High Level Working Party on tax and the Working Party on direct taxation since 1990 as well as most recent documents every time there is a new meeting during the length of this investigation (from Commission, Council and Member States);
  - Room documents, minutes and any other relevant documents related to the revision of the directive on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment (UCITS);
  - Room documents, minutes and any other relevant documents related to the revision of the directive on Alternative Investment Fund Managers (AIFM);
  - Room documents, minutes and any other relevant documents related to the revision of the directive on statutory audits of annual accounts and consolidated accounts;
  - Room documents, minutes and any other relevant documents related to the revision of the directive on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings;
  - Room documents, minutes and any other relevant documents related to the Savings Tax directive and its revision;
- **After and while gathering evidence, especially through access to documents, organise several investigative hearings, with preparatory investigations, sufficient time for questioning where participants face MEPs and effective formation of interrogation on the model of the US permanent subcommittee on investigations, with (non-exhaustive list):**
  - EU ex-Commissioners and EU officials (in charge of preparing legislative proposals mentioned above)
  - Member States (Ministers of Finance, including George Osborne) and tax administrations
  - Politicians mentioned in the Panama Papers revelations (including Canete and Cameron)
  - European and international bodies such as OLAF, EUROJUST, Moneyval, the European Banking Authority, FATF etc..
  - Representatives from Mossack Fonseca but also from other similar firms
  - Representatives from banks (including those mentioned in the Panama Papers)
  - Representatives from intermediaries (including those mentioned in the Panama Papers)
  - Representatives from law enforcement (especially from countries mentioned in the Panama Papers)
  - Representatives from jurisdictions considered as tax havens (including the 21 mentioned in the Panama Papers)

- Representatives of accountants (including the Big 4)
  - Members of ICIJ
  - whistle-blowers
  - NGOs, civil society organisations working on tax evasion, avoidance and money laundering
  - Experts / academics
- **Organise country visits**
    - Panama
    - United States (in top 10 countries where intermediates operate)
    - Malta
    - UK and Gibraltar (in top 10 countries where intermediates operate)
    - Cyprus
    - Luxembourg (in top 10 countries where intermediates operate)
    - Switzerland (in top 10 countries where intermediates operate)
    - British Virgin Island (among the top countries for the creation of bearer share companies and among the most used jurisdictions by Mossack Fonseca)
    - Isle of Man / Jersey / Guernsey (active banks) as well as Andorra / Liechtenstein / Monaco / San Marino (monitoring of agreements on exchange of tax information)
- **Commission studies on:**
    - the impact of money laundering on the economy (e.g. analyse of FATF reports etc.)
    - Disaggregated study estimating the losses due to tax evasion, tax avoidance and money laundering to public finances in and across the EU
    - Study on FDI flows and stocks in the EU and relevant 3rd countries relative to size of population and real economic activity (see <http://www.jfichtner.net/offshoreintensityratio/>).
    - An overview of the structured finance products / advisory services provided by the banks to their clients for tax optimisation purposes.
    - A comparative quantitative overview of the bank deposits as well as the registered entities in different member states and jurisdictions mentioned in the Panama papers
    - Comparative study on the workings and resources of Member States' tax authorities & the judicial services to investigate cases of tax evasion, tax avoidance and money laundering
    - Legal study analysing the powers of the UK, the Netherlands, Portugal (Madeira) and France vis-a-vis their overseas territories
- **Write a report** to summarize the findings of the inquiry committee and make all recommendations deemed necessary; follow-up on the relevant implementation of recommendations made by TAXE.