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The global coalition against corruption

European Parliament votes for corporate ‘get-out’ clause on tax transparency

Alessandro · Monday, June 12th, 2017

Today, Transparency International EU welcomes the European Parliament’s support for global tax transparency and efforts to put an end to the secrecy surrounding multinational companies’ activities, structures and tax payments. However, an amendment tabled by the liberal ALDE group and supported by the centre-right EPP group includes a significant loophole which could undermine the entire proposal, according to Transparency International EU.

Following the public outcry after the [Lux Leaks](#) and the [Panama Papers](#) scandals, last year the European Commission [proposed](#) that large multinational companies should have to publish financial information on a country-by-country basis. However, the information would only be broken down for operations inside the EU and a list of yet-to-be determined tax havens. MEPs have voted to improve these measures by including non-EU jurisdictions in the scope of the proposal. However, the final amendment weakens this by providing multinationals with a get-out clause that will allow them to avoid disclosing crucial information they consider “commercially sensitive”, according to Transparency International EU.

“Despite the hard work by MEPs on this legislation, this last minute amendment makes the text about as watertight as a sponge,” said Elena Gaita, Policy Officer for Corporate Transparency at Transparency International EU. *“It’s extremely disappointing that after all the Parliament’s efforts in setting up inquiries and special committees into tax issues they have been unable to agree a common position. MEPs should demonstrate beyond doubt their support for tax transparency and corporate accountability by removing this ‘get-out’ clause in the plenary vote,”* Gaita continued.

A global environment of complex tax rules and fiscal opacity has allowed multinationals to exploit loopholes in the global tax system. Increased transparency about where companies carry out their economic activities and pay their taxes would help to shed light on the causes and consequences of corporate tax avoidance. It would also raise red flags around corruption risks and expose potential cases of collusion, as well as give the public and policymakers the opportunity to identify necessary reforms to combat tax avoidance and aggressive tax planning, according to Transparency International EU.

However, despite cross-party efforts to secure a more ambitious text which would extend reporting requirements to companies’ worldwide operations, today’s text risks falling short of the main objective, according to the group. It could be watered down further as the legislation

goes into “trilogues”, closed door negotiations between the Parliament, Council and Commission.

Notes to editor:

1. The safeguard clause tabled by the ALDE group reads as follows:
 4. *In order to protect commercially sensitive information and to ensure fair competition, Member states may allow, that one or more specific information listed in Article 48c of this directive, be temporarily omitted as regards activities in one or more specific tax jurisdictions when its nature is such that it would be seriously prejudicial to the commercial position of the undertakings referred to in Article 48b (1) and Article 48b (3) to which it relates. The omission shall not prevent a fair and balanced understanding of the tax position of the undertaking. The omission shall be indicated in the report together with an explanation as to why this is the case and with a reference to the tax jurisdiction concerned.*
 5. *Member states shall make such omissions subject to prior authorisation of the national competent authority. Every year, the undertaking shall require a new authorization by the competent authority based on a new assessment of the request. As soon as the information fails to comply the requirement laid down in paragraph 4, it shall be immediately made publicly available.*
 6. *Members States shall notify the European Commission when granting such a temporary derogation and shall transfer in a confidential way the omitted information with the detailed explanations of the granted omission. On a yearly basis, the European Commission shall make accessible on its website the notifications received and the explanations given in paragraph 4 of this Article.*
 7. *The Commission shall verify that the requirement is duly respected and shall monitor the use of such a temporary derogation authorised by national authorities.*
 8. *In case the Commission, after its assessment on the received information according to paragraph 5 decides that the requirements of paragraph 4 are not fulfilled, the undertaking shall immediately make the information publicly available.*
 9. *The Commission shall, by means of a delegated act, adopt guidelines to assist Member States defining cases where the publication of information shall be considered seriously prejudicial to the commercial position of the undertakings to which it relates.*

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