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The Human Cost of Corporate Secrecy

Nona Ratchana Olbrich · Friday, May 27th, 2016

Antoine Deltour and Raphael Halet, two former PwC Luxembourg employees, are the whistleblowers behind the LuxLeaks revelations. They are accused of having shared documents with French journalist Edouard Perrin – also standing trial in Luxembourg. In November 2014, the International Consortium of Investigative Journalists (ICIJ) disclosed hundreds of tax rulings demonstrating how between 2002 and 2010 over 350 multinational companies had signed secret tax agreements with Luxembourg.

As soon as he was charged by the Luxembourgish authorities, a largescale campaign was launched in support of Deltour (Halet's identity remained confidential until the start of the trial). What Deltour, Halet and Perrin have exposed is not just in the public interest, but has also shed a light on the extreme secrecy which has allowed companies to agree sweetheart deals with Luxembourg to reduce their global tax bill. Their role in LuxLeaks has brought the public debate around corporate tax avoidance to an unprecedented level and prompted policymakers to act.

Transparency International is calling for increased safeguards for whistleblowers like Deltour and better laws to protect them.

However, we should not have to rely on whistleblowers, investigative journalists and leaks to know the extent of corporate tax practices. This should instead come out as a matter of course, through companies' regular financial reporting. As such, Transparency International has long been advocating for stronger EU laws on corporate accountability. One way of achieving this is through public country-by-country reporting (CBCR).

CBCR is a simple idea: multinational companies disclose basic financial information for each country they operate in as part of their annual financial statements, so that citizens have adequate information to assess their activities.

After a lengthy process involving a public consultation, an impact assessment and months of pressure by civil society organisations, on 12 April 2016 the European Commission finally published a legislative proposal on public CBCR. Or rather public reporting. For the country-by-country element has been reduced to a bare minimum.

The proposal would require public disclosure on a country-by-country basis for multinationals' activities only inside the EU and for countries on a yet-to-be-published EU list of tax havens. For the rest of the world, companies would only have to disclose one aggregate figure.

Concretely, this means:

- Companies' activities in most of the world will not be covered by the public CBCR requirement and so the limited data that we will get will not be a useful monitoring tools.
- Citizens of developing countries won't have access to information regarding companies' operations and tax payments in their territories (unless they are listed in the EU's tax haven list). This makes impossible one of the objectives of public CBCR legislation: monitoring potential cases of collusion between corrupt governments and multinationals, in particular in countries where there is a higher risk of regulatory capture. With this proposal, companies will continue to evade accountability for their financial affairs in the world's poorest countries, which have suffered disproportionally from illicit financial outflows.
- There is a concrete risk that many tax havens will not be included on the EU's blacklist, as this exercise will be a highly politicised one. Previous attempts have been criticised for omitting big tax havens and only listing small countries. On top of this, EU Member States will ensure their strategic allies and overseas territories do not end up on this list.

This proposal has a number of other shortcomings. For example, only companies with a very high turnover (750 million Euro) would have to disclose, excluding companies like Heritage Oil. Additionally, there would only be a limited set of disclosure categories and citizens would not have access to a full list of subsidiaries, payments to governments and public subsidies received, to name a few.

Not only society at large, but also companies themselves would benefit from increased transparency. Multiple studies indicate that when they put in place measures to improve corporate transparency, companies also experienced significantly increased profits compared to companies that did not. In addition, public CBCR could attract more investment, since the risk profile of the company would be lowered with the release of more information compared to competitors not engaged in public CBCR.

It is now up to the European Parliament to come up with meaningful transparency measures for public CBCR.

As demonstrated by Deltour's trial, multinationals' current secrecy comes at a very high human cost. Transparency reduces the need for people to blow the whistle.

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