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Transparency International calls on EU Parliament and Council to vote down tax transparency deal

Lucinda Pearson · Tuesday, June 1st, 2021

Transparency International EU today expressed its bitter disappointment with the outcome of trilogue negotiations on corporate tax transparency legislation, so-called public country by country reporting (CBCR), and called on the EU Council of Ministers and the European Parliament to reject the deal reached by negotiators.[1] Adoption of the text as it stands would provide tax transparency in name only.

After years of deadlock, EU Member States eventually achieved a breakthrough on the issue in February this year. However, the final watered-down text negotiated by delegations from the European Parliament and the Council contains massive loopholes that would still allow companies to keep most of their tax arrangements secret.

"*The proposed legislation as it stands is almost meaningless, as it would only require multinational companies to disclose their tax payments made in the EU and in countries on the deeply flawed EU tax havens list*" said Elena Gaita, Senior Policy Officer at Transparency International EU. "This means that companies' operations in most of the world will still be exempt from public scrutiny." [2]

This massive loophole means that the proposed text simply doesn't amount to true public CBCR, which by definition covers reporting for all countries in which a company operates. The reported data would not allow for a full analysis of the use of potential tax avoidance schemes. It likely would also have the perverse effect of companies deciding to move parts of their tax planning outside the EU to avoid the disclosure requirement.?

The final legislation as proposed also includes a so-called "corporate get-out clause" that would allow companies to avoid disclosing crucial information they consider "prejudicial to" their commercial position.[3] It also puts the EU behind the US in terms of corporate tax transparency measures.[4]

"*This is a clear sign that the EU is not listening to the growing demand for tax transparency*" added Gaita "*As the world seeks to recover from the social and economic crisis caused by the COVID-19 pandemic, the fight against tax avoidance will play a critical role in ensuring an effective and sustainable recovery that enjoys public confidence – this is a real missed opportunity.*"??

Last week over 60 civil society organisations and trade unions also issued a joint statment warning against watering down this important legislation.

Transparency International EU calls on the 27 member states and the European Parliament to reject this proposed text and will continue to advocate for real tax transparency legislation in the EU that puts citizens ahead of the interests of multinationals.

Notes to editor

[1] Directive of the European Parliament and of the Council amending Directive 2013/34/EU as regards disclosure of income tax information by certain undertakings and branches.

The European Commission initially proposed this draft Directive in 2016, however it has been in deadlock ever since. This deadlock was mainly due to the legal basis of the file. Some Member States preferred the legislation to be treated as a tax file, and therefore a national competency, instead of an accounting file, which is the current classification. This would have had serious implications in the process, as in the case of a tax file the European Parliament would only have had an opinion-giving role, and a unanimous vote (as opposed to a qualified majority vote) in the Council would have been required. The European Parliament voted on the file in July 2017 and closed its first reading in March 2019.

Now the text must go through formal approval in the European Parliament Economic and Legal Affairs Committees, the European Parliament's plenary, and in the Council.

[2] The adopted text includes an obligation for companies to publicly report information on a country-by-country basis only for their operations in EU members states and countries included in the blacklist or greylist (for 2 consecutive years) of the EU list of non-cooperative jurisdictions;

[3] According to this clause, companies will be exempt from reporting what they deem to be "commercially sensitive information", which they would have to retroactively publish 5 years later.

[4] The U.S. Congress recently introduced legislation that would require full, public, and global country-by-country reporting. It passed the relevant committee in the House two weeks ago.

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