

TAX EVASION : OUR MODEL OF CIVILISATION IS AT STAKE!

After the Paradise Papers revelations, MEP Greens-EFA and former French tax attorney, Eva Joly, hosted us to discuss tax evasion, its consequences for society and the solutions that could be implemented.



What do you think about tax evasion?

First of all, the choice of words is important. Is it evasion, fraud, it all depends. What may seem «legal» is in reality not always so. For example, when someone says they have a property in London, there's nothing illegal about it. But then you have to wonder why all this is done via an offshore system whose main characteristic is to be hidden. To know if this is really legal, one needs to know if the person has declared their property to the tax authorities but this information is protected by tax secrecy.

Only an investigation would reveal everything. But if we look at the case of France,

there is a serious anomaly called the “Bercy lock”¹. This disposition means the Prosecutor cannot initiate an investigation for tax evasion without the approval of Bercy. It's the same for multinationals. You have to look at each financial strategy on a case by case basis. Still looking at France, we have a provision stating that it is forbidden to use a strategy or structure whose sole purpose is to avoid tax. The legal difficulty in this case is to prove that it is «the only goal». Multinationals repeat that what they do is legal. But legality has always been the result of the forces at play. If all this is indeed «legal», then it is then it is necessary to change the legislation so that there is true equality of taxation.

1. Le verrou de Bercy. The device is an exception to French criminal law. It grants the Ministry of Finance the right to decide whether to launch legal proceedings against an individual suspected of tax evasion, without any justification. This is a limitation of the powers entrusted to the prosecutor.

Unfair tax regimes, such as exist in the United Kingdom or the Netherlands, must be tackled. The tax loopholes are exploited by a large number of intermediaries and tax lawyers in order to allow the multinationals and the powerful not to pay taxes. This is what the Paradise Papers show.

What will be the consequences of these «leaks» in the negotiations with the United Kingdom regarding Brexit since it is clear that Crown dependencies are concerned?

Even without the United Kingdom, Europe remains the largest market in the world. Europe therefore has the means and the power to tell the United Kingdom that they will not have access to the internal market until they have solved the problem of their offshore territories that act as tax havens at our door.

Is this looming in these negotiations?

This assumes that England really wants to reach an agreement. For the moment, its leaders seem to continue to believe that they can do without it and that they do not have much to lose. Let's hope that they end up seeing reality and that the Union is firm and united on this: no access to the internal market without respect for European tax rules. Brexit can be a great opportunity to address this issue of tax havens in the UK. Let's seize it!

2. Report TAXE 1 available at : <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+TA+P7-TA-2013-0205+0+DOC+PDF+V0//EN>

3. Report TAXE 2 available at : <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+TA+P8-TA-2016-0310+0+DOC+PDF+V0//EN>

4. The Common Corporate Consolidated Tax Basis is a unique set of rules for determining the taxable income of a company within the EU. With the CCCTB, companies operating cross-border will have to comply with a single European system to determine their taxable income, rather than the different national regimes in which the activity is carried out. Groups subject to the CCCTB would have the opportunity to complete only one consolidated tax return for all their activities within the EU. The consolidated taxable income of the group would be allocated to each of its constituent companies by application of a simple formula. This will allow each Member State to subject the profits of resident companies of that State to its own rate.

Is there not a paradox between economic liberalism and the will to fight against optimization?

Liberalism must be regulated. In the TAXE 1² and TAXE 2³ reports, we propose concrete solutions better to combat tax evasion. The follow-up can be found in the Panama Papers report, which will be voted on by the European

Parliament next December. For example, we found in this commission of inquiry that not all Member States comply with the anti-money laundering directive. We must strengthen our legislative arsenal in terms of fiscal transparency and the fight against money laundering, but also ensure the proper application of these rules.

Do these reports propose measures?

The biggest tax evaders are the multinationals. The solution to this is the Common Corporate Consolidated Tax Basis⁴ (CCCTB). The problem is that each subsidiary is taxed as if it were an independent entity and this allows these companies to avoid paying taxes. It is time to tax the multinationals as a single whole, and then distribute the tax revenue between the subsidiaries according to the reality of the economic activity of each of them. This is the goal of this reform. But it is necessary that Member States which block progress

in this direction, in particular Luxembourg, the Netherlands, Ireland, Malta and Cyprus, change their stance on the subject.

« The biggest tax evaders are the multinationals. »

Doesn't Article 116 allow circumvention of the required unanimity in the Council on tax matters⁵?

This is what we ecologists advocate, especially for the adoption of this reform (CCCTB).

Isn't the proposed blacklist an empty gesture given it contains only foreign countries but no European country?

That is why this problem must also be solved within the Union. But this should not prevent us from adopting an ambitious and credible list of tax havens.

Is the European Public Prosecutor's Office a hope ?

It is a great hope, because for example, it will be competent on the issues of VAT fraud. This is progress in the institutions and promises for better judicial cooperation between the Member States on financial fraud.

What is the problem of tax avoidance for our societies?

It is our model of civilization that is at stake.

5. Article 116 of the TFEU states that « Where the Commission finds that a difference between the provisions laid down by law, regulation or administrative action in Member States is distorting the conditions of competition in the internal market and that the resultant distortion needs to be eliminated, it shall consult the Member States concerned. 26.10.2012 Official EN Journal of the European Union C 326/95 If such consultation does not result in an agreement eliminating the distortion in question, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall issue the necessary directives. Any other appropriate measures provided for in the Treaties may be adopted. »

The Conservatives or Liberals speak of «fiscal hell». Tax must not be seen as a hell, it is the foundation of our societies, of our civilization, of living together. It's what funds our schools and hospitals!

Finally, the media impact of the Paradise Papers was not as important as for the Panama Papers. Why ?

We can be concerned about the lack of independence of some media. Even for the newspaper Le Monde which published these investigations, including an article on Bernard Arnault. Look what the consequences were: the boss of LVMH has apparently asked for a re-

duction of its ads in the newspaper Le Monde! We must defend an independent press, investigative work

and whistleblowers who act in the public interest!

120 billion on a European scale this time, how much for the next leak?

We know that funds managed from offshore structures, amount to about one third of global GDP. It's a very large scale holdup.

« Tax must not be seen as a hell, it is the foundation of our societies! »

We are all victims, but the biggest victims are the developing countries that are not receiving their fair share and who are being looted of their natural resources●