Giving with one hand and taking with the other:
Europe's role in tax-related capital flight from developing countries 2013: Briefing

STOP
tax dodging

Introduction

Tax-related capital flight is a major problem the world over, particularly for the poorest people, who are unfairly losing billions of euros every year as a result of this practice. In Europe, the loss of income caused by tax evasion and avoidance is estimated to be around €1 trillion per year. When it comes to the world's developing countries, conservative estimates report that these countries lose between €660 and €870 billion each year through illicit financial flows, mainly in the form of tax evasion by multinational corporations.

Civil society organisations (CSOs) in 13 European countries have come together to produce a 70-page report – the first of three over the next three years – of which this is the briefing document. The report covers The Czech Republic, Denmark, Finland, France, Hungary, Ireland, Italy, Luxembourg, Netherlands, Slovenia, Spain, Sweden and the United Kingdom.

The CSOs examine the tax-related capital flight policies in their respective countries; the actions taken by their national governments to tackle money laundering and tax avoidance and evasion; and attitudes towards EU laws that could help solve the problem. They highlight the efforts, and the shortcomings, of European leaders on this issue, and propose ways forward.

The report finds that there is a significant discrepancy between tough political rhetoric from the governments surveyed and their actions. This is having a particularly damaging impact on developing countries.

Specifically, this report finds that:

- All governments surveyed are failing to demand sufficient levels of tax transparency from companies as no government has implemented full country-by-country financial reporting requirements for multi-national companies.
- The majority of governments surveyed are reluctant to establish public access to information on the beneficial owners of companies, trusts or foundations in their jurisdictions.
- Data to monitor the information that governments are exchanging with each other on tax matters is rarely publicly accessible. And findings from this report indicate that countries from the global south are barely participating in this form of information exchange.
- None of the governments surveyed support the equal inclusion of developing countries in policy making in this area in practice. All the governments surveyed support the European Union (EU) position, which is that the Organisation for Economic Co-operation and Development (OECD) should be the leading decision-making forum. This is despite concerns about the OECD's legitimacy for this task and the lack of decision-making power in this area for governments in the global south.

Global overview

The report begins with a global overview explaining the scale of the problem, and its severe impact on global efforts to fight poverty in the poorest countries. It looks at some of the opportunities for change in the area of tax-related capital flight. Currently, it is the richest countries – some of which contain offshore centres – that are controlling the debate through the G20 and OECD. However, this report highlights some important political opportunities at EU level that should be grasped by member states. Furthermore, the global overview points to the importance of ensuring that rules and policies are consistent with, and supportive of, international commitments to eradicate poverty. Finally, it stresses that, to achieve real impact, it is of paramount importance that governments of the poorest countries in the world have genuine decision-making power and are central participants in identifying solutions over the coming years.

National reviews

Each national chapter provides an overview of that government's policy position in relation to tax evasion and aggressive tax avoidance. Each chapter also maps national responses to current EU and global policy making processes. High-profile cases of tax avoidance are examined, which in some cases have led to improved political commitments in the fight against tax-related capital flight. However, serious discrepancies between governments' rhetoric and actions are highlighted. For example in the UK, despite significant political rhetoric in the last year on financial cooperation, the main political focus of the UK government has been to ensure it has the most 'competitive' tax regime in the G20.

The second part of each national chapter examines national anti-money laundering regulation, including the outcomes of the recent Financial Action Task Force (FATF) evaluations. It explores how efforts in this area are structured across the ministries involved, and whether the laundering proceeds of tax evasion are considered a criminal offence.

National transparency levels in relation to tax payments by corporations, beneficial ownership of companies, and country-by-country reporting are also examined. Most governments surveyed have registries or other structures in place to capture information about ownership, or require banks to do so. However, this information is rarely made publicly accessible and available information does not seem to form a basis for better regulation.

The fourth section of each national chapter examines positions on EU regulation currently being negotiated, mapping approaches to three key proposals:

1. Public access to beneficial ownership information in the fourth revision of the EU Anti-Money Laundering Directive.

2. Tax evasion as a predicate offence to money laundering in the fourth revision of the Anti-Money Laundering Directive.

3. Country-by-country reporting by large companies as part of the ongoing revision to the Accounting Directive.

Among the governments surveyed, there are mixed opinions on these directives. The French government is promoting the idea of adopting EU regulation requiring country-by-country reporting for all sectors, although only for very large companies. However, only a few other governments have expressed support for this and none of them is actively championing the issue at home or at the EU level.

Most governments acknowledge the need for greater transparency relating to identification of the beneficial owners of companies, trusts and foundations but do not go as far as recognising the significant benefits of making this information publicly accessible.

With regards to making tax evasion a predicate offence of money laundering, the report finds that this is already the case in a number of member states surveyed and the majority also support this being included in the fourth revision of the anti-money laundering directive.

When examining decision-making on global regulation, the report shows that, while a small number of governments recognise the need for the inclusion of developing countries, not one government surveyed expresses support for a strengthened United Nations (UN) body to address tax-related capital flight.

Finally, the national chapters examine each country's approach to tax-related capital flight through their official development assistance (ODA) programme. The development cooperation strategies of some countries surveyed recognise the need to enhance domestic resource mobilisation in developing countries, and that capital flight plays a role in undermining these efforts. In some countries, the ministries of finance are directly engaged in the area of policy coherence in ODA programming, albeit with mixed results. In most cases there is a complete failure to mainstream tax justice concerns for developing countries across government decision-making. In the worst cases, development cooperation strategies are directly contradicted by the surveyed countries' tax policies. In other words, EU member states are giving with one hand and taking with the other.

Conclusion

This report finds that, in the 13 countries reviewed, government action on tax-related capital flight is deeply insufficient to combat the scale of the challenge. At a national level, the report highlights that most of the governments studied require limited financial reporting and other data disclosure from companies, and are unwilling to provide more meaningful information to citizens that would enable action to tackle tax-related capital flight.

At the EU level, while greater momentum exists due to some recent progress on country-by- country financial reporting, this has not gone nearly far enough. Some governments have indicated support for full country-by-country reporting, but others are holding back from supporting this. And while many governments indicate a rhetorical commitment to automatic information exchange, serious concerns relate to the process through which such a mechanism should be developed.

The vast majority of countries surveyed indicated their support for the G20/OECD-led process towards achieving automatic information exchange on tax matters. This points to a high level of risk that this global 'standard' will not include – or apply to – countries with limited capacity to exchange information, and that there will be no accommodation for periods of transition for countries that need time to develop their capacities in this regard.

Across all reviewed countries, it is of great concern that there is virtually no political will to act decisively to ensure policy coherence for global development between governments' domestic policies and their positions in EU and global negotiations. While a number of governments surveyed recognise the importance of mobilising domestic resources to reduce aid dependency and to fight global poverty, this is not reflected in existing domestic and multilateral policies and regulations. Indeed, examples linked to several focus countries in this report highlight that potential tax revenues for developing countries are directly reduced through the tax policies of those governments.

Also of deep concern is the willingness of the governments surveyed to allow the OECD to dominate decision-making in this policy area. The OECD's membership is limited and many of its members bear significant responsibility for the problem of tax-related capital flight. Locating decision-making powers within the OECD greatly reduces the possibility of achieving fair and inclusive outcomes for citizens of all countries, especially for people living in developing countries.

Recommendations:

The report calls on all EU member states to:

- Adopt EU-wide rules to establish publicly accessible registries of the beneficial owners of companies, trusts and foundations.
- Adopt full country-by-country reporting for all large companies, which should include:
  - A global overview of the corporation (or group): The name of each country where it operates and the names of all its subsidiary companies trading in each country of operation.
  - The financial performance of the group in every country where it operates, making the distinction between sales within the group and to other companies, including profits, sales, purchases and labour costs.
  - The assets i.e. All the property the company owns in that country, its value and cost to maintain.
  - Tax information i.e. full details of the amounts owed and actually paid for each specific tax.
- Make tax evasion a predicate offence to money laundering.
- Develop mechanisms to measure the impact of tax-related capital flight on developing countries and carry out spill over analyses of their national tax policies, in order to strengthen policy coherence for global development.

It further urges European governments to:

- Proactively support the creation of a global standard on Automatic Information Exchange, which includes a transition period for developing countries that cannot currently meet reciprocal automatic information exchange requirements due to lack of administrative capacity.
- Undertake a rigorous study jointly with developing countries, of the merits, risks and feasibility of more fundamental alternatives to the current international tax system, such as unitary taxation, with special attention to the likely impact of these alternatives on developing countries.
- Establish an intergovernmental tax forum under the auspices of the UN. This forum should become the decision-making body on current tax policy decision-making and ensure that developing countries can participate equally in the global reform of existing international tax rules.

To read the full report, please go to: www.eurodad.org/givingwithonehand2013

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