PANAMA PAPERS: DIRTY MONEY AND TAX TRICKS

How the rich, the powerful and criminals rip us off!

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FIGHTING BACK AGAINST THE GREAT RIP OFF

Europe has endured a lost decade. Enormous losses from bailing out the financial sector had to be shouldered by the public, while growth and employment faltered as disastrous austerity policies cut wages, pensions and public services. Collective wealth was destroyed by selling off public property at rock-bottom prices.
While many people struggle to make ends meet in precarious employment or with no job at all, successive scandals about massive tax dodging by large corporations and wealthy individuals have hit the headlines: Offshore Leaks, Luxembourg Leaks, Panama Papers and only recently, the Paradise Papers. Some large companies pay less than 1% of tax globally despite sky-high profits. Hundreds of billions of euros are lost to the public every year due to these practices - money which could pay for decent schools, hospitals and roads.

And it is not just tax. The offshore world also harbours criminals who launder the proceeds of corruption, drug cartels and human trafficking there. Even global terrorism is funded with the help of offshore centres.
Shamefully, many European Union (EU) member states actively protect this system. As the enthronement of the former Prime Minister of Luxembourg Jean-Claude Juncker at the top of the EU Commission shows, it is possible to make a career as the architect of an EU tax haven.
There is a long list of EU tax havens that block changes: Luxembourg, Malta, Ireland, the Netherlands and the United Kingdom including its overseas territories all contribute great harm, for example. In a particularly ruthless way, the longtime Dutch Finance Minister Jeroen Dijsselbloem cultivated tax haven policies at home while imposing crushing austerity on Europe's periphery in his role as head of the Eurogroup.

But other member states like Germany bear their own responsibilities, too. Not only did they fail to push tax havens to reform, but Germany itself is a paradise for money laundering according to its own Federal Crime Agency and the renowned Tax Justice Network. In fact, as public scandals have shown, everyone uses tax havens - not only the usual suspects.

This has not come as a surprise as depriving the state of its revenue through the dubious concept of 'tax competition' is part and parcel of a neoliberal order that has underpinned the creation of massive inequalities over the past decades. During this period, corporate tax rates have been cut, on average, by half in rich countries, while ordinary citizens had to shoulder an ever greater burden as regressive taxes, such as the VAT, were increased.

Indeed, it is also the EU's neoliberal legal framework that has pushed more and more member states to engage in tax competition. Its focus on a liberal common market has rendered the promotion of economic development through industrial policy more difficult, while its fiscal treaties and monetary framework increased imbalances between member states and deprived governments of alternative policy tools.

Thanks to the courageous acts by a number of whistleblowers and public outcries following the leaks, tax havens have come under increasing pressure. But the political battle is far from being won as lobbyists for the offshore industry, including the large law and accounting firms as well as big banks, seek to obstruct progress. This is why we as left parliamentarians, together with NGOs, trade unions and critical academics must keep up the pressure.

This publication seeks to provide background information and arguments for those interested in understanding – and challenging – one of the greatest robberies of our time. It explains the political failure that has allowed this to happen and discusses the most important tricks of corporate groups and the financial system.

We, your GUE/NGL Members of the European Parliament, hope you enjoy reading it.

Matt Carthy (Sinn Féin), Fabio De Masi (DIE LINKE.), Patrick Le Hyaric (PCF), Miguel Urbán (Podemos), Marina Albiol (Izquierda Unida), Takis Hadjigeorgiou (AKEL), Stélios Kouloglou (SYRIZA), Miguel Viegas (PCP), Curzio Maltese (L'Altra Europa con Tsipras)

THE OFFSHORE WORLD PART I: CORPORATE TAX TRICKS FOR BEGINNERS

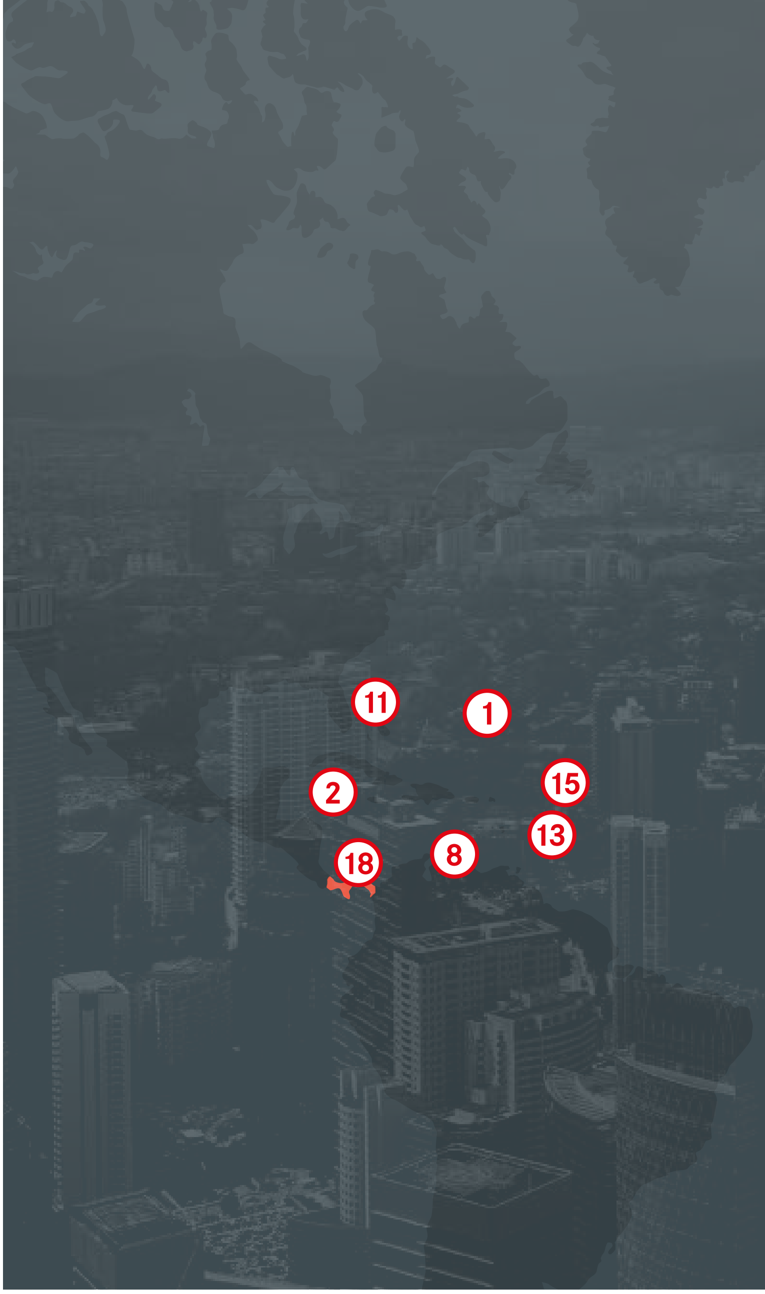
Local companies normally pay taxes on their profits. This applies to the local pub or bakery and also to most medium-sized enterprises. Multinational companies, however, are able to pick from a menu of tricks that allow them to reduce their taxes to as little as 1% of their profits. Often this is done by exploiting gaps and differences in the tax laws of different countries. The result resembles the case of Warren Buffet, one of the richest men in the world, who publicly declared that he pays less tax than his secretary in proportion to his income.

Provided that companies have not been proven to break existing laws but exploit gaps in the legislation, this is called (legal) **tax avoidance**. Calling those tax tricks ‘legal’ is a difficult matter, though, as existing tax laws are stretched to the maximum and firms in such cases often operate in grey zones of what is covered by the law. As soon as laws have evidentially been violated, this is called (illegal) **tax evasion**.

Tax avoidance – or ‘tax optimisation’ as companies like to call it - often occurs with the tacit knowledge of tax authorities. Due to a lack of equipment and personnel, these authorities cannot keep pace with the clever lawyers and tax tricks of the corporate groups and auditing companies. The complexity and design of rules for international taxation (see below) also disadvantage the authorities vis-à-vis multinationals and their helping hands. Austerity policies have exacerbated this imbalance across Europe as tax administrations have lost qualified staff in their thousands since the financial crisis.

At times, even politics itself has actively prevented public officials from doing their jobs properly - as was the case in the German state of Hesse where a conservative government used false medical reports to fire some of their most successful tax investigators who had scrutinised the influential Commerzbank too closely. The investigators were summarily declared psychologically ill and were only rehabilitated by a court much later. In subsequent scandals, the bank was also found to have aided tax dodging for wealthy clients via Luxembourg on a grand scale.

THE MOST IMPORTANT TAX HAVENS



Over the past century, corporations have grown substantially beyond national borders and political rules to manage international capital flows have been curtailed. Both national and international tax laws today don't match this reality. While the different parts of a company typically act internationally together as an **overall corporate group**, each entity in a given country is taxed independently. Renault is producing and selling cars across the globe, managed centrally from France, but all of its different parts are taxed separately in dozens of countries.

THE SCALE OF TAX AVOIDANCE AND TAX EVASION

Due to a lack of transparency, concrete data on tax avoidance are hard - if not impossible - to establish. An annual upper limit of one trillion euros (i.e. 1,000 billion euros) is regularly mentioned for the EU. In addition to legal tax avoidance, this also includes illegal tax evasion by private individuals and the so-called shadow economy (Murphy 2012). A conservative estimate based solely on the legal tax avoidance by corporate groups amounts to 70 to 200 billion euros annually in the EU (Dover et al. 2015). This alone corresponds to more than the annual budget of the EU itself. For schemes like those exposed in the Panama Papers that individuals use to evade taxes, estimates for the tax lost to EU member states range from 100 billion euros to 240 billion euros annually (Blomeyer et al. 2017). As regards the entire wealth hidden in tax havens, experts from the Tax Justice Network have given estimates of up to 20 to 30 trillion euros while other researchers suggested a minimum figure of 7.6 trillion euros (Henry 2012, Zucman 2015). By comparison, the total budget of all 28 EU member states combined was less than 7 trillion euros in 2016.

Figure 1: The most important tax havens. www.oxfam.org/en/even-it/singapore-switzerland-worlds-worst-tax-havens

Another fundamental problem is **tax competition** between countries. Governments outdo each other with tax giveaways both to potential investors from abroad and also to domestic corporate groups. Every government tries – whether through low taxes or hidden loopholes – to attract as many companies as possible with such gifts. In the end, this race to the bottom harms everyone but the corporate groups.

Moreover, these corporate groups deploy a huge array of tricks to reduce their taxes. Wherever companies sell and manufacture goods, employ people and carry out research – i.e. are commercially active –relatively normal taxes on company profits apply. In several EU member states, for example, the rate is around 30%. For the purpose of tax avoidance, however, the profits earned in these countries are moved to **tax havens**. Those places either generally tax company profits at a very low rate or offer customised deals, and as a result the actual (effective) tax rates are far below the official (nominal) level.

Profits often flow into tax havens via so-called **letter-box companies**. These are parts of a larger corporation which have very few employees or no employees at all and which (almost) only exist on paper – often there is only a letter box and an answering machine.

Letter-box companies are used to exploit the advantages of tax havens without doing actual business there. For example, they collect the profits that are earned in other countries or send profits from other countries untaxed onwards to a third country. In Luxembourg, for example, thousands of companies are registered in a few office towers; in the US state of Delaware, there are even postal addresses with hundreds of thousands of registered companies.

Such payments across the borders of different countries are often regulated through so-called **Double Tax Agreements (DTAs)**. These aim to prevent two states from taxing the same income twice. In reality, however, they often lead to no taxation at all (see box 2).

To move profits from one country to another, companies use transactions between different parts of the same corporate group in different countries. According to the standards developed by the rich country club Organisation for Economic Cooperation and Development (OECD) in Paris, the prices for buying and selling goods and services within in the same overall group - so-called intra-group **transfer prices** - should comply with the so-called **arm's length principle**. This principle states that prices for payments between parts of a group must correspond to prices on a free market between unrelated companies. The price for a good or a service that one part of a corporate group sells to another part must therefore equal the same price that the same good or service would be sold for to any other company.

In reality, however, many payments between related companies are made for very specific goods or services like internal management advice or the unassembled components of a final product. In such cases, no comparable good or service is available outside the company. As a result corporate groups can choose their internal transfer prices relatively freely in order to move profits back and forth between countries.

A popular example of intra-group transactions for profit shifting are **patent and licence fees**. The value of many global

DOUBLE TAX AGREEMENTS (DTAs)

When money flows across national borders, this concerns the tax laws of several countries. In order to prevent corporate groups (and individuals) from being taxed twice – i.e. in two countries – on the same income, two states often sign the so-called **conventions against double taxation** (also called Double Tax Agreements or Double Tax Treaties). Those agreements regulate which of the two states has the right to tax which type of money or income flowing across borders and when.

For example, they stipulate where a Spanish national living (partly) in Morocco or working in Algeria is subject to tax. Likewise, they clarify whether profits repatriated from the Senegalese branch of a Dutch company to its headquarters are taxed at the place of residence (Dutch) or the source of profits (Senegal). The primary objective of DTAs is to prevent taxation by both countries involved, so they often explicitly restrict one form of taxation (e.g. source taxation in Senegal) under the assumption that the other country will then apply its tax.

Should this to be not the case, however, and profits are routed away from the receiving country to a third jurisdiction that has no or little tax (e.g. the Netherlands often act as a transit to other tax havens - see the example of Google below), the result is **double non-taxation** as the agreement prevents the first country, were the real business took place, from taxing itself at the source of the profits.

	1981	1998	2017	patent box
Austria	55.0 %	34.0 %	25.0 %	
Belgium	48.0 %	40.2 %	33.9 %	5.1 %
Czech Republic	-	35.0 %	19.0 %	
Denmark	40.0 %	34.0 %	22.0 %	
Finland	61.5 %	28.0 %	20.0 %	
France	50.0 %	41.6 %	34.4 %	15.0 %
Germany	60.0 %	56.5 %	30.2 %	
Greece	45.0 %	40.0 %	29.0 %	
Hungary	-	18.0 %	9.0 %	5.0 %
Ireland	45.0 %	32.0 %	12.5 %	16.2 %
Italy	36.2 %	37.0 %	27.8 %	15.7 %
Luxembourg	40.0 %	37.5 %	27.1 %	5.6 %
The Netherlands	48.0 %	35.0 %	25.0 %	5.0 %
Malta	-	35.0 %	35.0 %	0.0 %
Poland	-	36.0 %	19.0 %	
Portugal	49.0 %	37.4 %	29.5 %	11.5 %
Slovakia	-	40.0 %	21.0 %	
Spain	33.0 %	35.0 %	25.0 %	10.0 %
Sweden	57.8 %	28.0 %	22.0 %	
Switzerland (Canton of Nidwalden)	33.0 %	27.8 %	21.1 %	8.8 %
United Kingdom	52.0 %	31.0 %	19.0 %	10.0 %
USA	49.7 %	39.4 %	38.9 %	
Cyprus	-	25.0 %	12.5 %	0.0 %

Figure 2: Selected corporate tax rates from 1981, 1998 and 2017 as well as tax rates for income from licences, so called patent boxes. Note: The statutory tax rates (nominal tax rates) normally do not present an accurate picture, because the effectively paid taxes are often lower thanks to the tax tricks of the corporate groups.

corporate groups – particularly areas like new technologies and the internet or pharmaceutical companies – hinges on the value of their **intellectual property** (i.e. its inventions), brand names and business concepts (for example Apple's iPhone and the associated specific mobile applications).

For profit shifting purposes, it is the usage rights of these so-called **intangible assets** that are transferred to a branch or subsidiary in a tax haven. This office then receives fees for the usage of the brand names and technologies from all parts of the group that are actually economically active and thus earn profits (e.g. through the sale of iPhones). But since there is no benchmark of any kind for these costs, the companies can define the fees to be paid for the usage of the trademark rights or technology in a way that most profits from the actual business (the mobile phone or advertisement sales) flow from normal tax countries into tax havens (see figure 2).

Another related problem concerns corporate groups like Amazon that earn money through internet sales. As is the case with Google (below), companies are no longer physically registered in every country in which they make sales to. Thus, they avoid tax simply by avoiding having a so-called taxable presence or **permanent establishment** in a given territory.

In addition to traditional tax havens, which often levy no taxes at all on company profits, there are now many countries in the EU that calculate particularly low taxes for income from the administration of patents and other intangible assets. Those special tax breaks are often called **patent or knowledge boxes** as they allegedly incentivise companies to conduct more research and development activity in the country. This has however been proven wrong even by orthodox institutions like the International Monetary Fund (IMF) and the EU Commission. They just provide a means to shift profits and avoid taxes.

The utilisation of patent and licence fees for tax avoidance as explained above therefore leads on the one hand directly to lower tax revenue as profits are shifted to tax havens and on the other hand also intensifies the general tax competition between countries due to the proliferation of patent boxes. This has already massively reduced the rates of corporate tax in most countries over the past decades (see figure 3).

Like with patent and licence fees, tax avoidance and tax evasion also happens by means of **intra-group financing**. Here group parts with actual business activity borrow from group parts in tax havens (the letter-box companies). The interest to be paid for these fictitious loans reduces the profit in the

TRANSFER PRICING USING PATENT AND LICENCE FEES

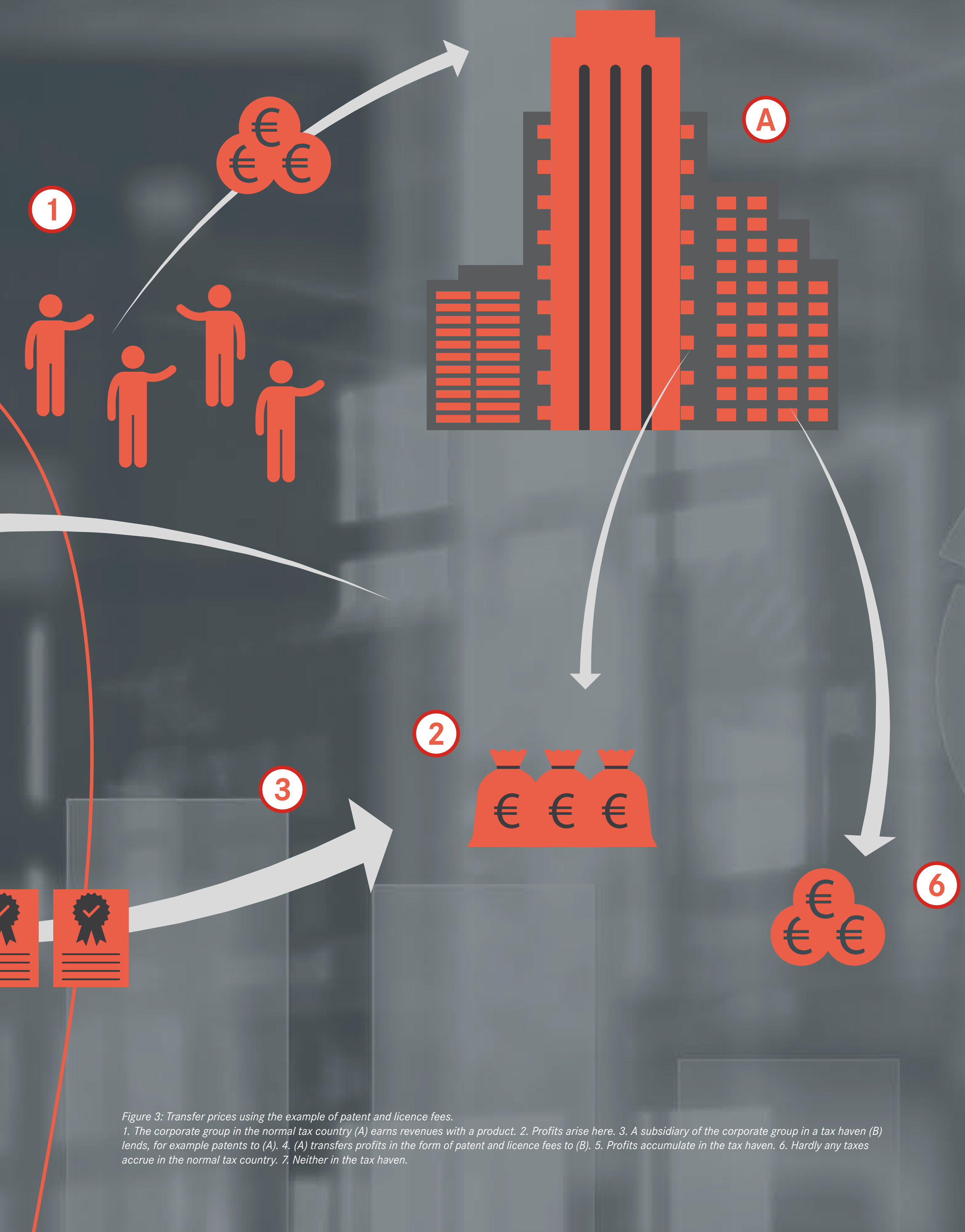


Figure 3: Transfer prices using the example of patent and licence fees.
1. The corporate group in the normal tax country (A) earns revenues with a product. 2. Profits arise here. 3. A subsidiary of the corporate group in a tax haven (B) lends, for example patents to (A). 4. (A) transfers profits in the form of patent and licence fees to (B). 5. Profits accumulate in the tax haven. 6. Hardly any taxes accrue in the normal tax country. 7. Neither in the tax haven.

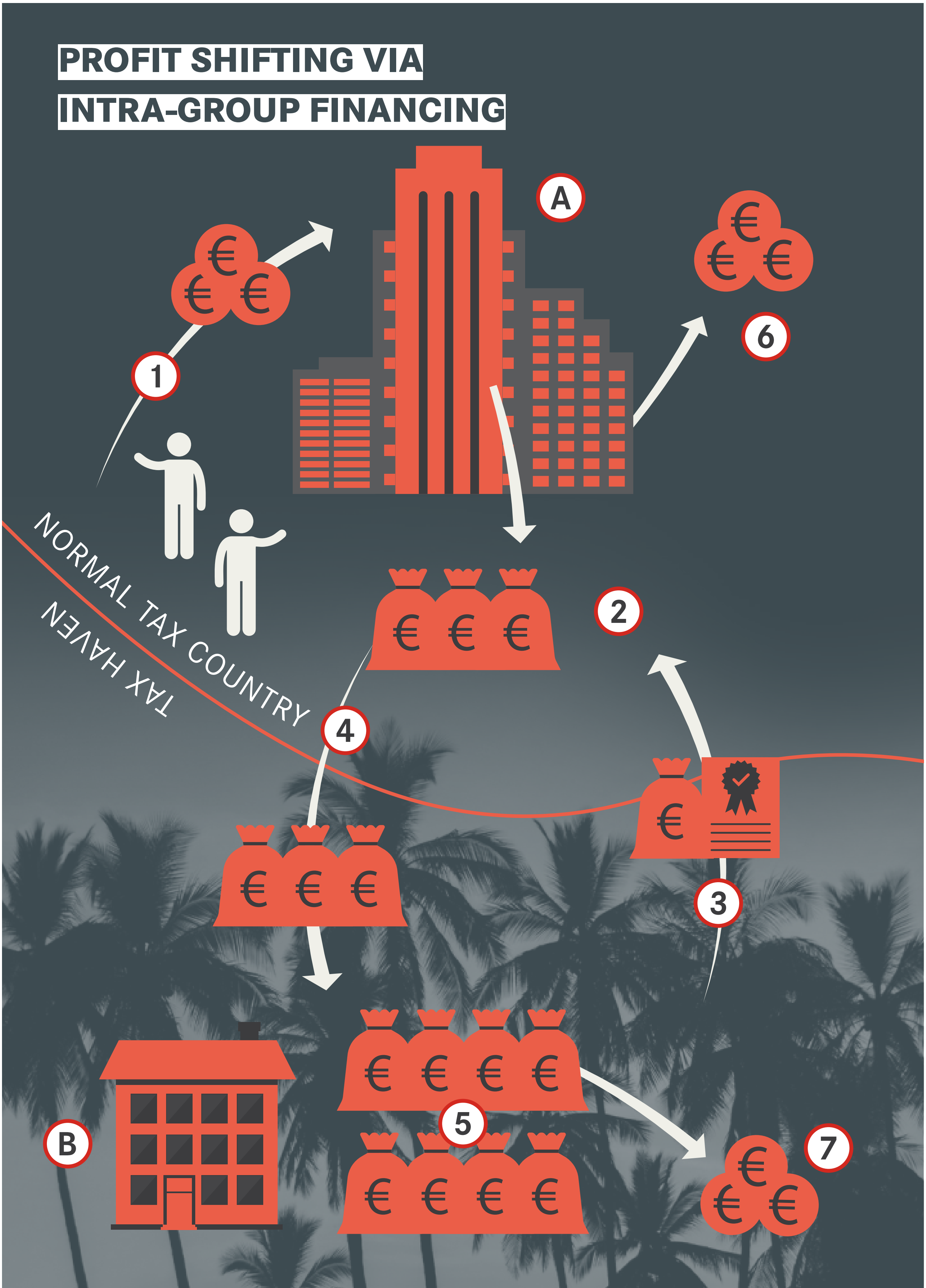


Figure 4: Profit shifting with intra-group financing.
1. The corporate group in the normal tax country (A) earns revenues with a product. 2. Profits arise here. 3. A subsidiary of the corporate group in a tax haven (B) gives loans to the group part in the normal tax country (A) 4. (A) transfers profits in the form of interest payments to (B). 5. The profits accumulate in the tax haven (B). 6. Hardly any taxes accrue in the normal tax country (A). 7. Neither in the tax haven (B).

LUXEMBOURG LEAKS

In autumn 2014, the International Consortium of Investigative Journalists (ICIJ) – a network of investigative journalists from 65 different countries - published documents of the Luxembourg subsidiary of the consultancy firm PwC. Over many years – the documents refer to the period 2002 to 2010 during which current EU Commission President Jean-Claude Juncker was Prime Minister in Luxembourg – PwC negotiated advance tax rulings with the Luxembourg tax authorities for large corporate groups. The published cases read like a 'who's who' of global capitalism: IKEA, Pepsi, Walt Disney, Deutsche Bank etc.

Subsequent publications showed that not only PwC, but many large consultancy firms organised lucrative deals for companies in Luxembourg. On the side of the Luxembourg administration, Marius Kohl earned a reputation as "Mr (tax) Ruling". He sometimes signed off dozens of cases of complex tax saving models daily on behalf of the Grand Duchy. The resulting tax rates of the companies fell to less than 1% of profits. In this process, PwC even used government letter heads to prepare ready-to-sign approval documents for their tax rulings in advance.
After the Luxemburg Leaks, the whistleblowers Antoine Deltour and Raphaël Halet, both former employees of PwC Luxembourg, and the journalist Edouard Perrin, who had first reported on the practices for French television in 2012, were indicted. While Perrin has been acquitted, Deltour and Halet have been found guilty by two Luxembourg courts even though the judge recognised that the pair had acted in the public interest. Despite the revelations, so far there have been hardly any repercussions for the corporate groups.

normal tax countries and generates profits in the tax haven. Letter-box companies obtain the funding to give loans to other parts of the corporate group either through large banks (which are present in all tax havens) or by using previously accumulated profits or by selling shares or bonds on financial markets to raise additional capital (see figure 4).

Within this connection, the so-called **hybrid financial instruments** play a special role. These are forms of credit or participation which are viewed as borrowed capital in the normal tax country and as equity capital in the low-tax country. This is possible because different legal systems treat certain financial instruments differently.

As a result, the paid interest (costs of the borrowed capital) reduces the profit in the normal tax country, as with the normal intra-group financing before. However, in the receiving country the payments are not recorded as interest income, but as dividends (profits from equity interest, that are distributed to shareholders, for example). This is advantageous because many countries favour dividends in terms of taxation or do not tax them at all. In one country this results in costs that lower taxes and in another country in tax-free profits. Double Tax Agreements often prevent the normal tax country from taxing the outbound interest payments even when it is clear that the receiving country does not tax dividends.

In principle, tax and financial authorities can challenge the tax tricks of multinational groups, such as artificial transfer prices, and demand tax repayments after auditing the companies. In practice, however, the chances of doing so successfully are rather slim. As around 60% of global trade currently takes place within corporate groups, the sheer quantity of transactions makes it next to impossible for tax administrations to check them all, in particular as the rules behind the arm's length principle leave a lot of room for manoeuvre for multinational companies.

If ever multinationals do get into tax trouble, they can deploy their financial clout and pay for help by an army of high-paid tax advisers and lawyers, particularly from the so-called Big Four firms. These are the consultancy firms Deloitte, EY (formerly known as Ernst & Young), KPMG and PricewaterhouseCoopers (PwC) which simultaneously advise multinationals and work with governments and the EU during the creation of tax laws. With their 'expertise' on the topic, they often persuade governments and international institutions like the OECD to create tax legislation that is so complex that companies will require the Big Four's service to abide by it and for tax authorities to be unable to mount any challenges.

In some countries, companies can try to obtain legal certainty from tax disputes with the state through so-called **advance tax rulings**. This means that the tax authority evaluates the complex financial structure of a multinational company (including transfer pricing calculations) before the tax year and commits to a certain tax treatment. In practice this process is being used by multinational companies and their tax lawyers to test in advance how far they can go with their tax avoidance structures without running the risk of legal backlash later on. As a tool of tax competition (see Luxembourg Leaks description below) or due to the various tax administrations being overwhelmed by the complexity of tax tricks, this procedure often results in deals that legally protect tax saving models.

RICHARD MURPHY ON THE NEED TO REGULATE THE BIG FOUR

Richard Murphy is a chartered accountant and political economist, currently Professor of Practice in International Political Economy at City University. He is a co-founder of the Tax Justice Network, and he initiated the concept of public country-by-country reporting and co-authored, with Saila Naomi Stausholm, a GUE/NGL study on the Big Four accounting firms (see further reading).

You have just completed a study on the global presence of the so-called Big Four. Could you first explain what these firms are actually doing and who they are working for?

The Big Four are PricewaterhouseCoopers, Deloitte, EY and KPMG. They provide auditing, consulting and tax advisory services. All operate in around 150 or so countries. In total they are in about 180 countries between them. Because the fees that they charge are high - a fact reflected in the very high average earnings of their partners - the services they supply can usually only be afforded by the very wealthiest of clients including the largest of companies and some very high net worth individuals.

The Luxembourg Leaks were entirely based on internal Big Four documents. Your study finds a heavy presence of all of them in secrecy jurisdictions. How exactly are they working with tax havens to help their clients?

The Big Four work with tax havens in a number of ways. In particular, there is very clear evidence that they advise secrecy jurisdictions on how to create company, trust and tax laws that permit secrecy, behind which tax abuse takes place. Second, they help swap developments in each of these areas between locations: they are conduits for the regulatory and tax race to the bottom. Third, they lobby for the continued existence of tax havens. Fourth, they oppose measures such as public country-by-country reporting that might open up tax haven usage to scrutiny. Fifth, their presence in these places does not indicate they do anything illegal but it's absurd to suggest there is no illegal activity undertaken in tax havens and their presence adds an unjustified air of respectability to many such locations.

> **"In particular, there is very clear evidence that they advise secrecy jurisdictions on how to create company, trust and tax laws that permit secrecy, behind which tax abuse takes place."**

In all cases these activities are undertaken for three reasons. The first is to provide secrecy on what their clients do. In a commercial environment this is simply anti-competitive and undermines the principles on which markets are meant to work if they are to allocate resources efficiently without monopoly and other abuses arising. Bizarrely, the Big Four are one of the biggest threats to global capitalism that there is because as that system becomes ever more exploitative as wealth concentrates, the arguments for retaining it diminish, and they are assisting this exploitation with the secrecy that they promote.

The second reason for their activity is to promote that concentration of wealth, especially through the tax planning that they promote. This doesn't just promote an unfair and unlevel playing field between businesses but by providing the wealthiest with the opportunity for their wealth to accumulate tax free they massively exacerbate global inequality. In addition, because abusive offshore trusts prevent the normal flows of capital between generations it is likely that these inequalities will become more extreme and embedded over time. Third, by providing offshore audit services the Big Four let large companies shift their profits in the way seen in Luxleaks. If they were not in these places, it would be much harder for multinational corporations to use tax havens as their subsidiaries in those places could not be audited.

> **"This doesn't just promote an unfair and unlevel playing field between businesses but by providing the wealthiest with the opportunity for their wealth to accumulate tax free they massively exacerbate global inequality."**

In Brussels, there is also typically a lot of talk about their lobbying activities. How big is their political influence and how is this, too, a problem?

It is not possible to precisely estimate the impact of the Big Four politically, but their universal presence at events like Davos, in all major consultations, as major players in BEPS and elsewhere indicates that it is substantial. In the process they very clearly act as the hired hands of the world's wealthiest, seeking the perpetuation of a system of inequality that is now unsustainable. That they are, as we showed in our report, largely unaccountable in this process just adds to the profound concern at their role in the global economy.

> **"The Big Four [...] very clearly act as the hired hands of the world's wealthiest, seeking the perpetuation of a system of inequality that is now unsustainable."**

What do you recommend to halt the negative impact of the work of firms like the Big Four?

In the report we suggest that the Big Four:

- Should be defined as being under common control, and so should be treated as single entities for group accounting purposes within the European Union;
- Should be licenced as single entities for audit and taxation purposes throughout the European Union;
- Should be required in due course to separate entirely their audit and other professional services but until this is possible should be required to ringfence the two from each other worldwide as a condition of being licenced to provide such services in the EU;
- Should, as a condition of those licenses, be required to prepare worldwide group consolidated financial statements which must be published on public record;
- Should ensure that those consolidated financial statements include full public country-by-country reporting.

The aim is to ensure that the Big Four are:

- Accountable;
- Exposed as tax haven players;
- Regulated in those places from the EU;
- Prevented from cross selling tax abuse to audit clients;
- Forced to disclose the real scope of their activities.

THE OFFSHORE WORLD PART II: HOW SECRECY SHIELDS HIDEOUS CRIMES

Letterbox companies in tax havens not only hide the profits of large corporations from the tax man, they also provide (financial) secrecy to whoever pays for it. This includes wealthy individuals evading taxes and other regulations like capital controls, corrupt officials who have stolen money from their citizens or other criminals like drug and human traffickers that want to whitewash their income.

All of these forms of crime require the recycling of profits through the financial system in order to use the money again in the formal economy. This process is called **money laundering** and it flourishes via secrecy havens much as tax evasion and tax avoidance. The same secrecy jurisdictions even permit the financing of terrorism by covering the money trail from financiers to terrorists on the ground.

The IMF estimates the extent of money laundering to be between 2% and 5% of global economic output. This would equate to between 1.5 and 3.75 trillion US dollars in 2016 - more than the annual output of the entire African continent. The public interest organisation Global Financial Integrity has calculated that over 80% of so-called illicit financial outflows from developing countries between 2004 and 2013 have been related to tax evasion and tax avoidance.
Formally the process of money laundering has three distinguishable stages called **placement, layering and integration**. In a simplified version, this means placing proceeds from criminal activity in a bank account or some other financial deposit in a place where rules are lax, then transferring the money across different layers of the financial system – by transfers from one bank to the other, often via different countries - in order to make detection impossible, and finally integrating the funds again into the real economy anywhere in the world by buying (luxurious) property or other investments.

In order to fight money laundering, most countries have adopted so-called **anti-money laundering legislation**. The EU, for instance, is currently negotiating the fifth revision of its anti-money laundering framework which was first adopted in the 1990s.

Those rules require financial firms and other professionals like law firms and real estate agents to know who their customers really are **(know-your-customer)** in order to

TAX AND SECRECY HAVENS

The use of different terms like “tax havens” and “secrecy havens” is often confusing. In reality, those are not clear-cut categories. We have focused on tax avoidance in chapter 1 and money laundering in chapter 2. Some jurisdictions offer very favourable tax tricks (and would thus mainly be called tax havens). Others primarily offer anonymity through strict banking secrecy or lax requirements on company registration allowing for the easy set-up of letterbox companies (and would thus mainly be called secrecy jurisdictions). Anonymity makes money laundering possible but also helps tax evasion as wealth hidden in such territories remains invisible for tax authorities.

Another common criterion is a lack of effective control which allows dodgy business to go on even if tax and secrecy havens formally sign up to certain international tax or transparency standards. This process is called constructive non-compliance because the countries appear to play by the rules, but deliberately prevent their enforcement in practice. They also often share historical similarities as neither tax nor secrecy havens have come into being coincidentally but were actively created by financial and corporate elites to provide them with a parallel world without those rules and regulations that all other people need to follow in their respective countries (see also Richard Murphy’s interview on Big Four and chapter 6).

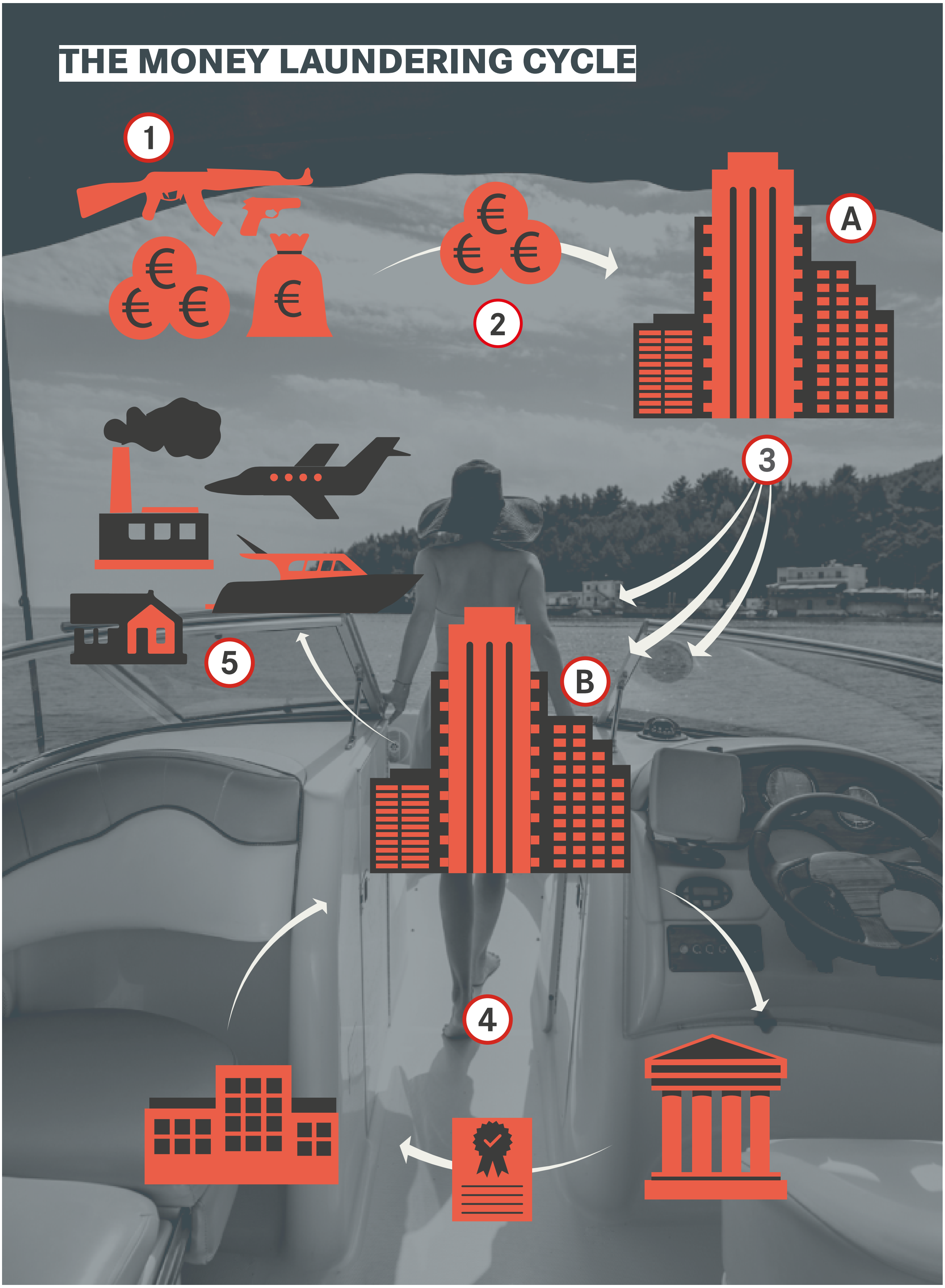


Figure 5: The money laundering cycle,
1. Criminal activities, for example drug trafficking, generate profits. 2. These are channelled into letterbox companies or front companies, for example a casino (A). 3. From there, profits flow - often in tranches - into a secrecy jurisdiction (B). 4. Here, these profits are circulated further, using forged invoices and loan arrangements, between banks and letterbox companies to hide their origins. 5. The laundered money can then be used again in the regular economy, for instance to buy luxury items such as real estate or yachts.

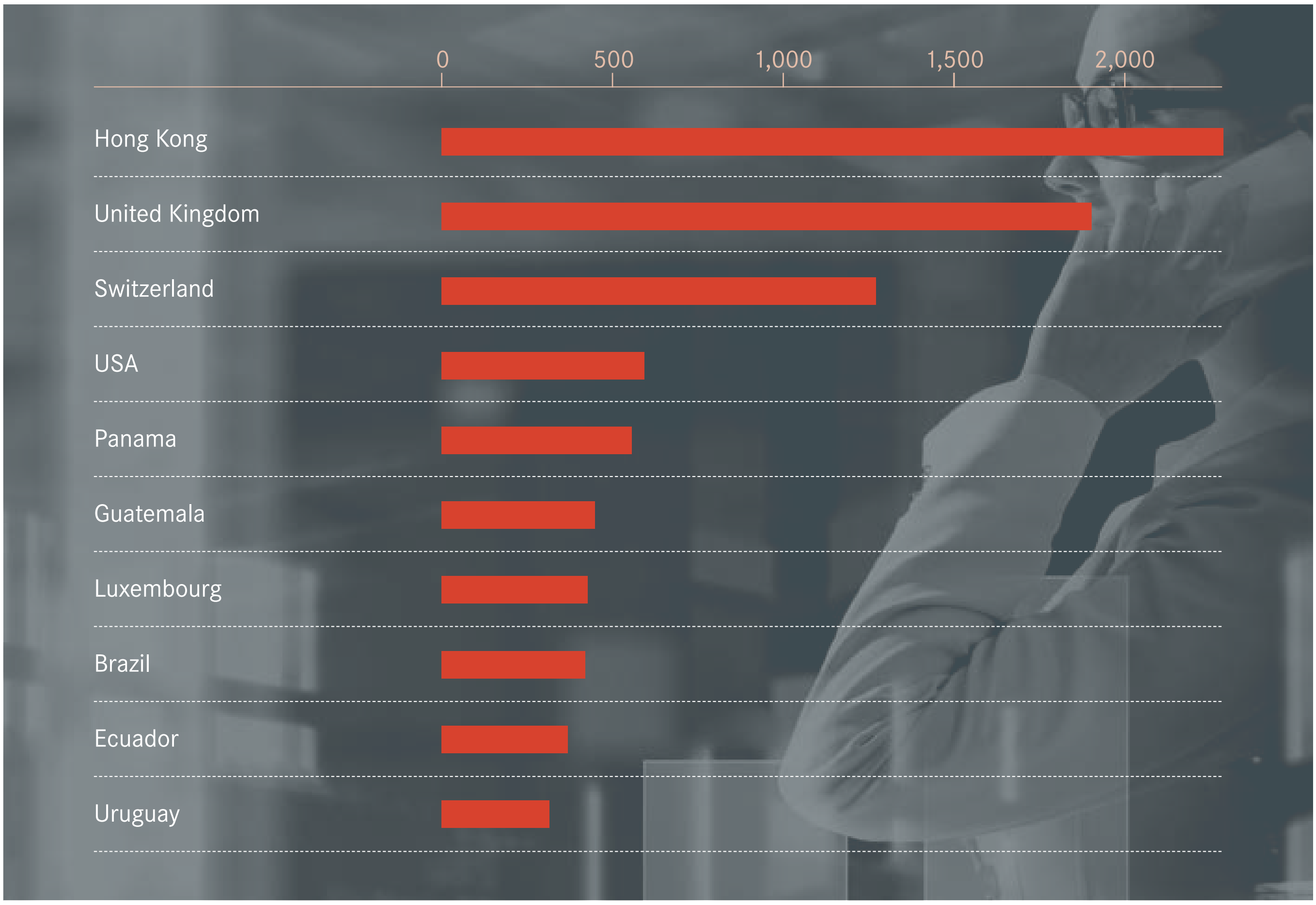


Figure 6: The analysis of the Panama Papers shows that Mossack Fonseca collaborated with more than 14 000 banks, law firms and wealth managers to set up letter-box companies and trusts for its clients. This figure displays in which countries most of these enablers are situated. Source: https://panamapapers.icij.org/graphs/

make sure that the money they are dealing with does not stem from criminal activity. If they suspect a dodgy background, they are obliged to file so-called suspicious transaction reports to specific financial authorities (so-called Financial Intelligence Units) who would then evaluate whether criminal investigations are warranted. These rules exist in a stricter version for so-called politically exposed persons (PEPs) like politicians, manager of public enterprises, high-ranking judges and diplomats - including their closest relatives.

Secrecy havens help to circumvent anti-money laundering rules and hence serve as entry point for dirty money into the official financial system. They either have no rules themselves or do not properly apply rules that exist on paper. The piles of cash on the desk of a drug baron or in the back of the 4x4 of a mafia boss involved in human and arms trafficking are transformed into much less suspicious figures in a formal bank account. From there, they can be transferred into countries with stricter controls if the money makes a few detours on its way so as to render the original sponsors invisible to the final recipient.

A central role is played in this by so-called **enablers and promoters of financial crimes and money laundering**. Those are financial or law firms that provide the services which criminals need in order to use secrecy and tax havens. Without their network and infrastructure, most of the offshore business would be impossible as people simply would not be able to show up on a Caribbean island to open anonymous bank accounts by themselves.

Often, several enablers serve clients jointly as in the case of the Panama Papers that exposed the global web of banks and other firms which teamed up with the Panamanian law firm Mossack Fonseca to sell anonymous offshore companies to their respective clients across the planet. An important tool employed by enablers is the use of so-called **nominee directors**.

These are straw men, like the cousin of the husband of a law firm's employee, who are registered as the owners of offshore companies instead of the rich or criminal clients themselves, even though they obviously remain in control. As those nominee directors are not linked to any suspicion of crime, banks can do business with accounts in their name without visibly violating anti-money laundering rules. To keep control, the true owners make additional secret contracts with a law firm like Mossack Fonseca or simply hold credit cards on the company accounts to make all transactions in practice. Alternatively enablers can offer new offshore companies regularly to the same client. That makes the name and legal person involved change constantly and hence retracing by law enforcement very difficult.

When thinking about secrecy havens, the typical Caribbean island comes to mind. But that is far from the entire truth. According to the renowned **Financial Secrecy Index** published by the international Tax Justice Network, Germany and Luxembourg feature in the top 10 of most problematic jurisdictions reviewed in 2015. Switzerland in the heart of Europe – albeit not in the EU – comes top amongst all countries. This is because not only the degree of secrecy but also the size of the financial sectors counts when ascertaining the damage done by a certain jurisdiction.

The United Kingdom itself already ranks prominently but together with its wide web of overseas territories and crown dependencies – Cayman Islands, Bermuda, Jersey, Guernsey, British Virgin Islands and more – it is then by far the world's most problematic country. Meanwhile, one of the fastest growing secrecy havens is the United States, particularly some of its states such as Delaware, Nevada and Wyoming which specialise on hiding wealth in letterbox companies.

And despite international military campaigns, even the so-called Islamic State still accesses the international banking world via the SWIFT system as banks in the territories controlled by Daesh have not been cut off from that system of international financial communication unlike Iranian banks during that country's sanctions regime.

PANAMA PAPERS

In April 2016, just one year and a half after the Luxembourg Leaks scandal, the ICIJ returned to the airwaves globally with an even bigger story: The Panama Papers constituted the biggest ever data leak with more than 11.5 million financial and legal records from Panamanian law firm Mossack Fonseca from the 1970s to 2015.

The leak revealed how this firm – only one of many big players in the offshore business – collaborated with banks, wealth managers and law firms across the globe to provide clients with anonymous offshore companies and secret bank accounts that allowed to facilitate tax evasion, human trafficking, bribery, arms deals, financial fraud, drug trafficking and more.
As the leaks broke, numerous politicians and other prominent figures like the Argentinian President Macri, Iceland's then-Prime Minister Gunnlaugsson, Pakistan's Prime Minister Nawaz Sharif and close aides of Malta's Prime Minister Joseph Muscat were revealed as part of the offshore business. Strikingly, while investigations on public figures started quickly in many countries, Mossack Fonseca co-founders Ramon Fonseca and Jürgen Mossack were only targeted by the Panamanian authorities in early 2017 after their implication in one of Brazil's biggest corruption scandals around the state-owned oil company Petrobras and the Odebrecht conglomerate. While investigations against them are on-going, they are currently out on bail.

The Panama Papers whistleblower "John Doe" remains anonymous to this date, citing insufficient whistleblower protection for him to come out. The journalists have not formally shared the original data with authorities, but investigations are ongoing across the globe with some countries such as Germany's Federal Crime Agency having bought data from informal sources.

Rank	Country	FSI Value	Secrecy Score	Global Scale Weight
1	Switzerland	1,466.1	73	5.63
2	Hong Kong	1,259.4	72	3.85
3	USA	1,254.7	60	19.60
4	Singapore	1,147.1	69	4.28
5	Cayman Islands	1,013.1	65	4.85
6	Luxembourg	816.9	55	4.85
7	Lebanon	760.2	79	0.37
8	Germany	701.8	56	6.02
9	Bahrain	471.3	74	0.16
10	United Arab Emirates	440.7	77	0.08
11	Macao	420.7	70	0.18
12	Japan	418.3	58	1.06
13	Panama	415.6	72	0.13
14	Marshall Islands	405.5	79	0.05
15	United Kingdom	380.2	41	17.3
16	Jersey	350.2	65	0.21
17	Guernsey	339.3	64	0.23
18	Malaysia	338.7	75	0.05
19	Turkey	320.9	64	0.18
20	China	312.1	54	0.74
21	British Virgin Islands	307.6	60	0.28
22	Barbados	298.3	78	0.02
23	Mauritius	297.0	72	0.05
24	Austria	295.3	54	0.74
25	Bahamas	273.0	79	0.01

Figure 7: The most important secrecy havens according to the Financial Secrecy Index (www.financialsecrecyindex.com/introduction/fsi-2015-results). 15 indicators, relating for example to international cooperation and transparency, are used to calculate the Secrecy Score. The Global Scale Weight indicates which share of the global export of financial services a country holds. The FSI Value combines the Secrecy Score with the Global Scale Weight. Detailed information on the methodology can be found here: www.financialsecrecyindex.com/PDF/FSI-Methodology.pdf

BERENBERG: BANKING FOR THE WORLD'S CRIMINALS

Berenberg Bank is one of the oldest banks in the world. It was founded in 1590 and has been part of the business establishment of Germany's second biggest city Hamburg for centuries. Since the 19th century, the bank has developed a global outreach and has been serving customers on several continents. Over the past decades, however, its focus has tightened around serving the world's wealthy elite in their (shady) business activities. Its CEO Hans-Walter Peters is currently also heading Germany's mighty federation of private banks and it donated significant amounts of money to the two major German parties CDU and SPD as recently as 2016.

In the Panama Papers, Berenberg was exposed as a prime partner of the Panamanian law firm Mossack Fonseca. Internal Mossack Fonseca emails praised the bank as being particularly efficient, swift and discrete in handling offshore arrangements. One of Mossack Fonseca's founders held accounts with Berenberg and sent his own son to intern for several months in the institute. At the same time, a vice director of Berenberg's Swiss branch in Zurich - whose name ICIJ has not revealed - personally used offshore companies by Mossack Fonseca to keep money in the dark.

Typically, the teamwork between Berenberg and Mossack Fonseca went as follows. Either Mossack Fonseca created offshore companies for its clients and requested the bank to set up accounts for those companies or the bank approached Mossack Fonseca with the need to create offshore firms for its clients. At times, Berenberg also bought offshore companies directly for its own clients from Mossack Fonseca. The services of the two firms are hence complementary for an individual who wants to keep funds anonymously offshore. The law firm provides a legal entity which gives anonymity and the bank adds the accounts and financial infrastructure that allow money to flow and be stored.

Often, in order to preserve clients' anonymity, names were not explicitly mentioned in the communication between Berenberg and Mossack Fonseca. Besides the common Mossack Fonseca strategy of hiding actual customers behind some straw-man or nominee director, the company even directly accessed and managed some of the accounts set up at Berenberg which formally belonged to its clients' offshore companies. Most of Berenberg's business with Mossack Fonseca was handled through the Switzerland and Luxembourg offices.

Furthermore, even the checks prescribed by anti-money laundering laws to know who the clients behind bank accounts actually are or the reporting of any risk of wrongdoing to authorities had been outsourced by Berenberg to Mossack Fonseca. Thus Mossack Fonseca simply confirmed that the money of a given client comes from a respectable business activity and that the identity of the client has been properly identified and Berenberg would ask no more questions.

This mixture of lax rule enforcement and deliberate fishing for lucrative but dubious clients led to an illustrious list of criminals with Berenberg accounts in the Panama Papers trove. That list ranges from Martin Lustgarten, suspected of having laundered 100 million euros for Mexican and Columbian drug cartels and paramilitary groups via a network of letterbox companies, a large part of which flowed through a Swiss Berenberg account. Gabriel Ricardo Morales Fallón, allegedly an intimate partner of well-known Colombian drug lord Juan Carlos Ramirez; Merhi Ali Abou Merhi, who is sought by the United States for Hezbollah-related terrorist financing and large scale drug money laundering in Lebanon and Colombia; and Hans-Joachim Kohlsdorf, Siemens Head of Mexico who used a Berenberg account officially belonging to a shell company as a 15 million US-dollar slush fund for Siemens corruption in Latin America.

In addition, two former Berenberg compliance officers exposed other flagrant cases to the European Parliament's Panama Papers committee of inquiry. Those included the involvement of Berenberg London in hiding money of Azeri ministers who are known for wide-spread corruption through complex trust arrangements in the UK and its crown dependencies, Jersey and Guernsey. They also named a massive medicine fraud case by Panamanian firm Carnival Enterprises CA via Berenberg Zurich, as well as Berenberg's cover-up of a large scale land fraud case in the UK in which Berenberg Hamburg and Zurich helped fraudsters to transfer more than 5 million stolen British pounds to their personal accounts in Latin America.

Those two compliance officers were also at the heart of the discovery of presumably one of Berenberg's biggest dealings with criminal networks: the so-called Vanagels connection. This seemingly far-fetched case revolves around Erik Vanagels, a homeless person in Latvia's capital Riga, who is formally the director of hundreds of offshore companies in the British Virgin Islands, the Bahamas, Cyprus, Ireland and the UK, totalling billions of euros of business.

He and several other Latvian individuals have either sold their identity documents or had them stolen, thus allowing a small network of law firms and offshore service providers to sell a vast amount of offshore companies with the individuals' names and supporting documentation (passports etc.) as nominee directors, owners, and treasurers. In each case, the advantage for the actual customers was to be able to do their business anonymously as Vanagels and the other persons were the only thing visible to the outside. Berenberg has for years – at least since 2009 but likely longer – had extensive client relationship with people using or even orchestrating the Vanagels Collection.

One of the most important Berenberg clients in connection with the Vanagels Connection was the Ukrainian Kaalbye Group that was founded and headed by oligarch and former Deputy Minister of Transport and Infrastructure Igor Urbansky. According to the Global Initiative against Transnational Organised Crime and others, Kaalbye Group is at the heart of a multi-billion annual illicit arms trade from Ukraine and Russia into conflict zones, often under UN embargo, such as Syria, Yemen and South Sudan. Money from this blood-stained trade is laundered via offshore companies of the Vanagels Connection in conjunction with Berenberg accounts.

When first uncovering the scale of Berenberg's client relations with Kaalbye and similarly dubious groups, the two compliance officers were encouraged by management to dig deeper and do their job. As soon as they found closer connections to senior management, however, they were abruptly sidelined and sacked from their positions thereafter. To prevent leaks to the public, the bank subsequently attacked them both in labour courts and pressured them into silence under the threat of heavy fines.

While Berenberg claims to have terminated all problematic client relationship – and they indeed did drop a lot of them following the internal revelations – the Panama Papers brought to light that collaboration with Mossack Fonseca and the Vanagels Connection continued at least into 2014 and 2015 respectively, if not longer.

Following the reports by Berenberg's compliance officers, German financial supervisory authority BaFin - which is responsible for anti-money laundering cases - requested a large amount of documents from Berenberg but eventually did not press money laundering charges further. According to the former Berenberg compliance officers, Berenberg managers expected such result as BaFin had no interest in clamping down on one of the few remaining healthy German banks post- financial crisis. Another reason was the difficulty in obtaining information from Ukraine by means of formal cooperation with government authorities.

In addition, BaFin's entire investigation was outsourced to a large law firm – possibly one of the Big Four – as the public authority does not have the capacity to perform complex investigations itself. Clearly, that law firm also had no interest in investigating their own potential business partners in the bank too carefully. Financial public prosecutors, too, were so overcharged that they would not start additional cases.
Regarding suspected aiding and abetting of tax evasion by the bank, criminal charges were also dropped by German authorities in relation to the Luxembourg branch and the Hamburg head office. Out of the potentially hundreds or thousands of offshore accounts created by Berenberg over the years, only the 76 that had been explicitly exposed in the Panama Papers were part of the investigation. However, those accounts still amounted to billions of euros over the past years. One likely reason why charges against the bank were dropped could be that it is not a crime in Germany to help customers evade taxes if the damage is done abroad. Another investigation, independently of the Panama Papers, is on-going by German authorities against the Swiss Berenberg branch.

GOOGLE: A SEARCH ALGORITHM THAT FINDS THE BEST TAX HAVEN

In 2015, Google – under its new parent name Alphabet – made almost 22 billion euros in profit. More than 100 countries in the world each had less economic output that year. Almost exactly half of its profit Google made outside of the US. On this huge sum, the company paid less than 900 million euros in tax. That is less than 8 euros for every 100 euros of profit. And it was even less until a number of countries from France, UK and Italy to Indonesia and Thailand started attacking the internet giant for its abusive tax regime in recent years. The reason for its super low tax rate is that Google transfers a majority of its global profits via Ireland, Singapore and the Netherlands to the British Overseas Territory of Bermuda which has no corporate tax.

Google's most important capital is the technology of its search engine. Since billions of people all over the world use Google to comb through the internet, advertising on Google's pages is extremely lucrative. This is how Google conducts its actual business: anyone who places an advertisement with Google from a European country concludes a contract with a company in Ireland called Google Ireland Limited.

Ireland itself has a corporate tax rate of only 12.5%. But Google's advertising income does not stay with Google Ireland Limited. It flows into a letter-box company in the Netherlands (Google Netherlands Holdings BV) and from there onto a second company registered in Ireland - but managed from Bermuda which remains tax-free according to Irish law (Google Holdings Ireland). On the basis of the three participating companies – two in Ireland and one intermediary in the Netherlands – this strategy is called double Irish with a Dutch sandwich. For revenues from Asia, only the first Irish layer in this scheme is substituted by an Asian topping in the form of a distribution company in Singapore.

Google uses its chain of subsidiaries to trick the tax law three times in each country. First Google Ireland Limited has no taxable presence in the various countries it sells advertising to and is thus only subject to tax in Ireland while doing business across several continents. In contrast, local Google subsidiaries are taxed in each country but they merely perform services such as marketing or customer service and earn only minimal profits as a result, which hardly incur any tax payments.

As a next step, Google Ireland Limited in Ireland pays licence fees for the Google technology to the letter-box company in the Netherlands which in turn then passes these onto the third Irish/Bermuda company.

Originally, the licence for the utilisation of the Google page and technology was in the United States, where the company was founded. To avoid taxes there, the rights were transferred to the Google Ireland/Bermuda branch office some time ago. This uses a special feature of Irish tax law. The branch office was founded based on Irish laws and is therefore also viewed as an Irish company by the United States, which is why the transfer of rights from the United States did not result in punitive taxes against tax havens. However, the company is 'controlled' from Bermuda, i.e. allegedly important business decisions are made there. As a result and according to existing Irish law, it is not subject to tax in Ireland.

To reroute the European profits that accumulate at Google Ireland Limited to the untaxed Google Ireland/Bermuda, this branch office lends the licences obtained from the United States to the letter-box company in the Netherlands and collects licence fees in exchange. Direct payments between the two companies in Ireland would provide the Irish authorities with evidence for punitive taxes against tax havens because from their perspective, Google Ireland/Bermuda is located in Bermuda.

The Netherlands does not have such deductions for payments to tax havens. Outgoing payments from Google Ireland Limited to the Netherlands are tax-free according to EU law. Thus the detour via the Netherlands allows the European profits to be transferred to Bermuda. There, no taxes at all are levied on company profits and Google collects a handsome dividend on untaxed funds, which can be used to expand the company or can be distributed to shareholders by means of other tricks.

GOOGLE: A SEARCH ALGORITHM THAT FINDS THE BEST TAX HAVEN

However, after heavy international criticism, Ireland announced at the end of 2014 legislative changes that should make the deception by Google and others more difficult. More precisely, the reforms would make any company registered in Ireland tax liable in the country. This would also apply to the Bermuda-controlled Google Ireland Holdings.

However, these changes will not take full effect until 2020 since companies which had already been using the Double Irish scheme before 2014 have been granted time to readjust their corporate structure. The same clause that permits Google's tricks also continues to survive in several Irish Double Tax Agreements, including with tax havens like Panama, Hong Kong or the Netherlands. Those agreements might prevail over national law and thus allow such abuse practices to continue. Meanwhile, in order to remain an attractive tax haven, Ireland has introduced an extreme tax break within the country in the form of a patent box in 2014 (see figure 3).

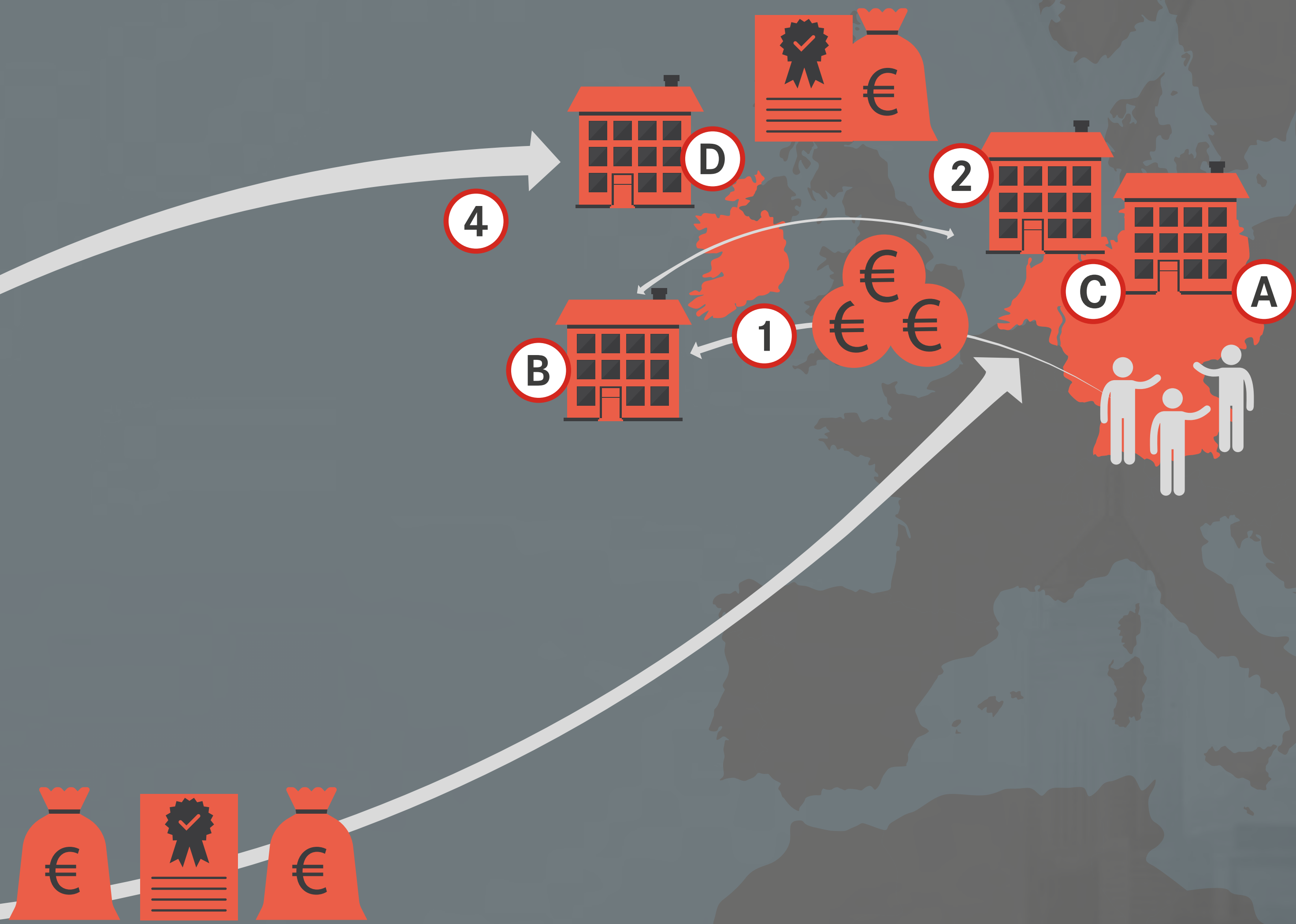


Figure 8: The case of Google

1. *A German consumer books online advertising with Google. The contractual partner for this is Google Ireland Limited (B). No profits accrue, therefore, at Google Germany (A).*
2 *In the form of licence fees the profits flow from (B) to Google's letter-box company in the Netherlands (C). In Ireland no taxes accrue at this stage*
3. *For its part, (C) pays licence fees to Google Ireland/Bermuda (D). All the group profits accumulate here. No taxes accumulate in the Netherlands either.*
4. *(D) is a company according to Irish law, which appears to be controlled out of Bermuda. It is not subject to tax either in Ireland or Bermuda.*
5. *To allow for the profit re-routing chain, the US Google parent group (E) transfers the licences for utilisation of the Google technology to (D) permanently. In this way tax payments in the United States are avoided.*

MONEY RULES OR WHY TAX AND SECRECY HAVENS THRIVE

Thanks to the outstanding work by journalists and tax justice activists who brought scandal after scandal to the public's attention, a serious debate has started on tax and secrecy havens. The sad truth is, however, that relatively little has yet been achieved politically to fix the problem. There are at least three reasons for this.

First, tax and secrecy havens harm the vast majority of us but serve a small elite well. And those who make the rules are often part of this small elite. A large group of high-profile politicians and their relatives was directly implicated in the Panama Papers. Meanwhile, the revolving door in Europe and elsewhere which brings representatives of large corporations into government and people from public office into lucrative corporate jobs keeps on spinning. Examples include former EU Commission President José Manuel Barroso who moved to Goldman Sachs in 2016 and the former Amazon Head of Tax in Luxembourg, Bob Comfort, who went the other way and became Luxembourg's paid honorary consul for the Seattle region in the US.

Second, while many don't necessarily benefit personally from tax haven deals, an overwhelming share of the political elite is still deeply entrenched in the neoliberal ideology. Under the belief that unregulated markets and profits for the rich will eventually benefit everyone, financial regulation and corporate tax are seen as an impediment to free business. That same ideology coupled with its propaganda of a 'lean' state and continuous austerity also perpetuates the incapacity of national tax and financial authorities to confront tax evaders and money launderers.

As a consequence of several decades of neoliberal dogma, the entire European legal structure favours the free flow of capital and establishment of businesses over other objectives, such as fair taxation. There are for instance several pieces of EU law, e.g. the Interest and Royalties Directive, which foster profit shifting across borders inside the EU and even to tax havens outside the Union by restricting taxation rights of EU member states.

While national laws aimed at fighting tax evasion and tax avoidance had for some time been considered outside the remit of the EU Treaties' free market principles, the European Court of Justice (ECJ) has more recently restricted member states' rights to 'interrupt' the free flow of capital in several judgements thus imposing severe constraints on national governments wanting to curb profit shifting in the EU.

Third, even where steps are undertaken to reform the current system, the complexity of tax laws, the need for agreement by many different national governments – each of which is potentially still trapped by the previous two points – and the extensive lobbying power of the tax and secrecy haven beneficiaries are severe obstacles. And even government secret services regularly use offshore havens and thus prevent their shutdown as argued by Mark Pieth, a criminal law professor and money laundering expert from Basel who headed the OECD's anti-corruption working group for 24 years.

Still, as a consequence of continuous public pressure, some reforms are under way or at least under discussion. Beginning with the US crackdown on foreign banks that had helped US citizens use offshore accounts to evade US tax (so-called FATCA law in 2010), a global standard of automatically sharing information on accounts of foreign citizens with their respective home county authorities - the so-called **Common Reporting Standard (CRS)** - was developed by the OECD. It will be applied by more than 100 countries including all EU member states in 2017 or 2018.

The standard has several loopholes, however, such as when people that use complex structures to remain anonymous are not identified and their data not shared with their home country - but it does make it harder for rich individuals to hide undeclared wealth offshore. Remarkably, the US, which created the impetus for the introduction of the new standard through its unilateral action, is now among a few major countries boycotting its multilateral implementation. By obliging foreign jurisdictions to send information to the US but not sharing information universally about financial wealth in the US with other countries, US secrecy jurisdictions like Delaware and Nevada are becoming more attractive in the global tax haven game.

At the same time, legislative initiatives to improve the rules against money laundering and the transparency of corporate profits with so-called country-by-country reporting have been put forward in the EU in the wake of the Panama Papers revelations. Many progressive proposals (see concluding chapter for details) by the GUE/NGL political group in the European Parliament and other actors had initially been taken on-board in the negotiations. Subsequently however, both initiatives were severely watered down in the law-making process having come under pressure from lobby groups and member state governments.

Currently, member state governments are also negotiating a so-called **black list of tax havens** outside the EU. Jurisdictions on this list would in the future be subject to sanctions if they do not reform and become more cooperative. A comparable 2015 EU Commission initiative collapsed soon after its launch upon fierce lobbying by tax havens. This year's project also risks becoming a paper tiger as member states softened the criteria of what would constitute a tax haven. The UK, for instance, managed to shield countries like Bermuda by making sure that even a corporate tax rate of zero would not automatically trigger the tax haven label. Tax havens inside the EU are not even part of the current proposal.

Way back in 1998, the EU founded a permanent working group of member states – the so-called **Code of Conduct Group** – to fight harmful tax competition and phase out the most evident tax avoidance schemes for multinational companies in the EU. The group's voluntary code of conduct essentially banned governments from luring foreign investments into their country by means of particularly lucrative tax offers. However, the working group failed in its basic remit. During its tenure, the number of questionable tax practices such as advance tax rulings and patent boxes have exploded. Even today, the workings of the group remain non-transparent and not even the European Parliament, despite repeated attempts, has full access to its deliberations.

The EU Commission, meanwhile, continues to proceed against individual tax saving models with the help of **European competition law** which it commands directly - unlike tax policy where it has limited competency and individual member states enjoy veto rights. This means it uses extensive aid procedures to demonstrate that corporate groups have received illegal state aid subsidies. But the Commission can only act if companies are individually favoured over their competitors, for example if Google pays 1% and Amazon pays 2% in taxes. If a country grants all resident corporate groups the same loopholes, this is above-board in terms of competition law.

... the worst case for companies is having to pay back the taxes that have been avoided. There are no genuine penalties.

Additionally, the worst case for companies is having to pay back the taxes that have been avoided. There are no genuine penalties. And such reimbursements go to the state that was responsible for the tax dumping in the first place (e. g. Luxembourg) and not where the taxes were actually avoided (e. g. Portugal). So while Apple, for instance, was ordered to pay back a record sum of 13 billion euros in tax, this money is meant to go to Ireland which has challenged the ruling and does not want to receive the amount in order to remain attractive as a tax haven in the future.

European Parliament inquiries

Thanks to continuous pressure by GUE/NGL group, the European Parliament has on multiple occasions raised the issue of tax dumping and money laundering in the EU, but without consistently advocating for progressive solutions and tax justice. After the Luxembourg Leaks, only a toothless special committee - instead of a committee of inquiry - was set up in an attempt by conservatives, liberals and social democrats to protect the newly-elected Commission President, Jean-Claude Juncker.

On the Panama Papers, a slightly more powerful committee of inquiry was created, but despite some improvements overtime, it also failed to fulfil the high standards expected of parliamentary scrutiny. This problem is partly structural. For years, EU member state governments have blocked a law - explicitly foreseen by the EU Treaties - that would give the European Parliament powers similar to national parliaments as regards to summoning witnesses, questioning them under oath and receiving access to government and EU Commission background documents. As regards access to document, GUE/NGL MEP Fabio De Masi has initiated several law-suits against the Commission under the EU's transparency regulation.

The Luxembourg Leaks committee eventually acknowledged in its report that member states and EU institutions like the EU Commission had violated EU law. For example, information on tax matters was not exchanged as prescribed by existing rules; local companies were discriminated against by means of customised deals with large corporate groups in violation of competition law; and the principle of sincere and loyal cooperation between member states and EU institutions was not upheld. This applies to both the investigated tax structures themselves and the work of the special committee which was prevented from accessing Commission and member state documents. However, the committee did not name those politically responsible for these contraventions.

The Panama Papers committee, in turn, has yet to publish its final report which is expected for autumn 2017. Its work provided a more thorough understanding of the sheer immensity of the problem posed by tax and secrecy havens. It concluded that member states are responsible for contraventions against and maladministration of EU law as they failed to exchange information on money laundering and tax offences between each other. They also did not appropriately enforce nor - in some cases - even translate into national law the requirements of the EU anti-money laundering framework. Similarly, massive shortcomings were established with regard to the oversight of the financial sector in member states. Lastly, like in the Luxembourg Leaks committee, the EU treaty principle of sincere cooperation among EU institutions and between institutions and member states has been violated as member states, Council and Commission all in part refused to cooperate with the Parliament inquiry.

GUE/NGL PANAMA PAPERS BLOG

The GUE/NGL group in the European Parliament had called for a strong committee of inquiry since the publication of the Panama Papers in April 2016. This committee was finally established a few months later. We have published about the work of the committee and our initiatives on tax justice more broadly on a dedicated blog

http://guengl-panamapapers.eu/

DON'T SHOOT THE MESSENGER: WHISTLEBLOWER PROTECTION NOW

When abuses are discovered in private enterprises or in the public sector, this is often the work of whistleblowers. These are usually insiders of an organisation who alert internal or external authorities or the general public to a problem that would otherwise remain unnoticed. They often play a crucial role in revealing corruption, theft and other crimes.

Usually both in the private sector and in public institutions, there are internal compliance departments that perform checks on the rest of the organisation and are collecting evidence in case of abuses or breaches of law. In reality, however, these internal whistleblowing channels are often blocked and resorting to them with sensitive information that incriminates parts of their own organisation could have negative repercussions for the whistleblower.
This then often leads to external whistleblowing, i.e. the disclosure of information to third parties, such as trade unions, journalists or authorities, or direct publishing – for example on the internet. In doing so though, whistleblowers often expose themselves to severe consequences which range from losing their job and other benefits to legal prosecution and even physical attacks and intimidation against themselves and their families.

At the international level, the United Nations, the OECD and the Council of Europe have long demanded better protection of whistleblowers. But the EU Commission has yet to take any concrete steps in the direction of a European framework for the protection of whistleblowers.

Quite to the contrary, a law was adopted in 2015 – the so-called trade secrets directive – which limits the rights of potential whistleblowers even further. The text defines the term 'commercial secret' very broadly as anything that a private company seeks to protect on its own. In addition, anyone who discloses information labelled as commercial secret can face prosecution – whatever the dirty tax tricks that had been exposed by the disclosure.

ANTOINE DELTOUR ON DISCLOSING THE LUXEMBOURG LEAKS

Antoine Deltour is one of two whistleblowers behind the Luxembourg Leaks. Following the disclosure, he was indicted in Luxembourg in late 2014 and faced up to five years in prison and potentially millions of euros in fines. His trial was held in April and May 2016 jointly with the other whistleblower, Raphaël Halet and the journalist, Edouard Perrin. Deltour and Halet were convicted in the court of first instance and this verdict was upheld with some modifications by the appeal court in 2017. Deltour received the European Citizens' Award 2015 and was nominated by the GUE/NGL group with other whistleblowers for the EU Sakharov Human Rights Award. Details on his story are documented here: https://support-antoine.org/en/.

Could you start by describing what your situation was when you became a whistleblower and what it was that you revealed?

I worked in Luxembourg from 2008 to 2010 as an accounting auditor for one of the 'Big Four auditing firm. It was my first professional experience. I was happy to earn a good living so young. My job consisted of reviewing the accounts of the client companies. I had a strong conviction in serving the public interest, as everybody needs reliable financial figures.

Of course, I knew that many multinationals were in Luxembourg for tax reasons. But I found out that their tax practices were much more opaque and aggressive than I could imagine. Most of my clients had no employee, no turnover and finally no real economic activity in Luxembourg. But some secret tax deals granted by the Luxembourg tax authorities allowed them to transfer huge profits to Luxembourg without paying almost any tax, neither in Luxembourg nor in the countries where these profits were made.

> "I knew that many multinationals were in Luxembourg for tax reasons. But i found out that their tax practices were much more opaque and aggressive than I could imagine. Most of my clients had no employee, no turnover and finally no real economic acitivty in Luxembourg."

How did this step feel and what were you motives in bringing the information about tax rulings to the public?

I decided to resign because I couldn't find the sense I need in my job. The day before my last day, I found by accident a folder containing hundreds of these secret tax deals.

I thought I had a rare opportunity to have a little chance to change things. At that moment, lots of Europeans were enduring hard austerity measures, especially in Greece. I felt it was unfair that very profitable companies used artificial schemes to avoid their share of the effort.

What happened once you became known publicly as a whistleblower? Did you receive a lot of support or was your life becoming more difficult?

Except for the criminal charges that I face in Luxembourg, I‘ve been very lucky compared to most whistleblowers. I found another job (in another sector and in another country) and I have very good people around me. Thanks to the media attention, I received lots of support from the public, from some politicians, from NGOs... I owe them a lot. They gave me some credibility to defend myself in Court, especially when I claim that I acted in the public interest.

You have by now been through a long battle with the Luxembourg justice system. Even at the appeal court, part of your earlier guilty verdict was confirmed. The court, however, recognised you as a whistleblower who acted in the interest of the general public. How do you explain this contradiction and do you plan on taking any legal steps further?

After a first appeal this year, my sentence was reduced to a 6-month suspended jail sentence and a fine. But the proceedings are still on-going. I have faith that the European Court of Human Rights will protect me. Its case law has already led the Luxembourg justice to recognise me as a whistleblower and to acquit me of the violation of professional secrecy when I gave the documents to the journalist. But at the same time, I was found guilty of having taken the same documents! I‘m not the best person to explain this contradiction. I‘ve read carefully the dozens of pages of the verdict and I still don‘t understand it. One hypothesis could be that the interests of the huge Luxembourg financial sector carried a lot of weight in this condemnation. The stake is clearly to dissuade any employee with grievances from starting to talk about them. But Luxembourg has already taken a huge step forward. Most observers had expected a more severe sentence.

According to your experience, what should be the essential elements of a European framework to protect whistleblowers effectively?

The Luxleaks case shows that the European general interest may differ from national interest. In itself, it illustrates the need for a European protection of whistleblowers. I hope it will be the broadest possible. For example, a horizontal approach should be more protective than sectorial ones. I also think that the best protection is anonymity. As far as I know, John Doe - who unveiled the Panama Papers - didn‘t suffer any consequences for his very valuable action. And above all, before any protection, most whistleblowers just demand that their disclosures are taken into account, which unfortunately is not always the case.

OBITUARY – DAPHNE CARUANA GALIZIA

Maltese investigative journalist Daphne Caruana Galizia was assassinated in a car bomb on October 16th 2017.

Ms Caruana Galizia was one of Malta’s leading investigative journalists and known for her relentless fight against corruption and cronyism. She did not shy away from confronting the influential and powerful of her home country Malta; a practice that turned death threats against her and her family into a sad regularity of her life.

Documents from the Panama Papers allowed her to tie Maltese government officials, such as the energy minister or the prime minster’s chief of staff, to shell companies. Her allegations led Mr Muscat, Malta’s Prime Minister, to call snap elections in June of this year.

In a country where the law is bent and broken all too easily to assist those in power and that serves as a safe haven for the mafia and money launderers, Ms Caruana Galizia’s piercing and outspoken commentary will be greatly missed. She leaves behind a husband and three sons.

DENNIS DE JONG ON EUROPEAN WHISTLEBLOWER PROTECTION

Dennis De Jong has been a Member of the European Parliament and GUE/NGL since 2009. He is a member of the budget control committee and also the committee on the internal market and consumer protection. In 2016, he authored a report by the European Parliament on the protection of whistleblowers.

What has been your personal experience in working with whistleblowers? How did you come to be involved with this topic?

In the Netherlands, there have been several cases but what really made me aware of the need for some kind of European protection of whistle-blowers was the testimony of Antoine Deltour during an event I had organised in the Parliament. For revealing the tax avoidance practices in Luxembourg, Deltour should have been seen as a hero, instead of as a criminal as Luxembourg does.

> "For revealing the tax avoidance practices in Luxembourg, Deltour should have been seen as a hero, instead of as a criminal as Luxembourg does."

How is it possible that the European Union still has no framework for the protection of whistleblowers, despite so many egregious examples of courageous people acting in the interest of society and being shunned and prosecuted thereafter?

It is not easy to find a proper legal basis for any horizontal legislation concerning the protection of whistleblowers, i.e. a legal basis which does not require decision-making by unanimity. A way out would be to start with a more sectorial approach, e.g. with regard to situations in which the financial interests of the EU are at stake. Also within the European Parliament, there seems to be the fear among some colleagues that whistleblowers serve mainly their own interests, instead of the public interest. Similarly, big companies have lobbied hard for the adoption of the trade secrets directive, which undermines the protection of whistleblowers who report wrongdoings within a company.

It could well be that they want to avoid the situation where a new legislative initiative on the protection of whistle-blowers might reduce the protection of what they see as their trade secrets.

Are there member states that provide appropriate protection already?

In the Netherlands, we established recently a House of the Whistleblowers, which helps whistleblowers to find the right channels for dealing with their information. This could certainly be called a best practice to be copied at the European level.

What is the contribution that the European Parliament can make and has made to this discussion?

So far, the EP expressed its call for a legislative initiative in two resolutions. A new report is underway. Even though the European Parliament cannot force the Commission to submit a legislative proposal, the work of Parliament can certainly increase the pressure on the Commission to come up with such an initiative, despite resistance among some members of the Council.

What are your expectations regarding action by the European Commission following its public consultation on the need for a European framework to protect whistleblowers?

That is difficult to say. Considering the resistance from some member states, it all depends on how the Commission perceives the political situation. That‘s why it is so important to leave the door open for a sectorial approach, as this may reduce resistance in the Council, and hence may be more realistic in the short-term.

A FUTURE WITHOUT SECRECY AND TAX HAVENS

A just and transparent tax and financial system is possible. For companies, the principle must be: Profits are taxed where they are earned, not where a corporate group has a letterbox. To stop money laundering and tax evasion by wealthy individuals, there needs to be an end to offshore secrecy and zero tolerance against financial crime. All these can be achieved with a mixture of measures that are ready to implement – even by individual countries – and a more fundamental reform of company taxation at the international level.
Fighting for tax justice and against money laundering is contributing to gender equality, too. Several studies have shown that women often bear the brunt when public services such as in child care or education are cut. They also suffer disproportionately from human trafficking which constitutes one of the principal sources of dirty money laundered in offshore havens.

A critical first step would be more **transparency**. Opacity encourages everything from dodgy tricks to serious crime. Today, even for a large company with detailed legal reporting requirements, it is impossible to know how much tax is paid in a certain country. If, for example, profits are shifted from France to Luxembourg, but the annual accounts lump all its European businesses together, tax avoidance goes unnoticed.

Public country-by-country reporting has been developed as a concept to make key company data such as revenue, profit, number of employees and taxes paid in each country in which the corporate group operates publicly available. Since 2017, such data needs to be reported to the tax authority of the country where a multinational company’s headquarter is registered. It is not published though. This is insufficient as journalists, NGOs and researchers were involved in all major tax revelations and played a key role in scrutinising information to detect suspicious patterns such as when a tax haven shows hardly any employees but much higher profits than in other countries. For the banking and extractive resource industry, publication is already mandatory and some significant tax tricks could be uncovered thanks to this.

Similarly, anonymous letterbox companies and trusts need to be stopped. This would be achieved by **public registers** containing basic information **on the so-called ultimate beneficial owners** of each such entity, i.e. the person actually pulling the strings (and not just some nominee or middleman). Registration of companies in the EU should be made contingent on the publication of basic but crucial information on the owners.
There are more technical questions to sort out here, too, such as the threshold beyond which a person counts as the owner of an (offshore) company. This currently stands at a very high 25% which means that with only five people each holding only one-fifth of the company, no owner is registered and the dubious business can continue its operation unhindered. Discussions on this topic are currently on-going in the revision of the EU's Anti-Money Laundering Directive, but a fundamental reform looks unlikely - unfortunately.

But such transparency would make the life of fair-playing financial and law firms a lot easier as they can fulfil their obligation to check customers for criminal and money laundering risks without having to weave through complex offshore structures shielding the true owners. Also, the agreed **international automatic exchange of financial information** only becomes a useful tool - despite remaining shortcomings in particular for development countries which are regularly excluded from exchanges - against tax evasion of wealthy individuals via offshore accounts if fully-fledged ownership transparency is ensured.

As a third key transparency measure, the advance tax rulings or **sweetheart deals between companies and tax authorities should be published** instead of merely automatically exchanging them between tax authorities as planned. As the Luxembourg Leaks showed, dubious deals can only be uncovered and debated if they are accessible to a critical public. Truly commercially sensitive information, which critics often cite as an argument against transparency, could be blackened out in the process and are not contained in most such agreements anyway.

At the same time, **tax administrations must be better equipped** and the harmful influence of corporate group lobbyists must be limited to ensure tax laws are made for the benefit of the general public and be properly enforced. This requires solid investments in public service that will fund themselves as tax investigators return a multiple of their salaries in revenue to public budgets. According to estimates, in Germany this would be an average of one million Euros per tax investigator. In contrast, defying all logic in EU countries between 2008 and 2012, almost 60 000 jobs in tax administrations were eliminated by the Troika's programme of cuts – even in countries like Greece with inadequate tax enforcement.

Financial enablers, law firms and tax advisors who spread tax avoidance models and facilitate money laundering must be **deterred with effective penalties** such as significant fines or the withdrawal of their business licence in repeated cases. At the moment, even when convicted, companies often simply price low penalties into their business and continue to act as before. Often, though, there are not even guilty verdicts as courts need to establish individual responsibility of specific employees in many countries. That could be changed by the introduction of a **corporate criminal law**, like in the US, which allows for punishment of the entire company when crimes have been committed.

The proposals by Richard Murphy (see interview) on making these firms more accountable, including an end to self-supervision and measures to end conflicts of interest should also be heeded.

In addition to transparency and deterrent measures, governments must regain the possibility of collecting taxes directly at the source, where profits flow into foreign countries untaxed. This can be achieved through **withholding taxes or limitations of tax deductibility** for payments that go into tax and secrecy havens. These measures are particularly important in the short term as they can be applied by countries unilaterally, i.e. without waiting years for agreement in international negotiations on better tax rules. Sometimes they will necessitate the re-negotiation of Double Tax Agreements or a different - but possible - interpretation of existing EU law.

In the medium term corporate groups that act across borders must be appropriately taxed through international cooperation. The concept of **unitary taxation** is central here. In order to fully tackle profit shifting across borders, the use of letterbox companies without real employees and the arbitrary use of transfer prices which are hard to evaluate for tax authorities, corporate groups must no longer be seen as individual national parts, but as one integrated economic entity.

Profits of the entire corporate group would then be determined once at the headquarters, adding up all parts of the group globally. Subsequently each country where the group does business would be allocated a certain portion of the overall profits for taxation. This allocation would take place according to an agreed formula which measures actual economic activity of the corporate group. It would be based on, for example, sales, revenue, employees and investments in factories and machines. As a last step, countries apply their own tax rate on the part of the profits from a corporate group that they got the right to tax through the allocation formula (see figure 7). Technically, this process is called **formula apportionment**.

HOW TO TAX GLOBAL COMPANIES

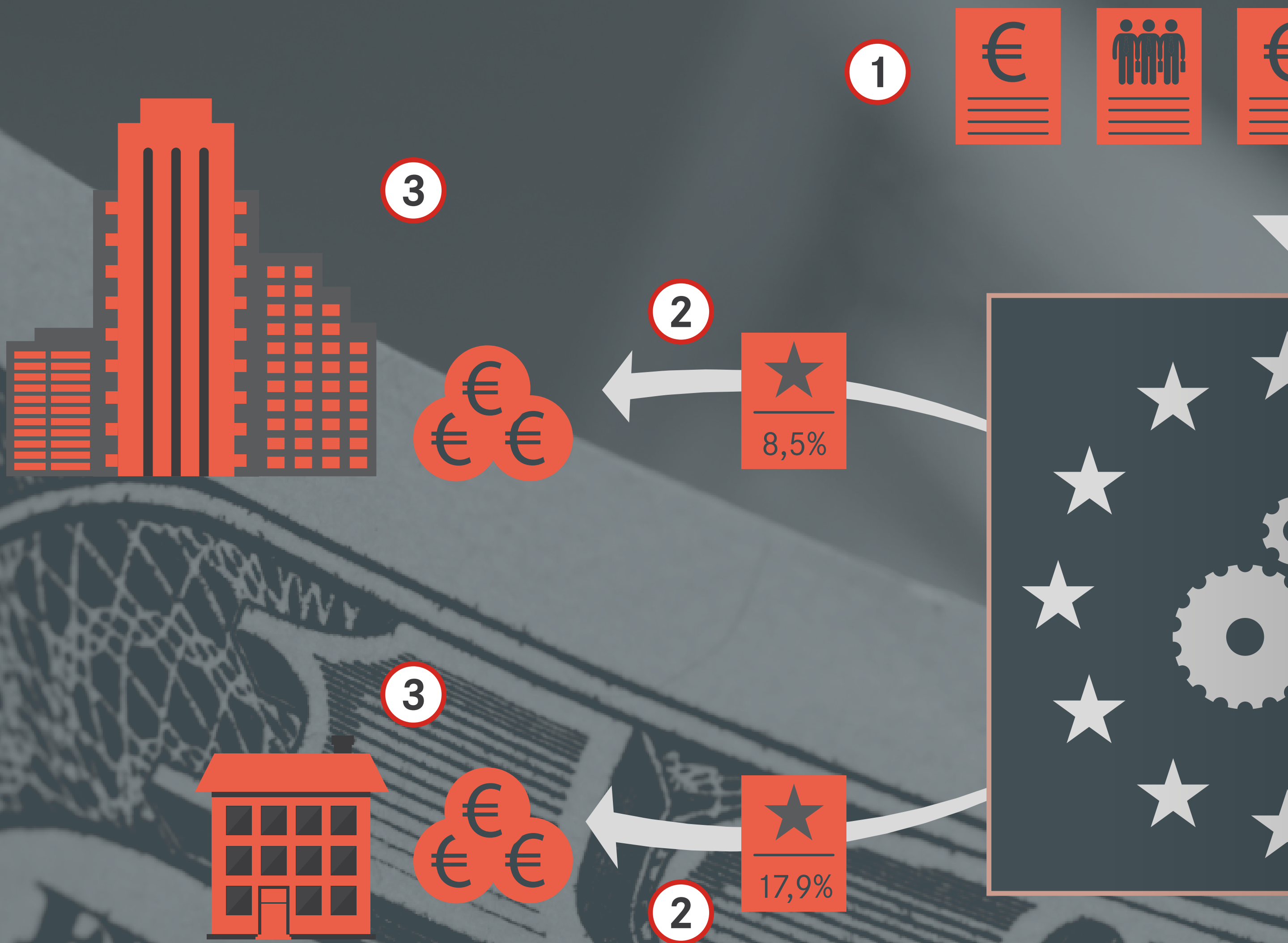


Figure 9: 1. The profits of all parts of a global corporate group are added up at its headquarters (ultimate parent company). 2. Globally – or at the EU level – profits are then split among all countries where the corporate group does business according to an agreed formula which measures real economic activity. The more sales, factories and employment in a given place, the more profit is allocated there. 3. Each country then taxes the respective allocated profits according to its own tax rates.

€
§
€
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30,7%
3
3
10,3%
2

If a company performs more production or sales in a given country, that country receives the right to tax a larger share of the global company profits. Then it would not matter if corporate groups shift profits to tax havens. Letterbox companies neither manufacture goods nor consume them and profits would hence be redistributed to those countries where the firms do actual business.
Even with this system, several risks remain, however. With tax havens that are not remote islands but larger countries like the US, Ireland or the Netherlands, unitary taxation could lead to the displacement of real business to countries with low tax rates. Many loopholes to artificially reduce profits would be ruled out as profits are calculated according to the same rules. But as every country still independently taxes the portion of the global profit allocated to it, the pressure would still exist to offer the lowest possible tax rates to lure those factors that play a role in the agreed upon formula (employees, investments) into the respective country.

Corporate groups could even compare different tax rates more easily across national borders. To stop this downward spiral some members of our political group GUE/NGL favour minimum corporate tax rates in all countries while others stress unilateral measures to defend the tax base or a combination thereof. Effective minimum corporate tax rates could take other characteristics of an economy like size, level of income and location into account. Such a general backstop would be helpful to remove any incentives to relocate operations for tax reasons.
It is also of central importance how global profits are calculated under unitary taxation. This is what is called tax base, i.e. which factors can be deducted from gross profits or how accounting rules work. For a fair tax system, it needs to be sufficiently broad. After the massive reduction of corporate tax rates in the recent past (figure 3), corporate groups themselves partially support the idea of unitary taxation, hoping that it will bring about a radical narrowing of the tax base under current political majorities. High standards areparticularly crucial as individual countries would no longer be able to implement more progressive arrangements under uniform international rules.

In addition, a recalibration of the profit allocation formula would be needed to balance the interests of different groups of countries globally. At the moment, developing countries are mostly excluded from tax policy debates at the OECD, for instance. A reformed and reinforced **intergovernmental tax body at the United Nations** would therefore be paramount to ensuring that new international rules are democratic.

In the EU, the Commission has already proposed a system of unitary taxation called **Common Consolidated Corporate Tax Base (CCCTB)** twice: in 2011 and 2016. The earlier version was unilaterally blocked by member states wary of harmonisation and letting go of their tax wars. The current version is under negotiation but chances of approval look slim once again. Breathing the neoliberal spirit of current EU integration, the proposal would most likely not deliver a fair tax system even if adopted.

First, by being restricted to business in the EU, large possibilities of profit shifting still remain outside the continent. Second, the rules look likely to lower rather than expand the corporate tax base due to new tax give-aways that replace existing loopholes. This is because it introduces rules on what companies can legally deduct from their taxable income which are far more generous than applicable legislation in many member states.

Third, the rules lack common accounting standards for how businesses calculate the components of their profits (turnover, costs etc.) and thus make the EU aggregation of profit figures complicated. Fourth, many parts under effective control of corporate groups would not actually be considered as belonging to them under the CCCTB because of restrictive thresholds.

Lastly, the proposal makes no mention of any minimum level in tax rates and would hence only fan the flames of tax wars rather than usher in a new era of fair taxation. For a comprehensive reform at EU level, a new set of treaties would be necessary to allow progressive integration instead of the current liberal model.

JAHANZEB AKHTAR ON TAXING MULTINATIONAL CORPORATIONS

Jahanzeb Akhtar, from the Indian Revenue Service, is working as Principal Commissioner of Income Tax with the Ministry of Finance, Government of India. In 2015-16 she was a Fulbright Fellow in the US under the Hubert H Humphrey Fellowship. She has an academic background in Law, Sociology and Public Policy. The views expressed here are personal.

What, in your view, is the biggest problem in international corporate taxation today?

Powerful multinational corporations (MNCs) are able to game the international tax system using aggressive tax avoidance schemes and transfer of profits to low/no tax jurisdictions. They bleed the taxes of those countries where they create economic value for themselves. This injustice, in my view, is at the core of international corporate taxation today, actively facilitated by the MNC accounting and law firms. The BEPS action plans suggested by the OECD provide only a partial resolution to this problem. In fact, the control of tax rule making by the OECD, implying the powerlessness of the developing and underdeveloped countries to participate through the United Nations in setting international tax norms, has aggravated the inequities over the years.

"Powerful multinational corporations are able to game the international tax system using aggressive tax avoidance schemes and transfer of profits to low/no tax jurisdictions."

What has India done so far to tackle corporate tax avoidance?

India has a strong and modern tax administration with a robust technology spine. It has supported the BEPS work of the OECD through the G20 where it is a member. In line with BEPS Action item 13 the Indian Government has recently introduced rules to enable Country by Country Reporting (CBCR) of MNCs. Equalization levy has also been introduced.

Over the years, the Indian direct tax administration has developed strong capacities in the audit of transfer pricing cases which are now shared with other developing countries. Our tax laws also include a robust GAAR i.e General Anti Avoidance Rules to identify 'impermissible avoidance arrangements' with the burden of proof being on the taxpayer to prove the existence of commercial substance.

India is also a signatory to the multilateral convention to support automatic exchange of information between competent authorities for tax purposes. Recent initiatives to identify and take action against shell companies, being used for illicit financial flows and round tripping, have sent out a loud message about the country's resolve to frontally confront tax avoidance and evasion.

"Without a universally representative intergovernmental tax body in the UN, all efforts to correct an iniquitous international corporate tax system will remain partial and stymied by vested interests."

What else has to be done at the international level?

Without a universally representative intergovernmental tax body in the UN, all efforts to correct an iniquitous international corporate tax system will remain partial and stymied by vested interests. The creation of this body, therefore, should be an urgent priority for the international community. More transparency of financial transactions will help to shine the light on the dark alleys of tax evaded incomes and investments, especially in secrecy jurisdictions. The CBCR regime, recommended by the OECD with confidentiality of information, needs to be modified for public sharing so that even the poorest or technologically challenged countries can access it. Additionally, the demand for setting up registries of beneficial ownership should be enforced in all jurisdictions so that the corporate veil behind which the rich and powerful hide can be pulled aside.

Since the present transfer pricing regime involves legal fictions and unnecessary complexities designed to favour the powerful MNCs and their consulting firms, the alternate universe of unitary taxation should be actively explored by the developing countries and emerging economies. Countries like BRICS, attractive for their large markets and as investment destinations, must leverage their strengths to promote developing country cooperation and enforce tax fairness on MNCs. They should also resist inveiglement by the OECD narrative which, in the ultimate analysis, is not supportive of their source based taxation for mobilizing domestic resources in pursuit of legitimate development aspirations.

WRAP-UP: GUE/NGL TAX JUSTICE ACTION PLAN FOR EU MEMBER STATES

A Making corporate profits and letterbox companies transparent

- Full public country-by-country reporting for multinational firms published in an open data format and centralised in an easily accessible database.
- Fully public registers of the ultimate beneficial owners of all companies, trusts, foundations and other legal entities and arrangements. Any legal or natural person with a stake in an entity or arrangement should be recorded.
- Public disclosure of tax rulings for individual tax payers.
- Encompassing protection and compensation of whistleblowers acting in the public interest.

B Stopping financial crime

- Reversal of austerity in tax administrations and financial intelligence units – adequate staff and equipment to fight tax crime and money laundering.
- Sufficiently strict penalties for assistance in and promotion of tax crime and money laundering, in repeated cases the withdrawal of banking and other business licences for enablers.
- Fully-fledged automatic exchange of information on bank accounts, taking into account loopholes in the existing OECD Common Reporting Standard.
- Punitive measures against tax and secrecy havens such as significant withholding taxes on financial transfers and fines on financial institutions operating through those jurisdictions.
- Corporate criminal law provisions to allow for appropriate prosecution of legal entities for financial crimes.

C Taxing multinational companies realistically

- Creation of an intergovernmental UN tax body that deals with international tax affairs in a way which ensures representation of all countries globally.
- Introduction of a system of unitary taxation globally – or at least in the EU – that allocates corporate profits fairly to jurisdictions where companies do actual business, without the problematic loopholes and tax-reducing provisions of the EU Commission's current CCCTB proposal.
- Rules to ensure minimum effective corporate tax rates in all countries as a means to prevent tax competition and a race to the bottom in tax rates. Those can be adapted to suit different requirements according to country-specific characteristics such as location, level of income and size of the economy.

D Reversing the surge of inequality

- Substantive wealth and inheritance taxes to rebalance the spiralling wealth divergence.
- Strong and progressive profit, income and capital gains taxes that do not favour corporate profits or capital gains over labour income.
- Less regressive consumption and other indirect taxes that are currently at the heart of the neoliberal tax shift towards workers, the lower-income population and women.
- Fight against tax competition which deepens the North-South inequality.

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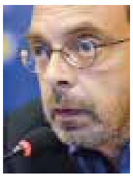

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THE GUE/NGL GROUP

In the European Parliament the members of the national parties combine across borders to form political groups: Together the European parties of the left form the Confederal Group of the European United Left/Nordic Green Left (GUE/NGL for Gauche Unitaire Européenne/Nordic Green Left). 52 members from 19 political groups and 14 different member states meet in the group. www.guengl.eu

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