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P9_TA(2021)0438

Pandora Papers: implications for the efforts to combat money laundering, tax evasion and tax avoidance

European Parliament resolution of 21 October 2021 on the Pandora Papers: implications for the efforts to combat money laundering, tax evasion and tax avoidance (2021/2922(RSP))

(2022/C 184/10)

The European Parliament,

— having regard to the statement on a two-pillar solution to address the tax challenges arising from the digitalisation of the economy of the Organisation for Economic Co-operation and Development (OECD)/G20 Inclusive Framework on Base Erosion and Profit Shifting of 8 October 2021,

— having regard to its resolution of 19 April 2018 entitled 'Protection of investigative journalists in Europe: the case of Slovak journalist Ján Kuciak and Martina Kušnírová' ([1]),

— having regard to its resolution of 25 November 2015 on tax rulings and other measures similar in nature or effect ([2]) (TAXE resolution),

— having regard to its resolution of 6 July 2016 on tax rulings and other measures similar in nature or effect ([3]) (TAX2 resolution),

— having regard to its recommendation of 13 December 2017 to the Council and the Commission following the inquiry into money laundering, tax avoidance and tax evasion (PANA recommendation) ([4]),

— having regard to its resolution of 26 March 2019 on financial crimes, tax evasion and tax avoidance ([5]) (TAX3 resolution),

— having regard to its resolution of 18 December 2019 on the rule of law in Malta following the recent revelations surrounding the murder of Daphne Caruana Galizia ([6]),

— having regard to the Commission communication of 7 May 2020 on an Action Plan for a comprehensive Union policy on preventing money laundering and terrorist financing (C(2020)2800),

— having regard to its resolution of 10 July 2020 on a comprehensive Union policy on preventing money laundering and terrorist financing — the Commission's Action Plan and other recent developments ([7]),

— having regard to the reports on the Pillar One and Pillar Two Blueprints adopted by the OECD/G20 Inclusive Framework on 14 October 2020, as well as the results of the economic analysis and impact assessment of the proposals carried out by the OECD,

— having regard to its resolution of 21 January 2021 on reforming the EU list of tax havens ([8]),

— having regard to Special Report No 03/2021 of the European Court of Auditors (ECA) of 26 January 2021 entitled 'Exchanging tax information in the EU: solid foundation, cracks in the implementation',

([1]) OJ C 390, 18.11.2019, p. 111.
([2]) OJ C 366, 27.10.2017, p. 51.
([3]) OJ C 101, 16.3.2018, p. 79.
([4]) OJ C 369, 11.10.2018, p. 132.
([5]) OJ C 108, 26.3.2021, p. 8.
([6]) OJ C 255, 29.6.2021, p. 22.
([7]) OJ C 371, 15.9.2021, p. 92.
([8]) Texts adopted, P9_TA(2021)0022.

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— having regard to ECA Special Report No 13/2021 of 28 June 2021 entitled 'EU efforts to fight money laundering in the banking sector are fragmented and implementation is insufficient',

— having regard to the Commission communication of 18 May 2021 entitled 'Business Taxation for the 21st Century' (COM(2021)0251),

— having regard to the legislative package presented by the Commission on 20 July 2021 to strengthen the EU's rules on anti-money laundering and countering the financing of terrorism (AML/CFT),

— having regard to its resolution of 16 September 2021 on the implementation of the EU requirements for exchange of tax information: progress, lessons learnt and obstacles to overcome ([9]),

— having regard to its resolution of 7 October 2021 on reforming the EU policy on harmful tax practices (including the reform of the Code of Conduct Group) ([10]),

— having regard to Rule 132(2) and (4) of its Rules of Procedure,

A. whereas the Pandora Papers are a massive data leak, unprecedented in size, documenting the beneficial owners of corporate entities established in secrecy jurisdictions; whereas the International Consortium of Investigative Journalists (ICIJ) began publishing the Pandora Papers on 3 October 2021;

B. whereas 2,94 terabytes of data were leaked to the ICIJ and shared with media partners around the world; whereas some of the files date back to the 1970s, but most of those reviewed by the ICIJ were created between 1996 and 2020; whereas the new data leak reportedly concerns more than 330 politicians and public officials from almost 100 countries, including 35 current or former heads of state or government;

C. whereas the Pandora Papers reveal how high-net-worth individuals, including politicians, criminals, public officials and celebrities, are assisted by intermediaries, such as banks, accountants and law firms, in designing complex corporate structures registered in secrecy jurisdictions or tax havens in close cooperation with offshore professional service providers, in order to shield income and assets from fair taxation and scrutiny;

D. whereas the Pandora Papers are the latest major data leak to expose the inner workings of the offshore financial world, following on from Lux Leaks in 2014, Swiss Leaks in 2015, the Panama Papers in 2016, the Paradise Papers in 2017, Mauritius Leaks in 2019, Luanda Leaks and the FinCEN Files in 2020, and Lux Letters in 2021;

E. whereas the Pandora Papers highlight the fundamental role of beneficial ownership information in supporting the fight against money laundering and other financial crimes and the urgent need for public accessibility and more accurate information;

F. whereas the activities reported in the Pandora Papers include the creation of shell companies, foundations and trusts for the following purposes: to purchase real estate, yachts, jets and life insurance anonymously, to make investments and move money between bank accounts, to avoid taxes and to carry out financial crimes, including money laundering;

G. whereas the activities reported in the Pandora Papers, even if they are not all inherently illegal, often amount to tax avoidance and abuse of corporate secrecy;

H. whereas tax authorities have reportedly recovered over EUR 1 billion following the Panama Papers revelations ([11]);

I. whereas using the most conservative apportionment formula, the EU has the highest losses globally as a result of profit shifting to tax havens and is estimated to lose about 20 % of its corporate tax revenue every year;

([9]) Texts adopted, P9_TA(2021)0392.
([10]) Texts adopted, P9_TA(2021)0416.
([11]) International Consortium of Investigative Journalists, 'Panama Papers revenue recovery reaches $1,36 billion as investigations continue', 6 April 2021.

J. whereas following the 2008-2009 financial crisis and a series of revelations of tax evasion practices, aggressive tax planning, tax avoidance and money laundering, the G20 countries agreed to address these issues globally at OECD level through the Base Erosion and Profit Shifting (BEPS) project, leading to the BEPS action plan;

K. whereas adequate international tax laws are key to preventing tax evasion and tax avoidance practices, and to designing a fair and efficient taxation system that addresses inequality and ensures certainty and stability, which are prerequisites for competitiveness, as well as for a level playing field between companies, especially for small and medium-sized enterprises (SMEs);

L. whereas, according to the EU Tax Observatory, the amount of financial wealth held in tax heavens in 2017 was EUR 7 900 billion; whereas this amount is equivalent to 8 % of the world's gross domestic product (GDP); whereas the result is a loss of tax revenue of around EUR 155 billion per year worldwide;

M. whereas estimates of the scale of EU tax revenues lost to corporate tax avoidance alone range from EUR 50 to EUR 70 billion per year, and whereas the figure reaches almost EUR 190 billion if other factors, such as special tax arrangements and tax collection inefficiencies, are included; whereas, according to the EU Tax Observatory, about 11 % of the EU's total net wealth, or EUR 2 300 billion, is held offshore;

N. whereas the European Parliament, in its TAXE, TAX2, PANA and TAX3 resolutions and recommendations, as well as in the recent resolutions adopted on the basis of reports by its Subcommittee on Tax Matters (FISC), has repeatedly called for a reform of the international corporate tax system with a view to tackling tax evasion and tax avoidance;

O. whereas, according to Europol, 0,7-1,2 % of the Union's GDP is 'detected as being involved in suspect financial activity' such as money laundering connected to corruption, arms and human trafficking, drug dealing, tax evasion and fraud, terrorism financing or other illicit activities which affect EU citizens in their daily lives; whereas according to figures from Europol, of the 1,1 million reports of suspicious activity in 2019, only 10 % have been further investigated by public authorities (with large differences between countries);

P. whereas, while it is difficult to estimate the scale of money laundering because by its very nature the activity is not disclosed unless detected, it is clear that it is increasing globally;

Q. whereas, according to the UN Office on Drugs and Crime, the equivalent of 2,7 % of the world's annual GDP is laundered each year;

R. whereas the Commission initiated infringement procedures against the majority of Member States for having failed to properly transpose the fourth and fifth Anti-Money Laundering Directives ([12]) (AMLD) into national law;

S. whereas the Union's framework for anti-money laundering and countering terrorist financing (AML/CFT) suffers from shortcomings in enforcement, combined with a lack of efficient supervision; whereas consecutive legislative reforms have attempted to strengthen the framework in the past years in order to address the emerging risks and shortcomings;

T. whereas in the past decade the EU has adopted a series of legislative reforms to combat tax avoidance and financial crime; whereas these reforms have had positive effects on the functioning of the internal market and on safeguarding Member States' tax base and revenue, which are prerequisites for job creation, growth, and especially for the recovery of the EU economy after the COVID-19 pandemic; whereas, however, there is an ever-increasing need for better cooperation between the administrative, judicial and law-enforcement authorities within the EU;

([12]) Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing (OJ L 141, 5.6.2015, p. 73); Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing (OJ L 156, 19.6.2018, p. 43).

U. whereas the European Public Prosecutor's Office, the European Anti-Fraud Office (OLAF), Europol, the European Union Agency for Criminal Justice Cooperation (Eurojust) and national financial intelligence units are doing invaluable work in detecting and combating cross-border fraud, money laundering and tax evasion; whereas those offices and agencies are chronically understaffed and lack financial resources due to the unwillingness of the Council, as one of the budgetary authorities, to authorise sufficient human and financial resources during the annual budgetary procedure; whereas the Council, especially against the background of the Pandora Papers, therefore needs to review and change its position on the annual budget procedure for the 2022 budget and future budgets, with a view to strengthening the human and financial resources of the aforementioned institutions;

General considerations

1. Takes note of the publication of the so-called 'Pandora Papers' on 3 October 2021 by the International Consortium of Investigative Journalists (ICIJ); commends the investigative work of the ICIJ for its invaluable contribution in exposing secret offshore practices and raising public awareness on matters which have a clear public interest;

2. Highlights the role of international investigative journalism and whistleblowers in exposing wrongdoing, corruption, organised crime, money laundering and misconduct, notably by politically exposed persons; underlines the key contribution of investigative journalism to preserving democracy and the rule of law;

3. Deems it necessary to protect the confidentiality of the sources of investigative journalism, including whistleblowers, and affirms the importance of a public interest defence for sources who face legal action or prosecution for making disclosures with a clear public interest; stresses the importance of defending the freedom of journalists to receive confidential, secret or restricted documents, datasets or other materials, whatever their origin, and to report on those issues of public interest without the threat of costly legal action or criminal prosecution, if the role of investigative journalism as a watchdog in democratic society is to be safeguarded;

4. Reiterates, in this regard, the need to protect investigative journalism from strategic lawsuits against public participation (SLAPPs), as well as personal harassment, intimidation and threats to life; believes that binding EU rules providing robust and consistent protection for the independent media and journalists from vexatious lawsuits intended to silence or intimidate them in the EU are much needed in order to help end this abusive practice; highlights its ongoing work on an own-initiative report on the subject of SLAPPs; welcomes the fact that the Commission is working on an initiative against abusive litigation targeting journalists and rights defenders;

5. Notes the adoption of the EU Whistleblower Directive ([13]) in 2019 and highlights that Member States must transpose the directive into national law by the end of 2021;

6. Regrets that, despite a decade of tax scandals and legislative reforms in the EU, the Pandora Papers reveal that there has been insufficient progress at global level to rein in corporate secrecy and offshore tax evasion and avoidance; recalls that corporate ownership secrecy is used to hide personal financial interests;

7. Points out that the Pandora Papers show how tax havens have adapted harmful practices to new standards in order to stay attractive for tax avoidance purposes; takes the view that this adaptation leads to a race to the bottom and to the constant emergence of new tax havens with ever more attractive regimes to the detriment of others, which become less attractive;

8. Deplores the fact that citizens and decision-makers still have to rely on data leaks to access information about secret offshore practices; urges Member States to make progress on making beneficial ownership information available to the public and all remaining relevant information available to parliaments and competent authorities, including tax administrations, where relevant;

([13]) Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law (OJ L 305, 26.11.2019, p. 17).

9. Points out that the hidden system revealed in the Pandora Papers taints the reputation of legitimate businesses, increases economic and social inequalities, harms the effective provision of public services and of assistance to the most vulnerable, undermines economic development where there is loss of revenue, and strongly erodes citizens' trust in the rule of law and our economic and democratic system;

10. Urges the competent authorities, including tax administrations, of the Member States to analyse the datasets of the ICIJ and to launch thorough investigations into any wrongdoing revealed in the Pandora Papers involving their jurisdictions, including audits on all individuals mentioned in the Pandora Papers;

11. Calls on the Commission to review the data exposed in the Pandora Papers and analyse whether further legislative action is appropriate at EU level, and also whether any enforcement proceedings are necessary as regards current legislation, and to report back to Parliament;

12. Calls on the European Public Prosecutor's Office to assess whether the data revealed in the Pandora Papers merits specific investigations within the remit of its mandate;

13. Deplores the fact that a number of politicians, including EU high-level decision-makers, have also featured in the Pandora Papers, and calls on the authorities of the Member States involved to carry out appropriate investigations into any wrongdoing; deplores, in particular, the fact that politicians such as Andrej Babiš, the Prime Minister of Czechia, and Nicos Anastasiades, the President of Cyprus, who both sit on the European Council, in addition to Wopke Hoekstra, the Dutch Minister of Finance, and also Ilham Aliyev, the President of Azerbaijan, former British Prime Minister Tony Blair, Milo Đukanović, the President of Montenegro, and former Maltese Minister and former EU Commissioner John Dalli, have all been mentioned in the Pandora Papers with reported links with offshore dealings;

14. Highlights the importance of safeguarding high standards of integrity, honesty and responsibility among public officials in the EU; calls on the Member States to ensure that they have measures and systems in place requiring public officials to declare their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials, as recommended by the United Nations Convention Against Corruption; reiterates that Members of the European Parliament already disclose information on financial interests; calls on politicians, in particular, to voluntarily disclose any holdings in shell companies in the absence of mandatory measures; reiterates that these declarations are of a preventive nature and aim to foster transparency and integrity in the public sphere, and should not be interpreted as stigmatising politicians as being involved in criminal activity;

15. Urges Member States and world leaders gathered in the G20 intergovernmental forum, the Inclusive Framework and in the United Nations to take effective measures to rein in tax havens and their operating model, by effectively banning shell companies (corporations with no economic substance whose sole purpose is to avoid taxes or other laws) through the introduction of specific mandatory transparency and business activity criteria to prevent their use and outlawing other forms of financial secrecy, and to agree on and promptly implement a minimum effective corporate tax rate, while further extending and improving the global automatic and mandatory exchange of information on all sorts of private holdings;

16. Welcomes the fact that 136 jurisdictions participating in the OECD/G20 Inclusive Framework on BEPS signed the statement on the two-pillar solution to address the tax challenges arising from the digitalisation of the economy, thereby agreeing to a fundamental reform of international tax rules;

17. Points out that the agreement, once implemented, will ensure a fairer distribution of profits and taxation rights among countries with respect to the largest and most profitable multinational companies and will introduce a global minimum effective corporate tax rate of 15 % applicable to companies with a yearly revenue above EUR 750 million;

18. Reiterates the importance of multilateral action and international coordination in the fight against tax evasion, tax avoidance and aggressive tax planning;

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19. Calls on G20 leaders meeting in Rome on 30 and 31 October 2021 to mandate the OECD to initiate a new global initiative to revise the automatic exchange of information and strengthen the global governance of the enforcement of anti-money laundering standards;

20. Recalls the universal principles of fairness, transparency and cooperation in relation to taxation; reiterates its call on the Member States to simplify their tax systems in order to ensure fairer taxation, tax certainty and investments in the real economy and to ease the pressure on tax authorities using extensive resources in their fight against tax evasion and avoidance;

State of play of AML/CFT enforcement in the EU, corporate transparency and the exchange of information

21. Notes that the EU already has some of the highest legislative standards of corporate transparency in the world; stresses, however, that these standards are still insufficient, given the increasing mobility of capital, persons and assets, the fast development of digital finance, and the ever-more sophisticated means of shielding ownership of assets;

22. Stresses that the fifth AMLD, in particular, requires Member States to set up registers of the beneficial owners of all legal entities established in the EU, including trusts, and grants public access to beneficial ownership information about most corporate structures;

23. Takes note of the EU's continuous reviews of existing rules in the fight against money laundering, cross-border tax fraud, tax evasion and tax avoidance, which have positive effects on the proper functioning of the single market and on safeguarding Member States' tax bases and revenues, which are prerequisites for job creation, growth, and especially for the recovery of the EU economy after the COVID-19 pandemic;

24. Underlines that Member States must require under EU law that the information held in the registers is adequate, accurate and current, and must, in addition, put in place verification mechanisms to this effect, including the obligation for competent authorities to report discrepancies; stresses the need to ensure that the competent authorities of Member States have adequate resources to verify beneficial ownership information in the registers, and effective, proportionate and dissuasive measures or sanctions are applied in cases where legal entities, trusts and other types of legal arrangements do not provide adequate, accurate and current beneficial ownership information;

25. Reiterates its call on the Commission to address the lack of sufficient and accurate data in national registers that can be used to identify ultimate beneficial owners, especially in situations in which a network of shell companies is used;

26. Points out that the Pandora Papers highlight the need for and great benefit of interconnected and publicly accessible beneficial owner registers for trusts and similar arrangements such as companies, in order to allow for closer scrutiny and better cross-verification of information by journalists and civil society; underlines the importance of such registers containing harmonised and machine-readable data and providing for search functions;

27. Is concerned that, as documented by civil society ([14]), one year after the implementation deadline for the fifth AMLD, nine countries had failed to establish public registers, while others had imposed geographical access restrictions, in breach of EU rules; regrets, in addition, that most EU countries seem to have introduced barriers such as paywalls and registration which, although seemingly in conformity with EU law, make it hard to consult the registers; supports the Commission's efforts to pursue full transposition and enforcement of the fifth AMLD through the opening of infringement procedures;

28. Regrets the delay in the setting-up of the Beneficial Ownership Registers Interconnection System (BORIS) due to technical difficulties; reminds the Commission and the Member States of the fact that this is a legal requirement under the fifth AMLD and that it is absolutely essential that beneficial ownership information is accessible for financial intelligence units (FIUs), law enforcement, obliged entities and the general public; deplores the fact that some Member States are

([14]) Transparency International, 'Access denied? Availability and accessibility of beneficial ownership data in the European Union', 26 May 2021.

undermining the efficacy of BORIS even before it comes into effect by delaying the establishment and smooth functioning of their national beneficial ownership registers, and calls on all actors to address this delay as a matter of urgency;

29. Notes that the OpenLux revelations had already exposed the limits of transparency measures and the current level of implementation of public registers of beneficial owners by Member States; notes, in addition, that the Pandora Papers identified examples of individuals circumventing beneficial ownership transparency in Member States;

30. Reiterates that the beneficial owners featured in the register should be anyone who ultimately owns or controls a legal entity through direct or indirect ownership;

31. Highlights the complexity of transposing into national law EU AML/CFT legislation, which has so far been based on minimum harmonisation; regrets the lack of political will in some Member States to properly transpose and implement AML/CFT legislation; regrets that the 10 January 2020 transposition deadline for the fifth AMLD, and the deadlines of 10 January 2020 for the beneficial ownership registers for corporate and other legal entities and 10 March 2020 for trusts and similar legal arrangements, were not met by a number of Member States;

32. Welcomes, in this regard, the new AML/CFT package proposed by the Commission in July 2021, including a single rulebook on AML/CFT and in particular the new rules on beneficial ownership transparency; looks forward to working on the Commission proposals and remains committed to further improving standards for corporate transparency in the EU and ensuring an effective AML/CFT framework;

33. Welcomes, in particular, the fact that the Commission introduced an obligation for non-EU legal entities that either enter into a business relationship with an EU-obliged entity or acquire real estate in the Union to register their beneficial owner in the EU's beneficial ownership registers, in line with Parliament's previous calls for such measures, with a view to closing a significant loophole in the system;

34. Highlights the Commission's proposal to ask Member States to provide competent authorities with access to existing registers of real estate in order to ensure the timely identification of any natural or legal person owning real estate; welcomes this proposal and commits to working in the forthcoming AML/CFT legislative procedures to further advance transparency of real-estate ownership in the EU, which remains an attractive commodity for high-net-worth individuals to shield asset value, and for criminals to launder the proceeds of their illicit activities;

35. Welcomes further the Commission's proposal to introduce an EU-wide interconnection of centralised automated mechanisms containing payment and bank account information through a single access point, in order to facilitate faster access by law-enforcement authorities and FIUs, during different phases of investigation, to financial information, and to facilitate cross-border cooperation, in compliance with data protection rules;

36. Welcomes the Commission's proposal to establish a new European authority on anti-money laundering as a single supervisor of selected financial-sector obliged entities and as a single coordination and support mechanism for FIUs in the EU; stresses that the new authority should receive a higher budget allocation and be equipped with adequate resources to fulfil supervisory powers over financial entities and exercise effective oversight of non-financial obliged entities;

37. Takes note of the fact that the new authority will be mandated to set up and manage a coordination mechanism among FIUs; welcomes this development and hopes that the new authority will play an important role in improving the exchange of information and cooperation between the FIUs;

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38. Welcomes the Commission's proposal to introduce a more harmonised set of effective, proportionate and dissuasive sanctions at EU level for failure to comply with AML/CFT regulations;

39. Looks forward, in addition, to the swift publication of the Commission proposal to tackle the misuse of shell companies for tax purposes; urges the Commission not to limit itself to the substance requirements as currently included in the EU list of non-cooperative jurisdictions (the EU list), but to develop robust and progressive requirements of real economic substance; highlights that these entities are frequently used to transfer money to low-tax jurisdictions through untaxed dividend, royalty or interest payments;

40. Regrets the fact that in spite of all the positive developments and upcoming reforms, current legal loopholes and divergences and inconsistencies between implementation practices within the Member States persist; highlights, furthermore, that the limitations of the European framework on the exchange of information are partially the result of a lack of resources in tax administrations and FIUs; reiterates the need for better cooperation between the administrative, judicial and law-enforcement authorities within the EU;

41. Urges the Member States to deploy adequate resources to process and exchange information via FIUs and the entire law-enforcement framework; calls on the Commission to assess whether FIUs have sufficient resources to deal effectively with AML/CFT risks;

42. Considers that further consideration should be given to initiatives that could enforce AML/CFT actions at EU and national level, such as increasing the competences of the European Public Prosecutor's Office to prosecute crimes that are not linked to the EU budget, increasing the competences of the European Anti-Fraud Office (OLAF), and strengthening existing agencies such as Europol and Eurojust;

43. Calls on Europol to step up its cooperation with Member States' law-enforcement authorities in the context of investigations into tax crimes;

44. Underlines the findings and recommendations of ECA Special Report No 13/2021, according to which 'EU efforts to fight money laundering in the banking sector are fragmented and implementation is insufficient'; regrets the fact that the ECA found institutional fragmentation and poor coordination at EU level when it came to AML/CFT activities and taking action where risks were identified;

45. Notes with concern that the Commission was slow to assess Member States' transposition of directives due to poor-quality communication by some Member States and limited resources at the Commission;

46. Welcomes the fact that European Banking Authority (EBA) staff carried out thorough investigations of potential breaches of EU law, but regrets the excessive delays to this process; regrets the fact that the EBA has not launched more investigations of its own initiative; regrets the fact that the Commission has no internal guidance for triggering a request for the EBA to conduct an investigation;

47. Is highly concerned by the evidence found by the ECA of attempts to influence the Board of Supervisors that was part of the deliberative process in one investigation into a breach of EU law; calls on the EBA to prevent further attempts to influence investigation panel members during their deliberations;

48. Calls on the Commission, the EBA and the European Central Bank to address the issues raised and the ECA's recommendations within the timeframe set by the ECA;

49. Reiterates its call on the Member States to ensure that all existing citizenship by investment or residency by investment schemes are transparent and based on clear rules; is concerned that all of these schemes may have increased the threat of money laundering and tax evasion, while undermining mutual trust and the integrity of the Schengen area and euro area and posing other political, economic and security risks to the Union and its Member States; calls on the Commission to introduce proposals to regulate citizenship by investment and residency by investment schemes as soon as possible after Parliament has made its recommendations;

50. Calls on the Commission to take the Pandora Papers data into account in the process for compiling the EU list of high-risk third countries, notably jurisdictions which serve as company formation centres and facilitate financial crime; reiterates that third countries that fail to cooperate with Member States on high-profile European AML/CFT investigations should be eligible for listing; stresses the importance of the autonomous assessment of third countries in the EU, which should be free of geopolitical meddling, and the prominence that should be given to beneficial ownership transparency as a criterion to assess third countries;

51. Notes with concern that, according to the revelations, the duty of enhanced due diligence in respect of politically exposed persons, their family members and close associates may not always be met by obliged entities; calls on the Commission to assess the extent to which the identification of politically exposed persons and the application of enhanced due diligence is effectively carried out, and the obstacles faced by obliged entities in this regard; highlights the importance of gathering data on the levels of compliance by obliged entities;

52. Takes note of the Council of Europe's ongoing study on the assessment of the concrete implementation and effective application of the fourth Anti-Money Laundering Directive in the Member States, as requested by the Commission; calls on the Commission to publish the Council of Europe's evaluation reports on the Member States and to ensure that civil society organisations are involved in the assessment process;

Action required on the global stage

53. Condemns the fact that some US states, such as South Dakota, Alaska, Wyoming, Delaware and Nevada, have become hubs of financial and corporate secrecy, as exposed by the Pandora Papers, in addition to the renowned tax havens that were exposed previously; calls on the US Federal and State Governments to take further action to ensure greater corporate transparency and to join the Common Reporting Standard (CRS), thereby fully exchanging information with other countries; recalls that the EU list assesses whether a jurisdiction has at least a 'largely compliant' rating with the CRS according to the Global Forum on Transparency and Exchange of Information for Tax Purposes; calls on the Council to reassess the US in the framework of the EU list, with particular regard to the tax transparency criteria;

54. Stresses that the US does not currently participate in the CRS, an information standard for the automatic exchange of information between tax authorities regarding financial accounts on a global level developed by the OECD in 2014; notes, therefore, that the US is far behind the rest of the world in common standards for exchange of information; recognises that the US played a leading role in fostering transparency in having enacted the Foreign Account Tax Compliance Act; deplores, however, the act's limitations in terms of reciprocity and its side effects on so-called 'accidental Americans'; regrets the fact that a lasting solution has yet to been found at European level; recalls that the CRS, by comparison, requires the fully reciprocal exchange of data on financial accounts between the jurisdictions that take part in the CRS agreement; observes, therefore, that the US is becoming a significant enabler of financial secrecy for non-US citizens through two main loopholes: only information on US assets is shared, and no information is shared on beneficial ownership;

55. Welcomes the recently adopted US Corporate Transparency Act, which requires some corporations and limited liability companies to disclose beneficial ownership information to law-enforcement authorities and others with legally mandated AML/CFT responsibilities; notes, however, that the new legislation falls short of ensuring full corporate transparency akin to the current standard in the EU and, in particular, does not cover trusts and similar arrangements exposed in the Pandora Papers;

56. Welcomes, furthermore, the proposed US Establishing New Authorities for Business Laundering and Enabling Risks to Security (Enablers) Act, devised in the wake of the Pandora Papers, which would require the US Treasury Department to create new due diligence rules for American intermediaries who facilitate the flow of foreign assets into the US;

57. Notes that the US will host the Summit for Democracy on 9 and 10 December 2021, which will include a pillar dedicated to the fight against corruption; calls on the US Government to take this opportunity to announce further upcoming reforms to ensure that the US is no longer used to launder illicit funds and enable tax avoidance;

58. Calls on the Commission and the Member States to enter into fresh negotiations with the US within the framework of the OECD in order to achieve full reciprocity within a commonly agreed and strengthened CRS framework; stresses that this would lead to significant progress and to lower compliance costs for financial institutions, and would significantly reduce onerous bureaucracy;

59. Highlights, furthermore, that all Member States have signed up to the CRS; notes that the second Directive on Administrative Cooperation (DAC2) has served to implement the CRS for the exchange of information in the EU since 2016; reiterates, in this context, the recommendations from its resolution of 16 September 2021 on the implementation of the EU requirements for exchange of tax information: progress, lessons learnt and obstacles to overcome; deeply regrets the fact that all Member States — with the exception of Finland and Sweden — have refused to grant Parliament access to the relevant data to assess the implementation of DAC provisions; deplores the fact that the Commission did not grant Parliament access to the relevant data in its possession; notes that this refusal is not consistent with calls for greater transparency and cooperation in tax matters;

60. Considers that the peer review process of the Financial Action Task Force (FATF) is a comprehensive instrument to assess the extent to which FATF recommendations have been implemented and a country's general performance in the area of anti-money laundering;

61. Calls on the FATF to make publicly accessible registers of beneficial ownership a requirement for compliance with the standard in the ongoing revision of Recommendation 24 on the transparency and beneficial ownership of legal persons, and to improve the definition of beneficial ownership in order to eradicate any possible loopholes, ban bearer shareholdings, increase the requirements on nominee shareholders and, finally, force compliant jurisdictions to require foreign companies with links to the country to follow the same rules on beneficial ownership disclosure that apply to domestic companies;

62. Calls on the EU Member States in the FATF and the Commission to ensure that the EU speaks with one voice at a global level on the AML/CFT framework and to push for the aforementioned reforms in order to level the playing field globally and effectively ban secrecy on corporate ownership, while promoting a more accountable and transparent international governance framework in the area of anti-money laundering;

63. Calls on the Commission and the EU Member States in the FATF to also assess, as a matter of priority, countries which are home to company formation centres and have been identified by international bodies as having a significant number of deficiencies in their AML/CFT regimes, but have not yet been reviewed by the FATF as they did not meet the priority criteria of the FATF International Co-operation Review Group (ICRG);

64. Notes that more than 1 500 UK properties with an estimated value in excess of GBP 4 billion have been bought using offshore firms by secret owners; acknowledges that the UK Government has committed to adopting 2018 draft legislation to introduce a beneficial owners' public register of overseas foreign entities owning UK real estate;

65. Emphasises that the Pandora Papers have exposed how the UK, through its Crown Dependencies and Overseas Territories, continues to be used as a hub for tax avoidance and secretive offshore dealings; calls on the Commission to identify possible ways and countermeasures to ensure cooperation and alignment of standards in the area of taxation and anti-money laundering, including through linking the equivalence decisions in the area of financial services to the adoption of standards for tax transparency and anti-money laundering equivalent to those in the EU;

Regulation of intermediaries

66. Deplores the fact that following previous exposés, the Pandora Papers have revealed that 14 professional offshore corporate service providers, including law firms, tax advisers and wealth managers, assist high-net-worth individuals in setting up corporate structures to shield their assets while ensuring that these activities remain within legality;

67. Highlights that under international AML/CFT standards, the non-financial sector must comply with customer due diligence obligations and report suspicious activity to authorities;

68. Deplores the fact that many jurisdictions, including in the EU, have for many years fallen short of complying with basic FATF requirements to impose AML/CFT obligations on the intermediary non-financial sector to tackle its creation of secretive structures;

69. Points out that the self-regulation and supervision of these professions has not been effective in ensuring compliance and sanctioning breaches of the law; welcomes, in this regard, the Commission's proposal to equip the new anti-money laundering authority with the power to coordinate the supervision of the non-financial sector, coordinate peer reviews of supervisory standards and practices, and request that non-financial supervisors investigate possible breaches of AML/CFT requirements;

70. Calls on the FATF to carry out, as a matter of priority, a horizontal review of countries' implementation of FATF standards relating to non-financial businesses and professions and to apply a dedicated follow-up process, as it did successfully with the Terrorist Financing Fact-Finding Initiative, in order to rapidly increase global compliance with FATF requirements in the non-financial sector;

71. Reiterates its concern that these operators often combine the provision of legal advice, tax advice and auditing services when advising both corporate clients and public authorities; is concerned, therefore, that economic incentives that facilitate tax avoidance structures are feeding an industry of service providers that can also be mobilised to launder the proceeds of criminal activities; reiterates its requests from previous resolutions and recommendations ([15]) on this issue and invites the Commission and the Member States to evaluate the regulatory framework that applies to these operators, with the aim of barring market access to the facilitators of tax avoidance, tax evasion and money laundering; expects improvements to the legal framework through the Commission's revision of the Statutory Audit Directive;

72. Recalls the obligation under DAC6 that intermediaries should report schemes to tax authorities based on hallmarks that are a strong indication of tax avoidance, particularly in view of structural loopholes in tax legislation;

73. Calls on the Commission to extend DAC6 reporting requirements to cross-border arrangements for the management of assets of clients who are natural persons;

74. Calls on the Commission to include in its future proposal on DAC 8 — among other previous recommendations related to DAC3 and outlined in Parliament's resolution on the implementation of the EU requirements for exchange of tax information — the exchange of tax rulings concerning natural persons, which are often drafted by intermediaries, in order to ensure that the arrangements of high-net-worth individuals with a Member State's tax authorities are shared with all Member States;

75. Stresses that legal professional privilege cannot be used to cover illegal practices; notes the findings in one case by the European Court of Human Rights ([16]) that the confidentiality of lawyer-client relations and legal professional privilege did not supplant the obligation to report suspicions pursued in the legitimate aim of the prevention of criminal activity, and that such reporting was necessary in pursuit of that aim;

76. Reiterates its call on the Commission to issue guidance on the interpretation and application of the principle of legal privilege for professionals and to establish a clear line of demarcation between traditional judicial advice and lawyers acting as financial operators, in line with the case-law of the European courts;

Reform of the EU list and taxation policy

77. Reiterates the negative impact of aggressive tax planning, as it leads to the erosion of Member States' tax bases and shifts a disproportionate tax burden onto citizens and companies — especially SMEs — that respect the tax laws;

([15]) See, for example, its recommendation of 13 December 2017 to the Council and the Commission following the inquiry into money laundering, tax avoidance and tax evasion, paragraph 143 (OJ C 369, 11.10.2018, p. 132).

([16]) See its judgment of 6 December 2012 in *Michaud* v. *France*.

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78. Stresses that tax avoidance and tax evasion, along with profit-shifting schemes, have deprived states and people of resources that are essential to furthering development and social justice and to equipping the state with the revenue it needs to function properly;

79. Insists that in order to carry out the future legislative reforms of tax policy necessary to effectively address the issues highlighted in the Pandora Papers, the Commission should explore all possibilities offered by the Treaty on the Functioning of the European Union, including Article 116, to make decision-making more efficient;

80. Regrets the fact that the EU list, which is also referred to as the EU Tax Havens Blacklist, has remained a blunt instrument despite ever more tax scandals and worrying reports by journalists and non-governmental organisations; regrets the fact that Member States' finance ministers have not yet assumed their individual and joint responsibilities in the fight against tax havens, offshore companies and trusts, and have instead been engaged in watering down the existing blacklist;

81. Particularly deplores the fact that following the Pandora Papers revelations, the Council of EU Finance Ministers decided to shorten the EU list of tax havens at its meeting on 5 October 2021, removing the Caribbean islands of Anguilla and Dominica, as well as the Seychelles, which featured in the revelations and still only partially complies with the international standard on transparency and exchange of information upon request, despite a second evaluation round recently granted by the Global Forum;

82. Notes that two thirds of the shell companies in the Pandora Papers are located in the British Virgin Islands, which has never featured on the EU blacklist (Annex I to the relevant Council conclusions) and was withdrawn from the grey list (Annex II) in February 2020;

83. Reiterates the conclusions and recommendations of its resolution of 21 January 2021 on reforming the EU list of tax havens; calls for more transparency on the criteria used for the listing process; believes that this reform should be carried out by the end of 2021 in order to protect the EU from any further revenue losses in the post-COVID-19 recovery period;

84. Deplores the Council's unwillingness to agree on the forthcoming transparency criterion with regard to ultimate beneficial ownership; calls on the Council to agree on this criterion as a matter of urgency, in line with the provisions of DAC5;

85. Reiterates its call to strengthen the criteria and ensure greater implementation of the commitments regarding the EU list, in particular the criteria on fair taxation that 'the jurisdiction should not facilitate offshore structures or arrangements aimed at attracting profits which do not reflect real economic activity in the jurisdiction'; recalls its demand to also assess and monitor tax schemes within the EU, thereby reforming, according to the same criteria as the EU list, the EU's policy on harmful tax practices and the Code of Conduct on Business Taxation, which should become binding; calls, in particular, for the introduction of a minimum level of economic substance as a criterion for what constitutes a tax haven, for proper sanctions, for minimum effective taxation in line with the internationally agreed minimum effective tax rate in the framework of Pillar II of the Inclusive Framework, and for the scope of the Code of Conduct on Business Taxation to be expanded to include preferential personal income tax regimes, to cover special citizenship schemes or measures designed to attract highly mobile wealthy individuals and digital nomads, which could lead to significant distortions to the single market;

86. Notes that the inclusion of third countries on the EU list has few immediate and binding consequences; considers that inclusion on the EU blacklist should come with sanctions that are an effective deterrent and that a revised list should be linked to a sanctions regime;

87. Recalls that the Commission criticised some Member States during the Semester process for shortcomings in their tax systems that facilitate aggressive tax planning;

88. Calls on the Commission to issue a proposal for a reformed Code of Conduct on Business Taxation inspired by the recent proposals outlined in Parliament's resolution of 7 October 2021 on reforming the EU policy on harmful tax practices (including the reform of the Code of Conduct Group);

89. Welcomes the Commission's intention to propose a directive on a common EU-wide system for withholding tax on dividend or interest payments; stresses that until a common system is in place, Member States can take legitimate countermeasures to protect their tax bases;

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90. Instructs its President to forward this resolution to the governments and parliaments of the Member States, the Council, the Commission and the Financial Action Task Force.