



28.4.2017

OPINION

of the Committee on Development

for the Committee on Economic and Monetary Affairs and the Committee on
Legal Affairs

on the proposal for a directive of the European Parliament and of the Council
amending Directive 2013/34/EU as regards disclosure of income tax
information by certain undertakings and branches
(COM(2016)0198 – C8-0146/2016 – 2016/0107(COD))

Rapporteur: Elly Schlein

PA_Legam

SHORT JUSTIFICATION

The European Parliament has long been calling for public Country-by-Country Reporting as a key instrument for tackling international tax evasion and tax avoidance effectively. Transparency is an essential element; public disclosure of relevant tax information by multinational corporations could be a game-changer, and not only for Europe. Corporate tax revenues constitute a significant share of developing countries' national income, meaning that they are particularly affected by corporate tax avoidance. For example, according to the findings of the African Union's high level panel on illicit financial flows, the African continent loses annually over \$50-billion through these illicit financial outflows.

However, the Commission's proposal as it stands falls short of what is needed to completely lift the veil of opacity that allows multinational companies to avoid taxes in some of the world's poorest countries. The obligation to report on a country-by-country basis only inside the EU, while publishing aggregated data from all third countries, makes the proposal unfit for purpose and useless for developing countries, as they would not be able to get any country-specific information. Apart from failing to effectively tackle tax dodging, the current proposal would also stand in stark contrast to the EU's commitment to Policy Coherence for Development.

The Rapporteur calls for non-aggregated data to also be disclosed from all third countries in which multinationals operate, effectively helping developing countries in their fight against tax dodging and in raising adequate public revenue. Moreover, a lower threshold for companies covered by the reporting would provide more data on the activities of multinationals, and some important disclosure elements (such as assets and sales) should also be included to give a clear picture of the activities of companies worldwide.

The Panama Papers scandal clearly demonstrates how tax evasion and tax avoidance represent global problems that can only be addressed through a global response, and how half-hearted attempts to tackle them are doomed to fail. Only with a strong commitment to fair taxation and coherence between EU policies will it be possible to effectively fight poverty and inequalities in Europe and worldwide.

AMENDMENTS

The Committee on Development calls on the Committee on Economic and Monetary Affairs and the Committee on Legal Affairs, as the committees responsible, to take into account the following amendments:

Amendment 1

Proposal for a directive

Recital 6

Text proposed by the Commission

(6) The public should be able to scrutinise all the activities of a group when the group has certain establishments within the Union. ***For groups which carry out activities within the Union only through subsidiary undertakings or branches,***

Amendment

(6) The public should be able to scrutinise all the activities of a group when the group has certain establishments within ***and outside*** the Union. ***Multinational undertakings are operating worldwide and their corporate behaviour has a***

subsidiaries and branches should publish and make accessible the report of the ultimate parent undertaking. However for reasons of proportionality and effectiveness, the obligation to publish and make accessible the report should be limited to medium-sized or large subsidiaries established in the Union, or branches of a comparable size opened in a Member State. The scope of Directive 2013/34/EU should therefore be extended accordingly to branches opened in a Member State by an undertaking which is established outside the Union.

substantial impact on developing countries, which are particularly affected by corporate tax avoidance. Meaningful disaggregated public country-by-country reporting from each country and jurisdiction of operation is essential in order to allow citizens, public authorities and legislators from those countries to effectively monitor those undertakings' activities and to tackle tax dodging. By making the information public, the Union would increase its policy coherence for development and limit potential tax avoidance schemes in countries where domestic resources mobilization has been identified as a key component of Union development policy and as an indispensable means of achieving the objectives of the 2030 Agenda for Sustainable Development.

Amendment 2

Proposal for a directive Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) To ensure policy coherence for development, the Union should effectively commit to enhancing transparency in tax matters as part of its efforts to increase financing development in the Addis Ababa Action Agenda of the Third International Conference on Financing for Development.

Amendment 3

Proposal for a directive Recital 9

Text proposed by the Commission

Amendment

(9) In order to ensure a level of detail that enables citizens to better assess the contribution of multinational undertakings

(9) In order to ensure a level of detail that enables citizens to better assess the contribution of multinational undertakings

to welfare in each *Member State*, the information should be broken down by *Member State*. Moreover, information concerning the operations of multinational enterprises should also be shown with a high level of detail as regards certain tax jurisdictions which pose particular challenges. For all other third country operations, the information should be given in an aggregate number.

Amendment 4

Proposal for a directive
Recital 9 a (new)

Text proposed by the Commission

to welfare in each *jurisdiction in which they operate, both within and outside the Union*, the information should be broken down by *jurisdiction*.

Amendment

(9a) *Member States should ensure that an adequate level of human, technical and financial resources is dedicated within tax administrations to the automatic exchange of information and data processing and to the fight against tax fraud and tax avoidance. Developed country governments should commit to exchanging information automatically with developing countries by establishing the necessary bilateral exchange relationships.*

Amendment 5

Proposal for a directive
Recital 9 b (new)

Text proposed by the Commission

Amendment

(9b) *In order to assist developing countries in improving the capacity of their tax administrations, Member States should assist them by sharing know-how and best practices.*

Amendment 6

Proposal for a directive
Recital 9 c (new)

Text proposed by the Commission

Amendment

(9c) *When supporting developing countries in capacity building, special emphasis should be given to efficient online platform solutions that avoid bureaucratic hurdles, in particular for small and medium-sized enterprises.*

Amendment 7

Proposal for a directive
Article 1 – paragraph 1 – point 2
Directive 2013/34/EU
Article 48b – paragraph 1 – subparagraph 1

Text proposed by the Commission

Amendment

Member States shall require ultimate parent undertakings governed by their national laws **and having a consolidated net turnover exceeding EUR 750 000 000 as well as undertakings** governed by their national laws that are not affiliated undertakings **and having a net turnover exceeding EUR 750 000 000** to draw up and publish a report on income tax information on an annual basis.

Member States shall require ultimate parent undertakings **of large groups as defined in Article 3(7)**, governed by their national laws, **and of large undertakings as defined in Article 3(4)**, governed by their national laws that are not affiliated undertakings to draw up and publish a report on income tax information on an annual basis.

Amendment 8

Proposal for a directive
Article 1 – paragraph 1 – point 2
Directive 2013/34/EU
Article 48b – paragraph 1 – subparagraph 2

Text proposed by the Commission

Amendment

The report on income tax information shall be made accessible to the public on the website of the undertaking on the date of its publication.

The report on income tax information shall be **published in a common template available in an open data format and** made accessible to the public on the website of the undertaking on the date of its publication **in at least one of the**

official languages of the Union. On the date of publication of the report on income tax information, the undertaking shall also file the report in a public registry managed by the Commission.

Amendment 9

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2013/34/EU

Article 48b – paragraph 3 – subparagraph 1

Text proposed by the Commission

Member States shall require *the medium-sized and large* subsidiary undertakings referred to in Article 3(3) and (4) which are governed by their national laws and controlled by an ultimate parent undertaking which has a consolidated net turnover exceeding EUR 750 000 000 and which is not governed by the law of a Member State, to publish the report on income tax information of that ultimate parent undertaking on an annual basis.

Amendment

Member States shall require subsidiary undertakings which are governed by their national laws and controlled by an ultimate parent undertaking which has a consolidated net turnover exceeding EUR 40 000 000 and which is not governed by the law of a Member State, to publish the report on income tax information of that ultimate parent undertaking on an annual basis.

Amendment 10

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2013/34/EU

Article 48b – paragraph 3 – subparagraph 2

Text proposed by the Commission

The report on income tax information shall be made accessible to the public on the date of its publication on the website of the subsidiary undertaking or on the website of an affiliated undertaking.

Amendment

The report on income tax information shall be *published in a common template available in an open data format and* made accessible to the public on the date of its publication on the website of the subsidiary undertaking or on the website of an affiliated undertaking *in at least one of the official languages of the Union. On the date of publication of the report on income tax information, the undertaking shall also file the report in a public*

registry managed by the Commission.

Amendment 11

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2013/34/EU

Article 48b – paragraph 4 – subparagraph 2

Text proposed by the Commission

The report on income tax information shall be made accessible to the public on the date of its publication on the website of the branch or on the website of an affiliated undertaking.

Amendment

The report on income tax information shall be ***published in a common template available in an open data format and*** made accessible to the public on the date of its publication on the website of the branch or on the website of an affiliated undertaking ***in at least one of the official languages of the Union. On the date of publication of the report on income tax information, the undertaking shall also file the report in a public registry managed by the Commission.***

Amendment 12

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2013/34/EU

Article 48b – paragraph 5

Text proposed by the Commission

5. Member States shall apply the rules set out in paragraph 4 only to a branch where ***the following criteria are met:***

(a) the undertaking which opened the branch is either an affiliated undertaking of

Amendment

5. Member States shall apply the rules set out in paragraph 4 only to a branch where the undertaking which opened the branch is either an affiliated undertaking of a group which is controlled by an ultimate parent undertaking not governed by the law of a Member State and which has a consolidated net turnover exceeding EUR ***40 000 000*** or an undertaking that is not an affiliated and which has a net turnover exceeding EUR ***40 000 000***.

a group which is controlled by an ultimate parent undertaking not governed by the law of a Member State and which has a consolidated net turnover exceeding EUR 750 000 000 or an undertaking that is not an affiliated and which has a net turnover exceeding EUR 750 000 000;

(b) *the ultimate parent undertaking referred to in point (a) does not have a medium-sized or large subsidiary undertaking as referred to in paragraph 3.*

Amendment 13

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2013/34/EU

Article 48c – paragraph 2 – point a

Text proposed by the Commission

(a) a brief description of the nature of the activities;

Amendment

(a) ***name or names***, a brief description of the nature of the activities ***and the geographical location***;

Amendment 14

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2013/34/EU

Article 48c – paragraph 2 – point b

Text proposed by the Commission

(b) the number of employees;

Amendment

(b) the number of employees ***employed on a full-time equivalent basis***;

Amendment 15

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2013/34/EU

Article 48c – paragraph 2 – point b a (new)

Text proposed by the Commission

Amendment

(ba) the value of assets and annual cost of maintaining those assets;

Amendment 16

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2013/34/EU

Article 48c – paragraph 2 – point b b (new)

Text proposed by the Commission

Amendment

(bb) sales and purchases;

Amendment 17

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2013/34/EU

Article 48c – paragraph 2 – point b c (new)

Text proposed by the Commission

Amendment

(bc) the value of investments by tax jurisdiction;

Amendment 18

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2013/34/EU

Article 48c – paragraph 2 – point c

Text proposed by the Commission

Amendment

(c) the amount of the net turnover, **which includes** the turnover made with related parties;

(c) the amount of the net turnover, **including a subdivision between** the turnover made with related **parties and the turnover made with unrelated** parties;

Amendment 19

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2013/34/EU

Article 48c – paragraph 2 – point f a (new)

Text proposed by the Commission

Amendment

(fa) stated capital;

Amendment 20

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2013/34/EU

Article 48c – paragraph 2 – point f b (new)

Text proposed by the Commission

Amendment

(fb) tangible assets other than cash or cash equivalents;

Amendment 21

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2013/34/EU

Article 48c – paragraph 2 – point g a (new)

Text proposed by the Commission

Amendment

(ga) public subsidies received;

Amendment 22

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2013/34/EU

Article 48c – paragraph 2 – point g b (new)

Text proposed by the Commission

Amendment

(gb) the list of subsidiaries operating in each tax jurisdiction both inside and outside the Union;

Amendment 23

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2013/34/EU

Article 48c – paragraph 2 – point g c (new)

Text proposed by the Commission

Amendment

(gc) all payments, as defined in Article 41(5), made to governments on an annual basis.

Amendment 24

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2013/34/EU

Article 48c – paragraph 3 – subparagraph 1

Text proposed by the Commission

Amendment

The report shall present the information referred to in paragraph 2 separately for each Member State. Where a Member State comprises several tax jurisdictions, the information shall be ***combined at Member State level***.

The report shall present the information referred to in paragraph 2 separately for each Member State. Where a Member State comprises several tax jurisdictions, the information shall be ***listed separately for each tax jurisdiction***.

Amendment 25

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2013/34/EU

Article 48c – paragraph 3 – subparagraph 2

Text proposed by the Commission

Amendment

The report shall also present the information referred to in paragraph 2 ***of this Article*** separately for each tax jurisdiction ***which, at the end of the previous financial year, is listed in the common Union list of certain tax jurisdictions drawn up pursuant to Article***

The report shall also present the information referred to in paragraph 2 separately for each tax jurisdiction ***outside the Union***.

48g, unless the report explicitly confirms, subject to the responsibility referred to in Article 48e below, that the affiliated undertakings of a group governed by the laws of such tax jurisdiction do not engage directly in transactions with any affiliated undertaking of the same group governed by the laws of any Member State.

Amendment 26

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2013/34/EU

Article 48c – paragraph 3 – subparagraph 3

Text proposed by the Commission

Amendment

The report shall present the information referred to in paragraph 2 on an aggregated basis for other tax jurisdictions.

deleted

Amendment 27

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2013/34/EU

Article 48c – paragraph 5

Text proposed by the Commission

Amendment

5. The report on income tax information shall be published and made accessible on the website in at least one of the official languages of the Union.

5. The report on income tax information shall be published ***in a common template available in an open data format*** and made accessible on the website in at least one of the official languages of the Union. ***On the date of publication of the report on income tax information, the undertaking shall also file the report in a public registry managed by the Commission.***

Amendment 28

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2013/34/EU

Article 48e – paragraph 2

Text proposed by the Commission

2. Member States shall ensure that the members of the administrative, management and supervisory bodies of the subsidiary undertakings referred to in Article 48b(3) of this Directive and the person(s) designated to carry out the disclosure formalities provided for in Article 13 of Directive 89/666/EEC for the branch referred to in Article 48b(4) of this Directive, acting within the competences assigned to them by national law, have collective responsibility for ensuring that, ***to the best of their knowledge and ability***, the report on income tax information is drawn up, published and made accessible in accordance with Articles 48b, 48c and 48d.

Amendment

2. Member States shall ensure that the members of the administrative, management and supervisory bodies of the subsidiary undertakings referred to in Article 48b(3) of this Directive and the person(s) designated to carry out the disclosure formalities provided for in Article 13 of Directive 89/666/EEC for the branch referred to in Article 48b(4) of this Directive, acting within the competences assigned to them by national law, have collective responsibility for ensuring that the report on income tax information is drawn up, published and made accessible in accordance with Articles 48b, 48c and 48d.

Amendment 29

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2013/34/EU

Article 48g a (new)

Text proposed by the Commission

Amendment

Article 48ga

Common template for the report

The Commission shall be empowered to adopt implementing acts to set up the common template referred to in Article 48b(1), (3) and (4) and Article 48c(5). Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 50(2).

**ANNEX: LIST OF ENTITIES OR PERSONS
FROM WHOM THE RAPPOREUR FOR THE OPINION HAS RECEIVED INPUT**

The following list is drawn up on a purely voluntary basis under the exclusive responsibility of the rapporteur for the opinion. The rapporteur has received input from the following entities or persons in the preparation of the opinion:

Entity and/or person
Oxfam
Eurodad
ActionAid

PROCEDURE – COMMITTEE ASKED FOR OPINION

Title	Disclosure of income tax information by certain undertakings and branches
References	COM(2016)0198 – C8-0146/2016 – 2016/0107(COD)
Committees responsible Date announced in plenary	ECON JURI 28.4.2016 28.4.2016
Opinion by Date announced in plenary	DEVE 28.4.2016
Rapporteur Date appointed	Elly Schlein 16.9.2016
Rule 55 – Joint committee procedure Date announced in plenary	19.1.2017
Discussed in committee	21.3.2017
Date adopted	25.4.2017
Result of final vote	+: 21 -: 1 0: 0
Members present for the final vote	Beatriz Becerra Basterrechea, Nirj Deva, Doru-Claudian Frunzuliță, Enrique Guerrero Salom, Heidi Hautala, György Hölvényi, Teresa Jiménez-Becerril Barrio, Arne Lietz, Linda McAvan, Norbert Neuser, Vincent Peillon, Cristian Dan Preda, Elly Schlein, Eleftherios Synadinos, Eleni Theocharous, Paavo Väyrynen, Bogdan Brunon Wenta, Anna Záborská, Željana Zovko
Substitutes present for the final vote	Paul Rübig, Judith Sargentini
Substitutes under Rule 200(2) present for the final vote	Xabier Benito Ziluaga, Dariusz Rosati

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

21	+
ALDE Group	Paavo Väyrynen
ECR Group	Nirj Deva, Eleni Theocharous
GUE/NGL Group	Xabier Benito Ziluaga
PPE Group	György Hölvényi, Teresa Jiménez-Becerril Barrio, Cristian Dan Preda, Dariusz Rosati, Paul Rübig, Bogdan Brunon Wenta, Anna Záborská, Željana Zovko,
S&D Group	Doru-Claudian Frunzuliță, Enrique Guerrero Salom, Arne Lietz, Linda McAvan, Norbert Neuser, Vincent Peillon, Elly Schlein
Verts/ALE Group	Heidi Hautala, Judith Sargentini

1	-
NI	Eleftherios Synadinos

0	0

Key to symbols:

+ : in favour

- : against

0 : abstention