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THE FUTURE OF TAXATION IN THE EU: FURTHER STEPS TOWARDS TAX HARMONISATION?

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There clearly is tax competition in the EU. The question is whether this tax competition is desirable or not and whether there should be a coordinated response against this phenomenon. Within the EU, there is one largely undisputed form of fair tax competition, and that is competition bearing on the overall level of taxation of Member States. It is up to governments to offer the best value for money to domestic and foreign investments and to design tax systems best suited to their country situation. In the current context of crisis and lack of investment in Europe, issues of fiscal dumping are coming back into the debate. However, an overall high tax burden may not necessarily be a disincentive to productive investment, as a high-tax country may have an excellent education system, as well as first-class infrastructure and public services. And on the other hand, an overall low tax burden may not necessarily attract productive investment, if education, infrastructure and public services are weakly developed. Competition based on the overall tax burden is generally seen as fair, but appears to be harmful and unacceptable when aims at attracting foreign tax bases, while protecting the national ones. The European Commission is currently working on a new proposal on a Common Consolidated Corporate Tax Base (CCCTB). Should we expect an intensification of work in this area in the second semester of 2014? And what are the implementation prospects for the CCCTB? What assessment can we make on the progress in tax harmonisation at the EU, OECD and G20 level? And what kind of measures should we envisage to put taxation in the service of investments? How to optimize the strategy of large groups to ensure the circulation of capital tax and better locate investments? What kind of fiscal model should we adopt within the European Union? And how can we increase the fight against tax fraud and tax havens.

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Jana Zifciakova questioned the participants whether tax rates in the EU should be harmonised and what would that mean for those Member States that currently benefit from a more competitive tax regime. She indicated that the European Commission is currently working on a new proposal on a Common Consolidated Corporate Tax Base (CCCTB), a highly controversial project that some politicians and stakeholders consider problematic as it would allegedly not respect the subsidiarity principle, or even harmful, as it would purportedly reduce the fiscal sovereignty of the Member States and European Union's capacity to attract foreign investment. She questioned the panellists if this criticism reflects genuine concerns and if we should we expect an intensification of work in this area in the second semester of 2014. Furthermore she emphasised that the working group meeting should also try to identify what kind of measures we should envisage to put taxation in the service of investments, as well as to see how we can increase the fight against tax fraud and tax havens, and nevertheless, to scrutinise what kind of assessment we can make on the progress on tax harmonisation at the international level, mainly at the OECD level (BEPS) and at the G20 level.

PANEL PRESENTATIONS

1. Uwe Ihli

One of the most important events was that Jean-Claude Juncker mentioned already this project in his speech in the European Parliament on the 15th of July 2014. He declared 'I will combat tax evasion and tax fraud, I am in favour of the adoption at the EU level of a common consolidated corporate tax base and of a financial transaction tax'. Now, this is a clear political statement, and of course, we expect that the new Commission will follow up such a political high-level statement by concrete actions, but this also needs indebt discussion, and this can be done in the next 4 years. As it was mentioned, 2014 is a year of important changes, and it is very important to follow what will happen next. First, we have the Italian Presidency which is already working on the CCCTB.

What does it mean CCCTB?

It is a **common consolidated corporate tax base for which businesses would have the option to choose one tax system which would have the same rules in all the Member States, then the profits realised in all the Member States by a group would be put all together and shared out**. It's an optional system, this would mean Member States are allowed to keep their national systems running. The big request by the European Parliament sometimes raised to make it a mandatory system that would then mean of course that all businesses in the EU would have to apply the rules of CCCTB (this would mean all the SMEs, start-ups), than the national corporate systems would disappear because besides the harmonised one there is no place for any national one. That is why under subsidiarity, proportionality, the Commission proposed in 2011 an optional system. There are political voices that say it should be mandatory, and political voices that say tax planning should be also tackled and we should have a fairer tax system.

Currently, under the Italian Presidency we continue with this discussion that started in 2011. We have discussed for the last 3 years, and we used an enormous amount not only from the Commission, but also from the Member States, there were also discussions in the Council, we have 3 to 4 sessions to discuss this in the Council on the technical aspects. And there is also a discussion on the CCTB. Though the willingness of Member States to look into consolidation is something which is not really recent. What we discuss now is a common corporate tax system but without consolidation. And this discussion continued, in one week we will have the next round of discussions on the technical provisions of the CCTB under the Italian share in the Council. What has come out up till now interesting enough about the CCTB, when the Member States discussed the proposal and there were presentations on the tax systems or specific items, it looks like there was a European exchange of best practice. It was first presented the Italian model, it was afterwards presented the Danish model, now we have the Italian model also in Germany, in Spain and Portugal. When the German minimum tax rate was discussed, it was afterwards introduced in Slovenia. So it is an indirect way where good practices by Member States find their way in national law, even if the CCTB as a project does not move forward.

Since last year, when **the OECD introduced the BEPS (Base Erosion and Profit Shifting) action**, it was an initiative at the G20/G8 level in which Member States were unhappy with the current situation of profit shifting in the world, not in the EU, but in the world. Very often economic activities undertaken in some states do not result in taxes paid to finance ministry in the same state. They are either taxed in other state with low tax rates or sometimes even within no state. That is the background of BEPS. Now, the European Commission and the OECD works usually very closely together on tax policy matters, so it is obvious that we do not want to have contradicting approaches. The majority of OECD Member States are also EU Member States, so it would be very ineffective to have a solution for the EU Member States proposed and discussed in the Council, and then a different solution for the same Member States proposed and discussed at the OECD level. But as I said we are very close partners and we work very close together**. However the OECD is also a bilateral organisation and all its actions are based on bilateral solutions.** The US negotiates something with UK, Canada makes tax convention with Germany, and for them it is just 2 states. This is not the situation in the EU. We are also requested to consider the single market and the treaty freedoms. When UK negotiates a rule with the US, then only UK companies owned by UK investors will benefit from it. Why should not a UK company with a French shareholder have the same benefits? Under bilateral approach in the United States is fine, for the EU is different, as the UK should not discriminate or treat badly a French, Italian or Spanish shareholder of a UK company. EU law, treaty freedoms, limit the possibility for the Member States, and that is what now comes up in the discussion for the next week, when we will discuss the CCTB as a project, we discuss OECD proposals for concrete measures, whether they are in line with the possibilities for Member States. Then, the next week on the 15th of September, there will be a webcast by the OECD where the first package of seven reports defined as the BEPS action plan will be published. We have OECD going ahead with BEPS reports.

It is usually the Commission President who goes to G20 meetings, and if it is a G20 meeting of finance ministers, it is the Commissioner for Economic and Financial Affairs, so it was in the past Olli Rehn. In the future it will either be the Vice-President or it will be the ECFIN Commissioner Pierre Moscovici. It is good that from now our text proposals can be maybe presented by our own Commissioner.

Tax competition is a big topic. First, purely institutional, Member States agreed to discuss tax competition aspects in the Code of Conduct. Currently there are two big topics. One is the Code of Conduct discussion on tax boxes which has different types, but the best ones from a business viewpoint are 2.5% taxation in Cyprus and even 0% taxation in Malta, which is good for business, but very hard for finance ministers in high-tax countries to accept. When a company pays 1 million Euros into such a tax box as expenses they are deducting the tax base in their first country the 25-30%, and on the other side they are very lowly taxed, nearly 0% in Malta. The question is then of course when is such a system justified and where not. The Commission and the Member States in the Council have agreed a new concept best assessment of such schemes and come forward as an analysis by the end of the year. This is the purely technical one, from the more political what is now also interesting is in the past 5-10 years when looked at the best legislative solutions, taxation should be in line with legislation. Now fairness came into the business, when the BEPS exercise was launched. And what also the Parliament in resolutions request, and said I don’t want that business pay taxes on the basis of the current legislation, each one should pay taxes when it is fair, and it is not fair that legally a company can escape taxation, it is fair that each one pays something, and if this legislation does not result in fair taxation, then it has to changed. 2013 for the first time there came another big argument in the discussion, and that was when businesses came and said, we have a disadvantage and a competition, we in Europe, we in France, we pay an enormous amount of taxes. When we earn 100 Euros, we have to give between 40 and 45 to the state. But our competitors, international businesses, you know all the big names from the newspapers; they pay 2%, 3% or 4%. So when they earn the same 100 Euros, also in France or in other EU Member State they pay let’s say 3%. So when there is a good start-up, then we in the EU cannot compete because we have fewer funds. And now in 2014 we also have more and more discussion in Germany, and we see that it is also a concern for them. Competition whether it is fair, it is not only fair for citizens to ensure that each one pays its fair share to the budget, but also businesses. It is even unfair if we pay our fair share to the budget, but international companies who are also active in Europe they don't pay their fair share. Not here in Europe nor at home, they do not pay at all, and this is not only unfair, it is also a disadvantage for European business, and something has to be done about it.

2. Michael Brei

International taxation and tax arbitrage

Some countries that appear as high-tax countries have certain tax havens because they have a very complicated tax system, they have high tax rates, but they have plenty of exemptions, which then allow foreign entities to operate in those countries without really paying taxes. Among them are some big EU Member States.

Tax harmonisation is an important topic, as differential tax regimes may create distortions in the efficient allocation of capital. But it requires much more than just equalisation of tax rates. In the international tax system, there are plenty of different tax rates applied to active and passive income, dividend, capital gain, branch taxes, and withholding taxes. And on top of this, there are exemptions and bilateral tax treaties, so it is quite difficult to get a precise view on how much taxes a multinational pays in a country. I think this calls for a simplification of the tax system, because multinational enterprises have a lot of resources which are put into research on how to optimise and allocate their entities, and they are sometimes much better than governments in performing that.

Tax harmonisation requires first a global approach, so it is not helpful if we do it here in Europe only, and then other countries do not harmonise their taxes. So I think we need to increase and improve the cooperation of tax authorities that exchange information about the identities of the person who is behind the entity. One major problem is that it is often difficult to track back who is the beneficial owner of an entity. Many entities stood in Delaware. Delaware is maybe the biggest offshore financial centre in the world, it is a state in the United States who allow limited liability companies. And it very difficult to track the ownership, and once you can hide your ownership, you can shift profits, you can make higher deductions. Another problem is that for example interest payments on debt are usually deductible from income, so when you take a loan and you take 10% interest, you can deduct it at the end from your income, but for equity, for the own capital of enterprises, it is not deductible. And this may create incentives that firms operate with very low equity levels and that they finance everything with debt, because the debt they can at the end deduct from income taxes. This creates a lot of distortions as well, so often multinational firms relocate finance to low tax jurisdictions and they make the loan at the subsidiary in the high tax jurisdiction, because there then the entity has a big income, but it will also have a big interest expense which will be then deducted and that is called tax base erosion. And I think that the problem as Uwe Ihli mentioned before, the problem of profit shifting is well known, but if you introduce anti-abuse measures against profit shifting, firms will do tax erosion, they will try to shows very little income as much as they can. It is the case of Starbucks, they make a lot of profit, but they have also a lot of expenses, and they invest in many places, so at the end they end up with a very small income and they do not pay any taxes. So this also needs to be addressed. Belgium has introduced an interesting method to make equity-financing more favourable. In Belgium equity is treated as being borrowed at a rate equivalent to 10-year bonds issued by the government and these 'notional interests' may be deducted from a company's tax base. Overall the Belgium law offers advantages and provisions that often combine to ensure that dividends received by a Belgian holding company are free of corporate tax in Belgium. Another thing, Belgium and Netherlands are very holding friendly jurisdictions, so they seem to have high corporate tax rates, but with all these advantages and provisions they give to foreign holding companies, such as the tax free zones). They give provisions to these firms, so that at the end they virtually don't pay any taxes.

It is important to distinguish too things when it comes to international taxation or international movement of enterprises or multinational enterprises, there are low tax and low regulation jurisdictions, and some EU Member States have characteristics of tax havens and others are secrecy or bank secrecy havens. For example in the EU there are some countries that can be called special concession havens, others are treaty havens, as they have a wide range of bilateral tax treaty agreements like the Netherlands traditionally, although their tax rates appear high. So in Belgium or in the Netherlands this special concession haven appears because of participation exemptions for holding companies that allows them to receive foreign source income without paying taxes. There are also tax free zones in Germany and France. Then you have located in Europe some international financial centres such as London, which offer low tax rates and bank secrecy. There are also regional financial centres in Europe, as in Ireland or in Luxembourg. And then there are the traditional offshore financial centres in Europe, such as Cyprus or the Channel Islands, they most often offer no tax rate on investment and they also often do not require that the business is based in that country. Then, there are the special concession havens which are onshore economies that allow treaty shopping and/or preferential tax regimes (exemptions and reliefs) to non-residents (among them Austria, Belgium, Denmark, France, Germany, Greece, Hungary, Iceland, Ireland, Luxembourg, Netherlands, Portugal, Spain, UK).

To show how the international tax planning of multinational companies works. One phenomenon are the stepping-stone conduits. They are used in Netherlands for example. So imagine you are an enterprise and you make a loan from a tax haven to a country A, and then you make 10 USD of after-tax income from this loan. Normally, once you repatriate from a country to another country, they have withholding taxes. We do not have anymore these withholding taxes between us in Europe, but we have in other countries. So France for example has a withholding tax with the US of 5% or with Australia of 15%. Once the profits want to be repatriated, you have to have this withholding tax. If you do not use a treaty haven, like the Netherlands for example, once you repatriate the 10 USD from the country A to the tax haven you receive 7 USD, if you assume a withholding tax of 30%. What you can do is to route these loans through the Netherlands, and then you save the withholding tax because the Netherlands has a tax treaty with country A, and the tax treaty says OK, if you repatriate income from country A to the Netherlands, then you will not pay a withholding tax. So what the company will do? It will transfer the loan to a subsidiary in the Netherlands, and it will charge the subsidiary the Netherlands with 10%. The subsidiary in the Netherlands will give this loan to country A and will receive 10, without withholding tax. So in the Netherlands they have a profit of zero, and now the company does not get only 7, but it gets 10 for the loan. And that is totally legal and it is also accepted (it is a kind of accepted tax avoidance or legally intended tax avoidance).

What becomes more dangerous is when companies combine aggressive transfer pricing with hidden ownership. I will give an example. So if in the Netherlands, a US company wants to licence a patent or a copyright for a film for a UK company, so if it would do it directly, the American company would pay a royalty for this patent of 100 USD to the UK. So its after-tax cost would be 61 USD if we assume that there is a tax rate of 39%. The patent does not cost 100 USD, but 200 USD, so you say it is more expensive than it really is. You transfer 200 USD to the Caiman islands, and from the Caiman islands you pay the 100 USD of royalty to the UK firm and you get the patent. Because you have declared home that the royalty was 200 USD, your after-tax cost is 22 USD. And then you have 100 USD in the Caiman islands and you can dispose of this amount. It becomes problematic when you want to repatriate it.

To finish**, I think that tax rates are actually too high, and if Europe would reduce tax rates to 15 or 20%, tax revenues would actually increase because firms would to then less tax base erosion, they would be more willing to show income**. And so, although you reduce tax rates, you will create maybe more tax revenues at the end. I consider that we do not only have to harmonise taxes, but we also have to reduce taxes.

QUESTIONS & ANSWERS SESSION

Questions

1. Theodor Stolojan – MEP, Member of the ECON committee of the European Parliament
I was nominated this month shadow rapporteur for the report which will deal with taxation issues in the European Union, it is an initiative report in the European Parliament, and therefore I am very much interested in these issues. I would like to raise some points and to ask our speakers views.

The Council launched an idea for the whole European Union, at least for the Eurozone, but it is not only limited to the Eurozone, to reduce the tax burden on labour. And the issue is how the deal with this political guideline of the Council. Of course, it is a very important matter. The speakers already said that tax burden on labour is very high, and it is a matter of competitiveness of businesses in Europe, it is a matter related to high unemployment, and the problem is that there are debates and people that say that we should reduce tax burden on labour, but to increase on energy. But taxes on energy in Europe are already high as compared with other competitive environments in the world.

Therefore, I am very much interested how to make practical these political guidelines of the Council. If we do not have any idea on how to reform the tax system, then we should go to the expenditure side of all budgets and to come back to what Angela Merkel said, that OK, the European Union is producing around 25% of the world output, but there is around 50% of social expenditure of the world. It is clear that we should think about how to solve this problem.

Regarding tax havens, it is a big issue. Mr Ihli said already that this issue is coming stronger and stronger on the table of politicians because people become much more convinced that something is wrong, and also in the concept of international taxation and in the concept of international business. To give you a concrete example, what happened in my country, in Romania: a big refinery on the Black Sea was sold for 15 million USD, and this refinery was bought by a Romanian company with owners in a Dutch company, and the owners of the Dutch company were a company registered somewhere in the Caribbean. So what happened is that these owners invested in the refinery, they developed the business and finally they sold this refinery to a state company in Kazakhstan for billions of dollars. Of course for this transaction it was a capital gain. The Romanian tax authority couldn't tax any dollar from capital gain. Why? Because the transaction was just a change of owners somewhere in the Caribbean, a tax haven which has no agreement with anybody for transparency. For instance I have an account in US, and they send every year to the Romanian tax authority my interest which I receive for an account in a bank in the US. This a good and transparent way to work. I proposed to the European Parliament, without any success, the idea to have an agreement between most important countries such as US, Japan, China, Russia, the EU Member States, to stop any transaction in the jurisdiction of these states made by a company registered in a tax haven which does not want to conclude a transparency agreement with the EU, US, China, Russia, Japan, and to report who are the entities or persons that are receiving different forms of income in these tax havens. From a political view, that is the only way of stopping this very unfair transfer of wealth, from the country where the wealth is created to the tax havens or other types of tax evasion.

Regarding tax harmonisation in the European Union, there are a lot of talks regarding harmonisation, it seems that even the new President of the European Commission is thinking about what we call a real European Monetary Union, having in mind also the harmonisation of taxes. But I would like to remind you that we have already for years a fiscal system in the EU called in transition, which is the value added tax system. The VAT is paid in the country where the goods and the services are consumed, and not in the country where they are produced. And there were a lot of discussions without any results, on how to move from paying this VAT in origin, and I do not a result coming in the near future. I hope that this CCCTB directive will go on and we will have much more success with this project.

2. Bernd Donhert
I am a little bit puzzled with the words 'the transfer of profits in other countries is legally permitted'. I take major electricity companies which are located here in Avenue Louise, not really working in Brussels, big

names, which transferred their profits from their home country over here, and you wonder why they are doing that, well it is legally permitted. And well, the major EU Member States, they do not call for this to stop. Then regarding the tax havens, I used to work in a company who used to be an official US company in Delaware, now they have the same in Switzerland, you see these post boxes there. Isn't that a starting point to check these companies and say who seem to legally there and what sounds like tax evasion. And I think what we have to do is try to discover what really happens. And also, I have the impression that some countries are supporting this.

If you speak about the harmonisation of the level of corporate taxes, if you look at Slovakia, and think about the times when they made a split from Czechoslovakia, everybody was saying the winner will be the Czech Republic, and the looser will be Slovakia. It is just the contrary, the corporate taxes in Slovakia were 19%, and this tax rate was used as an incentive for further investment, the whole European car industry is there, and they are really a flowering economy, they are doing very good. But can you blame Slovakia to have this low tax rate, attracting investments, creating employment? With other words, you reduce the taxation, harmonise this, but the real question is who is catching in the value of the taxes and for what is needed. And once you ask that question, it becomes very difficult to get to a consensus because the interests of countries are different and will remain different.

3. Aurore Chardonnet – European Confederation of Independent Trade Unions
Mr Brei, at the end of your presentation you mentioned that we do not only need a tax harmonisation, but also a reduction of tax rates for businesses. Why do you have the impression that big businesses, which have the means to escape and to avoid tax, why would they comply to a reduced tax rate while they can still have a lower tax rate? Even if they should pay a tax at 20%, they would still escape from doing that, as a tax of 2% is still much lower. And I think personally that Member States have already understood it, and I am afraid that now they are transferring their financial burden to workers that cannot escape, and to consumption taxes such as VAT, because they understand that is too hard to fight against big companies. So when they say that they want to fight against tax fraud and that they want to increase the tax revenues, they just change their target.

4. Nadja Salson – European Federation of Public Services Unions (EPSU)
Public services, that is the missing link in perhaps both your presentations. I really like what you have just said that when you talk about tax, if you do not mention what tax is for, you have already failed the debate. So, tax is about financing public services, social protection, depending on how the system is in a given country, and of course it is about wealth distribution. And we know that one of the key challenges which unfortunately has yet to be picked up by Mr Juncker is the fact that there has been an accumulation of wealth over the past few years and despite the crisis we have more millionaires and we have more inequalities. So, how can tax redress that key challenge?

What is tax for and how fair should it be? I was also quite surprised by the conclusion of Mr Brei regarding reducing corporate tax. Over the past decade it is well know that if you look at the graphs of VAT rates, just comparing it to corporate tax rates or top income tax rates, the VAT rates go up while the top income and corporate tax rates go down. This has not yet impacted on tax revenues. The latest report on Taxation trends in Europe shows that tax revenues are picking up again. But we know that there is a gap in terms of fairness, because the VAT is paid by everyone regardless of their level of income, whilst corporate tax is perhaps more and should be more progressive. The question that I would have perhaps goes beyond what was discussed, but what can the European Commission do. And given the limits, given the unanimity in the Council, what can the Commission do to promote a fairer more progressive taxation? And indeed, I was reading 'la lettre de mission' that Mr Juncker addressed to Mr Moscovici on shifting tax from labour, and I think that trade unions agree on that. Where do you shift it to? Is it to capital? No, this is nowhere to be seen in the Commission agenda, on the contrary it is growth and friendly, and therefore to shift it somewhere else, but where?

On tax fraud and avoidance, and tax harmonisation, just to add perhaps on the list which was given at the beginning with political, economic, social obstacles, we have also business obstacles. And SMEs who also have to make up for the losses of unpaid tax of larger companies (Google, Starbucks). There is a strong resistance to fight against tax fraud. There has been much progress, lifting bank secrecy, we are moving towards automatic exchange of tax information, and that is very good, but at the same time the European Commission's action plan for the fight against tax fraud likes essence. There are two big defaults. On that it does not tackle forms of tax havens or secrecy jurisdictions within the EU, because the recommendations on tax havens are only about third countries. The second thing is that it is not binding, the sanctions are very weak. So what is your view on the implementation of the action plan and the recommendations on tax fraud, the recommendations regarding aggressive tax planning which include the proposal to have a horizontal and general anti-abuse law? My experience is that sadly business obstruction prevents on making real progress.

Last thing, you did not mention the tax on financial transactions which should be also a key priority for us, not so much for tax revenues, but very much for regulation, to limit and reduce speculation. You know that France, Mr Moscovici's country is amongst the countries that support the European FTT, but the word of the French government has left much room to desire. In terms of the concrete discussions on the content of the directive, how do you think the Commission is going to push forward on that given that the Italian Presidency said that hopefully the discussions should come to a closing by the end of the year? And what is the prospect for having a broad FTT which will be the only way of avoiding the FTT?

Answers

A. Uwe Ihli
Firstly, I fear that I do not have the solutions for all the problems and issues which have been raised. A key issue is that Member States have the competence for direct taxes. They have elected governments by their citizens who determine their agenda. The European Commission has a very limited 'droit d'initiative', even though in initiative such as the European Semester, they also proposed intra Member State ideas. But tax law is done by national governments and national parliaments. The Slovak Republic is a good example. And you are absolutely right – you finance public services, when you have the money in your budget. But in the same time it is also true that with very law tax ratios you attract businesses. So you don't get the taxes but you attract business, you get employment, you get wage tax, you get social security contributions, it is like this in business everywhere. When you are at the airport, or at Avenue Louise, you see customers coming ask and buy, you do not offer special prices or discounts, this means you are a tax country, Germany, France, The Benelux, those stores who have a lot of customers, with lots of money, and you have the possibility to charge for the good system of services. When the business is not in Avenue Louise, but is a factory outlet hundred kilometres away how do you attract your customers? They must come to you, they don't do it by judging high prices, you offer discounts, or factory outlets. When you look at the Member States that have law tax rates, they are at the borders of EU, you have Bulgaria 10%, Cyprus 12.5%, Ireland 12.5%, they try to attract with their low taxes also investments and business and profits. And it is an understandable reaction. Yes, it is true that it there should be competition but it also has to be fair. That is the border line, when you should not make dumping, you should not make advertising for goods that you don't have on stock. That is what the Council is doing in the Code of Conduct for fair taxation. But of course it is slow because all in the committees have to agree if it is fair or not, and then very often it comes to very specific questions. And if it comes to the European Parliament, there they make the report and there is again the art of compromise, you cannot have everything what you like to have in the report because other Members of the Parliament representing other voters or citizens may have a different view. So it has to be balanced.

For big companies, if you want to stop them paying fewer taxes than they should pay, then you need to change the law, the law of the Member States. Another point that is politically difficult is that sometimes the Member State has to change its law to help another member state closing a report. They don't win, it is just a mismatch between two systems aloud a company not willing to pay taxes. If the mismatch is stopped, legislation needs to be changed, but is very difficult for the Finance Minister to go forward to its Parliament to say 'we need to change the law here and here for the sake of more revenues in another Member State'. So it is also an institutional problem.

Questions & Answers

Jana Zifciakova: Mr. Ihli, do you think that putting together the financial and economic affairs resort with the taxation and customs resort in the new European Commission could improve things and could advance some important projects in the field of taxation or rather have the opposite effect, that the decisions would be even more delayed?

Uwe Ihli: There was once a very successful cooperation at the time of Mr. Bolkenstein, Commissioner for Internal Market and Taxation. It is good to have a closer cooperation. The same is the inbuilt synergy effect between economic fields and taxation fields, for example the European semester, when part of the recommendations of the semester are on taxation measures within the Member States, and therefore the coordination could improve things. It is clear that the coordination of the economic and taxation fields is a good step.

Remarks by Philippe Herzog – Founding Chairman of Confrontations Europe:
First, I think that this is an issue that cannot be avoided, since if we have in mind the macroeconomic situation, there should be defined main guidelines to tackle this situation. In other words, having lower taxes is a must, and these guidelines can be discussed, but you cannot avoid the question of harmonisation or good practices for taxation in this type of context. Of course the idea of reducing the taxes has to be addressed, but we should first say how. The problem should be viewed as a question of fairness (who will pay for that), and as a question of efficiency (quality of public services and quality of the capacity to invest). The second problem is the cohesion between Member States.

Otherwise the competitiveness, as regards to taxation, is viewed only as a problem of localisation/delocalisation. And as regards to efficiency it is a never a point. Sometimes delocalisation is good, otherwise your firm does not survive (big companies), sometimes re-localization is needed (and it is a right). Competitiveness is tricky but it should be viewed deeply regarding these two questions. Nevertheless, the main problem in Europe today is the law rate of investment.

Remarks by Anne Macey – Delegate General, Delegate General of Confrontations Europe:
Well, I will only reinforce slightly what Philippe already said. It is true that taxation is a chasing point of very technical aspects that in reality embody visions, different visions of social contracts of how we envision going together, and I am wondering whether the end goal should be that everyone pays taxes, fairness which is coming very strongly with some reasons in the public debate. Definitely this should be tackled. Otherwise, any other end goal will not be heard in the public opinion, because there are situations that are inacceptable. But at the same time, shouldn't we work with all players, with public opinion, especially in a number of European countries to move the focus on its investment. The diagnosis of the current crisis in the globalisation period is that we lack investments, meaning private and public investments. So, some formal public fight or debate should be led, and we need to try and move the focus on not just consumption but also rather towards investments.

Remarks by Michael Brei
Maybe just one point, it was raised that we should prohibit transactions that come from tax heavens, maybe this could help, but first of all we have to take care and distinguish illegal transactions (probably less than 10% of the transactions are really fraudulent or tax evasions), one has to work on this issue, to decompose the capital that is flowing across border into what it is legal and what it is not legal, and you can also prohibit actions from these countries or jurisdictions because many of them belong to the UK or they are overseas territories, colonies. But I think competition across countries is vital and it brings us to have

high spending countries and become more efficient. But also if you cut taxes, it doesn't necessarily mean that you will lose tax revenues, I am convinced that if you reduce them to a more efficient level, the revenue may actually increase. But that is a very controversial statement, it is a value of an experiment and we have to be very careful, it should be performed very slowly and on the European level, taking into account the position of each country. Just to finish, what has work well in the past, regarding these tax heaven issues, was that the OECD published a blacklist of jurisdictions that have to improve their tax cooperation, so what I was asking myself was 'why do we not try to publish our blacklist of multinational enterprises?'. But one has to be careful because putting an enterprise on the black list could damage its image and reputation. Maybe a last point on how to make our banking system safer, I find that the FTT is a good idea because of all this high frequency trading, so I think that all transactions should be taxed, but those that have a long lasting interest are good and those that are only buy and sell should be taxed, so we have to distinguish between transactions. Of course if we do not do this on a global level, then these banks will shift their activities elsewhere. First we have to do it on the European level, but then also on the global level more and more. And I think that we have to go back to find a banking sector with more banks which are smaller, and I do not know how do we get there, but certainly that if the tax for the larger bank is higher than for smaller, they would have incentives to split, to get smaller, because the banking system with 4-5 banks who dominate 90% of the banking sector (and this is specific almost in all countries in Europe) is very dangerous. So maybe it can be done by taxes or by regulations.

Jana Zifciakova:
1. Question for Mr. Brei: You were saying we should do things at the European level first and then it would be great to continue at the international level. I am wondering that if the EU advances fast in this field and on the other hand, at the international level the progress is slower, wouldn't this put the EU Member States in a position of disadvantage compared to other important financial centres?

2. Question for Mr. Ihli: Mr. Brei was speaking about the problem of having just a very low percent of transactions which can be considered fraudulent, while the majority of tax avoidance happens in the legal way. Because we see that European Commission and European Parliament are publishing documents and envisioning goals how to fight against tax fraud, I was wondering, if tax fraud as such is maybe just 10% of the real tax fraud, then what kind of measures we can envisage to fight against the so called legal part of tax fraud? Or is there any initiative that is planned to tackle these matters?

Remarks by Theodor Stolojan:
I would like to answer to the question raised by you. The problem of our legal transactions and fraudulent transactions and making the difference between them is important, and this is a job of many institutions in each country to follow and to make the correct distinction. But the point which I would like to raise is transparency, the obligation of any tax heaven to report to all other countries the income received by different entities or individual of tax heaven. This is a problem which we cannot solve now. For instant, it is necessary someone steals a CD from Lichtenstein in order to learn that the President of a German bank had 100 MEUR of undeclared revenues in Germany, not in Romania, not in Bulgaria, that is issue that we have to solve. And I do not understand, not the technical European Commission but the political entities, why there is such resistance to tell to a tax haven country, that if you do not want to have a transparency agreement with European Union, we will stop all the transactions and all the relations, including diplomatic relations, with that tax heaven. It is not acceptable for people who are working honestly in each country to have to witness the kind of things which are happening today. That is the issue which I think we should promote in our thinking, in our practice and so on.

Remarks by Bernd Donhert: I agree fully with what Mr. Stolojan was saying. I would just like to mention that Germany is a country where besides the fact that they are excellent in finding records, whatever is not forbidden is allowed. This means that they are very clean technically, but the transparency spirit is not prevailing. I would like to come back to the issue of the blacklist, I hate this word but it is probably needed. Who should be the judge or the custodial to follow up that list? I have some doubts for countries themselves. I think that should be a kind of 'niche institution' with this given or required transparency who will ensure the follow up, because I think that all Member States have their own interests and benefits and they are too weak to stand and challenge big companies. So it would be much easier if there is a committee or someone given the necessary transparency that will follow up.

Remarks by Nadja Salson: On the tax heavens, the Commission is proposing that each member state would come up with a blacklist of tax heavens, that this would be national list and then European black list. The positive aspect of those national black lists would be based on common criteria. So how do you define a tax heaven? That's the next step, because there is no common definition of tax heavens and transparency is key or opacity. And I think in my view that we are moving through this transparency, but there are two problems: is it that even with automatic exchange of information (you get back transparency and that information what's going on) there is an aspect of the beneficial owners who knows what, which company... We have got some tools already but it is not the European blacklist. And there are the sanctions again and the key thing is the aspect of tax competition. The tax heaven is indeed an issue of opacity and low tax regime of preferential treatments compared to domestic companies. And that's the third one which is facing lots of resistance. But the Commission is proposing that this three criteria are put together to define what the tax heaven is and this should be very strongly support and there shouldn't be unlinked. We have some tools but is not the European black list. We would recommend using public contracts and public documents. About the CCCTB, it is a tax with common base, but without common rate, the rate of 25% is a little high, but it is coming from the European Average, not the effective tax rate but nominal tax rate. And we support the CCCTB, but it is quite an odd thing to have a tax without a rate, only a base, does not this set a precedent? And as it is not compulsory, so why do you think companies will apply the CCCTB if is not compulsory?

Remarks by Jana Zifciakova: Maybe the CCCTB could be already the first step towards a very long terms process, because it is so hard for the member states to give up on their fiscal sovereignty. And I would also like to comment about the Danish tax authority, that it is indeed a great initiative, but we have to take into account the level of progressiveness of their economy and the fact that they have a very liberal government which enables them to have this kind of measures, and I personally think that in countries with a different government it will be much more difficult to put this in place. And then, I agree that the negotiations with the US within the TTIP are certainly a great tool, and it would be good if they would deal with taxation, but unfortunately, lately there is a tendency of putting things out from the negotiation table rather than adding things in, so I do not know if is not too ambitious.

Remarks by Uwe Ihli: First, excuse me that I would not comment on VAT, which is another big topic, and also on the FTT. Regarding the tax rate, non-harmonized CCCTB which is optional because one rate can be difficult to achieve, and it is a political question how much differences in the tax rates can EU have? Regarding the blacklist, yes, but there should be also an obligation for the Member State to apply it, so it needs to be binding. Regarding transparency, the European Parliament is very much in favour for transparency. The big question on tax fraud, yes, there is still fraud. Sorry to mention, the VAT fraud is a big fraud. The more consumptions taxes are introduced and the more VAT rates go up, the higher the incentives of fraud. The Member States have to change their legislation and make significant changes which should be a big step and should not be underestimated.