WAYS OF COMBAT TAX EVASION IN ROMANIA AND EUROPEAN UNION

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Abstract: Tax evasion is a complex phenomenon faced by all member economies, regardless of geographic position. Economic transparency of each of the Member States of the European Union helps to have a compact European economic market. This can take place inter alia through exchange of information between tax authorities and a common database for European countries.

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1. INTRODUCTION

As in other industries, in the economic field trends are trends. These trends tend to be followed more or less by economic agents, regardless of their financiall situation or economic situation of the state in which they operate.

One of these trends is tax evasion and the negative impact this has on the economy of a state.

Tax fraud is a form of tax evasion committed intentionally, which generally subject to criminal penalties. The term includes situations that are intentionally presented as false statements or forged documents.

Generally, tax evasion designates illegal mechanisms by which the obligation to pay the tax is hidden or ignored, namely the taxpayer pays lower taxes than it is obliged to pay from the legal point of view, the failure to inform the tax authorities about the income information.

Through its forms of expression, tax fraud and tax evasion tend to become increasingly more serious threat in the design process and revenue collection bungetare of a State.

Both in Romania and in the Member States of the EU, it is desired that in all ways that tax fraud to be as low as possible.

For this reason, the European Conferences held in numerous high-level meetings have the objective of determined action to combat fraud and tax evasion, by supporting the efforts of fiscal consolidation and ensuring fairness of tax systems.

"The European Commission has inserted White Paper on European Governance principles to be adopted in the reform of governance: openness, participation, availability, efficiency and consistency, specific principles of rule of law and democratic system which can be found at all levels of governance: global, European, national, regional and local."[1]

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[1] Gheorghe Pîrvu - *Governance in EU*, Universitaria Publisher, 2010, p. 153

Fraud and tax evasion tend to limit the ability of states in the Union to collect taxes and to enforce its own tax policies, but also those imposed by the Union.

"According to estimates, tens of billions of euros, representing amounts often unreported and untaxed, are still in offshore jurisdictions, reducing national tax revenue. Implementation of decisive actions that aim to minimize fraud and tax evasion could generate additional revenues worth billion for public budgets across Europe."[2].

For operators, taxpayers the tax fraud and tax evasion are a challenge in terms of equity and fairness fiscal, vis a vis the tax regulations imposed by the state in which they operate, and the European Union, whose member is State concerned.

This responsibility to be fiscally correct to state institutions which impose taxes is a prerequisite for tax reforms to be acceptable socially, politically and geographically.

Tax fairness should be considered. Taxes must be paid properly and uniformly, irrespective of the taxpayer, either unskilled worker, multinational enterprises that can benefit from a single market or even people with great financial power who hold savings in offshore jurisdictions.

All these taxpayers contribute to enhancing public finances by paying fair contribution. Compliance with legal rules imposed by the State creates economic systems better and more just.

Combating tax evasion requires action at national, European, and world level.

European integration process aimed a closer integration between Member States economies, registering high volumes of cross-border transactions, as well as reduce the costs and risks related to these transactions.

"The process has generated huge benefits for European citizens and businesses, but instead has created additional challenges for national tax administrations regarding cooperation and exchange of information. Experience has shown that Member States can meet these challenges effectively only if they act together, under a framework agreed at EU level. Exclusively unilateral solutions will not work. Within a single market, a globalized economy, inconsistencies and gaps in national laws are too easily exploited by those seeking to evade tax obligations."[3]

According to the Commission Communication to the European Parliament and the Council of Europe on fiscal transparency to combat tax evasion licit and illicit nr. COM /2015/0136, "unlike unlawful tax evasion is illegal, tax evasion lawful normally fall within the law. However, several forms of tax evasion bid does not meet the spirit of the law, forcing interpretation of what is "legal" to minimize the overall tax contribution of a company. With the help of aggressive tax planning techniques, some companies exploit legal loopholes and inconsistencies between the tax systems of national rules to avoid paying taxes due. In addition, tax systems in many countries allow companies to transfer their profits by artificially respective jurisdictions, the effect of this practice is to encourage aggressive tax planning."[4]

These activities undermine the equitable distribution of responsibilities between taxpayers, fair competition between companies and collection between Member States of income taxes due to them legitimately.

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[2] European Commission, "Combating fraud and tax evasion, the Commission contribution to the European Council" from 22 May 2013, p. 1

[3] European Commission, "Combating fraud and tax evasion, the Commission contribution to the European Council" from 22 May 2013, p. 2

[4] Communication from the Commission to the European Parliament and the Council of Europe on fiscal transparency to combat tax evasion licit and illicit nr. COM / 2015/0136

Fiscal policy is mainly determined nationally. However, to ensure taxation fairer and to support the principle that taxation must reflect the location of the economic activity, the Commission intensifies its present efforts to help Member States to combat tax evasion illicit and licit intern market.

Besides the effort of Member States to simplify and streamline tax systems, transparency in this area is crucial for achieving these objectives.

To thrive, aggressive tax planning, tax evasion and harmful tax regimes are based on an environment characterized by complexity and lack of cooperation.

Therefore, combating tax evasion licit and illicit requires greater openness of tax authorities to other authorities homologous and closer cooperation between governments.

Further, companies should be required to engage stronger in tax practices that are transparent and fair.

The European Union tried to have a system of good governance in the tax area following a few basic principles, such as:

- Transparency of information,
- Automatic exchange of information and
- Unfair tax competition.

Based on these principles, the European Union has tried to develop more tools to improve the ability of Member States to combat tax evasion.

Among these principles, the European Union has tried to develop legislation as comprehensive on transparency, information exchange and administrative cooperation, coordinated action by Member States, including also the aggressive tax planning, and recommendations of each country on intensifying the fight against tax fraud.

The European Union considers it a priority for Member States to use these systems specially designed to combat tax evasion, economic systems necessary to improve the national and implement measures agreed by the Conventions to which Member States are signatories.

According to the explanatory memorandum which led to the issuing of the European Parliament motion for a resolution no. 2015/2058 (INI) on the impact of tax evasion and tax fraud on governance, social protection and development in developing countries, the problems existing systems are:

• Trade:

In developing countries, revenues from trade has a weight disproportionate to the total public resources and, although this income may be taxed easily, they present a risk to the budget due to price volatility in commodity and possibilities to increase revenues from the tax are very low in this area.

Countries emerging face difficulties in their efforts to offset the decline of trade taxes as a result of the liberalization of trade specific current global context and must work hard at the same time to refocus on other resources internal.

• Informal character:

Informal nature of the economy is an obstacle to revenue mobilization, especially in developing countries, where it is widespread, both in rural and urban areas.

The administrative costs involved broadening the tax base to the informal sector can be high because this sector, by its nature, can not be controlled easily by tax officials and the existence of an informal sector of considerable size makes it nearly impossible taxation general revenue.

• Political Constraints:

There is a high probability that interest socio-economic groups to carry out lobbying governments to obtain tax advantages and high pressure uninterrupted on officials of tax administrations who are responsible for the implementation of fiscal policy, aggravating thus corruption.

• Administrative constraints:

Tax administrations have different capabilities in terms of implementation and enforcement of relevant legislation. Taxation of multinationals in particular is proving to be an extremely complex task that requires considerable efforts in developing countries.

The exodus of qualified personnel from tax administrations by international organizations and private sector companies, lack of infrastructure tax collection and the need to update IT systems is, in turn, challenges facing developing countries.

• Economic constraints:

The tax base which they can use in developing countries is often low. In countries where a substantial part of the population lives in poverty, a significant percentage of Gross Domestic Product is not taxable.

As a result of the low level of economic development, industrial sector is generally underdeveloped and agriculture is very extensive, given that it is easier to tax industrial activity.

• Smoothing at a lower level:

In recent years, developing country governments have implemented progressive reductions in taxes on profits companies and offered various tax incentives and exemptions from taxes in order to attract investors and promote economic growth.

However, obiectiv data have demonstrated that these incentives are not a determining factor for attracting foreign investment.

Therefore, these practices generate competition between the economies of different countries, which attempts to provide the most favorable tax treatment. This "race to the bottom" mainly favors multinationals at the expense of developing countries.

• Extractive industries:

Aspects of how the revenues from resource exploitation are distributed between investors and governments are essential for developing countries.

The tax treatment of investments in the mining sector varies greatly from one country to another and regulations in this area are often ad hoc and lacking the necessary transparency, it is based on direct negotiations between politicians and companies not falling the tax system of the country concerned and are not standardized through clear guidelines.

There is a high probability that in this area appear corruption and the revenue collected decreases. According to the same document, the consequences are given the existence of illicit financial flows.

Illicit financial flows represent all private sector capital outflows that are not registered and that involves funds acquired, transferred or used illegally.

In 2011, domestic resources lost in developing countries due to illicit financial flows totaled USD 630 billion, equivalent to 4.3% of the GDP of developing countries (LDCs industrialized being particularly affected by this phenomenon).

Illicit financial flows is only one of the causes for developing countries lose some tax revenue from corporate taxation. Abusive practices to circumvent taxes - which may occur in situations where companies try to evade taxation by creating complex internal structures and using loopholes in the tax law - is another important issue.

Taxes on the income of companies is decreasing worldwide. This affects especially developing countries, in particular because they depend heavily on revenues from corporate taxation: income from corporate taxation constitutes a significant proportion of the national income of these countries.

Literature and existing data on this subject are quite limited, and this is due to the fact that it is difficult to accurately determine the extent of circumvention and evasion of taxes.

Overall, the organization ONE estimates that each year the countries emerging losing at least 1000 billion dollars as a result of corrupt activities such as, for example, transactions opaque having the aim of exploiting natural resources, use of fictitious companies Anonymous money laundering and illegal tax evasion.

According to estimates of Global Financial Integrity, developing countries lost USD 6.6 trillion as a result of illicit financial flows in 2003-2012.

According to Oxfam estimates, unpaid tax obligations of companies active in developing countries amount to about 104 billion USD per year.

ActionAid estimates that the revenue from corporate taxation, injury fiscal countries developing (the difference between taxes collected actual and estimated taxes collected) lies usually around 20% as a result of tax evasion and circumvention.

To tackle tax evasion it is necessary to be taken mesures both at national and at European and world level.

2. ACTIONS AT NATIONAL LEVEL

Member States can increase their income from taxes through a systematic policy designed to reduce the shadow economy, countering tax evasion and ensure greater effectiveness of tax administrations.

The economic crisis seen in both national and European level and worldwide, have serious budgetary and social consequences.

It is necessary that all these systems to be reviewed and reformed in order to support social protection systems, public services, in order to limit refinancing costs borne by the State and public authorities, and to avoid negative influence on the rest of economy .

By reducing fraud and tax avoidance, Member States can increase their revenues from taxes, which will also give greater leeway to restructure their tax systems in a way that promotes better growth.

Also, reducing tax fraud and tax evasion Member States can support efforts that aim to lighten the tax burden on low earners and the most vulnerable groups.

For one third of Member States, improving tax systems is a particular challenge generated by several factors, such as:

- High administrative costs related net revenue collected
- Non-use of information provided by third parties precompletarea tax returns,
- Use a small extent and electronic forms
- Generated considerable administrative burden of tax systems on medium-sized enterprises.

At the national level, each Member State must implement the system designed to combat tax evasion by their own government, but must take into account the issues that the European Union has recommended to be implemented.

Measures to improve their tax compliance and promote efficient tax administration, include:

- Developing a strategy for compliance and targeting efforts to combat tax evasion;
- Greater use of information provided by third parties;
- Development of pre-filled tax returns
- Concerted efforts to reduce the size of the underground economy, for example by applying criminal penalties for those who employ undocumented workers,
- Compulsory use of electronic payments for purchases above a certain threshold or the use of monetary incentives for declaring income (tax cuts).

Also to be considered indications on tax havens and aggressive tax planning by identifying third countries unwilling implementing minimum standards of fiscal governance.

3. Actions at EU level

European Commission seeks an ambitious agenda aimed taxation fairer, more transparent and more efficient in the European Union in accordance with its objective wider sustainable economic growth and investment to support the creation of jobs in a market single deeper.

Tax evasion and non-compliance with tax rules imposed by each state budgets each year deprives large amounts, distort competition between operators to the detriment of all taxpayers.

This undermines the concept of growth-friendly tax systems and prevent a successful union of capital markets.

Competition is likely to be to very low or missing, because small and medium enterprises, which are the main source of jobs in Europe, get to pay state budgets taxes much higher inversely proportional to income they receive, unlike large enterprises, which would have the possibility of developing an aggressive tax planning.

The lack of fair taxation, according to each taxpayer can be seen in the case of labor. Thus, if labor is missing or is developing at a very slow pace, governments compensate for the lost revenue by increasing other taxes.

Given the nature of cross-border tax evasion, action to combat this phenomenon at national level is not sufficient.

If at national it is decided to take fiscal measures that are not fiscal coordinated with European and international measures, may worsen the situation by fragmenting the single market, creating new burdens for taxpayers and opening new loopholes which can be exploited by those who resort to aggressive tax planning.

It is very impoortant always be taken into account at national level and measures taken at European and international level in the fight against tax evasion.

The European Commission, taking into account the global context with regard to combating tax evasion, aggressive and always proposes measures a firm stance against tax abuse.

Some progress in the fight against tax evasion at European level can be observed:

3.1 Increasing fiscal transparency

A first step towards a fairer and more efficient tax was to increase fiscal transparency across Europe. Among the targets proposed by the European Union are transparency and cooperation between tax authorities and increased border control tax practices of companies.

Since 2017, all Member States will exchange information automatically, consistently, in terms of their cross-border tax decisions.

It also aims and transparency vis a vis the public. In this respect, financial institutions must publish key information about its own activities, taxes, profits and subsidies received, broken down by country, inside or outside the EU.

Large companies in the extractive sector and the logging are also obliged to publish reports for each country (Country-by-Country Reporting, CBCR) under Directive accounting.

Another Commission proposal in terms of transparency was that all multinational companies to publish their visible through financial results for each country in which they carry out work done by. In this way, these multinationals are empowering, competition of this type of undertaking is the correct one, are encouraged in this way to pay taxes and fees.

Transparency is not considered and imposed only in terms of multinational corporations but also individuals.

This new legislation aims at hiding funds offshore.

Thus, "in accordance with Directive (2013/36 / EU) on administrative cooperation, Member States are obliged to inform each other automatically, a large amount of information on revenue and capital held depersoane individuals and entities abroad. In addition, they were also signed new agreements fiscal transparency with Switzerland, Liechtenstein, Andorra and San Marino, and in the coming weeks will sign a similar agreement with Monaco. This new transparency will improve the ability of Member States to detect and take action against fraudsters, while acting as a deterrent to conceal income and assets abroad for tax purposes. Finally, according to the Fourth Directive on combating money laundering, Member States are obliged to create central registers of information on actual beneficiaries, to ensure greater transparency of capital flows and combat more effectively money laundering and financing terrorism. The Commission invited Member States to implement these rules until the end."[5]

3.2 A FAIRER TAXATION

In order to achieve greater transparency of tax was considered a firm approach aimed at ensuring that Member States have adequate tools to protect against abuse and tax base to raise revenues legitimate.

It was thus established a series of measures aimed at modernizing the system of company taxation in the European Union by tackling aggressive tax planning and the factors that favor, and minimizing the risk of unjustified double taxation.

To this end the European Union wants to hold a Common Consolidated Corporate Tax Base Commercial (CCCTB).

In this sense, "moreover, the Commission advocates better fiscal governance internationally. There has been steady progress in terms of good fiscal governance îmbunătăţireacadrului worldwide and in terms of strengthening tax systems against abuse. In particular, measures OECD tax base erosion and profit transfer (BEPS) will close

[5] Communication from the Commission to the European Parliament and the Council communication concerning further measures to increase transparency and strengthening the fight against tax evasion and avoidance of tax obligations, Strasbourg, 05.07.2016, p. 4

important channels of aggressive tax planning, provided that they are fully implemented widely."[6]

In addition to these measures, the European Union is considering other measures to be analyzed and if they prove to be useful to be put into practice. These measures include:

3.3 EXPLOITING THE LINK BETWEEN THE RULES ON COMBATING MONEY LAUNDERING AND TAX TRANSPARENCY

The existence and disclosure of certain tax havens confirmed that the lack of transparency regarding the actual beneficiaries can facilitate money laundering, corruption and tax evasion.

It plans to expand the types of information available units finanaciare introducing diligence requirements for virtual currencies and strengthening the checks and controls applied to prepaid instruments.

Through his studies on the financial markets, the European Union has made an analysis on countries that have a high degree of risk and whose regimes to combat money laundering and terrorist financing strategic deficiencies.

3.4 IMPROVING THE EXCHANGE OF INFORMATION ON BENEFICIAL OWNERS

The European Union is much aware of the importance of administrative cooperation between tax authorities to combat tax abuse.

Automatic exchange of information between tax authorities is one of the most powerful instruments of the European Union in this regard.

This cross-border exchange of information has recently been extended to cover all financial accounts, tax decisions and information on the activities of multinational companies for tax purposes.

Given the situation highlighted by recent revelations in the media, there are strong arguments in favor of broadening the scope of administrative cooperation between tax authorities to include information on actual beneficiaries, both within the EU and worldwide.

The tax authorities direct access to detailed information on actual beneficiaries held by other Member States would significantly enhance the capacity of those authorities to target risk of tax evasion and avoidance of tax obligations.

3.5 STRENGTHEN OVERSIGHT FACILITATORS AND PROMOTERS OF AGGRESSIVE TAX PLANNING

It seems that there are many arguments in favor of introducing further measures by provisions constituting either horizontally or sectoral, to be given in particular facilitators or promoters mechanisms against tax evasion and avoidance of tax obligations.

This will enable the competent authorities to identify and block these activities in an early stage and eliminate loopholes that make them possible. These measures will also have a deterrent effect on those who encourage and actively use aggressive tax planning.

”The Commission will try to find the best way to increase surveillance and ensure effective implementation of disincentives for facilitators and promoters of aggressive tax

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[6] Communication from the Commission to the European Parliament and the Council communication concerning further measures to increase transparency and strengthening the fight against tax evasion and avoidance of tax obligations, Strasbourg, 05.07.2016, p. 4-5

planning mechanisms"[7]. These could include, for example, increase transparency of these mechanisms from the tax authorities.

To this end, the Commission will launch in autumn this year, a public consultation to gather feedback on the most appropriate approach.

In parallel, the Commission will work closely with OECD and other international partners to define a possible comprehensive approach to enhancing transparency of advisers that will surpass the recommendation of BEPS (Action 12).

3.6 PROMOTE STANDARDS OF HIGHEST GOOD FISCAL GOVERNANCE WORLDWIDE

European Union measures against tax evasion and avoidance of tax obligations are essential to protect their tax bases of Member States to ensure a level playing field for business and to promote a fair and competitive environment in the single market.

However, given the global nature of tax abuses, it is imperative to take action internationally to combat aggressive tax planning schemes and opaque.

In this regard, the European Union strongly supports the efforts of the OECD to ensure the implementation of global standards of good highest fiscal governance, both through the framework inclusive of the implementation of BEPS and through the monitoring of transparency tax undertaken by the world Forum.

The EU has rapidly implement new global standard for automatic exchange of information on financial accounts (common reporting standard) and some key measures of BEPS project, through binding legislation. In this way, the Union gave an example of good fiscal governance worldwide.

Now, the key priority is the ensurence that the international partners of the European Union put themselves apply those higher standards of good fiscal governance and the European Union must step up the pressure in international fora, in particular in the G20, to achieve this goal.

3.7 IMPROVE THE PROTECTION OF WHISTLEBLOWERS

In terms of combating tax evasion and avoidance of tax obligations, Europe has benefited during the last years of political consensus which allowed the implementation of important measures, both nationally and at EU level.

The recent serious cases to avoid tax liabilities by businesses and individual tax evasion, exposed by whistleblowers, have increased the need to take effective measures to protect whistleblowers.

Protect those who report or disclose information about acts or omissions constituting a threat or serious harm to the public interest increases opportunities for employees to disclose such information and has at the same time, the potential to contribute substantially to more better detection of fraud and tax evasion which deprives European tax authorities of tax revenue legitimate. Parliament and many stakeholders have called for better protection of whistleblowers.

It is vital that whistleblowers to be protected, given that the institutional processes of accountability is based on the disclosure of information to identify deviations.

Protecting whistleblowers in the public and private sectors helps to address faulty administration and irregularities, including corruption-related cross-border financial interests at national or EU level.

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[7] http://ec.europa.eu/smart-regulation/roadmaps/index_ro.html

Also, from the perspective of the single market and corporate social responsibility, it can help to discipline companies and protect social interests, which in turn have the ability to enhance market confidence and attract thus potential investors business partners.

However, it is to be seen how they would affect all the concerted effort of identification, recommendation and implementation of more effective measures in the deaf fight mitigation of tax evasion and tax fraud, the recent surprising decision for everyone to withdraw from the European Union of citizens of Britain

We can only hope that reason will prevail over emotion, and these measures will only be effective in a near future.

REFERENCES

1. Burzienescu, R.. Domestic and International tax evasion, Craiova, Universitaria Publishing House, 2007
2. Pîrvu, Ghe. Macroeconomics. University manual. Edition II, Craiova, Sitech Publishing House, 2007
3. Pîrvu, Ghe. Economic integration, Craiova, Sitech Publishing House, 2007.
4. Pîrvu, Ghe. EU Governance, Universitaria Publishing House, 2010
5. * * * European Commission, Combating fraud and tax evasion, the Commission contribution to the European Council of 22 May 2013
6. * * * European Commission Combating fraud and tax evasion, the Commission contribution to the European Council of 22 May 2013
7. * * * Communication from the Commission to the European Parliament and the Council of Europe on fiscal transparency to combat tax evasion licit and illicit nr. COM / 2015/0136
8. * * * Communication from the Commission to the European Parliament and the Council communication concerning further measures to increase transparency and strengthening the fight against tax evasion and avoidance of tax obligations, Strasbourg, 07/05/2016
9. * * * http://ec.europa.eu/smart-regulation/roadmaps/index_ro.html