Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Resolution 2370 (2021)[1]

Fighting fiscal injustice: the work of the OECD on taxation of digital economy

Parliamentary Assembly

1. The Parliamentary Assembly of the Council of Europe, enlarged to include the delegations of national parliaments of the Organisation for Economic Co-operation and Development (OECD) member States that are not members of the Council of Europe and a delegation from the European Parliament, underlines that the ability of governments to raise funds through taxation, which is necessary for the funding of public services, is a fundamental anchor for democracy and social justice. The enlarged Assembly welcomes the signing of an updated co-operation agreement (memorandum of understanding) between the Council of Europe and the OECD in December 2020, which confirms both organisations' interest in promoting shared values and objectives, *inter alia* in relation to sustainable development and tax matters.

2. The digitisation of the economy and the rise of technology giants (including Google, Amazon, Facebook and Apple (GAFA)); the aggressive tax planning, tax avoidance and artificial profit-shifting practices adopted by numerous multinational corporations; the general public's increased awareness of these practices and the worsening state of public finances caused by the 2008 global economic crisis and the Covid-19 pandemic have made the need for internationally co-ordinated policy responses more urgent than ever before.

3. While much of the value in the digital economy is created through virtual and stateless platforms, the enlarged Assembly considers that it is necessary for States to be provided once again with a broader tax base to cover their public financing needs, in particular by moving away from the concept of "permanent establishment" that underpins the traditional model for the distribution of the international tax base.

4. The enlarged Assembly welcomes the OECD's work on the Inclusive Framework on Base Erosion and Profit Shifting (BEPS). It notes that the first of the many actions in the framework concerns policy responses to the tax challenges arising from the digital economy and endorses the breakdown of the policy proposals into two pillars. Pillar 1 addresses the broader issues of taxation of the digital economy and focuses on how taxing rights are determined (namely nexus rules) and how taxable profits are allocated among jurisdictions. Pillar 2 tackles the remaining BEPS issues related to tax planning through the establishment of a global minimum tax.

5. It welcomes the OECD's instrumental role in this context and the progress made in the work on Pillar 1 and the adoption of a joint statement outlining the general framework of the discussions for the two pillars. It encourages the participating States to continue this work with a view to a consensus-based agreement on both pillars.

6. The enlarged Assembly also supports the OECD's work in promoting global standards for collecting value added tax from online sales of goods, services and digital products, including as regards international exchanges through the platform economy. It furthermore welcomes the OECD's guidance on taxing virtual currencies and crypto-assets, aimed at developing a new tax reporting framework by the end of 2021.

1. *Assembly debate* on 20 April 2021 (11th sitting) (see Doc. 15251, report of the Committee on Political Affairs and Democracy, rapporteur: Mr Georgios Katrougkalos; and Doc. 15266, opinion of the Committee on Social Affairs, Health and Sustainable Development, rapporteur: Ms Selin Sayek Böke). *Text adopted by the Assembly* on 20 April 2021 (11th sitting).

7. The enlarged Assembly stresses that multilateralism, provided that it is genuinely inclusive, is the best means of achieving tangible results. It considers that achieving consensus at international level is the best way to reform the international tax system, to restore stability to the international tax framework and to avoid the risk of further unco-ordinated, unilateral tax measures which could trigger trade sanctions.

8. To ensure fair taxation of global corporate profits, the enlarged Assembly urges the OECD and member States to:

8.1. further support and promote the Inclusive Framework on Base Erosion and Profit Shifting in order to reach a consensus-based agreement comprising Pillars 1 and 2 within the envisaged timelines and, if necessary, seal off the areas where a broad multilateral consensus has been reached by concluding an interim agreement by mid-2021;

8.2. facilitate the application of the agreed multilateral instrument to existing tax treaties;

8.3. avoid and reverse a race to the bottom of national tax systems, which could undermine governments' legitimate financing abilities in maintaining sound public finances and high-quality social services for all;

8.4. implement rules on transparency and the automatic exchange of information for tax purposes between all countries in order to ensure tax fairness and compliance by both corporate entities and individuals and push for public country-by-country reporting by enterprises;

8.5. develop mandatory disclosure rules regarding aggressive or abusive transactions, arrangements or structures;

8.6. propose measures for countering harmful tax practices more effectively, with a priority on improving transparency, including compulsory spontaneous exchange of rulings relating to preferential regimes (fiscal rulings) and on requiring substantial activity for granting the status of preferential regime;

8.7. promote international coherence in corporate profit taxation, so that the design of tax policy is better informed by the increasing interconnectedness of economies and the gaps that can be created by interactions between domestic tax laws;

8.8. do more to take account of the needs and interests of developing countries in the design of a new post-BEPS international tax system that is multilateral and at least as inclusive as the proposed inclusive framework.