

# The Impact of Schemes revealed by the Panama Papers on the Economy and Finances of a Sample of Member States

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Policy Department D for Budgetary Affairs

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POLICY DEPARTMENT D: BUDGETARY AFFAIRS

# The Impact of Schemes revealed by the Panama Papers on the Economy and Finances of a Sample of Member States

## STUDY

### Abstract

Upon request by the European Parliament's Committee of Inquiry to investigate alleged contraventions and maladministration in the application of Union law in relation to money laundering, tax avoidance and tax evasion (PANA Committee), this study assesses the impacts of the schemes revealed by the Panama Papers, a set of documents leaked from the law firm Mossack Fonseca detailing tax evasion and avoidance practices, and published by the International Consortium of Investigative Journalists (ICIJ) in April 2016.

The study explores the concepts and roles of tax havens and offshore financial centres, their budgetary, and the economic and financial impacts in a sample of EU Member States. The research combined previous estimates of tax revenue loss with a microeconomic assessment based on data on companies that are thought to be linked to the Panama Papers schemes. The most significant impacts identified are the negative effects on Member States' budgets, with wider knock-on effects on economic growth and financial markets. It is recommended that further steps are taken at the national, EU and international levels to increase transparency of corporate and individual taxation and to limit the scope for tax evasion and tax avoidance.

This document was requested by the European Parliament's Committee of Inquiry to investigate alleged contraventions and maladministration in the application of Union law in relation to money laundering, tax avoidance and tax evasion.

## **AUTHORS**

Blomeyer and Sanz

Jack Malan, Roland Blomeyer, Jan Smit, Dr William Vlcek, Dr. Petr Jansky, Dr. Danuše Nerudová's, Anna Maria Krarup, Mike Beke, Mark Whittle, Carolin Moeller, Elsa Perreau, Stephan Kreutzer, David Buck.

## **RESPONSIBLE ADMINISTRATOR**

Mr Jean-Jacques Gay

Policy Department on Budgetary Affairs

European Parliament

B-1047 Brussels

E-mail: [poldep-budg@europarl.europa.eu](mailto:poldep-budg@europarl.europa.eu)

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[poldep-budg@europarl.europa.eu](mailto:poldep-budg@europarl.europa.eu)

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## LIST OF ABBREVIATIONS

### *Main Report*

<b>CY</b>	Cyprus
<b>CZ</b>	Czech Republic
<b>DE</b>	Germany
<b>DK</b>	Denmark
<b>ES</b>	Spain
<b>FR</b>	France
<b>PL</b>	Poland
<b>UK</b>	United Kingdom
<b>AEOI</b>	Automatic Exchange of Information
<b>ATP</b>	Aggressive Tax Planning
<b>BEPS</b>	Base Erosion Profit Shifting
<b>EC</b>	European Commission
<b>EP</b>	European Parliament
<b>FATF</b>	Financial Action Task Force
<b>FDI</b>	Foreign direct investments
<b>FISCALIS</b>	Fiscalis 2020, EU Cooperation Programme, Taxation and Customs Union
<b>HMRC</b>	Her Majesty's Revenue and Customs (UK)
<b>ICIJ</b>	International Consortium of Investigative Journalists
<b>IMF</b>	International Monetary Fund
<b>MNE</b>	Multi-National Enterprise
<b>MONEYVAL</b>	Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism
<b>OECD</b>	Organisation for Economic Co-operation and Development
<b>PANA</b>	PANA Committee (Committee of Inquiry to investigate alleged contraventions and maladministration in the application of Union law in relation to money laundering, tax avoidance and tax evasion)
<b>TJN</b>	Tax Justice Network
<b>UNCTAD</b>	United Nations Conference on Trade and Development

### *Annex A*

<b>MOKAS</b>	Financial Intelligence Unit, Cyprus
<b>DTT</b>	Double Tax Treaties
<b>TIEA</b>	Tax Information Exchange Agreement
<b>SKAT</b>	Danish Customs and Tax Administration
<b>CESE</b>	Conseil Économique, Social et environnemental (FR)
<b>NBP</b>	National Bank of Poland
<b>PFSA</b>	Polish Financial Supervision Authority
<b>NIK</b>	Supreme Chamber of Control (PL)
<b>SEPBLAC</b>	Executive Service for the Prevention of Money Laundering
<b>CFATF</b>	Caribbean Financial Action Task Force
<b>GAFILAT</b>	Financial Action Task Force of Latin America
<b>MENAFATF</b>	Middle East and North Africa Financial Action Task Force
<b>HMRC</b>	Her Majesty's
<b>HMT</b>	Her Majesty's Treasury (UK)

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## EXECUTIVE SUMMARY

**Below we provide a summary of the analytical study undertaken for the European Parliament on 'The Impact of Schemes revealed by the Panama Papers on the Economy and Finances of a Sample of Member States'. The research was carried out by the Centre for Strategy & Evaluation Services and Blomeyer & Sanz in early 2017.**

### Study Objectives and Scope

The 'Panama Papers' refer to a data-leak of 11.5 million documents held by the Panamanian law firm Mossack Fonseca. The Panama Papers reveal how shell companies have been used to transfer funds between national jurisdictions for both legitimate and illegitimate reasons.

The three broad objectives of this study were to:

- Assess and evaluate the overall impact of tax havens and offshore areas on the European Union (EU) through research in a sample of 8 Member States;
- Estimate the quantifiable budgetary and administrative costs due to tax evasion and the use of offshore financial centres, and the impact of secretive jurisdictions;
- Propose reforms and additional measures to existing agreements at the EU and international levels to discourage the abuse of these schemes.

In relation to the first point above, the terms of reference required that the study should explain the concepts and role of tax havens and offshore financial centres. In relation to the second point, the more specific purpose of this analytical study was to produce an assessment of the impacts of the schemes revealed by the Panama Papers. This includes estimating the quantifiable budgetary costs to eight Member States as well as assessing the economic impact and the impact of financial crime in those countries linked with the schemes.

In terms of scope, the research focused on the following EU Member States: Cyprus, the Czech Republic, Denmark, France, Germany, Poland, Spain, and the United Kingdom. Some of these countries featured heavily in the Panama Papers due to nationals either benefitting from the schemes or the associated intermediary activity.

### Key Findings

In order to quantify the impacts, we adopted a three-tiered approach. Firstly, we reviewed previous research. Secondly, an interview programme was carried out with national authorities and other stakeholders in Member States, and thirdly, a microeconomic assessment was undertaken by one of the external experts using company financial data from the Orbis dataset.

### *Budgetary Impacts*

Our findings show **that the schemes revealed by the Panama Papers directly reduce the funds available to national authorities**. In our sample of eight countries approximately EUR 88 billion was lost to the tax base as a result of base erosion and profit shifting from the schemes revealed by the Panama Papers. As a result of this there is likely to be **a revenue loss of approximately EUR 19 billion in our sample of eight EU Member States alone. If this estimate is scaled up, this suggests a cost of the schemes to the EU28 in the range of EUR 109 billion – 237 billion** (inclusive of the Panama Papers and other schemes like it). In the study we also used one of our external experts to produce an econometric estimate of the tax loss which supports our findings that the scale of the tax loss attributable to schemes revealed by the Panama Papers is very considerable.

### *Economic Impact*

Revenue lost to national authorities in turn reduces the spending that could be otherwise made on public services such as education or healthcare but also other areas with job creation potential (e.g. business support, investment in transport infrastructure, regional development measures). Lower investment translates into less infrastructure, fewer jobs and lower long-term development prospects. Furthermore, revenue losses attributable to the schemes revealed by the Panama Papers schemes is likely to contribute to an increase in the inequitable distribution of tax revenues and income inequality both within and between countries.

If it is assumed that these schemes resulted in at least EUR 173 billion of lost tax to the EU28 Member States (the mid-point in the range cited above from the research involving the eight Member States) then using an average of EUR 50,000 as the cost per job would mean that an additional 3.5 million jobs could have been supported across Europe if the lost tax revenue had been available for spending on job creating schemes. It does not of course follow that the tax loss associated with the schemes revealed by the Panama Papers would translate on a 1:1 basis into government expenditure to create jobs. For example, an alternative use could be to reduce national debts. A conservative estimate would therefore be **that around 1.5 million job could have been supported with the money that was lost to national authorities because of the tax loss associated with the schemes revealed by the Panama Papers**. However, irrespective of the precise calculation, it is clear that the scale of the employment effects is very considerable.

During our consultation, it was argued that tax revenue loss may however be incidental, and a greater **impact on the economic productivity of Member States would be caused by the distortion of information available in the financial markets**. The nature of tax havens operating in total secrecy distorts the behaviours of producers and consumers. In the context of the Panama Papers, the effects of capital losses have been researched and one estimate found that **USD 135 billion was erased across 397 public firms due to their offshore vehicles being exposed in the Panama Papers**.<sup>1</sup>

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<sup>1</sup> [https://papers.ssrn.com/sol3/papers2.cfm?abstract\\_id=2771095](https://papers.ssrn.com/sol3/papers2.cfm?abstract_id=2771095)

### *Impact of Financial Crime*

This study did not identify comprehensive information on the impacts of financial crime arising from the schemes revealed by the Panama leaks since in most cases estimations includes schemes with legal and illegal purposes and no separate statistics focus on the impact of illegal schemes only.

However, Europol has compared the Panama Papers published by the ICIJ with its own databases and found 1,722 names in the Panama Papers that match with entities that had been reported by EU Member States as having been involved in potential money-laundering transactions. The fact that the **Panama Papers potentially only concern 0.6% (i.e. 1,722 matches) of the total number of yearly cases reported on money laundering** suggests an only marginal impact on the status quo. However, this quantification has to be treated with extreme caution given that Europol data related to the matches might not be comprehensive. Furthermore, this does not rule out other tax haven schemes having more prominent links to money laundering.

### **Recommendations**

Our research affirms that the existence of tax havens and offshore financial centres reduces the income revenue available to Member States and caused both direct economic harm by hampering public spending but also more widely in increasing the inequality divide and distorting free markets. In curbing the adverse effects of tax havens and offshore financial centres, we make the following recommendations in the report:

### Summary of Recommendations

- **Promoting the establishment of registers that publicise beneficial ownership** to prevent schemes revealed by the Panama Papers from remaining undetected. Additionally, sustain and monitor the **Common Reporting Standard** that came into force at the beginning of this year.
- **Encouraging higher tax good governance standards** by ensuring that the EU's international partners implement higher standards of tax good governance. The EU itself must intensify the pressure in global fora – particularly the G20 – to achieve this.
- In seeking to promote greater international cooperation, it is also crucial to **retain the political neutrality of the definition of a tax haven**. The idea that only non-cooperative jurisdictions qualify as tax haven disregards that some jurisdictions may only appear cooperative while remaining operatively a tax haven. In the interest of neutrality, a grey-list or black-list should be established based on more nuanced criteria.
- **More closely relating information on Anti Money Laundering and Tax Transparency rules**. This is already reflected in the Commission's proposed amendments to the Fourth Anti Money Laundering Directive which includes the widening of the scope of the information accessible to Financial Intelligence Units. Furthermore, the establishment of the European Public Prosecutors office (EPPO) will be beneficial as the EPPO can investigate and prosecute EU-fraud and other crimes affecting the EU's financial interests.
- **Introducing measures to guarantee the protection of whistle-blowers** - this will improve the availability of the data and act as a driver against the use of tax haven schemes.
- **Developing methodologies that can be used to generate publicly available, reliable and comparable data on the magnitude of tax avoidance and evasion**, and methods to quantifying the impact of these incidents on countries' public finances and economic activities. This would mean exploring data collection methods on corporate tax avoidance and evasion, on which most research seems to focus to date, and tax evasion by individuals on the other.
- **Promoting the integrity and transparency in the financial sector within the framework of the European Semester**. In more concrete terms this could translate into the EU monitoring and preventing the use of Panama Papers schemes, which could jeopardise macroeconomic stability (i.e. linked to real estate bubbles, banking crises, etc.), and fostering adjustment by means of appropriate policies.

## ZUSAMMENFASSUNG

**Im Nachfolgenden wird eine Zusammenfassung der analytischen Studie über „Die Auswirkungen der durch die Panama Papiere aufgedeckten Praktiken auf Wirtschaft und Finanzen in ausgewählten EU Mitgliedstaaten“ gegeben, die für das Europäische Parlament ausgearbeitet wurde. Die Analyse wurde vom Centre for Strategy & Evaluation Services (CSES) und von Blomeyer & Sanz (B&S) Anfang 2017 durchgeführt.**

### Ziele und Rahmen der Studie

Als „Panama-Papiere“ werden circa 11,5 Mio. Dokumente bezeichnet, die der in Panama ansässigen Anwaltskanzlei Mossack Fonseca entstammen und die 2015 aufgrund eines Datenlecks an die Öffentlichkeit gelangt sind. Die Papiere legen dar, wie Briefkastenfirmen benutzt werden, um Vermögen zwischen verschiedenen Ländern zu transferieren. Dies basiert sowohl auf rechtmäßigen als auch auf unerlaubten Motiven.

Die Studie verfolgt drei verschiedene Ziele:

- Die Studie analysiert die Auswirkungen von Steueroasen und Offshore-Zentren auf die Europäische Union anhand von Untersuchungen in acht Mitgliedstaaten;
- Die Studie bewertet die quantifizierbaren Haushalts- und Verwaltungskosten, die durch Steuer- vermeidung und Offshore-Zentren entstehen sowie die Auswirkungen intransparenter Rechts- auslegung;
- Die Studie macht Vorschläge für Reformen bestehender EU- und internationaler Abkommen, um dem Missbrauch von Steueroasen und Offshore-Zentren vorzubeugen.

In Bezug auf den ersten Punkt erfordern die Vorgaben des Parlaments, dass die Studie die Bedeutung und Rolle von Steueroasen und Offshore-Zentren erklären soll. Bezüglich des zweiten Punkts ist es notwendig, eine Bewertung der Auswirkungen der Praktiken, die durch die Panama-Papiere ans Licht gebracht wurden, durchzuführen. Das beinhaltet eine Schätzung der quantifizierbaren Haushaltskosten in acht Mitgliedstaaten sowie eine Bewertung der wirtschaftlichen Auswirkungen. Schließlich beinhaltet die Studie auch eine Bewertung der Auswirkungen der durch die Panama-Papiere enthüllten Wirtschaftskriminalität.

Die Analysen dieser Studie beziehen sich auf eine Auswahl von acht Mitgliedstaaten: Zypern, Tschechien, Dänemark, Frankreich, Deutschland, Polen, Spanien und das Vereinigte Königreich. Einige dieser Länder wurden häufig in den Panama-Papieren erwähnt, da entweder Bürger dieser Länder von den Praktiken profitierten oder da in diesen Ländern Vermittler solcher Praktiken ansässig sind.

### Die Untersuchungsergebnisse

Um die Auswirkungen zu quantifizieren, wurde ein dreistufiger Ansatz gewählt. Erstens wurden frühere Analysen ausgewertet. Zweitens wurde ein Interview-Programm mit nationalen Behörden und anderen Akteuren in Mitgliedstaaten durchgeführt. Drittens hat unsere externe Expertin eine mikro-ökonomische Berechnung mit Hilfe der Orbis Datenbank durchgeführt.

### *Auswirkungen auf den Haushalt*

Die Studie hat ergeben, **dass die Praktiken, die durch die Panama-Papiere aufgedeckt wurden, die Haushaltseinnahmen der Staaten reduzieren.** In den acht Mitgliedstaaten haben die Behörden ca. EUR 88 Mrd. auf Grund von Verminderung steuerlicher Bemessungsgrundlagen und Gewinnverlagerung verloren. Darauf basierend kann **ein Einnahmenverlust von ca. EUR 19 Mrd. in den acht Mitgliedstaaten geschätzt werden. Wenn diese Schätzung auf die gesamte EU hochgerechnet wird, kann insgesamt mit Verlusten von zwischen EUR 109 und 237 Mrd. (Mittelwert: 173 Mrd.) durch solche und andere Praktiken gerechnet werden.** Das ökonometrische Modell zum Steuerverlust, das von unserer Expertin angefertigt wurde, bestätigt unsere Schätzungen.

### *Wirtschaftliche Auswirkungen*

Einnahmenverluste der Staaten führen zu einer Verminderung der Staatsausgaben, die ansonsten in Bildung, ins Gesundheitssystem oder in andere Bereiche mit dem Potenzial von Arbeitsplatzschaffung (z.B. Unternehmensförderung, Investitionen in Verkehrsinfrastruktur, regionale Entwicklung) gemacht werden könnten. Weniger Investitionen führen zu schlechterer Infrastruktur, weniger Jobs und langsameren langfristigen Entwicklungsaussichten. Darüber hinaus können die Einnahmenverluste, die aus den Praktiken der Panama-Papiere resultieren, die ungleiche Verteilung von Steueraufkommen und Einkommensungleichheiten in und zwischen Ländern verstärken.

In der Annahme, dass die „Panama-Papier“-Praktiken zu einem mittleren geschätzten Steuerverlust von EUR 173 Mrd. in der gesamten EU geführt haben, und in der Annahme, dass die Schaffung eines Arbeitsplatzes ca. EUR 50.000 kostet, kann man davon ausgehen, dass 3,5 Mio. Arbeitsplätze hätten geschaffen werden können, wenn die Steuereinnahmen vorhanden gewesen wären. Diese Annahme ist natürlich mit Vorsicht zu betrachten, da nicht alle zusätzlichen Steuereinnahmen in Arbeitsplatzschaffung investiert worden wären. Zum Beispiel könnte das zusätzliche Einkommen alternativ dazu genutzt werden, Staatsschulden zu begleichen. Eine konservative Schätzung wäre deshalb, **dass ca. 1,5 Mio. Arbeitsplätze hätten geschaffen werden können, falls das Geld, das durch die „Panama-Papier“-Praktiken verloren gegangen ist, dem Staat zur Verfügung gestanden hätte.** Obwohl diese Zahl nur eine grobe Schätzung darstellt, ist sie dennoch erheblich.

Unser Interview-Programm hat ergeben, dass viele Akteure Steuerverlust als nebensächlich einstufen. **Als weitaus größeres Problem werden die Auswirkungen auf die wirtschaftliche Produktivität der Mitgliedstaaten durch eine Verzerrung der den Finanzmärkten zugänglichen Informationen dargestellt.** Da Steueroasen im Geheimen agieren, wird das Verhalten der Erzeuger und Verbraucher beeinflusst. Im Fall der Panama-Papiere wurde geschätzt, **dass 397 Firmen zusammen ca. 135 Mrd. US Dollar Kapitalverluste erlitten haben, weil ihre Offshore-Praktiken in den Panama-Papieren enthüllt wurden.**<sup>2</sup>

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<sup>2</sup> [https://papers.ssrn.com/sol3/papers2.cfm?abstract\\_id=2771095](https://papers.ssrn.com/sol3/papers2.cfm?abstract_id=2771095)

### *Auswirkungen von Wirtschaftskriminalität*

Die Studie konnte keine aussagekräftigen Informationen bezüglich Wirtschaftskriminalität identifizieren, da in den meisten Fällen die Auswirkungen ganzheitlich geschätzt werden und keine separaten Statistiken über die Auswirkungen illegaler „Panama-Papier“-Praktiken vorliegen.

Es ist allerdings erwähnenswert, dass Europol die Daten, die durch die Panama-Papiere aufgedeckt wurden, mit der eigenen Datenbank verglichen hat. Der Vergleich ergab, dass 1.722 Namen, die in den Panama-Papieren genannt wurden, ebenfalls in Berichten der EU-Mitgliedstaaten wegen des Verdacht auf Geldwäsche auftauchten. **Da diese 1.722 Fälle schätzungsweise nur 0,6% aller jährlich registrierten Fälle von Geldwäsche ausmachen**, zeigt, dass die Auswirkungen der Enthüllungen der „Panama-Papier“-Praktiken auf die gesamte Wirtschaftskriminalität nur geringfügig sind. Allerdings muss diese Aussage mit Vorsicht betrachtet werden, da die Europol-Datenbank nicht vollständig ist. Darüber hinaus kann es auch sein, dass andere Steueroasen engere Verbindungen zu Geldwäsche-Praktiken unterhalten.

### **Empfehlungen**

Unsere Recherchen bestätigen, dass Steueroasen und Offshore-Finanzzentren das Einkommen der Mitgliedstaaten reduzieren. Zusätzlich fügen sie Staaten direkten wirtschaftlichen Schaden zu, indem sie Staatsausgaben verhindern und indem sie zu größerer Ungleichheit und Verzerrung des freien Marktes beitragen. Um die negativen Folgen von Steueroasen und Offshore-Finanzzentren einzudämmen, machen wir in unserem Bericht die folgenden Empfehlungen:

### Zusammenfassung der Empfehlungen

- Der Bericht empfiehlt, **dass Register erstellt werden, die die Namen wirtschaftlicher Eigentümer veröffentlichen**. Das dient dazu, dass Praktiken, die durch die Panama-Papiere aufgedeckt wurden, zukünftig nicht mehr unentdeckt bleiben. Darüber hinaus sollte der **'Common Reporting Standard'**, der Anfang dieses Jahres eingeführt wurde, beibehalten und regelmäßig evaluiert werden.
- **Es sollten höhere Good Governance Standards in Bezug auf Steuern existieren**. Die EU sollte zum einen sicher stellen, dass die internationalen Partner der EU höhere Standards umsetzen, und zum anderen sollte die EU diesbezüglich den Druck in internationalen Foren – besonders bei der G20 - erhöhen.
- Um die internationale Zusammenarbeit zu verstärken, ist es wichtig, **dass die Definition von Steueroasen politisch neutral ist**. Die Idee, dass nur nicht-kooperative Rechtssysteme als Steueroasen gelten, missachtet, dass manche Staaten zwar scheinbar kooperieren, aber dennoch weiterhin als Steueroasen fungieren. Im Interesse der Neutralität wäre es hilfreich, eine graue oder schwarze Liste mit differenzierten Kriterien einzuführen.
- **Es ist nötig, Informationen über Geldwäsche und Steuertransparenz miteinander zu verbinden**. Dieser Vorschlag ist schon in der von der Kommission vorgeschlagenen Vierten Geldwäsche-Richtlinie reflektiert. Die vorgeschlagene Richtlinie sieht vor, dass die zentralen Meldestellen der EU Zugriff auf mehr Informationen haben. Darüber hinaus wird die Einführung der europäischen Staatsanwaltschaft nützlich sein, um Betrug und andere Verbrechen gegen die finanziellen Interessen der EU zu untersuchen und zu verfolgen.
- **Es sollten wirksamere Gesetze eingeführt werden, um Whistleblower zu schützen**, weil damit die Bereitstellung von Daten unterstützt und von der Nutzung von Steueroasen abgeschreckt wird.
- **Einheitliche Ansätze zur Berechnung von öffentlich zugänglichen, verlässlichen und vergleichbaren Daten sollten entwickelt werden**, um das Ausmaß von Steuerumgehung und Steuervermeidung zu verdeutlichen und seine Auswirkungen auf Staatsfinanzen und Wirtschaftsaktivitäten. Das bedeutet, dass Methoden entwickelt werden müssen, um Daten über Steuervermeidung und Steuerumgehung von großen Firmen und auch Einzelpersonen zu sammeln.
- **im Rahmen des Europäischen Semesters sollten Integrität und Transparenz im Finanzsektor gestärkt werden**. Das könnte der EU dabei helfen, die Nutzung von „Panama-Papier“-Praktiken, die die makro-ökonomische Stabilität gefährden könnten (z.B. Immobilienblasen, Bankkrisen), zu überwachen und ihren Gebrauch zu verhindern. Darüber hinaus sollten Veränderungen durch entsprechende politische Maßnahmen unterstützt werden.



## SYNTHÈSE

**Nous fournissons ci-dessous un résumé de l'étude analytique entreprise pour le Parlement européen portant sur «L'impact des systèmes révélés par les documents de Panama sur l'économie et les finances sur un échantillon de pays membres». La recherche a été réalisée par le Centre for Strategy & Evaluation Services et Blomeyer & Sanz au début de l'année 2017.**

### Objectifs et portée de l'étude

Les «Panama Papers» font référence à une fuite de données de 11,5 millions de documents détenus par le cabinet d'avocats panaméen Mossack Fonseca. Les documents des « Panama papers » révèlent comment des sociétés écrans ont été utilisées pour transférer des fonds entre les juridictions nationales pour des raisons légitimes et illégitimes.

Les grands objectifs de cette étude étaient les suivants:

- Évaluer l'impact général des paradis fiscaux et des zones offshore sur l'Union européenne (UE) grâce à des études de cas sur un échantillon de 8 États membres;
- Estimer les coûts budgétaires et administratifs quantifiables de l'évasion fiscale et de l'utilisation des centres financiers offshore et l'impact des juridictions confidentielles;
- Proposer des réformes et des mesures supplémentaires aux accords existants au niveau européen et international, afin de décourager l'abus de ces procédés.

En ce qui concerne le premier point ci-dessus, les termes de référence exigeaient que l'étude explique les concepts et les rôles des paradis fiscaux et des centres financiers offshore. En ce qui concerne le deuxième point, l'objectif spécifique de cette étude analytique était de produire une évaluation des impacts induits par les procédés révélés par les « Panama papers ». Cela comprend l'estimation des coûts budgétaires quantifiables pour huit États membres, ainsi que l'évaluation de l'impact économique et de l'impact de la délinquance financière dans les pays liés à ces procédés.

La recherche s'est concentrée sur les États membres suivants: Chypre, la République tchèque, le Danemark, la France, l'Allemagne, la Pologne, l'Espagne et le Royaume-Uni. Certains de ces pays figuraient à de nombreuses surprises dans les « Panama papers » parce que leurs ressortissants bénéficiaient des procédés révélés ou des activités intermédiaires associées.

### Conclusions principales

Afin de quantifier les impacts, nous avons adopté une approche en trois étapes. Tout d'abord, nous avons examiné les recherches antérieures. Deuxièmement, des entretiens ont été menés avec les autorités nationales et d'autres parties prenantes dans les États membres et troisièmement, l'un de nos experts externes a effectué une évaluation microéconomique utilisant les données financières des entreprises contenues dans la base de données Orbis.

### *Impacts budgétaires*

Nos résultats montrent que **les procédés révélés par les « Panama papers » réduisent directement les fonds disponibles pour les autorités nationales**. Dans notre échantillon de huit pays, nous avons observé une réduction d'environ 88 milliards d'euros dans l'assiette fiscale résultant des transferts de bénéficiaires permis par les procédés révélés dans les « Panama papers ». **La perte de recette pour ces 8 Etats est estimée à 19 milliards d'euros. Si cette estimation est mise à l'échelle de l'Union à 28, cela suggère que le coût de procédés tels que ceux révélés par les « Panama papers » se situe entre 109 et 237 milliards d'euros.** Un de nos experts externes a produit une estimation économétrique de la perte fiscale qui confirme que l'ampleur de la perte fiscale attribuable aux procédés tels que ceux révélés par les « Panama papers » est considérable.

### *Impact économique*

Les revenus perdus pour les autorités nationales réduisent les dépenses qui pourraient être réalisées sur les services publics tels que l'éducation ou les soins de santé, mais aussi dans d'autres domaines ayant un potentiel de création d'emplois (soutien des entreprises, investissements dans les infrastructures de transport, mesures de développement régional). Une diminution des investissements se traduit par moins d'infrastructures, moins d'emplois et moins de perspectives de développement à long terme. En outre, les pertes de revenus imputables aux procédés révélés par les « Panama papers » contribuent vraisemblablement à une répartition plus inéquitable des recettes fiscales et à l'inégalité des revenus dans et entre les pays.

Si l'on suppose que ces procédés ont entraîné au moins 173 milliards d'euros d'impôts perdus pour les États membres de l'UE28 (le point médian dans la fourchette citée ci-dessus impliquant les huit États membres), 3,5 millions d'emplois supplémentaires auraient pu être soutenus en Europe si ces dépenses avaient été consacrées aux programmes de création d'emplois (à raison d'un coût moyen de 50 000 euros par emplois). Cependant, les pertes fiscales associées aux procédés révélés par les « Panama papers » ne seraient pas nécessairement transformées en dépenses publiques pour créer des emplois. Par exemple, une autre utilisation pourrait être de réduire les dettes nationales. **Une estimation prudente serait donc qu'environ 1,5 million d'emplois auraient pu être soutenus avec l'argent perdu par les autorités nationales en raison de la perte fiscale associée aux procédés révélés par les « Panama papers ».** Indépendamment de tout calcul précis, il est clair que l'ampleur des effets sur l'emploi est considérable.

Au cours de notre consultation, il a été soutenu que la perte de recettes fiscales pourrait cependant être mineure et que **la distorsion des informations disponibles sur les marchés financiers aurait plus d'impact**. La nature des paradis fiscaux fonctionnant dans le secret total déforme les comportements des producteurs et des consommateurs. Dans le contexte des « Panama papers », il y a eu des recherches sur les effets des pertes en capitaux et une estimation a révélé que 135 milliards de dollars américains ont disparu de 397 entreprises publiques en raison de la présence de leurs véhicules offshore dans les « Panama papers ».<sup>3</sup>

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<sup>3</sup> [https://papers.ssrn.com/sol3/papers2.cfm?abstract\\_id=2771095](https://papers.ssrn.com/sol3/papers2.cfm?abstract_id=2771095)

### *Impact de la délinquance financière*

Cette étude n'a pas permis d'identifier des informations détaillées sur les répercussions de la criminalité financière découlant des procédés révélés par les « Panama papers ». Dans la plupart des cas, les estimations incluent à la fois les procédés utilisés à des fins légales et illégales et aucune statistique ne se concentre uniquement sur l'impact des procédés illégaux.

Cependant, Europol a comparé les « Panama papers » publiés par l'ICIJ avec ses propres bases de données et a trouvé 1 722 noms dans les documents correspondant à des entités qui avaient été signalées par les États membres de l'UE comme ayant potentiellement participé à des opérations de blanchiment d'argent. **Le fait que potentiellement les « Panama papers » ne concernent que 0,6% (c.-à-d. 1 722 correspondances) du nombre total de cas annuels signalés sur le blanchiment d'argent** n'entraîne qu'un impact marginal sur le statu quo. Cependant, cette quantification doit être traitée avec une extrême prudence étant donné que les données d'Europol relatives aux correspondances pourraient ne pas être exhaustives. En outre, cela n'exclut pas d'autres procédés ayant cours dans les paradis fiscaux et ayant des liens plus importants avec le blanchiment d'argent.

### **Recommandations**

Notre recherche confirme que l'existence de paradis fiscaux et de centres financiers offshore réduit les revenus disponibles aux États membres et cause des dommages économiques directs en entravant les dépenses publiques, mais aussi plus largement en augmentant les inégalités et en faussant les marchés. Pour diminuer les effets négatifs des paradis fiscaux et des centres financiers offshore, nous formulons les recommandations suivantes dans le rapport:

### Résumé des Recommandations :

- **Promouvoir la mise en place de registres qui rendent publique la propriété effective** pour empêcher que les procédés révélés par les « Panama papers » ne soient pas détectés. De plus il faut soutenir et surveiller les « **Common Reporting Standard** » qui sont entrés en vigueur au début de cette année.
- **Encourager de meilleures normes fiscales de bonne gouvernance** en prévoyant que les partenaires internationaux de l'UE mettent en œuvre des standards plus élevées de bonne gouvernance fiscale. L'UE elle-même doit intensifier la pression dans les forums mondiaux, en particulier celui des G20.
- En cherchant à promouvoir une plus grande coopération internationale, il est également crucial de **conserver la neutralité politique de la définition d'un paradis fiscal**. L'idée selon laquelle seules les juridictions non coopératives sont qualifiées de paradis fiscal ne tient pas compte du fait que certaines juridictions peuvent apparaître coopératives tout en restant un paradis fiscal opérationnel. Dans l'intérêt de la neutralité, une liste grise ou une liste noire devrait être établie en fonction de critères plus nuancés.
- **Il faut relier de manière plus étroite les informations sur les règles anti-blanchiment et les règles sur la transparence fiscale**. Cela se reflète déjà dans les modifications proposées par la Commission sur la quatrième directive anti-blanchiment qui comprend l'élargissement de la portée de l'information accessible aux unités de renseignements financiers. En outre, la création du bureau des procureurs européens (EPPO) sera bénéfique car l'EPPO peut enquêter et poursuivre les fraudes dans l'UE et les autres crimes affectant les intérêts financiers de l'UE.
- **Mettre en place des mesures pour garantir la protection des lanceurs d'alerte** améliorera la disponibilité des données et servira de moteur contre l'utilisation des procédés ayant cours dans les paradis fiscaux.
- **Développer des méthodologies qui peuvent être utilisées pour générer des données publiques, fiables et comparables sur l'ampleur de l'évitement et de l'évasion fiscale**, ainsi que des méthodes pour quantifier l'impact de ces incidents sur les finances publiques et les activités économiques des pays. Cela impliquerait d'explorer les méthodes de collecte de données sur d'une part, l'évitement et l'évasion fiscales des entreprises, sujet sur lequel la plupart des recherches semblent se concentrer à ce jour et l'évasion fiscale des particuliers d'autre part.
- **Promouvoir l'intégrité et la transparence dans le secteur financier dans le cadre du semestre européen**. D'une manière plus concrète, cela pourrait se traduire par le suivi de l'UE et la prévention de l'utilisation des procédés révélés par les « Panama papers » qui pourraient compromettre la stabilité macroéconomique (c'est-à-dire les procédés liés à des bulles immobilières, des crises bancaires, etc.) et favoriser l'ajustement au moyen de politiques appropriées.

## 1. INTRODUCTION

This document contains the final report on 'The Impact of Schemes revealed by the Panama Papers on the Economy and Finances of a Sample of Member States' (IP/D/ALL/FWC/2015-001/LOT1). The assignment was carried out for the European Parliament in the first half of 2016 by the Centre for Strategy & Evaluation Services LLP (CSES) in collaboration with Blomeyer & Sanz.

### 1.1. RESUME OF STUDY OBJECTIVES

The objectives of the study were to:

- Assess and evaluate the overall impact of tax havens and offshore areas on the European Union (EU) through research in a sample of eight Member States;
- Estimate the quantifiable budgetary and administrative costs due to tax evasion and the use of offshore financial centres, and the impact of secretive jurisdictions.

The terms of reference stipulated that the study should explain the concepts and role of tax havens and offshore financial centres, evaluate their impact on EU Member States, assess the potential impact of financial crime including money laundering, and propose reforms and additional measures to existing agreements at the EU and international levels to discourage the abuse of these schemes.

In looking at the impact of the schemes, the study focused on a sample of eight Member States: Cyprus, the Czech Republic, Denmark, France, Germany, Poland, Spain, and the United Kingdom. Some of these countries featured heavily in the Panama Papers as well as in other leaks such as the 2014 Luxembourg leaks.

### 1.2. REPORT OVERVIEW

Below, we outline the report structure:

#### Report Structure

- **Section 1** - summarises previous research and the methodology for this study;
- **Section 2** - examines the concepts of tax havens and offshore financial centres;
- **Section 3** - explains the role of tax havens and offshore financial centres, giving an overview of how they are used for legitimate and illegitimate purposes, as well as explaining the role of 'shell companies' and 'secrecy jurisdictions';
- **Section 4** – examines the budgetary, economic, and fiscal impact of tax havens, offshore financial centres and secretive jurisdictions on EU Member States;
- **Section 5** – provides an overview of existing cooperation measures in the EU and internationally, and presents recommendations based on the study's conclusions.

The study distinguishes between three types of potential impacts of the schemes revealed by the Panama Papers, namely budgetary, economic, and fiscal. Assessing the various impacts of the schemes

revealed by the Panama Papers involves estimating the tax gap, i.e. the difference between the amount of tax the government should collect if tax payers did what was required or expected of them by them by law and the amount of tax the government actually collects.<sup>4</sup> Two basic methods have been used to estimate these impacts:

- An **empirical approach** that involved consultations in the sample of eight EU Member States to examine how authorities in these countries have assessed (and quantified) the impacts;
- A **micro-econometric method** which involved comparing datasets for companies with/without links to schemes revealed in the Panama Papers.

The first approach for this assignment involved desk research and an interview programme involving the sample of eight EU Member States. The research focused on asking national authorities and other key stakeholders to provide information on if and how they were assessing the impact of the Panama Papers and any data on the quantification of these impacts. The second approach involved using an econometric method developed by one of our external experts, comparing the financials of companies listed in a private database against the information revealed by the Panama Papers on these companies.

Based on estimates of the tax lost to the authorities in the eight EU Member States covered by the research we have then provided an indication of the economic and other impacts of the schemes revealed by the Panama Papers (Section 4). Last but not least, we have considered measures that could be taken by the EU to tackle the practices revealed by the Panama Papers (Section 5).

Below, we present an overview of existing research on the impact of tax havens, before moving on to outlining the methodology adopted for this study in more detail.

### 1.3. BACKGROUND - THE 'PANAMA PAPERS'

The term '**Panama Papers**' refers to a leak of some 11.5 million documents held by the Panamanian law firm Mossack Fonseca.

The data was published on the website of the **International Consortium of Investigative Journalists' (ICIJ)** in April 2016. The Panama Papers detail how shell companies have been used to transfer funds between national jurisdictions for both legitimate and illegitimate reasons. The degree to which this took place was confirmed by the revelations, with wide-ranging implications for national authorities' tax revenues. The European Commission has cited previous estimates according to which the **annual revenue losses due to tax evasion and tax fraud amount to at least EUR 1 trillion**.<sup>5</sup> In a financial secrecy index published by the Tax Justice Network, many EU Member States and overseas territories feature in the top 100. The same report estimated the **annual revenue loss due to tax evasion at EUR 956 billion for the EU28** (see Table 5 in Section 4).

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<sup>4</sup> Tax Research UK, *What is the Tax Gap?*, <http://www.taxresearch.org.uk/Documents/FAQ1TaxGap.pdf>

<sup>5</sup> [https://ec.europa.eu/taxation\\_customs/fight-against-tax-fraud-tax-evasion/a-huge-problem\\_en](https://ec.europa.eu/taxation_customs/fight-against-tax-fraud-tax-evasion/a-huge-problem_en)

In June 2016, the European Parliament responded to the Panama Papers by setting up the **Committee of Inquiry to investigate alleged contraventions and maladministration in the application of Union law in relation to money laundering, tax avoidance and tax evasion (PANA)**. The Committee's mandate is to investigate alleged contraventions and maladministration in the application by the European Commission or Member States of EU laws on money laundering, tax avoidance and tax evasion. The Committee is holding a series of public hearings on anti-money laundering and tax evasion and the enforcement and assurance of compliance with tax laws.

#### 1.4. OVERVIEW OF PREVIOUS RESEARCH

There is a considerable amount of existing research that is relevant to this study. Below we provide a brief overview of some of the more relevant and recent material.

In 2013, a study for the European Parliament on **"European initiatives on eliminating tax havens and offshore financial transactions and the impact of these constructions on the Union's own resources and budget"**<sup>6</sup> concluded that the existence of tax haven schemes had negative impacts on the EU budget, EU Member States, and macro-economic stability. The study also recommended the development of criteria to identify and categorise high-risk jurisdictions. In the same year, the European Commission reaffirmed its commitment to curbing tax evasion and fraud when it launched its **Platform for Tax Good Governance**. The Commission also published a working paper in 2015 developing indicators that can help identify aggressive tax planning structures, pertaining mainly to corporate tax rates and policies.<sup>7</sup>

At international level, there are several **estimates of the budgetary impact of international corporate tax avoidance**. However, these studies often rely on assumptions and counterfactuals, i.e. what the tax base would be in the absence of profit shifting. The studies focusing on how much governments lose because of international corporate tax avoidance include estimates by the OECD (2015), IMF (Crivelli et al., 2015), UNCTAD (2015), and EPRS (2015) and most recently Alex Cobham and Petr Jansky (2017). In most cases these studies provided world-wide estimates although the EPRS study focused on the EU.

At the **European level**, Eurostat currently collects data on tax revenue based on the European system of national and regional accounts (EAS, 2010)<sup>8</sup>. This system is used to report on actual data on tax revenue, but does not extend to estimating tax revenue losses due to tax evasion or avoidance, nor does it collect Member State data on additional tax revenue gained from successful investigations of cases of tax fraud or avoidance (such data is reported, for example, by the German Ministry of Finance on a regular basis).

The importance of improving data availability on the incidence, scale and impact of tax evasion and

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<sup>6</sup> Authored by Blomeyer & Sanz

<sup>7</sup> European Commission. Study on Structures of Aggressive Tax Planning and Indicators. Final Report. Working Paper N. 61 – 2015. [http://ec.europa.eu/taxation\\_customs/sites/taxation/files/resources/documents/taxation/gen\\_info/economic\\_analysis/tax\\_papers/taxation\\_paper\\_61.pdf](http://ec.europa.eu/taxation_customs/sites/taxation/files/resources/documents/taxation/gen_info/economic_analysis/tax_papers/taxation_paper_61.pdf)

<sup>8</sup> [http://ec.europa.eu/eurostat/statistics-explained/index.php/Glossary:European\\_system\\_of\\_national\\_and\\_regional\\_accounts\\_\(ESA\\_2010\)](http://ec.europa.eu/eurostat/statistics-explained/index.php/Glossary:European_system_of_national_and_regional_accounts_(ESA_2010))



avoidance has been acknowledged by the European Commission. The argument is that such data could allow for more targeted policy measures and provide a benchmark for measuring their success. For this reason, the Commission began to work with Member States and Eurostat in 2015 to explore ways of compiling more comparable and reliable data and estimates on the scale and economic impact of tax evasion and avoidance on the EU.

To this end, the **FISCALIS project group** was launched with a view to encouraging greater transparency between Member States on their national tax gap data. Until now only a few Member States have developed a way of estimating the tax gap (e.g. Denmark, Estonia, Italy, The Netherlands, Slovakia, and the UK).<sup>9</sup> The group plans to prepare a map and guide on methodologies for tax gap estimations. In March 2016, one month prior to the Panama leaks, the FISCALIS Tax Gap Project Group published a first report on VAT gap estimations<sup>10</sup>. The report reviewed methodologies used in different Member States to estimate this gap, their limitations, and shortcomings, and concluded that there is no one-size-fits-all methodology or indicator for estimating this gap but that the choice of methodology depends on the purposes of the estimation and available sources. The work to estimate tax gaps is on-going as of March 2017 in most countries.

There are also two relevant Horizon 2020 research programmes, the **Fair Tax project (2015-2019)** and the **COFFERS project** (2016-2019).<sup>11</sup> These are considering options for expanding EU legislative competences. Additionally, the project is considering reform options for Member States, i.e. strategies for increased effectiveness and harmonisation of tax administration and compliance structures.

The **Organisation for Economic Co-Operation and Development** (OECD) literature on the subject includes papers on aggressive tax planning which recommend measures to address base erosion and profit shifting. In November 2016, Panama joined the Base Erosion and Profit Shifting (BEPS) project framework, an on-going reporting project run by the OECD. The OECD also maintains a directory of more than 400 aggressive tax planning schemes which can be consulted by governments. A review undertaken in 2012 pointed to an estimated EUR 1.5 billion potential tax revenue loss for governments that highlighted in this directory.<sup>12</sup> The **United Nations Conference on Trade and Development** (UNCTAD) (2015) estimated the cost to national authorities of offshore finance schemes at approximately 30% of cross-border corporate investment stocks. The **International Monetary Fund** (IMF) and the **European Parliamentary Research Service** (EPRS) have also produced reports on the impact of tax havens and the spill over effects of secretive jurisdictions.

**Overall, research on the revenue implications for EU Member States of tax avoidance, specifically schemes such as those revealed by the Panama Papers is rather limited.** While there is extensive literature on international tax avoidance, whether by individuals or companies and MNEs, the focus on revenue loss is much more limited. The existing material provides, however, some useful guidance on what can be quantified as well as several broad indications of the cost of tax avoidance.

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<sup>9</sup> <http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetail&groupID=3260>

<sup>10</sup> [https://ec.europa.eu/taxation\\_customs/sites/taxation/files/docs/body/tqpg\\_report\\_en.pdf](https://ec.europa.eu/taxation_customs/sites/taxation/files/docs/body/tqpg_report_en.pdf)

<sup>11</sup> FairTax, Umea University, <http://www.org.umu.se/fairtax/english/>; COFFERS, Utrecht University, <http://coffers.eu/>

<sup>12</sup> ATP Database, OECD, Co-operation and exchange of information on ATP, <http://www.oecd.org/ctp/aggressive/co-operation-and-exchange-of-information-on-atp.htm>



The existing material can be divided into academic and policy studies. The research that provides quantitative estimates of tax avoidance usually does not extend to estimates of the budgetary impacts. Recent exceptions are Clausing (2009) and Zucman (2014) with their estimates for the United States, and Clausing (2016) for the United States with the speculative extension to the rest of the world. Much of the discourse lends weight to the activities of MNEs and profit-shifting, which as we will explain in this report, is distinct from the kind of activity seen in the Panama Papers. Where there is literature on revenue loss, corporate income tax evasion takes precedence over, for example, evasion of personal income tax or capital gains tax.

Similarly, there is no material that we are aware of examining the **economic impacts on the EU**, although some literature exists on the economic harm of tax havens to developing countries, including Reuter (2012) and Fuest et al. (2011).

## 2. CONCEPTS OF TAX HAVENS, OFFSHORE FINANCIAL CENTRES, AND SECRECY JURISDICTIONS

An important aim of the study involved examining the concepts of tax havens, off-shore financial centres and secrecy jurisdictions. This provides a framework for then examining the impact of the types of schemes revealed by the Panama Papers.

There is considerable overlap between the concepts tax havens, off-shore financial centres and secrecy jurisdictions. Indeed, they seem to sometimes get confused. Despite these overlaps, there are also key distinctions. For example, it is not necessarily the case that a jurisdiction<sup>13</sup> can be described as both a tax haven and an offshore financial centre. There are also differences between different tax havens or offshore financial centres in terms of the extent to which they constitute a tax haven or offshore financial centre and how secretive banking activity and the regulatory environment is.

### 2.1. KEY CHARACTERISTICS OF TAX HAVENS

There are differing views on what constitutes a tax haven.<sup>14</sup> The widely accepted and maintained definition was articulated by the OECD in 1998 which set the following criteria for a jurisdiction being a tax haven<sup>15</sup>:

- Applying **no, or nominal taxes, such as inheritance, income, or corporate tax, to non-residents** (individuals and corporations) primarily with a view to the avoidance of taxation in their home jurisdictions;
- Having **laws or measures which prevent the effective exchange of relevant information with other governments on tax payers** benefitting from the low or no tax jurisdiction;
- **Lacking in tax transparency**, making it harder for home countries to take defensive measures which usually involves a favourable regulatory environment for tax evasion and avoidance.

The Tax Justice Network accepts this definition and argues that structurally, tax havens rely on laws or other measures to ensure secrecy, and a lack of tax transparency in the jurisdiction both regarding banking systems and legal entities used.<sup>16</sup>

For the purposes of this study, we have adopted the OECD's definition of a tax haven. However, various governments and institutions have adopted additions and/or variations pertaining to cooperation, secrecy, and the proportionality of financial services in a jurisdiction.

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<sup>13</sup> A territory with its own legal system, whether independent or a sovereign state, or part of federal or confederal state, overseas territory, dependent or internal zone to which a legal regime has been applied. See also definition of "Jurisdiction" used by the Tax Justice Network, *Identifying Tax Havens and Offshore Finance Centres*, [http://www.taxjustice.net/cms/upload/pdf/Identifying\\_Tax\\_Havens\\_Jul\\_07.pdf](http://www.taxjustice.net/cms/upload/pdf/Identifying_Tax_Havens_Jul_07.pdf), 2007

<sup>14</sup> Palan, R., Murphy, R., and Chavagneux, C. 2009. *Tax havens: How globalization really works* Ithaca, NY: Cornell University Press.

<sup>15</sup> OECD, "Harmful Tax Competition Tax Competition - An Emerging Global Issue", 1998.

<sup>16</sup> Tax Justice Network, *Identifying Tax Havens and Offshore Finance Centres*, [http://www.taxjustice.net/cms/upload/pdf/Identifying\\_Tax\\_Havens\\_Jul\\_07.pdf](http://www.taxjustice.net/cms/upload/pdf/Identifying_Tax_Havens_Jul_07.pdf), 2007

The **European Parliament's resolution of 19 April 2012** incorporates the OECD position on tax transparency, describing tax havens as "... foreign non-cooperative jurisdictions characterised in particular by no or nominal taxes, a lack of effective exchange of information with foreign tax authorities and a lack of transparency in legislative, legal or administrative provisions".<sup>17</sup>

A definition adopted by the Parliament in the same year<sup>18</sup> stated that further to the OECD definition, a jurisdiction is considered a tax haven by necessity if it is listed as a 'non-cooperative' country by the **Financial Action Task Force (FATF)**. The European Parliament's definition is not minimalist and restricted to the blacklist published by FATF. The mission of the FATF involves combatting money laundering, terrorist finance and the financing of weapons of mass destruction. Jurisdictions are identified as failing to support this objective (e.g. North Korea and Iran) completely independently of any government policy on taxation, foreign investment, exchange of information, etc. An additional criterion is if the jurisdiction has not signed an agreement with the home Member State of the investor and with each other Member State in which units or shares of the investment are intended to be marketed, so that it is ensured that the third country fully complies with the standards laid down in **Article 26 of the OECD Model Tax Convention on Income and on Capital** and ensures an effective exchange of information in tax matters, including any multilateral tax agreements.<sup>19</sup>

The use of a list to help define tax havens is useful for identifying the scale of the problem worldwide. The **Financial Action Task Force (FATF)** has issued lists since 2000 of countries which are non-cooperative in the global fight against money laundering and terrorist financing. The initial list consisted of 15 countries<sup>20</sup>, including Panama and Liechtenstein. In 2016, however, the list of 'non-cooperative' countries consisted of only North Korea and Iran. The FATF removed Panama from its grey-list in February 2016, determining that the country had the legal, regulatory, and institutional framework in place for combatting money laundering and the financing of terrorism. This decision was put into question only two months later by the release of the Panama Papers.

The European Commission and the European Parliament are currently developing a '**Common EU List of Non-Cooperative Jurisdictions**' as part of the Commission's anti-tax avoidance package which was launched in 2016. This list will provide a common EU system for assessing, screening and listing third tax jurisdictions, allowing Member States to identify jurisdictions playing a role in tax avoidance and evasion. The utility of such an overview extends to other taxation initiatives, mainly in countering corporate income tax avoidance and aggressive tax planning. A provisional scoreboard of third country jurisdictions was published in September 2016. Two sets of indicators were used to determine third country jurisdictions that posed a risk to EU Member States. The first was a series of selection indicators,

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<sup>17</sup> European Parliament resolution of 19 April 2012 on the call for concrete ways to combat tax fraud and tax evasion, <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P7-TA-2012-0137&language=EN&ring=B7-2012-0203>

<sup>18</sup> 28 June 2012, EU-wide Venture Capital Regime, referenced here: [http://europa.eu/rapid/press-release\\_IP-11-1513\\_en.htm?locale=en](http://europa.eu/rapid/press-release_IP-11-1513_en.htm?locale=en), Rules incorporated this definition, as seen in Blomeyer & Sanz, *European Initiatives on eliminating tax havens and offshore financial transactions and the impact of these constructions on the Union's own resources and budget*, 2013,

<sup>19</sup> See also, Blomeyer & Sanz, *European Initiatives on eliminating tax havens and offshore financial transactions and the impact of these constructions on the Union's own resources and budget*, 2013, pp. 35-36 for DG Internal Polices, Policy Department D: Budgetary Affairs

<sup>20</sup> FATF 2000 Country list included: Bahamas Cayman Islands Cook Islands Dominica Israel Lebanon Liechtenstein Marshall Islands Nauru Niue Panama Philippines Russia St. Kitts and Nevis St. Vincent and the Grenadines, found at NCCT Review, 06/2000, FATF, <http://www.fatf-gafi.org/media/fatf/documents/reports/1999%202000%20NCCT%20ENG.pdf>

including assessments of a jurisdiction's economic ties with the EU, the magnitude of financial services activity as well as financial stability factors. The second set of indicators assessed the risk the jurisdiction posed, identifying whether jurisdictions were sufficiently transparent, had favourable corporate income tax regimes, or zero corporate income tax rates.

From the perspective of the schemes revealed by the Panama Papers, this provisional scoreboard focuses more on corporate income tax evasion, and not the other streams of taxation that are avoided or evaded by individuals. Additionally, on the revelations of several EU Member States featuring in the Panama Papers, third jurisdictions may expect the scope, and therein the scrutiny, be extended to not just third countries but all EU Member States.

## 2.2. KEY CHARACTERISTICS OF OFFSHORE FINANCIAL CENTRES

Offshore financial centres have many of the characteristics of tax havens, and also operate in secrecy.<sup>21</sup> In 2000, the **Financial Stability Forum** (FSF) published a list of jurisdictions it considered to be offshore financial centres, and determined their criteria. The main difference in the definition of an offshore financial centre is the lack of the need for financial institutions or corporate structures to have a physical presence. Examples include companies or shell companies established by an intermediary, registering their operations at an empty and unused building.

The **IMF** concurs with this, defining an offshore financial centre as "(...) a country or jurisdiction that provides financial services to non-residents on a scale that is incommensurate with the size and the financing of its domestic economy".<sup>22</sup> It is the disproportionality that is most striking, as a very small territory, such as the British Virgin Islands, with a population of 28,000 (according to the 2010 Census) delivers financial services on a scale comparable to a large EU Member State. Of the companies appearing in the Mossack Fonseca files, one in two (over 113,000 in total) were incorporated in the British Virgin Islands. The unavailability of similar tax incentives to residents in the British Virgin Islands meets another criterion adopted by the FSF.

In determining criteria for offshore financial centres, there is no universal agreement, but the **IMF Statistics Department** has made some suggestions. In 2002 it was argued that "a jurisdiction in which international investment position assets, including as resident all entities that have legal domicile in that jurisdiction, are close to or more than 50% of GDP and in absolute terms more than USD 1 billion."<sup>23</sup>

A **2007 IMF Working Paper** revised this, focusing explicitly on the ratio of net financial services exports to GDP. Of the 104 countries examined, 16 of 40 high-income countries were identified as offshore financial centres, as were six of the 64 middle/low-income jurisdictions. To test the effectiveness of this methodology, the filter was applied to some of the offshore financial centres identified by the IMF in a separate Offshore Financial Centre Programme database consisting of 104 countries. The filter correctly

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<sup>21</sup> Hampton, M. P. 1996. *The offshore interface: Tax havens in the global economy*. Basingstoke, UK: Palgrave Macmillan. Haberly, D., and Wójcik, D. 2014. Tax havens and the production of offshore FDI: an empirical analysis. *Journal of Economic Geography*, 15:75–101. Hudson, Alan C. 1998a. Offshore Onshore: Re-Shaping the Financial Regulatory Landscape, in: Martin, Ron (Ed.): *Money and the Space Economy*, London, 139-145.

<sup>22</sup> IMF, Working Paper, *Concept of Offshore Financial Centers: In Search of an Operational Definition*, Ahmed Zorome, 2007, <http://www.imf.org/external/pubs/ft/wp/2007/wp0787.pdf>

<sup>23</sup> <http://www.imf.org/external/np/pp/eng/2008/050808.pdf>

identified 19 countries in the database. The study did not identify Costa Rica Lebanon, Macao SAR, and Malaysia but did recognise Latvia, the United Kingdom and Uruguay which were outside of the original study sample.<sup>24</sup>

On the basis of this methodology, three distinct characteristics were set out, allowing for an objective assessment of which jurisdictions were offshore financial centres. These are:

- The primary orientation of business toward non-residents;
- The favourable regulatory environment (low supervisory requirements and minimal information disclosure);
- The existence of low (unspecified) or zero taxation schemes.

As seen with the **OECD and European Parliament's criteria for tax havens**, both low or zero taxation and secrecy are fundamental to the model of offshore financial centres. The overlap here has led to the terms being used interchangeably. For some, the definition offered above for tax havens is too narrow. Calls have been made to widen the scope to include jurisdictions modifying tax rates or laws to attract inward capital investment.<sup>25</sup>

The schemes revealed by the Panama Papers include offshore firms being set up in Offshore Financial Centres that meet the above criteria, with shell companies appearing in Mossack Fonseca's files being registered in small jurisdictions that under normal circumstances would not support the scale of financial services being offered, or in jurisdictions that can do so (proportionate to the country's financial services and GDP) but still offer low or zero taxation rates. The Panama Papers themselves make the case for extending the scope of the definition, citing the United Kingdom (distinct from its dependencies or territories) as the tenth most popular tax haven identified in the leaked data. Of the 41 countries identified by the OECD as tax havens in 2007, the United Kingdom was not one of them.

In 2009, the OECD was mandated to develop an **internationally agreed tax standard on the exchange of information**, endorsed by the UN and G20.<sup>26</sup> A progress report citing countries that had and had not committed to an internationally agreed tax standard was also published at the G20 summit in 2009.<sup>27</sup> The OECD's Global Forum annually publishes monitoring reports and peer reviews of jurisdictions, in both OECD and non-OECD countries, meeting this agreed standard.

Of the tax havens identified by the OECD in 2000 (and reviewed in 2009), many were not subsequently identified as offshore financial centres by the IMF in 2007. A list of these countries is presented below:

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<sup>24</sup> The 19 Countries correctly identified were, Bahamas, Bahrain, Barbados, Bermuda, Cayman Islands, Hong Kong, Cyprus, Guernsey, Ireland, Isle of Man, Jersey, Luxembourg, Malta, Mauritius, Netherlands Antilles, Panama, Singapore, Switzerland and Vanuatu.

See also, IMF, Working Paper, Concept of Offshore Financial Centers: In Search of an Operational Definition, Ahmed Zorome, 2007, <http://www.imf.org/external/pubs/ft/wp/2007/wp0787.pdf>, p. 19

<sup>25</sup> Tax Justice Network, *Identifying Tax Havens and Offshore Finance Centres*, [http://www.taxjustice.net/cms/upload/pdf/Identifying\\_Tax\\_Havens\\_Jul\\_07.pdf](http://www.taxjustice.net/cms/upload/pdf/Identifying_Tax_Havens_Jul_07.pdf), 2007, see listed Tax Havens at p. 8

See also Austrian Press, Sinclair Davidson, <http://www.theage.com.au/news/business/here-is-the-truth-about-tax-havens/2007/10/15/1192300685572.html>

<sup>26</sup> OECD, Countering Offshore Tax Evasion: Some questions and answers

<sup>27</sup> A Progress Report on The Jurisdictions Surveyed by The OECD Global Forum in implementing the Internationally agreed Tax Standard, OECD, <http://www.oecd.org/ctp/42497950.pdf>

**Table 1 : Offshore financial centres not identified as tax havens by the OECD in 2000 or 2009**

Jurisdiction	IMF OFC List 2007	OECD Tax Haven List (2000 )	Status (2009 OECD Progress Report)
Bermuda	X	Identified as a tax haven but removed from list due to agreement to commit to international standard.	Tax haven committed to international standard
Cayman Islands	X	Identified as a tax haven but removed from list due to agreement to commit to international standard.	Tax haven committed to international standard
Cyprus	X	Identified as a tax haven but removed from list due to agreement to commit to international standard.	Substantially implementing international tax standard
Hong Kong	X		Tax haven committed to international standard
Ireland	X		Substantially implementing international tax standard
Latvia	X		Not identified in Progress report.
Luxembourg	X		Other financial centre committed to international standard
Malta	X	Identified as a tax haven but removed from list due to agreement to commit to international standard.	Substantially implementing international tax standard
Mauritius	X	Identified as a tax haven but removed from list due to agreement to commit to international standard.	Substantially implementing international tax standard
Singapore	X		Other financial centre committed to international standard
Switzerland	X		Other financial centre committed to international standard
United Kingdom	X		Substantially implementing international tax standard
Uruguay	X		Tax haven not committed to the standard

**Source:** OECD and IMF, from Blomeyer & Sanz, European Initiatives on eliminating tax havens and offshore financial transactions and the impact of these constructions on the Union's own resources and budget, 2013, p. 120.

The above table demonstrates that offshore financial centres are not necessarily perceived as tax havens and vice versa. Many of the countries identified above were removed from 'non-cooperative' lists once they committed themselves to upholding international tax standards. Nonetheless, they were still identified as offshore financial centres by the IMF, and were mentioned in the Luxembourg and Panama papers' leaks in a way that would suggest that they still meet the criteria to be considered tax havens. Uniquely, Latvia was not identified either in 2000 or 2009. Whether a jurisdiction is cooperative or non-cooperative seems to have real implications for companies.<sup>28</sup>

<sup>28</sup> Caruana-Galizia & Caruana-Galizia (2016) observe the substitution of cooperative for non-cooperative offshore jurisdictions as well as the substitution of EU ownership for non-EU ownership. Caruana-Galizia & Caruana-Galizia (2016) used a leaked data set to show that the growth of EU-owned entities declined, in contrast with a control group of non-EU-owned entities, after

### 2.3. KEY CHARACTERISTICS OF SECRECY JURISDICTIONS

The term 'secrecy jurisdiction' has been used interchangeably with tax havens and offshore financial centres.<sup>29</sup> Secrecy jurisdictions share many of the same characteristics, and can be used interchangeably when contextualised.

A useful consideration, however, is that the term specifically refers to a favourable regulatory environment that allow two mechanisms for individuals or companies wishing to benefit from the schemes like those seen in the Panama Papers. The first, coined by the **Tax Justice Network**, is the 'escape' concept. Secrecy jurisdictions offer the ability to evade scrutiny, tax, financial regulations, and criminal laws. The second mechanism is the 'elsewhere' function. Secrecy jurisdictions enable offshore financing and allow non-resident financing. The secrecy adopts many forms, some of which have been explored but it in part suggests why publicly available information is so limited, and why there is a reliance on data leaks such as the Luxembourg leaks (2014) or the Panama Papers as the primary source of information.

Below is the **Financial Secrecy Index** for 2015 of the top 10 countries which has not yet been revised in light of the Panama Papers but has been used by numerous researchers.<sup>30</sup> This index is politically neutral and developed by the Tax Justice Network. Each jurisdiction has an individual report. It should be noted the scores for secrecy are weighted to reflect financial services exports. The top 10 raw scores<sup>31</sup> do not match any European Member States or any of the top 10 jurisdictions featured below:

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the 2005 Tax and Savings Directive's implementation that obliges cooperating jurisdictions to withhold tax or report on interest income earned by entities whose beneficial owner is an EU resident. Similarly, Johannesen and Zucman (2014) assess the impact of G20 policy crackdown on tax havens and find that tax evaders tend to shift deposits to havens not covered by a treaty with their home country. Caruana-Galizia, P., & Caruana-Galizia, M. (2016). Offshore financial activity and tax policy: evidence from a leaked data set. *Journal of Public Policy* <https://doi.org/10.1017/S0143814X16000027> Johannesen, N., & Zucman, G. (2014). The End of Bank Secrecy? An Evaluation of the G20 Tax Haven Crackdown. *American Economic Journal: Economic Policy*, 6(1), 65–91.

<sup>29</sup> Tax Justice Network, "What is a secrecy jurisdiction?", <http://www.financialsecrecyindex.com/faq/what-is-a-secrecy-jurisdiction> and Cobham, A., Janský, P., & Meinzer, M. (2015). The Financial Secrecy Index: Shedding New Light on the Geography of Secrecy. *Economic Geography*, 91(3), 281–303. <https://doi.org/10.1111/ecge.12094>

<sup>30</sup> Cobham, A., Janský, P., & Meinzer, M. (2015). The Financial Secrecy Index: Shedding New Light on the Geography of Secrecy. *Economic Geography*, 91(3), 281–303. <https://doi.org/10.1111/ecge.12094>; Cassetta, Alessia/Pauselli, Claudio/Rizzica, Lucia/Tonello, Marco 2014: Financial Flows to Tax Havens: Determinants and Anomalies (Banca D'Italia - Quaderni dell'antiriciclaggio - No.1), Rome, in: [http://www.bancaditalia.it/UIF/pubblicazioni-uif/quaderni\\_analisi\\_studi/Financial\\_Flows\\_Tax\\_1/Quaderno\\_Analisi\\_studi\\_1.pdf](http://www.bancaditalia.it/UIF/pubblicazioni-uif/quaderni_analisi_studi/Financial_Flows_Tax_1/Quaderno_Analisi_studi_1.pdf); 20.10.2014.

<sup>31</sup> Vanuatu (87), Samoa (86), St Lucia (83), Liberia (83), Brunei Darussalam (83), Antigua and Barbuda (83), Marshall Islands (81), Bahamas (79), Nauru (79), Belize (79)



**Table 2: Financial Secrecy Index 2015, Top 10 Countries<sup>32</sup>**

Rank	Secrecy Jurisdiction	FSI – Value <sup>3</sup>	Secrecy Score <sup>4</sup>	Global Scale Weight <sup>5</sup>
1	<b><u>Switzerland</u></b> <sup>2</sup>	<u>1,466.1</u>	73	5.625
2	<b><u>Hong Kong</u></b> <sup>2</sup>	<u>1,259.4</u>	72	3.842
3	<b><u>USA</u></b> <sup>2</sup>	<u>1,254.7</u>	60	19.603
4	<b><u>Singapore</u></b> <sup>2</sup>	<u>1,147.1</u>	69	4.280
5	<b><u>Cayman Islands</u></b> <sup>1,2</sup>	<u>1,013.1</u>	65	4.857
6	<b><u>Luxembourg</u></b> <sup>2</sup>	<u>816.9</u>	55	11.630
7	<b><u>Lebanon</u></b> <sup>2</sup>	<u>760.2</u>	79	0.377
8	<b><u>Germany</u></b> <sup>2</sup>	<u>701.8</u>	56	6.026
9	<b><u>Bahrain</u></b> <sup>2</sup>	<u>471.3</u>	74	0.164
10	<b><u>United Arab Emirates (Dubai)</u></b> <sup>2</sup>	<u>440.7</u>	77	0.085

**Source:** Financial Secrecy Index, Tax Justice Network

By comparison, those countries deemed highly secretive jurisdictions do not appear consistently across tax haven lists or in the Panama Papers.

Below we present the 10 most popular tax havens where offshore companies and trusts facilitated by Mossack Fonseca were incorporated. It is important to note that the ‘popularity’ of a particular jurisdiction in the Panama Papers is determined by the fact that the reputation of some jurisdictions involves their specialisation in a particular market segment. Thus, the British Virgin Islands are recognised for company formation (for many of the same reasons that Delaware is recognised for its company formation regime), the Cayman Islands are recognised for supporting hedge funds and the mutual fund industry more generally, and Bermuda is recognised for its legislation supporting insurance and re-insurance firms.

<sup>32</sup> Financial Secrecy Index, Tax Justice Network, <http://www.financialsecrecyindex.com/introduction/fsi-2015-results>

Note 1: Territories that are Overseas Territories (OTs) and Crown Dependencies (CDs) where the Queen is head of state; powers to appoint key government officials rests with the British Crown; laws must be approved in London; and the UK government holds various other powers

Note 2: For these jurisdictions, we provide special narrative reports exploring the history and politics of their offshore sectors. You can read and download these reports by clicking on the country name.

Note 3: The FSI is calculated by multiplying the cube of the Secrecy Score with the cube root of the Global Scale Weight. The final result is divided through by one hundred for presentational clarity.

Note 4: The Secrecy Scores are calculated based on 15 indicators. For full explanation of the methodology and data sources, please refer to the FSI-methodology document: [FSI-Methodology](#)

Note 5: The Global Scale Weight represent a jurisdiction's share in global financial services exports.



**Table 3: Ten Most Popular Tax Havens in the Panama Papers**

Rank	Tax Haven	No. of Shell Companies Incorporated	Financial Secrecy Index Ranking
1	<b>British Virgin Islands</b>	113,648	21
2	<b>Panama</b>	48,360	13
3	<b>Bahamas</b>	15,915	25
4	<b>Seychelles</b>	15,182	72
5	<b>Niue</b>	9,611	Not ranked.
6	<b>Samoa</b>	5,307	51
7	British Anguilla	3,253	63
8	Nevada	1,260	3
9	Hong Kong	452	2
10	United Kingdom	148	15

**Source:** ICIJ Panama Papers Database

As can be seen from the tables, some of the most popular tax havens are simply not ranked on the Financial Secrecy Index, while others rank lower than their proportionate presence in the Panama Papers.<sup>33</sup> The question for our research is whether the Panama Papers have shed new light on the dynamics of secrecy employed both in jurisdictions and in their banking systems. Although outside the scope of this study, this secrecy, and the reason for the mismatch in rankings above, is linked to the involvement of intermediaries (accountants, banks, etc.) in enabling Mossack Fonseca to service the beneficiaries of the schemes.

## 2.4. SUMMARY

As has been described in this section, **there is considerable overlap between the concepts of tax havens and offshore financial centre.** The perception of tax havens being simply offshore financial centres, where individuals hide their assets, is limited because the definition of tax haven can apply to EU Member States with a high ratio of net financial services exports to GDP (as is argued by the IMF). This does, however, raise issues concerning aggressive tax planning and tax competition which are outside the scope of the study.

**There is a case for distinguishing in tax haven lists between cooperative jurisdictions and known tax havens.** The European Parliament and the European Commission may run the risk of failing to acknowledge EU Member States as tax havens if, in the pursuit of publishing an EU-inclusive blacklist, Member States are removed by agreement. Defining tax havens and offshore financial centres is a contentious practice, as definitions can be used to list jurisdictions. Not wishing to be implicated in these lists, there is a tendency for jurisdictions to commit to new cooperation agreements to avoid being identified (an example of this is highlighted in Table 1).<sup>34</sup> Based on the research feedback from national authorities and other stakeholder groups, the acknowledgement of jurisdictions as tax havens is perceived as a crucial first step to creating a level playing field for taxation. If cooperation is a

<sup>33</sup> Still, Matt Collin finds that one of the most reliable predictors of a country's dealings with Mossack Fonseca is how it scores on the Financial Secrecy Index. <https://www.cgdev.org/blog/panama-papers-and-correlates-hidden-activity>.

<sup>34</sup> This claim has been levied by the Tax Justice Network, criticising OECD and IMF positions.

distorting criterion for listing tax havens, it will undermine the very purpose of identifying them.

Given the recent activity of the schemes revealed by the Panama Papers and in light of previous cooperative agreements, there is also a case to be made to **widen the definition of a tax haven**. A narrower definition involves using the OECD criterion, while a more broad-ranging definition would adopt the Tax Justice Network’s position which led to 70 countries being listed as tax havens in 2005. The provisional scoreboard for the Common EU List of Non-Cooperative Jurisdictions is an example of a holistic approach adopted by the European Commission.

Below we provide a summary overview of the key characteristics of tax havens, financial offshore centres, and secrecy jurisdictions. The examples we provide are not an exhaustive list.

**Table 4: Key Characteristics of Tax Havens, Financial Offshore Centres, and Secrecy Jurisdictions**

Concept	Key Characteristics	Examples of Countries
<b>Tax havens</b>	<ul style="list-style-type: none"> <li>No or Low Taxation</li> <li>Laws or measures preventing exchange of information.</li> <li>Lacking Tax Transparency</li> </ul>	British Virgin Islands, Panama, Bahamas, United Kingdom
<b>Financial Offshore Centres</b>	<ul style="list-style-type: none"> <li>No or low taxation</li> <li>Favourable regulatory environment (low supervision, minimal information disclosure)</li> <li>Financial services provision is disproportionate with domestic economy</li> </ul>	Bermuda, Cayman Islands, Hong Kong, Ireland, Luxembourg, Malta, United Kingdom
<b>Secrecy Jurisdictions</b>	<ul style="list-style-type: none"> <li>Favourable regulatory environment (low supervision, minimal information disclosure)</li> <li>Laws or measures preventing exchange of information.</li> <li>Lacking Tax Transparency</li> <li>Banking Secrecy</li> </ul>	British Virgin Islands, Hong Kong, Cayman Islands, USA

**Sources:** ICIJ Panama Database, Financial Secrecy Index – Tax Justice Network, OECD, and IMF.

In the examples provided above, the countries may be described by each term but to varying extents. For instance, the Cayman Islands have been identified as an offshore financial centre and a secrecy jurisdiction, but not as a tax haven by the OECD or the Panama Papers.

### 3. ROLE OF TAX HAVENS AND OFFSHORE FINANCIAL CENTRES

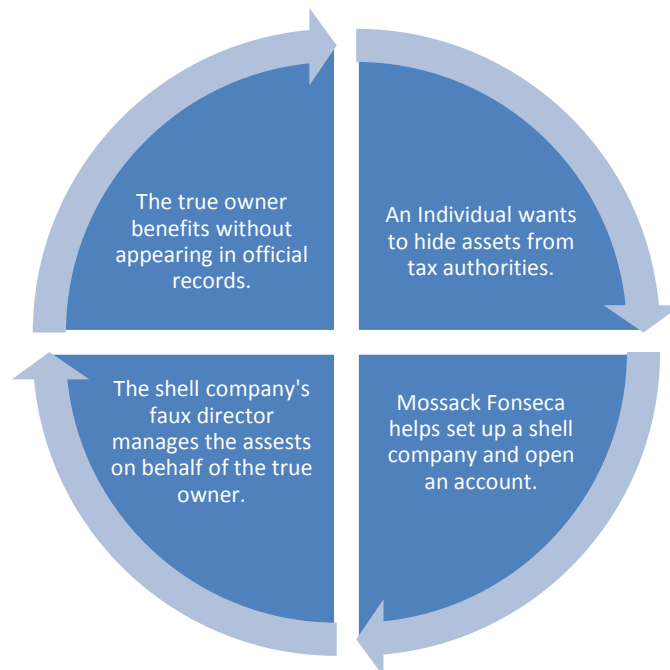
In this section the concepts of tax havens and offshore financial centres will be used to give an overview of the part they play in tax evasion and avoidance and their knock-on effects on financial crime. The types of shell companies, trusts and similar financial arrangements will be considered, and their legitimate and illegitimate uses.

As noted by the Parliamentary Assembly of the Council of Europe, Member States lose billions every year due to tax avoidance, tax evasion and tax fraud that are facilitated by the offshore financial system including tax havens and secrecy jurisdictions. This massive tax avoidance by wealthy individuals and enterprises not only penalises ordinary tax payers, public finances, and social spending, but also threatens good governance, macro-economic stability, and social cohesion.<sup>35</sup>

#### 3.1. MODEL OF THE SCHEMES REVEALED BY THE PANAMA PAPERS

The schemes revealed by the Panama Papers implicated political leaders, individual citizens, and companies worldwide. Below we present a model demonstrating how an individual operates and benefits from the schemes.

**Figure 1: Model of Schemes Revealed by the Panama Papers**



**Source:** Süddeutsche Zeitung

As shown in the above diagram, individuals wishing to avoid taxation by using schemes revealed by the Panama Papers, whether in general or in relation to particular types of tax such as personal income

<sup>35</sup> <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=18151&lang=en>

tax, used intermediaries to deal with Mossack Fonseca. Their motivation could have been to illegally evade tax or to legally avoid tax, or to launder money obtained from criminal proceeds. The issue of the legality of these schemes is complex and addressed below (see Section 3.3). Once approached, Mossack Fonseca helped to establish a shell company and to open an account, often providing sufficient cover staff in the form of a 'faux' director to manage the assets working on behalf of the true beneficiary. The result meant that the true owner could benefit from this revenue and any proceeds without appearing in the records of tax authorities. Often the ownership of a firm was only certified through a paper shareholder note. There were no digital records so as to leave as few traces as possible.

Implied by the **cyclical model of the schemes** shown above, and important when considering the impact of such schemes (see Section 4), is that there is little or no return of the initial investment to the real economy either in the original jurisdiction or another. Where there is a return to the real economy, this is either superficial in the case of private property, or more productively in revenue generating enterprises (businesses) that may, for instance, employ people. The return on the investment in either of these cases is likely small and if so, economically unjustified.

Individuals and organisations use tax havens for legal and illegal purposes. Individuals and corporations use tax havens to hide assets and income from the authorities in which they are located in order to evade tax. In the Panama Papers, more than 140 politicians from more than 50 countries were implicated. This included heads of state, their associates, ministers and politicians, as well as celebrities and, in some cases, corporations. The heads of state included Iceland's Prime Minister, who resigned following the Panama Papers revelations. A full overview can be found on the ICIJ website. A 2013 OECD study concluded that "... some multinationals use strategies that allow them to pay as little as 5% in corporate taxes when smaller businesses are paying up to 30% with "...some small jurisdictions act as conduits, receiving disproportionately large amounts of Foreign Direct Investment compared to large industrialised countries and investing disproportionately large amounts in major developed and emerging economies".<sup>36</sup>

### 3.2. TYPES OF SHELL COMPANIES, TRUSTS, AND SIMILAR FINANCIAL ARRANGEMENTS

As shown in the earlier model of the schemes (Figure 1), the shell companies revealed by the Panama Papers were a critical component that allowed individuals and companies to conceal their assets. This section considers definitions of shell companies and where they sit alongside other financial arrangements such as trusts or special purpose entities (SPEs).

As the OECD defines it, a **shell company** is a company that is formally registered, incorporated or otherwise legally organised in an economy but which does not conduct any operations in that economy other than in pass-through capacity.<sup>37</sup> In the schemes previously described, shell companies can be used as a means to transfer assets from an individual or company onto a new company without having the liabilities of the former. A shell company may be operated through an office building with

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<sup>36</sup> OECD, 2013, OECD urges stronger international co-operation on corporate tax [online], <http://www.oecd.org/newsroom/oecd-urges-stronger-international-co-operation-on-corporate-tax.htm> from Blomeyer & Sanz, *European Initiatives on eliminating tax havens and offshore financial transactions and the impact of these constructions on the Union's own resources and budget*, 2013

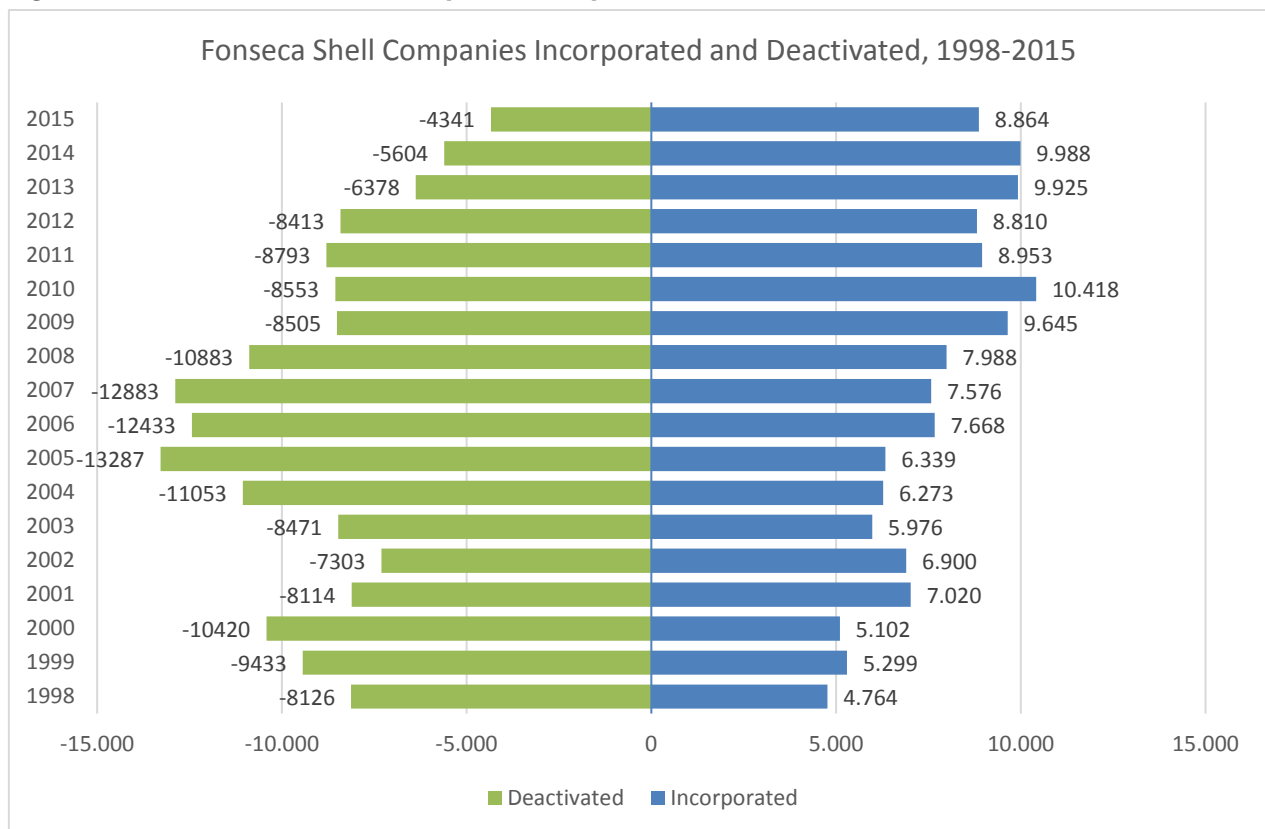
<sup>37</sup> <https://www.oecd.org/daf/inv/investment-policy/2487495.pdf>

a faux director, as described in the model. That same office building could be empty. Other shell companies may have little or no physical presence, and there is no requirement for operations or for the entity to be trading. Shell companies have been shown to be common in transnational crime and terrorism.<sup>38</sup>

Shell companies tend to be conduits or holding companies. Conduits are defined by their function, while holding companies are defined by their structure. Conduits are enterprises that obtain funds, often from unaffiliated enterprises, and redirect those funds to investors or shareholders or another affiliated enterprise.<sup>39</sup> Conduit companies are used to avoid paying tax on income in two different countries, both in the country where the parent firm is located but additionally in the jurisdiction where the conduit company is registered. Holding companies are established to hold participation interests (i.e. buy shares) in other enterprises or own subsidiaries on behalf of its owner.<sup>40</sup> Like conduit companies, holding companies have no requirement for a physical presence or to be trading.

Below we present an overview of the number of companies incorporated and deactivated by year, from 1998 to 2015. Though the Panama Papers detail incorporations and deactivations as far back as the 1970s, there were limitations in extracting the data from the ICIJ.

**Figure 2: Mossack Fonseca Shell Companies Incorporated and Deactivated, 1998-2015**



Source: ICIJ Panama Papers Database

<sup>38</sup> Findley, Michael G., Daniel L. Nielson, and Jason Campbell Sharman. Global shell games: Experiments in transnational relations, crime, and terrorism. Vol. 128. Cambridge University Press, 2014.

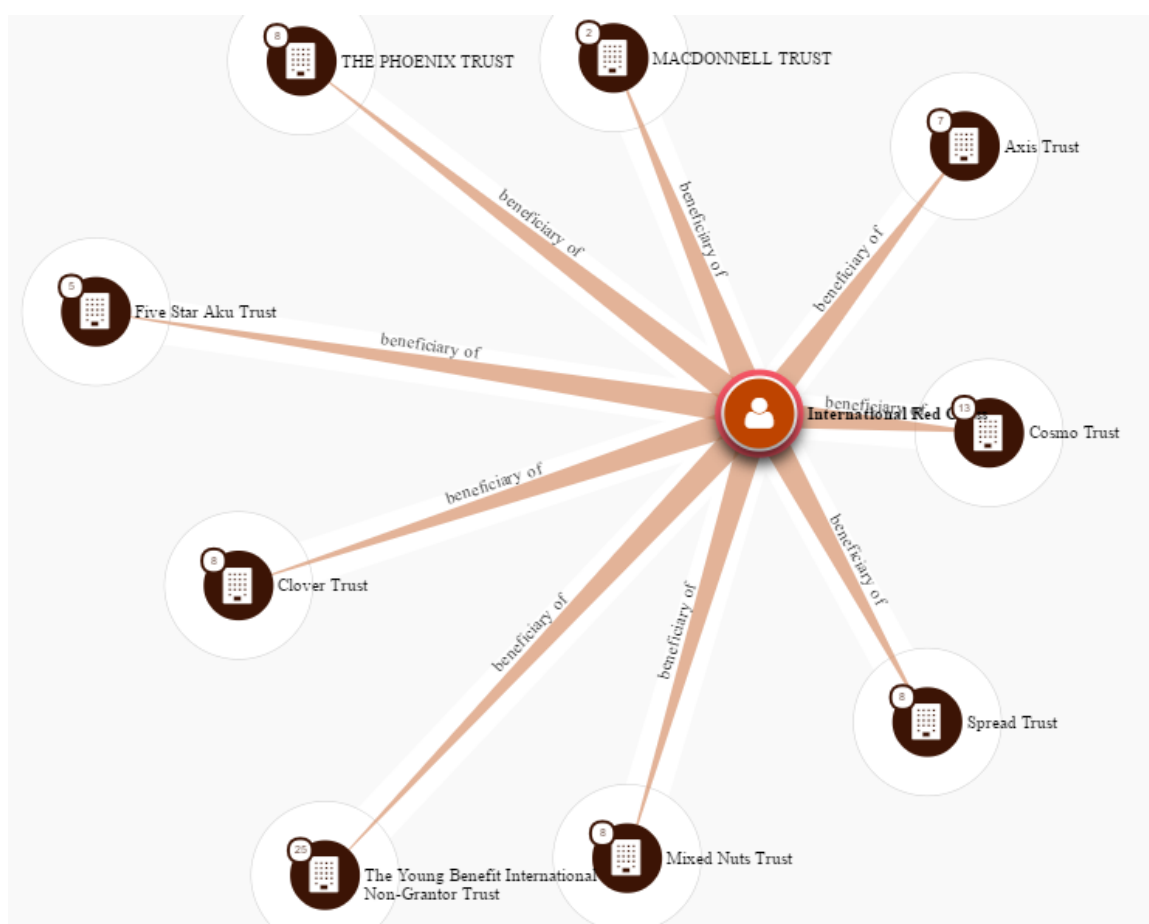
<sup>39</sup> <https://www.oecd.org/daf/inv/investment-policy/2487495.pdf>

<sup>40</sup> IMF definition of holding company, <https://www.imf.org/External/NP/sta/bop/pdf/bopteg9.pdf>

The above diagram suggests that Mossack Fonseca’s activities involving the formation of offshore companies increased from 4,764 in 1998 to 9,988 offshore companies in 2014. Although there appears to be a decline from 1998-2008, deactivated companies included any preceding incorporated companies, stretching back a further twenty years. The growth in activities occurred despite increased public scrutiny of tax havens and offshore financial centres following the global financial crisis that started in 2008.

Another means to engage in tax avoidance seen in the Panama Papers were **trusts**. Trusts are another means of managing assets.

**Figure 3: Example of Trusts seen in the Panama Papers**



Source : ICIJ Panama Papers Database, <https://offshoreleaks.icij.org/nodes/102164>

Trusts involve three actors: the *settlor*, who puts assets into a trust, the *trustee* who manages the trust and the *beneficiary* who benefits from the trust. Typically, individuals will set up trusts to control or protect family assets, often as a mechanism for inheritance, or when beneficiaries are too young or are incapacitated. However, illegitimate purposes include tax avoidance and this was prevalent in the Panama Papers. As an example, Mossack Fonseca’s faux beneficiary company, “International Red

Cross”, not to be mistaken for the very legitimate International Committee of the Red Cross (ICRC)<sup>41</sup>, benefitted from nine different trusts across the Cook Islands and British Virgin Islands.<sup>42</sup> These included the Cosmo Trust, Five Star Aku Trust, Axis Trust, and others. A diagram illustrating their relationships is displayed below.

At the centre of this set-up was the anonymous beneficiary, “International Red Cross” and the various trusts where assets were placed through Mossack Fonseca and intermediaries. If these trusts were registered in tax havens, as it appears in this case they were, general taxation is avoided.

The country level research and interviews with ICIJ members for this study who have analysed the Panama Papers (including privately held materials) did not reveal any mechanisms other than shell companies or trusts (and subsidiary arrangements, for example trusts of trusts).

### **3.3. THE LEGALITY OF THE SCHEMES AND THE LEGITIMATE AND ILLEGITIMATE USES OF TRUSTS AND OFFSHORE COMPANIES**

The schemes revealed by the Panama Papers are not in their entirety illegal: while some were linked to financial crime and money laundering, other schemes exploited legal entities and existing rules. This section reviews the distinction between **tax evasion** (which is illegal) and **tax avoidance** (which is legal). Further, it will consider the legitimate and illegitimate uses of the shell companies and trusts.

#### **3.3.1. Tax avoidance, tax evasion and aggressive tax planning**

Tax evasion is a term to describe illegal arrangements where tax liabilities are hidden or ignored. Tax evaders either:

- Fail to declare all or part of their income;
- Make a claim to deduct an expense from their taxable income that they did not incur or which they were not entitled to deduct, or;
- Submit a tax return that appears to be legal but only because relevant facts are not disclosed to the tax authorities.<sup>43</sup>

However, tax avoidance, as defined by the OECD, is a term to describe the arrangement of a taxpayer’s affairs (whether an individual or a company) that is intended to reduce his tax liability and although the arrangement could be in the strictest sense legal, it is usually in contradiction with the intention of the laws it purports to follow.<sup>44</sup> When avoiding tax, one of the following occurs:

- Less tax is paid than might be required by a reasonable interpretation of the law of a country;
- Tax is paid on profits declared in a country which does not appear to be that in which they were earned;
- Tax is paid later than the profits to which it relates were earned;

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<sup>41</sup> A leaked email in the Panama Papers from 2009, authored by a Mossack Fonseca, explains International Red Cross was created to withhold the identity of the beneficiary. As reported by Reuters, ICIJ partner, <http://www.reuters.com/article/us-panama-tax-charities-idUSKCN0X828W>

<sup>42</sup> ICIJ Database, “International Red Cross” entities. <https://offshoreleaks.icij.org/nodes/102164>

<sup>43</sup> As summarised in Touchstone’s “The Missing Billions: The UK Tax Gap”, authored by Richard Murphy

<sup>44</sup> OECD, Glossary of Terms, <http://www.oecd.org/ctp/glossaryoftaxterms.htm>

- Tax is paid by a person who did not really generate the income that they declare (e.g. transferred between family members).

Individuals or companies evading tax are paying less tax than they are legally obliged to pay by hiding income and assets or information from the tax authorities. **Taken together, tax evasion and tax avoidance make up the gross tax gap, i.e. the difference between what a government is meant to collect in tax and what it actually collects.** Only those who are termed to be tax compliant can claim to be legal beyond doubt. Tax avoidance relies on the invocation and existence of doubt for its validity.

Another term used in the context of tax avoidance generally is **Aggressive Tax Planning (ATP)**. ATP refers to avoidance as defined above but mainly regarding base erosion and profit-shifting enacted by multinational enterprises. The OECD defines these notions as the “tax planning strategies that exploit gaps in the architecture of the international tax system to artificially shift profits to places where there is little or no economic activity or taxation”.<sup>45</sup> The European Commission has previously carried out studies and assessments on ATP<sup>46</sup>. In 2015, a total of seven ATP structures were identified. Four as listed by the OECD are below<sup>47</sup>:

- A hybrid financing structure;
- A two-tiered IP structure with a cost-contribution arrangement;
- A one-tiered IP with a cost-contribution arrangement;
- An offshore loan structure.

A further three were identified in the study - a hybrid entity structure, an interest-free-loan structure, and a patent-box ATP structure. These structures, and their user groups, are different from the user-base of the schemes revealed by the Panama Papers which were predominantly individuals or small companies.

### 3.3.2. Legitimate and illegitimate uses of shell companies

Analysis by the ICIJ on the Panama Papers revealed both tax avoidance and tax evasion schemes, and therein legitimate uses of offshore companies and trusts. Individuals and corporations use tax havens to minimise tax liabilities (tax avoidance) through so-called ‘aggressive tax planning’ and, in the case of corporations, shell companies to facilitate transfer pricing.

An example seen in the Panama Papers of minimising tax liabilities was highlighted by the Guardian newspaper in the UK, a consortium member of the ICIJ: the case of Stanley Kubrick’s property.<sup>48</sup> Stanley Kubrick, a film director, died in 1999 and passed the ownership of his property, an eighteenth-century manor in Hertfordshire, to three companies registered in the British Virgin Islands. The transfer of assets saved Kubrick from taxation in both the US and UK, and potentially could have saved Kubrick’s family

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<sup>45</sup> OECD, *Aggressive Tax Planning*, <http://www.oecd.org/tax/aggressive/>

<sup>46</sup> European Commission, *Study on Structures of Aggressive Tax Planning and Indicators*, Ramboll Management Consulting and Corit Advisory, pp. 7-8, [http://ec.europa.eu/taxation\\_customs/sites/taxation/files/resources/documents/taxation/gen\\_info/economic\\_analysis/tax\\_papers/taxation\\_paper\\_61.pdf](http://ec.europa.eu/taxation_customs/sites/taxation/files/resources/documents/taxation/gen_info/economic_analysis/tax_papers/taxation_paper_61.pdf)

<sup>47</sup> See OECD: *Addressing Base Erosion and Profit Shifting*, 2013, OECD Publishing, Paris, Annex C, p. 73 et seq.

<sup>48</sup> <https://www.theguardian.com/news/2016/apr/06/panama-papers-reveal-offshore-dealings-stars>



hundreds of thousands of pounds in inheritance tax and helped the family to avoid selling the manor to raise the liquid assets to pay the tax. The Panama Papers show a complex web of three shell companies with investments distributed to subsidiary trusts. Based on the information, available, nothing indicates the model adopted by Kubrick was illegal, despite the loss of tax revenue for both the US and the UK.

Other legitimate reasons for establishing offshore firms include protecting assets from currency fluctuations. A retiree, for example, wishing to move abroad could see his quality of life depreciate with the local currency and so places assets in an offshore fund. Whether, in such an example, income tax or other streams of taxation including property transfer or inheritance are avoided is not always clear.

There are **other legitimate and illegitimate uses of shell companies**, though not directly relevant to the schemes revealed by the Panama Papers. Offshore finance can be used to instigate a hostile takeover of a company for a beneficiary in another jurisdiction. Another use highlighted by Friederike Welter and David Smallbone shows how in emerging markets, shell companies can help protect the finances of small companies or individual entrepreneurs against arbitrariness and corruption, thus ensuring the survival of the business.<sup>49</sup> This usage appears less relevant to the use of shell companies for purposes relating to tax havens and offshore financial centres, such as the British Virgin Islands, where the concerns over emerging markets are not applicable.

Another illegitimate use of shell companies, and not relevant to the schemes revealed by the Panama Papers, are crudely **termed ‘pump and dump’ (P&D) schemes**. P&D refers to stock fraud in which shell companies are created to imitate other legitimate companies, therein artificially inflate their stock in order to sell originally cheap stock at a higher price. A hypothetical example would be a faux “Microsoft Inc.” being established, drawing investments online or through cold calling and exploiting Microsoft’s brand and the orchestrators then selling that stock for a profit. P&D was not a concern with the Panama Papers, even if some Mossack Fonseca’s faux beneficiaries share similar names to real companies, such as the “International Red Cross” example in Section 3.2.

Mossack Fonseca had denied any wrong doing with regard to the activities described in the Panama Papers, deeming the ICIJ’s coverage as a misrepresentation, and claimed to carry out due diligence on potential clients. The use of intermediaries here obscures the legality of the Fonseca schemes, as officially the intermediaries constitute Mossack’s clientele. While some of the examples provided here highlight some of the strictly legal uses of the schemes revealed by the Panama Papers, the ICIJ, during its analysis uncovered substantial criminal activity in financial crime, both in money laundering and in financing terrorism. These links are explored in Section 3.4 below.

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<sup>49</sup> <http://onlinelibrary.wiley.com/doi/10.1111/j.1540-627X.2010.00317.x/abstract>

## 4. IMPACT OF TAX HAVENS AND OFFSHORE FINANCIAL CENTRES

Having examined the role of tax havens and offshore financial centres, and their legitimate and illegitimate purposes in the previous section we now assess the impact of such schemes on EU Member States.

### *Typology of impacts*

Tax evasion and avoidance pose serious problems to Member States. Three types of negative impact can be distinguished:

- **Budgetary impact:** on Member States and the EU as a whole and involving reduced tax revenue and public spending.<sup>50</sup>
- **Economic impact:** these wider effects are linked to budgetary impacts and the degradation of public finances, but include other effects such as fiscal competition between different tax jurisdictions and risk a 'race to the bottom' on corporate taxes, impacts on economic growth and consequently on employment;
- **Financial system impact:** this includes an undermining of confidence and reputational damage, and effects on financial market stability brought about by money laundering and related activities.

The research for this study suggests that there is not much new in terms of the nature of the schemes revealed by the Panama papers as it had already been known that offshore firms and tax havens are used by wealthy individuals for the purposes of tax evasion and money laundering. What the research here suggests, however, is that the novelty of the Panama Papers lies in the sheer scale of potential tax evasion linked to such schemes. However, it is still too early to estimate the full impact as investigations by the authorities in various countries are still on-going.

Below, we focus on the impacts specific to schemes akin to those revealed by the Panama Papers which were mostly used by individuals, and operated through tax havens and offshore financial centres.

### 4.1. BUDGETARY IMPACT

While, as mentioned above, specific estimates related to the tax revenue impact of the Panama schemes do not yet exist, our research leads to three estimates that are relevant to assessing impacts:

- The amount of tax revenue lost to national authorities in the EU28 due to schemes such as the ones highlighted in the Panama Papers used by individuals is estimated through our research in the eight sample countries to be between EUR 109 billion and EUR 237 billion in 2015 with a midpoint of **EUR 173 billion**.
- A previous comprehensive study estimated the tax evasion loss to the EU28 Member States in 2011 at **EUR 956 billion**. However, this includes corporate tax avoidance and evasion, which is likely to be much larger in scale than tax evasion by individuals.

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<sup>50</sup> The direct impact on the EU budget due to the Panama Papers is limited since the EU does not levy taxes on its own. But tax revenue losses at the Member State level could, in theory, lead national authorities to push for a reduction in the EU budget in the future.

- The assumed volume of tax base that has been shifted by companies in our eight sample countries<sup>51</sup> in the year 2015 to tax havens mentioned in the Panama papers is estimated to be EUR 8.8 billion. This is the amount of profit shifted by companies headquartered in one of the eight sample countries and which have: (i) at least one shareholder implicated in the Panama papers; and (ii) have shifted these profits by using one of the tax haven destinations mentioned in the Panama Papers. This estimate is based, however, on a database containing information only in relation to one tenth of the number of individuals implicated in the Panama Papers so the actual figure of profit shifting could potentially be ten times higher, i.e. around **EUR 88 billion**. Moreover, it should be not that the database only includes anonymised information on the individuals implicated in the Panama papers.

**It is important to note that these figures provide estimates of different aspects of the problems associated with the Panama schemes.** The EUR 173 billion figure is purely based on estimates of schemes such as the ones revealed by the Panama Papers being used by *individuals* whereas the EUR 956 billion estimate takes into account *all* tax evasion in one year, including corporate tax evasion. The EUR 8.8 billion estimate relates to a sample of eight countries and represents the tax base erosion. The tax base erosion identified is the amount of company income that could not be taxed by authorities in the eight countries, the profit shifted benefitting 1,121 individuals as majority and minority shareholders.

In Section 4.2.1 we examine **the economic impact of the tax loss to national authorities associated with the practices revealed by the Panama Papers**. In employment terms, a conservative estimate would be that over 1.5 million jobs could have been supported with the money that was lost to national authorities. There are also other negative economic impacts that cannot be estimated in quantitative terms.

#### **4.1.1. Estimate of tax evasion based on sample country research and previous estimates**

The Panama Papers has resulted in **79 countries so far (one-third of all nations) announcing a total of 150 inquiries, audits or investigations** by police, customs, financial crime and mafia prosecutors, judges and courts, tax authorities, parliaments and corporate reviews, according to global media reports and official statements. Thousands of taxpayers and companies are under investigation. Over the past eight months this has led to national authorities having already recovered tens of millions of dollars in **taxes** of previously undeclared funds.<sup>52</sup>

**Overall, national authorities are investigating or reviewing more than 6,500 taxpayers and companies, but are yet to bring forward any prosecutions according to the ICIJ.** In the EU Member States covered by this study many cases are being investigated. Thus:

- In **Cyprus**, the Ministry of Finance's Tax Department contacted 700 taxpayers in order to obtain specific details regarding their relation with foreign entities and/or their income/assets abroad

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<sup>51</sup> Cyprus, Czech Republic, Denmark, France, Germany, Poland, Spain, United Kingdom.

<sup>52</sup> This includes more than USD 80 million in Colombia, USD 1 million in Slovenia and 375 pounds of silver bullion in Australia. Billions more are being traced for potential tax evasion. The amount that is recovered by governments worldwide is very unlikely to match the gross tax revenue loss as a result of these schemes. <https://www.publicintegrity.org/2016/12/01/20500/panama-papers-have-had-historic-global-effects-and-impacts-keep-coming>.

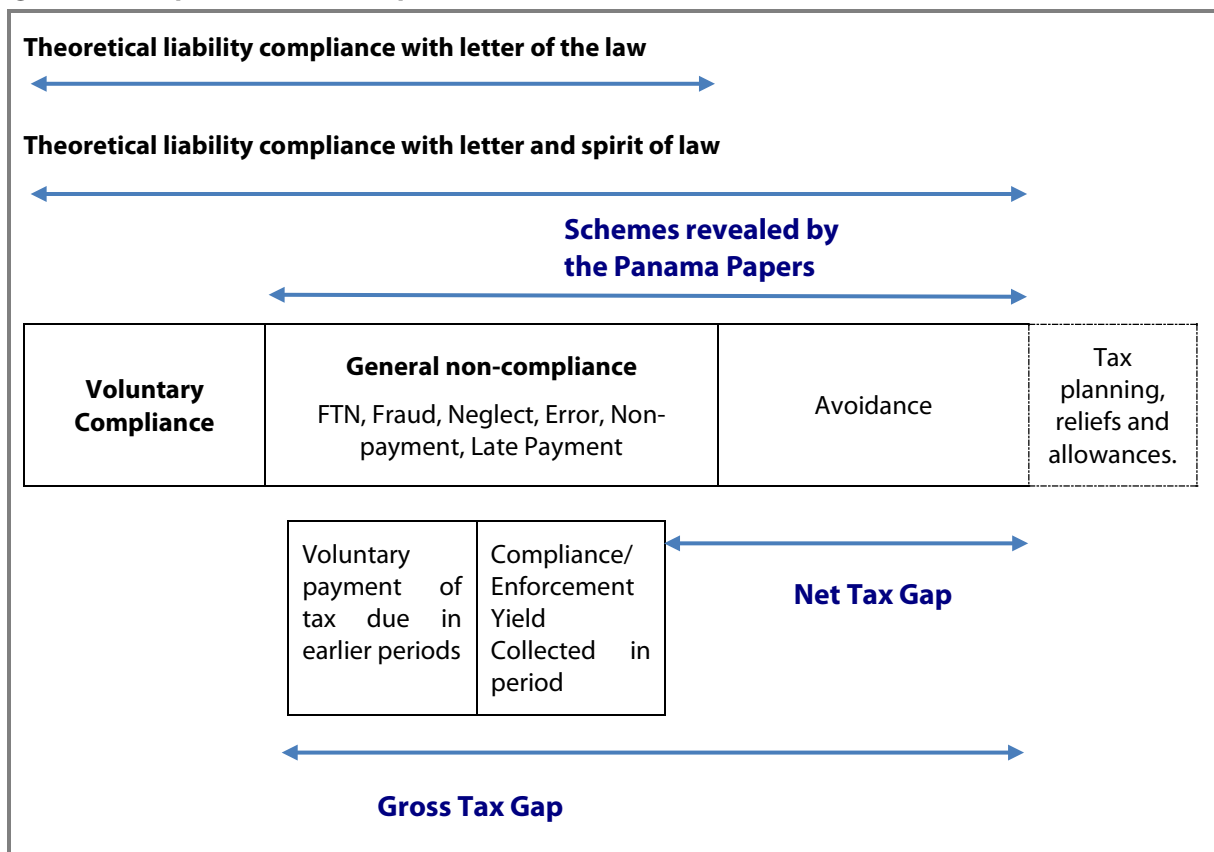
and/or their tax returns. Any subsequent prosecutions are yet to be launched.

- **France’s** Ministry of Finance announced it was auditing 560 taxpayers.<sup>53</sup>
- In **Spain** the government noted that the Panama Paper revelations allowed the authorities to investigate 209 entities from the Mossack Fonseca database and draw up 14 reports on possible money laundering and financing of terrorism.<sup>54</sup>
- In the **UK**, the Taskforce has opened civil and criminal investigations into 22 individuals for suspected tax evasion and has placed 43 high net worth individuals under special review while their links to Panama are further investigated.

The scope of the investigations is of course far wider than the sample of EU Member States covered by our research. In November 2016 alone, the authorities in Canada, France, Iceland, India, Pakistan and the UK announced probes involving nearly 1,300 taxpayers for potential tax evasion.

Before presenting findings relating to potential tax revenue loss, we outline below the nature of the tax gap, demonstrating where the schemes revealed by the Panama Papers sit within the various streams of taxation and compliance.

**Figure 4: Concept model of Tax Gap Source (HMRC, 2005)**



<sup>53</sup> <https://www.publicintegrity.org/2016/12/01/20500/panama-papers-have-had-historic-global-effects-and-impacts-keep-coming>

<sup>54</sup> [http://www.lasexta.com/noticias/papeles-panama/gracias-a-los-papeles-de-panama-ofrecidos-por-lasexta-se-han-investigado-mas-de-200-sociedades-que-tenian-que-pagar-en-espana\\_2017032158d13ecd0cf2453280cd1aae.html](http://www.lasexta.com/noticias/papeles-panama/gracias-a-los-papeles-de-panama-ofrecidos-por-lasexta-se-han-investigado-mas-de-200-sociedades-que-tenian-que-pagar-en-espana_2017032158d13ecd0cf2453280cd1aae.html)

As summarised in Figure 4, estimates of **the tax gap broadly cover tax evasion (general non-compliance) and avoidance**. In some estimates, this is not always clear and estimates may refer to the tax gap that includes costs of neglect or late payment, and may not consider what has been recovered by governments. Additionally, our research does not focus on multinational companies and large corporations. In some cases, however, notably the UK, national authority estimates breakdown costs by behaviour, type of tax and customer group.

**Below we present our findings for tax revenue loss for in the eight sample Member States. This analysis is based on an interview programme with the authorities in the various countries, supplementary information provided by the authorities and by other contact (e.g. journalists) and other desk research.** Our estimates of the tax loss arising from the schemes revealed by the Panama Papers lie in the range 10% – 24% (EUR 109 billion – EUR 237 billion) of the EUR 956.2 billion estimated overall cost of tax evasion to the EU Member States. A more detailed explanation of the calculations shown below is provided after the table.

**Table 5: Estimated Tax Revenue Loss to Sample Member States**

Member State	Tax Revenue Loss to authorities (billion EUR)	Total Government Expenditure, 2015 (billion EUR)	% of Government Expenditure (2015) <sup>55</sup>	Revenue Loss to Shadow Economy 2011 (billion EUR) Tax <sup>56</sup>	Total Government Expenditure, 2011 (billion EUR)	% of Government Expenditure (2011)
CY	n/a.	7.08	n/a	2.1	8.31	25
CZ	2.10 <sup>57</sup> – 5.55 <sup>58</sup>	70.08	2.99 - 7.92	9.73	70.59	14
DE	n/a	1,333.86	n/a	165.6	1,208.57	14
DK	n/a	149.01	n/a	20.7	139.88	15
ES	n/a	470.70	n/a	82.7	490.26	17
FR	17 <sup>59</sup> - 19 <sup>60</sup>	1,242.79	1.37 - 1.53	131.9	1,151.54	12
PL	n/a	178.37	n/a	34.9	166.44	21
UK	3.99 <sup>61</sup> - 8.66	1,106.04	0.36 - 0.78	79.4	871.33	9
<b>Total / Average</b>	<b>For CZ, FR, UK: 23.09 – 33.21</b>	<b>4,223.47</b>	<b>1.57 - 3.41</b>	<b>528.9</b>	<b>3,896.44</b>	<b>16</b>
<b>EU28</b>	<b>109 – 237</b>	<b>6,951.80</b>	<b>1.57 - 3.41</b>	<b>956.2</b>	<b>6,407.66</b>	<b>15</b>

**Source:** Multiple: Country Level Research by CSES, Tax Justice Network, Eurostat

<sup>55</sup> Eurostat, [gov\_10a\_main]

<sup>56</sup> Tax Justice Network, 2011

<sup>57</sup> Prague Daily Monitor (2016), Think tank Glopolis: Czech Republic losing 57 bln in tax havens annually, 6 April 2016. Available from: Prague Daily Monitor: <http://praguemonitor.com/2016/04/06/think-tank-czech-republic-losing-57-bln-tax-havens-annually>

<sup>58</sup> LAZAROVA Daniela (2016), "Czech PM calls for probe into activities of Czechs on Panama papers files", Radio Praha, 5 April 2016. Available from Radio Praha: <http://www.radio.cz/en/section/curraffrs/czech-pm-calls-for-probe-into-activities-of-czechs-on-panama-papers-files>

<sup>59</sup> MATHIEU Clothilde (2013), Entretien avec Gabriel Zucman, L'Humanité, 2 décembre 2013. Available from: l'Humanité <http://www.humanite.fr/gabriel-zucman-non-lutter-contre-levasion-fiscale-nest-pas-une-utopie>

<sup>60</sup> Solidaires Finances Publiques, Evasion et fraude fiscales, contrôle fiscal, 2013.

<sup>61</sup> GBP 3.4 billion at exchange rate of 1:1.17 (Sterling:euro), 28/02/2017. Individuals only, not including criminals, large businesses and SMEs. UK tax gap is estimated by HMRC as 6.5% of tax liabilities (GBP 36 billion)

In the above table:

- **Column 1** lists the sample Member States on which our estimates of budgetary impact are based.
- **Column 2** provides estimates based on our research in the sample of eight Member States of the tax revenue lost per annum due to individuals using schemes such as the ones revealed by the Panama Papers. Data is limited since most countries either do not systematically or publically make estimates of such revenue loss, or, when they do, they focus on loss of corporate tax revenue due to profit shifting and tax avoidance. Currently, the only data that is available is for the Czech Republic, France and the UK.
- **Column 3** provides the total government expenditure for 2015 which is used to determine the proportion of government expenditure that is equivalent to the amount of tax evaded (see Point 4 below).
- **Column 4** expresses the figures from Column 2 as a percentage of total government expenditure (Column 3) based on Eurostat data for those Member States. This is then used to calculate the EU average of tax revenue loss as a share of government expenditure. By determining the average lower and upper limits as a percentage of government spending, using the sample Member States, we averaged an EU-level percentage (1.57% - 3.41%) and applied this to total government expenditure across the EU28. These are estimates only and should be treated with caution. The arithmetic can be expressed as follows: Tax revenue loss as a percentage of Government Expenditure (where TRL = Tax Revenue Loss and TGE = Total Government Expenditure):  $TRL / TGE * 100 = \text{Tax Revenue Loss as \% of Total Government Expenditure}$ . To scale up to the EU28 level, a range is then averaged for both the lower and upper estimates. With this estimate, the above formula applies to estimate the tax revenue loss to the EU28. The EU28 tax revenue loss is therefore calculated from the estimated average percentage of government expenditure in our sample countries. We also provide a median total, calculating the mid-point of this range.
- **Column 5** provides the Tax Justice Network's estimation of the total cost of tax evasion, inclusive of multinationals and large businesses evading and avoiding tax. Local currency estimates were provided and these have been converted at historical exchange rates (June, 2011) into euros. Since these data are available for the EU28 from a single dataset, it is a useful comparator for our own estimates.
- **Column 6** provides the total government expenditure for the EU Member States in 2011, used to determine the proportion of government expenditure that is equivalent to the amount of tax evaded as estimated by the Tax Justice Network (see Point 7 below).
- **Column 7** then expresses the Tax Justice Network figures as a percentage of total government expenditure in 2011.

It should be noted that the figures in Column 2 are more robust for some countries than others. Many countries have failed to identify and calculate the tax gaps. Where estimates are not published or disclosed by national authorities, we have relied on desk research and other consultations instead.<sup>62</sup>

<sup>62</sup> The difficulty in comparing Member State data on the budgetary impact of tax avoidance and tax evasion is evident from the on-going work at European level, for example by the FISCALIS Tax Gap Data Project Group described in Section 1.3. The lack of reliable and comparable data on these issues has implications for measures that could be taken to combat tax havens, explored in Section 5.

### *Findings for the Sample of Member States*

Below, we provide an overview of the results for the eight EU Member States covered by the research:

**Cyprus** – the Ministry of Finance stated that no national assessments have yet been carried out. Assessments by the Financial Intelligence Unit, MOKAS, are on-going. There is no overall monitoring framework in place and investigations are launched on a case by case basis.

**Czech Republic** – the NGO Glopolis and an academic source estimated the amount of the tax loss as being up to EUR 2.1 billion (this is, however, based on VAT and corporate tax fraud). The higher estimate is drawn from press coverage following the release of the Panama Papers. No assessment carried out by the national authorities was made available to us.

**Denmark** – no national assessments have been made public. The Minister for Taxation has announced that through purchasing data from the ICIJ, they were able to recover financial sums exceeding the expenditure of creating SKAT taskforce assigned to investigate the Panama Papers (EUR 0.8m). It is unknown if this amount relates to tax revenues or the recovery in the tax base (i.e. recovering on-shore, the amount of taxable income).

**Spain** – while GESTHA, a national body of professionals working for tax authorities in Spain, estimates that 75% of tax evasion goes undetected, and makes further estimates on the extent of evasion in corporate, VAT and special taxes, there are no clear assessments of the impact linked to individuals using these schemes. Recent data estimates are also further complicated by the Income Tax Amnesty issued in 2012 as part of an effort to recover unpaid tax.

**France** – the lower estimate of EUR 17 billion was produced by the economist Gabriel Zucman, cited in this study and known for his book, *The Hidden Wealth of Nations*. The upper estimate of EUR 19 billion was the loss of income tax revenues as identified by *Solidaires Finances Publiques* in a 2013 report. The total tax gap *Solidaires Finances Publiques* reports on is EUR 60–80 billion, inclusive of corporate tax, VAT and other tax evasion types and this was reaffirmed by the Parliament in 2015. No data was provided by the national authorities in the course of our research.

**Germany** - our research suggests that no data has yet been published on the extent of tax revenue loss due to the schemes revealed by the Panama Papers, and it may indeed take at least another year for such data to become available. Other relevant data do exist, such as that relating to the annual financial loss due to tax evasion overall (EUR 30 billion), and the amount of additional tax revenue generated thanks to investigations of cases of tax fraud (EUR 3 billion in 2015). However, since these estimates not only include, but are usually largely based on, corporate taxation, they cannot be directly applied to the Panama schemes.

**Poland** – The national authorities in Poland have not carried out a specific impact assessment of the schemes revealed by the Panama Papers and have not published estimates on the tax gap in Poland. Other estimates pertaining to corporate income tax evasion have been made but do not include the schemes revealed by the Panama Papers. Although the number of Polish nationals implicated in the Panama Papers is low, this does not account for all schemes of this type.



**United Kingdom** – the HMRC does not publish a separate offshore tax gap estimate. The relevant data is captured under evasion, categorised as undeclared foreign income that would normally be part of the income tax and corporation tax regimes. HMRC has however published a detailed breakdown of the UK tax gap for different taxation streams and customer groups. The lower estimate of EUR 3.99 billion is a euro conversion of the 2015 estimates of the revenue losses due to individual tax avoidance and does not include tax losses attributable to corporate tax avoidance. The higher estimate is based on research by Tax Research UK. This originally reported on the tax gap in 2011 for Touchstone. Tax Research UK has been critical of HMRC's reporting of the tax gap, citing its estimates as being too modest and inconsistent with HMRC's own publicly available data.

As noted earlier, when the Panama Papers were leaked, the European Commission provided estimates to the press that up to EUR 1 trillion was lost to tax evasion involving these schemes.<sup>63</sup> This appears to be based on the Tax Justice Network's work *The Cost of Tax Abuse: A briefing paper on the cost of tax evasion worldwide* (2011). Their estimate for the cost to public finances in Europe (inclusive of EU28 and six other countries) is EUR 1.05 trillion. Our research does not conflict with this finding on the total cost of tax evasion and avoidance in Europe. We do however, distinguish between individuals using the schemes, and in some cases companies, hiding money offshore or in tax havens and the practice of companies profit shifting, including debt shifting, relocating intangible assets and intellectual property and strategic transfer pricing.

#### **4.1.2. Estimate of tax avoidance based on company data**

In addition to the estimates above based on secondary literature and interviews, we also applied an econometric method to help quantify the impact of the schemes revealed by the Panama Papers.<sup>64</sup> The approach described below is based on micro data as in the methodology developed by Fuest/Riedel (2012).<sup>65</sup>

The approach provides an estimate of the corporate tax base erosion of companies using tax havens listed in the Panama Papers to evade taxes and who have individuals as ultimate owners. To the extent that these companies are able to keep a higher profit through tax evasion, the individual owners can then extract income from this larger profit. In this sense, the estimate provides a proxy for the amount of additional income individuals may generate using the tax havens mentioned in the Panama Papers.

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<sup>63</sup> Reported by Politico, <http://www.politico.eu/article/pierre-moscovici-european-union-must-act-quickly-on-panama-papers/>, affirmed by European Commission website, 'A Huge Problem'

<sup>64</sup> This approach is consistent with the methods for the measurement of tax avoidance in the current literature which are generally based on macro data. Thus, UNCTAD (2015) uses the amount of FDI flowing through the offshore investment centres for their estimation. Zucman (2013) estimated that globally, 8% of the wealth of the households is held in tax havens. However, with respect to the EU he estimates that it is around 10% in comparison with the US where only 4 % of financial wealth is held in tax havens. A similar result can be found in the studies by Gravelle (2015) or Crivelli et al. (2015). The study of the Gravelle (2015) combines macro and micro data to measure the scale of tax avoidance (for the measurement of the magnitude the ratio of US foreign company profits to GDP is used).

<sup>65</sup> Fuest, C. and Riedel, N., 2012. Tax evasion and tax avoidance: the role of international profit shifting. In: P. Reuter, ed. Draining development? Controlling flows of illicit funds from developing countries, 109–142, [online]. Available from: <https://openknowledge.worldbank.org/handle/10986/2242>.



The estimation involved a number of steps:

#### Key Steps in Econometric Estimation

- **Step 1:** Data was retrieved from the Orbis databases on companies headquartered in the sample of EU Member States. This database includes information on the individual shareholders of these companies, and the number (not names) of individual shareholders (not exclusive owners, also including minority shareholders) that are ultimate owners of the companies.
- **Step 2:** The data set for the companies within each of the selected countries was divided into two sub-datasets.
  - In the first sub-dataset only the companies *without any link* to tax havens revealed in Panama Papers<sup>66</sup> were covered.
  - The second sub-dataset comprised the companies *having a link* to the tax havens identified in the Panama Papers.

For each sub-set the number of individual ultimate owners was extracted from the database. including data on the number of individuals that are shareholders (including minority shareholders). The figures are 1,121 such individual shareholders of companies headquartered in the one of the eight sample countries and with a link to one of the tax havens identified in the Panama papers were identified, and 237,097 individuals who are shareholders in companies without a link to tax havens.

- **Step 3:** To reflect sectoral differences, all the companies within each dataset were clustered according to the NACE sectors.
- **Step 4:** The data on tax, asset and profit was extracted from the data sets for the two groups of companies. Data gaps were addressed by as outlined in Annex B.
- **Step 5:** Finally, the indicators from the first sub-set (companies without any link to tax havens) was compared with the second sub-set, making it possible to estimate the real amount (range) of profit without shifting (or without employing tax havens) companies in the second sub-group would have reported on in the 8 sample countries and would have had to pay corporate tax on without using such schemes.

The econometric research revealed that shifting of profit takes place in all jurisdictions. The table below shows which indicators (“Yes”) suggest that profit-shifting is taking place in each country, and which indicators (“No”) do not suggest that. In general terms it can be said that profit shifting within the structure of the entities owned by shareholders-individuals with the link to tax havens is done through the shift of operating revenues or the costs.

However, in Cyprus, Germany, France and United Kingdom, profit shifting is done through debt financing within the structure of entities owned by shareholders-individuals with the link to tax havens.

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<sup>66</sup> These are: British Virgin Islands, Panama, Bahamas, Seychelles, Samoa and British Anguilla.

**Table 6: Summary of identified profit shifting channels across the countries\***

Indicators	CY	CZ	DE	DK	ES	FR	UK	PL	All
<b>Tax on Assets</b>	no	yes	no	no	no	no	no	yes	yes
<b>Profit before taxation</b>	yes	yes	yes	yes	yes	yes	yes	yes	yes
<b>Tax on Profit</b>	yes	yes	yes	yes	yes	yes	yes	yes	yes
<b>Operating Costs/ Operating Revenue</b>	no	yes	yes	yes	yes	yes	no	yes	yes
<b>Operating Revenue/Profit</b>	yes	yes	yes	yes	yes	yes	yes	yes	yes
<b>Long-term debt/Assets</b>	yes	no	yes	no**	no**	yes	yes	no	yes
<b>Loan / Assets</b>	yes	no	yes	no**	no**	yes	yes	no	yes
<b>Long-term debt/ Shareholders Fund</b>	yes	no	yes	no**	no**	yes	yes	no	yes
<b>Loan / Assets/ Shareholders Fund</b>	yes	no	yes	no**	no**	yes	no	no	yes

Note: \*profit shifting proved at least once from the following values: mean, 1p, 25p, 50p, 75p and 99p. Only dataset of entities with known shareholders-individuals from the analysed jurisdictions was applied, except of the case of Cyprus and Poland.

Note: \*\*the data for the calculation were not available

Overall, it is possible to arrive at an estimate of the volume of tax base erosion for all the sample countries with the exception of France, in relation to entities (companies) owned by shareholders-individuals with a link to the tax havens highlighted in the Panama papers. The table below presents the figures for each of the sample countries, as well as an aggregate estimate. With the exception of the Czech Republic, where the figures are marginal, all figures are rounded. **As can be seen from the following table, the econometric-based research suggested that the total volume of tax base erosion in the eight sample countries amounts to EUR 8.8 billion.**

**Table 7: Determination of possible loss in tax liability through tax planning channels**

Country	Profit before tax <i>million EUR</i>	Indicator tax divided by profit <i>%</i>	Adjusted profit before tax*** <i>million EUR</i>	Assumed volume of base erosion <i>million EUR</i>
CY	0	23%	0	0
CZ	216	74%	375	159
DE	4 760	5%	5 000	-238
DK	106	49%	158	-52
ES	4 680	40%	6 560	-1 870
FR*	1 070	-	-	-
UK	7 390	88%	13 900	-6 510
PL**	1 850	7%	1 970	-129
<b>Total in Million EUR</b>				<b>-8 798.78</b>

Note: \* The volume of base erosion is not possible to assume due to the fact that the value of the indicator T/P could not be determined. For details see sub. chapter Determination of profit shifting – case of France above.

Note: \*\* No shareholder-individual was identified in Orbis database in case of Poland. For details see sub. Chapter Determination of profit shifting.

Note: \*\*\*profit before tax adjusted by the T/P indicator.

The table can be read as follows:

- **Column 2** (Profit before tax) shows the profit base of companies with a link to tax havens and with individual shareholders in each country in a year that forms the basis of corporate taxation. For example, in Germany, EUR 4.76 billion is the profit base for taxation of such companies.
- **Column 3** (Indicator tax divided by profit) shows the degree in percentage by which companies were able to increase their profit due to evading tax in their home countries. The exact calculation of this indicator is explained in Annex B. In the case of Germany, the ratio of tax to profit is 5% lower for the sub-set of companies with a link to the Panama Papers than for the sub-set of companies without such a link.
- **Column 4** applies the percentage from Column 3 to the tax base figure in Column 2. This produces the estimate in Column 5. For example, in case of Germany, 5% are applied to the figure EUR 4.76 billion which produces a figure of approximately EUR 5 billion. The difference in tax base erosion is therefore EUR 238 million.

The results shows that the highest amount of tax base erosion took place in case of the United Kingdom. It is worth highlighting that no tax base erosion was identified in case of Cyprus, for the sum of profits before tax of the entities owned by shareholders-individuals with the link to tax haven was negative.

An important limitation to these findings is that the ORBIS database only contains entries related to shareholder-individuals in the order of a tenth of the total number of individuals implicated in the Panama papers, meaning that the figures presented above are likely to greatly underrepresent the actual magnitude of profit shifting taking place. Since there is no database available solely focusing on tax evasion by individuals, this was the only way to arrive at an estimate, however. The table shows the number of shareholders-individuals identified in the dataset with the link to the tax haven and the number of individuals mentioned in the Panama Papers.

**Table 8: Number of shareholders-individuals found**

Country	No. of entities	Entities without link No. of shareholders - individuals	Entities with the link No. of shareholders - individuals	Panama Papers No. of mentioned individuals
Cyprus	94	12	23	<b>3,669</b>
Czech Republic	76,503	64,436	7	<b>269</b>
Germany	11,226	14,907	107	<b>484</b>
Denmark	202,722	58,976	24	<b>65</b>
Spain	330,001	79,909	727	<b>821</b>
France	666,850	3,781	15	<b>928</b>
United Kingdom	69,706	2,191	218	<b>5,620</b>
Poland	19,797	12,885	0	<b>143</b>
<b>Total</b>	<b>1,376,899</b>	<b>237,097</b>	<b>1,121</b>	<b>11,999</b>

### 4.1.3. Summary of findings on budgetary impact

Below we summarise our findings from both the interview programme and the micro-econometric assessment. The table shows the total base erosion of the eight sample Member States as a result of the schemes revealed by the Panama Papers and compares them both with the estimates of revenue loss suffered by national authorities and other stakeholders.

For the purposes of comparison, we have applied corporate income tax rates (CIT) in each country to give an indication of the tax revenues lost. In doing so we have not taken into account other possible taxation streams (personal income, capital gains, property etc) for the sake of simplicity.

**Table 9: Summary of Findings**

Member State	Volume of Base Erosion (billion EUR)	Corporate Income Tax Rate <sup>67</sup> (%)	Assumed Tax Revenues Lost from Panama schemes (CIT only) (billion EUR)	Estimates of Tax Revenue Loss from all tax haven schemes to authorities (billion EUR) <sup>68</sup>
CY	0	12.5	0	-
CZ	0 <sup>69</sup>	19	0	2.10 – 5.55
DE	0.24	29.65	0.07	-
DK	0.05	23.5	0.012	-
ES	1.87	28	0.52	-
FR	-	33.3	-	17 – 19
PL	0.13	19	0.03	-
UK	6.51	20	1.30	3.99 – 8.66
<b>Total / Average</b>	0	12.5	0	-
<b>Scaled up on assumed factors<sup>70</sup></b>	<b>87.9878</b>	<b>Not applicable.</b>	<b>19.3</b>	<b>Not applicable.</b>
<b>EU28</b>	<b>351.96<sup>71</sup></b>	<b>23.12</b>	<b>81.37</b>	<b>109 – 237</b>

The microeconomic assessment estimated that EUR 8.8 billion was lost from the tax base due to profit shifting in the sample of 8 Member States. In order to generate estimates for revenue loss in the eight sample countries and compare with the findings from our interview programme, some assumptions have been made. Orbis only identified 10% of the individuals listed in the Panama Papers in the sample countries. Therefore, a multiplier of 10 allows us to generate an upper estimate of the base erosion and total revenue loss totals (see penultimate row in the above table).

On this basis, the total loss to the tax base, or profit shifted, is estimated to be EUR 88 billion from the

<sup>67</sup> KPMG, Corporate Tax Rates Table, 2015, <https://home.kpmg.com/xx/en/home/services/tax/tax-tools-and-resources/tax-rates-online/corporate-tax-rates-table.html>

<sup>68</sup> See table 5.

<sup>69</sup> Negligible (EUR 159.84)

<sup>70</sup> Multiplier of 10 to give an upper estimate of the volume of base erosion and revenue loss amounts, on the basis Orbis only identified 10<sup>th</sup> of individuals listed in the Panama Papers.

<sup>71</sup> Sample volume of base erosion averaged and multiplied by 10 to include all individuals and multiplied by 28 Member States.

Panama schemes in the eight sample Member States alone. When an EU average CIT rate is applied<sup>72</sup>, this amounts to EUR 19.3 billion in tax revenue losses in 2015 to the sample countries. While this figure may seem smaller than some national estimates, it must be born in mind that only one actor, Mossack Fonseca, is being examined and that other schemes almost certainly exist. The other consideration is that we have based the estimate on corporate income tax only, and tax rates for personal income, property, capital gains and inheritance may also be relevant. Nevertheless, the figures reached in the above table are consistent and reaffirm previous estimates as to the scale of the problem.

Scaling the microeconomic estimates up to the EU28 level is very difficult owing to the range of values in our sample, and the limitations of the Orbis dataset, and the small size of the sample of countries. We have included a EU28-level estimate of revenue loss based on two multipliers. The first, as described above, reflects the fact we only identified 10% of the individuals in the Panama Papers in the respective Member States. The second is a sample average (EUR 1.25 billion) multiplied by 28. This approach allows us to reach an estimate a volume of EUR 352 billion eroded in the tax base. If applying an average EU CIT (with the same limitations as described above), we can estimate the schemes revealed by the Panama Papers resulted in a loss of EUR 81 billion in tax revenues. While short of our estimates at the national level, as described above, this is in consideration of Mossack Fonseca's files only. A more precise measure of the EU28 is possible, and would follow the country by country methodology used in our microeconomic assessment (Annex B to this report).

## 4.2. ECONOMIC IMPACT

### 4.2.1. Direct economic impacts

As demonstrated above, **the schemes revealed by the Panama Papers directly reduce the funds available to national authorities** (budgetary impact). This in turn reduces the spending that could be otherwise be made on public services such as education or healthcare but also other areas with substantial job creation potential (e.g. business support, investment in transport infrastructure, regional development measures). Furthermore, the Panama Papers schemes might contribute to the increase in the inequitable distribution of tax revenues and income inequality both within and between countries (economic impact).

Our estimates based on research in the sample of eight EU Member States indicate a possible tax loss of **up to EUR 237 billion in tax revenues to EU28**. The knock-on effects on a Member States lie in the reduced public expenditure on schemes that contribute to economic growth, job and wealth creation. Lower investment of public monies translates into less infrastructure, fewer jobs and lower long-term development prospects.

It is extremely difficult to estimate the **impact of the schemes revealed by the Panama Papers on employment**. If it is assumed that these schemes resulted in at least EUR 173 billion of lost tax to the EU28 Member States (the mid-estimate in our range from the research involving the same of eight Member States – see Section 4.1), then using an average of EUR 50,000 as the cost per job would mean that an additional 3.5 million jobs could have been supported across Europe if the lost tax revenue had

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<sup>72</sup> EU average CIT Rate, KPMG, Corporate Tax Rates Table, 2015, <https://home.kpmg.com/xx/en/home/services/tax/tax-tools-and-resources/tax-rates-online/corporate-tax-rates-table.html>

been available for spending on job creating schemes. It does not of course follow that the tax loss associated with the schemes revealed by the Panama Papers would translate on a 1:1 basis into government expenditure to create jobs. For example, an alternative use could be to reduce national debts. **A conservative estimate would be that around 1.5 million jobs could have been supported with the money that was lost to national authorities.** However, irrespective of the precise calculation, it is clear that the scale of the employment effects is very considerable.

When considering that the EU28 Member States spend on a yearly basis more than EUR 200 billion on labour market policy (LMP) interventions to support the unemployed, working people at risk of involuntary job loss, and those needing help to make the transition into work, it is clear that there is likely to be a very considerable potential impact arising from the tax revenue lost to national authorities.<sup>73</sup> The lost tax revenue could, for example, been used to help ensure higher levels of expenditure on measures to help unemployed citizens. Between 2005 and 2008, the EU's economic growth led to a decrease of almost 20% in the number of unemployed people between the ages of 15-64. Expenditure on labour market measures declined over the same period by 10%. When the financial crisis started in 2007, the number of unemployed increased by 28% compared with the previous year and as a result expenditure on labour market measures rose by around 26%. However, this changed in 2010 while the number of employed continued growing. In 2011 the expenditure on labour market measures dropped by EUR 23 billion compared with 2010 while the number of unemployed stabilised. The lost tax revenue could have helped governments to maintain levels of labour market policy interventions and in this way would have supported some 139,000 EU citizens who lost their jobs during the period 2010-2011.

#### **4.2.2. Wider economic Impacts**

In terms of **wider economic impact the existence of tax havens undermines productivity in the public and private sectors** with companies and individuals extracting money from an economy without actually adding to economic growth (Olken and Pande, 2012; OECD, 2016; Lambsdorff, 2003). Corruption (and money laundering through the tax havens) reduces public sector productivity by undermining public spending programmes, affecting the productivity of the civil service and having negative impacts on public revenues (Purhohit, (2007), (Fjeldstad and Tungodden, 2003) or Aghion and others, (2016)).

In economics and general equilibrium theory, free markets are defined by several conditions enabling perfect competition between market users. One of these conditions is the notion of perfect information where all consumers and producers know the prices of products and utilities each person would get from owning each product. During our consultation, it was argued that tax revenue loss was incidental, and a greater **impact on the economic productivity of Member States would be caused by the distortion of information available in the financial markets.** As described in Section 2 the nature of tax havens operating in total secrecy distorts the behaviours of producers and consumers. In the context of the Panama Papers, the effects of capital losses has been researched and O'Donovan et. al (2017) found that **USD 135 billion across 397 public firms was erased due to their offshore vehicles**

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<sup>73</sup> [http://ec.europa.eu/eurostat/statistics-explained/index.php/Archive:Labour\\_market\\_policy\\_expenditure](http://ec.europa.eu/eurostat/statistics-explained/index.php/Archive:Labour_market_policy_expenditure)

### **being exposed in the Panama Papers.<sup>74</sup>**

For companies or individuals to invest in companies with an association with a known tax haven creates an asymmetrical risk in their tax future, therefore requiring a higher rate of return on their investment, and the investment itself is likely to be lower. If the quantity of this investment is lower, investment into actual productivity is reduced and consequently there is less employment. The existence of tax havens, therefore, undermines productivity in the public and private sectors with companies and individuals extracting money from an economy without actually adding to economic growth (Olken and Pande, 2012; OECD, 2016; Lambsdorff, 2003).

This volatility would have had a negative impact not only for these firms' shareholders in countries in which these firms have a substantial presence. The distortion effects on financial markets would not have only occurred at the revelation of a company's offshore vehicles, but will occur at the point of investment and prior to this revelation during operations. This is dependent on the financial intelligence of the investor for instance, and to what extent they are either aware of these offshore vehicles, or to what extent their risk analysis permits the investment anyway. Tax havens therefore create inefficiencies in free markets by obscuring the behaviours of their users. Additionally, individuals or companies that operate in tax havens can grow their profits disproportionately to companies that are taxed in the origin state, creating unfair advantages and hence further distortions. Companies using tax havens therefore have a greater access to capital, so argues Richard Murphy (2017).

O'Donovan et al. (2017) reached the conclusion that the Panama leaks reduced the net benefits of using offshore vehicles to evade taxes. The risks of these investments were highlighted in the meeting notes analysed by the ICIJ of Mossack Fonseca, the users of the schemes and their intermediaries, as increasingly the traditionally low risk assets of offshore financing have been subject to more public scrutiny.<sup>75</sup>

The (unknown) existence of the offshore investments seen in the Panama Papers have, over the last four decades, undoubtedly had a negative impact **on the flow of capital, to the detriment of those Member States in which the implicated firms are headquartered and/or focus their operations.** The investments, whether in shell companies or trusts, are unproductive and generate little interest or return on the investment. Richard Murphy (2017) argues further and in more detail that the assets seen in the Panama Papers increase the concentration of both income and wealth around the world, making the Mossack Fonseca schemes a driver of global inequality.

Another more specific concern relates to the **use of offshore companies to purchase real estate.** The money laundering aspect becomes prominent when buyers or their agent pay for the property in cash. Large cash payments when purchasing real estate are a recognised weakness in the implementation of international money laundering standards, and in particular when the buyer of record is an offshore entity. It is not simply that it conceals the beneficial owner, but it is the use of illicit money to complete the transaction. It is the concern that these flows of money are distorting the housing market by encouraging a willingness to pay any asking price, including a price that could not be met by those

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<sup>74</sup> [https://papers.ssrn.com/sol3/papers2.cfm?abstract\\_id=2771095](https://papers.ssrn.com/sol3/papers2.cfm?abstract_id=2771095)

<sup>75</sup> Interview with Will Fitzgibbon, ICIJ



without access to such illicit money.

A similar concern exists where **the offshore entity may be used to purchase and own company shares, businesses, and other forms of property**. Again, the belief is that the purchaser is willing to pay more than otherwise, as part of the cost for getting the money cleaned and into the aboveground economy. The investigation of the company 1Malaysia Development Bhd (1MDB) over allegations of corruption, bribery and money laundering is wide-ranging and complex, crossing numerous international borders. And as a result it contains an example for the use of an offshore company with a name very similar to another company and the movement of suspicious funds through these offshore companies into aboveground investments. The *Wall Street Journal* has been particularly active in pursuing this story, reporting on the flow of money into a firm that invested in the production of the film, 'Wolf of Wall Street', and the purchase and subsequent sale, at a loss, of some works of fine art.<sup>76</sup>

The **use of subsidiary firms by large multinational corporations that are registered in an offshore jurisdiction** is widely recognised after receiving intense media and government scrutiny over the past few years (see for example Apple and Starbucks, Enron and Parmalat). The explicit revelations of the Panama Papers may not include cases involving large publicly-traded multinational corporations but their business practices certainly may be replicated by smaller corporations to achieve similar effects. One concern arising from this involves market distortions. Many states have laws requiring an individual shareholder to be identified when they own more than a specified amount of shares, for example, five percent. A large quantity of shares represents a potential controlling interest in the company with influence over company business and policies. If someone desired to acquire a controlling interest without the activity being recognised until the necessary number of shares had been purchased, they could do so by using offshore companies. The offshore company could purchase shares without revealing the beneficial owner behind it. Multiple offshore companies could together build up the stake in the target company until the beneficial owner had the total quantity desired and chose to make that controlling interest public knowledge.<sup>77</sup>

**Another wider economic problem relates to the challenges faced by the companies that evade/avoid taxes themselves.** Their involvement in schemes used to avoid or evade taxes can cause a reputational damage, and may lead investors and shareholder to divest. This, in turn, may reduce profitability and employment among these firms, and hence negatively affect economic production in countries in which these firms have a substantial presence. One example relates to the revelations following the collapse of ENRON in 2001 which demonstrated another form of market distorting effects involving the use of offshore entities. In that case, they were used to perpetuate a fraud and conceal the true state of corporate finances from public view.<sup>78</sup> Several years later a similar case emerged in

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<sup>76</sup> Bradley Hope, John R. Emshwiller and Ben Fritz, 'The Secret Money Behind "The Wolf of Wall Street"', *Wall Street Journal*, 1 April 2016, <http://www.wsj.com/articles/malysias-1mdb-the-secret-money-behind-the-wolf-of-wall-street-1459531987>, see in particular the graphic depicting the flow of money from 1MDB to the film production company; Kelly Crow and Bradley Hope, '1MDB Figure Who Made a Splash in Art Market Becomes a Seller', *Wall Street Journal*, 19 May 2016, <https://www.wsj.com/articles/1mdb-figure-who-made-a-splash-in-art-market-becomes-a-seller-1463695018>.

<sup>77</sup> Another explanation for this strategy would be for the purchase of a large number of shares without the scale of the purchase activity being recognised and as a result influencing the share price. This approach might be taken, for example, by a hedge fund.

<sup>78</sup> One summary of the case is 'The ENRON Affair', BBC News, 17 February 2003, [http://news.bbc.co.uk/1/hi/in\\_depth/business/2002/enron/default.stm](http://news.bbc.co.uk/1/hi/in_depth/business/2002/enron/default.stm).



Europe involving the Italian firm Parmalat. It also had used offshore companies to perpetuate financial fraud ultimately leading to the collapse of the company.<sup>79</sup> The dilemma for policy-makers reflected here involves how to allow companies sufficient privacy to conduct business successfully, while at the same time enforce sufficient transparency on companies in order to prevent these forms of financial fraud.

### **4.3. FINANCIAL SYSTEM IMPACTS: TAX HAVENS, OFFSHORE FINANCIAL CENTRES AND CRIME**

The schemes revealed by the Panama Papers may catalyse illegal activities. This includes not only tax evasion but in some instances the schemes are used to launder the proceeds of corruption and bribery, terrorism, drug trafficking, human trafficking, illegal immigration, and cybercrime.<sup>80</sup> The Panama Papers “include the names of at least **33 people and companies** blacklisted by the U.S. government because of evidence that they’d been involved in wrongdoing, such as doing business with Mexican drug lords, terrorist organizations like Hezbollah or rogue nations like North Korea and Iran.”<sup>81</sup>

The Panama papers exposed activities of both legal entities and individuals pointing to suspicions of fraud, evasion of sanctions, money laundering, financing of corruption and tax evasion. The response to the leak has been significant with many authorities launching civil and criminal tax evasion investigations. This includes: Australia, Canada, Denmark, France, Germany, India, Israel, Malta, Norway, Pakistan, Singapore, Spain, Sri Lanka, Sweden, Thailand and the USA.

**The United Nations Development Programme’s 1999 Human Development Report estimated that organised crime grossed USD 1.5 trillion per year.**<sup>82</sup> As the United Nations Office on Drugs and Crime (UNODC) website notes: “Due to the secrecy of tax havens, and their lack of cooperation with other countries, the use of tax havens facilitates crime, such as tax evasion, money laundering, financing of terrorism, trafficking, and other types of transnational crime”. The use of corporate entities and shell companies previously described allows beneficiaries of these schemes to obscure their identity, and enable them to carry out money laundering activities, or financial activities pertinent to the financing of terrorism.<sup>83</sup>

**Europol’s 2011 EU Organised Crime Threat Assessment highlighted the role of offshore jurisdictions.** According to the assessment, these “...regularly appear in [money laundering] investigations featuring the use of shell companies. These hubs provide a number of benefits to criminals, most notably strict secrecy laws which facilitate the concealment of beneficial ownership of assets.”<sup>84</sup> The Assessment also noted that there is a clear preference for offshore banking locations (and

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<sup>79</sup> See, e.g., Sophie Arie, ‘Parmalat dream goes sour’, *The Observer*, 4 January 2004, <https://www.theguardian.com/business/2004/jan/04/corporatefraud.parmalat2>.

<sup>80</sup> <https://www.publicintegrity.org/2016/12/01/20500/panama-papers-have-had-historic-global-effects-and-impacts-keep-coming>

<sup>81</sup> <https://panamapapers.icij.org/blog/20160403-key-findings.html>

<sup>82</sup> United Nations Development Programme, Human Development Report 1999, 1999, p.42

<sup>83</sup> United Nations Office on Drugs and Crime,

<sup>84</sup> European Police Office, EU Organised Crime Threat Assessment, 2011, p.43. from Blomeyer & Sanz, European Initiatives on eliminating tax havens and offshore financial transactions and the impact of these constructions on the Union’s own resources and budget, 2013, p.39

major financial centres) when it comes to handling criminal proceeds.<sup>85</sup> The **Fourth Directive on Money Laundering, Directive (EU) 2015/849** recognises that “flows of illicit money can damage the integrity, stability and reputation of the financial sector, and threaten the internal market of the Union as well as international development. Money laundering, terrorism financing and organised crime remain significant problems which should be addressed at Union level.”<sup>86</sup> The US State Department in 2014 officially listed 66 countries as countries where money is often laundered, or countries of ‘primary concern’.<sup>87</sup> This list includes some EU Member States, as well as the tax havens listed in the Panama Papers.

**The link between the use of offshore areas and financial crime is particularly relevant when looking at enforcement.** For example, companies can use offshore vehicles to finance bribery and this way to acquire large public contracts. Transaction costs can determine whether companies resort to bribing corrupt officials. The likelihood of being prosecuted for violating anti-bribery regulation can weigh in when resorting to corrupt practices through offshore vehicles. The impact of the Panama papers could have an effect on stronger enforcement and this way encouraging companies to stop using offshore entities for bribery.

#### **4.3.1. Money laundering at EU level and estimated extend of the Panama Papers**

In past years, **fighting money laundering, tax evasion and corruption has become an important topic at both European and global level.** The Financial Action Task Force (FATF) revised its standards in 2012, by increasing the prominence of application of the so-called “risk-based approach” in mitigating the ML/TF risks and by moving towards assessing countries’ effectiveness of anti-money laundering and combating financing of terrorist (AML/CFT) regimes. Amongst other changes, the FATF strengthened its standards on beneficial ownership and expanded the list of designated predicate offenses (i.e. underlying crimes that give rise to money laundering) to tax crimes.

The European Commission’s 2013 impact assessment of the EU anti-money laundering/counter terrorist financing legislative framework points to global criminal proceeds potentially amounting to approximately 3.6% of global GDP; around USD 2.1 trillion in 2009.<sup>88</sup> This falls within the widely quoted estimate by the International Monetary Fund, which stated in 1998 that the aggregate size of money laundering in the world could be somewhere between two and five percent of the world’s gross domestic product. Using 1998 statistics, these percentages would indicate that money laundering ranged between USD 590 billion and USD 1.5 trillion. At the time, the lower figure was roughly equivalent to the value of the total output of an economy the size of Spain. As stated earlier, money laundering is also a key enabler of serious and organised crime, the social and economic costs of which

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<sup>85</sup> Ibid., p.44.

<sup>86</sup> Article 1, Directive (EU) 2015/849 Of The European Parliament And Of The Council, 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC

<sup>87</sup> <https://www.state.gov/j/inl/rls/nrcrpt/2014/vol2/222471.htm>

<sup>88</sup> ‘Impact Assessment accompanying the document Proposal for a Directive of the European Parliament and of the Council on the prevention of the use of the financial system for the purpose of money laundering, including terrorist financing and Proposal for a Regulation of the European Parliament and of the Council on information accompanying transfers of funds’, European Commission, February 2013. See also: [http://www.unodc.org/unodc/en/frontpage/2011/October/illicit-money\\_-\\_how-much-is-out-there.html](http://www.unodc.org/unodc/en/frontpage/2011/October/illicit-money_-_how-much-is-out-there.html). See also: <http://www.fatf-gafi.org/faq/moneylaundering/>

are estimated to be GBP 24 billion a year.<sup>89</sup>

It needs to be noted though that it is very difficult to grasp the extent of money-laundering with meaningful statistics. This is because money laundering is in many cases not detected. Therefore, statistics on detected cases does not necessarily show the full extent of money laundering. In addition to that, in those cases where investigations/prosecutions take place the ultimate conviction mostly refers to the predicate offence (i.e. the crime that money laundering tries to hide instead of money laundering itself). Nonetheless, in 2013 Eurostat analysed current statistical information available within the Member States in order to provide an overview of the extent of money laundering on the EU level. The data on EU level differentiates between the intelligence phase (reporting), the investigation phase and the judicial phase.

According to the latest Eurostat data, in 2010 nearly **250,000 cases of money laundering were prosecuted in the EU**.<sup>90</sup> The statistics have to be treated with caution since it is based only on 14 Member States (Belgium, Bulgaria, Czech Republic, Germany, Italy, Latvia, Lithuania, Luxembourg, Hungary, Portugal, Romania, Slovenia, Spain and Finland). It should also be noted that the observed fluctuations are mainly due to the German cases as they represent between 73 % and 83 % of the total number of cases every year. In addition to the total number of cases, Eurostat data revealed the number of persons/legal entities convicted for money laundering offences. The data shows that **the number of convictions dropped steadily over the years starting from nearly 5000 in 2006 to 3000 cases in 2010**.<sup>91</sup> The report mentions that the gradual decrease in the number of persons convicted for money laundering offences can be explained by the fact that final prosecution for a money laundering case may take three to five years, from the time when a STR may have first triggered investigation and prosecution (and many cases may be pending). Therefore, it is advisable to avoid making comparisons between years.

It is necessary to **compare the number of total cases prosecuted in the EU each year due to money laundering (nearly 250,000) with those numbers revealed by the Panama Papers**. In a public hearing to the European Parliament in November 2016, Europol, revealed that it had found 3,469 probable matches to organized crime, tax fraud and other criminality from the Panama Papers database to information in its own files.<sup>92</sup> One of the “main schemes” identified by the Europol analysis of the Panama Papers involves the abuse of trusts which has been explained in Section 3 of this report. In terms of methodology Europol compared the publicly available versions of the Panama Papers published by the ICIJ with its own databases of individuals and companies suspected of criminal involvement and with this methodology it came up with 3,469 probable matches. Out of those cases 1,722 names in the Panama Papers match with entities that had been reported by EU member states as having been involved in potential money-laundering transactions. The majority of matches originated from the UK, although this could be related to the country’s status as Europe’s core financial centre. The fact that the Panama Papers potentially only concern 0.6% (i.e. 1,722 Europol matches of the total number of yearly cases reported on money laundering) suggests an only marginal impact on the status quo. However, this quantification has to be treated with caution given that Europol data related to the matches might not be comprehensive.

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<sup>89</sup> ‘Understanding organised crime: estimating the scale and the social and economic costs’, Home Office, October 2013

<sup>90</sup> Eurostat Money laundering in Europe - 2013 edition, p.63

<sup>91</sup> *ibid*, p. 67.

<sup>92</sup> <http://www.europarl.europa.eu/committees/en/pana/events-hearings.html?id=20161026CHE00121>

#### 4.3.2. Other financial crime at EU level as revealed by the Panama Papers

The remaining entries mentioned by Europol relate to crimes other than money laundering.

- 516 names of the 3469 entries were connected to Eastern European **organised criminal gangs** (to understand the dimensions it has to be mentioned that in 2013, 36000 criminal groups were active in the EU);<sup>93</sup>
- 388 were connected to **VAT fraud operations** (it should be noted that the EU is yearly losing an estimated 100 billion Euros of VAT income);<sup>94</sup>
- 116 of the names were connected to a Europol operation against Islamist terrorism (which is around 15% of annually arrested persons for **suspicion of terrorist activities** in the EU);<sup>95</sup>

Here different conclusions have to be drawn depending on which crime is concerned. In general terms one has to consider this figures with extreme caution due to the fact that the 'probable matches' as detected by Europol have not yet been properly investigated and thus the correlation between actual matches is far from clear. Furthermore, Europol's data might not be exhaustive.

#### 4.3.3. Extent of financial crime linked to Panama Papers schemes in Member States

While more general data on the impacts of offshore financial centres and tax havens has been discussed in the previous section, our research in the eight EU Member States under investigation in this study did not reveal robust information with respect to the specific impacts of financial crime in correlation to the Panama leaks since in most cases estimation includes schemes with legal and illegal purposes and no separate statistics focus on impacts of illegal schemes only.

Some estimates of the **impact exclusively relating to financial crime (not to tax avoidance and aggressive tax planning)** are provided in the following bullet points for Cyprus, the Czech Republic, Spain, and the United Kingdom.<sup>96</sup> It should be noted that the estimated figures mentioned below are not based on the same sources as Sections 4.1 and 4.2 and are based on rather anecdotal evidence. Thus, they only provide idea general indication of the impact of financial crime and are not robust enough to be used to calculate an EU-wide impact of financial crime as revealed by the Panama Papers.

According to the 2015 Annual Report of the **Cypriot FIU MOKAS**, there were 524 of cases of information requested from MOKAS including 34 formal requests from other countries and 56 cases of spontaneous reports sent to other countries. The FIU has compared the data in the Panama Papers with its database, and has identified only one case involving monies of the order of around EUR 15m. However, these assets have already been frozen by a court order due to a conviction on money laundering relating to foreign companies and UBOs mentioned in the Panama Papers.

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<sup>93</sup> Europol EU Serious and Organised Crime Threat Assessment 2013.

<sup>94</sup> Ibid, p. 26.

<sup>95</sup> According to the 2015 Europol Terrorism and Trend report, 774 individuals were arrested due to suspicion of being involved in terrorism (p. 8).

<sup>96</sup> Note that no data was available for the remaining countries which are subject to this study.

In the **Czech Republic** it is suggested that Czech Republic could be losing CZK 150 billion (EUR 5.5 billion) due to tax evasion alone per year (this does not include tax avoidance).<sup>97</sup> Without going into more depth (e.g. providing statistics) other sources have mentioned that financial crime is not as problematic as for example aggressive tax planning. This is because international instruments have been very effective in tackling financial crimes.<sup>98</sup>

In **Spain**, Gestha (a collective of 8,000 professionals working in the Ministry of Finance and the Spanish Tax authorities) estimated that in 2015 only 25.42% of estimated tax evasion was detected by the tax authorities through control and prevention. This corresponded roughly to EUR 15.5 billion, leaving almost three quarters of the estimated tax evasion undetected.<sup>99</sup> Gestha further highlights that more taxpayers were investigated in 2015 compared to 2010. However, a smaller amount of fraud was detected. The average trend from 2012-14 shows that investigations focused on smaller taxpayers such as SMEs, self-employed and employed individuals which represent a smaller amount of fraud compared to larger companies and wealthy individuals which represent an estimated 70% of tax fraud in Spain. Gestha also pointed out that there has been a steep drop in number of violations detected, 57% in the last decade. In 2015, 341 reports were made for fiscal crime compared to 793 in 2005 and 1014 in 2011. In total EUR 442.6m have been defrauded in 2015. This number of tax fraud does not specifically refer to the leaks of the Panama Papers but also includes cases which resulted from investigations unrelated to the Panama leaks. It is also worth pointing out that these numbers do not account for other criminal activity such as money laundering or other serious crimes but they seem to exclude aggressive tax planning which is included in the numbers mentioned in Section 4.1.

In the **United Kingdom**, the Panama Taskforce has opened civil and criminal investigations into 22 individuals for suspected tax evasion and identified a number of leads relevant to a major insider-trading operation led by the Financial Conduct Authority and supported by the NCA. Furthermore the Taskforce identified nine potential professional enablers of economic crime – all of whom have links with known criminals and established links to eight active Serious Fraud Office investigations.

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<sup>97</sup> LAZAROVA Daniela (2016), "Czech PM calls for probe into activities of Czechs on Panama papers files", Radio Praha, 5 April 2016. Available from Radio Praha: <http://www.radio.cz/en/section/curraffrs/czech-pm-calls-for-probe-into-activities-of-czechs-on-panama-papers-files> [accessed 16.02.2017]

<sup>98</sup> Interview feedback

<sup>99</sup> ION COMUNICACIÓN (2017). Gestha denuncia que el 75% de la evasión fiscal no fue detectada por Hacienda en 2015 [WWW]. Available from: <http://www.ioncomunicacion.es/noticia.php?id=%2017753> [accessed 28.02.2017].

## 5. CURBING THE ADVERSE EFFECTS OF TAX HAVENS

### 5.1. OVERVIEW OF NATIONAL, EU AND INTERNATIONAL TAX MEASURES ADOPTED AS RESULT OF THE PANAMA REVELATIONS

Due to the far-reaching nature of the Panama Papers, many governments have already decided to strengthen their national laws in order to combat tax havens and financial offshore centres and their negative effects. Below we outline existing measures before putting forward recommendations on how these and other measures could be strengthened.

#### 5.1.1. National level

Below we outline measures already being taken by some of EU Member States covered by this research.

In **Germany** the Parliament adopted recently the ‘transparency register’ (Transparenzregister).<sup>100</sup> The aim of the register is to publish the names of the ultimate beneficiaries of companies. The idea is to not only provide details of companies but also information on the final beneficiary of companies. In this way it should become easier to detect whether a person involved in money laundering or other offences is “hiding” behind a company name.

In an interview we undertook it was mentioned that the “Transparenzregister” has been ‘watered down’. The main concessions refer to the fact that the “Transparenzregister” is only accessible to a limited group of users such as journalists and not the wider public and there is now a fee for accessing it. The limitations have been explained as being necessary because of data protection rights. Another measure taken in Germany is the development of a law enhancing cooperation duties of tax payers vis-à-vis the tax authorities, information duties of banks, and expanding investigation competences for financial administration in the country, including lifting bank secrecy rules.

In the **Czech Republic** the extent of transparency of beneficial ownership is ambiguous.<sup>101</sup> Czech law is very restrictive in terms of access to information, but the government seems to support the idea of public registers of effective beneficiaries at the EU level. The Czech Republic has adopted a law to establish a register of beneficial owners. However, public access is likely to be very limited and access is only granted to the authorities dealing with taxes, such as the FIU, police and courts.

In **Spain**, collaboration with the Panamanian public prosecutor office is slowly taking place.<sup>102</sup> Contact with the Panamanian authorities is being undertaken by the *Audiencia Nacional* through official requests (*comisiones rogatorias*). The strategy is to gradually request information to clarify the activities of those exposed in the papers. The agreement to collaborate between the authorities is partially facilitated due to the Spanish efforts to provide the Panamanian authorities with information on funds

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<sup>100</sup> <http://www.stuttgarter-nachrichten.de/inhalt.deutschland-einigung-ueber-transparenzregister.dfe080b2-6459-42a4-8b3b-249df401a8c3.html>

<sup>101</sup> Survival of the richest, Europe’s role in supporting an unjust global tax system 2016, 7 December 2016. Available from Glopolis: <http://glopolis.org/en/articles/survival-richest-europes-role-supporting-unjust-global-tax-system-2016/> [accessed 17.02.2017]

<sup>102</sup> OKDIARIO (2017). La Fiscalía de Panamá entregará datos para confirmar delitos de blanqueo y fraude de VIP españoles <https://okdiario.com/investigacion/2017/02/24/papeles-panama-fiscalia-confirmar-delitos-blanqueo-fraude-773253> [accessed 28.02.2017].



in the country linked to offshore entities and drug trafficking. In return it is envisaged that the Panamanian authorities will provide information to the Spanish prosecutor on possible tax crimes and money laundering in the country. Interview feedback from civil society organisations and journalists pointed to the need to be more transparent on company registers.<sup>103</sup> As is the case with the German transparency register, it is not possible to access the register without paying fees and only if a specific company is searched for. The tax authorities also made a number of suggestions on how current laws could be updated.<sup>104</sup> For example, the competences of experts of the Ministry of Economy could be extended and/or there could be closer joint working between state, regional and local tax administrations and a tax database could be set up.

In **France**, plans were announced to set up a trust register in May 2016.<sup>105</sup> This register was supposed to increase transparency as in the case of those registers in previously mentioned countries. Trusts for which at least one beneficiary resides in France would have to be registered in this public database. When the register was published online, the *Conseil d'Etat* suspended its implementation following a complaint by a US citizen residing in France claiming the register was a violation of her privacy. The Constitutional Court (*Conseil Constitutionnel*) decided in October 2016 that the creation of the register was violating privacy disproportionately with regard to the objective pursued.<sup>106</sup> France is currently trying to establish a register of effective beneficiaries but this is proving to be challenging.

In the **UK**, the authorities have announced the intention of introducing additional controls on tax haven operations. The Criminal Finances Bill introduced to the UK Parliament in September 2016 will significantly improve the UK's capabilities to tackle money laundering and recover the proceeds of crime, including proceeds of corruption. The UK's Finance Act 2016 introduced a new package of measures which increase civil penalties for offshore tax evasion, including the introduction of a new asset based penalty of up to 10% of the value of the underlying asset and enhanced naming powers for offshore evaders.

The UK has also produced a public register of beneficial ownership information and the National Crime Agency is working to get the new International Anti-Corruption Coordination Centre operational by April 2017. The public registry of beneficial ownership has been criticised due to the alleged ease of falsifying personal information, requiring only a valid postcode to register. The requirement for more than 25% shareholders to register has also allowed for companies to manoeuvre shareholders out of this bracket. The UK is also introducing a new legal requirement to correct past offshore non-compliance with significantly tougher new sanctions for those who fail to do so. Other legal measures include the introduction of a new criminal offence for tax evasion removing the need to prove intent for serious cases of failure to declare offshore income and gains. New civil sanctions for those who enable offshore tax evasion have been introduced, including penalties of up to 100% of the tax evasion.

Within the EU, France, Germany, Italy, Spain and the UK have come together in the format of the G5.

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<sup>103</sup> ACCES INFO EUROPE (2016) It's none of your business! – Report on Europe's Closed Company Registers [WWW]. Available from: <https://www.access-info.org/cos/22520> [accessed 28.02.2017].

<sup>104</sup> <http://www.ioncomunicacion.es/noticia.php?id=10723>

<sup>105</sup> ROGER Patrick, "Evasion fiscale: le Conseil Constitutionnel retoque le registre public des bénéficiaires des trusts », Le Monde, 21.10.2016. Available from Le Monde: [http://www.lemonde.fr/economie/article/2016/10/21/evasion-fiscale-le-conseil-constitutionnel-retoque-le-registre-public-des-beneficiaires-des-trusts\\_5018034\\_3234.html](http://www.lemonde.fr/economie/article/2016/10/21/evasion-fiscale-le-conseil-constitutionnel-retoque-le-registre-public-des-beneficiaires-des-trusts_5018034_3234.html) [accessed 14.02.2017]

<sup>106</sup> Ibid

Immediately in response to the Panama leaks, they sent a letter to the rest of the G20 nations stressing the importance of the fight against tax evasion and money laundering. One measure that should be implemented soon is the **Common Reporting Standard** which provides for the automatic exchange of information between over 90 countries and jurisdictions on offshore accounts as of this year. Panama has agreed to implement the standard on a bilateral and reciprocal basis from 2018. The G5 also commit to establishing registers requiring that beneficial owners of companies, trusts, foundations, shell companies and other relevant entities can be properly taxed. They also launched a pilot initiative for automatic exchange of information on beneficial ownership, building on the Common Reporting Standard. In the letter, signatories expressed their hope that this may lead to another global standard built in cooperation with the OECD and FATF on information exchange covering beneficial ownership.

### 5.1.2. EU and international levels

At the EU level the Panama Papers led to discussions on appropriate legislative measures. Thus, in July 2016 the European Commission published the **Proposal for a Council Directive amending Directive 2011/16/EU** as regards access to anti-money-laundering information by tax authorities.

The proposal can be regarded as reacting to the need of tax authorities to have greater access to information on the beneficial owners of intermediary entities and other relevant customer due diligence information. Consequently the objective of the initiative is to enable tax authorities to consistently access the anti-money laundering information for the performance of their duties in monitoring the proper application of the Directive on Administrative Cooperation by Financial Institutions.

The European Commission has also published a “**Communication on further measures to enhance transparency and the fight against tax evasion and avoidance.**” This initiative provides an overview of five areas where current practices need to be improved:

- Harnessing the link between anti money laundering and tax transparency rules including by strengthening the Fourth Anti-Money Laundering Directive;
- Improving information exchange on beneficial ownership;<sup>107</sup>
- Increased oversight of enablers and promoters of aggressive tax planning, in line with recommendations made by the OECD on how to best tackle the tax avoidance strategies of base erosion and profit shifting – this tackles mainly corporate tax avoidance and less tax evasion by individuals which is the focus of this study;
- Promoting higher tax good governance standards worldwide;
- Improving the protection of whistle-blowers. These five suggestions are broadly aligned with suggestions made during our interview feedback where experts highlighted these areas as those that need to be improved in light of the Panama revelations.

The approach of the EU to dealing with tax havens has been generally consistent with the initiatives of the OECD under the guidance of the G20 since 2009. As noted in Section 2.1.1, the **Global Forum on Transparency and Exchange of Information for Tax Purposes at the OECD** is reporting annually on

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<sup>107</sup> This was also confirmed in a EP Parliament hearing: <http://www.europarl.europa.eu/news/en/news-room/20161114IPR51018/beneficial-company-owners-register-vital-to-combat-money-laundering-experts-say>



the implementation progress of the internationally agreed standard on the exchange of information for tax purposes.<sup>108</sup> This standard for the exchange of taxpayer data is known as the **Common Reporting Standard (CRS)**. The first exchange of taxpayer data among the jurisdictions implementing the standard is scheduled to occur in 2017.

The OECD introduced the CRS at the February 2014 meeting of the G20 Finance Ministers and the Global Forum declares in its 2016 annual report that 101 jurisdictions have now committed to the automatic exchange of taxpayer information under CRS.<sup>109</sup> This timing was beneficial to the EU, which had been working on revising the information reporting requirements of the Directive '**on taxation of savings income in the form of interest payments**' in order to 'look through' corporate vehicles and report the details on the beneficial owner.<sup>110</sup> Following the announcement of the CRS the Commission revisited this Directive and its reporting requirements. It determined that the implementation of CRS would satisfy the reporting requirements in the Savings Tax Directive and would therefore replace those reporting requirements.<sup>111</sup>

The OECD's Global Forum itself dates from 2000 but progress toward an agreed standard for information exchange had been slow until 2010.<sup>112</sup> In 2010, the US Congress passed a law, the **Foreign Account Tax Compliance Act (FATCA)**, requiring non-US financial institutions to provide account information to the US Internal Revenue Service (IRS) on all the accounts held for a US citizen.<sup>113</sup> As part of the implementation process the US Treasury introduced an intergovernmental agreement (IGA) to facilitate information reporting, whereby the financial institution provides the account data to their national government which in turn provides this data to the US government. Over the next few years **many jurisdictions signed an IGA with the US, and this widespread compliance with FATCA offered the Global Forum with the precedent and a template for the CRS.**<sup>114</sup>

By following the information requirements of FATCA in the CRS **the OECD made sharing taxpayer information with other jurisdictions cost effective and consistent with any procedures in place to satisfy FATCA information reporting.** The fact that a jurisdiction was already providing taxpayer data to the US served to overcome any remaining resistance to providing taxpayer data to other countries.<sup>115</sup> The diffusion of this international standard promoting transparency and the *automatic* exchange of taxpayer information overcomes the recognised limitations present in previous efforts to address the problems created by tax havens. At the same time, the diffusion is incomplete in some crucial aspects with the US not having fully committed to implementing the CRS.

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<sup>108</sup> The annual report for 2016 is available at <http://www.oecd.org/tax/transparency/GF-annual-report-2016.pdf>.

<sup>109</sup> Global Forum, 'Tax Transparency 2016 Report on Progress', p. 9.

<sup>110</sup> Council Directive 2014/48/EU of 24 March 2014 amending Directive 2003/48/EC on taxation of savings income in the form of interest payments, *Official Journal of the European Communities L series* 111.

<sup>111</sup> Council Directive 2014/107/EU of 9 December 2014 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation, *Official Journal of the European Communities L series* 359.

<sup>112</sup> 'About the Global Forum', <http://www.oecd.org/tax/transparency/about-the-global-forum/>.

<sup>113</sup> 'Foreign Account Tax Compliance Act', <https://www.irs.gov/businesses/corporations/foreign-account-tax-compliance-act-fatca>.

<sup>114</sup> The current list of FATCA IGAs is at <https://www.treasury.gov/resource-center/tax-policy/treaties/Pages/FATCA.aspx>; note the presence of many tax havens on this list.

<sup>115</sup> An analysis of FATCA and its role behind the OECD's CRS is provided in William Vlcek, *Offshore Finance and Global Governance* (Palgrave 2017), pp. 97 – 153.

The **effectiveness for the CRS with regards to most jurisdictions commonly recognised as tax havens should be rather high**. As seen from the Global Forum's current list on the status of commitments, many tax havens already have committed to the automatic exchange of information.<sup>116</sup> For the European Union this bodes well for transparency and the ability to overcome the issues with offshore entities revealed by the Panama Papers. Yet this list, and the CRS, addresses only those commonly named tax havens, because the nature of US cooperation with the Global Forum effectively recreates the US as a tax haven, vis-à-vis the rest of the world. Not all IGAs between the US and other jurisdictions include a reciprocity clause, and for those IGAs with a *commitment* to reciprocity, if and when any information is exchanged it may not be as complete and as comprehensive as the information to be exchanged under CRS. This situation has already been brought to the attention of the European Parliament and the public at large by the Greens/EFA Group with the publication in May 2016 of its report, 'The Role of the U.S. as a Tax Haven – Implications for Europe'.<sup>117</sup>

### *Wider international initiatives*

Beyond the EU, initiatives have also been taken in response to the Panama papers.

In the **United States**, the Obama administration presented in May 2016 a series of new administrative actions as well as legislative proposals to tackle offshore secrecy and illicit financial transactions.<sup>118</sup> In respect to the administrative actions, the Obama Administration introduced new rules to increase transparency and disclosure requirements that will enhance law enforcement's ability to detect, deter, and disrupt money laundering, terrorist finance, and tax evasion. This includes final Treasury regulations on "Customer Due Diligence" enhancing transparency and protecting the integrity of the financial system by requiring financial institutions to know and keep records on who in fact owns the companies that use their services. It also includes new Treasury tax rules closing a loophole allowing foreigners to hide assets or financial activity behind anonymous entities established in the United States.<sup>119</sup>

In respect to the US legislative proposals, the proposals acknowledge that the U.S. itself is a key player in the system of offshore secrecy, through such states as Delaware, Nevada and Wyoming allowing the creation of shell companies that hide their owners' identities and activities.<sup>120</sup> More specifically, one proposal relates to increase transparency into the "beneficial ownership" of companies formed in the United States by requiring that companies know and report their true owners.<sup>121</sup> Another proposal relates to enhancing and strengthening efforts to combat transnational corruption. This legislation would enhance law enforcement's ability to prevent criminals from concealing and laundering illegal proceeds of transnational corruption. It would also allow U.S. prosecutors to more effectively pursue kleptocracy cases and prosecute money laundering as part of foreign corruption, and reinforce the US

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<sup>116</sup> Global Forum, 'Status of Commitments', <http://www.oecd.org/tax/transparency/AEOI-commitments.pdf>.

<sup>117</sup> Andres Knobel, 'The Role of the U.S. as a Tax Haven – Implications for Europe', A study commissioned by the Greens/EFA Group in the European Parliament, 11 May 2016, <http://www.greens-efa.eu/en/article/the-role-of-the-united-states-as-a-tax-haven/>.

<sup>118</sup> [https://panamapapers.icij.org/20160505-obama-admin-announces-reform-bid.html#\\_ga=1.208966674.1870475413.1487673024](https://panamapapers.icij.org/20160505-obama-admin-announces-reform-bid.html#_ga=1.208966674.1870475413.1487673024)

<sup>119</sup> <https://obamawhitehouse.archives.gov/the-press-office/2016/05/05/fact-sheet-obama-administration-announces-steps-strengthen-financial>

<sup>120</sup> *ibid.*

<sup>121</sup> H.R.3331 - Incorporation Transparency and Law Enforcement Assistance Act

role in the international community as a model for others in anti-corruption matters.<sup>122</sup>

While the proposals have not been enacted yet it is unclear whether they are likely to pass under the Trump administration. On the one hand, it has been suggested that the new Trump Administration will maintain the tough regulatory money laundering standards, despite the new president's pledge to ease burdens to businesses where possible. The reason is the strong anti-terror stance of the Trump Administration and the close link between money laundering and terrorist financing.<sup>123</sup> On the other hand, the economist Joseph Stiglitz, doubts this view. In a presentation to the EP PANA Committee he mentioned "When your president is avoider-in-chief, it's hard to have confidence in where we are going to."<sup>124</sup> Furthermore, just recently important legislation on fighting corruption in the oil and gas industry has been scrapped.<sup>125</sup>

To take some other countries outside Europe, in **Taiwan** new tax avoidance rules have been adopted imposing restrictions on benefits enjoyed by Taiwanese companies that keep profits offshore.<sup>126</sup> In **New Zealand**, rules on foreign trusts have been tightened after numerous documents in the Panama Papers leak referenced the country.<sup>127</sup> In **Mongolia**, the Parliament debated a bill to penalize politicians and public servants who do not declare offshore financial interests.<sup>128</sup> In **Panama**, the Parliament passed laws to tighten bookkeeping requirements for offshore companies and to allow Panama to share tax information with other countries.<sup>129</sup> In **Lebanon**, new rules were adopted to facilitate the exchange of tax information with other countries in an effort to avoid international blacklisting in the post-Panama Papers world.<sup>130</sup>

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<sup>122</sup> <https://www.justice.gov/opa/file/849986/download>

<sup>123</sup> US banks warn Trump will stick with tough money laundering stance, <https://www.ft.com/content/fdf88c84-e89a-11e6-893c-082c54a7f539>

<sup>124</sup> <http://economia.icaew.com/news/november-2016/stiglitz-concerned-about-us-role-in-fighting-tax-secrecy-under-donald-trump-panama-papers>

<sup>125</sup> <http://www.centurionlawfirm.com/trump-administration-scrap-anti-corruption-legislation/>

<sup>126</sup> <http://glin.ly.gov.tw/web/nationalLegal.do?isChinese=false&method=legalSummary&id=5698&fromWhere=legalHistory>

<sup>127</sup> <http://www.abc.net.au/news/2016-07-13/new-zealand-tightens-trust-laws-after-panama-papers/7625250>

<sup>128</sup> <https://www.publicintegrity.org/2016/12/01/20500/panama-papers-have-had-historic-global-effects-and-impacts-keep-coming>

<sup>129</sup> *ibid.*

<sup>130</sup> [http://www.lemonde.fr/economie/article/2016/10/20/le-liban-vote-la-levee-de-son-secret-bancaire\\_5017493\\_3234.html](http://www.lemonde.fr/economie/article/2016/10/20/le-liban-vote-la-levee-de-son-secret-bancaire_5017493_3234.html)

## 5.2. RECOMMENDATIONS

In this section we set out recommendations. These involve a combination of reinforcing existing measures or those that are already planned and several new initiatives.

### Summary of Recommendations

- **Promoting the establishment of registers that publicise beneficial ownership** to prevent schemes revealed by the Panama Papers from remaining undetected. Additionally, sustain and monitor the **Common Reporting Standard** that came into force at the beginning of this year.
- **Encouraging higher tax good governance standards** by ensuring that the EU's international partners implement higher standards of tax good governance. The EU itself must intensify the pressure in global fora – particularly the G20 – to achieve this.
- In seeking to promote greater international cooperation, it is also crucial to **retain the political neutrality of the definition of a tax haven**. The idea that only non-cooperative jurisdictions qualify as tax haven disregards that some jurisdictions may only appear cooperative while remaining operatively a tax haven. In the interest of neutrality, a grey-list or black-list should be established based on more nuanced criteria.
- **More closely relating information on Anti Money Laundering and Tax Transparency rules**. This is already reflected in the Commission's proposed amendments to the Fourth Anti Money Laundering Directive which includes the widening of the scope of the information accessible to Financial Intelligence Units. Furthermore, the establishment of the European Public Prosecutors office (EPPO) will be beneficial as the EPPO can investigate and prosecute EU-fraud and other crimes affecting the EU's financial interests.
- **Introducing measures to guarantee the protection of whistle-blowers** - this will improve the availability of the data and act as a driver against the use of tax haven schemes.
- **Developing methodologies that can be used to generate publicly available, reliable and comparable data on the magnitude of tax avoidance and evasion**, and methods to quantifying the impact of these incidents on countries' public finances and economic activities. This would mean exploring data collection methods on corporate tax avoidance and evasion, on which most research seems to focus to date, and tax evasion by individuals on the other.
- **Promoting the integrity and transparency in the financial sector within the framework of the European Semester**. In more concrete terms this could translate into the EU monitoring and preventing the use of Panama Papers schemes, which could jeopardise macroeconomic stability (i.e. linked to real estate bubbles, banking crises, etc.), and fostering adjustment by means of appropriate policies.

Taking the first point above, our research shows that several Member States as well as third countries have already started to take actions due to the revelations of the Panama Papers in line with the points raised in the European Commission Communication (see Section 5.1). One prominent measure taken by many authorities is the **establishment of registers that require firms to share information on**

**beneficial ownership.** This has often been deemed to be a good solution to help prevent schemes revealed by the Panama Papers remaining undetected. While more transparency is definitely a step in the right direction, counter-arguments such as risks in relation to privacy, risks in relation to inaccurate information in the registers or the potential misuse of this information should not be neglected. A compromise solution has already been found by many Member States. For example, in some cases registers can only be accessed after the payment of a fee and are only accessible by journalists and prosecutors. This addresses legitimate transparency concerns such as the protection of privacy. Setting up the registers can be complemented by other measures.

Another measure relating to improving information exchange on beneficial ownership is the creation of a **Common Reporting Standard** that came into force beginning of this year and which 90 countries have signed up to. It will be important to monitor the effect this has on the detection, investigation, and prosecution of cases of tax evasion. Furthermore, national authorities should make efforts to decrease the possibility to use straw men in financial crime schemes (e.g. by increasing the level of identification measures).

Another recommendation relates to promoting **higher tax good governance standards internationally.** This is crucial given that many tax avoidance and tax evasion schemes make use of different standards and tax laws across different countries. The OECD's efforts to ensure worldwide implementation of higher tax good governance standards are crucial as are automatic exchange of information on financial accounts (Common Reporting Standard), as well as key BEPS measures, through which binding legislation takes place. Furthermore, a high priority is also to ensure that the EU's international partners implement these higher standards of tax good governance, and the EU itself must intensify the pressure in global fora – particularly the G20 – to achieve this. These efforts would certainly be more effective if Western countries were to fully comply with these measures themselves.

In relation to the second recommendation above, **promoting tax good governance standards** is only a first step. One issue identified in mutual evaluation reports on the implementation of the FATF's Forty Recommendations concerned the extent and quality of the evaluated country's implementation procedures. The laws put in place against money laundering, and by extension the automatic exchange of information and beneficial ownership registries need to be supported by government action to be effective in practice. Establishing and maintaining the capability to gather account and beneficial ownership data, and the effective enforcement of the data reporting obligation on local financial firms and company services firms are critical further steps. Third party countries may have national budget priorities that leave little funding for FIUs or tax authorities to carry out their commitment to implement CRS and Automatic Exchange of Information (AEOI) and maintain beneficial ownership registries.

Consequently, the EU should consider **enhancing capacity building mechanisms for developing countries with a special focus on the implementation of CRS in order to help ensure EU Member States in the future receive quality financial account data through the AEOI process.** The EU also should consider enhancing its support to the capacity building initiatives of the OECD's Tax and Development Programme and similar international initiatives with the same objective in mind, to enhance the receipt of quality data through the CRS information exchange mechanism from third party

countries.<sup>131</sup>

In seeking to promote greater international cooperation, it is also crucial to **ensure the political neutrality of the definition of a tax haven**. As has been pointed out in Section 2, a cooperation criterion determining which jurisdictions are listed may draw criticism of bias or favouritism, undermining the legitimacy of any published blacklists. Though it is productive for jurisdictions to be cleared on the basis of meeting internationally agreed tax standards, some jurisdictions may only appear cooperative while remaining operatively a tax haven. In addition, in the interest of neutrality, the EU should publish a black-list inclusive of its own Member States, not just third-country jurisdictions, as the list stands presently.

Another priority is to **more closely relate information on anti-money laundering and tax transparency rules**. This is already reflected in the Commission's proposed amendments to the Fourth Anti Money Laundering Directive which includes the widening of the scope of the information accessible to Financial Intelligence Units, introducing due diligence requirements for the exchange of virtual currencies and strengthening the verifications and controls on pre-paid instruments.

Furthermore, another relevant instrument at the EU level will be the establishment of a European Public Prosecutors Office (EPPO). The EPPO will be an independent body with the authority to investigate and prosecute EU-fraud and other crimes affecting the EU's financial interests. The establishment of the EPPO will bring about substantial changes in the way the EU's financial interests are protected. It should combine European and national law-enforcement efforts in a unified, seamless and efficient approach to counter EU-fraud. However, it is important to maintain a distinction between money laundering and tax evasion since the former is a criminal offence whereas the latter is a less grave offence. From a legal point of view, it is thus problematic to use data generated for the purpose of combatting money laundering, for example, to detect and investigate incidents of tax evasion.

The research highlights **the need to guarantee the protection of whistle-blowers**. There are two benefits in doing this. The first is the availability of information and better quality of data on off-shore activities that are otherwise shrouded in secrecy. The second benefit is that the protection of whistle-blowers acts as a driver against individuals or companies using tax havens or offshore financial centres, knowing that the possibility of leaks or their information being shared with national authorities is higher. Although difficult to assess, a behavioural change would be expected. The OECD has made the case for increased protection of whistle-blowers as part of its Anti-Corruption Plan<sup>132</sup> but EU Member States vary in the appliance of whistle-blower protection laws.<sup>133</sup> There are significant implications for other sectors, including defence, that need to be considered.

One separate issue that emerges from the research is the **lack of publicly available, reliable and comparable data** on the magnitude of tax avoidance and evasion, and the lack of comparable

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<sup>131</sup> On the OECD programme see, [http://ec.europa.eu/taxation\\_customs/business/company-tax/tax-good-governance/platform-tax-good-governance\\_en](http://ec.europa.eu/taxation_customs/business/company-tax/tax-good-governance/platform-tax-good-governance_en).

<sup>132</sup> OECD, Anti-Corruption Action Plan: Protection of Whistleblowers, 2011, <https://www.oecd.org/g20/topics/anti-corruption/48972967.pdf>

<sup>133</sup> Wolfe, Simon et al. "Whistleblower Protection Laws in G20 Countries: Priorities for Action", 2014, <https://www.transparency.de/fileadmin/pdfs/Themen/Hinweisgebersysteme/Whistleblower-Protection-Laws-in-G20-Countries-Priorities-for-Action.pdf>

methods to quantifying the impact of these incidents on countries' public finances and economic activities. The European Commission seems to have recognised this in 2015 when it began to work with Member States and Eurostat on exploring ways to improve data collection on the scale and economic impact of tax evasion and avoidance in the EU (see Section 1.3). So far the results of these efforts, including the work of the FISCALIS Project Group, have been fairly limited. This study suggests it is important to further pursue such efforts, highlighting the difference between data (collection) on corporate tax avoidance and evasion on the one hand, on which most research seems to focus to date, and tax evasion by individuals on the other hand, where data is particularly patchy. One source worth exploring in this context is data from tax authorities in Member States on the amount of additional tax revenue generated as a result of investigations of tax fraud. The Germany Ministry of Finance reports such data at least on an annual basis.

Last but not least, the European Semester provides a framework for the coordination of economic policies across the European Union. It allows EU countries to discuss their economic and budget plans and monitor progress at specific times throughout the year. In light of the findings of our study, in particular on the use of the Panama Paper schemes and the impact on EU and national budget, we recommend **discussing the integrity and transparency of the financial sector in different Member States within the framework of the European Semester**. In more concrete terms this could translate into the EU monitoring and preventing the use of Panama Papers schemes, which could jeopardise macroeconomic stability (i.e. linked to real estate bubbles, banking crises, etc.), and fostering adjustment by means of appropriate policies.



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## ANNEX I: LIST OF INTERVIEWS

Below we table the individuals, organisations and national authorities we interviewed or had written replies from. This is not an exhaustive list of those we contacted as some of those we interviewed wanted to do so under conditions of anonymity.

Member State	Organisation	Contact Name and Position
International	International Consortium of Investigative Journalists (ICIJ)	Marina Walker
		Minna Knus-Galan
		Oliver Zihlmann
		Will Fitzgibbon
		Frederik Obermaier
	CEPS	Kristof Clerix
CY	Ministry of Finance	Willem Pieter de Groen
		George Panteli, Director of Economic Affairs
		Kikis Paphites, Economics Officer
		Nayia Syrimi, Economics Officer
		Andreas Charalambous, Director of Financial Stability
CZ	Office of Government of the Czech Republic Academic (CZ) Independent expert, Ministry of Finance Investigative Journalist (CZ)	Avgi Lapathiotis, Officer in Directorate of Investment and Finance
		Ales Chmelar, Chief Economist
		Lukas Moravec
		Milena Hrdinkova
DE	Mannheim University ICIJ	Pavla Holcová
		Dr. Bulte
DK	SKAT (Danish Customs and Tax Administration)	Frederik Obermaier
FR	Anti-Corruption Network (FR) Transparency International France	Written reply in accordance with Ministry of Industry, Business and Financial Affairs.
		Sacha Raoult
ES	Sepblac International Cooperation Area Access Info Europe Journalist Local politician Journalist	Jacques Fabre
		Jacques Terray
		Alvaro Pinilla
		Helen Darbishire (written feedback)
		Joaquín Castellón
PL	Institute of Journalism Warsaw Chamber of Legal Advisors ePaństwo Foundation	Juan Loboto
		Daniele Grasso
		Vadim Makarenko
UK	Panama Task Force (Inter-agency task force) Her Majesty's Treasury Her Majesty's Revenue and Customs National Crime Agency Tax Research UK	Marlena Wach
		Krzysztof Izdebski, Policy Director
		Prof. Richard Murphy







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Upon request by the European Parliament's Committee of Inquiry to investigate alleged contraventions and maladministration in the application of Union law in relation to money laundering, tax avoidance and tax evasion (PANA Committee), this study assesses the impacts of the schemes revealed by the Panama Papers, a set of documents leaked from the law firm Mossack Fonseca detailing tax evasion and avoidance practices, and published by the International Consortium of Investigative Journalists (ICIJ) in April 2016.

The study explores the concepts and roles of tax havens and offshore financial centres, their budgetary, and the economic and financial impacts in a sample of EU Member States. The research combined previous estimates of tax revenue loss with a microeconomic assessment based on data on companies that are thought to be linked to the Panama Papers schemes. The most significant impacts identified are the negative effects on Member States' budgets, with wider knock-on effects on economic growth and financial markets. It is recommended that further steps are taken at the national, EU and international levels to increase transparency of corporate and individual taxation and to limit the scope for tax evasion and tax avoidance.

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