

TAX JUSTICE!

IRELAND'S ROLE IN THE
INTERNATIONAL CONTEXT

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TAX JUSTICE: IRELAND'S ROLE IN THE INTERNATIONAL CONTEXT

This is the final element of a three year project co-ordinated by War on Want (UK) and our European trade union affiliate, EPSU with assistance from the European Union. The project was designed as a participatory education programme on international development issues with specific reference to tax justice. A range of Public Service Unions across the EU engaged in the project including the CPSU in Ireland, PCS in Britain, NIPSA in Northern Ireland and ST in Sweden among others. The CPSU which represents lower income administration workers in Central Administration hosted a Seminar in Dublin in December 2015. It was opened by the General Secretary of the Irish Congress of Trades Union (ICTU) Patricia King and the papers presented under the title "Tax Justice! Ireland's Role in the International Context" form the basis of this Report.

Our participation in the project reflected a growing awareness of the importance of tax justice among trade union members in Ireland. The Irish Congress of Trades Unions Global Solidarity Committee has been working to highlight tax justice notwithstanding the fact that workers here have been understandably focused on coping with the impact of austerity politics and budgets on their own pay and working conditions. The so called 'double Irish' treatment of potential multi-national tax liabilities made headlines during the period of the project while work in Europe on the socio economic costs of tax dodging by multinational companies highlighted the need for radical tax policy transformation. The Seminar coincided with the EPSU victory in Brussels where the EU Commission confirmed an investigation into McDonalds tax arrangements in Luxembourg on foot of the report 'Unhappy Meal' which had found the company avoided €1bn in tax in 12 EU countries over a 5 year period.

It is clear there needs to be radical reform of the international corporate taxation system if we are to ensure sustainable delivery of quality public services, to guarantee fairness for all citizens, to build bonds of solidarity and co-operation between countries and to protect the right of developing countries to the same principles of fairness, equality and decent work that we seek for ourselves.

The positive participation by those attending the seminar was particularly reassuring. Indeed there was a most welcome outcome with those present agreeing to support and participate in a Public Service Unions Tax Justice Group. Plans are already in train to establish this group which will seek to build co-operation between members of different Irish public service trade unions and to liaise with Non-Governmental Organisations with an interest in Tax Justice, many of whom also attended the seminar.

I'd like to express our thanks to our colleagues in EPSU, War on Want and the many public service unions involved in the project for their support and assistance with the Seminar and this Report. I acknowledge the assistance of the EU but in particular I applaud the willingness of the representatives of the public service trade unions and the NGO's to support the launch of the Public Service Trades Unions Tax Justice Group.

Eoin Ronayne

General Secretary

Civil Public & Services Union (CPSU)

GLOBAL LEARNING: BUILDING AWARENESS OF TAX JUSTICE AND THE MDGS IN SUB-SAHARAN AFRICA AMONG EU PUBLIC SERVICE WORKERS

J. Hilary

PROJECT OVERVIEW

This Project has been undertaken with the assistance of the European Union and was designed as a participatory education programme on international development issues (with specific reference to tax justice and its importance for reaching the development goals, especially in sub-Saharan Africa) working with the public sector trade unions of Europe. Key partners have been War on Want, EPSU, ST, PSC, CPSU, and NIPSA.

The project has run for 3 years from (2013-2015) and has engaged thousands of union members in several European Countries including the UK, Sweden, Belgium, Republic of Ireland, Austria and Spain. As part of the project we produced engaging materials, off-line and on-line games, events, regional training workshops, national seminars and events, research reports, postcard and online action cards, and political briefings. All these were designed to educate, inform and engage union members and others on tax issues. They are then able to engage with policymakers over pro-development reforms to the international tax system. A website¹ will host the resources and on-going activities that have been created as part of the project.

One of the outputs in 2015 was a research report² and an on-line public action³ looking at the ways in which Zambia could be losing as much as \$3 billion revenue from tax avoidance, evasion and unnecessary tax breaks. Over 1600 UK individuals have already written to their Member of Parliament in the UK to demand tax justice following its publication.

THE CASE OF ZAMBIA

Zambia has abundant natural resources - including minerals and agriculture - yet gains little tax revenue from the extraction of these resources, leading to lost opportunities to invest in essential public services such as education and health which are all vital in tackling poverty. The report 'Extracting Minerals: Extracting waste' reveals how multinationals are able to dodge paying their fair share of tax.

In 2012 it was calculated that the amount of tax avoided by companies in Zambia was around \$2billion a year - representing 10% of Zambia's GDP. Looking at three companies with operations in Zambia Glencore, Vedanta and Associated British Foods, the report examines the details of tax avoidance strategies including use of complex corporate structures and mispricing. All these companies are based in the UK or are listed on the London Stock Exchange.

The report also describes further ways in which Zambia loses out on tax revenue. This includes

1 <http://www.notaxfraud.eu/>

2 Can be downloaded here <http://www.waronwant.org/ZambiaReport>

3 <http://e-activist.com/ea-action/action?ea.client.id=1819&ea.campaign.id=42924>

illegal tax evasion by companies based in Zambia which adds \$264million. A further \$752million is estimated to be 'lost' in tax incentives agreed by the government. In total it is estimated that the Zambian Government loses out on \$3bn in potential tax revenue. One aspect of tax avoidance is the lack of access by government officials to information on company operations, production and pricing. Combatting the key tax avoidance strategies will require adequate government capacity and expertise which currently does not exist. The report describes a total of \$3billion being lost to the Zambian exchequer - money which could be spent on essential public services such as health and education.

Public outcry over lost tax revenue led to government attempts in 2014 to address the way in which mining companies in particular avoided tax. However, these attempts to reform the tax systems were powerfully opposed by mining corporations. They threatened thousands of jobs and billions of dollars of investment. Looking forward, Zambia continues to face enormous challenges in addressing the \$3bn shortfall, yet without international support its position is weak. War on Want calls on northern governments, such as the UK, to address the ways in which the international tax system they support undermines Zambia's ability to raise a fair share of tax from northern multinationals operating in Zambia. The UK Government should:

- Close down tax havens.
- Ensure UK tax rules don't encourage big companies to avoid tax in developing countries
- Support the establishment a UN body to lead the re-writing of the global tax rules.
- Launch investigations into UK multinationals' corporate

WHAT NEXT

The official EC funded project will end in December 2015 but the work does not stop here. This project is designed to ensure the on-going engagement of trade unionists in tax policy debates on the impact of tax revenue on the provision of public services both at home and abroad, over the long-term. We are also demanding Country by Country Reporting⁴; corporate transparency in all sectors, so that governments and civil society can know the true extent of company profits.

The materials and campaign tools we have produced are all available on www.notaxfraud.eu and the training we have provided for trainers in particular will continue to educate union members and others. This will enable trade union members to put pressure on policy makers to ensure the right measures are put in place to avoid tax avoidance and evasion

Note: This work has been produced with the assistance of the European Union – DCI-NSAED/2011/247. The contents of this publication are the sole responsibility of War on Want and can in no way be taken to reflect the views of the European Union.

⁴ Shareholders' rights directive : the right place at the right time for public country by-country tax reporting <http://www.epsu.org/a/11767>

INTERNATIONAL TAX JUSTICE: IRELAND'S ROLE

M. Collins, Nevin Economic Research Institute (NERI)

Over recent years there has been increasing attention given to the structures multi-national firms use to manage their tax liabilities. Within firms and their advisors this attention has predominantly focused on constructing mechanisms to minimise, or even almost eliminate, taxation liabilities. Often these mechanisms are complex; involving multiple corporate entities, sub-entities and jurisdictions.

Within the broader public policy world, the recent recession heightened Governments' attention to new sources of sustainable taxation revenue. Consequently, the contrast between profitable firms avoiding making profit tax contributions to the state while smaller firms, employees and consumers were being asked to pay more became problematic; and both unacceptable and unsustainable in a number of countries.

In reality there is no such thing as an international corporate taxation system; rather what exists is a set of rules which have evolved piecemeal, within and between countries, since around the 1920s. In their current format the collective result of these structures has been to provide numerous legitimate routes for successful firms to shift profits and minimise taxation. As a result the contribution being made by capital to the tax base, and the costs of running states, has been aggressively reduced.

Although not an exhaustive list, the following is a brief summary of the methods being used:

Debt financing: where entities within a firm lend money between themselves, or borrow in a high-tax jurisdiction, so that interest costs are deducted against profits earned and profits can be shifted away from high-tax jurisdictions.

Intellectual Property (IP): where entities within a firm transfer IP ownership to a low-tax jurisdiction and use licences, royalties and inter-company dividends as a means of shifting earnings from elsewhere to the low-tax jurisdiction.

Transfer Pricing: where firms internally trade assets, inputs, intermediate products and outputs and thus have market power to set prices and skew the value of economic output and profits. Although there are rules for the transparent operation of such transfers, they remain problematic for some inter-firm transfers particularly in areas such as IP.

Contract Manufacturing: where a firm is located in a low-tax jurisdiction which may not be aligned with the market it wishes to manufacture its output in and/or sell its output to. In this case the firm will contract another firm or subentity to manufacture its output at cost plus a fixed mark-up; thus retaining most of the profits in the low-tax jurisdiction.

Tax Reliefs and Special Arrangements: firms avail of special rules and incentives from Governments to locate their activities, or aspects of their activities, in a low-tax jurisdiction. The latest iteration of these rules has been linked to IP and reduced rates of tax via knowledge and patent 'boxes'.

Two areas of competition have further fuelled this transformation of corporate taxation contributions:

Competition between Governments for mobile FDI (Foreign Direct Investment) which has seen the international corporate tax policy agenda pursuing a path of driving rates down and reliefs up.

Competition between Firms for share price advances, growth and both relative and nominal profit performance have underscored the incentives for firms to maximise profits and minimise taxes.

Ultimately, the result has been the evolution of a system which skews profits and taxes away from where they are earned and towards low and, in particular, no corporate tax countries at substantial revenue cost to many states.

A BROKEN SYSTEM: THE EVIDENCE

While the OECD, the EU and various individual Governments, among others, have illustrated the consequences of this regime, an insight of note is that recently outlined by the United States Congressional Research Service (Gravelle, 2015).

Using data published in 2014 by the IRS (Internal Revenue Service) on the tax records of 'controlled foreign corporations' for the year 2010, the study compared the profits earned by US companies in various countries with the GDP of those countries (see Table 1). The study is similar to that undertaken in May 2014 by the US Citizens for Tax Justice.

Table 1: US Company Foreign Profits relative to GDP, 2010

Country	Profits as % GDP	Country	Profits as % GDP	Country	Profits as % GDP
Italy	0.3	Panama	0.1	Barbados	5.7
Germany	0.4	Hong Kong	2.6	Bahamas	70.8
Japan	0.4	Singapore	4.7	Bermuda	1,614.0
France	0.6	Switzerland	12.3	British Virgin Islands	1,803.7
UK	2.1	Cyprus	13.6	Cayman Islands	2,065.5
Canada	3.3	Netherlands	17.1		
G7 (weighted)	0.7	Ireland	41.9		
		Luxembourg	127.0		

Source: Gravelle (2015: 17-18) US Congressional Research Service

As a benchmark the study first looked at fellow G7 states which saw US firms record profits of between 0.3% and 3.3% of GDP; the weighted average was 0.7%.

Looking at a group of countries the study describes as 'larger countries on tax haven lists and the Netherlands' it finds US firm profits ranged from 0.1% to 127% of GDP.

Ireland, which features in this group as it is listed on various international lists as either a tax haven or a country identified as having tax haven characteristics, recorded a figure of 41.9% of GDP.

While many of these figures are high they contrast with the study's findings for small countries (GDP of less than \$15 billion) with tax haven characteristics. For Bermuda, the British Virgin Islands and the Cayman Islands US firm profits are between 16 and 20 times GDP; all three countries have a 0% corporate tax rate. Given this the study notes:

"these numbers clearly indicate that the profits in these countries do not appear to derive from economic motives related to productive inputs or markets but rather reflect income easily transferred to low-tax jurisdictions" (Gravelle, 2015: 18).

Table 2 tracks how this has changed since 2004 for a number of countries. Overall, the trend is one of small increases in G7 countries but notable increases in the various states with tax haven characteristics. In Ireland's case the profits of US multinationals recorded here increased from 7.6% of GDP to 41.9% of GDP.

Table 2: US Company Foreign Profits relative to GDP, 2004 & 2010 (selected countries)

Country	Profits as % GDP 2004	Profits as % GDP 2010
G7(weighted)	0.6	0.7
Switzerland	3.5	12.3
Netherlands	4.6	17.1
Ireland	7.6	41.9
Luxembourg	18.2	127.0
Barbados	13.2	5.7
Bahamas	43.3	70.8
Bermuda	645.7	1,614.0
British Virgin Islands	354.7	1,803.7
Cayman Islands	546.7	2,065.5

Source: As Table 1

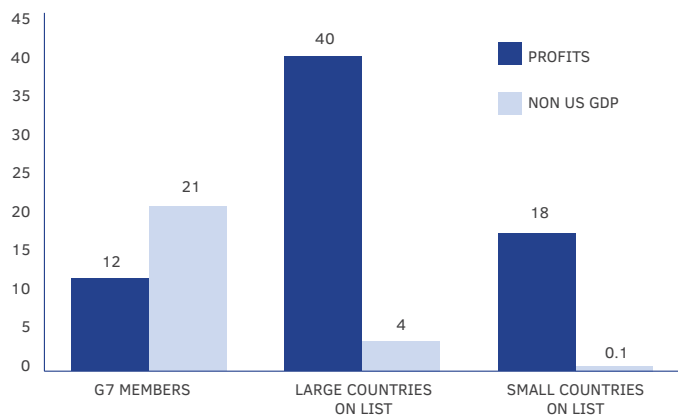


Chart 1: Comparison of US Company Foreign Profits relative to non-US GDP, 2010

Source: Gravel (2015: 17-18) US Congressional Research Service

Note: Large countries on list refers to countries with a GDP of more than \$15b who are listed on various 'tax haven' lists. Small countries on list refers to similar countries with a GDP of less than \$15b.

The result has been a concentration of US company profits in a limited group of countries which account for a small proportion of the real level of economic activity in the world (see Chart 1). It has also seen US firms park large amounts of cash off-shore, estimated at \$2 trillion (Capital Economics); and the current structures only incentivise the continued use of those funds to further fuel the tax avoidance and shifting cycle.

REPAIRING THE SYSTEM: IRELAND'S ROLE

Although the above data illustrate a major US tax problem, and there is a key role for the US to reform its broken system, the repercussions of that broken system impact across most developed and developing countries. Furthermore, similar (less transparent) tax shifting is occurring between entities operating across numerous countries.

To address the current broken system a number of reforms are needed. These include:

- An increase in the transparency of firm operations and ownership. Included in this is the introduction of published country by country reporting; a recommendation of the recent OECD BEPS project although the important requirement for publication was not suggested.
- Greater alignment of corporate taxes to economic activity with an ultimate aim of aligning corporate taxes to the location where those profits are directly generated via sales.
- Recognition that the current system is unsustainable and that while it is benefiting many firms and some countries, including Ireland, the costs to other countries and their citizen are immense and unsustainable.

For Ireland these reforms imply a need to take a more active role in European and international tax reform; to date Ireland has been predominantly passive. Ireland should move beyond the recent BEPS proposals and begin to support the EU Common Consolidated Corporate Tax Base (CCCTB) agenda. Ireland, as a beneficiary of the current broken system, also needs to recognise that the necessary future reforms to the international corporate tax system carry an inevitable negative impact for corporate tax revenues. Although those reductions are some years away, it would be prudent to prepare for them.

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THE IMPACTS OF TAX INJUSTICE ON DEVELOPING COUNTRIES

S. McCaughey, Tax Justice Network Ireland

The exact amount that developing countries lose to tax dodging by multinationals is much debated in recent years, and is contested. Christian Aid estimated in 2008 that \$160bn is lost annually to the developing world from tax evasion by multinationals and other businesses engaged in international trade seeking to minimise their tax liability. One recent estimate, from an IMF spillover analysis in 2014, is that corporate tax dodging costs developing countries at least \$100 billion a year.

Whatever the actual figure, there is agreement that the cost of tax-dodging by multinational corporations amounts to much more than least developed countries receive in aid each year: circa US\$ 25 billion in 2014. This injustice prolongs developing countries reliance on aid, undermines good governance, and skews government accountability away from citizens towards donor country governments and multinational companies.

In May 2015, the IMF¹ cited “substantial experience of even single international tax cases involving what are very significant amounts of revenue (IMF, 2014), especially for low-income countries. And Global South countries tend to be more reliant on the corporate income tax as a share of all tax revenue than many higher income countries, with fewer realistic alternative sources of revenue. All this suggests that developing countries may well be more vulnerable to erosion of the corporate tax base.

There are different ways in which developing countries are affected by tax dodging by multinational companies. The following section details 3 different examples. None of them is exclusive to developing countries- many developed countries are struggling to tax multinationals accurately- but the impacts of the loss of revenue experienced by developing countries is felt far more acutely, as governments struggle to fund basic services for citizens.

EXAMPLE 1

In 2011, a leaked audit report from the accounting firm Grant Thornton, highlighted several irregularities in the activities of the Mopani mine, a subsidiary company of the commodities giant Glencore. Their report (which was rejected by the company) claimed that the company was inflating costs in Zambia, including ‘unexplainably’ high labour costs, while at the same time, deliberately undervaluing the cost of the copper being exported to Switzerland.

The effect of this was to minimise the profit and therefore the tax payable in Zambia over the period covered by the audit report. The Centre for Trade Policy and Development (CPTD) in Lusaka, Zambia, estimated that the cost to the Zambian exchequer was \$88 million between 2008 and 2010. Christian aid research has shown that this copper is subsequently sold on from low-tax Switzerland at prices above the world average prices; the phenomenon is explained in detail in Christian Aid’s report *Swissploitation*².

This is an example of how the OECD arm’s-length principle can be abused: the arm’s length principle being where subsidiaries of the same parent company- when trading between themselves, are obliged to price their commodities on the basis of a normal market price- the ‘going rate’. In other words, what the price of that commodity would be if it were traded between two unrelated companies.

The abuse of the arms-length principle, or transfer mispricing, as in the example above, is illegal, but with 60% of global trade taking place between related

1 Base Erosion, Profit Shifting and Developing Countries, <https://www.imf.org/external/pubs/ft/wp/2015/wp15118.pdf>

2 *Swissploitation? The Swiss Role in Commodity Trade* <http://www.christianaid.org.uk/images/CAW-Swissploitation-May-2013.pdf>

companies it is one of the most common forms of tax evasion.

Christian Aid research from 2008 showed that transfer mispricing, along with the less common false invoicing -- where two unrelated companies collude in fixing the price of a commodity and split the ensuing profit between them -- amounts to approximately \$160bn each year being lost to the poorest 49 countries in the world (Christian Aid, *Death and Taxes*, 2008³).

EXAMPLE 2

The second example highlights the challenge and pressures developing countries, particularly those resource-rich capital-poor countries like Zambia and Sierra Leone, face in attracting foreign direct investment into their countries.

External pressure from influential bodies such as the World Bank, as well as the ability of large multinational mining companies to aggressively negotiate very favourable rates and contracts to operate in these countries (sometimes supported by the MNCs home states negotiating terms in tax treaties), has seen many countries lower corporation tax rates and offer a range of tax incentives and breaks to these companies.

The World Bank for example, in its hugely influential *Doing Business* report, ranks countries according to the attractiveness of the country as a destination in which to do business. One of the criteria used is a low corporation tax rate.

In Sierra Leone, the government has resorted to grant a range of incentives and tax breaks to companies to operate there. But this approach is not without considerable cost. In 2012, the government granted tax breaks to mining companies to the tune of \$224 million. This figure is equivalent to seven times the health budget, and eight times the education budget. This is a country where more than 60% of people (or about 3.4 million people) live below the poverty line, and life expectancy is below 50.

While well placed and targeted tax incentives can play a role in stimulating productive economic activity, too often tax incentives are granted without a robust cost benefit analysis, sometimes without one at all, and without a systematic review of their usefulness after an agreed period of time has elapsed.

In the case of Sierra Leone, the tax incentives are often held at the discretion of individual ministers, leaving them vulnerable to corrupt application. This issue is dealt with in detail in the Christian Aid report *Losing Out* (2013).

EXAMPLE 3

The third example involves a report written by the NGO Action Aid which highlighted how a subsidiary of the British food conglomerate ABF Sugar, Ilovo Sugar, through the use of a subsidiary based in the IFSC, took advantage of a provision in the Ireland - Zambia tax treaty to avoid paying \$18m in tax over the period 2007-2011.

The company exploited the fact that the Ireland-Zambia tax treaty did not allow for withholding tax on management fees allowing the IFSC subsidiary to charge Ilovo Sugar management fees. The research showed that the IFSC subsidiary was a brass plate operation, with zero employees. It would appear that the IFSC operation was designed solely to facilitate tax avoidance.

CONCLUSIONS

The above examples are three distinct and different illustrations of the pressure and challenges that developing countries face in protecting their tax bases, and collecting revenue due to them. Only the Mopani mining case can be considered illegal: the other two are examples of how the current international tax system can be manipulated and exploited to the advantage of multinational companies and at the expense of poorer countries.

3 <http://www.christianaid.org.uk/images/deathandtaxes.pdf>

Of course these issues are not exclusive to developing countries (revenue authorities in developed economies are not immune to the damages of transfer mispricing and tax wars) but the effects and consequences are always going to be felt more acutely in developing countries without the financial buffer that most developed economies enjoy.

Put simply, tax dodging robs developing countries of vital revenue that could otherwise be spent on basic services such as health and education. It leaves them reliant on aid, and more accountable to donors and multinationals than to their citizens.

Of course there is a question of capacity as well. Africa would need an additional 64,000 tax inspectors to get to the OECD average. But capacity building alone is no substitute for more systematic and structural reform of the tax system.

The OECD BEPS process attempted to do that, but its inability (or unwillingness) to incorporate the specific concerns of the broad range of developing countries into its programme of work means that developing countries remain on the margins, and vulnerable to the abusive tax dodging practices of many multinational corporations.

With the general election in the offing early in 2016, Tax Justice Ireland is calling (among other things) for all political parties to:

- Commit to grounding Ireland's tax and fiscal policy in human rights, including through costing and undertaking impact assessment of all proposed Budget measures
- Prioritise greater transparency and the introduction of Public Country by Country Reporting for multinational corporations
- Assess any major changes to the Irish tax code, in advance, for their potential spillover effect on developing countries, and any negative impact on human rights – and then avoid or mitigate those dangers
- Ensure that Ireland's double taxation treaties negotiated with developing countries include an anti-abuse clause and respect domestic taxation rates in order to ensure they cannot be used for non-taxation and tax avoidance
- The Irish register that will hold the names of the beneficial, or real, owners of companies (and hopefully trusts) under the EU Anti-Money Laundering Directive should be publicly available

Ireland cannot 'go it alone' on all of these actions – many of them require a coordinated approach at international if not global level – but it can take immediate and specific actions on some, and both take and promote much more progressive positions in key international fora in which related decisions are taken, especially the EU, the OECD and the UN.

In this way, it could go a long way to avoiding and remedying the negative impacts of tax injustice on developing countries. In doing so, it would be demonstrating a much more consistent and principled approach in relation to its own human rights obligations – while supporting low-income countries to boost their tax revenues so that they can vindicate the social and economic rights of their peoples.

TAX JUSTICE: THE CONTEXT FOR EU PUBLIC SERVICE UNIONS

N. Salson, EPSU



European Federation of Public Service Unions- EPSU



Tax justice, Ireland's role in tax justice - CPSU/ War on Want/EPSU tax justice project

14 December 2015

EU context: public service unions' demands

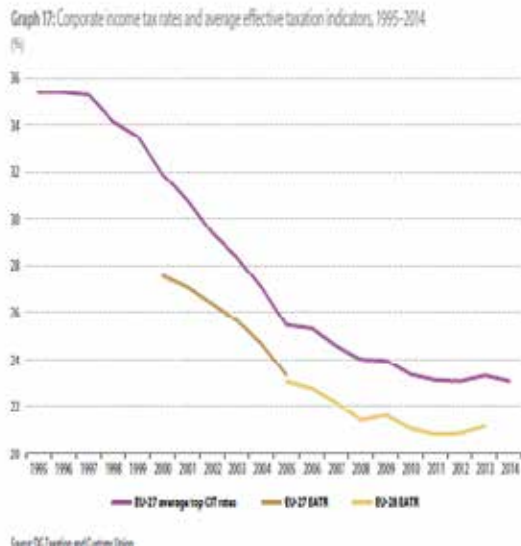
This Report closes a 3-year project on building awareness on tax justice with War on Want and affiliates from Austria, Sweden, the UK, Spain, Belgium as well as PSI affiliate from Ghana.

There is now no doubt that tax justice is top of the political agenda in Europe thanks to the mobilisation of campaign groups, trade unions across the world.

5 years ago, when EPSU launched a campaign entitled 'Europe's missing €1trillion: we want it back', it was difficult to get any government or the European Commission to recognise that we had a tax problem that required European and International solutions. Our key message was, and still is, that tax justice is a central alternative to austerity, it is essential to finance public services we all need, to fight inequalities and redistribute wealth which is kept captive in the hands of the few.

1 Downward trend of corporate tax rate

Development of the overall tax revenue in the European Union



- In EU27, corporate tax rate fell from 35 % to 23 % between 1995 and 2014
- most significant fall in Europe
- Same downward trend for tax on top income and wealth
- In EU 28, most important source of tax revenue comes from
 - ✓ Labour, 51%;
 - ✓ Consumption 28,5%
 - ✓ capital 20,8%

It's a problem that goes back a long time: nominal corporate tax rates in Europe have fallen by roughly 12 % points since 1995, from 35% to 23%. It is the same downward trend with tax on top income, on inheritance and on wealth where they exist. To make up the shortfall, governments increasingly rely on higher taxes on workers' wages and consumers through VAT – see slide.

Decreasing progressive tax obligations is bad enough. But the truth of the matter is that many big multinationals aren't even paying that. Since the crisis we have seen a proliferation of Intellectual Property boxes that grant companies significantly lower tax rates or special tax credits supposedly to encourage research and development, innovation. In reality, it creates a race to the bottom as countries compete to offer the most corporate-friendly tax code.

This use and abuse of IP boxes is just one of a myriad profit-shifting strategies: 'transfer mispricing', dodgy intragroup loans, bilateral double taxation agreements, or tax rulings. Some of the schemes are so brazen that you wonder how anyone can claim they are legal. A US senate enquiry, for example, found that Apple when asked to fill out its country of residence for two subsidiaries on its Irish tax forms left the box blank. The result: no corporation tax paid in the US and none paid in Ireland.

McDonald's appears to have done something similar in Luxembourg. Early this year, EPSU, released a report jointly with War on Want, the US union SEIU and the European federation organising fastfood workers into McDonald's tax dealings. The report, *Unhappy meal*, found that the global fastfood leader had dodged around €1 billion of tax in its largest European markets between 2009–2013. This report received lots of media attention in a number of countries. Much was known about so-called Mc Jobs, but not about its tax dumping strategy.

International coalition of trade union SEIU/EPUSU/EFFAT & War on Want

Mc Donald's
Business model of
social and tax
dumping
Subject to EC
investigation
following
Unhappy meal report



Back in 2008, McDonald's set up a subsidiary in Luxembourg with a branch in Switzerland and Delaware. It transferred all of its intellectual property royalties and franchisee payments for Europe to this new Luxembourg entity that employs 13 people and has since become Mc Donald's' most profitable subsidiary. The report found that the company did not even pay the very low Luxembourg's IP box rate of 5.8% but only 1.4%. Our guess was that a tax ruling was at play, i.e a secret tax deal with the Luxembourg authorities.



Two weeks ago, following the Unhappy meal report, the European Commission launched an investigation into whether McDonald's had received illegal state aid from Luxembourg, in the form of not just one, but two rulings. The Commission says Mc Donald's has 'virtually not paid any corporate tax in Luxembourg nor in the US on its profits since 2009.' The Commission's words, not ours!

Decision on the investigation can take a year and might lead to Mc Donald's being asked to reimburse a part of the tax rebate if it is found illegal state aid. This is a victory for our international coalition that set out to take on this massive multinational. It shows that when companies and governments say that aggressive tax planning is legal, it needs to be checked. The line between legal and illegal tax practices is very thin.

Of course, McDonald's is but one company and is symptomatic of a much, much bigger problem. The LuxLeaks revelations, thanks to whistle-blower Antoine Deltour and investigative journalists, exposed hundreds of these tax rulings issued by Luxembourg's tax authority with the big help of the big four accounting firms that have created a veritable industry of tax avoidance.

The ruling's problem is not confined to Luxembourg, but these leaks acted as a catalyst for action. The European Parliament set up a special committee to look at tax rulings and tax avoidance more widely.

17 multinationals were requested to appear in front of the committee: eventually most of them did, including Mc Donald's, but only after multiple invitations and the threat of removing their lobbyists' access to Parliament. Their representatives were particularly evasive and arrogant when questioned by MEPs about operations in tax havens, profit shifting, or effective corporate tax rate. Ikea said that they are not a company, but a foundation.

The committee's report was passed by the European Parliament at the end of November. It is a damning report for EU governments that have let not only tax dumping proliferate but many have also been uncooperative with MEPs. Access to tax documents, such as tax rulings, is clearly an obstacle to get the EU house in order. The good news is that the Tax Committee will continue its work for another 6 months.

Parliament has also confirmed its support for EU protection of whistle-blowers - Antoine Deltour risks 5 years imprisonment for divulging to the press PWC secret tax rulings - and for a number of key transparency measures including public country-by-country reporting for all multinationals.

We want multinationals to report on their sales, turnover, profits, company subsidiaries, tax payments, public subsidies and the number of their employees for each country where they operate. This will help reduce the possibility of evading taxes by showing where real economic activity takes place and if corresponding tax is being paid. It must be public to ensure democratic accountability of multinationals not only in Europe but everywhere. It is an essential tool for tax administrations to know where to look and investigate. It is essential for trade unions when they bargain for higher pay to know how much profit companies are generating.

With War on Want we are organising e-action cards to put pressure on governments to support compulsory public CBCR. We encourage you to sign and get your members to sign.

Next year, the debate for a common consolidated corporate tax base across Europe will be relaunched as a way to reduce the mismatches between national tax systems on which tax avoidance thrives. At the ETUC's congress, an EPSU amendment calling for a 25% minimum corporate tax rate across Europe was approved. A minimum rate would stop the race to the bottom on tax. A common base that treats multinationals as a single entity and not hundreds of different entities, and taxed where the economic activity takes place, would make a huge difference. We don't know yet what the EC will present, we know it will be limited to the base and will be compulsory. It will be a controversial issue with a number of governments including Ireland. Yet we cannot have a single currency, a single market, and no common corporate tax.

The EP tax committee will continue to work, which will help keep the issue at the top of the political agenda for the first half of 2016

So there is momentum, but there is a risk that we lose it. Governments say that they have done all they could, automatic exchange of information, lift of bank secrecy. They say that we can rely on the G20 action plan against BEPS- base erosion and profit shifting, which costs anywhere, at the very least, from 4-10% of global corporate income tax revenues. Except the action plan does not go far enough.

This is best illustrated by the new Irish innovation box. We're glad to hear about the future closing of the double Irish loophole, but there are concerns about the IP box that will replace it. It was been much lauded as the 'first-BEPS-compliant IP box'. There are some technical aspects we need to look into more, but there is a wider political point to be made that governments shouldn't formalise tax avoidance through these kinds of measures.

So despite the progress there still a long way to go: country-by-country reporting, common corporate tax, not to forget a tax on financial transactions maybe before next summer.

As public service trade unionists we need to make the point that you can't fight tax avoidance without resources for tax administrations. A study commissioned by EPSU found that between 2008 and 2012 there was, on average, a 10% drop in the number of tax inspectors in the EU. Ireland was above average with a net loss of 13. In 2013, the report noted a slight rise in staff numbers, but that that the headline figure compared to 2008 remained roughly unchanged.

Those cuts are socially and economically unsound. Investment in tax authorities brings back many times the revenue in taxes collected. Yet more cuts are in the pipeline.

To conclude, trade unions, campaign groups as War on Want, together we're making corporate giants nervous first by showing a united front and second by shining a light on their tax affairs.

We have won visibility and support for our actions.

Together we must continue exposing the scale of tax dodging and making the link with how many public service jobs could be created if only those that can afford to pay their fair share of tax would do so. It is essential to restore people's trust in a progressive tax regime.

"power concedes nothing without a demand. It never did, and it never will". But the collective strength of trade unions and tax justice movement can and has already made a difference.

It is in everyone's interest that a non sustainable system as it exists today be corrected. If not, it will result in more bankruptcies of states and municipalities that depend on tax revenues, more loss of pensions, more housing confiscation, more trade wars and more refugees fleeing wars and persecution.

We have won the battle of ideas, tax justice has become popular in many countries, although more in the western part of Europe than in the East. As part of our project with War on Want we also learned a lot from each other, about trade unions campaigns in Europe and Africa. We must continue the good cooperation to ensure long lasting policy change.

BIOGRAPHIES

EOIN RONAYNE



Eoin is General Secretary of the CPSU since 2012 having served as Deputy General Secretary and Financial Secretary. He joined the union in 2002 from the National Union of Journalists where he

was Irish Secretary. Previously he worked as a broadcast news journalist/presenter and radio producer with RTE. Eoin is a member of the ICTU Executive Committee and the EPSU Committee for National and European Administrations.

DR MICHEÁL COLLINS



Dr Micheál Collins is Senior Research Officer at the Nevin Economic Research Institute (NERI). His research interests and publications are in the areas of income distribution, taxation, economic evaluation and public policy.

Prior to joining NERI he was Assistant Professor of Economics at Trinity College Dublin. He is Chairman of the Irish Social Policy Association (ISPA) and a former chairman of the Regional Studies Association (RSA) of Ireland. He was a member of the Republic of Ireland's Commission on Taxation (2008-2009) and the Government's Advisory Group on Tax and Social Welfare (2011-2014). He is currently a member of the National Competitiveness Council and the TCD Pensions Policy Research Group. He is a fellow of the Regional Studies Association (FeRSA).

SORLEY MCCAUGHEY



Sorley McCaughey is Head of Advocacy and Policy, Christian Aid Ireland. Christian Aid has spearheaded the work of international NGOs work on tax justice since 2007, when it became

the first international NGO to take on the issue of tax justice. As Head of Advocacy and Policy, Sorley has led on Christian Aid's tax work since 2009. During this time, tax as a development issue has moved from a marginal niche issue to being recognised as mainstream consideration for Irish government officials developing Irish tax policy. Sorley also sits on the EC Platform for Tax Good Governance. Previously, Sorley work for the UNDP in Mozambique and Ethiopia where his area of expertise was anti-corruption programmes and public sector reform.

NADJA SALSON



Nadja Salson is EPSU Policy Officer since 2003 for the sector of central government and EU administration.

Key responsibilities include

- Coordination of EPSU-led trade union delegation in EU social dialogue for central government
- Policy and campaign for decent working and living conditions in prison services
- Coordination of EPSU policy and campaign on migration and since 2010 on tax justice
- Member of EC good tax governance platform since 2013.

TONY CONLON



Sligo native Tony Conlon was elected CPSU President in 2014. He has been a member of the union for 20 years and has served on the Executive for the last decade. A

Clerical Officer in the Department of Social Protection he is also an active workplace representative and Branch Committee member and Officer with the CPSU PSO Branch in Sligo.

JOHN HILARY



John Hilary is Executive Director of War on Want. He has worked in the global justice movement for the past 25 years, and has published widely on issues of globalisation, trade policy and workers'

rights. His report on the Transatlantic Trade and Investment Partnership (TTIP), published by the Rosa Luxemburg Foundation, has been translated into 12 European languages. In 2013 John was appointed Honorary Professor in the School of Politics and International Relations at the University of Nottingham. His book, *The Poverty of Capitalism: Economic Meltdown and the Struggle for What Comes Next*, was published by Pluto Press the same year. He is also co-editor of the collection of essays entitled *Free Trade and Transnational Labour*, published by Routledge in 2014.



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