

# DECISIONS

## DECISION (EU) 2016/1021 OF THE EUROPEAN PARLIAMENT

of 8 June 2016

### **on setting up a 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, its powers, numerical strength and term of office**

THE EUROPEAN PARLIAMENT,

- having regard to the request presented by 337 Members for a committee of inquiry to be set up to investigate alleged contraventions and maladministration in the application of Union law in relation to money laundering, tax avoidance and tax evasion,
- having regard to the proposal by the Conference of Presidents,
- having regard to Article 226 of the Treaty on the Functioning of the European Union,
- having regard to Decision 95/167/EC, Euratom, ECSC of the European Parliament, the Council and the Commission of 19 April 1995 on the detailed provisions governing the exercise of the European Parliament's right of inquiry <sup>(1)</sup>,
- having regard to Article 4(3) of the Treaty on European Union,
- having regard to Articles 107 and 108 of the Treaty on the Functioning of the European Union,
- having regard to Article 325 of the Treaty on the Functioning of the European Union,
- having regard to Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing <sup>(2)</sup>,
- having regard to Directive (EU) 2015/849 of the European Parliament and of the Council of 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>(3)</sup>,
- having regard to Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC <sup>(4)</sup>,
- having regard to Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC <sup>(5)</sup>,
- having regard to 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 <sup>(6)</sup>,

<sup>(1)</sup> OJ L 113, 19.5.1995, p. 1.

<sup>(2)</sup> OJ L 309, 25.11.2005, p. 15.

<sup>(3)</sup> OJ L 141, 5.6.2015, p. 73.

<sup>(4)</sup> OJ L 176, 27.6.2013, p. 338.

<sup>(5)</sup> OJ L 64, 11.3.2011, p. 1.

<sup>(6)</sup> OJ L 359, 16.12.2014, p. 1.

- having regard to Directive 2014/91/EU of the European Parliament and of the Council of 23 July 2014 amending Directive 2009/65/EC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) as regards depositary functions, remuneration policies and sanctions <sup>(1)</sup>,
- having regard to Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 <sup>(2)</sup>,
- having regard to Commission Delegated Regulation (EU) No 231/2013 of 19 December 2012 supplementing Directive 2011/61/EU of the European Parliament and of the Council with regard to exemptions, general operating conditions, depositaries, leverage, transparency and supervision <sup>(3)</sup>,
- having regard to Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) <sup>(4)</sup>,
- having regard to Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC <sup>(5)</sup>,
- having regard to Regulation (EU) No 537/2014 of the European Parliament and of the Council of 16 April 2014 on specific requirements regarding statutory audit of public-interest entities and repealing Commission Decision 2005/909/EC <sup>(6)</sup>,
- having regard to Directive 2014/56/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts <sup>(7)</sup>,
- having regard to Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC <sup>(8)</sup>,
- having regard to Directive 2012/17/EU of the European Parliament and of the Council of 13 June 2012 amending Council Directive 89/666/EEC and Directives 2005/56/EC and 2009/101/EC of the European Parliament and of the Council as regards the interconnection of central, commercial and companies registers <sup>(9)</sup>,
- having regard to Commission Recommendation 2012/771/EU of 6 December 2012 regarding measures intended to encourage third countries to apply minimum standards of good governance in tax matters <sup>(10)</sup> and Commission Recommendation 2012/772/EU of 6 December 2012 on aggressive tax planning <sup>(11)</sup>,
- having regard to the Commission communication of 28 January 2016 to the European Parliament and the Council on an External Strategy for Effective Taxation (COM(2016) 24),
- having regard to Rule 198 of its Rules of Procedure,

1. Decides to set up a 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;

<sup>(1)</sup> OJL 257, 28.8.2014, p. 186.

<sup>(2)</sup> OJL 174, 1.7.2011, p. 1.

<sup>(3)</sup> OJL 83, 22.3.2013, p. 1.

<sup>(4)</sup> OJL 335, 17.12.2009, p. 1.

<sup>(5)</sup> OJL 157, 9.6.2006, p. 87.

<sup>(6)</sup> OJL 158, 27.5.2014, p. 77.

<sup>(7)</sup> OJL 158, 27.5.2014, p. 196.

<sup>(8)</sup> OJL 182, 29.6.2013, p. 19.

<sup>(9)</sup> OJL 156, 16.6.2012, p. 1.

<sup>(10)</sup> OJL 338, 12.12.2012, p. 37.

<sup>(11)</sup> OJL 338, 12.12.2012, p. 41.

2. Decides that the Committee of Inquiry shall:

- investigate the alleged failure of the Commission to enforce and of Member States to implement and to enforce effectively Directive 2005/60/EC, taking into account the obligation of timely and effective implementation of Directive (EU) 2015/849,
- investigate the alleged failure of Member States authorities to apply administrative penalties and other administrative measures to institutions found liable of serious breach of the national provisions adopted pursuant to Directive 2005/60/EC, as required by the Directive 2013/36/EU,
- investigate the alleged failure of the Commission to enforce and of Member States authorities to implement effectively Directive 2011/16/EU especially Article 9(1) thereof on spontaneous communication of tax information to another Member State in cases where there are grounds for supposing that there may be a loss of tax, taking into account the obligation of timely and effective implementation and enforcement of Directive 2014/107/EU; for this purpose and for investigations on other legal bases regarding alleged contraventions or maladministration mentioned, make use of access to all relevant documents, including to all relevant documents of the Code of Conduct Group which have been obtained by the TAXE 1 and TAXE 2 special committees,
- investigate the alleged failure of the Member States to enforce Articles 107 and 108 of the Treaty on the Functioning of the European Union, relevant to the scope of the inquiry provided for in this decision,
- investigate the alleged failure of the Commission to enforce and of Member States to implement and to enforce Directive 2014/91/EU,
- investigate the alleged failure of the Commission to enforce and of Member States to implement and to enforce Directive 2011/61/EU and Commission Delegated Regulation (EU) No 231/2013,
- investigate the alleged failure of the Commission to enforce and of Member States to implement and to enforce Directive 2009/138/EC,
- investigate the alleged failure of the Commission to enforce and of Member States to implement and to enforce effectively Directive 2006/43/EC, taking into account the obligation of timely and effective implementation of Regulation (EU) No 537/2014 and Directive 2014/56/EU,
- investigate the alleged failure of Member States to transpose Directive 2013/34/EU,
- investigate the alleged failure of the Commission to enforce and of Member States to implement and to enforce effectively Directive 2012/17/EU,
- investigate potential breach of the duty of sincere cooperation enshrined in Article 4(3) of the Treaty on European Union by any Member State and their associate and dependent territories in so far as it is relevant to the scope of the inquiry provided for in this decision; to that end, assess in particular whether any such breach may arise from the alleged failure to take the appropriate measures to prevent the operation of vehicles that allow their ultimate beneficial owners to be hidden from financial institutions and other intermediaries, lawyers, trust and company service providers or the operation of any other vehicles and intermediaries that allow the facilitation of money laundering, as well as tax evasion and tax avoidance in other Member States (including looking at the role of trusts, single-member private limited liability companies and virtual currencies), while also taking into account current ongoing work programmes that are taking place at Member State level which seek to address these issues and mitigate their effect,
- make any recommendations that it deems necessary in this matter, including on the implementation by Member States of the abovementioned Commission Recommendations of 6 December 2012 regarding measures intended to encourage third countries to apply minimum standards of good governance in tax matters and aggressive tax planning, as well as assess latest developments of the Commission's External strategy for effective taxation and assess the links between the legal framework of the Union and Member States and the tax systems of third countries (e.g. Double Taxation Agreements and Information Exchange Agreements, Free Trade Agreements) as well as efforts made to promote, at international level (Organisation for Economic Cooperation and Development, G20, Financial Action Task Force and United Nations), the transparency of beneficial ownership information;

3. Decides that the Committee of Inquiry shall submit its final report within 12 months of the adoption of this decision;
  4. Decides that the Committee of Inquiry should take account in its work of any relevant developments within the remit of the Committee that emerge during its term;
  5. Decides that any recommendations drawn up by the Committee of Inquiry and by the TAXE 2 special committee should be dealt with by the relevant standing committees;
  6. Decides that the Committee of Inquiry shall have 65 members;
  7. Instructs its President to arrange for publication of this decision in the *Official Journal of the European Union*.
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