



## **International Conference on Transparency of Beneficial Ownership**

30 – 31 October 2018, Rogner Hotel - Tirana, Albania

### **Welcoming remarks by Christos Giakoumopoulos Director General of Human Rights and Rule of Law**

- It is my pleasure to be here in Tirana today and to welcome you to the conference on “Transparency of Beneficial Ownership”. Special thanks to the Minister of Justice Madame Gjonaj, and His Excellency the EU Ambassador Soreca, for joining us this morning. Your participation further emphasises the importance of this event.
  
- We all agree that corruption, money laundering and terrorism financing undermine the rule of law and public trust in democratic institutions and, ultimately, sustainable economic development. Therefore, fighting them is a key priority for the Council of Europe and for the European Union. We work hand in hand with the EU to meet the challenge. This Conference is one of such partnerships where we invite our member states to come together to discuss their experiences and learn from each other.
  
- Why we will be talking today and tomorrow about beneficial ownership? It is enough to think about the public resonance of the “Panama papers” and other similar scandals of various names. Times are changing and beneficial ownership is no longer seen as a technical issue. Just as what were usual ways of doing business thirty years ago, today are deemed unacceptable corruption acts, criminalised in all Council of Europe member States, the beneficial ownership is no longer an untouchable private matter. Surely

not so when it covers tax evasion, hiding of assets of fraudulent or criminal origin, money laundering and other crime.

- We must be careful not to throw out the baby with the water. There are many valid reasons not to make public all private assets of every individual or family. The right for respect of private and family life is protected by the European Convention on Human Rights. The first right added to those enshrined in the convention, by a Protocol dating back to 1952, is the right to peaceful enjoyment of property. I should like nevertheless to quote here the second paragraph of the formulation of this right: "*The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties*". In other words, regulating transparency of beneficial ownership will require a carefully thought through balancing of human rights.
- The technicality of arrangements that may obscure or hide beneficial ownership is a challenge in itself, and it will require advanced and well-functioning international co-operation.
- None of the above can be achieved without sufficient political will by the Governments and strong public support. Rising to the challenge will take a long journey to a lasting change through national solutions.
- Hence the importance of this inter-regional conference. We hope and expect that your discussions and the follow-up you will give them at home will contribute to raising the awareness at policy design and technical level.
- There are many countries and jurisdictions gathered around this table, we count on your rich and varied experiences, and on your joint interest to

- put a stop to the criminal abuse of legal entities and shadowy financial transactions and to throw a measure of light on the beneficial ownership.
- Let me now turn to some of the media revelations. As we have seen from the Panama Papers<sup>1</sup>, Paradise Papers<sup>2</sup> etc., criminals around the world are working hard and fast to cover their identity, hide illegal gains and evade taxes by creating multiple shell companies and misusing them for arcane financial transactions. Remember, almost no country was out of the Panama Papers shameful map...
  
  - According to an estimate from Oxfam International, the tax evasion revealed in the Panama papers costs the poor countries at least \$170 billion in lost tax revenues each year<sup>3</sup>. To give just one example, the Panama Papers show an oil company paid Mossack Fonseca (world's fourth biggest offshore law firm) to help it avoid US\$400 million in taxes in Uganda. This is more than the entire Ugandan health budget.
  
  - Another recent example, from last month - between 2007 and 2015, payments totalling 200 million euros flowed the tiny Estonian branch of Danske Bank. Many of them, said Denmark's largest lender, were suspicious. This scandal prompted calls for an overhaul of bank supervision in Europe. Currently, the European Banking Authority is inquiring with the Danish Supervision authorities and it will launch a review into how all EU member states apply anti-money laundering rules.
  
  - A study commissioned by the European Parliament estimates that revenue losses for the EU due to corporate taxation avoidance could amount to around 50-70 billion euro annually<sup>4</sup> and could even increase to 160-190

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<sup>1</sup> Unprecedented leak of 11.5m files from the database of the world's fourth biggest offshore law firm, Mossack Fonseca

<sup>2</sup> The Paradise Papers is a special investigation by the Guardian and 95 media partners worldwide into a leak of 13.4m files from two offshore service providers and 19 tax havens' company registries

<sup>3</sup> Oxfam [Report](#), published on 8 April 2016

<sup>4</sup> EP [Study](#) on Bringing transparency, coordination and convergence to corporate tax policies in the European Union, published in October 2015; pages 6 and 7

billion as a result of aggressive – to borrow and expression from corporate newspeak – “tax optimisation”.

- In the wake of the revelation of Panama Papers, the Parliamentary Assembly of the Council of Europe called upon our member states to establish “publicly accessible central registers of ultimate beneficial owners of all companies, foundations and trusts” and to introduce proportionate and dissuasive sanctions for those who fail to do so or provide incorrect information (Resolution 2130 (2016)).
- In December 2017, following the inquiry into money laundering, tax avoidance and tax evasion by the PANA<sup>5</sup> Committee, the European Parliament adopted a [Recommendation](#), calling on the European Commission and the Member States to carry out an impact assessment on the possibility of obligatory registration, or perhaps prohibition, of ownership, including beneficial ownership by EU nationals and companies of financial accounts and shell companies in countries included in the EU list of non-cooperative tax jurisdictions and the EU list of countries with strategic deficiencies in the AML/CFT regime.
- Transparency of beneficial ownership is an integral part of the CoE/OECD Protocol amending the Convention on Mutual Administrative Assistance in Tax Matters (CETS 208). The Council of Europe’s Committee of Experts the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism – MONEYVAL evaluates it in with international standards.
- Cases processed in different jurisdictions show that combinations of shell and front legal entities are used by drug traffickers and other criminals - for example, they use fake employment earnings to distribute criminal gains among cartel members, false invoices to pay bribes to corrupt officials... They use such schemes to avoid paying taxes or to distance

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<sup>5</sup> The European Parliament’s Inquiry Committee into Money Laundering, Tax Evasion and Tax Avoidance (PANA).

business activities from persons or entities under terrorist financing or proliferation sanctions.

- One recent study<sup>6</sup> conducted by Global Witness (a UK NGO) gives a feel of the scale of the phenomenon. It would appear that six hundred registered companies are owned by just five persons. At the same time, four thousand owners of different legal entities are less than two years old of age.
- In order to address abuses of legitimate business, the Council of Europe has joined the Financial Action Task Force (FATF) and the European Union in promoting enforcement of transparency of ownership among its member states.
- Transparency of beneficial ownership is a theme addressed through our joint technical cooperation efforts with your authorities, and this conference is an integral part of these efforts.
- In the course of the next two days you will have the opportunity to discuss ways in which we can put a stop to typical practices of misusing legal entities and arrangements. This could be done by introducing requirements for disclosure of true ownership and making such information available to the authorities, as provided for by the 4<sup>th</sup> and 5<sup>th</sup> EU Anti-Money Laundering Directives.
- You will discuss the international standards on transparency of beneficial ownership, but equally, if not more importantly, you will have the opportunity to present and hear from your colleagues about their experience and what they have learned in the process of implementing these standards.

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<sup>6</sup> [\*In pursuit of hidden owners behind UK companies\*](#), published on 6 February 2018

- Last but not least, I will note that this conference is financed jointly by the European Union and the Council of Europe, with contributions from two programmes the "Partnership for Good Governance" and the "Horizontal Facility for Western Balkans and Turkey"; the joint "Project against Economic Crime in Kosovo" and from the Council of Europe's ordinary budget.
  
- I wish you all a very fruitful discussion and productive two days.