Funding the Future

# The EU's country-by-country reporting proposal will do ...

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*I am pleased to share the following on the EU's possible country-by-country reporting proposal, which has been prepared by Tow Marie Ryding from Eurodad - the European Network on Dent and Development:*

## ***Quick Q&A on the leaked CBCR proposal from the European Commission***

### ***Is this the final position of the European Commission?***

This is most likely a draft for internal consultation, and there is a chance that this is still under discussion within the European Commission. So at the moment we do not know whether this will be the final position, but we hope not!

The final position of the Commission is supposed to be published on April 12 (unless they get delayed).

### ***Is it a good or a bad proposal?***

It's very bad — in fact close to meaningless.

### ***It's not country by country reporting — it's "EU Zone reporting"***

If the final directive ends up with the type of reporting outlined in this leaked proposal, we would get data which would not be able to reveal whether multinational corporations are engaged in aggressive tax planning and profit shifting. The reason for this is that the proposal only requires multinational corporations to report on a country by country basis within the EU. For all other countries, multinationals would be allowed to aggregate the data in to global numbers, which would be useless. So, as ***Richard Murphy put it — this is "EU Zone Reporting at best".***

### ***It exempts 85-90% of the multinational corporations from reporting***

It also keeps the threshold which says that only multinational corporations with a turnover of minimum 750 million Euros per year will have to report. According to the

OECD’s numbers, this would mean that 85-90% of the worlds companies will not have to report.

***The reporting categories is a mixed picture, but several categories are missing***

As regards the categories that multinational corporations would have to report on, these will need more analysis. However, it’s clear that several of the categories that have been proposed by the European Parliament under the negotiations on the Shareholders’ Rights Directive are not included in this proposal (the categories assets, sales, a full list of subsidiaries and subsidies received are missing. Unlike the European Parliament’s proposal, this leaked proposal also doesn’t require multinationals to publish the core elements of the tax rulings (so-called “sweetheart deals) they’ve negotiated with governments).

It does however split the tax reporting in to tax paid and tax accrued (meaning postponed), which is positive since some companies avoid taxes by postponing their payments indefinitely.

***It does however include companies headquartered outside the EU, which operate in the EU through subsidiaries***

The proposal does say that multinational corporations that are headquartered outside the EU, but operate in the EU through subsidiaries, should report in the same way as companies based in the EU. However, this is a hollow victory since the reporting would be so meaningless.

***Would a real proposal on public country by country be a violation of BEPS?***

It would not. BEPS states that countries are not allowed to publish CBCR information which they receive from other governments. However, the idea behind public CBCR in the EU is not that EU governments should publish information from other governments. The idea is that by EU law, multinational corporations operating in the EU should be required to publish CBCR information themselves.

***Would a real proposal on public country by country, which includes companies not headquartered in the EU, be legally feasible?***

Our assessment is that it is fully feasible. EU can regulate multinational corporations that operate in the EU, regardless of whether they are headquartered in the EU or only present in the form of a subsidiary. So EU should be able to introduce a law saying all multinational corporations that are headquartered or have a subsidiary in the EU must publish CBCR information.

***Are there concrete examples of why this proposal will not work?***

Yes. Basically, this proposal would mean that multinational corporations can simply shift their profits to tax havens outside the EU and continue avoiding taxes as usual.

And we unfortunately have plenty of examples of well-known companies that are already present in Switzerland, Cayman Islands, etc. If you go to the LuxLeaks database on the ICIJ website and type in the name of your favourite non-EU tax haven, you can see where different companies are located. And remember that this data is only a small fraction of the truth — it only covers the companies that were included in the leaked data from PwC.

You can also go to the website of the large banks in your country and find the CBCR reports that they have already published. This will in many cases show you that also the banks are present in many tax havens outside the EU. And let's not forget that before a final CBCR proposal gets adopted by the EU, multinational corporations will have plenty of time to set up even more subsidiaries in tax havens outside the EU.

This is why this proposal will do nothing to stop multinational corporations from avoiding taxes and shifting their profits to tax havens.