



Brussels, 17.6.2015
C(2015) 4095 final

COMMISSION DECISION

of 17.6.2015

**establishing the Commission Expert Group "Platform for Tax Good Governance,
Aggressive Tax Planning and Double Taxation" and replacing Decision C(2013)2236**

COMMISSION DECISION

of 17.6.2015

establishing the Commission Expert Group "Platform for Tax Good Governance, Aggressive Tax Planning and Double Taxation" and replacing Decision C(2013)2236

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Whereas:

- (1) In its Communication of 6 December 2012¹, the Commission presented an Action Plan to strengthen the fight against tax fraud and tax evasion. The Communication was accompanied by two Recommendations, one on aggressive tax planning² and one regarding measures intended to encourage third countries to apply minimum standards of good governance in tax matters³.
- (2) Commission Decision C(2013) 2236⁴ set up the Platform for Tax Good Governance, Aggressive Tax Planning and Double Taxation (the Platform), a Commission expert group, to review progress on a range of measures, including the 2012 Action Plan on tax fraud and evasion and the implementation of the two Recommendations. In its Communication on double taxation in the single market⁵, the Commission concluded that it would examine the potential benefits of setting up an EU Forum on double taxation. Given that double non-taxation and double taxation are often linked, it was deemed appropriate to also address double taxation in the Platform, and that is still the case today.
- (3) The European Parliament⁶ and the Council of the European Union⁷ have called for continuous efforts in the fight against tax fraud and tax avoidance.
- (4) The Platform has proved useful in providing input in the areas in which it is consulted. On 18 March 2015 the Commission adopted a package on tax transparency⁸. On 17 June 2015⁹ it adopted a Communication on a fairer corporate tax system in the Union (the 2015 Action Plan) where it reported on the application of the 2012 Recommendations with input from the Platform. In that Communication the Commission announced that the mandate of the Platform would be prolonged, its scope expanded and its working methods enhanced.

¹ COM(2012) 722

² C(2012) 8806 final

³ C(2012) 8805 final

⁴ Commission Decision C(2013) 2236 of 23 April 2013 on setting up a Commission Expert Group to be known as the Platform for Tax Good Governance, Aggressive Tax Planning and Double Taxation

⁵ COM(2011) 712 final

⁶ European Parliament resolution of 25 March 2015 on the Annual Tax Report

⁷ ECOFIN Council 9.12.2014, European Council 18.12.2014

⁸ Communication on tax transparency to fight tax evasion and avoidance (COM(2015)136), and Proposal to introduce the automatic exchange of information between EU Member States on their tax rulings (COM(2015)135)

⁹ Communication of 17 June 2015 COM(2015)[...]

- (5) With the development of the tax transparency and fair taxation agenda as defined in the two 2015 Commission Communications, it is appropriate to review the tasks and operation of the Platform.
- (6) The Platform should allow for a dialogue in which experience and expertise are exchanged and the views of all stakeholders are heard.
- (7) The Platform should be chaired by a representative of the Commission and consist of representatives from the Member States' tax authorities, organisations representing business or civil society and tax practitioners. It is desirable for reasons of continuity that current members of the Platform appointed for the period of application of Commission Decision C (2013) 2236 should remain in office until the end of their mandate on 22 April 2016.
- (8) Rules on disclosure of information by members of the Platform should be laid down.
- (9) Personal data should be processed in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council¹⁰.
- (10) Decision C (2013) 2236 should be repealed,

HAS DECIDED AS FOLLOWS:

Article 1

Subject matter

The group of experts 'Platform for Tax Good Governance, Aggressive Tax Planning and Double Taxation' ('the Platform') is hereby set up.

Article 2

Tasks

The Platform's tasks shall be:

- (a) to encourage discussion between business, civil society and national tax authorities' experts on issues in the field of good governance in tax matters, aggressive tax planning and double taxation;
- (b) to provide the Commission with information relevant to the identification of priorities in the areas referred to in point (a) and the selection of the appropriate means and instruments to achieve progress in these areas;
- (c) to contribute to the best possible application and implementation of the two Commission Communications of 18 March 2015 and 17 June 2015, by identifying technical and practical issues potentially relevant in these areas, as well as possible solutions;
- (d) to discuss practical insights provided by tax authorities, as well as business, civil society and tax practitioners, and to elaborate on possible ways to address more efficiently the current double taxation problems affecting the smooth functioning of the internal market.

¹⁰ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

For the purposes of this Decision, the term 'good governance in tax matters' covers transparency, exchange of information and fair tax competition.

Article 3

Consultation

The Commission may consult the Platform on any matter relating to good governance in tax matters, aggressive tax planning and double taxation and the follow-up to the 2015 Action Plan.

Article 4

Membership - Appointment

1. The Platform shall be composed of a maximum of 43 members.
2. Members of the Platform shall be:
 - (a) Member States' tax authorities;
 - (b) up to fifteen business, civil society and tax practitioner organisations with competence in the matters referred to in Article 2.
3. The tax authorities of each Member State shall nominate one representative from among the officials dealing with cross-border taxation with a focus on fighting aggressive tax planning.
4. Current members of the Platform shall remain in office until 22 April 2016. Following a call for applications, the Director-General for Taxation and Customs Union shall appoint the members of the Platform referred to in point (b) of paragraph 2. The term of office of those members shall run from 23 April 2016 until 16 June 2019.
5. When responding to the call for applications, organisations shall nominate one representative and one alternate to replace a representative who is absent or indisposed. The Director-General for Taxation and Customs Union may object to the nomination of a representative or alternate by an organisation on the basis that the person concerned does not have the profile required in the call for applications. In such cases, the organisation concerned shall be asked to nominate another representative or another alternate.
6. Alternates shall be nominated on the same conditions as representatives. Alternates shall automatically replace any representatives who are absent or indisposed.
7. Organisations deemed suitable for membership, but not appointed, may be placed on a reserve list, which the Commission shall use to appoint replacements.
8. Organisations referred to in point (b) of paragraph 2 or their representatives may be replaced or excluded for the remainder of their term of office in any of the following situations:
 - (a) where the organisation or its representative is no longer capable of contributing effectively to the Platform's deliberations;
 - (b) where the organisation or its representative does not comply with the condition set out in Article 339 of the Treaty;
 - (c) where the organisation or its representative resigns;

- (d) where it is desirable in order to maintain a balanced representation of relevant areas of expertise and areas of interest.

Where an organisation or its representative is replaced or excluded, the Director-General for Taxation and Customs Union may, as appropriate, appoint a replacement organisation from the reserve list referred to in paragraph 7 or ask an organisation to nominate another representative or another alternate.

9. The names of organisations and their representatives shall be published in the Register of Commission expert groups and other similar entities, hereinafter referred to as the 'Register', as well as on a dedicated website.
10. Personal data shall be collected, processed and published in accordance with Regulation (EC) No 45/2001.

Article 5

Operation

1. The Platform shall be chaired by the Director-General for Taxation and Customs Union or his representative.
2. To facilitate its efficient functioning the Platform shall establish two sub-groups in which government (Member States' tax authorities) and non-government (business, civil society and tax practitioner organisations) representatives meet separately.
3. In agreement with the Chair, the Platform may set up other sub-groups to examine specific questions on the basis of terms of reference defined by the Platform. Such sub-groups shall be disbanded as soon as their mandate is fulfilled.
4. The Chairperson may, on an ad hoc basis, invite experts from outside the Platform with specific competence on a subject on the agenda to participate in the work of the Platform or sub-group. In addition, the Chairperson may give observer status to individuals, organisations, as defined in Rule 8(3) of the horizontal rules on expert groups¹¹ and candidate countries.
5. Members and their representatives, as well as invited experts and observers, shall comply with the obligation of professional secrecy laid down by the Treaties and other relevant Union rules, as well as with the rules regarding the protection of EU classified information, laid down in Commission Decision 2001/844/EC, ECSC, Euratom¹². Should they fail to respect these obligations, the Commission may take all appropriate measures.
6. The meetings of the Platform and its sub-groups shall in principle be held on Commission premises. The Commission shall provide secretarial services. Other Commission services with an interest in the proceedings may be involved and may attend meetings of the Platform and its sub-groups.
7. The Platform shall adopt its rules of procedure on the basis of the standard rules of procedure for expert groups.
8. The Commission shall publish all relevant documents on the activities carried out by the Platform (such as agendas, minutes and participants' submissions) either in the

¹¹ Communication from the President to the Commission — Framework for Commission expert groups: horizontal rules and public register, C(2010) 7649 final

¹² Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information (OJ L 72, 17.3.2015, p. 53).

Register or via a link from the Register to a dedicated website. A document shall not be published where its disclosure would undermine the protection of a public or private interest as defined in Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council¹³.

Article 6

Meeting expenses

1. Participants in the activities of the Platform shall not be remunerated for the services they render.
2. Travel and, where appropriate, subsistence expenses incurred by participants in the activities of the Platform shall be reimbursed by the Commission in accordance with the provisions in force within the Commission.
3. Those expenses shall be reimbursed within the limits of the available appropriations allocated under the annual procedure for the allocation of resources.

Article 7

Repeal

Decision C(2013) 2236 is repealed.

Article 8

Applicability

This Decision shall apply until 16 June 2019.

Done at Brussels, 17.6.2015

For the Commission

Pierre Moscovici

Member of the Commission

¹³ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43). These exceptions are intended to protect public security, military affairs, international relations, financial, monetary or economic policy, privacy and integrity of the individual, commercial interests, court proceedings and legal advice, inspections/investigations/audits and the institution's decision-making process.