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# THE PARADISE PAPERS: HOW THE EU SHOULD RESPOND

- The EU has so far failed to respond to the last major offshore scandal, the Panama Papers. A year and a half later, we're now seeing yet another giant leak exposing the scale of abuse enabled by the offshore system, yet the EU has done nothing to address these problems.
- Anonymous ownership through companies and trusts are getaway cars that enable money laundering, corruption, terrorism, tax evasion and human trafficking – with devastating impacts for people across and beyond Europe. The best way to tackle this problem is to shine the light of transparency and reveal those behind these secret structures.
- In next week's crunch negotiations on EU anti-money laundering rules the Member States must agree to publicly reveal the true owners of all EU companies and trusts. They have spent the last year blocking proposed changes that would tackle these problems: by failing to act they are complicit in this corrupt system.

## THE PROBLEM – ANONYMOUS OWNERSHIP

Anonymous companies<sup>1</sup> act as getaway cars for terrorists, dictators, money launderers and tax evaders. By hiding the ownership of these companies, they can be used as vehicles to launder dirty money whilst hiding the identity of the individuals involved. But anonymous companies are only part of the problem – trusts<sup>2</sup> also play a crucial role money laundering schemes.

In April last year, the ICIJ released the Panama Papers, showing details of more than 200,000 offshore entities. An analysis by Europol found that over 100 entities in the Panama Papers were associated with

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<sup>1</sup> See Global Witness briefing on anonymous companies:

<https://www.globalwitness.org/en/campaigns/corruption-and-money-laundering/anonymous-company-owners/poverty-corruption-and-anonymous-companies/>

<sup>2</sup> See Global Witness briefing on trusts and beneficial ownership

<https://www.globalwitness.org/en/blog/trusts-hole-eus-response-panama-papers/>

Islamist terrorism, nearly 100 with drug crime, and over 500 to eastern European organised criminal gangs.<sup>3</sup>

### THE ABUSE OF EU COMPANIES:

- The mafia used Italian and other shell companies to launder huge sums of money and defraud the EU out of millions of euros;
- Daimler's Russian subsidiary used companies registered in Cyprus, Ireland and the UK to bribe Russian officials;
- Russian gangsters used Cypriot shell companies to launder millions of euros that were stolen when state assets were being privatised.

### THE ABUSE OF TRUSTS CONNECTED TO THE EU:

- A Lichtenstein trust linked to Victor Yanukovich hid who benefitted from the controversial privatisation and secretive multi-million dollar renovation of Ukraine's presidential palace.
- A Brunei prince who stole billions from his country may have prevented an exclusive London property from being rightfully returned to Brunei using a Jersey trust to hide his ownership.
- Maltese politicians have sought to use trusts to keep their business interests secret from their constituents and the public.

## THE SOLUTION – PUBLIC REGISTERS OF BENEFICIAL OWNERSHIP

The most effective way to tackle anonymous companies and trusts is by revealing their true, beneficial owners. Beneficial ownership refers to the individual people who ultimately own or control companies or trusts. Public registers of beneficial ownership help businesses know who they are doing business with, helping journalists and investigators detect crime and ensuring law enforcement from other countries can access it.

## BACKGROUND TO THE ANTI-MONEY LAUNDERING DIRECTIVE

European rules for preventing money laundering are set through the European Anti-Money Laundering Directive (AML), the most recent of which was the 4<sup>th</sup> Directive agreed in 2015. This directive includes requiring the collection of beneficial ownership information on companies and trusts – though crucially it fell short of requiring this information to be made public.

In the weeks after the release of the Panama Papers, EU Member States called on the European Commission to propose changes to the AMLD. They requested that these changes should enhance access

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<sup>3</sup> <https://www.theguardian.com/news/2016/dec/01/panama-papers-europol-links-3500-names-to-suspected-criminals>

to information about beneficial ownership for companies and trusts.<sup>4</sup> In July 2016 the European Commission proposed its revisions, including making beneficial ownership information publicly available for all companies and certain kinds of professionally-run trusts.<sup>5</sup>

## **CURRENT STATE OF NEGOTIATIONS**

In November 2016 EU Member States published their position on the proposed reforms – opposing public access to beneficial ownership information for companies and trusts and postponing the timeline to implement the reforms.<sup>6</sup> In March 2017 the European Parliament agreed their position – endorsing full public access to beneficial ownership information for companies and trusts.<sup>7</sup>

Since then, there have been 7 rounds of negotiations between the European Commission, Parliament and Council, yet no agreement has been reached on the amendments to the Directive. The European Parliament has continued to push hard for transparency for companies and trusts, against opposition from the Member States.

Feedback from the negotiations indicates that there is growing consensus around public access for beneficial ownership information for companies, though this is yet to be formally agreed, and access for trusts remains unresolved.

The 8<sup>th</sup> round of negotiations will take place on Tuesday 14<sup>th</sup> November.

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<sup>4</sup> [http://ec.europa.eu/justice/criminal/document/files/aml-directive\\_en.pdf](http://ec.europa.eu/justice/criminal/document/files/aml-directive_en.pdf) p.3

<sup>5</sup> [http://ec.europa.eu/justice/criminal/document/files/aml-directive\\_en.pdf](http://ec.europa.eu/justice/criminal/document/files/aml-directive_en.pdf) p. 15-19

<sup>6</sup> <http://data.consilium.europa.eu/doc/document/ST-14884-2016-INIT/en/pdf>

<sup>7</sup> <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fNONGML%2bREPORT%2bA8-2017-0056%2b0%2bDOC%2bPDF%2bV0%2f%2fEN>