

Tax evasion and financial criminality in Europe:

New Forms of Fraud, New Social Struggles

09-10 July 2014, MAS, Paris, France

10/18 rue des terres au curé – 75013 Paris (Porte d'Ivry / Olympiades)

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Tax evasion is estimated to cost at least between 30 and 50 billion euros to France each year ([Senate report 2014](#)). While Mr. Juncker, former Prime Minister of a prosperous tax haven, Luxembourg, has started the race for presidency of the European Commission, the European Union has been rather absent on the issues of the struggle against tax evasion and more generally on the struggle against financial crime. Yet the answers can only be transnational to be actually efficient. On July 9th and 10th, experts from all over Europe, academics, practitioners and activists, will meet in Paris to discuss tax evasion and financial crime in Europe, but also ways forward that should be explored and set up to better oppose it.

This event is part of the project ‘[Tackling Illegal Economy \(TIE\)](#)’ which is aimed at promoting confiscation and recovery of the proceeds of crime, as one of the most important transnational tools for the fight against financial and economic crime. Therefore, it brings together partner civil society organisations to jointly identify, promote and disseminate best practices on the re-use of illicit assets.

You can read exchanges on Twitter using the following hashtag: [#TIE Paris](#). [Pictures of the conférence](#) can be found online. Bernard Léon’s blog [« Fraude, corruption, blanchiment. L’Europe braquée en permanence »](#) on Mediapart (in French) can also cast a complementary light on the conference.

Disclaimer: the following texts come from various minutes takers and can only be attributed to their authors (and not to the speakers). For more information, please contact the organisers.

Speakers’ presentations can be downloaded from <http://www.euroalter.com/event/financial-criminality-in-europe-new-forms-of-fraud-new-social-struggles> (tab: report)

DAY 1 – Wednesday 9 July

13.00 -14.00 Registration of participants and light welcome refreshments

14.00 – 15.30:

A. Introduction. Financial criminality as the next stage in criminality development

Moderator: *Rosen Dimov (European Alternatives)*: presentation of [European Alternatives](#) and of the programme of the conference

1) Marco Genovese (LIBERA): presentation of the project « Tackling the Illegal Economy »

The project TIE: Tackling Illegal Economy, led by Libera, is funded by the European Commission (Programme "Prevention of and Fight Against Crime", Targeted Call for Proposals Financial and Economic Crime - Finec, Action Grants 2012.) The general objectives are to share information on the methods to fight financial and economic crime; to identify and diffuse best practices in the confiscation and recovery of criminal assets. The specific objectives: to promote best practices on the re-use of confiscated assets; to develop partnerships between civil society, academic and institutions; to transfer civil society's experience to public actors, to assist them in the re-use of confiscated assets.

The project is divided into 5 actions: 1) introductory seminars, 2) International round table tour, 3) researches, 4) second round of seminars, 5) network and benchmarking

More information is available on the site of [LIBERA](#).

2) Mario Vaudano (Observatoire Géopolitique des Criminalités, former OLAF and magistrate)

You can find Mr Vaudano's presentation online.



15.30 – 16.00 Coffee break

16.00 – 17.15:

B. Financial criminality in Europe

Moderator: *Elena Dalibot (European Alternatives)*: introduction of the panel and definitions of financial criminality, fiscal fraud and tax evasion.

- 1) ***Fabrice Rizzoli (FLARE France): Legal / Illegal: the end of a distinction. How to fight against financial criminality in the world***



You will find Mr Rizzoli's presentation online.

- 2) ***Marius Frunza (Schwarzthal Kapital, Université Paris 1 Panthéon-Sorbonne): VAT fraud in Europe***

You will find Mr Frunza's presentation online.



17.15 – 18.45:

C. Particular forms of financial crime – workshops:

“World Café” methodology - 2 sessions of 45 minutes (each participant was able to take part to two rounds of discussion of 45 minutes each, on the following themes). The aim of each workshop was to go more into depth on a type of fraud or on a particular topic, in order to come up with concrete proposals and recommendations.

- 1) **Tax evasion through tax havens and multinational companies, with *Lucie Watrinet (CCFD-Terre Solidaire)***

You can find Lucie Watrinet's presentation online.

800 billion euros « evade » towards countries of the South each year (13,5% more in 2014 than in 2013). This represents 250 billion euros each year of lost tax revenue for the countries of the South (half due to fiscal fraud by multinationals, the other half because of rich individuals). For France, fiscal fraud amounts to between 60 and 80 billion euros (almost as much as public deficit) and hundreds of billions at the European level.

Companies are the first users of tax havens. Some examples for France: Starbucks would have never paid any tax on benefits since it came to France in 2004. Google would have saved 145 million euros by contributing only to 5 million in tax in 2011. Amazon would owe 200 million euros in tax to France. In 2009, Total, Danone, Essilor, Saint-Gobain,

Schneider, Suez Environnement and Arcelor Mittal would have never paid any tax on benefits. CAC 40 companies pay an average of 8% tax, against 30% for SME.

In the report « [Au paradis des impôts perdus](#) » (« In the paradise of lost taxes »), CCFD-Terre Solidaire and the Revue Projet have investigated fiscal opacity of the first 50 European companies. Only 60% of them have given the full list of their subsidiaries. Companies in which the States participate are not better. All companies are present in tax havens: they have on average 117 subsidiaries in tax havens. Preferred destinations of European companies in tax havens are the Netherlands, the State of Delaware (United States), Luxembourg, Ireland, the Cayman Islands. This problem is only starting to emerge.



The main proposal of civil society to fight companies' abusive practices for tax optimisation is to demand that they publish country by country their turnover, benefits, number of employees, paid taxes and grants received. This proposal only starts to be recognised. French banks are bound by it since 2014 and European banks will be in 2015, while the OECD is about to create a model for country reporting.

The main recommendations by the CCFD-Terre Solidaire and the Platform "Tax and Judicial havens" are:

- Demand **accounting transparency country by country on the part of multinational companies**, for all sectors of activity (list of entities, staff, turnover, corporate taxes and grants receives) and the publication of these information
- **Reform international fiscal rules**, notably for multinational companies, in order to tax riches in the territories where they are effectively produced.
- Set up an efficient model of **automatic exchange of information** between all countries, including developing countries.
- Impose **transparency on real owners of all « shell company »**, since the development on international taxation concerns the main beneficiaries of globalisation (financial actors, multinational firms) and to correct its main shortcomings (e.g. pollution, financial speculation)

2) Carbon tax fraud, with *Aline Robert (EurActiv.fr)*

The market of carbon was created in 2005 (its stock exchange, BlueNext, was based in Paris) for about 12 000 industrial sites in Europe. From the start, the idea was to have a market open to all. Sales of quotes were traceable, but not the people behind. The "KYC" ("Know your Clients") principle was not respected at all.

The system was simple: a fraudster creates a company, buys quotas abroad without tax, which s/he sells in France with VAT. Tracfin, the service of the French Ministry of Economy and Finances, was



not able to detect the warning signs in time and several suspicion declarations were not rightly interpreted: they were believed to be money laundering.

Like other VAT fraud, the interest is to have a high-value product that is very small, in order to move easily (see Mr Frunza's presentation), such as phones or laptops. For carbon, it wasn't so much a question of value.

Who are the victims of VAT fraud? First of all, people who've died because of it (at least 5 murders can be put down to VAT fraud in France), and States, from which between 10 and 20 billion euros were taken. When France reduced the rate from 19.6% to 0% all of a sudden when it realised the size of the fraud in progress, fraudsters simply moved to Spain, and so on. Two main groups have piloted the fraud in France: a group from Pakistan for the North (the UK and the Netherlands mostly) and one from Israel for France and Southern countries. As if territories had been divided among them!

There is a problem of isolation in France of people working on this topic. Carbon fraud (which is a type of VAT fraud) raises a judicial problem too: crime pays when prosecution and sentences are too weak. Fraudsters incur between 5 to 7 years maximum, for conspiracy to defraud. In the UK, sentences can be from twice to three times longer.

One way to go perhaps could be « [data-mining](#) », which Belgium has implemented for a long time. In France, between 10 and 30 billion euros would be lost each year because of VAT fraud. Several experts have technical solutions, and even propose to install them for free and to be later paid in percentage of the sums recovered. It is an aberration not to implement this.

3) TAFTA and its effects on tax evasion et ses effets sur l'évasion fiscale, with *Paulina Petrova (BIBO)*



The European Commission has been negotiating with the USA over TAFTA behind close doors for many months. Minutes and drafts of the agreement that leaked speak of a new common space that puts economic and financial goals higher than human rights, and still leaves a huge room for fiscal fraud. The European Parliament reacted, to an extent, to the voices of the anti-TAFTA protests across Europe and demanded 198 amendments to the TAFTA draft.

The elimination of tariffs and the harmonization of standards create more economic power and wealth for all – this is the fallacy that is the basis for the negotiations between the United States (US) and the European Union (EU) on TAFTA. Big companies are massively influencing the negotiations. The interests of consumers and employees are falling along the wayside.

The TAFTA / TTIP promises more growth to business in the EU and the US. Political Leaders want more trade and more market freedom for businesses. In reality, this could very well mean unlabelled genetically modified (GM) foods and hormone-treated meat landing on our plates. We are witnessing the previously rejected Anti-Counterfeiting Trade Agreement (ACTA) on copyright coming in through the back door – freedom of expression and data protection will

lose out. Only the lowest consumer protection and environmental standards will remain. Governments and the EU Commission are going for secret negotiations while excluding the public and parliaments.

The promises of more growth and wealth are questionable regarding existing free trade agreements. The North American Free Trade Agreement (NAFTA) between the US, Canada, and Mexico clearly shows that their result is decreasing minimum working standards and lower wages. Existing studies on TAFTA predict a Gross Domestic Product (GDP) increase of only 0.01%, but in a period of 10 years. This is a large discrepancy to the increase of 0.5% promised by the EU (European Commission 2013). These euphoric prognoses are mainly made by studies financed by the industries involved or are carried out by the European Commission itself. Both have a strong interest in a successfully concluded TAFTA. Firstly, leading politicians want to establish a counterbalance to emerging economies such as China. Secondly, a comprehensive free trade agreement will give a boost to the expansion course of European and American corporate groups. This is the reason why these calculations are based on an ideal scenario, with all non-tariff barriers removed.

We are currently in the middle of an environmental, social and economic crisis. We need more democracy, social justice, climate protection and financial market regulation. We need more economic solidarity, protection of smallholders, and an economy and agriculture orientated towards the common good. We need more effective consumer and data protection as well as protection against the financial interests of international corporations.

The public concern is justified when you consider that TAFTA will threaten: food safety, climate change policy, family farmers, internet freedom, workers' rights, access to medicines, financial regulation and other critical public interest objectives in the United States.

After discussing, the group decided that TAFTA should be either eliminated or closely inspected and revised to serve the public interest.

Some concrete ideas and recommendations that came out during the round tables are the following:

- Initiating a petition for providing clear and transparent information about the content of the agreement;
- Social networks, NGOs and political parties - mutual action against TAFTA ;
- Creating a working financial tools (for example: online tax declaration), that can somehow unify the system of taxes, because now there are several tax regulations;
- Organising a referendum “for” or “against” TAFTA;
- Selecting specialist auditors to control the financial processes and tax regulations;
- Using third countries effective experience of failure in similar agreements (NAFTA);
- Launching a site or online platform against TAFTA and for more transparency, where people, NGOs and civil society representatives can share they practices and analyses about TAFTA negative effects in all aspects of life (nutrition, climate, etc.)

4) The Money-Laundering Chain Russia-Germany-Italy-Spain, with Sarah Mazzenzana (Mafia? Nein Danke!)



Russian organised crime is a phenomenon which is less organised than its western counterpart; a short discussion was held about differences between Italian Mafias and Russian speaking organised crime groups.

The reason why the spill over is particularly troubling to Europe: because of its geographical proximity to Russia. The crucial impact of Russian organised crime groups on national economies of European States. Three examples were given in order to understand how they invest proceeds of crime in Europe: Germany, Spain and Italy. Money laundering perpetrates through the banking and real estate sectors, gambling and casinos, as well as direct investments in restaurants, bars and night clubs.

The group also analysed:

- the Russian Federal Law No. 115-FZ On Countering Money Laundering and the Financing of Terrorism, adopted on February 1, 2002;
- the role of the Federal Service for Financial Monitoring;
- the role of the agreement on co-operation between Europol and Russian Federation (ROCTA 2008);
- the lawlessness which accompanied Russia's transition to capitalism;
- what can be done in order to change this situation: more transparency in the financial sector is required, the tackle against organised crime should be first start at the national level, where corruption represent the enemy number one.

5) Development aid as a vehicle for non-taxable assets and laundered illegal capital, with *Dotun Oloko* (*whistleblower*)

You will find M. Oloko's presentation online. It was structured around the following items:

1. Introduction: Development aid/finance
2. Development finance channelled through private equity funds
3. Private equity funds channelled through offshore tax havens
4. Offshore tax havens used as conduit for commercial tax avoidance
5. Offshore tax havens used as conduit for illicit financial flows out of developing countries
6. The case of Emerging Capital Partners (ECP)
7. The EU Anti-Money Laundering Directives (AMLD)



Proposed actions are a [European Citizens Initiative](#), and a gathering of civil society organisations to put pressure. The involvement of civil society is key.

18.45 – 19.00 Presentation of results and wrap-up of day 1



DAY 2 – Thursday 10 July

9.30-10.30:

Jean de Maillard (magistrat) How did financial fraud become a tool to manage the economy, finance and crises?

To answer this question, Mr. de Maillard proposes to use a series of metaphors in triptychs.

- The three steps
 1. The absence of a legal framework
 2. The incrustation, that allows to irradiate economic and financial functions
 3. The incorporation, when it is too late to act. We can then negotiate with the fraudsters / organised crime, but cannot eliminate them.
- The three couples of « dangerous relations »
 1. « The more the economy goes wrong, the less politics are able to govern »
 2. « the less politics govern, the more finance spreads »
 3. « the more finance spreads , the more fraud prosper »

Hyman Minsky, an American economist, tried to give an explanation to how finance goes from heaven to purgatory and then hell. This is what he calls the self-degeneration constitutive of capitalism: money attracts money. A speculative state of finance appears. The generalisation of the Ponzi system in finance (in which the last investors reimburse the first ones) produces bubbles whose explosion has a domino effect on the rest of the finance.

- The « three sisters » of fraud, or the three stages
 1. Artificial valorisation of assets (ex: Internet bubble): artificial construction of assets
 2. Accounting manipulation
 3. Introduction of financial products used for diluting the losses produces by frauds (ex: withdrawal of fraudulent loans (subprimes) recycled in the financial circuit.



This is the paradox of the ladder going both up and down. The more we progress in developing fraud, the more the level of criminality decreases.

We must make a double distinction between low and high criminal intensity and low and high fraudulent frequency.

But systemic fraud is even more dangerous than the combination of « high criminal intensity» and « high fraudulent frequency »: the system is above the law, above basic norms. We cannot escape fraud anymore. Societies no longer have antibodies and politics is held as a pawn on the chessboard, a political stake.

The hierarchy of power can also be represented in three stages: the financial power that dominates, followed by the economic power, then the political power.

The difference between the 1930s (where political powers have reacted to economic and financial crises, in particular with the Marshall Plan) and the 2010s is the level of interconnections of economy and finance, disproportionate with the level of a century earlier.

What is the finance's future? According to Mr. de Maillard, it has entered in a process of self-destruction that will not go back towards the State, and that will fulfil itself through the Internet. Monetary sovereignty is disappearing (we are talking here about relatively mid- to long-term).

10.30 – 11.00: Coffee break

11:00 – 12:30:

A. Prevention of financial crime and social re-use of illegal assets

Moderator: *Maria Chiara Prodi (LIBERA France)*



1) Vittorio Agnoletto (previous member of the European Parliament)

You will find Mr Agnoletto's presentation online

2) Noel Hatch (European Alternatives): Involving citizens in the re-use of community assets

Mr Hatch was unfortunately unable to join us, but you can find his presentation here: <http://www.slideshare.net/noelhatch/involving-citizens-in-the-re-use-of-assets> (also online).

- 3) **Ass. Prof. Dr. Darina Zaimova (Thrakia University): Building the mindset for social entrepreneurship: From a global vision to a local understanding and action**

You will find Mrs Zaimova's presentation online.

- 4) **Marcel Hipszman (former assistant to the interministerial delegate to social economy): the role of social economy in the fight against organised crime and social re-use**

You will find Mr Hipszman's presentation online.

12.30 – 13.30 Lunch - Buffet and food produced on lands confiscated to the Mafia (LIBERA Terra)

13.30 – 15.30:

B. Investigating fiscal fraud

Moderator: *Sandro Mattioli (Mafia? Nein Danke!)*



- 1) **Alessia Cerantola (Investigative Reporting Project Italy): Investigating corruption and crime in Italy. The Expoleaks project**

You will find Mrs Cerantola's presentation on <http://prezi.com/6yguopbks2/investigating-corruption-in-italy-the-expoleaks-project/>.

- 2) **Aline Robert (EurActiv.fr): VAT and its taboos - the first resource of European States: when tax finances organised crime**

Tax evasion corresponds to money that does not increase funds held by the public treasury. VAT fraud is even worse: it is stealing from the public treasury.

VAT is the principal tax today, it represents 140 billion euros of resources per year. Far more than income tax (78 billion) or corporate tax (39 billion euros). In Europe, States earn 1000 billion euros thanks to VAT, but between 5 % and 15 % of the amounts end up in the fraudsters' pockets.



What are the obstacles met by journalists investigating tax evasion? Mrs Robert gave us an example of a study on fraud made by the European Commission and revealed by EurActiv.

- Lack of transparency: studies are made on the subject, but authors do not want to talk. France did not want to publish the study because it reveals a loss of earnings of 32 billion euros
- The European Commission does not want to upset the Member States but recognises the existence of the study, and explains that it is better not to talk about it.
- Communication with Bercy (Ministry of the Economy, Finance and Industry) is very difficult

The work of journalists brings some transparency to this very opaque environment, but the access to data is limited. Yet there is a real need for transparency: even deputy Nicolas Dupont-Aignan had difficulties to obtain numbers such as the recovery rate of VAT receivables by Bercy. It varies between 0 and 1%, which is very little.

The implication of civil society is then crucial, and more collaboration between States, to avoid that the resources go to the mafia, who organise this fraud in a more sophisticated way.

3) *Bo Elkjaer (Journalisten.dk): International cooperation in investigative reporting on financial crime*

You will find Mr Elkjaer's presentation online.



Bo Elkjaer has worked on VAT fraud on the carbon market thanks to the study of the Danish registry. An informal network of journalists (to which Aline Robert belonged) was formed to exchange information. VAT fraud reached a peak in 2009 and is still going on today.

139 563 336€ were stolen between August 2009 and May 2010. According to Danish authorities, there is no proof suggesting that the Danish registry was used to access the market of carbon quotas. Out of the several thousands of people registered, after controlling addresses and companies, only 33 turned out to belong to the registry.

What lessons did we draw from this experience? The importance of:

- Exchanges between academics and journalists
- Informal networks
- Sharing information
- Coordinated research
- "New" tools

4) *Dan Israel (Mediapart): Sources and whistleblowers in the banking field: who to believe? How to check?*

Mr. Israel presented four examples of cases and their process by Mediapart, to illustrate some questions asked in the frame of an investigation by a journalist.

- 1) The first case is UBS, on which a lot had already been revealed in a book by Antoine Peillon, a journalist at *La Croix*, [Ces 600 milliards qui manquent à la France](#). This case is about a Swiss bank that is behind a great system of tax evasion. Apart from the revelations made by Mr. Peillon, the French subsidiary of UBS was put under investigation when Mediapart started to publish [articles](#). There was no particular difficulty to deal with the case because numerous elements were already known.
- 2) The second case is the one from the [Pasche bank in Monaco](#), a subsidiary of Crédit Mutuel, involved in a system of tax evasion and money laundering until 2013. In this case, a series of articles were published by Mediapart. The instruction had also already started in Monaco, which helped to research information.
- 3) The third case is about a bank financial analyst, who suspected her hierarchical superior to play down the risks about some loans granted to firms. On the other hand, he blamed her for not being “commercial” enough in her relations with his clients. In this case, there is only one testimony, and the experts consulted could not allow to give a sure answer about what this person was suspecting. No article was written.
- 4) The fourth case is about Pierre Condamine-Gerbier, a former asset manager, who worked for the Reyl bank, known to have organised tax evasion of Jérôme Cahuzac (former French ministry). He [had blown the whistle](#) about certain practices of this bank, and other Swiss banks. He was then arrested in Switzerland for having violated bank secrecy and admitted later on to have lied on some points.



Finally, Mr. Israel also raised the question of the impact sometimes limited of some subjects, both for the public (that is not always interested in complex or technical subjects) and on the judicial level.

15.30 – 16.00 Coffee break

16.00-17.00

C. Open discussion and exchange of best practices among participants

Moderator: *Rosen Dimov (European Alternatives)*

What do we draw from these two days of exchanges?

Vittorio Agnoletto

- The Directive was a first step. We must now work on implementing it in the Member States and on pushing the addition of the social reuse of confiscated goods to it, not only confiscation.

- The idea of European Public Prosecutor's Office must be discussed by the Council. What will be the power relations with national public prosecutors?
- The project « Tackling the Illegal Economy » must continue with concrete actions, such as tools to fight against organised crime
- A network among notably the participants present here must be created by putting participants in touch (especially from this conference)



Mario Vaudano

- Put everyone in touch
- In France, you cannot convict a person who is part of a criminal association if you do not have proof that there was a direct, material or moral participation to a crime. We should, like in Italy, add the possibility to convict persons for “concrete aid to the criminal association” (which is used a lot in Italy).
- Regarding journalists, there are two conditions to access information: a technical base – one should know the law and one's access to rights well – and an ethical base, so that the trust built with magistrates is not breached.

Giulia Bartolini

- LIBERA is currently running a campaign on the different points mentioned, « [Restarting the future](#) », whose goal is to call the European Commission for:
 1. A directive on whistleblowers (and a resolution of European Parliament going in the same direction), including the following points:
 - unification of forms of protection
 - creation of canals of identified complaints, reliable and easily usable
 - promotion of a European culture of integrity, transparency and warning on corruption
 - activation of a European authority for whistleblowers
 2. A directive on confiscation in cases of corruption
 3. A new committee on organised crime, corruption and money laundering (CRIM) at the European Parliament

Sandro Mattioli

- Raise more awareness on the dangers of organised crime
- More opportunities for participation. For now, the struggle against organised crime is led under the impulsion of Italy.
- « Money makes good journalism »: the investigation asks for time and means.
- « Cooperation makes good journalism »: the example of Bo and Aline on fraud on the carbon market is an excellent one.
- « Information makes good journalism »: do we need a « Freedom of Information Act » in Europe?

Marcel Hipszman

- The struggle against organised crime concerns States, but also citizens. We must promote investigation journalism.
- Confiscation is a very important weapon. The progresses in this field must be applauded and amplified. We must also amplify the efforts towards the social reuse of confiscated goods, on the basis of the directive ([Directive 2014/42/UE](#) of April 3rd 2014 on the freezing and confiscation of instruments and products of crime in the European Union).
- There is an important need of expertise. A good example in the field of finance is [Finance Watch](#).
- We shouldn't be satisfied with indignation only.



Elena Dalibot

- More cooperation between the media, the citizens, the researchers and practitioners to facilitate exchange of information and different perspectives
- Involvement of civil society (in particular thanks to tools such as the European Citizens' Initiative) to exert pressure on States
- Inspire ourselves on the example of Italy about the confiscation of illegal goods and their social reuse

Fraud can promote « growth », in as much as it produces (toxic, harmful or useless products). We can make a parallel with the artificial level of growth at the time of colonisation. We may live a moment of transition, to which one of the symptoms is grey fraud, a product of the ways we currently function.



17.00 – 17.30

D. Next steps and conclusion

The next meeting in the framework of the «Tackling the Illegal Economy» project will be the 8-9 October conference, which will be held in Brussels. A meeting with the Members of the European Parliament (MEP) from the [LIBE committee](#) will also take place.

« Contro Mafie » will take place in Rome at the end of October.

CONTACTS

For more information, don't hesitate to contact us on paris@euroalter.com.

With the support of

