

Joint statement

TI-France and TI-Germany's joint position in the context of FATF evaluations on France and Germany in 2021

Berlin, 21.04.2021 – Organized crime, corruption and tax evasion have a common goal – private profit at the expense of the common good. Criminals build on a global system of secrecy jurisdictions and enablers to help launder and enjoy this profit. Attempts to stop illicit financial flows by sanctioning money laundering too often and too quickly face obstacles and are therefore largely ineffective in the face of professional money launderers using a global system of financial secrecy. As long as money can flow largely unhindered through this system, it undermines the rule of law and the integrity of our society.

France and Germany damage political integrity, safety, justice and the environment around the world by providing a safe haven for illicit financial flows from corruption and other crimes.

Transparency International is an international movement with a common vision of fighting corruption wherever it occurs. Given the transnational nature of shadow finance and illicit flows, which are at centre stage of our concerns, we see the FATF-exam not only as a national, but also as an international challenge. Having the simultaneous FATF-exam on France and Germany in 2021, TI-France and TI-Germany would like to share common perceptions of distortion in oversight and execution of FATF-recommendations at a later stage. Both national chapters work in close cooperation with the support of TI-EU as well as the International Secretariat of TI.

As representatives of civil society organizations working to improve anti-money-laundering in France and Germany, we welcome the efforts of FATF to ensure the adherence to high standards worldwide and in France and Germany. Whilst recognizing the recent efforts by the French and the German governments to strengthen AML we conclude that France and Germany do not effectively curb the flow of dirty money yet and need to make important changes.

In particular, France and Germany need to:

- **Build their money laundering risk analysis on the collection of reliable and accessible data and ensure free public access to beneficial ownership registers:**

To better understand the risk of complex money laundering and illicit financial flows, France and Germany should support their risk analysis with both, *qualitative* and *quantitative* data.

For instance, when identifying a sector at risk, such as the real estate sector, public authorities should not only rely specifically on characteristic of the concerned sector (here such as the diversity of professionals intervening at various levels, the location of the properties etc.), but rather provide statistics – such as the number of reports of suspicious transactions – and results of cross-referenced reading of registers. One unified land register linked via open data to the BO-register is a key prerequisite as well.

Therefore, France and Germany should provide free public access to those different registers to allow civil society to conduct its own research and compare them with the official money laundering risk analysis. The OpenLux revelations have shown how important public access to beneficial ownership registers is to unveil complex money laundering schemes.

More than three years ago, a central beneficial ownership register and free public access were created. Since then, names, first names, month, year of birth, country of residence and nationality of the beneficial owners as well as the nature and extent of the effective interests they hold in the company have to be named. Nevertheless, an investigation like the OpenLux revelation is due to the lack of open data neither possible in France nor in Germany.

Instead, as of today, despite the recent announcement of upcoming access to the beneficial ownership register, public access to this information remains dependent upon written request.

In these conditions, civil society organisations have no way to assess the quality of the BO registers' information, the room for improvements in terms of control of accuracy nor the rate of companies that comply with their beneficial ownership declaration obligation.

France and Germany should provide comprehensive, high-quality information about beneficial ownership available and searchable in a machine-readable format for law enforcement, AML bodies, obliged professionals and the public.

- **Provide the necessary resources and structures for investigating and prosecuting complex money-laundering schemes, ensuring effective and timely sanctions of perpetrators as well as enablers**

Many countries, France and Germany included, rely entirely on the outcome of the legal proceedings in the countries where the predicate offense occurred to initiate money-laundering investigations and prosecuting proceedings.

This is particularly true for cases involving investments made in Europe by former foreign leaders suspected of corruption or embezzlement of public funds. In France, for instance, investigations on Ben Ali, Hosni Mubarak and Muammar Gaddafi's real estate assets have been initiated in the aftermath of the Arab Spring. French authorities have entirely relied on information shared by their counterparts in Tunisia, Egypt and Libya and investigations have now stalled. Similar cases have emerged in Germany, like freezing the assets from the former president of Libya, Muammar Gaddafi – but repatriation of recovered assets was never enforced.

Yet, another avenue is possible. French authorities have recently convicted Teodorin Obiang, Vice-president of Equatorial Guinea, and Rifaat Al-Assad, uncle of Syrian leader Bashar Al-Assad, for laundering of embezzlement of public funds without relying on legal assistance from Equatorial Guinean and Syrian authorities.

In accordance with FATF recommendations, France and Germany should initiate investigations and prosecution on money laundering schemes even when predicate offence concern conduct that occurred in another country.

- **Ensure that professions from all sectors at risk of money laundering are subjected to anti-money laundering obligations**

Recent scandals, such as the Luanda Leaks, have highlighted the role of large consulting, accountancy and auditing firms in laundering the public funds embezzled by some kleptocrats¹.

Through their audit and advisory activities, these firms are likely to promote the volatility and opacity of financial arrangements. In this respect, they can facilitate both tax evasion and laundering of the proceeds of financial offenses by resorting to complex corporate structures:

¹ https://www.lemonde.fr/afrique/article/2020/01/20/luanda-leaks-le-role-trouble-des-geants-de-l-audit_6026587_3212.html; <https://www.la-croix.com/Economie/L-affaire-Dos-Santos-devoile-pratiques-cabinets-audit-facilitateurs-abus-financiers-2020-01-21-1301073303>

shell companies, trusts, registration in offshore jurisdictions preserving absolute banking secrecy and reduced taxation.

Yet, these accountancy firms are too often “unaccountable” and avoid prosecution by claiming improper privilege and relying on inefficient self-monitoring².

France and Germany should ensure that all intermediaries or “enablers”, including accountancy firms, comply with their anti-money laundering obligations and face proper prosecutions and sanctions when they fail to.

- **Improve and better coordinate supervision in both the non-financial and the financial sector**
- **Actively support efforts to improve the fight against cross-border money-laundering schemes including through increased international cooperation and by strengthening capacity for cross-border investigations, harmonisation of rules and coordination at EU level**

Zu Transparency Deutschland

Transparency International Deutschland e.V. arbeitet deutschlandweit an einer effektiven und nachhaltigen Bekämpfung und Eindämmung der Korruption.

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² <https://gfintegrity.org/unaccountable-the-role-of-accountancy-firms-in-international-financial-scandals/>