



Improving the protection and  
resilience of victims and  
enablers



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Executive Summary

There has been an intriguing notion held by some sections of practitioners, taxpayers and scholars in the tax crime ecosystem that tax crimes, such as tax fraud and tax evasion, are victimless crimes. They argue that unlike other crimes which can have their harm or impact traced to a direct victim, tax crimes tend not to be so. On the contrary, as evidence from PROTAX research and direct engagements with practitioners and end-users show, although the measurement of the extent of harm may be difficult, there are identifiable victims. These victims include government (through revenue losses, for instance); the public through, for example, lack of essential projects denied the public; and business through unfair competition. In various ways, these victims can be protected, and their resilience built and increased through, among others, adequate legislation, greater resourcefulness, heightened transparency, enhanced whistleblowing, effective monitoring and evaluation, enhanced technology, effective information exchange, and enhanced cooperation.

While the concept of the victim in the context of tax crimes is a debated issue, there is a certain degree of consensus that tax crimes can find fertile ground due to several factors or actors in the public and private sectors that facilitate their commission. As demonstrated by the PROTAX research, the significant development of cross-border trade, also as a result of the development of new technologies and e-commerce, and the existence of rules, including tax provisions, to facilitate the movement of goods and services within the EU, coupled with weaknesses in the process of harmonisation of tax systems and transnational law enforcement, generate significant opportunities for tax evaders and, in particular, for organised criminal groups to exploit these mechanisms in order to perpetrate tax offences. In other words, the vulnerabilities of the system - which become significant, for example, in

the case of corruption in tax administrations perpetrated by organised criminal groups - translate into enabling opportunities for organised crime so that public authorities can be both victims and involuntary enablers of fraud. Moreover, the PROTAX research project also highlighted the role that private sector operators can play in enabling illegal behaviour or by failing to take appropriate preventive measures as provided for in legislation aimed at preventing VAT fraud or money laundering. For the community of enablers, PROTAX research is expected to increase their resilience and awareness, helping them better detect and assess illegal activities and avoid being liable for the illegal behaviour of third parties, which now seems to be an increasingly pursued strategy within the EU. They will be advised how to proceed, react and inform others to take remedial actions.

The PROTAX risk and threat assessment methodology and policy toolkit are handy tools to enhance resilience and protection for victims and enablers of tax crimes. This presents key analysis, issues and recommendable actions that can help different categories of victims of tax crimes to protect themselves, particularly against being misused as enablers, and get their resilience increased.

## 1. Introduction

### 1.1. Objectives

This deliverable of the EU-funded PROTAX project has two main objectives. Firstly, it aims at developing measures for improving the resilience and protection of victims of tax crimes. Secondly, the deliverable seeks to provide measures for enhancing the protection and resilience of enablers of tax crimes. It is based on a variety of tools, analytical elements and experiences that have emerged throughout the previous deliverables of the PROTAX project. The deliverable builds also on the demonstration of tool kits of tax crimes in D8.1.<sup>1</sup>

### 1.2. Methodology

Socio-legal and criminological approaches have been used to analyse and draw conclusions in the context of exploring the beneficial interchanges between law in books and law in action. The process of developing this deliverable essentially involves critical sieving and comparative analysis of previous Work Packages (WPs) and deliverables of PROTAX and condensing some of the key relevant findings thereof into easy-to-use solution tools. These analytical findings are then supercharged by additional external literature to consolidate a better understanding of how victims and enablers of tax crimes can be best protected and their resilience strengthened. To deconstruct these steps into concrete presentation, this report is presented in two main parts:

- i. Improving the resilience and protection of victims of tax crimes; and
- ii. Improving the resilience and protection of enablers of tax crimes.

Each of these sections will comprise of introduction, categories, protection and resilience and conclusion.

## 2. Improving the resilience of victims and protective measures

### 2.1 Introduction

This section takes a surgical peek into some of the key relevant building blocks for protecting victims of tax crimes and enhancing their resilience against these crimes. While this introduction outlines objectives, the rest of Section 2 broadly consists of the following

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<sup>1</sup> Umut Turksen, 'PROTAX - D8.1 Report on workshops, practical demonstrations and webinars' (2021).

subsections: categories of victims of tax crimes, victims of tax crimes, as well as protection and resilience.

This section contributes to the effort to support victimised actors such as States to understand new and complex legal and practical issues in serious tax crimes. In doing so, PROTAX will demonstrably itemise some of the key building blocks for supporting victims' protection and resilience in respect of policymaking as well as of prosecution, conviction and sentencing on tax crimes.

The PROTAX findings across the previous deliverables will, in this section, help to improve the capacity of different categories of victims to protect themselves against being misused as enablers. Governments (and their treasuries and other departments) suffer substantial losses through criminal activities that divert taxable income from legal taxation and are, therefore, considered as primary victims of tax crimes.

The recommendations articulated in this section will, therefore, consider how to address dimensions of victimisation of governments and other victims such as the public and businesses. The PROTAX risk/threat assessment methodology (PRORAM), which was provided by D7.3 of WP7, will particularly be presented as a helpful tool for national tax and law enforcement authorities to prevent victimisation of the public through tax crimes, which results in substantial losses of public revenues.

## 2.2 Tax Crimes and Categories of Victims in the Public and Private Sectors

### 2.2.1 Conceptualisation of victims of tax crimes

In the 21<sup>st</sup> century, victims of crime have continued to be one of the imperative concepts in the justice delivery system that prominently attract the attention of actors such as policy/law makers, academics, politicians,<sup>2</sup> and law enforcement agencies. This prominence is hinged on the unsettled dimensions of interconnected components such as:

- crime;
- offenders of crime;
- victims of crime;
- criminal justice system; and
- push factors (including human rights and social justice issues) that drive the need to provide adequate protection and remedies for victims of crimes.

Crime is a product of the intersection between political and moral values, convenience and decisions on what behaviour is considered more deviant, harmful and/or injurious to the

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<sup>2</sup> Matthew Hall, *Victims of Crime: Policy and Practice in Criminal Justice* (Routledge 2012).

social good in which there could be identifiable offenders and victims as codified in law. Indeed, criminalisation has always been a highly politicised process. For instance, although money laundering has had harmful effects on government revenues for years, it has been defined as a crime only recently.<sup>3</sup> In the light of this, the identification of offenders, and operationalisation of a criminal justice system to deal with the offenders in order to achieve the full purpose of and locate the harm for labelling a given conduct as a crime has, for centuries, continued to be a difficult task for investigators, prosecutors and judges/magistrates.

What has even been more herculean is the task of concretely identifying victims of offenders of the offensive conduct in the law – and even outside the law. Presumptuously, however, the victims are expected to be known in the established legal structures.

The above scenarios only briefly characterise crimes in which a targeted harm would be inflicted on an individual or group of individuals – usually physically. At least, in this instance, the particular victims (often in the majority of cases<sup>4</sup>) may not make themselves known to the criminal justice system and that the established structure and procedures of the criminal justice system only succeed in getting hold of few victims (and of course relatively few offenders in most cases).<sup>5</sup> It is trite knowledge that victims of popular crimes in this category of traditional crimes such as robbery and murder do have victims.

This is usually not the case for white-collar crimes such as money laundering, tax crimes, accounting fraud, and insider trading,<sup>6</sup> which, unlike the conventional, present difficulty in tracing the purpose and harm of the criminal conduct to a readily identifiable person. White-collar crimes also have contested contours. But, the inclusion of tax crimes as white-collar crimes here is inspired by the general definition of white collar-crimes ‘as an illegal act or series of illegal acts committed by nonphysical means and by concealment or guile, to obtain money or property, to avoid the payment or loss of money or property, or to obtain business or personal advantage’.<sup>7</sup> In fact, the key motivation of tax offenders is their engrained desire to, by any means (including concealment, deception and avoidance of tax payment), procure

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<sup>3</sup> JC Sharman, *The Money Laundry: Regulating Criminal Finance in the Global Economy* (Cornell University Press 2011).

<sup>4</sup> This is because most crime cases in most jurisdictions are not possibly reported by victims.

<sup>5</sup> Matthew Hall, *Victims of Crime: Policy and Practice in Criminal Justice* (Routledge 2012).

<sup>6</sup> Hughlene Burton, Stewart Karlinsky and Cindy Blanthorne ‘Perception of a White-Collar Crime: Tax Evasion’ (2005) 3(1) *The ATA Journal of Legal Tax Research* 35.

<sup>7</sup> Herbert Edelhertz, *the Nature, Impact, and Prosecution of White-Collar Crime* (Vol 2, US Department of Justice 1970) 3.

‘a pecuniary gain, to inflate their wealth’.<sup>8</sup>

Tax crimes (particularly, corporate tax crime) are sometimes regarded as crimes without victims or victimless crimes.<sup>9</sup> This appears to dominate the perception of many people. The position can be challenged by examining in more detail ‘the many different ways in which individuals may experience’ the effects of tax crimes including financial and safety issues, and taking into consideration how the offences adversely affect the quality of life.<sup>10</sup> Thus, we find that the predisposition of tax crimes as victimless appears erroneous. The fault-lines can be traced to many underlying reasoning pressures - which PROTAX found during the focus group discussions in D2.3<sup>11</sup> - including the following four perception distractions:

- Not thinking far enough outside the box of the traditional crimes;
- Limited research and practice in identifying victims in the broad scope of modern criminal justice system; and
- Tax crimes usually are perceived (both by authorities and the public) to be of lesser crimes and are thus undeserving of relevant attention. Thus, victim in the public’s eye and victim in the purview of the criminal justice system become aligned to weak pillars serious consideration;
- Sometimes some of the offenders even think that these crimes may not be morally reprehensible since no directly identifiable person may have been harmed by their conduct. All they would care about is to escape unnoticed by the criminal justice system – and they may have thought to be on the good side of the social norms or behaviour.

A more viable alternative view supported by findings of PROTAX previous WPs is that tax crimes actually are not lesser crimes and are morally and legally reprehensible – they also have victims if the following general definition of victims of crime is considered:

A victim of crime is ‘someone or something that has been hurt, damaged, or killed or has suffered ... because of the [illegal] actions of someone or something else [i.e.

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<sup>8</sup> Geraldine Szott Moohr, ‘Tax Evasion as White-Collar Fraud’ (2009) Vol IX Houston Business and Tax Law Journal 208.

<sup>9</sup> Umut Turksen and others, ‘PROTAX D3.2 – A Comparative Analysis of Tax Crimes in the European Union’ (2020).

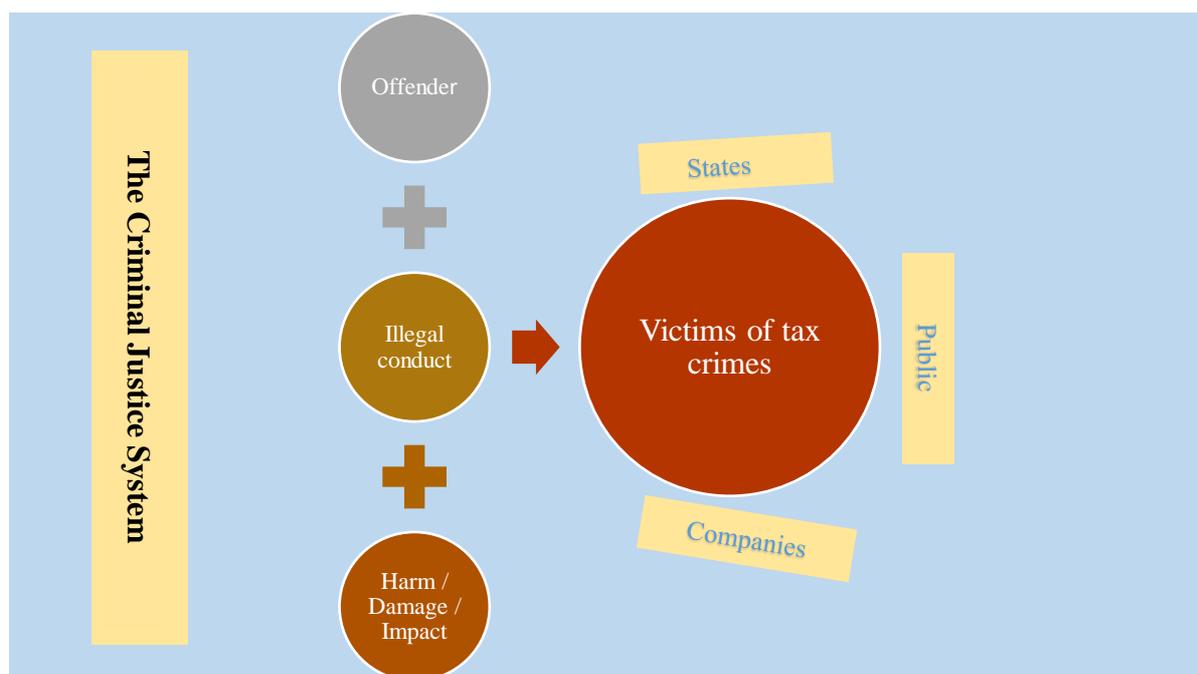
<sup>10</sup> Hazel Croall, ‘Victims of White-Collar and Corporate Crime’ in Pamela Davies, Peter Francis and Chris Greer (eds), *Victims, crime and society* (Sage Publications Ltd 2007) 78, 93.

<sup>11</sup> D2.3 Approaches to tax crimes in the European Union, based on validated focus groups input.

offender]'.<sup>12</sup>

What this definition essentially provides, as seen in Figure 1 is that a victim is a receiver of a harmful impact from an offender whose illegal conduct has occasioned any damage caused to the victim.

Figure 1: Ecosystem establishing victims of tax crimes



There can be innocent victims in which the person that receives the harm is unaware and does not contribute to giving the opportunity to the offender to commit the crime. A typical example, at the very individual level, can be identity theft of a victim who has diligently protected his data but has had his data scammed by hackers that use sophisticated methods and the systems of the victim to impersonate the victim to file for tax rebates, for instance.

At the national level, the systems of the tax administration can equally be compromised this way despite appropriate measures taken to avoid that. In this case, the victim is innocent. On the contrary, an individual or a country that does not protect their systems and data and willingly give out data (with the hope of also benefiting, sometimes) would be said to be a precipitated/exposed/willing victim.

Whether innocent victims or otherwise, traditional crime (such as murder) or white-collar crimes (such as tax crimes), there will be some harm to the individual

<sup>12</sup> Cambridge Dictionary, 'victim' < <https://dictionary.cambridge.org/dictionary/english/victim> > accessed 9 February 2021.

and/or the state/government along with victimisation of the public and businesses and the EU Single Market.

Based on the conceptualisation of victims in the foregoing, the following include the major victims of tax crimes: State, natural persons, and legal persons.

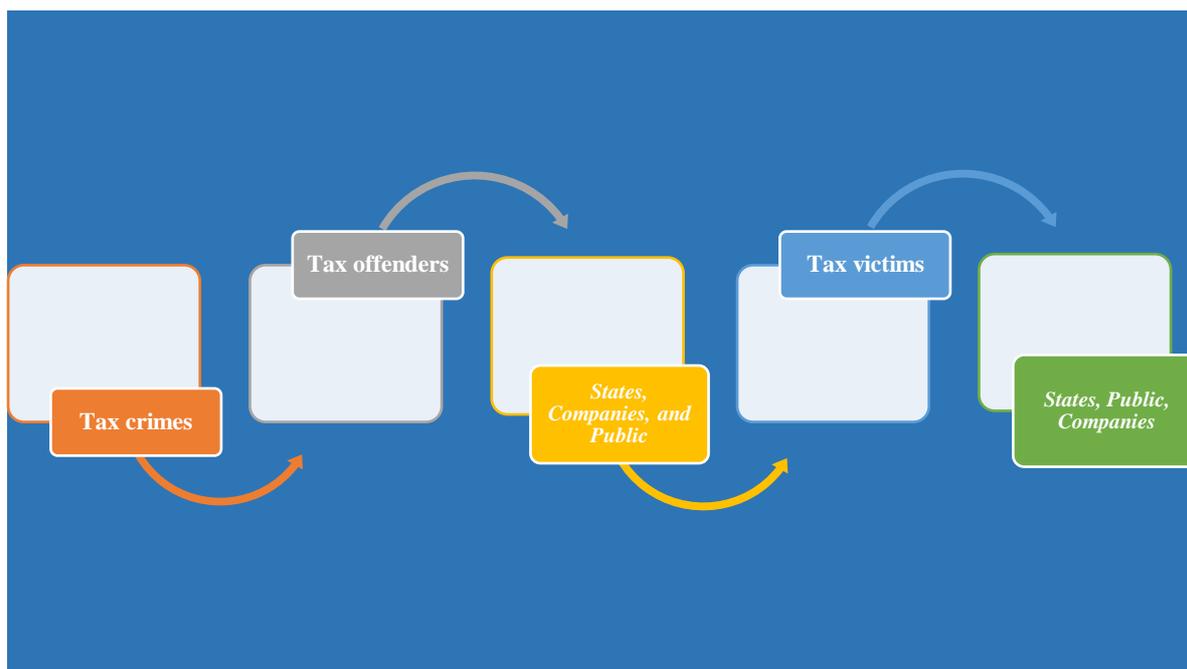
In effect, at the national level, offenders are legal persons and natural persons while victims are States, legal persons and natural persons. At the EU level, governments of Member States of the EU can equally be offenders such as operating secret jurisdictions such as tax havens in a manner that allows direct tax offenders to orchestrate their nefarious activities, which directly make other governments to be victims. In the same vein, both natural and legal persons can be offenders at the EU level. Indeed, in such jurisdictions, it is easier for government agencies to be misused to victimise the public and businesses. Figure 2 shows, therefore, that States, legal persons and natural persons can be victims just as they can be offenders.

The mechanics of the prisoner's dilemma in the game theory can be seen as one of the critical drivers that activate competitive desires of some states to give limited cooperation or refuse to cooperate on the agreeably rational need for countries not to provide opportunities to hurt each other, such as operating secret jurisdictions that provide fertile grounds for cross-border tax crimes to be committed. Thus, individually, rational behaviour of states<sup>13</sup> can, for instance, create irrational outcomes at the collective level - race to the bottom, where States competing for lowest tax rates to attract global companies or operating secrecy jurisdictions to give certain incentives to multinational companies and so on, can create a pendulum of unintended crisis for other countries in the collective, including victimising government revenues of States that operate tax transparent systems. Figure 2 does capture this interplay of individual/collective effects whereby the States, by virtue of their competitive interests, ignore or undermine a rationally collective good not to give opportunity for tax criminals to exploit, which results in these latter States victimising or becoming offenders of other countries that agree to abide by the rationally agreed propositions. This disposition applies to members of the public and companies too. Clearly, however, it is in the best interest of all these actors to foster cooperation to avoid victimisation of each other in respect of unfair taxation rules and opportunities.

*Figure 2: Tax crimes, offenders and victims in EU context*

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<sup>13</sup> See MG Allingham and A Sandmo, 'Income Tax Evasion: A Theoretical Analysis' (1972) 1 Journal of Public Economics 323.



### 2.2.2 Vulnerabilities in and impact pathways of tax crimes

Vulnerability is the position or situation in which someone or a thing is exposed in ways that make it difficult or impossible to be protected against harm or damage. Therefore, vulnerability of a tax crime countering system in light of victimisation is the state in which the tax ecosystem can easily be compromised by tax offenders and get away with it due to the ever presence of certain weaknesses that continue to provide soft spots for the tax offenders to operate and for victimisation. The elements that foster the vulnerabilities of the tax crime ecosystem are several. Some of the critical ones found in the EU, according to findings from previous PROTAX deliverables (particularly deliverables of WP2 to WP7) and external literature, include the following:

*Table 1: Vulnerabilities of tax crime ecosystem that create and/or expose tax crime victims*

Some examples of the elements of vulnerabilities
<i>Weak database on tax crime convictions and prosecutions on tax crimes</i>
<i>Weak integration of the databases hosting tax crime data</i>
<i>Weak cooperation mechanisms on fighting tax crimes</i>
<i>Legislative weakness on victims of tax crimes</i>
<i>Limited potency of whistle-blower regime</i>
<i>Lack of the needed technological sophistication such as hyper-automation systems that can ethically save, track, trace and identify culprits and victims of tax crimes</i>
<i>Weak response mechanism in the criminal justice system for tax crimes such as not making it possible for victims to have confidence to report malpractices to authorities</i>
<i>Indifference in public perception towards tax crimes and who victims are – including who culprits or offenders of tax crimes are</i>
<i>Indifference in perception of authorities towards tax crimes and who victims are – including who culprits or offenders of tax crimes are</i>
<i>Limited transparency in tax administration and enforcement</i>
<i>Complexity in the tax countering system including difficulty in measurement/ common definition, understanding and paying taxes due to bureaucracies, uncertainties and disparities across EU Member States. This also includes the challenge of differentiating between tax evasion and tax avoidance. Tax crimes also have underlying criminal conduct such as money laundering, and corruption.</i>
<i>Limitation of resources available to LEAs, tax administrations and FIUs – including financial and human resources to operationalise plans effectively</i>
<i>Policy indifference within and policy inconsistencies across EU Member States – including difficulty in transposition of tax crime legislation such as the fifth and sixth Anti-Money Laundering Directives of the EU.</i>

The above elements in Table 1 make tax eco-systems vulnerable to tax crimes including VAT fraud at both national and EU levels.<sup>14</sup>

Other important elements to be considered are:

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<sup>14</sup> Rita de la Feria, 'Tax Fraud and Selective Law Enforcement' (2020) 47(2) Journal of Law and Society 240.

- Rate of economic / social inequality
- Fairness of the tax system
- Responsible use of the collected taxes
- Corruption-Index
- Trust in the political system.

Those elements can foster or delude tax compliance of all players involved and – at its worst – may trigger a “Robbin Hood-Mentality” of tax offenders. Thus, victimising society as such.

Generally, tax crimes damage different fibres of the society including its ambiguous effects on fair competition and economic growth - in the sense that, tax fraud, for instance, does increase the amount of resources that can be accumulated by businesses thereby giving them an unfair advantage. At the same time, tax fraud can also reduce the quantity and quality of services being delivered by the government to the public. This, thus, results in adverse consequences for the growth of the economy at different points in time. In other words, the more apparent impact of tax crimes is that they reduce the amount of tax collected by the government. In fact, this dynamic is the general predicament of tax policy. Every year about one trillion<sup>15</sup> euros are lost to tax administrations in the EU through tax crimes.<sup>16</sup> For instance, while in 2018 ‘EU countries lost an estimated €140 billion in Value-Added Tax (VAT) revenues’ (as improvement over previous years), the 2020 forecast has shown ‘a potential loss of €164 billion in 2020 [in VAT revenues] due to the effects of the coronavirus pandemic on the economy’.<sup>17</sup> The irony of this example is that VAT in itself, a PROTAX expert has opined, does appear to be ‘an unfair type of taxation because as consumers we have to pay VAT, but as businesses we can evade it’!

When this happens, the taxes and income of those that are tax compliant are unfairly affected. In this regard, the services the government provides for the public are affected by the tax crimes. For instance, wealth of individuals and companies hidden in offshore secretive tax jurisdictions has often provided platform for originating countries (particularly developing countries) to lose income through taxes that can directly be translated into lost opportunity for government to deliver basic public services to mitigate the travails of poverty.

Consequently, the victimisation of government revenue goes to victimise the public and compliant corporate taxpayers. Companies can, for instance, fall victim to increased unfair

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<sup>15</sup> This estimate includes tax avoidance, which is not necessarily a criminal conduct. However, inclusion of tax avoidance in the estimates is in the context of seeing it as ‘a huge problem’ just like tax evasion and tax fraud.

<sup>16</sup> European Commission, ‘A huge problem’ < [https://ec.europa.eu/taxation\\_customs/fight-against-tax-fraud-tax-evasion/a-huge-problem\\_en](https://ec.europa.eu/taxation_customs/fight-against-tax-fraud-tax-evasion/a-huge-problem_en) > accessed 13 February 2021.

<sup>17</sup> European Commission, ‘VAT Gap: EU countries lost €140 billion in VAT revenues in 2018, with a potential increase in 2020 due to coronavirus’ (10 September 2020) < [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_20\\_1579](https://ec.europa.eu/commission/presscorner/detail/en/IP_20_1579) > accessed 13 February 2021.

competition due to the distortions created by some companies paying their taxes while other companies dubiously avoid paying taxes – the latter in the end gains unfair advantage in the marketplace due to undeserved surplus income and possible gain of price advantage for services and products for the tax offender at the disadvantage of the taxpaying company which would struggle with diminished income while being forced to compete in the marketplace. This obviously makes the taxpaying company a direct victim of a tax ecosystem that fails to ensure that all companies pay the right taxes in time.

At the same time, there is the impact of misallocation of wealth anytime when taxpayers' behaviour change towards cheating on their taxes. Thus, when taxpayers refuse to pay taxes, it results in altering 'the distribution of income in arbitrary, unpredictable, and unfair ways'.<sup>18</sup> This leads not only to harm the public/community/societal interest of fairness in distribution of wealth but also it adversely affects the accuracy of statistics of the macro-economy.<sup>19</sup>

Obviously, from purely criminal law and criminological perspective, assessing and making clear conclusions on the triable or convictable harms caused by the underlying conduct of tax crimes are all the more complex. This makes determination and identification of victims equally difficult. One of the corner-stones of the problem that makes it difficult to discern the 'offender versus victim' vignette is that tax crimes do tend to cause 'small harms to a large number of victims, which are significant only in the aggregate'.<sup>20</sup>

In effect, whereas tax crimes result in inflation of the wealth of the offender, it ends up imposing pecuniary and other losses on others (including compliant taxpayers). Tax crimes are deleterious to welfare of the public. Tax crimes add 'to the excess burden of taxation because some of the costs of evasion are real resource costs and not just transfers'. Example, a real resource cost can emerge from:

- When taxpayers make efforts to conceal their tax debts and tax administrations strive to detect tax crimes therefrom;
- When tax crimes impose 'uncertainty on risk-averse evaders' who feel threatened by inaction to be part of the crime or otherwise; and
- When activities of tax-evading firms drive tax-honest ones out of the marketplace.<sup>21</sup>

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<sup>18</sup> James Alm, 'Tax evasion, labour market effects, and income distribution' (IZA World of Labour, 2014) < <https://wol.iza.org/uploads/articles/91/pdfs/tax-evasion-labor-market-effects-and-income-distribution.pdf> > accessed 11 February 2021.

<sup>19</sup> *ibid.*

<sup>20</sup> Stuart P Green, 'What is wrong with tax evasion?' (2009) vol. IX Houston Business and Tax Law Journal 220, 226.

<sup>21</sup> Loukas Balafoutas, *et al.*, 'The hidden costs of tax evasion. Collaborative tax evasion in markets for expert services' (2015) 129 (2015) Journal of Public Economics 14.

In the scheme of extent of victimisation, 'government is directly harmed by losing revenue' while the public 'are indirectly harmed as they absorb a higher tax burden to compensate for the evader's unpaid taxes'.<sup>22</sup> They are also harmed through, for example, the socio-economic cost of not receiving the needed development from taxes.

In the end, from experiential study in WP2 and WP3 of PROTAX and other evidences in literature, more persons are not aware that they are victims of tax crimes than those that are aware that they are victims thereof.

Essentially, the State appears to be more conscious of being a victim of tax crimes than the public and companies. The public also inches a bit higher than companies do in awareness, most of whom being unaware of how victimised they are through avenues such as unfair competition that can undermine their income flows and sustainability of operations.

At the very individual level, companies or members of the public incur losses in income through tax identity theft where often a criminal uses social security number (in the case of natural person) to file the tax return of the victims before the victims do – the offender then escapes with the tax refund of the victim. In the same vein, the tax authority can be misused as an enabler to victimise unsuspecting members of the public, in which the criminals smartly deceive the victims to believe that they (the offenders) are representing the tax administration, with which they threaten the victims to follow up immediately. This is a process through which the victims get defrauded or have their personal tax details stolen to be used to dupe the victims. For instance, recently, in the United Kingdom, West Midlands' victims were hit in £26,000 tax fraud from scammers that pretended to be representing HM Revenue and Customs (HMRC). This was achieved in two weeks and the offenders sped away with the cash.<sup>23</sup>

Here too, until these individuals get to file their tax returns and/or are told, many of them tend not to be aware that they have fallen victims to tax identity theft. If the fake credentials of the offender can be cracked and traced, prosecutors have a fine opportunity to allocate liability, define the offensive conduct and pursue successful prosecution. This tends to be a herculean task for investigators and prosecutors since the offender uses the direct identity details of the victim, acting on behalf of the victim. One of the useful sources to trace from is the internet protocol address and computer credentials of the offender.

Curiously, even majority of those that are aware of or know about their situation as victims

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<sup>22</sup> Geraldine Szott Moohr, 'Tax Evasion as White-Collar Fraud' (2009) Vol IX Houston Business and Tax Law Journal 208, 2009.

<sup>23</sup> Thomas Parkes, 'West Midlands victims hit in £26,000 tax scam' (Express & Star, 25 July 2020) <<https://www.expressandstar.com/news/crime/2020/07/25/people-urged-to-remain-vigilant-over-hmrc-scams-in-west-midlands/>> accessed 14 February 2021.

of tax crimes tend not to really believe that they are victims until they are directly affected – particularly the public and companies.

### 2.3 Victims of Tax Crimes, Protection and Resilience

The traditional criminal law theory postulates that punishment of offenders aims at:

- Exacting ‘retribution for undesirable, immoral, and harmful conduct of a specific offender’; or
- Serving as deterrence against potential offenders from committing crimes in the future.<sup>24</sup>

Additionally, at least in continental criminal law theory, there is a third justification for punishment: to rehabilitate offenders. These three justifications consider both the interests of both the offender and the victim. The first leg is generally a resilience mechanism that seeks to cushion the victim to bounce back to a semblance of normalcy – psychologically, in particular. Retribution can similarly be related to restitution,<sup>25</sup> which seeks to bring restoration to the victim for the stolen items or as a recompense for any loss or injury that is incurred by the victim. The second leg is used as a protective tool. It is a punishment tool that deters some potential criminals from committing crimes and protect victims from re-offenders due to the measures of retribution, restitution and the like that inflict unusual pain or discomfort on the offenders – to the point that the offenders are expected to regret their actions, realise their folly and seek to make amends. The third leg is also presented as a protective tool for the victim – not only for the offender. This is because an offender who has been reformed or ‘exorcised’ of his criminal tendencies may well come back to the society not only to contribute towards paying taxes. After successful rehabilitation, the offender is also likely not to commit tax crimes to get the State and others victimised again. However, similar to many of the white-collar crimes, ‘the balance in tax crimes tilts toward the goal of deterrence’.<sup>26</sup>

At the same time, all criminal laws ordinarily seek to protect the interest of the public. Countering tax crimes focuses on safeguarding ‘a more specific public interest’. The public policy goal on criminal tax law provides for mitigating ‘harms that are not subject to objective measurement’ such as the fact that ‘successful tax evaders can obtain an unfair advantage

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<sup>24</sup> Geraldine Szott Moohr, ‘Tax Evasion as White-Collar Fraud’ (2009) Vol IX Houston Business and Tax Law Journal 208.

<sup>25</sup> See Netherlands Enterprise Agency, ‘Preventing and reporting fraud and deception’ < [https://www.justice.gov/tax/chapter\\_44/download](https://www.justice.gov/tax/chapter_44/download) > accessed 14 February 2021.

<sup>26</sup> Geraldine Szott Moohr, ‘Tax Evasion as White-Collar Fraud’ (2009) Vol IX Houston Business and Tax Law Journal 208.

over' many persons including 'law-abiding citizens and businesses'.<sup>27</sup> This is purposed on the protection of the interest of the public as a victim of these crimes and 'in preserving the integrity' of the tax system. This purpose is achieved through the provision of punishment against the offender in ways that should deter tax violators in the future<sup>28</sup> from committing the tax crime to get new victims inflicted. This is framework logic for laying the foundation for protecting persons from being victimised by criminals. The key framework instrument to actualise this logic is to establish and operationalise robust mechanisms for prevention, detection, investigation, prosecution, conviction, sentencing, and asset recovery on tax criminals.

It must be emphasised, however, that protection of victims of crimes is strongly supported by human rights and criminal justice incentives. According to the Organized Crime Convention 2000,<sup>29</sup> it is the responsibility of States to protect crime victims from any further harm. In fact, apart from the victims' right to be protected, the victims' cooperation with prosecutors along with any witnesses (who equally enjoy protection rights) is centripetal to the success of 'prosecutions of criminal offenders'.<sup>30</sup>

Some victims usually do not want to cooperate in supporting prosecutors to conduct prosecutions mainly due to the inadequate trust in the safeguards provided by the criminal justice system. In the case of the State as a victim, institutions of the government such as the tax administrations, LEAs and FIUs can provide evidential support for prosecution. At the same time, witnesses from members of the public or companies can be crucial in supporting successful prosecution. A combination of testimonies from victims and witnesses provides solid foundation for *actus reus* or the objective element of crime (guilty act) to be established. Moreover, to the extent that prosecutors face a difficult challenge in establishing the *mens rea* or subjective element (guilty mind) in tax offences, these forces of victims and witnesses can be a helpful tool for successful prosecution in tax matters.<sup>31</sup>

The valid belief is that, when victims and witnesses of crime are given the needed protection - and are convinced that they are taken seriously and that their grievances are taken up, and

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<sup>27</sup> Pamela H Bucy, 'Criminal Tax Fraud: The Downfall of Murderers, Madams and Thieves (1997) 29 ARIZ. ST. LJ 639; Geraldine Szott Moohr, 'Tax Evasion as White-Collar Fraud' (2009) Vol IX Houston Business and Tax Law Journal 208.

<sup>28</sup> Geraldine Szott Moohr, 'Tax Evasion as White-Collar Fraud' (2009) Vol IX Houston Business and Tax Law Journal 208.

<sup>29</sup> United Nations Convention against Transnational Organized Crime and the Protocols Thereto (15 November 2000, by resolution 55/25), Arts 24 (Protection of witnesses) and 25 (Assistance to and protection of victims).

<sup>30</sup> United Nations, 'Victim Assistance and Witness Protection' < <https://www.unodc.org/unodc/en/organized-crime/witness-protection.html> > accessed 13 February 2021.

<sup>31</sup> United Nations, 'Victim Assistance and Witness Protection' < <https://www.unodc.org/unodc/en/organized-crime/witness-protection.html> > accessed 13 February 2021.

they trust the LEA - they have the high proclivity to cooperate with the criminal justice system to bring offenders to justice. These victims may be reluctant to testify due to the general fears of exposure to actual or perceived harm or intimidation which victims from the public are required to give support to prosecution. Although it is the duty of criminal justice systems to establish appropriate procedures that give effect to the needed protection measures for crime victims that cooperate with law enforcement to conduct investigation and prosecution, this duty is usually not fully discharged by countries.<sup>32</sup>

In fact, because of the weaknesses of the criminal justice systems across many jurisdictions, many crime victims have found it difficult to receive the needed protection services that can give them adequate safeguards to be readily available to support prosecution. The vulnerabilities in the criminal justice systems could even expose victims to be 're-victimised'.<sup>33</sup> This phenomenon affects both conventional crimes and white-collar crimes such as tax crimes. This becomes even more difficult for tax crimes due to the general perception of tax offences as lesser offences compared to the person-focused, physical harm, violent crimes. The foregoing dispositions characterised some of the key findings of PROTAX in the preceding deliverables.

### 2.3.1 Protective measures for victims of tax crimes

Based on the PROTAX findings regarding the inadequacies of the protection regime given to victims of tax crimes, the following are recommended:

A key protection measure of every criminal justice system is the need to operationalise, in the prevention, detection, investigation, prosecution, conviction, sentencing and asset recovery on tax crimes, the following: Victims should be given the needed support before, during and after investigations, court proceedings, or trial. This will enable victims to be able cope with the psychological, practical and other constraints that come with testifying and supporting the criminal justice system to function effectively.

- A. For the State as a victim of tax crime, the assistance that is needed is to ensure that investigators, prosecutors and resource persons from government institutions are given all the needed safeguards (including personal security and job security) for them

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<sup>32</sup> *ibid.*

<sup>33</sup> *ibid.*

to fearlessly pursue tax criminals.

Institutionally, the LEAs, tax administrations and FIUs must be adequately resourced to be able to give trusted process, infrastructure, financial, technological and human capital support to the individuals representing these agencies to pursue tax criminals. Financial inadequacies came up strongly among LEAs and tax authorities that participated in PROTAX focus group discussions as impediment to giving the needed protection to the government revenue from being victimised. The biggest protection that can be given to the government institutions and personnel to prevent government revenue from being victimised is to establish robust infrastructure, processes, technology, institutions, culture and systems with highly qualified and motivated personnel that make it:

- Easier for preventative measures against tax crimes to be effectively operationalised. Useful instruments include strong public sensitisation (like the proposed EU tax observatory) on the importance of paying taxes and dangers of tax crimes; transparency and integrity in accounting for tax revenues; strong inter-agency cooperation (internationally and domestically) to exchange ideas, expertise and legal power, resources and information (for these, there must be a horizontal and vertical integration across LEAs, tax authorities, judiciary, FIUs, policy makers, key private sector enablers); effective planning (involving also getting reliable and shareable statistics on tax crimes such as conviction data); strong whistle-blower protection, as well as the use of advanced technology (including AI) in real time surveillance, detection, data analysis and application.
- Harder or impossible for taxable incomes of corporations and individuals to be hidden from law enforcement and other government authorities.
- Useful instruments here include those appropriated in the paragraph above.
- Harder or impossible for non-payment of taxes to be hidden from law enforcement and other government authorities. Useful instruments include those appropriated in the first bullet point above particularly, reliably connected databases on tax payment and non-payment, surveillance and cooperation measures.
- Harder or impossible for tax debts not to be collected. Instruments that are useful here involve all the instruments in the immediately preceding paragraph as well as simplified processes and systems of tax debt collection.
- Easier for proceeds of crimes to be identified, traced and recovered. Instruments

appropriated in the first bullet point of this list are applicable as well as appropriate enabling legislation to empower law enforcement to freeze, seize and confiscate assets.

- Enticing for victims and witnesses to cooperate with prosecutors and investigators to pursue tax offenders. Victims must be provided with the needed safeguards, appropriate compensation and other reliefs.
- Easier for law enforcement to carry out investigations and for the judiciary to proceed with prosecution in courts.
- Useful instruments here include clarity in the particulars of tax offences; non-complicated evidence required; predictable and non-time-consuming trial procedures; and knowledgeable judges in tax criminal matters.

B. With respect to corporation victims, protection measures include:

- Giving needed safeguards to corporate personality and that of the representatives when they are cooperating with prosecution.
- Curbing corporate tax crime by putting in place measures that detect and swiftly crack down on criminal corporate entities to provide competitive levelling field for all companies. A good consideration should be given to the negative impact of tax offences on competition in the Single Market when assessing damage and criminalisation with respect to victims.
- Providing special package or incentives for tax compliant companies including tax rebates and holidays as well as good corporate tax-brand-award schemes.

C. For members of public, some of whom being part of government and companies, promoting high level of integrity in the taxation system and counter tax crime ecosystem will significantly unleash interest, obedience and respect for the tax ecosystem.

This will encourage the public to be willing participants in supporting prosecution when the government is victimised or companies, the public or they themselves are personally victimised. As stated earlier, appropriate safeguards are not only needed for such victims but also the needed restitution and compensation must, at all times, be granted to them.

The PROTAX risk assessment methodology (PRORAM) developed in WP7<sup>34</sup> is a highly recommended tool for use in the efforts to protect the public from being victimised. PRORAM

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<sup>34</sup> Matthew Hall, 'PROTAX D7.3 – Risk assessment framework for countering tax crimes' (2021).

provides a process to coherently identify and analyse the uncertainties that are produced by threats and vulnerabilities in the tax crime law enforcement environment in the EU, by modelling these as risks. This will support the development of co-ordinated activities and measures to control them at an institutional and organisational level. The Methodology is smartly designed as a tax crime risk framework showing how tax crime risk is addressed, distinguishing between threats and vulnerabilities, and how they interact to increase the risk of both tax crimes being committed and unsuccessfully investigated and prosecuted. These vulnerabilities relate to the key institutional, legal and cultural factors identified in PROTAX WPs 1 – 6. Evidently, when risks and vulnerabilities are carefully defined and assessed, it gives the opportunity for government and law enforcement to know the key pillars that pose a danger to counter tax crime measures such as misusing government agencies to victimise the public. It is important to recognise these dangers and how they are concretely connected to other components of the counter tax crime ecosystem. PRORAM can analyse and develop solid profile of the risks and vulnerabilities associated with victim protection against the public.

It is one thing to have adequate protection measures for victims of tax crimes. It is another thing to actualise or operationalise these measures. Apparently, that is the gist or real point of action of PROTAX (i.e., law in books vs law in action) in a nutshell. What appears, in large part, is that many of the EU jurisdictions have established appreciable legal protection measures for tax crime victims in line with victims of other criminal offences. However, they have to do more to be able to adequately protect victims of tax crimes.

Although Organised Crime Convention 2000<sup>35</sup> does not directly feature tax crimes, tax crimes are predicate offences for money laundering. Money laundering is an offence covered by the Organised Crime Convention 2000 and, therefore, the measures therein can be applied for victims of tax crimes. Article 25 of the Organised Crime Convention provides and summarises the foregoing imperatives as follows:

1. Each State Party shall take appropriate measures within its means to provide assistance and protection to victims of offences covered by this Convention, in particular in cases of threat of retaliation or intimidation. 2. Each State Party shall establish appropriate procedures to provide access to compensation and restitution for victims of offences covered by this Convention. 3. Each State Party shall, subject to its domestic law, enable views and concerns of victims to be presented and considered at appropriate stages of criminal proceedings against offenders in a manner not prejudicial to the rights of the defence.

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<sup>35</sup> European Union has been party to this Convention since 12 Dec 2000 (signature) 21 May 2004 AA (ratification and accession), Arts 32.

The United Nations Convention against Corruption also provides for similar measures.<sup>36</sup> Essentially, based on the foregoing and in line with UNODC programmes for victim protection, we would urge the EU countries to escalate efforts in providing the needed infrastructure, process, personnel, institutions, infrastructure, technology and capital for effective and efficient:

- Legal and institutional assessments to understand the risks factors and needs for victim protection;
- Legislative and institutional support to establish appropriate legal provisions and systems to enhance victim protection;
- Awareness or sensitisation programmes to educate the public and companies as well as focusing on criminal justice authorities;
- Capacity building for criminal justice authorities such as ‘judges, prosecutors, police and prison officials;
- Strengthening of international and domestic cooperation for victim protection;<sup>37</sup>
- Measures for witnesses to also be similarly protected;
- Use of human factors in the protection of victims of tax crimes.

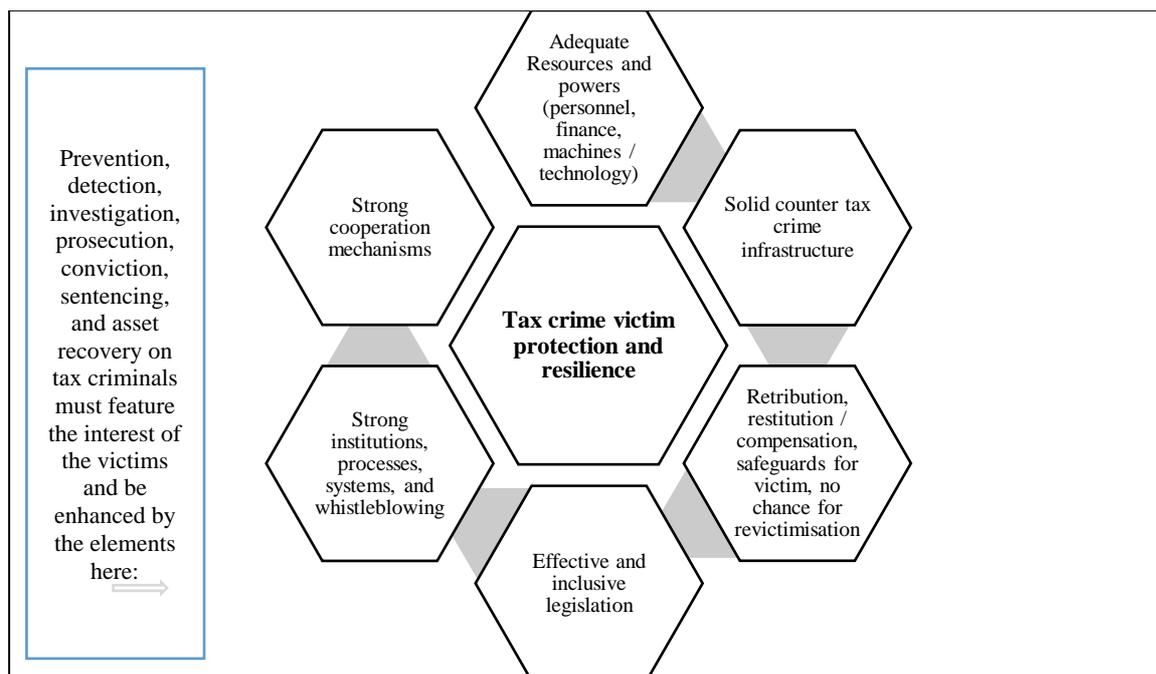
It is imperative to note that effective and efficient protection measures for tax crime victims must be integral to the comprehensive criminal justice system that is serious about protecting crime victims such as the government, companies and the public. In this regard, prevention, detection, investigation, prosecution, conviction, sentencing, and asset recovery on tax criminals must strongly feature the interest of the victims. See Figure 3.

*Figure 3: Elements of strong tax crime victim protection and resilience*

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<sup>36</sup> United Nations Convention Against Corruption (General Assembly Resolution 58/4, 31 October 2003).

<sup>37</sup> United Nations, ‘Victim Assistance and Witness Protection’ <<https://www.unodc.org/unodc/en/organized-crime/witness-protection.html>> accessed 13 February 2021.



Although resilience is such a broad term and usually put in context by scholars and practitioners, a basic notion of it in this context refers to the level of capacity of tax crime victims to withstand, accommodate, and recuperate from emotional, psychological and physical torture they would have suffered. Actual (and potential victims) develop mechanisms or are provided with such mechanisms to ‘foresee, endure, recuperate, adapt and innovate to mitigate’ any harm suffered from victimisation.<sup>38</sup> The ability of the tax victim to regain and maintain a balanced state when faced with constraints is quite important to withstand the sophisticated methods and techniques that are frequently launched on the systems, infrastructure and processes that protect government, companies and the public.

Resilience is highly connected to protection. If better protection measures are put in place, it may be easier for victims such as States to adjust themselves to face any potential risk of victimisation. Accordingly, some of the resilience measures can include:

- Enhancing whistle-blower protection regime. Whistle-blowers are very critical in exposing tax crimes in corporations which otherwise would have gone uncovered.
- Government agencies, companies and the public must remain vigilant and wary of any shady moves by some persons to victimise them;

<sup>38</sup> See Joie D Acosta, Anita Chandra and Jaime Madrigano, ‘An Agenda to Advance Integrative Resilience Research and Practice: Key Themes From a Resilience Roundtable’ (2017) 7(1) Rand Health Quarterly 5.

- Another critical resilience measure is the need to continue to provide reliable funding sources that are self-generating so that emergency responses to tackling tax crimes will not be stalled at any point for lack of money;
- There is also the need to escalate the research into, adoption and use of advanced technology that have the competence to close ‘exchange or data gaps’ that may have given the criminals the opportunity to commit the crimes;
- It is always said that together we stand, divided we fall – this was validated throughout PROTAX project as the need for effective interagency cooperation domestically and internationally in the exchange of expertise, resources, information and related support to counter tax crimes, corruption and money laundering. This must continue to be taken seriously by the EU and its Member States;
- Continued institutional and infrastructure building to accommodate highly qualified, resourced and motivated personnel in the LEAs, FIUs, and tax administrations and the criminal justice system is highly recommended. This also came up strongly during WP5, WP7 and WP3 of PROTAX;
- The audacity with which tax crimes are committed requires high level of proactivity in responding to tax crime issues. The attention must be focused on confronting the tax criminals even before they can strike rather than being reactive.

### 3. Improving the resilience of enablers and protective measures

#### 3.1 Introduction

This section, closely interconnected to the previous one, focuses on the enablers of tax crimes. More specifically, this section pays attention to the categories of enablers of tax crimes in the public and private sector, the resilience of these sectors, and the measures that could be adopted in this context to foster resilience against tax crimes and money laundering.

The PROTAX findings across the previous deliverables will, in this section, help to improve the capacity of different categories of enablers to protect themselves from the risk of losses or liability resulting from the failure to activate the tools for the detection and prevention of offences in the field of taxation<sup>39</sup> and anti-money laundering.<sup>40</sup> Therefore, the

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<sup>39</sup> On the genesis and development of the principle of third-party liability for VAT fraud and a critical comment on its impact on the rule of law see Rita de la Feria and Rebecca Foy, ‘Italmoda: The Birth of the Principle of Third-Party Liability for VAT Fraud’ (2016) 3 B.T.R. 270-280; Rita de la Feria, ‘Tax Fraud and Selective Law Enforcement’ (2020) 47(2) J.L.& Soc. 193-359.

<sup>40</sup> On the latest development about money laundering legislation in the EU and the effect of this legislation on the obliged entities, see European Commission, ‘Anti-money laundering and counter terrorist financing’ (2020)

recommendations articulated in this section will consider how to increase the resilience of the enablers in helping better detect and assess illegal activities. From this perspective, the PROTAX risk/threat assessment methodology includes a specific list of questions co-created with LEA partners of the research project “that are pertinent to identifying suspicious behaviours that may indicate a tax crime” and “are useful for enablers.”<sup>41</sup>

### 3.2 Tax Crimes and Categories of Enablers in the Public and Private Sectors

One of the PROTAX project’s main findings relates to the role that enablers of tax crimes and money laundering play within the EU Member States and the United Kingdom.<sup>42</sup> The multi-disciplinary approach followed, and the wide range of data collected and analysed in the context of this EU research made it possible to identify multiple categories of enablers.

As is well known, the concept of ‘enabler’ is rather debated from a terminological and conceptual points of view. It seems possible to distinguish, on the basis of the research carried out within the PROTAX project, between actors or factors that directly contribute to the commission of tax crimes and money laundering and factors or actors that, due to their vulnerabilities or weaknesses in their *modus operandi*, indirectly enable the commission of such crimes. Both perspectives, which often overlap, deserve to be examined separately and then read in an integrated manner. This section will also focus on aspects interconnected to the previous section dealing with victims and, above all, focusing on their protection against being misused as enablers, thus validating, in the light of further data, the close relations between the two concepts. The main objective of this work is to focus on measures to prevent and counteract the facilitation of such crimes.

From the first angle of analysis focused on illegal enablers, PROTAX explored the role of public officials of the tax or customs administrations in the tax-corruption schemes resulting in losses of public tax revenue.<sup>43</sup> Moreover, the PROTAX research also highlights the essential assistance provided by certain professionals and financial institutions in perpetuating tax

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<[https://ec.europa.eu/info/business-economy-euro/banking-and-finance/financial-supervision-and-risk-management/anti-money-laundering-and-counter-terrorist-financing\\_en#latest](https://ec.europa.eu/info/business-economy-euro/banking-and-finance/financial-supervision-and-risk-management/anti-money-laundering-and-counter-terrorist-financing_en#latest)> accessed 8 February 2021.

<sup>41</sup> Matthew Hall and others ‘PROTAX D7.3 – Risk assessment framework for countering tax crimes’ (2020).

<sup>42</sup> The role of the enablers of tax crimes was explored, among other things, in the context of case studies (Umut Turksen and others, ‘PROTAX D1.2 - Case Studies of Tax Crimes in the European Union’ (2018) <<https://ec.europa.eu/research/participants/documents/downloadPublic?documentIds=080166e5bede4cdd&appId=PPGMS>> accessed 8 February 2021; Fanou Rasmouki and others, ‘Approaches to tax crimes in the European Union’ (2019). <<https://ec.europa.eu/research/participants/documents/downloadPublic?documentIds=080166e5c8c7ea6a&appId=PPGMS>> accessed 9 February 2020, and the impact of human factors on tax compliance, see Umut Turksen and others, ‘PROTAX D3.2 – A Comparative Analysis of Tax Crimes in the European Union’ (2020).

<sup>43</sup> Umut Turksen and others, ‘PROTAX D3.2 – A Comparative Analysis of Tax Crimes in the European Union’ (2020).

offences or the laundering of dirty money.<sup>44</sup> PROTAX findings on human factors and tax compliance have made it clear that there are some Member States where there is also a risk of collusion between public authorities and tax evaders, which is likely to trigger a short circuit in the relationship between taxpayers and the state.<sup>45</sup> Such cases risk significantly undermining citizens' trust in public institutions thus may lead to lesser tax compliance. Corruption has a considerable impact on the citizen-state relationship. Corruption involving a public official in charge of essential public services, including the proper collection of tax revenues (e.g., tax-corruption) or adequate management of public expenditures (e.g., corruption in public procurement), has a relevant negative effect in economic terms. Widespread behaviours of public officials who foster non-compliance with tax legislation and who abuse their public power by committing offences that divert resources intended to feed investments in public infrastructures and services can have significant adverse effects on tax compliance.

Moreover, the role of professionals in the commission of tax offences and money laundering operations has been highlighted in the case studies,<sup>46</sup> in the focus groups organised within the framework of the research with public and private tax experts,<sup>47</sup> as well as in the research on human factors influencing tax compliance carried out by PROTAX Consortium.<sup>48</sup> The data collected and analysed within the PROTAX research project validated the potential dual role of these actors. Generally, these provide the clients with the assistance and advice essential to ensure the correct payment of taxes and avoid any form of liability that may arise from non-compliance with tax law. However, case studies show that there are cases where enablers provide the client with the assistance and advice essential to evade taxes, often reducing through sophisticated schemes the chances of being discovered and investigated. Given the technical peculiarities of tax offences, it seems likely to assume, also considering the collected and analysed data, that numerous schemes of tax fraud, even at the transnational level, are

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<sup>44</sup> Michael Levi, 'Making sense of professional enablers' involvement in laundering organized crime proceeds and of their regulation' (2021) 24 Trends Organ Crim 96; David Middleton and Michael Levi, 'Let Sleeping Lawyers Lie: Organized Crime, Lawyers and the Regulation of Legal Services' (2015) 55(4) BJC 647–668; Umut Turksen and others, 'PROTAX D3.2 – A Comparative Analysis of Tax Crimes in the European Union' (2020).

<sup>45</sup> Umut Turksen and others, 'PROTAX D3.2 – A Comparative Analysis of Tax Crimes in the European Union' (2020).

<sup>46</sup> Umut Turksen and others, 'PROTAX D1.2 – Case Studies of Tax Crimes in the European Union' (2018) <<https://ec.europa.eu/research/participants/documents/downloadPublic?documentIds=080166e5bede4cdd&appId=PPGMS>> accessed 8 February 2021.

<sup>47</sup> Fanou Rasmouki and others, 'PROTAX D2.3 – Approaches to tax crimes in the European Union' (2019). <<https://ec.europa.eu/research/participants/documents/downloadPublic?documentIds=080166e5c8c7ea6a&appId=PPGMS>> accessed 9 February 2020.

<sup>48</sup> Umut Turksen and others, 'PROTAX D3.2 – A Comparative Analysis of Tax Crimes in the European Union' (2020).

committed by tax evaders or organised criminal groups using the assistance of experts in the field.

From a second perspective, there are vulnerabilities or loopholes in the legislation that allow, for example, organised criminal groups to exploit the current limits of the “law in the books” and the “law in action” to commit various types of transnational VAT-related fraud and, in particular, missing trader fraud. Firstly, EU tax legislation is characterised by significant limitations stemming from the absence of a proper harmonisation process of tax laws, which unintentionally facilitates the commission of crimes that harm the EU and the Member States themselves.<sup>49</sup> Thus, the problem’s roots lie in the lack of a shared effort among Member States to harmonise tax policies to enhance development and security in the EU area. Considering the limited EU competence in taxation and criminal law, EU legislation on criminal tax matters also presents weaknesses despite recent legal developments that have significantly advanced it.<sup>50</sup>

The core of EU criminal law revolves around offences against EU revenues. The Union has recently provided for the criminalisation of serious transnational VAT fraud and established the competence of the EPPO over it. However, the analysis of the EU legislation on this matter has also revealed the current limits of such substantive and procedural legislation whose scope of application with reference to VAT fraud is limited to cases where the damage amounts to at least ten million euros. From this perspective, the choice of the Member States to limit the EU’s repressive intervention seems somewhat unreasonable for cases that could, in any case, represent serious crimes of a transnational nature, carried out by exploiting the VAT rules currently existing in the Member States, and with damage that is, in any case, significant, even if not corresponding to at least ten million euro. The significance of the offence and the need for a common punitive response at the EU level cannot be deduced solely from an assessment of the punishment threshold but the offence’s overall nature. This study calls on the European authorities to give a careful consideration to this important aspect.<sup>51</sup>

The PROTAX research also demonstrated the current weaknesses in law enforcement actions in the EU Member States context. The information gathered in the PROTAX focus groups which were then validated during the practical demonstration of the toolkits with experts

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<sup>49</sup> On VAT fraud see Marie Lamensch and Emanuele Ceci, ‘VAT fraud - Economic impact, challenges and policy issues’ (2018) <<https://www.europarl.europa.eu/cmsdata/156408/VAT%20Fraud%20Study%20publication.pdf>> accessed 9 February 2020. On the different typologies of missing trader fraud in the context of the EU see Marius C Frunza, *Value added tax fraud* (Routledge 2019), 6 and ff.

<sup>50</sup> Franz Reger, ‘PROTAX D3.1 – Report on comparative legal and institutional analysis’ (2020).

<sup>51</sup> Umut Turksen and others, ‘PROTAX D3.2 – A Comparative Analysis of Tax Crimes in the European Union’ (2020).

from the law and tax enforcement authorities, shows that there are a variety of reasons why the level of enforcement could be critical.<sup>52</sup> As some important cases show, the risk of damage to the EU budget could result from the fact that organised criminal groups or ordinary tax evaders perceive a low probability of being detected and investigated for possible wrongdoing. This risk becomes highest in the case of systemic corruption generated by the encounter between corrupt auditors and tax evaders.<sup>53</sup> An insufficient level of enforcement constitutes a weakness of the institutions called upon to combat wrongdoing that tax evaders or organised criminal groups could exploit. Cases in the EU context have shown that such illicit transactions are committed in those sectors, places or areas where there is inadequate enforcement or where the possibility of committing the offences lurks. There are many examples. For instance, investigations by European agencies have shown that the use of illicit schemes on an international scale that impacts EU revenues and creates damage to the other Member States can be located in countries where law enforcement is less effective.<sup>54</sup> In addition, investigations by national enforcement authorities have revealed that online marketplaces are being used to sell goods while avoiding payment of VAT obligations and exploiting the loopholes opened up by the use of technology.<sup>55</sup>

In the focus groups organised by PROTAX<sup>56</sup> and during dissemination activities,<sup>57</sup> participants from law enforcement authorities and tax administrations of different EU countries pointed out that their disposal resources are often inadequate to combat an evolving criminal phenomenon. In VAT and customs fraud, organised crime is now able to operate on a transnational scale and benefit from the lack of harmonisation of legislation and the existing limits in vertical and horizontal cooperation between enforcement authorities. The lack of adequate law enforcement makes institutions vulnerable, and they become unwitting

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<sup>52</sup> Fanou Rasmouki and others, 'PROTAX D2.3 – Approaches to tax crimes in the European Union' (2019). <<https://ec.europa.eu/research/participants/documents/downloadPublic?documentIds=080166e5c8c7ea6a&apld=PPGMS>> accessed 9 February 2020 and Umut Turksen and others, 'PROTAX - D8.1 Report on workshops, practical demonstrations and webinars' (2021).

<sup>53</sup> Umut Turksen and others, 'PROTAX D3.2 – A Comparative Analysis of Tax Crimes in the European Union' (2020).

<sup>54</sup> See OLAF, 'The OLAF Report 2017' (2018) <[https://ec.europa.eu/anti-fraud/sites/antifraud/files/olaf\\_report\\_2017\\_en.pdf](https://ec.europa.eu/anti-fraud/sites/antifraud/files/olaf_report_2017_en.pdf)> accessed 9 February 2021, 26-27, with reference to customs and VAT-related fraud,

<sup>55</sup> On VAT fraud in the context of e-commerce and countermeasures adopted by the EU see European Commission, 'Modernising VAT for cross-border e-commerce' (2021) <[https://ec.europa.eu/taxation\\_customs/business/vat/modernising-vat-cross-border-ecommerce\\_en](https://ec.europa.eu/taxation_customs/business/vat/modernising-vat-cross-border-ecommerce_en)> accessed 25 January 2021.

<sup>56</sup> Fanou Rasmouki and others, 'PROTAX D2.3 – Approaches to tax crimes in the European Union' (2019). <<https://ec.europa.eu/research/participants/documents/downloadPublic?documentIds=080166e5c8c7ea6a&apld=PPGMS>> accessed 9 February 2020.

<sup>57</sup> Umut Turksen and others, 'PROTAX D8.1 – Report on workshops, practical demonstrations and webinars' (2021).

enablers of these crimes. The absence of a common language, both conceptual and practical, poses serious difficulties in putting up a common front against such widespread phenomena that are difficult to detect and investigate adequately from a legal and conceptual point of view. International cooperation, therefore, suffers from significant limitations related not only to regulatory constraints since much has been done within the EU to strengthen this aspect<sup>58</sup> but also to different factors more related to the knowledge of the available regulatory instruments and the ability to implement them in practice. During the dissemination of the PROTAX project, many participants showed significant attention to the training needs of as many law enforcement officers as possible. By now, European law has a significant impact on these aspects and, during the focus groups and workshops organised by PROTAX, the need to discuss these issues emerged. At the same time, the focus groups showed that it is often important to strengthen the knowledge of the Member States' internal legal instruments or increase the knowledge between authorities to explore the beneficial effects of inter-agency cooperation.<sup>59</sup> PROTAX gathered information directly from authorities involved in preventing and combating tax offences about the risks associated with fragile enforcement authorities that lack the resources and tools to cope with a criminal phenomenon that is constantly evolving and difficult to tackle with traditional investigation methods. The absence of innovative detection mechanisms that leverage, for example, on the use of innovative electronic audit mechanisms facilitated by the digitalisation of the tax system or on an enhancement of reporting and whistleblowing<sup>60</sup> is a significant limitation of the enforcement authorities.

Similarly, PROTAX also revealed that there are heterogeneous categories of enablers in the private sector that can facilitate the commission of tax crimes and related offences, including money laundering, corruption and tax evasion.<sup>61</sup> First, PROTAX highlighted the role that compliance programmes could play in the prevention of tax crimes. With respect to this point, corporate prevention mechanisms that are not adequately structured through risk mapping and assessment, detection measures and internal investigations, and corporate protective measures, could facilitate the possibility for corporate employees to commit such offences.<sup>62</sup>

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<sup>58</sup> Franz Reger and others, 'PROTAX D5.1 – Guidance report for practitioners and policy makers' (2020); Umut Turksen and others, 'PROTAX D5.3 – Analytical framework of information-sharing practices in the conduct of tax crime' (2020).

<sup>59</sup> Fanou Rasmouki and others, 'PROTAX D2.3 – Approaches to tax crimes in the European Union' (2019). <<https://ec.europa.eu/research/participants/documents/downloadPublic?documentIds=080166e5c8c7ea6a&apld=PPGMS>> accessed 9 February 2020.

<sup>60</sup> Franz Reger, 'PROTAX D3.1 Report on comparative legal and institutional analysis' (2020).

<sup>61</sup> Umut Turksen and others, 'PROTAX D3.2 – A Comparative Analysis of Tax Crimes in the European Union' (2020).

<sup>62</sup> Umut Turksen and others, 'PROTAX D3.2 – A Comparative Analysis of Tax Crimes in the European Union' (2020).

In addition, as demonstrated by the case studies<sup>63</sup> and discussions with the end-users of this project,<sup>64</sup> companies, financial institutions or professionals, which are subject to EU tax and anti-money laundering rules that require them to be proactive in preventing wrongdoing through extensive forms of due diligence, may not adequately prevent, in the course of financial transactions or business operations, unlawful conduct such as money laundering conduct related to tax crimes. This may be the case when such institutions fail to comply with AML regulations and, more importantly, fail to develop preventive actions and compliance mechanisms to identify such potential wrongdoing and report suspicious transactions to the financial intelligence units for investigation. In some cases, tax advisers may facilitate the implementation of tax avoidance schemes that are formally compliant with the law but substantially against the spirit of the law, thus encouraging behaviour that reduces tax compliance within the permissible scope. In this perspective, the ethical aspects of this decision are of particular relevance regarding which PROTAX has carried out a significant detailed analysis. From this perspective, the research project questioned the role of professionals and their relationship with clients on tax matters and highlighted the potential and risks emerging in practice.<sup>65</sup>

### 3.3 Enablers of Tax Crimes, Protection and Resilience

The criminal phenomenon of tax evasion is continually evolving, and new dynamics have emerged in the EU area and at the international level. Among the different types of offenders, organised criminal groups are those who have taken a significant key role in the commission of such tax offences. As argued in the existing literature and validated by PROTAX,<sup>66</sup> these groups are characterised by their ability to rapidly adapt to changes, which also has significant implications on law enforcement policies and investigative actions. However, as just highlighted, the perpetration of such offences is possible due to a multiplicity of factors residing in the vulnerabilities existing in public and private tax crime control system, also in their mutual intersections.

In order to counter these phenomena, there is, first of all, the need for resilient public authorities, i.e., institutional entities that have the capacity to withstand the blows of tax evasion, corruption, money laundering and organised crime and to react to them actively.

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<sup>63</sup> Fanou Rasmouki and others, 'PROTAX D2.3 – Approaches to tax crimes in the European Union' (2019). <<https://ec.europa.eu/research/participants/documents/downloadPublic?documentIds=080166e5c8c7ea6a&appId=PPGMS>> accessed 9 February 2020.

<sup>64</sup> Umut Turksen, 'PROTAX - D8.1 Report on workshops, practical demonstrations and webinars' (2021).

<sup>65</sup> Umut Turksen and others, 'PROTAX D3.2 – A Comparative Analysis of Tax Crimes in the European Union' (2020).

<sup>66</sup> Turksen and others, 'PROTAX D1.2 – Case Studies of Tax Crimes in the European Union' (2018) <<https://ec.europa.eu/research/participants/documents/downloadPublic?documentIds=080166e5bede4cdd&appId=PPGMS>> accessed 8 February 2021.

Otherwise, a weakening of law enforcement represents an opportunity for such criminal groups and risks turning public institutions into weak institutions that facilitate illegal behaviour instead of detecting, investigating and punishing it. Resilience in public and private institutions is one of the pillars on which sustainable development rests, and this presupposes an adequate fight against tax evasion. The role of resilience in policymaking, i.e., the need for states to be able to ensure adequate, proportionate and timely reactions to problems arising in the institutional framework of the EU, has already been outlined in the previous section.

Given that public and private institutions are confronted with new risks and constantly evolving legal frameworks, the research developed by PROTAX, especially through the data collected and analysed in the context of focus groups,<sup>67</sup> has established that many public officials or public service providers who have a role in law enforcement and prevention of tax crimes are not adequately prepared to deal with the risks and threats, which therefore risk recurring overtime without adequate responses from the institutions and, therefore, the absence of adequate resilience. In particular, one of the main findings of the PROTAX project revolves around the limits of human and organisational performance and operational learning.<sup>68</sup> Training is the main tool to ensure that public officials are kept up-to-date on cases, but such programmes are often lacking or inadequate to counter such phenomena. To give a practical example, VAT fraud schemes are numerous and constantly evolving: public officials often lack adequate knowledge about such schemes, thus ending up lacking the necessary legal and practical training tools to prevent and combat such offences and/or recover criminal assets.

In addition, the PROTAX research project also found out that some public officials have learned new things in the context of disseminating research findings on domestic and European regulatory developments affecting this field. It seems rather complex that public officials can adequately exploit the available resources in the absence of knowledge of these tools. Furthermore, the research found that officers' performance evaluations are insufficient and, in several circumstances, officers in certain tax administrations pointed out that there are no systematic mechanisms for ex-post evaluation of the cases they handle. Most of the time, officers have no knowledge of if and how cases were concluded and do not discuss possible reasons and causes for success (prevention, cooperation, investigative technique, etc.) and failure (lack of resources, lack of cooperation, prescription of the offence, etc.).

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<sup>67</sup> Fanou Rasmouki and others, 'PROTAX D2.3 – Approaches to tax crimes in the European Union' (2019). <<https://ec.europa.eu/research/participants/documents/downloadPublic?documentIds=080166e5c8c7ea6a&applied=PPGMS>> accessed 9 February 2020.

<sup>68</sup> To this end, Umut Turksen and others, 'PROTAX D7.1 – A toolkit for policy-makers' (2020) and Umut Turksen and others, 'PROTAX D7.2 – A toolkit for LEAs and tax authorities' (2020), focus on operation learning as one of the main relevant point for improving the ability of the law enforcement agencies in preventing, detecting and investigating tax crimes.

Failure on the part of institutions to adequately combat such offences in the absence of adequate resources and training programs, as previously highlighted, into a factor enabling tax crime and reducing the revenues of Member States and the European Union, putting resilience for institutions at the centre of the agenda for states. In this case, resilience consists of public officials' ability to withstand adverse events and quickly develop knowledge and technical skills to cope with negative events or failures in tackling tax offences. Institutions with a low degree of resilience risk turning failures into a systematic weakness when not accompanied by adequate measures to overcome the problems.

The battle against these criminal phenomena, as PROTAX rightly points out,<sup>69</sup> also requires significant public-private cooperation and constant adaptation of this partnership over time so that the private sector can assist public administration in its action aimed at preventing the commission of tax crimes and other related offences. Private crime control represents one of the frontiers of modern criminal policy, which entrusts institutions and professionals in the private sector with the task of preventing the commission of offences.<sup>70</sup> In this perspective, it seems important, first, to stress the significant role of corporations in building resilience against tax crimes and other interconnected financial crimes, i.e., the ability of corporations to prevent a repetition of same offences. Similarly, tax professionals, being the point of reference for their clients, are also faced with several challenges resulting from the evolving legal framework. In particular, in a globalised world, one of the main critical aspects for professionals is the risk arising from the offer of illicit services and schemes or the lack of due diligence from an anti-money laundering perspective of the banks and other financial institutions in assisting their clients.

The focus groups, desk-based research and practical demonstrations conducted by PROTAX evidence that, at present, there are a limited number of cases of suspicious transaction reports related to tax matters by professionals, in particular accountants and auditors, in the various member states and the possible main reasons remain unknown. In this respect, it appears essential to improve these enablers' resilience, especially about cases where the failure to carry out duties under anti-money laundering legislation implementing EU law is caused by negligence, which has even led to sanctions being imposed on these institutions. This issue is extremely relevant in the context of the fight against tax crimes and money laundering, where the aim is to ensure that the same actors, institutions or professionals who are called upon to assist the state in uncovering and preventing offences could not become repeat offenders, but resilient, so are able to address internal weaknesses and overcome them. Obviously, this issue opens up significant food for thought on the extent of the

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<sup>69</sup> Umut Turksen and others, 'PROTAX D3.2 – A Comparative Analysis of Tax Crimes in the European Union' (2020).

<sup>70</sup> David Garland, 'The Culture of Control: Crime and Social Order in Contemporary Society' (2001) 31(5) Am. J. Soc.

accountability process underway and the risks involved in terms of compliance with the rule of law.

### 3.3.1 Protective measures for enablers of tax crimes

In order to ensure the resilience of public and private sector actors that may be enablers of tax crimes, a number of measures can be taken. Many measures have already been discussed in the previous section and in the PROTAX research project's deliverables. This paragraph aims to suggest the following additional actions that can be put in place by public and private institutions:

- Develop a high level of resilience in vulnerable public and private institutions and corporations in order to avoid that these could be more tolerant towards illegal activity and less resilient to the threat that tax evaders and organised crime groups could cause to law enforcement and tax revenue;
- Develop a whole-system approach in which public-private partnership in order to generate common responses to tax crimes at European level through a permanent forum of discussion between authorities and private sector operators to identify common vulnerabilities and develop common law enforcement strategies;
- Continue to build the resilience of financial institutions and ensure a constant update of their compliance programmes and external actions in order to prevent and counter money laundering, through the provision of useful guidelines designed to overcome the critical aspects related to the detection of wrongdoing;
- Develop measures to assess the resilience of public institutions in preventing and combating tax crimes and money laundering, especially on a European and transnational scale, by checking internal vulnerabilities and developing guidelines to overcome them in the light of concrete cases occurring in practice;
- Develop measures and providing adequate resources for enforcement authorities and prosecutors to prepare themselves and adapt to the stress and adversity that arises in the fight against tax crimes;
- Develop measures to assess the resilience of private institutions and professionals, in particular through associations representing categories of institutions or professionals, and to focus on tax advice, its limits and the opportunities to balance private and public needs while respecting ethics, as well as the law;
- Introduce specific resilience training programmes in the public sector, which - in addition to focusing on mind and energy skills - enhance the role of professional connection skills in the prevention of offences and enable public officials to develop

law enforcement actions, especially on a European scale, in a climate of mutual trust, thus overcoming the current vulnerabilities linked to the lack of human resources;

- Implement all measures required by law to prevent the risks of money laundering and develop self-assessments based on, for example, the toolkit developed by PROTAX in order for enablers to face the challenges of multiple money laundering schemes and to initiate the necessary investigative reporting;<sup>71</sup>
- Continue to develop innovative training programmes and awareness sessions in the context of the private sector to ensure that natural and legal persons can adequately address the risks related to tax crimes committed by organised criminal groups;
- Continue to develop sustainable artificial intelligence and analytics capabilities both in the public and private sectors in order to reduce human efforts in the detection and investigation of tax crimes and laundering of dirty money and respond adequately to the increasing use of technology by tax evaders, in particular organised crime groups;
- Develop incentives and rewards for operators and private sector actors who make efforts in the common interest to combat crimes, ensuring a consistent evolution of legislation to protect and reward them in a stick and carrot approach; and
- Develop appropriate resilience programmes both in the public and private sectors, especially considering the current spread of the Covid-19 pandemic and the risks related to tax crimes perpetration;
- Develop adequate incentives for reporting and whistleblowing, including financial rewards in order to discover cases as much as possible and increase the risks of being detected for tax offenders;
- Introduce and up-to-date legal and practical tools aimed at introducing new methods to detect and investigate tax crimes and corruption within the EU and its Member States.

## 4 Conclusions

This report has analysed and provided measures on how victims and enablers of tax crimes can improve their resilience and protection in the field of tax crimes, based on purposefully selected findings of previous findings from PROTAX deliverables. While enablers and victims are interlinked at certain cross-roads of responsabilisation in the private and public sectors, this analysis reveals that victims of tax crimes are more subjected to unsettled debates –

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<sup>71</sup> Matthew Hall and others 'PROTAX D7.3 – Risk assessment framework for countering tax crimes' (2020).

especially as to whether tax crimes are victimless crimes (as found to be a popular view in empirical study during D3.1 and D3.2 of PROTAX) or not.

However, PROTAX also found that tax crimes, indeed, have victims which particularly centre on government revenues, businesses and the public or community of citizens. This disposition continues to be a subject of scrutiny in criminal legal analysis, but when socio-legal contexts and human factors are invited into the analysis, we can be sure that tax crimes indeed have victims. These victims' resilience and protection mechanisms are all the more connected with the many solution propositions that seek to fight tax crimes so that these segments of the society will not be victimised. Tax crime enablers such as some accountants, auditors, lawyers and other consultants in the private sector and some agencies in the public sectors can readily be used as enablers to commit tax crimes or tax crimes committed can victimise them by way of making them lose competitive edge, or even dwindling their chances to effectively operate.

Ultimately, public and private sector institutions need to introduce measures to secure adequate resources and tools to increase resilience and develop the capacity to tackle tax crimes in the context of scenarios characterised by ever more rapidly evolving crime patterns requiring timely and effective responses.

The final points worth highlighting include the following:

- Criminals operate across borders, while tax authorities are usually confined to national silos.
- Legal constraints of due process limit law enforcement (e.g., evidence from investigation not always triggers prosecution).
- Structural obstacles such as competition between EU Member States hinder the implementation of a European-wide regime to counter tax crimes.
- Human factors are often neglected by policy initiatives focusing on black letter law.
- In light of the above points, victims of tax crimes lack the needed protection, support and voice. Consequently, the EU as a political body is victimised through its own constraints of preventing a coherent and effective approach to tax crimes.
- Continuously educating stakeholders on knowing victims/enablers, repercussions, and counter-measures of tax crimes is of great importance. For instance, a training programme could be included in schools to educate children from a young age about why taxes should be paid and what the consequences of tax evasion are on society as a whole, as this creates awareness. Educating professionals only is a good start but ultimately not enough. For example, in many countries, although there has been a push for prosecution of tax evasion, there is still the need for the public to be educated on the repercussions of tax evasion and how tax evasion gives rise to money laundering - as the connection is not clear even to professionals. Therefore, relevant training is needed on the connection between tax evasion and money laundering.

- PROTAX recommends for the continued development of an advanced, resilient and structured process, infrastructure, and systems that deliberately seek to remove these constraints against the protection of victims of tax crimes both at the level of the EU and in the Member States.

## Bibliography

- Acosta DJ, Chandra A and Madrigano J, 'An Agenda to Advance Integrative Resilience Research and Practice: Key Themes From a Resilience Roundtable' (2017) 7(1) *Rand Health Quarterly* 5.
- Allingham MG and Sandmo A, 'Income tax evasion: A theoretical analysis' (1972) 1 *Journal of Public Economics* 323.
- Alm J, 'Tax evasion, labour market effects, and income distribution' (IZA World of Labour, 2014) < <https://wol.iza.org/uploads/articles/91/pdfs/tax-evasion-labor-market-effects-and-income-distribution.pdf> > accessed 11 February 2021.
- Balafoutas L, et al., 'The hidden costs of tax evasion. Collaborative tax evasion in markets for expert services' (2015) 129 (2015) *Journal of Public Economics* 14.
- Bucy HP, 'Criminal Tax Fraud: The Downfall of Murderers, Madams and Thieves (1997) 29 *ARIZ. ST. LJ* 639.
- Burton H, Karlinsky S and Blanthorne C, 'Perception of a White-Collar Crime: Tax Evasion' (2005) 3(1) *The ATA Journal of Legal Tax Research* 35.
- Cambridge Dictionary, 'victim' < <https://dictionary.cambridge.org/dictionary/english/victim> > accessed 9 February 2021.
- Croall H, 'Victims of White-Collar and Corporate Crime' in Pamela Davies, Peter Francis and Chris Greer (eds), *Victims, crime and society* (Sage Publications Ltd 2007) 78.
- de la Feria R and Foy R, 'Italmoda: The Birth of the Principle of Third-Party Liability for VAT Fraud' (2016) 3 *B.T.R.* 270-280.
- de la Feria R, 'Tax Fraud and Selective Law Enforcement' (2020) 47(2) *Journal of Law and Society* 240.
- Edelhertz H, *The Nature, Impact, and Prosecution of White-Collar Crime* (Vol 2, US Department of Justice 1970) 3.
- European Commission, 'A huge problem' < [https://ec.europa.eu/taxation\\_customs/fight-against-tax-fraud-tax-evasion/a-huge-problem\\_en](https://ec.europa.eu/taxation_customs/fight-against-tax-fraud-tax-evasion/a-huge-problem_en) > accessed 13 February 2021.
- European Commission, 'Anti-money laundering and counter terrorist financing' (2020) < <https://ec.europa.eu/info/business-economy-euro/banking-and-finance/financial->

supervision-and-risk-management/anti-money-laundering-and-counter-terrorist-financing\_en#latest> accessed 8 February 2021.

European Commission, 'VAT Gap: EU countries lost €140 billion in VAT revenues in 2018, with a potential increase in 2020 due to coronavirus' (10 September 2020) <[https://ec.europa.eu/commission/presscorner/detail/en/IP\\_20\\_1579](https://ec.europa.eu/commission/presscorner/detail/en/IP_20_1579) >accessed 13 February 2021.

European Commission, 'Modernising VAT for cross-border e-commerce'(2021) <[https://ec.europa.eu/taxation\\_customs/business/vat/modernising-vat-cross-border-ecommerce\\_en](https://ec.europa.eu/taxation_customs/business/vat/modernising-vat-cross-border-ecommerce_en)> accessed 25 January 2021.

Frunza CM, *Value added tax fraud* (Routledge 2019).

Garland D, 'The Culture of Control: Crime and Social Order in Contemporary Society' (2001) 31(5) Am.J.Soc., <[https://www.researchgate.net/publication/37687995\\_The\\_Culture\\_of\\_Control\\_Crime\\_and\\_Social\\_Order\\_in\\_Contemporary\\_Society](https://www.researchgate.net/publication/37687995_The_Culture_of_Control_Crime_and_Social_Order_in_Contemporary_Society)> accessed 25 January 2021.

Green PS, 'What is wrong with tax evasion?' (2009) vol. IX Houston Business and Tax Law Journal 220.

Hall M, *Victims of Crime: Policy and Practice in Criminal Justice* (Routledge 2012).

Hall M, 'D7.3 – Risk assessment framework for countering tax crimes' (EU H2020 PROTAX, WP8, 2018 – 2021).

Lamensch M and Ceci E, 'VAT fraud - Economic impact, challenges and policy issues' (2018) <<https://www.europarl.europa.eu/cmsdata/156408/VAT%20Fraud%20Study%20publication.pdf>> accessed 9 February 2020.

Levi M, 'Making sense of professional enablers' involvement in laundering organised crime proceeds and of their regulation' (2021) 24 Trends Organ Crim 96.

Middleton D and Levi M, 'Let Sleeping Lawyers Lie: Organized Crime, Lawyers and the Regulation of Legal Services' (2015) 55(4) BJC 647.

Moohr SG, 'Tax Evasion as White-Collar Fraud' (2009) Vol IX Houston Business and Tax Law Journal 208.

Netherlands Enterprise Agency, 'Preventing and reporting fraud and deception' <[https://www.justice.gov/tax/chapter\\_44/download](https://www.justice.gov/tax/chapter_44/download) >accessed 14 February 2021.

OLAF, 'The OLAF Report 2017' (2018) <[https://ec.europa.eu/anti-fraud/sites/antifraud/files/olaf\\_report\\_2017\\_en.pdf](https://ec.europa.eu/anti-fraud/sites/antifraud/files/olaf_report_2017_en.pdf)> accessed 9 February 2021.

Parkes T, 'West Midlands victims hit in £26,000 tax scam' (Express & Star, 25 July 2020) <<https://www.expressandstar.com/news/crime/2020/07/25/people-urged-to-remain-vigilant-over-hmrc-scams-in-west-midlands/>> accessed 14 February 2021.

Rasmouki F and others, 'PROTAX D2.3 – Approaches to tax crimes in the European Union' (EU H2020 PROTAX, 2019) <<https://ec.europa.eu/research/participants/documents/downloadPublic?documentIds=080166e5c8c7ea6a&apld=PPGMS>> accessed 9 February 2020.

Reger F, 'PROTAX D3.1 – Report on comparative legal and institutional analysis' (2020).

Reger F and others, 'PROTAX D5.1 – Guidance report for practitioners and policy makers' (EU H2020 PROTAX, 2020).

Sharman JC, *The Money Laundry: Regulating Criminal Finance in the Global Economy* (Cornell University Press 2011).

Turksen U and others, 'PROTAX D1.2 – Case Studies of Tax Crimes in the European Union' (EU H2020 PROTAX, 2018) <<https://ec.europa.eu/research/participants/documents/downloadPublic?documentIds=080166e5bede4cdd&apld=PPGMS>> accessed 8 February 2021.

Turksen U and others, 'PROTAX D3.2 – A Comparative Analysis of Tax Crimes in the European Union' (EU H2020 PROTAX, 2020).

Turksen U, 'PROTAX D8.1 – Report on workshops, practical demonstrations and webinars' (EU H2020 PROTAX, 2021).

Turksen U and others, 'PROTAX D5.3 – Analytical framework of information-sharing practices in the conduct of tax crime' (EU H2020 PROTAX, 2020).

Turksen U and others, 'PROTAX D7.1 – A toolkit for policy-makers' (EU H2020 PROTAX, 2020).

Turksen U and others, 'PROTAX D7.2 – A toolkit for LEAs and tax authorities' (EU H2020 PROTAX, 2020).

United Nations Convention against Transnational Organized Crime and the Protocols Thereto (15 November 2000, by resolution 55/25).

United Nations Convention against Corruption (General Assembly Resolution 58/4, 31 October 2003).

United Nations, 'Victim Assistance and Witness Protection' <  
<https://www.unodc.org/unodc/en/organized-crime/witness-protection.html> > accessed 13  
February 2021.