

Press release

The LuxLeaks and Lagarde trials: for how much longer will the judiciary protect financial delinquents?

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On 12th December the trial of Antoine Deltour, Raphaël Halet and Edouard Perrin – the two whistleblowers and the journalist who brought the Luxleaks scandal out into the open— opened again in Luxembourg. In June 2016, Edouard Perrin was acquitted but the Office of the Public Prosecutor of Luxembourg decided to appeal. Antoine Deltour and Raphaël Halet received suspended sentences of 12 and 9 months respectively and fines; they too have appealed. That verdict was truly scandalous, punishing as it did a brave act of citizenship: they brought to light a system of tax fraud on a huge scale, operating through hundreds of secret agreements or “tax rulings” between multinationals and the Luxembourg Tax Administration, aided and abetted by the auditors Pricewaterhouse Coopers (PwC).

This system of tax avoidance represents huge losses for public finances. The National Assembly’s Finance Commission says as much in an information report on “public debt management and transparency” published in July 2016. The report points out that for the last 30 years the contraction of tax revenue has considerably aggravated the State’s budgetary imbalance. [1] Tax evasion is one of the main factors slashing tax revenue. According to the Court of Auditors’ evaluation, tax evasion represents 60 billion euros per annum of non collected revenue. The Commission also insisted on the fact that too little is known about the holders of French debt, and that the proportion of French debt paper held in tax havens is not known. It went on to advocate that the fight against tax fraud and evasion should be reinforced, taking special precautions to prevent French debt from being used to enrich private investors based in tax havens through the interest paid on the debt by tax-payers.

While Antoine, Raphaël and Edouard now find themselves sitting in the dock, the former prime-minister of the Grand Duchy of Luxembourg from 1995 to 2013, Jean-Claude Juncker, who took part in this organized theft, is at the head of the European Commission. And on the other side of the border an equally questionable trial is coming up, since on 9 January 2017, Jon Palais will be judged at Dax following a non violent protest action involving stealing chairs from banks – in his case, BNP Paribas – in the run-up to COP21. The action aimed to denounce the tax evasion that BNP Paribas participates in, as do all the others. [2]

Since the court rightly acknowledged during the first trial that whistle-blowers acted in the public interest against dubious practices of fiscal optimisation, Antoine and Raphaël should simply be acquitted, and Edouard’s acquittal confirmed.

The Director of the IMF on trial

On the same day as the LuxLeaks trial, another hearing opened in France. The Managing Director of the IMF, Christine Lagarde – despite all her efforts to avoid a court action—has again been

summoned to appear before the Court of Justice of the Republic for a trial expected to last from 12th to 20th of December. She is accused of “gross negligence” that facilitated the embezzlement of public money. Madame Lagarde has said that she will take leave from the international organization for the duration of the trial, which she is still trying to get postponed.

Christine Lagarde is suspected of collusion in an affair which resulted in the illegal diversion of over 403 million euros of public money in favour of Bernard Tapie in 2008 when she was Nicolas Sarkozy’s Minister for Economy and Finance, and as such invested with public authority. Tapie claimed that the Credit Lyonnais had shortchanged him when Adidas was sold in 1993. Not only Bernard Tapie, but also Stéphane Richard, Christine Lagarde’s former chief of staff at the Ministry of Finance, now CEO of Orange, is under criminal investigation for “conspiracy to fraud” and “embezzlement of public money”.

While campaigning for her nomination in the IMF, Lagarde claimed that the file was empty and that there were no grounds for criminal proceedings. According to a new clause in her letter of commitment to the IMF, she is supposed to “respect the highest ethical principles, in line with the values of integrity, impartiality and discretion”. Despite this commitment having been seriously compromised, it did not prevent her from being appointed for a second five-year mandate as of 5 July 2016.

Since the beginning of the case, the IMF Board has renewed its confidence in Christine Lagarde. On 22nd July Gerry Rice, spokesperson for the IMF, declared, “the Executive Board . . . continues to express its confidence in the Managing Director’s ability to effectively carry out her duties.”

This is not the first time that the IMF has protected and supported delinquent financiers: other representatives of the institution, before Christine Lagarde, have been the object of judicial proceedings. Dominique Strauss-Kahn, for example, was forced to resign in May 2011 after his arrest in New York for attempted rape. His predecessor, the Spaniard Rodrigo Rato, also handed in his resignation before the end of his IMF mandate to take up a position in the Lazard Bank in London before going on to become the CEO of Bankia in Spain. Rato is not only being prosecuted for embezzlement but also for tax fraud and money-laundering, fraud and forgery in the context of the Bankia affair.

The unfailing support of the IMF for white-collar financial delinquency is by no means surprising. The IMF itself has never been very good at obeying the law, as can be seen by the innumerable agreements and rules of international law that the institution has violated through the structural adjustment plans that it imposes on countries. Or again, in the case of Greece, where the IMF has once again proved its complete disregard for the rules by proposing a loan agreement where one of the clauses stipulates that the agreement is valid even if it turns out to be illegal. The IMF has even transgressed its own rules in order to grant a loan to a State whose debt was already unsustainable. [\[3\]](#)

Is the judiciary taking sides? The CADTM chose which side to back long ago and supports initiatives that aim to denounce the actions of an all-powerful oligarchy which devours tax-payers’ money without having to give any account. This impunity has been going on for far too long. It is up to us to put a stop to it!

CADTM France , CADTM Belgium , CADTM Switzerland , CADTM Spain , Attac Luxembourg, 20 December 2016

P.S.

* <http://www.cadtm.org/The-LuxLeaks-and-Lagarde-trials>

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Footnotes

[1] French National Assembly, Finance Commission information report in conclusion of the work carried out by the Mission of Evaluation and Control (MEC) on the management and transparency of public debt, 6 July 2016, pp. 24-27. Available (in French only) at:
http://www.assemblee-nationale.fr/14/rap-info/i3936.asp#P2528_409267

[2] See the call to support Jon Palais and to mobilize during his trial, of which CADTM is a signatory (in French):
<https://france.attac.org/agenda/article/le-9-janvier-2017-a-dax-faisons-le-proces-de-l-evasion-fiscale>

[3] For more on the role of the IMF in the case of Greece, see “Four reasons why Greece should not have paid the IMF”:
<http://www.cadtm.org/Four-reasons-why-Greece-should-not>