Sovereignty & Taxation in Europe & Beyond: The Full Transcript

Taxlinked.net
2018

Our panelists were:

- Dr. Csaba Magyar, TEP, Managing Director, Crystal Worldwide Group, Hungary
- Dr. Ronen Palan, Professor of International Politics, City University London, UK
- Dr. Ajay Kumar, Assistant Professor, University of Dubai, UAE

Introductory Remarks

MATEO JARRIN: Let me get some admin issues out of the way before we get started with our question and answer portion. We are recording this webinar. We will have an audio recording available shortly after the event. Also, we will have a full transcript available to everyone. That will take us a few more weeks to get it out to you. But we'll make sure to share it, put it on the blog, share it via social media, and share it with all of our panelists, too.

Also, if you have any questions as you're listening to our panelists, if you have any questions that come to mind, please make sure you ask them using the GoToWebinar control panel. I will try to -- I'll be moderating this event, so I'll try to incorporate those into the discussion. So if you have any questions, make sure to plop them in there, and I'll make sure to get to them.

So without further ado, I'm going to ask each one of our panelists to introduce themselves, and then we'll get started. We have nine questions today, so we have plenty of material to cover. So Dr. Kumar, please a brief introduction.

DR. AJAY KUMAR: Hi all of you there. I hope you can hear me. As Mateo just said, my name is Ajay. I work at the University of Dubai. Basically, I teach financial crimes. That's what I teach at the moment. And I'm a lawyer both in India and in the UK. Previously, I worked for several universities in the UK and just moved to Dubai last year.

MATEO JARRIN: Excellent, thank you. Thank you Dr. Kumar. Dr. Magyar, Csaba.

DR. CSABA MAGYAR: Hello everyone. My name is Csaba Magyar. I live in Budapest, Hungary. I'm a lawyer and a tax consultant and I am the vice chair of the Association of Hungarian Tax Experts, and next to this I am the managing director of Crystal Worldwide, and I specialize into international tax planning, fiduciary services.

And actually I am trying to represent the part regarding the experience in the field of practical issues during tax planning and things like that, and I hope that during this webinar we will be able to sort out some issues regarding tax sovereignty.

MATEO JARRIN: Excellent. Thank you, Csaba. And Dr. Palan.

DR. RONEN PALAN: Thank you very much. My name is Ronen Palan. I'm a Professor of International Political Economy at City University in London. Now not everybody is familiar with international political economy. It's a sub-field of political science, which means that compared to my colleagues here and compared to others, I am an expert in generalities, not in anything specific. I'm not a lawyer, not an accountant. I wrote a few books on offshore tax havens, so I'm broadly familiar with this subject, but mostly from a political science perspective.

MATEO JARRIN: Excellent. Thank you very much for your introductions. Let's get started with a very kind of general question, one that will look more specific, I guess, we will look at definitions, and, like, what is the role of tax sovereignty.

So the first question we have from our members is: What is tax sovereignty? What is the functional role of sovereignty in taxation? And why tax sovereignty important?

Csaba, since you suggested this webinar to us, and you're going to be in our future conference as a panelist on this, why don't you get us started with that one.

Question 1: What is tax sovereignty? What is the functional role of sovereignty in taxation? And why tax sovereignty important?

DR. CSABA MAGYAR: Actually according to my approach, tax sovereignty is a pretty important question nowadays because, according to the achievements regarding 2017 and 2018, I could see that the tax sovereignty of European countries are on a lower level because of OECD and the different European directives.

And sometimes, this kind of coordination and this kind of influence, which cannot leave countries to make their own tax policy, can be harmful as well. Of course, it must be highlighted that there are a lot of advantages because to have common concept of taxation it is a pretty important factor. But sometimes, as I can see, there are a lot of harmful practices in the field of tax coordination and international cooperation in tax matters because they do not pay attention to the tax sovereignty of many countries.

And from this perspective, it must be highlighted that there are a lot of third countries, I mean, non-European countries which are also influenced by this practice, and sometimes they cannot determine their own tax policy because of OECD and the European countries. And I think in the future it will be a very important issue to find a balance between influencing and convincing other countries to follow the best tax policy and to reserve their tax sovereignty as well.

MATEO JARRIN: Excellent. Thanks, Csaba. Ajay, any additional comments or reactions to what Csaba said?

DR. AJAY KUMAR: Yeah. I mean, just picking up on what he said, certainly with the OECD taking a lead in terms of BEPS and all of those things happening, I think there's a -- I wouldn't want to call it cooperation in any way, but, you're looking at it from an international law perspective.

I mean most of the nations, excepting those few ones which have the voice or the muscle to influence those kinds of decisions, most of the other voices are silent in terms of international tax policy creation. And that is the core, I think, in terms of tax sovereignty, because as we know, tax is something which is linked to the sovereign power of any nation, and that, that is being bartered away in no small way, through these kind of organized policymaking.

MATEO JARRIN: Thank you. Ronen?

DR. RONEN PALAN: Yes, I think -- I've very different views, particularly to Csaba. And let me try to articulate -- it will be fun because we have different views. First of all, there's no such thing as tax sovereignty. I mean, the concept doesn't mean to me anything. I understand the concept of state sovereignty.

States have sovereignty which one aspect or one important aspect of state sovereignty is the right to write their own laws, which applies to their own territories. And one aspect of that law is taxation regulation. Okay, so tax sovereignty, the question about tax sovereignty as such, strictly speaking, maybe I'm being pedantic, doesn't make sense to me; there's no such a thing. It's only about, we're talking about state sovereignty.

Now tax is used for various goals. It is used to fund public services, and there's a debate about whether it's needed and so on so forth. But of course it's also used for other social goals like redistribution or used as leverage by governments to achieve certain goals, to incentivize people or corporations to do.

So tax is a very important tool in the organization of states. And that's why it's so significant. And without having the ability to write your own laws in tax, states effectively doesn't have, may have a good de jure sovereignty but not de facto sovereignty. I accept that.

Now, the question refers to Europe -- what happens is two things with regards to tax: (A) When you join a club, you give up some of rights over taxation, for example, the WTO or in the case of Europe, a European organization. There are various goals, which seems to be contradictory to one another. One, the goal, for example, of creating a single market may affect the right to all kinds of rules and regulations, which affects the competitiveness of companies and individual taxation.

So, the limitation the people, I think, refers to in the case of Europe, we are talking about basically joining the club. By joining the club -- and there are limitations also with the WTO.

Then there are the second issues, and that's the spillover effect. Okay?

There are tax regime that may be intentionally or intended either directly or indirectly to attract non-resident and may affect other countries. Countries may feel that they are being impacted as a spillover because of the tax rules of one country, and countries can respond by different ways.

They can respond by putting pressure on those countries and that's, I think, what we're talking about. The kind of, the politics of that. But fundamentally, there's no such thing as tax sovereignty. There's state sovereignty, and the sovereignty of states mean the right to write the law including the menu or the type of taxation that you want to apply.

MATEO JARRIN: Thank you, Ronen. Any reactions to that? From either of you, Csaba or Ajay?

DR. CSABA MAGYAR: Yes. Well, we know the term tax sovereignty is coming from Mateo, so he was the person who found out about that. Actually, I agree with you regarding the state sovereignty and tax sovereignty, but we need to find the proper words to express what's going on.

And nowadays, we could figure that sometimes countries were not able to prepare their own law in the field of taxation because of being in the club. And, of course, it is always important to pay the necessary fee for the club, for the membership. But sometimes it is good to calculate the price. It is expensive or did I receive enough services regarding this? So, that's my approach to this question.

DR. AJAY KUMAR: Yeah. I mean, just to pick up on what Ronen said, in terms of tax sovereignty, you might have heard it as tax and sovereignty.

I'm just saying that understanding tax sovereignty, I mean, we could have said it as tax and sovereignty because, at the moment, in terms of -- which you said, I mean, there's no concept of tax sovereignty. I could accept that, but in terms of, in terms of tax laws, the sovereignty is being diminished. There's no two questions about that.

DR. RONEN PALAN: No. I disagree. I disagree profoundly on that. I believe, yes, as I said, we will go to it later with the rest of the questions because we have begun here. But being a member of the club has implications, but the sovereign can decide to be a member or not of that particular club. Okay?

And that's where sovereignty lies. If the sovereign is not able to join the club, or not able to decline -- to leave the club, then they lose sovereignty. Once they are part of the club, the sovereign can make a decision to what extent they are prepared to accept the club rules, and that's the question.

So that's a separate question. It's not about tax sovereignty. It's about calculation of what is the best position, developmental rules or other that states would like to achieve. So it's nothing to do with sovereignty as far as I'm concerned.

MATEO JARRIN: Excellent. Thank you. Okay, so with that introduction, I think now we can get into, I guess, the meatier portion of the webinar. We'll look at more of what sort of policies in Europe or pushed by the OECD and what sort of impact they have on tax legislation, and, I guess, state sovereignty with regards to tax for certain jurisdictions, if you want to rephrase it that way.

So the second question. What are the positive and negative aspects so both the plus and the minuses of the impact of the United States, the OECD, and the European Union on the tax legislation of third countries? Now we're looking at countries that are not members of the OECD, that are not members of the European Union, that are not part of the United States. So Ajay, you want to get to started with that?

Question 2: What are the positive and negative aspects so both the plus and the minuses of the impact of the United States, the OECD, and the European Union on the tax legislation of third countries?

DR. AJAY KUMAR: Just, I mean, linking it back to the previous question then, in terms of the club, understanding tax sovereignty within Europe and outside. As the question says, from an outsider's perspective, the kind of -- although you say that the sovereign has the right to decide whether he wants to join the club. That right is being, I think, still being diminished in a way by the permutations and combinations by the biggest economies.

Basically, as you can see, I mean, the U.S. can decide whether it wants to be inside or outside, and it can go ahead with its own laws. So I think, there are positives in a sense -- the things that they do unilaterally have due course become the norm later on, right?

So, in that sense and because it's a big economy, but at the end of it, I think, whether it is the OECD, whether it is the EU, from outside that club, I think we all stand to, you know, not gain from that.

DR. RONEN PALAN: Again I'll sound a bit pedantic in my answer, but we have to differentiate complete the OECD, which is really a think tank that cannot impose any policy, but can advise and the best it can achieve therefore is something like blacklisting. You are on the list. That's not a policy. Yes? And that's what you achieve.

As opposed to the policies of the United States, which is a sovereign country and of course the European Union, which is, I think, more a group of states. The answer to the question is very difficult for me to answer, a straight answer, because my sense is broadly that the international tax regime, if we can call it, is not functioning that well.

It's not functioning that well in terms of, say, economic efficiency, justice, and so on and so forth, and particularly in the case of corporations. So the results at the moment are not a well-functioning system to my mind, and to my mind the institutions that can change that are most likely to be able to change it are three of the largest economies in the world -- the United States, the European Union, and China.

So this particular logic suggests to me that their impact is not as yet as positive as I would like it to be. Broadly speaking, the way they can operate is very different. Again, coming back to my notion of sovereignty, the way the United States is operating is essentially using its large market. The United States is taking a series of unilateral positions, particularly on FATCA, in which it says: “You know what? Whatever the rules you want to have in any country you want, if you want to deal with an American citizen, corporation in our economy, you have to follow our rules.”

So in a sense, the United States uses its market power to force others. It doesn't force other countries. It forces companies and individuals that countries have to play with it. Okay? The European Union may go in that direction as well, and I think may use its market power.

Broadly, I think, when the United States did it, it had, broadly, a positive effect in the direction I would like to see. Broadly. But it's very broadly, like, I think, you know, I don't think we have sufficient time to begin to disentangle various things which the United States is doing and using its market power in a way that I'm not entirely happy with.

The European Union has a particular problem in externalizing its policy that is internally highly divided. The European Union has new tax havens, some of the biggest in the world. I would say Netherlands, I would say, is now the biggest, and in fact, the president of the European Union, Mr. Juncker -- well, so the European Union is very divided, and that affects its policy, but broadly the policies are positive. But we are far from having, I think, a well-functioning international tax regime. That would be my position.

MATEO JARRIN: Csaba? Any reactions to that?

DR. CSABA MAGYAR: Yes, before answering the question I wanted to ask Ronen, regarding the disadvantages, because you mentioned in the beginning that sometimes this system has some difficulties regarding the functioning and how it works in practice. What do you think? What do you see? What are the biggest problems nowadays? What are the issues?

DR. RONEN PALAN: Well, if you want to think strictly from an economic perspective, the fact that Cayman Islands is the fifth largest commercial center in the world doesn't even make sense. Okay? You can't explain it by normal economic rationale. The rise of these particular financial centers. This means that there's some sort of inefficiency of the system that are being, let's say, resolved here. So that's one.

The second aspect, that it's very much linked to it, is the problem that we are all aware of -- at least I hope that we’re aware of. And that's with globalization we have seen a huge increase in the gap between rich and poor, and that has been a very significant problem worldwide.

We have reached a position -- I can't remember the figure -- that about 13 or 14 billionaires in the world owns more like the equivalent to 50 percent of the rest of the world or something like that. I mean, we're talking about ridiculous number, which I don't -- may be there was. I'm not Mr. Trump, who always talk about history. He doesn't know history, but, you know, I don't know. And that's not justifiable. That's just not an economically useful system and so on and so forth. So we have a problem. And I think the international tax regime, let's call it that way, is certainly a key aspect of that problem.

MATEO JARRIN: Csaba, your reactions?

DR. CSABA MAGYAR: Yes. And actually, I think that this problem could be solved, but to solve this issue we should sing together, "We are the world, we are the children." So all of the countries should follow the same tax policy and tax regulation to find a proper rate, because OECD countries, European countries are following, or at least they are trying to follow the same tax regulations, and there are other countries who do not follow this kind of regulation.

There will be always tax havens and different loopholes. But, unfortunately, as you mentioned before, even in the European countries, there are different countries who cannot follow the same way regarding tax policy and also in other fields, as well. So, it means that the system cannot work if there is no agreement among all the countries.

So it is a hard issue and we should have a so-called global tax system to sort this out, but until then there is a low chance that there will be a good solution which is good for everyone, which is good for the big countries, for the big players, and which is good for the small countries as well.

MATEO JARRIN: Linking it to this idea of the global tax system that you just mentioned, Csaba, we have a question here, and I guess at a more regional level, in terms of the Common Consolidated Corporate Tax Base, the CCCTB in Europe. What is the approach of the smaller EU member states to the CCCTB? Csaba, you want to get started with that one? Which kind of links to this idea of a global tax system, but at a more regional level, I guess.

Question 3: What is the approach of the smaller EU member states to the CCCTB?

DR. CSABA MAGYAR: You know, I cannot represent all of the small countries in Europe, and I'm not authorized to represent Hungary regarding this question. I can share with you my opinion, regarding this. But as we all know from professionals, the small countries are afraid of this new system because this can bring us closer, little bit, to the so-called global taxation so it means that at least we could have some kind of a common European tax system. But according to some professionals, there is no calculation or proper calculation about the effects of this kind of common tax base in the European Union. But we will see.

So actually, I'm not against, but there is a lot of questions. And I wanted to say, in connection with the previous question, that there are a lot of negative aspects as well, and tax professionals are afraid of more administration, and we are afraid of having more work. I'm not against more work, of course, but I'm against administration.

So, this global system, or at least the European system, is trying to lead us to have a huge amount of administration during our everyday work. So it would be great to find out the system which can work, everybody could follow the system, but with less administration.

MATEO JARRIN: Got it. Got it, Csaba. Ajay, any comments on CCCTB or this additional work that comes from, you know, all this new compliance and so forth?

DR. AJAY KUMAR: Not really, I mean, but I just wanted to pick up on the -- I mean, I just had a thought, I mean, probably to, to just ask as well. In terms of the global agreement that you're saying, do you think that is going to get rid of all the inequality that Ronen was alluding to earlier?

The global agreement that you're trying to say which could solve the issues. To me personally that is actually cutting out the competition there. But in terms of inequality that Ronen was alluding to earlier, do you think that that is going to help in that? I mean, I'm just asking Ronen as well.

DR. RONEN PALAN: It's a big question. There is a discussion about setting up an international tax organization. Vito Tanzi was speaking of the last 30 or 40 years which would stay broadly on the same kind of model of the WTO, i.e. it will have some sort of legislative powers. Okay?

There's an argument made for that. I haven't seen much, much progress. I'm afraid I'm more cynical than Csaba about coming to an agreement. I think agreement is possible, but you only need agreement between three in the world today. It will be agreement with the United States, European Union, and China. The rest will simply follow through.

So actually you don't need to agree with everyone. These three have to agree on international tax regime. At the moment they don't. They don't agree. I agree that if they agree, it doesn't necessarily mean it will be just and equitable to everyone.

That's a high probability. But I think we are very far from that. But there is a recognition. I think there's increasing recognition by organizations like the OECD, like UNCTAD, and the IMF, that something is fundamentally wrong with the current international tax regime.

And in fact, the whole process that we are talking about, the regulatory process that we've seen taking place started from the G7. It was the G7 in 1996 that asked the OECD to come up with some sort of idea about how to deal with what was called at the time harmful tax competition.

So I think there's recognition at the global level from the G7 that there is a problem. How to solve the problem, I don't have the answers. Maybe next year, I will. But at the moment I don't. I think it's a very big question. That's where we are.

With regard to specifically to CCCTB. Okay? I see it more in the context of the European single market. When you try to set up a single market, there are various aspects to such a single market that can be derailed, and we see that in the United States. As you know, in the United States you've got 50 states. Then you've got Delaware and Nevada. There is competition between states, and that's a problem.

That undermines the legitimacy of the single markets and so forth. So my understanding with what this CCCTB is basically about, and I do recognize that application is maybe different from principle, but in principle what it’s about -- it's about sustaining the single market. So if you have a single market then, on the one hand, you want to reduce the costs for corporation, the costs that you're talking about, costs of reporting and so on and so forth.

Just imagine that in the UK that you've got, I don't know, about 60 or 70 different regions, each corporation, each company will have to write a report from each region here. The same in Europe. If you are a single market, you try to reduce costs. You try to avoid various forms of subsidies, which will undermine the legitimacy of the market, which can happen in a competition between states within that.

And I think some of the smaller states, and what I think Csaba was alluding to, some of the smaller states in Europe may basically become internal tax havens, the way Delaware and Nevada and Vermont in the United States. So you're trying to avoid that. So that's the second one.

You're trying to avoid this gaming, but fundamentally the CCCTB is really about the single market to try to create. It's another element to sustain the single markets. Now it has a tax of course implication, but that's what's about.

MATEO JARRIN: So any reaction to that, Csaba? Ajay?

DR. CSABA MAGYAR: Actually, Ajay used a very important word, which was competition. I think, a pretty important question: whether competition is good or not in the case of tax matters? Because this can be a question of competition between European member states in a single market. So it still exists. And even if there will be a common consolidated European tax base, it will not harmonize the corporate tax rate, for example.

In Hungary the corporate tax rate is just 9 percent. And I can tell you a few other countries where it is much higher. So it means that it will solve again only one aspect of this issue. We can be happy that held so we made one more step to get closer to the common European tax system. But as I can see…

DR. RONEN PALAN: Since in Hungary the corporate tax rate is 9 percent, and say in the UK it's a low 21 percent, do you see a huge inflow of UK companies moving to Hungary?

DR. CSABA MAGYAR: No. Actually I cannot see, you are right with this. But…

DR. RONEN PALAN: So what is this competition about in Hungary with this 9 percent? I mean how many companies from Europe, from Germany, from France, serious company -- either serious company, large ones, or actually new startups, how many of them decide to move to Hungary specifically because of the lower corporate taxation?

DR. CSABA MAGYAR: So we do not have a specific calculation about this. I could only see the corporate tax rate in Hungary was decreased to 9 percent. We received a lot of requests from foreigners. That they were interested in moving their business to Hungary.

DR. RONEN PALAN: Moving their businesses meant what? From which countries, if you know, and what did they mean by moving their businesses?

DR. CSABA MAGYAR: So actually we received a lot of requests from Russian people because they wanted to change their old-fashioned scheme in Cyprus, you know, to Hungary. So they are tax planners. That is the story. But you know we have some big companies in Hungary as well like Audi or Mercedes.

So I think that they are not against this 9 percent corporate tax rate in Hungary. So I didn't assist them to come to Hungary, but I think this could be one more reason for them to stay in Hungary. And there were a few shared service centers, which move to Hungary from Poland, from Germany, and from other countries as well.

I cannot tell you that a huge amount of companies went to Hungary because of the 9 percent corporate tax rate, but there are some achievements.

DR. RONEN PALAN: Okay, I will dispute you. All right. Okay, so, so to respond to that, because I don't know… This economist notion of tax competition, because economists believe that competition is good, and that means these economists don't work in business because if you work in business, the last thing you want is competition. You know, in a very competitive world, you don't make money, but if you are in a university you can talk about competition, and you'll be supported by -- it's best to say that.

The reality is -- I think there is serious foreign direct investment into countries like Hungary or the Czech Republic or Slovakia by, for example, car manufacturers, but it will be a much more solid investment, of course, if it's not based purely or even primarily on tax, but based on other aspects of those countries: infrastructure, human capital, and so on and so forth. Okay?

So that would be much more significant than tax competition, in my view. And it could be, although I did make calculation, that that competition attracts precisely the wrong businesses who come for the wrong reasons quite often. And you mentioned Russians trying to move from Cyprus. Well, Mateo, you may tell us about the great, great success of Cyprus in attracting Russian capital. I think you are now living in Cyprus, and it's of course the party is still on, isn't it?

MATEO JARRIN: Yeah, yeah. It's definitely on. If you just go to Limassol You'll see that 50 percent of it is actually Russian.

DR. RONEN PALAN: Yes. But Cyprus is in a profound financial crisis, which is now recovering slowly, slowly.

MATEO JARRIN: It's recovering. It's recovering. It's actually improved significantly since 2013.

DR. RONEN PALAN: Believe me, I will not recommend -- I don't know if you, Mateo, would recommend what Cyprus had to go through to others like Hungary or Czech Republic or any other considerably small states. And that was a particular developmental model, which is based on attracting mobile capital, particularly tax evaders, avoiders, and money laundering.

That was the model -- that was the primary model of Cyprus, and for a while, Cyprus could show enormous economic growth on the face of it. At some points, I think Cyprus -- Mateo you would know better -- Cyprus, GDP per capita probably reached near Britain.

MATEO JARRIN: I'm not aware of the statistics. I wouldn't be able to tell you about that.

DR. RONEN PALAN: Yes, but it was, you know, I mean the real estate market was booming in Cyprus and so on and so forth. So this is the effect of so-called tax competition. Okay? You are attracting the wrong type of businesses, and when it turns against you, which can happen easily, these countries are in a very difficult position. So I would not advocate it as a policy.

DR. CSABA MAGYAR: Yes, but actually I think that the UK was also involved in this tax competition because there are a lot of Russian investors who went to the UK. They set up shell companies and similar structures.

DR. RONEN PALAN: Absolutely, you are absolutely right. There was a kind of a recent resurge into what is the next positive impact on Russian investment, and they could find very little, beside the fact that whole areas in London, not only Russians, but other very wealthy people from various countries using whole areas in London as essentially capital investment. So central London has become empty. It's not a residential.

But when the economists tried to calculate what is the net value of this investment, they found very little, if anything.

MATEO JARRIN: Ajay, want to chip in with a thought or two here?

DR. AJAY KUMAR: I mean, there are two things which I just wanted to say. I think, and especially in a place like Dubai, to go by what Ronen said, what is the real impact that this will make? The first thing is I think in terms of the topic which we have in terms of sovereignty I think they should have the leeway to deal with it the way they want.

The second thing is -- of course I mean if you are having a jurisdiction which is quite well versed in terms of the legal system, in terms of the human capital, and all of those things -- yeah, tax doesn't play a role. But for the others to really have an impact in terms of attracting, whatever might be the capital, I think that the capital always has a spillover effect.

And especially in a place like Dubai, which I visited 15 years ago and to be coming back, and there's not an inch of space which has not been touched by whatever might be the capital that has flown in. Now even if you're looking at Mauritius now, I mean, of course these are all small states, but that's probably the only country which has had a positive GDP growth in the last 40 years. I mean consistently every single 40 years, you know.

So although, I mean, there is this whole idea that, I mean, there is good, good money -- that's the only thing that is going to really bring in economic development or really changes as such. I am a bit skeptical on that one.

DR. CSABA MAGYAR: And Ajay, how do you see if there is a foreign investor who would like to set up a business in Dubai, let's say. And is it an important factor that there is no corporate tax at all? If this guy can decide that I would like to go to Dubai to set up my business or into other countries. Can it be an important factor that you do not have a corporate tax rate in the Emirates at all?

DR. AJAY KUMAR: At least, I mean, for some of the Indian pharmaceutical companies which are based here, I find that as a very real thing for them to set base here. They buy their own IPs here, and most of the things that don't need…

DR. RONEN PALAN: Any mention of a company that does it?

DR. AJAY KUMAR: Sun Pharma.

DR. RONEN PALAN: Sun Pharma. How many people do they have working worldwide?

DR. AJAY KUMAR: It's a multinational, I think I mean, it's based -- it has a lot of business in. I can't give you the exact figures, but I can get it for you if you want to. It's a big one in India, and it has a lot of business in the U.S. as well.

DR. RONEN PALAN: Sure. And how many people are now employed in Dubai? I mean, how many are jobs like research and development?

DR. AJAY KUMAR: Probably around 20 persons.

DR. RONEN PALAN: Twenty person or 20 percent?

DR. AJAY KUMAR: Twenty persons that actually labs in Dubai now, they're setting up the labs now.

DR. RONEN PALAN: So there'll be 20 person, yes? And what would be the effect on India?

DR. AJAY KUMAR: I mean, in terms, I mean, in terms of all the IP activities, I mean, all the things which they own will all be here. I mean, so that they don't, they don't necessarily have to own it in India for which they would be taxed and all those things.

DR. RONEN PALAN: Yeah. It's good for them.

DR. AJAY KUMAR: It is.

DR. RONEN PALAN: But, there's also some people in India.

DR. AJAY KUMAR: Yeah. You have a point. All I was trying to say is that, I mean, they should be allowed to compete in this way.

DR. RONEN PALAN: Well but maybe India will come to a conclusion that Dubai is taking jobs or taking income tax from India and would basically block it. I mean, just think a few steps ahead rather than think from this specific -- at this point, it may be attractive to one particular company, but the effect of that is precisely something that, again I don't agree with Trump, but this is his base. The effect of these things when you think ahead is that large economies will begin to develop a protectionist measures. That's what will happen. Okay? So everything will have an effect.

MATEO JARRIN: Excellent. Okay. So let's shift gears a little bit more here, and let's talk about BEPS, the OECD BEPS. Base Erosion Profit Shifting. Does BEPS serve the tax policy of all participating states? Has the OECD made any estimation regarding the effect of BEPS on state budgets? Csaba, will you get us started there.

Question 4: Does BEPS serve the tax policy of all participating states? Has the OECD made any estimation regarding the effect of BEPS on state budgets?

DR. CSABA MAGYAR: Actually, in the European Union, we have this anti-avoidance directive, and actually BEPS is included in this system, and we don't know what will be the outcome of this story. We have already implemented a lot of regulation based on BEPS. But I think that there will be some negative aspects as well.

For example, this new royalty regime and nexus rule. They are a lot of European tax havens which are specialized into IP companies. And, of course, the state budgets of these countries was based on this IP companies. They didn't pay too much taxes in those countries, but due to this new regulation, they might move to other countries outside the European Union. We don't know. We will see.

But actually, yes, I could see the face of Ronen because of this. Actually, they were just tax planners, and they had around, like in Dubai with this pharmaceutical company, there were around only 10 or 20 workers, and they paid just a solid amount of taxes, Cyprus or in Liechtenstein.

But for these companies it is easy to move to another country and to bring some new workers to show some real economic presence. But the small countries will miss this solid amount of tax when this company will move to another country because of BEPS project.

MATEO JARRIN: Ajay, any thoughts on BEPS?

DR. AJAY KUMAR: The only thing that I get, I mean, I don't know what kind of figures the OECD has worked out, I have no idea. But the only thing that I could really bring back to that point in the comment I think made by Avi-Yonah in terms of, I mean, he said I mean in terms BEPS, I mean, you could find more cooperation now happening.

I mean, might be the developing countries are more interested now to join into this because, you know, now we are going to be having taxation of the place where the value is created, which never happened till now. Right? So, I don't know how this is or how far this is going to happen in reality, but that's my take on it.

MATEO JARRIN: Ronen? Anything to add?

DR. RONEN PALAN: Look the jury's out about the effect of BEPS. It's too early to say. BEPS is highly criticized both from the right, from the left. The right for argument that you heard here today a bit and the left from that it’s going to be ineffective, and because it's criticized from everywhere, I'm beginning to suspect that they may be doing something right.

What BEPS is about is really the first comprehensive attempt to stem out gaming by corporation. Most of the regulation that has been introduced in the last 15, 20 years, were really focusing on individual and on secrecy. Individual avoiders and secrecy. This is the first attempt, and it's based largely on research.

What we have mostly is research, and I think the research is sound, but I think it's only first stage research to understand really these complex entities called the firms or corporation. So I read this research. I'm quite impressed with it.

I think it's only the first step. Broadly, what we have seen, I think, I don't know if it's the direct effect of regulation, or indirect effect of the deterrence. Deterrence, partly because of regulation, partly because of leaks, and so on, so forth.

What we have seen is, I think, tax avoidance and evasion has declined in the last few years, and the facts that I see, for example, countries like Israel, where I'm originally from, or the UK, is that unexpected rise in tax receipts in these two countries and some others.

That's what we've seen the last few years with the result is, on the one hand, that countries like Israel will begin to reduce taxation, and the UK, effectively, yes, they begin to claim it's the successful austerity program, they claim it's…it's not that. It's actually that they have higher receipts, tax receipts than expected, and that's I think part of the regulation. So the effect is either more services or actually less taxation on the middle classes.

MATEO JARRIN: Okay. Excellent. Thank you. Okay, we have about 15 minutes. We'll probably extend it to about 5:10. We still have a few questions. I will try to wrap up around, I guess, around 5:10 Cyprus time. Brexit. Any comments on Brexit? And how will that kind of affect these issues that we have been discussing today? Ajay, you want to get started with that?

Question 5: Any comments on Brexit? And how will that kind of affect these issues that we have been discussing today?

DR. CSABA MAGYAR: If I'm not wrong -- and if I remember well, when Brexit was announced, I mean that Great Britain would start to split. There was an announcement as well that we would like to be a very competitive jurisdiction after the Brexit, which includes tax matters, as well. So I don't know what will be the final outcome of this story, but there is a chance that the United Kingdom would like to position itself as, not as a tax haven, but you know, a little bit, a little bit better tax system. This is good news for foreign investors and which can attract foreign investors as well.

DR. RONEN PALAN: Yes, I have a prediction. I think Csaba is right. I think that part of the vote for Brexit, at least there's a component, that a certain group of people, particularly city of London, and that's not the banks, the banks were against, but some of the asset managers and the like, they dreamed of a kind of Britain as a tax haven.

So the deregulators -- Singapore on the Thames -- and there's no doubt that they simply made a miscalculation in my view. And my view, on that, and I'm very relaxed on Brexit. I'm against Brexit, as you can imagine, and I remain there. But on this call, I'm quite relaxed and so are my friends in Tax Justice Network, and the reason is quite simple. It's political and not to do with what people are voting for.

It is said the world is made up of rule givers and rule takers, and rule givers at the moment are the three big large economies, okay? If the UK secedes from the European Union, we become the second largest rule taker in the world. The largest is Japan. The second is the UK, I think followed by India.

What the rule takers will have to do, Japan does it now. Essentially, the UK could either take advantage of competition among the big three: China, the United States, and Europe, and will try to position itself in such a way to take advantage and go in the direction that Csaba suggests. But I don't think that's going to work. And I think most likely what you find both in Japan and the UK and certainly South Korea, countries of that kind of order of size, they have to attach themselves to be in orbit of one of the big three large, and the UK will probably fall into orbit either of the US or European Union, most probably the European Union.

And these large economies will force upon the UK, coming back to that idea of tax sovereignty, they basically force rules that the UK thinks that they can avoid. They will not. So I'm very relaxed about that aspect of Brexit. I think the jurisdiction that was most worried about Brexit were the British tax haven jurisdictions. They understood that as long as Britain is part of the EU, they were protected. They felt protected. But now they are not protected, and we already see the effect.

MATEO JARRIN: Recently, they passed a public registers of beneficial ownership that they have to that they have to comply with, right? The overseas territories.

DR. CSABA MAGYAR: Really I wasn't so happy, but that's right.

DR. RONEN PALAN: Well, it passed it was very interesting. It was really driven by Margaret Hodges from Labour. It was not a government. It was one of those private MPs' amendment. She managed to somehow create -- she told us how she did it. But she managed to somehow link with some Tory MPs and pass that against the government.

But the government was a bit too embarrassed to say that they are really against it, and then of course they are leading the fight against tax havens, so what's going on here? At the moment there was a conference last week where all the leaders of those tax havens came to the UK, putting pressure on the governments, and we'll see what come out of it.

MATEO JARRIN: Okay. I guess that's a good segue way into our question on blacklists.

How do blacklists influence, I guess, the sovereignty and tax issues of the blacklisted countries? I mean does a blacklist have any sort of effect? Does a blacklist prove to be effective? I mean is it actually worth the time of the EU or the OECD to release a blacklist? What sort of effect does it have on those countries listed on there? Ajay, you want to get us started there?

Question 6: How do blacklists influence the sovereignty and tax issues of the blacklisted countries? Does a blacklist prove to be effective? Is it actually worth the time of the EU or the OECD to release a blacklist?

DR. AJAY KUMAR: Yeah again, I mean, linking back to the question of tax and sovereignty, I think, this is an intrusion into the sovereign nature of any state to blacklist or to -- because of the economic power that these persons who bring out these blacklists have, probably that's going to hamper the reputation of those nations which are on the blacklist and probably influence decisions in terms of investment.

But again, as I said, to me personally, from my perspective, I think it's an intrusion into the sovereignty, and this should be vehemently, you know, fought against.

MATEO JARRIN: Thank you. Csaba?

DR. CSABA MAGYAR: Actually, the Emirates were blacklisted by the European Union and you were removed from this list. How was it in the Emirates? What about local people? Do they feel anything or did they feel anything about this? I mean tax professionals or at least the Ministry of Finance. So what was the reaction in the Emirates?

DR. AJAY KUMAR: I'm not in a position to say what was the reaction. But generally, they're quite bothered with anything that tarnishes the name of Dubai or of the Emirates, and so they were very keen to see that they were taken out of the list.

So in terms of what I said, I mean, that is because of the publicity that these things get in terms of reputation, I think this is the kind of external pressure that can be brought upon a sovereign nation to behave in a particular way that the others want. Simple, right?

And to me that is at the core of eating into this competition, which should be allowed. I mean to a certain degree, which nations -- in which I think is intrinsically linked to the sovereignty of every nation.

DR. RONEN PALAN: Well, blacklist is by definition not an intrusion of sovereignty. Because it's a list. You know, if one country writes a list or an organization fills in the list, that's not an intrusion of somebody else's sovereignty. Okay?

So, Ajay, you can write the list tomorrow, and you can say whatever about different countries. You have a right to do so, and basically that's not interfering with their sovereignty. I mean that's ridiculous. So that's not. But it has an implication, okay? It's a particular tool that is being used. It's a very soft tool that's being used.

And coming back to the notion of the spillover that I mentioned in the beginning of the talk, that countries may feel that the decision of others may affect them -- that decision others may affect you in the case of tax. Decision may affect you, for example, in the case of pollution, the one country can, nicely put, for example, all its nuclear station on the border on the sea of another country. Then the other country may not be happy and may blacklist it and claim something. These are very soft tools.

These tools, however, can be useful for two purposes, and that's one. Reputation in the sense that particularly large companies and -- or even individuals -- don't want to be associated with countries that are recognized as supporting money launderers or tax evaders.

Why should I flag to my own internal revenue that I'm doing this? It's a reputational aspect, and that's what changed their mind. The advantage of a blacklist, and that's again, Ajay, against your notion of intrusion of sovereignty, is that the whole purpose of the list is to be removed from the list. We'll create the list so that you can be removed. That means it's up to you to decide whether to react to it. Namely, you are the sovereign.

The second important implication of blacklist. There are a lot of blacklists around; you mentioned only two. There's a very unsuccessful one, the European one, which will change, and there was a very unsuccessful one, the OECD one, which was also changed. The two of them, but there are other blacklists, which are more significant.

Many countries maintain their own list of countries that they consider to be tax havens, and that means that either countries or even states within the United States, that means that they will treat investment from those jurisdictions with extra care. And they announce it. Okay? They will either demand more scrutiny, more due diligence. I don't know about prevention of investment for those jurisdictions, but they will certainly increase the costs to make sure, because they don't feel comfortable with those jurisdictions, and the principle here works on the flag of convenience.

As you know the largest shipping nations in the world are Panama and Liberia, and most Liberian fleet never saw Liberia in their lifetime. They never visited -- or Panama. The problem with those is that there were few oil spills, there were labor disputes on ships from Liberia and Panama because these countries don't impose strict regulation.

So one of the responses, for example of European Union and United States, was to say you can fly any flag you wish, but if you come to our territories then you have to comply with our labor rules and environmental rules, safety rules, and so forth. And in fact these countries will send inspectors 12 miles before they allow the ships through.

That's the same the same principle of the blacklists. You can do whatever you want. Okay? But if you want to invest in our countries, we have to feel comfortable with your investment and we will impose that. So, I'm in favor of that.

MATEO JARRIN: Thank you, Ronen.

DR. CSABA MAGYAR: So just regarding the main concern of a lot of tax professionals was the following regarding this request. Why the U.S. isn't on this list because of Nevada, Delaware, and similar states of America? And there are some other tax havens, which are not on the list.

DR. RONEN PALAN: The Netherlands, which is the biggest in Europe. So that's a very serious criticism and I think rightly so. Serious criticism is that organizations set up the blacklist themselves internally divided, or you know, rife by politics.

So, for example, the OECD finds it very difficult -- although if you talk individually to the people they know very well that that the Netherlands is a huge tax haven. They also suspect the UK is and certainly Luxembourg. Okay? But they have difficulties, and that's a correct criticism. The correct criticism is that these bodies are subject to various pressures, and the list that the European Union came up with was simply ridiculous. Had nothing to do with anything remotely into reality. Okay?

It's only the greyness that began to be interesting, and that's true with internal politics, and I think on that, Csaba, I completely agree with you.

DR. CSABA MAGYAR: Yes. And you know how can I harm the reputation of other countries, if I cannot list my own member states who are in the group.

DR. RONEN PALAN: I didn't think about it. I haven't seen cases in which some country found itself on the list because a group of countries or alliance or part of states managed to put it on the list for political reasons, that I haven't.

Most countries have managed to remove themselves, like for example, Gulf States. And I think Qatar was removed from the European list on the last day. So the list I got the day before had Qatar on it. Some of the members removed themselves on the last day. I don't know how. I don't know how much it cost; let's put it that way. But what you're suggesting it's a possibility, but I've never heard of that.

MATEO JARRIN: Okay. Excellent. We have time for one last question. We use this as kind of our concluding remark. Basically we go back to this idea of balance. I mean where is the balance? What is the point of equilibrium when it comes to, you know, maintaining that sovereignty to decide what you want with tax and at the same time falling in line with what is best for, let's say the global economy and whatnot? Where is that equilibrium? What are your suggestions? What are your thoughts on that?

Question 7: What is the point of equilibrium when it comes to maintaining that sovereignty to decide what you want with tax and, at the same time, falling in line with what is best for the global economy?

DR. CSABA MAGYAR: Well, actually we always need to check the tools. For example, if we check this blacklisting we told, as a tool to influence some other countries or to force other countries to change their tax policy or to change their taxes, then I told you before, I don't agree with this kind of method. If I don't have sufficient reasoning against other countries and to harm the reputation of other countries, because we have internal problems as well.

And it is pretty easy to blacklist other countries and to say that they are tax havens, and next to this, we have tax havens internally as well. I think this is not a proper way to influence other countries. I wouldn't say that nowadays we can see the big players reach to enforce other countries to follow their tax policies, but there were some examples as well for enforcement as well. But you know it depends on the level.

For example, the US managed to introduce FATCA together with the 30 percent withholding tax because if you will not follow our rules, you will need to pay. I think this is pretty close to the category of enforcement because you do not have any other choice, because you need to follow the rules, or you need to pay. So let's play according to my terms, which is pretty close to the unfortunate.

But I think we cannot go far from tax policy of different countries and the tax policy should naturally cover the cases when you want to influence some other countries. But most of the cases as we could see in the past, these countries are, let's say, selfish, and sometimes they would like to change the tax policy of other countries to be protected, and it can be advantageous for those countries which are trying to enforce other countries or do influence other countries to follow their tax policy. And they do not care what will happen in that country.

So it is hard to find the proper balance between, let's say, enforcing and influencing other countries and where starts the category where we intrude into the tax system of other countries. But in the past we saw many cases, and I think if there is no bilateral communication between the parties, we are pretty close to the category of enforcement. But if you have the chance to make your comments, and if you have the chance to get off from the blacklist or something like this, this is closer to influence other countries. And I prefer influencing other countries than to enforce other countries.

MATEO JARRIN: Thank you, Csaba. Ronen, some final remarks? And then I'll actually go back to Ajay since we couldn't hear him earlier.

DR. RONEN PALAN: My point is more theoretical or in principle than actually giving a precise menu of empirical answers or what to do. So I start from a position that, in principle, countries should have the right to decide on the suitable taxation that's suitable for their purposes.

It's not that I'm not skeptical of the ability of most governments that I came across to actually come up with a good view, but I think in principle, that's, that's the principle of self-determination and that's the principle of sovereignty, and I think I have nothing against it.

The problem that we have with countries that we call tax havens is that of course they treat non-residents differently to residents. Now traditionally, historically, countries treated their residents better than non-residents.

And there was a lot of movement within the international system to create equity to treat the foreigners who come with their businesses or individuals equally. Okay? But we are talking about countries here who are really differentiating between resident and non-resident and are giving various incentives, various tax holidays to non-residents primarily with a view that they are not turning up.

So people talk about Switzerland as a tax haven. It is a tax haven, but not to the Swiss. In Switzerland, you pay heavy taxation. It's as long as they are not Swiss.

The same with Jersey, the same with many of those. These are tax havens or Luxembourg. So the principle is -- that's the second principle is to try to find a series of regulations that ensure that non-residents are not given priority over residents in the matter of taxation, because if they don't, then I think we have a better chance that countries will set up their own internal taxation and developmental rules in a way that’s actually suitable them.

MATEO JARRIN: Okay, Thank you Ronen. Ajay, since now we can hear you, can we hear you?

DR. AJAY KUMAR: Yeah, as I was saying, I'll just pick up on the comment which Ronen just finished, and then, and as I said you're saying that what is the kind of balance that you could have, just to say, I mean, what does that, I don't understand. In terms of a sovereign, and if I'm not thinking globally, if I'm not getting the return back from investing for a global system, why should I -- we -- or why should I even think that I can't give -- it's my sovereign right to decide to give whatever preferences I want to lead the way I want.

So as long as the system is not just. It is dysfunctional. I mean, I don't think that we will find a balance where, I mean, to take care of the interests of each other. Right? So just to say as I was saying earlier, I think the competition which we are experiencing now should still continue because there's access as a tool for diverting investments to places where this wouldn't have happened initially, for whatever reasons it might be. Right? So that is actually enhancing the sovereignty of many who do not have it in the first instance.

MATEO JARRIN: Thank you very much gentlemen. We have reached our final time. We went a bit overboard, but the discussion was very lively and engaging and controversial at points. But I think all of our members will truly enjoy this.

So to get some admin issues out of the way. We have recorded this webinar. We will have the audio recording available for you probably early next week. We will also have a full transcript. We will send those out to everyone via e-mail, social media, et cetera. We'll share it with our panelists, too.

If you have any follow up questions. I just got an onslaught of questions in the last minutes, so unfortunately, we couldn't get to those, but if you have any questions, make sure to post them on Taxlinked.net on a forum dedicated to this webinar, and I'll make sure to have the panelists answer those for you.

So without further ado, I wanted to thank Ajay, Csaba, and Ronen for this very enlightening discussion and, you know, hope we can do this again sometime in the near future.