THE EU PARTICIPATES IN HARMFUL TAX COLLUSION

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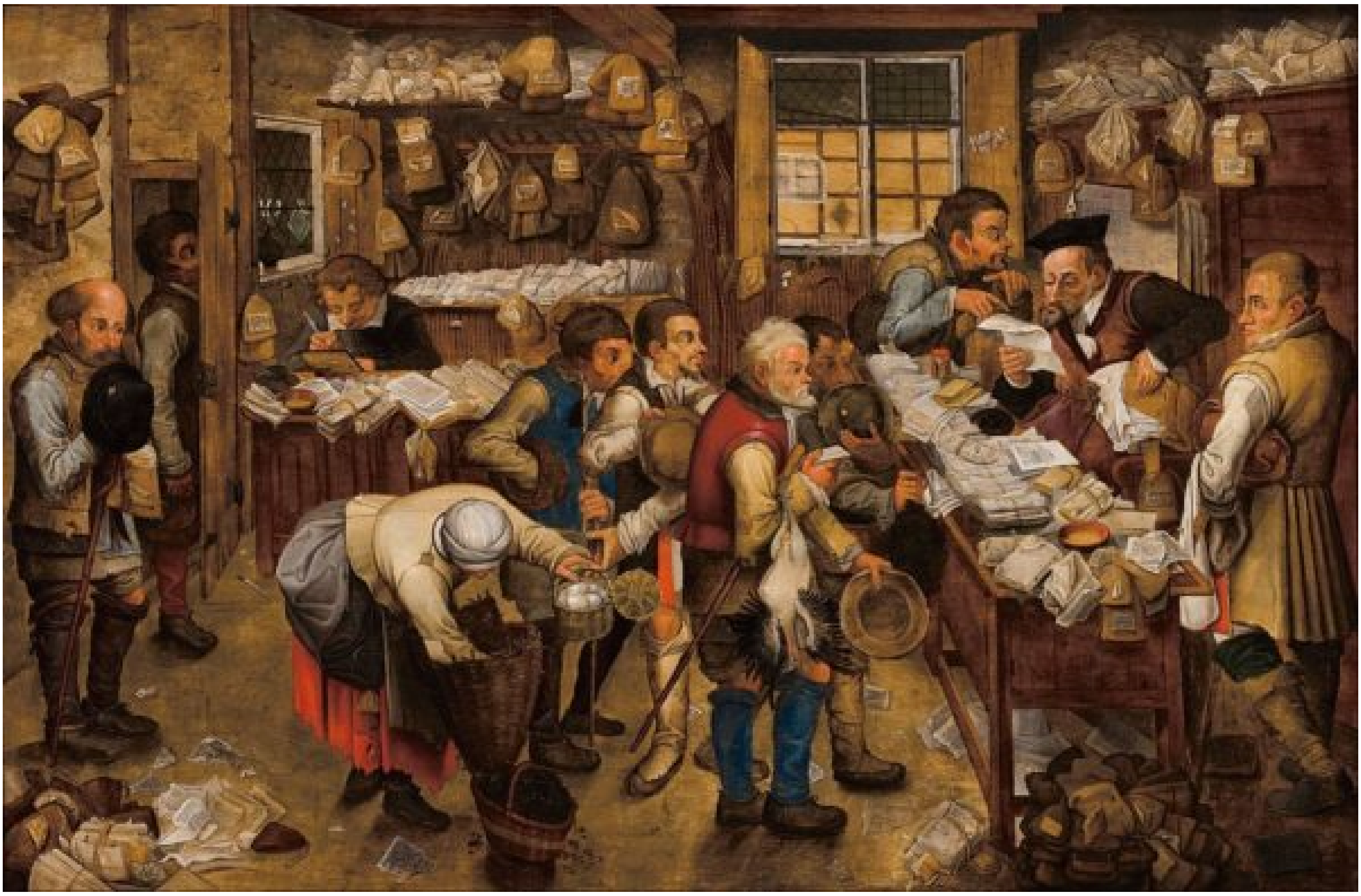

Once countries with costly governments have created a Berlin Wall around their high-tax jurisdictions, they will be free to collude on other taxes beyond the corporate income tax. Personal income taxes, wealth taxes, death taxes… there is no end to the imagination of a government that does not have to worry about tax competition.

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Using the Pandora Papers as a pretext, the EU Commission is clamping down on the freedom and financial privacy of its citizens. Under the guise of fighting "tax havens" and "abusive tax arrangements," the Commission is encroaching on the freedom of people who oppose high taxes.

Imagine the following:

- A successful surgeon with a hospital in Dresden, Germany, wants to lower his income taxes, so he buys a home in Teplice, one hour away across the Czech border;
- A family living in Padborg, Denmark does its weekly grocery shopping in Flensburg, Germany, to take advantage of lower taxes on groceries;
- A resident of the U.S. state of Wyoming buys his new car in neighboring Montana where, unlike his home state, there is no sales tax on cars.

Are these examples of harmful, or even abusive tax practices? No, of course not. These are everyday decisions, made by working individuals and families who see an opportunity to increase their bottom line a little bit.

Suppose, now, that the parents of the Danish family run a business, and that they are very successful. They estimate that if they invest their money in a low-tax jurisdiction, such as the Cayman Islands, they can save enough on taxes to retire many years earlier than if they keep their money in Denmark.

Suddenly, there arise critics crying foul on harmful tax practices. Among them, we find the EU Commission.

More on them in a moment. First, a quick history of the global campaign against low taxes. Yes, there is such a campaign, and for the past 25 years it has been spearheaded by the Organization for Economic Cooperation and Development, OECD. This government-funded international think tank has built an international cartel of more than 130 governments to battle tax competition.

By guilt-shaming investors who pursue so-called tax havens, the OECD and other proponents of the government tax cartel have made something highly suspect out of a perfectly legal practice: to open a bank account in a low-tax jurisdiction. People who want to keep more of their own money, and who want to enjoy strong privacy laws, are being told by the OECD and the tax cartel that their financial planning is "harmful."

The purpose behind the OECD-led campaign is both sinister and transparent: to make sure taxpayers in high-tax countries have no low-tax options. This is exactly what the OECD is now accomplishing. It won a big victory this past summer when the countries in the G-7 group complied with the directives of the OECD and agreed to create a global minimum corporate-income tax.

With more than 130 countries expected to follow suit, this cartel will have a de facto monopoly on tax policy.

On December 22nd, the EU Commission announced that it is now fully committed to the global tax cartel. It is going to work with the EU Parliament to turn the OECD's harmful tax collusion into law. A 15% minimum corporate tax rate, applicable across the EU, would be combined with an end to so-called misuse of shell entities.

This tax cartel is only the beginning. Once countries with costly governments have created a Berlin Wall around their high-tax jurisdictions, they will be free to collude on other taxes beyond the corporate income tax. Personal income taxes, wealth taxes, death taxes... there is no end to the imagination of a government that does not have to worry about tax competition.

As the tax cartel is solidified, so are the invasive practices that follow in the footsteps of taxes. To collect what we owe, government has given itself a number of tools that it can use to pry into our finances and direct tax audits even closer to our private lives.

To some degree, this is understandable. There will always be a need for taxes to fund some government functions. The problem with a tax cartel and its harmful tax collusion is that taxpayers will be deprived of their ultimate means to disagree with invasive tax policies: to move their money to another, less invasive, and more respectful jurisdiction.

Contrary to popular belief, there are many reasons why jurisdictions should compete for taxpayers' money, instead of colluding to lock it in. The Center for Freedom and Prosperity, a privately funded American think tank, has explained the economic virtues of tax competition for almost as long as the OECD has been fighting it.

There are also reasons related to individual freedom to preserve low-tax jurisdictions. To take just one example, in 2017, France24 reported that Turkish President Erdogan accused investors of "treason" if they moved their assets out of the country. Erdogan's comments, France24 explains, came on the heels of Turkish prosecutors seizing the assets of an investor who had testified in a court in New York on how a Turkish bank circumvented U.S. sanctions against Iran. The asset seizure easily comes across as retaliatory and meant to send a signal to others who might act in ways that would displease Mr. Erdogan.

A total of 23 individuals were affected by the asset seizure. If these individuals had been able to shield their assets from the Turkish government, they would have been free to oppose the Erdogan regime while working, investing, and developing their businesses.

The tax-cartel campaign got a major boost in October when the so-called Pandora Papers were released by the International Consortium of Investigative Journalists, ICIJ. The Papers show how a number of global political leaders use low-tax, high-privacy jurisdictions to invest their wealth.

The EU Commission explicitly referred to them when they announced their minimum-tax plan. They did this after having tried to motivate their harmful tax collusion with everything from climate change to digitalization. Apparently, the Pandora Papers were more appealing. They appeared to have given the Commission what it saw as a strong moral case to persuade the EU Parliament and the member states that harmful tax collusion is not at all harmful.

Curiously, the Pandora Papers do not at all reveal anything illegal about international tax planning. Everything they expose is lawful tax planning. In fact, the Commission openly admits that "the activities reported in the Pandora Papers ... are not all inherently illegal."

Why, then, does the Commission insist on referring to international tax planning as "abusive" tax practices? Why does it use completely lawful financial activities as a springboard for participating in a global tax-collusion cartel with far-reaching repercussions for financial investments, economic growth, and individual freedom?

It is not just the EU Commission that has an ethical question or two to answer. There is an increasingly heavy moral burden on the shoulders of the ICIJ, the operatives behind the Pandora Papers. For starters, there are apparent ethical questions about how they got their hands on the documents. Furthermore, in an effort to morally smear those who take legal advantage of low taxes, they have allowed the global narrative about the Pandora Papers to falsely imply that international tax planning is illegal.

One of the most blatant examples is a report on October 3rd by the "Pandora Papers reporting team" at the BBC, about a real-estate purchase by Cherie Blair, the wife of former British Prime Minister Tony Blair. In 2017 she acquired a property in London for her law firm. Instead of buying the property itself, she purchased its owner, a firm domiciled in the British Virgin Islands.

This way Mrs. Blair legally saved herself and her law firm £312,000 in stamp duty. The BBC, however, refuses to acknowledge that the transaction was perfectly legal.

There are more examples of moral-implication reporting. On October 18th, *The New Republic* published an article on the Pandora Papers titled "American Law Firms Are Enabling Foreign Kleptocrats." The subtitle raises the volume even further: "Despite what you may have heard, the Pandora Papers did not let the United States off the hook for facilitating global corruption."

By using derogatory language, "kleptocrats" and "corruption," *The New Republic* implies that the Pandora Papers have revealed tax crimes. Expectably, the article does not deliver; all the reader gets is a rant about how corporations and wealthy individuals should pay higher taxes.

On December 20th, Voice of America spins the corruption narrative even faster. In a piece titled *What the Pandora Papers Mean in Fight Against Corruption*, the VoA suggests that government officials in Azerbaijan have "been involved in business activities" to acquire property and start businesses in other countries. The word "corruption" is peppered throughout the article, yet at no point does it explain the unsubstantiated illegality of the alleged transactions.

The Pandora Papers sail into even muddier waters in an October 4th article by British newspaper *The Guardian*. Without questioning the veracity of his statements, the paper lets the Prime Minister of Pakistan allege that money from many countries has been "looted" to low-tax jurisdictions. Like "corruption," "looting" is a morally charged term with an almost-certain implication that criminal acts have taken place.

Again, no evidence is presented.

The Guardian continues its journalistic malpractice in a story about former Czech Prime Minister Andrej Babiš. He was accused of fraud in 2019 and the allegations continued to haunt him through 2021. *The Guardian* reports on them with clear reference to the Pandora Papers without acknowledging that the alleged fraud had nothing to do with the subject matter of the Papers.

Only one supposed connection between tax planning and Mr. Babiš is identified: a perfectly legal real estate deal. He bought a house in France with money he had borrowed in the British Virgin Islands and transferred through two apparent shell companies.

The newspaper begrudgingly admits that this practice "is not illegal" but in fact "done for legitimate reasons of privacy or security." They also admit that the real-estate purchase "did not offer Babiš any obvious tax benefit." This, of course, deprives their story of any apparent journalistic point.

However, the moral fallout from the Pandora Papers leak does not stop there. There are long-term, less dramatic but more substantive consequences, especially for poor and low-income residents of tax-cartel countries. In an article for the *Washington Examiner*, Bruce Yandle, former dean of the business school at Clemson University in South Carolina, makes an astute observation about how essential so-called tax havens are. When governments compete for tax revenue, they must be more frugal with their money. This, in turn, means that taxpayers get more for what they have to pay, while also getting to keep more of what they have rightfully earned.

Yandle's point is powerful. When government collects taxes without having to worry about being efficient, over time it takes more out of the economy and gives less back. As a result, the private sector is slowly bled into an economic standstill, with stagnant household incomes as a consequence. This traps more people in perennial dependency on government benefits.

The ICIJ also needs to explain how its campaign against financial-privacy jurisdictions helps in the fight against authoritarian governments. By slowly removing those jurisdictions from the map, the global high-tax cartel, aided and abetted by the ICIJ, makes it harder to fight human-rights abuses.

There is also a democratic price to be paid when low-tax, high-privacy jurisdictions disappear. When government expands its presence in people's lives, voters in free countries are free to elect politicians who will reverse that trend. However, democratic rights do not stop at the ballot box: if someone is dissatisfied with the conditions of making a living and doing business in his home country, he has the right to vote with his feet, i.e., to move to another jurisdiction.

Why should he not have the right to vote with his money as well?

Last but not least, the tax-cartel campaign comes with a sinister implication for the future. The campaign has established that it is immoral, even borderline criminal, to want to lawfully invest where taxes are low. Suppose that, when the tax cartel is fully operational, a debate over high taxes breaks out in a cartel country. Proponents of low taxes want to leave the cartel and cut taxes.

How far-fetched is it to imagine that a government engaging in harmful tax collusion will vilify these arguments in the same way as they vilify international tax planning?

How big is the leap from outlawing tax competition to outlawing conversations about tax competition?