THE NEW DESIGN OF PUBLIC LAW CONCEPTS IN DIGITAL ECONOMY: TAXATION INFLUENCE ON FUNDAMENTAL REGULATION

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Abstract: The paper addresses the challenges generated by the new layout of the global economy, in general, and in the Central and Eastern Europe, in particular. The recent pandemic, energetic crises and military conflicts emphasize the influence of digitalization on the public law, from the design of the institutional mechanism to the new regulatory perspective of the fiscal treatment for the income generated by individual and natural persons. The particularities of the digital dimension of the global economy have justified the need to use similar/compatible regulation worldwide for almost all the fields of the public law. This tendency is even more dominant for the fiscal law field, a distinctive area of public law and the main tool used by the states to determine the state's annual income. It is expected that all the governments aim at maximizing their revenues, using the constitutional protection for the sovereign right to determine taxes. The result is often inefficient, as the states engage in a tight competition between each other for the larger part of the taxable income. The short-term benefit from such conduct is unbalanced by the mid- and long-term distortion of the economic activities, asking for innovative solutions. The recent developments in international organization negotiation and the domestic perspective on the fiscal regime of the digital income have determined changes in the design of the public law concepts, favoring the mutual agreements on taxation and undermining the role of the national legislations on the topic. The assessment of these recent evolutions in local, regional and international taxation shows important changes in the design of the public law concepts in the digital economy: the imperative to draw multilateral agreements on taxation and the challenges of constitutional law.
Keywords: international law, tax sovereignty, nature of obligation, mutual agreements.

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Introduction

The prerogative of the state to lead the tax system has shifted from a national legislative action to a very demanding and strongly argued topic of cooperation for sovereign states in the field of international law. Tax law is one of the most representative divisions of national law, given the autonomous capacity of governments and national legislators to adopt the legal framework for tax liability. However, taxation in international law has evolved dramatically over the last decade, in line with the globalization and digitalization of the economy. The paper presents the effects of tax harmonization in international law, showing the current changes in the methods of cooperation between states, with a direct influence on corporate taxation and fighting tax evasion. The topic is even more pressing in the context of the financial strengths generated by the global COVID pandemic when

the constraint of public budgets could be released by responsible and coordinated fiscal policies. Adopting reasonable and effective regulation is endangered by the amplitude of the divergent interests of the partners in fiscal relations: taxpayers aim to pay less taxes, while tax authorities are struggling to collect more revenue for public budgets. The fundamental rights of the taxpayer to choose the most appropriate jurisdiction collide with the natural action of the governments to strengthen the administrative and cooperation procedure to increase public revenues. Consequently, the volatility of fiscal regulation is pervasive today when unforeseen global crises have put intense pressure on public budgets.
In this context, the present research aims at answering the question of whether cooperation in ruling taxation, which has traditionally been considered an obligation of conduct of sovereign states, is undergoing a profound transformation into an obligation of result. The analyzed issue is not whether the tax authorities of the states want or should cooperate, as global international taxation requires the strengthening of multilateral agreements on the mechanism for combating corporate tax evasion.
While effective accountability for fair digital taxation is an objective and not a particular topic of international taxation, the development of multilateral corporate taxation agreements to combat tax evasion is an imperative issue under ongoing negotiation in international law, and tax authorities worldwide have consistently expressed their concern about identifying the efficient regulation for the taxpayer's current conduct profile. The change of nature of the state's obligation to negotiate tax regulation is not explicit, as it is not mentioned directly in hard law, but is indirectly supported by soft law instruments and it is manifested through the persistent and divergent dialogue of state representatives and the approaches presented in the international courts' jurisprudence.
The paper examines the current challenges of international corporate taxation (section 1), highlights the recent evolution of international taxation in the field of fighting agressive tax avoidance under EU law (section 2) and observes the mechanisms for indirect business tax unification, with a direct influence on cross-border activity and location decision, and in line with the extraordinary development of digitization (section 3). The final part of the paper (section 4) contains the conclusion of the paper, formulating the answers to the research objectives. Assessing the EU and OECD developments in corporate taxation, the research notes that global international taxation has reached a point where unilateral regulation is no longer effective and cooperation is not an option but the imperative conduct, either in the form of regional partnerships or ideally, through the implementation of global cooperation mechanisms (Mihaela Tofan, 2022, p.101). The paper addresses the consistent influence of the nature of the obligation to support developments in international law in the field of corporate taxation, given its characteristic of conduct compared to the obligation to result potential benefits.

The current challenges of international corporate taxation

A tax system is a set of rules, regulations, and procedures that (Slemrod, J. and C. Gillitzer, 2014):
defines what events or states of the world trigger tax liability (tax bases and rates),
specifies who or what entity must remit that tax and when (remittance rules), and
details procedures for ensuring compliance, including information-reporting requirements, and the consequences (including penalties) of not remitting the legal liability in a timely fashion (enforcement rules).

Even if we skip in-depth analyze of this definition, it is obvious that there are infinite ways and features that individualize tax systems, even in the rare situation when two or many of them are considered akin. In such a diverse landscape, it is frequently possible that a particular transaction gets under the scope of different tax system, each of them claiming a piece of the revenue. The international taxation is not only present but important for every fiscal administration.

In order to observe the international dimension of the taxation system, it is necessary to consider that the majority of the European countries describe their taxation system in the fiscal code, establishing the competence for local authorities to evaluate and to collect taxes for all the income obtained within the area of jurisdiction of that particular state. The activities within the scope of other state regulation or under the conflict of two/many different regulation, either involving a taxable person with another nationality/citizenship or the income generated from transactions with legal entities or natural persons over goods from different country, are to be addressed under the terms of the mutual tax treaty/convention between two countries. The diagnosis of a particular case is more challenging when the fiscal regulation is frequently changing, as it is the situation in the many countries, especially the Eastern European. It is reasonable to consider that the volatility of the tax regimes generates no long-term predictability for the taxpayer fiscal optimal conduct and, if there is no predictability about tax liability, there is no interest for innovative tax planning (Van den Noord, 2003). This is not the case, because both the substantial fiscal regulation and the tax procedure are sometimes on a random and, I might say, even chaotic path. This favors tax avoidance, and it is deconstructive for the collection of the public revenue from taxes. It is the mission of the fiscal authorities to keep the efficient line of regulation, synchronizing their option for specific methods to collect more, with the available mechanism to dimmish aggressive tax panning.

Tax planning is considered in some research to be mainly tax avoidance, (Ulrich Schreiber, 2013, p.113) and it is described as the operation of using the active regulation to diminish tax payments, although it may be permitted in certain circumstances. As long as the actual taxpayer presents a valid economic reason for choosing a particular location for developing the activity and a justification for the legal form used for certain investment, the activity is considered legitimate tax planning. Not only the scholars, but also the courts are in favor of the taxpayers, admitting the legality of their tax planning operations, if their decisions are not issued for the sole intention of avoiding taxes, but are economically justified. Therefore, taxpayers are allowed to manage their businesses in order to keep low tax liabilities, as long as their actions comply with the regulation in force (Ulrich Schreiber, 2013). Within these limits, the tax planning is permitted and acknowledged, but when the taxpayer pushes the planning outside the legal framework, the conduct is sanctioned by fiscal regulation and, eventually, it could be prosecuted under criminal law. It is though important to draw the line between permitted tax planning and illegal tax avoidance, both in domestic and international regulation. For instance, it is only natural that the taxpayer reacts to the state tendency of collecting more, using tax planning opportunities, especially when they are explicitly indicated by the regulation itself. There are multiple choices in accountancy and fiscal regulation inviting the taxpayer to opt for the most favoring one in order to pay less, like computation of the entire loss and accelerated depreciation instead of straight-line depreciation.

In many cases, regulation in force offers alternative options, e.g., choosing between a permanent establishment or a subsidiary in another country, thus choosing the favorable tax system and choosing between financing with equity or debt, in accordance with one of the methods that offers the best tax advantages. In both these situations, if the tax law permits tax planning, then it is a matter of regulating the mechanisms of the fiscal policy, which translates into reality the fiscal program of the ruling authorities.

Recent evolution of international taxation in the field of fighting aggressive tax avoidance under EU law

The EU is e wonderful economic integrated area for the 27 members states, and it is a construction that functions, despite the challenges it was confronted with and the controversies it is constantly facing. One of these controversies is the success of the European currency/euro and the function of the European Monetary Union (EMU) for the twenty EU Member States, although the fiscal union does not go along with it, as it is supposed to be, in the traditional economic model of financial integration (Enrique G. Mendoza, Vincenzo Quadrini, Jose-Vıctor Rıos-Rull, 2009). The Member States of the EU have come a long and fruitful way in coordinating their financial policies, but after the global financial crisis constrains in 2008 a step back in the integration may be observed. The EU representatives struggled to reinforce the European financial integration but the differences among the member states taxation systems, the global crises (including the most recent, the COVID-19 pandemic) and the extraordinary context of BREXIT is negatively affecting the whole process.

In the EU, the existence of a deeply integrated internal market order for the Member States and the concomitant lack of profound income tax integration is surprising. Differential or sequential integration between market order and tax order has constituted fiscal interdependence between Member States: formal sovereignty to regulate income tax systems allows differences between national tax systems, while increased economic operations creates the context for the most flexible economic actors the opportunity to re-locate to the most favorable tax jurisdiction. The interconnection between income tax regulation and the rule of democracy in the Member States has not been affected by fiscal interdependence that is present on the internal market. The consequences of fiscal interdependence for Member States' tax system resides in connection both to the conditions prior to drafting tax regulation and to the taxing regulation itself and its abilities to strengthen democracy. Therefore, there have been opinion in the literature that the procedural—as well as substantive—essential of a national symbiosis between taxation and democracy is affected (Jaakkola, Jussi, 2019).

Member States are subject to the effects of transnational policy, which may act in two basic ways. In the situation of tax externalities, it is possible that the tax bases migrate from the jurisdiction with more severe tax system to another, where the tax liability is lower. In the situation of regulatory externalities, the Member State are confronted with the necessity to avoid the transfer of existing tax bases and, if possible, to attract revenues from activities abroad. Consequently, the states adjust their tax systems according to the tendences of the mobile capital and the option of the corporations. In other words, Member States respond to the requirements of actors whose flexibility on the marker has been influenced by the fiscal advantages of a certain location, in the context of the transnational economic order and who have consequently been given the option of judicial exits and entrances. In this

conduct, states use a competitive regulatory process, which is alleged to have turned Keynesian welfare regimes into competition states (Jaakkola, Jussi, 2019). The asymmetric European integration (Hagen and Hammond, 1998) that has advanced trans-nationalization of cross-border market order but preserved income taxation under national political authority has established fiscal interdependence between Member States of the EU and exposed them to transnational regulatory effects (Mihaela Tofan, 2008, pp.315).
In accordance with the European primary law, the EU institutions conduct operations and activities in taxation area in respect to the subsidiarity principle, acting only if the Member State is unable to resolve the problems effectively. Usually, the problems arise from the inadequate level of coordination for the tax systems of the EU Member States. According to Article 5 of the Treaty on European Union, the principle of the assurance of competence determines the limits of the competence of the Union and the principles of subsidiarity and proportionality limit the exercise of this competence. The Union shall act only within the limits of the powers conferred upon it by the Member States in the Treaties to attain the objectives set out therein and the competences not conferred upon the Union in the Treaties remain with the Member States (Kyle Richard, 2018). It is the precise case of the competence to rule fiscal system, which is yet one of the Member States exclusive prerogatives.
The Treaty on the Functioning of the European Union (TFEU) defines the internal market as an area without internal frontiers in which the free movements of goods, persons, services, and capital is ensured (Art. 26.2 TFEU). According to this forecast and for a true internal market, fiscal harmonization seems inevitable. This is especially true for income taxes, as international double taxation and international tax arbitrage have a strong impact on business and investment patterns. However, European legislation requires only a certain (but not complete) degree of harmonization of indirect taxes, in particular value added tax (Article 113 TFEU). Regarding income taxes, Art. 115 TFEU provides the European Council with a mandate to issue directives concerning the approximation of laws affecting the functioning of the internal market, stating that the council shall act unanimously. Given the requirement of unanimity, income tax remains essentially an autonomous prerogative for Member State (Ulrich Schreiber, Gregor Fuhrich, 2009). It is also important to observe that principle of unanimity, applicable when the Council has to decide on tax issues, shows the Member States prior option to maintain their possibility to act immediate and without limitation in situation that involve tax policy, expressing, at the same time, the option for limiting the role of the EU in this area (Pietro Boria, 2017).
Regarding the nature of interdependence between internal market construction and fiscal integration in the EU, certain characteristics which define this process have been outlined. The guarantee of economic freedoms using judicial control mechanisms proves the deconstruction of the internally established public authority, namely in the situation when the power of states to impose taxes is discussed. When the exercise of state authority to rule taxation creates disadvantages for cross-border operations, excessive tax burdens will be waived because of the judicial control, for the reasoning of unjustified taxing power (Jaakkola, Jussi, 2019). Cross-border investment by investment funds is still surrounded by an aura of uncertainty, stemming from the lack of harmonization of direct taxation in the European Union and the consequences of discrepancies in the treatment of these investments by different EU Member States. Uncertainty about the tax treatment of this type of situation, coupled with its complexity and constant evolution (derived from

continued competition in financial markets and the consistent creation of new investment "products"), especially in cross-border situations, tends to trigger tax issues that have not yet been analyzed, such as possible discrimination and restrictions on fundamental freedoms that may arise when such investments are cross-border, both on a fully EU scenario and in scenarios involving third countries (Antonio Calisto Pato, 2008, vol. 5).
Another challenge that has been identified in current taxation is regulating the option for the source jurisdictions to impose limited source taxation on certain related party payments subject to tax below a minimum rate (OECD/G20 – "Base Erosion and Profit Shifting Project. Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalization of the Economy", 8 October 2021, available at https://www.oecd.org/tax/beps/statement-on-a-two-pillar-solution-to-address-the-tax-challenges-arising-from-the-digitalisation-of-the-economy-october-2021.pdf, accessed on the 24th of January 2024.). The issue seems to concern less European tax authorities, where the concept used in connection to the quite urgent need to draw a proper regulatory framework for the income generate in digital area of business is fair taxation. The efforts to harmonize the Member States vision on this topic are supported by the proposal of two directives. On 21 March 2018, the European Commission proposed new rules to ensure that digital business activities are taxed in a fair and growth-friendly way in the EU, respectively Proposal for a COUNCIL DIRECTIVE laying down rules relating to the corporate taxation of a significant digital presence („Proposal for a COUNCIL DIRECTIVE laying down rules relating to the corporate taxation of a significant digital presence", available at https://www.oecd.org/tax/beps/statement-on-a-two-pillar- solution-to-address-the-tax-challenges-arising-from-the-digitalisation-of-the-economy-october-2021.pdf , accessed on the 20th of December 2023) and Proposal for a COUNCIL DIRECTIVE on the common system of a digital services tax on revenues resulting from the provision of certain digital services („Proposal for a COUNCIL DIRECTIVE on the common system of a digital services tax on revenues resulting from the provision of certain digital services", available at https://ec.europa.eu/taxation_customs/system/files/2018-03/proposal_common_system_ digital_services_tax_21032018_en.pdf , accessed on the 20th of December 2023.).
It is not easy to respect the rules of unique European market and simultaneously respect the sovereignty in taxation, especially if we think about the freedom of the market and the need of the legal person to expand their business in the most profitable area. This generates the need to align the regulation for all the company's activity, including the fiscal aspects. While the approximation of the corporate tax may be easily justified to facilitate the proper functioning of the internal market, the legislation has yet to be adopted unanimously. The unanimity in the Council is a difficult rule to comply to, in the EU 27. It is, on the one hand, constitutionally reasonable to protect the general legal basis of Article 115 TFEU with strict legislation to avoid any competence by the EU. On the other hand, it is also clear that this special legislative procedure contrasts sharply with the ordinary legislative procedure, which requires only a qualified majority vote (QMV), albeit with the consent of the European Parliament (Anna Sting, 2014). It is reasonable to estimate that the Member States are most unlikely to agree on anything, because their taxation systems differ considerably, and they have the tendency to protect their prerogatives.
The general rule provided by art. 115 TFEU (formerly Article 94 of the Maastricht Treaty and Article 100 of the Treaty of Rome), gives the Council the power to decide

unanimously, after consulting the Parliament and the Economic and Social Committee, on certain directives for the approximation of national laws, as the common market integration process develops (Pietro Boria, 2017.). Although this prevision has led some to call for further tax integration beyond the national state, others have remained skeptical about the democratic legitimacy of Europeanized taxation (Jaakkola, Jussi, 2019). In order to respect the principle of unanimity, any tax specifically targeting a cross- border transaction could be seen as an unlawful restriction; this broad understanding of the sphere of potential obstructive regulation on the internal market would indirectly suggest that the full harmonization of European tax rules and regulations is able to solve any miss-understanding between concurrent legislation of the states. As a result, Member States' performance in supporting the symbiosis between democracy and taxation has been eroded. But things did not move so far until now, although there is unlimited support for unrestricted regulation of free movement on the European market, both in terms of entry and exit transactions.

The CJEU has repeatedly stated that EU Member States have the power to regulate in the field of taxation. The assertion of the role of national parliaments in relation to a regulatory proposal at EU level, before the adoption of the normative act and in accordance with the requirements of the principles of subsidiarity and proportionality, can be achieved through the yellow card procedure (Mihaela Tofan, 2019). For the legal exercise of state regulatory prerogatives, national parliaments may require a revision of a draft regulation and the European Commission is obliged to amend its proposal when at least 19 yellow cards (votes) are issued. This threshold is equal to 1/3 of the total votes available, as each of the 27 national parliaments holds two votes, and if there are two parliamentary chambers in a Member State, each chamber has one vote allocated / yellow card. If the number of yellow cards cast is insufficient to lead to a formal review but exceeds 12 cards, the proposal is deemed not to be welcome. This happened with the 2011 proposal, in response to the increased administrative burden that Member States' tax authorities will have to bear by maintaining several tax systems (namely the local income tax system, the CCTB system and the CCCTB system). Interpretation of the results of the expressed cards can provide a broad perspective of the national support for the CC(C)TB project, in the 2016 version, compared to the expressed cards against the 2011 proposal.

When assessing the restrictive nature of a regulation, it is necessary to compare similar operations: cross-border economic activity is compared to a fully domestic transaction in terms of its tax treatment and when a tax treatment is considered less favorable, the taxpayer suffers
an objective disadvantage, with respect to a cross-border activity (Ulrich Schreiber, 2009). The value of harmonization does not necessarily apply in the same way as the other values set out in the primary law, but it requires the formation of a political consensus in the relevant EU institutions for the adoption of tax rules. When observing this value into practice, the principle of unanimity is needed to ensure the recognition of the fiscal sovereignty of each Member State (Pietro Boria, 2017).

Still, there are situations when exercising its sovereign right in ruling taxation, the state may impose a legitimate restriction. For instance, when group taxation is addressed, most group tax regimes are applicable to group companies that are in the same country as the parent company, excluding foreign group companies from the tax group. Group taxation imperative rules are addressed to centrally controlled groups, when sharing a common business objective. Usually, the group taxation is applicable if two conditions are fulfilled, addressing requirements in connection to the tax residence of the group members and their participation in shares, i.e.:

the affiliate companies are domestic corporations owned by a domestic parent,

the subsidiaries are controlled by the parent; the control is assumed if the shareholding exceeds 50% or 75% (Ulrich Schreiber, 2013).

In such a case i.e., transfer of assets from a head office to its permanent establishment abroad, taxes should only be levied insofar as the exemption method applies between the state where the company resides and that of the permanent establishment. When credit method is applied, insofar as assets are moved to the state of the permanent establishment, then consistency could only be achieved by obliging the state of the head office to keep record of the hidden reserves (difference between the fair market value of the assets at the time of the transfer and its historical cost) and by postponing the collection at the time such assets are sold. In both cases, either when assets are moved from the permanent establishment state or from the head office state, the state of departure will tax only capital gains accrued before the intra-company transfer was deemed to take place (Mario Tenore, 2006).

Group taxation is ruled using different options. The analyses of the used possibilities to set out the tax system for group taxation shows that few states use the full consolidation of intra-group profits and losses in line with the terms of active financial accounting, so the group are not treated as a single taxpayer. Most states have regulated tax regimes for groups, which consider the additional revenues of the group members, weighting it in different manner. These methods are called group tax schemes, and they are considering the transfer of taxable income from one member of the group to another. In practice, the following group taxation systems have been identified:

Partially tax consolidated system, including aggregation systems, group relief system and group contribution system, all of them do not fully consolidate the group's profits and losses.

Full tax consolidation systems (e.g., the Netherlands), which seek to tax the domestic group as a single economic unit (Ulrich Schreiber, 2013).

For the taxpayer, the regulation of the integrated tax group for the calculation of the profit tax has the considerable advantage of consolidating the income and losses within the company and its subsidiaries, leading to edifying end-result for the whole group and without complicated artifices to implement tax planning strategies. Without group taxation, corporate taxpayers are encouraged to use aggressive tax planning methods (division of companies or mergers) to group profits and losses between groups from very different economic activities, only for reasons of fiscal efficiency (Dover, Ferrett, Gravino, Jones and Merler, 2015). Until the issue is uniformly regulated at the EU level, the unilateral regulation is the within reach solution considered by the Member States to benefit of the group taxation advantages, among which reducing the use of separate legal entities, without economic substance, for the purpose of tax evasion. For instance, Romania has adopted law no. 301/2021 establishing procedural criteria for group consolidated corporate tax, observing the imperatives of the EU legal order.

Although the sovereignty in ruling taxation of the EU members states is guaranteed by the primary regulation, the evolution of the community law and the European integration generated a tight connection for the rule of law in the field of implementing fiscal policies.

The cooperation among the European states evolved in an unpredictable way from its beginning, when the economical declared purposes prevailed, to the actual status of sui generis integration. Professor J.H.H. Weiler has wonderfully characterized the federalism in the EU (Weiler, 2001): the EU is neither a confederation, nor a federation in the traditional sense of these words, but at the same time it has its own "brand of constitutional federalism". In organizing the internal relations of the EU member states, the taxation plays an important role, in direct connection to the market regulation. Prof. Graine de Burca presents the broader legal perspective and the political perspective on EU taxation (Craig, Paul De Burca, Graine, 2011, p.533), confirming the analysis carried-out in the previous subsections and showing that the fiscal sovereignty is still under the ruling competence of the Member States in the EU and it was not transferred to the EU. The direct result is that the tax union is only a future possibility, not yet a present reality. Still, we take into consideration that one of the directorates of the European Union is entitled Tax and Custom Union, which reminds us that the whole European cooperation was built on a fiscal ambitious project (custom union) and, at the same time, open the floor for discussions on the possibility to create a true and functional tax union.

Taxation may generate positive or negative impact on economy (Michael Herb, 2005), pp. 297-316) and its mechanisms may be regulated in a positive or negative manner. The "*positive taxation*" implies that the institutions of the European Union can regulate, independently, a tax system applicable within the union, because of the partial transfer of fiscal sovereignty from the national states. Opposite from the "*positive taxation*", used when the legislation in force is active, legitimate, and able to establish certain liabilities and procedure to follow, the "*negative taxation*" refers to limiting the fiscal sovereignty of another state, still member of the EU. The adjustment of taxes to ensure single market functioning took place through negative integration. Instead of building positive supranational tax rules, the Court of Justice of the European Union (CJEU) and the Council sporadically banned certain tax arrangements, which were to be removed from national regulatory orders. Although the promotion of markets through tax consolidation has made national tax authorities subject to national tax orders, it still leaves Member States some discretion. While few directives certainly prohibit specific tax arrangements that may not be supportive for the single market, the CJEU's judgments give Member States ample leeway to decide how to reconfigure their tax systems to eliminate the disadvantageous treatment of cross-border economic activities (Jaakkola, Jussi, 2019). For instance, in case Judgement of the Case C-375/12, par. 63, the CJEU considered the national Court's case-law, competent to assess a domestic tax provision which distinguishes between taxpayers depending on the place where their capital is invested, namely if it is capable of being regarded as compatible with the Treaty provisions on the free movement of capital (Judgement of the Court (Fifth Chamber) from 13 March 2014 in Case C-375/12, available at https://curia.europa.eu/juris/document/document.jsf?text=company%2Btaxation&docid=149134&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1&cid=1368081#ctx1 , accessed on the 20th of March 2024.). More recent, (Judgement of the Court (Seventh Chamber) from 25 November 2021 in Case C-334/20, available at https://curia.europa.eu/juris/document/document.jsf?text=company%2Btaxation&docid=250047&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1&cid=1368081#ctx1 , accessed on the 20th of March 2024.) in Judgement of the Case C-334/20, par. 5

CJEU specifically stated that to prevent tax evasion or avoidance, Member States may take measures to ensure that, in respect of the supply of goods or services involving family or other close personal ties, management, ownership, membership, financial or legal ties as defined by the Member State, the taxable amount is to be the open market value.

Reinforcing European integration using tax regulation

The global COVID-19 pandemic crise has generated two contradictory yet simultaneous reactions, determining both slowness for each collaborative process and revival of the global projects for future successful developments. Especially within EU space, the global challenges have generated additional constraints for the integration process, which had recently suffered many obstructive inputs, from the previous financial crises to the budgetary entanglements, waves of immigration and BREXIT. In this complicated landscape, it seems rather justified that the integration process slowed down like never before and its reinforcing might be anything but a facile phase. At EU level, the complexity of the integration process and the cooperation between Member States necessarily require the adoption of harmonized tax rules for the single market to function properly. A form of tighter fiscal cooperation is inevitable, targeting fiscal harmonization and integration. Regarding direct taxes, in general, limited harmonization is justified in the current context, while avoiding discrimination, double taxation and tax evasion. Equally, closer coordination is needed to counteract the distortions generated by the allocation of resources.

Considering the taxation situations manifested on the European free market in the past and the arguments for the development of the European project, the EU Member States could use the tax regulation to relaunch the cooperation among them, in the same manner like they have used the custom union at the beginning of the communities and the progressive tax approximation during the last decades. The path to facilitate greater coordination between Member States describes the scenario for preventing tax avoidance using well-targeted corporate tax reform. Consequently, the EU Member States have taken into consideration important measures aimed at stopping profit shifting and preventing the erosion of national tax bases (Alicja Brodzka, 2017). Analyzing the previously used mechanisms for further tax integration in the EU, the literature observes the positive results of some solutions, such are the Enhanced Cooperation, Soft Law, Indirect Harmonization through EMU Reform Legislation, Non-EU Legislation (Anna Sting, 2014).

As it has been analyzed in the previous sections of this publication, European fiscal cooperation is framed by the rule of fiscal sovereignty, but it has benefited from the effects of soft law mechanisms, namely the recommendations addressed to the Member States by EU institutions, regarding the everyday development of the national provisions relating to the taxation of income (especially to the taxation of business income). It is expected that the level of approximation of national legislation generated by the soft law is lower than the harmonization of indirect taxes, and the literature designated for it the figurative concept of “elastic convergence” (Pietro Boria, 2017).

In some situations, the harmonization of EU taxation takes the opposite site from the principle of self-determining the tax system, to eliminate the possible mismatches between national taxation systems. In the field literature, the principle of harmonization expresses a "positive taxation" i.e., whether the fiscal power exercised by Member States will be directed towards uniform models and agreed objectives, generally compatible with

European Union objectives, as opposed to the principle of non-discrimination and other values, which proves "negative taxation" (idem).
The concept of fiscal integration has designed most of the key aspects of the income tax system architecture. The structures of the tax base have been shaped by both negative and positive trends of regulatory mechanism. Despite the updating of the draft tax base, the level to which these limitations and negotiations took place is surprisingly narrow. Additionally, the Member States manifest a great deal of leeway in deciding how to eliminate discriminatory and selective tax measures, because the income tax rates have kept their autonomy, outside the limit of the European harmonized measures. It is the effect of the lack of prevision for revenue taxation in the EU primary law, the aspects being regulated predominantly under the formal sovereignty of the Member States (Jaakkola, Jussi, 2019).
As one of the direct results of the LuxLeaks scandal, the European Parliament started an investigation into the tax ruling practices, which was not positively supported by the multinational company. Eventually, the Parliamentary Commission published a report, proposing country-by-country reporting system, a common consolidated corporate tax base (CCCTB), increased transparency by Member States, a broader role for the European Commission in reviewing tax ruling practices, and better protections for whistle-blowers (Special Committee of the European Parliament on Tax Rulings and Other Measures Similar in Nature or Effect, Co-rapporteurs: Elisa Ferreira and Michael Theurer – "Report on tax rulings and other measures similar in nature or effect no. 2015/2066", available at https://www.europarl.europa.eu/doceo/document/A-8-2015-0317_EN.html , retrieved on the 10th of March 2024.). At the same time, the European Commission proposed a measure for the exchange of tax rulings by Member States, which was unanimously approved by member states two days before the Parliamentary Commission published its report. During the European Commission investigations, numerous NGOs have published concerning reports on the tax avoidance practices of multinational enterprises and on the low-tax jurisdictions, before and after the Commission published its Decisions. For example, Oxfam's Tax Battles report ranked the Netherlands, Ireland, and Luxembourg among the world's worst tax havens. The Netherlands ranked as the third, Ireland as the sixth (Kyle Richard, 2018). Still, fiscal harmonization shows the belief that economic and trade integration is the main driver of political and social integration common ideological background, in accordance with the general principles applicable to fiscal issues, namely the acceptance of the values of freedom and economic development of the common market, in line with the principles which guarantee the competitive market (Pietro Boria, 2017).
The action taken unilateral by the states are within easy reach, involve less energy and political action for adopting and generate short term results. Still, the unilateral actions are not preferable on the global context, where the national fiscal systems are easily colliding, and the alignment of the previsions is very arguable. In order to achieve the EU tax harmonization objectives, there is a doctrine proposing a Directive on the Allocation of Taxing Rights (ATRiD), (Paolo Arginelli, 2018) that would be the most efficient and widely accepted solution, which could fit best in the framework elaborated by the European Commission in the Action Plan for a Fair and Efficient Corporate Tax System and could happily complete the CC(C)TB Proposal for reinforcing the European measures to fight aggressive tax planning and tax avoidance.

The literature presents ATRiD potential to properly coordinate the applicable rules in member States regulation to avoid antinomies (Paolo Arginelli, 2018). The ATRiD would not fix the difference in the applicable income tax rates, which would remain within the exclusive competence of EU Member States, except for the establishment of minimum tax rates (ideally between 25% and 30%) for taxation at source of dividends, interest, royalties, and certain types of capital gains (capital gains on financial assets and intangible properties). This would help counteract phenomena of directive and tax-treaty shopping, aimed at channeling income flows through specific Member States for the purpose of avoiding or substantially reducing the tax to be paid in the EU Member State of source.
The design of the actual sovereignty right to rule taxation within EU has evolved together with the fiscal cooperation among Member States. National initiatives of each country could eventually sustain the actual status-quo, which has been applicable for half a century and protects the domestic complete autonomy for ruling taxation, stimulating aggressive tax planning, and allowing multiple scenarios for tax avoidance. it is in this way proven that law coordination is a slow process, and past results have been constantly evolving, although not very dynamic, nor particularly ambitious. One of the steps for tighter fiscal cooperation was directed towards building a fairer and more transparent corporate taxation. The proposal for Country-by-Country Reporting (CbCR) between tax administrations targeted the identified need for transparency between fiscal administrations, aiming at facilitating the exchange of tax-related information regarding the MNE with activity within the EU territory, regardless their field of operation, for better results in tax auditing operations. Increased transparency could also help to deter multinationals from engaging in aggressive tax planning schemes (Alicja Brodzka, 2017). Country-by-Country Reporting is one of the initiatives of the European package issued in the fight against tax avoidance and evasion which explicitly proves the modification of the approach towards corporate taxation. It seems that the overall aim is not limiting to protecting national tax bases, but creating a wider fiscal perspective of European market (Pierre Moscovici, European Commissioner for Economic and Financial Affairs, Taxation and Customs in office at that time, said at the Tax Congress of the Berlin Tax Forum 2016: „I must stress that it is not just our Member States that benefit from the new EU approach to corporate taxation. Businesses will benefit too. I want to shatter the myth, that fighting corporate tax avoidance and creating a competitive business environment are mutually exclusive goals. In fact, they are two sides of the same coin", available at https://www.europa-nu.nl/id/vk53kpc3psz8/nieuws/speech_by_commissioner_pierre_moscovici?ctx=vk5qdk qbp5io , retrived on the 4th of April 2024).
Last decade has brought an intensification of European initiatives aimed at fighting tax avoidance and evasion, i.e. on 25 May 2016, ECOFIN decided on the amendments to the EU Directive on the Automatic Exchange of Information, extending the CbCR scope in respect to the requirements of the Single Market and EU law, yet in line with international actions in fighting Base Erosion and Profit Shifting (Alicja Brodzka, 2017, p. 9-22). There is also the issues of taxing the dividends, which can be treated similar to the misfunctions arising from the simple interaction of two tax systems within EU, using the different treatment of incoming and outgoing dividends, the choice of the state to offer exemption from double taxation (home - host or none), compatibility with the method of exemption from double taxation (without the possibility of applying both the credit and the exemption

methods simultaneously) and subsequently the most desirable neutrality to be achieved (Katerina Pantazatou, 2013, p.77, 118).
At the OECD level, the members agreed on 15 actions targeting Base Erosion Profit Shifting (BEPS), including the CbCR for fiscal authorities regarding important financial information about multinationals activity. The European perspective is wider, because implementing country by country reporting on the European market in a uniform manner is important, especially if we consider that some states were prepared to adopt the necessary legal previsions in accordance with the OECD BEPS initiative, while some were not willing to implement it all. Strengthening these requirements in EU law would prevent gaps in the EU's tax transparency network and administrative burdens for businesses (Alicja Brodzka, 2017, p. 9-22).
In addition to the OECD initiative, EU Directive 2016/881 provides the legal grounds for Member States to implement CbCR between tax authorities, including the possibility to make the CbCR available to the public. However, regarding the Commission proposal for a common consolidated corporate tax basis (CCCTB Directive), parliaments have been much more active, which illustrates their strong opposition to more tax harmonization (Anna Sting, 2014). The so-called Anti-BEPS Directive 2016/1164/EU aimed at designing harmonized national regulation for the protection of the domestic corporate tax bases. Still, it covered few topics in the targeted field of application, namely interest limitation, exit taxation, a general anti-abuse rule, controlled foreign company rule to deter profit shifting and a loose rule on hybrid mismatches in the tax treatment of entities or income categories (Thomas Jaeger, 2017).
The negative effects of the tax system disparities on the internal market are constructively solved when the effective harmonization is accomplished. Moreover, the past decades proved that the European Commission efforts for various coordinating actions were ineffective or insufficient to erase the negative effects created by the tax rules elaborated individually by the Member State. In response to the obligation to eliminate possible double taxation, the countries tax the profits attributed to subsidiaries and permanent establishments based on unlimited tax liability (subsidiary) or based on limited tax liability (permanent establishment). In either case, the overall profit of a multinational company must be apportioned to the countries where its subsidiaries or permanent establishments are located (Ulrich Schreiber, 2013).
It was also observed that Member States unilateral actions to fight effectively against aggressive tax planning are not successful and the international community looked for wide supported actions. It is the justification for G20 and the OECD launching of the BEPS Project and the EU Council adoption of the ATAD and double amending the Parent-Subsidiary Directive (Paolo Arginelli, 2018). One of the current concerns in taxation is the relocation of companies' headquarters, with the intention to benefit of the residence rights in a low tax member state. The exit state is entitled to prescribed exit taxation, which most likely breaks the European law and is likely to be rejected by the Court of Justice of the European Union (Ulrich Schreiber, Gregor Fuhrich, 2009).
The regulation on common consolidated tax base CC(C)TB in the European Union (EU) will radically change the company's taxation, a necessary measure to diminish aggressive tax planning strategies and to eliminate the difficulty in determining transfer pricing. Although the applicability of the territorial source taxation principle will be abolished, the European Commission (EC) proposal for CC(C)TB is welcome in terms of reducing

bureaucracy for taxpayers but also for tax authorities. The EC project allocates the consolidated profits of multinationals based on an apportionment formula, based on the volume of sales, the number of employees and the capital invested. We estimate that the effects of the proposal, as amended in the European Parliament in March 2018, are even wider than the previewed effects of the recommendations formulated by the OECD. The document incorporating the CC(C)TB proposal is under negotiation and the final text is subject to unanimous approval by the Council of the European Union, the current challenge being to reach the political agreement. Application of the CC(C)TB will redistribute corporate profits in EU Member States, and some of the founding states will suffer tax revenue losses as part of the taxable profits will be allocated to other states. In our opinion, the CC(C)TB project will only succeed if the proposed calculation method is applied globally, as the effects of the new regulation will occur outside the EU borders (Mihaela Tofan, 2019).

The CCCTB represents a comprehensive reform of the current tax regime in the EU, through deeper tax harmonization methods and mechanisms than the international taxation recommendations of the G20 and OECD anti-BEPS initiatives. From a global perspective, the competitive tax environment in the EU could be disadvantaged by the introduction of stricter measures than those recommended by the OECD / BEPS, but the proper functioning of the internal market requires a more comprehensive solution, combating tax evasion. Moreover, anti-avoidance tax rules concerning non-EU countries must be harmonized to prevent negative tax revenue spillover effects (Ulrich Schreiber, Gregor Fuhrich, 2009).

In 2018, it was estimated that one year delay to the previous implementation agenda would be sufficient to address all the issue, so the regulation would be adopted and published in/by 2019, application starting by 2020. The “Common Consolidated Corporate Tax Base” (CCCTB) - part of a wide-ranging proposal to create a single, clear, and fair EU corporate tax regime - was backed by MEPs (Press release at https://www.europarl.europa.eu/news/en/press-room/20180309IPR99422/meps-approve-new-eu-corporate-tax-plan-which-embraces-digital-presence). Although the previewed deadlines were not respected, the failure of the CC(C)TB proposal was not acknowledged, because the global COVID-SARS2 pandemic crises emerged in 2019 and it has changed the agenda for every regulatory project, justifying any delays. Consequently, a new proposal was not formulated, yet the previous project did not reach its end. The draft still under evaluation includes specific provisions for characterizing the “digital presence” in a country, outlining the features considered sufficient to determine taxable profits. The regulation is meant to reduce the gaps in taxation which have permitted for digital and global companies to innovate on their tax planning and to diminish in a spectacular way their tax bills, minimizing the tax liability in the country where they create profits. The European Parliament proposal for CC(C)TB gave specific mandate EU Commission to determine the parameters able to characterize digital presence (i.e. number of users, the volume of data collected by digital means). This includes personal data of the users, a highly valuable information managed by companies like Facebook, Amazon and Google (action designated as data mining operations) (Günther Schuh, Gunther Reinhart, Jan-Philipp Prote, Frederick Sauermann, Julia Horsthofer, Florian Oppolzer, Dino Knoll, 2019, Pages 874-879).

The proposal under revision observed the consolidation of the companies' income all over the UE, which are required to calculate their tax bills by adding up the profits and losses of all their European constituent companies. To stop the arbitrary movement of the companies in low tax jurisdiction, in line with the European freedom of movement on the internal market and freedom of establishment, the consolidation of the resulting profit would then be split for all member states where the companies' income was generated. it is the first time that the proposal aims at establishing a single set of tax rules would apply in all member states, taxpayers complying with a single tax procedure (a one-stop shop) instead of 27 different sets of domestic rules (OECD (2020), "One-Stop Shops for Citizens and Business", OECD Best Practice Principles for Regulatory Policy, OECD Publishing, Paris, https://doi.org/10.1787/b0b0924e-en).

Although the proposal was not adopted within the framework of the initially considered agenda, it is still appreciated as a fabulous opportunity to make a giant leap in the field of corporate taxation (Report on the proposal for a Council directive on a Common Consolidated Corporate Tax Base (CCCTB), COM (2016)0683 – C8, Alain Lamassoure, available at https://www.europarl.europa.eu/doceo/document/ECON-PR-608035_EN.pdf?redirect, accessed the 1st of March 2024). The effects of this regulation, when adopted, will generate a new model of taxation, in response to the today's digital economy challenges, in response to the unfair tax competition between corporate tax systems within the European single market, by taxing profits inside the jurisdiction where they are actually generated. There were acknowledge voices proposing even a tighter for of integration within the CCTB project, launching the uniform tax rate of 3% for corporate profits, a measure that would bring the European fiscal union much closer to nowadays reality (European Parliament rapporteur Paul Tang recommends a 5% tax on digital services, available at https://www.parlementairemonitor.nl/9353000/1/j9vvij5epmj1ey0/vksg5vngmwzh?ctx=vhekc59myknp&tab=1&start_tab0=40 , accessed on the 1st of March 2024). The report of the European parliament reporter on the Commission proposal is still in favor of the threshold of the companies within the scope of the regulation, considering the total turnover greater than €750 million, a protectionist measure to reduce the negative impact on the small companies (start- ups included). European Parliament rapporteur Paul Tang recommended a 5% tax on digital services, in response to the 3% proposed by the Commission, explaining that this change would help to create a "level playing field", by bridging the gap between the taxation rate of traditional and digital enterprises. The Commission based its 3% proposed rate on the statistics of the estimated profits in digital economy, but in the rapporteur view, it did not consider the actual development of the digital sector in the global economy. When the rate was initially proposed (the European Commission proposed the CCTB project in 2016), a low profitability of 15% for these companies was presumed, while this rate increased constantly since, to the profit margin of 25% nowadays. For large and renowned digital multinational companies in the field of digital services like Facebook and Google, the profit margins have mounted up to 40% (European Parliament rapporteur Paul Tang recommends a 5% tax on digital services, available at https://www.parlementairemonitor.nl/9353000/1/j9vvij5epmj1ey0/vksg5vngmwzh?ctx=vhekc59myknp&tab=1&start_tab0=40 , accessed on the 1st of March 2024). While the Council has expressed in December 2018 its option for limiting the scope of CC(C)TB proposal application (Council conclusions on the Code of Conduct (Business Taxation), 14363/18 FISC 480 ECOFIN 1058, available at https://data.consilium.europa.eu/doc/document/ST-15802-2018-INIT/en/pdf , accessed on the 15th of March 2024), it observed the Austrian Presidency of the Council of the EU position on the possibility of excluding the sale of data, to the satisfaction of countries such as Germany, and reconfirmed the 2020 timeline for implementing the proposal. Although this timeline could not be accomplished, the action in 2018 and early 2019 proved that both national and EU leaders understand that the current corporate tax system is outdated, and it creates distortions in allocating the corporate tax between concurrent jurisdictions.

On 18 May 2021, the Commission adopted a Communication on Business Taxation for the 21st century. In it, it notes that a forthcoming proposal, the "Business in Europe: Framework for Income Taxation" (or BEFIT) will provide a single corporate tax rulebook for the EU, based on apportionment and a common tax base (Available at https://ec.europa.eu/taxation_customs/system/files/2021- 05/communication_on_business_taxation_for_the_21st_century.pdf , accessed on the 20th of March 2024). This new proposal will replace the pending proposal of a Common Consolidated Corporate Tax Base (CCCTB), which will be withdrawn and, according to the Communication, the proposal was expected to be tabled in 2023. To ensure effective taxation, the communication launches the idea of the EU tax mix package that would be developed until 2050. It is a more ambitious plan, with a wider timeline but its success must be regarded with prudence, in the context of failure of the CCCTB proposal.

The context of the above presented communication corresponds to digital companies' tendency to assume reduced fiscal liabilities, in comparison with other taxpayers and their option to choose the tax residency to benefit from the low tax regime, innovating on the tax planning mechanisms. The manifested intention of the European Commission is to prepare an EU corporate tax proposal with digital levy that will ensure fair contribution of the digital sector to the financing of the recovery in EU and to society at large, after the global pandemic crise. Although the proposal will be technically independent of the forthcoming global agreement on international corporate tax reform, it is previewed that it will be compatible with other international obligations, it will coexist with the implementation of an OECD agreement on sharing a fraction of the taxable base of the largest multinational enterprises, once the latter is ratified and transposed in EU law (Tofan; Arseni, 2024). The communication on the future European corporate tax uses extensively the concept of fair taxation and fairness in allocating the taxable revenue between Member States jurisdictions. The prolonged experience with the CCCTB project determined the present option for the simplicity of the following proposal, to facilitate not only the investment and growth, thus reinforcing the Single Market and member states consensus.

The Digital Services Tax (DST) has been dubbed the "GAFA tax", an acronym of the main US targets: Google, Apple, Facebook and Amazon) yet it applies not only to US MNES but also to other international groups from China, Germany, Spain and even France, the French tax administration estimating around 30 international groups under the scope of the prevision. In response to the numerous opponents of this unilateral regulation, the tax was suspended to live room for mutual agreements on the topic. Since no agreement has been reached at the OECD on the taxation of the digital economy, the Minister of Economy announced that France would apply the Digital services Tax as from December 2020. Since the regulation came into force in France, the tax has brought in €375 million euros to the

French Treasury in 2020, €358 million in 2021 and €518 million in 2022 (Sophie Dorin – "Digital Services Tax in France", available at https://www.twobirds.com/en/news/articles/2019/global/digital-services-tax-in-france, accessed on the 20th of March 2024).
Legitimate concerns about the effects of French digital service tax globally determined the G20 group to reach an agreement concerning the international tax, in July 2021. However, as the agreement is not yet implemented, the French Minister of Economic Affairs has stated that the digital service tax will be maintained in France and the multilateral agreement on this topic, endorsed by the OECD (G20 to back global corporate tax deal, says French finance minister, available at https://www.reuters.com/business/g20-back-global-corporate-tax-deal-says-french-finance-minister-2021-07-06/ , accessed on the 20th of March 2024).

Conclusion and limits of the research

As our analysis points out, the continuous increase of the public spending asks for corresponding enlargement of the public revenue and the regulation to limit and, if possible, to eliminate tax avoidance by multinational companies is a priority both globally and for every state. The issue is yet on debate in the USA, when companies collect income in several states. The difficulties in establishing the taxation system entitled to collect taxes from revenue in digital trade over the frontiers of a particular state is another European and global challenge. Also, the fight against tax avoidance has been within the area of concern for OECD and EU, simultaneously. The need for harmonized regulation in tax sector within EU, if not uniform regulation, is supported by our work; the EU legislative actors have already issued some proposals for consolidating the profits of the companies which operate in many member states, addressing the allocation of the profits in accordance with specific criteria (situ taxation, virtual presence, employment, and number of consumers, volume of transferred data, etc.). The subject is addressed globally by current proposal to adopt a new concept of nexus, the OECD members analyzing the possibility and the effects of this new doctrine, while for the EU Member States and the US literature the characteristics of the new nexus raise critiques and require further clarifications.
The analysis undertaken in this study shows that currently the EU law seems to facilitate tax avoidance by both EU and non-EU taxpayers, rather than prevent this phenomenon. While some literature consider that EU is close to achieving a truly tangible shift towards an effective prevention of tax avoidance under EU law, so that the internal market functions properly, ensuring optimal and fair allocation of resources within the EU, there are serious impediments for the fiscal integration within the internal market. There is a constant concern of the Member States regulatory institutions to designing effective controlled foreign companies' rules, respecting their compatibility with EU law. The national legislative organisms must find the right rules to fight the taxpayers' abusive practices within the EU, while respecting their compliance with the EU primary sources of law. The individual approach towards this goal is often sanctioned by the European Commission or by the CJEU, so the need to cooperate arose naturally and evolved to the current level of coordination of the fiscal regulation, maintaining the rule of unanimity when adopting a particular tax measure in the Council. The sovereign right to rule taxation is still protected by the member states and it is expressly previewed in the EU primary law, as all member states are willing to preserve their right to rule taxation for unlimited time. Still, they are

simultaneously obliged to respond to the everyday challenges of harmonizing their taxation, in accordance with the fundamental rules of functioning of the internal market. Their regulation must address properly the tax avoidance conduct by applying uniform rules. All individual regulatory actions in the fiscal area of the Member States may significantly enhance the collaborative and common approach of various states across the world in preventing tax avoidance, redesigning the concept of sovereignty at least for the EU Member states, if not globally.

If we accept that sovereignty in taxation is untouchable and state right to decide completely autonomously on the public revenue is fundamental value for the tax systems, then our paper confirms the hypothesis that the unilateral regulation in tax field is still the formal legitimate method to rule today. Also, in response to the objectives of the research, other features and parameters were highlighted, justifying the approximation of the national tax systems. There are informal challenges in the adoption of EU tax legislation, particularly serving the sovereignty rule. The post-Lisbon EU law includes evidence for the tax uniform policy regime and, undoubtedly, there is a wide acknowledged goal to cooperate among the EU fiscal authorities for tax policymaking. The unique legislative fiscal regulation is possible only when the proper respect is paid to the unanimity rule, while European tax law is indeed building up a new legal environment using two different paths (i.e. positive and negative integration) at an unprecedented speed.

We are moving towards European fiscal integration towards a better functioning single market, a legal framework in which Member States will act gradually self-deprived of their national tax sovereignties and European nationals will enjoy a full and immediate protection of their individual rights, under the jurisdiction of the Court of Justice of the European Union, with limited space for tax arbitrage and a substantial simplification of issues raised by cross-border taxation, both within Europe and in the relations with third countries.

If symbiosis will not be achieved by European primary law or through favorable regulatory frameworks, then it is our conclusion that the unilateral regulation will lead the integration process. The sovereign right to rule taxation, protected in the national constitution, will no longer be justified, in connection to the precise prevision in the national tax system which have moved and will evolve towards unified approach.

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