7. THE RISE OF THE EU IN INTERNATIONAL TAX POLICY

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Abstract: Historically, the OECD has been the dominant forum for international tax policy-making and cooperation. Since the global financial crisis, however, the European Union has become a key challenger to the OECD. This chapter explores the evolution of policy networks in and around EU tax policy. I discuss how tax networks have moved from an ‘embryonic’ expert setting to a highly heterogeneous, contested and unstable setting, with broad public and political involvement. In the context of the crisis, the salience of international tax policy has exploded, and the EU tax policy system has proved highly adaptive in adjusting to this unprecedented attention. This new EU setting has successfully produced radical policy agendas and outputs in direct competition with the OECD. The chapter examines these dynamics in the illustrative case of corporate tax transparency, a controversial and contested policy area where the EU and OECD agendas have critically diverged.

Introduction

Two decades ago, Claudio Radaelli observed that the EU was “not a particularly influential actor in the international tax arena”. Meanwhile, the status of OECD, historically the organizational focal point of international tax policy, Radaelli argued, “goes beyond that of a ‘talk-shop’: its position is influential”. Today, in sharp contrast, the EU has evolved into a vibrant arena for some of the most prominent global policy discussions, and a key challenger to the OECD’s historical dominance¹. In the context of the global financial crisis, EU tax networks have moved from an embryonic, narrow expert context to a highly heterogeneous, contested, politicized and unstable setting, with broad public, political and interest group involvement. This has been accompanied by an unprecedented volatility of policy debate, spurring unexpected and expansive political initiatives, often in direct competition with the historical dominance ‘OECD consensus’. As correctly predicted by Claudio Radaelli, “Left to technocratic debates on the efficiency of the European tax systems, EU direct tax policy would never have gone further than minimal measure” (Radaelli 1999, 766).

This chapter explores the evolution of networks in and around EU tax policy, contrasting with the OECD, and discusses how this evolution has manifested itself in diverging policy discussions and outcomes in the two arenas. In particular, the chapter zooms in on the professional and organisational interactions within EU tax policy networks as a key lens for assessing the EU’s rise in international tax policy. Specifically, the chapter explores one recent contentious area of EU and international tax policy discussion, namely corporate tax transparency, and specifically the policy idea of country-by-country reporting (CBCR)². CBCR was an idea promoted by a coalition of issue professionals within civil society in the wake of the financial crisis, seeking to require multinational companies (MNCs) to disclose unprecedented information about their tax practices and economic activity on a country-by-country basis, as a way to ensure that multinationals would “pay their fair share” and help in the rebuilding of national fiscal systems hurt by the financial crisis. The idea was initially rejected by the OECD, but activists then found sympathetic allies in a rapidly changing EU tax community, resulting in new EU regulations requiring a minimalist CBCR from specific sectors, in a direct challenge to the OECD. The OECD community then took ownership of discussions about further expansion of CBCR regulations, but as

¹ The dash between the EU and the OECD in international tax policy is particularly noteworthy given the general trend of lessening competition and increasing cooperation between the two organisations (Carroll and Kellow 2012).

² While CBCR is a prominent case of tax policy controversy and OECD-EU divergence, the post-crisis years have witnessed several similarly diverging policy discussions, including recent debates around the taxation of the digital economy (see e.g. Kelpie 2018).

soon as the OECD had finalised its (non-binding) recommendations, European tax policy networks proposed new binding EU regulations that were far more expansive than the OECD proposals, once again directly challenging the historical dominance of the OECD in international tax policy.

While focused on EU tax policy, the specific themes of this chapter bear crucially upon the broader topics of this edited volume, namely issue professionals and global regime complexity, coherence and effectiveness. Most prominently, the interactions of issue professionals and the rise EU networks in international tax policy is illustrative of the significant and fundamental changes to the international tax regime in the post-crisis years (Christensen and Hearson, n.d.). The past decade has seen an explosion of media attention, issue salience, and broad public interest, which has contributed to broadening the type and number of actors involved in international tax policy discussions, as well as the dynamics of relations and interactions amongst these actors. The EU policy system has proved highly adaptive in adjusting to these macro changes and exploiting them to advance specific policy goals, and more broadly to challenge for higher status in the international tax policy hierarchy. The new, wider constituency of EU and international tax policy has contributed to an emerging fragmentation of the historically stable consensus around the OECD, and opened space for previously marginalized actors, ideas and policy proposals.

The chapter proceeds as follows. The next section outlines the professional-organizational scenery of international tax policy, and its historical evolution, emphasizing the dominance of the OECD. Next, the role of the European Union in international tax policy is discussed, including the basis of its competencies and the recent transformations of EU tax networks in the post-crisis context. Then follows the policy case, namely an examination of the changing interactions of professionals and organisations in EU tax policy context, in comparison with the OECD, and specifically an analysis of these changes in the case of corporate tax transparency and country-by-country reporting (CBCR).

The professional-organizational scenery of international tax policy

The increasing interrelation of world trade in the 20th century exposed a need for states to address the challenges of international taxation. Given that taxation was historically a pre-eminently national concern, tax policy began to contrast with international commerce, as different states would claim the rights to tax the same income or the same corporation. In particular, in light of consecutive large-scale conflicts in the early century (WWI and WWII specifically), the need to raise revenue exacerbated inter-state conflict

over international taxation, highlighting the problem of double taxation, leading to the earliest, systematic international cooperation on international tax policy (Scheve and Stasavage 2016; Jogarajan 2018).

In the context of increasing attention to the issue of international taxation, the League of Nations commenced a program of developing coordination amongst government experts in the 1920s, culminating in a set of model treaties, for countries to sign bilaterally, setting out the exclusive rights of each nation-state to tax defined incomes (Jogarajan 2018). These treaties, and the ideas they enshrined about the division of the rights to tax multinational income, were initially developed by a small, cooperative community of tax experts, but would become the global standards over the next century as the number of countries involved in this international coordination and subscribing to the core treaty ideas expanded rapidly. Today, more than 3000 bilateral tax treaties exist between countries, based significantly on the core ideas developed in the 1920s and 30s under the auspices of the League, forming the crux of the infrastructure of the international tax governance system.

However, leadership of international tax policy did not stay long with the League of Nations, as the organisation collapsed in the wake of World War II. The OECD would go on to establish itself as *the* premier forum for international tax policy for the 20th century and beyond. While the OECD lacks a legitimate claim to be a truly global organisation, such as the United Nations, its particular way of working has made it highly successful in tax policy. Specifically, the OECD's technical-bureaucratic nature is paramount – the community's unparalleled ability to problem-solve based on consensus amongst technical expert tax professionals (Sharman 2006; Woodward 2009; Eccleston 2013). Over decades, the OECD professional community developed a shared culture and understandings of knowledge and appropriateness. The 'thickness' of the community became stronger: "As similarly situated national officials with highly congruent professional training, those involved with the OECD activities tend to manifest a similar mindset" (Sharman 2012, 24). This 'similar mindset' included broad normative adherence to a dominant issue definition, namely the avoidance of double taxation of cross-border economic activity (Genschel and Rixen 2015), and to expertise-consensus-based policy discussions, for the deliberate evasion of 'political' interference (Sharman 2012).

Moreover, the reach of the OECD tax networks were far broader and more effectful, facilitating and using expert networks spanning the globe. The OECD acts as a "key node" in international tax cooperation matters, and as, Woodward notes, "OECD bodies bind the brightest folk working in a given policy area together into transgovernmental networks of knowledge-based experts" (Woodward 2009,

35:53). Finally, the OECD had far more resources to pursue the development of international tax networks and outputs than any other international organisation, a huge secretariat of 2500 bureaucrats and convening more than 40,000 experts annually across policy areas (Salzman 2005; Woodward 2009, 50; Sharman 2012, 23). These dynamics helped build trust amongst expert policy-makers, These features helps the organisation avoid politicised conflict, bolsters government buy-in, and builds coherence in the policy-making community. This has also lent credence and authority to the OECD's *soft law* products – recommendations, guidelines and treaty models – that, despite no binding force, have been effective and popular policy outputs (e.g. Vega 2012).

This techno-bureaucratic identity of policy-making at the OECD has proved successful in establishing OECD as the dominant international tax policy forum. However, political support from powerful states has also been central. The support of the United States, the world's leading economy and military power, throughout the latter half of the 20th century, was particularly important. When the US did not support specific tax projects of the OECD, the result could easily be failure, such as when the Bush administration pulled out of the 'Harmful Tax Competition' project in the late-1990s (Sharman 2006). In the early-2000s, however, the organisation received further political boosts through its backing by the G7 and, importantly, the G20 (Christians 2010). Arguably, however, the power of the OECD has also subdued progressive reform in international tax policy (Eccleston and Woodward 2014; Morriss and Moberg 2012). This extends to the organisational landscape of international taxation, where the OECD and its constituency has actively resisted attempts to 'forum shift' and move key contemporary policy discussions away from the OECD auspices and over to, for instance, the United Nations (Edwards 2017; Eurodad 2016).

The United Nations, in turn, remains an obvious alternative to the OECD, as a globally institutionalised setting where matters of economic policy, including taxation, are continually discussed. Moreover, it has a truly global scope, as opposed to the OECD, which has been criticised for being a "rich country's club" (e.g. Chonghaile, 2016). However, while various UN bodies have been involved in tax policy discussions historically, it never really emerged as a serious option. First, while attempts were made to 'pick up the slack' from the League of Nations through UN Fiscal Commission, they failed "in the political atmosphere of the Cold War and decolonization" (Picciotto 1992, 48) and due to a "failure to gather institutional momentum" (Hearson 2018). Instead, discussions moved to the OECD. Second, when UN bodies made active attempts to influence particular policy discussions, such as on corporate tax transparency in the 1970s, their lack of support from a broad coalition, and active resistance by business

interests and the OECD community, worked to subdue any traction (Ylönen 2015; Cobham, Janský, and Meinzer 2018). By the same token, other relevant global governance institutions, such as the IMF and the World Bank, were historically confined to specific areas of international tax policy, most notably advice and conditionality on domestic tax reforms and administrative assistance and capacity-building for tax bureaucracies.

The EU in international tax policy and the crisis context

Where is the EU in this picture? In contrast to the OECD's dominance in international tax policy, the EU has arguably played a minor role in international tax affairs historically. The conventional view is that the EU has no or little power or influence in tax policy, given the deliberate constraints enshrined by Member States in the EU's legal basis, due to concerns with national fiscal sovereignty. The Rome Treaty required unanimity in the Council, as opposed to (qualified) majority voting of other policy areas, for harmonisation of direct tax policy, providing all Member States with effective veto power on tax proposals. This principle has notably constrained the EU, both in terms of intra-EU and extra-EU tax policy. Intra-EU, while closer European integration in the late-20th century fostered continued discussions of the (lack of) coherence in Member States' tax policies and its consequences (e.g. Commission of the European Communities 1992), the EU's formal competencies in tax policy have remained largely constrained, although it is now more contested (e.g. Barbière 2017). Instead, with tax policy increasingly on the agenda, EU institutions have sought to use the authority available to them in other ways to shape Member States' tax policies (Genschel and Jachtenfuchs 2011). Extra-EU wise, combined with the strong issue control of the OECD professional-organizational community, the sovereignty focus of EU Member States in tax policy has restrained coherent EU action at the international level, favouring less strict cooperation of national policies (see e.g. Skjærseth 1994),.

Most illustrative of the historical EU tax policy setting is perhaps the 'embryonic epistemic community' of EU tax expert professionals, identified by Radaelli as the network core. Aligned around shared policy understandings, and mobilised by the European Commission, this network consisted mainly of professionals from the Commission and selected business interests, seeking to enhance EU direct tax reforms (Radaelli 1997, 95–100). The active participation of a more heterogeneous group of actors, such as the European Parliament, critical politicians, civil society professionals or broader business coalitions, was conspicuously absent. The crux of EU tax policy-making and reform progress, then, was a small group of professionals with mutual understandings (Puchala 2013). Radaelli concludes on the broader

outreach of the epistemic community that its failure “can be explained in terms of a missing link between academic knowledge and the business community’s priorities.” (Radaelli 1997, 99). In that sense, the preeminent trait of the professional networks in EU tax policy was similar to that of the OECD – a narrow, expert-based consensus model – but importantly with a level of expertise and political support that fell far short of the OECD’s. Attempts to change this situation, such as the late-90s ‘politicization’ strategy of the Commission described by Radaelli, ultimately fell short of propelling EU tax networks to prominence. The result was political stability around a homogenous technical community, yet notable insignificance, both in terms of EU politics more broadly and specifically international tax policy, in sharp contrast to the OECD.

In the decade that has transpired since the global financial crisis, however, the picture has changed radically. Actors in and around the EU tax networks are now key players in international tax policy and have become established as key challengers to the OECD. How has it happened? Arguably, this rise of the EU in international tax policy must be viewed in the context of successive crises faced by the European Union and networks in its vicinity, reconfiguring the salience of the policy issue itself and the broader social context of tax networks and issue control. This includes the ongoing Eurozone but perhaps most significantly the global financial crisis of 2007-08, and the long recovery that has followed. The latter crisis put unprecedented pressure on the fiscal and tax regimes of nation-states, with many EU Member States hit particularly hard, highlighting the importance of sustainable national and international tax rules, and thus affording unprecedented political focus to international tax policy as a lever to address causes and effects of the crisis itself. Moreover, a string of large-scale ‘tax haven leaks’, covered by massive media campaigns such as LuxLeaks (2014), PanamaPapers (2016) and ParadisePapers (2017), has contributed to an explosion of public interest in international taxation, and accordingly political action (Oei and Ring 2018; Dallyn 2016; Berg and Davidson 2017). More broadly, the empirical landscape of international tax regulation has been fundamentally reshaped in the crisis context, with a broadened constituency and more contested authority at the global level (Christensen and Hearson, n.d.).

In this context, networks in and around the European Union, as sites for international tax policy discussion, cooperation and competition, have now evolved into a vibrant milieu, with some of the most dynamic constellations and interactions of stakeholders, and some of the most significant policy discussions, actively contesting issue control of international tax policy. So much that, in November of 2018, German Member of the European Parliament Sven Giegold, for years one of the fiercest critics of EU-level action on international tax issues could declare that, “I think we can honestly say that in no

other field of EU legislation has there been so much progress in the past five years as in the field of taxation and combating money laundering” (European Parliament 2018). This transformation has been marked by a vastly broadened scope and heterogenisation of EU tax policy networks. In particular, actors from the European Parliament (EP), the European Commission, and the wider issue ecology (businesses, the general public, and, notably, civil society), have helped broaden the constituency and become far more engaged players in EU tax policy discussions. In contrast, the technical-bureaucratic culture of the OECD, and its limited interactions with the broader community of stakeholders, meant the organization was not well-positioned to accommodate or manage expansive politicization in international tax policy (Sharman 2006; Ougaard 2011).

To start with the EP, its evolving role in EU and international tax affairs is undeniably linked to the more general process of empowerment of the EP (Hix and Høyland 2013). However, in tax specifically, the Parliament – in the 1990s so marginal an institution that it featured only intermittently in EU tax politics studies – has jumped aggressively on the post-crisis agenda, proactively pursuing policy solutions in the wake of successive tax haven leaks by setting up successive investigate committees (‘TAXE’ and ‘TAX2’ after LuxLeaks, ‘PANA’ after the Panama Papers, and ‘TAXE3’ after the Paradise Papers). Moreover, the Parliament has ‘grilled’ those involved in the scandals, including Commission President Jean-Claude Juncker. In formal policy procedures, the EP has been equally active. For instance, in the case of CBCR (discussed in more detail below), the European Parliament has adopted a number of reports and recommendations that underscore its commitment to public CBCR in recent years, specifically contesting resistance from individual Member States in the Council of Ministers. In this regard, the EP has also been highly inventive. As a civil society activist noted, “the EP was just trying to stuff CBCR in *everything* – a new directive, the amended Shareholders’ Directive, etc.” (interview with civil society activist).

The newfound involvement and activism of the *EP* in EU and international tax affairs is linked to the newfound involvement and activism of *civil society advocates* in EU and international tax affairs. While civil society activism had been a significant feature of radical reforms in a host of global policy areas throughout the 20th century and beyond, NGOs had remained notably absent from international tax policy discussions, even as the international community turned to discuss issues of ‘tax competition’ and ‘tax havens’ more systematically in the 1990s (Sharman 2006). Even the OECD’s chief tax policy-maker, Jeffrey Owens, lamented this absence at the time (Owens 2002). However, the 21st century has witnessed far more civil society interest in and purposeful action on international tax matters. Arguably, the starting point was marked by the 2003 founding of the Tax Justice Network (TJN), an focused activist

organization that has been highly influential in EU and international tax affairs (Tax Justice Network 2016; Seabrooke and Wigan 2016; Dallyn 2016; Baden and Wigan 2017). While wielding relatively few material resources, the small close-knit group of experts-turned-activists in TJN contributed to a broader wave of activism on international tax policy, working with and pushing other NGOs on to the agenda (Forstater and Christensen 2017; Seabrooke and Wigan 2013).

Importantly, civil society activists have also built ties to policy-makers in formal EU institutions, including the EP and the Commission, focusing lobbying efforts on the EU context after a history of failures to influence private regulators and the OECD (Wigan and Baden 2017; Christensen 2018). While EU agencies broadly seek policy input from such stakeholders in order to obtain relevant information and meet procedural expectations, there is also often an explicit agenda for legislative control (Arras and Braun 2017). In the area of tax policy, such linkage to civil society activists has been applied to counterbalance Member State authority, as discussed further below. The overall increase of civil society attention to international tax policy has been noticeable: “Without [civil society campaigners], a bunch of powerful international organisations – the G8 and the G20, the OECD, the IMF, the European Union – would not be committed, as they currently are, to design and implement some rather progressive reforms to international corporate tax” (Moore 2014).

In addition to the rise of the EP and civil society activism, the European Commission has become a more proactive force in politicising tax policy and raising the profile of tax policy proposals. Specifically, the Commission has taken advantage of newfound public attention to EU tax policy to push its own long-standing harmonisation projects and strengthen the profile of popular new ideas. In the wake of recent large-scale tax haven leaks, the Commission has launched radical effort to harmonise Member States’ corporate tax policies (European Commission 2016b) and to require more transparency of multinational corporations (discussed below). All of this, the Commission argues, is in the name of addressing the problems exposed by tax haven leaks and renewed political attention, thus discursively tying its political proposals directly to salient, politicized issues, and challenging established policy ideas (Christensen and Seabrooke 2019). Stakeholders have taken note, too. As one technical expert observer said, critically, of the Commission’s actions: “This is simply about power, and about more money for Brussels” (Thompson 2018).

The upshot of this transformation of the EU policy tax setting is that it has moved from an embryonic and insignificant network to a highly heterogeneous, contested, politicized and unstable context, with

broad public, political and interest group involvement. While the Council of Ministers and individual Member States formally maintain exclusive veto power in the area of direct tax policy, they now have notable proactive competition from the Commission, the Parliament and the broader issue ecology. The range of voices is now far more diverse than it has historically been in the EU. Moreover, the influx of attention has brought with it greatly increased resource spend on and salience of tax policy processes in and around EU networks, allowing them to more effectively participate in international tax discussions and challenge the long-standing dominance of the OECD. To examine these dynamics in more detail, the specific case of country-by-country reporting (CBCR) is explored below, emphasizing how changing professional-organizational interactions in EU tax policy networks have played out in a highly salient, contested policy case.

The case of country-by-country reporting (CBCR)

The idea of country-by-country reporting (CBCR) for multinational corporations on taxation, essentially nationally segmented disclosure of tax-related information, had initially been intermittently discussed in the 1960s and 70s at the United Nations (Ylönen 2015). However, it only really found traction after it was adopted as a key global policy ask by the Tax Justice Network (Tax Justice Network 2005), and other NGOs, in its modern format developed by TJN co-founder Richard Murphy (Murphy 2003). Over half a decade, a significant civil society coalition emerged to advance various versions of CBCR onto the political agendas of a range of governments and international organisations, including the United States, the EU, G7, G20 and the OECD (Lesage and Kacar 2013; Wojcik 2012; Baden and Wigan 2017).

In a first significant moment in 2010, the issue of CBCR was brought onto the agenda of the OECD. Both the OECD's *Task Force on Tax and Development* and its *Global Forum on Development* were considering it. However, only a year later, both fora had dropped the idea. The Task Force had concluded that there was "not clear unanimity on whether this [tax transparency] should go as far as country by country reporting" (OECD 2011), while the Global Forum's interest simply faded (Lesage and Kacar 2013, 274). At the same time in the European Union, the European Commission launched a consultation "to gather stakeholders' views on financial reporting on a country-by-country basis by multinational companies", which was eventually used to create momentum for new EU directives to require public CBCR disclosure

for extractive and financial companies, agreed in 2013. This was despite the fact that the Council had expressly urged the EU Member States to consider CBCR in the context of the OECD³.

A few years later, and déjà-vu: the EU is again quick to pip the OECD on CBCR. In 2013, the OECD is considering CBCR again. Following the advances in the EU (and in the US), as well as sustained civil society pressure and newfound support from the G8 and G20, the OECD picked up the topic in the context of its comprehensive Base Erosion and Profit Shifting (BEPS) project to reform the international tax system. This time, discussions led to new recommendations for national implementations of a CBCR standard, published in September 2014, which exceeded the coverage of the prior EU directives by requiring CBCR for large companies in all sectors, but limited disclosure to tax authorities rather than the public and with the primary aim of “providing adequate information conduct transfer pricing risk assessments”.

Once more, however, the European Union was quick to pip the OECD. Activists and other critics had continued to express criticisms about the specific content of OECD CBCR standard, specifically concerns about (lack of) public access to the information and imposed limitations on the scope of information to be disclosed. And thus, less than two years after the new OECD standard was released, in April 2016, following another public consultation, the European Commission proposed a new directive to require public CBCR for *all* sectors, emphasising the need for maximalist public CBCR to “tackle corporate tax avoidance”, a move explicitly rejected by the OECD policy-makers in 2014. The new directive proposal renewed momentum for the CBCR agenda, accommodating concerns about public access, while also causing new concern about limitations on the information required to be reported (e.g. ActionAid et al. 2016). These debates on the public CBCR directive provide an interesting window onto the broader changes of EU actors in international tax policy.

One significant area of conflict around the public CBCR directive has been its formal legal basis in the EU law-making system (European Parliamentary Research Service 2017). The Commission formally proposed the directive as an *accounting* measure, requiring only QMV (qualified majority voting) by Member States and providing the Parliament with joint authority. In contrast, had it been classified as a

³ The Council conclusions of 14 June 2010 specifically encouraged the EU and its Member States to work towards “exploring country by country reporting as a standard for multinational corporations, by encouraging the OECD to pursue its work on country-by-country reporting (...). In addition, Member States should support ongoing consultation work by the IASB (International Accounting Standard Board) on a country-by-country reporting requirement in IFRS 6 (International Financial Reporting Standard 6) (...)” (cited in European Commission 2010, 3).

tax measure, the directive would only pass with unanimity in the Council, a far more difficult proposition given the internal distributional implications highlighted by increased corporate tax transparency (Dover 2016; European Commission 2016a). No doubt the Commission's choice was made with an eye for an easier path to implementation. And it has received formal support for its position by the Parliament, as well as critical NGOs, while the Council and individual Member States have asserted that the public CBCR proposal is a tax measure and, if it is not considered as such, would infringe directly upon national sovereignty. Here, the Commission is applying its legislative initiative to try to re-align power in the policy-making network (giving the EP greater procedural power and sidestepping unanimity), building a new coalition to counter-act the limitations placed on EU tax policy by Member States. While legal basis battles between the Commission and the Council are not new in EU policy contexts (Cullen and Charlesworth 1999), the nature of tax policy has meant it has rarely been a notable fighting ground. Here, the legal basis struggle over public CBCR represents a direct challenge by the Commission (backed by the Parliament) to the authority of Member States and the Council, which in turn is seeking to resist such critical challenge by asserting its exclusive powers through classification of the proposal to the tax policy area⁴.

Civil society activists – historically with little formal involvement in EU international tax policy – have been particularly active in promoting the *idea* and the *content* of public CBCR in the broader political space. It was civil society advocates who initially ignited and pushed the very concept of public CBCR onto the global political agenda, including the OECD and the EU agendas (Wigan and Baden 2017; Seabrooke and Wigan 2016; Lesage and Kacar 2013). While the OECD dismissed the idea in BEPS, it was taken up in Europe, and here debate has largely been framed by activist discourse. The Commission's claims that its April 2016 public CBCR proposal was primarily concerned with combating "tax avoidance" is inherited from activists, who argued years before that public CBCR would help hold companies accountable "for paying the tax that those in civil society believe they should pay" (Murphy 2010). Such linkage between activists and bureaucrats has contributed to appealing to a broader audience, enabled by politicization of EU tax affairs in the post-crisis years. The effect has been strong resistance to watering down of the proposal by concerned Member States. In a 2016 letter, activists for instance urged Commission President Juncker to ensure public CBCR as an "effective tool that delivers the transparency urgently needed in the fight against corporate tax avoidance and corruption" (ActionAid et al. 2016). The

⁴ More broadly, the Commission has recently sought to problematize the general unanimity requirement in EU tax policy, arguing that it unduly constraints effective and necessary political action (Barbière 2017).

same type of framing is applied by the European Parliament, including in its 2015 resolution on tax transparency, which called for the introduction of public CBCR (European Parliament 2015).

In contrast, the Council's initial official response to the proposed Directive removed almost all references to 'corporate tax avoidance', while asserting an alternative knowledge claim, focused on 'public scrutiny' and 'trust', and importantly stressing the primacy of the previously-agreed OECD guidance on what might constitute appropriate use CBCR information disclosed by corporates (Council of the European Union 2017). An equally critical but not wholly similar framing has been adopted by another group of stakeholders – business interests. Here, the focus has been on discussing publication of the data as a threat to commercial sensitivity, competitiveness and international investment, largely inherited from the prior OECD discussions (see Elschner, Hardeck, and Max 2017; Christensen 2018). The position paper on public CBCR from BusinessEurope, a key EU business lobby, noted that the proposed EU Directive would “undermine the role of the tax authorities who have the expertise, and (...) the information to properly enforce tax rules” and “put companies with an EU presence at a competitive disadvantage and damage the attractiveness of the EU as an investment destination” (BusinessEurope 2016). Moreover, in notable alignment with the Council, businesses have stressed the primacy of the OECD, noting “We support the OECD recommendations regarding the reporting of financial information to tax authorities by companies on a country-by-country basis” (BusinessEurope 2016).

The heterogeneity of the policy advocacy and network links is evident here. Civil society activists, seeking policy progression in the EU that was previously resisted at the OECD, are trying to manage their lack of formal standing in the EU policy process by appealing to a broad political audience and broad popular political themes, specifically the politicized and high-profile media issue of 'corporate tax avoidance'. In the face of procedural resistance from the Council and Member States, the Commission and the Parliament, have copied and amplified these policy discourse advanced by activists. Meanwhile, the Council and individual Member States have sought to reassert their exclusive powers on tax policy to resist the challengers and asserting CBCR in less populist terms, referencing the prior OECD agreement. Businesses have supported this latter approach, emphasizing the primacy of OECD-developed framings, and in particular the threat to businesses themselves from potential public disclosure of the CBCR data.

These diverging coalitions and policy arguments around public CBCR in the EU setting stand in sharp contrast to the prior CBCR discussions at the OECD, where the close normative socialisation of technical experts across the OECD bureaucracy, national delegates, and other stakeholders (in particular businesses

tax professionals) effectively insulated the policy discussions from broader political surges, benchmarked arguments against a narrow set of appropriateness judgments, and re-framed the debate in specific terms, focused on corporate competitiveness and privacy (Christensen 2019). Notably, in the CBCR policy process at the OECD, many civil society groups deliberately opted *not* to participate in discussions, specifically because they lacked the requisite expertise and did not believe in “greenwashing” a process they would have no influence in. These are well-known dynamics in OECD tax policy-making, where ‘non-conventional’ actors – i.e. those who do not possess a narrow set of expertises – are strongly resisted (Büttner and Thiemann 2017; Sharman 2006; Genschel and Rixen 2015; Sharman 2012; Woodward 2009).

At the time of writing (September 2018), the public CBCR directive was still under discussion in the European Union. However, the case illustrates the changing setting and dynamics of EU tax networks, having become far more contested and unstable. This has coincided with a newfound ability to challenge the OECD as the dominant international tax policy-maker. In response to the proposed EU directive and ongoing EU discussion, the OECD (Jeffries 2016) has been openly critical, as has key OECD allies such as the United States (Spencer and Jesse 2016), underscoring the radical nature of these actions by actors in and around the European Union. This is a new and more unpredictable world of international tax policy-making, contrasting with the regime’s historical stability (Genschel and Rixen 2015).

Conclusion

This chapter has provided a discussion of the context of international tax policy and the policy settings of, in particular, the EU and the OECD, focused on the type and dynamics of different policy-making networks. Whereas historically, the OECD has been the dominant cooperative forum for international tax issues, today the EU has evolved into a vibrant arena for tax policy debate amongst issue professionals and concerned organisations, and a key challenger to the OECD. This transformation has been characterised by the evolution of EU tax networks from a narrow, ‘embryonic’ community, marked by little diversity, little breadth, and little contest (both internally and towards the OECD), towards a far more open and adversarial network constellation, with significant heterogeneity, and unstable policy coalitions and unpredictable policy outcomes. In the case of policy discussions on corporate tax transparency, and specifically the idea of public CBCR, this transformation has coincided with diverging policy outcomes, moving the EU away from its historical allegiance to the OECD.

The implications of the new look of international tax policy, and in particular the role of EU tax networks, remains uncertain. In the case of CBCR, the divergence of policy ideas and debates between the OECD and EU settings arguably creates further uncertainty and threatens the overall coherence of the international tax regime complex, historically ensured stability through the OECD's dominance. These developments, however, do not stand alone, and must be viewed in light of the general process of politicization of international tax affairs and the consequent explosion of issue salience, as well institutional crises of the EU itself, which have all contributed to the changing background context and the overall prospect for transformation of the EU tax networks and policy-making. Looking broader, similar dynamics of divergence and uncertainty are visible in other high-profile contemporary international tax policy discussions, such as on taxation of the digital economy (OECD 2018; Kelpie 2018). These conflicts provide peculiarly contrasting developments in an era where EU-OECD cooperation is otherwise increasingly close and strong (Carroll and Kellow 2012).

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