

TAMÁS ZOLTÁN WÁGNER\*

## Detrimental effects of tax havens and the case of the Dutch tax system

### ABSTRACT

Nowadays, multinationals have become so strong that they can easily compete with states. Consequently, they have the opportunity to develop several tax minimalization strategies such as transfer pricing, inversion, hybrid entities etc. All these have a negative impact on the world economy and state budgets. Despite detrimental effects, certain countries try to cooperate with multinationals by transforming themselves into tax havens. In this framework, they provide multinationals with various kinds of tax advantages such as deductions, low tax rates and preferential tax rulings ("sweetheart deals"). Although, the general attitude towards tax avoidance in the European Union is negative, particular member states' tax systems display several characteristics of tax havens. In this regard, it should be noted that multinationals regularly use the loopholes and other advantages of the Dutch tax system to minimise their tax liability. The following study – after a brief view to the characteristics of tax havens – will illustrate these options by highlighting the fact that the country – despite the denial of the respective governments – still displays several characteristics of – tax havens.

**Keywords:** tax minimalization strategies, tax havens, tax competition, conduit country, treaty abuse, tax rulings

### ABSZTRAKT

Napjainkra a multinacionális vállalatok olyan erősekké váltak, hogy könnyedén versenyre kelhetnek az államokkal is. Ennek következtében lehetőségük nyílt arra, hogy számos adóoptimalizációs stratégiát kifejlesszenek, úgymint transzferárzás, székhelyátelyezés, hibrid entitások stb. Mindez negatív hatást gyakorol a világgazdaságra és az állami költségvetésekre. A káros következmények ellenére több ország is együttműködésre törekszik a multinacionális vállalatokkal, esetenként adóparadicsomokká átalakulva. Ennek keretében változatos adókedvezményeket biztosítanak a multinacionális vállalatok számára, úgymint levonások, alacsony adókulcsok vagy szelektív adómegállapítások. Noha az Európai Unióban az adóelkerülésnek negatív a megítélése, ennek ellenére bizonyos tagállamok adórendszerei az adóparadicsomok néhány jellemzőjét mutatja. E tekintetben meg kell jegyeznünk, hogy a holland adórendszer kiskapuit, valamint más kedvezményeit rendszeresen kihasználják a multinacionális vállalatok, hogy az adófizetési kötelezettségeiket csökkentsék. Jelen tanulmány – az adóparadicsom jogintézményére történő rövid kitekintés után – ezeket a módszereket mutatja be, rávilágítva arra a tényre, hogy az ország – az érintett kormányzatok tiltakozása ellenére – továbbra is az adóparadicsomok néhány jellemzőjét mutatja.

**Kulcsszavak:** adóoptimalizálási stratégiák, adóparadicsomok, adóverseny, csatorna ország, egyezményvásárlás, adómegállapítások

\* Tamás Zoltán Wágner, PhD student, Law and Political Sciences Doctoral School, Péter Pázmány Catholic University, wagner.tomi@freemail.hu.

Nowadays, the world economy is threatened by the excessive power of multinationals.<sup>1</sup> Since the termination of obstacles to the free movement of capital and with the new era of globalization, multinationals can easily transfer their production, assets, incomes between jurisdictions searching for the most suitable tax environment. As a consequence, several countries became vulnerable to these processes and were constrained to participate in the so-called “*race to the bottom*” competition: they had to reduce their taxes to such an extent that they could lure potential investors from other states. In this regard, it is enough to refer to the fact that the average percentage of corporate tax rates fell from 40% to 25% between 1980 and 2015.<sup>2</sup> Besides, billions of euros are missing from state budgets violating the principle of fair taxation and burden sharing. Further negative implications should be also mentioned here such as the specific exposure of developing countries, the hindrance of closing the gender inequality gap or the gap between the poor and the rich.

On the contrary, many developed countries aim at exploiting the situation by granting tax breaks or concluding sweetheart deals with multinationals. These jurisdictions are called tax havens. Despite the general negative attitude towards tax avoidance, there are certain tax systems in the European Union which display several characteristics of tax havens. In recent years, it became more and more apparent that this phenomenon seriously endangered both the stability of the internal market and the credibility of the EU’s struggle for fair taxation. In this regard, it is worth emphasising that the European Union loses 250 billion euros annually which is more than 2% of the Union’s GNP.<sup>3</sup> In addition, the authors of *The Missing Profits of Nations* revealed that 600 billion dollars of multinational foreign profits were shifted to tax havens in 2015 and 30% of them were directed towards EU member states.<sup>4</sup>

In the light of these, the EU institutions committed themselves to tougher measures. For instance, the European Commission launched investigations against tax benefits based on state aid law in 2013-2014 where the most cases came from the Benelux states<sup>5</sup>. The latter correlates to the fact that these countries (and Ireland) are the most popular jurisdictions for profit shifting in the European Union: more than 200 billion dollars were transferred there in 2015 alone. Simultaneously, France, Italy and Germany lost approximately 35 billion dollars in tax revenue.<sup>6</sup>

<sup>1</sup> There are several definitions in the international documents and the academic literature. The most cited one was elaborated by the OECD in 1976. Accordingly, the multinationals “*usually comprise companies or other entities established in more than one country and so linked that they may coordinate their operations in various ways. While one or more of these entities may be able to exercise a significant influence over the activities of others, their degree of autonomy within the enterprise may vary widely from one multinational enterprise to another.*” See: Ruggie, John Gerard: Multinationals as global institution: Power, authority and relative autonomy. *Regulation & Governance*, 2018/12, 317–333. (doi:10.1111/rego.12154).

<sup>2</sup> Tax Games: The Race to the Bottom, Europe’s Role in Supporting an Unjust Global Tax System, 2017. <https://eurodad.org/files/pdf/1546849-tax-games-the-race-to-the-bottom.pdf>; 8. (15. 12. 2019.).

<sup>3</sup> Radu, Daniela Iuliana: Tax Havens Impact on the World Economy. *Procedia – Social and Behavioral Sciences*, vol. 62., 2012, 392–402. (doi: 10.1016/j.sbspro.2012.09.064).

<sup>4</sup> Off the Hook. How the EU is about to Whitewash the World’s Worst Tax Havens. Oxfam International, March 2019. <https://oxfamlibrary.openrepository.com/bitstream/handle/10546/620625/bn-off-the-hook-eu-tax-havens-070319-en.pdf>; 6. (17. 12. 2019.).

<sup>5</sup> Tax Rulings. European Commission, [https://ec.europa.eu/competition/state\\_aid/tax\\_rulings/index\\_en.html](https://ec.europa.eu/competition/state_aid/tax_rulings/index_en.html). (17. 12. 2019.).

<sup>6</sup> Off the Hook: *op. cit.*, 6.

In these processes, the Netherlands has a decisive role. On one hand, the European Commission has been investigating the Dutch tax system since 2013–2014. Moreover, the Body already held illegal state aid to Starbucks<sup>7</sup> (although, the company successfully appealed<sup>8</sup> before the General Court) and it also found two other cases where state aid was suspected (these will probably face in-depth investigation soon). On the other hand, advance pricing agreements (APA) are – as in the other Benelux states – quite popular in the Netherlands. These legal instruments are often called “*sweetheart deals*” or “*comfort letters*” because they gave opportunities to avoid taxes by multinationals. The latter view is supported by the fact that Dutch government does not report on total agreements in force, only on the approved number of agreements each year. Therefore, we can just estimate the actual numbers. According to the calculations of Eurodad, the actual number of APAs were 858 at the end of 2016.<sup>9</sup>

All these indicate that the Dutch tax system enables multinationals to use a variety of tax optimisation strategies. The main goal of our study is to demonstrate that the Netherlands – despite the latest efforts of the current government – still displays several characteristics of tax havens. We will – after a general overview of the concept of tax havens – analyse the development and the most important features of the Dutch tax system and whether it really provides multinationals with preferential treatment. In this framework, we will also introduce briefly the legal practice by highlighting the most important cases.

## 1. Tax havens in a nutshell<sup>10</sup>

Before examining the role of tax havens in the world economy, it is worth taking a look at the legal background from a wider perspective. In this regard, it should be noted that there are various classification methods regarding taxpayer’s behaviours in the academic literature. Nowadays, it is getting more and more difficult to delineate the different forms from each other due to the grey zones between legal and illegal activities. Simultaneously, many notions were developed to describe the behaviours concerned. The most common ones are tax avoidance and tax evasion in the international academic literature.<sup>11</sup> Nowadays, these notions are frequently in-

<sup>7</sup> Commission Decides Selective Tax Advantages for Fiat in Luxembourg and Starbucks in the Netherlands are Illegal under EU State Aid Rules. European Commission Press release, 21 October 2015, [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_15\\_5880](https://ec.europa.eu/commission/presscorner/detail/en/IP_15_5880) (17. 12. 2019.).

<sup>8</sup> Judgment of 24 September 2019, T760/15 and T636/16, Kingdom of the Netherlands and Starbucks Corp. and Starbucks Manufacturing v European Commission (ECLI:EU:T:2019:670).

<sup>9</sup> Ryding, Tove Maria: Tax ‘Sweetheart Deals’ Between Multinationals and EU Countries at Record High. *European Network on Debt and Development*, March 2018. <https://eurodad.org/files/pdf/5aa983be17a09.pdf> (17. 12. 2019.).

<sup>10</sup> This chapter is a revised and extended version of a part of the author’s earlier study: Wágner Tamás Zoltán: Kiskapu az állami támogatásokra vonatkozó uniós szabályozásban, különös tekintettel a McDonald’s ügyre. *Iustum Aequum Salutare*, 2019/4, 181–203.

<sup>11</sup> At the same time, it should be noted that there are more precise classifications as well. For instance, several authors mention tax fraud or aggressive tax planning. The former is a subtype of tax evasion which is sanctioned in criminal law. On the contrary, aggressive tax planning is a formally legal activity which exploits

terchanged, even in the use of international organisations such as OECD or EU<sup>12</sup>. All these can be traced back to two reasons. On one hand, the media can easily define public discourse and it often uses moral reasoning in articles concerning offshore scandals or tax optimization strategies of multinationals. In this respect, they emphasise that these techniques violate the principle of fair taxation and put unjustified burden on ordinary taxpayers.<sup>13</sup> On the other hand, the multinationals developed several strategies to decrease their tax liability which not only contributes to losses in state budgets but also leads to social inequality, mainly in developing countries. For instance, Tanzania lost 672 million euros in the financial year 2012–2013 due to preferential treatment of investors.<sup>14</sup>

Nevertheless, tax avoidance and tax evasion should be distinguished from each other. While taxpayers only exploit the loopholes of a given legal system in the former, they deliberately break the law regarding the latter. Therefore, we can agree with Viola Tanto when she writes as follows: “*Tax evasion is usually associated with the commission of a criminal offense. It can be considered to consist of wilful and conscious non-compliance with the laws of a taxing jurisdiction which can include a deliberate concealment of facts from revenue authorities. Tax evasion is an action by which a taxpayer tries to escape legal obligations by fraudulent or illegal means. It may result from the evasion of tax on income that arises from illegal activities, such as smuggling, drug trafficking, and money laundering.*”<sup>15</sup> As we can see the main borderline is illegality. But unfortunately, it is not always obvious in every case. Tax havens entail both phenomena which justify closer examination. Thus, we overview the basic features of this legal institution in the following pages.

According to recent estimations, there are 70 registered tax havens in the world.<sup>16</sup> The roots of tax havens can be traced back to antiquity: 3000 years ago, there were specific “*shelters*” for the rich in China. Their main goal was to provide an effective tool to conceal wealth before the authorities. In a modern sense, we can speak about tax havens from the 19<sup>th</sup> century when the British tax system granted tax exemptions to multinationals without being a tax resident in the country. After World War II – also thanks to the tensions of Cold War – they gained worldwide popularity which made them an unavoidable part of the world economy. All these created new opportunities for small jurisdictions such as Hong Kong, Bermuda, Liechtenstein, Andorra, Luxembourg which became extremely powerful conduits for the profit of the multinationals.

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the loopholes of a given tax system or the mismatches between different tax systems. For more information, see: Békés, Balázs: *Közvetlen adózás az Európai Unióban – A tagállami jogok harmonizációja és versenye*. Wolters Kluwer, Budapest, 2019, 235–236.

<sup>12</sup> McLaren, John: The Distinction Between Tax Avoidance and Tax Evasion has Become Blurred in Australia: Why Has It Happened? *University of Wollongong Research Online, Faculty of Business – Papers*. <https://pdfs.semanticscholar.org/41de/6b628094f395a7b98206772181c798f40876.pdf>, 148–149. (02. 02. 2020.).

<sup>13</sup> Christians, Allison: Distinguishing tax avoidance and evasion: why and how. *Journal of Tax Administration*, 2017/2, 5–21.

<sup>14</sup> Tax Avoidance and How to Get Rid of it. *Kepa Policy Briefs*, 2015/17. <https://www.fingo.fi/sites/default/tiedostot/julkaisut/tax-avoidance-nov-2015.pdf>; 7. (02. 02. 2020.).

<sup>15</sup> Tanto, Viola: The International Company and Tax Avoidance. *European Journal of Multidisciplinary Studies*, 2016/1, 65–66. (doi: 10.26417/ejms.v3i1.p63-71).

<sup>16</sup> Tax Avoidance and How to Get Rid of it: *op. cit.*

Their recruitment can be underscored by the fact that they managed 10,6 billion dollars in 1968 which increased to 21–32 trillion dollars in 2012 according to Tax Justice Network (think tank). Furthermore, Oxfam revealed that 156 billion dollars disappeared annually due to offshore activities which would be enough to eliminate global poverty.<sup>17</sup> In this regard, the US-registered companies are the biggest tax dodgers: thanks to their tax minimalization strategies, corporate tax revenue fell – as a share of all federal tax revenue – from 32,1% in 1952 to 8,9% in 2009. Besides, according to an estimation in 2012, they stored the value of 1,7 trillion dollars of assets in offshores.<sup>18</sup>

It should be noted that Hungary is not exempted from the detrimental effects of tax avoidance either: according to various estimations, the country lost 242 billion dollars between the 1980s and 2010. It made Hungary one of the biggest losers of the multinationals' tax optimisation strategies in Europe, overtaking even the much more populous Poland (165 billion dollars) and Ukraine (167 billion dollars), just behind Russia (798 billion dollars). In addition, these numbers are much worse if the data are compared to the actual population of the respective countries. In this regard, Hungary is in 3<sup>rd</sup> position in the world (24.000 dollars), only Singapore (37.000 dollars) and Kuwait (191.000 dollars) have higher indicators. Though, several experts criticised these data by referring to methodological problems such as the absence of academic and journalistic review or unknown sources, and it is still disturbing that the actual outflow of financial assets can be 2,5 times higher than public debt. At the same time, Hungary is also the winner of tax competition in the Central European region: many Slovakian or Czech companies established branches in the country due to the low rates of corporate taxes or local business taxes.<sup>19</sup> Besides, Hungarian companies are interested in tax avoidance as well. Since, in the 2000s, many executives recognised the favourable opportunities in the Hungarian tax system. These processes peaked between 2005 and 2009 when the actual numbers increased by 300%. In recent years, offshore activities dwindled – thanks to the lawmaker and the tax authority – but there are still 3300 companies where owners can be directly linked to tax havens. If we consider indirect ownership, the number of companies concerned amounts to more than 5000. Further interesting thing that the most popular destinations are Seychelles, Panama, Belize, Marshall Islands and 36% of the companies' main activity connected to immovable properties.<sup>20</sup> All these indicate that the world of tax havens is not an abstract, remote phenomenon to the Hungarian lawmaker: it is part of our daily life.

<sup>17</sup> Rawlings, Gregory: Shifting Profits and Hidden Accounts: Regulating Tax Havens. In: Drahos, Peter (ed.): *Regulatory Theory: Foundations and Applications*. Canberra, ANU Press, 2017, 653–674. (doi: 10.22459/rt.02.2017.37).

<sup>18</sup> Fisher, Jasmine M.: Fairer Shores: Tax Havens, Tax Avoidance, and Corporate Social Responsibility. *Boston University Law Review*, 2014/1, 342.

<sup>19</sup> Vargha, Bálint: Adóalap-elvonási tünetek? Áttekintés az offshore tőke kiáramlásáról. *Pénzügyi Szemle*, 2017/2, 199–203.

<sup>20</sup> Ingatlanügyletre szakosodott a legtöbb hazai offshore cég. *Magyar Nemzet*, 2020. február 4. <https://magyar-nemzet.hu/gazdasag/ingatlanugyletre-szakosodott-a-legtobb-hazai-offshore-ceg-7739456/> (02. 02. 2020.).

After highlighting the theoretical background and the relevant data, it is worth examining the legal institution itself.

Due to the complexity of the structure and the mechanism of tax havens, there are several definitions regarding the legal institution both in the academic literature and in the use of the international organisations. John Murphy's – economist, founder of Tax Justice Network – notion is based on use (utilization). Accordingly, tax havens are used to:

- avoid or evade tax liability,
- keep crimes in secret,
- keep the activities of customers in secret,
- gain exemption from procedural costs of their home country.<sup>21</sup>

John D. Wilson defines tax havens as typically small countries that provide foreign investors with low or zero tax rates and attractive regulatory policies, serving as a conduit for the profits of the multinationals and also providing bank secrecy.<sup>22</sup> Jasmine M. Fisher describes tax havens as follows: “*financial conduits that, in exchange for a fee, use their one principal asset – their sovereignty – to serve a non-resident constituency of accountants and lawyers, bankers and financiers, who bring a demand for the privileges that tax havens can supply.*”<sup>23</sup> Gregory Rawlings makes a distinction between tax havens and non-tax havens. The latter are only similar to tax havens in some aspects but still pose a challenge to countries conducting traditional tax policy. In these jurisdictions, investments of non-tax resident foreign companies enjoy tax exemption while the domestic economic activities must face tax liability. Dutch, Irish, Luxembourgian and British tax systems are a great example of this.<sup>24</sup> Others use vague definitions, including countries with extremely low tax rates or use tax havens as a synonym for “*offshore financial centres*” and “*secrecy jurisdictions.*” The Government Commission on Capital Flight from Poor Countries (Norway) even admitted that there was no generally accepted notion for tax havens. Besides, there are many states which introduced particular preferential regimes, but they cannot be simply classified as tax havens. Therefore, the best way to identify them is to circumscribe their activity: “*The regulatory regime is constructed in a way which caters to circumventing private and public interests in other states – in other words, those states where the owners of the companies are domiciled or have their obligations. The tax base in other states is particularly affected, but structures in tax havens are in many cases also suitable for concealing a number of other forms of criminal activity.*”<sup>25</sup>

<sup>21</sup> Hendriksen, Jules: The Role of Offshore Tax Havens in the International Tax System. *Análise Europeia*, 2016/2, 47–50.

<sup>22</sup> Wilson, John D.: Tax Havens in a World of Competing Countries. *CESifo DICE Report*, 2014/4. <https://www.ifo.de/DocDL/dicereport414-forum6.pdf> (19. 12. 2019.).

<sup>23</sup> Fisher: *op. cit.*, 343.

<sup>24</sup> Rawlings: *op. cit.*, 656.

<sup>25</sup> Tax Havens and Development. *Official Norwegian Reports*, 2009/19. [https://www.regjeringen.no/contentassets/0a903cdd09fc423ab21f43c3504f466a/en-gb/pdfs/nou200920090019000en\\_pdfs.pdf](https://www.regjeringen.no/contentassets/0a903cdd09fc423ab21f43c3504f466a/en-gb/pdfs/nou200920090019000en_pdfs.pdf); 15–17. (19. 12. 2019.).

In the light of all these, it is difficult to find an effective definition, with the most cited one having been elaborated by the OECD in 1998. Accordingly, the tax system concerned is a tax haven if the following criteria are met:

- revenues are not or minimally taxed,
- no effective change of information,
- absence of transparency,
- tax system facilitates the settlement of companies which have no presence in the given country.<sup>26</sup>

Despite its shortcomings (e.g. the Netherlands only fulfils the last criterion, therefore it cannot be treated as a tax haven), it is the most accepted internationally. What are the reasons for not having a universal definition? Well, the answer should be primarily sought in the basic features of tax havens. These will be examined from the following perspectives:

- secrecy legislation
- regulation
- peculiar corporate structures.

The first one is regarded by many experts as the most important service of tax havens which is not surprising: it enables multinationals to hide from the public.<sup>27</sup> Since its aim is to prevent access to confidential information about companies in the given jurisdictions such as ownership, assets, activities etc. Although privacy is protected in modern states, it must be distinguished from secrecy which can be simply defined as “*abuse of privacy, even against the interest of others.*” The latter is frequently ignored by tax havens giving special protection to multinationals which manifests in two forms: very limited publicly available information on activities and limited access to information (mainly by legal request). In addition, this kind of protection is connected to those activities where the legal entity concerned actually has tax residence. This practice both violates the interest of stakeholders and sovereignty of other states.<sup>28</sup> Furthermore, it gives opportunity to investors to commit different types of crimes without being jailed because – the relevant information withheld by state authorities – nobody can trace back illegal activities to the perpetrator.<sup>29</sup>

Besides, several special regulations are introduced in order to seem to be more attractive to multinationals. Hence, there are different rules for locals and multinationals: the latter can enjoy various tax exemptions and other advantages. In this regard, it is worth emphasising that many multinationals pay nominal or no taxes in tax havens. Although, states can freely decide how they design their tax system but placing much less burden on the rich clearly violates the principal of burden sharing and fair taxation. On the other hand, missing revenues must be collected: mostly,

<sup>26</sup> Countering Offshore Tax Evasion. OECD, <https://www.oecd.org/ctp/exchange-of-tax-information/42469606.pdf>; 11. (19. 12. 2019.)

<sup>27</sup> Narci, Hakan: Tax Havens & The OECD Campaign Against Them. Master thesis, Norwegian School of Economics Louvain School of Management, 2012. <http://uniset.ca/microstates2/narci.pdf>; 14. (19. 12. 2019.)

<sup>28</sup> Tax Havens and Development: *op. cit.*, 24–28.

<sup>29</sup> Narci: *op. cit.*, 15.

ordinary taxpayers face the consequences of preferential treatment to international companies. Furthermore, it has other negative implications. Firstly, it contributes to conceal their identity and activities such as place of residence, citizenship, source or the timing of income. Secondly, it enables multinationals to abuse tax agreements – concluded between the tax havens concerned and a non-tax haven country – in their favour. For instance, they can acquire tax exemption in those cases when the conditions are not entirely fulfilled. In this respect, the disputes concerning interpretation of domicile and ownership should be mentioned. Above all, the following advantages can also be provided by regulations: exemption from the obligation to prepare accounts, exemption from the obligation to audit, exemption from the obligation to register and publish ownership, the right to redomicile etc.<sup>30</sup>

Finally, it should be emphasised that tax havens have usually peculiar corporate structures. In this regard, multinationals can establish various types of companies. The most common ones are *international business corporations* (IBS), *personnel investment company* (PIC) and *exempted companies*. These are collectively referred to as offshore companies. The denominations highlight the fact that these legal entities have little or no activity in the jurisdiction concerned and – contrary to the situation in other states – they are basically exempted from the classical duties which an ordinary company must comply. In addition, they often cannot engage in local business life e.g. employment of local labour. There are also other types of special structures such as *Global Business Company 1* (GBC1) or *Global Business Company 2* (GBC2) – both used in Mauritius, Protected Cell Companies – adopted by Guernsey in 1997, are independent legal entities constituted by cells which are autonomous, providing protection against creditors and third-country governments e.g. insolvency, trusts – the original owners' (beneficiaries) assets are managed by trustees, the former is entitled to benefits, the latter for a certain fee; taxable income can be transferred from a high tax country to a tax haven due to the specific structure.<sup>31</sup>

As we could see, there are several methods implemented by tax havens which makes it extremely difficult to find a comprehensive definition. Nevertheless, it is not the only thing hindering the fight against them: the alleged benefits and the general belief of positive tax competition also play a significant role in this. Regarding the former, the following arguments are the most popular:

- low taxes lead to higher wages and lower product prices,
- facilitation of economic growth and foreign investments,
- consolidation of a given country's role in international trade,
- inflow of FDI contributes to the creation of new jobs and to the development of human capital.<sup>32</sup>

On the contrary, many states fear the power of foreign investment. They often assume that due to the absence of tax breaks, potential investors would leave the respective countries which could harm significantly the economy or could even lead

<sup>30</sup> Tax Havens and Development...: *op. cit.*, 28–39.

<sup>31</sup> Narcis: *op. cit.*, 17–21.

<sup>32</sup> Hendriksen: *op. cit.*, 51.



to recession. The latter phenomenon can be perfectly observed in the case of developing nations where governments think that the preferential treatment can override negative factors such as political instability, uncertain economic environment or weak infrastructure. For instance, there were no special economic zones in sub-Saharan countries in 1980, but by 2005 every second state applied one.<sup>33</sup> However, the OECD, UN, World Bank and the IMF also warned these countries about the detrimental effects of tax competition by highlighting the fact that most economic actors would have even invested in the absence of preferential treatment.<sup>34</sup> Moreover, the missing revenues must be collected from others, mostly from ordinary taxpayers. Besides, they ignore the negative effects of tax havens: damaging tax competition, illegal transfer pricing, more unequal division of tax revenues etc.<sup>35</sup>

All these correlates with the general belief that tax competition is overall favourable to the countries concerned. But it is not that simple, as it is still disputed in academic literature whether there is “*good tax competition*” or not. According to various research, small countries with open economies and low tax rates can be the winners of this race. Nonetheless, it gives an opportunity to underdeveloped countries to catch up with rich regions (employment, innovation) and it could also contribute to the strengthening of tax systems’ consistency because constantly decreasing tax rates enhance competitiveness. The latter perspective is important to Union tax policy: harmonisation can be achieved spontaneously.<sup>36</sup> But we must highlight the fact that there are several detrimental effects of tax competition as well:

- diverting international investments,
- endangering voluntary tax compliance,
- distorting tax system,
- increasing the cost of other states’ tax administration.<sup>37</sup>

Above all, it is worth emphasising that those states which participate in the so-called “*race to the bottom*” competition must reduce their taxes in order to attract investors from other countries. To achieve this goal, they must apply positive discrimination regarding foreign investments (tax advantages, exemptions). In certain cases, they could be constrained to tolerate the tax optimisation strategies of multinationals. At the same time, each country has different economic structures (size, tax system, general features etc.) which must be considered before altering / redesigning the tax policy. For instance, tax competition costs higher for developing countries because larger part of their revenues derives from capital. In addition, they face a greater

<sup>33</sup> Tax Avoidance and How to Get Rid of it: *op. cit.*

<sup>34</sup> Tax Games: *op. cit.*, 15.

<sup>35</sup> Tax Havens and Development: *op. cit.*, 48–52.

<sup>36</sup> Galántainé Máté, Zsuzsanna: *Problémák és újabb törekvések az Európai Unió társasági adózásában*. PhD értekezés, Széchenyi István Egyetem Multidiszciplináris Társadalomtudományi Doktori Iskola, Győr, 2008. [http://rgdi.sze.hu/images/RGDI/honlapелеmei/fokozatszerzesi\\_anyagok/galantaine\\_mate\\_zsuzsanna\\_disszertacio.PDF](http://rgdi.sze.hu/images/RGDI/honlapелеmei/fokozatszerzesi_anyagok/galantaine_mate_zsuzsanna_disszertacio.PDF); 51–56. (19. 12. 2019.).

<sup>37</sup> Erdős, Éva: A káros adóverseny kezelése az európai adójogban. In: *Collegium Doctorum Konferencia (2012. április 19.)*, Miskolc, Bíbor, 2013, 265.

threat of losing tax revenues which must be considered in public sector investment.<sup>38</sup> Thus, it is far from obvious whether tax competition is favourable to countries, because beyond macroeconomic effects, it also violates such principles as fair taxation or the neutrality of taxation.<sup>39</sup> But several states consider it worth providing preferential treatment towards multinationals. These are mostly tax havens.

All these pose a great challenge to experts, civil or international organisations to set up tax haven lists. Since they not only have to face the absence of a generally accepted notion, but they also have to handle the misbeliefs of tax competition. In this regard, the so-called EU blacklist<sup>40</sup> case (and grey list) – first adopted in 2017 – was a perfect example.

Several civil organisations (e.g. Tax Justice Network, International Consortium of Investigative Journalists or Oxfam) criticised the method of the elaboration. They pointed out to the fact that despite the negative attitude towards tax avoidance, the EU tolerates tax havens in the member states while blaming other countries. At the same time, it is a real threat to the economy of the EU.

As we could see in the introduction, the Community loses 250 billion euros annually and 30% of the multinationals' profit shifting directed towards member states in 2015 which means approximately 200 billion euros. France, Spain, Italy and Germany lost 35 billion euros tax revenue in 2015 alone which could have been utilized in other fields of the economy e.g. development of public health. Despite this clear evidence, it seems to be that there are no real political intentions to counter tax havens.

According to Oxfam, a strong, well-targeted list is only the first step in this process. In this respect, the EU lists had limited results. Maybe, the biggest success was the termination of more than 100 harmful tax practices in nearly 40 countries such as special economic zones, export processing zones etc. On the other hand, the implemented method proved to be ineffective or harmful in certain cases, especially the general focus on specific regulations aimed at multinationals. The latter resulted in the extension of preferential treatment towards domestic companies (Barbados, Hong Kong, Mauritius) legitimizing harmful tax regimes. Furthermore, the EU did not face the fact that there were – despite rejections of the respective governments – several tax havens in the EU itself. The list concerned failed to mention not only Bermuda, Cayman Islands or British Virgin Islands but also member states like Ireland, Luxembourg or the Netherlands. On the contrary, the EU regarded these countries as if they complied with the criteria, albeit several EU institutions already criticised their tax policy e.g. European Parliament.<sup>41</sup> Besides, demanding the compliance of OECD BEPS minimum standards by screened countries was also a major problem: it was mainly designed according to the special needs of developed countries; the developing countries were excluded from the decision-making process. Thus, it put

<sup>38</sup> Tax Havens and Development: *op. cit.*, 49.

<sup>39</sup> Galántainé Máté: *op. cit.*, 34–35., 52–58.

<sup>40</sup> The EU List of Non-Cooperative Jurisdictions for Tax Purposes. Council of the European Union, Conclusions, 5 December 2017, 15429/17. <https://www.consilium.europa.eu/media/31945/st15429en17.pdf> (19. 12. 2019.).

<sup>41</sup> According to the document, seven EU member states function as tax haven and enable aggressive tax planning such as Luxembourg, the Netherlands or Ireland. For further information, see: [http://www.europarl.europa.eu/doceo/document/TA-8-2019-0240\\_EN.pdf](http://www.europarl.europa.eu/doceo/document/TA-8-2019-0240_EN.pdf) (19. 12. 2019.).

an unjustified pressure on them because these standards are voluntary, and they were listed as tax havens until fulfilling the criteria laid down. Finally, the following discrepancies should be fixed as well: there is still no consensus on sanctions and a more transparent process is needed. To achieve these goals, the EU – among others – should enhance its current screening process, plus the fair taxation criterion should be revised and strengthened.<sup>42</sup>

The list was revisited<sup>43</sup> in 2019 in which seven countries<sup>44</sup> – formerly put on the grey list – were added to the blacklist consisting of 15 countries. Nevertheless, the list cannot be regarded as complete because several jurisdictions classified as tax havens in the academic literature are still missing. The most notable ones are the following: Cyprus, Luxembourg, Malta or Ireland. In addition, the list does not contain anymore the worst five tax havens of the world: Panama, Hong Kong, Isle of Man, Guernsey and Jersey. On these grounds, it is not surprising that Oxfam again criticised the European decision-makers and called upon them to review the currently used criteria and monitoring processes in order to register every existing tax haven.<sup>45</sup>

In the light of all these, multinationals have many ways to use tax optimization strategies and to exploit the loopholes of tax systems. The best-known techniques are transfer pricing, profit shifting, treaty-shopping (tax abuse) and tax rulings.

Out of these, it is worth taking a closer look at treaty-shopping. Its roots can be traced back to the so-called double taxation issues which seriously endangered the competitiveness of multinationals. In order to overcome this problem, many states concluded bilateral treaties to stipulate who was entitled to taxation. But mainly globalisation, liberalisation and digitalisation rendered the tax systems obsolete which created several mismatches. For instance, nowadays, legal entities can be set up within a day without having physical presence. All these made extremely difficult the exercise of taxation rights and the multinationals concerned just exploit legal gaps provided by treaties.<sup>46</sup> Besides, treaty benefits can be extended unintentionally to the residents of third countries and the biggest losers of this practice are the developing countries.<sup>47</sup> Thus, it is not surprising that the OECD BEPS project identified this phenomenon as one of the greatest concerns for the international tax system. As a result, the BEPS minimum standards require a minimum level protection clause in the tax agreements concluded by the respective countries.<sup>48</sup>

<sup>42</sup> Off the Hook: *op. cit.*

<sup>43</sup> The Revised EU List of Non-Cooperative Jurisdictions for Tax Purposes: *op. cit.*

<sup>44</sup> These were Aruba, Belize, Vanuatu, Fiji Islands, Oman and the Dominican Republic.

<sup>45</sup> EU's Tax Havens Blacklist 'More Like a Whitewash.' Oxfam International Press release, 12 March 2019. <https://www.oxfam.org/en/pressroom/reactions/eus-tax-havens-blacklist-more-whitewash> (19. 12. 2019.).

<sup>46</sup> Aidha, Cut Nurul–Maftuchan, Ah–Hietland, Maarten–Teeffelen, Jasper van: How the Indonesia-Netherlands Tax Treaty Enables Tax Avoidance: An analysis of the Treaty and Indonesian Court Decisions on Tax Disputes. SOMO, 2019. <https://www.somo.nl/wp-content/uploads/2019/08/DTA-report-SOMO-Prakarsa.pdf>, 10–12. (05. 02. 2020.).

<sup>47</sup> The Impact of Tax Treaties on Revenue Collection: A Case Study of Developing and Least Developed Countries. *Actionaid*, 2018. <https://actionaid.nl/wp-content/uploads/2018/11/The-Impact-of-Tax-Treaties.pdf> (05. 02. 2020.).

<sup>48</sup> *Prevention of Treaty Abuse – Peer Review Report on Treaty Shopping: Inclusive Framework on BEPS: Action 6*. OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris, 2019, 11–14. (doi: 10.1787/9789264312388-en).

Moreover, the respective tax authorities sometimes cooperate with these multinationals by offering sweetheart deals to them. In this respect, the McDonald's case is a perfect example which combines the negative effects of preferential tax rulings and tax abuses. In the concrete case, the Luxembourgian authorities granted two advance tax rulings in 2009 which stated that the McDonald's (more precisely: McDonald's Europe Franchising – subsidiary) did not have to pay taxes in Luxembourg because the profit was taxable in the USA. However, the company paid no taxes at all because based on the USA–Luxembourg double non-taxation treaty, the respective countries have opposite regulations regarding permanent establishment which resulted in de facto tax exemption. The European Commission launched an investigation against this practice and held in its preliminary decision that it constituted state aid. It based its decision on the OECD Model Tax Convention and its Commentaries and stated that the Luxembourgian authorities had to exercise their taxation rights if the USA did not do that. On the contrary, McDonald's and the Luxembourgian authorities rejected this reasoning and pointed out to the fact that the Commission misinterpreted the relevant convention. All this sparked significant controversy both in the academic literature and in international political life. Maybe for this reason, the Commission changed its standpoint and held no state aid. The decision was rather welcomed in the academic literature, but the experts pointed out to the Commission's confusing reasoning.<sup>49</sup>

Tax rulings were again at the very centre in the Apple case. The Irish tax authorities issued such rulings which enabled the multinationals to artificially reduce its tax liability by allocating most of its subsidiaries' profit to the central office. As a consequence, the company barely paid taxes (1% in 2003 and 0,005% in 2014). The practice was heavily criticised by the European Commission which held in its decision that the central office did not exercise real economic activity. Thus, it ordered the recovery of 13 billion euros as illegal state aid.<sup>50</sup> But Ireland appealed against the decision at the General Court and the case is still pending.<sup>51</sup> The outcome of the procedure will be decisive for the European Commission. In this regard, it is worth referring to Joyce Beebe who concluded that *“the most important implications of the Apple case, as well as the forthcoming rulings involving Amazon and Starbucks, are how much discretion a member country has in granting tax incentives, and how far can a country go to attract non-resident companies without violating competition agreements.”*<sup>52</sup>

Naturally, there are further special techniques such as the one developed by Google. It will be introduced together with a transfer pricing case in the next chapter.

The abovementioned cases raise serious questions. How can we step up against these kind of anomalies? On one hand, we need strict sanctions which must be

<sup>49</sup> For a more detailed analysis see: Wagner: *op. cit.*, 194–203.

<sup>50</sup> State Aid: Ireland Gave Illegal Tax Benefits to Apple Worth Up to €13 billion. European Commission Press release, 30 August 2016. [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_16\\_2923](https://ec.europa.eu/commission/presscorner/detail/en/IP_16_2923) (06. 02. 2020.).

<sup>51</sup> Case T-778/16, Ireland v Commission (Application: OJ C 38, 06. 02. 2017, p. 35).

<sup>52</sup> Beebe, Joyce: Beyond \$15B: What's At Stake In The Apple Irish Tax Appeal By. *Law360.com*, 13 September 2019. <https://www.bakerinstitute.org/files/15018/> (06. 02. 2020.).

imposed on actors (companies or even countries) committing financial crimes.<sup>53</sup> On the other hand, it is vital to have real political intentions to conduct effective reforms concerning anti-tax avoidance measures. In this respect, it is a major problem that despite the exploitation of tax havens being the key element of multinationals' tax minimalization strategies, there is still an ongoing debate whether these jurisdictions are harmful to the world economy.<sup>54</sup> Finally, it would be also useful to have a universal definition on tax havens.

The next chapter will illustrate how difficult it is to combat a conduit country which is not classified officially as tax haven by the OECD or the EU.

## 2. The Netherlands as a conduit country

The Netherlands is one of the most attractive jurisdictions for multinationals in the world. In this respect, it is a real "leader" with a market share of one third. It is also in the top-3 FDI for many countries such as Brazil, Nigeria or Russia.<sup>55</sup> Furthermore, it is one of the world's eight major *pass-through economies*<sup>56</sup> which host more than 85% of global investment in special purpose entities.<sup>57</sup> There are approximately 12000 SPEs in the Netherlands which serve as links between subsidiaries of multinationals and assets (e.g. loans, interests, royalties) with a value of 4000 billion euros flowing through them every year. The latter accounts for roughly ten times the country's GDP.<sup>58</sup> The value of dividends, interests and royalties amounts to 200 billion euros alone annually.<sup>59</sup> Consequently, many seek to establish themselves there, especially from the United States. Besides, 91 of the 100 largest multinationals in the world have financing firms in the country.<sup>60</sup>

On these grounds, it is not surprising that the country is a major contributor to global tax avoidance. Oxfam Novib highlights that only Belgium and Cyprus offer more advantages towards multinationals than the Netherlands. Among others, the generosity of the Dutch authorities also contributes to the annual loss of 100 billion dollars in the tax revenue of the developing states which means a huge amount of money for them. For instance, Malawi lost 27,5 million dollars thanks to these strategies which was amount to the salary of 10000 nurses for a year. Thus, the con-

<sup>53</sup> For further information see: Zucman, Gabriel: Fueling Inequality. *Süddeutsche Zeitung*, 9 November 2017. <https://projekte.sueddeutsche.de/paradisepapers/wirtschaft/tax-havens-fuel-inequality-e168550/> (21. 12. 2019.).

<sup>54</sup> Fisher: *op. cit.*, 343–346.

<sup>55</sup> Vleggeert, Jan–Vording, Henk: How the Netherlands Became a Tax Haven for Multinationals. <https://ssrn.com/abstract=3317629>; 2. (21. 12. 2019.), (doi: <http://dx.doi.org/10.2139/ssrn.3317629>).

<sup>56</sup> The Netherlands, Luxembourg, Hong Kong, the British Virgin Islands, Bermuda, the Cayman Islands, Ireland and Singapore.

<sup>57</sup> Off the Hook: *op. cit.*, 3.

<sup>58</sup> Financial Secrecy Index 2018: Narrative Report on the Netherlands. Tax Justice Network, 2018. <https://fsi.taxjustice.net/Archive2018/PDF/Netherlands.pdf>; 1. (21. 12. 2019.).

<sup>59</sup> Lejour, Arjan–Möhlmann, Jan–van t' Riet, Maarten: Conduit Country the Netherlands in the Spotlight. *CPB Policy Brief*, January 2019. <https://www.cpb.nl/sites/default/files/omnidownload/CPB-Policy-Brief-2019-01-Conduit-country-the-Netherlands-in-the-spotlight.pdf>; 3. (21. 12. 2019.).

<sup>60</sup> Financial Secrecy Index 2018: Narrative Report on the Netherlands: *op. cit.*, 2.

tinuation of these practices leads to further inequalities and poverty in the poorer regions violating fundamental principles such as burden sharing or fair taxation. In addition, by providing preferential treatment to multinationals, the Netherlands also loses money: roughly 5,5 billion euros a year.

Nevertheless, there are further negatives consequences of this policy which damages the reputation of the Dutch tax system. Firstly, Dutch media reported several times about the participation of the financial sector in various money laundering cases. In 2014, it turned out that a Dutch company had 700 million dollars in funds for Libyan institutions which were controlled by former dictator Muammar Ghaddafi. Besides, former Ukrainian president Viktor Yanukovich's family and friends also exploited the loopholes of the Dutch tax system through letterbox companies for money laundering. In addition, the investigation – based on suspected money laundering and tax evasion – of Public Prosecution Service revealed in 2017 that three companies administered by Amsterdam BK Group (trust office) were linked to two Ukrainian businessmen who were on the European sanction list.<sup>61</sup>

Secondly, the Dutch tax system – as we could see in the introduction – has been scrutinized by the European Commission since 2013–2014. In the case of Starbucks, the Commission already held illegal state aid (although the company successfully appealed before the General Court) and there are two more cases where it will probably conduct in-depth investigation. Furthermore, the practice concerning advance pricing agreements (APAs) is also questionable: there are only estimations regarding the actual number of APAs in force.

Thirdly, it is worth emphasising that the Netherlands was often reluctant in the past to support anti-tax avoidance measures in the European Union. For instance, in 2014 the Dutch government refused to vote for public beneficial ownership register in the European Council despite the Dutch Parliament approving a similar regulation before. At the same time, the attitude of Dutch policy can be characterized best by the so-called anti-money laundering directive saga.<sup>62</sup> In this regard, it is enough to point to the fact that when the EU adopted the fifth directive, the Netherlands was still lagging behind in the implementation of the fourth one. Although the deadline was 26 June 2017, it was only transposed in July 2018.<sup>63</sup>

Due to these facts many experts in the academic literature classify the country as a tax haven. Oxfam Novib openly called the Netherlands a “*true champion among tax havens*” opposing its leadership on EU sessions in 2016 where the possible countermeasures against tax avoidance were discussed. It also emphasised that nothing would change if countries like the Netherlands did not change their philosophy.<sup>64</sup> Other organisations such as Tax Justice Network also did the same. Besides, the Dutch tax system has a bad image in the media as well. In this respect, Foreign Affairs'

<sup>61</sup> *Ibid.*

<sup>62</sup> The aim of the directive is to put an end to the existence of anonymous companies. For further information, see Financial Secrecy Index 2018: Narrative Report on the Netherlands: *op. cit.*, 3.

<sup>63</sup> See <https://eur-lex.europa.eu/legal-content/EN/NIM/?uri=celex:32015L0849> and <https://zoek.officielebekendmakingen.nl/stb-2018-240.html> (21. 12. 2019.).

<sup>64</sup> The Netherlands: a Tax Haven, Continuing its Contribution to the Corporate Tax Race to the Bottom. *Oxfam Novib Policy Report*. <https://eurodad.org/files/pdf/574d9c0c22d4d.pdf>, 1. (21. 12. 2019.).

recently published an article about how the Netherlands created one of the worst tax havens in the world. In the article concerned, it turned out that in 2017 the country received more than 5 trillion dollars FDI from which 4,3 trillion dollars immediately flowed to shell companies or subsidiaries in low-tax jurisdictions to avoid taxation.<sup>65</sup> Furthermore, it is worth mentioning a short report conducted by Euractiv where the Netherlands was regarded as the world's third ranked tax haven in 2016.<sup>66</sup>

Although the empirical data suggest the opposite, the Dutch government fiercely refused such labelling in the past. It only admitted that the country was exceptionally attractive to multinationals. Moreover, it was common belief in political circles that the tax system complied with international standards. In 2012, the Dutch Parliament accepted a motion which rejected the classification “*tax haven*” in international discussions. In 2013, another motion was submitted which described the Dutch tax system as a “*fiscally favourable business location*.”<sup>67</sup> Simultaneously, the Parliament did not support any motions to the contrary.<sup>68</sup> Thus, all these often sparked political controversies. For instance, when former US president Barack Obama presented steps to curb offshore tax benefits, his working paper undoubtedly named – among Bermuda and Ireland – the Netherlands as a low-tax, multinational-friendly country. The statement was criticised by the Dutch Ministry of Finance which stressed that the tax system did not provide multinationals with special advantages, the participation exemption was common to other countries such as the UK, and that the purpose was to exclude double taxation with the system being fully transparent.<sup>69</sup>

The abovementioned views are mainly followed by governmental institutions as well. The Netherlands Bureau for Economic Policy Analysis (CPB) does not classify the Netherlands as a tax haven because it does not meet the criteria laid down by the OECD. Instead, it uses the term “*conduit country*” which means that – thanks to Dutch tax treaties – “*multinationals can divert profits to the real tax havens.*” After the LuxLeaks scandal revealed that – beyond Luxembourg – the Dutch governments also concluded sweetheart deals with multinationals, the Chamber of Audit admitted the existence of tax avoidance. But – without mentioning “*tax haven*” – it only repeated the standpoint of CPB. Besides, it drew attention to the fact that this was due to the weak substance requirements. At the same time, it urged the government to support or initiate countermeasures targeting tax competition.<sup>70</sup>

As we could see, the recent structures restrict the introduction of effective anti-tax avoidance measures. In this respect, it is worth referring to Jan Vleggeert and Henk

<sup>65</sup> Langerock, Johan–Hietland, Maarten: How the Netherlands Built One of the World's Worst Tax Havens and How to Shut It Down. *Foreign Affairs*, 6 November 2019. <https://www.foreignaffairs.com/articles/netherlands/2019-11-06/how-netherlands-built-one-worlds-worst-tax-havens> (21. 12. 2019.).

<sup>66</sup> Guibert, Christelle: The Netherlands: Europe's Under-The-Radar Tax Haven. *Euractiv*, 5 July 2017. <https://www.euractiv.com/section/economy-jobs/news/the-netherlands-europes-under-the-radar-tax-haven/> (21. 12. 2019.).

<sup>67</sup> The Netherlands: a Tax Haven: *op. cit.*, 10.

<sup>68</sup> Vleggeert–Vording: *op. cit.*, 17–18.

<sup>69</sup> Goodley, Simon–Milmo, Dan: Dutch Masters of Tax Avoidance. *The Guardian*, 19 October 2011. <https://www.theguardian.com/business/2011/oct/19/tax-avoidance-in-netherlands-becomes-focus-of-campaigners> (21. 12. 2019.).

<sup>70</sup> The Netherlands: a Tax Haven: *op. cit.*, 10.

Vording's study which illustrates in detail the emergence of the business-friendly environment. Accordingly, the present situation is deeply rooted in the country's tax policy. The following elements were the fundamentals of the Dutch tax haven:

- FDI should not be hindered by tax borders,
- the Dutch tax planning industry is the by-product of international tax policies aimed at substantial business interests,
- avoiding double taxation.<sup>71</sup>

Nowadays, all these evolved into a unique, FDI-driven model providing various kind of tax breaks and facilitating tax competition in the world. Hence, we will conduct a short analysis targeting the weakest points of the system, namely the high FDI/GDP ratio, SPE-s and weak regulatory environment.

At first, it is worth examining the high FDI/GDP ratio and its background. As we said before, the Netherlands is one of the biggest sources and destination countries regarding foreign direct investment. For instance, in 2017, there were more than 5000 billion dollars inward and more than 7000 billion dollars outward investment, leading the FDI statistics. Most of the inward investments related to two countries, namely the United States and Luxembourg. The main destinations of investments were the United States and the United Kingdom. At the same time, it is a major problem that it coupled with disproportional FDI/GDP ratio (6,1), second to Luxembourg (64,3), exceeding significantly the average numbers which range between 0,2–0,5. Furthermore, the vast majority of investments related to *Special Purpose Entities* (SPEs), approximately 80–90% which are used to exploit the favourable tax environment of the Dutch system (such as low withholding taxes, participation exemption etc.) in order to avoid or even evade taxes<sup>72</sup>. If we take an insight to the characteristics of SPEs, we can find interesting data. In this respect, there are considerable differences between incoming and outgoing flows. While the indicators of dividends and interests show a more balanced picture, the indicators of royalties show dominant positions: Ireland and Singapore (almost 80%) concerning incoming flows and Bermuda (64%) concerning outgoing flows.

Regarding the latter data, it should be noted that the largest part of the royalties belongs to Google which – by using 'Double Irish with a Dutch sandwich' tax route – transferred 16 billion euros through the Netherlands to Bermuda. The method was developed in order to avoid the relatively high corporate tax rate (20%) in the United Kingdom for the taxation of revenues from advertisements. In this framework, Google used its Irish and Dutch subsidiaries. Firstly, it transferred its profit as royalty to the affiliated company in Ireland. As a result, it decreased its tax liability twofold at once: it not only managed to avoid the British taxation but also the general Irish corporate taxes (12,5%), instead, the special rate for royalties was applied (2%). But the story did not end there: the company transferred this amount as revenue to its Dutch subsidiary which forwarded it to a third subsidiary. Although, the latter was registered in Ireland, its headquarters and tax residency was in Bermuda which is a tax haven. Consequently, Google did not pay taxes in the UK, Ireland and the Netherlands at all.

<sup>71</sup> Vleggeert–Vording: *op. cit.*, 1–2.

<sup>72</sup> Aidha–Maftuchan–Hietland–van Teeffelen: *op. cit.*, 30–33.



The practice was heavily criticised both in the academic literature and in the public discourse. Finally, the Irish government abolished this loophole after being threatened by a possible infringement procedure<sup>73</sup>. In the sense of the new regulation (in force since 1<sup>st</sup> January 2015), companies registered in Ireland are regarded as Irish tax residents unless a double taxation agreement excludes this. But it should be noted that there was a ten-week transitional period in the new system which provided the interested parties with the possibility of establishing companies based on Double Irish strategy. Several businessmen utilized this opportunity. Furthermore, those who had Irish non-tax resident companies on 1<sup>st</sup> January 2015, will keep this status till the end of 2020.<sup>74</sup> Despite this, Google announced – although on 1<sup>st</sup> January 2020 – that it would not use the latter advantage any longer by dissolving the intellectual property licensing structure. Nevertheless, it does not change the fact that the multinational greatly enjoyed the loopholes of the relevant tax systems: it channelled almost 42 billion euros to Bermuda just in 2017 and 2018. Therefore, many experts doubt whether this decision means the end of tax avoidance by Google.<sup>75</sup>

Turning back to the topic of high FDI/GDP ratio, the Dutch SPEs can also be characterised by the following facts:

- the ultimate owner of the income is often not located in the direct destination country of the flow (mainly in the USA, especially for royalties – almost 100%),
- this direct destination country is often a conduit country (such as Luxembourg or the UK),
- SPEs often have a complex hub-function.<sup>76</sup>

Although these data seem to be astonishing, they are direct consequences of the weak regulatory environment which manifests both in law (substance requirements, participation exemption, withholding taxes) and in practice (tax treaties, tax rulings).

Dutch law prescribes certain conditions (substance requirements) for multinationals (especially SPEs) which demand real presence in the country (e.g. at least 50 per cent of the members of the board of directors, with a right to make decisions, live or factually reside in the Netherlands). If the respective company does not comply with them, its request for ruling can be dismissed.<sup>77</sup> But the national Court of Audit stated that these rules could be easily fulfilled: 75% of SPEs in the Netherlands use financial service provider for this reason. In addition, the Dutch Central Bank concluded that the executive and supervisory functions were not sufficiently separated and there was a clear lack of knowledge regarding the beneficial ownership of their clients. Thus, it imposed fines and some of the licences were revoked.<sup>78</sup>

<sup>73</sup> Erdős Éva: A digitális gazdaság és kereskedelem árnyoldala: a digitális adóelkerülés nemzetközi tendenciái. *Miskolci Jogi Szemle*, 2019/2, 237–239.

<sup>74</sup> Financial Secrecy Index 2018: Narrative Report on Ireland. *Tax Justice Network*. <https://fsi.taxjustice.net/Archive2018/PDF/Ireland.pdf>; 2. (05. 02. 2020.)

<sup>75</sup> Helmore, Edward: Google Says It Will No Longer Use 'Double Irish, Dutch sandwich' Tax Loophole. *The Guardian*, 1 January 2020. <https://www.theguardian.com/technology/2020/jan/01/google-says-it-will-no-longer-use-double-irish-dutch-sandwich-tax-loophole> (05. 02. 2020.)

<sup>76</sup> Lejour–Möhlmann–van t' Riet: *op. cit.*

<sup>77</sup> Aidha–Maftuchan–Hietland–van Teeffelen: *op. cit.*, 34–35.

<sup>78</sup> Financial Secrecy Index 2018: Narrative Report on the Netherlands: *op. cit.*, 2–3.

Besides, the participation exemption creates opportunities for multinationals to avoid taxation as well. The legal principle is deeply rooted in the Dutch tax system because it already existed in 1940. Its purpose is to exclude double taxation of profits in a corporate group if the corporation actively participates in a subsidiary. This excluded portfolio investments. However, starting from the introduction of Corporation Income Tax in 1969, the exemption became gradually broad: it was extended to all gains from participation, e.g. capitals gains on disposal of shares. At that time, it was well-known that many Dutch companies were interested in a lenient regulation due to their foreign exposures.<sup>79</sup> Nowadays, it enables multinationals to exempt foreign profits from corporate taxation if a parent company exists in the Netherlands and the profits concerned directly transferred to that.

Business-friendly regulations are also in force regarding withholding taxes: 15% for dividends and no taxation for royalties and interests if these are paid from a Dutch subsidiary to another foreign entity.<sup>80</sup>

Nevertheless, the real danger is in the practice with special regard to tax treaties and tax rulings, as it is well-documented that the Dutch authorities often cooperate with multinationals in various kind of ways facilitating the use of tax minimalization strategies. In this respect, it is worth mentioning that the Netherlands has concluded nearly 100 treaties so far in order to exclude double taxation. But, in several cases, it gave an option to multinationals to exploit the mismatches of the relevant tax systems. For instance, the 1957 Dutch-Canadian tax treaty prescribed a unified dividend withholding tax with a rate of 15%, the only exemption was applied for intra-group payments regarding flow-through dividends (0%). At the same time, it was significantly lower than tax rates in other tax treaties concluded by Canada. So, many Canadian parent companies used this loophole by setting up a Dutch intermediate holding company. The flow-through provision was revoked only in 1986.<sup>81</sup>

Despite this, treaty abuses have not ceased to exist yet. A fresh example of that is the Indonesia-Netherlands tax treaty. In this respect, it is worth emphasising that more than 75% of FDI from the Netherlands flows to Indonesia through letterbox companies. After its alteration in 2015, it is still one of the most favourable treaties concluded by Indonesia which is not an accident: the regulation in force provides multinationals with a very low level of withholding taxes, especially for interests (5%) and dividends on substantial holdings (5%). On the other hand, no anti-abuse measure was included in the treaty. In order to solve this problem, the contracting parties added "*beneficial ownership*" to the text and formally agreed that a mutual agreement would be concluded on the mode of application. But the latter did not take place so far which led to several treaty abuses. Thus, Indonesia introduced a unilateral definition of the respective notion to fix the loophole. Despite these efforts, it failed: foreign investors brought actions before the Indonesian Supreme Court which ruled in favour of the plaintiffs almost in every case.<sup>82</sup>

<sup>79</sup> Vleggeert–Vording: *op. cit.*, 6.

<sup>80</sup> Aidha–Maftuchan–Hietland–van Teeffelen: *op. cit.*, 36.

<sup>81</sup> Vleggeert–Vording: *op. cit.*, 8.

<sup>82</sup> Aidha–Maftuchan–Hietland–van Teeffelen: *op. cit.*, 7–9.

Similar processes can be observed in the field of tax rulings<sup>83</sup> where the Netherlands became famous for the practice conducted by the relevant authorities. In this respect, it is enough to say that everything was subordinated to the aim of attracting more foreign investments. To achieve this goal, the former system – where these agreements were concluded with the Ministry of Finance – was replaced by corporate tax inspectors in the mid-1970s. All these resulted in the absence of transparency. For this reason, it was not surprising that the Court of Audit held in 1986 that several inspectors made different decisions in similar cases which led to the so-called *inspector shopping*. Afterwards, there were several modifications in the regulation which created a centralized system based on a national tax ruling team. At the same time, the system still contains certain discrepancies which resulted in critical responses from both the international organisations and the EU. In this regard, we already mentioned the European Commission's investigation campaign which affected the Netherlands as well. In the Starbucks case, the question of transfer pricing came to the forefront, it being a well-known technique to accomplish tax optimization. In this framework, the transfer price applied in the corporate group is manipulated in order to shift incomes or costs related to high-tax countries to low-tax countries, significantly decreasing tax liability. It has several subtypes such as cost-sharing agreements or contract manufacturing, both relating to intangible assets.<sup>84</sup> In the concrete case, the tax ruling (more precisely: APA<sup>85</sup>) issued by Dutch authorities provided the coffee roasting company with selective advantage. Starbucks decreased its tax liability in two ways: by royalties paid to Alki (a UK-based company in the Starbucks group) for coffee-roasting know-how and by inflating the price for green coffee beans paid to Switzerland-based Starbucks Coffee Trading SARL. According to the Commission, the former did not reflect market value – thus did not meet the arm's length principle – because no other corporate group company nor other independent roasters to which roasting was outsourced had to pay in the same situation. Besides, the latter was also unjustified: it would have not generated sufficient profit to pay royalties regarding Alki because the price paid for coffee beans tripled since 2011. Thus, the only aim of this practice was to secure profit shifting to Alki deriving from the sale of other products which amount to the largest part of

<sup>83</sup> It is a legal device in tax law in which tax authorities define the mode of the calculation of multinationals' corporate tax rate or the application of certain special tax provisions. It can be conducted only for future transactions and for the request of the taxpayer. Its aim is to provide legal certainty and to facilitate investments. Simultaneously, it is also an effective device to reduce the tax burden of the multinationals. For further information, see: Pulling the Plug: How to Stop Corporate Tax Dodging in Europe and Beyond? Oxfam International Briefing Note, March 2015. [https://www-cdn.oxfam.org/s3fs-public/file\\_attachments/bn-pulling-plug-corporate-tax-eu-190315-en.pdf](https://www-cdn.oxfam.org/s3fs-public/file_attachments/bn-pulling-plug-corporate-tax-eu-190315-en.pdf) (23. 12. 2019.).

<sup>84</sup> For more information, see: Gravelle, Jane G.: Tax Havens: International Tax Avoidance and Evasion. *Congressional Research Service*, 2015, <https://fas.org/sgp/crs/misc/R40623.pdf>; 12–13. (08. 02. 2020.) and Baker, Joel–Asare, Kwadwo–Brickman, Sharon: Transfer Pricing as a Vehicle in Corporate Tax Avoidance. *The Journal of Applied Business Research*, 2017/1, 9–16. (doi: 10.19030/jabr.v33i1.9863).

<sup>85</sup> It is the abbreviated form for advance pricing agreement. In this case, the tax authority defines transfer pricing in the corporate group in its resolution for the application of the taxpayer. It – similar to advanced tax rulings – provides legal certainty and facilitates investment. At the same time, it can be also used by multinationals to avoid taxation. For more information, see: [https://www.vero.fi/en/businesses-and-corporations/about-corporate-taxes/transfer\\_pricing/guidance-and-procedures/advance-pricing-agreement/](https://www.vero.fi/en/businesses-and-corporations/about-corporate-taxes/transfer_pricing/guidance-and-procedures/advance-pricing-agreement/) (08. 02. 2020.).

Starbucks's turnover. As a consequence, the Body ordered 20-30 million euros to be recovered, the exact amount must be defined by the relevant tax authorities based on the guidelines of the Commission.<sup>86</sup>

The decision – as in other similar cases – was criticised by experts, especially for redefining the arm's length principle<sup>87</sup> elaborated by the OECD and replacing associated enterprises by integrated companies. In this respect, the Commission based its concept on the principle of equal tax treatment. In this sense, the integrated company must not be treated favourably under the general corporate income tax system as compared to non-integrated companies whose taxable profit is determined by the market. At the same time, all these can result in legal uncertainty. For instance, if the member states follow the concept of the Commission, they can easily violate the rules of internal market, primarily in the case of freedom of capital and freedom of establishment. Moreover, it is quite questionable whether integrated and non-integrated companies are actually in the same factual and legal situation due to their different function and structure.<sup>88</sup> As a consequence, there is a special attention to the decisions of the Union courts (General Court, ECJ). None of the disputed cases have been brought before the ECJ yet.

Turning back to the case, the Netherlands appealed before the General Court which annulled<sup>89</sup> the decision of the Commission because that particular body could not demonstrate the existence of advantage in the meaning of Article 107 TFEU: the mere non-compliance of methodological requirements did not lead to necessarily reduced tax burden. In the light of the abovementioned, the judgement welcomed by the experts since it provided legal certainty to multinationals: an APA cannot be challenged just because the Commission uses a different methodology.<sup>90</sup> Although the Commission lost the case, it did not bring an action before the European Court of Justice. There are several reasons why the Commission did not appeal against the judgement. Dimitrios Kyriazis mentions the following ones:

- it actually won in Starbucks (and Fiat) case: the General Court confirmed the existence of EU-law arm's length principle,
- it would not have worth appealing because it is possible only in legal questions
- the fate of only 30 million euros was at stake.<sup>91</sup>

<sup>86</sup> Commission decides selective tax advantages for Fiat in Luxembourg and Starbucks in the Netherlands are illegal under EU state aid rules. European Commission Press release, 21 October 2015, [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_15\\_5880](https://ec.europa.eu/commission/presscorner/detail/en/IP_15_5880) (08. 02. 2020.).

<sup>87</sup> Model Tax Convention on Income and Capital, 2017. [https://read.oecd-ilibrary.org/taxation/model-tax-convention-on-income-and-on-capital-2017-full-version\\_g2g972ee-en#page62; 62.](https://read.oecd-ilibrary.org/taxation/model-tax-convention-on-income-and-on-capital-2017-full-version_g2g972ee-en#page62; 62.) (08. 02. 2020.), (doi: 10.1787/g2g972ee-en).

<sup>88</sup> Békés: *op. cit.*, 223–228.

<sup>89</sup> The General Court annuls the Commission's decision on the aid measure implemented by the Netherlands in favour of Starbucks. General Court of the European Union Press release, 24 September 2019. <https://curia.europa.eu/jcms/upload/docs/application/pdf/2019-09/cp190119en.pdf> (08. 02. 2020.).

<sup>90</sup> Robins, Catherine: INSIGHT: State Aid and Tax—Starbucks and Fiat Cases. *Bloomberg Tax*, 21 October 2019. <https://news.bloombergtax.com/daily-tax-report-international/insight-state-aid-and-tax-starbucks-and-fiat-cases> (08. 02. 2020.).

<sup>91</sup> Kyriazis, Dimitrios: Why the EU Commission Won't Appeal the Starbucks Judgment. *MNE Tax*, 10 December 2019. <https://mnetax.com/why-the-eu-commission-wont-appeal-the-starbucks-judgment-37043> (08. 02. 2020.).

Balázs Békés brought up further reasons. Firstly, the General Court confirmed the Commission's competence to investigate tax rulings of the member states based on state aid law. Secondly, it also approved the Body's concept regarding the definition of the reference system: standalone companies and integrated companies can be examined jointly.<sup>92</sup>

The European Commission launched investigations in other Dutch cases such as IKEA<sup>93</sup> and Nike.<sup>94</sup> Both are related to APAs and they are currently under in-depth investigations. Previously, the Commission held the violation of the arm's length principle in the preliminary investigation stage.

Apart from these, there are further cases which received less attention from the public. A typical example of is the Shell case where Dutch authorities provided the foreign shareholders with 7 billion euros by letting them avoid paying dividend tax for 13 years. The background of the case was the intention to merge the Dutch and the British corporations into one company by a headquarter located in the Netherlands because the majority of the shares were held by the Dutch. But the merger was initially opposed by British shareholders due to the payment of Dutch dividend tax. In order to solve this problem, a tax avoidance scheme was constructed – by the consent of the Dutch authorities – by dividing the respective shares into two categories (“A” and “B”). A-shares were simply paid out in the Netherlands while B-shares went through the so-called *Dividend Access Mechanism*. As a result, these dividends were subject to the jurisdictions of UK and Jersey instead of the Netherlands. This mechanism finished in 2017 causing more than 7 billion euros loss to the country. Due to preferential treatment, it is questionable whether it infringes state aid rules. Though there were several investigations<sup>95</sup> (Starbucks, IKEA, Nike) in the past, this case has not been raised before the European Commission yet.<sup>96</sup>

As explained above, the Dutch tax system is one of the most complex systems in the European Union which provides multinationals with preferential treatment. Despite the fact that it is popular among companies, it generates a bad image of the Netherlands: a conduit country contributing to worldwide tax avoidance and facilitating inequality in the developing countries. Although it should be classified as tax haven, it cannot be recognised officially as such because it does not meet all the criteria laid down by the OECD. In this regard, it is worth referring to the analysis of Oxfam Novib which showed that only the last criterion was fulfilled (*“tax system facilitates the settlement of companies which have no presence in the given country”*) due to the large number of letterbox companies.<sup>97</sup> Nevertheless, this kind of tax

<sup>92</sup> Békés: *op. cit.*, 232–233.

<sup>93</sup> State aid: Commission opens in-depth investigation into the Netherlands' tax treatment of Inter IKEA. European Commission Press release, 18 December 2017. [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_17\\_5343](https://ec.europa.eu/commission/presscorner/detail/en/IP_17_5343) (08. 02. 2020.).

<sup>94</sup> State aid: Commission opens in-depth investigation into tax treatment of Nike in the Netherlands. European Commission Press release, 10 January 2019. [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_19\\_322](https://ec.europa.eu/commission/presscorner/detail/en/IP_19_322) (08. 02. 2020.).

<sup>95</sup> [https://ec.europa.eu/competition/state\\_aid/tax\\_rulings/index\\_en.html](https://ec.europa.eu/competition/state_aid/tax_rulings/index_en.html) (08. 02. 2020.).

<sup>96</sup> Kiezebrink, Vincent–van Teeffelen, Jasper: Tax Avoidance or State Aid? *SOMO*, 16 June 2018. <https://www.somo.nl/tax-avoidance-or-state-aid-how-the-dutch-tax-authority-gave-shells-foreign-shareholders-a-gift-of-more-than-7-billion-euros/> (23. 12. 2019.).

<sup>97</sup> For details, see: Financial Secrecy Index 2018: The Netherlands: *op. cit.*, 1.

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policy is still detrimental to the Netherlands itself and the country faces continuous investigations from the European Commission.

### 3. Conclusion

We could see in the first part of the study that the existence of tax havens was an anomaly in the international tax system. Although, they became an integral part of it, they have several negative effects on the local and foreign economies which override the alleged benefits. Despite this evidence, it is still difficult to introduce countermeasures against them because many countries regard them as an effective tool to participate in tax competition. Besides, some of them have been cooperating with multinationals for decades rather than engaging with international actions in order to constrain their significantly increased power. At the same time, conduit countries – which are not classified officially as tax havens – also have detrimental effects on the economy because they participate in the tax avoidance game as well. All this especially true for the European Union where the integrity of the internal market is severely endangered by the tax systems of certain member states.

In this regard, the Netherlands is a perfect example. The Dutch tax system contains simultaneously favourable tax rates and possible loopholes for multinationals which can be easily exploited. Tax treaties and tax rulings should be paid special attention: the former enables treaty abuses (see the Indonesia-Netherlands treaty) while the latter provides multinationals with several exemptions causing a huge – even billions of euros – losses for the state budget and a potential case before European forums (see Starbucks or Shell) based on state aid rules.

Thus, the Netherlands – as a conduit country – functions in many respects as if it was a tax haven. Our statement can be underpinned by the fact that several international organisations and European institutions formulated strong criticisms as well. For instance, Oxfam openly calls the country one of the worst tax havens in the world mentioning it among Bermuda and Singapore.<sup>98</sup> Besides, the IMF also criticised Dutch tax policy referring to the imbalance in the FDI/GDP ratio. Furthermore, it emphasised that the extremely high share of world FDI (15,1%) could only be explained by the tax minimalization strategies of multinationals. In addition, the Netherlands overtook countries like Luxembourg or Mauritius which were regarded as tax havens in the academic literature.<sup>99</sup> But the country recently received strong criticism from the European Union as well. In this regard, it is worth mentioning the European Commission's study on Harmful Tax Planning. It showed that out of 33 indicators, 17 applied to the country which resulted in the Netherlands first place in aggressive tax planning. All these proved the previous assumptions that the Dutch tax system provided multinationals with one of the most favourable tax environments in the world. The following factors were found to be the most damaging: tax deduction allowed for deemed interest cost on interest-free debt, innovation box and excess-profit rulings.<sup>100</sup> Finally, it should be noted that the latest report of the European Parliament

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<sup>98</sup> Off the Hook: *op. cit.*, 8.

<sup>99</sup> Spillovers in International Corporate Taxation. *IMF Policy Paper*, 9 May 2014. <https://www.imf.org/external/np/pp/eng/2014/050914.pdf>; 6. (23. 12. 2019.).

<sup>100</sup> Study on Structures of Aggressive Tax Planning and Indicators. Final Report, Ramboll Management Consulting and Corit Advisory. *Taxation Papers, Working Paper N. 61*, 2015. [https://ec.europa.eu/taxation\\_customs/](https://ec.europa.eu/taxation_customs/)

listed the Netherlands as “functioning like a tax haven.”<sup>101</sup> However, none of the EU documents officially classified the Netherlands as a tax haven.

On the other hand, the latest scandals (e.g. Luxleaks) and the rigorous investigations launched by the European Commission forced the country to start redesigning its tax system in 2017. In this framework, the mailbox companies were regarded as undesirable and the political leadership was committed to combatting tax avoidance. They also admitted that the Dutch tax system was exploited by multinationals several times in the past and a bad image could deter further investments. In 2018, the government announced that they were planning preventive measures against channelling funds to low-tax jurisdictions or tax havens.<sup>102</sup> All these were followed by additional steps in 2019. In this framework, they decided to put an end to a popular tax avoiding practice by terminating the exemption on interests and royalties regarding withholding tax from 2021. The new tax rate will be 21,7%. Moreover, the liquidation loss scheme<sup>103</sup> will be also restricted in order to subject to taxation those companies which paid no or nominal amount of tax up to now. But the former measure will be conditional: only those countries are concerned which were identified as low-tax jurisdictions. These jurisdictions either have no corporation tax or have a corporation tax rate that is lower than 9%.<sup>104</sup>

Though these series of measures seem to be impressive, several experts draw attention to the fact that there are still loopholes in the system. Firstly, 9% was defined as the average rate. It means that the regulation is not applicable to certain countries which provide multinationals with further deductions or other exemptions. Secondly, several European countries (e.g. Luxembourg, Ireland etc.) are missing from the list despite their abusive tax policy.<sup>105</sup>

Considering all these, it is too early to state whether the Netherlands successfully redesigned its tax system as there could be additional secret loopholes in the system and the Dutch authorities too often gave preferential treatment to multinationals in the past. Hence, only the new practice can show how sufficient they are in reality.

sites/taxation/files/resources/documents/taxation/gen\_info/economic\_analysis/tax\_papers/taxation\_paper\_61.pdf; 120–123. (23. 12. 2019.).

<sup>101</sup> Report on financial crimes, tax evasion and tax avoidance. European Parliament Resolution of 26 March 2019 on financial crimes, tax evasion and tax avoidance (2018/2121(INI)). [http://www.europarl.europa.eu/doceo/document/TA-8-2019-0240\\_EN.pdf](http://www.europarl.europa.eu/doceo/document/TA-8-2019-0240_EN.pdf) (23. 12. 2019.).

<sup>102</sup> Besides, other ideas were also arisen such as inserting the principal purpose test (PPT) into all bilateral treaties to prevent treaty abuse, restriction of participation exemption and substance requirements. For further information, see: Vleggeert–Vording: *op. cit.*, 19–23.

<sup>103</sup> It allows the head offices of multinational corporations to offset losses arising from the liquidation of overseas subsidiaries against their taxable profits in the Netherlands under certain circumstances.

<sup>104</sup> The list comprises the following countries: American Samoa, the US Virgin Islands, Guam, Samoa, Trinidad and Tobago, Anguilla, the Bahamas, Bahrain, Belize, Bermuda, the British Virgin Islands, Guernsey, the Isle of Man, Jersey, the Cayman Islands, Kuwait, Qatar, Saudi Arabia, the Turks and Caicos Islands, Vanuatu and the United Arab Emirates. For further information, see: Netherlands publishes own list of low-tax jurisdictions in fight against tax avoidance. Government of the Netherlands, 28 December 2018. <https://www.government.nl/latest/news/2018/12/28/netherlands-publishes-own-list-of-low-tax-jurisdictions-in-fight-against-tax-avoidance> (23. 12. 2019.).

<sup>105</sup> Gottlieb, Isabel: Dutch Closing Door on Popular Corporate Tax Breaks (Corrected). *Bloomberg Tax*, 18 September 2019. <https://news.bloombergtax.com/daily-tax-report-international/Netherlands-Closes-Door-on-Popular-Corporate-Tax-Breaks> (23. 12. 2019.).