

INTERNATIONAL COOPERATION: FISCAL GOOD PRACTICES TO ACHIEVE GLOBAL JUSTICE

COOPERAÇÃO INTERNACIONAL:
BOAS PRÁTICAS FISCAIS PARA ATINGIR JUSTIÇA GLOBAL

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ABSTRACT

In 2019, it was found that 17% of all global wealth held by at most 0.1% of people on the planet is managed by financial secrecy jurisdictions. This investigation sought, after presenting the limitations and conceptual scope of the concept of fiscal justice, to identify the appropriate mechanism to achieve fiscal justice, on a global level. This is because there is a consensus that, at a time of increasing global inequality of wealth, the Avoidance tax *must* be combated, this being a struggle that goes beyond the territorial limits of states. It is a research of applied nature, which aims to generate knowledge focused on the solution of the exposed problematic, whose problem was approached by qualitative perspective and with exploratory objective, made possible by the bibliographic study, whose material collection focused on the international doctrinal production, written almost entirely in English and published, in the last 5 years, supported by the inductive method. The result indicated that the union of nations is essential, adopting measures of international cooperation, to achieve fiscal justice, on a global level. It was also emphasized the need to expand research on global perceptions of justice and the formulation of an agenda, with broad participation by States, International Organizations and civil society, to discuss the issue under discussion.

KEYWORDS: Globalization. Aggressive tax planning. harmful tax competition. International tax cooperation. Global fiscal justice.

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RESUMO

Em 2019, apurou-se que 17% de toda a riqueza global, detida por, no máximo, 0,1% das pessoas no planeta é gerenciada por jurisdições de sigilo financeiro. Essa investigação buscou, após apresentar as limitações e as abrangências conceituais do conceito de justiça fiscal, identificar o mecanismo adequado para atingir a justiça fiscal, em patamar global. Isto porque é consenso que, em um momento de crescente desigualdade global de riqueza, o tax avoidance deve ser combatido, sendo esta uma luta que ultrapassa os limites territoriais dos Estados. Trata-se de uma pesquisa de natureza aplicada, que visa gerar conhecimento voltado à solução da problemática exposta, cujo problema foi abordado pela ótica qualitativa e com objetivo exploratório, viabilizado pelo estudo bibliográfico, cuja coleta de material focou na produção doutrinária internacional, escrita quase que na totalidade em língua inglesa e publicada, nos últimos 5 anos, amparado pelo método indutivo. O resultado apontou ser imprescindível a união das nações, adotando medidas de cooperação internacional, para atingir justiça fiscal, em patamar global. Ressaltou-se também a necessidade da ampliação de pesquisas sobre as percepções globais de justiça e a formulação de uma agenda, com a ampla participação pelos Estados, Organizações Internacionais e sociedade civil, para discutir a questão em debate.

PALAVRAS-CHAVE: Globalização. Planejamento fiscal agressivo. Concorrência fiscal prejudicial. Cooperação fiscal internacional. Justiça fiscal global.

1 INTRODUCTION

"Offshore Leaks", "Swissleaks", "Luxleaks" and "Panama Leaks" reports produced by the International Consortium of Investigative Journalists - ICIJ (2013; 2014; 2015; 2016) reached the headlines from 2013, triggering leaks over offshore, tax havens and scandals involving tax evasion and aggressive tax schemes, tax activities until then little known (BARANGER, 2017; VAN HORZEN, 2017).

According to The Boston Consulting Group, in the world, approximately \$9.6 trillion, which accounted for 17% of all global wealth in 2019, is managed by financial secrecy jurisdictions, with Switzerland being the primary destination, followed by Hong Kong and Singapore. The consulting firm also pointed out that the Covid-19 pandemic tends to lead to an increase in cross-border capital flows in the short term, with investors choosing to move their mobile assets to tax havens (ZAKRZEWSKI et al., 2020).

Most of the wealth that is destined for jurisdictions with preferential and harmful tax regimes comes from an opaque network of companies, trust funds and foundations, which belong to at most 0.1% of the people on the planet. Much of this investment stems from tax evasion, kleptocracy, money laundering, bribery, and other criminal activities. As a result, individual taxpayers and large transnational corporations do not materialize fair share and fail to collect taxes that would finance the costing and provision of essential services of states, especially in the case of developing countries.

It is noteworthy that in a time of growing global inequality of wealth, tolerating the Avoidance tax is simply unacceptable (HENRY, 2016). To reverse this scenario, the understanding grows that the progressive taxation on the income of the juridical person may represent the main instrument of promoting justice in a liberal democracy (GRINBERG, 2016). However, compliance with fair share and the promotion of fiscal justice need to go beyond the mere coordination of tax systems that provides for cooperation and exchange of informa-

tion between tax administrations, but it maintains gaps and differences that make undesirable behavior possible, such as evasion and aggressive tax planning. Thus, in a global world, effective fiscal justice exceeds the parameters and limits of the State, and should be considered in global terms and no longer in the domestic sphere of States (DAGAN, 2017).as well as the scope of the duty of justice to reduce it, has always been a central concern of political justice. Income taxation has been seen as a key tool for redistribution and the state was the arena for discussions of justice. Globalization and the tax competition it fosters among states change the context for the discussion of distributive justice. Given the state's fading coercive power in taxation and the decreasing power of its citizenry to co-author its collective will due to global competition, we can no longer assume that justice can be realized within the parameters of the state. International tax policy in an effort to retain justice often opts for cooperation as a vehicle to support distributive justice. But cooperation among states is more than a way for them to promote their aims through bargaining. Rather, it is a way for states to regain legitimacy by sustaining their very ability to ensure the collective action of their citizens and to treat them with equal respect and concern. The traditional discussion in international taxation seems to endorse a statist position - implicitly assuming that when states bargain for a multilateral deal, justice is completely mediated by the agreement of the states. In contrast, this Article argues that such a multilateral regime intended to provide the state with fundamental legitimacy requires independent justification. Contrary to the conventional statist position, I maintain that cooperating states have a duty to ensure that the constituents of all cooperating states are not treated unjustly because of the agreement. I argue that not only cosmopolitanism but political justice too requires that a justifiable cooperative regime must improve (or at least not worsen

Given the above scenario, the present study seeks to answer the following question: how to ensure fiscal justice, on a global level, given the lack of uniformity of tax rules? The objective is to discuss the limitations and conceptual scope of the term global fiscal justice against the mapping of the mismatch of tax systems and identify the most suitable available tool to achieve fiscal justice, on a global level. The justification for the proposed study is due to the fact that the achievement of justice is closely related to the reduction of social inequalities and promotion of equality, which in turn are listed as fundamental objectives of the Federative Republic of Brazil (BRAZIL, 1988). Moreover, cooperation between nations is among the purposes of the United Nations Charter, promulgated by Federal Decree No. 19,841 of 22 October 1945, disciplined by Article 1, which aims at item No 3, "to achieve international cooperation to solve international problems of an economic, social, cultural or humanitarian nature, and to promote and stimulate respect for human rights and fundamental freedoms for all, without distinction of race, sex, language or religion" (BRAZIL, 1945).

To materialize these objectives, the following methodological strategy was adopted: applied research, as it aims to generate knowledge focused on the solution of the exposed problematic, whose problem was approached by qualitative perspective and with exploratory objective, made possible by the bibliographic study, whose collection of material focused on the international doctrinal production, written almost entirely in English and published, in the last 5 years, supported by the inductive method. In relation to methodological procedures, the integrative review was adopted as an analytical tool. The chosen query basis was *Kluwer Law Online* and the references were located from the expressions: "global tax Justice", "global tax fairness" and "international tax Cooperation".

From the execution of such strategy, this work, within a logical chain, was organized into four sections that intertwine and complement each other. In practical terms, throughout the text it will be noted that the intensification of the cooperation of States and the adoption of good fiscal practices are shown as appropriate tools for the promotion of fiscal justice, on a global level. There is also the need to expand research on global perceptions of justice and formulate an agenda, with the broad participation of States, International Organizations and civil society, to discuss the issue under discussion.

2 THE MISALIGNMENT OF NATIONAL TAX SYSTEMS IN THE FACE OF GLOBAL ECONOMIC REALITY AS AN OBSTACLE TO ACHIEVING FISCAL JUSTICE

In recent decades, national tax systems have been seriously undermined by the damaging effects of globalisation in the field of taxation (TANZI, 1999; 2000). With the intensification of tax competition, individuals and businesses have become more free to choose how and where to invest, thus critically undermining the ability of states to promote domestic redistribution of justice. That is why, the vision of fiscal justice at a global level is increasingly strengthened (DAGAN, 2017). as well as the scope of the duty of justice to reduce it, has always been a central concern of political justice. Income taxation has been seen as a key tool for redistribution and the state was the arena for discussions of justice. Globalization and the tax competition it fosters among states change the context for the discussion of distributive justice. Given the state's fading coercive power in taxation and the decreasing power of its citizenry to co-author its collective will due to global competition, we can no longer assume that justice can be realized within the parameters of the state. International tax policy in an effort to retain justice often opts for cooperation as a vehicle to support distributive justice. But cooperation among states is more than a way for them to promote their aims through bargaining. Rather, it is a way for states to regain legitimacy by sustaining their very ability to ensure the collective action of their citizens and to treat them with equal respect and concern. The traditional discussion in international taxation seems to endorse a statist position - implicitly assuming that when states bargain for a multilateral deal, justice is completely mediated by the agreement of the states. In contrast, this Article argues that such a multilateral regime intended to provide the state with fundamental legitimacy requires independent justification. Contrary to the conventional statist position, I maintain that cooperating states have a duty to ensure that the constituents of all cooperating states are not treated unjustly because of the agreement. I argue that not only cosmopolitanism but political justice too requires that a justifiable cooperative regime must improve (or at least not worsen

The global economic market, marked by brand globalization and operations, has impacted the way multinational companies (Nmcs) are structured and managed. Global competition, growing pressure on production costs, operation and the need for research and development (R&D) investment result in downward pressure on margins and profitability. Thus, companies need to evolve and focus on maximizing margins, innovating, improving quality, focusing on increasing operational efficiency, reducing costs, and managing risks. More than ever there

is a need to draw up an adequate and effective tax strategy, since the tax element becomes a defining factor in choosing how and where to invest. Consequently, globalization made tax planning more complex and created the need to align tax strategy with corporate, structural and operational reality (FINNERTY et al., 2007).

There is a consensus that in today's complex business environment, the tax strategy needs to be global and has as its ultimate goal to achieve and maintain a lower global effective tax rate. (FINNERTY et al., 2007) However, all this movement to obtain better performance and to overcome the competitiveness of the world market, made the Emns take advantage of business schemes and maneuvers, classified as aggressive tax plans, whose first and often only purpose is to reduce or eliminate the tax burden arising from its activities (PASSOS; BERALDO, 2020).

Within the scope of this study, the impact of globalization from the perspective of the States must be observed. This phenomenon has contradictory consequences, because the same State that is increasingly dependent on taxes to finance (fiscal purpose), also needs to act extrafiscal, with the objective of influencing behaviors and/or addressing market failures, justice and equity (PIRES, 2018).

It should be noted that the mobility of economic agents, facilitated by elements such as electronic commerce, digital currency, business relations between companies of the same group, use of *offshore financial centers* and proliferation of tax havens and harmful tax regimes, reflects deeply and negatively on tax revenue collection, undermining traditional tax systems (JOHANNESSEN, 2010; JOSEPH, 2004; and TANZI, 2000).

In addition to this, the fact that domestic legal systems are not coordinated regarding the identification of the taxable person (who to tax) and the taxable object (what to tax), as well as the identification of mutual differences in the allocation of the taxable base (where to tax) ends up triggering, in cross-border relations, gaps and overlaps, which reflect situations of double taxation and other economic non-taxation, for example mismatches of hybrid entities, of hybrid income and allocation of the tax or legal base in the case of disparate applications of the international tax principles of nationality, residence or source (DE WILDE, 2015).

Another current challenge is the effective taxation of the digital economy, since the income from this form of doing business is not yet satisfactorily taxed, which affronts the principles of payment capacity and the principle of⁴ neutrality, with consequent violation of the stability of tax systems (PIRES, 2017).

The entire scenario narrated has resulted in States as increasingly strategic actors, since in the face of the difficulty of exercising their tax sovereignty, they began to compete with each other in order to attract investment. Such tax competition can take place in various ways, and among the main measures are: (i) the adoption of a territorial taxation model, limited to profits earned within the State of residence and excluding profits earned abroad; (ii) exemption by States from the source of income from dematerialised services, such as financial services and the digital economy; (iii) non-taxation or significantly lower taxation aimed at attracting patent registration (DOURADO, 2019a). The spread of small territories with policies of banking secrecy and total lack of clarity regarding the identification of taxpayers and the absence of taxation (DOURADO, 2019a) began in the 1960s.

4 conhecido como *ability-to-pay principle*

Thus, the challenge posed from the global economic and political reality consists in defining the scope and scope of public policy (ADAM; KAMMAS; LAGOU, 2013; HAUPT; PETERS, 2005; and SCHÖN, 2000). This is because nations can offer different baskets of policies, programs, projects and public actions, fiscal, social and economic, which are interconnected and mutually influential. It is a network of mitigating responses that are implemented to ensure the sovereignty and the ability to produce citizenship and social welfare of the local population, but which end up causing spaces, gaps and differences in national legislation that can be used by the taxpayer to the detriment of the tax state.

Therefore, globalization has provoked political, economic and social imbalances and conflicts and has been responsible for profound implications and changes in national and international tax powers and rules, impacting on each nation's sovereign tax system (PIRES, 2017). Taxpayers individuals and large Emns are taking advantage of a "fragmented and incoherently regulated global cross-border taxation system to evade and/or tax evasion" (OBENLAND, 2017, p. 03), making it difficult to comply with fair share, breaking fiscal *neutrality*, increasing inequality and preventing the achievement of fiscal justice.

In the context of global fiscal justice, important considerations should be considered, as indicated in the sequence.

3 NOTES ON THE MAIN PERSPECTIVES OF FISCAL JUSTICE

Traditionally, fiscal justice has been assessed from two main perspectives. The first seeks to verify how the tax system should be used to provide equality to individuals, for example equal opportunities. This perspective is based on the scope of distributive fiscal justice, which refers to the substance of the tax system and the respective impact of resource allocation on the dynamics of personal interactions. The second perspective is based on the procedural perspective of fiscal justice, and refers to the legitimate and democratic character of the rules that involve the decision-making process in tax matters.

In the context of this article, it draws attention to the second perspective. This is because, in a cross-border context, procedural justice is concerned with rules designed to allow countries to make, for example, fiscal choices about the size of the budget and the level of domestic redistribution. Thus, the procedural perspective could be considered a prerequisite for achieving substantive and distributive fiscal justice (PIRLOT, 2020).

For a cosmopolitan view, distributive justice must be global, and universally applied to all human beings throughout the world. On the other hand, proponents of political justice maintain the duality of a system of justice, firmly distinguishing the national and global levels. However, it has increasingly prevailed that justice will be effective if thought at a global level, because fiscal competition in the age of globalization has dramatically changed the ability of states to sustain the conditions necessary for the provision of justice. Thus, the ability of States (rich and poor) to unilaterally sustain the domestic conditions necessary for the promotion of justice is being undermined (DAGAN, 2017).as well as the scope of the duty of justice to reduce it, has always been a central concern of political justice. Income taxation has been seen as a key tool for redistribution and the state was the arena for discussions of

justice. Globalization and the tax competition it fosters among states change the context for the discussion of distributive justice. Given the state's fading coercive power in taxation and the decreasing power of its citizenry to co-author its collective will due to global competition, we can no longer assume that justice can be realized within the parameters of the state. International tax policy in an effort to retain justice often opts for cooperation as a vehicle to support distributive justice. But cooperation among states is more than a way for them to promote their aims through bargaining. Rather, it is a way for states to regain legitimacy by sustaining their very ability to ensure the collective action of their citizens and to treat them with equal respect and concern. The traditional discussion in international taxation seems to endorse a statist position - implicitly assuming that when states bargain for a multilateral deal, justice is completely mediated by the agreement of the states. In contrast, this Article argues that such a multilateral regime intended to provide the state with fundamental legitimacy requires independent justification. Contrary to the conventional statist position, I maintain that cooperating states have a duty to ensure that the constituents of all cooperating states are not treated unjustly because of the agreement. I argue that not only cosmopolitanism but political justice too requires that a justifiable cooperative regime must improve (or at least not worsen

In this context, it is stressed that "justice can be used to assess different situations, from criminal law to the market economy and to the ability to contribute" (DOURADO, 2019a, p. 464). Traditionally, the main instrument to ensure justice is law, strictly associated with state sovereignty. However, not only in the fiscal area, but in all branches of the law, it is possible to verify some decades ago, the growth of "reciprocal influences of different state, infrastate and suprastate legislations and ordinances in the search for the best solution to certain common problems that may designate global problems" (DOURADO, 2019a, p. 459), a fact that can contribute to the enrichment of national law, but at the same time, can contribute to the weakening of tax sovereignty.

Precisely because of the scenario of investment and globalized work, with greater mobility of agents and bases of taxation, the International Organizations - Ois, as OECD, IMF, World Bank, United Nations; the supranational organizations, such as the EU; and specialised organisations such as ATAF (African Tax Administration Forum) have dealt with the concept of fiscal justice, thereby accentuating legal pluralism and giving supranational content to domestic and international issues such as tax transparency, cooperation between tax administrations, actions to minimize and combat tax evasion and aggressive tax planning (DOURADO, 2019a).

These organizations have explored the concept of fiscal justice, mainly from an economic perspective, in that they demand the payment of the fair share by the Emns and stimulate fair competition between states, in addition to showing concern about the need to increase tax collection levels to enable the provision of public services, seeking to make tax administrations more efficient and fair, examples in the fight against corruption and aggressive tax planning (BURGERS; VALDERRAMA, 2017).

Occasionally, other perspectives of justice, besides the economic one, are explored in the measures and positions of the Ois. Some reports from these organisations reflect a philosophical and political perspective of justice, such as when: (i) the IMF and the World Bank refer to issues of legitimacy, on the grounds that it is unfair that local businesses are not

competitive and that developing countries should have a say in the debate on regional and global cooperation; (ii) the EU and ATAF refer to agreements between taxpayers and state, under a philosophical approach; or (iii) when the OECD mentions that citizens have become more sensitive to tax issues, which shows concern for the political dimension of justice (BURGERS; VALDERRAMA, 2017).

The political dimension of justice is apparent when OECD IMF, World Bank, United Nations express concerns about developing countries' participation in BEPS discussion and international cooperation to establish fair tax systems that citizens can trust (BURGERS; VALDERRAMA, 2017). The relevance of these Ois' contribution is verified when, in response to the global discussion on justice in the context of the G20/OECD BEPS Project, some countries have changed their domestic legislation. In 2015, the United Kingdom and Australia decided to include a new tax on misappropriated profits to ensure that Emns pay their fair share of taxes. The approach of Australia and the United Kingdom focuses on the payment of multinationals of the fair share, regardless of whether these multinationals contribute in accordance with the law. In Australia, the new tax aims to prevent Emns who sell goods and services to Australian residents from avoiding Australian taxes by artificially limiting their tax presence in Australia. In the United Kingdom, the main purpose of profit tax evasion is to combat aggressive tax planning used by many Nmcs to transfer profits from UK jurisdiction. Therefore, these national laws aim to prevent aggressive tax planning so that Nmcs comply with fair share (BURGERS; VALDERRAMA, 2017).

These unilateral initiatives are refuted by the OECD, which maintains that without a coherent global approach, problems such as those that gave rise to the BEPS will probably resurface (BURGERS; VALDERRAMA, 2017). Thus, in a globalised world, the need for the employment of adequate and effective fiscal policies has prevailed to maintain national tax sovereignty and propagate welfare and fiscal justice, It is insufficient that States consider only their domestic legal systems to achieve equality and provide justice, and there should be cooperation in seeking global solutions (DAGAN, 2017).

4 HARMONISATION OF TAX RULES TO PROMOTE GLOBAL FISCAL JUSTICE

The tax scandals portrayed in the introduction shed some light on the importance of tax transparency involving not only tax fraud, but also tax evasion and aggressive tax planning (BARANGER, 2017) in addition to intensifying the debates on corporate and fiscal governance, cooperation between tax administrations and compliance with fair share or Ability-to-pay principle as a means of maximising global well-being and distributing it fairly, globally. International tax scholars and policymakers, by engaging substantially in the practical aspects of income taxation in the globalised world, have highlighted the erosion of States' tax bases and have endeavoured to explore possible solutions, highlighting among them, the intensification of international cooperation as an attempt to sustain the tax bases, which in turn, enables better distribution of social welfare (DAGAN, 2017). However, it is suggested

that tax justice rhetoric has still prevailed in relation to the adoption of a real substantive agenda on tax justice, which would imply, for example, the adoption of tax policies that could offer equal economic opportunities to citizens (PIRLOT, 2020).

A number of projects encouraging cooperation, aimed at increasing tax transparency and reducing tax evasion, have been the subject of the OECD/G20 since 2012. Among the actions mentioned are: (i) the automatic exchange of information on income and cross-border assets between tax authorities; (ii) public registry of the true beneficial owners of companies and trusts; (iii) report by country of profits, assets, sales, employment and corporate business units; (iv) stricter regulations against money laundering; (v) allocate corporate tax revenues according to the location of actual economic activities and not to front companies based on artificial havens; (vi) stricter regulation of transnational private banking jurisdictions, money laundering and financial secrecy; and (vii) restricting tax incentives that individual and corporate investors now need to become "citizens of nothing" for tax purposes (HENRY, 2016). Examples of successful experiences in this regard include the OECD's Global Forum on Transparency and Exchange of Information for Tax Purposes, which aims to combat tax havens and harmful competition. On the other hand, attempts to implement supranational hard law are no guarantee of a common approach by Member States as can be seen in the initiative of the Caribbean Community and Common Market - CARICOM (BURGERS, 2017; VAN HORZEN, 2017).

The success of these projects, which aim to reduce tax evasion by increasing the collection of tax revenues by transferring wealth from richer to poorer countries, thereby allowing it to maximize global well-being and distribution fairly, depends on increased cooperation between states. However, the predominant decentralised nature of international taxation creates serious gaps. It is therefore necessary for nations to become aware of the need to preserve tax bases and work together to inhibit tax competition, tax evasion and aggressive tax planning, local corruption and government cartels.

In this way, the effective fight against such practices that undermine the tax revenues of states and impact on the provision of social services necessary to reduce inequality should be combined, through measures such as broad international cooperation and global exchange of information can strengthen efficient competition (DAGAN, 2017). In the same sense, it is also believed that the concept of tax fair Competition should be better employed and together with the increasingly used concept of fair share in taxation (PIRES, 2018). In a speech in 2016, EU Commissioner Vestager explained "why fair taxation is important", stating the following:

For me, this issue of justice is the most important message of the application of state aid rules in tax form and it is my duty, as Commissioner for Competition, ensure that the rules are applied fairly to any company that does business in the sector. (...) Taxpayers do not need to pay the bill left by tax-evading companies. And the public must trust that there is equality and justice for all, and not just for some well-connected companies (VESTAGER, 2016, s.p).

Fair tax competition means that a third country should not apply harmful tax measures in the area of corporate taxation (DOURADO, 2019b). It is therefore essential to distinguish fair and harmful tax practices, despite the lack of consensus on what is a 'low effective tax rate' or 'significantly lower effective tax level, including zero taxation, than the levels which

generally apply in the third country'. The concept of fair tax Competition, which requires a minimum level of taxation in third countries, has been included in the EU Anti-tax Package (EUROPEAN COMMISSION, 2016) and is part of the EU's external strategy with third countries on good tax governance. Furthermore, at EU level, the Code of Conduct in the field of business taxation (1997) represents a political commitment by Member States to combat harmful tax competition. Thus, better coordination of States, based on harmonisation of tax rules aimed at inhibiting harmful behaviour for the maximization of global welfare and justice, would also contribute to global governance.

The global governance proposed by the Ois covers similar issues: (i) concern and measures to prevent harmful competition, tax evasion and avoidance, and unnecessary tax incentives; (ii) mapping planned tax incentives; (iii) the mapping of advantages and disadvantages of volume-based versus incremental schemes, as well as targeted schemes; (iv) work on measuring costs and benefits of tax incentives and the effectiveness of tax incentives; (v) advising governments on assessing the success and / or failure of tax incentive schemes; and (vi) advising governments on achieving legal, economic and administrative transparency (VAN HORZEN, 2017). Another example of action that involves the harmonisation of tax rules aiming at the preservation of tax revenues, is the global anti-erosion rule, entitled Globe, drafted in the first half of 2019, in the OECD/G20 Inclusive Framework (IF) of the BEPS Project. The proposal consists of a global minimum tax, which would serve as a potential solution of global consensus for the challenges of digitisation and the remaining challenges of Tax Base Erosion and Profit Transfer (BEPS) related to the digital economy. The overall consensus solution could understandably comprise an overall minimum standard of cross-border income taxation and a best practice recommendation, which was adopted only by a subset of IF jurisdictions. It is considered that the express support of the G7 Finance Ministers to the minimum tax can be considered a determining factor in increasing membership of the Globe project, but it remains to be seen whether the remaining G20 countries as well as the other IF members, will, in fact, adhere to this bold proposal (HO; TURLEY, 2019).

All the measures mentioned, such as the spread of global governance, the adoption of strategies for the observance of fair share and tax fair Competition could lead to greater coordination of national tax systems which, in the long term, could result in harmonisation, not only at a regional level, but in global terms of governance issues, such as legal, economic and administrative transparency, voluntarily or through hard law. The G20's leading role in the UN could, in the long term, result in a convincing consensus on standards formulated, debated and implemented by international, supranational and intergovernmental institutes (VAN HORZEN, 2017). A more extreme option would be to require, in the name of global fiscal justice, the adoption of recommendations for best tax practices at the multilateral level, through a multilateral convention adopted on a large scale. For some, the cooperative efforts and interdependence of states in a multilateral regime would be sufficient to give rise to a supranational duty of justice. Meanwhile, advocates of strict political justice claim that this is not sufficient to justify such a duty of justice, as only the establishment of a global or multilateral fiscal state (or something close to it) would make this possible, since certainly multilateral cooperation that established a global state or federation of states would have to adhere to the principles of justice in the treatment of its constituents in order to acquire legitimacy. Such a regime could, in fact, be the best response to the justice concerns of cosmopolitans and statisticians; however, it is not only an unworkable solution, but probably also an unjustified solution. A global

state would probably not respond particularly to the preferences of its constituents, suffer an excessive concentration of power and lack of accountability, and have a serious efficiency problem (DAGAN, 2017).

Thus, as an alternative to the multilateral regime, the creation of a multilateral antitrust agency would work to dissolve cartels of states that are driving out competitors, preventing them from increasing the profits of the States' cartel at the expense of less powerful actors and reducing government waste. This regime would potentially increase the promotion of global well-being, reducing transaction costs, misuse and other market failures, and more accurately distribute revenues. Although this type of cooperation also faces strategic challenges, a careful design of the governance of these cooperative mechanisms could help ensure this more modest but more distributive and just regime (DAGAN, 2017). In short, the truth is one: nations must assume that global fiscal justice must prevail over economic rivalry. Therefore, the awareness of States and their contributors, the broad regional cooperation, which should be combined with the open dialogue with third countries promoted by the Ois, supported by supranational and intergovernmental organizations and the encouragement of good tax competition practices and fair share compliance and governance initiatives is the way forward (BURGERS, 2017).

5 CONSIDERAÇÕES FINAIS

The current scenario calls for international cooperation on global tax issues in order to decrease or even end tax havens and preferential regimes that only aim to attract foreign investment, reaching, too, the neutrality of the tax element. Currently, not only Nmcs, but also individuals take advantage of the facilitated mobility of tax bases and use fragmentation and differences between national tax systems to evade and/or eliminate taxes. The negative impact of these evasive practices is supported by states around the globe, since the untaxed sums reach hundreds of billions of dollars every year. The Ois pioneered the fight against evasion by introducing measures to stem losses from tax base erosion and profit transfers to tax havens and harmful preferential regimes. Initiatives such as the UN/OECD BEPS - Erosion and Profit Shifting Base - and the creation of a Tax Collaboration Platform between the Bretton Woods institutions, the OECD and the UN have been widely accepted by nations, recognising the harmful effects of harmful tax competition and harmful tax planning. While there is a consensus that such harmful practices hamper international fiscal sustainability, various issues, such as national sovereignty, prevent a minimum level of direct taxation or complete harmonisation of cross-border taxes.

Thus, without full harmonisation of taxation at international level, it is primarily up to States to raise awareness of the need to address persistent deficiencies in global tax governance in order to jointly, be able to implement, by means of soft or hard international law, more advanced and better developed measures, such as a multilateral convention with broad ratification and full adoption by nations, aimed at ensuring compliance with fair share, of fair tax Competition or the creation of an antitrust agency with global activity, in order to enable a more egalitarian distribution of wealth, thereby achieving global fiscal justice.

From this international cooperation made possible by States, a change of mentality on the elaboration, improvement and compliance with tax rules in society in general should be encouraged. It is noteworthy that legislation alone is not sufficient, for this reason so much is made necessary the awareness and interest of States in adopting initiatives of cooperation and international governance, aiming at the implementation of the necessary tools to amplify global fiscal governance.

Finally, it is of the utmost importance that all approaches to justice are taken into account in the design of a sustainable global tax system, thus providing for the broadening of the field of investigation into global perceptions of justice and the formulation of an agenda, with the broad participation of States, Ois and civil society, to discuss fiscal justice on a global level.

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