Reviewed by:
Alexander I. Pogorletskiy, prof, Dr. of Science (Economics), Saint Petersburg State University, Department of World Economy.
Vadim V. Ponkratov, Phd (Economics), Director of the Financial Policy Center of the Department of Public Finance. Financial University under the Government of the Russian Federation


Collection of articles includes materials presented on the Carpe Scientiam International Conference — 2018 by the students and young scientists of the Lomonosov Moscow State University, University of economics in Bratislava; Masaryk University, University of Milan, Stockholm School of Economics in Riga, China University of Political Science and Law, Latvian University and other.
CURRENT TRENDS OF STATE EXPORT FINANCING IN SLOVAKIA

Elena KASHTAKOVA¹, Natalia BARINKOVA²

¹University of economics in Bratislava, Slovakia, elena.kastakova@euba.sk
²University of economics in Bratislava, Slovakia, Natalia.barinkova@euba.sk

There are many state and commercial financial institutions which help companies to be successful on foreign markets and are offering wide portfolio of export financing products. In Slovakia, EXIMBANKA SR is a state institution which was established to supplement commercial banks where they are not willing to take over the risks. EXIMBANKA SR is active for more than 20 years and is offering credits, bank guarantees and insurance product for large as well as small and medium-sized companies. This institution is following current trends and become more attractive and available for companies. Following the aim of the EU to support small and medium-sized enterprises, also EXIMBANKA SR is offering more favourable credit conditions for SME and offering new instruments for export financing in cooperation with other financial institutions.

Keywords: EXIMBANKA SR, export financing, financial trends, Slovakia

INTRODUCTION

Slovakia belongs to the highly open economies with strong dependence on foreign trade and a considerable sensitivity to the world's economic environment, the effective export support by the state for the companies is needed (Kašťákova, Bebiaková, 2017). Companies which decide to export their products abroad and want to be successful on the foreign market have to usually use financial instruments of commercial banks. But sometimes commercial banks do not provide credits or bank guarantees to all the territories because of too high commercial or political risks (Jamborová, Furdoňová, Pavelka, 2013). For these reasons, Export-Import Bank of the Slovak Republic as a state organization was
established to support activities of Slovak companies abroad and mainly on distanced territories.

The main objective of the paper is to describe EXIMBANKA SR, its financing instruments and current trends in state export financing in Slovakia. The research will be based on the analysis and synthesis of the information provided by the EXIMBANKA SR, commercial banks in Slovakia and other resources to integrate information necessary for our research into one unit. Comparison will be applied to describe which export financing tool is used the most among Slovak exporters and which are the countries where it is used the most.

**LITERATURE REVIEW**

Slovakia belongs to the highly open economies with strong dependence on foreign trade and therefore the effective export support by the state for the companies is needed (Kašťáková, Bebiaková, 2017). EXIMBANKA SR is one of the state organization which support export activities of Slovak companies (Ružeková, Kašťáková, 2013). In financial operations may appear commercial and political risks (Jamborová, Fur dová, Pavelka, 2013). For these reasons, Export-Import Bank of the Slovak Republic as a state organization was established to support activities of Slovak companies abroad. EXIMBANKA SR was established by Act No. 80/1997 which entered into force on July, 1st 1997 (EXIMBANKA SR, 2018). The activities of the bank fully complies with the OECD rules for states supported export credits, principles of the World Trade Organization (WTO) and complies with the rules resulting from the membership of Slovakia in the EU (Pavelka, Jamborová, Ružeková, 2015). To support Slovak companies to export their products or services abroad is EXIMBANKA SR offering credits or bank guarantees. As in 2017, almost 75% of all realized loans and 95% of bank guarantees provided by EXIMBANKA SR were used by large companies, EXIMBANKA SR is trying to offer more favorable conditions for SME to support their activities on foreign markets (EXIMBANKA SR, 2019). EXIMBANKA SR has concluded a loan agreement with the European Investment Bank (EIB), which aims to support small and medium-sized enterprises.

**RESULTS**

Export financing in Slovakia is provided by commercial banks and state bank – EXIMBANKA SR.
EXIMBANKA SR

EXIMBANKA SR is one of the state organization which support export activities of Slovak companies (Kašťáková, Ružeková, 2014). It was established by Act No. 80/1997 which entered into force on July, 1st 1997 (EXIMBANKA SR, 2018). The Export-Import Bank of the Slovak Republic as a legal entity was registered in the Commercial Register of the Bratislava and uses the abbreviated name of the trade name EXIMBANKA SR. It is an export - credit institution and the only direct instrument of the state used to support export (Ružeková, Kašťáková, 2013). The bank is based in Bratislava and as a specialized financial institution combines banking and insurance activities to support export. The activities of the bank fully complies with the OECD rules for states supported export credits, principles of the World Trade Organization (WTO) and complies with the rules resulting from the membership of Slovakia in the EU (Pavelka, Jamborová, Ružeková, 2015). The main aims of the bank are:
- to offer state aid which does not distort market conditions, undeform the market
- to offer a wide range of export-related financial products, in particular credit insurance, financing and guarantees
- to allow Slovak exporters to enter into business and investment relationships, where the commercial financial sector is less interested in taking risks

EXIMBANKA SR supports Slovak exporters who are business entities with a registered office or permanent residence in the Slovak Republic. The products of EXIMBANKA SR are intended for small, medium and large Slovak business entities, respectively producers of goods and service providers dedicated for export.

Possibilities of Export Financing by EXIMBANKA SR

To support Slovak companies to export their products or services abroad is EXIMBANKA SR offering credits or bank guarantees. Detailed products of these two types of the support are seen on the scheme 1.

Scheme 1. Possibilities of export financing by EXIMBANKA SR (EXIMBANKA SR)
CREDITS

The creditworthiness of the applicant is the main criteria for deciding to provide loans. EXIMBANKA SR requires adequate collateral for credit. The interest rate depends on the type of business and the degree of risk. The bank product and interest rate is assessed individually, the risk of the business case and the financial situation of the applicant is taken into account. EXIMBANKA SR, unlike commercial banks, emphasizes its basic mission - to support Slovak exporters in executing contracts on foreign markets.

General conditions
- the exporter has been active in the area for at least one year,
- the exporter does not show trends of bankruptcy
- the exporter shall submit the application for the requested product as well as the other supporting documents for the application

The total amount of credits provided by EXIMBANKA SR in 2017 was 147,7 mil. EUR. Credits were used mainly by companies from chemical industry 67.5%, mechanical engineering industry 15.8% and paper industry 8.4%. In 2017, Slovak companies used credits to export their products to V4 countries, Austria and Germany (EXIMBANKA SR, 2018). The detailed information is seen in fig. 1. The export support of EXIMBANKA SR copied the territorial structure of Slovak export. The aim of the EXIMBANKA SR is to diversify the export to the new territories.
The most used banking product of EXIMBANKA SR is export credit as it is a tool which allows Slovak exporters to obtain money from the importer right after the realization of the export. The credit is provided to a foreign buyer (debtor) or a foreign bank to meet its obligations to the Slovak exporter. This loan can be used to buy goods / services or investment units and is divided into short-term (up to 2 years) and long-term (up to 8.5 years).

**BANK GUARANNEES**

EXIMBANKA SR can issue bank guarantees to companies with registered office or permanent residence in Slovakia and can issue 2 type of guarantees:

1. non-payment guarantees (bid bond, performance bond, advance payment, retention money bond, warranty bond). They are issued to foreign buyers.

2. payment guarantees (bank guarantee on export financing, bank guarantee on technologies, bank guarantee on payment term). They are issued on behalf of the client in favour of commercial bank in Slovakia or abroad.

In 2017, the total amount of issued bank guarantees was 84,3 mil. EUR (EXIMBANKA SR, 2018).

**INSURANCE PRODUCTS**
Beside the banking product, EXIMBANKA SR is also offering insurance products to eliminate the risk that may occur when exporting. With insurance products EXIMBANKA SR eliminates commercial or political risks contingent upon the foreign debtor’s failure to pay, where withholding or insolvency on the part of the foreign buyer are the most common causes of debts remaining outstanding. In 2017, insurance products were provided mainly on the exports to following countries: Cuba (29.1%), Azerbaijan (28.9%), Finland (9%), Belarus (7.5%), Kazakhstan (7.3%), and Russia (5.9%) (EXIMBANKA SR, 2018). Most of them are countries outside of the EU.

**CURRENT TRENDS IN EXPORT FINANCING**

As in 2017, almost 75% of all realized loans were used by large companies and 25% by small and medium-sized companies and 95% of bank guarantees were issued for large and 5% for SME companies, EXIMBANKA SR is trying to offer more favorable conditions for SME to support their activities on foreign markets (EXIMBANKA SR, 2019). EXIMBANKA SR has concluded a loan agreement with the European Investment Bank (EIB), which aims to support small and medium-sized enterprises (SMEs) and medium-sized enterprises ("MID-CAPS"). Loans provided from the EIB Loan Facility ("EIB Loan") are intended for SMEs (employing fewer than 250 employees) and MID-CAPS (employing between 250 and 3,000 employees) to support investment projects and operating capital.

Financing from the EIB funds offers a preferential interest rate reduced by at least 0.25% pa. in comparison with normal interest rate.

EIB Loan Terms (finreport.sk, 2019):

- the EIB loan is intended for entities operating in Slovakia or other Member States of the European Union
- if the project costs does not exceed 25 mil. EUR, EIB loan can be provided to clients of SMEs and MID-CAPS up to 100%
- if the project costs are in the range of 25 mil. EUR up to 50 mil. EUR, the EIB loan can only be provided to MID-CAPS clients up to a maximum of 50% of the relevant project costs
  - the maximum accepted implementation time of the project is 3 years
  - the minimum maturity of the loan is 180 days, the maximum maturity is 7 years
  - projects funded by the EIB credit line must also meet all financing conditions set out by EXIMBANK SR

CONCLUSION

Export activities of companies are usually supported by different institutions in each country. One way how export can be promoted is through export financing. In Slovakia, there exist only one state institution providing export financing. Its services are necessary for Slovak companies which want to expand to foreign markets. EXIMBANKA SR is offering credits, bank guarantees or insurance to support export activities of Slovak entrepreneurs. Current trends in export financing also influenced activities of EXIMBANKA SR. The bank is offering more favorable conditions for small and medium-sized enterprises, trying to support export to distanced third countries and is looking for new cooperation with other organizations to find other methods of financing.

REFERENCES

This paper deals with an interesting and actual topic of participatory budgeting. The implementation and experience with participatory budgets differ in various countries. The aim of this paper is to identify the positive effects that participatory budgets should theoretically have on several aspects of public administration at the local level and also on relations with citizens. The main goal is to analyse the attitudes towards participatory budgets in the Czech Republic. In order to confirm or disprove the hypothesis that the Czech approach is rather positive, the authors conducted a pilot research study for which they used online questionnaires that were sent to local officials. The results are presented in this paper as well and confirm the hypothesis. Description, analysis, comparison and synthesis are the methods used for writing this paper.

Keywords: Czech Republic, local budgets, participatory budgeting, pilot study

INTRODUCTION

Participatory budgets are an interesting topic in the area of public finance or public economy; it is interesting for researchers in many disciplines – law, economics, political studies or sociology. The reason is that participatory budgets are not only theory but they also have practical application. The number of municipalities implementing participatory budgets is still increasing, however, the first impulse to the implementation of a participatory budget is often to experiment and to verify if the results in these municipalities will be similar in comparison to other cities or countries that have already adopted this concept. The often mentioned advantages of participatory budgets are citizen participation, collective decision, transparency, and more just and equitable public management.
The implementation of participatory budgets differs in various countries. Some countries have more than twenty-five years’ experience with participatory budgets. The best-known country with the longest history is Brazil. The other countries started with the implementation later and there are some countries which still do not implement participatory budgeting at all, e.g. North Korea. Alfaro et al. (2010) noticed that participatory budgets are becoming popular in many places all around the world. They were implemented in many different countries, e.g. Russia, the UK, Germany, China, the Dominican Republic, India, Indonesia or South Africa.

The situation in Europe differs from country to country. Italy started participatory budgeting in 1994, Germany in 1998, Spain in 2001, Portugal in 2002, so they have a long history and experience with that. The Czech Republic ranks to countries with later implementation, it started with participatory budgets in 2012 (a similar situation is in Poland which started in 2011). It is possible to implement participatory budgets in small municipalities (with a few hundred inhabitants) or in the large cities as well (e.g. Paris, where participatory budgets started in 2014).

The next differentiation is connected with the initiation of participatory budgeting. There are two types of initiations – at first, the initiation comes from the citizens (e.g. countries in Latin America, the Czech Republic) or the initiation comes from the outside (e.g. Eastern European countries). According to Herzberg et al. (2013), Eastern European countries have been initially promoted mainly by international organisations, such as the World Bank. The first step was the transparent preparation of public budgets which began in 2012 – 2013.

This paper deals with participatory budgets in the Czech Republic. The main goal is to identify the attitudes towards participatory budgets. Presented results are gained from the preliminary research. Description, analysis, comparison and synthesis are the methods used for writing this paper.

LITERATURE REVIEW

Participatory budgets are based on the possibilities of citizens to have a word on the decision of how part of a public budget is spent (Alfaro et al., 2010). According to them, dialogue and citizen participation play the main role which differs from the predominant representative model. Participatory budgets transform the idea of representative democracy.
Representative democracy moves closer to a participatory democracy which is involved in direct participation and debate.

The main sense of participatory budgets is the participation of non-elected citizens in the allocation of public finance. Sintomer et al. (2008) noticed five further criteria of participatory budgets. The first assumption to a successful implementation of participatory budgets is the discussion of budgetary processes and dealing with scarce resources. The second characteristic is the involvement of the city over administration and resources. The third characteristic is that participatory budgets are repeated over years (it has to be a repeated process). Next, some forms of public deliberation are included within the framework of specific meetings. Last, accountability on the results of this process is required.

According to Assad and Goddard (2006), participatory budgets contribute to good governance through demonstrating transparency and accountability. Reusch and Wagner (2014) noticed that participatory budgets are generally still seen as a “learning process” because there is no single formula for success. The reason for their implementation is that participatory budgets modernise local government and make it more responsive to citizens.

Participatory budgets are connected with weaknesses as well. They focus only on annual investments. Projects linked with long-term horizons can have problems with financing in the next years or with the sustainability of investments, e.g. salaries or other operating costs (World Bank, 2008). Allegretti (2003) also mentioned that it is more difficult to develop a different urban form.

**HYPOTHESIS DEVELOPMENT**

Practical experience with participatory budgets shows more advantages than disadvantages. Our aim was to examine if short experience with participatory budgets in the Czech Republic is positive as well. The main goal is to know the attitudes toward participatory budgets. For this reason, we stated this hypothesis: *“The attitudes towards participatory budgets are positive in the Czech Republic.”*

First, we have analysed the conclusions of researchers from other countries. According to that, we have stated six areas of participatory budgets’ effect. Participatory budgets strengthen **responsibility**. According to Baierle (2007), it has led to a better civil society and especially the working class. It is associated with the principles of transparency and responsiveness (Olowu, 2003).
Second, participatory budgets have a **positive influence on relations**. Fedozzi (2000) noticed that participatory budgets have been an incentive to reform public administration. Participatory budgets enable discussion with the councils, they enable more cooperation between administrations and also improved relationships between technicians and users. As experience showed, participatory budgets contributed to improving communication among administration, citizens, and the local political elite (Talpin, 2011).

Third, participatory budgets **legitimise spending decisions**. Marquetti et al. (2008) or Mororo (2009) stated that participatory budgets have led to the preference of the most disadvantaged districts. Participatory budgets contributed to better infrastructure and public services. Fung and Wright (2001) noticed that participatory budgets empowered participatory governance.

Fourth, participatory budgets have a **positive influence on citizens**. Fedozzi (2000) specified that participatory budgets enable to connect the citizens to public affairs; people with lower income try to be more involved than the others, women play the main role in assemblies and young people become very active.

Fifth, participatory budgets have a **positive influence on councillors**. Avritzer (2002) mentioned that participatory budgets contributed to the minimisation of clientelistic structures. This change led to better relations between the political system and civil society.

Last, participatory budgets have a positive influence on **building trust**. Avritzer (2002) noticed that participatory budgets lead to fighting corruption. Zamboni (2007) agreed with him and added that if the participatory budgets are well designed and implemented, they lead to transparency in the spending of public money. Herzberg (2001) or Gret and Sintomer (2005) stressed the modernisation of public finance and the efficiency of public administration.

**METHODOLOGY**

For the research study, we have used a questionnaire covering the areas stated above. We used an online version of the questionnaire with fifteen closed-ended and five open-ended questions. For each closed-ended question, we have used a 5-point Likert scale. This paper includes only the results of the questions that are linked with the aim and the hypothesis of this paper. All of these questions are closed-ended.
In May 2018, we contacted twelve local officials (project coordinators) from the Czech Republic who are responsible for the participatory budget agenda in their municipalities. The size of these municipalities differed from 3 thousand inhabitants to 110 thousand inhabitants (including some city districts of Prague). Our goal was to obtain initial information for a pilot study which we could further analyse and potentially use for future research.

RESULTS

The following part presents concrete results of the pilot research study. Eight out of twelve respondents took part in the survey and filled in the questionnaires. Their answers are also presented in six figures below.

Regarding the interest of citizens and local authorities (including councillors and mayors) in public affairs, officials agree that participatory budgets strengthen their responsibility in this matter (see fig. 1).

![Fig. 1. Strengthening the responsibility (Source: authors)](image_url)

Generally, 75% of respondents agreed with the statement, one respondent chose a neutral answer and one respondent chose a negative answer. According to the perception of our respondents, participatory budgets increase the responsibility of all interested persons.

The second statement deals with the influence on relations between officials and councillors (see fig. 2).
Fig. 2. Positive influence on relations (Source: authors)

Results of the research study show that 62.5% of respondents agree with this statement. It is interesting that one respondent marked the answer “strongly disagree” and two respondents chose a neutral answer. It is possible to state that participatory budgets have a rather positive influence on the relationship between officials and councillors.

Next statement focuses on the attitude of respondents towards participatory budgets from the legitimisation of spending decision point of view (see fig. 3).

Fig. 3. Legitimate spending decisions (Source: authors)
However, when it comes to spending decisions of local authorities, it is not clear whether participatory budgets help to legitimise them or not. 50% of officials agree that they do whereas the other 50% either disagree with this statement or neither agree nor disagree.

The fourth statement detects the influence of participatory budgets on moral values of citizens (see fig. 4).

Fig. 4. Positive influence on citizens (Source: authors)

Answers to this question are interesting. The number of strongly disagree and strongly agree is the same. Nevertheless, 62.5% of respondents agree with this statement and 37.5% disagree with this statement. Therefore, it is possible to conclude that most respondents think that participatory budgets increase the moral values of citizens, such as cooperation, honesty, public interest, social justice, democracy, etc.

The next statement is very similar to the previous one, but it aims at the influence on moral values of councillors (see fig. 5).
Officials slightly more believe that participatory budgets have a positive influence on citizens (see fig. 4) but when it comes to moral values of councillors, their answers are quite contradictory again (see fig. 5). The total number of strongly disagree is higher than the total number of strongly agree with this statement. According to that, participatory budgets do not have a positive influence on moral values of councillors.

Finally, the last statement deals with the influence of participatory budgets on social bonds, trust and self-organisation of citizens (see fig. 6).

**Fig. 5.** Positive influence on councillors (Source: authors)

**Fig. 6.** Building trust (Source: authors)
Results show that officials predominantly agree that participatory budgets help to build trust and social bonds among citizens. Only one respondent disagreed with this statement and one respondent chose a neutral answer.

**DISCUSSION AND CONCLUSION**

The aim of this paper was to identify the attitudes towards participatory budgeting by analysing concrete results of a pilot research study from the Czech Republic.

We defined our hypothesis stating that “The attitudes towards participatory budgets are positive in the Czech Republic.” Based on the literature review, we came up with six sub-hypotheses which should either help us to confirm or disprove our main hypothesis. The results are as follows:

- 75% of respondents agree that “participatory budget strengthens the responsibility of citizens, councillors and mayors in terms of interest in public affairs”
- 62.5% of respondents agree that “participatory budget has a positive influence on relations between officials and councillors”
- 50% of respondents agree that “participatory budget helps to legitimise spending decisions of local authorities”
- 62.5% of respondents agree that “participatory budget has a positive influence on moral values of citizens (cooperation, honesty, public interest, social justice, democracy, etc.)”
- 37.5% of respondents agree that “participatory budget has a positive influence on moral values of councillors (cooperation, honesty, public interest, social justice, democracy, etc.)”
- 75% of respondents agree that “participatory budget helps to build social bonds, trust and self-organisation of citizens”

According to the data gained from this survey, we are able to conclude that our hypothesis “The attitudes towards participatory budgets are positive in the Czech Republic” can be confirmed. However, there are two areas which might require further research or discussion. First, the legitimisation of spending decisions is not sufficiently proven here. Second, an interesting situation occurred when we asked about the moral values of councillors. Clearly, our respondents are divided in their answers to this question.
As already mentioned, the implementation of participatory budgets in the Czech Republic started in 2012 and each year more and more municipalities introduce this concept. Therefore, we would like to continue with our efforts to closely map the situation.

Our results can be interesting for people from different countries as well, especially from countries which are beginning with participatory budgets. It is shown that the view on participatory budgeting is positive. The novelty of this paper is that we have conducted a research study with local officials responsible for participatory budgets in their municipalities because they have everyday experience with managing and realisation of participatory budgets. To sum up, it is possible to see participatory budgeting as a positive new trend at local budgets.

REFERENCES


The contribution deals with Financing of Territorial Self-governing Units in Czech Republic from EU funds. Economic base of local governance is still the most important and the most complicated issues of local governance. Local governances need economic independence for filling their tasks. The main aim of this contribution is to define the main tasks and objectives of the Structural Funds in relation to the financing of territorial self-governing units in the Czech Republic. The primary task of the Structural Funds is to finance development actions in the Member States of the European Union; these funds are non-returnable and a condition for providing such subsidies is that they must be intended for the national or regional authorities responsible for managing the development programs and directly for the submitted and agreed projects. Another objective of this contribution is to find out how important the Structural Funds are for the economic independence of local administrations.

**Key words.** European funds; Public sector; Territorial self-governing unit; The Czech Republic.

**INTRODUCTION**

In the market economy, the influence of economic processes through budgetary policy has its economic limits, given by the reasonable limit of the extent of centralized national income redistribution. If this redistribution exceeds a certain limit, especially in the business sphere, it can counter the sense of a free market functioning, a system also called market self-regulation.
There is a predominant opinion in public finance theory presented in the European Union that the functioning of a developed market economy is only possible provided that in justified cases, the market regulation system is supplemented by an effective system of state regulatory interventions.

In view of such an essentially great efficiency of the budgetary policy, the notion of financial policy is often understood just as a budgetary policy, and such a narrowly understood monetary policy is placed next to monetary and foreign exchange policy. In terms of overall economic policy, however, budgetary, monetary and foreign exchange policies are so closely related and mutually intertwined that it seems theoretically more correct and practical to understand them as parts of the same financial policy process.¹

The fundamental objective of the European integration policy is the gradual balancing of the economic level of the European Community countries and the development of regions and other territorial units in the EU which will lead to the strengthening of economic and social cohesion. Structural Funds have been the main instrument of structural and regional policy, seeking to balance the differences in the development of the individual regions of the European Union. One of the funds that is of fundamental importance to the European Union is the European Regional Development Fund.

The primary task of the Structural Funds is to finance development actions in the Member States of the European Union; these funds are non-returnable and a condition for providing such subsidies is that they must be intended for the national or regional authorities responsible for managing the development programs and directly for the submitted and agreed projects. These funds also finance the Community Initiatives, which are primarily concerned with cross-border cooperation, economic conversion of coal regions and regions with metallurgical or armament industries, economic diversification of areas focused on the textile and clothing industry, development of small and medium-sized enterprises in problem regions, and the like.²

---

¹ Pařízková, I.: Finance of Local Government, MU, Brno 2008
The actual implementation of the programs depends decisively on the involvement of regional subjects, both from the public and the private sector, involving the preparation of high quality projects in particular. Regional development agencies are major subjects involved in the provision and preparation of regional programming in the regions, processing proposals for analyzes, strategies and programs, and at the same time we include both regions and municipalities among these subjects. And the regions and municipalities in particular have recently been very actively involved in the implementation of projects, especially in the area of technical infrastructure and the environment. Other stakeholders include private sector subjects involved in projects and programs focused on the development and promotion of entrepreneurship in the given region.  

OBJECTIVES AND INSTRUMENTS OF REGIONAL POLICY

The aim of regional policy is the effective and balanced development of all parts of the country and the activation of their underused potential. The objectives should be set so that their fulfillment can be measured and at the same time the effectiveness of the used tools evaluated.

The basic objectives are usually formulated as a reduction of inter-regional unemployment differences, average earnings, convergence of gross domestic product per capita, etc. Objectives to encourage entrepreneurial activities in the region, to improve the region's technical infrastructure, to encourage housing development in the region, to improve the region's connection with other regions and the like are formulated as partial objectives to achieve the fundamental objectives.

Regional policy instruments should be derived from these objectives. In addition to the state participation in the region’s investment activity, which is the equipment of the area with the relevant technical infrastructure, it basically includes instruments that aim at attracting capital and business activities into the area, stimulating the use of internal development resources, and additional settlement in the area, as well as stabilizing the population in the area.

Tools geared to influencing decision-making regarding the spatial allocation of capital. Institutional and program provisions are then based on the regional policy instruments. Specifically, institutions are used as regional policy managers or significant regional actors, responsible for program drafting and implementation. Instruments typically take the form of certain preferential conditions when allocating them to defined regions. This may include, for example, preferential credit terms, preferential tax rates, and investment subsidies.

The countries’ experience with these instruments shows that preferential credit terms have proven to be the most successful, while tax concessions have proven to be a very problematic tool. In many cases, this lead to the fact that enterprises were not capable of competition under normal conditions, i.e. after the expiry of the time when the taxes were wholly or partly forgiven. Many businesses also saw speculative behavior, as their interest in operating in the region was lost after the provision of benefits had elapsed. The success of using investment subsidies depends to a large extent on the conditions under which subsidies are provided. They need to be related, for example, to the creation of new jobs, otherwise it may happen that a company that uses advanced technologies may be placed in the region, leading to the objective of attracting production activities to the area but having no significant impact on the solution of unemployment issues.¹

Instruments aimed at population relate to various financial incentives. These incentives are aimed at population stabilization and additional settlement. Governments usually proceed to dealing with population stabilization in regions with difficult climatic conditions, in regions with specific natural conditions, i.e. in regions with very sparse population and where the state does not want to allow the depopulation of these areas. It therefore proceeds to various forms of support for the population, aimed at supporting the activities appropriate to these territories, such as tourism, agrotourism, organic farming. Settlement of areas is again mostly done in areas with specific natural conditions, but also often in border areas. The instruments take a form similar to those used for stabilizing settlements. These instruments are usually also used as advantageous conditions for obtaining a loan for the purchase of housing.

¹Compare Matoušková, Z. et al. Regionální a municipální ekonomika, Brno, 2006, p. 76.
When implementing specific regional policy measures, it is necessary to respect the serious reality, which is the inevitable activity of those who live in the region. It turns out that interregional differences can be overcome only if it is also the wish of the underdeveloped region’s inhabitants; in other words, it must primarily concern the activation of the use of their own internal development potential. Although the reality is that external resources are required for this activation. Examples include highway construction and tourism promotion.

European regional policy is a policy of solidarity where more than a third of the EU budget is devoted to reducing disparities among individual regions and inequality in the welfare of citizens. With this policy, the EU wants to contribute to the development of regions that are lagging behind, the restructuring of industrialized areas that found themselves in a difficult situation, the economic diversification of rural areas where agriculture is retreating, as well as the revitalization of neglected neighborhoods. The objective is to reduce disparities between the development levels of the various regions, reduce the backwardness of the most disadvantaged regions, and also to promote harmonious, balanced and sustainable development of economic activities.¹

When financing individual projects, the regional policy follows the following seven principles:

1) the principle of concentration – a concentration of effort where funds are used only to implement projects according to predetermined goals. In addition, funds are targeted to the most troubled regions and are allocated to projects that help the most in addressing these challenges,

2) the partnership principle – this principle leads to the establishment of very close cooperation between the authorities at all levels; it is implemented both on a vertical and a horizontal level,

3) the programming principle – the funds are programmed into multi-annual and multi-disciplinary programs, the development of which is entrusted to the governments of the individual member states, and the allocation of funds is focused on the maximum complexity of the solution for the problem region,

¹ Rektořík, J., Šelešovský, J. et al.: Finance rozpočty účetnictví veřejná kontrola II. díl, Masaryk University in Brno, 2002, p. 49 et seq
4) **the principle of additionality** – fund are only intended to complement the investments made by individual countries, and expenditure should show a slightly increasing trend,

5) **the principle of monitoring and evaluation** – prior to approving a particular project, its impact has to be assessed in detail, emphasis being placed on continuous monitoring of the project implementation and subsequent evaluation,

6) **the principle of solidarity** – it blends with the overall concept of regional policy and involves the principle of joint support of more advanced countries in favor of less advanced countries,

7) **subsidiarity principle** – the basic principle on which the entire European integration is based means that it is necessary to implement individual actions at the lowest possible level of decision-making and, within the framework of regional policy, this principle applies to the selection of projects for implementation and their subsequent inspection by the competent national authorities.\(^1\)\(^2\)

**PROGRAM DOCUMENTS OF THE EUROPEAN UNION**

The 2014-2020 programming period is in line with the EU budgetary framework for 2014-2020. The financial allocation for the Czech Republic is about EUR 24 billion. Some of the most important chapters of the European budget in the coming period will be those containing funds to support cohesion policy, rural development policy and the Common Maritime and Fisheries Policy. Cumulatively, these funds will be called European Structural and Investment Funds, in short ESI Funds. This again concerns two Structural Funds European Regional Development Fund (ERDF), European Social Fund (ESF), then the Cohesion Fund (CF), European Agricultural Fund for Rural Development (EAFRD) and European Maritime and Fisheries Fund (EMFF).

The intention of the European Union is that these funds make a maximum contribution to the fulfillment of the **Europe 2020 strategy** – A strategy for smart, sustainable and inclusive growth. To make better use of these funds in favor of the Europe 2020 Strategy, each Member State has


\(^2\) More detail Kučerová, I.: Evropská unie: Hospodářské politiky, Prague, Karolinum Publishing House
developed a Partnership Agreement, approved by the European Commission, with the Ministry for Regional Development of the Czech Republic being responsible for its preparation in the Czech Republic http://www.mmr.cz/cs/Uvodni-strana. The Partnership Agreement analyzes the current socio-economic situation of the Czech Republic, local disparities, development needs, and potential on the basis of European, national and regional strategic documents. It defines priorities and expected results for the entire 2014-2020 programming period. Because of its character as the overarching strategic document for the 2014-2020 programming period, the Partnership Agreement is a determining document and, with its content, binding on individual programming documents as well.¹

In the 2014-2020 programming period, the number of operational programs (OPs) is significantly reduced from the current 24 to 8. In the development of future OPs, new emphasis is placed on setting up intervention logic, applying the principle of thematic concentration, and increased attention is also paid to the setting of indicators in line with the requirements of the European Commission. One of the basic conditions (an ex-ante conditionality) necessary for the approval of new OPs by the Commission is the preparation of the Strategy for Smart Specialization, which aims at identifying a local competitive advantage and thus maximizing the use of regional potential in a certain area unique to the region. The manager of the National Strategy of Intelligent Specialization of the Czech Republic (National RIS 3 Strategy) for the Czech Republic is the Ministry of Education, Youth and Sports.²

**DRAWING OF FINANCES FROM THE EU FUNDS**

The key to drawing subsidies are well-designed projects that can be defined, for example, as a set of activities with defined objectives that lead to a specific result within a given timeframe. This is a complex process that we still have to learn after our country's accession to the EU.

Within the Structural Funds, priority is given to projects that involve the development of the territory as a whole. Successful projects must

contain a clearly defined goal and contribute to the overall objective at the regional level as a total sum of such projects.¹

When preparing to build a project, this process takes place in mutually related activities, where the first task when building a project is to identify the target group. Further processes include partner search, problem and goal analysis, strategy selection, formulation of indicators, and the specification of units, quantity and funding sources. Account must be taken of those costs which are eligible and may be co-financed by the Structural Funds, but also the ineligible costs that must be reported in the financial plan of the project in question and covered by the applicant's funds. It is also necessary to respect the six-year programming cycle for planning the allocation of EU structural funds, including other principles.

To obtain financial support under the Structural Funds, it is necessary to meet the general eligibility criteria of the project, to prepare the application and project documentation to the required extent and quality, and submit all the documentation in due time.

In each EU country, management and payment authorities are required to be set up within the financial management of structural funds. In the Czech Republic, the paying authority that manages, distributes, returns EU funds and fulfills other obligations is the Ministry of Finance. The managing authorities are designated by the relevant ministries, which also perform the function of a payment unit in some cases.²

Financial control is carried out on the basis of Act No. 320/2001 Coll., on Financial Control in Public Administration, as amended, methodically managing and coordinating this area within the Ministry of Finance. It is the central harmonization unit for financial control in public administration and performs a number of other activities. Control can, of course, be carried out by the Commission of the European Communities in accordance with the international treaties and European Union regulations. The Ministry of Finance, through the Central Harmonization Unit for Financial Control in Public Administration, cooperates with internal audit departments at individual levels and methodically manages their activities.

The European Commission's analysis of finances in the European Union clearly shows that the Czech Republic is one of the worst countries in using the Structural Funds, with only 23.5% of all funds being used.¹

Lack of professionalism and interest, as well as the politicking of the entire political representation certainly have their share in this issue.

**PERSPECTIVES OF REGIONAL DEVELOPMENT IN THE CZECH REPUBLIC**

The CR has developed a Regional Development Strategy, which includes a strategic vision of regional development, where the CR wants to be a fully-fledged, economically efficient EU member with parameters close to the EU average in all basic criteria (GDP per capita, employment, social security, etc.) with the way and quality of life that correspond to our historical tradition and the position of the CR in Europe. It wants to be an EU region reaching such a level that it can no longer claim the right for support for backward regions.²

*It is not necessary to emphasize the need for a courageous development vision of our state, which would exceed the four-year term of office of the government. The start of economic growth based on the knowledge economy and the complex development of the territory is the goal of every political representation. But the much more difficult task is to find a way to achieve this goal with limited financial capability.*³

The seven-year budget cycle given by the EU programming period is also the basis for the key strategic document of the Czech Republic, which presents a set of measures and instruments through which the above objectives can be achieved. The 2014-2020 Regional Development Strategy is geared to four main objectives – across which cross-sectional priorities and objectives are blended. Specifically, it is the Regional Competitiveness (to be achieved mainly in the metropolitan and development areas), Territorial Cohesion (support of all types of areas in

---

¹ Bobošíková, J. *Regionální politika Evropské unie*. EU Monthly Newsletter, issue no. 38
² Regional Development Strategy of the Czech Republic, 2000
the CR), Environmental Sustainability and Public Administration and Cooperation objective.¹

Today's reality is that evaluations related to the impact assessment of programs and the environment in the CR, but above all, political negotiations on the EU budget for the next period, rather point to a more development-oriented regional policy in the field of competitiveness and relatively less scope for cohesion instruments.²

REFERENCES

8. Wilson, P. W.: Efficiency in education production among PISA countries, with emphasis on transitioning economies, Department of Economics, University of Texas (2005).

¹ Kolář, P.: Vývoj politiky regionálního rozvoje České republiky a Slovenské republiky, Masaryk University, Brno, 2005
² For example, the RPS MMR 4/04 Barriers to Competitiveness Growth of the Czech Republic evaluation project.
PRUDENTIAL REQUIREMENTS FOR LIQUIDITY

Nikol NEVECERALOVA

1Masaryk University, Czech Republic, 431305@mail.muni.cz

This paper is focused on the issue of the prudential requirements and their tightening conditions. I will outline the progression of prudential requirements such as capital, risk and liquidity requirements. This paper deals with the situation after the financial crisis (2007) focused on issues of prudential requirements, especially with focus on indicators of liquidity as Liquidity Coverage Ratio (LCR) and Net Stable Funding Ratio (NSFR) in the context of Czech law.

Keywords: liquidity, liquid assets, Basell Committee.

INTRODUCTION

In the banking regulation, the greatest attention is on the capital adequacy issues where the main aim is to prevent or limit the emergence of risks arising in the context of banking business. The tendency to overcome these risks also manifests itself at the level of the European Union. These regulations are often implemented through directives or regulations (as a hard law).

Directive, it is usually necessary to implement into the law system of the Member State, on the contrary, the regulation is binding on content for Member States and how to achieve it is left on responsibility the member. In the context of tightening prudential requirements is the Union package of CRD directives and CRR, this “package” continues on his predecessors and at the same time introduce new requirements which, in the context of harmonization, will impact on financial market participants. Efforts to harmonize and unify minimum standards of transparency in the banking sector are done through directives and regulations.

However, it is also possible to meet soft law banking regulation in the form of recommendations which has an element of independence because
is not legally binding. It is up to the institution to decide whether to follow the recommendation. Institutions that issue these recommendations are non-governmental organizations or other international non-governmental institutions, for example: The United Nations Commission on International Trade Law, the International Chamber of Commerce in Paris and the Basel Committee. (NGO)

Description, analysis, and synthesis are the methods used for writing this paper.

LITERATURE REVIEW

Under the auspices of the Bank for International Payments, the Basel Committee on Banking Supervision was established in 1974. The Committee consists of the central bank Governors of the Group of Ten countries. With an increasing number of Member States have started to expand the membership base and the Basel Committee consist 27 Governors of the national banks, i.e. one representative from each Member State. At the meeting of the Basel Committee, is a place of negotiation between experts and organizations that have an observer status according to The Bank of Investment Settlements (2018) The European Central Bank, the Financial Stability Institute, the European Commission and the European Banking Authority.

The Committee was set up as a meeting point, should be a forum for sharing the ideas and problems which individual states are facing. At the same time, individual states could help and inspire each other on issues of functioning and regulation of the banking sector (Pavlat, Kubicek, 2010).

The original reason for the meeting was informative and it was place for sharing of national views and issues, including inspiration from the functioning of the banking sector. Meeting was effective and it has been decided that regular meetings will be held. The Committee will be place for sharing information, solutions and strategies for co-operation and banking regulation issues.

The results of negotiation inside the Committee are rules without legal binding without legal force and therefore not enforceable, which does not dispute the Committee. (Lawrence, 1998).

The Committee emphasizes, the rules or recommendations are results of arrangements agreed between members which based on good practice which could be apply individually or in conjunction with others, but it is on the national banking system whether to follow it. The way how these rules are create is in a simplifies conceptions as, the Governors will come
up with the best solutions which is working in their particular market and the Committee is trying to derive from this information the most effective solution that would be applicable as a general minimum rules or standards which could be applied across all the member states.

It should be added the Basil Committee does not meet the formal elements of an international organization and the outputs are not internationally binding (Mathews, 2005). This is justified by the fact that the Committee is linked to other organizations, especially those that are in the position of observers participating during the negotiations committee, and thus ensures indirect liability and indirect enforcement, which is derived participation of the supervisory organizations. This is also encouraged by the fact that the Basel standards was accepted by the Member States and applied by national banks. I note that the Basel standards especially Basel I., from 1988 was also accepted by non-EU states, that is, members which had no place in the Committee (Pavlat, Kubicek, 2010).

The Basels agreements

In Basel Standards are grounded basic principles of how to conduct the banking supervision by national bank. These standards are the result of meetings of the Basel Committee (1999) and are presented by the Methodology of Basic Principles.

Basel I (1988) has the primary aim to establish minimum capital requirements and were designed for international banks. Within the framework of Basel I is obvious that the capital adequacy reflects and tells about the institution so much because we can detected by this indicator amount of capital. This amount of the capital relates to the risk connected with the financial operations and, if it is sufficient to cover the loss, does not endanger the creditors and that is what it is all about. In 2006, an international conference was held, where the representatives of central banks agreed to a revision Basel I for the Rigidity. The result was a revised version as Basel II (Bank of Investment Settlements, 2018).

Basel II was created between years 2001-2005 and is essentially based on Basel I, the priority is to protect the financial system also unification of regulation and supervision is maintained. However, Basel II brings the novelty of creating three-pillar structure which is to form a complex and interdependent system, and which will serve as an international standard as
capital adequacy, supervision and transparency. The Committee has defined how and what is banking supervision. However, neither the new internal control rules set out in Basel II were sufficient and did not reveal a crisis in time. This crisis has again led to an open discussion over the sufficiency of Basel II. The lesson from the crisis was that it is not enough to set the rules for capital adequacy but it is necessary to examine what capital is composed.

Basel III was approved in 2010. It emphasizes on capital adequacy, internal control, risk management and appealed to monitor possible risks. Basel III reformed capital requirements, liquidity and other measures to ensure stability. In this paper I will focus on the novelty that Basel III. Introduces a minimal liquidity standards in the form of two new indicators i) the Liquidity coverage ratio (LCR) and ii) the Net Stable Funding Ratio (NSFR).

Capital Requirements Directives
Basels standards are not legally binding, however they are represent by directives and regulations as a part of the secondary EU law. By this inspiration, the ideas of the Basel standards were embodied in the directives Capital Requirements Directives (CRD I-V). The directives are compilation of the Basel standards, so what has proved to be functional has remained. The main difference between the Basel and CRD directives is binding because CRD directives are applicable to the banks, investment and credit institutions.

Above mention CRD II (2009/111/ES) which reflected the need to increasing requirement of capital adequacy and introduce new supervisory practices not only over implementation of new procedures in the supervision of banks but also investment companies and especially introduces the requirements for liquidity. This directive was created in a hurry, and so, before it was approved, the Commission submitted a new proposal that was adopted in 2010 as CRD III (2010/76/EU). In response to Basel III, it revisited it again with the directive CRD IV (2013/36/EU) and „The general prudential requirements laid down in Regulation (EU) No 575/2013 are supplemented by individual arrangements to be decided by the competent authorities as a result of their ongoing supervisory review of each individual credit institution and investment firm.“ (2013/36/EU).
With CRD IV is closely linked The CRR, (Capital Requirements Regulation No. 575/2013) because CRD IV governs general regulation, but the CRR is already specific and contains a legal regulation and regulated institutions must follow it (Schweigl, 2016) It is a complex of prudential requirements which to be applied as a basic or minimum rules to be followed by banking, credit and investment institutions. The CRR defines capital, capital requirements, credit risk management methods, credit risk management, liquidity rules, etc. The CRR regulation is directly applicable in the Czech legal order, it should be added that beside it is the Banking Act (No. 21/1992), the Act on Capital Market (No. 256/2004) and Act on Savings Banks and Credit Cooperative Societies (No. 87/1995), to which the rules of the CRD IV Directive have been transposed.

On 29 May 2018, the presidency of the council of the EU published it is latest proposal for the draft Directive amending the CRD IV (CRD V).

RESULTS

Liquidity requirements

Following the failure of many banks (2007) the Basel Committee introduced two liquidity standards as part of the Basel III post-crisis reforms. Basel III set new rules for capital, including liquidity requirements as improving immunity and prevent crises such as the inability to cover obligations from trading. The idea is that the institution should have diversified enough assets to cover short-term but also long-term liquidity shortages. These requirements define the global liquidity standards that include two indicators: The first of these is the Liquidity Coverage Ratio (LCR). It enhances banks' short-term resilience. The second is the Net Stable Funding Ratio (NSFR) - aims to promote resilience over a longer time horizon by creating incentives for banks to fund their activities with more stable sources of funding on an ongoing basis (Bank for international settlements, 2018).

The Liquidity Coverage Ratio (LCR) focuses on short-term liquidity, which will ensure that banks maintain sufficient liquid assets, in the next 30 days lasting adverse situation. The LCR focuses on short-term liquidity, which will be ensured by banks maintaining a sufficient volume liquid assets known as HQLA (high quality liquid assets) within the 30-day horizon of unfavorable situations. The purpose is to have enough assets which can be easily and immediately converted into cash at little or no loss

The second indicator is Net Stable Funding Ratio (NSFR) is actually being applied since 2018. This indicator focuses on the medium and long-term liquidity to banks, and specifically in such a way that the bank maintain sufficient resources to cover long-term investment for both normal and in unfavorable conditions, in the form of stable sources (capital, long-term deposits) to cover illiquid assets for one year. The NSFR is expressed as a ratio which must be equal (or exceed) 100%. The ratio relates the bank's available stable funding (the Bank for international settlements, 2018). This indicator consist from ASF (Available amount of stable funding) bank indicator which is part of capital and liabilities that remain with the institution for more than one year (Kabelik, 2015). ASF range from 100% - meaning that the source is the most reliable and in expectation is fully available in more than one year – to 0% -informs about unreliable source.

The second indicator RSF (Required Stable Funding) is ranging between 100% - 0% is the value of stable funding to be held in relation of liquidity characteristics, residual maturity of assets and liquidity risks. If the RSF has 100%- means that the asset need to be entirely financed by stable funding because it is illiquid, that is mean this asset is can not be immediately converted to a liquid (money) resource. The illiquid is for example loans with residual maturity of 12 months or more, from the point of view of the institution (Bank for international settlements, 2018).

Both indicators reflect liquidity risk, but do not take into account national specificities in any way. For that reason, the Czech National Bank adopted these indicators and incorporated into the methodology. This methodology reflects the current national development and the situation on the financial markets. The Czech National Bank through LCR testing how banks are resistant to liquidity shocks. From the report on financial stability shows that the banking sector is resilient to liquid shocks (Czech national bank, 2017/2018).

CONCLUSION

Banks are also resistant in the context of credit losses because banks have a capital cushion to help to absorb negative shocks and keep price capital adequacy above the regulatory minimum of 8%. Resistance is also
against liquidity shocks, which is due to “a strong base of client deposits, the high availability of capital on the liabilities side, and a significant share of exposures to the CNB on the asset side.” (Czech national bank, Report on financial stability 2017/2018). Domestic banks have reached the required LCR limit of 100%. The stress test shows that the NSFR indicator is also on a very good level. Overall, testing shows that the banking sector is stable and would be able to cover the net outflow of liquidity over a one-year period.

These conclusions can be applied primarily to the banking sector. However, it opens the question of risk for investment companies and the funds they offer. The ESRB has analyzed and identified the potential risks of liquidity transformation of open funds and a leverage effect, when investing in more risky funds may increase the risk of liquidity shortages (highly liquid investments investors placed in less liquid assets). For that reason, the ESRB issued a Recommendation of the European Systemic Risk Board of 7 December 2017 on liquidity and leverage Risks in investment funds, the ESRB 2017/6 with aim to reduce the potential of systemic risks.

Basel, which waives any liability, is considered to be the cradle of international prudential requirements, capital adequacy, supervisory liquidity, and other requirements for banks, investment and credit institutions. And they can not deny the importance of role because they have laid the basis of the CRD directives.

“From the last revision of CRD IV/CRR, the EU’s banking sector faces a revised Capital Requirements Directive and Capital Requirements Regulation (CRD V and CRR II. These revisions to are likely to stretch significant regulatory change into the next decade.” (Dubois, 2017). The last revision CRD V provide „the main aim is to implement recent international regulatory provisions for banks, set by the Basel Committee on Banking Supervision (BCBS), address remaining regulatory shortcomings and contribute to more sustainable bank financing of the economy“ (European Parliament, 2018).

The question is what impact has constantly receiving new and stricter prudential rules. Is this impact positive or artificially disturbed by market developments and in what direction will the CRD V, CRR II and other regulations further evolve.
REFERENCES


9. DIRECTIVE 2013/36/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and


16. REGULATION (EU) No 575/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012. The CRR is a directly effective regulation and will apply from 1 January 2014, with the exception of a few provisions that apply from January 1, 2015, respectively. 1 January 2016. Retrieved from: https://eur-lex.europa.eu


In this paper, the author discusses a forthcoming European Union directive that the European Commission wants to adjust to the new rules on the taxation of digital business and financial operations. At the time of the digital economy, this issue is highly topical, yet still raises many questions. The proposal of this Directive includes, among other things, the possibility for Member States to tax the profits of a corporation that arises within its territory, even if the taxable person is not physically present. Under certain conditions, a 'significant virtual presence' would be created in each Member State in which it derives income from its business activity. The aim of this paper is to confirm or rebut the hypothesis that the introduction of the 'significant virtual presence' of legal entities carrying out profitable activities in several Member States of the European Union is a desirable step towards a fairer and easier distribution of taxation, while providing readers with an overview of the directive.

**Keywords**: digital economy, digital tax, European taxation regulation

**INTRODUCTION**

We live in the times of the Fourth Industrial Revolution and the boom of the digital economy, frontiers between countries are beginning to be overcome. Business activities developed abroad are not unusual, but rather the opposite, and it is necessary for the legal regulation to meet this trend. For the last few years, the European Union has adopted several measures for its territory that contribute to the development of international private law. Examples include the termination of roaming charges on telephone services within the European Union, the introduction of cross-border portability of prepaid online products, such as Netflix or HBO GO.
programmes, or a grand ban on so-called geo-blocking, which means banning certain customer discriminatory techniques based on residence or nationality (e.g. unjustifiably different prices or business terms) when shopping online from traders based in a Member State other than that where the customer is located.

Mentioned novelties are further steps towards the Single Market and bring a number of facilitations and improvements in the procurement of goods and services for customers, and new rules on consumer protection, copyright, data protection, cyber security and protection against hacking attacks, the fight against international crime and terrorism. However, the single market also entails a new administrative burden for both business and government authorities. On the side of the merchants, it is primarily about being aware about all their responsibilities associated with their activities in each individual country where they operate, including the tax ones, while on the part of state authorities there is always the duty to search for, compile information, and to supervise and enforce compliance with the obligations of the subjects, while administering the relevant taxes is their very important task.

The European Union has long been striving to facilitate these activities for both parties. The planned directive is intended to help it. According to the drafting document, the current adjustment based on double taxation treaties between countries is appropriate for the traditional market and its organization but is far from sufficient for its current functioning and does not correspond to the fact that the real presence of traders or physical money is not necessary anymore. It introduces an important concept of significant virtual presence, which implies the harder traceability of entities and information important to identify their responsibilities.

In this paper, the author aims to make the directive characterized as a whole with a focus on the issue of the virtual presence and its impact on the tax obligations of commercial entities in individual countries. The question of their positive contribution is the main hypothesis of this article, which the author attempts to confirm or refute in the end. Further significant aspects of the Directive will be defined, and its future impacts assessed. From the methods, there will be used mainly the descriptive, comparative and interpretative. In the end, abstraction will be used to evaluate possible future developments and synthesis to summarize the findings.
CURRENT STATE

What the income tax on business affects, for the Czech Republic, and probably for most of the Member States of the European Union, is currently the so-called registration principle for legal persons and the principle of tax residence for physical persons. Thus, so-called unlimited tax liability is established on the territory of the state. This means that if a natural person who is a tax resident of the Czech Republic or a legal person whose registered office is registered there is a profit from his business or he obtains another taxable income, the tax is calculated and paid according to Czech law to his local administrator taxes in the Czech Republic, regardless of the country of origin.

For cases of conflict of laws where the law of one country would have to pay tax on the basis of tax residence or registration principle while the latter would require income taxation at the place of origin, are these relationships are usually governed by so-called Double Taxation Treaties that determine the conditions and the rules of levies so that neither of the parties to the contract is abbreviated to tax and, at the same time, that the taxable entity is not subject to excessive tax burdens and is not made more difficult or impossible to carry out its business, which, of course, will also involve the participating states. Determining who is and who is not a tax resident is not that simple in practice since this is determined by the number of days spent in the territory of the state, and the entity must at the same time meet certain criteria such as flat-rent or permanent income. Again, these are the rules laid down by the laws of each country, which again can cause problems in the conflict between two different legal regulations or a disagreement with the provisions of international treaties to prevent double taxation or others.

The European Commission, in its summary for the media, highlights some of the main problems of the current regulation that it wishes to change. Those are:

- The unfairness of the tax system and the lack of a level playing field for new types of digital companies, and those traditional, which imposed a greater tax burden.
- Threat of loss of tax revenues in the public budgets of Member States that do not have the necessary tax regulation. This is linked to the above-mentioned risk of disruption of the Single
Market of the European Union by the fact that some states are taking unilateral measures, creating loopholes in the European law and opening up room for tax evasion.

As an example, we can mention the well-known case of 2014, when Google paid on the revenue tax an amount thirty times lower than the Czech competing platform, Seznam.cz, in the Czech Republic. Google has attributed significantly lower revenues on the Czech market than Seznam.cz, but the industry's Internet Development Association estimates that the two companies had approximately the same share in the online search advertising market that accounts for the bulk of their revenue. The difference was reached by signing contracts with Czech end customers by Google Ireland. In this way, Google transfers profits from most European countries to countries with a more favourable tax regime. In these situations, the future regulation should help prevent it.

- The need for a stable and competitive environment for digital companies that grow much faster than traditional ones. For example, the Czech Union of Industry and Transport believes that even a solution at the level of the European Union will not be enough as it is still of a very local nature and could have a negative impact on the competitiveness and development of modern forms of business at level of the OECD.

Among experts opinions, we can also mention a viewpoint of Tomáš Sejkora from the Department of Financial Law and Financial Sciences of the Faculty of Law of the Charles University in Prague, who says that the debt of the public budgets of the Member States, which has an increasing tendency, contributes to the need for regulation, therefore, in the absence of political support to reduce mandatory spending, he said, the search for the new or increasing of profitability of existing sources could be expected.

In order to prevent Member States from losing profits for public budgets from the sums earned by foreign entrepreneurs on their territory and from their citizens, some of them are starting to adopt their own rules governing the taxation of revenues generated in the digital sphere. These measures are quite unilateral and, according to the Commission, this can
lead to fragmentation of the Single Market and its existence and functionality of which is essential for the European Union. The challenge, therefore, is to create a friendly environment for the development of the digital economy under the fairer and more efficient tax system.

UPCOMING CHANGE

Last March, the Commission submitted several facts to the European Parliament and the Council, highlighting the urgency of adopting new measures. The report states that 20 billion emails are sent every day in the European Union, 150 million articles are written on social networks and 650 million online searches are carried out. These statistics show how much the world is changing and how the need for physical presence in a place is gradually losing its essence. Online business is creating new values, and for Europe's economic growth, it is a great opportunity, but it seems to have been a bit ‘lazy on laurels.’ The rules are quite outdated and do not completely react to current developments.

What creates values in the digital economy is no more tangible goods or services with real results but the interplay of vast amounts of knowledge, algorithms, user data, and internet functions, and digital money is also worth mentioning. Today, there are companies that exist only in digital form and as such provide their services, such as social media companies, collaborative platforms and online content providers. The above-mentioned report also shows an interesting fact that, on average, digitalized businesses have an effective tax rate of only 9.5%, compared to 23.2% for traditional business models. She also spoke of a situation where the states try to fight tax evasion, but it is not easy under the current regime for these companies. In this context, the results of a Public Communication were presented, which showed that three quarters of respondents agreed that the current international tax rules allow companies with digital business models to benefit from certain favorable tax regimes and push down their tax contributions.

The European Union first came up with a proposal to introduce a Common Consolidated Corporate Tax Base directive. The Common Consolidated Corporate Tax Base for the European companies would mean that the income of commercial corporations would be taxed collectively for all its branches in different Member States. The calculated tax base would then be apportioned between the countries where the entity
is registered and where the most significant interaction with the user occurs and taxed according to the jurisdiction concerned. This possibility is further discussed at the time. Another option is the adoption of the Digital Outline Principles and Profit Principle Directives with adjustments to the Common Consolidated Corporate Tax Base alone, or with the recommendation to change the rules to third countries, which is currently preferred by the relevant institutions.

With regard to the adopting of legal regulations by individual states, the Commission considers that it is also necessary to adopt a temporary measure, which would only apply to some of the digital activities for the time being: (a) the sale of advertising space on the Internet, (b) digital mediation activities enabling users communicate with each other and facilitate the exchange of goods and services; and (c) the sale of user data. At the same time, companies with a minimum annual global income of €750 million and €50 million within the EU. The Commission thus wants to prevent the adopting of unilateral adjustments by the states while protecting small businesses from the sudden heavy tax burden. In fact, on a longer-term basis, the new arrangements should benefit middle, small and micro-enterprises through the establishment of a level playing field.

CONCLUSION

In order to evaluate the benefits or negatives of the proposed adjustments, the issue of competence of the European Union must also be considered. In general, tax policy, particularly as regards direct taxes, is exclusively in the hands of individual countries. Some even speak of a breach of the principle of subsidiarity of Community law. Denmark, the Netherlands or Malta argue that the primary purpose of tax extensions under the proposed directive is not to ensure a better functioning of the Single Market, but to simply increase tax revenues, which is left to national governments. Other countries, such as Ireland, Sweden and Estonia, have rejected the proposal for a directive altogether, while, for example, France or Germany strongly support the idea of the proposed directive. In contrast, as mentioned above, the Commission takes the view that the adoption of the Directive will enhance the protection of integrity and the proper functioning of the Single Market. An important aspect of course is keeping tax revenues in public budgets and establishing a level playing field and a healthy competitive environment in the market. Another Commission's argument is that, while the generally preferred option for adopting an OECD regulation, if the directive were adopted by
2020, Europe could be a leader in shaping global regulation of the issue. However, unfortunately, to date, this has not been explained in detail, but it can be assumed that such a situation could contribute to Europe's stronger economic position on the global market.

The author herself agrees with the Commission's view that fragmented national regulation is not appropriate in this case. Digital business goes beyond traditional national borders, yet it is not still allowed to get rid of real nationality. If each country has different income tax rules from the above-mentioned activities based on different criteria, it will not actually be possible to focus on companies' tendency to attempt tax optimization or even tax evasion. The potential conflict between one or more national adjustments in terms of jurisdiction may also be problematic. It is obvious that such a situation would significantly increase the administrative costs of both the tax administrator and the obligated subject, which is of course not desirable, and this could become a barrier to entry the market for some businesses.

In conclusion, the author is convinced that the adoption of the regulation for the taxation of revenues from digital activities is necessary at transnational level, but at a higher level than the European Union itself. Therefore, the hypothesis provided in the introduction of the article cannot be confirmed neither refuted. However, it is necessary to note that somewhere there must always be a start, and the mentioned directive can be a good first step towards achieving all these goals.

REFERENCES


EVOLUTION OF BUDGET AND BUDGETING IN FRANCE

Richard BARTES

1Masaryk University, Czech Republic, 391896@mail.muni.cz

In the first place, the paper deals with the evolution of the state budget in France. The topic is studied within the comparison the French and English evolution of state budget. The paper points out the same and different features in the evolution of state budgets of these countries. Afterwards, the paper presents the current budgetary conception in France. Due to this fact, the paper clarifies notions as budgeting, budget or performance budget in connection with France. As a result, it could be marked the analysis of the similarity during the evolution of state budget in England and in France or else their mutual inspiration during the evolution. As other result could be considered the clarification of terms like budget, budgeting and performance budget. At the end of the paper, there are presented differences between the traditional and the performance budget. The methods used in the paper are applying the analysis and synthesis, description (historical description) and comparative methods.

Keywords: Public finance; budget; budgeting; evolution; France

INTRODUCTION

Budgetary law is a crucial, perhaps the most important subsystem of the financial law (i.e. in France public financial law). It is a public regulation of public finance including the regulation of public finance of the EU budget (in case of member states).

In the French legal theory, it is necessary to distinguish terms as public financial law (in French droit financier public), which means the regulation of very strictly defined public finance and other branches of law, such as the public economic law (in French droit public économique). In this context it could be mentioned, that in France (as in other countries) the tax law is an integral part of public finance (or rather droit financier...
public) and not an independent branch of law. Budgetary law in France is connected with the regulation of financial planning, which covers the short-term, medium-term and long-term financial planning of obtaining and expending public funds, the legislative process of budget Act or the process of authorization of public expenses. The French specialty is the public accounting which is one of the subsystems of the French public financial law and it covers the whole public sector in France (not only the in state level, but also in the regional and local level or in public hospitals). The French public accounting is inspired by a private sector accounting model (i.e. the accounting on an accrual base) and it uses selected elements adapted for the public sector.

In general, three main conceptions of public finance can be distinguished: the Anglo-Saxon conception, the German conception and the French conception. The paper focuses on the French conception of public finance and deals with the evolution of the French state budget. It is worthwhile to see how the French state budget has evolved, which in the context of today’s conception of French public finance is a performance and multi-year budget. The French concept of public finance is highly inspiring, not only for the former French colonies, but also for countries such as Poland, Canada, the Balkan countries or Lithuanian, Romanian, Bulgarian, Russian. These countries use some elements of the French conception (for example, Poland implemented the performance budgeting in the manner of French model or another example is the establishment of the control authority RIO in Poland).

The aim of the paper is to present the evolution and historical formation of the French state budget and to present the current conception of the French state budget. For this reason, it is necessary to proceed from foreign literature, especially the French literature. English and Polish literature are also suitable scientific sources for concerned topic.

The methods used in the paper are applying the analysis and synthesis, description and comparative methods. The method of analysis and synthesis, the descriptive method could help to explain the evolution of the French budget. The comparative method could help to compare the concerned evolution in France and in other countries. For a particular comparison of evolution of the state budget, the United Kingdom was chosen, because the evolution of its state budget carries similar features to the evolution of the French budget since 13th century.
LITERATURE REVIEW

The paper draws the information only from foreign literature. With regard to the topic, the French literature is very helpful – it could be noticed the French writings by Gaston Jèze (the father of the French law of public finance) or another classical French author René Stourm.

Contrarily Michel Bouvier or Joël Molinier represents current leading figures of the French law of public finance and their writings should be quoted. In this context, the thesis of Joël Molinier (La procédure budgétaire en Grande-Bretagne, 1969, director of the thesis Paul Marie Gaudemet) could be mention, because it focused on, besides other things, the evolution of budgets in the Great Britain and therefore it serves as a suitable source for the comparison of evolution of state budget in France. It must not be forgotten to mention the French lawyer Gilbert Orsoni who is concerned with the French law of public finance including the French budgetary law or the French academician Alexandre Guigue because of his thesis dealing with development of the French budget. The French conception of public finance inspires the Polish financial science; therefore, e. g. Teresa Lubińska researches the Polish performance budget and his form in comparison with to the French one.

There are also a lot of British literature researching concerned topic as for example writings by Herbert Brittain who occupies with the evolution of state budget in Great Britain in his The British budgetary system (1996), or by Basil Chubb and his The Control of Public Expenditure (1952).

RESULTS

Baron Louis, at that time young minister of finance of Louis XVIII, presents in his famous speech of July 22, 1814 his conception of the budgetary law and lays the bases of the rule know as “quatre temps alternés” (i.e. in English “four alternate times”): the preparation and execution of the budget is the responsibility of the Government, the vote and the control are the responsibility of the Chambers. For almost two centuries, the French budgetary law is governed by this fundamental rule. All the French books devoted to the finances of the State preserve this presentation, whether books of the first half of the twentieth century (e.g.
Edgard Allix)\(^1\), or those that address the positive law under the Fifth Republic (e.g. Michel Bouvier and collective)\(^2\).

When in 1814 Baron Louis proposed the determination of expenditure before the fixing of revenue, it only reproduces an old English principle. It has long been understood that the Westminster Parliament "authorizes and allocates appropriations and then finds the necessary resources to cover them appropriately"\(^3\). This distinction is such that the study of revenues and expenditures is treated separately in the English financial literature\(^4\). Some are even limited to the study of public expenditure alone\(^5\). In addition, the rule of "*quatre temps alternés*" (four alternate times) characterizes the English budget law since the Glorious Revolution of 1688, more than a century before French law. Alexandre Guigue\(^6\) accents that Molinier analyzes each stage of the “budget process” chronologically: “drafting the budget” (first stage), “the budget in front of Parliament” (second stage) and “the budget and its control” (third and fourth stage). The rule of “*quatre temps alternés*” comes from the parliamentary conquest of the power to determinate the revenues and expenditures of the state. This very notion of budget is only meaningful with regard to the vote. Gaston Jèze (the father of the French law of public finance) made it clear in his *Traité de science des finances publiques* (1910) by analyzing the historical origins of the concept in England and France. It states that the “principles underlying the modern budget” are: “the vote of the receipts, the vote of the expenses, the periodicity”\(^7\). “The modern budget existed” only when the three conditions were met\(^8\).

---

The parliamentary conquest of financial rights occurred in England a century ahead of France\(^1\). Thus, the principle of consent to the taxation was proclaimed in England by the Magna Carta of 1215, while its recognition in France results from the convocation of the States General in 1314. Despite of financial claims by taxpayer representatives for several centuries, the monarchs ignored them. The principle had to be consecrated once again in England after the “Glorious” Revolution by the Bill of Rights of 1689 and in France at the time of the Revolution of 1789 by the Declaration of the Rights of Man and of the Citizen of 26 August 1789. In the same way, the principle of the vote of expenditure appeared in England from the clause of appropriation of 1665. In France, this principle was missing until the Constitution of September 3, 1791.

British and French budgetary law have been constructed in a similar way since the 13\(^{th}\) century and are still based today on the “rule of four alternate times” (i.e. in French “\textit{quatre temps alternés}”). This constancy did not prevent the intervention of many reforms in the 19\(^{th}\) and 20\(^{th}\) centuries. In France, nearly half a century after the adoption of the ordinance of 2 January 1959 concerning the organic Act on financial Acts, deputies took the initiative to reform the “Financial Constitution” in depth. Their efforts led to the adoption of the organic Act of 1 August 2001 concerning financial Acts, fully applicable from the preparation of the initial draft budget Act for 2006. England, which became the Kingdom of Great Britain and Northern Ireland in 1603 before taking the official name of the United Kingdom in 1923, has also undergone major reforms, notably at the initiative of several select committees. Thus, the old principle that all financial questions had to be considered in the \textit{Commission de la Chambre Entière} was abandoned in 1966.

At first sight, the English and French budgetary law present more difference than common points. Indeed, since so-called classical times, the French budgetary law is characterized by a principle of unity, which impose in particular to include all the revenues and expenditures of the State in the same Act. But in England every year, no less than four pieces of Acts are passed in the budget area. Moreover, unlike the French system, the discussion of public expenditure is strictly separate from that of public

revenue. Thus, the principle of the unity of the French budget corresponds to a plurality of budgetary acts in Great Britain”¹.

In France, the principle of the unity is supplemented by a temporal requirement. Because of its forward-looking nature, the “budget Act” must be adopted before the end of the fiscal year, i.e., before December 31 of the year prior to the year to which it applies. Certainly, the system of “provisional twelfths” has long been such an exception to the rule that one has sometimes doubted its significance. But this requirement was maintained under the Fifth Republic, article 47 paragraph 3 of the Constitution of October 4, 1958 providing indeed that “if the Parliament has not pronounced within seventy days, the provisions of bill can be implemented by ordinance”. In England, adoption of the budget is not required before the beginning of the financial year, but it always comes after. The Appropriation Act (expenditures) is adopted between the end of July and the beginning of August, while the Finance Act (revenues) is passed in the course of the month of June.

In addition to the number of budget Acts adopted, the annual renewal of parliamentary authorization is necessary in France for all government revenue and expenditure. Contrarily, in England a part of the revenue and expenditure is permanently authorized, usually during the investiture of the monarch and for the duration of the reign. Every year, the British parliamentarians therefore only decide on part of the state's finances, because it does not seem necessary to renew certain authorizations. In France, René Stourm argued for this system that would have allowed deputies to concentrate their efforts on the only budgetary provisions whose automatic renewal is not necessary².

The financial year chosen by these states is not the same. As in many states, in France, there is a calendar year, whereas in the United Kingdom the choice was for an original year extending from April 1st to March 1st. Moreover, there is a difference in importance regarding the execution of the budget. If England has been permanently attached to the management system, France has long hesitated, preferring a system of compromise dominated by the management system under the ordinance of 2 January

1959, before adding the system of exercise by the organic Act of August 1, 2001.

There are also many interesting questions related with the terminology of budgetary law. In the United Kingdom, until 1993, the term of "budget" only referred to revenue proposals, and its use seemed a priori excluded for public expenditure. In France, the notion refers to both revenues and expenditures, but there are several legal definitions: “the budget is the act by which are foreseen and authorized the annual revenues and expenditures of the State or other service which the laws subject to the same rules” (article 5 of the Decree of May 31, 1862 concerning General Regulations on Public Accounting); “The state budget provides and authorizes, in the legislative form, the state's costs and resources” (Article 1 of organic decree of 19 June 1956 determining the method of presentation of the State). Different meanings of the term “budget” make it difficult for French law to use it. It is the only financial term, whose field appears sufficiently broad for the comparative study, and its etymology illustrates well the historical links, which maintained France and England. The political meaning of the term “budget” comes from England. However, the term itself originally borrowed by the English to old French “bougette”, which means, “little leather bag”. Its export to England intervened very early and gave rise to oral deformations of the French word “bowgette” (1432-1450), “boget” (1548), “boudget”, “bouget”. These terms first designated a travel bag, purse. The word "budget" was using in terms such as "a budget of paradoxes, a budget of inventions". The financial sense of “budget” appeared about the speech of the Chancellor of the Exchequer who said: “he opens his budget”. The first use of the term is due to the pamphlet entitled “The Budget Opened” published in 1733 and after some time it returned to France, enriched by its financial sense.

In 1768, the “budget” designates in Great Britain the annual statement of public expenditure and revenue. This meaning spread in France after the Revolution. For the first time, “the term was only manifested in the acts of the French Government by the decrees of the consuls of the 4th

---

Thermidor, Year X, and 17th Germinal Year XI, that is from the month of August 1802 to the month of April 1803, when this term replaced the former name of overview of revenue and expenditure.

Another terminology question related with French budget is the difference between terms “performance budget” and “performance budgeting”, because these terms are used promiscue. In many cases, the term “performance budgeting” is considered synonymous with the term “performance budget”. Budgeting is a process that includes planning, execution and budget control. Performance budgeting according to OECD is “a method of managing public funds, consisting in setting objectives and indicators, providing independence to public managers in achieving planned outcomes that are continuously monitored and reported, and that information is used to decide on funding, planning, remuneration and punishment depending on the results” [15].

The definition of performance budgeting is also presented by T. Lubińska: “performance budgeting is management of public funds through specific and hierarchical objectives in order to achieve concrete results (performance of tasks) measured though a set of indicators system (so-called objective management)” [16]. Such a situation has occurred in France, and therefore there is no doubt that, in the case of France, the performance budget is drafted, executed and controlled through the performance budgeting method. The performance budgeting is one of the methods of budget programming (planning). The gradual replacement of the so-called budgetary planning term (fr. plannification budgétaire) by the budgetary programming term (fr. programmation budgétaire) is a result of the transfer of modern public spending planning methods based on the measurement of results (effects) to the public sector. Planning and programming can be defined by a common term of planning that is an integral feature of each budget, regardless of the technique used to estimate its numeric values. The key elements of the performance budget are the performance classification and the so-called performance part (i.e. objectives and indicators).

The main differences between the traditional and performance budgets relate to the classification of expenditure (transparency) of the allocation

---

of public funds, expenditure planning methods, planning horizon, and the degree of flexibility in the spending of budget expenditures. The traditional budget (i.e. line-item budget) is created by tables containing revenue and expenditure items (with different levels of detail), in line with the budget classification. The measuring of results based on traditional classification would be extremely difficult and often impossible. Therefore, the traditional budget focuses on all financial expenditures (total expenditure) and not on the results achieved in spending as in the performance budget.

However, the performance budget points to the degree of satisfaction of specific social needs, which makes the information on the allocation of funds more transparent. This information is not provided by a traditional budget in which it is impossible to measure expenditures and effects, i.e. to compare the financial side of the budget with its real (material) side. The traditional budget is a tool for managing public funds. This is due to the fact, that in the traditional budget there are set specific expenditure limits, when their possibility of change (i.e. transfer of expenditure) by administrators of public finance is relatively limited. Providing the little autonomy to administrators when deciding on the allocation of public funds leads to the creation of conditions only for so-called micromanagement. On the one hand, it allows a detailed control of observance of set expenditure ceilings, on the other hand there is no direct link between public expenditure, objectives and their effects, which is an economically significant error in traditional budget planning methods. The adoption of such a budgetary approach means that it does not ensure the proper allocation of budgetary resources, but it mainly has control functions, which consist mainly in the confrontation of planning and performance.

The traditional budget does not provide information, which is necessary for effective management and does not create incentives to innovate. Replacing the traditional budget with the performance budget means departing from the concept of public sector management in favor of financial and human resources management, following the model of the solution used in the private sector. Public managers report in their activities and they are responsible for the achieved results (in order to be able to realize the planned results, they have the flexibility to spend the funds provided). Contrary to the traditional budget, managers’ main task is not to adhere to a detailed breakdown of spending on groups set for
individual objectives (which is only indicative in the performance budget), but to implement specific pre-planned objectives for these missions. Measurement of achieved results is reached through the addition of so-called performance part into the performance budget, which consists of the objective and result indicators as well as the report (description) of their implementation.

CONCLUSION

The scientific purpose of this paper was to clarify selected issues of evolution of state budget in France. This scientific purpose was fulfilled by the comparison of the evolution of the state budget in Great Britain and in France. Moreover, this was achieved by the overall analysis and synthesis, and the method of the historical description. The paper found that budgetary developments in France and England had similar features since 13th century. Modern budgetary law, as we know it today, has been forming since the mid-19th century through mutual inspiration of the French and England budgetary system. This fact resulted in “quatre temps alterné” system successively implemented in both countries. And vice versa, the financial year has a different form in these countries.

The paper also clarified terms as “budget”, “budgeting” and performance budget which is used in France (and also in other more than 50 countries in the world). In the paper, there was analysed the historical development of the term “budget” in France and in England. In the paper, there was also presented the French conception of budgetary law as the branch of the French public financial law.

The selection of the French solution was made for two main reasons. First, one of the best-prepared and developed concepts of performance budgeting in the world was introduced in France. Secondly, France, which has introduced a performance budget, has been inspired by a solution in the United Kingdom, where a modern concept of this institute emerged.

In this context, the differences between traditional budget and performance budget were presented in the paper. That is why distinctions with regards to the structure, the classification, the allocation of funds and the planning horizon had to be introduced.

REFERENCES


ORAL EVIDENCE IN ECONOMIC AFFAIRS
AT CRIMINAL TRIAL IN CHINA

Polina KOROLYOVA	extsuperscript{1}, Yuliya PLAKHOTNAYA	extsuperscript{2}

	extsuperscript{1}Saint Petersburg State University, Russia, Yuliaplakhotnaya@gmail.com
	extsuperscript{2}Saint Petersburg State University, Russia, Yuliaplakhotnaya@gmail.com

It is of great significance for witnesses to appear in court in criminal cases so as to safeguard the right of confrontation of the defendant and achieve judicial justice. However, the witnesses in criminal cases refuse to appear in court and only give written testimony, and this has become a long-standing problem in the judicial practice of China. To solve this problem, the Criminal Procedure Law of China, amended and improved the system of the witness appearing in court in 2012. Nevertheless, if the underlying problems in the judicial system of China are not settled, the system of the witness appearing in court in criminal cases still cannot turn into practicable measures.

Keywords: low attendance of witnesses, written evidence, Chinese culture, judicial reform.

INTRODUCTION

Testifying witnesses at a trial is a fundamental component of any modern judiciary system. In criminal litigation being a witness is considered to be one of the most effective ways to detect a case. Despite this fact, the rate of the presence of witnesses at criminal trials in China is extremely low.

The urgency of the topic chosen for the study is due to the fact that, improving the procedural form of oral-evidence requires strengthening of guarantees aimed at protecting the rights and legitimate interests of an individual. The current criminal procedural legislation is far from fully
ensuring the protection of the legitimate interests of a citizen involved in the economical affair as a witness who is subject to physical or mental pressure from the perpetrators or their entourage.

The purpose of our research is to identify the reasons of the absence of witnesses in the courtroom in China. In order to reach these goals we have to solve the following tasks:

1) to determine the place and procedural role of a witness in Chinese criminal proceedings, 2) to analyse and characterise the rights and responsibilities of the witness, 3) to define the ways of protection of witnesses, 4) to analyse the effectiveness of the 2012 reforms and their purpose.

As an essential type of evidence, witness testimony, which is defined as a statement of a witness made during the proceeding process with regard to what he or she perceived about the case, is a fundamental basis for factfinders to determine case facts under the dispute. Although China is trying to make this process work effectively, it is a huge problem nowadays. People wonder why such massive legislative and political stimulus does not work. According to information from studies published in the scientific literature and various articles about judiciary system in China we can assume that the low rate of witnesses testifying at a trial can be explained by a number of social, political and administrative factors that influence the litigation process. There are a lot of reasons that can explain why witness doesn’t appear before the court in China: a constitutional reason, an institutional reason, a cognition reason, a cultural reason, a methodology reason, a performance reason. All these reasons are global systemic issues affecting the criminal justice system in China.

But first of all, let’s start with the understanding of historical development of the institution of the witness in criminal proceedings in China. Criminal justice has always been the weakest link in the Chinese legal system, which, despite the constitutional and legislative protection of the right to defense, in practice rarely leaves the defendant a real chance to cross-examine the prosecution witnesses and refute their statements. Despite the fact that Anglo-American justice has long been attributed cross-examination to the greatest tools for determining the truth, in China, an open denial of state charges in public trial is usually considered unacceptable¹.

¹ Jerome A. Cohen. South China Morning Post: Empty Promises, Electronic resource
The People's Republic recognised the value of cross-examination by authorising its use when, in 1996, the National People's Congress made major revisions in its original Criminal Procedure Law. This was a potentially exciting development. Unfortunately, it constituted an improvement in principle but not in practice. Since the new law was not interpreted to require witnesses to appear in court in criminal cases, witnesses continued to give live testimony in fewer than 5 per cent of such cases. Thus, Chinese defendants could rarely take advantage of the new cross-examination opportunity. Prosecutors would simply read into the court record the pre-trial statements obtained from witnesses, who were insulated against the hazards of hostile questioning. Criminal procedure legislation was revised in 2012. As a result, attempts were made to increase the likelihood of the appearance of witnesses at the trial, but so far the new amendments don’t look particularly effective.

Talking about 2012 reforms we need to explain the need for these reforms. For a long period of time in the past, the overall appearance rate of Chinese witnesses testifying at trials had been constantly lower than 10% across the country.

Let's just analyse the statistics of the appearance of witnesses in court in recent years. According to statistics released by the China Institute of Applied Jurisprudence at the Supreme People’s Court of China, between January and April 1997, only about 30% criminal cases adjudicated in Wuhan Intermediate People’s Court in Hubei Province had witnesses testifying at trial. Such numbers were even lower in most other provinces of China. For example, there were less than 25% witnesses testifying at trial in criminal cases of Fujian province during the year of 1997, and particularly in bribery cases no single witness presented in courtroom. According to authoritative statistics provided by the Research Office of the Supreme People’s Court of China, the appearance rate of witnesses testifying at trial in criminal cases of Huangpu District People’s Court of

---

Shanghai Municipality was about 5% in 2007\(^1\). Data also showed that the Third Intermediate People’s Court of Chongqing Municipality adjudicated a total of 2796 criminal cases, among which only 12 cases had a total of 13 witnesses testifying at trial, with an appearance rate of 0.32%. To get a better sense of the deadlock situation over the years, below also provides a sampling statistics table of Hebei District People’s Court of Tianjin Municipality released by the Research Office of the Supreme People’s Court of China, indicating that between 2006 and 2011 only about 1% – 2% witnesses testified in criminal proceedings of its jurisdiction\(^2\).

<table>
<thead>
<tr>
<th>Year</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of criminal cases adjudicated</td>
<td>308</td>
<td>419</td>
<td>455</td>
<td>447</td>
<td>446</td>
<td>352</td>
</tr>
<tr>
<td>Number of witnesses subpoenaed</td>
<td>29</td>
<td>31</td>
<td>27</td>
<td>15</td>
<td>9</td>
<td>11</td>
</tr>
<tr>
<td>Number of witnesses actually testifying at trial</td>
<td>6</td>
<td>5</td>
<td>9</td>
<td>7</td>
<td>5</td>
<td>4</td>
</tr>
<tr>
<td>Percentage of witnesses who were subpoenaed while actually testified at trial</td>
<td>20.6%</td>
<td>16.1%</td>
<td>33.3%</td>
<td>20%</td>
<td>22.2%</td>
<td>18.2%</td>
</tr>
<tr>
<td>Percentage of witnesses who were subpoenaed while actually testified at trial</td>
<td>1.9%</td>
<td>1.2%</td>
<td>2</td>
<td>1.6%</td>
<td>1.1%</td>
<td>1.1%</td>
</tr>
</tbody>
</table>

However, in very recent years, particularly since the Year of 2012 when both of China Civil Procedural Law and China Criminal Procedural Law were massively amended, China has pledged to change such norm,

\(^1\) Zhang Weiwei, Woguo Xingshi Zhengren Chuting Zuozheng Kunjing Fenxi // Analysis on the Dilemma of Chinese Witnesses Not Testifying at Trial in Criminal Cases // Legal System and Society. – 2007. – №6, at 521, 521-522 (China)

\(^2\) Renmin Fayuan Disange Wunian Gaige Gangyao (2009-2013), Electronic resource
showing the world a determination to transform the country’s trial mode from a typical inquisitorial system into a more adversarial one. New laws have been established addressing witnesses’ general responsibility to testify and to be examined at trial, as well as on safety and financial safeguards for witnesses testifying at trial. But unfortunately, appearance rate of witnesses testifying at trial had no substantive change. All statistics pointed towards a cold, hard fact that the appearance rate of Chinese witnesses testifying at trials all over the country today remains extremely low, with no sign of any improvement since the 2012 legislation amendments. The failure to increase the appearance rate of witnesses in any discernible way caused some commentators to note that the 2012 Amendments merely added red tape and procedural ‘fluff’ to an already deficient and inefficient trial process. People cannot help wondering why such massive legislative and political stimulus did not work.

Such extremely low appearance rate of witnesses testifying at trial in Chinese criminal proceedings happens with reasons. In this section, we examine nine principal causes for Chinese witnesses not appearing at trial.

- The constitutional reason: the deficient power of the judiciary

We used to have three power bodies – legislative, executive and judicial branches – are independent from each other and exercise their own authorities separately. It is called constitutional principles of “Separation of Power”. In contrast, the political system in China is named “Centralization with Top-down Supervisions”\(^1\). Furthermore, the Chinese Constitution defines the political system of China as “One Government with Two Judicial Wings – the People’s Court and the People’s Procuratorate under the leadership of the People’s Congress”\(^2\). The National People’s Congress is both an organ of the State Power and the State Legislative Body. The Chinese Government, the People’s Court and the People’s Procuratorate exercise their own authorities under laws and

---

1 Zuo Weimin, Ma Jinghua, Xingshi Zhengren Chuting lv: Yizhong Jiyu Shizheng Yanjiu de Lilun Chanshu / Appearance Rate of Witnesses Testifying at Trial in Criminal Proceedings: Theoretical Analysis Based upon Empirical Research Studies // China Legal Science. – 2005. – №.6, at 171, 164-176 (China)
2 Zuo Weimin, Ma Jinghua, Xingshi Zhengren Chuting lv: Yizhong Jiyu Shizheng Yanjiu de Lilun Chanshu / Appearance Rate of Witnesses Testifying at Trial in Criminal Proceedings: Theoretical Analysis Based upon Empirical Research Studies // China Legal Science. – 2005. – №.6, at 171, 164-176 (China)
regulations enacted by the National People’s Congress as well as are supervised by it. Thus, the political powers in China are not distributed separately. A well-known unspoken political rule in China is that lower-level governmental agencies or officials are expected to revere and manifestly show a great deal of respect to their political superiors, regardless of the nature of the person’s role or their agency. Any Chinese judge, whether they are from the local district court or from the Supreme People’s Court of China, is an ordinary governmental employee within a massive, hierarchical bureaucracy. Judges may therefore be subject to expectations concerning how they treat prosecutors or police presenting evidence at trial where those individuals are of superior political seniority, which may colour their decision-making and taint the impartiality of the judicial process. This problem is highlighted in cases where potential witnesses are government officials\(^1\). Taking into account the political expectation not to breach the norm of respect and subservience within the political structure, procuratorates would usually hesitate to call such witnesses to testify and rather be bound by any pre-arranged and supplied written statement\(^2\).

It is also worth noting that in criminal proceedings, the potential witnesses, being the governmental officials to which we refer, are the very police officers who investigated the subject charges. This is a significant group of witnesses who are not appearing, or being called to appear by prosecution, and whose non-appearance is not being queried by courts. In every developed criminal justice system, investigating police officers are the essential witnesses in contested criminal trials. However, in China, police officers rarely, appear in court in recent years. A prominent cause of this is the disparity in political seniority between police, procuratorate and judges in China and the lack of independence and reverence assigned to courts.

The absence and failure of government officials to testify in criminal cases in China, results in the public not having confidence in the power of judicial system. This is, of course, discourages lay witnesses from

\(^1\) Long Zongzhi, Xin Xingshi Susongfa Shishi Bannian Chupan / Preliminary Comments on the Lately Amended China Criminal Procedure Law after Half a Year Implementation // Tsinghua Law Journal. – 2013. – №5, at 133, 127-142 (China)

\(^2\) See Long Zongzhi, Xin Xingshi Susongfa Shishi Bannian Chupan / Preliminary Comments on the Lately Amended China Criminal Procedure Law after Half a Year Implementation // Tsinghua Law Journal. – 2013. – №5, at 133, 127-142 (China)
expending the time and personal input of involvement in the full trial process by giving evidence.

- The institutional reason: criminal proceeding in China like a “Relay Race”

The Chinese criminal justice system was for a long period of time predicated on three central state departments, police, procuratorate and court, working cohesively in criminal prosecution. But in reality, Criminal proceeding in China is like a “relay race” or “assembly line” among police department, procuratorate and the court. In an effort to avoid conflicts with the police and the procuratorate, the court seldom rejects or reverses evidence prepared by the police or the procuratorate in criminal proceedings. Evidence prepared by the police or by the procuratorate, once submitted to the court, has certain authoritativeness in China, and trial judges may experience significant pressure if they want to challenge such written evidence. For a long period of time, trial process of criminal proceedings in China was like a procedure for confirming all the written evidence received from the prosecutor. Thus, having witnesses testify at trial in criminal proceedings often sounded like an unnecessary action in criminal cases in China.

- The cognition reason:

It is commonly believed by trial judges in China that as long as facts of a case turn out being clear to judges on the bench through reviewing documentary evidence submitted by the parties, then calling for witnesses to present at trial to testify on the same matter is considered as redundant, which in the mind of most Chinese judges would only add extra but recurring adjudicating work while delay the trial process. It even has been written into Article 187 of the China Criminal Procedural Law that there are three conditions for witnesses testifying at trial, one of which is trial judges shall believe it is necessary for a witness to testify at trial and the standard for judges to determine “necessity” here is whether or not the witness may add new facts or may help trial judges better determining case

---

facts. What is missed or ignored here is the accused’s right to confront a witness whose testimony is against the accused’s interest. [Yang Xiong/ Legislative Developments and Dilemmas in the System of Witnesses Testifying at Trial// Journal of Henan Normal University. - 2012. - № 5, at 95, 96, 95-99 (China)]. Chinese judges are way more obsessed on fighting against crimes but seem not paying enough attention on the other equally important responsibility – to protect fundamental human rights of both parties in litigation, including the accused’s.

- The cultural reason: The influence of the Chinese traditional culture
  Confucianism and related teachings engender in many Chinese people an acceptance of the ancient Chinese proverbs ‘harmony is most precious’ (和为贵), ‘not to involve oneself into a dispute and takeno side in any conflict’ (明哲保身), ‘maximize what is good and minimize what is bad’ (趋利避害) and ‘avoid trouble whenever possible’ (多一事不如少一事). [Zhang Liming / Cultural Typology Explanation on the Rare Appearance of Witness in Court// Hebei Law Science. - 2012. - №10, at 68, 68-74 (China)].

  The concept of ‘Face’ however is something that we are not so familiar with in the west. MiànZǐ (面子) or Face as we know it, translating there as ‘honour’, ‘reputation’ and ‘respect’ which is very important for Chinese. Thus, potential Chinese witnesses pay significant attention to ‘face-saving’ (面子), preventing offence to others and preserving harmony in relationships in their daily conduct. Such ancient customs significantly affects daily life of Chinese people as well as the modern Chinese society as a whole. As a result, Chinese people treat litigation as a particularly undesirable experience. In many cases, a witness will find an excuse to not appear or simply not attend at the hearing date without notifying the court or the parties.

- The methodology reason: How do witnesses testify at trial?
  Defects in legislation are a key reason for Chinese witnesses not showing up in courtroom and it is all about incompleteness of regulation methods that led to a systematic failure of witness testifying at a trial in China. For example, under the Chinese Criminal Procedural Law, there is

---

1 China Criminal Procedure Law, article 187
no specific rule addressing direct and cross examinations or the accused’s right to confrontation. Article 59 of the Chinese Criminal Procedure Law briefly mentions that witness testimony shall be examined by all parties at trial before being admitted as the basis for adjudication, but there is no mandated procedure specified for doing so. [China Criminal Procedure Law, article 59] Also, neither witness impeachment rule nor rehabilitation rule exist in Chinese procedural laws. Not only does China lack substantive trial procedures for the examination of witnesses, but there is also a dearth of rules addressing the subpoena of witnesses [Xu Juanjuan / Explorations on Why Witnesses not Testifying at Trial in Criminal Proceedings// Legal System and Society. - 2007. - №12, at 525, 525-526 (China)]. Article 188 in the Criminal Procedure Code of PRC provides a compulsive power to the court, however, no specific rules of ‘action’ are provided by the Supreme People’s Court or other authority for the initiation and conduct of summoning or otherwise compelling attendance of witnesses. [China Criminal Procedure Law, article 188]. According to the Pilot Studies data of the China University of Political Science and Law 78 per cent of trial judges considered that, were a judge to exercise the Article 188 power, it would be for the Office of the Procuratorate to ensure that the witness attended court at the requisite time. Interviews and surveys of the Procuratorates indicated that the responsibility rests with the court to achieve its own orders for witness attendance. The law is not clear how the court does that, which bodies they could possibly compel to complete the task or the specific method(s) of enforcement that may be undertaken. Similar problem of imprecision and ambiguity exists in regulations of witness compensation. The China Criminal Procedural Law does have general rule on witness compensation, such as Article 63. However, the law does not specify the scope of compensation, the compensation standards, where funding comes from, as well as which governmental organization(s) is or are in charge of such witness compensation, etc.

We also have to mentioned, that even though continuous legislation amendments and judicial reforms have brought more changes into China’s criminal proceedings, judges still can’t get used to such method of criminal proceedings as oral evidence. Chinese judges and prosecutors believe written testimony is more accurate and reliable than testimony in court. In other words, in China, written testimony is the mainstream way for witnesses expressing their messages to the court while testifying in
courtroom is an exceptional situation. It is normal in China’s criminal proceedings that, even if witnesses showed up in courtroom, prosecutors still chose to have their witnesses read prior prepared written testimony or simply submitted the written testimony to the trial judge for review with no objection by the accused, nor would be denied by the trial judge.

- The performance reason

Advocates in Chinese courts are not trained or experienced in eliciting or testing evidence by oral examination: it is new for them. They were not trained for it. Judges also are unaccustomed to and untrained in supervising orally-led evidence. It’s the most important, that witnesses are entirely unprepared for the process because they have had no assistance or support from law enforcement agents or prosecutors with respect to preparing for the environment of the courtroom or the psychological process of questioning. Thus there is a comeback to the written evidence. Accordingly, even in the few cases where witnesses do testify at trial, witnesses not only read their pre-trial written testimony because it is culturally ingrained as efficient, they also do so because the system is ill-equipped and uninformed of how to do all this process work right.

In 2012, China’s Criminal Procedure Law was amended to make the legal system more adversarial in nature. However, in practice, the appearance rate of Chinese witnesses testifying in criminal courtroom is still extremely low, which has become a bottleneck-restriction in China’s trial mode transformation and in the long run imperils the national blueprint for rule of law laid out in the 18th Central Committee of CPC Decision. Thus, changing the current-existing system of witness testifying at trial is now an urgent and inevitable challenging to law reformers in China. By analyzing the above major causes for the extremely low witness appearance rate, it is clear that such challenge is an enormously complicated issue, mixed with legal, culture, social, political and historical elements. It is obvious that China need to seriously reconsider about some alternatives in their witness testify system. In my opinion, alternatively, if witnesses testifying in courtroom on a regular basis is too difficult to come true in China, then it may be wise for law reformers in China to shift focus onto creating the second best or alternative solutions on this, for example like video-taping a witness’ testimony out of courtroom with the presence of counsel for the opposing party who could conduct real-time cross
examination over such witness and later broadcasting such video file at trial before the judge, or having a witness testify at some out-of-court location designated by the trial judge with the presence of clerk for the trial judge as well as counsel for the opposing party who could conduct real-time cross examinations over such witness. Over all I just truly believe that if China is serious about reforming its criminal justice system, the low court attendance by witnesses and the practice favoring written statements must change, because oral evidences and cross-examination are the greatest legal engine ever invented for the discovery of truth.

REFERENCES


10. Yang Xiong/ Legislative Developments and Dilemmas in the System of Witnesses Testifying at Trial// Journal of Henan Normal University. - 2012. - № 5, P. 95-99 (China)


COMPARATIVE CHARACTERISTICS OF THE CRIMINAL LAW SYSTEM OF THE RUSSIAN FEDERATION AND THE PEOPLE’S REPUBLIC OF CHINA ON RESPONSIBILITY FOR CORRUPTION

Ekaterina KUZMINA¹, Ylia PLAKHOTNAYA²

¹Saint Petersburg State University, Russia, elena.kastakova@euba.sk
²Saint Petersburg State University, Russia, elena.kastakova@euba.sk

In the following paper, corruption is viewed primarily from the point of view of the laws of Russia and China. The goal of this paper is comparing the criminal law system of the Russian Federation and the People’s Republic of China (hereinafter PRC) on responsibility for corruption. Neither in Russia nor in China the level of corruption can even be called acceptable. However, both in China and Russia, the legislation on corruption is quite developed, but practice shows that it is not enough for a real solution to the problem.

Keywords: corruption, responsibility, legislation, China, legal reality.

As corruption is an indispensable part of a modern society, each state deals with this type of crime and looks for any ways to cope with it. This phenomenon concerns ordinary people as it harms their financial and social well-being, so fighting against it cannot affect only one person. Certain measures at the level of legislation, politics, economics and social sphere are required to cope with this problem. It is necessary not just to deal with the consequences of corruption, but also to eliminate its causes and reduce its level.

Corruption strongly and negatively affects the economic and social development of any country. The economic harm of corruption is primarily due to the fact that it is an obstacle to the implementation of the macroeconomic policy of the state.
The main negative manifestation of the economic impact of corruption is the increase in costs for entrepreneurs. Thus, the difficulties of business development in post-socialist countries are largely due to the fact that officials force businessmen to pay bribes, which turn into a kind of additional taxation. Even if an entrepreneur is honest and does not give bribes, he suffers from corruption, because he has to spend a lot of time talking with deliberately picky government officials. Finally, corruption and bureaucratic red tape in the preparation of business documents hamper investment flows (especially foreign ones) and, ultimately, economic growth.

As for the social negative consequences of corruption, as it is generally accepted, it leads to injustice - to unfair competition of firms and to unjustified redistribution of citizens’ incomes. The most dangerous is corruption in the system of collecting taxes, which allows the rich to evade them and shifting the tax burden on the shoulders of poorer citizens.

The need to fight corruption is justified not only in terms of its importance in a social sense, but also in terms of the real need.

Transparency International is an international non-governmental organization. Its nonprofit purpose is to take action to combat global corruption with civil societal anti-corruption measures. It publishes for example the Corruption Perceptions Index. According to this index, in 2017, China took the 77th place, Russia – the 135th.

According to another study, such as the Index of Economic Freedom, which is calculated by the Wall Street Journal and the Heritage Foundation’s research center, China ranked 140th in 2016, Russia – 149th.

Thus, both in Russia and in China, the level of corruption is extremely high. In this paper corruption is viewed primarily in terms of the laws of Russia and China comparing two state systems of struggle against it through the prism of certain sanctions.

The system of anti-corruption legislation in the Russian Federation and the PRC.

In the Russian Federation, the legislation system is a bit simpler than in the PRC. This is due to the fact that in Russia there is a general system

---

of anti-corruption legislation, whereas in China, anti-corruption norms are scattered across different legal acts.

The system in the Russian Federation:
1. The Criminal Code Of The Russian Federation
2. № 273-FL “On Countering Corruption”.
3. № 172-FL “On anti-corruption expertise of regulatory legal acts and draft regulatory legal acts”, etc.

In addition, this system includes regulations, such as decrees of the President of the Russian Federation, decrees of the Government of the Russian Federation, etc.

The system in the PRC:
1. The Criminal Code Of The People's Republic of China
2. Law of the People's Republic of China “On civil servants”
3. Law of the People's Republic of China "On Tourism"

**Legislation in Russia and China**

The definition of corruption is given in the Federal Law "On Countering Corruption" in the first article¹:

a) abuse of official position, giving a bribe, accepting a bribe, abuse of authority, commercial bribery or other unlawful use by an individual of his official position against the legitimate interests of society and the state in order to obtain benefits in the form of money, valuables, other property or property rights for oneself or for third parties, or the unlawful provision of such benefits to a specified person by other individuals;

b) the commission of the acts referred to in subparagraph "a" of this paragraph, on behalf of or in the interests of the legal entity.

All actions related to the concept of “corruption” are defined and criminalized in the Criminal Code of the Russian Federation, where the following articles correspond to them\(^1\).

I. In part a) (Chapter 30: “Crimes Against State Power and the Interests of the Civil Service and the Service in Local Self-government Bodies”):
   2. Article 285.1. Spending Budgetary Funds for the Wrong Purposes
   3. Article 285.2. Spending Assets of State Non-Budgetary Funds for the Wrong Purposes
   4. 290. Bribe-taking
   5. Article 291. Bribe-giving
   6. Article 291.1. Mediation in bribery
   7. Article 291.2. Petty bribery

II. In part b) (Chapter 23. “Crimes Against the Interests of Service in Profit-making and Other Organizations”):
   1. Article 201. Abuse of Authority
   2. Article 201.1. Abuse of authority in the performance of the state defense order
   3. Article 202. Abuse of Authority by Private Notaries and Auditors
   4. Article 203. Exceeding of Authority by Staff Members of Security of Detective Services
   5. Article 204. Bribery in a Profit-making Organization
   6. Article 204.1. Commercial Bribery Mediation
   7. Article 204.2. Small commercial bribery

It is important to differ the state corruption, which is discussed in Chapter 30 of the Criminal Code of the Russian Federation, and the corruption at the level of private interests - Chapter 23 of the Criminal Code of the Russian Federation. Since the concept of “corruption” is quite vague, the question arises whether to consider corruption as something that is not related to the activities of the state.

It must be mentioned that the Federal Law "On Countering Corruption" gives a definition of corruption, as the phenomenon spreading out not only in the public sector but also in the private sector.

However, this paper is focused on corruption in the public sector, since this problem is considered to be the most urgent. In addition, the PRC, like the Russian Federation, is focusing on the fight against state corruption because its danger is much greater than danger of corruption in the private sphere.

The eighth chapter of the Criminal Code of the People’s Republic of China is called “Corruption and Bribery” and contains a number of articles establishing the responsibility for committing crimes related to corruption:

1. Article 382 determines that corruption in the PRC is considered:
   Any State official who, by taking advantage of his office, appropriates, steals, swindles public money or property or by other means illegally take it into his own possession shall be guilty of embezzlement.
   Any person authorized by State organization, State-owned companies, enterprises, institutions or people's organizations to administer and manage State-owned property who, by taking advantage of his office, appropriates, steals, swindles the said property or by other means illegally take it into his own possession shall be regarded as being guilty of embezzlement.
   Whoever conspires with the person mentioned in the preceding two paragraphs to engage in embezzlement shall be regarded as joint offenders in the crime and punished as such.

2. Article 383 establishes responsibility for violation of anti-corruption legislation, depending on the severity of the circumstances.

3. Articles 384-393 concern such a crime as bribery.

4. Articles 394-396 characterize other crimes related to corruption.

It is interesting to put a parallel between the two systems of legislation in sentencing.

Corruption offenses in the Russian Criminal Code have a lot in common. Firstly, the sanctions for them are quite diverse, and the number of possible punishments can reach 4-5. Secondly, the sanctions are of the

\[ \text{1 The Criminal Code Of The People's Republic of China (of 14.03.1997)} \]
same type: the most popular is a fine, although there are other types: imprisonment, forced labor, arrest, restriction of liberty, correctional labor.

However, this group is characterized by the fact that it includes crimes of all categories. Thus, for example, the first part of Article 292.2 (petty bribery) provides for a maximum sentence of imprisonment for up to one year, which classifies it as a minor offense; and the fifth part of Article 291 (bribery) provides for a maximum penalty of imprisonment for a term of eight to fifteen years. On the one hand, such a spread in categories is justified by the various sizes of bribes. On the other hand, the unity of the nature of these crimes does not give a reason to push the boundaries so strongly.

The criminal law of the PRC has both similarities and differences with the Russian one. For example, the size of the punishment depends on the bribe size.

However, there are more differences between the two systems of legislation than similarities. The Chinese courts punish more seriously than the Russian. The most common type of punishment is deprivation of liberty, for some crimes its size can reach life imprisonment. The maximum penalty is the death penalty, it is used, for example, in case of individual corruption in the amount exceeding 100,000 yuan in the presence of aggravating circumstances (Article 383).

In the People's Republic of China criminal liability of legal entities is established, so in article 391 the organization bears responsibility in the form of a fine, and its leaders are in the form of imprisonment. In the Russian Federation, there is no the criminal liability for legal entities, there is only administrative responsibility for them.

**LEGAL REALITY**

The Judicial Department at the Supreme Court of the Russian Federation publishes judicial statistics on cases considered by federal courts of general jurisdiction and justices of the peace, including cases

---

involving corruption. In 2016, under Chapter 30 of the Criminal Code of the Russian Federation (“Crimes against the government, the interests of the civil service and service in local governments”), 8,767 people were convicted. The majority (3585 people) were held under Article 291 (“Bribe-giving”).

Most often, the court imposed a fine as the main punishment.

For Russia, the practice of imposing soft sentences on corruption offenses is extremely common. However, reasoning logically, it can be understood that these punishments do not affect officials properly, since they do not deprive them of their usual way of life in any way. Fines are usually small, so this punishment cannot be a preventive measure for others.

Unfortunately, it is extremely difficult to get the real situation in China. The main sources are contradictory messages in the media about a particular number of people sentenced to death, which contradicts logic, because the number of those sentenced is a state secret. Any public executions are indicative measures, a kind of anti-propaganda of corruption, but nobody can judge the real state of this institution in the country1.

In conclusion, the Russian Federation and the People's Republic of China are now in the stage of active struggle against corruption. However, this struggle cannot be called really successful.

In my opinion, the methods of punishment for crimes connected with corruption are too harsh in China. In spite of the fact that these offenses undermine the state system, reduce the citizens trust level, there must not be so dangerous punishments for them.

In contrast, in the Russian Federation methods of struggle can be called too soft, both in terms of legislation and its application, and in consistent, especially if we put parallels between the sentences for similar crimes such as bribery or accepting a bribe.

In this way, in order to eradicate corruption, the provisions of the law alone are not sufficient, no matter how good or harsh it is. Therefore, the fight against it must not presuppose only the form of scattered court

---

sentences, but also a large-scale complex of measures, which should lead to a positive result.

REFERENCES


5. The Criminal Code Of The People's Republic of China (of 14.03.1997)


THE TRENDS IN IMPROVING COMPLIANCE PROCEDURES IN RUSSIA

Olga KUKHNOVETS

Lomonosov Moscow State University, Russia

The article deals with the “professional judgment” - the new approach to financial market regulation and supervision by The Central Bank of Russia, caused by the rapid development of technologies. This system requires the introduction of new compliance procedures for market participants. There are several risks and difficulties for the Russian economy in professional judgment regulation in its current version, which are considered in this article.

Key words: compliance, the Bank of Russia, supervision, professional judgment, financial market regulation, the development of technologies

In recent decades, the relationships between the financial market participants have been stable becoming more complex. The development of technology leads to a gradual blurring of boundaries in the financial industry, mostly because more and more financial services are provided outside the financial institutions. For example, according to S&P Global Market Intelligence, PayPal, the company without a Bank license, is the largest holder of cash in the US, and a Starbucks is at the sixth place in this list. Under these conditions, the system of regulation should adapt to a

*Supervised by Zueva A.S., candidate of economic Sciences, associate Professor of the Department of Computer Law and Information Security of Lomonosov Moscow State University.

2 Venmo Popularity Enhances PayPal's In-Store Payment Push
dynamic market situation immediately with no need to develop new rules every time. That is why, a new system of regulation and supervision based on professional judgment has been introduced in a number of developed countries. And as a result, compliance procedures should also be changed accordingly this decision.

Professional judgment is understood as the reasoned professional regulator’s assessment applied in addition to the formalized requirements (or instead of them) which is based on the analysis of set of qualitative and quantitative indicators and a priority of economic or factual content over the legal form. It is assumed that new system will reduce the burden of compliance with regulatory rules of market participants.

The Bank of Russia is in line with the world trends. In the text of “The main directions of development of the financial market for 2019-2021”, the Bank of Russia puts the introduction of this approach as one of the goals for the medium term. In July 2017 a report "The use of motivated (professional) judgment in the Supervisory practice of the Bank of Russia" was published by the regulator. This document sets out possible basic provisions for the operation of the new system and proposes a discussion around some of them. And from my point of view, there are several risks for the Russian economy in professional judgment regulation. Let us analyze them.

Firstly, it is said that “the transition to supervision, based on professional judgment, would reduce regulatory burden and protect market participants more effectively”. I find this statement controversial. In my opinion, the new approach makes compliance procedures difficult and confusing, as judgments of the Bank of Russia employees may be unpredictable especially at first, until the practice is not developed. The traditional law system is more objective and understandable, so the regulator will need a lot of time and effort to develop a flexible system of checks and balances that can compensate for the possible excess of authority.

In addition, the increased use of the professional method requires a large number of highly qualified supervisors. It is obvious that at first there will be an acute shortage of personnel, as for control, as for compliance. Most likely, these few specialists will not be able to cope with the volume of the Russian financial market. Then either part of the market will remain without control, which will mean financial instability, or the capacity of the small market will decrease. Many companies, especially small and
medium-sized ones, will have to leave the market. This also leads to a decrease in the real sector of the economy due to the lack of financial resources, resulting in the slowdown in economic growth.

Finally, based on what I have said earlier, such a radical change in the compliance procedures can provoke social and economic upheavals in the country, which again will have a destabilizing effect on the economy.

Summing up, we can say that the current global trends in the development of the economy and technology require new forms of legal support, and therefore new compliance procedures. However, in my opinion, the proposed by Central Bank system of changing the supervision of the financial market in its current version contains a lot of risks and difficulties for both market regulators and its participants, so it certainly needs careful refinement.

REFERENCES


THE CONCEPT OF DEOFFSHORIZATION AND ITS IMPACT ON GLOBAL ECONOMY

Ija NAZARKO

University of Latvia, Latvia

This paper investigates the concept of deoffshorization. Through analytical approach in methodology, the root causes for the use of offshores are identified, in order to investigate the potential impact of deoffshorization policy on economy and companies involved. An empirical study shows the risks involved in forceful relocation of subsidiaries to the home jurisdiction. It can be argued that deoffshorization policy does not solve the problem of tax avoidance or the tendency for a company to operate through the use of offshores. Threats and risks of a uniform systematic approach as basis for the use of coercive measures for the transfer of a wide range of organizations to the jurisdiction of Russia, could potentially create significant risks for the economy and companies be subject to deoffshorization policy will incur additional costs while adjusting their operations. Within the conclusive remarks it is recommended to examine offshores as cases for alterations in home jurisdictions to increase the ease of doing business, consequently developing the home jurisdiction as a competitive choice for company registration and business operations. It is concluded that deoffshorization is not a sufficient mean to remedy the consequences of tax avoidance or to prevent the occurrence of this problem in the future, as it fails to eliminate the root cause of such behaviour.

Keywords: deoffshorization, tax haven, tax avoidance, offshore, deoffshorization policy

INTRODUCTION

The world today is a bundle of interconnected, intertwined lines of political, economic and cultural differences. The way business is organized
in the 21st century is through analysis of the most beneficial connections, establishments. Businesses have a unique opportunity to organize their processes at reduced costs due to globalization and tendencies of multinational corporations as a business model for operational organization. Recklessly this situation has created the opportunity for the use of offshores to avoid taxes and to create a flow of funds that is not transparent. Since the economic crisis of 2008 processes of deoffshorization have been initiated on a global level. In 2013 Vladimir Putin, in his address to the Federal Assembly\(^1\) initiated the process of deoffshorization in Russian Federation (further - Russia).

The goal of this paper is to analyze the consequences of deoffshorization policy on various levels. Thus the impact of the newly adapted policy will be examined through its impact on a national level in terms of adjustments in the operations of local entities and the impact on the national economy, as well as on the broader scale of international economy and international business interactions. Given the length restrictions the analysis shall be carried out in regards to the changes directly impacting the *modus operandi* of business entities in general. Conclusive remarks will focus on the problematics of establishment of offshores with commentary on evaluation of deoffshorization measures as the means of combating tax avoidance.

Changes caused by the adaptation of the federal laws on deoffshorization are examined in terms of the necessary adjustments Russian companies with operations in countries other than its home country have to make in order to comply with the requirements of the federal law. Results are presented as a SWOT analysis focusing on the consequences of deoffshorization policy. Deoffshorization in terms of this paper is examined in the broader sense of the term, inclusive of operations not related to tax avoidance.

**LITERATURE REVIEW**

The term “offshore” and “deoffshorization” are found in academic and professional publications. For the necessity of this paper non-academic sources were used alongside trusted academic and professional publications. Non-academic sources in this case provide a contemporary outlook on the topic, such sources include reports of international
organizations, legal documents and newspaper articles and publications by leading consulting agencies, such as EY and KPMG.

Concerning the existing academic and professional research on the topic of “offshores” and “deoffshorization”, a number of reports of international organizations was carried out as early as 1990s and the early 2000s. These reports concern the broad meaning of the term “offshore”\(^1\). Only in 2013 the criteria for an entity to be considered an offshore has been defined by Kheyfets\(^2\). This criteria includes a significant tax and other expense reduction, a favorable legal environment in terms of ease of doing business, subject of availability of anonymity in financial transactions and concealment of the final beneficiary. Consequently, with the last criterion defining an offshore as a tax haven. It should be noted that terms such as tax haven have come to imply the same meaning as that of an “offshore”.

Other studies focus on the subject reduction in overall tax burdens.\(^3\) Here the main focus of research is focused on the problematics of tax avoidance and the impact on the economy of the decrease in government revenue from taxes. Lee argues that the resulting tax avoidance is the reason behind deoffshorization policies on national and international levels.

**THE CONCEPT OF DEOFFSHORIZATION**

In order to understand the concept behind deoffshorization it is crucial to define the term - offshore and develop arguments for why this model of conducting business is has a negative impact on the economy.

An offshore\(^4\) is the result of an act of moving business operations and activities to a country that is not the home country, which offers a range of favorable conditions, such as lower labor costs, lower tax rate or better conditions for doing business, as defined in the annual report of the World

---


The aim of an offshore is to decrease overall costs, gain access to favorable economic and legal conditions to facilitate business operations and activities. In other words, “offshoring is defined as a decision to move work to foreign entities outside the company.”

To some extent, as it may be argued, offshoring resembles in many ways multinational corporations, which likewise opt to establish the production of their goods or services, whether through ownership or control over the processes, in a country other than its home country due to reasons such as cheaper production and labor force, convenient logistics and access to raw materials. However, it is common for an offshore to be either a designated territory or another country offering financial services for non-residents, which include minimal or no taxes, anonymity, lack of transparency, and creation of obstacles for legal processes originating in the home country. The dark side of offshoring is the reason for it not receiving government support, as the business benefits from tax arrears rather than the aforementioned lower production expenses. Consequently, an offshore is nothing more than a tax haven.

Businesses use offshores to “lower their taxable income”, as a result of which less taxes are received by the governments, leading to the bigger problem of corporate tax avoidance.

---

Deoffshorization in Russia is an economic development goal set by Vladimir Putin in his address to the Federal Assembly 12.12.2012.\(^1\) Within his address, he proposes the creation of a new formal definition for a Russian company, as well as of providing such entities with an economic advantage over offshore business structures working on the Russian market, which will be instrumental in the "deoffshorization" of the national economy.

Deoffshorization\(^2\) can be defined as the policy against the relocation of capital or interests to accounts located in “tax haven” territories or countries or the use of offshore companies or “unincorporated foreign structures—for example, funds, partnerships, trusts, other forms of collective investment vehicle and/or trust management—for tax planning purposes”.\(^3\) Measures of deoffshorization in general “promote transparency in the global financial services sector.”

Russia is not the only country that turned to measures of deoffshorization in order to prevent the use of offshores for tax planning purposes. Deoffshorization measures beyond Russia have been initiated in 2008 and are attributed to the beginning of the global economic crisis. For example, Foreign Account Tax Compliance Act (FATCA) was adopted in the United states of America (further - USA).\(^4\) The overriding aim of FATCA is to prevent tax avoidance, namely from assets held abroad. The provisions of FATCA implement the use of “annual reports on any foreign account holdings.”\(^5\)

Incorporation of the deoffshorization concept introduces a number of novel concepts into the Russian tax law such as tax residency for companies, beneficial owner, taxation of capital gains and controlled

---


\(^3\) Ibid.


foreign company (further - CFC) rules. The two laws regulating deoffshorization in Russia are as follows:

- Federal Law “On Amendments to the First and Second Parts of the Tax Code of the Russian Federation (regarding taxation of profits of controlled foreign companies and incomes of foreign organizations),”¹

These federal laws have been adopted on November 24th 2014 and they have impact on business originating in Russia, which have or use holding, trading and/or treasury companies, or carry out operations through foreign jurisdictions. These laws are also applicable to natural persons, who are tax residents of Russia, should they invest into foreign entities.³

These laws focus on identification of true motives of the company, their true place of operations and strategic and current management of the company, the latter is used to recognize the company as a tax resident of Russia. Provisions of the adopted law⁴ identify three basic criteria for determining company's place of business. The criteria is as follows: (1) the majority of board meetings are held in Russia; (2) the executive body of the company in relation with organization of business activities operates on a regular basis from Russia; (3) the executive officers of the company mainly carry out their duties and responsibilities in Russia. Consequently, with the aim to differentiate companies involved in offshoring from companies actually operating abroad, the law revises tax residence of Russia-based companies.

² Федеральный закон «О внесении изменений в первую и вторую части Налогового кодекса Российской Федерации (в части налогообложения прибыли контролируемых иностранных компаний и доходов иностранных организаций)» от 24.11.2014 г. № 376-ФЗ.
³ Федеральный закон «О добровольном декларировании физическими лицами активов и счетов (вкладов) в банках и о внесении изменений в отдельные законодательные акты Российской Федерации» от 8 июня 2015 г. № 140-ФЗ.
The following section of the paper looks into the risks and benefits of this approach and includes commentary from the author concerning origins of offshorization and why deoffshorization does not solve the problem of tax avoidance.

**IMPACTS ON THE ECONOMY AND BUSINESSES**

The aim of any business is to gain profit and to increase profit over the years. Some regions offer better conditions for starting and developing businesses as opposed to others. Annual report of the World bank analyzes countries setting a criteria for ease of doing business.\(^1\) Whereas, as discussed prior, for an offshore to qualify as a legal unit, three criteria have to be met, those are the following:

1. Opportunities for significant tax and other expenses mitigation;

2. Favorable legal environment for setting up and running a business (e.g. simplified administration and/or financial control);

3. Possibility for anonymous financial transactions and concealment of the final beneficiary(ies).

As can be seen, tax and expense mitigation along with a favorable legal environment are components of an offshore, however those are just aspects which entrepreneurs take into consideration when starting a business, and those components by themselves should not qualify as means for tax avoidance. Entrepreneurs should have the freedom to establish business in jurisdictions of their choice regardless of their nationality. It is a globalized society, and it's rare to find or identify a business which would have no international component in its operations. Whereas, the aim of deoffshorization is to prevent the outflow of tax money to jurisdictions which act as intermediaries for ensuring anonymity and concealment of money flow within an organization. The attempt at tackling the issue of tax avoidance is applaudable, however it holds great risks not only for the operations of the businesses, but also on the economic situation overall.

During public review and discussion of the proposed deoffshorization measures, it was concluded that the use of coercive measures for the transfer of a wide range of organizations to the jurisdiction of Russia, could potentially create significant risks for the economy as a whole. Potential risks include the weakening of competitive positions on world markets and the defaults of contracts in the sphere of foreign economics. These arguments were expressed against a systematic uniform criteria which would identify businesses which mandatory fall under the jurisdiction of Russia.

Partially arguments against a systematic unified approach were based on the notion that businesses could have foreign subsidiaries that carry out their main activities outside of Russia, thus their place of main operations accounts for their place of registration. Moreover, some foreign subsidiaries could be enterprises with the participation of foreign capital, consequently their relocation to the jurisdiction of Russia could lead to termination of said cooperation, which was ensuring the expansion of the Russian economy to foreign markets.

For now, the assessment of deoffshorization only identifies risks for the companies operating abroad or dependent on foreign capital, the policy weakens the countries economic standing and potential expansion. A number of economic effects can be identified as consequences for the companies which are subject to deoffshorization policy.

(1) Loss of tax benefits granted by the offshore zones.

(2) Incurring significant non-tax related costs. Addition costs are expected in terms of restructuring operations.

(3) Heightened risk levels due to relocation of business operations to a less attractive regulatory environment.

Moreover, the introduction of the deoffshorization law requires a fundamental review of the foreign corporate structures of Russian

---


business, the solution of new tasks for collecting and disclosing information and preparing new reports, introduction of new business processes and additional control procedures aimed at managing new tax risks. Additionally, costs will be incurred by the state along with the companies, as the state will have to regulate the aforementioned in order to ensure a successful deoffshorization process and company relocation to the jurisdiction of Russia.

The overall assessment of the situation created by deoffshorization policy leads to a conclusion that this measure is used to battle tax avoidance, which is only the top of the iceberg, it does not tackle the underlying problem of why companies in a given region choose to use offshores. Drawing parallels to establishment of new companies, a person residing in European Union in Latvia, for example, might examine legislation and ease of establishing and operating a company in the neighbouring states - Lithuania and Estonia, in order to identify a region which has the most favorable conditions for his business. Thus, a resident of Latvia might choose to open a company in Estonia, for example, because it is faster, or because it offers better tax conditions for startups or new companies. Though this example ties company registration to a different state, establishing a tax residence initially in a different country, the problem identical to tax avoidance at the home state is observed in this example similarly to cases of offshoring. In other words, the home country will still suffer, though indirectly, from decreased revenue in taxes, should a significant amount of its residents choose to establish businesses abroad.

RESULTS

The approach chosen for analysis of the deoffshorization concept within this paper is through a strengths, weaknesses, opportunities and treats (further - SWOT) analysis. This might not be the most suitable means of presenting the gathered research in terms of academic standards, however arguments and researches as exposed in the previous sections focused on the components of a SWOT analysis graph, namely the strengths of deoffshorization policy were identified as arguments for its' implementation, weaknesses and threats were noted as remarks to the potential consequences which companies and the state will incur, as to opportunities, as mentioned before, deoffshorization is a band aid to the problem, however it does not offer a sufficient solution for the underlying
problem. Within this section commentary on the finding is presented in four sections, separating the issues into SWOT analysis components.

1. **Strengths of deoffshorization policy**

   Implementation of deoffshorization policy is aimed at securing and decreasing the outflow of money out of the country, creating binding regulation for financial support of the home economy. Current situation involves the outflow of home capital to offshores and then returning at a rate of 60%-80% as direct foreign investment from offshores. These manipulations have a negative effect on the economy and revenue from taxes. Consequently regulating offshore involvement and prevention of the outflow of capital for the aim of tax avoidance creates financial support for home economy and increases tax revenues.

2. **Weaknesses of deoffshorization policy**

   Deoffshorization stalls the expansion to foreign markets, which weakens the competitive position. Deoffshorization policy is focused inwards, and does not sufficiently improve or facilitate business operations in the home country. Whereas by creating boundaries on operations abroad as foreign subsidiaries, breaches in contracts in regards with transborder relations and increased costs in connection with relocation, reorganization and likewise risks are to be encountered by companies, thus making them less competitive on the international market.

3. **Opportunities**

   Deoffshorization is the means of partially dealing with the problem, however this policy does not solve the underlying issue behind the outflow of funds. Deoffshorization policy has the potential to initiate alternations in the national tax system and strategy. Until the situation in the home country will not be resolved in terms of creating an environment which facilitates business and offers growth potential, companies will continue to opt to use foreign jurisdictions. Offshores could be examined in terms of the favorable conditions they create apart from tax avoidance, and their experience could be used to improve in terms of ease of doing business and national economic condition improvement.

4. **Threats**

   Direct threats imposed by the implementation of the deoffshorization policy are related to the risks exposed in the weaknesses section. Deoffshorization to some extent implies generalization of applicability, thus the novel regulations may affect a number of foreign subsidiary
companies, whose main activities are based at the place of registration, thus place of registration corresponds with the true place of business. Subsidiary companies can lose foreign capital through termination of cooperation, for example, which would have helped expansion of national economy into new, foreign markets.

CONCLUSION

1. Offshores are mainly used by companies to decrease overall tax burden and to conceal the origins of investments or the final beneficiary.
2. Deoffshorization is a band-aid, not the solution for the outflow of funds and loss of tax revenue, as this measure makes the home jurisdiction less attractive for businesses.
3. Forced transfer to the jurisdiction of Russia will create significant risks for the country's economy and decrease the competitiveness of companies on an international market.
4. Instead of supporting measures of combating offshorization, home jurisdiction should focus on increasing ease of doing business and creation of favorable conditions, which will increase the number of company registrations at home jurisdiction and attract foreign investment, concurrently increasing competitiveness of the economy.

REFERENCES

4. Деофшоризация: новая реальность, новые задачи. Available on:

5. Федеральный закон «О внесении изменений в первую и вторую части Налогового кодекса Российской Федерации (в части налогообложения прибыли контролируемых иностранных компаний и доходов иностранных организаций)» от 24.11.2014 г. № 376-ФЗ

6. Федеральный закон «О добровольном декларировании физическими лицами активов и счетов (вкладов) в банках и о внесении изменений в отдельные законодательные акты Российской Федерации» от 8 июня 2015 г. № 140-ФЗ


18. Voronkova, Anna, and Rezida Valitova. "Russia: Introducing the beneficial owner concept as part of Russia's de-offshorisation initiatives."


THE SPACE INDUSTRY AS ONE OF THE MOST RISKY SPHERES OF GOVERNMENT SPENDING

Erik NERSESIAN

Lomonosov Moscow State University, Russia, ners2020@mal.ru

This article discusses the problem of inefficient spending of public funds in the space industry. The author gives a general description of the main violations identified during the audit by the Accounts Chamber of the Russian Federation. Based on the analysis, it is showed the significance of the space industry as the most risky sphere of public spending in the Russian Federation.

Keywords: space, space industry, Roskosmos, public funds, government spending, the Accounts Chamber, efficiency analysis, violations in government spending, federal budget

Roskosmos is a state corporation which was established on August 2015 to carry out a comprehensive reform of the space industry in Russia.

The Corporation ensures the implementation of state policy in the field of space activities and its legislative regulation. Moreover, it places orders for the development, production and supply of space technologies and space infrastructure facilities.

Also, its functions include the development of international cooperation in the space sphere and the creation of conditions for the use of the results of space innovations in the socio-economic development of Russia. And one of the most important functions is the looking for activities of Байконур and Восточный spaceports and all the work carried out on it.

So, what is about the public audit of the space industry? The state audit of the space industry is carried out in three main areas:

• Financial - external control of keeping the records, monitoring the targeted use of resources.
• Conformity analysis – is about giving an assessment of the compliance with laws in the consumption of budget money.

• Efficiency analysis – answers the question, was there a budget overrun?

In 2016, the Government of the Russian Federation approved two main strategies that determine the implementation of state policy in the field of space activities - the Federal Space Program of Russia for 2016-2025 (approved March 23, 2016 by the Decree of the Government of the Russian Federation No. 230) and the state program of the Russian Federation “Space activities of Russia for 2013–2020” (referred to as the State Program, approved on September 9, 2016 by a decree of the Government of the Russian Federation No. 895).

Nevertheless, there is still a lot of problems in the targeted use of budget funds and in the efficiency of this use. In 2017 the amount of violations detected by the Accounts Chamber amounted to 1,865 billion rubles. This is almost twice as much as in 2016, 3.5 times more than in 2015.

Over 40% of violations identified by the Accounts Chamber were related to the activities of Roscosmos. This was stated by the chairman of the Accounts chamber Alexei Kudrin, presenting the annual report on the activities of the department for 2017. According to him, the total amount of violations amounted to 760 billion rubles. Moreover, on October 2017, the Accounts Chamber revealed the debt of the state corporation in the amount of 47 billion rubles. Truth be told, a bit later such kind of information disappeared in social sources.

So, I offer you have a look at the main features of the violations in the space industry. According to the annual CONCLUSION of the Accounts Chamber of the Russian Federation on the report on the execution of the federal budget for 2017”, in the activities of Roscosmos the violations are the following:

• the state program "Russia's Space Activity for 2013-2020" was not fully executed amounting to 31,835.6 million rubles. The Accounts Chamber added Roscosmos to the group with the lowest degree of efficiency. This means that the level of implementation ranges from 78.4% to 80.8%.
• Federal budget expenditures in the direction “Implementation of the functions of other federal government bodies” were not fully executed amounting to 35.1 million rubles.

• The level of unfulfilled budget allocations amounted to 12,831.3 million rubles. According to Roscosmos, this indicator is characterized by a low level of spending on the implementation of the federal target program “Development of spaceport for 2017–2025 to support the space activities of the Russian Federation”, as well as activities related to the creation of the Vostochny spaceport that is associated with the failure of contractors to perform work, the insufficiency and low qualification of the personnel employed in the construction and the unsatisfactory organization of the construction industry.

• The largest value of violations in the field of public procurement amounted 10851.7 million rubles.

• Others.

Thus, 43.6% of the total are the violations of the accounting, performance of the financial statements; 32% - violations in the formation and execution of budgets.
REFORMING THE TAX SYSTEMS IN THE DEVELOPING WORLD: TRENDS AND RESULTS

Yuliya SOLOVIEVA ¹, Aliya YUSUPOVA ²

¹Lomonosov Moscow State University, Russia, solovieva-julia2009@yandex.ru
²Lomonosov Moscow State University, Russia, aliyayusupova@yandex.ru

As the title implies the article provides a general description of tax reforms in developing countries. Much attention is given to the analysis of tax methods and principles applied in emerging countries, and solutions to existing problems in the tax sphere are proposed. At the example of two rapidly developing countries, India and South Korea, the authors assess the influence of the current political and economic situation on the tax systems of the said countries, as well as the prerequisites of their important tax reforms. Economic development in India is delayed because of serious problems in the sphere of personal security and open conflicts between castes, escalated by the introduction of new taxes. Creating a single Indian market is deemed difficult because Parliament has problems with the shadow sector, which the new tax system has to deal with. Tax reforms in South Korea proved to be more effective because the main goal of the government was to eliminate capital outflows from the country. Thus, the Korean government provided a tax reduction for small and medium-sized businesses. In the course of comparative analysis, the authors arrive at the conclusion that merely following the example of western countries and the USA, without taking into account local economic nuances, developing countries can face a number of negative consequences of such tax innovations.

Keywords: tax reform, developing countries, tax policy, direct/indirect taxation, shadow sector.

Taxation has once again taken up a central spot on the international development agenda. The international community is calling on governments in developing countries to increase their domestic resource mobilization, and in particular taxation. However, tax ratios have been
stubbornly stable, particularly in low-income countries. The world wars, the harsh changes in oil market situation and debt crises, the end of the Cold War - all of these have had a considerable impact upon the understanding of the role of the state in economic management, and tax policy in particular. So, tax reform is the order of the day and many countries are looking intensely at their own regimes and tax reform. Thus, the main goals of this research are: to provide a general description of tax reforms in developing countries, to analyze applied tax methods and principles in developing countries, and to propose solutions to the existing problems in the tax sphere.

The development of tax reforms in most countries has been going for a long time. The main ideas that are used to develop reforms are as follows:

- The government looks at the outlook, perspectives and positive consequences of such reforms;
- The tax systems of the West should not be considered the basis for the specific country, as there is a necessity to focus on distinctive features of latter.

In this regard, it is worth noting that this issue is relevant and topical. The importance of the work is determined by the «here and now» condition of the economy in developing countries. Special mentioning should be given to the pace of industrial production, as well as the fiscal deficit of the budgets of these countries, which are determined by the difference in all budget expenditures plus the return of loans.

To illustrate the distinction, attempts are made to carry out a comparative analysis at the example of two different countries: India and South Korea. Thus, we examine the main trends in the development of the tax sphere in these countries, as well as possible negative consequences of such reforms.

Resources are needed by governments in developing countries, as in advanced nations, for a wide variety of expenditures, ranging from public administration and defense to the maintenance and provision of social services and infrastructure.

---

When a government is given a revenue requirement, a major option is taxation. Here cross-country comparisons can suggest the sorts of taxes that are possible, particularly with respect to administration, and may provide guidance as to how revenue flows might change in the course of time.

There are important features of the fiscal systems and economies of developing countries which require particular attention. Amongst these there are:

- enforcement costs or administrative difficulties which may limit the choice of tax instruments;
- partial coverage of various taxes in certain sectors or types of firm may escape the tax net, legally or otherwise;
- central role of the agricultural sector which is usually poor, fragmented and backward;
- structure of the labour market;
- poor quality of information;
- variety of objectives, structures and powers of governments.

Looking at Indian tax policy in 2018, we should mention the following key drivers:

- Stimulation of economic growth;
- Incentivizing micro, small and medium entrepreneurs;
- Promoting post-harvest activities of agriculture;
- Encouraging creation of new workplaces;
- Making India’s taxation rates more reasonable;
- Making tax administration simpler and fairer;
- Expansion of the tax base;
- Providing relief to middle- and low-income taxpayers;
- Focusing on affordable housing;
- Strengthening infrastructure;
- Curbing “black money”;
- Promoting the digital economy.

Let us look at some new trends in Indian taxation in 2018:

1. Corporate income taxes

The Government has been following a policy of lowering the overall corporate tax burden. In Budget 2018 the headline CIT (corporate income tax) has been reduced to 25% from 30% for select companies. In the case
of domestic companies, the CIT rate shall be 25% of the total income if the turnover or gross receipts of the previous year 2016-17 does not exceed 2500 m. In all other cases, the rate of income tax remains at 30% of the total Income.

2. Taxes on digital activity

The objective is to address the direct tax challenges arising in digital businesses and to provide purposeful and sustained interaction of an enterprise with the economy of a country via technology and other automated tools. All digital activities are subject to 18% GST. It is anticipated that there may be more rules in the future that will cover newer types of digital transactions.

3. Taxes on wages and employment

The Government has been following a policy of imposing a higher tax burden on high-net-worth individuals, while providing a respite to middle- and lower-income taxpayers.

4. VAT (Value Added Tax)/GST (Good and Services Tax)/sales taxes

The center and state Governments have collectively decided the GST base and rates. It is expected that in 2018, the GST base will be further broadened to include some petroleum products and possibly real estate. Rates may see a further rationalization in terms of fewer number of rates. The current focus of the Government is to stabilize the implementation and procedural aspects of the GST.¹

Recently, the main goal of all reforms of the Government of India is to struggle against the shadow sector. According to the IMF (International Monetary Fund), the tax reform will increase the growth rate of the Indian economy to 8% per year by creating a complete national market.²

The main objectives of this reform are:

• Simplification of the tax system which will support not only interior consumption, but also export;
• Reduction of the percent of the shadow sector in the economy and limiting corruption;
• Increase in tax collections. This will reduce the budget deficit and the level of public debt (now about 70% of GDP);

¹ Ahmad E., Stern N. Taxation for Developing Countries, The London School of Economics. Chapter 20.P. 1080
² https://www.kommersant.ru/doc/3342098 (Date of application: 08.11.2018)
New taxes introduced will be the main stimulants of economic efficacy;

- Tax will contribute to compliance tax laws;
- Attracting interior and foreign investment.

From July 1, 2017, India introduced a single tax on goods and services (GST) to replace the former eight federal and nine regional indirect business taxes, which is a very significant reform. The new tax regime will cancel double and «cascade» taxation, previously applied along the entire value chain; unify regional tax regimes (an indirect tax on exporters from other states of India could previously be twice as high as for local producers); reduce the tax burden on exporters, as it is a tax on final consumption; reduce transport costs, as there is no need for checks at regional boundaries for calculating taxes under the previous scheme.\(^1\) In addition, the government expects that by reducing the tax burden, the business will become more active in getting out of the shadows, and prices for goods and services will decrease for final consumers.

The positive effect of tax reform in the form of 2–4% of GDP (Gross Domestic Product) is assumed. This tax reform will lead to an increase in industrial production by 14% (long-term effect), interior trade in goods by 29%, and foreign trade in goods by 32%. It is also worth noting that the authorities have not established a single tax rate. In the format of GST at the same time to lay a progressive scale of taxation. For agricultural products, the GST rate is 0%, for essential goods - 5%, for luxury goods - 28%, for other goods - 12 or 18%. A zero-tax rate is provided for fresh vegetables and fruits, eggs and flour, milk, educational and medical services, and a lower tax rate on gold and rough diamonds (3% and 0.25%, respectively).\(^2\)

Another important tax reform is the introduction of the General Anti-Avoidance Rule (GAAR) into the tax legislation of India. GAAR is valid from April 1, 2017. The Central Committee for Direct Taxation (Central Board of Direct Taxation - CBDT) also issued a document that clarifies the application of GAAR.\(^3\)

---

GAAR gives the tax body a broad authority to refuse the application of tax privileges (including tax privileges of tax agreement), if the tax privileges are based on «unacceptable care schemes». «Unacceptable care schemes» are understood to be schemes whose main purpose is to obtain tax privileges and which possess a certain number of signs.

After more than a year, one can notice the effectiveness of these reforms. However, unfortunately, now it has also become clear that the reform has more disadvantages than advantages:

• For a number of products, including alcohol, gas and petroleum products, tax rates have not been established yet and will be discussed in the government.
• The transition to a new system turned out to be too difficult for entrepreneurs: problems force them to limit the scope of operations.
• Despite compensation from the federal budget, different GST rates have already led to tensions between states.
• Additional privileges regarding this type of taxation system don’t always stimulate businesses to improve the quality of their goods and services and live by the new rules. As an example: for restaurants and cafes with air conditioning, the GST rate rises to 18% compared to 12% for those who do not have an air conditioner. ¹

The outcome is that GDP growth in 2017 is less by 0.5% than expected, because there will be a difficult adaptation of the economy to the new tax regime.

It should be noted that such an approach to reforming the tax sphere really brings results. However, it cannot work without the systematic strategy of interior changes. It is not occasional that the fulfilment of those tasks requiring serious reforms is getting out of control. Analyzing this reform, we can agree with many critics, who affirm that the introduction of a new tax policy is a «patch» on the outworn model of the Indian economy. A number of significant issues is still ignored by the Parliament: privatization, construction and modernization of infrastructure, reforms in the labor market, in the sphere of land problems, in the electric power industry. Development is delayed because of big problems in the sphere of personal security, open conflicts between castes, as the latter has escalated by the introduction of new taxes. Creating a single market is difficult

¹ https://www.rbc.ru/opinions/politics/27/07/2017/59774d6d9a794739e403d50d (Date of application:05.11.2018)
because Parliament has problems with the shadow sector, which the new tax system has to deal with. For example, it is unclear how the goals will be achieved under the program ‘Make in India’. So, in connection with the introduction of VAT business in the country is getting worse. In “Doing Business” rating, which is composed on the criteria of its’ easiness, the country remained at 130th place.

As far as South Korea is concerned, it is a fast-developing country. In this regard, a large number of reforms are carried out every year. Recently there have been significant changes in the tax area. Provided below are significant changes to the original national tax reform proposal in the last 5 years.

On December 1 and 2, Korea’s National Assembly approved the final national tax reform bill to amend 10 tax laws including VAT law and on December 5, it approved the corporate income tax law and the individual income tax law with several changes to the original government’s reform proposal released in August 2017. It also approved the local tax reform bill on December 8, 2017.  

1. Corporate Income Taxes

The focus of the 2018 Corporate Income Tax Law (CITL) reform is to encourage job creation by reforming the existing tax credits for corporate investment to create jobs and additional incentives to stimulate youth employment. Another focus is placed on strengthening the collection of income tax on high- income earners by expanding tax revenue sources through raising the CIT rate for taxable income over 300 billion Korean won (KRW). According to the approved bill, the marginal corporate income tax rate of 25% will apply for the tax base exceeding KRW300 billion, which increases from KRW200 billion under the original tax reform proposal, effective from the fiscal year starting on January 1, 2018.  

Table 1. Corporate Income Tax Law.

<table>
<thead>
<tr>
<th>Original Proposal</th>
<th>Approved Bill</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Samil PricewaterhouseCoopers (2017). «Samil Commentary. Korean Tax Update». P.1</td>
</tr>
<tr>
<td>Tax base</td>
<td>Tax Rate</td>
</tr>
<tr>
<td>----------------------------------</td>
<td>----------</td>
</tr>
<tr>
<td>Up to KRW200 million</td>
<td>10%</td>
</tr>
<tr>
<td>Over KRW200 million to KRW20 billion</td>
<td>20%</td>
</tr>
<tr>
<td>Over KRW20 billion to KRW200 billion</td>
<td>22%</td>
</tr>
<tr>
<td>More than KRW200 billion</td>
<td>25%</td>
</tr>
</tbody>
</table>

2. Special Tax Treatment & Control Law:
   a) Tax Exemption for Income from Exercise of Stock Options Granted by Qualifying Venture Company

   The approved bill adds a new provision allowing for a tax exemption for income up to KRW 20 million from the exercise of stock options by the executives and employees of a venture company, with the aim of attracting more talent to venture companies. The new provision applies to the stock options granted for the three years from January 1, 2018 to December 31, 2020.¹

   b) Tax Credit for Social Security Taxes for New Enrolment by Certain SMEs (Small and medium-sized enterprises)

   In order to encourage SMEs’ enrolment in the social security tax programs for its employees, the approved bill newly introduced a tax credit for social security taxes for new enrolment by certain SMEs from January 1, 2018. Where an employee of certain SMEs (as designated by the presidential decree) newly enrolls in the social security programs by December 31, 2018, the SME will be eligible for a tax credit for 50% of its

social security tax payment for the employee for two years from the enrolment date.¹

3. Basic National Tax Law²

In order to enhance the transparency of audit target selection procedures, the approved bill of 2018 includes a new provision that would add the accounting credibility to the existing selection criteria to be considered by the tax authorities in selecting periodic tax audit targets. Under the new provision, if a company receives a qualified or adverse opinion on its financial statements or the company’s external auditors spend less hours for audit on the company than the standard hours required for the audit, the company would be treated as having the low accounting credibility, thereby resulting in the higher probability of being selected as a tax audit target.

4. VAT

VAT is levied at a rate of 10% on the supply of goods and services, except zero-rated VAT on certain supply of goods and services (e.g. goods for exportation, certain eligible services rendered to non-residents earning foreign currency, international transportation service by ships and aircraft) and exemption on certain goods and services (e.g. basic life necessities and services, such as unprocessed foodstuffs and agricultural products; medical and health services; finance and insurance services; duty-exempt goods). At the last time reasons expanded which allow revised import VAT invoicing. Since the amendment of Article 35 of the VAT Law in July 2013, where a customs office assesses customs duties as a result of customs audit, generally, it has not issued revised import VAT invoices based on the assessed customs duty base. Practically, however, there have been disputes between taxpayers and the customs office over the interpretation for simple mistake, etc. Under the approved bill, effective for the import VAT assessment from January 1, 2018, the wording “simple mistake” is rephrased to “mistake or minor error” to ensure that revised import VAT invoices may be issued in principle unless there is wilfulness or gross negligence of an importer.³

5. Customs Act

In 2018 government introduce a New Anti-Bribery Provision in relation to Duty of Customs Officers. As part of the efforts to enhance the integrity of customs officers, the approved bill includes a new anti-bribery provision in relation to duty of customs officers. The new provision calls for imposing sanctions against those who accept or offer bribe in connection with customs officers’ duty. Under the new provision, the disciplinary committee would be required to impose disciplinary surcharges on customs officers up to five times the value of the bribe accepted. It also calls for the fine of two to five times the value of the bribe offered against those who offer bribe to customs officials in relation to their duty.¹

Analyzing the latest changes in the tax sphere, as well as the adoption of reforms, we can draw the following conclusions. The main advantage of the tax reform in South Korea is that the main goal is to increase the benefits in general for the population as well as to eliminate capital outflows from the country. Thus, the government provides a reduction in tax payments for small and medium-sized businesses.

In our opinion, it is necessary to take the following measures in the tax area:

1) to increase the tax on real estate. This will help reduce the gap between those who already own real estate and those who cannot afford it;
2) to revise tax privileges for fuel;
3) to introduce a tax for wealthy citizens and large corporations. It is necessary to introduce a luxury tax, which currently operates in the Russian Federation. Also, the introduction of a tax for large corporations will make it possible to compensate for the damage caused to small businesses because of the increase in the government’s minimum wage.

In the course of the comparative analysis of the two countries (India and South Korea), we arrive at the following conclusions. Small and medium enterprises play a key role in the economic development of any country. In most developing countries (Vietnam, South Korea, Thailand, Singapore and others) such enterprises in the country are in the majority and they are important in creating working places. In our opinion, a temporary tax reduction for small and medium-sized enterprises could thus

become a good solution. This measure will surely help them to accumulate capital, expand their business and increase their competitiveness. This has already been done in South Korea and it is already possible to see a positive result of this reform. Such tax relief will not have a big influence on the state budget, although small, medium enterprises make up the majority in a developing country, and their contribution to the budget is relatively small, as, for example, in Vietnam. It is important to note that this proposal was already made to the Government of the Philippines, where in order to improve the country's economy, it was proposed to lower the corporate income tax. Another important aspect that should be touched upon in the taxation of developing countries is the tax on personal income. It also needs to be reduced, because the living conditions in developing countries are rather poor, and therefore the majority of the citizens cannot pay a huge tax levied on them.

Anyway, it is worth noting that the reform of tax systems in developing countries is a huge step forward, which allows their economy to improve. However, sometimes their governments undertake such reforms without considering the specificity of their countries, borrowing the experience of western countries and the United States, which leads to the negative consequences of such innovations.

REFERENCES

1. Ahmad E., Stern N. Taxation for Developing Countries, The London School of Economics.
2. Dom R., Miller M. (2018). Reforming tax systems in the developing world. What can we learn from the past?

Internet sources
WINNING THE TAX WARS: GLOBAL SOLUTIONS FOR DEVELOPING COUNTRIES

Yuliya SOLOVIEVA¹, Bella TSOKOVA²

¹Lomonosov Moscow State University, Russia, solovieva-julia2009@yandex.ru
²Lomonosov Moscow State University, Russia, tsbella@mail.ru

Tax systems and economic environment of developing countries have greatly changed over time and vary considerably. Big economic issues like Oil Shock and Great Recession made changes in the tax systems necessary. Older forms of direct tax system need to be changed indirectly, in the form of VAT, GST and sales taxes. International taxation policies tend to be dominated by perspectives from the United States and Europe. In this connection the authors set several objectives to be performed in this article: to give historical overview of the global tax practice; to analyze theories of taxation in accordance with the main historical events; to explore tax revenue instruments used in different countries. Attempts are made to consider major policy issues and modern trends in taxation and to provide overview of taxation principles in developing countries, namely, in China.

Keywords: tax system, economic environment, VAT, GST, Individual Income Tax Law, tax revenue instruments, within-country differences, tax administration reforms.

INTRODUCTION

Perspectives on the foundations of effective tax systems have changed over time and varied considerably. There can be found two evolutions of particular influence on tax system reform:

• changing perspectives on the drivers of social and economic development. In other words, advice on tax systems has changed according
to the understandings of what drives development and, particularly, perspectives on the role of the state.

- changing theoretical perspectives on tax systems in the West. International discourses tend to be dominated by perspectives from the United States and Europe. For instance, ‘Optimal tax theory’, focused on the efficiency of tax systems, gained influence, when perspectives in development shifted towards marketed-oriented reforms. In the 1990s, new institutional economics and new public management influenced tax administration reforms IA. The main goal of this research is to provide the overall description of the global tax tendencies and analyze the basic ideas of tax methods and principles in developing countries. To fulfill the goal several objectives should be performed: to give historical overview of the global tax practice; to analyze theories of taxation in accordance with main historical events; to explore tax revenue instruments used in different countries; to consider major policy issues and modern trends in taxation; to provide overview of taxation principles in developing countries; to analyze taxation policies in China.

**HISTORICAL OVERVIEW**

Throughout the past century, there has not always been a linear development in ideas. Table 1 summarizes some of the key trends. In the early 20th century, the dominant idea in economics was laissez-faire, but the Great Depression and the Second World War required a more active role for the state. In that period tax policy served as a tool to promote industrialization. The oil crisis of the 1970s saw the state retreat, while the financial crisis of 2007–08 has once again raised questions about the role of the state in economic management. In the 90-s tax policy was supposed to be non-distortionary and allowed markets to promote development. Value-added tax was promoted to compensate for reduced trade taxes. At the very beginning of the 21st century saw the introduction of semiautonomous revenues authorities, large taxpayer offices and improved taxpayer services. In 2010 greater focus was placed on questions of

---

international tax and losses from tax evasion and tax avoidance\(^1\). Within the course of time, it became clear that tax advisers should not simply present a fixed set of best-practice reforms, but consider the needs specific to political and institutional settings.

Table 1.

<table>
<thead>
<tr>
<th>Period</th>
<th>Major events</th>
<th>Theories of taxation</th>
<th>International advice on reforming</th>
</tr>
</thead>
<tbody>
<tr>
<td>1920-1945</td>
<td>First world war and Great Depression</td>
<td>• decline of laissez-faire</td>
<td>US financial missions primarily concerned with ‘financial interests’, but equity considerations start to emerge. In colonies, taxation about muddling through and ‘crisis management’.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• emergence of institutionalist school more concerned with social welfare</td>
<td></td>
</tr>
<tr>
<td>1945-1970</td>
<td>Second world war and decolonization</td>
<td>Different schools of thought coexist. Structuralists see tax policy as a tool to promote industrialization through import substitution.</td>
<td>Tax advice (from the US) influenced by Keynesian and institutionalist perspectives of advisers. Often diverged from actual practices of using taxation to promote industrial development.</td>
</tr>
<tr>
<td>1980s</td>
<td>Oil shocks, debt crises</td>
<td>Principle of neutrality dominates tax reform. Tax policy should be</td>
<td>Promotion of value-added tax to compensate for reduced trade taxes. Financing budgets</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Time Period</th>
<th>Event</th>
<th>Developed Policy</th>
<th>Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1990-2000s</td>
<td>Policy failures, end of cold war</td>
<td>Principle of neutrality remains in tax policy reform, but tax administration reform becomes more prominent and can support wider improvements in ‘governance’.</td>
<td>Tax policy advice largely unchanged, but a raft of administrative reforms introduced including semiautonomous revenues authority, large taxpayer offices and improved taxpayer services.</td>
</tr>
<tr>
<td>2010s</td>
<td>Global financial crisis</td>
<td>Renewed recognition that context matters and second or even ‘third-best’ tax policies might be appropriate in certain contexts. Greater focus on questions of international tax and losses from tax evasion and tax avoidance.</td>
<td>Greater tolerance for tailoring reform to context and increased use of diagnostics to pinpoint weaknesses. Taxpayer data and experiments to generate insights that can improve tax compliance. International taxation becomes major area of focus.</td>
</tr>
</tbody>
</table>

Using international cross-section comparisons, it can be said that the scarcity of simple ways of collecting revenue, or "tax handles", characterizes early stages of development. Harley Heinrichs proposed a classification to describe the pattern of change in tax structure during
development. There exist four stages: traditional; transitional-incorporating "breakaway" from old; "adoption" of new; and modern. Traditional societies appear to rely on a combination of direct taxes on agriculture (land, output, livestock, and water rates, for example), poll taxes and non-tax revenue. These sources become less prominent in "later stages". In the "breakaway" period, indirect taxation becomes more important, and in particular trade taxes dominate, depending on the degree of "openness" of the economy. The domestic indirect taxes - excises, sales and transaction taxes and profits of government enterprises become important with the increase in domestic production capability, monetization and the volume of internal transactions. Older forms of direct taxation become less important relative to the taxation of net income of individuals and businesses. Thus, the classification suggested is one where taxation varies from agriculture, to foreign trade, to consumption and to income. Major policy issues and paradoxes - the move to direct taxes may be associated with a desire to link taxation to ability to pay and it is often claimed that indirect taxes are inequalitarian. It might be more appropriate for less-developed countries to learn from the recent experiences of other low-income developing countries than to imitate more developed societies, leading, possibly, to an emphasis on indirect taxes at least in the medium term. The possible policy conflict between ease of collection and administrative expediency on the one hand and disincentive effects on the other. Modern trends in global taxation are:

- implementation of BEPS measures - Base erosion and profit shifting (BEPS) refers to tax avoidance strategies that exploit gaps and mismatches in tax rules to artificially shift profits to low or no-tax locations. Under the inclusive framework, over 100 countries and jurisdictions are collaborating to implement the BEPS measures and tackle BEPS;
- Responses to US tax reform, an issue of great magnitude in its own right;

---

• Changes in the shape of tax competition, with governments balancing the need to attract jobs and investment with the constraints that the BEPS recommendations place upon them;
• Continued spread of VAT, with the Gulf Cooperation Council (GCC) states joining; China, India and Malaysia in recent adoptions or expansions;
  • The “revolution” in tax transparency;
  • Shifts in the tax enforcement landscape: new digital tax administration requirements, new subjective anti-avoidance tests, and a new multilateral tax assurance process.

Together, these issues have the potential to change many aspects of how domestic and cross-border activity is taxed in 2018 and beyond.

**China overlook 2018.**

• On 31 August 2018, China’s National People’s Congress (NPC) passed the Draft Amendment to the People’s Republic of China (PRC) Individual Income Tax Law (IIT). The amendments will be effective from 1 January 2019;
  • More stringent criteria of “resident” determination;
  • Establish a comprehensive-categorized tax system and simplify income categories;
  • Establish tax exemption for consolidated income mechanism, increase tax exemption threshold amount and introduce specific additional tax deductions;
  • Increasing the standard basic deduction and introducing additional specific deductible items;
  • Introducing a unique taxpayer identification number;
  • Introducing an anti-tax avoidance rule.

Let us look at and comment on the key issues in connection with the above-mentioned proposed changes.

1. **Revising the criteria for determining tax residency status;**

   The new IIT Law introduces the definitions of “resident” and “non-resident”. Under the new Law, individuals who are domiciled in mainland China, or nondomiciled and have resided in mainland China for 183 days

---

or more within a calendar year, are considered as China tax residents and are subject to IIT on their worldwide income.

2. According to the existing Detailed Implementation Rules of the IIT Law (the DIR), individuals without domicile in China will not be subject to IIT on their worldwide income until after they have resided in China for five consecutive full years.

3. New tax system, rates, taxable income brackets;
   The new IIT Law consolidates four types of labor income including wage and salary, remuneration for personal services, author’s remuneration and royalty, into one category. Remuneration for personal services and royalty can be deducted by 20% to calculate the taxable income.

4. New deductible items;
5. Increases the standard tax deduction for consolidated income to RMB60,000/year;
6. Introduces specific additional tax deductions including caring for the elderly, children education, continued education, medical expenses for serious illness, housing loan interest or housing rent.
7. Unique taxpayer identification number;
   The Draft Amendment indicates that ‘one taxpayer, one number’ is the basis for developing a modern IIT collection and administration system.
8. Anti-avoidance rule;
   The new IIT Law includes Arm’s length principle, CFC rules and GAAR.

In our research we have provided a brief overview of key developments in efforts to reform tax systems over the past century. We looked at how ideas on the role of taxation in development have evolved alongside wider shifts in people’s understanding about the drivers of social and economic development, as well as changing perspectives on taxation. However, the ultimate target of international tax reform – to raise the amounts of tax collected in developing countries – has remained somewhat elusive in the last 30–40 years.

While there have been certain individual successes, the average across has continued to fall short of the targets the international community has set for developing countries:
1. There has been and continues to be a strong influence of ideas from the Global North on reforming tax systems that may not be appropriate to needs for developing countries.

2. More could be done to help advisers and governments distinguish between the ‘custom-built’ and the ‘bad idea’. The future of advice on tax policy is for systems to be ‘custom-built’. Taken to its extreme, however, there is a risk that we do not learn the lessons of failed reforms and ‘bad ideas’ elsewhere.

3. International technical assistance needs to be designed in a way that allows for ‘custom-built’, long-term approaches to support sustainable and effective tax reform.

We are inclined to think that advice on tax system reform should be focused on the specific challenges and economic growth of developing countries, but not on international political issues. Nowadays within the process of globalization of ideas on reforming tax systems, it is still important to be context specific. Most of the developing countries might not have needed conditions in place to face the tax reform. In our opinion, tax reforming requires a detailed investigation of the political, institutional and historical realities of the reform space. It’s also important to answer the question - why are certain tax offices out-performing others. So, within-country differences should be taken into consideration. Moreover, we strongly believe that at a country level, the governments should identify and analyze their domestic problems, which implies a shift from quick wins to playing the long game. It requires flexibility to learn and change track if needed. It means working through options with governments rather than presenting prescriptive reform role.

REFERENCES


Internet sources


8. https://www.wider.unu.edu/publication/are-less-developed-countries-moreexposed-multinational-tax-avoidance


COMPARATIVE CHARACTERISTICS OF THE CRIMINAL LEGAL SYSTEM FOR GAMBLING ORGANIZATIONS AND IN RUSSIA AND CHINA

Daria FROLOVA¹, Yuliya PLAKHOTNAYA²

¹Saint-Petersburg state university, Russia, Yuliaplakhotnaya@gmail.com
²Saint-Petersburg state university, Russia, Yuliaplakhotnaya@gmail.com

Gambling is not the main element of the criminal code of each state, but it has become very important because illegal casinos and gambling houses are the perfect examples of the so called “shadow” business. The present research reviews the problem of illegal organizations which humanity has to handle seriously nowadays. This creates necessary conditions to define new facets of community and differences in the branches of law in order to fully utilize the potential possibilities of the law system in ensuring effective law regulation. In the course of the paper, we reviewed the process of formation and development of the criminal law system in the PRC and the RF, comparing them and making conclusions about diametrically opposite views on sanctions for crimes and on the criminal law system as a whole.

Key words: criminal law, gambling, shadow business, China, punishment.

The globalization of the modern world makes it relevant to study the legislative experience of foreign countries. The study of foreign law is necessary not only for the orientation in the processes of the world economic, political and cultural integration and unification, but above all for the improvement of domestic criminal law.

The criminal law system of the illegal organization and conduct of gambling is an important part of the basic elements of the criminal code of each state. The problem of organizing and conducting illegal games,
especially in our days, is very acute, it affects many other factors of vital activity and the progressive development of society’s life and its functioning. Each country is facing this problem, the highest authorities are constantly looking for the most effective ways to counteract it. From time to time, there is news in the federal media about tougher penalties for organizing of gambling with the use of gaming equipment outside the authorized gaming zones. The problem of participation in the illegal field of gambling may concern absolutely all segments of the financial law. The need to prevent this offense is justified not only from the point of view of the importance of this problem in a social sense, but also in the context of the progress of society as a whole, and of each individual.

Given the proliferation of globalization processes in the world community, as well as the intensification of migration processes, comparative analysis of various legal systems, including the field of criminal law, is of particular importance. At the same time, the number of natives of the People’s Republic of China residing in the territory of the Russian Federation (as well as in other countries of the world) is constantly growing. The latter emphasizes the relevance of a comparative analysis of the characteristics of gambling in unauthorized areas and penalties for this illegal activity in the criminal code of the Russian Federation and the code of the PRC.

The relevance of the work is also due to the increasing complexity of social and cultural relations, the complex nature of which objectively requires the integration of law into criminal law units, which necessitates the definition of new facets of community and differences in the branches of law in order to more fully utilize the potential possibilities of the law system in ensuring effective legal regulation.

The purpose of this work is to analyze the current situation with the criminal law system of punishment for organizing and conducting gambling in the framework of criminal law in the Russian Federation and the People's Republic of China.

Tasks of work:

1. to compare criminal codes of RF and PRC
2. to consider the process of formation and development of the criminal legal system of RF and RPC
3. to analyse the level of criminal activity in PRC and RF
4. to run the law analysis of the criminal law system of punishment for organizing and conducting gambling in total as a
crime, that is to say to define the body of crime and to describe the punishment for each misdemeanour.

Comparative analysis of criminal law systems in RF and PRC is not studied well enough. However, some of the theoretical aspects of present research are based upon works, dedicated to criminal law systems worldwide. Thus, problems of the theory, history of development and the current state of the institution of criminal responsibility of a legal entity in relation to the law and judicial practice of various countries are considered in the work «Legal entity as a subject of crime and criminal liability» [Nikiforov, 2004]. Comparative characteristics of criminal law systems in different countries are also presented in the monography «Criminal liability of legal entities abroad».

The interpretation of the concept of "gambling" causes many moral and legal disputes. From the point of view of modern law, it is considered criminal to play for the purpose of winning money or other material values, in which winning completely or largely depends not on the art of playing, but on the case.

Gambling usually depends more on randomness than on the skills of players, and the main interest is directed not at the process of the game, but at the result. However, in many countries, gambling is not considered a criminal offense. Excess of legal actions in accordance with lawful norms may be regulated in the administrative code. From a legal point of view (according to Article 171.2 of the Criminal Code of Russia), organizing and (or) conducting of gambling with the use of gaming equipment outside the gambling zone without a license (obtained in the established procedure for organizing and conducting of gambling in betting offices and sweepstakes outside the gambling zone). Also, without a permission in accordance with the established procedure for organizing and conducting gambling in the gambling zone [http://www.consultant.ru].

However, it should be noted that according to statistics the number of crimes committed (conducting or participating in gambling) in the Russian Federation over the past decade has decreased. According to TASS, in January-November 2014, 1.92 million gambling crimes were registered in Russia it is the number of all types crimes was 0.5% (9 thousand). At the end of 2016, this figure was 0.4% (10.4 thousand out of 2.16 million

---

From 2011 to 2016, the number of registered illegal acts related to gambling in Russia decreased by 27%: from 14.3 thousand to 10.4 thousand per year.

In January-November 2015, since the ban on gambling in Russia, almost 1 million units of gambling equipment were seized. In terms of the number of organizing illegal games in January-November 2018, in the national statistics, Moscow was ahead of three regions — Krasnodar, Rostov-on-Don, and Moscow (and the Moscow Region) [http://www.mazm.ru].

With the development of information and computer technologies, illegal actions on the Internet began to occur more often than the organization of gambling in a dedicated room. Today, people continue to gamble in casinos, gambling houses and more and more often in online establishments. Online casinos allow players to play their favorite games in any place where there is access to the Internet using their computer or mobile device. Despite the tight regulation of this industry by law, over the past decade, the global online gaming industry has demonstrated an incredibly dynamic growth rate. Economists expect this trend to continue [http://ugolovka.com].

How can we see an increase of crimes on the Internet? This growth depends on a number of factors, such as the development of the Internet, the opening of new markets, as well as a huge number of registrations of new players. Since 2005, the online gambling market has grown 2.5 times and, according to forecasts, in 2014, its volume worldwide should reach 40 billion dollars. During this period, a number of key players appeared on the market: both online casino operators and software developers. They all strive to get ahead of their competitors by offering unique product packages, a wide variety of games, new features and regular updates.

As for the PRC (People's Republic of China), according to the source “http://www.goodchina.ru”, criminal activity in China is decreasing by 9% since 2011\(^1\). It should be noted that the punishment for gambling activities in China is much stricter than in Russia. This is due to the fact that the death penalty has been applied in the PRC. And, accordingly, the fear of punishment of potential criminals is doubled. However, for this crime in

---

accordance with Article 303 - participation in collective gambling, the organization of gambling houses or professional playing gambling activities for profit, is punishable by up to 3 years of imprisonment, arrest or supervision and a fine [https://asia-business.ru].

Comparing the world statistics on the number of illegal acts committed in the form of gambling for the year, the scientists derived the rating of all countries ordered by the level of deliberate offenses per capita per year for 100 thousand people.

Hong Kong is one of the leading financial centers of Asia and the world, ranks 1 in this rating, and this may be due to the geographical location next to Macau - the gaming city, the only city where any type of gambling is legalized. Macau is often called Asian Las Vegas thanks to its giant casinos and shopping centers on Kotay Boulevard - strip. However the administrative center still takes 1st place and this is with the consideration that the PRC has the largest population in the world.

We have to say that there is also one very big thing closely related with gambling. The shadow business. It has become very significant because illegal casinos and gambling houses are the perfect representatives of the so called “shadow” business. They don’t pay taxes and the money circulating in the business circumvents the attention of the fiscal authorities. All countries where gambling is forbidden have come across this problem; the highest authorities are constantly looking for the most effective ways to counteract it.

The problem of criminal gambling may influence gambler’s life both mentally and physically. The need to apply reasonable limitations to gambling does not come from the importance of this problem in a social sense only, but also it is extremely urgent in terms of international relations. A lot of money that rotates in this business bypasses the article of criminal code and state laws. This type of business causes great damage to the state treasury. The latter emphasizes the relevance of a comparative analysis of the characteristics of games of chance and applied punishment between the criminal code of RF and PRC. It should be noticed that according to the articles in the criminal codes for this crime, in China the punishment is much more serious and severe than in Russia.

We need to investigate the definition of what is meant by gambling can be found in Article 171.2 “Illegal organization and conduct of gambling”: Organizing and (or) conducting gambling with the use of
gaming equipment outside the gambling zone, or without a license received in the established procedure for organizing and conducting gambling in betting offices and betting outside the gambling zone, or without obtaining permission to exercise activities on the organization and conduct of gambling in the gambling zone, or using information and telecommunication networks, including the Internet, or the including mobile, except reception of interactive betting organizers of gambling in bookmakers and (or) betting, as well as the systematic provision of premises for illegal organization and (or) of gambling.

There is also one gambling related article in China. Article 303. “Participation in collective gambling, the organization of gambling houses or professional occupation of gambling activities for profit is punished by imprisonment for up to 3 years, arrest or supervision and fine.”

The criminal law of the PRC has both similarities and differences with the Russian law. Thus, sanctions for depriving a person of life are alternative, often cumulative. The size of the punishment depends on its magnitude and the severity of harm to health. However, in Russia the penalties for holding and participating in gambling and money involving games are punished stricter than in China.

Gambling is a social phenomenon that can affect the life of a person who is fascinated by gambling kinds of games and has attracted other individuals to it. The fight against it is based not only on legal provisions, but also includes certain social methods mentioned to prevent the commission of a crime.

Both Russia and China are now at the stage of active struggle against the problem illegal gambling activity organized by the shadow business. In order to reform the shadow business, the provisions of the law alone are not enough, no matter how good or harsh it can be.

In the course of the study, we reviewed the process of formation and development of the criminal law system in the PRC and the Russian Federation. The state is discouraged by the huge damage of the games of this kind. Since the money is not in the state turnover, because of which the state treasury suffers, as well as the personal budget of a person playing in a casino, or bets on illegal Internet resources that can be closed at any time.

The illegal business and all shadow business manifestations within the regular life of citizens of a country should be opposed by strict understanding of public regulations and criminal law restrictions.
Therefore, the fight against it will not consist in the form of individual court sentences, but in a large-scale complex of measures, which should lead to a positive result.

REFERENCES


Laws and regulations:
2. Criminal Code of the PRC (adopted on 03/14/1997)

Online resources:
The driving force of tax innovations was the constant lag of the state from the development of the economy and the constant need to catch up and adapt to the new conditions. Due to the lack of own experience in creating a tax system, Kazakhstan used the experience of neighboring countries, and, above all, the Russian Federation, as a basis. The socio-economic development of Kazakhstan required the improvement of tax legislation, which ensures the principles of taxation simplicity, economy, certainty and equity adopted in the world practice. The article describes the stages of development of the tax system in Kazakhstan, the current shortcomings of the tax code and possible ways to solve these problems.

**Key words:** tax code, tax system, development, economy, Kazakhstan, tax reform.

---

**INTRODUCTION**

Among the economic levers with which the state influences the market economy, taxes play an important role. In the market economy, any state makes extensive use of tax policy as a specific regulator of the impact on negative market phenomena. Taxes, like the entire tax system, are a powerful tool for managing the economy in a market environment. Given the important role of taxes in the regulation of socio-economic processes, there is a need to improve the tax system, as well as the organization of a special apparatus for managing and controlling taxes. The tax system in Kazakhstan raises many complaints from entrepreneurs, economists, deputies, government officials, journalists, and ordinary taxpayers. In December 2012, the Development Strategy...
of the Republic of Kazakhstan until 2050 in the Address of the Head of State to the people of the country was presented. Its main goal is the creation of a welfare society based on a strong state, a developed economy and opportunities for universal labor, the entry of Kazakhstan into the top thirty most developed countries in the world. Improvement of the tax system should now be directed at intensifying the investment processes of all kinds. It is extremely necessary for the formation and development of the securities market and financial capital, which are the central part of a regulated market economy.

The tax system in the Republic of Kazakhstan is in the development stage, improving its tax mechanism and the government of the country is searching for ways of effective economic reforms that can lead the country to the cherished goal. In the Republic of Kazakhstan, the legal regulation of taxation in its development went through four stages:


Due to the lack of own experience in creating a tax system, Kazakhstan mainly used the experience of neighboring states, and above all, the Russian Federation. Roughly speaking, the law “On the tax system in the Republic of Kazakhstan”, adopted on December 24, 1991, is a version copied from the laws of Russia. As a result, a three-tier tax system inherent in the federal state was built in Kazakhstan.

It included 3 groups of taxes:

- National;
- Compulsory taxes and fees;
- Local taxes and fees.

A large number of taxes (43 types: 16 national, 10 obligatory, 17 local taxes), the instability of the legislation, the presence of multiple payments, the use of a large number of privileges made the tax system almost uncontrollable and completely ineffective. Work on improving the tax system of Kazakhstan began in 1992.

1994 occupied a definite place in the history of the development of the tax system in the Republic of Kazakhstan. It was this year that the first steps were taken towards reforming the tax system. The changes affected two major taxes: personal income tax and corporate income tax. Decrees of the President of the Republic of Kazakhstan were adopted, having the force of law “On taxation of income from individuals” and “On taxes on profits and incomes of legal entities”. With the adoption of these laws,
radical changes have occurred in the mechanism for calculating the two main taxes. Thus, in the personal income taxation of individuals, for the first time, a transition was made from individual taxation, which was used for quite a long time in the republics of the former USSR, to a global taxation of personal income based on the definition of total annual income. Regarding legal entities, the changes affected the following acts: abolition of differentiation of income tax rates and two rates were approved: 30% for all legal entities and 45% for banks and insurance companies.

The second stage of tax reform (1995 - 1998.)
The objectives of the second stage were:
- Reducing the tax burden;
- Reducing the number of taxes;
- Bringing the tax system of Kazakhstan to world standards.

Basically, these requirements were met by the adoption of the Decree of the President of the Republic of Kazakhstan, having the force of law “On taxes and other obligatory payments to the budget” of April 24, 1995 No. 2235.

The above legislative act was enacted on July 1, 1995. Representatives and experts of international organizations of the IMF, the International Tax Program, the OECD took part in its development. During this period, the number of taxes decreased to 11. They are divided into national and local taxes.

According to the tax legislation, 11 types of taxes and fees functioned in Kazakhstan, taking into account the features of a unitary state:
- National:
  1. Income tax from businesses and individuals;
  2. Value added tax;
  3. Excise duties;
  4. Tax on securities transactions;
  5. Special payments from subsoil users.
- Local taxes and fees:
  1. Land tax
  2. Property tax of legal entities and individuals
  3. Vehicle tax
  4. Fee for registration of individuals engaged in entrepreneurial activities and legal entities.
5. fee for the right to engage in certain types of activities
6. collection from auction sales.

Since January 1, 1999, the composition of national taxes and fees includes: road tax, social tax, social security fee and tax for the entry of vehicles into the territory of the Republic of Kazakhstan. Previously, these payments were the source of extra-budgetary funds; later, road tax and social security fees were abolished.

The third stage of tax reform (1999 - 2001)

The main objective of the third stage is to strengthen the legal acts of relations between government agencies related to the budget, fiscal authorities and taxpayers. Since January 1, 2002, the Code of the Republic of Kazakhstan “On taxes and other obligatory payments to the budget” will come into force, which was adopted on June 12, 2001 No. 209 - II. [1. N.Kochubey, Bulletin of the Innovation University of Eurasia].

The structure of the new tax code:
- Total;
- Special;
- Tax administration.

The general part is the “constitution” of tax legislation. It clearly defines the principles of tax legislation, introduced strict principles, according to which any changes in legislation can be allowed only with the adoption of the budget, and put into effect with the beginning of the calendar year. However, this does not apply to excise taxes and customs duties that regulate current changes and market conditions. As for the Special Part, it should be noted, first of all, the fact that the state is a supporter of the stability and continuity of the current tax legislation in terms of the methodology and tax base. In terms of tax administration, procedural issues are determined.

The fourth stage of the tax system (since 2002)

Kazakhstan has embarked on the implementation of an Industrial Innovation Development Strategy aimed at diversifying the economy. Therefore, the norms of the Law of the Republic of Kazakhstan adopted in December 2004 “On Amendments and Additions to Certain Legislative Acts of the Republic of Kazakhstan on Taxation Issues” were aimed at implementing a policy of encouraging entrepreneurship investment activity, encouraging competitive export-oriented industries, and stimulating asset renewal. The stage is characterized by maximizing the
revenue side of the budget by encouraging the increase in the capitalized value of taxable persons in order to expand the financing of socio-economic programs. The tax system includes the state tax service, which is represented in Kazakhstan by an authorized state body - the Tax Committee of the Ministry of Finance of the Republic of Kazakhstan, interregional tax committees, tax committees for districts, cities. In the case of creating special zones, tax committees can be formed on the territory of these zones [2. Official website of the ministry of national economy of the republic of Kazakhstan].

The tax service monitors the implementation of laws of the Republic of Kazakhstan on taxes and other mandatory payments to the budget, taking into account the costs of prices and tariffs. The following tasks are assigned to tax services:
- Ensuring the completeness of taxes and other obligatory payments to the budget;
- The timeliness of the transfer of compulsory pension contributions and social contributions to the state social insurance fund;
- Implementation of tax control over the performance of taxpayers of tax obligations.

The tax authorities report directly vertically to the relevant higher authority of the tax service and does not apply to local executive bodies. The first heads of tax authorities are appointed by the head of the authorized state body.

In developed countries, there is a constant search for ways to reduce government spending and, consequently, reduce the need for tax revenues, on the one hand, and increase the efficiency of existing systems, on the other.

The main tax problems are as follows:
- The current tax system is too complicated for taxpayers to understand and effectively managed by tax authorities. This inevitably leads to unnecessary administrative costs and generates sophisticated tax evasion methods.
- Personal income taxation is characterized by an unfair distribution of the tax burden: often the same level of income is accompanied by a different level of taxation. This provokes protests from taxpayers and undermines the foundations of “tax” morality.
High marginal tax rates negatively affect economic decision making. Taxpayers who fall into this group of taxation lose their incentives to work, show interest in the “underground” economy and face difficulties in accumulating savings.

Taxation forces companies to invest and rebuild the balance not for economic, but for tax reasons. This adversely affects the quality of investment and the allocation of scarce resources.

Large differences in personal income and corporate taxation rates force companies to make incorporation decisions for tax reasons. Discrimination of dividends leads to the fact that it is more preferable to finance new investments with borrowed funds [3. Code of the Republic of Kazakhstan].

Based on the current economic, political and social situation in the Republic of Kazakhstan today, the concept of taxation, first of all, should solve the following main tasks:

- Stability and balance of the budget;
- The formation of an anti-inflationary mechanism and the stability of property, currency;
- Ensuring large-scale investments;
- Full promotion of business activity of all business entities, regardless of ownership.

Solving these problems will allow achieving economic and social stability in the Republic of Kazakhstan. Interstate bilateral economic relations often arise the problem of double taxation, affecting primarily the interests of those individuals and legal entities who received income not only in the territory of their country, but also abroad. For the Republic of Kazakhstan in the modern conditions of reforming and modernizing the economy, there is a need to attract foreign investment and advanced technologies. But foreign partners fear double taxation. Therefore, the Republic of Kazakhstan has agreements with a number of countries to avoid double taxation of income and property of foreign investors. Under these agreements, foreign investors are exempt or pay taxes on income received in the Republic of Kazakhstan at reduced rates. Tax instability, the constant revision of rates, the amount of taxes, benefits, etc., undoubtedly plays a negative role, especially during the transition of the Kazakh economy to market relations, and also hinders investments, both domestic and foreign. The instability of the tax system today is the main
problem of tax reform. Economists have deduced all sorts of tables and graphs that demonstrate the limits beyond which tax growth turns into a factor negatively affecting the economy (the Laffer curve, the Lorenz curve, etc.).

At the same time, the category “payment possibilities” of citizens is introduced with a three recommendations as a limitator of taxation:

1) In respect of the subject of tax - the tax should cover all citizens;
2) In respect to the object of taxation - it is necessary to select as object of taxation such an object that reveals the payment possibilities of citizens, as which the best object is the total income, because it is closely connected with the payment possibilities of citizens;
3) With regard to the tax rate - the tax rate should allow to take into account everything that affects the property status of the taxpayer: the taxpayer's personal position, the nature of taxable items, the size of taxable items - all this should be taken into account when setting the tax rate. As for the legal side of the problem, there are no statutory limits that would limit state aspirations for the introduction of taxes, and cannot exist, since all of this is due to the self-restrictions of the state itself, which it can renounce at any time. The Tax Code of the Republic of Kazakhstan provides certain progressive measures aimed at improving the system of tax regulation of the activities of small enterprises. The most important of them are the differentiated approach to granting preferential tax treatment to small businesses, depending on the legal form, income level, as well as the introduction of a special regime for agricultural producers. Thus, a separate section of the Tax Code of the Republic of Kazakhstan provides for special tax regimes that significantly reduce the tax burden and simplify the tax system, including for small businesses, peasant farms, and legal entities that produce agricultural products. A special tax regime for small businesses is determined on the basis of one-time coupons, a patent and a simplified declaration. Sustainable development of the banking sector makes it possible to improve the financial services market and form a multi-level system of financial and credit support, stimulating the increase in the assets of small businesses. In order to create favorable conditions for the development of entrepreneurship, reduce the payment of shadow wages, further incentives for the development of small businesses, as well as ensure full tax revenues and other mandatory payments to the budget and reduce tax debt, the main direction of improving tax legislation is to reduce the tax burden and strengthening tax administration. One of
the priorities for improving the quality of tax administration is the automation of tax administration processes, including:

- the introduction of electronic billing collection orders to taxpayers' bank accounts;
- improving the quality of economic control (reducing the number of tax audits through the introduction of electronic cameral control, improving the methods of selecting taxpayers to conduct tax audits, improving the quality of tax audits, reducing the number of raid audits through introducing a database of taxpayers who systematically violate tax laws, etc.);
- controlling the receipt of taxes and other obligatory payments to the budget through the use of electronic interaction with authorized bodies;
- the creation of a database of taxpayers of "increased risk" in order to prevent the registration of false enterprises;
- interaction with government agencies to counter pseudo-business.

To create the most convenient conditions for taxpayers to submit tax reports and other documents to the tax authorities, information reception and processing centers operate.

The scientific approach to the development of tax policy implies its compliance with the laws of social development, a permanent record of the conclusions of financial theory. Violation of this requirement leads to large losses in the national economy. Developing tax policy, it is useful to refer to the experience of countries with developed market economy.

The internal content of tax policy is formed in accordance with the essence of taxes, the parity of two functions: fiscal and regulatory, suggesting a balance between national, corporate and personal interests [4. Official site of the president of the republic of Kazakhstan].

The tax policy is manifested relative independence of the state. By changing tax policy, manipulating the tax mechanism, the state is able to stimulate economic development or restrain it. Tax regulation covers the economic life of the country, since tax measures are the most universal tool for the impact of the superstructure on basic relations. The purpose of such regulation is to create a general tax climate for the internal and external activities of companies, especially investment ones, and to provide preferential tax conditions to stimulate priority sectoral and regional areas of capital movement. It is hoped that with the adoption of a
more advanced tax code every year, the tax system of Kazakhstan will reach a higher level and thereby create favorable conditions for the development of tax policy and, as a result, the country's economy.

At present, the most important task for Kazakhstan is to maintain and further stimulate economic growth, giving it the character of a stable, long-term trend that does not depend solely on the external economic situation. Kazakhstan is recognized by the world community as a country with a developed market economy, but the Kazakhstan economy, unfortunately, has not yet reached the level of a highly developed market [5. Message of the President of the Republic of Kazakhstan, 2012].

REFERENCES


3. Code of the Republic of Kazakhstan about taxes and other obligatory payments to the budget (Tax code) (with changes and additions as of 01/01/2019).


5. Message of the President of the Republic of Kazakhstan - Leader of the Nation Nursultan Nazarbayev to the People of Kazakhstan "Strategy "Kazakhstan-2050 " - a new political course of the established state", 2012.
DEOFFSHORIZATION AND INTERNATIONAL TAX REFORM IN RUSSIA

Sofia BRUSENTSOVA

1Lomonosov Moscow State University, Russia, sofiabrusentsova@gmail.com

In the world of dynamics of economic processes, globalisation processes are distinguished due to the limitless flow of transactions, the complexity and expansion of the business structure. Most of the world’s income is produced by multinational companies. Their enterprises are located in different jurisdictions. According to it, the outflow of capital to “offshore” increases.

Offshore (from eng. “far from shore”) is financial centres that attract foreign capital by providing certain tax and other benefits to foreign companies, which are registered in the country of location of the financial center. The main purpose of offshore is eliminate trade barriers. It should be contributed to the free movement of capital around the world. Offshore companies play an important role as a transportation of financial resources and market’s entrance, which sometimes are difficult to access.

The policy of Russian deoffshorization is a set the new rules for taxation of foreign entities’ income. First, it is taxation of controlled foreign companies (CFC). Due to CFC’s rules, a tax on the CFC’s undistributed profits may be charged to its person, who are controlling it, at 13% (if the controlling person is a Russian tax resident individual) or 20% (if the controlling person is a Russian tax resident organisation). A CFC is a foreign tax resident, company or non-legal entity, which controlled by a Russian tax resident. Second, it is a capital amnesty. In the result of capital amnesty countries can declare the property of companies and foreign bank accounts without being held liable for tax evasion. The purpose of the amnesty if to support Russian business, which fell under the wave of sanctions. Vladimir Putin signed a package of documents to prolong the capital amnesty for a year (from March 1, 2018 to February 28, 2019). The first stage of the
Amnesty was held from July 1, 2015 to June 30, 2016. This was used by 7,200 people, but in the middle of 2017, Reuters reported on the termination of being tax resident of Russia of Russian businessmen from the beginning of the “deoffshorization law”.

The failures of deoffshorization policy were connected with the complexity of the adopted laws and with the distrust of business to authorities and their economic policy. However, this policy has affected small and medium businesses. Losing the Russian tax residency, businessmen were willing to pay higher taxes in foreign jurisdictions, compared with the 13% personal income tax rate in Russia. According to some experts, the deoffshorization law is a part of the factors, which are discouraged people from investing in Russia. Based on the researching of the Knight Frank company “The Wealth Report 2018”, 58% of the richest people in Russia and CIS countries have a second passport or dual citizenship, which is an average of about 34% in the world, and other 45% want to permanently leave the country. In addition, to deal with it, the Prime Minister, Dmitry Medvedev said about plan of creation some offshore zone in Russky Island in Primorsky Krai and Oktyabrsky Island in Kaliningrad Oblast in Russia. Plans to create special offshore zones in Russia became known on April 2018. The government views this method as a measure of support for sanctioned Russian oligarchs and their companies.

The policy of deoffshorization in Russia corresponds to the trends of the global economy, but this deoffshorization takes place in difficult conditions in Russia, which is explained by prolonged recovery of economic growth. The Russian economy faced a number of sanctions, which put the Russian economy in an unusual position.

REFERENCES

THE CONSEQUENCES OF OFFSHORIZATION AND HOW TO ELIMINATE IT

Ana FATUR¹, Lana Katarina GOTVAN²

¹ University of Ljubljana, Slovenia, afatur@gmail.com
² University of Ljubljana, Slovenia, lkgotvan@gmail.com

SYNOPSIS

The theme of our paper is the consequences of offshorization and how to eliminate it.

In his book “La richesse cachée des nations” (The hidden wealth of nations: the scourge of tax havens) Gabriel Zucman describes the issue of tax havens and how they are detrimental to our society and presents some solutions on how countries can respond to damaging tax havens.¹

In our paper, we will concentrate on analysing the problem of tax havens, ways to eliminate them and their harmfulness to our society. We will also look into some of the solutions to the problem of keeping money in offshore accounts. In addition, we will analyse the growth of tax havens, how they are set up and what excuses the mainstream economic thinking presents for their existence. Based on the opinion of mainstream economic media, tax havens provide a more stable environment than home countries – we would like to analyse this statement further in order to either confirm or deny this hypothesis.

Adam Smith claims that people should, while acquiring wealth, always act in a way that is not harmful or damaging to others.² Based on Zucman’s research not many taxes were paid in the year 2013 and this number has grown afterwards. Because of this global society had lost 130 billion euros in taxes just in that year. This money should have been

---

supporting our general well-being, our infrastructure, our school and health systems and helping pave the way to a more equal and balanced society.

By hiding their money in offshore accounts, the decision-making elite has obviously gone against Smith’s sentiment and is acquiring wealth by harming others. They have unburdened themselves by putting the weight of taxpaying on the shoulders of the population at large.

In our paper, we will explore, on an ethical basis, how evading taxes creates distortions in society and how it deepens inequality.

Many economists predict that we might be looking at another financial crisis in the near future.¹ In our paper, we will therefore also look into what role tax havens play in this upcoming situation and how by eliminating them, we could help cure the lingering effects of the 2008 global financial crisis and also prevent the occurrence of a new one.

We will analyse the concrete steps that can be taken to prevent wealth being stored in offshore accounts. Some of Zucman’s proposed solutions for this are: setting up a global financial register, simultaneous exchange of data, the elimination of bank secrecy, a world property and corporate profits tax. Zucman also proposes the ways and means of fiscal and tax supervision.

Finally, our paper will present real-life cases of tax havens, such as Ireland and Switzerland.

INTRODUCTION

A tax haven or an offshore financial centre is usually defined as a country or jurisdiction that offers very low effective rates of taxation, especially for foreigners. Many corporate-focused tax havens have relatively high nominal rates of taxation (e.g. the Netherlands at 25%, the United Kingdom at 19%, Singapore at 17%, and Ireland at 12.5%), but maintain a tax regime that excludes sufficient items from taxable income to bring the effective rates of taxation closer to zero.

In most cases lack of transparency comes hand in hand with tax havens and sometimes bank secrecy in tax havens is even praised for keeping capital stable, safe and its owners anonymous. By offering

minimal tax liability offshore financial centres attract capital to their banks and financial institutions, with which they can then build a thriving financial sector. Tax havens are not always viewed in a negative light and some economists claim that tax havens can have a positive effect on the economy by contributing to financial market competition, encouraging investment in high-tax countries and promoting economic growth elsewhere in the world.\(^1\) However, tax havens can have a negative effect on society, since they contribute to inequality among people.

The Organisation for Economic Cooperation and Development (OECD) predicted the elimination of tax havens already in 1998, because “they distort trade and investment patterns, erode national tax bases and shift part of the tax burden onto less mobile tax bases, such as labor and consumption, thus adversely affecting employment and undermining the fairness of tax structures.”\(^2\) But the situation has not improved.\(^3\)

THE CURRENT STATE

One of the starting points of bank secrecy was the implementation of The Federal Act on Banks and Savings Banks in Switzerland in 1935, which states that it is a federal crime to disclose information or activity of clients banking domestically to foreign entities, third parties, or even Swiss authorities without consent or an accepted criminal complaint. Switzerland, therefore, has the strictest and most expansive banking secrecy law in the world.\(^4\) This law was regarded as humane and even The Economist wrote that it was implemented to help persecuted Jews hide their savings.\(^5\) Volcker’s commission later found out that only 1,5% of the bank accounts in question were connected to Holocaust victims and that


obviously bank secrecy was not there to protect the persecuted, who had to hide their wealth from totalitarian regimes.¹

According to Gabriel Zucman at least 8% of the global financial wealth is hidden in tax havens. In the EU the number is even higher, reaching 12%.² In the year 2013, based on statistics published by organisations like the Insee in France and the Fed in the US, the global financial wealth was estimated at 73 000 billion euros, which means that 5800 billion euros are hidden away in tax havens (about a third of which in Switzerland). This does not include non-financial wealth like yachts, art-works, villas etc., which represent only a small fraction of the sum. The majority of wealth is stored in financial securities, which bring economic and social power through the ownership of production factors.³

The problem that stems from this is that country by country the liabilities part of the balance sheet is showing up bigger than the assets, because part of the assets are hidden in anonymous bank accounts, from where they are not being calculated into the balance sheet. This is how tax havens cause distortions to the economy.

Only about 20% of the assets in offshore accounts are declared, which means that there are no taxes collected from 80% of the 5800 billion euros, which is 4700 billion euros (in the year 2013).⁴ In 2013 we consequently lost 130 billion euros that should have been collected as taxes and should have helped our society develop and become better for all. Instead, the money in offshore accounts is being invested into stocks, bonds, hedge funds, property, etc. and is bringing the anonymous owners

up to 10% yearly profits, making the gap between the rich and the poor even wider.¹

The 130 billion euros that were lost in taxes in 2013 are made up of three different types of tax evasions. Zucman evaluates that by evading income tax, there was an 80-billion-euro loss in collected taxes. The second tax evasion issue stems from inheritance. Since the owners of bank accounts and the assets stored in them are anonymous due to bank secrecy, a change in owner through inheritance goes unnoticed by the tax authorities and no inheritance tax is paid. Zucman calculated that the amount lost because of this was 45 billion euros. The last part that makes up for a 5 billion loss is the personal wealth tax that isn’t collected.

This calculation does not differentiate between wealth that has been legally obtained and wealth that is the product of unregistered activities like drugs, prostitution, black market, etc. Of course, offshore financial centres are ideal for storing assets that are a product of illegal activities, since transferring money through tax havens makes it much harder to trace.

The irony is that in the recent past countries have been lowering their tax on capital gains, inheritance tax and income tax to prevent the fleeing of capital to tax havens.² For example, the Australian government claimed that lowering the company tax rate would reduce international tax avoidance since there would be less to gain from shifting profits elsewhere.³ Effective reported corporate tax rates have fallen nearly one-third since 2000, from 34 per cent to 24 per cent.⁴ This has resulted in a double loss for governments, since they have collected a smaller volume of taxes due to the lower effective tax rates that they have implemented and they have failed to collect taxes from the wealth that is still being hidden away in tax havens.

But one thing is clear: lowering taxes did not prevent capital from fleeing. Even lowering taxes significantly does not prevent profits being moved to offshore financial centres, because more often than not they end

⁴ Financial times, 2018, Multinationals pay lower taxes than a decade ago.
up tax-free there. The Financial Times reported that Pierre Moscovici, EU commissioner for financial and fiscal policy, stated that an international tax reform is needed and said: “The headline rate is not what triggers tax evasion and aggressive tax planning. That comes from schemes that facilitate profit shifting.”¹

In order to combat offshorization, the Council of the EU adopted the Directive 2003/48/ES, which was succeeded by Directive 2014/48/EU. The aim of the Directive is to reinforce the existing rules regarding the exchange of information on savings income for the purpose of enabling EU countries to better combat fraud and tax evasion. It also promotes a transparent approach based on the obligation of customers’ due diligence, which prevents individuals from circumventing the Directive by using an interposed legal entity (for example, a foundation) or arrangement (for example, a trust) located in a country outside the EU, which does not ensure the effective taxation of this legal entity/arrangement on all of its income from financial products covered by the Directive.²

The aim of the Directive is also to improve the rules aimed at preventing individuals from bypassing the Directive by using an interposed legal entity (a foundation) or arrangement (a trust) located in an EU country. These rules require a notification by this legal entity or arrangement. Furthermore, the Directive 2014/48/EU extends the scope of the Directive 2003/48/ES to include financial products which present characteristics similar to receivables (for example, securities with a fixed/guaranteed rate of return and certain life insurance products), but which are not legally classified as such.

It also takes into account all income from investment funds received within and outside of the EU, alongside income from collective investment undertakings in transferable securities authorised in accordance with the Directive 85/611/EEC (UCITS) which are already contained in the current Directive.

THE CONSEQUENCES OF TAX HAVENS

1. Financial crisis

¹ Financial times, 2018, Multinationals pay lower taxes than a decade ago.
If there were no tax havens, there might not even have been a financial crisis. All of the riskiest financial instruments and credit derivates that started the financial crises stem from tax havens. They came to the international financial market from tax havens.¹ All the while we were saving, recapitalising, bailing out and externalising losses to save the financial elites and the global financial industry during the crises, the financial elite was moving its wealth into tax havens. Zucman asserts that there is more and more wealth in tax havens every year. While countries were having to save the economy with taxpayers’ money, nobody even thought of using the money in offshore accounts to prevent the financial crisis.

2. Moral aspect

Tax havens contribute significantly to the stratification of society. By avoiding taxes and even investing their untaxed earnings the rich are becoming richer and are therefore distancing themselves from the other part of society. By hiding their wealth in offshore financial centres and not paying any taxes they are de facto living as if the same rules do not apply to them, thus corrupting democracy. How can we still say that we are equal if the rich can get away with living by completely different rules, effectively not paying taxes and not contributing to the welfare of the society?

In their article Alstadsæter, Johannesen and Zucman calculate that in Scandinavia 0.01% of the richest households evade about 25% of taxes they are supposed to pay. In their article they show that the rich do in fact evade more taxes than the poorer part of society. In comparison, the number of tax evasion detected in stratified random tax audits is less than 5%. The wealth in tax havens is actually extremely concentrated: the top 0.01% of the world’s richest population owns about 50% of it.² Part of this is due to the fact that the industry that offers wealth concealment services, specifically targets the rich. It is less risky for banks in tax havens to have a few extremely wealthy clients than many, less wealthy ones. By targeting the wealthiest part of the population banks are just minimising

the risk of leaks.\textsuperscript{1} Since wealthier people pay relatively more in the progressive tax ladder, by evading payment, they are harming the society more. With the money governments should have collected from the wealth hidden in offshore financial centres, they could have made sufficient progress in the redistribution of wealth, the improvement of infrastructure, the fight against global warming, poverty…

3. Immunity

Even though they are centres for tax evasion, tax havens are also the most important financial centres in the world; these two functions are inseparable.\textsuperscript{2} As a consequence of their privileged place in the international financial system, they enjoy a certain immunity. Since tax havens are in most cases small countries, they rely heavily on an openness to international trade. This is also the area where they are most vulnerable. It would, therefore, be necessary to act with regards to this problem area, in order to effectively combat tax havens and offshorization.\textsuperscript{3}

4. Environmental threat

Alongside the consequences mentioned above, offshorization also presents a great environmental threat. A study performed by a group of researchers from GEDB (Global Economic Dynamics and the Biosphere, Royal Swedish Academy of Sciences) shows that tax havens pave the way for certain economic activities that can cause major environmental damage. Their analysis shows that “70\% of the known vessels involved in illegal, unreported and unregulated (IUU) fishing are, or have been, flagged under a tax haven jurisdiction. The study also finds that on average 68\% of all investigated foreign capital to sectors associated with deforestation of the Amazon rainforest between the years 2000-2011, was transferred through tax havens.”\textsuperscript{4} The ecological threat this information


reveals is staggering, and one that cannot and should not be ignored, particularly in today’s ever-worsening state of the environment. This provides additional reasons that highlight the damaging effects that offshorization and tax havens have on the world.

CASE STUDY - IRELAND

Ireland is one of the most well-known tax havens in the world. It has been associated with this term since the US IRS published a list of tax havens on 12 January 1981. Zucman claims, alongside many other authors, that Ireland is a tax haven, even though neither the OECD nor the European Commission has declared it to be one. According to the OECD, tax havens are countries with a “zero tax rate, no transparency or exchange of information” and where multinationals have no real operation “on the ground”. The Irish Department of Finance agrees with the OECD’s opinion, stating: “Ireland is not a tax haven and does not meet any of the international standards for being considered such. Suggesting that Ireland is a tax haven simply because of our longstanding 12.5% corporate tax rate is totally out of line with the agreed global consensus that a low corporate tax rate applied to a wide tax base is good economic policy for attracting investment and supporting growth.”

These two facts contradict each other and are being utilised by both sides, the OECD and the European Commission on one side, and Zucman and other authors on the other side, to prove or disprove that Ireland is a tax haven, respectively. Many authors choose either one side or the other,

ignoring certain crucial aspects and details, making the issue seem black and white.

The presented facts speak for themselves, however, Ireland’s policy is well-known because they did not fulfil the promise of increasing tax rates to the European average upon receiving European funds to save their own banks, as was promised. Instead, they kept their 12.5% tax on profit rate, making Ireland all the more attractive to American corporations, whose home tax rate is 35%.

Americans indirectly operate through the biggest companies in the world (Apple, Facebook, etc.) and optimise their business plans by moving company headquarters to countries with the lowest tax rates on profit. By doing so, they haggle with tax havens for a legitimately lower tax rate.

The United States has a corporate tax rate of 35%. Ireland’s taxation rate for corporations is 12.5%. In addition, Ireland only charges a corporate tax rate of 6.25% for revenue tied to a company’s patent or intellectual property. This lower rate is intended to provide tax breaks for the protection and support of royalties derived from intellectual property. Some taxation exemptions, such as offshore revenue tax exemptions, have been a policy since the 1950s. Ireland’s taxation policies on research and development positions offer great incentives for corporations to invest in innovative ideas. Ireland has enacted policies, which allow research and development intensive start-ups the ability to claim back taxes. This is true even if the start-up is incurring losses and cannot pay its corporate tax. In addition, the 25% tax credit is applied against the corporate tax rate of only 12.5%.

In a study that was carried out by academics at the University of California, Berkeley and the University of Copenhagen, it is said that the profits hidden away in Ireland are bigger than those in all of the islands in the Caribbean combined (€83bn) and well ahead of Singapore (€60bn), Switzerland (€49bn) and the Netherlands (€48bn). The report stated that by their estimates, Ireland is the number one shifting destination. It

suggested that €1.45trn of foreign profits were made by multinationals, mainly from the US in 2015 and that almost 40% of them were shifted to tax havens around the world. The US and Danish authors also suggest that profit shifting by multinationals costs tax authorities about €170bn globally each year and reduces corporate taxes paid in the European Union by 20%.¹

Ireland has an incentive to remain a corporate tax haven and does not want to implement adverse policies, as it relies heavily on the corporate tax. Approximately $46.6 billion - or 11% of the total revenue - was collected by the country in 2016. Ireland has a tax treaty with 71 countries, 25 of which are developed countries.

**THE PROPOSED SOLUTIONS**

1. The first and most important regulatory measure to eradicate tax havens is setting up a global financial register of all financial securities. From this register, the owner of every share, dividend and bond would be visible.² For this to work we also need a functioning simultaneous exchange of data between countries and it is crucial that banks in tax havens are included in this exchange. That way they can no longer proclaim bank secrecy and consequently protect and hide the wealth they store. The global financial register and the simultaneous exchange of data complement each other since only with both measures in place, it will be possible to control, whether banks are really providing all the information and are not withholding vital clients, resorting to bank secrecy once more.³

Zucman suggests that The International Monetary Fund (IMF) should be the one to set up and keep this global financial register. Partial registers already exist (like Euroclear in Belgium and France), but they are in the hands of private organisations. All of these registers need to be connected

---

and regulated by public authorities. IMF will need to make sure that the global financial register has up to date information and will need to keep track of all changes in ownership. It will also need to make sure that the real owner of every security is registered, as currently most of the partial registers only note the financial intermediary (for example the bank). IMF will need to make all of this information available to tax authorities, who will check up on whether all taxes are being paid, all securities declared and of course whether offshore banks are complying with the agreements to send over and exchange all of their data.

After the initial set up, the global financial register needs to be expanded from covering only securities to covering derivatives as well, otherwise everyone will simply transform their assets to financial derivatives and the global register will not account for their wealth.

2. As already mentioned, the second step is the implementation of a simultaneous exchange of data. Right now we have exchange of data on request, but a universal and functioning simultaneous exchange of data, which would include all countries, does not exist. The multilateral Convention on Mutual Administrative Assistance in Tax Matters is the prime international instrument for all forms of exchange of information in tax matters. More and more countries are signing this Convention, but for tax havens to be a thing of the past, the participation of all countries is needed.

OECD has admitted that we need a simultaneous exchange of data because the standards to issue a request are set too high and it is near impossible to actually get any data from tax havens. We are talking about ten or twenty cases a year, in which data from offshore financial centres is received when we should be talking about hundreds of thousands. Individuals keep assets in tax havens through shell companies, trusts and foundations which all blur the connection with the real owner. That is why the simultaneous exchange of data needs to target not just the bank accounts that clearly belong to individuals but also the bank accounts

---


where the owner is not clearly visible and is hiding behind these cover-ups.

3. Tax havens need to be threatened with sanctions, as that is the only way for them to open up their books and partake in the global financial register. A substantial threat to tax havens can only be achieved if all of the other financially powerful countries present a united front so that the penalties can be set high enough. There is no way that offshore financial centres will give up bank secrecy if they are not threatened with sanctions high enough, for it to not be worth hiding the information that they have. The penalties for tax havens need to be so high that the loss they cause is larger than the income tax havens make by offering minimal tax liability.

This is a completely legitimate step since it is in the countries’ right to undertake necessary retributive measures for the losses that they have to suffer because so much capital is leaving the country of origin and fleeing from taxation. Zucman claims that for France this cost is 20 billion per year and collecting a tax in the form of a customs duty that makes up for this loss is not only legitimate but also fair.¹ The only problem is estimating how big a loss tax havens are actually causing particular governments. Zucman’s book gives a good starting point from which governments can then calculate and adapt the numbers.

Every interest rate and dividend that is being transferred to a “non-cooperative country” (i.e. countries that are not on board with implementing a simultaneous exchange of data and eliminating bank secrecy) needs to be highly taxed, for example at 50%, like France is doing to the Marshall Islands, Guatemala, Jersey etc.² The problem is that we can’t do the same for the financial capitals of the world like Switzerland and Hong Kong, even though they are the biggest and most important tax havens. The reason behind this is that there is also a lot of legal business that goes in and out of these countries and it is impossible to separate one from the other. These countries need to be hit at their international trade, specifically export, since all of these countries have a

very high part of GDP in export (for example Switzerland has 50%).\(^1\) This is partly due to corporate tax optimisation. High customs duties have to be set up when it comes to importing goods from these countries (just threatening to do so if they don’t comply with the elimination of bank secrecy might be enough) and through this, the cost of bank secrecy will become too high for them.

The key factor is that countries represent a united front. For example, Switzerland is not likely to cave to a customs duty that is set and reinforced only by France. However, if all the major countries in the EU stand together, Switzerland is more likely to back down. Zucman calculates that if Italy, Germany and France would set (at the very least) a 30% import tax on all goods imported from Switzerland, that would cover the amount these three countries lose by Switzerland’s bank secrecy policy.\(^2\) For Switzerland, this customs duty would cost them just about as much as they gain from bank secrecy or even a bit more and they would, therefore, be willing to give it up. Switzerland is a country that does not rely solely on its position as a tax haven (about 3% of its GDP derives from this) in comparison to the smaller tax havens like Jersey or the Marshall Islands.\(^3\)

Customs duties would in an ideal world only be a threat that would never even need to be implemented, because the mere threat would be enough to get countries to comply with the simultaneous exchange of data.

After the elimination of bank secrecy, a progressive world property and corporate profits tax could be implemented, which would also target all the no longer secret capital that has been stored away and hidden in tax havens. With all the extra money flowing into their Treasuries, countries will be better equipped to fight inequality.\(^4\)

---


4. Another part of the solution is implementing a tax on financial capital that would be paid directly at the source. The only way to get back part of the paid tax would be to declare your assets in the tax return. Wealthier individuals would get back part of the paid tax (for example 1/4), while the poor would get back all of the tax they paid. This is the only way to stimulate people to actually declare their assets.

Each individual country could still decide not to tax financial capital and could give back all of the tax it had collected. We would have still achieved everyone declaring their assets and contributing to the simultaneous exchange of data. Taxing at the source would eliminate hiding behind shell companies, foundations and trusts. People will have no interest in hiding their wealth to evade taxes because an even higher tax would be automatically paid right from the source and the only way to get back at least part of it, would be to declare your assets in the tax return. Countries would be free to set their own progressive or non-progressive tax rate without fear of people hiding their wealth in offshore accounts. In the recent past governments have kept lowering the tax on financial capital and with this measure, they would be free to raise it once again. With the money they would collect, they could help fight climate change or inequality.

5. Multinational firms use tax “optimisation” to avoid paying taxes. One of the solutions for this problem is a radical reform of corporate tax, which would tax multinational corporations directly and not based on the place, where companies’ headquarters are situated. Right now, profits are being manipulated by transfer prices so that they show up in countries where the tax rate is lower. Companies simply make sure to shift profits to an affiliate branch that is located in a country that has a low tax rate. They shift their profits by buying overpriced or even purely fictitious

---


services like patents and trademarks from an affiliate branch, located somewhere where taxes are low. It is very hard to control and establish whether the prices paid for non-material things like patents are blown-up and therefore the tax authorities cannot regulate this. That is why multinational companies’ profits should be taxed at a global level and not by individual countries. This would mean that moving your headquarters or activities would not affect where profits are taxed. The collected tax would then be split between countries by an optimum formula (for example, by the location of customers as suggested by Michael Devereux and Rita de la Feria).²

**TO CONCLUDE**

The fight against tax havens is not unachievable and controlling offshore financial centres can be done, but only if countries work together to implement the concrete steps that we have analysed in our article. The vital part of the solution is that the undertaken measures need to be forcefully implemented and their implementation constantly supervised. There is no use in empty agreements that nobody checks up on and that stay on paper, congratulating the signing parties for taking a step in the right direction.

Adam Smith claims that people should, while acquiring wealth, always act in a way that is not harmful or damaging to others.³ By hiding their money in offshore accounts, the decision-making elite has obviously gone against Smith’s sentiment and is acquiring wealth by harming others. They have unburdened themselves by putting the weight of taxpaying on the shoulders of the population at large. The taxes that should have been collected from their wealth should have been supporting our general well-being, our infrastructure, our school and health systems and helping pave the way to a more equal and balanced society.

By giving people a way to evade paying taxes, tax havens are stealing the resources of other governments; resources that should be used for the

---

¹ S. Hebous, N. Johannesen. 2016. *At Your Service! The Role of Tax Havens in International Trade with Services.*
² M. Devereux, R. de la Feria. 2014. *Designing and implementing a destination-based corporate tax.*
good of all society. There is no reason for governments to sit back and let all of this happen, just because tax havens have a certain status as important financial centres. Tax havens have become a global issue that is being widely discussed and it is time to level out the playing field, with everyone paying their fair share of taxes. Only in this way will we create a better society for all.

REFERENCES


27. S. Hebous, N. Johannesen. 2016. *At Your Service! The Role of Tax Havens in International Trade with Services.*


The article deals with the implementation of the compliance system in Russia, the difficulties that foreign companies face when entering the Russian market, as well as the correlation of the compliance system with the legislation of the Russian Federation.

**Keywords:** compliance system, international standard ISO 19600, transparency, bribe.

**INTRODUCTION**

Everybody knows, that building compliance function in any organization (like international financial corporation, bank, or small business) is today one of the fundamental measures for conducting successful and competitive business, since compliance means that the company comply not only with legal requirements, but also with internal policies and procedures. All organizations nowadays try to ensure that any risk is minimalized – giving buyers (and any other company that works with them) confidence.

Compliance system nowadays tries to determine whether the company’s activities comply with all the requirements, standards, rules, laws and also determine how transparent it is. That’s why the International Organization for Standardization (one of the most trusted bodies in setting standards on a global scale) designed the international standard ISO 19600 based on the principles of good governance, proportionality, transparency and sustainability to provide guidance for establishing, developing, implementing, evaluating, maintaining and improving a compliance management program.
ISO 19600 does not target a specific risk area; rather it provides guidance on how organizations can improve the comprehensiveness of their compliance programs. It is based on a four-step method used for the control and continuous improvement of processes (plan-do-check-act1):
1) Plan. Compliance obligations are identified, and compliance risks evaluated in order to derive a strategy and define measures to address them.
2) Do. Defined measures are implemented, and monitoring mechanisms established.
3) Check. The compliance management program is reviewed based on the implemented controls.
4) Act. Building on the results, the program is continuously improved, and cases of noncompliance are managed.

At the planning stage, we face the main risk for the compliance system of Russia, such as anti-competitive behaviour, corruption and bribery. The development of the Russian compliance system mainly depends on the success of countering the risks connected with transparency. For example, article 19.28 of the Code of Administrative Offences of the Russian Federation deals with illegal transfer, offer or promise on behalf of or in the interests of a legal entity to an official money, securities and other property for actions in the interests of this legal entity, related to an official’s positions.

For example, international company IKEA positioning themselves as an organization in which no one ever takes bribes, but on the Russian market there was a case when managers gave a bribe in the Moscow branch of IKEA. The contractor of the Swedish retailer paid a certain amount to Russian officials for signing an effective electrical equipment acceptance certificate. This situation suggests that even international companies with an impeccable reputation face some problems with corruption in Russia.

In November 2009, the newspaper Transparency International included Russia among the most corrupt countries in the world and rated the Russian market of corruption at $ 300 billion, we took 146 out of 180 possible. All this suggests that for the full implementation of standards of compliance in Russia, it is necessary to solve the problem with possible risks.
Compliance is an outcome of an organization meeting its obligations and is made sustainable by embedding it in the culture of the organization and in the behaviour and attitude of people working for it.

THE CURRENT TRENDS OF FINANCIAL CRIMES IN CHINA AND RUSSIA. DEVELOPMENT IN SPHERE OF CRYPTOCURRENCY CRIMES

Daliia KOMAROVA ¹

¹Saint Petersburg State University, Russia, dkomarova@mail.ru

INTRODUCTION

Finances express economic relations associated with the provision of sources of financing for the state, municipal and private sectors of the economy, the spheres of production, circulation and households. The functioning of finance is aimed at the effective development of a socially oriented economy. I call financial system the blood system of the economy. It is essential for the health of the economy as allows the savings of the population to go to various projects and investments. When it performs these functions well, the economy thrives.

My objectives are:
1. To analyse the selected case connected with undisclosed information which took place in China and compare it with Russian legislation;
2. To study the features of selected crime;
3. To make some thoughts on the crypto trading in Russia and China;
4. To outline the perspectives on cryptocurrency.

We are analysing the case of the 2016 year, 30 of June №61 which took place in Guandun Province about case of Ma Le who used undisclosed information. Ma Le is blamed with a crime using insider information.

The object of the crime is money and undisclosed information. The subject of the crime, because he worked as a manager in the company,
used basic shares, terms and number of securities of the investment fund of transactions with Bosera Selective shares and other undisclosed information, therefore unjust enrichment occurred, he exceeded his commission. Crime happened intentionally. During the tenure Ma Le was searching for undisclosed information on purpose. Ma Le engaged in the securities transaction activities relating to undisclosed information and operated three stock accounts under his control, namely, "Jin X", "Yan X A" and "Yan X B", to make orders through an unregistered Easyown phone card temporarily bought to buy and sell 76 similar stocks (one to five transaction days), at the same term or (one to two transaction days) later than the "Bosera Select" Fund Account he managed, realizing the accumulative transaction amount over CNY1.05 billion, and obtaining the illegal profit of CNY18,833,374.74. Ma Le should not get this profit.

In this case the totality of external signs of criminal behaviour that constitute a socially dangerous unlawful act are: committing in a certain way – by using insider information, and as a result of the act socially dangerous consequences ensued. Because of the act of Ma Le, the company in which the manager Ma Le crossed the boundary of his authority, may suffer, since the level of trust in her securities market might reduce.

This crime is economic as it has the following features: the mercenary nature of the action (Ma Le got illegal profits in the amount of CNY19,120,246.98), a crime was committed during professional activity, there was a significant damage, there was a large distance between the criminal and the victim, there was no violence.

The qualification of a crime is motivated by a surrender. In this case, a particularly serious circumstance is that Ma Le used undisclosed information to trade 76 stocks with a cumulative transaction amount more than 1.05 billion yuan, and illegal profits amounted to more than 19.12 million yuan. However, the fact that Ma Le voluntarily surrendered, returning to China from abroad, is a legal circumstance according to which there should be a lesser or lesser punishment. This act is prescribed in Art. 68 of the Criminal Code of China.

The feature is brought about differences in Russian and Chinese punishment for using undisclosed information. In China this crime is punished by imprisonment for up to 5 years or by arrest, as well as simultaneously or as an independent punishment – a fine of 1 to 5 times
the amount of illegally received funds. In Russia, according to the 185.6 article of Russian Criminal Code, this crime is punished with: 1. A fine in the amount of from three hundred thousand to five hundred thousand rubles, or in the amount of the salary or other income of the convict for the period from one year to three years; 2. Or forced labour for up to four years with the deprivation of the right to hold certain positions or engage in certain activities for a period of up to three years, or without it; 3. Either imprisonment for a term of two to four years with a fine of up to fifty thousand rubles, or in the amount of the salary or other income of the convicted person for a period of up to three months or without deprivation of the right to hold certain positions or engage in certain activities for up to three years or without it. Still both sanctions are complex and punitive. A subject of the crime is also same in Russia and China – A person over 16 years old, who knows some undisclosed information. Moreover, there is just one article in China which regulates usage of the undisclosed information, while in Russia there are 2 articles: 6 of the Federal Law from 27.07.2010 № 224-FL and 185.6 of the Criminal Code.

Returning to a question of crimes. As a direct object of economic crimes at the same time can be cash, commodity values enterprises, organizations, institutions and citizens, vehicles, buildings, food, drugs and radioactive substances, weapons, ammunition and other items. Besides, for the last three years cryptocurrency sphere as a direct object has been developing and spreading really wide and quick because people can hide their transactions on account of its anonymous feature.

New technologies are the future. In 10-20 years, the world will change, there will be no banks in the current sense. Everything will be easier, more transparent, cheaper and more convenient for people. Now for the transfer of money you need to go to the bank, fill out documents, wait. You can also send money by phone and get it by phone. It is possible now, but everything will soon move to an absolutely new level. (c) Alexander Vinnik.

However, the advantages of cryptocurrency make it attractive not only in the legal sector, but also in the criminal business.

As noted in the report of the Commonwealth of Nations, published on February 3, 2016, the main risks of cryptocurrency turnover are related to the financing of terrorism, the commission of cybercrime and the
legalization of criminal proceeds. Among their criminogenic properties is called a convoluted transaction chain.

We can distinguish two main areas of the usage of cryptocurrency for criminal purposes:

– its usage as an instrument of criminal encroachment (the usage of virtual currency in the Darknet (dark Internet) as money for buying weapons, drugs, psychotropic substances and other prohibited items)

– consideration of cryptocurrency as a subject of criminal infringement (theft of cryptocurrency from accounts, Internet fraud, etc.).

A prime example of the usage of cryptocurrency as an instrument of committing a crime is a following case. Before the case I would like to give you some theoretic facts. Exchanging of crypto money is legal but not regulated in Russia and banned in China.

1. The only two rules on money substitutes in Russia are: Article 27 of the Federal Law “On the Central Bank of the Russian Federation (Bank of Russia)” and Article 75 of the Constitution of the Russian Federation prohibit them from issuing exclusively, which, in terms of decentralized emission of cryptocurrency, for example, such as bitcoins, makes this rule of law useless. Other operations (for example, the usage of cash substitutes in circulation) generally remained outside the attention of the legislator. Moreover, the ban on the issue (issue) of money substitutes was established without sanctions for violation.

2. Because of China's ban on all ICO (Initial Coin Offering) activities and shut-down of major domestic cryptocurrency exchanges in September 2017, Chinese investors and entrepreneurs have largely turned to overseas exchange agencies to continue engaging in cryptocurrency activities. As I said, in China any operations with cryptocurrency are illegal. It is illegal even in Hong Kong. On February 9, 2018, the Hong Kong Securities and Futures Commission (SFC) published an alert to investors in cryptocurrency trading and initial coin offerings (ICOs), warning of the risks of extreme price volatility, hacking and fraud. The SFC warned cryptocurrency exchanges and ICO issuers to refrain from conducting regulated activities by dealing in cryptocurrencies or offering tokens which are considered "securities" under the Securities and Futures Ordinance (Cap. 571, SFO). The SFC alert indicates that it has been closely monitoring the activities of cryptocurrency exchanges and issuers of ICOs and is prepared to enforce securities laws of Hong Kong against any
violator. Though, there is a CEO of BTCC Bobby Lee’s point of view that one day China will lift the ban on crypto trading: “Frankly speaking, I don’t know what kind of time frame that is, whether it’s a few years or even a few decades, so it’s hard to tell”.

I can give as an example of cryptocurrency crime a high-profile case about Alexander Vinnik. Alexander Vinnik was detained in Greece last July by the request of the United States. He is accused of cyber fraud and money laundering from four to nine billion dollars through the BTC cryptocurrency exchange, which no longer exists today. Vinnik does not admit his guilt. The Supreme Court of Greece in civil and criminal matters decided to extradite Alexander Vinnik to Russia. The decision was made on September, 2018. It is unknown when exactly the extradition will happen, since the United States and France are also seeking for the extradition of the Russians. In this regard, the final political decision on the issuance of Vinnik may have to be made by the Greek Minister of Justice or even by the head of government.

WizSec (Bitcoin Security Specialists) studied this case and made a brief report on it.

– In September 2011, by simply copying the “wallet.dat” file, the private keys of the MtGox exchange hot wallet were stolen. Because of these hackers gained access to a significant amount of bitcoins as well as the ability to control deposits arriving on the stock exchange that moved through a hacked wallet;

– Using compromised keys, hackers regularly emptied accounts and sent coins to wallets controlled by Vinnik. [This went on intermittently for a long time. The largest, second stage of theft occurred in 2012 and 2013];

– By the middle of 2013, when the inflow of expendables from the compromised wallet slowed down, the attackers withdrew about 630,000 BTC from the MtGox accounts;

– After the coins came to Vinnik, most of the funds went to BTC-e, where it was sold. A total of about 300,000 BTC turned up on BTC-e, while other coins were deposited on other markets, including MtGox;

– In addition, because of the repeated usage of a compromised address, MtGox wrongly determined the expenditure of the intruders' funds as deposits. Thus, the accounts of many users were replenished with large sums, and the “hole” in the MtGox’s balance at a certain point reached almost 40,000 BTC.
Therefore, theft of the BTC-e is the largest in Russia. This act undermined average people’s economic wealth and huge companies all over the world.

For effective counter the criminal circulation of cryptocurrency, the international community should develop this strategy:

– determination of the legal nature of cryptocurrency, which allows to get rid of the collision in resolving jurisdictional issues. At the international level, the question of what a cryptocurrency is: a commodity, currency, payment instrument, equated to some types of securities, means of accumulation or a form of payment service, should be resolved. The answer to this question will allow to unify legal practice in all countries, putting the circulation of cryptocurrency on the usual legal rails;

– the establishment of universal jurisdiction of states in respect of criminals engaged in financing of terrorism, trafficking of drugs and weapons using cryptocurrency;

– expanding the range of information available to financial intelligence units, providing them with simplified access to information about actions taken.

To sum it up, future lawyers must be aware of the code’s differences and some unregulated or forbidden acts.

World does not stand still social relations and technological developments lead to the new and new economic relations. We all care about the stability and security of the country's economic system, that is why, by the way, this topic is so important. Exactly finance contributes to the achievement of common goals of economic development, which requires their optimal organization.
<table>
<thead>
<tr>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Elena Kashtakova, Natalia Barinkova</td>
<td>3</td>
</tr>
<tr>
<td>CURRENT TRENDS OF STATE EXPORT FINANCING IN SLOVAKIA</td>
<td></td>
</tr>
<tr>
<td>Eva Tomaskova, Romana Buzkova</td>
<td>11</td>
</tr>
<tr>
<td>PARTICIPATORY BUDGETING – CURRENT TRENDS AT LOCAL BUDGETS? (PILOT STUDY FROM THE CZECH REPUBLIC)</td>
<td></td>
</tr>
<tr>
<td>Ivana Parizkova</td>
<td>22</td>
</tr>
<tr>
<td>FINANCING OF TERRITORIAL SELF-GOVERNING UNITS FROM EU FUNDS</td>
<td></td>
</tr>
<tr>
<td>Nikol Neveceralova</td>
<td>32</td>
</tr>
<tr>
<td>PRUDENTIAL REQUIREMENTS FOR LIQUIDITY</td>
<td></td>
</tr>
<tr>
<td>Tereza Cejkova</td>
<td>42</td>
</tr>
<tr>
<td>TAXATION OF REVENUE FROM DIGITAL BUSINESS AT EU LEVEL</td>
<td></td>
</tr>
<tr>
<td>Richard Bartes</td>
<td>51</td>
</tr>
<tr>
<td>EVOLUTION OF BUDGET AND BUDGETING IN FRANCE</td>
<td></td>
</tr>
<tr>
<td>Polina Korolyova, Yulia Plakhotnaya</td>
<td>62</td>
</tr>
<tr>
<td>ORAL EVIDENCE IN ECONOMIC AFFAIRS AT CRIMINAL TRIAL IN CHINA</td>
<td></td>
</tr>
<tr>
<td>Ekaterina Kuzmina, Ylia Plakhotnaya</td>
<td>74</td>
</tr>
<tr>
<td>COMPARATIVE CHARACTERISTICS OF THE CRIMINAL LAW SYSTEM OF THE RUSSIAN FEDERATION AND THE PEOPLE’S REPUBLIC OF CHINA ON RESPONSIBILITY FOR CORRUPTION</td>
<td></td>
</tr>
<tr>
<td>Olga Kukhnovets</td>
<td>82</td>
</tr>
<tr>
<td>THE TRENDS IN IMPROVING COMPLIANCE PROCEDURES IN RUSSIA</td>
<td></td>
</tr>
<tr>
<td>Ija Nazarko</td>
<td>85</td>
</tr>
<tr>
<td>THE CONCEPT OF DEOFFSHORIZATION AND ITS IMPACT ON GLOBAL ECONOMY</td>
<td></td>
</tr>
<tr>
<td>Erik Nersesian</td>
<td>98</td>
</tr>
<tr>
<td>THE SPACE INDUSTRY AS ONE OF THE MOST RISKY SPHERES OF GOVERNMENT SPENDING</td>
<td></td>
</tr>
<tr>
<td>Yuliya Solovieva, Aliya Yusupova</td>
<td>101</td>
</tr>
<tr>
<td>REFORMING THE TAX SYSTEMS IN THE DEVELOPING</td>
<td></td>
</tr>
<tr>
<td>Title</td>
<td>Page</td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
<td>------</td>
</tr>
<tr>
<td>WORLD: TRENDS AND RESULTS</td>
<td>113</td>
</tr>
<tr>
<td>Yuliya Solovieva, Bella Tsokova</td>
<td></td>
</tr>
<tr>
<td>WINNING THE TAX WARS: GLOBAL SOLUTIONS FOR DEVELOPING COUNTRIES</td>
<td>122</td>
</tr>
<tr>
<td>Daria Frolova, Yuliya Plakhotnaya</td>
<td></td>
</tr>
<tr>
<td>COMPARATIVE CHARACTERISTICS OF THE CRIMINAL LEGAL SYSTEM FOR GAMBLING</td>
<td>129</td>
</tr>
<tr>
<td>ORGANIZATIONS AND IN RUSSIA AND CHINA</td>
<td></td>
</tr>
<tr>
<td>Roman Anayatov, Yuliya Plakhotnaya</td>
<td></td>
</tr>
<tr>
<td>NATIONAL TAX SYSTEM DEVELOPMENT IN KAZAKHSTAN</td>
<td>138</td>
</tr>
<tr>
<td>Sofia Brusentsova</td>
<td></td>
</tr>
<tr>
<td>DEOFFSHORIZATION AND INTERNATIONAL TAX REFORM IN RUSSIA</td>
<td>140</td>
</tr>
<tr>
<td>Ana Fatur, Lana Katarina Gotvan</td>
<td></td>
</tr>
<tr>
<td>THE CONSEQUENCES OF OFFSHORIZATION AND HOW TO ELIMINATE IT</td>
<td>159</td>
</tr>
<tr>
<td>Natalya Dotol</td>
<td></td>
</tr>
<tr>
<td>COMPLIANCE SYSTEM STANDARDS IN RUSSIA</td>
<td>161</td>
</tr>
<tr>
<td>Daliia Komarova</td>
<td></td>
</tr>
<tr>
<td>THE CURRENT TRENDS OF FINANCIAL CRIMES IN CHINA AND RUSSIA. DEVELOPMENT</td>
<td></td>
</tr>
<tr>
<td>IN SPHERE OF CRYPTOCURRENCY CRIMES</td>
<td></td>
</tr>
</tbody>
</table>